

**SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 3003**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - THIRD SPECIAL SESSION

BY REPRESENTATIVES CROFT, Crawford, Gruenberg

Introduced: 7/31/06

Referred: Finance

**A BILL**

**FOR AN ACT ENTITLED**

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

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

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

8 (a) There is levied upon the producer of oil a tax for all oil produced from  
9 each lease or property in the Cook Inlet sedimentary basin [STATE], less any oil the  
10 ownership or right to which is exempt from taxation or constitutes a land owner's  
11 royalty interest. The tax is equal to either the percentage-of-value amount calculated  
12 under (b) of this section or the cents-per-barrel amount calculated under (c) of this  
13 section, whichever is greater, multiplied by the economic limit factor determined for

1 the oil production of the lease or property under AS 43.55.013. If the amounts  
 2 calculated under (b) and (c) of this section are equal, the amount calculated under (b)  
 3 of this section shall be treated as if it were the greater for purposes of this section.

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

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

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

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

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

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

28 (1) the cents-per-barrel amount calculated under (c) of this section; or  
 29 (2) the percentage-of-value amount calculated under (f) of this section  
 30 plus the tax determined under (g) of this section.

31 (f) The percentage-of-value amount equals 15 percent of the gross value at the

1 point of production of taxable oil produced from the lease or property in the state  
2 outside of the Cook Inlet sedimentary basin, as adjusted under AS 43.55.022.

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

$$9 \quad [([ANS \text{ West Coast price} - 40] \times .003) \times (ANS \text{ wellhead price} \times .85)]$$

$$10 \quad \times (\text{total taxable barrels of oil at the point of production})$$

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (a) There is levied upon the producer of gas a tax for all gas produced from  
30 each lease or property in the **Cook Inlet sedimentary basin** [STATE], less any gas  
31 the ownership or right to which is exempt from taxation. The tax is equal to either the

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

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

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

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

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

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

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

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

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

1 proportionately to the production in barrels of oil equivalent of oil and gas produced  
 2 from the unit and to each producer of oil and gas in proportion to the interest of the  
 3 producer in the oil and gas produced from the unit.

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

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

13 (e) In this section,

14 (1) "barrel of oil equivalent" means,

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

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

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

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

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

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

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

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

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

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

5                    **(2) 25 percent of the actual expenditures directly related to the**  
6 **drilling of a development well, excluding expenditures related to corporate**  
7 **overhead or for facilities other than the development well.**

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

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

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

20                    (2) if for an exploration well,

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

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

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

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

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

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

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

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

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

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

13 (A) for an exploration well other than a well that is described in

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

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

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

30 (d) To be eligible for the **50** [20] percent production tax credit authorized by  
 31 **(a)(1)(B)** [(a)(2)] of this section or the **60** [40] percent production tax credit authorized

1 by **(a)(1)(C)** [(a)(3)] of this section, an exploration expenditure must

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

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

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

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

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

13 (2) be for seismic exploration; and

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

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

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

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

25 (2) an explorer shall agree, in writing,

26 (A) to notify the Department of Natural Resources, within 30  
27 days after completion of seismic or geophysical data processing, completion of  
28 a well, or filing of a claim for credit, whichever is the latest, for which  
29 exploration costs are claimed, of the date of completion and submit a report to  
30 that department describing the processing sequence and providing a list of data  
31 sets available; if, under (c)(2)(B) of this section, an explorer submits a claim

1 for a credit for expenditures for an exploration well that is located within three  
 2 miles of a well already drilled for oil and gas, in addition to the submissions  
 3 required under (1) of this subsection, the explorer shall submit the information  
 4 necessary for the commissioner of natural resources to evaluate the validity of  
 5 the explorer's claim that the well is directed at a distinctly separate exploration  
 6 target, and the commissioner of natural resources shall, upon receipt of all  
 7 evidence sufficient for the commissioner to evaluate the explorer's claim, make  
 8 that determination within 60 days;

9 (B) to provide to the Department of Natural Resources, within  
 10 30 days after the date of a request, specific data sets, ancillary data, and reports  
 11 identified in (A) of this paragraph;

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

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

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

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

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

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

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

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

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

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

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

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

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

21 \* **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

23 **RETROACTIVITY.** This Act is retroactive to April 1, 2006, and applies to oil and gas  
24 produced after March 31, 2006.

25 \* **Sec. 21.** This Act takes effect immediately under AS 01.10.070(c).