

CONFERENCE CS FOR SENATE BILL NO. 2001(fld H)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SPECIAL SESSION

BY THE CONFERENCE COMMITTEE

Amended: 6/8/06

Offered: 6/8/06

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

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; amending the definition of 'gas'**
4 **as that definition applies in the Alaska Stranded Gas Development Act; making**
5 **conforming amendments; and providing for an effective date."**

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

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

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

12 (b) It is the intent of the legislature that the division or other unit of the Department of
13 Environmental Conservation assigned responsibility for administration of the programs under

1 AS 46.08 that are principally supported by the conservation surcharges on oil levied under
2 AS 43.55.201 - 43.55.299 and 43.55.300 - 43.55.310

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

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

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

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

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

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

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

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

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

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

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

1 (Internal Revenue Code); and

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

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

5 (e) There is levied on the producer of oil or gas a tax for all oil and gas
6 produced each month from each lease or property in the state, less any oil and gas the
7 ownership or right to which is exempt from taxation or constitutes a landowner's
8 royalty interest. Except as otherwise provided under (i) and (j) of this section, the tax
9 is equal to 22.8 percent of the production tax value of the taxable oil and gas as
10 calculated under AS 43.55.160.

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

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

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

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

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

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

29 (ii) for oil, except oil described in (i) of this
30 subparagraph, 22.8 percent of the gross value at the point of production
31 of the oil; and

1 (B) notwithstanding (2) of this subsection, for gas the tax is
2 equal to 11.25 percent of the gross value at the point of production of the gas.

3 (g) In addition to the taxes levied under (e) and (f) of this section, during each
4 month for which the price index determined under (h) of this section is greater than
5 zero, there is levied on the producer of oil or gas a tax for all oil and gas produced
6 during that month from each lease or property in the state, less any oil and gas the
7 ownership or right to which is exempt from taxation or constitutes a landowner's
8 royalty interest. Except as otherwise provided under (i) and (j) of this section, the tax
9 levied under this subsection is equal to .175 percent of the production tax value of the
10 taxable oil and gas as calculated under AS 43.55.160, multiplied by the price index
11 determined under (h) of this section. However, application of this subsection may not,
12 when added to the tax levied under (e) of this section, impose a tax levy of more than
13 50 percent of the production tax value of taxable oil and gas as calculated under
14 AS 43.55.160.

15 (h) For purposes of (g) of this section, the price index for a month is calculated
16 by subtracting 35 from the number that is equal to the quotient of the production tax
17 value of the taxable oil and gas produced during that month, as calculated under
18 AS 43.55.160, divided by the amount of the taxable oil and gas produced during that
19 month, in Btu equivalent barrels. The production tax value is calculated (1) using the
20 monthly average of the producer's costs of transportation for the calendar year, as
21 provided by AS 43.55.160(i), and (2) substituting for the month's lease expenditures
22 1/12 of the adjusted lease expenditures for the calendar year, as provided by
23 AS 43.55.160(f). For purposes of this subsection, "Btu equivalent barrel" means (1) in
24 the case of oil, one barrel; (2) in the case of gas, the amount of gas that has an energy
25 content of 6,000,000 British thermal units.

26 (i) For a month that ends before April 1, 2021, the total tax levied by (e) and
27 (g) of this section on gas produced from a lease or property in the Cook Inlet
28 sedimentary basin may not exceed

29 (1) for a lease or property that first commenced commercial production
30 of gas before April 1, 2006, the product obtained by multiplying (A) the amount of gas
31 produced during that month from the lease or property, times (B) the average rate of

1 tax that was imposed under this chapter on gas produced from the lease or property for
2 the 12-month period ending on March 31, 2006, times (C) the average prevailing value
3 for gas delivered in the Cook Inlet area for the 12-month period ending March 31,
4 2006, as determined by the department under AS 43.55.020(f);

5 (2) for a lease or property that first commences commercial production
6 of gas after March 31, 2006, the product obtained by multiplying (A) the amount of
7 gas produced during that month from the lease or property, times (B) the average rate
8 of tax that was imposed under this chapter on gas produced from all leases or
9 properties in the Cook Inlet sedimentary basin for the 12-month period ending on
10 March 31, 2006, times (C) the average prevailing value for gas delivered in the Cook
11 Inlet area for the 12-month period ending March 31, 2006, as determined by the
12 department under AS 43.55.020(f).

13 (j) For a month that ends before April 1, 2021, the total tax levied by (e) and
14 (g) of this section on oil produced from a lease or property in the Cook Inlet
15 sedimentary basin may not exceed

16 (1) for a lease or property that first commenced commercial production
17 of oil before April 1, 2006, the product obtained by multiplying (A) the amount of oil
18 produced during that month from the lease or property, times (B) the average rate of
19 tax that was imposed under this chapter on oil produced from the lease or property for
20 the 12-month period ending on March 31, 2006, times (C) the average prevailing value
21 for oil delivered in the Cook Inlet area for the 12-month period ending March 31,
22 2006, as determined by the department under AS 43.55.020(f);

23 (2) for a lease or property that first commences commercial production
24 of oil after March 31, 2006, the product obtained by multiplying (A) the amount of oil
25 produced during that month from the lease or property, times (B) the average rate of
26 tax that was imposed under this chapter on oil produced from all leases or properties in
27 the Cook Inlet sedimentary basin for the 12-month period ending on March 31, 2006,
28 times (C) the average prevailing value for oil delivered in the Cook Inlet area for the
29 12-month period ending March 31, 2006, as determined by the department under
30 AS 43.55.020(f).

31 (k) Notwithstanding any contrary provision of AS 38.05.180(i), AS 41.09.010,

1 AS 43.20.043, 43.55.025, or 43.55.170, tax credits under AS 38.05.180(i),
2 AS 41.09.010, AS 43.20.043, AS 43.55.025, and 43.55.170 that are allocated to gas
3 produced from leases or properties in the Cook Inlet sedimentary basin and that are
4 available to be applied against a tax levied by (e) of this section on gas produced from
5 leases or properties in the Cook Inlet sedimentary basin during a month may be
6 applied only against the tax levied by (e) of this section on that gas. The amount by
7 which the tax credits allocated to gas produced from leases or properties in the Cook
8 Inlet sedimentary basin and that the producer would otherwise be allowed to use for a
9 different month or transfer to another person that exceeds the amount of tax credits
10 whose application would reduce the tax levied by (e) of this section on that gas to
11 zero, if any, is considered the amount of excess tax credits and the excess tax credits
12 are subject to the following:

13 (1) for each lease or property for which a limitation under (i) or (j) of
14 this section on the tax levied by (e) and (g) of this section has the effect of reducing
15 the producer's tax below the amount of tax that would be levied in the absence of that
16 limitation, the producer shall calculate the amount of that reduction;

17 (2) the producer shall calculate the total of the reductions calculated
18 under (1) of this subsection for all affected leases or properties;

19 (3) the producer shall reduce the amount of excess tax credits by the
20 total calculated under (2) of this subsection, but not to less than zero;

21 (4) any amount of excess tax credits remaining after reduction under
22 (3) of this subsection may be used for a different month, transferred to another person,
23 or applied against a tax levied on oil or gas produced from a lease or property located
24 anywhere in the state to the extent otherwise allowed under applicable law governing
25 the tax credits.

26 (l) Allocation of credits under (k) of this section shall be made under
27 regulations adopted by the department that provide for reasonable methods of
28 allocating tax credits to gas produced from leases or properties in the Cook Inlet
29 sedimentary basin. The method of allocating tax credits available under AS 43.55.170
30 shall be based on the number of barrels of oil equivalent produced from a lease or
31 property.

1 (m) The department shall by regulation establish sampling, testing, and
 2 averaging methods for determining the energy content of a producer's gas produced
 3 during a month.

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

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

8 (1) producing oil or gas leases;

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

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

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

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

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

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

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

31 (d) In making settlement with the royalty owner for oil and gas that is

1 **taxable under AS 43.55.011**, the producer may deduct the amount of the tax paid on
 2 **taxable** royalty oil **and** [OR] gas, or may deduct **taxable** royalty oil or gas equivalent
 3 in value at the time the tax becomes due to the amount of the tax paid. **Unless**
 4 **otherwise agreed between the producer and the royalty owner, the amount of the**
 5 **tax paid under AS 43.55.011(e) and (g) on taxable royalty oil and gas for a month,**
 6 **other than oil and gas the ownership or right to which constitutes a landowner's**
 7 **royalty interest, is considered to be the gross value at the point of production of**
 8 **the taxable royalty oil and gas produced during the month multiplied by a figure**
 9 **that is a quotient, in which**

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

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

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

16 (e) Gas flared, released, or allowed to escape in excess of the amount
 17 authorized by the Alaska Oil and Gas Conservation Commission is considered, for the
 18 purpose of AS 43.55.011 - 43.55.180, as gas produced from a lease or property. Oil or
 19 gas used in the operation of a lease or property in the state in drilling for or producing
 20 oil or gas, or for repressuring, except to the extent determined by the Alaska Oil and
 21 Gas Conservation Commission to be waste, is not considered, for the purpose of
 22 AS 43.55.011 - 43.55.180, as oil or gas produced from a lease or property.

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

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

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

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

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

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

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

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

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

30 (B) to provide to the Department of Natural Resources, within
31 30 days after the date of a request, specific data sets, ancillary data, and reports

1 identified in (A) of this paragraph;

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

7 (b) A producer or explorer may elect to take a tax credit in the amount of 22.8
8 percent of a carried-forward annual loss. A credit under this subsection may be applied
9 against a tax due under AS 43.55.011(e). For purposes of this subsection, a carried-
10 forward annual loss is the amount of a producer's or explorer's adjusted lease
11 expenditures under AS 43.55.160 for a previous calendar year that was not deductible
12 in any month under AS 43.55.160(a) and (b).

13 (c) A credit or portion of a credit under this section

14 (1) may not be used to reduce a person's tax liability under
15 AS 43.55.011(e) for any month below

16 (A) three percent of the gross value at the point of production
17 for oil and gas produced in the area of the state lying north of 68 degrees North
18 latitude for producers of over 75,000 barrels of oil equivalent a day; or

19 (B) zero for all regions and producers other than those
20 described in (A) of this paragraph; and

21 (2) not used under (1) of this subsection may be applied in a later
22 month.

23 (d) Except as limited by (j) of this section, a person entitled to take a tax credit
24 under this section that wishes to transfer the unused credit to another person may
25 apply to the department for a transferable tax credit certificate. An application under
26 this subsection must be on a form prescribed by the department and must include
27 supporting information and documentation that the department reasonably requires.
28 The department shall grant or deny an application, or grant an application as to a lesser
29 amount than that claimed and deny it as to the excess, not later than 60 days after the
30 latest of (1) March 31 of the year following the calendar year in which the qualified
31 capital expenditure or carried-forward annual loss for which the credit is claimed was

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

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

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

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

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

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

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

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

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

11 (g) The issuance of a transferable tax credit certificate under (d) of this section
12 does not limit the department's ability to later audit a tax credit claim to which the
13 certificate relates or to adjust the claim if the department determines that the applicant
14 was not entitled to the amount of the credit for which the certificate was issued. The
15 tax liability of the applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is
16 increased by the amount of the credit that exceeds that to which the applicant was
17 entitled, or the applicant's available valid outstanding credits applicable against the tax
18 levied by AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is
19 increased under this subsection, the increase bears interest under AS 43.05.225 from
20 the date the transferable tax credit certificate was issued. For purposes of this
21 subsection, an applicant that is an explorer is considered a producer subject to the tax
22 levied by AS 43.55.011(e).

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

27 (i) A person may not elect to take a tax credit under (a) or (j) of this section for
28 an expenditure incurred to acquire an asset (1) the cost of previously acquiring which
29 was a lease expenditure under AS 43.55.160(c) or would have been a lease
30 expenditure under AS 43.55.160(c) if it had been incurred on or after April 1, 2006; or
31 (2) that has previously been placed in service in the state. An expenditure to acquire an

1 asset is not excluded under this subsection if not more than an immaterial portion of
2 the asset meets a description under (1) or (2) of this subsection. For purposes of this
3 subsection, "asset" includes geological, geophysical, and well data and interpretations.

4 (j) For the purposes of this section,

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

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

18 (A) 1/10 of the producer's or explorer's qualified capital
19 expenditures that are incurred during the month for which the credit is taken, if
20 the producer or explorer does not make a substitution under AS 43.55.160(f);

21 (B) 1/120 of the producer's or explorer's qualified capital
22 expenditures that are incurred during the calendar year that includes the month
23 for which the credit is taken, if the producer or explorer makes a substitution
24 under AS 43.55.160(f);

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

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

28 (i) April 30, 2013; or

29 (ii) the seventh anniversary of the last day of the month
30 for which the producer first applies a credit under this subsection
31 against a tax due under AS 43.55.011(e), if the producer did not have

1 commercial production of oil or gas from a lease or property in the state
2 before April 1, 2006;

3 (B) more than once; or

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

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

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

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

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

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

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

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

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

28 (a) Subject to the terms and conditions of this section, [ON OIL AND GAS
29 PRODUCED ON OR AFTER JULY 1, 2004, FROM AN OIL AND GAS LEASE,
30 OR ON GAS PRODUCED FROM A GAS ONLY LEASE,] a credit against the
31 production tax due under AS 43.55.011(e) [THIS CHAPTER] is allowed for

1 exploration expenditures that qualify under (b) of this section in an amount equal to
2 one of the following:

3 (1) 20 percent of the total exploration expenditures that qualify only
4 under (b) and (c) of this section;

5 (2) 20 percent of the total exploration expenditures for work performed
6 before July 1, 2007, and that qualify only under (b) and (d) of this section;

7 (3) 40 percent of the total exploration expenditures that qualify under
8 (b), (c), and (d) of this section; or

9 (4) 40 percent of the total exploration expenditures that qualify only
10 under (b) and (e) of this section.

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

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

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

23 (2) if for an exploration well,

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

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

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

1 after the date the well was spudded;

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

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

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

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

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

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

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

31 (B) to provide to the Department of Natural Resources, within

1 30 days after the date of a request, specific data sets, ancillary data, and reports
2 identified in (A) of this paragraph;

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

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

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

13 (5) if the department is satisfied that the explorer's claimed
14 expenditures are qualified under this section, the department shall issue to the explorer
15 a production tax credit certificate for the amount of credit to be allowed against
16 production taxes due under AS 43.55.011(e) [THIS CHAPTER; HOWEVER,
17 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE
18 DEPARTMENT MAY NOT ISSUE TO AN EXPLORER A PRODUCTION TAX
19 CREDIT CERTIFICATE IF THE TOTAL OF PRODUCTION TAX CREDITS
20 SUBMITTED FOR COOK INLET PRODUCTION, BASED ON EXPLORATION
21 EXPENDITURES FOR WORK PERFORMED DURING THE PERIOD
22 DESCRIBED IN (b) OF THIS SECTION FOR THAT PRODUCTION, THAT HAVE
23 BEEN APPROVED BY THE DEPARTMENT EXCEEDS \$20,000,000].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (d) Reports by or on behalf of the producer are delinquent the first day
31 following the day the tax is due. [EACH PRODUCER IS SUBJECT TO A PENALTY

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

5 * **Sec. 20.** AS 43.55.030 is amended by adding new subsections to read:

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

10 (f) For purposes of AS 43.05.260(a), the statement required to be filed on or
 11 before March 31 of a year is considered to be the return for the tax imposed by
 12 AS 43.55.011(e) - (g) for oil and gas produced each month of the preceding calendar
 13 year.

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

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

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

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

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

31 **(i) access to the information to those legal counsel,**

1 **consultants, employees, officers, and agents of the producer who**
 2 **have a need to know that information for the purpose of**
 3 **determining or contesting the producer's tax obligation; and**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 transportation; **and**

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

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

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

6 Except as provided in (f) of this section, for purposes of AS 43.55.011(e) and (g), the
7 production tax value of the taxable (1) oil and gas produced during a month from a
8 lease or property in the state that includes land north of 68 degrees North latitude is
9 the gross value at the point of production of the oil and gas taxable under
10 AS 43.55.011(e) and (g) and produced by the producer from that lease or property,
11 less the producer's lease expenditures for the month applicable to that oil and gas, as
12 adjusted under (e) of this section; (2) oil and gas produced during a month from a
13 lease or property in the state outside the Cook Inlet sedimentary basin and south of 68
14 degrees North latitude is the gross value at the point of production of the oil and gas
15 taxable under AS 43.55.011(e) and (g) and produced by the producer from that lease
16 or property, less the producer's lease expenditures for the month applicable to that oil
17 and gas, as adjusted under (e) of this section; (3) oil produced during a month from a
18 lease or property in the Cook Inlet sedimentary basin is the gross value at the point of
19 production of the oil taxable under AS 43.55.011(e) and (g) and produced by the
20 producer from that lease or property, less the producer's lease expenditures for the
21 month applicable to that oil, as adjusted under (e) of this section; (4) gas produced
22 during a month from a lease or property in the Cook Inlet sedimentary basin is the
23 gross value at the point of production of the gas taxable under AS 43.55.011(e) and (g)
24 and produced by the producer from that lease or property, less the producer's lease
25 expenditures for the month applicable to that gas, as adjusted under (e) of this section.
26 However, a production tax value calculated under this subsection may not be less than
27 zero. If a producer does not produce taxable oil or gas during a month, the producer is
28 considered to have generated a positive production tax value if a calculation described
29 in this subsection yields a positive number because the producer's adjusted lease
30 expenditures for a month are less than zero as a result of the producer's receiving a
31 payment or credit under (e) of this section or otherwise.

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

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

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

17 (c) For purposes of this section,

18 (1) a producer's lease expenditures for a period are the ordinary and
19 necessary costs upstream of the point of production of oil and gas that are incurred on
20 or after April 1, 2006, by the producer during the period and that are direct costs of
21 exploring for, developing, or producing oil or gas deposits located within the
22 producer's leases or properties in the state or, in the case of land in which the producer
23 does not own a working interest, that are direct costs of exploring for oil or gas
24 deposits located within other land in the state; in determining whether costs are lease
25 expenditures,

26 (A) the department shall give substantial weight to the typical
27 industry practices and standards in the state that determine the costs that an
28 operator is allowed to bill a working interest owner that is not the operator,
29 under unit operating agreements or similar operating agreements that were in
30 effect on or before December 1, 2005, and were subject to negotiation with at
31 least one working interest owner with substantial bargaining power, other than

1 the operator; and

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

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

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

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

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

24 (4) the lease expenditures that are applicable to oil or gas produced
25 from a lease or property shall be determined under regulations adopted by the
26 department that provide for reasonable methods of allocating costs between oil and
27 gas and among leases or properties;

28 (5) "direct costs" include

29 (A) an expenditure, when incurred, to acquire an item if the
30 acquisition cost is otherwise a direct cost, notwithstanding that the expenditure
31 may be required to be capitalized rather than treated as an expense for financial

1 accounting or federal income tax purposes;

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

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

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

9 (1) depreciation, depletion, or amortization;

10 (2) oil or gas royalty payments, production payments, lease profit
11 shares, or other payments or distributions of a share of oil or gas production, profit, or
12 revenue;

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

14 (4) interest or other financing charges or costs of raising equity or debt
15 capital;

16 (5) acquisition costs for a lease or property or exploration license;

17 (6) costs arising from fraud, wilful misconduct, or gross negligence;

18 (7) fines or penalties imposed by law;

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

22 (9) donations;

23 (10) costs incurred in organizing a partnership, joint venture, or other
24 business entity or arrangement;

25 (11) amounts paid to indemnify the state; the exclusion provided by
26 this paragraph does not apply to the costs of obtaining insurance or a surety bond from
27 a third-party insurer or surety;

28 (12) surcharges levied under AS 43.55.201 or 43.55.300;

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

31 (14) an expenditure incurred to purchase an interest in any corporation,

1 partnership, limited liability company, business trust, or any other business entity,
 2 whether or not the transaction is treated as an asset sale for federal income tax
 3 purposes;

4 (15) a tax levied under AS 43.55.011;

5 (16) the portion of costs incurred for dismantlement, removal,
 6 surrender, or abandonment of a facility, pipeline, well pad, platform, or other
 7 structure, or for the restoration of a lease, field, unit, area, body of water, or right-of-
 8 way in conjunction with dismantlement, removal, surrender, or abandonment, that is
 9 attributable to production in barrels of oil equivalent of oil or gas occurring before
 10 April 1, 2006; the portion is calculated as a ratio of the amount of oil and gas
 11 production associated with the facility, pipeline, well pad, platform, or other structure,
 12 lease, field, unit, area, body of water, or right-of-way occurring before April 1, 2006,
 13 to the total amount of oil and gas production in barrels of oil equivalent associated
 14 with that facility, pipeline, well pad, platform, or other structure, lease, field, unit,
 15 area, body of water, or right-of-way through the end of the calendar month before
 16 commencement of the dismantlement, removal, surrender, or abandonment; a cost is
 17 not excluded under this paragraph if the dismantlement, removal, surrender, or
 18 abandonment for which the cost is incurred is undertaken for the purpose of replacing,
 19 renovating, or improving the facility, pipeline, well pad, platform, or other structure;

20 (17) losses or damages resulting from an unpermitted oil discharge that
 21 is not confined to a pad, platform, or other structure, or costs to contain, clean up, or
 22 remediate such an unpermitted oil discharge to the extent that those costs exceed the
 23 routine costs of operation for a producer or explorer that would otherwise be incurred
 24 as lease expenditures in the absence of the unpermitted oil discharge; this paragraph
 25 does not apply to the cost of developing and maintaining an oil discharge prevention
 26 and contingency plan under AS 46.04.030;

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

29 (e) Unless the payment or credit has already been subtracted in calculating
 30 billed costs under (c)(2) of this section, a producer's lease expenditures must be
 31 adjusted by subtracting certain payments or credits received by the producer or by an

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

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

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

23 (3) the sale or other transfer of

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

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

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

5 (B) oil or gas

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

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

10 (f) In place of the adjusted lease expenditures for a month under (a) of this
11 section, a producer may, at any time, elect to substitute, for every month of a calendar
12 year, 1/12 of the producer's adjusted lease expenditures for the calendar year. For
13 every month of a calendar year in which the price index for a producer determined
14 under AS 43.55.011(h) is greater than zero for one or more months, the producer shall
15 substitute, in place of the adjusted lease expenditures under (a) of this section, 1/12 of
16 the producer's adjusted lease expenditures for the calendar year. A substitution made
17 under this subsection applies to the calculation of the tax under AS 43.55.011(e) and
18 (g).

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

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

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

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

31 (i) Notwithstanding any contrary provision of AS 43.55.150, for purposes of

1 (a) of this section, if the price index determined under AS 43.55.011(h) is greater than
 2 zero for any month during a calendar year, the gross value at the point of production of
 3 the oil and gas taxable under AS 43.55.011(e) and (g) must be calculated for every
 4 month of that calendar year under regulations adopted by the department that provide
 5 for using a monthly average of the producer's costs of transportation for the calendar
 6 year.

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

12 (k) For purposes of this section,

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

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

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

20 **Sec. 43.55.170. Additional nontransferable tax credits.** (a) For a month for
 21 which a producer's tax liability under AS 43.55.011(e) on oil and gas produced from
 22 leases or properties outside the Cook Inlet sedimentary basin and south of 68 degrees
 23 North latitude exceeds zero before application of any credits under this chapter, a
 24 producer that is qualified under (e) of this section may apply a tax credit against that
 25 liability of up to \$500,000.

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

28 (1) April 30, 2016; or

29 (2) the 10th anniversary of the last day of the month for which the
 30 producer first has commercial oil or gas production before May 1, 2016, from at least
 31 one lease or property in the state outside the Cook Inlet sedimentary basin and south of

1 68 degrees North latitude, if the producer did not have commercial oil or gas
 2 production from a lease or property in the state outside the Cook Inlet sedimentary
 3 basin and south of 68 degrees North latitude before April 1, 2006.

4 (c) For a month for which a producer's tax liability under AS 43.55.011(e)
 5 exceeds zero before application of any credits under this chapter, other than a credit
 6 under (a) of this section, but after application of any credit under (a) of this section, a
 7 producer that is qualified under (e) of this section and whose average amount of oil
 8 and gas produced a day and taxable under AS 43.55.011(e) is less than 100,000 barrels
 9 of oil equivalent a day may apply a tax credit under this section against that liability. A
 10 producer whose average amount of oil and gas produced a day and taxable under
 11 AS 43.55.011(e) is

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

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

$$16 \quad 1 - [2 \times (AP - 50,000)]/100,000,$$

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

19 (d) A producer may not take a tax credit under (c) of this section for any
 20 month that ends the later of

21 (1) April 30, 2016; or

22 (2) the 10th anniversary of the last day of the month for which the
 23 producer first has commercial oil or gas production before May 1, 2016, from at least
 24 one lease or property in the state, if the producer did not have commercial oil or gas
 25 production from a lease or property in the state before April 1, 2006.

26 (e) On written application by a producer, including any information the
 27 department may require, the department shall determine whether the producer
 28 qualifies under this section for a calendar year. To qualify under this section, a
 29 producer must demonstrate that its operation in the state or its ownership of an interest
 30 in a lease or property in the state as a distinct producer entity would not result in the
 31 division among multiple producer entities of any production tax liability under

1 AS 43.55.011(e) that would be reasonably expected to be attributed to a single
2 producer entity if the tax credit provisions of (a) or (c) of this section did not exist.

3 (f) A tax credit authorized by (a) of this section may not be applied to reduce a
4 producer's tax liability for any month under AS 43.55.011(e) on oil and gas produced
5 from leases or properties outside the Cook Inlet sedimentary basin and south of 68
6 degrees North latitude below zero. An unused portion of a tax credit authorized by (a)
7 of this section that could otherwise be applied for a month, but whose application
8 would cause the producer's tax liability for the month on oil and gas produced from
9 leases or properties outside the Cook Inlet sedimentary basin and south of 68 degrees
10 North latitude to be less than zero, may be applied for one or more other months in the
11 same calendar year to the extent otherwise allowed under this section.

12 (g) A tax credit authorized by (c) of this section may not be applied to reduce
13 a 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 (h) 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 43.55.900(6) is repealed and reenacted to read:

16 (6) "gas" means

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

18 (B) all hydrocarbons that

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

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

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

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

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

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

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

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

2 (10) "oil" means

3 (A) crude petroleum oil; and

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

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

7 (17) "barrel of oil equivalent" means

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

9 (B) in the case of gas, 6,000 cubic feet;

10 (18) "Cook Inlet sedimentary basin" has the meaning given in
11 regulations adopted to implement AS 38.05.180(f)(4);

12 (19) "explorer" means a person who, in exploring for new oil or gas
13 reserves, incurs expenditures;

14 (20) "gas processing"

15 (A) means processing a gaseous mixture of hydrocarbons

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

20 (ii) for the purpose of extracting and recovering liquid
21 hydrocarbons;

22 (B) does not include gas treatment;

23 (21) "gas processing plant" means a facility that

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

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

28 (22) "gas treatment"

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

1 (B) includes incidentally removing liquid hydrocarbons from
2 the gas;

3 (C) does not include

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

6 (ii) the scrubbing of liquids from gas to facilitate gas
7 processing;

8 (23) "landowner's royalty interest" means

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

10 (B) a royalty interest that is

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

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

15 (24) "oil and gas lease" includes an oil and gas lease, a gas only lease,
16 and an oil only lease;

17 (25) "point of production" means

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

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

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

31 (ii) subjected to or recovered by mechanical separation

1 but not run through a gas processing plant, the first point where the gas
2 is accurately metered after completion of mechanical separation;

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

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

9 * **Sec. 34.** AS 43.55.011(a), 43.55.011(b), 43.55.011(c), 43.55.012, 43.55.013, 43.55.016,
10 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),
11 and 43.55.900(16) are repealed.

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

14 **APPLICABILITY.** (a) Sections 5, 7 - 10, 12, 13, 15 - 18, 20, 24, and 26 - 34 of this
15 Act and AS 43.55.160 and 43.55.170, enacted by sec. 25 of this Act, apply to oil and gas
16 produced after March 31, 2006.

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

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

21 **TRANSITIONAL PROVISIONS.** (a) Notwithstanding any contrary provision of
22 AS 43.55.024(a), enacted by sec. 12 of this Act, for oil and gas produced after March 31,
23 2006, and before January 1, 2007, the phrase "every month an annualized tax credit in an
24 amount equal to 1 2/3 percent" in AS 43.55.024(a)(1)(B), enacted by sec. 12 of this Act, shall
25 be replaced by the phrase "every month during the period April 1, 2006, through
26 December 31, 2006, an annualized tax credit in an amount equal to 2.222 percent."

27 (b) Notwithstanding any contrary provision of AS 43.55.024(e), enacted by sec. 12 of
28 this Act, for oil and gas produced after March 31, 2006, and before January 1, 2007, the
29 phrase "a calendar year" in AS 43.55.024(e), enacted by sec. 12 of this Act, shall be replaced
30 by the phrase "the last nine months of the calendar year."

31 (c) Notwithstanding any contrary provision of AS 43.55.024(j)(2), enacted by sec. 12

1 of this Act, for oil and gas produced after March 31, 2006, and before January 1, 2007,

2 (1) the number "1/120" in AS 43.55.024(j)(2)(B), enacted by sec. 12 of this
3 Act, shall be replaced by the number "1/90";

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

6 (d) Notwithstanding any contrary provision of AS 43.55.160(f), enacted by sec. 25 of
7 this Act, for oil and gas produced after March 31, 2006, and before January 1, 2007, the
8 phrase "for every month of a calendar year, 1/12 of the producer's adjusted lease expenditures
9 for the calendar year" in AS 43.55.160(f), enacted by sec. 25 of this Act, shall be replaced by
10 the phrase "for each of the last nine months of 2006, one-ninth of the producer's adjusted lease
11 expenditures for that nine-month period."

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

15 (f) Notwithstanding any contrary provision of AS 43.55.020(a), as repealed and
16 reenacted by sec. 7 of this Act, for oil and gas produced after March 31, 2006, and before the
17 first day of the first month that begins at least 270 days after the effective date of sec. 7 of this
18 Act,

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

23 (2) the amount, if any, of the taxes levied by AS 43.55.011(e) - (g), enacted by
24 sec. 5 of this Act, net of any credits applied as allowed by law, that exceeds the amount due
25 under (1) of this subsection, is due on the last day of the first month that begins after the last
26 payment under (1) of this subsection is due.

27 (g) Notwithstanding any contrary provision of AS 43.55.030(a), as amended by sec.
28 18 of this Act, for oil and gas produced after March 31, 2006, and before the first day of the
29 first month that begins at least 270 days after the effective date of sec. 18 of this Act, the
30 person paying the tax shall file with the Department of Revenue, at the time an amount of tax
31 is due

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

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

5 (h) Notwithstanding any contrary provision of AS 43.55.201(a) or (b), as amended by
6 sec. 26 of this Act, or AS 43.55.300(a) or (b), as amended by sec. 28 of this Act, for oil
7 produced after March 31, 2006, and before the first day of the first month that begins at least
8 270 days after the effective date of secs. 26 and 28 of this Act,

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

13 (2) the amount, if any, of the surcharges imposed under AS 43.55.201(a), as
14 amended by sec. 26 of this Act, and AS 43.55.300(a), as amended by sec. 28 of this Act, that
15 exceeds the amount due under (1) of this subsection, is due on the last day of the first month
16 that begins after the last payment under (1) of this subsection is due.

17 (i) Notwithstanding any contrary provision of AS 43.55.201(c), as amended by sec.
18 26 of this Act, or AS 43.55.300(c), as amended by sec. 28 of this Act, for oil produced after
19 March 31, 2006, and before the first day of the first month that begins at least 270 days after
20 the effective date of secs. 26 and 28 of this Act, at the time an amount of surcharge is due

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

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

27 (j) For purposes of taxes to be calculated and due under (f)(1) of this section and
28 statements to be filed under (g)(1) of this section, regulations that were adopted by the
29 Department of Revenue under AS 43.55, as the provisions of that chapter read on March 31,
30 2006, and that were in effect on that date apply to those taxes and statements.

31 * **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

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

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

10 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
11 heading of

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

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

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

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

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

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

23 RETROACTIVITY OF PROVISIONS OF ACT. Sections 5, 7 - 10, 12, 13, 15 - 18,
24 and 24 - 38 of this Act are retroactive to April 1, 2006.

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