

AMENDMENT # 2 A

OFFERED IN THE SENATE

BY SENATOR FRENCH, *Clinton*

TO: SCS CSHB 2001(FIN)

1 Page 39, line 27, through page 41, line 10:

2 Delete all material and insert:

3 **"* Sec. 53.** AS 43.55.165(a) is repealed and reenacted to read:

4 (a) Except as provided in (k) and (l) of this section, for purposes of this
5 chapter, a producer's lease expenditures for a calendar year are

6 (1) costs, other than items listed in (e) of this section, that are

7 (A) incurred in the state by the producer during the calendar
8 year after March 31, 2006, to explore for, develop, or produce oil or gas
9 deposits located within the producer's leases or properties in the state or, in the
10 case of land in which the producer does not own an operating right, operating
11 interest, or working interest, to explore for oil or gas deposits within other land
12 in the state; and

13 (B) allowed by the department by regulation, based on the
14 department's determination that the costs satisfy the following three
15 requirements:

16 (i) the costs must be incurred upstream of the point of
17 production of oil and gas;

18 (ii) the costs must be ordinary and necessary costs of
19 exploring for, developing, or producing, as applicable, oil or gas
20 deposits; and

21 (iii) the costs must be direct costs of exploring for,
22 developing, or producing, as applicable, oil or gas deposits; and

23 (2) a reasonable allowance for that calendar year, as determined under

1 regulations adopted by the department, for overhead expenses that are directly related
2 to exploring for, developing, or producing, as applicable, the oil or gas deposits.

3 * Sec. 54. AS 43.55.165(b) is amended to read:

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

5 (1) direct costs include

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

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

12 [(C) A REASONABLE ALLOWANCE, AS DETERMINED
13 UNDER REGULATIONS ADOPTED BY THE DEPARTMENT, FOR
14 OVERHEAD EXPENSES DIRECTLY RELATED TO EXPLORING FOR,
15 DEVELOPING, AND PRODUCING OIL OR GAS DEPOSITS LOCATED
16 WITHIN LEASES OR PROPERTIES OR OTHER LAND IN THE STATE;]

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

21 (3) in determining whether costs are lease expenditures, the
22 department may consider, among other factors, the

23 (A) typical industry practices and standards in the state
24 that determine the costs, other than items listed in (e) of this section, that
25 an operator is allowed to bill a producer that is not the operator, under
26 unit operating agreements or similar operating agreements that were in
27 effect before December 2, 2005, and were subject to negotiation with at
28 least one producer with substantial bargaining power, other than the
29 operator; and

30 (B) standards adopted by the Department of Natural
31 Resources that determine the costs, other than items listed in (e) of this

1 section, that a lessee is allowed to deduct from revenue in calculating net
 2 profits under a lease issued under AS 38.05.180(f)(3)(B), (D), or (E)."
 3

4 Page 41, lines 23 - 26:

5 Delete all material and insert:

6 "(6) costs arising from fraud, wilful misconduct, [OR] gross
 7 negligence, violation of law, or failure to comply with an obligation under a lease,
 8 permit, or license issued by the state or federal government;"
 9

10 Page 42, lines 6 - 7:

11 Delete all material and insert:

12 "(12) an expenditure otherwise deductible under (b) of this section
 13 that is a result of [FOR A TRANSACTION THAT IS] an internal transfer, a
 14 transaction with an affiliate, or a transaction between related parties, or is
 15 otherwise not an arm's length transaction, unless the producer establishes to the
 16 satisfaction of the department that the amount of the expenditure does not exceed
 17 the [EXPENDITURES INCURRED THAT ARE IN EXCESS OF] fair market value
 18 of the expenditure;"
 19

20 Page 45, lines 7 - 8:

21 Delete "(a) Unless the payment or credit has already been subtracted in calculating
 22 billable or billed costs under AS 43.55.165(c) [OR (d)], a"

23 Insert "(a) A [UNLESS THE PAYMENT OR CREDIT HAS ALREADY BEEN
 24 SUBTRACTED IN CALCULATING BILLABLE OR BILLED COSTS UNDER
 25 AS 43.55.165(c) OR (d), A]"
 26

27 Page 47, line 23, following "43.55.160(c),":

28 Insert "43.55.165(c),"