

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

1020 SCOMM 28: JOINT GAS PIPELINE COMMITTEE, 1981-82 1020

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

18 Sec. 43.23.180. 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 paid into the

24 fund equal \$500,000,000.

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

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Introduced: 4/15/76  
Referred: Resources and  
Finance

1 IN THE SENATE

BY THE SPECIAL COMMITTEE  
ON TAXATION AND REVENUE

2 SENATE BILL NO. 747

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 is  
13 to tax, after the multiple recovery of investment, the excess value not  
14 needed to implement long-term exploration and development and to provide an  
15 alternative to promote short-term 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 at the wellhead or other point chosen by the department; and
- (5) the claimed deductions from the gross value in the detail set out in sec. 30 of this chapter.

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

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

- (1) royalties paid or due the United States or the state;
- (2) royalties paid or due, other than to the United States or the state, by a lessee or sublessee of a well, or by both, shall constitute a deductible item; but the royalties so deducted by the lessee or sublessee constitutes part of the gross yield of the well for the purpose of determining the net proceeds upon which a tax shall be levied against the person to which the royalty has been paid;
- (3) the actual costs, if any, of transporting the product of the well to the FOB point chosen by the department for gross valuation;
- (4) the actual cost of maintenance and repairs of
  - (A) well machinery, equipment, apparatus and facilities;
  - (B) transportation facilities and equipment;
- (5) all taxes paid or due to the state under chs. 55, 56, 57 and 22 of this title;
- (6) money expended for necessary labor and supplies needed

1 and used in the well operations and developments;

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

6 (8) indirect expense allowance equal to five per cent of ex-  
7 pense reported under (4), (6) and (7) of this subsection and AS 43.22.-  
8 030(5).

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

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

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

16 Sec. 43.23.040. DEDUCTION OF DRILLING COSTS AND CALCULATION OF  
17 CAPITAL EXPENDITURES. (a) Exploration costs, including exploratory  
18 drilling costs, incurred in the state, may be charged at the election of  
19 the exploring interest

20 (1) as an operating expense over a five-year period against  
21 net proceeds or royalties of currently operating fields in which the  
22 explorer has an interest, or

23 (2) as a capital expense to be used in the capital base for  
24 the calculation of excess value of production from a well or field  
25 developed as a direct result of the exploration.

26 (b) the cumulative capital investment for purposes of this chapter  
27 shall include exploration costs under option (a)(2) of this section,  
28 capitalized expenditures before the beginning of commercial production  
29 as determined by the department, and any additional capital investments

1 made during the life of the well or field.

2 Sec. 43.23.050. EXCESS VALUE SURTAX. (a) There is levied upon  
3 the producer of oil and gas or royalty interest not exempt from taxation  
4 a surtax at the rate of 33 1/3 per cent upon the excess value of the  
5 production as determined under sec. 60 of this chapter.

6 (b) In no event may the annual excess value surtax exceed 80 per  
7 cent of the difference between the annual net proceeds as calculated  
8 under sec. 30 of this chapter minus 25 per cent of the cumulative capi-  
9 tal investment calculated under sec. 40 of this chapter. Should 25 per  
10 cent of the cumulative capital investment calculated under sec. 40 of  
11 this chapter equal or exceed the net proceeds as calculated under sec.  
12 30 of this chapter, there is no excess value surtax liability.

13 Sec. 43.23.060. COMPUTATION OF EXCESS VALUE. (a) For each year  
14 the department shall, from the statement and from all obtainable data,  
15 evidence and reports, compute the excess value by well or field, accord-  
16 ing to provisions under (b) and (c) of this section.

17 (b) Excess value equals the amount by which the cumulative net  
18 proceeds as reported under sec. 30 of this chapter exceed 2.5 times the  
19 cumulative capital investment calculated under sec. 40 of this chapter.  
20 The annual excess value equals the annual addition to the amount by which  
21 the cumulative net proceeds under sec. 30 of this chapter exceed 2.5  
22 times the cumulative capital investment under sec. 40 of this chapter.

23 (c) Over the life of a field, the producer may subtract the net  
24 proceeds from up to 70 million barrels of oil or gas energy equivalent  
25 from the excess value. In no year may the producer exempt the net  
26 proceeds of more than 7 million barrels of oil. The net proceeds of the  
27 exempted oil or gas shall equal the fraction whose numerator is the  
28 total number of barrels of oil or gas equivalent exempted for the year  
29 and denominator is the total number of barrels of oil or gas equivalent

1 produced from the field during the year times the annual net proceeds  
2 for the well or field as determined under sec. 30 of this chapter. The  
3 department shall adopt regulations for the allocation of this exemption  
4 among subdivisions of a field such as well, lease, pool or property.

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

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

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

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

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

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

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

29 (b) Upon the filing of the copy of the certificate with the

1 department, the assessment shall be considered to be made in the amount  
2 fixed by the certificate and taxes on that amount at the rate estab-  
3 lished in sec. 50 of this chapter shall be immediately due and payable.

4 (c) The department shall determine annually the long-term index  
5 price.

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

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

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

27 Sec. 43.22.100. RETURNS AND PAYMENT OF TAX. (a) A return of the  
28 taxes due and payable, fixed by the certificate of the net proceeds  
29 shall be submitted on or before the 60th day after the filing of the

1 certificate on the form prescribed by the department. The return shall  
2 be submitted by those persons listed in sec. 80 of this chapter.

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

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

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

28 (e) By written notice the department may require a person filing a  
29 return to submit additional information to the department no later than

1 30 days after the notice.

2 Sec. 43.23.110. CIVIL PENALTY. Five per cent shall be added to  
3 the tax for each 30-day period or fraction of that period during which  
4 the taxpayer fails to file a return or pay the full amount of the tax,  
5 or a portion or a deficiency of the tax due and payable as finally  
6 determined by the department and required by this chapter, unless it is  
7 shown that the failure is due to reasonable cause and not to wilful  
8 neglect. The penalty may not exceed 25 per cent in the aggregate. The  
9 penalty shall be collected at the same time, in the same manner and as a  
10 part of the original tax, but if the original tax is paid before the  
11 neglect is discovered, the penalty shall be collected in the same manner  
12 as the original tax. The department shall describe by regulations  
13 circumstances which constitute reasonable cause for purposes of this  
14 section.

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

18 Sec. 43.23.130. LIEN. The tax, penalty and interest payable under  
19 this chapter are first and paramount liens on the property subject to  
20 tax under this chapter.

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

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

29 Sec. 43.23.160. REGULATIONS. The department may adopt regulations

1 in accordance with the Administrative Procedure Act (AS 44.62) as appro-  
2 priate to administer and enforce this chapter.

3 Sec. 43.23.170. DEFINITIONS. In this chapter

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

5 (2) "energy equivalent" means the quantity of gas or other  
6 energy source needed to produce the same BTU (British Thermal Unit)  
7 level as a barrel of oil;

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

10 (4) "gross value" means FOB price at Alaska border or other  
11 convenient point or as determined by the department;

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

17 (6) "assessed value" means the value against which tax rates  
18 are applied;

19 (7) "producer" means any person removing or selling oil or  
20 gas from a lease or property in the state;

21 (8) "cumulative capital investment" does not include short-  
22 term capital investments such as vehicles or replacement parts; the  
23 depreciation or expensing of them shall be considered part of the oper-  
24 ating and maintenance expenses of the well or field;

25 (9) "well" or "field" means any well, field, lease, pool, or  
26 property.

27 Sec. 43.23.180. PAYMENT TO ALASKA NATIVE FUND. When the tax  
28 levied under this chapter is payable, an amount equivalent to not less  
29 than two per cent of the tax shall be paid by the state from oil and gas

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

5 \* Sec. 2. This Act takes effect on January 1, 1977.  
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Introduced: 5/7/76  
Referred: Resources and Finance

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 SENATE BILL NO. 755

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 the oil and gas reserves ad  
7 valorem tax."

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

9 \* Section 1. AS 43.58.010(b) is amended to read:

10 (b) The rate of levy for the tax year beginning

11 (1) January 1, 1976 is 20 mills;

12 (2) January 1, 1977 is 21 mills.

13 \* Sec. 2. AS 43.58.010(d) is amended to read:

14 (d) The rate of levy may not exceed 30 [20] mills.  
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BY THE RULES COMMITTEE BY  
REQUEST OF THE LEGISLATIVE  
COUNCIL (for the Subcommittee  
on Oil and Gas Leasing and  
Taxing Policies)

IN THE HOUSE

HOUSE BILL NO. 144

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

(a) There is levied upon the producer of oil or gas a tax based  
upon a per cent of the gross value 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) zero [FIVE] per cent on the first 100 [300] barrels  
of average daily per well production;

(B) four [SIX] per cent on the next 200 [700] barrels of  
average daily per well production;

(C) six [EIGHT] per cent on the next 700 [ALL PRODUCTION  
IN EXCESS OF 1,000] barrels of average daily per well production;

(D) nine per cent on the next 500 barrels of average  
daily per well production;

(E) eleven per cent on the next 2,000 barrels of average

1 daily per well production:

2 (F) fourteen per cent on all production in excess of  
3 3,500 barrels of average daily per well production;

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

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

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

15 (1) \$.0000 [\$.16875] on each of the first 100 [300] barrels  
16 of average daily per well production;

17 (2) \$.1350 [\$.2025] on each of the next 200 [700] barrels of  
18 average daily per well production;

19 (3) \$.2025 [\$.2700] on each of the next 700 [BARREL OF PRO-  
20 DUCTION IN EXCESS OF 1,000] barrels of average daily per well production;

21 (4) \$.3038 on each of the next 500 barrels of average  
22 daily per well production;

23 (5) \$.3713 on each of the next 2,000 barrels of average daily  
24 per well production;

25 (6) \$.4725 on each barrel of production in excess of 3,500  
26 barrels of average daily per well production.

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

28 (c) The tax rates set out in this section will be increased or  
29 decreased by a percentage equal to the percentage of change in the

1 Wholesale Price Index for crude petroleum published by the Bureau of  
2 Labor Statistics, of the United States Department of Labor. The year  
3 1967 is the base year of 100 for computing the tax rates. Changes in  
4 tax rates will be computed based on changes from the December, 1973  
5 Wholesale Price Index published in January, 1974 [IN THE WHOLESALE PRICE  
6 INDEX OCCURRING AFTER JANUARY 1, 1974 AND WILL NOT INCLUDE CHANGES IN  
7 THE WHOLESALE PRICE INDEX PRIOR TO JANUARY 1, 1974]. The department  
8 shall post the changes in the tax rates at least semi-annually and shall  
9 notify every person producing oil within the state of the changes.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (B) for gas recovered from or in association with oil,  
26 the value of the gas at the point where it is accurately metered or  
27 measured after separation from the oil; for gas run through a  
28 gas processing plant, the gross value at the point of production is  
29 the full consideration received by the producer for the gas if sold

1 in an arm's length transaction or, in the absence of an arm's  
2 length transaction, is the sum of the value of the liquids ex-  
3 tracted from the gas at the plant and the value of the residue gas,  
4 less a reasonable allowance for processing the gas at the plant and  
5 for transporting the gas to the plant from the premises upon which  
6 the oil production operation is conducted; and

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

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

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

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

calendar month.

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

\* Sec. 11. This Act takes effect July 1, 1977.

Introduced: 1/31/77  
Referred: Resources and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE LEGISLATIVE  
COUNCIL (for the Subcommittee  
on Oil and Gas Leasing and  
Taxing Policies)

1 IN THE HOUSE

2 HOUSE BILL NO. 145

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska net income tax; and  
7 providing for an effective date."

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

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

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

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

1 production, shall, notwithstanding sec. 65 of this chapter, be deter-  
2 mined by separate accounting in accordance with section 18 of article IV  
3 of the Multi-State Compact (AS 43.19.010) and secs. 12 - 14 of this  
4 chapter.

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

6 Sec. 43.20.012. DETERMINATION OF OIL AND NATURAL GAS PRODUCTION  
7 INCOME. (a) The determination of taxable income attributable to oil  
8 and natural gas production, as required under secs. 11(e) and (f) of  
9 this chapter, shall be based on a separate accounting of costs and  
10 revenues associated with the production.

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

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

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

18 (2) severance taxes actually paid;

19 (3) property taxes actually paid by the corporation taxpayer  
20 on the producing property and the facilities directly associated with  
21 it, including facilities for the gathering, treating and preparing of  
22 the oil or gas for shipment;

23 (4) the costs incurred by the corporation taxpayer in opera-  
24 ting the oil or gas field, including the costs of gathering, treating  
25 and preparing the oil or gas for shipment, but net of any payments  
26 received for those services;

27 (5) depreciation on investments which are associated with the  
28 production, gathering, treating and preparing for shipment of the oil or  
29 gas, and which are located in or adjacent to the site of production, in-

1 cluding depreciation on capitalized interest, lease acquisition payments  
2 and property taxes paid before the commencement of production on the  
3 leasehold, facilities or investment associated with it;

4 (6) interest expense not capitalized and capitalizable, to  
5 the extent that it does not exceed a portion of total interest paid by  
6 the corporation, its subsidiaries and affiliates, determined by multi-  
7 plying total interest paid by a fraction, the numerator of which is the  
8 book value of the corporation's fixed assets in and associated with the  
9 field, and the denominator of which is the book value of all fixed  
10 assets held by the corporation, its subsidiaries and affiliates;

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

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

20 Sec. 43.20.013. DETERMINATION OF CRUDE OIL AND NATURAL GAS PIPE-  
21 LINE TRANSPORTATION INCOME. (a) Except as provided in (b) and (c) of  
22 this section, annual taxable income from the pipeline transportation of  
23 crude oil in Alaska in interstate commerce in facilities devoted wholly  
24 to interstate commerce shall be eight per cent of the valuation of the  
25 pipeline facility as determined by or in accordance with principles  
26 established by the Interstate Commerce Commission (ICC).

27 (b) If no ICC valuation has been made of an interstate oil pipe-  
28 line facility or if the oil pipeline facilities are engaged wholly or  
29 partially in intrastate commerce, net income shall be determined in

1 accordance with regulations established by the Alaska Pipeline Commis-  
2 sion under AS 42.06.041. A tax return reporting this income shall be  
3 accompanied by a certification from the Alaska Pipeline Commission to  
4 the effect that to the best of the commission's knowledge and belief the  
5 income calculation has been made in accordance with the principles  
6 established in regulations adopted by the commission, or, if the income  
7 is not, in the opinion of the commission, reported in accordance with  
8 its regulations, then a statement to that effect, identifying the  
9 deficiencies in the report and, if possible, providing a reporting of  
10 the true and correct income.

11 (c) A corporation operating an oil pipeline facility engaged  
12 solely in interstate commerce may elect to have the taxable income from  
13 that facility determined in accordance with (b) of this section, rather  
14 than (a) of this section if it complies with all applicable regulations  
15 and orders of the Alaska Pipeline Commission concerning accounting  
16 methods and reports, and properly files all reports or other information  
17 required by Alaska Pipeline Commission regulations.

18 (d) A corporation's taxable income from the transportation of  
19 natural gas shall be determined for interstate natural gas pipelines in  
20 conformance with the reporting procedures established by the Federal  
21 Power Commission, and for intrastate pipelines in conformance with pro-  
22 cedures established by the Alaska Public Utilities Commission. A tax  
23 return reporting income from the intrastate transportation of natural  
24 gas by pipeline shall be accompanied by a certification from the Alaska  
25 Public Utilities Commission to the effect that to the best of the com-  
26 mission's knowledge and belief the income calculation has been made in  
27 accordance with the principles established in regulations adopted by the  
28 commission, or, if the income is not, in the opinion of the commission,  
29 reported in accordance with its regulations, then a statement to that

1 effect, identifying the deficiencies in the report and, if possible,  
2 providing a reporting of the true and correct income.

3 (e) The certifications of the Alaska Pipeline Commission and the  
4 Alaska Public Utilities Commission submitted in accordance with this  
5 section shall not prejudice any future action by the respective commis-  
6 sion nor shall it prevent the respective commission from submitting a  
7 revised certification within three years of the due date of the tax  
8 return in support of which it was originally filed.

9 (f) Nothing in this section or in sec. 12 of this chapter shall  
10 limit a corporate taxpayer's right to appeal or the taxpayer remedies  
11 provided under ch. 5 of this title.

12 Sec. 43.20.014. DETERMINATION OF INCOME FROM OTHER ACTIVITIES OF  
13 CORPORATIONS ENGAGED IN OIL OR NATURAL GAS PRODUCTION OR TRANSPORTATION.  
14 Taxable income from activities other than oil or natural gas production  
15 or pipeline transportation shall be determined by subtracting the income  
16 as determined under secs. 12 and 13 of this chapter from the corpora-  
17 tion's consolidated net income and applying the allocation formula  
18 required under the provisions of sec. 65 of this chapter, except that  
19 the property factor and the payroll factor shall be calculated without  
20 reference to payroll or property related to production or pipeline  
21 transportation activity the income from which is taxable in accordance  
22 with secs. 12 and 13 of this chapter.

23 Sec. 43.20.015. PUBLIC REPORTING. Notwithstanding the provisions  
24 of AS 43.05.230, the commissioner of revenue shall compile and transmit  
25 to the legislature an annual consolidated report of state revenues and  
26 taxation policies under this chapter. This report shall include total  
27 Alaska income tax paid by firms and individuals covered under this  
28 chapter, itemized deductions by category and the tax cost of these de-  
29 ductions. For purposes of this section, "tax cost" means the amount of

revenue which the state would have collected had not a specific deduction been allowed. Also included in the report shall be a summary of each corporate tax return filed which shows income from the production of oil or natural gas, showing the total amount of oil and gas produced by or for each taxpayer, the taxable income of the corporation from production as reported in accordance with sec. 12 of this chapter, from pipeline transportation as reported in accordance with sec. 13 of this chapter, from other income allocated to the state under sec. 14 of this chapter, and the tax due.

\* Sec. 4. AS 43.20.330 is amended by adding new subsections to read:

(f) Any person who improperly influences, or attempts to improperly influence, by means of payment or offer of payment or other valuable consideration, any state official in his determination of values and apportionments under this chapter shall be guilty of bribery and punishable under AS 11.30.040.

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

\* Sec. 5. AS 42.06.140 is amended by adding a new paragraph to read:

(11) shall provide all reasonable assistance to the Department of Revenue in determining the net income from oil pipeline facilities.

\* Sec. 6. AS 42.06 is amended by adding a new section to read:

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

1 (a) Upon request of a pipeline carrier the commission shall review the  
2 accounts of that carrier and provide a certification to the Department  
3 of Revenue either stating that to the best of the commission's knowledge  
4 and belief the report of net pipeline income submitted by the carrier  
5 under AS 43.20.013 is in accordance with the commission's regulations  
6 governing the accounting of income, or that it is not so in accordance,  
7 in which case the commission shall identify the deficiencies in the  
8 report and, if possible, provide a reporting of the true and correct in-  
9 come.

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

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

21 \* Sec. 7. AS 42.05.141 is amended to read:

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

24 (1) may regulate every public utility engaged or proposing to  
25 engage in such a business inside the state, except to the extent ex-  
26 empted by sec. 711 of this chapter and the powers of the commission  
27 shall be liberally construed to accomplish its stated purposes;

28 (2) may investigate, upon complaint or upon its own motion,  
29 the rates, classifications, rules, regulations, practices, services and

1 facilities of a public utility and hold hearings on them;

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

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

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

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

16 (7) may examine witnesses and offer evidence in any proceed-  
17 ing affecting the state and initiate or participate in judicial pro-  
18 ceedings to the extent necessary to protect and promote the interests of  
19 the state;

20 (8) shall provide all reasonable assistance to the Department  
21 of Revenue in determining the net income from natural gas pipeline  
22 facilities.

23 \* Sec. 8. AS 42.05 is amended by adding a new section to read:

24 Sec. AS 42.05.502. CERTIFICATION OF INCOME TO DEPARTMENT OF  
25 REVENUE. (a) Upon request of a pipeline carrier the commission shall  
26 review the accounts of that carrier and provide a certification to the  
27 Department of Revenue either stating that to the best of the commission's  
28 knowledge and belief the report of net pipeline income submitted by the  
29 carrier under AS 43.20.013 is in accordance with the commission's regu-

1 lations governing the accounting of income, or that it is not so in  
2 accordance, in which case the commission shall identify the deficiencies  
3 in the report and, if possible, provide a reporting of the true and  
4 correct income.

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

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

16 \* Sec. 9. This Act relates only to income earned or received after  
17 December 31, 1976.

18 \* Sec. 10. This Act takes effect January 1, 1978.  
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Introduced: 3/9/77  
Referred: Resources and  
Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 321

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 lease or property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 \* Sec. 9. This Act takes effect July 1, 1977 and applies to production  
20 during the month of July 1977 and succeeding months.  
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Introduced: 3/9/77  
Referred: Resources and  
Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 322

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

10 CHAPTER 21. OIL AND GAS CORPORATE

11 FRANCHISE TAX.

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

23 (b) The legislature finds that, as a general rule, the three-  
24 factor formula set out in AS 43.19.010, Article IV, fairly measures  
25 the income producing activity of corporations doing business both  
26 within and without the state. With regard, however, to the extraction,  
27 transportation, and refining of oil and gas, the legislature finds  
28 that the uniform formula does not fully reflect corporate income-  
29 producing activity in the state. The legislature finds that the

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

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

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

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

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

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

1 report to shareholders covering its earnings and profits for the  
2 taxable year without regard to any taxes on, or measured by, net  
3 income.

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

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

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

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

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

1 provided in this section.

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

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

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

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

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

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

2 (1) the amount of tax due under this chapter, and

3 (2) other information which the department requires for the  
4 purpose of carrying out the provisions of this chapter.

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

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

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

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

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

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

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

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

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

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

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

1 in accordance with the Administrative Procedure Act (AS 44.62) ~~and~~  
2 appropriate to administer and enforce this chapter.

3 Sec. 43.21.090. PENALTIES. (a) A person who wilfully attempts  
4 to evade the tax imposed by this title is, in addition to other penalties  
5 provided by this title, guilty of a felony and, upon conviction, shall  
6 be fined not more than \$5,000, or imprisoned for not more than five  
7 years, or both.

8 (b) A person required under this title to collect, account for,  
9 and pay over the tax imposed by this title who wilfully fails to  
10 collect or truthfully account for and pay over the tax is, in addition  
11 to other penalties provided by this title, guilty of a felony and,  
12 upon conviction, shall be fined not more than \$5,000, or imprisoned  
13 for not more than five years, or both.

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

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

29 (e) A person who wilfully and knowingly aids or assists in, or

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

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

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

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

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

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

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

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

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

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

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

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

Offered: 5/10/77  
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 322

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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11 FRANCHISE TAX.

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

23 (b) The legislature finds that, as a general rule, the three-  
24 factor formula set out in AS 43.19.010, Article IV, fairly measures the  
25 income-producing activity of corporations doing business both in and  
26 outside the state. With regard, however, to the extraction, transporta-  
27 tion, and refining of oil and gas, the legislature finds that the uni-  
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2 and apportioned by a separate state formula just as financial insti-  
3 tutions and public utilities are under the provisions of AS 43.19.010,  
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5 (c) Although the legislature is mindful of the importance and  
6 the advantages of uniformity which the formula in AS 43.19.010,  
7 Article IV, represents, the legislature also recognizes its responsi-  
8 bility to provide an apportionment formula which fairly represents a  
9 taxpayer's business activity in the state. Accordingly, the legislature  
10 has struck a balance between the uniform formula in AS 43.19.010,  
11 Article IV, and a direct measure of oil and gas extracted in the  
12 state by the substitution of a factor based upon units of extraction,  
13 which will more fairly indicate the taxpayer's income attributable to  
14 its business activity in the state.

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

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

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

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27 purposes of this chapter is the higher of taxable income (as the term  
28 is used in AS 43.20.011(e)) or the net income determined and certified  
29 by an independent certified public accountant for the purposes of a

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

4 (b) The department shall provide by regulation for the determina-  
5 tion of net income in circumstances where the income statement deter-  
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11 Exchange Commission, a change in accounting method, or the income  
12 statement is not prepared in accordance with generally accepted account-  
13 ing principles.

14 Sec. 43.21.040. "ORDINARY GROSS RECEIPTS" DEFINED. The term  
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16 there shall be excluded:

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

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

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

1 provided in this section.

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

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

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

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

27 Sec. 43.21.060. RETURNS AND PAYMENT OF TAXES. (a) A corporation  
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29 the department at the same time as it files a return under the provisions

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

2 (1) the amount of tax due under this chapter, and

3 (2) other information which the department requires for the  
4 purpose of carrying out the provisions of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Offered: 5/19/77  
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 322

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska net income tax; and  
7 providing for an effective date."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (ll) shall provide all reasonable assistance to the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 \* Sec. 11. This Act takes effect January 1, 1978.  
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Original sponsor: Rules Committee by  
request of the Governor

Offered: 6/6/78  
Referred: Rules

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 322 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

9 \* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and  
10 declares that the method of apportioning income for tax purposes under the  
11 "Uniform Division of Income for Tax Purposes" formula embodied in the Multi-  
12 state Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the  
13 extent of the business activities in this state of multistate corporations  
14 engaged in the production and pipeline transportation of crude oil and  
15 natural gas in Alaska. The legislature therefore intends that, in accordance  
16 with the provisions of art. 18 of the Multistate Tax Compact (AS 43.19), the  
17 income tax of all corporations engaged in the production or pipeline trans-  
18 portation of oil or natural gas in or directly associated with this state  
19 shall be assessed by the tax administrator under this Act. The legislature  
20 further intends that the assessment of income tax against a multistate cor-  
21 poration engaged in the production or pipeline transportation of oil or  
22 natural gas shall be commensurate with the tax that would be assessed against  
23 a corporation owning and operating only those assets of the multistate cor-  
24 poration which are in or directly associated with this state.

25 \* Sec. 2. AS 43.20.011(e) is amended to read:

26 (e) There is imposed for each taxable year upon the entire taxable  
27 income of every corporation derived from sources within the state a tax  
28 consisting of a normal tax equal to 5.4 per cent of taxable income, and  
29 a surtax which is equal to 4.0 per cent of taxable income. For purposes

1 of this chapter the surtax exemption for a taxable year follows secs.  
2 1561 and 1563 of the Internal Revenue Code. The tax of a corporation  
3 engaged in the production or transportation of crude oil or natural gas  
4 shall be determined and paid in accordance with ch. 21 of this title.

5 \* Sec. 3. AS 43 is amended by adding a new chapter to read:

6 CHAPTER 21. OIL AND GAS CORPORATE  
7 INCOME TAX.

8 Sec. 43.21.010. APPLICATION. This chapter applies to every cor-  
9 poration doing business in the state which derives income from the  
10 production of oil or gas from a lease or property in or directly asso-  
11 ciated with the state, or from the pipeline transportation of oil or gas  
12 in the state. The tax calculated under this chapter is measured by the  
13 total taxable income of the corporation as defined in secs. 20 - 40 of  
14 this chapter and is determined at the rates established under AS 43.20.-  
15 011(e).

16 Sec. 43.21.020. DETERMINATION OF TAXABLE INCOME FROM OIL AND GAS  
17 PRODUCTION. (a) The taxable income of a corporation from the produc-  
18 tion of oil and gas from a lease or property in the state shall be the  
19 corporation's net income as calculated by the department in accordance  
20 with this section.

21 (b) Gross income of a corporation from oil and gas production  
22 shall be the gross value at the point of production of oil or gas pro-  
23 duced from a lease or property in the state. The department shall by  
24 regulation determine a uniform method of establishing the gross value at  
25 the point of production. In making its determination the department may  
26 use the actual prices or values received for the oil or gas, the posted  
27 prices for the oil or gas in the same field, or the prevailing prices or  
28 values of oil or gas in the same field. In addition, in its determina-  
29 tion of gross value at the point of production of oil or gas produced

1 from a lease or property, the department shall determine the reasonable  
2 costs of transportation from the point of sale to the point of produc-  
3 tion of the oil or gas. Transportation costs set by a tariff properly  
4 on file with the Alaska Pipeline Commission or other regulatory agency  
5 shall be considered prima facie reasonable, but if a tariff properly on  
6 file with a regulatory agency is subsequently amended, changed, or  
7 overturned retroactively, the reasonable costs of transportation shall  
8 be recomputed for that period using the newly determined tariff.

9 (c) Net income from oil and gas production shall be determined by  
10 the department by deducting from gross income the following:

11 (1) royalties paid in kind or in value;

12 (2) taxes imposed under AS 43.55 and AS 43.57 which are  
13 actually paid by the corporation on the production from a lease or  
14 property in the state;

15 (3) taxes imposed under AS 43.56 and AS 29.53 which are  
16 actually paid by the corporation on property used directly in the pro-  
17 duction of oil or gas from a lease or property in the state, including  
18 property used in production, gathering, treatment or preparation of the  
19 oil or gas for pipeline transportation, but only if those property tax  
20 payments were due and payable only after the date of commercial produc-  
21 tion from the lease or property with which the property was associated;

22 (4) the direct costs incurred by or for the corporation in  
23 operating the lease or property, including the direct costs of pro-  
24 ducing, gathering, treating or preparing the oil or gas for pipeline  
25 transportation, but net of any payments received for those activities  
26 and not including any indirect cost or overhead expense;

27 (5) depreciation (using the unit of production method or such  
28 other reasonable methods as the department may by regulation establish)  
29 on property used directly in the production, gathering, treatment or

1 preparation of the oil or gas for pipeline transportation including  
2 amortization of capitalized interest for investments in this property at  
3 a rate not to exceed the average cost of borrowed capital to the tax-  
4 payer during the year in which it is capitalized;

5 (6) the amortization of lease acquisition payments and taxes  
6 paid under AS 43.56 and AS 29.53 (including capitalized interest on  
7 both) for or on producing properties before the commencement of com-  
8 mercial production from the lease or property for which the property is  
9 being used;

10 (7) interest expense not capitalized of the corporation, to  
11 the extent that it does not exceed that portion of the total interest  
12 paid by the consolidated business of which the corporation is a part,  
13 determined by multiplying the total interest (reduced by intercompany  
14 transactions within the consolidated business) by a fraction, the numer-  
15 ator of which is the value of the corporation's real and tangible per-  
16 sonal property used directly in the production of oil or gas from a  
17 lease or property in the state and the denominator of which is the value  
18 of all real and tangible personal property of the consolidated business;

19 (8) expenses incurred by the corporation after December 31,  
20 1977 of unsuccessful exploration of oil or gas in the state including  
21 the acquisition costs of abandoned properties, dry hole costs and the  
22 costs of geologic and geophysical exploration related to those abandoned  
23 properties;

24 (9) general overhead or administrative expense incurred by  
25 the corporation attributable to the production of oil or gas from a  
26 lease or property in the state to the extent that it does not exceed the  
27 lesser of:

28 (A) that portion of the total general overhead or admin-  
29 istrative expense incurred by the consolidated business of which

1 the corporation is a part, determined by multiplying the total  
2 general overhead or administrative expense by a fraction, the  
3 numerator of which is the value of the corporation's real and  
4 tangible personal property used directly in the production of oil  
5 or gas from a lease or property in the state and the denominator of  
6 which is the value of all real and tangible personal property of  
7 the consolidated business, or

8 (B) the sum of \$0.12 for each barrel of oil and \$0.02  
9 for each thousand cubic feet of gas produced from a lease or pro-  
10 perty in the state.

11 (d) Deductions from gross income under this section shall not  
12 include expenses previously deducted on a return filed under AS 43.20.

13 (e) Where a corporation subject to this chapter shares the pro-  
14 duction or proceeds of the production from a lease or property through a  
15 working interest, royalty interest, overriding royalty interest, pro-  
16 duction payment, net profit interest, joint venture or other agreement,  
17 the department shall allocate the deductions from gross income between  
18 the corporation and the persons with whom it has such an agreement in  
19 accordance with the terms of the agreement.

20 Sec. 43.21.030. DETERMINATION OF INCOME FROM OIL AND GAS PIPELINE  
21 TRANSPORTATION. (a) Except as provided in (c) of this section, taxable  
22 income attributable to the transportation of oil in a pipeline engaged  
23 in interstate commerce in Alaska shall be determined by the department  
24 and shall be the amount reported or that would be required to be re-  
25 ported to the Federal Energy Regulatory Commission or its successors as  
26 net operating income, less those portions of interest and general admin-  
27 istrative expense attributable to the pipeline transportation of oil in  
28 the state, except that taxable income shall also include taxes on or  
29 measured by income. The department shall establish regulations govern-

1 ing the determination of interest and general administrative expense  
2 attributable to pipeline transportation of oil in the state.

3 (b) Except as provided in (c) of this section, taxable income  
4 attributable to the transportation of natural gas in a pipeline engaged  
5 in interstate commerce in Alaska shall be determined by the department  
6 and shall be the amount reported or that would be required to be re-  
7 ported to the Federal Energy Regulatory Administration as net operating  
8 income less that portion of interest and general administrative expense  
9 attributable to pipeline transportation in the state, except that the  
10 taxable income shall also include taxes on or measured by income. The  
11 department shall establish regulations governing the determination of  
12 interest and general administrative expense attributable to pipeline  
13 transportation of natural gas in the state.

14 (c) Taxable income attributable to the transportation of oil or  
15 natural gas in Alaska of any corporation not under the Federal Energy  
16 Regulatory Commission jurisdiction, or of a corporation under the juris-  
17 diction of the Federal Energy Regulatory Commission but not reporting  
18 the operation of pipelines in Alaska separately from the operation of  
19 pipelines elsewhere, shall be determined by the department and shall be  
20 based upon an amount equal to that which would have been reported to the  
21 Federal Energy Regulatory Commission under (a) of this section in the  
22 case of oil pipelines, or (b) of this section in the case of natural gas  
23 pipelines, had the corporation been, in fact, under Federal Energy  
24 Regulatory Commission jurisdiction for the taxable year and required to  
25 report on the operation of Alaska pipelines separately from the opera-  
26 tion of pipelines elsewhere.

27 Sec. 43.21.040. DETERMINATION OF INCOME FROM ACTIVITIES OTHER THAN  
28 OIL AND GAS PRODUCTION OR PIPELINE TRANSPORTATION. (a) Taxable income  
29 of a corporation subject to this chapter from activities in this state

1 other than the production of oil or gas from a lease or property in the  
2 state or the pipeline transportation of oil or gas in the state shall be  
3 determined in accordance with the method established in art. IV of AS  
4 43.19.010 and in AS 43.20.071, as modified by (b) - (e) of this section.

5 (b) The total taxable income of the consolidated business shall be  
6 the net income determined and certified by an independent certified  
7 public accountant for the purposes of a report to shareholders covering  
8 its earnings and profits for the taxable year (calculated without regard  
9 to any taxes on or measured by net income), less the taxable income of  
10 the corporation as determined under secs. 20 and 30 of this chapter.

11 (c) The numerator and denominator of the property factor, of the  
12 payroll factor and of the sales factor shall be calculated without  
13 reference to that portion of property, payroll or sales directly related  
14 to the production of oil or gas from a lease of property in the state or  
15 the pipeline transportation of oil or gas in the state.

16 (d) Compensation earned by employees of the consolidated business  
17 who are employed in the United States but not in any state shall be  
18 included in the numerator of the payroll factor if the employees are  
19 directly supplied from a base of operations maintained in this state.

20 (e) The value of oil or gas production facilities or other pro-  
21 perties of the consolidated business which are located in the United  
22 States but not in any state shall be included in the numerator of the  
23 property factor if the property is serviced or supplied from a base of  
24 operations maintained in the state or if that property relies on onshore  
25 facilities in this state for storage of the oil or gas produced.

26 Sec. 43.21.050. ASSESSMENT OF INCOME AND TAX. (a) The department  
27 shall assess taxable income and the amount of tax payable on that tax-  
28 able income.

29 (b) On or before August 15 of each year the department shall send

1 to every corporation taxable under this chapter a notice of assessment  
2 showing the amount of income taxable under this chapter for the previous  
3 year and the amount of tax payable on that taxable income.

4 (c) For purposes of this chapter the department may combine tax-  
5 able incomes of corporations subject to tax under this chapter who are  
6 part of the same consolidated business.

7 Sec. 43.21.060. RETURNS. On or before April 15 of each year, a  
8 corporation subject to tax under this chapter shall submit a return in a  
9 form prescribed by the department setting out information required by  
10 the department to determine taxable income. For purposes of this chap-  
11 ter, the department may require corporations subject to tax under this  
12 chapter who are part of the same consolidated business to file a single  
13 return.

14 Sec. 43.21.070. PAYMENT OF TAX. The tax levied under this chapter  
15 is payable to the department on or before September 30 of each year or  
16 in installments at the times and under the conditions the department may  
17 by regulation require. This tax is payable on the due date set out in  
18 this section even though the assessment is under appeal or the validity,  
19 enforceability or application of this chapter or any provision of this  
20 chapter is challenged before the department or in the courts.

21 Sec. 43.21.080. TRANSITIONAL RULES. The department shall provide  
22 by regulation transition rules for corporations subject to tax under AS  
23 43.20 before the effective date of this Act to avoid double taxation of  
24 the same income or double deduction of the same expense of those cor-  
25 porations as a result of becoming subject to tax under this chapter.

26 Sec. 43.21.090. REGULATIONS. The department may adopt regulations  
27 in accordance with the Administrative Procedure Act (AS 44.69) as appro-  
28 priate to administer and enforce this chapter.

29 Sec. 43.21.100. PENALTIES. The penalties established in ch. 20 of

1 this title apply to this chapter.

2 Sec. 43.21.110. PUBLIC REPORTING. (a) The commissioner of reve-  
3 nue shall compile and transmit to the legislature an annual consolidated  
4 report of state revenues and taxation policies under this chapter. This  
5 report shall include total aggregate income tax paid by corporations  
6 covered under this chapter and aggregate income and deductions by cate-  
7 gory, so classified as to prevent the identification of particular  
8 returns or reports.

9 (b) The legislative auditor shall transmit to the legislature an  
10 annual report reviewing the actions of the department in administering  
11 this chapter.

12 Sec. 43.21.120. DEFINITIONS. Unless the context requires other-  
13 wise the definitions contained in AS 43.55.140 are applicable to this  
14 chapter. In addition, in this chapter

15 (1) "base of operations" means the closest point on land to  
16 the offshore oil or gas production operations from which goods, services  
17 and supplies flow to those offshore oil or gas production operations;

18 (2) "consolidated business" means a corporation or group of  
19 corporations having at least 50 per cent common ownership, direct or  
20 indirect, or a group of corporations in which there is common control  
21 either direct or indirect as evidenced by any arrangement, contract or  
22 agreement.

23 \* Sec. 4. This Act applies to taxable income earned or received after  
24 December 31, 1977.

25 \* Sec. 5. The Act takes effect immediately in accordance with AS 01.10.-  
26 070(c).

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

IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

HOUSE BILL NO. 323

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (b) For purposes of this section,

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

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

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

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

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

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

5 (6) "taxable property" means real and tangible personal  
6 property within this state used or committed by contract or other  
7 agreement for use [WITHIN THIS STATE] primarily in the exploration  
8 for, production of, [OR] pipeline transportation of, refining of,  
9 gas or unrefined oil, or in the processing, liquefaction or manufacture  
10 of natural gas or oil products, including [(EXCEPT FOR] property used  
11 [SOLELY] for the liquefaction [RETAIL DISTRIBUTION OR LIQUEFACTION] of  
12 natural gas []], or in the operation or maintenance of facilities used  
13 in the exploration for, production of, [OR] pipeline transportation  
14 of, refining of, gas or unrefined oil, or in the processing, liquefac-  
15 tion or manufacture of natural gas or oil products, including machinery,  
16 appliances, supplies, equipment, drilling rigs, wells (whether producing  
17 or not), gathering lines and transmission lines, pumping stations,  
18 compressor stations, power plants, topping plants, processing units,  
19 refineries and refining equipment, gas processing plants and equip-  
20 ment, liquefied natural gas facilities, roads, tank farms, tanker ter-  
21 minals, docks and other port facilities, air strips and communication  
22 equipment and facilities, maintenance equipment and facilities, and  
23 maintenance camps and other related facilities; "taxable property"  
24 also means property used or committed by contract or other agreement  
25 for use primarily in the marine transportation of gas or unrefined oil  
26 including tankers, all classes of crude carriers, ships, barges or  
27 other marine vessels used in connection with the transportation of gas  
28 or unrefined oil; "taxable property" does not include permanent resi-  
29 dences, office buildings requiring substantial local government services,  
HB 323

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

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

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

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

23 (2) the commissioner shall then

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

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

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

1        by January 15 of the following year.

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

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

1 under AS 43.58.

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

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

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

16 (2) the commissioner shall then

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

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

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

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

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

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

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

Original sponsor: Rules Committee by request  
of the Governor

Offered: 4/6/77  
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 323

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas exploration, pro-  
7 duction, and pipeline and marine transportation proper-  
8 ty tax; and providing for an effective date."

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

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

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

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

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