

AMENDMENT #D.36

(Offered & held til 5/3)

OFFERED IN THE SENATE
TO: CSHB 50(FIN)

BY SENATOR WIELECHOWSKI

Page 1, line 5, following "**credits**";:

Insert "**relating to the oil and gas production tax**";

Page 32, following line 13:

Insert a new bill section to read:

"* Sec. 38. 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,

1 or rights to production from, one or more leases or properties or a unit;

2 (9) costs incurred in organizing a partnership, joint venture, or other
3 business entity or arrangement;

4 (10) amounts paid to indemnify the state; the exclusion provided by
5 this paragraph does not apply to the costs of obtaining insurance or a surety bond from
6 a third-party insurer or surety;

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

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

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

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

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

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

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

1 (18) that portion of expenditures, that would otherwise be qualified
2 capital expenditures, as defined in AS 43.55.023, incurred during a calendar year that
3 are less than the product of \$0.30 multiplied by the total taxable production from each
4 lease or property, in BTU equivalent barrels, during that calendar year, except that,
5 when a portion of a calendar year is subject to this provision, the expenditures and
6 volumes shall be prorated within that calendar year;

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

26 (A) "costs incurred for repair, replacement, or deferred
27 maintenance of a facility, a pipeline, a structure, or equipment" includes costs
28 to dismantle and remove the facility, pipeline, structure, or equipment that is
29 being replaced;

30 (B) "hazardous substance" has the meaning given in
31 AS 46.03.826;

(C) "replacement" includes renovation or improvement;

(20) costs incurred to construct, acquire, or operate a refinery or crude oil topping plant, regardless of whether the products of the refinery or topping plant are used in oil or gas exploration, development, or production operations; however, if a producer owns a refinery or crude oil topping plant that is located on or near the premises of the producer's lease or property in the state and that processes the producer's oil produced from that lease or property into a product that the producer uses in the operation of the lease or property in drilling for or producing oil or gas, the producer's lease expenditures include the amount calculated by subtracting from the fair market value of the product used the prevailing value, as determined under AS 43.55.020(f), of the oil that is processed;

(21) costs of lobbying, public relations, public relations advertising, or policy advocacy;

(22) costs incurred as part of a capital expenditure or other action taken for a carbon management purpose under AS 38.05.081 or a carbon offset project under AS 38.95.400 - 38.95.499;

(23) costs incurred to construct, acquire, modify, operate, dismantle, or remove a facility for carbon capture, carbon utilization, or carbon storage, including construction and modification of new or existing infrastructure as well as costs associated with obtaining, operating, or maintaining a license or lease under AS 38.05.700 - 38.05.795, fees incurred under AS 41.06.160, or surcharges incurred under AS 41.06.175."

Renumber the following bill sections accordingly.

Page 35, line 2:

Delete "Section 39"

Insert "Section 40"