

SENATE BILL NO. 188

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

BY SENATOR WIELECHOWSKI

Introduced: 2/22/16

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act bearing the short title of the 'Protect the Permanent Fund Dividend Act';**
2 **relating to appropriations from the earnings reserve account; and relating to the oil and**
3 **gas production tax."**

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

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 SHORT TITLE. This Act may be known as the Protect the Permanent Fund Dividend
8 Act.

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

11 LEGISLATIVE FINDINGS AND INTENT. The permanent fund dividend has
12 become critically important to Alaskans. If funds are appropriated out of the earnings reserve
13 account for the purpose of funding state government, that action will diminish future
14 permanent fund dividends. It is the intent of the legislature to ensure that funds withdrawn

1 from the earnings reserve account for budgetary reasons be replenished when oil prices
 2 increase and oil companies are reaping windfall profits. This repayment is best accomplished
 3 with a progressivity surcharge on oil production in times of high oil prices, for the long-term
 4 benefit of all Alaskans.

5 * **Sec. 3.** AS 37.13.145 is amended by adding a new subsection to read:

6 (e) The legislature may appropriate money available from the taxes collected
 7 under AS 43.55.011(q) to the earnings reserve account in an amount equal to the total
 8 amount appropriated from the earnings reserve account in a fiscal year for a purpose
 9 other than as provided in (b) or (c) of this section.

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

11 (e) There is levied on the producer of oil or gas a tax for all oil and gas
 12 produced each calendar year from each lease or property in the state, less any oil and
 13 gas the ownership or right to which is exempt from taxation or constitutes a
 14 landowner's royalty interest or for which a tax is levied by AS 43.55.014. Except as
 15 otherwise provided under (f), (j), (k), (o), and (p) of this section, for oil and gas
 16 produced

17 (1) before January 1, 2014, the tax is equal to the sum of

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

20 (B) the sum, over all months of the calendar year, of the tax
 21 amounts determined under (g) of this section;

22 (2) on and after January 1, 2014, and before January 1, 2022, the tax is
 23 equal to **the sum of**

24 **(A) the annual production tax value of the taxable oil and gas**
 25 **as calculated under AS 43.55.160(a)(1) multiplied by 35 percent; and**

26 **(B) the sum, over all months of the calendar year, of the tax**
 27 **amounts determined under (q) of this section;**

28 (3) on and after January 1, 2022, the tax for

29 (A) oil is equal to **the sum of**

30 **(i) the annual production tax value of the taxable oil as**
 31 **calculated under AS 43.55.160(h) multiplied by 35 percent; and**

1 (ii) the sum, over all the months of the calendar
 2 year, of the tax amounts determined under (q) of this section;

3 (B) gas is equal to 13 percent of the gross value at the point of
 4 production of the taxable gas; if the gross value at the point of production of
 5 gas produced from a lease or property is less than zero, that gross value at the
 6 point of production is considered zero for purposes of this subparagraph.

7 * **Sec. 5.** AS 43.55.011 is amended by adding a new subsection to read:

8 (q) Following June 30, 2016, for each month of the calendar year for which
 9 the producer's average monthly production tax value under AS 43.55.160 of a barrel of
 10 taxable oil is more than \$20, the department shall impose a tax on oil, in addition to
 11 the tax under AS 43.55.011(e), at the rate of 0.3 percent multiplied by the number that
 12 represents the difference between the average monthly production tax value of a barrel
 13 of oil and \$20. The tax under this subsection applies

14 (1) in the calendar year beginning after a fiscal year during which
 15 money was appropriated from the earnings reserve account as provided in
 16 AS 37.13.145(e); and

17 (2) to oil produced from a lease or property within a unit or
 18 nonunitized reservoir that has cumulatively produced 400,000,000 barrels of oil by the
 19 close of the most recent calendar year and from which the average daily production of
 20 oil from the unit or nonunitized reservoir during the most recent calendar year exceeds
 21 20,000 barrels.

22 * **Sec. 6.** AS 43.55.020(a) is amended to read:

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

25 (1) for oil and gas produced before January 1, 2014, an installment
 26 payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied
 27 as allowed by law, is due for each month of the calendar year on the last day of the
 28 following month; except as otherwise provided under (2) of this subsection, the
 29 amount of the installment payment is the sum of the following amounts, less 1/12 of
 30 the tax credits that are allowed by law to be applied against the tax levied by
 31 AS 43.55.011(e) for the calendar year, but the amount of the installment payment may

1 not be less than zero:

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

6 (i) zero; or

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

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

17 (i) zero;

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

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

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

1 (i) zero; or

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

11 (D) for oil and gas subject to AS 43.55.011(p), the lesser of

12 (i) the sum of 25 percent and the tax rate calculated for
13 the month under AS 43.55.011(g) multiplied by the remainder obtained
14 by subtracting 1/12 of the producer's adjusted lease expenditures for the
15 calendar year of production under AS 43.55.165 and 43.55.170 that are
16 deductible for the oil and gas under AS 43.55.160 from the gross value
17 at the point of production of the oil and gas produced from the leases or
18 properties during the month for which the installment payment is
19 calculated, but not less than zero; or

20 (ii) four percent of the gross value at the point of
21 production of the oil and gas produced from the leases or properties
22 during the month, but not less than zero;

23 (2) an amount calculated under (1)(C) of this subsection for oil or gas
24 subject to AS 43.55.011(j), (k), or (o) may not exceed the product obtained by
25 carrying out the calculation set out in AS 43.55.011(j)(1) or (2) or 43.55.011(o), as
26 applicable, for gas or set out in AS 43.55.011(k)(1) or (2), as applicable, for oil, but
27 substituting in AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the
28 amount of taxable gas produced during the month for the amount of taxable gas
29 produced during the calendar year and substituting in AS 43.55.011(k)(1)(A) or
30 (2)(A), as applicable, the amount of taxable oil produced during the month for the
31 amount of taxable oil produced during the calendar year;

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

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

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

13 (4) any amount of tax levied by AS 43.55.011, net of any credits
14 applied as allowed by law, that exceeds the total of the amounts due as installment
15 payments of estimated tax is due on March 31 of the year following the calendar year
16 of production;

17 (5) for oil and gas produced on and after January 1, 2014, and before
18 January 1, 2022, an installment payment of the estimated tax levied by
19 AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each
20 month of the calendar year on the last day of the following month; except as otherwise
21 provided under (6) of this subsection, the amount of the installment payment is the
22 sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be
23 applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount
24 of the installment payment may not be less than zero:

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

29 (i) zero; or

30 (ii) **the sum of** 35 percent **and the tax rate calculated**
31 **for the month under AS 43.55.011(q)** multiplied by the remainder

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

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

9 (i) zero;

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

14 (iii) **the sum of 35 percent and the tax rate calculated**
 15 **for the month under AS 43.55.011(q)** multiplied by the remainder
 16 obtained by subtracting 1/12 of the producer's adjusted lease
 17 expenditures for the calendar year of production under AS 43.55.165
 18 and 43.55.170 that are deductible for the oil and gas under
 19 AS 43.55.160 from the gross value at the point of production of the oil
 20 and gas produced from those leases or properties during the month for
 21 which the installment payment is calculated, except that, for the
 22 purposes of this calculation, a reduction from the gross value at the
 23 point of production may apply for oil and gas subject to
 24 AS 43.55.160(f) or (g);

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

27 (i) zero; or

28 (ii) **the sum of 35 percent and the tax rate calculated**
 29 **for the month under AS 43.55.011(q)** multiplied by the remainder
 30 obtained by subtracting 1/12 of the producer's adjusted lease
 31 expenditures for the calendar year of production under AS 43.55.165

1 and 43.55.170 that are deductible under AS 43.55.160 for the oil or gas,
 2 respectively, produced from the lease or property from the gross value
 3 at the point of production of the oil or gas, respectively, produced from
 4 the lease or property during the month for which the installment
 5 payment is calculated;

6 (D) for oil and gas subject to AS 43.55.011(p), the lesser of

7 (i) **the sum of** 35 percent **and the tax rate calculated**
 8 **for the month under AS 43.55.011(q)** multiplied by the remainder
 9 obtained by subtracting 1/12 of the producer's adjusted lease
 10 expenditures for the calendar year of production under AS 43.55.165
 11 and 43.55.170 that are deductible for the oil and gas under
 12 AS 43.55.160 from the gross value at the point of production of the oil
 13 and gas produced from the leases or properties during the month for
 14 which the installment payment is calculated, but not less than zero; or

15 (ii) four percent of the gross value at the point of
 16 production of the oil and gas produced from the leases or properties
 17 during the month, but not less than zero;

18 (6) an amount calculated under (5)(C) of this subsection for oil or gas
 19 subject to AS 43.55.011(j), (k), or (o) may not exceed the product obtained by
 20 carrying out the calculation set out in AS 43.55.011(j)(1) or (2) or 43.55.011(o), as
 21 applicable, for gas or set out in AS 43.55.011(k)(1) or (2), as applicable, for oil, but
 22 substituting in AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the
 23 amount of taxable gas produced during the month for the amount of taxable gas
 24 produced during the calendar year and substituting in AS 43.55.011(k)(1)(A) or
 25 (2)(A), as applicable, the amount of taxable oil produced during the month for the
 26 amount of taxable oil produced during the calendar year;

27 (7) for oil and gas produced on or after January 1, 2022, an installment
 28 payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied
 29 as allowed by law, is due for each month of the calendar year on the last day of the
 30 following month; the amount of the installment payment is the sum of the following
 31 amounts, less 1/12 of the tax credits that are allowed by law to be applied against the

1 tax levied by AS 43.55.011(e) for the calendar year, but the amount of the installment
2 payment may not be less than zero:

3 (A) for oil produced from leases or properties that include land
4 north of 68 degrees North latitude, the greatest of

5 (i) zero;

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

10 (iii) **the sum of 35 percent and the tax rate calculated**
11 **for the month under AS 43.55.011(q)** multiplied by the remainder
12 obtained by subtracting 1/12 of the producer's adjusted lease
13 expenditures for the calendar year of production under AS 43.55.165
14 and 43.55.170 that are deductible for the oil under AS 43.55.160(h)(1)
15 from the gross value at the point of production of the oil produced from
16 those leases or properties during the month for which the installment
17 payment is calculated, except that, for the purposes of this calculation,
18 a reduction from the gross value at the point of production may apply
19 for oil subject to AS 43.55.160(f) or 43.55.160(f) and (g);

20 (B) for oil produced before or during the last calendar year
21 under AS 43.55.024(b) for which the producer could take a tax credit under
22 AS 43.55.024(a), from leases or properties in the state outside the Cook Inlet
23 sedimentary basin, no part of which is north of 68 degrees North latitude, other
24 than leases or properties subject to AS 43.55.011(p), the greater of

25 (i) zero; or

26 (ii) **the sum of 35 percent and the tax rate calculated**
27 **for the month under AS 43.55.011(q)** multiplied by the remainder
28 obtained by subtracting 1/12 of the producer's adjusted lease
29 expenditures for the calendar year of production under AS 43.55.165
30 and 43.55.170 that are deductible for the oil under AS 43.55.160(h)(2)
31 from the gross value at the point of production of the oil produced from

1 the leases or properties during the month for which the installment
2 payment is calculated;

3 (C) for oil and gas produced from leases or properties subject
4 to AS 43.55.011(p), except as otherwise provided under (8) of this subsection,
5 the sum of

6 (i) **the sum of** 35 percent **and the tax rate calculated**
7 **for the month under AS 43.55.011(q)** multiplied by the remainder
8 obtained by subtracting 1/12 of the producer's adjusted lease
9 expenditures for the calendar year of production under AS 43.55.165
10 and 43.55.170 that are deductible for the oil under AS 43.55.160(h)(3)
11 from the gross value at the point of production of the oil produced from
12 the leases or properties during the month for which the installment
13 payment is calculated, but not less than zero; and

14 (ii) 13 percent of the gross value at the point of
15 production of the gas produced from the leases or properties during the
16 month, but not less than zero;

17 (D) for oil produced from leases or properties in the state, no
18 part of which is north of 68 degrees North latitude, other than leases or
19 properties subject to (B) or (C) of this paragraph, the greater of

20 (i) zero; or

21 (ii) **the sum of** 35 percent **and the tax rate calculated**
22 **for the month under AS 43.55.011(q)** multiplied by the remainder
23 obtained by subtracting 1/12 of the producer's adjusted lease
24 expenditures for the calendar year of production under AS 43.55.165
25 and 43.55.170 that are deductible for the oil under AS 43.55.160(h)(4)
26 from the gross value at the point of production of the oil produced from
27 the leases or properties during the month for which the installment
28 payment is calculated;

29 (E) for gas produced from each lease or property in the state,
30 other than a lease or property subject to AS 43.55.011(p), 13 percent of the
31 gross value at the point of production of the gas produced from the lease or

1 property during the month for which the installment payment is calculated, but
2 not less than zero;

3 (8) an amount calculated under (7)(C) of this subsection may not
4 exceed four percent of the gross value at the point of production of the oil and gas
5 produced from leases or properties subject to AS 43.55.011(p) during the month for
6 which the installment payment is calculated;

7 (9) for purposes of the calculation under (1)(B)(ii), (5)(B)(ii), and
8 (7)(A)(ii) of this subsection, the applicable percentage of the gross value at the point
9 of production is determined under AS 43.55.011(f)(1) or (2) but substituting the
10 phrase "month for which the installment payment is calculated" in AS 43.55.011(f)(1)
11 and (2) for the phrase "calendar year for which the tax is due."