

CS FOR HOUSE BILL NO. 2001(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SPECIAL SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 11/11/07

Referred: Today's Calendar

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; relating to the**
4 **sharing between agencies of certain information relating to the production tax and to**
5 **oil and gas or gas only leases; expanding the period in which the Department of**
6 **Revenue may assess the amount of oil and gas production tax and conservation**
7 **surcharges; prohibiting a producer or explorer from receiving tax credits if certain**
8 **judgments are not satisfied and requiring, as a condition of receiving the tax credits, the**
9 **deposit of the amount of certain unpaid judgments and certain interest on those**
10 **judgments in the court during an appeal and relating to that interest; relating to state**
11 **oil and gas auditors and their immediate supervisors; making conforming amendments;**
12 **and providing for an effective date."**

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

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

4 LEGISLATIVE INTENT. (a) It is the intent of the legislature that the provisions of
5 this Act will

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

8 (2) encourage the availability to Alaska's citizens of affordable gas produced,
9 transported, and consumed within the state.

10 (b) It is the intent of the legislature that AS 43.55.075(b), enacted by sec. 40 of this
11 Act, relating to the limitation of assessments for the production tax on oil and gas and
12 conservation surcharges on oil, confirms by clarification the long-standing interpretation of
13 AS 43.05.260 by the Department of Revenue.

14 (c) It is the intent of the legislature that costs disallowed in accordance with
15 AS 43.55.165(e)(6), as amended by sec. 46 of this Act, include costs, subsequent to the
16 effective date of the enactment of AS 43.55.165(e)(6), incurred as a result of monitoring and
17 management decisions that fail to properly consider risks posed by changing operating
18 conditions and result in failure to take necessary actions to prevent a pipeline spill,
19 interruption of service, or shutdown.

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

21 (a) The director shall

22 (1) have general charge and supervision of the division and may
23 exercise the powers specifically delegated to the director; **the director** may employ
24 and fix the compensation of assistants and employees necessary for the operations of
25 the division; **the director** [AND] is the certifying officer of the division, with the
26 consent of the commissioner, and may approve vouchers for disbursements of money
27 appropriated to the division;

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

30 (3) execute laws, rules, regulations, and orders adopted by the
31 commissioner;

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

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

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

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

15 (8) [REPEALED

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

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

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

24 (C) all geological, geophysical, and engineering data supplied,
25 whether or not concerned with the extraction or development of natural
26 resources;

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

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

31 (F) requests for information or applications by public agencies

1 for land **that** [WHICH] is being considered for use for a public purpose;

2 **(9)** [(10)] account for the fees, licenses, taxes, or other money
 3 received in the administration of this chapter including the sale or leasing of land,
 4 identify their source, and promptly transmit them to the proper fiscal department after
 5 crediting them to the proper fund; receipts from land application filing fees and
 6 charges for copies of maps and records shall be deposited immediately in the general
 7 fund of the state by the director;

8 **(10)** [(11)] select and employ or obtain at reasonable compensation
 9 cadastral, appraisal, or other professional personnel the director considers necessary
 10 for the proper operation of the division;

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

18 **(12) on request, furnish records, files, and other information**
 19 **related to the administration of AS 38.05.180 to the Department of Revenue for**
 20 **use in forecasting state revenue under or administering AS 43.55, whether or not**
 21 **those records, files, and other information are required to be kept confidential**
 22 **under (8) of this subsection; in the case of records, files, or other information**
 23 **required to be kept confidential under (8) of this subsection, the Department of**
 24 **Revenue shall maintain the confidentiality that the Department of Natural**
 25 **Resources is required to extend to records, files, and other information under (8)**
 26 **of this subsection**

27 [(13) REPEALED

28 (14) REPEALED].

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

30 (b) The Department of Revenue may obtain from the department information
 31 relating to royalty and net profits payments and to exploration incentive credits under

1 this chapter or under AS 41.09, whether or not that information is confidential. The
2 Department of Revenue may use the information in carrying out its functions and
3 responsibilities under AS 43, and shall hold that information confidential to the extent
4 required by an agreement with the department or by AS 38.05.035(a)(8)
5 [AS 38.05.035(a)(9)], AS 41.09.010(d), or AS 43.05.230.

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

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

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

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

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

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

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

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

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

1 (j) The commissioner

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

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

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

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

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

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

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

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

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

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

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

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

5 (5) may not grant a royalty reduction under this subsection without
 6 including an explicit condition that the royalty reduction is not assignable without the
 7 prior written approval, which may not be unreasonably withheld, by the
 8 commissioner; the commissioner shall, in the preliminary and final findings and
 9 determinations, set out the conditions under which the royalty reduction may be
 10 assigned;

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

14 (A) may require disclosure of only the financial and technical
 15 data related to development, production, and transportation of oil and gas or
 16 gas only from the field or pool that are reasonably available to the applicant;
 17 and

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

28 (7) may

29 (A) require the lessee or lessees making application for the
 30 royalty reduction under (1)(A) of this subsection to pay for the services of an
 31 independent contractor, selected by the lessee or lessees from a list of

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

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

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

26 (9) shall offer to appear before the Legislative Budget and Audit
27 Committee, on a day that is not earlier than 10 days and not later than 20 days after
28 giving public notice under (8) of this subsection, to provide the committee a review of
29 the commissioner's preliminary findings and determination on the royalty reduction
30 application and administrative process; if the Legislative Budget and Audit
31 Committee accepts the commissioner's offer, the committee shall give notice of the

1 committee's meeting to all members of the legislature;

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

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

5 (B) the chairs of the legislature's standing committees on
6 resources; and

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

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

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

13 (B) make a final findings and determination; the
14 commissioner's final findings and determination prepared under this
15 subparagraph regarding a royalty reduction is final and not appealable to the
16 court;

17 (C) transmit a copy of the final findings and determination to
18 the lessee;

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

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

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

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

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

29 * **Sec. 10.** AS 41.09.010(d) is amended to read:

30 (d) Data derived from drilling a stratigraphic test well or exploratory well that
31 is provided to the commissioner under (c)(3) of this section shall be kept confidential

1 for 24 months after receipt by the commissioner unless the owner of the well gives
 2 written permission to the state to release the well data at an earlier date, and,
 3 notwithstanding AS 31.05.035(c), confidentiality may not be extended beyond 24
 4 months. The provisions of **AS 38.05.035(a)(8)(C)** [AS 38.05.035(a)(9)(C)] apply to
 5 other data provided to the commissioner under (c)(3) of this section, except that the
 6 commissioner, under appropriate confidentiality provisions and without preference or
 7 discrimination, may display to all interested third parties, but may not distribute or
 8 transfer in hard copy or electronic form, those data with respect to all land if the
 9 commissioner determines that the limited disclosure is necessary to further the
 10 interest of the state in evaluating or developing its land.

11 * **Sec. 11.** AS 42.45 is amended by adding a new section to read:

12 **Sec. 42.45.045. Appropriations for the low income heating energy**
 13 **assistance program.** (a) By February 1 each year, the Department of Revenue shall
 14 determine whether the state received for the general fund, during the immediately
 15 preceding calendar year, an amount of money from the tax levied under
 16 AS 43.55.011(e) because the price index calculated under AS 43.55.011(h) was
 17 greater than zero. If the state received an amount of money because the price index
 18 calculated under AS 43.55.011(h) was greater than zero, the department shall notify
 19 the legislature of that amount.

20 (b) The legislature may annually appropriate up to \$50,000,000 of the amount
 21 reported under (a) of this section for the low income heating energy assistance
 22 program.

23 (c) Nothing in this section requires that money be appropriated or creates a
 24 dedicated fund.

25 (d) For purposes of this section, "low income heating energy assistance
 26 program" means the program created by 7 AAC 44.010 to implement the federal
 27 Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. 8621 et
 28 seq.).

29 * **Sec. 12.** AS 43.05.230(h) is amended to read:

30 (h) The commissioner shall, upon request, furnish to the Department of
 31 Natural Resources copies of tax returns, reports, **and other** documents filed under

1 **AS 43.55 or** AS 43.65, and the Department of Revenue's determinations and
 2 workpapers **under those chapters.** The Department of Natural Resources shall
 3 maintain the confidentiality that the Department of Revenue is required to extend to
 4 the returns, reports, documents, determinations, and workpapers furnished to the
 5 Department of Natural Resources under this subsection.

6 * **Sec. 13.** AS 43.05.260(a) is amended to read:

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

13 * **Sec. 14.** AS 43.55.011(e) is repealed and reenacted to read:

14 (e) There is levied on the producer of oil or gas a tax for all oil and gas
 15 produced each calendar year from each lease or property in the state, less any oil and
 16 gas the ownership or right to which is exempt from taxation or constitutes a
 17 landowner's royalty interest. Except as otherwise provided under (f), (j), (k), and (o)
 18 of this section, the tax is equal to the sum of

19 (1) the production tax value of the taxable oil and gas as calculated
 20 under AS 43.55.160 multiplied by 22.5 percent; and

21 (2) the sum, over all months of the calendar year, of the tax amounts
 22 calculated under (g) of this section.

23 * **Sec. 15.** AS 43.55.011(f) is amended to read:

24 (f) The levy of tax under this section **for** [ON A PRODUCER OF] oil and gas
 25 produced **from leases or properties that include land** north of 68 degrees North
 26 latitude, **other than oil and gas subject to (i) of this section and gas subject to (o)**
 27 **of this section,** may not be less than

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

31 (2) three percent of the gross value at the point of production when the

1 average price per barrel for Alaska North Slope crude oil for sale on the United States
 2 West Coast during the calendar year for which the tax is due is over \$20 but not over
 3 \$25;

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

8 (4) one percent of the gross value at the point of production when the
 9 average price per barrel for Alaska North Slope crude oil for sale on the United States
 10 West Coast during the calendar year for which the tax is due is over \$15 but not over
 11 \$17.50; or

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

15 * **Sec. 16.** AS 43.55.011(g) is repealed and reenacted to read:

16 (g) For each month for which the price index determined under (h) of this
 17 section is greater than zero, the amount of tax for purposes of (e)(2) of this section is
 18 calculated as follows: (1) for oil and gas produced from each lease or property, the
 19 monthly production tax value is calculated in the manner described in
 20 AS 43.55.160(a) and (b), except that the gross value at the point of production for the
 21 month is substituted for the gross value at the point of production for the calendar
 22 year and 1/12 of the applicable adjusted lease expenditures for the calendar year is
 23 substituted for the applicable adjusted lease expenditures for the calendar year; (2) the
 24 monthly production tax value determined under (1) of this subsection is multiplied by
 25 the progressivity tax rate for the month. The progressivity tax rate for a month is the
 26 product of 0.4 percent multiplied by the price index for the month determined under
 27 (h) of this section, except that the progressivity tax rate for a month may not exceed
 28 25 percent. Notwithstanding any contrary provision of AS 43.55.150, for purposes of
 29 calculating a monthly production tax value under this subsection, the gross value at
 30 the point of production of the oil and gas is calculated under regulations adopted by
 31 the department that provide for using an appropriate monthly share of the producer's

1 costs of transportation for the calendar year.

2 * **Sec. 17.** AS 43.55.011(h) is repealed and reenacted to read:

3 (h) For purposes of (g) of this section, the price index for a month is
4 calculated by subtracting 30 from the number that is equal to the total of the monthly
5 production tax values, as calculated under (g) of this section, of the taxable oil and
6 gas produced by the producer from all leases and properties in the state during that
7 month, divided by the total amount of taxable oil and gas produced by the producer
8 from all leases and properties in the state during that month, in BTU equivalent
9 barrels. However, a price index calculated under this subsection may not be less than
10 zero.

11 * **Sec. 18.** AS 43.55.011(j) is amended to read:

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

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

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

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

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

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

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

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

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

1 tax levied by (e) of this section **for** [ON] that gas to zero, if any, is considered the
 2 amount of excess tax credits, and the excess tax credits are subject to the following:

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

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

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

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

16 * **Sec. 21.** AS 43.55.011 is amended by adding a new subsection to read:

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

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

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

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

1 (A) for oil and gas produced from leases or properties in the
2 state outside the Cook Inlet sedimentary basin or not subject to
3 AS 43.55.011(o), other than leases or properties subject to AS 43.55.011(f),
4 the greater of

5 (i) zero; or

6 (ii) the sum of 22.5 percent and the progressivity tax
7 rate calculated under AS 43.55.011(g) multiplied by the remainder
8 obtained by subtracting 1/12 of the producer's adjusted lease
9 expenditures for the calendar year of production under AS 43.55.165
10 and 43.55.170 that are deductible for the leases or properties under
11 AS 43.55.160 from the gross value at the point of production of the oil
12 and gas produced from the leases or properties during the month for
13 which the installment payment is calculated;

14 (B) for oil and gas produced from leases or properties subject
15 to AS 43.55.011(f), the greatest of

16 (i) zero;

17 (ii) zero percent, one percent, two percent, three
18 percent, or four percent, as applicable, of the gross value at the point of
19 production of the oil and gas produced from those properties; or

20 (iii) the sum of 22.5 percent and the progressivity tax
21 rate calculated under AS 43.55.011(g) multiplied by the remainder
22 obtained by subtracting 1/12 of the producer's adjusted lease
23 expenditures for the calendar year of production under AS 43.55.165
24 and 43.55.170 that are deductible for those leases or properties under
25 AS 43.55.160 from the gross value at the point of production of the oil
26 and gas produced from those leases or properties during the month for
27 which the installment payment is calculated;

28 (C) for oil and gas produced from each lease or property
29 subject to AS 43.55.011(j), (k), or (o), the greater of

30 (i) zero; or

31 (ii) the sum of 22.5 percent and the progressivity tax

1 rate calculated under AS 43.55.011(g) multiplied by the remainder
 2 obtained by subtracting 1/12 of the producer's adjusted lease
 3 expenditures for the calendar year of production under AS 43.55.165
 4 and 43.55.170 that are deductible under AS 43.55.160 for oil or gas,
 5 respectively, produced from the lease or property from the gross value
 6 at the point of production of the oil or gas, respectively, produced from
 7 the lease or property during the month for which the installment
 8 payment is calculated;

9 (2) an amount calculated under (1)(C) of this subsection for oil or gas
 10 produced from a lease or property subject to AS 43.55.011(j), (k), or (o) may not
 11 exceed the product obtained by carrying out the calculation set out in
 12 AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in
 13 AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in
 14 AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable
 15 gas produced during the month for the amount of taxable gas produced during the
 16 calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the
 17 amount of taxable oil produced during the month for the amount of taxable oil
 18 produced during the calendar year;

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

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

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

31 (4) any amount of tax levied by AS 43.55.011(e) - (i), net of any

1 credits applied as allowed by law, that exceeds the total of the amounts due as
 2 installment payments of estimated tax is due on March 31 of the year following the
 3 calendar year of production.

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

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

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

17 (h) Notwithstanding any contrary provision of AS 43.05.280,
 18 (1) an overpayment of an installment payment required under (a)(1) -
 19 (3) [(a)(1) - (4)] of this section bears interest at the rate provided for an overpayment
 20 under 26 U.S.C. 6621 (Internal Revenue Code), as amended, compounded daily, from
 21 the later of the date the installment payment is due or the date the overpayment is
 22 made, until the earlier of
 23 (A) the date it is refunded or is applied to an underpayment; [,]
 24 or
 25 (B) [THE] March 31 following the calendar year of
 26 production [DESCRIBED IN AS 43.55.030(a)];
 27 (2) except as provided under (1) of this subsection, interest with
 28 respect to an overpayment is allowed only on any net overpayment of the payments
 29 required under (a) of this section that remains after the later of [THE] March 31
 30 following the calendar year of production [DESCRIBED IN AS 43.55.030(a)] or
 31 the date that the statement required under AS 43.55.030(a) is filed;

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

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

8 * **Sec. 25.** AS 43.55.023(b) is amended to read:

9 (b) A producer or explorer may elect to take a tax credit in the amount of **22.5**
 10 [20] percent of a carried-forward annual loss. A credit under this subsection may be
 11 applied against a tax **levied by** [DUE UNDER] AS 43.55.011(e). For purposes of this
 12 subsection, a carried-forward annual loss is the amount of a producer's or explorer's
 13 adjusted lease expenditures under AS 43.55.165 and 43.55.170 for a previous
 14 calendar year that was not deductible **in calculating production tax values** for that
 15 calendar year under **AS 43.55.160** [AS 43.55.160(b) AND (e)].

16 * **Sec. 26.** AS 43.55.023(i) is amended to read:

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

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

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

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

4 (i) 2013; or

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

10 (B) more than once; or

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

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

16 * **Sec. 27.** AS 43.55.023 is amended by adding a new subsection to read:

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

24 * **Sec. 28.** AS 43.55.025(a) is amended to read:

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

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

31 (2) **30** [20] PERCENT of the total exploration expenditures [FOR

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

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

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

7 * **Sec. 29.** AS 43.55.025(b) is amended to read:

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

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

15 (2) if for an exploration well,

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

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

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

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

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

1 **from fraud, wilful misconduct, gross negligence, criminal negligence, violation of**
 2 **law, including a violation of 33 U.S.C. 1319(c)(1) or 1321(b)(3) (Clean Water**
 3 **Act), or failure to comply with an obligation under a lease, permit, or license**
 4 **issued by the state or federal government,** or other costs that are generally
 5 recognized as indirect costs or financing costs; and

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

9 * **Sec. 30.** AS 43.55.025(c) is repealed and reenacted to read:

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

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

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

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

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

30 (C) after completion, abandonment, or suspension under
 31 AS 31.05.030 of the exploration well, the commissioner of natural resources

1 must determine that the well was consistent with achieving the explorer's
2 stated geological objective.

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

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

5 (1) an explorer shall, in a form prescribed by the department and,
6 **except for a credit under (l) of this section,** within six months of the completion of
7 the exploration activity, claim the credit and submit information sufficient to
8 demonstrate to the department's satisfaction that the claimed exploration expenditures
9 qualify under this section; **in addition, the explorer shall submit information**
10 **necessary for the commissioner of natural resources to evaluate the validity of**
11 **the explorer's compliance with the requirements of this section;**

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

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

1 (B) to provide to the Department of Natural Resources, within
2 30 days after the date of a request, unless a longer period is provided by the
3 Department of Natural Resources, specific data sets, ancillary data, and
4 reports identified in (A) of this paragraph; in this subparagraph, a seismic
5 or geophysical data set includes the data for an entire seismic survey,
6 irrespective of whether the survey areas cover nonstate land in addition
7 to state land or land in a unit in addition to land outside a unit;

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

11 (i) in the case of well data, until the expiration of the
12 24-month period of confidentiality described in AS 31.05.035(c)
13 [FOR 10 YEARS FOLLOWING THE COMPLETION DATE], at
14 which time the Department of Natural Resources [THAT
15 DEPARTMENT] will release the information after 30 days' public
16 notice unless, in the discretion of the commissioner of natural
17 resources, it is necessary to protect information relating to the
18 valuation of unleased acreage in the same vicinity, or unless the
19 well is on private land and the owner, including the lessor but not
20 the lessee, of the oil and gas resources has not given permission to
21 release the well data;

22 (ii) in the case of seismic or other geophysical data,
23 other than seismic data acquired by seismic exploration subject to
24 (l) of this section, for 10 years following the completion date, at
25 which time the Department of Natural Resources will release the
26 information after 30 days' public notice, except as to seismic or
27 other geophysical data acquired from private land, unless the
28 owner, including a lessor but not a lessee, of the oil and gas
29 resources in the private land gives permission to release the
30 seismic or other geophysical data associated with the private land;

31 (iii) in the case of seismic data obtained by seismic

1 exploration subject to (l) of this section, only until the expiration of
 2 30 days' public notice issued on or after the date the production
 3 tax credit certificate is issued under (5) of this subsection;

4 (3) if more than one explorer holds an interest in a well or seismic
 5 exploration, each explorer may claim an amount of credit that is proportional to the
 6 explorer's cost incurred;

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

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

17 (A) the explorer's name;

18 (B) the date of the application;

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

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

21 and

22 (E) the date on which the information required to be
 23 submitted under this section will be released [DUE UNDER

24 AS 43.55.011(e) OR (f)].

25 * **Sec. 32.** AS 43.55.025(i) is repealed and reenacted to read:

26 (i) For a production tax credit under this section,

27 (1) a credit may not be applied to reduce a taxpayer's tax liability
 28 under AS 43.55.011(e) or (f) below zero for a calendar year; and

29 (2) an amount of the production tax credit in excess of the amount that
 30 may be applied for a calendar year under this subsection may be carried forward and
 31 applied against the taxpayer's tax liability under AS 43.55.011(e) or (f) in one or more

1 later calendar years.

2 * **Sec. 33.** AS 43.55.025(k) is amended by adding a new paragraph to read:

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

6 * **Sec. 34.** AS 43.55.025 is amended by adding new subsections to read:

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

12 (1) have been for seismic exploration that

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

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

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

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

26 * **Sec. 35.** AS 43.55.030(a) is amended to read:

27 (a) **A producer that produces oil or gas from a lease or property in the**
28 **state during a calendar year, whether or not any tax payment is due under**
29 **AS 43.55.020(a) for that oil or gas,** [THE PERSON PAYING THE TAX] shall file
30 with the department on March 31 of the **following** year [FOLLOWING THE
31 CALENDAR YEAR FOR WHICH THE TAX WAS LEVIED] a statement, under

1 oath, in a form prescribed by the department, giving, with other information required,
2 the following:

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

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

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

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

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

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

21 **(7) the production tax values of the oil and gas under**
22 **AS 43.55.160;**

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

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

27 * **Sec. 36.** AS 43.55.030(d) is amended to read:

28 (d) Reports **required under this section** [BY OR ON BEHALF OF THE
29 PRODUCER] are delinquent the first day following the day the report is due. **The**
30 **person required to file the report is liable for a penalty, as determined by the**
31 **department under standards adopted in regulation by the department, of not**

1 **more than \$1,000 for each day the person fails to file the report at the time**
 2 **required. The penalty is in addition to the penalties in AS 43.05.220 and**
 3 **43.05.290 and is assessed, collected, and paid in the same manner as a tax**
 4 **deficiency under this title. In this subsection, "report" includes a statement.**

5 * **Sec. 37.** AS 43.55.030 is amended by adding new subsections to read:

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

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

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

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

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

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

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

25 (4) lease expenditures and adjustments under AS 43.55.165 and
 26 43.55.170;

27 (5) joint interest billings;

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

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

31 (8) other records and information the department considers necessary

1 for the administration of this chapter.

2 * **Sec. 38.** AS 43.55.040 is amended to read:

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

5 (1) require a person engaged in production and the agent or employee
6 of the person, and the purchaser of oil or gas, or the owner of a royalty interest in oil
7 or gas to furnish, whether by the filing of regular statements or reports or otherwise,
8 additional information that is considered by the department as necessary to compute
9 the amount of the tax; notwithstanding any contrary provision of law, the disclosure
10 of additional information under this paragraph to the producer obligated to pay the tax
11 does not violate AS 40.25.100(a) or AS 43.05.230(a); before disclosing information
12 under this paragraph that is otherwise required to be held confidential under
13 AS 40.25.100(a) or AS 43.05.230(a), the department shall

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

17 (B) impose appropriate conditions limiting

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

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

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

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

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

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

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

31 **(5) require a producer, an explorer, or an operator of a lease or**

1 property to file reports and copies of records that the department considers
 2 necessary to forecast state revenue under this chapter; in the case of reports and
 3 copies of records relating to proposed, expected, or approved unit expenditures
 4 for a unit for which one or more working interest owners other than the
 5 operator have authority to approve unit expenditures, the required reports and
 6 copies of records are limited to those reports or copies of records that constitute
 7 or disclose communications between the operator and the working interest
 8 owners relating to unit budget matters; and

9 (6) assess against a person required under this section to file a
 10 report, statement, or other document a penalty, as determined by the
 11 department under standards adopted in regulation by the department, of not
 12 more than \$1,000 for each day the person fails to file the report, statement, or
 13 other document after notice by the department; the penalty is in addition to any
 14 penalties under AS 43.05.220 and 43.05.290 and is assessed, collected, and paid
 15 in the same manner as a tax deficiency under this title; the penalty shall bear
 16 interest at the rate specified under AS 43.05.225(1).

17 * **Sec. 39.** AS 43.55 is amended by adding a new section to read:

18 **Sec. 43.55.055. Penalty for understatement of tax.** (a) In addition to other
 19 penalties prescribed by law, if there is a substantial understatement of tax required to
 20 be shown on a statement required under AS 43.55.030(a), there shall be added to the
 21 tax an amount equal to 10 percent of the substantial understatement of tax.

22 (b) In addition to other penalties prescribed by law, if there is a gross
 23 understatement of tax required to be shown on a statement required under
 24 AS 43.55.030(a), there shall be added to the tax an amount equal to 20 percent of the
 25 gross understatement of tax.

26 (c) In addition to the penalties imposed under (a) or (b) of this section, a
 27 person who has made a substantial or gross understatement of tax is liable to the state
 28 for the reasonable costs of the state's enforcement action, including auditing costs.

29 (d) For purposes of this section,

30 (1) a substantial understatement of tax for any calendar year exists if
 31 the amount of the understatement for the calendar year exceeds the lesser of 10

1 percent of the tax required to be shown on the statement for the calendar year or
2 \$10,000,000;

3 (2) a gross understatement of tax for any calendar year exists if the
4 amount of the understatement for the calendar year exceeds the lesser of 20 percent of
5 the tax required to be shown on the statement for the calendar year or \$20,000,000;

6 (3) "understatement" means the amount by which the tax required to
7 be shown on the statement for the calendar year exceeds the amount of the tax
8 reported as due by the taxpayer as shown on the statement.

9 * **Sec. 40.** AS 43.55 is amended by adding new sections to read:

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

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

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

24 and

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

29 (c) If an alteration in or modification of a producer's federal income tax return
30 or a recomputation of the producer's federal income tax or determination of
31 deficiency occurs that affects the amount of a tax imposed on the producer under this

1 chapter, the producer shall

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

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

7 (d) In this section,

8 (1) "qualified capital expenditure" has the meaning given in
9 AS 43.55.023;

10 (2) "return" includes a report, a statement, and an amended return,
11 report, or statement.

12 **Sec. 43.55.078. Exceptions to tax credits.** (a) For a calendar year after 2007,
13 a producer or explorer may not take a tax credit under AS 43.55.023, 43.55.024, or
14 43.55.025 against a tax levied under this chapter if a state court or administrative
15 agency or federal court that has subject matter jurisdiction has entered a judgment in
16 favor of the state or a political subdivision of the state in an amount greater than
17 \$100,000 against the producer or explorer, the producer or explorer has not satisfied
18 the judgment, and the judgment concerns a matter having connections with this state
19 that are sufficient to satisfy constitutional jurisdictional requirements.

20 (b) Notwithstanding (a) of this section, the producer or explorer may receive
21 a tax credit described in (a) of this section if

22 (1) the judgment is appealed but the appeal has not been decided; and

23 (2) the producer or explorer deposits in the court where the judgment
24 was entered or the appeal is pending, in the form of cash, bond, or other security,

25 (A) the full amount of the judgment; and

26 (B) post-judgment interest on the judgment amount described
27 in (A) of this paragraph; notwithstanding another provision of law, the post-
28 judgment interest rate compounded quarterly on a judgment the amount of
29 which is deposited under (a) of this paragraph is equal to the greater of

30 (i) the applicable statutory rate; or

31 (ii) the rate of return on the producer's or explorer's

1 equity as shown on the producer's or explorer's most recent quarterly
2 earnings report as of the date of the notice of appeal.

3 (c) In this section,

4 (1) "judgment" means any final administrative determination or
5 judgment in favor of the state or a political subdivision of the state;

6 (2) "producer or explorer" includes an affiliate of a producer or
7 explorer.

8 * **Sec. 41.** AS 43.55.110 is amended by adding new subsections to read:

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

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

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

20 (h) Subject to legislative appropriation, the department may compensate a
21 person who provides information to the department about noncompliance with the
22 provisions of this chapter by an explorer or a producer of oil or gas if that information
23 leads to the collection of additional taxes, penalties, or interest from the producer. The
24 amount of compensation under this subsection may not exceed the lesser of
25 \$1,000,000 or 10 percent of the additional tax, penalty, or interest collected as a result
26 of the information. A state employee or an agent of the state is not eligible for
27 compensation under this subsection.

28 * **Sec. 42.** AS 43.55.160(a) is amended to read:

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

30 [(1)] AS 43.55.011(e), the [ANNUAL] production tax value of the
31 taxable

1 **(1)** [(A)] oil and gas produced during a calendar year from leases or
2 properties in the state that include land north of 68 degrees North latitude is the gross
3 value at the point of production of the oil and gas taxable under AS 43.55.011(e) and
4 produced by the producer from those leases or properties, less the producer's lease
5 expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas
6 produced by the producer from those leases or properties, as adjusted under
7 AS 43.55.170; **this subparagraph does not apply to gas subject to**
8 **AS 43.55.011(o);**

9 **(2)** [(B)] oil and gas produced during a calendar year from leases or
10 properties in the state outside the Cook Inlet sedimentary basin, no part of which is
11 north of 68 degrees North latitude, is the gross value at the point of production of the
12 oil and gas taxable under AS 43.55.011(e) and produced by the producer from those
13 leases or properties, less the producer's lease expenditures under AS 43.55.165 for the
14 calendar year applicable to the oil and gas produced by the producer from those leases
15 or properties, as adjusted under AS 43.55.170; **this subparagraph does not apply to**
16 **gas subject to AS 43.55.011(o);**

17 **(3)** [(C)] oil produced during a calendar year from a lease or property
18 in the Cook Inlet sedimentary basin is the gross value at the point of production of the
19 oil taxable under AS 43.55.011(e) and produced by the producer from that lease or
20 property, less the producer's lease expenditures under AS 43.55.165 for the calendar
21 year applicable to the oil produced by the producer from that lease or property, as
22 adjusted under AS 43.55.170;

23 **(4)** [(D)] gas produced during a calendar year from a lease or property
24 in the Cook Inlet sedimentary basin is the gross value at the point of production of the
25 gas taxable under AS 43.55.011(e) and produced by the producer from that lease or
26 property, less the producer's lease expenditures under AS 43.55.165 for the calendar
27 year applicable to the gas produced by the producer from that lease or property, as
28 adjusted under AS 43.55.170;

29 **(5) gas produced during a calendar year from a lease or property**
30 **outside the Cook Inlet sedimentary basin and used in the state is the gross value**
31 **at the point of production of that gas taxable under AS 43.55.011(e) and**

1 **produced by the producer from that lease or property, less the producer's lease**
2 **expenditures under AS 43.55.165 for the calendar year applicable to that gas**
3 **produced by the producer from that lease or property, as adjusted under**
4 **AS 43.55.170**

5 [(2) AS 43.55.011(g), THE MONTHLY PRODUCTION TAX
6 VALUE OF THE TAXABLE

7 (A) OIL AND GAS PRODUCED DURING A MONTH
8 FROM LEASES OR PROPERTIES IN THE STATE THAT INCLUDE
9 LAND NORTH OF 68 DEGREES NORTH LATITUDE IS THE GROSS
10 VALUE AT THE POINT OF PRODUCTION OF THE OIL AND GAS
11 TAXABLE UNDER AS 43.55.011(g) AND PRODUCED BY THE
12 PRODUCER FROM THOSE LEASES OR PROPERTIES, LESS 1/12 OF
13 THE PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR
14 THE CALENDAR YEAR APPLICABLE TO THE OIL AND GAS
15 PRODUCED BY THE PRODUCER FROM THOSE LEASES OR
16 PROPERTIES, AS ADJUSTED UNDER AS 43.55.170;

17 (B) OIL AND GAS PRODUCED DURING A MONTH
18 FROM LEASES OR PROPERTIES IN THE STATE OUTSIDE THE COOK
19 INLET SEDIMENTARY BASIN, NO PART OF WHICH IS NORTH OF 68
20 DEGREES NORTH LATITUDE, IS THE GROSS VALUE AT THE POINT
21 OF PRODUCTION OF THE OIL AND GAS TAXABLE UNDER
22 AS 43.55.011(g) AND PRODUCED BY THE PRODUCER FROM THOSE
23 LEASES OR PROPERTIES, LESS 1/12 OF THE PRODUCER'S LEASE
24 EXPENDITURES UNDER AS 43.55.165 FOR THE CALENDAR YEAR
25 APPLICABLE TO THE OIL AND GAS PRODUCED BY THE PRODUCER
26 FROM THOSE LEASES OR PROPERTIES, AS ADJUSTED UNDER
27 AS 43.55.170;

28 (C) OIL PRODUCED DURING A MONTH FROM A
29 LEASE OR PROPERTY IN THE COOK INLET SEDIMENTARY BASIN
30 IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE OIL
31 TAXABLE UNDER AS 43.55.011(g) AND PRODUCED BY THE

1 PRODUCER FROM THAT LEASE OR PROPERTY, LESS 1/12 OF THE
 2 PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE
 3 CALENDAR YEAR APPLICABLE TO THE OIL PRODUCED BY THE
 4 PRODUCER FROM THAT LEASE OR PROPERTY, AS ADJUSTED
 5 UNDER AS 43.55.170;

6 (D) GAS PRODUCED DURING A MONTH FROM A
 7 LEASE OR PROPERTY IN THE COOK INLET SEDIMENTARY BASIN
 8 IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE GAS
 9 TAXABLE UNDER AS 43.55.011(g) AND PRODUCED BY THE
 10 PRODUCER FROM THAT LEASE OR PROPERTY, LESS 1/12 OF THE
 11 PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE
 12 CALENDAR YEAR APPLICABLE TO THE GAS PRODUCED BY THE
 13 PRODUCER FROM THAT LEASE OR PROPERTY, AS ADJUSTED
 14 UNDER AS 43.55.170].

15 * **Sec. 43.** AS 43.55.160(e) is amended to read:

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

22 * **Sec. 44.** AS 43.55.165(a) is repealed and reenacted to read:

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

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

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

1 (B) allowed by the department by regulation, based on the
 2 department's determination that the costs satisfy the following three
 3 requirements:

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

6 (ii) the costs must be ordinary and necessary costs of
 7 exploring for, developing, or producing, as applicable, oil or gas
 8 deposits; and

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

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

14 * **Sec. 45.** AS 43.55.165(b) is amended to read:

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

16 (1) direct costs include

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

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

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

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

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

3 (A) typical industry practices and standards in the state
 4 that determine the costs, other than items listed in (e) of this section, that
 5 an operator is allowed to bill a producer that is not the operator, under
 6 unit operating agreements or similar operating agreements that were in
 7 effect before December 2, 2005, and were subject to negotiation with at
 8 least one producer with substantial bargaining power, other than the
 9 operator; and

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

14 * **Sec. 46.** AS 43.55.165(e) is amended to read:

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

16 (1) depreciation, depletion, or amortization;

17 (2) oil or gas royalty payments, production payments, lease profit
 18 shares, or other payments or distributions of a share of oil or gas production, profit, or
 19 revenue;

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

21 (4) interest or other financing charges or costs of raising equity or
 22 debt capital;

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

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

29 (7) fines or penalties imposed by law;

30 (8) costs of arbitration, litigation, or other dispute resolution activities
 31 that involve the state or concern the rights or obligations among owners of interests

1 in, or rights to production from, one or more leases or properties or a unit;

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

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

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

8 (12) **an expenditure incurred** for a transaction that is an internal
9 transfer or is otherwise not an arm's length transaction, **unless the producer**
10 **establishes to the satisfaction of the department that the expenditure is not**
11 **[EXPENDITURES INCURRED THAT ARE]** in excess of fair market value;

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

16 (14) a tax levied under AS 43.55.011;

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

1 REMOVAL, SURRENDER, OR ABANDONMENT]; a cost is not excluded under
 2 this paragraph if the dismantlement, removal, surrender, or abandonment for which
 3 the cost is incurred is undertaken for the purpose of replacing, renovating, or
 4 improving the facility, pipeline, well pad, platform, or other structure; [FOR THE
 5 PURPOSES OF THIS PARAGRAPH, "BARREL OF OIL EQUIVALENT" MEANS

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

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

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

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

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

21 **(19) costs incurred to construct, acquire, or operate a refinery or**
 22 **crude oil topping plant, regardless of whether the products of the refinery or**
 23 **topping plant are used in oil or gas exploration, development, or production**
 24 **operations; however, if a producer owns a refinery or crude oil topping plant**
 25 **that is located on or near the premises of the producer's lease or property in the**
 26 **state and that processes the producer's oil produced from that lease or property**
 27 **into a product that the producer uses in the operation of the lease or property in**
 28 **drilling for or producing oil or gas, the producer's lease expenditures include the**
 29 **amount calculated by subtracting from the fair market value of the product used**
 30 **the prevailing value, as determined under AS 43.55.020(f), of the oil that is**
 31 **processed;**

1 **(20) costs of lobbying, public relations, public relations**
 2 **advertising, or policy advocacy.**

3 * **Sec. 47.** AS 43.55.165(h) is amended to read:

4 (h) The department shall adopt regulations that provide for reasonable
 5 methods of allocating costs between oil and gas, **between gas subject to**
 6 **AS 43.55.011(o) and other gas,** and between leases or properties in those
 7 circumstances where **an allocation of costs is required to determine** [THE
 8 DETERMINATION OF THE] lease expenditures that are **costs of exploring for,**
 9 **developing, or producing oil deposits or costs of exploring for, developing, or**
 10 **producing gas deposits** [APPLICABLE TO OIL OR TO GAS], or that are **costs of**
 11 **exploring for, developing, or producing oil or gas deposits located within**
 12 [APPLICABLE TO OIL AND GAS PRODUCED FROM] different leases or
 13 properties [, REQUIRES AN ALLOCATION OF COSTS].

14 * **Sec. 48.** AS 43.55.170(a) is amended to read:

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

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

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

30 (3) the sale or other transfer of

31 (A) an asset, including geological, geophysical, or well data or

1 interpretations, acquired by the producer as a result of a lease expenditure or
 2 an expenditure that would be a lease expenditure if it were incurred after
 3 March 31, 2006; for purposes of this subparagraph,

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

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

12 (B) oil or gas

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

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

17 * **Sec. 49.** AS 43.55 is amended by adding a new section to article 4 to read:

18 **Sec. 43.55.890. Disclosure of tax information.** Subject to AS 40.25.100 and
 19 AS 43.05.230(e), the department may publish the following information under this
 20 chapter, if aggregated among three or more producers or explorers, showing by month
 21 or calendar year and by lease or property, unit, or area of the state:

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

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

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

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

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

28 (6) qualified capital expenditures as defined in AS 43.55.023;

29 (7) exploration expenditures under AS 43.55.025;

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

31 (9) lease expenditures under AS 43.55.165;

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

2 (11) tax credits applicable or potentially applicable against taxes
3 levied by this chapter.

4 * **Sec. 50.** AS 43.55.900 is amended by adding new paragraphs to read:

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

7 (23) "progressivity tax rate" means that part of the tax rate in
8 AS 43.55.011(g) that exceeds 22.5 percent;

9 (24) "unit" means a group of tracts of land that is

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

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

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

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

22 (25) "used in the state" means delivered for consumption as fuel in the
23 state, including as fuel consumed to generate electricity.

24 * **Sec. 51.** AS 43.55.160(c), 43.55.165(c), and 43.55.165(d) are repealed.

25 * **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 **APPLICABILITY.** (a) Sections 14 - 35, 37, 42 - 48, and 51 of this Act apply to oil
28 and gas produced after December 31, 2007.

29 (b) Sections 35 and 37 of this Act apply to statements and reports under
30 AS 43.55.030(a), as amended by sec. 35 of this Act, and AS 43.55.030(e) and (f), as added
31 by sec. 37 of this Act, required to be filed after December 31, 2007.

1 (c) Sections 28 - 31 and 33 of this Act apply to exploration expenditures incurred for
2 work performed after December 31, 2006, that are the basis of tax credits that may be
3 claimed against taxes levied for oil and gas produced after December 31, 2007.

4 (d) AS 43.55.055, enacted by sec. 39 of this Act, applies to understatements made
5 after the effective date of sec. 39 of this Act.

6 (e) AS 43.55.075(a), enacted by sec. 40 of this Act, applies to any tax liability under
7 AS 43.55 with respect to which the period of limitations on assessment under AS 43.05.260
8 had not expired before the effective date of secs. 13 and 40 of this Act.

9 (f) The penalty in AS 43.55.030(d), enacted by the amendment to AS 43.55.030(d) in
10 sec. 36 of this Act, applies to any report required to be filed after the effective date of sec. 36
11 of this Act that is not filed timely.

12 (g) The penalty in AS 43.55.040(6), enacted by the amendment to AS 43.55.040 in
13 sec. 38 of this Act, applies to any report, statement, or other document required to be filed
14 after the effective date of sec. 38 of this Act.

15 * **Sec. 53.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 OIL AND GAS AUDITORS; CLASSIFICATION AND PAY PLANS.
18 Notwithstanding AS 39.25.150(2), the Department of Administration shall develop and
19 implement a distinct position classification plan and a distinct pay plan for oil and gas
20 auditors and their immediate supervisors that perform

21 (1) production tax audits in the Department of Revenue;

22 (2) royalty audits, including net profit share audits, in the Department of
23 Natural Resources.

24 * **Sec. 54.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 TRANSITION: DEPARTMENT OF NATURAL RESOURCES REGULATIONS.
27 Notwithstanding any contrary provision of AS 44.62.240, a regulation adopted by the
28 Department of Natural Resources to implement, interpret, make specific, or otherwise carry
29 out statutory provisions for the administration of oil and gas leases issued under
30 AS 38.05.180(f)(3)(B), (D), or (E), to the extent the regulation deals with the treatment of oil
31 and gas production taxes in determining net profits under those leases, may apply

1 retroactively to April 1, 2006, if the Department of Natural Resources expressly designates in
2 the regulation that the regulation applies retroactively to that date.

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

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

9 * **Sec. 56.** Sections 14 - 35, 37, 42 - 48, and 51 of this Act take effect January 1, 2008.

10 * **Sec. 57.** Except as provided in sec. 56 of this Act, this Act takes effect immediately under
11 AS 01.10.070(c).