

**CS FOR HOUSE BILL NO. 128(RES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

**BY THE HOUSE RESOURCES COMMITTEE**

Offered: 5/5/07

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES OLSON, Harris, Ramras, Guttenberg, Neuman, Holmes, Thomas, Stoltze, Joule, Fairclough, LeDoux, Kerttula, Lynn, Crawford, Gara, Gruenberg, Doll, Doogan, Edgmon, Buch, Dahlstrom

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to allowable lease expenditures for the purpose of determining the  
2 production tax value of oil and gas for the purposes of the oil and gas production tax;  
3 and providing for an effective date."

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

5 \* **Section 1.** AS 43.55.165(e) is amended to read:

6 (e) For purposes of this section, lease expenditures do not include

7 (1) depreciation, depletion, or amortization;

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

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

12 (4) interest or other financing charges or costs of raising equity or debt  
13 capital;

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

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

1 abandonment for which the cost is incurred is undertaken for the purpose of replacing,  
 2 renovating, or improving the facility, pipeline, well pad, platform, or other structure;  
 3 for the purposes of this paragraph, "barrel of oil equivalent" means

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

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

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

11 (17) costs incurred to satisfy a work commitment under an exploration  
 12 license under AS 38.05.132;

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

19 **(19) costs or that portion of the costs determined by the**  
 20 **commissioner, in consultation with the commissioner of environmental**  
 21 **conservation, the commissioner of natural resources, and the person in the**  
 22 **Department of Natural Resources who is the lead person for exercising oversight**  
 23 **over the maintenance of oil and gas facilities, equipment, and infrastructure in**  
 24 **the state, and taking into consideration good oil field practice, to be**

25 **(A) related to the repair and replacement of property or**  
 26 **equipment that was not maintained or was improperly maintained;**

27 **(B) incurred to maintain the operational capability of**  
 28 **facilities or equipment shut down because of a lack of or improper**  
 29 **maintenance of property or equipment; or**

30 **(C) incremental operating expenses incurred as a result of**  
 31 **operating facilities or equipment at diminished capacity when that**

1            **diminished capacity is caused by the lack of or improper maintenance of**  
 2            **property or equipment:**

3                            **(20) costs related to the maintenance of oil and gas facilities,**  
 4            **equipment, and infrastructure that are incurred as a result of a violation**  
 5            **of a regulation adopted by the person in the Department of Natural**  
 6            **Resources who is the lead person for exercising oversight over the**  
 7            **maintenance of oil and gas facilities, equipment, and infrastructure in the**  
 8            **state.**

9            \* **Sec. 2.** AS 43.55.165(j) is amended by adding new paragraphs to read:

10                            (4) "good oil field practice" means a practice that is generally accepted  
 11            to be good, safe, and efficient in operating an oil field, and includes testing, operating,  
 12            and maintaining production, processing, and transportation facilities and equipment  
 13            consistent with standards established by the American Petroleum Institute, the  
 14            American Society for Testing and Materials, federal regulations, maintenance  
 15            programs consistent with regulations adopted by the person in the Department of  
 16            Natural Resources who is the lead person for exercising oversight over the  
 17            maintenance of oil and gas facilities, equipment, and infrastructure in the state, and  
 18            other standards applicable to the production, processing, and transportation of oil, gas,  
 19            produced water, and other fluids;

20                            (5) "improper maintenance" means maintenance that is not consistent  
 21            with good oil field practice.

22            \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to  
 23            read:

24                            APPLICABILITY. (a) AS 43.55.165(e)(19), as enacted in sec. 1 of this Act, applies to  
 25            oil and gas produced after March 31, 2006.

26                            (b) AS 43.55.165(e)(20), as enacted in sec. 1 of this Act, applies to oil and gas  
 27            produced after the effective date of the regulations described in sec. 6 of this Act.

28            \* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to  
 29            read:

30                            TRANSITIONAL PROVISIONS. (a) A person that filed a statement under  
 31            AS 43.55.030 before the effective date of this Act and deducted costs that may not be treated

1 as lease expenditures or claimed as a credit based on costs that may not be claimed as lease  
2 expenditures under AS 43.55.165(e)(19), as enacted by sec. 1 of this Act, shall file an  
3 amended return and pay any additional tax within 90 days after the effective date of this Act.

4 (b) A person required to make an installment payment of estimated tax under  
5 AS 43.55.020(a) before the effective date of this Act for a period not included in a return  
6 required to be filed before the effective date of this Act shall determine the amount of the  
7 underpayment, if any, that is attributable to costs that may not be treated as lease expenditures  
8 or claimed as a credit based on costs that may not be claimed as lease expenditures under  
9 AS 43.55.165(e)(19) as enacted by sec. 1 of this Act. The amount of any underpayment  
10 determined under this subsection shall be paid within 90 days after the effective date of this  
11 Act.

12 (c) Interest on an additional amount of tax due under (a) of this section or on the  
13 amount of the underpayment of an installment under (b) of this section does not begin to  
14 accrue until 90 days after the effective date of this Act.

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

17 **RETROACTIVITY.** AS 43.55.165(e)(19), as enacted in sec. 1 of this Act, is  
18 retroactive to April 1, 2006.

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

21 **CONDITIONAL EFFECT; NOTICE.** (a) AS 43.55.165(e)(20), as enacted in sec. 1 of  
22 this Act, takes effect only if the person in the Department of Natural Resources who is the  
23 lead person for exercising oversight over the maintenance of oil and gas facilities, equipment,  
24 and infrastructure in the state adopts regulations related to the maintenance of oil and gas  
25 facilities, equipment, and infrastructure in the state.

26 (b) The commissioner of natural resources shall notify the revisor of statutes of the  
27 effective date of the regulations described in (a) of this section.

28 \* **Sec. 7.** If AS 43.55.165(e)(20), as enacted in sec. 1 of this Act, takes effect, it takes effect  
29 on the effective date of the regulations described in sec. 6 of this Act.

30 \* **Sec. 8.** Except as provided in sec. 7 of this Act, this Act takes effect immediately under  
31 AS 01.10.070(c).