

**HOUSE BILL NO. 3004**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - THIRD SPECIAL SESSION

BY REPRESENTATIVES GARA, Berkowitz, Gardner, Kerttula, Gruenberg, Guttenberg

Introduced: 7/13/06

Referred: Finance

**A BILL**

**FOR AN ACT ENTITLED**

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

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

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

1 (d) The commission may require

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

4 (2) the making and filing of reports, well logs, drilling logs, electric  
5 logs, lithologic logs, directional surveys, and all other subsurface information on a  
6 well drilled for oil or gas, or for the discovery of oil or gas, or for geologic  
7 information, and the required reports and information shall be filed within 30 days  
8 after the completion, abandonment, or suspension of the well;

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

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

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

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

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

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

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

29 **(10) working interest owners to provide, at cost plus a reasonable**  
30 **rate of return determined under regulations adopted by the commission and**  
31 **without causing substantial injury to the owner, access to production and other**

1 facilities whenever necessary; for purposes of this paragraph, the commission's  
 2 regulations must be consistent with the standards of the Regulatory Commission  
 3 of Alaska adopted to implement AS 42.05.311(a); the commission may act under  
 4 this paragraph

5 (A) to

6 (i) maximize the economic and physical recovery of  
 7 the state's oil and gas resources;

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

10 (iii) minimize the adverse affects of exploration,  
 11 development, production, and transportation activity; or

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

13 and

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

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

19 (33) contracts between the Department of Natural Resources or the  
 20 Department of Revenue, as appropriate, and contractors qualified to evaluate  
 21 hydrocarbon development, production, transportation, and economics, to assist the  
 22 commissioner of natural resources or the commissioner of revenue, as appropriate,  
 23 in evaluating applications for

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

27 (B) tax reductions, and evaluating the related financial and  
 28 technical data, as authorized by AS 43.55.011(j) and (k);

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

30 (a) There is levied upon the producer of oil a tax for all oil produced from  
 31 each lease or property in the state, less any oil the ownership or right to which is

1 exempt from taxation. The tax is equal to,

2 **(1) in the case of North Slope oil,** either the percentage-of-value  
3 amount calculated under **(b)(1)** [(b)] of this section or the cents-per-barrel amount  
4 calculated under **(c)(1)** [(c)] of this section, whichever is greater; **if** [, MULTIPLIED  
5 BY THE ECONOMIC LIMIT FACTOR DETERMINED FOR THE OIL  
6 PRODUCTION OF THE LEASE OR PROPERTY UNDER AS 43.55.013. IF] the  
7 amounts calculated under **(b)(1) and (c)(1)** [(b) AND (c)] of this section are equal, the  
8 amount calculated under **(b)(1)** [(b)] of this section shall be treated as if it were the  
9 greater for purposes of this section;

10 **(2) in the case of oil that is not North Slope oil, either the**  
11 **percentage-of-value amount calculated under (b)(2) of this section or the cents-**  
12 **per-barrel amount calculated under (c)(2) of this section, whichever is greater,**  
13 **multiplied by the economic limit factor determined for the oil production of the**  
14 **lease or property under AS 43.55.013; if the amounts calculated under (b)(2) and**  
15 **(c)(2) of this section are equal, the amount calculated under (b)(2) of this section**  
16 **shall be treated as if it were the greater for purposes of this section.**

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

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

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

22 **(2) in the case of oil that is not North Slope oil,** [12.25 PERCENT  
23 OF THE GROSS VALUE AT THE POINT OF PRODUCTION OF TAXABLE OIL  
24 PRODUCED ON OR BEFORE JUNE 30, 1981, FROM THE LEASE OR  
25 PROPERTY AND] 15 percent of the gross value at the point of production of taxable  
26 oil produced from the lease or property, [AFTER JUNE 30, 1981;] except that [FOR  
27 A LEASE OR PROPERTY COMING INTO COMMERCIAL OIL PRODUCTION  
28 AFTER JUNE 30, 1981,] the percentage-of-value amount equals 12.25 percent of the  
29 gross value at the point of production of taxable oil produced from the lease or  
30 property in the first five years after the **date that is the** start of commercial oil  
31 production [AND EQUALS 15 PERCENT OF THE GROSS VALUE AT THE

1 POINT OF PRODUCTION OF TAXABLE OIL PRODUCED THEREAFTER  
2 FROM THE LEASE OR PROPERTY].

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

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

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

10 **(2) in the case of oil that is not North Slope oil,** \$0.60 per barrel of  
11 taxable old crude oil produced from the lease or property, and \$0.80 per barrel for all  
12 other taxable oil produced from the lease or property, both as adjusted by  
13 AS 43.55.012.

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

15 (e) This subsection and (f) - (l) of this section apply only to North Slope oil.  
16 Except as provided in (i) of this section for heavy oil, the tax rate is the lesser of

17 (1) 40 percent; or

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

20 (A) this paragraph, the volume adjusted tax rate is the  
21 adjustment in (f) of this section added to the greater of

22 (i) the applicable tax rate determined under (C) of this  
23 paragraph, except that, if during a month in which the average ANS  
24 West Coast price per barrel of oil is less than \$12, the applicable tax  
25 rate is zero and the volume adjusted tax rate is determined only by the  
26 application of (ii) of this subparagraph; or

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

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

31 (i) 12.25 percent during the first five years from the

1 date that is the start of commercial oil production; and

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

4 (C) sub-subparagraph (A)(i) of this paragraph, during each  
5 month in which the average ANS West Coast price per barrel of oil averages

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

7 (ii) at least \$15, but less than \$16, the applicable rate is  
8 four percent;

9 (iii) at least \$14, but less than \$15, the applicable rate is  
10 three percent;

11 (iv) at least \$13, but less than \$14, the applicable rate is  
12 two percent; and

13 (v) at least \$12, but less than \$13, the applicable rate is  
14 one percent; and

15 (D) this paragraph and for the purpose of determining the  
16 cents-per-barrel amount under (c)(1) of this section, the price adjustment factor  
17 is one, except that the price adjustment factor is the average ANS West Coast  
18 price per barrel of oil for the month divided by

19 (i) 16 during each month in which the average ANS  
20 West Coast price per barrel of oil is less than \$16 per barrel;

21 (ii) 20 during each month in which the average ANS  
22 West Coast price per barrel of oil is more than \$20 per barrel.

23 (f) For the purposes of determining the volume adjusted tax rate in (e)(2)(A)  
24 of this section, the tax rate shall be increased by the following amounts when the  
25 average ANS West Coast price per barrel of oil is

26 (1) at least \$40 but less than \$45, one percentage point;

27 (2) at least \$45 but less than \$50, two percentage points;

28 (3) at least \$50 but less than \$55, three percentage points;

29 (4) at least \$55 but less than \$60, four percentage points;

30 (5) at least \$60 but less than \$65, five percentage points;

31 (6) at least \$65 but less than \$70, six percentage points.

1 (g) During a month in which the average ANS West Coast price per barrel of  
2 oil is less than \$10 per barrel, the payment of

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

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

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

9 (i) during each month in which the average ANS West  
10 Coast price per barrel of oil is at least \$16 per barrel; and

11 (ii) sequentially on a month-for-month basis in the  
12 order in which the tax payment was deferred based on payment of one  
13 month's deferred tax during each month that the average ANS West  
14 Coast price per barrel of oil is at least \$16 per barrel; and

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

18 (h) Before February 1 of each year, the commissioner shall review the prices  
19 described in (e) and (g) of this section and the related denominators set out in  
20 (e)(2)(D)(i) and (ii) of this section and recommend to the legislature whether the prices  
21 and denominators should be adjusted.

22 (i) Notwithstanding (e) of this section, the tax rate for heavy oil is the volume  
23 adjusted tax rate provided in this subsection. The volume adjusted tax rate for heavy  
24 oil is determined by multiplying the economic limit factor determined for the oil  
25 production of the lease or property under AS 43.55.013 by the tax rate set out in  
26 (e)(2)(A)(i) and (ii) of this section. In this subsection, "heavy oil" means oil equal to or  
27 less than 20 degrees API gravity.

28 (j) A producer of North Slope oil may apply for a reduction of the tax due  
29 under (e), (k), and (l) of this section on the production of North Slope oil

30 (1) if and to the extent that the amount calculated under (A) of this  
31 paragraph is greater than the amount calculated under (B) of this paragraph, but a

1 reduction of the tax may not result in collection of tax due under this section that is  
2 less than the amount calculated under (B) of this paragraph:

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

5 (B) the amount of tax on the production of the oil that would  
6 result from applying the provisions of (a)(2) and (b)(2) of this section as if the  
7 oil were not North Slope oil; and

8 (2) if the commissioner in consultation with the commission of natural  
9 resources determines that the application meets the requirements of  
10 AS 38.05.180(j)(1)(A), (j)(1)(B), or (j)(1)(C).

11 (k) When the commissioner receives an application under (j) of this section,  
12 the commissioner

13 (1) may not approve a tax reduction

14 (A) unless the applicant makes a clear and convincing showing  
15 that the tax reduction meets the requirements of (j) of this section and this  
16 subsection and is in the best interests of the state;

17 (B) that reduces the amount of the tax recovered to less than the  
18 amount determined under (j)(1)(B) of this section;

19 (C) without including an explicit condition that the tax  
20 reduction is not assignable without the prior written approval, which may not  
21 be unreasonably withheld, of the commissioner; in the preliminary and final  
22 findings and determinations prepared under this subsection, the commissioner  
23 shall set out the conditions under which the tax reduction may be assigned;

24 (2) shall require the applicant to submit financial and technical data  
25 that demonstrate that the requirements of (j) of this section and this subsection are  
26 met; the commissioner

27 (A) may require disclosure of only the financial and technical  
28 data related to development, production, and transportation of oil and gas or  
29 gas only from the field or pool that are reasonably available to the applicant;  
30 and

31 (B) shall, at the request of the applicant, keep confidential

1 under AS 38.05.035(a)(9) and AS 43.05.230 the dates described in (A) of this  
2 paragraph; the confidential data may be disclosed by the commissioner to  
3 legislators and to the legislative auditor and, if authorized by the chair or vice-  
4 chair of the Legislative Budget and Audit Committee, to the director of the  
5 division of legislative finance, the permanent employees of their respective  
6 divisions who are responsible for evaluating a tax reduction, and to agents or  
7 contractors of the legislative auditor or the legislative finance director who are  
8 engaged under contract to evaluate the tax reduction if each signs an  
9 appropriate confidentiality agreement;

10 (3) may require the applicant for the tax reduction under (j) of this  
11 section and this subsection to pay for the services of an independent contractor,  
12 selected by the applicant from a list of qualified consultants compiled by the  
13 commissioner, to evaluate hydrocarbon development, production, transportation, and  
14 economics and to assist the commissioner in evaluating the application and financial  
15 and technical data; if, under this paragraph, the commissioner requires payment for the  
16 services of an independent contractor, the total cost of the services to be paid for by  
17 the applicant may not exceed \$150,000 for each application, and the commissioner  
18 shall determine the relevant scope of the work to be performed by the contractor;  
19 selection of an independent contractor under this paragraph is not subject to AS 36.30;

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

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

31 (6) shall make copies of the preliminary findings and determination

1 available to

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

3 (B) the chairs of the legislature's standing committees on  
4 resources; and

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

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

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

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

14 (C) transmit a copy of the final findings and determination to  
15 the lessee; and

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

19 (l) In this section, "North Slope oil" means oil produced from a portion of a  
20 reservoir located north of 68 degrees North latitude.

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

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

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

30 (b) To qualify for the production tax credit under (a) of this section, an  
31 exploration expenditure must be incurred for work performed on or after July 1, 2003,

1 and before July 1, 2016 [2007], except that an exploration expenditure for a Cook Inlet  
2 prospect must be incurred for work performed on or after July 1, 2005, [AND  
3 BEFORE JULY 1, 2010, AND EXCEPT THAT AN EXPLORATION  
4 EXPENDITURE, IN WHOLE OR IN PART, SOUTH OF 68 DEGREES, 15  
5 MINUTES, NORTH LATITUDE, AND NOT PART OF A COOK INLET  
6 PROSPECT MUST BE INCURRED FOR WORK PERFORMED ON OR AFTER  
7 JULY 1, 2003, AND BEFORE JULY 1, 2010,] and

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

10 (2) if for an exploration well,

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

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

14 and

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

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

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

28 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 RETROACTIVITY. Sections 3 - 8 of this Act are retroactive to January 1, 2006, and  
31 apply to oil produced after December 31, 2005.

1      \* **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).