

**SENATE CS FOR CS FOR HOUSE BILL NO. 531(RES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 5/5/04

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 determines that the well will not adversely affect the aquifer**  
 26 **as a 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 United States**  
 5 **Environmental Protection Agency;**

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; **and**

12 **(D) as a condition of approval of a permit to drill a well for**  
 13 **production or production testing of coal bed methane, require the**  
 14 **operator to design and implement a water well testing program to provide**  
 15 **baseline data on water quality and quantity; the commission shall make**  
 16 **the results of the water well testing program available to the public.**

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

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

26 (1) the commission may approve the variance if

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

29 (B) the commission determines that the request is more  
 30 appropriate to the proposed operation than compliance with the requirement of  
 31 the regulation; and

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

5 (A) the nature of the operation involved;

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

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

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

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

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

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

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

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

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

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

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

27 (e) Upon a written finding that the interests of the state will be best served, the  
 28 director may, with the consent of the commissioner, approve contracts for the sale,  
 29 lease, or other disposal of available land, resources, property, or interests in them. In  
 30 approving a contract under this subsection, the director need only prepare a single  
 31 written finding. In addition to the conditions and limitations imposed by law, the

1 director may impose additional conditions or limitations in the contracts as the director  
 2 determines, with the consent of the commissioner, will best serve the interests of the  
 3 state. The preparation and issuance of the written finding by the director are subject to  
 4 the following:

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

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

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

15 (i) applicable statutes and regulations;

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

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

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

31 (i) the only uses to be authorized by the proposed

1 disposal are part of that phase;

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

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

11 (iv) the department describes its reasons for a decision  
 12 to phase;

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

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

19 (B) issues based on the statutes and regulations referred to in  
 20 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this  
 21 subsection;

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

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

30 (5) public notice requirements relating to the sale, lease, or other  
 31 disposal of available land or an interest in land for oil and gas, **or for gas only,**

1 proposed to be scheduled in the five-year oil and gas leasing program under  
2 AS 38.05.180(b), except for a sale under (6)(F) of this subsection, are as follows:

3 (A) before a public hearing, if held, or in any case not less than  
4 180 days before the sale, lease, or other disposal of available land or an interest  
5 in land, the director shall make available to the public a preliminary written  
6 finding that states the scope of the review established under (1)(A) of this  
7 subsection and includes the applicable statutes and regulations, the material  
8 facts and issues in accordance with (1)(B) of this subsection, and information  
9 required by (g) of this section, upon which the determination that the sale,  
10 lease, or other disposal will serve the best interests of the state will be based;  
11 the director shall provide opportunity for public comment on the preliminary  
12 written finding for a period of not less than 60 days;

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

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

31 (A) a contract for a negotiated sale authorized under

1 AS 38.05.115;

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

3 (C) a permit or other authorization revocable by the  
4 commissioner;

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

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

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

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

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

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

28 (G) [A SHALLOW GAS LEASE AUTHORIZED UNDER  
29 AS 38.05.177 IN AN AREA FOR WHICH LEASING IS AUTHORIZED  
30 UNDER AS 38.05.177;

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

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

3                    (7) the director shall include in

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

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

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

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

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

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

22                    (B) material to the following matters:

23                                    (i) property descriptions and locations;

24                                    (ii) the petroleum potential of the sale area, in general  
25 terms;

26                                    (iii) fish and wildlife species and their habitats in the  
27 area;

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

30                                    (v) the governmental powers to regulate **the** [OIL AND  
31 GAS] exploration, development, production, and transportation **of oil**

1 **and gas or of gas only;**

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

7 (vii) lease stipulations and mitigation measures,  
8 including any measures to prevent and mitigate releases of oil and  
9 hazardous substances, to be included in the leases, and a discussion of  
10 the protections offered by these measures;

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

14 (ix) the reasonably foreseeable fiscal effects of the lease  
15 sale and the subsequent activity on the state and affected municipalities  
16 and communities, including the explicit and implicit subsidies  
17 associated with the lease sale, if any;

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

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

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

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

27 (a) The department may conduct audits regarding royalty and net profits under  
28 oil and gas contracts, agreements, or leases under this chapter and regarding costs  
29 related to [OIL AND GAS] exploration licenses **entered into under AS 38.05.131 -**  
30 **38.05.134** and exploration incentive credits under this chapter or under AS 41.09. For  
31 purposes of audit under this section,

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

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

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

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

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

10 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the  
11 provisions of AS 38.05.005 - 38.05.037, 38.05.140(f), 38.05.180, 38.05.182 -  
12 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of [OIL AND GAS]  
13 exploration licenses and leases **for oil and gas, or for gas only, as appropriate,**  
14 under AS 38.05.132 - 38.05.134.

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

16 (a) To encourage exploration for oil and gas on state land, the commissioner  
17 may issue [OIL AND GAS] exploration licenses. **The commissioner may limit the**  
18 **exploration licenses under AS 38.05.132 - 38.05.134 to exploration for and**  
19 **recovery of gas only. The commissioner may not issue an exploration license on**  
20 **land that is held under an existing coal lease entered into under AS 38.05.150 that**  
21 **has an active permit for exploration or mining unless the licensee under this**  
22 **subsection is also the lessee under AS 38.05.150 of that land.**

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

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

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

31 (2) unless the exploration license is terminated under (d)(1) of this

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

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

7 (c) An exploration license awarded under this section

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

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

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

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

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

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

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

28 (B) the annual bond or other security shall be calculated as the  
 29 entire work commitment expressed in dollars, less the cumulative direct  
 30 exploration expenditures of the licensee as of the last day of the most recent  
 31 project year, divided by the number of years remaining in the term of the

1 exploration license;

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

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

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

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

11 (f) In this section,

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

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

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

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

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

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

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

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

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

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

1 successful bidder is the prospective licensee who submits the highest bid in terms of  
2 the minimum work commitment dollar amount.

3 \* **Sec. 22.** AS 38.05.134 is amended to read:

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

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

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

13 (3) must be conditioned upon a royalty in amount or value of not less  
14 than 12.5 percent of production, except that the lessee who, proceeding under  
15 AS 38.05.131 - 38.05.134, under a lease issued in the Cook Inlet sedimentary basin  
16 who is the first to file with the commissioner a nonconfidential sworn statement  
17 claiming to be the first to have drilled a well discovering oil or gas in a previously  
18 undiscovered oil or gas pool and who is certified by the commissioner within one year  
19 of completion of that discovery well to have drilled a well in that pool that is capable  
20 of producing in paying quantities shall pay a royalty of five percent on all production  
21 of oil or gas from that pool attributable to that lease for a period of 10 years following  
22 the date of discovery of that pool, and thereafter the royalty payable on all production  
23 of oil or gas from the pool attributable to that lease shall be determined and payable as  
24 specified in the lease; the payment of the five percent royalty under this paragraph is  
25 authorized only to a holder of a lease who meets the requirements of  
26 AS 38.05.180(f)(4);

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 as  
10 provided by AS 38.05.180(ff)(4) or 38.05.180(gg) [AS 38.05.177(a)(2)(C)], the coal  
11 deposits in the land covered by the application shall be temporarily set aside and  
12 withdrawn from all other forms of 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) Notwithstanding AS 38.05.132(a), 38.05.180(ff), or 38.05.180(gg)  
24 [AS 38.05.177], a lease entered into under this section gives the lessee the right to vent  
25 or remove methane and other gas held in association with the coal in the land covered  
26 by the lease to ensure safe coal mining 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; **on application by the lessee, the**  
 16 **director may extend the lease issued under this section for a period of not more**  
 17 **than 10 years if the gas produced from the lease is to be used by the lessee solely**  
 18 **for its mining operations;**

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

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

28                   **(B) the probability that further shallow natural gas**  
 29 **exploration activity will occur on the lease and will lead to shallow natural**  
 30 **gas development and production; and**

31                   **(C) whether extension of the lease's primary term will**

1                    **accelerate the eventual production of shallow natural gas from the lease.**

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

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

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

12                    (a) The legislature finds that

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

15                    (A) maximize the economic and physical recovery of the  
16                    resources;

17                    (B) maximize competition among parties seeking to explore  
18                    and develop the resources;

19                    (C) maximize use of Alaska's human resources in the  
20                    development of the resources;

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

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

24                    (i) recognize the many varied geographical regions of  
25                    the state and the different costs of exploring for oil and gas in these  
26                    regions;

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

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

31                    (i) state acreage that has been the subject of a best

1 interest finding at annual areawide lease sales; and

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

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

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

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

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

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

20 (d) The commissioner

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

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

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

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

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

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

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

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

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

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

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

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

30 (A) 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;

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

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

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

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

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

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

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

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

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

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

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

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

25 (5) notwithstanding and in lieu of a requirement in the leasing method  
 26 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases  
 27 unitized as described in (p) of this section, leases subject to an agreement described in  
 28 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of  
 29 an oil or gas field identified in this section that has been granted approval of a written  
 30 plan submitted to the Alaska Oil and Gas Conservation Commission under  
 31 AS 31.05.030(i) shall, subject to (dd) of this section, pay a royalty of five percent on

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

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

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

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

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

31 (B) shall pay a royalty calculated under this subparagraph if the

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

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

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

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

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

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

23 (i) Baker;

24 (ii) Dillon;

25 (iii) XTO.A; and

26 (iv) XTO.C;

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

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

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

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

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

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

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

19 (i) Granite Point;

20 (ii) Anna; and

21 (iii) Bruce;

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

31 (i) for production of at least 750 barrels a day but not

1 more than 850 barrels a day - seven percent;

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

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

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

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

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

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

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

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

30 (iv) for production of more than 1,200 barrels a day -  
31 12.5 percent; and

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

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

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

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

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

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

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

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

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

8 (j) The commissioner

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

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

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

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

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

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

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

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

29 (3) shall provide for an increase or decrease or other modification of  
 30 the state's royalty share by a sliding scale royalty or other mechanism that shall be  
 31 based on a change in the price of oil or gas and may also be based on other relevant

1 factors such as a change in production rate, projected ultimate recovery, development  
2 costs, and operating costs

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

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

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

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

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

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

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

1 or contractors of the legislative auditor or the legislative finance director who  
2 are engaged under contract to evaluate the royalty reduction, if they sign an  
3 appropriate confidentiality agreement;

4 (7) may

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

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

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

1 and determination during a 30-day period for receipt of public comment;

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

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

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

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

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

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

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

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

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

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

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

31 (12) is not limited by the provisions of AS 38.05.134(3) or (f) of this

1 section in the commissioner's determination under this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

18 **(2) if the lessee under a gas only lease demonstrates to the**  
 19 **commissioner that the potential resources underlying the lease are reasonably**  
 20 **estimated to be only nonconventional gas,**

21 **(A) the rental payment is \$1.00 per acre until the lease**  
 22 **expires or paying quantities of conventional oil or gas are discovered**  
 23 **underlying the lease; and**

24 **(B) if the nonconventional gas produced will not be in**  
 25 **direct competition with gas on which a royalty at a rate of at least 12.5**  
 26 **percent is payable, then the royalty share payable to the state on all**  
 27 **production of gas from the pool attributable to that lease shall be 6.25**  
 28 **percent based upon production delivered in pipeline quality and free of all**  
 29 **lease expenses, including separation, cleaning, dehydration, gathering, salt**  
 30 **water disposal, and preparation for transportation off the lease.**

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

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

18 \* **Sec. 41.** AS 38.05.180 is amended by adding new subsections to read:

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

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

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

29                                   (A) shall notify the department and the Alaska Oil and Gas  
 30 Conservation Commission; and

31                                   (B) may not conduct further operations in the drilled well until

1 the facility complies with all applicable laws and regulations relating to oil and  
 2 gas exploration and production; however, this subparagraph does not prevent  
 3 the owner or operator from conducting activities that may be required by the  
 4 Alaska Oil and Gas Conservation Commission to plug, plug-back, or abandon  
 5 a well;

6 (3) for a nonconventional gas lease, if a bond is sought under  
 7 AS 38.05.130, before the amount of the surety bond to be posted is determined by the  
 8 director, require, as a condition for issuing the lease, that the director, after notice and  
 9 an opportunity to be heard, determine that, to exercise rights under the reservation as  
 10 set out in AS 38.05.125 and the lease, the lessee has no other reasonable means of  
 11 entry than access and entry upon the land of the owner; the lessee has the burden of  
 12 demonstrating compliance with the requirement of this paragraph;

13 (4) the provisions of this subsection do not apply to authorize a lease  
 14 for the recovery of nonconventional gas on land that is held under an existing coal  
 15 lease entered into under AS 38.05.150 that has an active permit for exploration or  
 16 mining unless the lessee under this subsection is also the lessee under AS 38.05.150 of  
 17 that land.

18 (gg) Before approving operations for the development of coal bed methane  
 19 under AS 38.05.134, 38.05.177, or this section, the director shall ensure that the  
 20 approval is conditioned upon

21 (1) reasonable and appropriate setbacks governing the placement by  
 22 the operator of compressor stations; setbacks approved under this paragraph must be  
 23 determined with reference to the population density and general character of the  
 24 parcels surrounding the proposed compressor station site; and

25 (2) reasonable and appropriate measures to mitigate the noise of  
 26 compressors, engines, and other noise generating equipment operated by the operator  
 27 on the lease or license; measures approved under this paragraph must be determined  
 28 with reference to the population density and general character of the parcels  
 29 surrounding the proposed compressor, engine, or other noise generating equipment.

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

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

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

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

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

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

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

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

21 (2) zoning of land under applicable law;

22 (3) issuance of a

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

26 (B) [REPEALED

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

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

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

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

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

8 (25) "nonconventional gas" means coal bed methane, gas contained in  
9 shales, or gas hydrates.

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

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

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

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

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

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

30 (1) the apportionment factor of a taxpayer subject to this section but  
31 not engaged in the production of oil and gas, or of gas only, as appropriate, from a

1 lease or property in this state during the tax period is a fraction, the numerator of  
 2 which is the sum of the property factor under AS 43.19 (Multistate Tax Compact) and  
 3 the sales factor under (d) of this section for the taxpayer for that tax period, and the  
 4 denominator of which is two;

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

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

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

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

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

25 (2) 40 percent of the total exploration expenditures that qualify under  
 26 (b) and (e) of this section, for a total production tax credit that does not exceed 40  
 27 percent of the total qualified exploration expenditures.

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

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

31 (A) a mineral interest,

1 (B) a leasehold interest,

2 (C) a working interest, royalty interest, overriding royalty  
3 interest, production payment, net profit interest or any other interest in a lease,  
4 concession, joint venture, or other agreement for [OIL AND GAS] exploration,  
5 development, or production of oil and gas or of gas only,

6 (D) a working interest, royalty interest, overriding royalty  
7 interest, production payment, net profit interest or any other interest in an  
8 agreement for unitization or pooling under the provisions of 26 U.S.C.  
9 614(b)(3) (Internal Revenue Code) as defined on January 1, 1974;

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

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

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

17 (2) landscaping;

18 (3) water well drilling and [,] geophysical drilling [, OR COAL BED  
19 METHANE DRILLING OR OTHER NATURAL GAS DRILLING TO RECOVER  
20 GAS FROM A FIELD IF A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE  
21 SURFACE]; or

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

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

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

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

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

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

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

13 \* **Sec. 53.** AS 46.04.040(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 the person has furnished to the  
 16 department, and the department has approved, proof of financial ability to respond in  
 17 damages. Proof of financial responsibility required for

18 (1) a pipeline or an offshore exploration or production facility is  
 19 \$50,000,000 per incident;

20 (2) an onshore production facility is

21 (A) \$20,000,000 per incident if the facility produces over  
 22 10,000 barrels per day of oil;

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

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

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

29 (3) an onshore exploration facility is

30 (A) \$25,000 per incident for a facility used solely to explore for  
 31 **nonconventional** [SHALLOW NATURAL] gas by means of drilling a well to

1 explore for **the** gas [, WHETHER METHANE ASSOCIATED WITH AND  
 2 DERIVED FROM COAL DEPOSITS OR OTHERWISE, FROM A FIELD IF  
 3 A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE SURFACE]; and

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

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

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

8 \* **Sec. 55.** AS 46.40.205 is amended to read:

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

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

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

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

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

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

30 (C) the siting of major energy facilities, activities pursuant to a  
 31 state **oil and gas lease, a state gas only lease,** or **a** federal oil and gas lease, or

1 large-scale industrial or commercial development activities that are dependent  
 2 on a coastal location and that, because of their magnitude or the magnitude of  
 3 their effect on the economy of the state or the surrounding area, are reasonably  
 4 likely to present issues of more than local significance;

5 (D) facilities serving statewide or interregional transportation  
 6 and communication needs; and

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

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

12 LEGISLATIVE FINDINGS. The legislature finds that

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

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

19 (2) [(3)] the development of shallow natural gas poses significantly  
 20 fewer risks and creates substantially less impact to the environment than traditional  
 21 deep oil and gas projects, which have served as the model for oil and gas industry and  
 22 environmental regulations to date in Alaska;

23 (3) [(4)] the regulatory requirements developed and applied to  
 24 traditional deep oil and gas projects in Alaska are ill-suited and unduly onerous when  
 25 applied to shallow natural gas projects, threatening the economic viability of otherwise  
 26 desirable exploration and development projects;

27 (4) [(5)] there is an immediate state and national need for the  
 28 development of clean and economical unconventional energy sources, such as shallow  
 29 natural gas resources;

30 (5) [(6)] reform of existing laws and regulations is needed to remove  
 31 unnecessary regulatory burdens on the private sector to foster and encourage the

1 development in Alaska of these necessary resources;

2 (6) [(7)] the legislature is acting in the interest of promoting the active  
3 development of such resources, while ensuring that suitable measures are taken to  
4 protect human health and safety and the natural environment,

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

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

12 (C) TO RESERVE ALL RIGHTS AND POWERS NOT  
13 PREEMPTED BY FEDERAL LAW AND REGULATION IN ORDER TO  
14 ASSERT STATE PRIMACY OVER THE REGULATION OF SHALLOW  
15 NATURAL GAS].

16 \* **Sec. 58.** AS 31.05.125, 31.05.170(14); AS 38.05.177(b), 38.05.177(c), 38.05.177(e),  
17 38.05.177(f), 38.05.177(g), 38.05.177(h), 38.05.177(j), 38.05.177(k), 38.05.177(m),  
18 38.05.177(n), 38.05.177(o); and AS 46.04.900(25) are repealed.

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

21 CERTAIN SHALLOW NATURAL GAS LEASES AND LEASE APPLICATIONS  
22 TO BE ADMINISTERED UNDER FORMER LAW. The provisions of AS 38.05.177(a),  
23 (d)(1), and (l), amended by secs. 26 - 28 of this Act, as those provisions read on the day  
24 before the effective date of amendment of those subsections, and the provisions of  
25 AS 38.05.177(b), (c), (e) - (h), (j), (k), (m), (n), and (o), repealed by sec. 58 of this Act, as  
26 those provisions read on the day before the effective date of the repeal of those subsections,  
27 apply to shallow natural gas leases issued under AS 38.05.177 and in effect on December 31,  
28 2003.

29 \* **Sec. 60.** The uncodified law of the State of Alaska is amended by adding a new section to  
30 read:

31 CONVERSION OF EXISTING SHALLOW NATURAL GAS LEASE

1 APPLICATIONS. (a) The applicant for a shallow natural gas lease under AS 38.05.177  
 2 whose application was received by the Department of Natural Resources before the effective  
 3 date of this section may, not later than August 31, 2004, or 60 days after the effective date of  
 4 this Act, whichever is later, convert the application to an exploration license and lease  
 5 application under AS 38.05.131(a), as amended by sec. 14 of this Act. An applicant  
 6 converting an application under this subsection

7 (1) may apply for as few as 3,000 acres, notwithstanding the minimum  
 8 limitation of acreage set out in AS 38.05.132(c)(2);

9 (2) shall pay the fee required by AS 38.05.132(c)(6);

10 (3) is subject to a three-year work commitment in lieu of a work commitment  
 11 of any other duration required by AS 38.05.132 and, notwithstanding AS 38.05.132(c)(3), is  
 12 under an obligation to perform a specified work commitment of \$1 per acre per year; and

13 (4) may, subject to (b) of this section, convert an exploration license to a lease  
 14 under AS 38.05.134, as amended by sec. 22 of this Act.

15 (b) The provisions of AS 38.05.035(e) apply to an application made under (a) of this  
 16 section.

17 (c) For an application made under (a) of this section, the director of the division of  
 18 lands shall remit to the applicant the application fee paid by the applicant under  
 19 AS 38.05.177(b)(2).

20 \* **Sec. 61.** This Act takes effect immediately under AS 01.10.070(c).