

HOUSE BILL NO. 2001

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SPECIAL SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 10/18/07

Referred: House Special Committee on Oil and Gas, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the production tax on oil and gas and to conservation surcharges on
2 oil; relating to the issuance of advisory bulletins and the disclosure of certain
3 information relating to the production tax and the sharing between agencies of certain
4 information relating to the production tax and to oil and gas or gas only leases;
5 amending the State Personnel Act to place in the exempt service certain state oil and
6 gas auditors and their immediate supervisors; establishing an oil and gas tax credit
7 fund and authorizing payment from that fund; providing for retroactive application of
8 certain statutory and regulatory provisions relating to the production tax on oil and gas
9 and conservation surcharges on oil; making conforming amendments; and providing
10 for an effective date."

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

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

1 to read:

2 LEGISLATIVE INTENT. It is the intent of the legislature that AS 43.55.075(b),
3 enacted by sec. 50 of this Act, confirm by clarification the long-standing interpretation of
4 AS 43.05.260 by the Department of Revenue relating to limitation of assessments for the
5 production tax on oil and gas and conservation surcharges on oil.

6 * **Sec. 2.** AS 38.05.035(a) is amended to read:

7 (a) The director shall

8 (1) have general charge and supervision of the division and may
9 exercise the powers specifically delegated to the director; **the director** may employ
10 and fix the compensation of assistants and employees necessary for the operations of
11 the division; **the director** [AND] is the certifying officer of the division, with the
12 consent of the commissioner, and may approve vouchers for disbursements of money
13 appropriated to the division;

14 (2) manage, inspect, and control state land and improvements on it
15 belonging to the state and under the jurisdiction of the division;

16 (3) execute laws, rules, regulations, and orders adopted by the
17 commissioner;

18 (4) prescribe application procedures and practices for the sale, lease,
19 or other disposition of available land, resources, property, or interest in them;

20 (5) prescribe fees or service charges, with the consent of the
21 commissioner, for any public service rendered;

22 (6) under the conditions and limitations imposed by law and the
23 commissioner, issue deeds, leases, or other conveyances disposing of available land,
24 resources, property, or any interests in them;

25 (7) have jurisdiction over state land, except that land acquired by the
26 Alaska World War II Veterans Board and the Agricultural Loan Board or the
27 departments or agencies succeeding to their respective functions through foreclosure
28 or default; to this end, the director possesses the powers and, with the approval of the
29 commissioner, shall perform the duties necessary to protect the state's rights and
30 interest in state land, including the taking of all necessary action to protect and
31 enforce the state's contractual or other property rights;

1 (8) [REPEALED

2 (9) maintain the [SUCH] records [AS] the commissioner considers
3 necessary, administer oaths, and do all things incidental to the authority imposed; the
4 following records and files shall be kept confidential upon request of the person
5 supplying the information:

6 (A) the name of the person nominating or applying for the
7 sale, lease, or other disposal of land by competitive bidding;

8 (B) before the announced time of opening, the names of the
9 bidders and the amounts of the bids;

10 (C) all geological, geophysical, and engineering data supplied,
11 whether or not concerned with the extraction or development of natural
12 resources;

13 (D) except as provided in AS 38.05.036, cost data and
14 financial information submitted in support of applications, bonds, leases, and
15 similar items;

16 (E) applications for rights-of-way or easements;

17 (F) requests for information or applications by public agencies
18 for land that [WHICH] is being considered for use for a public purpose;

19 (9) [(10)] account for the fees, licenses, taxes, or other money
20 received in the administration of this chapter including the sale or leasing of land,
21 identify their source, and promptly transmit them to the proper fiscal department after
22 crediting them to the proper fund; receipts from land application filing fees and
23 charges for copies of maps and records shall be deposited immediately in the general
24 fund of the state by the director;

25 (10) [(11)] select and employ or obtain at reasonable compensation
26 cadastral, appraisal, or other professional personnel the director considers necessary
27 for the proper operation of the division;

28 (11) [(12)] be the certifying agent of the state to select, accept, and
29 secure by whatever action is necessary in the name of the state, by deed, sale, gift,
30 devise, judgment, operation of law, or other means any land, of whatever nature or
31 interest, available to the state; and be the certifying agent of the state, to select,

1 accept, or secure by whatever action is necessary in the name of the state any land, or
 2 title or interest to land available, granted, or subject to being transferred to the state
 3 for any purpose;

4 **(12) on request, furnish records, files, and other information**
 5 **related to the administration of AS 38.05.180 to the Department of Revenue for**
 6 **use in forecasting state revenue under or administering AS 43.55, whether or not**
 7 **those records, files, and other information are required to be kept confidential**
 8 **under (8) of this subsection; in the case of records, files, or other information**
 9 **required to be kept confidential under (8) of this subsection, the Department of**
 10 **Revenue shall maintain the confidentiality that the Department of Natural**
 11 **Resources is required to extend to records, files, and other information under (8)**
 12 **of this subsection**

13 [(13) REPEALED

14 (14) REPEALED].

15 * **Sec. 3.** AS 38.05.036(b) is amended to read:

16 (b) The Department of Revenue may obtain from the department information
 17 relating to royalty and net profits payments and to exploration incentive credits under
 18 this chapter or under AS 41.09, whether or not that information is confidential. The
 19 Department of Revenue may use the information in carrying out its functions and
 20 responsibilities under AS 43, and shall hold that information confidential to the extent
 21 required by an agreement with the department or by **AS 38.05.035(a)(8)**
 22 [AS 38.05.035(a)(9)], AS 41.09.010(d), or AS 43.05.230.

23 * **Sec. 4.** AS 38.05.036(f) is amended to read:

24 (f) Except as otherwise provided in this section or in connection with official
 25 investigations or proceedings of the department, it is unlawful for a current or former
 26 officer, employee, or agent of the state to divulge information obtained by the
 27 department as a result of an audit under this section that is required by an agreement
 28 with the department or by **AS 38.05.035(a)(8)** [AS 38.05.035(a)(9)] or
 29 AS 41.09.010(d) to be kept confidential.

30 * **Sec. 5.** AS 38.05.036(g) is amended to read:

31 (g) Nothing in this section prohibits the publication of statistics in a manner

1 that maintains the confidentiality of information to the extent required by an
 2 agreement with the department or by AS 38.05.035(a)(8) [AS 38.05.035(a)(9)] or
 3 AS 41.09.010(d).

4 * **Sec. 6.** AS 38.05.123(f) is amended to read:

5 (f) As part of the timber sale negotiations authorized by this section, the
 6 commissioner may require a prospective purchaser negotiating a timber sale contract
 7 to submit financial and technical data that demonstrates that the requirements of this
 8 section have been or will be met. Upon the prospective purchaser's request, the
 9 commissioner shall keep data provided by the purchaser confidential in accordance
 10 with the requirements of AS 38.05.035(a)(8) [AS 38.05.035(a)(9)].

11 * **Sec. 7.** AS 38.05.133(e) is amended to read:

12 (e) The commissioner may make a written request to a prospective licensee
 13 for additional information on the prospective licensee's proposal. The commissioner
 14 shall keep confidential information described in AS 38.05.035(a)(8)
 15 [AS 38.05.035(a)(9)] that is voluntarily provided if the prospective licensee has made
 16 a written request that the information remain confidential.

17 * **Sec. 8.** AS 38.05.180(j) is amended to read:

18 (j) The commissioner
 19 (1) may provide for modification of royalty on individual leases,
 20 leases unitized as described in (p) of this section, leases subject to an agreement
 21 described in (s) or (t) of this section, or interests unitized under AS 31.05
 22 (A) to allow for production from an oil or gas field or pool if
 23 (i) the oil or gas field or pool has been sufficiently
 24 delineated to the satisfaction of the commissioner;
 25 (ii) the field or pool has not previously produced oil or
 26 gas for sale; and
 27 (iii) oil or gas production from the field or pool would
 28 not otherwise be economically feasible;
 29 (B) to prolong the economic life of an oil or gas field or pool
 30 as per barrel or barrel equivalent costs increase or as the price of oil or gas
 31 decreases, and the increase or decrease is sufficient to make future production

1 no longer economically feasible; or

2 (C) to reestablish production of shut-in oil or gas that would
3 not otherwise be economically feasible;

4 (2) may not grant a royalty modification unless the lessee or lessees
5 requesting the change make a clear and convincing showing that a modification of
6 royalty meets the requirements of this subsection and is in the best interests of the
7 state;

8 (3) shall provide for an increase or decrease or other modification of
9 the state's royalty share by a sliding scale royalty or other mechanism that shall be
10 based on a change in the price of oil or gas and may also be based on other relevant
11 factors such as a change in production rate, projected ultimate recovery, development
12 costs, and operating costs;

13 (4) may not grant a royalty reduction for a field or pool

14 (A) under (1)(A) of this subsection if the royalty modification
15 for the field or pool would establish a royalty rate of less than five percent in
16 amount or value of the production removed or sold from a lease or leases
17 covering the field or pool;

18 (B) under (1)(B) or (1)(C) of this subsection if the royalty
19 modification for the field or pool would establish a royalty rate of less than
20 three percent in amount or value of the production removed or sold from a
21 lease or leases covering the field or pool;

22 (5) may not grant a royalty reduction under this subsection without
23 including an explicit condition that the royalty reduction is not assignable without the
24 prior written approval, which may not be unreasonably withheld, by the
25 commissioner; the commissioner shall, in the preliminary and final findings and
26 determinations, set out the conditions under which the royalty reduction may be
27 assigned;

28 (6) shall require the lessee or lessees to submit, with the application
29 for the royalty reduction, financial and technical data that demonstrate that the
30 requirements of this subsection are met; the commissioner

31 (A) may require disclosure of only the financial and technical

1 data related to development, production, and transportation of oil and gas or
2 gas only from the field or pool that are reasonably available to the applicant;
3 and

4 (B) shall keep the data confidential under AS 38.05.035(a)(8)
5 [AS 38.05.035(a)(9)] at the request of the lessee or lessees making application
6 for the royalty reduction; the confidential data may be disclosed by the
7 commissioner to legislators and to the legislative auditor and as directed by
8 the chair or vice-chair of the Legislative Budget and Audit Committee to the
9 director of the division of legislative finance, the permanent employees of
10 their respective divisions who are responsible for evaluating a royalty
11 reduction, and to agents or contractors of the legislative auditor or the
12 legislative finance director who are engaged under contract to evaluate the
13 royalty reduction, if they sign an appropriate confidentiality agreement;

14 (7) may

15 (A) require the lessee or lessees making application for the
16 royalty reduction under (1)(A) of this subsection to pay for the services of an
17 independent contractor, selected by the lessee or lessees from a list of
18 qualified consultants compiled by the commissioner, to evaluate hydrocarbon
19 development, production, transportation, and economics and to assist the
20 commissioner in evaluating the application and financial and technical data;
21 if, under this subparagraph, the commissioner requires payment for the
22 services of an independent contractor, the total cost of the services to be paid
23 for by the lessee or lessees may not exceed \$150,000 for each application, and
24 the commissioner shall determine the relevant scope of the work to be
25 performed by the contractor; selection of an independent contractor under this
26 subparagraph is not subject to AS 36.30;

27 (B) with the mutual consent of the lessee or lessees making
28 application for the royalty reduction under (1)(B) or (1)(C) of this subsection,
29 request payment for the services of an independent contractor, selected from a
30 list of qualified consultants to evaluate hydrocarbon development, production,
31 transportation, and economics by the commissioner to assist the commissioner

1 in evaluating the application and financial and technical data; if, under this
2 subparagraph, the commissioner requires payment for the services of an
3 independent contractor, the total cost of the services that may be paid for by
4 the lessee or lessees may not exceed \$150,000 for each application, and the
5 commissioner shall determine the relevant scope of the work to be performed
6 by the contractor; selection of an independent contractor under this
7 subparagraph is not subject to AS 36.30;

8 (8) shall make and publish a preliminary findings and determination
9 on the royalty reduction application, give reasonable public notice of the preliminary
10 findings and determination, and invite public comment on the preliminary findings
11 and determination during a 30-day period for receipt of public comment;

12 (9) shall offer to appear before the Legislative Budget and Audit
13 Committee, on a day that is not earlier than 10 days and not later than 20 days after
14 giving public notice under (8) of this subsection, to provide the committee a review of
15 the commissioner's preliminary findings and determination on the royalty reduction
16 application and administrative process; if the Legislative Budget and Audit
17 Committee accepts the commissioner's offer, the committee shall give notice of the
18 committee's meeting to all members of the legislature;

19 (10) shall make copies of the preliminary findings and determination
20 available to

21 (A) the presiding officer of each house of the legislature;

22 (B) the chairs of the legislature's standing committees on
23 resources; and

24 (C) the chairs of the legislature's special committees on oil and
25 gas, if any;

26 (11) shall, within 30 days after the close of the public comment period
27 under (8) of this subsection,

28 (A) prepare a summary of the public response to the
29 commissioner's preliminary findings and determination;

30 (B) make a final findings and determination; the
31 commissioner's final findings and determination prepared under this

1 subparagraph regarding a royalty reduction is final and not appealable to the
2 court;

3 (C) transmit a copy of the final findings and determination to
4 the lessee;

5 (D) with the applicant's consent, amend the applicant's lease or
6 unitization agreement consistent with the commissioner's final decision; and

7 (E) make copies of the final findings and determination
8 available to each person who submitted comment under (8) of this subsection
9 and who has filed a request for the copies;

10 (12) is not limited by the provisions of AS 38.05.134(3) or (f) of this
11 section in the commissioner's determination under this subsection.

12 * **Sec. 9.** AS 38.05.275(c) is amended to read:

13 (c) Subsection (b) of this section may not be construed to limit the director in
14 the exercise of authority granted by AS 38.05.035(a)(11) [AS 38.05.035(a)(12)].

15 * **Sec. 10.** AS 39.25.110 is amended by adding a new paragraph to read:

16 (42) oil and gas auditors performing

17 (A) production tax audits, and their immediate supervisors, in
18 the Department of Revenue;

19 (B) royalty audits, including net profit share audits, and their
20 immediate supervisors, in the Department of Natural Resources.

21 * **Sec. 11.** AS 41.09.010(d) is amended to read:

22 (d) Data derived from drilling a stratigraphic test well or exploratory well that
23 is provided to the commissioner under (c)(3) of this section shall be kept confidential
24 for 24 months after receipt by the commissioner unless the owner of the well gives
25 written permission to the state to release the well data at an earlier date, and,
26 notwithstanding AS 31.05.035(c), confidentiality may not be extended beyond 24
27 months. The provisions of AS 38.05.035(a)(8)(C) [AS 38.05.035(a)(9)(C)] apply to
28 other data provided to the commissioner under (c)(3) of this section, except that the
29 commissioner, under appropriate confidentiality provisions and without preference or
30 discrimination, may display to all interested third parties, but may not distribute or
31 transfer in hard copy or electronic form, those data with respect to all land if the

1 commissioner determines that the limited disclosure is necessary to further the
2 interest of the state in evaluating or developing its land.

3 * **Sec. 12.** AS 43.05.230(a) is amended to read:

4 (a) It is unlawful for a current or former officer, employee, or agent of the
5 state to divulge the amount of income or the particulars set out or disclosed in a report
6 or return made under this title, except

7 (1) in connection with official investigations or proceedings of the
8 department, whether judicial or administrative, involving taxes due under this title;

9 (2) in connection with official investigations or proceedings of the
10 child support enforcement agency, whether judicial or administrative, involving child
11 support obligations imposed or imposable under AS 25 or AS 47;

12 (3) as provided in AS 38.05.036 pertaining to audit functions of the
13 Department of Natural Resources;

14 (4) as provided in AS 43.05.405 - 43.05.499; and

15 (5) as otherwise provided in this section **or AS 43.55.890.**

16 * **Sec. 13.** AS 43.05.230(h) is amended to read:

17 (h) The commissioner shall, upon request, furnish to the Department of
18 Natural Resources copies of tax returns, reports, **and other** documents filed under
19 **AS 43.55 or** AS 43.65, and the Department of Revenue's determinations and
20 workpapers **under AS 43.55 and AS 43.65.** The Department of Natural Resources
21 shall maintain the confidentiality that the Department of Revenue is required to
22 extend to the returns, reports, documents, determinations, and workpapers furnished
23 to the Department of Natural Resources under this subsection.

24 * **Sec. 14.** AS 43.05.260(a) is amended to read:

25 (a) Except as provided in (c) of this section, [AND] AS 43.20.200(b), **and**
26 **AS 43.55.075,** the amount of a tax imposed by this title must be assessed within three
27 years after the return was filed, whether or not a return was filed on or after the date
28 prescribed by law. If the tax is not assessed before the expiration of the **applicable**
29 [THREE-YEAR] period, proceedings may not be instituted in court for the collection
30 of the tax.

31 * **Sec. 15.** AS 43.55.011(e) is repealed and reenacted to read:

1 (e) There is levied on the producer of oil or gas a tax for all oil and gas
 2 produced each calendar year from each lease or property in the state, less any oil and
 3 gas the ownership or right to which is exempt from taxation or constitutes a
 4 landowner's royalty interest. Except as otherwise provided under (f), (j), and (k) of
 5 this section, the tax is equal to the production tax value of the taxable oil and gas as
 6 calculated under AS 43.55.160 multiplied by the tax rate determined under (g) of this
 7 section.

8 * **Sec. 16.** AS 43.55.011(f) is repealed and reenacted to read:

9 (f) The provisions of this subsection apply to oil and gas produced from each
 10 lease or property within a unit or nonunitized reservoir from which 1,000,000,000
 11 BTU equivalent barrels of oil or gas have been cumulatively produced by the close of
 12 the most recent calendar year and from which the average daily oil and gas
 13 production during the most recent calendar year exceeded 100,000 BTU equivalent
 14 barrels. Notwithstanding any contrary provision of law, a producer may not apply tax
 15 credits to reduce its total tax liability under (e) of this section for oil and gas produced
 16 from all leases or properties within the unit or nonunitized reservoir below 10 percent
 17 of the total gross value at the point of production of that oil and gas. If the amount
 18 calculated by multiplying the tax rate determined under (g) of this section times the
 19 total production tax value of the oil and gas taxable under (e) of this section produced
 20 from all of the producer's leases or properties within the unit or nonunitized reservoir
 21 is less than 10 percent of the total gross value at the point of production of that oil and
 22 gas, the tax levied by (e) of this section for that oil and gas is equal to 10 percent of
 23 the total gross value at the point of production of that oil and gas.

24 * **Sec. 17.** AS 43.55.011(g) is repealed and reenacted to read:

25 (g) The tax rate applied to the production tax value of oil and gas under (e) of
 26 this section is 25 percent plus 0.20 percent times the price index for the calendar year
 27 determined under (h) of this section. However, the tax rate calculated under this
 28 subsection may not be more than 50 percent.

29 * **Sec. 18.** AS 43.55.011(h) is amended to read:

30 (h) For purposes of (g) of this section, the price index for a **calendar year**
 31 [MONTH] is calculated by subtracting **30** [40] from the number that is equal to [THE

1 QUOTIENT OF] the total [MONTHLY] production tax value of the taxable oil and
 2 gas produced by the producer **from all leases or properties in the state during that**
 3 **calendar year** [DURING THAT MONTH], as calculated under AS 43.55.160,
 4 divided by the total amount of **that** [THE TAXABLE] oil and gas [PRODUCED BY
 5 THE PRODUCER DURING THAT MONTH], in BTU equivalent barrels. However,
 6 a price index **calculated under this subsection** may not be less than zero.

7 * **Sec. 19.** AS 43.55.011(j) is amended to read:

8 (j) For a calendar year before 2022, the [TOTAL] tax levied by (e) [AND (g)]
 9 of this section **for** [ON] gas produced from a lease or property in the Cook Inlet
 10 sedimentary basin may not exceed

11 (1) for a lease or property that first commenced commercial
 12 production of gas before April 1, 2006, the product obtained by multiplying (A) the
 13 amount of taxable gas produced during the calendar year from the lease or property,
 14 times (B) the average rate of tax that was imposed under this chapter **for** [ON]
 15 taxable gas produced from the lease or property for the 12-month period ending on
 16 March 31, 2006, times (C) the quotient obtained by dividing the total gross value at
 17 the point of production of the taxable gas produced from the lease or property during
 18 the 12-month period ending on March 31, 2006, by the total amount of that gas;

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

27 * **Sec. 20.** AS 43.55.011(k) is amended to read:

28 (k) For a calendar year before 2022, the [TOTAL] tax levied by (e) [AND
 29 (g)] of this section **for** [ON] oil produced from a lease or property in the Cook Inlet
 30 sedimentary basin may not exceed

31 (1) for a lease or property that first commenced commercial

1 production of oil before April 1, 2006, the product obtained by multiplying (A) the
 2 amount of taxable oil produced during the calendar year from the lease or property,
 3 times (B) the average rate of tax that was imposed under this chapter **for** [ON]
 4 taxable oil produced from the lease or property for the 12-month period ending on
 5 March 31, 2006, times (C) the quotient obtained by dividing the total gross value at
 6 the point of production of the taxable oil produced from the lease or property during
 7 the 12-month period ending on March 31, 2006, by the total amount of that oil;

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

16 * **Sec. 21.** AS 43.55.011(m) is amended to read:

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

30 (1) for each lease or property for which a limitation under (j) or (k) of
 31 this section on the tax levied by (e) [AND (g)] of this section has the effect of

1 reducing the producer's tax below the amount of tax that would be levied in the
2 absence of that limitation, the producer shall calculate the amount of that reduction;

3 (2) the producer shall calculate the total of the reductions calculated
4 under (1) of this subsection for all affected leases or properties; **however, for a**
5 **calendar year for which the producer has Cook Inlet excess adjusted lease**
6 **expenditures under AS 43.55.160(h), the amount calculated under this**
7 **paragraph is deemed to be**

8 (A) **zero, if the amount calculated under AS 43.55.160(i)(2)**
9 **is greater than or equal to the amount calculated under**
10 **AS 43.55.160(i)(4);**

11 (B) **the remainder calculated by subtracting the amount**
12 **calculated under AS 43.55.160(i)(2) from the amount calculated under**
13 **AS 43.55.160(i)(4), if the amount calculated under AS 43.55.160(i)(2) is**
14 **less than the amount calculated under AS 43.55.160(i)(4);**

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

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

22 * **Sec. 22.** AS 43.55.020(a) is repealed and reenacted to read:

23 (a) For a calendar year, a producer subject to tax under AS 43.55.011(e) or (i)
24 shall pay the tax as follows:

25 (1) an installment payment of the estimated tax levied by
26 AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each
27 month of the calendar year on the last day of the following month; except as
28 otherwise provided under (2) of this subsection, the amount of the installment
29 payment is the sum of the following amounts, less 1/12 of the tax credits that are
30 allowed by law to be applied against the tax levied by AS 43.55.011(e) for the
31 calendar year, but the amount of the installment payment may not be less than zero:

1 (A) for oil and gas produced from leases or properties in the
2 state outside the Cook Inlet sedimentary basin other than leases or properties
3 subject to AS 43.55.011(f), the greater of

4 (i) zero; or

5 (ii) 25 percent of the remainder obtained by subtracting
6 1/12 of the producer's adjusted lease expenditures for the calendar year
7 of production under AS 43.55.165 and 43.55.170 that are deductible
8 for the leases or properties under AS 43.55.160 from the gross value at
9 the point of production of the oil and gas produced from the leases or
10 properties during the month for which the installment payment is
11 calculated;

12 (B) for oil and gas produced from leases or properties subject
13 to AS 43.55.011(f), the total for all units or nonunitized reservoirs of the
14 amount for each unit or nonunitized reservoir that is the greatest of

15 (i) zero;

16 (ii) 10 percent of the gross value at the point of
17 production of the oil and gas produced from all leases or properties in
18 the unit or nonunitized reservoir; or

19 (iii) 25 percent of the remainder obtained by
20 subtracting 1/12 of the producer's adjusted lease expenditures for the
21 calendar year of production under AS 43.55.165 and 43.55.170 that are
22 deductible for those leases or properties under AS 43.55.160 from the
23 gross value at the point of production of the oil and gas produced from
24 those leases or properties during the month for which the installment
25 payment is calculated;

26 (C) for oil and gas produced from each lease or property in the
27 Cook Inlet sedimentary basin, the greater of

28 (i) zero; or

29 (ii) 25 percent of the remainder obtained by subtracting
30 1/12 of the producer's adjusted lease expenditures for the calendar year
31 of production under AS 43.55.165 and 43.55.170 that are deductible

1 under AS 43.55.160 for oil or gas, respectively, produced from the
2 lease or property from the gross value at the point of production of the
3 oil or gas, respectively, produced from the lease or property during the
4 month for which the installment payment is calculated;

5 (2) an amount calculated under (1)(C) of this subsection for oil or gas
6 produced from a lease or property in the Cook Inlet sedimentary basin may not
7 exceed the product obtained by carrying out the calculation set out in
8 AS 43.55.011(j)(1) or (2), as applicable, for gas or set out in AS 43.55.011(k)(1) or
9 (2), as applicable, for oil, but substituting in AS 43.55.011(j)(1)(A) or (2)(A), as
10 applicable, the amount of taxable gas produced during the month for the amount of
11 taxable gas produced during the calendar year and substituting in
12 AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the amount of taxable oil produced
13 during the month for the amount of taxable oil produced during the calendar year;

14 (3) an installment payment of the estimated tax levied by
15 AS 43.55.011(i) for each lease or property is due for each month of the calendar year
16 on the last day of the following month; the amount of the installment payment is the
17 sum of

18 (A) the applicable tax rate for oil provided under
19 AS 43.55.011(i), multiplied by the gross value at the point of production of
20 the oil taxable under AS 43.55.011(i) and produced from the lease or property
21 during the month; and

22 (B) the applicable tax rate for gas provided under
23 AS 43.55.011(i), multiplied by the gross value at the point of production of
24 the gas taxable under AS 43.55.011(i) and produced from the lease or property
25 during the month;

26 (4) any amount of tax levied by AS 43.55.011(e) and (i), net of any
27 credits applied as allowed by law, that exceeds the total of the amounts due as
28 installment payments of estimated tax is due on March 31 of the year following the
29 calendar year of production.

30 * **Sec. 23.** AS 43.55.020(d) is amended to read:

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

1 under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable
 2 royalty oil and gas, or may deduct taxable royalty oil or gas equivalent in value at the
 3 time the tax becomes due to the amount of the tax paid. If the total deductions of
 4 installment payments of estimated tax for a calendar year exceed the actual tax for
 5 that calendar year, the producer shall, before April 1 of the following year, refund the
 6 excess to the royalty owner. Unless otherwise agreed between the producer and the
 7 royalty owner, the amount of the tax paid under AS 43.55.011(e) [AS 43.55.011(e) -
 8 (g)] on taxable royalty oil and gas for a calendar year, other than oil and gas the
 9 ownership or right to which constitutes a landowner's royalty interest, is considered to
 10 be the gross value at the point of production of the taxable royalty oil and gas
 11 produced during the calendar year multiplied by a figure that is a quotient, in which

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

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

17 * **Sec. 24.** AS 43.55.020(g) is amended to read:

18 (g) Notwithstanding any contrary provision of AS 43.05.225, an unpaid
 19 amount of an installment payment required under (a)(1) - (3) [(a)(1) - (4)] of this
 20 section that is not paid when due bears interest (1) at the rate provided for an
 21 underpayment under 26 U.S.C. 6621 (Internal Revenue Code), as amended,
 22 compounded daily, from the date the installment payment is due until [THE]
 23 March 31 of the year following the calendar year of production [DESCRIBED IN
 24 AS 43.55.030(a)], and (2) as provided for a delinquent tax under AS 43.05.225 after
 25 that March 31. Interest accrued under (1) of this subsection that remains unpaid after
 26 that March 31 is treated as an addition to tax that bears interest under (2) of this
 27 subsection. An unpaid amount of tax due under (a)(4) [(a)(5)] of this section that is
 28 not paid when due bears interest as provided for a delinquent tax under AS 43.05.225.

29 * **Sec. 25.** AS 43.55.020(h) is amended to read:

30 (h) Notwithstanding any contrary provision of AS 43.05.280,

31 (1) an overpayment of an installment payment required under (a)(1) -

1 **(3)** [(a)(1) - (4)] of this section bears interest at the rate provided for an overpayment
 2 under 26 U.S.C. 6621 (Internal Revenue Code), as amended, compounded daily, from
 3 the later of the date the installment payment is due or the date the overpayment is
 4 made, until the earlier of

5 (A) the date it is refunded or is applied to an underpayment; [,]

6 or

7 (B) [THE] March 31 **of the year following the calendar year**
 8 **of production** [DESCRIBED IN AS 43.55.030(a)];

9 (2) except as provided under (1) of this subsection, interest with
 10 respect to an overpayment is allowed only on any net overpayment of the payments
 11 required under (a) of this section that remains after the later of [THE] March 31 **of**
 12 **the year following the calendar year of production** [DESCRIBED IN
 13 AS 43.55.030(a)] or the date that the statement required under AS 43.55.030(a) is
 14 filed;

15 (3) interest is allowed under (2) of this subsection only from a date
 16 that is 90 days after the later of [THE] March 31 **of the year following the calendar**
 17 **year of production** [DESCRIBED IN AS 43.55.030(a)] or the date that the statement
 18 required under AS 43.55.030(a) is filed; interest is not allowed if the overpayment
 19 was refunded within the 90-day period;

20 (4) interest under (2) and (3) of this subsection is paid at the rate and
 21 in the manner provided in AS 43.05.225(1).

22 * **Sec. 26.** AS 43.55.023(a) is amended to read:

23 (a) A producer or explorer may take a tax credit for a qualified capital
 24 expenditure as follows:

25 (1) notwithstanding that a qualified capital expenditure may be a
 26 deductible lease expenditure for purposes of calculating the production tax value of
 27 oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under
 28 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or
 29 explorer that incurs a qualified capital expenditure may also elect to **apply** [TAKE] a
 30 tax credit against a tax **levied by** [DUE UNDER] AS 43.55.011(e) in the amount of
 31 20 percent of that expenditure; **however, not more than half of the tax credit may**

1 **be applied for a single calendar year;**

2 (2) a producer or explorer may take a credit for a qualified capital
3 expenditure incurred in connection with geological or geophysical exploration or in
4 connection with an exploration well only if the producer or explorer [PROVIDES TO
5 THE DEPARTMENT, AS PART OF THE STATEMENT REQUIRED UNDER
6 AS 43.55.030(a) FOR THE CALENDAR YEAR FOR WHICH THE CREDIT IS
7 SOUGHT TO BE TAKEN, THE PRODUCER'S OR EXPLORER'S WRITTEN
8 AGREEMENT]

9 (A) **agrees, in writing, to the applicable provisions of**
10 **AS 43.55.025(f)(2)** [TO NOTIFY THE DEPARTMENT OF NATURAL
11 RESOURCES, BEFORE THE LATER OF 30 DAYS AFTER
12 COMPLETION OF THE GEOLOGICAL OR GEOPHYSICAL DATA
13 PROCESSING OR COMPLETION OF THE WELL, OR 30 DAYS AFTER
14 THE STATEMENT IS FILED, OF THE DATE OF COMPLETION AND TO
15 SUBMIT A REPORT TO THAT DEPARTMENT DESCRIBING THE
16 PROCESSING SEQUENCE AND PROVIDE A LIST OF DATA SETS
17 AVAILABLE];

18 (B) **if more than one explorer holds an interest in a well,**
19 **obtains each explorer's written agreement that the explorer will not make**
20 **the request described in AS 43.55.025(f)(2)(D); and**

21 (C) **submits** [TO PROVIDE] to the Department of Natural
22 Resources **all data that would be required to be submitted under**
23 **AS 43.55.025(f)(2)** [, WITHIN 30 DAYS AFTER THE DATE OF A
24 REQUEST, SPECIFIC DATA SETS, ANCILLARY DATA, AND
25 REPORTS IDENTIFIED IN (A) OF THIS PARAGRAPH];

26 **(3) a tax credit for a qualified capital expenditure to explore for,**
27 **develop, or produce oil or gas deposits located within a unit or nonunitized**
28 **reservoir subject to AS 43.55.011(f) may not be applied against a tax for oil or**
29 **gas produced from a lease or property outside a unit or nonunitized reservoir**
30 **subject to AS 43.55.011(f)**

31 [(C) THAT, NOTWITHSTANDING ANY PROVISION OF

1 AS 38, THE DEPARTMENT OF NATURAL RESOURCES SHALL HOLD
 2 CONFIDENTIAL THE INFORMATION PROVIDED TO THAT
 3 DEPARTMENT UNDER THIS PARAGRAPH FOR 10 YEARS
 4 FOLLOWING THE COMPLETION DATE, AFTER WHICH THE
 5 DEPARTMENT SHALL PUBLICLY RELEASE THE INFORMATION
 6 AFTER 30 DAYS' PUBLIC NOTICE].

7 * **Sec. 27.** AS 43.55.023(b) is amended to read:

8 (b) A producer or explorer may elect to take a tax credit in the amount of **25**
 9 [20] percent of a carried-forward annual loss. A credit under this subsection may be
 10 applied against a tax **levied by** [DUE UNDER] AS 43.55.011(e). For purposes of this
 11 subsection, **except as limited by AS 43.55.160(h),** a carried-forward annual loss is
 12 the amount of a producer's or explorer's adjusted lease expenditures under
 13 AS 43.55.165 and 43.55.170 for a previous calendar year that was not deductible **in**
 14 **calculating production tax values** for that calendar year under **AS 43.55.160.**
 15 **However, a carried-forward annual loss may not include an adjusted lease**
 16 **expenditure to explore for, develop, or produce oil or gas deposits located within**
 17 **a unit or nonunitized reservoir subject to AS 43.55.011(f)** [AS 43.55.160(b) AND
 18 (e)].

19 * **Sec. 28.** AS 43.55.023(d) is amended to read:

20 (d) **A** [EXCEPT AS LIMITED BY (i) OF THIS SECTION, A] person **that is**
 21 entitled to take a tax credit under this section, **other than a tax credit described in**
 22 **(a)(3) of this section, and** that wishes to transfer the unused credit to another person
 23 **or obtain a cash payment under AS 43.55.028** may apply to the department for [A]
 24 transferable tax credit **certificates** [CERTIFICATE]. An application under this
 25 subsection must be in a form prescribed by the department and must include
 26 supporting information and documentation that the department reasonably requires.
 27 The department shall grant or deny an application, or grant an application as to a
 28 lesser amount than that claimed and deny it as to the excess, not later than **120** [60]
 29 days after the latest of (1) March 31 of the year following the calendar year in which
 30 the qualified capital expenditure or carried-forward annual loss for which the credit is
 31 claimed was incurred; (2) [IF THE APPLICANT IS REQUIRED UNDER

1 AS 43.55.030(a) TO FILE A STATEMENT ON OR BEFORE MARCH 31 OF THE
 2 YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE QUALIFIED
 3 CAPITAL EXPENDITURES OR CARRIED-FORWARD ANNUAL LOSS FOR
 4 WHICH THE CREDIT IS CLAIMED WAS INCURRED,] the date the statement
 5 **required under AS 43.55.030(a) or (e)** was filed **for the calendar year in which**
 6 **the qualified capital expenditure or carried-forward annual loss for which the**
 7 **credit is claimed was incurred;** or (3) the date the application was received by the
 8 department. If, based on the information then available to it, the department is
 9 reasonably satisfied that the applicant is entitled to a credit, the department shall issue
 10 the applicant **two** [A] transferable tax credit **certificates, each** [CERTIFICATE] for
 11 **half of** the amount of the credit. **The credit shown on one of the two certificates is**
 12 **available for immediate use. The credit shown on the second of the two**
 13 **certificates may not be applied against a tax for a calendar year earlier than the**
 14 **calendar year following the calendar year in which the certificate is issued, and**
 15 **the certificate must contain a conspicuous statement to that effect.** A certificate
 16 issued under this subsection does not expire.

17 * **Sec. 29.** AS 43.55.023(e) is amended to read:

18 (e) A person to which a transferable tax credit certificate is issued under (d)
 19 of this section may transfer the certificate to another person, and a transferee may
 20 further transfer the certificate. Subject to the limitations set out in **(a) - (d)** [(a) - (c)]
 21 of this section, and notwithstanding any action the department may take with respect
 22 to the applicant under (g) of this section, the owner of a certificate may apply the
 23 credit or a portion of the credit shown on the certificate only against a tax **levied by**
 24 [DUE UNDER] AS 43.55.011(e). However, a credit shown on a transferable tax
 25 credit certificate may not be applied to reduce a transferee's total tax **liability** [DUE]
 26 under AS 43.55.011(e) **for** [ON] oil and gas produced during a calendar year to less
 27 than 80 percent of the tax that would otherwise be due without applying that credit.
 28 Any portion of a credit not used under this subsection may be applied in a later
 29 period.

30 * **Sec. 30.** AS 43.55.023(g) is amended to read:

31 (g) The issuance of a transferable tax credit certificate under (d) of this

1 section or the **purchase of a certificate** [ISSUANCE OF A CASH REFUND] under
 2 **AS 43.55.028** [(f) OF THIS SECTION] does not limit the department's ability to later
 3 audit a tax credit claim to which the certificate relates or to adjust the claim if the
 4 department determines, as a result of the audit, that the applicant was not entitled to
 5 the amount of the credit for which the certificate was issued. The tax liability of the
 6 applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is increased by the
 7 amount of the credit that exceeds that to which the applicant was entitled, or the
 8 applicant's available valid outstanding credits applicable against the tax levied by
 9 AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is
 10 increased under this subsection, the increase bears interest under AS 43.05.225 from
 11 the date the transferable tax credit certificate was issued. For purposes of this
 12 subsection, an applicant that is an explorer is considered a producer subject to the tax
 13 levied by AS 43.55.011(e).

14 * **Sec. 31.** AS 43.55.023 is amended by adding a new subsection to read:

15 (l) An entity that is exempt from taxation under this chapter may not apply
 16 for a transferable tax credit certificate.

17 * **Sec. 32.** AS 43.55.024(a) is amended to read:

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

24 * **Sec. 33.** AS 43.55.024(c) is amended to read:

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

1 average amount of oil and gas produced a day and taxable under AS 43.55.011(e)
2 [OR (f)] is

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

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

$$8 \quad 1 - [2 \times (AP - 50,000)] \div 100,000$$

9 where AP = the average amount of oil and gas taxable under AS 43.55.011(e) [OR
10 (f)], produced a day during the calendar year in BTU equivalent barrels.

11 * **Sec. 34.** AS 43.55.024(e) is amended to read:

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

20 * **Sec. 35.** AS 43.55.024(g) is amended to read:

21 (g) A tax credit authorized by (c) of this section may not be applied to reduce
22 a producer's tax liability for any calendar year under AS 43.55.011(e) [OR (f)] below
23 zero.

24 * **Sec. 36.** AS 43.55.025(a) is amended to read:

25 (a) Subject to the terms and conditions of this section, a credit against the
26 production tax **levied by** [DUE UNDER] AS 43.55.011(e) [OR (f)] is allowed for
27 exploration expenditures that qualify under (b) of this section in an amount equal to
28 one of the following:

29 (1) 20 percent of the total exploration expenditures that qualify only
30 under (b) and (c) of this section;

31 (2) 20 percent of the total exploration expenditures [FOR WORK

1 PERFORMED BEFORE JULY 1, 2007, AND] that qualify only under (b) and (d) of
2 this section;

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

5 (4) 40 percent of the total exploration expenditures that qualify only
6 under (b) and (e) of this section.

7 * **Sec. 37.** AS 43.55.025(b) is amended to read:

8 (b) To qualify for the production tax credit under (a) of this section, an
9 exploration expenditure must be incurred for work performed [ON OR] after
10 **December 31, 2007** [JULY 1, 2003], and before July 1, 2016, [EXCEPT THAT AN
11 EXPLORATION EXPENDITURE FOR A COOK INLET PROSPECT MUST BE
12 INCURRED FOR WORK PERFORMED ON OR AFTER JULY 1, 2005,] and

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

15 (2) if for an exploration well,

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

18 (B) may be for either **a** [AN OIL OR GAS DISCOVERY]
19 well **that encounters an oil or gas deposit** or a dry hole; [AND]

20 (C) must be for **a well that has been completed or**
21 **abandoned at the time the explorer claims the tax credit under (f) of this**
22 **section; and**

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

28 (3) may not be for testing, stimulation, or completion costs;
29 administration, supervision, engineering, or lease operating costs; geological or
30 management costs; community relations or environmental costs; bonuses, taxes, or
31 other payments to governments related to the well; **costs arising from gross**

1 **negligence or violation of health, safety, or environmental statutes or**
 2 **regulations;** or other costs that are generally recognized as indirect costs or financing
 3 costs; and

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

7 * **Sec. 38.** AS 43.55.025(c) is repealed and reenacted to read:

8 (c) To be eligible for the 20 percent production tax credit authorized by (a)(1)
 9 of this section or the 40 percent production tax credit authorized by (a)(3) of this
 10 section, exploration expenditures must

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

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

13 (A) before spudding the well, (i) the explorer shall submit to
 14 the commissioner of natural resources the information necessary to determine
 15 whether the geological objective of the well is a potential oil or gas trap that is
 16 distinctly separate from any trap that has been tested by a preexisting well;
 17 and (ii) the commissioner of natural resources must make an affirmative
 18 determination on that question; the commissioner of natural resources shall
 19 decide whether to make that determination within 60 days after receiving all
 20 the necessary information from the explorer and based on the information
 21 received and on other information the commissioner of natural resources may
 22 consider relevant;

23 (B) for an exploration well other than a well to explore a Cook
 24 Inlet prospect, the well must be located and drilled in such a manner that the
 25 bottom hole is located not less than three miles away from the bottom hole of
 26 a preexisting well drilled for oil or gas, irrespective of whether the preexisting
 27 well has been completed, suspended, or abandoned;

28 (C) after completion or abandonment of the exploration well,
 29 the commissioner of natural resources must determine that the well adequately
 30 achieved the explorer's stated geological objective.

31 * **Sec. 39.** AS 43.55.025(f) is amended to read:

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

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

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

8 (A) to notify the Department of Natural Resources, within 30
9 days after completion of seismic or geophysical data processing, completion
10 of [A] well **drilling,** or filing of a claim for credit, whichever is the latest, for
11 which exploration costs are claimed, of the date of completion and submit a
12 report to that department describing the processing sequence and providing a
13 list of data sets available; [IF, UNDER (c)(2)(B) OF THIS SECTION, AN
14 EXPLORER SUBMITS A CLAIM FOR A CREDIT FOR EXPENDITURES
15 FOR AN EXPLORATION WELL THAT IS LOCATED WITHIN THREE
16 MILES OF A WELL ALREADY DRILLED FOR OIL AND GAS, IN
17 ADDITION TO THE SUBMISSIONS REQUIRED UNDER (1) OF THIS
18 SUBSECTION, THE EXPLORER SHALL SUBMIT THE INFORMATION
19 NECESSARY FOR THE COMMISSIONER OF NATURAL RESOURCES
20 TO EVALUATE THE VALIDITY OF THE EXPLORER'S CLAIM THAT
21 THE WELL IS DIRECTED AT A DISTINCTLY SEPARATE
22 EXPLORATION TARGET, AND THE COMMISSIONER OF NATURAL
23 RESOURCES SHALL, UPON RECEIPT OF ALL EVIDENCE
24 SUFFICIENT FOR THE COMMISSIONER TO EVALUATE THE
25 EXPLORER'S CLAIM, MAKE THAT DETERMINATION WITHIN 60
26 DAYS;]

27 (B) to provide to the Department of Natural Resources, within
28 30 days after the date of a request, **unless a longer period is provided by the**
29 **Department of Natural Resources,** specific data sets, ancillary data, and
30 reports identified in (A) of this paragraph; **in this subparagraph,**

31 **(i) a seismic or geophysical data set includes the**

1 data for an entire seismic survey, irrespective of whether the
 2 survey area covers nonstate land in addition to state land or land
 3 in a unit in addition to land outside a unit;

4 (ii) well data include all derivative products, results,
 5 and copies of data collected and data analyses for the well; well
 6 logs; sample analyses; geophysical and velocity data including
 7 vertical seismic profiles and check shot surveys; and tangible
 8 material including, for each whole core collected, a lengthwise cut
 9 slab that is at least 1/3 of the whole core volume, and
 10 representative samples, as specified by the Department of Natural
 11 Resources, of other gaseous, liquid, or solid material collected
 12 from drilling or testing the well;

13 (C) that, notwithstanding any provision of AS 38, information
 14 provided under this paragraph will be held confidential by the Department of
 15 Natural Resources

16 (i) in the case of well data, until the expiration of the
 17 24-month period of confidentiality described in AS 31.05.035(c),
 18 without extension, after which the Department of Natural
 19 Resources [FOR 10 YEARS FOLLOWING THE COMPLETION
 20 DATE, AT WHICH TIME THAT DEPARTMENT] will release the
 21 information after 30 days' public notice;

22 (ii) in the case of seismic or other geophysical data,
 23 other than seismic data acquired by seismic exploration subject to
 24 (I) of this section, for 10 years following the completion date, at
 25 which time the Department of Natural Resources will release the
 26 information after 30 days' public notice;

27 (iii) in the case of seismic data obtained by seismic
 28 exploration subject to (I) of this section, only until the expiration of
 29 30 days' public notice issued on or after the date the production
 30 tax credit certificates are issued under (5) of this subsection; and

31 (D) that, in the case of well data, the explorer will not make

1 a request under AS 31.05.035(c) that the commissioner of natural
 2 resources keep the data confidential for longer than the 24-month period
 3 of confidentiality described in AS 31.05.035(c);

4 (3) if more than one explorer holds an interest in a well or seismic
 5 exploration,

6 (A) each explorer may claim an amount of credit that is
 7 proportional to the explorer's cost incurred;

8 (B) in the case of a well, each explorer holding an interest
 9 in the well shall agree, in writing, that the explorer will not make the
 10 request described in (2)(D) of this subsection;

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

14 (5) if the department is satisfied that the explorer's claimed
 15 expenditures are qualified under this section and that all data required to be
 16 submitted under this section have been submitted, the department shall issue to the
 17 explorer two [A] production tax credit certificates, each [CERTIFICATE] for half of
 18 the amount of the credit to be allowed against production taxes levied by
 19 AS 43.55.011(e); the credit shown on one of the two certificates is available for
 20 immediate use; the credit shown on the second of the two certificates may not be
 21 applied against a tax for a calendar year earlier than the calendar year following
 22 the calendar year in which the certificate is issued, and the certificate must
 23 contain a conspicuous statement to that effect; notwithstanding any contrary
 24 provision of AS 38, AS 40.25.100, or AS 43.05.230, the following information is
 25 not confidential:

26 (A) the explorer's name;

27 (B) the date of the application;

28 (C) the location of the well or seismic exploration;

29 (D) the date of the department's issuance of the certificate;

30 and

31 (E) the date on which the information required to be

1 submitted under this section will be released [DUE UNDER
2 AS 43.55.011(e) OR (f)].

3 * **Sec. 40.** AS 43.55.025(g) is amended to read:

4 (g) An explorer, other than an entity that is exempt from taxation under
5 this chapter, may transfer, convey, or sell its production tax credit certificate to any
6 person, and any person who receives a production tax credit certificate may also
7 transfer, convey, or sell the certificate.

8 * **Sec. 41.** AS 43.55.025(h) is amended to read:

9 (h) A producer that purchases a production tax credit certificate may apply
10 the credits against its production tax liability under AS 43.55.011(e) [OR (f)].
11 Regardless of the price the producer paid for the certificate, the producer may receive
12 a credit against its production tax liability for the full amount of the credit, but for not
13 more than the amount for which the certificate is issued. A production tax credit
14 allowed under this section may not be applied more than once.

15 * **Sec. 42.** AS 43.55.025(i) is repealed and reenacted to read:

16 (i) For a production tax credit under this section,
17 (1) a credit may not be applied to reduce a taxpayer's tax liability
18 under AS 43.55.011(e) below zero for a calendar year; and
19 (2) an amount of the production tax credit in excess of the amount that
20 may be applied for a calendar year under this subsection may be carried forward and
21 applied against the taxpayer's tax liability under AS 43.55.011(e) in one or more later
22 calendar years.

23 * **Sec. 43.** AS 43.55.025(k) is amended by adding a new paragraph to read:

24 (4) "preexisting well" means a well that was spudded more than 540
25 days but less than 35 years before the date on which the exploration well to which it
26 is compared is spudded.

27 * **Sec. 44.** AS 43.55.025 is amended by adding a new subsection to read:

28 (l) Subject to the terms and conditions of this section, if a claim is filed under
29 (f)(1) of this section before January 1, 2016, a credit against the production tax levied
30 by AS 43.55.011(e) is allowed in an amount equal to five percent of an eligible
31 expenditure under this subsection incurred for seismic exploration performed before

1 July 1, 2003. To be eligible under this subsection, an expenditure must

2 (1) have been for seismic exploration that

3 (A) obtained data that the commissioner of natural resources
4 considers to be in the best interest of the state to acquire for public
5 distribution; and

6 (B) was conducted outside the boundaries of a production unit;
7 however, the amount of the expenditure that is otherwise eligible under this
8 section is reduced proportionately by the portion of the seismic exploration
9 activity that crossed into a production unit; and

10 (2) qualify under (b)(3) of this section.

11 * **Sec. 45.** AS 43.55 is amended by adding a new section to read:

12 **Sec. 43.55.028. Oil and gas tax credit fund established; cash purchases of**
13 **tax credit certificates.** (a) The oil and gas tax credit fund is established as a separate
14 fund of the state. The purpose of the fund is to purchase certain transferable tax credit
15 certificates issued under AS 43.55.023 and certain production tax credit certificates
16 issued under AS 43.55.025.

17 (b) The oil and gas tax credit fund consists of

18 (1) money appropriated to the fund, including any appropriation of the
19 percentage provided under (c) of this section of all revenue from taxes levied by
20 AS 43.55.011 that is not required to be deposited in the constitutional budget reserve
21 fund established in art. IX, sec. 17(a), Constitution of the State of Alaska; and

22 (2) earnings on the fund.

23 (c) The applicable percentage for a fiscal year under (b)(1) of this section is
24 determined with reference to the average price or value forecast by the department for
25 Alaska North Slope oil sold or otherwise disposed of on the United States West Coast
26 during the fiscal year for which the appropriation of revenue from taxes levied by
27 AS 43.55.011 is made. If that forecast is

28 (1) \$60 a barrel or higher, the applicable percentage is 10 percent;

29 (2) less than \$60 a barrel, the applicable percentage is 15 percent.

30 (d) The department shall manage the fund.

31 (e) The department may, on the written application of the person to whom a

1 transferable tax credit certificate has been issued under AS 43.55.023(d) or a
2 production tax credit certificate has been issued under AS 43.55.025(f), use available
3 money in the oil and gas tax credit fund to purchase, in whole or in part, the
4 certificate if the department finds that

5 (1) the calendar year of the purchase is not earlier than the first
6 calendar year for which the credit shown on the certificate would otherwise be
7 allowed to be applied against a tax;

8 (2) within 24 months after applying for the transferable tax credit
9 certificate or filing a claim for the production tax credit certificate, the applicant
10 incurred a qualified capital expenditure or was the successful bidder on a bid
11 submitted for a lease on state land under AS 38.05.180(f);

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

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

18 (5) the applicant's total tax liability under AS 43.55.011(e), after
19 application of all available tax credits, for the calendar year in which the application
20 is made is zero;

21 (6) the applicant's average amount of oil and gas taxable under
22 AS 43.55.011(e) and produced each day during the calendar year preceding the
23 calendar year in which the application is made was not more than 50,000 BTU
24 equivalent barrels; and

25 (7) the purchase is consistent with this section and regulations adopted
26 under this section.

27 (f) Money in the fund remaining at the end of a fiscal year does not lapse and
28 remains available for expenditure in successive fiscal years.

29 (g) The department may adopt regulations to carry out the purposes of this
30 section, including standards and procedures to allocate available money among
31 applications for purchases the total amount of which exceeds the amount of available

1 money in the fund.

2 (h) Nothing in this section creates a dedicated fund.

3 (i) In this section, "qualified capital expenditure" has the meaning given in
4 AS 43.55.023.

5 * **Sec. 46.** AS 43.55.030(a) is amended to read:

6 (a) **A producer that produces oil or gas from a lease or property in the**
7 **state during a calendar year, whether or not any tax payment is due under**
8 **AS 43.55.020(a) for that oil or gas,** [THE PERSON PAYING THE TAX] shall file
9 with the department on March 31 of the **following** year [FOLLOWING THE
10 CALENDAR YEAR FOR WHICH THE TAX WAS LEVIED] a statement, under
11 oath, in a form prescribed by the department, giving, with other information required,
12 the following:

13 (1) a description of each lease or property from which [THE] oil **or**
14 [AND] gas **was** [WERE] produced, by name, legal description, lease number, or
15 accounting codes assigned by the department;

16 (2) the names of the producer and, **if different,** the person paying the
17 tax, **if any;**

18 (3) the gross amount of oil and the gross amount of gas produced from
19 each lease or property, and the percentage of the gross amount of oil and gas owned
20 by **the** [EACH] producer [FOR WHOM THE TAX IS PAID];

21 (4) the gross value at the point of production of the oil and of the gas
22 produced from each lease or property owned by **the** [EACH] producer **and the costs**
23 **of transportation of the oil and gas** [FOR WHOM THE TAX IS PAID];

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

27 (6) the producer's **qualified capital expenditures, as defined in**
28 **AS 43.55.023, other** lease expenditures [AND ADJUSTMENTS AS
29 CALCULATED] under **AS 43.55.165, and adjustments or other payments or**
30 **credits under AS 43.55.170;**

31 (7) **the production tax values of the oil and gas under**

AS 43.55.160;**(8) any claims for tax credits to be applied; and****(9) calculations showing the amounts, if any, that were or are due under AS 43.55.020(a) and interest on any underpayment or overpayment [AS 43.55.160 - 43.55.170].**

* **Sec. 47.** AS 43.55.030(d) is amended to read:

(d) Reports **required under this section** [BY OR ON BEHALF OF THE PRODUCER] are delinquent the first day following the day the report is due. **The person required to file the report is liable for a penalty, as determined by the department under standards adopted in regulation by the department, of not more than \$1,000 for each day the person fails to file the report at the time required. The penalty is in addition to the penalties in AS 43.05.220 and 43.05.290 and is assessed, collected, and paid in the same manner as a tax deficiency under this title. In this subsection, "report" includes a statement.**

* **Sec. 48.** AS 43.55.030 is amended by adding new subsections to read:

(e) An explorer or producer that incurs a lease expenditure under AS 43.55.165 or receives a payment or credit under AS 43.55.170 during a calendar year but does not produce oil or gas from a lease or property in the state during the calendar year shall file with the department on March 31 of the following year a statement, under oath, in a form prescribed by the department, giving, with other information required, the following:

(1) the producer's qualified capital expenditures, as defined in AS 43.55.023, other lease expenditures under AS 43.55.165, and adjustments or other payments or credits under AS 43.55.170; and

(2) if the explorer or producer receives a payment or credit under AS 43.55.170, calculations showing whether the explorer or producer is liable for a tax under AS 43.55.160(d) or 43.55.170(b) and, if so, the amount.

(f) The department may require a producer, an explorer, or an operator of a lease or property to file monthly reports, as applicable, of

(1) the amounts and gross value at the point of production of oil and gas produced;

- 1 (2) transportation costs of the oil and gas;
 2 (3) any unscheduled interruption of, or reduction in the rate of, oil or
 3 gas production;
 4 (4) lease expenditures and adjustments under AS 43.55.165 and
 5 43.55.170;
 6 (5) joint interest billings;
 7 (6) contracts for the sale or transportation of oil or gas;
 8 (7) information and calculations used in determining monthly
 9 installment payments of estimated tax under AS 43.55.020(a); and
 10 (8) other records and information the department considers necessary
 11 for the administration of this chapter.

12 * **Sec. 49.** AS 43.55.040 is amended to read:

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

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

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

27 (B) impose appropriate conditions limiting

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

- 1 (ii) the use of the information to use for that purpose;
- 2 (2) examine the books, records, and files of **the** [SUCH A] person;
- 3 (3) conduct hearings and compel the attendance of witnesses and the
- 4 production of books, records, and papers of any person; [AND]
- 5 (4) make an investigation or hold an inquiry that is considered
- 6 necessary to a disclosure of the facts as to
- 7 (A) the amount of production from any oil or gas location, or
- 8 of a company or other producer of oil or gas; and
- 9 (B) the rendition of the oil and gas for taxing purposes;
- 10 **(5) require a producer, an explorer, or an operator of a lease or**
- 11 **property to file reports and copies of records that the department considers**
- 12 **necessary to forecast state revenue under this chapter; in the case of reports and**
- 13 **copies of records relating to proposed, expected, or approved unit expenditures**
- 14 **for a unit for which one or more working interest owners other than the**
- 15 **operator have authority to approve unit expenditures, the required reports and**
- 16 **copies of records are limited to those reports or copies of records that constitute**
- 17 **or disclose communications between the operator and the working interest**
- 18 **owners relating to unit budget matters; and**
- 19 **(6) assess against a person required under this section to file a**
- 20 **report, statement, or other document a penalty, as determined by the**
- 21 **department under standards adopted in regulation by the department, of not**
- 22 **more than \$1,000 for each day the person fails to file the report, statement, or**
- 23 **other document at the time required; the penalty is in addition to the penalties in**
- 24 **AS 43.05.220 and 43.05.290 and is assessed, collected, and paid in the same**
- 25 **manner as a tax deficiency under this title.**

26 * **Sec. 50.** AS 43.55 is amended by adding a new section to read:

27 **Sec. 43.55.075. Limitation on assessment and amended returns.** (a) Except

28 as provided in AS 43.05.260(c), the amount of a tax imposed by this chapter must be

29 assessed within six years after the latest return was filed.

30 (b) A decision of a regulatory agency, court, or other body with authority to

31 resolve disputes that results in a retroactive change to a lease expenditure, to an

1 adjustment to a lease expenditure, to costs of transportation, to sale price, to
 2 prevailing value, or to consideration of quality differentials relating to the
 3 commingling of oils has a corresponding effect, either an increase or decrease, as
 4 applicable, on the production tax value of oil or gas or the amount or availability of a
 5 tax credit as determined under this chapter. For purposes of this section, a change to a
 6 lease expenditure includes a change in the categorization of a lease expenditure as a
 7 qualified capital expenditure or as not a qualified capital expenditure. The producer
 8 shall

9 (1) within 60 days after the change, notify the department in writing;

10 and

11 (2) within 120 days after the change, file amended returns covering all
 12 periods affected by the change, unless the department agrees otherwise or a stay is in
 13 place that affects the filing or payment, regardless of the pendency of appeals of the
 14 decision.

15 (c) If an alteration in or modification of a producer's federal income tax return
 16 or a recomputation of the producer's federal income tax or determination of
 17 deficiency occurs that affects the amount of a tax imposed on the producer under this
 18 chapter, the producer shall

19 (1) within 60 days after the final determination of the alteration,
 20 modification, recomputation, or deficiency, notify the department in writing; and

21 (2) within 120 days after the final determination of the alteration,
 22 modification, recomputation, or deficiency, file amended returns covering all affected
 23 periods.

24 (d) In this section,

25 (1) "qualified capital expenditure" has the meaning given in
 26 AS 43.55.023;

27 (2) "return" includes a report, a statement, and an amended return,
 28 report, or statement.

29 * **Sec. 51.** AS 43.55.110 is amended by adding new subsections to read:

30 (e) The department may require that returns, statements, reports, notifications,
 31 and applications filed under this chapter be filed electronically in a form and manner

1 approved or prescribed by the department.

2 (f) The department may require that payments required under this chapter be
3 made electronically in a form and manner approved or prescribed by the department.

4 (g) Notwithstanding AS 44.62, the department may issue, for the information
5 and guidance of producers, explorers, and other interested persons, advisory bulletins
6 stating the department's interpretation of provisions of this chapter and of regulations
7 adopted under this chapter. Unless otherwise provided by the department by
8 regulation, interpretations stated in the advisory bulletins are not binding on the
9 department or others.

10 * **Sec. 52.** AS 43.55.160(a) is repealed and reenacted to read:

11 (a) Except as provided in (b) of this section, for purposes of this chapter, the
12 production tax value of the taxable

13 (1) oil and gas produced during a calendar year from a lease or
14 property in the state outside the Cook Inlet sedimentary basin is the amount
15 calculated by deducting from the gross value at the point of production of the oil and
16 gas taxable under AS 43.55.011(e) and produced from the lease or property,

17 (A) the producer's lease expenditures for the calendar year
18 under AS 43.55.165, as adjusted under AS 43.55.170, that are costs of
19 exploring for, developing, or producing oil or gas deposits located within the
20 lease or property; and

21 (B) if the remainder calculated under (A) of this paragraph is
22 greater than zero, the producer's lease expenditures for the calendar year under
23 AS 43.55.165, as adjusted under AS 43.55.170, that are allocated to the lease
24 or property under (e) - (g) of this section;

25 (2) oil produced during a calendar year from a lease or property in the
26 Cook Inlet sedimentary basin is the amount calculated by deducting from the gross
27 value at the point of production of the oil taxable under AS 43.55.011(e) and
28 produced from the lease or property the producer's lease expenditures for the calendar
29 year under AS 43.55.165, as adjusted under AS 43.55.170, that are costs of exploring
30 for, developing, or producing oil deposits located within the lease or property;

31 (3) gas produced during a calendar year from a lease or property in the

1 Cook Inlet sedimentary basin is the amount calculated by deducting from the gross
2 value at the point of production of the gas taxable under AS 43.55.011(e) and
3 produced from the lease or property the producer's lease expenditures for the calendar
4 year under AS 43.55.165, as adjusted under AS 43.55.170, that are costs of exploring
5 for, developing, or producing gas deposits located within the lease or property.

6 * **Sec. 53.** AS 43.55.160(b) is amended to read:

7 (b) A production tax value calculated under [(a) OF] this section may not be
8 less than zero.

9 * **Sec. 54.** AS 43.55.160(e) is repealed and reenacted to read:

10 (e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that
11 (1) would otherwise be deductible by a producer under (a)(1)(A) of this section in
12 calculating a production tax value under (a)(1) of this section of oil and gas produced
13 from a lease or property for a calendar year but whose deduction would cause the
14 production tax value to be less than zero; (2) are the producer's costs incurred during
15 the calendar year of exploring for, developing, or producing oil or gas deposits
16 located within the producer's leases or properties in the state outside the Cook Inlet
17 sedimentary basin that do not produce oil or gas during the calendar year; or (3) are
18 the producer's costs incurred during the calendar year of exploring for oil or gas
19 deposits located within land in the state outside the Cook Inlet sedimentary basin in
20 which the producer does not own an operating right, operating interest, or working
21 interest must be allocated to, and deducted in calculating the producer's production
22 tax value of the oil and gas produced during the calendar year from, the producer's
23 other leases or properties, in accordance with the provisions of (f) and (g) of this
24 section, to the extent consistent with (b) of this section. Other than for a lease or
25 property subject to AS 43.55.011(f) and except as otherwise provided under (h) of
26 this section, any remaining adjusted lease expenditures in excess of what may be
27 deducted consistent with (b) of this section may be used to establish a carried-forward
28 annual loss under AS 43.55.023(b).

29 * **Sec. 55.** AS 43.55.160 is amended by adding new subsections to read:

30 (f) This subsection applies to adjusted lease expenditures required to be
31 allocated under (e) of this section that are the producer's costs of exploring for,

1 developing, or producing oil or gas deposits located within the producer's leases or
2 properties that include land north of 68 degrees North latitude or are the producer's
3 costs of exploring for oil or gas deposits located within land in the state north of 68
4 degrees North latitude in which the producer does not own an operating right,
5 operating interest, or working interest. To the extent consistent with (b) of this
6 section, adjusted lease expenditures under this subsection that are

7 (1) not costs of exploring for, developing, or producing oil or gas
8 deposits located within a lease or property subject to AS 43.55.011(f) must be
9 allocated to one or more leases or properties from which the producer produces oil or
10 gas during the calendar year that include land north of 68 degrees North latitude;

11 (2) costs of exploring for, developing, or producing oil or gas deposits
12 located within a lease or property subject to AS 43.55.011(f) must be allocated to one
13 or more other leases or properties from which the producer produces oil or gas during
14 the calendar year that are within the same unit or overlie the same nonunitized
15 reservoir.

16 (g) This subsection applies to adjusted lease expenditures required to be
17 allocated under (e) of this section that are the producer's costs of exploring for,
18 developing, or producing oil or gas deposits located within the producer's leases or
19 properties outside the Cook Inlet sedimentary basin and no part of which is north of
20 68 degrees North latitude or are the producer's costs of exploring for oil or gas
21 deposits located within land in the state outside the Cook Inlet sedimentary basin and
22 not north of 68 degrees North latitude in which the producer does not own an
23 operating right, operating interest, or working interest. To the extent consistent with
24 (b) of this section, adjusted lease expenditures under this subsection must be allocated
25 to one or more leases or properties that are outside the Cook Inlet sedimentary basin
26 and no part of which is north of 68 degrees North latitude from which the producer
27 produces oil or gas during the calendar year.

28 (h) For purposes of this section, Cook Inlet excess adjusted lease
29 expenditures for a calendar year are determined by adding (1) the adjusted lease
30 expenditures that would otherwise be deductible by a producer in calculating
31 production tax values under (a)(2) or (3) of this section for the calendar year but

1 whose deduction would cause a production tax value to be less than zero; (2) the
2 adjusted lease expenditures that are the producer's costs incurred during the calendar
3 year of exploring for, developing, or producing oil or gas deposits located within the
4 producer's leases or properties in the Cook Inlet sedimentary basin from which no oil
5 or gas is produced during the calendar year; and (3) the adjusted lease expenditures
6 that are the producer's costs incurred during the calendar year of exploring for oil or
7 gas deposits located within land in the Cook Inlet sedimentary basin in which the
8 producer does not own an operating right, operating interest, or working interest. For
9 a calendar year for which a limitation under AS 43.55.011(j) or (k) on the tax levied
10 by AS 43.55.011(e) would have the effect of reducing the producer's tax for oil or gas
11 produced from one or more leases or properties in the Cook Inlet sedimentary basin
12 below the amount of the tax that would be levied in the absence of that limitation, the
13 producer shall perform the calculations set out in (i) of this section. The amount, if
14 any, calculated under (i)(6) of this section is the only amount of Cook Inlet excess
15 adjusted lease expenditures that may be used to establish a carried-forward annual
16 loss under AS 43.55.023(b).

17 (i) A producer subject to (h) of this section shall perform the following
18 calculations:

19 (1) calculate the total amount of Cook Inlet excess adjusted lease
20 expenditures;

21 (2) multiply that total amount by 25 percent;

22 (3) calculate for each lease or property the amount by which a
23 limitation under AS 43.55.011(j) or (k) would reduce the amount of the producer's tax
24 levied by AS 43.55.011(e);

25 (4) calculate the total of the reductions calculated under (3) of this
26 subsection for all affected leases or properties;

27 (5) if the amount calculated under (2) of this subsection is greater than
28 the amount calculated under (4) of this subsection, subtract the latter from the former;
29 and

30 (6) multiply the amount, if any, calculated under (5) of this subsection
31 by four.

1 * **Sec. 56.** AS 43.55.165(a) is repealed and reenacted to read:

2 (a) For purposes of this chapter, a producer's lease expenditures for a calendar
3 year are

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

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

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

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

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

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

21 (2) a reasonable allowance for that calendar year, as determined under
22 regulations adopted by the department, for overhead expenses that are directly related
23 to exploring for, developing, or producing, as applicable, the oil or gas deposits.

24 * **Sec. 57.** AS 43.55.165(b) is amended to read:

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

26 (1) direct costs include

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

31 (B) payments of or in lieu of property taxes, sales and use

1 taxes, motor fuel taxes, and excise taxes;

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

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

11 **(3) in determining whether costs are lease expenditures, the**
12 **department shall consider, among other factors, the**

13 **(A) typical industry practices and standards in the state**
14 **that determine the costs, other than items listed in (e) of this section, that**
15 **an operator is allowed to bill a producer that is not the operator, under**
16 **unit operating agreements or similar operating agreements that were in**
17 **effect before December 2, 2005, and were subject to negotiation with at**
18 **least one producer with substantial bargaining power, other than the**
19 **operator; and**

20 **(B) standards adopted by the Department of Natural**
21 **Resources that determine the costs, other than items listed in (e) of this**
22 **section, that a lessee is allowed to deduct from revenue in calculating net**
23 **profits under a lease issued under AS 38.05.180(f)(3)(B), (D), or (E).**

24 * Sec. 58. AS 43.55.165(e) is amended to read:

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

26 (1) depreciation, depletion, or amortization;

27 (2) oil or gas royalty payments, production payments, lease profit
28 shares, or other payments or distributions of a share of oil or gas production, profit, or
29 revenue;

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

31 (4) interest or other financing charges or costs of raising equity or

1 debt capital;

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

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

6 (7) fines or penalties imposed by law;

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

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

12 (10) amounts paid to indemnify the state; the exclusion provided by
13 this paragraph does not apply to the costs of obtaining insurance or a surety bond
14 from a third-party insurer or surety;

15 (11) surcharges levied under AS 43.55.201 or 43.55.300;

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

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

22 (14) a tax levied under AS 43.55.011;

23 (15) [THE PORTION OF] costs incurred for dismantlement, removal,
24 surrender, or abandonment of a facility, pipeline, well pad, platform, or other
25 structure, or for the restoration of a lease, field, unit, area, **tract of land,** body of
26 water, or right-of-way in conjunction with dismantlement, removal, surrender, or
27 abandonment [, THAT IS ATTRIBUTABLE TO PRODUCTION OF OIL OR GAS
28 OCCURRING BEFORE APRIL 1, 2006; THE PORTION IS CALCULATED AS A
29 RATIO OF THE AMOUNT OF OIL AND GAS PRODUCTION, IN BARRELS OF
30 OIL EQUIVALENT, ASSOCIATED WITH THE FACILITY, PIPELINE, WELL
31 PAD, PLATFORM, OTHER STRUCTURE, LEASE, FIELD, UNIT, AREA, BODY

1 OF WATER, OR RIGHT-OF-WAY OCCURRING BEFORE APRIL 1, 2006, TO
 2 THE TOTAL AMOUNT OF OIL AND GAS PRODUCTION, IN BARRELS OF
 3 OIL EQUIVALENT, ASSOCIATED WITH THAT FACILITY, PIPELINE, WELL
 4 PAD, PLATFORM, OTHER STRUCTURE, LEASE, FIELD, UNIT, AREA, BODY
 5 OF WATER, OR RIGHT-OF-WAY THROUGH THE END OF THE CALENDAR
 6 MONTH BEFORE COMMENCEMENT OF THE DISMANTLEMENT,
 7 REMOVAL, SURRENDER, OR ABANDONMENT]; a cost is not excluded under
 8 this paragraph if the dismantlement, removal, surrender, or abandonment for which
 9 the cost is incurred is undertaken for the purpose of replacing, renovating, or
 10 improving the facility, pipeline, well pad, platform, or other structure; [FOR THE
 11 PURPOSES OF THIS PARAGRAPH, "BARREL OF OIL EQUIVALENT" MEANS

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

13 (B) IN THE CASE OF GAS, 6,000 CUBIC FEET;]

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

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

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

27 (19) costs incurred for repair, replacement, or deferred
 28 maintenance of a facility, a pipeline, a structure, or equipment, other than a well,
 29 that results in or is undertaken in response to a failure, problem, or event that
 30 results in an unscheduled interruption of, or reduction in the rate of, oil or gas
 31 production; or costs incurred for repair, replacement, or deferred maintenance

1 of a facility, a pipeline, a structure, or equipment, other than a well, that is
2 undertaken in response to, or is otherwise associated with, an unpermitted
3 release of a hazardous substance or of gas; however, costs under this paragraph
4 that would otherwise constitute lease expenditures under (a) of this section may
5 be treated as lease expenditures if the department determines that the repair or
6 replacement is solely necessitated by an act of war, by an unanticipated grave
7 natural disaster or other natural phenomenon of an exceptional, inevitable, and
8 irresistible character, the effects of which could not have been prevented or
9 avoided by the exercise of due care or foresight, or by an intentional or negligent
10 act or omission of a third party, other than a party or its agents in privity of
11 contract with, or employed by, the producer or an operator acting for the
12 producer, but only if the producer or operator, as applicable, exercised due care
13 in operating and maintaining the facility, pipeline, structure, or equipment, and
14 took reasonable precautions against the act or omission of the third party and
15 against the consequences of the act or omission; in this paragraph,

16 (A) "costs incurred for repair, replacement, or deferred
17 maintenance of a facility, a pipeline, a structure, or equipment" includes
18 costs to dismantle and remove the facility, pipeline, structure, or
19 equipment that is being replaced;

20 (B) "hazardous substance" has the meaning given in
21 AS 46.03.826;

22 (C) "replacement" includes renovation or improvement;

23 (20) costs incurred to construct, acquire, or operate a refinery or
24 crude oil topping plant, regardless of whether the products of the refinery or
25 topping plant are used in oil or gas exploration, development, or production
26 operations; however, if a producer owns a refinery or crude oil topping plant
27 that is located on or near the premises of the producer's lease or property in the
28 state and that processes the producer's oil produced from that lease or property
29 into a product that the producer uses in the operation of the lease or property in
30 drilling for or producing oil or gas, the producer's lease expenditures include the
31 amount calculated by subtracting from the fair market value of the product used

1 the prevailing value, as determined under AS 43.55.020(f), of the oil that is
 2 processed.

3 * **Sec. 59.** AS 43.55.165(h) is amended to read:

4 (h) The department shall adopt regulations that provide for reasonable
 5 methods of allocating costs between oil and gas and between leases or properties in
 6 those circumstances where an allocation of costs is required to determine [THE
 7 DETERMINATION OF THE] lease expenditures that are costs of exploring for,
 8 developing, or producing oil deposits or costs of exploring for, developing, or
 9 producing gas deposits [APPLICABLE TO OIL OR TO GAS], or that are costs of
 10 exploring for, developing, or producing oil or gas deposits located within
 11 [APPLICABLE TO OIL AND GAS PRODUCED FROM] different leases or
 12 properties [, REQUIRES AN ALLOCATION OF COSTS].

13 * **Sec. 60.** AS 43.55.170(a) is amended to read:

14 (a) A [UNLESS THE PAYMENT OR CREDIT HAS ALREADY BEEN
 15 SUBTRACTED IN CALCULATING BILLABLE OR BILLED COSTS UNDER
 16 AS 43.55.165(c) OR (d), A] producer's lease expenditures under AS 43.55.165 must
 17 be adjusted by subtracting payments or credits, other than tax credits, received by the
 18 producer or by an operator acting for the producer for

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

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

29 (3) the sale or other transfer of

30 (A) an asset, including geological, geophysical, or well data or
 31 interpretations, acquired by the producer as a result of a lease expenditure or

1 an expenditure that would be a lease expenditure if it were incurred after
2 March 31, 2006; for purposes of this subparagraph,

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

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

11 (B) oil or gas

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

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

16 * **Sec. 61.** AS 43.55 is amended by adding a new section to article 4 to read:

17 **Sec. 43.55.890. Disclosure of tax information.** Notwithstanding any contrary
18 provision of AS 40.25.100, and regardless of whether the information is considered
19 under AS 43.05.230(e) to constitute statistics classified to prevent the identification of
20 particular returns or reports, the department may publish the following information
21 under this chapter, if aggregated among three or more producers or explorers,
22 showing by month or calendar year and by lease or property, unit, or area of the state:

23 (1) the amount of oil or gas production;

24 (2) the amount of taxes levied under this chapter or paid under this
25 chapter;

26 (3) the effective tax rates under this chapter;

27 (4) the gross value of oil or gas at the point of production;

28 (5) the transportation costs for oil or gas;

29 (6) qualified capital expenditures under AS 43.55.023(k);

30 (7) exploration expenditures under AS 43.55.025;

31 (8) production tax values of oil or gas under AS 43.55.160;

- 1 (9) lease expenditures under AS 43.55.165;
 2 (10) adjustments to lease expenditures under AS 43.55.170;
 3 (11) tax credits applicable or potentially applicable against taxes
 4 levied by this chapter.

5 * **Sec. 62.** AS 43.55.900 is amended by adding new paragraphs to read:

6 (22) "nonunitized reservoir" means a pool that is not wholly within a
 7 single unit;

8 (23) "pool" has the meaning given in AS 31.05.170;

9 (24) "producer" means an owner of an operating right, operating
 10 interest, or working interest in a mineral interest in oil or gas;

11 (25) "unit" means a group of tracts of land that is

12 (A) subject to a cooperative or a unit plan of development or
 13 operation that has been certified by the commissioner of natural resources
 14 under AS 38.05.180(p);

15 (B) subject to a cooperative or a unit plan of development or
 16 operation that has been certified by the United States Secretary of the Interior
 17 under 30 U.S.C. 226(m);

18 (C) subject to an agreement of the owners of interests in the
 19 tracts of land to validly integrate their interests to provide for the unitized
 20 management, development, and operation of the tracts of land as a unit, within
 21 the meaning of AS 31.05.110(a); or

22 (D) within the unit area of a unit created by order of the
 23 Alaska Oil and Gas Conservation Commission under AS 31.05.110(b).

24 * **Sec. 63.** AS 43.55.023(f) is repealed.

25 * **Sec. 64.** AS 43.55.165(c) and 43.55.165(d) are repealed.

26 * **Sec. 65.** AS 43.55.011(l), 43.55.023(i), and 43.55.160(c) are repealed.

27 * **Sec. 66.** The uncodified law of the State of Alaska is amended by adding a new section to
 28 read:

29 **APPLICABILITY.** (a) Sections 58, 60, and 64 of this Act apply to oil and gas
 30 produced after March 31, 2006.

31 (b) Sections 15 - 25, 32 - 35, 41, 42, 44, 52 - 57, 59, and 65 of this Act apply to oil

1 and gas produced after December 31, 2007.

2 (c) Sections 26 - 29 of this Act apply to expenditures incurred after December 31,
3 2007, that are the basis of tax credits that may be claimed against taxes levied for oil and gas
4 produced after December 31, 2007.

5 (d) Section 30 of this Act applies to transferable tax credit certificates issued under
6 AS 43.55.023(d), as amended by sec. 28 of this Act, and to transferable tax credit certificates
7 issued under AS 43.55.023(d), in effect before January 1, 2008, for which a cash refund has
8 not been issued under AS 43.55.023(f) before January 1, 2008.

9 (e) Sections 36 - 39 and 43 of this Act apply to exploration expenditures incurred for
10 work performed after December 31, 2007, that are the basis of tax credits that may be
11 claimed against taxes levied for oil and gas produced after December 31, 2007.

12 (f) Sections 46 and 48 of this Act apply to statements and reports under
13 AS 43.55.030(a), as amended by sec. 46 of this Act, and AS 43.55.030(e) and (f), as added
14 by sec. 48 of this Act, required to be filed after December 31, 2007.

15 (g) AS 43.55.075(a), enacted by sec. 50 of this Act, applies to any tax liability under
16 AS 43.55 with respect to which the period of limitations on assessment under AS 43.05.260
17 had not expired before the effective date of secs. 14 and 50 of this Act.

18 * **Sec. 67.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 **TRANSITION: ASSIGNMENT OF OIL AND GAS AUDITORS IN THE**
21 **DEPARTMENT OF REVENUE AND DEPARTMENT OF NATURAL RESOURCES.**
22 Notwithstanding any contrary provision of law, employees employed as oil and gas auditors
23 performing production tax audits or as their immediate supervisors in the Department of
24 Revenue and employees employed as oil and gas auditors performing royalty audits,
25 including net profit share audits, or as their immediate supervisors in the Department of
26 Natural Resources are assigned to the exempt service in accordance with AS 39.25.110(42),
27 added by sec. 10 of this Act, and may not be included in the general government or
28 supervisory collective bargaining units of state employees except as provided in this section.
29 All oil and gas auditors performing production tax audits or royalty audits and their
30 immediate supervisors hired before the effective date of sec. 10 of this Act have the option of
31 (1) continuing in the general government or supervisory collective bargaining units and being

1 subject to their respective collective bargaining agreements; or (2) being removed from those
 2 bargaining units. Those employees have 90 days from the effective date of sec. 10 of this Act
 3 to exercise the option to continue in the collective bargaining units. The option taken under
 4 this section by the employee is irrevocable. The employees choosing to be removed from
 5 those bargaining units are removed after any notice period required by a collective
 6 bargaining agreement.

7 * **Sec. 68.** The uncodified law of the State of Alaska is amended by adding a new section to
 8 read:

9 TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any
 10 contrary provision of AS 44.62.240,

11 (1) if the Department of Revenue expressly designates in the regulation that
 12 the regulation applies retroactively to that date, a regulation adopted by the Department of
 13 Revenue to implement, interpret, make specific, or otherwise carry out

14 (A) secs. 31, 58, 60, and 64 of this Act may apply retroactively to
 15 April 1, 2006;

16 (B) secs. 15 - 30, 32 - 39, 41 - 46, 48, 52 - 57, 59, 63, and 65 of this
 17 Act may apply retroactively to January 1, 2008;

18 (2) a regulation adopted by the Department of Natural Resources to
 19 implement, interpret, make specific, or otherwise carry out statutory provisions for the
 20 administration of oil and gas leases issued under AS 38.05.180(f)(3)(B), (D), or (E), to the
 21 extent the regulation deals with the treatment of oil and gas production taxes in determining
 22 net profits under those leases, may apply retroactively to April 1, 2006, if the Department of
 23 Natural Resources expressly designates in the regulation that the regulation applies
 24 retroactively to that date.

25 * **Sec. 69.** The uncodified law of the State of Alaska is amended by adding a new section to
 26 read:

27 TRANSITION: PENDING APPLICATIONS. (a) Notwithstanding a contrary
 28 provision of law, if an application made under AS 43.55.023(d), in effect before January 1,
 29 2008, has not been granted or denied by the Department of Revenue before January 1, 2008,
 30 the application is subject to the time period for the Department of Revenue's decision on the
 31 application provided in AS 43.55.023(d), as amended by sec. 28 of this Act.

1 (b) If an application made under AS 43.55.023(f) is received by the Department of
2 Revenue before January 1, 2008, and is still outstanding on that date, the application is
3 considered to be an application under AS 43.55.028, enacted by sec. 45 of this Act.

4 * **Sec. 70.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 TRANSITION: REGULATIONS. The Department of Natural Resources and the
7 Department of Revenue may proceed to adopt regulations to implement this Act. The
8 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
9 effective date of the law implemented by the regulation.

10 * **Sec. 71.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 RETROACTIVITY OF CERTAIN PROVISIONS OF THIS ACT. (a) Section 40 of
13 this Act is retroactive to July 1, 2003.

14 (b) Sections 31, 58, 60, 64, 66(g), and 68 of this Act are retroactive to April 1, 2006.

15 * **Sec. 72.** Sections 15 - 30, 32 - 39, 41 - 46, 48, 52 - 57, 59, 63, and 65 of this Act take
16 effect January 1, 2008.

17 * **Sec. 73.** Except as provided in sec. 72 of this Act, this Act takes effect immediately under
18 AS 01.10.070(c).