AMENDMENT #6

OFFERED IN THE HOUSE BY REPRESENTATIVES GARDNER & CRAWFORD

TO: CS HB 3001(FIN)

Page 2, after line 8

(c) It is the intent of the legislature that all provisions in this bill sunset on June 30, 2009 unless reenacted by law between January 1 and June 30, 2009. Upon the sunset of this law, statutory language shall revert to that which was in place prior to passage of the law, and be replaced with the following:

BILL

FOR AN ACT ENTITLED

"An Act relating to the oil and gas properties production tax; providing for a reduction in the amount of taxable production; providing for an increase in the tax rate when the average Alaska North Slope crude oil West Coast price per barrel exceeds $40; providing for tax credits based on expenditures for oil and gas exploration, gas only exploration, and development wells; and providing for an effective date."

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

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

(a) There is levied upon the producer of oil a tax for all oil produced from each lease or property in the **Cook Inlet sedimentary basin** [STATE], less any oil the ownership or right to which is exempt from taxation **or constitutes a land owner's royalty interest**. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-barrel amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for the oil production of the lease or property under AS 43.55.013. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

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

(b) The percentage-of-value amount equals [12.25 PERCENT OF THE GROSS VALUE AT THE POINT OF PRODUCTION OF TAXABLE OIL PRODUCED ON OR BEFORE JUNE 30, 1981, FROM THE LEASE OR PROPERTY AND] 15 percent of the gross value at the point of production of taxable oil produced from the lease or property **in the Cook Inlet sedimentary basin,** [AFTER JUNE 30, 1981;] except that [FOR A LEASE OR PROPERTY COMING INTO COMMERCIAL OIL PRODUCTION AFTER JUNE 30, 1981,] the percentage-of-value amount equals 12.25 percent of the gross value at the point of production of taxable oil produced from the lease or property **in the Cook Inlet sedimentary basin** in the first five years after the start of commercial oil production [AND EQUALS 15 PERCENT OF THE GROSS VALUE AT THE POINT OF PRODUCTION OF TAXABLE OIL PRODUCED THEREAFTER FROM THE LEASE OR PROPERTY].

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

(c) The cents-per-barrel amount equals [$0.60 PER BARREL OF TAXABLE OLD CRUDE OIL PRODUCED FROM THE LEASE OR PROPERTY, AND] $0.80 per barrel for all [OTHER] taxable oil produced from the lease or property, [BOTH] as adjusted by AS 43.55.012.

* **Sec. 4.** AS 43.55.011 is amended by adding new subsections to read:

(e) There is levied upon the producer of oil a tax for all oil produced from each lease or property in the state outside of the Cook Inlet sedimentary basin, less any oil the ownership or right to which is exempt from taxation or constitutes a land owner's royalty interest. The tax is equal to the greater of

(1) the cents-per-barrel amount calculated under (c) of this section; or

(2) the percentage-of-value amount calculated under (f) of this section plus the tax determined under (g) of this section.

(f) The percentage-of-value amount equals 15 percent of the gross value at the point of production of taxable oil produced from the lease or property in the state outside of the Cook Inlet sedimentary basin, as adjusted under AS 43.55.022.

(g) In addition to the taxes levied using the percentage-of-value amount under (e) of this section, if the average ANS West Coast price per barrel of oil during a month exceeds $40, there is levied on the producer of oil a tax for oil produced during that month from each lease or property in the state outside of the Cook Inlet sedimentary basin, less any oil the ownership or right to which is exempt from taxation. The tax levied under this subsection is equal to

[([ANS West Coast price - 40] x .003) x (ANS wellhead price x .85)]

x (total taxable barrels of oil at the point of production)

where "ANS wellhead price" means the prevailing value for oil produced in the Alaska North Slope area.

(h) For purposes of (g) of this section, the department may calculate the average price or may, by regulation, specify the method by which the average price shall be calculated with reference to one or more published sources of price information. If, in the department's judgment, reliable published sources of price information on Alaska North Slope crude oil cease, or appear likely to soon cease, to be available, or if, in the department's judgment, the price of Alaska North Slope crude oil ceases, or appears likely to soon cease, to be a reliable indicator of the general price level of crude oils, the department shall, by regulation, specify a substitute formula for computing the oil price index. The substitute formula specified by the department under this subsection must bear, as nearly as is reasonably possible, the same relationship to the general price level of crude oils as did the price of Alaska North Slope crude oil.

(i) There is levied on the producer of oil or gas a tax for all oil and gas produced each month from each lease or property in the state the ownership or right to which constitutes a landowner's royalty interest, except for oil and gas the ownership or right to which is exempt from taxation. The provisions of this subsection apply to a landowner's royalty interest as follows:

(1) the rate of tax levied on oil is equal to five percent of the gross value at the point of production of the oil;

(2) the rate of tax levied on gas is equal to 1.667 percent of the gross value at the point of production of the gas;

(3) if the department determines that, for purposes of reducing the producer's tax liability under (1) or (2) of this subsection, the producer has received or will receive consideration from the royalty owner offsetting all or a part of the producer's royalty obligation, other than a deduction under AS 43.55.020(d) of the amount of a tax paid,

(A) notwithstanding (1) of this subsection, the tax is equal to

(i) for oil that is produced from a lease or property in the Cook Inlet sedimentary basin, five percent of the gross value at the point of production of the oil;

(ii) for oil, except oil described in (i) of this subparagraph, 22.8 percent of the gross value at the point of production of the oil; and

(B) notwithstanding (2) of this subsection, for gas the tax is equal to 11.25 percent of the gross value at the point of production of the gas.

* **Sec. 5.** AS 43.55.013(j) is amended to read:

(j) The department may aggregate two or more leases or properties (or portions of them), for purposes of determining economic limit factors under this section and applying them to **AS 43.55.011(a) and 43.55.016(a)** [AS 43.55.011 OR AS 43.55.016], when economically interdependent oil or gas production operations are not confined to a single lease or property. The department may also segregate a lease or property into two or more parts, for purposes of determining economic limit factors under this section and applying them under **AS 43.55.011(a) and 43.55.016(a)** [AS 43.55.011 OR AS 43.55.016], when two or more economically independent oil or gas production operations are being conducted on it, or when old crude oil is produced from the same lease or property as other oil.

* **Sec. 6.** AS 43.55.016(a) is amended to read:

(a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the **Cook Inlet sedimentary basin** [STATE], less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production of the lease or property under AS 43.55.013. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

* **Sec. 7.** AS 43.55.016(b) is amended to read:

(b) The percentage-of-value amount equals 10 percent of the gross value at the point of production of the taxable gas produced from the lease or property **in the Cook Inlet sedimentary basin**.

* **Sec. 8.** AS 43.55.016 is amended by adding new subsections to read:

(d) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state outside of the Cook Inlet sedimentary basin, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the cents-per-Mcf amount calculated under (c) of this section or the percentage-of-value amount calculated under (e) of this section, whichever is greater. If the amounts calculated under (c) and (e) of this section are equal, the amount calculated under (e) of this section shall be treated as if it were the greater for purposes of this section.

(e) The percentage-of-value amount equals 10 percent of the gross value at the point of production of the taxable gas produced from the lease or property in the state outside of the Cook Inlet sedimentary basin, as adjusted under AS 43.55.022.

* **Sec. 9.** AS 43.55 is amended by adding a new section to read:

Sec. 43.55.022. Production deduction. (a) A producer of oil subject to tax using the percentage-of-value amount in AS 43.55.011(f) and a producer of gas using the percentage-of-value amount in AS 43.55.016(e) may take a deduction against the gross value at the point of production as provided in this section before applying the percentage-of-value tax rate.

(b) Each operating unit in the state may reduce the volume of taxable oil and gas produced from the operating unit by 7,500 barrels of oil equivalent for each day during which oil or gas is produced from the operating unit. The lessees who are producers having leases within an operating unit shall allocate the reduction proportionately to the production in barrels of oil equivalent of oil and gas produced from the unit and to each producer of oil and gas in proportion to the interest of the producer in the oil and gas produced from the unit.

(c) Each producer of oil and each producer of gas may deduct the value of the producer's pro rata share of the reduction provided for in (b) of this section from the gross value at the point of production of oil and the gross value at the point of production of gas produced from the unit before applying the applicable percentage of-value tax rate.

(d) The department may adopt regulations providing for the allocation of the barrels of oil equivalent production deduction within an operating unit between the oil and gas produced and between producers having an interest in the oil and gas produced from the operating unit.

(e) In this section,

(1) "barrel of oil equivalent" means,

(A) one barrel, in the case of oil;

(B) the amount of gas that has an energy content of 6,000,000 British thermal units, in the case of gas;

(2) "operating unit" means all or part of an oil or gas pool, field, or like area that is the subject of a cooperative or unit plan adopted or operated that is approved by the commissioner of natural resources under AS 38.05.180(p).

* **Sec. 10.** AS 43.55.025(a) is amended to read:

(a) Subject to the terms and conditions of this section, on oil and gas produced on or after July 1, 2004, from an oil and gas lease, or on gas produced from a gas only lease, a credit against the production tax due under this chapter is allowed for

(1) exploration expenditures that qualify under (b) of this section in an amount equal to one of the following:

(A) 50 [(1) 20] percent of the total exploration expenditures that qualify only under (b) and (c) of this section;

(B) 50 [(2) 20] percent of the total exploration expenditures for work performed before July 1, 2007, and that qualify only under (b) and (d) of this section;

(C) 60 [(3) 40] percent of the total exploration expenditures that qualify under (b), (c), and (d) of this section; or

(D) 60 [(4) 40] percent of the total exploration expenditures that qualify only under (b) and (e) of this section**; and**

(2) 25 percent of the actual expenditures directly related to the drilling of a development well, excluding expenditures related to corporate overhead or for facilities other than the development well.

* **Sec. 11.** AS 43.55.025(b) is amended to read:

(b) To qualify for the production tax credit under (a) of this section, an exploration expenditure must be incurred for work performed on or after July 1, 2003, and before July 1, **2016** [2007], except that an exploration expenditure for a Cook Inlet prospect must be incurred for work performed on or after July 1, 2005, [AND BEFORE JULY 1, 2010, AND EXCEPT THAT AN EXPLORATION EXPENDITURE, IN WHOLE OR IN PART, SOUTH OF 68 DEGREES, 15 MINUTES, NORTH LATITUDE, AND NOT PART OF A COOK INLET PROSPECT MUST BE INCURRED FOR WORK PERFORMED ON OR AFTER JULY 1, 2003, AND BEFORE JULY 1, 2010,] and

(1) may be for seismic or geophysical exploration costs not connected with a specific well;

(2) if for an exploration well,

(A) must be incurred by an explorer that holds an interest in the exploration well for which the production tax credit is claimed;

(B) may be for either an oil or gas discovery well or a dry hole; and

(C) must be for goods, services, or rentals of personal property reasonably required for the surface preparation, drilling, casing, cementing, and logging of an exploration well, and, in the case of a dry hole, for the expenses required for abandonment if the well is abandoned within 18 months after the date the well was spudded;

(3) may not be for testing, stimulation, or completion costs; administration, supervision, engineering, or lease operating costs; geological or

management costs; community relations or environmental costs; bonuses, taxes, or other payments to governments related to the well; or other costs that are generally recognized as indirect costs or financing costs; and

(4) may not be incurred for an exploration well or seismic exploration that is included in a plan of exploration or a plan of development for any unit on May 13, 2003.

* **Sec. 12.** AS 43.55.025(c) is amended to read:

(c) To be eligible for the **50** [20] percent production tax credit authorized by **(a)(1)(A)** [(a)(1)] of this section or the **60** [40] percent production tax credit authorized by **(a)(1)(C)** [(a)(3)] of this section, exploration expenditures must

(1) qualify under (b) of this section; and

(2) be for an exploration well, subject to the following:

(A) for an exploration well other than a well that is described in (B) of this paragraph, the well must be located and drilled in such a manner that the bottom hole is located not less than three miles away from the bottom hole of a preexisting suspended, completed, or abandoned oil or gas well; in this subparagraph, "preexisting" means a well that was spudded more than 150 days but less than 35 years before the exploration well was spudded;

(B) for an exploration well that explores a Cook Inlet prospect, the well must be located at least three miles from any other well drilled for oil and gas with all distances measured as the horizontal distance between exploration targets, except that the exploration well that is located within three miles of a well drilled for oil and gas qualifies for the tax credit authorized by this subsection if the exploration well tests potential hydrocarbon traps that the commissioner of natural resources determines, after analyzing evidence submitted by the explorer and from other information that the commissioner of natural resources determines relevant, constitute a distinctly separate exploration target.

* **Sec. 13.** AS 43.55.025(d) is amended to read:

(d) To be eligible for the **50** [20] percent production tax credit authorized by **(a)(1)(B)** [(a)(2)] of this section or the **60** [40] percent production tax credit authorized by **(a)(1)(C)** [(a)(3)] of this section, an exploration expenditure must

(1) qualify under (b) of this section; and

(2) be for an exploration well that is located not less than 25 miles outside of the outer boundary, as delineated on July 1, 2003, of any unit that is under a plan of development, except that for an exploration well for a Cook Inlet prospect to qualify under this paragraph, the exploration well must be located not less than 10 miles outside the outer boundary, as delineated on July 1, 2003, of any unit that is under a plan of development.

* **Sec. 14.** AS 43.55.025(e) is amended to read:

(e) To be eligible for the **60** [40] percent production tax credit authorized by **(a)(1)(D)** [(a)(4)] of this section, the exploration expenditure must

(1) qualify under (b) of this section;

(2) be for seismic exploration; and

(3) have been conducted outside the boundaries of a production unit or an exploration unit; however, the amount of the expenditure that is otherwise eligible under this subsection is reduced proportionately by the portion of the seismic exploration activity that crossed into a production unit or an exploration unit.

* **Sec. 15.** AS 43.55.025(f) is amended to read:

(f) For a production tax credit under this section,

(1) an explorer **or person drilling a development well** shall, in a form prescribed by the department and within six months of the completion of the exploration activity **or the development well,** claim the credit and submit information sufficient to demonstrate to the department's satisfaction that the claimed exploration **expenditures and development well** expenditures qualify under this section;

(2) an explorer shall agree, in writing,

(A) to notify the Department of Natural Resources, within 30 days after completion of seismic or geophysical data processing, completion of a well, or filing of a claim for credit, whichever is the latest, for which exploration costs are claimed, of the date of completion and submit a report to that department describing the processing sequence and providing a list of data sets available; if, under (c)(2)(B) of this section, an explorer submits a claim for a credit for expenditures for an exploration well that is located within three miles of a well already drilled for oil and gas, in addition to the submissions required under (1) of this subsection, the explorer shall submit the information necessary for the commissioner of natural resources to evaluate the validity of the explorer's claim that the well is directed at a distinctly separate exploration target, and the commissioner of natural resources shall, upon receipt of all evidence sufficient for the commissioner to evaluate the explorer's claim, make that determination within 60 days;

(B) to provide to the Department of Natural Resources, within 30 days after the date of a request, specific data sets, ancillary data, and reports identified in (A) of this paragraph;

(C) that, notwithstanding any provision of AS 38, information provided under this paragraph will be held confidential by the Department of Natural Resources for 10 years following the completion date, at which time that department will release the information after 30 days' public notice;

(3) if more than one **person** [EXPLORER] holds an interest in a well**,** [OR] seismic exploration, **or development well** each **person** [EXPLORER] may claim an amount of credit that is proportional to the [EXPLORER'S] cost incurred **by that person**;

(4) the department may exercise the full extent of its powers as though the explorer **or the person drilling a development well** were a taxpayer under this title, in order to verify that the claimed expenditures are qualified exploration **expenditures or development well** expenditures under this section; and

(5) if the department is satisfied that the [EXPLORER'S] claimed expenditures are qualified under this section, the department shall issue to the explorer **or person drilling a development well** a production tax credit certificate for the amount of credit to be allowed against production taxes due under this chapter; however, notwithstanding any other provision of this section, the department may not issue [TO AN EXPLORER] a production tax credit certificate **under this section** if the total of production tax credits submitted for Cook Inlet production, based on exploration **expenditures and development well** expenditures for work performed

during the period described in (b) of this section for that production, that have been approved by the department exceeds $20,000,000.

* **Sec. 16.** AS 43.55.025(g) is amended to read:

(g) **A person receiving a production tax credit certificate under this section** [AN EXPLORER] may transfer, convey, or sell its production tax credit certificate to any person, and any person who receives a production tax credit certificate may also transfer, convey, or sell the certificate.

* **Sec. 17.** AS 43.55.025(j) is amended to read:

(j) Notwithstanding any other provision of this title, of AS 31.05, or of AS 40.25.100, the department shall provide to the Department of Natural Resources information submitted with a claim under this section to support the eligibility of an exploration **expenditure or development well** expenditure, including seismic exploration data and well data, and any information described in (f)(2) of this section received by the department.

* **Sec. 18.** AS 43.55.025(k) is amended by adding a new paragraph to read:

(4) "development well" means a well drilled to a known producing formation in a previously discovered field.

* **Sec. 19.** AS 43.55.900 is amended by adding a new paragraph to read:

(17) "Cook Inlet sedimentary basin" has the meaning given in regulations to implement AS 38.05.180(f)(4).

* **Sec. 20.** This Act takes effect on July 1, 2009.