

SENATE BILL NO. 306

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 3/8/10
Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the tax on oil and gas production; relating to availability of a portion**
2 **of the money received from the tax on oil and gas production for appropriation to the**
3 **community revenue sharing fund; and providing for an effective date."**

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

5 *** Section 1.** AS 29.60.850(b) is amended to read:

6 (b) Each fiscal year, the legislature may appropriate to the community revenue
7 sharing fund an amount equal to 20 percent of the money received by the state during
8 the previous calendar year under AS 43.55.011(g) **and (p)**. The amount may not
9 exceed

10 (1) \$60,000,000; or

11 (2) the amount that, when added to the fund balance on June 30 of the
12 previous fiscal year, equals \$180,000,000.

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

14 (e) There is levied on the producer of oil or gas a tax for all oil and gas

1 produced each calendar year from each lease or property in the state, less any oil and
 2 gas the ownership or right to which is exempt from taxation or constitutes a
 3 landowner's royalty interest. Except as otherwise provided under (f), (j), (k), and (o) of
 4 this section, the tax is equal to the sum of

5 (1) the annual production tax value of the taxable oil and gas as
 6 calculated under AS 43.55.160(a)(1) multiplied by 25 percent; and

7 (2) the sum, over all months of the calendar year, of the tax amounts
 8 determined under (g) of this section **on the production of oil and determined under**
 9 **(p) of this section on the production of gas.**

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

11 (g) For each month of the calendar year for which the producer's average
 12 monthly production tax value under AS 43.55.160(a)(2) **of a** [PER BTU
 13 EQUIVALENT] barrel of [THE] taxable oil [AND GAS] is more than \$30, the
 14 amount of tax **on the production of oil** for purposes of (e)(2) of this section is
 15 determined by multiplying the monthly production tax value of the taxable oil [AND
 16 GAS] produced during the month by the tax rate calculated as follows:

17 (1) if the producer's average monthly production tax value **of a** [PER
 18 BTU EQUIVALENT] barrel of [THE] taxable oil [AND GAS] for the month is not
 19 more than \$92.50, the tax rate is 0.4 percent multiplied by the number that represents
 20 the difference between **the producer's** [THAT] average monthly production tax value
 21 **of a** [PER BTU EQUIVALENT] barrel **of oil** and \$30; or

22 (2) if the producer's average monthly production tax value **of a** [PER
 23 BTU EQUIVALENT] barrel of [THE] taxable oil [AND GAS] for the month is more
 24 than \$92.50, the tax rate is the sum of 25 percent and the product of 0.1 percent
 25 multiplied by the number that represents the difference between the **producer's**
 26 average monthly production tax value **of a** [PER BTU EQUIVALENT] barrel **of oil**
 27 and \$92.50, except that the sum determined under this paragraph may not exceed 50
 28 percent.

29 * **Sec. 4.** AS 43.55.011 is amended by adding a new subsection to read:

30 (p) For each month of the calendar year for which the producer's average
 31 monthly production tax value under AS 43.55.160(a)(3) of a BTU equivalent barrel of

1 taxable gas is more than \$30, the amount of tax on the production of gas for purposes
 2 of (e)(2) of this section is determined by multiplying the monthly production tax value
 3 of the taxable gas produced during the month by the tax rate calculated as follows:

4 (1) if the producer's average monthly production tax value of a BTU
 5 equivalent barrel of taxable gas for the month is not more than \$92.50, the tax rate is
 6 0.4 percent multiplied by the number that represents the difference between the
 7 producer's average monthly production tax value of a BTU equivalent barrel of gas
 8 and \$30; or

9 (2) if the producer's average monthly production tax value of a BTU
 10 equivalent barrel of taxable gas for the month is more than \$92.50, the tax rate is the
 11 sum of 25 percent and the product of 0.1 percent multiplied by the number that
 12 represents the difference between the producer's average monthly production tax value
 13 of a BTU equivalent barrel of gas and \$92.50, except that the sum determined under
 14 this paragraph may not exceed 50 percent.

15 * **Sec. 5.** AS 43.55.020(a) is amended to read:

16 (a) For a calendar year, a producer subject to tax under AS 43.55.011(e) - (i)
 17 **and (p)** shall pay the tax as follows:

18 (1) an installment payment of the estimated tax levied by
 19 AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each
 20 month of the calendar year on the last day of the following month; except as otherwise
 21 provided under (2) of this subsection, the amount of the installment payment is the
 22 sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be
 23 applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount
 24 of the installment payment may not be less than zero:

25 (A) for oil and gas produced from leases or properties in the
 26 state outside the Cook Inlet sedimentary basin but not subject to
 27 AS 43.55.011(o), other than leases or properties subject to AS 43.55.011(f),
 28 [THE GREATER OF]

29 (i) [ZERO; OR

30 (ii)] the sum of 25 percent and the tax rate calculated
 31 for the month under AS 43.55.011(g) multiplied by the remainder

1 obtained by subtracting 1/12 of the producer's adjusted lease
 2 expenditures for the calendar year of production **applicable to the oil**
 3 **produced by the producer from those leases and properties** under
 4 AS 43.55.165 and 43.55.170 that are deductible for the leases or
 5 properties under AS 43.55.160 from the gross value at the point of
 6 production of the oil [AND GAS] produced from the leases or
 7 properties during the month for which the installment payment is
 8 calculated; **and**

9 **(ii) the sum of 25 percent and the tax rate calculated**
 10 **for the month under AS 43.55.011(p) multiplied by the remainder**
 11 **obtained by subtracting 1/12 of the producer's adjusted lease**
 12 **expenditures for the calendar year of production applicable to the**
 13 **gas produced by the producer from those leases and properties**
 14 **under AS 43.55.165 and 43.55.170 that are deductible for the leases**
 15 **or properties under AS 43.55.160 from the gross value at the point**
 16 **of production of the gas produced from the leases or properties**
 17 **during the month for which the installment payment is calculated;**

18 (B) for oil and gas produced from leases or properties subject
 19 to AS 43.55.011(f), the **greater** [GREATEST] of

20 (i) [ZERO;

21 (ii)] zero percent, one percent, two percent, three
 22 percent, or four percent, as applicable, of the gross value at the point of
 23 production of the oil and gas produced from all leases or properties
 24 during the month for which the installment payment is calculated; or

25 **(ii) [(iii)] the sum of 25 percent and the tax rate**
 26 **calculated for the month under AS 43.55.011(g) multiplied by the**
 27 **remainder obtained by subtracting 1/12 of the producer's adjusted lease**
 28 **expenditures for the calendar year of production applicable to the oil**
 29 **produced by the producer from those leases and properties** under
 30 AS 43.55.165 and 43.55.170 that are deductible for those leases or
 31 properties under AS 43.55.160 from the gross value at the point of

1 production of the oil [AND GAS] produced from those leases or
 2 properties during the month for which the installment payment is
 3 calculated **and the sum of 25 percent and the tax rate for the month**
 4 **under AS 43.55.011(p) multiplied by the remainder obtained by**
 5 **subtracting 1/12 of the producer's adjusted lease expenditures for**
 6 **the calendar year of production applicable to the gas produced by**
 7 **the producer from those leases and properties under AS 43.55.165**
 8 **and 43.55.170 that are deductible for those leases or properties**
 9 **under AS 43.55.160 from the gross value at the point of production**
 10 **of the gas produced from those leases or properties during the**
 11 **month for which the installment payment is calculated;**

12 (C) for oil and gas produced from each lease or property
 13 subject to AS 43.55.011(j), (k), or (o), [THE GREATER OF]

14 (i) [ZERO; OR

15 (ii)] the sum of 25 percent and the tax rate calculated
 16 for the month under AS 43.55.011(g) multiplied by the remainder
 17 obtained by subtracting 1/12 of the producer's adjusted lease
 18 expenditures for the calendar year of production **applicable to the oil**
 19 **produced by the producer from those leases and properties** under
 20 AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160
 21 for oil [OR GAS, RESPECTIVELY,] produced from the lease or
 22 property from the gross value at the point of production of the oil [OR
 23 GAS, RESPECTIVELY,] produced from the lease or property during
 24 the month for which the installment payment is calculated; **and**

25 **(ii) the sum of 25 percent and the tax rate for the**
 26 **month under AS 43.55.011(p) multiplied by the remainder**
 27 **obtained by subtracting 1/12 of the producer's adjusted lease**
 28 **expenditures for the calendar year of production applicable to the**
 29 **gas produced by the producer from those leases and properties**
 30 **under AS 43.55.165 and 43.55.170 that are deductible for those**
 31 **leases or properties under AS 43.55.160 from the gross value at the**

1 **point of production of the gas produced from those leases or**
 2 **properties during the month for which the installment payment is**
 3 **calculated;**

4 (2) an amount calculated under (1)(C) of this subsection for oil or gas
 5 produced from a lease or property subject to AS 43.55.011(j), (k), or (o) may not
 6 exceed the product obtained by carrying out the calculation set out in
 7 AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in
 8 AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in
 9 AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable
 10 gas produced during the month for the amount of taxable gas produced during the
 11 calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the
 12 amount of taxable oil produced during the month for the amount of taxable oil
 13 produced during the calendar year;

14 (3) an installment payment of the estimated tax levied by
 15 AS 43.55.011(i) for each lease or property is due for each month of the calendar year
 16 on the last day of the following month; the amount of the installment payment is the
 17 sum of

18 (A) the applicable tax rate for oil provided under
 19 AS 43.55.011(i), multiplied by the gross value at the point of production of the
 20 oil taxable under AS 43.55.011(i) and produced from the lease or property
 21 during the month; and

22 (B) the applicable tax rate for gas provided under
 23 AS 43.55.011(i), multiplied by the gross value at the point of production of the
 24 gas taxable under AS 43.55.011(i) and produced from the lease or property
 25 during the month;

26 (4) any amount of tax levied by AS 43.55.011(e) or (i), net of any
 27 credits applied as allowed by law, that exceeds the total of the amounts due as
 28 installment payments of estimated tax is due on March 31 of the year following the
 29 calendar year of production.

30 * **Sec. 6.** AS 43.55.020(d) is amended to read:

31 (d) In making settlement with the royalty owner for oil and gas that is taxable

1 under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable
 2 royalty oil and gas, or may deduct taxable royalty oil or gas equivalent in value at the
 3 time the tax becomes due to the amount of the tax paid. If the total deductions of
 4 installment payments of estimated tax for a calendar year exceed the actual tax for that
 5 calendar year, the producer shall, before April 1 of the following year, refund the
 6 excess to the royalty owner. Unless otherwise agreed between the producer and the
 7 royalty owner, the amount of the tax paid under AS 43.55.011(e) - (g) **and (p)** on
 8 taxable royalty oil and gas for a calendar year, other than oil and gas the ownership or
 9 right to which constitutes a landowner's royalty interest, is considered to be the gross
 10 value at the point of production of the taxable royalty oil and gas produced during the
 11 calendar year multiplied by a figure that is a quotient, in which

12 (1) the numerator is the producer's total tax liability under
 13 AS 43.55.011(e) - (g) **and (p)** for the calendar year of production; and

14 (2) the denominator is the total gross value at the point of production
 15 of the oil and gas taxable under AS 43.55.011(e) - (g) **and (p)** produced by the
 16 producer from all leases and properties in the state during the calendar year.

17 * **Sec. 7.** AS 43.55.160(a) is amended to read:

18 (a) Except as provided in (b) of this section, for the purposes of

19 (1) AS 43.55.011(e), the annual production tax value of the taxable

20 (A) oil [AND GAS] produced during a calendar year from
 21 leases or properties in the state that include land north of 68 degrees North
 22 latitude is the gross value at the point of production of the oil [AND GAS]
 23 taxable under AS 43.55.011(e) and produced by the producer from those leases
 24 or properties, less the producer's lease expenditures under AS 43.55.165 for the
 25 calendar year applicable to the oil [AND GAS] produced by the producer from
 26 those leases or properties, as adjusted under AS 43.55.170;

27 **(B) gas produced during a calendar year from leases or**
 28 **properties in the state that include land north of 68 degrees North latitude**
 29 **is the gross value at the point of production of the gas taxable under**
 30 **AS 43.55.011(e) and produced by the producer from those leases or**
 31 **properties, less the producer's lease expenditures under AS 43.55.165 for**

1 **the calendar year applicable to the gas produced by the producer from**
2 **those leases or properties, as adjusted under AS 43.55.170;** this
3 subparagraph does not apply to gas subject to AS 43.55.011(o);

4 **(C)** [(B)] oil [AND GAS] produced during a calendar year
5 from leases or properties in the state outside the Cook Inlet sedimentary basin,
6 no part of which is north of 68 degrees North latitude, is the gross value at the
7 point of production of the oil [AND GAS] taxable under AS 43.55.011(e) and
8 produced by the producer from those leases or properties, less the producer's
9 lease expenditures under AS 43.55.165 for the calendar year applicable to the
10 oil [AND GAS] produced by the producer from those leases or properties, as
11 adjusted under AS 43.55.170;

12 **(D) gas produced during a calendar year from leases or**
13 **properties in the state outside the Cook Inlet sedimentary basin, no part of**
14 **which is north of 68 degrees North latitude, is the gross value at the point**
15 **of production of the gas taxable under AS 43.55.011(e) and produced by**
16 **the producer from those leases or properties, less the producer's lease**
17 **expenditures under AS 43.55.165 for the calendar year applicable to the**
18 **gas produced by the producer from those leases or properties, as adjusted**
19 **under AS 43.55.170;** this subparagraph does not apply to gas subject to
20 AS 43.55.011(o);

21 **(E)** [(C)] oil produced during a calendar year from a lease or
22 property in the Cook Inlet sedimentary basin is the gross value at the point of
23 production of the oil taxable under AS 43.55.011(e) and produced by the
24 producer from that lease or property, less the producer's lease expenditures
25 under AS 43.55.165 for the calendar year applicable to the oil produced by the
26 producer from that lease or property, as adjusted under AS 43.55.170;

27 **(F)** [(D)] gas produced during a calendar year from a lease or
28 property in the Cook Inlet sedimentary basin is the gross value at the point of
29 production of the gas taxable under AS 43.55.011(e) and produced by the
30 producer from that lease or property, less the producer's lease expenditures
31 under AS 43.55.165 for the calendar year applicable to the gas produced by the

1 producer from that lease or property, as adjusted under AS 43.55.170;

2 (G) [(E)] gas produced during a calendar year from a lease or
 3 property outside the Cook Inlet sedimentary basin and used in the state is the
 4 gross value at the point of production of that gas taxable under
 5 AS 43.55.011(e) and produced by the producer from that lease or property, less
 6 the producer's lease expenditures under AS 43.55.165 for the calendar year
 7 applicable to that gas produced by the producer from that lease or property, as
 8 adjusted under AS 43.55.170;

9 (2) AS 43.55.011(g), the monthly production tax value of the taxable

10 **oil produced during a month from**

11 (A) [OIL AND GAS PRODUCED DURING A MONTH
 12 FROM] leases or properties in the state that include land north of 68 degrees
 13 North latitude is the gross value at the point of production of the oil [AND
 14 GAS] taxable under AS 43.55.011(e) and produced by the producer from those
 15 leases or properties, less 1/12 of the producer's lease expenditures under
 16 AS 43.55.165 for the calendar year applicable to the oil [AND GAS] produced
 17 by the producer from those leases or properties, as adjusted under
 18 AS 43.55.170; [THIS SUBPARAGRAPH DOES NOT APPLY TO GAS
 19 SUBJECT TO AS 43.55.011(o);]

20 (B) [OIL AND GAS PRODUCED DURING A MONTH
 21 FROM] leases or properties in the state outside the Cook Inlet sedimentary
 22 basin, no part of which is north of 68 degrees North latitude, is the gross value
 23 at the point of production of the oil [AND GAS] taxable under
 24 AS 43.55.011(e) and produced by the producer from those leases or properties,
 25 less 1/12 of the producer's lease expenditures under AS 43.55.165 for the
 26 calendar year applicable to the oil [AND GAS] produced by the producer from
 27 those leases or properties, as adjusted under AS 43.55.170; [THIS
 28 SUBPARAGRAPH DOES NOT APPLY TO GAS SUBJECT TO
 29 AS 43.55.011(o);]

30 (C) [OIL PRODUCED DURING A MONTH FROM] a lease
 31 or property in the Cook Inlet sedimentary basin is the gross value at the point

1 of production of the oil taxable under AS 43.55.011(e) and produced by the
 2 producer from that lease or property, less 1/12 of the producer's lease
 3 expenditures under AS 43.55.165 for the calendar year applicable to the oil
 4 produced by the producer from that lease or property, as adjusted under
 5 AS 43.55.170;

6 **(3) AS 43.55.011(p), the monthly production tax value of the**
 7 **taxable gas produced during a month from**

8 **(A) leases or properties in the state that include land north**
 9 **of 68 degrees North latitude is the gross value at the point of production of**
 10 **the gas taxable under AS 43.55.011(e) and produced by the producer from**
 11 **those leases or properties, less 1/12 of the producer's lease expenditures**
 12 **under AS 43.55.165 for the calendar year applicable to the gas produced**
 13 **by the producer from those leases or properties, as adjusted under**
 14 **AS 43.55.170; this subparagraph does not apply to gas subject to**
 15 **AS 43.55.011(o);**

16 **(B) leases or properties in the state outside the Cook Inlet**
 17 **sedimentary basin, no part of which is north of 68 degrees North latitude,**
 18 **is the gross value at the point of production of the gas taxable under**
 19 **AS 43.55.011(e) and produced by the producer from those leases or**
 20 **properties, less 1/12 of the producer's lease expenditures under**
 21 **AS 43.55.165 for the calendar year applicable to the gas produced by the**
 22 **producer from those leases or properties, as adjusted under AS 43.55.170;**
 23 **this subparagraph does not apply to gas subject to AS 43.55.011(o);**

24 **(C) [(D) GAS PRODUCED DURING A MONTH FROM]** a
 25 lease or property in the Cook Inlet sedimentary basin is the gross value at the
 26 point of production of the gas taxable under AS 43.55.011(e) and produced by
 27 the producer from that lease or property, less 1/12 of the producer's lease
 28 expenditures under AS 43.55.165 for the calendar year applicable to the gas
 29 produced by the producer from that lease or property, as adjusted under
 30 AS 43.55.170;

31 **(D) [(E) GAS PRODUCED DURING A MONTH FROM]** a

1 lease or property outside the Cook Inlet sedimentary basin and used in the state
 2 is the gross value at the point of production of that gas taxable under
 3 AS 43.55.011(e) and produced by the producer from that lease or property, less
 4 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar
 5 year applicable to that gas produced by the producer from that lease or
 6 property, as adjusted under AS 43.55.170.

7 * **Sec. 8.** AS 43.55.160(c) is amended to read:

8 (c) Notwithstanding any contrary provision of AS 43.55.150, for purposes of
 9 calculating a monthly production tax value under (a)(2) **and (3)** of this section, the
 10 gross value at the point of production of the oil and gas is calculated under regulations
 11 adopted by the department that provide for using an appropriate monthly share of the
 12 producer's costs of transportation for the calendar year.

13 * **Sec. 9.** AS 43.55.160(e) is amended to read:

14 (e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that
 15 would otherwise be deductible by a producer in a calendar year but whose deduction
 16 would cause an annual production tax value calculated under (a)(1) of this section of
 17 taxable oil or gas produced during the calendar year to be less than zero may be used
 18 to establish a carried-forward annual loss under AS 43.55.023(b). However, the
 19 department shall provide by regulation a method to ensure that, for a period for which
 20 a producer's tax liability is limited by AS 43.55.011(j), (k), or (o), any adjusted lease
 21 expenditures under AS 43.55.165 and 43.55.170 that would otherwise be deductible
 22 by a producer for that period but whose deduction would cause a production tax value
 23 calculated under **(a)(1)(E), (F), or (G)** [(a)(1)(C), (D), OR (E)] of this section to be
 24 less than zero are accounted for as though the adjusted lease expenditures had first
 25 been used as deductions in calculating the production tax values of oil or gas subject to
 26 any of the limitations under AS 43.55.011(j), (k), or (o) that have positive production
 27 tax values so as to reduce the tax liability calculated without regard to the limitation to
 28 the maximum amount provided for under the applicable provision of AS 43.55.011(j),
 29 (k), or (o). Only the amount of those adjusted lease expenditures remaining after the
 30 accounting provided for under this subsection may be used to establish a carried-
 31 forward annual loss under AS 43.55.023(b). In this subsection, "producer" includes

1 "explorer."

2 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 APPLICABILITY. Sections 1 - 9 of this Act are applicable on and after the first day
5 of the calendar month immediately following the effective date of this Act.

6 * **Sec. 11.** This Act takes effect immediately under AS 01.10.070(c).