

SENATE BILL NO. 242

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Introduced: 1/18/08
Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to lease expenditures that may be deducted for purposes of the**
2 **production tax on oil and gas; relating to the retroactivity provisions of changes to the**
3 **production tax on oil and gas enacted in ch. 1, SSSLA 2007; and providing for an**
4 **effective date."**

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

6 * **Section 1.** AS 43.55.165(a) is amended to read:

7 (a) **For** [EXCEPT AS PROVIDED IN (k) AND (l) OF THIS SECTION,
8 FOR] purposes of this chapter, a producer's lease expenditures for a calendar year are

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

10 (A) incurred by the producer during the calendar year after
11 March 31, 2006, to explore for, develop, or produce oil or gas deposits located
12 within the producer's leases or properties in the state or, in the case of land in
13 which the producer does not own an operating right, operating interest, or
14 working interest, to explore for oil or gas deposits within other land in the

1 state; and

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

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

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

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

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

15 * **Sec. 2.** The uncodified law of the State of Alaska enacted in sec. 1(d), ch. 1, SSSLA 2007,
16 is amended to read:

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

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

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

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

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

31 (5) for statewide energy needs of Alaskans to assist with rising energy

1 costs.

2 * **Sec. 3.** The uncodified law of the State of Alaska enacted in sec. 71, ch. 1, SSSLA 2007,
3 is amended to read:

4 TRANSITION: PAYMENT OF TAX; FILING. (a) A person subject to tax
5 under AS 43.55 that is required to make one or more installment payments of
6 estimated tax or other payment of tax under AS 43.55.020(a) during the period after
7 March 31, 2006, and before the effective date of sec. 22, ch. 1, SSSLA 2007 [OF
8 THIS ACT], and under AS 43.55.020(a), as repealed and reenacted by sec. 22, ch. 1,
9 SSSLA 2007 [OF THIS ACT], for the production of oil or gas during a month after
10 March 31, 2006, and before the effective date of sec. 22, ch. 1, SSSLA 2007, [OF
11 THIS ACT] but that failed to pay the full amount of the installment payments or other
12 payment of tax required under AS 43.55 because of the retroactive application of
13 AS 43.55.165(e)(6) and (19), as amended and enacted in the amendment to
14 AS 43.55.165(e) in sec. 60, ch. 1, SSSLA 2007 [OF THIS ACT], that are retroactive
15 to April 1, 2006, under sec. 74(b), ch. 1, SSSLA 2007 [OF THIS ACT, AND THE
16 RETROACTIVE APPLICATION OF SECS. 15 - 28, 32 - 35, 53 - 61, 63, 65, AND
17 66 OF THIS ACT, AND THAT PART OF AS 43.55.165(e) IN SEC. 60 OF THIS
18 ACT UNDER SEC. 74(d) OF THIS ACT], shall pay, before April 1, 2008, the balance
19 of any tax due under AS 43.55 for the period after March 31, 2006, and before
20 December 20, 2007 [THE EFFECTIVE DATE OF THIS SECTION].

21 (b) A person required to file a statement under AS 43.55.030(a), as amended
22 by sec. 47, ch. 1, SSSLA 2007 [OF THIS ACT], or a statement under AS 43.55.030(e)
23 or (f), as enacted by sec. 49, ch. 1, SSSLA 2007 [OF THIS ACT], but that failed to
24 file a statement required under AS 43.55 because of the retroactive application of
25 sections of ch. 1, SSSLA 2007 [THIS ACT UNDER SEC. 74(d) OF THIS ACT],
26 shall file, before April 1, 2008, any statement required to have been filed after June 30,
27 2007, and before December 20, 2007 [THE EFFECTIVE DATE OF THIS
28 SECTION].

29 * **Sec. 4.** The uncodified law of the State of Alaska enacted in sec. 72, ch. 1, SSSLA 2007,
30 is amended to read:

31 TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding

1 any contrary provision of AS 44.62.240,

2 (1) if the Department of Revenue expressly designates in the regulation
 3 that the regulation applies retroactively to that date, a regulation adopted by the
 4 Department of Revenue to implement, interpret, make specific, or otherwise carry out
 5 secs. 15 - 28, 32 - 35, 53 - 61, 63, 65, and 66, **ch. 1, SSSLA 2007, applies**
 6 **retroactively to December 20, 2007** [OF THIS ACT MAY APPLY
 7 RETROACTIVELY TO JULY 1, 2007], except that a regulation adopted by the
 8 Department of Revenue to implement, interpret, make specific, or otherwise carry out
 9 AS 43.55.165(e)(6) and (19), as amended and enacted in the amendment to
 10 AS 43.55.165(e) in sec. 60, **ch. 1, SSSLA 2007** [OF THIS ACT], may apply
 11 retroactively to April 1, 2006 [, AND A REGULATION ADOPTED BY THE
 12 DEPARTMENT OF REVENUE TO IMPLEMENT, INTERPRET, MAKE
 13 SPECIFIC, OR OTHERWISE CARRY OUT AS 43.55.165(k) AND (l), AS
 14 ENACTED BY SEC. 62 OF THIS ACT, MAY APPLY RETROACTIVELY TO
 15 JANUARY 1, 2007];

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

23 * **Sec. 5.** AS 43.55.165(k) and (l) are repealed.

24 * **Sec. 6.** Sections 1(c), 74(c), and 74(d), ch. 1, SSSLA 2007, are repealed.

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

27 APPLICABILITY OF CERTAIN SECTIONS OF CH. 1, SSSLA 2007. Sections 15 -
 28 28, 32 - 35, 53 - 61, 63, 65, and 66, ch. 1, SSSLA 2007, apply to oil and gas produced after
 29 December 19, 2007.

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

1 TRANSITION: APPLICATION OF OVERPAYMENT. A person that overpaid an
2 amount of tax on the production of oil and gas produced after December 31, 2006, and before
3 December 20, 2007, because of the retroactivity of certain provisions of ch. 1, SSSLA 2007,
4 under sec. 74(c) or (d) or both of ch. 1, SSSLA 2007, as that section read before the effective
5 date of this Act, shall take the amount of the overpayment as a credit against a tax payment
6 that is due under AS 43.55.011 - 43.55.170 after the effective date of this Act.

7 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 RETROACTIVITY OF CERTAIN PROVISIONS OF THIS ACT. Sections 1 - 7 of
10 this Act are retroactive to December 20, 2007.

11 * **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).