

AMENDMENT

2

Rep. Johnson

OFFERED IN THE HOUSE

TO: 2d CSHB 247(), Draft Version "D"

1 Page 8, line 4:

2 Delete "or"

3 Insert "and"

4

5 Page 8, line 6, following "approved":

6 Insert "before January 1, 2017,"

7

8 Page 10, lines 5 - 18:

9 Delete all material.

10

11 Renumber the following bill sections accordingly.

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13 Page 12, line 10:

14 Delete "Exploration"

15 Insert "Notwithstanding (b) of this section, exploration"

16

17 Page 13, line 12:

18 Delete "sec. 22"

19 Insert "sec. 21"

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21 Page 13, line 21:

22 Delete "Exploration"

23 Insert "Notwithstanding (b) of this section, exploration"

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Page 15, line 15:

Delete "sec. 25"
Insert "sec. 24"

Page 16, line 14:

Delete "sec. 27"
Insert "sec. 26"

Page 18, line 17:

Delete "sec. 31"
Insert "sec. 30"

Page 18, line 30:

Delete "secs. 31 and 32"
Insert "secs. 30 and 31"

Page 20, lines 3 - 5:

Delete all material and insert:
"(6) the producer's qualified capital expenditures, [AS DEFINED IN AS 43.55.023,] other lease expenditures under AS 43.55.165, and adjustments or other payments or credits under AS 43.55.170;"

Page 20, lines 18 - 21:

Delete all material and insert:
"(1) the explorer's or producer's qualified capital expenditures, [AS DEFINED IN AS 43.55.023,] other lease expenditures under AS 43.55.165, and adjustments or other payments or credits under AS 43.55.170; and"

Page 20, line 25, through page 21, line 11:

Delete all material.

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Renumber the following bill sections accordingly.

Page 22, line 19:

- Delete "sec. 38"
- Insert "sec. 36"

Page 25, following line 29:

Insert a new bill section to read:

**** Sec. 41.** AS 43.55.165(e) is amended to read:

- (e) For purposes of this section, lease expenditures do not include
 - (1) depreciation, depletion, or amortization;
 - (2) oil or gas royalty payments, production payments, lease profit shares, or other payments or distributions of a share of oil or gas production, profit, or revenue, except that a producer's lease expenditures applicable to oil and gas produced from a lease issued under AS 38.05.180(f)(3)(B), (D), or (E) include the share of net profit paid to the state under that lease;
 - (3) taxes based on or measured by net income;
 - (4) interest or other financing charges or costs of raising equity or debt capital;
 - (5) acquisition costs for a lease or property or exploration license;
 - (6) costs arising from fraud, wilful misconduct, gross negligence, violation of law, or failure to comply with an obligation under a lease, permit, or license issued by the state or federal government;
 - (7) fines or penalties imposed by law;
 - (8) costs of arbitration, litigation, or other dispute resolution activities that involve the state or concern the rights or obligations among owners of interests in, or rights to production from, one or more leases or properties or a unit;
 - (9) costs incurred in organizing a partnership, joint venture, or other business entity or arrangement;
 - (10) amounts paid to indemnify the state; the exclusion provided by

1 this paragraph does not apply to the costs of obtaining insurance or a surety bond from
2 a third-party insurer or surety;

3 (11) surcharges levied under AS 43.55.201 or 43.55.300;

4 (12) an expenditure otherwise deductible under (b) of this section that
5 is a result of an internal transfer, a transaction with an affiliate, or a transaction
6 between related parties, or is otherwise not an arm's length transaction, unless the
7 producer establishes to the satisfaction of the department that the amount of the
8 expenditure does not exceed the fair market value of the expenditure;

9 (13) an expenditure incurred to purchase an interest in any corporation,
10 partnership, limited liability company, business trust, or any other business entity,
11 whether or not the transaction is treated as an asset sale for federal income tax
12 purposes;

13 (14) a tax levied under AS 43.55.011 or 43.55.014;

14 (15) costs incurred for dismantlement, removal, surrender, or
15 abandonment of a facility, pipeline, well pad, platform, or other structure, or for the
16 restoration of a lease, field, unit, area, tract of land, body of water, or right-of-way in
17 conjunction with dismantlement, removal, surrender, or abandonment; a cost is not
18 excluded under this paragraph if the dismantlement, removal, surrender, or
19 abandonment for which the cost is incurred is undertaken for the purpose of replacing,
20 renovating, or improving the facility, pipeline, well pad, platform, or other structure;

21 (16) costs incurred for containment, control, cleanup, or removal in
22 connection with any unpermitted release of oil or a hazardous substance and any
23 liability for damages imposed on the producer or explorer for that unpermitted release;
24 this paragraph does not apply to the cost of developing and maintaining an oil
25 discharge prevention and contingency plan under AS 46.04.030;

26 (17) costs incurred to satisfy a work commitment under an exploration
27 license under AS 38.05.132;

28 (18) that portion of expenditures, that would otherwise be qualified
29 capital expenditures [, AS DEFINED IN AS 43.55.023,] incurred during a calendar
30 year that are less than the product of \$0.30 multiplied by the total taxable production
31 from each lease or property, in BTU equivalent barrels, during that calendar year,

1 except that, when a portion of a calendar year is subject to this provision, the
2 expenditures and volumes shall be prorated within that calendar year;

3 (19) costs incurred for repair, replacement, or deferred maintenance of
4 a facility, a pipeline, a structure, or equipment, other than a well, that results in or is
5 undertaken in response to a failure, problem, or event that results in an unscheduled
6 interruption of, or reduction in the rate of, oil or gas production; or costs incurred for
7 repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or
8 equipment, other than a well, that is undertaken in response to, or is otherwise
9 associated with, an unpermitted release of a hazardous substance or of gas; however,
10 costs under this paragraph that would otherwise constitute lease expenditures under (a)
11 and (b) of this section may be treated as lease expenditures if the department
12 determines that the repair or replacement is solely necessitated by an act of war, by an
13 unanticipated grave natural disaster or other natural phenomenon of an exceptional,
14 inevitable, and irresistible character, the effects of which could not have been
15 prevented or avoided by the exercise of due care or foresight, or by an intentional or
16 negligent act or omission of a third party, other than a party or its agents in privity of
17 contract with, or employed by, the producer or an operator acting for the producer, but
18 only if the producer or operator, as applicable, exercised due care in operating and
19 maintaining the facility, pipeline, structure, or equipment, and took reasonable
20 precautions against the act or omission of the third party and against the consequences
21 of the act or omission; in this paragraph,

22 (A) "costs incurred for repair, replacement, or deferred
23 maintenance of a facility, a pipeline, a structure, or equipment" includes costs
24 to dismantle and remove the facility, pipeline, structure, or equipment that is
25 being replaced;

26 (B) "hazardous substance" has the meaning given in
27 AS 46.03.826;

28 (C) "replacement" includes renovation or improvement;

29 (20) costs incurred to construct, acquire, or operate a refinery or crude
30 oil topping plant, regardless of whether the products of the refinery or topping plant
31 are used in oil or gas exploration, development, or production operations; however, if

1 a producer owns a refinery or crude oil topping plant that is located on or near the
 2 premises of the producer's lease or property in the state and that processes the
 3 producer's oil produced from that lease or property into a product that the producer
 4 uses in the operation of the lease or property in drilling for or producing oil or gas, the
 5 producer's lease expenditures include the amount calculated by subtracting from the
 6 fair market value of the product used the prevailing value, as determined under
 7 AS 43.55.020(f), of the oil that is processed;

8 (21) costs of lobbying, public relations, public relations advertising, or
 9 policy advocacy."

10
 11 Renumber the following bill sections accordingly.

12
 13 Page 26, following line 21:

14 Insert a new bill section to read:

15 **** Sec. 45.** AS 43.55.890 is amended to read:

16 **Sec. 43.55.890. Disclosure of tax information.** Notwithstanding any contrary
 17 provision of AS 40.25.100, and regardless of whether the information is considered
 18 under AS 43.05.230(e) to constitute statistics classified to prevent the identification of
 19 particular returns or reports, the department may publish the following information
 20 under this chapter, if aggregated among three or more producers or explorers, showing
 21 by month or calendar year and by lease or property, unit, or area of the state:

22 (1) the amount of oil or gas production;

23 (2) the amount of taxes levied under this chapter or paid under this
 24 chapter;

25 (3) the effective tax rates under this chapter;

26 (4) the gross value of oil or gas at the point of production;

27 (5) the transportation costs for oil or gas;

28 (6) qualified capital expenditures [, AS DEFINED IN AS 43.55.023];

29 (7) exploration expenditures under AS 43.55.025;

30 (8) production tax values of oil or gas under AS 43.55.160;

31 (9) lease expenditures under AS 43.55.165;

- 1 (10) adjustments to lease expenditures under AS 43.55.170;
- 2 (11) tax credits applicable or potentially applicable against taxes levied
- 3 by this chapter."

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5 Renumber the following bill sections accordingly.

6

7 Page 26, line 29:

8 Delete "a new paragraph"

9 Insert "new paragraphs"

10

11 Page 26, following line 29:

12 Insert a new paragraph to read:

13 "(26) "qualified capital expenditure"

14 (A) means, except as otherwise provided in (B) of this
15 paragraph, an expenditure that is a lease expenditure under AS 43.55.165 and
16 is

17 (i) incurred for geological or geophysical exploration;

18 (ii) treated as a capitalized expenditure under 26 U.S.C.
19 (Internal Revenue Code), as amended, regardless of elections made
20 under 26 U.S.C. 263(c) (Internal Revenue Code), as amended, and is
21 treated as a capitalized expenditure for federal income tax reporting
22 purposes by the person incurring the expenditure; or

23 (iii) treated as a capitalized expenditure under 26 U.S.C.
24 (Internal Revenue Code), as amended, regardless of elections made
25 under 26 U.S.C. 263(c) (Internal Revenue Code), as amended, and is
26 eligible to be deducted as an expense under 26 U.S.C. 263(c) (Internal
27 Revenue Code), as amended;

28 (B) does not include an expenditure incurred to acquire an asset
29 the cost of previously acquiring which was a lease expenditure under
30 AS 43.55.165 or would have been a lease expenditure under AS 43.55.165 if it
31 had been incurred after March 31, 2006, or that has previously been placed in

1 service in the state; an expenditure to acquire an asset is not excluded under
2 this subparagraph if not more than an immaterial portion of the asset meets a
3 description under this subparagraph; for purposes of this subparagraph, "asset"
4 includes geological, geophysical, and well data and interpretations;"
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6 Renumber the following paragraph accordingly.
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8 Page 29, line 23:

9 Delete "sec. 27"

10 Insert "sec. 26"

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12 Page 29, line 24:

13 Delete "sec. 30"

14 Insert "sec. 29"

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16 Page 29, line 26:

17 Delete "sec. 29"

18 Insert "sec. 28"

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20 Page 29, line 27:

21 Delete "secs. 27, 29, and 30"

22 Insert "secs. 26, 28, and 29"

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24 Page 29, line 28:

25 Delete "sec. 42"

26 Insert "sec. 40"

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28 Page 30, line 3:

29 Delete "AS 43.55.023(n) by sec. 19 of this Act,"
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31

Page 30, line 4:

1 Delete "sec. 31"

2 Insert "sec. 30"

3 Delete "secs. 34 and 35"

4 Insert "secs. 33 and 34"

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6 Page 30, line 5:

7 Delete "AS 43.55.075(b) by sec. 36 of this Act,"

8 Delete "sec. 43"

9 Insert "sec. 42"

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11 Page 30, line 6:

12 Delete "sec. 44"

13 Insert "sec. 43"

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15 Page 30, lines 19 - 20:

16 Delete "sec. 32"

17 Insert "sec. 31"

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19 Page 31, line 2:

20 Delete "sec. 33"

21 Insert "sec. 32"

22 Delete "sec. 37"

23 Insert "sec. 35"

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25 Page 31, line 3:

26 Delete "sec. 39"

27 Insert "sec. 37"

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29 Page 31, line 17:

30 Delete "sec. 23"

31 Insert "sec. 22"

- 1 Delete "secs. 26 and 28"
- 2 Insert "secs. 25 and 27"
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- 4 Page 31, line 18:
 - 5 Delete "sec. 33"
 - 6 Insert "sec. 32"
 - 7 Delete "sec. 37"
 - 8 Insert "sec. 35"
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- 10 Page 31, line 19:
 - 11 Delete "sec. 45"
 - 12 Insert "sec. 44"
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- 14 Page 31, line 26:
 - 15 Delete "sec. 42"
 - 16 Insert "sec. 40"
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- 18 Page 33, line 9:
 - 19 Delete "Sections 22"
 - 20 Insert "Sections 21"
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- 22 Page 33, line 11:
 - 23 Delete "Sections 32"
 - 24 Insert "Sections 31"
 - 25
- 26 Page 33, line 12:
 - 27 Delete "Sections 23, 26, 28, 33, 37, 39, 45"
 - 28 Insert "Sections 22, 25, 27, 32, 35, 37, 44"