

**HB**

**531**

**(File 2 of 3)**

23-LS1818\D  
Chenoweth  
3/12/04

**CS FOR HOUSE BILL NO. 531( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): HOUSE RESOURCES COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to natural gas exploration and development and to nonconventional**  
2 **gas, and amending the section under which shallow natural gas leases may be issued;**  
3 **and providing for an effective date."**

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

5 **\* Section 1.** AS 14.40.365(a) is amended to read:

6 (a) The University of Alaska may select and is entitled to receive the  
7 conveyance of not less than 250,000 and not more than 260,000 acres of land  
8 conveyed to the state under sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72  
9 Stat. 339). The Board of Regents of the University of Alaska shall periodically submit  
10 a list of selections to the commissioner of natural resources and, if the list of selections  
11 contains land within the boundaries of a municipality, the Board of Regents of the  
12 University of Alaska shall submit the list to the municipality. The Board of Regents  
13 and the commissioner of natural resources shall periodically and jointly submit to the  
14 legislature, within 30 days of the beginning of a regular legislative session, a list of the

1 selections of land proposed to be conveyed by the state to the University of Alaska  
2 under this section. If the list submitted to the legislature contains land within the  
3 boundaries of a municipality, the Board of Regents and the commissioner of natural  
4 resources shall provide a copy of the list to the municipality. Each list must contain  
5 not more than 25 percent of the total acres of land to which the university is entitled  
6 after subtracting previous conveyances under this section, but not less than 25,000  
7 acres or the remaining entitlement under this section, whichever is less. A list of  
8 selections submitted shall be considered approved for conveyance to the University of  
9 Alaska unless the legislature acts to disapprove the list during the legislative session  
10 during which the list was submitted. If the amount of land to be conveyed exceeds the  
11 balance due the university under this section, the university shall set out the land to be  
12 conveyed in priority order. Land may not be selected if, on the date of its selection by  
13 the university, it

14 (1) is identified in AS 16.20, AS 41.15.300 - 41.15.330, or AS 41.21 or  
15 has been reserved by law from the public domain;

16 (2) is located within a municipality unless the land is vacant,  
17 unappropriated, unreserved land; if land included on the list of selections is selected  
18 by the municipality with remaining selection rights under AS 29.65 within 120 days of  
19 receiving the Board of Regents' list of selections under this subsection, the university  
20 may not select the land unless a binding agreement between the university and the  
21 municipality is negotiated to allow the selection; if the municipal selection is  
22 disapproved, in whole or in part, the university may select the land, or any available  
23 portion of the land, and that selection will relate back to the date of the Board of  
24 Regents' list of selections under this subsection and shall have priority over all other  
25 selections or claims made subsequent to that notice; in this paragraph, "vacant,  
26 unappropriated, unreserved land" has the meaning given in AS 29.65.130;

27 (3) is land

28 (A) included in a five-year proposed [OIL AND GAS] leasing  
29 program under AS 38.05.180(b); or

30 (B) leased under, or for which a lease application is pending  
31 under, AS 38.05.180(d) or 38.05.150;

- 1 (4) is subject to  
2 (A) an oil, gas, or coal lease, or coal prospecting permit;  
3 (B) a mining claim, offshore prospecting permit, a prospecting  
4 site, an upland mining lease, or a mining leasehold location;  
5 (5) is necessary to carry out the purpose of an interagency land  
6 management agreement; or  
7 (6) is subject to conveyance under a land exchange or land settlement  
8 agreement.

9 \* Sec. 2. AS 14.40.365(e) is amended to read:

- 10 (e) The list of selections of land submitted to the legislature may not include a  
11 land selection made by the University of Alaska under this section if the commissioner  
12 of natural resources determines in writing that the proposed selection  
13 (1) includes land that the commissioner, in consultation with the  
14 commissioner of fish and game, determines has demonstrated value to the public as a  
15 habitat area that is especially critical to the perpetuation of fish or wildlife;  
16 (2) includes land for which, at the time of its selection under this  
17 section, a municipality has made a selection under AS 29.65 unless the land selection  
18 is, at a later date, rejected by the commissioner of natural resources or relinquished by  
19 the municipality;  
20 (3) includes land that the commissioner reasonably believes may be  
21 selected by a newly formed municipality under AS 29.65.030, but the commissioner  
22 may not withhold selection under this paragraph for more than three years after the  
23 municipality's incorporation;  
24 (4) includes land within the boundaries of a municipality, the  
25 municipality has a remaining entitlement under AS 29.65, and the municipality selects  
26 the land under AS 29.65 within 120 days after receipt by the municipality of the Board  
27 of Regents' list of selections under (a) of this section;  
28 (5) includes land that, at the time of its selection under this section,  
29 (A) is subject to an [OIL AND GAS] exploration license  
30 issued under AS 38.05.131 - 38.05.134; or  
31 (B) the commissioner reasonably believes will be made part of

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an [OIL AND GAS] exploration license issued under AS 38.05.131 - 38.05.134; the commissioner may not refuse to convey title to land to the University of Alaska under this subparagraph for more than two years after its first selection by the University of Alaska; or

(6) includes land the commissioner of natural resources reasonably believes would not be in the best interests of the state to convey outside of state ownership.

\* Sec. 3. AS 19.40.200(b) is amended to read:

(b) The prohibition on disposal of state land under (a) of this section does not apply to a disposal

(1) to a licensed public utility or a licensed common carrier under AS 38.05.810(e);

(2) for the reauthorization of leases that were in effect on January 1, 1994, for nonresidential purposes within the following development nodes:

(A) Coldfoot:

Township 28 North, Range 12 West, Fairbanks Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

Sections 20 - 22

(B) Yukon River Crossing:

Township 12 North, Range 10 West, Fairbanks Meridian

Sections 6 - 7

Township 12 North, Range 11 West, Fairbanks Meridian

Sections 1 - 2

Section 12

Township 13 North, Range 10 West, Fairbanks Meridian

Sections 29 - 32

Township 13 North, Range 11 West, Fairbanks Meridian

Section 22

Sections 25 - 27

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Sections 34 - 36

(3) for nonresidential development within the following development

nodes:

(A) Deadhorse:

Township 10 North, Range 14 East, Umiat Meridian

Township 10 North, Range 15 East, Umiat Meridian

Section 8

Sections 17 - 20

Section 30

(B) Coldfoot:

Township 28 North, Range 12 West, Fairbanks Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

Sections 20 - 22

Township 29 North, Range 12 West, Fairbanks Meridian

Sections 23 - 27

Sections 34 - 35

(C) Franklin Bluffs:

Township 4 North, Range 14 East, Umiat Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

(D) Happy Valley:

Township 3 South, Range 14 East, Umiat Meridian

Sections 19 - 20

Sections 29 - 30

(E) Yukon River Crossing:

Township 12 North, Range 10 West, Fairbanks Meridian

Sections 6 - 7

Township 12 North, Range 11 West, Fairbanks Meridian

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Sections 1 - 2

Section 12

Township 13 North, Range 10 West, Fairbanks Meridian

Sections 29 - 32

Township 13 North, Range 11 West, Fairbanks Meridian

Section 22

Sections 25 - 27

Sections 34 - 36; or

(4) necessary for

(A) an oil and gas lease or gas only lease under AS 38.05.180;

(B) exploration, development, production, or transportation of oil and gas north of 68 degrees north latitude; or

(C) a state lease or materials sale for

(i) exploration, development, production, or transportation of oil or [AND] gas;

(ii) reconstruction or maintenance of state highways; or

(iii) construction or maintenance of airports.

\* **Sec. 4.** AS 31.05.030(j) is amended to read:

(j) For the purposes of AS 46.04.030(b), the commission shall determine whether a nonconventional gas well [DRILLED FOR SHALLOW NATURAL GAS] may penetrate a formation capable of flowing oil and, if so, whether the volume of oil encountered will be of such quantities that an oil discharge prevention and contingency plan will be required.

\* **Sec. 5.** AS 31.05.060(c) is amended to read:

(c) Notwithstanding the requirements of (a) and (b) of this section that relate to fixing a date for a hearing and causing notice of the hearing to be given, for an action under this chapter that involves the exploration for or development of nonconventional [SHALLOW NATURAL] gas and that has application to a single well or a single field, upon the request of a lessee or operator, the commission may, where operations might be unduly delayed, approve a variance from the commission's regulations that apply to the well or field without providing notice and opportunity to

1 be heard. In the exercise of its authority to issue the variance,

2 (1) the commission may approve the variance if

3 (A) the approval provides at least an equally effective means of  
4 accomplishing the requirement set out in the commission's regulation; or

5 (B) the commission determines that the request is more  
6 appropriate to the proposed operation than compliance with the requirement of  
7 the regulation; and

8 (2) the terms of the approval of the variance may include exempting  
9 the lessee or operator from a requirement of a regulation if the commission determines  
10 that the requirement is not necessary or not suited to the well or field taking into  
11 consideration

12 (A) the nature of the operation involved;

13 (B) the characteristics of the well or field for which the  
14 variance is sought; and

15 (C) the reasonably anticipated risks of the exemption from the  
16 requirement to human safety and the environment.

17 \* Sec. 6. AS 31.05.170 is amended by adding a new paragraph to read:

18 (16) "nonconventional gas" has the meaning given in AS 38.05.965.

19 \* Sec. 7. AS 36.30.850(b)(25) is amended to read:

20 (25) acquisition of confidential seismic survey data necessary for pre-  
21 sale oil and gas lease or gas only lease analyses under AS 38.05.180;

22 \* Sec. 8. AS 36.30.850(b)(33) is amended to read:

23 (33) contracts between the Department of Natural Resources and  
24 contractors qualified to evaluate hydrocarbon development, production, transportation,  
25 and economics, to assist the commissioner of natural resources in evaluating  
26 applications for [OIL AND GAS] royalty increases or decreases or other [OIL AND  
27 GAS] royalty adjustments, and evaluating the related financial and technical data,  
28 entered into under AS 38.05.180(j);

29 \* Sec. 9. AS 38.04.065(i) is amended to read:

30 (i) An oil and gas lease sale or gas only lease sale is not subject to this  
31 section. Oil and gas lease sales and gas only lease sales are subject to the planning

1 process established under AS 38.05.180.

2 \* Sec. 10. AS 38.05.035(e) is amended to read:

3 (e) Upon a written finding that the interests of the state will be best served, the  
4 director may, with the consent of the commissioner, approve contracts for the sale,  
5 lease, or other disposal of available land, resources, property, or interests in them. In  
6 approving a contract under this subsection, the director need only prepare a single  
7 written finding. In addition to the conditions and limitations imposed by law, the  
8 director may impose additional conditions or limitations in the contracts as the director  
9 determines, with the consent of the commissioner, will best serve the interests of the  
10 state. The preparation and issuance of the written finding by the director are subject to  
11 the following:

12 (1) with the consent of the commissioner and subject to the director's  
13 discretion, for a specific proposed disposal of available land, resources, or property, or  
14 of an interest in them, the director, in the written finding,

15 (A) shall establish the scope of the administrative review on  
16 which the director's determination is based, and the scope of the written  
17 finding supporting that determination; the scope of the administrative review  
18 and finding may address only reasonably foreseeable, significant effects of the  
19 uses proposed to be authorized by the disposal;

20 (B) may limit the scope of an administrative review and finding  
21 for a proposed disposal to

22 (i) applicable statutes and regulations;

23 (ii) the facts pertaining to the land, resources, or  
24 property, or interest in them, that the director finds are material to the  
25 determination and that are known to the director or knowledge of which  
26 is made available to the director during the administrative review; and

27 (iii) issues that, based on the statutes and regulations  
28 referred to in (i) of this subparagraph, on the facts as described in (ii) of  
29 this subparagraph, and on the nature of the uses sought to be authorized  
30 by the disposal, the director finds are material to the determination of  
31 whether the proposed disposal will best serve the interests of the state;

1 and

2 (C) may, if the project for which the proposed disposal is  
3 sought is a multiphased development, limit the scope of an administrative  
4 review and finding for the proposed disposal to the applicable statutes and  
5 regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that  
6 pertain solely to the disposal phase of the project when

7 (i) the only uses to be authorized by the proposed  
8 disposal are part of that phase;

9 (ii) the disposal is a [AN OIL AND GAS] disposal of  
10 oil and gas, or of gas only, and, before the next phase of the project  
11 may proceed, public notice and the opportunity to comment are  
12 provided under regulations adopted by the department unless the  
13 project is subject to a consistency review under AS 46.40 and public  
14 notice and the opportunity to comment are provided under  
15 AS 46.40.096(c);

16 (iii) the department's approval is required before the  
17 next phase of the project may proceed; and

18 (iv) the department describes its reasons for a decision  
19 to phase;

20 (2) the director shall discuss in the written finding prepared and issued  
21 under this subsection the reasons that each of the following was not material to the  
22 director's determination that the interests of the state will be best served:

23 (A) facts pertaining to the land, resources, or property, or an  
24 interest in them other than those that the director finds material under (1)(B)(ii)  
25 of this subsection; and

26 (B) issues based on the statutes and regulations referred to in  
27 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this  
28 subsection;

29 (3) a written finding for an oil and gas lease sale or gas only lease sale  
30 under AS 38.05.180 is subject to (g) of this section;

31 (4) a contract for the sale, lease, or other disposal of available land or

1 an interest in land is not legally binding on the state until the commissioner approves  
 2 the contract, but if the appraised value is not greater than \$50,000 in the case of the  
 3 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or  
 4 interest in land, the director may execute the contract without the approval of the  
 5 commissioner;

6 (5) public notice requirements relating to the sale, lease, or other  
 7 disposal of available land or an interest in land for oil and gas, or for gas only,  
 8 proposed to be scheduled in the five-year oil and gas leasing program under  
 9 AS 38.05.180(b), except for a sale under (6)(F) of this subsection, are as follows:

10 (A) before a public hearing, if held, or in any case not less than  
 11 180 days before the sale, lease, or other disposal of available land or an interest  
 12 in land, the director shall make available to the public a preliminary written  
 13 finding that states the scope of the review established under (1)(A) of this  
 14 subsection and includes the applicable statutes and regulations, the material  
 15 facts and issues in accordance with (1)(B) of this subsection, and information  
 16 required by (g) of this section, upon which the determination that the sale,  
 17 lease, or other disposal will serve the best interests of the state will be based;  
 18 the director shall provide opportunity for public comment on the preliminary  
 19 written finding for a period of not less than 60 days;

20 (B) after the public comment period for the preliminary written  
 21 finding and not less than 90 days before the sale, lease, or other disposal of  
 22 available land or an interest in land for oil and gas or for gas only, the director  
 23 shall make available to the public a final written finding that states the scope of  
 24 the review established under (1)(A) of this subsection and includes the  
 25 applicable statutes and regulations, the material facts and issues in accordance  
 26 with (1) of this subsection, and information required by (g) of this section,  
 27 upon which the determination that the sale, lease, or other disposal will serve  
 28 the best interests of the state is based;

29 (6) before a public hearing, if held, or in any case not less than 21 days  
 30 before the sale, lease, or other disposal of available land, property, resources, or  
 31 interests in them other than a sale, lease, or other disposal of available land or an

pg. 13  
Fish & Wildlife

Line 6 to 22

1 interest in land for oil and gas or for gas only under (5) of this subsection, the director  
2 shall make available to the public a written finding that, in accordance with (1) of this  
3 subsection, sets out the material facts and applicable statutes and regulations and any  
4 other information required by statute or regulation to be considered upon which the  
5 determination that the sale, lease, or other disposal will best serve the interests of the  
6 state was based; however, a written finding is not required before the approval of

7 (A) a contract for a negotiated sale authorized under  
8 AS 38.05.115;

9 (B) a lease of land for a shore fishery site under AS 38.05.082;

10 (C) a permit or other authorization revocable by the  
11 commissioner;

12 (D) a mineral claim located under AS 38.05.195;

13 (E) a mineral lease issued under AS 38.05.205;

14 (F) an exempt oil and gas lease sale or gas only lease sale  
15 under AS 38.05.180(d) of acreage subject to a best interest finding issued  
16 within the previous 10 years or a reoffer oil and gas lease sale or gas only  
17 lease sale under AS 38.05.180(w) of acreage subject to a best interest finding  
18 issued within the previous 10 years, unless the commissioner determines that  
19 substantial new information has become available that justifies a supplement to  
20 the most recent best interest finding for the exempt oil and gas lease sale or  
21 gas only lease sale acreage and for the reoffer oil and gas lease sale or gas  
22 only lease sale acreage; however, for each oil and gas lease sale or gas only  
23 lease sale described in this subparagraph, the director shall call for comments  
24 from the public; the director's call for public comments must provide  
25 opportunity for public comment for a period of not less than 30 days; if the  
26 director determines that a supplement to the most recent best interest finding  
27 for the acreage is required under this subparagraph,

28 (i) the director shall issue the supplement to the best  
29 interest finding not later than 90 days before the sale;

30 (ii) not later than 45 days before the sale, the director  
31 shall issue a notice describing the interests to be offered, the location

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and time of the sale, and the terms and conditions of the sale; and

(iii) the supplement has the status of a final written best interest finding for purposes of (i) and (l) of this section;

(G) [A SHALLOW GAS LEASE AUTHORIZED UNDER AS 38.05.177 IN AN AREA FOR WHICH LEASING IS AUTHORIZED UNDER AS 38.05.177;

(H)] a surface use lease under AS 38.05.255;

(H) [(I)] a permit, right-of-way, or easement under AS 38.05.850;

(7) the director shall include in

(A) a preliminary written finding, if required, a summary of agency and public comments, if any, obtained as a result of contacts with other agencies concerning a proposed disposal or as a result of informal efforts undertaken by the department to solicit public response to a proposed disposal, and the department's preliminary responses to those comments; and

(B) the final written finding a summary of agency and public comments received and the department's responses to those comments.

\* Sec. 11. AS 38.05.035(g) is amended to read:

(g) Notwithstanding (e)(1)(A) and (B) of this section, when the director prepares a written finding required under (e) of this section for an oil and gas lease sale or a gas only lease sale scheduled under AS 38.05.180, the director shall consider and discuss

(1) in a preliminary or final written finding facts that are known to the director at the time of preparation of the finding and that are

(A) material to issues that were raised during the period allowed for receipt of public comment, whether or not material to a matter set out in (B) of this paragraph, and within the scope of the administrative review established by the director under (e)(1) of this section; or

(B) material to the following matters:

(i) property descriptions and locations;

(ii) the petroleum potential of the sale area, in general

area of best interest finding

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terms;

(iii) fish and wildlife species and their habitats in the area;

(iv) the current and projected uses in the area, including uses and value of fish and wildlife;

(v) the governmental powers to regulate the [OIL AND GAS] exploration, development, production, and transportation of oil and gas or of gas only;

(vi) the reasonably foreseeable cumulative effects of [OIL AND GAS] exploration, development, production, and transportation for oil and gas or for gas only on the sale area, including effects on subsistence uses, fish and wildlife habitat and populations and their uses, and historic and cultural resources;

(vii) lease stipulations and mitigation measures, including any measures to prevent and mitigate releases of oil and hazardous substances, to be included in the leases, and a discussion of the protections offered by these measures;

(viii) the method or methods most likely to be used to transport oil or gas from the lease sale area, and the advantages, disadvantages, and relative risks of each;

(ix) the reasonably foreseeable fiscal effects of the lease sale and the subsequent activity on the state and affected municipalities and communities, including the explicit and implicit subsidies associated with the lease sale, if any;

(x) the reasonably foreseeable effects of [OIL AND GAS] exploration, development, production, and transportation involving oil and gas or gas only on municipalities and communities within or adjacent to the lease sale area; and

(xi) the bidding method or methods adopted by the commissioner under AS 38.05.180; and

(2) the basis for the director's preliminary or final finding, as

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Concern

1 applicable, that, on balance, leasing the area would be in the state's best interest.

2 \* Sec. 12. AS 38.05.036(a) is amended to read:

3 (a) The department may conduct audits regarding royalty and net profits under  
4 oil and gas contracts, agreements, or leases under this chapter and regarding costs  
5 related to [OIL AND GAS] exploration licenses entered into under AS 38.05.131 -  
6 38.05.134 and exploration incentive credits under this chapter or under AS 41.09. For  
7 purposes of audit under this section,

8 (1) the department may examine the books, papers, records, or  
9 memoranda of a person regarding matters related to the audit; and

10 (2) the records and premises where a business is conducted shall be  
11 open at all reasonable times for inspection by the department.

12 \* Sec. 13. AS 38.05.127(e) is amended to read:

13 (e) The establishment of easements or rights-of-way for oil and gas, gas only,  
14 and mineral leases under (a) of this section need not be made until the leases are ready  
15 to be developed.

16 \* Sec. 14. AS 38.05.131(a) is amended to read:

17 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the  
18 provisions of AS 38.05.005 - 38.05.037, 38.05.140(f), 38.05.180, 38.05.182 -  
19 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of [OIL AND GAS]  
20 exploration licenses and leases for oil and gas, or for gas only, as appropriate.  
21 under AS 38.05.132 - 38.05.134.

22 \* Sec. 15. AS 38.05.132(a) is amended to read:

23 (a) To encourage exploration for oil and gas on state land, the commissioner  
24 may issue [OIL AND GAS] exploration licenses. The commissioner may limit the  
25 exploration licenses under AS 38.05.132 - 38.05.134 to exploration for and  
26 recovery of gas only.

27 \* Sec. 16. AS 38.05.132(b) is amended to read:

28 (b) An [OIL AND GAS] exploration license issued under this section gives  
29 the licensee

30 (1) the exclusive right to explore, for a term not to exceed 10 years,  
31 [FOR DEPOSITS OF OIL AND GAS] on unleased state land described in the

1 exploration license for deposits of oil and gas, or for deposits of gas only, as  
2 appropriate, unless the exploration license is terminated under (d)(1) of this section  
3 or the land is earlier relinquished, removed, or deleted under (d)(2) of this section; and  
4 (2) unless the exploration license is terminated under (d)(1) of this  
5 section, the option to convert the exploration license for all or part of the state land,  
6 except the land that is deleted or removed from the land described in the exploration  
7 license under (d)(2) of this section, into an oil and gas lease, or a gas lease only, as  
8 appropriate, upon fulfillment of the work commitments contained in the exploration  
9 license.

10 \* Sec. 17. AS 38.05.132(c) is amended to read:

11 (c) An exploration license awarded under this section

12 (1) is not subject to the acreage limitations imposed by  
13 AS 38.05.140(c) or 38.05.180(m);

14 (2) may cover, subject to the maximum acreage limitation on  
15 exploration licenses by one licensee under AS 38.05.131(e), an area of not less than  
16 10,000 acres and not more than 500,000 acres, that must be reasonably compact and  
17 contiguous;

18 (3) must be conditioned upon an obligation to perform a specified  
19 work commitment, in total for the term of the license, expressed in dollars of direct  
20 exploration expenditures; the specified work commitment

21 (A) may include a provision that adjusts the total amount of  
22 work commitment, expressed in dollars of direct exploration expenditures, to  
23 account for inflation;

24 (B) must include a requirement that the licensee complete at  
25 least 25 percent of the licensee's total specified work commitment by the fourth  
26 anniversary of the effective date of the issuance of the [OIL AND GAS]  
27 exploration license;

28 (4) must be conditioned upon the posting of a bond or other security  
29 acceptable to the commissioner, in favor of the state and subject to the following  
30 requirements:

31 (A) the bond or other security must be renewed annually;

1 (B) the annual bond or other security shall be calculated as the  
2 entire work commitment expressed in dollars, less the cumulative direct  
3 exploration expenditures of the licensee as of the last day of the most recent  
4 project year, divided by the number of years remaining in the term of the  
5 exploration license;

6 (5) is subject to an annual review and revocation if the commissioner  
7 determines that the licensee has failed to provide or maintain in effect the bond or  
8 other security required by (4) of this subsection;

9 (6) must be conditioned upon the licensee's payment to the state of a  
10 nonrefundable [OIL AND GAS] exploration license fee of \$1 for each acre of land or  
11 fraction of each acre that is subject to the exploration license; and

12 (7) must be conditioned upon an agreement that exploration  
13 expenditures are subject to audit by the commissioner.

14 \* Sec. 18. AS 38.05.132(f) is amended to read:

15 (f) In this section,

16 (1) "direct exploration expenditure" means cash expenses undertaken  
17 in performance of a specified work commitment under the provisions of AS 38.05.131  
18 - 38.05.134 and necessarily incurred by the licensee in the permitting, mobilization,  
19 conducting, demobilization, and evaluation of geophysical and geological surveys. or  
20 the drilling, logging, coring, testing, and evaluation of oil and gas or gas only wells;  
21 the term

22 (A) includes direct labor costs, including the cost of benefits,  
23 for employees directly associated with the work commitment programs, the  
24 cost of renting or leasing equipment from parties not affiliated with the  
25 licensee, the reasonable costs of maintaining and operating equipment,  
26 payments to consultants and independent contractors not affiliated with the  
27 licensee, and costs of materials and supplies;

28 (B) does not include noncash expenses such as depreciation  
29 and reserves, interest or other costs of borrowed funds, return on investment,  
30 overhead, insurance or bond premiums, or any other expense that is  
31 unreasonable or that the licensee has not incurred to satisfy the licensee's work

1                   commitment;

2                   (?) "work commitment" includes the drilling of one or more  
3                   exploration wells or the gathering of data from activities described in (1) of this  
4                   subsection, or both.

5 \* Sec. 19. AS 38.05.133(a) is amended to read:

6                   (a) The procedures in this section apply to the issuance of an [OIL AND GAS]  
7                   exploration license under AS 38.05.132.

8 \* Sec. 20. AS 38.05.133(f) is amended to read:

9                   (f) After considering proposals not rejected under (d) of this section and public  
10                  comment on those proposals, the commissioner shall issue a written finding  
11                  addressing all matters set out in AS 38.05.035(e) and (g), except for  
12                  AS 38.05.035(g)(1)(B)(xi). If the finding concludes that the state's best interests  
13                  would be served by issuing an [OIL AND GAS] exploration license, the finding must  
14                  (1) describe the limitations, stipulations, conditions, or changes from the initiating  
15                  proposal or competing proposals that are required to make the issuance of the  
16                  exploration license conform to the best interests of the state, and (2) if only one  
17                  proposal was submitted, identify the prospective licensee whom the commissioner  
18                  finds should be issued the exploration license. The commissioner shall attach to the  
19                  finding a copy of the exploration license to be issued and the form of lease that will be  
20                  used for any portion of the exploration license area subsequently converted to a [AN  
21                  OIL AND GAS] lease under AS 38.05.134.

22 \* Sec. 21. AS 38.05.133(h) is amended to read:

23                  (h) If competing proposals are submitted, and the commissioner's finding  
24                  under (f) of this section concludes that an [OIL AND GAS] exploration license should  
25                  be issued, the commissioner shall issue a request for competitive sealed bids, under  
26                  procedures adopted by the commissioner by regulation, to determine which  
27                  prospective licensee should be issued the exploration license. The finding provided to  
28                  the prospective licensees and the public under (f) of this section must contain notice  
29                  that (1) the commissioner intends to request competitive sealed bids, (2) a prospective  
30                  licensee who intends to participate in the bidding must notify the commissioner in  
31                  writing by the date specified in the notice, and (3) a prospective licensee's notice of

1 intent to participate in the bidding constitutes acceptance of issuance of the  
2 exploration license, as limited or conditioned by the terms contained in the finding and  
3 by the exploration license to be issued and the form of lease to be used that have been  
4 attached to that finding, if the prospective licensee is the successful bidder. The  
5 successful bidder is the prospective licensee who submits the highest bid in terms of  
6 the minimum work commitment dollar amount.

7 \* **Sec. 22.** AS 38.05.134 is amended to read:

8 **Sec. 38.05.134. Conversion to lease.** If the licensee requests and the  
9 commissioner determines that the work commitment obligation set out in an [OIL  
10 AND GAS] exploration license issued under AS 38.05.132 has been met, the  
11 commissioner shall convert to one or more [OIL AND GAS] leases all or part, as the  
12 licensee may indicate, of the area described in the exploration license that remains  
13 after the relinquishments, removals, or deletions required by AS 38.05.132(d)(2). A  
14 lease issued under this section

15 (1) is subject to the acreage limitations imposed by AS 38.05.140(c);

16 (2) is subject to AS 38.05.180(j) - (m), (o) - (u), and (x) - (z);

17 (3) must be conditioned upon a royalty in amount or value of not less  
18 than 12.5 percent of production, except that

19 (A) the lessee who, proceeding under AS 38.05.131 -  
20 38.05.134, under a lease issued in the Cook Inlet sedimentary basin who is the  
21 first to file with the commissioner a nonconfidential sworn statement claiming  
22 to be the first to have drilled a well discovering oil or gas in a previously  
23 undiscovered oil or gas pool and who is certified by the commissioner within  
24 one year of completion of that discovery well to have drilled a well in that pool  
25 that is capable of producing in paying quantities shall pay a royalty of five  
26 percent on all production of oil or gas from that pool attributable to that lease  
27 for a period of 10 years following the date of discovery of that pool, and  
28 thereafter the royalty payable on all production of oil or gas from the pool  
29 attributable to that lease shall be determined and payable as specified in the  
30 lease; the payment of the five percent royalty under this paragraph is  
31 authorized only to a holder of a lease who meets the requirements of

1 AS 38.05.180(f)(4); and

2 (B) for nonconventional gas that is not produced in direct  
3 competition with gas on which a royalty at a rate of at least 12.5 percent is  
4 pavable, if the licensee requests, the commissioner may negotiate with the  
5 licensee and set a royalty rate for the gas of at least 6.25 percent; for  
6 purposes of this subparagraph, "nonconventional gas" has the meaning  
7 given in AS 38.05.965;

8 (4) must include an annual rent of \$3 per acre or fraction of an acre  
9 initially paid to the state at inception of the lease and payable annually after that until  
10 the income to the state from royalty under that lease exceeds the rental income to the  
11 state under that lease for that year; and

12 (5) is subject to other conditions and obligations that are specified in  
13 the lease.

14 \* Sec. 23. AS 38.05.140(a) is amended to read:

15 (a) A person may not take or hold coal leases or permits during the life of coal  
16 leases on state land exceeding an aggregate of 92,160 acres, except that a person may  
17 apply for coal leases or permits for acreage in addition to 92,160 acres, not exceeding  
18 a total of 5,120 additional acres of state land. The additional area applied for shall be  
19 in multiples of 40 acres, and the application shall contain a statement that the granting  
20 of a lease for additional land is necessary for the person to carry on business  
21 economically and is in the public interest. On the filing of the application, [EXCEPT  
22 AS PROVIDED BY AS 38.05.177(a)(2)(C),] the coal deposits in the land covered by  
23 the application shall be temporarily set aside and withdrawn from all other forms of  
24 disposal provided under AS 38.05.135 - 38.05.181.

25 \* Sec. 24. AS 38.05.140(f) is amended to read:

26 (f) The submerged and shoreland lying north of 57 degrees, 30 minutes, North  
27 [NORTH] latitude and east of 159 degrees, 49 minutes, West [WEST] longitude  
28 within the Bristol Bay drainage are designated as the Bristol Bay Fisheries Reserve.  
29 Within the Bristol Bay Fisheries Reserve, a [NO] surface entry permit to develop an  
30 oil or gas lease or an [OIL AND GAS] exploration license under AS 38.05.131 -  
31 38.05.134 may not be issued on state owned or controlled land until the legislature by

1 appropriate resolution specifically finds that the entry will not constitute danger to the  
2 fishery.

3 \* Sec. 25. AS 38.05.150(t) is amended to read:

4 (f) A [NOTWITHSTANDING AS 38.05.177, A] lease entered into under this  
5 section gives the lessee the right to vent or remove methane and other gas held in  
6 association with the coal in the land covered by the lease to ensure safe coal mining  
7 operations.

8 \* Sec. 26. AS 38.05.177(a) is amended to read:

9 (a) The provisions of this section:

10 [(1)] apply to nonconventional gas [, WHETHER METHANE  
11 ASSOCIATED WITH AND DERIVED FROM COAL DEPOSITS OR  
12 OTHERWISE, FROM A FIELD IF A PART OF THE FIELD IS WITHIN 3,000  
13 FEET OF THE SURFACE; AND

14 (2) DO NOT APPLY TO AUTHORIZE LEASE OF

15 (A) LAND

16 (i) THAT IS SUBJECT TO AN OIL AND GAS  
17 EXPLORATION LICENSE OR LEASE ISSUED UNDER  
18 AS 38.05.131 - 38.05.134; OR

19 (ii) THAT IS LEASED UNDER AS 38.05.180;

20 (B) THE LAND (i) THAT IS PROPOSED TO BE SUBJECT  
21 TO AN OIL AND GAS EXPLORATION LICENSE OR LEASE ISSUED  
22 UNDER AS 38.05.131 - 38.05.134; OR (ii) THAT IS DESCRIBED IN AND  
23 PART OF A PROPOSED OIL AND GAS LEASING PROGRAM  
24 PREPARED UNDER AS 38.05 30(b); HOWEVER, THE COMMISSIONER  
25 MAY WAIVE THE LIMITATIONS OF THIS SUBPARAGRAPH;

26 (C) THE LAND THAT IS HELD UNDER A COAL LEASE  
27 ENTERED INTO UNDER AS 38.05.150, UNLESS THE APPLICANT FOR  
28 A SHALLOW NATURAL GAS LEASE IS ALSO THE LESSEE UNDER  
29 AS 38.05.150 OF THAT LAND; OR

30 (D) THE VALID EXISTING SELECTIONS OF THE  
31 ALASKA MENTAL HEALTH TRUST AUTHORITY MADE FOR THE

1 PURPOSE OF RECONSTITUTING THE MENTAL HEALTH TRUST  
2 ESTABLISHED UNDER THE ALASKA MENTAL HEALTH ENABLING  
3 ACT, P.L. 84-830, 70 STAT. 709 (1956), THAT BECOME SUBJECT TO  
4 MANAGEMENT UNDER AS 38.05.801, OR OF LAND THAT HAS BEEN  
5 DESIGNATED BY LAW FOR OR IS SUBJECT TO DESIGNATION FOR  
6 CONVEYANCE TO THE ALASKA MENTAL HEALTH TRUST  
7 AUTHORITY; HOWEVER, AFTER CONSULTATION WITH THE  
8 ALASKA MENTAL HEALTH TRUST AUTHORITY, THE  
9 COMMISSIONER MAY WAIVE THE LIMITATIONS OF THIS  
10 SUBPARAGRAPH].

11 \* Sec. 27. AS 38.05.177(l) is amended to read:

12 (l) A lessee holding [OBTAINING] a lease modified under  
13 AS 38.05.180(n)(2) [THIS SECTION] may exercise the rights authorized by this  
14 section and the lease. The rights granted by the lease must be exercised in a manner  
15 that does not unreasonably interfere with eventual development of other mineral  
16 deposits on the land leased. However, in a lease entered into under AS 38.05.150 for  
17 land that is already subject to a lease covered [LEASED] under this section, coal may  
18 not be mined or extracted by the coal lessee from the coal lease without prior  
19 agreement with the lessee holding the lease covered [ISSUED] under this section.

20 \* Sec. 28. AS 38.05.180(a) is amended to read:

21 (a) The legislature finds that

22 (1) the people of Alaska have an interest in the development of the  
23 state's oil and gas resources to

24 (A) maximize the economic and physical recovery of the  
25 resources;

26 (B) maximize competition among parties seeking to explore  
27 and develop the resources;

28 (C) maximize use of Alaska's human resources in the  
29 development of the resources;

30 (2) it is in the best interests of the state

31 (A) to encourage an assessment of its oil and gas resources and

1 to allow the maximum flexibility in the methods of issuing leases to

2 (i) recognize the many varied geographical regions of  
3 the state and the different costs of exploring for oil and gas in these  
4 regions;

5 (ii) minimize the adverse impact of exploration,  
6 development, production, and transportation activity; and

7 (B) to offer acreage for oil and gas leases or for gas only  
8 leases, specifically including

9 (i) state acreage that has been the subject of a best  
10 interest finding at annual areawide lease sales; and

11 (ii) land in areas that, under (d) of this section, may be  
12 leased without having been included in the leasing program prepared  
13 and submitted under (b) of this section.

14 \* **Sec. 29.** AS 38.05.180(b) is amended to read:

15 (b) The commissioner shall biennially prepare and, between the first and the  
16 15th day of the first regular session of each legislature, notify the legislature of the  
17 availability of, a five-year proposed oil and gas leasing program consisting of a  
18 schedule of proposed lease sales and specifying as precisely as practicable the location  
19 of tracts proposed to be offered for oil and gas leasing or for leasing of gas only  
20 during the calendar year in which the proposed program is made available to the  
21 legislature and the following four calendar years.

22 \* **Sec. 30.** AS 38.05.180(c) is amended to read:

23 (c) Except as provided in (d) and (w) of this section, an oil and gas lease sale  
24 or gas only lease sale may not be held unless it was included in the proposed leasing  
25 programs submitted to the legislature during the two calendar years preceding the year  
26 in which the sale is held. A lease sale, whether for oil and gas or for gas only, may  
27 not be held before the date it is scheduled in the proposed oil and gas leasing program.

28 \* **Sec. 31.** AS 38.05.180(d) is amended to read:

29 (d) The commissioner

30 (1) may annually offer leases for oil and gas or leases for gas only  
31 [LEASES] of the acreage described in AS 38.05.035(e)(6)(F);

1 (2) may issue [OIL AND GAS] leases in an area that has not been  
2 included in a leasing program prepared, in accordance with (b) of this section, if the  
3 land to be leased

4 (A) was previously subject to a valid state oil and gas lease, a  
5 valid state gas lease, or a valid federal oil and gas lease;

6 (B) is contiguous to land already under state, federal, or private  
7 lease and the commissioner makes a written finding, after hearing, that leasing  
8 of the land would result in a substantial probability of early evaluation and  
9 development of the land to be leased;

10 (C) is adjacent to land owned or controlled by another party on  
11 which a discovery of commercial quantities of oil or gas has been made, and  
12 the commissioner finds, after hearing, that there is a reasonable probability that  
13 the land to be leased contains oil or gas in communication with the oil or gas  
14 discovered on the land of the other party;

15 (D) is adjacent to land included in the federal five-year Outer  
16 Continental Shelf leasing program under 43 U.S.C. 1344, and the  
17 commissioner makes a written finding, after hearing, that coordinated or  
18 simultaneous leasing with the federal government is in the public interest; or

19 (E) is the subject of an [OIL AND GAS] exploration license  
20 issued under AS 38.05.131 - 38.05.134; however, if the license issued was  
21 for exploration for and recovery of gas only, then the lease issued under  
22 this subsection shall be limited to exploration for and recovery of gas only.

23 \* Sec. 32. AS 38.05.180(f) is amended to read:

24 (f) Except as provided by AS 38.05.131 - 38.05.134 [AND 38.05.177], the  
25 commissioner may issue oil and gas leases or leases for gas only on state land to the  
26 highest responsible qualified bidder as follows:

27 (1) the commissioner shall issue an oil and gas lease or a gas only  
28 lease, as appropriate, to the successful bidder determined by competitive bidding  
29 under regulations adopted by the commissioner; bidding may be by sealed bid or  
30 according to any other bidding procedure the commissioner determines is in the best  
31 interests of the state;

1 (2) whenever, under any of the leasing methods listed in this  
2 subsection, a royalty share is reserved to the state, it shall be delivered in pipeline  
3 quality and free of all lease or unit expenses, including but not limited to separation,  
4 cleaning, dehydration, gathering, salt water disposal, and preparation for transportation  
5 off the lease or unit area;

6 (3) following a pre-sale analysis, the commissioner may choose at least  
7 one of the following leasing methods:

8 (A) a cash bonus bid with a fixed royalty share reserved to the  
9 state of not less than 12.5 percent in amount or value of the production  
10 removed or sold from the lease;

11 (B) a cash bonus bid with a fixed royalty share reserved to the  
12 state of not less than 12.5 percent in amount or value of the production  
13 removed or sold from the lease and a fixed share of the net profit derived from  
14 the lease of not less than 30 percent reserved to the state;

15 (C) a fixed cash bonus with a royalty share reserved to the state  
16 as the bid variable but no less than 12.5 percent in amount or value of the  
17 production removed or sold from the lease;

18 (D) a fixed cash bonus with the share of the net profit derived  
19 from the lease reserved to the state as the bid variable;

20 (E) a fixed cash bonus with a fixed royalty share reserved to the  
21 state of not less than 12.5 percent in amount or value of the production  
22 removed or sold from the lease with the share of the net profit derived from the  
23 lease reserved to the state as the bid variable;

24 (F) a cash bonus bid with a fixed royalty share reserved to the  
25 state based on a sliding scale according to the volume of production or other  
26 factor but in no event less than 12.5 percent in amount or value of the  
27 production removed or sold from the lease;

28 (G) a fixed cash bonus with a royalty share reserved to the state  
29 based on a sliding scale according to the volume of production or other factor  
30 as the bid variable but not less than 12.5 percent in amount or value of the  
31 production removed or sold from the lease;

1                                    (H) for nonconventional gas that will not be produced in  
2                                    direct competition with gas on which a royalty at a rate of at least 12.5  
3                                    percent is payable, a royalty share reserved to the state of at least 6.25  
4                                    percent in amount or value of the production removed or sold from the  
5                                    lease;

6                                    (4) notwithstanding a requirement in the leasing method chosen of a  
7                                    minimum fixed royalty share, on and after March 3, 1997, the lessee under a lease  
8                                    issued in the Cook Inlet sedimentary basin who is the first to file with the  
9                                    commissioner a nonconfidential sworn statement claiming to be the first to have  
10                                    drilled a well discovering oil or gas in a previously undiscovered oil or gas pool and  
11                                    who is certified by the commissioner within one year of completion of that discovery  
12                                    well to have drilled a well in that pool that is capable of producing in paying quantities  
13                                    shall pay a royalty of five percent on all production of oil or gas from that pool  
14                                    attributable to that lease for a period of 10 years following the date of discovery of that  
15                                    pool, and thereafter the royalty payable on all production of oil or gas from the pool  
16                                    attributable to that lease shall be determined and payable as specified in the lease; for  
17                                    purposes of this paragraph, the reduced royalty authorized by this paragraph is subject  
18                                    to the following:

19                                    (A) only one reduction of royalty authorized by this paragraph  
20                                    may be allowed on each lease that qualifies for reduction of royalty under this  
21                                    paragraph;

22                                    (B) if, under this paragraph, application is made for a royalty  
23                                    reduction for a lease that was entered into before March 3, 1997, the  
24                                    commissioner may approve the application only if, on that date, the lease was a  
25                                    nonproducing lease that was not committed to a unit approved by the  
26                                    commissioner under (m) of this section, that is not part of a unit under (p) or  
27                                    (q) of this section, and that has not been made part of a unit under AS 31.05;

28                                    (C) if application for a royalty reduction is made under this  
29                                    paragraph for a lease on which a discovery royalty was claimed or may be  
30                                    claimed under the discovery royalty provisions of former AS 38.05.180(a) in  
31                                    effect before May 6, 1969, the commissioner shall disallow the application

1 under this paragraph unless the applicant waives the right to claim the right to  
2 a reduced royalty under the discovery royalty provisions of former  
3 AS 38.05.180(a) in effect before May 6, 1969; and

4 (D) the commissioner shall adopt regulations setting out the  
5 standards, criteria, and definitions of terms that apply to implement the filing  
6 of applications for, and the review and certification of, discovery [OIL AND  
7 GAS ROYALTY] certifications under this paragraph;

8 (5) notwithstanding and in lieu of a requirement in the leasing method  
9 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases  
10 unitized as described in (p) of this section, leases subject to an agreement described in  
11 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of  
12 an oil or gas field identified in this section that has been granted approval of a written  
13 plan submitted to the Alaska Oil and Gas Conservation Commission under  
14 AS 31.05.030(i) shall, subject to (dd) of this section, pay a royalty of five percent on  
15 the first 25,000,000 barrels of oil and the first 35,000,000,000 cubic feet of gas  
16 produced for sale from that field that occurs in the 10 years following the date on  
17 which the production for sale commences; the fields eligible for royalty reduction  
18 under this paragraph, all of which are located within the Cook Inlet sedimentary basin,  
19 were discovered before January 1, 1988, and have been undeveloped or shut in from at  
20 least January 1, 1988, through December 31, 1997, are

21 (A) Falls Creek;

22 (B) Nicolai Creek;

23 (C) North Fork;

24 (D) Point Starichkof;

25 (E) Redoubt Shoal; and

26 (F) West Foreland;

27 (6) notwithstanding and in lieu of a requirement in the leasing method  
28 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases  
29 unitized as described in (p) of this section, leases subject to an agreement described in  
30 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of  
31 an oil field located offshore in Cook Inlet on which an oil production platform

1 specified in (A), (C), or (E) of this paragraph operates, or the lessee of all or part of the  
2 field located offshore in Cook Inlet and described in (G) of this paragraph,

3 (A) shall pay a royalty of five percent on oil produced from the  
4 platform if oil production that equaled or exceeded a volume of 1,200 barrels a  
5 day declines to less than that amount for a period of at least one calendar  
6 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for  
7 as long as the volume of oil produced from the platform remains less than  
8 1,200 barrels a day; the provisions of this subparagraph apply to

- 9 (i) Dolly;  
10 (ii) Grayling;  
11 (iii) King Salmon;  
12 (iv) Steelhead; and  
13 (v) Monopod;

14 (B) shall pay a royalty calculated under this subparagraph if the  
15 volume of oil produced from the platform that was certified by the Alaska Oil  
16 and Gas Conservation Commission under (A) of this paragraph later increases  
17 to 1,200 or more barrels a day and remains at 1,200 or more barrels a day for a  
18 period of at least one calendar quarter; until the royalty rate determined under  
19 this subparagraph applies, the royalty continues to be calculated under (A) of  
20 this paragraph; on and after the first day of the month following the month the  
21 increased production exceeds the period specified in this subparagraph, the  
22 royalty payable under this subparagraph is

- 23 (i) for production of at least 1,200 barrels a day but not  
24 more than 1,300 barrels a day - seven percent;  
25 (ii) for production of more than 1,300 barrels a day but  
26 not more than 1,400 barrels a day - 8.5 percent;  
27 (iii) for production of more than 1,400 barrels a day but  
28 not more than 1,500 barrels a day - 10 percent; and  
29 (iv) for production of more than 1,500 barrels a day -  
30 12.5 percent;

31 (C) shall pay a royalty of five percent on oil produced from the

1 platform if oil production that equaled or exceeded a volume of 975 barrels a  
2 day declines to less than that amount for a period of at least one calendar  
3 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for  
4 as long as the volume of oil produced from the platform remains less than 975  
5 barrels a day; the provisions of this subparagraph apply to

- 6 (i) Baker;
- 7 (ii) Dillon;
- 8 (iii) XTO.A; and
- 9 (iv) XTO.C;

10 (D) shall pay a royalty calculated under this subparagraph if the  
11 volume of oil produced from the platform that was certified by the Alaska Oil  
12 and Gas Conservation Commission under (C) of this paragraph later increases  
13 to 975 or more barrels a day and remains at 975 or more barrels a day for a  
14 period of at least one calendar quarter; until the royalty rate determined under  
15 this subparagraph applies, the royalty continues to be calculated under (C) of  
16 this paragraph; on and after the first day of the month following the month the  
17 increased production exceeds the period specified in this subparagraph, the  
18 royalty payable under this subparagraph is

- 19 (i) for production of at least 975 barrels a day but not  
20 more than 1,100 barrels a day - seven percent;
- 21 (ii) for production of more than 1,100 barrels a day but  
22 not more than 1,200 barrels a day - 8.5 percent;
- 23 (iii) for production of more than 1,200 barrels a day but  
24 not more than 1,350 barrels a day - 10 percent; and
- 25 (iv) for production of more than 1,350 barrels a day -  
26 12.5 percent;

27 (E) shall pay a royalty of five percent on oil produced from the  
28 platform if oil production that equaled or exceeded a volume of 750 barrels a  
29 day declines to less than that amount for a period of at least one calendar  
30 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for  
31 as long as the volume of oil produced from the platform remains less than 750

1 barrels a day; the provisions of this subparagraph apply to

2 (i) Granite Point;

3 (ii) Anna; and

4 (iii) Bruce;

5 (F) shall pay a royalty calculated under this subparagraph if the  
6 volume of oil produced from the platform that was certified by the Alaska Oil  
7 and Gas Conservation Commission under (E) of this paragraph later increases  
8 to 750 or more barrels a day and remains at 750 or more barrels a day for a  
9 period of at least one calendar quarter; until the royalty rate determined under  
10 this subparagraph applies, the royalty continues to be calculated under (E) of  
11 this paragraph; on and after the first day of the month following the month the  
12 increased production exceeds the period specified in this subparagraph, the  
13 royalty payable under this subparagraph is

14 (i) for production of at least 750 barrels a day but not  
15 more than 850 barrels a day - seven percent;

16 (ii) for production of more than 850 barrels a day but  
17 not more than 1,000 barrels a day - 8.5 percent;

18 (iii) for production of more than 1,000 barrels a day but  
19 not more than 1,200 barrels a day - 10 percent; and

20 (iv) for production of more than 1,200 barrels a day -  
21 12.5 percent;

22 (G) shall pay a royalty of five percent on oil produced from the  
23 field if oil production that equaled or exceeded a volume of 750 barrels a day  
24 declines to less than that amount for a period of at least one calendar quarter,  
25 as certified by the Alaska Oil and Gas Conservation Commission, for as long  
26 as the volume of oil produced from the field remains less than 750 barrels a  
27 day; the provisions of this subparagraph apply to the West McArthur River  
28 field;

29 (H) shall pay a royalty calculated under this subparagraph if the  
30 volume of oil produced from the field that was certified by the Alaska Oil and  
31 Gas Conservation Commission under (G) of this paragraph later increases to

1 750 or more barrels a day and remains at 750 or more barrels a day for a period  
2 of at least one calendar quarter; until the royalty rate determined under this  
3 subparagraph applies, the royalty continues to be calculated under (G) of this  
4 paragraph; on and after the first day of the month following the month the  
5 increased production exceeds the period specified in this subparagraph, the  
6 royalty payable under this subparagraph is

7 (i) for production of at least 750 barrels a day but not  
8 more than 850 barrels a day - seven percent;

9 (ii) for production of more than 850 barrels a day but  
10 not more than 1,000 barrels a day - 8.5 percent;

11 (iii) for production of more than 1,000 barrels a day but  
12 not more than 1,200 barrels a day - 10 percent; and

13 (iv) for production of more than 1,200 barrels a day -  
14 12.5 percent; and

15 (I) may obtain the benefits of the royalty adjustments set out in  
16 (A) - (H) of this paragraph only if the commissioner determines that the  
17 reduction in production from the platform or the field is

18 (i) based on the average daily production during the  
19 calendar quarter based on reservoir conditions; and

20 (ii) not the result of short-term production declines due  
21 to mechanical or other choke-back factors, temporary shutdowns or  
22 decreased production due to environmental or facility constraints, or  
23 market conditions.

24 \* **Sec. 33.** AS 38.05.180(h) is amended to read:

25 (h) The commissioner may include terms in any [OIL AND GAS] lease  
26 imposing a minimum work commitment on the lessee. These terms shall be made  
27 public before the sale, and may include appropriate penalty provisions to take effect in  
28 the event the lessee does not fulfill the minimum work commitment. If it is  
29 demonstrated that a lease has been proven unproductive by actions of adjacent lease  
30 holders, the commissioner may set aside a work commitment. The commissioner may  
31 waive for a period not to exceed one two-year period any term of a minimum work

1 commitment if the commissioner makes a written finding either that conditions  
2 preventing drilling or exploration were beyond the lessee's reasonable ability to  
3 foresee or control or that the lessee has demonstrated through good faith efforts an  
4 intent and ability to drill or develop the lease during the term of the waiver.

5 \* **Sec. 34.** AS 38.05.180(i) is amended to read:

6 (i) The commissioner may provide for the establishment of an exploration  
7 incentive credit system under which a lessee of state land drilling an exploratory well  
8 on that land may earn credits based upon the footage drilled and the region in which  
9 the well is situated. The commissioner may also provide for credits to be earned by  
10 persons performing geophysical work on state land, if that work is performed during  
11 the two seasons immediately preceding an announced lease sale and on land included  
12 within the sale area and the geophysical information is made public following the sale.  
13 Credits may not exceed 50 percent of the cost of the drilling or geophysical work.  
14 Credits may be used during a limited period established by the commissioner and may  
15 be assigned during that period. Credits may be applied against (1) [OIL AND GAS]  
16 royalty and rental payments for oil and gas or for gas only payable to the state or (2)  
17 taxes payable under AS 43.55. A credit may not exceed 50 percent of the payment  
18 toward which it is being applied. Amounts due the Alaska permanent fund  
19 (AS 37.13.010) shall be calculated before the application of credits under this  
20 subsection.

21 \* **Sec. 35.** AS 38.05.180(j) is amended to read:

22 (j) The commissioner

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

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

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

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

31 (iii) oil or gas production from the field or pool would

1 not otherwise be economically feasible;

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

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

8 (2) may not grant a royalty modification unless the lessee or lessees  
9 requesting the change make a clear and convincing showing that a modification of  
10 royalty meets the requirements of this subsection and is in the best interests of the  
11 state;

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

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

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

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

26 (5) may not grant a royalty reduction under this subsection without  
27 including an explicit condition that the royalty reduction is not assignable without the  
28 prior written approval, which may not be unreasonably withheld, by the  
29 commissioner; the commissioner shall, in the preliminary and final findings and  
30 determinations, set out the conditions under which the royalty reduction may be  
31 assigned;

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

4 (A) may require disclosure of only the financial and technical  
5 data related to development, production, and transportation of oil and gas or  
6 gas only from the field or pool that are reasonably available to the applicant;  
7 and

8 (B) shall keep the data confidential under AS 38.05.035(a)(9)  
9 at the request of the lessee or lessees making application for the royalty  
10 reduction; the confidential data may be disclosed by the commissioner to  
11 legislators and to the legislative auditor and as directed by the chair or vice-  
12 chair of the Legislative Budget and Audit Committee to the director of the  
13 division of legislative finance, the permanent employees of their respective  
14 divisions who are responsible for evaluating a royalty reduction, and to agents  
15 or contractors of the legislative auditor or the legislative finance director who  
16 are engaged under contract to evaluate the royalty reduction, if they sign an  
17 appropriate confidentiality agreement;

18 (7) may

19 (A) require the lessee or lessees making application for the  
20 royalty reduction under (1)(A) of this subsection to pay for the services of an  
21 independent contractor, selected by the lessee or lessees from a list of qualified  
22 consultants compiled by the commissioner, to evaluate hydrocarbon  
23 development, production, transportation, and economics and to assist the  
24 commissioner in evaluating the application and financial and technical data; if,  
25 under this subparagraph, the commissioner requires payment for the services of  
26 an independent contractor, the total cost of the services to be paid for by the  
27 lessee or lessees may not exceed \$150,000 for each application, and the  
28 commissioner shall determine the relevant scope of the work to be performed  
29 by the contractor; selection of an independent contractor under this  
30 subparagraph is not subject to AS 36.30;

31 (B) with the mutual consent of the lessee or lessees making

1 application for the royalty reduction under (1)(B) or (1)(C) of this subsection,  
2 request payment for the services of an independent contractor, selected from a  
3 list of qualified consultants to evaluate hydrocarbon development, production,  
4 transportation, and economics by the commissioner to assist the commissioner  
5 in evaluating the application and financial and technical data; if, under this  
6 subparagraph, the commissioner requires payment for the services of an  
7 independent contractor, the total cost of the services that may be paid for by  
8 the lessee or lessees may not exceed \$150,000 for each application, and the  
9 commissioner shall determine the relevant scope of the work to be performed  
10 by the contractor; selection of an independent contractor under this  
11 subparagraph is not subject to AS 36.30;

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

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

23 (10) shall make copies of the preliminary findings and determination  
24 available to

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

26 (B) the chairs of the legislature's standing committees on  
27 resources; and

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

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

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

3 (B) make a final findings and determination; the  
4 commissioner's final findings and determination prepared under this  
5 subparagraph regarding a royalty reduction is final and not appealable to the  
6 court;

7 (C) transmit a copy of the final findings and determination to  
8 the lessee;

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

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

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

16 \* Sec. 36. AS 38.05.180(l) is amended to read:

17 (l) Subject to the provisions of AS 31.05, the commissioner has discretion to  
18 enter into an agreement whereby, with the consent of the lessee, the state's royalty  
19 share of [OIL AND GAS] production of oil and gas or gas only may be stored or  
20 retained in storage by the lessee, or the commissioner may enter into an agreement  
21 with one or more of the affected field lease holders to trade current royalty production  
22 from a field for a like amount, kind, and quality of future production, on the condition  
23 that the state receives back its stored or traded royalty share during the first half of the  
24 estimated field life or no later than 15 years after start of production, whichever is  
25 sooner.

26 \* Sec. 37. AS 38.05.180(m) is amended to read:

27 (m) An oil and gas lease or a gas only lease must cover a reasonably compact  
28 area not exceeding 5,760 acres, and may be for a maximum period of 10 years, except  
29 that the commissioner may issue a lease for a period not less than five years upon a  
30 finding that it is in the best interests of the state. An oil and gas lease shall be  
31 automatically extended if and for so long thereafter as oil or gas is produced in paying

1 quantities from the lease or if the lease is committed to a unit approved by the  
2 commissioner, and a gas only lease shall be automatically extended if and for so  
3 long thereafter as gas is produced in paying quantities from the lease or if the  
4 lease is committed to a unit approved by the commissioner. A lease issued under  
5 this section covering land on which there is a well capable of producing oil or gas in  
6 paying quantities does not expire because the lessee fails to produce oil or gas unless  
7 the lessee is allowed reasonable time to place the well on a producing status. Upon  
8 extension, the commissioner may increase lease rentals so long as the increased rental  
9 rate does not exceed 150 percent of the rate for the preceding year. If drilling has  
10 commenced on the expiration date of the primary term of the lease and is continued  
11 with reasonable diligence, including such operations as redrilling, sidetracking, or  
12 other means necessary to reach the originally proposed bottom hole location, the lease  
13 continues in effect until 90 days after drilling has ceased and for so long thereafter as  
14 oil or gas is produced in paying quantities. An oil and gas lease or a gas only lease  
15 issued under this section which is subject to termination by reason of cessation of  
16 production does not terminate if, within 60 days after production ceases, reworking or  
17 drilling operations are commenced on the land under lease and are thereafter  
18 conducted with reasonable diligence during the period of nonproduction.

19 \* Sec. 38. AS 38.05.180(n) is amended to read:

20 (n) The commissioner may establish by regulation that after a well has been  
21 plugged and abandoned, the rental rate which was in effect during the year of  
22 abandonment is maintained for the remainder of the term. Rental is payable in  
23 advance and continues until income to the state from royalty or net profit share  
24 exceeds rental income to the state for that year. Under this subsection,

25 (1) [OIL AND GAS] leases for oil and gas or for gas only shall  
26 provide for payment to the state of rental on the following basis:

27 (A) [(1)] for the first year, \$1.00 per acre;

28 (B) [(2)] for the second year, \$1.50 per acre;

29 (C) [(3)] for the third year, \$2.00 per acre;

30 (D) [(4)] for the fourth year, \$2.50 per acre;

31 (E) [(5)] for the fifth and following years, \$3.00 per acre;

1                   (2) if the lessee under a gas only lease demonstrates to the  
2                   commissioner that the potential resources underlying the lease are reasonably  
3                   estimated to be only nonconventional gas, the rental payment is \$1.00 per acre  
4                   until the lease expires or paving quantities of conventional oil or gas are  
5                   discovered underlying the lease.

6 \* Sec. 39. AS 38.05.180(p) is amended to read:

7                   (p) To conserve the natural resources of all or a part of an oil or gas pool,  
8                   field, or like area, the lessees and their representatives may unite with each other, or  
9                   jointly or separately with others, in collectively adopting or operating under a  
10                  cooperative or a unit plan of development or operation of the pool, field, or like area,  
11                  or a part of it, when determined and certified by the commissioner to be necessary or  
12                  advisable in the public interest. The commissioner may, with the consent of the  
13                  holders of leases involved, establish, change, or revoke drilling, producing, and  
14                  royalty requirements of the leases and adopt regulations with reference to the leases,  
15                  with like consent on the part of the lessees, in connection with the institution and  
16                  operation of a cooperative or unit plan as the commissioner determines necessary or  
17                  proper to secure the proper protection of the public interest. The commissioner may  
18                  not reduce royalty on leases in connection with a cooperative or unit plan except as  
19                  provided in (j) of this section. The commissioner may require a lease [OIL AND  
20                  GAS LEASES] issued under this section to contain a provision requiring the lessee to  
21                  operate under a reasonable cooperative or unit plan, and may prescribe a plan under  
22                  which the lessee must operate. The plan must adequately protect all parties in interest,  
23                  including the state.

24 \* Sec. 40. AS 38.05.180 is amended by adding a new subsection to read:

25                  (ff) The provisions of this section that authorize oil and gas leases also apply  
26                  to authorize the commissioner to issue leases for the production of gas only. In  
27                  authorizing and managing leases under this subsection, the terms "oil and gas" or "oil  
28                  or gas" as they are used in this chapter may be read and applied as appropriate as  
29                  referring to gas only. When a lease is authorized as a gas only lease, the lease does  
30                  not give the lessee the right to produce oil. If a well drilling for gas under a gas only  
31                  lease authorized by this subsection penetrates a formation capable of producing oil, the

1 owner or operator

2 (1) shall notify the department and the Alaska Oil and Gas  
3 Conservation Commission; and

4 (2) may not conduct further operations in the drilled well until the  
5 facility complies with all applicable laws and regulations relating to oil and gas  
6 exploration and production; however, this paragraph does not prevent the owner or  
7 operator from conducting activities that may be required by the Alaska Oil and Gas  
8 Conservation Commission to plug, plug-back, or abandon a well.

9 \* Sec. 41. AS 38.05.860(a) is amended to read:

10 (a) The commissioner may require an applicant seeking the sale, lease, or  
11 other disposal of land or an interest in land, other than under an oil and gas lease, gas  
12 only lease, or mineral lease, to deposit an amount covering the estimated cost of an  
13 appraisal, survey, and other costs necessary to offer the land or interest in land,  
14 including advertising. All deposited funds not expended shall be refunded to the  
15 applicant. If the land or interest in land is awarded to a person other than the applicant  
16 making the deposit, the person awarded the land shall pay the total actual cost incurred  
17 by the department in making the disposal, and the deposit shall be returned to the  
18 original applicant. In lieu of requiring the deposit under this subsection, the  
19 commissioner may enter into an agreement with an applicant seeking land or an  
20 interest in land requiring the applicant to reimburse the department for costs incurred  
21 in the disposal if the applicant is awarded the land or interest in land.

22 \* Sec. 42. AS 38.05.860(c) is amended to read:

23 (c) The commissioner shall require each bidder for the competitive leasing of  
24 [OIL AND GAS] land for oil and gas, or for gas only, to submit with each bid a  
25 deposit of money equal to 20 percent of the bonus.

26 \* Sec. 43. AS 38.05.945(a) is amended to read:

27 (a) This section establishes the requirements for notice given by the  
28 department for the following actions:

29 (1) classification or reclassification of state land under AS 38.05.300  
30 and the closing of land to mineral leasing or entry under AS 38.05.185;

31 (2) zoning of land under applicable law;

1 (3) issuance of a  
2 (A) preliminary written finding under AS 38.05.035(e)(5)(A)  
3 regarding the sale, lease, or disposal of an interest in state land or resources for  
4 oil and gas, or for gas only, subject to AS 38.05.180(b);

5 (B) [REPEALED

6 (C)] written finding for the sale, lease, or disposal of an interest  
7 in state land or resources under AS 38.05.035(e)(6), except a [AN OIL OR  
8 GAS] lease sale described in AS 38.05.035(e)(6)(F) for which the director  
9 must provide opportunity for public comment under the provisions of that  
10 subparagraph;

11 (4) a competitive disposal of an interest in state land or resources after  
12 final decision under AS 38.05.035(e);

13 (5) a preliminary finding under AS 38.05.035(e) concerning sites for  
14 aquatic farms and related hatcheries;

15 (6) a decision under AS 38.05.132 - 38.05.134 regarding the sale,  
16 lease, or disposal of an interest in state land or resources.

17 \* **Sec. 44.** AS 38.05.965 is amended by adding a new paragraph to read:

18 (25) "nonconventional gas" means coal bed methane, shales containing  
19 gas, or gas hydrates.

20 \* **Sec. 45.** AS 38.06.080(2) is amended to read:

21 (2) "state lease" means an oil and gas lease or gas only lease on state  
22 land.

23 \* **Sec. 46.** AS 38.35.020(a) is amended to read:

24 (a) Rights-of-way on state land including rights-of-way over, under, along,  
25 across, or upon the right-of-way of a public road or highway or the right-of-way of a  
26 railroad or other public utility, or across, upon, over, or under a river or other body of  
27 water or land belonging to or administered by the state may be granted by  
28 noncompetitive lease by the commissioner for pipeline purposes for the transportation  
29 of oil, products, or natural gas under those conditions prescribed by law or by  
30 administrative regulation. Except to the extent authorized by an oil and gas lease, a  
31 gas only lease, or an oil and gas or gas only unit agreement approved by the state, no

1 person may engage in any construction or operation of any part of an oil, products, or  
2 natural gas pipeline, which in whole or in part is or is proposed to be on state land  
3 unless that person has obtained from the commissioner a right-of-way lease of the land  
4 under this chapter.

5 \* Sec. 47. AS 43.20.072(c) is amended to read:

6 (c) A taxpayer's business income shall be apportioned to this state by  
7 multiplying the taxpayer's income determined under (b) of this section by the  
8 apportionment factor applicable to the taxpayer among the following factors:

9 (1) the apportionment factor of a taxpayer subject to this section but  
10 not engaged in the production of oil and gas, or of gas only, as appropriate, from a  
11 lease or property in this state during the tax period is a fraction, the numerator of  
12 which is the sum of the property factor under AS 43.19 (Multistate Tax Compact) and  
13 the sales factor under (d) of this section for the taxpayer for that tax period, and the  
14 denominator of which is two;

15 (2) the apportionment factor of a taxpayer subject to this section but  
16 not engaged in the pipeline transportation of oil or gas in this state during the tax  
17 period is a fraction, the numerator of which is the sum of the property factor under (e)  
18 of this section and the extraction factor under (f) of this section for the taxpayer for the  
19 tax period, and the denominator of which is two;

20 (3) the apportionment factor of a taxpayer engaged both in the  
21 production of oil or gas from a lease or property in this state and in the pipeline  
22 transportation of oil or gas in this state during the tax period is a fraction, the  
23 numerator of which is the sum of the sales factor under (d) of this section, the property  
24 factor under (e) of this section, and the extraction factor under (f) of this section for  
25 the taxpayer for the tax period, and the denominator of which is three.

26 \* Sec. 48. AS 43.55.025(a) is amended to read:

27 (a) Subject to the terms and conditions of this section, on oil and gas produced  
28 from an oil and gas lease, or on gas produced from a gas only lease, on or after  
29 July 1, 2004, a credit against the tax due under this chapter is allowed in an amount  
30 equal to

31 (1) 20 percent of the total exploration expenditures that qualify under

1 (b) and (c) of this section, 20 percent of the total exploration expenditures that qualify  
2 under (b) and (d) of this section, or both, for a total credit that does not exceed 40  
3 percent of the total exploration expenditures; or

4 (2) 40 percent of the total exploration expenditures that qualify under  
5 (b) and (e) of this section, for a total production tax credit that does not exceed 40  
6 percent of the total qualified exploration expenditures.

7 \* Sec. 49. AS 43.55.900(9) is amended to read:

8 (9) "lease or property" means any right, title, or interest in or the right  
9 to produce or recover oil or gas including:

10 (A) a mineral interest,

11 (B) a leasehold interest,

12 (C) a working interest, royalty interest, overriding royalty  
13 interest, production payment, net profit interest or any other interest in a lease,  
14 concession, joint venture, or other agreement for [OIL AND GAS] exploration,  
15 development, or production of oil and gas or of gas only.

16 (D) a working interest, royalty interest, overriding royalty  
17 interest, production payment, net profit interest or any other interest in an  
18 agreement for unitization or pooling under the provisions of 26 U.S.C.  
19 614(b)(3) (Internal Revenue Code) as defined on January 1, 1974;

20 \* Sec. 50. AS 46.03.100(f) is amended to read:

21 (f) This section does not apply to discharges of solid or liquid waste material  
22 or water discharges from the following activities if the discharge is incidental to the  
23 activity and the activity does not produce a discharge from a point source, as that term  
24 is defined in regulations adopted under this chapter, directly into any surface water of  
25 the state:

26 (1) mineral drilling, trenching, ditching, and similar activities;

27 (2) landscaping;

28 (3) water well drilling, geophysical drilling, or nonconventional  
29 [COAL BED METHANE DRILLING OR OTHER NATURAL] gas drilling; for  
30 purposes of this paragraph, "nonconventional gas" has the meaning given in  
31 AS 38.05.965 [TO RECOVER GAS FROM A FIELD IF A PART OF THE FIELD IS

1           WITHIN 3,000 FEET OF THE SURFACE]; or

2                       (4) drilling, ditching, trenching, and similar activities associated with  
3 facility construction and maintenance or with road or other transportation facility  
4 construction and maintenance; however, the exemption provided by this paragraph  
5 does not relieve a person from obtaining a permit under this section if

6                               (A) the drilling, ditching, trenching, or similar activity will  
7 involve the removal of the groundwater, stormwater, or wastewater runoff that  
8 has accumulated and is present at an excavation site for facility, road, or other  
9 transportation construction or maintenance; and

10                               (B) a permit is otherwise required by this section.

11 \* Sec. 51. AS 46.04.030(b) is amended to read:

12           (b) A person may not cause or permit the operation of a pipeline or an  
13 exploration or production facility in the state unless an oil discharge prevention and  
14 contingency plan for the pipeline or facility has been approved by the department and  
15 the person is in compliance with the plan. This subsection does not apply to an  
16 exploration or production facility used solely to explore for or to develop or produce  
17 nonconventional [SHALLOW NATURAL] gas resources, except that this exemption  
18 does not apply if the Alaska Oil and Gas Conservation Commission determines under  
19 AS 31.05.030(j) that

20                               (1) a well drilled for nonconventional [SHALLOW NATURAL] gas  
21 may penetrate a formation capable of flowing oil; and

22                               (2) the volume of oil encountered will be of such quantities that a  
23 contingency plan will be required.

24 \* Sec. 52. AS 46.04.040(b) is amended to read:

25           (b) A person may not cause or permit the operation of a pipeline or an  
26 exploration or production facility in the state unless the person has furnished to the  
27 department, and the department has approved, proof of financial ability to respond in  
28 damages. Proof of financial responsibility required for

29                               (1) a pipeline or an offshore exploration or production facility is  
30 \$50,000,000 per incident;

31                               (2) an onshore production facility is

1 (A) \$20,000,000 per incident if the facility produces over  
2 10,000 barrels per day of oil;

3 (B) \$10,000,000 per incident if the facility produces over 5,000  
4 barrels per day but not more than 10,000 barrels per day of oil;

5 (C) \$5,000,000 per incident if the facility produces over 2,500  
6 barrels per day but not more than 5,000 barrels per day of oil;

7 (D) \$1,000,000 per incident if the facility produces 2,500  
8 barrels per day or less of oil;

9 (3) an onshore exploration facility is

10 (A) \$25,000 per incident for a facility used solely to explore for  
11 nonconventional [SHALLOW NATURAL] gas by means of drilling a well to  
12 explore for the gas [, WHETHER METHANE ASSOCIATED WITH AND  
13 DERIVED FROM COAL DEPOSITS OR OTHERWISE, FROM A FIELD IF  
14 A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE SURFACE]; and

15 (B) except as provided by (A) of this paragraph, \$1,000,000 per  
16 incident.

17 \* Sec. 53. AS 46.04.900 is amended by adding a new paragraph to read:

18 (31) "nonconventional gas" has the meaning given in AS 38.05.965.

19 \* Sec. 54. AS 46.40.205 is amended to read:

20 **Sec. 46.40.205. Consistency determinations for certain activities involving**  
21 **nonconventional [SHALLOW NATURAL] gas.** (a) When conducted under  
22 oversight and regulation of the Alaska Oil and Gas Conservation Commission and the  
23 state's resource agencies, projects for the exploration and development of  
24 nonconventional [SHALLOW NATURAL] gas are consistent with the program  
25 described in this chapter. Persons responsible for activities subject to this section shall  
26 obtain all required permits and approvals from municipal, state, and federal agencies  
27 as otherwise required by law.

28 (b) In this section, "nonconventional [SHALLOW NATURAL] gas" has the  
29 meaning given in AS 38.05.965 [AS 46.04.900].

30 \* Sec. 55. AS 46.40.210(12) is amended to read:

31 (12) "uses of state concern" means those land and water uses that

1 would significantly affect the long-term public interest; "uses of state concern" include

2 (A) uses of national interest, including the use of resources for  
3 the siting of ports and major facilities that contribute to meeting national  
4 energy needs, construction and maintenance of navigational facilities and  
5 systems, resource development of federal land, and national defense and  
6 related security facilities that are dependent upon coastal locations;

7 (B) uses of more than local concern, including those land and  
8 water uses that confer significant environmental, social, cultural, or economic  
9 benefits or burdens beyond a single coastal resource district;

10 (C) the siting of major energy facilities, activities pursuant to a  
11 state oil and gas lease, a state gas only lease, or a federal oil and gas lease, or  
12 large-scale industrial or commercial development activities that are dependent  
13 on a coastal location and that, because of their magnitude or the magnitude of  
14 their effect on the economy of the state or the surrounding area, are reasonably  
15 likely to present issues of more than local significance;

16 (D) facilities serving statewide or interregional transportation  
17 and communication needs; and

18 (E) uses in areas established as state parks or recreational areas  
19 under AS 41.21 or as state game refuges, game sanctuaries, or critical habitat  
20 areas under AS 16.20.

21 \* **Sec. 56.** AS 31.05.170(14); AS 38.05.177(b), 38.05.177(c), 38.05.177(d), 38.05.177(e),  
22 38.05.177(f), 38.05.177(g), 38.05.177(h), 38.05.177(j), 38.05.177(k), 38.05.177(m),  
23 38.05.177(o); and AS 46.04.900(25) are repealed.

24 \* **Sec. 57.** The uncodified law of the State of Alaska is amended by adding a new section to  
25 read:

26 CERTAIN SHALLOW NATURAL GAS LEASES AND LEASE APPLICATIONS  
27 TO BE ADMINISTERED UNDER FORMER LAW. The provisions of AS 38.05.177(a) and  
28 (l), amended by secs. 26 and 27 of this Act, as those provisions read on the day before the  
29 effective date of amendment of those subsections, and the provisions of AS 38.05.177(b) -  
30 (h), (j), (k), (m), and (o), repealed by sec. 56 of this Act, as those provisions read on the day  
31 before the effective date of the repeal of those subsections, apply to shallow natural gas

- 1                   (1) leases issued under AS 38.05.177 and in effect on December 31, 2003; and
- 2                   (2) lease applications under AS 38.05.177 that were received by the
- 3 Department of Natural Resources before January 1, 2004.

4    \* **Sec. 58.** This Act takes effect immediately under AS 01.10.070(c).

23-LS1818\V  
Chenoweth  
4/15/04

**CS FOR HOUSE BILL NO. 531(RES)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE HOUSE RESOURCES COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): HOUSE RESOURCES COMMITTEE**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to natural gas exploration and development and to nonconventional**  
2 **gas, and amending the section under which shallow natural gas leases may be issued;**  
3 **and providing for an effective date."**

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

5 **\* Section 1.** AS 14.40.365(a) is amended to read:

6 (a) The University of Alaska may select and is entitled to receive the  
7 conveyance of not less than 250,000 and not more than 260,000 acres of land  
8 conveyed to the state under sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72  
9 Stat. 339). The Board of Regents of the University of Alaska shall periodically submit  
10 a list of selections to the commissioner of natural resources and, if the list of selections  
11 contains land within the boundaries of a municipality, the Board of Regents of the  
12 University of Alaska shall submit the list to the municipality. The Board of Regents  
13 and the commissioner of natural resources shall periodically and jointly submit to the  
14 legislature, within 30 days of the beginning of a regular legislative session, a list of the

1 selections of land proposed to be conveyed by the state to the University of Alaska  
2 under this section. If the list submitted to the legislature contains land within the  
3 boundaries of a municipality, the Board of Regents and the commissioner of natural  
4 resources shall provide a copy of the list to the municipality. Each list must contain  
5 not more than 25 percent of the total acres of land to which the university is entitled  
6 after subtracting previous conveyances under this section, but not less than 25,000  
7 acres or the remaining entitlement under this section, whichever is less. A list of  
8 selections submitted shall be considered approved for conveyance to the University of  
9 Alaska unless the legislature acts to disapprove the list during the legislative session  
10 during which the list was submitted. If the amount of land to be conveyed exceeds the  
11 balance due the university under this section, the university shall set out the land to be  
12 conveyed in priority order. Land may not be selected if, on the date of its selection by  
13 the university, it

14 (1) is identified in AS 16.20, AS 41.15.300 - 41.15.330, or AS 41.21 or  
15 has been reserved by law from the public domain;

16 (2) is located within a municipality unless the land is vacant,  
17 unappropriated, unreserved land; if land included on the list of selections is selected  
18 by the municipality with remaining selection rights under AS 29.65 within 120 days of  
19 receiving the Board of Regents' list of selections under this subsection, the university  
20 may not select the land unless a binding agreement between the university and the  
21 municipality is negotiated to allow the selection; if the municipal selection is  
22 disapproved, in whole or in part, the university may select the land, or any available  
23 portion of the land, and that selection will relate back to the date of the Board of  
24 Regents' list of selections under this subsection and shall have priority over all other  
25 selections or claims made subsequent to that notice; in this paragraph, "vacant,  
26 unappropriated, unreserved land" has the meaning given in AS 29.65.130;

27 (3) is land

28 (A) included in a five-year proposed [OIL AND GAS] leasing  
29 program under AS 38.05.180(b); or

30 (B) leased under, or for which a lease application is pending  
31 under, AS 38.05.180(d) or 38.05.150;

- 1 (4) is subject to  
2 (A) an oil, gas, or coal lease, or coal prospecting permit;  
3 (B) a mining claim, offshore prospecting permit, a prospecting  
4 site, an upland mining lease, or a mining leasehold location;  
5 (5) is necessary to carry out the purpose of an interagency land  
6 management agreement; or  
7 (6) is subject to conveyance under a land exchange or land settlement  
8 agreement.

9 \* Sec. 2. AS 14.40.365(e) is amended to read:

- 10 (e) The list of selections of land submitted to the legislature may not include a  
11 land selection made by the University of Alaska under this section if the commissioner  
12 of natural resources determines in writing that the proposed selection  
13 (1) includes land that the commissioner, in consultation with the  
14 commissioner of fish and game, determines has demonstrated value to the public as a  
15 habitat area that is especially critical to the perpetuation of fish or wildlife;  
16 (2) includes land for which, at the time of its selection under this  
17 section, a municipality has made a selection under AS 29.65 unless the land selection  
18 is, at a later date, rejected by the commissioner of natural resources or relinquished by  
19 the municipality;  
20 (3) includes land that the commissioner reasonably believes may be  
21 selected by a newly formed municipality under AS 29.65.030, but the commissioner  
22 may not withhold selection under this paragraph for more than three years after the  
23 municipality's incorporation;  
24 (4) includes land within the boundaries of a municipality, the  
25 municipality has a remaining entitlement under AS 29.65, and the municipality selects  
26 the land under AS 29.65 within 120 days after receipt by the municipality of the Board  
27 of Regents' list of selections under (a) of this section;  
28 (5) includes land that, at the time of its selection under this section,  
29 (A) is subject to an [OIL AND GAS] exploration license  
30 issued under AS 38.05.131 - 38.05.134; or  
31 (B) the commissioner reasonably believes will be made part of

1 an [OIL AND GAS] exploration license issued under AS 38.05.131 -  
2 38.05.134; the commissioner may not refuse to convey title to land to the  
3 University of Alaska under this subparagraph for more than two years after its  
4 first selection by the University of Alaska; or

5 (6) includes land the commissioner of natural resources reasonably  
6 believes would not be in the best interests of the state to convey outside of state  
7 ownership.

8 \* Sec. 3. AS 19.40.200(b) is amended to read:

9 (b) The prohibition on disposal of state land under (a) of this section does not  
10 apply to a disposal

11 (1) to a licensed public utility or a licensed common carrier under  
12 AS 38.05.810(e);

13 (2) for the reauthorization of leases that were in effect on January 1,  
14 1994, for nonresidential purposes within the following development nodes:

15 (A) Coldfoot:

16 Township 28 North, Range 12 West, Fairbanks Meridian

17 Sections 3 - 4

18 Sections 9 - 10

19 Sections 15 - 16

20 Sections 20 - 22

21 (B) Yukon River Crossing:

22 Township 12 North, Range 10 West, Fairbanks Meridian

23 Sections 6 - 7

24 Township 12 North, Range 11 West, Fairbanks Meridian

25 Sections 1 - 2

26 Section 12

27 Township 13 North, Range 10 West, Fairbanks Meridian

28 Sections 29 - 32

29 Township 13 North, Range 11 West, Fairbanks Meridian

30 Section 22

31 Sections 25 - 27

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Sections 34 - 36

(3) for nonresidential development within the following development

nodes:

(A) Deadhorse:

Township 10 North, Range 14 East, Umiat Meridian

Township 10 North, Range 15 East, Umiat Meridian

Section 8

Sections 17 - 20

Section 30

(B) Coldfoot:

Township 28 North, Range 12 West, Fairbanks Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

Sections 20 - 22

Township 29 North, Range 12 West, Fairbanks Meridian

Sections 23 - 27

Sections 34 - 35

(C) Franklin Bluffs:

Township 4 North, Range 14 East, Umiat Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

(D) Happy Valley:

Township 3 South, Range 14 East, Umiat Meridian

Sections 19 - 20

Sections 29 - 30

(E) Yukon River Crossing:

Township 12 North, Range 10 West, Fairbanks Meridian

Sections 6 - 7

Township 12 North, Range 11 West, Fairbanks Meridian

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Township 13 North, Range 10 West, Fairbanks Meridian  
Sections 29 - 32  
Township 13 North, Range 11 West, Fairbanks Meridian  
Section 22  
Sections 25 - 27  
Sections 34 - 36; or

(4) necessary for

(A) an oil and gas lease or gas only lease under AS 38.05.180;

(B) exploration, development, production, or transportation of oil and gas north of 68 degrees north latitude; or

(C) a state lease or materials sale for

(i) exploration, development, production, or transportation of oil or [AND] gas;

(ii) reconstruction or maintenance of state highways; or

(iii) construction or maintenance of airports.

\* Sec. 4. AS 31.05.030(j) is amended to read:

(j) For exploration and development operations involving nonconventional gas, the commission

(1) may not

(A) issue a permit to drill under this chapter if the well would be used to produce gas from an aquifer that serves as a source of water for human consumption or agricultural purposes unless the commission finds that the well will not adversely affect the aquifer as a source of water for human consumption or agricultural purposes; or

(B) allow injection of produced water except at depths below known sources of water for human consumption or agricultural purposes;

(2) shall

(A) regulate hvdraulic fracturing in nonconventional gas

1                   wells to assure protection of drinking water quality;

2                               (B) regulate the disposal of wastes produced from the  
3                   operations unless the disposal is otherwise subject to regulation by the  
4                   Department of Environmental Conservation or the Environmental  
5                   Protection Agency; and

6                               (C) for the purposes of AS 46.04.030(b), [THE  
7                   COMMISSION SHALL] determine whether a well drilled for  
8                   nonconventional [SHALLOW NATURAL] gas may penetrate a formation  
9                   capable of flowing oil and, if so, whether the volume of oil encountered will be  
10                  of such quantities that an oil discharge prevention and contingency plan will be  
11                  required.

12       \* Sec. 5. AS 31.05.060(c) is amended to read:

13                   (c) Notwithstanding the requirements of (a) and (b) of this section that relate  
14                  to fixing a date for a hearing and causing notice of the hearing to be given, for an  
15                  action under this chapter that involves the exploration for or development of  
16                  nonconventional [SHALLOW NATURAL] gas and that has application to a single  
17                  well or a single field, upon the request of a lessee or operator, the commission may,  
18                  where operations might be unduly delayed, approve a variance from the commission's  
19                  regulations that apply to the well or field without providing notice and opportunity to  
20                  be heard. In the exercise of its authority to issue the variance,

21                               (1) the commission may approve the variance if

22                                       (A) the approval provides at least an equally effective means of  
23                                       accomplishing the requirement set out in the commission's regulation; or

24                                       (B) the commission determines that the request is more  
25                                       appropriate to the proposed operation than compliance with the requirement of  
26                                       the regulation; and

27                               (2) the terms of the approval of the variance may include exempting  
28                  the lessee or operator from a requirement of a regulation if the commission determines  
29                  that the requirement is not necessary or not suited to the well or field taking into  
30                  consideration

31                                       (A) the nature of the operation involved;

1 (B) the characteristics of the well or field for which the  
2 variance is sought; and

3 (C) the reasonably anticipated risks of the exemption from the  
4 requirement to human safety and the environment.

5 \* **Sec. 6.** AS 31.05.170 is amended by adding a new paragraph to read:

6 (16) "nonconventional gas" has the meaning given in AS 38.05.965.

7 \* **Sec. 7.** AS 36.30.850(b)(25) is amended to read:

8 (25) acquisition of confidential seismic survey data necessary for pre-  
9 sale oil and gas lease or gas only lease analyses under AS 38.05.180;

10 \* **Sec. 8.** AS 36.30.850(b)(33) is amended to read:

11 (33) contracts between the Department of Natural Resources and  
12 contractors qualified to evaluate hydrocarbon development, production, transportation,  
13 and economics, to assist the commissioner of natural resources in evaluating  
14 applications for [OIL AND GAS] royalty increases or decreases or other [OIL AND  
15 GAS] royalty adjustments, and evaluating the related financial and technical data,  
16 entered into under AS 38.05.180(j);

17 \* **Sec. 9.** AS 38.04.065(i) is amended to read:

18 (i) An oil and gas lease sale or gas only lease sale is not subject to this  
19 section. Oil and gas lease sales and gas only lease sales are subject to the planning  
20 process established under AS 38.05.180.

21 \* **Sec. 10.** AS 38.05.035(e) is amended to read:

22 (e) Upon a written finding that the interests of the state will be best served, the  
23 director may, with the consent of the commissioner, approve contracts for the sale,  
24 lease, or other disposal of available land, resources, property, or interests in them. In  
25 approving a contract under this subsection, the director need only prepare a single  
26 written finding. In addition to the conditions and limitations imposed by law, the  
27 director may impose additional conditions or limitations in the contracts as the director  
28 determines, with the consent of the commissioner, will best serve the interests of the  
29 state. The preparation and issuance of the written finding by the director are subject to  
30 the following:

31 (1) with the consent of the commissioner and subject to the director's

1 discretion, for a specific proposed disposal of available land, resources, or property, or  
2 of an interest in them, the director, in the written finding,

3 (A) shall establish the scope of the administrative review on  
4 which the director's determination is based, and the scope of the written  
5 finding supporting that determination; the scope of the administrative review  
6 and finding may address only reasonably foreseeable, significant effects of the  
7 uses proposed to be authorized by the disposal;

8 (B) may limit the scope of an administrative review and finding  
9 for a proposed disposal to

10 (i) applicable statutes and regulations;

11 (ii) the facts pertaining to the land, resources, or  
12 property, or interest in them, that the director finds are material to the  
13 determination and that are known to the director or knowledge of which  
14 is made available to the director during the administrative review; and

15 (iii) issues that, based on the statutes and regulations  
16 referred to in (i) of this subparagraph, on the facts as described in (ii) of  
17 this subparagraph, and on the nature of the uses sought to be authorized  
18 by the disposal, the director finds are material to the determination of  
19 whether the proposed disposal will best serve the interests of the state;  
20 and

21 (C) may, if the project for which the proposed disposal is  
22 sought is a multiphased development, limit the scope of an administrative  
23 review and finding for the proposed disposal to the applicable statutes and  
24 regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that  
25 pertain solely to the disposal phase of the project when

26 (i) the only uses to be authorized by the proposed  
27 disposal are part of that phase;

28 (ii) the disposal is a [AN OIL AND GAS] disposal of  
29 oil and gas, or of gas only, and, before the next phase of the project  
30 may proceed, public notice and the opportunity to comment are  
31 provided under regulations adopted by the department unless the

1 project is subject to a consistency review under AS 46.40 and public  
2 notice and the opportunity to comment are provided under  
3 AS 46.40.096(c);

4 (iii) the department's approval is required before the  
5 next phase of the project may proceed; and

6 (iv) the department describes its reasons for a decision  
7 to phase;

8 (2) the director shall discuss in the written finding prepared and issued  
9 under this subsection the reasons that each of the following was not material to the  
10 director's determination that the interests of the state will be best served:

11 (A) facts pertaining to the land, resources, or property, or an  
12 interest in them other than those that the director finds material under (1)(B)(ii)  
13 of this subsection; and

14 (B) issues based on the statutes and regulations referred to in  
15 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this  
16 subsection;

17 (3) a written finding for an oil and gas lease sale or gas only lease sale  
18 under AS 38.05.180 is subject to (g) of this section;

19 (4) a contract for the sale, lease, or other disposal of available land or  
20 an interest in land is not legally binding on the state until the commissioner approves  
21 the contract, but if the appraised value is not greater than \$50,000 in the case of the  
22 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or  
23 interest in land, the director may execute the contract without the approval of the  
24 commissioner;

25 (5) public notice requirements relating to the sale, lease, or other  
26 disposal of available land or an interest in land for oil and gas, or for gas only,  
27 proposed to be scheduled in the five-year oil and gas leasing program under  
28 AS 38.05.180(b), except for a sale under (6)(F) of this subsection, are as follows:

29 (A) before a public hearing, if held, or in any case not less than  
30 180 days before the sale, lease, or other disposal of available land or an interest  
31 in land, the director shall make available to the public a preliminary written

1 finding that states the scope of the review established under (1)(A) of this  
2 subsection and includes the applicable statutes and regulations, the material  
3 facts and issues in accordance with (1)(B) of this subsection, and information  
4 required by (g) of this section, upon which the determination that the sale,  
5 lease, or other disposal will serve the best interests of the state will be based;  
6 the director shall provide opportunity for public comment on the preliminary  
7 written finding for a period of not less than 60 days;

8 (B) after the public comment period for the preliminary written  
9 finding and not less than 90 days before the sale, lease, or other disposal of  
10 available land or an interest in land for oil and gas or for gas only, the director  
11 shall make available to the public a final written finding that states the scope of  
12 the review established under (1)(A) of this subsection and includes the  
13 applicable statutes and regulations, the material facts and issues in accordance  
14 with (1) of this subsection, and information required by (g) of this section,  
15 upon which the determination that the sale, lease, or other disposal will serve  
16 the best interests of the state is based;

17 (6) before a public hearing, if held, or in any case not less than 21 days  
18 before the sale, lease, or other disposal of available land, property, resources, or  
19 interests in them other than a sale, lease, or other disposal of available land or an  
20 interest in land for oil and gas or for gas only under (5) of this subsection, the director  
21 shall make available to the public a written finding that, in accordance with (1) of this  
22 subsection, sets out the material facts and applicable statutes and regulations and any  
23 other information required by statute or regulation to be considered upon which the  
24 determination that the sale, lease, or other disposal will best serve the interests of the  
25 state was based; however, a written finding is not required before the approval of

26 (A) a contract for a negotiated sale authorized under  
27 AS 38.05.115;

28 (B) a lease of land for a shore fishery site under AS 38.05.082;

29 (C) a permit or other authorization revocable by the  
30 commissioner;

31 (D) a mineral claim located under AS 38.05.195;

1 (E) a mineral lease issued under AS 38.05.205;

2 (F) an exempt oil and gas lease sale or gas only lease sale  
3 under AS 38.05.180(d) of acreage subject to a best interest finding issued  
4 within the previous 10 years or a reoffer oil and gas lease sale or gas only  
5 lease sale under AS 38.05.180(w) of acreage subject to a best interest finding  
6 issued within the previous 10 years, unless the commissioner determines that  
7 substantial new information has become available that justifies a supplement to  
8 the most recent best interest finding for the exempt oil and gas lease sale or  
9 gas only lease sale acreage and for the reoffer oil and gas lease sale or gas  
10 only lease sale acreage; however, for each oil and gas lease sale or gas only  
11 lease sale described in this subparagraph, the director shall call for comments  
12 from the public; the director's call for public comments must provide  
13 opportunity for public comment for a period of not less than 30 days; if the  
14 director determines that a supplement to the most recent best interest finding  
15 for the acreage is required under this subparagraph,

16 (i) the director shall issue the supplement to the best  
17 interest finding not later than 90 days before the sale;

18 (ii) not later than 45 days before the sale, the director  
19 shall issue a notice describing the interests to be offered, the location  
20 and time of the sale, and the terms and conditions of the sale; and

21 (iii) the supplement has the status of a final written best  
22 interest finding for purposes of (i) and (l) of this section;

23 (G) [A SHALLOW GAS LEASE AUTHORIZED UNDER  
24 AS 38.05.177 IN AN AREA FOR WHICH LEASING IS AUTHORIZED  
25 UNDER AS 38.05.177;

26 (H)] a surface use lease under AS 38.05.255;

27 (H) [(I)] a permit, right-of-way, or easement under  
28 AS 38.05.850;

29 (7) the director shall include in

30 (A) a preliminary written finding, if required, a summary of  
31 agency and public comments, if any, obtained as a result of contacts with other

1 agencies concerning a proposed disposal or as a result of informal efforts  
2 undertaken by the department to solicit public response to a proposed disposal,  
3 and the department's preliminary responses to those comments; and

4 (B) the final written finding a summary of agency and public  
5 comments received and the department's responses to those comments.

6 \* Sec. 11. AS 38.05.035(g) is amended to read:

7 (g) Notwithstanding (e)(1)(A) and (B) of this section, when the director  
8 prepares a written finding required under (e) of this section for an oil and gas lease  
9 sale or a gas only lease sale scheduled under AS 38.05.180, the director shall consider  
10 and discuss

11 (1) in a preliminary or final written finding facts that are known to the  
12 director at the time of preparation of the finding and that are

13 (A) material to issues that were raised during the period  
14 allowed for receipt of public comment, whether or not material to a matter set  
15 out in (B) of this paragraph, and within the scope of the administrative review  
16 established by the director under (e)(1) of this section; or

17 (B) material to the following matters:

18 (i) property descriptions and locations;

19 (ii) the petroleum potential of the sale area, in general  
20 terms;

21 (iii) fish and wildlife species and their habitats in the  
22 area;

23 (iv) the current and projected uses in the area, including  
24 uses and value of fish and wildlife;

25 (v) the governmental powers to regulate the [OIL AND  
26 GAS] exploration, development, production, and transportation of oil  
27 and gas or of gas only;

28 (vi) the reasonably foreseeable cumulative effects of  
29 [OIL AND GAS] exploration, development, production, and  
30 transportation for oil and gas or for gas only on the sale area,  
31 including effects on subsistence uses, fish and wildlife habitat and

1 populations and their uses, and historic and cultural resources;

2 (vii) lease stipulations and mitigation measures,  
3 including any measures to prevent and mitigate releases of oil and  
4 hazardous substances, to be included in the leases, and a discussion of  
5 the protections offered by these measures;

6 (viii) the method or methods most likely to be used to  
7 transport oil or gas from the lease sale area, and the advantages,  
8 disadvantages, and relative risks of each;

9 (ix) the reasonably foreseeable fiscal effects of the lease  
10 sale and the subsequent activity on the state and affected municipalities  
11 and communities, including the explicit and implicit subsidies  
12 associated with the lease sale, if any;

13 (x) the reasonably foreseeable effects of [OIL AND  
14 GAS] exploration, development, production, and transportation  
15 involving oil and gas or gas only on municipalities and communities  
16 within or adjacent to the lease sale area; and

17 (xi) the bidding method or methods adopted by the  
18 commissioner under AS 38.05.180; and

19 (2) the basis for the director's preliminary or final finding, as  
20 applicable, that, on balance, leasing the area would be in the state's best interest.

21 \* **Sec. 12.** AS 38.05.036(a) is amended to read:

22 (a) The department may conduct audits regarding royalty and net profits under  
23 oil and gas contracts, agreements, or leases under this chapter and regarding costs  
24 related to [OIL AND GAS] exploration licenses entered into under AS 38.05.131 -  
25 38.05.134 and exploration incentive credits under this chapter or under AS 41.09. For  
26 purposes of audit under this section,

27 (1) the department may examine the books, papers, records, or  
28 memoranda of a person regarding matters related to the audit; and

29 (2) the records and premises where a business is conducted shall be  
30 open at all reasonable times for inspection by the department.

31 \* **Sec. 13.** AS 38.05.127(e) is amended to read:

1 (e) The establishment of easements or rights-of-way for oil and gas, gas only,  
2 and mineral leases under (a) of this section need not be made until the leases are ready  
3 to be developed.

4 \* Sec. 14. AS 38.05.131(a) is amended to read:

5 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the  
6 provisions of AS 38.05.005 - 38.05.037, 38.05.140(f), 38.05.180, 38.05.182 -  
7 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of [OIL AND GAS]  
8 exploration licenses and leases for oil and gas, or for gas only, as appropriate,  
9 under AS 38.05.132 - 38.05.134.

10 \* Sec. 15. AS 38.05.132(a) is amended to read:

11 (a) To encourage exploration for oil and gas on state land, the commissioner  
12 may issue [OIL AND GAS] exploration licenses. The commissioner may limit the  
13 exploration licenses under AS 38.05.132 - 38.05.134 to exploration for and  
14 recovery of gas only.

15 \* Sec. 16. AS 38.05.132(b) is amended to read:

16 (b) An [OIL AND GAS] exploration license issued under this section gives  
17 the licensee

18 (1) the exclusive right to explore, for a term not to exceed 10 years,  
19 [FOR DEPOSITS OF OIL AND GAS] on unleased state land described in the  
20 exploration license for deposits of oil and gas, or for deposits of gas only, as  
21 appropriate, unless the exploration license is terminated under (d)(1) of this section

22 or the land is earlier relinquished, removed, or deleted under (d)(2) of this section; and  
23 (2) unless the exploration license is terminated under (d)(1) of this  
24 section, the option to convert the exploration license for all or part of the state land,  
25 except the land that is deleted or removed from the land described in the exploration  
26 license under (d)(2) of this section, into an oil and gas lease, or a gas lease only, as  
27 appropriate, upon fulfillment of the work commitments contained in the exploration  
28 license.

29 \* Sec. 17. AS 38.05.132(c) is amended to read:

30 (c) An exploration license awarded under this section

31 (1) is not subject to the acreage limitations imposed by

1 AS 38.05.140(c) or 38.05.180(m);

2 (2) may cover, subject to the maximum acreage limitation on  
3 exploration licenses by one licensee under AS 38.05.131(e), an area of not less than  
4 10,000 acres and not more than 500,000 acres, that must be reasonably compact and  
5 contiguous;

6 (3) must be conditioned upon an obligation to perform a specified  
7 work commitment, in total for the term of the license, expressed in dollars of direct  
8 exploration expenditures; the specified work commitment

9 (A) may include a provision that adjusts the total amount of  
10 work commitment, expressed in dollars of direct exploration expenditures, to  
11 account for inflation;

12 (B) must include a requirement that the licensee complete at  
13 least 25 percent of the licensee's total specified work commitment by the fourth  
14 anniversary of the effective date of the issuance of the [OIL AND GAS]  
15 exploration license;

16 (4) must be conditioned upon the posting of a bond or other security  
17 acceptable to the commissioner, in favor of the state and subject to the following  
18 requirements:

19 (A) the bond or other security must be renewed annually;

20 (B) the annual bond or other security shall be calculated as the  
21 entire work commitment expressed in dollars, less the cumulative direct  
22 exploration expenditures of the licensee as of the last day of the most recent  
23 project year, divided by the number of years remaining in the term of the  
24 exploration license;

25 (5) is subject to an annual review and revocation if the commissioner  
26 determines that the licensee has failed to provide or maintain in effect the bond or  
27 other security required by (4) of this subsection;

28 (6) must be conditioned upon the licensee's payment to the state of a  
29 nonrefundable [OIL AND GAS] exploration license fee of \$1 for each acre of land or  
30 fraction of each acre that is subject to the exploration license; and

31 (7) must be conditioned upon an agreement that exploration

1 expenditures are subject to audit by the commissioner.

2 \* **Sec. 18.** AS 38.05.132(f) is amended to read:

3 (f) In this section,

4 (1) "direct exploration expenditure" means cash expenses undertaken  
5 in performance of a specified work commitment under the provisions of AS 38.05.131  
6 - 38.05.134 and necessarily incurred by the licensee in the permitting, mobilization,  
7 conducting, demobilization, and evaluation of geophysical and geological surveys, or  
8 the drilling, logging, coring, testing, and evaluation of oil and gas or gas only wells;  
9 the term

10 (A) includes direct labor costs, including the cost of benefits,  
11 for employees directly associated with the work commitment programs, the  
12 cost of renting or leasing equipment from parties not affiliated with the  
13 licensee, the reasonable costs of maintaining and operating equipment,  
14 payments to consultants and independent contractors not affiliated with the  
15 licensee, and costs of materials and supplies;

16 (B) does not include noncash expenses such as depreciation  
17 and reserves, interest or other costs of borrowed funds, return on investment,  
18 overhead, insurance or bond premiums, or any other expense that is  
19 unreasonable or that the licensee has not incurred to satisfy the licensee's work  
20 commitment;

21 (2) "work commitment" includes the drilling of one or more  
22 exploration wells or the gathering of data from activities described in (1) of this  
23 subsection, or both.

24 \* **Sec. 19.** AS 38.05.133(a) is amended to read:

25 (a) The procedures in this section apply to the issuance of an [OIL AND GAS]  
26 exploration license under AS 38.05.132.

27 \* **Sec. 20.** AS 38.05.133(f) is amended to read:

28 (f) After considering proposals not rejected under (d) of this section and public  
29 comment on those proposals, the commissioner shall issue a written finding  
30 addressing all matters set out in AS 38.05.035(e) and (g), except for  
31 AS 38.05.035(g)(1)(B)(xi). If the finding concludes that the state's best interests

1 would be served by issuing an [OIL AND GAS] exploration license, the finding must  
2 (1) describe the limitations, stipulations, conditions, or changes from the initiating  
3 proposal or competing proposals that are required to make the issuance of the  
4 exploration license conform to the best interests of the state, and (2) if only one  
5 proposal was submitted, identify the prospective licensee whom the commissioner  
6 finds should be issued the exploration license. The commissioner shall attach to the  
7 finding a copy of the exploration license to be issued and the form of lease that will be  
8 used for any portion of the exploration license area subsequently converted to a [AN  
9 OIL AND GAS] lease under AS 38.05.134.

10 \* **Sec. 21.** AS 38.05.133(h) is amended to read:

11 (h) If competing proposals are submitted, and the commissioner's finding  
12 under (f) of this section concludes that an [OIL AND GAS] exploration license should  
13 be issued, the commissioner shall issue a request for competitive sealed bids, under  
14 procedures adopted by the commissioner by regulation, to determine which  
15 prospective licensee should be issued the exploration license. The finding provided to  
16 the prospective licensees and the public under (f) of this section must contain notice  
17 that (1) the commissioner intends to request competitive sealed bids, (2) a prospective  
18 licensee who intends to participate in the bidding must notify the commissioner in  
19 writing by the date specified in the notice, and (3) a prospective licensee's notice of  
20 intent to participate in the bidding constitutes acceptance of issuance of the  
21 exploration license, as limited or conditioned by the terms contained in the finding and  
22 by the exploration license to be issued and the form of lease to be used that have been  
23 attached to that finding, if the prospective licensee is the successful bidder. The  
24 successful bidder is the prospective licensee who submits the highest bid in terms of  
25 the minimum work commitment dollar amount.

26 \* **Sec. 22.** AS 38.05.134 is amended to read:

27 **Sec. 38.05.134. Conversion to lease.** If the licensee requests and the  
28 commissioner determines that the work commitment obligation set out in an [OIL  
29 AND GAS] exploration license issued under AS 38.05.132 has been met, the  
30 commissioner shall convert to one or more [OIL AND GAS] leases all or part, as the  
31 licensee may indicate, of the area described in the exploration license that remains

1 after the relinquishments, removals, or deletions required by AS 38.05.132(d)(2). A  
2 lease issued under this section

3 (1) is subject to the acreage limitations imposed by AS 38.05.140(c);

4 (2) is subject to AS 38.05.180(j) - (m), (o) - (u), and (x) - (z);

5 (3) must be conditioned upon a royalty in amount or value of not less  
6 than 12.5 percent of production, except that

7 (A) the lessee who, proceeding under AS 38.05.131 -  
8 38.05.134, under a lease issued in the Cook Inlet sedimentary basin who is the  
9 first to file with the commissioner a nonconfidential sworn statement claiming  
10 to be the first to have drilled a well discovering oil or gas in a previously  
11 undiscovered oil or gas pool and who is certified by the commissioner within  
12 one year of completion of that discovery well to have drilled a well in that pool  
13 that is capable of producing in paying quantities shall pay a royalty of five  
14 percent on all production of oil or gas from that pool attributable to that lease  
15 for a period of 10 years following the date of discovery of that pool, and  
16 thereafter the royalty payable on all production of oil or gas from the pool  
17 attributable to that lease shall be determined and payable as specified in the  
18 lease; the payment of the five percent royalty under this paragraph is  
19 authorized only to a holder of a lease who meets the requirements of  
20 AS 38.05.180(f)(4); **and**

21 (B) for nonconventional gas that is not produced in direct  
22 competition with gas on which a royalty at a rate of at least 12.5 percent is  
23 pavable, if the licensee requests, the commissioner may negotiate with the  
24 licensee and set a royalty rate for the gas of at least 6.25 percent; for  
25 purposes of this subparagraph, "nonconventional gas" has the meaning  
26 given in AS 38.05.965;

27 (4) must include an annual rent of \$3 per acre or fraction of an acre  
28 initially paid to the state at inception of the lease and payable annually after that until  
29 the income to the state from royalty under that lease exceeds the rental income to the  
30 state under that lease for that year; and

31 (5) is subject to other conditions and obligations that are specified in

1 the lease.

2 \* **Sec. 23.** AS 38.05.140(a) is amended to read:

3 (a) A person may not take or hold coal leases or permits during the life of coal  
4 leases on state land exceeding an aggregate of 92,160 acres, except that a person may  
5 apply for coal leases or permits for acreage in addition to 92,160 acres, not exceeding  
6 a total of 5,120 additional acres of state land. The additional area applied for shall be  
7 in multiples of 40 acres, and the application shall contain a statement that the granting  
8 of a lease for additional land is necessary for the person to carry on business  
9 economically and is in the public interest. On the filing of the application, [EXCEPT  
10 AS PROVIDED BY AS 38.05.177(a)(2)(C),] the coal deposits in the land covered by  
11 the application shall be temporarily set aside and withdrawn from all other forms of  
12 disposal provided under AS 38.05.135 - 38.05.181.

13 \* **Sec. 24.** AS 38.05.140(f) is amended to read:

14 (f) The submerged and shoreland lying north of 57 degrees, 30 minutes, North  
15 [NORTH] latitude and east of 159 degrees, 49 minutes, West [WEST] longitude  
16 within the Bristol Bay drainage are designated as the Bristol Bay Fisheries Reserve.  
17 Within the Bristol Bay Fisheries Reserve, a [NO] surface entry permit to develop an  
18 oil or gas lease or an [OIL AND GAS] exploration license under AS 38.05.131 -  
19 38.05.134 may not be issued on state owned or controlled land until the legislature by  
20 appropriate resolution specifically finds that the entry will not constitute danger to the  
21 fishery.

22 \* **Sec. 25.** AS 38.05.150(f) is amended to read:

23 (f) A [NOTWITHSTANDING AS 38.05.177, A] lease entered into under this  
24 section gives the lessee the right to vent or remove methane and other gas held in  
25 association with the coal in the land covered by the lease to ensure safe coal mining  
26 operations.

27 \* **Sec. 26.** AS 38.05.177(a) is amended to read:

28 (a) The provisions of this section

29 [(1)] apply to nonconventional gas [, WHETHER METHANE  
30 ASSOCIATED WITH AND DERIVED FROM COAL DEPOSITS OR  
31 OTHERWISE, FROM A FIELD IF A PART OF THE FIELD IS WITHIN 3,000

1 FEET OF THE SURFACE; AND

2 (2) DO NOT APPLY TO AUTHORIZE LEASE OF

3 (A) LAND

4 (i) THAT IS SUBJECT TO AN OIL AND GAS  
5 EXPLORATION LICENSE OR LEASE ISSUED UNDER  
6 AS 38.05.131 - 38.05.134; OR

7 (ii) THAT IS LEASED UNDER AS 38.05.180;

8 (B) THE LAND (i) THAT IS PROPOSED TO BE SUBJECT  
9 TO AN OIL AND GAS EXPLORATION LICENSE OR LEASE ISSUED  
10 UNDER AS 38.05.131 - 38.05.134; OR (ii) THAT IS DESCRIBED IN AND  
11 PART OF A PROPOSED OIL AND GAS LEASING PROGRAM  
12 PREPARED UNDER AS 38.05.180(b); HOWEVER, THE COMMISSIONER  
13 MAY WAIVE THE LIMITATIONS OF THIS SUBPARAGRAPH;

14 (C) THE LAND THAT IS HELD UNDER A COAL LEASE  
15 ENTERED INTO UNDER AS 38.05.150, UNLESS THE APPLICANT FOR  
16 A SHALLOW NATURAL GAS LEASE IS ALSO THE LESSEE UNDER  
17 AS 38.05.150 OF THAT LAND; OR

18 (D) THE VALID EXISTING SELECTIONS OF THE  
19 ALASKA MENTAL HEALTH TRUST AUTHORITY MADE FOR THE  
20 PURPOSE OF RECONSTITUTING THE MENTAL HEALTH TRUST  
21 ESTABLISHED UNDER THE ALASKA MENTAL HEALTH ENABLING  
22 ACT, P.L. 84-830, 70 STAT. 709 (1956), THAT BECOME SUBJECT TO  
23 MANAGEMENT UNDER AS 38.05.801, OR OF LAND THAT HAS BEEN  
24 DESIGNATED BY LAW FOR OR IS SUBJECT TO DESIGNATION FOR  
25 CONVEYANCE TO THE ALASKA MENTAL HEALTH TRUST  
26 AUTHORITY; HOWEVER, AFTER CONSULTATION WITH THE  
27 ALASKA MENTAL HEALTH TRUST AUTHORITY, THE  
28 COMMISSIONER MAY WAIVE THE LIMITATIONS OF THIS  
29 SUBPARAGRAPH].

30 \* Sec. 27. AS 38.05.177(d) is amended to read:

31 (d) A lease

1           (1) shall be automatically extended if and for so long thereafter as gas  
 2 is produced in paying quantities from the lease and the lessee continues to meet all  
 3 requirements of the lease; a [. A] lease issued under this section covering land on  
 4 which there is a well capable of producing gas in paying quantities does not expire  
 5 because the lessee fails to produce gas unless the lessee is allowed reasonable time to  
 6 place the well on a producing status; if [. IF] drilling has commenced on the  
 7 expiration date of the primary term of the lease and is continued with reasonable  
 8 diligence, including such operations as re-drilling, sidetracking, or other means  
 9 necessary to reach the originally proposed bottom hole location, the lease is extended  
 10 for one year and for so long thereafter as gas is produced in paying quantities; a [. A]  
 11 gas lease issued under this section that is subject to termination by reason of cessation  
 12 of production does not terminate if, within 90 days after production ceases or a longer  
 13 period determined at the discretion of the director, reworking or drilling operations are  
 14 commenced on the land under lease and are thereafter conducted with reasonable  
 15 diligence during the period of nonproduction;

16           (2) issued under former (c) of this section before January 1, 2004,  
 17 may be extended at the discretion of the director; a lease may be extended under  
 18 this paragraph [. IN ADDITION,] upon application by the lessee; [,] the director  
 19 may once extend the [A] lease [ISSUED UNDER (c) OF THIS SECTION] for a  
 20 period of not more than three years; in exercising discretion to extend a lease under  
 21 this paragraph, the director may not extend the lease unless the director  
 22 considers

23                   (A) the extent of the shallow natural gas exploration  
 24 activity already conducted on the lease and on adjacent areas;

25                   (B) the probability that further shallow natural gas  
 26 exploration activity will occur on the lease and will lead to shallow natural  
 27 gas development and production; and

28                   (C) whether extension of the lease's primary term will  
 29 accelerate the eventual production of shallow natural gas from the lease.

30 \* Sec. 28. AS 38.05.177(l) is amended to read:

31           (l) A lessee holding [OBTAINING] a lease modified under

1        AS 38.05.180(n)(2) [THIS SECTION] may exercise the rights authorized by this  
2 section and the lease. The rights granted by the lease must be exercised in a manner  
3 that does not unreasonably interfere with eventual development of other mineral  
4 deposits on the land leased. However, in a lease entered into under AS 38.05.150 for  
5 land that is already subject to a lease covered [LEASED] under this section, coal may  
6 not be mined or extracted by the coal lessee from the coal lease without prior  
7 agreement with the lessee holding the lease covered [ISSUED] under this section.

8 \* Sec. 29. AS 38.05.180(a) is amended to read:

9            (a) The legislature finds that

10                    (1) the people of Alaska have an interest in the development of the  
11 state's oil and gas resources to

12                            (A) maximize the economic and physical recovery of the  
13 resources;

14                            (B) maximize competition among parties seeking to explore  
15 and develop the resources;

16                            (C) maximize use of Alaska's human resources in the  
17 development of the resources;

18            (2) it is in the best interests of the state

19                            (A) to encourage an assessment of its oil and gas resources and  
20 to allow the maximum flexibility in the methods of issuing leases to

21                                    (i) recognize the many varied geographical regions of  
22 the state and the different costs of exploring for oil and gas in these  
23 regions;

24                                    (ii) minimize the adverse impact of exploration,  
25 development, production, and transportation activity; and

26                            (B) to offer acreage for oil and gas leases or for gas only  
27 leases, specifically including

28                                    (i) state acreage that has been the subject of a best  
29 interest finding at annual areawide lease sales; and

30                                    (ii) land in areas that, under (d) of this section, may be  
31 leased without having been included in the leasing program prepared

1 and submitted under (b) of this section.

2 \* **Sec. 30.** AS 38.05.180(b) is amended to read:

3 (b) The commissioner shall biennially prepare and, between the first and the  
4 15th day of the first regular session of each legislature, notify the legislature of the  
5 availability of, a five-year proposed oil and gas leasing program consisting of a  
6 schedule of proposed lease sales and specifying as precisely as practicable the location  
7 of tracts proposed to be offered for oil and gas leasing or for leasing of gas only  
8 during the calendar year in which the proposed program is made available to the  
9 legislature and the following four calendar years.

10 \* **Sec. 31.** AS 38.05.180(c) is amended to read:

11 (c) Except as provided in (d) and (w) of this section, an oil and gas lease sale  
12 or gas only lease sale may not be held unless it was included in the proposed leasing  
13 programs submitted to the legislature during the two calendar years preceding the year  
14 in which the sale is held. A lease sale, whether for oil and gas or for gas only, may  
15 not be held before the date it is scheduled in the proposed oil and gas leasing program.

16 \* **Sec. 32.** AS 38.05.180(d) is amended to read:

17 (d) The commissioner

18 (1) may annually offer leases for oil and gas or leases for gas only  
19 [LEASES] of the acreage described in AS 38.05.035(e)(6)(F);

20 (2) may issue [OIL AND GAS] leases in an area that has not been  
21 included in a leasing program prepared, in accordance with (b) of this section, if the  
22 land to be leased

23 (A) was previously subject to a valid state oil and gas lease, a  
24 valid state gas lease, or a valid federal oil and gas lease;

25 (B) is contiguous to land already under state, federal, or private  
26 lease and the commissioner makes a written finding, after hearing, that leasing  
27 of the land would result in a substantial probability of early evaluation and  
28 development of the land to be leased;

29 (C) is adjacent to land owned or controlled by another party on  
30 which a discovery of commercial quantities of oil or gas has been made, and  
31 the commissioner finds, after hearing, that there is a reasonable probability that

1 the land to be leased contains oil or gas in communication with the oil or gas  
2 discovered on the land of the other party;

3 (D) is adjacent to land included in the federal five-year Outer  
4 Continental Shelf leasing program under 43 U.S.C. 1344, and the  
5 commissioner makes a written finding, after hearing, that coordinated or  
6 simultaneous leasing with the federal government is in the public interest; or

7 (E) is the subject of an [OIL AND GAS] exploration license  
8 issued under AS 38.05.131 - 38.05.134; however, if the license issued was  
9 for exploration for and recovery of gas only, then the lease issued under  
10 this subsection shall be limited to exploration for and recovery of gas only.

11 \* Sec. 33. AS 38.05.180(f) is amended to read:

12 (f) Except as provided by AS 38.05.131 - 38.05.134 [AND 38.05.177], the  
13 commissioner may issue oil and gas leases or leases for gas only on state land to the  
14 highest responsible qualified bidder as follows:

15 (1) the commissioner shall issue an oil and gas lease or a gas only  
16 lease, as appropriate, to the successful bidder determined by competitive bidding  
17 under regulations adopted by the commissioner; bidding may be by sealed bid or  
18 according to any other bidding procedure the commissioner determines is in the best  
19 interests of the state;

20 (2) whenever, under any of the leasing methods listed in this  
21 subsection, a royalty share is reserved to the state, it shall be delivered in pipeline  
22 quality and free of all lease or unit expenses, including but not limited to separation,  
23 cleaning, dehydration, gathering, salt water disposal, and preparation for transportation  
24 off the lease or unit area;

25 (3) following a pre-sale analysis, the commissioner may choose at least  
26 one of the following leasing methods:

27 (A) a cash bonus bid with a fixed royalty share reserved to the  
28 state of not less than 12.5 percent in amount or value of the production  
29 removed or sold from the lease;

30 (B) a cash bonus bid with a fixed royalty share reserved to the  
31 state of not less than 12.5 percent in amount or value of the production

1 removed or sold from the lease and a fixed share of the net profit derived from  
2 the lease of not less than 30 percent reserved to the state;

3 (C) a fixed cash bonus with a royalty share reserved to the state  
4 as the bid variable but no less than 12.5 percent in amount or value of the  
5 production removed or sold from the lease;

6 (D) a fixed cash bonus with the share of the net profit derived  
7 from the lease reserved to the state as the bid variable;

8 (E) a fixed cash bonus with a fixed royalty share reserved to the  
9 state of not less than 12.5 percent in amount or value of the production  
10 removed or sold from the lease with the share of the net profit derived from the  
11 lease reserved to the state as the bid variable;

12 (F) a cash bonus bid with a fixed royalty share reserved to the  
13 state based on a sliding scale according to the volume of production or other  
14 factor but in no event less than 12.5 percent in amount or value of the  
15 production removed or sold from the lease;

16 (G) a fixed cash bonus with a royalty share reserved to the state  
17 based on a sliding scale according to the volume of production or other factor  
18 as the bid variable but not less than 12.5 percent in amount or value of the  
19 production removed or sold from the lease;

20 **(H) for nonconventional gas that will not be produced in**  
21 **direct competition with gas on which a royalty at a rate of at least 12.5**  
22 **percent is payable, a royalty share reserved to the state of at least 6.25**  
23 **percent in amount or value of the production removed or sold from the**  
24 **lease;**

25 (4) notwithstanding a requirement in the leasing method chosen of a  
26 minimum fixed royalty share, on and after March 3, 1997, the lessee under a lease  
27 issued in the Cook Inlet sedimentary basin who is the first to file with the  
28 commissioner a nonconfidential sworn statement claiming to be the first to have  
29 drilled a well discovering oil or gas in a previously undiscovered oil or gas pool and  
30 who is certified by the commissioner within one year of completion of that discovery  
31 well to have drilled a well in that pool that is capable of producing in paying quantities

1 shall pay a royalty of five percent on all production of oil or gas from that pool  
2 attributable to that lease for a period of 10 years following the date of discovery of that  
3 pool, and thereafter the royalty payable on all production of oil or gas from the pool  
4 attributable to that lease shall be determined and payable as specified in the lease; for  
5 purposes of this paragraph, the reduced royalty authorized by this paragraph is subject  
6 to the following:

7 (A) only one reduction of royalty authorized by this paragraph  
8 may be allowed on each lease that qualifies for reduction of royalty under this  
9 paragraph;

10 (B) if, under this paragraph, application is made for a royalty  
11 reduction for a lease that was entered into before March 3, 1997, the  
12 commissioner may approve the application only if, on that date, the lease was a  
13 nonproducing lease that was not committed to a unit approved by the  
14 commissioner under (m) of this section, that is not part of a unit under (p) or  
15 (q) of this section, and that has not been made part of a unit under AS 31.05;

16 (C) if application for a royalty reduction is made under this  
17 paragraph for a lease on which a discovery royalty was claimed or may be  
18 claimed under the discovery royalty provisions of former AS 38.05.180(a) in  
19 effect before May 6, 1969, the commissioner shall disallow the application  
20 under this paragraph unless the applicant waives the right to claim the right to  
21 a reduced royalty under the discovery royalty provisions of former  
22 AS 38.05.180(a) in effect before May 6, 1969; and

23 (D) the commissioner shall adopt regulations setting out the  
24 standards, criteria, and definitions of terms that apply to implement the filing  
25 of applications for, and the review and certification of, discovery [OIL AND  
26 GAS ROYALTY] certifications under this paragraph;

27 (5) notwithstanding and in lieu of a requirement in the leasing method  
28 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases  
29 unitized as described in (p) of this section, leases subject to an agreement described in  
30 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of  
31 an oil or gas field identified in this section that has been granted approval of a written

1 plan submitted to the Alaska Oil and Gas Conservation Commission under  
2 AS 31.05.030(i) shall, subject to (dd) of this section, pay a royalty of five percent on  
3 the first 25,000,000 barrels of oil and the first 35,000,000,000 cubic feet of gas  
4 produced for sale from that field that occurs in the 10 years following the date on  
5 which the production for sale commences; the fields eligible for royalty reduction  
6 under this paragraph, all of which are located within the Cook Inlet sedimentary basin,  
7 were discovered before January 1, 1988, and have been undeveloped or shut in from at  
8 least January 1, 1988, through December 31, 1997, are

- 9 (A) Falls Creek;  
10 (B) Nicolai Creek;  
11 (C) North Fork;  
12 (D) Point Starichkof;  
13 (E) Redoubt Shoal; and  
14 (F) West Foreland;

15 (6) notwithstanding and in lieu of a requirement in the leasing method  
16 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases  
17 unitized as described in (p) of this section, leases subject to an agreement described in  
18 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of  
19 an oil field located offshore in Cook Inlet on which an oil production platform  
20 specified in (A), (C), or (E) of this paragraph operates, or the lessee of all or part of the  
21 field located offshore in Cook Inlet and described in (G) of this paragraph,

22 (A) shall pay a royalty of five percent on oil produced from the  
23 platform if oil production that equaled or exceeded a volume of 1,200 barrels a  
24 day declines to less than that amount for a period of at least one calendar  
25 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for  
26 as long as the volume of oil produced from the platform remains less than  
27 1,200 barrels a day; the provisions of this subparagraph apply to

- 28 (i) Dolly;  
29 (ii) Grayling;  
30 (iii) King Salmon;  
31 (iv) Steelhead; and

1 (v) Monopod;

2 (B) shall pay a royalty calculated under this subparagraph if the  
3 volume of oil produced from the platform that was certified by the Alaska Oil  
4 and Gas Conservation Commission under (A) of this paragraph later increases  
5 to 1,200 or more barrels a day and remains at 1,200 or more barrels a day for a  
6 period of at least one calendar quarter; until the royalty rate determined under  
7 this subparagraph applies, the royalty continues to be calculated under (A) of  
8 this paragraph; on and after the first day of the month following the month the  
9 increased production exceeds the period specified in this subparagraph, the  
10 royalty payable under this subparagraph is

11 (i) for production of at least 1,200 barrels a day but not  
12 more than 1,300 barrels a day - seven percent;

13 (ii) for production of more than 1,300 barrels a day but  
14 not more than 1,400 barrels a day - 8.5 percent;

15 (iii) for production of more than 1,400 barrels a day but  
16 not more than 1,500 barrels a day - 10 percent; and

17 (iv) for production of more than 1,500 barrels a day -  
18 12.5 percent;

19 (C) shall pay a royalty of five percent on oil produced from the  
20 platform if oil production that equaled or exceeded a volume of 975 barrels a  
21 day declines to less than that amount for a period of at least one calendar  
22 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for  
23 as long as the volume of oil produced from the platform remains less than 975  
24 barrels a day; the provisions of this subparagraph apply to

25 (i) Baker;

26 (ii) Dillon;

27 (iii) XTO.A; and

28 (iv) XTO.C;

29 (D) shall pay a royalty calculated under this subparagraph if the  
30 volume of oil produced from the platform that was certified by the Alaska Oil  
31 and Gas Conservation Commission under (C) of this paragraph later increases

1 to 75 or more barrels a day and remains at 75 or more barrels a day for a  
2 period of at least one calendar quarter; until the royalty rate determined under  
3 this subparagraph applies, the royalty continues to be calculated under (C) of  
4 this paragraph; on and after the first day of the month following the month the  
5 increased production exceeds the period specified in this subparagraph, the  
6 royalty payable under this subparagraph is

7 (i) for production of at least 75 barrels a day but not  
8 more than 1,100 barrels a day - seven percent;

9 (ii) for production of more than 1,100 barrels a day but  
10 not more than 1,200 barrels a day - 8.5 percent;

11 (iii) for production of more than 1,200 barrels a day but  
12 not more than 1,350 barrels a day - 10 percent; and

13 (iv) for production of more than 1,350 barrels a day -  
14 12.5 percent;

15 (E) shall pay a royalty of five percent on oil produced from the  
16 platform if oil production that equaled or exceeded a volume of 750 barrels a  
17 day declines to less than that amount for a period of at least one calendar  
18 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for  
19 as long as the volume of oil produced from the platform remains less than 750  
20 barrels a day; the provisions of this subparagraph apply to

21 (i) Granite Point;

22 (ii) Anna; and

23 (iii) Bruce;

24 (F) shall pay a royalty calculated under this subparagraph if the  
25 volume of oil produced from the platform that was certified by the Alaska Oil  
26 and Gas Conservation Commission under (E) of this paragraph later increases  
27 to 750 or more barrels a day and remains at 750 or more barrels a day for a  
28 period of at least one calendar quarter; until the royalty rate determined under  
29 this subparagraph applies, the royalty continues to be calculated under (E) of  
30 this paragraph; on and after the first day of the month following the month the  
31 increased production exceeds the period specified in this subparagraph, the

1 royalty payable under this subparagraph is

2 (i) for production of at least 750 barrels a day but not  
3 more than 850 barrels a day - seven percent;

4 (ii) for production of more than 850 barrels a day but  
5 not more than 1,000 barrels a day - 8.5 percent;

6 (iii) for production of more than 1,000 barrels a day but  
7 not more than 1,200 barrels a day - 10 percent; and

8 (iv) for production of more than 1,200 barrels a day -  
9 12.5 percent;

10 (G) shall pay a royalty of five percent on oil produced from the  
11 field if oil production that equaled or exceeded a volume of 750 barrels a day  
12 declines to less than that amount for a period of at least one calendar quarter,  
13 as certified by the Alaska Oil and Gas Conservation Commission, for as long  
14 as the volume of oil produced from the field remains less than 750 barrels a  
15 day; the provisions of this subparagraph apply to the West McArthur River  
16 field;

17 (H) shall pay a royalty calculated under this subparagraph if the  
18 volume of oil produced from the field that was certified by the Alaska Oil and  
19 Gas Conservation Commission under (G) of this paragraph later increases to  
20 750 or more barrels a day and remains at 750 or more barrels a day for a period  
21 of at least one calendar quarter; until the royalty rate determined under this  
22 subparagraph applies, the royalty continues to be calculated under (G) of this  
23 paragraph; on and after the first day of the month following the month the  
24 increased production exceeds the period specified in this subparagraph, the  
25 royalty payable under this subparagraph is

26 (i) for production of at least 750 barrels a day but not  
27 more than 850 barrels a day - seven percent;

28 (ii) for production of more than 850 barrels a day but  
29 not more than 1,000 barrels a day - 8.5 percent;

30 (iii) for production of more than 1,000 barrels a day but  
31 not more than 1,200 barrels a day - 10 percent; and

1 (iv) for production of more than 1,200 barrels a day -  
2 12.5 percent; and

3 (I) may obtain the benefits of the royalty adjustments set out in  
4 (A) - (H) of this paragraph only if the commissioner determines that the  
5 reduction in production from the platform or the field is

6 (i) based on the average daily production during the  
7 calendar quarter based on reservoir conditions; and

8 (ii) not the result of short-term production declines due  
9 to mechanical or other choke-back factors, temporary shutdowns or  
10 decreased production due to environmental or facility constraints, or  
11 market conditions.

12 \* **Sec. 34.** AS 38.05.180(h) is amended to read:

13 (h) The commissioner may include terms in any [OIL AND GAS] lease  
14 imposing a minimum work commitment on the lessee. These terms shall be made  
15 public before the sale, and may include appropriate penalty provisions to take effect in  
16 the event the lessee does not fulfill the minimum work commitment. If it is  
17 demonstrated that a lease has been proven unproductive by actions of adjacent lease  
18 holders, the commissioner may set aside a work commitment. The commissioner may  
19 waive for a period not to exceed one two-year period any term of a minimum work  
20 commitment if the commissioner makes a written finding either that conditions  
21 preventing drilling or exploration were beyond the lessee's reasonable ability to  
22 foresee or control or that the lessee has demonstrated through good faith efforts an  
23 intent and ability to drill or develop the lease during the term of the waiver.

24 \* **Sec. 35.** AS 38.05.180(i) is amended to read:

25 (i) The commissioner may provide for the establishment of an exploration  
26 incentive credit system under which a lessee of state land drilling an exploratory well  
27 on that land may earn credits based upon the footage drilled and the region in which  
28 the well is situated. The commissioner may also provide for credits to be earned by  
29 persons performing geophysical work on state land, if that work is performed during  
30 the two seasons immediately preceding an announced lease sale and on land included  
31 within the sale area and the geophysical information is made public following the sale.

1 Credits may not exceed 50 percent of the cost of the drilling or geophysical work.  
2 Credits may be used during a limited period established by the commissioner and may  
3 be assigned during that period. Credits may be applied against (1) [OIL AND GAS]  
4 royalty and rental payments for oil and gas or for gas only payable to the state or (2)  
5 taxes payable under AS 43.55. A credit may not exceed 50 percent of the payment  
6 toward which it is being applied. Amounts due the Alaska permanent fund  
7 (AS 37.13.010) shall be calculated before the application of credits under this  
8 subsection.

9 \* Sec. 36. AS 38.05.180(j) is amended to read:

10 (j) The commissioner

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

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

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

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

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

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

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

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

31 (3) shall provide for an increase or decrease or other modification of

1 the state's royalty share by a sliding scale royalty or other mechanism that shall be  
2 based on a change in the price of oil or gas and may also be based on other relevant  
3 factors such as a change in production rate, projected ultimate recovery, development  
4 costs, and operating costs

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

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

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

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

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

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

27 (B) shall keep the data confidential under AS 38.05.035(a)(9)  
28 at the request of the lessee or lessees making application for the royalty  
29 reduction; the confidential data may be disclosed by the commissioner to  
30 legislators and to the legislative auditor and as directed by the chair or vice-  
31 chair of the Legislative Budget and Audit Committee to the director of the

1 division of legislative finance, the permanent employees of their respective  
2 divisions who are responsible for evaluating a royalty reduction, and to agents  
3 or contractors of the legislative auditor or the legislative finance director who  
4 are engaged under contract to evaluate the royalty reduction, if they sign an  
5 appropriate confidentiality agreement;

6 (7) may

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

19 (B) with the mutual consent of the lessee or lessees making  
20 application for the royalty reduction under (1)(B) or (1)(C) of this subsection,  
21 request payment for the services of an independent contractor, selected from a  
22 list of qualified consultants to evaluate hydrocarbon development, production,  
23 transportation, and economics by the commissioner to assist the commissioner  
24 in evaluating the application and financial and technical data; if, under this  
25 subparagraph, the commissioner requires payment for the services of an  
26 independent contractor, the total cost of the services that may be paid for by  
27 the lessee or lessees may not exceed \$150,000 for each application, and the  
28 commissioner shall determine the relevant scope of the work to be performed  
29 by the contractor; selection of an independent contractor under this  
30 subparagraph is not subject to AS 36.30;

31 (8) shall make and publish a preliminary findings and determination on

1 the royalty reduction application, give reasonable public notice of the preliminary  
2 findings and determination, and invite public comment on the preliminary findings  
3 and determination during a 30-day period for receipt of public comment;

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

11 (10) shall make copies of the preliminary findings and determination  
12 available to

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

14 (B) the chairs of the legislature's standing committees on  
15 resources; and

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

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

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

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

26 (C) transmit a copy of the final findings and determination to  
27 the lessee;

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

30 (E) make copies of the final findings and determination  
31 available to each person who submitted comment under (8) of this subsection

1 and who has filed a request for the copies;

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

4 \* **Sec. 37.** AS 38.05.180(f) is amended to read:

5 (f) Subject to the provisions of AS 31.05, the commissioner has discretion to  
6 enter into an agreement whereby, with the consent of the lessee, the state's royalty  
7 share of [OIL AND GAS] production of oil and gas or gas only may be stored or  
8 retained in storage by the lessee, or the commissioner may enter into an agreement  
9 with one or more of the affected field lease holders to trade current royalty production  
10 from a field for a like amount, kind, and quality of future production, on the condition  
11 that the state receives back its stored or traded royalty share during the first half of the  
12 estimated field life or no later than 15 years after start of production, whichever is  
13 sooner.

14 \* **Sec. 38.** AS 38.05.180(m) is amended to read:

15 (m) An oil and gas lease or a gas only lease must cover a reasonably compact  
16 area not exceeding 5,760 acres, and may be for a maximum period of 10 years, except  
17 that the commissioner may issue a lease for a period not less than five years upon a  
18 finding that it is in the best interests of the state. An oil and gas lease shall be  
19 automatically extended if and for so long thereafter as oil or gas is produced in paying  
20 quantities from the lease or if the lease is committed to a unit approved by the  
21 commissioner, and a gas only lease shall be automatically extended if and for so  
22 long thereafter as gas is produced in paying quantities from the lease or if the  
23 lease is committed to a unit approved by the commissioner. A lease issued under  
24 this section covering land on which there is a well capable of producing oil or gas in  
25 paying quantities does not expire because the lessee fails to produce oil or gas unless  
26 the lessee is allowed reasonable time to place the well on a producing status. Upon  
27 extension, the commissioner may increase lease rentals so long as the increased rental  
28 rate does not exceed 150 percent of the rate for the preceding year. If drilling has  
29 commenced on the expiration date of the primary term of the lease and is continued  
30 with reasonable diligence, including such operations as re-drilling, sidetracking, or  
31 other means necessary to reach the originally proposed bottom hole location, the lease

1 continues in effect until 90 days after drilling has ceased and for so long thereafter as  
2 oil or gas is produced in paying quantities. An oil and gas lease or a gas only lease  
3 issued under this section which is subject to termination by reason of cessation of  
4 production does not terminate if, within 60 days after production ceases, reworking or  
5 drilling operations are commenced on the land under lease and are thereafter  
6 conducted with reasonable diligence during the period of nonproduction.

7 \* Sec. 39. AS 38.05.180(n) is amended to read:

8 (n) The commissioner may establish by regulation that after a well has been  
9 plugged and abandoned, the rental rate which was in effect during the year of  
10 abandonment is maintained for the remainder of the term. Rental is payable in  
11 advance and continues until income to the state from royalty or net profit share  
12 exceeds rental income to the state for that year. Under this subsection,

13 (1) [OIL AND GAS] leases for oil and gas or for gas only shall  
14 provide for payment to the state of rental on the following basis:

15 (A) [(1)] for the first year, \$1.00 per acre;

16 (B) [(2)] for the second year, \$1.50 per acre;

17 (C) [(3)] for the third year, \$2.00 per acre;

18 (D) [(4)] for the fourth year, \$2.50 per acre;

19 (E) [(5)] for the fifth and following years, \$3.00 per acre;

20 (2) if the lessee under a gas only lease demonstrates to the  
21 commissioner that the potential resources underlying the lease are reasonably  
22 estimated to be only nonconventional gas, the rental payment is \$1.00 per acre  
23 until the lease expires or paying quantities of conventional oil or gas are  
24 discovered underlying the lease.

25 \* Sec. 40. AS 38.05.180(p) is amended to read:

26 (p) To conserve the natural resources of all or a part of an oil or gas pool,  
27 field, or like area, the lessees and their representatives may unite with each other, or  
28 jointly or separately with others, in collectively adopting or operating under a  
29 cooperative or a unit plan of development or operation of the pool, field, or like area,  
30 or a part of it, when determined and certified by the commissioner to be necessary or  
31 advisable in the public interest. The commissioner may, with the consent of the

1 holders of leases involved, establish, change, or revoke drilling, producing, and  
2 royalty requirements of the leases and adopt regulations with reference to the leases,  
3 with like consent on the part of the lessees, in connection with the institution and  
4 operation of a cooperative or unit plan as the commissioner determines necessary or  
5 proper to secure the proper protection of the public interest. The commissioner may  
6 not reduce royalty on leases in connection with a cooperative or unit plan except as  
7 provided in (j) of this section. The commissioner may require a lease [OIL AND  
8 GAS LEASES] issued under this section to contain a provision requiring the lessee to  
9 operate under a reasonable cooperative or unit plan, and may prescribe a plan under  
10 which the lessee must operate. The plan must adequately protect all parties in interest,  
11 including the state.

12 \* Sec. 41. AS 38.05.180 is amended by adding a new subsection to read:

13 (ff) The provisions of this section that authorize oil and gas leases also apply  
14 to authorize the commissioner to issue leases for the production of gas only, subject to  
15 the following:

16 (1) in authorizing and managing leases under this subsection, the terms  
17 "oil and gas" or "oil or gas" as they are used in this chapter may be read and applied as  
18 appropriate as referring to gas only;

19 (2) when a lease is authorized as a gas only lease, the lease does not  
20 give the lessee the right to produce oil; if a well drilling for gas under a gas only lease  
21 authorized by this subsection penetrates a formation capable of producing oil, the  
22 owner or operator

23 (A) shall notify the department and the Alaska Oil and Gas  
24 Conservation Commission; and

25 (B) may not conduct further operations in the drilled well until  
26 the facility complies with all applicable laws and regulations relating to oil and  
27 gas exploration and production; however, this subparagraph does not prevent  
28 the owner or operator from conducting activities that may be required by the  
29 Alaska Oil and Gas Conservation Commission to plug, plug-back, or abandon  
30 a well;

31 (3) for a <sup>nonconventional methane</sup> nonconventional gas lease, if a bond is sought under

1 AS 38.05.130,

2 (A) before the amount of the surety bond to be posted is  
3 determined by the director, require, as a condition for issuing the lease, that the  
4 director, after notice and an opportunity to be heard, determine that, to exercise  
5 rights under the reservation as set out in AS 38.05.125 and the lease, the lessee  
6 has no other reasonable means of entry than access and entry upon the land of  
7 the owner; the lessee has the burden of demonstrating compliance with the  
8 requirement of this subparagraph; and

9 (B) in addition to the coverage for actual damages required by  
10 that section, provide for payment of reasonable compensation to the owner for  
11 any loss by the owner of the owner's use and enjoyment of the property.

12 \* Sec. 42. AS 38.05.860(a) is amended to read:

13 (a) The commissioner may require an applicant seeking the sale, lease, or  
14 other disposal of land or an interest in land, other than under an oil and gas lease, gas  
15 only lease, or mineral lease, to deposit an amount covering the estimated cost of an  
16 appraisal, survey, and other costs necessary to offer the land or interest in land,  
17 including advertising. All deposited funds not expended shall be refunded to the  
18 applicant. If the land or interest in land is awarded to a person other than the applicant  
19 making the deposit, the person awarded the land shall pay the total actual cost incurred  
20 by the department in making the disposal, and the deposit shall be returned to the  
21 original applicant. In lieu of requiring the deposit under this subsection, the  
22 commissioner may enter into an agreement with an applicant seeking land or an  
23 interest in land requiring the applicant to reimburse the department for costs incurred  
24 in the disposal if the applicant is awarded the land or interest in land.

25 \* Sec. 43. AS 38.05.860(c) is amended to read:

26 (c) The commissioner shall require each bidder for the competitive leasing of  
27 [OIL AND GAS] land for oil and gas, or for gas only, to submit with each bid a  
28 deposit of money equal to 20 percent of the bonus.

29 \* Sec. 44. AS 38.05.945(a) is amended to read:

30 (a) This section establishes the requirements for notice given by the  
31 department for the following actions:

1 (1) classification or reclassification of state land under AS 38.05.300  
2 and the closing of land to mineral leasing or entry under AS 38.05.185;

3 (2) zoning of land under applicable law;

4 (3) issuance of a

5 (A) preliminary written finding under AS 38.05.035(e)(5)(A)  
6 regarding the sale, lease, or disposal of an interest in state land or resources for  
7 oil and gas, or for gas only, subject to AS 38.05.180(b);

8 (B) [REPEALED

9 (C)] written finding for the sale, lease, or disposal of an interest  
10 in state land or resources under AS 38.05.035(e)(6), except a [AN OIL OR  
11 GAS] lease sale described in AS 38.05.035(e)(6)(F) for which the director  
12 must provide opportunity for public comment under the provisions of that  
13 subparagraph;

14 (4) a competitive disposal of an interest in state land or resources after  
15 final decision under AS 38.05.035(e);

16 (5) a preliminary finding under AS 38.05.035(e) concerning sites for  
17 aquatic farms and related hatcheries;

18 (6) a decision under AS 38.05.132 - 38.05.134 regarding the sale,  
19 lease, or disposal of an interest in state land or resources.

20 \* **Sec. 45.** AS 38.05.965 is amended by adding a new paragraph to read:

21 (25) "nonconventional gas" means coal bed methane, shales containing  
22 gas, or gas hydrates.

23 \* **Sec. 46.** AS 38.06.080(2) is amended to read:

24 (2) "state lease" means an oil and gas lease or gas only lease on state  
25 land.

26 \* **Sec. 47.** AS 38.35.020(a) is amended to read:

27 (a) Rights-of-way on state land including rights-of-way over, under, along,  
28 across, or upon the right-of-way of a public road or highway or the right-of-way of a  
29 railroad or other public utility, or across, upon, over, or under a river or other body of  
30 water or land belonging to or administered by the state may be granted by  
31 noncompetitive lease by the commissioner for pipeline purposes for the transportation

1 of oil, products, or natural gas under those conditions prescribed by law or by  
2 administrative regulation. Except to the extent authorized by an oil and gas lease, a  
3 gas only lease, or an oil and gas or gas only unit agreement approved by the state, no  
4 person may engage in any construction or operation of any part of an oil, products, or  
5 natural gas pipeline, which in whole or in part is or is proposed to be on state land  
6 unless that person has obtained from the commissioner a right-of-way lease of the land  
7 under this chapter.

8 \* **Sec. 48.** AS 43.20.072(c) is amended to read:

9 (c) A taxpayer's business income shall be apportioned to this state by  
10 multiplying the taxpayer's income determined under (b) of this section by the  
11 apportionment factor applicable to the taxpayer among the following factors:

12 (1) the apportionment factor of a taxpayer subject to this section but  
13 not engaged in the production of oil and gas, or of gas only, as appropriate, from a  
14 lease or property in this state during the tax period is a fraction, the numerator of  
15 which is the sum of the property factor under AS 43.19 (Multistate Tax Compact) and  
16 the sales factor under (d) of this section for the taxpayer for that tax period, and the  
17 denominator of which is two;

18 (2) the apportionment factor of a taxpayer subject to this section but  
19 not engaged in the pipeline transportation of oil or gas in this state during the tax  
20 period is a fraction, the numerator of which is the sum of the property factor under (e)  
21 of this section and the extraction factor under (f) of this section for the taxpayer for the  
22 tax period, and the denominator of which is two;

23 (3) the apportionment factor of a taxpayer engaged both in the  
24 production of oil or gas from a lease or property in this state and in the pipeline  
25 transportation of oil or gas in this state during the tax period is a fraction, the  
26 numerator of which is the sum of the sales factor under (d) of this section, the property  
27 factor under (e) of this section, and the extraction factor under (f) of this section for  
28 the taxpayer for the tax period, and the denominator of which is three.

29 \* **Sec. 49.** AS 43.55.025(a) is amended to read:

30 (a) Subject to the terms and conditions of this section, on oil and gas produced  
31 from an oil and gas lease, or on gas produced from a gas only lease, on or after

1 July 1, 2004, a credit against the tax due under this chapter is allowed in an amount  
2 equal to

3 (1) 20 percent of the total exploration expenditures that qualify under  
4 (b) and (c) of this section, 20 percent of the total exploration expenditures that qualify  
5 under (b) and (d) of this section, or both, for a total credit that does not exceed 40  
6 percent of the total exploration expenditures; or

7 (2) 40 percent of the total exploration expenditures that qualify under  
8 (b) and (e) of this section, for a total production tax credit that does not exceed 40  
9 percent of the total qualified exploration expenditures.

10 \* Sec. 50. AS 43.55.900(9) is amended to read:

11 (9) "lease or property" means any right, title, or interest in or the right  
12 to produce or recover oil or gas including:

13 (A) a mineral interest,

14 (B) a leasehold interest,

15 (C) a working interest, royalty interest, overriding royalty  
16 interest, production payment, net profit interest or any other interest in a lease,  
17 concession, joint venture, or other agreement for [OIL AND GAS] exploration,  
18 development, or production of oil and gas or of gas only,

19 (D) a working interest, royalty interest, overriding royalty  
20 interest, production payment, net profit interest or any other interest in an  
21 agreement for unitization or pooling under the provisions of 26 U.S.C.  
22 614(b)(3) (Internal Revenue Code) as defined on January 1, 1974;

23 \* Sec. 51. AS 46.03.100(f) is amended to read:

24 (f) This section does not apply to discharges of solid or liquid waste material  
25 or water discharges from the following activities if the discharge is incidental to the  
26 activity and the activity does not produce a discharge from a point source, as that term  
27 is defined in regulations adopted under this chapter, directly into any surface water of  
28 the state:

29 (1) mineral drilling, trenching, ditching, and similar activities;

30 (2) landscaping;

31 (3) water well drilling and [,] geophysical drilling [, OR COAL BED

1 METHANE DRILLING OR OTHER NATURAL GAS DRILLING TO RECOVER  
2 GAS FROM A FIELD IF A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE  
3 SURFACE]; or

4 (4) drilling, ditching, trenching, and similar activities associated with  
5 facility construction and maintenance or with road or other transportation facility  
6 construction and maintenance; however, the exemption provided by this paragraph  
7 does not relieve a person from obtaining a permit under this section if

8 (A) the drilling, ditching, trenching, or similar activity will  
9 involve the removal of the groundwater, stormwater, or wastewater runoff that  
10 has accumulated and is present at an excavation site for facility, road, or other  
11 transportation construction or maintenance; and

12 (B) a permit is otherwise required by this section.

13 \* **Sec. 52.** AS 46.04.030(b) is amended to read:

14 (b) A person may not cause or permit the operation of a pipeline or an  
15 exploration or production facility in the state unless an oil discharge prevention and  
16 contingency plan for the pipeline or facility has been approved by the department and  
17 the person is in compliance with the plan. This subsection does not apply to an  
18 exploration or production facility used solely to explore for or to develop or produce  
19 nonconventional [SHALLOW NATURAL] gas resources, except that this exemption  
20 does not apply if the Alaska Oil and Gas Conservation Commission determines under  
21 AS 31.05.030(j) that

22 (1) a well drilled for nonconventional [SHALLOW NATURAL] gas  
23 may penetrate a formation capable of flowing oil; and

24 (2) the volume of oil encountered will be of such quantities that a  
25 contingency plan will be required.

26 \* **Sec. 53.** AS 46.04.040(b) is amended to read:

27 (b) A person may not cause or permit the operation of a pipeline or an  
28 exploration or production facility in the state unless the person has furnished to the  
29 department, and the department has approved, proof of financial ability to respond in  
30 damages. Proof of financial responsibility required for

31 (1) a pipeline or an offshore exploration or production facility is

1 \$50,000,000 per incident;

2 (2) an onshore production facility is

3 (A) \$20,000,000 per incident if the facility produces over  
4 10,000 barrels per day of oil;

5 (B) \$10,000,000 per incident if the facility produces over 5,000  
6 barrels per day but not more than 10,000 barrels per day of oil;

7 (C) \$5,000,000 per incident if the facility produces over 2,500  
8 barrels per day but not more than 5,000 barrels per day of oil;

9 (D) \$1,000,000 per incident if the facility produces 2,500  
10 barrels per day or less of oil;

11 (3) an onshore exploration facility is

12 (A) \$25,000 per incident for a facility used solely to explore for  
13 nonconventional [SHALLOW NATURAL] gas by means of drilling a well to  
14 explore for the gas [, WHETHER METHANE ASSOCIATED WITH AND  
15 DERIVED FROM COAL DEPOSITS OR OTHERWISE, FROM A FIELD IF  
16 A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE SURFACE]; and

17 (B) except as provided by (A) of this paragraph, \$1,000,000 per  
18 incident.

19 \* Sec. 54. AS 46.04.900 is amended by adding a new paragraph to read:

20 (31) "nonconventional gas" has the meaning given in AS 38.05.965.

21 \* Sec. 55. AS 46.40.205 is amended to read:

22 **Sec. 46.40.205. Consistency determinations for certain activities involving**  
23 **nonconventional [SHALLOW NATURAL] gas.** (a) When conducted under  
24 oversight and regulation of the Alaska Oil and Gas Conservation Commission and the  
25 state's resource agencies, projects for the exploration and development of  
26 **nonconventional [SHALLOW NATURAL] gas** are consistent with the program  
27 described in this chapter. Persons responsible for activities subject to this section shall  
28 obtain all required permits and approvals from municipal, state, and federal agencies  
29 as otherwise required by law.

30 (b) In this section, "**nonconventional [SHALLOW NATURAL] gas**" has the  
31 meaning given in **AS 38.05.965** [AS 46.04.900].

1 \* **Sec. 56.** AS 46.40.210(12) is amended to read:

2 (12) "uses of state concern" means those land and water uses that  
3 would significantly affect the long-term public interest; "uses of state concern" include

4 (A) uses of national interest, including the use of resources for  
5 the siting of ports and major facilities that contribute to meeting national  
6 energy needs, construction and maintenance of navigational facilities and  
7 systems, resource development of federal land, and national defense and  
8 related security facilities that are dependent upon coastal locations;

9 (B) uses of more than local concern, including those land and  
10 water uses that confer significant environmental, social, cultural, or economic  
11 benefits or burdens beyond a single coastal resource district;

12 (C) the siting of major energy facilities, activities pursuant to a  
13 state oil and gas lease, a state gas only lease, or a federal oil and gas lease, or  
14 large-scale industrial or commercial development activities that are dependent  
15 on a coastal location and that, because of their magnitude or the magnitude of  
16 their effect on the economy of the state or the surrounding area, are reasonably  
17 likely to present issues of more than local significance;

18 (D) facilities serving statewide or interregional transportation  
19 and communication needs; and

20 (E) uses in areas established as state parks or recreational areas  
21 under AS 41.21 or as state game refuges, game sanctuaries, or critical habitat  
22 areas under AS 16.20.

23 \* **Sec. 57.** The uncodified law of the State of Alaska added by sec. 1, ch. 45, SLA 2003, is  
24 amended to read:

25 LEGISLATIVE FINDINGS. The legislature finds that

26 (1) [THE DEVELOPMENT OF SHALLOW NATURAL GAS  
27 RESOURCES IS IN THE BEST INTERESTS OF THE STATE OF ALASKA;

28 (2)] shallow natural gas is abundant and widespread in Alaska and  
29 bears the promise of providing Alaskans, particularly Alaskans living in rural areas,  
30 with an inexpensive and clean source of energy if those resources can be economically  
31 developed;

1                   (2) [(3)] the development of shallow natural gas poses significantly  
2 fewer risks and creates substantially less impact to the environment than traditional  
3 deep oil and gas projects, which have served as the model for oil and gas industry and  
4 environmental regulations to date in Alaska;

5                   (3) [(4)] the regulatory requirements developed and applied to  
6 traditional deep oil and gas projects in Alaska are ill-suited and unduly onerous when  
7 applied to shallow natural gas projects, threatening the economic viability of otherwise  
8 desirable exploration and development projects;

9                   (4) [(5)] there is an immediate state and national need for the  
10 development of clean and economical unconventional energy sources, such as shallow  
11 natural gas resources;

12                   (5) [(6)] reform of existing laws and regulations is needed to remove  
13 unnecessary regulatory burdens on the private sector to foster and encourage the  
14 development in Alaska of these necessary resources;

15                   (6) [(7)] the legislature is acting in the interest of promoting the active  
16 development of such resources, while ensuring that suitable measures are taken to  
17 protect human health and safety and the natural environment,

18                   (A) to remove impediments to the responsible development of  
19 shallow natural gas; and

20                   (B) to provide the proper state agencies with clear authority and  
21 discretion to adopt regulatory practices appropriate to shallow natural gas  
22 exploration and development projects, in recognition of the lower risks posed  
23 by such projects to human health and safety and the natural environment [;  
24 AND

25                   (C) TO RESERVE ALL RIGHTS AND POWERS NOT  
26 PREEMPTED BY FEDERAL LAW AND REGULATION IN ORDER TO  
27 ASSERT STATE PRIMACY OVER THE REGULATION OF SHALLOW  
28 NATURAL GAS].

29 \* **Sec. 58.** AS 31.05.125, 31.05.170(14); AS 38.05.177(b), 38.05.177(c), 38.05.177(e),  
30 38.05.177(f), 38.05.177(g), 38.05.177(h), 38.05.177(j), 38.05.177(k), 38.05.177(m),  
31 38.05.177(n), 38.05.177(o); and AS 46.04.900(25) are repealed.

1 \* **Sec. 59.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3 CERTAIN SHALLOW NATURAL GAS LEASES AND LEASE APPLICATIONS  
4 TO BE ADMINISTERED UNDER FORMER LAW. The provisions of AS 38.05.177(a),  
5 (d)(1), and (j), amended by secs. 26 - 28 of this Act, as those provisions read on the day  
6 before the effective date of amendment of those subsections, and the provisions of  
7 AS 38.05.177(b), (c), (e) - (h), (j), (k), (m), (n), and (o), repealed by sec. 58 of this Act, as  
8 those provisions read on the day before the effective date of the repeal of those subsections,  
9 apply to shallow natural gas

10 (1) leases issued under AS 38.05.177 and in effect on December 31, 2003; and

11 (2) lease applications under AS 38.05.177 that were received by the  
12 Department of Natural Resources before January 1, 2004.

13 \* **Sec. 60.** This Act takes effect immediately under AS 01.10.070(c).

23-LS1818VH  
Chenoweth  
3/19/04

**CS FOR HOUSE BILL NO. 531( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offeted:  
Referred:**

**Sponsor(s). HOUSE RESOURCES COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to natural gas exploration and development and to nonconventional**  
2 **gas, and amending the section under which shallow natural gas leases may be issued;**  
3 **and providing for an effective date."**

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

5 **\* Section 1. AS 14.40.365(a) is amended to read:**

6 (a) The University of Alaska may select and is entitled to receive the  
7 conveyance of not less than 250,000 and not more than 260,000 acres of land  
8 conveyed to the state under sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72  
9 Stat. 339). The Board of Regents of the University of Alaska shall periodically submit  
10 a list of selections to the commissioner of natural resources and, if the list of selections  
11 contains land within the boundaries of a municipality, the Board of Regents of the  
12 University of Alaska shall submit the list to the municipality. The Board of Regents  
13 and the commissioner of natural resources shall periodically and jointly submit to the  
14 legislature, within 30 days of the beginning of a regular legislative session, a list of the

1 selections of land proposed to be conveyed by the state to the University of Alaska  
2 under this section. If the list submitted to the legislature contains land within the  
3 boundaries of a municipality, the Board of Regents and the commissioner of natural  
4 resources shall provide a copy of the list to the municipality. Each list must contain  
5 not more than 25 percent of the total acres of land to which the university is entitled  
6 after subtracting previous conveyances under this section, but not less than 25,000  
7 acres or the remaining entitlement under this section, whichever is less. A list of  
8 selections submitted shall be considered approved for conveyance to the University of  
9 Alaska unless the legislature acts to disapprove the list during the legislative session  
10 during which the list was submitted. If the amount of land to be conveyed exceeds the  
11 balance due the university under this section, the university shall set out the land to be  
12 conveyed in priority order. Land may not be selected if, on the date of its selection by  
13 the university, it

14 (1) is identified in AS 16.20, AS 41.15.300 - 41.15.330, or AS 41.21 or  
15 has been reserved by law from the public domain;

16 (2) is located within a municipality unless the land is vacant,  
17 unappropriated, unreserved land; if land included on the list of selections is selected  
18 by the municipality with remaining selection rights under AS 29.65 within 120 days of  
19 receiving the Board of Regents' list of selections under this subsection, the university  
20 may not select the land unless a binding agreement between the university and the  
21 municipality is negotiated to allow the selection; if the municipal selection is  
22 disapproved, in whole or in part, the university may select the land, or any available  
23 portion of the land, and that selection will relate back to the date of the Board of  
24 Regents' list of selections under this subsection and shall have priority over all other  
25 selections or claims made subsequent to that notice; in this paragraph, "vacant,  
26 unappropriated, unreserved land" has the meaning given in AS 29.65.130;

27 (3) is land

28 (A) included in a five-year proposed [OIL AND GAS] leasing  
29 program under AS 38.05.180(b); or

30 (B) leased under, or for which a lease application is pending  
31 under, AS 38.05.180(d) or 38.05.150;

- 1 (4) is subject to  
2 (A) an oil, gas, or coal lease, or coal prospecting permit;  
3 (B) a mining claim, offshore prospecting permit, a prospecting  
4 site, an upland mining lease, or a mining leasehold location;  
5 (5) is necessary to carry out the purpose of an interagency land  
6 management agreement; or  
7 (6) is subject to conveyance under a land exchange or land settlement  
8 agreement.

9 \* Sec. 2. AS 14.40.365(e) is amended to read:

- 10 (e) The list of selections of land submitted to the legislature may not include a  
11 land selection made by the University of Alaska under this section if the commissioner  
12 of natural resources determines in writing that the proposed selection  
13 (1) includes land that the commissioner in consultation with the  
14 commissioner of fish and game, determines has demonstrated value to the public as a  
15 habitat area that is especially critical to the perpetuation of fish or wildlife;  
16 (2) includes land for which, at the time of its selection under this  
17 section, a municipality has made a selection under AS 29.65 unless the land selection  
18 is, at a later date, rejected by the commissioner of natural resources or relinquished by  
19 the municipality;  
20 (3) includes land that the commissioner reasonably believes may be  
21 selected by a newly formed municipality under AS 29.65.030, but the commissioner  
22 may not withhold selection under this paragraph for more than three years after the  
23 municipality's incorporation;  
24 (4) includes land within the boundaries of a municipality, the  
25 municipality has a remaining entitlement under AS 29.65, and the municipality selects  
26 the land under AS 29.65 within 120 days after receipt by the municipality of the Board  
27 of Regents' list of selections under (a) of this section;  
28 (5) includes land that, at the time of its selection under this section,  
29 (A) is subject to an [OIL AND GAS] exploration license  
30 issued under AS 38.05.131 - 38.05.134; or  
31 (B) the commissioner reasonably believes will be made part of

1 an [OIL AND GAS] exploration license issued under AS 38.05.131 -  
2 38.05.134; the commissioner may not refuse to convey title to land to the  
3 University of Alaska under this subparagraph for more than two years after its  
4 first selection by the University of Alaska; or

5 (6) includes land the commissioner of natural resources reasonably  
6 believes would not be in the best interests of the state to convey outside of state  
7 ownership.

8 \* Sec. 3. AS 19.40.200(b) is amended to read:

9 (b) The prohibition on disposal of state land under (a) of this section does not  
10 apply to a disposal

11 (1) to a licensed public utility or a licensed common carrier under  
12 AS 38.05.810(e);

13 (2) for the reauthorization of leases that were in effect on January 1,  
14 1994, for nonresidential purposes within the following development nodes:

15 (A) Coldfoot:

16 Township 28 North, Range 12 West, Fairbanks Meridian

17 Sections 3 - 4

18 Sections 9 - 10

19 Sections 15 - 16

20 Sections 20 - 22

21 (B) Yukon River Crossing:

22 Township 12 North, Range 10 West, Fairbanks Meridian

23 Sections 6 - 7

24 Township 12 North, Range 11 West, Fairbanks Meridian

25 Sections 1 - 2

26 Section 12

27 Township 13 North, Range 10 West, Fairbanks Meridian

28 Sections 29 - 32

29 Township 13 North, Range 11 West, Fairbanks Meridian

30 Section 22

31 Sections 25 - 27

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Sections 34 - 36

(3) for nonresidential development within the following development

nodes:

(A) Deadhorse:

Township 10 North, Range 14 East, Umiat Meridian

Township 10 North, Range 15 East, Umiat Meridian

Section 8

Sections 17 - 20

Section 30

(B) Coldfoot:

Township 28 North, Range 12 West, Fairbanks Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

Sections 20 - 22

Township 29 North, Range 12 West, Fairbanks Meridian

Sections 23 - 27

Sections 34 - 35

(C) Franklin Bluffs:

Township 4 North, Range 14 East, Umiat Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

(D) Happy Valley:

Township 3 South, Range 14 East, Umiat Meridian

Sections 19 - 20

Sections 29 - 30

(E) Yukon River Crossing:

Township 12 North, Range 10 West, Fairbanks Meridian

Sections 6 - 7

Township 12 North, Range 11 West, Fairbanks Meridian

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Sections 1 - 2

Section 12

Township 13 North, Range 10 West, Fairbanks Meridian

Sections 29 - 32

Township 13 North, Range 11 West, Fairbanks Meridian

Section 22

Sections 25 - 27

Sections 34 - 36; or

(4) necessary for

(A) an oil and gas lease or gas only lease under AS 38.05.180;

(B) exploration, development, production, or transportation of oil and gas north of 68 degrees north latitude; or

(C) a state lease or materials sale for

(i) exploration, development, production, or transportation of oil or [AND] gas;

(ii) reconstruction or maintenance of state highways; or

(iii) construction or maintenance of airports.

\* Sec. 4. AS 31.05.030(j) is amended to read:

(j) For the purposes of AS 46.04.030(b), the commission shall determine whether a nonconventional gas well [DRILLED FOR SHALLOW NATURAL GAS] may penetrate a formation capable of flowing oil and, if so, whether the volume of oil encountered will be of such quantities that an oil discharge prevention and contingency plan will be required.

\* Sec. 5. AS 31.05.060(c) is amended to read:

(c) Notwithstanding the requirements of (a) and (b) of this section that relate to fixing a date for a hearing and causing notice of the hearing to be given, for an action under this chapter that involves the exploration for or development of nonconventional [SHALLOW NATURAL] gas and that has application to a single well or a single field, upon the request of a lessee or operator, the commission may, where operations might be unduly delayed, approve a variance from the commission's regulations that apply to the well or field without providing notice and opportunity to

1 be heard. In the exercise of its authority to issue the variance,

2 (1) the commission may approve the variance if

3 (A) the approval provides at least an equally effective means of  
4 accomplishing the requirement set out in the commission's regulation; or

5 (B) the commission determines that the request is more  
6 appropriate to the proposed operation than compliance with the requirement of  
7 the regulation; and

8 (2) the terms of the approval of the variance may include exempting  
9 the lessee or operator from a requirement of a regulation if the commission determines  
10 that the requirement is not necessary or not suited to the well or field taking into  
11 consideration

12 (A) the nature of the operation involved;

13 (B) the characteristics of the well or field for which the  
14 variance is sought; and

15 (C) the reasonably anticipated risks of the exemption from the  
16 requirement to human safety and the environment.

17 \* Sec. 6. AS 31.05.170 is amended by adding a new paragraph to read:

18 (16) "nonconventional gas" has the meaning given in AS 38.05.965.

19 \* Sec. 7. AS 36.30.850(b)(25) is amended to read:

20 (25) acquisition of confidential seismic survey data necessary for pre-  
21 sale oil and gas lease or gas only lease analyses under AS 38.05.180;

22 \* Sec. 8. AS 36.30.850(b)(33) is amended to read:

23 (33) contracts between the Department of Natural Resources and  
24 contractors qualified to evaluate hydrocarbon development, production, transportation,  
25 and economics, to assist the commissioner of natural resources in evaluating  
26 applications for [OIL AND GAS] royalty increases or decreases or other [OIL AND  
27 GAS] royalty adjustments, and evaluating the related financial and technical data,  
28 entered into under AS 38.05.180(j);

29 \* Sec. 9. AS 38.04.065(i) is amended to read:

30 (i) An oil and gas lease sale or gas only lease sale is not subject to this  
31 section. Oil and gas lease sales and gas only lease sales are subject to the planning

1 process established under AS 38.05.180.

2 \* **Sec. 10.** AS 38.05.035(e) is amended to read:

3 (e) Upon a written finding that the interests of the state will be best served, the  
4 director may, with the consent of the commissioner, approve contracts for the sale,  
5 lease, or other disposal of available land, resources, property, or interests in them. In  
6 approving a contract under this subsection, the director need only prepare a single  
7 written finding. In addition to the conditions and limitations imposed by law, the  
8 director may impose additional conditions or limitations in the contracts as the director  
9 determines, with the consent of the commissioner, will best serve the interests of the  
10 state. The preparation and issuance of the written finding by the director are subject to  
11 the following:

12 (1) with the consent of the commissioner and subject to the director's  
13 discretion, for a specific proposed disposal of available land, resources, or property, or  
14 of an interest in them, the director, in the written finding,

15 (A) shall establish the scope of the administrative review on  
16 which the director's determination is based, and the scope of the written  
17 finding supporting that determination; the scope of the administrative review  
18 and finding may address only reasonably foreseeable, significant effects of the  
19 uses proposed to be authorized by the disposal;

20 (B) may limit the scope of an administrative review and finding  
21 for a proposed disposal to

22 (i) applicable statutes and regulations;

23 (ii) the facts pertaining to the land, resources, or  
24 property, or interest in them, that the director finds are material to the  
25 determination and that are known to the director or knowledge of which  
26 is made available to the director during the administrative review; and

27 (iii) issues that, based on the statutes and regulations  
28 referred to in (i) of this subparagraph, on the facts as described in (ii) of  
29 this subparagraph, and on the nature of the uses sought to be authorized  
30 by the disposal, the director finds are material to the determination of  
31 whether the proposed disposal will best serve the interests of the state;

1 and

2 (C) may, if the project for which the proposed disposal is  
3 sought is a multiphased development, limit the scope of an administrative  
4 review and finding for the proposed disposal to the applicable statutes and  
5 regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that  
6 pertain solely to the disposal phase of the project when

7 (i) the only uses to be authorized by the proposed  
8 disposal are part of that phase;

9 (ii) the disposal is a [AN OIL AND GAS] disposal of  
10 oil and gas, or of gas only, and, before the next phase of the project  
11 may proceed, public notice and the opportunity to comment are  
12 provided under regulations adopted by the department unless the  
13 project is subject to a consistency review under AS 46.40 and public  
14 notice and the opportunity to comment are provided under  
15 AS 46.40.096(c);

16 (iii) the department's approval is required before the  
17 next phase of the project may proceed; and

18 (iv) the department describes its reasons for a decision  
19 to phase;

20 (2) the director shall discuss in the written finding prepared and issued  
21 under this subsection the reasons that each of the following was not material to the  
22 director's determination that the interests of the state will be best served:

23 (A) facts pertaining to the land, resources, or property, or an  
24 interest in them other than those that the director finds material under (1)(B)(ii)  
25 of this subsection; and

26 (B) issues based on the statutes and regulations referred to in  
27 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this  
28 subsection;

29 (3) a written finding for an oil and gas lease sale or gas only lease sale  
30 under AS 38.05.180 is subject to (g) of this section;

31 (4) a contract for the sale, lease, or other disposal of available land or

1 an interest in land is not legally binding on the state until the commissioner approves  
2 the contract, but if the appraised value is not greater than \$50,000 in the case of the  
3 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or  
4 interest in land, the director may execute the contract without the approval of the  
5 commissioner;

6 (5) public notice requirements relating to the sale, lease, or other  
7 disposal of available land or an interest in land for oil and gas, or for gas only,  
8 proposed to be scheduled in the five-year oil and gas leasing program under  
9 AS 38.05.180(b), except for a sale under (6)(F) of this subsection, are as follows:

10 (A) before a public hearing, if held, or in any case not less than  
11 180 days before the sale, lease, or other disposal of available land or an interest  
12 in land, the director shall make available to the public a preliminary written  
13 finding that states the scope of the review established under (1)(A) of this  
14 subsection and includes the applicable statutes and regulations, the material  
15 facts and issues in accordance with (1)(B) of this subsection, and information  
16 required by (g) of this section, upon which the determination that the sale,  
17 lease, or other disposal will serve the best interests of the state will be based;  
18 the director shall provide opportunity for public comment on the preliminary  
19 written finding for a period of not less than 60 days;

20 (B) after the public comment period for the preliminary written  
21 finding and not less than 90 days before the sale, lease, or other disposal of  
22 available land or an interest in land for oil and gas or for gas only, the director  
23 shall make available to the public a final written finding that states the scope of  
24 the review established under (1)(A) of this subsection and includes the  
25 applicable statutes and regulations, the material facts and issues in accordance  
26 with (1) of this subsection, and information required by (g) of this section,  
27 upon which the determination that the sale, lease, or other disposal will serve  
28 the best interests of the state is based;

29 (6) before a public hearing, if held, or in any case not less than 21 days  
30 before the sale, lease, or other disposal of available land, property, resources, or  
31 interests in them other than a sale, lease, or other disposal of available land or an

1 interest in land for oil and gas or for gas only under (5) of this subsection, the director  
2 shall make available to the public a written finding that, in accordance with (1) of this  
3 subsection, sets out the material facts and applicable statutes and regulations and any  
4 other information required by statute or regulation to be considered upon which the  
5 determination that the sale, lease, or other disposal will best serve the interests of the  
6 state was based; however, a written finding is not required before the approval of

7 (A) a contract for a negotiated sale authorized under  
8 AS 38.05.115;

9 (B) a lease of land for a shore fishery site under AS 38.05.082;

10 (C) a permit or other authorization revocable by the  
11 commissioner;

12 (D) a mineral claim located under AS 38.05.195;

13 (E) a mineral lease issued under AS 38.05.205;

14 (F) an exempt oil and gas lease sale or gas only lease sale  
15 under AS 38.05.180(d) of acreage subject to a best interest finding issued  
16 within the previous 10 years or a reoffer oil and gas lease sale or gas only  
17 lease sale under AS 38.05.180(w) of acreage subject to a best interest finding  
18 issued within the previous 10 years, unless the commissioner determines that  
19 substantial new information has become available that justifies a supplement to  
20 the most recent best interest finding for the exempt oil and gas lease sale or  
21 gas only lease sale acreage and for the reoffer oil and gas lease sale or gas  
22 only lease sale acreage; however, for each oil and gas lease sale or gas only  
23 lease sale described in this subparagraph, the director shall call for comments  
24 from the public; the director's call for public comments must provide  
25 opportunity for public comment for a period of not less than 30 days; if the  
26 director determines that a supplement to the most recent best interest finding  
27 for the acreage is required under this subparagraph,

28 (i) the director shall issue the supplement to the best  
29 interest finding not later than 90 days before the sale;

30 (ii) not later than 45 days before the sale, the director  
31 shall issue a notice describing the interests to be offered, the location

1 and time of the sale, and the terms and conditions of the sale; and

2 (iii) the supplement has the status of a final written best  
3 interest finding for purposes of (i) and (l) of this section;

4 (G) [A SHALLOW GAS LEASE AUTHORIZED UNDER  
5 AS 38.05.177 IN AN AREA FOR WHICH LEASING IS AUTHORIZED  
6 UNDER AS 38.05.177;

7 (H)] a surface use lease under AS 38.05.255;

8 (H) [(I)] a permit, right-of-way, or easement under  
9 AS 38.05.850;

10 (7) the director shall include in

11 (A) a preliminary written finding, if required, a summary of  
12 agency and public comments, if any, obtained as a result of contacts with other  
13 agencies concerning a proposed disposal or as a result of informal efforts  
14 undertaken by the department to solicit public response to a proposed disposal,  
15 and the department's preliminary responses to those comments; and

16 (B) the final written finding a summary of agency and public  
17 comments received and the department's responses to those comments.

18 \* Sec. 11. AS 38.05.035(g) is amended to read:

19 (g) Notwithstanding (e)(1)(A) and (B) of this section, when the director  
20 prepares a written finding required under (e) of this section for an oil and gas lease  
21 sale or a gas only lease sale scheduled under AS 38.05.180, the director shall consider  
22 and discuss

23 (1) in a preliminary or final written finding facts that are known to the  
24 director at the time of preparation of the finding and that are

25 (A) material to issues that were raised during the period  
26 allowed for receipt of public comment, whether or not material to a matter set  
27 out in (B) of this paragraph, and within the scope of the administrative review  
28 established by the director under (e)(1) of this section; or

29 (B) material to the following matters:

30 (i) property descriptions and locations;

31 (ii) the petroleum potential of the sale area, in general

- 1 terms;
- 2 (iii) fish and wildlife species and their habitats in the
- 3 area;
- 4 (iv) the current and projected uses in the area, including
- 5 uses and value of fish and wildlife;
- 6 (v) the governmental powers to regulate the [OIL AND
- 7 GAS] exploration, development, production, and transportation of oil
- 8 and gas or of gas only;
- 9 (vi) the reasonably foreseeable cumulative effects of
- 10 [OIL AND GAS] exploration, development, production, and
- 11 transportation for oil and gas or for gas only on the sale area,
- 12 including effects on subsistence uses, fish and wildlife habitat and
- 13 populations and their uses, and historic and cultural resources;
- 14 (vii) lease stipulations and mitigation measures,
- 15 including any measures to prevent and mitigate releases of oil and
- 16 hazardous substances, to be included in the leases, and a discussion of
- 17 the protections offered by these measures;
- 18 (viii) the method or methods most likely to be used to
- 19 transport oil or gas from the lease sale area, and the advantages,
- 20 disadvantages, and relative risks of each;
- 21 (ix) the reasonably foreseeable fiscal effects of the lease
- 22 sale and the subsequent activity on the state and affected municipalities
- 23 and communities, including the explicit and implicit subsidies
- 24 associated with the lease sale, if any;
- 25 (x) the reasonably foreseeable effects of [OIL AND
- 26 GAS] exploration, development, production, and transportation
- 27 involving oil and gas or gas only on municipalities and communities
- 28 within or adjacent to the lease sale area; and
- 29 (xi) the bidding method or methods adopted by the
- 30 commissioner under AS 38.05.180; and
- 31 (2) the basis for the director's preliminary or final finding, as

1 applicable, that, on balance, leasing the area would be in the state's best interest.

2 \* Sec. 12. AS 38.05.036(a) is amended to read:

3 (a) The department may conduct audits regarding royalty and net profits under  
4 oil and gas contracts, agreements, or leases under this chapter and regarding costs  
5 related to [OIL AND GAS] exploration licenses entered into under AS 38.05.131 -  
6 38.05.134 and exploration incentive credits under this chapter or under AS 41.09. For  
7 purposes of audit under this section,

8 (1) the department may examine the books, papers, records, or  
9 memoranda of a person regarding matters related to the audit; and

10 (2) the records and premises where a business is conducted shall be  
11 open at all reasonable times for inspection by the department.

12 \* Sec. 13. AS 38.05.127(e) is amended to read:

13 (e) The establishment of easements or rights-of-way for oil and gas, gas only,  
14 and mineral leases under (a) of this section need not be made until the leases are ready  
15 to be developed.

16 \* Sec. 14. AS 38.05.131(a) is amended to read:

17 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the  
18 provisions of AS 38.05.005 - 38.05.037, 38.05.140(f), 38.05.180, 38.05.182 -  
19 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of [OIL AND GAS]  
20 exploration licenses and leases for oil and gas, or for gas only, as appropriate,  
21 under AS 38.05.132 - 38.05.134.

22 \* Sec. 15. AS 38.05.132(a) is amended to read:

23 (a) To encourage exploration for oil and gas on state land, the commissioner  
24 may issue [OIL AND GAS] exploration licenses. The commissioner may limit the  
25 exploration licenses under AS 38.05.132 - 38.05.134 to exploration for and  
26 recovery of gas only.

27 \* Sec. 16. AS 38.05.132(b) is amended to read:

28 (b) An [OIL AND GAS] exploration license issued under this section gives  
29 the licensee

30 (1) the exclusive right to explore, for a term not to exceed 10 years,  
31 [FOR DEPOSITS OF OIL AND GAS] on unleased state land described in the

1 exploration license for deposits of oil and gas, or for deposits of gas only, as  
2 appropriate, unless the exploration license is terminated under (d)(1) of this section  
3 or the land is earlier relinquished, removed, or deleted under (d)(2) of this section; and

4 (2) unless the exploration license is terminated under (d)(1) of this  
5 section, the option to convert the exploration license for all or part of the state land,  
6 except the land that is deleted or removed from the land described in the exploration  
7 license under (d)(2) of this section, into an oil and gas lease, or a gas lease only, as  
8 appropriate, upon fulfillment of the work commitments contained in the exploration  
9 license.

10 \* Sec. 17. AS 38.05.132(c) is amended to read:

11 (c) An exploration license awarded under this section

12 (1) is not subject to the acreage limitations imposed by  
13 AS 38.05.140(c) or 38.05.180(m);

14 (2) may cover, subject to the maximum acreage limitation on  
15 exploration licenses by one licensee under AS 38.05.131(e), an area of not less than  
16 10,000 acres and not more than 500,000 acres, that must be reasonably compact and  
17 contiguous;

18 (3) must be conditioned upon an obligation to perform a specified  
19 work commitment, in total for the term of the license, expressed in dollars of direct  
20 exploration expenditures; the specified work commitment

21 (A) may include a provision that adjusts the total amount of  
22 work commitment, expressed in dollars of direct exploration expenditures, to  
23 account for inflation;

24 (B) must include a requirement that the licensee complete at  
25 least 25 percent of the licensee's total specified work commitment by the fourth  
26 anniversary of the effective date of the issuance of the [OIL AND GAS]  
27 exploration license;

28 (4) must be conditioned upon the posting of a bond or other security  
29 acceptable to the commissioner, in favor of the state and subject to the following  
30 requirements:

31 (A) the bond or other security must be renewed annually;

1 (B) the annual bond or other security shall be calculated as the  
2 entire work commitment expressed in dollars, less the cumulative direct  
3 exploration expenditures of the licensee as of the last day of the most recent  
4 project year, divided by the number of years remaining in the term of the  
5 exploration license;

6 (5) is subject to an annual review and revocation if the commissioner  
7 determines that the licensee has failed to provide or maintain in effect the bond or  
8 other security required by (4) of this subsection;

9 (6) must be conditioned upon the licensee's payment to the state of a  
10 nonrefundable [OIL AND GAS] exploration license fee of \$1 for each acre of land or  
11 fraction of each acre that is subject to the exploration license; and

12 (7) must be conditioned upon an agreement that exploration  
13 expenditures are subject to audit by the commissioner.

14 \* Sec. 18. AS 38.05.132(f) is amended to read:

15 (f) In this section,

16 (1) "direct exploration expenditure" means cash expenses undertaken  
17 in performance of a specified work commitment under the provisions of AS 38.05.131  
18 - 38.05.134 and necessarily incurred by the licensee in the permitting, mobilization,  
19 conducting, demobilization, and evaluation of geophysical and geological surveys, or  
20 the drilling, logging, coring, testing, and evaluation of oil and gas or gas only wells;  
21 the term

22 (A) includes direct labor costs, including the cost of benefits,  
23 for employees directly associated with the work commitment programs, the  
24 cost of renting or leasing equipment from parties not affiliated with the  
25 licensee, the reasonable costs of maintaining and operating equipment,  
26 payments to consultants and independent contractors not affiliated with the  
27 licensee, and costs of materials and supplies;

28 (B) does not include noncash expenses such as depreciation  
29 and reserves, interest or other costs of borrowed funds, return on investment,  
30 overhead, insurance or bond premiums, or any other expense that is  
31 unreasonable or that the licensee has not incurred to satisfy the licensee's work

1                   commitment;

2                   (2) "work commitment" includes the drilling of one or more  
3                   exploration wells or the gathering of data from activities described in (1) of this  
4                   subsection, or both.

5 \* **Sec. 19.** AS 38.05.133(a) is amended to read:

6                   (a) The procedures in this section apply to the issuance of an [OIL AND GAS]  
7                   exploration license under AS 38.05.132.

8 \* **Sec. 20.** AS 38.05.133(f) is amended to read:

9                   (f) After considering proposals not rejected under (d) of this section and public  
10                  comment on those proposals, the commissioner shall issue a written finding  
11                  addressing all matters set out in AS 38.05.035(e) and (g), except for  
12                  AS 38.05.035(g)(1)(B)(xi). If the finding concludes that the state's best interests  
13                  would be served by issuing an [OIL AND GAS] exploration license, the finding must  
14                  (1) describe the limitations, stipulations, conditions, or changes from the initiating  
15                  proposal or competing proposals that are required to make the issuance of the  
16                  exploration license conform to the best interests of the state, and (2) if only one  
17                  proposal was submitted, identify the prospective licensee whom the commissioner  
18                  finds should be issued the exploration license. The commissioner shall attach to the  
19                  finding a copy of the exploration license to be issued and the form of lease that will be  
20                  used for any portion of the exploration license area subsequently converted to a [AN  
21                  OIL AND GAS] lease under AS 38.05.134.

22 \* **Sec. 21.** AS 38.05.133(h) is amended to read:

23                  (h) If competing proposals are submitted, and the commissioner's finding  
24                  under (f) of this section concludes that an [OIL AND GAS] exploration license should  
25                  be issued, the commissioner shall issue a request for competitive sealed bids, under  
26                  procedures adopted by the commissioner by regulation, to determine which  
27                  prospective licensee should be issued the exploration license. The finding provided to  
28                  the prospective licensees and the public under (f) of this section must contain notice  
29                  that (1) the commissioner intends to request competitive sealed bids, (2) a prospective  
30                  licensee who intends to participate in the bidding must notify the commissioner in  
31                  writing by the date specified in the notice, and (3) a prospective licensee's notice of

1 intent to participate in the bidding constitutes acceptance of issuance of the  
2 exploration license, as limited or conditioned by the terms contained in the finding and  
3 by the exploration license to be issued and the form of lease to be used that have been  
4 attached to that finding, if the prospective licensee is the successful bidder. The  
5 successful bidder is the prospective licensee who submits the highest bid in terms of  
6 the minimum work commitment dollar amount.

7 \* Sec. 22. AS 38.05.134 is amended to read:

8 **Sec. 38.05.134. Conversion to lease.** If the licensee requests and the  
9 commissioner determines that the work commitment obligation set out in an [OIL  
10 AND GAS] exploration license issued under AS 38.05.132 has been met, the  
11 commissioner shall convert to one or more [OIL AND GAS] leases all or part, as the  
12 licensee may indicate, of the area described in the exploration license that remains  
13 after the relinquishments, removals, or deletions required by AS 38.05.132(d)(2). A  
14 lease issued under this section

15 (1) is subject to the acreage limitations imposed by AS 38.05.140(c);

16 (2) is subject to AS 38.05.180(j) - (m), (o) - (u), and (x) - (z);

17 (3) must be conditioned upon a royalty in amount or value of not less  
18 than 12.5 percent of production, except that

19 (A) the lessee who, proceeding under AS 38.05.131 -  
20 38.05.134, under a lease issued in the Cook Inlet sedimentary basin who is the  
21 first to file with the commissioner a nonconfidential sworn statement claiming  
22 to be the first to have drilled a well discovering oil or gas in a previously  
23 undiscovered oil or gas pool and who is certified by the commissioner within  
24 one year of completion of that discovery well to have drilled a well in that pool  
25 that is capable of producing in paying quantities shall pay a royalty of five  
26 percent on all production of oil or gas from that pool attributable to that lease  
27 for a period of 10 years following the date of discovery of that pool, and  
28 thereafter the royalty payable on all production of oil or gas from the pool  
29 attributable to that lease shall be determined and payable as specified in the  
30 lease; the payment of the five percent royalty under this paragraph is  
31 authorized only to a holder of a lease who meets the requirements of

1 AS 38.05.180(f)(4); and

2 (B) for nonconventional gas that is not produced in direct  
3 competition with gas on which a royalty at a rate of at least 12.5 percent is  
4 payable, if the licensee requests, the commissioner may negotiate with the  
5 licensee and set a royalty rate for the gas of at least 6.25 percent; for  
6 purposes of this subparagraph, "nonconventional gas" has the meaning  
7 given in AS 38.05.965;

8 (4) must include an annual rent of \$3 per acre or fraction of an acre  
9 initially paid to the state at inception of the lease and payable annually after that until  
10 the income to the state from royalty under that lease exceeds the rental income to the  
11 state under that lease for that year; and

12 (5) is subject to other conditions and obligations that are specified in  
13 the lease.

14 \* Sec. 23. AS 38.05.140(a) is amended to read:

15 (a) A person may not take or hold coal leases or permits during the life of coal  
16 leases on state land exceeding an aggregate of 92,160 acres, except that a person may  
17 apply for coal leases or permits for acreage in addition to 92,160 acres, not exceeding  
18 a total of 5,120 additional acres of state land. The additional area applied for shall be  
19 in multiples of 40 acres, and the application shall contain a statement that the granting  
20 of a lease for additional land is necessary for the person to carry on business  
21 economically and is in the public interest. On the filing of the application, [EXCEPT  
22 AS PROVIDED BY AS 38.05.177(a)(2)(C),] the coal deposits in the land covered by  
23 the application shall be temporarily set aside and withdrawn from all other forms of  
24 disposal provided under AS 38.05.135 - 38.05.181.

25 \* Sec. 24. AS 38.05.140(f) is amended to read:

26 (f) The submerged and shoreland lying north of 57 degrees, 30 minutes, North  
27 [NORTH] latitude and east of 159 degrees, 49 minutes, West [WEST] longitude  
28 within the Bristol Bay drainage are designated as the Bristol Bay Fisheries Reserve.  
29 Within the Bristol Bay Fisheries Reserve, a [NO] surface entry permit to develop an  
30 oil or gas lease or an [OIL AND GAS] exploration license under AS 38.05.131 -  
31 38.05.134 may not be issued on state owned or controlled land until the legislature by

1 appropriate resolution specifically finds that the entry will not constitute danger to the  
2 fishery.

3 \* Sec. 25. AS 38.05.150(f) is amended to read:

4 (f) A [NOTWITHSTANDING AS 38.05.177, A] lease entered into under this  
5 section gives the lessee the right to vent or remove methane and other gas held in  
6 association with the coal in the land covered by the lease to ensure safe coal mining  
7 operations.

8 \* Sec. 26. AS 38.05.177(a) is amended to read:

9 (a) The provisions of this section

10 [(1)] apply to nonconventional gas [, WHETHER METHANE  
11 ASSOCIATED WITH AND DERIVED FROM COAL DEPOSITS OR  
12 OTHERWISE, FROM A FIELD IF A PART OF THE FIELD IS WITHIN 3,000  
13 FEET OF THE SURFACE; AND

14 (2) DO NOT APPLY TO AUTHORIZE LEASE OF

15 (A) LAND

16 (i) THAT IS SUBJECT TO AN OIL AND GAS  
17 EXPLORATION LICENSE OR LEASE ISSUED UNDER  
18 AS 38.05.131 - 38.05.134; OR

19 (ii) THAT IS LEASED UNDER AS 38.05.180;

20 (B) THE LAND (i) THAT IS PROPOSED TO BE SUBJECT  
21 TO AN OIL AND GAS EXPLORATION LICENSE OR LEASE ISSUED  
22 UNDER AS 38.05.131 - 38.05.134; OR (ii) THAT IS DESCRIBED IN AND  
23 PART OF A PROPOSED OIL AND GAS LEASING PROGRAM  
24 PREPARED UNDER AS 38.05.180(b); HOWEVER, THE COMMISSIONER  
25 MAY WAIVE THE LIMITATIONS OF THIS SUBPARAGRAPH;

26 (C) THE LAND THAT IS HELD UNDER A COAL LEASE  
27 ENTERED INTO UNDER AS 38.05.150, UNLESS THE APPLICANT FOR  
28 A SHALLOW NATURAL GAS LEASE IS ALSO THE LESSEE UNDER  
29 AS 38.05.150 OF THAT LAND; OR

30 (D) THE VALID EXISTING SELECTIONS OF THE  
31 ALASKA MENTAL HEALTH TRUST AUTHORITY MADE FOR THE

1 PURPOSE OF RECONSTITUTING THE MENTAL HEALTH TRUST  
2 ESTABLISHED UNDER THE ALASKA MENTAL HEALTH ENABLING  
3 ACT, P.L. 84-830, 70 STAT. 709 (1956), THAT BECOME SUBJECT TO  
4 MANAGEMENT UNDER AS 38.05.801, OR OF LAND THAT HAS BEEN  
5 DESIGNATED BY LAW FOR OR IS SUBJECT TO DESIGNATION FOR  
6 CONVEYANCE TO THE ALASKA MENTAL HEALTH TRUST  
7 AUTHORITY; HOWEVER, AFTER CONSULTATION WITH THE  
8 ALASKA MENTAL HEALTH TRUST AUTHORITY, THE  
9 COMMISSIONER MAY WAIVE THE LIMITATIONS OF THIS  
10 SUBPARAGRAPH].

11 \* Sec. 27. AS 38.05.177(d) is amended to read:

12 (d) A lease

13 (1) shall be automatically extended if and for so long thereafter as gas  
14 is produced in paying quantities from the lease and the lessee continues to meet all  
15 requirements of the lease; a [. A] lease issued under this section covering land on  
16 which there is a well capable of producing gas in paying quantities does not expire  
17 because the lessee fails to produce gas unless the lessee is allowed reasonable time to  
18 place the well on a producing status; if [. IF] drilling has commenced on the  
19 expiration date of the primary term of the lease and is continued with reasonable  
20 diligence, including such operations as redrilling, sidetracking, or other means  
21 necessary to reach the originally proposed bottom hole location, the lease is extended  
22 for one year and for so long thereafter as gas is produced in paying quantities; a [. A]  
23 gas lease issued under this section that is subject to termination by reason of cessation  
24 of production does not terminate if, within 90 days after production ceases or a longer  
25 period determined at the discretion of the director, reworking or drilling operations are  
26 commenced on the land under lease and are thereafter conducted with reasonable  
27 diligence during the period of nonproduction;

28 (2) issued under former (c) of this section before January 1, 2004,  
29 may be extended at the discretion of the director; a lease may be extended under  
30 this paragraph [. IN ADDITION,] upon application by the lessee; [,] the director  
31 may once extend the [A] lease [ISSUED UNDER (c) OF THIS SECTION] for a

1 period of not more than three years: in exercising discretion to extend a lease under  
2 this paragraph, the director may not extend the lease unless the director  
3 considers

4 (A) the extent of the shallow natural gas exploration  
5 activity already conducted on the lease and on adjacent areas;

6 (B) the probability that further shallow natural gas  
7 exploration activity will occur on the lease and will lead to shallow natural  
8 gas development and production; and

9 (C) whether extension of the lease's primary term will  
10 accelerate the eventual production of shallow natural gas from the lease.

11 \* Sec. 28. AS 38.05.177(I) is amended to read:

12 (I) A lessee holding [OBTAINING] a lease modified under  
13 AS 38.05.180(n)(2) [THIS SECTION] may exercise the rights authorized by this  
14 section and the lease. The rights granted by the lease must be exercised in a manner  
15 that does not unreasonably interfere with eventual development of other mineral  
16 deposits on the land leased. However, in a lease entered into under AS 38.05.150 for  
17 land that is already subject to a lease covered [LEASED] under this section, coal may  
18 not be mined or extracted by the coal lessee from the coal lease without prior  
19 agreement with the lessee holding the lease covered [ISSUED] under this section.

20 \* Sec. 29. AS 38.05.180(a) is amended to read:

21 (a) The legislature finds that

22 (1) the people of Alaska have an interest in the development of the  
23 state's oil and gas resources to

24 (A) maximize the economic and physical recovery of the  
25 resources;

26 (B) maximize competition among parties seeking to explore  
27 and develop the resources;

28 (C) maximize use of Alaska's human resources in the  
29 development of the resources;

30 (2) it is in the best interests of the state

31 (A) to encourage an assessment of its oil and gas resources and

1 to allow the maximum flexibility in the methods of issuing leases to

2 (i) recognize the many varied geographical regions of  
3 the state and the different costs of exploring for oil and gas in these  
4 regions;

5 (ii) minimize the adverse impact of exploration,  
6 development, production, and transportation activity; and

7 (B) to offer acreage for oil and gas leases or for gas only  
8 leases, specifically including

9 (i) state acreage that has been the subject of a best  
10 interest finding at annual areawide lease sales; and

11 (ii) land in areas that, under (d) of this section, may be  
12 leased without having been included in the leasing program prepared  
13 and submitted under (b) of this section.

14 \* **Sec. 30.** AS 38.05.180(b) is amended to read:

15 (b) The commissioner shall biennially prepare and, between the first and the  
16 15th day of the first regular session of each legislature, notify the legislature of the  
17 availability of, a five-year proposed oil and gas leasing program consisting of a  
18 schedule of proposed lease sales and specifying as precisely as practicable the location  
19 of tracts proposed to be offered for oil and gas leasing or for leasing of gas only  
20 during the calendar year in which the proposed program is made available to the  
21 legislature and the following four calendar years.

22 \* **Sec. 31.** AS 38.05.180(c) is amended to read:

23 (c) Except as provided in (d) and (w) of this section, an oil and gas lease sale  
24 or gas only lease sale may not be held unless it was included in the proposed leasing  
25 programs submitted to the legislature during the two calendar years preceding the year  
26 in which the sale is held. A lease sale, whether for oil and gas or for gas only, may  
27 not be held before the date it is scheduled in the proposed oil and gas leasing program.

28 \* **Sec. 32.** AS 38.05.180(d) is amended to read:

29 (d) The commissioner

30 (1) may annually offer leases for oil and gas or leases for gas only  
31 [LEASES] of the acreage described in AS 38.05.035(e)(6)(F);

1 (2) may issue [OIL AND GAS] leases in an area that has not been  
2 included in a leasing program prepared, in accordance with (b) of this section, if the  
3 land to be leased

4 (A) was previously subject to a valid state oil and gas lease, a  
5 valid state gas lease, or a valid federal oil and gas lease;

6 (B) is contiguous to land already under state, federal, or private  
7 lease and the commissioner makes a written finding, after hearing, that leasing  
8 of the land would result in a substantial probability of early evaluation and  
9 development of the land to be leased;

10 (C) is adjacent to land owned or controlled by another party on  
11 which a discovery of commercial quantities of oil or gas has been made, and  
12 the commissioner finds, after hearing, that there is a reasonable probability that  
13 the land to be leased contains oil or gas in communication with the oil or gas  
14 discovered on the land of the other party;

15 (D) is adjacent to land included in the federal five-year Outer  
16 Continental Shelf leasing program under 43 U.S.C. 1344, and the  
17 commissioner makes a written finding, after hearing, that coordinated or  
18 simultaneous leasing with the federal government is in the public interest; or

19 (E) is the subject of an [OIL AND GAS] exploration license  
20 issued under AS 38.05.131 - 38.05.134; however, if the license issued was  
21 for exploration for and recovery of gas only, then the lease issued under  
22 this subsection shall be limited to exploration for and recovery of gas only.

23 \* Sec. 33. AS 38.05.180(f) is amended to read:

24 (f) Except as provided by AS 38.05.131 - 38.05.134 [AND 38.05.177], the  
25 commissioner may issue oil and gas leases or leases for gas only on state land to the  
26 highest responsible qualified bidder as follows:

27 (1) the commissioner shall issue an oil and gas lease or a gas only  
28 lease, as appropriate, to the successful bidder determined by competitive bidding  
29 under regulations adopted by the commissioner; bidding may be by sealed bid or  
30 according to any other bidding procedure the commissioner determines is in the best  
31 interests of the state;

1 (2) whenever, under any of the leasing methods listed in this  
2 subsection, a royalty share is reserved to the state, it shall be delivered in pipeline  
3 quality and free of all lease or unit expenses, including but not limited to separation,  
4 cleaning, dehydration, gathering, salt water disposal, and preparation for transportation  
5 off the lease or unit area;

6 (3) following a pre-sale analysis, the commissioner may choose at least  
7 one of the following leasing methods:

8 (A) a cash bonus bid with a fixed royalty share reserved to the  
9 state of not less than 12.5 percent in amount or value of the production  
10 removed or sold from the lease;

11 (B) a cash bonus bid with a fixed royalty share reserved to the  
12 state of not less than 12.5 percent in amount or value of the production  
13 removed or sold from the lease and a fixed share of the net profit derived from  
14 the lease of not less than 30 percent reserved to the state;

15 (C) a fixed cash bonus with a royalty share reserved to the state  
16 as the bid variable but no less than 12.5 percent in amount or value of the  
17 production removed or sold from the lease;

18 (D) a fixed cash bonus with the share of the net profit derived  
19 from the lease reserved to the state as the bid variable;

20 (E) a fixed cash bonus with a fixed royalty share reserved to the  
21 state of not less than 12.5 percent in amount or value of the production  
22 removed or sold from the lease with the share of the net profit derived from the  
23 lease reserved to the state as the bid variable;

24 (F) a cash bonus bid with a fixed royalty share reserved to the  
25 state based on a sliding scale according to the volume of production or other  
26 factor but in no event less than 12.5 percent in amount or value of the  
27 production removed or sold from the lease;

28 (G) a fixed cash bonus with a royalty share reserved to the state  
29 based on a sliding scale according to the volume of production or other factor  
30 as the bid variable but not less than 12.5 percent in amount or value of the  
31 production removed or sold from the lease;

1                    (H) for nonconventional gas that will not be produced in  
2                    direct competition with gas on which a royalty at a rate of at least 12.5  
3                    percent is payable, a royalty share reserved to the state of at least 6.25  
4                    percent in amount or value of the production removed or sold from the  
5                    lease;

6                    (4) notwithstanding a requirement in the leasing method chosen of a  
7                    minimum fixed royalty share, on and after March 3, 1997, the lessee under a lease  
8                    issued in the Cook Inlet sedimentary basin who is the first to file with the  
9                    commissioner a nonconfidential sworn statement claiming to be the first to have  
10                    drilled a well discovering oil or gas in a previously undiscovered oil or gas pool and  
11                    who is certified by the commissioner within one year of completion of that discovery  
12                    well to have drilled a well in that pool that is capable of producing in paying quantities  
13                    shall pay a royalty of five percent on all production of oil or gas from that pool  
14                    attributable to that lease for a period of 10 years following the date of discovery of that  
15                    pool, and thereafter the royalty payable on all production of oil or gas from the pool  
16                    attributable to that lease shall be determined and payable as specified in the lease; for  
17                    purposes of this paragraph, the reduced royalty authorized by this paragraph is subject  
18                    to the following:

19                    (A) only one reduction of royalty authorized by this paragraph  
20                    may be allowed on each lease that qualifies for reduction of royalty under this  
21                    paragraph;

22                    (B) if, under this paragraph, application is made for a royalty  
23                    reduction for a lease that was entered into before March 3, 1997, the  
24                    commissioner may approve the application only if, on that date, the lease was a  
25                    nonproducing lease that was not committed to a unit approved by the  
26                    commissioner under (m) of this section, that is not part of a unit under (p) or  
27                    (q) of this section, and that has not been made part of a unit under AS 31.05;

28                    (C) if application for a royalty reduction is made under this  
29                    paragraph for a lease on which a discovery royalty was claimed or may be  
30                    claimed under the discovery royalty provisions of former AS 38.05.180(a) in  
31                    effect before May 6, 1969, the commissioner shall disallow the application

1 under this paragraph unless the applicant waives the right to claim the right to  
2 a reduced royalty under the discovery royalty provisions of former  
3 AS 38.05.180(a) in effect before May 6, 1969; and

4 (D) the commissioner shall adopt regulations setting out the  
5 standards, criteria, and definitions of terms that apply to implement the filing  
6 of applications for, and the review and certification of, discovery [OIL AND  
7 GAS ROYALTY] certifications under this paragraph;

8 (5) notwithstanding and in lieu of a requirement in the leasing method  
9 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases  
10 unitized as described in (p) of this section, leases subject to an agreement described in  
11 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of  
12 an oil or gas field identified in this section that has been granted approval of a written  
13 plan submitted to the Alaska Oil and Gas Conservation Commission under  
14 AS 31.05.030(i) shall, subject to (dd) of this section, pay a royalty of five percent on  
15 the first 25,000,000 barrels of oil and the first 35,000,000,000 cubic feet of gas  
16 produced for sale from that field that occurs in the 10 years following the date on  
17 which the production for sale commences; the fields eligible for royalty reduction  
18 under this paragraph, all of which are located within the Cook Inlet sedimentary basin,  
19 were discovered before January 1, 1988, and have been undeveloped or shut in from at  
20 least January 1, 1988, through December 31, 1997, are

21 (A) Falls Creek;

22 (B) Nicolai Creek;

23 (C) North Fork;

24 (D) Point Starichkof;

25 (E) Redoubt Shoal; and

26 (F) West Foreland;

27 (6) notwithstanding and in lieu of a requirement in the leasing method  
28 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases  
29 unitized as described in (p) of this section, leases subject to an agreement described in  
30 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of  
31 an oil field located offshore in Cook Inlet on which an oil production platform

1 specified in (A), (C), or (E) of this paragraph operates, or the lessee of all or part of the  
2 field located offshore in Cook Inlet and described in (G) of this paragraph,

3 (A) shall pay a royalty of five percent on oil produced from the  
4 platform if oil production that equaled or exceeded a volume of 1,200 barrels a  
5 day declines to less than that amount for a period of at least one calendar  
6 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for  
7 as long as the volume of oil produced from the platform remains less than  
8 1,200 barrels a day; the provisions of this subparagraph apply to

- 9 (i) Dolly;  
10 (ii) Grayling;  
11 (iii) King Salmon;  
12 (iv) Steelhead; and  
13 (v) Monopod;

14 (B) shall pay a royalty calculated under this subparagraph if the  
15 volume of oil produced from the platform that was certified by the Alaska Oil  
16 and Gas Conservation Commission under (A) of this paragraph later increases  
17 to 1,200 or more barrels a day and remains at 1,200 or more barrels a day for a  
18 period of at least one calendar quarter; until the royalty rate determined under  
19 this subparagraph applies, the royalty continues to be calculated under (A) of  
20 this paragraph; on and after the first day of the month following the month the  
21 increased production exceeds the period specified in this subparagraph, the  
22 royalty payable under this subparagraph is

- 23 (i) for production of at least 1,200 barrels a day but not  
24 more than 1,300 barrels a day - seven percent;  
25 (ii) for production of more than 1,300 barrels a day but  
26 not more than 1,400 barrels a day - 8.5 percent;  
27 (iii) for production of more than 1,400 barrels a day but  
28 not more than 1,500 barrels a day - 10 percent; and  
29 (iv) for production of more than 1,500 barrels a day -  
30 12.5 percent;

31 (C) shall pay a royalty of five percent on oil produced from the

1 platform if oil production that equaled or exceeded a volume of 975 barrels a  
2 day declines to less than that amount for a period of at least one calendar  
3 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for  
4 as long as the volume of oil produced from the platform remains less than 975  
5 barrels a day; the provisions of this subparagraph apply to

- 6 (i) Baker;
- 7 (ii) Dillon;
- 8 (iii) XTO.A; and
- 9 (iv) XTO.C;

10 (D) shall pay a royalty calculated under this subparagraph if the  
11 volume of oil produced from the platform that was certified by the Alaska Oil  
12 and Gas Conservation Commission under (C) of this paragraph later increases  
13 to 975 or more barrels a day and remains at 975 or more barrels a day for a  
14 period of at least one calendar quarter; until the royalty rate determined under  
15 this subparagraph applies, the royalty continues to be calculated under (C) of  
16 this paragraph; on and after the first day of the month following the month the  
17 increased production exceeds the period specified in this subparagraph, the  
18 royalty payable under this subparagraph is

- 19 (i) for production of at least 975 barrels a day but not  
20 more than 1,100 barrels a day - seven percent;
- 21 (ii) for production of more than 1,100 barrels a day but  
22 not more than 1,200 barrels a day - 8.5 percent;
- 23 (iii) for production of more than 1,200 barrels a day but  
24 not more than 1,350 barrels a day - 10 percent; and
- 25 (iv) for production of more than 1,350 barrels a day -  
26 12.5 percent;

27 (E) shall pay a royalty of five percent on oil produced from the  
28 platform if oil production that equaled or exceeded a volume of 750 barrels a  
29 day declines to less than that amount for a period of at least one calendar  
30 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for  
31 as long as the volume of oil produced from the platform remains less than 750

1 barrels a day; the provisions of this subparagraph apply to

2 (i) Granite Point;

3 (ii) Anna; and

4 (iii) Bruce;

5 (F) shall pay a royalty calculated under this subparagraph if the  
6 volume of oil produced from the platform that was certified by the Alaska Oil  
7 and Gas Conservation Commission under (E) of this paragraph later increases  
8 to 750 or more barrels a day and remains at 750 or more barrels a day for a  
9 period of at least one calendar quarter; until the royalty rate determined under  
10 this subparagraph applies, the royalty continues to be calculated under (E) of  
11 this paragraph; on and after the first day of the month following the month the  
12 increased production exceeds the period specified in this subparagraph, the  
13 royalty payable under this subparagraph is

14 (i) for production of at least 750 barrels a day but not  
15 more than 850 barrels a day - seven percent;

16 (ii) for production of more than 850 barrels a day but  
17 not more than 1,000 barrels a day - 8.5 percent;

18 (iii) for production of more than 1,000 barrels a day but  
19 not more than 1,200 barrels a day - 10 percent; and

20 (iv) for production of more than 1,200 barrels a day -  
21 12.5 percent;

22 (G) shall pay a royalty of five percent on oil produced from the  
23 field if oil production that equaled or exceeded a volume of 750 barrels a day  
24 declines to less than that amount for a period of at least one calendar quarter,  
25 as certified by the Alaska Oil and Gas Conservation Commission, for as long  
26 as the volume of oil produced from the field remains less than 750 barrels a  
27 day; the provisions of this subparagraph apply to the West McArthur River  
28 field;

29 (H) shall pay a royalty calculated under this subparagraph if the  
30 volume of oil produced from the field that was certified by the Alaska Oil and  
31 Gas Conservation Commission under (G) of this paragraph later increases to

1 750 or more barrels a day and remains at 750 or more barrels a day for a period  
2 of at least one calendar quarter; until the royalty rate determined under this  
3 subparagraph applies, the royalty continues to be calculated under (G) of this  
4 paragraph; on and after the first day of the month following the month the  
5 increased production exceeds the period specified in this subparagraph, the  
6 royalty payable under this subparagraph is

7 (i) for production of at least 750 barrels a day but not  
8 more than 850 barrels a day - seven percent;

9 (ii) for production of more than 850 barrels a day but  
10 not more than 1,000 barrels a day - 8.5 percent;

11 (iii) for production of more than 1,000 barrels a day but  
12 not more than 1,200 barrels a day - 10 percent; and

13 (iv) for production of more than 1,200 barrels a day -  
14 12.5 percent; and

15 (I) may obtain the benefits of the royalty adjustments set out in  
16 (A) - (H) of this paragraph only if the commissioner determines that the  
17 reduction in production from the platform or the field is

18 (i) based on the average daily production during the  
19 calendar quarter based on reservoir conditions; and

20 (ii) not the result of short-term production declines due  
21 to mechanical or other choke-back factors, temporary shutdowns or  
22 decreased production due to environmental or facility constraints, or  
23 market conditions.

24 \* Sec. 34. AS 38.05.180(h) is amended to read:

25 (h) The commissioner may include terms in any [OIL AND GAS] lease  
26 imposing a minimum work commitment on the lessee. These terms shall be made  
27 public before the sale, and may include appropriate penalty provisions to take effect in  
28 the event the lessee does not fulfill the minimum work commitment. If it is  
29 demonstrated that a lease has been proven unproductive by actions of adjacent lease  
30 holders, the commissioner may set aside a work commitment. The commissioner may  
31 waive for a period not to exceed one two-year period any term of a minimum work

1 commitment if the commissioner makes a written finding either that conditions  
2 preventing drilling or exploration were beyond the lessee's reasonable ability to  
3 foresee or control or that the lessee has demonstrated through good faith efforts an  
4 intent and ability to drill or develop the lease during the term of the waiver.

5 \* Sec. 35. AS 38.05.180(i) is amended to read:

6 (i) The commissioner may provide for the establishment of an exploration  
7 incentive credit system under which a lessee of state land drilling an exploratory well  
8 on that land may earn credits based upon the footage drilled and the region in which  
9 the well is situated. The commissioner may also provide for credits to be earned by  
10 persons performing geophysical work on state land, if that work is performed during  
11 the two seasons immediately preceding an announced lease sale and on land included  
12 within the sale area and the geophysical information is made public following the sale.  
13 Credits may not exceed 50 percent of the cost of the drilling or geophysical work.  
14 Credits may be used during a limited period established by the commissioner and may  
15 be assigned during that period. Credits may be applied against (1) [OIL AND GAS]  
16 royalty and rental payments for oil and gas or for gas only payable to the state or (2)  
17 taxes payable under AS 43.55. A credit may not exceed 50 percent of the payment  
18 toward which it is being applied. Amounts due the Alaska permanent fund  
19 (AS 37.13.010) shall be calculated before the application of credits under this  
20 subsection.

21 \* Sec. 36. AS 38.05.180(j) is amended to read:

22 (j) The commissioner

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

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

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

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

31 (iii) oil or gas production from the field or pool would

1 not otherwise be economically feasible;

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

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

8 (2) may not grant a royalty modification unless the lessee or lessees  
9 requesting the change make a clear and convincing showing that a modification of  
10 royalty meets the requirements of this subsection and is in the best interests of the  
11 state;

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

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

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

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

26 (5) may not grant a royalty reduction under this subsection without  
27 including an explicit condition that the royalty reduction is not assignable without the  
28 prior written approval, which may not be unreasonably withheld, by the  
29 commissioner; the commissioner shall, in the preliminary and final findings and  
30 determinations, set out the conditions under which the royalty reduction may be  
31 assigned;

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

4 (A) may require disclosure of only the financial and technical  
5 data related to development, production, and transportation of oil and gas or  
6 gas only from the field or pool that are reasonably available to the applicant;  
7 and

8 (B) shall keep the data confidential under AS 38.05.035(a)(9)  
9 at the request of the lessee or lessees making application for the royalty  
10 reduction; the confidential data may be disclosed by the commissioner to  
11 legislators and to the legislative auditor and as directed by the chair or vice-  
12 chair of the Legislative Budget and Audit Committee to the director of the  
13 division of legislative finance, the permanent employees of their respective  
14 divisions who are responsible for evaluating a royalty reduction, and to agents  
15 or contractors of the legislative auditor or the legislative finance director who  
16 are engaged under contract to evaluate the royalty reduction, if they sign an  
17 appropriate confidentiality agreement;

18 (7) may

19 (A) require the lessee or lessees making application for the  
20 royalty reduction under (1)(A) of this subsection to pay for the services of an  
21 independent contractor, selected by the lessee or lessees from a list of qualified  
22 consultants compiled by the commissioner, to evaluate hydrocarbon  
23 development, production, transportation, and economics and to assist the  
24 commissioner in evaluating the application and financial and technical data; if,  
25 under this subparagraph, the commissioner requires payment for the services of  
26 an independent contractor, the total cost of the services to be paid for by the  
27 lessee or lessees may not exceed \$150,000 for each application, and the  
28 commissioner shall determine the relevant scope of the work to be performed  
29 by the contractor; selection of an independent contractor under this  
30 subparagraph is not subject to AS 36.30;

31 (B) with the mutual consent of the lessee or lessees making

1 application for the royalty reduction under (1)(B) or (1)(C) of this subsection,  
2 request payment for the services of an independent contractor, selected from a  
3 list of qualified consultants to evaluate hydrocarbon development, production,  
4 transportation, and economics by the commissioner to assist the commissioner  
5 in evaluating the application and financial and technical data; if, under this  
6 subparagraph, the commissioner requires payment for the services of an  
7 independent contractor, the total cost of the services that may be paid for by  
8 the lessee or lessees may not exceed \$150,000 for each application, and the  
9 commissioner shall determine the relevant scope of the work to be performed  
10 by the contractor; selection of an independent contractor under this  
11 subparagraph is not subject to AS 36.30;

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

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

23 (10) shall make copies of the preliminary findings and determination  
24 available to

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

26 (B) the chairs of the legislature's standing committees on  
27 resources; and

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

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

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

3 (B) make a final findings and determination; the  
4 commissioner's final findings and determination prepared under this  
5 subparagraph regarding a royalty reduction is final and not appealable to the  
6 court;

7 (C) transmit a copy of the final findings and determination to  
8 the lessee;

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

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

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

16 \* Sec. 37. AS 38.05.180(l) is amended to read:

17 (l) Subject to the provisions of AS 31.05, the commissioner has discretion to  
18 enter into an agreement whereby, with the consent of the lessee, the state's royalty  
19 share of [OIL AND GAS] production of oil and gas or gas only may be stored or  
20 retained in storage by the lessee, or the commissioner may enter into an agreement  
21 with one or more of the affected field lease holders to trade current royalty production  
22 from a field for a like amount, kind, and quality of future production, on the condition  
23 that the state receives back its stored or traded royalty share during the first half of the  
24 estimated field life or no later than 15 years after start of production, whichever is  
25 sooner.

26 \* Sec. 38. AS 38.05.180(m) is amended to read:

27 (m) An oil and gas lease or a gas only lease must cover a reasonably compact  
28 area not exceeding 5,760 acres, and may be for a maximum period of 10 years, except  
29 that the commissioner may issue a lease for a period not less than five years upon a  
30 finding that it is in the best interests of the state. An oil and gas lease shall be  
31 automatically extended if and for so long thereafter as oil or gas is produced in paying

1 quantities from the lease or if the lease is committed to a unit approved by the  
 2 commissioner, and a gas only lease shall be automatically extended if and for so  
 3 long thereafter as gas is produced in paying quantities from the lease or if the  
 4 lease is committed to a unit approved by the commissioner. A lease issued under  
 5 this section covering land on which there is a well capable of producing oil or gas in  
 6 paying quantities does not expire because the lessee fails to produce oil or gas unless  
 7 the lessee is allowed reasonable time to place the well on a producing status. Upon  
 8 extension, the commissioner may increase lease rentals so long as the increased rental  
 9 rate does not exceed 150 percent of the rate for the preceding year. If drilling has  
 10 commenced on the expiration date of the primary term of the lease and is continued  
 11 with reasonable diligence, including such operations as redrilling, sidetracking, or  
 12 other means necessary to reach the originally proposed bottom hole location, the lease  
 13 continues in effect until 90 days after drilling has ceased and for so long thereafter as  
 14 oil or gas is produced in paying quantities. An oil and gas lease or a gas only lease  
 15 issued under this section which is subject to termination by reason of cessation of  
 16 production does not terminate if, within 60 days after production ceases, reworking or  
 17 drilling operations are commenced on the land under lease and are thereafter  
 18 conducted with reasonable diligence during the period of nonproduction.

19 \* Sec. 39. AS 38.05.180(n) is amended to read:

20 (n) The commissioner may establish by regulation that after a well has been  
 21 plugged and abandoned, the rental rate which was in effect during the year of  
 22 abandonment is maintained for the remainder of the term. Rental is payable in  
 23 advance and continues until income to the state from royalty or net profit share  
 24 exceeds rental income to the state for that year. Under this subsection,

25 (1) [OIL AND GAS] leases for oil and gas or for gas only shall  
 26 provide for payment to the state of rental on the following basis:

27 (A) [(1)] for the first year, \$1.00 per acre;

28 (B) [(2)] for the second year, \$1.50 per acre;

29 (C) [(3)] for the third year, \$2.00 per acre;

30 (D) [(4)] for the fourth year, \$2.50 per acre;

31 (E) [(5)] for the fifth and following years, \$3.00 per acre;

1                   (2) if the lessee under a gas only lease demonstrates to the  
2                   commissioner that the potential resources underlying the lease are reasonably  
3                   estimated to be only nonconventional gas, the rental payment is \$1.00 per acre  
4                   until the lease expires or paying quantities of conventional oil or gas are  
5                   discovered underlying the lease.

6 \* Sec. 40. AS 38.05.180(p) is amended to read:

7                   (p) To conserve the natural resources of all or a part of an oil or gas pool,  
8                   field, or like area, the lessees and their representatives may unite with each other, or  
9                   jointly or separately with others, in collectively adopting or operating under a  
10                  cooperative or a unit plan of development or operation of the pool, field, or like area,  
11                  or a part of it, when determined and certified by the commissioner to be necessary or  
12                  advisable in the public interest. The commissioner may, with the consent of the  
13                  holders of leases involved, establish, change, or revoke drilling, producing, and  
14                  royalty requirements of the leases and adopt regulations with reference to the leases,  
15                  with like consent on the part of the lessees, in connection with the institution and  
16                  operation of a cooperative or unit plan as the commissioner determines necessary or  
17                  proper to secure the proper protection of the public interest. The commissioner may  
18                  not reduce royalty on leases in connection with a cooperative or unit plan except as  
19                  provided in (j) of this section. The commissioner may require a lease [OIL AND  
20                  GAS LEASES] issued under this section to contain a provision requiring the lessee to  
21                  operate under a reasonable cooperative or unit plan, and may prescribe a plan under  
22                  which the lessee must operate. The plan must adequately protect all parties in interest,  
23                  including the state.

24 \* Sec. 41. AS 38.05.180 is amended by adding a new subsection to read:

25                  (ff) The provisions of this section that authorize oil and gas leases also apply  
26                  to authorize the commissioner to issue leases for the production of gas only. In  
27                  authorizing and managing leases under this subsection, the terms "oil and gas" or "oil  
28                  or gas" as they are used in this chapter may be read and applied as appropriate as  
29                  referring to gas only. When a lease is authorized as a gas only lease, the lease does  
30                  not give the lessee the right to produce oil. If a well drilling for gas under a gas only  
31                  lease authorized by this subsection penetrates a formation capable of producing oil, the

1 owner or operator

2 (1) shall notify the department and the Alaska Oil and Gas  
3 Conservation Commission; and

4 (2) may not conduct further operations in the drilled well until the  
5 facility complies with all applicable laws and regulations relating to oil and gas  
6 exploration and production; however, this paragraph does not prevent the owner or  
7 operator from conducting activities that may be required by the Alaska Oil and Gas  
8 Conservation Commission to plug, plug-back, or abandon a well.

9 \* Sec. 42. AS 38.05.860(a) is amended to read:

10 (a) The commissioner may require an applicant seeking the sale, lease, or  
11 other disposal of land or an interest in land, other than under an oil and gas lease, gas  
12 only lease, or mineral lease, to deposit an amount covering the estimated cost of an  
13 appraisal, survey, and other costs necessary to offer the land or interest in land,  
14 including advertising. All deposited funds not expended shall be refunded to the  
15 applicant. If the land or interest in land is awarded to a person other than the applicant  
16 making the deposit, the person awarded the land shall pay the total actual cost incurred  
17 by the department in making the disposal, and the deposit shall be returned to the  
18 original applicant. In lieu of requiring the deposit under this subsection, the  
19 commissioner may enter into an agreement with an applicant seeking land or an  
20 interest in land requiring the applicant to reimburse the department for costs incurred  
21 in the disposal if the applicant is awarded the land or interest in land.

22 \* Sec. 43. AS 38.05.860(c) is amended to read:

23 (c) The commissioner shall require each bidder for the competitive leasing of  
24 [OIL AND GAS] land for oil and gas, or for gas only, to submit with each bid a  
25 deposit of money equal to 20 percent of the bonus.

26 \* Sec. 44. AS 38.05.945(a) is amended to read:

27 (a) This section establishes the requirements for notice given by the  
28 department for the following actions:

29 (1) classification or reclassification of state land under AS 38.05.300  
30 and the closing of land to mineral leasing or entry under AS 38.05.185;

31 (2) zoning of land under applicable law;

1 (3) issuance of a

2 (A) preliminary written finding under AS 38.05.035(e)(5)(A)  
3 regarding the sale, lease, or disposal of an interest in state land or resources for  
4 oil and gas, or for gas only, subject to AS 38.05.180(b);

5 (B) [REPEALED

6 (C)] written finding for the sale, lease, or disposal of an interest  
7 in state land or resources under AS 38.05.035(e)(6), except a [AN OIL OR  
8 GAS] lease sale described in AS 38.05.035(e)(6)(F) for which the director  
9 must provide opportunity for public comment under the provisions of that  
10 subparagraph;

11 (4) a competitive disposal of an interest in state land or resources after  
12 final decision under AS 38.05.035(e);

13 (5) a preliminary finding under AS 38.05.035(e) concerning sites for  
14 aquatic farms and related hatcheries;

15 (6) a decision under AS 38.05.132 - 38.05.134 regarding the sale,  
16 lease, or disposal of an interest in state land or resources.

17 \* Sec. 45. AS 38.05.965 is amended by adding a new paragraph to read:

18 (25) "nonconventional gas" means coal bed methane, shales containing  
19 gas, or gas hydrates.

20 \* Sec. 46. AS 38.06.080(2) is amended to read:

21 (2) "state lease" means an oil and gas lease or gas only lease on state  
22 land.

23 \* Sec. 47. AS 38.35.020(a) is amended to read:

24 (a) Rights-of-way on state land including rights-of-way over, under, along,  
25 across, or upon the right-of-way of a public road or highway or the right-of-way of a  
26 railroad or other public utility, or across, upon, over, or under a river or other body of  
27 water or land belonging to or administered by the state may be granted by  
28 noncompetitive lease by the commissioner for pipeline purposes for the transportation  
29 of oil, products, or natural gas under those conditions prescribed by law or by  
30 administrative regulation. Except to the extent authorized by an oil and gas lease, a  
31 gas only lease, or an oil and gas or gas only unit agreement approved by the state, no

1 person may engage in any construction or operation of any part of an oil, products, or  
2 natural gas pipeline, which in whole or in part is or is proposed to be on state land  
3 unless that person has obtained from the commissioner a right-of-way lease of the land  
4 under this chapter.

5 \* Sec. 48. AS 43.20.072(c) is amended to read:

6 (c) A taxpayer's business income shall be apportioned to this state by  
7 multiplying the taxpayer's income determined under (b) of this section by the  
8 apportionment factor applicable to the taxpayer among the following factors:

9 (1) the apportionment factor of a taxpayer subject to this section but  
10 not engaged in the production of oil and gas, or of gas only, as appropriate, from a  
11 lease or property in this state during the tax period is a fraction, the numerator of  
12 which is the sum of the property factor under AS 43.19 (Multistate Tax Compact) and  
13 the sales factor under (d) of this section for the taxpayer for that tax period, and the  
14 denominator of which is two;

15 (2) the apportionment factor of a taxpayer subject to this section but  
16 not engaged in the pipeline transportation of oil or gas in this state during the tax  
17 period is a fraction, the numerator of which is the sum of the property factor under (e)  
18 of this section and the extraction factor under (f) of this section for the taxpayer for the  
19 tax period, and the denominator of which is two;

20 (3) the apportionment factor of a taxpayer engaged both in the  
21 production of oil or gas from a lease or property in this state and in the pipeline  
22 transportation of oil or gas in this state during the tax period is a fraction, the  
23 numerator of which is the sum of the sales factor under (d) of this section, the property  
24 factor under (e) of this section, and the extraction factor under (f) of this section for  
25 the taxpayer for the tax period, and the denominator of which is three.

26 \* Sec. 49. AS 43.55.025(a) is amended to read:

27 (a) Subject to the terms and conditions of this section, on oil and gas produced  
28 from an oil and gas lease, or on gas produced from a gas only lease, on or after  
29 July 1, 2004, a credit against the tax due under this chapter is allowed in an amount  
30 equal to

31 (1) 20 percent of the total exploration expenditures that qualify under

1 (b) and (c) of this section, 20 percent of the total exploration expenditures that qualify  
2 under (b) and (d) of this section, or both, for a total credit that does not exceed 40  
3 percent of the total exploration expenditures; or

4 (2) 40 percent of the total exploration expenditures that qualify under  
5 (b) and (e) of this section, for a total production tax credit that does not exceed 40  
6 percent of the total qualified exploration expenditures.

7 \* **Sec. 50.** AS 43.55.900(9) is amended to read:

8 (9) "lease or property" means any right, title, or interest in or the right  
9 to produce or recover oil or gas including:

10 (A) a mineral interest,

11 (B) a leasehold interest,

12 (C) a working interest, royalty interest, overriding royalty  
13 interest, production payment, net profit interest or any other interest in a lease,  
14 concession, joint venture, or other agreement for [OIL AND GAS] exploration,  
15 development, or production of oil and gas or of gas only,

16 (D) a working interest, royalty interest, overriding royalty  
17 interest, production payment, net profit interest or any other interest in an  
18 agreement for unitization or pooling under the provisions of 26 U.S.C.  
19 614(b)(3) (Internal Revenue Code) as defined on January 1, 1974;

20 \* **Sec. 51.** AS 46.03.100(f) is amended to read:

21 (f) This section does not apply to discharges of solid or liquid waste material  
22 or water discharges from the following activities if the discharge is incidental to the  
23 activity and the activity does not produce a discharge from a point source, as that term  
24 is defined in regulations adopted under this chapter, directly into any surface water of  
25 the state:

26 (1) mineral drilling, trenching, ditching, and similar activities;

27 (2) landscaping;

28 (3) water well drilling, geophysical drilling, or nonconventional  
29 [COAL BED METHANE DRILLING OR OTHER NATURAL] gas drilling; for  
30 purposes of this paragraph, "nonconventional gas" has the meaning given in  
31 AS 38.05.965 [TO RECOVER GAS FROM A FIELD IF A PART OF THE FIELD IS

1           WITHIN 3,000 FEET OF THE SURFACE]; or

2                       (4) drilling, ditching, trenching, and similar activities associated with  
3 facility construction and maintenance or with road or other transportation facility  
4 construction and maintenance; however, the exemption provided by this paragraph  
5 does not relieve a person from obtaining a permit under this section if

6                       (A) the drilling, ditching, trenching, or similar activity will  
7 involve the removal of the groundwater, stormwater, or wastewater runoff that  
8 has accumulated and is present at an excavation site for facility, road, or other  
9 transportation construction or maintenance; and

10                      (B) a permit is otherwise required by this section.

11 \* **Sec. 52.** AS 46.04.030(b) is amended to read:

12                      (b) A person may not cause or permit the operation of a pipeline or an  
13 exploration or production facility in the state unless an oil discharge prevention and  
14 contingency plan for the pipeline or facility has been approved by the department and  
15 the person is in compliance with the plan. This subsection does not apply to an  
16 exploration or production facility used solely to explore for or to develop or produce  
17 nonconventional [SHALLOW NATURAL] gas resources, except that this exemption  
18 does not apply if the Alaska Oil and Gas Conservation Commission determines under  
19 AS 31.05.030(j) that

20                      (1) a well drilled for nonconventional [SHALLOW NATURAL] gas  
21 may penetrate a formation capable of flowing oil; and

22                      (2) the volume of oil encountered will be of such quantities that a  
23 contingency plan will be required.

24 \* **Sec. 53.** AS 46.04.040(b) is amended to read:

25                      (b) A person may not cause or permit the operation of a pipeline or an  
26 exploration or production facility in the state unless the person has furnished to the  
27 department, and the department has approved, proof of financial ability to respond in  
28 damages. Proof of financial responsibility required for

29                      (1) a pipeline or an offshore exploration or production facility is  
30 \$50,000,000 per incident;

31                      (2) an onshore production facility is

1 (A) \$20,000,000 per incident if the facility produces over  
2 10,000 barrels per day of oil;

3 (B) \$10,000,000 per incident if the facility produces over 5,000  
4 barrels per day but not more than 10,000 barrels per day of oil;

5 (C) \$5,000,000 per incident if the facility produces over 2,500  
6 barrels per day but not more than 5,000 barrels per day of oil;

7 (D) \$1,000,000 per incident if the facility produces 2,500  
8 barrels per day or less of oil;

9 (3) an onshore exploration facility is

10 (A) \$25,000 per incident for a facility used solely to explore for  
11 nonconventional [SHALLOW NATURAL] gas by means of drilling a well to  
12 explore for the gas [, WHETHER METHANE ASSOCIATED WITH AND  
13 DERIVED FROM COAL DEPOSITS OR OTHERWISE, FROM A FIELD IF  
14 A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE SURFACE]; and

15 (B) except as provided by (A) of this paragraph, \$1,000,000 per  
16 incident.

17 \* Sec. 54. AS 46.04.900 is amended by adding a new paragraph to read:

18 (31) "nonconventional gas" has the meaning given in AS 38.05.965.

19 \* Sec. 55. AS 46.40.205 is amended to read:

20 **Sec. 46.40.205. Consistency determinations for certain activities involving**  
21 **nonconventional [SHALLOW NATURAL] gas.** (a) When conducted under  
22 oversight and regulation of the Alaska Oil and Gas Conservation Commission and the  
23 state's resource agencies, projects for the exploration and development of  
24 nonconventional [SHALLOW NATURAL] gas are consistent with the program  
25 described in this chapter. Persons responsible for activities subject to this section shall  
26 obtain all required permits and approvals from municipal, state, and federal agencies  
27 as otherwise required by law.

28 (b) In this section, "nonconventional [SHALLOW NATURAL] gas" has the  
29 meaning given in AS 38.05.965 [AS 46.04.900].

30 \* Sec. 56. AS 46.40.210(12) is amended to read:

31 (12) "uses of state concern" means those land and water uses that

1 would significantly affect the long-term public interest; "uses of state concern" include

2 (A) uses of national interest, including the use of resources for  
3 the siting of ports and major facilities that contribute to meeting national  
4 energy needs, construction and maintenance of navigational facilities and  
5 systems, resource development of federal land, and national defense and  
6 related security facilities that are dependent upon coastal locations;

7 (B) uses of more than local concern, including those land and  
8 water uses that confer significant environmental, social, cultural, or economic  
9 benefits or burdens beyond a single coastal resource district;

10 (C) the siting of major energy facilities, activities pursuant to a  
11 state oil and gas lease, a state gas only lease, or a federal oil and gas lease, or  
12 large-scale industrial or commercial development activities that are dependent  
13 on a coastal location and that, because of their magnitude or the magnitude of  
14 their effect on the economy of the state or the surrounding area, are reasonably  
15 likely to present issues of more than local significance;

16 (D) facilities serving statewide or interregional transportation  
17 and communication needs; and

18 (E) uses in areas established as state parks or recreational areas  
19 under AS 41.21 or as state game refuges, game sanctuaries, or critical habitat  
20 areas under AS 16.20.

21 \* **Sec. 57.** AS 31.05.170(14); AS 38.05.177(b), 38.05.177(c), 38.05.177(e), 38.05.177(f),  
22 38.05.177(g), 38.05.177(h), 38.05.177(j), 38.05.177(k), 38.05.177(m), 38.05.177(o); and  
23 AS 46.04.900(25) are repealed.

24 \* **Sec. 58.** The uncodified law of the State of Alaska is amended by adding a new section to  
25 read:

26 CERTAIN SHALLOW NATURAL GAS LEASES AND LEASE APPLICATIONS  
27 TO BE ADMINISTERED UNDER FORMER LAW. The provisions of AS 38.05.177(a),  
28 (d)(1), and (l), amended by secs. 26 - 28 of this Act, as those provisions read on the day  
29 before the effective date of amendment of those subsections, and the provisions of  
30 AS 38.05.177(b), (c), (e) - (h), (j), (k), (m), and (o), repealed by sec. 57 of this Act, as those  
31 provisions read on the day before the effective date of the repeal of those subsections, apply to

1 shallow natural gas

2 (1) leases issued under AS 38.05.177 and in effect on December 31, 2003; and

3 (2) lease applications under AS 38.05.177 that were received by the

4 Department of Natural Resources before January 1, 2004.

5 \* Sec. 59. This Act takes effect immediately under AS 01.10.070(c).

23-LS1818U  
Chenoweth  
4/12/04

**CS FOR HOUSE BILL NO. 531(RES)**

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

**BY THE HOUSE RESOURCES COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RESOURCES COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to natural gas exploration and development and to nonconventional**  
2 **gas, and amending the section under which shallow natural gas leases may be issued;**  
3 **and providing for an effective date."**

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

5 **\* Section 1.** AS 14.40.365(a) is amended to read:

6 (a) The University of Alaska may select and is entitled to receive the  
7 conveyance of not less than 250,000 and not more than 260,000 acres of land  
8 conveyed to the state under sec. 6(b) of the Alaska Statehood Act (P.L. 85-508, 72  
9 Stat. 339). The Board of Regents of the University of Alaska shall periodically submit  
10 a list of selections to the commissioner of natural resources and, if the list of selections  
11 contains land within the boundaries of a municipality, the Board of Regents of the  
12 University of Alaska shall submit the list to the municipality. The Board of Regents  
13 and the commissioner of natural resources shall periodically and jointly submit to the  
14 legislature, within 30 days of the beginning of a regular legislative session, a list of the

1 selections of land proposed to be conveyed by the state to the University of Alaska  
2 under this section. If the list submitted to the legislature contains land within the  
3 boundaries of a municipality, the Board of Regents and the commissioner of natural  
4 resources shall provide a copy of the list to the municipality. Each list must contain  
5 not more than 25 percent of the total acres of land to which the university is entitled  
6 after subtracting previous conveyances under this section, but not less than 25,000  
7 acres or the remaining entitlement under this section, whichever is less. A list of  
8 selections submitted shall be considered approved for conveyance to the University of  
9 Alaska unless the legislature acts to disapprove the list during the legislative session  
10 during which the list was submitted. If the amount of land to be conveyed exceeds the  
11 balance due the university under this section, the university shall set out the land to be  
12 conveyed in priority order. Land may not be selected if, on the date of its selection by  
13 the university, it

14 (1) is identified in AS 16.20, AS 41.15.300 - 41.15.330, or AS 41.21 or  
15 has been reserved by law from the public domain;

16 (2) is located within a municipality unless the land is vacant,  
17 unappropriated, unreserved land; if land included on the list of selections is selected  
18 by the municipality with remaining selection rights under AS 29.65 within 120 days of  
19 receiving the Board of Regents' list of selections under this subsection, the university  
20 may not select the land unless a binding agreement between the university and the  
21 municipality is negotiated to allow the selection; if the municipal selection is  
22 disapproved, in whole or in part, the university may select the land, or any available  
23 portion of the land, and that selection will relate back to the date of the Board of  
24 Regents' list of selections under this subsection and shall have priority over all other  
25 selections or claims made subsequent to that notice; in this paragraph, "vacant,  
26 unappropriated, unreserved land" has the meaning given in AS 29.65.130;

27 (3) is land

28 (A) included in a five-year proposed [OIL AND GAS] leasing  
29 program under AS 38.05.180(b); or

30 (B) leased under, or for which a lease application is pending  
31 under, AS 38.05.180(d) or 38.05.150;

- 1 (4) is subject to  
2 (A) an oil, gas, or coal lease, or coal prospecting permit;  
3 (B) a mining claim, offshore prospecting permit, a prospecting  
4 site, an upland mining lease, or a mining leasehold location;  
5 (5) is necessary to carry out the purpose of an interagency land  
6 management agreement; or  
7 (6) is subject to conveyance under a land exchange or land settlement  
8 agreement.

9 \* **Sec. 2.** AS 14.40.365(e) is amended to read:

10 (e) The list of selections of land submitted to the legislature may not include a  
11 land selection made by the University of Alaska under this section if the commissioner  
12 of natural resources determines in writing that the proposed selection

13 (1) includes land that the commissioner, in consultation with the  
14 commissioner of fish and game, determines has demonstrated value to the public as a  
15 habitat area that is especially critical to the perpetuation of fish or wildlife;

16 (2) includes land for which, at the time of its selection under this  
17 section, a municipality has made a selection under AS 29.65 unless the land selection  
18 is, at a later date, rejected by the commissioner of natural resources or relinquished by  
19 the municipality;

20 (3) includes land that the commissioner reasonably believes may be  
21 selected by a newly formed municipality under AS 29.65.030, but the commissioner  
22 may not withhold selection under this paragraph for more than three years after the  
23 municipality's incorporation;

24 (4) includes land within the boundaries of a municipality, the  
25 municipality has a remaining entitlement under AS 29.65, and the municipality selects  
26 the land under AS 29.65 within 120 days after receipt by the municipality of the Board  
27 of Regents' list of selections under (a) of this section;

28 (5) includes land that, at the time of its selection under this section,

29 (A) is subject to an [OIL AND GAS] exploration license  
30 issued under AS 38.05.131 - 38.05.134; or

31 (B) the commissioner reasonably believes will be made part of

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an [OIL AND GAS] exploration license issued under AS 38.05.131 - 38.05.134; the commissioner may not refuse to convey title to land to the University of Alaska under this subparagraph for more than two years after its first selection by the University of Alaska; or

(6) includes land the commissioner of natural resources reasonably believes would not be in the best interests of the state to convey outside of state ownership.

\* Sec. 3. AS 19.40.200(b) is amended to read:

(b) The prohibition on disposal of state land under (a) of this section does not apply to a disposal

(1) to a licensed public utility or a licensed common carrier under AS 38.05.810(e);

(2) for the reauthorization of leases that were in effect on January 1, 1994, for nonresidential purposes within the following development nodes:

(A) Coldfoot:

Township 28 North, Range 12 West, Fairbanks Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

Sections 20 - 22

(B) Yukon River Crossing:

Township 12 North, Range 10 West, Fairbanks Meridian

Sections 6 - 7

Township 12 North, Range 11 West, Fairbanks Meridian

Sections 1 - 2

Section 12

Township 13 North, Range 10 West, Fairbanks Meridian

Sections 29 - 32

Township 13 North, Range 11 West, Fairbanks Meridian

Section 22

Sections 25 - 27

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Sections 34 - 36

(3) for nonresidential development within the following development

nodes:

(A) Deadhorse:

Township 10 North, Range 14 East, Umiat Meridian

Township 10 North, Range 15 East, Umiat Meridian

Section 8

Sections 17 - 20

Section 30

(B) Coldfoot:

Township 28 North, Range 12 West, Fairbanks Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

Sections 20 - 22

Township 29 North, Range 12 West, Fairbanks Meridian

Sections 23 - 27

Sections 34 - 35

(C) Franklin Bluffs:

Township 4 North, Range 14 East, Umiat Meridian

Sections 3 - 4

Sections 9 - 10

Sections 15 - 16

(D) Happy Valley:

Township 3 South, Range 14 East, Umiat Meridian

Sections 19 - 20

Sections 29 - 30

(E) Yukon River Crossing:

Township 12 North, Range 10 West, Fairbanks Meridian

Sections 6 - 7

Township 12 North, Range 11 West, Fairbanks Meridian

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Sections 1 - 2

Section 12

Township 13 North, Range 10 West, Fairbanks Meridian

Sections 29 - 32

Township 13 North, Range 11 West, Fairbanks Meridian

Section 22

Sections 25 - 27

Sections 34 - 36; or

(4) necessary for

(A) an oil and gas lease or gas only lease under AS 38.05.180;

(B) exploration, development, production, or transportation of oil and gas north of 68 degrees north latitude; or

(C) a state lease or materials sale for

(i) exploration, development, production, or transportation of oil or [AND] gas;

(ii) reconstruction or maintenance of state highways; or

(iii) construction or maintenance of airports.

\* Sec. 4. AS 31.05.030(j) is amended to read:

(j) For exploration and development operations involving nonconventional gas, the commission

(1) may not

(A) issue a permit to drill under this chapter if the well would be used to produce gas from an aquifer that serves as a source of water for human consumption or agricultural purposes unless the commission finds that the well will not adversely affect the aquifer as a source of water for human consumption or agricultural purposes; or

(B) allow injection of produced water except at depths below known sources of water for human consumption or agricultural purposes;

(2) shall

(A) regulate hydraulic fracturing in nonconventional gas

1 wells to assure protection of drinking water quality;

2 (B) regulate the disposal of wastes produced from the  
3 operations unless the disposal is otherwise subject to regulation by the  
4 Department of Environmental Conservation or the Environmental  
5 Protection Agency; and

6 (C) for the purposes of AS 46.04.030(b), [THE  
7 COMMISSION SHALL] determine whether a well drilled for  
8 nonconventional [SHALLOW NATURAL] gas may penetrate a formation  
9 capable of flowing oil and, if so, whether the volume of oil encountered will be  
10 of such quantities that an oil discharge prevention and contingency plan will be  
11 required.

12 \* Sec. 5. AS 31.05.060(c) is amended to read:

13 (c) Notwithstanding the requirements of (a) and (b) of this section that relate  
14 to fixing a date for a hearing and causing notice of the hearing to be given, for an  
15 action under this chapter that involves the exploration for or development of  
16 nonconventional [SHALLOW NATURAL] gas and that has application to a single  
17 well or a single field, upon the request of a lessee or operator, the commission may,  
18 where operations might be unduly delayed, approve a variance from the commission's  
19 regulations that apply to the well or field without providing notice and opportunity to  
20 be heard. In the exercise of its authority to issue the variance,

21 (1) the commission may approve the variance if

22 (A) the approval provides at least an equally effective means of  
23 accomplishing the requirement set out in the commission's regulation; or

24 (B) the commission determines that the request is more  
25 appropriate to the proposed operation than compliance with the requirement of  
26 the regulation; and

27 (2) the terms of the approval of the variance may include exempting  
28 the lessee or operator from a requirement of a regulation if the commission determines  
29 that the requirement is not necessary or not suited to the well or field taking into  
30 consideration

31 (A) the nature of the operation involved;

1 (B) the characteristics of the well or field for which the  
2 variance is sought; and

3 (C) the reasonably anticipated risks of the exemption from the  
4 requirement to human safety and the environment.

5 \* Sec. 6. AS 31.05.125 is amended to read:

6 **Sec. 31.05.125. Regulation of nonconventional [SHALLOW NATURAL]  
7 gas; relationship of chapter to other laws.** If the Department of Natural Resources  
8 clearly demonstrates an overriding state interest, the commissioner of natural  
9 resources may approve a waiver of local planning authority approval and requirements  
10 relating to compliance of a nonconventional gas lease with local ordinances and  
11 regulations. The commissioner shall issue specific findings giving reasons for  
12 granting a waiver under this section.

13 \* Sec. 7. AS 31.05.170 is amended by adding a new paragraph to read:

14 (16) "nonconventional gas" has the meaning given in AS 38.05.965.

15 \* Sec. 8. AS 36.30.850(b)(25) is amended to read:

16 (25) acquisition of confidential seismic survey data necessary for pre-  
17 sale oil and gas lease or gas only lease analyses under AS 38.05.180;

18 \* Sec. 9. AS 36.30.850(b)(33) is amended to read:

19 (33) contracts between the Department of Natural Resources and  
20 contractors qualified to evaluate hydrocarbon development, production, transportation,  
21 and economics, to assist the commissioner of natural resources in evaluating  
22 applications for [OIL AND GAS] royalty increases or decreases or other [OIL AND  
23 GAS] royalty adjustments, and evaluating the related financial and technical data,  
24 entered into under AS 38.05.180(j);

25 \* Sec. 10. AS 38.04.065(i) is amended to read:

26 (i) An oil and gas lease sale or gas only lease sale is not subject to this  
27 section. Oil and gas lease sales and gas only lease sales are subject to the planning  
28 process established under AS 38.05.180.

29 \* Sec. 11. AS 38.05.035(e) is amended to read:

30 (e) Upon a written finding that the interests of the state will be best served, the  
31 director may, with the consent of the commissioner, approve contracts for the sale,

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lease, or other disposal of available land, resources, property, or interests in them. In approving a contract under this subsection, the director need only prepare a single written finding. In addition to the conditions and limitations imposed by law, the director may impose additional conditions or limitations in the contracts as the director determines, with the consent of the commissioner, will best serve the interests of the state. The preparation and issuance of the written finding by the director are subject to the following:

(1) with the consent of the commissioner and subject to the director's discretion, for a specific proposed disposal of available land, resources, or property, or of an interest in them, the director, in the written finding,

(A) shall establish the scope of the administrative review on which the director's determination is based, and the scope of the written finding supporting that determination; the scope of the administrative review and finding may address only reasonably foreseeable, significant effects of the uses proposed to be authorized by the disposal;

(B) may limit the scope of an administrative review and finding for a proposed disposal to

(i) applicable statutes and regulations;

(ii) the facts pertaining to the land, resources, or property, or interest in them, that the director finds are material to the determination and that are known to the director or knowledge of which is made available to the director during the administrative review; and

(iii) issues that, based on the statutes and regulations referred to in (i) of this subparagraph, on the facts as described in (ii) of this subparagraph, and on the nature of the uses sought to be authorized by the disposal, the director finds are material to the determination of whether the proposed disposal will best serve the interests of the state; and

(C) may, if the project for which the proposed disposal is sought is a multiphased development, limit the scope of an administrative review and finding for the proposed disposal to the applicable statutes and

1 regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that  
2 pertain solely to the disposal phase of the project when

3 (i) the only uses to be authorized by the proposed  
4 disposal are part of that phase;

5 (ii) the disposal is a [AN OIL AND GAS] disposal of  
6 oil and gas, or of gas only, and, before the next phase of the project  
7 may proceed, public notice and the opportunity to comment are  
8 provided under regulations adopted by the department unless the  
9 project is subject to a consistency review under AS 46.40 and public  
10 notice and the opportunity to comment are provided under  
11 AS 46.40.096(c);

12 (iii) the department's approval is required before the  
13 next phase of the project may proceed; and

14 (iv) the department describes its reasons for a decision  
15 to phase;

16 (2) the director shall discuss in the written finding prepared and issued  
17 under this subsection the reasons that each of the following was not material to the  
18 director's determination that the interests of the state will be best served:

19 (A) facts pertaining to the land, resources, or property, or an  
20 interest in them other than those that the director finds material under (1)(B)(ii)  
21 of this subsection; and

22 (B) issues based on the statutes and regulations referred to in  
23 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this  
24 subsection;

25 (3) a written finding for an oil and gas lease sale or gas only lease sale  
26 under AS 38.05.180 is subject to (g) of this section;

27 (4) a contract for the sale, lease, or other disposal of available land or  
28 an interest in land is not legally binding on the state until the commissioner approves  
29 the contract, but if the appraised value is not greater than \$50,000 in the case of the  
30 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or  
31 interest in land, the director may execute the contract without the approval of the

1 commissioner;

2 (5) public notice requirements relating to the sale, lease, or other  
3 disposal of available land or an interest in land for oil and gas, or for gas only,  
4 proposed to be scheduled in the five-year oil and gas leasing program under  
5 AS 38.05.180(b), except for a sale under (6)(F) of this subsection, are as follows:

6 (A) before a public hearing, if held, or in any case not less than  
7 180 days before the sale, lease, or other disposal of available land or an interest  
8 in land, the director shall make available to the public a preliminary written  
9 finding that states the scope of the review established under (1)(A) of this  
10 subsection and includes the applicable statutes and regulations, the material  
11 facts and issues in accordance with (1)(B) of this subsection, and information  
12 required by (g) of this section, upon which the determination that the sale,  
13 lease, or other disposal will serve the best interests of the state will be based;  
14 the director shall provide opportunity for public comment on the preliminary  
15 written finding for a period of not less than 60 days;

16 (B) after the public comment period for the preliminary written  
17 finding and not less than 90 days before the sale, lease, or other disposal of  
18 available land or an interest in land for oil and gas or for gas only, the director  
19 shall make available to the public a final written finding that states the scope of  
20 the review established under (1)(A) of this subsection and includes the  
21 applicable statutes and regulations, the material facts and issues in accordance  
22 with (1) of this subsection, and information required by (g) of this section,  
23 upon which the determination that the sale, lease, or other disposal will serve  
24 the best interests of the state is based;

25 (6) before a public hearing, if held, or in any case not less than 21 days  
26 before the sale, lease, or other disposal of available land, property, resources, or  
27 interests in them other than a sale, lease, or other disposal of available land or an  
28 interest in land for oil and gas or for gas only under (5) of this subsection, the director  
29 shall make available to the public a written finding that, in accordance with (1) of this  
30 subsection, sets out the material facts and applicable statutes and regulations and any  
31 other information required by statute or regulation to be considered upon which the

1 determination that the sale, lease, or other disposal will best serve the interests of the  
2 state was based; however, a written finding is not required before the approval of

3 (A) a contract for a negotiated sale authorized under  
4 AS 38.05.115;

5 (B) a lease of land for a shore fishery site under AS 38.05.082;

6 (C) a permit or other authorization revocable by the  
7 commissioner;

8 (D) a mineral claim located under AS 38.05.195;

9 (E) a mineral lease issued under AS 38.05.205;

10 (F) an exempt oil and gas lease sale or gas only lease sale  
11 under AS 38.05.180(d) of acreage subject to a best interest finding issued  
12 within the previous 10 years or a reoffer oil and gas lease sale or gas only  
13 lease sale under AS 38.05.180(w) of acreage subject to a best interest finding  
14 issued within the previous 10 years, unless the commissioner determines that  
15 substantial new information has become available that justifies a supplement to  
16 the most recent best interest finding for the exempt oil and gas lease sale or  
17 gas only lease sale acreage and for the reoffer oil and gas lease sale or gas  
18 only lease sale acreage; however, for each oil and gas lease sale or gas only  
19 lease sale described in this subparagraph, the director shall call for comments  
20 from the public; the director's call for public comments must provide  
21 opportunity for public comment for a period of not less than 30 days; if the  
22 director determines that a supplement to the most recent best interest finding  
23 for the acreage is required under this subparagraph,

24 (i) the director shall issue the supplement to the best  
25 interest finding not later than 90 days before the sale;

26 (ii) not later than 45 days before the sale, the director  
27 shall issue a notice describing the interests to be offered, the location  
28 and time of the sale, and the terms and conditions of the sale; and

29 (iii) the supplement has the status of a final written best  
30 interest finding for purposes of (i) and (j) of this section;

31 (G) [A SHALLOW GAS LEASE AUTHORIZED UNDER

1 AS 38.05.177 IN AN AREA FOR WHICH LEASING IS AUTHORIZED  
2 UNDER AS 38.05.177;

3 (H)] a surface use lease under AS 38.05.255;

4 (H) [(I)] a permit, right-of-way, or easement under  
5 AS 38.05.850;

6 (7) the director shall include in

7 (A) a preliminary written finding, if required, a summary of  
8 agency and public comments, if any, obtained as a result of contacts with other  
9 agencies concerning a proposed disposal or as a result of informal efforts  
10 undertaken by the department to solicit public response to a proposed disposal,  
11 and the department's preliminary responses to those comments; and

12 (B) the final written finding a summary of agency and public  
13 comments received and the department's responses to those comments.

14 \* S.c. 12. AS 38.05.035(g) is amended to read:

15 (g) Notwithstanding (e)(1)(A) and (B) of this section, when the director  
16 prepares a written finding required under (e) of this section for an oil and gas lease  
17 sale or a gas only lease sale scheduled under AS 38.05.180, the director shall consider  
18 and discuss

19 (1) in a preliminary or final written finding facts that are known to the  
20 director at the time of preparation of the finding and that are

21 (A) material to issues that were raised during the period  
22 allowed for receipt of public comment, whether or not material to a matter set  
23 out in (B) of this paragraph, and within the scope of the administrative review  
24 established by the director under (e)(1) of this section; or

25 (B) material to the following matters:

26 (i) property descriptions and locations;

27 (ii) the petroleum potential of the sale area, in general  
28 terms;

29 (iii) fish and wildlife species and their habitats in the  
30 area;

31 (iv) the current and projected uses in the area, including

1 uses and value of fish and wildlife;

2 (v) the governmental powers to regulate the [OIL AND  
3 GAS] exploration, development, production, and transportation of oil  
4 and gas or of gas only;

5 (vi) the reasonably foreseeable cumulative effects of  
6 [OIL AND GAS] exploration, development, production, and  
7 transportation for oil and gas or for gas only on the sale area,  
8 including effects on subsistence uses, fish and wildlife habitat and  
9 populations and their uses, and historic and cultural resources;

10 (vii) lease stipulations and mitigation measures,  
11 including any measures to prevent and mitigate releases of oil and  
12 hazardous substances, to be included in the leases, and a discussion of  
13 the protections offered by these measures;

14 (viii) the method or methods most likely to be used to  
15 transport oil or gas from the lease sale area, and the advantages,  
16 disadvantages, and relative risks of each;

17 (ix) the reasonably foreseeable fiscal effects of the lease  
18 sale and the subsequent activity on the state and affected municipalities  
19 and communities, including the explicit and implicit subsidies  
20 associated with the lease sale, if any;

21 (x) the reasonably foreseeable effects of [OIL AND  
22 GAS] exploration, development, production, and transportation  
23 involving oil and gas or gas only on municipalities and communities  
24 within or adjacent to the lease sale area; and

25 (xi) the bidding method or methods adopted by the  
26 commissioner under AS 38.05.180; and

27 (2) the basis for the director's preliminary or final finding, as  
28 applicable, that, on balance, leasing the area would be in the state's best interest.

29 \* Sec. 13. AS 38.05.036(a) is amended to read:

30 (a) The department may conduct audits regarding royalty and net profits under  
31 oil and gas contracts, agreements, or leases under this chapter and regarding costs

1 related to [OIL AND GAS] exploration licenses entered into under AS 38.05.131 -  
2 38.05.134 and exploration incentive credits under this chapter or under AS 41.09. For  
3 purposes of audit under this section,

4 (1) the department may examine the books, papers, records, or  
5 memoranda of a person regarding matters related to the audit; and

6 (2) the records and premises where a business is conducted shall be  
7 open at all reasonable times for inspection by the department.

8 \* Sec. 14. AS 38.05.127(e) is amended to read:

9 (e) The establishment of easements or rights-of-way for oil and gas, gas only,  
10 and mineral leases under (a) of this section need not be made until the leases are ready  
11 to be developed.

12 \* Sec. 15. AS 38.05.131(a) is amended to read:

13 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the  
14 provisions of AS 38.05.005 - 38.05.037, 38.05.140(f), 38.05.180, 38.05.182 -  
15 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of [OIL AND GAS]  
16 exploration licenses and leases for oil and gas, or for gas only, as appropriate,  
17 under AS 38.05.132 - 38.05.134.

18 \* Sec. 16. AS 38.05.132(a) is amended to read:

19 (a) To encourage exploration for oil and gas on state land, the commissioner  
20 may issue [OIL AND GAS] exploration licenses. The commissioner may limit the  
21 exploration licenses under AS 38.05.132 - 38.05.134 to exploration for and  
22 recovery of gas only.

23 \* Sec. 17. AS 38.05.132(b) is amended to read:

24 (b) An [OIL AND GAS] exploration license issued under this section gives  
25 the licensee

26 (1) the exclusive right to explore, for a term not to exceed 10 years,  
27 [FOR DEPOSITS OF OIL AND GAS] on unleased state land described in the  
28 exploration license for deposits of oil and gas, or for deposits of gas only, as  
29 appropriate, unless the exploration license is terminated under (d)(1) of this section  
30 or the land is earlier relinquished, removed, or deleted under (d)(2) of this section; and

31 (2) unless the exploration license is terminated under (d)(1) of this

1 section, the option to convert the exploration license for all or part of the state land,  
2 except the land that is deleted or removed from the land described in the exploration  
3 license under (d)(2) of this section, into an oil and gas lease, or a gas lease only, as  
4 appropriate, upon fulfillment of the work commitments contained in the exploration  
5 license.

6 \* Sec. 18. AS 38.05.132(c) is amended to read:

7 (c) An exploration license awarded under this section

8 (1) is not subject to the acreage limitations imposed by  
9 AS 38.05.140(c) or 38.05.180(m);

10 (2) may cover, subject to the maximum acreage limitation on  
11 exploration licenses by one licensee under AS 38.05.131(e), an area of not less than  
12 10,000 acres and not more than 500,000 acres, that must be reasonably compact and  
13 contiguous;

14 (3) must be conditioned upon an obligation to perform a specified  
15 work commitment, in total for the term of the license, expressed in dollars of direct  
16 exploration expenditures; the specified work commitment

17 (A) may include a provision that adjusts the total amount of  
18 work commitment, expressed in dollars of direct exploration expenditures, to  
19 account for inflation;

20 (B) must include a requirement that the licensee complete at  
21 least 25 percent of the licensee's total specified work commitment by the fourth  
22 anniversary of the effective date of the issuance of the [OIL AND GAS]  
23 exploration license;

24 (4) must be conditioned upon the posting of a bond or other security  
25 acceptable to the commissioner, in favor of the state and subject to the following  
26 requirements:

27 (A) the bond or other security must be renewed annually;

28 (B) the annual bond or other security shall be calculated as the  
29 entire work commitment expressed in dollars, less the cumulative direct  
30 exploration expenditures of the licensee as of the last day of the most recent  
31 project year, divided by the number of years remaining in the term of the

1 exploration license;

2 (5) is subject to an annual review and revocation if the commissioner  
3 determines that the licensee has failed to provide or maintain in effect the bond or  
4 other security required by (4) of this subsection;

5 (6) must be conditioned upon the licensee's payment to the state of a  
6 nonrefundable [OIL AND GAS] exploration license fee of \$1 for each acre of land or  
7 fraction of each acre that is subject to the exploration license; and

8 (7) must be conditioned upon an agreement that exploration  
9 expenditures are subject to audit by the commissioner.

10 \* Sec. 19. AS 38.05.132(f) is amended to read:

11 (f) In this section,

12 (1) "direct exploration expenditure" means cash expenses undertaken  
13 in performance of a specified work commitment under the provisions of AS 38.05.131  
14 - 38.05.134 and necessarily incurred by the licensee in the permitting, mobilization,  
15 conducting, demobilization, and evaluation of geophysical and geological surveys, or  
16 the drilling, logging, coring, testing, and evaluation of oil and gas or gas only wells;  
17 the term

18 (A) includes direct labor costs, including the cost of benefits,  
19 for employees directly associated with the work commitment programs, the  
20 cost of renting or leasing equipment from parties not affiliated with the  
21 licensee, the reasonable costs of maintaining and operating equipment,  
22 payments to consultants and independent contractors not affiliated with the  
23 licensee, and costs of materials and supplies;

24 (B) does not include noncash expenses such as depreciation  
25 and reserves, interest or other costs of borrowed funds, return on investment,  
26 overhead, insurance or bond premiums, or any other expense that is  
27 unreasonable or that the licensee has not incurred to satisfy the licensee's work  
28 commitment;

29 (2) "work commitment" includes the drilling of one or more  
30 exploration wells or the gathering of data from activities described in (1) of this  
31 subsection, or both.

1 \* **Sec. 20.** AS 38.05.133(a) is amended to read:

2 (a) The procedures in this section apply to the issuance of an [OIL AND GAS]  
3 exploration license under AS 38.05.132.

4 \* **Sec. 21.** AS 38.05.133(f) is amended to read:

5 (f) After considering proposals not rejected under (d) of this section and public  
6 comment on those proposals, the commissioner shall issue a written finding  
7 addressing all matters set out in AS 38.05.035(e) and (g), except for  
8 AS 38.05.035(g)(1)(B)(xi). If the finding concludes that the state's best interests  
9 would be served by issuing an [OIL AND GAS] exploration license, the finding must  
10 (1) describe the limitations, stipulations, conditions, or changes from the initiating  
11 proposal or competing proposals that are required to make the issuance of the  
12 exploration license conform to the best interests of the state, and (2) if only one  
13 proposal was submitted, identify the prospective licensee whom the commissioner  
14 finds should be issued the exploration license. The commissioner shall attach to the  
15 finding a copy of the exploration license to be issued and the form of lease that will be  
16 used for any portion of the exploration license area subsequently converted to a [AN  
17 OIL AND GAS] lease under AS 38.05.134.

18 \* **Sec. 22.** AS 38.05.133(h) is amended to read:

19 (h) If competing proposals are submitted, and the commissioner's finding  
20 under (f) of this section concludes that an [OIL AND GAS] exploration license should  
21 be issued, the commissioner shall issue a request for competitive sealed bids, under  
22 procedures adopted by the commissioner by regulation, to determine which  
23 prospective licensee should be issued the exploration license. The finding provided to  
24 the prospective licensees and the public under (f) of this section must contain notice  
25 that (1) the commissioner intends to request competitive sealed bids, (2) a prospective  
26 licensee who intends to participate in the bidding must notify the commissioner in  
27 writing by the date specified in the notice, and (3) a prospective licensee's notice of  
28 intent to participate in the bidding constitutes acceptance of issuance of the  
29 exploration license, as limited or conditioned by the terms contained in the finding and  
30 by the exploration license to be issued and the form of lease to be used that have been  
31 attached to that finding, if the prospective licensee is the successful bidder. The

1 successful bidder is the prospective licensee who submits the highest bid in terms of  
2 the minimum work commitment dollar amount.

3 \* **Sec. 23.** AS 38.05.134 is amended to read:

4 **Sec. 38.05.134. Conversion to lease.** If the licensee requests and the  
5 commissioner determines that the work commitment obligation set out in an [OIL  
6 AND GAS] exploration license issued under AS 38.05.132 has been met, the  
7 commissioner shall convert to one or more [OIL AND GAS] leases all or part, as the  
8 licensee may indicate, of the area described in the exploration license that remains  
9 after the relinquishments, removals, or deletions required by AS 38.05.132(d)(2). A  
10 lease issued under this section

11 (1) is subject to the acreage limitations imposed by AS 38.05.140(c);

12 (2) is subject to AS 38.05.180(j) - (m), (o) - (u), and (x) - (z);

13 (3) must be conditioned upon a royalty in amount or value of not less  
14 than 12.5 percent of production, except that

15 (A) the lessee who, proceeding under AS 38.05.131 -  
16 38.05.134, under a lease issued in the Cook Inlet sedimentary basin who is the  
17 first to file with the commissioner a nonconfidential sworn statement claiming  
18 to be the first to have drilled a well discovering oil or gas in a previously  
19 undiscovered oil or gas pool and who is certified by the commissioner within  
20 one year of completion of that discovery well to have drilled a well in that pool  
21 that is capable of producing in paying quantities shall pay a royalty of five  
22 percent on all production of oil or gas from that pool attributable to that lease  
23 for a period of 10 years following the date of discovery of that pool, and  
24 thereafter the royalty payable on all production of oil or gas from the pool  
25 attributable to that lease shall be determined and payable as specified in the  
26 lease; t' payment of the five percent royalty under this paragraph is  
27 authorized only to a holder of a lease who meets the requirements of  
28 AS 38.05.180(f)(4); and

29 (B) for nonconventional gas that is not produced in direct  
30 competition with gas on which a royalty at a rate of at least 12.5 percent is  
31 payable, if the licensee requests, the commissioner may negotiate with the

1           licensee and set a royalty rate for the gas of at least 6.25 percent; for  
2           purposes of this subparagraph, "nonconventional gas" has the meaning  
3           given in AS 38.05.965;

4           (4) must include an annual rent of \$3 per acre or fraction of an acre  
5           initially paid to the state at inception of the lease and payable annually after that until  
6           the income to the state from royalty under that lease exceeds the rental income to the  
7           state under that lease for that year; and

8           (5) is subject to other conditions and obligations that are specified in  
9           the lease.

10       \* Sec. 24. AS 38.05.140(a) is amended to read:

11           (a) A person may not take or hold coal leases or permits during the life of coal  
12           leases on state land exceeding an aggregate of 92,160 acres, except that a person may  
13           apply for coal leases or permits for acreage in addition to 92,160 acres, not exceeding  
14           a total of 5,120 additional acres of state land. The additional area applied for shall be  
15           in multiples of 40 acres, and the application shall contain a statement that the granting  
16           of a lease for additional land is necessary for the person to carry on business  
17           economically and is in the public interest. On the filing of the application, [EXCEPT  
18           AS PROVIDED BY AS 38.05.177(a)(2)(C),] the coal deposits in the land covered by  
19           the application shall be temporarily set aside and withdrawn from all other forms of  
20           disposal provided under AS 38.05.135 - 38.05.181.

21       \* Sec. 25. AS 38.05.140(f) is amended to read:

22           (f) The submerged and shoreland lying north of 57 degrees, 30 minutes, North  
23           [NORTH] latitude and east of 159 degrees, 49 minutes, West [WEST] longitude  
24           within the Bristol Bay drainage are designated as the Bristol Bay Fisheries Reserve.  
25           Within the Bristol Bay Fisheries Reserve, a [NO] surface entry permit to develop an  
26           oil or gas lease or an [OIL AND GAS] exploration license under AS 38.05.131 -  
27           38.05.134 may not be issued on state owned or controlled land until the legislature by  
28           appropriate resolution specifically finds that the entry will not constitute danger to the  
29           fishery.

30       \* Sec. 26. AS 38.05.150(f) is amended to read:

31           (f) A [NOTWITHSTANDING AS 38.05.177, A] lease entered into under this

1 section gives the lessee the right to vent or remove methane and other gas held in  
2 association with the coal in the land covered by the lease to ensure safe coal mining  
3 operations.

4 \* Sec. 27. AS 38.05.177(a) is amended to read:

5 (a) The provisions of this section

6 [(1)] apply to nonconventional gas [, WHETHER METHANE  
7 ASSOCIATED WITH AND DERIVED FROM COAL DEPOSITS OR  
8 OTHERWISE, FROM A FIELD IF A PART OF THE FIELD IS WITHIN 3,000  
9 FEET OF THE SURFACE; AND

10 (2) DO NOT APPLY TO AUTHORIZE LEASE OF

11 (A) LAND

12 (i) THAT IS SUBJECT TO AN OIL AND GAS  
13 EXPLORATION LICENSE OR LEASE ISSUED UNDER  
14 AS 38.05.131 - 38.05.134; OR

15 (ii) THAT IS LEASED UNDER AS 38.05.180;

16 (B) THE LAND (i) THAT IS PROPOSED TO BE SUBJECT  
17 TO AN OIL AND GAS EXPLORATION LICENSE OR LEASE ISSUED  
18 UNDER AS 38.05.131 - 38.05.134; OR (ii) THAT IS DESCRIBED IN AND  
19 PART OF A PROPOSED OIL AND GAS LEASING PROGRAM  
20 PREPARED UNDER AS 38.05.180(b); HOWEVER, THE COMMISSIONER  
21 MAY WAIVE THE LIMITATIONS OF THIS SUBPARAGRAPH;

22 (C) THE LAND THAT IS HELD UNDER A COAL LEASE  
23 ENTERED INTO UNDER AS 38.05.150, UNLESS THE APPLICANT FOR  
24 A SHALLOW NATURAL GAS LEASE IS ALSO THE LESSEE UNDER  
25 AS 38.05.150 OF THAT LAND; OR

26 (D) THE VALID EXISTING SELECTIONS OF THE  
27 ALASKA MENTAL HEALTH TRUST AUTHORITY MADE FOR THE  
28 PURPOSE OF RECONSTITUTING THE MENTAL HEALTH TRUST  
29 ESTABLISHED UNDER THE ALASKA MENTAL HEALTH ENABLING  
30 ACT, P.L. 84-830, 70 STAT. 709 (1956), THAT BECOME SUBJECT TO  
31 MANAGEMENT UNDER AS 38.05.801, OR OF LAND THAT HAS BEEN

1 DESIGNATED BY LAW FOR OR IS SUBJECT TO DESIGNATION FOR  
2 CONVEYANCE TO THE ALASKA MENTAL HEALTH TRUST  
3 AUTHORITY; HOWEVER, AFTER CONSULTATION WITH THE  
4 ALASKA MENTAL HEALTH TRUST AUTHORITY, THE  
5 COMMISSIONER MAY WAIVE THE LIMITATIONS OF THIS  
6 SUBPARAGRAPH].

7 \* Sec. 28. AS 38.05.177(d) is amended to read:

8 (d) A lease

9 (1) shall be automatically extended if and for so long thereafter as gas  
10 is produced in paying quantities from the lease and the lessee continues to meet all  
11 requirements of the lease; a [. A] lease issued under this section covering land on  
12 which there is a well capable of producing gas in paying quantities does not expire  
13 because the lessee fails to produce gas unless the lessee is allowed reasonable time to  
14 place the well on a producing status; if [. IF] drilling has commenced on the  
15 expiration date of the primary term of the lease and is continued with reasonable  
16 diligence, including such operations as re-drilling, sidetracking, or other means  
17 necessary to reach the originally proposed bottom hole location, the lease is extended  
18 for one year and for so long thereafter as gas is produced in paying quantities; a [. A]  
19 gas lease issued under this section that is subject to termination by reason of cessation  
20 of production does not terminate if, within 90 days after production ceases or a longer  
21 period determined at the discretion of the director, reworking or drilling operations are  
22 commenced on the land under lease and are thereafter conducted with reasonable  
23 diligence during the period of nonproduction;

24 (2) issued under former (c) of this section before January 1, 2004,  
25 may be extended at the discretion of the director; a lease may be extended under  
26 this paragraph [. IN ADDITION,] upon application by the lessee; [,] the director  
27 may once extend the [A] lease [ISSUED UNDER (c) OF THIS SECTION] for a  
28 period of not more than three years; in exercising discretion to extend a lease under  
29 this paragraph, the director may not extend the lease unless the director  
30 considers

31 (A) the extent of the shallow natural gas exploration

1 activity already conducted on the lease and on adjacent areas;

2 (B) the probability that further shallow natural gas  
3 exploration activity will occur on the lease and will lead to shallow natural  
4 gas development and production; and

5 (C) whether extension of the lease's primary term will  
6 accelerate the eventual production of shallow natural gas from the lease.

7 \* Sec. 29. AS 38.05.177(l) is amended to read:

8 (l) A lessee holding [OBTAINING] a lease modified under  
9 AS 38.05.180(n)(2) [THIS SECTION] may exercise the rights authorized by this  
10 section and the lease. The rights granted by the lease must be exercised in a manner  
11 that does not unreasonably interfere with eventual development of other mineral  
12 deposits on the land leased. However, in a lease entered into under AS 38.05.150 for  
13 land that is already subject to a lease covered [LEASED] under this section, coal may  
14 not be mined or extracted by the coal lessee from the coal lease without prior  
15 agreement with the lessee holding the lease covered [ISSUED] under this section.

16 \* Sec. 30. AS 38.05.180(a) is amended to read:

17 (a) The legislature finds that

18 (1) the people of Alaska have an interest in the development of the  
19 state's oil and gas resources to

20 (A) maximize the economic and physical recovery of the  
21 resources;

22 (B) maximize competition among parties seeking to explore  
23 and develop the resources;

24 (C) maximize use of Alaska's human resources in the  
25 development of the resources;

26 (2) it is in the best interests of the state

27 (A) to encourage an assessment of its oil and gas resources and  
28 to allow the maximum flexibility in the methods of issuing leases to

29 (i) recognize the many varied geographical regions of  
30 the state and the different costs of exploring for oil and gas in these  
31 regions;

1 (ii) minimize the adverse impact of exploration,  
2 development, production, and transportation activity; and

3 (B) to offer acreage for oil and gas leases or for gas only  
4 leases, specifically including

5 (i) state acreage that has been the subject of a best  
6 interest finding at annual areawide lease sales; and

7 (ii) land in areas that, under (d) of this section, may be  
8 leased without having been included in the leasing program prepared  
9 and submitted under (b) of this section.

10 \* Sec. 31. AS 38.05.180(b) is amended to read:

11 (b) The commissioner shall biennially prepare and, between the first and the  
12 15th day of the first regular session of each legislature, notify the legislature of the  
13 availability of, a five-year proposed oil and gas leasing program consisting of a  
14 schedule of proposed lease sales and specifying as precisely as practicable the location  
15 of tracts proposed to be offered for oil and gas leasing or for leasing of gas only  
16 during the calendar year in which the proposed program is made available to the  
17 legislature and the following four calendar years.

18 \* Sec. 32. AS 38.05.180(c) is amended to read:

19 (c) Except as provided in (d) and (w) of this section, an oil and gas lease sale  
20 or gas only lease sale may not be held unless it was included in the proposed leasing  
21 programs submitted to the legislature during the two calendar years preceding the year  
22 in which the sale is held. A lease sale, whether for oil and gas or for gas only, may  
23 not be held before the date it is scheduled in the proposed oil and gas leasing program.

24 \* Sec. 33. AS 38.05.180(d) is amended to read:

25 (d) The commissioner

26 (1) may annually offer leases for oil and gas or leases for gas only  
27 [LEASES] of the acreage described in AS 38.05.035(e)(6)(F);

28 (2) may issue [OIL AND GAS] leases in an area that has not been  
29 included in a leasing program prepared, in accordance with (b) of this section, if the  
30 land to be leased

31 (A) was previously subject to a valid state oil and gas lease, a

1           valid state gas lease, or a valid federal oil and gas lease;

2                   (B) is contiguous to land already under state, federal, or private  
3 lease and the commissioner makes a written finding, after hearing, that leasing  
4 of the land would result in a substantial probability of early evaluation and  
5 development of the land to be leased;

6                   (C) is adjacent to land owned or controlled by another party on  
7 which a discovery of commercial quantities of oil or gas has been made, and  
8 the commissioner finds, after hearing, that there is a reasonable probability that  
9 the land to be leased contains oil or gas in communication with the oil or gas  
10 discovered on the land of the other party;

11                   (D) is adjacent to land included in the federal five-year Outer  
12 Continental Shelf leasing program under 43 U.S.C. 1344, and the  
13 commissioner makes a written finding, after hearing, that coordinated or  
14 simultaneous leasing with the federal government is in the public interest; or

15                   (E) is the subject of an [OIL AND GAS] exploration license  
16 issued under AS 38.05.131 - 38.05.134; however, if the license issued was  
17 for exploration for and recovery of gas only, then the lease issued under  
18 this subsection shall be limited to exploration for and recovery of gas only.

19 \* Sec. 34. AS 38.05.180(f) is amended to read:

20                   (f) Except as provided by AS 38.05.131 - 38.05.134 [AND 38.05.177], the  
21 commissioner may issue oil and gas leases or leases for gas only on state land to the  
22 highest responsible qualified bidder as follows:

23                   (1) the commissioner shall issue an oil and gas lease or a gas only  
24 lease, as appropriate, to the successful bidder determined by competitive bidding  
25 under regulations adopted by the commissioner; bidding may be by sealed bid or  
26 according to any other bidding procedure the commissioner determines is in the best  
27 interests of the state;

28                   (2) whenever, under any of the leasing methods listed in this  
29 subsection, a royalty share is reserved to the state, it shall be delivered in pipeline  
30 quality and free of all lease or unit expenses, including but not limited to separation,  
31 cleaning, dehydration, gathering, salt water disposal, and preparation for transportation

1 off the lease or unit area;

2 (3) following a pre-sale analysis, the commissioner may choose at least  
3 one of the following leasing methods:

4 (A) a cash bonus bid with a fixed royalty share reserved to the  
5 state of not less than 12.5 percent in amount or value of the production  
6 removed or sold from the lease;

7 (B) a cash bonus bid with a fixed royalty share reserved to the  
8 state of not less than 12.5 percent in amount or value of the production  
9 removed or sold from the lease and a fixed share of the net profit derived from  
10 the lease of not less than 30 percent reserved to the state;

11 (C) a fixed cash bonus with a royalty share reserved to the state  
12 as the bid variable but no less than 12.5 percent in amount or value of the  
13 production removed or sold from the lease;

14 (D) a fixed cash bonus with the share of the net profit derived  
15 from the lease reserved to the state as the bid variable;

16 (E) a fixed cash bonus with a fixed royalty share reserved to the  
17 state of not less than 12.5 percent in amount or value of the production  
18 removed or sold from the lease with the share of the net profit derived from the  
19 lease reserved to the state as the bid variable;

20 (F) a cash bonus bid with a fixed royalty share reserved to the  
21 state based on a sliding scale according to the volume of production or other  
22 factor but in no event less than 12.5 percent in amount or value of the  
23 production removed or sold from the lease;

24 (G) a fixed cash bonus with a royalty share reserved to the state  
25 based on a sliding scale according to the volume of production or other factor  
26 as the bid variable but not less than 12.5 percent in amount or value of the  
27 production removed or sold from the lease;

28 (H) for nonconventional gas that will not be produced in  
29 direct competition with gas on which a royalty at a rate of at least 12.5  
30 percent is payable, a royalty share reserved to the state of at least 6.25  
31 percent in amount or value of the production removed or sold from the

1                    lease:

2                    (4) notwithstanding a requirement in the leasing method chosen of a  
3                    minimum fixed royalty share, on and after March 3, 1997, the lessee under a lease  
4                    issued in the Cook Inlet sedimentary basin who is the first to file with the  
5                    commissioner a nonconfidential sworn statement claiming to be the first to have  
6                    drilled a well discovering oil or gas in a previously undiscovered oil or gas pool and  
7                    who is certified by the commissioner within one year of completion of that discovery  
8                    well to have drilled a well in that pool that is capable of producing in paying quantities  
9                    shall pay a royalty of five percent on all production of oil or gas from that pool  
10                   attributable to that lease for a period of 10 years following the date of discovery of that  
11                   pool, and thereafter the royalty payable on all production of oil or gas from the pool  
12                   attributable to that lease shall be determined and payable as specified in the lease; for  
13                   purposes of this paragraph, the reduced royalty authorized by this paragraph is subject  
14                   to the following:

15                                    (A) only one reduction of royalty authorized by this paragraph  
16                                    may be allowed on each lease that qualifies for reduction of royalty under this  
17                                    paragraph;

18                                    (B) if, under this paragraph, application is made for a royalty  
19                                    reduction for a lease that was entered into before March 3, 1997, the  
20                                    commissioner may approve the application only if, on that date, the lease was a  
21                                    nonproducing lease that was not committed to a unit approved by the  
22                                    commissioner under (m) of this section, that is not part of a unit under (p) or  
23                                    (q) of this section, and that has not been made part of a unit under AS 31.05;

24                                    (C) if application for a royalty reduction is made under this  
25                                    paragraph for a lease on which a discovery royalty was claimed or may be  
26                                    claimed under the discovery royalty provisions of former AS 38.05.180(a) in  
27                                    effect before May 6, 1969, the commissioner shall disallow the application  
28                                    under this paragraph unless the applicant waives the right to claim the right to  
29                                    a reduced royalty under the discovery royalty provisions of former  
30                                    AS 38.05.180(a) in effect before May 6, 1969; and

31                                    (D) the commissioner shall adopt regulations setting out the

1 standards, criteria, and definitions of terms that apply to implement the filing  
2 of applications for, and the review and certification of, discovery [OIL AND  
3 GAS ROYALTY] certifications under this paragraph;

4 (5) notwithstanding and in lieu of a requirement in the leasing method  
5 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases  
6 unitized as described in (p) of this section, leases subject to an agreement described in  
7 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of  
8 an oil or gas field identified in this section that has been granted approval of a written  
9 plan submitted to the Alaska Oil and Gas Conservation Commission under  
10 AS 31.05.030(i) shall, subject to (dd) of this section, pay a royalty of five percent on  
11 the first 25,000,000 barrels of oil and the first 35,000,000,000 cubic feet of gas  
12 produced for sale from that field that occurs in the 10 years following the date on  
13 which the production for sale commences; the fields eligible for royalty reduction  
14 under this paragraph, all of which are located within the Cook Inlet sedimentary basin,  
15 were discovered before January 1, 1988, and have been undeveloped or shut in from at  
16 least January 1, 1988, through December 31, 1997, are

- 17 (A) Falls Creek;
- 18 (B) Nicolai Creek;
- 19 (C) North Fork;
- 20 (D) Point Starichkof;
- 21 (E) Redoubt Shoal; and
- 22 (F) West Foreland;

23 (6) notwithstanding and in lieu of a requirement in the leasing method  
24 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases  
25 unitized as described in (p) of this section, leases subject to an agreement described in  
26 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of  
27 an oil field located offshore in Cook Inlet on which an oil production platform  
28 specified in (A), (C), or (E) of this paragraph operates, or the lessee of all or part of the  
29 field located offshore in Cook Inlet and described in (G) of this paragraph,

30 (A) shall pay a royalty of five percent on oil produced from the  
31 platform if oil production that equaled or exceeded a volume of 1,200 barrels a

1 day declines to less than that amount for a period of at least one calendar  
2 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for  
3 as long as the volume of oil produced from the platform remains less than  
4 1,200 barrels a day; the provisions of this subparagraph apply to

- 5 (i) Dolly;
- 6 (ii) Grayling;
- 7 (iii) King Salmon;
- 8 (iv) Steelhead; and
- 9 (v) Monopod;

10 (B) shall pay a royalty calculated under this subparagraph if the  
11 volume of oil produced from the platform that was certified by the Alaska Oil  
12 and Gas Conservation Commission under (A) of this paragraph later increases  
13 to 1,200 or more barrels a day and remains at 1,200 or more barrels a day for a  
14 period of at least one calendar quarter; until the royalty rate determined under  
15 this subparagraph applies, the royalty continues to be calculated under (A) of  
16 this paragraph; on and after the first day of the month following the month the  
17 increased production exceeds the period specified in this subparagraph, the  
18 royalty payable under this subparagraph is

- 19 (i) for production of at least 1,200 barrels a day but not  
20 more than 1,300 barrels a day - seven percent;
- 21 (ii) for production of more than 1,300 barrels a day but  
22 not more than 1,400 barrels a day - 8.5 percent;
- 23 (iii) for production of more than 1,400 barrels a day but  
24 not more than 1,500 barrels a day - 10 percent; and
- 25 (iv) for production of more than 1,500 barrels a day -  
26 12.5 percent;

27 (C) shall pay a royalty of five percent on oil produced from the  
28 platform if oil production that equaled or exceeded a volume of 975 barrels a  
29 day declines to less than that amount for a period of at least one calendar  
30 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for  
31 as long as the volume of oil produced from the platform remains less than 975

1 barrels a day; the provisions of this subparagraph apply to

- 2 (i) Baker;  
3 (ii) Dillon;  
4 (iii) XTO.A; and  
5 (iv) XTO.C;

6 (D) shall pay a royalty calculated under this subparagraph if the  
7 volume of oil produced from the platform that was certified by the Alaska Oil  
8 and Gas Conservation Commission under (C) of this paragraph later increases  
9 to 975 or more barrels a day and remains at 975 or more barrels a day for a  
10 period of at least one calendar quarter; until the royalty rate determined under  
11 this subparagraph applies, the royalty continues to be calculated under (C) of  
12 this paragraph; on and after the first day of the month following the month the  
13 increased production exceeds the period specified in this subparagraph, the  
14 royalty payable under this subparagraph is

- 15 (i) for production of at least 975 barrels a day but not  
16 more than 1,100 barrels a day - seven percent;  
17 (ii) for production of more than 1,100 barrels a day but  
18 not more than 1,200 barrels a day - 8.5 percent;  
19 (iii) for production of more than 1,200 barrels a day but  
20 not more than 1,350 barrels a day - 10 percent; and  
21 (iv) for production of more than 1,350 barrels a day -  
22 12.5 percent;

23 (E) shall pay a royalty of five percent on oil produced from the  
24 platform if oil production that equaled or exceeded a volume of 750 barrels a  
25 day declines to less than that amount for a period of at least one calendar  
26 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for  
27 as long as the volume of oil produced from the platform remains less than 750  
28 barrels a day; the provisions of this subparagraph apply to

- 29 (i) Granite Point;  
30 (ii) Anna; and  
31 (iii) Bruce;

1 (F) shall pay a royalty calculated under this subparagraph if the  
2 volume of oil produced from the platform that was certified by the Alaska Oil  
3 and Gas Conservation Commission under (E) of this paragraph later increases  
4 to 750 or more barrels a day and remains at 750 or more barrels a day for a  
5 period of at least one calendar quarter; until the royalty rate determined under  
6 this subparagraph applies, the royalty continues to be calculated under (E) of  
7 this paragraph; on and after the first day of the month following the month the  
8 increased production exceeds the period specified in this subparagraph, the  
9 royalty payable under this subparagraph is

10 (i) for production of at least 750 barrels a day but not  
11 more than 850 barrels a day - seven percent;

12 (ii) for production of more than 850 barrels a day but  
13 not more than 1,000 barrels a day - 8.5 percent;

14 (iii) for production of more than 1,000 barrels a day but  
15 not more than 1,200 barrels a day - 10 percent; and

16 (iv) for production of more than 1,200 barrels a day -  
17 12.5 percent;

18 (G) shall pay a royalty of five percent on oil produced from the  
19 field if oil production that equaled or exceeded a volume of 750 barrels a day  
20 declines to less than that amount for a period of at least one calendar quarter,  
21 as certified by the Alaska Oil and Gas Conservation Commission, for as long  
22 as the volume of oil produced from the field remains less than 750 barrels a  
23 day; the provisions of this subparagraph apply to the West McArthur River  
24 field;

25 (H) shall pay a royalty calculated under this subparagraph if the  
26 volume of oil produced from the field that was certified by the Alaska Oil and  
27 Gas Conservation Commission under (G) of this paragraph later increases to  
28 750 or more barrels a day and remains at 750 or more barrels a day for a period  
29 of at least one calendar quarter; until the royalty rate determined under this  
30 subparagraph applies, the royalty continues to be calculated under (G) of this  
31 paragraph; on and after the first day of the month following the month the

1 increased production exceeds the period specified in this subparagraph, the  
2 royalty payable under this subparagraph is

3 (i) for production of at least 750 barrels a day but not  
4 more than 850 barrels a day - seven percent;

5 (ii) for production of more than 850 barrels a day but  
6 not more than 1,000 barrels a day - 8.5 percent;

7 (iii) for production of more than 1,000 barrels a day but  
8 not more than 1,200 barrels a day - 10 percent; and

9 (iv) for production of more than 1,200 barrels a day -  
10 12.5 percent; and

11 (I) may obtain the benefits of the royalty adjustments set out in  
12 (A) - (H) of this paragraph only if the commissioner determines that the  
13 reduction in production from the platform or the field is

14 (i) based on the average daily production during the  
15 calendar quarter based on reservoir conditions; and

16 (ii) not the result of short-term production declines due  
17 to mechanical or other choke-back factors, temporary shutdowns or  
18 decreased production due to environmental or facility constraints, or  
19 market conditions.

20 \* Sec. 35. AS 38.05.180(h) is amended to read:

21 (h) The commissioner may include terms in any [OIL AND GAS] lease  
22 imposing a minimum work commitment on the lessee. These terms shall be made  
23 public before the sale, and may include appropriate penalty provisions to take effect in  
24 the event the lessee does not fulfill the minimum work commitment. If it is  
25 demonstrated that a lease has been proven unproductive by actions of adjacent lease  
26 holders, the commissioner may set aside a work commitment. The commissioner may  
27 waive for a period not to exceed one two-year period any term of a minimum work  
28 commitment if the commissioner makes a written finding either that conditions  
29 preventing drilling or exploration were beyond the lessee's reasonable ability to  
30 foresee or control or that the lessee has demonstrated through good faith efforts an  
31 intent and ability to drill or develop the lease during the term of the waiver.

1 \* Sec. 36. AS 38.05.180(i) is amended to read:

2 (i) The commissioner may provide for the establishment of an exploration  
3 incentive credit system under which a lessee of state land drilling an exploratory well  
4 on that land may earn credits based upon the footage drilled and the region in which  
5 the well is situated. The commissioner may also provide for credits to be earned by  
6 persons performing geophysical work on state land, if that work is performed during  
7 the two seasons immediately preceding an announced lease sale and on land included  
8 within the sale area and the geophysical information is made public following the sale.  
9 Credits may not exceed 50 percent of the cost of the drilling or geophysical work.  
10 Credits may be used during a limited period established by the commissioner and may  
11 be assigned during that period. Credits may be applied against (1) [OIL AND GAS]  
12 royalty and rental payments for oil and gas or for gas only payable to the state or (2)  
13 taxes payable under AS 43.55. A credit may not exceed 50 percent of the payment  
14 toward which it is being applied. Amounts due the Alaska permanent fund  
15 (AS 37.13.010) shall be calculated before the application of credits under this  
16 subsection.

17 \* Sec. 37. AS 38.05.180(j) is amended to read:

18 (j) The commissioner

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

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

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

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

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

29 (B) to prolong the economic life of an oil or gas field or pool as  
30 per barrel or barrel equivalent costs increase or as the price of oil or gas  
31 decreases, and the increase or decrease is sufficient to make future production

1 no longer economically feasible; or

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

4 (2) may not grant a royalty modification unless the lessee or lessees  
5 requesting the change make a clear and convincing showing that a modification of  
6 royalty meets the requirements of this subsection and is in the best interests of the  
7 state;

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

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

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

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

22 (5) may not grant a royalty reduction under this subsection without  
23 including an explicit condition that the royalty reduction is not assignable without the  
24 prior written approval, which may not be unreasonably withheld, by the  
25 commissioner; the commissioner shall, in the preliminary and final findings and  
26 determinations, set out the conditions under which the royalty reduction may be  
27 assigned;

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

31 (A) may require disclosure of only the financial and technical

1 data related to development, production, and transportation of oil and gas or  
2 gas only from the field or pool that are reasonably available to the applicant;  
3 and

4 (B) shall keep the data confidential under AS 38.05.035(a)(9)  
5 at the request of the lessee or lessees making application for the royalty  
6 reduction; the confidential data may be disclosed by the commissioner to  
7 legislators and to the legislative auditor and as directed by the chair or vice-  
8 chair of the Legislative Budget and Audit Committee to the director of the  
9 division of legislative finance, the permanent employees of their respective  
10 divisions who are responsible for evaluating a royalty reduction, and to agents  
11 or contractors of the legislative auditor or the legislative finance director who  
12 are engaged under contract to evaluate the royalty reduction, if they sign an  
13 appropriate confidentiality agreement;

14 (7) may

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

27 (B) with the mutual consent of the lessee or lessees making  
28 application for the royalty reduction under (1)(B) or (1)(C) of this subsection,  
29 request payment for the services of an independent contractor, selected from a  
30 list of qualified consultants to evaluate hydrocarbon development, production,  
31 transportation, and economics by the commissioner to assist the commissioner

1 in evaluating the application and financial and technical data; if, under this  
2 subparagraph, the commissioner requires payment for the services of an  
3 independent contractor, the total cost of the services that may be paid for by  
4 the lessee or lessees may not exceed \$150,000 for each application, and the  
5 commissioner shall determine the relevant scope of the work to be performed  
6 by the contractor; selection of an independent contractor under this  
7 subparagraph is not subject to AS 36.30;

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

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

19 (10) shall make copies of the preliminary findings and determination  
20 available to

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

22 (B) the chairs of the legislature's standing committees on  
23 resources; and

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

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

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

30 (B) make a final findings and determination; the  
31 commissioner's final findings and determination prepared under this

1 subparagraph regarding a royalty reduction is final and not appealable to the  
2 court;

3 (C) transmit a copy of the final findings and determination to  
4 the lessee;

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

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

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

12 \* **Sec. 38.** AS 38.05.180(l) is amended to read:

13 (l) Subject to the provisions of AS 31.05, the commissioner has discretion to  
14 enter into an agreement whereby, with the consent of the lessee, the state's royalty  
15 share of [OIL AND GAS] production of oil and gas or gas only may be stored or  
16 retained in storage by the lessee, or the commissioner may enter into an agreement  
17 with one or more of the affected field lease holders to trade current royalty production  
18 from a field for a like amount, kind, and quality of future production, on the condition  
19 that the state receives back its stored or traded royalty share during the first half of the  
20 estimated field life or no later than 15 years after start of production, whichever is  
21 sooner.

22 \* **Sec. 39.** AS 38.05.180(m) is amended to read:

23 (m) An oil and gas lease or a gas only lease must cover a reasonably compact  
24 area not exceeding 5,760 acres, and may be for a maximum period of 10 years, except  
25 that the commissioner may issue a lease for a period not less than five years upon a  
26 finding that it is in the best interests of the state. An oil and gas lease shall be  
27 automatically extended if and for so long thereafter as oil or gas is produced in paying  
28 quantities from the lease or if the lease is committed to a unit approved by the  
29 commissioner, and a gas only lease shall be automatically extended if and for so  
30 long thereafter as gas is produced in paying quantities from the lease or if the  
31 lease is committed to a unit approved by the commissioner. A lease issued under

1 this section covering land on which there is a well capable of producing oil or gas in  
2 paying quantities does not expire because the lessee fails to produce oil or gas unless  
3 the lessee is allowed reasonable time to place the well on a producing status. Upon  
4 extension, the commissioner may increase lease rentals so long as the increased rental  
5 rate does not exceed 150 percent of the rate for the preceding year. If drilling has  
6 commenced on the expiration date of the primary term of the lease and is continued  
7 with reasonable diligence, including such operations as redrilling, sidetracking, or  
8 other means necessary to reach the originally proposed bottom hole location, the lease  
9 continues in effect until 90 days after drilling has ceased and for so long thereafter as  
10 oil or gas is produced in paying quantities. An oil and gas lease or a gas only lease  
11 issued under this section which is subject to termination by reason of cessation of  
12 production does not terminate if, within 60 days after production ceases, reworking or  
13 drilling operations are commenced on the land under lease and are thereafter  
14 conducted with reasonable diligence during the period of nonproduction.

15 \* Sec. 40. AS 38.05.180(n) is amended to read:

16 (n) The commissioner may establish by regulation that after a well has been  
17 plugged and abandoned, the rental rate which was in effect during the year of  
18 abandonment is maintained for the remainder of the term. Rental is payable in  
19 advance and continues until income to the state from royalty or net profit share  
20 exceeds rental income to the state for that year. Under this subsection,

21 (1) [OIL AND GAS] leases for oil and gas or for gas only shall  
22 provide for payment to the state of rental on the following basis:

23 (A) [(1)] for the first year, \$1.00 per acre;

24 (B) [(2)] for the second year, \$1.50 per acre;

25 (C) [(3)] for the third year, \$2.00 per acre;

26 (D) [(4)] for the fourth year, \$2.50 per acre;

27 (E) [(5)] for the fifth and following years, \$3.00 per acre;

28 (2) if the lessee under a gas only lease demonstrates to the  
29 commissioner that the potential resources underlying the lease are reasonably  
30 estimated to be only nonconventional gas, the rental payment is \$1.00 per acre  
31 until the lease expires or paying quantities of conventional oil or gas are

1           discover:d underlying the lease.

2           \* Sec. 41. AS 38.05.180(p) is amended to read:

3                   (p) To conserve the natural resources of all or a part of an oil or gas pool,  
4                   field, or like area, the lessees and their representatives may unite with each other, or  
5                   jointly or separately with others, in collectively adopting or operating under a  
6                   cooperative or a unit plan of development or operation of the pool, field, or like area,  
7                   or a part of it, when determined and certified by the commissioner to be necessary or  
8                   advisable in the public interest. The commissioner may, with the consent of the  
9                   holders of leases involved, establish, change, or revoke drilling, producing, and  
10                   royalty requirements of the leases and adopt regulations with reference to the leases,  
11                   with like consent on the part of the lessees, in connection with the institution and  
12                   operation of a cooperative or unit plan as the commissioner determines necessary or  
13                   proper to secure the proper protection of the public interest. The commissioner may  
14                   not reduce royalty on leases in connection with a cooperative or unit plan except as  
15                   provided in (j) of this section. The commissioner may require a lease [OIL AND  
16                   GAS LEASES] issued under this section to contain a provision requiring the lessee to  
17                   operate under a reasonable cooperative or unit plan, and may prescribe a plan under  
18                   which the lessee must operate. The plan must adequately protect all parties in interest,  
19                   including the state.

20           \* Sec. 42. AS 38.05.180 is amended by adding a new subsection to read:

21                   (ff) The provisions of this section that authorize oil and gas leases also apply  
22                   to authorize the commissioner to issue leases for the production of gas only, subject to  
23                   the following:

24                           (1) in authorizing and managing leases under this subsection, the terms  
25                           "oil and gas" or "oil or gas" as they are used in this chapter may be read and applied as  
26                           appropriate as referring to gas only;

27                           (2) when a lease is authorized as a gas only lease, the lease does not  
28                           give the lessee the right to produce oil; if a well drilling for gas under a gas only lease  
29                           authorized by this subsection penetrates a formation capable of producing oil, the  
30                           owner or operator

31                                   (A) shall notify the department and the Alaska Oil and Gas

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Conservation Commission; and

(B) may not conduct further operations in the drilled well until the facility complies with all applicable laws and regulations relating to oil and gas exploration and production; however, this subparagraph does not prevent the owner or operator from conducting activities that may be required by the Alaska Oil and Gas Conservation Commission to plug, plug-back, or abandon a well;

(3) for a nonconventional gas lease, if a bond is sought under AS 38.05.130,

(A) before the amount of the surety bond to be posted is determined by the director, require, as a condition for issuing the lease, that the director, after notice and an opportunity to be heard, determine that, to exercise rights under the reservation as set out in AS 38.05.125 and the lease, the lessee has no other reasonable means of entry than access and entry upon the land of the owner; the lessee has the burden of demonstrating compliance with the requirement of this subparagraph; and

(B) in addition to the coverage for actual damages required by that section, provide for payment of reasonable compensation to the owner for any loss by the owner of the owner's use and enjoyment of the property.

\* Sec. 43. AS 38.05.860(a) is amended to read:

(a) The commissioner may require an applicant seeking the sale, lease, or other disposal of land or an interest in land, other than under an oil and gas lease, gas only lease, or mineral lease, to deposit an amount covering the estimated cost of an appraisal, survey, and other costs necessary to offer the land or interest in land, including advertising. All deposited funds not expended shall be refunded to the applicant. If the land or interest in land is awarded to a person other than the applicant making the deposit, the person awarded the land shall pay the total actual cost incurred by the department in making the disposal, and the deposit shall be returned to the original applicant. In lieu of requiring the deposit under this subsection, the commissioner may enter into an agreement with an applicant seeking land or an interest in land requiring the applicant to reimburse the department for costs incurred

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1 in the disposal if the applicant is awarded the land or interest in land.

2 \* Sec. 44. AS 38.05.860(c) is amended to read:

3 (c) The commissioner shall require each bidder for the competitive leasing of  
4 [OIL AND GAS] land for oil and gas, or for gas only, to submit with each bid a  
5 deposit of money equal to 20 percent of the bonus.

6 \* Sec. 45. AS 38.05.945(a) is amended to read:

7 (a) This section establishes the requirements for notice given by the  
8 department for the following actions:

9 (1) classification or reclassification of state land under AS 38.05.300  
10 and the closing of land to mineral leasing or entry under AS 38.05.185;

11 (2) zoning of land under applicable law;

12 (3) issuance of a

13 (A) preliminary written finding under AS 38.05.035(e)(5)(A)  
14 regarding the sale, lease, or disposal of an interest in state land or resources for  
15 oil and gas, or for gas only, subject to AS 38.05.180(b);

16 (B) [REPEALED

17 (C)] written finding for the sale, lease, or disposal of an interest  
18 in state land or resources under AS 33.05.035(e)(6), except a [AN OIL OR  
19 GAS] lease sale described in AS 38.05.035(e)(6)(F) for which the director  
20 must provide opportunity for public comment under the provisions of that  
21 subparagraph;

22 (4) a competitive disposal of an interest in state land or resources after  
23 final decision under AS 38.05.035(e);

24 (5) a preliminary finding under AS 38.05.035(e) concerning sites for  
25 aquatic farms and related hatcheries;

26 (6) a decision under AS 38.05.132 - 38.05.134 regarding the sale,  
27 lease, or disposal of an interest in state land or resources.

28 \* Sec. 46. AS 38.05.965 is amended by adding a new paragraph to read:

29 (25) "nonconventional gas" means coal bed methane, shales containing  
30 gas, or gas hydrates.

31 \* Sec. 47. AS 38.06.080(2) is amended to read:

1 (2) "state lease" means an oil and gas lease or gas only lease on state  
2 land.

3 \* Sec. 48. AS 38.35.020(a) is amended to read:

4 (a) Rights-of-way on state land including rights-of-way over, under, along,  
5 across, or upon the right-of-way of a public road or highway or the right-of-way of a  
6 railroad or other public utility, or across, upon, over, or under a river or other body of  
7 water or land belonging to or administered by the state may be granted by  
8 noncompetitive lease by the commissioner for pipeline purposes for the transportation  
9 of oil, products, or natural gas under those conditions prescribed by law or by  
10 administrative regulation. Except to the extent authorized by an oil and gas lease, a  
11 gas only lease, or an oil and gas or gas only unit agreement approved by the state, no  
12 person may engage in any construction or operation of any part of an oil, products, or  
13 natural gas pipeline, which in whole or in part is or is proposed to be on state land  
14 unless that person has obtained from the commissioner a right-of-way lease of the land  
15 under this chapter.

16 \* Sec. 49. AS 43.20.072(c) is amended to read:

17 (c) A taxpayer's business income shall be apportioned to this state by  
18 multiplying the taxpayer's income determined under (b) of this section by the  
19 apportionment factor applicable to the taxpayer among the following factors:

20 (1) the apportionment factor of a taxpayer subject to this section but  
21 not engaged in the production of oil and gas, or of gas only, as appropriate, from a  
22 lease or property in this state during the tax period is a fraction, the numerator of  
23 which is the sum of the property factor under AS 43.19 (Multistate Tax Compact) and  
24 the sales factor under (d) of this section for the taxpayer for that tax period, and the  
25 denominator of which is two;

26 (2) the apportionment factor of a taxpayer subject to this section but  
27 not engaged in the pipeline transportation of oil or gas in this state during the tax  
28 period is a fraction, the numerator of which is the sum of the property factor under (e)  
29 of this section and the extraction factor under (f) of this section for the taxpayer for the  
30 tax period, and the denominator of which is two;

31 (3) the apportionment factor of a taxpayer engaged both in the

1 production of oil or gas from a lease or property in this state and in the pipeline  
2 transportation of oil or gas in this state during the tax period is a fraction, the  
3 numerator of which is the sum of the sales factor under (d) of this section, the property  
4 factor under (e) of this section, and the extraction factor under (f) of this section for  
5 the taxpayer for the tax period, and the denominator of which is three.

6 \* **Sec. 50.** AS 43.55.025(a) is amended to read:

7 (a) Subject to the terms and conditions of this section, on oil and gas produced  
8 from an oil and gas lease, or on gas produced from a gas only lease, on or after  
9 July 1, 2004, a credit against the tax due under this chapter is allowed in an amount  
10 equal to

11 (1) 20 percent of the total exploration expenditures that qualify under  
12 (b) and (c) of this section, 20 percent of the total exploration expenditures that qualify  
13 under (b) and (d) of this section, or both, for a total credit that does not exceed 40  
14 percent of the total exploration expenditures; or

15 (2) 40 percent of the total exploration expenditures that qualify under  
16 (b) and (e) of this section, for a total production tax credit that does not exceed 40  
17 percent of the total qualified exploration expenditures.

18 \* **Sec. 51.** AS 43.55.900(9) is amended to read:

19 (9) "lease or property" means any right, title, or interest in or the right  
20 to produce or recover oil or gas including:

21 (A) a mineral interest,

22 (B) a leasehold interest,

23 (C) a working interest, royalty interest, overriding royalty  
24 interest, production payment, net profit interest or any other interest in a lease,  
25 concession, joint venture, or other agreement for [OIL AND GAS] exploration  
26 development, or production of oil and gas or of gas only,

27 (D) a working interest, royalty interest, overriding royalty  
28 interest, production payment, net profit interest or any other interest in an  
29 agreement for unitization or pooling under the provisions of 26 U.S.C.  
30 614(b)(3) (Internal Revenue Code) as defined on January 1, 1974;

31 \* **Sec. 52.** AS 46.03.100(f) is amended to read:

1 (f) This section does not apply to discharges of solid or liquid waste material  
2 or water discharges from the following activities if the discharge is incidental to the  
3 activity and the activity does not produce a discharge from a point source, as that term  
4 is defined in regulations adopted under this chapter, directly into any surface water of  
5 the state:

6 (1) mineral drilling, trenching, ditching, and similar activities;

7 (2) landscaping;

8 (3) water well drilling, geophysical drilling, or nonconventional  
9 [COAL BED METHANE DRILLING OR OTHER NATURAL] gas drilling; for  
10 purposes of this paragraph, "nonconventional gas" has the meaning given in  
11 AS 38.05.965 [TO RECOVER GAS FROM A FIELD IF A PART OF THE FIELD IS  
12 WITHIN 3,000 FEET OF THE SURFACE]; or

13 (4) drilling, ditching, trenching, and similar activities associated with  
14 facility construction and maintenance or with road or other transportation facility  
15 construction and maintenance; however, the exemption provided by this paragraph  
16 does not relieve a person from obtaining a permit under this section if

17 (A) the drilling, ditching, trenching, or similar activity will  
18 involve the removal of the groundwater, stormwater, or wastewater runoff that  
19 has accumulated and is present at an excavation site for facility, road, or other  
20 transportation construction or maintenance; and

21 (B) a permit is otherwise required by this section.

22 \* Sec. 53. AS 46.04.030(b) is amended to read:

23 (b) A person may not cause or permit the operation of a pipeline or an  
24 exploration or production facility in the state unless an oil discharge prevention and  
25 contingency plan for the pipeline or facility has been approved by the department and  
26 the person is in compliance with the plan. This subsection does not apply to an  
27 exploration or production facility used solely to explore for or to develop or produce  
28 nonconventional [SHALLOW NATURAL] gas resources, except that this exemption  
29 does not apply if the Alaska Oil and Gas Conservation Commission determines under  
30 AS 31.05.030(j) that

31 (1) a well drilled for nonconventional [SHALLOW NATURAL] gas

1 may penetrate a formation capable of flowing oil; and

2 (2) the volume of oil encountered will be of such quantities that a  
3 contingency plan will be required.

4 \* **Sec. 54.** AS 46.04.040(b) is amended to read:

5 (b) A person may not cause or permit the operation of a pipeline or an  
6 exploration or production facility in the state unless the person has furnished to the  
7 department, and the department has approved, proof of financial ability to respond in  
8 damages. Proof of financial responsibility required for

9 (1) a pipeline or an offshore exploration or production facility is  
10 \$50,000,000 per incident;

11 (2) an onshore production facility is

12 (A) \$20,000,000 per incident if the facility produces over  
13 10,000 barrels per day of oil;

14 (B) \$10,000,000 per incident if the facility produces over 5,000  
15 barrels per day but not more than 10,000 barrels per day of oil;

16 (C) \$5,000,000 per incident if the facility produces over 2,500  
17 barrels per day but not more than 5,000 barrels per day of oil;

18 (D) \$1,000,000 per incident if the facility produces 2,500  
19 barrels per day or less of oil;

20 (3) an onshore exploration facility is

21 (A) \$25,000 per incident for a facility used solely to explore for  
22 nonconventional [SHALLOW NATURAL] gas by means of drilling a well to  
23 explore for the gas [, WHETHER METHANE ASSOCIATED WITH AND  
24 DERIVED FROM COAL DEPOSITS OR OTHERWISE, FROM A FIELD IF  
25 A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE SURFACE]; and

26 (B) except as provided by (A) of this paragraph, \$1,000,000 per  
27 incident.

28 \* **Sec. 55.** AS 46.04.900 is amended by adding a new paragraph to read:

29 (31) "nonconventional gas" has the meaning given in AS 38.05.965.

30 \* **Sec. 56.** AS 46.40.205 is amended to read:

31 **Sec. 46.40.205. Consistency determinations for certain activities involving**

1        nonconventional [SHALLOW NATURAL] gas. (a) When conducted under  
2 oversight and regulation of the Alaska Oil and Gas Conservation Commission and the  
3 state's resource agencies, projects for the exploration and development of  
4 nonconventional [SHALLOW NATURAL] gas are consistent with the program  
5 described in this chapter. Persons responsible for activities subject to this section shall  
6 obtain all required permits and approvals from municipal, state, and federal agencies  
7 as otherwise required by law.

8            (b) In this section, "nonconventional [SHALLOW NATURAL] gas" has the  
9 meaning given in AS 38.05.965 [AS 46.04.900].

10 \* Sec. 57. AS 46.40.210(12) is amended to read:

11            (12) "uses of state concern" means those land and water uses that  
12 would significantly affect the long-term public interest; "uses of state concern" include

13                    (A) uses of national interest, including the use of resources for  
14 the siting of ports and major facilities that contribute to meeting national  
15 energy needs, construction and maintenance of navigational facilities and  
16 systems, resource development of federal land, and national defense and  
17 related security facilities that are dependent upon coastal locations;

18                    (B) uses of more than local concern, including those land and  
19 water uses that confer significant environmental, social, cultural, or economic  
20 benefits or burdens beyond a single coastal resource district;

21                    (C) the siting of major energy facilities, activities pursuant to a  
22 state oil and gas lease, a state gas only lease, or a federal oil and gas lease, or  
23 large-scale industrial or commercial development activities that are dependent  
24 on a coastal location and that, because of their magnitude or the magnitude of  
25 their effect on the economy of the state or the surrounding area, are reasonably  
26 likely to present issues of more than local significance;

27                    (D) facilities serving statewide or interregional transportation  
28 and communication needs; and

29                    (E) uses in areas established as state parks or recreational areas  
30 under AS 41.21 or as state game refuges, game sanctuaries, or critical habitat  
31 areas under AS 16.20.

1 \* **Sec. 58.** AS 31.05.170(14); AS 38.05.177(b), 38.05.177(c), 38.05.177(e), 38.05.177(f),  
2 38.05.177(g), 38.05.177(h), 38.05.177(j), 38.05.177(k), 38.05.177(m), 38.05.177(o); and  
3 AS 46.04.900(25) are repealed.

4 \* **Sec. 59.** The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 CERTAIN SHALLOW NATURAL GAS LEASES AND LEASE APPLICATIONS  
7 TO BE ADMINISTERED UNDER FORMER LAW. The provisions of AS 38.05.177(a),  
8 (d)(1), and (l), amended by secs. 27 - 29 of this Act, as those provisions read on the day  
9 before the effective date of amendment of those subsections, and the provisions of  
10 AS 38.05.177(b), (c), (e) - (h), (j), (k), (m), and (o), repealed by sec. 58 of this Act, as those  
11 provisions read on the day before the effective date of the repeal of those subsections, apply to  
12 shallow natural gas

13 (1) leases issued under AS 38.05.177 and in effect on December 31, 2003; and

14 (2) lease applications under AS 38.05.177 that were received by the  
15 Department of Natural Resources before January 1, 2004.

16 \* **Sec. 60.** This Act takes effect immediately under AS 01.10.070(c).