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Nauman/Bullock
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A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 192(RES), Draft Version "B"

Page 1, line 1, following "**tax**":

Insert "**rate; relating to monthly installment payments of the oil and gas production tax; relating to oil and gas production tax credits, including qualified capital credits for exploration, development, and production**"

Page 1, line 3, through page 2, line 6:

Delete all material and insert:

"* **Section 1.** AS 43.55.011(e) is amended to read:

(e) There is levied on the producer of oil or gas a tax for all oil and gas produced each calendar year from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under (f), (j), (k), and (o) of this section, the tax is equal to the sum of

[(1)] the annual production tax value of the taxable oil and gas

<u>(1) produced from a lease or property not described in (2) of this subsection</u> as calculated under AS 43.55.160(a)(1) multiplied by 25 percent**<u>, and the sum, over all months of the calendar year, of the tax amounts determined under (g)(1) of this section</u>**; and

(2) **<u>produced during the first seven consecutive years after the start of sustained production or produced during the first seven years after the effective date of this bill section, whichever is later, from a lease or property containing land that was not or previously had not been within a unit or in commercial production as of December 31, 2008, as calculated under</u>**

<u>AS 43.55.160(a)(1) multiplied by 15 percent, and</u> the sum, over all months of the calendar year, of the tax amounts determined under **<u>(g)(2)</u>** [(g)] of this section**<u>; in this paragraph, "sustained production" has the meaning given in AS 43.55.025(*l*)</u>**.

* **Sec. 2.** AS 43.55.011(g) is repealed and reenacted to read:

(g) For each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2) for each BTU equivalent barrel of the taxable oil and gas is more than $30, the amount of tax for purposes

(1) of (e)(1) of this section is determined by multiplying the monthly production tax value of the taxable oil and gas produced during the month by the tax rate calculated as follows:

(A) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is not more than $92.50, the tax rate is 0.4 percent multiplied by the number that represents the difference between that average monthly production tax value of a BTU equivalent barrel and $30; or

(B) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than $92.50, the tax rate is the sum of 25 percent and the product of 0.1 percent multiplied by the number that represents the difference between the average monthly production tax value of a BTU equivalent barrel and $92.50, except that the sum determined under this subparagraph may not exceed 50 percent;

(2) of (e)(2) of this section is determined by multiplying the monthly production tax value of the taxable oil and gas produced during the month by the following tax rates, as applicable:

(A) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is not more than $42.50, the tax rate is 2.5 percent of the difference between that average monthly production tax value of a BTU equivalent barrel and $30;

(B) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than $42.50 but not more than $55, the tax rates are

(i) 2.5 percent on the first $12.50 of monthly production tax value for each BTU equivalent barrel that is greater than $30; and

(ii) 7.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than $42.50;

(C) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than $55 but not more than $67.50, the tax rates are

(i) 2.5 percent on the first $12.50 of monthly production tax value for each BTU equivalent barrel that is greater than $30;

(ii) 7.5 percent of the next higher $12.50 of monthly production tax value for each BTU equivalent barrel; and

(iii) 12.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than $55;

(D) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than $67.50 but not more than $80, the tax rates are

(i) 2.5 percent on the first $12.50 of monthly production tax value for each BTU equivalent barrel that is greater than $30;

(ii) 7.5 percent of the next higher $12.50 of monthly production tax value for each BTU equivalent barrel;

(iii) 12.5 percent of the next higher $12.50 of monthly production tax value for each BTU equivalent barrel;

(iv) 17.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than $67.50;

(E) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than $80 but not more than $92.50, the tax rates are

(i) 2.5 percent on the first $12.50 of monthly production tax value for each BTU equivalent barrel that is greater than $30;

(ii) 7.5 percent of the next higher $12.50 of monthly production tax value for each BTU equivalent barrel;

(iii) 12.5 percent of the next higher $12.50 of monthly production tax value for each BTU equivalent barrel;

(iv) 17.5 percent of the next higher $12.50 of monthly production tax value for each BTU equivalent barrel; and

(v) 22.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than $80;

(F) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than $92.50, the tax rates are

(i) 2.5 percent on the first $12.50 of monthly production tax value for each BTU equivalent barrel that is greater than $30;

(ii) 7.5 percent of the next higher $12.50 of monthly production tax value for each BTU equivalent barrel;

(iii) 12.5 percent of the next higher $12.50 of monthly production tax value for each BTU equivalent barrel;

(iv) 17.5 percent of the next higher $12.50 of monthly production tax value for each BTU equivalent barrel;

(v) 22.5 percent of the next higher $12.50 of monthly production tax value for each BTU equivalent barrel; and

(vi) 25 percent of the monthly production tax value for each BTU equivalent barrel that is greater than $92.50.

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

(a) For a calendar year, a producer subject to tax under AS 43.55.011(e) - (i) shall pay the tax as follows:

(1) an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; except as otherwise provided under (2) of this subsection, the amount of the installment payment is the sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount of the installment payment may not be less than zero:

(A) for oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin but not subject to AS 43.55.011(o), other than leases or properties subject to AS 43.55.011(f), the greater of

(i) zero; or

(ii) the **applicable tax rates in AS 43.55.011(e) and (g) applied to** [SUM OF 25 PERCENT AND THE TAX RATE CALCULATED FOR THE MONTH UNDER AS 43.55.011(g) MULTIPLIED BY] the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the leases or properties under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;

(B) for oil and gas produced from leases or properties subject to AS 43.55.011(f), the greatest of

(i) zero;

(ii) zero percent, one percent, two percent, three percent, or four percent, as applicable, of the gross value at the point of production of the oil and gas produced from all leases or properties during the month for which the installment payment is calculated; or

(iii) the **applicable tax rates in AS 43.55.011(e) and (g) applied to** [SUM OF 25 PERCENT AND THE TAX RATE CALCULATED FOR THE MONTH UNDER AS 43.55.011(g) MULTIPLIED BY] the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for those leases or properties under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from those leases or properties during the month for which the installment payment is calculated;

(C) for oil and gas produced from each lease or property subject to AS 43.55.011(j), (k), or (o), the greater of

(i) zero; or

(ii) the **<u>applicable tax rates in AS 43.55.011(e) and (g) applied to</u>** [SUM OF 25 PERCENT AND THE TAX RATE CALCULATED FOR THE MONTH UNDER AS 43.55.011(g) MULTIPLIED BY] the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 for oil or gas, respectively, produced from the lease or property from the gross value at the point of production of the oil or gas, respectively, produced from the lease or property during the month for which the installment payment is calculated;

(2) an amount calculated under (1)(C) of this subsection for oil or gas produced from a lease or property subject to AS 43.55.011(j), (k), or (o) may not exceed the product obtained by carrying out the calculation set out in AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable gas produced during the month for the amount of taxable gas produced during the calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the amount of taxable oil produced during the month for the amount of taxable oil produced during the calendar year;

(3) an installment payment of the estimated tax levied by AS 43.55.011(i) for each lease or property is due for each month of the calendar year on the last day of the following month; the amount of the installment payment is the sum of

(A) the applicable tax rate for oil provided under AS 43.55.011(i), multiplied by the gross value at the point of production of the oil taxable under AS 43.55.011(i) and produced from the lease or property during the month; and

(B) the applicable tax rate for gas provided under AS 43.55.011(i), multiplied by the gross value at the point of production of the gas taxable under AS 43.55.011(i) and produced from the lease or property during the month;

(4) any amount of tax levied by AS 43.55.011(e) or (i), net of any credits applied as allowed by law, that exceeds the total of the amounts due as installment payments of estimated tax is due on March 31 of the year following the calendar year of production.

* **Sec. 4.** AS 43.55.023(g) is amended to read:

(g) The issuance of a transferable tax credit certificate under (d) **<u>of this section</u>** or **<u>former</u>** (m) of this section or the purchase of a certificate under AS 43.55.028 does not limit the department's ability to later audit a tax credit claim to which the certificate relates or to adjust the claim if the department determines, as a result of the audit, that the applicant was not entitled to the amount of the credit for which the certificate was issued. The tax liability of the applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is increased by the amount of the credit that exceeds that to which the applicant was entitled, or the applicant's available valid outstanding credits applicable against the tax levied by AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is increased under this subsection, the increase bears interest under AS 43.05.225 from the date the transferable tax credit certificate was issued. For purposes of this subsection, an applicant that is an explorer is considered a producer subject to the tax levied by AS 43.55.011(e).

* **Sec. 5.** AS 43.55.023(*l*) is amended to read:

(*l*) A producer or explorer may apply for a tax credit for a well lease expenditure incurred in the state [SOUTH OF 68 DEGREES NORTH LATITUDE] after **<u>December 31, 2012, and before January 1, 2023</u>** [JUNE 30, 2010], as follows:

(1) notwithstanding that a well lease expenditure incurred in the state

<u>(A)</u> south of 68 degrees North latitude may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under (a) of this section, AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a well lease expenditure in the state south of 68 degrees North latitude may elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of 40 percent of that expenditure;

<u>(B) north of 68 degrees North latitude and outside of a unit or in commercial production before December 31, 2008, may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under (a) of this section, AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a well lease expenditure in the state north of 68 degrees North latitude and outside of a unit or in commercial production before December 31, 2008, may elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of 40 percent of that expenditure;</u> [A TAX CREDIT UNDER THIS PARAGRAPH MAY BE APPLIED FOR A SINGLE CALENDAR YEAR;]

(2) a producer or explorer may take a credit for a well lease expenditure **<u>under this subsection</u>** incurred [IN THE STATE SOUTH OF 68 DEGREES NORTH LATITUDE] in connection with geological or geophysical exploration or in connection with an exploration well only if the producer or explorer

(A) agrees, in writing, to the applicable provisions of AS 43.55.025(f)(2); and

(B) submits to the Department of Natural Resources all data that would be required to be submitted under AS 43.55.025(f)(2).

* **Sec. 6.** AS 43.55.023(*l*) is repealed and reenacted to read:

(*l*) A producer or explorer may apply for a tax credit for a well lease expenditure incurred in the state south of 68 degrees North latitude after December 31, 2022, as follows:

(1) notwithstanding that a well lease expenditure incurred in the state south of 68 degrees North latitude may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a

credit for that expenditure is taken under (a) of this section, AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a well lease expenditure in the state south of 68 degrees North latitude may elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of 40 percent of that expenditure; a tax credit under this paragraph may be applied for a single calendar year;

(2) a producer or explorer may take a credit for a well lease expenditure incurred in the state south of 68 degrees North latitude in connection with geological or geophysical exploration or in connection with an exploration well only if the producer or explorer

(A) agrees, in writing, to the applicable provisions of AS 43.55.025(f)(2); and

(B) submits to the Department of Natural Resources all data that would be required to be submitted under AS 43.55.025(f)(2).

* **Sec. 7.** AS 43.55.023(n) is amended to read:

(n) For the purposes of (*l*) [AND (m)] of this section, a well lease expenditure [INCURRED IN THE STATE SOUTH OF 68 DEGREES NORTH LATITUDE] is a lease expenditure that is

(1) directly related to an exploration well, a stratigraphic test well, a producing well, or an injection well other than a disposal well, [LOCATED IN THE STATE SOUTH OF 68 DEGREES NORTH LATITUDE,] if the expenditure is a qualified capital expenditure and an intangible drilling and development cost authorized under 26 U.S.C. (Internal Revenue Code), as amended, and 26 C.F.R. 1.612-4, regardless of the elections made under 26 U.S.C. 263(c); in this paragraph, an expenditure directly related to a well includes an expenditure for well sidetracking, well deepening, well completion or recompletion, or well workover, regardless of whether the well is or has been a producing well; or

(2) an expense for seismic work conducted within the boundaries of a production or exploration unit.

* **Sec. 8.** AS 43.55.028(e) is amended to read:

(e) The department, on the written application of a person to whom a transferable tax credit certificate has been issued under AS 43.55.023(d) or **former AS 43.55.023(m)** [(m)] or to whom a production tax credit certificate has been issued under AS 43.55.025(f), may use available money in the oil and gas tax credit fund to purchase, in whole or in part, the certificate if the department finds that

(1) the calendar year of the purchase is not earlier than the first calendar year for which the credit shown on the certificate would otherwise be allowed to be applied against a tax;

(2) [REPEALED

(3) REPEALED

(4)] the applicant does not have an outstanding liability to the state for unpaid delinquent taxes under this title;

(3) [(5)] the applicant's total tax liability under AS 43.55.011(e), after application of all available tax credits, for the calendar year in which the application is made is zero;

(4) [(6)] the applicant's average daily production of oil and gas taxable under AS 43.55.011(e) during the calendar year preceding the calendar year in which the application is made was not more than 50,000 BTU equivalent barrels; and

(5) [(7)] the purchase is consistent with this section and regulations adopted under this section.

* **Sec. 9.** AS 43.55.028(g) is amended to read:

(g) The department may adopt regulations to carry out the purposes of this section, including standards and procedures to allocate available money among applications for purchases under this chapter and claims for refunds under AS 43.20.046 when the total amount of the applications for purchase and claims for refund exceed the amount of available money in the fund. The regulations adopted by the department may not, when allocating available money in the fund under this section, distinguish an application for the purchase of a credit certificate issued under **former** AS 43.55.023(m) or a claim for refund under AS 43.20.046.

* **Sec. 10.** AS 43.55.023(m) is repealed.

* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) Sections 4, 5, 7, and 10 of this Act apply to expenditures incurred after December 31, 2012.

(b) Sections 1 - 3 of this Act apply to oil and gas produced after December 31, 2012.

(c) Section 6 of this Act applies to expenditures incurred after December 31, 2022.

* **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Revenue may adopt regulations to implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the provision of this Act implemented by the regulation.

* **Sec. 13.** Sections 1 - 5, 7 - 10, and 11(a) and (b) of this Act take effect January 1, 2013.

* **Sec. 14.** Sections 6 and 11(c) of this Act take effect January 1, 2023.

* **Sec. 15.** Except as provided in secs. 13 and 14 of this Act, this Act takes effect immediately under AS 01.10.070(c)."