

CS FOR SENATE BILL NO. 305(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 4/24/06

Offered: 4/22/06

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

A BILL

FOR AN ACT ENTITLED

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

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

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

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

13 LEGISLATIVE INTENT. (a) It is the intent of the legislature through sec. 11 of this
 14 Act to confirm by clarification the long-standing interpretation of AS 43.55.020(f) by the
 15 Department of Revenue.

16 (b) It is the intent of the legislature that the division or other unit of the Department of
 17 Environmental Conservation assigned responsibility for administration of the programs under
 18 AS 46.08 that are principally supported by the conservation surcharges on oil levied under
 19 AS 43.55.201 - 43.55.299 and 43.55.300 - 43.55.310

20 (1) reduce program costs, including personnel costs, as necessary to operate
 21 within the revenue anticipated to be generated by those surcharges, in the amounts of those
 22 surcharges as amended by secs. 26 and 28 of this Act; and

23 (2) request appropriations for exceptional program needs and expansions
 24 beyond what can be provided from the estimated amounts collected from those surcharges
 25 from alternative funding sources.

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

27 (f) A wilful violation of the provisions of this section or of a condition
 28 imposed under AS 43.55.040(1)(B) is punishable by a fine of not more than \$5,000,

1 or by imprisonment for not more than two years, or by both.

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

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

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

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

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

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

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

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

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

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

29 (1) for oil that is produced in the Cook Inlet sedimentary basin, as that
30 term is defined by regulations adopted to implement AS 38.05.180(f)(4), five percent
31 of the production tax value of the taxable oil as calculated under AS 43.55.160; and

1 (2) except as to oil described in (1) of this subsection, 22.5 percent of
2 the production tax value of the taxable oil and gas as calculated under AS 43.55.160.

3 (f) There is levied on the producer of oil or gas a tax for all oil and gas
4 produced each month from each lease or property in the state the ownership or right to
5 which constitutes a lessor's royalty interest under an oil and gas lease, except for oil
6 and gas the ownership or right to which is exempt from taxation. The provisions of
7 this subsection apply to a lessor's royalty interest under an oil and gas lease as follows:

8 (1) the rate of tax levied on oil produced from a lease is equal to five
9 percent of the gross value at the point of production of the oil;

10 (2) the rate of tax levied on gas produced from a lease is equal to 1.667
11 percent of the gross value at the point of production of the gas;

12 (3) if the department determines that, for purposes of reducing the
13 producer's tax liability under (1) or (2) of this subsection, the producer has received or
14 will receive consideration from the lessor offsetting all or a part of the producer's
15 royalty obligation, other than a deduction under AS 43.55.020(d) of the amount of a
16 tax paid,

17 (A) notwithstanding (1) of this subsection, the tax is equal to

18 (i) for oil that is produced in the Cook Inlet sedimentary
19 basin, as that term is defined by regulations adopted to implement
20 AS 38.05.180(f)(4), five percent of the gross value at the point of
21 production of the oil; and

22 (ii) for oil, except oil described in (i) of this
23 subparagraph, 22.5 percent of the gross value at the point of production
24 of the oil; and

25 (B) notwithstanding (2) of this subsection, the tax is equal to
26 7.5 percent of the gross value at the point of production of the gas.

27 (g) In addition to the taxes levied under (e) and (f) of this section, if the
28 average ANS West Coast price per barrel of oil during a month exceeds \$50, there is
29 levied on the producer of oil a tax for oil produced during that month from each lease
30 or property in the state, less any oil the ownership or right to which is exempt from
31 taxation or that constitutes a lessor's royalty interest under an oil and gas lease. The tax

1 levied under this subsection is equal to

$$2 \quad [((\text{ANS West Coast price} - \$50) \times .002) \times [\text{ANS wellhead price} \times (1 - \text{PPT rate})]]$$

$$3 \quad \times (\text{total taxable barrels of oil at the point of production})$$

4 where

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

7 (2) the PPT, or production profit tax, rate is the tax rate described in (e)
8 of this section.

9 (h) For purposes of (g) of this section, the department may calculate the
10 average price or may, by regulation, specify the method by which the average price
11 shall be calculated with reference to one or more published sources of price
12 information. If, in the department's judgment, reliable published sources of price
13 information on Alaska North Slope crude oil cease, or appear likely to soon cease, to
14 be available, or if, in the department's judgment, the price of Alaska North Slope crude
15 oil ceases, or appears likely to soon cease, to be a reliable indicator of the general
16 price level of crude oils, the department shall, by regulation, specify a substitute
17 formula for computing the oil price index. The substitute formula specified by the
18 department under this subsection must bear, as nearly as is reasonably possible, the
19 same relationship to the general price level of crude oils as did the price of Alaska
20 North Slope crude oil.

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

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

25 (1) producing oil or gas leases;

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

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

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

31 (a) Ninety-five percent of the total tax levied under AS 43.55.011(e) - (g), net

1 of any credits applied under this chapter, is due on the last day of each calendar month
 2 on oil and gas produced from each lease or property during the preceding month. The
 3 remaining portion of the tax levied under AS 43.55.011(e) - (g), net of any credits
 4 applied under this chapter, is due on March 31 of the year following the calendar year
 5 during which the oil and gas were produced. An unpaid amount of tax that is not paid
 6 when due in accordance with this subsection becomes delinquent. An overpayment of
 7 tax with respect to a month may be applied against the tax due for any later month.
 8 Notwithstanding any contrary provision of AS 43.05.280, interest on an overpayment
 9 is allowed only from a date that is 90 days after the later of (1) the March 31 described
 10 in this subsection, or (2) the date that the statement required under AS 43.55.030(a)
 11 and (e) to be filed on or before that March 31 is filed. Interest is not allowed if the
 12 overpayment was refunded within the 90-day period.

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

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

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

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

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

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

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

2 (e) Gas flared, released, or allowed to escape in excess of the amount
3 authorized by the Alaska Oil and Gas Conservation Commission is considered, for the
4 purpose of AS 43.55.011 - 43.55.180, as gas produced from a lease or property. Oil or
5 gas used in the operation of a lease or property in the state in drilling for or producing
6 oil or gas, or for repressuring, except to the extent determined by the Alaska Oil and
7 Gas Conservation Commission to be waste, is not considered, for the purpose of
8 AS 43.55.011 - 43.55.180, as oil or gas produced from a lease or property.

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

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

17 * **Sec. 12.** AS 43.55 is amended by adding a new section to read:

18 **Sec. 43.55.024. Tax credits for certain losses and expenditures.** (a) A
19 producer or explorer may take a tax credit for a qualified capital expenditure as
20 follows:

21 (1) notwithstanding that a qualified capital expenditure may be a
22 deductible lease expenditure for purposes of calculating the production tax value of oil
23 and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under
24 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025,

25 (A) a producer or explorer that incurs a qualified capital
26 expenditure may also elect to take a tax credit against a tax due under
27 AS 43.55.011(e) in the amount of 25 percent of that expenditure;

28 (B) for a calendar year for which the producer makes an
29 election under AS 43.55.160(f), instead of taking a tax credit at a rate
30 authorized by (A) of this paragraph as to each separate qualified capital
31 expenditure after it has been incurred, a producer that incurs a qualified capital

1 expenditure during that year and that wishes to apply a credit based on that
2 expenditure against a tax due under AS 43.55.011(e) shall calculate and apply
3 every month an annualized tax credit in an amount equal to 2 1/12 percent of
4 the total qualified capital expenditures incurred during that year and for which
5 the tax credit is taken for that year;

6 (2) a producer or explorer may take a credit for a qualified capital
7 expenditure incurred in connection with geological or geophysical exploration or in
8 connection with an exploration well only if the producer or explorer provides to the
9 department, as part of the statement required under AS 43.55.030(a) for the month for
10 which the credit is sought to be taken, the producer's or explorer's written agreement

11 (A) to notify the Department of Natural Resources, within 30
12 days after completion of the geological or geophysical data processing or
13 completion of the well, or within 30 days after the statement is filed, whichever
14 is the latest, of the date of completion and to submit a report to that department
15 describing the processing sequence and provide a list of data sets available;

16 (B) to provide to the Department of Natural Resources, within
17 30 days after the date of a request, specific data sets, ancillary data, and reports
18 identified in (A) of this paragraph;

19 (C) that, notwithstanding any provision of AS 38, the
20 Department of Natural Resources shall hold confidential the information
21 provided to that department under this paragraph for 10 years following the
22 completion date, after which the department shall publicly release the
23 information after 30 days' public notice.

24 (b) A producer or explorer may elect to take a tax credit in the amount of 22.5
25 percent of a carried-forward annual loss. A credit under this subsection may be applied
26 against a tax due under AS 43.55.011(e) and may be applied irrespective of whether
27 the producer or explorer also claims a credit for transitional investment expenditures
28 authorized by (i) of this section. For purposes of this subsection, a carried-forward
29 annual loss is the amount of a producer's or explorer's adjusted lease expenditures
30 under AS 43.55.160 for a previous calendar year that was not deductible in any month
31 under AS 43.55.160(a) and (b).

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

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

22 (e) A person to which a transferable tax credit certificate is issued under (d) of
23 this section may transfer the certificate to another person, and a transferee may further
24 transfer the certificate. Subject to the limitations set out in (a) - (c) of this section, and
25 notwithstanding any action the department may take with respect to the applicant
26 under (f) of this section, the owner of a certificate may apply the credit or a portion of
27 the credit shown on the certificate only against a tax due under AS 43.55.011(e).
28 However, a credit shown on a transferable tax credit certificate may not be applied to
29 reduce a transferee's total tax due under AS 43.55.011(e) on oil and gas produced
30 during a calendar year to less than 80 percent of the tax that would otherwise be due
31 without applying that credit. Any portion of a credit not used under this subsection

1 may be applied in a later period.

2 (f) The issuance of a transferable tax credit certificate under (d) of this section
3 does not limit the department's ability to later investigate or audit a tax credit claim to
4 which the certificate relates or to adjust or deny the claim if the department determines
5 that the applicant was not entitled to the amount of the credit for which the certificate
6 was issued. The tax liability of the applicant under AS 43.55.011(e) and 43.55.017 -
7 43.55.180 is increased by the amount of the credit that exceeds that to which the
8 applicant was entitled. That amount bears interest under AS 43.05.225 from the date
9 the transferable tax credit certificate was issued. For purposes of this subsection, an
10 applicant that is an explorer is considered a producer subject to the tax levied under
11 AS 43.55.011(e).

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

16 (h) A person may not elect to take a tax credit under (a) or (i) of this section
17 for an expenditure incurred to acquire an asset (1) the cost of previously acquiring
18 which was a lease expenditure under AS 43.55.160(c) or would have been a lease
19 expenditure under AS 43.55.160(c) if it had been incurred on or after April 1, 2006; or
20 (2) that has previously been placed in service in the state. An expenditure to acquire an
21 asset is not excluded under this subsection if not more than an immaterial portion of
22 the asset meets a description under (1) or (2) of this subsection. For purposes of this
23 subsection, "asset" includes geological, geophysical, and well data and interpretations.

24 (i) For the purposes of this section,

25 (1) a producer's or explorer's transitional investment expenditures are
26 the sum of the expenditures the producer or explorer incurred on or after April 1,
27 2001, and before April 1, 2006, that would be qualified capital expenditures if they
28 were incurred on or after April 1, 2006, less the sum of the payments or credits the
29 producer or explorer received before April 1, 2006, for the sale or other transfer of
30 assets, including geological, geophysical, or well data or interpretations, acquired by
31 the producer or explorer as a result of expenditures the producer or explorer incurred

1 before April 1, 2006, that would be qualified capital expenditures, if they were
2 incurred on or after April 1, 2006;

3 (2) a producer or explorer may elect to take a tax credit against a tax
4 due under AS 43.55.011(e) in the amount of 20 percent of the producer's or explorer's
5 transitional investment expenditures, but only to the extent that the amount does not
6 exceed

7 (A) one-half of the producer's or explorer's qualified capital
8 expenditures that are incurred during the month for which the credit is taken, if
9 the producer or explorer does not make an election under AS 43.55.160(f);

10 (B) 1/24 of the producer's or explorer's qualified capital
11 expenditures that are incurred during the calendar year that includes the month
12 for which the credit is taken, if the producer or explorer makes an election
13 under AS 43.55.160(f);

14 (3) a producer or explorer may not take a tax credit for a transitional
15 investment expenditure

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

17 (B) more than once; or

18 (C) if a credit for that expenditure was taken under
19 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025;

20 (4) notwithstanding (d) - (f) of this section, a producer or explorer may
21 not transfer a tax credit or obtain a transferable tax credit certificate for a transitional
22 investment expenditure.

23 (j) As a condition of receiving a tax credit under this section, a producer,
24 explorer, or other taxpayer that obtains the tax credit for or directly related to a
25 pipeline, facility, or other asset that

26 (1) is or becomes subject to regulation by the Federal Energy
27 Regulatory Commission or the Regulatory Commission of Alaska, or a successor
28 regulatory body shall at all times support and in all rate proceedings file to flow
29 through 100 percent of the tax credits to ratepayers as a reduction in the costs of
30 service for the pipeline, facility, or other asset;

31 (2) is not regulated by the Federal Energy Regulatory Commission or

1 the Regulatory Commission of Alaska, or a successor regulatory body, and that
 2 charges third parties for use of a pipeline, facility, or other asset shall flow through
 3 100 percent of the tax credits as a reduction in the costs of service on which the
 4 charges set by the producer, explorer, or other taxpayer for the pipeline, facility, or
 5 other asset are based.

6 (k) To ensure compliance with (j) of this section, the department

7 (1) may review the books and records of a producer, explorer, or
 8 taxpayer receiving a credit that is subject to the conditions of that subsection; and

9 (2) shall, if the department determines that the producer, explorer, or
 10 taxpayer receiving a credit that is subject to the conditions of (j) of this section has not
 11 complied with (j)(1) or (2) of this section, disallow the credit for the period in which
 12 the producer, explorer, or taxpayer was not in compliance and require repayment of an
 13 amount equal to the amount of the credit received.

14 (l) In this section, "qualified capital expenditure" means, except as otherwise
 15 provided in (h) of this section, an expenditure that is a lease expenditure under
 16 AS 43.55.160 and is

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

18 (2) treated as a capitalized expenditure under 26 U.S.C. (Internal
 19 Revenue Code), as amended, regardless of elections made under 26 U.S.C. 263(c)
 20 (Internal Revenue Code), as amended, and is

21 (A) treated as a capitalized expenditure for federal income tax
 22 reporting purposes by the person incurring the expenditure; or

23 (B) eligible to be deducted as an expense under 26 U.S.C.
 24 263(c) (Internal Revenue Code), as amended.

25 * **Sec. 13.** AS 43.55.025(a) is amended to read:

26 (a) Subject to the terms and conditions of this section, [ON OIL AND GAS
 27 PRODUCED ON OR AFTER JULY 1, 2004, FROM AN OIL AND GAS LEASE,
 28 OR ON GAS PRODUCED FROM A GAS ONLY LEASE,] a credit against the
 29 production tax due under AS 43.55.011(e) [THIS CHAPTER] is allowed for
 30 exploration expenditures that qualify under (b) of this section in an amount equal to
 31 one of the following:

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

3 (2) 20 percent of the total exploration expenditures for work performed
4 before July 1, 2007, and that qualify only under (b) and (d) of this section;

5 (3) 40 percent of the total exploration expenditures that qualify under
6 (b), (c), and (d) of this section; or

7 (4) 40 percent of the total exploration expenditures that qualify only
8 under (b) and (e) of this section.

9 * **Sec. 14.** AS 43.55.025(b) is amended to read:

10 (b) To qualify for the production tax credit under (a) of this section, an
11 exploration expenditure must be incurred for work performed on or after July 1, 2003,
12 and before July 1, 2016 [2007], except that an exploration expenditure for a Cook Inlet
13 prospect must be incurred for work performed on or after July 1, 2005, [AND
14 BEFORE JULY 1, 2010, AND EXCEPT THAT AN EXPLORATION
15 EXPENDITURE, IN WHOLE OR IN PART, SOUTH OF 68 DEGREES, 15
16 MINUTES, NORTH LATITUDE, AND NOT PART OF A COOK INLET
17 PROSPECT MUST BE INCURRED FOR WORK PERFORMED ON OR AFTER
18 JULY 1, 2003, AND BEFORE JULY 1, 2010,] and

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

21 (2) if for an exploration well,

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

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

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

31 (3) may not be for testing, stimulation, or completion costs;

1 administration, supervision, engineering, or lease operating costs; geological or
2 management costs; community relations or environmental costs; bonuses, taxes, or
3 other payments to governments related to the well; or other costs that are generally
4 recognized as indirect costs or financing costs; and

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

8 * **Sec. 15.** AS 43.55.025(f) is amended to read:

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

10 (1) an explorer shall, in a form prescribed by the department and
11 within six months of the completion of the exploration activity, claim the credit and
12 submit information sufficient to demonstrate to the department's satisfaction that the
13 claimed exploration expenditures qualify under this section;

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

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

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

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

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

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

11 (5) if the department is satisfied that the explorer's claimed
 12 expenditures are qualified under this section, the department shall issue to the explorer
 13 a production tax credit certificate for the amount of credit to be allowed against
 14 production taxes due under AS 43.55.011(e) [THIS CHAPTER]; however,
 15 notwithstanding any other provision of this section, **after the end of the calendar**
 16 **year following the calendar year in which the total of production tax credit**
 17 **certificates issued by the department under this section based on exploration**
 18 **expenditures for Cook Inlet prospects reaches \$20,000,000,** the department may
 19 not issue to an explorer a production tax credit certificate [IF THE TOTAL OF
 20 PRODUCTION TAX CREDITS SUBMITTED FOR COOK INLET
 21 PRODUCTION,] based on **an** exploration **expenditure for a Cook Inlet prospect**
 22 **[EXPENDITURES FOR WORK PERFORMED DURING THE PERIOD**
 23 **DESCRIBED IN (b) OF THIS SECTION FOR THAT PRODUCTION, THAT HAVE**
 24 **BEEN APPROVED BY THE DEPARTMENT EXCEEDS \$20,000,000].**

25 * **Sec. 16.** AS 43.55.025(h) is amended to read:

26 (h) A producer that purchases a production tax credit certificate may apply the
 27 credits against its production tax liability under AS 43.55.011(e) [THIS CHAPTER].
 28 Regardless of the price the producer paid for the certificate, the producer may receive
 29 a credit against its production tax liability for the full amount of the credit, but for not
 30 more than the amount for which the certificate is issued. A production tax credit
 31 allowed under this section may not be applied more than once.

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

2 (i) For a production tax credit under this section,

3 (1) the amount of the credit that may be applied against the production
4 tax for each tax month may not exceed the total production tax liability **under**
5 **AS 43.55.011(e)** of the taxpayer applying the credit for the same month; and

6 (2) an amount of the production tax credit that is greater than the total
7 tax liability **under AS 43.55.011(e)** of the taxpayer applying the credit for a tax month
8 may be carried forward and applied against the taxpayer's production tax liability
9 **under AS 43.55.011(e)** in one or more immediately following months.

10 * **Sec. 18.** 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. 19.** 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. 20.** AS 43.55.030 is amended by adding a new subsection to read:

7 (e) In addition to other required information, the statement required to be filed
 8 on or before March 31 of a year must show any adjustments or corrections to the
 9 statements that were required under (a) of this section to be filed for the months of the
 10 preceding calendar year during which the oil or gas was produced.

11 * **Sec. 21.** AS 43.55.040 is amended to read:

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

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

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

27 (B) impose appropriate conditions limiting

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

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

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

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

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

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

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

* **Sec. 22.** AS 43.55.080 is amended to read:

Sec. 43.55.080. Collection and deposit of revenue. **Except as otherwise provided under art. IX, sec. 17, Constitution of the State of Alaska, the** [THE] department shall deposit in the general fund the money collected by it under **AS 43.55.011 - 43.55.180** [AS 43.55.011 - 43.55.150].

* **Sec. 23.** AS 43.55.135 is amended to read:

Sec. 43.55.135. Measurement. For the purposes of **AS 43.55.011 - 43.55.180** [AS 43.55.011 - 43.55.150], oil **is** [SHALL BE] measured in terms of a "barrel of oil" and gas **is** [SHALL BE] measured in terms of a "cubic foot of gas."

* **Sec. 24.** AS 43.55.150(a) is amended to read:

(a) For the purposes of **AS 43.55.011 - 43.55.180** [AS 43.55.011 - 43.55.150], the gross value **at the point of production is** [SHALL BE] calculated using the reasonable costs of transportation of the oil or gas. The reasonable costs of transportation **are** [SHALL BE] the actual costs, except **when the**

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

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

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

1 * **Sec. 25.** AS 43.55 is amended by adding new sections to article 1 to read:

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

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

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

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

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

31 (c) For purposes of this section,

1 (1) a producer's lease expenditures for a period are the total costs
2 upstream of the point of production of oil and gas that are incurred on or after April 1,
3 2006, by the producer during the period and that are direct, ordinary, and necessary
4 costs of exploring for, developing, or producing oil or gas deposits located within the
5 producer's leases or properties in the state or, in the case of land in which the producer
6 does not own a working interest, direct, ordinary, and necessary costs of exploring for
7 oil or gas deposits located within other land in the state; however, lease expenditures
8 do not include the costs incurred to satisfy a work commitment under an exploration
9 license under AS 38.05.132; in determining whether costs are direct, ordinary, and
10 necessary costs of exploring for, developing, or producing oil or gas deposits located
11 within a lease or property or other land in the state,

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

19 (B) as to matters that are not addressed by the industry
20 practices and standards described in (A) of this paragraph or as to which those
21 practices and standards are not clear or are not uniform, the department shall
22 give substantial weight to the standards adopted by the Department of Natural
23 Resources as to the costs, other than interest, that a lessee is allowed to deduct
24 from revenue in calculating net profits under a lease issued under
25 AS 38.05.180(f)(3)(B), (D), or (E);

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

31 (A) the pertinent provisions of the operating agreement are

1 substantially consistent with the Department of Revenue's determinations and
2 standards otherwise applicable under this subsection; and

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

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

7 (1) includes

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

12 (B) payments of property taxes, sales and use taxes, motor fuel
13 taxes, and excise taxes;

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

18 (2) does not include

19 (A) depreciation, depletion, or amortization;

20 (B) royalty payments for oil or gas;

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

22 (D) interest or other financing charges or costs of raising equity
23 or debt capital;

24 (E) acquisition costs for a lease or property or exploration
25 license;

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

27 (G) fines or penalties imposed by law;

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

- 1 (I) donations;
- 2 (J) costs incurred in organizing a partnership, joint venture, or
3 other business entity or arrangement;
- 4 (K) amounts paid to indemnify the state; the exclusion
5 provided by this paragraph does not apply to the costs of obtaining insurance
6 or a surety bond from a third-party insurer or surety;
- 7 (L) surcharges levied under AS 43.55.201 or 43.55.300;
- 8 (M) for a transaction that is an internal transfer or is otherwise
9 not an arm's length transaction, expenditures incurred that are in excess of fair
10 market value;
- 11 (N) an expenditure incurred to purchase an interest in any
12 corporation, partnership, limited liability company, business trust, or any other
13 business entity, whether or not the transaction is treated as an asset sale for
14 federal income tax purposes;
- 15 (O) a tax levied under AS 43.55.011;
- 16 (P) the portion of costs incurred for dismantlement, removal,
17 surrender, or abandonment of a well, facility, pipeline, platform, or other
18 structure, or for the restoration of a lease, field, unit, area, body of water, or
19 right-of-way in conjunction with dismantlement, removal, surrender, or
20 abandonment, that is attributable to production of oil or gas occurring before
21 the effective date of this section; the portion is calculated as a ratio of
22 production of oil or gas associated with the well, facility, pipeline, platform, or
23 other structure, lease, field, unit, area, body of water, or right-of-way occurring
24 before the effective date of this section to all production of oil or gas
25 associated with that well, facility, pipeline, platform, or other structure, lease,
26 field, unit, area, body of water, or right-of-way through the end of the calendar
27 month before commencement of the dismantlement, removal, surrender, or
28 abandonment.
- 29 (e) A producer's lease expenditures must be adjusted by subtracting certain
30 payments or credits received by the producer, as provided in this subsection. If one or
31 more payments or credits subject to this subsection are received by a producer during

1 a month or, under (f) of this section, during a calendar year, and if either the total
2 amount of the payments or credits exceeds the amount of the producer's lease
3 expenditures or the producer has no lease expenditures, the producer shall nevertheless
4 subtract those payments or credits from the lease expenditures or from zero,
5 respectively, and the producer's adjusted lease expenditures for that month or calendar
6 year are a negative number and shall be applied to the calculation under (a) of this
7 section as a negative number. The payments or credits that a producer shall subtract
8 from the producer's lease expenditures, or from zero, under this subsection are
9 payments or credits, other than tax credits, received by the producer for

10 (1) the use by another person of a production facility in which the
11 producer has an ownership interest or the management by the producer of a production
12 facility under a management agreement providing for the producer to receive a
13 management fee;

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

19 (3) the sale or other transfer of

20 (A) an asset, including geological, geophysical, or well data or
21 interpretations, acquired by the producer as a result of a lease expenditure or an
22 expenditure that would be a lease expenditure if it were incurred on or after
23 April 1, 2006; for purposes of this subparagraph,

24 (i) if a producer removes from the state, for use outside
25 the state, an asset described in this subparagraph, the value of the asset
26 at the time it is removed is considered a payment received by the
27 producer for sale or transfer of the asset;

28 (ii) for a transaction that is an internal transfer or is
29 otherwise not an arm's length transaction, if the sale or transfer of the
30 asset is made for less than fair market value, the amount subtracted
31 must be the fair market value; and

1 (B) oil or gas

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

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

6 (f) In place of the adjusted lease expenditures for a month under (a) of this
7 section, a producer may, at any time, elect to substitute, for every month of a calendar
8 year, 1/12 of the producer's adjusted lease expenditures for the calendar year. An
9 election made under this subsection applies to calculation of the tax under
10 AS 43.55.011(e) and (g).

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

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

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

19 (h) For purposes of AS 43.55.024(a) and (b) and only as to expenditures
20 incurred to explore for an oil or gas deposit located within land in which an explorer
21 does not own a working interest, the term "producer" in (b), (c), and (e) of this section
22 includes "explorer."

23 (i) The department may adopt regulations that establish additional standards
24 necessary to carrying out the purposes of this section, including the incorporation of
25 the concepts of 26 U.S.C. 482 (Internal Revenue Code), as amended, and 26 U.S.C.
26 6662(e) (Internal Revenue Code), as amended, the related or accompanying
27 regulations of each of those sections, and any ruling or guidance issued by the United
28 States Internal Revenue Service that relates to each of those sections.

29 (j) For purposes of this section,

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

1 (2) "ordinary and necessary" has the meaning given to "ordinary and
 2 necessary" in 26 U.S.C. 162 (Internal Revenue Code), as amended, and regulations
 3 adopted under that section;

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

7 **Sec. 43.55.170. Additional nontransferable tax credit.** (a) For a month that
 8 ends before April 1, 2016, and for which a producer's tax liability under
 9 AS 43.55.011(e) exceeds zero before application of any credits under this chapter, a
 10 producer that qualifies under (c) of this section may take a tax credit under this
 11 section. If the average amount of oil and gas produced a day during that month and
 12 taxable under AS 43.55.011(e) is

13 (1) not more than 5,000 barrels of oil equivalent, the amount of the
 14 credit

15 (A) for oil subject to tax under AS 43.55.011(e)(1) is five
 16 percent of the producer's production tax value for that month under
 17 AS 43.55.160(a); and

18 (B) for oil and gas subject to tax under AS 43.55.011(e)(2) is
 19 22.5 percent of the producer's production tax value for that month under
 20 AS 43.55.160(a); and

21 (2) more than 5,000 barrels of oil equivalent, the amount of the credit

22 (A) for oil subject to tax under AS 43.55.011(e)(1) is five
 23 percent of the producer's production tax value for that month under
 24 AS 43.55.160(a) multiplied by the quotient of 5,000 divided by the average
 25 amount of oil and gas expressed as barrels of oil equivalent, produced a day
 26 during that month and taxable under AS 43.55.011(e)(1); and

27 (B) for oil and gas subject to tax under AS 43.55.011(e)(2) is
 28 22.5 percent of the producer's production tax value for that month under
 29 AS 43.55.160(a) multiplied by the quotient of 5,000 divided by the average
 30 amount of oil and gas expressed as barrels of oil equivalent, produced a day
 31 during that month and taxable under AS 43.55.011(e)(2).

1 (b) A tax credit under this section

2 (1) may be applied only against the tax levied under AS 43.55.011(e);

3 (2) must be applied before any other credit is applied;

4 (3) is not transferable and may not be carried forward or used in a
5 different month;

6 (4) except as provided in (5) of this subsection, may not be applied if it
7 would cause the total of the tax credits applied by the producer under this section
8 during a calendar year to exceed \$14,000,000; and

9 (5) may not be applied if it would cause the total of the tax credits
10 applied by the producer under this section during 2016 to exceed \$3,500,000.

11 (c) On written application by a producer, including any information the
12 department may require, the department shall determine whether the producer
13 qualifies under this section for a calendar year. To qualify under this section, a
14 producer shall demonstrate that the producer's operation in the state or the producer's
15 ownership of an interest in a lease or property in the state as a distinct producer entity
16 would not result in the division among multiple producer entities of any production tax
17 liability under AS 43.55.011(e) that would be reasonably expected to be attributed to a
18 single producer entity if the tax credit provision of (a) of this section did not exist.

19 (d) For purposes of this section, a barrel of oil equivalent is

20 (1) one barrel of oil, in the case of oil;

21 (2) 6,000 cubic feet of gas, in the case of gas.

22 **Sec. 43.55.180. Required reports.** (a) The Department of Revenue shall

23 (1) study

24 (A) the effects of the tax rates under AS 43.55.011(f) and of
25 potential changes in those tax rates on state revenue and on oil and gas
26 exploration, development, and production on private land; and

27 (B) the fairness of the tax rates under AS 43.55.011(f) and of
28 potential changes in those tax rates for private landowners; and

29 (2) prepare a report on or before the first day of the 2013 regular
30 session of the legislature on the results of the study made under (1) of this subsection,
31 including a recommendation as to whether those tax rates should be changed; the

1 department shall notify the legislature that the report prepared under this paragraph is
2 available.

3 (b) The Department of Revenue shall

4 (1) study the effects of the credits authorized by AS 43.55.025 and
5 43.55.170 on state revenue, on the encouragement of exploration, development, and
6 production of oil and gas deposits located in the state, and on the encouragement of
7 new entrants into the oil and gas industry in the state; and

8 (2) prepare a report on or before the first day of the 2015 regular
9 session of the legislature on the results of the study made under (1) of this subsection,
10 and shall include with the report a recommendation as to whether the legislature
11 should extend the availability of the credits under AS 43.55.025 and 43.55.170 beyond
12 April 30, 2016; the department shall notify the legislature that the report prepared
13 under this paragraph is available.

14 * **Sec. 26.** 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 **the tax**
19 **imposed by AS 43.55.011** and **is due on the last day of the month on oil produced**
20 **from each lease or property during the preceding month. The surcharge** [SHALL
21 BE PAID IN THE SAME MANNER AS THE TAX IMPOSED BY AS 43.55.011 -
22 43.55.150; AND] is in addition to the surcharge imposed by AS 43.55.300 -
23 43.55.310.

24 (c) A producer of oil shall make reports of production in the same manner and
25 under the same penalties as required under **AS 43.55.011 - 43.55.180** [AS 43.55.011 -
26 43.55.150].

27 * **Sec. 27.** AS 43.55.201 is amended by adding a new subsection to read:

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

31 * **Sec. 28.** AS 43.55.300 is amended to read:

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

4 (b) The surcharge imposed by (a) of this section is in addition to **the tax**
 5 **imposed by AS 43.55.011** and **is due on the last day of the month on oil produced**
 6 **from each lease or property during the preceding month. The surcharge** [SHALL
 7 BE PAID IN THE SAME MANNER AS THE TAX IMPOSED BY AS 43.55.011 -
 8 43.55.150; AND] is in addition to the surcharge imposed by AS 43.55.201 -
 9 43.55.231.

10 (c) A producer of oil shall make reports of production in the same manner and
 11 under the same penalties as required under **AS 43.55.011 - 43.55.180** [AS 43.55.011 -
 12 43.55.150].

13 * **Sec. 29.** AS 43.55.300 is amended by adding a new subsection to read:

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

17 * **Sec. 30.** AS 43.55.900(6) is repealed and reenacted to read:

18 (6) "gas" means

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

20 (B) all hydrocarbons that

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

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

25 (C) all other hydrocarbons produced from a well not defined as
 26 oil;

27 * **Sec. 31.** AS 43.55.900(7) is repealed and reenacted to read:

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

29 (A) for oil, the value of the oil at the automatic custody transfer
 30 meter or device through which the oil enters into the facilities of a carrier
 31 pipeline or other transportation carrier in a condition of pipeline quality; in the

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

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

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

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

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

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

23 * **Sec. 32.** AS 43.55.900(10) is repealed and reenacted to read:

24 (10) "oil" means

25 (A) crude petroleum oil; and

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

28 * **Sec. 33.** AS 43.55.900 is amended by adding new paragraphs to read:

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

31 (18) "gas processing"

1 (A) means processing a gaseous mixture of hydrocarbons

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

6 (ii) for the purpose of extracting and recovering liquid
7 hydrocarbons; and

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

10 (B) does not include gas treatment;

11 (19) "gas treatment"

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

15 (B) includes incidentally removing liquid hydrocarbons from
16 the gas;

17 (20) "oil and gas lease" includes an oil and gas lease, a gas only lease,
18 and an oil only lease.

19 * **Sec. 34.** AS 43.55.011(a), 43.55.011(b), 43.55.011(c), 43.55.012, 43.55.013, 43.55.016,
20 43.55.025(k)(1), 43.55.025(k)(3), 43.55.900(1), 43.55.900(8), 43.55.900(11), 43.55.900(12),
21 and 43.55.900(16) are repealed.

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

24 **APPLICABILITY.** (a) Sections 5, 7 - 10, 12, 13, 15 - 18, 20, and 24 - 34 of this Act
25 apply to oil and gas produced on or after April 1, 2006.

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

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

30 **TRANSITIONAL PROVISIONS.** (a) Notwithstanding any contrary provision of
31 AS 43.55.024(a), enacted by sec. 12 of this Act, for oil and gas produced on or after April 1,

1 2006, and before January 1, 2007, the phrase "every month an annualized tax credit in an
2 amount equal to 2 1/12 percent" in AS 43.55.024(a)(1), enacted by sec. 12 of this Act, shall be
3 replaced by the phrase "every month during the period April 1, 2006, through December 31,
4 2006, an annualized tax credit in an amount equal to 2 7/9 percent."

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

9 (c) Notwithstanding any contrary provision of AS 43.55.024(i)(2), enacted by sec. 12
10 of this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007,

11 (1) the number "1/24" in AS 43.55.024(i)(2)(B), enacted by sec. 12 of this
12 Act, shall be replaced by the number "1/18";

13 (2) the phrase "calendar year" in AS 43.55.024(i)(2)(B), enacted by sec. 12 of
14 this Act, shall be replaced by the phrase "last nine months of the calendar year."

15 (d) Notwithstanding any contrary provision of AS 43.55.160(f), enacted by sec. 25 of
16 this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007, the
17 phrase "for every month of a calendar year, 1/12 of the producer's adjusted lease expenditures
18 for the calendar year" in AS 43.55.160(f), enacted by sec. 25 of this Act, shall be replaced by
19 the phrase "for each of the last nine months of 2006, one-ninth of the producer's adjusted lease
20 expenditures for that nine-month period."

21 (e) Notwithstanding any contrary provision of AS 43.55.170(b), enacted by sec. 25 of
22 this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007, the
23 amount of "\$14,000,000" in AS 43.55.170(b)(4), enacted by sec. 25 of this Act, shall be
24 replaced by "\$10,500,000."

25 (f) 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 (g) Notwithstanding any contrary provision of AS 43.55.020(a), as repealed and
29 reenacted by sec. 7 of this Act, for oil and gas produced on or after April 1, 2006, and before
30 the first day of the first month that begins at least 180 days after the effective date of sec. 7 of
31 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 is due under AS 43.55.020(a), as repealed and reenacted by sec. 7 of
 7 this Act, and that remains unpaid, net of any credits applied as allowed by law, is due on the
 8 last day of the first month that begins at least 180 days after the effective date of sec. 5 of this
 9 Act.

10 (h) Notwithstanding any contrary provision of AS 43.55.030(a), as amended by sec.
 11 18 of this Act, for oil and gas produced on or after April 1, 2006, and before the first day of
 12 the first month that begins at least 180 days after the effective date of sec. 18 of this Act, the
 13 person paying the tax shall file with the Department of Revenue, at the time an amount of tax
 14 is due

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

17 (2) under (g)(2) of this section, the statements required under
 18 AS 43.55.030(a), as amended by sec. 18 of this Act.

19 (i) For purposes of taxes to be calculated and due under (g)(1) of this section and
 20 statements to be filed under (h)(1) of this section, regulations that were adopted by the
 21 Department of Revenue under AS 43.55, as the provisions of that chapter read on March 31,
 22 2006, and that were in effect on that date apply to those taxes and statements.

23 * **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to
 24 read:

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

29 (b) Notwithstanding any contrary provision of AS 44.62.240, a regulation adopted by
 30 the Department of Revenue to implement, interpret make specific, or otherwise carry out the
 31 provisions of secs. 5, 7 - 10, 12, 13, 15 - 18, 20, 24 - 34, and 36 of this Act may apply

1 retroactively as of April 1, 2006, if the Department of Revenue expressly designates in the
2 regulation that the regulation applies retroactively to that date.

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

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

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

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

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

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

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

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

18 RETROACTIVITY OF PROVISIONS OF ACT. Sections 5, 7 - 10, 12, 13, 15 - 18,
19 20, 24 - 36 of this Act apply retroactively to April 1, 2006, and apply to oil and gas produced
20 after March 31, 2006.

21 * **Sec. 40.** This Act takes effect immediately under AS 01.10.070(c).