

AMENDMENT #10

OFFERED IN THE HOUSE

BY REPRESENTATIVE CRAWFORD

TO: HCS CSSB 305(FIN)

1 Page 1, line 1, through page 2, line 9:

2 Delete all material.

3 Insert **""An Act relating to oil and gas, the oil and gas properties production**  
4 **(severance) tax as it applies to oil; providing for an adjustment to increase the tax**  
5 **collected when oil prices exceed \$20 per barrel and to reduce the tax collected when oil**  
6 **prices fall below \$16 per barrel; providing for relief from the tax when the price per**  
7 **barrel is low or when the taxpayer demonstrates that a reduction in the tax is necessary**  
8 **to establish or reestablish production from an oil field or pool that would not otherwise**  
9 **be economically feasible; delaying until July 1, 2016, the deadline for certain exploration**  
10 **expenditures that form the basis for a credit against the tax on oil and gas produced**  
11 **from a lease or property in the state; and amending the powers and duties of the Alaska**  
12 **Oil and Gas Conservation Commission.""**

13

14 Page 2, line 11, through page 35, line 14:

15 Delete all material and insert:

16 **\*\* Section 1. AS 31.05.030(d) is amended to read:**

17 (d) The commission may require

18 (1) identification of ownership of wells, producing leases, tanks, plants  
19 and drilling structures;

20 (2) the making and filing of reports, well logs, drilling logs, electric  
21 logs, lithologic logs, directional surveys, and all other subsurface information on a  
22 well drilled for oil or gas, or for the discovery of oil or gas, or for geologic  
23 information, and the required reports and information shall be filed within 30 days

1 after the completion, abandonment, or suspension of the well;

2 (3) the drilling, casing, and plugging of wells in a manner that will  
3 prevent the escape of oil or gas out of one stratum into another, the intrusion of water  
4 into an oil or gas stratum, the pollution of fresh water supplies by oil, gas, or salt  
5 water, and prevent blowouts, cavings, seepages and fires;

6 (4) the furnishing of a reasonable bond with sufficient surety  
7 conditions for the performance of the duty to plug each dry or abandoned well or the  
8 repair of wells causing waste;

9 (5) the operation of wells with efficient gas-oil and water-oil ratios,  
10 and may fix these ratios;

11 (6) the gauging or other measuring of oil and gas to determine the  
12 quality and quantity of oil and gas;

13 (7) every person who produces oil or gas in the state to keep and  
14 maintain for a period of five years in the state complete and accurate records of the  
15 quantities of oil and gas produced, which shall be available for examination by the  
16 Department of Natural Resources or its agents at all reasonable times;

17 (8) the measuring and monitoring of oil and gas pool pressures;

18 (9) the filing and approval of a plan of development and operation for  
19 a field or pool in order to prevent waste, **ensure** [INSURE] a greater ultimate recovery  
20 of oil and gas, and protect the correlative rights of persons owning interests in the  
21 tracts of land affected.

22 **(10) working interest owners to provide, at a commercially**  
23 **reasonable rate of return, not to exceed costs plus 10 percent, access to**  
24 **production and other facilities whenever necessary; the commission may act**  
25 **under this paragraph**

26 **(A) to**

27 **(i) maximize the economic and physical recovery of**  
28 **the state's oil and gas resources;**

29 **(ii) maximize competition among parties seeking to**  
30 **explore and develop the state's oil and gas resources;**

31 **(iii) minimize the adverse affects of exploration,**

1 development, production, and transportation activity; or

2 (iv) otherwise protect the best interest of the state;

3 and

4 (B) only if the commission finds that the facility has excess  
 5 capacity and that directing the working interest owner to provide access  
 6 by or for the benefit of others would not materially interfere with the  
 7 owner's paramount use of the facility.

8 \* **Sec. 2.** AS 36.30.850(b)(33) is amended to read:

9 (33) contracts between the Department of Natural Resources or the  
 10 Department of Revenue, as appropriate, and contractors qualified to evaluate  
 11 hydrocarbon development, production, transportation, and economics, to assist the  
 12 commissioner of natural resources or the commissioner of revenue, as appropriate,  
 13 in evaluating applications for

14 (A) royalty increases or decreases or other royalty adjustments,  
 15 and evaluating the related financial and technical data, entered into under  
 16 AS 38.05.180(j); or

17 (B) tax reductions, and evaluating the related financial and  
 18 technical data, as authorized by AS 43.55.011(i) and (j);

19 \* **Sec. 3.** AS 43.55.011(a) is amended to read:

20 (a) There is levied upon the producer of oil a tax for all oil produced from  
 21 each lease or property in the state, less any oil the ownership or right to which is  
 22 exempt from taxation. The tax is equal to,

23 (1) in the case of North Slope oil, either the percentage-of-value  
 24 amount calculated under (b)(1) [(b)] of this section or the cents-per-barrel amount  
 25 calculated under (c)(1) [(c)] of this section, whichever is greater; if [, MULTIPLIED  
 26 BY THE ECONOMIC LIMIT FACTOR DETERMINED FOR THE OIL  
 27 PRODUCTION OF THE LEASE OR PROPERTY UNDER AS 43.55.013. IF] the  
 28 amounts calculated under (b)(1) and (c)(1) [(b) AND (c)] of this section are equal, the  
 29 amount calculated under (b)(1) [(b)] of this section shall be treated as if it were the  
 30 greater for purposes of this section;

31 (2) in the case of oil that is not North Slope oil, either the

1 percentage-of-value amount calculated under (b)(2) of this section or the cents-  
 2 per-barrel amount calculated under (c)(2) of this section, whichever is greater,  
 3 multiplied by the economic limit factor determined for the oil production of the  
 4 lease or property under AS 43.55.013; if the amounts calculated under (b)(2) and  
 5 (c)(2) of this section are equal, the amount calculated under (b)(2) of this section  
 6 shall be treated as if it were the greater for purposes of this section.

7 \* Sec. 4. AS 43.55.011(b) is amended to read:

8 (b) The percentage-of-value amount equals,

9 (1) in the case of North Slope oil, the tax rate set out in (e) of this  
 10 section multiplied by the gross value at the point of production of taxable oil  
 11 produced from the lease or property;

12 (2) in the case of oil that is not North Slope oil, 12.25 percent of the  
 13 gross value at the point of production of taxable oil produced on or before June 30,  
 14 1981, from the lease or property and 15 percent of the gross value at the point of  
 15 production of taxable oil produced from the lease or property after June 30, 1981;  
 16 except that, for a lease or property coming into commercial oil production after  
 17 June 30, 1981, the percentage-of-value amount equals 12.25 percent of the gross value  
 18 at the point of production of taxable oil produced from the lease or property in the first  
 19 five years after the start of commercial oil production and equals 15 percent of the  
 20 gross value at the point of production of taxable oil produced [THEREAFTER] from  
 21 the lease or property.

22 \* Sec. 5. AS 43.55.011(c) is amended to read:

23 (c) The cents-per-barrel amount equals,

24 (1) in the case of North Slope oil, \$0.80 per barrel of taxable crude  
 25 oil produced from the lease or property, as adjusted by AS 43.55.012, multiplied  
 26 by the economic limit factor determined for oil production of the lease or  
 27 property under AS 43.55.013 and by the price adjustment factor set out in  
 28 (e)(2)(D) of this section;

29 (2) in the case of oil that is not North Slope oil, \$0.60 per barrel of  
 30 taxable old crude oil produced from the lease or property, and \$0.80 per barrel for all  
 31 other taxable oil produced from the lease or property, both as adjusted by

1 AS 43.55.012.

2 \* **Sec. 6.** AS 43.55.011 is amended by adding new subsections to read:

3 (e) This subsection and (f) - (k) of this section apply only to North Slope oil.

4 Except as provided in (h) of this section for heavy oil, the tax rate is the lesser of

5 (1) 25 percent; or

6 (2) the product of the volume adjusted tax rate multiplied by the price  
7 adjustment factor; for purposes of

8 (A) this paragraph, the volume adjusted tax rate is the greater

9 of

10 (i) the applicable tax rate, not to exceed five percent,  
11 determined under (C) of this paragraph, except that, if during a month  
12 in which the West Coast prevailing value for oil under AS 43.55.020(f)  
13 is less than \$12, the applicable tax rate is zero and the volume adjusted  
14 tax rate is determined only by the application of (ii) of this  
15 subparagraph; or

16 (ii) the economic limit factor determined for the oil  
17 production of the lease or property under AS 43.55.013 multiplied by  
18 the nominal tax rate;

19 (B) subparagraph (A) of this paragraph, the nominal tax rate is

20 (i) 12.25 percent during the first five years from the  
21 date that is the start of commercial oil production; and

22 (ii) 15 percent after the first five years from the date  
23 that is the start of commercial oil production;

24 (C) sub-subparagraph (A)(i) of this paragraph, during each  
25 month in which the West Coast prevailing value for oil under AS 43.55.020(f)  
26 averages

27 (i) at least \$16, the applicable rate is five percent;

28 (ii) at least \$15 but not \$16, the applicable rate is four  
29 percent;

30 (iii) at least \$14 but not \$15, the applicable rate is three  
31 percent;

1 (iv) at least \$13 but not \$14, the applicable rate is two percent;

2 and

3 (v) at least \$12 but not \$13, the applicable rate is one percent;

4 and

5 (D) this paragraph and for the purpose of determining the  
6 cents-per-barrel amount under (c) of this section, the price adjustment factor is  
7 one, except that the price adjustment factor is the West Coast prevailing value  
8 divided by

9 (i) 16 during each month in which the West Coast  
10 prevailing value for oil under AS 43.55.020(f) averages less than \$16  
11 per barrel;

12 (ii) 20 during each month in which the West Coast  
13 prevailing value for oil under AS 43.55.020(f) averages more than \$20  
14 per barrel.

15 (f) During a month in which the West Coast prevailing value for oil  
16 determined under AS 43.55.020(f) on which tax is due under this chapter averages less  
17 than \$10 per barrel, the payment of

18 (1) one-half of the tax due and payable under this chapter is waived;

19 and

20 (2) the remaining one-half of the tax due and payable under this  
21 chapter is deferred, subject to the following:

22 (A) the amount of tax payment that is deferred under this  
23 paragraph is payable by the taxpayer

24 (i) during each month in which the West Coast  
25 prevailing value for oil on which tax is due under this chapter averages  
26 at least \$16 per barrel; and

27 (ii) sequentially on a month-for-month basis in the  
28 order in which the tax payment was deferred based on payment of one  
29 month's deferred tax during each month that the West Coast prevailing  
30 value for oil on which tax is due under this chapter averages at least  
31 \$16 per barrel; and

1 (B) amounts due and payable because of a payment deferral  
2 under this paragraph bear interest at the rate of a 10-year note of the United  
3 States treasury at the time of the deferral.

4 (g) On and after July 1, 2006, the commissioner shall

5 (1) annually revise the dollar prices described in (e) and (f) of this  
6 section and the related denominators set out in (e)(2)(D)(i) and (ii) of this section to  
7 reflect inflation as defined by regulation adopted by the department; and

8 (2) promptly report the application of the revisions to all taxpayers  
9 subject to the tax levied and collected under this chapter.

10 (h) Notwithstanding (e) of this section, the tax rate for heavy oil is the volume  
11 adjusted tax rate. The volume adjusted tax rate for heavy oil is determined by  
12 multiplying the economic limit factor determined for the oil production of the lease or  
13 property under AS 43.55.013 by the nominal tax rate set out in (e)(2)(A)(i) and (ii) of  
14 this section. In this subsection, "heavy oil" means oil equal to or less than 20 degrees  
15 API gravity.

16 (i) A producer of oil that is North Slope oil may apply for a reduction of the  
17 tax due under (e), (j), and (k) of this section on the production of the oil

18 (1) if and to the extent that the amount calculated under (A) of this  
19 paragraph is greater than the amount calculated under (B) of this paragraph, but a  
20 reduction of the tax may not result in collection of tax due under this section that is  
21 less than the amount calculated under (B) of this paragraph:

22 (A) the amount of tax on the production of the oil that results  
23 from applying the provisions of (e) of this section;

24 (B) the amount of tax on the production of the oil that would  
25 result from not applying the provisions of (e) of this section; and

26 (2) if the commissioner determines that the application meets the  
27 requirements of AS 38.05.180(j)(1)(A), (j)(1)(B), or (j)(1)(C).

28 (j) When the commissioner receives an application under (i) of this section,  
29 the commissioner

30 (1) may not approve a tax reduction

31 (A) unless the applicant makes a clear and convincing showing

1 that the tax reduction meets the requirements of (i) of this section and this  
2 subsection and is in the best interests of the state;

3 (B) that reduces the amount of the tax recovered to less than the  
4 amount determined under (i)(1)(B) of this section;

5 (C) without including an explicit condition that the tax  
6 reduction is not assignable without the prior written approval, which may not  
7 be unreasonably withheld, by the commissioner; the commissioner shall, in the  
8 preliminary and final findings and determinations, set out the conditions under  
9 which the tax reduction may be assigned;

10 (2) shall require the applicant to submit, with the application for the  
11 tax reduction, financial and technical data that demonstrate that the requirements of (i)  
12 of this section and this subsection are met; the commissioner

13 (A) may require disclosure of only the financial and technical  
14 data related to development, production, and transportation of oil and gas or  
15 gas only from the field or pool that are reasonably available to the applicant;  
16 and

17 (B) shall keep the data confidential under AS 38.05.035(a)(9)  
18 at the request of the applicant; the confidential data may be disclosed by the  
19 commissioner to legislators and to the legislative auditor and as directed by the  
20 chair or vice-chair of the Legislative Budget and Audit Committee to the  
21 director of the division of legislative finance, the permanent employees of their  
22 respective divisions who are responsible for evaluating a tax reduction, and to  
23 agents or contractors of the legislative auditor or the legislative finance director  
24 who are engaged under contract to evaluate the tax reduction, if they sign an  
25 appropriate confidentiality agreement;

26 (3) may require the applicant for the tax reduction under (i) of this  
27 section and this subsection to pay for the services of an independent contractor,  
28 selected by the applicant from a list of qualified consultants compiled by the  
29 commissioner, to evaluate hydrocarbon development, production, transportation, and  
30 economics and to assist the commissioner in evaluating the application and financial  
31 and technical data; if, under this paragraph, the commissioner requires payment for the

1 services of an independent contractor, the total cost of the services to be paid for by  
2 the applicant may not exceed \$150,000 for each application, and the commissioner  
3 shall determine the relevant scope of the work to be performed by the contractor;  
4 selection of an independent contractor under this paragraph is not subject to AS 36.30;

5 (4) shall make and publish a preliminary findings and determination on  
6 the tax reduction application, give reasonable public notice of the preliminary findings  
7 and determination, and invite public comment on the preliminary findings and  
8 determination during a 30-day period for receipt of public comment;

9 (5) shall offer to appear before the Legislative Budget and Audit  
10 Committee, on a day that is not earlier than 10 days and not later than 20 days after  
11 giving public notice under (4) of this subsection, to provide the committee a review of  
12 the commissioner's preliminary findings and determination on the tax reduction  
13 application and administrative process; if the Legislative Budget and Audit Committee  
14 accepts the commissioner's offer, the committee shall give notice of the committee's  
15 meeting to all members of the legislature;

16 (6) shall make copies of the preliminary findings and determination  
17 available to

18 (A) the presiding officer of each house of the legislature;

19 (B) the chairs of the legislature's standing committees on  
20 resources; and

21 (C) the chairs of the legislature's special committees on oil and  
22 gas, if any; and

23 (7) shall, within 30 days after the close of the public comment period  
24 under (4) of this subsection,

25 (A) prepare a summary of the public response to the  
26 commissioner's preliminary findings and determination;

27 (B) make a final findings and determination; the  
28 commissioner's final findings and determination prepared under this  
29 subparagraph regarding a tax reduction is final and not appealable to the court;

30 (C) transmit a copy of the final findings and determination to  
31 the lessee; and

1 (D) make copies of the final findings and determination  
 2 available to each person who submitted comment under (4) of this subsection  
 3 and who has filed a request for the copies.

4 (k) In this section, "North Slope oil" means oil produced from a portion of a  
 5 reservoir located north of 68 degrees North latitude.

6 \* **Sec. 7.** AS 43.55.012(b) is amended to read:

7 (b) The cents-per-barrel amount set out in AS 43.55.011(c)(1) and (2)  
 8 [AS 43.55.011(c)] applies to oil of 27 degrees API gravity. For each degree of API  
 9 gravity less than 27 degrees, the cents-per-barrel amount shall be reduced by \$.005  
 10 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount  
 11 shall be increased by \$.005 except that oil above 40 degrees API gravity shall be taxed  
 12 as 40 degree oil. In applying the gravity adjustment under this subsection, fractional  
 13 degrees of API gravity shall be disregarded.

14 \* **Sec. 8.** AS 43.55.025(b) is amended to read:

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

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

26 (2) if for an exploration well,

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

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

30 and

31 (C) must be for goods, services, or rentals of personal property

1 reasonably required for the surface preparation, drilling, casing, cementing,  
2 and logging of an exploration well, and, in the case of a dry hole, for the  
3 expenses required for abandonment if the well is abandoned within 18 months  
4 after the date the well was spudded;

5 (3) may not be for testing, stimulation, or completion costs;  
6 administration, supervision, engineering, or lease operating costs; geological or  
7 management costs; community relations or environmental costs; bonuses, taxes, or  
8 other payments to governments related to the well; or other costs that are generally  
9 recognized as indirect costs or financing costs; and

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