

CS FOR HOUSE BILL NO. 531(O&G)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Offered: 4/5/04

Referred: Resources, Finance

Sponsor(s): HOUSE RESOURCES COMMITTEE

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

1 Sections 1 - 2
 2 Section 12
 3 Township 13 North, Range 10 West, Fairbanks Meridian
 4 Sections 29 - 32
 5 Township 13 North, Range 11 West, Fairbanks Meridian
 6 Section 22
 7 Sections 25 - 27
 8 Sections 34 - 36; or

9 (4) necessary for

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

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

13 (C) a state lease or materials sale for

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

16 (ii) reconstruction or maintenance of state highways; or

17 (iii) construction or maintenance of airports.

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

19 (j) For **exploration and development operations involving nonconventional**
 20 **gas, the commission**

21 **(1) may not**

22 **(A) issue a permit to drill under this chapter if the well**
 23 **would be used to produce gas from an aquifer that serves as a source of**
 24 **water for human consumption or agricultural purposes unless the**
 25 **commission finds that the well will not adversely affect the aquifer as a**
 26 **source of water for human consumption or agricultural purposes; or**

27 **(B) allow injection of produced water except at depths**
 28 **below known sources of water for human consumption or agricultural**
 29 **purposes;**

30 **(2) shall**

31 **(A) regulate hydraulic fracturing in nonconventional gas**

1 wells to assure protection of drinking water quality;

2 (B) regulate the disposal of wastes produced from the
 3 operations unless the disposal is otherwise subject to regulation by the
 4 Department of Environmental Conservation or the Environmental
 5 Protection Agency; and

6 (C) for the purposes of AS 46.04.030(b), [THE
 7 COMMISSION SHALL] determine whether a well drilled for
 8 nonconventional [SHALLOW NATURAL] gas may penetrate a formation
 9 capable of flowing oil and, if so, whether the volume of oil encountered will be
 10 of such quantities that an oil discharge prevention and contingency plan will be
 11 required.

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

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

21 (1) the commission may approve the variance if

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

24 (B) the commission determines that the request is more
 25 appropriate to the proposed operation than compliance with the requirement of
 26 the regulation; and

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

31 (A) the nature of the operation involved;

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

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

5 * **Sec. 6.** AS 31.05.125 is amended to read:

6 **Sec. 31.05.125. Regulation of nonconventional [SHALLOW NATURAL]**
7 **gas; relationship of chapter to other laws.** If the Department of Natural Resources
8 clearly demonstrates an overriding state interest, the commissioner of natural
9 resources may approve a waiver of local planning authority approval and requirements
10 relating to compliance **of a nonconventional gas lease** with local ordinances and
11 regulations. The commissioner shall issue specific findings giving reasons for
12 granting a waiver under this section. **In this section, "nonconventional gas" has the**
13 **meaning given in AS 38.05.965.**

14 * **Sec. 7.** AS 31.05.170 is amended by adding a new paragraph to read:

15 (16) "nonconventional gas" has the meaning given in AS 38.05.965.

16 * **Sec. 8.** AS 36.30.850(b)(25) is amended to read:

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

19 * **Sec. 9.** AS 36.30.850(b)(33) is amended to read:

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

26 * **Sec. 10.** AS 38.04.065(i) is amended to read:

27 (i) An oil and gas lease sale **or gas only lease sale** is not subject to this
28 section. Oil and gas lease sales **and gas only lease sales** are subject to the planning
29 process established under AS 38.05.180.

30 * **Sec. 11.** AS 38.05.035(e) is amended to read:

31 (e) Upon a written finding that the interests of the state will be best served, the

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

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

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

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

19 (i) applicable statutes and regulations;

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

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

30 (C) may, if the project for which the proposed disposal is
31 sought is a multiphased development, limit the scope of an administrative

1 review and finding for the proposed disposal to the applicable statutes and
 2 regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that
 3 pertain solely to the disposal phase of the project when

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

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

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

15 (iv) the department describes its reasons for a decision
 16 to phase;

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

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

23 (B) issues based on the statutes and regulations referred to in
 24 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this
 25 subsection;

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

28 (4) a contract for the sale, lease, or other disposal of available land or
 29 an interest in land is not legally binding on the state until the commissioner approves
 30 the contract, but if the appraised value is not greater than \$50,000 in the case of the
 31 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or

1 interest in land, the director may execute the contract without the approval of the
2 commissioner;

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

7 (A) before a public hearing, if held, or in any case not less than
8 180 days before the sale, lease, or other disposal of available land or an interest
9 in land, the director shall make available to the public a preliminary written
10 finding that states the scope of the review established under (1)(A) of this
11 subsection and includes the applicable statutes and regulations, the material
12 facts and issues in accordance with (1)(B) of this subsection, and information
13 required by (g) of this section, upon which the determination that the sale,
14 lease, or other disposal will serve the best interests of the state will be based;
15 the director shall provide opportunity for public comment on the preliminary
16 written finding for a period of not less than 60 days;

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

26 (6) before a public hearing, if held, or in any case not less than 21 days
27 before the sale, lease, or other disposal of available land, property, resources, or
28 interests in them other than a sale, lease, or other disposal of available land or an
29 interest in land for oil and gas or for gas only under (5) of this subsection, the director
30 shall make available to the public a written finding that, in accordance with (1) of this
31 subsection, sets out the material facts and applicable statutes and regulations and any

1 other information required by statute or regulation to be considered upon which the
 2 determination that the sale, lease, or other disposal will best serve the interests of the
 3 state was based; however, a written finding is not required before the approval of

4 (A) a contract for a negotiated sale authorized under
 5 AS 38.05.115;

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

7 (C) a permit or other authorization revocable by the
 8 commissioner;

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

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

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

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

27 (ii) not later than 45 days before the sale, the director
 28 shall issue a notice describing the interests to be offered, the location
 29 and time of the sale, and the terms and conditions of the sale; and

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

1 (G) a **nonconventional** [SHALLOW] gas lease authorized
 2 under AS 38.05.177 in an area for which **nonconventional gas** leasing [IS
 3 AUTHORIZED] under AS 38.05.177 **has not been prohibited by**
 4 **AS 38.05.177(a)(1)**;

5 (H) a surface use lease under AS 38.05.255;

6 (I) a permit, right-of-way, or easement under AS 38.05.850;

7 (7) the director shall include in

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

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

15 * **Sec. 12.** AS 38.05.035(g) is amended to read:

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

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

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

26 (B) material to the following matters:

27 (i) property descriptions and locations;

28 (ii) the petroleum potential of the sale area, in general
 29 terms;

30 (iii) fish and wildlife species and their habitats in the
 31 area;

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

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

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

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

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

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

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

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

28 (2) the basis for the director's preliminary or final finding, as
29 applicable, that, on balance, leasing the area would be in the state's best interest.

30 * **Sec. 13.** AS 38.05.036(a) is amended to read:

31 (a) The department may conduct audits regarding royalty and net profits under

1 oil and gas contracts, agreements, or leases under this chapter and regarding costs
 2 related to [OIL AND GAS] exploration licenses **entered into under AS 38.05.131 -**
 3 **38.05.134** and exploration incentive credits under this chapter or under AS 41.09. For
 4 purposes of audit under this section,

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

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

9 * **Sec. 14.** AS 38.05.127(e) is amended to read:

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

13 * **Sec. 15.** AS 38.05.131(a) is amended to read:

14 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the
 15 provisions of AS 38.05.005 - 38.05.037, 38.05.140(f), 38.05.180, 38.05.182 -
 16 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of [OIL AND GAS]
 17 exploration licenses and leases **for oil and gas, or for gas only, as appropriate,**
 18 under AS 38.05.132 - 38.05.134.

19 * **Sec. 16.** AS 38.05.132(a) is amended to read:

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

24 * **Sec. 17.** AS 38.05.132(b) is amended to read:

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

27 (1) the exclusive right to explore, for a term not to exceed 10 years,
 28 [FOR DEPOSITS OF OIL AND GAS] on unleased state land described in the
 29 exploration license **for deposits of oil and gas, or for deposits of gas only, as**
 30 **appropriate,** unless the exploration license is terminated under (d)(1) of this section
 31 or the land is earlier relinquished, removed, or deleted under (d)(2) of this section; and

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

7 * **Sec. 18.** AS 38.05.132(c) is amended to read:

8 (c) An exploration license awarded under this section

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

11 (2) may cover, subject to the maximum acreage limitation on
 12 exploration licenses by one licensee under AS 38.05.131(e), an area of not less than
 13 10,000 acres and not more than 500,000 acres, that must be reasonably compact and
 14 contiguous;

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

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

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

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

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

29 (B) the annual bond or other security shall be calculated as the
 30 entire work commitment expressed in dollars, less the cumulative direct
 31 exploration expenditures of the licensee as of the last day of the most recent

1 project year, divided by the number of years remaining in the term of the
2 exploration license;

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

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

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

11 * **Sec. 19.** AS 38.05.132(f) is amended to read:

12 (f) In this section,

13 (1) "direct exploration expenditure" means cash expenses undertaken
14 in performance of a specified work commitment under the provisions of AS 38.05.131
15 - 38.05.134 and necessarily incurred by the licensee in the permitting, mobilization,
16 conducting, demobilization, and evaluation of geophysical and geological surveys, or
17 the drilling, logging, coring, testing, and evaluation of oil and gas **or gas only** wells;
18 the term

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

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

30 (2) "work commitment" includes the drilling of one or more
31 exploration wells or the gathering of data from activities described in (1) of this

1 subsection, or both.

2 * **Sec. 20.** AS 38.05.133(a) is amended to read:

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

5 * **Sec. 21.** AS 38.05.133(f) is amended to read:

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

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

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

1 attached to that finding, if the prospective licensee is the successful bidder. The
 2 successful bidder is the prospective licensee who submits the highest bid in terms of
 3 the minimum work commitment dollar amount.

4 * **Sec. 23.** AS 38.05.134 is amended to read:

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

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

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

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

16 **(A)** the lessee who, proceeding under AS 38.05.131 -
 17 38.05.134, under a lease issued in the Cook Inlet sedimentary basin who is the
 18 first to file with the commissioner a nonconfidential sworn statement claiming
 19 to be the first to have drilled a well discovering oil or gas in a previously
 20 undiscovered oil or gas pool and who is certified by the commissioner within
 21 one year of completion of that discovery well to have drilled a well in that pool
 22 that is capable of producing in paying quantities shall pay a royalty of five
 23 percent on all production of oil or gas from that pool attributable to that lease
 24 for a period of 10 years following the date of discovery of that pool, and
 25 thereafter the royalty payable on all production of oil or gas from the pool
 26 attributable to that lease shall be determined and payable as specified in the
 27 lease; the payment of the five percent royalty under this paragraph is
 28 authorized only to a holder of a lease who meets the requirements of
 29 AS 38.05.180(f)(4); **and**

30 **(B) for nonconventional gas that is not produced in direct**
 31 **competition with gas on which a royalty at a rate of at least 12.5 percent is**

1 payable, if the licensee requests, the commissioner may negotiate with the
 2 licensee and set a royalty rate for the gas of at least 6.25 percent; for
 3 purposes of this subparagraph, "nonconventional gas" has the meaning
 4 given in AS 38.05.965;

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

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

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

12 (f) The submerged and shoreland lying north of 57 degrees, 30 minutes, North
 13 [NORTH] latitude and east of 159 degrees, 49 minutes, West [WEST] longitude
 14 within the Bristol Bay drainage are designated as the Bristol Bay Fisheries Reserve.
 15 Within the Bristol Bay Fisheries Reserve, a [NO] surface entry permit to develop an
 16 oil or gas lease or an [OIL AND GAS] exploration license under AS 38.05.131 -
 17 38.05.134 may **not** be issued on state owned or controlled land until the legislature by
 18 appropriate resolution specifically finds that the entry will not constitute danger to the
 19 fishery.

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

21 (f) Notwithstanding AS 38.05.177 and AS 38.05.180(ff), a lease entered into
 22 under this section gives the lessee the right to vent or remove methane and other gas
 23 held in association with the coal in the land covered by the lease to ensure safe coal
 24 mining operations.

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

26 (a) The provisions of this section

27 (1) apply to nonconventional gas derived from land other than land
 28 described in AS 38.05.180(ff)(1) [, WHETHER METHANE ASSOCIATED WITH
 29 AND DERIVED FROM COAL DEPOSITS OR OTHERWISE, FROM A FIELD IF
 30 A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE SURFACE]; and

31 (2) do not apply to authorize lease of

- 1 (A) land
- 2 (i) that is subject to an oil and gas exploration license or
- 3 lease issued under AS 38.05.131 - 38.05.134; or
- 4 (ii) that is leased under AS 38.05.180;
- 5 (B) the land (i) that is proposed to be subject to an oil and gas
- 6 exploration license or lease issued under AS 38.05.131 - 38.05.134; or (ii) that
- 7 is described in and part of a proposed oil and gas leasing program prepared
- 8 under AS 38.05.180(b); however, the commissioner may waive the limitations
- 9 of this subparagraph;
- 10 (C) the land that is held under a coal lease entered into under
- 11 AS 38.05.150, unless the applicant for a **nonconventional** [SHALLOW
- 12 NATURAL] gas lease is also the lessee under AS 38.05.150 of that land; or
- 13 (D) the valid existing selections of the Alaska Mental Health
- 14 Trust Authority made for the purpose of reconstituting the mental health trust
- 15 established under the Alaska Mental Health Enabling Act, P.L. 84-830, 70
- 16 Stat. 709 (1956), that become subject to management under AS 38.05.801, or
- 17 of land that has been designated by law for or is subject to designation for
- 18 conveyance to the Alaska Mental Health Trust Authority; however, after
- 19 consultation with the Alaska Mental Health Trust Authority, the commissioner
- 20 may waive the limitations of this subparagraph.

21 * **Sec. 27.** AS 38.05.177(b) is amended to read:

22 (b) For the purpose of exploring for and developing **nonconventional**

23 [SHALLOW NATURAL] gas [RESERVOIRS], upon application, the director may

24 lease to a person land for which the state owns the subsurface rights. A person

25 applying for a lease under this subsection

26 (1) shall specify the area to be leased; the area to be leased may not

27 exceed 5,760 acres; a lessee may not hold more than an aggregate of 138,240 acres of

28 land under leases entered into under this section;

29 (2) may be required to pay a reasonable application fee of up to

30 \$5,000.

31 * **Sec. 28.** AS 38.05.177(c) is amended to read:

1 (c) **When the director considers an area for a nonconventional gas lease,**
 2 **the** [THE] director shall give notice under AS 38.05.945 of receipt of the
 3 **nonconventional gas** lease application and call for comments from the public. The
 4 director's call for public comments must provide opportunity for public comment for a
 5 period of not less than 60 days. If, after review of information received during the
 6 public comment period, the director determines that the discovery of a local source of
 7 natural gas would benefit the residents of an area, the director shall execute a lease for
 8 the area described in (b) of this section. The director shall execute the lease after
 9 completion of a title search, the close of the public comment period, and, if review is
 10 required under AS 46.40, after the final consistency determination is made under
 11 AS 46.40. A lease entered into under this subsection gives the lessee the exclusive
 12 right to explore for, develop, and produce, for a term of three years, **nonconventional**
 13 [NATURAL] gas on the state land described in the lease [; THE RIGHT TO
 14 EXPLORE FOR, DEVELOP, AND PRODUCE IS LIMITED TO GAS FROM A
 15 FIELD IF A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE SURFACE].

16 * **Sec. 29.** AS 38.05.177(d) is amended to read:

17 (d) A **nonconventional gas** lease shall be automatically extended if and for so
 18 long thereafter as gas is produced in paying quantities from the lease and the lessee
 19 continues to meet all requirements of the lease. A lease issued under this section
 20 covering land on which there is a well capable of producing gas in paying quantities
 21 does not expire because the lessee fails to produce gas unless the lessee is allowed
 22 reasonable time to place the well on a producing status. If drilling has commenced on
 23 the expiration date of the primary term of the lease and is continued with reasonable
 24 diligence, including such operations as redrilling, sidetracking, or other means
 25 necessary to reach the originally proposed bottom hole location, the lease is extended
 26 for one year and for so long thereafter as gas is produced in paying quantities. A gas
 27 lease issued under this section that is subject to termination by reason of cessation of
 28 production does not terminate if, within 90 days after production ceases or a longer
 29 period determined at the discretion of the director, reworking or drilling operations are
 30 commenced on the land under lease and are thereafter conducted with reasonable
 31 diligence during the period of nonproduction. In addition, upon application by the

1 lessee, the director may once extend a lease issued under (c) of this section for a
2 period of not more than three years.

3 * **Sec. 30.** AS 38.05.177(e) is amended to read:

4 (e) The director may, following the procedures described in (c) of this section,
5 adjust the boundaries of a **nonconventional gas** lease entered into under this section
6 as may be necessary to ensure development of natural gas within a reasonably
7 compact area; a lease as adjusted under this subsection remains subject to the acreage
8 limitations set out in (b)(1) of this section.

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

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

16 * **Sec. 32.** AS 38.05.177(g) is amended to read:

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

19 (1) is

20 (A) 12.5 percent of the value of production removed or sold
21 from the lease for gas exported from the state or gas that is produced in direct
22 competition with gas on which a royalty at a rate of at least 12.5 percent is
23 payable; and

24 (B) except as provided in (A) of this paragraph, 6.25 percent of
25 the value of the production 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. 33.** AS 38.05.177(h) is amended to read:

31 (h) A **nonconventional gas** lease issued under this section is subject to the

1 following terms and conditions and may be terminated by the director in the event of a
2 breach of a term or condition:

3 (1) the lessee may surrender the lease or relinquish part of the lease at
4 any time;

5 (2) the lease may not be transferred or assigned until a well capable of
6 production of **nonconventional** gas in paying quantities has been drilled on the lease;
7 however, this paragraph does not prohibit the lessee from entering into a farm out
8 agreement or similar arrangement with a third party under which the third party assists
9 in exploration and development of production from the lease if the agreement or
10 arrangement does not require a payment of consideration by the third party to the
11 lessee, except that the lessee may retain an overriding royalty interest in the lease or
12 may retain a net profit or other production payment.

13 * **Sec. 34.** AS 38.05.177(j) is amended to read:

14 (j) A **nonconventional gas** lease does not give the lessee the right to produce
15 oil. A lease gives the lessee the right to produce **nonconventional** gas [ONLY TO
16 THE EXTENT THAT IT IS FROM A FIELD IF A PART OF THE FIELD IS
17 WITHIN 3,000 FEET OF THE SURFACE]. If a well drilling for natural gas under a
18 lease authorized by this section [PENETRATES A FIELD, NO PORTION OF
19 WHICH IS WITHIN 3,000 FEET OF THE SURFACE, OR] penetrates a formation
20 capable of producing oil, the owner or operator

21 (1) shall notify the department and the Alaska Oil and Gas
22 Conservation Commission; and

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

28 * **Sec. 35.** AS 38.05.177(k) is amended to read:

29 (k) The commissioner [MAY]

30 (1) **may** adopt only the regulations that are reasonable and that are
31 necessary to implement, interpret, or make specific the provisions of this section or to

1 establish procedures to govern application of the provisions of this section; [AND]

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

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

10 (B) may not require a bond posted under this paragraph from a
11 person applying for a lease if the person has already posted a bond covering
12 the person's statewide oil and gas leasing activities in an amount of at least
13 \$500,000; **and**

14 **(3) shall, for a lease described in this subsection, if a bond is sought**
15 **under AS 38.05.130,**

16 **(A) before the amount of the surety bond to be posted is**
17 **determined by the director, require, as a condition for issuing the lease,**
18 **that the director, after notice and an opportunity to be heard, determine**
19 **that, to exercise rights under the reservation as set out in AS 38.05.125**
20 **and the lease, the lessee has no other reasonable means of entry than**
21 **access and entry upon the land of the owner; the lessee has the burden of**
22 **demonstrating compliance with the requirement of this subparagraph;**
23 **and**

24 **(B) in addition to the coverage for actual damages required**
25 **by that section, provide for payment of reasonable compensation to the**
26 **owner for any loss by the owner of the owner's use and enjoyment of the**
27 **property.**

28 * **Sec. 36.** AS 38.05.177(o) is amended to read:

29 (o) In this section, "lease" means a **nonconventional** [SHALLOW] gas lease
30 authorized by this section.

31 * **Sec. 37.** AS 38.05.180(a) is amended to read:

1 (a) The legislature finds that

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

4 (A) maximize the economic and physical recovery of the
5 resources;

6 (B) maximize competition among parties seeking to explore
7 and develop the resources;

8 (C) maximize use of Alaska's human resources in the
9 development of the resources;

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

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

13 (i) recognize the many varied geographical regions of
14 the state and the different costs of exploring for oil and gas in these
15 regions;

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

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

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

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

25 * **Sec. 38.** AS 38.05.180(b) is amended to read:

26 (b) The commissioner shall biennially prepare and, between the first and the
27 15th day of the first regular session of each legislature, notify the legislature of the
28 availability of, a five-year proposed oil and gas leasing program consisting of a
29 schedule of proposed lease sales and specifying as precisely as practicable the location
30 of tracts proposed to be offered for oil and gas leasing **or for leasing of gas only**
31 during the calendar year in which the proposed program is made available to the

1 legislature and the following four calendar years.

2 * **Sec. 39.** AS 38.05.180(c) is amended to read:

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

8 * **Sec. 40.** AS 38.05.180(d) is amended to read:

9 (d) The commissioner

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

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

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

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

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

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

30 (E) is the subject of an [OIL AND GAS] exploration license
 31 issued under AS 38.05.131 - 38.05.134; **however, if the license issued was**

1 **for exploration for and recovery of gas only, then the lease issued under**
 2 **this subsection shall be limited to exploration for and recovery of gas only.**

3 * **Sec. 41.** AS 38.05.180(f) is amended to read:

4 (f) Except as provided by AS 38.05.131 - 38.05.134 and 38.05.177, the
 5 commissioner may issue oil and gas leases **or leases for gas only** on state land to the
 6 highest responsible qualified bidder as follows:

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

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

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

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

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

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

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

31 (E) a fixed cash bonus with a fixed royalty share reserved to the

1 state of not less than 12.5 percent in amount or value of the production
 2 removed or sold from the lease with the share of the net profit derived from the
 3 lease reserved to the state as the bid variable;

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

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

12 **(H) for nonconventional gas that will not be produced in**
 13 **direct competition with gas on which a royalty at a rate of at least 12.5**
 14 **percent is payable, a royalty share reserved to the state of at least 6.25**
 15 **percent in amount or value of the production removed or sold from the**
 16 **lease;**

17 (4) notwithstanding a requirement in the leasing method chosen of a
 18 minimum fixed royalty share, on and after March 3, 1997, the lessee under a lease
 19 issued in the Cook Inlet sedimentary basin who is the first to file with the
 20 commissioner a nonconfidential sworn statement claiming to be the first to have
 21 drilled a well discovering oil or gas in a previously undiscovered oil or gas pool and
 22 who is certified by the commissioner within one year of completion of that discovery
 23 well to have drilled a well in that pool that is capable of producing in paying quantities
 24 shall pay a royalty of five percent on all production of oil or gas from that pool
 25 attributable to that lease for a period of 10 years following the date of discovery of that
 26 pool, and thereafter the royalty payable on all production of oil or gas from the pool
 27 attributable to that lease shall be determined and payable as specified in the lease; for
 28 purposes of this paragraph, the reduced royalty authorized by this paragraph is subject
 29 to the following:

30 (A) only one reduction of royalty authorized by this paragraph
 31 may be allowed on each lease that qualifies for reduction of royalty under this

1 paragraph;

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

8 (C) if application for a royalty reduction is made under this
9 paragraph for a lease on which a discovery royalty was claimed or may be
10 claimed under the discovery royalty provisions of former AS 38.05.180(a) in
11 effect before May 6, 1969, the commissioner shall disallow the application
12 under this paragraph unless the applicant waives the right to claim the right to
13 a reduced royalty under the discovery royalty provisions of former
14 AS 38.05.180(a) in effect before May 6, 1969; and

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

19 (5) notwithstanding and in lieu of a requirement in the leasing method
20 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases
21 unitized as described in (p) of this section, leases subject to an agreement described in
22 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of
23 an oil or gas field identified in this section that has been granted approval of a written
24 plan submitted to the Alaska Oil and Gas Conservation Commission under
25 AS 31.05.030(i) shall, subject to (dd) of this section, pay a royalty of five percent on
26 the first 25,000,000 barrels of oil and the first 35,000,000,000 cubic feet of gas
27 produced for sale from that field that occurs in the 10 years following the date on
28 which the production for sale commences; the fields eligible for royalty reduction
29 under this paragraph, all of which are located within the Cook Inlet sedimentary basin,
30 were discovered before January 1, 1988, and have been undeveloped or shut in from at
31 least January 1, 1988, through December 31, 1997, are

- 1 (A) Falls Creek;
- 2 (B) Nicolai Creek;
- 3 (C) North Fork;
- 4 (D) Point Starichkof;
- 5 (E) Redoubt Shoal; and
- 6 (F) West Foreland;

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

14 (A) shall pay a royalty of five percent on oil produced from the
 15 platform if oil production that equaled or exceeded a volume of 1,200 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
 19 1,200 barrels a day; the provisions of this subparagraph apply to

- 20 (i) Dolly;
- 21 (ii) Grayling;
- 22 (iii) King Salmon;
- 23 (iv) Steelhead; and
- 24 (v) Monopod;

25 (B) shall pay a royalty calculated under this subparagraph if the
 26 volume of oil produced from the platform that was certified by the Alaska Oil
 27 and Gas Conservation Commission under (A) of this paragraph later increases
 28 to 1,200 or more barrels a day and remains at 1,200 or more barrels a day for a
 29 period of at least one calendar quarter; until the royalty rate determined under
 30 this subparagraph applies, the royalty continues to be calculated under (A) of
 31 this paragraph; on and after the first day of the month following the month the

1 increased production exceeds the period specified in this subparagraph, the
2 royalty payable under this subparagraph is

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

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

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

9 (iv) for production of more than 1,500 barrels a day -
10 12.5 percent;

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

17 (i) Baker;

18 (ii) Dillon;

19 (iii) XTO.A; and

20 (iv) XTO.C;

21 (D) shall pay a royalty calculated under this subparagraph if the
22 volume of oil produced from the platform that was certified by the Alaska Oil
23 and Gas Conservation Commission under (C) of this paragraph later increases
24 to 975 or more barrels a day and remains at 975 or more barrels a day for a
25 period of at least one calendar quarter; until the royalty rate determined under
26 this subparagraph applies, the royalty continues to be calculated under (C) of
27 this paragraph; on and after the first day of the month following the month the
28 increased production exceeds the period specified in this subparagraph, the
29 royalty payable under this subparagraph is

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

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

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

5 (iv) for production of more than 1,350 barrels a day -
6 12.5 percent;

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

13 (i) Granite Point;

14 (ii) Anna; and

15 (iii) Bruce;

16 (F) shall pay a royalty calculated under this subparagraph if the
17 volume of oil produced from the platform that was certified by the Alaska Oil
18 and Gas Conservation Commission under (E) of this paragraph later increases
19 to 750 or more barrels a day and remains at 750 or more barrels a day for a
20 period of at least one calendar quarter; until the royalty rate determined under
21 this subparagraph applies, the royalty continues to be calculated under (E) of
22 this 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;

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

9 (H) shall pay a royalty calculated under this subparagraph if the
10 volume of oil produced from the field that was certified by the Alaska Oil and
11 Gas Conservation Commission under (G) of this paragraph later increases to
12 750 or more barrels a day and remains at 750 or more barrels a day for a period
13 of at least one calendar quarter; until the royalty rate determined under this
14 subparagraph applies, the royalty continues to be calculated under (G) of this
15 paragraph; on and after the first day of the month following the month the
16 increased production exceeds the period specified in this subparagraph, the
17 royalty payable under this subparagraph is

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

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

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

24 (iv) for production of more than 1,200 barrels a day -
25 12.5 percent; and

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

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

31 (ii) not the result of short-term production declines due

1 to mechanical or other choke-back factors, temporary shutdowns or
 2 decreased production due to environmental or facility constraints, or
 3 market conditions.

4 * **Sec. 42.** AS 38.05.180(h) is amended to read:

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

16 * **Sec. 43.** AS 38.05.180(i) is amended to read:

17 (i) The commissioner may provide for the establishment of an exploration
 18 incentive credit system under which a lessee of state land drilling an exploratory well
 19 on that land may earn credits based upon the footage drilled and the region in which
 20 the well is situated. The commissioner may also provide for credits to be earned by
 21 persons performing geophysical work on state land, if that work is performed during
 22 the two seasons immediately preceding an announced lease sale and on land included
 23 within the sale area and the geophysical information is made public following the sale.
 24 Credits may not exceed 50 percent of the cost of the drilling or geophysical work.
 25 Credits may be used during a limited period established by the commissioner and may
 26 be assigned during that period. Credits may be applied against (1) [OIL AND GAS]
 27 royalty and rental payments **for oil and gas or for gas only** payable to the state or (2)
 28 taxes payable under AS 43.55. A credit may not exceed 50 percent of the payment
 29 toward which it is being applied. Amounts due the Alaska permanent fund
 30 (AS 37.13.010) shall be calculated before the application of credits under this
 31 subsection.

1 * **Sec. 44.** AS 38.05.180(j) is amended to read:

2 (j) The commissioner

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

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

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

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

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

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

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

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

23 (3) shall provide for an increase or decrease or other modification of
24 the state's royalty share by a sliding scale royalty or other mechanism that shall be
25 based on a change in the price of oil or gas and may also be based on other relevant
26 factors such as a change in production rate, projected ultimate recovery, development
27 costs, and operating costs

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

29 (A) under (1)(A) of this subsection if the royalty modification
30 for the field or pool would establish a royalty rate of less than five percent in
31 amount or value of the production removed or sold from a lease or leases

1 covering the field or pool;

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

6 (5) may not grant a royalty reduction under this subsection without
7 including an explicit condition that the royalty reduction is not assignable without the
8 prior written approval, which may not be unreasonably withheld, by the
9 commissioner; the commissioner shall, in the preliminary and final findings and
10 determinations, set out the conditions under which the royalty reduction may be
11 assigned;

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

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

19 (B) shall keep the data confidential under AS 38.05.035(a)(9)
20 at the request of the lessee or lessees making application for the royalty
21 reduction; the confidential data may be disclosed by the commissioner to
22 legislators and to the legislative auditor and as directed by the chair or vice-
23 chair of the Legislative Budget and Audit Committee to the director of the
24 division of legislative finance, the permanent employees of their respective
25 divisions who are responsible for evaluating a royalty reduction, and to agents
26 or contractors of the legislative auditor or the legislative finance director who
27 are engaged under contract to evaluate the royalty reduction, if they sign an
28 appropriate confidentiality agreement;

29 (7) may

30 (A) require the lessee or lessees making application for the
31 royalty reduction under (1)(A) of this subsection to pay for the services of an

1 independent contractor, selected by the lessee or lessees from a list of qualified
2 consultants compiled by the commissioner, to evaluate hydrocarbon
3 development, production, transportation, and economics and to assist the
4 commissioner in evaluating the application and financial and technical data; if,
5 under this subparagraph, the commissioner requires payment for the services of
6 an independent contractor, the total cost of the services to be paid for by the
7 lessee or lessees may not exceed \$150,000 for each application, and the
8 commissioner shall determine the relevant scope of the work to be performed
9 by the contractor; selection of an independent contractor under this
10 subparagraph is not subject to AS 36.30;

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

23 (8) shall make and publish a preliminary findings and determination on
24 the royalty reduction application, give reasonable public notice of the preliminary
25 findings and determination, and invite public comment on the preliminary findings
26 and determination during a 30-day period for receipt of public comment;

27 (9) shall offer to appear before the Legislative Budget and Audit
28 Committee, on a day that is not earlier than 10 days and not later than 20 days after
29 giving public notice under (8) of this subsection, to provide the committee a review of
30 the commissioner's preliminary findings and determination on the royalty reduction
31 application and administrative process; if the Legislative Budget and Audit Committee

1 accepts the commissioner's offer, the committee shall give notice of the committee's
2 meeting to all members of the legislature;

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

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

6 (B) the chairs of the legislature's standing committees on
7 resources; and

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

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

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

14 (B) make a final findings and determination; the
15 commissioner's final findings and determination prepared under this
16 subparagraph regarding a royalty reduction is final and not appealable to the
17 court;

18 (C) transmit a copy of the final findings and determination to
19 the lessee;

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

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

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

27 * **Sec. 45.** AS 38.05.180(*l*) is amended to read:

28 (*l*) Subject to the provisions of AS 31.05, the commissioner has discretion to
29 enter into an agreement whereby, with the consent of the lessee, the state's royalty
30 share of [OIL AND GAS] production **of oil and gas or gas only** may be stored or
31 retained in storage by the lessee, or the commissioner may enter into an agreement

1 with one or more of the affected field lease holders to trade current royalty production
 2 from a field for a like amount, kind, and quality of future production, on the condition
 3 that the state receives back its stored or traded royalty share during the first half of the
 4 estimated field life or no later than 15 years after start of production, whichever is
 5 sooner.

6 * **Sec. 46.** AS 38.05.180(m) is amended to read:

7 (m) An oil and gas lease **or a gas only lease** must cover a reasonably compact
 8 area not exceeding 5,760 acres, and may be for a maximum period of 10 years, except
 9 that the commissioner may issue a lease for a period not less than five years upon a
 10 finding that it is in the best interests of the state. An oil and gas lease shall be
 11 automatically extended if and for so long thereafter as oil or gas is produced in paying
 12 quantities from the lease or if the lease is committed to a unit approved by the
 13 commissioner, **and a gas only lease shall be automatically extended if and for so**
 14 **long thereafter as gas is produced in paying quantities from the lease or if the**
 15 **lease is committed to a unit approved by the commissioner.** A lease issued under
 16 this section covering land on which there is a well capable of producing oil or gas in
 17 paying quantities does not expire because the lessee fails to produce oil or gas unless
 18 the lessee is allowed reasonable time to place the well on a producing status. Upon
 19 extension, the commissioner may increase lease rentals so long as the increased rental
 20 rate does not exceed 150 percent of the rate for the preceding year. If drilling has
 21 commenced on the expiration date of the primary term of the lease and is continued
 22 with reasonable diligence, including such operations as redrilling, sidetracking, or
 23 other means necessary to reach the originally proposed bottom hole location, the lease
 24 continues in effect until 90 days after drilling has ceased and for so long thereafter as
 25 oil or gas is produced in paying quantities. An oil and gas lease **or a gas only lease**
 26 issued under this section which is subject to termination by reason of cessation of
 27 production does not terminate if, within 60 days after production ceases, reworking or
 28 drilling operations are commenced on the land under lease and are thereafter
 29 conducted with reasonable diligence during the period of nonproduction.

30 * **Sec. 47.** AS 38.05.180(n) is amended to read:

31 (n) The commissioner may establish by regulation that after a well has been

1 plugged and abandoned, the rental rate which was in effect during the year of
 2 abandonment is maintained for the remainder of the term. Rental is payable in
 3 advance and continues until income to the state from royalty or net profit share
 4 exceeds rental income to the state for that year. **Under this subsection,**

5 **(1)** [OIL AND GAS] leases **for oil and gas or for gas only** shall
 6 provide for payment to the state of rental on the following basis:

7 **(A)** [(1)] for the first year, \$1.00 per acre;

8 **(B)** [(2)] for the second year, \$1.50 per acre;

9 **(C)** [(3)] for the third year, \$2.00 per acre;

10 **(D)** [(4)] for the fourth year, \$2.50 per acre;

11 **(E)** [(5)] for the fifth and following years, \$3.00 per acre;

12 **(2)** **if the lessee under a gas only lease demonstrates to the**
 13 **commissioner that the potential resources underlying the lease are reasonably**
 14 **estimated to be only nonconventional gas, the rental payment is \$1.00 per acre**
 15 **until the lease expires or paying quantities of conventional oil or gas are**
 16 **discovered underlying the lease.**

17 * **Sec. 48.** AS 38.05.180(p) is amended to read:

18 (p) To conserve the natural resources of all or a part of an oil or gas pool,
 19 field, or like area, the lessees and their representatives may unite with each other, or
 20 jointly or separately with others, in collectively adopting or operating under a
 21 cooperative or a unit plan of development or operation of the pool, field, or like area,
 22 or a part of it, when determined and certified by the commissioner to be necessary or
 23 advisable in the public interest. The commissioner may, with the consent of the
 24 holders of leases involved, establish, change, or revoke drilling, producing, and
 25 royalty requirements of the leases and adopt regulations with reference to the leases,
 26 with like consent on the part of the lessees, in connection with the institution and
 27 operation of a cooperative or unit plan as the commissioner determines necessary or
 28 proper to secure the proper protection of the public interest. The commissioner may
 29 not reduce royalty on leases in connection with a cooperative or unit plan except as
 30 provided in (j) of this section. The commissioner may require **a lease** [OIL AND
 31 GAS LEASES] issued under this section to contain a provision requiring the lessee to

1 operate under a reasonable cooperative or unit plan, and may prescribe a plan under
 2 which the lessee must operate. The plan must adequately protect all parties in interest,
 3 including the state.

4 * **Sec. 49.** AS 38.05.180 is amended by adding a new subsection to read:

5 (ff) The provisions of this section that authorize oil and gas leases also apply
 6 to authorize the commissioner to issue leases under this section for the production of
 7 gas only, subject to the following:

8 (1) the provisions of this subsection apply to only

9 (A) the Municipality of Anchorage, Kenai Peninsula Borough,
 10 and Matanuska-Susitna Borough; and

11 (B) the Fairbanks North Star Borough; and

12 (2) in authorizing and managing leases under this subsection, the terms
 13 "oil and gas" or "oil or gas" as they are used in this chapter shall be read and applied
 14 as referring to gas only;

15 (3) for a nonconventional gas lease, if a bond is sought under
 16 AS 38.05.130,

17 (A) before the amount of the surety bond to be posted is
 18 determined by the director, require, as a condition for issuing the lease, that the
 19 director, after notice and an opportunity to be heard, determine that, to exercise
 20 rights under the reservation as set out in AS 38.05.125 and the lease, the lessee
 21 has no other reasonable means of entry than access and entry upon the land of
 22 the owner; the lessee has the burden of demonstrating compliance with the
 23 requirement of this subparagraph; and

24 (B) in addition to the coverage for actual damages required by
 25 that section, provide for payment of reasonable compensation to the owner for
 26 any loss by the owner of the owner's use and enjoyment of the property.

27 * **Sec. 50.** AS 38.05.860(a) is amended to read:

28 (a) The commissioner may require an applicant seeking the sale, lease, or
 29 other disposal of land or an interest in land, other than under an oil and gas **lease, gas**
 30 **only lease**, or mineral lease, to deposit an amount covering the estimated cost of an
 31 appraisal, survey, and other costs necessary to offer the land or interest in land,

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

9 * **Sec. 51.** AS 38.05.860(c) is amended to read:

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

13 * **Sec. 52.** AS 38.05.945(a) is amended to read:

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

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

18 (2) zoning of land under applicable law;

19 (3) issuance of a

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

23 (B) [REPEALED

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

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

31 (5) a preliminary finding under AS 38.05.035(e) concerning sites for

1 aquatic farms and related hatcheries;

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

4 * **Sec. 53.** AS 38.05.965 is amended by adding a new paragraph to read:

5 (25) "nonconventional gas" means coal bed methane, gas contained in
6 shale, or gas from gas hydrates.

7 * **Sec. 54.** 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. 55.** 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. 56.** 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. 57.** 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. 58.** 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. 59.** 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 38.05.965 [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. 60.** 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. 61.** 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. 62.** AS 46.04.900 is amended by adding a new paragraph to read:

5 (31) "nonconventional gas" has the meaning given in AS 38.05.965.

6 * **Sec. 63.** 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 38.05.965** [AS 46.04.900].

17 * **Sec. 64.** 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. 65.** AS 31.05.170(14) and AS 46.04.900(25) are repealed.

9 * **Sec. 66.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 **CERTAIN SHALLOW NATURAL GAS LEASES AND LEASE APPLICATIONS**
12 **TO BE ADMINISTERED UNDER FORMER LAW.** The provisions of AS 38.05.177,
13 amended by secs. 26 - 36 of this Act, as those provisions read on the day before the effective
14 date of amendment of that section, apply to shallow natural gas

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

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

18 * **Sec. 67.** This Act takes effect immediately under AS 01.10.070(c).