

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

February 25, 2012

1:04 p.m.

MEMBERS PRESENT

Senator Joe Paskvan, Co-Chair
Senator Thomas Wagoner, Co-Chair
Senator Bill Wielechowski, Vice Chair
Senator Bert Stedman
Senator Lesil McGuire
Senator Hollis French
Senator Gary Stevens

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Senator Dennis Egan

COMMITTEE CALENDAR

SENATE BILL NO. 192

"An Act relating to the oil and gas production tax; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 192

SHORT TITLE: OIL AND GAS PRODUCTION TAX RATES

SPONSOR(s): RESOURCES

02/08/12	(S)	READ THE FIRST TIME - REFERRALS
02/08/12	(S)	RES, FIN
02/10/12	(S)	RES AT 3:30 PM BUTROVICH 205
02/10/12	(S)	Heard & Held
02/10/12	(S)	MINUTE(RES)
02/13/12	(S)	RES AT 3:30 PM BUTROVICH 205
02/13/12	(S)	Heard & Held
02/13/12	(S)	MINUTE(RES)
02/14/12	(S)	RES AT 3:30 PM BUTROVICH 205
02/14/12	(S)	Heard & Held

02/14/12	(S)	MINUTE(RES)
02/15/12	(S)	RES AT 3:30 PM BUTROVICH 205
02/15/12	(S)	Heard & Held
02/15/12	(S)	MINUTE(RES)
02/16/12	(S)	RES AT 3:30 PM BUTROVICH 205
02/16/12	(S)	Heard & Held
02/16/12	(S)	MINUTE(RES)
02/17/12	(S)	RES AT 3:30 PM BUTROVICH 205
02/17/12	(S)	Heard & Held
02/17/12	(S)	MINUTE(RES)
02/21/12	(S)	RES AT 3:30 PM BUTROVICH 205
02/21/12	(S)	Heard & Held
02/21/12	(S)	MINUTE(RES)
02/22/12	(S)	RES AT 1:30 PM BUTROVICH 205
02/22/12	(S)	Heard & Held
02/22/12	(S)	MINUTE(RES)
02/22/12	(S)	RES AT 3:30 PM BUTROVICH 205
02/22/12	(S)	Heard & Held
02/22/12	(S)	MINUTE(RES)
02/23/12	(S)	RES AT 3:30 PM BUTROVICH 205
02/23/12	(S)	Heard & Held
02/23/12	(S)	MINUTE(RES)
02/24/12	(S)	RES AT 1:30 PM BUTROVICH 205
02/24/12	(S)	-- MEETING CANCELED --
02/24/12	(S)	RES AT 3:30 PM BUTROVICH 205
02/24/12	(S)	Heard & Held
02/24/12	(S)	MINUTE(RES)

WITNESS REGISTER

MARY JACKSON, Staff
 Senator REPRESENTATIVE THOMPSON Wagoner
 Alaska State Legislature
 Juneau, AK

POSITION STATEMENT: Explained a proposed amendment B.2 to SB 192 for the committee.

MICHELLE SYDEMAN, Staff
 Senator Bill Wielechowski
 Alaska State Legislature
 Juneau, AK

POSITION STATEMENT: Explained proposed amendment B.13 to SB 192.

ACTION NARRATIVE

[1:04:03 PM](#)

CO-CHAIR JOE PASKVAN called the Senate Resources Standing Committee meeting to order at 1:04 p.m. Present at the call to order were Senators French, McGuire, Stevens, Stedman, Wielechowski, Co-chair Wagoner and Co-Chair Paskvan.

SB 192-OIL AND GAS PRODUCTION TAX RATES

1:04:27 PM

CO-CHAIR PASKVAN announced consideration of SB 192 [CSSB 192(RES), labeled 27-LS1305\B, was before the committee]. He thanked committee members for their professionalism yesterday in dealing with the amendments saying that it was important for people to see and understand the process as they advance the concept of this production tax bill. The goal has not changed; these concepts are being advanced to make Alaska a better place for Alaskans all across the state.

1:06:43 PM

CO-CHAIR PASKVAN said they would start today's conversation with Senator McGuire's proposed amendments labeled 27-LS1305\B.5 (Item 9) and 27-LS1305\B.4 (Item 8).

27-LS1305\B.5
Nauman/Bullock

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 192(RES), Draft Version "B"

Page 1, line 1:

Delete "oil and gas production tax"

Insert "tax rates applicable to oil and gas production when the average production tax value for a BTU equivalent barrel of oil and gas is more than \$30"

Page 1, line 3, through page 2, line 6:

Delete all material and insert:

"* **Section 1.** AS 43.55.011(g) is repealed and reenacted to read:

(g) For each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2) for each BTU equivalent barrel of the taxable oil and gas is more than \$30, the amount of tax for purposes of (e)(2) of this section is determined by multiplying the monthly production tax value of the taxable oil and gas

produced during the month by the following tax rates, as applicable:

(1) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is not more than \$42.50, the tax rate is 2.5 percent of the difference between that average monthly production tax value of a BTU equivalent barrel and \$30;

(2) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$42.50 but not more than \$55, the tax rates are

(A) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30; and

(B) 7.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$42.50;

(3) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$55 but not more than \$67.50, the tax rates are

(A) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30;

(B) 7.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel; and

(C) 12.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$55;

(4) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$67.50 but not more than \$80, the tax rates are

(A) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30;

(B) 7.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(C) 12.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(D) 17.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$67.50;

(5) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$80 but not more than \$92.50, the tax rates are

(A) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30;

(B) 7.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(C) 12.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(D) 17.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel; and

(E) 22.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$80;

(6) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$92.50, the tax rates are

(A) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30;

(B) 7.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(C) 12.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(D) 17.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(E) 22.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel; and

(F) 25 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$92.50.

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

APPLICABILITY. Section 1 of this Act applies to oil and gas produced after December 31, 2012.

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

TRANSITION: REGULATIONS. The Department of Revenue may adopt regulations to implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the provision of this Act implemented by the regulation.

* **Sec. 4.** Section 1 of this Act takes effect January 1, 2013.

* **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect immediately under AS 01.10.070(c)."

And Item 8:

27-LS1305\B.4
Nauman/Bullock
2/24/12

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 192(RES), Draft Version "B"

Page 1, line 1:

Delete "oil and gas production tax"

Insert "tax rates applicable to oil and gas production when the average production tax value for a BTU equivalent barrel of oil and gas is more than \$30"

Page 1, line 3, through page 2, line 6:

Delete all material and insert:

"* **Section 1.** AS 43.55.011(g) is repealed and reenacted to read:

(g) For each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2) for each BTU equivalent barrel of the taxable oil and gas is more than \$30, the amount of tax for purposes of (e)(2) of this section is determined by multiplying the monthly production tax value of the taxable oil and gas produced during the month by the following tax rates, as applicable:

(1) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is not more than \$42.50, the tax rate is 2.5 percent of the difference

between that average monthly production tax value of a BTU equivalent barrel and \$30;

(2) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$42.50 but not more than \$55, the tax rates are

(A) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30; and

(B) 7.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$42.50;

(3) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$55 but not more than \$67.50, the tax rates are

(A) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30;

(B) 7.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel; and

(C) 12.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$55;

(4) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$67.50 but not more than \$80, the tax rates are

(A) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30;

(B) 7.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(C) 12.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(D) 17.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$67.50;

(5) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$80 but not more than \$92.50, the tax rates are

(A) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30;

(B) 7.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(C) 12.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(D) 17.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel; and

(E) 22.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$80;

(6) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$92.50 but not more than \$105, the tax rates are

(A) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30;

(B) 7.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(C) 12.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(D) 17.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(E) 22.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel; and

(F) 25 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$92.50;

(7) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$105 but not more than \$117.50, the tax rates are

(A) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30;

(B) 7.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(C) 12.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(D) 17.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(E) 22.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(F) 25 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel; and

(G) 30 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$105;

(8) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$117.50, the tax rates are

(A) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30;

(B) 7.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(C) 12.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(D) 17.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(E) 22.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(F) 25 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(G) 30 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel; and

(H) 35 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$117.50.

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

APPLICABILITY. Section 1 of this Act applies to oil and gas produced after December 31, 2012.

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

TRANSITION: REGULATIONS. The Department of Revenue may adopt regulations to implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the provision of this Act implemented by the regulation.

* **Sec. 4.** Section 1 of this Act takes effect January 1, 2013.

* **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect immediately under AS 01.10.070(c)."

SENATOR MCGUIRE explained that the part of the conversation they were entering into today centered around the progressivity piece of ACES (Alaska's Clear and Equitable Share) formula for taxation. When ACES was adopted they looked at a base rate of 25 percent up to \$30 a barrel progressing to .4 percent after that. Later on in the ACES discussion they entering into a high oil price environmental and came across the idea of a windfall tax where the state would take more money at the upper end. Gaffney Kline, the legislature's consultant, predicted a high oil price environment for possibly the next two decades.

SENATOR EGAN joined the meeting.

SENATOR MCGUIRE said the concept was rooted in a reasonable idea - that Alaskans owning the resources in common, as stated in the Constitution, would share in the upside potential. She has heard from both large and small gas and oil companies that even though they are in an exploratory phase now, that to enter into the next phase where production will occur the marginal rate of taxation becomes uncompetitive at the higher brackets. She said that another legislative consultant, Pedro van Meurs, in the interim, presented a well-thought analysis of five ACES deficiencies as follows:

1. PPT tax rates up to 75 percent in addition to the 41 percent of corporate income tax are too high to stimulate efficiency in operations.
2. The price base sliding scales result in a situation where under high oil prices the producer is better off with a lower price.

3. The excessive tax credits result in a situation where Alaskans may end up paying all of the cost of a well (under credits).

4. There is no low side for the state and under marginal circumstances the ACES system actually creates a negative PPT. In other words the state might lose money.

5. The BOE concept results in a situation where new gas production could lead to massive losses of oil based revenues. This issue is "decoupling," or separating oil and gas taxation. Mr. Van Meurs called it cross-subsidization and said that under the current system Alaska is losing money.

[1:13:43 PM](#)

SENATOR MCGUIRE said she was offering these two amendments on behalf of those who believe the system is no longer competitive based on the high progressivity rate. They would "bracket out progressivity." The second one would create two higher brackets, but both would begin the bracketing at \$30 to \$42.50 with a tax rate of 2.5 percent; \$42.50 to \$55 with a tax rate of 7.5 percent; \$55 to \$67.50 with a 12.5 percent tax rate, \$67.50 to \$80 with a 17.5 percent tax rate, \$80 to \$92.50 with a 22.5 percent tax rate, \$92.50 to \$105 would start the capped rate of 25 tax rate in Amendment B.5.

She explained that Amendment B.4 was different from B.5 in one area; it adds two more brackets, which would result in more take for the government of 30 percent for \$105 to \$117.50 oil and 35 percent tax above \$117.50. This amendment was offered by Representative Herron in the House; the testimony behind it simply reflecting that people thought the government ought to have more of a take at those higher two brackets.

[1:17:21 PM](#)

SENATOR MCGUIRE pointed out that yesterday oil was \$129 barrel; so we are right on the edge of tipping over into the top bracket. She said the state's take would change as follows:

FY13 \$700 million
FY14 \$1.3 billion
FY15 \$1.1 billion
FY16 \$1.15 billion
FY17 \$1.50 billion
FY18 \$1.15 billion

[1:18:50 PM](#)

At ease from 1:18 to 1:19 p.m.

1:19:24 PM

SENATOR MCGUIRE said the concept was to make Alaska more competitive and what the state lost up front would hopefully be made up with the increase in investment. The committee struggled with getting assurances from all the companies that under the proposed formula they would invest billions. However, she feared doing nothing and this amendment would not bring back the flow, but it would help stem the tide.

SENATOR STEDMAN said he thought the capital credits would erase all of the progressivity.

SENATOR MCGUIRE concurred, saying that backup data supports that.

CO-CHAIR PASKVAN said he hoped Alaskan citizens understood that the tax system as a whole has many levers and no one lever is the silver bullet.

1:26:04 PM

CO-CHAIR PASKVAN invited Senator McGuire to explain Item 10, Amendment B.7.

27-LS1305\B.7
Nauman/Bullock

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 192(RES), Draft Version "B"

Page 1, line 1, following "tax":

Insert "rate; relating to monthly installment payments of the oil and gas production tax; relating to oil and gas production tax credits, including qualified capital credits for exploration, development, and production"

Page 1, line 3, through page 2, line 6:

Delete all material and insert:

"* **Section 1.** AS 43.55.011(e) is amended to read:

(e) There is levied on the producer of oil or gas a tax for all oil and gas produced each calendar year from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's

royalty interest. Except as otherwise provided under (f), (j), (k), and (o) of this section, the tax is equal to the sum of

[(1)] the annual production tax value of the taxable oil and gas

(1) produced from a lease or property not described in (2) of this subsection as calculated under AS 43.55.160(a)(1) multiplied by 25 percent, and the sum, over all months of the calendar year, of the tax amounts determined under (g)(1) of this section; and

(2) produced during the first seven consecutive years after the start of sustained production or produced during the first seven years after the effective date of this bill section, whichever is later, from a lease or property containing land that was not or previously had not been within a unit or in commercial production as of December 31, 2008, as calculated under AS 43.55.160(a)(1) multiplied by 15 percent, and the sum, over all months of the calendar year, of the tax amounts determined under (g)(2) [(g)] of this section; in this paragraph, "sustained production" has the meaning given in AS 43.55.025(1).

* Sec. 2. AS 43.55.011(g) is repealed and reenacted to read:

(g) For each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2) for each BTU equivalent barrel of the taxable oil and gas is more than \$30, the amount of tax for purposes

(1) of (e)(1) of this section is determined by multiplying the monthly production tax value of the taxable oil and gas produced during the month by the tax rate calculated as follows:

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

(B) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$92.50, the tax rate is the sum of 25 percent and the product of 0.1 percent multiplied by the number that

represents the difference between the average monthly production tax value of a BTU equivalent barrel and \$92.50, except that the sum determined under this subparagraph may not exceed 50 percent;

(2) of (e)(2) of this section is determined by multiplying the monthly production tax value of the taxable oil and gas produced during the month by the following tax rates, as applicable:

(A) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is not more than \$42.50, the tax rate is 2.5 percent of the difference between that average monthly production tax value of a BTU equivalent barrel and \$30;

(B) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$42.50 but not more than \$55, the tax rates are

(i) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30; and

(ii) 7.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$42.50;

(C) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$55 but not more than \$67.50, the tax rates are

(i) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30;

(ii) 7.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel; and

(iii) 12.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$55;

(D) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$67.50 but not more than \$80, the tax rates are

(i) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30;

(ii) 7.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(iii) 12.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(iv) 17.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$67.50;

(E) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$80 but not more than \$92.50, the tax rates are

(i) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30;

(ii) 7.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(iii) 12.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(iv) 17.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel; and

(v) 22.5 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$80;

(F) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$92.50, the tax rates are

(i) 2.5 percent on the first \$12.50 of monthly production tax value for each BTU equivalent barrel that is greater than \$30;

(ii) 7.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(iii) 12.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(iv) 17.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel;

(v) 22.5 percent of the next higher \$12.50 of monthly production tax value for each BTU equivalent barrel; and

(vi) 25 percent of the monthly production tax value for each BTU equivalent barrel that is greater than \$92.50.

* **Sec. 3.** AS 43.55.020(a) is amended to read:

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

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

(A) for oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin but not subject to AS 43.55.011(o), other than leases or properties subject to AS 43.55.011(f), the greater of

(i) zero; or

(ii) the applicable tax rates in AS 43.55.011(e) and (g) applied to [SUM OF 25 PERCENT AND THE TAX RATE CALCULATED FOR THE MONTH UNDER AS 43.55.011(g) MULTIPLIED BY] the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the leases or properties under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;

(B) for oil and gas produced from leases or properties subject to AS 43.55.011(f), the greatest of

(i) zero;

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

(iii) the applicable tax rates in AS 43.55.011(e) and (g) applied to [SUM OF 25 PERCENT AND THE TAX RATE CALCULATED FOR THE MONTH UNDER AS 43.55.011(g) MULTIPLIED BY] the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under

AS 43.55.165 and 43.55.170 that are deductible for those leases or properties under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from those leases or properties during the month for which the installment payment is calculated;

(C) for oil and gas produced from each lease or property subject to AS 43.55.011(j), (k), or (o), the greater of

(i) zero; or

(ii) the applicable tax rates in AS 43.55.011(e) and (g) applied to [SUM OF 25 PERCENT AND THE TAX RATE CALCULATED FOR THE MONTH UNDER AS 43.55.011(g) MULTIPLIED BY] the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 for oil or gas, respectively, produced from the lease or property from the gross value at the point of production of the oil or gas, respectively, produced from the lease or property during the month for which the installment payment is calculated;

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

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

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

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

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

* **Sec. 4.** AS 43.55.023(g) is amended to read:

(g) The issuance of a transferable tax credit certificate under (d) of this section or former (m) of this section or the purchase of a certificate under AS 43.55.028 does not limit the department's ability to later audit a tax credit claim to which the certificate relates or to adjust the claim if the department determines, as a result of the audit, that the applicant was not entitled to the amount of the credit for which the certificate was issued. The tax liability of the applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is increased by the amount of the credit that exceeds that to which the applicant was entitled, or the applicant's available valid outstanding credits applicable against the tax levied by AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is increased under this subsection, the increase bears interest under AS 43.05.225 from the date the transferable tax credit certificate was issued. For purposes of this subsection, an applicant that is an explorer is considered a producer subject to the tax levied by AS 43.55.011(e).

* **Sec. 5.** AS 43.55.023(l) is amended to read:

(l) A producer or explorer may apply for a tax credit for a well lease expenditure incurred in the state [SOUTH OF 68 DEGREES NORTH LATITUDE] after December 31, 2012, and before January 1, 2023 [JUNE 30, 2010], as follows:

(1) notwithstanding that a well lease expenditure incurred in the state

(A) south of 68 degrees North latitude may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under (a) of this section,

AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a well lease expenditure in the state south of 68 degrees North latitude may elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of 40 percent of that expenditure;

(B) north of 68 degrees North latitude and outside of a unit or in commercial production before December 31, 2008, may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under (a) of this section, AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a well lease expenditure in the state north of 68 degrees North latitude and outside of a unit or in commercial production before December 31, 2008, may elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of 40 percent of that expenditure; [A TAX CREDIT UNDER THIS PARAGRAPH MAY BE APPLIED FOR A SINGLE CALENDAR YEAR;]

(2) a producer or explorer may take a credit for a well lease expenditure under this subsection incurred [IN THE STATE SOUTH OF 68 DEGREES NORTH LATITUDE] in connection with geological or geophysical exploration or in connection with an exploration well only if the producer or explorer

(A) agrees, in writing, to the applicable provisions of AS 43.55.025(f)(2); and

(B) submits to the Department of Natural Resources all data that would be required to be submitted under AS 43.55.025(f)(2).

* **Sec. 6.** AS 43.55.023(1) is repealed and reenacted to read:

(1) A producer or explorer may apply for a tax credit for a well lease expenditure incurred in the state south of 68 degrees North latitude after December 31, 2022, as follows:

(1) notwithstanding that a well lease expenditure incurred in the state south of 68 degrees North latitude may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under (a) of this section, AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a well lease expenditure in the state south of 68

degrees North latitude may elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of 40 percent of that expenditure; a tax credit under this paragraph may be applied for a single calendar year;

(2) a producer or explorer may take a credit for a well lease expenditure incurred in the state south of 68 degrees North latitude in connection with geological or geophysical exploration or in connection with an exploration well only if the producer or explorer

(A) agrees, in writing, to the applicable provisions of AS 43.55.025(f)(2); and

(B) submits to the Department of Natural Resources all data that would be required to be submitted under AS 43.55.025(f)(2).

* **Sec. 7.** AS 43.55.023(n) is amended to read:

(n) For the purposes of (l) [AND (m)] of this section, a well lease expenditure [INCURRED IN THE STATE SOUTH OF 68 DEGREES NORTH LATITUDE] is a lease expenditure that is

(1) directly related to an exploration well, a stratigraphic test well, a producing well, or an injection well other than a disposal well, [LOCATED IN THE STATE SOUTH OF 68 DEGREES NORTH LATITUDE,] if the expenditure is a qualified capital expenditure and an intangible drilling and development cost authorized under 26 U.S.C. (Internal Revenue Code), as amended, and 26 C.F.R. 1.612-4, regardless of the elections made under 26 U.S.C. 263(c); in this paragraph, an expenditure directly related to a well includes an expenditure for well sidetracking, well deepening, well completion or recompletion, or well workover, regardless of whether the well is or has been a producing well; or

(2) an expense for seismic work conducted within the boundaries of a production or exploration unit.

* **Sec. 8.** AS 43.55.028(e) is amended to read:

(e) The department, on the written application of a person to whom a transferable tax credit certificate has been issued under AS 43.55.023(d) or **former AS 43.55.023(m)** [(m)] or to whom a production tax credit certificate has been issued under AS 43.55.025(f), may use available money in the oil and gas tax credit fund to purchase, in whole or in part, the certificate if the department finds that

(1) the calendar year of the purchase is not earlier than the first calendar year for which the credit shown on the certificate would otherwise be allowed to be applied against a tax;

(2) [REPEALED

(3) REPEALED

(4)] the applicant does not have an outstanding liability to the state for unpaid delinquent taxes under this title;

(3) [(5)] the applicant's total tax liability under AS 43.55.011(e), after application of all available tax credits, for the calendar year in which the application is made is zero;

(4) [(6)] the applicant's average daily production of oil and gas taxable under AS 43.55.011(e) during the calendar year preceding the calendar year in which the application is made was not more than 50,000 BTU equivalent barrels; and

(5) [(7)] the purchase is consistent with this section and regulations adopted under this section.

* **Sec. 9.** AS 43.55.028(g) is amended to read:

(g) The department may adopt regulations to carry out the purposes of this section, including standards and procedures to allocate available money among applications for purchases under this chapter and claims for refunds under AS 43.20.046 when the total amount of the applications for purchase and claims for refund exceed the amount of available money in the fund. The regulations adopted by the department may not, when allocating available money in the fund under this section, distinguish an application for the purchase of a credit certificate issued under former AS 43.55.023(m) or a claim for refund under AS 43.20.046.

* **Sec. 10.** AS 43.55.023(m) is repealed.

* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) Sections 4, 5, 7, and 10 of this Act apply to expenditures incurred after December 31, 2012.

(b) Sections 1 - 3 of this Act apply to oil and gas produced after December 31, 2012.

(c) Section 6 of this Act applies to expenditures incurred after December 31, 2022.

* **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Revenue may adopt regulations to implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the provision of this Act implemented by the regulation.

* **Sec. 13.** Sections 1 - 5, 7 - 10, and 11(a) and (b) of this Act take effect January 1, 2013.

* **Sec. 14.** Sections 6 and 11(c) of this Act take effect January 1, 2023.

* **Sec. 15.** Except as provided in secs. 13 and 14 of this Act, this Act takes effect immediately under AS 01.10.070(c)."

SENATOR MCGUIRE said she offered this concept as hope for new entrants. For instance, Armstrong has contracts that are contingent upon Alaska becoming more competitive.

CO-CHAIR PASKVAN asked her to develop her seven year concept.

[1:28:12 PM](#)

SENATOR MCGUIRE responded a lot of discussion had taken place about how long a company should have to prove up its resources and seven years seemed to work, although the committee could decide on a different number.

[1:29:16 PM](#)

CO-CHAIR PASKVAN said Senator Wielechowski would next comment on Item 11.

27-LS1305\B.8
Nauman/Bullock

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 192(RES), Draft Version "B"

Page 1, line 3, through page 2, line 5:

Delete all material and insert:

"* **Section 1.** AS 43.55.011(g) is amended to read:

(g) For each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2) for a [PER] BTU equivalent barrel of the taxable oil and gas is more than \$30, the amount of tax for purposes of (e)(2) of this section is determined by multiplying the monthly

production tax value of the taxable oil and gas produced during the month by the tax rate calculated as follows:

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

(2) if the producer's average monthly production tax value for a [PER] BTU equivalent barrel of the taxable oil and gas for the month is more than \$92.50, the tax rate is the sum of 25 percent and the product of 0.1 percent multiplied by the number that represents the difference between the average monthly production tax value for a [PER] BTU equivalent barrel and \$92.50, except that the sum determined under this paragraph may not exceed 35 [50] percent."

SENATOR WIELECHOWSKI said this amendment was crafted before seeing the CS and it caps progressivity at 60 percent. He had been persuaded by expert and industry testimony that the state's tax structure is on the high end at about 60 percent. But given that, a lot of countries are higher; Argentina and Pakistan, for instance, take 100 percent after \$60, Venezuela takes 90-95 percent, Libya, Russian, China, Kazakhstan and Angola take 90-plus percent at high dollars. So, he didn't think Alaska's tax structure was uncompetitive, but in order to make it more competitive, a 60 percent cap on progressivity should be modeled and considered.

Generally, he said the state has had a philosophy of low taxes for decades. For example, the economic limit factor (ELF) that didn't tax new fields was in place from the 1970s through 2006. Kuparuk and Prudhoe were taxed at 12.5-15 percent of the gross. Every year under the ELF, as the fields became "marginal" the tax rate declined. But, regardless of the conventional wisdom, low taxes didn't lead to more investment or production. Instead production declined at a rate of 5.8 percent and by 2006, 15 out of 19 fields were paying zero taxes on the North Slope. From 2001 - 2006 the price of oil more than tripled from \$20 to over \$60 and yet production continued to decline at a rate of 8 percent.

SENATOR WIELECHOWSKI said since ACES passed (raising taxes), the state has had all-time highs in jobs, investment and the number

of companies doing business on the North Slope, that tripled. "We want more production," he said and this is an attempt to see if lowering the tax rate would do that. At high dollars this is a "big give." He had other amendments that he hoped passed in conjunction with this one, because the state should be getting something in return.

[1:33:11 PM](#)

SENATOR FRENCH said Senator Wielechowski did a good job of explaining the philosophy behind the amendment and he is a co-signer of it, but he wasn't sure he would support it without seeing a model.

He stated that it's important for the public to remember how progressivity works. Nothing gets taxed in Alaska until a profit is turned. Every single expense in the oil field is deducted from the price of a barrel of oil before paying tax. Once a company starts making a dollar of profit, the first \$30 doesn't have progressivity. Like Senator Wielechowski, he said he had reservations about this aspect of the reform, because it comes with no strings and could result in zero extra dollars of investment coming into the State of Alaska. For that reason he was going to be very cautious in adjusting progressivity.

[1:35:12 PM](#)

CO-CHAIR PASKVAN reiterated that he thought it was appropriate and important to put this concept on the table so it could be discussed thoroughly. He then asked Senator Wielechowski to explain the concept in Item 18.

27-LS1305\B.18
Bullock

A M E N D M E N T

OFFERED IN THE SENATE
BY SENATOR WIELECHOWSKI
TO: CSSB 192(RES), Draft Version "B"

Page 1, line 3, through page 2, line 5:

Delete all material and insert:

"* Section 1. AS 43.55.011(g) is amended to read:

(g) For each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2) of a [PER] BTU equivalent barrel of the taxable oil and gas is more than \$30, the amount of tax for purposes of (e)(2) of this section is determined by multiplying the monthly

production tax value of the taxable oil and gas produced during the month by the tax rate calculated as follows:

(1) if the producer's average monthly production tax value of a [PER] BTU equivalent barrel of the taxable oil and gas for the month is not more than \$67.50 [\$92.50], the tax rate is 0.4 percent multiplied by the number that represents the difference between that average monthly production tax value of a [PER] BTU equivalent barrel and \$30; [OR]

(2) if the producer's average monthly production tax value of a [PER] BTU equivalent barrel of the taxable oil and gas for the month is more than \$67.50 but is not more than \$92.50, the tax rate is the sum of 15 [25] percent and the product of 0.35 [0.1] percent multiplied by the number that represents the difference between the average monthly production tax value of a [PER] BTU equivalent barrel and \$67.50;
or

(3) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$92.50, the tax rate is the sum of 23.75 percent and the product of 0.1 percent multiplied by the number that represents the difference between the average monthly production tax value of a BTU equivalent barrel and \$92.50, except that the sum determined under this paragraph may not exceed 35 [50] percent."

[1:36:22 PM](#)

SENATOR WIELECHOWSKI said he didn't know if he would support this until he saw it modeled, but B.18 addresses a couple of problems. It lowers progressivity at 60 percent like the previous amendment, but it does a couple of other things, as well. He explained that industry has repeatedly expressed that the marginal tax rate is too high and this amendment would "slightly bend" the marginal tax rate curve at about 85 percent.

He related that industry says that marginal tax rates impact investment. They can also create a significant gold plating risk for the state in terms of potentially paying more than 100 percent of a company's incremental investment. So, this amendment solves that problem by capping progressivity from 75 percent down to 60 percent. The base tax rate would remain the same at 25 percent up through the 40 percent for \$102 oil. The Governor said he thinks the current ACES tax structure is competitive at \$60-80 and that it became high at \$100 compared to

North America, which is good, but Senator Wielechowski said he wasn't sure North America was what Alaska should compare itself to.

This amendment reduces the progressivity from .4 percent in the tax curve at around \$102 to .35 percent. Once \$92.50 is met, the progressivity is reduced to .1 percent. This solves three problems: the issue of high marginal tax rate, too high of a cap and gold plating; and he will know better when it is modeled whether those statements are accurate.

[1:39:47 PM](#)

CO-CHAIR PASKVAN found no questions on B.18 and asked Senator Wielechowski to explain Item 12.

27-LS1305\B.9
Nauman/Bullock

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 192(RES), Draft Version "B"

Page 1, line 1, following "**tax;**":

Insert "**providing for a reduction in production tax value for certain oil;**"

Page 2, following line 5:

Insert new bill sections to read:

"* **Sec. 2.** AS 43.55.160(a) is amended to read:

(a) Except as provided in (b) of this section **and subject to an adjustment under AS 43.55.162**, for the purposes of

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

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

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

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

(D) gas produced during a calendar year from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

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

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

(A) oil and gas produced during a month from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) and produced by the

producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas subject to AS 43.55.011(o);

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

(C) oil produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the oil taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(D) gas produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(E) gas produced during a month from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to that gas produced by the producer from

that lease or property, as adjusted under AS 43.55.170.

* **Sec. 3.** AS 43.55 is amended by adding a new section to read:

Sec. 43.55.162. Adjustment to production tax value for increasing oil production. (a) The production tax value of oil delivered to and transported by the Trans Alaska Pipeline System, as calculated under AS 43.55.160(a)(1)(A) and (B) and AS 43.66.160(a)(2)(A) and (B), may be reduced by an amount determined by the department under this section.

(b) A producer shall report to the department the total adjusted amount of annual oil production and adjusted amount of the average daily statewide oil production delivered by the producer for transport to the Trans Alaska Pipeline System for both the calendar year immediately preceding the year for which the tax is being determined and the year for which the tax is being determined. The report shall be filed at the time the statement required under AS 43.55.030(a) is filed.

(c) When calculating the

(1) adjusted amount of the average daily statewide production under (b) of this section, the producer shall exclude from the calculation the days on which the rate of production is significantly reduced and the volume of production on those days for which the rate of production is significantly reduced; for the purposes of this paragraph, the rate of production is significantly reduced when the production of oil delivered by the producer to the Trans Alaska Pipeline System for the day is less than one-half of the average daily production for the year calculated by dividing the total oil production that is produced by the producer and delivered to the Trans Alaska Pipeline System for the year by the number of days in the year;

(2) adjusted amount of total annual oil production that is delivered by the producer to the Trans Alaska Pipeline System, the producer shall multiply the adjusted amount of average daily production determined under (1) of this subsection by the number of days in the applicable calendar year; and

(3) adjusted amount of total annual oil production that is delivered by the producer to the

Trans Alaska Pipeline System for the year for which the tax is being determined under (2) of this subsection, the producer may not include the amount of production resulting from the purchase, merger, or other acquisition of another producer and any production attributable to the producer from a unit in which the producer did not participate in the calendar year immediately preceding the year for which the tax is being determined; however, the increased production that may not be included by a producer under this paragraph may be included in the adjusted amount of total annual oil production for the year when determining the amount by which production increases in the next succeeding year.

(d) After receiving a report by the producer under (b) of this section, the department may reduce the production tax value determined under

(1) AS 43.55.160(a)(1)(A) and (B) by \$10 for each barrel of oil delivered by the producer to the Trans Alaska Pipeline system during the year for which the tax is being determined that exceeds the adjusted total annual production for the calendar year immediately preceding the year for which the tax is being determined; and

(2) AS 43.55.160(a)(2)(A) and (B) by \$10 for each barrel of oil delivered to the Trans Alaska Pipeline System for each month in the year for which the tax is being determined that exceeds 1/12 of the number of barrels by which the adjusted total annual production for the year for which the tax is being determined exceeds the adjusted total annual production for the calendar year immediately preceding the year for which the tax is being determined.

(e) The department shall notify the producer of the amount of tax reduction allowed as a result of a reduction in production tax value determined by the department under (d) of this section. At the request of the producer, the department may refund any amount due to the producer as a result of the reduction in production tax value or credit the amount of the tax reduction against the liability of the taxpayer for a tax due under this title.

(f) A tax reduction that results from a reduction in the production tax value under this section may not be considered when a producer is required to calculate and pay any amount due under AS 43.55.020(a). However, at the request of the

producer, a credit allowed under (e) of this section may be applied against a payment due under AS 43.55.020(a) for a period after the department determines the amount of reduction in the production tax value.

(g) The department may adopt regulations specifying the information that must be included in the report filed by a producer under (b) of this section and other regulations necessary for the administration of this section.

* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. The reduction in production tax value under AS 43.55.162, enacted by sec. 10 of this Act, applies to qualifying oil produced after December 31, 2012. In this section, "qualifying oil" means oil delivered to the Trans Alaska Pipeline System the production tax value of which is calculated under AS 43.55.160(a)(1)(A) and (B) and 43.55.160(a)(2)(A) and (B)."

Renumber the following bill section accordingly.

SENATOR WIELECHOWSKI deferred the explanation to Senator French.

SENATOR FRENCH said this amendment is designed to do what the progressivity amendment does not do, which is actually reward new oil with a reduced tax. There were a lot of different ways to go about that and he was looking forward to debating them. Essentially, this amendment says measure the amount of oil that a company produced last year; if they increase it they get a \$10 "bonus," but in the amendment it is called an "allowance." It comes off the production tax value. For example, if a company produced 100,000 barrels of oil in 2012 and increased that in 2013 to 110,000, the company would be eligible for that bonus on 10,000 barrels. The DOR would determine the average daily statewide production for each producer in the previous year. It would be adjusted by eliminating days when there was a significant slowdown due to events beyond the company's control, a shutdown of the pipeline, for example. If you beat your number one year, the next year you get the bonus - and you can't merge with another company.

[1:41:52 PM](#)

SENATOR FRENCH said this expires after a year, so if shale oil comes on like gang busters, the bonus is paid for the first

year, but the second year the tax returns to what it was. It's a one-time quick stimulus to reduce the tax burden on new oil.

He explained that he realized the time value of money to investors in oil operations on the North Slope when the oil industry informed him and Senator Wielechowski that it takes five to seven years to see new production in Alaska and it's a much shorter time in Texas, for instance.

[1:43:38 PM](#)

SENATOR STEDMAN recalled testimony in a joint meeting of the Senate Finance and Resources committees that their consultant talked about an allowance concept up to \$25 barrel. Maybe those models could be run before having the conversation on incremental oil production.

SENATOR FRENCH agreed that they saw a powerful presentation from Pedro van Meurs who had five different allowances, which seemed unwieldy. One of the phrases he worked on last year was "No reduction (in taxes) without more production," and this captures that concept.

[1:46:27 PM](#)

CO-CHAIR WAGONER said this amendment is similar in some cases to what his staff would present to the committee in a few minutes. He also hoped to get a range of modeling for the tax credits.

SENATOR FRENCH said they were working out a method of communication between the committee and consultants and asked them to run some numbers if they were listening.

SENATOR MCGUIRE asked for a model of the state's exposure at one to seven years.

[1:47:59 PM](#)

CO-CHAIR PASKVAN invited Ms. Jackson to explain Item 16, labeled 27-LS1305\B.2, since these two amendments have the same general concept but a little different approach.

27-LS1305\B.2
Nauman/Bullock

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 192(RES), Draft Version "B"

Page 1, line 1, following "tax;":

Insert "relating to an adjustment to the gross value at the point of production for oil production from certain leases or properties; relating to the determination of the production tax value of oil and gas;"

Page 2, following line 5:

Insert new bill sections to read:

"* **Sec. 2.** AS 43.55.160(a) is amended to read:

(a) Except as provided in (b) of this section **and subject to an adjustment under AS 43.55.162**, for the purposes of

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

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

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

(C) oil produced during a calendar year from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the oil taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil produced by

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

(D) gas produced during a calendar year from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

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

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

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

(B) oil and gas produced during a month from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this

subparagraph does not apply to gas subject to AS 43.55.011(o);

(C) oil produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the oil taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(D) gas produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

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

* **Sec. 3.** AS 43.55 is amended by adding a new section to read:

Sec. 43.55.162. Adjustments to the gross value at the point of production for certain oil. (a) If the volume of taxable oil produced by a producer during a calendar year from leases or properties described in AS 43.55.160(a)(1)(A) is greater than the annual target volume of taxable oil production determined under this section for the calendar year, the gross value at the point of production for the taxable oil produced during

(1) the calendar year for the purpose of determining the annual production tax value under AS 43.55.160(a)(1), shall be reduced by a percentage equal to the percentage by which the volume of taxable oil produced during the calendar year exceeds the target volume of production for the calendar year; and

(2) a calendar month for the purpose of determining the production tax value for the calendar month under AS 43.55.160(a)(2), shall be reduced by a percentage equal to the percentage by which the volume of taxable oil produced during the calendar month exceeds the target volume of production for the calendar month.

(b) Subject to adjustment under (e) of this section, the target volume of taxable oil production by a producer for a calendar year equals the volume of taxable oil produced by the producer from leases or properties described in AS 43.55.160(a)(1)(A) during the calendar year immediately preceding the calendar year for which the tax is being determined, multiplied by the applicable factor determined under (c)(1) - (4) of this section.

(c) For the purpose of determining the target volume of taxable oil production under (b) of this section, for a producer having taxable oil production from a lease or property described in AS 43.55.160(a)(1)(A)

(1) during the calendar year immediately preceding the calendar year for which the tax is being determined and the fourth calendar year preceding the calendar year for which the tax is being determined, the factor is equal to the cube root of the ratio of the volume of taxable oil produced by the producer from the leases or properties described in AS 43.55.160(a)(1)(A) during the calendar year immediately preceding the calendar year for which the tax is being determined to the volume of taxable oil produced from the leases or properties described in AS 43.55.160(a)(1)(A) during the fourth calendar year preceding the year for which the tax is being determined;

(2) during the calendar year immediately preceding the calendar year for which the tax is being determined and the third calendar year preceding the calendar year for which the tax is being determined, but not during the fourth year preceding the calendar year for which the tax is being determined, the factor is equal to the square root of the ratio of the volume of taxable oil produced by the producer from the leases or properties described in AS 43.55.160(a)(1)(A) during the calendar year immediately preceding the year for which the tax is being determined to the volume of taxable oil produced

from the leases or properties described in AS 43.55.160(a)(1)(A) during the third calendar year preceding the calendar year for which the tax is being determined;

(3) during the calendar year immediately preceding the calendar year for which the tax is being determined and the second calendar year preceding the year for which the tax is being determined, but not during the third or fourth calendar years preceding the year for which the tax is being determined, the factor is equal to the ratio of the volume of taxable oil produced by the producer from the leases or properties described in AS 43.55.160(a)(1)(A) during the calendar year immediately preceding the calendar year for which the tax is being determined to the volume of taxable oil produced from the leases or properties described in AS 43.55.160(a)(1)(A) during the second calendar year preceding the calendar year for which the tax is being determined;

(4) during the calendar year immediately preceding the year for which the tax is being determined but not during the second, third, or fourth calendar years preceding the calendar year for which the tax is being determined, the factor is equal to one.

(d) The target volume of taxable oil production by a producer for a calendar month is equal to 1/12 of the annual target volume of taxable oil production for the calendar year, except as otherwise provided in (e)(4) of this section.

(e) For purposes of this section, for a producer that produced taxable oil during a calendar year from a lease or property described in AS 43.55.160(a)(1)(A),

(1) if the producer did not produce taxable oil from a lease or property described in AS 43.55.160(a)(1)(A) during the calendar year immediately preceding the calendar year for which the tax is being determined, there is no target volume of taxable oil production for the calendar year or calendar month during the year and no reduction in the gross value at the point of production for that oil production for the purposes of AS 43.55.160(a)(1) for the year for which the tax is being determined, unless the production of taxable oil during the entire calendar year was interrupted because of force majeure;

(2) if the producer did not produce taxable oil from a lease or property described in AS 43.55.160(a)(1)(A) during the calendar year immediately preceding the calendar year for which the tax is being determined because the production of taxable oil during the entire calendar year was interrupted because of force majeure, the target volume of taxable oil production for the current year must be determined under (c) of this section based on the fourth, third, or second preceding calendar year, as applicable, in which the producer produced taxable oil from a lease or property described in AS 43.55.160(a)(1)(A);

(3) for a producer that produced taxable oil from leases or properties described in AS 43.55.160(a)(1)(A) during a prior year that would have been used in the applicable calculation under (b) of this section, except that there was no taxable oil production for 30 days or more during that calendar year because the producer first produced taxable oil from those leases or properties during that calendar year or because production from the leases or properties was interrupted by force majeure for 30 days or more during that calendar year, the producer's volume of taxable oil production from leases or properties described in AS 43.55.160(a)(1)(A) during that prior year is multiplied by a fraction, the numerator of which is the number of days during that prior year and the denominator of which is the number of days during that prior year on which the producer had oil production from a lease or property described in AS 43.55.160(a)(1)(A);

(4) for a producer that has production of taxable oil that is interrupted by force majeure for 30 days or more during the year for which the tax is being determined, the target volume of taxable oil production for the current year that would otherwise be applicable shall be reduced by a percentage equal to the percentage of days during the year that the production was interrupted, and the producer's monthly target volume of taxable oil production for the current year is the target volume of taxable oil production for the current year determined under this paragraph divided by a fraction, the numerator of which is the number of days during the year when the producer had production from leases or properties

described in AS 43.55.160(a)(1)(A), and the denominator of which is 30.4375.

(f) The determination of the adjustment to the gross value at the point of production in this section is based on the location of a lease or property within the area described in AS 43.55.160(a)(1)(A) and is made without regard as to whether taxable oil is produced from a particular lease or property during more than one year.

(g) The negligence or recklessness of a producer or operator that prevents the production of taxable oil does not constitute force majeure. However, if there is a sufficient cause for the cessation of production because of force majeure, the negligence or recklessness of the producer, the operator, or the producer and operator does not prohibit treating the inability to produce oil or the suspension of oil production as having been caused by force majeure for the purposes of this section.

(h) In this section, "force majeure" means a cause beyond the reasonable ability of a producer, an operator, or a producer and operator of a lease or property to avoid or control that prevents the producer from producing oil or having oil produced for the producer from the lease or property for a period of 24 or more consecutive hours; "force majeure" includes an act of God, war, martial law, insurrection, terrorism, sabotage, government restriction, order of a court or an administrative or regulatory body having jurisdiction over the lease or property or production from the lease or property, a strike or other labor action, or a failure or omission on the part of a third-party supplier, contractor, subcontractor, carrier, or other third party."

Renumber the following bill section accordingly.

[1:48:34 PM](#)

MARY JACKSON, staff to Senator Wagoner, explained that his goal with B.2 was to increase production by making some sort of tax break. She explained that last year SB 85 was predicated on the tax holiday from Alberta that was working. They had that language and during the interim they worked with Senator McGuire's staff and the Alaska Oil Gas Association (AOGA) to see if there was any way that this language could work and amendment B.2 is the result. The premise was very simple: quid pro quo.

SENATOR FRENCH remarked, "This for that."

MS. JACKSON said the bottom line is "we give, we get." This amendment establishes a "target volume" annually. It's based on the prior years' actuals and adjusted by the percentage of the decline. So, for 2013 you look at 2012 numbers and reduce it by the decline for the previous three years. It's simple math, although it shows up in the bill as a "cube root," a statistical measurement. If there are only two years of production, the bill covers that, but eventually everybody goes to a three-year rolling average done annually. If your production increases by 2 percent over your target volume, the result is to reduce the gross value by 2 percent - quid pro quo. There are no credits or transfers.

This amendment introduces the term "force majeure," meaning an interruption in the pipeline needs to be taken into account in terms of computing the decline figure.

CO-CHAIR PASKVAN said this is a great example to let the people of Alaska know that people have been thinking about this topic for a long time. The goal is to have a more efficient overall system.

CO-CHAIR WAGONER said he liked Senator French's approach as well as his own and that they have to arrive at the most understandable concept when dealing with an incentive to increase production. Either way would be a step forward in showing industry and Alaskans they are willing to work with the industry to try and bring up the production level in the pipe.

[1:54:28 PM](#)

CO-CHAIR PASKVAN said that was what he was hoping for in an open and transparent dialogue both within the committee and with the citizens of Alaska.

SENATOR FRENCH said he appreciated Senator Wagoner's comments. and asked him to explain how it worked.

MS. JACKSON explained that there is an arithmetic averaging: year one minus year two divided by year one; year two minus year three divided by year two. If 2013 is the target year, 2012 is the year that you have actual production numbers. So the cube root is the geometric mean that is applied from 2009, 2010 and 2011 resulting in the decline of those three. The decline number is then applied to 2012 production. It could be seven years, but

three years seemed to be a reasonable minimum and one year is not sufficient to establish norms.

[1:56:57 PM](#)

SENATOR WIELECHOWSKI commented that who sets the decline curve is a critical issue, because you have maintenance issues. Pedro van Meurs recommended this concept and said that many jurisdictions use it effectively.

SENATOR STEDMAN responded to Senator Wielechowski's comment that PFC Energy would be looking at the question of incremental production with a couple of the major producers Monday and Tuesday in Anchorage.

[1:58:56 PM](#)

CO-CHAIR PASKVAN said they would next take up Item 13 that establishes a gross minimum.

27-LS1305\B.13
Nauman/Bullock

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 192(RES), Draft Version "B"

Page 1, line 1, following "tax;":

Insert "relating to the minimum tax on oil and gas production; relating to the availability of funds from the oil and gas production tax for appropriation to the community revenue sharing fund;"

Page 1, following line 2:

Insert new bill sections to read:

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

(b) Each fiscal year, the legislature may appropriate to the community revenue sharing fund an amount equal to the lesser of 20 percent of the money received by the state during the previous calendar year under AS 43.55.011(g) or the difference between the amount of money received by the state during the previous calendar for oil and gas production subject to AS 43.55.011(f) and 25 percent of the production tax value determined under AS 43.55.160 for oil and gas production subject to AS 43.55.011(f) produced during the previous calendar year, except the

difference may not be less than zero. The amount appropriated may not exceed

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

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

* **Sec. 2.** AS 43.55.011(f) is repealed and reenacted to read:

(f) Except for oil and gas subject to (i) of this section and gas subject to (o) of this section, the provisions of this subsection apply to oil and gas produced from each lease or property within a unit or nonunitized reservoir that has cumulatively produced 1,000,000,000 BTU equivalent barrels of oil or gas by the close of the most recent calendar year and from which the average daily oil and gas production from the unit or nonunitized reservoir during the most recent calendar year exceeded 100,000 BTU equivalent barrels. Notwithstanding any contrary provision of law, a producer may not apply tax credits to reduce its total tax liability under (e) and (g) of this section for oil and gas produced from all leases or properties within the unit or nonunitized reservoir below 10 percent of the total gross value at the point of production of that oil and gas. If the amount of tax calculated by multiplying the tax rates in (e) and (g) of this section by the total production tax value of the oil and gas taxable under (e) and (g) of this section produced from all of the producer's leases or properties within the unit or nonunitized reservoir is less than 10 percent of the total gross value at the point of production of that oil and gas, the tax levied by (e) and (g) of this section for that oil and gas is equal to 10 percent of the total gross value at the point of production of that oil and gas."

Page 1, line 4:

Delete "**Section 1**"

Insert "**Sec. 3**"

Renumber the following bill sections accordingly.

Page 2, following line 5:

Insert a new bill section to read:

"* **Sec. 4.** AS 43.55.020(a) is amended to read:

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

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

(A) for oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin but not subject to AS 43.55.011(o), other than leases or properties subject to AS 43.55.011(f), the greater of

(i) zero; or

(ii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the leases or properties under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;

(B) for oil and gas produced from leases or properties subject to AS 43.55.011(f), **10 percent of the gross value at the point of production of that oil and gas** [THE GREATEST OF

(i) ZERO;

(ii) ZERO PERCENT, ONE PERCENT, TWO PERCENT, THREE PERCENT, OR FOUR PERCENT, AS APPLICABLE, OF THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE OIL AND GAS PRODUCED FROM ALL LEASES OR PROPERTIES DURING THE MONTH FOR WHICH THE INSTALLMENT PAYMENT IS CALCULATED; OR

(iii) THE SUM OF 25 PERCENT AND THE TAX RATE CALCULATED FOR THE MONTH UNDER AS 43.55.011(g) MULTIPLIED BY THE REMAINDER OBTAINED BY SUBTRACTING 1/12 OF THE PRODUCER'S ADJUSTED LEASE EXPENDITURES FOR THE CALENDAR YEAR OF PRODUCTION UNDER AS 43.55.165 AND 43.55.170 THAT ARE DEDUCTIBLE FOR THOSE LEASES OR

PROPERTIES UNDER AS 43.55.160 FROM THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE OIL AND GAS PRODUCED FROM THOSE LEASES OR PROPERTIES DURING THE MONTH FOR WHICH THE INSTALLMENT PAYMENT IS CALCULATED];

(C) for oil and gas produced from each lease or property subject to AS 43.55.011(j), (k), or (o), the greater of

(i) zero; or

(ii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 for oil or gas, respectively, produced from the lease or property from the gross value at the point of production of the oil or gas, respectively, produced from the lease or property during the month for which the installment payment is calculated;

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

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

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

(B) the applicable tax rate for gas provided under AS 43.55.011(i), multiplied by the gross value at the point of production of the gas

taxable under AS 43.55.011(i) and produced from the lease or property during the month;

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

Renumber the following bill section accordingly.

SENATOR WIELECHOWSKI explained that for decades Alaska had a gross tax; when they went to the net tax under PPT and reaffirmed that under ACES, that was a "huge leap of faith" for the state, because of auditing and lease expenditure issues. Many had concerns, even the governor. The governor's bill actually had a gross floor of 10 percent. The idea was to protect the state at the low end. But if you move one thing at one end it impacts the other end and in ACES they agreed to give up the low end, because they got more at the high end. "That was the absolute bargain that was struck," he said. It exposes the state by hundreds of millions of dollars. If oil was \$50 barrel right now, they would be having a very different conversation.

SENATOR WIELECHOWSKI said they hadn't contemplated that at high ends they were a little high, but by the same token they didn't accurately contemplate that at \$40 or \$50 barrel the system would not be durable. He reminded them that in February, 2009 ANS was trading at \$42.78 and in January it was trading at \$39.01. Perhaps they should be trying to create a more durable system and he thought this was "a fair compromise."

[2:01:49 PM](#)

MICHELLE SYDEMAN, staff to Senator Wielechowski, explained that proposed amendment B.13 established a production tax floor of 10 percent of gross value at the point of production for legacy fields in Alaska; it would only apply to fields that have already produced 1 billion barrels of oil and are still producing an average of 100,000 barrels a day. Prudhoe Bay and Kuparuk are the only fields that currently meet that definition. About 80 percent of Alaska's oil production comes from these fields and most facilities associated with them were fully depreciated years ago. The sponsors of this amendment wanted to stress that it does not apply to new fields or to smaller fields to avoid any potential of putting new field development or development of small reservoirs at risk.

MS. SYDEMAN said that ACES already has 0-4 percent production tax floor, depending on the price of oil. But it can be brought even lower by credits. This means the state could actually owe companies production tax in a low price environment when at the same time the state is struggling to pay for the most essential of state services with a deficit budget. This amendment addresses that potential and would not allow legacy field producers to apply tax credits to reduce their production taxes below the 10 percent gross floor. She said the state may take in more with a 10 percent gross floor than with ACES.

She added that initial rough modeling indicates that at \$40 barrel, ACES would generate negative production taxes with net operating losses and capital credits of \$640 million while the 10 percent gross floor would raise \$103 million more or \$163 million in production taxes. She said these numbers assume explorers would claim \$250 million of capital credits and net operating losses. The calculations were rough and sponsors were grateful that PFC Energy would be performing more detailed analyses.

[2:07:47 PM](#)

CO-CHAIR PASKVAN found no questions and asked Senator French to explain Amendment B.10, the gold plating issue.

27-LS1305\B.10
Nauman/Bullock

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 192(RES), Draft Version "B"

Page 1, line 1, following "tax;":

Insert "**limiting the amount of certain tax credits applicable to the oil and gas production tax;**"

Page 2, following line 5:

Insert new bill sections to read:

"* **Sec. 2.** AS 43.55.023(a) is amended to read:

(a) A producer or explorer may take a tax credit for a qualified capital expenditure as follows:

(1) **except as limited by (p) of this section,** notwithstanding that a qualified capital expenditure may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit for

that expenditure is taken under AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a qualified capital expenditure may also elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of 20 percent of that expenditure; however, not more than half of the tax credit may be applied for a single calendar year;

(2) a producer or explorer may take a credit for a qualified capital expenditure incurred in connection with geological or geophysical exploration or in connection with an exploration well only if the producer or explorer

(A) agrees, in writing, to the applicable provisions of AS 43.55.025(f)(2); and

(B) submits to the Department of Natural Resources all data that would be required to be submitted under AS 43.55.025(f)(2).

* **Sec. 3.** AS 43.55.023(d) is amended to read:

(d) Except as limited by (i) and (p) of this section, a person that is entitled to take a tax credit under this section that wishes to transfer the unused credit to another person or obtain a cash payment under AS 43.55.028 may apply to the department for transferable tax credit certificates. An application under this subsection must be in a form prescribed by the department and must include supporting information and documentation that the department reasonably requires. The department shall grant or deny an application, or grant an application as to a lesser amount than that claimed and deny it as to the excess, not later than 120 days after the latest of (1) March 31 of the year following the calendar year in which the qualified capital expenditure or carried-forward annual loss for which the credit is claimed was incurred; (2) the date the statement required under AS 43.55.030(a) or (e) was filed for the calendar year in which the qualified capital expenditure or carried-forward annual loss for which the credit is claimed was incurred; or (3) the date the application was received by the department. If, based on the information then available to it, the department is reasonably satisfied that the applicant is entitled to a credit, the department shall issue the applicant two transferable tax credit certificates, each for half of the amount of the credit. The credit shown on one of the two

certificates is available for immediate use. The credit shown on the second of the two certificates may not be applied against a tax for a calendar year earlier than the calendar year following the calendar year in which the certificate is issued, and the certificate must contain a conspicuous statement to that effect. A certificate issued under this subsection does not expire.

* **Sec. 4.** AS 43.55.023(1) is amended to read:

(1) Except as limited by (p) of this section, a [A] producer or explorer may apply for a tax credit for a well lease expenditure incurred in the state south of 68 degrees North latitude after June 30, 2010, as follows:

(1) notwithstanding that a well lease expenditure incurred in the state south of 68 degrees North latitude may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under (a) of this section, AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a well lease expenditure in the state south of 68 degrees North latitude may elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of 40 percent of that expenditure; a tax credit under this paragraph may be applied for a single calendar year;

(2) a producer or explorer may take a credit for a well lease expenditure incurred in the state south of 68 degrees North latitude in connection with geological or geophysical exploration or in connection with an exploration well only if the producer or explorer

(A) agrees, in writing, to the applicable provisions of AS 43.55.025(f)(2); and

(B) submits to the Department of Natural Resources all data that would be required to be submitted under AS 43.55.025(f)(2).

* **Sec. 5.** AS 43.55.023 is amended by adding a new subsection to read:

(p) The amount of credit for a capital expenditure under (a) or (1) of this section for an expenditure that is also a lease expenditure under AS 43.55.165 is reduced by the amount necessary so that the tax benefit percentage is not more than 65 percent of the capital expenditure. The amount of

credit for a capital expenditure under (a) or (1) of this section that may not be taken because of the limitation in this subsection may not be applied in a later calendar year under (c) of this section and may not be included in an application for a tax credit certificate under (d) of this section. In this subsection, "tax benefit percentage" means the sum of the average monthly tax rate under AS 43.55.011(e) and (g) for the calendar year in which the credit is taken and the percentage of the capital expenditure that may be taken as a credit under (a) or (1) of this section.

* **Sec. 6.** AS 43.55.025(a) is amended to read:

(a) Subject to the terms and conditions of this section and except as limited by (n) of this section, a credit against the production tax levied by AS 43.55.011(e) is allowed for exploration expenditures that qualify under (b) of this section in an amount equal to one of the following:

(1) 30 percent of the total exploration expenditures that qualify only under (b) and (c) of this section;

(2) 30 percent of the total exploration expenditures that qualify only under (b) and (d) of this section;

(3) 40 percent of the total exploration expenditures that qualify under (b), (c), and (d) of this section;

(4) 40 percent of the total exploration expenditures that qualify only under (b) and (e) of this section; or

(5) 80, 90, or 100 percent, or a lesser amount described in (1) of this section, of the total exploration expenditures described in (b)(1) and (2) of this section and not excluded by (b)(3) and (4) of this section that qualify only under (1) of this section.

* **Sec. 7.** AS 43.55.025 is amended by adding a new subsection to read:

(n) The amount of credit for an exploration expenditure under (a)(1) - (4) of this section for an expenditure that is also a lease expenditure under AS 43.55.165 is reduced by the amount necessary so that the tax benefit percentage is not more than 65 percent of the exploration expenditure. The amount of credit for an exploration expenditure under (a)(1) - (4) of this section that may not be taken because of the limitation in this subsection may not be

transferred, conveyed, or sold under (g) of this section. In this subsection, "tax benefit percentage" means the sum of the average monthly tax rate under AS 43.55.011(e) and (g) for the calendar year in which the credit is taken and the percentage of the exploration expenditure that may be taken as a credit under (a)(1) - (4) of this section."

Renumber the following bill section accordingly.

2:06:10 PM

SENATOR FRENCH said beginning in 2003 with the exploration incentive credit and accelerating in 2006 and 2007 with the conversion to a net profit system, Alaska has offered tax credits to encourage investment by the oil industry. It has been wildly successful in that almost \$4 billion in tax credits have been earned. However, this extraordinary state investment raises three questions:

1. Is the industry investing in activities that will increase production and by extension increased revenue to the state?
2. Is the high level of state participation creating an excessive subsidy potentially incentivizing wasteful or inefficient projects?
3. Is there an imbalance in the benefit received by explorers versus active producers?

SENATOR FRENCH said when a company makes an investment the state participates financially in at least two different ways. One, the expenditure reduces their taxable income, so the company reduces its taxes by the amount of the investment multiplied by its tax rate and then the state also pays a tax credit of a percentage of the investment. This amendment establishes a mechanism that caps the sum total of these two tax reductions so that the state doesn't pay directly more than 65 percent of the cost of an investment. If the cap figure is exceeded, any earned credits are reduced to reach the 65 percent level. The cap would not take effect until the tax rate exceeds 45 percent in the typical investment in a producing oil field, which combined with the 20 percent capital investment credit would equal the 65 percent cap. Under ACES, this rate is reached when the production tax value or profit equals \$80 barrel.

For explorers without taxable income the amendment, Senator French said, won't have any significant impact. Such companies do not pay a progressive tax rate, because they don't have any income to tax. But, instead they now receive a flat 25 percent net operating loss credit. Explorers can add this to either the

capital investment credit of 20 percent or the exploration incentive credit, which is up to 40 percent, but regardless, it wouldn't go over the 65 percent cap. This helps balance what some consider the unequal distribution of credits between producers and explorers and it does not touch Cook Inlet.

SENATOR STEDMAN stated that Pedro van Meurs has said that the state is exposed to negative taxes from capital credits, but other progressive issues might have to be solved first. Some order of building the adjustments might be needed, but the gold plating needs a test run no matter what they do.

[2:11:10 PM](#)

SENATOR FRENCH agreed and said they must look for the perfect balance, because the state shouldn't be paying the whole cost of any given investment. Reflecting on his visit to Norway, he said even those patriots wouldn't do it.

SENATOR MCGUIRE observed that when she and Senator Wagoner put the Cook Inlet credits together for the jack-up rigs, SB 309 required a 50 percent repayment upon success. They recognized that it was important to partner in the risk of bringing in such a large undertaking.

[2:13:49 PM](#)

CO-CHAIR PASKVAN invited Senator Wagoner to explain Item 17, labeled 27-LS1305\B.3.

27-LS1305\B.3
Nauman/Bullock

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 192(RES), Draft Version "B"

Page 1, following "**tax;**":

Insert "**providing for a tax credit applicable to the oil and gas production tax based on the capital cost of developing new oil and gas production;**"

Page 1, following line 2:

Insert a new bill section to read:

"* **Section 1.** AS 43.20.043(g) is amended to read:

(g) A taxpayer that obtains a credit for a qualified capital investment or cost incurred for qualified services under this section may not also

claim a tax credit or royalty modification for the same qualified capital investment or cost incurred for qualified services under AS 38.05.180(i), AS 41.09.010, AS 43.55.023, [OR] 43.55.025, or 43.55.026. However, a taxpayer may elect not to obtain a credit under this section in order to qualify for a credit provided under AS 38.05.180(i), AS 41.09.010, AS 43.55.023, [OR] 43.55.025, or 43.55.026."

Page 1, line 3:

Delete "**Section 1**"

Insert "**Sec. 2**"

Page 2, line 6:

Delete all material and insert:

"* **Sec. 3.** AS 43.55 is amended by adding a new section to read:

Sec. 43.55.026. Development cost credit. (a) This section applies to a credit for a qualified development expenditure incurred before 2018 and before the start of sustained production that is taxable under AS 43.55.011(e). The qualified development expenditure must be incurred for development outside of the Cook Inlet sedimentary basin and outside of the Point Thomson unit established under AS 38.05.180(p) as the area of the Point Thomson unit existed on December 31, 2010. The qualified development expenditure must be for the development of a

(1) lease or property that, as of December 31, 2010, contains land that is not or previously had not been within a unit or is not or had not previously been involved directly in sustained production; or

(2) pool that, as of December 31, 2010, is not directly involved in or had not previously been involved directly in sustained production.

(b) The total amount of the credits under this section is equal to 100 percent of the qualified development expenditures that are incurred after the completion of the first well drilled that discovers a pool capable of commercial production from the lease or property and before the start of sustained production, less the amount of credits taken under AS 43.55.023(a) and (b). In consultation with the Alaska Oil and Gas Conservation Commission, the department shall determine the date

(1) on which the first well drilled discovered a pool capable of production; and

(2) of the start of sustained production from the pool, lease, or property.

(c) A credit under this section may be applied against the tax levied by AS 43.55.011(e) for the pool, lease, or property that is the basis for the credit until the credit for qualified development expenditures has been fully applied.

(d) A qualified development expenditure that is taken as a credit under this section may not be used as an expenditure for which a credit may be taken under AS 43.20.043. A credit under AS 43.55.023 may not be taken against the tax levied by AS 43.55.011(e) for the pool, lease, or property that is the basis for a credit during the same month in which a credit is taken under this section.

(e) A credit or portion of a credit under this section is not transferable and may not be used to reduce a person's tax liability under AS 43.55.011(e) to below zero for any calendar year.

(f) The department shall adopt regulations describing the procedures for determining the amount of the credit, record keeping, verification of the accuracy of the credit claimed, allocating expenditures to a pool eligible for a credit under (a)(2) of this section, and other regulations necessary to administer this section.

(g) If a pool, lease, or property for which a credit may be taken under this section subsequently becomes a part of a unit, or a pool that is in a unit first begins sustained production after December 31, 2010, the credit may be applied only against the tax levied by AS 43.55.011(e) for the production of oil and gas attributable to the pool, lease, or property that qualified for the credit. For the purpose of applying the credit, the tax shall be allocated to the pool, lease, or property that qualified for the credit in proportion to the volume of production from that pool lease or property within the unit.

(h) In this section,

(1) "pool" has the meaning given in AS 31.05.170;

(2) "qualified development expenditure" means an expenditure, other than an expenditure for exploring for new oil or gas reserves, that may be

recognized as a qualified capital expenditure as defined in AS 43.55.023;

(3) "sustained production" has the meaning given in AS 43.55.025(1).

* **Sec. 4.** AS 43.55.180(a) is amended to read:

(a) The department shall study

(1) the effects of the provisions of this chapter on oil and gas exploration, development, and production in the state, on investment expenditures for oil and gas exploration, development, and production in the state, on the entry of new producers into the oil and gas industry in the state, on state revenue, and on tax administration and compliance, giving particular attention to the tax rates provided under AS 43.55.011, the tax credits provided under **AS 43.55.023 - 43.55.026** [AS 43.55.023 - 43.55.025], and the deductions for and adjustments to lease expenditures provided under AS 43.55.160 - 43.55.170; and

(2) the effects of the tax rates under AS 43.55.011(i) on state revenue and on oil and gas exploration, development, and production on private land, and the fairness of those tax rates for private landowners.

* **Sec. 5.** Section 2 of this Act takes effect January 1, 2013.

* **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect immediately under AS 01.10.070(c)."

[2:13:47 PM](#)

CO-CHAIR WAGONER said the concept of this amendment came from his SB 85 on explorer credits; if a company comes into Alaska and explores and finds hydrocarbon that is producible and commercial, then all expenses up to that point are subject to a tax write off against production taxes for five years.

He said he thought this would really incentivize the explorers to go to production, because now, they explore and find producible hydrocarbons, but just try to flip and sell it. So, the state still pays the high cost of exploration through credits. If this were structured right, it would eliminate paying those credits by saying they are not applicable. The facilities for treating the oil would also be deductible, so they wouldn't have to worry about making a discovery and then having to negotiate facilities access to treat their oil before putting it in the pipeline.

CO-CHAIR PASKVAN said that was the end of the concept presentations. [SB 192 was held in committee.]

2:18:12 PM

CO-CHAIR PASKVAN adjourned the Senate Resources Standing Committee meeting at 2:18 p.m.