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Bullock
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CS FOR HOUSE BILL NO. 217()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVE NEUMAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the tax applicable to the production of certain natural gas used in
2 the state."

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

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

5 (e) There is levied on the producer of oil or gas a tax for all oil and gas
6 produced each calendar year from each lease or property in the state, less any oil and
7 gas the ownership or right to which is exempt from taxation or constitutes a
8 landowner's royalty interest. Except as otherwise provided under **(f), (j), and (k) of**
9 **this section and AS 43.55.014** [(f), (j), (k), AND (o) OF THIS SECTION], the tax is
10 equal to the sum of

11 (1) the annual production tax value of the taxable oil and gas as
12 calculated under AS 43.55.160(a)(1) multiplied by 25 percent; and

13 (2) the sum, over all months of the calendar year, of the tax amounts
14 determined under (g) of this section.

1 * **Sec. 2.** AS 43.55.011(f) is amended to read:

2 (f) The levy of tax under this section for oil and gas produced north of 68
3 degrees North latitude, other than oil and gas production subject to (i) of this section
4 and gas subject to **an election made under AS 43.55.014** [(o) OF THIS SECTION],
5 may not be less than

6 (1) four percent of the gross value at the point of production when the
7 average price per barrel for Alaska North Slope crude oil for sale on the United States
8 West Coast during the calendar year for which the tax is due is more than \$25;

9 (2) three percent of the gross value at the point of production when the
10 average price per barrel for Alaska North Slope crude oil for sale on the United States
11 West Coast during the calendar year for which the tax is due is over \$20 but not over
12 \$25;

13 (3) two percent of the gross value at the point of production when the
14 average price per barrel for Alaska North Slope crude oil for sale on the United States
15 West Coast during the calendar year for which the tax is due is over \$17.50 but not
16 over \$20;

17 (4) one percent of the gross value at the point of production when the
18 average price per barrel for Alaska North Slope crude oil for sale on the United States
19 West Coast during the calendar year for which the tax is due is over \$15 but not over
20 \$17.50; or

21 (5) zero percent of the gross value at the point of production when the
22 average price per barrel for Alaska North Slope crude oil for sale on the United States
23 West Coast during the calendar year for which the tax is due is \$15 or less.

24 * **Sec. 3.** AS 43.55.011(m) is amended to read:

25 (m) Notwithstanding any contrary provision of AS 38.05.180(i),
26 AS 41.09.010, AS 43.55.024, or 43.55.025, the department shall provide by regulation
27 a method to ensure that, for a calendar year for which a producer's tax liability is
28 limited by **(j) or (k) of this section or by an election made under AS 43.55.014** [(j),
29 (k), OR (o) OF THIS SECTION], tax credits otherwise available under
30 AS 38.05.180(i), AS 41.09.010, AS 43.55.024, or 43.55.025 and allocated to gas
31 subject to the limitations in **(j) and (k) of this section and an election made under**

1 AS 43.55.014 [(j), (k), AND (o) OF THIS SECTION] are accounted for as though the
2 credits had been applied first against a tax liability calculated without regard to the
3 limitations under (j) and (k) of this section and an election made under
4 AS 43.55.014 [(j), (k), AND (o) OF THIS SECTION] so as to reduce the tax liability
5 to the maximum amount provided for under (j) of this section or applicable to an
6 election made under AS 43.55.014 [(j) OR (o) OF THIS SECTION] for the
7 production of gas or (k) of this section for the production of oil. The regulation must
8 provide for a reasonable method to allocate tax credits to gas subject to (j) of this
9 section and subject to an election made under AS 43.55.014 [(j) AND (o) OF THIS
10 SECTION]. Only the amount of a tax credit remaining after the accounting provided
11 for under this subsection may be used for a later calendar year, transferred to another
12 person, or applied against a tax levied on the production of oil or gas not subject to (j)
13 or (k) of this section or an election made under AS 43.55.014 [(j), (k), OR (o) OF
14 THIS SECTION] to the extent otherwise allowed.

15 * **Sec. 4.** AS 43.55 is amended by adding a new section to read:

16 **Sec. 43.55.014. Special election for gas used in the state.** (a)
17 Notwithstanding the provisions of AS 43.55.011, a person producing gas that is used
18 in the state from a lease or property outside the Cook Inlet sedimentary basin during a
19 calendar year before 2022 may elect to limit the amount of tax due on the production
20 of that gas, as provided in this section.

21 (b) The maximum amount of tax applicable to the production of each 1,000
22 cubic feet of gas that is subject to the election authorized by this section may not
23 exceed the maximum amount of tax applicable to the production of each 1,000 cubic
24 feet of gas determined under AS 43.55.011(j)(2).

25 (c) A person choosing to make the election authorized by this section shall
26 make the election at the time the return is due under AS 43.55.030(a) for the calendar
27 year for which the election is made.

28 (d) The provisions of AS 43.55.011(m), 43.55.160(a)(1)(E),
29 43.55.160(a)(2)(E), and 43.55.160(e) apply to the production of gas for which an
30 election is made under this section.

31 * **Sec. 5.** AS 43.55.020(a) is amended to read:

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

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

10 (A) for oil and gas produced from leases or properties in the
11 state outside the Cook Inlet sedimentary basin but not subject to **an election**
12 **made under AS 43.55.014** [AS 43.55.011(o)], other than leases or properties
13 subject to AS 43.55.011(f), the greater of

- 14 (i) zero; or
- 15 (ii) the sum of 25 percent and the tax rate calculated for
16 the month under AS 43.55.011(g) multiplied by the remainder obtained
17 by subtracting 1/12 of the producer's adjusted lease expenditures for the
18 calendar year of production under AS 43.55.165 and 43.55.170 that are
19 deductible for the leases or properties under AS 43.55.160 from the
20 gross value at the point of production of the oil and gas produced from
21 the leases or properties during the month for which the installment
22 payment is calculated;

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

- 25 (i) zero;
- 26 (ii) zero percent, one percent, two percent, three
27 percent, or four percent, as applicable, of the gross value at the point of
28 production of the oil and gas produced from all leases or properties
29 during the month for which the installment payment is calculated; or
- 30 (iii) the sum of 25 percent and the tax rate calculated for
31 the month under AS 43.55.011(g) multiplied by the remainder obtained

1 by subtracting 1/12 of the producer's adjusted lease expenditures for the
2 calendar year of production under AS 43.55.165 and 43.55.170 that are
3 deductible for those leases or properties under AS 43.55.160 from the
4 gross value at the point of production of the oil and gas produced from
5 those leases or properties during the month for which the installment
6 payment is calculated;

7 (C) for oil and gas produced from each lease or property
8 subject to **AS 43.55.011(j) or (k) or an election made under AS 43.55.014**
9 [AS 43.55.011(j), (k), OR (o)], the greater of

10 (i) zero; or

11 (ii) the sum of 25 percent and the tax rate calculated for
12 the month under AS 43.55.011(g) multiplied by the remainder obtained
13 by subtracting 1/12 of the producer's adjusted lease expenditures for the
14 calendar year of production under AS 43.55.165 and 43.55.170 that are
15 deductible under AS 43.55.160 for oil or gas, respectively, produced
16 from the lease or property from the gross value at the point of
17 production of the oil or gas, respectively, produced from the lease or
18 property during the month for which the installment payment is
19 calculated;

20 (2) an amount calculated under (1)(C) of this subsection for oil or gas
21 produced from a lease or property subject to **AS 43.55.011(j) or (k) or an election**
22 **made under AS 43.55.014** [AS 43.55.011(j), (k), OR (o)] may not exceed the product
23 obtained by carrying out the calculation set out in AS 43.55.011(j)(1) or (2) or **the**
24 **election made under AS 43.55.014** [43.55.011(o)], as applicable, for gas or set out in
25 AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in
26 AS 43.55.011(j)(1)(A) or (2)(A) or **43.55.014** [43.55.011(o)], as applicable, the
27 amount of taxable gas produced during the month for the amount of taxable gas
28 produced during the calendar year and substituting in AS 43.55.011(k)(1)(A) or
29 (2)(A), as applicable, the amount of taxable oil produced during the month for the
30 amount of taxable oil produced during the calendar year;

31 (3) an installment payment of the estimated tax levied by

1 AS 43.55.011(i) for each lease or property is due for each month of the calendar year
2 on the last day of the following month; the amount of the installment payment is the
3 sum of

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

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

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

16 * **Sec. 6.** AS 43.55.160(a) is amended to read:

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

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

19 (A) oil and gas produced during a calendar year from leases or
20 properties in the state that include land north of 68 degrees North latitude is the
21 gross value at the point of production of the oil and gas taxable under
22 AS 43.55.011(e) and produced by the producer from those leases or properties,
23 less the producer's lease expenditures under AS 43.55.165 for the calendar year
24 applicable to the oil and gas produced by the producer from those leases or
25 properties, as adjusted under AS 43.55.170; this subparagraph does not apply
26 to gas subject to **an election made under AS 43.55.014** [AS 43.55.011(o)];

27 (B) oil and gas produced during a calendar year from leases or
28 properties in the state outside the Cook Inlet sedimentary basin, no part of
29 which is north of 68 degrees North latitude, is the gross value at the point of
30 production of the oil and gas taxable under AS 43.55.011(e) and produced by
31 the producer from those leases or properties, less the producer's lease

1 expenditures under AS 43.55.165 for the calendar year applicable to the oil and
2 gas produced by the producer from those leases or properties, as adjusted under
3 AS 43.55.170; this subparagraph does not apply to gas subject to **an election**
4 **made under AS 43.55.014** [AS 43.55.011(o)];

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

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

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

24 (2) AS 43.55.011(g), the monthly production tax value of the taxable

25 (A) oil and gas produced during a month from leases or
26 properties in the state that include land north of 68 degrees North latitude is the
27 gross value at the point of production of the oil and gas taxable under
28 AS 43.55.011(e) and produced by the producer from those leases or properties,
29 less 1/12 of the producer's lease expenditures under AS 43.55.165 for the
30 calendar year applicable to the oil and gas produced by the producer from
31 those leases or properties, as adjusted under AS 43.55.170; this subparagraph

1 does not apply to gas subject to an election made under AS 43.55.014
2 [AS 43.55.011(o)];

3 (B) oil and gas produced during a month from leases or
4 properties in the state outside the Cook Inlet sedimentary basin, no part of
5 which is north of 68 degrees North latitude, is the gross value at the point of
6 production of the oil and gas taxable under AS 43.55.011(e) and produced by
7 the producer from those leases or properties, less 1/12 of the producer's lease
8 expenditures under AS 43.55.165 for the calendar year applicable to the oil and
9 gas produced by the producer from those leases or properties, as adjusted under
10 AS 43.55.170; this subparagraph does not apply to gas subject to an election
11 made under AS 43.55.014 [AS 43.55.011(o)];

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

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

24 (E) gas produced during a month from a lease or property
25 outside the Cook Inlet sedimentary basin and used in the state is the gross
26 value at the point of production of that gas taxable under AS 43.55.011(e) and
27 produced by the producer from that lease or property, less 1/12 of the
28 producer's lease expenditures under AS 43.55.165 for the calendar year
29 applicable to that gas produced by the producer from that lease or property, as
30 adjusted under AS 43.55.170.

31 * **Sec. 7.** AS 43.55.160(e) is amended to read:

1 (e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that
2 would otherwise be deductible by a producer in a calendar year but whose deduction
3 would cause an annual production tax value calculated under (a)(1) of this section of
4 taxable oil or gas produced during the calendar year to be less than zero may be used
5 to establish a carried-forward annual loss under AS 43.55.023(b). However, the
6 department shall provide by regulation a method to ensure that, for a period for which
7 a producer's tax liability is limited by AS 43.55.011(j) or (k) or an election made
8 under AS 43.55.014 [AS 43.55.011(j), (k), OR (o)], any adjusted lease expenditures
9 under AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer
10 for that period but whose deduction would cause a production tax value calculated
11 under (a)(1)(C), (D), or (E) of this section to be less than zero are accounted for as
12 though the adjusted lease expenditures had first been used as deductions in calculating
13 the production tax values of oil or gas subject to any of the limitations under
14 AS 43.55.011(j) or (k) or an election made under AS 43.55.014 [AS 43.55.011(j),
15 (k), OR (o)] that have positive production tax values so as to reduce the tax liability
16 calculated without regard to the limitation to the maximum amount provided for under
17 the applicable provisions [PROVISION] of AS 43.55.011(j) or (k) or 43.55.014
18 [AS 43.55.011(j), (k), OR (o)]. Only the amount of those adjusted lease expenditures
19 remaining after the accounting provided for under this subsection may be used to
20 establish a carried-forward annual loss under AS 43.55.023(b). In this subsection,
21 "producer" includes "explorer."

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 the election
25 made under AS 43.55.014 [AS 43.55.011(o)] and other gas, and between leases or
26 properties in those circumstances where an allocation of costs is required to determine
27 lease expenditures that are costs of exploring for, developing, or producing oil
28 deposits or costs of exploring for, developing, or producing gas deposits, or that are
29 costs of exploring for, developing, or producing oil or gas deposits located within
30 different leases or properties.

31 * **Section 9.** AS 43.55.900(24) is amended to read:

1 (24) "used in the state" means delivered for consumption as fuel in the
2 state, including as fuel consumed to generate electricity, or used as fuel or feedstock
3 in a manufacturing process creating an end product in the state, regardless of the
4 final disposition of the manufactured end product.

5 * Sec. 9. AS 43.55.011(o) is repealed.