CS FOR SENATE BILL NO. 192(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/11/12
Referred: Rules

Sponsor(s): SENATE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

"An Act relating to the oil and gas production tax; providing for a minimum tax on oil and gas production so that the state receives a minimum production tax of 10 percent of the gross value at the point of production for certain oil and gas production; relating to that part of the monthly production tax on the gross value at the point of production of oil produced by a producer that produced oil in 2008 and 2011 and produces a volume of taxable oil for the year in excess of a defined target volume, and providing that the applicable tax rate on the gross value at the point of production for that category of oil production is 0.14 percent multiplied by the number that represents the difference between that average monthly gross value at the point of production for a barrel of oil and the base amount of $75 or, if the average gross value at the point of production is greater than $60 above the base amount of $75, that the applicable tax rate is the sum of 8.4 percent and the product of 0.03 percent multiplied by the number that represents the

difference between the average monthly gross value at the point of production for a barrel of oil and $60 above the base amount of $75, except that the tax rate applicable to that category of oil production may not exceed 10 percent; relating to that part of the tax on the gross value at the point of production of oil produced by a producer during the first 10 consecutive years after the start of sustained production or during the first 10 consecutive years of sustained production after December 31, 2012, 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 before January 1, 2008, and providing that the applicable tax rate on the gross value at the point of production for that category of oil is determined by multiplying the monthly gross value at the point of production of the taxable oil produced during the month by the tax rate determined by multiplying 0.05 percent by the number that represents the difference between that average monthly gross value at the point of production for a barrel of oil and the base amount of $90, except that the tax rate determined for that category of oil production may not exceed five percent; relating to that part of the monthly production tax on the gross value at the point of production of oil produced by a producer and not otherwise described above, and providing that the applicable tax rate on the gross value at the point of production on that category of oil production is 0.27 percent multiplied by the number that represents the difference between the average gross value at the point of production for a barrel of oil and $60 or, if the average gross value at the point of production is greater than $60 above the base amount of $60, that the applicable tax rate is the sum of 16.2 percent and the product of 0.03 percent multiplied by the number that represents the difference between the average monthly gross value at the point of production for a barrel of oil and $60 above the base amount of $60, except that the tax rate applicable to

that category of oil production may not exceed 20 percent; relating to payments of the oil and gas production tax; relating to an adjustment to the base amounts of $60, $75, $90 based on an increase in the United States Consumer Price Index for all urban consumers for the most recent year; relating to the allocation of lease expenditures and adjustments to lease expenditures; relating to the duties of the Department of Revenue; relating to a petroleum information management system; relating to the duties of the Alaska Oil and Gas Conservation Commission, the Department of Natural Resources, and the Department of Labor and Workforce Development that relate to providing the Department of Revenue with certain information relating to oil and gas; and providing for an effective date."

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

*** 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 as calculated under AS 43.55.160(a)(1) multiplied by 25 percent; and

(2) the sum, over all months of the calendar year, of the tax amounts determined under (g) of this section <u>**on the gross value at the point of production of oil**</u>.

*** 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 by a producer that had average daily oil and gas production during the most recent calendar year of more than 50,000 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 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 applying the tax rates in (e) and (g) of this section to 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 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.

*** Sec. 3.** 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 gross value at the point of production for a barrel of taxable oil is above the base amount, the producer shall determine the tax for the purposes of (e)(2) of this section as follows:

(1) for oil not subject to (2) or (3) of this subsection produced by a producer that produced oil in 2008 and 2011, for oil not subject to (3) of this subsection produced by a producer who did not produce oil in 2008 and 2011, and for oil production that was subject to (3) of this subsection but is no longer subject to (3) of this subsection, the amount of tax is determined by multiplying the monthly gross value at the point of production of the taxable oil produced during the month by the tax rate calculated as follows:

(A) if the producer's average monthly gross value at the point of production for a barrel of the taxable oil for the month is not more than $60 above the base amount of $60, the tax rate is 0.27 percent multiplied by the number that represents the difference between that average monthly gross value at the point of production for a barrel of oil and the base amount of $60; or

(B) if the producer's average monthly gross value at the point of production for a barrel of taxable oil is more than $60 above the base amount of $60, the tax rate is the sum of 16.2 percent and the product of 0.03 percent multiplied by the number that represents the difference between the average monthly gross value at the point of production for a barrel of oil and $60 above the base amount of $60, except that the tax rate determined under this subparagraph may not exceed 20 percent;

(2) for oil not subject to (3) of this subsection produced by a producer that produced taxable oil in 2008 and 2011 that is in excess of the target volume determined under (q) of this section, the amount of tax on the volume of oil above the target volume is determined by multiplying the monthly gross value at the point of production of the taxable oil produced during the month by the tax rate calculated as follows:

(A) if the producer's average monthly gross value at the point of production for a barrel of the taxable oil for the month is not more than $60 above the base amount of $75, the tax rate is 0.14 percent multiplied by the number that represents the difference between that average monthly gross value at the point of production for a barrel of oil and the base amount of $75; or

(B) if the producer's average monthly gross value at the point of production for a barrel of taxable oil is more than $60 above the base amount of $75, the tax rate is the sum of 8.4 percent and the product of 0.03 percent multiplied by the number that represents the difference between the average monthly gross value at the point of production for a barrel of oil and $60 above the base amount of $75, except that the tax rate determined under this subparagraph may not exceed 10 percent;

(3) for oil produced by a producer during the first 10 consecutive years after the start of sustained production or during the first 10 consecutive years of sustained production after December 31, 2012, 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 before January 1, 2008, the amount of tax is determined by multiplying the monthly gross value at the point of production of the taxable oil produced during the month by the tax rate determined by multiplying 0.05 percent by the number that represents the difference between that average monthly gross value at the point of production for a barrel of oil and $90, except that the tax rate determined

under this paragraph may not exceed five percent; after the rate determination of this paragraph no longer applies, oil produced from a lease or property that was subject to the rate determination under this paragraph is subject to the rate determination under (1) of this subsection; in this paragraph, "sustained production" has the meaning given in AS 43.55.025(*l*).

*** Sec. 4.** AS 43.55.011 is amended by adding new subsections to read:

(p) Beginning on March 1, 2014, and on March 1 of each year thereafter, the commissioner shall adjust the base amount of $60 in (g)(1) of this section, the base amount of $75 in (g)(2) of this section, and the base amount of $90 in (g)(3) of this section by the percent increase in the annual United States Consumer Price Index for all urban consumers for the most recent year. The index for January 2013 is the reference base index. The commissioner shall publish the percent increase and the adjusted base amounts on the department's Internet website as soon as is practicable after the commissioner determines the adjusted base amounts. The adjustments made by the commissioner are retroactive to January 1 of the year in which the adjustments are made. The department shall adopt a regulation providing for the payment of the increase in an installment payment required under AS 43.55.020(a) that results from the retroactive application of the adjustments to the base amount of $60 in (g)(1) of this section, the base amount of $75 in (g)(2) of this section, and the base amount of $90 in (g)(3) of this section.

(q) When determining whether a producer is subject to (g)(1) or (2) of this section,

(1) the target volume is determined under the following formula, where V is the volume of the oil produced by the producer in 2011, D is the decline percentage calculated by taking the cube root of the ratio of the volume of taxable oil produced by the producer in 2011 to the volume of taxable oil produced by the producer in 2008, and Y is the year, expressed in four digits, for which the target volume is being determined:

Target Volume = $V \times D^{(Y - 2011)}$; and

(2) the target volume for a producer that increases its volume of production through the purchase, merger, or other acquisition of another producer is

the sum of the producer's target volume and the target volume for the producer that is purchased, merged with, or otherwise acquired; however, if the producer that is purchased, merged with, or otherwise acquired did not have production in 2008 and 2011, the volume of the increased production that is attributable to the purchase, merger, or other acquisition may not be considered for the purpose of determining whether the producer that acquired the additional production has increased the volume of production above its target volume.

*** Sec. 5.** 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) **<u>and (g)</u>**, 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 **<u>the tax determined under AS 43.55.011(g) on the gross value at the point of production for oil produced for the month added to the product of</u>** 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 **greater** [GREATEST] of

(i) **10 percent of the gross value at the point of production for oil and gas described in AS 43.55.011(f)** [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

(ii) [(iii)] the sum of **the tax determined under AS 43.55.011(g) on the gross value at the point of production for oil produced for the month added to the product 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 **the tax determined under AS 43.55.011(g) on the gross value at the point of production for the oil produced for the month added to the product 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) **<u>and (g)</u>** 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. 6.** AS 43.55.160(c) is amended to read:

(c) Notwithstanding any contrary provision of AS 43.55.150, for purposes of calculating **<u>the tax due under AS 43.55.011(g)</u>** [A MONTHLY PRODUCTION TAX VALUE UNDER (a)(2) OF THIS SECTION], the gross value at the point of production of the oil and gas is calculated under regulations adopted by the department that provide for using an appropriate monthly share of the producer's costs of transportation for the calendar year.

*** Sec. 7.** AS 43.55.160 is amended by adding new subsections to read:

(f) For purposes of (a) of this section, a lease expenditure is applicable to oil or gas produced from a lease or property, or to oil or gas produced from leases or properties in an area of the state, if the lease expenditure is

(1) a cost to explore, develop, or produce oil or gas from that lease or property, or to explore, develop, or produce oil or gas from one of those leases or properties in that area of the state, respectively; and

(2) incurred on or after the commencement of commercial production of oil or gas from the lease or property.

(g) For purposes of (a) of this section, a lease expenditure incurred during a calendar year to explore land that is not a lease or property, or to explore or develop a lease or property before commencement of commercial production of oil or gas from the lease or property, shall be allocated as provided in a regulation adopted by the department under AS 43.55.165(h) to and among oil, gas subject to AS 43.55.011(o), and gas not subject to AS 43.55.011(o) produced by the producer during that calendar year from leases or properties in the same area of the state as the land being explored or the lease or property being explored or developed, respectively.

(h) For purposes of (f) and (g) of this section, an area of the state is one of the following:

(1) land north of 68 degrees North latitude;

(2) land outside the Cook Inlet sedimentary basin not including any land north of 68 degrees North latitude; or

(3) the Cook Inlet sedimentary basin.

*** Sec. 8.** AS 43.55.165(h) is amended to read:

(h) The department shall adopt regulations that provide for reasonable methods of allocating costs between oil and gas, between gas subject to AS 43.55.011(o) and other gas, and between leases or properties in those circumstances where an allocation of costs is required to determine lease expenditures that are costs of exploring for, developing, or producing oil deposits or costs of exploring for, developing, or producing gas deposits, or that are costs of exploring for, developing, or producing oil or gas deposits located within different leases or properties. **<u>When adopting a regulation for determining a reasonable method of allocating lease expenditures between the production of oil and the production of gas, the department shall, to the extent possible, provide for the allocation of lease expenditures in proportion to the gross value at the point of production for oil produced and gas produced.</u>**

*** Sec. 9.** AS 43.55.170 is amended by adding a new subsection to read:

(d) The department shall adopt regulations that provide for reasonable methods of allocating the adjustments to a producer's lease expenditures in (a) of this section and the payments and credits described in (b) of this section between oil and gas, between gas subject to AS 43.55.011(o) and other gas, and between leases or properties in those circumstances where an allocation of costs is required to determine lease expenditures that are costs of exploring for, developing, or producing oil deposits, or costs of exploring for, developing, or producing gas deposits, or that are costs of exploring for, developing, or producing oil or gas deposits located within different leases or properties. When determining a reasonable method of allocating the adjustments to a producer's lease expenditures between the production of oil and the production of gas, the department shall consider allocating the adjustments in proportion to the lease expenditures allocated to the production of oil and the production of gas under regulations adopted by the department under AS 43.55.165(h).

*** Sec. 10.** AS 44.25 is amended by adding a new section to read:

Sec. 44.25.025. Petroleum information management system. (a) The

Department of Revenue shall develop and maintain an electronic petroleum information management system to collect, secure, distribute, store, retrieve, and archive information related to oil and gas exploration, development, and production in the state. The purposes of the petroleum information management system are to improve the administration of the oil and gas production tax and to facilitate exploration, development, and production of oil and gas resources. The petroleum information management system shall be accessible by the public.

(b) To the extent the information is available and is not confidential, the petroleum information management system must include the following information:

(1) unit and joint operating agreements;

(2) state oil and gas exploration licenses and oil and gas leases;

(3) for exploration activities,

(A) exploration work programs and budgets;

(B) seismic data;

(C) drilling reports;

(D) logs;

(E) well tests;

(F) geological models and maps;

(4) for development activities,

(A) development plans with operating and capital expenditure projections;

(B) construction progress reports;

(C) drilling reports;

(D) reservoir characterization;

(5) for production activities,

(A) production work programs and budgets;

(B) oil and gas sales, revenue, and pricing;

(C) transportation agreements;

(D) production data;

(E) injection data;

(F) operating and capital expenditures;

(G) facility maps and studies;

(6) for abandonment of oil and gas wells, leases, and production and transportation facilities,

(A) abandonment plans and budgets;

(B) progress reports;

(7) for oil and gas related employment information,

(A) the number of resident and nonresident hires for each year;

(B) training opportunities; and

(8) other information the Department of Revenue determines necessary and relevant to the oil and gas production tax and to the exploration, development, and production of oil and gas resources.

(c) The Alaska Oil and Gas Conservation Commission, the Department of Natural Resources, and the Department of Labor and Workforce Development, in consultation with the Department of Revenue, shall provide information described in (b) of this section that is not confidential and within the control of the commission and each department to the Department of Revenue for inclusion in the petroleum information management system. The information provided by the Alaska Oil and Gas Conservation Commission or by a department under this subsection shall be in a form suitable for the Department of Revenue to include in the petroleum information management system.

*** Sec. 11.** AS 43.55.160(a)(2) is repealed.

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

IMPLEMENTATION OF THE PETROLEUM INFORMATION MANAGEMENT SYSTEM. The Department of Revenue shall develop and implement a work plan for the development of the petroleum information management system required by AS 44.25.025, enacted by sec. 10 of this Act, so that the system is operational before January 1, 2014.

*** Sec. 13.** Sections 1 - 9 and 11 of this Act take effect January 1, 2013.

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