

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

1019 SCOMM 28: JOINT GAS PIPELINE COMMITTEE, 1981-82

chapter shall terminate on December 31, 1977.

Sec. 43.58.180. ACCRUAL OF EARLY DEVELOPMENT INCENTIVE CREDIT.

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

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

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

Sec. 43.58.190. DEFINITIONS. In this chapter:

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

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

(3) "lease or property" means:

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

(B) a leasehold interest in oil and gas,

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

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

1954 as defined on the effective date of this paragraph;

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

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

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

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

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

Sec. 43.58.200. PAYMENT TO ALASKA NATIVE FUND. When the tax

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

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

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

- (1) [deleted]
- (2) producing oil or gas leases;
- (3) oil or gas produced or extracted in the state;
- (4) [deleted]
- (5) the value of intangible drilling and exploration expenses

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

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

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

(8) "lease or property" means

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

(B) a leasehold interest in oil and gas,

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

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

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

1 (b) No municipality, or combination of municipalities occupying
2 the same geographical area, in whole or in part, may levy taxes which
3 will result in tax revenues from all sources exceeding either (1)
4 \$1,000 a year for each person residing within their boundaries or (2)
5 when combined with the value of property otherwise taxable by the
6 municipality, the product of 225 per cent of the average per capita
7 assessed full and true value of property in the state multiplied by
8 the number of residents of the taxing municipality. If two or more
9 municipalities occupying the same geographical area, in whole or in
10 part, attempt to levy a tax the combined levy of which would result in
11 tax revenues from all sources exceeding either (1) \$1,000 a year for
12 each person residing within their boundaries or (2) when combined with
13 the value of property otherwise taxable by the municipality, the
14 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 residents
16 of the taxing municipality, the commissioner of community and regional
17 affairs shall apportion the lawful levy and equitably divide these
18 revenues on the basis of need, services performed and other considera-
19 tions in the public interest. For the purpose of this subsection,
20 population shall be determined by the commissioner of community and
21 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. Sec. 43.56.010(c) is amended to read:

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

1 state (to be determined by the department and reported to each municipi-
2 pality by January 15 of each year) multiplied by the number of residents
3 of the taxing municipality, the department shall designate the portion
4 of the tax base against which the local tax may be applied. For
5 purposes of this subsection the average per capita assessed full and
6 true value of property in the state shall be calculated without regard
7 to the assessed value of taxable property under ch. 58 of this title.

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

15 * Sec. 8. This Act takes effect immediately in accordance with AS
16 01.10.070(c).
17
18
19
20
21
22
23
24
25
26
27
28
29

Original sponsor: Cowper, Bowman,
Bradley, et al

Offered: 5/31/75

1 IN THE HOUSE BY THE FREE CONFERENCE COMMITTEE
2 FREE CONFERENCE CS FOR SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 297
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

11 CHAPTER 58. OIL AND GAS RESERVES AD VALOREM TAX.

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

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

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

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

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

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

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

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

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

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

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

14 (C) the determination by the department that a trans-
15 mission facility exists that is capable of transporting oil or gas
16 that may be produced from that property;

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

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

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

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

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

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

- 21 (1) a description of all taxable property;
22 (2) the assessed value of all taxable property; and
23 (3) the names and addresses of persons owning or otherwise
24 holding an interest in taxable property.

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

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

6 (b) The procedures for conduct of the hearing and preliminary
7 activities to it shall be in accordance with AS 44.62.350, 44.62.430,
8 44.62.450 - 44.62.460, 44.62.480, 44.62.500 - 44.62.550, 44.62.590,
9 and 44.62.610 - 44.62.640. The term "respondent" used in those
10 sections of AS 44.62 (Administrative Procedure Act) shall be considered,
11 for the purposes of this section, to include the person aggrieved by
12 action of the department. The department shall provide by regulation
13 for notices of hearing under this section to interested persons. At the
14 hearing the appellant bears the burden of proof. In the absence of this
15 proof the assessment is to be upheld by the department. If the depart-
16 ment, after hearing, determines that a correction of the assessment is
17 warranted, the department shall correct the assessment and the assess-
18 ment roll.

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

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

27 Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department
28 shall include property omitted from the assessment roll on a supple-
29 mental roll, using the procedures set out in this chapter for the

1 original roll.

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

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

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

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

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

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

1 property belonging to a minor or other person;

2 (3) by the trustee of a trust estate holding taxable prop-
3 erty in trust for the benefit of another person;

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

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

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

17 (c) The tax levied under this chapter is payable to the depart-
18 ment on or before June 30 of each year or in installments at the times
19 and under the conditions the department may by regulation require. This
20 tax is payable on the due date set out in this subsection even though
21 the assessment is under appeal or the validity, enforceability or
22 application of this chapter or any provision of this chapter is chal-
23 lenged before the department or in the courts.

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

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

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

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

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

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

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

1 tax under this chapter.

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

5 Sec. 43.58.160. REGULATIONS. The department may adopt regulations
6 in accordance with the Administrative Procedure Act (AS 44.62) as appro-
7 priate to administer and enforce this chapter.

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

10 Sec. 43.58.180. ACCRUAL OF EARLY DEVELOPMENT INCENTIVE CREDIT.

11 (a) An early development incentive credit, calculated in accordance
12 with this section, shall be applied to the tax payable under ch. 55 of
13 this title as provided in AS 43.55.018. The early development incentive
14 credit for a lease or property is zero until changed as provided in this
15 section.

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

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

22 Sec. 43.58.190. DEFINITIONS. In this chapter:

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

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

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

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

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

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

15 (A) a mineral interest,

16 (B) a leasehold interest,

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

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

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

1 processing plant;

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

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

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

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

13 Sec. 43.58.200. PAYMENT TO ALASKA NATIVE FUND. When the tax
14 levied under this chapter is payable an amount equivalent to not less
15 than two per cent of the tax shall be paid by the state from oil and gas
16 royalties, bonuses and rentals into the Alaska Native Fund established
17 by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203,
18 85 Stat. 688, 43 U.S.C. 1601 et seq.) until all payments paid into the
19 fund equal \$500,000,000.

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

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

25 (1) [deleted]

26 (2) producing oil or gas leases;

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

28 (4) [deleted]

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

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

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

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

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

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

12 (A) a mineral interest,

13 (B) a leasehold interest,

14 (C) a working interest, royalty interest, overriding
15 royalty interest, production payment, net profit interest or any
16 other interest in a lease, concession, joint venture or other agree-
17 ment for oil and gas exploration, development or production,

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

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

24 (b) No municipality, or combination of municipalities occupying
25 the same geographical area, in whole or in part, may levy taxes (1)
26 which will result in tax revenues from all sources exceeding [EITHER (1)]
27 \$1,000 a year for each person residing within their boundaries or (2)
28 upon values which, when combined with the value of property otherwise
29 taxable by the municipality, exceed the product of 225 per cent of the

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

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

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

1 of taxable property under AS 43.58.

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

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

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

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

28 * Sec. 10. This Act takes effect immediately in accordance with AS 01.10.
29 070(c).

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

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

THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 638

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

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

IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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

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

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

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

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

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

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

(E) fourteen and one-half per cent on all production in

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

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

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

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

13 (1) \$.1965 [\$.16875] on each of the first 300 barrels of
14 average daily per well production;

15 (2) \$.2358 [\$.2025] on each of the next 700 barrels of
16 average daily per well production;

17 (3) \$.3144 [\$.2700] on each of the next [BARREL OF PRODUCTION
18 IN EXCESS OF] 1,000 barrels of average daily per well production;

19 (4) \$.4323 on each of the next 1,000 barrels of average daily
20 per well production;

21 (5) \$.56985 on each barrel of production in excess of 3,000
22 barrels of average daily per well production.

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

24 (c) The tax rates set out in this section will be increased or
25 decreased by a percentage equal to the percentage of change in the
26 Wholesale Price Index for crude petroleum published by the Bureau of
27 Labor Statistics, of the United States Department of Labor. The year
28 1967 is the base year of 100 for computing the tax rates. Changes in
29 tax rates will be computed based on changes from the December, 1973

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[REMOVED]
r whom the
o read:
ns:
t where it
er, tank
condition
ty from
ne
from a
stody
om-
it
s
18

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

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

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

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

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

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

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

Introduced: 2/17/76

Referred: Resources and Finance

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

1 IN THE HOUSE

2 *nd 55* HOUSE BILL NO. 803

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for an oil production income tax; and
7 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 59. OIL PRODUCTION INCOME TAX.

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

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

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

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

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

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

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

nd 55 HB 803

1 cents per barrel.

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

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

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

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

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

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

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

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

26 (e) Exploration costs may be carried forward for purposes of com-
27 puting deductions a maximum of 10 years.

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

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

3 Sec. 43.59.050. FIELD DEVELOPMENT AND PRODUCTION COST DEDUCTIONS.

4 (a) Field development and production costs are deductible only in
5 computing the tax due on oil produced from the field in which they were
6 incurred.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Sec. 43.59.080. VALUE MAY BE DETERMINED BY DEPARTMENT. The depart-
4 ment may determine the value of the oil at the point of first sale or
5 at the refinery when

6 (1) the seller and purchaser are affiliated persons;

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

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

12 Sec. 43.59.090. ADMINISTRATION OF TAX. The tax imposed under this
13 chapter shall be administered in the manner provided in AS 43.55.040,
14 43.55.050, 43.55.070, 43.55.090, and 43.55.110.

15 Sec. 43.59.100. NONPAYMENT OF TAX. The provisions for civil
16 penalty, interest and remedy established in AS 43.58.120, 43.58.130, and
17 43.58.150 apply to this chapter.

18 Sec. 43.59.110. REGULATIONS. The department may adopt regulations
19 in accordance with the Administrative Procedure Act (AS 44.62) as appro-
20 priate to administer and enforce this chapter.

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

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

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

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

1 levied under this chapter is payable an amount equivalent to not less
2 than two per cent of the tax shall be paid by the state from oil and
3 gas royalties, bonuses and rentals into the Alaska Native Fund estab-
4 lished by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-
5 203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) until all payments paid
6 into the fund equal \$500,000,000.

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

9 * Sec. 2. This Act takes effect January 1, 1977.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

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

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

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 803

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for an oil production income tax; and
7 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 59. OIL PRODUCTION INCOME TAX.

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

16 Sec. 43.59.020. COMPUTATION OF NORMAL TAX BASE. Normal tax under
17 this chapter is imposed on that portion of the value of the oil at the
18 point of first sale or its value at the refinery, whichever is less,
19 which exceeds the sum of the following allowable costs, but is less than
20 125 per cent of the sum:

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

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

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

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

1 title;

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

4 Sec. 43.59.030. COMPUTATION OF SURTAX BASE. Surtax under this
5 chapter is imposed on the amount by which the value of the oil at the
6 point of first sale, or the refinery to which it is delivered, whichever
7 is less, exceeds 125 per cent of the allowable costs set out in sec.
8 20(1) - (5) of this chapter.

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

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

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

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

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

23
$$C_o = C_{o+g} \cdot WV_o / WV_{o+g}, \text{ where}$$

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

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

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

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

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

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

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

13 (f) Exploration costs may be carried forward for purposes of com-
14 puting deductions a maximum of 10 years, and may be allocated among
15 fields at the election of the producer.

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

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

1 tion basis.

2 (c) No development cost incurred before January 1, 1970 shall be
3 included in calculating allowable deductions, and in the case of facili-
4 ties in operation before the effective date of this Act, the carrying
5 forward of depreciation accruing before the effective date of this Act
6 shall not be permitted.

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

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

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

18 Sec. 43.59.070. TRANSPORTATION COST DEDUCTIONS. When the commis-
19 sioner of revenue determines that transportation tariffs or charges may
20 not accurately represent the true costs and that transportation charges
21 are being paid to an entity affiliated with an oil producer taxpayer,
22 he may, after promulgation of regulations governing the determination by
23 him of the fair transportation costs, and public hearing, make a deter-
24 mination of the deductible transportation cost for the purposes of com-
25 puting the taxes due under this chapter. No producer affected by this
26 determination shall be allowed transportation cost deductions in excess
27 of the amounts determined by the commissioner to be fair and deductible.

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

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

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

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

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

21 Sec. 43.59.110. VALUE MAY BE DETERMINED BY DEPARTMENT. The de-
22 partment may, under regulations promulgated in advance, determine the
23 fair market value of the oil at the point of first sale or at the
24 refinery when

- 25 (1) the seller and purchaser are affiliated persons;
26 (2) the sale and purchase of the production is not an arm's
27 length transaction or is not representative of competitive market value;
28 or
29 (3) there is no competitive market at the refinery for oil of

1 similar kind and quality.

2 Sec. 43.59.120. ADMINISTRATION OF TAX. AS 43.55.040, 43.55.050,
3 43.55.070, 43.55.090, and 43.55.110 apply with respect to this chapter.

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

7 Sec. 43.59.140. REGULATIONS. The department may adopt regulations
8 in accordance with the Administrative Procedure Act (AS 44.62) as appro-
9 priate to administer and enforce this chapter.

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

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

15 Sec. 43.59.160. PRIVATE LAND INCENTIVE EXEMPTION. The provisions
16 of this chapter are not applicable to oil produced from nongovernmen-
17 tally owned mineral fee interests.

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

25 Sec. 43.59.180. DEFINITIONS. In this chapter "department" means
26 the Department of Revenue, and oil and gas are as defined in AS 43.55.-
27 140.

28 * Sec. 2. This Act takes effect January 1, 1977.
29

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

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

1 IN THE HOUSE

2 2d SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 803

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for an oil production income tax; and
7 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 59. OIL PRODUCTION INCOME TAX.

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

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

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

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

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

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

1 AS 43.58.180;

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

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

6 (1) the cost attributable to oil of geophysical and geologi-
7 cal investigations incurred for the purpose of finding oil and gas in
8 Alaska;

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

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

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

18
$$C_o = C_{o+g} \cdot WV_o / WV_{o+g}, \text{ where}$$

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

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

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

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

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

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

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

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

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

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

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

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

1 shall not be permitted.

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

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

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

13 Sec. 43.59.060. TRANSPORTATION COST DEDUCTIONS. When the commis-
14 sioner of revenue determines that transportation tariffs or charges may
15 not accurately represent the true costs and that transportation charges
16 are being paid to an entity affiliated with an oil producer taxpayer,
17 he may, after promulgation of regulations governing the determination by
18 him of the fair transportation costs, and public hearing, make a deter-
19 mination of the deductible transportation cost for the purposes of com-
20 puting the taxes due under this chapter. No producer affected by this
21 determination shall be allowed transportation cost deductions in excess
22 of the amounts determined by the commissioner to be fair and deductible.

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

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

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

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

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

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

18 Sec. 43.59.100. VALUE MAY BE DETERMINED BY DEPARTMENT. The de-
19 partment may, under regulations promulgated in advance, determine the
20 fair market value of the oil at the point of first sale or at the
21 refinery when

22 (1) the seller and purchaser are affiliated persons;

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

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

28 Sec. 43.59.110. ADMINISTRATION OF TAX. AS 43.55.040, 43.55.050,
29 43.55.070, 43.55.090, and 43.55.110 apply with respect to this chapter.

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

4 Sec. 43.59.130. REGULATIONS. The department may adopt regulations
5 in accordance with the Administrative Procedure Act (AS 44.62) as appro-
6 priate to administer and enforce this chapter.

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

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

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

19 Sec. 43.59.160. DEFINITIONS. In this chapter "department" means
20 the Department of Revenue, and oil and gas are as defined in AS 43.55.-
21 140.

22 * Sec. 2. This Act takes effect January 1, 1977.
23
24
25
26
27
28
29

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

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

IN THE HOUSE

HOUSE BILL NO. 699

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to assessment and taxation of oil and gas properties net proceeds tax; and providing for an effective date."

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

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

CHAPTER 22. OIL AND GAS PROPERTIES NET PROCEEDS TAX.

Sec. 43.22.010. PURPOSE. The purposes of the oil and gas properties net proceeds tax are to provide efficient administration and collection of an ad valorem tax based on the income to the property of oil and gas, and to provide a rate of taxation on the income to the property of oil and gas equal to the corporate state income tax rates provided in AS 43.20.011.

Sec. 43.22.020. STATEMENT OF YIELD. (a) Every person engaged in producing oil and gas and every recipient of royalty payments in connection with oil and gas production shall file annually, on or before February 1, with the department a statement showing the gross value of production and claimed net proceeds from each well or field owned or operated by the person during the previous calendar year.

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

(1) the name and address of the operator of the well or field together with a list in duplicate of the names and addresses of any persons owning or claiming a royalty interest in the production of the

706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
699
700
701
702
703
704

1 well or the proceeds derived from the sale of it, and the amount paid
2 delivered in kind as royalty to each of these persons during the period
3 covered by the statement;

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

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

8 (4) the gross value in dollars of the production; and

9 (5) the claimed deductions from the gross value in the details
10 set out in sec. 30 of this chapter.

11 (c) Each recipient of royalty payments as described in (b)(1) of
12 this section shall annually file with the department a list showing each
13 of the lessees responsible for taxes due in connection with the wells or
14 fields included in the statement filed under (a) and (b) of this section.

15 Sec. 43.22.030. NET PROCEEDS: HOW COMPUTED. (a) The department
16 shall, from the statement and from all obtainable data, evidence and
17 reports, compute the gross value of production and net proceeds.

18 (b) The net proceeds shall be ascertained and determined by sub-
19 tracting from the gross value the following deductions for costs in-
20 curred during the year, and none other:

21 (1) royalties paid or due the United States or the state;

22 (2) royalties paid or due, other than to the United States or
23 the state, by a lessee or sublessee of a well, or by both, shall con-
24 stitute a deductible item; but the royalties so deducted by the lessee
25 or sublessee constitutes part of the gross yield of the well for the
26 purpose of determining the net proceeds upon which a tax shall be levied
27 against the person to which the royalty has been paid;

28 (3) the actual costs of transporting the product of the
29 well to the FOB point;

- (4) the actual cost of maintenance and repairs of
- (A) well machinery, equipment, apparatus and facilities;
 - (B) transportation facilities and equipment;
- (5) depreciation of the original capitalized cost of the machinery, equipment, apparatus and facilities;
- (6) all taxes paid or due to the state under chs. 55, 56, and 57 of this title;
- (7) money expended for necessary labor and supplies needed and used in the well operations and developments;
- (8) money expended for fire insurance and workmen's compensation insurance, and for payments by operators to welfare and retirement funds when provided for in wage contracts between operators and employees.
- (c) The deductions mentioned in (b) of this section shall not include any expenditures for the salary of a person not actually engaged in
- (1) the operation of a well or of transportation facilities or equipment or superintending the management of them; or
 - (2) office clerical or engineering work in the state necessary or proper in connection with these operations.

Sec. 43.22.040. DEDUCTION OF DRILLING COSTS AND CAPITAL EXPENDITURES. (a) The department, in computing the deductions allowable for the costs of drilling wells completed during the period and for other capital expenditures, shall allow 10 per cent of the cost each year for a period of 10 years; in the event of abandonment before the cost is recovered, any remaining depreciation may be written off in the year of abandonment.

- (b) Exploration costs, including exploratory drilling costs incur-

706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800

1 red in the state, shall be capitalized. The department, in computing
2 the allowable amortization of the exploration costs, shall allow up to
3 seven per cent of the exploration costs per year. The department shall
4 issue regulations appropriate to implement and administer this section.

5 Sec. 43.22.050. AD VALOREM TAX LEVIED. (a) There is levied and
6 shall be collected by the department an ad valorem tax based on the
7 assessed value of production which is severed and sold from each well or
8 field. The tax is levied at the rate provided in AS 43.20.011(e) on the
9 net proceeds from the production which is severed and sold from each
10 well or field.

11 (b) The tax imposed under this chapter is in lieu of the tax
12 imposed under ch. 20 of this title on the income from oil production
13 taxed under this chapter.

14 Sec. 43.22.060. VALUE MAY BE DETERMINED BY DEPARTMENT. The de-
15 partment may determine the value of production severed from a well when
16 (1) the operator and purchaser are affiliated persons; (2) the sale
17 and purchase of the production is not an arm's length transaction; or
18 (3) the production is severed and removed from a production unit, and a
19 value as defined in this chapter is not established for this production.
20 The value determined by the department shall be commensurate with the
21 actual price received for production of like quality, character, and use
22 which is severed in the same field or area and shall not be computed at
23 a lesser amount than the actual value received for the state's royalty
24 oil or gas received for production of like quality, character and use
25 which are severed in the same field or area.

26 Sec. 43.22.070. CERTIFICATES OF AMOUNT OF NET PROCEEDS. (a) When
27 the department determines the net proceeds of a well or field, it shall
28 prepare its certificate of the net proceeds and taxes due on them in
29 duplicate and shall file one copy in the department and send the second

copy by certified mail to

- (1) a person who is the owner of the property, or who controls that property as agent, or on account of any other person;
- (2) a guardian or other person who has charge of taxable property belonging to a minor or other person;
- (3) the trustee of a trust estate holding taxable property in trust for the benefit of another person;
- (4) the executor or administrator of a deceased person's estate which includes taxable property;
- (5) the receiver of a corporation who has its assets in his hands.

(b) Upon the filing of the copy of the certificate and mailing of the second copy, the assessment shall be considered to be made in the amount fixed by the certificate and taxes on that amount shall be immediately due and payable.

Sec. 43.22.080. APPEALS. (a) A person aggrieved by the action of the department in making an assessment may appeal that action and obtain a hearing upon its validity before the department by filing written objections to the assessment not later than 20 days after the effective date of the assessment notice.

(b) The procedures for conduct of the hearing and preliminary activities to it shall be in accordance with AS 44.62.350, 44.62.430, 44.62.450 - 640, 44.62.480, 44.62.500 - 550, 44.62.590, and 44.62.610 - 640. The term "respondent" used in those sections of AS 44.62 (Administrative Procedure Act) shall be considered, for the purposes of this section, to include the person aggrieved by action of the department. The department shall provide by regulation for notices of hearing under this section to interested persons. At the hearing the appellant bears the burden of proof. In the absence of this proof the assessment is to

1 be upheld by the department. If the department, after hearing, deter-
2 mines that a correction of the assessment is warranted, the department
3 shall correct the assessment.

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

8 Sec. 43.22.090. RETURNS AND PAYMENT OF TAX. (a) A return of the
9 taxes due and payable, fixed by the certificate of the net proceeds shall
10 be submitted on or before the 60th day after the filing of the certifi-
11 cate on the form prescribed by the department. The return shall be sub-
12 mitted by those persons listed in sec. 70 of this chapter.

13 (b) The person required to submit the return specified under (a)
14 of this section is primarily liable for payment of the tax levied by
15 this chapter. The persons or estates specified in sec. 70(a)(2) - (5) of
16 this chapter in whose behalf the tax levied by this chapter is to be
17 paid are secondarily liable for payment of the tax. With the written
18 approval of the department, an operator or nonoperator of the lease or
19 property may submit returns or make payment of the tax levied under this
20 chapter on behalf of himself and other persons the department may ap-
21 prove.

22 (c) The tax levied under this chapter is payable to the department
23 on or before the 60th day after the filing of the certificate or in esti-
24 mated installments at the times and under the conditions the department
25 may by regulation require. This tax is payable on the due date set out
26 in this subsection even though the assessment is under appeal or the
27 validity, enforceability or application of this chapter or provision of
28 this chapter is challenged before the department or in the courts.

29 (d) A person making payment of the tax levied under this chapter

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

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

Sec. 43.22.100. CIVIL PENALTY. Five per cent shall be added to the tax for each 30-day period or fraction of that period during which the taxpayer fails to file a return or pay the full amount of the tax, or a portion or a deficiency of the tax due and payable as finally determined by the department and required by this chapter, unless it is shown that the failure is due to reasonable cause and not to wilful neglect. The penalty may not exceed 25 per cent in the aggregate. The penalty shall be collected at the same time, in the same manner and as a part of the original tax, but if the original tax is paid before the neglect is discovered, the penalty shall be collected in the same manner as the original tax. The department shall describe by regulations circumstances which constitute reasonable cause for purposes of this section.

Sec. 43.22.110. INTEREST. When the tax levied in this chapter becomes delinquent, it bears interest at the rate of eight per cent a year.

Sec. 43.22.120. LIEN. The tax, penalty and interest payable under this chapter are first and paramount liens on the property subject to

1 tax under this chapter.

2 Sec. 43.22.130. REMEDY. The remedy of distraint of property set
3 out in AS 43.20.270 applies to the tax, penalty and interest levied by
4 this chapter.

5 Sec. 43.22.140. BURDEN OF PROOF. In a suit arising concerning the
6 assessment and taxation of the proceeds of wells or fields, the burden
7 of proof shall be upon the person owning or operating the well or field
8 and every recipient of royalty payments in connection with them.

9 Sec. 43.22.150. REGULATIONS. The department may adopt regulations
10 in accordance with the Administrative Procedure Act (AS 44.62) as
11 appropriate to administer and enforce this chapter.

12 Sec. 43.22.160. PAYMENT TO ALASKA NATIVE FUND. When the tax
13 levied under this chapter is payable, an amount equivalent to not less
14 than two per cent of the tax shall be paid by the state from oil and gas
15 royalties, bonuses, and rentals into the Alaska Native Fund established
16 by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92203, 85
17 Stat. 688, 43, U.S.C. 1601, et. seq.) until all payments paid into the
18 fund equal \$500,000,000.

19 Sec. 43.22.170. DEFINITIONS. In this chapter

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

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

23 (3) "gross value" means FOB price at Alaska border or other
24 convenient point or as determined by the department;

25 (4) "oil" means crude petroleum and other hydrocarbons re-
26 gardless of gravity which, when recovered, are recovered at the well-
27 head in liquid form, and the liquid hydrocarbons known as distillate
28 or condensate that are recovered by separation from gas other than at
29 a processing plant.

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

Introduced: 2/9/76
Referred: Resources and Finance

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

1 IN THE HOUSE

2 HOUSE BILL NO. 703

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to assessment and taxation of oil and
7 gas properties excess value surtax; and providing for
8 an effective date."

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

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

11 CHAPTER 23. OIL AND GAS PROPERTIES EXCESS VALUE SURTAX.

12 Sec. 43.23.010. PURPOSE. The purpose of the excess value surtax
13 is to tax the excess value not needed to implement long-term exploration
14 and development and to provide an alternative to promote short-term
15 investments in the oil and gas industry.

16 Sec. 43.23.020. STATEMENT OF YIELD. (a) Every person engaged in
17 producing oil and gas shall file annually by February 1 of each year,
18 with the department a statement showing the gross value and claimed net
19 proceeds from each well or field owned, worked or operated by that
20 person during the previous year.

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

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

- (2) the description and location of the well or field;
- (3) the number of cubic feet of natural gas, barrels of petroleum, or other crude or mineral oil extracted or produced from the well or field during the period covered by the statement;
- (4) the gross value in dollars of production; and
- (5) the claimed deductions from the gross value in the detail set out in sec. 30 of this chapter.

Sec. 43.23.030. COMPUTATION OF NET PROCEEDS. (a) The department shall, from the statement and from all obtainable data, evidence and reports, compute the gross value of production and net proceeds.

(b) The net proceeds shall be ascertained and determined by subtracting from the gross value the following deductions for cost incurred during the year, and none other:

- (1) royalties paid or due the United States or the state;
- (2) royalties paid or due, other than to the United States or the state, by a lessee or sublessee of a well, or by both, shall constitute a deductible item; but the royalties so deducted by the lessee or sublessee constitutes part of the gross yield of the well for the purpose of determining the net proceeds upon which a tax shall be levied against the person to which the royalty has been paid;
- (3) the actual costs of transporting the product of the well to the FOB point;
- (4) the actual cost of maintenance and repairs of
 - (A) well machinery, equipment, apparatus and facilities;
 - (B) transportation facilities and equipment;
- (5) depreciation of the original capitalized cost of the machinery, equipment, apparatus and facilities;
- (6) all taxes paid or due to the state under chs. 55, 56, and 57 of this title;

1 (7) money expended for necessary labor and supplies needed
2 and used in the well operations and developments;

3 (8) money expended for fire insurance and workmen's compen-
4 sation insurance, and for payments by operators to welfare and retire-
5 ment funds when provided for in wage contracts between operators and
6 employees.

7 (c) The deductions mentioned in (b) of this section shall not
8 include any expenditures for the salary of a person not actually engaged
9 in

10 (1) the operation of a well or of transportation facilities
11 or equipment or superintending the management of them; or

12 (2) office clerical or engineering work in the state neces-
13 sary or proper in connection with these operations.

14 Sec. 43.23.040. DEDUCTION OF DRILLING COSTS AND CAPITAL EXPENDI-
15 TURES. (a) The department, in computing the deductions allowable for
16 the costs of drilling wells completed during the period and for other
17 capital expenditures, shall allow 10 per cent of the cost each year for
18 a period of 10 years; in the event of abandonment before the cost is
19 recovered, any remaining depreciation may be written off in the year of
20 abandonment.

21 (b) Exploration costs, including exploratory drilling costs incur-
22 red in the state, shall be capitalized. The department, in computing
23 the allowable amortization of the exploration costs, shall allow up to
24 seven per cent of the exploration costs per year. The department shall
25 issue regulations appropriate to implement and administer this section.

26 Sec. 43.23.050. EXCESS VALUE SURTAX. There is levied upon the
27 producer of oil and gas or any royalty interest not exempt from taxation
28 a surtax at the rate of 41 per cent upon the excess value of the pro-
29 duction as determined under sec. 60 of this chapter.

1 Sec. 43.23.060. COMPUTATION OF EXCESS VALUE. (a) For each year
2 the department shall, from the statement and from all obtainable data,
3 evidence and reports, compute the excess value by well or field, accord-
4 ing to either (b) or (c) of this section. A well or field not subject
5 to the excess value tax may not be aggregated with a well or field
6 subject to the tax.

7 (b) Excess value is determined by subtracting the long-term net
8 value from the net proceeds of the well or field as computed under sec.
9 30 of this chapter. Long-term net value is determined by subtracting
10 the per barrel costs of the well or field from the long-term index
11 price; however, severance taxes and royalties are deductible costs only
12 in the amount that would have been due on the long-term index price.
13 The long-term index price is the price for a barrel of oil or its energy
14 equivalent of \$7 per barrel FOB in the west coast markets or the amount
15 determined by the department, taking into consideration the prevailing
16 transport charges from the FOB point, chosen by the department, to the
17 west coast markets; however, in no event may the amount determined by
18 the department exceed the equivalent of \$7 per barrel FOB in the west
19 coast markets plus the increase in the national wholesale price index
20 since the tax went into effect.

21 (c) If the long-term net value as calculated for a specific well or
22 field is less than \$1 per barrel of oil or of gas equivalent, the long-
23 term net value will be considered to be \$1 times the number of barrels
24 of oil or of gas equivalent produced from the well or field during the
25 tax reporting period.

26 (d) The producer shall also pay the surtax on the excess of
27 royalties actually paid over royalties which would be paid based on the
28 long-term index price. In making settlement with the royalty owner the
29 producer may deduct the amount of surtax paid on royalty oil or deduct

royalty oil equivalent in value (at the time the surtax becomes due) to the amount of the surtax paid.

Sec. 43.23.070. CREDIT AGAINST INCOME TAX. The tax paid under this chapter by a producer on his own behalf shall be in lieu of the tax imposed under ch. 20 of this title. The tax paid by a producer on behalf of a royalty owner shall be allowed as a credit by the royalty owner against the tax imposed under ch. 20 of this title on income attributable to that royalty interest. The credit may not exceed the amount of tax imposed under ch. 20 of this title attributable to that income, and may not be carried over.

Sec. 43.23.080. CERTIFICATES OF AMOUNT OF EXCESS VALUE. (a) When the department determines the excess value of production from a well or field, the department shall prepare its certificate of the excess value in duplicate and shall file one copy of it with the department and send the second copy by certified mail to:

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

(2) a guardian or other person who has charge of taxable property belonging to a minor or other person;

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

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

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

(b) Upon the filing of the copy of the certificate with the department, the assessment shall be considered to be made in the amount fixed by the certificate and taxes on that amount at the rate established in sec. 50 of this chapter shall be immediately due and payable.

1 (c) The department shall determine annually the long-term index
2 price.

3 Sec. 43.22.090. APPEALS. (a) A person aggrieved by the action of
4 the department in making an assessment may appeal that action and obtain
5 a hearing upon its validity before the department by filing written ob-
6 jections to the assessment not later than 20 days after the effective
7 date of the assessment notice.

8 (b) The procedures for conduct of the hearing and preliminary ac-
9 tivities to it shall be in accordance with AS 44.62.350, 44.62.430,
10 44.62.450 - 44.62.640, 44.62.480, 44.62.500 - 44.62.550, 44.62.590, and
11 44.62.610 - 44.62.640. The term "respondent" used in those sections of
12 AS 44.62 (Administrative Procedure Act) shall be considered, for the
13 purposes of this section, to include the person aggrieved by action of
14 the department. The department shall provide by regulation for notices
15 of hearing under this section to interested persons. At the hearing the
16 appellant bears the burden of proof. In the absence of this proof the
17 assessment is to be upheld by the department. If the department, after
18 hearing, determines that a correction of the assessment is warranted,
19 the department shall correct the assessment.

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

24 Sec. 43.22.100. RETURNS AND PAYMENT OF TAX. (a) A return of the
25 taxes due and payable, fixed by the certificate of the net proceeds
26 shall be submitted on or before the 60th day after the filing of the
27 certificate on the form prescribed by the department. The return shall
28 be submitted by those persons listed in sec. 80 of this chapter.

29 (b) The person required to submit the return specified under (a)

1 of this section is primarily liable for payment of the tax levied by
2 this chapter. The persons or estates specified in sec. 80(a)(2) - (5)
3 of this chapter in whose behalf the tax levied by this chapter is to be
4 paid are secondarily liable for payment of the tax. With the written
5 approval of the department, an operator or nonoperator of the lease or
6 property may submit returns or make payment of the tax levied under this
7 chapter on behalf of himself and other persons the department may ap-
8 prove.

9 (c) The tax levied under this chapter is payable to the department
10 on or before the 60th day after the filing of the certificate or in
11 estimated installments at the times and under the conditions the depart-
12 ment may by regulation require. This tax is payable on the due date set
13 out in this subsection even though the assessment is under appeal or the
14 validity, enforceability or application of this chapter or provision of
15 this chapter is challenged before the department or in the courts.

16 (d) A person making payment of the tax levied under this chapter
17 on behalf of one or more other persons owning or otherwise holding an
18 interest in a taxable property may withhold a proportionate share of the
19 payment from the proceeds or other benefits from the taxable property
20 owed to any person on whose behalf the payment is made. Unless otherwise
21 specifically provided by written contract or agreement, the person so
22 withholding a proportionate share of the tax levied under this chapter
23 incurs no liability to those from whom it is withheld by virtue of hav-
24 ing made the withholding.

25 (e) By written notice the department may require a person filing a
26 return to submit additional information to the department no later than
27 30 days after the notice.

28 Sec. 43.23.110. CIVIL PENALTY. Five per cent shall be added to
29 the tax for each 30-day period or fraction of that period during which

1 the taxpayer fails to file a return or pay the full amount of the tax,
2 or a portion or a deficiency of the tax due and payable as finally
3 determined by the department and required by this chapter, unless it is
4 shown that the failure is due to reasonable cause and not to wilful
5 neglect. The penalty may not exceed 25 per cent in the aggregate. The
6 penalty shall be collected at the same time, in the same manner and as a
7 part of the original tax, but if the original tax is paid before the
8 neglect is discovered, the penalty shall be collected in the same manner
9 as the original tax. The department shall describe by regulations
10 circumstances which constitute reasonable cause for purposes of this
11 section.

12 Sec. 43.23.120. INTEREST. When the tax levied in this chapter
13 becomes delinquent, it bears interest at the rate of eight per cent a
14 year.

15 Sec. 43.23.130. LIEN. The tax, penalty and interest payable under
16 this chapter are first and paramount liens on the property subject to
17 tax under this chapter.

18 Sec. 43.23.140. REMEDY. The remedy of distraint of property set
19 out in AS 43.20.270 applies to the tax, penalty and interest levied by
20 this chapter.

21 Sec. 43.23.150. BURDEN OF PROOF. In a suit arising that concerns
22 the assessment and taxation of the proceeds of a well or field, the
23 burden of proof shall be upon the person owning or operating the well
24 or field and every recipient of royalty payments in connection with that
25 well or field.

26 Sec. 43.23.160. REGULATIONS. The department may adopt regulations
27 in accordance with the Administrative Procedure Act (AS 44.62) as appro-
28 priate to administer and enforce this chapter.

29 Sec. 43.23.170. DEFINITIONS. In this chapter

- (1) "department" means the Department of Revenue;
- (2) "energy equivalent" means the quantity of gas or other energy source needed to produce the same BTU (British Thermal Unit) level as a barrel of oil;
- (3) "gas" means all hydrocarbon substances not defined as oil in this chapter;
- (4) "gross value" means FOB price at Alaska border or other convenient point or as determined by the department;
- (5) "oil" means crude petroleum and other hydrocarbons regardless of gravity which, when recovered, are recovered at the well-head in liquid form, and the liquid hydrocarbons known as distillate or condensate that are recovered by separation from gas other than at a processing plant;
- (6) "assessed value" means the value against which tax rates are applied;
- (7) "producer" means any person removing or selling oil or gas from a lease or property in the state.

Sec. 43.23.180. PAYMENT TO ALASKA NATIVE FUND. When the tax levied under this chapter is payable, an amount equivalent to not less than two per cent of the tax shall be paid by the state from oil and gas royalties, bonuses, and rentals into the Alaska Native fund established by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43, U.S.C. 1601, et. seq.) until all payments paid into the fund equal \$500,000,000.

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

Introduced: 2/6/76

Referred: Resources and Finance

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

1 IN THE SENATE

2 SENATE BILL NO. 620

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to assessment and taxation of oil and
7 gas properties net proceeds tax; and providing for an
8 effective date."

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

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

11 CHAPTER 22. OIL AND GAS PROPERTIES NET PROCEEDS TAX.

12 Sec. 43.22.010. PURPOSE. The purposes of the oil and gas proper-
13 ties net proceeds tax are to provide efficient administration and
14 collection of an ad valorem tax based on the income to the property of
15 oil and gas, and to provide a rate of taxation on the income to the
16 property of oil and gas equal to the corporate state income tax rates
17 provided in AS 43.20.011.

18 Sec. 43.22.020. STATEMENT OF YIELD. (a) Every person engaged in
19 producing oil and gas and every recipient of royalty payments in con-
20 nection with oil and gas production shall file annually, on or before
21 February 1, with the department a statement showing the gross value of
22 production and claimed net proceeds from each well or field owned or op-
23 erated by the person during the previous calendar year.

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

27 (1) the name and address of the operator of the well or field,
28 together with a list in duplicate of the names and addresses of any
29 persons owning or claiming a royalty interest in the production of the

1 well or the proceeds derived from the sale of it, and the amount paid or
2 delivered in kind as royalty to each of these persons during the period
3 covered by the statement;

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

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

8 (4) the gross value in dollars of the production; and

9 (5) the claimed deductions from the gross value in the detail
10 set out in sec. 30 of this chapter.

11 (c) Each recipient of royalty payments as described in (b)(1) of
12 this section shall annually file with the department a list showing each
13 of the lessees responsible for taxes due in connection with the wells or
14 fields included in the statement filed under (a) and (b) of this section.

15 Sec. 43.22.030. NET PROCEEDS: HOW COMPUTED. (a) The department
16 shall, from the statement and from all obtainable data, evidence and
17 reports, compute the gross value of production and net proceeds.

18 (b) The net proceeds shall be ascertained and determined by sub-
19 tracting from the gross value the following deductions for costs in-
20 curred during the year, and none other:

21 (1) royalties paid or due the United States or the state;

22 (2) royalties paid or due, other than to the United States or
23 the state, by a lessee or sublessee of a well, or by both, shall con-
24 stitute a deductible item; but the royalties so deducted by the lessee
25 or sublessee constitutes part of the gross yield of the well for the
26 purpose of determining the net proceeds upon which a tax shall be levied
27 against the person to which the royalty has been paid;

28 (3) the actual costs of transporting the product of the
29 well to the FOB point;

- 1 (4) the actual cost of maintenance and repairs of
2 (A) well machinery, equipment, apparatus and facili-
3 ties;
4 (B) transportation facilities and equipment;
5 (5) depreciation of the original capitalized cost of the
6 machinery, equipment, apparatus and facilities;
7 (6) all taxes paid or due to the state under chs. 55, 56,
8 and 57 of this title;
9 (7) money expended for necessary labor and supplies needed
10 and used in the well operations and developments;
11 (8) money expended for fire insurance and workmen's compen-
12 sation insurance, and for payments by operators to welfare and retire-
13 ment funds when provided for in wage contracts between operators and
14 employees.

15 (c) The deductions mentioned in (b) of this section shall not
16 include any expenditures for the salary of a person not actually engaged
17 in

18 (1) the operation of a well or of transportation facilities
19 or equipment or superintending the management of them; or

20 (2) office clerical or engineering work in the state neces-
21 sary or proper in connection with these operations.

22 Sec. 43.22.040. DEDUCTION OF DRILLING COSTS AND CAPITAL EXPENDI-
23 TURES. (a) The department, in computing the deductions allowable for
24 the costs of drilling wells completed during the period and for other
25 capital expenditures, shall allow 10 per cent of the cost each year for
26 a period of 10 years; in the event of abandonment before the cost is
27 recovered, any remaining depreciation may be written off in the year of
28 abandonment.

29 (b) Exploration costs, including exploratory drilling costs incur-

red in the state, shall be capitalized. The department, in computing the allowable amortization of the exploration costs, shall allow up to seven per cent of the exploration costs per year. The department shall issue regulations appropriate to implement and administer this section.

Sec. 43.22.050. AD VALOREM TAX LEVIED. (a) There is levied and shall be collected by the department an ad valorem tax based on the assessed value of production which is severed and sold from each well or field. The tax is levied at the rate provided in AS 43.20.011(e) on the net proceeds from the production which is severed and sold from each well or field.

(b) The tax imposed under this chapter is in lieu of the tax imposed under chapter 43.20 of this title on the income from oil production taxed under this chapter.

Sec. 43.22.060. VALUE MAY BE DETERMINED BY DEPARTMENT. The department may determine the value of production severed from a well when (1) the operator and purchaser are affiliated persons; (2) the sale and purchase of the production is not an arm's length transaction; or (3) the production is severed and removed from a production unit, and a value as defined in this chapter is not established for this production. The value determined by the department shall be commensurate with the actual price received for production of like quality, character, and use which is severed in the same field or area and shall not be computed at a lesser amount than the actual value received for the state's royalty oil or gas received for production of like quality, character and use which are severed in the same field or area.

Sec. 43.22.070. CERTIFICATES OF AMOUNT OF NET PROCEEDS. (a) When the department determines the net proceeds of a well or field, it shall prepare its certificate of the net proceeds and taxes due on them in duplicate and shall file one copy in the department and send the second

1 copy by certified mail to

2 (1) a person who is the owner of the property, or who con-
3 trols that property as agent, or on account of any other person;

4 (2) a guardian or other person who has charge of taxable
5 property belonging to a minor or other person;

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

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

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

12 (b) Upon the filing of the copy of the certificate and mailing of
13 the second copy, the assessment shall be considered to be made in the
14 amount fixed by the certificate and taxes on that amount shall be im-
15 mediately due and payable.

16 Sec. 43.22.080. APPEALS. (a) A person aggrieved by the action of
17 the department in making an assessment may appeal that action and obtain
18 a hearing upon its validity before the department by filing written ob-
19 jections to the assessment not later than 20 days after the effective
20 date of the assessment notice.

21 (b) The procedures for conduct of the hearing and preliminary ac-
22 tivities to it shall be in accordance with AS 44.62.350, 44.62.430,
23 44.62.450 - 640, 44.62.480, 44.62.500 - 550, 44.62.590, and 44.62.610 -
24 640. The term "respondent" used in those sections of AS 44.62 (Adminis-
25 trative Procedure Act) shall be considered, for the purposes of this
26 section, to include the person aggrieved by action of the department.
27 The department shall provide by regulation for notices of hearing under
28 this section to interested persons. At the hearing the appellant bears
29 the burden of proof. In the absence of this proof the assessment is to

1 be upheld by the department. If the department, after hearing, deter-
2 mines that a correction of the assessment is warranted, the department
3 shall correct the assessment.

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

8 Sec. 43.22.090. RETURNS AND PAYMENT OF TAX. (a) A return of the
9 taxes due and payable, fixed by the certificate of the net proceeds shall
10 be submitted on or before the 60th day after the filing of the certifi-
11 cate on the form prescribed by the department. The return shall be sub-
12 mitted by those persons listed in sec. 70 of this chapter.

13 (b) The person required to submit the return specified under (a)
14 of this section is primarily liable for payment of the tax levied by
15 this chapter. The persons or estates specified in sec. 70(a)(2) - (5) of
16 this chapter in whose behalf the tax levied by this chapter is to be
17 paid are secondarily liable for payment of the tax. With the written
18 approval of the department, an operator or nonoperator of the lease or
19 property may submit returns or make payment of the tax levied under this
20 chapter on behalf of himself and other persons the department may ap-
21 prove.

22 (c) The tax levied under this chapter is payable to the department
23 on or before the 60th day after the filing of the certificate or in esti-
24 mated installments at the times and under the conditions the department
25 may by regulation require. This tax is payable on the due date set out
26 in this subsection even though the assessment is under appeal or the
27 validity, enforceability or application of this chapter or provision of
28 this chapter is challenged before the department or in the courts.

29 (d) A person making payment of the tax levied under this chapter

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

9 (e) By written notice the department may require a person filing a
10 return to submit additional information to the department no later than
11 30 days after the notice.

12 Sec. 43.22.100. CIVIL PENALTY. Five per cent shall be added to
13 the tax for each 30-day period or fraction of that period during which
14 the taxpayer fails to file a return or pay the full amount of the tax,
15 or a portion or a deficiency of the tax due and payable as finally
16 determined by the department and required by this chapter, unless it is
17 shown that the failure is due to reasonable cause and not to wilful
18 neglect. The penalty may not exceed 25 per cent in the aggregate. The
19 penalty shall be collected at the same time, in the same manner and as a
20 part of the original tax, but if the original tax is paid before the
21 neglect is discovered, the penalty shall be collected in the same
22 manner as the original tax. The department shall describe by regula-
23 tions circumstances which constitute reasonable cause for purposes of
24 this section.

25 Sec. 43.22.110. INTEREST. When the tax levied in this chapter
26 becomes delinquent, it bears interest at the rate of eight per cent a
27 year.

28 Sec. 43.22.120. LIEN. The tax, penalty and interest payable under
29 this chapter are first and paramount liens on the property subject to

1 tax under this chapter.

2 Sec. 43.22.130. REMEDY. The remedy of distraint of property set
3 out in AS 43.20.270 applies to the tax, penalty and interest levied by
4 this chapter.

5 Sec. 43.22.140. BURDEN OF PROOF. In a suit arising concerning the
6 assessment and taxation of the proceeds of wells or fields, the burden
7 of proof shall be upon the person owning or operating the well or field
8 and every recipient of royalty payments in connection with them.

9 Sec. 43.22.150. REGULATIONS. The department may adopt regulations
10 in accordance with the Administrative Procedure Act (AS 44.62) as
11 appropriate to administer and enforce this chapter.

12 Sec. 43.22.160. PAYMENT TO ALASKA NATIVE FUND. When the tax
13 levied under this chapter is payable, an amount equivalent to not less
14 than two per cent of the tax shall be paid by the state from oil and gas
15 royalties, bonuses, and rentals into the Alaska Native Fund established
16 by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92203, 85
17 Stat. 688, 43, U.S.C. 1601, et. seq.) until all payments paid into the
18 fund equal \$500,000,000.

19 Sec. 43.22.170. DEFINITIONS. In this chapter

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

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

23 (3) "gross value" means FOB price at Alaska border or other
24 convenient point or as determined by the department;

25 (4) "oil" means crude petroleum and other hydrocarbons re-
26 gardless of gravity which, when recovered, are recovered at the well-
27 head in liquid form, and the liquid hydrocarbons known as distillate
28 or condensate that are recovered by separation from gas other than at
29 a processing plant.

1 * Sec. 2. This Act takes effect January 1, 1977.
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Introduced: 5/5/76
Referred: Resources and
Finance

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

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 620

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to assessment and taxation of oil and
7 gas properties net proceeds tax; and providing for an
8 effective date."

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

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

11 CHAPTER 22. OIL AND GAS PROPERTIES NET PROCEEDS TAX.

12 Sec. 43.22.010. PURPOSE. The purposes of the oil and gas proper-
13 ties net proceeds tax are to provide efficient administration and
14 collection of an ad valorem tax based on the income to the property of
15 oil and gas, and to provide a rate of taxation on the income to the
16 property of oil and gas equal to the corporate state income tax rates
17 provided in AS 43.20.011.

18 Sec. 43.22.020. STATEMENT OF YIELD. (a) Every person engaged in
19 producing oil and gas and every recipient of royalty payments in con-
20 nection with oil and gas production shall file annually, on or before
21 February 1, with the department a statement showing the gross value of
22 production and claimed net proceeds from each well or field owned or op-
23 erated by the person during the previous calendar year.

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

27 (1) the name and address of the operator of the well or
28 field, together with a list in duplicate of the names and addresses of
29 any persons owning or claiming a royalty interest in the production of

1 the well or the proceeds derived from the sale of it, and the amount
2 paid or delivered in kind as royalty to each of these persons during the
3 period covered by the statement;

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

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

8 (4) the gross value in dollars of the production at the
9 wellhead or other point chosen by the department; and

10 (5) the claimed deductions from the gross value in the detail
11 set out in sec. 30 of this chapter.

12 (c) Each recipient of royalty payments as described in (b)(1) of
13 this section shall annually file with the department a list showing each
14 of the lessees responsible for taxes due in connection with the wells or
15 fields included in the statement filed under (a) and (b) of this section.

16 Sec. 43.22.030. NET PROCEEDS: HOW COMPUTED. (a) The department
17 shall, from the statement and from all obtainable data, evidence and
18 reports, compute the gross value of production and net proceeds.

19 (b) The net proceeds shall be ascertained and determined by sub-
20 tracting from the gross value the following deductions for costs in-
21 curred during the year, and none other:

22 (1) royalties paid or due the United States or the state;

23 (2) royalties paid or due, other than to the United States or
24 the state, by a lessee or sublessee of a well or field, or by both,
25 shall constitute a deductible item; but the royalties so deducted by the
26 lessee or sublessee constitutes part of the gross yield of the well or
27 field for the purpose of determining the net proceeds upon which a tax
28 shall be levied against the person to which the royalty has been paid;

29 (3) the costs of transporting the product beyond the area of

1 the well or field to the point of gross valuation, if the gross valua-
2 tion point chosen by the department is beyond the area of the well or
3 field;

4 (4) operating costs incurred in the state as determined under
5 regulations of the department; operating costs shall include

6 (A) well machinery, equipment, apparatus and facilities;

7 (B) transportation facilities and equipment;

8 (C) money expended for necessary labor and supplies
9 needed and used in the well or field operations and developments;

10 (D) money expended for fire insurance and workmen's
11 compensation insurance, and for payments by operators to welfare
12 and retirement funds when provided for in wage contracts between
13 operators and employees;

14 (E) office clerical or engineering work in the state
15 necessary or proper in connection with these operations;

16 (5) the deductions mentioned in this subsection shall not
17 include the salary of a person not subject to the withholding of state
18 income tax under AS 43.20.170 or not actually engaged in

19 (A) the operation of a well or field or of transporta-
20 tion facilities or equipment or superintending the management of
21 them; or

22 (B) office clerical or engineering work in the state
23 necessary or proper in connection with these operations;

24 (6) in lieu of the deduction of expenses incurred outside the
25 state, an indirect expense allowance equal to five per cent of expenses
26 reported under sec. 30(4) of this chapter shall be allowed;

27 (7) all taxes paid or due to the state under chs. 55, 56, and
28 57 of this title;

29 (8) recovery of capital and exploration investments.

1 Sec. 43.22.040. RECOVERY OF CAPITAL AND EXPLORATION EXPENSES. (a)
2 The department shall issue regulations required to determine deductions
3 for the depreciation and recovery of investments related to an operating
4 well or field.

5 (b) Geological and geophysical costs, bonus payments, dry hole
6 costs, and unrecovered costs after lease abandonments which are incurred
7 in areas of the state in which the producer does not hold a currently
8 valid lease, contractual agreement, or other economic interest may be
9 charged against the net proceeds of currently operating wells or fields
10 in which the taxpayer has an interest. However,

11 (1) costs under this subsection may be carried forward for no
12 more than 10 years from the year in which the cost is declared;

13 (2) a cost reported under this subsection may not be charged
14 at a rate of more than 20 per cent of the cost in any one year; and

15 (3) costs may not be reported as expenses under this section
16 if they have previously been charged against state income taxes either
17 directly as reported to the department or indirectly through an appor-
18 tionment formula.

19 Sec. 43.22.050. AD VALOREM TAX LEVIED. (a) There is levied and
20 shall be collected by the department an ad valorem tax based on the
21 assessed value of production which is severed and sold from each well or
22 field. The tax is levied at the rate provided in AS 43.20.011(e) on the
23 net proceeds from the production which is severed and sold from each
24 well or field.

25 (b) The tax imposed under this chapter shall be allowed as a
26 credit against the tax imposed under ch. 20 of this title on the income
27 from oil production taxed under this chapter.

28 Sec. 43.22.060. VALUE MAY BE DETERMINED BY DEPARTMENT. The de-
29 partment may determine the value of production severed from a well or

1 field when (1) the operator and purchaser are affiliated persons; (2)
2 the sale and purchase of the production is not an arm's length trans-
3 action; or (3) the production is severed and removed from a production
4 unit, and a value as defined in this chapter is not established for this
5 production. The value determined by the department shall be commensurate
6 with the actual price received for production of like quality,
7 character, and use which is severed in the same well or field or area
8 and shall not be computed at a lesser amount than the actual value
9 received for the state's royalty oil or gas received for production of
10 like quality, character and use which are severed in the same well or
11 field or area.

12 Sec. 43.22.070. CERTIFICATES OF AMOUNT OF NET PROCEEDS. (a) When
13 the department determines the net proceeds of a well or field, it shall
14 prepare its certificate of the net proceeds and taxes due on them in
15 duplicate and shall file one copy in the department and send the second
16 copy by certified mail to

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

18 (2) a guardian or other person who has charge of taxable
19 property belonging to a minor or other person;

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

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

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

26 (b) Upon the filing of the copy of the certificate and mailing of
27 the second copy, the assessment shall be considered to be made in the
28 amount fixed by the certificate and taxes on that amount shall be im-
29

1 immediately due and payable.

2 Sec. 43.22.080. APPEALS. (a) A person aggrieved by the action of
3 the department in making an assessment may appeal that action and obtain
4 a hearing upon its validity before the department by filing written ob-
5 jections to the assessment not later than 20 days after the effective
6 date of the assessment notice.

7 (b) The procedures for conduct of the hearing and preliminary ac-
8 tivities to it shall be in accordance with AS 44.62.350, 44.62.430,
9 44.62.450 - 640, 44.62.480, 44.62.500 - 550, 44.62.590, and 44.62.610 -
10 640. The term "respondent" used in those sections of AS 44.62 (Adminis-
11 trative Procedure Act) shall be considered, for the purposes of this
12 section, to include the person aggrieved by action of the department.
13 The department shall provide by regulation for notices of hearing under
14 this section to interested persons. At the hearing the appellant bears
15 the burden of proof. In the absence of this proof the assessment is to
16 be upheld by the department. If the department, after hearing, deter-
17 mines that a correction of the assessment is warranted, the department
18 shall correct the assessment.

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

23 Sec. 43.22.090. RETURNS AND PAYMENT OF TAX. (a) A return of the
24 taxes due and payable, fixed by the certificate of the net proceeds shall
25 be submitted on or before the 60th day after the filing of the certifi-
26 cate on the form prescribed by the department. The return shall be sub-
27 mitted by those persons listed in sec. 70 of this chapter.

28 (b) The person required to submit the return specified under (a)
29 of this section is primarily liable for payment of the tax levied by

1 this chapter. The persons or estates specified in sec. 70(a)(2) - (5)
2 of this chapter in whose behalf the tax levied by this chapter is to be
3 paid are secondarily liable for payment of the tax. With the written
4 approval of the department, an operator or nonoperator of the lease or
5 property may submit returns or make payment of the tax levied under this
6 chapter on behalf of himself and other persons the department may ap-
prove.

8 (c) The tax levied under this chapter is payable to the department
9 on or before the 60th day after the filing of the certificate or in
10 estimated installments at the times and under the conditions the depart-
11 ment may by regulation require. This tax is payable on the due date set
12 out in this subsection even though the assessment is under appeal or the
13 validity, enforceability or application of this chapter or provision of
14 this chapter is challenged before the department or in the courts.

15 (d) A person making payment of the tax levied under this chapter
16 on behalf of one or more other persons owning or otherwise holding an
17 interest in a taxable property may withhold a proportionate share of the
18 payment from the proceeds or other benefits from the taxable property
19 owed to any person on whose behalf the payment is made. Unless other-
20 wise specifically provided by written contract or agreement, the person
21 so withholding a proportionate share of the tax levied under this
22 chapter incurs no liability to those from whom it is withheld by virtue
23 of having made the withholding.

24 (e) By written notice the department may require a person filing a
25 return to submit additional information to the department no later than
26 30 days after the notice.

27 Sec. 43.22.100. CIVIL PENALTY. Five per cent shall be added to
28 the tax for each 30-day period or fraction of that period during which
29 the taxpayer fails to file a return or pay the full amount of the tax,

1 or a portion or a deficiency of the tax due and payable as finally
2 determined by the department and required by this chapter, unless it is
3 shown that the failure is due to reasonable cause and not to wilful
4 neglect. The penalty may not exceed 25 per cent in the aggregate. The
5 penalty shall be collected at the same time, in the same manner and as a
6 part of the original tax, but if the original tax is paid before the
7 neglect is discovered, the penalty shall be collected in the same manner
8 as the original tax. The department shall describe by regulations
9 circumstances which constitute reasonable cause for purposes of this
10 section.

11 Sec. 43.22.110. INTEREST. When the tax levied in this chapter
12 becomes delinquent, it bears interest at the rate of eight per cent a year.

13 Sec. 43.22.120. LIEN. The tax, penalty and interest payable under
14 this chapter are first and paramount liens on the property subject to
15 tax under this chapter.

16 Sec. 43.22.130. REMEDY. The remedy of distraint of property set
17 out in AS 43.20.270 applies to the tax, penalty and interest levied by
18 this chapter.

19 Sec. 43.22.140. BURDEN OF PROOF. In a suit arising concerning the
20 assessment and taxation of the proceeds of wells or fields, the burden
21 of proof shall be upon the person owning or operating the well or field
22 and every recipient of royalty payments in connection with them.

23 Sec. 43.22.150. REGULATIONS. The department may adopt regulations
24 in accordance with the Administrative Procedure Act (AS 44.62) as
25 appropriate to administer and enforce this chapter.

26 Sec. 43.22.160. PAYMENT TO ALASKA NATIVE FUND. When the tax
27 levied under this chapter is payable, an amount equivalent to not less
28 than two per cent of the tax shall be paid by the state from oil and gas
29 royalties, bonuses, and rentals into the Alaska Native Fund established

1 by sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85
2 Stat. 688, 43, U.S.C. 1601, et. seq.) until all payments paid into the
3 fund equal \$500,000,000.

4 Sec. 43.22.170. DEFINITIONS. In this chapter

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

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

8 (3) "gross value" means the price as determined by the depart-
9 ment at the wellhead or other point chosen by the department;

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

15 (5) "well or field" means any well, field, lease, pool, or
16 property.

17 * Sec. 2. This Act takes effect January 1, 1977.
18
19
20
21
22
23
24
25
26
27
28
29

Introduced: 2/9/76
Referred: Resources and
Finance

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

1 IN THE SENATE

2 SENATE BILL NO. 621

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to assessment and taxation of oil and
7 gas properties excess value surtax; and providing for
8 an effective date."

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

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

11 CHAPTER 23. OIL AND GAS PROPERTIES EXCESS VALUE SURTAX.

12 Sec. 43.23.010. PURPOSE. The purpose of the excess value surtax
13 is to tax the excess value not needed to implement long-term exploration
14 and development and to provide an alternative to promote short-term
15 investments in the oil and gas industry.

16 Sec. 43.23.020. STATEMENT OF YIELD. (a) Every person engaged in
17 producing oil and gas shall file annually by February 1 of each year,
18 with the department a statement showing the gross value and claimed net
19 proceeds from each well or field owned, worked or operated by that
20 person during the previous year.

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

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

- (2) the description and location of the well or field;
- (3) the number of cubic feet of natural gas, barrels of petroleum, or other crude or mineral oil extracted or produced from the well or field during the period covered by the statement;
- (4) the gross value in dollars of production; and
- (5) the claimed deductions from the gross value in the detail set out in sec. 30 of this chapter.

Sec. 43.23,030. COMPUTATION OF NET PROCEEDS. (a) The department shall, from the statement and from all obtainable data, evidence and reports, compute the gross value of production and net proceeds.

(b) The net proceeds shall be ascertained and determined by subtracting from the gross value the following deductions for cost incurred during the year, and none other:

- (1) royalties paid or due the United States or the state;
- (2) royalties paid or due, other than to the United States or the state, by a lessee or sublessee of a well, or by both, shall constitute a deductible item; but the royalties so deducted by the lessee or sublessee constitutes part of the gross yield of the well for the purpose of determining the net proceeds upon which a tax shall be levied against the person to which the royalty has been paid;
- (3) the actual costs of transporting the product of the well to the FOB point;
- (4) the actual cost of maintenance and repairs of
 - (A) well machinery, equipment, apparatus and facilities;
 - (B) transportation facilities and equipment;
- (5) depreciation of the original capitalized cost of the machinery, equipment, apparatus and facilities;
- (6) all taxes paid or due to the state under chs. 55, 56, and 57 of this title;

(7) money expended for necessary labor and supplies needed and used in the well operations and developments;

(8) money expended for fire insurance and workmen's compensation insurance, and for payments by operators to welfare and retirement funds when provided for in wage contracts between operators and employees.

(c) The deductions mentioned in (b) of this section shall not include any expenditures for the salary of a person not actually engaged in

(1) the operation of a well or of transportation facilities or equipment or superintending the management of them; or

(2) office clerical or engineering work in the state necessary or proper in connection with these operations.

Sec. 43.23.040. DEDUCTION OF DRILLING COSTS AND CAPITAL EXPENDITURES. (a) The department, in computing the deductions allowable for the costs of drilling wells completed during the period and for other capital expenditures, shall allow 10 per cent of the cost each year for a period of 10 years; in the event of abandonment before the cost is recovered, any remaining depreciation may be written off in the year of abandonment.

(b) Exploration costs, including exploratory drilling costs incurred in the state, shall be capitalized. The department, in computing the allowable amortization of the exploration costs, shall allow up to seven per cent of the exploration costs per year. The department shall issue regulations appropriate to implement and administer this section.

Sec. 43.23.050. EXCESS VALUE SURTAX. There is levied upon the producer of oil and gas or any royalty interest not exempt from taxation, a surtax at the rate of 41 per cent upon the excess value of the production as determined under sec. 60 of this chapter.

1 Sec. 43.23.060. COMPUTATION OF EXCESS VALUE. (a) For each year
2 the department shall, from the statement and from all obtainable data,
3 evidence and reports, compute the excess value by well or field, accord-
4 ing to either (b) or (c) of this section. A well or field not subject
5 to the excess value tax may not be aggregated with a well or field
6 subject to the tax.

7 (b) Excess value is determined by subtracting the long-term net
8 value from the net proceeds of the well or field as computed under sec.
9 30 of this chapter. Long-term net value is determined by subtracting
10 the per barrel costs of the well or field from the long-term index
11 price; however, severance taxes and royalties are deductible costs only
12 in the amount that would have been due on the long-term index price.
13 The long-term index price is the price for a barrel of oil or its energy
14 equivalent of \$7 per barrel FOB in the west coast markets or the amount
15 determined by the department, taking into consideration the prevailing
16 transport charges from the FOB point, chosen by the department, to the
17 west coast markets; however, in no event may the amount determined by
18 the department exceed the equivalent of \$7 per barrel FOB in the west
19 coast markets plus the increase in the national wholesale price index
20 since the tax went into effect.

21 (c) If the long-term net value as calculated for a specific well or
22 field is less than \$1 per barrel of oil or of gas equivalent, the long-
23 term net value will be considered to be \$1 times the number of barrels
24 of oil or of gas equivalent produced from the well or field during the
25 tax reporting period.

26 (d) The producer shall also pay the surtax on the excess of
27 royalties actually paid over royalties which would be paid based on the
28 long-term index price. In making settlement with the royalty owner the
29 producer may deduct the amount of surtax paid on royalty oil or deduct

1 royalty oil equivalent in value (at the time the surtax becomes due) to
2 the amount of the surtax paid.

3 Sec. 43.23.070. CREDIT AGAINST INCOME TAX. The tax paid under
4 this chapter by a producer on his own behalf shall be in lieu of the tax
5 imposed under ch. 20 of this title. The tax paid by a producer on behalf
6 of a royalty owner shall be allowed as a credit by the royalty owner
7 against the tax imposed under ch. 20 of this title on income attributable
8 to that royalty interest. The credit may not exceed the amount of tax
9 imposed under ch. 20 of this title attributable to that income, and may
10 not be carried over.

11 Sec. 43.23.080. CERTIFICATES OF AMOUNT OF EXCESS VALUE. (a) When
12 the department determines the excess value of production from a well or
13 field, the department shall prepare its certificate of the excess value
14 in duplicate and shall file one copy of it with the department and send
15 the second copy by certified mail to:

16 (1) a person who is the owner of the property, or who con-
17 trols that property as agent, or on account of any other person;

18 (2) a guardian or other person who has charge of taxable
19 property belonging to a minor or other person;

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

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

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

26 (b) Upon the filing of the copy of the certificate with the depart-
27 ment, the assessment shall be considered to be made in the amount fixed
28 by the certificate and taxes on that amount at the rate established in
29 sec. 50 of this chapter shall be immediately due and payable.

1 (c) The department shall determine annually the long-term index
2 price.

3 Sec. 43.22.090. APPEALS. (a) A person aggrieved by the action of
4 the department in making an assessment may appeal that action and obtain
5 a hearing upon its validity before the department by filing written ob-
6 jections to the assessment not later than 20 days after the effective
7 date of the assessment notice.

8 (b) The procedures for conduct of the hearing and preliminary ac-
9 tivities to it shall be in accordance with AS 44.62.350, 44.62.430,
10 44.62.450 - 44.62.640, 44.62.480, 44.62.500 - 44.62.550, 44.62.590, and
11 44.62.610 - 44.62.640. The term "respondent" used in those sections of
12 AS 44.62 (Administrative Procedure Act) shall be considered, for the
13 purposes of this section, to include the person aggrieved by action of
14 the department. The department shall provide by regulation for notices
15 of hearing under this section to interested persons. At the hearing the
16 appellant bears the burden of proof. In the absence of this proof the
17 assessment is to be upheld by the department. If the department, after
18 hearing, determines that a correction of the assessment is warranted,
19 the department shall correct the assessment.

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

24 Sec. 43.22.100. RETURNS AND PAYMENT OF TAX. (a) A return of the
25 taxes due and payable, fixed by the certificate of the net proceeds
26 shall be submitted on or before the 60th day after the filing of the
27 certificate on the form prescribed by the department. The return shall
28 be submitted by those persons listed in sec. 80 of this chapter.

29 (b) The person required to submit the return specified under (a)

1 of this section is primarily liable for payment of the tax levied by
2 this chapter. The persons or estates specified in sec. 80(a)(2) - (5)
3 of this chapter in whose behalf the tax levied by this chapter is to be
4 paid are secondarily liable for payment of the tax. With the written
5 approval of the department, an operator or nonoperator of the lease or
6 property may submit returns or make payment of the tax levied under this
7 chapter on behalf of himself and other persons the department may ap-
8 prove.

9 (c) The tax levied under this chapter is payable to the department
10 on or before the 60th day after the filing of the certificate or in
11 estimated installments at the times and under the conditions the depart-
12 ment may by regulation require. This tax is payable on the due date set
13 out in this subsection even though the assessment is under appeal or the
14 validity, enforceability or application of this chapter or provision of
15 this chapter is challenged before the department or in the courts.

16 (d) A person making payment of the tax levied under this chapter
17 on behalf of one or more other persons owning or otherwise holding an
18 interest in a taxable property may withhold a proportionate share of the
19 payment from the proceeds or other benefits from the taxable property
20 owed to any person on whose behalf the payment is made. Unless otherwise
21 specifically provided by written contract or agreement, the person so
22 withholding a proportionate share of the tax levied under this chapter
23 incurs no liability to those from whom it is withheld by virtue of hav-
24 ing made the withholding.

25 (e) By written notice the department may require a person filing a
26 return to submit additional information to the department no later than
27 30 days after the notice.

28 Sec. 43.23.110. CIVIL PENALTY. Five per cent shall be added to
29 the tax for each 30-day period or fraction of that period during which

1 the taxpayer fails to file a return or pay the full amount of the tax,
2 or a portion or a deficiency of the tax due and payable as finally
3 determined by the department and required by this chapter, unless it is
4 shown that the failure is due to reasonable cause and not to wilful
5 neglect. The penalty may not exceed 25 per cent in the aggregate. The
6 penalty shall be collected at the same time, in the same manner and as a
7 part of the original tax, but if the original tax is paid before the
8 neglect is discovered, the penalty shall be collected in the same manner
9 as the original tax. The department shall describe by regulations
10 circumstances which constitute reasonable cause for purposes of this
11 section.

12 Sec. 43.23.120. INTEREST. When the tax levied in this chapter
13 becomes delinquent, it bears interest at the rate of eight per cent a
14 year.

15 Sec. 43.23.130. LIEN. The tax, penalty and interest payable under
16 this chapter are first and paramount liens on the property subject to
17 tax under this chapter.

18 Sec. 43.23.140. REMEDY. The remedy of distraint of property set
19 out in AS 43.20.270 applies to the tax, penalty and interest levied by
20 this chapter.

21 Sec. 43.23.150. BURDEN OF PROOF. In a suit arising that concerns
22 the assessment and taxation of the proceeds of a well or field, the
23 burden of proof shall be upon the person owning or operating the well
24 or field and every recipient of royalty payments in connection with that
25 well or field.

26 Sec. 43.23.160. REGULATIONS. The department may adopt regulations
27 in accordance with the Administrative Procedure Act (AS 44.62) as appro-
28 priate to administer and enforce this chapter.

29 Sec. 43.23.170. DEFINITIONS. In this chapter