

CS FOR SENATE BILL NO. 305(FIN)(title am)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 4/1/10

Offered: 3/31/10

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act providing that the tax rate applicable to the production of oil as the average**
2 **production tax value of oil, gas produced in the Cook Inlet sedimentary basin, and gas**
3 **produced outside of the Cook Inlet sedimentary basin and used in the state increases**
4 **above \$30 shall be 0.4 percent multiplied by the number that represents the difference**
5 **between that average monthly production tax value and \$30, or the sum of 25 percent**
6 **and the product of 0.1 percent multiplied by the number that represents the difference**
7 **between that average monthly production tax value and \$92.50, except that the total rate**
8 **determined in the calculation may not exceed 50 percent; providing for an increase in**
9 **the rate of tax on the production of gas as the average production tax value on a BTU**
10 **equivalent barrel basis of gas produced outside of the Cook Inlet sedimentary basin and**
11 **not used in the state increases above \$30; relating to payments of the oil and gas**
12 **production tax; relating to availability of a portion of the money received from the tax**

1 on oil and gas production for appropriation to the community revenue sharing fund;
 2 relating to the allocation of lease expenditures and adjustments to lease expenditures;
 3 and providing for an effective date."

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

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

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

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

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

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

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

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

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

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

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

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

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

1 GAS] produced during the month, gas produced during the month from a lease or
 2 property in the Cook Inlet sedimentary basin, and gas produced during the
 3 month from a lease or property outside the Cook Inlet sedimentary basin and
 4 used in the state by the tax rate calculated as follows:

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

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

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

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

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

1 value under AS 43.55.160(a)(2)(F) and (G) of a BTU equivalent barrel of gas and \$30;
2 or

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

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

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

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

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

24 (i) zero; or

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

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

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

15 (i) zero;

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

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

1 lease expenditures for the calendar year of production applicable
 2 to the gas produced by the producer from those leases and
 3 properties under AS 43.55.165 and 43.55.170 that are deductible
 4 for those leases or properties under AS 43.55.160 from the gross
 5 value at the point of production of the gas produced from those
 6 leases or properties during the month for which the installment
 7 payment is calculated;

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

10 (i) zero; or

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

30 (2) an amount calculated under (1)(C) of this subsection for oil or gas
 31 produced before 2022 from a lease or property subject to AS 43.55.011(j), (k), or (o)

1 may not exceed the product obtained by carrying out the calculation set out in
 2 AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in
 3 AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in
 4 AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable
 5 gas produced during the month for the amount of taxable gas produced during the
 6 calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the
 7 amount of taxable oil produced during the month for the amount of taxable oil
 8 produced during the calendar year;

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

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

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

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

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

26 (d) In making settlement with the royalty owner for oil and gas that is taxable
 27 under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable
 28 royalty oil and gas, or may deduct taxable royalty oil or gas equivalent in value at the
 29 time the tax becomes due to the amount of the tax paid. If the total deductions of
 30 installment payments of estimated tax for a calendar year exceed the actual tax for that
 31 calendar year, the producer shall, before April 1 of the following year, refund the

1 excess to the royalty owner. Unless otherwise agreed between the producer and the
 2 royalty owner, the amount of the tax paid under AS 43.55.011(e) - (g) **and (p)** on
 3 taxable royalty oil and gas for a calendar year, other than oil and gas the ownership or
 4 right to which constitutes a landowner's royalty interest, is considered to be the gross
 5 value at the point of production of the taxable royalty oil and gas produced during the
 6 calendar year multiplied by a figure that is a quotient, in which

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

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

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

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

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

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

24 (B) oil [AND GAS] produced during a calendar year from
 25 leases or properties in the state outside the Cook Inlet sedimentary basin, no
 26 part of which is north of 68 degrees North latitude, is the gross value at the
 27 point of production of the oil [AND GAS] taxable under AS 43.55.011(e) and
 28 produced by the producer from those leases or properties, less the producer's
 29 lease expenditures under AS 43.55.165 for the calendar year applicable to the
 30 oil [AND GAS] produced by the producer from those leases or properties, as
 31 adjusted under AS 43.55.170; [THIS SUBPARAGRAPH DOES NOT APPLY

1 TO GAS SUBJECT TO AS 43.55.011(o);]

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

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

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

21 **(F) gas produced during a calendar year from leases or**
22 **properties in the state that include land north of 68 degrees North latitude**
23 **is the gross value at the point of production of the gas taxable under**
24 **AS 43.55.011(e) and produced by the producer from those leases or**
25 **properties, less the producer's lease expenditures under AS 43.55.165 for**
26 **the calendar year applicable to the gas produced by the producer from**
27 **those leases or properties, as adjusted under AS 43.55.170; this**
28 **subparagraph does not apply to gas used in the state;**

29 **(G) gas produced during a calendar year from leases or**
30 **properties in the state outside the Cook Inlet sedimentary basin, no part of**
31 **which is north of 68 degrees North latitude, is the gross value at the point**

1 **of production of the gas taxable under AS 43.55.011(e) and produced by**
 2 **the producer from those leases or properties, less the producer's lease**
 3 **expenditures under AS 43.55.165 for the calendar year applicable to the**
 4 **gas produced by the producer from those leases or properties, as adjusted**
 5 **under AS 43.55.170; this subparagraph does not apply to gas used in the**
 6 **state;**

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

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

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

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

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

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

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

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

23 **(G) gas produced during a month from leases or properties**
24 **in the state outside the Cook Inlet sedimentary basin, no part of which is**
25 **north of 68 degrees North latitude, is the gross value at the point of**
26 **production of the gas taxable under AS 43.55.011(e) and produced by the**
27 **producer from those leases or properties, less 1/12 of the producer's lease**
28 **expenditures under AS 43.55.165 for the calendar year applicable to the**
29 **gas produced by the producer from those leases or properties, as adjusted**
30 **under AS 43.55.170; this subparagraph does not apply to gas used in the**
31 **state.**

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

2 (h) The department shall adopt regulations that provide for reasonable
3 methods of allocating costs between oil and gas, between gas subject to
4 AS 43.55.011(o) and other gas, and between leases or properties in those
5 circumstances where an allocation of costs is required to determine lease expenditures
6 that are costs of exploring for, developing, or producing oil deposits or costs of
7 exploring for, developing, or producing gas deposits, or that are costs of exploring for,
8 developing, or producing oil or gas deposits located within different leases or
9 properties. **When determining a reasonable method of allocating lease**
10 **expenditures between the production of oil and the production of gas, the**
11 **department shall consider allocating lease expenditures in proportion to the BTU**
12 **equivalent barrels of oil produced and gas produced from each lease or property.**

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

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

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

30 TRANSITION: INSTALLMENT PAYMENTS OF TAX. A producer required to
31 make an installment payment of tax under AS 43.55.020(a)(1) after December 31, 2009, and

1 before the effective date of this Act, and that underpaid the amount due for the installment
2 payment because of the retroactive application of secs. 2 - 4 and 7 of this Act, shall submit the
3 amount of any underpayment on the date the first installment payment is due under
4 AS 43.55.020(a)(1) after the effective date of this Act. Interest on the amount of an
5 underpayment due because of the retroactive application of secs. 2 - 4 and 7 of this Act does
6 not accrue until the day after the date the first installment payment is due under
7 AS 43.55.020(a)(1) after the effective date of this Act.

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

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

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