

CS FOR SENATE BILL NO. 2001(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SPECIAL SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 11/5/07

Referred: Finance

Sponsor(s): SENATE 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 production tax limit on certain gas used in the state; relating to the**
3 **issuance of advisory bulletins and the disclosure of certain information relating to the**
4 **production tax and the sharing between agencies of certain information relating to the**
5 **production tax and to oil and gas or gas only leases; amending the State Personnel Act**
6 **to place in the exempt service certain state oil and gas audit managers; providing for**
7 **civil penalties relating to oil and gas production tax payments; establishing an oil and**
8 **gas tax credit fund and authorizing payment from that fund; providing for retroactive**
9 **application of certain statutory and regulatory provisions relating to the production tax**
10 **on oil and gas and conservation surcharges on oil; identifying certain revenue from the**
11 **production tax on oil and gas that may be appropriated to the budget reserve fund;**
12 **making conforming amendments; and providing for an effective date."**

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

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

4 LEGISLATIVE INTENT. It is the intent of the legislature that

5 (1) provisions of this Act will ensure a fair and equitable means of assessing
6 and taxing the state's oil and gas resources, encourage the availability to the people of the
7 state of gas produced, transported, and consumed within the state;

8 (2) the enactment of AS 43.55.075(b) in sec. 50 of this Act, relating to
9 limitation of assessments for the production tax on oil and gas and conservation surcharges
10 on oil, confirms by clarification the long-standing interpretation of AS 43.05.260 by the
11 Department of Revenue; and

12 (3) the amount of money received by the state as a result of the retroactivity
13 of certain provisions under sec. 72(b) of this Act that exceeds the amount that would have
14 been received if those provisions had not been retroactive will be appropriated to the budget
15 reserve fund (art. IX, sec. 17, Constitution of the State of Alaska).

16 * **Sec. 2.** AS 37.10 is amended by adding a new section to read:

17 **Sec. 37.10.440. Appropriations to the budget reserve fund of production**
18 **tax revenue.** (a) By February 1 of each year, the Department of Revenue shall
19 determine the amount of money received by the state for the general fund during the
20 immediately preceding calendar year from the tax levied under AS 43.55, as well as
21 the amount the state would have received that year from the tax levied at the tax rates
22 in AS 43.55.011(e) and (g) under the law in effect immediately before January 1,
23 2007. If the amount received is greater than the amount that would have been
24 received at the tax rates under the law in effect immediately before January 1, 2007,
25 the department shall report the difference between the two amounts to the legislature.

26 (b) The legislature may appropriate 50 percent of the amount identified by the
27 Department of Revenue under (a) of this section to the budget reserve fund (art. IX,
28 sec. 17, Constitution of the State of Alaska).

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

31 * **Sec. 3.** 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. 4.** 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. 5.** 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. 6.** 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. 7.** 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. 8.** 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. 9.** 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. 10.** 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. 11.** AS 39.25.110 is amended by adding a new paragraph to read:

10 (42) oil and gas audit managers employed in a professional capacity
11 by 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 supervising audits by oil and gas revenue
14 auditors.

15 * **Sec. 12.** 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. 13.** 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. 14.** 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. 15.** 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. 16.** 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, over all months of the calendar year, of
31 each month's production tax value of the taxable oil and gas as calculated under

1 AS 43.55.160 multiplied by the tax rate determined under (g) of this section.

2 * **Sec. 17.** AS 43.55.011(f) is amended to read:

3 (f) The levy of tax under this section on a producer of oil and gas produced
4 north of 68 degrees North latitude, other than gas subject to (o) of this section, may
5 not be less than

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

9 (2) three 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 over \$20 but not over
12 \$25;

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

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

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

24 * **Sec. 18.** AS 43.55.011(g) is repealed and reenacted to read:

25 (g) The tax rate applied to the production tax value of oil and gas under (e) of
26 this section is 25 percent plus, for a month for which the price index determined
27 under (h) of this section is greater than zero, 0.40 multiplied by the price index
28 determined under (h) of this section. However, a tax rate calculated under this
29 subsection may not be more than 50 percent.

30 * **Sec. 19.** AS 43.55.011(h) is amended to read:

31 (h) For purposes of (g) of this section, the price index for a month is

1 calculated by subtracting **30** [40] from the number that is equal to the quotient of the
 2 total **of the** [MONTHLY] production tax **values** [VALUE] of the taxable oil and gas
 3 produced by the producer **from all leases or properties in the state** during that
 4 month, as calculated under AS 43.55.160, divided by the total amount of **that** [THE
 5 TAXABLE] oil and gas produced by the producer during that month, in BTU
 6 equivalent barrels. However, a price index **calculated under this subsection** may not
 7 be less than zero.

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

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

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

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

28 * **Sec. 21.** AS 43.55.011(k) is amended to read:

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

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

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

17 * **Sec. 22.** AS 43.55.011(m) is amended to read:

18 (m) Notwithstanding any contrary provision of AS 38.05.180(i),
 19 AS 41.09.010, AS 43.20.043, AS 43.55.024, or 43.55.025, tax credits under
 20 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, AS 43.55.024, and 43.55.025 that are
 21 allocated to gas produced from leases or properties in the Cook Inlet sedimentary
 22 basin and that are available to be applied against a tax levied by (e) of this section **for**
 23 [ON] gas produced from leases or properties in the Cook Inlet sedimentary basin
 24 during a calendar year may be applied only against **that** [THE] tax **and tax credits**
 25 **under AS 38.05.180(i), AS 41.09.010, AS 43.20.043, AS 43.55.024, and 43.55.025**
 26 **that are allocated to gas subject to (o) of this section and that are available to be**
 27 **applied against a tax levied by (e) of this section for that gas during a calendar**
 28 **year may be applied only against that tax** [LEVIED BY (e) OF THIS SECTION
 29 ON THAT GAS]. The amount by which the amount of tax credits that are allocated to
 30 gas produced from leases or properties in the Cook Inlet sedimentary basin **or to gas**
 31 **subject to (o) of this section, respectively,** and that the producer would otherwise be

1 allowed to use for a later calendar year or transfer to another person exceeds the
 2 amount of tax credits whose application would reduce the tax levied by (e) of this
 3 section **for** [ON] that **respective** gas to zero, if any, is considered the amount of
 4 excess tax credits, and the excess tax credits are subject to the following, **applied**
 5 **separately for the Cook Inlet sedimentary basin and for gas subject to (o) of this**
 6 **section, respectively:**

7 (1) for each lease or property for which a limitation under (j), [OR]
 8 (k), **or (o)** of this section on the tax levied by (e) [AND (g)] of this section has the
 9 effect of reducing the producer's tax below the amount of tax that would be levied in
 10 the absence of that limitation, the producer shall calculate the amount of that
 11 reduction;

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

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

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

21 * **Sec. 23.** AS 43.55.011(n) is amended to read:

22 (n) Allocation of credits under (m) of this section shall be made under
 23 regulations adopted by the department that provide for reasonable methods of
 24 allocating tax credits to gas produced from leases or properties in the Cook Inlet
 25 sedimentary basin **and to gas subject to (o) of this section**. The method of allocating
 26 tax credits available under AS 43.55.024 shall be based on the number of BTU
 27 equivalent barrels produced from a lease or property.

28 * **Sec. 24.** AS 43.55.011 is amended by adding a new subsection to read:

29 (o) For a calendar year before 2022, the tax levied by (e) of this section for
 30 each 1,000 cubic feet of gas that is produced from a lease or property outside of the
 31 Cook Inlet sedimentary basin and used in the state may not exceed the amount of tax

1 for each 1,000 cubic feet of gas that is determined under (j)(2) of this section.

2 * **Sec. 25.** AS 43.55.020(a) is amended to read:

3 (a) For a calendar year, a producer subject to tax under AS 43.55.011(e), (f),
4 [(g),] or (i), and notwithstanding that a producer may be liable for the tax under
5 AS 43.55.011(f) rather than the tax under AS 43.55.011(e), shall pay the tax as
6 follows:

7 (1) an installment payment of the estimated tax levied by
8 AS 43.55.011(e) or (f), net of any tax credits applied as allowed by law, is due for
9 each month of the calendar year on the last day of the following month; the amount of
10 the installment payment is [THE SUM OF THE AMOUNTS CALCULATED
11 UNDER (2) AND (3) OF THIS SUBSECTION, BUT NOT LESS THAN ZERO;

12 (2) THE FIRST OF THE TWO AMOUNTS USED TO
13 CALCULATE THE INSTALLMENT PAYMENT FOR A MONTH UNDER (1) OF
14 THIS SUBSECTION IS] equal to the remainder obtained by subtracting

15 [(A)] 1/12 of the tax credits that are allowed by law to be
16 applied against the tax levied by AS 43.55.011(e) for the calendar year [;]
17 from

18 [(B)] the total of the monthly production values calculated
19 under AS 43.55.160 [IN THE MANNER PROVIDED IN
20 AS 43.55.160(a)(2)] of all oil and gas taxable under AS 43.55.011(e) and
21 produced by the producer from leases or properties in the state during the
22 month, multiplied by the total tax rate for the month determined [22.5
23 PERCENT;

24 [(3) THE SECOND OF THE TWO AMOUNTS USED TO
25 CALCULATE THE INSTALLMENT PAYMENT FOR A MONTH UNDER (1) OF
26 THIS SUBSECTION IS THE AMOUNT CALCULATED FOR THE MONTH]
27 under AS 43.55.011(g);

28 (2) [(4)] an installment payment of the estimated tax levied by
29 AS 43.55.011(i) for each lease or property is due for each month of the calendar year
30 on the last day of the following month; the amount of the installment payment is the
31 sum of

1 (A) the applicable percentage rate for oil provided under
 2 AS 43.55.011(i), multiplied by the gross value at the point of production of
 3 the oil taxable under AS 43.55.011(i) and produced from the lease or property
 4 during the month; plus

5 (B) the applicable percentage rate for gas provided under
 6 AS 43.55.011(i), multiplied times the gross value at the point of production of
 7 the gas taxable under AS 43.55.011(i) and produced from the lease or property
 8 during the month;

9 **(3)** [(5)] any amount of tax levied by **AS 43.55.011(e), (f), and (i)**
 10 [AS 43.55.011(e) - (g) AND (i)], net of any credits applied as allowed by law, that
 11 exceeds the total of the amounts due as installment payments of estimated tax is due
 12 on March 31 of the year following the calendar year of production.

13 * **Sec. 26.** AS 43.55.020(d) is amended to read:

14 (d) In making settlement with the royalty owner for oil and gas that is taxable
 15 under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable
 16 royalty oil and gas, or may deduct taxable royalty oil or gas equivalent in value at the
 17 time the tax becomes due to the amount of the tax paid. If the total deductions of
 18 installment payments of estimated tax for a calendar year exceed the actual tax for
 19 that calendar year, the producer shall, before April 1 of the following year, refund the
 20 excess to the royalty owner. Unless otherwise agreed between the producer and the
 21 royalty owner, the amount of the tax paid under **AS 43.55.011(e) and (f)**
 22 [AS 43.55.011(e) - (g)] on taxable royalty oil and gas for a calendar year, other than
 23 oil and gas the ownership or right to which constitutes a landowner's royalty interest,
 24 is considered to be the gross value at the point of production of the taxable royalty oil
 25 and gas produced during the calendar year multiplied by a figure that is a quotient, in
 26 which

27 (1) the numerator is the producer's total tax liability under
 28 **AS 43.55.011(e) and (f)** [AS 43.55.011(e) - (g)] for the calendar year of production;
 29 and

30 (2) the denominator is the total gross value at the point of production
 31 of the oil and gas taxable under **AS 43.55.011(e) and (f)** [AS 43.55.011(e) - (g)]

1 produced by the producer from all leases and properties in the state during the
2 calendar year.

3 * **Sec. 27.** AS 43.55.020(g) is amended to read:

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

15 * **Sec. 28.** AS 43.55.020(h) is amended to read:

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

17 (1) an overpayment of an installment payment required under **(a)(1)**
18 **and (2)** [(a)(1) - (4)] of this section bears interest at the rate provided for an
19 overpayment under 26 U.S.C. 6621 (Internal Revenue Code), as amended,
20 compounded daily, from the later of the date the installment payment is due or the
21 date the overpayment is made, until the earlier of

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

23 or

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

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

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

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

8 * **Sec. 29.** AS 43.55.023(i) is amended to read:

9 (i) For the purposes of this section,

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

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

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

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

30 (i)] 2013; [OR

31 (ii) THE SIXTH CALENDAR YEAR AFTER THE

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

6 (B) more than once; or

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

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

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

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

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

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

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

31 (2) more than 50,000 and less than 100,000 BTU equivalent barrels

1 may apply a tax credit of not more than \$12,000,000 multiplied by the following
2 fraction for the calendar year:

$$3 \quad 1 - [2 \times (AP - 50,000)] \div 100,000$$

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

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

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

15 * **Sec. 33.** AS 43.55.025(a) is amended to read:

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

20 (1) 20 percent of the total exploration expenditures that qualify only
21 under (b) and (c) of this section;

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

25 (3) 40 percent of the total exploration expenditures that qualify under
26 (b), (c), and (d) of this section; or

27 (4) 40 percent of the total exploration expenditures that qualify only
28 under (b) and (e) of this section.

29 * **Sec. 34.** AS 43.55.025(b) is amended to read:

30 (b) To qualify for the production tax credit under (a) of this section, an
31 exploration expenditure must be incurred for work performed [ON OR] after

1 **December 31, 2007** [JULY 1, 2003], and before July 1, 2016, [EXCEPT THAT AN
 2 EXPLORATION EXPENDITURE FOR A COOK INLET PROSPECT MUST BE
 3 INCURRED FOR WORK PERFORMED ON OR AFTER JULY 1, 2005,] and

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

6 (2) if for an exploration well,

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

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

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

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

19 (3) may not be for testing, stimulation, or completion costs;
 20 administration, supervision, engineering, or lease operating costs; geological or
 21 management costs; community relations or environmental costs; bonuses, taxes, or
 22 other payments to governments related to the well; **costs arising from gross**
 23 **negligence or violation of health, safety, or environmental statutes or**
 24 **regulations;** or other costs that are generally recognized as indirect costs or financing
 25 costs; and

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

29 * **Sec. 35.** AS 43.55.025(c) is repealed and reenacted to read:

30 (c) To be eligible for the 20 percent production tax credit authorized by (a)(1)
 31 of this section or the 40 percent production tax credit authorized by (a)(3) of this

1 section, exploration expenditures must

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

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

4 (A) before spudding the well, (i) the explorer shall submit to
5 the commissioner of natural resources the information necessary to determine
6 whether the geological objective of the well is a potential oil or gas trap that is
7 distinctly separate from any trap that has been tested by a preexisting well;
8 and (ii) the commissioner of natural resources must make an affirmative
9 determination on that question; the commissioner of natural resources shall
10 decide whether to make that determination within 60 days after receiving all
11 the necessary information from the explorer and based on the information
12 received and on other information the commissioner of natural resources may
13 consider relevant;

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

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

22 * **Sec. 36.** AS 43.55.025(f) is amended to read:

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

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

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

30 (A) to notify the Department of Natural Resources, within 30
31 days after completion of seismic or geophysical data processing, completion

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

18 (B) to provide to the Department of Natural Resources, within
 19 30 days after the date of a request, **unless a longer period is provided by the**
 20 **Department of Natural Resources**, specific data sets, ancillary data, and
 21 reports identified in (A) of this paragraph; **in this subparagraph,**

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

26 (ii) **well data include all derivative products, results,**
 27 **and copies of data collected and data analyses for the well; well**
 28 **logs; sample analyses; geophysical and velocity data including**
 29 **vertical seismic profiles and check shot surveys; and tangible**
 30 **material including, for each whole core collected, a lengthwise cut**
 31 **slab that is at least 1/3 of the whole core volume, and**

1 representative samples, as specified by the Department of Natural
 2 Resources, of other gaseous, liquid, or solid material collected
 3 from drilling or testing the well;

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

7 (i) in the case of well data, until the expiration of the
 8 24-month period of confidentiality described in AS 31.05.035(c),
 9 without extension, after which the Department of Natural
 10 Resources [FOR 10 YEARS FOLLOWING THE COMPLETION
 11 DATE, AT WHICH TIME THAT DEPARTMENT] will release the
 12 information after 30 days' public notice;

13 (ii) in the case of seismic or other geophysical data,
 14 other than seismic data acquired by seismic exploration subject to
 15 (I) of this section, for 10 years following the completion date, at
 16 which time the Department of Natural Resources will release the
 17 information after 30 days' public notice;

18 (iii) in the case of seismic data obtained by seismic
 19 exploration subject to (I) of this section, only until the expiration of
 20 30 days' public notice issued on or after the date the production
 21 tax credit certificates are issued under (5) of this subsection; and

22 (D) that, in the case of well data, the explorer will not make
 23 a request under AS 31.05.035(c) that the commissioner of natural
 24 resources keep the data confidential for longer than the 24-month period
 25 of confidentiality described in AS 31.05.035(c);

26 (3) if more than one explorer holds an interest in a well or seismic
 27 exploration,

28 (A) each explorer may claim an amount of credit that is
 29 proportional to the explorer's cost incurred;

30 (B) in the case of a well, each explorer holding an interest
 31 in the well shall agree, in writing, that the explorer will not make the

1 **request described in (2)(D) of this subsection;**

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

5 (5) if the department is satisfied that the explorer's claimed
6 expenditures are qualified under this section **and that all data required to be**
7 **submitted under this section have been submitted**, the department shall issue to the
8 explorer **two** [A] production tax credit **certificates, each** [CERTIFICATE] for **half of**
9 the amount of **the** credit to be allowed against production taxes **levied by**
10 **AS 43.55.011(e); the credit shown on one of the two certificates is available for**
11 **immediate use; the credit shown on the second of the two certificates may not be**
12 **applied against a tax for a calendar year earlier than the calendar year following**
13 **the calendar year in which the certificate is issued, and the certificate must**
14 **contain a conspicuous statement to that effect; notwithstanding any contrary**
15 **provision of AS 38, AS 40.25.100, or AS 43.05.230, the following information is**
16 **not confidential:**

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

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

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

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

21 **and**

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

25 * **Sec. 37.** AS 43.55.025(g) is amended to read:

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

30 * **Sec. 38.** AS 43.55.025(h) is amended to read:

31 (h) A producer that purchases a production tax credit certificate may apply

1 the credits against its production tax liability under AS 43.55.011(e) [OR (f)].
2 Regardless of the price the producer paid for the certificate, the producer may receive
3 a credit against its production tax liability for the full amount of the credit, but for not
4 more than the amount for which the certificate is issued. A production tax credit
5 allowed under this section may not be applied more than once.

6 * **Sec. 39.** AS 43.55.025(i) is repealed and reenacted to read:

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

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

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

14 * **Sec. 40.** AS 43.55.025(k) is amended by adding a new paragraph to read:

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

18 * **Sec. 41.** AS 43.55.025 is amended by adding a new subsection to read:

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

24 (1) have been for seismic exploration that

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

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

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

2 * **Sec. 42.** AS 43.55 is amended by adding a new section to read:

3 **Sec. 43.55.028. Oil and gas tax credit fund established; cash purchases of**
4 **tax credit certificates.** (a) The oil and gas tax credit fund is established as a separate
5 fund of the state. The purpose of the fund is for the purchase of transferable tax credit
6 certificates issued under this chapter that are subject to purchase by the department.

7 (b) The oil and gas tax credit fund consists of money appropriated to the fund,
8 including any appropriation of the percentage provided under (c) of this section of all
9 revenue from taxes levied by AS 43.55.011 that is not required to be deposited in the
10 constitutional budget reserve fund established in art. IX, sec. 17(a), Constitution of
11 the State of Alaska, and any appropriation from the earnings of the fund.

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

17 (1) \$60 a barrel or higher, the applicable percentage is 10 percent;

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

19 (d) The department shall manage the fund.

20 (e) The department may, on the written application of the person to whom a
21 production tax credit certificate has been issued under AS 43.55.025(f), use available
22 money in the oil and gas tax credit fund to purchase, in whole or in part, the
23 certificate if the department finds that

24 (1) the calendar year of the purchase is not earlier than the first
25 calendar year for which the credit shown on the certificate would otherwise be
26 allowed to be applied against a tax;

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

31 (3) the amount expended for the purchase would not exceed the total

1 of qualified capital expenditures and successful bids described in (2) of this
 2 subsection that have not been the subject of a finding made under this paragraph for
 3 purposes of a previous purchase of a certificate;

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

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

9 (6) the applicant's average amount of oil and gas taxable under
 10 AS 43.55.011(e) and produced each day during the calendar year preceding the
 11 calendar year in which the application is made was not more than 50,000 BTU
 12 equivalent barrels; and

13 (7) the purchase is consistent with this section and regulations adopted
 14 under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (d) Reports **required under this section** [BY OR ON BEHALF OF THE
 27 PRODUCER] are delinquent the first day following the day the report is due. **The**
 28 **person required to file the report is liable for a penalty, as determined by the**
 29 **department under standards adopted in regulation by the department, of not**
 30 **more than \$1,000 for each day the person fails to file the report at the time**
 31 **required. The penalty is in addition to the penalties in AS 43.05.220 and**

1 **43.05.290 and is assessed, collected, and paid in the same manner as a tax**
 2 **deficiency under this title. In this subsection, "report" includes a statement.**

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

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

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

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

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

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

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

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

23 (4) lease expenditures and adjustments under AS 43.55.165 and
 24 43.55.170;

25 (5) joint interest billings;

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

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

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

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

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

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

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

15 (B) impose appropriate conditions limiting

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

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

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

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

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

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

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

29 **(5) require a producer, an explorer, or an operator of a lease or**
30 **property to file reports and copies of records that the department considers**
31 **necessary to forecast state revenue under this chapter; in the case of reports and**

1 copies of records relating to proposed, expected, or approved unit expenditures
 2 for a unit for which one or more working interest owners other than the
 3 operator have authority to approve unit expenditures, the required reports and
 4 copies of records may include those reports or copies of records that constitute
 5 or disclose communications between the operator and the working interest
 6 owners relating to unit budget matters;

7 (6) require a producer that has an average total production in the
 8 state of more than 100,000 barrels a day for a calendar year to report the gross
 9 value at the point of production of the producer's taxable oil and gas in the state
 10 for a calendar year and the total amount of lease expenditures in the state for
 11 that calendar year; and

12 (7) assess against a person required under this section to file a
 13 report, statement, or other document a penalty, as determined by the
 14 department under standards adopted in regulation by the department, of not
 15 more than \$1,000 for each day the person fails to file the report, statement, or
 16 other document at the time required; the penalty is in addition to the penalties in
 17 AS 43.05.220 and 43.05.290 and is assessed, collected, and paid in the same
 18 manner as a tax deficiency under this title.

19 * **Sec. 47.** AS 43.55.050 is amended to read:

20 **Sec. 43.55.050. Incorrect returns.** The department may determine whether or
 21 not a return required by this chapter to be filed with it is correct. If a person makes an
 22 untrue or incorrect return of the gross amount of production, the gross value at the
 23 point of production, the amount of lease expenditures, the amount of credits, or
 24 other information that affects the amount of tax due under this chapter, [OR
 25 THE VALUE OF IT,] or fails or refuses to make a return, the department shall, under
 26 regulations adopted by it, determine the correct amount of tax due under this
 27 chapter [GROSS PRODUCTION OR THE VALUE OF IT, AND COMPUTE THE
 28 TAX].

29 * **Sec. 48.** AS 43.55.050 is amended by adding a new subsection to read:

30 (b) The determination of the correct amount of tax due under this chapter by
 31 the department is presumed to be correct, and the taxpayer bears the burden of proof

1 to prove that the determination by the department is incorrect and to prove the correct
2 amount of tax due under this chapter.

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

4 **Sec. 43.55.055. Penalty for understatement of tax.** (a) In addition to other
5 penalties prescribed by law, if there is a substantial understatement of tax required to
6 be shown on a return under this chapter, there shall be added to the tax an amount
7 equal to 20 percent of the substantial understatement of tax.

8 (b) In addition to other penalties prescribed by law, if there is a gross
9 understatement of tax required to be shown on a return under this chapter, there shall
10 be added to the tax an amount equal to 40 percent of the gross understatement of tax.

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

14 (d) For purposes of this section,

15 (1) a substantial understatement of tax for any taxable year exists if
16 the amount of the understatement for the taxable year exceeds the lesser of 10 percent
17 of the tax required to be shown on the return for the taxable year or \$10,000,000;

18 (2) a gross understatement of tax for any taxable year exists if the
19 amount of the understatement for the taxable year exceeds the lesser of 20 percent of
20 the tax required to be shown on the return for the taxable year or \$20,000,000;

21 (3) "understatement" means the amount by which the tax required to
22 be shown on the return for the taxable year exceeds the amount of the tax reported as
23 due by the taxpayer as shown on the return.

24 * **Sec. 50.** AS 43.55 is amended by adding a new section to read:

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

28 (b) A decision of a regulatory agency, court, or other body with authority to
29 resolve disputes that results in a retroactive change to a lease expenditure, to an
30 adjustment to a lease expenditure, to costs of transportation, to sale price, to
31 prevailing value, or to consideration of quality differentials relating to the

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

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

8 and

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

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

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

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

22 (d) In this section,

23 (1) "qualified capital expenditure" has the meaning given in
 24 AS 43.55.023;

25 (2) "return" includes a report, a statement, and an amended return,
 26 report, or statement.

27 * **Sec. 51.** AS 43.55.110 is amended by adding new subsections to read:

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

31 (f) The department may require that payments required under this chapter be

1 made electronically in a form and manner approved or prescribed by the department.

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

8 (h) Subject to legislative appropriation, the department may compensate a
9 person who provides information to the department about noncompliance with the
10 provisions of this chapter by an explorer or a producer of oil or gas if that information
11 leads to the collection of additional taxes, penalties, or interest from the producer. The
12 amount of compensation under this subsection may not exceed the lesser of
13 \$1,000,000 or 10 percent of the additional tax, penalty, or interest collected as a result
14 of the information. A state employee or an agent of the state is not eligible for
15 compensation under this subsection.

16 * **Sec. 52.** AS 43.55.150(a) is amended to read:

17 (a) For the purposes of AS 43.55.011 - 43.55.180, the gross value at the point
18 of production is calculated using the reasonable costs of transportation of the oil or
19 gas. The reasonable costs of transportation are the actual costs, except when the

20 (1) parties to the transportation of oil or gas are affiliated;

21 (2) contract for the transportation of oil or gas is not

22 (A) an arm's length transaction; or

23 (B) [IS NOT] representative of the market value of that
24 transportation; or [AND]

25 (3) method of transportation of oil or gas is not reasonable in view of
26 existing alternative methods of transportation.

27 * **Sec. 53.** AS 43.55.150(b) is amended to read:

28 (b) If the department finds that **a condition** [THE CONDITIONS] in (a)(1),
29 (2), or [AND] (3) of this section **is** [ARE] present, the department shall determine the
30 reasonable costs of transportation, using the fair market value of like transportation,
31 the fair market value of equally efficient and available alternative modes of

1 transportation, or other reasonable methods. Transportation costs fixed by tariff rates
 2 **that have been adjudicated as just and reasonable by** [PROPERLY ON FILE
 3 WITH] the Regulatory Commission of Alaska or other regulatory agency shall be
 4 considered prima facie reasonable.

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

6 (a) Except as provided in (b) of this section, for the purposes of
 7 [(1)] AS 43.55.011(e) **and AS 43.55.020(a)(2)** [, THE ANNUAL
 8 PRODUCTION TAX VALUE OF THE TAXABLE

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

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

30 (C) OIL PRODUCED DURING A CALENDAR YEAR
 31 FROM A LEASE OR PROPERTY IN THE COOK INLET SEDIMENTARY

1 BASIN IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF
 2 THE OIL TAXABLE UNDER AS 43.55.011(e) AND PRODUCED BY THE
 3 PRODUCER FROM THAT LEASE OR PROPERTY, LESS THE
 4 PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE
 5 CALENDAR YEAR APPLICABLE TO THE OIL PRODUCED BY THE
 6 PRODUCER FROM THAT LEASE OR PROPERTY, AS ADJUSTED
 7 UNDER AS 43.55.170;

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

17 (2) AS 43.55.011(g)], the [MONTHLY] production tax value of the
 18 taxable

19 (1) [(A)] oil and gas produced during a month from leases or
 20 properties in the state that include land north of 68 degrees North latitude, **other than**
 21 **gas subject to AS 43.55.011(o)**, is the gross value at the point of production of the oil
 22 and gas taxable under **AS 43.55.011(e)** [AS 43.55.011(g)] and produced by the
 23 producer from those leases or properties, less 1/12 of the producer's lease
 24 expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas
 25 produced by the producer from those leases or properties, as adjusted under
 26 AS 43.55.170;

27 (2) [(B)] oil and gas produced during a month from leases or
 28 properties in the state outside the Cook Inlet sedimentary basin, no part of which is
 29 north of 68 degrees North latitude, **other than gas subject to AS 43.55.011(o)**, is the
 30 gross value at the point of production of the oil and gas taxable under
 31 **AS 43.55.011(e)** [AS 43.55.011(g)] and produced by the producer from those leases

1 or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for
 2 the calendar year applicable to the oil and gas produced by the producer from those
 3 leases or properties, as adjusted under AS 43.55.170;

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

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

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

23 * **Sec. 55.** 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)** [(a)(2)] of this section, the
 26 gross value at the point of production of the oil and gas taxable under
 27 **AS 43.55.011(e)** [AS 43.55.011(g)] is calculated under regulations adopted by the
 28 department that provide for using an appropriate monthly share of the producer's
 29 costs of transportation for the calendar year.

30 * **Sec. 56.** 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 a [AN ANNUAL] production tax value calculated under (a) [(a)(1)] of
 3 this section of taxable oil or gas produced during the calendar year to be less than
 4 zero may be used to establish a carried-forward annual loss under AS 43.55.023(b). In
 5 this subsection, "producer" includes "explorer."

6 * **Sec. 57.** AS 43.55.165(a) is repealed and reenacted to read:

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

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

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

16 (B) allowed by the department by regulation, based on the
 17 department's determination that the costs satisfy the following three
 18 requirements:

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

21 (ii) the costs must be ordinary and necessary costs of
 22 exploring for, developing, or producing, as applicable, oil or gas
 23 deposits; and

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

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

29 * **Sec. 58.** AS 43.55.165(b) is amended to read:

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

31 (1) direct costs include

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

5 (B) payments of or in lieu of

6 (i) property taxes **for properties on which oil and gas**
 7 **exploration, development, or production is taking place; and**

8 (ii) [,] sales and use taxes, motor fuel taxes, and excise
 9 taxes **related to transactions or activities involving oil or gas**
 10 **exploration, development, or production;**

11 (C) **supplies to be used for oil or gas exploration,**
 12 **development, or production** [A REASONABLE ALLOWANCE, AS
 13 DETERMINED UNDER REGULATIONS ADOPTED BY THE
 14 DEPARTMENT, FOR OVERHEAD EXPENSES DIRECTLY RELATED
 15 TO EXPLORING FOR, DEVELOPING, AND PRODUCING OIL OR GAS
 16 DEPOSITS LOCATED WITHIN LEASES OR PROPERTIES OR OTHER
 17 LAND IN THE STATE];

18 (D) **purchased fuel;**

19 (E) **routine maintenance;**

20 (F) **the wages and benefits of employees who are directly**
 21 **participating in exploration, development, or production operations; and**

22 (G) **other direct costs as may be established in regulations**
 23 **adopted by the department;**

24 (2) **in determining whether costs are lease expenditures, the**
 25 **department may consider, among other factors, the**

26 (A) **typical industry practices and standards in the state**
 27 **that determine the costs, other than items listed in (e) of this section, that**
 28 **an operator is allowed to bill a producer that is not the operator, under**
 29 **unit operating agreements or similar operating agreements that were in**
 30 **effect before December 2, 2005, and were subject to negotiation with at**
 31 **least one producer with substantial bargaining power, other than the**

1 operator; and

2 (B) standards adopted by the Department of Natural
 3 Resources that determine the costs, other than items listed in (e) of this
 4 section, that a lessee is allowed to deduct from revenue in calculating net
 5 profits under a lease issued under AS 38.05.180(f)(3)(B), (D), or (E) [AN
 6 ACTIVITY DOES NOT NEED TO BE PHYSICALLY LOCATED ON,
 7 NEAR, OR WITHIN THE PREMISES OF THE LEASE OR PROPERTY
 8 WITHIN WHICH AN OIL OR GAS DEPOSIT BEING EXPLORED FOR,
 9 DEVELOPED, OR PRODUCED IS LOCATED IN ORDER FOR THE
 10 COST OF THE ACTIVITY TO BE A COST UPSTREAM OF THE POINT
 11 OF PRODUCTION OF THE OIL OR GAS].

12 * **Sec. 59.** AS 43.55.165(e) is amended to read:

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

14 (1) depreciation, depletion, or amortization;

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

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

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

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

22 (6) costs arising from fraud, wilful misconduct, [OR] gross
 23 negligence, violation of law, or failure to comply with an obligation under a lease,
 24 permit, or license issued by the state or federal government;

25 (7) fines or penalties imposed by law;

26 (8) costs of arbitration, litigation, [OR OTHER] dispute resolution
 27 activities, lobbying, public relations, advertising, or policy advocacy [THAT
 28 INVOLVE THE STATE OR CONCERN THE RIGHTS OR OBLIGATIONS
 29 AMONG OWNERS OF INTERESTS IN, OR RIGHTS TO PRODUCTION FROM,
 30 ONE OR MORE LEASES OR PROPERTIES OR A UNIT];

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

1 business entity or arrangement;

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

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

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

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

17 (14) a tax levied under AS 43.55.011;

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

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

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

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

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

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

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

22 (19) costs incurred for repair, replacement, or deferred
 23 maintenance of a facility, a pipeline, a structure, or equipment, other than a well,
 24 that results in or is undertaken in response to a failure, problem, or event that
 25 results in an unscheduled interruption of, or reduction in the rate of, oil or gas
 26 production; costs incurred for repair, replacement, or deferred maintenance of a
 27 facility, a pipeline, a structure, or equipment, other than a well, that is
 28 undertaken in response to, or is otherwise associated with, an unpermitted
 29 release of a hazardous substance or of gas; or costs incurred for repair,
 30 replacement, or deferred maintenance of a facility, a pipeline, a structure or
 31 equipment other than a well that was not maintained or was improperly

1 maintained; however, costs under this paragraph that would otherwise
2 constitute lease expenditures under (a) of this section may be treated as lease
3 expenditures if the department determines that the repair or replacement is
4 solely necessitated by an act of war, by an unanticipated grave natural disaster
5 or other natural phenomenon of an exceptional, inevitable, and irresistible
6 character, the effects of which could not have been prevented or avoided by the
7 exercise of due care or foresight, or by an intentional or negligent act or
8 omission of a third party, other than a party or its agents in privity of contract
9 with, or employed by, the producer or an operator acting for the producer, but
10 only if the producer or operator, as applicable, exercised due care in operating
11 and maintaining the facility, pipeline, structure, or equipment, and took
12 reasonable precautions against the act or omission of the third party and against
13 the consequences of the act or omission; in this paragraph,

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

18 (B) "hazardous substance" has the meaning given in
19 AS 46.03.826;

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

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

1 **(21) costs relating to office buildings, fixtures and equipment, and**
 2 **real property that are not located in the state;**

3 **(22) overhead, office, or administrative expenses, and all other**
 4 **indirect costs of oil or gas exploration, development, or production.**

5 * **Sec. 60.** AS 43.55.165(h) is amended to read:

6 (h) The department shall adopt regulations that provide for reasonable
 7 methods of allocating costs between oil and gas, **between gas subject to**
 8 **AS 43.55.011(o) and other gas,** and between leases or properties in those
 9 circumstances where the determination of the lease expenditures that are applicable to
 10 oil or to gas, **that are applicable to gas subject to AS 43.55.011(o) or to other gas,**
 11 or that are applicable to oil and gas produced from different leases or properties,
 12 requires an allocation of costs.

13 * **Sec. 61.** AS 43.55.170(a) is amended to read:

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

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

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

29 (3) the sale or other transfer of

30 (A) an asset, including geological, geophysical, or well data or
 31 interpretations, acquired by the producer as a result of a lease expenditure or

1 an expenditure that would be a lease expenditure if it were incurred after
2 March 31, 2006; for purposes of this subparagraph,

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

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

11 (B) oil or gas

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

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

16 * **Sec. 62.** AS 43.55.170(b) is amended to read:

17 (b) Except as otherwise provided under this subsection, if one or more
18 payments or credits subject to this section are received by a producer or by an
19 operator acting for the producer during a calendar year and if either the total amount
20 of the payments or credits exceeds the amount of the producer's applicable lease
21 expenditures for that calendar year or the producer has no lease expenditures for that
22 calendar year, the producer shall nevertheless subtract those payments or credits from
23 the lease expenditures or from zero, respectively, and the producer's applicable
24 adjusted lease expenditures for that calendar year are a negative number and shall be
25 applied to the pertinent **calculations** [CALCULATION] under **AS 43.55.160**
26 [AS 43.55.160(a)] as a negative number.

27 * **Sec. 63.** AS 43.55 is amended by adding a new section 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

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

4 (A) the amount of oil or gas production;

5 (B) the amount of taxes levied under this chapter or paid under
 6 this chapter;

7 (C) the effective tax rates under this chapter;

8 (D) the gross value of oil or gas at the point of production;

9 (E) the transportation costs for oil or gas;

10 (F) qualified capital expenditures under AS 43.55.023(k);

11 (G) exploration expenditures under AS 43.55.025;

12 (H) production tax values of oil or gas under AS 43.55.160;

13 (I) lease expenditures under AS 43.55.165;

14 (J) adjustments to lease expenditures under AS 43.55.170;

15 (K) tax credits applicable or potentially applicable against
 16 taxes levied by this chapter; and

17 (2) the gross value at the point of production and the total amount of
 18 the lease expenditures for each producer required to report under AS 43.55.040(5).

19 * **Sec. 64.** AS 43.55.900 is amended by adding new paragraphs to read:

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

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

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

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

29 (C) subject to an agreement of the owners of interests in the
 30 tracts of land to validly integrate their interests to provide for the unitized
 31 management, development, and operation of the tracts of land as a unit, within

1 the meaning of AS 31.05.110(a); or

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

4 * **Sec. 65.** AS 43.55.165(c) and 43.55.165(d) are repealed.

5 * **Sec. 66.** AS 43.55.011(l) is repealed.

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

8 APPLICABILITY. (a) Sections 57 - 59, 61, and 65 of this Act apply to oil and gas
9 produced after March 31, 2006.

10 (b) Sections 16 - 28, 30 - 32, 37 - 39, and 54 - 56 of this Act apply to oil and gas
11 produced after December 31, 2006.

12 (c) Sections 43 - 45 of this Act apply to statements and reports under
13 AS 43.55.030(a), as amended by sec. 43 of this Act, and AS 43.55.030(e) and (f), as added
14 by sec. 45 of this Act, required to be filed after December 31, 2007.

15 (d) Section 49 of this Act applies to understatements made after the effective date of
16 sec. 49 of this Act.

17 (e) AS 43.05.075, added by sec. 50 of this Act, applies to any tax liability under
18 AS 43.55 with respect to which the period of limitation on assessment under AS 43.05.260
19 had not expired before the effective date of secs. 15 and 50 of this Act.

20 (f) Sections 33 - 36 and 40 of this Act apply to exploration expenditures incurred for
21 work performed after December 31, 2006, that are the bases of tax credits that may be
22 claimed against taxes levied for oil and gas produced after December 31, 2006.

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

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

1 supervising audits by oil and gas revenue auditors.

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

4 TRANSITION: PAYMENT OF TAX. A person subject to tax under AS 43.55 that is
5 required to make one or more installment payments of estimated tax under AS 43.55.020(a),
6 as amended by sec. 25 of this Act, for the production of oil or gas during a month after
7 December 31, 2006, and before January 1, 2008, but that failed to pay the full amount of the
8 installment payments required under AS 43.55.020(a) because of the retroactive application
9 of secs. 16 - 41, 43 - 45, 54 - 56, and 66 of this Act under sec. 72(b) of this Act, shall pay the
10 balance of any tax due under AS 43.55 for the calendar year 2007 before April 1, 2008.

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

13 TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any
14 contrary provision of AS 44.62.240,

15 (1) if the Department of Revenue expressly designates in the regulation that
16 the regulation applies retroactively to that date, a regulation adopted by the Department of
17 Revenue to implement, interpret, make specific, or otherwise carry out

18 (A) secs. 57 - 59, 61, and 65 of this Act may apply retroactively to
19 April 1, 2006;

20 (B) secs. 16 - 41, 43, and 60 of this Act may apply retroactively to
21 January 1, 2007;

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

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

31 TRANSITION: REGULATIONS. The Department of Natural Resources and the

1 Department of Revenue may proceed to adopt regulations to implement this Act. The
2 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
3 effective date of the law implemented by the regulation.

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

6 **RETROACTIVITY OF CERTAIN PROVISIONS OF THIS ACT.** (a) Sections 57 -
7 59, 61, and 65 of this Act are retroactive to April 1, 2006.

8 (b) Sections 16 - 41, 43 - 45, 54 - 56, 60, and 66 of this Act are retroactive to
9 January 1, 2007.

10 * **Sec. 73.** This Act takes effect immediately under AS 01.10.070(c).