Conceptual
AMENDMENT
#32

OFFERED IN THE HOUSE BY REPRESENTATIVE HAWKER

TO: HCS CS SB 21 (RES) Work Draft K

Page 25, following line 20

Insert new subsections to read:

* **Sec. 34.** AS 43.55.165 (a) is repealed and reenacted to read:

(a) Except as provided under (c) - (e) of this section, for the purposes of AS 43.55.160, a producer's lease expenditures for a calendar year are the ordinary and necessary costs upstream of the point of production of oil and gas that are incurred during the calendar year by the producer after March 31, 2006, and that are direct costs of exploring for, developing, or producing oil or gas deposits located within the producer's leases or properties in the state or, in the case of land in which the producer does not own a working interest, that are direct costs of exploring for oil or gas deposits located within other land in the state. In determining whether costs are lease expenditures, the department shall consider, among other factors,

(1) the typical industry practices and standards in the state that determine the costs, other than items listed in (e) of this section, that an operator is allowed to bill a working interest owner that is not the operator, under unit operating agreements or similar operating agreements that were in effect before December 2, 2005, and were subject to negotiation with at least one working interest owner with substantial bargaining power, other than the operator; and

(2) the standards adopted by the Department of Natural Resources that determine the costs, other than items listed in (e) of this section, that a lessee is allowed to deduct from revenue in calculating net profits under a lease issued under AS 38.05.180(f)(3)(B), (D), or (E).

* **Sec. 35.** AS 43.55.165 (b) is repealed and reenacted to read:

(b) For purposes of (a) of this section,

(1) direct costs include

(A) an expenditure, when incurred, to acquire an item if the acquisition cost is otherwise a direct cost, notwithstanding that the expenditure may be required to be capitalized rather than treated as an expense for financial accounting or federal income tax purposes;

(B) payments of or in lieu of property taxes, sales and use taxes, motor fuel taxes, and excise taxes;

(C) a reasonable allowance, as determined under regulations adopted by the department, for overhead expenses directly related to exploring for, developing, and producing oil or gas deposits located within leases or properties or other land in the state;

(2) an activity does not need to be physically located on, near, or within the premises of the lease or property within which an oil or gas deposit being explored for, developed, or produced is located in order for the cost of the activity to be a cost upstream of the point of production of the oil or gas.

* **Sec. 36.** AS 43.55.165 (c) is repealed and reenacted to read:

(c) Subject to (g) and (h) of this section, if the department finds that the pertinent provisions of a unit operating agreement or similar operating agreement are substantially consistent with the department's determinations and standards under (a) of this section concerning whether costs are lease expenditures, the department may authorize or require a producer, subject to conditions prescribed under regulations adopted by the department, to treat as that portion of its lease expenditures for a calendar year applicable to oil and gas produced from a lease or property in the state only

(1) the costs, other than items listed in (e) of this section, that are incurred by the operator during the calendar year and that

(A) are billable to the producer by the operator in accordance with the terms of the agreement to which that lease or property is subject;

(B) for a producer that is the operator, would be billable to the producer by the operator in accordance with the terms of the agreement to which that lease or property is subject if the producer were not the operator;

(C) would be billable to the producer by the operator in accordance with the terms of the agreement if that lease or property were subject to the agreement; or

(D) for a producer that is the operator, would be billable to the producer by the operator in accordance with the terms of the agreement if that lease or property were subject to the agreement and if the producer were not the operator; and

(2) a reasonable percentage, as determined under regulations adopted by the department, of the costs that are billable under (1) of this subsection as an allowance for overhead expenses directly related to exploring for, developing, and producing oil or gas deposits located within the lease or property, to the extent those expenses are not billable under the agreement.

* **Sec. 37.** AS 43.55.165 (d) is repealed and reenacted to read:

(d) Subject to (g) and (h) of this section, if the department makes the finding described in (c) of this section with respect to a unit operating agreement or similar operating agreement and, in addition, finds that at least one working interest owner party to the agreement, other than the operator, with substantial incentive and ability to effectively audit billings under the agreement in fact is effectively auditing billings under the agreement, the department may authorize or require a producer, subject to conditions prescribed under regulations adopted by the department, to treat as that portion of its lease expenditures for a calendar year applicable to oil and gas produced from a lease or property in the state only

(1) the costs, other than items listed in (e) of this section, that are incurred by the operator during the calendar year and that

(A) are billed to the producer by the operator under the agreement to which that lease or property is subject and are either not disputed by a working interest owner party to the agreement or are finally determined to be properly billable as a result of dispute resolution; or

(B) for a producer that is the operator, would be billable to the producer by the operator in accordance with the terms of the agreement to which that lease or property is subject if the producer were not the operator; and

(2) a reasonable percentage, as determined under regulations adopted by the department, of the costs that are billed under (1) of this subsection as an allowance for overhead expenses directly related to exploring for, developing, and producing oil or gas deposits located within the lease or property, to the extent those expenses are not billable under the agreement

Renumber following sections accordingly

Page 29, line 20 following "sec."

Delete "36"

Insert "40"

Page 29, line 24 following "and"

Delete "37"

Insert "41"

28-GS1647\K.34
Nauman/Bullock
4/3/13

Hawker

AMENDMENT
#32 New

OFFERED IN THE HOUSE

TO: HCS CSSB 21(RES), Draft Version "K"

Page 1, line 11, following "**properties;**":

Insert "**relating to the calculation of lease expenditures**"

Page 25, following line 20:

Insert a new bill section to read:

"* **Sec. 33.** AS 43.55.165 is amended by adding new subsections to read:

A (m) Except as provided under (e), (o), and (p) of this section, for the purposes of AS 43.55.160, a producer's lease expenditures for a calendar year are the ordinary and necessary costs upstream of the point of production of oil and gas that are incurred during the calendar year by the producer on or after January 1, 2014, and that are direct costs of exploring for, developing, or producing oil or gas deposits located within the producer's leases or properties in the state or, in the case of land in which the producer does not own a working interest, that are direct costs of exploring for oil or gas deposits located within other land in the state. In determining whether costs are lease expenditures, the department shall consider, among other factors,

(1) the typical industry practices and standards in the state that determine the costs, other than items listed in (e) of this section, that an operator is allowed to bill a working interest owner that is not the operator, under unit operating agreements or similar operating agreements that were in effect before December 2, 2005, and were subject to negotiation with at least one working interest owner with substantial bargaining power, other than the operator; and

(2) the standards adopted by the Department of Natural Resources that determine the costs, other than items listed in (e) of this section, that a lessee is

allowed to deduct from revenue in calculating net profits under a lease issued under AS 38.05.180(f)(3)(B), (D), or (E).

(n) For purposes of (m) of this section,

(1) direct costs include

(A) an expenditure, when incurred, to acquire an item if the acquisition cost is otherwise a direct cost, notwithstanding that the expenditure may be required to be capitalized rather than treated as an expense for financial accounting or federal income tax purposes;

(B) payments of or in lieu of property taxes, sales and use taxes, motor fuel taxes, and excise taxes;

(C) a reasonable allowance, as determined under regulations adopted by the department, for overhead expenses directly related to exploring for, developing, and producing oil or gas deposits located within leases or properties or other land in the state;

(2) an activity does not need to be physically located on, near, or within the premises of the lease or property within which an oil or gas deposit being explored for, developed, or produced is located in order for the cost of the activity to be a cost upstream of the point of production of the oil or gas.

(o) On or after January 1, 2014, subject to (g) and (h) of this section, if the department finds that the pertinent provisions of a unit operating agreement or similar operating agreement are substantially consistent with the department's determinations and standards under (m) of this section concerning whether costs are lease expenditures, the department may authorize or require a producer, subject to conditions prescribed under regulations adopted by the department, to treat as that portion of its lease expenditures for a calendar year applicable to oil and gas produced from a lease or property in the state only

(1) the costs, other than items listed in (e) of this section, that are incurred by the operator during the calendar year and that

(A) are billable to the producer by the operator in accordance with the terms of the agreement to which that lease or property is subject;

(B) for a producer that is the operator, would be billable to the producer by the operator in accordance with the terms of the agreement to which that lease or property is subject if the producer were not the operator;

(C) would be billable to the producer by the operator in accordance with the terms of the agreement if that lease or property were subject to the agreement; or

(D) for a producer that is the operator, would be billable to the producer by the operator in accordance with the terms of the agreement if that lease or property were subject to the agreement and if the producer were not the operator; and

(2) a reasonable percentage, as determined under regulations adopted by the department, of the costs that are billable under (1) of this subsection as an allowance for overhead expenses directly related to exploring for, developing, and producing oil or gas deposits located within the lease or property, to the extent those expenses are not billable under the agreement.

(p) Subject to (g) and (h) of this section, if the department makes the finding described in (o) of this section with respect to a unit operating agreement or similar operating agreement and, in addition, finds that at least one working interest owner party to the agreement, other than the operator, with substantial incentive and ability to effectively audit billings under the agreement in fact is effectively auditing billings under the agreement, the department may authorize or require a producer, subject to conditions prescribed under regulations adopted by the department, to treat as that portion of its lease expenditures for a calendar year applicable to oil and gas produced from a lease or property in the state only

(1) the costs, other than items listed in (e) of this section, that are incurred by the operator during the calendar year and that

(A) are billed to the producer by the operator under the agreement to which that lease or property is subject and are either not disputed by a working interest owner party to the agreement or are finally determined to be properly billable as a result of dispute resolution; or

(B) for a producer that is the operator, would be billable to the producer by the operator in accordance with the terms of the agreement to which that lease or property is subject if the producer were not the operator; and

(2) a reasonable percentage, as determined under regulations adopted by the department, of the costs that are billed under (1) of this subsection as an allowance for overhead expenses directly related to exploring for, developing, and producing oil or gas deposits located within the lease or property, to the extent those expenses are not billable under the agreement."

Renumber the following bill sections accordingly.

Page 29, line 1:

Delete "and 43.55.160(c)"

Insert "43.55.160(c), 43.55.165(a), 43.55.165(b), 43.55.165(c), and 43.55.165(d)"

Page 29, line 20:

Delete "sec. 36"

Insert "sec. 37"

Page 29, line 24:

Delete "37"

Insert "38"

28-GS281647\K

4/2/2013 Feige

Conceptual

AMENDMENT #33

Page 18, line 1, following "2013"

Insert "from leases or properties north of 68 degrees North latitude."

Page 18, line 1, following "not"

Insert "be applied against the tax calculated under AS 43.55.011(f). A tax credit authorized by the subsection may not"

Page 18, line 2, following "below"

Insert "the amount calculated under AS 43.55.011(f)"

Delete "zero"

28-GS1647\K.3
Nauman/Bullock
4/2/13

<u>AMENDMENT</u>

#3A

WILSON

OFFERED IN THE HOUSE

TO: HCS CSSB 21(RES), Draft Version "K"

Page 6, line 8:

Delete "**<u>35</u>**"

Insert "~~**<u>30</u>**~~" 33%

Page 10, line 17:

Delete "**<u>35</u>**"

Insert "~~**<u>30</u>**~~" 33%

Page 11, line 1:

Delete "**<u>35</u>**"

Insert "~~**<u>30</u>**~~" 33%

Page 11, line 14:

Delete "**<u>35</u>**"

Insert "~~**<u>30</u>**~~" 33%

Page 11, line 23:

Delete "**<u>35</u>**"

Insert "~~**<u>30</u>**~~" 33%

Page 15, line 10:

Delete "**<u>35</u>**"

Insert "~~**<u>30</u>**~~" 33%