

CS FOR HOUSE BILL NO. 2001(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SPECIAL SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 11/6/07

Referred: Finance

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

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; providing a limit on the amount of tax that may be levied on the production of**
3 **certain gas that is produced outside of the Cook Inlet sedimentary basin and south of 68**
4 **degrees North latitude; providing a penalty for the underpayment of an installment**
5 **payment of the production tax on oil and gas; relating to the sharing between agencies**
6 **of certain information relating to the production tax and to oil and gas or gas only**
7 **leases; expanding the period in which the Department of Revenue may assess the**
8 **amount of oil and gas production tax and conservation surcharges; amending the State**
9 **Personnel Act to place in the exempt service certain state oil and gas auditors and their**
10 **immediate supervisors; establishing an oil and gas tax credit fund and authorizing**
11 **payment from that fund; providing for retroactive application of certain statutory and**
12 **regulatory provisions relating to the production tax on oil and gas and conservation**

1 **surcharges on oil; making conforming amendments; and providing for an effective**
 2 **date."**

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

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

6 LEGISLATIVE INTENT. (a) It is the intent of the legislature that provisions of this
 7 Act

8 (1) ensure a fair and equitable means of assessing and taxing Alaska's oil and
 9 gas resources;

10 (2) encourage the availability to Alaska's citizens of affordable gas produced,
 11 transported, and consumed within the state; and

12 (3) confirm by clarification the longstanding interpretation of AS 43.05.260
 13 by the Department of Revenue through enactment of AS 43.55.075(b) in sec. 46 of this Act,
 14 relating to limitation of assessments for the production tax on oil and gas and conservation
 15 surcharges on oil.

16 (b) It is the intent of the legislature that not less than half of the amount of money
 17 received by the state as a result of the retroactivity of certain provisions under sec. 66(b) and
 18 (c) of this Act that exceeds the amount the state would have received if those provisions had
 19 not been made retroactive will be appropriated in equal amounts to

20 (1) reduce the unfunded liability of the state's public employees' retirement
 21 system and teachers' retirement system;

22 (2) the public education fund (AS 14.17.300).

23 (c) It is the intent of the legislature that any savings realized by a taxpayer on the
 24 production of gas outside of the Cook Inlet sedimentary basin as a result of the addition of
 25 AS 43.55.011(p) by sec. 20 of this Act and the amendment to AS 43.55.160(a) by sec. 50 of
 26 this Act will be passed on to the ultimate consumer.

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

28 (a) The director shall

29 (1) have general charge and supervision of the division and may
 30 exercise the powers specifically delegated to the director; **the director** may employ

1 and fix the compensation of assistants and employees necessary for the operations of
 2 the division; the director [AND] is the certifying officer of the division, with the
 3 consent of the commissioner, and may approve vouchers for disbursements of money
 4 appropriated to the division;

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

7 (3) execute laws, rules, regulations, and orders adopted by the
 8 commissioner;

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

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

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

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

23 (8) [REPEALED]

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

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

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

1 (C) all geological, geophysical, and engineering data supplied,
2 whether or not concerned with the extraction or development of natural
3 resources;

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

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

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

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

16 **(10)** [(11)] select and employ or obtain at reasonable compensation
17 cadastral, appraisal, or other professional personnel the director considers necessary
18 for the proper operation of the division;

19 **(11)** [(12)] be the certifying agent of the state to select, accept, and
20 secure by whatever action is necessary in the name of the state, by deed, sale, gift,
21 devise, judgment, operation of law, or other means any land, of whatever nature or
22 interest, available to the state; and be the certifying agent of the state, to select,
23 accept, or secure by whatever action is necessary in the name of the state any land, or
24 title or interest to land available, granted, or subject to being transferred to the state
25 for any purpose;

26 **(12) on request, furnish records, files, and other information**
27 **related to the administration of AS 38.05.180 to the Department of Revenue for**
28 **use in forecasting state revenue under or administering AS 43.55, whether or not**
29 **those records, files, and other information are required to be kept confidential**
30 **under (8) of this subsection; in the case of records, files, or other information**
31 **required to be kept confidential under (8) of this subsection, the Department of**

1 **Revenue shall maintain the confidentiality that the Department of Natural**
 2 **Resources is required to extend to records, files, and other information under (8)**
 3 **of this subsection**

4 [(13) REPEALED

5 (14) REPEALED].

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

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

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

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

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

22 (g) Nothing in this section prohibits the publication of statistics in a manner
 23 that maintains the confidentiality of information to the extent required by an
 24 agreement with the department or by **AS 38.05.035(a)(8)** [AS 38.05.035(a)(9)] or
 25 AS 41.09.010(d).

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

27 (f) As part of the timber sale negotiations authorized by this section, the
 28 commissioner may require a prospective purchaser negotiating a timber sale contract
 29 to submit financial and technical data that demonstrates that the requirements of this
 30 section have been or will be met. Upon the prospective purchaser's request, the
 31 commissioner shall keep data provided by the purchaser confidential in accordance

1 with the requirements of AS 38.05.035(a)(8) [AS 38.05.035(a)(9)].

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

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

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

9 (j) The commissioner

10 (1) may provide for modification of royalty on individual leases,
11 leases unitized as described in (p) of this section, leases subject to an agreement
12 described in (s) or (t) of this section, or interests unitized under AS 31.05

13 (A) to allow for production from an oil or gas field or pool if

14 (i) the oil or gas field or pool has been sufficiently
15 delineated to the satisfaction of the commissioner;

16 (ii) the field or pool has not previously produced oil or
17 gas for sale; and

18 (iii) oil or gas production from the field or pool would
19 not otherwise be economically feasible;

20 (B) to prolong the economic life of an oil or gas field or pool
21 as per barrel or barrel equivalent costs increase or as the price of oil or gas
22 decreases, and the increase or decrease is sufficient to make future production
23 no longer economically feasible; or

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

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

30 (3) shall provide for an increase or decrease or other modification of
31 the state's royalty share by a sliding scale royalty or other mechanism that shall be

1 based on a change in the price of oil or gas and may also be based on other relevant
2 factors such as a change in production rate, projected ultimate recovery, development
3 costs, and operating costs;

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

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

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

13 (5) may not grant a royalty reduction under this subsection without
14 including an explicit condition that the royalty reduction is not assignable without the
15 prior written approval, which may not be unreasonably withheld, by the
16 commissioner; the commissioner shall, in the preliminary and final findings and
17 determinations, set out the conditions under which the royalty reduction may be
18 assigned;

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

22 (A) may require disclosure of only the financial and technical
23 data related to development, production, and transportation of oil and gas or
24 gas only from the field or pool that are reasonably available to the applicant;
25 and

26 (B) shall keep the data confidential under **AS 38.05.035(a)(8)**
27 [AS 38.05.035(a)(9)] at the request of the lessee or lessees making application
28 for the royalty reduction; the confidential data may be disclosed by the
29 commissioner to legislators and to the legislative auditor and as directed by
30 the chair or vice-chair of the Legislative Budget and Audit Committee to the
31 director of the division of legislative finance, the permanent employees of

1 their respective divisions who are responsible for evaluating a royalty
2 reduction, and to agents or contractors of the legislative auditor or the
3 legislative finance director who are engaged under contract to evaluate the
4 royalty reduction, if they sign an appropriate confidentiality agreement;

5 (7) may

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

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

30 (8) shall make and publish a preliminary findings and determination
31 on the royalty reduction application, give reasonable public notice of the preliminary

1 findings and determination, and invite public comment on the preliminary findings
2 and determination during a 30-day period for receipt of public comment;

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

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

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

13 (B) the chairs of the legislature's standing committees on
14 resources; and

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

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

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

21 (B) make a final findings and determination; the
22 commissioner's final findings and determination prepared under this
23 subparagraph regarding a royalty reduction is final and not appealable to the
24 court;

25 (C) transmit a copy of the final findings and determination to
26 the lessee;

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

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

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

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

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

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

7 (42) oil and gas auditors performing

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

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

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

13 (d) Data derived from drilling a stratigraphic test well or exploratory well that
14 is provided to the commissioner under (c)(3) of this section shall be kept confidential
15 for 24 months after receipt by the commissioner unless the owner of the well gives
16 written permission to the state to release the well data at an earlier date, and,
17 notwithstanding AS 31.05.035(c), confidentiality may not be extended beyond 24
18 months. The provisions of AS 38.05.035(a)(8)(C) [AS 38.05.035(a)(9)(C)] apply to
19 other data provided to the commissioner under (c)(3) of this section, except that the
20 commissioner, under appropriate confidentiality provisions and without preference or
21 discrimination, may display to all interested third parties, but may not distribute or
22 transfer in hard copy or electronic form, those data with respect to all land if the
23 commissioner determines that the limited disclosure is necessary to further the
24 interest of the state in evaluating or developing its land.

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

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

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

31 (2) in connection with official investigations or proceedings of the

1 child support enforcement agency, whether judicial or administrative, involving child
2 support obligations imposed or imposable under AS 25 or AS 47;

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

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

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

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

8 (h) The commissioner shall, upon request, furnish to the Department of
9 Natural Resources copies of tax returns, reports, **and other** documents filed under
10 **AS 43.55 or** AS 43.65, and the Department of Revenue's determinations and
11 workpapers **under those chapters.** The Department of Natural Resources shall
12 maintain the confidentiality that the Department of Revenue is required to extend to
13 the returns, reports, documents, determinations, and workpapers furnished to the
14 Department of Natural Resources under this subsection.

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

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

22 * **Sec. 15.** AS 43.55.011(e) is amended to read:

23 (e) There is levied on the producer of oil or gas a tax for all oil and gas
24 produced each **calendar year** [MONTH] from each lease or property in the state, less
25 any oil and gas the ownership or right to which is exempt from taxation or constitutes
26 a landowner's royalty interest. Except as otherwise provided under (j) and (k) of this
27 section, the tax is equal to the greater of **25** [22.5] percent of the **annual** production
28 tax value of the taxable oil and gas as calculated under AS 43.55.160, or the
29 minimum tax determined under (f) of this section.

30 * **Sec. 16.** AS 43.55.011(j) is amended to read:

31 (j) For a calendar year before 2022, the total tax levied by (e) and **(o)** [(g)] of

1 this section on gas produced from a lease or property in the Cook Inlet sedimentary
2 basin may not exceed

3 (1) for a lease or property that first commenced commercial
4 production of gas before April 1, 2006, the product obtained by multiplying (A) the
5 amount of taxable gas produced during the calendar year from the lease or property,
6 times (B) the average rate of tax that was imposed under this chapter on taxable gas
7 produced from the lease or property for the 12-month period ending on March 31,
8 2006, times (C) the quotient obtained by dividing the total gross value at the point of
9 production of the taxable gas produced from the lease or property during the 12-
10 month period ending on March 31, 2006, by the total amount of that gas;

11 (2) for a lease or property that first commences commercial
12 production of gas after March 31, 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 on taxable gas
15 produced from all leases or properties in the Cook Inlet sedimentary basin for the 12-
16 month period ending on March 31, 2006, times (C) the average prevailing value for
17 gas delivered in the Cook Inlet area for the 12-month period ending March 31, 2006,
18 as determined by the department under AS 43.55.020(f).

19 * **Sec. 17.** AS 43.55.011(k) is amended to read:

20 (k) For a calendar year before 2022, the total tax levied by (e) and (o) [(g)] of
21 this section on oil produced from a lease or property in the Cook Inlet sedimentary
22 basin may not exceed

23 (1) for a lease or property that first commenced commercial
24 production of oil before April 1, 2006, the product obtained by multiplying (A) the
25 amount of taxable oil produced during the calendar year from the lease or property,
26 times (B) the average rate of tax that was imposed under this chapter on taxable oil
27 produced from the lease or property for the 12-month period ending on March 31,
28 2006, times (C) the quotient obtained by dividing the total gross value at the point of
29 production of the taxable oil produced from the lease or property during the 12-month
30 period ending on March 31, 2006, by the total amount of that oil;

31 (2) for a lease or property that first commences commercial

1 production of oil after March 31, 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 on taxable oil
 4 produced from all leases or properties in the Cook Inlet sedimentary basin for the 12-
 5 month period ending on March 31, 2006, times (C) the average prevailing value for
 6 oil produced and delivered in the Cook Inlet area for the 12-month period ending on
 7 March 31, 2006, as determined by the department under AS 43.55.020(f).

8 * **Sec. 18.** AS 43.55.011(l) is amended to read:

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

14 * **Sec. 19.** AS 43.55.011(m) is amended to read:

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

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

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

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

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

10 * **Sec. 20.** AS 43.55.011 is amended by adding new subsections to read:

11 (o) In addition to the tax levied under (e) of this section, for each month for
12 which the producer's average monthly production tax value of the taxable oil and gas
13 exceeds \$30 for each BTU equivalent barrel, there is levied on the producer of oil or
14 gas a tax for all oil and gas produced that month from each lease or property in the
15 state, less any oil and gas the ownership or right to which is exempt from taxation or
16 constitutes a landowner's royalty interest. Except as otherwise provided under (j) and
17 (k) of this section, the tax levied under this subsection is equal to the sum over all
18 months of the calendar year of the amount calculated under this subsection. For each
19 month for which this subsection applies and for which the average monthly
20 production tax value of the taxable oil and gas is

21 (1) not more than \$40 for each BTU equivalent barrel, the tax is equal
22 to 0.2 percent of the gross value at the point of production of the taxable oil and gas
23 for that month multiplied by the number that represents the difference between the
24 average production tax value for each BTU equivalent barrel of the taxable oil and
25 gas for that month and \$30;

26 (2) more than \$40 but not more than \$50 for each BTU equivalent
27 barrel, the tax is equal to two percent of the gross value at the point of production of
28 the taxable oil and gas for that month plus 0.3 percent of the gross value at the point
29 of production of the taxable oil and gas for that month multiplied by the number that
30 represents the difference between the average production tax value for each BTU
31 equivalent barrel of the taxable oil and gas for that month and \$40;

1 (3) more than \$50 but not more than \$60 for each BTU equivalent
 2 barrel, the tax is equal to five percent of the gross value at the point of production of
 3 the taxable oil and gas for that month plus 0.4 percent of the gross value at the point
 4 of production of the taxable oil and gas for that month multiplied by the number that
 5 represents the difference between the average production tax value for each BTU
 6 equivalent barrel of the taxable oil and gas for that month and \$50; or

7 (4) more than \$60 for each BTU equivalent barrel, the tax is equal to
 8 nine percent of the gross value at the point of production of the taxable oil and gas for
 9 that month plus 0.5 percent of the gross value at the point of production of the taxable
 10 oil and gas for that month multiplied by the number that represents the difference
 11 between the average production tax value for each BTU equivalent barrel of the
 12 taxable oil and gas for that month and \$60.

13 (p) Notwithstanding other provisions of this section, for a calendar year
 14 before 2022, the tax levied under (e) and (o) of this section for each 1,000 cubic feet
 15 of gas for gas produced from a lease or property outside the Cook Inlet sedimentary
 16 basin and used in the state may not exceed the amount of tax for each 1,000 cubic feet
 17 of gas that is determined under (j)(2) of this section.

18 * **Sec. 21.** AS 43.55.020(a) is amended to read:

19 (a) For a calendar year, a producer subject to tax under AS 43.55.011(e), (f),
 20 [(g), OR] (i), or (o), and notwithstanding that a producer may be liable for the tax
 21 under AS 43.55.011(f) rather than the tax under AS 43.55.011(e), shall pay the tax as
 22 follows:

23 (1) an installment payment of the estimated tax levied by
 24 AS 43.55.011(e) or (f), net of any tax credits applied as allowed by law, is due for
 25 each month of the calendar year on the last day of the following month; the amount of
 26 the installment payment is the sum of the amounts calculated under (2) and (3) of this
 27 subsection, but not less than zero;

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

31 (A) 1/12 of the tax credits that are allowed by law to be

1 applied against the tax levied by AS 43.55.011(e) for the calendar year; from

2 (B) the total of the monthly production values calculated
 3 under [IN THE MANNER PROVIDED IN] AS 43.55.160(a)(2) of all oil and
 4 gas taxable under AS 43.55.011(e) and produced by the producer from leases
 5 or properties in the state during the month, multiplied by 25 [22.5] percent;

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

9 (4) an installment payment of the estimated tax levied by
 10 AS 43.55.011(i) for each lease or property is due for each month of the calendar year
 11 on the last day of the following month; the amount of the installment payment is the
 12 sum of

13 (A) the applicable percentage rate for oil provided under
 14 AS 43.55.011(i), multiplied by the gross value at the point of production of
 15 the oil taxable under AS 43.55.011(i) and produced from the lease or property
 16 during the month; plus

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

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

25 * **Sec. 22.** AS 43.55.020(d) is amended to read:

26 (d) In making settlement with the royalty owner for oil and gas that is taxable
 27 under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable
 28 royalty oil and gas, or may deduct taxable royalty oil or gas equivalent in value at the
 29 time the tax becomes due to the amount of the tax paid. If the total deductions of
 30 installment payments of estimated tax for a calendar year exceed the actual tax for
 31 that calendar year, the producer shall, before April 1 of the following year, refund the

1 excess to the royalty owner. Unless otherwise agreed between the producer and the
 2 royalty owner, the amount of the tax paid under **AS 43.55.011(e), (f), and (o)**
 3 [AS 43.55.011(e) - (g)] on taxable royalty oil and gas for a calendar year, other than
 4 oil and gas the ownership or right to which constitutes a landowner's royalty interest,
 5 is considered to be the gross value at the point of production of the taxable royalty oil
 6 and gas produced during the calendar year multiplied by a figure that is a quotient, in
 7 which

8 (1) the numerator is the producer's total tax liability under
 9 **AS 43.55.011(e), (f), and (o)** [AS 43.55.011(e) - (g)] for the calendar year of
 10 production; and

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

15 * **Sec. 23.** AS 43.55.020(g) is amended to read:

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

27 * **Sec. 24.** AS 43.55.020(h) is amended to read:

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

29 (1) an overpayment of an installment payment required under (a)(1) -
 30 (4) of this section bears interest at the rate provided for an overpayment under 26
 31 U.S.C. 6621 (Internal Revenue Code), as amended, compounded daily, from the later

1 of the date the installment payment is due or the date the overpayment is made, until
2 the earlier of

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

4 or

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

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

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

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

19 * **Sec. 25.** AS 43.55.020 is amended by adding a new subsection to read:

20 (i) A civil penalty shall be added to the amount of an installment payment
21 required under (a)(1) - (4) of this section if the full amount of the payment is not paid
22 by the date the payment is due. The penalty is equal to five percent of the difference
23 between the amount of the installment payment that was made timely and the amount
24 of the installment payment required under (a)(1) - (4) of this section. If no part of the
25 required installment payment was made timely, the penalty is equal to five percent of
26 the installment payment required under (a)(1) - (4) of this section. The penalty is in
27 addition to the interest imposed under (g) of this section and a penalty added under
28 AS 43.05.220, if any.

29 * **Sec. 26.** AS 43.55.023(b) is amended to read:

30 (b) A producer or explorer may elect to take a tax credit in the amount of the
31 [20 PERCENT OF A] carried-forward annual loss multiplied by the nominal tax

1 **rate in AS 43.55.011(e)**. A credit under this subsection may be applied against a tax
2 due under AS 43.55.011(e). For purposes of this subsection,

3 **(1)** a carried-forward annual loss is the amount of a producer's or
4 explorer's adjusted lease expenditures under AS 43.55.165 and 43.55.170 for a
5 previous calendar year that was not deductible for that calendar year under
6 AS 43.55.160(b) and (e); **and**

7 **(2)** **"nominal tax rate" means the tax rate stated in**
8 **AS 43.55.011(e) that is not the tax determined at the minimum tax rate that may**
9 **be applicable under AS 43.55.011(f).**

10 * **Sec. 27.** AS 43.55.023(d) is amended to read:

11 (d) Except as limited by (i) of this section, a person entitled to take a tax
12 credit under this section that wishes to transfer the unused credit to another person **or**
13 **obtain a cash payment under AS 43.55.028** may apply to the department for a
14 transferable tax credit certificate. An application under this subsection must be in a
15 form prescribed by the department and must include supporting information and
16 documentation that the department reasonably requires. The department shall grant or
17 deny an application, or grant an application as to a lesser amount than that claimed
18 and deny it as to the excess, not later than 60 days after the latest of (1) March 31 of
19 the year following the calendar year in which the qualified capital expenditure or
20 carried-forward annual loss for which the credit is claimed was incurred; (2) if the
21 applicant is required under AS 43.55.030(a) to file a statement on or before March 31
22 of the year following the calendar year in which the qualified capital expenditures or
23 carried-forward annual loss for which the credit is claimed was incurred, the date the
24 statement **required under AS 43.55.030(a) or (e)** was filed; or (3) the date the
25 application was received by the department. If, based on the information then
26 available to it, the department is reasonably satisfied that the applicant is entitled to a
27 credit, the department shall issue the applicant a transferable tax credit certificate for
28 the amount of the credit. A certificate issued under this subsection does not expire.

29 * **Sec. 28.** AS 43.55.023(g) is amended to read:

30 (g) The issuance of a transferable tax credit certificate under (d) of this
31 section or the **purchase of a certificate** [ISSUANCE OF A CASH REFUND] under

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

13 * **Sec. 29.** AS 43.55.023(i) is amended to read:

14 (i) For the purposes of this section,

15 (1) a producer's or explorer's transitional investment expenditures are
 16 the sum of the expenditures the producer or explorer incurred after March 31, **2003**
 17 [2001], and before April 1, 2006, that would be qualified capital expenditures if they
 18 were incurred after March 31, 2006, less the sum of the payments or credits the
 19 producer or explorer received before April 1, 2006, for the sale or other transfer of
 20 assets, including geological, geophysical, or well data or interpretations, acquired by
 21 the producer or explorer as a result of expenditures the producer or explorer incurred
 22 before April 1, 2006, that would be qualified capital expenditures, if they were
 23 incurred after March 31, 2006;

24 (2) a producer or explorer may elect to take a tax credit against a tax
 25 due under AS 43.55.011(e) in the amount of 20 percent of the producer's or explorer's
 26 transitional investment expenditures, but only to the extent that the amount does not
 27 exceed 1/10 of the producer's or explorer's qualified capital expenditures that are
 28 incurred during the calendar year for which the credit is taken;

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

31 (A) for any calendar year after the later of

1 (i) 2013; or
 2 (ii) the sixth calendar year after the calendar year for
 3 which the producer first applies a credit under this subsection against a
 4 tax due under AS 43.55.011(e), if the producer did not have
 5 commercial production of oil or gas from a lease or property in the
 6 state before April 1, 2006;

7 (B) more than once; or

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

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

13 * **Sec. 30.** AS 43.55.023 is amended by adding new subsections to read:

14 (l) A person that is exempt from taxation under this chapter may not apply for
 15 a transferable tax credit certificate.

16 (m) Notwithstanding the limitation on the use of a transferable tax credit by a
 17 transferee under (e) of this section and subject to appropriations made by law, if and
 18 to the extent that purchase of transferable tax credits by the Alaska Retirement
 19 Management Board is authorized by law, the department shall issue a cash refund to
 20 the Alaska Retirement Management Board for a transferable tax credit originally
 21 issued to a person under (d) of this section and purchased by the Alaska Retirement
 22 Management Board.

23 * **Sec. 31.** AS 43.55.025(a) is amended to read:

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

28 (1) **30** [20] percent of the total exploration expenditures that qualify
 29 only under (b) and (c) of this section;

30 (2) **30** [20] PERCENT of the total exploration expenditures [FOR
 31 WORK PERFORMED BEFORE JULY 1, 2007, AND] that qualify only under (b)

1 and (d) of this section;

2 (3) 40 percent of the total exploration expenditures that qualify under
3 (b), (c), and (d) of this section; or

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

6 * **Sec. 32.** AS 43.55.025(b) is amended to read:

7 (b) To qualify for the production tax credit under (a) of this section, an
8 exploration expenditure must be incurred for work performed [ON OR] after
9 **December 31, 2006** [JULY 1, 2003], and before July 1, 2016, [EXCEPT THAT AN
10 EXPLORATION EXPENDITURE FOR A COOK INLET PROSPECT MUST BE
11 INCURRED FOR WORK PERFORMED ON OR AFTER JULY 1, 2005,] and

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

14 (2) if for an exploration well,

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

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

19 (C) must be for **a well that has been completed, suspended,**
20 **or abandoned under AS 31.05.030 at the time the explorer claims the tax**
21 **credit under (f) of this section; and**

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

27 (3) may not be for [TESTING, STIMULATION, OR COMPLETION
28 COSTS;] administration, supervision, engineering, or lease operating costs;
29 geological or management costs; community relations or environmental costs;
30 bonuses, taxes, or other payments to governments related to the well; **costs arising**
31 **from gross negligence or violation of health, safety, or environmental statutes or**

1 regulations; or other costs that are generally recognized as indirect costs or financing
2 costs; and

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

6 * **Sec. 33.** AS 43.55.025(c) is repealed and reenacted to read:

7 (c) To be eligible for the 30 percent production tax credit authorized by (a)(1)
8 of this section or the 40 percent production tax credit authorized by (a)(3) of this
9 section, exploration expenditures must

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

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

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

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

27 (C) after completion, abandonment, or suspension under
28 AS 31.05.030 of the exploration well, the commissioner of natural resources
29 must determine that the well adequately achieved the explorer's stated
30 geological objective.

31 * **Sec. 34.** 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,
 6 including well logs; sample analyses; geophysical and velocity data
 7 including vertical seismic profiles and check shot surveys; and
 8 tangible material including, for each whole core collected, a
 9 lengthwise cut slab that is at least 1/3 of the whole core volume,
 10 and representative samples, as specified by the Department of
 11 Natural Resources, of other gaseous, liquid, or solid material
 12 collected 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 the Department of Natural Resources [FOR 10 YEARS
 19 FOLLOWING THE COMPLETION DATE, AT WHICH TIME
 20 THAT DEPARTMENT] will release the information after 30 days'
 21 public notice, unless in the discretion of the commissioner of
 22 natural resources, it is necessary to protect information relating to
 23 the valuation of unleased acreage in the same vicinity;

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

29 (iii) in the case of seismic data obtained by seismic
 30 exploration subject to (l) of this section, only until the expiration of
 31 30 days' public notice issued on or after the date the production

1 **tax credit certificates are issued under (5) of this subsection; and**
 2 **(D) that, in the case of well data, the explorer will not make**
 3 **a request under AS 31.05.035(c) that the commissioner of natural**
 4 **resources keep the data confidential for longer than the 24-month period**
 5 **of confidentiality described in AS 31.05.035(c);**

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

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

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

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

16 (5) if the department is satisfied that the explorer's claimed
 17 expenditures are qualified under this section **and that all data required to be**
 18 **submitted under this section have been submitted**, the department shall issue to the
 19 explorer a production tax credit certificate for the amount of credit to be allowed
 20 against production taxes **levied by AS 43.55.011(e); the credit is available for**
 21 **immediate use; notwithstanding any contrary provision of AS 38, AS 40.25.100,**
 22 **or AS 43.05.230, the following information is not confidential:**

23 **(A) the explorer's name;**

24 **(B) the date of the application;**

25 **(C) the location of the well or seismic exploration;**

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

27 **and**

28 **(E) the date on which the information required to be**
 29 **submitted under this section will be released** [DUE UNDER
 30 AS 43.55.011(e) OR (f)].

31 * **Sec. 35.** AS 43.55.025(g) is amended to read:

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

5 * **Sec. 36.** AS 43.55.025(h) is amended to read:

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

12 * **Sec. 37.** AS 43.55.025(i) is repealed and reenacted to read:

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

20 * **Sec. 38.** AS 43.55.025(k) is amended by adding a new paragraph to read:

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

24 * **Sec. 39.** AS 43.55.025 is amended by adding a new subsection to read:

25 (l) Subject to the terms and conditions of this section, if a claim is filed under
 26 (f)(1) of this section before January 1, 2016, a credit against the production tax levied
 27 by AS 43.55.011(e) is allowed in an amount equal to five percent of an eligible
 28 expenditure under this subsection incurred for seismic exploration performed before
 29 July 1, 2003. To be eligible under this subsection, an expenditure must

30 (1) have been for seismic exploration that

31 (A) obtained data that the commissioner of natural resources

1 considers to be in the best interest of the state to acquire for public
2 distribution; and

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

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

8 * **Sec. 40.** AS 43.55.025 is amended by adding a new subsection to read:

9 (m) Subject to appropriations made by law, if and to the extent that purchase
10 of transferable tax credits by the Alaska Retirement Management Board is authorized
11 by law, the department shall issue a cash refund to the Alaska Retirement
12 Management Board for a transferable tax credit originally issued to an explorer under
13 (f) of this section and purchased by the Alaska Retirement Management Board.

14 * **Sec. 41.** AS 43.55 is amended by adding a new section to read:

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

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

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

25 (2) earnings on the fund.

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

31 (1) \$60 a barrel or higher, the applicable percentage is 10 percent;

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

2 (d) The department shall manage the fund.

3 (e) The department may, on the written application of the person to whom a
4 transferable tax credit certificate has been issued under AS 43.55.023(d) or a
5 production tax credit certificate has been issued under AS 43.55.025(f), use available
6 money in the oil and gas tax credit fund to purchase, in whole or in part, the
7 certificate if the department finds that

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

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

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

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

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

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

28 (7) total purchases of certificates from the person during the calendar
29 year under this subsection would not exceed \$25,000,000, except that this limitation
30 does not apply to purchases of certificates from or by the Alaska Retirement
31 Management Board; and

1 (8) the purchase is consistent with this section and regulations adopted
2 under this section.

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

5 (g) The department may adopt regulations to carry out the purposes of this
6 section, including standards and procedures to allocate available money among
7 applications for purchases the total amount of which exceeds the amount of available
8 money in the fund.

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

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

12 * **Sec. 42.** AS 43.55.030(a) is amended to read:

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

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

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

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

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

31 (5) the name of the first purchaser and the price received for the oil

1 and for the gas, unless relieved from this requirement in whole or in part by the
2 department; [AND]

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

7 (7) the production tax values of the oil and gas under
8 AS 43.55.160;

9 (8) any claims for tax credits to be applied; and

10 (9) calculations showing the amounts, if any, that were or are due
11 under AS 43.55.020(a) and interest on any underpayment or overpayment
12 [AS 43.55.160 - 43.55.170].

13 * **Sec. 43.** AS 43.55.030(d) is amended to read:

14 (d) Reports required under this section [BY OR ON BEHALF OF THE
15 PRODUCER] are delinquent the first day following the day the report is due. The
16 person required to file the report is liable for a penalty, as determined by the
17 department under standards adopted in regulation by the department, of not
18 more than \$1,000 for each day the person fails to file the report at the time
19 required. The penalty is in addition to the penalties in AS 43.05.220 and
20 43.05.290 and is assessed, collected, and paid in the same manner as a tax
21 deficiency under this title. In this subsection, "report" includes a statement."

22 * **Sec. 44.** AS 43.55.030 is amended by adding new subsections to read:

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

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

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

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

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

8 (2) transportation costs of the oil and gas;

9 (3) any unscheduled interruption of, or reduction in the rate of, oil or
 10 gas production;

11 (4) lease expenditures and adjustments under AS 43.55.165 and
 12 43.55.170;

13 (5) joint interest billings;

14 (6) contracts for the sale or transportation of oil or gas;

15 (7) information and calculations used in determining monthly
 16 installment payments of estimated tax under AS 43.55.020(a); and

17 (8) other records and information the department considers necessary
 18 for the administration of this chapter.

19 * **Sec. 45.** AS 43.55.040 is amended to read:

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

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

31 (A) provide the person that furnished the information a

1 reasonable opportunity to be heard regarding the proposed disclosure and the
2 conditions to be imposed under (B) of this paragraph; and

3 (B) impose appropriate conditions limiting

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

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

9 (2) examine the books, records, and files of **the** [SUCH A] person;

10 (3) conduct hearings and compel the attendance of witnesses and the
11 production of books, records, and papers of any person; [AND]

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

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

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

17 **(5) require a producer, an explorer, or an operator of a lease or**
18 **property to file reports and copies of records that the department considers**
19 **necessary to forecast state revenue under this chapter; in the case of reports and**
20 **copies of records relating to proposed, expected, or approved unit expenditures**
21 **for a unit for which one or more working interest owners other than the**
22 **operator have authority to approve unit expenditures, the required reports and**
23 **copies of records are limited to those reports or copies of records that constitute**
24 **or disclose communications between the operator and the working interest**
25 **owners relating to unit budget matters; and**

26 **(6) assess against a person required under this section to file a**
27 **report, statement, or other document a penalty, as determined by the**
28 **department under standards adopted in regulation by the department, of not**
29 **more than \$1,000 for each day the person fails to file the report, statement, or**
30 **other document at the time required; the penalty is in addition to any penalties**
31 **under AS 43.05.220 and 43.05.290 and is assessed, collected, and paid in the**

1 same manner as a tax deficiency under this title; the penalty shall bear interest
 2 at the rate specified under AS 43.05.225(1); notwithstanding authority granted
 3 under AS 43.05.070 to compromise a penalty, the department may not under
 4 that section compromise a penalty under this paragraph by agreeing to accept
 5 less than 50 percent of the penalty originally assessed by the department.

6 * **Sec. 46.** AS 43.55 is amended by adding a new section to read:

7 **Sec. 43.55.075. Limitation on assessment and amended returns.** (a) Except
 8 as provided in AS 43.05.260(c), the amount of a tax imposed by this chapter must be
 9 assessed within six years after the latest return was filed.

10 (b) A decision of a regulatory agency, court, or other body with authority to
 11 resolve disputes that results in a retroactive change to a lease expenditure, to an
 12 adjustment to a lease expenditure, to costs of transportation, to sale price, to
 13 prevailing value, or to consideration of quality differentials relating to the
 14 commingling of oils has a corresponding effect, either an increase or decrease, as
 15 applicable, on the production tax value of oil or gas or the amount or availability of a
 16 tax credit as determined under this chapter. For purposes of this section, a change to a
 17 lease expenditure includes a change in the categorization of a lease expenditure as a
 18 qualified capital expenditure or as not a qualified capital expenditure. The producer
 19 shall

20 (1) within 60 days after the change, notify the department in writing;
 21 and

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

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

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

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

4 (d) In this section,

5 (1) "qualified capital expenditure" has the meaning given in
 6 AS 43.55.023;

7 (2) "return" includes a report, a statement, and an amended return,
 8 report, or statement.

9 * **Sec. 47.** AS 43.55.110 is amended by adding new subsections to read:

10 (e) The department may require that returns, statements, reports, notifications,
 11 and applications filed under this chapter be filed electronically in a form and manner
 12 approved or prescribed by the department.

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

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

21 * **Sec. 48.** AS 43.55.150(a) is amended to read:

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

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

26 (2) contract for the transportation of oil or gas is not

27 (A) an arm's length transaction; or

28 (B) [IS NOT] representative of the market value of that
 29 transportation; or [AND]

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

1 * **Sec. 49.** AS 43.55.150(b) is amended to read:

2 (b) If the department finds that **a condition** [THE CONDITIONS] in (a)(1),
 3 (2), **or** [AND] (3) of this section **is** [ARE] present, the department shall determine the
 4 reasonable costs of transportation, using the fair market value of like transportation,
 5 the fair market value of equally efficient and available alternative modes of
 6 transportation, or other reasonable methods. Transportation costs fixed by tariff rates
 7 **that have been adjudicated as just and reasonable by** [PROPERLY ON FILE
 8 WITH] the Regulatory Commission of Alaska or other regulatory agency shall be
 9 considered prima facie reasonable.

10 * **Sec. 50.** AS 43.55.160(a) is amended to read:

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

12 (1) AS 43.55.011(e), the annual production tax value of the taxable

13 (A) oil and gas produced during a calendar year from leases or
 14 properties in the state that include land north of 68 degrees North latitude is
 15 the gross value at the point of production of the oil and gas taxable under
 16 AS 43.55.011(e) and produced by the producer from those leases or
 17 properties, less the producer's lease expenditures under AS 43.55.165 for the
 18 calendar year applicable to the oil and gas produced by the producer from
 19 those leases or properties, as adjusted under AS 43.55.170; **this**
 20 **subparagraph does not apply to gas taxable under AS 43.55.011(p);**

21 (B) oil and gas produced during a calendar year from leases or
 22 properties in the state outside the Cook Inlet sedimentary basin, no part of
 23 which is north of 68 degrees North latitude, is the gross value at the point of
 24 production of the oil and gas taxable under AS 43.55.011(e) and produced by
 25 the producer from those leases or properties, less the producer's lease
 26 expenditures under AS 43.55.165 for the calendar year applicable to the oil
 27 and gas produced by the producer from those leases or properties, as adjusted
 28 under AS 43.55.170; **this subparagraph does not apply to gas taxable**
 29 **under AS 43.55.011(p);**

30 (C) oil produced during a calendar year from a lease or
 31 property in the Cook Inlet sedimentary basin is the gross value at the point of

1 production of the oil taxable under AS 43.55.011(e) and produced by the
 2 producer from that lease or property, less the producer's lease expenditures
 3 under AS 43.55.165 for the calendar year applicable to the oil produced by the
 4 producer from that lease or property, as adjusted under AS 43.55.170;

5 (D) gas produced during a calendar year from a lease or
 6 property in the Cook Inlet sedimentary basin is the gross value at the point of
 7 production of the gas taxable under AS 43.55.011(e) and produced by the
 8 producer from that lease or property, less the producer's lease expenditures
 9 under AS 43.55.165 for the calendar year applicable to the gas produced by
 10 the producer from that lease or property, as adjusted under AS 43.55.170;

11 **(E) gas produced during a calendar year from a lease or**
 12 **property outside the Cook Inlet sedimentary basin and used in the state is**
 13 **the gross value at the point of production of that gas taxable under**
 14 **AS 43.55.011(e) and produced by the producer from that lease or**
 15 **property, less the producer's lease expenditures under AS 43.55.165 for**
 16 **the calendar year applicable to that gas produced by the producer from**
 17 **that lease or property, as adjusted under AS 43.55.170;**

18 (2) **AS 43.55.020(a)(2)(B)** [AS 43.55.011(g)], the monthly production
 19 tax value of the taxable

20 (A) oil and gas produced during a month from leases or
 21 properties in the state that include land north of 68 degrees North latitude is
 22 the gross value at the point of production of the oil and gas taxable under
 23 **AS 43.55.011(e)** [AS 43.55.011(g)] and produced by the producer from those
 24 leases or properties, less 1/12 of the producer's lease expenditures under
 25 AS 43.55.165 for the calendar year applicable to the oil and gas produced by
 26 the producer from those leases or properties, as adjusted under AS 43.55.170;
 27 **this subparagraph does not apply to gas subject to additional tax under**
 28 **AS 43.55.011(o);**

29 (B) oil and gas produced during a month from leases or
 30 properties in the state outside the Cook Inlet sedimentary basin, no part of
 31 which is north of 68 degrees North latitude, is the gross value at the point of

1 production of the oil and gas taxable under AS 43.55.011(e)
 2 [AS 43.55.011(g)] and produced by the producer from those leases or
 3 properties, less 1/12 of the producer's lease expenditures under AS 43.55.165
 4 for the calendar year applicable to the oil and gas produced by the producer
 5 from those leases or properties, as adjusted under AS 43.55.170; **this**
 6 **subparagraph does not apply to gas subject to additional tax under**
 7 **AS 43.55.011(o);**

8 (C) oil produced during a month from a lease or property in
 9 the Cook Inlet sedimentary basin is the gross value at the point of production
 10 of the oil taxable under AS 43.55.011(e) [AS 43.55.011(g)] and produced by
 11 the producer from that lease or property, less 1/12 of the producer's lease
 12 expenditures under AS 43.55.165 for the calendar year applicable to the oil
 13 produced by the producer from that lease or property, as adjusted under
 14 AS 43.55.170;

15 (D) gas produced during a month from a lease or property in
 16 the Cook Inlet sedimentary basin is the gross value at the point of production
 17 of the gas taxable under AS 43.55.011(e) [AS 43.55.011(g)] and produced by
 18 the producer from that lease or property, less 1/12 of the producer's lease
 19 expenditures under AS 43.55.165 for the calendar year applicable to the gas
 20 produced by the producer from that lease or property, as adjusted under
 21 AS 43.55.170;

22 **(E) gas produced during a month from a lease or property**
 23 **outside the Cook Inlet sedimentary basin and used in the state is the gross**
 24 **value at the point of production of that gas taxable under AS 43.55.011(e)**
 25 **and produced by the producer from that lease or property, less 1/12 of**
 26 **the producer's lease expenditures under AS 43.55.165 for the calendar**
 27 **year applicable to that gas produced by the producer from that lease or**
 28 **property, as adjusted under AS 43.55.170.**

29 * **Sec. 51.** AS 43.55.165(a) is amended to read:

30 (a) Except as provided under (e) [(c) - (e)] of this section, for the purposes of
 31 AS 43.55.160, a producer's lease expenditures for a calendar year are the ordinary and

1 necessary costs upstream of the point of production of oil and gas that are incurred
 2 during the calendar year by the producer after March 31, 2006, and that are direct
 3 costs of exploring for, developing, or producing oil or gas deposits located within the
 4 producer's leases or properties in the state or, in the case of land in which the
 5 producer does not own a working interest, that are direct costs of exploring for oil or
 6 gas deposits located within other land in the state. In determining whether costs are
 7 lease expenditures, the department shall consider, among other factors,

8 (1) the typical industry practices and standards in the state that
 9 determine the costs, other than items listed in (e) of this section, that an operator is
 10 allowed to bill a working interest owner that is not the operator, under unit operating
 11 agreements or similar operating agreements that were in effect before December 2,
 12 2005, and were subject to negotiation with at least one working interest owner with
 13 substantial bargaining power, other than the operator; and

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

18 * **Sec. 52.** AS 43.55.165(b) is amended to read:

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

20 (1) direct costs include

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

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

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

31 (2) an activity **must be physically located in the state** [DOES NOT

1 NEED TO BE PHYSICALLY LOCATED ON, NEAR, OR WITHIN THE
 2 PREMISES OF THE LEASE OR PROPERTY WITHIN WHICH AN OIL OR GAS
 3 DEPOSIT BEING EXPLORED FOR, DEVELOPED, OR PRODUCED IS
 4 LOCATED] in order for the cost of the activity to be a cost upstream of the point of
 5 production of the oil or gas.

6 * **Sec. 53.** AS 43.55.165(b), as amended by sec. 52 of this Act, is amended to read:

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

8 (1) direct costs include

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

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

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

19 (2) an activity must be physically located **on the premises of the**
 20 **lease or property from which oil or gas is recovered** [IN THE STATE] in order for
 21 the cost of the activity to be a cost upstream of the point of production of the oil or
 22 gas.

23 * **Sec. 54.** AS 43.55.165(e) is amended to read:

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

25 (1) depreciation, depletion, or amortization;

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

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

30 (4) interest or other financing charges or costs of raising equity or
 31 debt capital;

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

2 (6) costs arising from fraud, wilful misconduct, [OR] gross
3 negligence, **criminal negligence, violation of law, including a violation of 33**
4 **U.S.C. 1319(c)(1) or 1321(b)(3) (Clean Water Act), or failure to comply with an**
5 **obligation under a lease, permit, or license issued by the state or federal**
6 **government;**

7 (7) fines or penalties imposed by law;

8 (8) costs of arbitration, litigation, [OR OTHER] dispute resolution,
9 **lobbying, public relations advertising, or policy advocacy** [ACTIVITIES THAT
10 INVOLVE THE STATE OR CONCERN THE RIGHTS OR OBLIGATIONS
11 AMONG OWNERS OF INTERESTS IN, OR RIGHTS TO PRODUCTION FROM,
12 ONE OR MORE LEASES OR PROPERTIES OR A UNIT];

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

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

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

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

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

25 (14) a tax levied under AS 43.55.011;

26 (15) [THE PORTION OF] costs incurred for dismantlement, removal,
27 surrender, or abandonment of a facility, pipeline, well pad, platform, or other
28 structure, or for the restoration of a lease, field, unit, area, **tract of land**, body of
29 water, or right-of-way in conjunction with dismantlement, removal, surrender, or
30 abandonment [, THAT IS ATTRIBUTABLE TO PRODUCTION OF OIL OR GAS
31 OCCURRING BEFORE APRIL 1, 2006; THE PORTION IS CALCULATED AS A

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

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

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

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

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

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

30 **(19) costs incurred to construct, acquire, or operate a refinery or**
 31 **crude oil topping plant, regardless of whether the products of the refinery or**

1 topping plant are used in oil or gas exploration, development, or production
 2 operations; however, if a producer owns a refinery or crude oil topping plant
 3 that is located on or near the premises of the producer's lease or property in the
 4 state and that processes the producer's oil produced from that lease or property
 5 into a product that the producer uses in the operation of the lease or property in
 6 drilling for or producing oil or gas, the producer's lease expenditures include the
 7 amount calculated by subtracting from the fair market value of the product used
 8 the prevailing value, as determined under AS 43.55.020(f), of the oil that is
 9 processed;

10 (2) costs relating to office buildings, fixtures and equipment, and
 11 real property that are not located in the state.

12 * **Sec. 55.** AS 43.55.165(h) is amended to read:

13 (h) The department shall adopt regulations that provide for reasonable
 14 methods of allocating costs between oil and gas, between gas subject to
 15 AS 43.55.011(p) and other gas, and between leases or properties in those
 16 circumstances where the determination of the lease expenditures that are applicable to
 17 oil or to gas, that are applicable to gas subject to AS 43.55.011(p) or to other gas,
 18 or that are applicable to oil and gas produced from different leases or properties,
 19 requires an allocation of costs.

20 * **Sec. 56.** AS 43.55.170(a) is amended to read:

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

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

30 (2) a reimbursement or similar payment that offsets the producer's
 31 lease expenditures, including an insurance recovery from a third-party insurer and a

1 payment from the state or federal government for reimbursement of the producer's
 2 upstream costs, including costs for gathering, separating, cleaning, dehydration,
 3 compressing, or other field handling associated with the production of oil or gas
 4 upstream of the point of production;

5 (3) the sale or other transfer of

6 (A) an asset, including geological, geophysical, or well data or
 7 interpretations, acquired by the producer as a result of a lease expenditure or
 8 an expenditure that would be a lease expenditure if it were incurred after
 9 March 31, 2006; for purposes of this subparagraph,

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

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

18 (B) oil or gas

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

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

23 * **Sec. 57.** AS 43.55 is amended by adding a new section to article 4 to read:

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

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

31 (2) the amount of taxes levied under this chapter or paid under this

1 chapter;

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

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

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

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

6 (7) exploration expenditures under AS 43.55.025;

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

8 (9) lease expenditures under AS 43.55.165;

9 (10) adjustments to lease expenditures under AS 43.55.170;

10 (11) tax credits applicable or potentially applicable against taxes

11 levied by this chapter.

12 * **Sec. 58.** AS 43.55.900 is amended by adding new paragraphs to read:

13 (22) "producer" means an owner of an operating right, operating
14 interest, or working interest in a mineral interest in oil or gas;

15 (23) "unit" means a group of tracts of land that is

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

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

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

26 (D) within the unit area of a unit created by order of the
27 Alaska Oil and Gas Conservation Commission under AS 31.05.110(b);

28 (24) "used in the state" means delivered for consumption as fuel in the
29 state, including as fuel consumed to generate electricity.

30 * **Sec. 59.** AS 43.55.165(c) and 43.55.165(d) are repealed.

31 * **Sec. 60.** AS 43.55.011(g), 43.55.011(h), and 43.55.160(c) are repealed.

1 * **Sec. 61.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 APPLICABILITY. (a) Sections 26, 29, 51, 52, 54, 56, and 59 of this Act, and
4 AS 43.55.023(I), enacted by sec. 30 of this Act, apply to oil and gas produced after
5 March 31, 2006.

6 (b) Sections 15 - 24, 31 - 34, 36 - 39, 44, 50, 55, and 60 of this Act apply to oil and
7 gas produced after December 31, 2006.

8 (c) Sections 42 and 44 of this Act apply to statements and reports under
9 AS 43.55.030(a), as amended by sec. 42 of this Act, and AS 43.55.030(e) and (f), as added
10 by sec. 44 of this Act, required to be filed after December 31, 2007.

11 (d) Sections 31 - 34 and 38 of this Act apply to exploration expenditures incurred for
12 work performed after December 31, 2006, that are the basis of tax credits that may be
13 claimed against taxes levied for oil and gas produced after December 31, 2006.

14 (e) AS 43.55.075(a), enacted by sec. 46 of this Act, applies to any tax liability under
15 AS 43.55 with respect to which the period of limitations on assessment under AS 43.05.260
16 had not expired before the effective date of secs. 14 and 46 of this Act.

17 (f) Section 28 of this Act applies to transferable tax credit certificates issued under
18 AS 43.55.023(d), as amended by sec. 27 of this Act, and to transferable tax credit certificates
19 issued under AS 43.55.023(d), as amended by sec. 27 of this Act, in effect before January 1,
20 2008, for which a cash refund has not been issued under AS 43.55.023(f) before January 1,
21 2008.

22 (g) AS 43.55.020(i), enacted by sec. 25 of this Act, applies to any installment
23 payment due after the effective date of sec. 25 of this Act that is not paid timely.

24 (h) The penalty in AS 43.55.030(d), enacted by the amendment to AS 43.55.030(d)
25 in sec. 43 of this Act, applies to any report required to be filed after the effective date of sec.
26 43 of this Act that is not filed timely.

27 (i) The penalty in AS 43.55.040(6), enacted by the amendment to AS 43.55.040 in
28 sec. 45 of this Act, applies to any report, statement, or other document required to be filed
29 after the effective date of sec. 45 of this Act.

30 * **Sec. 62.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 TRANSITION: ASSIGNMENT OF OIL AND GAS AUDITORS IN THE
 2 DEPARTMENT OF REVENUE AND DEPARTMENT OF NATURAL RESOURCES.
 3 Notwithstanding any contrary provision of law, employees employed as oil and gas auditors
 4 performing production tax audits or as their immediate supervisors in the Department of
 5 Revenue and employees employed as oil and gas auditors performing royalty audits,
 6 including net profit share audits, or as their immediate supervisors in the Department of
 7 Natural Resources are assigned to the exempt service in accordance with AS 39.25.110(42),
 8 added by sec. 10 of this Act, and may not be included in the general government or
 9 supervisory collective bargaining units of state employees except as provided in this section.
 10 All oil and gas auditors performing production tax audits or royalty audits and their
 11 immediate supervisors hired before the effective date of sec. 10 of this Act have the option of
 12 (1) continuing in the general government or supervisory collective bargaining units and being
 13 subject to their respective collective bargaining agreements; or (2) being removed from those
 14 bargaining units. Those employees have 90 days from the effective date of sec. 10 of this Act
 15 to exercise the option to continue in the collective bargaining units. The option taken under
 16 this section by the employee is irrevocable. The employees choosing to be removed from
 17 those bargaining units are removed after any notice period required by a collective
 18 bargaining agreement.

19 * **Sec. 63.** The uncodified law of the State of Alaska is amended by adding a new section to
 20 read:

21 TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any
 22 contrary provision of AS 44.62.240,

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

26 (A) secs. 26, 29, 51, 52, 54, 56, and 59 of this Act may apply
 27 retroactively to April 1, 2006;

28 (B) secs. 15 - 24, 31 - 34, 36 - 39, 42, 44, 50, 55, and 60 of this Act
 29 may apply retroactively to January 1, 2007;

30 (2) a regulation adopted by the Department of Natural Resources to
 31 implement, interpret, make specific, or otherwise carry out statutory provisions for the

1 administration of oil and gas leases issued under AS 38.05.180(f)(3)(B), (D), or (E), to the
2 extent the regulation deals with the treatment of oil and gas production taxes in determining
3 net profits under those leases, may apply retroactively to April 1, 2006, if the Department of
4 Natural Resources expressly designates in the regulation that the regulation applies
5 retroactively to that date.

6 * **Sec. 64.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 TRANSITION: PENDING APPLICATIONS. If an application made under
9 AS 43.55.023(f) is received by the Department of Revenue before January 1, 2008, and is
10 still outstanding on that date, the application is considered to be an application under
11 AS 43.55.028, enacted by sec. 41 of this Act.

12 * **Sec. 65.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

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

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

20 RETROACTIVITY OF CERTAIN PROVISIONS OF THIS ACT. (a) Section 35 of
21 this Act is retroactive to July 1, 2003.

22 (b) Sections 26, 29, 51, 52, 54, 56, and 59 of this Act, and AS 43.55.023(I), as
23 enacted in sec. 30 of this Act, are retroactive to April 1, 2006.

24 (c) Sections 15 - 22, 31 - 34, 36 - 39, 50, 55, and 60 of this Act are retroactive to
25 January 1, 2007.

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

28 CONTINGENT EFFECT. Section 53 of this Act takes effect only if a court of
29 competent jurisdiction enters a final judgment on the merits, the final judgment is no longer
30 subject to appeal, and the final judgment nullifies the effect of AS 43.55.165(b), as amended
31 by sec. 52 of this Act.

1 * **Sec. 68.** If sec. 53 of this Act takes effect, it takes effect on the day after the last day on
2 which the final judgment described in sec. 67 of this Act is no longer subject to appeal.

3 * **Sec. 69.** Except as provided in sec. 68 of this Act, this Act takes effect immediately under
4 AS 01.10.070(c).