HOUSE BILL NO. 17

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES HAWKER, CHENAULT, JOHNSON, AND OLSON, Millett, Thompson

Introduced: 1/18/11
Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

"An Act relating to the tax on oil and gas production; providing for different tax rates based on the average production tax value of oil and gas produced during a calendar year; relating to the tax credit for a carried forward annual loss applicable to the tax on oil and gas production; 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 20 [25] percent; and

(2) the sum, over all months of the calendar year, of the tax amounts
determined under (g) of this section.

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

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

(1) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is not more than $51.67 [92.50], the tax rate is 4.3 percent of [0.4 PERCENT MULTIPLIED BY THE NUMBER THAT REPRESENTS] the difference between that average monthly production tax value of a BTU equivalent barrel and $30; [OR]

(2) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than $51.67 but not more than $73.34, the tax rates are

(A) 4.3 percent on the first $21.67 of monthly production tax value for each BTU equivalent barrel above $30; and

(B) 8.6 percent of the monthly production tax value for each BTU equivalent barrel that is greater than $51.67;

(3) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than $73.34 but not more than $95.01, the tax rates are

(A) 4.3 percent on the first $21.67 of monthly production tax value for each BTU equivalent barrel above $30;

(B) 8.6 percent of the next higher $21.67 of monthly production tax value for each BTU equivalent barrel; and

(C) 12.9 percent of the monthly production tax value for each BTU equivalent barrel that is greater than $73.34;

(4) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than
$95.01 but not more than $116.68, the tax rates are

(A) 4.3 percent on the first $21.67 of monthly production
tax value for each BTU equivalent barrel above $30;

(B) 8.6 percent of the next higher $21.67 of monthly
production tax value for each BTU equivalent barrel;

(C) 12.9 percent of the next higher $21.67 of monthly
production tax value for each BTU equivalent barrel; and

(D) 17.2 percent of the monthly production tax value for
each BTU equivalent barrel that is greater than $95.01;

(5) if the producer's average monthly production tax value of a
BTU equivalent barrel of the taxable oil and gas for the month is more than
$116.68 but not more than $138.35, the tax rates are

(A) 4.3 percent on the first $21.67 of monthly production
tax value for each BTU equivalent barrel above $30;

(B) 8.6 percent of the next higher $21.67 of monthly
production tax value for each BTU equivalent barrel;

(C) 12.9 percent of the next higher $21.67 of monthly
production tax value for each BTU equivalent barrel;

(D) 17.2 percent of the next higher $21.67 of monthly
production tax value for each BTU equivalent barrel; and

(E) 21.5 percent of the monthly production tax value for
each BTU equivalent barrel that is greater than $116.68;

(6) if the producer's average monthly production tax value of a
BTU equivalent barrel of the taxable oil and gas for the month is more than
$138.35 but not more than $160, the tax rates are

(A) 4.3 percent on the first $21.67 of monthly production
tax value for each BTU equivalent barrel above $30;

(B) 8.6 percent of the next higher $21.67 of monthly
production tax value for each BTU equivalent barrel;

(C) 12.9 percent of the next higher $21.67 of monthly
production tax value for each BTU equivalent barrel;
(D) 17.2 percent of the next higher $21.67 of monthly production tax value for each BTU equivalent barrel;

(E) 21.5 percent of the next higher $21.67 of monthly production tax value for each BTU equivalent barrel; and

(F) 25.8 percent of the monthly production tax value for each BTU equivalent barrel that is greater than $138.35; or

(7) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than $160, the tax rates are

(A) 4.3 percent on the first $21.67 of monthly production tax value for each BTU equivalent barrel above $30;

(B) 8.6 percent of the next higher $21.67 of monthly production tax value for each BTU equivalent barrel;

(C) 12.9 percent of the next higher $21.67 of monthly production tax value for each BTU equivalent barrel;

(D) 17.2 percent of the next higher $21.67 of monthly production tax value for each BTU equivalent barrel;

(E) 21.5 percent of the next higher $21.67 of monthly production tax value for each BTU equivalent barrel;

(F) 25.8 percent of the next higher $21.65 of monthly production tax value for each BTU equivalent barrel; and

(G) 30 percent of the monthly production tax value for each BTU equivalent barrel that is greater than $160. The tax rate is the sum of 25 percent and the product of 0.1 percent multiplied by the number that represents the difference between the average monthly production tax value per BTU equivalent barrel and $92.50, except that the sum determined under this paragraph may not exceed 50 percent.

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

(i) 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 the ownership or 
right to which constitutes a landowner's royalty interest, except for oil and gas the 
ownership or right to which is exempt from taxation. The provisions of this subsection 
apply to a landowner's royalty interest as follows:

(1) the tax levied for oil is equal to five percent of the gross value at 
the point of production of the oil;

(2) the tax levied for gas is equal to 1.667 percent of the gross value at 
the point of production of the gas;

(3) if the department determines that, for purposes of reducing the 
producer's tax liability under (1) or (2) of this subsection, the producer has received or 
will receive consideration from the royalty owner offsetting all or a part of the 
producer's royalty obligation, other than a deduction under AS 43.55.020(d) of the 
amount of a tax paid, then, notwithstanding (1) and (2) of this subsection, the tax is 
equal to \( 20 \)[25] percent of the gross value at the point of production of the oil and gas.

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

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

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

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

(i) zero; or 

(ii) the sum of \( 20 \)[25] percent and the tax rate 
calculated for the month under AS 43.55.011(g) multiplied by the
remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the leases or properties under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;

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

(i) zero;

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

(iii) the sum of 20 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 20 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 for oil or gas, respectively, produced from the lease or property from the gross value at the point of production of the oil or gas, respectively, produced from
the lease or property during the month for which the installment payment is calculated;

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

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

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

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

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

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

(b) A producer or explorer may elect to take a tax credit in the amount of 20 [25] percent of a carried-forward annual loss. A credit under this subsection may be
applied against a tax levied by AS 43.55.011(e). For purposes of this subsection, a
carried-forward annual loss is the amount of a producer's or explorer's adjusted lease
expenditures under AS 43.55.165 and 43.55.170 for a previous calendar year that was
not deductible in calculating production tax values for that calendar year under
AS 43.55.160.

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

TRANSITION: PAYMENT OF TAX. A person that was required to make one or
more installment payments of estimated tax or other payment of tax under AS 43.55.020(a)
during the period after December 31, 2010, and before the effective date of secs. 2 and 5 of
this Act, but failed to pay the full amount of the installment payments or other payment
because of the retroactive application of AS 43.55.011(e), as amended by sec. 1 of this Act,
and AS 43.55.023(b), as amended by sec. 5 of this Act, which are retroactive to January 1,
2011, under sec. 9 of this Act, shall pay, before April 1, 2012, the balance of any tax due for
the period after December 31, 2010, and before the effective date of this section.

* Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
read:

TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any
contrary provision of AS 44.62.240, if the Department of Revenue expressly designates in the
regulation that the regulation applies retroactively to January 1, 2011, a regulation adopted by
the Department of Revenue to implement, interpret, make specific, or otherwise carry out
secs. 1 - 5 of this Act may apply retroactively to January 1, 2011.

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

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

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

RETROACTIVITY OF CERTAIN PROVISIONS OF THIS ACT. Sections 1 - 5 of
this Act are retroactive to January 1, 2011.
*Sec. 10.* This Act takes effect immediately under AS 01.10.070(c).