

SENATE JOURNAL
ALASKA STATE LEGISLATURE
TWENTY-FOURTH LEGISLATURE
SECOND SPECIAL SESSION

Juneau, Alaska

Sunday

May 21, 2006

Twelfth Day

Pursuant to adjournment the Senate was called to order by President Stevens at 6:02 p.m.

The roll showed nineteen members present. Senator Guess was excused from a call of the Senate.

The prayer was offered by the Chaplain, Senator Olson. Senator Hoffman moved and asked unanimous consent that the prayer be spread. Without objection, it was so ordered.

Our Heavenly Father,

We thank You for this beautiful day that You have made for us during the springtime. As we look to the people's business may we not forget the wisdom that comes from You; may we exercise that in the workplace.

Lord, we pray for our families and the people that are so near and dear to us.

Thank You for Sunday and everything You provided for us. Bring safety and protection to those we love. Watch over us now as we continue Your work.

In Your name,

Amen.

Senator Bunde led the Senate in the Pledge of Allegiance.

Certification

Senator Gary Stevens moved and asked unanimous consent that the journal for the eleventh legislative day be approved as certified by the Assistant Secretary. Without objection, it was so ordered.

Standing Committee Reports

SB 2001

The Finance Committee considered SENATE BILL NO. 2001 "An Act relating to the production tax on oil and gas and to conservation surcharges on oil; relating to criminal penalties for violating conditions governing access to and use of confidential information relating to the production tax; providing that provisions of AS 43.55 do not apply to certain oil and gas subject to a contract executed under the Alaska Stranded Gas Development Act; amending the definition of 'gas' as that definition applies in the Alaska Stranded Gas Development Act; making conforming amendments; and providing for an effective date" and recommended it be replaced with

CS FOR SENATE BILL NO. 2001(FIN) "An Act relating to the production tax on oil and gas and to conservation surcharges on oil; relating to criminal penalties for violating conditions governing access to and use of confidential information relating to the production tax; amending the definition of 'gas' as that definition applies in the Alaska Stranded Gas Development Act; making conforming amendments; and providing for an effective date."

CS FOR SENATE BILL NO. 2001(FIN), comprised of work draft GS2094\G and Amendments 7 through 12 adopted in the Finance Committee, is as follows:

WORK DRAFT:

24-GS2094\G

CS FOR SENATE BILL NO. 2001(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE

SECOND SPECIAL SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

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

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) There is levied on the producer of oil or gas a tax for all oil and gas produced each month from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under (i) of this section, the tax is equal to 22.5 percent of the production tax value of the taxable oil and gas as calculated under AS 43.55.160.

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

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

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

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

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

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

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

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

(g) In addition to the taxes levied under (e) and (f) of this section, during each month for which the price index determined under (h) of this section is greater than zero, there is levied on the producer of oil or gas a tax for all oil and gas produced during that month from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under (i) of this section, the tax levied under this subsection is equal to .1 percent of the production tax value of the taxable oil and gas as calculated under AS 43.55.160, multiplied by the price index determined under (h) of this section.

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

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

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

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

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

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

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

(1) producing oil or gas leases;

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

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

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

(a) Ninety-five percent of the total tax levied by AS 43.55.011(e) - (g), net of any credits applied under this chapter, is due on the last day of each calendar month on oil and gas produced from each lease or property during the preceding month. The remaining portion of the tax levied by AS 43.55.011(e) - (g), net of any credits applied under this chapter, is due on March 31 of the year following the calendar year during which the oil and gas were produced. An unpaid amount of tax that is not paid when due in accordance with this subsection becomes delinquent. An overpayment of tax with respect to a month may be applied against the tax due for

any later month. Notwithstanding any contrary provision of AS 43.05.280, interest on an overpayment is allowed only from a date that is 90 days after the later of (1) the March 31 described in this subsection, or (2) the date that the statement required under AS 43.55.030(a) and (e) to be filed on or before that March 31 is filed. Interest is not allowed if the overpayment was refunded within the 90-day period.

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

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

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

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

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

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

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

(e) Gas flared, released, or allowed to escape in excess of the amount authorized by the Alaska Oil and Gas Conservation Commission is considered, for the purpose of AS 43.55.011 - 43.55.180, as gas produced from a lease or property. Oil or gas used in the operation of a lease or property in the state in drilling for or producing oil or gas, or

for repressuring, except to the extent determined by the Alaska Oil and Gas Conservation Commission to be waste, is not considered, for the purpose of AS 43.55.011 - 43.55.180, as oil or gas produced from a lease or property.

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

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

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

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

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

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

(B) for a calendar year for which the producer makes an election under AS 43.55.160(f), instead of taking a tax credit at a rate authorized by (A) of this paragraph as to each separate qualified capital expenditure after it has been incurred, a producer that incurs a qualified capital expenditure during that year and that wishes to apply a credit based on that expenditure against a tax due under AS 43.55.011(e) shall calculate and apply every month an annualized tax credit in an amount equal to $1 \frac{2}{3}$ percent of the total qualified capital

expenditures incurred during that year and for which the tax credit is taken for that year;

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

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

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

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

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

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

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

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

a transferee's total tax due under AS 43.55.011(e) on oil and gas produced during a calendar year to less than 80 percent of the tax that would otherwise be due without applying that credit. Any portion of a credit not used under this subsection may be applied in a later period.

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

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

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

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

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

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

(g) The issuance of a transferable tax credit certificate under (d) of this section does not limit the department's ability to later audit a tax credit claim to which the certificate relates or to adjust the claim if the department determines that the applicant was not entitled to the amount of the credit for which the certificate was issued. The tax liability

of the applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is increased by the amount of the credit that exceeds that to which the applicant was entitled, or the applicant's available valid outstanding credits applicable against the tax levied by AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is increased under this subsection, the increase bears interest under AS 43.05.225 from the date the transferable tax credit certificate was issued. For purposes of this subsection, an applicant that is an explorer is considered a producer subject to the tax levied by AS 43.55.011(e).

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

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

(j) For the purposes of this section,

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

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

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

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

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

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

(A) for any month that ends the later of

(i) April 30, 2013; or

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

(B) more than once; or

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

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

(k) As a condition of receiving a tax credit under this section, a producer or explorer that obtains the tax credit for or directly related to a pipeline, facility, or other asset that is

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

(l) In this section,

(1) "barrel of oil equivalent" means one barrel, in the case of oil, or 6,000 cubic feet, in the case of gas;

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

(A) incurred for geological or geophysical exploration; or

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

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

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

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

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

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

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

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

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

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

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

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

(2) if for an exploration well,

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

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

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

(3) may not be for testing, stimulation, or completion costs; administration, supervision, engineering, or lease operating costs; geological or management costs;

community relations or environmental costs; bonuses, taxes, or other payments to governments related to the well; or other costs that are generally recognized as indirect costs or financing costs; and

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

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

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

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

(2) an explorer shall agree, in writing,

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

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

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

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

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

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

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

(h) A producer that purchases a production tax credit certificate may apply the credits against its production tax liability under AS 43.55.011(e) [THIS CHAPTER].

Regardless of the price the producer paid for the certificate, the producer may receive a credit against its production tax liability for the full amount of the credit, but for not more than the amount for which the certificate is issued. A production tax credit allowed under this section may not be applied more than once.

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

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

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

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

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

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

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

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

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

(4) the gross [TOTAL] value at the point of production of the oil and of the [OR] gas produced from each [THE] lease or property owned by each producer for

whom the tax is paid; [AND]

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

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

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

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

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

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

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

Sec. 43.55.040. Powers of Department of Revenue.

Except as provided in AS 43.05.405 - 43.05.499, the department may

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

otherwise required to be held confidential under AS 40.25.100(a) or AS 43.05.230(a), the department shall

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

(B) impose appropriate conditions limiting

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

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

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

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

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

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

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

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

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

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

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

[SHALL BE] measured in terms of a "cubic foot of gas."

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

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

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

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

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

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

Sec. 43.55.160. Determination of production tax value of oil and gas. (a) Except as provided in (f) of this section, for purposes of AS 43.55.011(e) and (g), the production tax value of the taxable oil and gas produced during a month, other than gas produced from leases or properties in the Cook Inlet sedimentary basin, is (1) the total of (A) the gross value at the point of production of the oil taxable under AS 43.55.011(e) and (g) and produced by the producer from all leases or properties in the state, less three-quarters of the gross value at the point of production of the oil taxable under AS 43.55.011(e) and (g) and produced by the producer from leases or properties in the Cook Inlet sedimentary basin, and (B) two-thirds of the gross value at the point of production of the gas taxable under AS 43.55.011(e) and (g) and produced by the producer from all leases or properties in the state outside the Cook Inlet sedimentary basin, less one-sixth of the gross value at the point of production of the gas taxable under AS 43.55.011(e) and (g) and produced by the producer from all leases or properties in the state located south of 68 degrees 15 minutes North latitude outside the Cook Inlet sedimentary basin, (2) less the producer's lease expenditures for the month

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

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

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

(2) an explorer that has taken a tax credit under AS 43.55.024(b) or that has obtained a transferable tax credit certificate under AS 43.55.024(d) for the amount of a tax credit under AS 43.55.024(b) is considered a producer,

subject to the tax levied under AS 43.55.011(e), to the extent that the explorer generates a positive production tax value as the result of the explorer's receiving a payment or credit described in (e) of this section.

(c) For purposes of this section,

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

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

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

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

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

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

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

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

(5) "direct costs" include

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

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

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

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

- (1) depreciation, depletion, or amortization;
- (2) oil or gas royalty payments, production payments, lease profit shares, or other payments or distributions of a share of oil or gas production, profit, or revenue;
- (3) taxes based on or measured by net income;
- (4) interest or other financing charges or costs of raising equity or debt capital;
- (5) acquisition costs for a lease or property or exploration license;
- (6) costs arising from fraud, wilful misconduct, or gross negligence;
- (7) fines or penalties imposed by law;
- (8) costs of arbitration, litigation, or other dispute resolution activities that involve the state or concern the rights or obligations among owners of interests in, or rights to production from, one or more leases or properties or a unit;
- (9) donations;
- (10) costs incurred in organizing a partnership, joint venture, or other business entity or arrangement;
- (11) amounts paid to indemnify the state; the exclusion provided by this paragraph does not apply to the costs of obtaining insurance or a surety bond from a third-party insurer or surety;
- (12) surcharges levied under AS 43.55.201 or 43.55.300;
- (13) for a transaction that is an internal transfer or is otherwise not an arm's length transaction, expenditures incurred that are in excess of fair market value;

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

(15) a tax levied under AS 43.55.011;

(16) the portion of costs incurred for dismantlement, removal, surrender, or abandonment of a facility, pipeline, well pad, platform, or other structure, or for the restoration of a lease, field, unit, area, body of water, or right-of-way in conjunction with dismantlement, removal, surrender, or abandonment, that is attributable to production of oil or gas occurring before April 1, 2006; the portion is calculated as a ratio of the amount of oil and gas production associated with the facility, pipeline, well pad, platform, or other structure, lease, field, unit, area, body of water, or right-of-way occurring before April 1, 2006, to the total amount of oil and gas production associated with that facility, pipeline, well pad, platform, or other structure, lease, field, unit, area, body of water, or right-of-way through the end of the calendar month before commencement of the dismantlement, removal, surrender, or abandonment; for purposes of the ratio calculated under this paragraph, 6,000 cubic feet of gas is considered to be equivalent to one barrel of oil; a cost is not excluded under this paragraph if the dismantlement, removal, surrender, or abandonment for which the cost is incurred is undertaken for the purpose of replacing, renovating, or improving the facility, pipeline, well pad, platform, or other structure;

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

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

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

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

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

(3) the sale or other transfer of

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

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

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

(B) oil or gas

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

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

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

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

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

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

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

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

(j) For purposes of this section,

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

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

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

Sec. 43.55.170. Additional nontransferable tax credit.

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

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

(1) March 31, 2016; or

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

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

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

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

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

(1) study

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

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

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

(b) The Department of Revenue shall

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

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

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

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

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

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

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

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

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

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

the ownership or right to which is exempt from taxation.

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

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

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

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

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

Sec. 43.55.890. Relationship to Alaska Stranded Gas Development Act. During the period that a valid contract executed under AS 43.82, as amended, is in force, AS 43.55.011 - 43.55.310 do not apply to oil or gas for which a producer is obligated to make payments in lieu of taxes or oil surcharges. A payment in lieu of taxes includes delivery of gas to the state in lieu of taxes.

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

(6) "gas" means

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

(B) all hydrocarbons that

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

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

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

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

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

means

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

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

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

(10) "oil" means

(A) crude petroleum oil; and

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

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

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

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

(19) "gas processing"

(A) means processing a gaseous
mixture of hydrocarbons

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

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

(B) does not include gas treatment;

(20) "gas processing plant" means a facility

that

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

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

(21) "gas treatment"

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

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

(C) does not include

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

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

(22) "landowner's royalty interest" means

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

(B) a royalty interest that is

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

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

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

(24) "point of production" means

(A) for oil, the automatic custody transfer meter or device through which the oil enters into the facilities of a carrier pipeline or other transportation carrier in a condition of pipeline quality; in the absence of an automatic custody transfer meter or device, "point of production" means

the mechanism or device to measure the quantity of oil that has been approved by the department for that purpose, through which the oil is tendered and accepted in a condition of pipeline quality into the facilities of a carrier pipeline or other transportation carrier or into a field topping plant;

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

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

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

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

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

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

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

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

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

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

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

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

(c) Notwithstanding any contrary provision of AS 43.55.024(j)(2), enacted by sec. 12 of this Act, for oil and gas produced after March 31, 2006, and before January 1, 2007,

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

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

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

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

(f) Notwithstanding any contrary provision of AS 43.55.020(a), as repealed and reenacted by sec. 7 of this Act, for oil and gas produced after March 31, 2006, and before the first day of the first month that begins at least 10 months after the effective date of

sec. 7 of this Act,

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

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

(g) Notwithstanding any contrary provision of AS 43.55.030(a), as amended by sec. 18 of this Act, for oil and gas produced after March 31, 2006, and before the first day of the first month that begins at least 10 months after the effective date of sec. 18 of this Act, the person paying the tax shall file with the Department of Revenue, at the time an amount of tax is due

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

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

(h) Notwithstanding any contrary provision of AS 43.55.201(a) or (b), as amended by sec. 26 of this Act, or AS 43.55.300(a) or (b), as amended by sec. 28 of this Act, for oil produced after March 31, 2006, and before the first day of the first month that begins at least 10 months after the effective date of secs. 26 and 28 of this Act,

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

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

(i) Notwithstanding any contrary provision of AS 43.55.201(c), as amended by sec. 26 of this Act, or AS 43.55.300(c), as amended by sec. 28 of this Act, for oil produced after March 31, 2006, and before the first day of the first month that begins at least 10 months after the effective date of secs. 26 and 28 of this Act, at the time an amount of surcharge is due

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RETROACTIVITY OF PROVISIONS OF ACT. Sections 5, 7 - 10, 12, 13, 15 - 18, 24 - 29, and 31 - 39 of this Act are retroactive to April 1, 2006.

* **Sec. 41.** This Act takes effect immediately under AS 01.10.070(c).

Amendment No. 7

Page 29, lines 3 – 8:

Delete all lines referring to Section 30.

Amendment No. 8

Page 4, line 13, following "section.":

Insert "However, application of this subsection may not, when added to the tax levied under (e) of this section, impose a tax levy of more than 50 percent of the production tax value of taxable oil and gas as calculated under AS 43.55.160."

Page 4, line 17, following "divided by the", through line 19:

Delete all material

Insert "sum of (1) the number of barrels of that oil less three-quarters of the number of barrels of the taxable oil produced during that month from leases or properties in the Cook Inlet sedimentary basin, and (2) two-thirds of the number of barrels of oil equivalent of that gas, less (A) one-sixth of the number of barrels of oil equivalent of the taxable gas produced during that month from leases or properties in the state located south of 68 degrees 15 minutes North latitude outside the Cook Inlet sedimentary basin, and less (B) one-third of the number of barrels of oil equivalent of the taxable gas produced during that month from leases or properties in the Cook Inlet sedimentary basin. For

purposes of this subsection, a barrel of oil equivalent is the amount of gas that has an energy content of 6,000,000 British thermal units. The department by regulation shall establish sampling, testing, and averaging methods for determining the energy content of a producer's gas produced during a month."

Page 25, line 17, following "calendar year.":

Insert "An election made under this subsection applies to calculation of the tax under AS 43.55.011(e) and (g)."

Amendment No. 9

Page 4, line 4, following "equal to":

Delete "6.67 percent of the gross"

Insert "11.25 percent of the gross"

This amount may need to be adjusted due to the variation in the calculation of gas tax rates as stated in Section 25. 43.55.160. Determination of production tax value of oil and gas located on page 19. The variation in the value of gas can be 1/3, 2/3 or 1/2, thereby making the 6.67 percent (or 1/3 of 20 percent) incorrect. The percent that may be inserted where 6.67 is stated would be more accurate as 11.25 percent.

Amendment No. 10

Page 20, line 22:

Delete ", ordinary ,"

Insert "and ordinary"

Page 20, line 25:

Delete ", ordinary ,"

Insert "and ordinary"

Page 20, line 27:

Delete ", ordinary ,"

Insert "and ordinary"

Amendment No. 11

Page 34, lines 25 – 29:

Change paragraph as follows:

Delete all text in red.

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

(b)] Notwithstanding...

Title Amendment No. 12

Page 1, line 3, following "tax;" through line 5:

Delete "**providing that provisions of AS 43.55 do not apply to certain oil and gas subject to a contract executed under the Alaska Stranded Gas Development Act;**"

Signing do pass: Senators Green, Wilken, Cochairs; Senators Bunde, Dyson, Stedman. Signing no recommendation: Senator Hoffman. Signing amend: Senator Olson.

The following fiscal information was published today:

Fiscal Note No. 3, Office of the Governor

The following previously published fiscal information applies:

Fiscal Note No. 1, zero, Department of Natural Resources

The bill is on today's calendar.

Consideration of the Calendar

Second Reading of Senate Bills

SB 2001

SENATE BILL NO. 2001 "An Act relating to the production tax on oil and gas and to conservation surcharges on oil; relating to criminal penalties for violating conditions governing access to and use of confidential information relating to the production tax; providing that provisions of AS 43.55 do not apply to certain oil and gas subject to a contract executed under the Alaska Stranded Gas Development Act; amending the definition of 'gas' as that definition applies in the Alaska Stranded Gas Development Act; making conforming amendments; and providing for an effective date" was read the second time.

Senator Green, Cochair, moved and asked unanimous consent for the adoption of the Finance Committee Substitute (comprised of work draft GS2094\G and Amendments 7 through 12 adopted in the Finance Committee) offered on page 3436. Without objection, CS FOR SENATE BILL NO. 2001(FIN) "An Act relating to the production tax on oil and gas and to conservation surcharges on oil; relating to criminal penalties for violating conditions governing access to and use of confidential information relating to the production tax; amending the definition of 'gas' as that definition applies in the Alaska Stranded Gas Development Act; making conforming amendments; and providing for an effective date" was adopted.

President Stevens stated CS FOR SENATE BILL NO. 2001(FIN) will be on the May 22 calendar.

Unfinished Business

Senator Hoffman moved and asked unanimous consent to be excused from a call of the Senate on May 31 and June 1. Without objection, Senator Hoffman was excused.

Announcements

Announcements are at the end of the journal.

Adjournment

Senator Gary Stevens moved and asked unanimous consent that the Senate stand in adjournment until 1:00 p.m., May 22, 2006. Without objection, the Senate adjourned at 6:10 p.m.

Liz Clark
Assistant Senate Secretary

May 2006

Announcements

Americans with Disabilities Act Notice - Persons with disabilities who require special accommodation or alternative communication formats to access committee meetings may contact the appropriate committee office or the Legislative Information Office in their community. Reasonable advance notice is needed to accommodate the request. For further information, call the ADA Coordinator at 465-3854 Voice/465-4980 TDD.

STANDING COMMITTEES

+ indicates teleconference

= indicates bill previously heard/scheduled

FINANCE

May 21	Sunday	Senate Finance 532	1:00 PM
+ =	SB2001	OIL AND GAS TAX	
		-- Testimony <Invitation Only> --	
May 22	Monday	Senate Finance 532	2:00 PM
		-- Meeting Canceled --	
		-- Time Change --	
+ =	SB2001	OIL AND GAS TAX	
		-- Testimony <Invitation Only> --	

JOINT COMMITTEES**LEGISLATIVE BUDGET & AUDIT**

May 21	Sunday	Butrovich 205	6:00 PM
		Consultant Availability:	
		6:00 - 7:00 Consultants Introduction	
		a. James Barnes	
		b. Don Shepler	
		c. Rick Harper	
		d. James Eason	
		7:00 - 9:00 Questions and Answers	

LEGISLATIVE COUNCIL

May 22	Monday	House Finance 519	3:30 PM
		-- Agenda to be Announced --	

OTHER MEETINGS**MISCELLANEOUS MEETINGS**

May 21	Sunday	Centennial Hall	9:00 AM
	-- Meeting Canceled -- Presentation on Proposed Gas Pipeline Contract		
May 21	Sunday	Centennial Hall	1:30 PM
	-- Meeting Canceled -- Presentation on Proposed Gas Pipeline Contract		
May 22	Monday	Centennial Hall	9:00 AM
	Presentation on Proposed Gas Pipeline Contract		
May 23	Tuesday	Centennial Hall	9:00 AM
	Presentation on Proposed Gas Pipeline Contract		
May 23	Tuesday	Centennial Hall	1:30 PM
	Presentation on Proposed Gas Pipeline Contract		