

26-LS1577\T  
Bullock  
3/31/10

**CS FOR SENATE BILL NO. 305(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

"An Act relating to that part of the tax on oil and gas production that increases the rate of tax as the production tax value of oil or the BTU equivalent barrel of gas increases above \$30, separating the determination of that rate between oil and gas, and making that rate distinct between oil and gas; relating to availability of a portion of the money received from the tax on oil and gas production for appropriation to the community revenue sharing fund; relating to the allocation of lease expenditures and adjustments to lease expenditures; and providing for an effective date."

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

\* **Section 1.** AS 29.60.850(b) is amended to read:

(b) Each fiscal year, the legislature may appropriate to the community revenue sharing fund an amount equal to 20 percent of the money received by the state during the previous calendar year under AS 43.55.011(g) and (p). The amount may not exceed

(1) \$60,000,000; or

(2) the amount that, when added to the fund balance on June 30 of the previous fiscal year, equals \$180,000,000.

\* **Sec. 2.** 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 as calculated under AS 43.55.160(a)(1) multiplied by 25 percent; and

(2) the sum, over all months of the calendar year, of the tax amounts determined under

**(A) subsection (g) of this section; and**

**(B) subsection (p) of this section.**

\* **Sec. 3.** AS 43.55.011(g) is amended 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)(A) - (E) of a** [AS 43.55.160(a)(2) PER] BTU equivalent barrel of [THE] taxable oil and gas is more than \$30, the amount of tax for purposes of **(e)(2)(A)** [(e)(2)] of this section is determined by multiplying the monthly production tax value of the taxable oil [AND GAS] produced during the month, **gas produced during the month from a lease or property in the Cook Inlet sedimentary basin, and gas produced during the month from a lease or property outside the Cook Inlet sedimentary basin and used in the state** by the tax rate calculated as follows:

(1) if the producer's average monthly production tax value **under AS 43.55.160(a)(2)(A) - (E) of a** [PER] 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 **the producer's** [THAT] average monthly production tax value **under AS 43.55.160(a)(2)(A) - (E) of a** [PER] BTU equivalent barrel **of taxable oil and gas** and \$30; or

(2) if the producer's average monthly production tax value under AS 43.55.160(a)(2)(A) - (E) of a [PER] 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 producer's average monthly production tax value under AS 43.55.160(a)(2)(A) - (E) of a [PER] BTU equivalent barrel of taxable oil and gas and \$92.50, except that the sum determined under this paragraph may not exceed 50 percent.

\* **Sec. 4.** AS 43.55.011 is amended by adding a new subsection to read:

(p) For each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2)(F) and (G) of a BTU equivalent barrel of taxable gas is more than \$30, the amount of tax on the production of gas for purposes of (e)(2)(B) of this section is determined by multiplying the monthly production tax value of the taxable gas produced during the month other than gas produced from a lease or property in the Cook Inlet sedimentary basin or gas produced outside the Cook Inlet sedimentary basin and used in the state by the tax rate calculated as follows:

(1) if the producer's average monthly production tax value under AS 43.55.160(a)(2)(F) and (G) of a BTU equivalent barrel of taxable 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 the producer's average monthly production tax value under AS 43.55.160(a)(2)(F) and (G) of a BTU equivalent barrel of gas and \$30; or

(2) if the producer's average monthly production tax value under AS 43.55.160(a)(2)(F) and (G) of a BTU equivalent barrel of taxable 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 producer's average monthly production tax value under AS 43.55.160(a)(2)(F) and (G) of a BTU equivalent barrel of gas and \$92.50, except that the sum determined under this paragraph may not exceed 50 percent.

\* **Sec. 5.** 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) **and (p)** 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) **an amount equal to** the 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 **applicable to the oil produced by the producer from those leases and properties** 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 **added to the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(p) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production applicable to the gas produced by the producer from those leases and properties 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 gas produced from the leases**

1 **or properties during the month for which the installment payment**  
2 **is calculated;**

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

5 (i) zero;

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

10 (iii) **an amount equal to** the sum of 25 percent and the  
11 tax rate calculated for the month under AS 43.55.011(g) multiplied by  
12 the remainder obtained by subtracting 1/12 of the producer's adjusted  
13 lease expenditures for the calendar year of production **applicable to**  
14 **the oil produced by the producer from those leases and properties**  
15 under AS 43.55.165 and 43.55.170 that are deductible for those leases  
16 or properties under AS 43.55.160, from the gross value at the point of  
17 production of the oil [AND GAS] produced from those leases or  
18 properties during the month for which the installment payment is  
19 calculated **added to the sum of 25 percent and the tax rate**  
20 **calculated for the month under AS 43.55.011(p) multiplied by the**  
21 **remainder obtained by subtracting 1/12 of the producer's adjusted**  
22 **lease expenditures for the calendar year of production applicable**  
23 **to the gas produced by the producer from those leases and**  
24 **properties under AS 43.55.165 and 43.55.170 that are deductible**  
25 **for those leases or properties under AS 43.55.160 from the gross**  
26 **value at the point of production of the gas produced from those**  
27 **leases or properties during the month for which the installment**  
28 **payment is calculated;**

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

31 (i) zero; or

(ii) **an amount equal to** the 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 **applicable to the oil produced by the producer from those leases and properties** 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 **added to the 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 applicable to the gas produced by the producer from the lease or property under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 for gas produced from the lease or property, from the gross value at the point of production of the gas 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 **before 2022** 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. 6.** AS 43.55.020(d) is amended to read:

(d) In making settlement with the royalty owner for oil and gas that is taxable under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable royalty oil and gas, or may deduct taxable royalty oil or gas equivalent in value at the time the tax becomes due to the amount of the tax paid. If the total deductions of installment payments of estimated tax for a calendar year exceed the actual tax for that calendar year, the producer shall, before April 1 of the following year, refund the excess to the royalty owner. Unless otherwise agreed between the producer and the royalty owner, the amount of the tax paid under AS 43.55.011(e) - (g) **and (p)** on taxable royalty oil and gas for a calendar year, other than oil and gas the ownership or right to which constitutes a landowner's royalty interest, is considered to be the gross value at the point of production of the taxable royalty oil and gas produced during the calendar year multiplied by a figure that is a quotient, in which

(1) the numerator is the producer's total tax liability under AS 43.55.011(e) - (g) **and (p)** for the calendar year of production; and

(2) the denominator is the total gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) - (g) **and (p)** produced by the

producer from all leases and properties in the state during the calendar year.

\* **Sec. 7.** AS 43.55.160(a) is amended to read:

(a) Except as provided in (b) of this section, for the purposes of

(1) AS 43.55.011(e), the annual production tax value of the taxable

(A) oil [AND GAS] produced during a calendar year from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of the oil [AND GAS] taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil [AND GAS] produced by the producer from those leases or properties, as adjusted under AS 43.55.170; [THIS SUBPARAGRAPH DOES NOT APPLY TO GAS SUBJECT TO AS 43.55.011(o);]

(B) oil [AND GAS] produced during a calendar year from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the oil [AND GAS] taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil [AND GAS] produced by the producer from those leases or properties, as adjusted under AS 43.55.170; [THIS SUBPARAGRAPH DOES NOT APPLY TO GAS SUBJECT TO AS 43.55.011(o);]

(C) oil produced during a calendar year from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the oil taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(D) gas produced during a calendar year from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the



producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(E) gas produced during a calendar year from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to that gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

**(F) gas produced during a calendar year from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas used in the state;**

**(G) gas produced during a calendar year from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas used in the state;**

(2) AS 43.55.011(g) **and (p)**, the monthly production tax value of the taxable **oil produced during a month from**

(A) oil [AND GAS] produced during a month from leases or properties in the state that include land north of 68 degrees North latitude is the

gross value at the point of production of the oil [AND GAS] taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil [AND GAS] produced by the producer from those leases or properties, as adjusted under AS 43.55.170; [THIS SUBPARAGRAPH DOES NOT APPLY TO GAS SUBJECT TO AS 43.55.011(o);]

(B) oil [AND GAS] produced during a month from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the oil [AND GAS] taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil [AND GAS] produced by the producer from those leases or properties, as adjusted under AS 43.55.170; [THIS SUBPARAGRAPH DOES NOT APPLY TO GAS SUBJECT TO AS 43.55.011(o);]

(C) oil produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the oil taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(D) gas produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(E) gas produced during a month from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under AS 43.55.011(e) and

1 produced by the producer from that lease or property, less 1/12 of the  
2 producer's lease expenditures under AS 43.55.165 for the calendar year  
3 applicable to that gas produced by the producer from that lease or property, as  
4 adjusted under AS 43.55.170;

5 (F) gas produced during a month from leases or properties  
6 in the state that include land north of 68 degrees North latitude is the  
7 gross value at the point of production of the gas taxable under  
8 AS 43.55.011(e) and produced by the producer from those leases or  
9 properties, less 1/12 of the producer's lease expenditures under  
10 AS 43.55.165 for the calendar year applicable to the gas produced by the  
11 producer from those leases or properties, as adjusted under AS 43.55.170;  
12 this subparagraph does not apply to gas used in the state;

13 (G) gas produced during a month from leases or properties  
14 in the state outside the Cook Inlet sedimentary basin, no part of which is  
15 north of 68 degrees North latitude, is the gross value at the point of  
16 production of the gas taxable under AS 43.55.011(e) and produced by the  
17 producer from those leases or properties, less 1/12 of the producer's lease  
18 expenditures under AS 43.55.165 for the calendar year applicable to the  
19 gas produced by the producer from those leases or properties, as adjusted  
20 under AS 43.55.170; this subparagraph does not apply to gas used in the  
21 state.

22 \* **Sec. 8.** AS 43.55.165(h) is amended to read:

23 (h) The department shall adopt regulations that provide for reasonable  
24 methods of allocating costs between oil and gas, between gas subject to  
25 AS 43.55.011(o) and other gas, and between leases or properties in those  
26 circumstances where an allocation of costs is required to determine lease expenditures  
27 that are costs of exploring for, developing, or producing oil deposits or costs of  
28 exploring for, developing, or producing gas deposits, or that are costs of exploring for,  
29 developing, or producing oil or gas deposits located within different leases or  
30 properties. When determining a reasonable method of allocating lease  
31 expenditures between the production of oil and the production of gas, the

**department shall consider allocating lease expenditures in proportion to the BTU equivalent barrels of oil produced and gas produced from each lease or property.**

\* **Sec. 9.** AS 43.55.170 is amended by adding a new subsection to read:

(d) The department shall adopt regulations that provide for reasonable methods of allocating the adjustments to a producer's lease expenditures in (a) of this section and the payments and credits described in (b) of this section between oil and gas, between gas subject to AS 43.55.011(o) and other gas, and between leases or properties in those circumstances where an allocation of costs is required to determine lease expenditures that are costs of exploring for, developing, or producing oil deposits, or costs of exploring for, developing, or producing gas deposits, or that are costs of exploring for, developing, or producing oil or gas deposits located within different leases or properties. When determining a reasonable method of allocating the adjustments to a producer's lease expenditures between the production of oil and the production of gas, the department shall consider allocating the adjustments in proportion to the lease expenditures allocated to the production of oil and the production of gas under regulations adopted by the department under AS 43.55.165(h).

\* **Sec. 10.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: INSTALLMENT PAYMENTS OF TAX. A producer required to make an installment payment of tax under AS 43.55.020(a)(1) after December 31, 2009, and before the effective date of this Act, and that underpaid the amount due for the installment payment because of the retroactive application of secs. 2 - 4 and 7 of this Act, shall submit the amount of any underpayment on the date the first installment payment is due under AS 43.55.020(a)(1) after the effective date of this Act. Interest on the amount of an underpayment due because of the retroactive application of secs. 2 - 4 and 7 of this Act does not accrue until the day after the date the first installment payment is due under AS 43.55.020(a)(1) after the effective date of this Act.

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

RETROACTIVITY. Sections 2 - 4 and 7 of this Act are retroactive to January 1, 2010.

1 \* **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).