

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SPECIAL SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 11/15/07

Offered: 11/15/07

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the production tax on oil and gas and to conservation surcharges on**
2 **oil; providing a limit on the amount of tax that may be levied on the production of**
3 **certain gas that is produced outside of the Cook Inlet sedimentary basin; relating to the**
4 **sharing between agencies of certain information relating to the production tax and to**
5 **oil and gas or gas only leases; expanding the period in which the Department of**
6 **Revenue may assess the amount of oil and gas production tax and conservation**
7 **surcharges; relating to state oil and gas audit masters; relating to oil and gas auditors**
8 **and certain oil and gas auditor supervisors; establishing an oil and gas tax credit fund**
9 **and authorizing payment from that fund; making conforming amendments; and**
10 **providing for an effective date."**

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

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

1 to read:

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

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

6 (2) encourage the availability to Alaska's citizens of affordable gas produced,
7 transported, and consumed within the state as one step towards reasonable and equitable
8 energy costs throughout Alaska.

9 (b) It is the intent of the legislature that AS 43.55.075(b), enacted by sec. 51 of this
10 Act, confirm by clarification the long-standing interpretation of AS 43.05.260 by the
11 Department of Revenue relating to limitation of assessments for the production tax on oil and
12 gas and conservation surcharges on oil.

13 (c) It is the intent of the legislature that the amount of money received by the state as
14 a result of the retroactivity of certain provisions under sec. 74 of this Act that exceeds the
15 amount of money the state would have received if those provisions had not taken effect until
16 January 1, 2008, will be appropriated to the public education fund (AS 14.17.300).

17 (d) It is the intent of the legislature that the legislature will responsibly invest the
18 amounts received after December 31, 2007, as the result of the enactment of this Act that
19 exceed the amounts that would have been received under AS 43.55.011 - 43.55.180, as those
20 provisions read on June 30, 2007, as if those provisions had been applied after December 31,
21 2007, by making appropriations to the following:

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

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

25 (3) to extinguish the amount of the employers' unfunded liability in the
26 teachers' defined benefit retirement plan and the public employees' defined benefit retirement
27 plan;

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

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

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

1 (a) The director shall

2 (1) have general charge and supervision of the division and may
3 exercise the powers specifically delegated to the director; **the director** may employ
4 and fix the compensation of assistants and employees necessary for the operations of
5 the division; **the director** [AND] is the certifying officer of the division, with the
6 consent of the commissioner, and may approve vouchers for disbursements of money
7 appropriated to the division;

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

10 (3) execute laws, rules, regulations, and orders adopted by the
11 commissioner;

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

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

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

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

26 (8) [REPEALED]

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

31 (A) the name of the person nominating or applying for the

1 sale, lease, or other disposal of land by competitive bidding;

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

4 (C) all geological, geophysical, and engineering data supplied,
5 whether or not concerned with the extraction or development of natural
6 resources;

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

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

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

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

19 **(10)** [(11)] select and employ or obtain at reasonable compensation
20 cadastral, appraisal, or other professional personnel the director considers necessary
21 for the proper operation of the division;

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

29 **(12) on request, furnish records, files, and other information**
30 **related to the administration of AS 38.05.180 to the Department of Revenue for**
31 **use in forecasting state revenue under or administering AS 43.55, whether or not**

1 **those records, files, and other information are required to be kept confidential**
 2 **under (8) of this subsection; in the case of records, files, or other information**
 3 **required to be kept confidential under (8) of this subsection, the Department of**
 4 **Revenue shall maintain the confidentiality that the Department of Natural**
 5 **Resources is required to extend to records, files, and other information under (8)**
 6 **of this subsection**

7 [(13) REPEALED

8 (14) REPEALED].

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

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

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

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

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

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

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

30 (f) As part of the timber sale negotiations authorized by this section, the
 31 commissioner may require a prospective purchaser negotiating a timber sale contract

1 to submit financial and technical data that demonstrates that the requirements of this
 2 section have been or will be met. Upon the prospective purchaser's request, the
 3 commissioner shall keep data provided by the purchaser confidential in accordance
 4 with the requirements of AS 38.05.035(a)(8) [AS 38.05.035(a)(9)].

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

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

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

12 (j) The commissioner

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

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

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

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

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

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

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

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

1 state;

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

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

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

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

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

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

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

29 (B) shall keep the data confidential under AS 38.05.035(a)(8)
30 [AS 38.05.035(a)(9)] at the request of the lessee or lessees making application
31 for the royalty reduction; the confidential data may be disclosed by the

1 commissioner to legislators and to the legislative auditor and as directed by
2 the chair or vice-chair of the Legislative Budget and Audit Committee to the
3 director of the division of legislative finance, the permanent employees of
4 their respective divisions who are responsible for evaluating a royalty
5 reduction, and to agents or contractors of the legislative auditor or the
6 legislative finance director who are engaged under contract to evaluate the
7 royalty reduction, if they sign an appropriate confidentiality agreement;

8 (7) may

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

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

1 subparagraph is not subject to AS 36.30;

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

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

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

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

16 (B) the chairs of the legislature's standing committees on
17 resources; and

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

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

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

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

28 (C) transmit a copy of the final findings and determination to
29 the lessee;

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

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

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

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

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

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

10 (42) oil and gas audit masters employed in a professional capacity by
 11 the Department of Revenue and the Department of Natural Resources to collect oil
 12 and gas revenue by developing policy, conducting studies, drafting proposed
 13 regulations, enforcing regulations, and directing audits by oil and gas revenue
 14 auditors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (1) the annual production tax value of the taxable oil and gas as

1 calculated under AS 43.55.160(a)(1) multiplied by 25 percent; and

2 (2) the sum, over all months of the calendar year, of the tax amounts
3 determined under (g) of this section.

4 * **Sec. 16.** AS 43.55.011(f) is amended to read:

5 (f) The levy of tax under this section **for** [ON A PRODUCER OF] oil and gas
6 produced north of 68 degrees North latitude, **other than oil and gas production**
7 **subject to (i) of this section and gas subject to (o) of this section,** may not be less
8 than

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

12 (2) three percent of the gross value at the point of production when the
13 average price per barrel for Alaska North Slope crude oil for sale on the United States
14 West Coast during the calendar year for which the tax is due is over \$20 but not over
15 \$25;

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

20 (4) one percent of the gross value at the point of production when the
21 average price per barrel for Alaska North Slope crude oil for sale on the United States
22 West Coast during the calendar year for which the tax is due is over \$15 but not over
23 \$17.50; or

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

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

28 (g) For each month of the calendar year for which the producer's average
29 monthly production tax value under AS 43.55.160(a)(2) per BTU equivalent barrel of
30 the taxable oil and gas is more than \$30, the amount of tax for purposes of (e) of this
31 section is determined by multiplying the monthly production tax value of the taxable

1 oil and gas produced during the month by the tax rate calculated as follows:

2 (1) if the producer's average monthly production tax value per BTU
3 equivalent barrel of the taxable oil and gas for the month is not more than \$92.50, the
4 tax rate is 0.4 percent multiplied by the number that represents the difference between
5 that average monthly production tax value per BTU equivalent barrel and \$30; or

6 (2) if the producer's average monthly production tax value per BTU
7 equivalent barrel of the taxable oil and gas for the month is more than \$92.50, the tax
8 rate is the sum of 25 percent and the product of 0.1 percent multiplied by the number
9 that represents the difference between the average monthly production tax value per
10 BTU equivalent barrel and \$92.50, except that the sum determined under this
11 paragraph may not exceed 50 percent.

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

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

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

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

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

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

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

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

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

22 (m) Notwithstanding any contrary provision of AS 38.05.180(i),
23 AS 41.09.010, AS 43.55.024, or 43.55.025, the department shall provide by
24 regulation a method to ensure that for a calendar year for which a producer's tax
25 liability is limited by AS 43.55.011(j), (k), or (o) tax credits otherwise available under
26 AS 38.05.180(i), AS 41.09.010, AS 43.55.024, or 43.55.025 and allocated to gas
27 subject to the limitations in AS 43.55.011(j), (k), and (o) are accounted for as though
28 the credits had been applied first against a tax liability calculated without regard to
29 the limitations under AS 43.55.011(j), (k), and (o) so as to reduce the tax liability to
30 the maximum amount provided for under AS 43.55.011(j) or (o) for the production of
31 gas or AS 43.55.011(k) for the production of oil. The regulation must provide for a

1 reasonable method to allocate tax credits to gas subject to AS 43.55.011(j) and (o).
 2 Only the amount of a tax credit remaining after the accounting provided for under this
 3 subsection may be used for a later calendar year, transferred to another person, or
 4 applied against a tax levied on the production of oil or gas not subject to
 5 AS 43.55.011(j), (k), or (o) to the extent otherwise allowed.

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

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

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

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

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

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

26 (i) zero; or

27 (ii) the sum of 25 percent and the tax rate calculated for
 28 the month under AS 43.55.011(g) multiplied by the remainder
 29 obtained by subtracting 1/12 of the producer's adjusted lease
 30 expenditures for the calendar year of production under AS 43.55.165
 31 and 43.55.170 that are deductible for the leases or properties under

1 AS 43.55.160 from the gross value at the point of production of the oil
2 and gas produced from the leases or properties during the month for
3 which the installment payment is calculated;

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

6 (i) zero;

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

11 (iii) the sum of 25 percent and the tax rate calculated
12 for the month under AS 43.55.011(g) multiplied by the remainder
13 obtained by subtracting 1/12 of the producer's adjusted lease
14 expenditures for the calendar year of production under AS 43.55.165
15 and 43.55.170 that are deductible for those leases or properties under
16 AS 43.55.160 from the gross value at the point of production of the oil
17 and gas produced from those leases or properties during the month for
18 which the installment payment is calculated;

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

21 (i) zero; or

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

31 (2) an amount calculated under (1)(C) of this subsection for oil or gas

1 produced from a lease or property subject to AS 43.55.011(j), (k), or (o) may not
 2 exceed the product obtained by carrying out the calculation set out in
 3 AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in
 4 AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in
 5 AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable
 6 gas produced during the month for the amount of taxable gas produced during the
 7 calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the
 8 amount of taxable oil produced during the month for the amount of taxable oil
 9 produced during the calendar year;

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

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

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

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

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

27 (g) Notwithstanding any contrary provision of AS 43.05.225, an unpaid
 28 amount of an installment payment required under (a)(1) - (3) [(a)(1) - (4)] of this
 29 section that is not paid when due bears interest (1) at the rate provided for an
 30 underpayment under 26 U.S.C. 6621 (Internal Revenue Code), as amended,
 31 compounded daily, from the date the installment payment is due until [THE]

1 March 31 following the calendar year of production [DESCRIBED IN
 2 AS 43.55.030(a)], and (2) as provided for a delinquent tax under AS 43.05.225 after
 3 that March 31. Interest accrued under (1) of this subsection that remains unpaid after
 4 that March 31 is treated as an addition to tax that bears interest under (2) of this
 5 subsection. An unpaid amount of tax due under (a)(4) [(a)(5)] of this section that is
 6 not paid when due bears interest as provided for a delinquent tax under AS 43.05.225.

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

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

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

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

15 or

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

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

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

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

30 * **Sec. 25.** AS 43.55.023(a) is amended to read:

31 (a) A producer or explorer may take a tax credit for a qualified capital

1 expenditure as follows:

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

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

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

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

31 (C) THAT, NOTWITHSTANDING ANY PROVISION OF

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

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

8 (b) A producer or explorer may elect to take a tax credit in the amount of **25**
 9 [20] percent of a carried-forward annual loss. A credit under this subsection may be
 10 applied against a tax **levied by** [DUE UNDER] AS 43.55.011(e). For purposes of this
 11 subsection, a carried-forward annual loss is the amount of a producer's or explorer's
 12 adjusted lease expenditures under AS 43.55.165 and 43.55.170 for a previous
 13 calendar year that was not deductible **in calculating production tax values** for that
 14 calendar year under **AS 43.55.160** [AS 43.55.160(b) AND (e)].

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

16 (d) Except as limited by (i) of this section, a person **that is** entitled to take a
 17 tax credit under this section that wishes to transfer the unused credit to another person
 18 **or obtain a cash payment under AS 43.55.028** may apply to the department for [A]
 19 transferable tax credit **certificates** [CERTIFICATE]. An application under this
 20 subsection must be in a form prescribed by the department and must include
 21 supporting information and documentation that the department reasonably requires.
 22 The department shall grant or deny an application, or grant an application as to a
 23 lesser amount than that claimed and deny it as to the excess, not later than **120** [60]
 24 days after the latest of (1) March 31 of the year following the calendar year in which
 25 the qualified capital expenditure or carried-forward annual loss for which the credit is
 26 claimed was incurred; (2) [IF THE APPLICANT IS REQUIRED UNDER
 27 AS 43.55.030(a) TO FILE A STATEMENT ON OR BEFORE MARCH 31 OF THE
 28 YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE QUALIFIED
 29 CAPITAL EXPENDITURES OR CARRIED-FORWARD ANNUAL LOSS FOR
 30 WHICH THE CREDIT IS CLAIMED WAS INCURRED,] the date the statement
 31 **required under AS 43.55.030(a) or (e)** was filed **for the calendar year in which**

1 the qualified capital expenditure or carried-forward annual loss for which the
 2 credit is claimed was incurred; or (3) the date the application was received by the
 3 department. If, based on the information then available to it, the department is
 4 reasonably satisfied that the applicant is entitled to a credit, the department shall issue
 5 the applicant two [A] transferable tax credit certificates, each [CERTIFICATE] for
 6 half of the amount of the credit. The credit shown on one of the two certificates is
 7 available for immediate use. The credit shown on the second of the two
 8 certificates may not be applied against a tax for a calendar year earlier than the
 9 calendar year following the calendar year in which the certificate is issued, and
 10 the certificate must contain a conspicuous statement to that effect. A certificate
 11 issued under this subsection does not expire.

12 * **Sec. 28.** AS 43.55.023(e) is amended to read:

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

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

26 (g) The issuance of a transferable tax credit certificate under (d) of this
 27 section or the purchase of a certificate [ISSUANCE OF A CASH REFUND] under
 28 AS 43.55.028 [(f) OF THIS SECTION] does not limit the department's ability to later
 29 audit a tax credit claim to which the certificate relates or to adjust the claim if the
 30 department determines, as a result of the audit, that the applicant was not entitled to
 31 the amount of the credit for which the certificate was issued. The tax liability of the

1 applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is increased by the
 2 amount of the credit that exceeds that to which the applicant was entitled, or the
 3 applicant's available valid outstanding credits applicable against the tax levied by
 4 AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is
 5 increased under this subsection, the increase bears interest under AS 43.05.225 from
 6 the date the transferable tax credit certificate was issued. For purposes of this
 7 subsection, an applicant that is an explorer is considered a producer subject to the tax
 8 levied by AS 43.55.011(e).

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

10 (i) For the purposes of this section,

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

20 (2) a producer or explorer **that did not have commercial production**
 21 **of oil or gas from a lease or property in the state before January 1, 2008,** may
 22 elect to take a tax credit against a tax **levied by** [DUE UNDER] AS 43.55.011(e) in
 23 the amount of 20 percent of the producer's or explorer's transitional investment
 24 expenditures, but only to the extent that the amount does not exceed 1/10 of the
 25 producer's or explorer's qualified capital expenditures that **were incurred after**
 26 **March 31, 2006, and before January 1, 2008** [ARE INCURRED DURING THE
 27 CALENDAR YEAR FOR WHICH THE CREDIT IS TAKEN];

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

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

31 (i)] 2013; [OR

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

7 (B) more than once; or

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

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

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

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

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

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

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

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

1 [OR (f)] is

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

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

$$7 \quad 1 - [2 \times (AP - 50,000)] \div 100,000$$

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

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

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

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

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

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

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

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

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

1 this section;

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

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

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

7 (b) To qualify for the production tax credit under (a) of this section, an
8 exploration expenditure must be incurred for work performed [ON OR] after
9 **June 30, 2008** [JULY 1, 2003], and before July 1, 2016, [EXCEPT THAT AN
10 EXPLORATION EXPENDITURE FOR A COOK INLET PROSPECT MUST BE
11 INCURRED FOR WORK PERFORMED ON OR AFTER JULY 1, 2005,] and

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

14 (2) if for an exploration well,

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

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

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

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

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

1 **misconduct, gross negligence, criminal negligence, or violation of law, including**
 2 **a violation of 33 U.S.C. 1319(c)(1) or 1321(b)(3) (Clean Water Act);** or other costs
 3 that are generally recognized as indirect costs or financing costs; and

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

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

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

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

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

13 (A) before the well is spudded,

14 (i) the explorer shall submit to the commissioner of
 15 natural resources the information necessary to determine whether the
 16 geological objective of the well is a potential oil or gas trap that is
 17 distinctly separate from any trap that has been tested by a preexisting
 18 well;

19 (ii) at the time of the submittal of information under (i)
 20 of this subparagraph, the commissioner of natural resources may
 21 request from the explorer that specific data sets, ancillary data, and
 22 reports including all results, and copies of well data collected and data
 23 analyses for the well be provided to the Department of Natural
 24 Resources upon completion of the drilling; in this sub-subparagraph,
 25 well data include all analyses conducted on physical material, and well
 26 logs collected from the well and sample analyses; testing geophysical
 27 and velocity data including vertical seismic profiles and check shot
 28 surveys; testing data and analyses; age data; geochemical analyses;
 29 and access to tangible material; and

30 (iii) the commissioner of natural resources must make
 31 an affirmative determination as to whether the geological objective of

1 the well is a potential oil or gas trap that is distinctly separate from any
 2 trap that has been tested by a preexisting well and what information
 3 under (ii) of this subparagraph must be submitted by the explorer after
 4 completion, abandonment, or suspension under AS 31.05.030; the
 5 commissioner of natural resources shall make that determination
 6 within 60 days after receiving all the necessary information from the
 7 explorer based on the information received and on other information
 8 the commissioner of natural resources considers relevant;

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

14 (C) after completion, suspension, or abandonment under
 15 AS 31.05.030 of the exploration well, the commissioner of natural resources
 16 must determine that the well was consistent with achieving the explorer's
 17 stated geological objective.

18 * **Sec. 39.** AS 43.55.025(d) is amended to read:

19 (d) To be eligible for the 30 [20] percent production tax credit authorized by
 20 (a)(2) of this section or the 40 percent production tax credit authorized by (a)(3) of
 21 this section, an exploration expenditure must

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

23 (2) be for an exploration well that is located not less than 25 miles
 24 outside of the outer boundary, as delineated on July 1, 2003, of any unit that is under
 25 a plan of development, except that for an exploration well for a Cook Inlet prospect to
 26 qualify under this paragraph, the exploration well must be located not less than 10
 27 miles outside the outer boundary, as delineated on July 1, 2003, of any unit that is
 28 under a plan of development.

29 * **Sec. 40.** AS 43.55.025(f) is amended to read:

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

31 (1) an explorer shall, in a form prescribed by the department and,

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

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

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

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

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

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

4 (ii) well data include all analyses conducted on
 5 physical material, and well logs collected from the well, results,
 6 and copies of data collected and data analyses for the well,
 7 including well logs; sample analyses; testing geophysical and
 8 velocity data including seismic profiles and check shot surveys;
 9 testing data and analyses; age data; geochemical analyses; and
 10 tangible material;

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

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

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

1 resources in the private land gives permission to release the
 2 seismic or other geophysical data associated with the private land;
 3 (iii) in the case of seismic data obtained by seismic
 4 exploration subject to (l) of this section, only until the expiration of
 5 30 days' public notice issued on or after the date the production
 6 tax credit certificate is issued under (5) of this subsection;

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

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

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

20 (A) the explorer's name;

21 (B) the date of the application;

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

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

24 and

25 (E) the date on which the information required to be
 26 submitted under this section will be released [DUE UNDER
 27 AS 43.55.011(e) OR (f)].

28 * **Sec. 41.** AS 43.55.025(g) is amended to read:

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

1 transfer, convey, or sell the certificate.

2 * **Sec. 42.** AS 43.55.025(h) is amended to read:

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

10 * **Sec. 43.** AS 43.55.025(i) is repealed and reenacted to read:

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

18 * **Sec. 44.** AS 43.55.025(k) is amended by adding a new paragraph to read:

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

22 * **Sec. 45.** AS 43.55.025 is amended by adding a new subsection to read:

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

28 (1) have been for seismic exploration that
29 (A) obtained data that the commissioner of natural resources
30 considers to be in the best interest of the state to acquire for public
31 distribution; and

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

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

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

7 **Sec. 43.55.028. Oil and gas tax credit fund established; cash purchases of**
 8 **tax credit certificates.** (a) The oil and gas tax credit fund is established as a separate
 9 fund of the state. The purpose of the fund is to purchase certain transferable tax credit
 10 certificates issued under AS 43.55.023 and certain production tax credit certificates
 11 issued under AS 43.55.025.

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

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

17 (2) earnings on the fund.

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

23 (1) \$60 a barrel or higher, the applicable percentage is 10 percent;

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

25 (d) The department shall manage the fund.

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

31 (1) the calendar year of the purchase is not earlier than the first

1 calendar year for which the credit shown on the certificate would otherwise be
2 allowed to be applied against a tax;

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

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

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

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

16 (6) the applicant's average daily production of oil and gas taxable
17 under AS 43.55.011(e) during the calendar year preceding the calendar year in which
18 the application is made was not more than 50,000 BTU equivalent barrels; and

19 (7) the purchase is consistent with this section and regulations adopted
20 under this section.

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

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

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

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

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

31 (a) **A producer that produces oil or gas from a lease or property in the**

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

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

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

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

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

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

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

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

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

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

31 * **Sec. 48.** AS 43.55.030(d) is amended to read:

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

9 * **Sec. 49.** AS 43.55.030 is amended by adding new subsections to read:

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

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

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

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

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

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

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

29 (4) lease expenditures and adjustments under AS 43.55.165 and
 30 43.55.170;

31 (5) joint interest billings;

- 1 (6) contracts for the sale or transportation of oil or gas;
 2 (7) information and calculations used in determining monthly
 3 installment payments of estimated tax under AS 43.55.020(a); and
 4 (8) other records and information the department considers necessary
 5 for the administration of this chapter.

6 * **Sec. 50.** AS 43.55.040 is amended to read:

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

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

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

21 (B) impose appropriate conditions limiting

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

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

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

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

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

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

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

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

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

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

26 * **Sec. 51.** AS 43.55 is amended by adding a new section to read:

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

30 (b) A decision of a regulatory agency, court, or other body with authority to
31 resolve disputes that results in a retroactive change to a lease expenditure, to an

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

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

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

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

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

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

24 (d) In this section,

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

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

29 * **Sec. 52.** AS 43.55.110 is amended by adding new subsections to read:

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

1 approved or prescribed by the department.

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

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

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

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

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

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

26 * **Sec. 53.** AS 43.55.150 is amended to read:

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

28 (a) For the purposes of AS 43.55.011 - 43.55.180, the gross value at the point of
29 production is calculated using the actual [REASONABLE] costs of transportation of
30 the oil or gas [. THE REASONABLE COSTS OF TRANSPORTATION ARE THE
31 ACTUAL COSTS], except when the

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

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

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

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

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

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

28 (2) the incremental costs of transportation of the oil that are
 29 attributable to temporary use of or chartered or substituted service provided by
 30 another vessel due to the loss of or damage to a vessel regularly used to transport oil
 31 and that are incurred in connection with a catastrophic oil discharge into the marine or

1 inland waters of the state; and

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

4 * **Sec. 54.** AS 43.55.160(a) is amended to read:

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

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

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

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

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

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

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

21 (B) oil and gas produced during a month from leases or
 22 properties in the state outside the Cook Inlet sedimentary basin, no part of
 23 which is north of 68 degrees North latitude, is the gross value at the point of
 24 production of the oil and gas taxable under **AS 43.55.011(e)**
 25 [AS 43.55.011(g)] and produced by the producer from those leases or
 26 properties, less 1/12 of the producer's lease expenditures under AS 43.55.165
 27 for the calendar year applicable to the oil and gas produced by the producer
 28 from those leases or properties, as adjusted under AS 43.55.170; **this**
 29 **subparagraph does not apply to gas subject to AS 43.55.011(o);**

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

1 of the oil taxable under **AS 43.55.011(e)** [AS 43.55.011(g)] and produced by
 2 the producer from that lease or property, less 1/12 of the producer's lease
 3 expenditures under AS 43.55.165 for the calendar year applicable to the oil
 4 produced by the producer from that lease or property, as adjusted under
 5 AS 43.55.170;

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

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

20 * **Sec. 55.** AS 43.55.160(b) is amended to read:

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

23 * **Sec. 56.** AS 43.55.160(c) is amended to read:

24 (c) Notwithstanding any contrary provision of AS 43.55.150, for purposes of
 25 calculating a monthly production tax value under (a)(2) of this section, the gross
 26 value at the point of production of the oil and gas [TAXABLE UNDER
 27 AS 43.55.011(g)] is calculated under regulations adopted by the department that
 28 provide for using an appropriate monthly share of the producer's costs of
 29 transportation for the calendar year.

30 * **Sec. 57.** AS 43.55.160(e) is amended to read:

31 (e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that

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

19 * **Sec. 58.** AS 43.55.165(a) is repealed and reenacted to read:

20 (a) Except as provided in (k) and (l) of this section, for purposes of this
 21 chapter, a producer's lease expenditures for a calendar year are

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

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

29 (B) allowed by the department by regulation, based on the
 30 department's determination that the costs satisfy the following three
 31 requirements:

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

3 (ii) the costs must be ordinary and necessary costs of
4 exploring for, developing, or producing, as applicable, oil or gas
5 deposits; and

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

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

11 * **Sec. 59.** AS 43.55.165(b) is amended to read:

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

13 (1) direct costs include

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

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

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

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

29 **(3) in determining whether costs are lease expenditures, the**
30 **department may consider, among other factors, the**

31 **(A) typical industry practices and standards in the state**

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

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

11 * **Sec. 60.** 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 arising from fraud, wilful misconduct, [OR] gross
 24 negligence, violation of law, or failure to comply with an obligation under a lease,
 25 permit, or license issued by the state or federal government;

26 (7) fines or penalties imposed by law;

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

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

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

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

5 (12) **an expenditure otherwise deductible under (b) of this section**
 6 **that is a result of** [FOR A TRANSACTION THAT IS] an internal transfer, **a**
 7 **transaction with an affiliate, or a transaction between related parties,** or is
 8 otherwise not an arm's length transaction, **unless the producer establishes to the**
 9 **satisfaction of the department that the amount of the expenditure does not**
 10 **exceed the** [EXPENDITURES INCURRED THAT ARE IN EXCESS OF] fair
 11 market value **of the expenditure;**

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

16 (14) a tax levied under AS 43.55.011;

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

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

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

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

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

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

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

21 (19) costs incurred for repair, replacement, or deferred
 22 maintenance of a facility, a pipeline, a structure, or equipment, other than a well,
 23 that results in or is undertaken in response to a failure, problem, or event that
 24 results in an unscheduled interruption of, or reduction in the rate of, oil or gas
 25 production; or costs incurred for repair, replacement, or deferred maintenance
 26 of a facility, a pipeline, a structure, or equipment, other than a well, that is
 27 undertaken in response to, or is otherwise associated with, an unpermitted
 28 release of a hazardous substance or of gas; however, costs under this paragraph
 29 that would otherwise constitute lease expenditures under (a) and (b) of this
 30 section may be treated as lease expenditures if the department determines that
 31 the repair or replacement is solely necessitated by an act of war, by an

1 unanticipated grave natural disaster or other natural phenomenon of an
 2 exceptional, inevitable, and irresistible character, the effects of which could not
 3 have been prevented or avoided by the exercise of due care or foresight, or by an
 4 intentional or negligent act or omission of a third party, other than a party or its
 5 agents in privity of contract with, or employed by, the producer or an operator
 6 acting for the producer, but only if the producer or operator, as applicable,
 7 exercised due care in operating and maintaining the facility, pipeline, structure,
 8 or equipment, and took reasonable precautions against the act or omission of the
 9 third party and against the consequences of the act or omission; in this
 10 paragraph,

11 (A) "costs incurred for repair, replacement, or deferred
 12 maintenance of a facility, a pipeline, a structure, or equipment" includes
 13 costs to dismantle and remove the facility, pipeline, structure, or
 14 equipment that is being replaced;

15 (B) "hazardous substance" has the meaning given in
 16 AS 46.03.826;

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

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

29 (21) costs of lobbying, public relations, public relations
 30 advertising, or policy advocacy.

31 * Sec. 61. AS 43.55.165(h) is amended to read:

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

11 * **Sec. 62.** AS 43.55.165 is amended by adding new subsections to read:

12 (k) For purposes of AS 43.55.160, for a calendar year after 2006 and before
 13 2010, a producer's total lease expenditures, before adjustment under AS 43.55.170,
 14 that are applicable to oil and gas produced by the producer from all leases or
 15 properties from which 1,000,000,000 BTU equivalent barrels of oil or gas have been
 16 cumulatively produced by the close of 2006 and from which the average daily oil and
 17 gas production during 2006 exceeded 100,000 BTU equivalent barrels as the unit
 18 boundaries were defined on January 1, 2007, are determined under this subsection
 19 and (l) of this section. Except as otherwise provided under (l) of this section, the
 20 producer's total lease expenditures, other than qualified capital expenditures, (1) for
 21 calendar year 2007, are equal to the product of 1.37 multiplied by the total lease
 22 expenditures for calendar year 2006, other than qualified capital expenditures, that are
 23 applicable to oil and gas produced by the producer from all leases or properties within
 24 the unit, as reported on the producer's statement under AS 43.55.030(a) for calendar
 25 year 2006, and (2) for a calendar year after 2007, are equal to the product of 1.03
 26 multiplied by the total lease expenditures, other than qualified capital expenditures,
 27 determined for the previous calendar year under this subsection. The producer's total
 28 lease expenditures for a calendar year after 2006 that are applicable to oil and gas
 29 produced by the producer from all leases or properties within a unit subject to this
 30 subsection are the sum of the producer's qualified capital expenditures incurred
 31 during the calendar year that are applicable to that oil and gas plus the lease

1 expenditures, other than qualified capital expenditures, that are applicable to that oil
 2 and gas as determined under this subsection and (l) of this section. If a producer
 3 whose lease expenditures for 2006 are used to determine lease expenditures for a later
 4 calendar year under this subsection transfers an interest in an affected lease or
 5 property to a different producer or if the unit area of the applicable unit is changed
 6 from the area as it existed on December 31, 2006, the transferee's lease expenditures
 7 applicable to oil and gas produced by the transferee from the lease or property and a
 8 producer's lease expenditures applicable to oil or gas produced from a lease or
 9 property within a unit area as it existed on December 31, 2006, continue to be
 10 determined under this subsection using those 2006 lease expenditures. In this
 11 subsection, "qualified capital expenditures" has the meaning given in AS 43.55.023.

12 (l) If, after audit by the department of a producer's statement or amended
 13 statement under AS 43.55.030(a) for calendar year 2006, the department finally
 14 determines that the reported amount of total lease expenditures, other than qualified
 15 capital expenditures, for calendar year 2006 applicable to oil and gas produced by the
 16 producer from all leases or properties within a unit subject to (k) of this section
 17 exceeds by more than 10 percent the actual amount of those lease expenditures, other
 18 than qualified capital expenditures, the producer or transferee, as applicable, shall (1)
 19 substitute the actual amount of those lease expenditures, other than qualified capital
 20 expenditures, for purposes of the calculations set out in (k) of this section, and (2) file
 21 amended statements for affected past tax periods within 60 days after the final
 22 determination. The commissioner may adjust the deduction applicable under (k) of
 23 this section on changes in unit boundaries.

24 * **Sec. 63.** AS 43.55.170(a) is amended to read:

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

30 (1) the use by another person of a production facility in which the
 31 producer has an ownership interest or the management by the producer of a

1 production facility under a management agreement providing for the producer to
2 receive a management fee;

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

9 (3) the sale or other transfer of

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

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

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

22 (B) oil or gas

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

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

27 * **Sec. 64.** AS 43.55 is amended by adding new sections to article 4 to read:

28 **Sec. 43.55.890. Disclosure of tax information.** Notwithstanding any contrary
29 provision of AS 40.25.100, and regardless of whether the information is considered
30 under AS 43.05.230(e) to constitute statistics classified to prevent the identification of
31 particular returns or reports, the department may publish the following information

1 under this chapter, if aggregated among three or more producers or explorers,
2 showing by month or calendar year and by lease or property, unit, or area of the state:

- 3 (1) the amount of oil or gas production;
4 (2) the amount of taxes levied under this chapter or paid under this
5 chapter;
6 (3) the effective tax rates under this chapter;
7 (4) the gross value of oil or gas at the point of production;
8 (5) the transportation costs for oil or gas;
9 (6) qualified capital expenditures, as defined in AS 43.55.023;
10 (7) exploration expenditures under AS 43.55.025;
11 (8) production tax values of oil or gas under AS 43.55.160;
12 (9) lease expenditures under AS 43.55.165;
13 (10) adjustments to lease expenditures under AS 43.55.170;
14 (11) tax credits applicable or potentially applicable against taxes
15 levied by this chapter.

16 **Sec. 43.55.895. Applicability to municipal entities.** (a) Notwithstanding
17 AS 29.35.670(a) or other provision of law, a producer that is a municipal entity is
18 subject to taxation and payment of surcharges under this chapter for oil and gas that it
19 sells to another party.

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

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

25 * **Sec. 65.** AS 43.55.900 is amended by adding new paragraphs to read:

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

28 (23) "unit" means a group of tracts of land that is
29 (A) subject to a cooperative or a unit plan of development or
30 operation that has been certified by the commissioner of natural resources
31 under AS 38.05.180(p);

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

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

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

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

12 * **Sec. 66.** AS 43.55.011(h), 43.55.011(l), 43.55.011(n), 43.55.165(c), and 43.55.165(d) are
 13 repealed.

14 * **Sec. 67.** AS 43.55.023(f) is repealed.

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

17 APPLICABILITY. (a) AS 43.55.075(a), enacted by sec. 51 of this Act, applies to any
 18 tax liability under AS 43.55 for the production of oil and gas after December 31, 2006.

19 (b) If an application made under AS 43.55.023(f) is received by the Department of
 20 Revenue before January 1, 2008, and is still outstanding on that date, the application is
 21 considered to be an application under AS 43.55.028, enacted by sec. 46 of this Act.

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

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

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

3 OIL AND GAS AUDITORS; CLASSIFICATION AND PAY PLANS.
4 Notwithstanding AS 39.25.150(2), the Department of Administration shall develop and
5 implement a distinct position classification plan and a distinct pay plan for oil and gas
6 auditors and their immediate supervisors, other than revenue audit masters, that perform

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

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

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

13 TRANSITION: PAYMENT OF TAX; FILING. (a) A person subject to tax under
14 AS 43.55 that is required to make one or more installment payments of estimated tax or other
15 payment of tax under AS 43.55.020(a) during the period after March 31, 2006, and before the
16 effective date of sec. 22 of this Act, and under AS 43.55.020(a), as amended by sec. 22 of
17 this Act, for the production of oil or gas during a month after March 31, 2006, and before the
18 effective date of sec. 22 of this Act but that failed to pay the full amount of the installment
19 payments or other payment of tax required under AS 43.55 because of the retroactive
20 application of AS 43.55.165(e)(6) and (19), as enacted in the amendment to AS 43.55.165(e)
21 in sec. 60 of this Act, that are retroactive to April 1, 2006, under sec. 74(b) of this Act, and
22 the retroactive application of secs. 15 - 28, 32 - 35, 53 - 61, and 63, 65, and 66, and that part
23 of AS 43.55.165(e) in sec. 60 of this Act under sec. 74(d) of this Act, shall pay before
24 April 1, 2008, the balance of any tax due under AS 43.55 for the period after March 31,
25 2006, and before the effective date of this section.

26 (b) A person required to file a statement under AS 43.55.030(a), as amended by sec.
27 47 of this Act, or a statement under AS 43.55.030(e) or (f), as enacted by sec. 49 of this Act,
28 but that failed to file a statement required under AS 43.55 because of the retroactive
29 application of secs. 47 and 49 of this Act under sec. 74(d) of this Act, shall file, before
30 April 1, 2008, any statement required to have been filed after June 30, 2007, and before the
31 effective date of this section.

1 * **Sec. 72.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any
4 contrary provision of AS 44.62.240,

5 (1) if the Department of Revenue expressly designates in the regulation that
6 the regulation applies retroactively to that date, a regulation adopted by the Department of
7 Revenue to implement, interpret, make specific, or otherwise carry out secs. 15 - 28, 32 - 35,
8 53 - 61, and 63, 65, and 66, of this Act may apply retroactively to July 1, 2007, except that a
9 regulation adopted by the Department of Revenue to implement, interpret, make specific, or
10 otherwise carry out AS 43.55.165(e)(6) and (19), as enacted in the amendment to
11 AS 43.55.165(e) in sec. 60 of this Act, may apply retroactively to April 1, 2006, and a
12 regulation adopted by the Department of Revenue to implement, interpret, make specific, or
13 otherwise carry out AS 43.55.165(k) and (l), as enacted by sec. 62 of this Act, may apply
14 retroactively to January 1, 2007;

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

22 * **Sec. 73.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 TRANSITION: REGULATIONS. The Department of Natural Resources and the
25 Department of Revenue may proceed to adopt regulations to implement this Act. The
26 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
27 effective date of the law implemented by the regulation. The department shall adopt
28 regulations governing the use of tax credits under AS 43.55 for a calendar year for which the
29 applicable tax credit provisions of AS 43.55 differ as between parts of the year as a result of
30 the retroactive application of a provision of this Act.

31 * **Sec. 74.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 RETROACTIVITY OF CERTAIN PROVISIONS OF THIS ACT. (a) Section 41 of
3 this Act, and AS 43.55.895, enacted by sec. 64 of this Act, are retroactive to July 1, 2003.

4 (b) Section 31 of this Act and AS 43.55.165(e)(6) and(19), as amended and enacted
5 by the amendment to AS 43.55.165(e) in sec. 60 of this Act, are retroactive to April 1, 2006.

6 (c) AS 43.55.165(k) and (l), enacted by sec. 62 of this Act, are retroactive to
7 January 1, 2007.

8 (d) Except as provided in (b) and (c) of this section, secs. 15 - 28, 32 - 35, 53 - 61,
9 and 63, 65, and 66 of this Act are retroactive to July 1, 2007.

10 * **Sec. 75.** Sections 29, 30, 46, 67 of this Act take effect January 1, 2008.

11 * **Sec. 76.** Sections 36 - 40 and 42 - 45 of this Act take effect July 1, 2008.

12 * **Sec. 77.** Except as provided in secs. 75 and 76 of this Act, this Act takes effect
13 immediately under AS 01.10.070(c).