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Oil Tax Bills

Ninth Legislature

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1975-6

Introduced: 2/4/75  
Referred: Commerce and  
Finance

THE HOUSE

BY MALONE

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HOUSE BILL NO. 116

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

an Act entitled: "An Act relating to oil and gas development."

ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

Section 1. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.297. INSPECTION PERMITTED. (a) The department may, as a condition of granting a permit or lease provided for in secs. 135 - 165 of this chapter, require the applicant to

- (1) allow full observation and inspection by a person employed by the department of all oil or gas exploration efforts, drilling or production facilities;
- (2) allow a person employed by the department to be present during exploration, drilling or production efforts, and make adequate provisions for the board, lodging and transportation of that person;
- (3) in the case of a vessel or other facility engaged in offshore oil or gas exploration, drilling or production, allow a person employed by the department to live on the vessel or facility;
- (4) reimburse the state, on a regular basis, for all costs incurred in the administration of this section, including the costs of inspection;
- (5) post a surety bond or other guarantee of payment;
- (6) observe other conditions the department considers necessary to safeguard the public health, safety and general welfare.

(b) The department shall promulgate regulations to carry out the purpose of this section, including but not limited to

- (1) the specific duties of the inspector;

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Introduced: 3/13/75  
Referred: Resources

BY COWPER, BOWMAN, BRADLEY, BRADNER,  
BROWN, COTTEN, DUNCAN, GARDINER,  
GRUENING, KELLEY, MCKINNON, MALONE,  
MILLER, NAUGHTON, PARKER, SMITH, PARR,  
SULLIVAN AND OSTROSKY

THE HOUSE

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HOUSE BILL NO. 297

(Fin) (Rules) am S

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the oil and gas exploration,  
production and pipeline 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(a) is amended to read:

(a) An annual tax of 20 mills is levied each tax year beginning  
January 1, 1974, on the full and true value of taxable property taxable  
under this chapter, except as provided in sec. 15 of this chapter.

• Sec. 2. AS 43.56 is amended by adding a new section to read:

Sec. 43.56.015. OIL AND GAS IN PLACE. (a) An annual tax of 20  
mills is levied automatically at such time as the state's general fund  
cash balance is less than \$200,000,000, on the full and true value of  
(1) oil and gas leases within the state under which there are proven  
reserves; and (2) ownership interests in proven oil and gas reserves in  
place within the state. The tax due for the calendar year of the origi-  
nal levy is the full amount which is due for the year reduced pro rata  
by the number of days from January 1 to the date of the original levy.  
In years subsequent to the original levy the tax is levied each year be-  
ginning January 1.

(b) Oil and gas leases and ownership interests in proven oil or  
gas reserves are exempt from taxation under (a) of this section for a  
period of five years from (1) the date of the original lease of all or  
part of the property described in the lease or ownership interest being  
taxed, or (2) the date of the first completion, suspension, or abandon-

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1 ment of a discovery well in a field or pool which in whole or in part  
2 underlies or comprises the lease or ownership interest, whichever occurs  
3 first.

4 (c) Producing oil or gas leases or ownership interests in proven  
5 oil or gas reserves upon which a gross production tax under ch. 55 of  
6 this title has been paid in an amount equal to or greater than the tax  
7 due under (a) of this section are exempt from taxes under (a) of this  
8 section for the same taxable year for which the gross production taxes  
9 are due.

10 (d) Producing oil or gas leases or ownership interests in proven  
11 oil or gas reserves upon which a gross production tax under ch. 55 of  
12 this title has been paid in an amount which is less than the amount due  
13 under (a) of this section as to the same leases or interests shall reduce  
14 the tax due under (a) of this section as to the leases or interests by  
15 the gross production tax actually paid in the assessment year after  
16 subtraction of any credit allowable under (e) of this section.

17 (e) The tax paid under (a) of this section may be credited against  
18 the gross production tax due under ch. 55 of this title as to the same  
19 leases or properties; however, the credit used in any one tax year may  
20 not exceed 50 per cent of the gross production tax due for that year.

21 \* Sec. 3. AS 43.56.060 is amended by adding new subsections to read:

22 (h) The department shall assess property for the tax levied under  
23 sec. 15 of this chapter within 60 days of the effective date of this Act  
24 on the basis of information presently available to the department.

25 (i) The full and true value of property taxable under sec. 15 of  
26 this chapter is the estimated price which the property would bring in an  
27 open market and under the prevailing market conditions in a sale between  
28 a willing buyer and a willing seller both conversant with the property  
29 and with prevailing general price levels. In determining this value the

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assessor shall take into account the discounted value of the expected future net income from the production of proven reserves under the property.

- Sec. 4. AS 43.56.100 is amended by adding a new subsection to read:

(c) The department shall send to every owner of taxable property named in the assessment roll a notice of the assessment made under sec. 60(h) of this chapter within 75 days of the effective date of this Act.

- Sec. 5. AS 43.56.120 is amended by adding a new subsection to read:

(c) If an owner appeals a ruling of the department made under an appeal of an assessment of property made for purposes of the tax levied under sec. 15 of this chapter, the owner, by filing a notice of appeal to the board, agrees to furnish the state with all its records and research information relating to the property which is the subject of the appeal, including but not limited to (1) well logs; (2) records of well testing and completion; and (3) geological and geophysical information including seismic data. The information contained in the records and research information shall be kept confidential by the board unless litigation is instituted after a decision by the board.

- Sec. 6. AS 43.56.150(c) is amended to read:

(c) The taxes [TAX] levied under secs. [SEC.] 10(a) and 15 of this chapter, interest and penalties collected with respect to these levies [THIS LEVY] shall be deposited in the general fund, except that two per cent of the taxes collected under sec. 15 of this chapter shall be deposited into the Alaska Native Fund established by sec. 6 of the Alaska Native Claims Settlement Act, P.L. 92 - 203.

- Sec. 7. AS 43.56.160 is amended to read:

Sec. 43.56.160. INTEREST AND PENALTY. When the tax levied by sec. 10(a) or sec. 15 of this chapter becomes delinquent, a penalty of 10 per cent shall be added. Interest on the delinquent taxes, exclusive of

1 penalty, shall be assessed at a rate of eight per cent a year.

2 \* Sec. 8. AS 43.56.170 is amended to read:

3 Sec. 43.56.170. LIEN FOR TAX. The taxes [TAX] levied under secs.  
4 [SEC.] 10(a) and 15 of this chapter and the interest and penalty provided  
5 in sec. 160 of this chapter are first and paramount liens on the property  
6 subject to tax under this chapter.

7 \* Sec. 9. AS 43.56.180 is amended to read:

8 Sec. 43.56.180. REMEDY. The remedy of distraint of property set  
9 out in AS 43.20.270 applies to the taxes [TAX] levied by secs. [SEC.]  
10 10(a) and 15 of this chapter. However, only property subject to [THE]  
11 tax may be distrained.

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

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

Utilities Commission;

• Sec. 11. AS 43.56.210 is amended by adding a new paragraph to read:

(8) "proven reserves" means the volume of oil or gas in a known deposit which geological and engineering information indicate to be reasonably expected to be produced under current economic and technological knowledge.

• Sec. 12. This Act takes effect immediately in accordance with AS 01.10.-070(c).

• Sec. 13. This Act terminates January 1, 1982.

BY COWPER, BOWMAN, BRADLEY, BRADNER,  
BROWN, COTTEN, DUNCAN, GARDINER,  
GRUENING, KELLEY, MCKINNON, MALONE,  
MILLER, NAUGHTON, PARKER, SMITH, PARR,  
SULLIVAN AND OSTROSKY

IN THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 297

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

CHAPTER 58. OIL AND GAS RESERVES AD VALOREM TAX.

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

(b) The legislature shall annually determine by law the rate of the levy before April 1.

(c) If on April 1 the legislature has not determined the rate of levy, the rate of levy shall be zero for that year. The rate of levy may not exceed 20 mills.

Sec. 43.58.020. EXEMPTIONS. The following interests in the proven reserves of a lease or property shall be exempt from taxation under this chapter:

- (1) any interest of the United States or the state;
- (2) any interest exempted from taxation by sec. 21 of the Alaska Native Claims Settlement Act (P.L. 92-203; 43 U.S.C. sec. 1620);
- (3) all other interests in the proven reserves of a lease or property during the five year period beginning with the earlier of:

(A) the date of the original lease, concession, contract or any other agreement that is made for the oil and gas development

1 of a part or all of the land subject to that lease or property, or

2 (B) the date of the first completion, suspension, or  
3 abandonment of a discovery well in a field or pool which in whole  
4 or in part underlies or comprises the lease or ownership interest;

5 (4) taxable property under ch. 56 of this title;

6 (5) any and all interests conveyed pursuant to the Alaska  
7 Native Claims Settlement Act (P.L. 92-203; 43 U.S.C. 1620), including  
8 the interests of lessees of all or part of such interests.

9 Sec. 43.58.030. CREDIT AGAINST TAX. There shall be allowed, as a  
10 credit against the tax levied under this chapter for a lease or property,  
11 the amount of oil and gas properties production taxes paid under ch. 55  
12 of this title for that lease or property for the 12 months before the  
13 tax payment date under this chapter. The credit may not exceed the  
14 amount of tax due under this chapter. For purposes of this section, the  
15 credit shall be calculated without regard to the allowance of any credit  
16 under AS 43.55.018 against the taxes levied by ch. 55 of this title.

17 Sec. 43.58.040. ASSESSMENT. (a) The department shall assess  
18 taxable property under this chapter at its full and true value as of  
19 January 1 of each year.

20 (b) The full and true value of taxable property under this chapter  
21 is the estimated price which the property would bring in an open market  
22 and under the then prevailing market conditions in a sale between a  
23 willing seller and a willing buyer both conversant with the property and  
24 with prevailing values. In determining this value, the department shall  
25 consider all factors which may be known by the department to affect the  
26 value of the proven reserves of the lease or property, including but not  
27 limited to the present value of the expected discounted future net  
28 income from the lease or property.

29 Sec. 43.58.050. ASSESSMENT ROLL. The department shall prepare

1 annually the assessment roll for taxation under this chapter. The roll  
2 shall contain:

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

7 Sec. 43.58.060. ASSESSMENT NOTICE. On or before April 15 of each  
8 year, the department shall send to every owner of taxable property named  
9 in the assessment roll a notice of assessment showing the assessed value  
10 of the property. The notice of assessment is effective on the date of  
11 its mailing.

12 Sec. 43.58.070. APPEAL. (a) A person aggrieved by the action of  
13 the department in making an assessment may request a hearing not later  
14 than 20 days after the effective date of the assessment notice.

15 (b) At the hearing the department may subpoena witnesses and may  
16 administer oaths and make inquiries necessary to determine the correct-  
17 ness of the assessment. At the hearing the appellant bears the burden  
18 of proof, and in the absence of this proof the assessment will be  
19 upheld. If the department determines that a correction is warranted,  
20 the department shall correct the assessment and the assessment roll.

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

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

1           Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department  
2 shall include property omitted from the assessment roll on a supple-  
3 mental roll, using the procedures set out in this chapter for the  
4 original roll.

5           Sec. 43.58.100. INVESTIGATION. (a) The department may make an  
6 investigation of property on which a return has been filed or on pro-  
7 perty for which no return has been filed. In either case, the depart-  
8 ment may make its own valuation of the taxable property, which is prima  
9 facie evidence of full and true value.

10           (b) An employee or agent of the department may enter any premise  
11 necessary for the investigation during reasonable hours and may examine  
12 property and appropriate records. The owner of taxable property upon  
13 request shall furnish to the employee or agent of the department reason-  
14 able assistance required for the investigation. If refused entry or  
15 assistance the superior court may, after reasonable notice to the owner,  
16 order the owner to allow the entry or to furnish the assistance.

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

21           Sec. 43.58.110. RETURNS AND PAYMENT OF TAX. (a) The operator of  
22 a lease or property is primarily liable for payment of the tax levied by  
23 this chapter. All other persons owning or otherwise holding an interest  
24 or right in that lease or property are secondarily liable for payment of  
25 the tax levied by this chapter.

26           (b) The operator of a lease or property shall submit returns on  
27 the form prescribed by the department and shall make payment of the tax  
28 levied under this chapter, on behalf of itself and all other persons  
29 holding an interest or right in that lease or property. With the written

1 approval of the department, a non-operator of the lease or property may  
2 submit returns or make payment of the tax levied under this chapter, on  
3 behalf of himself and such other persons as the department may approve.  
4 All returns shall be filed on or before February 1 of each year.

5 (c) The tax levied under this chapter is payable to the department  
6 on or before June 30 of each year or in installments at the times and  
7 under the conditions the department may by regulation require. This  
8 provision applies even though the assessment is under appeal.

9 (d) With the prior written approval of the department, a person  
10 submitting returns or making payments as required under this chapter for  
11 more than one lease or property may regard those leases or properties as  
12 a single lease or property for purposes of submitting those reports or  
13 making those payments.

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

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

26 Sec. 43.58.120. CIVIL PENALTY. Five per cent shall be added to  
27 the tax for each 30-day period or fraction of that period during which  
28 the taxpayer fails to file a return or pay the full amount of the tax,  
29 or a portion or a deficiency of the tax due and payable as finally

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

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

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

15 Sec. 43.58.150. REMEDY. The remedy of distraint of property set  
16 out in AS 43.20.270 applies to the tax levied by this chapter.

17 Sec. 43.58.160. REGULATIONS. The department may adopt regulations  
18 in accordance with the Administrative Procedure Act (AS 44.62) as  
19 appropriate to administer and enforce this chapter.

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

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

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

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

under this chapter.

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

Sec. 43.58.190. DEFINITIONS. In this chapter:

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

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

(3) "lease or property" means

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

(B) a leasehold interest in oil and gas,

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

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

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

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

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

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

7 (8) "taxable property" means any interest in the proven  
8 reserves of a lease or property.

9 Sec. 43.58.200. PAYMENT TO ALASKA NATIVE FUND. When the tax levied  
10 under this chapter is payable, an amount not less than two per cent of  
11 the tax shall be paid by the state from oil and gas royalty payments  
12 into the Alaska Native Fund established by sec. 6 of the Alaska Native  
13 Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 USC 1601 et seq.)  
14 until all payments paid into the fund equals \$500,000,000.

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

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

20 (1) [deleted]

21 (2) producing oil or gas leases;

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

23 (4) [deleted]

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

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

26 Sec. 43.55.018. CREDIT AGAINST TAX. (a) There shall be allowed  
27 as a credit against the taxes levied under this chapter for a lease or  
28 property the early development incentive credit accrued for that lease  
29 or property under AS 43.58.180. In no event may the credit allowed for

1 a lease or property exceed 50 per cent of the taxes levied under this  
2 chapter for that lease or property.

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

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

5 (8) "lease or property" means

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

8 (B) a leasehold interest in oil and gas,

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

13 (D) a working interest, royalty interest, overriding  
14 royalty interest, net profit interest or any other interest in an  
15 agreement for unitization or pooling under the provisions of sec.  
16 614(b)(3) of the Internal Revenue Code of 1954 as defined on the  
17 effective date of this paragraph;

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

19 (b) No municipality, or combination of municipalities occupying  
20 the same geographical area, in whole or in part, may levy taxes which  
21 result in tax revenues from all sources exceeding either (1) \$1,000 a  
22 year for each person residing within their boundaries or (2) when com-  
23 bined with the value of property otherwise taxable by the municipality,  
24 the product of 225 per cent of the average per capita assessed full and  
25 true value in the state multiplied by the number of residents of the  
26 taxing municipality. If two or more municipalities occupying the same  
27 geographical area, in whole or in part, attempt to levy a tax the  
28 combined levy of which would result in tax revenues from all sources  
29 exceeding either (1) \$1,000 a year for each person residing within their

1 boundaries or (2) when combined with the value of property otherwise  
2 taxable by the municipality, the product of 225 per cent of the average  
3 per capita assessed full and true value of property in the state multi-  
4 plied by the number of residents of the taxing municipality, the commis-  
5 sioner of community and regional affairs shall apportion the lawful levy  
6 and equitably divide these revenues on the basis of need, services  
7 performed and other considerations in the public interest. For the  
8 purpose of this subsection population shall be determined by the commis-  
9 sioner of community and regional affairs based on the latest statistics  
10 of the United States Bureau of the Census or on other reliable population  
11 data. For purposes of this subsection the average per capita assessed  
12 full and true value of property in the state shall be calculated without  
13 regard to the assessed value of taxable property under AS 43.58.

14 \* Sec. 6. Sec. 43.56.010(c) is amended to read:

15 (c) If the total value of assessed property of a municipality  
16 taxing under AS 29.53.045(c) exceeds the product of 225 per cent of the  
17 average per capita assessed full and true value of property in the state  
18 (to be determined by the department and reported to each municipality by  
19 January 15 of each year) multiplied by the number of residents of the  
20 taxing municipality, the department shall designate the portion of the  
21 tax base against which the local tax may be applied. For purposes of  
22 this subsection the average per capita assessed full and true value of  
23 property in the state shall be calculated without regard to the assessed  
24 value of taxable property under ch. 58 of this title.

25 \* Sec. 7. This Act takes effect on April 30, 1975.  
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29

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 297

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

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

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

15 (b) The legislature shall annually determine by law the rate of  
16 the levy before April 1.

17 (c) If on April 1 the legislature has not determined the rate of  
18 levy, the rate of levy shall be zero for that year. The rate of levy  
19 may not exceed 20 mills.

20 Sec. 43.58.020. EXEMPTIONS. (a) The following interests in the  
21 proven reserves of a lease or property shall be exempt from taxation  
22 under this chapter:

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

24 (2) any interest exempted from taxation by sec. 21 of the  
25 Alaska Native Claims Settlement Act (P.L. 92-203; 43 U.S.C. sec. 1620);

26 (3) all other interests in the proven reserves of a lease or  
27 property during the five year period beginning with the earlier of:

28 (A) the date of the original lease, concession, contract  
29 or any other agreement that is made for the oil and gas development

1 of a part or all of the land subject to that lease or property, or

2 (B) the date of the first completion, suspension, or  
3 abandonment of a discovery well in a field or pool which in whole  
4 or in part underlies or comprises the lease or ownership interest;

5 (4) taxable property under ch. 56 of this title;

6 (5) any and all interests acquired by an Alaska Native  
7 regional corporation under the Alaska Native Claims Settlement Act  
8 (P.L. 92-203; 43 U.S.C. 1620).

9 (b) If any provision of this section or the application of any  
10 provision of this section or circumstance is held invalid, the remainder  
11 of this Act is void.

12 Sec. 43.58.030. CREDIT AGAINST TAX. There shall be allowed, as a  
13 credit against the tax levied under this chapter for a lease or property,  
14 the amount of oil and gas properties production taxes paid under ch. 55  
15 of this title for that lease or property for the 12 months before the  
16 tax payment date under this chapter. The credit may not exceed the  
17 amount of tax due under this chapter. For purposes of this section, the  
18 credit shall be calculated without regard to the allowance of any credit  
19 under AS 43.55.018 against the taxes levied by ch. 55 of this title.

20 Sec. 43.58.040. ASSESSMENT. (a) The department shall assess  
21 taxable property under this chapter at its full and true value as of  
22 January 1 of each year.

23 (b) The full and true value of taxable property under this chapter  
24 is the estimated price which the property would bring in an open market  
25 and under the then prevailing market conditions in a sale between a  
26 willing seller and a willing buyer both conversant with the property and  
27 with prevailing values. In determining this value, the department shall  
28 consider all factors which may be known by the department to affect the  
29 value of the proven reserves of the lease or property, including but not

1 limited to the present value of the expected discounted future net  
2 income from the lease or property.

3 Sec. 43.58.050. ASSESSMENT ROLL. The department shall prepare  
4 annually the assessment roll for taxation under this chapter. The roll  
5 shall contain:

- 6 (1) a description of all taxable property;  
7 (2) the assessed value of all taxable property; and  
8 (3) the names and addresses of persons owning or otherwise  
9 holding an interest in taxable property.

10 Sec. 43.58.060. ASSESSMENT NOTICE. On or before April 15 of each  
11 year, the department shall send to every owner of taxable property named  
12 in the assessment roll a notice of assessment showing the assessed value  
13 of the property. The notice of assessment is effective on the date of  
14 its mailing.

15 Sec. 43.58.070. APPEAL. (a) A person aggrieved by the action of  
16 the department in making an assessment may request a hearing not later  
17 than 20 days after the effective date of the assessment notice.

18 (b) At the hearing the department may subpoena witnesses and may  
19 administer oaths and make inquiries necessary to determine the correct-  
20 ness of the assessment. At the hearing the appellant bears the burden  
21 of proof, and in the absence of this proof the assessment will be  
22 upheld. If the department determines that a correction is warranted,  
23 the department shall correct the assessment and the assessment roll.

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

29 Sec. 43.58.080. CERTIFICATION. On or before June 15 of each year,

1 the department shall certify the final assessment roll and mail to the  
2 operator or other person filing a return and paying tax on the taxable  
3 property a statement of the amount of tax due.

4 Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department  
5 shall include property omitted from the assessment roll on a supple-  
6 mental roll, using the procedures set out in this chapter for the  
7 original roll.

8 Sec. 43.58.100. INVESTIGATION. (a) The department may make an  
9 investigation of property on which a return has been filed or on pro-  
10 perty for which no return has been filed. In either case, the depart-  
11 ment may make its own valuation of the taxable property, which is prima  
12 facie evidence of full and true value.

13 (b) An employee or agent of the department may enter any premise  
14 necessary for the investigation during reasonable hours and may examine  
15 property and appropriate records. The owner of taxable property upon  
16 request shall furnish to the employee or agent of the department reason-  
17 able assistance required for the investigation. If refused entry or  
18 assistance the superior court may, after reasonable notice to the owner,  
19 order the owner to allow the entry or to furnish the assistance.

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

24 Sec. 43.58.110. RETURNS AND PAYMENT OF TAX. (a) The operator of  
25 a lease or property is primarily liable for payment of the tax levied by  
26 this chapter. All other persons owning or otherwise holding an interest  
27 or right in that lease or property are secondarily liable for payment of  
28 the tax levied by this chapter.

29 (b) The operator of a lease or property shall submit returns on

1 the form prescribed by the department and shall make payment of the tax  
2 levied under this chapter, on behalf of itself and all other persons  
3 holding an interest or right in that lease or property. With the written  
4 approval of the department, a non-operator of the lease or property may  
5 submit returns or make payment of the tax levied under this chapter, on  
6 behalf of himself and such other persons as the department may approve.  
7 All returns shall be filed on or before February 1 of each year.

8 (c) The tax levied under this chapter is payable to the department  
9 on or before June 30 of each year or in installments at the times and  
10 under the conditions the department may by regulation require. This  
11 provision applies even though the assessment is under appeal.

12 (d) With the prior written approval of the department, a person  
13 submitting returns or making payments as required under this chapter for  
14 more than one lease or property may regard those leases or properties as  
15 a single lease or property for purposes of submitting those reports or  
16 making those payments.

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

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

29 Sec. 43.58.120. CIVIL PENALTY. Five per cent shall be added to

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

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

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

18 Sec. 43.58.150. REMEDY. The remedy of distraint of property set  
19 out in AS 43.20.270 applies to the tax levied by this chapter.

20 Sec. 43.58.160. REGULATIONS. The department may adopt regulations  
21 in accordance with the Administrative Procedure Act (AS 44.62) as  
22 appropriate to administer and enforce this chapter.

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

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

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

1 section,

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

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

8 Sec. 43.58.190. DEFINITIONS. In this chapter:

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

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

12 (3) "lease or property" means

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

15 (B) a leasehold interest in oil and gas,

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

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

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

28 (5) "oil" means crude petroleum oil and other hydrocarbons  
29 regardless of gravity which, when recovered, are recovered at the well-

1 head in liquid form, and the liquid hydrocarbons known as distillate or  
2 condensate that are recovered by separation from gas other than at a gas  
3 processing plant;

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

6 (7) "proven reserves" means the volumes of oil and gas in a  
7 known deposit which geological and engineering information indicate to  
8 be recoverable if it is economically feasible to market it in the future;  
9 "proven reserves" does not include oil and gas which is not economically  
10 feasible to market in the future under reasonably foreseeable conditions;

11 (8) "taxable property" means any interest in the proven  
12 reserves of a lease or property.

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

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

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

24 (1) [deleted]

25 (2) producing oil or gas leases;

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

27 (4) [deleted]

28 (5) the value of intangible drilling and exploration expenses

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

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

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

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

(8) "lease or property" means

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

(B) a leasehold interest in oil and gas,

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

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

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

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes which result in tax revenues from all sources exceeding either (1) \$1,000 a year for each person residing within their boundaries or (2) when combined with the value of property otherwise taxable by the municipality, the product of 225 per cent of the average per capita assessed full and true value in the state multiplied by the number of residents of the

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

18 \* Sec. 6. Sec. 43.56.010(c) is amended to read:

19 (c) If the total value of assessed property of a municipality  
20 taxing under AS 29.53.045(c) exceeds the product of 225 per cent of the  
21 average per capita assessed full and true value of property in the state  
22 (to be determined by the department and reported to each municipality by  
23 January 15 of each year) multiplied by the number of residents of the  
24 taxing municipality, the department shall designate the portion of the  
25 tax base against which the local tax may be applied. For purposes of  
26 this subsection the average per capita assessed full and true value of  
27 property in the state shall be calculated without regard to the assessed  
28 value of taxable property under ch. 58 of this title.

29 \* Sec. 7. This Act takes effect on April 30, 1975.

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 297 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

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

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

15 (b) The legislature shall annually determine by law the rate of  
16 the levy before April 1.

17 (c) If on April 1 the legislature has not determined the rate of  
18 levy, the rate of levy shall be zero for that year. The rate of levy  
19 may not exceed 20 mills.

20 Sec. 43.58.020. EXEMPTIONS. The following interests in the  
21 proven reserves of a lease or property shall be exempt from taxation  
22 under this chapter:

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

24 (2) any interest exempted from taxation by the Alaska  
25 Native Claims Settlement Act (P.L. 92-203; 43 U.S.C. sec. 1620) or  
26 acquired under that Act by an Alaska Native regional or village cor-  
27 poration;

28 (3) all other interests in the proven reserves of a lease or  
29 property during the five year period beginning with the earlier of:

1 (A) the date of the original lease, concession, contract  
2 or any other agreement that is made for the oil and gas development  
3 of a part or all of the land subject to that lease or property, or

4 (B) the date of the first completion, suspension, or  
5 abandonment of a discovery well in a field or pool which in whole  
6 or in part underlies or comprises the lease or ownership interest;

7 (4) taxable property under ch. 56 of this title.

8 Sec. 43.58.030. CREDIT AGAINST TAX. There shall be allowed, as a  
9 credit against the tax levied under this chapter for a lease or property,  
10 the amount of oil and gas properties production taxes paid under ch. 55  
11 of this title for that lease or property for the 12 months before the  
12 tax payment date under this chapter. The credit may not exceed the  
13 amount of tax due under this chapter. For purposes of this section, the  
14 credit shall be calculated without regard to the allowance of any credit  
15 under AS 43.55.018 against the taxes levied by ch. 55 of this title.

16 Sec. 43.58.040. ASSESSMENT. (a) The department shall assess  
17 taxable property under this chapter at its full and true value as of  
18 January 1 of each year.

19 (b) The full and true value of taxable property under this chapter  
20 is the estimated price which the property would bring in an open market  
21 and under the then prevailing market conditions in a sale between a  
22 willing seller and a willing buyer both conversant with the property and  
23 with prevailing values. In determining this value, the department shall  
24 consider all factors which may be known by the department to affect the  
25 value of the proven reserves of the lease or property, including but not  
26 limited to the present value of the expected discounted future net  
27 income from the lease or property.

28 Sec. 43.58.050. ASSESSMENT ROLL. The department shall prepare  
29 annually the assessment roll for taxation under this chapter. The roll

1 shall contain:

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

6 Sec. 43.58.060. ASSESSMENT NOTICE. On or before April 15 of each

7 year, the department shall send to every owner of taxable property named

8 in the assessment roll a notice of assessment showing the assessed value

9 of the property. The notice of assessment is effective on the date of

10 its mailing.

11 Sec. 43.58.070. APPEAL. (a) A person aggrieved by the action of

12 the department in making an assessment may request a hearing not later

13 than 20 days after the effective date of the assessment notice.

14 (b) At the hearing the department may subpoena witnesses and may

15 administer oaths and make inquiries necessary to determine the correct-

16 ness of the assessment. At the hearing the appellant bears the burden

17 of proof, and in the absence of this proof the assessment will be

18 upheld. If the department determines that a correction is warranted,

19 the department shall correct the assessment and the assessment roll.

20 (c) Within 30 days after the decision by the department after a

21 hearing, either the department or a person aggrieved by the decision may

22 appeal to the superior court for a trial de novo. The superior court

23 shall grant priority on its dockets for the appeals over all civil cases

24 then pending.

25 Sec. 43.58.080. CERTIFICATION. On or before June 15 of each year,

26 the department shall certify the final assessment roll and mail to the

27 operator or other person filing a return and paying tax on the taxable

28 property a statement of the amount of tax due.

29 Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department

1 shall include property omitted from the assessment roll on a supple-  
2 mental roll, using the procedures set out in this chapter for the  
3 original roll.

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

9 (b) An employee or agent of the department may enter any premise  
10 necessary for the investigation during reasonable hours and may examine  
11 property and appropriate records. The owner of taxable property upon  
12 request shall furnish to the employee or agent of the department reason-  
13 able assistance required for the investigation. If refused entry or  
14 assistance the superior court may, after reasonable notice to the owner,  
15 order the owner to allow the entry or to furnish the assistance.

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

20 Sec. 43.58.110. RETURNS AND PAYMENT OF TAX. (a) The operator of  
21 a lease or property is primarily liable for payment of the tax levied by  
22 this chapter. All other persons owning or otherwise holding an interest  
23 or right in that lease or property are secondarily liable for payment of  
24 the tax levied by this chapter.

25 (b) The operator of a lease or property shall submit returns on  
26 the form prescribed by the department and shall make payment of the tax  
27 levied under this chapter, on behalf of itself and all other persons  
28 holding an interest or right in that lease or property. With the written  
29 approval of the department, a non-operator of the lease or property may

submit returns or make payment of the tax levied under this chapter, on behalf of himself and such other persons as the department may approve. All returns shall be filed on or before February 1 of each year.

(c) The tax levied under this chapter is payable to the department on or before June 30 of each year or in installments at the times and under the conditions the department may by regulation require. This provision applies even though the assessment is under appeal.

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

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

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

Sec. 43.58.120. CIVIL PENALTY. Five per cent shall be added to the tax for each 30-day period or fraction of that period during which the taxpayer fails to file a return or pay the full amount of the tax, or a portion or a deficiency of the tax due and payable as finally determined by the department and required by this chapter, unless it is

1 shown that the failure is due to a reasonable cause and not to wilful  
2 neglect. The penalty may not exceed 25 per cent in the aggregate. The  
3 penalty shall be collected at the same time, in the same manner and as a  
4 part of the original tax, but if the original tax is paid before the  
5 neglect is discovered the penalty shall be collected in the same manner  
6 as the original tax. The department shall describe by regulation circum-  
7 stances which constitute reasonable cause for purposes of this section.

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

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

14 Sec. 43.58.150. REMEDY. The remedy of distraint of property set  
15 out in AS 43.20.270 applies to the tax levied by this chapter.

16 Sec. 43.58.160. REGULATIONS. The department may adopt regulations  
17 in accordance with the Administrative Procedure Act (AS 44.62) as  
18 appropriate to administer and enforce this chapter.

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

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

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

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

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

4 Sec. 43.58.190. DEFINITIONS. In this chapter:

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

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

8 (3) "lease or property" means

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

11 (B) a leasehold interest in oil and gas,

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

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

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

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

29 (6) "operator" means the person conducting the exploration,

1 development or production operation for a lease or property;

2 (7) "proven reserves" means the volumes of oil and gas in a  
3 known deposit which geological and engineering information indicate to  
4 be recoverable if it is economically feasible to market it in the future;  
5 "proven reserves" does not include oil and gas which is not economically  
6 feasible to market in the future under reasonably foreseeable conditions;

7 (8) "taxable property" means any interest in the proven  
8 reserves of a lease or property.

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

16 Sec. 43.58.210. SEVERABILITY. If any provision of this Act, or  
17 the applicability of it, is held invalid, the remainder of this Act  
18 shall not be affected.

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

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

24 (1) [deleted]

25 (2) producing oil or gas leases;

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

27 (4) [deleted]

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

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

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

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

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

9           (8) "lease or property" means

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

12           (B) a leasehold interest in oil and gas,

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

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

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

23           (b) No municipality, or combination of municipalities occupying  
24 the same geographical area, in whole or in part, may levy taxes which  
25 result in tax revenues from all sources exceeding either (1) \$1,000 a  
26 year for each person residing within their boundaries or (2) when com-  
27 bined with the value of property otherwise taxable by the municipality,  
28 the product of 225 per cent of the average per capita assessed full and  
29 true value in the state multiplied by the number of residents of the

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

18 \* Sec. 6. Sec. 43.56.010(c) is amended to read:

19 (c) If the total value of assessed property of a municipality  
20 taxing under AS 29.53.045(c) exceeds the product of 225 per cent of the  
21 average per capita assessed full and true value of property in the state  
22 (to be determined by the department and reported to each municipality by  
23 January 15 of each year) multiplied by the number of residents of the  
24 taxing municipality, the department shall designate the portion of the  
25 tax base against which the local tax may be applied. For purposes of  
26 this subsection the average per capita assessed full and true value of  
27 property in the state shall be calculated without regard to the assessed  
28 value of taxable property under ch. 58 of this title.

29 \* Sec. 7. This Act takes effect immediately in accordance with

AS 01.10.070(c).

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Original sponsor: Cowper, Bowman,  
Bradley, et al

Offered: 5/6/75  
For Calendar 5/7/75

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 297 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

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

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

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

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

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

20 Sec. 43.58.020. EXEMPTIONS. The following interests in the  
21 proven reserves of a lease or property shall be exempt from taxation  
22 under this chapter:

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

24 (2) any interest in proven reserves during the five-year  
25 period beginning with the date of the first completion, suspension, or  
26 abandonment of a discovery well in an oil or gas field or pool which in  
27 whole or in part underlies or comprises the lease or property;

28 (3) any interest in proven reserves until the earlier of  
29 either of the following occurs:

1 (A) the issuance, upon application, of a permit for  
2 construction of a facility to transport oil or gas from any well or  
3 wells in an oil or gas field or pool which in whole or in part  
4 underlies or comprises the lease or property to market; or

5 (B) the commencement of construction of a facility to  
6 transport oil or gas from any well or wells in an oil or gas field  
7 or pool which in whole or in part underlies or comprises the lease  
8 or property to market;

9 (4) any interest in proven reserves as to which the issuance  
10 of a permit for, or the commencement of construction of a facility to  
11 transport oil or gas from any well or wells in an oil or gas field or  
12 pool which in whole or in part underlies or comprises the lease or  
13 property, or the use of those facilities, is enjoined, either temporar-  
14 ily or permanently, by an order, judgment, decree, determination or  
15 award of a federal, state or local court or administrative or regulatory  
16 agency.

17 Sec. 43.58.030. CREDIT AGAINST TAX. There shall be allowed, as a  
18 credit against the tax levied under this chapter for a lease or prop-  
19 erty, the amount of oil and gas properties production taxes paid under  
20 ch. 55 of this title for that lease or property for the 12 months before  
21 the tax payment date under this chapter. The credit may not exceed the  
22 amount of tax due under this chapter. For purposes of this section, the  
23 credit shall be calculated without regard to the allowance of any credit  
24 under AS 43.55.018 against the taxes levied by ch. 55 of this title.

25 Sec. 43.58.040. ASSESSMENT. (a) The department shall assess  
26 taxable property under this chapter at its full and true value as of  
27 January 1 of each year.

28 (b) The full and true value of taxable property under this chapter  
29 is the estimated price which the property would bring in an open market

1 and under the then prevailing market conditions in a sale between a  
2 willing seller and a willing buyer both conversant with the property and  
3 with prevailing values. In determining this value, the department shall  
4 consider all factors which may be known by the department to affect the  
5 value of the proven reserves of the lease or property, including but not  
6 limited to the present value of the expected discounted future net  
7 income from the lease or property.

8 Sec. 43.58.050. ASSESSMENT ROLL. The department shall prepare  
9 annually the assessment roll for taxation under this chapter. The roll  
10 shall contain:

- 11 (1) a description of all taxable property;
- 12 (2) the assessed value of all taxable property; and
- 13 (3) the names and addresses of persons owning or otherwise  
14 holding an interest in taxable property.

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

20 Sec. 43.58.070. APPEAL. (a) A person aggrieved by the action of  
21 the department in making an assessment may request a hearing not later  
22 than 20 days after the effective date of the assessment notice.

23 (b) At the hearing the department may subpoena witnesses and may  
24 administer oaths and make inquiries necessary to determine the correct-  
25 ness of the assessment. At the hearing the appellant bears the burden  
26 of proof, and in the absence of this proof the assessment will be  
27 upheld. If the department determines that a correction is warranted,  
28 the department shall correct the assessment and the assessment roll.

29 (c) Within 30 days after the decision by the department after a

1 hearing, either the department or a person aggrieved by the decision may  
2 appeal to the superior court for a trial de novo. The superior court  
3 shall grant priority on its dockets for the appeals over all civil cases  
4 then pending.

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

9 Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department  
10 shall include property omitted from the assessment roll on a supple-  
11 mental roll, using the procedures set out in this chapter for the  
12 original roll.

13 Sec. 43.58.100. INVESTIGATION. (a) The department may make an  
14 investigation of property on which a return has been filed or on pro-  
15 perty for which no return has been filed. In either case, the depart-  
16 ment may make its own valuation of the taxable property, which is prima  
17 facie evidence of full and true value.

18 (b) An employee or agent of the department may enter any premise  
19 necessary for the investigation during reasonable hours and may examine  
20 property and appropriate records. The owner of taxable property upon  
21 request shall furnish to the employee or agent of the department reason-  
22 able assistance required for the investigation. If refused entry or  
23 assistance the superior court may, after reasonable notice to the owner,  
24 order the owner to allow the entry or to furnish the assistance.

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

29 Sec. 43.58.110. RETURNS AND PAYMENT OF TAX. (a) The operator of

1 a lease or property is primarily liable for payment of the tax levied by  
2 this chapter. All other persons owning or otherwise holding an interest  
3 or right in that lease or property are secondarily liable for payment of  
4 the tax levied by this chapter.

5 (b) The operator of a lease or property shall submit returns on  
6 the form prescribed by the department and shall make payment of the tax  
7 levied under this chapter, on behalf of itself and all other persons  
8 holding an interest or right in that lease or property. With the  
9 written approval of the department, a nonoperator of the lease or prop-  
10 erty may submit returns or make payment of the tax levied under this  
11 chapter, on behalf of himself and such other persons as the department  
12 may approve. All returns shall be filed on or before February 1 of each  
13 year.

14 (c) The tax levied under this chapter is payable to the department  
15 on or before June 30 of each year or in installments at the times and  
16 under the conditions the department may by regulation require. This  
17 provision applies even though the assessment is under appeal.

18 (d) With the prior written approval of the department, a person  
19 submitting returns or making payments as required under this chapter for  
20 more than one lease or property may regard those leases or properties as  
21 a single lease or property for purposes of submitting those reports or  
22 making those payments.

23 (e) An operator or other person making payment of the tax levied  
24 under this chapter on behalf of one or more other persons owning or  
25 otherwise holding an interest in a lease or property may withhold a  
26 proportionate share of the payment from any proceeds or other benefits  
27 from the lease or property owed to any person on whose behalf the pay-  
28 ment is made. Unless otherwise specifically provided by written con-  
29 tract or agreement, the person so withholding a proportionate share of

1 the tax levied under this chapter incurs no liability to those from whom  
2 it is withheld by virtue of having made the withholding.

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

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

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

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

25 Sec. 43.58.150. REMEDY. The remedy of distraint of property set  
26 out in AS 43.20.270 applies to the tax levied by this chapter.

27 Sec. 43.58.160. REGULATIONS. The department may adopt regulations  
28 in accordance with the Administrative Procedure Act (AS 44.62) as  
29 appropriate to administer and enforce this chapter.

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

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

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

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

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

15           Sec. 43.58.190. DEFINITIONS. In this chapter:

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

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

19           (3) "lease or property" means

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

22           (B) a leasehold interest in oil and gas,

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

27           (D) a working interest, royalty interest, overriding  
28 royalty interest, production payment, net profit interest or any  
29 other interest in an agreement for unitization or pooling under the

1 provisions of sec. 614(b)(3) of the Internal Revenue Code of 1954  
2 as defined on the effective date of this paragraph;

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

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

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

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

17 (8) "taxable property" means any interest in the proven  
18 reserves of a lease or property.

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

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

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

1           pality may impose a tax upon

2                   (1) [deleted]

3                   (2) producing oil or gas leases;

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

5                   (4) [deleted]

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

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

8           Sec. 43.55.018. CREDIT AGAINST TAX. (a) There shall be allowed  
9           as a credit against the taxes levied under this chapter for a lease or  
10           property the early development incentive credit accrued for that lease  
11           or property under AS 43.58.180. In no event may the credit allowed for  
12           a lease or property exceed 50 per cent of the taxes levied under this  
13           chapter for that lease or property.

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

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

16                   (8) "lease or property" means

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

19                           (B) a leasehold interest in oil and gas,

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

24                           (D) a working interest, royalty interest, overriding  
25                   royalty interest, net profit interest or any other interest in an  
26                   agreement for unitization or pooling under the provisions of sec.  
27                   614(b)(3) of the Internal Revenue Code of 1954 as defined on the  
28                   effective date of this paragraph;

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

1 (b) No municipality, or combination of municipalities occupying  
2 the same geographical area, in whole or in part, may levy taxes which  
3 result in tax revenues from all sources exceeding either (1) \$1,000 a  
4 year for each person residing within their boundaries or (2) when com-  
5 bined with the value of property otherwise taxable by the municipality,  
6 the product of 225 per cent of the average per capita assessed full and  
7 true value in the state multiplied by the number of residents of the  
8 taxing municipality. If two or more municipalities occupying the same  
9 geographical area, in whole or in part, attempt to levy a tax the  
10 combined levy of which would result in tax revenues from all sources  
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19 purpose of this subsection population shall be determined by the commis-  
20 sioner of community and regional affairs based on the latest statistics  
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22 data. For purposes of this subsection the average per capita assessed  
23 full and true value of property in the state shall be calculated without  
24 regard to the assessed value of taxable property under AS 43.58.

25 \* Sec. 6. Sec. 43.56.010(c) is amended to read:

26 (c) If the total value of assessed property of a municipality  
27 taxing under AS 29.53.045(c) exceeds the product of 225 per cent of the  
28 average per capita assessed full and true value of property in the state  
29 (to be determined by the department and reported to each municipality by

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

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

14 \* Sec. 8. This Act takes effect immediately in accordance with AS 01.10.-  
15 070(c).

Original sponsor: Cowper, Bowman,  
Bradley, et al

Offered: 5/15/75  
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 297

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas reserves ad valorem  
7 tax and its relationship to other oil and gas taxation;  
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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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17 (c) The rate of levy may not exceed 20 mills.

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12 investigation of property on which a return has been filed or on pro-  
13 perty for which no return has been filed. In either case, the depart-  
14 ment may make its own valuation of the taxable property, which is prima  
15 facie evidence of full and true value.

16 (b) An employee or agent of the department may enter any premise  
17 necessary for the investigation during reasonable hours and may examine  
18 property and appropriate records. The owner of taxable property upon  
19 request shall furnish to the employee or agent of the department reason-  
20 able assistance required for the investigation. If refused entry or  
21 assistance the superior court may, after reasonable notice to the owner,  
22 order the owner to allow the entry or to furnish the assistance.

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

27 Sec. 43.58.110. RETURNS AND PAYMENT OF TAX. (a) The operator of  
28 a lease or property is primarily liable for payment of the tax levied by  
29 this chapter. All other persons owning or otherwise holding an interest

1 or right in that lease or property are secondarily liable for payment of  
2 the tax levied by this chapter.

3 (b) The operator of a lease or property shall submit returns on  
4 the form prescribed by the department and shall make payment of the tax  
5 levied under this chapter, on behalf of itself and all other persons  
6 holding an interest or right in that lease or property. With the  
7 written approval of the department, a nonoperator of the lease or prop-  
8 erty may submit returns or make payment of the tax levied under this  
9 chapter, on behalf of himself and such other persons as the department  
10 may approve. All returns shall be filed on or before February 1 of each  
11 year.

12 (c) The tax levied under this chapter is payable to the department  
13 on or before June 30 of each year or in installments at the times and  
14 under the conditions the department may by regulation require. This  
15 provision applies even though the assessment is under appeal.

16 (d) With the prior written approval of the department, a person  
17 submitting returns or making payments as required under this chapter for  
18 more than one lease or property may regard those leases or properties as  
19 a single lease or property for purposes of submitting those reports or  
20 making those payments.

21 (e) An operator or other person making payment of the tax levied  
22 under this chapter on behalf of one or more other persons owning or  
23 otherwise holding an interest in a lease or property may withhold a  
24 proportionate share of the payment from any proceeds or other benefits  
25 from the lease or property owed to any person on whose behalf the pay-  
26 ment is made. Unless otherwise specifically provided by written con-  
27 tract or agreement, the person so withholding a proportionate share of  
28 the tax levied under this chapter incurs no liability to those from whom  
29 it is withheld by virtue of having made the withholding.

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

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

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

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

23 Sec. 43.58.150. REMEDY. The remedy of distraint of property set  
24 out in AS 43.20.270 applies to the tax levied by this chapter.

25 Sec. 43.58.160. REGULATIONS. The department may adopt regulations  
26 in accordance with the Administrative Procedure Act (AS 44.62) as  
27 appropriate to administer and enforce this chapter.

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

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

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

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

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

13           Sec. 43.58.190. DEFINITIONS. In this chapter:

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

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

17           (3) "lease or property" means

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

20           (B) a leasehold interest in oil and gas,

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

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

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

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

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

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

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

17 Sec. 43.58.200. PAYMENT TO ALASKA NATIVE FUND. When the tax levied  
18 under this chapter is payable an amount equivalent to not less than two  
19 per cent of the tax shall be paid by the state from oil and gas royal-  
20 ties, bonuses and rentals into the Alaska Native Fund established by  
21 sec. 6 of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat.  
22 688, 43 U.S.C. 1601 et seq.) until all payments paid into the fund equal  
23 \$500,000,000.

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

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

29 (1) [deleted]

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

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

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

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

15 (8) "lease or property" means

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

18 (B) a leasehold interest in oil and gas,

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

23 (D) a working interest, royalty interest, overriding  
24 royalty interest, net profit interest or any other interest in an  
25 agreement for unitization or pooling under the provisions of sec.  
26 614(b)(3) of the Internal Revenue Code of 1954 as defined on the  
27 effective date of this paragraph;

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

29 (b) No municipality, or combination of municipalities occupying

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

24 \* Sec. 6. Sec. 43.56.010(c) is amended to read:

25 (c) If the total value of assessed property of a municipality  
26 taxing under AS 29.53.045(c) exceeds the product of 225 per cent of the  
27 average per capita assessed full and true value of property in the state  
28 (to be determined by the department and reported to each municipality by  
29 January 15 of each year) multiplied by the number of residents of the

1 taxing municipality, the department shall designate the portion of the  
2 tax base against which the local tax may be applied. For purposes of  
3 this subsection the average per capita assessed full and true value of  
4 property in the state shall be calculated without regard to the assessed  
5 value of taxable property under ch. 58 of this title.

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

13 \* Sec. 8. This Act takes effect immediately in accordance with AS 01.10.-  
14 070(c).

Original sponsor: Cowper, Bowman,  
Bradley, et al

Offered: 5/15/75  
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 297 am S

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

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

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

15 (b) The legislature shall annually determine by law the rate of  
16 the levy before June 1.

17 (c) The rate of levy may not exceed 20 mills.

18 Sec. 43.58.020. EXEMPTIONS. The following interests in the  
19 proven reserves of a lease or property shall be exempt from taxation  
20 under this chapter:

21 (1) any interest of the United States or the state;

22 (2) any interest in proven reserves during the five-year  
23 period beginning with the date of the first completion, suspension, or  
24 abandonment, whichever occurs first, of a discovery well in an oil or  
25 gas field or pool which in whole or in part underlies or comprises the  
26 lease or property;

27 (3) any interest in proven reserves until the earlier of  
28 either of the following occurs:

29 (A) the issuance, upon application, of a permit for

1 construction of a facility to transport oil or gas from any well or  
2 wells in an oil or gas field or pool which in whole or in part  
3 underlies or comprises the lease or property to market; or

4 (B) the commencement of construction of a facility to  
5 transport oil or gas from any well or wells in an oil or gas field  
6 or pool which in whole or in part underlies or comprises the lease  
7 or property to market;

8 (4) any interest in proven reserves as to which the issuance  
9 of a permit for, or the commencement of construction of a facility to  
10 transport oil or gas from any well or wells in an oil or gas field or  
11 pool which in whole or in part underlies or comprises the lease or  
12 property, or the use of those facilities, is enjoined, either temporar-  
13 ily or permanently, by an order, judgment, decree, determination or  
14 award of a federal, state or local court or administrative or regulatory  
15 agency.

16 Sec. 43.58.030. CREDIT AGAINST TAX. There shall be allowed, as a  
17 credit against the tax levied under this chapter for a lease or prop-  
18 erty, the amount of oil and gas properties production taxes paid under  
19 ch. 55 of this title for that lease or property for the 12 months before  
20 the tax payment date under this chapter. The credit may not exceed the  
21 amount of tax due under this chapter. For purposes of this section, the  
22 credit shall be calculated without regard to the allowance of any credit  
23 under AS 43.55.018 against the taxes levied by ch. 55 of this title.

24 Sec. 43.58.040. ASSESSMENT. (a) The department shall assess  
25 taxable property under this chapter at its full and true value as of  
26 January 1 of each year.

27 (b) The full and true value of taxable property under this chapter  
28 is the estimated price which the property would bring in an open market  
29 and under the then prevailing market conditions in a sale between a

1 willing seller and a willing buyer both conversant with the property and  
2 with prevailing values. In determining this value, the department shall  
3 consider all factors which may be known by the department to affect the  
4 value of the proven reserves of the lease or property, including but not  
5 limited to the present value of the expected discounted future net  
6 income from the lease or property.

7 Sec. 43.58.050. ASSESSMENT ROLL. The department shall prepare  
8 annually the assessment roll for taxation under this chapter. The roll  
9 shall contain:

- 10 (1) a description of all taxable property;  
11 (2) the assessed value of all taxable property; and  
12 (3) the names and addresses of persons owning or otherwise  
13 holding an interest in taxable property.

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

19 Sec. 43.58.070. APPEAL. (a) A person aggrieved by the action of  
20 the department in making an assessment may request a hearing not later  
21 than 20 days after the effective date of the assessment notice.

22 (b) At the hearing the department may subpoena witnesses and may  
23 administer oaths and make inquiries necessary to determine the correct-  
24 ness of the assessment. At the hearing the appellant bears the burden  
25 of proof, and in the absence of this proof the assessment will be  
26 upheld. If the department determines that a correction is warranted,  
27 the department shall correct the assessment and the assessment roll.

28 (c) Within 30 days after the decision by the department after a  
29 hearing, either the department or a person aggrieved by the decision may

1 appeal to the superior court. The superior court shall grant priority  
2 on its dockets for the appeals over all civil cases then pending.

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

7 Sec. 43.58.090. SUPPLEMENTAL ASSESSMENT ROLLS. The department  
8 shall include property omitted from the assessment roll on a supple-  
9 mental roll, using the procedures set out in this chapter for the  
10 original roll.

11 Sec. 43.58.100. INVESTIGATION. (a) The department may make an  
12 investigation of property on which a return has been filed or on pro-  
13 perty for which no return has been filed. In either case, the depart-  
14 ment may make its own valuation of the taxable property, which is prima  
15 facie evidence of full and true value.

16 (b) An employee or agent of the department may enter any premise  
17 necessary for the investigation during reasonable hours and may examine  
18 property and appropriate records. The owner of taxable property upon  
19 request shall furnish to the employee or agent of the department reason-  
20 able assistance required for the investigation. If refused entry or  
21 assistance the superior court may, after reasonable notice to the owner,  
22 order the owner to allow the entry or to furnish the assistance.

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

27 Sec. 43.58.110. RETURNS AND PAYMENT OF TAX. (a) The operator of  
28 a lease or property is primarily liable for payment of the tax levied by  
29 this chapter. All other persons owning or otherwise holding an interest

1 or right in that lease or property are secondarily liable for payment of  
2 the tax levied by this chapter.

3 (b) The operator of a lease or property shall submit returns on  
4 the form prescribed by the department and shall make payment of the tax  
5 levied under this chapter, on behalf of itself and all other persons  
6 holding an interest or right in that lease or property. With the  
7 written approval of the department, a nonoperator of the lease or prop-  
8 erty may submit returns or make payment of the tax levied under this  
9 chapter, on behalf of himself and such other persons as the department  
10 may approve. All returns shall be filed on or before February 1 of each  
11 year.

12 (c) The tax levied under this chapter is payable to the department  
13 on or before June 30 of each year or in installments at the times and  
14 under the conditions the department may by regulation require. This  
15 provision applies even though the assessment is under appeal.

16 (d) With the prior written approval of the department, a person  
17 submitting returns or making payments as required under this chapter for  
18 more than one lease or property may regard those leases or properties as  
19 a single lease or property for purposes of submitting those reports or  
20 making those payments.

21 (e) An operator or other person making payment of the tax levied  
22 under this chapter on behalf of one or more other persons owning or  
23 otherwise holding an interest in a lease or property may withhold a  
24 proportionate share of the payment from any proceeds or other benefits  
25 from the lease or property owed to any person on whose behalf the pay-  
26 ment is made. Unless otherwise specifically provided by written con-  
27 tract or agreement, the person so withholding a proportionate share of  
28 the tax levied under this chapter incurs no liability to those from whom  
29 it is withheld by virtue of having made the withholding.

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

4 Sec. 43.58.115. PAYMENTS IN LIEU OF TAX. The operator may each  
5 year, at its option, in lieu of paying the tax provided for in this  
6 chapter, make an advance payment of royalties due to the state under  
7 the lease or property to which the tax pertains in the same manner,  
8 amount and at the same time as the tax, penalty and interest otherwise  
9 payable under this chapter. This election shall be effective for all  
10 purposes of law and of the lease or property upon (1) the filing with  
11 the commissioner of revenue and the commissioner of natural resources,  
12 on or before February 1 of each year, a written notice of election by  
13 or on behalf of the operator to pay that amount as advance payment of  
14 royalties and (2) payment to the commissioner of revenue of that  
15 amount. AS 38.05.182 and 38.05.183 and AS 38.06 shall not be applicable  
16 to this advance payment of royalties. If the operator elects this  
17 option, the advance payment of royalties in lieu of the tax shall be  
18 allowed as a credit against future royalty payments due from the lease  
19 or property. In no event may the credit against royalty payments  
20 under the lease or property allowed in any year exceed the amount of  
21 the credit allowed under AS 43.55.018 for the lease or property. As a  
22 condition of this election by the operator, the state, its assigns or  
23 designees shall have the right to purchase at the time of production,  
24 upon six months prior written notice to the operator by the commissioner  
25 of natural resources, and at the field market price or value at the  
26 well as determined under the terms of the lease or property, any part  
27 or all of the royalty oil or gas represented by the advance payment of  
28 royalties. Any such purchase by the state shall be made after the  
29 commissioner of natural resources determines, with the prior written

1 approval of the Alaska Royalty Oil and Gas Development Advisory Board,  
2 that the best interest of the state requires the purchase, and AS 38.05.  
3 182 and 38.05.183 and AS 38.06 shall be applicable to any oil and gas  
4 purchased in this manner by the state.

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

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

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

24 Sec. 43.58.150. REMEDY. The remedy of distraint of property set  
25 out in AS 43.20.270 applies to the tax levied by this chapter.

26 Sec. 43.58.160. 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. 43.58.170. TERMINATION OF TAX. The tax imposed by this

1 chapter shall terminate on December 31, 1977.

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

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

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

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

14 Sec. 43.58.190. DEFINITIONS. In this chapter:

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

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

18 (3) "lease or property" means:

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

21 (B) a leasehold interest in oil and gas,

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

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

1 1954 as defined on the effective date of this paragraph;

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

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

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

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

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

18 Sec. 43.58.200. 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  
21 gas 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. AS 43.55.010(b) is amended to read:

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

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

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

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

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

16 (8) "lease or property" means

- 17 (A) a lease or other property that includes mineral  
18 rights in oil and gas,
- 19 (B) a leasehold interest in oil and gas,
- 20 (C) a working interest, royalty interest, overriding  
21 royalty interest, net profit interest or any other interest in a  
22 lease, concession, joint venture or other agreement for oil and  
23 gas exploration, development or production,
- 24 (D) a working interest, royalty interest, overriding  
25 royalty interest, net profit interest or any other interest in an  
26 agreement for unitization or pooling under the provisions of sec.  
27 614(b)(3) of the Internal Revenue Code of 1954 as defined on the  
28 effective date of this paragraph;

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

1 (b) No municipality, or combination of municipalities occupying  
2 the same geographical area, in whole or in part, may levy taxes which  
3 will result in tax revenues from all sources exceeding either (1)  
4 \$1,000 a year for each person residing within their boundaries or (2)  
5 when combined with the value of property otherwise taxable by the  
6 municipality, the product of 225 per cent of the average per capita  
7 assessed full and true value of property in the state multiplied by  
8 the number of residents of the taxing municipality. If two or more  
9 municipalities occupying the same geographical area, in whole or in  
10 part, attempt to levy a tax the combined levy of which would result in  
11 tax revenues from all sources exceeding either (1) \$1,000 a year for  
12 each person residing within their boundaries or (2) when combined with  
13 the value of property otherwise taxable by the municipality, the  
14 product of 225 per cent of the average per capita assessed full and  
15 true value of property in the state multiplied by the number of residents  
16 of the taxing municipality, the commissioner of community and regional  
17 affairs shall apportion the lawful levy and equitably divide these  
18 revenues on the basis of need, services performed and other considera-  
19 tions in the public interest. For the purpose of this subsection,  
20 population shall be determined by the commissioner of community and  
21 regional affairs based on the latest statistics of the United States  
22 Bureau of the Census or on other reliable population data. For purposes  
23 of this subsection the average per capita assessed full and true value  
24 of property in the state shall be calculated without regard to the  
25 assessed value of taxable property under AS 43.58.

26 \* Sec. 6. Sec. 43.56.010(c) is amended to read:

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

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

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

15 \* Sec. 8. This Act takes effect immediately in accordance with AS  
16 01.10.070(c).  
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Original sponsor: Cowper, Bowman,  
Bradley, et al

Offered: 5/31/75

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 original roll.

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

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

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

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

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

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

1 property belonging to a minor or other person;

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

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

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

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

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

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

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

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

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

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

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

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

1 tax under this chapter.

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

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

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

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

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

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

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

22 Sec. 43.58.190. DEFINITIONS. In this chapter:

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

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

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

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

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

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

15                   (A) a mineral interest,

16                   (B) a leasehold interest,

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

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

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

1 processing plant;

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

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

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

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

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

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

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

25 (1) [deleted]

26 (2) producing oil or gas leases;

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

28 (4) [deleted]

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

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

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

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

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

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

12           (A) a mineral interest,

13           (B) a leasehold interest,

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

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

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

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

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

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

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

1       of taxable property under AS 43.58.

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

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

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

19       \* Sec. 9. AS 43.58.030, 43.58.180, and AS 43.55.018 are included in this  
20 Act so as to avoid double taxation of the same interest in oil and gas and as  
21 an incentive for the early production of oil and gas discovered in the state.  
22 The legislature believes that the inclusion of these sections granting tax  
23 credits does not in any manner change the intent, validity or enforceability  
24 of the basic ad valorem tax imposed by the Act. If the inclusion of these  
25 sections results in a judicial decision that the ad valorem tax imposed by  
26 AS 43.58.010 is invalid, these sections shall be void and of no effect whatso-

27 ever and the Act shall be read as if these sections had never been included.  
28       \* Sec. 10. This Act takes effect immediately in accordance with AS 01.10.  
29 070(c).

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

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

THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 638

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

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

IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Introduced: 2/17/76  
Referred: Resources and Finance

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

1 IN THE HOUSE

*rd*  
*SS*

2 HOUSE BILL NO. 803

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

10 CHAPTER 59. OIL PRODUCTION INCOME TAX.

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

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

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

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

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

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

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

*rd*  
*SS*

HB 803

1 cents per barrel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 Sec. 2. This Act takes effect January 1, 1977.  
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Introduced: 3/17/76  
Referred: Resources and Finance

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

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 803

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

10 CHAPTER 59. OIL PRODUCTION INCOME TAX.

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

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

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

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

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

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

1 title;

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

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

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

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

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

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

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

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

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

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

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

1           WV<sub>o+g</sub> = the wellhead value of all oil and gas produced in the state  
2   during the preceding year.

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

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

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

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

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

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

1 tion basis.

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

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

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

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

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

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

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

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

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

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

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

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

1 similar kind and quality.

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

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

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

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

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

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

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

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

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

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

BY COWPER, BRADLEY, BROWN, DUNCAN,  
GARDINER, GRUENING, KELLEY, MCKINNON,  
MALONE, MILLER, NAUGHTON, PARKER,  
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1 IN THE HOUSE

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3 IN THE LEGISLATURE OF THE STATE OF ALASKA

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

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

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

10 CHAPTER 59. OIL PRODUCTION INCOME TAX.

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

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

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

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

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

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

1 AS 43.58.180;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 shall not be permitted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 \* Sec. 2. This Act takes effect January 1, 1977.  
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Introduced: 2/6/76  
Referred: Resources and Finance

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

IN THE HOUSE

HOUSE BILL NO. 699

IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINTH LEGISLATURE - SECOND SESSION

A BILL

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

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

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

CHAPTER 22. OIL AND GAS PROPERTIES NET PROCEEDS TAX.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) the actual cost of maintenance and repairs of  
(A) well machinery, equipment, apparatus and facilities;

(B) transportation facilities and equipment;

(5) depreciation of the original capitalized cost of the machinery, equipment, apparatus and facilities;

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

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

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

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

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

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

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

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

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

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

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

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

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

copy by certified mail to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 tax under this chapter.

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

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

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

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

19 Sec. 43.22.170. DEFINITIONS. In this chapter

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

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

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

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

1 \* Sec. 2. This Act takes effect January 1, 1977.  
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Introduced: 2/9/76  
Referred: Resources and Finance

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

1 IN THE HOUSE

2 HOUSE BILL NO. 703

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

11 (b) The net proceeds shall be ascertained and determined by sub-  
12 tracting from the gross value the following deductions for cost incurred  
13 during the year, and none other:

- 14 (1) royalties paid or due the United States or the state;  
15 (2) royalties paid or due, other than to the United States or  
16 the state, by a lessee or sublessee of a well, or by both, shall con-  
17 stitute a deductible item; but the royalties so deducted by the lessee  
18 or sublessee constitutes part of the gross yield of the well for the  
19 purpose of determining the net proceeds upon which a tax shall be levied  
20 against the person to which the royalty has been paid;  
21 (3) the actual costs of transporting the product of the well  
22 to the FOB point;  
23 (4) the actual cost of maintenance and repairs of  
24 (A) well machinery, equipment, apparatus and facilities;  
25 (B) transportation facilities and equipment;  
26 (5) depreciation of the original capitalized cost of the  
27 machinery, equipment, apparatus and facilities;  
28 (6) all taxes paid or due to the state under chs. 55, 56, and  
29 57 of this title;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 Sec. 43.23.170. DEFINITIONS. In this chapter

- 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 conden-  
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.

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

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

1 IN THE SENATE

2 SENATE BILL NO. 620

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (b) The tax imposed under this chapter is in lieu of the tax  
12 imposed under ch. 43.22 of this title on the income from oil production  
13 taxed under this chapter.

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

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

1 copy by certified mail to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 tax under this chapter.

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

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

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

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

19 Sec. 43.22.170. DEFINITIONS. In this chapter

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

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

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

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

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

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

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

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 620

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (B) transportation facilities and equipment;

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

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

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

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

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

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

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

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

29 (8) recovery of capital and exploration investments.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 mediate due and payable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 Sec. 43.22.170. DEFINITIONS. In this chapter

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

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

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

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

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

17 \* Sec. 2. This Act takes effect January 1, 1977.  
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Introduced: 2/9/76  
Referred: Resources and  
Finance

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

1 IN THE SENATE

2 SENATE BILL NO. 621

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

11 (b) The net proceeds shall be ascertained and determined by sub-  
12 tracting from the gross value the following deductions for cost incurred  
13 during the year, and none other:

- 14 (1) royalties paid or due the United States or the state;
- 15 (2) royalties paid or due, other than to the United States or
- 16 the state, by a lessee or sublessee of a well, or by both, shall con-
- 17 stitute a deductible item; but the royalties so deducted by the lessee
- 18 or sublessee constitutes part of the gross yield of the well for the
- 19 purpose of determining the net proceeds upon which a tax shall be levied
- 20 against the person to which the royalty has been paid;
- 21 (3) the actual costs of transporting the product of the well
- 22 to the FOB point;
- 23 (4) the actual cost of maintenance and repairs of
- 24 (A) well machinery, equipment, apparatus and facilities;
- 25 (B) transportation facilities and equipment;
- 26 (5) depreciation of the original capitalized cost of the
- 27 machinery, equipment, apparatus and facilities;
- 28 (6) all taxes paid or due to the state under chs. 55, 56, and
- 29 57 of this title;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 Sec. 43.23.170. DEFINITIONS. In this chapter

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 conden-  
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.

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;

1 (2) the description and location of the well or field;  
2 (3) the number of cubic feet of natural gas, barrels of  
3 petroleum, or other crude or mineral oil extracted or produced from the  
4 well or field during the period covered by the statement;

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

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

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

12 (b) The net proceeds shall be ascertained and determined by sub-  
13 tracting from the gross value the following deductions for cost incurred  
14 during the year, and none other:

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

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

22 (3) the actual costs, if any, of transporting the product of  
23 the well to the FOB point chosen by the department for gross valuation;

24 (4) the actual cost of maintenance and repairs of

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

26 (B) transportation facilities and equipment;

27 (5) all taxes paid or due to the state under chs. 55, 56, 57  
28 and 22 of this title;

29 (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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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)

1 IN THE HOUSE

2 HOUSE BILL NO. 144

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act concerning 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 43.55.010(a) is amended to read:

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

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

21 (A) zero [FIVE] per cent on the first 100 [300] barrels  
22 of average daily per well production;

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

25 (C) six [EIGHT] per cent on the next 700 [ALL PRODUCTION  
26 IN EXCESS OF 1,000] barrels of average daily per well production;

27 (D) nine per cent on the next 500 barrels of average  
28 daily per well production;

29 (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

1       calendar month.

2       \* Sec. 10. AS 43.55.140(10) and (11) are repealed.

3       \* Sec. 11. This Act takes effect July 1, 1977.

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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

1 r revenue which the state would have collected had not a specific deduc-  
2 tion been allowed. Also included in the report shall be a summary of  
3 each corporate tax return filed which shows income from the production  
4 of oil or natural gas, showing the total amount of oil and gas produced  
5 by or for each taxpayer, the taxable income of the corporation from  
6 production as reported in accordance with sec. 12 of this chapter, from  
7 pipeline transportation as reported in accordance with sec. 13 of this  
8 chapter, from other income allocated to the state under sec. 14 of this  
9 chapter, and the tax due.

10 \* Sec. 4. AS 43.20.330 is amended by adding new subsections to read:

11 (f) Any person who improperly influences, or attempts to improper-  
12 ly influence, by means of payment or offer of payment or other valuable  
13 consideration, any state official in his determination of values and  
14 apportionments under this chapter shall be guilty of bribery and punish-  
15 able under AS 11.30.040.

16 (g) Any person who knowingly and wilfully makes false statements  
17 or representations, or who knowingly allows false statements or repre-  
18 sentations to be made on his behalf in the case of corporations, with a  
19 purpose of avoiding the corporate tax imposed under this chapter is  
20 guilty of wilful tax avoidance and is punishable upon conviction by a  
21 fine of three times the amount of the tax that would have been unpaid  
22 had the false statement been undetected, and by imprisonment for not  
23 less than 10 days nor more than one year.

24 \* Sec. 5. AS 42.06.140 is amended by adding a new paragraph to read:

25 (11) shall provide all reasonable assistance to the Depart-  
26 ment of Revenue in determining the net income from oil pipeline facili-  
27 ties.

28 \* Sec. 6. AS 42.06 is amended by adding a new section to read:

29 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.

Introduced: 3/9/77  
Referred: Resources and  
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 321

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas properties pro-  
7 duction tax; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43.55 is amended by adding new sections to read:

10 Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon  
11 the producer of oil a tax for all oil produced from each lease or  
12 property in the state, less any oil the ownership or right to which is  
13 exempt from taxation. The tax is equal to either the percentage-of-  
14 value amount calculated under (b) of this section or the cents-per-  
15 barrel amount calculated under (c) of this section, whichever is  
16 greater, multiplied by the economic limit factor determined for the  
17 oil production of the lease or property under sec. 13 of this chapter.  
18 If the amounts calculated under (b) and (c) of this section are equal,  
19 the amount calculated under (b) of this section shall be treated as if  
20 it were the greater for purposes of this section.

21 (b) The percentage-of-value amount equals 10 per cent of the  
22 gross value at the point of production of taxable oil produced from  
23 the lease or property.

24 (c) The cents-per-barrel amount equals \$.75 per barrel of taxable  
25 oil produced from the lease or property, as adjusted by sec. 12 of  
26 this chapter.

27 (d) When the cents-per-barrel amount calculated under (c) of  
28 this section is greater than the percentage-of-value amount calculated  
29 under (b) of this section, an amount not less than \$.05 for each

1 barrel of taxable oil produced shall be paid by the state out of its  
2 royalties from the oil whenever payment by the state is required under  
3 the revenue sharing provisions of sec. 9 of the Alaska Native Claims  
4 Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.)  
5 into the Alaska Native Fund, until all amounts paid in the fund equal  
6 \$500,000,000.

7 Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set  
8 out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or  
9 decreased by a percentage equal to the percentage of change in the  
10 Gross National Product Deflator published by Bureau of Economic Analysis  
11 of the United States Department of Commerce. Changes in tax rates  
12 will be computed based on changes in the Gross National Product Deflator  
13 from that of the First Quarter 1977 Gross National Product Deflator.  
14 The department shall post the changes in the tax rates periodically  
15 and shall notify every person producing oil within the state of the  
16 changes.

17 (b) The cents-per-barrel amount set out in sec. 11(c) of this  
18 chapter as adjusted by (a) of this section applies to oil of 27  
19 degrees API gravity. For each degree of API gravity less than 27  
20 degrees the cents-per-barrel amount shall be reduced by \$.005 and for  
21 each degree of API gravity greater than 27 degrees the cents-per-  
22 barrel amount shall be increased by \$.005 except that oil above 40  
23 degrees API gravity shall be taxed as 40 degree oil. In applying the  
24 gravity adjustment under this subsection, fractional degrees of API  
25 gravity shall be disregarded.

26 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit  
27 factor for oil production of a lease or property equals one minus the  
28 ratio of the monthly production rate at the economic limit to the  
29 production during the month for which the tax is to be paid.

1 (b) Before February 15 of each year or within six months after  
2 commencement of production for a lease or property, the department  
3 shall notify the taxpayer of the monthly production rate at the  
4 economic limit for each lease or property within the state for that  
5 year. The monthly production rate at the economic limit for a lease  
6 or property is presumed to be 100 barrels times the number of well-  
7 days for the lease or property during December of the preceding year,  
8 unless the taxpayer at a formal hearing under AS 43.05.240 provides  
9 clear and convincing evidence of a different monthly production rate  
10 at the economic limit for the lease or property. The monthly produc-  
11 tion rate at the economic limit for the lease or property based upon  
12 the clear and convincing evidence of the taxpayer shall be calculated  
13 by dividing the value determined under (d) of this section into the  
14 average monthly direct operating cost determined under (c) of this  
15 section.

16 (c) The average monthly direct operating cost for oil production  
17 operations of the lease or property shall be determined based on a  
18 period of not less than four consecutive months. The direct operating  
19 costs include drilling supplies, fuel, routine maintenance, and wages  
20 and benefits of employees working on the production operations. The  
21 direct operating costs do not include capital expenditures, tangible  
22 or intangible drilling expenses, costs of well workovers, costs for  
23 replacement or repairs (other than routine maintenance), depreciation  
24 or amortization, taxes, insurance, overhead, money paid or set aside  
25 (or booked as being paid or set aside) to cover the cost of terminating  
26 the oil production operations of the lease or property, or any other  
27 cost not directly related to the oil production operations of the  
28 lease or property.

29 (d) The value at the point of production of oil produced from

1 the lease or property shall be determined on the basis of the 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

1 preceding month. If the tax is not paid before the end of the month in  
2 which it becomes due, the tax becomes delinquent.

3 \* Sec. 3. AS 43.55.020(e) is amended to read:

4 (e) Gas produced and used, except gas used in the operation of a  
5 lease or property in drilling for or producing oil or gas, or for  
6 repressuring, is considered, for the purpose of this chapter and in  
7 the amount used, as gas produced [REMOVED OR SOLD] from a lease or  
8 property. Gas flared under a permit granted by the Department of  
9 Natural Resources under AS 31.05.170(11)(H) is considered as gas  
10 produced, except that it is subject to a tax equal to twice the tax  
11 computed under sec. 16 of this chapter as adjusted by sec. 12 of this  
12 chapter per thousand cubic feet of gas for the month in which the gas  
13 was flared.

14 \* Sec. 4. AS 43.55.030(a)(1) is amended to read:

15 (1) a description of the lease or property from which the  
16 oil or gas was produced [REMOVED OR SOLD], by name, legal description,  
17 lease number or by accounting code numbers assigned to the department;

18 \* Sec. 5. AS 43.55.030(a)(3) is amended to read:

19 (3) the gross amount of oil or gas produced [REMOVED OR  
20 SOLD] from the lease or property, and the percentage of the gross  
21 amount owned by each producer for whom the tax is paid;

22 \* Sec. 6. AS 43.55.030(a)(4) is amended to read:

23 (4) the total value of the oil or gas produced [REMOVED OR  
24 SOLD] from the lease or property owned by each producer for whom the  
25 tax is paid; and

26 \* Sec. 7. AS 43.55.140 is amended by adding new paragraphs to read:

27 (12) "gross value at the point of production" means:

28 (A) for oil, the value of the oil at the point where it  
29 is metered or measured (by automatic custody transfer meter, tank

1 gauge, or other method approved by the commissioner) in a condition  
2 of pipeline quality on the premises of the lease or property from  
3 which it is recovered; however, if the oil is not of pipeline  
4 quality when it is removed from the premises of the lease or  
5 property from which it is recovered, or if the oil recovered from  
6 a lease or property is not metered or measured (by automatic  
7 custody transfer meter, tank gauge, or other method approved by  
8 the commissioner) on the premises of the lease or property from  
9 which it is recovered, then the gross value at the point of  
10 production is the value of that oil at the off-premises location  
11 where the oil is first metered or measured (by automatic custody  
12 transfer meter, tank gauge, or other method approved by the  
13 commissioner) in a condition of pipeline quality;

14 (B) for gas recovered from or in association with oil,  
15 the value of the gas at the point where it is accurately metered  
16 or measured after separation from the oil; for gas run through a  
17 gas processing plant, the gross value at the point of production  
18 is the full consideration received by the producer for the gas if  
19 sold in an arm's length transaction or, in the absence of an  
20 arm's length transaction, is the sum of the value of the liquids  
21 extracted from the gas at the plant and the value of the residue  
22 gas, less a reasonable allowance for processing the gas at the  
23 plant and for transporting the gas to the plant from the premises  
24 upon which the oil production operation is conducted; and

25 (C) for gas not recovered from or in association with  
26 oil, the value of the gas at the point where it is accurately  
27 metered or measured or the value of the gas at the point of sale,  
28 if any, on the premises of the lease or property from which the  
29 gas is recovered, whichever is the higher value; for gas run

1 through a gas processing plant, the gross value at the point of  
2 production is the full consideration received by the producer for  
3 the gas if sold in an arm's length transaction or, in the absence  
4 of an arm's length transaction, is the sum of the value of the  
5 liquids extracted from the gas at the plant and the value of the  
6 residue gas, less a reasonable allowance for processing the gas  
7 at the plant and for transporting the gas to the plant from the  
8 point where it was accurately metered or measured;

9 (13) "oil production operation" means the operation by  
10 which oil is recovered from a lease or property and rendered into oil  
11 of pipeline quality, and includes any gathering done before the oil is  
12 finally rendered into oil or pipeline quality;

13 (14) "pipeline quality" means good and merchantable con-  
14 dition;

15 (15) "well days" means the number of days in which a well  
16 is operating during a month.

17 \* Sec. 8. AS 43.55.010, 43.55.015 and 43.55.140(10), and (11,) are  
18 repealed.

19 \* Sec. 9. This Act takes effect July 1, 1977 and applies to production  
20 during the month of July 1977 and succeeding months.

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.

Original sponsor: Rules Committee  
by request of the Governor

Offered: 5/10/77  
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 322

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an oil and gas corporate franchise  
7 tax; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43 is amended by adding a new chapter to read:

10 CHAPTER 21. OIL AND GAS CORPORATE

11 FRANCHISE TAX.

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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-  
28 form formula does not fully reflect corporate income-producing activity  
29 in the state. The legislature finds that the income from the extrac-

1 tion, transportation, and refining of oil and gas should be allocated  
2 and apportioned by a separate state formula just as financial insti-  
3 tutions and public utilities are under the provisions of AS 43.19.010,  
4 Article IV.

5 (c) Although the legislature is mindful of the importance and  
6 the advantages of uniformity which the formula in AS 43.19.010,  
7 Article IV, represents, the legislature also recognizes its responsi-  
8 bility to provide an apportionment formula which fairly represents a  
9 taxpayer's business activity in the state. Accordingly, the legislature  
10 has struck a balance between the uniform formula in AS 43.19.010,  
11 Article IV, and a direct measure of oil and gas extracted in the  
12 state by the substitution of a factor based upon units of extraction,  
13 which will more fairly indicate the taxpayer's income attributable to  
14 its business activity in the state.

15 (d) The legislature is concerned about the possibility of a  
16 corporation's income not being attributable to any specific state, as  
17 when property, payroll, and extraction are present in a location where  
18 the corporation is not subject to state taxation. In such cases, some  
19 portion of the income of the corporation would escape taxation by all  
20 states even though a state may have been impacted by that corporation's  
21 business activity and has given services and protection for which it  
22 is entitled to ask for compensation. The legislature finds that the  
23 apportionment formula in AS 43.19.010, Article IV, is deficient in  
24 this respect for corporations engaged in the extraction, transportation,  
25 and refining of oil and gas. Specifically, the legislature finds that  
26 income generated from activities taking place on the outer continental  
27 shelf should not escape state taxation entirely but should be taxed by  
28 the state which has made contributions of services and protection to  
29 those corporations as a result of those activities taking place off

1 its shores. The legislature finds that the state is currently adversely  
2 impacted by activities occurring on the outer continental shelf off  
3 the state's shores. The state has given and will continue to give  
4 those corporations engaged in those activities hospital services,  
5 educational services, police protection, regulatory protection, and  
6 access to its courts, as well as many other services and protections.  
7 Accordingly, the legislature finds that it is entitled to ask for  
8 compensation for these services and protections. The return which the  
9 state asks is the inclusion of property, payroll, and extraction units  
10 not occurring in any state but which are directly serviced from a  
11 base of operations in the state.

12 Sec. 43.21.020. PRIVILEGE TAX IMPOSED. A tax is hereby imposed  
13 for each tax year on the privilege of engaging in business, exercising  
14 a corporate franchise, doing business in corporate form, employing  
15 capital, labor, or property, or maintaining an office, place of business,  
16 or base of operations in Alaska of every corporation which has ordinary  
17 gross receipts during the tax year in excess of \$250,000,000 (or which  
18 is a member of a unitary business with combined ordinary gross receipts  
19 in excess of \$250,000,000), more than 50 per cent of which is derived  
20 from production, transportation, refining, manufacturing, processing,  
21 distribution, or retail sale of oil or gas or products derived from  
22 oil or gas. The tax imposed by this chapter is measured by the net  
23 income of the corporation and is determined at the rate imposed under  
24 AS 43.20.011(e). The tax imposed under this chapter is in place of  
25 the tax imposed under AS 43.20.

26 Sec. 43.21.030. "NET INCOME" DEFINED. (a) Net income for the  
27 purposes of this chapter is the higher of taxable income (as the term  
28 is used in AS 43.20.011(e)) or the net income determined and certified  
29 by an independent certified public accountant for the purposes of a

1 report to shareholders covering its earnings and profits for the taxable  
2 year calculated using historical cost accounting without regard to any  
3 taxes on, or measured by, net income.

4 (b) The department shall provide by regulation for the determina-  
5 tion of net income in circumstances where the income statement deter-  
6 mined and certified to shareholders does not truly reflect the corpora-  
7 tion's net income. Those circumstances include but are not limited to  
8 situations in which a qualified or disclaimed opinion is given by an  
9 independent accountant on the corporation's net income, the net income  
10 report does not meet standards promulgated by the Securities and  
11 Exchange Commission, a change in accounting method, or the income  
12 statement is not prepared in accordance with generally accepted account-  
13 ing principles.

14 Sec. 43.21.040. "ORDINARY GROSS RECEIPTS" DEFINED. The term  
15 "ordinary gross receipts" means total gross receipts, except that  
16 there shall be excluded:

17 (1) all gains and losses from the sale or other disposition  
18 of capital assets, and

19 (2) all gains and losses from the sale or other disposition  
20 of property of a character described in sec. 1231(b) of the Internal  
21 Revenue Code (determined without regard to holding period).

22 Sec. 43.21.050. APPORTIONMENT OF NET INCOME. (a) A corporation  
23 subject to this tax which is taxable both in and outside the state  
24 shall apportion its entire unitary business net income to Alaska by a  
25 fraction the numerator of which is the property factor plus the payroll  
26 factor plus the extraction factor and the denominator of which is  
27 three. Under regulations adopted by the department, the property  
28 factor and the payroll factor shall be determined in accordance with  
29 Article IV of AS 43.19.010 and with AS 43.20.071, except as otherwise

1 provided in this section.

2 (b) Compensation earned by employees who are not employed in any  
3 state in which the corporation is taxable shall be included in the  
4 numerator of the payroll factor if the employees are directly supplied  
5 from a base of operations maintained in the state.

6 (c) The value of oil or gas production facilities or other  
7 properties which are not located in any state in which the corporation  
8 is taxable shall be included in the numerator of the property factor  
9 if the property is serviced or supplied from a base of operations  
10 maintained in the state or if that property relies on onshore facilities  
11 for storage of the oil and gas produced.

12 (d) The extraction factor is a fraction the numerator of which  
13 is the net amount of oil and gas energy units produced in Alaska  
14 expressed in terms of their equivalents in British Thermal Units and  
15 the denominator of which is the total net amount of oil and gas energy  
16 units produced everywhere. Oil and gas energy units which are not  
17 extracted in a state in which the corporation is taxable shall be  
18 included in the numerator of the extraction factor if the extraction  
19 is performed by facilities which are serviced or supplied from a base  
20 of operations in the state or if those facilities rely on onshore  
21 facilities for storage of the oil and gas produced.

22 (e) If the denominator of any factor of the apportionment formula  
23 set out in this section is zero or is so insignificant that its inclu-  
24 sion will result in a distortion of income, the department may exclude  
25 that factor or include one or more additional factors which will  
26 fairly represent the taxpayer's business activity in the state.

27 Sec. 43.21.060. RETURNS AND PAYMENT OF TAXES. (a) A corporation  
28 subject to tax under this chapter shall make and file a return with  
29 the department at the same time as it files a return under the provisions

1 of the Internal Revenue Code. The return must set out

2 (1) the amount of tax due under this chapter, and

3 (2) other information which the department requires for the  
4 purpose of carrying out the provisions of this chapter.

5 (b) The return must either be on oath or contain a written  
6 declaration that it is made under penalty of perjury, and the department  
7 shall prescribe forms accordingly.

8 (c) The total amount of tax imposed by this chapter is due and  
9 payable to the department at the same time and in the same manner as  
10 the tax payable to the United States Internal Revenue Service.

11 (d) A taxpayer shall furnish to the department a true and correct  
12 copy of the tax return which he has filed with the United States  
13 Internal Revenue Service.

14 (e) The department may credit or refund overpayments of taxes,  
15 taxes erroneously or illegally assessed or collected, penalties col-  
16 lected without authority, and taxes that are found unjustly assessed  
17 or excessive in amount, or otherwise wrongfully collected. The depart-  
18 ment shall set limitations, specify the manner in which claims or  
19 credits or refunds are made and give notice of allowance or disallow-  
20 ance. When a refund is allowed to a taxpayer, it shall be paid out of  
21 the general fund on a warrant issued under a voucher approved by the  
22 department.

23 (f) Every taxpayer shall notify the department in writing of any  
24 alteration in, or modification of, his federal income tax return and  
25 of a recomputation of tax or determination of deficiency (whether with  
26 or without assessment). A full statement of the facts must accompany  
27 this notice. The notice must be filed within 60 days after the final  
28 determination of the modification, recomputation, or deficiency, and  
29 the taxpayer shall pay the additional tax or penalty under this chapter.

1 For purposes of this section, a determination is final at the time  
2 that an amended return is filed or a notice of deficiency or an assess-  
3 ment is mailed to the taxpayer by the Internal Revenue Service, except  
4 that in no event is there a final determination for purposes of this  
5 section until the taxpayer has exhausted his rights of appeal under  
6 federal law.

7 (g) Every taxpayer shall notify the department in writing of any  
8 recomputation or restatement of a prior year's net income. A full  
9 statement of the facts must accompany this notice. The notice must be  
10 filed within 60 days after the recomputation or restatement of a prior  
11 year's net income.

12 (h) In the case of additional tax due by reason of a modification,  
13 recomputation, or determination of deficiency in a taxpayer's federal  
14 income tax return, or by reason of a recomputation or restatement of a  
15 prior year's net income, the period of limitation on assessment  
16 commences from the date that the notice required in (f) or (g) of this  
17 section is filed, and, if no notice is filed, the tax may be assessed  
18 at any time.

19 (i) The tax imposed by this chapter is payable on the due date set  
20 out in this section even though the assessment is under appeal or the  
21 validity, enforceability or application of this chapter or any provi-  
22 sion of this chapter is challenged before the department or in the  
23 courts.

24 Sec. 43.21.065. PETITIONS FOR RELIEF. (a) If a corporation  
25 taxable under this chapter can establish that it is actually being  
26 taxed on more than 100 per cent of its net income by the states in  
27 which it does business, it may petition the department for relief. To  
28 establish that it is being taxed on more than 100 per cent of its net  
29 income the corporation shall provide the department with copies of the

1 tax returns and supporting documents filed in the other states in which  
2 it does business.

3 (b) Upon a showing under this section by a corporation, the com-  
4 missioner shall negotiate with the tax administrators in the other  
5 states in which the corporation does business to arbitrate the total  
6 tax liability of the corporation. The efforts shall include the use  
7 of the arbitration procedures set out in AS 43.19.010, Article IX.

8 (c) If the efforts of arbitration set out in (b) of this section  
9 are not successful in providing tax relief to the taxpayer, the depart-  
10 ment may then modify the apportionment formula by excluding one or more  
11 apportionment factors or including one or more additional factors which  
12 will provide tax relief to the taxpayer and still accurately represent  
13 the taxpayer's business activity in the state.

14 (d) The department shall provide an annual report to the legisla-  
15 ture of the total tax relief given under this section.

16 Sec. 43.21.070. REVIEW AND ASSESSMENT. (a) As soon as 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 (11) shall provide all reasonable assistance to the

1 Department of Revenue in determining the net income from oil pipeline  
2 facilities.

3 \* Sec. 7. AS 42.06 is amended by adding a new section to read:

4 Sec. 42.06.041. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE.

5 (a) Upon request of a pipeline carrier the commission shall review the  
6 accounts of that carrier and provide a certification to the Department  
7 of Revenue either stating that to the best of the commission's knowledge  
8 and belief the report of net pipeline income submitted by the carrier  
9 under AS 43.20.069 is in accordance with the commission's regulations  
10 governing the accounting of income, or that it is not so in accordance,  
11 in which case the commission shall identify the deficiencies in the  
12 report and, if possible, provide a reporting of the true and correct in-  
13 come.

14 (b) The commission shall provide the certification of compliance  
15 or deficiency in reporting within 45 days of the date on which the pipe-  
16 line carrier requests it, but all certifications remain subject to  
17 amendment by the commission for a period of three years after the due  
18 date of the tax return which they accompany.

19 (c) The commission may by regulation establish accounting pro-  
20 cedures and definitions as may be necessary to define net income for tax  
21 purposes, but net income so defined shall coincide as nearly as possible  
22 with the net income definition used by the commission in establishing  
23 rates and measuring rate of return, and shall be derived before any  
24 deductions for income taxes accrued or paid.

25 \* Sec. 8. AS 42.05.141 is amended to read:

26 Sec. 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. The  
27 Alaska Public Utilities Commission [MAY]

28 (1) may regulate every public utility engaged or proposing to  
29 engage in such a business inside the state, except to the extent

1 exempted by sec. 711 of this chapter and the powers of the commission  
2 shall be liberally construed to accomplish its stated purposes;

3 (2) may investigate, upon complaint or upon its own motion,  
4 the rates, classifications, rules, regulations, practices, services and  
5 facilities of a public utility and hold hearings on them;

6 (3) may make or require just, fair and reasonable rates,  
7 classifications, regulations, practices, services and facilities for a  
8 public utility;

9 (4) may prescribe the system of accounts and regulate the  
10 service and safety of operations of a public utility;

11 (5) may require a public utility to file reports and other  
12 information and data;

13 (6) may appear personally or by counsel and represent the  
14 interests and welfare of the state in all matters and proceedings in-  
15 volving a public utility pending before an officer, department, board,  
16 commission or court of the state or of another state or the United  
17 States and to intervene in, protest, resist, or advocate the granting,  
18 denial or modification of any petition, application, complaint or other  
19 proceeding;

20 (7) may examine witnesses and offer evidence in any proceed-  
21 ing affecting the state and initiate or participate in judicial pro-  
22 ceedings to the extent necessary to protect and promote the interests of  
23 the state;

24 (8) shall provide all reasonable assistance to the Department  
25 of Revenue in determining the net income from natural gas pipeline  
26 facilities.

27 \* Sec. 9. AS 42.05 is amended by adding a new section to read:

28 Sec. 42.05.502. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE.

29 (a) Upon request of a pipeline carrier the commission shall review the

1 accounts of that carrier and provide a certification to the Department  
2 of Revenue either stating that to the best of the commission's knowledge  
3 and belief the report of net pipeline income submitted by the carrier  
4 under AS 43.20.069 is in accordance with the commission's regulations  
5 governing the accounting of income, or that it is not so in accordance,  
6 in which case the commission shall identify the deficiencies in the  
7 report and, if possible, provide a reporting of the true and correct  
8 income.

9 (b) The commission shall provide the certification of compliance  
10 or deficiency in reporting within 45 days of the date on which the pipe-  
11 line carrier requests it, but all certifications remain subject to  
12 amendment by the commission for a period of three years after the due  
13 date of the tax return which they accompany.

14 (c) The commission may by regulation establish accounting proce-  
15 dures and definitions as may be necessary to define net income for tax  
16 purposes, but net income so defined shall coincide as nearly as possible  
17 with the net income definition used by the commission in establishing  
18 rates and measuring rate of return, and shall be derived before any  
19 deductions for income taxes accrued or paid.

20 \* Sec. 10. This Act relates only to income earned or received after  
21 December 31, 1976.

22 \* Sec. 11. This Act takes effect January 1, 1978.  
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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 revenue shall compile and transmit to the legislature an annual consolidated  
3 report of state revenues and taxation policies under this chapter. This  
4 report shall include total aggregate income tax paid by corporations  
5 covered under this chapter and aggregate income and deductions by category,  
6 so classified as to prevent the identification of particular  
7 returns or reports.  
8

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 otherwise the definitions contained in AS 43.55.140 are applicable to this  
13 chapter. In addition, in this chapter  
14

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

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 323

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas exploration,  
7 production, and pipeline and marine transportation  
8 property tax; and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 43.56.010(d) is amended to read:

11 CHAPTER 56. OIL AND GAS EXPLORATION, PRODUCTION,  
12 AND PIPELINE AND MARINE TRANSPORTATION PROPERTY TAXES.

13 (d) A tax paid to a municipality under AS 29.53.045 on or before  
14 June 30 of the tax year shall be credited against the tax levied under  
15 (a) of this section for that tax year. If, however, a tax is not paid  
16 to a municipality until after June 30 of the taxable year, the depart-  
17 ment upon application shall refund to the taxpayer the amount of tax  
18 paid to the municipality under AS 29.53.045. The credit or refund of  
19 taxes paid to a municipality may not exceed the total amount of tax  
20 levied by the department upon the taxpayer for the tax year, under (a)  
21 of this section. Current property taxes which are collected by one or  
22 more municipalities under AS 29.53.055 or any other authority which  
23 exceed the limitations set out in AS 29.53.045 or AS 29.53.050 are not  
24 allowed as a credit against, or refund of, the tax levied under this  
25 section. The credit or refund is only allowed for taxes paid for the  
26 current tax year.

27 \* Sec. 2. AS 43.56.060(a) is amended to read:

28 Sec. 43.56.060. ASSESSMENT. (a) The department shall assess  
29 property for the tax levied under sec. 10(b) of this chapter and AS

1 29.53.045 on property used or committed by contract or other agreement  
2 for use for the pipeline transportation of gas or unrefined oil, [OR]  
3 for the production of gas or unrefined oil, for refining of gas or  
4 unrefined oil, or for the processing, liquefaction, or manufacture of  
5 natural gas or oil products at its full and true value as of January  
6 1 of the assessment year. The department shall assess property for  
7 the tax levied under sec. 10(b) of this chapter and AS 29.53.045 on  
8 property used or committed by contract or other agreement for use in  
9 the marine transportation of gas or unrefined oil during any portion  
10 of the previous calendar year at its full and true value as of January  
11 1 of the previous calendar year as apportioned under sec. 65 of this  
12 chapter.

13 \* Sec. 3. AS 43.56.060(e)(2) is amended to read:

14 (2) determined on each January 1 thereafter with due regard  
15 to the economic value of the property based on the estimated life of  
16 the proven reserves of gas or unrefined oil then technically, econom-  
17 ically and legally deliverable into the transportation facility;  
18 [HOWEVER, IF THE PROVEN RESERVES OF GAS OR UNREFINED OIL THEN TECHNI-  
19 CALLY, ECONOMICALLY AND LEGALLY DELIVERABLE INDICATE AN ECONOMIC LIFE  
20 MATERIALLY SHORTER THAN THE ESTIMATED PHYSICAL LIFE OF THE TRANSPORTA-  
21 TION FACILITY, THE FULL AND TRUE VALUE IS THE ACTUAL COST REDUCED BY  
22 AN ANNUAL ALLOWANCE FOR DEPRECIATION ON A STRAIGHT LINE BASIS OVER AN  
23 ECONOMIC LIFE BASED ON THE ACTUAL ELAPSED LIFE FROM THE COMMENCEMENT  
24 OF FULL OPERATION TO THE DATE OF ASSESSMENT PLUS THE ESTIMATED REMAIN-  
25 ING LIFE OF THE PROVEN RESERVES OF GAS AND UNREFINED OIL THEN TECHNI-  
26 CALLY, ECONOMICALLY AND LEGALLY DELIVERABLE INTO THE TRANSPORTATION  
27 FACILITY AS OF THE DATE OF THE ASSESSMENT;]

28 \* Sec. 4. AS 43.56.060 is amended by adding new subsections to read:

29 (h) The full and true value of taxable property used or committed

1 by contract or other agreement for the refining of gas or unrefined  
2 oil or in the processing, liquefaction or manufacture of gas or oil  
3 products is determined on the basis of replacement cost less deprecia-  
4 tion based on the useful life of the property.

5 (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).

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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

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. 3. AS 43.56.210(6) is amended to read:

(6) "taxable property" means real and tangible personal property within this state used or committed by contract or other agreement for use [WITHIN THIS STATE] primarily in the exploration for, production of, or pipeline transportation of gas or unrefined oil (except for property used solely for the retail distribution or liquefaction of natural gas), or in the operation or maintenance of facilities used in the exploration for, production of, or pipeline transportation of gas or unrefined oil, including machinery, appliances, supplies, equipment, drilling rigs, wells (whether producing or not), gathering lines and transmission lines, pumping stations, compressor stations, power plants, topping plants, processing units, roads, tank farms, tanker terminals, docks and other port facilities, air strips and communication equipment and facilities, maintenance equipment and facilities, and maintenance camps and other related facilities; "taxable property" does not include permanent residences, office buildings requiring substantial local government services, or gas pipeline systems operated as utilities and regulated by the Alaska Public Utilities Commission;

\* Sec. 4. AS 29.53.045(b) is amended to read:

1 (b) A municipality may levy and collect a tax on the full and true  
2 value of taxable property taxable under AS 43.56 as valued by the  
3 Department of Revenue at a rate not to exceed that which produces an  
4 amount of revenue from the total municipal property tax equivalent to  
5 \$1,500 a year for each person residing within its boundaries. The  
6 commissioner of revenue shall adjust the limitation provided for in this  
7 section in accordance with changes in the Consumer Price Index for  
8 Anchorage, Alaska, published by the Bureau of Labor Statistics, United  
9 States Department of Labor. The adjusted limitation becomes effective  
10 on the January 1 following its adjustment and applies to taxes levied  
11 for that tax year. The Consumer Price Index for October 1976 is con-  
12 sidered the initial Consumer Price Index. In making the adjustments  
13 under this section, the commissioner shall comply with the following  
14 procedure:

15 (1) after November 30 and before December 31 of each year the  
16 commissioner shall calculate the change in the October Consumer Price  
17 Index for the current year from the October Consumer Price Index for the  
18 previous year;

19 (2) the commissioner shall then

20 (A) compute the percentage increase or decrease for that  
21 period and

22 (B) adjust the most current limitation set out in this  
23 section by the same percentage increase or decrease, rounded to the  
24 nearest dollar;

25 (3) and report the adjusted limitation to each municipality  
26 by January 15 of the following year.

27 \* Sec. 5. AS 29.53.050(b) is amended to read:

28 (b) No municipality, or combination of municipalities occupying  
29 the same geographical area, in whole or in part, may levy taxes (1)

1 which will result in tax revenues from all sources exceeding \$1,500  
2 [\$1,000] a year, as adjusted in accordance with (c) of this section,  
3 for each person residing within their boundaries or (2) upon values  
4 which, when combined with the value of property otherwise taxable by the  
5 municipality, exceed the product of 225 per cent of the average per  
6 capita assessed full and true value of property in the state multiplied  
7 by the number of residents of the taxing municipality. If two or more  
8 municipalities occupying the same geographical area, in whole or in  
9 part, attempt to levy a tax (1) the combined levy of which would result  
0 in tax revenues from all sources exceeding \$1,500 [\$1,000] a year, as  
1 adjusted in accordance with (c) of this section, for each person re-  
2 siding within their boundaries or (2) upon value which, when combined  
3 with the value of property otherwise taxable by the municipality, exceed  
4 the product of 225 per cent of the average per capita assessed full and  
5 true value of property in the state multiplied by the number of resi-  
6 dents of the taxing municipality, the commissioner of community and  
7 regional affairs shall apportion the lawful levy and equitably divide  
8 these revenues on the basis of need, services performed and other  
9 considerations in the public interest. For the purpose of this subsec-  
0 tion, population shall be determined by the commissioner of community  
1 and regional affairs based on the latest statistics of the United States  
2 Bureau of the Census or on other reliable population data. For purposes  
3 of this subsection the average per capita assessed full and true value  
4 of property in the state shall be calculated without regard to the  
5 assessed value of taxable property under AS 43.58.

6 \* Sec. 6. AS 29.53.050 is amended by adding a new subsection to read:

7 (c) The commissioner of revenue shall adjust the \$1,500 per  
8 person per year limitation provided for in (b) of this section in  
9 accordance with changes in the Consumer Price Index for Anchorage,

1 Alaska, published by the Bureau of Labor Statistics, United States  
2 Department of Labor. The adjusted limitation becomes effective on the  
3 January 1 following its adjustment and applies to taxes levied for that  
4 tax year. The Consumer Price Index for October 1976 is considered the  
5 initial Consumer Price Index. In making the adjustments under this  
6 section, the commissioner shall comply with the following procedure:

7 (1) after November 30 and before December 31 of each year the  
8 commissioner shall calculate the change in the October Consumer Price  
9 Index for the current year from the October Consumer Price Index for the  
10 previous year;

11 (2) the commissioner shall then

12 (A) compute the percentage increase or decrease for that  
13 period and

14 (B) adjust the most current limitation set out in this  
15 section by the same percentage increase or decrease, rounded to the  
16 nearest dollar;

17 (3) and report the adjusted limitation to each municipality  
18 by January 15 of the following year.

19 \* Sec. 7. This Act is retroactive to January 1, 1977.

20 \* Sec. 8. This Act takes effect immediately in accordance with AS 01.10.-  
21 070(c).

Introduced: 3/9/77  
Referred: Resources and  
Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 328

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending the oil and gas reserves ad valorem  
7 tax; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43.58.010(b) is amended to read:

10 (b) The rate of levy for the tax year beginning January 1, 1977  
11 is 12 [20] mills. If, on October 1, 1977, the Trans-Alaska Pipeline  
12 is not transporting at least 600,000 barrels of daily average through-  
13 put of oil, then there is levied an additional tax of eight mills on  
14 the January 1 assessment which shall be due and payable on November  
15 30, 1977.

16 \* Sec. 2. AS 43.58.010 is amended by adding a new subsection to read:

17 (e) If, on December 15, 1977, the Trans-Alaska Pipeline is not  
18 transporting at least 1,200,000 barrels of daily average throughput of  
19 oil, a tax is levied for tax year 1978 at a rate determined for that  
20 year by the legislature.

21 \* Sec. 3. AS 43.58.170 is amended to read:

22 Sec. 43.58.170. TERMINATION OF TAX. Except as provided in AS  
23 43.58.010(e), the [THE] tax imposed by this chapter shall terminate on  
24 December 31, 1977.

25 \* Sec. 4. This Act is retroactive to January 1, 1977.

26 \* Sec. 5. This Act takes effect immediately in accordance with AS  
27 01.10070(c).

Original sponsor: Rules Committee by request  
of the Governor

Offered: 4/5/77  
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 328

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending the oil and gas reserves ad valorem  
7 tax; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43.58.010(b) is amended to read:

10 (b) The rate of levy for the tax year beginning January 1, 1977 is  
11 12 [20] mills. If, on October 1, 1977, the trans-Alaska pipeline is not  
12 transporting at least 600,000 barrels of daily average throughput of  
13 oil, then there is levied an additional tax of eight mills on the  
14 January 1 assessment which shall be due and payable on November 30,  
15 1977.

16 \* Sec. 2. This Act is retroactive to January 1, 1977.

17 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-  
18 070(c).

BY PARR, BRADLEY, BROWN, BUCCHOLDT,  
COTTEN, COWPER, ELLASON, GARDINER,  
GRUENING, MCKINNON, MALONE, MEEKINS,  
MILLER, NAKAK, OSE, RUDD, SMITH,  
SNIDER AND SWANSON

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 219

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act providing for permits and fees for the con-  
7 struction of shore-based support facilities for off-  
8 shore oil and gas exploration, development and produc-  
9 tion; and providing for an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 \* Section 1. AS 41 is amended by adding a new chapter to read:

12 CHAPTER 45. SHORE FACILITIES FOR OFFSHORE  
13 RESOURCE EXTRACTION.

14 Sec. 41.45.010. LEGISLATIVE FINDINGS AND DECLARATION OF PURPOSE.

15 (a) The legislature finds that activities associated with the explora-  
16 tion, development and recovery of natural resources from the territorial  
17 waters adjacent to the state and waters of the outer continental shelf  
18 require the construction of support facilities in onshore areas of the  
19 state contiguous to the projects; that the siting, planning, construc-  
20 tion and operation of new or expanded onshore facilities and activities  
21 associated with the supply of offshore projects involve demands for  
22 public facilities and services which, initially, are beyond the capacity  
23 of local governments to provide; that early knowledge of the location  
24 and magnitude of anticipated shore-based support facilities will better  
25 allow municipalities and the state to plan the provision of public  
26 facilities and services before and during the period of construction and  
27 operation of the support facilities; that the planning and provision of  
28 public facilities and services in advance of construction of shore-based  
29 support facilities generates a temporary demand for additional revenues

1 to defray costs associated with extraordinary municipal expenditures;  
2 and that there is a need to provide a mechanism by which the state and  
3 local governments may receive information about projected onshore support  
4 activity as a basis for sound public planning decisions and to obtain  
5 financial support in order to partially defray the costs of planning and  
6 initiating provision of necessary public facilities and services.

7 (b) It is the purpose of this chapter to provide a mechanism by  
8 which to ensure that the location, construction and operation of support  
9 facilities for projects in all waters adjacent to the state will pro-  
10 duce minimal adverse effects upon the people of the state and affected  
11 local governments by providing for the exchange of information between  
12 parties involved with offshore activity, and that the increase in demand  
13 for public services occurring as a result of shore-based facility  
14 development will be met by a contribution of revenue from the holders of  
15 offshore leases responsible for the increase in demand.

16 Sec. 41.45.020. SHORE FACILITIES CONSTRUCTION PERMIT. (a) No  
17 person engaged in exploration, development or production of oil or gas  
18 under terms of a lease from the United States, the state, or any party  
19 in the offshore waters adjacent to the state may construct, lease or in  
20 any other manner provide for shore facilities associated with explora-  
21 tion, development or production after the effective date of this Act  
22 without first applying for and securing from the department a shore  
23 facilities construction permit and paying the fee provided in sec. 30 of  
24 this chapter.

25 (b) An applicant for a permit under this section shall file an  
26 application with the department in a form which the department, by regu-  
27 lation, has prescribed. The application shall contain the following  
28 information:

29 (1) a description of the location and of the facility to be

1 built at the location;

2 (2) an estimate of the value of the facility upon its com-  
3 pletion;

4 (3) a summary of any studies or reports which have been made  
5 examining the economic impact of the construction and operation of the  
6 facility on the municipality and the area within 10 miles of the munici-  
7 pality, including, but not limited to, the applicant's estimate of the  
8 number of persons to be employed in the construction and operation of  
9 the facility during each year of the five-year period commencing with  
10 the submission of the application;

11 (4) a statement explaining the need for the facility;

12 (5) a description of any reasonable alternate locations for  
13 the proposed facility, a statement of the comparative merits and detri-  
14 ments of each location identified, and a statement of why the primary  
15 proposed location is best suited for the facility;

16 (6) any additional information which the department, by regu-  
17 lation, may require in order to fairly evaluate

18 (A) conformance of the proposed facility to applicable  
19 state and local laws and regulations;

20 (B) the effects of the economic activity of the pro-  
21 posed facility on the municipality or the area within 10 miles of  
22 the municipality;

23 (C) the effects of the proposed facility on the public  
24 health, welfare, and safety;

25 (D) the capacity of the state and of any municipality  
26 to provide necessary public facilities and services;

27 (7) any additional information which the applicant considers  
28 relevant; and

29 (8) a resolution of approval of the governing body of a

1 municipality in which the proposed facility is to be located or of any  
2 municipality within 10 miles of the proposed facility.

3 (c) An application filed with the department shall be available  
4 for public inspection.

5 (d) An application shall be accompanied by proof of service of a  
6 copy of the application on the mayor of each municipality in which the  
7 facility is to be located, and any municipality within 10 miles of the  
8 proposed facility, both as primarily proposed and alternatively located.

9 Sec. 41.45.030. PERMIT FEE. (a) At the time of filing an appli-  
10 cation for a permit under sec. 20 of this chapter, the applicant shall  
11 pay a permit fee to the Department of Revenue.

12 (b) The fee payable under (a) of this section is based upon the  
13 one of the following two schedules which produces the greater revenue:

14 (1) valuation of the proposed facility upon completion, with  
15 payment of two per cent of the estimated value up to \$5,000,000; plus  
16 one per cent of the estimated value over \$5,000,000 and up to  
17 \$20,000,000; plus one-half of one per cent of the estimated value over  
18 \$20,000,000;

19 (2) the estimate of the maximum anticipated population in-  
20 crease within a municipality or within 10 miles of a municipality attri-  
21 butable to employment in construction or operation of the facility over  
22 the five-year period following submission of the application, multiplied  
23 by the per capita cost of state and local government in the year in  
24 which application is made for the permit.

25 (c) The applicant shall provide the department with the data which  
26 was used to calculate the permit fee.

27 Sec. 41.45.040. APPEAL OF FEE. (a) A municipality which is en-  
28 titled to receive a portion of a shore facilities construction permit  
29 fee paid by an applicant under this chapter may appeal the determination

1 of the amount of the fee. The governing body of the municipality shall,  
2 within 30 days of receipt of written notice that an application has been  
3 submitted and a fee paid, file an appeal with the department setting out  
4 the reasons why it believes the fee paid has not been correctly computed.

5 (b) If a municipality appeals the determination of the fee paid  
6 under (a) of this section, the commissioner of the department shall,  
7 within 45 days after giving written notice to all parties, conduct a  
8 hearing on the matter. If, after the hearing, the commissioner deter-  
9 mines that the fee payable by the applicant has been incorrectly com-  
10 puted, he shall provide the applicant a written statement describing the  
11 error in computation and indicating the amount of the fee due. The  
12 applicant shall pay the additional amount of the fee within 30 days of  
13 receipt of the decision of the commissioner.

14 (c) The department may not withhold a permit during the period of  
15 any appeal initiated under (b) of this section.

16 Sec. 41.45.050. AMENDMENT OF PERMIT. (a) A permit issued by the  
17 department under sec. 30 of this chapter may be amended. An application  
18 for an amended permit shall be submitted in the manner provided for new  
19 applications in sec. 20 of this chapter. If an amendment to an approved  
20 permit would result in a substantial change of an original permit, the  
21 amendment shall be treated as a new application and a supplemental permit  
22 fee shall be paid.

23 (b) If it appears to the commissioner or to officials of a muni-  
24 cipality entitled to receive a portion of a shore facilities construction  
25 permit fee under this chapter that there will occur substantial change  
26 in the use of the facility from the activity described in the original  
27 application or an amended application for a permit, the commissioner may  
28 call for a public hearing on the question. The commissioner shall,  
29 within 45 days after giving written notice to all parties, conduct a

1 hearing on the matter. If, after the hearing, the commissioner deter-  
2 mines that there has been substantial change in the use of the facility  
3 from the activity described in the original or amended application for  
4 a permit, he shall require the applicant to submit an application for an  
5 amended permit.

6 (c) An amended permit submitted by an applicant under an order of  
7 the commissioner entered under (b) of this section shall be accompanied  
8 by payment of the increment in the fee due, together with a penalty  
9 payment of 10 per cent of the total amount of permit fees due for the  
10 facility.

11 (d) For purposes of this section, a change in the use of a facil-  
12 ity for which a permit has been issued is "substantial" if

13 (1) the applicant or the commissioner determines that the  
14 value of any changes or improvements in the facility would increase the  
15 estimated value of the facility determined under sec. 30(a)(1) of this  
16 chapter by more than 10 per cent; or

17 (2) the applicant or the commissioner determines that the  
18 actual population increase will exceed the estimate determined under  
19 sec. 30(a)(2) of this chapter by more than 10 per cent.

20 Sec. 41.45.060. ISSUANCE OF PERMIT. The department shall issue  
21 a permit within 30 days of receipt of a complete application. The  
22 department may refuse to issue a permit under this chapter only if it  
23 finds that

24 (1) a fee due and payable by the applicant on an original  
25 application or an amended application has not been promptly paid; or

26 (2) the application does not contain, or is not supported by  
27 written concurrence of the governing body of a municipality required by  
28 sec. 20(b)(8) of this chapter.

29 Sec. 41.45.070. REVOCATION OR SUSPENSION OF PERMIT. The depart-

1 ment may revoke or suspend a permit issued under the provisions of this  
2 chapter if, after notice and hearing to all parties, the commissioner  
3 determines that

4 (1) the facility does not conform, in location, construction  
5 or operation, to applicable municipal ordinance or regulation; or

6 (2) an additional fee is due and payable under sec. 40(b) of  
7 this chapter or an additional fee and penalty are due and payable under  
8 sec. 50(b) of this chapter, and the holder of the permit has failed to  
9 pay the additional fee, together with penalty due if any, within the  
10 time prescribed by law.

11 Sec. 41.45.080. DISPOSITION OF FEES AND PENALTIES. (a) The com-  
12 missioner of the Department of Revenue shall deposit in the general fund  
13 the money collected under this chapter.

14 (b) There is established in the general fund the shore facilities  
15 assistance account. Ninety-five per cent of the fees and penalties  
16 received under this chapter, or as much of the amount as the legislature  
17 may annually appropriate, shall be placed in the account for the uses  
18 and purposes described in (c) and (d) of this section.

19 (c) The Department of Community and Regional Affairs shall admin-  
20 ister the account established in (b) of this section. The department  
21 shall pay not less than 50 per cent of the amount of the fees and  
22 penalties paid by an applicant for a permit under this chapter for a  
23 facility located within a municipality or within 10 miles of a municipi-  
24 pality from the account to a municipality or combination of municipali-  
25 ties. If two or more municipalities are entitled to receive an amount  
26 under this subsection, the municipalities may, among themselves, propose  
27 to the department the proportional amount to be paid to each, and the  
28 department shall make payment based upon the proposed allocation. The  
29 department shall transfer amounts withheld from a municipality for

1 transfer to state agencies providing public facilities or services  
2 within the municipality. In allocation between one or more munici-  
3 palities and the state agencies under this subsection shall be based  
4 upon the relative responsibility of the municipality and the state for  
5 the provision of public facilities and services affected by onshore  
6 support services and activities and the fiscal needs of each.

7 (d) Fees and penalties paid by an applicant for a permit under  
8 this chapter for a facility located in a community or within 10 miles of  
9 a community of the unorganized borough are available for the benefit of  
10 the community. The department may

11 (1) transfer amounts to another state agency for use by the  
12 agency to benefit the community; or

13 (2) retain an amount for its use for the benefit of the  
14 community.

15 (a) Payments due a municipality under this section shall be trans-  
16 mitted by the department

17 (1) within 30 days of receipt of payment of the fee by the  
18 Department of Revenue, if payment is due to only one municipality;

19 (2) within 30 days of receipt of the allocation agreed to by  
20 the municipalities, if payment is due to more than one municipality.

21 Sec. 41.45.090. MONITORING OF FACILITIES. The department shall  
22 review and monitor the operation of all facilities for which a permit  
23 has been issued under this chapter for compliance with the provisions of  
24 this chapter and the provisions of the permit application.

25 Sec. 41.45.100. ADMINISTRATION. (a) Annually, the department  
26 shall compute and report, for use by applicants and permittees under  
27 this chapter

28 (1) standard multiplier factors relating the number of per-  
29 sons engaged in direct employment in a shore facility to the number of

1 persons indirectly employed and the number of dependents of all persons  
2 employed; and

3 (2) the per capita cost of state and local government ser-  
4 vice.

5 (b) The department shall, by regulation, require holders of per-  
6 mits issued under this chapter to furnish:

7 (1) information indicating the number of persons employed in  
8 a facility for which a permit is issued under this chapter;

9 (2) the estimate of the value of facilities for which a per-  
10 mit is issued under this chapter.

11 Sec. 41.45.110. LONG-RANGE DEVELOPMENT PLAN. (a) Any person con-  
12 templating the construction of a facility subject to issuance of a  
13 permit under this chapter in the state in the ensuing three years shall  
14 furnish annually to the department for its review a long-range plan for  
15 the construction and operation of facilities. The plan shall be sub-  
16 mitted not later than September 1 of each year, and shall include the  
17 following information:

18 (1) the general location, size and type of all facilities to  
19 be owned and operated or leased whose construction is projected to  
20 commence during the ensuing three-year period;

21 (2) projections of the demand for public facilities and ser-  
22 vices required by the facility and explanation of the basis for those  
23 projections, and a description of the manner and extent to which the  
24 proposed facilities will meet project demand.

25 (b) A plan furnished under this section shall be made available to  
26 the governing body of any municipality or community affected by the  
27 activity described or summarized in the plan.

28 Sec. 41.45.120. FAILURE TO SUBMIT LONG-RANGE PLAN. If an appli-  
29 cant for a permit under secs. 10 - 100 of this chapter has failed to

1 provide the department with annual copies of a long-range plan as re-  
2 quired by sec. 110 of this chapter, the permit fee due and payable by  
3 the applicant for permit shall be twice the amount authorized in sec.  
4 30(b) of this chapter.

5 Sec. 41.45.130. JUDICIAL REVIEW. An applicant for a permit or a  
6 municipality or community aggrieved by a decision of the commissioner  
7 under this chapter may appeal the decision in the superior court.

8 Sec. 41.45.140. PENALTIES FOR VIOLATION OF PROVISIONS OF THIS  
9 CHAPTER. (a) A person who wilfully violates a provision of secs. 10 -  
10 100 of this chapter or any regulation adopted by the department under  
11 this chapter is guilty of a misdemeanor and, upon conviction, is pun-  
12 ishable by a fine of not more than \$10,000 for each violation. Each day  
13 of a continuing violation constitutes a separate offense.

14 (b) At the request of the commissioner, the attorney general shall  
15 enforce this chapter and institute legal actions to accomplish its en-  
16 forcement.

17 Sec. 41.45.150. DEFINITIONS. In this chapter, unless the context  
18 otherwise requires,

19 (1) "commissioner" means the commissioner of the Department  
20 of Community and Regional Affairs;

21 (2) "community" means a village located in the unorganized  
22 borough in which is located a school operated by an educational service  
23 area or the Bureau of Indian Affairs and any other village containing 25  
24 or more permanent residents;

25 (3) "department" means the Department of Community and  
26 Regional Affairs;

27 (4) "municipality" means a home rule or general law borough  
28 or city of any class, a unified municipality established in accordance  
29 with the provisions of AS 29.68.240 - 29.68.440, or a municipality

1 established by consolidation or merger;

2 (5) "shore facility" means a facility which is an integral  
3 part of, or directly associated with, the exploration for, or extrac-  
4 tion, production or transportation of, oil or gas from the waters  
5 adjacent to the state, and which is owned by, or committed by contract  
6 or other agreement to, persons exploring for or producing or trans-  
7 porting oil or gas from adjacent coastal waters; the term includes, but  
8 is not limited to,

9 (A) a wharf, dock or other port structure or facility  
10 used for the final transshipment of cargo destined for mobile or  
11 fixed offshore oil or gas drilling vessels or structures;

12 (B) warehouses, storage yards, tank farms, tanker ter-  
13 minals and pipelines associated with the facilities described in  
14 (A) of this paragraph for the storage of cargo destined for off-  
15 shore drilling operations or for the storage of petroleum products  
16 from offshore drilling operations;

17 (C) offices, maintenance facilities, maintenance and  
18 construction camps and related facilities primarily required for  
19 administration or servicing of offshore drilling operations which  
20 are located in physical proximity to the facilities described in  
21 (A) and (B) of this paragraph.

22 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-

23 070(c).

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Introduced: 3/14/78  
Referred: Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 884

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making technical amendments relating to oil  
7 and gas taxes; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43.55.020(a) is amended to read:

10 (a) The gross production tax on oil or gas shall be paid monthly.  
11 The tax is due on the 20th day of each calendar month on oil or gas  
12 produced from each lease or property during the preceding month. [IF  
13 THE TAX IS NOT PAID BEFORE THE END OF THE MONTH IN WHICH IT BECOMES  
14 DUE, THE TAX BECOMES DELINQUENT.]

15 \* Sec. 2. AS 43.55.150 is amended to read:

16 Sec. 43.55.150. DETERMINATION OF [GROSS] VALUE. (a) For the  
17 purposes of this chapter, [THE GROSS] value shall be calculated using  
18 the reasonable costs of transportation of the oil or gas. The reason-  
19 able costs of transportation shall be the actual costs, except if any  
20 one of the following conditions exist:

21 (1) when the parties to the transportation of oil or gas  
22 are affiliated;

23 (2) when the contract for the transportation of oil or gas  
24 is not an arm's length transaction or is not representative of the  
25 market value of that transportation; or

26 (3) when the method of transportation or the choice of a  
27 particular person, entity, or facility, or vessel used for transporta-  
28 tion is not reasonable in view of existing alternatives [ALTERNATIVE  
29 METHODS OF TRANSPORTATION].

1 (b) If the department finds that the conditions in (a)(1), (2),  
2 or [AND] (3) of this section are present, the department shall deter-  
3 mine the reasonable costs of transportation, using the fair market  
4 value of like transportation, the fair market value of equally efficient  
5 and available alternative modes of transportation, or other reasonable  
6 methods. Transportation costs fixed by tariff rates properly on file  
7 with the Alaska Pipeline Commission or other regulatory agency shall  
8 be considered prima facie reasonable.

9 \* Sec. 3. AS 43.55.030(d) and 43.55.060 are repealed.

10 \* Sec. 4. This Act is retroactive to January 1, 1977.

11 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.-  
12 10.070(c).

Original sponsor: Rules Committee by  
request of the Governor

Offered: 3/24/78  
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 884

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making technical amendments relating to oil and  
7 gas taxes; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43.55.020(a) is amended to read:

10 (a) The gross production tax on oil or gas shall be paid monthly.

11 The tax is due on the last [20TH] day of each calendar month on oil or  
12 gas produced from each lease or property during the preceding month.

13 [IF THE TAX IS NOT PAID BEFORE THE END OF THE MONTH IN WHICH IT BECOMES  
14 DUE, THE TAX BECOMES DELINQUENT.]

15 \* Sec. 2. AS 43.55.150 is amended to read:

16 Sec. 43.55.150. DETERMINATION OF [GROSS] VALUE. (a) For the  
17 purposes of this chapter, [THE GROSS] value shall be calculated using  
18 the reasonable costs of transportation of the oil or gas. The reason-  
19 able costs of transportation shall be the actual costs, except when one  
20 of the following conditions exists:

21 (1) [WHEN] the parties to the transportation of oil or gas  
22 are affiliated;

23 (2) [WHEN] the contract for the transportation of oil or gas  
24 is not an arm's length transaction or is not representative of the market  
25 value of that transportation; or

26 (3) [WHEN] the method of transportation of oil or gas or the  
27 choice of a particular person, entity, or facility, or vessel used for  
28 transportation is not reasonable in view of existing alternatives  
29 [ALTERNATIVE METHODS OF TRANSPORTATION].

1 (b) If the department finds that the conditions in (a)(1), (2),  
2 or [AND] (3) of this section are present, the department shall determine  
3 the reasonable costs of transportation, using the fair market value of  
4 like transportation, the fair market value of equally efficient and  
5 available alternative modes of transportation, or other reasonable  
6 methods. Transportation costs fixed by tariff rates properly on file  
7 with the Alaska Pipeline Commission or other regulatory agency shall be  
8 considered prima facie reasonable.

9 \* Sec. 3. AS 43.55.030(d) and 43.55.060 are repealed.

10 \* Sec. 4. This Act is retroactive to January 1, 1977.

11 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-

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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)

1 IN THE SENATE

2 SENATE BILL NO. 103

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act concerning 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 43.55.010(a) is amended to read:

10 (a) There is levied upon the producer of oil or gas a tax based  
11 upon a per cent of the gross value at the point of production [AT THE  
12 WELL] of all oil or gas produced [REMOVED OR SOLD] from each lease or  
13 property in the state, less the value of any part the ownership or right  
14 to which is exempt from taxation. The tax is determined according to  
15 the following schedules, and any part which is exempt from taxation is  
16 deducted from the tax levied on a pro rata basis as to each production  
17 level tax bracket:

18 (1) oil: based upon the total production from each lease or  
19 property [AVERAGE DAILY PRODUCTION FOR EACH WELL] for the calendar month  
20 in barrels, the tax is

21 (A) zero [FIVE] per cent on the first 100 [300] barrels  
22 of average daily per well production;

23 (B) four [SIX] per cent on the next 200 [700] barrels of  
24 average daily per well production;

25 (C) six [EIGHT] per cent on the next 700 [ALL PRODUCTION  
26 IN EXCESS OF 1,000] barrels of average daily per well production;

27 (D) nine per cent on the next 500 barrels of average  
28 daily per well production;

29 (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 WHOLESAL PRICE  
6 INDEX OCCURRING AFTER JANUARY 1, 1974 AND WILL NOT INCLUDE CHANGES IN  
7 THE WHOLESAL 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

1       calendar month.

2       \* Sec. 10. AS 43.55.140(10) and (11) are repealed.

3       \* Sec. 11. This Act takes effect July 1, 1977.

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Original sponsor: Rules Committee by request  
of the Legislative Council  
(for the Subcommittee on Oil  
and Gas Leasing and Taxing  
Policies)

Offered: 4/20/77  
Referred: Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 103

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act concerning the oil and gas properties produc-  
7 tion tax; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43.55 is amended by adding new sections to read:

10 Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the  
11 producer of oil a tax for all oil produced from each lease or property  
12 in the state, less any oil the ownership or right to which is exempt  
13 from taxation. The tax is equal to either the percentage-of-value  
14 amount calculated under (b) of this section or the cents-per-barrel  
15 amount calculated under (c) of this section, whichever is greater,  
16 multiplied by the economic limit factor determined for the oil produc-  
17 tion of the lease or property under sec. 13 of this chapter. If the  
18 amounts calculated under (b) and (c) of this section are equal, the  
19 amount calculated under (b) of this section shall be treated as if it  
20 were the greater for purposes of this section.

21 (b) The percentage-of-value amount equals 12.5 per cent of the  
22 gross value at the point of production of taxable oil produced from the  
23 lease or property.

24 (c) The cents-per-barrel amount equals \$.65 per barrel of taxable  
25 oil produced from the lease or property, as adjusted by sec. 12 of this  
26 chapter.

27 (d) When the cents-per-barrel amount calculated under (c) of this  
28 section is greater than the percentage-of-value amount calculated under  
29 (b) of this section, an amount not less than \$.05 for each barrel of

1 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. The cents-per-barrel  
8 amount set out in sec. 11(c) of this chapter applies to oil of 27  
9 degrees API gravity. For each degree of API gravity less than 27  
10 degrees the cents-per-barrel amount shall be reduced by \$.005 and for  
11 each degree of API gravity greater than 27 degrees the cents-per-barrel  
12 amount shall be increased by \$.005 except that oil above 40 degrees API  
13 gravity shall be taxed as 40 degree oil. In applying the gravity ad-  
14 justment under this subsection, fractional degrees of API gravity shall  
15 be disregarded.

16 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit  
17 factor for oil production of a lease or property equals

$$18 \quad (1 - [PEL/TP]) \exp ([300 \times WD]/PEL)$$

19 Where: PEL = the production rate at the economic limit;

20 TP = total production during the month for which the tax  
21 is to be paid;

22 WD = the total number of well days in the month for which  
23 the tax is to be paid; and

24 Where "exp" indicates that the expression following it is an exponent.

25 (b) The economic limit factor for gas production of a lease or  
26 property equals one minus the ratio of the monthly production rate at  
27 the economic limit to the production during the month for which the tax  
28 is to be paid.

29 (c) The monthly production rate at the economic limit for a lease

1 or property is presumed to be 100 barrels times the number of well days  
2 for the lease or property during the month for which the tax is to be  
3 paid, unless the taxpayer at a formal hearing under AS 43.05.240 pro-  
4 vides clear and convincing evidence of a different monthly production  
5 rate at the economic limit for the lease or property. The monthly  
6 production rate at the economic limit for the lease or property based  
7 upon the clear and convincing evidence of the taxpayer shall be calcu-  
8 lated by dividing the value determined under (e) of this section into  
9 the average monthly direct operating cost determined under (d) of this  
10 section.

11 (d) The average monthly direct operating cost for oil production  
12 operations of the lease or property shall be determined based on the  
13 number of months operated during the preceding 12-month period. The  
14 direct operating costs include drilling supplies, fuel, routine mainte-  
15 nance, and wages and benefits of employees working on the production  
16 operations. The direct operating costs do not include capital expendi-  
17 tures, tangible or intangible drilling expenses, costs of well work-  
18 overs, costs for replacement or repairs (other than routine maintenance),  
19 depreciation or amortization, taxes, insurance, overhead, money paid or  
20 set aside (or booked as being paid or set aside) to cover the cost of  
21 terminating the oil production operations of the lease or property, or  
22 any other cost not directly related to the oil production operations of  
23 the lease or property.

24 (e) For the purposes of this chapter, the gross value of oil shall  
25 be calculated as provided in sec. 150 of this chapter, and the gross  
26 value of gas shall be calculated as provided in (h) of this section.

27 (f) Before February 15 of each year or within six months after  
28 commencement of production for a lease or property, the department shall  
29 notify the producer of gas of the monthly production rate at the economic

1 limit for each lease or property in the state for that year. The  
2 monthly production rate at the economic limit for a lease or property  
3 shall be determined at a formal hearing under AS 43.05.240 and must be  
4 established by clear and convincing evidence presented by the taxpayer  
5 at that hearing. The monthly production rate at the economic limit for  
6 the lease or property based upon the clear and convincing evidence of  
7 the taxpayer shall be calculated by dividing the value determined under  
8 (h) of this section into the average monthly direct operating cost  
9 determined under (g) of this section.

10 (g) The average monthly direct operating cost for gas production  
11 operations of the lease or property shall be determined based on the  
12 number of months operated during the preceding 12-month period. The  
13 direct operating costs include drilling supplies, fuel, routine mainte-  
14 nance, and wages and benefits of employees working on the production  
15 operations. The direct operating costs do not include capital expendi-  
16 tures, tangible or intangible drilling expenses, costs of well work-  
17 overs, costs for replacement or repairs (other than routine maintenance),  
18 depreciation or amortization, taxes, insurance, overhead, money paid or  
19 set aside (or booked as being paid or set aside) to cover the cost of  
20 terminating the gas production operations of the lease or property, or  
21 any other cost not directly related to the gas production operations of  
22 the lease or property.

23 (h) The value at the point of production of gas produced from the  
24 lease or property shall be determined on the basis of the highest price  
25 paid for gas of like quality and pressure in the same field.

26 (i) The department may aggregate two or more leases or properties  
27 (or portions of them), for purposes of determining economic limit  
28 factors under this section and applying them to sec. 11 of this chapter,  
29 when economically interdependent oil or gas production operations are

1 not confined to a single lease or property. The department may also  
2 segregate a lease or property into two or more parts, for purposes of  
3 determining economic limit factors under this section and applying them  
4 under sec. 11 of this chapter, when two or more economically independent  
5 oil or gas production operations are being conducted on it.

6 (j) A determination of the monthly production rate at the economic  
7 limit for a lease or property is retroactive to January 1 of the current  
8 year. For production of a lease or property commencing after January 1,  
9 the determination of the monthly production rate at the economic limit  
10 for that lease or property made within six months after the commencement  
11 of production is retroactive to the commencement of production.

12 Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the  
13 producer of gas a tax for all gas produced from each lease or property  
14 in the state, less any gas the ownership or right to which is exempt  
15 from taxation. The tax is equal to either the percentage-of-value  
16 amount calculated under (b) of this section or the cents-per-Mcf amount  
17 calculated under (c) of this section, whichever is greater, multiplied  
18 by the economic limit factor determined for gas production of the lease  
19 or property under sec. 13 of this chapter. If the amounts calculated  
20 under (b) and (c) of this section are equal, the amount calculated under  
21 (b) of this section shall be treated as if it were the greater for  
22 purposes of this section.

23 (b) The percentage-of-value amount equals 10 per cent of the gross  
24 value at the point of production of the taxable gas produced from the  
25 lease or property.

26 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic feet  
27 of taxable gas produced from the lease or property as adjusted by sec.  
28 12 of this chapter.

29 Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided

1 in this chapter and in ch. 58 of this title, the taxes imposed by this  
2 chapter are in place of all taxes now imposed by the state or any of its  
3 municipalities, and neither the state nor a municipality may impose a  
4 tax upon

- 5 (1) producing oil or gas leases;
- 6 (2) oil or gas produced or extracted in the state;
- 7 (3) the value of intangible drilling and exploration ex-

8 penses.

9 (b) The taxes imposed by this chapter are in place of all taxes  
10 imposed by a municipality upon oil or gas in place or nonproducing oil  
11 or gas leases or properties.

12 (c) The taxes imposed by this chapter are not in place of the tax  
13 imposed by ch. 57 of this title or income taxes, franchise taxes or  
14 taxes upon the retail sale of oil or gas products.

15 \* Sec. 2. AS 43.55.020(a) is amended to read:

16 (a) The gross production tax on oil or gas shall be paid monthly.  
17 The tax is due on the 20th [LAST] day of each calendar month on oil or  
18 gas produced [REMOVED OR SOLD] from each lease or property during the  
19 preceding month. If the tax is not paid before the end of the month in  
20 which it becomes due, the tax becomes delinquent.

21 \* Sec. 3. AS 43.55.030(a)(1) is amended to read:

22 (1) a description of the lease or property from which the oil  
23 or gas was produced [REMOVED OR SOLD], by name, legal description, lease  
24 number or by accounting code numbers assigned to the department;

25 \* Sec. 4. AS 43.55.030(a)(3) is amended to read:

26 (3) the gross amount of oil or gas produced [REMOVED OR SOLD]  
27 from the lease or property, and the percentage of the gross amount owned  
28 by each producer for whom the tax is paid;

29 \* Sec. 5. AS 43.55.030(a)(4) is amended to read:

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(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. 6. AS 43.55.140 is amended by adding a new paragraph to read:

(12) "well days" means the number of days in which a well is operating during a month.

\* Sec. 7. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are repealed.

\* Sec. 8. This Act takes effect July 1, 1977 and applies to production during the month of July, 1977, and succeeding months.

Original sponsor: Rules Committee by request  
of the Legislative Council  
(for the Subcommittee on Oil  
and Gas Leasing and Taxing  
Policies)

Offered: 4/22/77  
Referred: Rules

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 103 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act concerning the oil and gas properties produc-  
7 tion tax; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43.55 is amended by adding new sections to read:

10 Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the  
11 producer of oil a tax for all oil produced from each lease or property  
12 in the state, less any oil the ownership or right to which is exempt  
13 from taxation. The tax is equal to either the percentage-of-value  
14 amount calculated under (b) of this section or the cents-per-barrel  
15 amount calculated under (c) of this section, whichever is greater,  
16 multiplied by the economic limit factor determined for the oil produc-  
17 tion of the lease or property under sec. 13 of this chapter. If the  
18 amounts calculated under (b) and (c) of this section are equal, the  
19 amount calculated under (b) of this section shall be treated as if it  
20 were the greater for purposes of this section.

21 (b) The percentage-of-value amount equals 12.5 per cent of the  
22 gross value at the point of production of taxable oil produced from the  
23 lease or property.

24 (c) The cents-per-barrel amount equals \$.65 per barrel of taxable  
25 oil produced from the lease or property, as adjusted by sec. 12 of this  
26 chapter.

27 (d) When the cents-per-barrel amount calculated under (c) of this  
28 section is greater than the percentage-of-value amount calculated under  
29 (b) of this section, an amount not less than \$.05 for each barrel of

1 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. The cents-per-barrel  
8 amount set out in sec. 11(c) of this chapter applies to oil of 27  
9 degrees API gravity. For each degree of API gravity less than 27  
10 degrees the cents-per-barrel amount shall be reduced by \$.005 and for  
11 each degree of API gravity greater than 27 degrees the cents-per-barrel  
12 amount shall be increased by \$.005 except that oil above 40 degrees API  
13 gravity shall be taxed as 40 degree oil. In applying the gravity ad-  
14 justment under this subsection, fractional degrees of API gravity shall  
15 be disregarded.

16 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit  
17 factor for oil production of a lease or property equals

$$18 \quad (1 - [PEL/TP]) \exp ([300 \times WD]/PEL)$$

19 Where: PEL = the production rate at the economic limit;

20 TP = total production during the month for which the tax  
21 is to be paid;

22 WD = the total number of well days in the month for which  
23 the tax is to be paid; and

24 Where "exp" indicates that the expression following it is an exponent.

25 (b) The economic limit factor for gas production of a lease or  
26 property equals one minus the ratio of the monthly production rate at  
27 the economic limit to the production during the month for which the tax  
28 is to be paid.

29 (c) The monthly production rate at the economic limit for a lease

1 or property is presumed to be 100 barrels times the number of well days  
2 for the lease or property during the month for which the tax is to be  
3 paid. The taxpayer may rebut this presumption at a formal hearing  
4 under AS 43.05.420 by providing clear and convincing evidence of a  
5 different monthly production rate at the economic limit for the lease  
6 or property. The hearing shall be held before February 15 of the year  
7 or within six months after commencement of oil production for a lease  
8 or property. The monthly production rate at the economic limit for  
9 the lease or property based upon the clear and convincing evidence  
10 of the taxpayer shall be calculated by dividing the value determined  
11 under (e) of this section into the average monthly direct operating  
12 cost determined under (d) of this section and shall be used for purposes  
13 of this section for all oil production during that calendar year from  
14 the lease or property.

15 (d) The average monthly direct operating cost for oil production  
16 operations of the lease or property shall be determined based on the  
17 number of months operated during the preceding 12-month period. The  
18 direct operating costs include production supplies, purchased fuel,  
19 routine maintenance, and wages and benefits of employees working on the  
20 production operations. The direct operating costs do not include  
21 capital expenditures, tangible or intangible drilling expenses, costs of  
22 well workovers, costs for replacement or repairs (other than routine  
23 maintenance), depreciation or amortization, taxes, insurance, overhead,  
24 money paid or set aside (or booked as being paid or set aside) to cover  
25 the cost of terminating the oil production operations of the lease or  
26 property, or any other cost not directly related to the oil production  
27 operations of the lease or property.

28 (e) For the purposes of this chapter, the gross value of oil shall  
29 be calculated as provided in sec. 150 of this chapter, and the gross

1 value of gas shall be calculated as provided in (h) of this section.

2 (f) Before February 15 of each year or within six months after  
3 commencement of gas production for a lease or property, the department  
4 shall notify the producer of gas of the monthly production rate at the  
5 economic limit for each lease or property in the state for that year.  
6 The monthly production rate at the economic limit for a lease or property  
7 shall be determined at a formal hearing under AS 43.05.240 and must be  
8 established by clear and convincing evidence presented by the taxpayer  
9 at that hearing. The monthly production rate at the economic limit for  
10 the lease or property based upon the clear and convincing evidence of  
11 the taxpayer shall be calculated by dividing the value determined under  
12 (h) of this section into the average monthly direct operating cost  
13 determined under (g) of this section.

14 (g) The average monthly direct operating cost for gas production  
15 operations of the lease or property shall be determined based on the  
16 number of months operated during the preceding 12-month period. The  
17 direct operating costs include drilling supplies, fuel, routine mainte-  
18 nance, and wages and benefits of employees working on the production  
19 operations. The direct operating costs do not include capital expendi-  
20 tures, tangible or intangible drilling expenses, costs of well work-  
21 overs, costs for replacement or repairs (other than routine maintenance),  
22 depreciation or amortization, taxes, insurance, overhead, money paid or  
23 set aside (or booked as being paid or set aside) to cover the cost of  
24 terminating the gas production operations of the lease or property, or  
25 any other cost not directly related to the gas production operations of  
26 the lease or property.

27 (h) The value at the point of production of gas produced from the  
28 lease or property shall be determined on the basis of the highest price  
29 paid for gas of like quality and pressure in the same field.

1 (i) The department may aggregate two or more leases or properties  
2 (or portions of them), for purposes of determining economic limit  
3 factors under this section and applying them to sec. 11 of this chapter,  
4 when economically interdependent oil or gas production operations are  
5 not confined to a single lease or property. The department may also  
6 segregate a lease or property into two or more parts, for purposes of  
7 determining economic limit factors under this section and applying them  
8 under sec. 11 of this chapter, when two or more economically independent  
9 oil or gas production operations are being conducted on it.

10 (j) A determination of the monthly production rate at the economic  
11 limit for a lease or property is retroactive to January 1 of the current  
12 year. For production of a lease or property commencing after January 1,  
13 the determination of the monthly production rate at the economic limit  
14 for that lease or property made within six months after the commencement  
15 of production is retroactive to the commencement of production.

16 Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the  
17 producer of gas a tax for all gas produced from each lease or property  
18 in the state, less any gas the ownership or right to which is exempt  
19 from taxation. The tax is equal to either the percentage-of-value  
20 amount calculated under (b) of this section or the cents-per-Mcf amount  
21 calculated under (c) of this section, whichever is greater, multiplied  
22 by the economic limit factor determined for gas production of the lease  
23 or property under sec. 13 of this chapter. If the amounts calculated  
24 under (b) and (c) of this section are equal, the amount calculated under  
25 (b) of this section shall be treated as if it were the greater for  
26 purposes of this section.

27 (b) The percentage-of-value amount equals 10 per cent of the gross  
28 value at the point of production of the taxable gas produced from the  
29 lease or property.

1 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic feet  
2 of taxable gas produced from the lease or property as adjusted by sec.  
3 12 of this chapter.

4 Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided  
5 in this chapter and in ch. 58 of this title, the taxes imposed by this  
6 chapter are in place of all taxes now imposed by the state or any of its  
7 municipalities, and neither the state nor a municipality may impose a  
8 tax upon

- 9 (1) producing oil or gas leases;  
10 (2) oil or gas produced or extracted in the state;  
11 (3) the value of intangible drilling and exploration ex-  
12 penses.

13 (b) The taxes imposed by this chapter are in place of all taxes  
14 imposed by a municipality upon oil or gas in place or nonproducing oil  
15 or gas leases or properties.

16 (c) The taxes imposed by this chapter are not in place of the tax  
17 imposed by ch. 57 of this title or income taxes, franchise taxes or  
18 taxes upon the retail sale of oil or gas products.

19 \* Sec. 2. AS 43.55.020(a) is amended to read:

20 (a) The gross production tax on oil or gas shall be paid monthly.  
21 The tax is due on the 20th [LAST] day of each calendar month on oil or  
22 gas produced [REMOVED OR SOLD] from each lease or property during the  
23 preceding month. If the tax is not paid before the end of the month in  
24 which it becomes due, the tax becomes delinquent.

25 \* Sec. 3. 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, lease  
28 number or by accounting code numbers assigned to the department;

29 \* Sec. 4. 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. 5. 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. 6. AS 43.55.140 is amended by adding a new paragraph to read:

9 (12) "well days" means the number of days in which a well is  
10 operating during a month.

11 \* Sec. 7. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are re-  
12 pealed.

13 \* Sec. 8. This Act takes effect July 1, 1977 and applies to production  
14 during the month of July, 1977, and succeeding months.

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Original sponsor: Rules Committee by request  
of the Legislative Council  
(for the Subcommittee on Oil  
and Gas Leasing and Taxing  
Policies)

Offered: 4/22/77  
Referred: Rules

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 103 (Finance) am(failed S)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE -- FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act concerning the oil and gas properties produc-  
7 tion tax; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43.55 is amended by adding new sections to read:

10 Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the  
11 producer of oil a tax for all oil produced from each lease or property  
12 in the state, less any oil the ownership or right to which is exempt  
13 from taxation. The tax is equal to either the percentage-of-value  
14 amount calculated under (b) of this section or the cents-per-barrel  
15 amount calculated under (c) of this section, whichever is greater,  
16 multiplied by the economic limit factor determined for the oil produc-  
17 tion of the lease or property under sec. 13 of this chapter. If the  
18 amounts calculated under (b) and (c) of this section are equal, the  
19 amount calculated under (b) of this section shall be treated as if it  
20 were the greater for purposes of this section.

21 (b) The percentage-of-value amount equals 10.5 per cent of the  
22 gross value at the point of production of taxable oil produced from the  
23 lease or property.

24 (c) The cents-per-barrel amount equals \$.55 per barrel of  
25 taxable oil produced from the lease or property for all oil defined  
26 as "lower tier oil" under the provisions of the Energy Policy and  
27 Conservation Act of 1975 (P.L. 94-163), as amended, and \$.75 per barrel  
28 of all other taxable oil produced from the lease or property, both as  
29 adjusted by Sec. 12 of this chapter.

1 (d) When the cents-per-barrel amount calculated under (c) of this  
2 section is greater than the percentage-of-value amount calculated under  
3 (b) of this section, an amount not less than \$.05 for each barrel of  
4 taxable oil produced shall be paid by the state out of its  
5 royalties from the oil whenever payment by the state is required under  
6 the revenue-sharing provisions of sec. 9 of the Alaska Native Claims  
7 Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.)  
8 into the Alaska Native Fund, until all amounts paid in the fund equal  
9 \$500,000,000.

10 Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. The cents-per-barrel  
11 amount set out in sec. 11(c) of this chapter applies to oil of 27  
12 degrees API gravity. For each degree of API gravity less than 27  
13 degrees the cents-per-barrel amount shall be reduced by \$.005 and for  
14 each degree of API gravity greater than 27 degrees the cents-per-barrel  
15 amount shall be increased by \$.005 except that oil above 40 degrees API  
16 gravity shall be taxed as 40 degree oil. In applying the gravity ad-  
17 justment under this subsection, fractional degrees of API gravity shall  
18 be disregarded.

19 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit  
20 factor for oil production of a lease or property equals

$$21 \quad (1 - [\text{PEL}/\text{TP}]) \exp ([300 \times \text{WD}]/\text{PEL})$$

22 Where: PEL = the production rate at the economic limit;

23 TP = total production during the month for which the tax  
24 is to be paid;

25 WD = the total number of well days in the month for which  
26 the tax is to be paid; and

27 Where "exp" indicates that the expression following it is an exponent.

28 (b) The economic limit factor for gas production of a lease or  
29 property equals one minus the ratio of the monthly production rate at

1 the economic limit to the production during the month for which the tax  
2 is to be paid.

3 (c) The monthly production rate at the economic limit for a lease  
4 or property is presumed to be 100 barrels times the number of well days  
5 for the lease or property during the month for which the tax is to be  
6 paid. The taxpayer may rebut this presumption at a formal hearing  
7 under AS 43.05.420 by providing clear and convincing evidence of a  
8 different monthly production rate at the economic limit for the lease  
9 or property. The hearing shall be held before February 15 of the year  
10 or within six months after commencement of oil production for a lease  
11 or property. The monthly production rate at the economic limit for  
12 the lease or property based upon the clear and convincing evidence  
13 of the taxpayer shall be calculated by dividing the value determined  
14 under (e) of this section into the average monthly direct operating  
15 cost determined under (d) of this section and shall be used for purposes  
16 of this section for all oil production during that calendar year from  
17 the lease or property.

18 (d) The average monthly direct operating cost for oil production  
19 operations of the lease or property shall be determined based on the  
20 number of months operated during the preceding 12-month period. The  
21 direct operating costs include production supplies, purchased fuel,  
22 routine maintenance, and wages and benefits of employees working on the  
23 production operations. The direct operating costs do not include  
24 capital expenditures, tangible or intangible drilling expenses, costs of  
25 well workovers, costs for replacement or repairs (other than routine  
26 maintenance), depreciation or amortization, taxes, insurance, overhead,  
27 money paid or set aside (or booked as being paid or set aside) to cover  
28 the cost of terminating the oil production operations of the lease or  
29 property, or any other cost not directly related to the oil production

1 operations of the lease or property.

2 (e) For the purposes of this chapter, the gross value of oil shall  
3 be calculated as provided in sec. 150 of this chapter, and the gross  
4 value of gas shall be calculated as provided in (h) of this section.

5 (f) Before February 15 of each year or within six months after  
6 commencement of gas production for a lease or property, the department  
7 shall notify the producer of gas of the monthly production rate at the  
8 economic limit for each lease or property in the state for that year.  
9 The monthly production rate at the economic limit for a lease or property  
10 shall be determined at a formal hearing under AS 43.05.240 and must be  
11 established by clear and convincing evidence presented by the taxpayer  
12 at that hearing. The monthly production rate at the economic limit for  
13 the lease or property based upon the clear and convincing evidence of  
14 the taxpayer shall be calculated by dividing the value determined under  
15 (h) of this section into the average monthly direct operating cost  
16 determined under (g) of this section.

17 (g) The average monthly direct operating cost for gas production  
18 operations of the lease or property shall be determined based on the  
19 number of months operated during the preceding 12-month period. The  
20 direct operating costs include drilling supplies, fuel, routine mainte-  
21 nance, and wages and benefits of employees working on the production  
22 operations. The direct operating costs do not include capital expendi-  
23 tures, tangible or intangible drilling expenses, costs of well work-  
24 overs, costs for replacement or repairs (other than routine maintenance),  
25 depreciation or amortization, taxes, insurance, overhead, money paid or  
26 set aside (or booked as being paid or set aside) to cover the cost of  
27 terminating the gas production operations of the lease or property, or  
28 any other cost not directly related to the gas production operations of  
29 the lease or property.

1 (h) The value at the point of production of gas produced from the  
2 lease or property shall be determined on the basis of the highest price  
3 paid for gas of like quality and pressure in the same field.

4 (i) The department may aggregate two or more leases or properties  
5 (or portions of them), for purposes of determining economic limit  
6 factors under this section and applying them to sec. 11 of this chapter,  
7 when economically interdependent oil or gas production operations are  
8 not confined to a single lease or property. The department may also  
9 segregate a lease or property into two or more parts, for purposes of  
10 determining economic limit factors under this section and applying them  
11 under sec. 11 of this chapter, when two or more economically independent  
12 oil or gas production operations are being conducted on it.

13 (j) A determination of the monthly production rate at the economic  
14 limit for a lease or property is retroactive to January 1 of the current  
15 year. For production of a lease or property commencing after January 1,  
16 the determination of the monthly production rate at the economic limit  
17 for that lease or property made within six months after the commencement  
18 of production is retroactive to the commencement of production.

19 Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the  
20 producer of gas a tax for all gas produced from each lease or property  
21 in the state, less any gas the ownership or right to which is exempt  
22 from taxation. The tax is equal to either the percentage-of-value  
23 amount calculated under (b) of this section or the cents-per-Mcf amount  
24 calculated under (c) of this section, whichever is greater, multiplied  
25 by the economic limit factor determined for gas production of the lease  
26 or property under sec. 13 of this chapter. If the amounts calculated  
27 under (b) and (c) of this section are equal, the amount calculated under  
28 (b) of this section shall be treated as if it were the greater for  
29 purposes of this section.

1 (b) The percentage-of-value amount equals 10 per cent of the gross  
2 value at the point of production of the taxable gas produced from the  
3 lease or property.

4 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic feet  
5 of taxable gas produced from the lease or property as adjusted by sec.  
6 12 of this chapter.

7 Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided  
8 in this chapter and in ch. 58 of this title, the taxes imposed by this  
9 chapter are in place of all taxes now imposed by the state or any of its  
10 municipalities, and neither the state nor a municipality may impose a  
11 tax upon

12 (1) producing oil or gas leases;  
13 (2) oil or gas produced or extracted in the state;  
14 (3) the value of intangible drilling and exploration ex-  
15 penses.

16 (b) The taxes imposed by this chapter are in place of all taxes  
17 imposed by a municipality upon oil or gas in place or nonproducing oil  
18 or gas leases or properties.

19 (c) The taxes imposed by this chapter are not in place of the tax  
20 imposed by ch. 57 of this title or income taxes, franchise taxes or  
21 taxes upon the retail sale of oil or gas products.

22 \* Sec. 2. AS 43.55.020(a) is amended to read:

23 (a) The gross production tax on oil or gas shall be paid monthly.  
24 The tax is due on the 20th [LAST] day of each calendar month on oil or  
25 gas produced [REMOVED OR SOLD] from each lease or property during the  
26 preceding month. If the tax is not paid before the end of the month in  
27 which it becomes due, the tax becomes delinquent.

28 \* Sec. 3. AS 43.55.030(a)(1) is amended to read:

29 (1) a description of the lease or property from which the oil

1 or gas was produced [REMOVED OR SOLD], by name, legal description, lease  
2 number or by accounting code numbers assigned to the department;

3 \* Sec. 4. AS 43.55.030(a)(3) is amended to read:

4 (3) the gross amount of oil or gas produced [REMOVED OR SOLD]  
5 from the lease or property, and the percentage of the gross amount owned  
6 by each producer for whom the tax is paid;

7 \* Sec. 5. AS 43.55.030(a)(4) is amended to read:

8 (4) the total value of the oil or gas produced [REMOVED OR  
9 SOLD] from the lease or property owned by each producer for whom the tax  
10 is paid; and

11 \* Sec. 6. AS 43.55.140 is amended by adding a new paragraph to read:

12 (12) "well days" means the number of days in which a well is  
13 operating during a month.

14 \* Sec. 7. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are re-  
15 pealed.

16 \* Sec. 8. This Act takes effect July 1, 1977 and applies to production  
17 during the month of July, 1977, and succeeding months.

1 IN THE SENATE

BY HUBER, CROFT AND WILLIS

2 SENATE BILL NO. 202

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 assessment and taxation of oil and  
7 gas properties net proceeds tax; and providing for an  
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 43 is amended by adding a new chapter to read:

11 CHAPTER 22. OIL AND GAS PROPERTIES NET PROCEEDS TAX.

12 Sec. 43.22.010. PURPOSE. The purposes of the oil and gas proper-  
13 ties net proceeds tax are to provide efficient administration and  
14 collection of an ad valorem tax based on the income to the property of  
15 oil and gas, and to provide a rate of taxation on the income to the  
16 property of oil and gas equal to the corporate state income tax rates  
17 provided in AS 43.20.011.

18 Sec. 43.22.020. STATEMENT OF YIELD. (a) Every person engaged in  
19 producing oil and gas and every recipient of royalty payments in con-  
20 nection with oil and gas production shall file annually, on or before  
21 February 1, with the department a statement showing the gross value of  
22 production and claimed net proceeds from each well or field owned or op-  
23 erated by the person during the previous calendar year.

24 (b) The statement shall be on forms prescribed by or acceptable to  
25 the department, and shall be under oath, and shall include, in addition  
26 to other information required,

27 (1) the name and address of the operator of the well or  
28 field, together with a list in duplicate of the names and addresses of  
29 any persons owning or claiming a royalty interest in the production of

1 the well or the proceeds derived from the sale of it, and the amount  
2 paid or delivered in kind as royalty to each of these persons during the  
3 period covered by the statement;

4 (2) the description and location of the well or field;

5 (3) the number of cubic feet of natural gas, barrels of  
6 petroleum, or other crude or mineral oil extracted or produced from the  
7 well during the period covered by the statement;

8 (4) the gross value in dollars of the production at the  
9 wellhead or other point chosen by the department; and

10 (5) the claimed deductions from the gross value in the detail  
11 set out in sec. 30 of this chapter.

12 (c) Each recipient of royalty payments as described in (b)(1) of  
13 this section shall annually file with the department a list showing each  
14 of the lessees responsible for taxes due in connection with the wells or  
15 fields included in the statement filed under (a) and (b) of this section.

16 Sec. 43.22.030. NET PROCEEDS: HOW COMPUTED. (a) The department  
17 shall, from the statement and from all obtainable data, evidence and  
18 reports, compute the gross value of production and net proceeds.

19 (b) The net proceeds shall be ascertained and determined by sub-  
20 tracting from the gross value the following deductions for costs in-  
21 curred during the year, and none other:

22 (1) royalties paid or due the United States or the state;

23 (2) royalties paid or due, other than to the United States or  
24 the state, by a lessee or sublessee of a well or field, or by both,  
25 shall constitute a deductible item; but the royalties so deducted by the  
26 lessee or sublessee constitutes part of the gross yield of the well or  
27 field for the purpose of determining the net proceeds upon which a tax  
28 shall be levied against the person to which the royalty has been paid;

29 (3) the costs of transporting the product beyond the area of

1 the well or field to the point of gross valuation, if the gross valua-  
2 tion point chosen by the department is beyond the area of the well or  
3 field;

4 (4) operating costs incurred in the state as determined under  
5 regulations of the department; operating costs shall include

6 (A) well machinery, equipment, apparatus and facilities;

7 (B) transportation facilities and equipment;

8 (C) money expended for necessary labor and supplies  
9 needed and used in the well or field operations and developments;

10 (D) money expended for fire insurance and workmen's  
11 compensation insurance, and for payments by operators to welfare  
12 and retirement funds when provided for in wage contracts between  
13 operators and employees;

14 (E) office clerical or engineering work in the state  
15 necessary or proper in connection with these operations;

16 (5) the deductions mentioned in this subsection shall not  
17 include the salary of a person not subject to the withholding of state  
18 income tax under AS 43.20.170 or not actually engaged in

19 (A) the operation of a well or field or of transporta-  
20 tion facilities or equipment or superintending the management of  
21 them; or

22 (B) office clerical or engineering work in the state  
23 necessary or proper in connection with these operations;

24 (6) in lieu of the deduction of expenses incurred outside the  
25 state, an indirect expense allowance equal to five per cent of expenses  
26 reported under sec. 30(4) of this chapter shall be allowed;

27 (7) all taxes paid or due to the state under chs. 55, 56, and  
28 57 of this title;

29 (8) recovery of capital and exploration investments.

1           Sec. 43.22.040. RECOVERY OF CAPITAL AND EXPLORATION EXPENSES. (a)

2           The department shall issue regulations required to determine deductions  
3           for the depreciation and recovery of investments related to an operating  
4           well or field.

5           (b) Geological and geophysical costs, bonus payments, dry hole  
6           costs, and unrecovered costs after lease abandonments which are incurred  
7           in areas of the state in which the producer does not hold a currently  
8           valid lease, contractual agreement, or other economic interest may be  
9           charged against the net proceeds of currently operating wells or fields  
10          in which the taxpayer has an interest. However,

11          (1) costs under this subsection may be carried forward for no  
12          more than 10 years from the year in which the cost is declared;

13          (2) a cost reported under this subsection may not be charged  
14          at a rate of more than 20 per cent of the cost in any one year; and

15          (3) costs may not be reported as expenses under this section  
16          if they have previously been charged against state income taxes either  
17          directly as reported to the department or indirectly through an appor-  
18          tionment formula.

19          Sec. 43.22.050. AD VALOREM TAX LEVIED. (a) There is levied and  
20          shall be collected by the department an ad valorem tax based on the  
21          assessed value of production which is severed and sold from each well or  
22          field. The tax is levied at the rate provided in AS 43.20.011(e) on the  
23          net proceeds from the production which is severed and sold from each  
24          well or field.

25          (b) A taxpayer liable to taxation under this chapter is exempt  
26          from further taxation under ch. 20 of this title only to the extent of  
27          income earned from the production of oil in the state.

28          Sec. 43.22.060. VALUE MAY BE DETERMINED BY DEPARTMENT. The de-  
29          partment may determine the value of production severed from a well or

1 field when (1) the operator and purchaser are affiliated persons; (2)  
2 the sale and purchase of the production is not an arm's length trans-  
3 action; or (3) the production is severed and removed from a production  
4 unit, and a value as defined in this chapter is not established for this  
5 production. The value determined by the department shall be commensurate  
6 with the actual price received for production of like quality,  
7 character, and use which is severed in the same well or field or area  
8 and shall not be computed at a lesser amount than the actual value  
9 received for the state's royalty oil or gas received for production of  
10 like quality, character and use which are severed in the same well or  
11 field or area.

12 Sec. 43.22.070. CERTIFICATES OF AMOUNT OF NET PROCEEDS. (a) When  
13 the department determines the net proceeds of a well or field, it shall  
14 prepare its certificate of the net proceeds and taxes due on them in  
15 duplicate and shall keep one copy in the department and send the second  
16 copy by certified mail

17 (1) a person who is the owner of the property, or who controls that property as agent, or on account of any other person;

18 (2) a guardian or other person who has charge of taxable  
19 property belonging to a minor or other person;

20 (3) the trustee of a trust estate holding taxable property in  
21 trust for the benefit of another person;

22 (4) the executor or administrator of a deceased person's  
23 estate which includes taxable property;

24 (5) the receiver of a corporation who has its assets in his  
25 hands.  
26

27 (b) Upon the filing of the copy of the certificate and mailing of  
28 the second copy, the assessment shall be considered to be made in the  
29 amount fixed by the certificate and taxes on that amount shall be im-

1 mediatly due and payable.

2 Sec. 43.22.080. APPEALS. (a) A person aggrieved by the action of  
3 the department in making an assessment may appeal that action and obtain  
4 a hearing upon its validity before the department by filing written ob-  
5 jections to the assessment not later than 20 days after the effective  
6 date of the assessment notice.

7 (b) The procedures for conduct of the hearing and preliminary ac-  
8 tivities to it shall be in accordance with AS 44.62.350, 44.62.430,  
9 44.62.450 - 640, 44.62.480, 44.62.500 - 550, 44.62.590, and 44.62.610 -  
10 640. The term "respondent" used in those sections of AS 44.62 (Adminis-  
11 trative Procedure Act) shall be considered, for the purposes of this  
12 section, to include the person aggrieved by action of the department.  
13 The department shall provide by regulation for notices of hearing under  
14 this section to interested persons. At the hearing the appellant bears  
15 the burden of proof. In the absence of this proof the assessment is to  
16 be upheld by the department. If the department, after hearing, deter-  
17 mines that a correction of the assessment is warranted, the department  
18 shall correct the assessment.

19 (c) Within 30 days after the decision by the department following  
20 the hearing, a person aggrieved by that decision may appeal to the  
21 superior court. The superior court shall grant priority on its dockets  
22 for the appeals over all civil cases then pending.

23 Sec. 43.22.090. RETURNS AND PAYMENT OF TAX. (a) A return of the  
24 taxes due and payable, fixed by the certificate of the net proceeds shall  
25 be submitted on or before the 60th day after the filing of the certifi-  
26 cate on the form prescribed by the department. The return shall be sub-  
27 mitted by those persons listed in sec. 70 of this chapter.

28 (b) The person required to submit the return specified under (a)  
29 of this section is primarily liable for payment of the tax levied by

1 this chapter. The persons or estates specified in sec. 70(a)(2) - (5)  
2 of this chapter in whose behalf the tax levied by this chapter is to be  
3 paid are secondarily liable for payment of the tax. With the written  
4 approval of the department, an operator or nonoperator of the lease or  
5 property may submit returns or make payment of the tax levied under this  
6 chapter on behalf of himself and other persons the department may ap-  
7 prove.

8 (c) The tax levied under this chapter is payable to the department  
9 on or before the 60th day after the filing of the certificate or in  
10 estimated installments at the times and under the conditions the depart-  
11 ment may by regulation require. This tax is payable on the due date set  
12 out in this subsection even though the assessment is under appeal or the  
13 validity, enforceability or application of this chapter or provision of  
14 this chapter is challenged before the department or in the courts.

15 (d) A person making payment of the tax levied under this chapter  
16 on behalf of one or more other persons owning or otherwise holding an  
17 interest in a taxable property may withhold a proportionate share of the  
18 payment from the proceeds or other benefits from the taxable property  
19 owed to any person on whose behalf the payment is made. Unless other-  
20 wise specifically provided by written contract or agreement, the person  
21 so withholding a proportionate share of the tax levied under this  
22 chapter incurs no liability to those from whom it is withheld by virtue  
23 of having made the withholding.

24 (e) By written notice the department may require a person filing a  
25 return to submit additional information to the department no later than  
26 30 days after the notice.

27 Sec. 43.22.100. CIVIL PENALTY. Five per cent shall be added to  
28 the tax for each 30-day period or fraction of that period during which  
29 the taxpayer fails to file a return or pay the full amount of the tax,

1 or a portion or a deficiency of the tax due and payable as finally  
2 determined by the department and required by this chapter, unless it is  
3 shown that the failure is due to reasonable cause and not to wilful  
4 neglect. The penalty may not exceed 25 per cent in the aggregate. The  
5 penalty shall be collected at the same time, in the same manner and as a  
6 part of the original tax, but if the original tax is paid before the  
7 neglect is discovered, the penalty shall be collected in the same manner  
8 as the original tax. The department shall describe by regulations  
9 circumstances which constitute reasonable cause for purposes of this  
10 section.

11 Sec. 43.22.110. INTEREST. When the tax levied in this chapter  
12 becomes delinquent, it bears interest at the rate of eight per cent a  
13 year.

14 Sec. 43.22.120. LIEN. The tax, penalty and interest payable under  
15 this chapter are first and paramount liens on the property subject to  
16 tax under this chapter.

17 Sec. 43.22.130. REMEDY. The remedy of distraint of property set  
18 out in AS 43.20.270 applies to the tax, penalty and interest levied by  
19 this chapter.

20 Sec. 43.22.140. BURDEN OF PROOF. In a suit arising concerning the  
21 assessment and taxation of the proceeds of wells or fields, the burden  
22 of proof shall be upon the person owning or operating the well or field  
23 and every recipient of royalty payments in connection with them.

24 Sec. 43.22.150. REGULATIONS. The department may adopt regulations  
25 in accordance with the Administrative Procedure Act (AS 44.62) as  
26 appropriate to administer and enforce this chapter.

27 Sec. 43.22.160. 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. 43.22.170. DEFINITIONS. In this chapter

6 (1) "department" means the Department of Revenue;

7 (2) "gas" means all hydrocarbon substances not defined as oil  
8 in this chapter;

9 (3) "gross value" means the price as determined by the depart-  
10 ment at the wellhead or other point chosen by the department;

11 (4) "oil" means crude petroleum and other hydrocarbons re-  
12 gardless of gravity which, when recovered, are recovered at the well-  
13 head in liquid form, and the liquid hydrocarbons known as distillate or  
14 condensate that are recovered by separation from gas other than at a  
15 processing plant;

16 (5) "well or field" means any well, field, lease, pool, or  
17 property.

18 \* Sec. 2. This Act takes effect January 1, 1978.  
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1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 236

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) as  
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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Introduced: 3/11/77  
Referred: Resources and Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 237

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas exploration,  
7 production, and pipeline and marine transportation  
8 property tax; and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 43.56.010(d) is amended to read:

11 CHAPTER 56. OIL AND GAS EXPLORATION, PRODUCTION,  
12 AND PIPELINE AND MARINE TRANSPORTATION PROPERTY TAXES.

13 (d) A tax paid to a municipality under AS 29.53.045 on or before  
14 June 30 of the tax year shall be credited against the tax levied under  
15 (a) of this section for that tax year. If, however, a tax is not paid  
16 to a municipality until after June 30 of the taxable year, the depart-  
17 ment upon application shall refund to the taxpayer the amount of tax  
18 paid to the municipality under AS 29.53.045. The credit or refund of  
19 taxes paid to a municipality may not exceed the total amount of tax  
20 levied by the department upon the taxpayer for the tax year, under (a)  
21 of this section. Current property taxes which are collected by one or  
22 more municipalities under AS 29.53.055 or any other authority which  
23 exceed the limitations set out in AS 29.53.045 or AS 29.53.050 are not  
24 allowed as a credit against, or refund of, the tax levied under this  
25 section. The credit or refund is only allowed for taxes paid for the  
26 current tax year.

27 \* Sec. 2. AS 43.56.060(a) is amended to read:

28 Sec. 43.56.060. ASSESSMENT. (a) The department shall assess  
29 property for the tax levied under sec. 10(b) of this chapter and AS

1 29.53.045 on property used or committed by contract or other agreement  
2 for use for the pipeline transportation of gas or unrefined oil, [OR]  
3 for the production of gas or unrefined oil, for refining of gas or  
4 unrefined oil, or for the processing, liquefaction, or manufacture of  
5 natural gas or oil products at its full and true value as of January  
6 1 of the assessment year. The department shall assess property for  
7 the tax levied under sec. 10(b) of this chapter and AS 29.53.045 on  
8 property used or committed by contract or other agreement for use in  
9 the marine transportation of gas or unrefined oil during any portion  
10 of the previous calendar year at its full and true value as of January  
11 1 of the previous calendar year as apportioned under sec. 65 of this  
12 chapter.

13 \* Sec. 3. AS 43.56.060(e)(2) is amended to read:

14 (2) determined on each January 1 thereafter with due regard  
15 to the economic value of the property based on the estimated life of  
16 the proven reserves of gas or unrefined oil then technically, econom-  
17 ically and legally deliverable into the transportation facility;  
18 [HOWEVER, IF THE PROVEN RESERVES OF GAS OR UNREFINED OIL THEN TECHN-  
19 CALLY, ECONOMICALLY AND LEGALLY DELIVERABLE INDICATE AN ECONOMIC LIFE  
20 MATERIALLY SHORTER THAN THE ESTIMATED PHYSICAL LIFE OF THE TRANSPORTA-  
21 TION FACILITY, THE FULL AND TRUE VALUE IS THE ACTUAL COST REDUCED BY  
22 AN ANNUAL ALLOWANCE FOR DEPRECIATION ON A STRAIGHT LINE BASIS OVER AN  
23 ECONOMIC LIFE BASED ON THE ACTUAL ELAPSED LIFE FROM THE COMMENCEMENT  
24 OF FULL OPERATION TO THE DATE OF ASSESSMENT PLUS THE ESTIMATED REMAIN-  
25 ING LIFE OF THE PROVEN RESERVES OF GAS AND UNREFINED OIL THEN TECHN-  
26 CALLY, ECONOMICALLY AND LEGALLY DELIVERABLE INTO THE TRANSPORTATION  
27 FACILITY AS OF THE DATE OF THE ASSESSMENT;]

28 \* Sec. 4. AS 43.56.060 is amended by adding new subsections to read:

29 (h) The full and true value of taxable property used or committed

1 by contract or other agreement for the refining of gas or unrefined  
2 oil or in the processing, liquefaction or manufacture of gas or oil  
3 products is determined on the basis of replacement cost less deprecia-  
4 tion based on the useful life of the property.

5 (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,

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).

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Introduced: 3/11/77  
Referred: Resources and Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 238

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas properties pro-  
7 duction tax; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43.55 is amended by adding new sections to read:

10 Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon  
11 the producer of oil a tax for all oil produced from each lease or  
12 property in the state, less any oil the ownership or right to which is  
13 exempt from taxation. The tax is equal to either the percentage-of-  
14 value amount calculated under (b) of this section or the cents-per-  
15 barrel amount calculated under (c) of this section, whichever is  
16 greater, multiplied by the economic limit factor determined for the  
17 oil production of the lease or property under sec. 13 of this chapter.  
18 If the amounts calculated under (b) and (c) of this section are equal,  
19 the amount calculated under (b) of this section shall be treated as if  
20 it were the greater for purposes of this section.

21 (b) The percentage-of-value amount equals 10 per cent of the  
22 gross value at the point of production of taxable oil produced from  
23 the lease or property.

24 (c) The cents-per-barrel amount equals \$.75 per barrel of taxable  
25 oil produced from the lease or property, as adjusted by sec. 12 of  
26 this chapter.

27 (d) When the cents-per-barrel amount calculated under (c) of  
28 this section is greater than the percentage-of-value amount calculated  
29 under (b) of this section, an amount not less than \$.05 for each

1 barrel of taxable oil produced shall be paid by the state out of its  
2 royalties from the oil whenever payment by the state is required under  
3 the revenue sharing provisions of sec. 9 of the Alaska Native Claims  
4 Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.)  
5 into the Alaska Native Fund, until all amounts paid in the fund equal  
6 \$500,000,000.

7 Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set  
8 out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or  
9 decreased by a percentage equal to the percentage of change in the  
10 Gross National Product Deflator published by Bureau of Economic Analysis  
11 of the United States Department of Commerce. Changes in tax rates  
12 will be computed based on changes in the Gross National Product Deflator  
13 from that of the First Quarter 1977 Gross National Product Deflator.  
14 The department shall post the changes in the tax rates periodically  
15 and shall notify every person producing oil within the state of the  
16 changes.

17 (b) The cents-per-barrel amount set out in sec. 11(c) of this  
18 chapter as adjusted by (a) of this section applies to oil of 27  
19 degrees API gravity. For each degree of API gravity less than 27  
20 degrees the cents-per-barrel amount shall be reduced by \$.005 and for  
21 each degree of API gravity greater than 27 degrees the cents-per-  
22 barrel amount shall be increased by \$.005 except that oil above 40  
23 degrees API gravity shall be taxed as 40 degree oil. In applying the  
24 gravity adjustment under this subsection, fractional degrees of API  
25 gravity shall be disregarded.

26 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit  
27 factor for oil production of a lease or property equals one minus the  
28 ratio of the monthly production rate at the economic limit to the  
29 production during the month for which the tax is to be paid.

1 (b) Before February 15 of each year or within six months after  
2 commencement of production for a lease or property, the department  
3 shall notify the taxpayer of the monthly production rate at the  
4 economic limit for each lease or property within the state for that  
5 year. The monthly production rate at the economic limit for a lease  
6 or property is presumed to be 100 barrels times the number of well-  
7 days for the lease or property during December of the preceding year,  
8 unless the taxpayer at a formal hearing under AS 43.05.240 provides  
9 clear and convincing evidence of a different monthly production rate  
10 at the economic limit for the lease or property. The monthly produc-  
11 tion rate at the economic limit for the lease or property based upon  
12 the clear and convincing evidence of the taxpayer shall be calculated  
13 by dividing the value determined under (d) of this section into the  
14 average monthly direct operating cost determined under (c) of this  
15 section.

16 (c) The average monthly direct operating cost for oil production  
17 operations of the lease or property shall be determined based on a  
18 period of not less than four consecutive months. The direct operating  
19 costs include drilling supplies, fuel, routine maintenance, and wages  
20 and benefits of employees working on the production operations. The  
21 direct operating costs do not include capital expenditures, tangible  
22 or intangible drilling expenses, costs of well workovers, costs for  
23 replacement or repairs (other than routine maintenance), depreciation  
24 or amortization, taxes, insurance, overhead, money paid or set aside  
25 (or booked as being paid or set aside) to cover the cost of terminating  
26 the oil production operations of the lease or property, or any other  
27 cost not directly related to the oil production operations of the  
28 lease or property.

29 (d) The value at the point of production of oil produced from

1 the lease or property shall be determined on the basis of the acquisi-  
2 tion cost C.I.F. at West Coast refineries for imported oil of like  
3 quality, minus the reasonable cost of transportation between the point  
4 of production of the oil from the lease or property and those West  
5 Coast refineries.

6 (e) Before February 15 of each year or within six months after  
7 commencement of production for a lease or property the department  
8 shall notify the producer of gas of the monthly production rate at the  
9 economic limit for each lease or property within the state for that  
10 year. The monthly production rate at the economic limit for a lease  
11 or property shall be determined at a formal hearing under AS 43.05.240  
12 and must be established by clear and convincing evidence presented by  
13 the taxpayer at that hearing. The monthly production rate at the  
14 economic limit for the lease or property based upon the clear and  
15 convincing evidence of the taxpayer shall be calculated by dividing  
16 the value determined under (g) of this section into the average monthly  
17 direct operating cost determined under (f) of this section.

18 (f) The average monthly direct operating cost for gas production  
19 operations of the lease or property shall be determined based on a  
20 period of not less than four consecutive months. The direct operating  
21 costs include drilling supplies, fuel, routine maintenance, and wages  
22 and benefits of employees working on the production operations. The  
23 direct operating costs do not include capital expenditures, tangible  
24 or intangible drilling expenses, costs of well workovers, costs for  
25 replacement or repairs (other than routine maintenance), depreciation  
26 or amortization, taxes, insurance, overhead, monies paid or set aside  
27 (or booked as being paid or set aside) to cover the cost of terminating  
28 the gas production operations of the lease or property, or any other  
29 cost not directly related to the gas production operations of the

1 lease or property.

2 (g) The value at the point of production of gas produced from  
3 the lease or property shall be determined on the basis of the highest  
4 price paid for gas of like quality and pressure in the same field or  
5 some other field within 100 miles in the state.

6 (h) The department may aggregate two or more leases or properties  
7 (or portions of them), for purposes of determining economic limit  
8 factors under this section and applying them to sec. 11 of this chapter,  
9 when economically interdependent oil or gas production operations are  
10 not confined to a single lease or property. The department may also  
11 segregate a lease or property into two or more parts, for purposes of  
12 determining economic limit factors under this section and applying  
13 them under sec. 11 of this chapter, when two or more economically  
14 independent oil or gas production operations are being conducted on  
15 it.

16 (i) A determination of the monthly production rate at the economic  
17 limit for a lease or property is retroactive to January 1 of the  
18 current year. For production of a lease or property commencing after  
19 January 1, the determination of the monthly production rate at the  
20 economic limit for that lease or property made within six months after  
21 the commencement of production is retroactive to the commencement of  
22 production.

23 Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon  
24 the producer of gas a tax for all gas produced from each lease or  
25 property in the state, less any gas the ownership or right to which is  
26 exempt from taxation. The tax is equal to either the percentage-of-  
27 value amount calculated under (b) of this section or the cents-per-Mcf  
28 amount calculated under (c) of this section, whichever is greater,  
29 multiplied by the economic limit factor determined for gas production

1 of the lease or property under sec. 13 of this chapter. If the amounts  
2 calculated under (b) and (c) of this section are equal, the amount  
3 calculated under (b) of this section shall be treated as if it were  
4 the greater for purposes of this section.

5 (b) The percentage-of-value amount equals 10 per cent of the  
6 gross value at the point of production of the taxable gas produced  
7 from the lease or property.

8 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic  
9 feet of taxable gas produced from the lease or property as adjusted by  
10 sec. 12 of this chapter.

11 Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided  
12 in this chapter and in ch. 58 of this title, the taxes imposed by this  
13 chapter are in place of all taxes now imposed by the state or any of  
14 its municipalities, and neither the state nor a municipality may  
15 impose a tax upon

- 16 (1) producing oil or gas leases;
- 17 (2) oil or gas produced or extracted in the state;
- 18 (3) the value of intangible drilling and exploration expenses.

19 (b) The taxes imposed by this chapter are in place of all taxes  
20 imposed by a municipality upon oil or gas in place or nonproducing oil  
21 or gas leases or properties.

22 (c) The taxes imposed by this chapter are not in place of the  
23 tax imposed by ch. 57 of this title or income taxes, franchise taxes  
24 or taxes upon the retail sale of oil or gas products.

25 \* Sec. 2. AS 43.55.020(a) is amended to read:

26 (a) The gross production tax on oil or gas shall be paid monthly.  
27 The tax is due on the 20th [LAST] day of each calendar month on oil or  
28 gas produced [REMOVED OR SOLD] from each lease or property during the  
29 preceding month. If the tax is not paid before the end of the month

1 in which it becomes due, the tax becomes delinquent.

2 \* Sec. 3. AS 43.55.020(e) is amended to read:

3 (e) Gas produced and used, except gas used in the operation of a  
4 lease or property in drilling for or producing oil or gas, or for  
5 repressuring, is considered, for the purpose of this chapter and in  
6 the amount used, as gas produced [REMOVED OR SOLD] from a lease or  
7 property. Gas flared under a permit granted by the Department of  
8 Natural Resources under AS 31.05.170(11)(H) is considered as gas  
9 produced, except that it is subject to a tax equal to twice the tax  
10 computed under sec. 16 of this chapter as adjusted by sec. 12 of this  
11 chapter per thousand cubic feet of gas for the month in which the gas  
12 was flared.

13 \* Sec. 4. AS 43.55.030(a)(1) is amended to read:

14 (1) a description of the lease or property from which the  
15 oil or gas was produced [REMOVED OR SOLD], by name, legal description,  
16 lease number or by accounting code numbers assigned to the department;

17 \* Sec. 5. AS 43.55.030(a)(3) is amended to read:

18 (3) the gross amount of oil or gas produced [REMOVED OR  
19 SOLD] from the lease or property, and the percentage of the gross  
20 amount owned by each producer for whom the tax is paid;

21 \* Sec. 6. AS 43.55.030(a)(4) is amended to read:

22 (4) the total value of the oil or gas produced [REMOVED OR  
23 SOLD] from the lease or property owned by each producer for whom the  
24 tax is paid; and

25 \* Sec. 7. AS 43.55.140 is amended by adding new paragraphs to read:

26 (12) "gross value at the point of production" means:

27 (A) for oil, the value of the oil at the point where it  
28 is metered or measured (by automatic custody transfer meter, tank  
29 gauge, or other method approved by the commissioner) in a condition

1 of pipeline quality on the premises of the lease or property from  
2 which it is recovered; however, if the oil is not of pipeline  
3 quality when it is removed from the premises of the lease or  
4 property from which it is recovered, or if the oil recovered from  
5 a lease or property is not metered or measured (by automatic  
6 custody transfer meter, tank gauge, or other method approved by  
7 the commissioner) on the premises of the lease or property from  
8 which it is recovered, then the gross value at the point of  
9 production is the value of that oil at the off-premises location  
10 where the oil is first metered or measured (by automatic custody  
11 transfer meter, tank gauge, or other method approved by the  
12 commissioner) in a condition of pipeline quality;

13 (B) for gas recovered from or in association with oil,  
14 the value of the gas at the point where it is accurately metered  
15 or measured after separation from the oil; for gas run through a  
16 gas processing plant, the gross value at the point of production  
17 is the full consideration received by the producer for the gas if  
18 sold in an arm's length transaction or, in the absence of an  
19 arm's length transaction, is the sum of the value of the liquids  
20 extracted from the gas at the plant and the value of the residue  
21 gas, less a reasonable allowance for processing the gas at the  
22 plant and for transporting the gas to the plant from the premises  
23 upon which the oil production operation is conducted; and

24 (C) for gas not recovered from or in association with  
25 oil, the value of the gas at the point where it is accurately  
26 metered or measured or the value of the gas at the point of sale,  
27 if any, on the premises of the lease or property from which the  
28 gas is recovered, whichever is the higher value; for gas run  
29 through a gas processing plant, the gross value at the point of

1 production is the full consideration received by the producer for  
2 the gas if sold in an arm's length transaction or, in the absence  
3 of an arm's length transaction, is the sum of the value of the  
4 liquids extracted from the gas at the plant and the value of the  
5 residue gas, less a reasonable allowance for processing the gas  
6 at the plant and for transporting the gas to the plant from the  
7 point where it was accurately metered or measured;

8 (13) "oil production operation" means the operation by  
9 which oil is recovered from a lease or property and rendered into oil  
10 of pipeline quality, and includes any gathering done before the oil is  
11 finally rendered into oil or pipeline quality;

12 (14) "pipeline quality" means good and merchantable condition

13 (15) "well days" means the number of days in which a well  
14 is operating during a month.

15 \* Sec. 8. AS 43.55.010, 43.55.015 and 43.55.140(10), and (11,) are  
16 repealed.

17 \* Sec. 9. This Act takes effect July 1, 1977 and applies to production  
18 during the month of July 1977 and succeeding months.  
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Original sponsor: Rules Committee by  
request of the Governor

Offered: 5/2/77  
Referred: Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 238

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas properties produc-  
7 tion tax; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43.55 is amended by adding new sections to read:

10 Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the  
11 producer of oil a tax for all oil produced from each lease or property  
12 in the state, less any oil the ownership or right to which is exempt  
13 from taxation. The tax is equal to either the percentage-of-value  
14 amount calculated under (b) of this section or the cents-per-barrel  
15 amount calculated under (c) of this section, whichever is greater,  
16 multiplied by the economic limit factor determined for the oil produc-  
17 tion of the lease or property under sec. 13 of this chapter. If the  
18 amounts calculated under (b) and (c) of this section are equal, the  
19 amount calculated under (b) of this section shall be treated as if it  
20 were the greater for purposes of this section.

21 (b) The percentage-of-value amount equals 12.5 per cent of the  
22 gross value at the point of production of taxable oil produced from the  
23 lease or property.

24 (c) The cents-per-barrel amount equals \$.65 per barrel of taxable  
25 oil produced from the lease or property, as adjusted by sec. 12 of this  
26 chapter.

27 (d) When the cents-per-barrel amount calculated under (c) of this  
28 section is greater than the percentage-of-value amount calculated under  
29 (b) of this section, an amount not less than \$.05 for each barrel of

1 taxable oil produced shall be paid by the state out of its royalties  
2 from the oil whenever payment by the state is required under the revenue-  
3 sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act  
4 (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) into the Alaska  
5 Native Fund, until all amounts paid in the fund equal \$500,000,000.

6 Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set  
7 out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or  
8 decreased by a percentage equal to the percentage of change in the Gross  
9 National Product Deflator published by the Bureau of Economic Analysis  
10 of the United States Department of Commerce, or 7.5 per cent per year,  
11 whichever is the lesser of the two. Changes in tax rates will be com-  
12 puted based on changes in the Gross National Product Deflator from that  
13 of the First Quarter 1977 Gross National Product Deflator. The depart-  
14 ment shall post the changes in the tax rates periodically and shall  
15 notify every person producing oil in the state of the changes.

16 (b) The cents-per-barrel amount set out in sec. 11(c) of this  
17 chapter applies to oil of 27 degrees API gravity. For each degree of  
18 API gravity less than 27 degrees the cents-per-barrel amount shall be  
19 reduced by \$.005 and for each degree of API gravity greater than 27  
20 degrees the cents-per-barrel amount shall be increased by \$.005 except  
21 that oil above 40 degrees API gravity shall be taxed as 40 degree oil.  
22 In applying the gravity adjustment under this subsection, fractional  
23 degrees of API gravity shall be disregarded.

24 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit  
25 factor for oil production of a lease or property equals

$$26 \quad (1 - [PEL/TP]) \exp ([300 \times WD]/PEL)$$

27 Where: PEL = the production rate at the economic limit;

28 TP = total production during the month for which the tax  
29 is to be paid;

1           WD = the total number of well days in the month for which  
2                           the tax is to be paid; and

3       Where "exp" indicates that the expression following it is an exponent.

4           (b) The economic limit factor for gas production of a lease or  
5       property equals one minus the ratio of the monthly production rate at  
6       the economic limit to the production during the month for which the tax  
7       is to be paid.

8           (c) The monthly production rate at the economic limit for a lease  
9       or property is presumed to be 100 barrels times the number of well days  
10      for the lease or property during the month for which the tax is to be  
11      paid. The taxpayer may rebut this presumption at a formal hearing  
12      under AS 43.05.420 by providing clear and convincing evidence of a  
13      different monthly production rate at the economic limit for the lease or  
14      property. The hearing shall be held before February 15 of the year or  
15      within six months after commencement of oil production for a lease or  
16      property. The monthly production rate at the economic limit for the  
17      lease or property based upon the clear and convincing evidence of the  
18      taxpayer shall be calculated by dividing the value determined under (e)  
19      of this section into the average monthly direct operating cost deter-  
20      mined under (d) of this section and shall be used for purposes of this  
21      section for all oil production during that calendar year from the lease  
22      or property.

23           (d) The average monthly direct operating cost for oil production  
24      operations of the lease or property shall be determined based on the  
25      number of months operated during the preceding 12-month period. The  
26      direct operating costs include production supplies, purchased fuel,  
27      routine maintenance, and wages and benefits of employees working on the  
28      production operations. The direct operating costs do not include  
29      capital expenditures, tangible or intangible drilling expenses, costs of

1 well workovers, costs for replacement or repairs (other than routine  
2 maintenance), depreciation or amortization, taxes, insurance, overhead,  
3 money paid or set aside (or booked as being paid or set aside) to cover  
4 the cost of terminating the oil production operations of the lease or  
5 property, or any other cost not directly related to the oil production  
6 operations of the lease or property.

7 (e) For the purposes of this chapter, the gross value of oil shall  
8 be calculated as provided in sec. 150 of this chapter, and the gross  
9 value of gas shall be calculated as provided in (h) of this section.

10 (f) Before February 15 of each year or within six months after  
11 commencement of gas production for a lease or property, the department  
12 shall notify the producer of gas of the monthly production rate at the  
13 economic limit for each lease or property in the state for that year.  
14 The monthly production rate at the economic limit for a lease or property  
15 shall be determined at a formal hearing under AS 43.05.240 and must be  
16 established by clear and convincing evidence presented by the taxpayer  
17 at that hearing. The monthly production rate at the economic limit for  
18 the lease or property based upon the clear and convincing evidence of  
19 the taxpayer shall be calculated by dividing the value determined under  
20 (h) of this section into the average monthly direct operating cost  
21 determined under (g) of this section.

22 (g) The average monthly direct operating cost for gas production  
23 operations of the lease or property shall be determined based on the  
24 number of months operated during the preceding 12-month period. The  
25 direct operating costs include drilling supplies, fuel, routine mainte-  
26 nance, and wages and benefits of employees working on the production  
27 operations. The direct operating costs do not include capital expendi-  
28 tures, tangible or intangible drilling expenses, costs of well work-  
29 overs, costs for replacement or repairs (other than routine maintenance),

1 depreciation or amortization, taxes, insurance, overhead, money paid or  
2 set aside (or booked as being paid or set aside) to cover the cost of  
3 terminating the gas production operations of the lease or property, or  
4 any other cost not directly related to the gas production operations of  
5 the lease or property.

6 (h) The value at the point of production of gas produced from the  
7 lease or property shall be determined on the basis of the highest price  
8 paid for gas of like quality and pressure in the same field.

9 (i) The department may aggregate two or more leases or properties  
10 (or portions of them), for purposes of determining economic limit  
11 factors under this section and applying them to sec. 11 of this chapter,  
12 when economically interdependent oil or gas production operations are  
13 not confined to a single lease or property. The department may also  
14 segregate a lease or property into two or more parts, for purposes of  
15 determining economic limit factors under this section and applying them  
16 under sec. 11 of this chapter, when two or more economically independent  
17 oil or gas production operations are being conducted on it.

18 (j) A determination of the monthly production rate at the economic  
19 limit for a lease or property is retroactive to January 1 of the current  
20 year. For production of a lease or property commencing after January 1,  
21 the determination of the monthly production rate at the economic limit  
22 for that lease or property made within six months after the commencement  
23 of production is retroactive to the commencement of production.

24 Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the  
25 producer of gas a tax for all gas produced from each lease or property  
26 in the state, less any gas the ownership or right to which is exempt  
27 from taxation. The tax is equal to either the percentage-of-value  
28 amount calculated under (b) of this section or the cents-per-Mcf amount  
29 calculated under (c) of this section, whichever is greater, multiplied

1 by the economic limit factor determined for gas production of the lease  
2 or property under sec. 13 of this chapter. If the amounts calculated  
3 under (b) and (c) of this section are equal, the amount calculated under  
4 (b) of this section shall be treated as if it were the greater for  
5 purposes of this section.

6 (b) The percentage-of-value amount equals 10 per cent of the gross  
7 value at the point of production of the taxable gas produced from the  
8 lease or property.

9 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic feet  
10 of taxable gas produced from the lease or property as adjusted by sec.  
11 12 of this chapter.

12 Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided  
13 in this chapter and in ch. 58 of this title, the taxes imposed by this  
14 chapter are in place of all taxes now imposed by the state or any of its  
15 municipalities, and neither the state nor a municipality may impose a  
16 tax upon

17 (1) producing oil or gas leases;  
18 (2) oil or gas produced or extracted in the state;  
19 (3) the value of intangible drilling and exploration ex-  
20 penses.

21 (b) The taxes imposed by this chapter are in place of all taxes  
22 imposed by a municipality upon oil or gas in place or nonproducing oil  
23 or gas leases or properties.

24 (c) The taxes imposed by this chapter are not in place of the tax  
25 imposed by ch. 57 of this title or income taxes, franchise taxes or  
26 taxes upon the retail sale of oil or gas products.

27 \* Sec. 2. AS 43.55.020(a) is amended to read:

28 (a) The gross production tax on oil or gas shall be paid monthly.  
29 The tax is due on the 20th [LAST] day of each calendar month on oil or

1 gas produced [REMOVED OR SOLD] from each lease or property during the  
2 preceding month. If the tax is not paid before the end of the month in  
3 which it becomes due, the tax becomes delinquent.

4 \* Sec. 3. AS 43.55.030(a)(1) is amended to read:

5 (1) a description of the lease or property from which the oil  
6 or gas was produced [REMOVED OR SOLD], by name, legal description, lease  
7 number or by accounting code numbers assigned to the department;

8 \* Sec. 4. AS 43.55.030(a)(3) is amended to read:

9 (3) the gross amount of oil or gas produced [REMOVED OR SOLD]  
10 from the lease or property, and the percentage of the gross amount owned  
11 by each producer for whom the tax is paid;

12 \* Sec. 5. AS 43.55.030(a)(4) is amended to read:

13 (4) the total value of the oil or gas produced [REMOVED OR  
14 SOLD] from the lease or property owned by each producer for whom the tax  
15 is paid; and

16 \* Sec. 6. AS 43.55.140 is amended by adding a new paragraph to read:

17 (12) "well days" means the number of days in which a well is  
18 operating during a month.

19 \* Sec. 7. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are re-  
20 pealed.

21 \* Sec. 8. This Act takes effect July 1, 1977 and applies to production  
22 during the month of July, 1977, and succeeding months.

Original sponsor: Rules Committee by  
request of the Governor

Offered: 5/2/77  
Referred: Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 238 am

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 produc-  
7 tion tax; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43.55 is amended by adding new sections to read:

10 Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the  
11 producer of oil a tax for all oil produced from each lease or property  
12 in the state, less any oil the ownership or right to which is exempt  
13 from taxation. The tax is equal to either the percentage-of-value  
14 amount calculated under (b) of this section or the cents-per-barrel  
15 amount calculated under (c) of this section, whichever is greater,  
16 multiplied by the economic limit factor determined for the oil produc-  
17 tion of the lease or property under sec. 13 of this chapter. If the  
18 amounts calculated under (b) and (c) of this section are equal, the  
19 amount calculated under (b) of this section shall be treated as if it  
20 were the greater for purposes of this section.

21 (b) The percentage-of-value amount equals 11.5 per cent of the  
22 gross value at the point of production of taxable oil produced from the  
23 lease or property.

24 (c) The cents-per-barrel amount equals \$.75 per barrel of taxable  
25 oil produced from the lease or property, as adjusted by sec. 12 of this  
26 chapter.

27 (d) When the cents-per-barrel amount calculated under (c) of this  
28 section is greater than the percentage-of-value amount calculated under  
29 (b) of this section, an amount not less than \$.05 for each barrel of

1 taxable oil produced shall be paid by the state out of its royalties  
2 from the oil whenever payment by the state is required under the revenue-  
3 sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act  
4 (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) into the Alaska  
5 Native Fund, until all amounts paid in the fund equal \$500,000,000.

6 Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. The cents-per-barrel  
7 amount set out in sec. 11(c) of this chapter applies to oil of 27  
8 degrees API gravity. For each degree of API gravity less than 27  
9 degrees the cents-per-barrel amount shall be reduced by \$.005 and for  
10 each degree of API gravity greater than 27 degrees the cents-per-  
11 barrel amount shall be increased by \$.005 except that oil above 40  
12 degrees API gravity shall be taxed as 40 degree oil. In applying the  
13 gravity adjustment under this subsection, fractional degrees of API  
14 gravity shall be disregarded.

15 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit  
16 factor for oil production of a lease or property equals

$$17 \quad (1 - [PEL/TP]) \exp ([750 \times WD]/PEL)$$

18 Where: PEL = the production rate at the economic limit;

19 TP = total production during the month for which the tax  
20 is to be paid;

21 WD = the total number of well days in the month for which  
22 the tax is to be paid; and

23 Where "exp" indicates that the expression following it is an exponent.

24 (b) The economic limit factor for gas production of a lease or  
25 property equals one minus the ratio of the monthly production rate at  
26 the economic limit to the production during the month for which the tax  
27 is to be paid.

28 (c) The monthly production rate at the economic limit for a lease  
29 or property is presumed to be 100 barrels times the number of well days

1 for the lease or property during the month for which the tax is to be  
2 paid. The taxpayer may rebut this presumption at a formal hearing  
3 under AS 43.05.420 by providing clear and convincing evidence of a  
4 different monthly production rate at the economic limit for the lease or  
5 property. The hearing shall be held before February 15 of the year or  
6 within six months after commencement of oil production for a lease or  
7 property. The monthly production rate at the economic limit for the  
8 lease or property based upon the clear and convincing evidence of the  
9 taxpayer shall be calculated by dividing the value determined under (e)  
10 of this section into the average monthly direct operating cost deter-  
11 mined under (d) of this section and shall be used for purposes of this  
12 section for all oil production during that calendar year from the lease  
13 or property.

14 (d) The average monthly direct operating cost for oil production  
15 operations of the lease or property shall be determined based on the  
16 number of months operated during the preceding 12-month period. The  
17 direct operating costs include production supplies, purchased fuel,  
18 routine maintenance, and wages and benefits of employees working on the  
19 production operations. The direct operating costs do not include  
20 capital expenditures, tangible or intangible drilling expenses, costs of  
21 well workovers, costs for replacement or repairs (other than routine  
22 maintenance), depreciation or amortization, taxes, insurance, overhead,  
23 money paid or set aside (or booked as being paid or set aside) to cover  
24 the cost of terminating the oil production operations of the lease or  
25 property, or any other cost not directly related to the oil production  
26 operations of the lease or property.

27 (e) The value at the point of production of oil produced from  
28 the lease or property shall be determined on the basis of the acqui-  
29 sition cost C.I.F. at West Coast refineries for imported oil of like

1 quality, minus the reasonable cost of transportation between the point  
2 of production of the oil from the lease or property and those West  
3 Coast refineries.

4 (f) Before February 15 of each year or within six months after  
5 commencement of gas production for a lease or property, the department  
6 shall notify the producer of gas of the monthly production rate at the  
7 economic limit for each lease or property in the state for that year.  
8 The monthly production rate at the economic limit for a lease or property  
9 shall be determined at a formal hearing under AS 43.05.240 and must be  
10 established by clear and convincing evidence presented by the taxpayer  
11 at that hearing. The monthly production rate at the economic limit for  
12 the lease or property based upon the clear and convincing evidence of  
13 the taxpayer shall be calculated by dividing the value determined under  
14 (h) of this section into the average monthly direct operating cost  
15 determined under (g) of this section.

16 (g) The average monthly direct operating cost for gas production  
17 operations of the lease or property shall be determined based on the  
18 number of months operated during the preceding 12-month period. The  
19 direct operating costs include drilling supplies, fuel, routine mainte-  
20 nance, and wages and benefits of employees working on the production  
21 operations. The direct operating costs do not include capital expendi-  
22 tures, tangible or intangible drilling expenses, costs of well work-  
23 overs, costs for replacement or repairs (other than routine maintenance),  
24 depreciation or amortization, taxes, insurance, overhead, money paid or  
25 set aside (or booked as being paid or set aside) to cover the cost of  
26 terminating the gas production operations of the lease or property, or  
27 any other cost not directly related to the gas production operations of  
28 the lease or property.

29 (h) The value at the point of production of gas produced from the

1 lease or property shall be determined on the basis of the highest price  
2 paid for gas of like quality and pressure in the same field.

3 (i) The department may aggregate two or more leases or properties  
4 (or portions of them), for purposes of determining economic limit  
5 factors under this section and applying them to sec. 11 of this chapter,  
6 when economically interdependent oil or gas production operations are  
7 not confined to a single lease or property. The department may also  
8 segregate a lease or property into two or more parts, for purposes of  
9 determining economic limit factors under this section and applying them  
10 under sec. 11 of this chapter, when two or more economically independent  
11 oil or gas production operations are being conducted on it.

12 (j) A determination of the monthly production rate at the economic  
13 limit for a lease or property is retroactive to January 1 of the current  
14 year. For production of a lease or property commencing after January 1,  
15 the determination of the monthly production rate at the economic limit  
16 for that lease or property made within six months after the commencement  
17 of production is retroactive to the commencement of production.

18 Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the  
19 producer of gas a tax for all gas produced from each lease or property  
20 in the state, less any gas the ownership or right to which is exempt  
21 from taxation. The tax is equal to either the percentage-of-value  
22 amount calculated under (b) of this section or the cents-per-Mcf amount  
23 calculated under (c) of this section, whichever is greater, multiplied  
24 by the economic limit factor determined for gas production of the lease  
25 or property under sec. 13 of this chapter. If the amounts calculated  
26 under (b) and (c) of this section are equal, the amount calculated under  
27 (b) of this section shall be treated as if it were the greater for  
28 purposes of this section.

29 (b) The percentage-of-value amount equals 10 per cent of the gross

1 value at the point of production of the taxable gas produced from the  
2 lease or property.

3 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic feet  
4 of taxable gas produced from the lease or property as adjusted by sec.  
5 12 of this chapter.

6 Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided  
7 in this chapter and in ch. 58 of this title, the taxes imposed by this  
8 chapter are in place of all taxes now imposed by the state or any of its  
9 municipalities, and neither the state nor a municipality may impose a  
10 tax upon

- 11 (1) producing oil or gas leases;
- 12 (2) oil or gas produced or extracted in the state;
- 13 (3) the value of intangible drilling and exploration ex-

14 penses.

15 (b) The taxes imposed by this chapter are in place of all taxes  
16 imposed by a municipality upon oil or gas in place or nonproducing oil  
17 or gas leases or properties.

18 (c) The taxes imposed by this chapter are not in place of the tax  
19 imposed by ch. 57 of this title or income taxes, franchise taxes or  
20 taxes upon the retail sale of oil or gas products.

21 \* Sec. 2. AS 43.55.020(a) is amended to read:

22 (a) The gross production tax on oil or gas shall be paid monthly.  
23 The tax is due on the 20th [LAST] day of each calendar month on oil or  
24 gas produced [REMOVED OR SOLD] from each lease or property during the  
25 preceding month. If the tax is not paid before the end of the month in  
26 which it becomes due, the tax becomes delinquent.

27 \* Sec. 3. AS 43.55.030(a)(1) is amended to read:

28 (1) a description of the lease or property from which the oil  
29 or gas was produced [REMOVED OR SOLD], by name, legal description, lease

1 number or by accounting code numbers assigned to the department;

2 \* Sec. 4. AS 43.55.030(a)(3) is amended to read:

3 (3) the gross amount of oil or gas produced [REMOVED OR SOLD]  
4 from the lease or property, and the percentage of the gross amount owned  
5 by each producer for whom the tax is paid;

6 \* Sec. 5. AS 43.55.030(a)(4) is amended to read:

7 (4) the total value of the oil or gas produced [REMOVED OR  
8 SOLD] from the lease or property owned by each producer for whom the tax  
9 is paid; and

10 \* Sec. 6. AS 43.55.140 is amended by adding a new paragraph to read:

11 (12) "well days" means the number of days in which a well is  
12 operating during a month.

13 \* Sec. 7. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are re-  
14 pealed.

15 \* Sec. 8. This Act takes effect July 1, 1977 and applies to production  
16 during the month of July, 1977, and succeeding months.

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Original sponsor: Rules Committee by request  
of the Governor

Offered: 5/7/77  
For Today's Calendar

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 238

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas properties pro-  
7 duction tax; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43.55 is amended by adding new sections to read:

10 Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the  
11 producer of oil a tax for all oil produced from each lease or property  
12 in the state, less any oil the ownership or right to which is exempt  
13 from taxation. The tax is equal to either the percentage-of-value  
14 amount calculated under (b) of this section or the cents-per-barrel  
15 amount calculated under (c) of this section, whichever is greater,  
16 multiplied by the economic limit factor determined for the oil produc-  
17 tion of the lease or property under sec. 13 of this chapter. If the  
18 amounts calculated under (b) and (c) of this section are equal, the  
19 amount calculated under (b) of this section shall be treated as if it  
20 were the greater for purposes of this section.

21 (b) The percentage-of-value amount equals 12.5 per cent of the  
22 gross value at the point of production of taxable oil produced from the  
23 lease or property.

24 (c) The cents-per-barrel amount equals \$.9375 per barrel of tax-  
25 able oil produced from the lease or property, as adjusted by sec. 12 of  
26 this chapter.

27 (d) When the cents-per-barrel amount calculated under (c) of this  
28 section is greater than the percentage-of-value amount calculated under  
29 (b) of this section, and payment by the state to the Alaska Native fund

1 out of the state's royalties on that oil is required under the revenue  
2 sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act  
3 (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.), that payment shall  
4 be not less than \$.05 for each taxable barrel of oil produced until all  
5 amounts paid in the fund equal \$500,000,000.

6 Sec. 43.55.012. ADJUSTMENTS IN TAX RATES. (a) The amounts set  
7 out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or  
8 decreased by a percentage equal to the percentage of change in the Gross  
9 National Product Deflator published by Bureau of Economic Analysis of  
10 the United States Department of Commerce. Changes in tax rates will be  
11 computed based on changes in the Gross National Product Deflator from  
12 that of the First Quarter 1977 Gross National Product Deflator. The  
13 department shall post the changes in the tax rates periodically and  
14 shall notify every person producing oil within the state of the changes.

15 (b) The cents-per-barrel amount set out in sec. 11(c) of this  
16 chapter as adjusted by (a) of this section applies to oil of 27 degrees  
17 API gravity. For each degree of API gravity less than 27 degrees the  
18 cents-per-barrel amount shall be reduced by \$.005 and for each degree of  
19 API gravity greater than 27 degrees the cents-per-barrel amount shall be  
20 increased by \$.005 except that oil above 40 degrees API gravity shall be  
21 taxed as 40 degree oil. In applying the gravity adjustment under this  
22 subsection, fractional degrees of API gravity shall be disregarded.

23 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit  
24 factor for oil production of a lease or property equals

$$25 \quad (1 - [PEL/TP]) \exp ([300 \times WD]/PEL)$$

26 where: PEL = the production rate at the economic limit;

27 TP = total production during the month for which the tax  
28 is to be paid;

29 WD = the total number of well days in the month for which

1                   the tax is to be paid; and  
2 where "exp" indicates that the expression following it is an exponent.

3           (b) The economic limit factor for gas production of a lease or  
4 property equals one minus the ratio of the monthly production rate at  
5 the economic limit to the production during the month for which the tax  
6 is to be paid.

7           (c) The monthly production rate at the economic limit for a lease  
8 or property is presumed to be 300 barrels times the number of well days  
9 for the lease or property during the month for which the tax is to be  
10 paid. The taxpayer may rebut this presumption at a formal hearing under  
11 AS 43.05.240 by providing clear and convincing evidence of a different  
12 monthly production rate at the economic limit for the lease or property.  
13 The hearing shall be held before February 15 of the year or within six  
14 months after commencement of oil production for a lease or property.  
15 The monthly production rate at the economic limit for the lease or pro-  
16 perty based upon the clear and convincing evidence of the taxpayer shall  
17 be calculated by dividing the value determined under (e) of this section  
18 into the average monthly direct operating cost determined under (d) of  
19 this section and shall be used for purposes of this section for all oil  
20 production during that calendar year from the lease or property.

21           (d) The average monthly direct operating cost for oil production  
22 operations of the lease or property shall be determined based on a  
23 period of not less than four consecutive months. The direct operating  
24 costs include only royalty, production supplies, purchased fuel, routine  
25 maintenance, and wages and benefits of employees working on the produc-  
26 tion operations. Additional direct operating costs not listed in this  
27 section may be included only after their inclusion in a regulation  
28 adopted by the department. The direct operating costs do not include  
29 capital expenditures, tangible or intangible drilling expenses, costs of

1 well workovers, costs for replacement or repairs (other than routine  
2 maintenance), depreciation or amortization, taxes, insurance, overhead,  
3 money paid or set aside (or booked as being paid or set aside) to cover  
4 the cost of terminating the oil production operations of the lease or  
5 property, or any other cost not directly related to the oil production  
6 operations of the lease or property.

7 (e) For the purpose of calculating the economic limit, the value  
8 at the point of production of oil produced from the lease or property  
9 shall be determined on the basis of the acquisition cost C.I.F. at West  
10 Coast refineries for imported oil of like quality, minus the reasonable  
11 cost of transportation between the point of production of the oil from  
12 the lease or property and those West Coast refineries.

13 (f) Before February 15 of each year or within six months after  
14 commencement of production for a lease or property the department shall  
15 notify the producer of gas of the monthly production rate at the eco-  
16 nomic limit for each lease or property within the state for that year.  
17 The monthly production rate at the economic limit for a lease or pro-  
18 perty shall be determined at a formal hearing under AS 43.05.240 and  
19 must be established by clear and convincing evidence presented by the  
20 taxpayer at that hearing. The monthly production rate at the economic  
21 limit for the lease or property based upon the clear and convincing  
22 evidence of the taxpayer shall be calculated by dividing the value  
23 determined under (h) of this section into the average monthly direct  
24 operating cost determined under (g) of this section.

25 (g) The average monthly direct operating cost for gas production  
26 operations of the lease or property shall be determined based on a  
27 period of not less than four consecutive months. The direct operating  
28 costs include only royalty, production supplies, purchased fuel, routine  
29 maintenance, and wages and benefits of employees working on the

1 production operations. Additional direct operating costs not listed in  
2 this section may be included only after their inclusion in a regulation  
3 adopted by the department. The direct operating costs do not include  
4 capital expenditures, tangible or intangible drilling expenses, costs of  
5 well workovers, costs for replacement or repairs (other than routine  
6 maintenance), depreciation or amortization, taxes, insurance, overhead,  
7 monies paid or set aside (or booked as being paid or set aside) to cover  
8 the cost of terminating the gas production operations of the lease or  
9 property, or any other cost not directly related to the gas production  
10 operations of the lease or property.

11 (h) For the purpose of calculating the economic limit, the value  
12 at the point of production of gas produced from the lease or property  
13 shall be determined on the basis of the highest price paid for gas of  
14 like quality and pressure in the same field or some other field within  
15 100 miles in the state.

16 (i) The department may aggregate two or more leases or properties  
17 (or portions of them), for purposes of determining economic limit factors  
18 under this section and applying them to sec. 11 or sec. 16 of this chap-  
19 ter, when economically interdependent oil or gas production operations  
20 are not confined to a single lease or property. The department may also  
21 segregate a lease or property into two or more parts, for purposes of  
22 determining economic limit factors under this section and applying them  
23 under sec. 11 or sec. 16 of this chapter, when two or more economically  
24 independent oil or gas production operations are being conducted on it.

25 (j) A determination of the monthly production rate at the economic  
26 limit for a lease or property is retroactive to January 1 of the current  
27 year. For production of a lease or property commencing after January 1,  
28 the determination of the monthly production rate at the economic limit  
29 for that lease or property made within six months after the commencement

1 of production is retroactive to the commencement of production.

2 Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the  
3 producer of gas a tax for all gas produced from each lease or property  
4 in the state, less any gas the ownership or right to which is exempt  
5 from taxation. The tax is equal to either the percentage-of-value  
6 amount calculated under (b) of this section or the cents-per-Mcf amount  
7 calculated under (c) of this section, whichever is greater, multiplied  
8 by the economic limit factor determined for gas production of the lease  
9 or property under sec. 13 of this chapter. If the amounts calculated  
10 under (b) and (c) of this section are equal, the amount calculated under  
11 (b) of this section shall be treated as if it were the greater for  
12 purposes of this section.

13 (b) The percentage-of-value amount equals 10 per cent of the gross  
14 value at the point of production of the taxable gas produced from the  
15 lease or property.

16 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic feet  
17 of taxable gas produced from the lease or property as adjusted by sec.  
18 12 of this chapter.

19 Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided  
20 in this chapter and in ch. 58 of this title, the taxes imposed by this  
21 chapter are in place of all taxes now imposed by the state or any of its  
22 municipalities, and neither the state nor a municipality may impose a  
23 tax upon

- 24 (1) producing oil or gas leases;  
25 (2) oil or gas produced or extracted in the state;  
26 (3) the value of intangible drilling and exploration expen-  
27 ses.

28 (b) The taxes imposed by this chapter are in place of all taxes  
29 imposed by a municipality upon oil or gas in place or nonproducing oil

1 or gas leases or properties.

2 (c) The taxes imposed by this chapter are not in place of the tax  
3 imposed by ch. 57 of this title or income taxes, franchise taxes or  
4 taxes upon the retail sale of oil or gas products.

5 \* Sec. 2. AS 43.55.020(a) is amended to read:

6 (a) The gross production tax on oil or gas shall be paid monthly.  
7 The tax is due on the 20th [LAST] day of each calendar month on oil or  
8 gas produced [REMOVED OR SOLD] from each lease or property during the  
9 preceding month. If the tax is not paid before the end of the month in  
10 which it becomes due, the tax becomes delinquent.

11 \* Sec. 3. AS 43.55.020(e) is amended to read:

12 (e) Gas produced in excess of that needed for safety purposes  
13 [AND USED], except gas used in the operation of a lease or property in  
14 drilling for or producing oil or gas, or for repressuring, is considered,  
15 for the purpose of this chapter and in the amount used, as gas produced  
16 [REMOVED OR SOLD] from a lease or property. Gas flared beyond the  
17 amount authorized for safety by the Department of Natural Resources  
18 under AS 31.05.170(11)(H) is considered as gas produced, except that it  
19 is subject to a penalty equal to the tax computed under sec. 16 of this  
20 chapter as adjusted by sec. 12 of this chapter per thousand cubic feet  
21 of gas for the month in which the gas was flared.

22 \* Sec. 4. AS 43.55.030(a)(1) is amended to read:

23 (1) a description of the lease or property from which the oil  
24 or gas was produced [REMOVED OR SOLD], by name, legal description, lease  
25 number or by accounting code numbers assigned by the department;

26 \* Sec. 5. AS 43.55.030(a)(3) is amended to read:

27 (3) the gross amount of oil or gas produced [REMOVED OR SOLD]  
28 from the lease or property, and the percentage of the gross amount owned  
29 by each producer for whom the tax is paid;

1 \* Sec. 6. AS 43.55.030(a)(4) is amended to read:

2 (4) the total value of the oil or gas produced [REMOVED OR  
3 SOLD] from the lease or property owned by each producer for whom the tax  
4 is paid; and

5 \* Sec. 7. AS 43.55.140 is amended by adding new paragraphs to read:

6 (12) "gross value at the point of production" means

7 (A) for oil, the value of the oil at the point where it  
8 is metered or measured (by automatic custody transfer meter, tank  
9 gauge, or other method approved by the commissioner) in a condition  
10 of pipeline quality on the premises of the lease or property from  
11 which it is recovered; however, if the oil is not of pipeline  
12 quality when it is removed from the premises of the lease or pro-  
13 perty from which it is recovered, or if the oil recovered from a  
14 lease or property is not metered or measured (by automatic custody  
15 transfer meter, tank gauge, or other method approved by the com-  
16 missioner) on the premises of the lease or property from which it  
17 is recovered, then the gross value at the point of production is  
18 the value of that oil at the off-premises location where the oil is  
19 first metered or measured (by automatic custody transfer meter,  
20 tank gauge, or other method approved by the commissioner) in a  
21 condition of pipeline quality;

22 (B) for gas recovered from or in association with oil,  
23 the value of the gas at the point where it is accurately metered or  
24 measured after separation from the oil; for gas run through a gas  
25 processing plant, the gross value at the point of production is the  
26 full consideration received by the producer for the gas if sold in  
27 an arm's length transaction or, in the absence of an arm's length  
28 transaction, is the sum of the value of the liquids extracted from  
29 the gas at the plant and the value of the residue gas, less a

1 reasonable allowance for processing the gas at the plant and for  
2 transporting the gas to the plant from the premises upon which the  
3 oil production operation is conducted; and

4 (C) for gas not recovered from or in association with  
5 oil, the value of the gas at the point where it is accurately  
6 metered or measured or the value of the gas at the point of sale,  
7 if any, on the premises of the lease or property from which the gas  
8 is recovered, whichever is the higher value; for gas run through a  
9 gas processing plant, the gross value at the point of production is  
10 the full consideration received by the producer for the gas if sold  
11 in an arm's length transaction or, in the absence of an arm's  
12 length transaction, is the sum of the value of the liquids ex-  
13 tracted from the gas at the plant and the value of the residue gas,  
14 less a reasonable allowance for processing the gas at the plant and  
15 for transporting the gas to the plant from the point where it was  
16 accurately metered or measured;

17 (13) "oil production operation" means the operation by which  
18 oil is recovered from a lease or property and rendered into oil of  
19 pipeline quality, and includes any gathering done before the oil is  
20 finally rendered into oil of pipeline quality;

21 (14) "pipeline quality" means good and merchantable condi-  
22 tion;

23 (15) "well days" means the number of days in which a well is  
24 operating during a month.

25 \* Sec. 8. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are re-  
26 pealed.

27 \* Sec. 9. This Act takes effect July 1, 1977 and applies to production  
28 during the month of July 1977 and succeeding months.

Original sponsor: Rules Committee by request  
of the Governor

Offered: 5/23/77

1 IN THE SENATE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR HOUSE CS FOR CS FOR SENATE BILL NO. 238

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to oil and gas taxation; and providing  
7 for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 43.55 is amended by adding new sections to read:

10 Sec. 43.55.011. OIL PRODUCTION TAX. (a) There is levied upon the  
11 producer of oil a tax for all oil produced from each lease or property  
12 in the state, less any oil the ownership or right to which is exempt  
13 from taxation. The tax is equal to either the percentage-of-value  
14 amount calculated under (b) of this section or the cents-per-barrel  
15 amount calculated under (c) of this section, whichever is greater,  
16 multiplied by the economic limit factor determined for the oil produc-  
17 tion of the lease or property under sec. 13 of this chapter. If the  
18 amounts calculated under (b) and (c) of this section are equal, the  
19 amount calculated under (b) of this section shall be treated as if it  
20 were the greater for purposes of this section.

21 (b) The percentage-of-value amount equals 12.25 per cent of the  
22 gross value at the point of production of taxable oil produced from the  
23 lease or property.

24 (c) The cents-per-barrel amount equals \$0.60 per barrel of taxable  
25 old crude oil produced from the lease or property, and \$0.80 per barrel  
26 for all other taxable oil produced from the lease or property, both as  
27 adjusted by sec. 12 of this chapter.

28 (d) When the cents-per-barrel amount calculated under (c) of this  
29 section is greater than the percentage-of-value amount calculated under

1 (b) of this section, and payment by the state to the Alaska Native fund  
2 out of the state's royalties on that oil is required under the revenue  
3 sharing provisions of sec. 9 of the Alaska Native Claims Settlement Act  
4 (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.), that payment shall  
5 be not less than \$.05 for each taxable barrel of oil produced until all  
6 amounts paid in the fund equal \$500,000,000.

7 Sec. 43.55.012. ADJUSTMENT IN TAX RATES. (a) Before January 1 of  
8 each year the department shall review the prices received for crude oil  
9 or gas produced in Alaska, the value of that oil or gas, and the general  
10 level of prices in Alaska and the nation, and submit a written report of  
11 this review to the governor with the department's recommendations for  
12 changes in the amounts set out in sec. 11(c) and 16(c) of this chapter.  
13 The governor shall, within 30 days of receiving the department's report,  
14 submit the proposed changes to the amounts in sec. 11(c) and 16(c) of  
15 this chapter to the legislature.

16 (b) The cents-per-barrel amount set out in sec. 11(c) of this  
17 chapter as adjusted by (a) of this section applies to oil of 27 degrees  
18 API gravity. For each degree of API gravity less than 27 degrees the  
19 cents-per-barrel amount shall be reduced by \$.005 and for each degree of  
20 API gravity greater than 27 degrees the cents-per-barrel amount shall be  
21 increased by \$.005 except that oil above 40 degrees API gravity shall be  
22 taxed as 40 degree oil. In applying the gravity adjustment under this  
23 subsection, fractional degrees of API gravity shall be disregarded.

24 Sec. 43.55.013. ECONOMIC LIMIT FACTOR. (a) The economic limit  
25 factor for old crude oil production of a lease or property equals one  
26 minus the ratio of the monthly production rate at the economic limit to  
27 the production during the month for which the tax is to be paid.

28 (b) The economic limit factor for oil production of a lease or  
29 property other than old crude oil equals:

1                                   (1-[PEL/TP]) exp ([460 X WD]/PEL)

2 where: PEL = the monthly production rate at the economic limit;

3           TP = total production during the month for which the tax  
4           is to be paid;

5           WD = the total number of well days in the month for which  
6           the tax is to be paid; and

7 where "exp" indicates that the expression following it is an exponent.

8           (c) The economic limit factor for gas production of a lease or  
9           property equals one minus the ratio of the monthly production rate at  
10          the economic limit to the production during the month for which the tax  
11          is to be paid.

12          (d) The monthly production rate at the economic limit for a lease  
13          or property is presumed to be 300 barrels times the number of well days  
14          for the lease or property during the month for which the tax is to be  
15          paid. The taxpayer may rebut this presumption at a formal hearing under  
16          AS 43.05.240 by providing clear and convincing evidence of a different  
17          monthly production rate at the economic limit for the lease or property.  
18          The hearing shall be held before February 15 of the year or within six  
19          months after commencement of oil production for a lease or property.  
20          The monthly production rate at the economic limit for the lease or pro-  
21          perty based upon the clear and convincing evidence of the taxpayer shall  
22          be calculated by dividing the value determined under (f) of this section  
23          into the average monthly direct operating cost determined under (e) of  
24          this section and shall be used for purposes of this section for all oil  
25          production during that calendar year from the lease or property.

26          (e) The average monthly direct operating cost for oil production  
27          operations of the lease or property shall be determined based on a  
28          period of not less than four consecutive months. The direct operating  
29          costs include only royalty, production supplies, purchased fuel, routine

1 maintenance, and wages and benefits of employees working on the produc-  
2 tion operations. Additional direct operating costs not listed in this  
3 section may be included only after their inclusion in a regulation  
4 adopted by the department. The direct operating costs do not include  
5 capital expenditures, tangible or intangible drilling expenses, costs of  
6 well workovers, costs for replacement or repairs (other than routine  
7 maintenance), depreciation or amortization, taxes, insurance, overhead,  
8 money paid or set aside (or booked as being paid or set aside) to cover  
9 the cost of terminating the oil production operations of the lease or  
10 property, or any other cost not directly related to the oil production  
11 operations of the lease or property.

12 (f) For the purpose of calculating the economic limit, the value  
13 at the point of production of oil produced from the lease or property  
14 shall be determined on the basis of the acquisition cost C.I.F. at West  
15 Coast refineries for imported oil of like quality, minus the reasonable  
16 cost of transportation between the point of production of the oil from  
17 the lease or property and those West Coast refineries.

18 (g) Before February 15 of each year or within six months after  
19 commencement of production for a lease or property the department shall  
20 notify the producer of gas of the monthly production rate at the eco-  
21 nomic limit for each lease or property within the state for that year.  
22 The monthly production rate at the economic limit for a lease or pro-  
23 perty shall be determined at a formal hearing under AS 43.05.240 and  
24 must be established by clear and convincing evidence presented by the  
25 taxpayer at that hearing. The monthly production rate at the economic  
26 limit for the lease or property based upon the clear and convincing  
27 evidence of the taxpayer shall be calculated by dividing the value  
28 determined under (i) of this section into the average monthly direct  
29 operating cost determined under (h) of this section.

1 (h) The average monthly direct operating cost for gas production  
2 operations of the lease or property shall be determined based on a  
3 period of not less than four consecutive months. The direct operating  
4 costs include only royalty, production supplies, purchased fuel, routine  
5 maintenance, and wages and benefits of employees working on the  
6 production operations. Additional direct operating costs not listed in  
7 this section may be included only after their inclusion in a regulation  
8 adopted by the department. The direct operating costs do not include  
9 capital expenditures, tangible or intangible drilling expenses, costs of  
10 well workovers, costs for replacement or repairs (other than routine  
11 maintenance), depreciation or amortization, taxes, insurance, overhead,  
12 monies paid or set aside (or booked as being paid or set aside) to cover  
13 the cost of terminating the gas production operations of the lease or  
14 property, or any other cost not directly related to the gas production  
15 operations of the lease or property.

16 (i) For the purpose of calculating the economic limit, the value  
17 at the point of production of gas produced from the lease or property  
18 shall be determined on the basis of the highest price paid for gas of  
19 like quality and pressure in the same field.

20 (j) The department may aggregate two or more leases or properties  
21 (or portions of them), for purposes of determining economic limit factors  
22 under this section and applying them to sec. 11 or sec. 16 of this chap-  
23 ter, when economically interdependent oil or gas production operations  
24 are not confined to a single lease or property. The department may also  
25 segregate a lease or property into two or more parts, for purposes of  
26 determining economic limit factors under this section and applying them  
27 under sec. 11 or sec. 16 of this chapter, when two or more economically  
28 independent oil or gas production operations are being conducted on it,  
29 or when old crude oil is produced from the same lease or property as

1 other oil.

2 (k) A determination of the monthly production rate at the economic  
3 limit for a lease or property is retroactive to January 1 of the current  
4 year. For production of a lease or property commencing after January 1,  
5 the determination of the monthly production rate at the economic limit  
6 for that lease or property made within six months after the commencement  
7 of production is retroactive to the commencement of production.

8 Sec. 43.55.016. GAS PRODUCTION TAX. (a) There is levied upon the  
9 producer of gas a tax for all gas produced from each lease or property  
10 in the state, less any gas the ownership or right to which is exempt  
11 from taxation. The tax is equal to either the percentage-of-value  
12 amount calculated under (b) of this section or the cents-per-Mcf amount  
13 calculated under (c) of this section, whichever is greater, multiplied  
14 by the economic limit factor determined for gas production of the lease  
15 or property under sec. 13 of this chapter. If the amounts calculated  
16 under (b) and (c) of this section are equal, the amount calculated under  
17 (b) of this section shall be treated as if it were the greater for  
18 purposes of this section.

19 (b) The percentage-of-value amount equals 10 per cent of the gross  
20 value at the point of production of the taxable gas produced from the  
21 lease or property.

22 (c) The cents-per-Mcf amount equals \$.064 per thousand cubic feet  
23 of taxable gas produced from the lease or property as adjusted by sec.  
24 12 of this chapter.

25 Sec. 43.55.017. RELATION TO OTHER TAXES. (a) Except as provided  
26 in this chapter and in ch. 58 of this title, the taxes imposed by this  
27 chapter are in place of all taxes now imposed by the state or any of its  
28 municipalities, and neither the state nor a municipality may impose a  
29 tax upon

1 (1) producing oil or gas leases;  
2 (2) oil or gas produced or extracted in the state;  
3 (3) the value of intangible drilling and exploration expen-  
4 ses.

5 (b) The taxes imposed by this chapter are in place of all taxes  
6 imposed by a municipality upon oil or gas in place or nonproducing oil  
7 or gas leases or properties.

8 (c) The taxes imposed by this chapter are not in place of the tax  
9 imposed by ch. 57 of this title or income taxes, franchise taxes or  
10 taxes upon the retail sale of oil or gas products.

11 \* Sec. 2. AS 43.55.020(a) is amended to read:

12 (a) The gross production tax on oil or gas shall be paid monthly.  
13 The tax is due on the 20th [LAST] day of each calendar month on oil or  
14 gas produced [REMOVED OR SOLD] from each lease or property during the  
15 preceding month. If the tax is not paid before the end of the month in  
16 which it becomes due, the tax becomes delinquent.

17 \* Sec. 3. AS 43.55.020(e) is amended to read:

18 (e) Gas produced in excess of that needed for safety purposes  
19 [AND USED], except gas used in the operation of a lease or property in  
20 drilling for or producing oil or gas, or for repressuring, is considered,  
21 for the purpose of this chapter and in the amount used, as gas produced  
22 [REMOVED OR SOLD] from a lease or property. Gas flared beyond the  
23 amount authorized for safety by the Department of Natural Resources  
24 under AS 31.05.170(11)(H) is considered as gas produced, except that it  
25 is subject to a penalty equal to the tax computed under sec. 16 of this  
26 chapter as adjusted by sec. 12 of this chapter per thousand cubic feet  
27 of gas for the month in which the gas was flared.

28 \* Sec. 4. AS 43.55.030(a)(1) is amended to read:

29 (1) a description of the lease or property from which the oil

1 or gas was produced [REMOVED OR SOLD], by name, legal description, lease  
2 number or by accounting code numbers assigned by the department;

3 \* Sec. 5. AS 43.55.030(a)(3) is amended to read:

4 (3) the gross amount of oil or gas produced [REMOVED OR SOLD]  
5 from the lease or property, and the percentage of the gross amount owned  
6 by each producer for whom the tax is paid;

7 \* Sec. 6. AS 43.55.030(a)(4) is amended to read:

8 (4) the total value of the oil or gas produced [REMOVED OR  
9 SOLD] from the lease or property owned by each producer for whom the tax  
10 is paid; and

11 \* Sec. 7. AS 43.55.140 is amended by adding new paragraphs to read:

12 (12) "gross value at the point of production" means

13 (A) for oil, the value of the oil at the point where it  
14 is metered or measured (by automatic custody transfer meter, tank  
15 gauge, or other method approved by the commissioner) in a condition  
16 of pipeline quality on the premises of the lease or property from  
17 which it is recovered; however, if the oil is not of pipeline  
18 quality when it is removed from the premises of the lease or pro-  
19 perty from which it is recovered, or if the oil recovered from a  
20 lease or property is not metered or measured (by automatic custody  
21 transfer meter, tank gauge, or other method approved by the com-  
22 missioner) on the premises of the lease or property from which it  
23 is recovered, then the gross value at the point of production is  
24 the value of that oil at the off-premises location where the oil is  
25 first metered or measured (by automatic custody transfer meter,  
26 tank gauge, or other method approved by the commissioner) in a  
27 condition of pipeline quality;

28 (B) for gas recovered from or in association with oil,  
29 the value of the gas at the point where it is accurately metered or

1 measured after separation from the oil; for gas run through a gas  
2 processing plant, the gross value at the point of production is the  
3 full consideration received by the producer for the gas if sold in  
4 an arm's length transaction or, in the absence of an arm's length  
5 transaction, is the sum of the value of the liquids extracted from  
6 the gas at the plant and the value of the residue gas, less a  
7 reasonable allowance for processing the gas at the plant and for  
8 transporting the gas to the plant from the premises upon which the  
9 oil production operation is conducted; and

10 (C) for gas not recovered from or in association with  
11 oil, the value of the gas at the point where it is accurately  
12 metered or measured or the value of the gas at the point of sale,  
13 if any, on the premises of the lease or property from which the gas  
14 is recovered, whichever is the higher value; for gas run through a  
15 gas processing plant, the gross value at the point of production is  
16 the full consideration received by the producer for the gas if sold  
17 in an arm's length transaction or, in the absence of an arm's  
18 length transaction, is the sum of the value of the liquids ex-  
19 tracted from the gas at the plant and the value of the residue gas,  
20 less a reasonable allowance for processing the gas at the plant and  
21 for transporting the gas to the plant from the point where it was  
22 accurately metered or measured;

23 (13) "oil production operation" means the operation by which  
24 oil is recovered from a lease or property and rendered into oil of  
25 pipeline quality, and includes any gathering done before the oil is  
26 finally rendered into oil of pipeline quality;

27 (14) "pipeline quality" means good and merchantable condi-  
28 tion;

29 (15) "well days" means the number of days in which a well is

1 operating during a month;

2 (16) "old crude oil" means crude oil production classified  
3 as "old crude oil" in 10 CFR Chapter II Part 212-72 on May 1, 1977, and  
4 which is also classified as "old crude oil" on the date of production.

5 \* Sec. 8. AS 43.56.210(6) is amended to read:

6 (6) "taxable property" means real and tangible personal  
7 property used or committed by contract or other agreement for use within  
8 this state primarily in the exploration for, production of, or pipeline  
9 transportation of gas or unrefined oil (except for property used solely  
10 for the retail distribution or liquefaction of natural gas), or in the  
11 operation or maintenance of facilities used in the exploration for,  
12 production of, or pipeline transportation of gas or unrefined oil, in-  
13 cluding machinery, appliances, supplies, equipment, drilling rigs, wells  
14 (whether producing or not), gathering lines and transmission lines,  
15 pumping stations, compressor stations, power plants, topping plants,  
16 processing units, roads, tank farms, tanker terminals, docks and other  
17 port facilities, air strips and communication equipment and facilities,  
18 maintenance equipment and facilities, and maintenance camps and other  
19 related facilities; "taxable property" does not include permanent  
20 residences, office buildings requiring substantial local government  
21 services, or oil and gas pipeline systems owned and operated by a certi-  
22 ficated public utility [AS UTILITIES AND] regulated by the Alaska Public  
23 Utilities Commission;

24 \* Sec. 9. AS 43.55.010, 43.55.015 and 43.55.140(10) and (11) are re-  
25 pealed.

26 \* Sec. 10. (a) If a court of competent jurisdiction invalidates the  
27 differential economic limit factor computation under AS 43.55.013(a) and (b),  
28 the economic limit factor contained in (b) of that section shall be used for  
29 computation of the economic limit for all oil.

1 (b) If a court of competent jurisdiction invalidates the differential  
2 cents-per-barrel amounts set out in AS 43.55.011(c), then the cents-per-  
3 barrel amount under that section shall be \$0.80 per barrel for all crude oil.

4 \* Sec. 11. This Act applies to production during the month of July, 1977  
5 and succeeding months.

6 \* Sec. 12. This Act takes effect July 1, 1977.  
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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 SENATE

2 SENATE BILL NO. 105

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

production, shall, notwithstanding sec. 65 of this chapter, be determined by separate accounting in accordance with section 18 of article IV of the Multi-State Compact (AS 43.19.010) and secs. 12 - 14 of this chapter.

\* Sec. 3. AS 43.20 is amended by adding new sections to read:

Sec. 43.20.012. DETERMINATION OF OIL AND NATURAL GAS PRODUCTION INCOME. (a) The determination of taxable income attributable to oil and natural gas production, as required under secs. 11(e) and (f) of this chapter, shall be based on a separate accounting of costs and revenues associated with the production.

(b) Gross revenue from oil and gas production shall be the well-head value as established for purposes of the oil and gas properties production tax, in accordance with the provisions of ch. 55 of this title.

(c) Deductions from gross revenue for the purposes of determining taxable production income shall include:

(1) royalties actually paid whether in kind or in value;

(2) severance taxes actually paid;

(3) property taxes actually paid by the corporation taxpayer on the producing property and the facilities directly associated with it, including facilities for the gathering, treating and preparing of the oil or gas for shipment;

(4) the costs incurred by the corporation taxpayer in operating the oil or gas field, including the costs of gathering, treating and preparing the oil or gas for shipment, but net of any payments received for those services;

(5) depreciation on investments which are associated with the production, gathering, treating and preparing for shipment of the oil or 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

1 revenue which the state would have collected had not a specific deduc-  
2 tion been allowed. Also included in the report shall be a summary of  
3 each corporate tax return filed which shows income from the production  
4 of oil or natural gas, showing the total amount of oil and gas produced  
5 by or for each taxpayer, the taxable income of the corporation from  
6 production as reported in accordance with sec. 12 of this chapter, from  
7 pipeline transportation as reported in accordance with sec. 13 of this  
8 chapter, from other income allocated to the state under sec. 14 of this  
9 chapter, and the tax due.

10 \* Sec. 4. AS 43.20.330 is amended by adding new subsections to read:

11 (f) Any person who improperly influences, or attempts to improper-  
12 ly influence, by means of payment or offer of payment or other valuable  
13 consideration, any state official in his determination of values and  
14 apportionments under this chapter shall be guilty of bribery and punish-  
15 able under AS 11.30.040.

16 (g) Any person who knowingly and wilfully makes false statements  
17 or representations, or who knowingly allows false statements or repre-  
18 sentations to be made on his behalf in the case of corporations, with a  
19 purpose of avoiding the corporate tax imposed under this chapter is  
20 guilty of wilful tax avoidance and is punishable upon conviction by a  
21 fine of three times the amount of the tax that would have been unpaid  
22 had the false statement been undetected, and by imprisonment for not  
23 less than 10 days nor more than one year.

24 \* Sec. 5. AS 42.06.140 is amended by adding a new paragraph to read:

25 (11) shall provide all reasonable assistance to the Depart-  
26 ment of Revenue in determining the net income from oil pipeline facili-  
27 ties.

28 \* Sec. 6. AS 42.06 is amended by adding a new section to read:

29 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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Original sponsor: Rules Committee  
by request of the Legislative Council  
(for the Subcommittee on Oil and Gas  
Leasing and Taxing Policies)

Offered: 4/27/77  
Referred: Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

CS FOR SENATE BILL NO. 105

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."

7

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:

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29

(f) For purposes of determining taxable income under (e) of this  
section that part of income of any corporation derived in Alaska from  
oil or natural gas production or the transportation of crude oil or  
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  
30

1 Commission, then a statement to that effect, identifying the deficiencies  
2 of the report and, if possible, providing a reporting of the true and  
3 correct income.

4 (c) Taxable income attributable to the transportation of crude oil  
5 in Alaska of any corporation not under Interstate Commerce Commission  
6 jurisdiction, or of a corporation under the Interstate Commerce Commis-  
7 sion but not reporting the operation of pipelines in Alaska separately  
8 from the operation of pipelines elsewhere, shall be an amount equal to  
9 that which would have been reported to the Interstate Commerce Commission  
10 under (a) of this section had the corporation been, in fact, under  
11 Interstate Commerce Commission jurisdiction for the taxable year and  
12 required to report on the operation of Alaska pipelines separately from  
13 the operation of pipelines elsewhere. A tax return reporting that  
14 income shall be accompanied by a certification from the Alaska Pipeline  
15 Commission to the effect that to the best of the commission's knowledge  
16 and belief the income calculation has been made in accordance with the  
17 principles established by the Interstate Commerce Commission, or, if in  
18 the opinion of the commission, the income is not reported in accordance  
19 with the regulations of the Interstate Commerce Commission, then a  
20 statement to that effect, identifying the deficiencies of the report  
21 and, if possible, providing a reporting of the true and correct income.

22 (d) Taxable income attributable to the transportation of natural  
23 gas in Alaska by any corporation not under the jurisdiction of the  
24 Federal Power Commission, or of a corporation under Federal Power Commis-  
25 sion jurisdiction but not reporting the operation of Alaska pipelines  
26 separately from the operation of pipelines elsewhere, shall be an amount  
27 equal to that which would have been reported to the Federal Power Commis-  
28 sion under (b) of this section had the corporation been, in fact, under  
29 Federal Power Commission jurisdiction for the taxable year and required

1 to report on the operation of Alaska pipelines separately from the opera-  
2 tion of pipelines elsewhere. A tax return reporting that income shall  
3 be accompanied by a certification from the Alaska Public Utility Commis-  
4 sion to the effect that to the best of the commission's knowledge and  
5 belief the income calculation has been made in accordance with the  
6 principles established by the Federal Power Commission, or, if in the  
7 opinion of the commission, the income is not reported in accordance with  
8 the regulations of the Federal Power Commission, then a statement to  
9 that effect, identifying the deficiencies of the report and, if possible,  
10 providing a reporting of the true and correct income.

11 (e) The certifications of the Alaska Pipeline Commission and the  
12 Alaska Public Utilities Commission submitted in accordance with this  
13 section do not prejudice any future action by the respective commission  
14 nor prevent the respective commission from submitting a revised certi-  
15 fication within three years of the due date of the tax return in support  
16 of which it was originally filed.

17 (f) Nothing in this section or in sec. 67 of this chapter limits a  
18 corporate taxpayer's right to appeal or the taxpayer remedies provided  
19 under ch. 5 of this title.

20 Sec. 43.20.069. DETERMINATION OF INCOME FROM OTHER ACTIVITIES OF  
21 CORPORATIONS ENGAGED IN OIL OR NATURAL GAS PRODUCTION OR TRANSPORTATION.  
22 Taxable income from activities other than oil or natural gas production  
23 or pipeline transportation shall be determined by subtracting the income  
24 as determined under secs. 67 and 68 of this chapter from the corpora-  
25 tion's combined net income and applying the apportionment formula  
26 required under the provisions of sec. 65 of this chapter, except that  
27 both the numerator and the denominator of the property factor and the  
28 payroll factor shall be calculated without reference to payroll or  
29 property related to crude oil or natural gas production or pipeline

1 transportation activity in Alaska, and the sales factor shall not be  
2 used in the calculation.

3 Sec. 43.20.070. PUBLIC REPORTING. Notwithstanding the provisions  
4 of AS 43.05.230, the commissioner of revenue shall compile and transmit  
5 to the legislature an annual consolidated report of state revenues and  
6 taxation policies under this chapter. This report shall include total  
7 Alaska income tax paid by firms and individuals covered under this  
8 chapter and itemized deductions by category.

9 \* Sec. 4. AS 43.20 is amended by adding a new section to read:

10 Sec. 43.20.075. BOOKS AND RECORDS. The department may provide by  
11 regulation the manner in which books and records must be kept and main-  
12 tained for purposes of determining gross income and deductions from  
13 gross income under secs. 67 - 69 of this chapter.

14 \* Sec. 5. AS 43.20.335 is amended by adding new subsections to read:

15 (k) Any person who improperly influences, or attempts to improper-  
16 ly influence, by means of payment or offer of payment or other valuable  
17 consideration, any state official in his determination of values and  
18 apportionments under this chapter is guilty of bribery and punishable  
19 under AS 11.30.040.

20 (l) Any person who knowingly and wilfully makes false statements  
21 or representations, or who knowingly allows false statements or repre-  
22 sentations to be made on his behalf in the case of corporations, with a  
23 purpose of avoiding the corporate tax imposed under this chapter is  
24 guilty of wilful tax avoidance and is punishable upon conviction by a  
25 fine of three times the amount of the tax that would have been unpaid  
26 had the false statement been undetected, and by imprisonment for not  
27 less than 10 days nor more than one year.

28 \* Sec. 6. AS 42.06.140 is amended by adding a new paragraph to read:

29 (11) shall provide all reasonable assistance to the

1 Department of Revenue in determining the net income from oil pipeline  
2 facilities.

3 \* Sec. 7. AS 42.06 is amended by adding a new section to read:

4 Sec. 42.06.041. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE.

5 (a) Upon request of a pipeline carrier the commission shall review the  
6 accounts of that carrier and provide a certification to the Department  
7 of Revenue either stating that to the best of the commission's knowledge  
8 and belief the report of net pipeline income submitted by the carrier  
9 under AS 43.20.069 is in accordance with the commission's regulations  
10 governing the accounting of income, or that it is not so in accordance,  
11 in which case the commission shall identify the deficiencies in the  
12 report and, if possible, provide a reporting of the true and correct in-  
13 come.

14 (b) The commission shall provide the certification of compliance  
15 or deficiency in reporting within 45 days of the date on which the pipe-  
16 line carrier requests it, but all certifications remain subject to  
17 amendment by the commission for a period of three years after the due  
18 date of the tax return which they accompany.

19 (c) The commission may by regulation establish accounting pro-  
20 cedures and definitions as may be necessary to define net income for tax  
21 purposes, but net income so defined shall coincide as nearly as possible  
22 with the net income definition used by the commission in establishing  
23 rates and measuring rate of return, and shall be derived before any  
24 deductions for income taxes accrued or paid.

25 \* Sec. 8. AS 42.05.141 is amended to read:

26 Sec. 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. The  
27 Alaska Public Utilities Commission [MAY]

28 (1) may regulate every public utility engaged or proposing to  
29 engage in such a business inside the state, except to the extent

1 exempted by sec. 711 of this chapter and the powers of the commission  
2 shall be liberally construed to accomplish its stated purposes;

3 (2) may investigate, upon complaint or upon its own motion,  
4 the rates, classifications, rules, regulations, practices, services and  
5 facilities of a public utility and hold hearings on them;

6 (3) may make or require just, fair and reasonable rates,  
7 classifications, regulations, practices, services and facilities for a  
8 public utility;

9 (4) may prescribe the system of accounts and regulate the  
10 service and safety of operations of a public utility;

11 (5) may require a public utility to file reports and other  
12 information and data;

13 (6) may appear personally or by counsel and represent the  
14 interests and welfare of the state in all matters and proceedings in-  
15 volving a public utility pending before an officer, department, board,  
16 commission or court of the state or of another state or the United  
17 States and to intervene in, protest, resist, or advocate the granting,  
18 denial or modification of any petition, application, complaint or other  
19 proceeding;

20 (7) may examine witnesses and offer evidence in any proceed-  
21 ing affecting the state and initiate or participate in judicial pro-  
22 ceedings to the extent necessary to protect and promote the interests of  
23 the state;

24 (8) shall provide all reasonable assistance to the Department  
25 of Revenue in determining the net income from natural gas pipeline  
26 facilities.

27 \* Sec. 9. AS 42.05 is amended by adding a new section to read:

28 Sec. 42.05.502. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE.

29 (a) Upon request of a pipeline carrier the commission shall review the

1 accounts of that carrier and provide a certification to the Department  
2 of Revenue either stating that to the best of the commission's knowledge  
3 and belief the report of net pipeline income submitted by the carrier  
4 under AS 43.20.069 is in accordance with the commission's regulations  
5 governing the accounting of income, or that it is not so in accordance,  
6 in which case the commission shall identify the deficiencies in the  
7 report and, if possible, provide a reporting of the true and correct  
8 income.

9 (b) The commission shall provide the certification of compliance  
10 or deficiency in reporting within 45 days of the date on which the pipe-  
11 line carrier requests it, but all certifications remain subject to  
12 amendment by the commission for a period of three years after the due  
13 date of the tax return which they accompany.

14 (c) The commission may by regulation establish accounting proce-  
15 dures and definitions as may be necessary to define net income for tax  
16 purposes, but net income so defined shall coincide as nearly as possible  
17 with the net income definition used by the commission in establishing  
18 rates and measuring rate of return, and shall be derived before any  
19 deductions for income taxes accrued or paid.

20 \* Sec. 10. This Act relates only to income earned or received after  
21 December 31, 1976.

22 \* Sec. 11. This Act takes effect January 1, 1978.  
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# LAWS OF ALASKA

1978

Source

Chapter No.

SCS CSHB 322 (Resources)

110

## AN ACT

Establishing an oil and gas corporate income tax; and providing for an effective date.

### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that the method of apportioning income for tax purposes under the "Uniform Division of Income for Tax Purposes" formula embodied in the Multistate Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the extent of the business activities in this state of multistate corporations engaged in the production and pipeline transportation of crude oil and natural gas in Alaska. The legislature therefore intends that, in accordance with the provisions of art. IV, sec. 18 of the Multistate Tax Compact (AS 43.19), the income tax of all corporations engaged in the production or pipeline transportation of oil or natural gas in or directly associated with this state shall be assessed by the tax administrator under this Act. The legislature further intends that the assessment of income tax against a multistate corporation engaged in the production or pipeline transportation of oil or natural gas shall be commensurate with the tax that would be assessed against a corporation owning and operating only those assets of the multistate corporation which are in or directly associated with this state.

\* Sec. 2. AS 43.20.011(e) amended to read:

(e) There is imposed for each taxable year upon the entire taxable income of every corporation derived from sources within the state a tax consisting of a normal tax equal to 5.4 per cent of taxable income, and a surtax which is equal to 4.0 per cent of taxable income. For purposes of this chapter the surtax exemption for a taxable year follows secs. 1561 and 1563 of the Internal Revenue Code. The tax of a corporation engaged in the production or transportation of crude oil or natural gas shall be determined and paid in accordance with ch. 21 of this title.

\* Sec. 3. AS 43 is amended by adding a new chapter to read:

CHAPTER 21. OIL AND GAS CORPORATE  
INCOME TAX.

Sec. 43.21.010. APPLICATION. This chapter applies to every corporation doing business in the state which derives income from the production of oil or gas from a lease or property in or directly associated with the state, or from the pipeline transportation of oil or gas in the state. The tax calculated under this chapter is measured by the total taxable income of the corporation as defined in secs. 20 - 40 of this chapter and is determined at the rates established under AS 43.20.011(e).

Sec. 43.21.020. DETERMINATION OF TAXABLE INCOME FROM OIL AND GAS PRODUCTION. (a) The taxable income of a corporation from the production of oil and gas from a lease or property in the state shall be the corporation's net income as calculated by the department in accordance with this section.

(b) Gross income of a corporation from oil and gas production shall be the gross value at the point of production of oil or gas produced from a lease or property in the state. The department shall by regulation determine a uniform method of establishing the gross value at the point of production. In making its determination the department may use the actual prices or values received for the oil or gas, the posted prices for the oil or gas in the same field, or the prevailing prices or values of oil or gas in the same field. In addition, in its determination of gross value at the point of production of oil or gas produced from a lease or property, the department shall determine the reasonable costs of transportation from the point of sale to the point of production of the oil or gas. Transportation costs set by a tariff properly on file with the Alaska Pipeline Commission or other regulatory agency shall be considered prima facie reasonable, but if a tariff properly on file with a regulatory agency is subsequently amended, changed, or overturned retroactively, the reasonable costs of transportation shall be recomputed for that period using the newly determined tariff.

(c) Net income from oil and gas production shall be determined by the department by deducting from gross income the following:

(1) royalties paid in kind or in value;

(2) taxes imposed under AS 43.55 and AS 43.57 which are actually paid by the corporation on the production from a lease or property in the state;

(3) taxes imposed under AS 43.56 and AS 29.53 which are actually paid by the corporation on property used directly in the production of oil or gas from a lease or property in the state, including property used in production, gathering, treatment or preparation of the oil or gas for pipeline transportation, but only if those property tax payments were due and payable only after the date of commercial production from the lease or property with which the property was associated;

(4) the direct costs incurred by or for the corporation in operating the lease or property, including the direct costs of producing, gathering, treating or preparing the oil or gas for pipeline transportation, but net of any payments received for those activities and not including any indirect cost or overhead expense;

(5) depreciation (using the unit of production method or such other reasonable methods as the department may by regulation establish) on property used directly in the production, gathering, treatment or preparation of the oil or gas for pipeline transportation including amortization of capitalized interest for investments in this property at a rate not to exceed the average cost of borrowed capital to the taxpayer during the year in which it is capitalized;

(6) the amortization of lease acquisition payments and taxes paid under AS 43.56 and AS 29.53 (including capitalized interest on both) for or on producing properties before the commencement of commercial production from the lease or property for which the property is being used;

(7) interest expense not capitalized of the corporation, to the extent that it does not exceed that portion of the total interest paid by the consolidated business of which the corporation is a part, determined by multiplying the total interest (reduced by intercompany transactions within the consolidated business) by a fraction, the numerator of which is the value of the corporation's real and tangible personal property used directly in the production of oil or gas from a lease or property in the state and the denominator of which is the value of all real and tangible personal property of the consolidated business;

(8) expenses incurred by the corporation after December 31, 1977 of unsuccessful exploration of oil or gas in the state including the acquisition costs of abandoned properties, dry hole costs and the costs of geologic and geophysical exploration related to those abandoned properties;

(9) general overhead or administrative expense incurred by the corporation attributable to the production of oil or gas from a lease or property in the state to the extent that it does not exceed the lesser of:

(A) that portion of the total general overhead or administrative expense incurred by the consolidated business of which the corporation is a part, determined by multiplying the total general overhead or administrative expense by a fraction, the numerator of which is the value of the corporation's real and tangible personal property used directly in the production of oil or gas from a lease or property in the state and the denominator of which is the value of all real and tangible personal property of the consolidated business, or

(B) the sum of \$0.12 for each barrel of oil and \$0.02 for each thousand cubic feet of gas produced from a lease or property in the state.

(d) Deductions from gross income under this section shall not include expenses previously deducted on a return filed under AS 43.20.

(e) Where a corporation subject to this chapter shares the production or proceeds of the production from a lease or property through a working interest, royalty interest, overriding royalty interest, production payment, net profit interest, joint venture or other agreement, the department shall allocate the deductions from gross income between the corporation and the persons with whom it has such an agreement in accordance with the terms of the agreement.

Sec. 43.21.030. DETERMINATION OF INCOME FROM OIL AND GAS PIPELINE TRANSPORTATION. (a) Except as provided in (c) of this section, taxable income attributable to the transportation of oil in a pipeline engaged in interstate commerce in Alaska shall be determined by the department and shall be the amount reported or that would be required to be reported to the Federal Energy Regulatory Commission or its successors as net operating income, less those portions of interest and general administrative expense attributable to the pipeline transportation of oil in the state, except that taxable income shall also include taxes on or measured by income. The department shall establish regulations governing the determination of interest and general administrative expense attributable to pipeline transportation of oil in the state.

(b) Except as provided in (c) of this section, taxable income attributable to the transportation of natural gas in a pipeline engaged in interstate commerce in Alaska shall be determined by the department and shall be the amount reported or that would be required to be reported to the Federal Energy Regulatory Commission as net operating income less that portion of interest and general administrative expense attributable to pipeline transportation in the state, except that the taxable income shall also include taxes on or measured by income. The department shall establish regulations governing the determination of interest and general administrative expense attributable to pipeline transportation of natural gas in the state.

(c) Taxable income attributable to the transportation of oil or natural gas in Alaska of any corporation not under the Federal Energy Regulatory Commission jurisdiction, or of a corporation under the jurisdiction of the Federal Energy Regulatory Commission but not reporting the operation of pipelines in Alaska separately from the operation of pipelines elsewhere, shall be determined by the department and shall be based upon an amount equal to that which would have been reported to the Federal Energy Regulatory Commission under (a) of this section in the case of oil pipelines, or (b) of this section in the case of natural gas pipelines, had the corporation been, in fact, under Federal Energy Regulatory Commission jurisdiction for the taxable year and required to report on the operation of Alaska pipelines separately from the operation of pipelines elsewhere.

Sec. 43.21.040. DETERMINATION OF INCOME FROM ACTIVITIES OTHER THAN OIL AND GAS PRODUCTION OR PIPELINE TRANS-

PORTATION. (a) Taxable income of a corporation subject to this chapter from activities in this state other than the production of oil or gas from a lease or property in the state or the pipeline transportation of oil or gas in the state shall be determined in accordance with the method established in art. IV of AS 43.19.010 and in AS 43.20.071, as modified by (b) - (e) of this section.

(b) The total taxable income of the consolidated business shall be the net income determined and certified by an independent certified public accountant for the purposes of a report to shareholders covering its earnings and profits for the taxable year (calculated without regard to any taxes on or measured by net income), less the taxable income of the corporation as determined under secs. 20 and 30 of this chapter.

(c) The numerator and denominator of the property factor, of the payroll factor and of the sales factor shall be calculated without reference to that portion of property, payroll or sales directly related to the production of oil or gas from a lease of property in the state or the pipeline transportation of oil or gas in the state.

(d) Compensation earned by employees of the consolidated business who are employed in the United States but not in any state shall be included in the numerator of the payroll factor if the employees are directly supplied from a base of operations maintained in this state.

(e) The value of oil or gas production facilities or other properties of the consolidated business which are located in the United States but not in any state shall be included in the numerator of the property factor if the property is serviced or supplied from a base of operations maintained in the state or if that property relies on onshore facilities in this state for storage of the oil or gas produced.

Sec. 43.21.050. ASSESSMENT OF INCOME AND TAX. (a) The department shall assess taxable income and the amount of tax payable on that taxable income.

(b) On or before August 15 of each year the department shall send to every corporation taxable under this chapter a notice of assessment showing the amount of income taxable under this chapter for the previous year and the amount of tax payable on that taxable income.

(c) For purposes of this chapter the department may combine taxable incomes of corporations subject to tax under this chapter who are part of the same consolidated business.

Sec. 43.21.060. RETURNS. On or before April 15 of each year, a corporation subject to tax under this chapter shall submit a return in a form prescribed by the department setting out information required by the department to determine taxable income. For purposes of this chapter, the department may require corporations subject to tax under this chapter who are part of the same consolidated business to file a single return.

Sec. 43.21.070. PAYMENT OF TAX. The tax levied under this chapter is payable to the department on or before September 30 of each year or in installments at the times and under the conditions the department may by regulation require. This tax is payable on the due date set out in this section even though the assessment is under appeal or the validity, enforceability or application of this chapter or any provision of this chapter is challenged before the department or in the courts.

Sec. 43.21.080. TRANSITIONAL RULES. The department shall provide by regulation transition rules for corporations subject to tax under ch. 20 of this title before the effective date of this Act to avoid double taxation of the same income or double deduction of the same expense of those corporations as a result of becoming subject to tax under this chapter.

Sec. 43.21.090. REGULATIONS. The department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) as appropriate to administer and enforce this chapter.

Sec. 43.21.100. PENALTIES. The penalties established in ch. 20 of this title apply to this chapter.

Sec. 43.21.110. PUBLIC REPORTING. (a) The commissioner of revenue shall compile and transmit to the legislature an annual consolidated report of state revenues and taxation policies under this chapter. This report shall include total aggregate income tax paid by corporations covered under this chapter and aggregate income and deductions by category, so classified as to prevent the identification of particular returns or reports.

(b) The legislative auditor shall transmit to the legislature an annual report reviewing the actions of the department in administering this chapter.

Sec. 43.21.120. DEFINITIONS. Unless the context requires otherwise the definitions contained in AS 43.55.-140 are applicable to this chapter. In addition, in this chapter

(1) "base of operations" means the closest point on land to the offshore oil or gas production operations from which goods, services and supplies flow to those offshore oil or gas production operations;

(2) "consolidated business" means a corporation or group of corporations having at least 50 per cent common ownership, direct or indirect, or a group of corporations in which there is common control either direct or indirect as evidenced by any arrangement, contract or agreement.

\* Sec. 4. This Act applies to taxable income earned or received after December 31, 1977.

\* Sec. 5. The Act takes effect immediately in accordance with AS 01.10.070(c).

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Approved by the Governor: July 8, 1978  
Actual Effective Date: July 9, 1978



## LAWS OF ALASKA

1978

Source

HCSSB 601

Chapter No.

111

## AN ACT

Making special appropriations to the power project revolving fund and the Department of Revenue; and providing for an effective date.

## BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* Section 1. The sum of ~~\$6,000,000~~ <sup>\$500,000</sup> is appropriated from the general fund to the power project revolving fund (AS 44.56.170) to be used for loans for reconnaissance studies, design, modification, expansion and preconstruction engineering for water supply and hydroelectric projects.

\* Sec. 2. The sum of ~~\$10,500,000~~ <sup>\$7,000,000</sup> is appropriated from the general fund to the Department of Revenue for a loan to the municipality of Sitka for continuing design, federal licensing, and commencing construction of the Green Lake hydroelectric project; the terms and conditions of the loan are to be determined by the commissioner of revenue in consultation with the commissioner of transportation and public facilities.

\* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

Approved by the Governor: July 8, 1978  
Actual Effective Date: July 9, 1978