

CS FOR HOUSE BILL NO. 531(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 4/21/04

Referred: 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

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Sections 34 - 36

(3) for nonresidential development within the following development

nodes:

(A) Deadhorse:

Township 10 North, Range 14 East, Umiat Meridian

Township 10 North, Range 15 East, Umiat Meridian

Section 8

Sections 17 - 20

Section 30

(B) Coldfoot:

Township 28 North, Range 12 West, Fairbanks Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

Sections 20 - 22

Township 29 North, Range 12 West, Fairbanks Meridian

Sections 23 - 27

Sections 34 - 35

(C) Franklin Bluffs:

Township 4 North, Range 14 East, Umiat Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

(D) Happy Valley:

Township 3 South, Range 14 East, Umiat Meridian

Sections 19 - 20

Sections 29 - 30

(E) Yukon River Crossing:

Township 12 North, Range 10 West, Fairbanks Meridian

Sections 6 - 7

Township 12 North, Range 11 West, Fairbanks Meridian

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 31.05.170 is amended by adding a new paragraph to read:

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

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

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

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

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

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

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

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

22 (e) Upon a written finding that the interests of the state will be best served, the
23 director may, with the consent of the commissioner, approve contracts for the sale,
24 lease, or other disposal of available land, resources, property, or interests in them. In
25 approving a contract under this subsection, the director need only prepare a single
26 written finding. In addition to the conditions and limitations imposed by law, the
27 director may impose additional conditions or limitations in the contracts as the director
28 determines, with the consent of the commissioner, will best serve the interests of the
29 state. The preparation and issuance of the written finding by the director are subject to
30 the following:

31 (1) with the consent of the commissioner and subject to the director's

1 discretion, for a specific proposed disposal of available land, resources, or property, or
2 of an interest in them, the director, in the written finding,

3 (A) shall establish the scope of the administrative review on
4 which the director's determination is based, and the scope of the written
5 finding supporting that determination; the scope of the administrative review
6 and finding may address only reasonably foreseeable, significant effects of the
7 uses proposed to be authorized by the disposal;

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

10 (i) applicable statutes and regulations;

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

15 (iii) issues that, based on the statutes and regulations
16 referred to in (i) of this subparagraph, on the facts as described in (ii) of
17 this subparagraph, and on the nature of the uses sought to be authorized
18 by the disposal, the director finds are material to the determination of
19 whether the proposed disposal will best serve the interests of the state;
20 and

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

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

28 (ii) the disposal is a [AN OIL AND GAS] disposal **of**
29 **oil and gas, or of gas only**, and, before the next phase of the project
30 may proceed, public notice and the opportunity to comment are
31 provided under regulations adopted by the department unless the

1 project is subject to a consistency review under AS 46.40 and public
 2 notice and the opportunity to comment are provided under
 3 AS 46.40.096(c);

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

6 (iv) the department describes its reasons for a decision
 7 to phase;

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

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

14 (B) issues based on the statutes and regulations referred to in
 15 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this
 16 subsection;

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

19 (4) a contract for the sale, lease, or other disposal of available land or
 20 an interest in land is not legally binding on the state until the commissioner approves
 21 the contract, but if the appraised value is not greater than \$50,000 in the case of the
 22 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or
 23 interest in land, the director may execute the contract without the approval of the
 24 commissioner;

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

29 (A) before a public hearing, if held, or in any case not less than
 30 180 days before the sale, lease, or other disposal of available land or an interest
 31 in land, the director shall make available to the public a preliminary written

1 finding that states the scope of the review established under (1)(A) of this
 2 subsection and includes the applicable statutes and regulations, the material
 3 facts and issues in accordance with (1)(B) of this subsection, and information
 4 required by (g) of this section, upon which the determination that the sale,
 5 lease, or other disposal will serve the best interests of the state will be based;
 6 the director shall provide opportunity for public comment on the preliminary
 7 written finding for a period of not less than 60 days;

8 (B) after the public comment period for the preliminary written
 9 finding and not less than 90 days before the sale, lease, or other disposal of
 10 available land or an interest in land for oil and gas **or for gas only**, the director
 11 shall make available to the public a final written finding that states the scope of
 12 the review established under (1)(A) of this subsection and includes the
 13 applicable statutes and regulations, the material facts and issues in accordance
 14 with (1) of this subsection, and information required by (g) of this section,
 15 upon which the determination that the sale, lease, or other disposal will serve
 16 the best interests of the state is based;

17 (6) before a public hearing, if held, or in any case not less than 21 days
 18 before the sale, lease, or other disposal of available land, property, resources, or
 19 interests in them other than a sale, lease, or other disposal of available land or an
 20 interest in land for oil and gas **or for gas only** under (5) of this subsection, the director
 21 shall make available to the public a written finding that, in accordance with (1) of this
 22 subsection, sets out the material facts and applicable statutes and regulations and any
 23 other information required by statute or regulation to be considered upon which the
 24 determination that the sale, lease, or other disposal will best serve the interests of the
 25 state was based; however, a written finding is not required before the approval of

26 (A) a contract for a negotiated sale authorized under
 27 AS 38.05.115;

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

29 (C) a permit or other authorization revocable by the
 30 commissioner;

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

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

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

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

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

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

23 (G) [A SHALLOW GAS LEASE AUTHORIZED UNDER
 24 AS 38.05.177 IN AN AREA FOR WHICH LEASING IS AUTHORIZED
 25 UNDER AS 38.05.177;

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

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

29 (7) the director shall include in

30 (A) a preliminary written finding, if required, a summary of
 31 agency and public comments, if any, obtained as a result of contacts with other

1 agencies concerning a proposed disposal or as a result of informal efforts
 2 undertaken by the department to solicit public response to a proposed disposal,
 3 and the department's preliminary responses to those comments; and

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

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

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

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

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

17 (B) material to the following matters:

18 (i) property descriptions and locations;

19 (ii) the petroleum potential of the sale area, in general
 20 terms;

21 (iii) fish and wildlife species and their habitats in the
 22 area;

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

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

28 (vi) the reasonably foreseeable cumulative effects of
 29 [OIL AND GAS] exploration, development, production, and
 30 transportation **for oil and gas or for gas only** on the sale area,
 31 including effects on subsistence uses, fish and wildlife habitat and

1 populations and their uses, and historic and cultural resources;

2 (vii) lease stipulations and mitigation measures,
3 including any measures to prevent and mitigate releases of oil and
4 hazardous substances, to be included in the leases, and a discussion of
5 the protections offered by these measures;

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

9 (ix) the reasonably foreseeable fiscal effects of the lease
10 sale and the subsequent activity on the state and affected municipalities
11 and communities, including the explicit and implicit subsidies
12 associated with the lease sale, if any;

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

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

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

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

22 (a) The department may conduct audits regarding royalty and net profits under
23 oil and gas contracts, agreements, or leases under this chapter and regarding costs
24 related to [OIL AND GAS] exploration licenses **entered into under AS 38.05.131 -**
25 **38.05.134** and exploration incentive credits under this chapter or under AS 41.09. For
26 purposes of audit under this section,

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

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

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

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

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

5 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the
 6 provisions of AS 38.05.005 - 38.05.037, 38.05.140(f), 38.05.180, 38.05.182 -
 7 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of [OIL AND GAS]
 8 exploration licenses and leases **for oil and gas, or for gas only, as appropriate,**
 9 under AS 38.05.132 - 38.05.134.

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

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

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

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

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

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

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

30 (c) An exploration license awarded under this section

31 (1) is not subject to the acreage limitations imposed by

1 AS 38.05.140(c) or 38.05.180(m);

2 (2) may cover, subject to the maximum acreage limitation on
3 exploration licenses by one licensee under AS 38.05.131(e), an area of not less than
4 10,000 acres and not more than 500,000 acres, that must be reasonably compact and
5 contiguous;

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

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

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

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

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

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

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

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

31 (7) must be conditioned upon an agreement that exploration

1 expenditures are subject to audit by the commissioner.

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

3 (f) In this section,

4 (1) "direct exploration expenditure" means cash expenses undertaken
5 in performance of a specified work commitment under the provisions of AS 38.05.131
6 - 38.05.134 and necessarily incurred by the licensee in the permitting, mobilization,
7 conducting, demobilization, and evaluation of geophysical and geological surveys, or
8 the drilling, logging, coring, testing, and evaluation of oil and gas **or gas only** wells;
9 the term

10 (A) includes direct labor costs, including the cost of benefits,
11 for employees directly associated with the work commitment programs, the
12 cost of renting or leasing equipment from parties not affiliated with the
13 licensee, the reasonable costs of maintaining and operating equipment,
14 payments to consultants and independent contractors not affiliated with the
15 licensee, and costs of materials and supplies;

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

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

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

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

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

28 (f) After considering proposals not rejected under (d) of this section and public
29 comment on those proposals, the commissioner shall issue a written finding
30 addressing all matters set out in AS 38.05.035(e) and (g), except for
31 AS 38.05.035(g)(1)(B)(xi). If the finding concludes that the state's best interests

1 would be served by issuing an [OIL AND GAS] exploration license, the finding must
 2 (1) describe the limitations, stipulations, conditions, or changes from the initiating
 3 proposal or competing proposals that are required to make the issuance of the
 4 exploration license conform to the best interests of the state, and (2) if only one
 5 proposal was submitted, identify the prospective licensee whom the commissioner
 6 finds should be issued the exploration license. The commissioner shall attach to the
 7 finding a copy of the exploration license to be issued and the form of lease that will be
 8 used for any portion of the exploration license area subsequently converted to a [AN
 9 OIL AND GAS] lease under AS 38.05.134.

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

11 (h) If competing proposals are submitted, and the commissioner's finding
 12 under (f) of this section concludes that an [OIL AND GAS] exploration license should
 13 be issued, the commissioner shall issue a request for competitive sealed bids, under
 14 procedures adopted by the commissioner by regulation, to determine which
 15 prospective licensee should be issued the exploration license. The finding provided to
 16 the prospective licensees and the public under (f) of this section must contain notice
 17 that (1) the commissioner intends to request competitive sealed bids, (2) a prospective
 18 licensee who intends to participate in the bidding must notify the commissioner in
 19 writing by the date specified in the notice, and (3) a prospective licensee's notice of
 20 intent to participate in the bidding constitutes acceptance of issuance of the
 21 exploration license, as limited or conditioned by the terms contained in the finding and
 22 by the exploration license to be issued and the form of lease to be used that have been
 23 attached to that finding, if the prospective licensee is the successful bidder. The
 24 successful bidder is the prospective licensee who submits the highest bid in terms of
 25 the minimum work commitment dollar amount.

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

27 **Sec. 38.05.134. Conversion to lease.** If the licensee requests and the
 28 commissioner determines that the work commitment obligation set out in an [OIL
 29 AND GAS] exploration license issued under AS 38.05.132 has been met, the
 30 commissioner shall convert to one or more [OIL AND GAS] leases all or part, as the
 31 licensee may indicate, of the area described in the exploration license that remains

1 after the relinquishments, removals, or deletions required by AS 38.05.132(d)(2). A
2 lease issued under this section

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

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

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

7 (A) the lessee who, proceeding under AS 38.05.131 -
8 38.05.134, under a lease issued in the Cook Inlet sedimentary basin who is the
9 first to file with the commissioner a nonconfidential sworn statement claiming
10 to be the first to have drilled a well discovering oil or gas in a previously
11 undiscovered oil or gas pool and who is certified by the commissioner within
12 one year of completion of that discovery well to have drilled a well in that pool
13 that is capable of producing in paying quantities shall pay a royalty of five
14 percent on all production of oil or gas from that pool attributable to that lease
15 for a period of 10 years following the date of discovery of that pool, and
16 thereafter the royalty payable on all production of oil or gas from the pool
17 attributable to that lease shall be determined and payable as specified in the
18 lease; the payment of the five percent royalty under this paragraph is
19 authorized only to a holder of a lease who meets the requirements of
20 AS 38.05.180(f)(4); **and**

21 **(B) for nonconventional gas that is not produced in direct**
22 **competition with gas on which a royalty at a rate of at least 12.5 percent is**
23 **payable, if the licensee requests, the commissioner may negotiate with the**
24 **licensee and set a royalty rate for the gas of at least 6.25 percent; for**
25 **purposes of this subparagraph, "nonconventional gas" has the meaning**
26 **given in AS 38.05.965;**

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

31 (5) is subject to other conditions and obligations that are specified in

1 the lease.

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

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

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

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

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

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

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

28 (a) The provisions of this section
29 [(1)] apply to **nonconventional** gas [, WHETHER METHANE
30 ASSOCIATED WITH AND DERIVED FROM COAL DEPOSITS OR
31 OTHERWISE, FROM A FIELD IF A PART OF THE FIELD IS WITHIN 3,000

1 FEET OF THE SURFACE; AND

2 (2) DO NOT APPLY TO AUTHORIZE LEASE OF

3 (A) LAND

4 (i) THAT IS SUBJECT TO AN OIL AND GAS
5 EXPLORATION LICENSE OR LEASE ISSUED UNDER
6 AS 38.05.131 - 38.05.134; OR

7 (ii) THAT IS LEASED UNDER AS 38.05.180;

8 (B) THE LAND (i) THAT IS PROPOSED TO BE SUBJECT
9 TO AN OIL AND GAS EXPLORATION LICENSE OR LEASE ISSUED
10 UNDER AS 38.05.131 - 38.05.134; OR (ii) THAT IS DESCRIBED IN AND
11 PART OF A PROPOSED OIL AND GAS LEASING PROGRAM
12 PREPARED UNDER AS 38.05.180(b); HOWEVER, THE COMMISSIONER
13 MAY WAIVE THE LIMITATIONS OF THIS SUBPARAGRAPH;

14 (C) THE LAND THAT IS HELD UNDER A COAL LEASE
15 ENTERED INTO UNDER AS 38.05.150, UNLESS THE APPLICANT FOR
16 A SHALLOW NATURAL GAS LEASE IS ALSO THE LESSEE UNDER
17 AS 38.05.150 OF THAT LAND; OR

18 (D) THE VALID EXISTING SELECTIONS OF THE
19 ALASKA MENTAL HEALTH TRUST AUTHORITY MADE FOR THE
20 PURPOSE OF RECONSTITUTING THE MENTAL HEALTH TRUST
21 ESTABLISHED UNDER THE ALASKA MENTAL HEALTH ENABLING
22 ACT, P.L. 84-830, 70 STAT. 709 (1956), THAT BECOME SUBJECT TO
23 MANAGEMENT UNDER AS 38.05.801, OR OF LAND THAT HAS BEEN
24 DESIGNATED BY LAW FOR OR IS SUBJECT TO DESIGNATION FOR
25 CONVEYANCE TO THE ALASKA MENTAL HEALTH TRUST
26 AUTHORITY; HOWEVER, AFTER CONSULTATION WITH THE
27 ALASKA MENTAL HEALTH TRUST AUTHORITY, THE
28 COMMISSIONER MAY WAIVE THE LIMITATIONS OF THIS
29 SUBPARAGRAPH].

30 * **Sec. 27.** AS 38.05.177(d) is amended to read:

31 (d) A lease

1 **(1)** shall be automatically extended if and for so long thereafter as gas
 2 is produced in paying quantities from the lease and the lessee continues to meet all
 3 requirements of the lease; **a** [. A] lease issued under this section covering land on
 4 which there is a well capable of producing gas in paying quantities does not expire
 5 because the lessee fails to produce gas unless the lessee is allowed reasonable time to
 6 place the well on a producing status; **if** [. IF] drilling has commenced on the
 7 expiration date of the primary term of the lease and is continued with reasonable
 8 diligence, including such operations as redrilling, sidetracking, or other means
 9 necessary to reach the originally proposed bottom hole location, the lease is extended
 10 for one year and for so long thereafter as gas is produced in paying quantities; **a** [. A]
 11 gas lease issued under this section that is subject to termination by reason of cessation
 12 of production does not terminate if, within 90 days after production ceases or a longer
 13 period determined at the discretion of the director, reworking or drilling operations are
 14 commenced on the land under lease and are thereafter conducted with reasonable
 15 diligence during the period of nonproduction;

16 **(2) issued under former (c) of this section before January 1, 2004,**
 17 **may be extended at the discretion of the director; a lease may be extended under**
 18 **this paragraph** [. IN ADDITION,] upon application by the lessee; [,] the director
 19 may once extend **the** [A] lease [ISSUED UNDER (c) OF THIS SECTION] for a
 20 period of not more than three years; **in exercising discretion to extend a lease under**
 21 **this paragraph, the director may not extend the lease unless the director**
 22 **considers**

23 **(A) the extent of the shallow natural gas exploration**
 24 **activity already conducted on the lease and on adjacent areas;**

25 **(B) the probability that further shallow natural gas**
 26 **exploration activity will occur on the lease and will lead to shallow natural**
 27 **gas development and production; and**

28 **(C) whether extension of the lease's primary term will**
 29 **accelerate the eventual production of shallow natural gas from the lease.**

30 * **Sec. 28.** AS 38.05.177(l) is amended to read:

31 (l) A lessee **holding** [OBTAINING] a lease **modified** under

1 **AS 38.05.180(n)(2)** [THIS SECTION] may exercise the rights authorized by this
 2 section and the lease. The rights granted by the lease must be exercised in a manner
 3 that does not unreasonably interfere with eventual development of other mineral
 4 deposits on the land leased. However, in a lease entered into under AS 38.05.150 for
 5 land that is already **subject to a lease covered** [LEASED] under this section, coal may
 6 not be mined or extracted by the coal lessee from the coal lease without prior
 7 agreement with the lessee holding the lease **covered** [ISSUED] under this section.

8 * **Sec. 29.** AS 38.05.180(a) is amended to read:

9 (a) The legislature finds that

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

12 (A) maximize the economic and physical recovery of the
 13 resources;

14 (B) maximize competition among parties seeking to explore
 15 and develop the resources;

16 (C) maximize use of Alaska's human resources in the
 17 development of the resources;

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

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

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

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

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

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

30 (ii) land in areas that, under (d) of this section, may be
 31 leased without having been included in the leasing program prepared

1 and submitted under (b) of this section.

2 * **Sec. 30.** AS 38.05.180(b) is amended to read:

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

10 * **Sec. 31.** AS 38.05.180(c) is amended to read:

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

16 * **Sec. 32.** AS 38.05.180(d) is amended to read:

17 (d) The commissioner

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

20 (2) may issue [OIL AND GAS] leases in an area that has not been
21 included in a leasing program prepared, in accordance with (b) of this section, if the
22 land to be leased

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

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

29 (C) is adjacent to land owned or controlled by another party on
30 which a discovery of commercial quantities of oil or gas has been made, and
31 the commissioner finds, after hearing, that there is a reasonable probability that

1 the land to be leased contains oil or gas in communication with the oil or gas
2 discovered on the land of the other party;

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

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

11 * **Sec. 33.** AS 38.05.180(f) is amended to read:

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

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

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

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

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

30 (B) a cash bonus bid with a fixed royalty share reserved to the
31 state of not less than 12.5 percent in amount or value of the production

1 removed or sold from the lease and a fixed share of the net profit derived from
2 the lease of not less than 30 percent reserved to the state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (A) shall pay a royalty of five percent on oil produced from the
 23 platform if oil production that equaled or exceeded a volume of 1,200 barrels a
 24 day declines to less than that amount for a period of at least one calendar
 25 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for
 26 as long as the volume of oil produced from the platform remains less than
 27 1,200 barrels a day; the provisions of this subparagraph apply to

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

1 (v) Monopod;

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

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

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

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

17 (iv) for production of more than 1,500 barrels a day -
18 12.5 percent;

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

25 (i) Baker;

26 (ii) Dillon;

27 (iii) XTO.A; and

28 (iv) XTO.C;

29 (D) shall pay a royalty calculated under this subparagraph if the
30 volume of oil produced from the platform that was certified by the Alaska Oil
31 and Gas Conservation Commission under (C) of this paragraph later increases

1 to 975 or more barrels a day and remains at 975 or more barrels a day for a
 2 period of at least one calendar quarter; until the royalty rate determined under
 3 this subparagraph applies, the royalty continues to be calculated under (C) of
 4 this paragraph; on and after the first day of the month following the month the
 5 increased production exceeds the period specified in this subparagraph, the
 6 royalty payable under this subparagraph is

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

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

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

13 (iv) for production of more than 1,350 barrels a day -
 14 12.5 percent;

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

21 (i) Granite Point;

22 (ii) Anna; and

23 (iii) Bruce;

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

1 royalty payable under this subparagraph is

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

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

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

8 (iv) for production of more than 1,200 barrels a day -
9 12.5 percent;

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

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

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

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

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

1 (iv) for production of more than 1,200 barrels a day -
2 12.5 percent; and

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

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

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

12 * **Sec. 34.** AS 38.05.180(h) is amended to read:

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

24 * **Sec. 35.** AS 38.05.180(i) is amended to read:

25 (i) The commissioner may provide for the establishment of an exploration
26 incentive credit system under which a lessee of state land drilling an exploratory well
27 on that land may earn credits based upon the footage drilled and the region in which
28 the well is situated. The commissioner may also provide for credits to be earned by
29 persons performing geophysical work on state land, if that work is performed during
30 the two seasons immediately preceding an announced lease sale and on land included
31 within the sale area and the geophysical information is made public following the sale.

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

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

10 (j) The commissioner

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

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

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

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

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

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

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

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

31 (3) shall provide for an increase or decrease or other modification of

1 the state's royalty share by a sliding scale royalty or other mechanism that shall be
 2 based on a change in the price of oil or gas and may also be based on other relevant
 3 factors such as a change in production rate, projected ultimate recovery, development
 4 costs, and operating costs

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

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

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

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

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

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

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

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

6 (7) may

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

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

31 (8) shall make and publish a preliminary findings and determination on

1 the royalty reduction application, give reasonable public notice of the preliminary
 2 findings and determination, and invite public comment on the preliminary findings
 3 and determination during a 30-day period for receipt of public comment;

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

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

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

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

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

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

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

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

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

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

30 (E) make copies of the final findings and determination
 31 available to each person who submitted comment under (8) of this subsection

1 and who has filed a request for the copies;

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

4 * **Sec. 37.** AS 38.05.180(l) is amended to read:

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

14 * **Sec. 38.** AS 38.05.180(m) is amended to read:

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

1 continues in effect until 90 days after drilling has ceased and for so long thereafter as
 2 oil or gas is produced in paying quantities. An oil and gas lease **or a gas only lease**
 3 issued under this section which is subject to termination by reason of cessation of
 4 production does not terminate if, within 60 days after production ceases, reworking or
 5 drilling operations are commenced on the land under lease and are thereafter
 6 conducted with reasonable diligence during the period of nonproduction.

7 * **Sec. 39.** AS 38.05.180(n) is amended to read:

8 (n) The commissioner may establish by regulation that after a well has been
 9 plugged and abandoned, the rental rate which was in effect during the year of
 10 abandonment is maintained for the remainder of the term. Rental is payable in
 11 advance and continues until income to the state from royalty or net profit share
 12 exceeds rental income to the state for that year. **Under this subsection,**

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

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

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

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

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

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

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

25 * **Sec. 40.** AS 38.05.180(p) is amended to read:

26 (p) To conserve the natural resources of all or a part of an oil or gas pool,
 27 field, or like area, the lessees and their representatives may unite with each other, or
 28 jointly or separately with others, in collectively adopting or operating under a
 29 cooperative or a unit plan of development or operation of the pool, field, or like area,
 30 or a part of it, when determined and certified by the commissioner to be necessary or
 31 advisable in the public interest. The commissioner may, with the consent of the

1 holders of leases involved, establish, change, or revoke drilling, producing, and
 2 royalty requirements of the leases and adopt regulations with reference to the leases,
 3 with like consent on the part of the lessees, in connection with the institution and
 4 operation of a cooperative or unit plan as the commissioner determines necessary or
 5 proper to secure the proper protection of the public interest. The commissioner may
 6 not reduce royalty on leases in connection with a cooperative or unit plan except as
 7 provided in (j) of this section. The commissioner may require a lease [OIL AND
 8 GAS LEASES] issued under this section to contain a provision requiring the lessee to
 9 operate under a reasonable cooperative or unit plan, and may prescribe a plan under
 10 which the lessee must operate. The plan must adequately protect all parties in interest,
 11 including the state.

12 * **Sec. 41.** AS 38.05.180 is amended by adding a new subsection to read:

13 (ff) The provisions of this section that authorize oil and gas leases also apply
 14 to authorize the commissioner to issue leases for the production of gas only, subject to
 15 the following:

16 (1) in authorizing and managing leases under this subsection, the terms
 17 "oil and gas" or "oil or gas" as they are used in this chapter may be read and applied as
 18 appropriate as referring to gas only;

19 (2) when a lease is authorized as a gas only lease, the lease does not
 20 give the lessee the right to produce oil; if a well drilling for gas under a gas only lease
 21 authorized by this subsection penetrates a formation capable of producing oil, the
 22 owner or operator

23 (A) shall notify the department and the Alaska Oil and Gas
 24 Conservation Commission; and

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

31 (3) for a nonconventional gas lease, if a bond is sought under

1 AS 38.05.130,

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

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

12 * **Sec. 42.** AS 38.05.860(a) is amended to read:

13 (a) The commissioner may require an applicant seeking the sale, lease, or
 14 other disposal of land or an interest in land, other than under an oil and gas **lease, gas**
 15 **only lease**, or mineral lease, to deposit an amount covering the estimated cost of an
 16 appraisal, survey, and other costs necessary to offer the land or interest in land,
 17 including advertising. All deposited funds not expended shall be refunded to the
 18 applicant. If the land or interest in land is awarded to a person other than the applicant
 19 making the deposit, the person awarded the land shall pay the total actual cost incurred
 20 by the department in making the disposal, and the deposit shall be returned to the
 21 original applicant. In lieu of requiring the deposit under this subsection, the
 22 commissioner may enter into an agreement with an applicant seeking land or an
 23 interest in land requiring the applicant to reimburse the department for costs incurred
 24 in the disposal if the applicant is awarded the land or interest in land.

25 * **Sec. 43.** AS 38.05.860(c) is amended to read:

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

29 * **Sec. 44.** AS 38.05.945(a) is amended to read:

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

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

3 (2) zoning of land under applicable law;

4 (3) issuance of a

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

8 (B) [REPEALED

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

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

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

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

20 * **Sec. 45.** AS 38.05.965 is amended by adding a new paragraph to read:

21 (25) "nonconventional gas" means coal bed methane, shales containing
22 gas, or gas hydrates.

23 * **Sec. 46.** AS 38.06.080(2) is amended to read:

24 (2) "state lease" means an oil and gas lease or gas only lease on state
25 land.

26 * **Sec. 47.** AS 38.35.020(a) is amended to read:

27 (a) Rights-of-way on state land including rights-of-way over, under, along,
28 across, or upon the right-of-way of a public road or highway or the right-of-way of a
29 railroad or other public utility, or across, upon, over, or under a river or other body of
30 water or land belonging to or administered by the state may be granted by
31 noncompetitive lease by the commissioner for pipeline purposes for the transportation

1 of oil, products, or natural gas under those conditions prescribed by law or by
 2 administrative regulation. Except to the extent authorized by an oil and gas lease, **a**
 3 **gas only lease, or an oil and gas or gas only** unit agreement approved by the state, no
 4 person may engage in any construction or operation of any part of an oil, products, or
 5 natural gas pipeline, which in whole or in part is or is proposed to be on state land
 6 unless that person has obtained from the commissioner a right-of-way lease of the land
 7 under this chapter.

8 * **Sec. 48.** AS 43.20.072(c) is amended to read:

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

12 (1) the apportionment factor of a taxpayer subject to this section but
 13 not engaged in the production of oil and gas, **or of gas only, as appropriate,** from a
 14 lease or property in this state during the tax period is a fraction, the numerator of
 15 which is the sum of the property factor under AS 43.19 (Multistate Tax Compact) and
 16 the sales factor under (d) of this section for the taxpayer for that tax period, and the
 17 denominator of which is two;

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

23 (3) the apportionment factor of a taxpayer engaged both in the
 24 production of oil or gas from a lease or property in this state and in the pipeline
 25 transportation of oil or gas in this state during the tax period is a fraction, the
 26 numerator of which is the sum of the sales factor under (d) of this section, the property
 27 factor under (e) of this section, and the extraction factor under (f) of this section for
 28 the taxpayer for the tax period, and the denominator of which is three.

29 * **Sec. 49.** AS 43.55.025(a) is amended to read:

30 (a) Subject to the terms and conditions of this section, on oil and gas produced
 31 **from an oil and gas lease, or on gas produced from a gas only lease,** on or after

1 July 1, 2004, a credit against the tax due under this chapter is allowed in an amount
2 equal to

3 (1) 20 percent of the total exploration expenditures that qualify under
4 (b) and (c) of this section, 20 percent of the total exploration expenditures that qualify
5 under (b) and (d) of this section, or both, for a total credit that does not exceed 40
6 percent of the total exploration expenditures; or

7 (2) 40 percent of the total exploration expenditures that qualify under
8 (b) and (e) of this section, for a total production tax credit that does not exceed 40
9 percent of the total qualified exploration expenditures.

10 * **Sec. 50.** AS 43.55.900(9) is amended to read:

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

13 (A) a mineral interest,

14 (B) a leasehold interest,

15 (C) a working interest, royalty interest, overriding royalty
16 interest, production payment, net profit interest or any other interest in a lease,
17 concession, joint venture, or other agreement for [OIL AND GAS] exploration,
18 development, or production **of oil and gas or of gas only**,

19 (D) a working interest, royalty interest, overriding royalty
20 interest, production payment, net profit interest or any other interest in an
21 agreement for unitization or pooling under the provisions of 26 U.S.C.
22 614(b)(3) (Internal Revenue Code) as defined on January 1, 1974;

23 * **Sec. 51.** AS 46.03.100(f) is amended to read:

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

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

30 (2) landscaping;

31 (3) water well drilling **and** [,] geophysical drilling [, OR COAL BED

1 METHANE DRILLING OR OTHER NATURAL GAS DRILLING TO RECOVER
 2 GAS FROM A FIELD IF A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE
 3 SURFACE]; or

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

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

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

13 * **Sec. 52.** AS 46.04.030(b) is amended to read:

14 (b) A person may not cause or permit the operation of a pipeline or an
 15 exploration or production facility in the state unless an oil discharge prevention and
 16 contingency plan for the pipeline or facility has been approved by the department and
 17 the person is in compliance with the plan. This subsection does not apply to an
 18 exploration or production facility used solely to explore for or to develop or produce
 19 **nonconventional** [SHALLOW NATURAL] gas resources, except that this exemption
 20 does not apply if the Alaska Oil and Gas Conservation Commission determines under
 21 AS 31.05.030(j) that

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

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

26 * **Sec. 53.** AS 46.04.040(b) is amended to read:

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

31 (1) a pipeline or an offshore exploration or production facility is

1 \$50,000,000 per incident;

2 (2) an onshore production facility is

3 (A) \$20,000,000 per incident if the facility produces over
4 10,000 barrels per day of oil;

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

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

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

11 (3) an onshore exploration facility is

12 (A) \$25,000 per incident for a facility used solely to explore for
13 **nonconventional** [SHALLOW NATURAL] gas by means of drilling a well to
14 explore for **the** gas [, WHETHER METHANE ASSOCIATED WITH AND
15 DERIVED FROM COAL DEPOSITS OR OTHERWISE, FROM A FIELD IF
16 A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE SURFACE]; and

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

19 * **Sec. 54.** AS 46.04.900 is amended by adding a new paragraph to read:

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

21 * **Sec. 55.** AS 46.40.205 is amended to read:

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

30 (b) In this section, "**nonconventional** [SHALLOW NATURAL] gas" has the
31 meaning given in **AS 38.05.965** [AS 46.04.900].

1 * **Sec. 56.** AS 46.40.210(12) is amended to read:

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

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

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

12 (C) the siting of major energy facilities, activities pursuant to a
13 state **oil and gas lease, a state gas only lease,** or **a** federal oil and gas lease, or
14 large-scale industrial or commercial development activities that are dependent
15 on a coastal location and that, because of their magnitude or the magnitude of
16 their effect on the economy of the state or the surrounding area, are reasonably
17 likely to present issues of more than local significance;

18 (D) facilities serving statewide or interregional transportation
19 and communication needs; and

20 (E) uses in areas established as state parks or recreational areas
21 under AS 41.21 or as state game refuges, game sanctuaries, or critical habitat
22 areas under AS 16.20.

23 * **Sec. 57.** The uncodified law of the State of Alaska added by sec. 1, ch. 45, SLA 2003, is
24 amended to read:

25 LEGISLATIVE FINDINGS. The legislature finds that

26 (1) [THE DEVELOPMENT OF SHALLOW NATURAL GAS
27 RESOURCES IS IN THE BEST INTERESTS OF THE STATE OF ALASKA;

28 (2)] shallow natural gas is abundant and widespread in Alaska and
29 bears the promise of providing Alaskans, particularly Alaskans living in rural areas,
30 with an inexpensive and clean source of energy if those resources can be economically
31 developed;

1 **(2)** [(3)] the development of shallow natural gas poses significantly
 2 fewer risks and creates substantially less impact to the environment than traditional
 3 deep oil and gas projects, which have served as the model for oil and gas industry and
 4 environmental regulations to date in Alaska;

5 **(3)** [(4)] the regulatory requirements developed and applied to
 6 traditional deep oil and gas projects in Alaska are ill-suited and unduly onerous when
 7 applied to shallow natural gas projects, threatening the economic viability of otherwise
 8 desirable exploration and development projects;

9 **(4)** [(5)] there is an immediate state and national need for the
 10 development of clean and economical unconventional energy sources, such as shallow
 11 natural gas resources;

12 **(5)** [(6)] reform of existing laws and regulations is needed to remove
 13 unnecessary regulatory burdens on the private sector to foster and encourage the
 14 development in Alaska of these necessary resources;

15 **(6)** [(7)] the legislature is acting in the interest of promoting the active
 16 development of such resources, while ensuring that suitable measures are taken to
 17 protect human health and safety and the natural environment,

18 (A) to remove impediments to the responsible development of
 19 shallow natural gas; **and**

20 (B) to provide the proper state agencies with clear authority and
 21 discretion to adopt regulatory practices appropriate to shallow natural gas
 22 exploration and development projects, in recognition of the lower risks posed
 23 by such projects to human health and safety and the natural environment [;
 24 AND

25 (C) TO RESERVE ALL RIGHTS AND POWERS NOT
 26 PREEMPTED BY FEDERAL LAW AND REGULATION IN ORDER TO
 27 ASSERT STATE PRIMACY OVER THE REGULATION OF SHALLOW
 28 NATURAL GAS].

29 * **Sec. 58.** AS 31.05.125, 31.05.170(14); AS 38.05.177(b), 38.05.177(c), 38.05.177(e),
 30 38.05.177(f), 38.05.177(g), 38.05.177(h), 38.05.177(j), 38.05.177(k), 38.05.177(m),
 31 38.05.177(n), 38.05.177(o); and AS 46.04.900(25) are repealed.

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

3 **CERTAIN SHALLOW NATURAL GAS LEASES AND LEASE APPLICATIONS**
4 **TO BE ADMINISTERED UNDER FORMER LAW.** The provisions of AS 38.05.177(a),
5 (d)(1), and (l), amended by secs. 26 - 28 of this Act, as those provisions read on the day
6 before the effective date of amendment of those subsections, and the provisions of
7 AS 38.05.177(b), (c), (e) - (h), (j), (k), (m), (n), and (o), repealed by sec. 58 of this Act, as
8 those provisions read on the day before the effective date of the repeal of those subsections,
9 apply to shallow natural gas

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

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

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