

CS FOR HOUSE BILL NO. 488(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 3/22/06

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act repealing the oil production tax and gas production tax and providing for a
2 production tax on oil and gas; relating to the relationship of that tax to other taxes, to
3 the dates those tax payments and surcharges are due, to interest on overpayments of the
4 tax, and to the treatment of the tax in a producer's settlement with the royalty owners;
5 relating to flared gas, and to oil and gas used in the operation of a lease or property
6 under the production tax; relating to the prevailing value of oil or gas under the
7 production tax; providing for tax credits against the tax for certain expenditures and
8 losses; amending the rates applicable to each of the two tax surcharges imposed on oil
9 under the production tax that are used to support the oil and hazardous substance
10 release prevention and response fund and relating to those surcharges; relating to
11 statements or other information required to be filed with or furnished to the
12 Department of Revenue, and relating to the penalty for failure to file certain reports, for

1 the tax; relating to the powers of the Department of Revenue, and to the disclosure of
 2 certain information required to be furnished to the Department of Revenue, as
 3 applicable to the administration of the tax; relating to criminal penalties for violating
 4 conditions governing access to and use of confidential information relating to the tax,
 5 and to the deposit of tax money collected by the Department of Revenue; relating to the
 6 calculation of the gross value at the point of production of oil or gas; relating to the
 7 determination of the production tax value of oil and gas for purposes of a tax on the
 8 production tax value of oil and gas; relating to the definitions of 'gas,' 'oil,' and certain
 9 other terms for purposes of the production tax, and as the definition of the term 'gas'
 10 applies in the Alaska Stranded Gas Development Act; making conforming amendments;
 11 making uniform throughout the state the deadline for certain exploration expenditures
 12 used as credits against the production tax on oil and gas produced from a lease or
 13 property in the state by extending to July 1, 2016, the deadline for those expenditures
 14 and limiting use of the resultant credits; and providing for an effective date."

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

16 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
 17 to read:

18 INTENT OF SEC. 12 OF THIS ACT. It is the intent of the legislature through sec. 12
 19 of this Act to confirm by clarification the long-standing interpretation of AS 43.55.020(f) by
 20 the Department of Revenue.

21 * **Sec. 2.** AS 43.05.230(f) is amended to read:

22 (f) A wilful violation of the provisions of this section or of a condition
 23 imposed under AS 43.55.040(1)(B) is punishable by a fine of not more than \$5,000,
 24 or by imprisonment for not more than two years, or by both.

25 * **Sec. 3.** AS 43.20.031(c) is amended to read:

26 (c) In computing the tax under this chapter, the taxpayer is not entitled to

1 deduct any taxes based on or measured by net income. **The taxpayer may deduct the**
 2 **tax levied and paid under AS 43.55.**

3 * **Sec. 4.** AS 43.20.072(b) is amended to read:

4 (b) A taxpayer's business income to be apportioned under this section to the
 5 state shall be the federal taxable income of the taxpayer's consolidated business for the
 6 tax period, except that

7 (1) taxes based on or measured by net income that are deducted in the
 8 determination of the federal taxable income shall be added back; **the tax levied and**
 9 **paid under AS 43.55 may not be added back;**

10 (2) intangible drilling and development costs that are deducted as
 11 expenses under 26 U.S.C. 263(c) (Internal Revenue Code) in the determination of the
 12 federal taxable income shall be capitalized and depreciated as if the option to treat
 13 them as expenses under 26 U.S.C. 263(c) (Internal Revenue Code) had not been
 14 exercised;

15 (3) depletion deducted on the percentage depletion basis under 26
 16 U.S.C. 613 (Internal Revenue Code) in the determination of the federal taxable income
 17 shall be recomputed and deducted on the cost depletion basis under 26 U.S.C. 612
 18 (Internal Revenue Code); and

19 (4) depreciation shall be computed on the basis of 26 U.S.C. 167
 20 (Internal Revenue Code) as that section read on June 30, 1981.

21 * **Sec. 5.** AS 43.55.011(a) is repealed and reenacted to read:

22 (a) There is levied on the producer of oil or gas a tax for all oil and gas
 23 produced each month from each lease or property in the state less any oil and gas the
 24 ownership or right to which is exempt from taxation or constitutes a lessor's royalty
 25 interest under an oil and gas lease. The tax is equal to 20 percent of the production tax
 26 value of the taxable oil and gas as calculated under AS 43.55.160.

27 * **Sec. 6.** AS 43.55.011 is amended by adding new subsections to read:

28 (e) There is levied on the producer of oil or gas a tax for all oil and gas
 29 produced each month from each lease or property in the state the ownership or right to
 30 which constitutes a lessor's royalty interest under an oil and gas lease, except for oil
 31 and gas the ownership or right to which is exempt from taxation. The tax is equal to

1 five percent of the gross value at the point of production of the oil and gas. However,
2 if the department determines that, for purposes of reducing the producer's tax liability
3 under this subsection, the producer has received or will receive consideration from the
4 lessor offsetting all or a part of the producer's royalty obligation, the tax under this
5 subsection is equal to 20 percent of the gross value at the point of production of the oil
6 and gas.

7 (f) In addition to the taxes levied under (a) and (e) of this section, for each
8 month for which the oil price index determined under this section is greater than zero,
9 there is levied upon the producer of oil a tax for all oil produced during that month
10 from each lease or property in the state, less any oil the ownership or right to which is
11 exempt from taxation. The tax is equal to .30 percent of the gross value at the point of
12 production of the oil multiplied by the oil price index as determined under this section.

13 (g) The oil price index for a month is the number equal to the average United
14 States Gulf Coast price determined under (h) of this section for that month of West
15 Texas Intermediate crude oil in dollars per barrel, less 50, except that, if the average
16 price determined under (h) of this section is

17 (1) not more than \$50 per barrel, the oil price index is zero;

18 (2) more than \$110 per barrel, the oil price index is 125.

19 (h) For purposes of (g) of this section, the department may calculate the
20 average price or may, by regulation, specify the method by which the average price
21 shall be calculated with reference to one or more published sources of price
22 information. If, in the department's judgment, reliable published sources of price
23 information on West Texas Intermediate crude oil cease, or appear likely to soon
24 cease, to be available, or if, in the department's judgment, the price of West Texas
25 Intermediate crude oil ceases, or appears likely to soon cease, to be a reliable indicator
26 of the general price level of crude oils, the department shall, by regulation, specify a
27 substitute formula for computing the oil price index. The substitute formula specified
28 by the department under this subsection must bear, as nearly as is reasonably possible,
29 the same relationship to the general price level of crude oils as did the United States
30 Gulf Coast price of West Texas Intermediate crude oil.

31 (i) In addition to the taxes levied under (a), (e), and (f) of this section, for each

1 month that the gas price index determined under (j) of this section is greater than zero,
 2 there is levied upon the producer of gas a tax for all gas produced during that month
 3 from each lease or property in the state, less any gas the ownership or right to which is
 4 exempt from taxation. The tax is equal to two percent of the gross value at the point of
 5 production of the gas multiplied by the gas price index as determined under (j) of this
 6 section.

7 (j) The gas price index for a month is the number equal to the average Henry
 8 Hub gas price determined under (k) of this section for that month in dollars per million
 9 British thermal units, less eight, except that if the average price determined under (k)
 10 of this section is

11 (1) not more than \$8 per million British thermal units, the gas price
 12 index is zero; and

13 (2) more than \$18 per million British thermal units, the gas price index
 14 is 18.75.

15 (k) For purposes of (i) and (j) of this section, the department may calculate the
 16 average price or may, by regulation, specify the method by which the average price
 17 shall be calculated with reference to one or more published sources of price
 18 information. If, in the department's judgment, reliable published sources of Henry Hub
 19 gas price information cease, or appear likely to soon cease, to be available, or if, in the
 20 department's judgment, the Henry Hub gas price ceases, or appears likely to soon
 21 cease, to be a reliable indicator of the general price level of gas, the department shall,
 22 by regulation, specify a substitute formula for computing the gas price index. The
 23 substitute formula specified by the department under this subsection must bear, as
 24 nearly as is reasonably possible, the same relationship to the general price level of gas
 25 as did the Henry Hub gas price.

26 * **Sec. 7.** AS 43.55.017(a) is amended to read:

27 (a) Except as provided in this chapter, the taxes imposed by this chapter are in
 28 place of all taxes now imposed by the state or any of its municipalities, and neither the
 29 state nor a municipality may impose a tax on [UPON]

30 (1) producing oil or gas leases;

31 (2) oil or gas produced or extracted in the state;

1 (3) the value of intangible drilling and **development costs, as**
 2 **described in 26 U.S.C. 263(c) (Internal Revenue Code), as amended through**
 3 **January 1, 1974** [EXPLORATION EXPENSES].

4 * **Sec. 8.** AS 43.55.020(a) is repealed and reenacted to read:

5 (a) The tax levied under AS 43.55.011(a) shall be paid monthly. The tax, net
 6 of any credits applied under this chapter, is due on the last day of each calendar month
 7 on oil and gas produced from each lease or property during the preceding month. An
 8 unpaid amount of tax that is not paid when due in accordance with this subsection
 9 becomes delinquent. An overpayment of tax for a month may be applied against the
 10 tax due for a later month. Notwithstanding any contrary provision of AS 43.05.280,
 11 interest on an overpayment is allowed only from a date that is 90 days after the
 12 statement required under AS 43.55.030(e) to be filed on or before March 31 of the
 13 year following the calendar year during which the oil and gas were produced is filed.
 14 However, interest is not allowed if the overpayment was refunded within the 90-day
 15 period.

16 * **Sec. 9.** AS 43.55.020(b) is amended to read:

17 (b) The production tax on oil **and** [OR] gas shall be paid by or on behalf of the
 18 producer.

19 * **Sec. 10.** AS 43.55.020(d) is amended to read:

20 (d) In making settlement with the royalty owner **for oil or gas that is taxable**
 21 **under AS 43.55.011,** the producer may deduct the amount of the tax paid on **taxable**
 22 royalty oil **and** [OR] gas, or may deduct **taxable** royalty oil or gas equivalent in value
 23 at the time the tax becomes due to the amount of the tax paid. **Unless otherwise**
 24 **agreed between the producer and the royalty owner, the amount of the tax paid**
 25 **under AS 43.55.011(a) on taxable royalty oil and gas for a month other than oil**
 26 **or gas the ownership or right to which constitutes a lessor's royalty interest**
 27 **under an oil or gas lease is considered to be the gross value at the point of**
 28 **production of the taxable royalty oil and gas produced during the month**
 29 **multiplied by a figure that is a quotient, in which**

30 **(1) the numerator is the producer's total tax liability under**
 31 **AS 43.55.011(a) for the month of production; and**

1 **(2) the denominator is the total gross value at the point of**
2 **production of the oil and gas taxable under AS 43.55.011(a) produced by the**
3 **producer from all leases and properties in the state during the month.**

4 * **Sec. 11.** AS 43.55.020(e) is repealed and reenacted to read:

5 (e) Gas flared, released, or allowed to escape in excess of the amount
6 authorized by the Alaska Oil and Gas Conservation Commission is considered, for the
7 purpose of AS 43.55.011 - 43.55.170, as gas produced from a lease or property. Oil or
8 gas used in the operation of a lease or property in the state in drilling for or producing
9 oil or gas, or for repressuring, except to the extent determined by the Alaska Oil and
10 Gas Conservation Commission to be waste, is not considered, for the purpose of
11 AS 43.55.011 - 43.55.170, as oil or gas produced from a lease or property.

12 * **Sec. 12.** AS 43.55.020(f) is amended to read:

13 (f) If oil or gas is **not sold, or if oil or gas is** sold under circumstances where
14 the sale price does not represent the prevailing value for oil or gas of like kind,
15 character, or quality in the field or area from which the product is produced, the
16 department may require the tax to be paid upon the basis of the value of oil or gas of
17 the same kind, quality, and character prevailing during the calendar month of
18 production for that field or area.

19 * **Sec. 13.** AS 43.55.020 is amended by adding new subsections to read:

20 (g) The tax levied under AS 43.55.011(e), (f), and (i) shall be paid monthly
21 and is due on the last day of each calendar month on oil and gas produced from each
22 lease or property during the preceding month, and, if not paid before the end of the
23 month in which it becomes due, the tax becomes delinquent.

24 (h) If less than 90 percent of the total tax levied under AS 43.55.011(a), (e),
25 (f), and (i) is paid when due under this section, a civil penalty of five percent of the
26 difference between the amount paid and 90 percent of the tax due shall be added to the
27 tax. The amount shall be added irrespective of whether the underpayment is also
28 subject to a penalty under AS 43.05.220. However, a penalty paid under this
29 subsection may be credited against a penalty or penalties assessed under AS 43.05.220
30 with respect to the same underpayment, but the credit may not exceed the total amount
31 of those penalties.

1 * **Sec. 14.** AS 43.55 is amended by adding a new section to read:

2 **Sec. 43.55.024. Tax credits for certain losses and expenditures.** (a)

3 Notwithstanding that a qualified capital expenditure may be a deductible lease
4 expenditure for purposes of calculating the production tax value of oil and gas under
5 AS 43.55.160(a), a producer or explorer that incurs a qualified capital expenditure
6 may also elect to take a tax credit in the amount of 20 percent of that expenditure,
7 unless a credit for that expenditure is taken under AS 43.55.025. A credit under this
8 subsection may be applied only against a tax due under AS 43.55.011(a). For a
9 calendar year for which the producer makes an election under AS 43.55.160(f), instead
10 of taking a tax credit of 20 percent of each separate qualified capital expenditure after
11 it has been incurred, a producer that incurs a qualified capital expenditure during that
12 year and that wishes to apply a credit based on that expenditure against a tax due
13 under AS 43.55.011(a) shall calculate and apply every month an annualized tax credit
14 in an amount equal to one and two-thirds percent of the total qualified capital
15 expenditures incurred during that year and for which the tax credit is taken for that
16 year.

17 (b) A producer or explorer may elect to take a tax credit in the amount of 20
18 percent of a carried-forward annual loss. A credit under this subsection may be applied
19 only against a tax due under AS 43.55.011(a). For purposes of this subsection, a
20 carried-forward annual loss is the amount of a producer's or explorer's adjusted lease
21 expenditures under AS 43.55.160 for a previous calendar year that was not deductible
22 in any month under AS 43.55.160(a) and (b).

23 (c) A credit or portion of a credit under this section may not be used to reduce
24 a person's tax liability under AS 43.55.011(a) for any month below zero, and any
25 unused credit or portion of a credit not used under this subsection may be applied in a
26 later month.

27 (d) A person entitled to take a tax credit under this section that wishes to
28 transfer the unused credit to another person or to obtain a refund under (f) of this
29 section may apply to the department for a transferable tax credit certificate. An
30 application under this subsection must be on a form prescribed by the department and
31 must include supporting information and documentation that the department

1 reasonably requires. The department shall grant or deny an application, or grant an
2 application as to a lesser amount than that claimed and deny it as to the excess, not
3 later than 60 days after the latest of (1) March 31 of the year following the calendar
4 year in which the qualified capital expenditure or carried-forward annual loss for
5 which the credit is claimed was incurred; (2) if the applicant is required under
6 AS 43.55.030(e) to file a statement on or before March 31 of the year following the
7 calendar year in which the qualified capital expenditures or carried-forward annual
8 loss for which the credit was incurred, the date the statement was filed; or (3) the date
9 the application was received by the department. If, based on the information then
10 available to it, the department is reasonably satisfied that the applicant is entitled to a
11 credit, the department shall issue the applicant a transferable tax credit certificate for
12 the amount of the credit. A certificate issued under this subsection does not expire.

13 (e) A person to which a transferable tax credit certificate is issued under (d) of
14 this section may transfer the certificate to another person, and a transferee may further
15 transfer the certificate. Subject to the limitations set out in (a) - (c) of this section, and
16 notwithstanding any action the department may take with respect to the applicant
17 under (g) of this section, the owner of a certificate may apply the credit or a portion of
18 the credit shown on the certificate only against a tax due under AS 43.55.011(a).
19 However, a credit shown on a transferable tax credit certificate may not be applied to
20 reduce a transferee's total tax due under AS 43.55.011(a) on oil and gas produced
21 during a calendar year to less than 80 percent of the tax that would otherwise be due
22 without applying that credit, and any portion of a credit not used under this subsection
23 may be applied in a later period.

24 (f) Under standards established in regulations adopted by the department and
25 subject to appropriations made by law, the department, on the written application of
26 the person to whom a transferable tax credit has been issued under (d) of this section,
27 shall issue a cash refund, in whole or in part, for the certificate if the department finds

28 (1) after investigation and audit of the tax credit claim by the
29 department, the applicant is entitled to the credit to the extent of the refund amount;

30 (2) within 24 months after having applied for the transferable tax credit
31 certificate, the applicant incurred a qualified capital expenditure or was the successful

1 bidder on a bid submitted for a lease on state land under AS 38.05.180(f);

2 (3) the amount of the refund would not exceed the total of qualified
3 capital expenditures and successful bids described in (2) of this subsection that have
4 not been the subject of a finding made under this paragraph for purposes of a previous
5 refund;

6 (4) the applicant does not have an outstanding liability to the state for
7 unpaid delinquent taxes under this title; and

8 (5) the sum of the amount of the refund applied for and amounts
9 previously refunded to the applicant during the calendar year under this subsection
10 would not exceed \$10,000,000.

11 (g) The issuance of a transferable tax credit certificate under (d) of this section
12 does not limit the department's ability to later investigate or audit a tax credit claim to
13 which the certificate relates or to adjust or deny the claim if the department determines
14 that the applicant was not entitled to the amount of the credit for which the certificate
15 was issued. The tax liability of the applicant under AS 43.55.011 - 43.55.170 is
16 increased by the amount of the credit that exceeds that to which the applicant was
17 entitled. That amount bears interest under AS 43.05.225 from the date the transferable
18 tax credit certificate was issued. For purposes of this subsection, an applicant that is an
19 explorer is considered a producer subject to the tax levied under AS 43.55.011.

20 (h) The department may adopt regulations to carry out the purposes of this
21 section, including prescribing reporting, record keeping, and certification procedures
22 and requirements to verify the accuracy of credits claimed and to ensure that a credit is
23 not used more than once, and otherwise implementing this section.

24 (i) A producer or explorer may not elect to take a tax credit under this section
25 for a lease expenditure under AS 43.55.160 that is an expenditure incurred

26 (1) to acquire an asset (A) the cost of previously acquiring which was a
27 lease expenditure under AS 43.55.160(c) or would have been a lease expenditure
28 under AS 43.55.160(c) if it had been incurred on or after April 1, 2006; or (B) that has
29 previously been placed in service in the state; an expenditure to acquire an asset is not
30 excluded under this paragraph if not more than an immaterial portion of the asset
31 meets a description under (A) or (B) of this paragraph; for purposes of this paragraph,

1 "asset" includes geological, geophysical, and well data and interpretations; or

2 (2) for an extended period of disuse, dismantlement, removal,
3 surrender, or abandonment of a well, facility, pipeline, platform, or other structure, or
4 for the restoration of a lease, field, unit, area, or body of water in conjunction with an
5 extended period of disuse, dismantlement, removal, surrender, or abandonment of a
6 facility described in this paragraph.

7 (j) In this section, "qualified capital expenditure" means, except as otherwise
8 provided in (i) of this section, an expenditure that is a lease expenditure under
9 AS 43.55.160 and is

10 (1) incurred for geological or geophysical exploration; or

11 (2) treated as a capitalized expenditure under 26 U.S.C. (Internal
12 Revenue Code), as amended, regardless of elections made under 26 U.S.C. 263(c)
13 (Internal Revenue Code), as amended, and either is treated as a capitalized expenditure
14 by the person incurring the expenditure or is eligible to be deducted as an expense
15 under 26 U.S.C. 263(c) (Internal Revenue Code), as amended.

16 * **Sec. 15.** 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 on or after July 1, 2004, from an oil and gas lease, or on gas produced from a gas only
19 lease, a credit against the production tax due under AS 43.55.011(a) [THIS
20 CHAPTER] is allowed for exploration expenditures that qualify under (b) of this
21 section in an amount equal to one of the following:

22 (1) 20 percent of the total exploration expenditures that qualify only
23 under (b) and (c) of this section;

24 (2) 20 percent of the total exploration expenditures for work performed
25 before July 1, 2007, and that qualify only under (b) and (d) of this section;

26 (3) 40 percent of the total exploration expenditures that qualify under
27 (b), (c), and (d) of this section; or

28 (4) 40 percent of the total exploration expenditures that qualify only
29 under (b) and (e) of this section.

30 * **Sec. 16.** AS 43.55.025(b) is amended to read:

31 (b) To qualify for the production tax credit under (a) of this section, an

1 exploration expenditure must be incurred for work performed on or after July 1, 2003,
 2 and before July 1, 2016 [2007], except that an exploration expenditure for a Cook Inlet
 3 prospect must be incurred for work performed on or after July 1, 2005, [AND
 4 BEFORE JULY 1, 2010, AND EXCEPT THAT AN EXPLORATION
 5 EXPENDITURE, IN WHOLE OR IN PART, SOUTH OF 68 DEGREES, 15
 6 MINUTES, NORTH LATITUDE, AND NOT PART OF A COOK INLET
 7 PROSPECT MUST BE INCURRED FOR WORK PERFORMED ON OR AFTER
 8 JULY 1, 2003, AND BEFORE JULY 1, 2010,] and

9 (1) may be for seismic or geophysical exploration costs not connected
 10 with a specific well;

11 (2) if for an exploration well,

12 (A) must be incurred by an explorer that holds an interest in the
 13 exploration well for which the production tax credit is claimed;

14 (B) may be for either an oil or gas discovery well or a dry hole;
 15 and

16 (C) must be for goods, services, or rentals of personal property
 17 reasonably required for the surface preparation, drilling, casing, cementing,
 18 and logging of an exploration well, and, in the case of a dry hole, for the
 19 expenses required for abandonment if the well is abandoned within 18 months
 20 after the date the well was spudded;

21 (3) may not be for testing, stimulation, or completion costs;
 22 administration, supervision, engineering, or lease operating costs; geological or
 23 management costs; community relations or environmental costs; bonuses, taxes, or
 24 other payments to governments related to the well; or other costs that are generally
 25 recognized as indirect costs or financing costs; and

26 (4) may not be incurred for an exploration well or seismic exploration
 27 that is included in a plan of exploration or a plan of development for any unit on
 28 May 13, 2003.

29 * **Sec. 17.** AS 43.55.025(f) is amended to read:

30 (f) For a production tax credit under this section,

31 (1) an explorer shall, in a form prescribed by the department and

1 within six months of the completion of the exploration activity, claim the credit and
2 submit information sufficient to demonstrate to the department's satisfaction that the
3 claimed exploration expenditures qualify under this section;

4 (2) an explorer shall agree, in writing,

5 (A) to notify the Department of Natural Resources, within 30
6 days after completion of seismic or geophysical data processing, completion of
7 a well, or filing of a claim for credit, whichever is the latest, for which
8 exploration costs are claimed, of the date of completion and submit a report to
9 that department describing the processing sequence and providing a list of data
10 sets available; if, under (c)(2)(B) of this section, an explorer submits a claim
11 for a credit for expenditures for an exploration well that is located within three
12 miles of a well already drilled for oil and gas, in addition to the submissions
13 required under (1) of this subsection, the explorer shall submit the information
14 necessary for the commissioner of natural resources to evaluate the validity of
15 the explorer's claim that the well is directed at a distinctly separate exploration
16 target, and the commissioner of natural resources shall, upon receipt of all
17 evidence sufficient for the commissioner to evaluate the explorer's claim, make
18 that determination within 60 days;

19 (B) to provide to the Department of Natural Resources, within
20 30 days after the date of a request, specific data sets, ancillary data, and reports
21 identified in (A) of this paragraph;

22 (C) that, notwithstanding any provision of AS 38, information
23 provided under this paragraph will be held confidential by the Department of
24 Natural Resources for 10 years following the completion date, at which time
25 that department will release the information after 30 days' public notice;

26 (3) if more than one explorer holds an interest in a well or seismic
27 exploration, each explorer may claim an amount of credit that is proportional to the
28 explorer's cost incurred;

29 (4) the department may exercise the full extent of its powers as though
30 the explorer were a taxpayer under this title, in order to verify that the claimed
31 expenditures are qualified exploration expenditures under this section; and

1 (5) if the department is satisfied that the explorer's claimed
 2 expenditures are qualified under this section, the department shall issue to the explorer
 3 a production tax credit certificate for the amount of credit to be allowed against
 4 production taxes due under AS 43.55.011(a) [THIS CHAPTER]; however,
 5 notwithstanding any other provision of this section, the department may not issue to an
 6 explorer a production tax credit certificate if the total of production tax credits
 7 submitted for Cook Inlet production, based on exploration expenditures for work
 8 performed during the period described in (b) of this section for that production, that
 9 have been approved by the department exceeds \$20,000,000.

10 * **Sec. 18.** AS 43.55.025(h) is amended to read:

11 (h) A producer that purchases a production tax credit certificate may apply the
 12 credits against its production tax liability under AS 43.55.011(a) [THIS CHAPTER].
 13 Regardless of the price the producer paid for the certificate, the producer may receive
 14 a credit against its production tax liability for the full amount of the credit, but for not
 15 more than the amount for which the certificate is issued. A production tax credit
 16 allowed under this section may not be applied more than once.

17 * **Sec. 19.** AS 43.55.025(i) is amended to read:

18 (i) For a production tax credit under this section,
 19 (1) the amount of the credit that may be applied against the production
 20 tax for each tax month may not exceed the total production tax liability under
 21 AS 43.55.011(a) of the taxpayer applying the credit for the same month; and
 22 (2) an amount of the production tax credit that is greater than the total
 23 tax liability under AS 43.55.011(a) of the taxpayer applying the credit for a tax month
 24 may be carried forward and applied against the taxpayer's production tax liability
 25 under AS 43.55.011(a) in one or more immediately following months.

26 * **Sec. 20.** AS 43.55.030(a) is amended to read:

27 (a) The tax shall be paid to the department and the person paying the tax shall
 28 file with the department at the time the tax is required to be paid a statement, under
 29 oath, on forms prescribed by or acceptable to the department, giving, with other
 30 information required, the following:

31 (1) a description of each [THE] lease or property from which the oil

1 and [OR] gas were [WAS] produced, by name, legal description, lease number, or
2 [BY] accounting codes [CODE NUMBERS] assigned by the department;

3 (2) the names of the producer and the person paying the tax;

4 (3) the gross amount of oil and the gross amount of [OR] gas
5 produced from each [THE] lease or property, and the percentage of the gross amount
6 of oil and gas owned by each producer for whom the tax is paid;

7 (4) the gross [TOTAL] value at the point of production of the oil
8 and of the [OR] gas produced from each [THE] lease or property owned by each
9 producer for whom the tax is paid; [AND]

10 (5) the name of the first purchaser and the price received for the oil
11 and for the [OR] gas, unless relieved from this requirement in whole or in part by
12 the department; and

13 (6) the producer's lease expenditures and adjustments as
14 calculated under AS 43.55.160 [IF SOLD IN THE STATE].

15 * **Sec. 21.** AS 43.55.030(d) is amended to read:

16 (d) Reports by or on behalf of the producer are delinquent the first day
17 following the day the tax is due. [EACH PRODUCER IS SUBJECT TO A PENALTY
18 OF \$25 A DAY FOR EACH LEASE OR PROPERTY UPON WHICH THE
19 REPORT IS NOT FILED. THE PENALTY FOR FAILURE TO FILE A REPORT IS
20 IN ADDITION TO THE PENALTY FOR DELINQUENT TAXES, AND IS A LIEN
21 AGAINST THE ASSETS OF THE PRODUCER.]

22 * **Sec. 22.** AS 43.55.030 is amended by adding a new subsection to read:

23 (e) The person paying the tax under AS 43.55.011(a) shall file a statement on
24 or before March 31 of a year showing any adjustments or corrections to the statements
25 that were required under (a) of this section to be filed for the months of the preceding
26 calendar year during which the oil or gas was produced.

27 * **Sec. 23.** AS 43.55.040 is amended to read:

28 **Sec. 43.55.040. Powers of Department of Revenue.** Except as provided in
29 AS 43.05.405 - 43.05.499, the department may

30 (1) require a person engaged in production and the agent or employee
31 of the person, and the purchaser of oil or gas, or the owner of a royalty interest in oil

1 or gas to furnish, whether by the filing of regular statements or reports or
 2 otherwise, additional information that is considered by the department as necessary to
 3 compute the amount of the tax; notwithstanding any contrary provision of law, the
 4 disclosure of additional information under this paragraph to the producer
 5 obligated to pay the tax does not violate AS 40.25.100(a) or AS 43.05.230(a);
 6 before disclosing information under this paragraph that is otherwise required to
 7 be held confidential under AS 40.25.100(a) or AS 43.05.230(a), the department
 8 shall

9 (A) provide the person that furnished the information a
 10 reasonable opportunity to be heard regarding the proposed disclosure and
 11 the conditions to be imposed under (B) of this paragraph; and

12 (B) impose appropriate conditions limiting

13 (i) access to the information to those legal counsel,
 14 consultants, employees, officers, and agents of the producer who
 15 have a need to know that information for the purpose of
 16 determining or contesting the producer's tax obligation; and

17 (ii) the use of the information to use for the purpose
 18 of determining or contesting the producer's tax obligation;

19 (2) examine the books, records, and files of such a person;

20 (3) conduct hearings and compel the attendance of witnesses and the
 21 production of books, records, and papers of any person; and

22 (4) make an investigation or hold an inquiry that is considered
 23 necessary to a disclosure of the facts as to

24 (A) the amount of production from any oil or gas location, or of
 25 a company or other producer of oil or gas; and

26 (B) the rendition of the oil and gas for taxing purposes.

27 * **Sec. 24.** AS 43.55.080 is amended to read:

28 **Sec. 43.55.080. Collection and deposit of revenue.** Except as otherwise
 29 provided under art. IX, sec. 17, Constitution of the State of Alaska, the [THE]
 30 department shall deposit in the general fund the money collected by it under
 31 AS 43.55.011 - 43.55.170 [AS 43.55.011 - 43.55.150].

1 * **Sec. 25.** AS 43.55.135 is amended to read:

2 **Sec. 43.55.135. Measurement.** For the purposes of AS 43.55.011 - 43.55.170
 3 [AS 43.55.011 - 43.55.150], oil is [SHALL BE] measured in terms of a "barrel of oil"
 4 and gas is [SHALL BE] measured in terms of a "cubic foot of gas."

5 * **Sec. 26.** AS 43.55.150(a) is amended to read:

6 (a) For the purposes of AS 43.55.011 - 43.55.170 [AS 43.55.011 - 43.55.150],
 7 the gross value at the point of production is [SHALL BE] calculated using the
 8 reasonable costs of transportation of the oil or gas. The reasonable costs of
 9 transportation are [SHALL BE] the actual costs, except when the

10 (1) [WHEN THE] parties to the transportation of oil or gas are
 11 affiliated;

12 (2) [WHEN THE] contract for the transportation of oil or gas is not an
 13 arm's length transaction or is not representative of the market value of that
 14 transportation;

15 (3) [WHEN THE] method of transportation of oil or gas is not
 16 reasonable in view of existing alternative methods of transportation.

17 * **Sec. 27.** AS 43.55.150 is amended by adding a new subsection to read:

18 (d) Under regulations adopted by the department, the department may allow a
 19 producer, subject to limitations prescribed by the department as to the frequency of
 20 making elections, to elect prospectively to calculate the gross value at the point of
 21 production of oil or gas based in whole or part on

22 (1) a royalty value determined under a royalty settlement agreement
 23 between the producer and the state, with adjustments if appropriate;

24 (2) a formula prescribed by the department that uses, with adjustments
 25 if appropriate, a royalty value or valuation methodology accepted by the

26 (A) Department of Natural Resources under AS 38.05, in the
 27 case of oil and gas produced from a lease issued by the Department of Natural
 28 Resources or produced from a lease or property that is part of a unit approved
 29 by the Department of Natural Resources; or

30 (B) United States Department of the Interior under applicable
 31 federal oil and gas leasing statutes, in the case of oil and gas produced from a

1 lease issued by the United States Department of the Interior that is not part of a
 2 unit approved by the Department of Natural Resources, or produced from a
 3 lease or property that is part of a unit approved by the United States
 4 Department of the Interior but not approved by the Department of Natural
 5 Resources; or

6 (3) another formula prescribed by the Department of Revenue that
 7 reasonably estimates a value for the oil or gas at a specific geographical location, such
 8 as the point of tender or delivery into a common carrier pipeline; the formula may use
 9 factors such as published price indices for oil or gas in or outside the state, quality
 10 differentials for oil or gas, transportation costs between markets, and inflation
 11 adjustments.

12 * **Sec. 28.** AS 43.55 is amended by adding new sections to article 1 to read:

13 **Sec. 43.55.160. Determination of production tax value of oil and gas.** (a)

14 Except as provided in (f) of this section, for purposes of AS 43.55.011(a), the
 15 production tax value of the taxable oil and gas produced during a month is the total of
 16 the gross value at the point of production of the oil and gas taxable under
 17 AS 43.55.011(a) and produced by the producer from all leases or properties in the
 18 state, (1) less the producer's tax paid for the month under AS 43.55.011(f) and (i); and
 19 (2) less the producer's lease expenditures for the month as adjusted under (e) of this
 20 section. However, the production tax value calculated under this subsection may not
 21 be less than zero. If a producer does not produce taxable oil or gas during a month, the
 22 producer is considered to have generated a positive production tax value if the
 23 calculation described in this subsection yields a positive number because the
 24 producer's adjusted lease expenditures for a month are less than zero as a result of the
 25 producer's receiving a payment or credit under (e) of this section or otherwise.

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

27 (1) any adjusted lease expenditures that would otherwise be deductible
 28 in a month but the deduction of which would cause the production tax value calculated
 29 under (a) of this section of the taxable oil and gas produced during the month to be
 30 less than zero may be added to the producer's adjusted lease expenditures for one or
 31 more other months in the same calendar year; the total of any adjusted lease

1 expenditures that are not deductible in any month during a calendar year because their
2 deduction would cause the production tax value calculated under (a) of this section of
3 the taxable oil and gas produced during one or more months to be less than zero may
4 be used to establish a carried-forward annual loss under AS 43.55.024(b);

5 (2) an explorer that has taken a tax credit under AS 43.55.024(b) or
6 that has obtained a transferable tax credit certificate under AS 43.55.024(d) for the
7 amount of a tax credit under AS 43.55.024(b) is considered a producer, subject to the
8 tax levied under AS 43.55.011(a), to the extent that the explorer generates a positive
9 production tax value as the result of the explorer's receiving a payment or credit
10 described in (e) of this section.

11 (c) For purposes of this section,

12 (1) a producer's lease expenditures for a period are the total costs
13 upstream of the point of production of oil and gas that are incurred on or after
14 January 1, 2006, by the producer during the period and that are direct, ordinary, and
15 necessary costs of exploring for, developing, or producing oil or gas deposits located
16 within the producer's leases or properties in the state or, in the case of land in which
17 the producer does not own a working interest, direct, ordinary, and necessary costs of
18 exploring for oil or gas deposits located within other land in the state; however, lease
19 expenditures do not include the costs incurred to satisfy a work commitment under an
20 exploration license under AS 38.05.132, and do not include, in connection with a
21 catastrophic oil discharge into the marine or inland water of the state, the containment
22 and clean up expenses incurred by the producer, the incremental expenses of
23 transportation of oil due to loss or damage incurred by the producer, and any damages
24 or penalties imposed on the producer; in determining whether costs are direct,
25 ordinary, and necessary costs of exploring for, developing, or producing an oil or gas
26 deposit located within a lease or property or other land in the state, the department
27 shall give substantial weight to

28 (A) the typical industry practices and standards in the state and
29 in the United States as to costs that an operator is allowed to bill a working
30 interest owner that is not the operator, under unit operating agreements or
31 similar operating agreements that were in effect on or before December 1,

1 2005, and were subject to negotiation with working interest owners, not the
2 operator, with substantial bargaining power; and

3 (B) the standards adopted by the Department of Natural
4 Resources as to the costs, other than interest, that a lessee is allowed to deduct
5 from revenue in calculating net profits under a lease issued under
6 AS 38.05.180(f)(3)(B), (D), or (E);

7 (2) the Department of Revenue may authorize a producer, including a
8 producer that is the operator, to treat as its lease expenditures under this section the
9 costs paid by the producer that are billed to the producer by an operator in accordance
10 with the terms of a unit operating agreement or similar operating agreement if the
11 Department of Revenue finds that

12 (A) the pertinent provisions of the operating agreement are
13 substantially consistent with the Department of Revenue's determinations and
14 standards otherwise applicable under this subsection; and

15 (B) at least one working interest owner party to the agreement,
16 other than the operator, has substantial incentive and ability to effectively audit
17 billings under the agreement.

18 (d) For purposes of (c) of this section, "direct costs"

19 (1) includes

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

24 (B) payments of property taxes, sales and use taxes, motor fuel
25 taxes, and excise taxes;

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

30 (2) does not include

31 (A) depreciation or amortization;

- 1 (B) royalty payments for oil and gas;
- 2 (C) taxes based on or measured by net income;
- 3 (D) interest or other financing charges or costs of raising equity
- 4 or debt capital;
- 5 (E) acquisition costs for a lease or property or exploration
- 6 license;
- 7 (F) costs arising from fraud, wilful misconduct, or negligence;
- 8 (G) fines or penalties imposed by law;
- 9 (H) costs of arbitration, litigation, or other dispute resolution
- 10 activities that involve the state or concern the rights or obligations among
- 11 owners of interests in, or rights to production from, one or more leases or
- 12 properties or a unit;
- 13 (I) donations;
- 14 (J) costs incurred in organizing a partnership, joint venture, or
- 15 other business entity or arrangement;
- 16 (K) amounts paid to indemnify the state; the exclusion
- 17 provided by this paragraph does not apply to the costs of obtaining insurance
- 18 or a surety bond from a third-party insurer or surety;
- 19 (L) surcharges levied under AS 43.55.201 or 43.55.300.
- 20 (e) A producer's lease expenditures must be adjusted by subtracting certain
- 21 payments or credits received by the producer, as provided in this subsection. If, during
- 22 a month or, under (f) of this section, during a calendar year, a producer receives one or
- 23 more payments or credits subject to this subsection and if either the total amount of the
- 24 payments or credits exceeds the amount of the producer's lease expenditures or the
- 25 producer does not have any lease expenditures, the producer shall nevertheless
- 26 subtract the payments or credits from the lease expenditures or from zero,
- 27 respectively, and the producer's adjusted lease expenditures for that month or calendar
- 28 year are a negative number. The producer shall apply that negative number to the
- 29 calculation made under (a) of this section. The payments or credits that a producer
- 30 must subtract from the producer's lease expenditures, or from zero, under this
- 31 subsection are payments or credits that the producer receives for

1 (1) the use by another person of a production facility in which the
2 producer has an ownership interest;

3 (2) a reimbursement or similar payment that offsets the producer's
4 lease expenditures, including a payment from the state or federal government for
5 reimbursement of the producer's upstream costs, including costs for gathering,
6 separating, cleaning, dehydration, compressing, or other field handling associated with
7 the production of oil or gas upstream of the point of production;

8 (3) the sale or other transfer of

9 (A) an asset, including geological, geophysical, or well data or
10 interpretations, acquired by the producer as a result of a lease expenditure or an
11 expenditure that would be a lease expenditure if it were incurred on or after
12 April 1, 2006; and

13 (B) oil or gas

14 (i) that is not considered produced from a lease or
15 property under AS 43.55.020(e); and

16 (ii) the cost of acquiring which is a lease expenditure
17 incurred by the person that acquires the oil or gas.

18 (f) In place of the adjusted lease expenditures for a month under (a) of this
19 section, a producer may, at any time, elect to substitute, for every month of a calendar
20 year, one-twelfth of the producer's adjusted lease expenditures for the calendar year.

21 (g) The department shall specify or approve a reasonable allocation method
22 for determining the portion of a cost that is appropriately treated as a lease expenditure
23 under (c) of this section if a cost that would otherwise constitute a lease expenditure
24 under (c) of this section is incurred to explore for, develop, or produce

25 (1) both an oil or gas deposit located within land outside the state and
26 an oil or gas deposit located within a lease or property, or other land, in the state; or

27 (2) an oil or gas deposit located partly within land outside the state and
28 partly within a lease or property, or other land, in the state.

29 (h) The department may adopt regulations that establish additional standards
30 necessary to carrying out the purposes of this section.

31 (i) For purposes of AS 43.55.024(a) and (b) and only as to expenditures

1 incurred to explore for an oil or gas deposit located within land in which an explorer
 2 does not own a working interest, the term "producer" in (b), (c), and (e) of this section
 3 includes "explorer."

4 (j) For purposes of this section,

5 (1) "explore" includes conducting geological or geophysical
 6 exploration, including drilling a stratigraphic test well, but the drilling of a
 7 stratigraphic test well qualifies under this paragraph only if the well's target zones are
 8 located in the state;

9 (2) "ordinary and necessary" has the meaning given "ordinary and
 10 necessary" in 26 U.S.C. 162 (Internal Revenue Code) and regulations adopted under
 11 that section;

12 (3) "stratigraphic test well" means a well drilled for the sole purpose of
 13 obtaining geological information to aid in exploring for an oil or gas deposit and the
 14 target zones of which are located in the state.

15 **Sec. 43.55.170. Additional nontransferable credit.** (a) For a month for which
 16 a producer's tax liability under AS 43.55.011(a) exceeds zero before application of any
 17 credits under this chapter, a producer that is qualified under (b) of this section and,
 18 during the calendar year, has incurred a qualified capital expenditure, as that term is
 19 defined in AS 43.55.024, may apply a tax credit, in an amount that does not exceed the
 20 amount of that expenditure, against that liability under this section. An unused portion
 21 of a tax credit may be applied to the extent otherwise allowed under this section for
 22 one or more months during the same calendar year. The tax credit authorized by this
 23 subsection may be calculated and applied so that

24 (1) the producer's tax liability under AS 43.55.011(a) for any month is
 25 not reduced below zero; and

26 (2) the total of the tax credits applied under this subsection during a
 27 calendar year does not exceed \$12,000,000, except that the total of the tax credits
 28 applied under this subsection during calendar year 2016 does not exceed \$3,000,000.

29 (b) On written application by a producer, including any information the
 30 department may require, the department shall determine whether the producer
 31 qualifies under this section for a calendar year. To qualify under this section, a

1 producer must demonstrate that its operation in the state or its ownership of an interest
 2 in a lease or property in the state as a distinct producer entity would not result in the
 3 division among multiple producer entities of any production tax liability under
 4 AS 43.55.011(a) that would be reasonably expected to be attributed to a single
 5 producer entity if the tax credit provision of (a) of this section did not exist.

6 (c) An unused tax credit or portion of a tax credit under this section is not
 7 transferable under AS 43.55.024(d) or refundable under AS 43.55.024(f), and may not
 8 be carried forward to or used in a later calendar year.

9 (d) The use of a tax credit under this section does not prevent a producer from
 10 taking a tax credit under AS 43.55.024(a) or 43.55.025 for the same qualified capital
 11 expenditure.

12 (e) A producer may not claim a credit under this section for a qualified capital
 13 expenditure incurred after March 31, 2016.

14 * **Sec. 29.** AS 43.55.201 is amended to read:

15 **Sec. 43.55.201. Surcharge levied.** (a) Every producer of oil shall pay a
 16 surcharge of \$.01 [\$.02] per barrel of oil produced from each lease or property in the
 17 state, less any oil the ownership or right to which is exempt from taxation.

18 (b) The surcharge imposed by (a) of this section is in addition to and shall be
 19 paid in the same manner as the tax imposed by AS 43.55.011 - 43.55.170,
 20 [AS 43.55.011 - 43.55.150;] and is in addition to the surcharge imposed by
 21 AS 43.55.300 - 43.55.310.

22 (c) A producer of oil shall make reports of production in the same manner and
 23 under the same penalties as required under AS 43.55.011 - 43.55.170 [AS 43.55.011 -
 24 43.55.150].

25 * **Sec. 30.** AS 43.55.201 is amended by adding a new subsection to read:

26 (d) Oil not considered under AS 43.55.020(e) to be produced from a lease or
 27 property is not considered to be produced from a lease or property for purposes of this
 28 section.

29 * **Sec. 31.** AS 43.55.300 is amended to read:

30 **Sec. 43.55.300. Surcharge levied.** (a) Every producer of oil shall pay a
 31 surcharge of \$.04 [\$.03] per barrel of oil produced from each lease or property in the

1 state, less any oil the ownership or right to which is exempt from taxation.

2 (b) The surcharge imposed by (a) of this section is in addition to and shall be
3 paid in the same manner as the tax imposed by AS 43.55.011 - 43.55.170,
4 [AS 43.55.011 - 43.55.150;] and is in addition to the surcharge imposed by
5 AS 43.55.201 - 43.55.231.

6 (c) A producer of oil shall make reports of production in the same manner and
7 under the same penalties as required under AS 43.55.011 - 43.55.170 [AS 43.55.011 -
8 43.55.150].

9 * **Sec. 32.** AS 43.55.300 is amended by adding a new subsection to read:

10 (d) Oil not considered under AS 43.55.020(e) to be produced from a lease or
11 property is not considered to be produced from a lease or property for purposes of this
12 section.

13 * **Sec. 33.** AS 43.55.900(6) is repealed and reenacted to read:

14 (6) "gas" means

15 (A) all natural, associated, or casinghead gas;

16 (B) all hydrocarbons that

17 (i) are recovered by mechanical separation of well
18 fluids or by gas processing; and

19 (ii) exist in a gaseous phase at the completion of
20 mechanical separation and any gas processing; and

21 (C) all other hydrocarbons produced from a well not defined as
22 oil;

23 * **Sec. 34.** AS 43.55.900(7) is repealed and reenacted to read:

24 (7) "gross value at the point of production" means

25 (A) for oil, the value of the oil at the automatic custody transfer
26 meter or device through which the oil enters into the facilities of a carrier
27 pipeline or other transportation carrier in a condition of pipeline quality; in the
28 absence of an automatic custody transfer meter or device, "gross value at the
29 point of production" means the value of the oil at the mechanism or device to
30 measure the quantity of oil that has been approved by the department for that
31 purpose, through which the oil is tendered and accepted in a condition of

1 pipeline quality into the facilities of a carrier pipeline or other transportation
2 carrier or into a field topping plant;

3 (B) for gas, other than gas described in (C) of this paragraph,
4 that is

5 (i) not subjected to or recovered by mechanical
6 separation or gas processing, the value of the gas at the first point
7 where the gas is accurately metered;

8 (ii) subjected to or recovered by mechanical separation
9 but not gas processing, the value of the gas at the first point where the
10 gas is accurately metered after completion of mechanical separation;

11 (iii) subjected to or recovered by gas processing, the
12 value of the gas at the first point where the gas is accurately metered
13 after completion of gas processing;

14 (C) for gas run through an integrated gas processing and gas
15 treatment facility that does not accurately meter the gas after the gas
16 processing and before the gas treatment, the value of the gas at the first point
17 where gas processing is completed or where gas treatment begins, whichever is
18 further upstream;

19 * **Sec. 35.** AS 43.55.900(10) is repealed and reenacted to read:

20 (10) "oil" means

21 (A) crude petroleum oil; and

22 (B) all liquid hydrocarbons that are recovered by mechanical
23 separation of well fluids or by gas processing;

24 * **Sec. 36.** AS 43.55.900 is amended by adding new paragraphs to read:

25 (17) "explorer" means a person who, in exploring for new oil or gas
26 reserves, incurs expenditures;

27 (18) "gas processing"

28 (A) means processing a gaseous mixture of hydrocarbons

29 (i) by means of absorption, adsorption, externally
30 applied refrigeration, artificial compression followed by adiabatic
31 expansion using the Joule-Thomson effect, or another physical process

1 that is not mechanical separation;

2 (ii) for the purpose of extracting and recovering liquid
3 hydrocarbons; and

4 (iii) upstream of any gas treatment and upstream of the
5 inlet of any gas pipeline system transporting gas to a market;

6 (B) does not include gas treatment;

7 (19) "gas treatment"

8 (A) means conditioning gas and removing from gas
9 nonhydrocarbon substances for the purpose of rendering the gas acceptable for
10 tender and acceptance into a gas pipeline system; and

11 (B) includes incidentally removing liquid hydrocarbons from
12 the gas.

13 * **Sec. 37.** AS 43.55.011(b), 43.55.011(c), 43.55.012(b), 43.55.013, 43.55.016,
14 43.55.025(k)(3), 43.55.900(1), 43.55.900(8), 43.55.900(11), 43.55.900(12), and
15 43.55.900(16) are repealed.

16 * **Sec. 38.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 **APPLICABILITY.** (a) Sections 5, 6, 8 - 11, 13, 14, 15, 17 - 20, 22, and 26 - 37 of this
19 Act apply to oil and gas produced on or after April 1, 2006.

20 (b) Section 12 of this Act applies to oil and gas produced before, on, or after the
21 effective date of sec. 12 of this Act.

22 * **Sec. 39.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 **TRANSITIONAL PROVISIONS.** (a) Notwithstanding any contrary provision of
25 AS 43.55.024(a), enacted by sec. 14 of this Act, a producer or explorer may apply for a credit
26 under AS 43.55.024 based on a qualified capital expenditure incurred on or after January 1,
27 2006.

28 (b) Notwithstanding any contrary provision of AS 43.55.024(a), enacted by sec. 14 of
29 this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007, the
30 phrase "every month an annualized tax credit in an amount equal to one and two-thirds
31 percent" in AS 43.55.024(a), enacted by sec. 14 of this Act, shall be replaced by the phrase

1 "every month during the period April 1, 2006, through December 31, 2006, an annualized tax
2 credit in an amount equal to 2.222 percent."

3 (c) Notwithstanding any contrary provision of AS 43.55.024(e), enacted by sec. 14 of
4 this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007, the
5 phrase "a calendar year" in AS 43.55.024(e), enacted by sec. 14 of this Act, shall be replaced
6 by the phrase "the last nine months of the calendar year."

7 (d) Notwithstanding any contrary provision of AS 43.55.160(f), enacted by sec. 28 of
8 this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007, the
9 phrase "for every month of a calendar year, one-twelfth of the producer's adjusted lease
10 expenditures for the calendar year" in AS 43.55.160(f), enacted by sec. 28 of this Act, shall be
11 replaced by the phrase "for each of the last nine months of 2006, one-ninth of the producer's
12 adjusted lease expenditures for calendar year 2006."

13 (e) Notwithstanding any contrary provision of AS 43.55.170(a), enacted by sec. 28 of
14 this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007, the
15 amount of "\$12,000,000" in AS 43.55.170(a)(2), enacted by sec. 28 of this Act, shall be
16 replaced by the amount "\$9,000,000."

17 (f) For oil and gas produced before April 1, 2006, the provisions of AS 43.55, and
18 regulations adopted under AS 43.55, that were in effect before April 1, 2006, and that were
19 applicable to the oil and gas continue to apply to that oil and gas.

20 (g) Notwithstanding any contrary provision of AS 43.55.020(a), as repealed and
21 reenacted by sec. 8 of this Act, or of AS 43.55.020(g), as enacted by sec. 13 of this Act, for oil
22 and gas produced on or after April 1, 2006, and before the first day of the first month that
23 begins at least 180 days after the effective date of secs. 8 and 13 of this Act,

24 (1) the amount of the taxes that would have been levied upon the producer
25 under AS 43.55, as the provisions of that chapter read on March 31, 2006, is due on the last
26 day of each calendar month on the oil and gas that was produced from each lease or property
27 during the preceding month;

28 (2) the portion, if any, of the taxes levied under AS 43.55.011(a), as repealed
29 and reenacted by sec. 5 of this Act, and under AS 43.55.011(e), (f), and (i), as enacted by sec.
30 6 of this Act, that remains unpaid, net of any credits applied as allowed by law, is due on the
31 last day of the second month that begins at least 180 days after the effective date of secs. 5

1 and 6 of this Act.

2 (h) Notwithstanding any contrary provision of AS 43.55.030(a), as amended by sec.
3 20 of this Act, or AS 43.55.030(e), added by sec. 22 of this Act, for oil and gas produced on
4 or after April 1, 2006, and before the first day of the first month that begins at least 180 days
5 after the effective date of secs. 20 and 22 of this Act, the person paying the tax shall file with
6 the Department of Revenue, at the time an amount of tax is due

7 (1) under (g)(1) of this section, the statement required under former
8 AS 43.55.030(a), as that subsection read on March 31, 2006; and

9 (2) under (g)(2) of this section, the statement required under AS 43.55.030(e),
10 enacted by sec. 22 of this Act.

11 (i) For purposes of taxes to be calculated and due under (g)(1) of this section and
12 statements to be filed under (h)(1) of this section, regulations that were adopted by the
13 Department of Revenue under AS 43.55, as the provisions of that chapter read on March 31,
14 2006, and that were in effect on that date apply to those taxes and statements.

15 * **Sec. 40.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 **TRANSITION: REGULATIONS AND RETROACTIVITY OF REGULATIONS.** (a)
18 The Department of Revenue may proceed to adopt regulations to implement the changes
19 made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act),
20 but not before the effective date of the law implemented by the regulation.

21 (b) Notwithstanding any contrary provision of AS 44.62.240, a regulation adopted by
22 the Department of Revenue to implement, interpret, make specific, or otherwise carry out the
23 provisions of secs. 5, 6, 8 - 11, 13 - 15, 17 - 20, 22, and 25 - 37 of this Act may apply
24 retroactively as of April 1, 2006, if the Department of Revenue expressly designates in the
25 regulation that the regulation applies retroactively to that date.

26 * **Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 **REVISOR'S INSTRUCTION.** The revisor of statutes is instructed to change the
29 heading of

30 (1) AS 43.55 from "Oil and Gas Production Taxes and Oil Surcharge" to "Oil
31 and Gas Production Tax and Oil Surcharge";

1 (2) article 1 of AS 43.55 from "Oil and Gas Properties Production Taxes" to
2 "Oil and Gas Production Tax";

3 (3) AS 43.55.011 from "Oil production tax" to "Oil and gas production tax";

4 (4) AS 43.55.025 from "Tax credit for oil and gas exploration or gas only
5 exploration" to "Alternative tax credit for oil and gas exploration or gas only exploration";

6 (5) AS 43.55.150 from "Determination of gross value" to "Determination of
7 gross value at the point of production."

8 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 **RETROACTIVITY OF CERTAIN EXPENDITURES USED TO SUPPORT**
11 **PRODUCTION TAX CREDIT CLAIM AND DETERMINATION OF PRODUCTION TAX**
12 **VALUE OF OIL AND GAS.** AS 43.55.160(c)(1), enacted by sec. 28 of this Act, applies to
13 allow a producer to claim as lease expenditures certain expenditures incurred on or after
14 January 1, 2006, and before the effective date of AS 43.55.160, added by sec. 28 of this Act,
15 and sec. 39(a) of this Act applies to authorize a producer or explorer to apply for a credit
16 under AS 43.55.024, enacted by sec. 14 of this Act, based on a qualified capital expenditure
17 incurred on or after January 1, 2006, and before the effective date of AS 43.55.024, enacted
18 by sec. 14 of this Act. To the extent these provisions give legal effect to prior conduct, they
19 are retroactive to January 1, 2006.

20 * **Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 **CONDITIONAL RETROACTIVITY.** If the sections of this Act that, under sec. 45 of
23 this Act, are scheduled to take effect April 1, 2006, take effect on or after April 1, 2006, those
24 sections of this Act are retroactive to April 1, 2006.

25 * **Sec. 44.** Sections 1 - 4, 7, 12, 16, 21, 23, and 38 - 43 of this Act take effect immediately
26 under AS 01.10.070(c).

27 * **Sec. 45.** Except as provided in sec. 44 of this Act, this Act takes effect April 1, 2006.