

CS FOR SENATE BILL NO. 80(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/8/07

Referred: Rules

Sponsor(s): SENATORS WAGONER, Therriault, Dyson, Wilken, Elton, French, Kookesh, Thomas, Wielechowski, Green, Stevens, Olson, Davis, Stedman, Ellis, Huggins, Hoffman, McGuire

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to allowable lease expenditures for the purpose of determining the**
2 **production tax value of oil and gas for the purposes of the oil and gas production tax;**
3 **and providing for an effective date."**

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

5 *** Section 1.** AS 43.55.165(e) is amended to read:

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

7 (1) depreciation, depletion, or amortization;

8 (2) oil or gas royalty payments, production payments, lease profit
9 shares, or other payments or distributions of a share of oil or gas production, profit, or
10 revenue;

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

12 (4) interest or other financing charges or costs of raising equity or debt
13 capital;

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

- 1 (6) costs arising from fraud, wilful misconduct, or gross negligence;
- 2 (7) fines or penalties imposed by law;
- 3 (8) costs of arbitration, litigation, or other dispute resolution activities
4 that involve the state or concern the rights or obligations among owners of interests in,
5 or rights to production from, one or more leases or properties or a unit;
- 6 (9) costs incurred in organizing a partnership, joint venture, or other
7 business entity or arrangement;
- 8 (10) amounts paid to indemnify the state; the exclusion provided by
9 this paragraph does not apply to the costs of obtaining insurance or a surety bond from
10 a third-party insurer or surety;
- 11 (11) surcharges levied under AS 43.55.201 or 43.55.300;
- 12 (12) for a transaction that is an internal transfer or is otherwise not an
13 arm's length transaction, expenditures incurred that are in excess of fair market value;
- 14 (13) an expenditure incurred to purchase an interest in any corporation,
15 partnership, limited liability company, business trust, or any other business entity,
16 whether or not the transaction is treated as an asset sale for federal income tax
17 purposes;
- 18 (14) a tax levied under AS 43.55.011;
- 19 (15) the portion of costs incurred for dismantlement, removal,
20 surrender, or abandonment of a facility, pipeline, well pad, platform, or other
21 structure, or for the restoration of a lease, field, unit, area, body of water, or right-of-
22 way in conjunction with dismantlement, removal, surrender, or abandonment, that is
23 attributable to production of oil or gas occurring before April 1, 2006; the portion is
24 calculated as a ratio of the amount of oil and gas production, in barrels of oil
25 equivalent, associated with the facility, pipeline, well pad, platform, other structure,
26 lease, field, unit, area, body of water, or right-of-way occurring before April 1, 2006,
27 to the total amount of oil and gas production, in barrels of oil equivalent, associated
28 with that facility, pipeline, well pad, platform, other structure, lease, field, unit, area,
29 body of water, or right-of-way through the end of the calendar month before
30 commencement of the dismantlement, removal, surrender, or abandonment; a cost is
31 not excluded under this paragraph if the dismantlement, removal, surrender, or

1 abandonment for which the cost is incurred is undertaken for the purpose of replacing,
 2 renovating, or improving the facility, pipeline, well pad, platform, or other structure;
 3 for the purposes of this paragraph, "barrel of oil equivalent" means

4 (A) in the case of oil, one barrel;

5 (B) in the case of gas, 6,000 cubic feet;

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

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

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

19 **(19) costs or that portion of the costs determined by the**
 20 **commissioner, in consultation with the commissioner of environmental**
 21 **conservation, the commissioner of natural resources, and the person in the**
 22 **Department of Natural Resources who is the lead person for exercising oversight**
 23 **over the maintenance of oil and gas facilities, equipment, and infrastructure in**
 24 **the state, and taking into consideration good oil field practice, to be**

25 **(A) related to the repair and replacement of property or**
 26 **equipment that was not maintained or was improperly maintained;**

27 **(B) incurred to maintain the operational capability of**
 28 **facilities or equipment shut down because of improper maintenance of**
 29 **property or equipment; or**

30 **(C) incremental operating expenses incurred as a result of**
 31 **operating facilities or equipment at diminished capacity when that**

1 **diminished capacity is caused by the lack of or improper maintenance of**
2 **property or equipment.**

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

5 APPLICABILITY. Section 1 of this Act applies to oil and gas produced after
6 March 31, 2006.

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

9 TRANSITIONAL PROVISIONS. (a) A person that filed a statement under
10 AS 43.55.030 before the effective date of this Act and deducted costs that may not be treated
11 as lease expenditures, or that claimed a credit based on costs that may not be claimed as lease
12 expenditures under AS 43.55.165(e)(19), as enacted by sec. 1 of this Act, shall file an
13 amended return and pay any additional tax within 90 days after the effective date of this Act.

14 (b) A person required to make an installment payment of estimated tax under
15 AS 43.55.020(a) before the effective date of this Act for a period not included in a return
16 required to be filed before the effective date of this Act shall determine the amount of the
17 underpayment, if any, that is attributable to costs that may not be treated as lease expenditures
18 or attributable to a credit based on costs that may not be claimed as lease expenditures under
19 AS 43.55.165(e)(19), as enacted by sec. 1 of this Act. The amount of any underpayment
20 determined under this subsection shall be paid within 90 days after the effective date of this
21 Act.

22 (c) Interest on an additional amount of tax due under (a) of this section or on the
23 amount of the underpayment of an installment under (b) of this section does not begin to
24 accrue until 90 days after the effective date of this Act.

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

27 RETROACTIVITY. Section 1 of this Act is retroactive to April 1, 2006.

28 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).