

SENATE BILL NO. 2001

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SPECIAL SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 5/20/06

Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the production tax on oil and gas and to conservation surcharges on
2 oil; relating to criminal penalties for violating conditions governing access to and use of
3 confidential information relating to the production tax; providing that provisions of
4 AS 43.55 do not apply to certain oil and gas subject to a contract executed under the
5 Alaska Stranded Gas Development Act; amending the definition of 'gas' as that
6 definition applies in the Alaska Stranded Gas Development Act; making conforming
7 amendments; and providing for an effective date."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (3) depletion deducted on the percentage depletion basis under 26

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

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

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

7 (e) There is levied on the producer of oil or gas a tax for all oil and gas
8 produced each month from each lease or property in the state, less any oil and gas the
9 ownership or right to which is exempt from taxation or constitutes a landowner's
10 royalty interest. Except as otherwise provided under (g) of this section, the tax is equal
11 to 20 percent of the production tax value of the taxable oil and gas as calculated under
12 AS 43.55.160.

13 (f) There is levied on the producer of oil or gas a tax for all oil and gas
14 produced each month from each lease or property in the state the ownership or right to
15 which constitutes a landowner's royalty interest, except for oil and gas the ownership
16 or right to which is exempt from taxation. The provisions of this subsection apply to a
17 landowner's royalty interest as follows:

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

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

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

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

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

31 (ii) for oil, except oil described in (i) of this

1 subparagraph, 20 percent of the gross value at the point of production
2 of the oil; and

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

5 (g) For a month that ends before July 1, 2021, the total tax levied by (e) of this
6 section on gas produced from a lease or property in the Cook Inlet sedimentary basin
7 may not exceed

8 (1) for a lease or property that first commenced commercial production
9 of gas before April 1, 2006, the product of (A) the amount of gas produced during that
10 month from the lease or property, times (B) the average rate of tax that was imposed
11 under this chapter on gas produced from the lease or property for the 12-month period
12 ending on March 31, 2006, times (C) the average prevailing value for gas delivered in
13 the Cook Inlet area for the 12-month period ending March 31, 2006, as determined by
14 the department under AS 43.55.020(f);

15 (2) for a lease or property that first commences commercial production
16 of gas after March 31, 2006, the product of (A) the amount of gas produced during
17 that month from the lease or property, times (B) the average rate of tax that was
18 imposed under this chapter on gas produced from all leases or properties in the Cook
19 Inlet sedimentary basin for the 12-month period ending on March 31, 2006, times (C)
20 the average prevailing value for gas delivered in the Cook Inlet area for the 12-month
21 period ending March 31, 2006, as determined by the department under
22 AS 43.55.020(f).

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

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

27 (1) producing oil or gas leases;

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

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

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

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

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

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

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

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

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

31 **(2) the denominator is the total gross value at the point of**

1 **production of the oil and gas taxable under AS 43.55.011(e) produced by the**
 2 **producer from all leases and properties in the state during the month.**

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

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

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

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

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

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

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

27 (A) a producer or explorer that incurs a qualified capital
 28 expenditure may also elect to take a tax credit against a tax due under
 29 AS 43.55.011(e) in the amount of 20 percent of that expenditure;

30 (B) for a calendar year for which the producer makes an
 31 election under AS 43.55.160(f), instead of taking a tax credit at a rate

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

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

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

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

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

26 (b) A producer or explorer may elect to take a tax credit in the amount of 20
27 percent of a carried-forward annual loss. A credit under this subsection may be applied
28 against a tax due under AS 43.55.011(e) and may be applied irrespective of whether
29 the producer or explorer also claims a credit for transitional investment expenditures
30 authorized by (j) of this section. For purposes of this subsection, a carried-forward
31 annual loss is the amount of a producer's or explorer's adjusted lease expenditures

1 under AS 43.55.160 for a previous calendar year that was not deductible in any month
2 under AS 43.55.160(a) and (b).

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

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

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

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

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

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

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

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

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

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

26 (g) The issuance of a transferable tax credit certificate under (d) of this section
27 does not limit the department's ability to later audit a tax credit claim to which the
28 certificate relates or to adjust the claim if the department determines that the applicant
29 was not entitled to the amount of the credit for which the certificate was issued. The
30 tax liability of the applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is
31 increased by the amount of the credit that exceeds that to which the applicant was

1 entitled, or the applicant's available valid outstanding credits applicable against the tax
2 levied by AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is
3 increased under this subsection, the increase bears interest under AS 43.05.225 from
4 the date the transferable tax credit certificate was issued. For purposes of this
5 subsection, an applicant that is an explorer is considered a producer subject to the tax
6 levied by AS 43.55.011(e).

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

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

19 (j) For the purposes of this section,

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

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

1 exceed

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

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

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

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

12 (i) July 31, 2013; or

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

18 (B) more than once; or

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

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

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

31 (l) In this section, "qualified capital expenditure" means, except as otherwise

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

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

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

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

9 (B) eligible to be deducted as an expense under 26 U.S.C.
10 263(c) (Internal Revenue Code), as amended.

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

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

18 (1) 20 percent of the total exploration expenditures that qualify only
19 under (b) and (c) of this section;

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

22 (3) 40 percent of the total exploration expenditures that qualify under
23 (b), (c), and (d) of this section; or

24 (4) 40 percent of the total exploration expenditures that qualify only
25 under (b) and (e) of this section.

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

27 (b) To qualify for the production tax credit under (a) of this section, an
28 exploration expenditure must be incurred for work performed on or after July 1, 2003,
29 and before July 1, 2016 [2007], except that an exploration expenditure for a Cook Inlet
30 prospect must be incurred for work performed on or after July 1, 2005, [AND
31 BEFORE JULY 1, 2010, AND EXCEPT THAT AN EXPLORATION

1 EXPENDITURE, IN WHOLE OR IN PART, SOUTH OF 68 DEGREES, 15
 2 MINUTES, NORTH LATITUDE, AND NOT PART OF A COOK INLET
 3 PROSPECT MUST BE INCURRED FOR WORK PERFORMED ON OR AFTER
 4 JULY 1, 2003, AND BEFORE JULY 1, 2010,] and

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

7 (2) if for an exploration well,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (5) if the department is satisfied that the explorer's claimed
29 expenditures are qualified under this section, the department shall issue to the explorer
30 a production tax credit certificate for the amount of credit to be allowed against
31 production taxes due under AS 43.55.011(e) [THIS CHAPTER; HOWEVER,

1 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE
 2 DEPARTMENT MAY NOT ISSUE TO AN EXPLORER A PRODUCTION TAX
 3 CREDIT CERTIFICATE IF THE TOTAL OF PRODUCTION TAX CREDITS
 4 SUBMITTED FOR COOK INLET PRODUCTION, BASED ON EXPLORATION
 5 EXPENDITURES FOR WORK PERFORMED DURING THE PERIOD
 6 DESCRIBED IN (b) OF THIS SECTION FOR THAT PRODUCTION, THAT HAVE
 7 BEEN APPROVED BY THE DEPARTMENT EXCEEDS \$20,000,000].

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

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

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

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

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

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

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

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

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

- 1 (2) the names of the producer and the person paying the tax;
- 2 (3) the gross amount of oil and the gross amount of [OR] gas
3 produced from each [THE] lease or property, and the percentage of the gross amount
4 of oil and gas owned by each producer for whom the tax is paid;
- 5 (4) the gross [TOTAL] value at the point of production of the oil
6 and of the [OR] gas produced from each [THE] lease or property owned by each
7 producer for whom the tax is paid; [AND]
- 8 (5) the name of the first purchaser and the price received for the oil
9 and for the [OR] gas, unless relieved from this requirement in whole or in part by
10 the department; and
- 11 (6) the producer's lease expenditures and adjustments as
12 calculated under AS 43.55.160 [IF SOLD IN THE STATE].

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

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

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

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

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

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

28 (1) require a person engaged in production and the agent or employee
29 of the person, and the purchaser of oil or gas, or the owner of a royalty interest in oil
30 or gas to furnish, whether by the filing of regular statements or reports or
31 otherwise, additional information that is considered by the department as necessary to

1 compute the amount of the tax; **notwithstanding any contrary provision of law, the**
 2 **disclosure of additional information under this paragraph to the producer**
 3 **obligated to pay the tax does not violate AS 40.25.100(a) or AS 43.05.230(a);**
 4 **before disclosing information under this paragraph that is otherwise required to**
 5 **be held confidential under AS 40.25.100(a) or AS 43.05.230(a), the department**
 6 **shall**

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

10 (B) **impose appropriate conditions limiting**

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

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

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

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

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

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

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

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

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

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

31 **Sec. 43.55.135. Measurement.** For the purposes of **AS 43.55.011 - 43.55.180**

1 [AS 43.55.011 - 43.55.150], oil is [SHALL BE] measured in terms of a "barrel of oil"
 2 and gas is [SHALL BE] measured in terms of a "cubic foot of gas."

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

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

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

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

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

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

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

17 Except as provided in (f) of this section, for purposes of AS 43.55.011(e), the
 18 production tax value of the taxable oil and gas produced during a month, other than
 19 gas produced from leases or properties in the Cook Inlet sedimentary basin, is (1) the
 20 total of (A) the gross value at the point of production of the oil taxable under
 21 AS 43.55.011(e) and produced by the producer from all leases or properties in the
 22 state, less three-quarters of the gross value at the point of production of the oil taxable
 23 under AS 43.55.011(e) and produced by the producer from leases or properties in the
 24 Cook Inlet sedimentary basin, and (B) two-thirds of the gross value at the point of
 25 production of the gas taxable under AS 43.55.011(e) and produced by the producer
 26 from all leases or properties in the state outside the Cook Inlet sedimentary basin, less
 27 one-sixth of the gross value at the point of production of the gas taxable under
 28 AS 43.55.011(e) and produced by the producer from all leases or properties in the
 29 state located south of 68 degrees 15 minutes North latitude outside the Cook Inlet
 30 sedimentary basin, (2) less the producer's lease expenditures for the month as adjusted
 31 under (e) of this section, other than lease expenditures applicable to gas produced from

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

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

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

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

30 (c) For purposes of this section,

31 (1) a producer's lease expenditures for a period are the costs upstream

1 of the point of production of oil and gas that are incurred on or after July 1, 2006, by
2 the producer during the period and that are direct, and ordinary and necessary, costs of
3 exploring for, developing, or producing oil or gas deposits located within the
4 producer's leases or properties in the state or, in the case of land in which the producer
5 does not own a working interest, direct, and ordinary and necessary, costs of exploring
6 for oil or gas deposits located within other land in the state; in determining whether
7 costs are direct, and ordinary and necessary, costs of exploring for, developing, or
8 producing oil or gas deposits located within a lease or property or other land in the
9 state,

10 (A) the department shall give substantial weight to the typical
11 industry practices and standards in the state that determine the costs that an
12 operator is allowed to bill a working interest owner that is not the operator,
13 under unit operating agreements or similar operating agreements that were in
14 effect on or before December 1, 2005, and were subject to negotiation with at
15 least one working interest owner with substantial bargaining power, other than
16 the operator; and

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

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

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

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

4 (3) an activity does not need to be physically located on, near, or
5 within the premises of the lease or property within which an oil or gas deposit being
6 explored for, developed, or produced is located in order for the cost of the activity to
7 be a cost upstream of the point of production of the oil or gas;

8 (4) the lease expenditures that are applicable to gas produced from
9 leases or properties in the Cook Inlet sedimentary basin and the lease expenditures that
10 are applicable to oil and other gas shall be determined under regulations adopted by
11 the department that provide for reasonable methods of allocating costs between oil and
12 gas and between the Cook Inlet sedimentary basin and the rest of the state;

13 (5) "direct costs" include

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

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

20 (C) a reasonable allowance, as determined under regulations
21 adopted by the department, for overhead expenses directly related to exploring
22 for, developing, and producing oil or gas deposits located within leases or
23 properties or other land in the state.

24 (d) For purposes of (c) of this section, lease expenditures do not include

25 (1) depreciation, depletion, or amortization;

26 (2) oil or gas royalty payments, production payments, lease profit
27 shares, or other payments or distributions of a share of oil or gas production, profit, or
28 revenue;

29 (3) taxes based on or measured by net income;

30 (4) interest or other financing charges or costs of raising equity or debt
31 capital;

- 1 (5) acquisition costs for a lease or property or exploration license;
- 2 (6) costs arising from fraud, wilful misconduct, or gross negligence;
- 3 (7) fines or penalties imposed by law;
- 4 (8) costs of arbitration, litigation, or other dispute resolution activities
5 that involve the state or concern the rights or obligations among owners of interests in,
6 or rights to production from, one or more leases or properties or a unit;
- 7 (9) donations;
- 8 (10) costs incurred in organizing a partnership, joint venture, or other
9 business entity or arrangement;
- 10 (11) amounts paid to indemnify the state; the exclusion provided by
11 this paragraph does not apply to the costs of obtaining insurance or a surety bond from
12 a third-party insurer or surety;
- 13 (12) surcharges levied under AS 43.55.201 or 43.55.300;
- 14 (13) for a transaction that is an internal transfer or is otherwise not an
15 arm's length transaction, expenditures incurred that are in excess of fair market value;
- 16 (14) an expenditure incurred to purchase an interest in any corporation,
17 partnership, limited liability company, business trust, or any other business entity,
18 whether or not the transaction is treated as an asset sale for federal income tax
19 purposes;
- 20 (15) a tax levied under AS 43.55.011;
- 21 (16) the portion of costs incurred for dismantlement, removal,
22 surrender, or abandonment of a facility, pipeline, well pad, platform, or other
23 structure, or for the restoration of a lease, field, unit, area, body of water, or right-of-
24 way in conjunction with dismantlement, removal, surrender, or abandonment, that is
25 attributable to production of oil or gas occurring before July 1, 2006; the portion is
26 calculated as a ratio of the amount of oil and gas production associated with the
27 facility, pipeline, well pad, platform, or other structure, lease, field, unit, area, body of
28 water, or right-of-way occurring before July 1, 2006 to the total amount of oil and gas
29 production associated with that facility, pipeline, well pad, platform, or other structure,
30 lease, field, unit, area, body of water, or right-of-way through the end of the calendar
31 month before commencement of the dismantlement, removal, surrender, or

1 abandonment; for purposes of the ratio calculated under this paragraph, 6,000 cubic
2 feet of gas is considered to be equivalent to one barrel of oil; a cost is not excluded
3 under this paragraph if the dismantlement, removal, surrender, or abandonment for
4 which the cost is incurred is undertaken for the purpose of replacing, renovating, or
5 improving the facility, pipeline, well pad, platform, or other structure;

6 (17) losses or damages resulting from an unpermitted oil discharge that
7 is not confined to a gravel pad, or costs to contain, clean up, or remediate such an
8 unpermitted oil discharge to the extent that those costs exceed the routine costs of
9 operation for a producer or explorer that would otherwise be incurred as lease
10 expenditures in the absence of the unpermitted oil discharge; this paragraph does not
11 apply to the cost of developing and maintaining an oil discharge prevention and
12 contingency plan under AS 46.04.030;

13 (18) costs incurred to satisfy a work commitment under an exploration
14 license under AS 38.05.132.

15 (e) Unless the payment or credit has already been subtracted in calculating
16 billed costs under (c)(2) of this section, a producer's lease expenditures must be
17 adjusted by subtracting certain payments or credits received by the producer or by an
18 operator acting for the producer, as provided in this subsection. If one or more
19 payments or credits subject to this subsection are received by a producer or by an
20 operator acting for the producer during a month or, under (f) of this section, during a
21 calendar year, and if either the total amount of the payments or credits exceeds the
22 amount of the producer's lease expenditures or the producer has no lease expenditures,
23 the producer shall nevertheless subtract those payments or credits from the lease
24 expenditures or from zero, respectively, and the producer's adjusted lease expenditures
25 for that month or calendar year are a negative number and shall be applied to the
26 calculation under (a) of this section as a negative number. The payments or credits that
27 a producer shall subtract from the producer's lease expenditures, or from zero, under
28 this subsection are payments or credits, other than tax credits, received by the producer
29 or by an operator acting for the producer for

30 (1) the use by another person of a production facility in which the
31 producer has an ownership interest or the management by the producer of a production

1 facility under a management agreement providing for the producer to receive a
2 management fee;

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

9 (3) the sale or other transfer of

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

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

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

22 (B) oil or gas

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

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

27 (f) In place of the adjusted lease expenditures for a month under (a) of this
28 section, a producer may, at any time, elect to substitute, for every month of a calendar
29 year, 1/12 of the producer's adjusted lease expenditures for the calendar year.

30 (g) The department shall specify or approve a reasonable allocation method
31 for determining the portion of a cost that is appropriately treated as a lease expenditure

1 under (c) of this section if a cost that would otherwise constitute a lease expenditure
2 under (c) of this section is incurred to explore for, develop, or produce

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

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

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

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

16 (j) For purposes of this section,

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

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

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

24 **Sec. 43.55.170. Additional nontransferable tax credit.** (a) For a month for
25 which a producer's tax liability under AS 43.55.011(e) exceeds zero before application
26 of any credits under this chapter, a producer that is qualified under (c) of this section
27 may apply a tax credit under this section of up to \$1,000,000 against that liability.

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

30 (1) July 31, 2016; or

31 (2) the 10th anniversary of the last day of the month for which the

1 producer first has commercial oil or gas production from at least one lease or property
 2 in the state, if the producer did not have commercial oil or gas production from a lease
 3 or property in the state before July 1, 2006.

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

12 (d) A tax credit authorized by this section may not be applied to reduce a
 13 producer's tax liability under AS 43.55.011(e) for any month below zero. An unused
 14 portion of a tax credit that could otherwise be applied for a month but whose
 15 application would cause the producer's tax liability under AS 43.55.011(e) for the
 16 month to be less than zero may be applied for one or more other months in the same
 17 calendar year to the extent otherwise allowed under this section.

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

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

21 (1) study

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

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

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

1 (b) The Department of Revenue shall

2 (1) study the effects of the credits authorized by AS 43.55.025 and
3 43.55.170 on state revenue, on the encouragement of exploration, development, and
4 production of oil and gas deposits located in the state, and on the encouragement of
5 new entrants into the oil and gas industry in the state; and

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

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

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

16 (b) The surcharge imposed by (a) of this section is in addition to **the tax**
17 **imposed by AS 43.55.011** and **is due on the last day of the month on oil produced**
18 **from each lease or property during the preceding month. The surcharge** [SHALL
19 BE PAID IN THE SAME MANNER AS THE TAX IMPOSED BY AS 43.55.011 -
20 43.55.150; AND] is in addition to the surcharge imposed by AS 43.55.300 -
21 43.55.310.

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

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

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

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

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

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

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

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

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

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

15 * **Sec. 30.** AS 43.55 is amended by adding a new section to article 4 to read:

16 **Sec. 43.55.890. Relationship to Alaska Stranded Gas Development Act.**

17 During the period that a valid contract executed under AS 43.82, as amended, is in
 18 force, AS 43.55.011 - 43.55.310 do not apply to oil or gas for which a producer is
 19 obligated to make payments in lieu of taxes or oil surcharges. A payment in lieu of
 20 taxes includes delivery of gas to the state in lieu of taxes.

21 * **Sec. 31.** AS 43.55.900(6) is repealed and reenacted to read:

22 (6) "gas" means

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

24 (B) all hydrocarbons that

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

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

29 and

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

31 oil;

1 * **Sec. 32.** AS 43.55.900(7) is repealed and reenacted to read:

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

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

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

7 * **Sec. 33.** AS 43.55.900(10) is repealed and reenacted to read:

8 (10) "oil" means

9 (A) crude petroleum oil; and

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

12 * **Sec. 34.** AS 43.55.900 is amended by adding new paragraphs to read:

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

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

17 (19) "gas processing"

18 (A) means processing a gaseous mixture of hydrocarbons

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

23 (ii) for the purpose of extracting and recovering liquid
24 hydrocarbons;

25 (B) does not include gas treatment;

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

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

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

31 (21) "gas treatment"

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

4 (B) includes incidentally removing liquid hydrocarbons from
 5 the gas;

6 (C) does not include

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

9 (ii) the scrubbing of liquids from gas to facilitate gas
 10 processing;

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

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

13 (B) a royalty interest that is

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

16 (ii) granted in exchange for the right to use the surface
 17 of that land or as compensation for damage to the surface of that land;

18 (23) "oil and gas lease" includes an oil and gas lease, a gas only lease,
 19 and an oil only lease;

20 (24) "point of production" means

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

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

31 (i) not subjected to or recovered by mechanical

1 separation or run through a gas processing plant, the first point where
2 the gas is accurately metered;

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

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

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

12 * **Sec. 35.** AS 43.55.011(a), 43.55.011(b), 43.55.011(c), 43.55.012, 43.55.013, 43.55.016,
13 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),
14 and 43.55.900(16) are repealed.

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

17 **APPLICABILITY.** (a) Sections 5, 7 - 10, 12, 13, 15 - 18, 20, 24, 26 - 29, and 31 - 35
18 of this Act and AS 43.55.160 and 43.55.170, enacted by sec. 25 of this Act, apply to oil and
19 gas produced on or after July 1, 2006.

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

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

24 **TRANSITIONAL PROVISIONS.** (a) Notwithstanding any contrary provision of
25 AS 43.55.024(a), enacted by sec. 12 of this Act, for oil and gas produced on or after July 1,
26 2006, and before January 1, 2007, the phrase "every month an annualized tax credit in an
27 amount equal to 1 2/3 percent" in AS 43.55.024(a)(1)(B), enacted by sec. 12 of this Act, shall
28 be replaced by the phrase "every month during the period July 1, 2006, through December 31,
29 2006, an annualized tax credit in an amount equal to 3 1/3 percent."

30 (b) Notwithstanding any contrary provision of AS 43.55.024(e), enacted by sec. 12 of
31 this Act, for oil and gas produced on or after July 1, 2006, and before January 1, 2007, the

1 phrase "a calendar year" in AS 43.55.024(e), enacted by sec. 12 of this Act, shall be replaced
2 by the phrase "the last six months of the calendar year."

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

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

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

9 (d) Notwithstanding any contrary provision of AS 43.55.160(f), enacted by sec. 25 of
10 this Act, for oil and gas produced on or after July 1, 2006, and before January 1, 2007, the
11 phrase "for every month of a calendar year, 1/12 of the producer's adjusted lease expenditures
12 for the calendar year" in AS 43.55.160(f), enacted by sec. 25 of this Act, shall be replaced by
13 the phrase "for each of the last six months of 2006, one-sixth of the producer's adjusted lease
14 expenditures for that six-month period."

15 (e) For oil and gas produced before July 1, 2006, the provisions of AS 43.55, and
16 regulations adopted under AS 43.55, that were in effect before July 1, 2006, and that were
17 applicable to the oil and gas continue to apply to that oil and gas.

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

22 (1) the amount of the taxes that would have been levied on the producer by
23 AS 43.55, as the provisions of that chapter read on June 30, 2006, is due on the last day of
24 each calendar month on the oil and gas that was produced from each lease or property during
25 the preceding month;

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

31 (g) Notwithstanding any contrary provision of AS 43.55.030(a), as amended by sec.

1 18 of this Act, for oil and gas produced on or after July 1, 2006, and before the first day of the
2 first month that begins at least 10 months after the effective date of sec. 18 of this Act, the
3 person paying the tax shall file with the Department of Revenue, at the time an amount of tax
4 is due

5 (1) under (f)(1) of this section, the statement required under former
6 AS 43.55.030(a), as that subsection read on June 30, 2006; and

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

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

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

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

21 (i) Notwithstanding any contrary provision of AS 43.55.201(c), as amended by sec.
22 26 of this Act, or AS 43.55.300(c), as amended by sec. 28 of this Act, for oil produced on or
23 after July 1, 2006, and before the first day of the first month that begins at least 10 months
24 after the effective date of secs. 26 and 28 of this Act, at the time an amount of surcharge is
25 due

26 (1) under (h)(1) of this section, the producer shall file the report of production
27 required under former AS 43.55.201(c) and 43.55.300(c), as those provisions read on June 30,
28 2006; and

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

1 (j) For purposes of taxes to be calculated and due under (f)(1) of this section and
 2 statements to be filed under (g)(1) of this section, regulations that were adopted by the
 3 Department of Revenue under AS 43.55, as the provisions of that chapter read on June 30,
 4 2006, and that were in effect on that date apply to those taxes and statements.

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

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

11 (b) Notwithstanding any contrary provision of AS 44.62.240, a regulation adopted by
 12 the Department of Revenue to implement, interpret make specific, or otherwise carry out the
 13 provisions of secs. 5, 7 - 10, 12, 13, 15 - 18, 20, 24 - 29, 31 - 35, and 37 of this Act may apply
 14 retroactively as of July 1, 2006, if the Department of Revenue expressly designates in the
 15 regulation that the regulation applies retroactively to that date.

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

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

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

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

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

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

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

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

31 **CONTINGENT RETROACTIVITY OF PROVISIONS OF ACT.** If the sections of

1 this Act that were to take effect July 1, 2006, under sec. 42 of this Act take effect after July 1,
2 2006, those sections are retroactive to July 1, 2006.

3 * **Sec. 41.** Sections 1 - 4, 6, 11, 14, 19, 21, and 36 - 38 of this Act take effect immediately
4 under AS 01.10.070(c).

5 * **Sec. 42.** Except as provided in sec. 41 of this Act, this Act takes effect July 1, 2006.