

LEG. FINANCE - BILLS 11977 - 11978 703

HB 322 cont., thru HB 323 703

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.  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

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

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 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 non-renewable  
14 resources 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  
21 the business activities in the state by those corporations extracting,  
22 transporting, and refining these non-renewable 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  
25 the income producing activity of corporations doing business both  
26 within and without the state. With regard, however, to the extraction,  
27 transportation, and refining of oil and gas, the legislature finds  
28 that the uniform formula does not fully reflect corporate income-  
29 producing activity in the state. The legislature finds that the

1 its shores. The legislature finds that the state is currently adversely  
2 impacted by activities occurring on the Outer Continental Shelf off of  
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 within 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 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 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 Sec. 43.21.070. REVIEW AND ASSESSMENT. (a) As soon as practic-  
20 able after a return is filed, the department shall examine it and  
21 determine the correct amount of the tax. If an error is disclosed by  
22 the examination, the department shall notify the taxpayer of the  
23 deficiency.

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

29 Sec. 43.21.080. REGULATIONS. The department may adopt regulations

1 procures, or counsels the preparation or presentation in connection  
2 with any matter arising under this title of a return, affidavit,  
3 claim, or other document, which is fraudulent or is false as to any  
4 material matter is guilty of a felony whether or not the falsity or  
5 fraud is with the knowledge or consent of the person required to  
6 present the return, affidavit, claim, or document, and, upon conviction,  
7 shall be fined not more than \$5,000, or imprisoned for not more than  
8 three years, or both.

9 (f) A person who wilfully delivers or discloses to the commis-  
10 sioner or the department under this chapter any list, return, account,  
11 statement, or other document, known by him to be fraudulent or to be  
12 false as to any material matter shall be fined not more than \$1,000,  
13 or imprisoned for not more than one year, or both.

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

18 Sec. 43.21.900. DEFINITIONS. In this chapter, unless the  
19 context requires otherwise

20 (1) "base of operations" means the closest point on land to  
21 the offshore oil and gas production operations from which goods,  
22 services, and supplies flow to those offshore oil and gas production  
23 operations;

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

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

# CORRECTION

THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY

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

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 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 non-renewable  
14 resources 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  
21 the business activities in the state by those corporations extracting,  
22 transporting, and refining these non-renewable 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  
25 the income producing activity of corporations doing business both  
26 within and without the state. With regard, however, to the extraction,  
27 transportation, and refining of oil and gas, the legislature finds  
28 that the uniform formula does not fully reflect corporate income-  
29 producing activity in the state. The legislature finds that the

1 income from the extraction, transportation, and refining of oil and  
2 gas should be allocated and apportioned by a separate state formula  
3 just as financial institutions and public utilities are under the  
4 provisions of AS 43.19.010, 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 of  
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 within 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 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 inside 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       procures, or counsels the preparation or presentation in connection  
2       with any matter arising under this title of a return, affidavit,  
3       claim, or other document, which is fraudulent or is false as to any  
4       material matter is guilty of a felony whether or not the falsity or  
5       fraud is with the knowledge or consent of the person required to  
6       present the return, affidavit, claim, or document, and, upon conviction,  
7       shall be fined not more than \$5,000, or imprisoned for not more than  
8       three years, or both.

9               (f) A person who wilfully delivers or discloses to the commis-  
10              sioner or the department under this chapter any list, return, account,  
11              statement, or other document, known by him to be fraudulent or to be  
12              false as to any material matter shall be fined not more than \$1,000,  
13              or imprisoned for not more than one year, or both.

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

18             Sec. 43.21.900. DEFINITIONS. In this chapter, unless the  
19             context requires otherwise

20                     (1) "base of operations" means the closest point on land to  
21                     the offshore oil and gas production operations from which goods,  
22                     services, and supplies flow to those offshore oil and gas production  
23                     operations;

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

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

1 (4) "unitary business" means a corporation or group of cor-  
2 porations having at least 50 per cent common ownership, direct or  
3 indirect, or a group of corporations in which there is common control  
4 either direct or indirect as evidenced by any arrangement, contract,  
5 or agreement.

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

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

10 \* Sec. 3. If any of the provisions of this Act relating to the incor-  
11 poration into the apportionment formula of payroll, property, or extraction  
12 arising out of activities conducted on the Outer Continental Shelf, or if  
13 any other provisions of this Act are held to be invalid or unenforceable,  
14 it is the intent of the legislature that the invalidity or unenforceability  
15 does not affect the remainder of this Act.

16 \* Sec. 4. This act takes effect January 1, 1978.  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

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

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

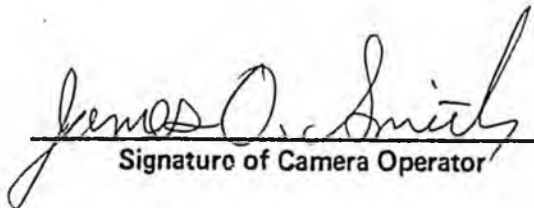
29 Sec. 43.21.080. REGULATIONS. The department may adopt regulations

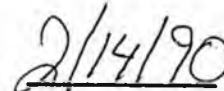


# RECORDS CERTIFICATION



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

STATE OF ALASKA  
Inter-Department Route Slip

TO:  
MAIL STATION NUMBER \_\_\_\_\_

DEPARTMENT Legislative Finance

ATTENTION Jay Hogan, Director

- |   |  |
|---|--|
| <input type="checkbox"/> Approval                 | <input type="checkbox"/> Note & Return               |
| <input type="checkbox"/> Signature                | <input type="checkbox"/> Initial & Return            |
| <input type="checkbox"/> Comment                  | <input type="checkbox"/> Return As Requested         |
| <input type="checkbox"/> Contact Me               | <input type="checkbox"/> Return For Approval         |
| <input type="checkbox"/> Prepare Reply            | <input type="checkbox"/> Necessary Action            |
| <input checked="" type="checkbox"/> For Your File | <input checked="" type="checkbox"/> Your Information |

Remarks:

Fiscal Note on Senate CS for CS for  
House Bill No. 322

*R/S 5/21/77*

FROM:  
MAIL STATION NUMBER \_\_\_\_\_

DEPARTMENT Revenue

BY R.D. Stevenson DATE 5-21-77



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:

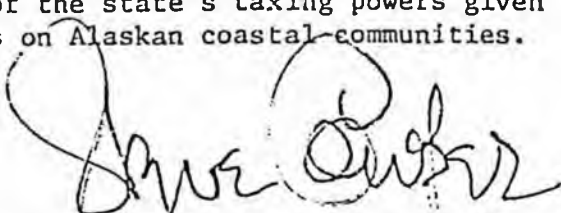
1. A requirement that the tax be paid even though it be challenged before the department or under appeal in the courts (Sec. 43.21.060(i)); and
2. Relief for the taxpayer if the taxpayer can establish that it is being taxed on more than 100% of its net income (Sec. 43.21.065).

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

Chairman Sackett advised that he would prefer to put out the Resource Committee Substitute. Senator Croft moved for passage of the Resource Committee Substitute with individual recommendations. Senator Tillion objected and moved for passage of the House Finance version of the bill. Senator Melard advised that he had made up his mind in favor of the House Finance Committee Substitute. Upon a show of hands Senators Hohman, Meland, and Tillion voted in favor of passage of the House Finance Committee Substitute for House Bill 322. Senator Tillion stated that he did not object to passage of the bill as either the House Finance or Senate Resource Committee Substitute. Chairman Sackett then ruled that the above motion for passage of the House Finance Committee Substitute had failed, and asked if there was objection to passage of the Senate Resource Committee Substitute. There being no objection, the Senate Resource Committee Substitute for Committee Substitute for House Bill 322 passed from committee with individual recommendations.

MOTION  
SCSCSHB 322

Chairman Sackett moved that Committee Substitute for House Bill 89 (Relating to state aid for school construction) be brought up for discussion. He advised that he had discussed with Kent Dawson the possibility of changing the effective date regarding the 80% to 1979.

MOTION  
CSHB 89

Sue Green appeared before the committee to testify concerning the bill. She advised that the Governor is particularly concerned about the timing of the fiscal impact of the bill and asked that the bill be delayed pending further discussion between the administration and the legislature.

Senator Croft stated that it was his understanding that minor amendments could produce a workable bill. Discussion followed between Senator Croft and Dr. Cole regarding necessary changes. Following discussion Senator Croft advised that he believed effecting the following changes would produce a satisfactory bill. Beginning with the original House version of the bill, at line 16 change the date from July 1, 1976, to July 1, 1977; line 17, change 80% to 50%; line 21 change July 1, 1976 to July 1, 1977; take the repealer section out at line 24 and change the effective date at line 25 from July 1, 1977, to July 1, 1978. Dr. Cole advised that the Department estimated the fiscal impact over a three

5/21/77

TO: [ John R. Messenger  
Deputy Commissioner  
Department of Revenue

DATE : May 24, 1977

FROM: Gary L. Jenkins  
Director  
Audit Division

SUBJECT: SCS CS HB 322

Senate CS for CS for House Bill No. 322 provides that all oil producing and pipeline companies would compute their income on a separate accounting basis. This concept, while appearing to be simplistic and easy to accomplish, actually is very complex. This has been pointed out by the recent report prepared by Messrs. Zeifman and Ainsworth for the Department of Revenue and the Legislature.

There are several specific areas of concern which we have regarding the bill. First, it splits the responsibility for audit of the returns to two different agencies. For a company in the production of oil and gas, the returns would be audited by this Division, while for pipeline companies it is assigned to the APUC. I would strongly urge that the audit function for pipeline companies be assigned to this Division with the provision that the APUC will generate the reporting requirements which would be used as the basis for the audit. Sections 3, 7 and 9 of the bill would need to be amended to accomplish this.

Second, it appears that the intent of the bill is that the Department of Revenue would by regulation define what would be deductible as an expense and how such items as intangible drilling costs would be treated for reporting purposes. To accomplish this would necessitate the employment of two auditors and the Clerk Typist III at least one year ahead of the effective date of the law to do the research needed for these determinations.

Lastly, there appears to be a conflict between Sections 10 and 11 of the bill. Section 10 implies that the bill would be effective on 1-1-77 while Section 11 states that it is effective on 1-1-78. Does Section 11 mean that returns would be due after 1-1-78 on income earned in 1977? I would recommend that this be clarified.

I. REQUEST

Bill/Resolution No. Senate CS for CS for House Bill No. 322  
 Title An Act relating to the Alaska net income tax.  
 Requested by Senate Rules Committee Date 5/24/77

II. FISCAL DETAIL

Agency Affected Revenue  
 Program Category Affected Fiscal Services  
 Budget Request Unit(s) Affected Audit Division

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		88.1	317.8	317.8	353.3	353.3
200 TRAVEL		5.0	70.0	70.0	75.0	75.0
300 CONTRACTUAL		10.2	105.2	65.2	70.0	70.0
400 COMMODITIES		.6	2.0	2.0	2.2	2.2
500 EQUIPMENT		1.8	6.0	1.0	1.8	1.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	105.7	501.0	456.0	502.3	501.5

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	105.7	501.0	456.0	502.3	501.5
FEDERAL FUNDS						
OTHER (Specify)						


POSITIONS

FULL TIME	-0-	3	10	10	11	11
PART TIME						
TEMPORARY						

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

This bill will necessitate an Audit staff of 8 Field Auditors with a Clerk Typist III and a Tax Examiner to handle the clerical, typing and return processing duties. The other costs are related to the development of the computer processing systems and costs related to the positions. See memo attached to R. D. Stevenson dated 5/24/77.

IV. DATE 5/24/77

PREPARED BY   
 AGENCY Department of Revenue, Audit Division  
 PHONE 465-2320

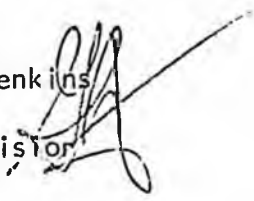
Original: Legislative Finance

STATE  
of ALASKA

## MEMORANDUM

TO:  John R. Messenger  
Deputy Commissioner  
Department of Revenue

DATE : May 24, 1977

FROM: Gary L. Jenkins   
Director  
Audit Division

SUBJECT: SCS CS HB 322

Senate CS for CS for House Bill No. 322 provides that all oil producing and pipeline companies would compute their income on a separate accounting basis. This concept, while appearing to be simplistic and easy to accomplish, actually is very complex. This has been pointed out by the recent report prepared by Messrs. Zeifman and Ainsworth for the Department of Revenue and the Legislature.

There are several specific areas of concern which we have regarding the bill. First, it splits the responsibility for audit of the returns to two different agencies. For a company in the production of oil and gas, the returns would be audited by this Division, while for pipeline companies it is assigned to the APUC. I would strongly urge that the audit function for pipeline companies be assigned to this Division with the provision that the APUC will generate the reporting requirements which would be used as the basis for the audit. Sections 3, 7 and 9 of the bill would need to be amended to accomplish this.

Second, it appears that the intent of the bill is that the Department of Revenue would by regulation define what would be deductible as an expense and how such items as intangible drilling costs would be treated for reporting purposes. To accomplish this would necessitate the employment of two auditors and the Clerk Typist III at least one year ahead of the effective date of the law to do the research needed for these determinations.

Lastly, there appears to be a conflict between Sections 10 and 11 of the bill. Section 10 implies that the bill would be effective on 1-1-77 while Section 11 states that it is effective on 1-1-78. Does Section 11 mean that returns would be due after 1-1-78 on income earned in 1977? I would recommend that this be clarified.

TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. HB 322  
 Title Oil and gas corporate franchise tax  
 Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL  
 Agency Affected Department of Revenue  
 Program Category Affected General Government  
 Budget Request Unit(s) Affected Audit

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		35.5	37.3	136.0	142.8	149.9
200 TRAVEL		3.5	2.5	7.5	8.0	8.5
300 CONTRACTUAL		2.5	1.5	1.5	1.8	2.4
400 COMMODITIES		.3	.3	1.0	1.0	1.2
500 EQUIPMENT		.6		1.2		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		42.4	41.9	147.2	153.6	162.0

FUNDING (Thousands of Dollars)

GENERAL FUND		42.4	41.9	147.2	153.6	162.0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		1	1	4	4	4
PART TIME						
TEMPORARY						

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

Assumptions: Oil & Gas Corporate Franchise Tax imposed on tax year 1978. First returns filed by August, 1979. Regulations must be adopted and forms designed by August, 1978.

Travel in FY 1978 includes 3 hearings and training and field travel for the auditor. Travel in FY 80 and thereafter is for field audit work.

IV. DATE March 8, 1977 PREPARED BY John R. Messenger  
 AGENCY Department of Revenue  
 PHONE 465-2300  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate CS for CS for House Bill No. 322  
 Title An Act relating to the Alaska net income tax.  
 Requested by Senate Rules Committee Date 5/24/77

II. FISCAL DETAIL

Agency Affected \_\_\_\_\_ Revenue \_\_\_\_\_  
 Program Category Affected Fiscal Services  
 Budget Request Unit(s) Affected Audit Division

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		88.1	317.8	317.8	353.3	353.3
200 TRAVEL		5.0	70.0	70.0	75.0	75.0
300 CONTRACTUAL		10.2	105.2	65.2	70.0	70.0
400 COMMODITIES		.6	2.0	2.0	2.2	2.2
500 EQUIPMENT		1.8	6.0	1.0	1.8	1.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>-0-</b>	<b>105.7</b>	<b>501.0</b>	<b>456.0</b>	<b>502.3</b>	<b>501.5</b>

FUNDING (Thousands of Dollars)

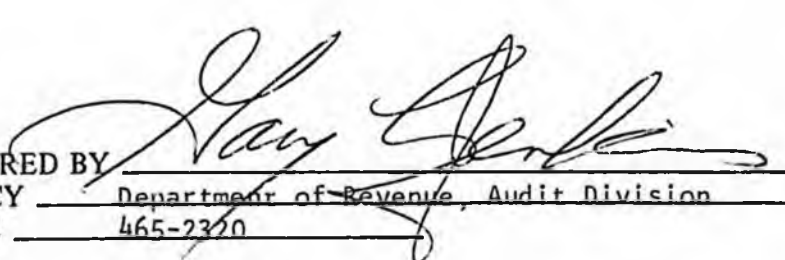
GENERAL FUND	-0-	105.7	501.0	456.0	502.3	501.5
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME	1-	3	10	10	11	11
PART TIME						
TEMPORARY						

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

This bill will necessitate an Audit staff of 8 Field Auditors with a Clerk Typist III and a Tax Examiner to handle the clerical, typing and return processing duties. The other costs are related to the development of the computer processing systems and costs related to the positions. See memo attached to R. D. Stevenson dated 5/24/77.

IV. DATE 5/24/77 PREPARED BY   
 AGENCY Department of Revenue, Audit Division  
 PHONE 465-2370  
 Original: Legislative Finance  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)

Original sponsor: Rules Committee  
by request of the Governor

Offered: 5/10/77  
Referred: Rules

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 taxable  
2 year calculated using historical cost accounting without regard to any  
3 taxes on, or measured by, net 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 receipt, 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 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

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.  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

#

Original sponsor: Rules Committee  
by request of the Governor

Offered: 5/19/77  
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR 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 relating to the Alaska net income tax; and  
7 providing for an effective date."

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

9 \* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and  
10 declares that the method of apportioning income for tax purposes under the  
11 "Uniform Division of Income for Tax Purposes" formula embodied in the Multi-  
12 State Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the  
13 extent of the business activities in this state of multi-state corporations  
14 engaged in the production and pipeline transportation of crude oil and  
15 natural gas in Alaska. The legislature therefore intends that the provisions  
16 of section 18 of article IV of the Multi-State Tax Compact (AS 43.19) which  
17 allow separate accounting of income shall be adopted for the determination of  
18 corporate income tax liability on income derived from the production and  
19 pipeline transportation of oil and gas and related activities. The legisla-  
20 ture further intends that separate accounting shall result in the assessment  
21 of tax against multi-state corporations so that the tax paid by these cor-  
22 porations will be commensurate with the tax that would be paid by corpora-  
23 tions owning and operating only the Alaskan assets of these multi-state  
24 corporations.

25 \* Sec. 2. AS 43.20.011 is amended by adding a new subsection to read:

26 (f) For purposes of determining taxable income under (e) of this  
27 section that part of income of any corporation derived in Alaska from  
28 oil or natural gas production or the transportation of crude oil or  
29 natural gas by pipeline, including income from royalties on oil and gas

1 production, shall, notwithstanding sec. 65 of this chapter, be deter-  
2 mined by separate accounting under the authority of section 18 of  
3 article IV of the Multi-State Compact (AS 43.19.010) and in accordance  
4 with secs. 67 - 69 of this chapter.

5 \* Sec. 3. AS 43.20 is amended by adding new sections to read:

6 Sec. 43.20.067. DETERMINATION OF OIL AND NATURAL GAS PRODUCTION  
7 INCOME. (a) The determination of taxable income attributable to oil  
8 and natural gas production in Alaska, as required under sec. 11(f) of  
9 this chapter, shall be calculated using gross income and deductions from  
10 gross income as defined in this section.

11 (b) Gross income from oil and gas production in Alaska shall be  
12 the value of oil and gas produced as established for purposes of the oil  
13 and gas properties production tax, in accordance with the provisions of  
14 ch. 55 of this title.

15 (c) Deductions from gross income for the purposes of determining  
16 taxable production income shall include:

17 (1) royalties actually paid whether in kind or in value;

18 (2) severance taxes actually paid for which no prior deduc-  
19 tion has been claimed for income tax purposes;

20 (3) property taxes actually paid by the corporation taxpayer  
21 on producing property and facilities directly associated with producing  
22 property, including facilities for the gathering, treating and preparing  
23 of the oil or gas for shipment, provided the payments are made after the  
24 date of initial production of the property with which they are associated;

25 (4) the direct costs incurred by the corporation taxpayer in  
26 operating oil or gas fields, including the costs of gathering, treating  
27 and preparing oil or gas for shipment, but net of any payments received  
28 for those services and not including indirect costs and overhead except  
29 as provided in (6) of this subsection;

1 (5) depreciation on investments which are associated with the  
2 production, gathering, treating and preparing for shipment of the oil or  
3 gas, and which are located in or adjacent to the site of production,  
4 including depreciation on interest capitalized at a rate not to exceed  
5 the average cost of borrowed capital to the corporation taxpayer during  
6 the year in which it is capitalized and also including the amortization  
7 of lease acquisition payments and property taxes paid for or on pro-  
8 ducing properties before the commencement of production on the lease-  
9 hold, facilities or investment associated with it;

10 (6) interest expense not capitalized, to the extent that it  
11 does not exceed a portion of total interest paid by the corporation, its  
12 subsidiaries and affiliates, determined by multiplying total interest  
13 paid by a fraction, the numerator of which is the book value of the  
14 corporation's fixed assets in and associated with the producing proper-  
15 ties in Alaska and the denominator of which is the book value of all  
16 fixed assets held by the corporation, its subsidiaries and affiliates;

17 (7) expenses incurred after December 31, 1976 of unsuccessful  
18 exploration efforts for oil and gas in Alaska, including the acquisition  
19 costs of properties abandoned, dry hole costs, and the costs of geologic  
20 and geophysical exploration on or related to those properties.

21 (d) The department shall establish regulations covering the calcu-  
22 lation of depreciation costs, the allocation of interest costs, the  
23 definition of facilities associated with the production, gathering,  
24 treating and preparing for shipment of oil and gas, and other matters  
25 necessary to implement this section.

26 (e) Deductions from gross income under this section shall not  
27 include expenses previously deducted on a return filed under this  
28 chapter.

29 Sec. 43.20.068. DETERMINATION OF CRUDE OIL AND NATURAL GAS

1 PIPELINE TRANSPORTATION INCOME. (a) Taxable income attributable to the  
2 transportation of crude oil in interstate commerce in Alaska shall be  
3 the sum of the amount reported to the Interstate Commerce Commission  
4 under the category "net balance transferred from income" as specified as  
5 of January 1, 1977 in 49 CFR 10 Part 1204, account 700 and of federal  
6 income taxes paid as specified as of January 1, 1977 in 49 CFR 10 Part  
7 1204, accounts 670 and 695, and of taxes actually paid under sec. 11(e)  
8 of this chapter. A tax return reporting that income shall be accompanied  
9 by a certification from the Alaska Pipeline Commission to the effect  
10 that to the best of the commission's knowledge and belief the income  
11 calculation has been made in accordance with the principles established  
12 by the Interstate Commerce Commission, or, if in the opinion of the  
13 commission, the income is not reported in accordance with the regulations  
14 of the Interstate Commerce Commission, then a statement to that effect,  
15 identifying the deficiencies of the report and, if possible, providing a  
16 reporting of the true and correct income.

17 (b) Taxable income attributable to the transportation of natural  
18 gas in interstate commerce in Alaska shall be the sum of the amount  
19 reported to the Federal Power Commission under the category "balance  
20 transferred from income" as specified in 18 CFR 1, Part 201, account  
21 433 and of federal income taxes paid as specified as of January 1, 1977  
22 in 18 CFR 1, Part 201, accounts 409, 409.1, 409.2 and 409.3, and of  
23 taxes actually paid under sec. 11(e) of this chapter. A tax return  
24 reporting that income shall be accompanied by a certification from the  
25 Alaska Public Utilities Commission to the effect that to the best of the  
26 commission's knowledge and belief the income calculation has been made  
27 in accordance with the principles established by the Federal Power  
28 Commission, or, if in the opinion of the commission, the income is not  
29 reported in accordance with the regulations of the Federal Power

1 Commission, then a statement to that effect, identifying the deficiencies  
2 of the report and, if possible, providing a reporting of the true and  
3 correct income.

4 (c) Taxable income attributable to the transportation of crude oil  
5 in Alaska of any corporation not under Interstate Commerce Commission  
6 jurisdiction, or of a corporation under the Interstate Commerce Commis-  
7 sion but not reporting the operation of pipelines in Alaska separately  
8 from the operation of pipelines elsewhere, shall be an amount equal to  
9 that which would have been reported to the Interstate Commerce Commission  
10 under (a) of this section had the corporation been, in fact, under  
11 Interstate Commerce Commission jurisdiction for the taxable year and  
12 required to report on the operation of Alaska pipelines separately from  
13 the operation of pipelines elsewhere. A tax return reporting that  
14 income shall be accompanied by a certification from the Alaska Pipeline  
15 Commission to the effect that to the best of the commission's knowledge  
16 and belief the income calculation has been made in accordance with the  
17 principles established by the Interstate Commerce Commission, or, if in  
18 the opinion of the commission, the income is not reported in accordance  
19 with the regulations of the Interstate Commerce Commission, then a  
20 statement to that effect, identifying the deficiencies of the report  
21 and, if possible, providing a reporting of the true and correct income.

22 (d) Taxable income attributable to the transportation of natural  
23 gas in Alaska by any corporation not under the jurisdiction of the  
24 Federal Power Commission, or of a corporation under Federal Power Commis-  
25 sion jurisdiction but not reporting the operation of Alaska pipelines  
26 separately from the operation of pipelines elsewhere, shall be an amount  
27 equal to that which would have been reported to the Federal Power Commis-  
28 sion under (b) of this section had the corporation been, in fact, under  
29 Federal Power Commission jurisdiction for the taxable year and required

1 to report on the operation of Alaska pipelines separately from the opera-  
2 tion of pipelines elsewhere. A tax return reporting that income shall  
3 be accompanied by a certification from the Alaska Public Utility Commis-  
4 sion to the effect that to the best of the commission's knowledge and  
5 belief the income calculation has been made in accordance with the  
6 principles established by the Federal Power Commission, or, if in the  
7 opinion of the commission, the income is not reported in accordance with  
8 the regulations of the Federal Power Commission, then a statement to  
9 that effect, identifying the deficiencies of the report and, if possible,  
10 providing a reporting of the true and correct income.

11 (e) The certifications of the Alaska Pipeline Commission and the  
12 Alaska Public Utilities Commission submitted in accordance with this  
13 section do not prejudice any future action by the respective commission  
14 nor prevent the respective commission from submitting a revised certi-  
15 fication within three years of the due date of the tax return in support  
16 of which it was originally filed.

17 (f) Nothing in this section or in sec. 67 of this chapter limits a  
18 corporate taxpayer's right to appeal or the taxpayer remedies provided  
19 under ch. 5 of this title.

20 Sec. 43.20.069. DETERMINATION OF INCOME FROM OTHER ACTIVITIES OF  
21 CORPORATIONS ENGAGED IN OIL OR NATURAL GAS PRODUCTION OR TRANSPORTATION.  
22 Taxable income from activities other than oil or natural gas production  
23 or pipeline transportation shall be determined by subtracting the income  
24 as determined under secs. 67 and 68 of this chapter from the corpora-  
25 tion's combined net income and applying the apportionment formula  
26 required under the provisions of sec. 65 of this chapter, except that  
27 both the numerator and the denominator of the property factor and the  
28 payroll factor shall be calculated without reference to payroll or  
29 property related to crude oil or natural gas production or pipeline

1 transportation activity in Alaska, and the sales factor shall not be  
2 used in the calculation.

3 Sec. 43.20.070. PUBLIC REPORTING. Notwithstanding the provisions  
4 of AS 43.05.230, the commissioner of revenue shall compile and transmit  
5 to the legislature an annual consolidated report of state revenues and  
6 taxation policies under this chapter. This report shall include total  
7 Alaska income tax paid by firms and individuals covered under this  
8 chapter and itemized deductions by category.

9 \* Sec. 4. AS 43.20 is amended by adding a new section to read:

10 Sec. 43.20.075. BOOKS AND RECORDS. The department may provide by  
11 regulation the manner in which books and records must be kept and main-  
12 tained for purposes of determining gross income and deductions from  
13 gross income under secs. 67 - 69 of this chapter.

14 \* Sec. 5. AS 43.20.335 is amended by adding new subsections to read:

15 (k) Any person who improperly influences, or attempts to improper-  
16 ly influence, by means of payment or offer of payment or other valuable  
17 consideration, any state official in his determination of values and  
18 apportionments under this chapter is guilty of bribery and punishable  
19 under AS 11.30.040.

20 (l) Any person who knowingly and wilfully makes false statements  
21 or representations, or who knowingly allows false statements or repre-  
22 sentations to be made on his behalf in the case of corporations, with a  
23 purpose of avoiding the corporate tax imposed under this chapter is  
24 guilty of wilful tax avoidance and is punishable upon conviction by a  
25 fine of three times the amount of the tax that would have been unpaid  
26 had the false statement been undetected, and by imprisonment for not  
27 less than 10 days nor more than one year.

28 \* Sec. 6. AS 42.06.140 is amended by adding a new paragraph to read:

29 (11) shall provide all reasonable assistance to the

1 Department of Revenue in determining the net income from oil pipeline  
2 facilities.

3 \* Sec. 7. AS 42.06 is amended by adding a new section to read:

4 Sec. 42.06.041. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE.

5 (a) Upon request of a pipeline carrier the commission shall review the  
6 accounts of that carrier and provide a certification to the Department  
7 of Revenue either stating that to the best of the commission's knowledge  
8 and belief the report of net pipeline income submitted by the carrier,  
9 under AS 43.20.069 is in accordance with the commission's regulations  
10 governing the accounting of income, or that it is not so in accordance,  
11 in which case the commission shall identify the deficiencies in the  
12 report and, if possible, provide a reporting of the true and correct in-  
13 come.

14 (b) The commission shall provide the certification of compliance  
15 or deficiency in reporting within 45 days of the date on which the pipe-  
16 line carrier requests it, but all certifications remain subject to  
17 amendment by the commission for a period of three years after the due  
18 date of the tax return which they accompany.

19 (c) The commission may by regulation establish accounting pro-  
20 cedures and definitions as may be necessary to define net income for tax  
21 purposes, but net income so defined shall coincide as nearly as possible  
22 with the net income definition used by the commission in establishing  
23 rates and measuring rate of return, and shall be derived before any  
24 deductions for income taxes accrued or paid.

25 \* Sec. 8. AS 42.05.141 is amended to read:

26 Sec. 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. The  
27 Alaska Public Utilities Commission [MAY]

28 (1) may regulate every public utility engaged or proposing to  
29 engage in such a business inside the state, except to the extent

1 exempted by sec. 711 of this chapter and the powers of the commission  
2 shall be liberally construed to accomplish its stated purposes;

3 (2) may investigate, upon complaint or upon its own motion,  
4 the rates, classifications, rules, regulations, practices, services and  
5 facilities of a public utility and hold hearings on them;

6 (3) may make or require just, fair and reasonable rates,  
7 classifications, regulations, practices, services and facilities for a  
8 public utility;

9 (4) may prescribe the system of accounts and regulate the  
10 service and safety of operations of a public utility;

11 (5) may require a public utility to file reports and other  
12 information and data;

13 (6) may appear personally or by counsel and represent the  
14 interests and welfare of the state in all matters and proceedings in-  
15 volving a public utility pending before an officer, department, board,  
16 commission or court of the state or of another state or the United  
17 States and to intervene in, protest, resist, or advocate the granting,  
18 denial or modification of any petition, application, complaint or other  
19 proceeding;

20 (7) may examine witnesses and offer evidence in any proceed-  
21 ing affecting the state and initiate or participate in judicial pro-  
22 ceedings to the extent necessary to protect and promote the interests of  
23 the state;

24 (8) shall provide all reasonable assistance to the Department  
25 of Revenue in determining the net income from natural gas pipeline  
26 facilities.

27 \* Sec. 9. AS 42.05 is amended by adding a new section to read:

28 Sec. 42.05.502. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE.

29 (a) Upon request of a pipeline carrier the commission shall review the

1 accounts of that carrier and provide a certification to the Department  
2 of Revenue either stating that to the best of the commission's knowledge  
3 and belief the report of net pipeline income submitted by the carrier  
4 under AS 43.20.069 is in accordance with the commission's regulations  
5 governing the accounting of income, or that it is not so in accordance,  
6 in which case the commission shall identify the deficiencies in the  
7 report and, if possible, provide a reporting of the true and correct  
8 income.

9 (b) The commission shall provide the certification of compliance  
10 or deficiency in reporting within 45 days of the date on which the pipe-  
11 line carrier requests it, but all certifications remain subject to  
12 amendment by the commission for a period of three years after the due  
13 date of the tax return which they accompany.

14 (c) The commission may by regulation establish accounting proce-  
15 dures and definitions as may be necessary to define net income for tax  
16 purposes, but net income so defined shall coincide as nearly as possible  
17 with the net income definition used by the commission in establishing  
18 rates and measuring rate of return, and shall be derived before any  
19 deductions for income taxes accrued or paid.

20 \* Sec. 10. This Act relates only to income earned or received after  
21 December 31, 1976.

22 \* Sec. 11. This Act takes effect January 1, 1978.  
23  
24  
25  
26  
27  
28  
29

Original sponsor: Rules Committee  
by request of the Governor

Offered: 5/19/77  
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR 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 relating to the Alaska net income tax; and  
7 providing for an effective date."

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

9 \* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and  
10 declares that the method of apportioning income for tax purposes under the  
11 "Uniform Division of Income for Tax Purposes" formula embodied in the Multi-  
12 State Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the  
13 extent of the business activities in this state of multi-state corporations  
14 engaged in the production and pipeline transportation of crude oil and  
15 natural gas in Alaska. The legislature therefore intends that the provisions  
16 of section 18 of article IV of the Multi-State Tax Compact (AS 43.19) which  
17 allow separate accounting of income shall be adopted for the determination of  
18 corporate income tax liability on income derived from the production and  
19 pipeline transportation of oil and gas and related activities. The legisla-  
20 ture further intends that separate accounting shall result in the assessment  
21 of tax against multi-state corporations so that the tax paid by these cor-  
22 porations will be commensurate with the tax that would be paid by corpora-  
23 tions owning and operating only the Alaskan assets of these multi-state  
24 corporations.

25 \* Sec. 2. AS 43.20.011 is amended by adding a new subsection to read:

26 (f) For purposes of determining taxable income under (e) of this  
27 section that part of income of any corporation derived in Alaska from  
28 oil or natural gas production or the transportation of crude oil or  
29 natural gas by pipeline, including income from royalties on oil and gas

1 production, shall, notwithstanding sec. 65 of this chapter, be deter-  
2 mined by separate accounting under the authority of section 18 of  
3 article IV of the Multi-State Compact (AS 43.19.010) and in accordance  
4 with secs. 67 - 69 of this chapter.

5 \* Sec. 3. AS 43.20 is amended by adding new sections to read:

6 Sec. 43.20.067. DETERMINATION OF OIL AND NATURAL GAS PRODUCTION  
7 INCOME. (a) The determination of taxable income attributable to oil  
8 and natural gas production in Alaska, as required under sec. 11(f) of  
9 this chapter, shall be calculated using gross income and deductions from  
10 gross income as defined in this section.

11 (b) Gross income from oil and gas production in Alaska shall be  
12 the value of oil and gas produced as established for purposes of the oil  
13 and gas properties production tax, in accordance with the provisions of  
14 ch. 55 of this title.

15 (c) Deductions from gross income for the purposes of determining  
16 taxable production income shall include:

17 (1) royalties actually paid whether in kind or in value;

18 (2) severance taxes actually paid for which no prior deduc-  
19 tion has been claimed for income tax purposes;

20 (3) property taxes actually paid by the corporation taxpayer  
21 on producing property and facilities directly associated with producing  
22 property, including facilities for the gathering, treating and preparing  
23 of the oil or gas for shipment, provided the payments are made after the  
24 date of initial production of the property with which they are associated;

25 (4) the direct costs incurred by the corporation taxpayer in  
26 operating oil or gas fields, including the costs of gathering, treating  
27 and preparing oil or gas for shipment, but net of any payments received  
28 for those services and not including indirect costs and overhead except  
29 as provided in (6) of this subsection;

1 (5) depreciation on investments which are associated with the  
2 production, gathering, treating and preparing for shipment of the oil or  
3 gas, and which are located in or adjacent to the site of production,  
4 including depreciation on interest capitalized at a rate not to exceed  
5 the average cost of borrowed capital to the corporation taxpayer during  
6 the year in which it is capitalized and also including the amortization  
7 of lease acquisition payments and property taxes paid for or on pro-  
8 ducing properties before the commencement of production on the lease-  
9 hold, facilities or investment associated with it;

10 (6) interest expense not capitalized, to the extent that it  
11 does not exceed a portion of total interest paid by the corporation, its  
12 subsidiaries and affiliates, determined by multiplying total interest  
13 paid by a fraction, the numerator of which is the book value of the  
14 corporation's fixed assets in and associated with the producing proper-  
15 ties in Alaska and the denominator of which is the book value of all  
16 fixed assets held by the corporation, its subsidiaries and affiliates;

17 (7) expenses incurred after December 31, 1976 of unsuccessful  
18 exploration efforts for oil and gas in Alaska, including the acquisition  
19 costs of properties abandoned, dry hole costs, and the costs of geologic  
20 and geophysical exploration on or related to those properties.

21 (d) The department shall establish regulations covering the calcu-  
22 lation of depreciation costs, the allocation of interest costs, the  
23 definition of facilities associated with the production, gathering,  
24 treating and preparing for shipment of oil and gas, and other matters  
25 necessary to implement this section.

26 (e) Deductions from gross income under this section shall not  
27 include expenses previously deducted on a return filed under this  
28 chapter.

29 Sec. 43.20.068. DETERMINATION OF CRUDE OIL AND NATURAL GAS

1 PIPELINE TRANSPORTATION INCOME. (a) Taxable income attributable to the  
2 transportation of crude oil in interstate commerce in Alaska shall be  
3 the sum of the amount reported to the Interstate Commerce Commission  
4 under the category "net balance transferred from income" as specified as  
5 of January 1, 1977 in 49 CFR 10 Part 1204, account 700 and of federal  
6 income taxes paid as specified as of January 1, 1977 in 49 CFR 10 Part  
7 1204, accounts 670 and 695, and of taxes actually paid under sec. 11(e)  
8 of this chapter. A tax return reporting that income shall be accompanied  
9 by a certification from the Alaska Pipeline Commission to the effect  
10 that to the best of the commission's knowledge and belief the income  
11 calculation has been made in accordance with the principles established  
12 by the Interstate Commerce Commission, or, if in the opinion of the  
13 commission, the income is not reported in accordance with the regulations  
14 of the Interstate Commerce Commission, then a statement to that effect,  
15 identifying the deficiencies of the report and, if possible, providing a  
16 reporting of the true and correct income.

17 (b) Taxable income attributable to the transportation of natural  
18 gas in interstate commerce in Alaska shall be the sum of the amount  
19 reported to the Federal Power Commission under the category "balance  
20 transferred from income" as specified in 18 CFR 1, Part 201, account  
21 433 and of federal income taxes paid as specified as of January 1, 1977  
22 in 18 CFR 1, Part 201, accounts 409, 409.1, 409.2 and 409.3, and of  
23 taxes actually paid under sec. 11(e) of this chapter. A tax return  
24 reporting that income shall be accompanied by a certification from the  
25 Alaska Public Utilities Commission to the effect that to the best of the  
26 commission's knowledge and belief the income calculation has been made  
27 in accordance with the principles established by the Federal Power  
28 Commission, or, if in the opinion of the commission, the income is not  
29 reported in accordance with the regulations of the Federal Power

1 Commission, then a statement to that effect, identifying the deficiencies  
2 of the report and, if possible, providing a reporting of the true and  
3 correct income.

4 (c) Taxable income attributable to the transportation of crude oil  
5 in Alaska of any corporation not under Interstate Commerce Commission  
6 jurisdiction, or of a corporation under the Interstate Commerce Commis-  
7 sion but not reporting the operation of pipelines in Alaska separately  
8 from the operation of pipelines elsewhere, shall be an amount equal to  
9 that which would have been reported to the Interstate Commerce Commission  
10 under (a) of this section had the corporation been, in fact, under  
11 Interstate Commerce Commission jurisdiction for the taxable year and  
12 required to report on the operation of Alaska pipelines separately from  
13 the operation of pipelines elsewhere. A tax return reporting that  
14 income shall be accompanied by a certification from the Alaska Pipeline  
15 Commission to the effect that to the best of the commission's knowledge  
16 and belief the income calculation has been made in accordance with the  
17 principles established by the Interstate Commerce Commission, or, if in  
18 the opinion of the commission, the income is not reported in accordance  
19 with the regulations of the Interstate Commerce Commission, then a  
20 statement to that effect, identifying the deficiencies of the report  
21 and, if possible, providing a reporting of the true and correct income.

22 (d) Taxable income attributable to the transportation of natural  
23 gas in Alaska by any corporation not under the jurisdiction of the  
24 Federal Power Commission, or of a corporation under Federal Power Commis-  
25 sion jurisdiction but not reporting the operation of Alaska pipelines  
26 separately from the operation of pipelines elsewhere, shall be an amount  
27 equal to that which would have been reported to the Federal Power Commis-  
28 sion under (b) of this section had the corporation been, in fact, under  
29 Federal Power Commission jurisdiction for the taxable year and required

1 to report on the operation of Alaska pipelines separately from the opera-  
2 tion of pipelines elsewhere. A tax return reporting that income shall  
3 be accompanied by a certification from the Alaska Public Utility Commis-  
4 sion to the effect that to the best of the commission's knowledge and  
5 belief the income calculation has been made in accordance with the  
6 principles established by the Federal Power Commission, or, if in the  
7 opinion of the commission, the income is not reported in accordance with  
8 the regulations of the Federal Power Commission, then a statement to  
9 that effect, identifying the deficiencies of the report and, if possible,  
10 providing a reporting of the true and correct income.

11 (e) The certifications of the Alaska Pipeline Commission and the  
12 Alaska Public Utilities Commission submitted in accordance with this  
13 section do not prejudice any future action by the respective commission  
14 nor prevent the respective commission from submitting a revised certi-  
15 fication within three years of the due date of the tax return in support  
16 of which it was originally filed.

17 (f) Nothing in this section or in sec. 67 of this chapter limits a  
18 corporate taxpayer's right to appeal or the taxpayer remedies provided  
19 under ch. 5 of this title.

20 Sec. 43.20.069. DETERMINATION OF INCOME FROM OTHER ACTIVITIES OF  
21 CORPORATIONS ENGAGED IN OIL OR NATURAL GAS PRODUCTION OR TRANSPORTATION.  
22 Taxable income from activities other than oil or natural gas production  
23 or pipeline transportation shall be determined by subtracting the income  
24 as determined under secs. 67 and 68 of this chapter from the corpora-  
25 tion's combined net income and applying the apportionment formula  
26 required under the provisions of sec. 65 of this chapter, except that  
27 both the numerator and the denominator of the property factor and the  
28 payroll factor shall be calculated without reference to payroll or  
29 property related to crude oil or natural gas production or pipeline

1 transportation activity in Alaska, and the sales factor shall not be  
2 used in the calculation.

3 Sec. 43.20.070. PUBLIC REPORTING. Notwithstanding the provisions  
4 of AS 43.05.230, the commissioner of revenue shall compile and transmit  
5 to the legislature an annual consolidated report of state revenues and  
6 taxation policies under this chapter. This report shall include total  
7 Alaska income tax paid by firms and individuals covered under this  
8 chapter and itemized deductions by category.

9 \* Sec. 4. AS 43.20 is amended by adding a new section to read:

10 Sec. 43.20.075. BOOKS AND RECORDS. The department may provide by  
11 regulation the manner in which books and records must be kept and main-  
12 tained for purposes of determining gross income and deductions from  
13 gross income under secs. 67 - 69 of this chapter.

14 \* Sec. 5. AS 43.20.335 is amended by adding new subsections to read:

15 (k) Any person who improperly influences, or attempts to improper-  
16 ly influence, by means of payment or offer of payment or other valuable  
17 consideration, any state official in his determination of values and  
18 apportionments under this chapter is guilty of bribery and punishable  
19 under AS 11.30.040.

20 (l) Any person who knowingly and wilfully makes false statements  
21 or representations, or who knowingly allows false statements or repre-  
22 sentations to be made on his behalf in the case of corporations, with a  
23 purpose of avoiding the corporate tax imposed under this chapter is  
24 guilty of wilful tax avoidance and is punishable upon conviction by a  
25 fine of three times the amount of the tax that would have been unpaid  
26 had the false statement been undetected, and by imprisonment for not  
27 less than 10 days nor more than one year.

28 \* Sec. 6. AS 42.06.140 is amended by adding a new paragraph to read:

29 (11) shall provide all reasonable assistance to the

1 Department of Revenue in determining the net income from oil pipeline  
2 facilities.

3 \* Sec. 7. AS 42.06 is amended by adding a new section to read:

4 Sec. 42.06.041. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE.

5 (a) Upon request of a pipeline carrier the commission shall review the  
6 accounts of that carrier and provide a certification to the Department  
7 of Revenue either stating that to the best of the commission's knowledge  
8 and belief the report of net pipeline income submitted by the carrier  
9 under AS 43.20.069 is in accordance with the commission's regulations  
10 governing the accounting of income, or that it is not so in accordance,  
11 in which case the commission shall identify the deficiencies in the  
12 report and, if possible, provide a reporting of the true and correct in-  
13 come.

14 (b) The commission shall provide the certification of compliance  
15 or deficiency in reporting within 45 days of the date on which the pipe-  
16 line carrier requests it, but all certifications remain subject to  
17 amendment by the commission for a period of three years after the due  
18 date of the tax return which they accompany.

19 (c) The commission may by regulation establish accounting pro-  
20 cedures and definitions as may be necessary to define net income for tax  
21 purposes, but net income so defined shall coincide as nearly as possible  
22 with the net income definition used by the commission in establishing  
23 rates and measuring rate of return, and shall be derived before any  
24 deductions for income taxes accrued or paid.

25 \* Sec. 8. AS 42.05.141 is amended to read:

26 Sec. 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. The  
27 Alaska Public Utilities Commission [MAY]

28 (1) may regulate every public utility engaged or proposing to  
29 engage in such a business inside the state, except to the extent

1 exempted by sec. 711 of this chapter and the powers of the commission  
2 shall be liberally construed to accomplish its stated purposes;

3 (2) may investigate, upon complaint or upon its own motion,  
4 the rates, classifications, rules, regulations, practices, services and  
5 facilities of a public utility and hold hearings on them;

6 (3) may make or require just, fair and reasonable rates,  
7 classifications, regulations, practices, services and facilities for a  
8 public utility;

9 (4) may prescribe the system of accounts and regulate the  
10 service and safety of operations of a public utility;

11 (5) may require a public utility to file reports and other  
12 information and data;

13 (6) may appear personally or by counsel and represent the  
14 interests and welfare of the state in all matters and proceedings in-  
15 volving a public utility pending before an officer, department, board,  
16 commission or court of the state or of another state or the United  
17 States and to intervene in, protest, resist, or advocate the granting,  
18 denial or modification of any petition, application, complaint or other  
19 proceeding;

20 (7) may examine witnesses and offer evidence in any proceed-  
21 ing affecting the state and initiate or participate in judicial pro-  
22 ceedings to the extent necessary to protect and promote the interests of  
23 the state;

24 (8) shall provide all reasonable assistance to the Department  
25 of Revenue in determining the net income from natural gas pipeline  
26 facilities.

27 \* Sec. 9. AS 42.05 is amended by adding a new section to read:

28 Sec. 42.05.502. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE.

29 (a) Upon request of a pipeline carrier the commission shall review the

1 accounts of that carrier and provide a certification to the Department  
2 of Revenue either stating that to the best of the commission's knowledge  
3 and belief the report of net pipeline income submitted by the carrier  
4 under AS 43.20.069 is in accordance with the commission's regulations  
5 governing the accounting of income, or that it is not so in accordance,  
6 in which case the commission shall identify the deficiencies in the  
7 report and, if possible, provide a reporting of the true and correct  
8 income.

9 (b) The commission shall provide the certification of compliance  
10 or deficiency in reporting within 45 days of the date on which the pipe-  
11 line carrier requests it, but all certifications remain subject to  
12 amendment by the commission for a period of three years after the due  
13 date of the tax return which they accompany.

14 (c) The commission may by regulation establish accounting proce-  
15 dures and definitions as may be necessary to define net income for tax  
16 purposes, but net income so defined shall coincide as nearly as possible  
17 with the net income definition used by the commission in establishing  
18 rates and measuring rate of return, and shall be derived before any  
19 deductions for income taxes accrued or paid.

20 \* Sec. 10. This Act relates only to income earned or received after  
21 December 31, 1976.

22 \* Sec. 11. This Act takes effect January 1, 1978.  
23  
24  
25  
26  
27  
28  
29



# 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.

James O. Smith  
Signature of Camera Operator

2/14/90  
Date

"An Act relating to the oil and gas exploration, production, and pipeline and marine transportation property tax; effective date."

### COMMITTEE REPORT

4/6/77

### HOUSE

\_\_\_\_\_ Date

Mr. Speaker:

The Committee on FINANCE has had HB 323 under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for \_\_\_\_\_ and that CS for \_\_\_\_\_ do pass
- (and) recommends it be referred to the \_\_\_\_\_ committee
- reports it back without recommendation
- AND attaches a report of its intent
- (other) \_\_\_\_\_

MEMBERS SIGNING THE MAJORITY REPORT:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____	recommends:	_____
_____	recommends:	_____
_____	recommends:	_____

\_\_\_\_\_ Chairman

# COMMITTEE REPORT

3-9-77

HOUSE

FINANCE

~~3/9/77~~ 4/5/77

Date

Mr. Speaker:

The Committee on RESOURCES has had HB 323

under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for ~~HB 323~~ HB 323 and that CS for HB 323 do pass
- (and) recommends it be referred to the \_\_\_\_\_ committee
- reports it back without recommendation
- AND attaches a report of its intent
- (other) \_\_\_\_\_

(same title)

MEMBERS SIGNING THE MAJORITY REPORT:

H. Malone - Do Pass Alvin Peterbaek - Do Pass

Merle H. Smedley - Do Pass

Don Bennett - Do Pass

[Signature] - " "

[Signature] - " "

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

[Signature] - recommends: no rec.

Wm. Akers - recommends: no. REC.

\_\_\_\_\_ recommends: \_\_\_\_\_

Alvin Peterbaek  
Chairman

Walter

Original sponsor: Rules Committee by request  
of the Governor

Offered: 4/6/77  
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 323

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 exploration, pro-  
7 duction, and pipeline and marine transportation proper-  
8 ty tax; and providing for an effective date."

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

10 \* Section 1. AS 43.56.010(d) is amended to read:

11 (d) A tax paid to a municipality under AS 29.53.045 on or before  
12 June 30 of the tax year shall be credited against the tax levied under  
13 (a) of this section for that tax year. If, however, a tax is not paid  
14 to a municipality until after June 30 of the taxable year, the depart-  
15 ment upon application shall refund to the taxpayer the amount of tax  
16 paid to the municipality under AS 29.53.045. The credit or refund of  
17 taxes paid to a municipality may not exceed the total amount of tax  
18 levied by the department upon the taxpayer for the tax year, under (a)  
19 of this section. Current property taxes which are collected by one or  
20 more municipalities under AS 29.53.055 or any other authority which  
21 exceed the limitations set out in AS 29.53.045 or 29.53.050 are not  
22 allowed as a credit against, or refund of, the tax levied under this  
23 section. The credit or refund is only allowed for taxes paid for the  
24 current tax year.

25 \* Sec. 2. AS 43.56.060(e)(2) is amended to read:

26 (2) determined on each January 1 thereafter with due regard  
27 to the economic value of the property based on the estimated life of the  
28 proven reserves of gas or unrefined oil then technically, economically  
29 and legally deliverable into the transportation facility; [HOWEVER, IF

COMMITTEE COPY

1 THE PROVEN RESERVES OF GAS OR UNREFINED OIL THEN TECHNICALLY, ECONOMICALLY AND LEGALLY DELIVERABLE INDICATE AN ECONOMIC LIFE MATERIALLY  
2 SHORTER THAN THE ESTIMATED PHYSICAL LIFE OF THE TRANSPORTATION FACILITY,  
3 THE FULL AND TRUE VALUE IS THE ACTUAL COST REDUCED BY AN ANNUAL ALLOW-  
4 ANCE FOR DEPRECIATION ON A STRAIGHT LINE BASIS OVER AN ECONOMIC LIFE  
5 BASED ON THE ACTUAL ELAPSED LIFE FROM THE COMMENCEMENT OF FULL OPERATION  
6 TO THE DATE OF ASSESSMENT PLUS THE ESTIMATED REMAINING LIFE OF THE  
7 PROVEN RESERVES OF GAS AND UNREFINED OIL THEN TECHNICALLY, ECONOMICALLY  
8 AND LEGALLY DELIVERABLE INTO THE TRANSPORTATION FACILITY AS OF THE DATE  
9 OF THE ASSESSMENT;]

10  
11 \* Sec. 3. AS 43.56.210(6) is amended to read:

12 (6) "taxable property" means real and tangible personal pro-  
13 perty within this state used or committed by contract or other agreement  
14 for use [WITHIN THIS STATE] primarily in the exploration for, production  
15 of, or pipeline transportation of gas or unrefined oil (except for pro-  
16 perty used solely for the retail distribution or liquefaction of natural  
17 gas), or in the operation or maintenance of facilities used in the ex-  
18 ploration for, production of, or pipeline transportation of gas or un-  
19 refined oil, including machinery, appliances, supplies, equipment,  
20 drilling rigs, wells (whether producing or not), gathering lines and  
21 transmission lines, pumping stations, compressor stations, power plants,  
22 topping plants, processing units, roads, tank farms, tanker terminals,  
23 docks and other port facilities, air strips and communication equipment  
24 and facilities, maintenance equipment and facilities, and maintenance  
25 camps and other related facilities; "taxable property" does not include  
26 permanent residences, office buildings requiring substantial local  
27 government services, or gas pipeline systems operated as utilities and  
28 regulated by the Alaska Public Utilities Commission;

29 \* Sec. 4. AS 29.53.045(b) is amended to read:

1 (b) A municipality may levy and collect a tax on the full and true  
2 value of taxable property taxable under AS 43.56 as valued by the  
3 Department of Revenue at a rate not to exceed that which produces an  
4 amount of revenue from the total municipal property tax equivalent to  
5 \$1,500 a year for each person residing within its boundaries. The  
6 commissioner of revenue shall adjust the limitation provided for in this  
7 section in accordance with changes in the Consumer Price Index for  
8 Anchorage, Alaska, published by the Bureau of Labor Statistics, United  
9 States Department of Labor. The adjusted limitation becomes effective  
10 on the January 1 following its adjustment and applies to taxes levied  
11 for that tax year. The Consumer Price Index for October 1976 is con-  
12 sidered the initial Consumer Price Index. In making the adjustments  
13 under this section, the commissioner shall comply with the following  
14 procedure:

15 (1) after November 30 and before December 31 of each year the  
16 commissioner shall calculate the change in the October Consumer Price  
17 Index for the current year from the October Consumer Price Index for the  
18 previous year;

19 (2) the commissioner shall then

20 (A) compute the percentage increase or decrease for that  
21 period and

22 (B) adjust the most current limitation set out in this  
23 section by the same percentage increase or decrease, rounded to the  
24 nearest dollar;

25 (3) and report the adjusted limitation to each municipality  
26 by January 15 of the following year.

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

28 (b) No municipality, or combination of municipalities occupying  
29 the same geographical area, in whole or in part, may levy taxes (1)

1 which will result in tax revenues from all sources exceeding \$1,500  
2 [\$1,000] a year, as adjusted in accordance with (c) of this section,  
3 for each person residing within their boundaries or (2) upon values  
4 which, when combined with the value of property otherwise taxable by the  
5 municipality, exceed the product of 225 per cent of the average per  
6 capita assessed full and true value of property in the state multiplied  
7 by the number of residents of the taxing municipality. If two or more  
8 municipalities occupying the same geographical area, in whole or in  
9 part, attempt to levy a tax (1) the combined levy of which would result  
10 in tax revenues from all sources exceeding \$1,500 [\$1,000] a year, as  
11 adjusted in accordance with (c) of this section, for each person re-  
12 siding within their boundaries or (2) upon value which, when combined  
13 with the value of property otherwise taxable by the municipality, exceed  
14 the product of 225 per cent of the average per capita assessed full and  
15 true value of property in the state multiplied by the number of resi-  
16 dents of the taxing municipality, the commissioner of community and  
17 regional affairs shall apportion the lawful levy and equitably divide  
18 these revenues on the basis of need, services performed and other  
19 considerations in the public interest. For the purpose of this subsec-  
20 tion, population shall be determined by the commissioner of community  
21 and regional affairs based on the latest statistics of the United States  
22 Bureau of the Census or on other reliable population data. For purposes  
23 of this subsection the average per capita assessed full and true value  
24 of property in the state shall be calculated without regard to the  
25 assessed value of taxable property under AS 43.58.

26 \* Sec. 6. AS 29.53.050 is amended by adding a new subsection to read:

27 (c) The commissioner of revenue shall adjust the \$1,500 per  
28 person per year limitation provided for in (b) of this section in  
29 accordance with changes in the Consumer Price Index for Anchorage,

1 Alaska, published by the Bureau of Labor Statistics, United States  
2 Department of Labor. The adjusted limitation becomes effective on the  
3 January 1 following its adjustment and applies to taxes levied for that  
4 tax year. The Consumer Price Index for October 1976 is considered the  
5 initial Consumer Price Index. In making the adjustments under this  
6 section, the commissioner shall comply with the following procedure:

7 (1) after November 30 and before December 31 of each year the  
8 commissioner shall calculate the change in the October Consumer Price  
9 Index for the current year from the October Consumer Price Index for the  
10 previous year;

11 (2) the commissioner shall then

12 (A) compute the percentage increase or decrease for that  
13 period and

14 (B) adjust the most current limitation set out in this  
15 section by the same percentage increase or decrease, rounded to the  
16 nearest dollar;

17 (3) and report the adjusted limitation to each municipality  
18 by January 15 of the following year.

19 \* Sec. 7. This Act is retroactive to January 1, 1977.

20 \* Sec. 8. This Act takes effect immediately in accordance with AS 01.10.-  
21 070(c).

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

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

323

2 HOUSE BILL NO.

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 exploration,  
7 production, and pipeline and marine transportation  
8 property tax; and providing for an effective date."

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

10 \* Section 1. AS 43.56.010(d) is amended to read:

11 CHAPTER 56. OIL AND GAS EXPLORATION, PRODUCTION,  
12 AND PIPELINE AND MARINE TRANSPORTATION PROPERTY TAXES.

13 (d) A tax paid to a municipality under AS 29.53.045 on or before  
14 June 30 of the tax year shall be credited against the tax levied under  
15 (a) of this section for that tax year. If, however, a tax is not paid  
16 to a municipality until after June 30 of the taxable year, the depart-  
17 ment upon application shall refund to the taxpayer the amount of tax  
18 paid to the municipality under AS 29.53.045. The credit or refund of  
19 taxes paid to a municipality may not exceed the total amount of tax  
20 levied by the department upon the taxpayer for the tax year, under (a)  
21 of this section. Current property taxes which are collected by one or  
22 more municipalities under AS 29.53.055 or any other authority which  
23 exceed the limitations set out in AS 29.53.045 or AS 29.53.050 are not  
24 allowed as a credit against, or refund of, the tax levied under this  
25 section. The credit or refund is only allowed for taxes paid for the  
26 current tax year.

27 \* Sec. 2. AS 43.56.060(?) is amended to read:

28 Sec. 43.56.060. ASSESSMENT. (a) The department shall assess  
29 property for the tax levied under sec. 10(b) of this chapter and AS

COMMITTEE COPY

1 29.53.045 on property used or committed by contract or other agreement  
2 for use for the pipeline transportation of gas or unrefined oil, [OR]  
3 for the production of gas or unrefined oil, for refining of gas or  
4 unrefined oil, or for the processing, liquefaction, or manufacture of  
5 natural gas or oil products at its full and true value as of January  
6 1 of the assessment year. The department shall assess property for  
7 the tax levied under sec. 10(b) of this chapter and AS 29.53.045 on  
8 property used or committed by contract or other agreement for use in  
9 the marine transportation of gas or unrefined oil during any portion  
10 of the previous calendar year at its full and true value as of January  
11 1 of the previous calendar year as apportioned under sec. 65 of this  
12 chapter.

13 \* Sec. 3. AS 43.56.060(e)(2) is amended to read:

14 (2) determined on each January 1 thereafter with due regard  
15 to the economic value of the property based on the estimated life of  
16 the proven reserves of gas or unrefined oil then technically, econom-  
17 ically and legally deliverable into the transportation facility;  
18 [HOWEVER, IF THE PROVEN RESERVES OF GAS OR UNREFINED OIL THEN TECHNI-  
19 CALLY, ECONOMICALLY AND LEGALLY DELIVERABLE INDICATE AN ECONOMIC LIFE  
20 MATERIALLY SHORTER THAN THE ESTIMATED PHYSICAL LIFE OF THE TRANSPORTA-  
21 TION FACILITY, THE FULL AND TRUE VALUE IS THE ACTUAL COST REDUCED BY  
22 AN ANNUAL ALLOWANCE FOR DEPRECIATION ON A STRAIGHT LINE BASIS OVER AN  
23 ECONOMIC LIFE BASED ON THE ACTUAL ELAPSED LIFE FROM THE COMMENCEMENT  
24 OF FULL OPERATION TO THE DATE OF ASSESSMENT PLUS THE ESTIMATED REMAIN-  
25 ING LIFE OF THE PROVEN RESERVES OF GAS AND UNREFINED OIL THEN TECHNI-  
26 CALLY, ECONOMICALLY AND LEGALLY DELIVERABLE INTO THE TRANSPORTATION  
27 FACILITY AS OF THE DATE OF THE ASSESSMENT;]

28 \* Sec. 4. AS 43.56.060 is amended by adding new subsections to read:  
29

(h) The full and true value of taxable property used or committed

1 by contract or other agreement for the refining of gas or unrefined  
2 oil or in the processing, liquefaction or manufacture of gas or oil  
3 products is determined on the basis of replacement cost less deprecia-  
4 tion based on the useful life of the property.

5 (1) The full and true value of taxable property used or  
6 committed by contract or other agreement for the marine transportation  
7 of gas or unrefined oil is determined on the basis of replacement cost  
8 less depreciation based on the useful life of the property as apportioned  
9 under sec. 65 of this chapter.

10 \* Sec. 5. AS 43.56 is amended by adding a new section to read:

11 Sec. AS 43.56.065. METHOD OF APPORTIONMENT. (a) The full and  
12 true value of the taxable marine transportation property shall be  
13 apportioned to this state by multiplying that value by the days-spent-  
14 in-port apportionment fraction. The numerator of the fraction is the  
15 number of days spent in ports within the state loading or unloading  
16 gas or unrefined oil, and the denominator of the fraction is the  
17 number of days spent in ports both within the state and outside the  
18 state loading or unloading gas or unrefined oil.

19 (b) For purposes of this section,

20 (1) "days spent in port" does not include periods when  
21 ships are tied up because of strikes or withheld from service for  
22 repairs, or because of seasonal reduction of service; days spent  
23 in a port shall be computed by dividing the total number of hours in  
24 that port by 24 and rounding to the nearest day;

25 (2) "port" includes a tanker terminal, dock, moorage,  
26 another vessel or any other facility, fixed or floating, from which  
27 gas or unrefined oil is loaded or unloaded.

28 \* Sec. 6. AS 43.56.070 is amended by adding a new subsection to read:  
29

(c) For purposes of this section, a return reporting marine

1 transportation values and days-spent-in-port information for the  
2 previous calendar year shall be submitted to the department on a date  
3 specified by regulation.

4 \* Sec. 7. AS 43.56.210(6) is amended to read:

5 (6) "taxable property" means real and tangible personal  
6 property within this state used or committed by contract or other  
7 agreement for use [WITHIN THIS STATE] primarily in the exploration  
8 for, production of, [OR] pipeline transportation of, refining of,  
9 gas or unrefined oil, or in the processing, liquefaction or manufacture  
10 of natural gas or oil products, including [(EXCEPT FOR) property used  
11 [SOLELY] for the liquefaction [RETAIL DISTRIBUTION OR LIQUEFACTION] of  
12 natural gas [ ]), or in the operation or maintenance of facilities used  
13 in the exploration for, production of, [OR] pipeline transportation  
14 of, refining of, gas or unrefined oil, or in the processing, liquefac-  
15 tion or manufacture of natural gas or oil products, including machinery,  
16 appliances, supplies, equipment, drilling rigs, wells (whether producing  
17 or not), gathering lines and transmission lines, pumping stations,  
18 compressor stations, power plants, topping plants, processing units,  
19 refineries and refining equipment, gas processing plants and equip-  
20 ment, liquefied natural gas facilities, roads, tank farms, tanker ter-  
21 minals, docks and other port facilities, air strips and communication  
22 equipment and facilities, maintenance equipment and facilities, and  
23 maintenance camps and other related facilities; "taxable property"  
24 also means property used or committed by contract or other agreement  
25 for use primarily in the marine transportation of gas or unrefined oil  
26 including tankers, all classes of crude carriers, ships, barges or  
27 other marine vessels used in connection with the transportation of gas  
28 or unrefined oil; "taxable property" does not include permanent resi-  
29 dences, office buildings requiring substantial local government services,

1 property used for retail distribution of gas, oil or oil products, or  
2 gas pipeline systems operated as utilities and regulated by the Alaska  
3 Public Utilities Commission;

4 \* Sec. 8. AS 29.53.045(b) is amended to read:

5 (b) A municipality may levy and collect a tax on the full and  
6 true value of taxable property taxable under AS 43.56 as valued by the  
7 Department of Revenue at a rate not to exceed that which produces an  
8 amount of revenue from the total municipal property tax equivalent to  
9 \$1,500 a year for each person residing within its boundaries. The  
10 commissioner of revenue shall adjust the limitation provided for in  
11 this section in accordance with changes in the Consumer Price Index  
12 for Anchorage, Alaska, published by the Bureau of Labor Statistics,  
13 United States Department of Labor. The adjusted limitation becomes  
14 effective on the January 1 following its adjustment and applies to  
15 taxes levied for that tax year. The Consumer Price Index for October  
16 1976 is considered the initial Consumer Price Index. In making the  
17 adjustments under this section, the commissioner shall comply with the  
18 following procedure:

19 (1) after November 30 and before December 31 of each year  
20 the commissioner shall calculate the change in the October Consumer  
21 Price Index for the current year from the October Consumer Price Index  
22 for the previous year;

23 (2) the commissioner shall then

24 (A) compute the percentage increase or decrease for  
25 that period and

26 (B) adjust the most current limitation set out in this  
27 section by the same percentage increase or decrease, rounded to  
28 the nearest dollar;

29 (3) and report the adjusted limitation to each municipality

1 by January 15 of the following year.

2 \* Sec. 9. AS 29.53.050(b) is amended to read:

3 (b) No municipality, or combination of municipalities occupying  
4 the same geographical area, in whole or in part, may levy taxes (1)  
5 which will result in tax revenues from all sources exceeding \$1,500  
6 [\$1,000] a year, as adjusted in accordance with (c) of this section,  
7 for each person residing within their boundaries or (2) upon values  
8 which, when combined with the value of property otherwise taxable by  
9 the municipality, exceed the product of 225 per cent of the average  
10 per capita assessed full and true value of property in the state  
11 multiplied by the number of residents of the taxing municipality. If  
12 two or more municipalities occupying the same geographical area, in  
13 whole or in part, attempt to levy a tax (1) the combined levy of which  
14 would result in tax revenues from all sources exceeding \$1,500  
15 [\$1,000] a year, as adjusted in accordance with (c) of this section,  
16 for each person residing within their boundaries or (2) upon value  
17 which, when combined with the value of property otherwise taxable by  
18 the municipality, exceed the product of 225 per cent of the average  
19 per capita assessed full and true value of property in the state  
20 multiplied by the number of residents of the taxing municipality, the  
21 commissioner of community and regional affairs shall apportion the  
22 lawful levy and equitably divide these revenues on the basis of need,  
23 services performed and other considerations in the public interest.  
24 For the purpose of this subsection, population shall be determined by  
25 the commissioner of community and regional affairs based on the latest  
26 statistics of the United States Bureau of the Census or on other  
27 reliable population data. For purposes of this subsection the average  
28 per capita assessed full and true value of property in the state shall  
29 be calculated without regard to the assessed value of taxable property

1 under AS 43.58.

2 \* Sec. 10. AS 29.53.050 is amended by adding a new subsection to read:

3 (c) The commissioner of revenue shall adjust the \$1,500 per  
4 person per year limitation provided for in (b) of this section in  
5 accordance with changes in the Consumer Price Index for Anchorage,  
6 Alaska, published by the Bureau of Labor Statistics, United States  
7 Department of Labor. The adjusted limitation becomes effective on the  
8 January 1 following its adjustment and applies to taxes levied for  
9 that tax year. The Consumer Price Index for October 1976 is considered  
10 the initial Consumer Price Index. In making the adjustments under  
11 this section, the commissioner shall comply with the following procedure:

12 (1) after November 30 and before December 31 of each year  
13 the commissioner shall calculate the change in the October Consumer  
14 Price Index for the current year from the October Consumer Price Index  
15 for the previous year;

16 (2) the commissioner shall then

17 (A) compute the percentage increase or decrease for  
18 that period and

19 (B) adjust the most current limitation set out in this  
20 section by the same percentage increase or decrease, rounded to  
21 the nearest dollar;

22 (3) and report the adjusted limitation to each municipality  
23 by January 15 of the following year.

24 \* Sec. 11. If a provision of this Act relating to taxation of marine  
25 transportation property or any other provision of this Act is held invalid  
26 or unenforceable, it is the intent of the legislature that the invalidity  
27 or unenforceability of that provision does not affect the validity or en-  
28 forceability of any other provision of this Act.

29 \* Sec. 12. This Act is retroactive to January 1, 1977, except that

1 marine transportation property shall be assessed in accordance with AS  
2 43.56.060(a) for the first time in 1978 under the assessment and collection  
3 procedures set out in AS 43.56 based upon its apportioned value during  
4 1977.

5 \* Sec. 13. This Act takes effect immediately in accordance with AS  
6 01.10.070(c).

HB 323

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 exploration, production, and pipeline and marine transportation property tax.

The Department of Revenue has recently completed its study of Alaska's oil and gas tax structure and has made several recommendations. One set of recommendations dealt with the state's 20-mill property tax imposed by AS 43.56. This bill would implement that set of recommendations.

The bill corrects four problem areas in the current property tax: the omission of certain important kinds of oil-and-gas-related properties from the definition of taxable property; present uncertainty about how pipelines should be valued; the static nature of the \$1500 per-capita limitation on municipal taxation, and the extent to which municipal property tax payments should be allowed as credits against the state tax. The bill's features are described below:

Section 1 of the bill makes clear that taxes paid to municipalities which exceed the statutory limitations in AS 29.53.045 and 29.53.050 are not creditable against the state tax.

Section 3 of the bill removes the current uncertainty on pipeline valuation by ensuring that pipelines will be valued on the basis of their full and true value

with due regard to their economic value. This will eliminate the possibility of pipelines being valued under the depressed valuation method of actual cost depreciated.

Section 4 of the bill defines full and true value of property used in refining or liquefying of gas or oil as replacement cost less depreciation. It also defines the value of taxable marine transportation property.

Section 7 adds new categories of taxable property including oil refineries, gas processing plants and liquefied natural gas facilities. This will mean greater revenues to the state from these important oil and gas properties.

Section 8 and 9 of the bill tie the \$1500 per capita municipal limitation to the Anchorage cost-of-living index in order that the limitation would increase over time as inflation raises the cost to municipalities of providing services to its residents.

In addition, Sections 2, 4, 5, 6, and 7 are aimed at amending the relevant provisions of AS 43.56 to provide for the taxation of marine transportation property (i.e. tankers) on an apportioned basis determined by the number of days spent on parts loading and unloading gas and unrefined oil divided by the total number of days-spent-in-ports everywhere. Although these provisions raise close and difficult questions of constitutional law regarding the ability of the state and municipalities to impose an ad valorem property tax on such vessels in light of the traditional application of the "home port" doctrine, it is the view of the Department of Law that these vessels have sufficient nexus with the state to bring them within the constitutional parameters of the state's taxing power.

Sincerely,

Jay S. Hammond  
Governor

THE LEGISLATURE OF THE STATE OF ALASKA  
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. HB 323  
 Title Oil and Gas Exploration, Production and Pipeline Property Tax  
 Requested by \_\_\_\_\_ Date \_\_\_\_\_

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

EXPENDITURES

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		10,000.	10,000.	10,000.	10,000.	10,000.
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		10,000.	10,000.	10,000.	10,000.	10,000.

FUNDING

GENERAL FUND		10,000.	10,000.	10,000.	10,000.	10,000.
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The inclusion of the new categories of taxable property including marine transportation property, LNG facilities and refineries would require additional amounts of contractual funds for professional appraisal services.

IV. DATE March 7, 1977 PREPARED BY John R. Messenger, Deputy Commissioner  
 AGENCY Department of Revenue  
 PHONE 4652300  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

ALASKA STATE LEGISLATURE

TENTH Legislature FIRST Session

HOUSE BILL NO. 323

By THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

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

Oil & gas exploration, production, pipeline, marine trans. prop. tax

Introduced in the House ..... 3-9, 1977.

HISTORY IN THE HOUSE

19 77  
Mar. 9

Read first time and referred to Committee on Resources and Finance

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed  
Signed by Speaker  
Sent to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed  
Signed by President  
Returned to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Received from Senate

Concurred in Senate amendment thus adopting:

Failed to concur in Senate amendment; asked Sen. to recede

Senate receded from amendment

Senate failed to recede from amendment

FCC appointed by House

FCC appointed by Senate

FCC adopted

To enrolling

Reported correctly enrolled

Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No. ....

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. 323

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 exploration,  
7 production, and pipeline and marine transportation  
8 property tax; and providing for an effective date."

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

10 \* Section 1. AS 43.56.010(d) is amended to read:

11 CHAPTER 56. OIL AND GAS EXPLORATION, PRODUCTION,  
12 AND PIPELINE AND MARINE TRANSPORTATION PROPERTY TAXES.

13 (d) A tax paid to a municipality under AS 29.53.045 on or before  
14 June 30 of the tax year shall be credited against the tax levied under  
15 (a) of this section for that tax year. If, however, a tax is not paid  
16 to a municipality until after June 30 of the taxable year, the depart-  
17 ment upon application shall refund to the taxpayer the amount of tax  
18 paid to the municipality under AS 29.53.045. The credit or refund of  
19 taxes paid to a municipality may not exceed the total amount of tax  
20 levied by the department upon the taxpayer for the tax year, under (a)  
21 of this section. Current property taxes which are collected by one or  
22 more municipalities under AS 29.53.055 or any other authority which  
23 exceed the limitations set out in AS 29.53.045 or AS 29.53.050 are not  
24 allowed as a credit against, or refund of, the tax levied under this  
25 section. The credit or refund is only allowed for taxes paid for the  
26 current tax year.

27 \* Sec. 2. AS 43.56.060(a) is amended to read:

28 Sec. 43.56.060. ASSESSMENT. (a) The department shall assess  
29 property for the tax levied under sec. 10(b) of this chapter and AS

29.53.045 on property used or committed by contract or other agreement for use for the pipeline transportation of gas or unrefined oil, [OR] for the production of gas or unrefined oil, for refining of gas or unrefined oil, or for the processing, liquefaction, or manufacture of natural gas or oil products at its full and true value as of January 1 of the assessment year. The department shall assess property for the tax levied under sec. 19(b) of this chapter and AS 29.53.045 on property used or committed by contract or other agreement for use in the marine transportation of gas or unrefined oil during any portion of the previous calendar year at its full and true value as of January 1 of the previous calendar year as apportioned under sec. 65 of this chapter.

\* Sec. 3. AS 43.56.060(c)(2) is amended to read:

(2) determined on each January 1 thereafter with due regard to the economic value of the property based on the estimated life of the proven reserves of gas or unrefined oil then technically, economically and legally deliverable into the transportation facility; [HOWEVER, IF THE PROVEN RESERVES OF GAS OR UNREFINED OIL THEN TECHNICALLY, ECONOMICALLY AND LEGALLY DELIVERABLE INDICATE AN ECONOMIC LIFE MATERIALLY SHORTER THAN THE ESTIMATED PHYSICAL LIFE OF THE TRANSPORTATION FACILITY, THE FULL AND TRUE VALUE IS THE ACTUAL COST REDUCED BY AN ANNUAL ALLOWANCE FOR DEPRECIATION ON A STRAIGHT LINE BASIS OVER AN ECONOMIC LIFE BASED ON THE ACTUAL ELAPSED LIFE FROM THE COMMENCEMENT OF FULL OPERATION TO THE DATE OF ASSESSMENT PLUS THE ESTIMATED REMAINING LIFE OF THE PROVEN RESERVES OF GAS AND UNREFINED OIL THEN TECHNICALLY, ECONOMICALLY AND LEGALLY DELIVERABLE INTO THE TRANSPORTATION FACILITY AS OF THE DATE OF THE ASSESSMENT;]

\* Sec. 4. AS 43.56.060 is amended by adding new subsections to read:

(h) The full and true value of taxable property used or committed