HOUSE BILL NO. 89

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES GARA, CRAWFORD, AND GUTTENBERG, Buch

Introduced: 1/16/07
Referred: House Special Committee on Oil and Gas, Resources, Finance

A BILL

FOR AN ACT ENTITLED

"An Act providing for the use of petroleum production and other facilities by additional entities; amending the powers of the Alaska Oil and Gas Conservation Commission; relating to oil and gas properties production taxes and credits; providing for production tax adjustments to increase the amount of tax at high oil prices, reduce the amount of tax at low oil prices, and reduce the amount of tax on the production of heavy oil; relating to the determination of the gross value of oil and gas at the point of production; 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 FINDINGS AND INTENT. The legislature finds that

(1) the current tax on the production of oil and gas was enacted after significant hearings on the taxation of oil production, during which the tax on natural gas

production and appropriate rates for tax credits were discussed only briefly;

(2) the hearings that preceded the enactment of the current tax on oil and gas production did not adequately address the optimal tax and credits applicable to the production of natural gas; and

(3) detailed expert analysis and additional legislative hearings are needed for the legislature to determine an appropriate production tax on natural gas; an appropriate production tax on natural gas should

(A) facilitate the construction of a natural gas pipeline from the North Slope to market;

(B) maximize the long-term revenue from natural gas to the people of the state; and

(C) encourage continued and new production of natural gas.

*** Sec. 2.** AS 31.05.030(d) is amended to read:

(d) The commission may require

(1) identification of ownership of wells, producing leases, tanks, plants**,** and drilling structures;

(2) the making and filing of reports, well logs, drilling logs, electric logs, lithologic logs, directional surveys, and all other subsurface information on a well drilled for oil or gas, or for the discovery of oil or gas, or for geologic information, and the required reports and information shall be filed within 30 days after the completion, abandonment, or suspension of the well;

(3) the drilling, casing**,** and plugging of wells in a manner that will prevent the escape of oil or gas out of one stratum into another, the intrusion of water into an oil or gas stratum, the pollution of fresh water supplies by oil, gas**,** or salt water, and prevent blowouts, cavings, seepages and fires;

(4) the furnishing of a reasonable bond with sufficient surety conditions for the performance of the duty to plug each dry or abandoned well or the repair of wells causing waste;

(5) the operation of wells with efficient gas-oil and water-oil ratios, and may fix these ratios;

(6) the gauging or other measuring of oil and gas to determine the

quality and quantity of oil and gas;

(7) every person who produces oil or gas in the state to keep and maintain for a period of five years in the state complete and accurate records of the quantities of oil and gas produced, which shall be available for examination by the Department of Natural Resources or its agents at all reasonable times;

(8) the measuring and monitoring of oil and gas pool pressures;

(9) the filing and approval of a plan of development and operation for a field or pool in order to prevent waste, **ensure** [INSURE] a greater ultimate recovery of oil and gas, and protect the correlative rights of persons owning interests in the tracts of land affected**;**

(10) working interest owners to provide, at cost plus a reasonable rate of return determined under regulations adopted by the commission and without causing substantial injury to the owner, access by or for the benefit of other producers to production and other facilities whenever necessary; for purposes of this paragraph, the commission's regulations must be consistent with the standards of the Regulatory Commission of Alaska adopted to implement AS 42.05.311(a); the commission may act under this paragraph

(A) to

(i) maximize the economic and physical recovery of the state's oil and gas resources;

(ii) maximize competition among explorers and producers seeking to explore and develop the state's oil and gas resources;

(iii) minimize the adverse effects of exploration, development, production, and transportation activity; or

(iv) otherwise protect the best interest of the state;

(B) only if the commission finds that directing the working interest owner to provide access by or for the benefit of other producers would not materially interfere with the owner's paramount use of the facility; and

(C) only if the commission finds that the facility has excess

capacity or that it is feasible to expand the facility with the expansion costs and any additional operating costs to be borne by the other producers that use the added capacity in proportion to the amount of use by each producer.

*** Sec. 3.** AS 43.55 is amended by adding a new section to article 1 to read:

Sec. 43.55.001. Oil production tax. (a) There is levied on the producer of oil a tax for all oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax is equal to the product of the tax rate determined under (b) of this section multiplied by the taxable gross value at the point of production of taxable oil produced from the lease or property.

(b) The tax rate equals 15 percent, except that, if the average price a barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is

(1) more than $35 a barrel, the tax rate is equal to the lesser of

(A) 40 percent; or

(B) 15 percent plus the product of 0.35 percent multiplied by the difference between the average price a barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due and $35; and

(2) less than $20 a barrel, the tax rate is equal to 15 percent minus the product of 0.35 percent multiplied by the difference between $20 and the average price a barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due.

(c) For purposes of (a) of this section, the taxable gross value at the point of production determined under AS 43.55.150 is adjusted for

(1) an operating unit producing less than 75,000 barrels a day, by subtracting the gross value at the point of production of 7,500 barrels for each day on which oil is produced from the operating unit from the gross value at the point of production for that operating unit of oil that is not exempt from taxation, except that the taxable gross value at the point of production may not be less than zero; each lessee receiving the benefit of the reduction in gross value at the point of production

under this paragraph shall claim the reduction benefit in proportion to the interest of each lessee in the oil produced from the operating unit; the reduction in this paragraph does not apply if the commissioner of natural resources determines that it is economically feasible for the unit to produce 75,000 barrels or more a day and that the volume of production is reduced for the purpose of qualifying for the reduction in this paragraph; and

(2) oil with an API gravity equal to or less than 20 degrees, by multiplying the gross value at the point of production, including any reduction under (1) of this subsection, by 50 percent.

*** Sec. 4.** AS 43.55.011(e) is amended 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 (j) [AND (k)] of this section, the tax is equal to the greater of 22.5 percent of the production tax value of the taxable [OIL AND] gas as calculated under AS 43.55.160, or the minimum tax determined under (f) of this section.

*** Sec. 5.** AS 43.55.011(f) is amended to read:

(f) The levy of tax under this section on a producer of [OIL AND] gas produced north of 68 degrees North latitude may not be less than

(1) four percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is more than $25;

(2) three percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is over $20 but not over $25;

(3) two percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is over $17.50 but not over $20;

(4) one percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is over $15 but not over $17.50; or

(5) zero percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is $15 or less.

*** Sec. 6.** AS 43.55.011(g) is amended to read:

(g) In addition to the tax levied under (e) of this section, for each calendar year that includes one or more months 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 that calendar year 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 (j) [AND (k)] of this section, the tax levied under this subsection is equal to the sum, over all months in the calendar year, of the amounts calculated for each month as follows: .25 percent of the monthly 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. However, the amount calculated under this subsection for any month may not exceed 25 percent of the monthly production tax value of the taxable [OIL AND] gas as calculated under AS 43.55.160.

*** Sec. 7.** AS 43.55.011(h) is amended to read:

(h) For purposes of (g) of this section, the price index for a month is calculated by subtracting 40 from the number that is equal to the quotient of the total monthly production tax value of the taxable [OIL AND] gas produced by the producer during that month, as calculated under AS 43.55.160, divided by the total amount of the taxable [OIL AND] gas produced by the producer during that month, in BTU equivalent barrels. However, a price index may not be less than zero.

*** Sec. 8.** AS 43.55.011(i) is amended to read:

(i) There is levied on the producer of [OIL OR] gas a tax for all [OIL AND] gas produced each calendar year 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 TAX LEVIED FOR OIL IS EQUAL TO FIVE PERCENT OF THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE OIL;

(2)] the tax levied [FOR GAS] is equal to 1.667 percent of the gross value at the point of production of the gas;

<u>(2)</u> [(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, then, notwithstanding (1) [AND (2)] of this subsection, the tax is equal to 25 percent of the gross value at the point of production of the [OIL AND] gas.

*** Sec. 9.** AS 43.55.011(*l*) is amended to read:

(*l*) When a limitation under (j) [OR (k)] of this section on the tax levied by (e) and (g) of this section has the effect of reducing the producer's tax on [OIL OR] gas produced from a lease or property below the amount of tax that would be levied in the absence of that limitation, the amount of the reduction is applied first against the tax levied by (g) of this section. However, that tax may not be reduced below zero.

*** Sec. 10.** AS 43.55.011(m) is amended to read:

(m) Notwithstanding any contrary provision of AS 38.05.180(i), AS 41.09.010, AS 43.20.043, AS 43.55.024, or 43.55.025, tax credits under AS 38.05.180(i), AS 41.09.010, AS 43.20.043, AS 43.55.024, and 43.55.025 that are allocated to gas produced from leases or properties in the Cook Inlet sedimentary basin and that are available to be applied against a tax levied by (e) of this section on gas produced from leases or properties in the Cook Inlet sedimentary basin during a calendar year may be applied only against the tax levied by (e) of this section on that gas. The amount by which the amount of tax credits that are allocated to gas produced from leases or properties in the Cook Inlet sedimentary basin and that the producer would otherwise be allowed to use for a later calendar year or transfer to another person exceeds the amount of tax credits whose application would reduce the tax levied by (e) of this section on that gas to zero, if any, is considered the amount of excess tax credits, and the excess tax credits are subject to the following:

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

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

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

(4) any amount of excess tax credits remaining after reduction under (3) of this subsection may be used for a later calendar year, transferred to another person, or applied against a tax levied on [OIL OR] gas produced from a lease or property located anywhere in the state to the extent otherwise allowed under applicable law governing the tax credits.

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

(a) For a calendar year, a producer subject to tax under **<u>AS 43.55.001 or 43.55.011(e), (f), (g), or (i)</u>** [AS 43.55.011(e), (f), (g), OR (i)], and notwithstanding that a producer may be liable for the tax under AS 43.55.011(f) rather than the tax under AS 43.55.011(e), shall pay the tax as follows:

(1) an installment payment of the estimated tax levied by **<u>AS 43.55.001 or 43.55.011(e) or (f)</u>** [AS 43.55.011(e) OR (f)], net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; the amount of the installment payment is the sum of the amounts calculated under (2) and (3) of this subsection, but not less than zero;

(2) the first of the two amounts used to calculate the installment payment for a month under (1) of this subsection is equal to the remainder obtained by subtracting

(A) 1/12 of the tax credits that are allowed by law to be applied against the tax levied by AS 43.55.011(e) for the calendar year; from

(B) **<u>the sum of</u>**

__(i) the taxable gross value at the point of production of oil produced from leases or properties in the state determined under AS 43.55.001(c) during the month, multiplied by the tax rate determined under AS 43.55.001(b); and__

__(ii)__ the total of the monthly production values calculated in the manner provided in AS 43.55.160(a)(2) of [ALL OIL AND] gas taxable under AS 43.55.011(e) and produced by the producer from leases or properties in the state during the month, multiplied by 22.5 percent;

(3) the second of the two amounts used to calculate the installment payment for a month under (1) of this subsection is the amount calculated for the month under AS 43.55.011(g);

(4) an installment payment of the estimated tax levied by AS 43.55.011(i) for each lease or property is due for each month of the calendar year on the last day of the following month; the amount of the installment payment is [THE SUM OF

(A) THE APPLICABLE PERCENTAGE RATE FOR OIL PROVIDED UNDER AS 43.55.011(i), MULTIPLIED BY THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE OIL TAXABLE UNDER AS 43.55.011(i) AND PRODUCED FROM THE LEASE OR PROPERTY DURING THE MONTH; PLUS

(B)] the applicable percentage rate for gas provided under AS 43.55.011(i), multiplied times the gross value at the point of production of the gas taxable under AS 43.55.011(i) and produced from the lease or property during the month;

(5) any amount of tax levied by **__AS 43.55.001 and 43.55.011(e) - (g) and (i)__** [AS 43.55.011(e) - (g) AND (i)], net of any credits applied as allowed by law, that exceeds the total of the amounts due as installment payments of estimated tax is due on March 31 of the year following the calendar year of production.

*** Sec. 12.** AS 43.55.020(b) is amended to read:

(b) The production tax on oil **__or__** [AND] gas shall be paid to the department by or on behalf of the producer.

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

(d) In making settlement with the royalty owner, the producer may deduct the amount of the tax paid on taxable royalty oil 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. If the total deductions of installment payments of estimated tax for a calendar year exceed the actual tax for that calendar year, the producer shall, before April 1 of the following year, refund the excess to the royalty owner. Unless otherwise agreed between the producer and the royalty owner, the amount of the tax paid under

(1) AS 43.55.001 on taxable royalty oil for a calendar year, other than oil 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 produced during the calendar year multiplied by a figure that is a quotient, in which

(A) the numerator is the producer's total tax liability under AS 43.55.001 for the calendar year of production; and

(B) the denominator is the total gross value at the point of production of the oil taxable under AS 43.55.001 produced by the producer from all leases and properties in the state during the calendar year; and

(2) AS 43.55.011(e) - (g) on taxable royalty gas for a calendar year, other than 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 gas produced during the calendar year multiplied by a figure that is a quotient, in which

(A) the numerator is the producer's total tax liability under AS 43.55.011(e) - (g) for the calendar year of production; and

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

*** Sec. 14.** AS 43.55.020(e) is amended 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 **<u>AS 43.55.001 - 43.55.180</u>** [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 **<u>AS 43.55.001 - 43.55.180</u>** [AS 43.55.011 - 43.55.180], as oil or gas produced from a lease or property.

*** Sec. 15.** AS 43.55.023(a) is amended to read:

(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 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;

(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 calendar year 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, before the later of 30 days after completion of the geological or geophysical data processing or completion of the well, or 30 days after the statement is filed, 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.

*** Sec. 16.** AS 43.55.023(e) is amended to read:

(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.

*** Sec. 17.** AS 43.55.023(f) is amended to read:

(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 BTU equivalent barrels 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) 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);

(2) that the amount of the refund would not exceed the total of qualified capital expenditures and successful bids described in (1) of this subsection that have not been the subject of a finding made under this paragraph for purposes of a previous refund;

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

(4) 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.

*** Sec. 18.** AS 43.55.023(h) is amended to read:

(h) Regulations adopted to implement this section must include provisions prescribing reporting, record keeping, **<u>the apportionment of capital expenditures that are related to both oil and gas between qualified capital expenditures and capital expenditures that are not qualified capital expenditures,</u>** and certification procedures and requirements to verify the accuracy of credits claimed and to ensure that a credit is not used more than once.

*** Sec. 19.** AS 43.55.023(i) is amended to read:

(i) 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 after March 31, 2001, and before April 1, 2006, that would be qualified capital expenditures if they were incurred after March 31, 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 after March 31, 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 1/10 of the producer's or explorer's qualified capital expenditures that are incurred during the calendar year for which the credit is taken;

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

(A) for any calendar year after the later of

(i) 2013; or

(ii) the sixth calendar year after the calendar year 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.

*** Sec. 20.** AS 43.55.024(a) is amended to read:

(a) For a calendar year for which a producer's tax liability under AS 43.55.011(e) or (f) on [OIL AND] gas produced from leases or properties outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, exceeds zero before application of any credits under this chapter, a producer that is qualified under (e) of this section may apply a tax credit against that liability of not more than $6,000,000.

*** Sec. 21.** AS 43.55.024(b) is amended to read:

(b) A producer may not take a tax credit under (a) of this section for any calendar year after the later of

(1) 2016; or

(2) the ninth calendar year after the calendar year during which the producer first has commercial [OIL OR] gas production before May 1, 2016, from at least one lease or property in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, if the producer did not have commercial [OIL OR] gas production from a lease or property in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, before April 1, 2006.

*** Sec. 22.** AS 43.55.024(c) is amended to read:

(c) For a calendar year for which a producer's tax liability under AS 43.55.011(e) or (f) exceeds zero before application of any credits under this chapter, other than a credit under (a) of this section but after application of any credit under (a) of this section, a producer that is qualified under (e) of this section and whose average amount of [OIL AND] gas produced a day and taxable under AS 43.55.011(e) or (f) is less than 100,000 BTU equivalent barrels a day may apply a tax credit under this subsection against that liability. A producer whose average amount of [OIL AND] gas produced a day and taxable under AS 43.55.011(e) or (f) is

(1) not more than 50,000 BTU equivalent barrels may apply a tax credit of not more than $12,000,000 for the calendar year;

(2) more than 50,000 and less than 100,000 BTU equivalent barrels may apply a tax credit of not more than $12,000,000 multiplied by the following fraction for the calendar year:

1 - [2 X (AP - 50,000)] / 100,000

where AP = the average amount of [OIL AND] gas taxable under AS 43.55.011(e) or (f), produced a day during the calendar year in BTU equivalent barrels.

*** Sec. 23.** AS 43.55.024(d) is amended to read:

(d) A producer may not take a tax credit under (c) of this section for any calendar year after the later of

(1) 2016; or

(2) if the producer did not have commercial [OIL OR] gas production from a lease or property in the state before April 1, 2006, the ninth calendar year after the calendar year during which the producer first has commercial [OIL OR] gas production before May 1, 2016, from at least one lease or property in the state.

*** Sec. 24.** AS 43.55.024(f) is amended to read:

(f) A tax credit authorized by (a) of this section may not be applied to reduce a producer's tax liability for any calendar year under AS 43.55.011(e) on [OIL AND] gas produced from leases or properties outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, below zero.

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

(b) To qualify for the production tax credit under (a) of this section, **<u>a gas</u>**

[AN] exploration expenditure must be incurred for work performed on or after July 1, 2003, and before July 1, 2016, except that **a gas** [AN] exploration expenditure for a Cook Inlet prospect must be incurred for work performed on or after July 1, 2005, 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 **a** [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. 26.** 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 calendar year may not exceed the total production tax liability under AS 43.55.011(e) or (f) of the taxpayer applying the credit for the same calendar year; and

(2) an amount of the production tax credit that is greater than the total tax liability under AS 43.55.011(e) or (f) of the taxpayer applying the credit for a

calendar year may be carried forward and applied against the taxpayer's production tax liability under AS 43.55.011(e) or (f) in one or more immediately following calendar years**; and**

(3) a natural gas exploration expenditure that qualifies for a tax credit under this section may not qualify for a tax credit under AS 43.55.026.

*** Sec. 27.** AS 43.55 is amended by adding a new section to read:

Sec. 43.55.026. Tax credit for oil exploration. (a) Subject to the terms and conditions of this section, a credit against the production tax due under AS 43.55.001 is allowed for exploration expenditures that qualify under (b) of this section in an amount equal to the sum of 25 percent of the actual expenditures directly related to the drilling of an oil development well, excluding expenditures related to corporate overhead or for oil facilities other than the oil development well, and one of the following:

(1) 30 percent of the total exploration expenditures that qualify only under (b) and (c) of this section;

(2) 30 percent of the total exploration expenditures for work performed before July 1, 2016, and that qualify only under (b) and (d) of this section;

(3) 50 percent of the total exploration expenditures that qualify under (b), (c), and (d) of this section; or

(4) 50 percent of the total exploration expenditures that qualify only under (b) and (e) of this section.

(b) To qualify for the production tax credit under (a) of this section, an oil exploration expenditure must be incurred for work performed after May 31, 2007, and before July 1, 2016, 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 an oil 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.

(c) To be eligible for the 30 percent production tax credit authorized by (a)(1) of this section or the 50 percent production tax credit authorized by (a)(3) of this section, exploration expenditures must

(1) qualify under (b) of this section; and

(2) be for an exploration well, subject to the following:

(A) for an exploration well other than a well that is described in (B) of this paragraph, the well must be located and drilled in such a manner that the bottom hole is located not less than three miles away from the bottom hole of a preexisting suspended, completed, or abandoned oil or gas well; in this subparagraph, "preexisting" means a well that was spudded more than 150 days but less than 35 years before the exploration well was spudded;

(B) for an exploration well that explores a Cook Inlet prospect, the well must be located at least three miles from any other well drilled for oil and gas with all distances measured as the horizontal distance between exploration targets, except that the exploration well that is located within three miles of a well drilled for oil and gas qualifies for the tax credit authorized by this subsection if the exploration well tests potential hydrocarbon traps that the commissioner of natural resources determines, after analyzing evidence submitted by the explorer and from other information that the commissioner of natural resources determines relevant, constitute a distinctly separate exploration target.

(d) To be eligible for the 30 percent production tax credit authorized by (a)(2) of this section or the 50 percent production tax credit authorized by (a)(3) of this section, an exploration expenditure must

(1) qualify under (b) of this section; and

(2) be for an exploration well that is located not less than 25 miles outside of the outer boundary, as delineated on July 1, 2003, of any unit that is under a plan of development, except that for an exploration well for a Cook Inlet prospect to qualify under this paragraph, the exploration well must be located not less than 10 miles outside the outer boundary, as delineated on July 1, 2003, of any unit that is under a plan of development.

(e) To be eligible for the 50 percent production tax credit authorized by (a)(4) of this section, the exploration expenditure must

(1) qualify under (b) of this section;

(2) be for seismic exploration; and

(3) have been conducted outside the boundaries of a production unit or an exploration unit; however, the amount of the expenditure that is otherwise eligible under this subsection is reduced proportionately by the portion of the seismic exploration activity that crossed into a production unit or an exploration unit.

(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 43.55.001.

(g) An explorer may transfer, convey, or sell its production tax credit certificate to any person, and any person who receives a production tax credit certificate may also transfer, convey, or sell the certificate.

(h) A producer that purchases a production tax credit certificate may apply the credits against its production tax liability under AS 43.55.001. 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.

(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 calendar year may not exceed the total production tax liability under AS 43.55.001 of the taxpayer applying the credit for the same calendar year; and

(2) an amount of the production tax credit that is greater than the total tax liability under AS 43.55.001 of the taxpayer applying the credit for a calendar year may be carried forward and applied against the taxpayer's production tax liability under AS 43.55.001 in one or more immediately following calendar years; and

(3) an oil exploration expenditure that qualifies for a tax credit under this section may not qualify for a tax credit under AS 43.55.025.

(j) Notwithstanding any other provision of this title, of AS 31.05, or of AS 40.25.100, the department shall provide to the Department of Natural Resources information submitted with a claim under this section to support the eligibility of an exploration expenditure, including seismic exploration data and well data, and any information described in (f)(2) of this section received by the department.

(k) In this section, "Cook Inlet prospect" means a location within the Cook Inlet sedimentary basin, as that term is defined by regulation adopted to implement AS 38.05.180(f)(4).

*** Sec. 28.** AS 43.55.030(a) is amended to read:

(a) The person paying the tax shall file with the department on March 31 of the year following the calendar year for which the tax was levied a statement, under oath, in a form prescribed by the department, giving, with other information required, the following:

(1) a description of each lease or property from which the oil **or** [AND] gas **was** [WERE] produced, by name, legal description, lease number, or accounting codes 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 gas produced from each lease or property, and the percentage of the gross amount of oil and **the gross amount of** gas owned by each producer for whom the tax is paid;

(4) the gross value at the point of production of the oil and **the gross value at the point of production** of the gas produced from each lease or property owned by each producer for whom the tax is paid;

(5) the name of the first purchaser and the price received for the oil and for the 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 - 43.55.170.

* **Sec. 29.** 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 department shall deposit in the general fund the money collected by it under **AS 43.55.001 - 43.55.180** [AS 43.55.011 - 43.55.180].

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

Sec. 43.55.135. Measurement. For the purposes of **AS 43.55.001 - 43.55.180** [AS 43.55.011 - 43.55.180], except as otherwise provided, oil is measured in terms of a "barrel of oil" and gas is measured in terms of a "cubic foot of gas."

* **Sec. 31.** AS 43.55.150(a) is amended to read:

(a) For the purposes of **AS 43.55.001 - 43.55.180** [AS 43.55.011 - 43.55.180], the gross value at the point of production is calculated using the reasonable costs of transportation of the oil or gas. The reasonable costs of transportation are the actual costs, except when the

(1) parties to the transportation of oil or gas are affiliated;

(2) 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; **or** [AND]

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

*** Sec. 32.** AS 43.55.150(b) is amended to read:

(b) If the department finds that the conditions in (a)(1), (2), **<u>or</u>** [AND] (3) of this section are present, the department shall determine the reasonable costs of transportation, using the fair market value of like transportation, the fair market value of equally efficient and available alternative modes of transportation, or other reasonable methods. Transportation costs fixed by tariff rates properly on file with the Regulatory Commission of Alaska or other regulatory agency shall be considered prima facie reasonable.

*** Sec. 33.** AS 43.55.160(a) is amended to read:

(a) Except as provided in (b) of this section, for the purposes of

(1) AS 43.55.011(e), the annual production tax value of the taxable **<u>gas produced during a calendar year</u>**

(A) [OIL AND GAS PRODUCED DURING A CALENDAR YEAR] from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of the [OIL AND] gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the [OIL AND] gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170;

(B) [OIL AND GAS PRODUCED DURING A CALENDAR YEAR] from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the [OIL AND] gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the [OIL AND] gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170;

(C) [OIL PRODUCED DURING A CALENDAR YEAR FROM A LEASE OR PROPERTY IN THE COOK INLET SEDIMENTARY BASIN IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF

THE OIL TAXABLE UNDER AS 43.55.011(e) AND PRODUCED BY THE PRODUCER FROM THAT LEASE OR PROPERTY, LESS THE PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE CALENDAR YEAR APPLICABLE TO THE OIL PRODUCED BY THE PRODUCER FROM THAT LEASE OR PROPERTY, AS ADJUSTED UNDER AS 43.55.170;

(D) GAS PRODUCED DURING A CALENDAR YEAR] from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(2) AS 43.55.011(g), the monthly production tax value of the taxable **<u>gas produced during a month</u>**

(A) [OIL AND GAS PRODUCED DURING A MONTH] from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of the [OIL AND] gas taxable under AS 43.55.011(g) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the [OIL AND] gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170;

(B) [OIL AND GAS PRODUCED DURING A MONTH] from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the [OIL AND] gas taxable under AS 43.55.011(g) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the [OIL AND] gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170;

(C) [OIL PRODUCED DURING A MONTH FROM A LEASE OR PROPERTY IN THE COOK INLET SEDIMENTARY BASIN IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE OIL TAXABLE UNDER AS 43.55.011(g) AND PRODUCED BY THE PRODUCER FROM THAT LEASE OR PROPERTY, LESS 1/12 OF THE PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE CALENDAR YEAR APPLICABLE TO THE OIL PRODUCED BY THE PRODUCER FROM THAT LEASE OR PROPERTY, AS ADJUSTED UNDER AS 43.55.170;

(D) GAS PRODUCED DURING A MONTH] from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(g) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170.

*** Sec. 34.** AS 43.55.160(c) is amended to read:

(c) Notwithstanding any contrary provision of AS 43.55.150, for purposes of calculating a monthly production tax value under (a)(2) of this section, the gross value at the point of production of the [OIL AND] gas taxable under AS 43.55.011(g) is calculated under regulations adopted by the department that provide for using an appropriate monthly share of the producer's costs of transportation for the calendar year.

*** Sec. 35.** AS 43.55.160(d) is amended to read:

(d) Irrespective of whether a producer produces taxable [OIL OR] gas during a calendar year or month, the producer is considered to have generated a positive production tax value if a calculation described in (a) of this section yields a positive number because the producer's adjusted lease expenditures for a calendar year under AS 43.55.165 and 43.55.170 are less than zero as a result of the producer's receiving a payment or credit under AS 43.55.170. An explorer that has taken a tax credit under AS 43.55.023(b) or that has obtained a transferable tax credit certificate under

AS 43.55.023(d) for the amount of a tax credit under AS 43.55.023(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 under AS 43.55.170.

*** Sec. 36.** AS 43.55.160(e) is amended to read:

(e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer in a calendar year but whose deduction would cause an annual production tax value calculated under (a)(1) of this section of taxable [OIL OR] gas produced during the calendar year to be less than zero may be used to establish a carried-forward annual loss under AS 43.55.023(b). In this subsection, "producer" includes "explorer."

*** Sec. 37.** AS 43.55.165(a) is amended to read:

(a) Except as provided under (c) - (e) of this section, for the purposes of AS 43.55.160, a producer's lease expenditures for a calendar year are the ordinary and necessary costs upstream of the point of production of [OIL AND] gas that are incurred during the calendar year by the producer after March 31, 2006, and that are direct 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, that are direct costs of exploring for [OIL OR] gas deposits located within other land in the state. In determining whether costs are lease expenditures, the department shall consider, among other factors,

(1) the typical industry practices and standards in the state that determine the costs, other than items listed in (e) of this section, 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 before December 2, 2005, and were subject to negotiation with at least one working interest owner with substantial bargaining power, other than the operator; and

(2) the standards adopted by the Department of Natural Resources that determine the costs, other than items listed in (e) of this section, 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).

*** Sec. 38.** AS 43.55.165(b) is amended to read:

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

(1) 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;

(2) an activity does not need to be physically located on, near, or within the premises of the lease or property within which <u>**a**</u> [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.

*** Sec. 39.** AS 43.55.165(c) is amended to read:

(c) Subject to (g) and (h) of this section, if the department finds that the pertinent provisions of a unit operating agreement or similar operating agreement are substantially consistent with the department's determinations and standards under (a) of this section concerning whether costs are lease expenditures, the department may authorize or require a producer, subject to conditions prescribed under regulations adopted by the department, to treat as that portion of its lease expenditures for a calendar year applicable to [OIL AND] gas produced from a lease or property in the state only

(1) the costs, other than items listed in (e) of this section, that are incurred by the operator during the calendar year and that

(A) are billable to the producer by the operator in accordance with the terms of the agreement to which that lease or property is subject;

(B) for a producer that is the operator, would be billable to the producer by the operator in accordance with the terms of the agreement to which that lease or property is subject if the producer were not the operator;

(C) would be billable to the producer by the operator in accordance with the terms of the agreement if that lease or property were subject to the agreement; or

(D) for a producer that is the operator, would be billable to the producer by the operator in accordance with the terms of the agreement if that lease or property were subject to the agreement and if the producer were not the operator; and

(2) a reasonable percentage, as determined under regulations adopted by the department, of the costs that are billable under (1) of this subsection as an allowance for overhead expenses directly related to exploring for, developing, and producing [OIL OR] gas deposits located within the lease or property, to the extent those expenses are not billable under the agreement.

*** Sec. 40.** AS 43.55.165(d) is amended to read:

(d) Subject to (g) and (h) of this section, if the department makes the finding described in (c) of this section with respect to a unit operating agreement or similar operating agreement and, in addition, finds that at least one working interest owner party to the agreement, other than the operator, with substantial incentive and ability to effectively audit billings under the agreement in fact is effectively auditing billings under the agreement, the department may authorize or require a producer, subject to conditions prescribed under regulations adopted by the department, to treat as that portion of its lease expenditures for a calendar year applicable to [OIL AND] gas produced from a lease or property in the state only

(1) the costs, other than items listed in (e) of this section, that are incurred by the operator during the calendar year and that

(A) are billed to the producer by the operator under the agreement to which that lease or property is subject and are either not disputed by a working interest owner party to the agreement or are finally determined to be properly billable as a result of dispute resolution; or

(B) for a producer that is the operator, would be billable to the producer by the operator in accordance with the terms of the agreement to which that lease or property is subject if the producer were not the operator; and

(2) a reasonable percentage, as determined under regulations adopted by the department, of the costs that are billed under (1) of this subsection as an allowance for overhead expenses directly related to exploring for, developing, and producing [OIL OR] gas deposits located within the lease or property, to the extent those expenses are not billable under the agreement.

*** Sec. 41.** AS 43.55.165(e) is amended to read:

(e) For purposes 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) costs incurred in organizing a partnership, joint venture, or other business entity or arrangement;

(10) 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;

(11) [SURCHARGES LEVIED UNDER AS 43.55.201 OR 43.55.300;

(12)] 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;

(12) [(13)] 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;

(13) [(14)] a tax levied under AS 43.55.011;

(14) [(15)] 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, in barrels of oil equivalent, associated with the facility, pipeline, well pad, platform, 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, in barrels of oil equivalent, associated with that facility, pipeline, well pad, platform, 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; 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; for the purposes of this paragraph, "barrel of oil equivalent" means

[(A) IN THE CASE OF OIL, ONE BARREL;

(B) IN THE CASE OF GAS,] 6,000 cubic feet **of gas**;

(15) [(16)] costs incurred for containment, control, cleanup, or removal in connection with any unpermitted release of oil or a hazardous substance and any liability for damages imposed on the producer or explorer for that unpermitted release; this paragraph does not apply to the cost of developing and maintaining an oil discharge prevention and contingency plan under AS 46.04.030;

(16) [(17)] costs incurred to satisfy a work commitment under an exploration license under AS 38.05.132;

(17) [(18)] that portion of expenditures, that would otherwise be qualified capital expenditures as defined in AS 43.55.023(k), incurred during a calendar year that are less than the product of $0.30 multiplied by the total taxable production from each lease or property, in BTU equivalent barrels, during that calendar year, except that, when a portion of a calendar year is subject to this provision, the expenditures and volumes shall be prorated within that calendar year.

*** Sec. 42.** AS 43.55.165(f) is amended to read:

(f) For purposes of AS 43.55.023(a) and (b) and only as to expenditures incurred to explore for **a** [AN OIL OR] gas deposit located within land in which an explorer does not own a working interest, the term "producer" in this section includes "explorer."

*** Sec. 43.** AS 43.55.165(g) is amended to read:

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

(1) **a** [BOTH AN OIL OR] gas deposit located within land outside the state and **a** [AN OIL OR] gas deposit located within a lease or property, or other land, in the state; or

(2) **a** [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.

*** Sec. 44.** AS 43.55.165(j)(3) is amended to read:

(3) "stratigraphic test well" means a well drilled for the sole purpose of obtaining geological information to aid in exploring for **a** [AN OIL OR] gas deposit and the target zones of which are located in the state.

*** Sec. 45.** AS 43.55.170(a) is amended to read:

(a) Unless the payment or credit has already been subtracted in calculating billable or billed costs under AS 43.55.165(c) or (d), a producer's lease expenditures under AS 43.55.165 must be adjusted by subtracting 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 after March 31, 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.

*** Sec. 46.** AS 43.55.170(c) is amended to read:

(c) For purposes of AS 43.55.023(a) and (b) and only as to expenditures incurred to explore for <u>**a**</u> [AN OIL OR] gas deposit located within land in which an explorer does not own a working interest, the term "producer" in this section includes "explorer."

*** Sec. 47.** AS 43.55.180(a) is amended to read:

(a) The department shall study

(1) the effects of the provisions of this chapter on oil and gas exploration, development, and production in the state, on investment expenditures for oil and gas exploration, development, and production in the state, on the entry of new producers into the oil and gas industry in the state, on state revenue, and on tax administration and compliance, giving particular attention to the tax rates provided under <u>**AS 43.55.001 and 43.55.011**</u> [AS 43.55.011], the tax credits provided under <u>**AS 43.55.023 - 43.55.026**</u> [AS 43.55.023 - 43.55.025], and the deductions for and adjustments to lease expenditures provided under AS 43.55.160 - 43.55.170; and

(2) the effects of the tax rates under AS 43.55.011(i) on state revenue and on [OIL AND] gas exploration, development, and production on private land, and the fairness of those tax rates for private landowners.

*** Sec. 48.** AS 43.55.201(b) is amended to read:

(b) The surcharge imposed by (a) of this section is in addition to the tax imposed by <u>**AS 43.55.001**</u> [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 is in addition to the surcharge imposed by AS 43.55.300 - 43.55.310.

*** Sec. 49.** AS 43.55.201(c) is amended to read:

(c) A producer of oil shall make a report of production on March 31 of the year following the calendar year of production and in the same manner and under the same penalties as required under <u>**AS 43.55.001 - 43.55.180**</u> [AS 43.55.011 - 43.55.180].

*** Sec. 50.** AS 43.55.300(b) is amended to read:

(b) The surcharge imposed by (a) of this section is in addition to the tax imposed by <u>**AS 43.55.001**</u> [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 is in addition to the surcharge imposed by AS 43.55.201 - 43.55.231.

*** Sec. 51.** AS 43.55.300(c) is amended to read:

(c) A producer of oil shall make a report of production on March 31 of the year following the calendar year of production and in the same manner and under the same penalties as required under **<u>AS 43.55.001 - 43.55.180</u>** [AS 43.55.011 - 43.55.180].

*** Sec. 52.** AS 43.55.900(3) is amended to read:

(3) "BTU equivalent barrel" means

[(A) IN THE CASE OF OIL, ONE BARREL;

(B) IN THE CASE OF GAS,] the amount of gas that has a heating value of 6,000,000 British thermal units;

*** Sec. 53.** AS 43.55.900(7) is amended to read:

(7) "explorer" means a person who, in exploring for new [OIL OR] gas reserves, incurs expenditures;

*** Sec. 54.** AS 43.55.011(k) is repealed.

*** Sec. 55.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. Sections 3 - 54 of this Act apply to oil and gas produced after May 31, 2007.

*** Sec. 56.** 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 43.55.020(a), as amended by sec. 11 of this Act,

(1) a taxpayer subject to tax after December 31, 2006, and before June 1, 2007, under AS 43.55 as those provisions read on December 31, 2006, shall file a return and pay the tax due for that period before August 1, 2007; and

(2) for oil or gas produced after May 31, 2007, and before January 1, 2008, the amount of the installment payment of the estimated tax required to be paid by AS 43.55.020(a) as that subsection read on May 31, 2007, is due for each month on the last day of the following month.

(b) The Department of Revenue shall adopt regulations for the filing and payment of tax by a taxpayer subject to tax for the production of oil or gas under AS 43.55 after May 31, 2007, and before January 1, 2008.

*** Sec. 57.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: RETROACTIVITY OF REGULATIONS. 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. 3 - 54 of this Act may apply retroactively to June 1, 2007, if the Department of Revenue expressly designates in the regulation that the regulation applies retroactively to that date.

*** Sec. 58.** 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) art. 1 of AS 43.55 from "Oil and Gas Production Tax" to "Oil and Gas Production Taxes";

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

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

(5) AS 43.55.160 from "Determination of production tax value of oil and gas" to "Determination of production tax value of gas."

*** Sec. 59.** Sections 3 - 54, 56, and 58 of this Act take effect June 1, 2007.

*** Sec. 60.** Except as provided in sec. 59 of this Act, this Act takes effect immediately under AS 01.10.070(c).