

SENATE CS FOR CS FOR HOUSE BILL NO. 2001(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SPECIAL SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 11/15/07

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; relating to the sharing between agencies of certain information relating to the**
3 **production tax and to oil and gas or gas only leases; expanding the period in which the**
4 **Department of Revenue may assess the amount of oil and gas production tax and**
5 **conservation surcharges; relating to state oil and gas audit masters; relating to oil and**
6 **gas auditors and certain oil and gas auditor supervisors; making conforming**
7 **amendments; and providing for an effective date."**

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

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

11 LEGISLATIVE INTENT. (a) It is the intent of the legislature that AS 43.55.075(b),
12 enacted by sec. 47 of this Act, confirm by clarification the long-standing interpretation of
13 AS 43.05.260 by the Department of Revenue relating to limitation of assessments for the

1 production tax on oil and gas and conservation surcharges on oil.

2 (b) It is the intent of the legislature that the amount of money received by the state as
3 a result of the retroactivity of certain provisions under sec. 68 of this Act that exceeds the
4 amount of money the state would have received if those provisions had not taken effect until
5 January 1, 2008, will be appropriated to the public education fund (AS 14.17.300).

6 (c) It is the intent of the legislature that the legislature will responsibly invest the
7 amounts received after December 31, 2007, as the result of the enactment of this Act that
8 exceed the amounts that would have been received under AS 43.55.011 - 43.55.180, as those
9 provisions read on June 30, 2007, as if those provisions had been applied after December 31,
10 2007, by making appropriations to the following:

11 (1) the public education fund (AS 14.17.300);

12 (2) the budget reserve fund (art. IX, sec. 17, Constitution of the State of
13 Alaska);

14 (3) to extinguish the amount of the employers' unfunded liability in the
15 teachers' defined benefit retirement plan and the public employees' defined benefit retirement
16 plan;

17 (4) the development and implementation of a long-range fiscal plan for the
18 state; and

19 (5) for statewide energy needs of Alaskans to assist with rising energy costs.

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 39.25.110 is amended by adding a new paragraph to read:

30 (42) oil and gas audit masters employed in a professional capacity by
31 the Department of Revenue and the Department of Natural Resources to collect oil

1 and gas revenue by developing policy, conducting studies, drafting proposed
 2 regulations, enforcing regulations, and directing audits by oil and gas revenue
 3 auditors.

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

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

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

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

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

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

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

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

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

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

31 (h) The commissioner shall, upon request, furnish to the Department of

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

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

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

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

15 (e) There is levied on the producer of oil or gas a tax for all oil and gas
 16 produced each calendar year from each lease or property in the state, less any oil and
 17 gas the ownership or right to which is exempt from taxation or constitutes a
 18 landowner's royalty interest. Except as otherwise provided under (f), (j), and (k) of
 19 this section, the tax is equal to the sum, over all the months of the calendar year, of
 20 the production tax value for the month of the taxable oil and gas as calculated under
 21 AS 43.55.160 multiplied by the tax rate for the month determined under (g) of this
 22 section.

23 * **Sec. 16.** 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 north of 68 degrees North latitude, **other than oil and gas production**
 26 **subject to (i) of this section**, may not be less than

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

30 (2) three percent of the gross value at the point of production when the
 31 average price per barrel for Alaska North Slope crude oil for sale on the United States

1 West Coast during the calendar year for which the tax is due is over \$20 but not over
2 \$25;

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

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

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

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

15 (g) The tax rate applied to the monthly production tax value of oil and gas
16 under (e) of this section for each month of the calendar year in which the tax is levied
17 is 25 percent plus, for each month for which the monthly average production tax
18 value for each BTU equivalent barrel is more than

19 (1) \$30 but not more than \$90, 0.4 percent multiplied by the number
20 that represents the difference between the average production tax value for each BTU
21 equivalent barrel of the taxable oil and gas for that month and \$30;

22 (2) \$90, the sum of 24 percent and the product of 0.1 percent
23 multiplied by the number that represents the difference between the average
24 production tax value for each BTU equivalent barrel of the taxable oil and gas for that
25 month and \$90, except that the sum determined under this paragraph may not exceed
26 50 percent.

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

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

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

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

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

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

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

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

28 (2) for a lease or property that first commences commercial
 29 production of oil after March 31, 2006, the product obtained by multiplying (A) the
 30 amount of taxable oil produced during the calendar year from the lease or property,
 31 times (B) the average rate of tax that was imposed under this chapter **for** [ON]

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

5 * **Sec. 20.** AS 43.55.011(m) is repealed and reenacted:

6 (m) Notwithstanding any contrary provision of AS 38.05.180(i),
 7 AS 41.09.010, AS 43.55.024, or 43.55.025, the department shall provide by
 8 regulation a method to ensure that for a calendar year for which a producer's tax
 9 liability is limited by AS 43.55.011(j) or (k), tax credits otherwise available under
 10 AS 38.05.180(i), AS 41.09.010, AS 43.55.024, or 43.55.025 and allocated to oil or
 11 gas subject to the limitations in AS 43.55.011(j) and (k) are accounted for as though
 12 the credits had been applied first against a tax liability calculated without regard to
 13 the limitations under AS 43.55.011(j) and (k) so as to reduce the tax liability to the
 14 maximum amount provided for under AS 43.55.011(j) for the production of gas or
 15 AS 43.55.011(k) for the production of oil. The regulation must provide for a
 16 reasonable method to allocate tax credits to oil or gas subject to AS 43.55.011(j) and
 17 (k). Only the amount of a tax credit remaining after the accounting provided for under
 18 this subsection may be used for a later calendar year, transferred to another person, or
 19 applied against a tax levied on the production of oil or gas not subject to
 20 AS 43.55.011(j) or (k) to the extent otherwise allowed.

21 * **Sec. 21.** AS 43.55.020(a) is repealed and reenacted to read:

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

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

31 (A) for oil and gas produced from leases or properties in the

1 state outside the Cook Inlet sedimentary basin, other than leases or properties
2 subject to AS 43.55.011(f), the greater of

3 (i) zero; or

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

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

14 (i) zero;

15 (ii) zero percent, one percent, two percent, three
16 percent, or four percent, as applicable, of the gross value at the point of
17 production of the oil and gas produced from all leases or properties
18 during the month for which the installment payment is calculated; or

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

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

29 (i) zero; or

30 (ii) the total tax rate for the month determined in
31 AS 43.55.011(g) multiplied by the remainder obtained by subtracting

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

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

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

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

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

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

1 * **Sec. 22.** AS 43.55.020(g) is amended to read:

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

13 * **Sec. 23.** AS 43.55.020(h) is amended to read:

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

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

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

21 or

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

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

29 (3) interest is allowed under (2) of this subsection only from a date
30 that is 90 days after the later of [THE] March 31 **following the calendar year of**
31 **production** [DESCRIBED IN AS 43.55.030(a)] or the date that the statement

1 required under AS 43.55.030(a) is filed; interest is not allowed if the overpayment
2 was refunded within the 90-day period;

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

5 * **Sec. 24.** AS 43.55.023(a) is amended to read:

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

8 (1) notwithstanding that a qualified capital expenditure may be a
9 deductible lease expenditure for purposes of calculating the production tax value of
10 oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under
11 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or
12 explorer that incurs a qualified capital expenditure may also elect to **apply** [TAKE] a
13 tax credit against a tax **levied by** [DUE UNDER] AS 43.55.011(e) in the amount of
14 20 percent of that expenditure; **however, not more than half of the tax credit may**
15 **be applied for a single calendar year;**

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

23 (A) **agrees, in writing, to the applicable provisions of**
24 **AS 43.55.025(f)(2)** [TO NOTIFY THE DEPARTMENT OF NATURAL
25 RESOURCES, BEFORE THE LATER OF 30 DAYS AFTER
26 COMPLETION OF THE GEOLOGICAL OR GEOPHYSICAL DATA
27 PROCESSING OR COMPLETION OF THE WELL, OR 30 DAYS AFTER
28 THE STATEMENT IS FILED, OF THE DATE OF COMPLETION AND TO
29 SUBMIT A REPORT TO THAT DEPARTMENT DESCRIBING THE
30 PROCESSING SEQUENCE AND PROVIDE A LIST OF DATA SETS
31 AVAILABLE];

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

6 (C) THAT, NOTWITHSTANDING ANY PROVISION OF
 7 AS 38, THE DEPARTMENT OF NATURAL RESOURCES SHALL HOLD
 8 CONFIDENTIAL THE INFORMATION PROVIDED TO THAT
 9 DEPARTMENT UNDER THIS PARAGRAPH FOR 10 YEARS
 10 FOLLOWING THE COMPLETION DATE, AFTER WHICH THE
 11 DEPARTMENT SHALL PUBLICLY RELEASE THE INFORMATION
 12 AFTER 30 DAYS' PUBLIC NOTICE].

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

14 (b) A producer or explorer may elect to take a tax credit in the amount of **25**
 15 [20] percent of a carried-forward annual loss. A credit under this subsection may be
 16 applied against a tax **levied by** [DUE UNDER] AS 43.55.011(e). For purposes of this
 17 subsection, a carried-forward annual loss is the amount of a producer's or explorer's
 18 adjusted lease expenditures under AS 43.55.165 and 43.55.170 for a previous
 19 calendar year that was not deductible **in calculating production tax values** for that
 20 calendar year under **AS 43.55.160** [AS 43.55.160(b) AND (e)].

21 * **Sec. 26.** AS 43.55.023(d) is amended to read:

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

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

18 * **Sec. 27.** AS 43.55.023(e) is amended to read:

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

31 * **Sec. 28.** AS 43.55.023(i) is amended to read:

1 (i) For the purposes of this section,

2 (1) a producer's or explorer's transitional investment expenditures are
3 the sum of the expenditures the producer or explorer incurred after March 31, 2001,
4 and before April 1, 2006, that would be qualified capital expenditures if they were
5 incurred after March 31, 2006, less the sum of the payments or credits the producer or
6 explorer received before April 1, 2006, for the sale or other transfer of assets,
7 including geological, geophysical, or well data or interpretations, acquired by the
8 producer or explorer as a result of expenditures the producer or explorer incurred
9 before April 1, 2006, that would be qualified capital expenditures, if they were
10 incurred after March 31, 2006;

11 (2) a producer or explorer **that did not have commercial production**
12 **of oil or gas from a lease or property in the state before April 1, 2006,** may elect
13 to take a tax credit against a tax **levied by** [DUE UNDER] AS 43.55.011(e) in the
14 amount of 20 percent of the producer's or explorer's transitional investment
15 expenditures, but only to the extent that the amount does not exceed 1/10 of the
16 producer's or explorer's qualified capital expenditures that are incurred during the
17 calendar year for which the credit is taken;

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

20 (A) for any calendar year after [THE LATER OF

21 (i)] 2013; [OR

22 (ii) THE SIXTH CALENDAR YEAR AFTER THE
23 CALENDAR YEAR FOR WHICH THE PRODUCER FIRST
24 APPLIES A CREDIT UNDER THIS SUBSECTION AGAINST A
25 TAX DUE UNDER AS 43.55.011(e), IF THE PRODUCER DID NOT
26 HAVE COMMERCIAL PRODUCTION OF OIL OR GAS FROM A
27 LEASE OR PROPERTY IN THE STATE BEFORE APRIL 1, 2006;]

28 (B) more than once; or

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

31 (4) notwithstanding (d), (e), and (g) of this section, a producer or

1 explorer may not transfer a tax credit or obtain a transferable tax credit certificate for
2 a transitional investment expenditure.

3 * **Sec. 29.** AS 43.55.023 is amended by adding a new subsection to read:

4 (I) An entity that is exempt from taxation under this chapter may not apply
5 for a transferable tax credit certificate.

6 * **Sec. 30.** AS 43.55.024(a) is amended to read:

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

13 * **Sec. 31.** AS 43.55.024(c) is amended to read:

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

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

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

28
$$1 - [2 \times (AP - 50,000)] \div 100,000$$

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

31 * **Sec. 32.** AS 43.55.024(e) is amended to read:

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

9 * **Sec. 33.** AS 43.55.024(g) is amended to read:

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

13 * **Sec. 34.** AS 43.55.025(a) is amended to read:

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

18 (1) **30** [20] percent of the total exploration expenditures that qualify
 19 only under (b) and (c) of this section;

20 (2) **30** [20] percent of the total exploration expenditures [FOR WORK
 21 PERFORMED BEFORE JULY 1, 2007, AND] that qualify only under (b) and (d) of
 22 this section;

23 (3) 40 percent of the total exploration expenditures that qualify under
 24 (b), (c), and (d) of this section; or

25 (4) 40 percent of the total exploration expenditures that qualify only
 26 under (b) and (e) of this section.

27 * **Sec. 35.** AS 43.55.025(b) is amended to read:

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

1 INCURRED FOR WORK PERFORMED ON OR AFTER JULY 1, 2005,] and

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

4 (2) if for an exploration well,

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

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

9 (C) must be for **a well that has been completed, suspended,**
10 **or abandoned at the time the explorer claims the tax credit under (f) of**
11 **this section; and**

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

17 (3) may not be for [TESTING, STIMULATION, OR COMPLETION
18 COSTS;] administration, supervision, engineering, or lease operating costs;
19 geological or management costs; community relations or environmental costs;
20 bonuses, taxes, or other payments to governments related to the well; **costs, including**
21 **repairs and replacements, arising from or associated with fraud, wilful**
22 **misconduct, gross negligence, criminal negligence, or violation of law, including**
23 **a violation of 33 U.S.C. 1319(c)(1) or 1321(b)(3) (Clean Water Act);** or other costs
24 that are generally recognized as indirect costs or financing costs; and

25 (4) may not be incurred for an exploration well or seismic exploration
26 that is included in a plan of exploration or a plan of development for any unit **before**
27 **May 14, 2003** [ON MAY 13, 2003].

28 * **Sec. 36.** AS 43.55.025(c) is repealed and reenacted to read:

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

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

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

3 (A) before spudding the well,

4 (i) the explorer shall submit to the commissioner of
5 natural resources the information necessary to determine whether the
6 geological objective of the well is a potential oil or gas trap that is
7 distinctly separate from any trap that has been tested by a preexisting
8 well; and

9 (ii) the commissioner of natural resources must make
10 an affirmative determination on that question; the commissioner of
11 natural resources shall decide whether to make that determination
12 within 60 days after receiving all the necessary information from the
13 explorer and based on the information received and on other
14 information the commissioner of natural resources may consider
15 relevant;

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

21 (C) after completion, suspension, or abandonment of the
22 exploration well, the commissioner of natural resources must determine that
23 the well adequately achieved the explorer's stated geological objective.

24 * **Sec. 37.** AS 43.55.025(f) is amended to read:

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

26 (1) an explorer shall, in a form prescribed by the department and,
27 **except for a credit under (l) of this section,** within six months of the completion of
28 the exploration activity, claim the credit and submit information sufficient to
29 demonstrate to the department's satisfaction that the claimed exploration expenditures
30 qualify under this section;

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

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

20 (B) to provide to the Department of Natural Resources, within
 21 30 days after the date of a request, **unless a longer period is provided by the**
 22 **Department of Natural Resources**, specific data sets, ancillary data, and
 23 reports identified in (A) of this paragraph; **in this subparagraph,**

24 **(i) a seismic or geophysical data set includes the**
 25 **data for an entire seismic survey, irrespective of whether the**
 26 **survey area covers nonstate land in addition to state land or land**
 27 **in a unit in addition to land outside a unit;**

28 **(ii) well data include all derivative products, results,**
 29 **and copies of data collected and data analyses for the well; well**
 30 **logs; sample analyses; geophysical and velocity data including**
 31 **vertical seismic profiles and check shot surveys; and tangible**

1 material including, for each whole core collected, a lengthwise cut
2 slab that is at least 1/3 of the whole core volume, and
3 representative samples, as specified by the Department of Natural
4 Resources, of other gaseous, liquid, or solid material collected
5 from drilling or testing the well;

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

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

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

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

1 **tax credit certificate is issued under (5) of this subsection;**

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

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

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

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

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

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

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

19 **and**

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

23 * **Sec. 38.** AS 43.55.025(g) is amended to read:

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

28 * **Sec. 39.** AS 43.55.025(h) is amended to read:

29 (h) A producer that purchases a production tax credit certificate may apply
30 the credits against its production tax **levied by** [LIABILITY UNDER]
31 AS 43.55.011(e) [OR (f)]. Regardless of the price the producer paid for the

1 certificate, the producer may receive a credit against its production tax liability for the
2 full amount of the credit, but for not more than the amount for which the certificate is
3 issued. A production tax credit allowed under this section may not be applied more
4 than once.

5 * **Sec. 40.** AS 43.55.025(i) is repealed and reenacted to read:

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

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

9 (2) an amount of the production tax credit in excess of the amount that
10 may be applied for a calendar year under this subsection may be carried forward and
11 applied against the taxpayer's tax liability under AS 43.55.011(e) in one or more later
12 calendar years.

13 * **Sec. 41.** AS 43.55.025(k) is amended by adding a new paragraph to read:

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

17 * **Sec. 42.** AS 43.55.025 is amended by adding a new subsection to read:

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

23 (1) have been for seismic exploration that

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

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

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

1 * **Sec. 43.** AS 43.55.030(a) is amended to read:

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

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

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

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

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

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

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

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

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

30 **(9) calculations showing the amounts, if any, that were or are due**
 31 **under AS 43.55.020(a) and interest on any underpayment or overpayment**

1 [AS 43.55.160 - 43.55.170].

2 * **Sec. 44.** AS 43.55.030(d) is amended to read:

3 (d) Reports **required under this section** [BY OR ON BEHALF OF THE
4 PRODUCER] are delinquent the first day following the day the report is due. **The**
5 **person required to file the report is liable for a penalty, as determined by the**
6 **department under standards adopted in regulation by the department, of not**
7 **more than \$1,000 for each day the person fails to file the report at the time**
8 **required. The penalty is in addition to the penalties in AS 43.05.220 and**
9 **43.05.290 and is assessed, collected, and paid in the same manner as a tax**
10 **deficiency under this title. In this subsection, "report" includes a statement.**

11 * **Sec. 45.** AS 43.55.030 is amended by adding new subsections to read:

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

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

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

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

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

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

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

31 (4) lease expenditures and adjustments under AS 43.55.165 and

1 43.55.170;

2 (5) joint interest billings;

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

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

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

8 * **Sec. 46.** AS 43.55.040 is amended to read:

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

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

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

23 (B) impose appropriate conditions limiting

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

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

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

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

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

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

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

6 **(5) require a producer, an explorer, or an operator of a lease or**
7 **property to file reports and copies of records that the department considers**
8 **necessary to forecast state revenue under this chapter; in the case of reports and**
9 **copies of records relating to proposed, expected, or approved unit expenditures**
10 **for a unit for which one or more working interest owners other than the**
11 **operator have authority to approve unit expenditures, the required reports and**
12 **copies of records are limited to those reports or copies of records that constitute**
13 **or disclose communications between the operator and the working interest**
14 **owners relating to unit budget matters;**

15 **(6) require a producer that has an average total production in the**
16 **state of more than 100,000 barrels a day for a calendar year to report the gross**
17 **value at the point of production of the producer's taxable oil and gas in the state**
18 **for a calendar year and the total amount of lease expenditures in the state for**
19 **that calendar year; and**

20 **(7) assess against a person required under this section to file a**
21 **report, statement, or other document a penalty, as determined by the**
22 **department under standards adopted in regulation by the department, of not**
23 **more than \$1,000 for each day the person fails to file the report, statement, or**
24 **other document after notice by the department; the penalty is in addition to any**
25 **penalties under AS 43.05.220 and 43.05.290 and is assessed, collected, and paid**
26 **in the same manner as a tax deficiency under this title; the penalty shall bear**
27 **interest at the rate specified under AS 43.05.225(1).**

28 * **Sec. 47.** AS 43.55 is amended by adding a new section to read:

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

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

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

12 and

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

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

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

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

26 (d) In this section,

27 (1) "qualified capital expenditure" has the meaning given in
 28 AS 43.55.023;

29 (2) "return" includes a report, a statement, and an amended return,
 30 report, or statement.

31 * **Sec. 48.** AS 43.55.110 is amended by adding new subsections to read:

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

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

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

12 (h) Subject to legislative appropriation, the department may compensate a
13 person who provides information to the department about noncompliance with the
14 provisions of this chapter by an explorer or a producer of oil or gas if that information
15 leads to the collection of additional taxes, penalties, or interest from the producer. The
16 amount of compensation under this subsection may not exceed the lesser of \$500,000
17 or 10 percent of the additional tax, penalty, or interest collected as a result of the
18 information. A state employee or an agent of the state is not eligible for compensation
19 under this subsection.

20 (i) A person who, under (h) of this section, provides, in bad faith, to the
21 department erroneous information about noncompliance with the provisions of this
22 chapter by an explorer or producer of oil or gas shall pay to the

23 (1) department all expenses related to the department's investigation
24 of the alleged noncompliance; and

25 (2) explorer or producer about whom the noncompliance was alleged
26 all expenses that are incurred by the explorer or producer relating to the department's
27 investigation of the alleged noncompliance.

28 * **Sec. 49.** AS 43.55.150 is amended to read:

29 **Sec. 43.55.150. Determination of gross value at the point of production.**

30 (a) For the purposes of AS 43.55.011 - 43.55.180, the gross value at the point of
31 production is calculated using the actual [REASONABLE] costs of transportation of

1 the oil or gas [. THE REASONABLE COSTS OF TRANSPORTATION ARE THE
2 ACTUAL COSTS], except when the

3 (1) **shipper** [PARTIES TO THE TRANSPORTATION] of oil or gas
4 **is** [ARE] affiliated **with the transportation carrier or with a person that owns an**
5 **interest in the transportation facility;**

6 (2) contract for the transportation of oil or gas is not an arm's length
7 transaction [OR IS NOT REPRESENTATIVE OF THE MARKET VALUE OF
8 THAT TRANSPORTATION]; **or** [AND]

9 (3) method **or terms** of transportation of oil or gas **are** [IS] not
10 reasonable in view of existing alternative [METHODS OF] transportation **options**.

11 (b) If the department finds that **a condition** [THE CONDITIONS] in (a)(1),
12 (2), **or** [AND] (3) of this section **is** [ARE] present, **the gross value at the point of**
13 **production is calculated using the actual costs of transportation, or the**
14 **reasonable costs of transportation as determined under this subsection,**
15 **whichever is lower. The** [THE] department shall determine the reasonable costs of
16 transportation, using the fair market value of like transportation, the fair market value
17 of equally efficient and available alternative modes of transportation, or other
18 reasonable methods. Transportation costs fixed by tariff rates **that have been**
19 **adjudicated as just and reasonable by** [PROPERLY ON FILE WITH] the
20 Regulatory Commission of Alaska or **another** [OTHER] regulatory agency **and**
21 **transportation costs in an arm's length transaction paid by parties not affiliated**
22 **with an owner of the method of transportation** shall be considered prima facie
23 reasonable.

24 (c) In determining the gross value of oil under [(a) OF] this section, the
25 department may not allow as reasonable costs of transportation

26 (1) the amount of loss of or damage to, or of expense incurred due to
27 the loss of or damage to, a vessel used to transport oil if the loss, damage, or expense
28 is incurred in connection with a catastrophic oil discharge from the vessel into the
29 marine or inland waters of the state;

30 (2) the incremental costs of transportation of the oil that are
31 attributable to temporary use of or chartered or substituted service provided by

1 another vessel due to the loss of or damage to a vessel regularly used to transport oil
2 and that are incurred in connection with a catastrophic oil discharge into the marine or
3 inland waters of the state; and

4 (3) the costs incurred to charter, contract, or hire vessels and
5 equipment used to contain or clean up a catastrophic oil discharge.

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

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

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

9 (A) oil and gas produced during a calendar year from leases or
10 properties in the state that include land north of 68 degrees North latitude is
11 the gross value at the point of production of the oil and gas taxable under
12 AS 43.55.011(e) and produced by the producer from those leases or
13 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
15 those leases or properties, as adjusted under AS 43.55.170;

16 (B) oil and gas produced during a calendar year from leases or
17 properties in the state outside the Cook Inlet sedimentary basin, no part of
18 which is north of 68 degrees North latitude, is the gross value at the point of
19 production of the oil and gas taxable under AS 43.55.011(e) and produced by
20 the producer from those leases or properties, less the producer's lease
21 expenditures under AS 43.55.165 for the calendar year applicable to the oil
22 and gas produced by the producer from those leases or properties, as adjusted
23 under AS 43.55.170;

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

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

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

5 (2) AS 43.55.011(g), the monthly production tax value of the taxable

6 (A) oil and gas produced during a month from leases or
7 properties in the state that include land north of 68 degrees North latitude is
8 the gross value at the point of production of the oil and gas taxable under
9 AS 43.55.011(e) [AS 43.55.011(g)] and produced by the producer from those
10 leases or properties, less 1/12 of the producer's lease expenditures under
11 AS 43.55.165 for the calendar year applicable to the oil and gas produced by
12 the producer from those leases or properties, as adjusted under AS 43.55.170;

13 (B) oil and gas produced during a month from leases or
14 properties in the state outside the Cook Inlet sedimentary basin, no part of
15 which is north of 68 degrees North latitude, is the gross value at the point of
16 production of the oil and gas taxable under AS 43.55.011(e)
17 [AS 43.55.011(g)] and produced by the producer from those leases or
18 properties, less 1/12 of the producer's lease expenditures under AS 43.55.165
19 for the calendar year applicable to the oil and gas produced by the producer
20 from those leases or properties, as adjusted under AS 43.55.170;

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

28 (D) gas produced during a month from a lease or property in
29 the Cook Inlet sedimentary basin is the gross value at the point of production
30 of the gas taxable under AS 43.55.011(e) [AS 43.55.011(g)] and produced by
31 the producer from that lease or property, less 1/12 of the producer's lease

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

4 * **Sec. 51.** AS 43.55.160(b) is amended to read:

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

7 * **Sec. 52.** AS 43.55.160(e) is amended to read:

8 (e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that
 9 would otherwise be deductible by a producer in a calendar year but whose deduction
 10 would cause a [AN ANNUAL] production tax value calculated under (a)(1) of this
 11 section of taxable oil or gas produced during the calendar year to be less than zero
 12 may be used to establish a carried-forward annual loss under AS 43.55.023(b).
 13 **However, the department shall provide by regulation a method to ensure that,**
 14 **for a period for which a producer's tax liability is limited by AS 43.55.011(j) or**
 15 **(k), any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that**
 16 **would otherwise be deductible by a producer for that period but whose**
 17 **deduction would cause a production tax value calculated under (a)(1)(C) or (D)**
 18 **of this section to be less than zero are accounted for as though the adjusted lease**
 19 **expenditures had first been used as deductions in calculating the production tax**
 20 **values of oil or gas subject to any of the limitations under AS 43.55.011(j) or (k)**
 21 **that have positive production tax values so as to reduce the tax liability**
 22 **calculated without regard to the limitation to the maximum amount provided for**
 23 **under the applicable provision of AS 43.55.011(j) or (k). Only the amount of**
 24 **those adjusted lease expenditures remaining after the accounting provided for**
 25 **under this subsection may be used to establish a carried-forward annual loss**
 26 **under AS 43.55.023(b).** In this subsection, "producer" includes "explorer."

27 * **Sec. 53.** AS 43.55.165(a) is amended to read:

28 (a) Except as provided under **(c) and (e)** [(c) - (e)] of this section, for the
 29 purposes of AS 43.55.160, a producer's lease expenditures for a calendar year are the
 30 ordinary and necessary costs upstream of the point of production of oil and gas that
 31 are incurred during the calendar year by the producer after March 31, 2006, and that

1 are direct costs of exploring for, developing, or producing oil or gas deposits located
 2 within the producer's leases or properties in the state or, in the case of land in which
 3 the producer does not own a working interest, that are direct costs of exploring for oil
 4 or gas deposits located within other land in the state. In determining whether costs are
 5 lease expenditures, the department shall consider, among other factors,

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

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

16 * **Sec. 54.** AS 43.55.165(c) is repealed and reenacted to read:

17 (c) Subject to (g) and (h) of this section, if the department finds that the
 18 pertinent provisions of a unit operating agreement or similar operating agreement are
 19 substantially consistent with the department's determinations and standards under (a)
 20 and (b) of this section concerning whether costs are lease expenditures and, in
 21 addition, finds that at least one working interest owner party to the agreement, other
 22 than the operator, with substantial incentive and ability to effectively audit billings
 23 under the agreement, in fact is effectively auditing billings under the agreement, the
 24 department may authorize or require a producer, subject to conditions prescribed
 25 under regulations adopted by the department, to treat as that portion of its lease
 26 expenditures for a calendar year applicable to oil and gas produced from a lease or
 27 property in the state only

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

30 (A) are billed to the producer by the operator under the
 31 agreement to which that lease or property is subject and are either not disputed

1 by a working interest owner party to the agreement or are finally determined
2 to be properly billable as a result of dispute resolution; or

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

7 (2) a reasonable percentage, as determined under regulations adopted
8 by the department, of the costs that are billed under (1) of this subsection as an
9 allowance for overhead expenses directly related to exploring for, developing, and
10 producing oil or gas deposits located within the lease or property.

11 * **Sec. 55.** AS 43.55.165(e) is amended to read:

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

13 (1) depreciation, depletion, or amortization;

14 (2) oil or gas royalty payments, production payments, lease profit
15 shares, or other payments or distributions of a share of oil or gas production, profit, or
16 revenue, **except that a producer's lease expenditures applicable to oil and gas
17 produced from a lease issued under AS 38.05.180(f)(3)(B), (D), or (E) include the
18 share of net profit paid to the state under that lease;**

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

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

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

23 (6) costs, **including repairs and replacements,** arising from **or
24 associated with** fraud, wilful misconduct, [OR] gross negligence, **criminal
25 negligence, or violation of law, including a violation of 33 U.S.C. 1319(c)(1) or
26 1321(b)(3) (Clean Water Act);**

27 (7) fines or penalties imposed by law;

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

31 (9) costs incurred in organizing a partnership, joint venture, or other

1 business entity or arrangement;

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

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

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

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

12 (14) a tax levied under AS 43.55.011;

13 (15) [THE PORTION OF] costs incurred for dismantlement, removal,
14 surrender, or abandonment of a facility, pipeline, well pad, platform, or other
15 structure, or for the restoration of a lease, field, unit, area, **tract of land**, body of
16 water, or right-of-way in conjunction with dismantlement, removal, surrender, or
17 abandonment [, THAT IS ATTRIBUTABLE TO PRODUCTION OF OIL OR GAS
18 OCCURRING BEFORE APRIL 1, 2006; THE PORTION IS CALCULATED AS A
19 RATIO OF THE AMOUNT OF OIL AND GAS PRODUCTION, IN BARRELS OF
20 OIL EQUIVALENT, ASSOCIATED WITH THE FACILITY, PIPELINE, WELL
21 PAD, PLATFORM, OTHER STRUCTURE, LEASE, FIELD, UNIT, AREA, BODY
22 OF WATER, OR RIGHT-OF-WAY OCCURRING BEFORE APRIL 1, 2006, TO
23 THE TOTAL AMOUNT OF OIL AND GAS PRODUCTION, IN BARRELS OF
24 OIL EQUIVALENT, ASSOCIATED WITH THAT FACILITY, PIPELINE, WELL
25 PAD, PLATFORM, OTHER STRUCTURE, LEASE, FIELD, UNIT, AREA, BODY
26 OF WATER, OR RIGHT-OF-WAY THROUGH THE END OF THE CALENDAR
27 MONTH BEFORE COMMENCEMENT OF THE DISMANTLEMENT,
28 REMOVAL, SURRENDER, OR ABANDONMENT]; a cost is not excluded under
29 this paragraph if the dismantlement, removal, surrender, or abandonment for which
30 the cost is incurred is undertaken for the purpose of replacing, renovating, or
31 improving the facility, pipeline, well pad, platform, or other structure; [FOR THE

1 PURPOSES OF THIS PARAGRAPH, "BARREL OF OIL EQUIVALENT" MEANS

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

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

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

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

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

17 (19) costs incurred for repair, replacement, or deferred
18 maintenance of a facility, a pipeline, a structure, or equipment, other than a well,
19 that results in or is undertaken in response to a failure, problem, or event that
20 results in an unscheduled interruption of, or reduction in the rate of, oil or gas
21 production; or costs incurred for repair, replacement, or deferred maintenance
22 of a facility, a pipeline, a structure, or equipment, other than a well, that is
23 undertaken in response to, or is otherwise associated with, an unpermitted
24 release of a hazardous substance or of gas; however, costs under this paragraph
25 that would otherwise constitute lease expenditures under (a) and (b) of this
26 section may be treated as lease expenditures if the department determines that
27 the repair or replacement is solely necessitated by an act of war, by an
28 unanticipated grave natural disaster or other natural phenomenon of an
29 exceptional, inevitable, and irresistible character, the effects of which could not
30 have been prevented or avoided by the exercise of due care or foresight, or by an
31 intentional or negligent act or omission of a third party, other than a party or its

1 agents in privity of contract with, or employed by, the producer or an operator
 2 acting for the producer, but only if the producer or operator, as applicable,
 3 exercised due care in operating and maintaining the facility, pipeline, structure,
 4 or equipment, and took reasonable precautions against the act or omission of the
 5 third party and against the consequences of the act or omission; in this
 6 paragraph,

7 (A) "costs incurred for repair, replacement, or deferred
 8 maintenance of a facility, a pipeline, a structure, or equipment" includes
 9 costs to dismantle and remove the facility, pipeline, structure, or
 10 equipment that is being replaced;

11 (B) "hazardous substance" has the meaning given in
 12 AS 46.03.826;

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

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

25 (21) costs of lobbying, public relations, public relations
 26 advertising, or policy advocacy.

27 * Sec. 56. AS 43.55.165(h) is amended to read:

28 (h) The department shall adopt regulations that provide for reasonable
 29 methods of allocating costs between oil and gas and between leases or properties in
 30 those circumstances where an allocation of costs is required to determine [THE
 31 DETERMINATION OF THE] lease expenditures that are costs of exploring for,

1 **developing, or producing oil deposits or costs of exploring for, developing, or**
 2 **producing gas deposits** [APPLICABLE TO OIL OR TO GAS], or that are **costs of**
 3 **exploring for, developing, or producing oil or gas deposits located within**
 4 [APPLICABLE TO OIL AND GAS PRODUCED FROM] different leases or
 5 properties [, REQUIRES AN ALLOCATION OF COSTS].

6 * **Sec. 57.** AS 43.55.170(a) is amended to read:

7 (a) Unless the payment or credit has already been subtracted in calculating
 8 billable or billed costs under AS 43.55.165(c) [OR (d)], a producer's lease
 9 expenditures under AS 43.55.165 must be adjusted by subtracting payments or
 10 credits, other than tax credits, received by the producer or by an operator acting for
 11 the producer for

12 (1) the use by another person of a production facility in which the
 13 producer has an ownership interest or the management by the producer of a
 14 production facility under a management agreement providing for the producer to
 15 receive a management fee;

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

22 (3) the sale or other transfer of

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

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

31 (ii) for a transaction that is an internal transfer or is

1 otherwise not an arm's length transaction, if the sale or transfer of the
 2 asset is made for less than fair market value, the amount subtracted
 3 must be the fair market value; and

4 (B) oil or gas

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

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

9 * **Sec. 58.** AS 43.55 is amended by adding new sections to article 4 to read:

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

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

17 (2) the amount of taxes levied under this chapter or paid under this
 18 chapter;

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

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

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

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

23 (7) exploration expenditures under AS 43.55.025;

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

25 (9) lease expenditures under AS 43.55.165;

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

27 (11) tax credits applicable or potentially applicable against taxes
 28 levied by this chapter.

29 **Sec. 43.55.895. Applicability to municipal entities.** (a) Notwithstanding
 30 AS 29.35.670(a) or other provision of law, a producer that is a municipal entity is
 31 subject to taxation and payment of surcharges under this chapter for oil and gas that it

1 sells to another party.

2 (b) A municipal entity subject to taxation because of this section is eligible
3 for all tax credits under this chapter to the same extent as any other producer.

4 (c) In this section, "municipal entity" means a municipality, municipally
5 owned utility, public corporation of a municipality, or entity established by more than
6 one municipality.

7 * **Sec. 59.** AS 43.55.900 is amended by adding new paragraphs to read:

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

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

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

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

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

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

23 * **Sec. 60.** AS 43.55.011(h), 43.55.011(l), 43.55.011(n), 43.55.160(c), and 43.55.165(d) are
24 repealed.

25 * **Sec. 61.** AS 39.25.110(42) is repealed December 31, 2011.

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

28 **APPLICABILITY.** (a) AS 43.55.165(e)(19), enacted by the amendment to
29 AS 43.55.165(e) in sec. 55 of this Act, applies to expenditures after March 31, 2006.

30 (b) Except as provided in (a) of this section, secs. 15 - 27, 29 - 42, and 49 - 60 of this
31 Act apply to oil and gas produced after June 30, 2007.

1 (c) Sections 43 and 45 of this Act apply to statements and reports under
2 AS 43.55.030(a), as amended by sec. 43 of this Act, and AS 43.55.030(e) and (f), as added
3 by sec. 45 of this Act, required to be filed after the effective date of secs. 43 and 45 of this
4 Act.

5 (d) Sections 34 - 37, 39, and 41 of this Act apply to exploration expenditures
6 incurred for work performed after December 31, 2007, that are the basis of tax credits that
7 may be claimed against taxes levied for oil and gas produced after December 31, 2007.

8 (e) AS 43.55.075(a), enacted by sec. 47 of this Act, applies to any tax liability under
9 AS 43.55 with respect to which the period of limitations on assessment under AS 43.05.260
10 had not expired before the effective date of secs. 14 and 47 of this Act.

11 (f) The penalty in AS 43.55.030(d), enacted by the amendment to AS 43.55.030(d) in
12 sec. 44 of this Act, applies to any report required to be filed after the effective date of sec. 44
13 of this Act that is not filed timely.

14 (g) The penalty in AS 43.55.040(7), enacted by the amendment to AS 43.55.040 in
15 sec. 46 of this Act, applies to any report, statement, or other document required to be filed
16 after the effective date of sec. 46 of this Act.

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

19 OIL AND GAS REVENUE AUDIT MASTER POSITIONS; LEGISLATIVE
20 INTENT. It is the intent of the legislature that the commissioner of administration shall cause
21 not more than four oil and gas revenue audit master positions to be created in the Department
22 of Revenue and not more than two oil and gas revenue audit master positions to be created in
23 the Department of natural Resources. Oil and gas revenue audit masters shall be employed in
24 a professional capacity to collect oil and gas revenue by developing policy, conducting
25 studies, drafting proposed regulations, enforcing regulations, and directing audits by oil and
26 gas auditors.

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

29 OIL AND GAS AUDITORS; CLASSIFICATION AND PAY PLANS.
30 Notwithstanding AS 39.25.150(2), the Department of Administration shall develop and
31 implement a distinct position classification plan and a distinct pay plan for oil and gas

1 auditors and their immediate supervisors, other than revenue audit masters, that perform

2 (1) oil and gas tax audits in the Department of Revenue under the direction of
3 an oil and gas revenue audit master;

4 (2) royalty audits, including net profit share audits, in the Department of
5 Natural Resources under the direction of an oil and gas revenue audit master.

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

8 TRANSITION: PAYMENT OF TAX. A person subject to tax under AS 43.55 that is
9 required to make one or more installment payments of estimated tax or other payment of tax
10 under AS 43.55.020(a) during the period after March 31, 2006, and before the effective date
11 of sec. 21 of this Act, and under AS 43.55.020(a), as amended by sec. 21 of this Act, for the
12 production of oil or gas during a month after March 31, 2006, and before the effective date of
13 sec. 21 of this Act but that failed to pay the full amount of the installment payments or other
14 payment of tax required under AS 43.55 because of the retroactive application of
15 AS 43.55.165(e)(19), as enacted in the amendment to AS 43.55.165(e) in sec. 55 of this Act,
16 that is retroactive to April 1, 2006, under sec. 68 of this Act, and the retroactive application
17 of secs. 15 - 27, 29 - 42, 49 - 54, 56 - 60, and that part of AS 43.55.165(e) in sec. 55 of this
18 Act under sec. 68 of this Act, shall pay before April 1, 2008, the balance of any tax due under
19 AS 43.55 for the period after March 31, 2006, and before the effective date of this section.

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

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

24 (1) if the Department of Revenue expressly designates in the regulation that
25 the regulation applies retroactively to that date, a regulation adopted by the Department of
26 Revenue to implement, interpret, make specific, or otherwise carry out secs. 15 - 27, 29 - 42,
27 and 49 - 60 of this Act may apply retroactively to July 1, 2007, except that a regulation
28 adopted by the Department of Revenue to implement, interpret, make specific, or otherwise
29 carry out AS 43.55.165(e)(19), as enacted in the amendment to AS 43.55.165(e) in sec. 55 of
30 this Act, may apply retroactively to April 1, 2006;

31 (2) a regulation adopted by the Department of Natural Resources to

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

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

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

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

15 RETROACTIVITY OF CERTAIN PROVISIONS OF THIS ACT. (a) Sections 29
16 and 38 of this Act are retroactive to July 1, 2003.

17 (b) AS 43.55.165(e)(19), enacted by the amendment to AS 43.55.165(e) in sec. 55 of
18 this Act, is retroactive to April 1, 2006.

19 (c) Except as provided in (b) of this section, secs. 15 - 27, 29 - 42, and 49 - 60 of this
20 Act are retroactive to July 1, 2007.

21 * **Sec. 69.** Section 28 of this Act takes effect January 1, 2008.

22 * **Sec. 70.** Except as provided in sec. 69 of this Act, this Act takes effect immediately under
23 AS 01.10.070(c).