

HOUSE BILL NO. 531

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Introduced: 3/4/04

Referred: House Special Committee on Oil and Gas, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to natural gas exploration and development and to nonconventional**
2 **gas, and amending the section under which shallow natural gas leases may be issued;**
3 **and providing for an effective date."**

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

5 *** Section 1.** AS 14.40.365(a) is amended to read:

6 (a) The University of Alaska may select and is entitled to receive the
7 conveyance of not less than 250,000 and not more than 260,000 acres of land
8 conveyed to the state under sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72
9 Stat. 339). The Board of Regents of the University of Alaska shall periodically submit
10 a list of selections to the commissioner of natural resources and, if the list of selections
11 contains land within the boundaries of a municipality, the Board of Regents of the
12 University of Alaska shall submit the list to the municipality. The Board of Regents
13 and the commissioner of natural resources shall periodically and jointly submit to the
14 legislature, within 30 days of the beginning of a regular legislative session, a list of the

1 selections of land proposed to be conveyed by the state to the University of Alaska
 2 under this section. If the list submitted to the legislature contains land within the
 3 boundaries of a municipality, the Board of Regents and the commissioner of natural
 4 resources shall provide a copy of the list to the municipality. Each list must contain
 5 not more than 25 percent of the total acres of land to which the university is entitled
 6 after subtracting previous conveyances under this section, but not less than 25,000
 7 acres or the remaining entitlement under this section, whichever is less. A list of
 8 selections submitted shall be considered approved for conveyance to the University of
 9 Alaska unless the legislature acts to disapprove the list during the legislative session
 10 during which the list was submitted. If the amount of land to be conveyed exceeds the
 11 balance due the university under this section, the university shall set out the land to be
 12 conveyed in priority order. Land may not be selected if, on the date of its selection by
 13 the university, it

14 (1) is identified in AS 16.20, AS 41.15.300 - 41.15.330, or AS 41.21 or
 15 has been reserved by law from the public domain;

16 (2) is located within a municipality unless the land is vacant,
 17 unappropriated, unreserved land; if land included on the list of selections is selected
 18 by the municipality with remaining selection rights under AS 29.65 within 120 days of
 19 receiving the Board of Regents' list of selections under this subsection, the university
 20 may not select the land unless a binding agreement between the university and the
 21 municipality is negotiated to allow the selection; if the municipal selection is
 22 disapproved, in whole or in part, the university may select the land, or any available
 23 portion of the land, and that selection will relate back to the date of the Board of
 24 Regents' list of selections under this subsection and shall have priority over all other
 25 selections or claims made subsequent to that notice; in this paragraph, "vacant,
 26 unappropriated, unreserved land" has the meaning given in AS 29.65.130;

27 (3) is land

28 (A) included in a five-year proposed [OIL AND GAS] leasing
 29 program under AS 38.05.180(b); or

30 (B) leased under, or for which a lease application is pending
 31 under, AS 38.05.180(d) or 38.05.150;

1 (4) is subject to

2 (A) an oil, gas, or coal lease, or coal prospecting permit;

3 (B) a mining claim, offshore prospecting permit, a prospecting
4 site, an upland mining lease, or a mining leasehold location;

5 (5) is necessary to carry out the purpose of an interagency land
6 management agreement; or

7 (6) is subject to conveyance under a land exchange or land settlement
8 agreement.

9 * **Sec. 2.** AS 14.40.365(e) is amended to read:

10 (e) The list of selections of land submitted to the legislature may not include a
11 land selection made by the University of Alaska under this section if the commissioner
12 of natural resources determines in writing that the proposed selection

13 (1) includes land that the commissioner, in consultation with the
14 commissioner of fish and game, determines has demonstrated value to the public as a
15 habitat area that is especially critical to the perpetuation of fish or wildlife;

16 (2) includes land for which, at the time of its selection under this
17 section, a municipality has made a selection under AS 29.65 unless the land selection
18 is, at a later date, rejected by the commissioner of natural resources or relinquished by
19 the municipality;

20 (3) includes land that the commissioner reasonably believes may be
21 selected by a newly formed municipality under AS 29.65.030, but the commissioner
22 may not withhold selection under this paragraph for more than three years after the
23 municipality's incorporation;

24 (4) includes land within the boundaries of a municipality, the
25 municipality has a remaining entitlement under AS 29.65, and the municipality selects
26 the land under AS 29.65 within 120 days after receipt by the municipality of the Board
27 of Regents' list of selections under (a) of this section;

28 (5) includes land that, at the time of its selection under this section,

29 (A) is subject to an [OIL AND GAS] exploration license
30 **issued under AS 38.05.131 - 38.05.134**; or

31 (B) the commissioner reasonably believes will be made part of

1 an [OIL AND GAS] exploration license issued under AS 38.05.131 -
 2 38.05.134; the commissioner may not refuse to convey title to land to the
 3 University of Alaska under this subparagraph for more than two years after its
 4 first selection by the University of Alaska; or

5 (6) includes land the commissioner of natural resources reasonably
 6 believes would not be in the best interests of the state to convey outside of state
 7 ownership.

8 * **Sec. 3.** AS 19.40.200(b) is amended to read:

9 (b) The prohibition on disposal of state land under (a) of this section does not
 10 apply to a disposal

11 (1) to a licensed public utility or a licensed common carrier under
 12 AS 38.05.810(e);

13 (2) for the reauthorization of leases that were in effect on January 1,
 14 1994, for nonresidential purposes within the following development nodes:

15 (A) Coldfoot:

16 Township 28 North, Range 12 West, Fairbanks Meridian

17 Sections 3 - 4

18 Sections 9 - 10

19 Sections 15 - 16

20 Sections 20 - 22

21 (B) Yukon River Crossing:

22 Township 12 North, Range 10 West, Fairbanks Meridian

23 Sections 6 - 7

24 Township 12 North, Range 11 West, Fairbanks Meridian

25 Sections 1 - 2

26 Section 12

27 Township 13 North, Range 10 West, Fairbanks Meridian

28 Sections 29 - 32

29 Township 13 North, Range 11 West, Fairbanks Meridian

30 Section 22

31 Sections 25 - 27

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Sections 34 - 36

(3) for nonresidential development within the following development

nodes:

(A) Deadhorse:

Township 10 North, Range 14 East, Umiat Meridian

Township 10 North, Range 15 East, Umiat Meridian

Section 8

Sections 17 - 20

Section 30

(B) Coldfoot:

Township 28 North, Range 12 West, Fairbanks Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

Sections 20 - 22

Township 29 North, Range 12 West, Fairbanks Meridian

Sections 23 - 27

Sections 34 - 35

(C) Franklin Bluffs:

Township 4 North, Range 14 East, Umiat Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

(D) Happy Valley:

Township 3 South, Range 14 East, Umiat Meridian

Sections 19 - 20

Sections 29 - 30

(E) Yukon River Crossing:

Township 12 North, Range 10 West, Fairbanks Meridian

Sections 6 - 7

Township 12 North, Range 11 West, Fairbanks Meridian

Sections 1 - 2

Section 12

Township 13 North, Range 10 West, Fairbanks Meridian

Sections 29 - 32

Township 13 North, Range 11 West, Fairbanks Meridian

Section 22

Sections 25 - 27

Sections 34 - 36; or

(4) necessary for

(A) an oil and gas lease **or gas only lease** under AS 38.05.180;

(B) exploration, development, production, or transportation of oil and gas north of 68 degrees north latitude; or

(C) a state lease or materials sale for

(i) exploration, development, production, or transportation of oil **or** [AND] gas;

(ii) reconstruction or maintenance of state highways; or

(iii) construction or maintenance of airports.

* **Sec. 4.** AS 31.05.030(j) is amended to read:

(j) For the purposes of AS 46.04.030(b), the commission shall determine whether a **nonconventional gas** well [DRILLED FOR SHALLOW NATURAL GAS] may penetrate a formation capable of flowing oil and, if so, whether the volume of oil encountered will be of such quantities that an oil discharge prevention and contingency plan will be required.

* **Sec. 5.** AS 31.05.060(c) is amended to read:

(c) Notwithstanding the requirements of (a) and (b) of this section that relate to fixing a date for a hearing and causing notice of the hearing to be given, for an action under this chapter that involves the exploration for or development of **nonconventional** [SHALLOW NATURAL] gas and that has application to a single well or a single field, upon the request of a lessee or operator, the commission may, where operations might be unduly delayed, approve a variance from the commission's regulations that apply to the well or field without providing notice and opportunity to

1 be heard. In the exercise of its authority to issue the variance,

2 (1) the commission may approve the variance if

3 (A) the approval provides at least an equally effective means of
4 accomplishing the requirement set out in the commission's regulation; or

5 (B) the commission determines that the request is more
6 appropriate to the proposed operation than compliance with the requirement of
7 the regulation; and

8 (2) the terms of the approval of the variance may include exempting
9 the lessee or operator from a requirement of a regulation if the commission determines
10 that the requirement is not necessary or not suited to the well or field taking into
11 consideration

12 (A) the nature of the operation involved;

13 (B) the characteristics of the well or field for which the
14 variance is sought; and

15 (C) the reasonably anticipated risks of the exemption from the
16 requirement to human safety and the environment.

17 * **Sec. 6.** AS 31.05.170 is amended by adding a new paragraph to read:

18 (16) "nonconventional gas" has the meaning given in AS 38.05.177.

19 * **Sec. 7.** AS 36.30.850(b)(25) is amended to read:

20 (25) acquisition of confidential seismic survey data necessary for pre-
21 sale oil and gas lease **or gas only lease** analyses under AS 38.05.180;

22 * **Sec. 8.** AS 36.30.850(b)(33) is amended to read:

23 (33) contracts between the Department of Natural Resources and
24 contractors qualified to evaluate hydrocarbon development, production, transportation,
25 and economics, to assist the commissioner of natural resources in evaluating
26 applications for [OIL AND GAS] royalty increases or decreases or other [OIL AND
27 GAS] royalty adjustments, and evaluating the related financial and technical data,
28 entered into under AS 38.05.180(j);

29 * **Sec. 9.** 38.04.065(i) is amended to read:

30 (i) An oil and gas lease sale **or gas only lease sale** is not subject to this
31 section. Oil and gas lease sales **and gas only lease sales** are subject to the planning

1 process established under AS 38.05.180.

2 * **Sec. 10.** AS 38.05.035(e) is amended to read:

3 (e) Upon a written finding that the interests of the state will be best served, the
 4 director may, with the consent of the commissioner, approve contracts for the sale,
 5 lease, or other disposal of available land, resources, property, or interests in them. In
 6 approving a contract under this subsection, the director need only prepare a single
 7 written finding. In addition to the conditions and limitations imposed by law, the
 8 director may impose additional conditions or limitations in the contracts as the director
 9 determines, with the consent of the commissioner, will best serve the interests of the
 10 state. The preparation and issuance of the written finding by the director are subject to
 11 the following:

12 (1) with the consent of the commissioner and subject to the director's
 13 discretion, for a specific proposed disposal of available land, resources, or property, or
 14 of an interest in them, the director, in the written finding,

15 (A) shall establish the scope of the administrative review on
 16 which the director's determination is based, and the scope of the written
 17 finding supporting that determination; the scope of the administrative review
 18 and finding may address only reasonably foreseeable, significant effects of the
 19 uses proposed to be authorized by the disposal;

20 (B) may limit the scope of an administrative review and finding
 21 for a proposed disposal to

22 (i) applicable statutes and regulations;

23 (ii) the facts pertaining to the land, resources, or
 24 property, or interest in them, that the director finds are material to the
 25 determination and that are known to the director or knowledge of which
 26 is made available to the director during the administrative review; and

27 (iii) issues that, based on the statutes and regulations
 28 referred to in (i) of this subparagraph, on the facts as described in (ii) of
 29 this subparagraph, and on the nature of the uses sought to be authorized
 30 by the disposal, the director finds are material to the determination of
 31 whether the proposed disposal will best serve the interests of the state;

1 and

2 (C) may, if the project for which the proposed disposal is
3 sought is a multiphased development, limit the scope of an administrative
4 review and finding for the proposed disposal to the applicable statutes and
5 regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that
6 pertain solely to the disposal phase of the project when

7 (i) the only uses to be authorized by the proposed
8 disposal are part of that phase;

9 (ii) the disposal is a [AN OIL AND GAS] disposal of
10 oil and gas, or of gas only, and, before the next phase of the project
11 may proceed, public notice and the opportunity to comment are
12 provided under regulations adopted by the department unless the
13 project is subject to a consistency review under AS 46.40 and public
14 notice and the opportunity to comment are provided under
15 AS 46.40.096(c);

16 (iii) the department's approval is required before the
17 next phase of the project may proceed; and

18 (iv) the department describes its reasons for a decision
19 to phase;

20 (2) the director shall discuss in the written finding prepared and issued
21 under this subsection the reasons that each of the following was not material to the
22 director's determination that the interests of the state will be best served:

23 (A) facts pertaining to the land, resources, or property, or an
24 interest in them other than those that the director finds material under (1)(B)(ii)
25 of this subsection; and

26 (B) issues based on the statutes and regulations referred to in
27 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this
28 subsection;

29 (3) a written finding for an oil and gas lease sale or gas only lease sale
30 under AS 38.05.180 is subject to (g) of this section;

31 (4) a contract for the sale, lease, or other disposal of available land or

1 an interest in land is not legally binding on the state until the commissioner approves
 2 the contract, but if the appraised value is not greater than \$50,000 in the case of the
 3 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or
 4 interest in land, the director may execute the contract without the approval of the
 5 commissioner;

6 (5) public notice requirements relating to the sale, lease, or other
 7 disposal of available land or an interest in land for oil and gas, or for gas only,
 8 proposed to be scheduled in the five-year oil and gas leasing program under
 9 AS 38.05.180(b), except for a sale under (6)(F) of this subsection, are as follows:

10 (A) before a public hearing, if held, or in any case not less than
 11 180 days before the sale, lease, or other disposal of available land or an interest
 12 in land, the director shall make available to the public a preliminary written
 13 finding that states the scope of the review established under (1)(A) of this
 14 subsection and includes the applicable statutes and regulations, the material
 15 facts and issues in accordance with (1)(B) of this subsection, and information
 16 required by (g) of this section, upon which the determination that the sale,
 17 lease, or other disposal will serve the best interests of the state will be based;
 18 the director shall provide opportunity for public comment on the preliminary
 19 written finding for a period of not less than 60 days;

20 (B) after the public comment period for the preliminary written
 21 finding and not less than 90 days before the sale, lease, or other disposal of
 22 available land or an interest in land for oil and gas or for gas only, the director
 23 shall make available to the public a final written finding that states the scope of
 24 the review established under (1)(A) of this subsection and includes the
 25 applicable statutes and regulations, the material facts and issues in accordance
 26 with (1) of this subsection, and information required by (g) of this section,
 27 upon which the determination that the sale, lease, or other disposal will serve
 28 the best interests of the state is based;

29 (6) before a public hearing, if held, or in any case not less than 21 days
 30 before the sale, lease, or other disposal of available land, property, resources, or
 31 interests in them other than a sale, lease, or other disposal of available land or an

1 interest in land for oil and gas **or for gas only** under (5) of this subsection, the director
 2 shall make available to the public a written finding that, in accordance with (1) of this
 3 subsection, sets out the material facts and applicable statutes and regulations and any
 4 other information required by statute or regulation to be considered upon which the
 5 determination that the sale, lease, or other disposal will best serve the interests of the
 6 state was based; however, a written finding is not required before the approval of

7 (A) a contract for a negotiated sale authorized under
 8 AS 38.05.115;

9 (B) a lease of land for a shore fishery site under AS 38.05.082;

10 (C) a permit or other authorization revocable by the
 11 commissioner;

12 (D) a mineral claim located under AS 38.05.195;

13 (E) a mineral lease issued under AS 38.05.205;

14 (F) an exempt oil and gas lease sale **or gas only lease sale**
 15 under AS 38.05.180(d) of acreage subject to a best interest finding issued
 16 within the previous 10 years or a reoffer oil and gas lease sale **or gas only**
 17 **lease sale** under AS 38.05.180(w) of acreage subject to a best interest finding
 18 issued within the previous 10 years, unless the commissioner determines that
 19 substantial new information has become available that justifies a supplement to
 20 the most recent best interest finding for the exempt oil and gas lease sale **or**
 21 **gas only lease sale** acreage and for the reoffer oil and gas lease sale **or gas**
 22 **only lease sale** acreage; however, for each oil and gas lease sale **or gas only**
 23 **lease sale** described in this subparagraph, the director shall call for comments
 24 from the public; the director's call for public comments must provide
 25 opportunity for public comment for a period of not less than 30 days; if the
 26 director determines that a supplement to the most recent best interest finding
 27 for the acreage is required under this subparagraph,

28 (i) the director shall issue the supplement to the best
 29 interest finding not later than 90 days before the sale;

30 (ii) not later than 45 days before the sale, the director
 31 shall issue a notice describing the interests to be offered, the location

1 and time of the sale, and the terms and conditions of the sale; and

2 (iii) the supplement has the status of a final written best
3 interest finding for purposes of (i) and (l) of this section;

4 (G) [A SHALLOW GAS LEASE AUTHORIZED UNDER
5 AS 38.05.177 IN AN AREA FOR WHICH LEASING IS AUTHORIZED
6 UNDER AS 38.05.177;

7 (H)] a surface use lease under AS 38.05.255;

8 **(H)** [(I)] a permit, right-of-way, or easement under
9 AS 38.05.850;

10 (7) the director shall include in

11 (A) a preliminary written finding, if required, a summary of
12 agency and public comments, if any, obtained as a result of contacts with other
13 agencies concerning a proposed disposal or as a result of informal efforts
14 undertaken by the department to solicit public response to a proposed disposal,
15 and the department's preliminary responses to those comments; and

16 (B) the final written finding a summary of agency and public
17 comments received and the department's responses to those comments.

18 * **Sec. 11.** AS 38.05.035(g) is amended to read:

19 (g) Notwithstanding (e)(1)(A) and (B) of this section, when the director
20 prepares a written finding required under (e) of this section for an oil and gas lease
21 sale **or a gas only lease sale** scheduled under AS 38.05.180, the director shall consider
22 and discuss

23 (1) in a preliminary or final written finding facts that are known to the
24 director at the time of preparation of the finding and that are

25 (A) material to issues that were raised during the period
26 allowed for receipt of public comment, whether or not material to a matter set
27 out in (B) of this paragraph, and within the scope of the administrative review
28 established by the director under (e)(1) of this section; or

29 (B) material to the following matters:

30 (i) property descriptions and locations;

31 (ii) the petroleum potential of the sale area, in general

1 terms;

2 (iii) fish and wildlife species and their habitats in the
3 area;

4 (iv) the current and projected uses in the area, including
5 uses and value of fish and wildlife;

6 (v) the governmental powers to regulate **the** [OIL AND
7 GAS] exploration, development, production, and transportation **of oil**
8 **and gas or of gas only**;

9 (vi) the reasonably foreseeable cumulative effects of
10 [OIL AND GAS] exploration, development, production, and
11 transportation **for oil and gas or for gas only** on the sale area,
12 including effects on subsistence uses, fish and wildlife habitat and
13 populations and their uses, and historic and cultural resources;

14 (vii) lease stipulations and mitigation measures,
15 including any measures to prevent and mitigate releases of oil and
16 hazardous substances, to be included in the leases, and a discussion of
17 the protections offered by these measures;

18 (viii) the method or methods most likely to be used to
19 transport oil or gas from the lease sale area, and the advantages,
20 disadvantages, and relative risks of each;

21 (ix) the reasonably foreseeable fiscal effects of the lease
22 sale and the subsequent activity on the state and affected municipalities
23 and communities, including the explicit and implicit subsidies
24 associated with the lease sale, if any;

25 (x) the reasonably foreseeable effects of [OIL AND
26 GAS] exploration, development, production, and transportation
27 **involving oil and gas or gas only** on municipalities and communities
28 within or adjacent to the lease sale area; and

29 (xi) the bidding method or methods adopted by the
30 commissioner under AS 38.05.180; and

31 (2) the basis for the director's preliminary or final finding, as

1 applicable, that, on balance, leasing the area would be in the state's best interest.

2 * **Sec. 12.** AS 38.05.036(a) is amended to read:

3 (a) The department may conduct audits regarding royalty and net profits under
4 oil and gas contracts, agreements, or leases under this chapter and regarding costs
5 related to [OIL AND GAS] exploration licenses **entered into under AS 38.05.131 -**
6 **38.05.134** and exploration incentive credits under this chapter or under AS 41.09. For
7 purposes of audit under this section,

8 (1) the department may examine the books, papers, records, or
9 memoranda of a person regarding matters related to the audit; and

10 (2) the records and premises where a business is conducted shall be
11 open at all reasonable times for inspection by the department.

12 * **Sec. 13.** AS 38.05.127(e) is amended to read:

13 (e) The establishment of easements or rights-of-way for oil and gas, **gas only,**
14 and mineral leases under (a) of this section need not be made until the leases are ready
15 to be developed.

16 * **Sec. 14.** AS 38.05.131(a) is amended to read:

17 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the
18 provisions of AS 38.05.005 - 38.05.037, 38.05.140(f), 38.05.180, 38.05.182 -
19 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of [OIL AND GAS]
20 exploration licenses and leases **for oil and gas, or for gas only, as appropriate,**
21 under AS 38.05.132 - 38.05.134.

22 * **Sec. 15.** AS 38.05.132(a) is amended to read:

23 (a) To encourage exploration for oil and gas on state land, the commissioner
24 may issue [OIL AND GAS] exploration licenses. **The commissioner may limit the**
25 **exploration licenses under AS 38.05.132 - 38.05.134 to exploration for and**
26 **recovery of gas only.**

27 * **Sec. 16.** AS 38.05.132(b) is amended to read:

28 (b) An [OIL AND GAS] exploration license issued under this section gives
29 the licensee

30 (1) the exclusive right to explore, for a term not to exceed 10 years,
31 [FOR DEPOSITS OF OIL AND GAS] on unleased state land described in the

1 exploration license **for deposits of oil and gas, or for deposits of gas only, as**
 2 **appropriate**, unless the exploration license is terminated under (d)(1) of this section
 3 or the land is earlier relinquished, removed, or deleted under (d)(2) of this section; and
 4 (2) unless the exploration license is terminated under (d)(1) of this
 5 section, the option to convert the exploration license for all or part of the state land,
 6 except the land that is deleted or removed from the land described in the exploration
 7 license under (d)(2) of this section, into an oil and gas lease, **or a gas lease only, as**
 8 **appropriate**, upon fulfillment of the work commitments contained in the exploration
 9 license.

10 * **Sec. 17.** AS 38.05.132(c) is amended to read:

11 (c) An exploration license awarded under this section

12 (1) is not subject to the acreage limitations imposed by
 13 AS 38.05.140(c) or 38.05.180(m);

14 (2) may cover, subject to the maximum acreage limitation on
 15 exploration licenses by one licensee under AS 38.05.131(e), an area of not less than
 16 10,000 acres and not more than 500,000 acres, that must be reasonably compact and
 17 contiguous;

18 (3) must be conditioned upon an obligation to perform a specified
 19 work commitment, in total for the term of the license, expressed in dollars of direct
 20 exploration expenditures; the specified work commitment

21 (A) may include a provision that adjusts the total amount of
 22 work commitment, expressed in dollars of direct exploration expenditures, to
 23 account for inflation;

24 (B) must include a requirement that the licensee complete at
 25 least 25 percent of the licensee's total specified work commitment by the fourth
 26 anniversary of the effective date of the issuance of the [OIL AND GAS]
 27 exploration license;

28 (4) must be conditioned upon the posting of a bond or other security
 29 acceptable to the commissioner, in favor of the state and subject to the following
 30 requirements:

31 (A) the bond or other security must be renewed annually;

1 (B) the annual bond or other security shall be calculated as the
 2 entire work commitment expressed in dollars, less the cumulative direct
 3 exploration expenditures of the licensee as of the last day of the most recent
 4 project year, divided by the number of years remaining in the term of the
 5 exploration license;

6 (5) is subject to an annual review and revocation if the commissioner
 7 determines that the licensee has failed to provide or maintain in effect the bond or
 8 other security required by (4) of this subsection;

9 (6) must be conditioned upon the licensee's payment to the state of a
 10 nonrefundable [OIL AND GAS] exploration license fee of \$1 for each acre of land or
 11 fraction of each acre that is subject to the exploration license; and

12 (7) must be conditioned upon an agreement that exploration
 13 expenditures are subject to audit by the commissioner.

14 * **Sec. 18.** AS 38.05.132(f) is amended to read:

15 (f) In this section,

16 (1) "direct exploration expenditure" means cash expenses undertaken
 17 in performance of a specified work commitment under the provisions of AS 38.05.131
 18 - 38.05.134 and necessarily incurred by the licensee in the permitting, mobilization,
 19 conducting, demobilization, and evaluation of geophysical and geological surveys, or
 20 the drilling, logging, coring, testing, and evaluation of oil and gas or gas only wells;
 21 the term

22 (A) includes direct labor costs, including the cost of benefits,
 23 for employees directly associated with the work commitment programs, the
 24 cost of renting or leasing equipment from parties not affiliated with the
 25 licensee, the reasonable costs of maintaining and operating equipment,
 26 payments to consultants and independent contractors not affiliated with the
 27 licensee, and costs of materials and supplies;

28 (B) does not include noncash expenses such as depreciation
 29 and reserves, interest or other costs of borrowed funds, return on investment,
 30 overhead, insurance or bond premiums, or any other expense that is
 31 unreasonable or that the licensee has not incurred to satisfy the licensee's work

1 commitment;

2 (2) "work commitment" includes the drilling of one or more
3 exploration wells or the gathering of data from activities described in (1) of this
4 subsection, or both.

5 * **Sec. 19.** AS 38.05.133(a) is amended to read:

6 (a) The procedures in this section apply to the issuance of an [OIL AND GAS]
7 exploration license under AS 38.05.132.

8 * **Sec. 20.** AS 38.05.133(f) is amended to read:

9 (f) After considering proposals not rejected under (d) of this section and public
10 comment on those proposals, the commissioner shall issue a written finding
11 addressing all matters set out in AS 38.05.035(e) and (g), except for
12 AS 38.05.035(g)(1)(B)(xi). If the finding concludes that the state's best interests would
13 be served by issuing an [OIL AND GAS] exploration license, the finding must (1)
14 describe the limitations, stipulations, conditions, or changes from the initiating
15 proposal or competing proposals that are required to make the issuance of the
16 exploration license conform to the best interests of the state, and (2) if only one
17 proposal was submitted, identify the prospective licensee whom the commissioner
18 finds should be issued the exploration license. The commissioner shall attach to the
19 finding a copy of the exploration license to be issued and the form of lease that will be
20 used for any portion of the exploration license area subsequently converted to a [AN
21 OIL AND GAS] lease under AS 38.05.134.

22 * **Sec. 21.** AS 38.05.133(h) is amended to read:

23 (h) If competing proposals are submitted, and the commissioner's finding
24 under (f) of this section concludes that an [OIL AND GAS] exploration license should
25 be issued, the commissioner shall issue a request for competitive sealed bids, under
26 procedures adopted by the commissioner by regulation, to determine which
27 prospective licensee should be issued the exploration license. The finding provided to
28 the prospective licensees and the public under (f) of this section must contain notice
29 that (1) the commissioner intends to request competitive sealed bids, (2) a prospective
30 licensee who intends to participate in the bidding must notify the commissioner in
31 writing by the date specified in the notice, and (3) a prospective licensee's notice of

1 intent to participate in the bidding constitutes acceptance of issuance of the
 2 exploration license, as limited or conditioned by the terms contained in the finding and
 3 by the exploration license to be issued and the form of lease to be used that have been
 4 attached to that finding, if the prospective licensee is the successful bidder. The
 5 successful bidder is the prospective licensee who submits the highest bid in terms of
 6 the minimum work commitment dollar amount.

7 * **Sec. 22.** AS 38.05.134 is amended to read:

8 **Sec. 38.05.134. Conversion to lease.** If the licensee requests and the
 9 commissioner determines that the work commitment obligation set out in an [OIL
 10 AND GAS] exploration license issued under AS 38.05.132 has been met, the
 11 commissioner shall convert to one or more [OIL AND GAS] leases all or part, as the
 12 licensee may indicate, of the area described in the exploration license that remains
 13 after the relinquishments, removals, or deletions required by AS 38.05.132(d)(2). A
 14 lease issued under this section

15 (1) is subject to the acreage limitations imposed by AS 38.05.140(c);

16 (2) is subject to AS 38.05.180(j) - (m), (o) - (u), and (x) - (z);

17 (3) must be conditioned upon a royalty in amount or value of not less
 18 than 12.5 percent of production, except that

19 (A) the lessee who, proceeding under AS 38.05.131 -
 20 38.05.134, under a lease issued in the Cook Inlet sedimentary basin who is the
 21 first to file with the commissioner a nonconfidential sworn statement claiming
 22 to be the first to have drilled a well discovering oil or gas in a previously
 23 undiscovered oil or gas pool and who is certified by the commissioner within
 24 one year of completion of that discovery well to have drilled a well in that pool
 25 that is capable of producing in paying quantities shall pay a royalty of five
 26 percent on all production of oil or gas from that pool attributable to that lease
 27 for a period of 10 years following the date of discovery of that pool, and
 28 thereafter the royalty payable on all production of oil or gas from the pool
 29 attributable to that lease shall be determined and payable as specified in the
 30 lease; the payment of the five percent royalty under this paragraph is
 31 authorized only to a holder of a lease who meets the requirements of

1 AS 38.05.180(f)(4); **and**

2 **(B) for nonconventional gas that is not produced in direct**
 3 **competition with gas on which a royalty at a rate of at least 12.5 percent is**
 4 **payable, if the licensee requests, the commissioner may negotiate with the**
 5 **licensee and set a royalty rate for the gas of at least 6.25 percent; for**
 6 **purposes of this subparagraph, "nonconventional gas" has the meaning**
 7 **given in AS 38.05.177(o);**

8 (4) must include an annual rent of \$3 per acre or fraction of an acre
 9 initially paid to the state at inception of the lease and payable annually after that until
 10 the income to the state from royalty under that lease exceeds the rental income to the
 11 state under that lease for that year; and

12 (5) is subject to other conditions and obligations that are specified in
 13 the lease.

14 * **Sec. 23.** AS 38.05.140(a) is amended to read:

15 (a) A person may not take or hold coal leases or permits during the life of coal
 16 leases on state land exceeding an aggregate of 92,160 acres, except that a person may
 17 apply for coal leases or permits for acreage in addition to 92,160 acres, not exceeding
 18 a total of 5,120 additional acres of state land. The additional area applied for shall be
 19 in multiples of 40 acres, and the application shall contain a statement that the granting
 20 of a lease for additional land is necessary for the person to carry on business
 21 economically and is in the public interest. On the filing of the application, [EXCEPT
 22 AS PROVIDED BY AS 38.05.177(a)(2)(C),] the coal deposits in the land covered by
 23 the application shall be temporarily set aside and withdrawn from all other forms of
 24 disposal provided under AS 38.05.135 - 38.05.181.

25 * **Sec. 24.** AS 38.05.140(f) is amended to read:

26 (f) The submerged and shoreland lying north of 57 degrees, 30 minutes, **North**
 27 [NORTH] latitude and east of 159 degrees, 49 minutes, **West** [WEST] longitude
 28 within the Bristol Bay drainage are designated as the Bristol Bay Fisheries Reserve.
 29 Within the Bristol Bay Fisheries Reserve, **a** [NO] surface entry permit to develop an
 30 oil or gas lease or **an** [OIL AND GAS] exploration license **under AS 38.05.131 -**
 31 **38.05.134** may **not** be issued on state owned or controlled land until the legislature by

1 appropriate resolution specifically finds that the entry will not constitute danger to the
2 fishery.

3 * **Sec. 25.** AS 38.05.150(f) is amended to read:

4 (f) A [NOTWITHSTANDING AS 38.05.177, A] lease entered into under this
5 section gives the lessee the right to vent or remove methane and other gas held in
6 association with the coal in the land covered by the lease to ensure safe coal mining
7 operations.

8 * **Sec. 26.** AS 38.05.177(a) is amended to read:

9 (a) The provisions of this section

10 (1) apply to **nonconventional** gas [, WHETHER METHANE
11 ASSOCIATED WITH AND DERIVED FROM COAL DEPOSITS OR
12 OTHERWISE, FROM A FIELD IF A PART OF THE FIELD IS WITHIN 3,000
13 FEET OF THE SURFACE]; and

14 (2) do not apply to authorize lease of

15 (A) [LAND

16 (i) THAT IS SUBJECT TO AN OIL AND GAS
17 EXPLORATION LICENSE OR LEASE ISSUED UNDER
18 AS 38.05.131 - 38.05.134; OR

19 (ii) THAT IS LEASED UNDER AS 38.05.180;

20 (B) THE LAND (i) THAT IS PROPOSED TO BE SUBJECT
21 TO AN OIL AND GAS EXPLORATION LICENSE OR LEASE ISSUED
22 UNDER AS 38.05.131 - 38.05.134; OR (ii) THAT IS DESCRIBED IN AND
23 PART OF A PROPOSED OIL AND GAS LEASING PROGRAM
24 PREPARED UNDER AS 38.05.180(b); HOWEVER, THE COMMISSIONER
25 MAY WAIVE THE LIMITATIONS OF THIS SUBPARAGRAPH;

26 (C) the land that is held under a coal lease entered into under
27 AS 38.05.150, unless **a lessee under this section** [THE APPLICANT FOR A
28 SHALLOW NATURAL GAS LEASE] is also the lessee under AS 38.05.150
29 of that land; or

30 **(B)** [(D)] the valid existing selections of the Alaska Mental
31 Health Trust Authority made for the purpose of reconstituting the mental

1 health trust established under the Alaska Mental Health Enabling Act, P.L. 84-
 2 830, 70 Stat. 709 (1956), that become subject to management under
 3 AS 38.05.801, or of land that has been designated by law for or is subject to
 4 designation for conveyance to the Alaska Mental Health Trust Authority;
 5 however, after consultation with the Alaska Mental Health Trust Authority, the
 6 commissioner may waive the limitations of this subparagraph.

7 * **Sec. 27.** AS 38.05.177(f) is amended to read:

8 (f) A **nonconventional** [SHALLOW] gas lease must provide for payment to
 9 the state of annual rent in the amount of \$1 per acre, **notwithstanding**
 10 **AS 38.05.180(n)**. The rent is due and payable on the date determined in the lease. If
 11 the lease payment is not received by the due date, the director shall mail the lessee one
 12 written notice, certified return receipt requested. If the lessee fails to pay the rent
 13 within 30 days of receipt of the notice, the director shall terminate the lease.

14 * **Sec. 28.** AS 38.05.177(g) is amended to read:

15 (g) The royalty payable on **nonconventional** [NATURAL] gas produced from
 16 a lease

17 [(1) IS

18 (A) 12.5 PERCENT OF THE VALUE OF PRODUCTION
 19 REMOVED OR SOLD FROM THE LEASE FOR GAS EXPORTED FROM
 20 THE STATE OR GAS THAT IS PRODUCED IN DIRECT COMPETITION
 21 WITH GAS ON WHICH A ROYALTY AT A RATE OF AT LEAST 12.5
 22 PERCENT IS PAYABLE; AND

23 (B) EXCEPT AS PROVIDED IN (A) OF THIS
 24 PARAGRAPH, 6.25 PERCENT OF THE VALUE OF THE PRODUCTION
 25 REMOVED OR SOLD FROM THE LEASE; AND

26 (2)] shall be based upon production delivered in pipeline quality and
 27 free of all lease expenses, including but not limited to separation, cleaning,
 28 dehydration, gathering, salt water disposal, and preparation for transportation off the
 29 lease.

30 * **Sec. 29.** AS 38.05.177(j) is amended to read:

31 (j) A lease does not give the lessee the right to produce oil. A lease gives the

1 lessee the right to produce **nonconventional** gas [ONLY TO THE EXTENT THAT IT
 2 IS FROM A FIELD IF A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE
 3 SURFACE]. If a well drilling for natural gas under a lease authorized by this section
 4 [PENETRATES A FIELD, NO PORTION OF WHICH IS WITHIN 3,000 FEET OF
 5 THE SURFACE, OR] penetrates a formation capable of producing oil, the owner or
 6 operator

7 (1) shall notify the department and the Alaska Oil and Gas
 8 Conservation Commission; and

9 (2) may not conduct further operations in the drilled well until the
 10 facility complies with all applicable laws and regulations relating to oil and gas
 11 exploration and production; however, this paragraph does not prevent the owner or
 12 operator from conducting activities that may be required by the Alaska Oil and Gas
 13 Conservation Commission to plug, plug-back, or abandon a well.

14 * **Sec. 30.** AS 38.05.177(k) is amended to read:

15 (k) The commissioner may

16 (1) adopt only the regulations that are reasonable and that are
 17 necessary to implement, interpret, or make specific the provisions of this section or to
 18 establish procedures to govern application of the provisions of this section; and

19 (2) in addition to any requirement for a bond under AS 38.05.130,
 20 establish by regulation a form and amount for statewide, areawide, unit-wide, or per-
 21 lease bonds sufficient to secure damages that may be caused by the activities of a
 22 lessee, or the lessee's successors or assigns, related to a **nonconventional**
 23 [SHALLOW] natural gas lease entered into under this section; if the commissioner
 24 acts under this paragraph, the commissioner

25 (A) shall require a person applying for a lease under this
 26 section to post the bond as a condition for the director's executing the lease;

27 (B) may not require a bond posted under this paragraph from a
 28 person applying for a lease if the person has already posted a bond covering
 29 the person's statewide oil and gas leasing activities in an amount of at least
 30 \$500,000.

31 * **Sec. 31.** AS 38.05.177(o) is amended to read:

1 (o) In this section,

2 (1) "lease" means a **nonconventional** [SHALLOW] gas lease
3 authorized by this section;

4 (2) **"nonconventional gas" means coal bed methane, shales**
5 **containing gas, or gas hydrates.**

6 * Sec. 32. AS 38.05.180(a) is amended to read:

7 (a) The legislature finds that

8 (1) the people of Alaska have an interest in the development of the
9 state's oil and gas resources to

10 (A) maximize the economic and physical recovery of the
11 resources;

12 (B) maximize competition among parties seeking to explore
13 and develop the resources;

14 (C) maximize use of Alaska's human resources in the
15 development of the resources;

16 (2) it is in the best interests of the state

17 (A) to encourage an assessment of its oil and gas resources and
18 to allow the maximum flexibility in the methods of issuing leases to

19 (i) recognize the many varied geographical regions of
20 the state and the different costs of exploring for oil and gas in these
21 regions;

22 (ii) minimize the adverse impact of exploration,
23 development, production, and transportation activity; and

24 (B) to offer acreage for oil and gas leases **or for gas only**
25 **leases**, specifically including

26 (i) state acreage that has been the subject of a best
27 interest finding at annual areawide lease sales; and

28 (ii) land in areas that, under (d) of this section, may be
29 leased without having been included in the leasing program prepared
30 and submitted under (b) of this section.

31 * Sec. 33. AS 38.05.180(b) is amended to read:

1 (b) The commissioner shall biennially prepare and, between the first and the
 2 15th day of the first regular session of each legislature, notify the legislature of the
 3 availability of, a five-year proposed oil and gas leasing program consisting of a
 4 schedule of proposed lease sales and specifying as precisely as practicable the location
 5 of tracts proposed to be offered for oil and gas leasing **or for leasing of gas only**
 6 during the calendar year in which the proposed program is made available to the
 7 legislature and the following four calendar years.

8 * **Sec. 34.** AS 38.05.180(c) is amended to read:

9 (c) Except as provided in (d) and (w) of this section, an oil and gas lease sale
 10 **or gas only lease sale** may not be held unless it was included in the proposed leasing
 11 programs submitted to the legislature during the two calendar years preceding the year
 12 in which the sale is held. A lease sale, **whether for oil and gas or for gas only,** may
 13 not be held before the date it is scheduled in the proposed oil and gas leasing program.

14 * **Sec. 35.** AS 38.05.180(d) is amended to read:

15 (d) The commissioner

16 (1) may annually offer **leases for** oil and gas **or leases for gas only**
 17 [LEASES] of the acreage described in AS 38.05.035(e)(6)(F);

18 (2) may issue oil and gas leases in an area that has not been included in
 19 a leasing program prepared, in accordance with (b) of this section, if the land to be
 20 leased

21 (A) was previously subject to a valid state **oil and gas lease, a**
 22 **valid state gas lease,** or **a valid** federal oil and gas lease;

23 (B) is contiguous to land already under state, federal, or private
 24 lease and the commissioner makes a written finding, after hearing, that leasing
 25 of the land would result in a substantial probability of early evaluation and
 26 development of the land to be leased;

27 (C) is adjacent to land owned or controlled by another party on
 28 which a discovery of commercial quantities of oil or gas has been made, and
 29 the commissioner finds, after hearing, that there is a reasonable probability that
 30 the land to be leased contains oil or gas in communication with the oil or gas
 31 discovered on the land of the other party;

1 (D) is adjacent to land included in the federal five-year Outer
 2 Continental Shelf leasing program under 43 U.S.C. 1344, and the
 3 commissioner makes a written finding, after hearing, that coordinated or
 4 simultaneous leasing with the federal government is in the public interest; or

5 (E) is the subject of an [OIL AND GAS] exploration license
 6 issued under AS 38.05.131 - 38.05.134; **however, if the license issued was**
 7 **for exploration for and recovery of gas only, then the lease issued under**
 8 **this subsection shall be limited to exploration for and recovery of gas only.**

9 * **Sec. 36.** AS 38.05.180(f) is amended to read:

10 (f) Except as provided by AS 38.05.131 - 38.05.134 [AND 38.05.177], the
 11 commissioner may issue oil and gas leases **or leases for gas only** on state land to the
 12 highest responsible qualified bidder as follows:

13 (1) the commissioner shall issue an oil and gas lease **or a gas only**
 14 **lease, as appropriate,** to the successful bidder determined by competitive bidding
 15 under regulations adopted by the commissioner; bidding may be by sealed bid or
 16 according to any other bidding procedure the commissioner determines is in the best
 17 interests of the state;

18 (2) whenever, under any of the leasing methods listed in this
 19 subsection, a royalty share is reserved to the state, it shall be delivered in pipeline
 20 quality and free of all lease or unit expenses, including but not limited to separation,
 21 cleaning, dehydration, gathering, salt water disposal, and preparation for transportation
 22 off the lease or unit area;

23 (3) following a pre-sale analysis, the commissioner may choose at least
 24 one of the following leasing methods:

25 (A) a cash bonus bid with a fixed royalty share reserved to the
 26 state of not less than 12.5 percent in amount or value of the production
 27 removed or sold from the lease;

28 (B) a cash bonus bid with a fixed royalty share reserved to the
 29 state of not less than 12.5 percent in amount or value of the production
 30 removed or sold from the lease and a fixed share of the net profit derived from
 31 the lease of not less than 30 percent reserved to the state;

1 (C) a fixed cash bonus with a royalty share reserved to the state
2 as the bid variable but no less than 12.5 percent in amount or value of the
3 production removed or sold from the lease;

4 (D) a fixed cash bonus with the share of the net profit derived
5 from the lease reserved to the state as the bid variable;

6 (E) a fixed cash bonus with a fixed royalty share reserved to the
7 state of not less than 12.5 percent in amount or value of the production
8 removed or sold from the lease with the share of the net profit derived from the
9 lease reserved to the state as the bid variable;

10 (F) a cash bonus bid with a fixed royalty share reserved to the
11 state based on a sliding scale according to the volume of production or other
12 factor but in no event less than 12.5 percent in amount or value of the
13 production removed or sold from the lease;

14 (G) a fixed cash bonus with a royalty share reserved to the state
15 based on a sliding scale according to the volume of production or other factor
16 as the bid variable but not less than 12.5 percent in amount or value of the
17 production removed or sold from the lease;

18 **(H) for nonconventional gas that will not be produced in**
19 **direct competition with gas on which a royalty at a rate of at least 12.5**
20 **percent is payable, a royalty share reserved to the state of at least 6.25**
21 **percent in amount or value of the production removed or sold from the**
22 **lease; for purposes of this subparagraph, "nonconventional gas" has the**
23 **meaning given in AS 38.05.177;**

24 (4) notwithstanding a requirement in the leasing method chosen of a
25 minimum fixed royalty share, on and after March 3, 1997, the lessee under a lease
26 issued in the Cook Inlet sedimentary basin who is the first to file with the
27 commissioner a nonconfidential sworn statement claiming to be the first to have
28 drilled a well discovering oil or gas in a previously undiscovered oil or gas pool and
29 who is certified by the commissioner within one year of completion of that discovery
30 well to have drilled a well in that pool that is capable of producing in paying quantities
31 shall pay a royalty of five percent on all production of oil or gas from that pool

1 attributable to that lease for a period of 10 years following the date of discovery of that
2 pool, and thereafter the royalty payable on all production of oil or gas from the pool
3 attributable to that lease shall be determined and payable as specified in the lease; for
4 purposes of this paragraph, the reduced royalty authorized by this paragraph is subject
5 to the following:

6 (A) only one reduction of royalty authorized by this paragraph
7 may be allowed on each lease that qualifies for reduction of royalty under this
8 paragraph;

9 (B) if, under this paragraph, application is made for a royalty
10 reduction for a lease that was entered into before March 3, 1997, the
11 commissioner may approve the application only if, on that date, the lease was a
12 nonproducing lease that was not committed to a unit approved by the
13 commissioner under (m) of this section, that is not part of a unit under (p) or
14 (q) of this section, and that has not been made part of a unit under AS 31.05;

15 (C) if application for a royalty reduction is made under this
16 paragraph for a lease on which a discovery royalty was claimed or may be
17 claimed under the discovery royalty provisions of former AS 38.05.180(a) in
18 effect before May 6, 1969, the commissioner shall disallow the application
19 under this paragraph unless the applicant waives the right to claim the right to
20 a reduced royalty under the discovery royalty provisions of former
21 AS 38.05.180(a) in effect before May 6, 1969; and

22 (D) the commissioner shall adopt regulations setting out the
23 standards, criteria, and definitions of terms that apply to implement the filing
24 of applications for, and the review and certification of, discovery [OIL AND
25 GAS ROYALTY] certifications under this paragraph;

26 (5) notwithstanding and in lieu of a requirement in the leasing method
27 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases
28 unitized as described in (p) of this section, leases subject to an agreement described in
29 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of
30 an oil or gas field identified in this section that has been granted approval of a written
31 plan submitted to the Alaska Oil and Gas Conservation Commission under

1 AS 31.05.030(i) shall, subject to (dd) of this section, pay a royalty of five percent on
 2 the first 25,000,000 barrels of oil and the first 35,000,000,000 cubic feet of gas
 3 produced for sale from that field that occurs in the 10 years following the date on
 4 which the production for sale commences; the fields eligible for royalty reduction
 5 under this paragraph, all of which are located within the Cook Inlet sedimentary basin,
 6 were discovered before January 1, 1988, and have been undeveloped or shut in from at
 7 least January 1, 1988, through December 31, 1997, are

- 8 (A) Falls Creek;
- 9 (B) Nicolai Creek;
- 10 (C) North Fork;
- 11 (D) Point Starichkof;
- 12 (E) Redoubt Shoal; and
- 13 (F) West Foreland;

14 (6) notwithstanding and in lieu of a requirement in the leasing method
 15 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases
 16 unitized as described in (p) of this section, leases subject to an agreement described in
 17 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of
 18 an oil field located offshore in Cook Inlet on which an oil production platform
 19 specified in (A), (C), or (E) of this paragraph operates, or the lessee of all or part of the
 20 field located offshore in Cook Inlet and described in (G) of this paragraph,

21 (A) shall pay a royalty of five percent on oil produced from the
 22 platform if oil production that equaled or exceeded a volume of 1,200 barrels a
 23 day declines to less than that amount for a period of at least one calendar
 24 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for
 25 as long as the volume of oil produced from the platform remains less than
 26 1,200 barrels a day; the provisions of this subparagraph apply to

- 27 (i) Dolly;
- 28 (ii) Grayling;
- 29 (iii) King Salmon;
- 30 (iv) Steelhead; and
- 31 (v) Monopod;

1 (B) shall pay a royalty calculated under this subparagraph if the
2 volume of oil produced from the platform that was certified by the Alaska Oil
3 and Gas Conservation Commission under (A) of this paragraph later increases
4 to 1,200 or more barrels a day and remains at 1,200 or more barrels a day for a
5 period of at least one calendar quarter; until the royalty rate determined under
6 this subparagraph applies, the royalty continues to be calculated under (A) of
7 this paragraph; on and after the first day of the month following the month the
8 increased production exceeds the period specified in this subparagraph, the
9 royalty payable under this subparagraph is

10 (i) for production of at least 1,200 barrels a day but not
11 more than 1,300 barrels a day - seven percent;

12 (ii) for production of more than 1,300 barrels a day but
13 not more than 1,400 barrels a day - 8.5 percent;

14 (iii) for production of more than 1,400 barrels a day but
15 not more than 1,500 barrels a day - 10 percent; and

16 (iv) for production of more than 1,500 barrels a day -
17 12.5 percent;

18 (C) shall pay a royalty of five percent on oil produced from the
19 platform if oil production that equaled or exceeded a volume of 975 barrels a
20 day declines to less than that amount for a period of at least one calendar
21 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for
22 as long as the volume of oil produced from the platform remains less than 975
23 barrels a day; the provisions of this subparagraph apply to

24 (i) Baker;

25 (ii) Dillon;

26 (iii) XTO.A; and

27 (iv) XTO.C;

28 (D) shall pay a royalty calculated under this subparagraph if the
29 volume of oil produced from the platform that was certified by the Alaska Oil
30 and Gas Conservation Commission under (C) of this paragraph later increases
31 to 975 or more barrels a day and remains at 975 or more barrels a day for a

1 period of at least one calendar quarter; until the royalty rate determined under
2 this subparagraph applies, the royalty continues to be calculated under (C) of
3 this paragraph; on and after the first day of the month following the month the
4 increased production exceeds the period specified in this subparagraph, the
5 royalty payable under this subparagraph is

6 (i) for production of at least 975 barrels a day but not
7 more than 1,100 barrels a day - seven percent;

8 (ii) for production of more than 1,100 barrels a day but
9 not more than 1,200 barrels a day - 8.5 percent;

10 (iii) for production of more than 1,200 barrels a day but
11 not more than 1,350 barrels a day - 10 percent; and

12 (iv) for production of more than 1,350 barrels a day -
13 12.5 percent;

14 (E) shall pay a royalty of five percent on oil produced from the
15 platform if oil production that equaled or exceeded a volume of 750 barrels a
16 day declines to less than that amount for a period of at least one calendar
17 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for
18 as long as the volume of oil produced from the platform remains less than 750
19 barrels a day; the provisions of this subparagraph apply to

20 (i) Granite Point;

21 (ii) Anna; and

22 (iii) Bruce;

23 (F) shall pay a royalty calculated under this subparagraph if the
24 volume of oil produced from the platform that was certified by the Alaska Oil
25 and Gas Conservation Commission under (E) of this paragraph later increases
26 to 750 or more barrels a day and remains at 750 or more barrels a day for a
27 period of at least one calendar quarter; until the royalty rate determined under
28 this subparagraph applies, the royalty continues to be calculated under (E) of
29 this paragraph; on and after the first day of the month following the month the
30 increased production exceeds the period specified in this subparagraph, the
31 royalty payable under this subparagraph is

1 (i) for production of at least 750 barrels a day but not
2 more than 850 barrels a day - seven percent;

3 (ii) for production of more than 850 barrels a day but
4 not more than 1,000 barrels a day - 8.5 percent;

5 (iii) for production of more than 1,000 barrels a day but
6 not more than 1,200 barrels a day - 10 percent; and

7 (iv) for production of more than 1,200 barrels a day -
8 12.5 percent;

9 (G) shall pay a royalty of five percent on oil produced from the
10 field if oil production that equaled or exceeded a volume of 750 barrels a day
11 declines to less than that amount for a period of at least one calendar quarter,
12 as certified by the Alaska Oil and Gas Conservation Commission, for as long
13 as the volume of oil produced from the field remains less than 750 barrels a
14 day; the provisions of this subparagraph apply to the West McArthur River
15 field;

16 (H) shall pay a royalty calculated under this subparagraph if the
17 volume of oil produced from the field that was certified by the Alaska Oil and
18 Gas Conservation Commission under (G) of this paragraph later increases to
19 750 or more barrels a day and remains at 750 or more barrels a day for a period
20 of at least one calendar quarter; until the royalty rate determined under this
21 subparagraph applies, the royalty continues to be calculated under (G) of this
22 paragraph; on and after the first day of the month following the month the
23 increased production exceeds the period specified in this subparagraph, the
24 royalty payable under this subparagraph is

25 (i) for production of at least 750 barrels a day but not
26 more than 850 barrels a day - seven percent;

27 (ii) for production of more than 850 barrels a day but
28 not more than 1,000 barrels a day - 8.5 percent;

29 (iii) for production of more than 1,000 barrels a day but
30 not more than 1,200 barrels a day - 10 percent; and

31 (iv) for production of more than 1,200 barrels a day -

1 12.5 percent; and

2 (I) may obtain the benefits of the royalty adjustments set out in
3 (A) - (H) of this paragraph only if the commissioner determines that the
4 reduction in production from the platform or the field is

5 (i) based on the average daily production during the
6 calendar quarter based on reservoir conditions; and

7 (ii) not the result of short-term production declines due
8 to mechanical or other choke-back factors, temporary shutdowns or
9 decreased production due to environmental or facility constraints, or
10 market conditions.

11 * **Sec. 37.** AS 38.05.180(h) is amended to read:

12 (h) The commissioner may include terms in any [OIL AND GAS] lease
13 imposing a minimum work commitment on the lessee. These terms shall be made
14 public before the sale, and may include appropriate penalty provisions to take effect in
15 the event the lessee does not fulfill the minimum work commitment. If it is
16 demonstrated that a lease has been proven unproductive by actions of adjacent lease
17 holders, the commissioner may set aside a work commitment. The commissioner may
18 waive for a period not to exceed one two-year period any term of a minimum work
19 commitment if the commissioner makes a written finding either that conditions
20 preventing drilling or exploration were beyond the lessee's reasonable ability to
21 foresee or control or that the lessee has demonstrated through good faith efforts an
22 intent and ability to drill or develop the lease during the term of the waiver.

23 * **Sec. 38.** AS 38.05.180(i) is amended to read:

24 (i) The commissioner may provide for the establishment of an exploration
25 incentive credit system under which a lessee of state land drilling an exploratory well
26 on that land may earn credits based upon the footage drilled and the region in which
27 the well is situated. The commissioner may also provide for credits to be earned by
28 persons performing geophysical work on state land, if that work is performed during
29 the two seasons immediately preceding an announced lease sale and on land included
30 within the sale area and the geophysical information is made public following the sale.
31 Credits may not exceed 50 percent of the cost of the drilling or geophysical work.

1 Credits may be used during a limited period established by the commissioner and may
 2 be assigned during that period. Credits may be applied against (1) [OIL AND GAS]
 3 royalty and rental payments **for oil and gas or for gas only** payable to the state or (2)
 4 taxes payable under AS 43.55. A credit may not exceed 50 percent of the payment
 5 toward which it is being applied. Amounts due the Alaska permanent fund
 6 (AS 37.13.010) shall be calculated before the application of credits under this
 7 subsection.

8 * **Sec. 39.** AS 38.05.180(j) is amended to read:

9 (j) The commissioner

10 (1) may provide for modification of royalty on individual leases, leases
 11 unitized as described in (p) of this section, leases subject to an agreement described in
 12 (s) or (t) of this section, or interests unitized under AS 31.05

13 (A) to allow for production from an oil or gas field or pool if

14 (i) the oil or gas field or pool has been sufficiently
 15 delineated to the satisfaction of the commissioner;

16 (ii) the field or pool has not previously produced oil or
 17 gas for sale; and

18 (iii) oil or gas production from the field or pool would
 19 not otherwise be economically feasible;

20 (B) to prolong the economic life of an oil or gas field or pool as
 21 per barrel or barrel equivalent costs increase or as the price of oil or gas
 22 decreases, and the increase or decrease is sufficient to make future production
 23 no longer economically feasible; or

24 (C) to reestablish production of shut-in oil or gas that would
 25 not otherwise be economically feasible;

26 (2) may not grant a royalty modification unless the lessee or lessees
 27 requesting the change make a clear and convincing showing that a modification of
 28 royalty meets the requirements of this subsection and is in the best interests of the
 29 state;

30 (3) shall provide for an increase or decrease or other modification of
 31 the state's royalty share by a sliding scale royalty or other mechanism that shall be

1 based on a change in the price of oil or gas and may also be based on other relevant
 2 factors such as a change in production rate, projected ultimate recovery, development
 3 costs, and operating costs

4 (4) may not grant a royalty reduction for a field or pool

5 (A) under (1)(A) of this subsection if the royalty modification
 6 for the field or pool would establish a royalty rate of less than five percent in
 7 amount or value of the production removed or sold from a lease or leases
 8 covering the field or pool;

9 (B) under (1)(B) or (1)(C) of this subsection if the royalty
 10 modification for the field or pool would establish a royalty rate of less than
 11 three percent in amount or value of the production removed or sold from a
 12 lease or leases covering the field or pool;

13 (5) may not grant a royalty reduction under this subsection without
 14 including an explicit condition that the royalty reduction is not assignable without the
 15 prior written approval, which may not be unreasonably withheld, by the
 16 commissioner; the commissioner shall, in the preliminary and final findings and
 17 determinations, set out the conditions under which the royalty reduction may be
 18 assigned;

19 (6) shall require the lessee or lessees to submit, with the application for
 20 the royalty reduction, financial and technical data that demonstrate that the
 21 requirements of this subsection are met; the commissioner

22 (A) may require disclosure of only the financial and technical
 23 data related to development, production, and transportation of oil and gas **or**
 24 **gas only** from the field or pool that are reasonably available to the applicant;
 25 and

26 (B) shall keep the data confidential under AS 38.05.035(a)(9)
 27 at the request of the lessee or lessees making application for the royalty
 28 reduction; the confidential data may be disclosed by the commissioner to
 29 legislators and to the legislative auditor and as directed by the chair or vice-
 30 chair of the Legislative Budget and Audit Committee to the director of the
 31 division of legislative finance, the permanent employees of their respective

1 divisions who are responsible for evaluating a royalty reduction, and to agents
2 or contractors of the legislative auditor or the legislative finance director who
3 are engaged under contract to evaluate the royalty reduction, if they sign an
4 appropriate confidentiality agreement;

5 (7) may

6 (A) require the lessee or lessees making application for the
7 royalty reduction under (1)(A) of this subsection to pay for the services of an
8 independent contractor, selected by the lessee or lessees from a list of qualified
9 consultants compiled by the commissioner, to evaluate hydrocarbon
10 development, production, transportation, and economics and to assist the
11 commissioner in evaluating the application and financial and technical data; if,
12 under this subparagraph, the commissioner requires payment for the services of
13 an independent contractor, the total cost of the services to be paid for by the
14 lessee or lessees may not exceed \$150,000 for each application, and the
15 commissioner shall determine the relevant scope of the work to be performed
16 by the contractor; selection of an independent contractor under this
17 subparagraph is not subject to AS 36.30;

18 (B) with the mutual consent of the lessee or lessees making
19 application for the royalty reduction under (1)(B) or (1)(C) of this subsection,
20 request payment for the services of an independent contractor, selected from a
21 list of qualified consultants to evaluate hydrocarbon development, production,
22 transportation, and economics by the commissioner to assist the commissioner
23 in evaluating the application and financial and technical data; if, under this
24 subparagraph, the commissioner requires payment for the services of an
25 independent contractor, the total cost of the services that may be paid for by
26 the lessee or lessees may not exceed \$150,000 for each application, and the
27 commissioner shall determine the relevant scope of the work to be performed
28 by the contractor; selection of an independent contractor under this
29 subparagraph is not subject to AS 36.30;

30 (8) shall make and publish a preliminary findings and determination on
31 the royalty reduction application, give reasonable public notice of the preliminary

1 findings and determination, and invite public comment on the preliminary findings
2 and determination during a 30-day period for receipt of public comment;

3 (9) shall offer to appear before the Legislative Budget and Audit
4 Committee, on a day that is not earlier than 10 days and not later than 20 days after
5 giving public notice under (8) of this subsection, to provide the committee a review of
6 the commissioner's preliminary findings and determination on the royalty reduction
7 application and administrative process; if the Legislative Budget and Audit Committee
8 accepts the commissioner's offer, the committee shall give notice of the committee's
9 meeting to all members of the legislature;

10 (10) shall make copies of the preliminary findings and determination
11 available to

12 (A) the presiding officer of each house of the legislature;

13 (B) the chairs of the legislature's standing committees on
14 resources; and

15 (C) the chairs of the legislature's special committees on oil and
16 gas, if any;

17 (11) shall, within 30 days after the close of the public comment period
18 under (8) of this subsection,

19 (A) prepare a summary of the public response to the
20 commissioner's preliminary findings and determination;

21 (B) make a final findings and determination; the
22 commissioner's final findings and determination prepared under this
23 subparagraph regarding a royalty reduction is final and not appealable to the
24 court;

25 (C) transmit a copy of the final findings and determination to
26 the lessee;

27 (D) with the applicant's consent, amend the applicant's lease or
28 unitization agreement consistent with the commissioner's final decision; and

29 (E) make copies of the final findings and determination
30 available to each person who submitted comment under (8) of this subsection
31 and who has filed a request for the copies;

1 (12) is not limited by the provisions of AS 38.05.134(3) or (f) of this
 2 section in the commissioner's determination under this subsection.

3 * **Sec. 40.** AS 38.05.180(l) is amended to read:

4 (l) Subject to the provisions of AS 31.05, the commissioner has discretion to
 5 enter into an agreement whereby, with the consent of the lessee, the state's royalty
 6 share of [OIL AND GAS] production **of oil and gas or gas only** may be stored or
 7 retained in storage by the lessee, or the commissioner may enter into an agreement
 8 with one or more of the affected field lease holders to trade current royalty production
 9 from a field for a like amount, kind, and quality of future production, on the condition
 10 that the state receives back its stored or traded royalty share during the first half of the
 11 estimated field life or no later than 15 years after start of production, whichever is
 12 sooner.

13 * **Sec. 41.** AS 38.05.180(m) is amended to read:

14 (m) An oil and gas lease **or a gas only lease** must cover a reasonably compact
 15 area not exceeding 5,760 acres, and may be for a maximum period of 10 years, except
 16 that the commissioner may issue a lease for a period not less than five years upon a
 17 finding that it is in the best interests of the state. An oil and gas lease shall be
 18 automatically extended if and for so long thereafter as oil or gas is produced in paying
 19 quantities from the lease or if the lease is committed to a unit approved by the
 20 commissioner, **and a gas only lease shall be automatically extended if and for so**
 21 **long thereafter as gas is produced in paying quantities from the lease or if the**
 22 **lease is committed to a unit approved by the commissioner.** A lease issued under
 23 this section covering land on which there is a well capable of producing oil or gas in
 24 paying quantities does not expire because the lessee fails to produce oil or gas unless
 25 the lessee is allowed reasonable time to place the well on a producing status. Upon
 26 extension, the commissioner may increase lease rentals so long as the increased rental
 27 rate does not exceed 150 percent of the rate for the preceding year. If drilling has
 28 commenced on the expiration date of the primary term of the lease and is continued
 29 with reasonable diligence, including such operations as redrilling, sidetracking, or
 30 other means necessary to reach the originally proposed bottom hole location, the lease
 31 continues in effect until 90 days after drilling has ceased and for so long thereafter as

1 oil or gas is produced in paying quantities. An oil and gas lease **or a gas only lease**
 2 issued under this section which is subject to termination by reason of cessation of
 3 production does not terminate if, within 60 days after production ceases, reworking or
 4 drilling operations are commenced on the land under lease and are thereafter
 5 conducted with reasonable diligence during the period of nonproduction.

6 * **Sec. 42.** AS 38.05.180(p) is amended to read:

7 (p) To conserve the natural resources of all or a part of an oil or gas pool,
 8 field, or like area, the lessees and their representatives may unite with each other, or
 9 jointly or separately with others, in collectively adopting or operating under a
 10 cooperative or a unit plan of development or operation of the pool, field, or like area,
 11 or a part of it, when determined and certified by the commissioner to be necessary or
 12 advisable in the public interest. The commissioner may, with the consent of the
 13 holders of leases involved, establish, change, or revoke drilling, producing, and
 14 royalty requirements of the leases and adopt regulations with reference to the leases,
 15 with like consent on the part of the lessees, in connection with the institution and
 16 operation of a cooperative or unit plan as the commissioner determines necessary or
 17 proper to secure the proper protection of the public interest. The commissioner may
 18 not reduce royalty on leases in connection with a cooperative or unit plan except as
 19 provided in (j) of this section. The commissioner may require **a lease** [OIL AND
 20 GAS LEASES] issued under this section to contain a provision requiring the lessee to
 21 operate under a reasonable cooperative or unit plan, and may prescribe a plan under
 22 which the lessee must operate. The plan must adequately protect all parties in interest,
 23 including the state.

24 * **Sec. 43.** AS 38.05.180 is amended by adding a new subsection to read:

25 (ff) The provisions of this section that authorize oil and gas leases also apply
 26 to authorize the commissioner to issue leases for the production of gas only. In
 27 authorizing and managing leases under this subsection, the terms "oil and gas" or "oil
 28 or gas" as they are used in this chapter shall be read and applied as referring to gas
 29 only.

30 * **Sec. 44.** AS 38.05.860(a) is amended to read:

31 (a) The commissioner may require an applicant seeking the sale, lease, or

1 other disposal of land or an interest in land, other than under an oil and gas **lease, gas**
 2 **only lease**, or mineral lease, to deposit an amount covering the estimated cost of an
 3 appraisal, survey, and other costs necessary to offer the land or interest in land,
 4 including advertising. All deposited funds not expended shall be refunded to the
 5 applicant. If the land or interest in land is awarded to a person other than the applicant
 6 making the deposit, the person awarded the land shall pay the total actual cost incurred
 7 by the department in making the disposal, and the deposit shall be returned to the
 8 original applicant. In lieu of requiring the deposit under this subsection, the
 9 commissioner may enter into an agreement with an applicant seeking land or an
 10 interest in land requiring the applicant to reimburse the department for costs incurred
 11 in the disposal if the applicant is awarded the land or interest in land.

12 * **Sec. 45.** AS 38.05.860(c) is amended to read:

13 (c) The commissioner shall require each bidder for the competitive leasing of
 14 [OIL AND GAS] land **for oil and gas, or for gas only**, to submit with each bid a
 15 deposit of money equal to 20 percent of the bonus.

16 * **Sec. 46.** AS 38.05.945(a) is amended to read:

17 (a) This section establishes the requirements for notice given by the
 18 department for the following actions:

19 (1) classification or reclassification of state land under AS 38.05.300
 20 and the closing of land to mineral leasing or entry under AS 38.05.185;

21 (2) zoning of land under applicable law;

22 (3) issuance of a

23 (A) preliminary written finding under AS 38.05.035(e)(5)(A)
 24 regarding the sale, lease, or disposal of an interest in state land or resources for
 25 oil and gas, **or for gas only**, subject to AS 38.05.180(b);

26 (B) [REPEALED

27 (C)] written finding for the sale, lease, or disposal of an interest
 28 in state land or resources under AS 38.05.035(e)(6), except **a** [AN OIL OR
 29 GAS] lease sale described in AS 38.05.035(e)(6)(F) for which the director
 30 must provide opportunity for public comment under the provisions of that
 31 subparagraph;

1 (4) a competitive disposal of an interest in state land or resources after
2 final decision under AS 38.05.035(e);

3 (5) a preliminary finding under AS 38.05.035(e) concerning sites for
4 aquatic farms and related hatcheries;

5 (6) a decision under AS 38.05.132 - 38.05.134 regarding the sale,
6 lease, or disposal of an interest in state land or resources.

7 * **Sec. 47.** AS 38.06.080(2) is amended to read:

8 (2) "state lease" means an oil and gas lease **or gas only lease** on state
9 land.

10 * **Sec. 48.** AS 38.35.020(a) is amended to read:

11 (a) Rights-of-way on state land including rights-of-way over, under, along,
12 across, or upon the right-of-way of a public road or highway or the right-of-way of a
13 railroad or other public utility, or across, upon, over, or under a river or other body of
14 water or land belonging to or administered by the state may be granted by
15 noncompetitive lease by the commissioner for pipeline purposes for the transportation
16 of oil, products, or natural gas under those conditions prescribed by law or by
17 administrative regulation. Except to the extent authorized by an oil and gas lease, **a**
18 **gas only lease**, or **an oil and gas or gas only** unit agreement approved by the state, no
19 person may engage in any construction or operation of any part of an oil, products, or
20 natural gas pipeline, which in whole or in part is or is proposed to be on state land
21 unless that person has obtained from the commissioner a right-of-way lease of the land
22 under this chapter.

23 * **Sec. 49.** AS 43.20.072(c) is amended to read:

24 (c) A taxpayer's business income shall be apportioned to this state by
25 multiplying the taxpayer's income determined under (b) of this section by the
26 apportionment factor applicable to the taxpayer among the following factors:

27 (1) the apportionment factor of a taxpayer subject to this section but
28 not engaged in the production of oil and gas, **or of gas only, as appropriate**, from a
29 lease or property in this state during the tax period is a fraction, the numerator of
30 which is the sum of the property factor under AS 43.19 (Multistate Tax Compact) and
31 the sales factor under (d) of this section for the taxpayer for that tax period, and the

1 denominator of which is two;

2 (2) the apportionment factor of a taxpayer subject to this section but
3 not engaged in the pipeline transportation of oil or gas in this state during the tax
4 period is a fraction, the numerator of which is the sum of the property factor under (e)
5 of this section and the extraction factor under (f) of this section for the taxpayer for the
6 tax period, and the denominator of which is two;

7 (3) the apportionment factor of a taxpayer engaged both in the
8 production of oil or gas from a lease or property in this state and in the pipeline
9 transportation of oil or gas in this state during the tax period is a fraction, the
10 numerator of which is the sum of the sales factor under (d) of this section, the property
11 factor under (e) of this section, and the extraction factor under (f) of this section for
12 the taxpayer for the tax period, and the denominator of which is three.

13 * **Sec. 50.** AS 43.55.025(a) is amended to read:

14 (a) Subject to the terms and conditions of this section, on oil and gas produced
15 **from an oil and gas lease, or on gas produced from a gas only lease,** on or after
16 July 1, 2004, a credit against the tax due under this chapter is allowed in an amount
17 equal to

18 (1) 20 percent of the total exploration expenditures that qualify under
19 (b) and (c) of this section, 20 percent of the total exploration expenditures that qualify
20 under (b) and (d) of this section, or both, for a total credit that does not exceed 40
21 percent of the total exploration expenditures; or

22 (2) 40 percent of the total exploration expenditures that qualify under
23 (b) and (e) of this section, for a total production tax credit that does not exceed 40
24 percent of the total qualified exploration expenditures.

25 * **Sec. 51.** AS 43.55.900(9) is amended to read:

26 (9) "lease or property" means any right, title, or interest in or the right
27 to produce or recover oil or gas including:

28 (A) a mineral interest,

29 (B) a leasehold interest,

30 (C) a working interest, royalty interest, overriding royalty
31 interest, production payment, net profit interest or any other interest in a lease,

1 concession, joint venture, or other agreement for [OIL AND GAS] exploration,
2 development, or production **of oil and gas or of gas only**,

3 (D) a working interest, royalty interest, overriding royalty
4 interest, production payment, net profit interest or any other interest in an
5 agreement for unitization or pooling under the provisions of 26 U.S.C.
6 614(b)(3) (Internal Revenue Code) as defined on January 1, 1974;

7 * **Sec. 52.** AS 46.03.100(f) is amended to read:

8 (f) This section does not apply to discharges of solid or liquid waste material
9 or water discharges from the following activities if the discharge is incidental to the
10 activity and the activity does not produce a discharge from a point source, as that term
11 is defined in regulations adopted under this chapter, directly into any surface water of
12 the state:

13 (1) mineral drilling, trenching, ditching, and similar activities;

14 (2) landscaping;

15 (3) water well drilling, geophysical drilling, or **nonconventional**
16 [COAL BED METHANE DRILLING OR OTHER NATURAL] gas drilling; **for**
17 **purposes of this paragraph, "nonconventional gas" has the meaning given in**
18 **AS 38.05.177** [TO RECOVER GAS FROM A FIELD IF A PART OF THE FIELD IS
19 WITHIN 3,000 FEET OF THE SURFACE]; or

20 (4) drilling, ditching, trenching, and similar activities associated with
21 facility construction and maintenance or with road or other transportation facility
22 construction and maintenance; however, the exemption provided by this paragraph
23 does not relieve a person from obtaining a permit under this section if

24 (A) the drilling, ditching, trenching, or similar activity will
25 involve the removal of the groundwater, stormwater, or wastewater runoff that
26 has accumulated and is present at an excavation site for facility, road, or other
27 transportation construction or maintenance; and

28 (B) a permit is otherwise required by this section.

29 * **Sec. 53.** AS 46.04.030(b) is amended to read:

30 (b) A person may not cause or permit the operation of a pipeline or an
31 exploration or production facility in the state unless an oil discharge prevention and

1 contingency plan for the pipeline or facility has been approved by the department and
 2 the person is in compliance with the plan. This subsection does not apply to an
 3 exploration or production facility used solely to explore for or to develop or produce
 4 **nonconventional** [SHALLOW NATURAL] gas resources, except that this exemption
 5 does not apply if the Alaska Oil and Gas Conservation Commission determines under
 6 AS 31.05.030(j) that

7 (1) a well drilled for **nonconventional** [SHALLOW NATURAL] gas
 8 may penetrate a formation capable of flowing oil; and

9 (2) the volume of oil encountered will be of such quantities that a
 10 contingency plan will be required.

11 * **Sec. 54.** AS 46.04.040(b) is amended to read:

12 (b) A person may not cause or permit the operation of a pipeline or an
 13 exploration or production facility in the state unless the person has furnished to the
 14 department, and the department has approved, proof of financial ability to respond in
 15 damages. Proof of financial responsibility required for

16 (1) a pipeline or an offshore exploration or production facility is
 17 \$50,000,000 per incident;

18 (2) an onshore production facility is

19 (A) \$20,000,000 per incident if the facility produces over
 20 10,000 barrels per day of oil;

21 (B) \$10,000,000 per incident if the facility produces over 5,000
 22 barrels per day but not more than 10,000 barrels per day of oil;

23 (C) \$5,000,000 per incident if the facility produces over 2,500
 24 barrels per day but not more than 5,000 barrels per day of oil;

25 (D) \$1,000,000 per incident if the facility produces 2,500
 26 barrels per day or less of oil;

27 (3) an onshore exploration facility is

28 (A) \$25,000 per incident for a facility used solely to explore for
 29 **nonconventional** [SHALLOW NATURAL] gas by means of drilling a well to
 30 explore for **the** gas [, WHETHER METHANE ASSOCIATED WITH AND
 31 DERIVED FROM COAL DEPOSITS OR OTHERWISE, FROM A FIELD IF

1 A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE SURFACE]; and

2 (B) except as provided by (A) of this paragraph, \$1,000,000 per
3 incident.

4 * **Sec. 55.** AS 46.04.900 is amended by adding a new paragraph to read:

5 (31) "nonconventional gas" has the meaning given in AS 38.05.177.

6 * **Sec. 56.** AS 46.40.205 is amended to read:

7 **Sec. 46.40.205. Consistency determinations for certain activities involving**
8 **nonconventional [SHALLOW NATURAL] gas.** (a) When conducted under
9 oversight and regulation of the Alaska Oil and Gas Conservation Commission and the
10 state's resource agencies, projects for the exploration and development of
11 **nonconventional [SHALLOW NATURAL] gas** are consistent with the program
12 described in this chapter. Persons responsible for activities subject to this section shall
13 obtain all required permits and approvals from municipal, state, and federal agencies
14 as otherwise required by law.

15 (b) In this section, "**nonconventional [SHALLOW NATURAL] gas**" has the
16 meaning given in **AS 38.05.177** [AS 46.04.900].

17 * **Sec. 57.** AS 46.40.210(12) is amended to read:

18 (12) "uses of state concern" means those land and water uses that
19 would significantly affect the long-term public interest; "uses of state concern" include

20 (A) uses of national interest, including the use of resources for
21 the siting of ports and major facilities that contribute to meeting national
22 energy needs, construction and maintenance of navigational facilities and
23 systems, resource development of federal land, and national defense and
24 related security facilities that are dependent upon coastal locations;

25 (B) uses of more than local concern, including those land and
26 water uses that confer significant environmental, social, cultural, or economic
27 benefits or burdens beyond a single coastal resource district;

28 (C) the siting of major energy facilities, activities pursuant to a
29 state **oil and gas lease, a state gas only lease,** or **a** federal oil and gas lease, or
30 large-scale industrial or commercial development activities that are dependent
31 on a coastal location and that, because of their magnitude or the magnitude of

1 their effect on the economy of the state or the surrounding area, are reasonably
2 likely to present issues of more than local significance;

3 (D) facilities serving statewide or interregional transportation
4 and communication needs; and

5 (E) uses in areas established as state parks or recreational areas
6 under AS 41.21 or as state game refuges, game sanctuaries, or critical habitat
7 areas under AS 16.20.

8 * **Sec. 58.** AS 31.05.170(14); AS 38.05.177(b), 38.05.177(c), 38.05.177(d), 38.05.177(e),
9 38.05.177(h), 38.05.177(m); and AS 46.04.900(25) are repealed.

10 * **Sec. 59.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 CERTAIN SHALLOW NATURAL GAS LEASES AND LEASE APPLICATIONS
13 TO BE ADMINISTERED UNDER FORMER LAW. The provisions of AS 38.05.177(a), (f),
14 (g), (j), (k), and (o), amended by secs. 26 - 31 of this Act, as those provisions read on the day
15 before the effective date of amendment of those sections, and the provisions of
16 AS 38.05.177(b) - (e), (h), and (m), repealed by sec. 58 of this Act, as those provisions read
17 on the day before the effective date of the repeal of those subsections, apply to shallow natural
18 gas

19 (1) leases issued under AS 38.05.177 and in effect on December 31, 2003; and

20 (2) lease applications under AS 38.05.177 that were received by the
21 Department of Natural Resources before January 1, 2004.

22 * **Sec. 60.** This Act takes effect immediately under AS 01.10.070(c).