

HOUSE CS FOR CS FOR SENATE BILL NO. 305(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/6/06

Referred: Today's Calendar

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 landowner's
28 royalty interest. Except as otherwise provided under (i) of this section, the tax is equal
29 to 20 percent of the production tax value of the taxable oil and gas as calculated under
30 AS 43.55.160.

31 (f) There is levied on the producer of oil or gas a tax for all oil and gas

1 produced each month from each lease or property in the state the ownership or right to
2 which constitutes a landowner's royalty interest, except for oil and gas the ownership
3 or right to which is exempt from taxation. The provisions of this subsection apply to a
4 landowner's royalty interest as follows:

5 (1) the rate of tax levied on oil is equal to five percent of the gross
6 value at the point of production of the oil;

7 (2) the rate of tax levied on gas is equal to 1.667 percent of the gross
8 value at the point of production of the gas;

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

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

15 (i) for oil that is produced from a lease or property in
16 the Cook Inlet sedimentary basin, five percent of the gross value at the
17 point of production of the oil;

18 (ii) for oil, except oil described in (i) of this
19 subparagraph, 20 percent of the gross value at the point of production
20 of the oil; and

21 (B) notwithstanding (2) of this subsection, for gas the tax is
22 equal to 6.67 percent of the gross value at the point of production of the gas.

23 (g) In addition to the taxes levied under (e) and (f) of this section, during each
24 month for which the price index determined under (h) of this section is greater than
25 zero, there is levied on the producer of oil or gas a tax for all oil and gas produced
26 during that 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 landowner's
28 royalty interest. Except as otherwise provided under (i) of this section, the tax levied
29 under this subsection is equal to .25 percent of the production tax value of the taxable
30 oil and gas as calculated under AS 43.55.160, multiplied by the price index
31 determined under (h) of this section.

1 (h) For purposes of (g) of this section, the price index for a month is calculated
 2 by subtracting 35 from the number that is equal to the quotient of the production tax
 3 value of the taxable oil and gas produced during that month, as calculated under
 4 AS 43.55.160, divided by the number of barrels of oil equivalent of that oil and gas.
 5 For purposes of this subsection, a barrel of oil equivalent is a barrel of oil, in the case
 6 of oil, or 6,000 cubic feet of gas, in the case of gas.

7 (i) If a producer produces gas during a month from a lease or property in the
 8 Cook Inlet sedimentary basin, and if the imputed gas tax rate for that month under (j)
 9 of this section exceeds \$.019 per Mcf, the producer's total tax for that month levied
 10 under (e) and (g) of this section is reduced by the amount equal to the number of Mcf
 11 produced by the producer from all leases or properties in the Cook Inlet sedimentary
 12 basin and taxable under (e) and (g) of this section, multiplied by the difference
 13 between that imputed gas rate and \$.019 per Mcf.

14 (j) For purposes of (i) of this section, a producer's imputed gas tax rate for a
 15 month is equal to

$$1/6 \times TT/BOE$$

16 where

17 (1) TT = the producer's total tax for the month levied under (e) and (g)
 18 of this section, calculated without regard to (i) of this section and net of any credits
 19 that are available to be applied under this chapter; and

20 (2) BOE = the amount of oil and gas produced by the producer during
 21 the month and taxable under (e) of this section, expressed as barrels of oil equivalent;
 22 for purposes of this paragraph, a barrel of oil equivalent is

23 (A) one barrel of oil, in the case of oil;

24 (B) six Mcf of gas, in the case of gas.

25 (k) In (i) and (j) of this section, "Mcf" means 1,000 cubic feet.

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

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

30 (1) producing oil or gas leases;

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

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

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

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

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

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

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

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

1 **that is a quotient, in which**

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

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

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

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

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

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

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

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

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

31 (A) a producer or explorer that incurs a qualified capital

1 expenditure may also elect to take a tax credit against a tax due under
2 AS 43.55.011(e) in the amount of 20 percent of that expenditure;

3 (B) for a calendar year for which the producer makes an
4 election under AS 43.55.160(f), instead of taking a tax credit at a rate
5 authorized by (A) of this paragraph as to each separate qualified capital
6 expenditure after it has been incurred, a producer that incurs a qualified capital
7 expenditure during that year and that wishes to apply a credit based on that
8 expenditure against a tax due under AS 43.55.011(e) shall calculate and apply
9 every month an annualized tax credit in an amount equal to 1 2/3 percent of the
10 total qualified capital expenditures incurred during that year and for which the
11 tax credit is taken for that year;

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

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

22 (B) to provide to the Department of Natural Resources, within
23 30 days after the date of a request, specific data sets, ancillary data, and reports
24 identified in (A) of this paragraph;

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

30 (b) A producer or explorer may elect to take a tax credit in the amount of 20
31 percent of a carried-forward annual loss. A credit under this subsection may be applied

1 against a tax due under AS 43.55.011(e) and may be applied irrespective of whether
2 the producer or explorer also claims a credit for transitional investment expenditures
3 authorized by (j) of this section. For purposes of this subsection, a carried-forward
4 annual loss is the amount of a producer's or explorer's adjusted lease expenditures
5 under AS 43.55.160 for a previous calendar year that was not deductible in any month
6 under AS 43.55.160(a) and (b).

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

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

28 (e) A person to which a transferable tax credit certificate is issued under (d) of
29 this section may transfer the certificate to another person, and a transferee may further
30 transfer the certificate. Subject to the limitations set out in (a) - (c) of this section, and
31 notwithstanding any action the department may take with respect to the applicant

1 under (g) of this section, the owner of a certificate may apply the credit or a portion of
2 the credit shown on the certificate only against a tax due under AS 43.55.011(e).
3 However, a credit shown on a transferable tax credit certificate may not be applied to
4 reduce a transferee's total tax due under AS 43.55.011(e) on oil and gas produced
5 during a calendar year to less than 80 percent of the tax that would otherwise be due
6 without applying that credit. Any portion of a credit not used under this subsection
7 may be applied in a later period.

8 (f) Under standards established in regulations adopted by the department and
9 subject to appropriations made by law, the department, on the written application of
10 the person to whom a transferable tax credit has been issued under (d) of this section
11 and whose average amount of oil and gas produced a day taxable under
12 AS 43.55.011(e) is not more than 50,000 barrels of oil equivalent a day for the
13 preceding calendar year, shall issue a cash refund, in whole or in part, for the
14 certificate if the department finds

15 (1) after investigation and audit of the tax credit claim by the
16 department, that the applicant is entitled to the credit to the extent of the refund
17 amount;

18 (2) within 24 months after having applied for the transferable tax credit
19 certificate, that the applicant incurred a qualified capital expenditure or was the
20 successful bidder on a bid submitted for a lease on state land under AS 38.05.180(f);

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

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

27 (5) that the sum of the amount of the refund applied for and amounts
28 previously refunded to the applicant during the calendar year under this subsection
29 would not exceed \$25,000,000.

30 (g) The issuance of a transferable tax credit certificate under (d) of this section
31 does not limit the department's ability to later audit a tax credit claim to which the

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

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

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

21 (j) For the purposes of this section,

22 (1) a producer's or explorer's transitional investment expenditures are
23 the sum of the expenditures the producer or explorer incurred on or after April 1,
24 2001, and before April 1, 2006, that would be qualified capital expenditures if they
25 were incurred on or after April 1, 2006, less the sum of the payments or credits the
26 producer or explorer received before April 1, 2006, for the sale or other transfer of
27 assets, including geological, geophysical, or well data or interpretations, acquired by
28 the producer or explorer as a result of expenditures the producer or explorer incurred
29 before April 1, 2006, that would be qualified capital expenditures, if they were
30 incurred on or after April 1, 2006;

31 (2) a producer or explorer may elect to take a tax credit against a tax

1 due under AS 43.55.011(e) in the amount of 20 percent of the producer's or explorer's
 2 transitional investment expenditures, but only to the extent that the amount does not
 3 exceed

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

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

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

13 (A) for any month that ends the later of

14 (i) April 30, 2013; or

15 (ii) the seventh anniversary of the last day of the month
 16 for which the producer first applies a credit under this subsection
 17 against a tax due under AS 43.55.011(e), if the producer did not have
 18 commercial production of oil or gas from a lease or property in the state
 19 before April 1, 2006;

20 (B) more than once; or

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

23 (4) notwithstanding (d), (e), and (g) of this section, a producer or
 24 explorer may not transfer a tax credit or obtain a transferable tax credit certificate for a
 25 transitional investment expenditure.

26 (k) As a condition of receiving a tax credit under this section, a producer or
 27 explorer that obtains the tax credit for or directly related to a pipeline, facility, or other
 28 asset that is or becomes subject to regulation by the Federal Energy Regulatory
 29 Commission or the Regulatory Commission of Alaska, or a successor regulatory body
 30 shall at all times support and in all rate proceedings file to flow through 100 percent of
 31 the tax credits to ratepayers as a reduction in the costs of service for the pipeline,

1 facility, or other asset.

2 (l) In this section, "qualified capital expenditure" means, except as otherwise
3 provided in (i) of this section, an expenditure that is a lease expenditure under
4 AS 43.55.160 and is

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

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

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

11 (B) eligible to be deducted as an expense under 26 U.S.C.
12 263(c) (Internal Revenue Code), as amended.

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

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

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

22 (2) 20 percent of the total exploration expenditures for work performed
23 before July 1, 2007, and that qualify only under (b) and (d) of this section;

24 (3) 40 percent of the total exploration expenditures that qualify under
25 (b), (c), and (d) of this section; or

26 (4) 40 percent of the total exploration expenditures that qualify only
27 under (b) and (e) of this section.

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

29 (b) To qualify for the production tax credit under (a) of this section, an
30 exploration expenditure must be incurred for work performed on or after July 1, 2003,
31 and before July 1, 2016 [2007], except that an exploration expenditure for a Cook Inlet

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

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

9 (2) if for an exploration well,

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

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

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

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

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

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

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

29 (1) an explorer shall, in a form prescribed by the department and
 30 within six months of the completion of the exploration activity, claim the credit and
 31 submit information sufficient to demonstrate to the department's satisfaction that the

1 claimed exploration expenditures qualify under this section;

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

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

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

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

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

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

30 (5) if the department is satisfied that the explorer's claimed
31 expenditures are qualified under this section, the department shall issue to the explorer

1 a production tax credit certificate for the amount of credit to be allowed against
 2 production taxes due under AS 43.55.011(e) [THIS CHAPTER; HOWEVER,
 3 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE
 4 DEPARTMENT MAY NOT ISSUE TO AN EXPLORER A PRODUCTION TAX
 5 CREDIT CERTIFICATE IF THE TOTAL OF PRODUCTION TAX CREDITS
 6 SUBMITTED FOR COOK INLET PRODUCTION, BASED ON EXPLORATION
 7 EXPENDITURES FOR WORK PERFORMED DURING THE PERIOD
 8 DESCRIBED IN (b) OF THIS SECTION FOR THAT PRODUCTION, THAT HAVE
 9 BEEN APPROVED BY THE DEPARTMENT EXCEEDS \$20,000,000].

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

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

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

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

26 * **Sec. 18.** AS 43.55.030(a) is amended to read:

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

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

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

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

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

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

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

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

15 * **Sec. 19.** AS 43.55.030(d) is amended to read:

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

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

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

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

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

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

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

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

12 (B) impose appropriate conditions limiting

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 Except as provided in (f) of this section, for purposes of AS 43.55.011(e) and (g), the
20 production tax value of the taxable oil and gas produced during a month is (1) the total
21 of (A) the gross value at the point of production of the oil taxable under
22 AS 43.55.011(e) and (g) and produced by the producer from all leases or properties in
23 the state, less three-quarters of the gross value at the point of production of the oil
24 taxable under AS 43.55.011(e) and (g) and produced by the producer from leases or
25 properties in the Cook Inlet sedimentary basin, and (B) one-third of the gross value at
26 the point of production of the gas taxable under AS 43.55.011(e) and (g) and produced
27 by the producer from all leases or properties in the state, (2) less the producer's lease
28 expenditures for the month as adjusted under (e) of this section. However, the
29 production tax value calculated under this subsection may not be less than zero. If a
30 producer does not produce taxable oil or gas during a month, the producer is
31 considered to have generated a positive production tax value if the calculation

1 described in this subsection yields a positive number because the producer's adjusted
2 lease expenditures for a month are less than zero as a result of the producer's receiving
3 a payment or credit under (e) of this section or otherwise.

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

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

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

20 (c) For purposes of this section,

21 (1) a producer's lease expenditures for a period are the total costs
22 upstream of the point of production of oil and gas that are incurred on or after April 1,
23 2006, by the producer during the period and that are direct and ordinary costs of
24 exploring for, developing, or producing oil or gas deposits located within the
25 producer's leases or properties in the state or, in the case of land in which the producer
26 does not own a working interest, direct and ordinary costs of exploring for oil or gas
27 deposits located within other land in the state; however, lease expenditures do not
28 include the costs incurred to satisfy a work commitment under an exploration license
29 under AS 38.05.132; in determining whether costs are direct and ordinary costs of
30 exploring for, developing, or producing oil or gas deposits located within a lease or
31 property or other land in the state,

1 (A) the department shall give substantial weight to the typical
 2 industry practices and standards in the state and in the United States that
 3 determine the costs that an operator is allowed to bill a working interest owner
 4 that is not the operator, under unit operating agreements or similar operating
 5 agreements that were in effect on or before December 1, 2005, and were
 6 subject to negotiation with at least one working interest owner with substantial
 7 bargaining power, other than the operator; and

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

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

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

23 (B) at least one working interest owner party to the agreement,
 24 other than the operator, has substantial incentive and ability to effectively audit
 25 billings under the agreement;

26 (3) an activity does not need to be physically located on or near the
 27 premises of the lease or property from which oil or gas is recovered in order for the
 28 cost of the activity to be a cost upstream of the point of production of the oil or gas.

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

30 (1) includes

31 (A) an expenditure, when incurred, to acquire an item if the

1 acquisition cost is otherwise a direct cost, notwithstanding that the expenditure
 2 may be required to be capitalized rather than treated as an expense for financial
 3 accounting or federal income tax purposes;

4 (B) payments of or in lieu of property taxes, sales and use
 5 taxes, motor fuel taxes, and excise taxes;

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

10 (2) does not include

11 (A) depreciation, depletion, or amortization;

12 (B) oil or gas royalty payments, production payments, lease
 13 profit shares, or other payments or distributions of a share of oil or gas
 14 production, profit, or revenue;

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

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

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

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

21 (G) fines or penalties imposed by law;

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

26 (I) donations;

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

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

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

2 (M) for a transaction that is an internal transfer or is otherwise
3 not an arm's length transaction, expenditures incurred that are in excess of fair
4 market value;

5 (N) an expenditure incurred to purchase an interest in any
6 corporation, partnership, limited liability company, business trust, or any other
7 business entity, whether or not the transaction is treated as an asset sale for
8 federal income tax purposes;

9 (O) a tax levied under AS 43.55.011;

10 (P) the portion of costs incurred for dismantlement, removal,
11 surrender, or abandonment of a well, facility, pipeline, platform, or other
12 structure, or for the restoration of a lease, field, unit, area, body of water, or
13 right-of-way in conjunction with dismantlement, removal, surrender, or
14 abandonment, that is attributable to production of oil or gas occurring before
15 April 1, 2006; the portion is calculated as a ratio of the amount of oil and gas
16 production associated with the well, facility, pipeline, platform, or other
17 structure, lease, field, unit, area, body of water, or right-of-way occurring
18 before April 1, 2006 to the total amount of oil and gas production associated
19 with that well, facility, pipeline, platform, or other structure, lease, field, unit,
20 area, body of water, or right-of-way through the end of the calendar month
21 before commencement of the dismantlement, removal, surrender, or
22 abandonment; for purposes of the ratio calculated under this subparagraph,
23 6,000 cubic feet of gas is considered to be equivalent to one barrel of oil.

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

1 year are a negative number and shall be applied to the calculation under (a) of this
2 section as a negative number. The payments or credits that a producer shall subtract
3 from the producer's lease expenditures, or from zero, under this subsection are
4 payments or credits, other than tax credits, received by the producer for

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

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

14 (3) the sale or other transfer of

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

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

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

27 (B) oil or gas

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

30 (ii) the cost of acquiring which is a lease expenditure
31 incurred by the person that acquires the oil or gas;

1 (4) insurance recoveries.

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

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

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

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

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

19 (i) The department may adopt regulations that establish additional standards
20 necessary to carrying out the purposes of this section, including the incorporation of
21 the concepts of 26 U.S.C. 482 (Internal Revenue Code), as amended, the related or
22 accompanying regulations of that section, and any ruling or guidance issued by the
23 United States Internal Revenue Service that relates to that section.

24 (j) For purposes of this section,

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

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

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

1 **Sec. 43.55.170. Additional nontransferable tax credit.** (a) For a month for
 2 which a producer's tax liability under AS 43.55.011(e) exceeds zero before application
 3 of any credits under this chapter, a producer that is qualified under (c) of this section
 4 and whose average amount of oil and gas produced a day and taxable under
 5 AS 43.55.011(e) is less than 100,000 barrels of oil equivalent a day may apply a tax
 6 credit under this section against that liability. A producer whose average amount of oil
 7 and gas produced a day and taxable under AS 43.55.011(e) is

8 (1) not more than 50,000 barrels of oil equivalent may apply a tax
 9 credit of up to \$1,000,000 for the month;

10 (2) more than 50,000 and less than 100,000 barrels of oil equivalent
 11 may apply a tax credit of up to the following fraction of \$1,000,000 for the month:

$$12 \qquad 1 - [2 \times (AP - 50,000)]/100,000,$$

13 where AP = the average amount of oil and gas, expressed as barrels of oil equivalent,
 14 produced a day during the month and taxable under AS 43.55.011(e).

15 (b) A producer may not take a tax credit under this section for any month that
 16 ends the later of

17 (1) July 31, 2016; or

18 (2) the 10th anniversary of the last day of the month for which the
 19 producer first has commercial oil or gas production from at least one lease or property
 20 in the state, if the producer did not have commercial oil or gas production from a lease
 21 or property in the state before July 1, 2006.

22 (c) On written application by a producer, including any information the
 23 department may require, the department shall determine whether the producer
 24 qualifies under this section for a calendar year. To qualify under this section, a
 25 producer must demonstrate that its operation in the state or its ownership of an interest
 26 in a lease or property in the state as a distinct producer entity would not result in the
 27 division among multiple producer entities of any production tax liability under
 28 AS 43.55.011(e) that would be reasonably expected to be attributed to a single
 29 producer entity if the tax credit provision of (a) of this section did not exist.

30 (d) A tax credit authorized by this section may not be applied to reduce a
 31 producer's tax liability under AS 43.55.011(e) for any month below zero. An unused

1 portion of a tax credit that could otherwise be applied for a month but whose
 2 application would cause the producer's tax liability under AS 43.55.011(e) for the
 3 month to be less than zero may be applied for one or more other months in the same
 4 calendar year to the extent otherwise allowed under this section.

5 (e) An unused tax credit or portion of a tax credit under this section is not
 6 transferable and may not be carried forward to or used in a later calendar year.

7 (f) For the purposes of this section, a barrel of oil equivalent is

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

9 (2) 6,000 cubic feet of gas, in the case of gas.

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

11 (1) study

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

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

17 (2) prepare a report on or before the first day of the 2013 regular
 18 session of the legislature on the results of the study made under (1) of this subsection,
 19 including a recommendation as to whether those tax rates should be changed; the
 20 department shall notify the legislature that the report prepared under this paragraph is
 21 available.

22 (b) The Department of Revenue shall

23 (1) study the effects of the credits authorized by AS 43.55.025 and
 24 43.55.170 on state revenue, on the encouragement of exploration, development, and
 25 production of oil and gas deposits located in the state, and on the encouragement of
 26 new entrants into the oil and gas industry in the state; and

27 (2) prepare a report on or before the first day of the 2015 regular
 28 session of the legislature on the results of the study made under (1) of this subsection,
 29 and shall include with the report a recommendation as to whether the legislature
 30 should extend the availability of the credits under AS 43.55.025 and 43.55.170; the
 31 department shall notify the legislature that the report prepared under this paragraph is

1 available.

2 * **Sec. 26.** AS 43.55.201 is amended to read:

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

6 (b) The surcharge imposed by (a) of this section is in addition to **the tax**
7 **imposed by AS 43.55.011** and **is due on the last day of the month on oil produced**
8 **from each lease or property during the preceding month. The surcharge** [SHALL
9 BE PAID IN THE SAME MANNER AS THE TAX IMPOSED BY AS 43.55.011 -
10 43.55.150; AND] is in addition to the surcharge imposed by AS 43.55.300 -
11 43.55.310.

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 - 43.55.180** [AS 43.55.011 -
14 43.55.150].

15 * **Sec. 27.** AS 43.55.201 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. 28.** AS 43.55.300 is amended to read:

20 **Sec. 43.55.300. Surcharge levied.** (a) Every producer of oil shall pay a
21 surcharge of **\$.04** [\$.03] per barrel of oil produced from each lease or property in the
22 state, less any oil the ownership or right to which is exempt from taxation.

23 (b) The surcharge imposed by (a) of this section is in addition to **the tax**
24 **imposed by AS 43.55.011** and **is due on the last day of the month on oil produced**
25 **from each lease or property during the preceding month. The surcharge** [SHALL
26 BE PAID IN THE SAME MANNER AS THE TAX IMPOSED BY AS 43.55.011 -
27 43.55.150; AND] is in addition to the surcharge imposed by AS 43.55.201 -
28 43.55.231.

29 (c) A producer of oil shall make reports of production in the same manner and
30 under the same penalties as required under **AS 43.55.011 - 43.55.180** [AS 43.55.011 -
31 43.55.150].

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

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

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

6 (6) "gas" means

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

8 (B) all hydrocarbons that

9 (i) are recovered by mechanical separation of well
10 fluids or by gas processing in a gas processing plant; and

11 (ii) exist in a gaseous phase at the completion of
12 mechanical separation and any gas processing in a gas processing plant;
13 and

14 (C) all other hydrocarbons produced from a well not defined as
15 oil;

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

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

18 (A) for oil, the value of the oil at its point of production
19 without deduction of any costs upstream of that point of production;

20 (B) for gas, the value of the gas at its point of production
21 without deduction of any costs upstream of that point of production;

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

23 (10) "oil" means

24 (A) crude petroleum oil; and

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

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

28 (17) "Cook Inlet sedimentary basin" has the meaning given in
29 regulations adopted to implement AS 38.05.180(f)(4);

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

1 (19) "gas processing"

2 (A) means processing a gaseous mixture of hydrocarbons

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

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

9 (B) does not include gas treatment;

10 (20) "gas processing plant" means a facility that

11 (A) extracts and recovers liquid hydrocarbons from a gaseous
12 mixture of hydrocarbons by gas processing; and

13 (B) is located upstream of any gas treatment and upstream of
14 the inlet of any gas pipeline system transporting gas to a market;

15 (21) "gas treatment"

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

19 (B) includes incidentally removing liquid hydrocarbons from
20 the gas;

21 (C) does not include

22 (i) dehydration required to facilitate the movement of
23 gas from the well to the point where gas processing takes place;

24 (ii) the scrubbing of liquids from gas to facilitate gas
25 processing;

26 (22) "landowner's royalty interest" means

27 (A) a lessor's royalty interest under an oil and gas lease; or

28 (B) a royalty interest that is

29 (i) held by a surface owner of land from which oil or
30 gas is produced; and

31 (ii) granted in exchange for the right to use the surface

1 of that land or as compensation for damage to the surface of that land;

2 (23) "oil and gas lease" includes an oil and gas lease, a gas only lease,
3 and an oil only lease;

4 (24) "point of production" means

5 (A) for oil, the automatic custody transfer meter or device
6 through which the oil enters into the facilities of a carrier pipeline or other
7 transportation carrier in a condition of pipeline quality; in the absence of an
8 automatic custody transfer meter or device, "point of production" means the
9 mechanism or device to measure the quantity of oil that has been approved by
10 the department for that purpose, through which the oil is tendered and accepted
11 in a condition of pipeline quality into the facilities of a carrier pipeline or other
12 transportation carrier or into a field topping plant;

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

15 (i) not subjected to or recovered by mechanical
16 separation or run through a gas processing plant, the first point where
17 the gas is accurately metered;

18 (ii) subjected to or recovered by mechanical separation
19 but not run through a gas processing plant, the first point where the gas
20 is accurately metered after completion of mechanical separation;

21 (iii) run through a gas processing plant, the first point
22 where the gas is accurately metered downstream of the plant;

23 (C) for gas run through an integrated gas processing plant and
24 gas treatment facility that does not accurately meter the gas after the gas
25 processing and before the gas treatment, the first point where gas processing is
26 completed or where gas treatment begins, whichever is further upstream.

27 * **Sec. 34.** AS 43.55.011(a), 43.55.011(b), 43.55.011(c), 43.55.012, 43.55.013, 43.55.016,
28 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),
29 and 43.55.900(16) are repealed.

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

1 APPLICABILITY. (a) Sections 5, 7 - 10, 12, 13, 15 - 18, 20, 24, and 26 - 34 of this
2 Act and AS 43.55.160 and 43.55.170, enacted by sec. 25 of this Act, apply to oil and gas
3 produced on or after April 1, 2006.

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

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

8 TRANSITIONAL PROVISIONS. (a) Notwithstanding any contrary provision of
9 AS 43.55.024(a), enacted by sec. 12 of this Act, for oil and gas produced on or after April 1,
10 2006, and before January 1, 2007, the phrase "every month an annualized tax credit in an
11 amount equal to 1 2/3 percent" in AS 43.55.024(a)(1)(B), enacted by sec. 12 of this Act, shall
12 be replaced by the phrase "every month during the period April 1, 2006, through
13 December 31, 2006, an annualized tax credit in an amount equal to 2.222 percent."

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

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

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

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

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

30 (e) For oil and gas produced before April 1, 2006, the provisions of AS 43.55, and
31 regulations adopted under AS 43.55, that were in effect before April 1, 2006, and that were

1 applicable to the oil and gas continue to apply to that oil and gas.

2 (f) Notwithstanding any contrary provision of AS 43.55.020(a), as repealed and
3 reenacted by sec. 7 of this Act, for oil and gas produced on or after April 1, 2006, and before
4 the first day of the first month that begins at least 10 months after the effective date of sec. 7
5 of this Act,

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

10 (2) the portion, if any, of the taxes levied under AS 43.55.011(e) - (g), enacted
11 by sec. 5 of this Act, that is due under AS 43.55.020(a), as repealed and reenacted by sec. 7 of
12 this Act, and that remains unpaid, net of any credits applied as allowed by law, is due on the
13 last day of the first month that begins at least 10 months after the effective date of sec. 5 of
14 this Act.

15 (g) Notwithstanding any contrary provision of AS 43.55.030(a), as amended by sec.
16 18 of this Act, for oil and gas produced on or after April 1, 2006, and before the first day of
17 the first month that begins at least 10 months after the effective date of sec. 18 of this Act, the
18 person paying the tax shall file with the Department of Revenue, at the time an amount of tax
19 is due

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

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

24 (h) Notwithstanding any contrary provision of AS 43.55.201(a) or (b), as amended by
25 sec. 26 of this Act, or AS 43.55.300(a) or (b), as amended by sec. 28 of this Act, for oil
26 produced on or after April 1, 2006, and before the first day of the first month that begins at
27 least 10 months after the effective date of secs. 26 and 28 of this Act,

28 (1) the amount of the surcharges that would have been imposed on the
29 producer under AS 43.55, as the provisions of that chapter read on March 31, 2006, is due on
30 the last day of each calendar month on oil produced from each lease or property during the
31 preceding month;

1 (2) the portion, if any, of the surcharges imposed under AS 43.55.201(a), as
 2 amended by sec. 26 of this Act, and AS 43.55.300(a), as amended by sec. 28 of this Act, and
 3 that remains unpaid is due on the last day of the first month that begins at least 10 months
 4 after the effective date of secs. 26 and 28 of this Act.

5 (i) Notwithstanding any contrary provision of AS 43.55.201(c), as amended by sec.
 6 26 of this Act, or AS 43.55.300(c), as amended by sec. 28 of this Act, for oil produced on or
 7 after April 1, 2006, and before the first day of the first month that begins at least 10 months
 8 after the effective date of secs. 26 and 28 of this Act, at the time an amount of surcharge is
 9 due,

10 (1) under (h)(1) of this section, the producer shall file the report of production
 11 required under former AS 43.55.201(c) and 43.55.300(c), as those provisions read on
 12 March 31, 2006; and

13 (2) under (h)(2) of this section, the producer shall file the report of production
 14 required under former AS 43.55.201(c), as amended by sec. 26 of this Act, and
 15 AS 43.55.300(c), as amended by sec. 28 of this Act.

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

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

22 **TRANSITION: RETROACTIVITY OF REGULATIONS.** Notwithstanding any
 23 contrary provision of AS 44.62.240, a regulation adopted by the Department of Revenue to
 24 implement, interpret make specific, or otherwise carry out the provisions of secs. 5, 7 - 10, 12,
 25 13, 15 - 18, 20, 24 - 34, and 36 of this Act may apply retroactively as of April 1, 2006, if the
 26 Department of Revenue expressly designates in the regulation that the regulation applies
 27 retroactively to that date.

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

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

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

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

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

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

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

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

12 **RETROACTIVITY OF PROVISIONS OF ACT.** Sections 5, 7 - 10, 12, 13, 15 - 18,
13 20, 24 - 36 of this Act are retroactive to April 1, 2006.

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