

SENATE BILL NO. 50

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY SENATOR FRENCH

Introduced: 1/12/05

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the oil and gas properties production (severance) tax as it applies to**
2 **oil; establishing a minimum rate of tax for certain fields of five percent; providing for an**
3 **adjustment to increase the tax collected when oil prices exceed \$20 per barrel and to**
4 **reduce the tax collected when oil prices fall below \$16 per barrel; and providing for**
5 **relief from the tax when the price per barrel is low or when the taxpayer demonstrates**
6 **that a reduction in the tax is necessary to establish or reestablish production from an oil**
7 **field or pool that would not otherwise be economically feasible."**

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

9 * **Section 1.** AS 36.30.850(33) is amended to read:

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

1 in evaluating applications for

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

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

7 * Sec. 2. 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 state, less any oil the ownership or right to which is
10 exempt from taxation. The tax is equal to,

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

19 (2) in the case of oil that is not North Slope oil, either the
20 percentage-of-value amount calculated under (b)(2) of this section or the cents-
21 per-barrel amount calculated under (c)(2) of this section, whichever is greater,
22 multiplied by the economic limit factor determined for the oil production of the
23 lease or property under AS 43.55.013; if the amounts calculated under (b)(2) and
24 (c)(2) of this section are equal, the amount calculated under (b)(2) of this section
25 shall be treated as if it were the greater for purposes of this section.

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

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

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

31 (2) in the case of oil that is not North Slope oil, 12.25 percent of the

1 gross value at the point of production of taxable oil produced on or before June 30,
 2 1981, from the lease or property and 15 percent of the gross value at the point of
 3 production of taxable oil produced from the lease or property after June 30, 1981;
 4 except that, for a lease or property coming into commercial oil production after
 5 June 30, 1981, the percentage-of-value amount equals 12.25 percent of the gross value
 6 at the point of production of taxable oil produced from the lease or property in the first
 7 five years after the start of commercial oil production and equals 15 percent of the
 8 gross value at the point of production of taxable oil produced [THEREAFTER] from
 9 the lease or property.

10 * **Sec. 4.** AS 43.55.011(c) is amended to read:

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

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

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

21 * **Sec. 5.** AS 43.55.011 is amended by adding new subsections to read:

22 (e) This subsection and (f) - (k) of this section apply only to North Slope oil.
 23 Except as provided in (h) of this section for heavy oil, the tax rate is the lesser of

24 (1) 25 percent; or

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

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

28 of

29 (i) five percent; or

30 (ii) the economic limit factor determined for the oil
 31 production of the lease or property under AS 43.55.013 multiplied by

1 the nominal tax rate;

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

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

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

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

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

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

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

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

21 and

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

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

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

29 (ii) sequentially on a month-for-month basis in the
30 order in which the tax payment was deferred based on payment of one
31 month's deferred tax during each month that the West Coast prevailing

1 value for oil on which tax is due under this chapter averages at least
2 \$16 per barrel; and

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

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

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

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

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

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

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

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

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

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

30 (j) When the commissioner receives an application under (i) of this section,
31 the commissioner

1 (1) may not approve a tax reduction

2 (A) unless the applicant makes a clear and convincing showing
3 that the tax reduction meets the requirements of (i) of this section and this
4 subsection and is in the best interests of the state;

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

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

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

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

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

28 (3) may require the applicant for the tax reduction under (i) of this
29 section and this subsection to pay for the services of an independent contractor,
30 selected by the applicant from a list of qualified consultants compiled by the
31 commissioner, to evaluate hydrocarbon development, production, transportation, and

1 economics and to assist the commissioner in evaluating the application and financial
 2 and technical data; if, under this paragraph, the commissioner requires payment for the
 3 services of an independent contractor, the total cost of the services to be paid for by
 4 the applicant may not exceed \$150,000 for each application, and the commissioner
 5 shall determine the relevant scope of the work to be performed by the contractor;
 6 selection of an independent contractor under this paragraph is not subject to AS 36.30;

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

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

18 (6) shall make copies of the preliminary findings and determination
 19 available to

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

21 (B) the chairs of the legislature's standing committees on
 22 resources; and

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

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

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

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

1 (C) transmit a copy of the final findings and determination to
2 the lessee; and

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

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

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

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