

CS FOR SENATE BILL NO. 305(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 3/30/06

Referred: Finance

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

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for a production tax on oil and gas; repealing the oil and gas
2 production (severance) tax; relating to the calculation of the gross value at the point of
3 production of oil or gas and to the determination of the value of oil and gas for purposes
4 of the production tax on oil and gas; providing for tax credits against the tax for certain
5 expenditures and losses; relating to the relationship of the production tax on oil and gas
6 to other taxes, to the dates those tax payments and surcharges are due, to interest on
7 overpayments of the tax, and to the treatment of the tax in a producer's settlement with
8 the royalty owners; relating to flared gas, and to oil and gas used in the operation of a
9 lease or property under the production tax; relating to the prevailing value of oil or gas
10 under the production tax; relating to surcharges on oil; relating to statements or other
11 information required to be filed with or furnished to the Department of Revenue, to the
12 penalty for failure to file certain reports for the tax, to the powers of the Department of

1 Revenue, and to the disclosure of certain information required to be furnished to the
 2 Department of Revenue as applicable to the administration of the tax; relating to
 3 criminal penalties for violating conditions governing access to and use of confidential
 4 information relating to the tax, and to the deposit of tax money collected by the
 5 Department of Revenue; amending the definitions of 'gas,' 'oil,' and certain other terms
 6 for purposes of the production tax, and as the definition of the term 'gas' applies in the
 7 Alaska Stranded Gas Development Act, and adding further definitions; making
 8 conforming amendments; and providing for an effective date."

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

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

12 INTENT OF SEC. 11 OF THIS ACT. It is the intent of the legislature through sec. 11
 13 of this Act to confirm by clarification the long-standing interpretation of AS 43.55.020(f) by
 14 the Department of Revenue.

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

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

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

20 (c) In computing the tax under this chapter, the taxpayer is not entitled to
 21 deduct any taxes based on or measured by net income. **The taxpayer may deduct the**
 22 **tax levied and paid under AS 43.55.**

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

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

27 (1) taxes based on or measured by net income that are deducted in the
 28 determination of the federal taxable income shall be added back; **the tax levied and**

1 **paid under AS 43.55 may not be added back;**

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

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

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

13 * **Sec. 5.** AS 43.55.011 is amended by adding new subsections to read:

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

19 (f) Notwithstanding (e) of this section, there is levied on the producer of oil or
20 gas a tax for all oil and gas produced each month from each lease or property in the
21 state the ownership or right to which constitutes a lessor's royalty interest under an oil
22 and gas lease, except for oil and gas the ownership or right to which is exempt from
23 taxation. The provisions of this subsection apply for a lessor's royalty interest under an
24 oil and gas lease as follows:

25 (1) the rate of tax levied on oil and gas produced from a lease that is in
26 effect on the effective date of this subsection

27 (A) in the Cook Inlet basin is equal to 1.5 percent of the gross
28 value at the point of production of the oil and gas;

29 (B) except as described in (A) of this paragraph, is equal to five
30 percent of the gross value at the point of production of the oil and gas;

31 (2) if the department determines that, for purposes of reducing the

1 producer's tax liability under (1) of this subsection, the producer has received or will
 2 receive consideration from the lessor offsetting all or a part of the producer's royalty
 3 obligation, other than a deduction under AS 43.55.020(d) of the amount of a tax paid,
 4 notwithstanding (1) of this subsection, the tax is equal to 20 percent of the gross value
 5 at the point of production of the oil and gas;

6 (3) unless otherwise expressly agreed between the producer and the
 7 royalty owner, in making settlement with the royalty owner with respect to royalty oil
 8 or gas taxed under this subsection, the producer may deduct the amount of the tax paid
 9 on taxable royalty oil or gas under this subsection, or may deduct taxable royalty oil or
 10 gas equivalent in value at the time the tax becomes due, and the provisions of
 11 AS 43.55.020(d) are not applicable to that taxable royalty oil or gas; and

12 (4) the commissioner shall recommend to the legislature the rate of tax
 13 applicable to the lessor's royalty interest on private lease holdings on leases that are
 14 entered into after the effective date of this subsection.

15 (g) In addition to the taxes levied under (e) and (f) of this section, if the
 16 average ANS West Coast price per barrel of oil during a month exceeds \$40, there is
 17 levied on the producer of oil a tax for oil produced during that month from each lease
 18 or property in the state, less any oil the ownership or right to which is exempt from
 19 taxation. The tax levied under this subsection is equal to

$$20 \quad [((\text{ANS West Coast price} - \$40) \times .002) \times [\text{ANS wellhead price} \times (1 - \text{PPT rate})]]$$

$$21 \quad \times (\text{total taxable barrels of oil at the point of production})$$

22 where

23 (1) "ANS wellhead price" means the prevailing value for oil produced
 24 in the Alaska North Slope area; and

25 (2) the PPT, or production profit tax, rate is 25 percent.

26 (h) For purposes of (g) of this section, the department may calculate the
 27 average price or may, by regulation, specify the method by which the average price
 28 shall be calculated with reference to one or more published sources of price
 29 information. If, in the department's judgment, reliable published sources of price
 30 information on Alaska North Slope crude oil cease, or appear likely to soon cease, to
 31 be available, or if, in the department's judgment, the price of Alaska North Slope crude

1 oil ceases, or appears likely to soon cease, to be a reliable indicator of the general
 2 price level of crude oils, the department shall, by regulation, specify a substitute
 3 formula for computing the oil price index. The substitute formula specified by the
 4 department under this subsection must bear, as nearly as is reasonably possible, the
 5 same relationship to the general price level of crude oils as did the price of Alaska
 6 North Slope crude oil.

7 * **Sec. 6.** AS 43.55.017(a) is amended to read:

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

11 (1) producing oil or gas leases;

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

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

16 * **Sec. 7.** AS 43.55.020(a) is repealed and reenacted to read:

17 (a) The production tax on oil and gas shall be paid as set out in this subsection.
 18 Ninety-five percent of the tax levied under AS 43.55.011(e), net of any credits applied
 19 under this chapter, is due on the last day of each calendar month on oil and gas
 20 produced from each lease or property during the preceding month. The remaining
 21 portion of the tax levied under AS 43.55.011(e), net of any credits applied under this
 22 chapter, is due on the last day of the third month following the calendar quarter during
 23 which the oil and gas were produced. An unpaid amount of tax that is not paid when
 24 due in accordance with this subsection becomes delinquent. An overpayment of tax
 25 with respect to a month may be applied against the tax due for any later month.
 26 Notwithstanding any contrary provision of AS 43.05.280, interest on an overpayment
 27 is allowed only from a date that is 90 days after the last day of the third month
 28 following the calendar quarter of production, as described in this subsection, and
 29 interest is not allowed if the overpayment was refunded within the 90-day period. In
 30 addition, the producer shall comply with the requirements of AS 43.55.030(a) and (e).
 31 In this subsection, "calendar quarter" means each of the three-month periods ending

1 March 31, June 30, September 30, and December 31.

2 * **Sec. 8.** AS 43.55.020(b) is amended to read:

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

5 * **Sec. 9.** AS 43.55.020(d) is amended to read:

6 (d) In making settlement with the royalty owner **for oil or gas that is taxable**
7 **under AS 43.55.011(e)**, the producer may deduct the amount of the tax paid on
8 **taxable** royalty oil **and** [OR] gas, or may deduct **taxable** royalty oil or gas equivalent
9 in value at the time the tax becomes due to the amount of the tax paid. **Unless**
10 **otherwise agreed between the producer and the royalty owner, the amount of the**
11 **tax paid under AS 43.55.011(e) on taxable royalty oil and gas for a month other**
12 **than oil or gas the ownership or right to which constitutes a lessor's royalty**
13 **interest under an oil or gas lease is considered to be the gross value at the point of**
14 **production of the taxable royalty oil and gas produced during the month**
15 **multiplied by a figure that is a quotient, in which**

16 **(1) the numerator is the producer's total tax liability under**
17 **AS 43.55.011(e) for the month of production; and**

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

21 * **Sec. 10.** AS 43.55.020(e) is repealed and reenacted to read:

22 (e) Gas flared, released, or allowed to escape in excess of the amount
23 authorized by the Alaska Oil and Gas Conservation Commission is considered, for the
24 purpose of AS 43.55.011 - 43.55.160, as gas produced from a lease or property. Oil or
25 gas used in the operation of a lease or property in the state in drilling for or producing
26 oil or gas, or for repressuring, except to the extent determined by the Alaska Oil and
27 Gas Conservation Commission to be waste, is not considered, for the purpose of
28 AS 43.55.011 - 43.55.160, as oil or gas produced from a lease or property.

29 * **Sec. 11.** AS 43.55.020(f) is amended to read:

30 (f) If oil or gas is **produced but not sold, or if oil or gas is produced and**
31 **sold** under circumstances where the sale price does not represent the prevailing value

1 for oil or gas of like kind, character, or quality in the field or area from which the
 2 product is produced, the department may require the tax to be paid upon the basis of
 3 the value of oil or gas of the same kind, quality, and character prevailing during the
 4 calendar month of production for that field or area.

5 * **Sec. 12.** AS 43.55.020 is amended by adding a new subsection to read:

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

10 * **Sec. 13.** AS 43.55 is amended by adding a new section to read:

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

12 Notwithstanding that a qualified capital expenditure may be a deductible lease
 13 expenditure for purposes of calculating the production tax value of oil and gas under
 14 AS 43.55.160(a), unless a credit for that expenditure is taken under AS 43.55.025,

15 (1) a producer or explorer that incurs a qualified capital expenditure
 16 may also elect to take a tax credit in the amount of 20 percent of that expenditure;

17 (2) for a calendar year for which the producer makes an election under
 18 AS 43.55.160(f), instead of taking a tax credit at a rate authorized by (1) of this
 19 subsection as to each separate qualified capital expenditure after it has been incurred, a
 20 producer that incurs a qualified capital expenditure during that year and that wishes to
 21 apply a credit based on that expenditure against a tax due under AS 43.55.011 -
 22 43.55.160 shall calculate and apply every month an annualized tax credit in an amount
 23 equal to one and two-thirds percent of the total qualified capital expenditures incurred
 24 for expenditures for exploration, development, or production during that year and for
 25 which the tax credit is taken for that year.

26 (b) A producer or explorer may elect to take a tax credit in the amount of 25
 27 percent of a carried-forward annual loss. A credit under this subsection may be applied
 28 against a tax for which a credit may be elected under (a) of this section and may be
 29 applied irrespective of whether the producer or explorer also claims a credit for
 30 transitional investment expenditures authorized by (i) of this section. For purposes of
 31 this subsection, a carried-forward annual loss is the amount of a producer's or

1 explorer's adjusted lease expenditures under AS 43.55.160 for a previous calendar
2 year that was not deductible in any month under AS 43.55.160(a) and (b).

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

7 (d) Except as limited by (i) of this section, a person entitled to take a tax credit
8 under this section that wishes to transfer the unused credit to another person may
9 apply to the department for a transferable tax credit certificate. An application under
10 this subsection must be on a form prescribed by the department and must include
11 supporting information and documentation that the department reasonably requires.
12 The department shall grant or deny an application, or grant an application as to a lesser
13 amount than that claimed and deny it as to the excess, not later than 60 days after the
14 latest of (1) March 31 of the year following the calendar year in which the qualified
15 capital expenditure or carried-forward annual loss for which the credit is claimed was
16 incurred; (2) if the applicant is required under AS 43.55.030(e) to file a statement on
17 or before March 31 of the year following the calendar year in which the qualified
18 capital expenditures or carried-forward annual loss for which the credit was incurred,
19 the date the statement was filed; or (3) the date the application was received by the
20 department. If, based on the information then available to it, the department is
21 reasonably satisfied that the applicant is entitled to a credit, the department shall issue
22 the applicant a transferable tax credit certificate for the amount of the credit. A
23 certificate issued under this subsection does not expire.

24 (e) A person to which a transferable tax credit certificate is issued under (d) of
25 this section may transfer the certificate to another person, and a transferee may further
26 transfer the certificate. Subject to the limitations set out in (a) - (c) of this section, and
27 notwithstanding any action the department may take with respect to the applicant
28 under (f) of this section, the owner of a certificate may apply the credit or a portion of
29 the credit shown on the certificate only against a tax due under AS 43.55.011(e).
30 However, a credit shown on a transferable tax credit certificate may not be applied to
31 reduce a transferee's total tax due under AS 43.55.011(e) on oil and gas produced

1 during a calendar year to less than 80 percent of the tax that would otherwise be due
2 without applying that credit. Any portion of a credit not used under this subsection
3 may be applied in a later period.

4 (f) The issuance of a transferable tax credit certificate under (d) of this section
5 does not limit the department's ability to later investigate or audit a tax credit claim to
6 which the certificate relates or to adjust or deny the claim if the department determines
7 that the applicant was not entitled to the amount of the credit for which the certificate
8 was issued. The tax liability of the applicant under AS 43.55.011(e) and 43.55.017 -
9 43.55.160 is increased by the amount of the credit that exceeds that to which the
10 applicant was entitled. That amount bears interest under AS 43.05.225 from the date
11 the transferable tax credit certificate was issued. For purposes of this subsection, an
12 applicant that is an explorer is considered a producer subject to the tax levied under
13 AS 43.55.011(e).

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

18 (h) Except as provided in (i) of this section, a producer or explorer may not
19 elect to take a tax credit under this section for a lease expenditure under AS 43.55.160
20 that is an expenditure incurred

21 (1) to acquire an asset (A) the cost of previously acquiring which was a
22 lease expenditure under AS 43.55.160(c) or would have been a lease expenditure
23 under AS 43.55.160(c) if it had been incurred on or after April 1, 2006; or (B) that has
24 previously been placed in service in the state; an expenditure to acquire an asset is not
25 excluded under this paragraph if not more than an immaterial portion of the asset
26 meets a description under (A) or (B) of this paragraph; for purposes of this paragraph,
27 "asset" includes geological, geophysical, and well data and interpretations;

28 (2) for an extended period of disuse, dismantlement, removal,
29 surrender, or abandonment of a well, facility, pipeline, platform, or other structure, or
30 for the restoration of a lease, field, unit, area, or body of water in conjunction with an
31 extended period of disuse, dismantlement, removal, surrender, or abandonment of a

1 facility described in this paragraph.

2 (i) For the purposes of this section,

3 (1) a producer's transitional investment expenditures are the sum of the
4 expenditures the producer incurred on or after April 1, 2001, and before April 1, 2006,
5 that would be qualified capital expenditures if they were incurred on or after April 1,
6 2006, less the sum of the payments or credits the producer received before April 1,
7 2006, for the sale or other transfer of assets, including geological, geophysical, or well
8 data or interpretations, acquired by the producer as a result of expenditures the
9 producer incurred before April 1, 2006, that would be qualified capital expenditures, if
10 they were incurred on or after April 1, 2006;

11 (2) a producer may elect to take a tax credit in the amount of 20
12 percent of the producer's transitional investment expenditures, but only to the extent
13 that the amount does not exceed

14 (A) one-half of the producer's qualified capital expenditures
15 that are incurred during the month, if the producer does not make an election
16 under AS 43.55.160(f);

17 (B) 1/24 of the producer's qualified capital expenditures that
18 are incurred during the calendar year, if the producer makes an election under
19 AS 43.55.160(f);

20 (3) a producer may not take a tax credit for a transitional investment
21 expenditure

22 (A) in any month that ends after March 31, 2013;

23 (B) more than once; or

24 (C) if a credit for that expenditure was taken under
25 AS 43.55.025;

26 (4) notwithstanding (d) - (f) of this section, a producer may not transfer
27 a tax credit or obtain a transferable tax credit certificate for a transitional investment
28 expenditure.

29 (j) In this section,

30 (1) "explorer" has the meaning given in AS 43.55.025;

31 (2) "qualified capital expenditure" means, except as otherwise

1 provided in (h) of this section, an expenditure that is a lease expenditure under
2 AS 43.55.160 and is

3 (A) incurred for geological or geophysical exploration; or

4 (B) treated as a capitalized expenditure under 26 U.S.C.
5 (Internal Revenue Code), as amended, regardless of elections made under 26
6 U.S.C. 263(c) (Internal Revenue Code), as amended, and either is treated as a
7 capitalized expenditure by the person incurring the expenditure or is eligible to
8 be deducted as an expense under 26 U.S.C. 263(c) (Internal Revenue Code), as
9 amended.

10 * **Sec. 14.** AS 43.55.030(a) is amended to read:

11 (a) The tax shall be paid to the department, and the person paying the tax shall
12 file with the department at the time the tax or a portion of the tax is required to be
13 paid a statement, under oath, on forms prescribed by or acceptable to the department,
14 giving, with other information required, the following:

15 (1) a description of each [THE] lease or property from which the oil
16 and [OR] gas were [WAS] produced, by name, legal description, lease number, or
17 [BY] accounting codes [CODE NUMBERS] assigned by the department;

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

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

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

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

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

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

31 (d) Reports by or on behalf of the producer are delinquent the first day

1 following the day the tax is due. [EACH PRODUCER IS SUBJECT TO A PENALTY
 2 OF \$25 A DAY FOR EACH LEASE OR PROPERTY UPON WHICH THE
 3 REPORT IS NOT FILED. THE PENALTY FOR FAILURE TO FILE A REPORT IS
 4 IN ADDITION TO THE PENALTY FOR DELINQUENT TAXES, AND IS A LIEN
 5 AGAINST THE ASSETS OF THE PRODUCER.]

6 * **Sec. 16.** AS 43.55.030 is amended by adding a new subsection to read:

7 (e) In addition to other required information, the producer shall file a
 8 statement, on or before the last day of each calendar quarter of a year, showing any
 9 adjustments or corrections to the statements that were required under (a) of this section
 10 to be filed for the three months of the preceding calendar quarter during which the oil
 11 or gas was produced. In this subsection, "calendar quarter" means each of the three-
 12 month periods ending March 31, June 30, September 30, and December 31.

13 * **Sec. 17.** AS 43.55.040 is amended to read:

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

16 (1) require a person engaged in production and the agent or employee
 17 of the person, and the purchaser of oil or gas, or the owner of a royalty interest in oil
 18 or gas to furnish, whether by the filing of regular statements or reports or
 19 otherwise, additional information that is considered by the department as necessary to
 20 compute the amount of the tax; notwithstanding any contrary provision of law, the
 21 disclosure of additional information under this paragraph to the producer
 22 obligated to pay the tax does not violate AS 40.25.100(a) or AS 43.05.230(a);
 23 before disclosing information under this paragraph that is otherwise required to
 24 be held confidential under AS 40.25.100(a) or AS 43.05.230(a), the department
 25 shall

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

29 (B) impose appropriate conditions limiting

30 (i) access to the information to those legal counsel,
 31 consultants, employees, officers, and agents of the producer who

1 have a need to know that information for the purpose of
 2 determining or contesting the producer's tax obligation; and

3 (ii) the use of the information to use for that
 4 purpose;

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

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

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

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

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

13 * **Sec. 18.** AS 43.55.080 is amended to read:

14 **Sec. 43.55.080. Collection and deposit of revenue.** Except as otherwise
 15 provided under art. IX, sec. 17, Constitution of the State of Alaska, the [THE]
 16 department shall deposit in the general fund the money collected by it under
 17 AS 43.55.011 - 43.55.160 [AS 43.55.011 - 43.55.150].

18 * **Sec. 19.** AS 43.55.135 is amended to read:

19 **Sec. 43.55.135. Measurement.** For the purposes of AS 43.55.011 - 43.55.160
 20 [AS 43.55.011 - 43.55.150], oil is [SHALL BE] measured in terms of a "barrel of oil"
 21 and gas is [SHALL BE] measured in terms of a "cubic foot of gas."

22 * **Sec. 20.** AS 43.55.150(a) is amended to read:

23 (a) For the purposes of AS 43.55.011 - 43.55.160 [AS 43.55.011 - 43.55.150],
 24 the gross value at the point of production is [SHALL BE] calculated using the
 25 reasonable costs of transportation of the oil or gas. The reasonable costs of
 26 transportation are [SHALL BE] the actual costs, except when the

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

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

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

3 * **Sec. 21.** AS 43.55.150 is amended by adding a new subsection to read:

4 (d) Under regulations adopted by the department, if the commissioner
5 completes a detailed fiscal analysis and determines that an election by a producer
6 under this subsection would serve the long-term fiscal interests of the state, the
7 department may allow a producer, subject to limitations prescribed by the department
8 as to the frequency of making elections, to elect prospectively to calculate the gross
9 value at the point of production of oil or gas based in whole or part on

10 (1) a formula prescribed by the department that uses, with adjustments
11 if appropriate, a royalty value or valuation methodology accepted by the

12 (A) Department of Natural Resources under AS 38.05, in the
13 case of oil and gas produced from a lease issued by the Department of Natural
14 Resources or produced from a lease or property that is part of a unit approved
15 by the Department of Natural Resources; or

16 (B) United States Department of the Interior under applicable
17 federal oil and gas leasing statutes, in the case of oil and gas produced from a
18 lease issued by the United States Department of the Interior that is not part of a
19 unit approved by the Department of Natural Resources, or produced from a
20 lease or property that is part of a unit approved by the United States
21 Department of the Interior but not approved by the Department of Natural
22 Resources; or

23 (2) another formula prescribed by the Department of Revenue that
24 reasonably estimates a value for the oil or gas at a specific geographical location, such
25 as the point of tender or delivery into a common carrier pipeline; the formula may use
26 factors such as published price indices for oil or gas in or outside the state, quality
27 differentials for oil or gas, transportation costs between markets, and inflation
28 adjustments.

29 * **Sec. 22.** AS 43.55 is amended by adding a new section to article 1 to read:

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

31 Except as provided in (f) and (h) of this section, for purposes of AS 43.55.011(e), the

1 production tax value of the taxable oil and gas produced during a month is the total of
2 the gross value at the point of production of the oil and gas taxable under
3 AS 43.55.011(e) and produced by the producer from all leases or properties in the
4 state, less the producer's lease expenditures for the month as adjusted under (e) of this
5 section. However, the production tax value calculated under this subsection may not
6 be less than zero. If a producer does not produce taxable oil or gas during a month, the
7 producer is considered to have generated a positive production tax value if the
8 calculation described in this subsection yields a positive number because the
9 producer's adjusted lease expenditures for a month are less than zero as a result of the
10 producer's receiving a payment or credit under (e) of this section or otherwise.

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

12 (1) any adjusted lease expenditures that would otherwise be deductible
13 in a month but whose deduction would cause the production tax value calculated under
14 (a) of this section of the taxable oil and gas produced during the month to be less than
15 zero may be added to the producer's adjusted lease expenditures for one or more other
16 months in the same calendar year; the total of any adjusted lease expenditures that are
17 not deductible in any month during a calendar year because their deduction would
18 cause the production tax value calculated under (a) of this section of the taxable oil
19 and gas produced during one or more months to be less than zero may be used to
20 establish a carried-forward annual loss under AS 43.55.024(b);

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

27 (c) For purposes of this section,

28 (1) a producer's lease expenditures for a period are the total costs
29 upstream of the point of production of oil and gas that are incurred on or after April 1,
30 2006, by the producer during the period and that are direct, ordinary, and necessary
31 costs of exploring for, developing, or producing oil or gas from deposits located within

1 the producer's leases or properties in the state or, in the case of land in which the
 2 producer does not own a working interest, direct, ordinary, and necessary costs of
 3 exploring for oil or gas deposits located within other land in the state; however, lease
 4 expenditures do not include the costs incurred to satisfy a work commitment under an
 5 exploration license under AS 38.05.132; in determining whether costs are direct,
 6 ordinary, and necessary costs of exploring for, developing, or producing oil or gas
 7 from a deposit of oil or gas located within a lease or property or other land in the state,
 8 the department shall give substantial weight to

9 (A) the typical industry practices and standards in the state and
 10 in the United States as to costs that an operator is allowed to bill a working
 11 interest owner that is not the operator, under unit operating agreements or
 12 similar operating agreements that were in effect on or before December 1,
 13 2005, and were subject to negotiation with working interest owners, not the
 14 operator, with substantial bargaining power; and

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

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

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

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

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

31 (1) includes

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

5 (B) payments of property taxes, sales and use taxes, motor fuel
6 taxes, and excise taxes;

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

11 (2) does not include

12 (A) depreciation or amortization;

13 (B) royalty payments for oil and gas;

14 (C) taxes based on or measured by net income;

15 (D) interest or other financing charges or costs of raising equity
16 or debt capital;

17 (E) acquisition costs for a lease or property or exploration
18 license;

19 (F) costs arising from fraud, wilful misconduct, or negligence;

20 (G) fines or penalties imposed by law;

21 (H) costs of arbitration, litigation, or other dispute resolution
22 activities that involve the state or concern the rights or obligations among
23 owners of interests in, or rights to production from, one or more leases or
24 properties or a unit;

25 (I) donations;

26 (J) costs incurred in organizing a partnership, joint venture, or
27 other business entity or arrangement;

28 (K) amounts paid to indemnify the state; the exclusion
29 provided by this paragraph does not apply to the costs of obtaining insurance
30 or a surety bond from a third-party insurer or surety;

31 (L) surcharges levied under AS 43.55.201 or 43.55.300;

1 (M) the portion of costs incurred for any extended period of
2 disuse, dismantlement, removal, surrender, or abandonment of a well, facility,
3 pipeline, platform, or other structure, or for the restoration of a lease, field,
4 unit, area, body of water, or right-of-way in conjunction with an extended
5 period of disuse, dismantlement, removal, surrender, or abandonment, that is
6 attributable to production of oil or gas occurring before the effective date of
7 this section, calculated as a ratio of production of oil or gas associated with the
8 well, facility, pipeline platform or other structure, lease, field, unit, area, body
9 of water, or right-of-way occurring before the effective date of this section
10 divided by all production of oil or gas associated with that facility through the
11 end of the calendar month before commencement of the extended period of
12 disuse, dismantlement, removal, surrender, or abandonment;

13 (N) in a transaction that is not an arm's length transaction,
14 amounts incurred, to the extent that those amounts exceed fair market value;
15 the provisions of (k) of this section apply to a determination under this
16 subparagraph;

17 (O) an amount expended to purchase an interest in any
18 corporation, partnership, limited liability company, business trust, or any other
19 business entity, whether or not the transaction is treated as an asset sale for
20 federal income tax purposes.

21 (e) A producer's lease expenditures must be adjusted by subtracting certain
22 payments or credits received by the producer, as provided in this subsection. If one or
23 more payments or credits subject to this subsection are received by a producer during
24 a month or, under (f) of this section, during a calendar year, and if either the total
25 amount of the payments or credits exceeds the amount of the producer's lease
26 expenditures or the producer has no lease expenditures, the producer shall nevertheless
27 subtract those payments or credits from the lease expenditures or from zero,
28 respectively, and the producer's adjusted lease expenditures for that month or calendar
29 year are a negative number and shall be applied to the calculation under (a) of this
30 section as a negative number. The payments or credits that a producer shall subtract
31 from the producer's lease expenditures, or from zero, under this subsection are

1 payments or credits received by the producer for

2 (1) the use by another person of a production facility in which the
3 producer has an ownership interest or the management by the producer of a production
4 facility under a management agreement providing for the producer to receive a
5 management fee;

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

11 (3) the sale or other transfer of

12 (A) an asset, including geological, geophysical, or well data or
13 interpretations, acquired by the producer as a result of a lease expenditure or an
14 expenditure that would be a lease expenditure if it were incurred on or after
15 April 1, 2006; for purposes of this subsection, if a producer removes from the
16 state, for use outside the state, an asset described in this subparagraph, the
17 value of the asset at the time it is removed is considered a payment received by
18 the producer for the transfer of the asset; the provisions of (k) and (l) of this
19 section apply to an asset that is subject to this subparagraph; and

20 (B) oil or gas

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

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

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

28 (g) For a month for which (1) the production tax value of the taxable oil and
29 gas produced during the month calculated under (a) of this section exceeds zero, and
30 (2) the total amount of oil and gas, including oil and gas the ownership or right to
31 which is exempt from taxation, produced a day by the producer from all leases or

1 properties in the state averages less than 55,000 barrels of oil equivalent, a producer
 2 that is qualified under (h) of this section may reduce the production tax value by
 3 deducting an allowance in an amount calculated under this subsection. The allowance
 4 is equal to the production tax value calculated under (a) of this section multiplied by
 5 the fraction that is yielded by the following formula, except that the value of the
 6 fraction may not be greater than one:

$$7 \quad (5,000 - 0.2 \times [\text{ADP} - 5,000]) / \text{ADP}$$

8 where "ADP" is the average for the month of the number of barrels of oil equivalent of
 9 the total amount of oil and gas, including oil and gas the ownership or right to which is
 10 exempt from taxation, produced a day by the producer from all leases or properties in
 11 the state. For purposes of this subsection, a barrel of oil equivalent is a barrel of oil, in
 12 the case of oil, or 6,000 cubic feet of gas, in the case of gas.

13 (h) On written application by a producer, including any information the
 14 department may require, the department shall determine whether the producer
 15 qualifies under this subsection for a calendar year. To qualify under this subsection, a
 16 producer must demonstrate that its operation in the state or its ownership of an interest
 17 in a lease or property in the state as a distinct producer entity would not result in the
 18 division among multiple producer entities of any amount of oil or gas production or
 19 any production tax value of taxable oil and gas, as defined under (a) of this section,
 20 that would be reasonably expected to be attributed to a single producer entity if the
 21 allowance provision of (g) of this section did not exist. The department may not make
 22 a determination that a producer is qualified under (g) of this section and this
 23 subsection after December 31, 2013.

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

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

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

1 (j) For purposes of AS 43.55.024(a) and (b) and only as to expenditures
2 incurred to explore for an oil or gas deposit located within land in which an explorer,
3 as defined in AS 43.55.025, does not own a working interest, the term "producer" in
4 (b), (c), and (e) of this section includes "explorer."

5 (k) For purposes of making a determination under (d)(2)(N) of this section,
6 and for purposes of making a subtraction that may be required under (e)(3)(A) of this
7 section, the standard to be applied is that of a producer dealing at arm's length with an
8 uncontrolled entity. To that end,

9 (1) the department may adopt regulations incorporating the concepts of
10 26 U.S.C. 482 (Internal Revenue Code), as amended, and 26 U.S.C. 6662(e) (Internal
11 Revenue Code), as amended, the related or accompanying regulations of each of those
12 sections, and any ruling or guidance issued by the Internal Revenue Service that
13 relates to each of those sections;

14 (2) on request of the department, a producer shall provide
15 documentation supporting the arm's length nature of the transactions resulting in a cost
16 to the producer; the department may base its consideration and determination under
17 (d)(2)(N) of this section and this subsection only on documentation that was in
18 existence at the time the tax return for the taxable period in question is due; if a
19 producer fails to comply with a request under this paragraph, there shall be added to
20 any underpayment determined by the department under this section a penalty in the
21 amount of five percent of the underpayment.

22 (l) For purposes of determining the amount of the adjustment by subtraction
23 that must be made to a producer's lease expenditures as a result of the producer's
24 receiving a payment or credit under (e)(3)(A) of this section,

25 (1) if the sale or transfer of the asset is made for less than the amount
26 that would have been received in an arm's length transaction,

27 (A) the principle set out in (k) of this section, as interpreted and
28 implemented by the regulations of the department authorized by (k)(1) of this
29 section, applies; and

30 (B) the amount of the adjustment by subtraction shall be
31 calculated using the fair market value of the asset; and

1 (2) the producer shall adjust by subtraction from the producer's direct
 2 costs the sale of a relinquished asset; the department may adopt regulations to
 3 implement this paragraph; for purposes of this paragraph, a "relinquished asset" is an
 4 asset that was first acquired by the producer before the effective date of this section
 5 and that has been replaced by the producer's later purchase of an asset that serves a
 6 substantially similar function as the asset that was relinquished.

7 (m) The department may adopt regulations that establish additional standards
 8 necessary to carrying out the purposes of this section.

9 (n) For purposes of this section,

10 (1) "explore" includes conducting geological or geophysical
 11 exploration, including drilling a stratigraphic test well;

12 (2) "ordinary and necessary" has the meaning given to "ordinary and
 13 necessary" in 26 U.S.C. 162 (Internal Revenue Code) and regulations adopted under
 14 that section;

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

18 * **Sec. 23.** AS 43.55.201 is amended to read:

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

22 (b) The surcharge imposed by (a) of this section is in addition to **the tax**
 23 **imposed by AS 43.55.011** and shall be paid in the [SAME] manner **described in**
 24 **AS 43.55.020. The surcharge** [AS THE TAX IMPOSED BY AS 43.55.011 -
 25 43.55.150; AND] is in addition to the surcharge imposed by AS 43.55.300 -
 26 43.55.310.

27 (c) A producer of oil shall make reports of production in the same manner and
 28 under the same penalties as required under **AS 43.55.011 - 43.55.160** [AS 43.55.011 -
 29 43.55.150].

30 * **Sec. 24.** AS 43.55.201 is amended by adding a new subsection to read:

31 (d) Oil not considered under AS 43.55.020(e) to be produced from a lease or

1 property is not considered to be produced from a lease or property for purposes of this
2 section.

3 * **Sec. 25.** AS 43.55.300 is amended to read:

4 **Sec. 43.55.300. Surcharge levied.** (a) Every producer of oil shall pay a
5 surcharge of \$.05 [\$03] per barrel of oil produced from each lease or property in the
6 state, less any oil the ownership or right to which is exempt from taxation.

7 (b) The surcharge imposed by (a) of this section is in addition to **the tax**
8 **imposed by AS 43.55.011** and shall be paid in the [SAME] manner **described in**
9 **AS 43.55.020. The surcharge** [AS THE TAX IMPOSED BY AS 43.55.011 -
10 43.55.150; AND] is in addition to the surcharge imposed by AS 43.55.201 -
11 43.55.231.

12 (c) A producer of oil shall make reports of production in the same manner and
13 under the same penalties as required under **AS 43.55.011 - 43.55.160** [AS 43.55.011 -
14 43.55.150].

15 * **Sec. 26.** AS 43.55.300 is amended by adding a new subsection to read:

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

19 * **Sec. 27.** AS 43.55.900(6) is repealed and reenacted to read:

20 (6) "gas" means

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

22 (B) all hydrocarbons that

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

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

27 (C) all other hydrocarbons produced from a well not defined as

28 oil;

29 * **Sec. 28.** AS 43.55.900(7) is repealed and reenacted to read:

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

31 (A) for oil, the value of the oil at the automatic custody transfer

meter or device through which the oil enters into the facilities of a carrier pipeline or other transportation carrier in a condition of pipeline quality; in the absence of an automatic custody transfer meter or device, "gross value at the point of production" means the value of the oil at the mechanism or device to measure the quantity of oil that has been approved by the department for that purpose, through which the oil is tendered and accepted in a condition of pipeline quality into the facilities of a carrier pipeline or other transportation carrier or into a field topping plant;

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

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

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

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

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

* **Sec. 29.** AS 43.55.900(10) is repealed and reenacted to read:

(10) "oil" means

(A) crude petroleum oil; and

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

* **Sec. 30.** AS 43.55.900 is amended by adding new paragraphs to read:

(17) "Cook Inlet basin" means the area bounded by

1 (A) the north boundary of Township 18 North, Seward
2 Meridian;

3 (B) the Seward Meridian;

4 (C) the south boundary of Township 7 South, Seward
5 Meridian; and

6 (D) the west boundary of Range 19 West, Seward Meridian;

7 (18) "gas processing"

8 (A) means processing a gaseous mixture of hydrocarbons

9 (i) by means of absorption, adsorption, externally
10 applied refrigeration, artificial compression followed by adiabatic
11 expansion using the Joule-Thomson effect, or another physical process
12 that is not mechanical separation;

13 (ii) for the purpose of extracting and recovering liquid
14 hydrocarbons; and

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

17 (B) does not include gas treatment;

18 (19) "gas treatment"

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

22 (B) includes incidentally removing liquid hydrocarbons from
23 the gas.

24 * **Sec. 31.** AS 43.55.011(a), 43.55.011(b), 43.55.011(c), 43.55.012, 43.55.013, 43.55.016,
25 43.55.900(1), 43.55.900(8), 43.55.900(11), 43.55.900(12), and 43.55.900(16) are repealed.

26 * **Sec. 32.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 **APPLICABILITY.** (a) Sections 5, 7 - 10, 12 - 14, 16, and 20 - 31 of this Act apply to
29 oil and gas produced on or after April 1, 2006.

30 (b) Section 11 of this Act applies to oil and gas produced before, on, or after the
31 effective date of sec. 11 of this Act.

1 * **Sec. 33.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 TRANSITIONAL PROVISIONS. (a) Notwithstanding any contrary provision of
4 AS 43.55.024(a), enacted by sec. 13 of this Act, for oil and gas produced on or after April 1,
5 2006, and before January 1, 2007, the phrase "every month an annualized tax credit in an
6 amount equal to one and two-thirds percent" in AS 43.55.024(a)(2), enacted by sec. 13 of this
7 Act, shall be replaced by the phrase "every month during the period April 1, 2006, through
8 December 31, 2006, an annualized tax credit in an amount equal to 2.222 percent."

9 (b) Notwithstanding any contrary provision of AS 43.55.024(e), enacted by sec. 13 of
10 this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007, the
11 phrase "a calendar year" in AS 43.55.024(e), enacted by sec. 13 of this Act, shall be replaced
12 by the phrase "the last nine months of the calendar year."

13 (c) Notwithstanding any contrary provision of AS 43.55.024(i)(2), enacted by sec. 13
14 of this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007,

15 (1) the number "1/24" in AS 43.55.024(i)(2)(B), enacted by sec. 13 of this
16 Act, shall be replaced by the number "1/18";

17 (2) the phrase "calendar year" in AS 43.55.024(i)(2)(B), enacted by sec. 13 of
18 this Act, shall be replaced by the phrase "last nine months of the calendar year."

19 (d) Notwithstanding any contrary provision of AS 43.55.160(f), enacted by sec. 22 of
20 this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007, the
21 phrase "for every month of a calendar year, one-twelfth of the producer's adjusted lease
22 expenditures for the calendar year" in AS 43.55.160(f), enacted by sec. 22 of this Act, shall be
23 replaced by the phrase "for each of the last nine months of 2006, one-ninth of the producer's
24 adjusted lease expenditures for that nine-month period."

25 (e) For oil and gas produced before April 1, 2006, the provisions of AS 43.55, and
26 regulations adopted under AS 43.55, that were in effect before April 1, 2006, and that were
27 applicable to the oil and gas continue to apply to that oil and gas.

28 (f) Notwithstanding any contrary provision of AS 43.55.020(a), as repealed and
29 reenacted by sec. 7 of this Act, or of AS 43.55.020(g), enacted by sec. 12 of this Act, for oil
30 and gas produced on or after April 1, 2006, and before the first day of the first month that
31 begins at least 180 days after the effective date of secs. 7 and 12 of this Act,

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

5 (2) the portion, if any, of the taxes levied under AS 43.55.011(e) - (g), enacted
 6 by sec. 5 of this Act, that remains unpaid, net of any credits applied as allowed by law, is due
 7 on the last day of the second month that begins at least 180 days after the effective date of sec.
 8 5 of this Act.

9 (g) Notwithstanding any contrary provision of AS 43.55.030(a), as amended by sec.
 10 14 of this Act, for oil and gas produced on or after April 1, 2006, and before the first day of
 11 the first month that begins at least 180 days after the effective date of sec. 14 of this Act, the
 12 person paying the tax shall file with the Department of Revenue, at the time an amount of tax
 13 is due

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

16 (2) under (f)(2) of this section, the statements required under AS 43.55.030(a),
 17 as amended by sec. 14 of this Act.

18 (h) For purposes of taxes to be calculated and due under (f)(1) of this section and
 19 statements to be filed under (g)(1) of this section, regulations that were adopted by the
 20 Department of Revenue under AS 43.55, as the provisions of that chapter read on March 31,
 21 2006, and that were in effect on that date apply to those taxes and statements.

22 * **Sec. 34.** The uncodified law of the State of Alaska is amended by adding a new section to
 23 read:

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

28 (b) Notwithstanding any contrary provision of AS 44.62.240, a regulation adopted by
 29 the Department of Revenue to implement, interpret make specific, or otherwise carry out the
 30 provisions of secs. 5, 7 - 10, 12 - 14, 16, 20 - 31, and 33 of this Act may apply retroactively as
 31 of April 1, 2006, if the Department of Revenue expressly designates in the regulation that the

1 regulation applies retroactively to that date.

2 * **Sec. 35.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
5 heading of

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

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

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

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

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

15 * **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 CONDITIONAL RETROACTIVITY. If the sections of this Act that, under sec. 38 of
18 this Act, are scheduled to take effect April 1, 2006, take effect on or after April 1, 2006, those
19 sections of this Act are retroactive to April 1, 2006.

20 * **Sec. 37.** Sections 1 - 4, 6, 11, 15, 17 - 19, and 32 - 36 of this Act take effect immediately
21 under AS 01.10.070(c).

22 * **Sec. 38.** Except as provided in sec. 37 of this Act, this Act takes effect April 1, 2006.