

CS FOR SENATE BILL NO. 305(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 3/31/10

Referred: Rules

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to that part of the tax on oil and gas production that increases the rate**
2 **of tax as the production tax value of oil or the BTU equivalent barrel of gas increases**
3 **above \$30, separating the determination of that rate between oil and gas, and making**
4 **that rate distinct between oil and gas; relating to availability of a portion of the money**
5 **received from the tax on oil and gas production for appropriation to the community**
6 **revenue sharing fund; relating to the allocation of lease expenditures and adjustments to**
7 **lease expenditures; and providing for an effective date."**

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

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

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

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

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

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

5 (e) There is levied on the producer of oil or gas a tax for all oil and gas
6 produced each calendar year from each lease or property in the state, less any oil and
7 gas the ownership or right to which is exempt from taxation or constitutes a
8 landowner's royalty interest. Except as otherwise provided under (f), (j), (k), and (o) of
9 this section, the tax is equal to the sum of

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

12 (2) the sum, over all months of the calendar year, of the tax amounts
13 determined under

14 **(A) subsection (g) of this section; and**

15 **(B) subsection (p) of this section.**

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

17 (g) For each month of the calendar year for which the producer's average
18 monthly production tax value under **AS 43.55.160(a)(2)(A) - (E) of a**
19 [AS 43.55.160(a)(2) PER] BTU equivalent barrel of [THE] taxable oil and gas is more
20 than \$30, the amount of tax for purposes of **(e)(2)(A)** [(e)(2)] of this section is
21 determined by multiplying the monthly production tax value of the taxable oil [AND
22 GAS] produced during the month, **gas produced during the month from a lease or**
23 **property in the Cook Inlet sedimentary basin, and gas produced during the**
24 **month from a lease or property outside the Cook Inlet sedimentary basin and**
25 **used in the state** by the tax rate calculated as follows:

26 (1) if the producer's average monthly production tax value **under**
27 **AS 43.55.160(a)(2)(A) - (E) of a** [PER] BTU equivalent barrel of [THE] taxable oil
28 and gas for the month is not more than \$92.50, the tax rate is 0.4 percent multiplied by
29 the number that represents the difference between **the producer's** [THAT] average
30 monthly production tax value **under AS 43.55.160(a)(2)(A) - (E) of a** [PER] BTU
31 equivalent barrel **of taxable oil and gas** and \$30; or

1 (2) if the producer's average monthly production tax value under
 2 AS 43.55.160(a)(2)(A) - (E) of a [PER] BTU equivalent barrel of [THE] taxable oil
 3 and gas for the month is more than \$92.50, the tax rate is the sum of 25 percent and
 4 the product of 0.1 percent multiplied by the number that represents the difference
 5 between the producer's average monthly production tax value under
 6 AS 43.55.160(a)(2)(A) - (E) of a [PER] BTU equivalent barrel of taxable oil and gas
 7 and \$92.50, except that the sum determined under this paragraph may not exceed 50
 8 percent.

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

10 (p) For each month of the calendar year for which the producer's average
 11 monthly production tax value under AS 43.55.160(a)(2)(F) and (G) of a BTU
 12 equivalent barrel of taxable gas is more than \$30, the amount of tax on the production
 13 of gas for purposes of (e)(2)(B) of this section is determined by multiplying the
 14 monthly production tax value of the taxable gas produced during the month other than
 15 gas produced from a lease or property in the Cook Inlet sedimentary basin or gas
 16 produced outside the Cook Inlet sedimentary basin and used in the state by the tax rate
 17 calculated as follows:

18 (1) if the producer's average monthly production tax value under
 19 AS 43.55.160(a)(2)(F) and (G) of a BTU equivalent barrel of taxable gas for the
 20 month is not more than \$92.50, the tax rate is 0.4 percent multiplied by the number
 21 that represents the difference between the producer's average monthly production tax
 22 value under AS 43.55.160(a)(2)(F) and (G) of a BTU equivalent barrel of gas and \$30;
 23 or

24 (2) if the producer's average monthly production tax value under
 25 AS 43.55.160(a)(2)(F) and (G) of a BTU equivalent barrel of taxable gas for the
 26 month is more than \$92.50, the tax rate is the sum of 25 percent and the product of 0.1
 27 percent multiplied by the number that represents the difference between the producer's
 28 average monthly production tax value under AS 43.55.160(a)(2)(F) and (G) of a BTU
 29 equivalent barrel of gas and \$92.50, except that the sum determined under this
 30 paragraph may not exceed 50 percent.

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

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

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

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

14 (i) zero; or

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

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

3 (B) for oil and gas produced from leases or properties subject
4 to AS 43.55.011(f), 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 and gas produced from all leases or properties
9 during the month for which the installment payment is calculated; or

10 (iii) **an amount equal to** the sum of 25 percent and the
11 tax rate calculated for the month under AS 43.55.011(g) multiplied by
12 the remainder obtained by subtracting 1/12 of the producer's adjusted
13 lease expenditures for the calendar year of production **applicable to**
14 **the oil produced by the producer from those leases and properties**
15 under AS 43.55.165 and 43.55.170 that are deductible for those leases
16 or properties under AS 43.55.160, from the gross value at the point of
17 production of the oil [AND GAS] produced from those leases or
18 properties during the month for which the installment payment is
19 calculated **added to the sum of 25 percent and the tax rate**
20 **calculated for the month under AS 43.55.011(p) multiplied by the**
21 **remainder obtained by subtracting 1/12 of the producer's adjusted**
22 **lease expenditures for the calendar year of production applicable**
23 **to the gas produced by the producer from those leases and**
24 **properties under AS 43.55.165 and 43.55.170 that are deductible**
25 **for those leases or properties under AS 43.55.160 from the gross**
26 **value at the point of production of the gas produced from those**
27 **leases or properties during the month for which the installment**
28 **payment is calculated;**

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

31 (i) zero; or

1 (ii) **an amount equal to** the sum of 25 percent and the
 2 tax rate calculated for the month under AS 43.55.011(g) multiplied by
 3 the remainder obtained by subtracting 1/12 of the producer's adjusted
 4 lease expenditures for the calendar year of production **applicable to**
 5 **the oil produced by the producer from those leases and properties**
 6 under AS 43.55.165 and 43.55.170 that are deductible under
 7 AS 43.55.160 for oil [OR GAS, RESPECTIVELY,] produced from the
 8 lease or property, from the gross value at the point of production of the
 9 oil [OR GAS, RESPECTIVELY,] produced from the lease or property
 10 during the month for which the installment payment is calculated
 11 **added to the sum of 25 percent and the tax rate calculated for the**
 12 **month under AS 43.55.011(g) multiplied by the remainder obtained**
 13 **by subtracting 1/12 of the producer's adjusted lease expenditures**
 14 **for the calendar year of production applicable to the gas produced**
 15 **by the producer from the lease or property under AS 43.55.165 and**
 16 **43.55.170 that are deductible under AS 43.55.160 for gas produced**
 17 **from the lease or property, from the gross value at the point of**
 18 **production of the gas produced from the lease or property during**
 19 **the month for which the installment payment is calculated;**

20 (2) an amount calculated under (1)(C) of this subsection for oil or gas
 21 produced **before 2022** from a lease or property subject to AS 43.55.011(j), (k), or (o)
 22 may not exceed the product obtained by carrying out the calculation set out in
 23 AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in
 24 AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in
 25 AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable
 26 gas produced during the month for the amount of taxable gas produced during the
 27 calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the
 28 amount of taxable oil produced during the month for the amount of taxable oil
 29 produced during the calendar year;

30 (3) an installment payment of the estimated tax levied by
 31 AS 43.55.011(i) for each lease or property is due for each month of the calendar year

1 on the last day of the following month; the amount of the installment payment is the
2 sum of

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

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

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

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

16 (d) In making settlement with the royalty owner for oil and gas that is taxable
17 under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable
18 royalty oil and gas, or may deduct taxable royalty oil or gas equivalent in value at the
19 time the tax becomes due to the amount of the tax paid. If the total deductions of
20 installment payments of estimated tax for a calendar year exceed the actual tax for that
21 calendar year, the producer shall, before April 1 of the following year, refund the
22 excess to the royalty owner. Unless otherwise agreed between the producer and the
23 royalty owner, the amount of the tax paid under AS 43.55.011(e) - (g) **and (p)** on
24 taxable royalty oil and gas for a calendar year, other than oil and gas the ownership or
25 right to which constitutes a landowner's royalty interest, is considered to be the gross
26 value at the point of production of the taxable royalty oil and gas produced during the
27 calendar year multiplied by a figure that is a quotient, in which

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

30 (2) the denominator is the total gross value at the point of production
31 of the oil and gas taxable under AS 43.55.011(e) - (g) **and (p)** produced by the

1 producer from all leases and properties in the state during the calendar year.

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

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

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

5 (A) oil [AND GAS] produced during a calendar year from
6 leases or properties in the state that include land north of 68 degrees North
7 latitude is the gross value at the point of production of the oil [AND GAS]
8 taxable under AS 43.55.011(e) and produced by the producer from those leases
9 or properties, less the producer's lease expenditures under AS 43.55.165 for the
10 calendar year applicable to the oil [AND GAS] produced by the producer from
11 those leases or properties, as adjusted under AS 43.55.170; [THIS
12 SUBPARAGRAPH DOES NOT APPLY TO GAS SUBJECT TO
13 AS 43.55.011(o);]

14 (B) oil [AND GAS] produced during a calendar year from
15 leases or properties in the state outside the Cook Inlet sedimentary basin, no
16 part of which is north of 68 degrees North latitude, is the gross value at the
17 point of production of the oil [AND GAS] taxable under AS 43.55.011(e) and
18 produced by the producer from those leases or properties, less the producer's
19 lease expenditures under AS 43.55.165 for the calendar year applicable to the
20 oil [AND GAS] produced by the producer from those leases or properties, as
21 adjusted under AS 43.55.170; [THIS SUBPARAGRAPH DOES NOT APPLY
22 TO GAS SUBJECT TO AS 43.55.011(o);]

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

29 (D) gas produced during a calendar year from a lease or
30 property in the Cook Inlet sedimentary basin is the gross value at the point of
31 production of the gas taxable under AS 43.55.011(e) and produced by the

1 producer from that lease or property, less the producer's lease expenditures
 2 under AS 43.55.165 for the calendar year applicable to the gas produced by the
 3 producer from that lease or property, as adjusted under AS 43.55.170;

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

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

19 **(G) gas produced during a calendar year from leases or**
 20 **properties in the state outside the Cook Inlet sedimentary basin, no part of**
 21 **which is north of 68 degrees North latitude, is the gross value at the point**
 22 **of production of the gas taxable under AS 43.55.011(e) and produced by**
 23 **the producer from those leases or properties, less the producer's lease**
 24 **expenditures under AS 43.55.165 for the calendar year applicable to the**
 25 **gas produced by the producer from those leases or properties, as adjusted**
 26 **under AS 43.55.170; this subparagraph does not apply to gas used in the**
 27 **state;**

28 (2) AS 43.55.011(g) **and (p)**, the monthly production tax value of the
 29 taxable

30 (A) oil [AND GAS] produced during a month from leases or
 31 properties in the state that include land north of 68 degrees North latitude is the

1 gross value at the point of production of the oil [AND GAS] taxable under
2 AS 43.55.011(e) and produced by the producer from those leases or properties,
3 less 1/12 of the producer's lease expenditures under AS 43.55.165 for the
4 calendar year applicable to the oil [AND GAS] produced by the producer from
5 those leases or properties, as adjusted under AS 43.55.170; [THIS
6 SUBPARAGRAPH DOES NOT APPLY TO GAS SUBJECT TO
7 AS 43.55.011(o);]

8 (B) oil [AND GAS] produced during a month from leases or
9 properties in the state outside the Cook Inlet sedimentary basin, no part of
10 which is north of 68 degrees North latitude, is the gross value at the point of
11 production of the oil [AND GAS] taxable under AS 43.55.011(e) and produced
12 by the producer from those leases or properties, less 1/12 of the producer's
13 lease expenditures under AS 43.55.165 for the calendar year applicable to the
14 oil [AND GAS] produced by the producer from those leases or properties, as
15 adjusted under AS 43.55.170; [THIS SUBPARAGRAPH DOES NOT APPLY
16 TO GAS SUBJECT TO AS 43.55.011(o);]

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

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

29 (E) gas produced during a month from a lease or property
30 outside the Cook Inlet sedimentary basin and used in the state is the gross
31 value at the point of production of that gas taxable under AS 43.55.011(e) and

1 produced by the producer from that lease or property, less 1/12 of the
 2 producer's lease expenditures under AS 43.55.165 for the calendar year
 3 applicable to that gas produced by the producer from that lease or property, as
 4 adjusted under AS 43.55.170;

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

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

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

23 (h) The department shall adopt regulations that provide for reasonable
 24 methods of allocating costs between oil and gas, between gas subject to
 25 AS 43.55.011(o) and other gas, and between leases or properties in those
 26 circumstances where an allocation of costs is required to determine lease expenditures
 27 that are costs of exploring for, developing, or producing oil deposits or costs of
 28 exploring for, developing, or producing gas deposits, or that are costs of exploring for,
 29 developing, or producing oil or gas deposits located within different leases or
 30 properties. When determining a reasonable method of allocating lease
 31 expenditures between the production of oil and the production of gas, the

1 **department shall consider allocating lease expenditures in proportion to the BTU**
 2 **equivalent barrels of oil produced and gas produced from each lease or property.**

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

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

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

20 TRANSITION: INSTALLMENT PAYMENTS OF TAX. A producer required to
 21 make an installment payment of tax under AS 43.55.020(a)(1) after December 31, 2009, and
 22 before the effective date of this Act, and that underpaid the amount due for the installment
 23 payment because of the retroactive application of secs. 2 - 4 and 7 of this Act, shall submit the
 24 amount of any underpayment on the date the first installment payment is due under
 25 AS 43.55.020(a)(1) after the effective date of this Act. Interest on the amount of an
 26 underpayment due because of the retroactive application of secs. 2 - 4 and 7 of this Act does
 27 not accrue until the day after the date the first installment payment is due under
 28 AS 43.55.020(a)(1) after the effective date of this Act.

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

31 RETROACTIVITY. Sections 2 - 4 and 7 of this Act are retroactive to January 1, 2010.

1 * **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).