

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3283

165

138 The Single Family Home and Our families Energy welfare from this day forward – should be “OFF LIMITS” to the profiteering and capital generation of a few lazy and power drunk individuals running amuck guised as quasi-free enterprise corporations.

144 Sincerely and Respectfully,

Paul D. Kendall  
907-222-7882

150 [w[a[t[e[r][f[u[e[L[ END [h[y[[d[r[o[[g[e[n[

Ps.. Mr. Galvin, with all due respect for your intentions and character.

156 I came to this conclusion listening to Ms Nelson and Mr. Thomas asking you about their community needs for energy.. And you advising him (truthfully) that “the energy price his people would pay would be based on the world oi! market prices”

162 Well, it don't get much plainer than that! Funny thing about the truth, it is what it is....

Ladies and Gentlemen,

Enough is Enough! The time has come to free our people. You know this is the truth; You know I am right...and we are not alone!

168

All EXXON permanent fund stock money shall be redirected immediately to other interests unless EXXON settles with our people within 30 days.

174 That moneys' interests shall augment the immediate construction of our own Alaska Gas pipeline needs and several Hydro-Electric Power and Hydrogen Gas projects for our Alaska families new society and new technological energy needs.

180 Further, be it resolved, PIRS and TIRS shall be placed on notice they shall stand at our ready, to serve our needs as the great state of Alaska they created, may now need them yet again to help carry our journey to a new society, a new recognition for Alaska in the worlds history of a freedom loving peoples.

Well, now ima startin to get carried away here so -- Chow ?

Dear Legislature,

I am currently employed by the State of Alaska, Department of Revenue, Tax Division as an Oil & Gas Revenue Auditor. I have been encouraged by Marcia Davis to independently express my views to you on the proposed job class change for my position from non-exempt to exempt.

I do not feel that my position as an Oil & Gas Revenue Auditor should be changed from non-exempt to exempt, nor any other job directly related to auditing oil and gas taxes. Although the pay increase talked about would be welcomed and beneficial to all currently employed, I believe this change would make our positions very political and take our focus away from the job we are here to do.

I am unsure of the motivation behind the request to make our positions exempt. However, I understand one main point is recruitment and retention of auditors. If the pay scale is the main issue, may I suggest increasing the current auditor pay and leaving our status the way it is? It seems to me that would be a simple solution. I believe that individuals hired in the Oil & Gas Auditor position will not be able to come to work and perform their job duties without proper training no matter how much they are paid. As you all know, the oil and gas tax laws of Alaska are very complicated to understand.

If the status of the Oil & Gas Auditor position was wrapped into HB2001 and the funding for the positions was not available in the future, what would happen to the positions?

How would the legislature insulate exempt positions from the political pressures of any administrations?

Thank you for your time.

Melissa Bayer  
Oil & Gas Revenue Auditor

11/8/2007

**BACKBONE II**  
P.O. Box 101700, Anchorage, AK 99510

November 6, 2007

Senator Bert Stehman

Fax (907) 465- 3922

Dear Senator,

We are pleased to see the momentum building through the committee process to rewrite the State's oil taxes and regain the trust of the Alaska people. This special session can be truly historic.

We urge you to talk about the "fair price" for our resources, not taxes. This will counter the anti-tax messages of the industry and those Alaskans whose businesses depend on it. Demanding a "fair price" fits the fiduciary responsibilities of corporate officers, which is your role in our unique Owner State.

We recommend that you use dollar amounts, not percentages, when explaining the profits the oil companies make from our resources. All Alaskans know what dollars mean, especially when these same companies cut no slack in gasoline or home-heating fuel prices. Nowhere is the high cost of fuel so destructive as in rural Alaska, where gasoline and diesel prices are crippling our communities.

We support a 25 percent tax rate, .4 percent progressivity, full cost reporting from the producers, and information sharing between state departments.

We also suggest that you explain to your constituents what increased oil revenues will be used for. All Alaskans need to understand the need to invest our legacy funds in economic development infrastructure and education, including vocational technical training. Only then will Alaskans truly benefit from the future economic opportunities on the horizon.

Thank you again for your leadership. Both you, as a legislator, and Governor Palin will receive an outpouring of appreciation from our people as you stand tall for Alaska at this time.

Sincerely,

  
Walter J. Hieckel

  
David Gottstein

Co-Chairs, Backbone II

C: Governor Sarah Palin  
Commissioner Pat Galvin

*Backbone II is a non-partisan citizen organization that advocates on behalf of Alaskans on oil and gas development issues. Our members have no personal financial stake in the outcome of the current and recent deliberations on oil and gas taxes and gasoline development. We offer our ideas based on their merits and many years of involvement in Alaska public policy issues.*

COPY

John Jay Darrah  
Brooks Range Petroleum Corporation  
510 L Street #601  
Anchorage, AK 99501  
Telephone 907-865-5841

RECEIVED  
NOV - 8 2007

November 5, 2007

Re: Special Session

Sen. Bert Stedman  
State Capitol  
Juneau AK 99801

Dear Sen. Stedman,

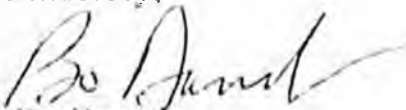
This morning I read with great disappointment the news coming from Juneau. The bills that have gravitated from both the House and the Senate grossly ramp up oil taxes, and if passed, will ultimately decrease future oil and gas exploration in the State of Alaska.

Fortunately in the short term, Brooks Range Petroleum has signed contracts with its working interest partners that require exploration expenditures in the neighborhood of \$40 million for 2008. I doubt that those same partners' appetites will be as great in ensuing years. As I testified to the Senate, for us once again to rewrite the oil tax after just one cycle of PPT, the State of Alaska is sending the message to the rest of the industry that Alaska's tax system is unstable and unreasonably high.

Brooks Range Petroleum is not going to abandon Alaska, our assets or our efforts to commercialize our small 2007 discovery. Hopefully we will find more reserves in 2008 that will require additional development drilling. However, I am very worried about Brooks Range Petroleum's ability to continue bringing new exploration investment to the State, especially for our larger risk and larger reward frontier plays.

I hope reason prevails for the final disposition of your bill. Thank you for hard work and dedication to keeping Alaska's best interests in mind.

Sincerely,

  
Bo Darrah

2007.11.08-11.22-55

To: Senator Bert Stedman  
Finance Committee Co-Chair  
Fax # 465-3922 / 225-0713

From: Peter McKay  
55441 Chinook Rd  
Kenai, AK 99611  
(907) 776-5745

Date: 10/27/2007

Subject: Yes - Alaska Clear and Equitable Share (ACES)

Dear Mr. Stedman,

I am a constituent who lives in Nikiski.

I strongly support the ACES proposal advanced by Governor Palin.

I support a 25% net base tax rate for North Slope Oil Producers.

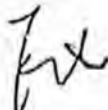
I support a base gross tax floor of 10% on the Prudhoe and Kuparuk fields.

**Please act to close the loophole that permits producers to deduct repair cost when repairs are a result of substandard maintenance.**

BP should not be able to deduct the cost of replacing the Prudhoe Bay Oil Transit Lines, or the oil spill on the GC-2 OIL. These were both caused by willful negligence.

I am an oilfield worker. I have first-hand experience with North Slope oil company equipment maintenance programs. They are sub-standard. The failures on the Oil Transit Lines (and many other equipment failures) are the result of years worth of deferred maintenance and cost saving. Negligence. This behavior should not be rewarded with a tax credit.

Thank you for considering my opinion.



Peter McKay



# Alaska State Legislature

Please enter into the record my testimony to the SENATE FINANCE / HOUSE FINANCE  
 committee name  
 committee on SB/HB 2001, dated 11-9-07  
 bill/subject

SEE

ATTACHMENTS

3-PAGES

Signed: AVES THOMPSON (via Email)  
 Testifier  
ALASKA TRUCKING ASSOC.  
 Representing (Optional)  
3443 MINNESOTA, ANCHORAGE 99503  
 Address  
(907) 276-1149  
 Phone No.

**Alaska Trucking Association, Inc.**

3443 Minnesota Drive · Anchorage, Alaska 99503 · Phone (907) 278-1149 · Fax (907) 274-1946  
[www.aktrucks.org](http://www.aktrucks.org)

*The authoritative voice of the trucking industry in Alaska*

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November 8, 2007

**SB2001 Oil Tax Issues (PPT)  
Senate and House Finance Committees**

The Alaska Trucking Association is a state wide organization representing trucking interests from Barrow to Ketchikan. In 2008, our association celebrates its 50<sup>th</sup> Anniversary of serving the interests of the trucking industry in Alaska. Our more than 200 member companies represent all of the diverse trucking operations in the state along with many associate members who provide goods and services to our industry. It is important to note that, in Alaska, trucking employs over 20,000 people - 1 out of 14 members of the Alaska workforce. Trucking payrolls total over \$900 million annually. Trucking consists of several thousand family owned and corporate trucking businesses, most of which have fewer than 10 employees.

On behalf of the ATA, I wish to submit the following comments for the record.

It has been said many times that, in developing our natural resources, our constitution requires that we seek maximum return to the citizens of Alaska. While it seems that the emphasis has been on raising taxes to increase tax revenue to the state, we believe that the better way to maximize benefits to Alaskans is to provide good paying, long term jobs for this and future generations.

The State needs to focus on how to slow the decline of production. To accomplish that objective, investments need to continue in existing fields, investments need to be made in heavy oil and investments need to



*If you got it, a truck brought it...*

**Alaska Trucking Association, Inc.**

3443 Minnesota Drive · Anchorage, Alaska 99503 · Phone (907) 276-1149 · Fax (907) 274-1946  
[www.aktrucks.org](http://www.aktrucks.org)

*The authoritative voice of the trucking industry in Alaska*

be made to promote the development of new fields. Existing field development should be the first priority. Most of the new production, in recent years, has occurred in existing fields. Without this base production, heavy oil and other new field development will face major additional challenges.

The oil and gas business is capital intensive and it takes many years for return on investments to occur. Increases to taxes lengthen that recovery time and can negatively impact project economics and investment decisions.

We believe that it is important in setting tax policy to produce adequate revenues for the state but more importantly, encourage further investment in the development of our abundant resources.

We urge you keep the tax rate low and use incentives to encourage increased development investment. As stated earlier, we believe that the better way to maximize benefits to Alaskans is to provide good paying, long term jobs for this and future generations. Investment, not taxes, will provide the jobs we need to ensure our future.

Sincerely,



Aves Thompson  
Executive Director



*If you got it, a truck brought it...*

**Tom Lakosh**

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**From:** Tom Lakosh [lakosh@gci.net]  
**Sent:** Wednesday, November 07, 2007 2:40 PM  
**To:** 'Bill Stoltz'; 'Bill Thomas'; 'Kevin Meyer'; 'Mary Nelson'; 'Mike Hawker'; 'Mike Kelly'; 'Reggie Joule'; Rep\_Harry\_Crawford@legis.state.ak.us; Rep\_Les\_Gara@legis.state.ak.us; Rep\_Mike\_Chenault@legis.state.ak.us; 'Richard Foster'  
**Cc:** 'sharon\_kelly@legis.state.ak.us'  
**Subject:** Requested amendment

Dear Chairman Chenault and Committee Members;

In attempting to arrange concurrent testimony before House and Senate Finance Committees tomorrow night, I began a discussion of my concerns with the Chairman's staff and she asked that I send my recommended amendments to the entire committee ASAP. I am still preparing my testimony that will in part petition the committee to amend CS HB 2001 (RES) with the prayer for relief embodied in the proposed addition of AS 43.55.011(q), (or something close with the same intent). There is some language that isn't necessary relief, AS 43.55.011(q)(5), but it follows the generally accepted proposition that capex has a higher correlation to the barrels produced than opex. You will find the Due Diligence section from the standard oil and gas lease and argument below the proposed new section 20. I am also including a proposed amendment to AS 38.05.180(q) but this is only provided to show the enhanced ADNR role flowing from the necessary amendment to Sec 20.

**25-GH0014\V CS FOR HOUSE BILL NO. 2001(RES)**

\* new Sec. 20. AS 43.55.011 is amended by adding new subsections to read:

(o) In addition to the tax levied under (c) of this section, for each month for which the producer's average monthly production tax value of the taxable oil and gas exceeds \$30 for each BTU equivalent barrel, there is levied on the producer of oil or gas a tax for all oil and gas produced that month from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under (j) and (k) of this section, the tax levied under this subsection is equal to the sum over all months of the calendar year of the amount calculated under this subsection. For each month for which this subsection applies and for which the average monthly production tax value of the taxable oil and gas is

(1) not more than \$40 for each BTU equivalent barrel, the tax is equal to 0.2 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for

each BTU equivalent barrel of the taxable oil and gas for that month and \$30;

(2) more than \$40 but not more than \$50 for each BTU equivalent barrel, the tax is equal to two percent of the gross value at the point of production of the taxable oil and gas for that month plus 0.3 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for each BTU equivalent barrel of the taxable oil and gas for that month and \$40;

(3) more than \$50 but not more than \$60 for each BTU equivalent barrel, the tax is equal to five percent of the gross value at the point of production of the taxable oil and gas for that month plus 0.4 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for each BTU equivalent barrel of the taxable oil and gas for that month and \$50; or

(4) more than \$60 for each BTU equivalent barrel, the tax is equal to nine percent of the gross value at the point of production of the taxable oil and gas for that month plus 0.5 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for each BTU equivalent barrel of the taxable oil and gas for that month and \$60.

(p) Notwithstanding other provisions of this section, for a calendar year before 2022, the tax levied under (e) and (o) of this section for each 1,000 cubic feet of gas for gas produced from a lease or property outside the Cook Inlet sedimentary basin and used in the state may not exceed the

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

(q) All tax deductions and tax credits allowable to an oil and gas lessee pursuant to the provisions of AS 38.05.180(i), AS 41.09.010, AS 43.20.043 and 43.55.11-.170 shall not be applied for or transferred by a lessee nor approved by the Alaska Department of Revenue unless:

(1) the lessee has fully satisfied the due diligence requirements of its lease to the extent that it has reinvested all windfall profits above the allowable "reasonable profits", as set forth in their lease and determined by the Commissioner of the Alaska Department of Natural Resources, into drilling, producing, and operating wells on the leased area, and;

(2) the plan of operations approved by the Commissioner of the Alaska Department of Natural Resources pursuant to AS 38.05.180 et. seq. and subject to the pool rules promulgated by the Alaska Oil and Gas Conservation Committee requires expenditures in addition to the amounts dedicated to this purpose in (1) of this subsection, and;

(3) all windfall profits, as described in (1) of this subsection, derived by lessee over the lifetime of the lease are used to offset any and all deductions and credits that have been previously granted or may accrue, and;

(4) the tax deductions and tax credits are claimed by lessee to supplement its due diligence requirements only to the extent that such deductions or credits are necessary to timely complete the plan of operations described in (2) of this subsection.

(5) The allowable tax deductions and tax credits are claimed as necessary in the following progressive order: capital expenditure deductions; capital expenditure credits; operating expense deductions.

The relevant standard lease section requiring due diligence is copied below:

**13. DILIGENCE AND PREVENTION OF WASTE.** (a) The lessee shall exercise reasonable diligence in drilling, producing, and operating wells on the leased area unless consent to suspend operations temporarily is granted by the state.

(b) Upon discovery of oil or gas on the leased area in quantities that would appear to a reasonable and prudent operator to be sufficient to recover ordinary costs of drilling, completing, and producing an additional well in the same geologic structure at another location with a reasonable profit to the operator, the lessee must drill those wells as a reasonable and prudent operator would drill, having due regard for the interest of the state as well as the interest of the lessee.

(c) The lessee shall perform all operations under this lease in a good and workmanlike manner in accordance with the methods and practices set out in the approved plan of operations and plan of development, with due regard for the prevention of waste of oil, gas, and associated substances and the entrance of water to the oil and gas bearing sands or strata to the destruction or

injury of those sands or strata, and to the preservation and conservation of the property for future productive operations. The lessee shall carry out at the lessee's expense all orders and requirements of the State of Alaska relative to the prevention of waste and to the preservation of the leased area. If the lessee fails to carry out these orders, the state will have the right, together with any other available legal recourse, to enter the leased area to repair damage or prevent waste at the lessee's expense.

(d) The lessee shall securely plug in an approved manner any well before abandoning it.

**Argument:**

Given this mandated use of all of the lessees' windfall profit beyond a reasonable profit for drilling, completing and producing wells in the interest of the state as set forth in 13(b), there's a dedicated use of the windfall margin:

1. That cannot be refunded with a tax deduction or credit because the state's interest requires the full payment of these costs by lessee under contract
2. where the approved plan of operations does not use up this full windfall margin, the additional state investment detracts from the best interest of the state by incentivizing operations that are already paid for and that would induce investment beyond that of a prudent operator
3. and only if the plan of operations requires more than entire windfall profits available is the best interest of the state advanced by deductions and credits, but only to the extent that such subsidy is required to timely complete the plan of operations .

These facts necessarily establish the credit as a prohibited impairment of the contract.

**Amendments to 38.05.180(q) in red**

(q) A plan authorized by (h) or (p) of this section, which includes land owned by the state, may contain a provision vesting the commissioner, or a person, committee, or state agency, with authority to modify from time to time the rate of prospecting and development and the quantity and rate of production under the plan to maximize the benefit to the state considering the long term production of all hydrocarbons on such leases or units and as otherwise necessary for most effective utilization of all regional resources. All leases operated under a plan approved or prescribed by the commissioner are excepted in determining holdings or control under AS 38.05.140 . The provisions of this section concerning cooperative or unit plans are in addition to and do not affect AS 31.05.

(A) "Reasonable profit" as used in diligence sections of oil and gas leases is defined for each lessee to the extent that the majority of its Alaskan income is generated from its Alaskan assets dedicated to exploration and production of: light oils and NGLs is that exhibited by the 70<sup>th</sup> percentile of all rates of returns of all Alaskan corporations filing a tax return and showing a profit; heavy oils is that exhibited by the 85<sup>th</sup> percentile of all rates of returns of all Alaskan corporations filing a tax return and showing a profit; Natural Gas is that exhibited by the 94<sup>th</sup> percentile of all rates of returns of all Alaskan corporations filing a tax return and showing a profit.

(B) The definition of due diligence expenditure of net profits after the taking of reasonable profits defined in (A) shall be used for prudent exploration and production drilling operations as proposed by the lessee or unit operator in their plans of operations and annually approved by the commissioner. The commissioner shall, when necessary, issue a conditional permit that modifies the submitted plan of operation to optimize the maximum feasible long term production of all recoverable hydrocarbons on such leases and units. The Commissioner shall also insure that the most effective and efficient means are utilized to develop and conserve the hydrocarbon resources in such plans.

TOM LAKOSH P.O. BOX 100648 ANCHORAGE, AK 99510 Ph/Fax (907) 563-7380  
November 8, 2007

For distribution to all Members of the House and Senate Finance Committees before the public testimony session on 11/8/07 at 5:30 PM

**Petition Challenging the Constitutionality of CS SB 2001 and CS HB 2001  
(ACES as Amended)**

If it pleases the Chairman, my name is Tom Lakosh. I present this petition to the legislators in both House and Senate Finance Committees on my own behalf but posit claims of unconstitutionality that affect the rights of all Alaskan citizens. Please refer to the written petition submitted to the offices of the Chairmen and otherwise to each legislator via email. I request in response, written conclusions of law and findings of facts and where there are dissenting opinions, I request that such dissent be forwarded as well. I request time and access for oral argument equal to that provided to the Administration and lessees.

The CS versions before the committees are unconstitutional due to violations of Article I Section 7, fair treatment in administrative and legislative investigations, Article I Section 15, prohibition of impairment of contracts, and Article VIII Section 2, legislative development of natural resources in the best interests of its people.

The ACES bill submitted to the legislature and the testimony of the Administration and its consultants is unconstitutional, false, misleading and contains material omissions where they posit mutually exclusive arguments that contradicts their mandated administrative authority pursuant to statutes, regulations, and most importantly, explicit oil and gas lease provisions. The Administration cannot claim that Alaskans must extract a greater percentage of windfall profits at the same time that it claims that further development incentives must be offered where it has the administrative duty to both set the limits of "reasonable profits" and the extent of production and development as stipulated in lease provisions. I first direct the legislators' attention to standard lease sections 13(a) and (b).

13. DILIGENCE AND PREVENTION OF WASTE. (a) The lessee shall exercise reasonable diligence in drilling, producing, and operating wells on the leased area unless consent to suspend operations temporarily is granted by the state.

(b) Upon discovery of oil or gas on the leased area in quantities that would appear to a reasonable and prudent operator to be sufficient to recover ordinary costs of drilling, completing, and producing an additional well in the same geologic structure at another location with a reasonable profit to the operator, the lessee must drill those wells as a reasonable and prudent operator would drill, having due regard for the interest of the state as well as the interest of the lessee.

The plain meaning of these words taken together clearly establishes that lessees must keep drilling and producing hydrocarbons on their lease so long as each additional well will provide a "reasonable profit". The structure of this contract language therefore mimics what is typically known as a "cost-plus contract" where profit is fixed and limited to a "reasonable" rate and all additional windfall profit garnered must be reinvested into the contracted operations. I would assert with a high degree of confidence that there are no cost-plus contracts in the world that would allow the 64%+ rates of return revealed in testimony before you. Under no circumstances would these stratospheric profits be deemed "reasonable" by any competent and unbiased Trier of fact given that the leases are essentially cost-plus contracts of enormous total value. The Administration cannot legitimately claim that there are windfalls to be extracted with higher tax rates and that the state must also subsidize costs that are required to be funded by the same windfall. These arguments are mutually exclusive and may not be deemed credible.

The position of the Administration becomes even more absurd where the leases, statutes and regulations also grant the Alaska Department of Natural resources, ADNRR, complete authority to regulate the plan of operations and plan of development for each lessee and combined lessees in a unit operating plan. I now direct the legislators to the standard lease sections 9(e), 10(a) and 10(b).

9. PLAN OF OPERATIONS. (e) In approving a lease plan of operations or an amendment of a plan, the commissioner will require amendments that the commissioner determines necessary to protect the state's interest. The commissioner will not require an amendment that would be inconsistent with the terms of sale under which the lease was obtained, or with the terms of the lease itself, or which would deprive the lessee of reasonable use of the leasehold interest.

10. PLAN OF DEVELOPMENT. (a) Except as provided in subparagraph (d) below, within 12 months after completion of a well capable of producing oil, gas, or associated substances in paying quantities, the lessee

shall file two copies of an application for approval by the state of an initial plan of development that must describe the lessee's plans for developing the leased area. No development of the leased area may occur until a plan of development has been approved by the state.

(b) The plan of development must be revised, updated, and submitted to the state for approval annually before or on the anniversary date of the previously approved plan. If no changes from an approved plan are contemplated for the following year, a statement to that effect must be filed for approval in lieu of the required revision and update.

The plain meaning of these words taken together with those in the "DILIGENCE AND PREVENTION OF WASTE" section clearly establishes that ADNR must first determine what is in the best interest of the state, in terms of plans of operations and development for each lessee, and then expand any plan of operations or development submitted by a lessee to conform with the best interest of the state so long as it allows "a reasonable profit to the operator". The Administration cannot legitimately claim that state subsidy of costs is needed to incentivize development in the best interest of the state where it is already mandated to amend lessees' plans of operations and development to comport with the state's interest, and there are windfall profits available to fund expanded plans of development. The claim that incentives are needed to advance the interests of the state necessarily implies that lease administration has failed to fully promote the state's interest in conformance with its mandate under lease provisions, statutes and regulations. The proposed increases in taxes to extract windfalls also establishes that the failure to regulate lessees in the best interest of the state is not due to a lack of available funding for imposed expanded plans of operations and development.

While the Administration must preserve the best interests of the state, each legislator and the legislature as a whole must preserve the best interests of the people pursuant to Article VIII Section 2. Legislators must dismiss the vast majority of the arguments of the Administration and lessees as fraudulent on their face and conduct its own investigation consistent with Article I Section 7. The foremost question now before Committee Members is the issue of lease impairment created by the net profits tax and credit system before you in the CS bills that is prohibited by Article I Section 15 and the legislative oversight necessary to correct the failed administration of leases in the best interest of the state or the people.

The primary mechanism of lease contract impairment is presented by the tax deduction and credit provisions in the CS bills that are explicitly designed to offset those

expenditures by lessees who are otherwise required to bear the burden of those costs to the full exhaustion of any windfall profits that may be available to them over the lifetime of lease development. The legislature may well grant subsidies to lessees once these accumulated windfall profits have been fully expended, but it must first determine that the subsidies are actually needed given a proper administration of leases and will result in advancement of the peoples' best interest. The requested relief from impairment of contracts issue would be adoption of my proposed amendments to the CS bills as provided below, (see section (q) in the House CS and (p) in the Senate CS, changes that do not impair the intent would be appreciated):

**25-GH0014\V CS FOR HOUSE BILL NO. 2001(RES)**

\* **new Sec. 20.** AS 43.55.011 is amended by adding new subsections to read:

(o) In addition to the tax levied under (e) of this section, for each month for which the producer's average monthly production tax value of the taxable oil and gas exceeds \$30 for each BTU equivalent barrel, there is levied on the producer of oil or gas a tax for all oil and gas produced that month from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under (j) and (k) of this section, the tax levied under this subsection is equal to the sum over all months of the calendar year of the amount calculated under this subsection. For each month for which this subsection applies and for which the average monthly production tax value of the taxable oil and gas is

(1) not more than \$40 for each BTU equivalent barrel, the tax is equal to 0.2 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for each BTU equivalent barrel of the taxable oil and gas for that month and \$30;

(2) more than \$40 but not more than \$50 for each BTU equivalent barrel, the tax is equal to two percent of the gross value at the point of production of the taxable oil and gas for that month plus 0.3 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for each BTU equivalent barrel of the taxable oil and gas for that month and \$40;

(3) more than \$50 but not more than \$60 for each BTU equivalent barrel, the tax is equal to five percent of the gross value at the point of production of the taxable oil

and gas for that month plus 0.4 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for each BTU equivalent barrel of the taxable oil and gas for that month and \$50; or

(4) more than \$60 for each BTU equivalent barrel, the tax is equal to nine percent of the gross value at the point of production of the taxable oil and gas for that month plus 0.5 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for each BTU equivalent barrel of the taxable oil and gas for that month and \$60.

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

(q) All tax deductions and tax credits allowable to an oil and gas lessee pursuant to the provisions of AS 38.05.180(i), AS 41.09.010, AS 43.20.043 and 43.55.11-.170 shall not be applied for, or transferred by a lessee nor approved by the Alaska Department of Revenue unless:

(1) the lessee has fully satisfied the diligence requirements of its lease to the extent that it has reinvested all windfall profits above the allowable "reasonable profits", as set forth in their lease diligence sections and determined by the Commissioner of the Alaska Department of Natural Resources, into drilling, producing, and operating wells on the leased area, and;

(2) the plans of operations and development approved by the Commissioner of the Alaska Department of Natural Resources, pursuant to lease provisions and AS 38.05.180 et. seq., requires expenditures in addition to the amounts dedicated to this purpose in (1) of this subsection, and;

(3) all windfall profits, as described in (1) of this subsection, derived by lessee over the lifetime of the lease have been used to offset any and all deductions and credits that have been previously granted or may accrue, and;

(4) the tax deductions and tax credits are claimed by lessee to supplement its lease diligence requirements only to the extent that such deductions or credits are

necessary to timely complete the plans of operations and development described in (2) of this subsection, and;

(5) The tax deductions and tax credits, deemed allowable pursuant to subsection (4) of this section, are claimed by lessee in the following progressive order: capital expenditure deductions; capital expenditure credits; operating expense deductions.

**CS SB 2001 (JUD) 11/05/07**

**\*new Sec. 24 AS 43.55.011 is amended by adding new subsections to read:**

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

(p) All tax deductions and tax credits allowable to an oil and gas lessee pursuant to the provisions of AS 38.05.180(i), AS 41.09.010, AS 43.20.043 and 43.55.11-.170 shall not be applied for, or transferred by a lessee nor approved by the Alaska Department of Revenue unless:

(1) the lessee has fully satisfied the diligence requirements of its lease to the extent that it has reinvested all windfall profits above the allowable "reasonable profits", as set forth in their lease diligence sections and determined by the Commissioner of the Alaska Department of Natural Resources, into drilling, producing, and operating wells on the leased area, and;

(2) the plans of operations and development approved by the Commissioner of the Alaska Department of Natural Resources, pursuant to lease provisions and AS 38.05.180 et. seq., requires expenditures in addition to the amounts dedicated to this purpose in (1) of this subsection, and;

(3) all windfall profits, as described in (1) of this subsection, derived by lessee over the lifetime of the lease have been used to offset any and all deductions and credits that have been previously granted or may accrue, and;

(4) the tax deductions and tax credits are claimed by lessee to supplement its lease diligence requirements only to the extent that such deductions or credits are necessary to timely complete the plans of operations and development described in (2) of this subsection, and;

(5) the tax deductions and tax credits, deemed allowable pursuant to subsection (4) of this section, are claimed by lessee in the following progressive order: capital expenditure deductions; capital expenditure credits; operating expense deductions.

Please note that the proposed structure of profits and tax above directly mimics the royalty and net profits structure described by Pat Foley of Pioneer Natural Resources before the House Finance Committee this afternoon beginning at about 2:20 PM and his testimony is "the other side of the coin" regarding lease impairment imposed by the CS bills. Representative Gara's comments on the matter were quite illuminating on this whole issue as it exposed the primary role that ADNR plays in determining just how much profit may accrue to a lessee and how much revenue the state receives from lessees. The issue of the failed administration of leases can be substantially addressed by the following amendments to the CS bills, (each bill would add an additional section requiring renumbering of successive sections):

**25-GH0014\V CS FOR HOUSE BILL NO. 2001(RES)**

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

(q) A plan authorized by subsections (h) or (p) of this section, which includes land owned by the state, may contain a provision vesting the commissioner, or a person, committee, or state agency, with authority to modify from time to time the rate of prospecting and development and the quantity and rate of production under the plan to maximize the benefit to the state considering the long term production of all hydrocarbons on such leases or units and as otherwise necessary for most effective utilization of all regional resources. All leases operated under a plan approved or prescribed by the commissioner are excepted in determining holdings or control under AS 38.05.140. The provisions of this section concerning cooperative or unit plans are in addition to and do not affect AS 31.05.

(A) The term "reasonable profit" as used in the diligence sections of oil and gas leases is to be defined by the commissioner to reflect the 67<sup>th</sup> percentile of the aggregation of the rates of return granted in "cost-plus contracts" as compared to projects of similar magnitude and complexity to that of each lessee and within a similar legal framework to that experienced in Alaska.

(B) The definition of due diligence expenditure of net profits after the taking of reasonable profits defined in (A) shall be used for prudent exploration and production drilling operations as proposed by the lessee or unit operator in their plans of operations and development. The commissioner shall annually review the

plans of operations and development, and when changes in material conditions indicate that such plans require amendment in the state's best interest's, issue a conditional permit that modifies the submitted plans. The commissioner shall insure that the plans are optimized to provide the maximum long term production of all recoverable hydrocarbons using the most effective and efficient means to develop the hydrocarbon resources on leased properties. The optimization of plans must be performed in conformance with established and prospective pool rules and other constraints promulgated by the Alaska Oil and Gas Conservation Commission.

**CS SB 2001 (JUD) 11/05/07**

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

**(q)** A plan authorized by subsections (h) or (p) of this section, which includes land owned by the state, may contain a provision vesting the commissioner, or a person, committee, or state agency, with authority to modify from time to time the rate of prospecting and development and the quantity and rate of production under the plan to maximize the benefit to the state considering the long term production of all hydrocarbons on such leases or units and as otherwise necessary for most effective utilization of all regional resources. All leases operated under a plan approved or prescribed by the commissioner are excepted in determining holdings or control under AS 38.05.140. The provisions of this section concerning cooperative or unit plans are in addition to and do not affect AS 31.05.

**(A)** The term "reasonable profit" as used in the diligence sections of oil and gas leases is to be defined by the commissioner to reflect the 67<sup>th</sup> percentile of the aggregation of the rates of return granted in "cost-plus contracts" as compared to projects of similar magnitude and complexity to that of each lessee and within a similar legal framework to that experienced in Alaska.

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While the above proposed amendments address the contract impairment and lease administration issues, there are a whole host of other "maximum benefit" issues that should garner their own amendments. The recognition of the "cost-plus" lease issue should logically lead to the elimination of the net profits tax altogether because lessees are constrained to only accrue "reasonable profits" given that the state's/peoples' best interest will require ever increasing production investment and there would be no need for taxes to track lessees' profitability. Adoption of a highly progressive excise tax levied on the gross value of raw hydrocarbons at the point of export or point of sale in-state would: dispense with an unduly burdensome tax administration cost to both the state and lessees that could be better spent on lease administration and production respectively; incentivize the elimination of "gold plating" of costs upstream of the point of tax, and; capture hydrocarbons for tax that may otherwise be exempt from tax due to point of origin.

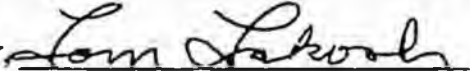
Where a progressive excise tax would be designed to capture the "lion's share" of windfall profits, tax credits for specific equipment that has the highest correlation to ultimate hydrocarbon production would be very useful. Examples of such equipment provided in testimony to date should include: advanced drill rigs; gas processing units; water processing units; sand processing units; advanced seismic testing equipment and software; and other such advanced equipment directly related to finding, drilling and processing hydrocarbons, particularly for heavy oil and gas. Whatever utility office buildings may have for production, Alaskans' best interests are most served in assuring full funding of those assets with the highest correlation to production of hydrocarbons in the proper ratio to allow their efficient transport. If we later find that capital expenditures beyond a short list of highly qualified and extremely expensive equipment would be warranted, no lessee or prospective explorer will complain if the legislature or ADNR expands the list. If these tax credits fail to adequately fund the approved plans of operation and development, all but one lessee still has royalty relief available to supplement funding of their production activities pursuant to AS 38.05.180(j). Lessees that have expended their royalty relief and still cannot adequately fund their operations should be given the option of additional credits or royalty relief, but only to the extent

that the price of hydrocarbon(s) impairs their ability to accrue "reasonable profits" and after a full examination of the competency of the operator is conducted by ADNR.

Where the seismic and/or well information acquired by EIC tax credits are deemed to be in the best interest of the people, legislators must consider that the application for similar tax deductions or credits should trigger the same production of information by the applicant.

Benefits that accrue to the people of Alaska due to the revenue derived from hydrocarbon production are offset by the detrimental effects of climate change suffered by Alaskans that reside in areas with permafrost. These citizens are entitled to equal protection from state and legislative actions impairing their wellbeing. The legislature must minimally commit to mitigation of the unequal effects of any bill that passes and is signed into law.

The CS bill folders presented to both Finance Committees are required to contain my prior written testimony and oral testimony summaries on these bills. I request that the Committee Members review my prior testimony as it contains a supplemental perspective, advice and evidence that are relevant to the instant petition.

Sincerely, 

Tom Lakosh, Pro Per Petitioner

November 7, 2007

Re: proposed oil tax increase

Dear Honored State Legislator:

The Governor asserts that the state of Alaska is owed its fair share of oil taxes. I would challenge that to state that working Alaskans deserve a fair share of the economic benefits of a strong oil industry.

Revenue Commissioner Pat Galvin recently stated he wanted to tax the companies up to the tipping point just short of where oil investments would be deterred. This seems a little cynical to me, akin to throttling the golden goose (but hopefully not quite killing it). This policy is shortsighted and counter productive.

The best interests of Alaska will be served by vibrant oil industry that enjoys relatively low taxes. A moderate oil tax burden will help all working Alaskans and all Alaska based companies oilfield and non-oilfield alike. Real estate, commercial and residential construction, government, professionals, services, local merchants, and outside based retailers all benefit in a trickle down effect from a strong oil economy.

Who builds oil field projects in Alaska? Working Alaska men and women, that's who. Alaska based companies with Alaska based payroll supporting Alaska families build these projects. Raising taxes jeopardizes these jobs and businesses.

A lot has been said about other oil provinces raising taxes and foreign governments whose "take" far exceeds that of Alaska. The oil company executives will tell you that the factors influencing investments are first geology (the potential for large undiscovered resources in the basin), then costs, then fiscal regime, including overall take and risk of change in fiscal structure.

Alaska with a mature onshore oil basin and its harsh arctic environment ranks moderate to poor in the first two categories. Recent changes to the tax structure (i.e. last year's \$1B PPT increase) make Alaska look riskier than it has been historically. A high tax rate proposed by ACES would complete the picture by negatively affecting Alaska's competitive position in all categories. Alaska should give a tax incentive to future investment compared to our neighbors with whom we are competing with for investment.

Let us not forget that Alaska, unlike other US states, has a significant royalty interest. This alone should align Alaska with the producers in a quest to maximize production rather than maximizing taxes on a diminishing production stream. Increasing oil taxes means fewer projects will be executed by the producing companies. This means less oil

production in the long run. Less oil production means fewer royalties to the state of Alaska.

Alaskan's fair share of a bright economic future should be given priority instead of a greater Alaska government take.

Very truly yours

/s/

Paul K. Wharton

The author has lived in Alaska since 1984 and has been employed during that time in oil, mining, and law. The author currently works for ConocoPhillips Alaska, Inc. in the Anchorage tower. The views expressed here are my own.



COPY

Honorable Senate President Lyda Green  
Alaska State Senate  
State Capitol Building  
Room 111  
Juneau, AK 99801-1182

*Transmitted via fax: 907-465-3805*

Dear President Green:

On behalf of the Arctic Slope Regional Corporation (ASRC), I am writing to express both concern with and support for certain provisions in CS SB2001 (JUD). ASRC is thankful for the opportunity to weigh-in as an Alaskan company and major employer in this state.

Our primary concern continues to be with the language in Section 36(f)(2)(B) (i) and (ii), which requires oil and gas explorers applying for exploration tax credits to disclose seismic survey and well data from non-State lands.

It is important for the State to consider and protect the rights of private property owners, especially since the actual privately-owned land acreage is significantly smaller than Federal and State owned lands, and most of those private lands are owned by Alaska Native corporations. Alaska Native corporation lands are perhaps the single most important tool Native corporations use to provide benefits to their shareholders and Alaskans in general through employment and other economic contributions to the State. Diminishing the value of private lands by releasing confidential information about them will have the unintended consequence of injuring Native corporations and their ability to participate and invest in the Alaska economy. The burden on Native corporations is especially unfair, since, as landowners, they do not receive the benefit of the tax credits. Their lessees receive those credits, while the Native corporations' land values are diminished by disclosure of data about Native lands to the State and the public.

As discussed in our November 2, 2007, letter, private landowners place high value on data in their negotiations with prospective lessees. This data is proprietary and valuable precisely because it is confidential. Confidential information about our lands is an important property right. Forced disclosure of the data to the State and especially to the public is a "taking" of that property right. It may be appropriate to request a fiscal note on the cost of defending and the State's liability for "taking" claims by Alaskan private property owners.

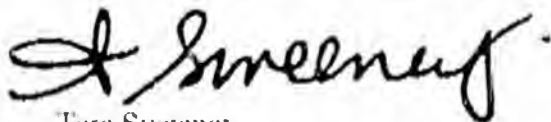
Our second area of concern is with Section 53(b). Recognizing that much committee work remains before final passage, I wish to call your attention to language in this Section that permits the Department of Revenue to substitute its judgment for the detailed and laborious rate-setting work of the Regulatory Commission of Alaska and the Federal Energy Regulatory Commission. Those bodies set intra and inter-state tariffs, respectively, for pipeline common carriers. Both agencies have established expertise to do their work. It is inappropriate for the Department of Revenue to reserve the power to second-guess their decisions about common carrier tariffs.

As you move forward through the legislative process please consider that Arctic Slope Regional Corporation is willing to help craft an acceptable solution to these problems for the benefit of all parties

Other parts of the bill have great merit, and ASRC urges your support for them. Section 24 of CS SB2001 (JUD) provides an incentive for in-state gas use for the benefit of urban and rural consumers and projects. Also, Sections 31 and 32 in the CS HB2001 (RES) version improve the exploration incentive credits (EIC) and foster a positive climate for exploration throughout the State.

I sincerely appreciate the time invested by you, your committees and the Senate to address these critical matters. I am available to discuss these issues further and to provide additional information about the concerns raised in this letter. Please do not hesitate to contact me directly on my cell phone at (202) 669-8495, or in my office at (907) 339-6066.

Sincerely,  
ARCTIC SLOPE REGIONAL CORPORATION



Tara Sweeney  
Director, Government Affairs

CX Senator Donny Olson, District T Senator  
Senator Gary Stevens, Senate Majority Leader  
Senator Charlie Huggins, Senate Majority Whip  
Senator Gene Theriault, Senate Minority Leader  
Senator Lynn Hoffman, Co-Chair Senate Finance Committee  
Senator Bert Stedman, Co-Chair Senate Finance Committee  
Senator Bettye Davis, District K  
Senator Johnny Elias, District I  
Senator Kim Elton, District H  
Senator Hollis French, District M  
Senator Albert Kookesh, District C  
Senator Leal McGuire, District N  
Senator Joe Thomas, District D  
Senator Bill Wietechowski, District J





November 9, 2007

TO: Anchorage LIO  
RE: Submission for the record for House and Senate Finance  
Committee meeting held November 8, 2007

Via Fax: 269-0229

To Whom it May Concern:

My name is Lon Wilson, and I am the President of The Wilson Agency. Thank you for the opportunity to share my comments regarding SB/HB 2001.

The Wilson Agency is a leading locally owned and independent employee benefits and financial services advisor/broker. We have a small staff of 17 and provide expertise in consultative advisory services to businesses of all sizes throughout Alaska.

While our client base is diverse, approximately twenty percent of our clients are part of the Alaska Oil Industry Support Alliance, cumulatively contributing over 20% of the total revenue to our agency. In addition, we have another 20% of our revenue generated by clients based in industries such as construction, engineering, real estate, transportation, scientific/technical, architectural and related industries, they would also be heavily impacted by a continued downturn in investment in the State of Alaska's resources.

Private sector investment in this State is key to maintaining a healthy economy. Alaska should be focusing on creating an environment of fiscal predictability and stability to encourage both large and small oil and gas companies to consider investing more funds in our State. Alaska should be encouraging new exploration and investment to promote increased production of oil. It is counter-intuitive to consider raising production taxes in light of the declining production that we are currently seeing. Daily production has plummeted 65% from more than 2 million bpd in 1988 to 726,000 today.

Under the new PPT system, Alaska is getting close to a billion dollars more in oil revenues, as planned. The PPT system hasn't even had a year to work, so it seems premature to dismiss it. The new proposed tax increase would be the 3<sup>rd</sup> large increase on the industry in the past five years. What business do you know of that would be able to sustain such a tax burden and consider it a healthy environment in which to invest more resources?

As a small business owner, I would urge you to reconsider the proposed changes to PPT and adopt an oil tax regime that will generate sufficient revenue for state government while encouraging maximum utilization of oil reserves. If we can secure increased investment in the state today, it will mean higher revenue in the future.

Thank you for your time.

A handwritten signature in black ink, appearing to read 'Lon G. Wilson'.

Lon G. Wilson, President

## Petition to NOT Change the PPT

Petition summary and background	We believe that the October 18, 2007 Special Session on the Petroleum Profits Tax (PPT) has developed an emotional climate that will foster punitive actions instead focusing on facts and a tax policy that encourages growth and investment in Alaska.
Action petitioned for	We, the undersigned, are concerned Alaskans who urge our legislators to NOT make any changes to the PPT during the Special Session. We ask that the Legislators meet with their constituents before the next regular session and discuss how to develop a tax policy that promotes Investment.

Printed Name	Signature	Address	Comment	Date
Olivia Pommante	<i>[Signature]</i>	<sup>Anchorage</sup> 6222 Green Tree Circle 99507		11/1/07
Veronica Reem	<i>[Signature]</i>	<sup>Anchorag</sup> 6110 W. Iup Dr. 99577		11/7/07
Ralph Powell	<i>[Signature]</i>	18350 Potter Bluff Circle 99516	More Taxes = less JOBS	11/7/07
Linda Reissig	<i>[Signature]</i>	7000 Slack Dr Circle AK ANC	"	11-7-07
Dan Winter	<i>[Signature]</i>	9111 Sahalee Dr. 99507 AK	"	11/7/07
John Miller	<i>[Signature]</i>	8706 Tuya Circle Eagle River 99577		11/7/07
DAVID GRASSPUSIT	<i>[Signature]</i>	310 W 76th "G"		11/7/07
Kim Wynns	<i>[Signature]</i>	1892 Brandilyn St. <sup>Anchorage</sup> 10401 <del>W. Iup Dr.</del>	"	11/7/07
Tracy Jones	<i>[Signature]</i>	Anchorage, AK		11/07/07
A. Swick	<i>[Signature]</i>	1401 E. Spruce Ave Wasilla, AK 99654	More Jobs	11-7-07
DIXIE D BANNER	<i>[Signature]</i>	100 Crestwood Wasilla AK 99654	More Jobs Less interference w/ our family & personal lives	11/07/07

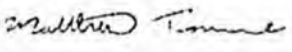
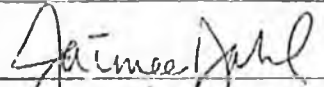




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Printed Name	Signature	Address	Comment	Date
Mary L. Whitmore	<i>Mary L. Whitmore</i>	940 Botanical Hts Cir 99515	A TAX POLICY SHOULD BE BASED ON FACTS NOT EMOTIONS!	11-5-07
GREG YOUNGMAN	<i>Greg Youngman</i>	5145 Skulivik Dr		11-5-07
Eric K. Hulm	<i>E. K. Hulm</i>	12640 Nautilus Cir		11-5-07
Ed Whitmore	<i>Ed Whitmore</i>	940 Botanical Hts Cir Anchorage AK 99515	Stable tax policy that encourages investment	11-5-07
Kelly Tynes	<i>Kelly Tynes</i>	2721 Loren Circle Anchorage AK		11-6-07
Walter Almon	<i>Walter Almon</i>	13651 JARVI DR ANCHORAGE, AK	Decrease marginal tax rate	11-6-07
MARK WICHMAN	<i>Mark Wichman</i>	2919 CAPTAIN COOK EST. CIR. ANCHORAGE, AK 99517		11-6-07
Dennis Shaubert	<i>Dennis Shaubert</i>	8934 Northwood Park Circle E. Rd AK 99577	CRAZY!	11-6-07
Leannisa Thompson	<i>Leannisa Thompson</i>	3311 W. 16th Ave. Anch AK 99502		11-6-07
JIM SEGLOR	<i>Jim Seglor</i>	14841 LeComme Ave Anchorage AK		11-7-07
DALE BURNETT	<i>Dale Burnett</i>	10162 Skiff Ced		11/7/07

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Printed Name	Signature	Address	Comment	Date
Matthew Tomme		4601 Pavalof St. Anchorage, AK 99507		11/7/07
Jaimie Dahl		7400 Florence Cir. Anchorage		11/7/07
TEREY CASOPE		12411 Hops Cir. Anch 99515		11/9/07
Dexter Mose		12920 Lupine Rd 99516		11/27/07
CLIFTON DERRICK		3116 PRINCETON WAY 99503		11/07/07
Diane Colby		2032 Brandilyn 99516		11/7/07



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Subject	Sponsor	Conceptual
Legal Technical	Chenault	N 19
Intent BP spill	Hawker/Chenault	Yes
Alaska affordable instate gas	Kelly/Stoltze	Yes
Auditors	Hawker/Thomas	N 1
Progressivity	Kelly/Stoltze	Yes
Removes penalty	Hawker	Yes
Tie credits (Senate maybe)	Gara/Crawford	Yes
tax exempt (Beluga)	Joule/Crawford	Yes
Wording change "adequately achieved information"	Hawker	Yes
"donative products"	Hawker	Yes
instate lands	Joule/Thomas	Yes
Penalty for understatement of tax	Gara/Crawford	Yes
Statute of limitations 4-6	Gara/Crawford	Yes
Exxon tax credits non payment issue	Thomas	<del>N 22</del>
TAPS	Gara/Crawford	Yes
lease expenditures	Kelly/Stoltze	Yes
lease expenditures	Crawford	N 18
lease expenditures	Gara	N 25
lease expenditures (dup/sec 20)	Gara	Yes
lease expenditures	Gara	N 14 with amendment
takes out umbrella of confidentiality	Gara/Crawford	yes
Liheap	Nelson	H 10
Alternative energy	Joule	H 13
Whistleblower	Gara	yes
NPSC Regs	Kelly/Stoltze	yes
Retroactivity	Gara/Crawford	yes
2011 report gone	Kelly	H 20
Rate 22 5	Chenault	N 2
New law	Crawford	N 24

N 119  
AS amended

N 01  
New N 130

w/D

7-4

w/D  
amended

w/D

w/D

failed

w/D

Effective

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Current

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1/1/2008

Current

Current

Current

Current

1/1/08

# State of Alaska

Department of Revenue

Commissioner's Office



SARAH PALIN, GOVERNOR

333 Willoughby Avenue, 11<sup>th</sup> Floor

P.O. Box 110400

Juneau, Alaska 99811-0405

Phone: (907) 465-2300

Fax: (907) 465-2394

To: Carl Gatto, *Chairman*  
House Resources Committee  
Capitol Building, Room 108

October 30, 2007

CC: All Members  
House Resources Committee

Dear Representative Gatto:

A number of questions were posed during the October 19<sup>th</sup> hearing of the House Resources Committee. The answers are provided below. If your own records indicate requests which we have not addressed, please notify my office and we will respond as soon as possible.

1. Representative Johnson requested organizational charts for the respective audit divisions of the Department of Revenue and Department of Natural Resources. The requested organization charts, with position vacancies noted are attached.
2. Representative Seaton inquired about the retroactivity of the penalty assessed under ACES for failure to submit required information, in response to testimony given by the Alaska Oil and Gas Association (AOGA).

Under Sections 47 and 49 of the HB 2001, the penalty for failing to file a report by the time required by the department is a fine of not more than \$1,000 per day the failure continues. These two sections were not included in Section 71 of the bill and thus are not effective retroactively. Nor are they included in Section 72 which provides an effective date of January 1, 2008. Therefore, under Section 73, these two sections would take effect immediately in accordance with AS 01.10.070(c).

3. Representative Seaton asked whether in-field use of fuel products from a topping plant would be exempt from royalty.

Fuel gas and crude oil used in field operations is royalty free. The crude oil topping plants sell fuels on the slope. The oil that is consumed in the topping plants that goes into the diesel that is sold does pay royalty. The oil consumed by the topping plants is allocated to lease operations (royalty free) and sales (royalty payable), based upon the ratio of diesel consumption. Likewise the gas that powers the topping plants is also allocated based on the same factor. Royalty is due on the fraction of gas consumption due to third party diesel sales.

4. Representative Seaton asked whether value added petroleum products created in Alaska are taxed under the Alaska Production tax statute.

AS 43.55.020(e) excludes from the production tax, oil or gas produced from a lease that is used in the state for drilling, producing oil or gas, or for repressuring. Therefore, oil refined into diesel in a North Slope crude oil topping plant is not be subject to the production tax if the diesel is used in oil and gas operations. Oil refined into diesel not used for oil and gas operations would be subject to production tax.

5. Representative Roses asked how frequently production tax audits need to be completed beyond the current 3 year statute of limitations.

For the 4-5 smaller taxpayers who do not transport their own oil, the department performs what is known as a "desk audit". These taxpayers sell their oil at pump station one and very little information is needed from the taxpayer and the audits are all completed within the current three year statute of limitation. The remaining 6-7 taxpayers are the larger taxpayers whose audits are "full blown". They either move their own crude or sell at the Valdez terminal. Much more information is needed from these taxpayers and almost all require waiver and extension of the statute of limitations which only happens with taxpayer consent. One very large taxpayer refuses to sign an extension of the statute of limitations as a corporate policy. For the largest taxpayers, where we conduct full audits, we need extensions for 85% of those taxpayers.

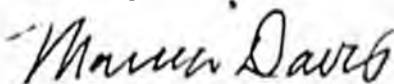
*Warranties and loans  
It follows  
- 1-3 yrs  
Several exchanges  
Other types of  
Taxpayers*

6. Representative Gatto asked if personnel within DNR and DOR who violate the applicable confidentiality laws can be convicted of a class C felony.

If DOR employees unlawfully disclose confidential tax information, they are subject to a criminal penalty under AS 43.05.230(f), namely, a fine of not more than \$5,000, or by imprisonment for not more than two years, or by both. This offense is defined in AS 43, not in the criminal statutes, and there is no language classifying the offense as a type of felony or misdemeanor. However, the maximum imprisonment authorized in AS 43.05.230(f) is more than the one-year maximum for a Class A misdemeanor and is within the five year maximum for a Class C felony, so it appears to be equivalent to a Class C felony.

Pursuant to AS 38.05.036, if DNR employees use confidential oil and gas information obtained in connection with royalty and net profit audits for personal gain or not in connection with their official duties, they commit the crime of "Misuse of Confidential Information" under AS 11.56.860, and if convicted are guilty of a Class A misdemeanor.

Sincerely,



Marcia Davis  
Deputy Commissioner Department of Revenue



**HB**

**20001**

**(FILE 2)**

**HFIN**

**FILE**

Summary Comparison between Various House Approaches to Production Tax

<u>Issue</u>	<u>Current Law</u>	<u>HB 2001 (ACES)</u>	<u>House O&amp;G</u>	<u>House Resources</u>	<u>Proposed House Finance</u>
<b>Base Rate</b> AS 43.55.011 (e) & (g) Bill Sections 15 & 17					
Base Tax Rate		25%		25%	25%
<b>Progressivity</b> AS 43.55.011(g) & (h) Bill Sections 17,18					
\$/bbl Starting point	\$40 net	\$30 net	\$50 gross	\$30,40,50,60 net	\$30 net
Tax/\$ of Price Index	0.25%	0.20%	0.225%	.2,.3,.4,.5%	0.20%
Average Value over	month	year	month	month	year
Applied to	net	net	gross	gross	net
Cap		25% of net	25% of gross	none	25% of net
<b>Gross Value Floor</b> AS 43.55.011(f) Bill Section 15, 16, 31-36, & 41-42					
Base		Prudhoe; Kuparuk			
Rate		10%			
Credits further reduce floor tax?		No			
<b>Investment Credits</b> AS 43.55.023 Bill Section 26-28, 38-44 & 63					
Investment Credits		1/2 in each of two years			
Loss Carry Forward Credits		25%		rate in (e) (25%)	25%
Transitional Investment Credits	Yes	No	3 years of investment instead of 5	3 years of investment instead of 5	3 years of investment instead of 5

Summary Comparison between Various House Approaches to Production Tax

<u>Issue</u>	<u>Current Law</u>	<u>HB 2001 (ACES)</u>	<u>House O&amp;G</u>	<u>House Resources</u>	<u>Proposed House Finance</u>
<b>Exploration Credits</b>	<i>AS 43.55.025</i>	<i>Bill Section 36 - 44</i>			
Rates		20; 40%		30;40%	30;40%
G&A Costs		bad acts I		bad acts I	bad acts II
DNR approval required?		Always		Always	Always
Confidentiality of well data		2 years		2 years	
Seismic on non state land		included		included	
Pre-existing well		Two consecutive drilling seasons		Two consecutive drilling seasons	Two consecutive drilling seasons
"DNR TIE" Credits for pre 2003 seismic work?		5%		5%	5%

<b>State Purchase of Credits</b>	<i>AS 43.55.023(f) &amp; (g)</i>	<i>Bill Section 45 (AS 43.55.028)</i>			
		oil and gas credit fund, funded from production taxes		oil and gas credit fund, funded from production taxes	
Paid from:					
Annual dollar cap per taxpayer?	\$25 million	none	\$25 million	\$ 25 million (however ARM unlimited)	\$ 25 million (however ARM unlimited)
ARM Board Purchases?	n/a	n/a	n/a	yes	yes

Summary Comparison between Various House Approaches to Production Tax

<u>Issue</u>	<u>Current Law</u>	<u>HB 2001 (ACES)</u>	<u>House O&amp;G</u>	<u>House Resources</u>	<u>Proposed House Finance</u>
<b>Allowable Lease Expenditures</b>	<i>AS 43.55.165</i>		<i>Bill Sections 52-64</i>		
Use producer audits of operators?	Explicit	Explicit repealed; Implicit	Explicit	Explicit repealed; Implicit	Explicit where other WIOs with ability to audit
Disallow bad acts II?	yes	add violation of law, lease or license	add violation of law, lease or license	add violation of law, [inc Clean Water Act] lease or license	Bad acts II, [inc Clean Water Act]
Dispute resolution				no, other disallowances	
DR&R Allowed?	Allocated	No	No	No	No
"Corrosion" Issue		\$0.30 + unscheduled events disallowed	\$0.30 + unscheduled events disallowed		
Field Topping Plants allowed?	Yes	No	No	No	No
Off Lease allowed			yes; other tests	No (also in state)	
Public Outreach costs	not explicit	not explicit	not explicit	no	no
<b>Information</b>	<i>AS 43.05.230 and royalty statutes</i>	<i>Bill Sections 2-9,11-13, 49 &amp; 61</i>			
forward looking information required	none	information "necessary to forecast ... revenues under AS 43.55". Penalty up to \$1000 a day.	information "necessary to forecast ... revenues under AS 43.55".	information "necessary to forecast ... revenues under AS 43.55". Penalty up to \$1000 a day.	information "necessary to forecast ... revenues under AS 43.55". Penalty up to \$1000 a day if demanded information not forthcoming.
Disclosure of tax information		if aggregated w/2 other producers	if aggregated w/2 other producers	if aggregated w/2 other producers	
DNR sharing royalty information w/ DOR	limited ability	expanded ability	expanded ability	expanded ability	expanded ability
DOR sharing tax information with DNR	limited ability	expanded ability	expanded ability	expanded ability	expanded ability

Summary Comparison between Various House Approaches to Production Tax

Proposed House Finance

Issue                      Current Law                      HB 2001 (ACES)                      House O&G                      House Resources

<b>Statute of Limitations</b>	<i>AS 43.05.260</i>	<i>Bill Sections 1,14,50 now AS 43.55.075</i>			
State assessment must be issued within	3 yrs	6 yrs	6 yrs	6 yrs	4 yrs

<b>DOR Auditors</b>	<i>As 39.25.100</i>	<i>Bill Sections 10, 65, 67</i>			
DOR & DNR auditors exempt employees?	no	yes	yes	yes	yes

<b>Effective Date</b>		<i>Bill Section 64</i>			
Generally	n/a	Jan 1 2008	Jan 1 2008	Jan 1 2007	Jan 1 2008
Retroactive to April 1 2006	n/a	deferred maintenance issues	deferred maintenance issues	Loss carryforward, TIE limitations, most cost redefinitions	to 2003: not-for-profits selling credits

<b>Downstream Costs</b>	<i>As 43.55.150</i>				
Reasonable v actual				Downstream Tanker and Pipelines = FMV "or other reasonable method"	
<i>Prima facie</i> reasonable Taps Tariff				FMV (TSM not adjudicated just and reasonable)	

<b>Gas Ceilings thru 2022</b>		<i>As 43.55.011</i>			
Where	CI	CI	non North Slope	CI + gas used in the state	CI + gas used in the state

<b>Additional Penalties</b>	<i>new As 43.55.020</i>				
Penalty for under estimated payments	IRS Penalties (i.e. interest)	IRS Penalties (i.e. interest)	IRS Penalties (i.e. interest)	5% in addition to IRS Penalties (i.e. interest)	5% in addition to IRS Penalties (i.e. interest) if payment less than 90%

Summary Comparison between Various House Approaches to Production Tax

<u>Issue</u>	<u>Current Law</u>	<u>HB 2001 (ACES)</u>	<u>House O&amp;G</u>	<u>House Resources</u>	<u>Proposed House Finance</u>
<b>Intent Language</b>					
overall intent of legislation	n/a	no	no	included	no
long standing interpretation of SOL	n/a	included	included	included	included
Half the money from certain retroactive applications to PERS and public education fund	n/a	no	no	included	no
tax savings from gas ceilings outside CI passed on to ultimate consumers	n/a	no	no	included	no
<b>Admin</b>					
	AS 43.55.020(a)				
Monthly Estimated payments		Ceilings applied monthly			Ceilings applied monthly

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSHB2001(RES)  
( ) Publish Date: \_\_\_\_\_

Identifier (file name): CSHB2001(RES)-DOR-TAX-11-9-07 Dept. Affected: Revenue 04  
Title An Act relating to the production tax on oil and gas.. RDU Taxation and Treasury  
Component Tax Division  
Sponsor Governor  
Requester House Finance Component Number 2476

## Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	1,215.7		1,215.7	1,215.7	1,215.7	1,215.7	1,215.7	1,215.7
Travel								
Contractual	1,018.4		1,018.4	1,018.4	511.8	5.2	5.2	
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>2,234.1</b>		<b>2,234.1</b>	<b>2,234.1</b>	<b>1,727.5</b>	<b>1,220.9</b>	<b>1,220.9</b>	

<b>CAPITAL EXPENDITURES</b>							
<b>CHANGE IN REVENUES (</b>		<b>654,000.0</b>	<b>494,000.0</b>	<b>497,000.0</b>	<b>689,000.0</b>	<b>703,000.0</b>	<b>492,000.0</b>

## FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	2,234.1		2,234.1	1,727.5	1,220.9	1,220.9	645.9
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
<b>TOTAL</b>	<b>2,234.1</b>		<b>2,234.1</b>	<b>1,727.5</b>	<b>1,220.9</b>	<b>1,220.9</b>	<b>645.9</b>

Estimate of any current year (FY2008) cost: 3,409.2

### POSITIONS

Full-time	1	1	1	1	1	1	1
Part-time							
Temporary							

### ANALYSIS: (Attach a separate page if necessary)

This bill makes economic and several administrative changes to the state's current petroleum profits tax. The bill retains the current tax system's structure, which taxes the net value of petroleum resources. The bill makes the following changes to the current system. It institutes a rate of 25% on net income. It calculates the progressivity surcharge as the difference between the per barrel net revenue and \$30 at 0.2%, 0.3% between \$40 and \$50, 0.4% between \$50 and \$60, and 0.5% over \$60. It eliminates the period by which past investments are recognized in the transition investment expenditure credits (AS 43 55 023(i)) from April 1, 2001 to April 1, 2003. Pipeline tariffs are based on reasonable rates. EIC credits are increased from 20% to 30%. The effective date of the bill is January 1, 2007.

Prepared by: Johanna Bales, Roge Marks, Cherie Nienhuis  
Division: Tax Division  
Approved by: Jerry Burnett  
Department of Revenue

Phone: 269-6628  
Date/Time: 11/9/07 1:00 PM  
Date: 11/9/2007

## FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

BILL NO. CSHB2001(RES)

### ANALYSIS CONTINUATION

Administrative changes to the current tax system include the following: excludes from qualified lease expenditures those expenses related to unscheduled production interruptions; excludes dismantlement, removal & restoration (DR&R) costs from allowable expenditures; requires taxpayers to provide cost projections to allow the state to better forecast state revenues and pursue changes in reported costs; authorizes public reporting of some cost data; authorizes a short-term audit program; and designates an exempt class of oil and gas auditors.

Certain lease expenditure allowance provisions are retroactive to April 1, 2006; the other provisions of the tax proposal become effective January 1, 2007.

**Personal Services:** The department will reclassify the existing 5 vacant auditor positions, and create 4 to 5 senior level auditor positions with extensive industry oil and gas auditing experience. These positions will be classified as the Department's most senior level auditor positions and will have salaries that are consistent with market comparables and will be beyond the current salary levels allowed under the existing Oil and Gas Revenue Auditor (OGRA) pay classification system. In addition, the department expects that it will need one additional Programmer Analyst V position to maintain and manage the new oil and gas production tax database system at a cost of \$115,700 annually. The existing oil and gas specialist, oil and gas revenue auditors and their immediate supervisor will be offered the opportunity to opt into an exempt status with individual salaries established commensurate with experience and skill level, and consistent with market comparables.

The need for exempt status is based upon the difficulties the department has recruiting experienced auditors to administer the tax. The current pay range for an Oil and Gas Revenue Auditor is on the low range of the pay range for roughly similar jobs. The department estimates the new exempt positions and the potential salary increases associated with the change of existing staff to exempt status, will cost the state approximately \$1,100,000 annually.

**Contractual:** Contractual expenditures include \$1,013,200 annually to contract for audit assistance. This estimate is based on 3 auditors, working 40 hours per week each, for 4 years starting in January 2008 at an average rate of \$100 per hour, plus estimated transportation and lodging costs, and additional costs for training auditors. The need for such assistance is based upon the department's substantial difficulty in recruiting enough auditors to administer the oil and gas production tax. The department only anticipates the need for contract audit assistance for 4 years while the department recruits and trains auditors for positions that are currently vacant. The contract auditors would work in conjunction with department auditors during this time to maximize department resources and help train department auditors. The department will also need an additional \$5,200 each year in contractual costs associated with the new Analyst Programmer V position.

**Current FY2008 costs:** The department expects it will incur costs beginning January 2008 to immediately implement the new production tax structure. Those costs include: **Contractual** - \$2,620,800 capital funding to fund the scoping and development of an oil and gas production tax database system (including associated hardware) and \$506,600 to contract for audit assistance (as described above). The new database system will permit accurate and efficient management of information submitted by taxpayers to facilitate auditing and forecasting of revenues, and timely and accurate reports for internal and public uses. The proposed system will accommodate the migration of ELF-based data and continue to collect supplemental data from producers on volumes, wells and production. The system will include income-based data, including tracking credits, required under PPT and upon which the ACES tax structure is based. The system will also integrate into the division's accounting systems. **Personal Services** - \$218,000 from the period January 1, 2008 through June 30, 2008 due to creating an exempt class of oil and gas revenue auditors and increasing pay to more closely reflect what the market in Alaska pays for roughly similar positions. In addition, we will recruit for the Analyst Programmer V and bring that person on board to participate in the database scoping meetings. We estimate FY 2008 costs for this position to be approximately \$57,800. **Supplies** - \$6,000 for a computer and software for the new analyst programmer V position.

See page 3 for projected revenue estimates.

FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

BILL NO. CSHB2001(RES)

ANALYSIS CONTINUATION

**Estimated Production Tax Revenues, PPT and ACES, at Various Prices  
(in \$millions nominal)**

\*For the months of January 2007 through May 2007, the proposal would have generated approximately \$244 million over the payments received for that period.

*Fall 2007 DOR Official Forecast Prices*

Fiscal Year	ANS WC \$ per barrel (in REAL dollars)	ANS WC \$ per barrel (in NOMINAL dollars)	Status Quo - PPT	ACES	CSHB2001 (Res)	Increase or (Decrease) from PPT	Increase or (Decrease) from ACES
2008	71.65	71.65	1,947	2,368	2,984	1,037	616
2009	64.55	66.30	1,430	1,985	2,084	654	99
2010	60.05	63.40	1,217	1,767	1,711	494	-56
2011	59.70	64.75	1,250	1,766	1,748	497	-18
2012	59.55	66.35	1,174	1,701	1,863	689	162
2013	58.90	67.45	1,151	1,685	1,855	703	170
2014	58.25	68.55	1,217	1,558	1,709	492	150

DOR Forecast nominal prices rounded to the nearest \$0.05

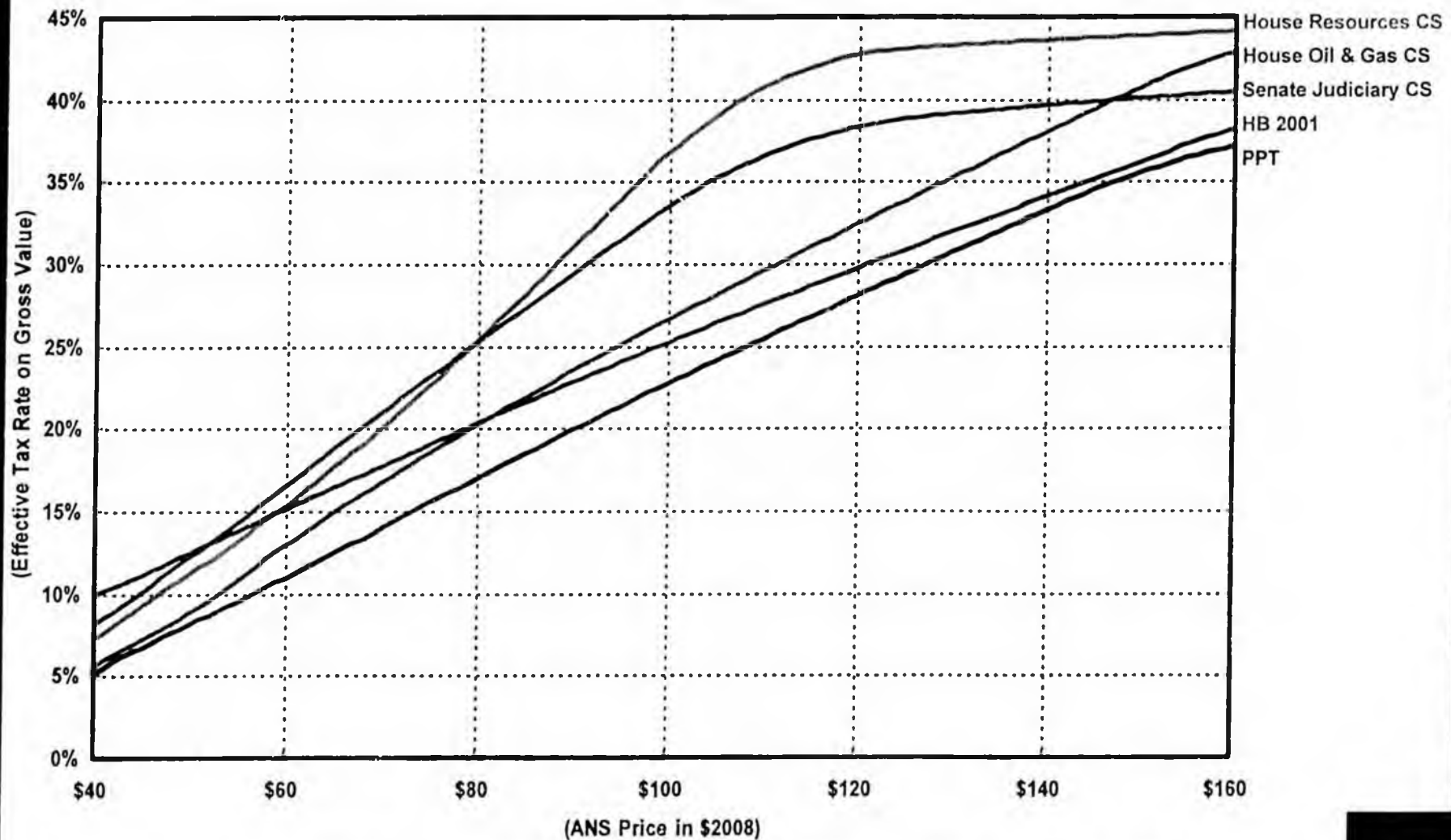
*\$60 per barrel in REAL dollars*

Fiscal Year	ANS WC \$ per barrel (in REAL dollars)	ANS WC \$ per barrel (in NOMINAL dollars)	Status Quo - PPT	ACES	CSHB2001 (Res)	Increase or (Decrease) from PPT	Increase or (Decrease) from ACES
2008	60.00	60.00	1,073	1,452	1,691	618	240
2009	60.00	61.65	1,197	1,698	1,740	543	42
2010	60.00	63.35	1,247	1,802	1,747	500	-55
2011	60.00	65.09	1,272	1,795	1,779	507	-16
2012	60.00	66.88	1,204	1,737	1,906	702	169
2013	60.00	68.72	1,225	1,772	1,963	738	191
2014	60.00	70.61	1,334	1,696	1,881	548	185

*\$80 per barrel in REAL dollars*

Fiscal Year	ANS WC \$ per barrel (in REAL dollars)	ANS WC \$ per barrel (in NOMINAL dollars)	Status Quo - PPT	ACES	CSHB2001 (Res)	Increase or (Decrease) from PPT	Increase or (Decrease) from ACES
2008	80.00	80.00	2,693	3,137	4,157	1,465	1,020
2009	80.00	82.20	2,640	3,294	3,957	1,317	663
2010	80.00	84.46	2,751	3,431	4,059	1,308	628
2011	80.00	86.78	2,782	3,431	4,148	1,366	717
2012	80.00	89.17	2,698	3,360	4,321	1,623	961
2013	80.00	91.62	2,783	3,451	4,521	1,738	1,069
2014	80.00	94.14	2,950	3,407	4,538	1,588	1,131

# Estimated Average Effective Tax Rate on Gross Taxable Value at Various West Coast ANS Price Levels (FY 2008-2014)



Note: Volumes per DOR's Fiscal Note to HB 2001 (as of November 7, 2007).

Senate Judiciary: SB2001 using 0.4% progressivity rate, 60% overall cap, TIE credit 2Q06-2007 for new producers, does not include TAPS adjustment.  
House Resources: Includes 60% cap on overall tax rate.



# Estimated Average Effective Tax Rate, Government Shares and Revenue Impacts at Various West Coast ANS Price Levels (FY 2008-2014)

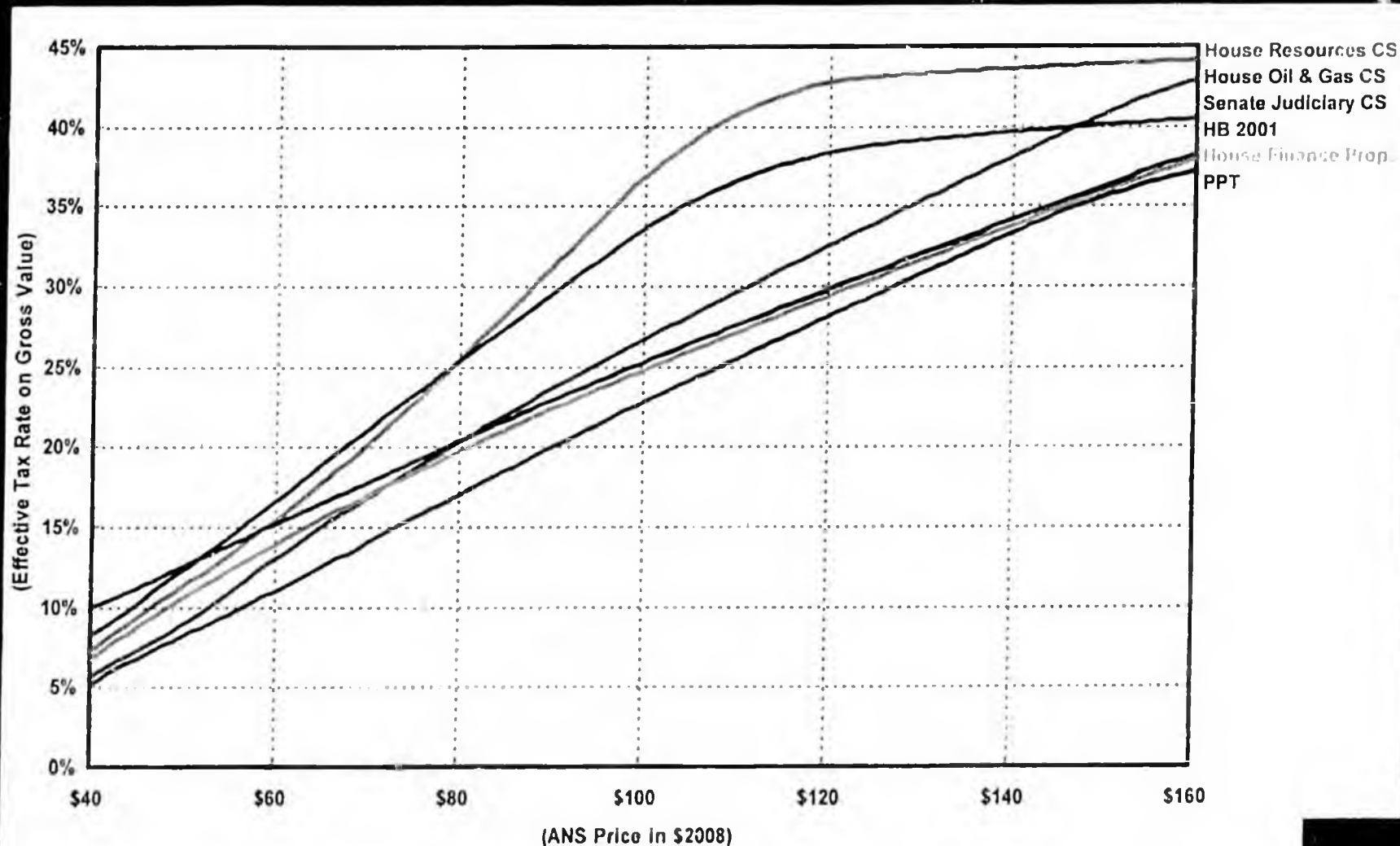
	Average ANS West Coast Price in Real 2008 Dollars:						
	\$40.00	\$60.00	\$80.00	\$100.00	\$120.00	\$140.00	\$160.00
<b>Effective Tax Rate on Gross Taxable Value (Percent)</b>							
PPT	5.1%	10.9%	17.0%	22.7%	28.1%	33.2%	37.2%
HB 2001	9.9%	15.1%	20.3%	25.2%	29.7%	34.1%	38.2%
House Oil & Gas CS	5.6%	13.0%	20.3%	26.7%	32.5%	38.1%	43.0%
House Resources CS	7.2%	15.4%	25.4%	36.8%	42.7%	43.6%	44.1%
Senate Judiciary CS	8.1%	16.5%	25.3%	33.5%	38.3%	39.6%	40.4%
<b>Total Government Share of Net Cash (Percent)</b>							
PPT	60.5%	60.6%	62.7%	65.3%	67.8%	70.4%	72.2%
HB 2001	64.5%	63.5%	64.9%	66.8%	68.8%	70.9%	72.9%
House Oil & Gas CS	60.9%	62.0%	64.9%	67.7%	70.5%	73.3%	75.7%
House Resources CS	61.9%	63.5%	68.2%	74.0%	76.7%	76.5%	76.3%
Senate Judiciary CS	63.0%	64.5%	68.1%	72.0%	74.1%	74.2%	74.2%
<b>Marginal Government Share of Net Cash (Percent)</b>							
PPT	58.9%	63.7%	70.7%	75.9%	81.0%	86.2%	78.9%
HB 2001	59.7%	65.4%	70.7%	75.1%	79.3%	83.5%	84.9%
House Oil & Gas CS	83.5%	68.5%	74.1%	79.5%	84.8%	90.2%	85.1%
House Resources CS	61.5%	71.1%	86.6%	94.9%	77.8%	75.1%	75.1%
Senate Judiciary CS	61.5%	71.9%	80.3%	86.4%	77.5%	74.2%	74.2%
<b>Annual Average Tax Difference Above/(Below) PPT (Nominal \$M)</b>							
HB 2001	\$423	\$587	\$635	\$608	\$493	\$287	\$423
House Oil & Gas CS	\$42	\$288	\$638	\$965	\$1,313	\$1,680	\$2,301
House Resources CS	\$201	\$656	\$1,668	\$3,500	\$4,395	\$3,661	\$2,854
Senate Judiciary CS	\$265	\$783	\$1,583	\$2,626	\$3,015	\$2,197	\$1,304

Note: Volumes per DOR's Fiscal Note to HB 2001 (as of November 7, 2007).

Senate Judiciary: SB2001 using 0.4% progressivity rate, 60% overall cap, TIE credit 2006-2007 for new producers, does not include TAPS adjustment.  
 House Resources: Includes 60% cap on overall tax rate.



# Estimated Average Effective Tax Rate on Gross Taxable Value at Various West Coast ANS Price Levels (FY 2008-2014)



Note: Volumes per DOR's Fiscal Note to HB 2001 (as of November 7, 2007).

Senate Judiciary: SB2001 using 0.4% progressivity rate, 80% overall cap, TIE credit 2008-2007 for new producers, does not include TAPS adjustment.  
 House Resources: includes 80% cap on overall tax rate  
 House Finance Proposed: HB2001 using 3-year TIE Credit and floor per current PPT

November 9, 2007;



# Estimated Average Effective Tax Rate, Government Shares and Revenue Impacts at Various West Coast ANS Price Levels (FY 2008-2014)

Average ANS West Coast Price in Real 2008 Dollars:	\$40.00	\$60.00	\$80.00	\$100.00	\$120.00	\$140.00	\$160.00
<b>Effective Tax Rate on Gross Taxable Value (Percent)</b>							
PPT	5.1%	10.2%	17.0%	22.7%	28.1%	33.2%	37.2%
HB 2001	9.9%	15.1%	20.3%	25.2%	29.7%	34.1%	38.2%
House Oil & Gas CS	5.6%	13.0%	20.3%	26.7%	32.5%	38.1%	43.0%
House Resources CS	7.2%	15.4%	25.4%	36.8%	42.7%	43.6%	44.1%
Senate Judiciary CS	8.1%	16.5%	25.3%	33.5%	38.3%	39.6%	40.4%
House Finance Proposed	6.8%	13.0%	19.7%	24.7%	29.4%	33.0%	37.9%
<b>Total Government Share of Net Cash (Percent)</b>							
PPT	60.5%	60.6%	62.7%	65.3%	67.8%	70.4%	72.2%
HB 2001	64.5%	63.5%	64.9%	66.8%	68.8%	70.9%	72.9%
House Oil & Gas CS	60.9%	62.0%	64.9%	67.7%	70.5%	73.3%	75.7%
House Resources CS	61.9%	63.5%	66.2%	74.0%	76.7%	76.5%	76.3%
Senate Judiciary CS	63.0%	64.5%	68.1%	72.0%	74.1%	74.2%	74.2%
House Finance Proposed	61.9%	62.6%	64.5%	66.5%	68.6%	70.7%	72.7%
<b>Marginal Government Share of Net Cash (Percent)</b>							
PPT	58.9%	63.7%	70.7%	75.9%	81.0%	86.2%	78.9%
HB 2001	59.7%	65.4%	70.7%	75.1%	79.3%	83.5%	84.9%
House Oil & Gas CS	83.5%	68.5%	74.1%	79.5%	84.8%	90.2%	85.1%
House Resources CS	61.5%	71.1%	86.6%	94.9%	77.8%	75.1%	75.1%
Senate Judiciary CS	61.5%	71.9%	80.3%	86.4%	77.5%	74.2%	74.2%
House Finance Proposed	60.7%	66.5%	70.9%	75.1%	79.3%	83.5%	84.9%
<b>Annual Average Tax Difference Above/Below PPT (Nominal \$M)</b>							
HB 2001	\$423	\$587	\$635	\$608	\$493	\$287	\$423
House Oil & Gas CS	\$42	\$288	\$638	\$965	\$1,313	\$1,680	\$2,301
House Resources CS	\$201	\$656	\$1,668	\$3,500	\$4,395	\$3,661	\$2,854
Senate Judiciary CS	\$265	\$783	\$1,583	\$2,626	\$3,015	\$2,197	\$1,304
House Finance Proposed	\$148	\$312	\$520	\$485	\$380	\$174	\$310

Note: Volumes per DOR's Fiscal Note to HB 2001 (as of November 7, 2007).

Senate Judiciary SB2001 using 0.4% progressivity rate, 50% overall cap, TIE credit 2006-2007 for new producers, does not include TAPS adjustment.

House Resources: Includes 50% cap on overall tax rate.

House Finance Proposed: HB2001 using 3-year TIE Credit and floor per current PPT

November 9, 2007



*Adopted*

*11/9/07*

25-GH0014\N  
Finley/Bullock  
11/9/07

**CS FOR HOUSE BILL NO. 2001(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIFTH LEGISLATURE - SECOND SPECIAL SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:**

**Referred:**

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

*Adopted 11/9/07*

*N/D*

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the production tax on oil and gas and to conservation surcharges on  
 2 oil; providing a limit on the amount of tax that may be levied on the production of  
 3 certain gas that is produced outside of the Cook Inlet sedimentary basin; providing a  
 4 penalty for the underpayment of an installment payment of the production tax on oil  
 5 and gas; relating to the sharing between agencies of certain information relating to the  
 6 production tax and to oil and gas or gas only leases; expanding the period in which the  
 7 Department of Revenue may assess the amount of oil and gas production tax and  
 8 conservation surcharges; amending the State Personnel Act to place in the exempt  
 9 service certain state oil and gas auditors and their immediate supervisors; providing for  
 10 retroactive application of certain statutory provisions to the production tax on oil and  
 11 gas; making conforming amendments; and providing for an effective date."

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

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

3 LEGISLATIVE INTENT. It is the intent of the legislature that AS 43.55.075(b),  
4 enacted by sec. 42 of this Act, confirm by clarification the long-standing interpretation of  
5 AS 43.05.260 by the Department of Revenue relating to limitation of assessments for the  
6 production tax on oil and gas and conservation surcharges on oil.

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

8 (a) The director shall

9 (1) have general charge and supervision of the division and may  
10 exercise the powers specifically delegated to the director; the director may employ  
11 and fix the compensation of assistants and employees necessary for the operations of  
12 the division; the director [AND] is the certifying officer of the division, with the  
13 consent of the commissioner, and may approve vouchers for disbursements of money  
14 appropriated to the division;

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

17 (3) execute laws, rules, regulations, and orders adopted by the  
18 commissioner;

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

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

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

26 (7) have jurisdiction over state land, except that land acquired by the  
27 Alaska World War II Veterans Board and the Agricultural Loan Board or the  
28 departments or agencies succeeding to their respective functions through foreclosure  
29 or default; to this end, the director possesses the powers and, with the approval of the  
30 commissioner, shall perform the duties necessary to protect the state's rights and  
31 interest in state land, including the taking of all necessary action to protect and

1 enforce the state's contractual or other property rights;

2 (8) [REPEALED

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

7 (A) the name of the person nominating or applying for the  
8 sale, lease, or other disposal of land by competitive bidding;

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

11 (C) all geological, geophysical, and engineering data supplied,  
12 whether or not concerned with the extraction or development of natural  
13 resources;

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

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

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

20 (9) [(10)] account for the fees, licenses, taxes, or other money  
21 received in the administration of this chapter including the sale or leasing of land,  
22 identify their source, and promptly transmit them to the proper fiscal department after  
23 crediting them to the proper fund; receipts from land application filing fees and  
24 charges for copies of maps and records shall be deposited immediately in the general  
25 fund of the state by the director;

26 (10) [(11)] select and employ or obtain at reasonable compensation  
27 cadastral, appraisal, or other professional personnel the director considers necessary  
28 for the proper operation of the division;

29 (11) [(12)] be the certifying agent of the state to select, accept, and  
30 secure by whatever action is necessary in the name of the state, by deed, sale, gift,  
31 devise, judgment, operation of law, or other means any land, of whatever nature or

1 interest, available to the state; and be the certifying agent of the state, to select,  
2 accept, or secure by whatever action is necessary in the name of the state any land, or  
3 title or interest to land available, granted, or subject to being transferred to the state  
4 for any purpose;

5 (12) on request, furnish records, files, and other information  
6 related to the administration of AS 38.05.180 to the Department of Revenue for  
7 use in forecasting state revenue under or administering AS 43.55, whether or not  
8 those records, files, and other information are required to be kept confidential  
9 under (8) of this subsection; in the case of records, files, or other information  
10 required to be kept confidential under (8) of this subsection, the Department of  
11 Revenue shall maintain the confidentiality that the Department of Natural  
12 Resources is required to extend to records, files, and other information under (8)  
13 of this subsection

14 [(13) REPEALED

15 (14) REPEALED].

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

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

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

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

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

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

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

6 (f) As part of the timber sale negotiations authorized by this section, the  
7 commissioner may require a prospective purchaser negotiating a timber sale contract  
8 to submit financial and technical data that demonstrates that the requirements of this  
9 section have been or will be met. Upon the prospective purchaser's request, the  
10 commissioner shall keep data provided by the purchaser confidential in accordance  
11 with the requirements of AS 38.05.035(a)(8) [AS 38.05.035(a)(9)].

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

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

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

19 (j) The commissioner

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

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

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

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

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

30 (B) to prolong the economic life of an oil or gas field or pool  
31 as per barrel or barrel equivalent costs increase or as the price of oil or gas

1 decreases, and the increase or decrease is sufficient to make future production  
2 no longer economically feasible; or

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

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

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

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

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

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

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

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

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

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

15 (7) may

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

28 (B) with the mutual consent of the lessee or lessees making  
29 application for the royalty reduction under (1)(B) or (1)(C) of this subsection,  
30 request payment for the services of an independent contractor, selected from a  
31 list of qualified consultants to evaluate hydrocarbon development, production,

1 transportation, and economics by the commissioner to assist the commissioner  
2 in evaluating the application and financial and technical data; if, under this  
3 subparagraph, the commissioner requires payment for the services of an  
4 independent contractor, the total cost of the services that may be paid for by  
5 the lessee or lessees may not exceed \$150,000 for each application, and the  
6 commissioner shall determine the relevant scope of the work to be performed  
7 by the contractor; selection of an independent contractor under this  
8 subparagraph is not subject to AS 36.30;

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

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

20 (10) shall make copies of the preliminary findings and determination  
21 available to

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

23 (B) the chairs of the legislature's standing committees on  
24 resources; and

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

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

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

31 (B) make a final findings and determination; the

1 commissioner's final findings and determination prepared under this  
2 subparagraph regarding a royalty reduction is final and not appealable to the  
3 court;

4 (C) transmit a copy of the final findings and determination to  
5 the lessee;

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

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

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

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

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

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

17 (42) oil and gas auditors performing

18 (A) production tax audits, and their immediate supervisors, in  
19 the Department of Revenue;

20 (B) royalty audits, including net profit share audits, and their  
21 immediate supervisors, in the Department of Natural Resources.

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

23 (d) Data derived from drilling a stratigraphic test well or exploratory well that  
24 is provided to the commissioner under (c)(3) of this section shall be kept confidential  
25 for 24 months after receipt by the commissioner unless the owner of the well gives  
26 written permission to the state to release the well data at an earlier date, and,  
27 notwithstanding AS 31.05.035(c), confidentiality may not be extended beyond 24  
28 months. The provisions of AS 38.05.035(a)(8)(C) [AS 38.05.035(a)(9)(C)] apply to  
29 other data provided to the commissioner under (c)(3) of this section, except that the  
30 commissioner, under appropriate confidentiality provisions and without preference or  
31 discrimination, may display to all interested third parties, but may not distribute or

1 transfer in hard copy or electronic form, those data with respect to all land if the  
2 commissioner determines that the limited disclosure is necessary to further the  
3 interest of the state in evaluating or developing its land.

4 \* Sec. 12. AS 43.05.230(h) is amended to read:

5 (h) The commissioner shall, upon request, furnish to the Department of  
6 Natural Resources copies of tax returns, reports, and other documents filed under  
7 AS 43.55 or AS 43.65, and the Department of Revenue's determinations and  
8 workpapers under those chapters. The Department of Natural Resources shall  
9 maintain the confidentiality that the Department of Revenue is required to extend to  
10 the returns, reports, documents, determinations, and workpapers furnished to the  
11 Department of Natural Resources under this subsection.

12 \* Sec. 13. AS 43.05.260(a) is amended to read:

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

19 \* Sec. 14. AS 43.55.011(e) is repealed and reenacted to read:

20 (e) There is levied on the producer of oil or gas a tax for all oil and gas  
21 produced each calendar year from each lease or property in the state, less any oil and  
22 gas the ownership or right to which is exempt from taxation or constitutes a  
23 landowner's royalty interest. Except as otherwise provided under (f), (j), and (k) of  
24 this section, the tax is equal to the production tax value of the taxable oil and gas as  
25 calculated under AS 43.55.160 multiplied by the tax rate determined under (g) of this  
26 section.

27 \* Sec. 15. AS 43.55.011(g) is repealed and reenacted to read:

28 (g) The tax rate applied to the production tax value of oil and gas under (e) of  
29 this section is 25 percent plus 0.20 percent times the price index for the calendar year  
30 determined under (h) of this section. However, the tax rate calculated under this  
31 subsection may not be more than 50 percent.

1 \* Sec. 16. AS 43.55.011(h) is amended to read:

2 (h) For purposes of (g) of this section, the price index for a calendar year  
3 [MONTH] is calculated by subtracting 30 [40] from the number that is equal to [THE  
4 QUOTIENT OF] the total [MONTHLY] production tax value of the taxable oil and  
5 gas produced by the producer from all leases or properties in the state during that  
6 calendar year [DURING THAT MONTH], as calculated under AS 43.55.160,  
7 divided by the total amount of that [THE TAXABLE] oil and gas [PRODUCED BY  
8 THE PRODUCER DURING THAT MONTH], in BTU equivalent barrels. However,  
9 a price index calculated under this subsection may not be less than zero.

10 \* Sec. 17. AS 43.55.011(j) is amended to read:

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

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

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

30 \* Sec. 18. AS 43.55.011(k) is amended to read:

31 (k) For a calendar year before 2022, the [TOTAL] tax levied by (e) [AND

1 (g)] of this section for [ON] oil produced from a lease or property in the Cook Inlet  
2 sedimentary basin may not exceed

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

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

19 \* Sec. 19. AS 43.55.011(m) is amended to read:

20 (m) Notwithstanding any contrary provision of AS 38.05.180(i),  
21 AS 41.09.010, AS 43.20.043, AS 43.55.024, or 43.55.025, tax credits under  
22 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, AS 43.55.024, and 43.55.025 that are  
23 allocated to gas produced from leases or properties in the Cook Inlet sedimentary  
24 basin and that are available to be applied against a tax levied by (e) of this section for  
25 [ON] gas produced from leases or properties in the Cook Inlet sedimentary basin  
26 during a calendar year may be applied only against the tax levied by (e) of this section  
27 for [ON] that gas. The amount by which the amount of tax credits that are allocated  
28 to gas produced from leases or properties in the Cook Inlet sedimentary basin and that  
29 the producer would otherwise be allowed to use for a later calendar year or transfer to  
30 another person exceeds the amount of tax credits whose application would reduce the  
31 tax levied by (e) of this section for [ON] that gas to zero, if any, is considered the

1 amount of excess tax credits, and the excess tax credits are subject to the following:

2 (1) for each lease or property for which a limitation under (j) or (k) of  
3 this section on the tax levied by (e) and (g) of this section has the effect of reducing  
4 the producer's tax below the amount of tax that would be levied in the absence of that  
5 limitation, the producer shall calculate the amount of that reduction;

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

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

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

15 \* Sec. 20. AS 43.55.011 is amended by adding a new subsection to read:

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

21 \* Sec. 21. AS 43.55.020(a) is repealed and reenacted to read:

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

24 (1) an installment payment of the estimated tax levied by  
25 AS 43.55.011(e) - (g), net of any tax credits applied as allowed by law, is due for  
26 each month of the calendar year on the last day of the following month; except as  
27 otherwise provided under (2) of this subsection, the amount of the installment  
28 payment is the sum of the following amounts, less 1/12 of the tax credits that are  
29 allowed by law to be applied against the tax levied by AS 43.55.011(e) - (g) for the  
30 calendar year, but the amount of the installment payment may not be less than zero:

31 (A) for oil and gas produced from leases or properties in the

1 state outside the Cook Inlet sedimentary basin or not subject to  
2 AS 43.55.011(o), other than leases or properties subject to AS 43.55.011(f),  
3 the greater of

4 (i) zero; or

5 (ii) 25 percent of the remainder obtained by subtracting  
6 1/12 of the producer's adjusted lease expenditures for the calendar year  
7 of production under AS 43.55.165 and 43.55.170 that are deductible  
8 for the leases or properties under AS 43.55.160 from the gross value at  
9 the point of production of the oil and gas produced from the leases or  
10 properties during the month for which the installment payment is  
11 calculated;

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

14 (i) zero;

15 (ii) zero percent, one percent, two percent, three  
16 percent, or four percent, as applicable, of the gross value at the point of  
17 production of the oil and gas produced from all leases or properties in  
18 the unit or nonunitized reservoir; or

19 (iii) 25 percent of the remainder obtained by  
20 subtracting 1/12 of the producer's adjusted lease expenditures for the  
21 calendar year of production under AS 43.55.165 and 43.55.170 that are  
22 deductible for those leases or properties under AS 43.55.160 from the  
23 gross value at the point of production of the oil and gas produced from  
24 those leases or properties during the month for which the installment  
25 payment is calculated;

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

28 (i) zero; or

29 (ii) 25 percent of the remainder obtained by subtracting  
30 1/12 of the producer's adjusted lease expenditures for the calendar year  
31 of production under AS 43.55.165 and 43.55.170 that are deductible

1 under AS 43.55.160 for oil or gas, respectively, produced from the  
2 lease or property from the gross value at the point of production of the  
3 oil or gas, respectively, produced from the lease or property during the  
4 month for which the installment payment is calculated;

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

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

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

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

27 (4) any amount of tax levied by AS 43.55.011(e) - (i), net of any  
28 credits applied as allowed by law, that exceeds the total of the amounts due as  
29 installment payments of estimated tax is due on March 31 of the year following the  
30 calendar year of production.

31 \* Sec. 22. AS 43.55.020(g) is amended to read:

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

12 \* Sec. 23. AS 43.55.020(h) is amended to read:

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

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

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

20 or

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

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

28 (3) interest is allowed under (2) of this subsection only from a date  
29 that is 90 days after the later of [THE] March 31 following the calendar year of  
30 production [DESCRIBED IN AS 43.55.030(a)] or the date that the statement  
31 required under AS 43.55.030(a) is filed; interest is not allowed if the overpayment

1 was refunded within the 90-day period;

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

4 \* Sec. 24. AS 43.55.020 is amended by adding a new subsection to read:

5 (i) A civil penalty shall be added to the amount of an installment payment  
6 required under (a)(1) - (3) of this section if at least 90 percent of the amount of the  
7 payment is not paid by the date the payment is due. The penalty is equal to five  
8 percent of the difference between the amount of the installment payment that was  
9 made timely and the amount of the installment payment required under (a)(1) - (3) of  
10 this section. If no part of the required installment payment was made timely, the  
11 penalty is equal to five percent of the installment payment required under (a)(1) - (3)  
12 of this section. The penalty is in addition to the interest imposed under (g) of this  
13 section and a penalty added under AS 43.05.220, if any.

14 \* Sec. 25. AS 43.55.023(b) is amended to read:

15 (b) A producer or explorer may elect to take a tax credit in the amount of 25  
16 [20] percent of a carried-forward annual loss. A credit under this subsection may be  
17 applied against a tax levied by [DUE UNDER] AS 43.55.011(e). For purposes of this  
18 subsection, a carried-forward annual loss is the amount of a producer's or explorer's  
19 adjusted lease expenditures under AS 43.55.165 and 43.55.170 for a previous  
20 calendar year that was not deductible in calculating production tax values for that  
21 calendar year under AS 43.55.160 [AS 43.55.160(b) AND (e)].

22 \* Sec. 26. AS 43.55.023(i) is amended to read:

23 (i) For the purposes of this section,

24 (1) a producer's or explorer's transitional investment expenditures are  
25 the sum of the expenditures the producer or explorer incurred after March 31, 2003  
26 [2001], and before April 1, 2006, that would be qualified capital expenditures if they  
27 were incurred after March 31, 2006, less the sum of the payments or credits the  
28 producer or explorer received before April 1, 2006, for the sale or other transfer of  
29 assets, including geological, geophysical, or well data or interpretations, acquired by  
30 the producer or explorer as a result of expenditures the producer or explorer incurred  
31 before April 1, 2006, that would be qualified capital expenditures, if they were

1 incurred after March 31, 2006;

2 (2) a producer or explorer may elect to take a tax credit against a tax  
3 due under AS 43.55.011(e) in the amount of 20 percent of the producer's or explorer's  
4 transitional investment expenditures, but only to the extent that the amount does not  
5 exceed 1/10 of the producer's or explorer's qualified capital expenditures that are  
6 incurred during the calendar year for which the credit is taken;

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

9 (A) for any calendar year after the later of

10 (i) 2013; or

11 (ii) the sixth calendar year after the calendar year for  
12 which the producer first applies a credit under this subsection against a  
13 tax due under AS 43.55.011(e), if the producer did not have  
14 commercial production of oil or gas from a lease or property in the  
15 state before April 1, 2006;

16 (B) more than once; or

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

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

22 \* Sec. 27. AS 43.55.023 is amended by adding a new subsection to read:

23 (l) A person that is exempt from taxation under this chapter may not apply for  
24 a transferable tax credit certificate.

25 \* Sec. 28. AS 43.55.023 is amended by adding a new subsection to read:

26 (m) Notwithstanding the limitation on the use of a transferable tax credit by a  
27 transferee under (e) of this section and subject to appropriations made by law, if and  
28 to the extent that purchase of transferable tax credits by the Alaska Retirement  
29 Management Board is authorized by law, the department shall issue a cash refund to  
30 the Alaska Retirement Management Board for a transferable tax credit originally  
31 issued to a person under (d) of this section and purchased by the Alaska Retirement

1 Management Board.

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

3 (a) Subject to the terms and conditions of this section, a credit against the  
4 production tax levied by [DUE UNDER] AS 43.55.011(e) or (f) is allowed for  
5 exploration expenditures that qualify under (b) of this section in an amount equal to  
6 one of the following:

7 (1) 30 [20] percent of the total exploration expenditures that qualify  
8 only under (b) and (c) of this section;

9 (2) 30 [20] PERCENT of the total exploration expenditures [FOR  
10 WORK PERFORMED BEFORE JULY 1, 2007, AND] that qualify only under (b)  
11 and (d) of this section;

12 (3) 40 percent of the total exploration expenditures that qualify under  
13 (b), (c), and (d) of this section; or

14 (4) 40 percent of the total exploration expenditures that qualify only  
15 under (b) and (e) of this section.

16 \* Sec. 30. AS 43.55.025(b) is amended to read:

17 (b) To qualify for the production tax credit under (a) of this section, an  
18 exploration expenditure must be incurred for work performed [ON OR] after  
19 December 31, 2006 [JULY 1, 2003], and before July 1, 2016, [EXCEPT THAT AN  
20 EXPLORATION EXPENDITURE FOR A COOK INLET PROSPECT MUST BE  
21 INCURRED FOR WORK PERFORMED ON OR AFTER JULY 1, 2005,] and

22 (1) may be for seismic or other geophysical exploration costs not  
23 connected with a specific well;

24 (2) if for an exploration well,

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

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

29 (C) must be for a well that has been completed, suspended,  
30 or abandoned under AS 31.05.030 at the time the explorer claims the tax  
31 credit under (f) of this section; and

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

6                   (3) may not be for [TESTING, STIMULATION, OR COMPLETION  
7 COSTS;] administration, supervision, engineering, or lease operating costs;  
8 geological or management costs; community relations or environmental costs;  
9 bonuses, taxes, or other payments to governments related to the well; costs arising  
10 from fraud, wilful misconduct, gross negligence, criminal negligence, violation of  
11 law, including a violation of 33 U.S.C. 1319(c)(1) or 1321(b)(3) (Clean Water  
12 Act), or failure to comply with an obligation under a lease, permit, or license  
13 issued by the state or federal government, or other costs that are generally  
14 recognized as indirect costs or financing costs; and

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

18 \* Sec. 31. AS 43.55.025(e) is repealed and reenacted to read:

19                   (e) To be eligible for the 30 percent production tax credit authorized by (a)(1)  
20 of this section or the 40 percent production tax credit authorized by (a)(3) of this  
21 section, exploration expenditures must

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

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

24                   (A) before spudding the well, (i) the explorer shall submit to  
25 the commissioner of natural resources the information necessary to determine  
26 whether the geological objective of the well is a potential oil or gas trap that is  
27 distinctly separate from any trap that has been tested by a preexisting well;  
28 and (ii) the commissioner of natural resources must make an affirmative  
29 determination on that question; the commissioner of natural resources shall  
30 decide whether to make that determination within 60 days after receiving all  
31 the necessary information from the explorer and based on the information

1 received and on other information the commissioner of natural resources may  
2 consider relevant;

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

8 (C) after completion, abandonment, or suspension under  
9 AS 31.05.030 of the exploration well, the commissioner of natural resources  
10 must determine that the well adequately achieved the explorer's stated  
11 geological objective.

12 \* Sec. 32. AS 43.55.025(f) is amended to read:

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

14 (1) an explorer shall, in a form prescribed by the department and,  
15 except for a credit under (f) of this section, within six months of the completion of  
16 the exploration activity, claim the credit and submit information sufficient to  
17 demonstrate to the department's satisfaction that the claimed exploration expenditures  
18 qualify under this section;

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

20 (A) to notify the Department of Natural Resources, within 30  
21 days after completion of seismic or geophysical data processing, completion  
22 of [A] well drilling, or filing of a claim for credit, whichever is the latest, for  
23 which exploration costs are claimed, of the date of completion and submit a  
24 report to that department describing the processing sequence and providing a  
25 list of data sets available; [IF, UNDER (c)(2)(B) OF THIS SECTION, AN  
26 EXPLORER SUBMITS A CLAIM FOR A CREDIT FOR EXPENDITURES  
27 FOR AN EXPLORATION WELL THAT IS LOCATED WITHIN THREE  
28 MILES OF A WELL ALREADY DRILLED FOR OIL AND GAS, IN  
29 ADDITION TO THE SUBMISSIONS REQUIRED UNDER (1) OF THIS  
30 SUBSECTION, THE EXPLORER SHALL SUBMIT THE INFORMATION  
31 NECESSARY FOR THE COMMISSIONER OF NATURAL RESOURCES

1 TO EVALUATE THE VALIDITY OF THE EXPLORER'S CLAIM THAT  
2 THE WELL IS DIRECTED AT A DISTINCTLY SEPARATE  
3 EXPLORATION TARGET, AND THE COMMISSIONER OF NATURAL  
4 RESOURCES SHALL, UPON RECEIPT OF ALL EVIDENCE  
5 SUFFICIENT FOR THE COMMISSIONER TO EVALUATE THE  
6 EXPLORER'S CLAIM, MAKE THAT DETERMINATION WITHIN 60  
7 DAYS;]

8 (B) to provide to the Department of Natural Resources, within  
9 30 days after the date of a request, unless a longer period is provided by the  
10 Department of Natural Resources, specific data sets, ancillary data, and  
11 reports identified in (A) of this paragraph; in this subparagraph, well data  
12 include all derivative products, results, and copies of data collected and  
13 data analyses for the well, including well logs; sample analyses;  
14 geophysical and velocity data including vertical seismic profiles and  
15 check shot surveys; and tangible material including, for each whole core  
16 collected, a lengthwise cut slab that is at least 1/3 of the whole core  
17 volume, and representative samples, as specified by the Department of  
18 Natural Resources, of other gaseous, liquid, or solid material collected  
19 from drilling or testing the well;

20 (C) that, notwithstanding any provision of AS 38, information  
21 provided under this paragraph will be held confidential by the Department of  
22 Natural Resources for 10 years following the completion date, at which time  
23 that department will release the information after 30 days' public notice;

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

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

30 (5) if the department is satisfied that the explorer's claimed  
31 expenditures are qualified under this section and that all data required to be

1 submitted under this section have been submitted, the department shall issue to the  
2 explorer a production tax credit certificate for the amount of credit to be allowed  
3 against production taxes levied by AS 43.55.011(e) or (f); the credit is available for  
4 immediate use; notwithstanding any contrary provision of AS 38, AS 40.25.100,  
5 or AS 43.05.230, the following information is not confidential:

6 (A) the explorer's name;

7 (B) the date of the application;

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

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

10 and

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

14 \* Sec. 33. AS 43.55.025(g) is amended to read:

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

19 \* Sec. 34. AS 43.55.025(i) is repealed and reenacted to read:

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

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

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

27 \* Sec. 35. AS 43.55.025(k) is amended by adding a new paragraph to read:

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

31 \* Sec. 36. AS 43.55.025 is amended by adding a new subsection to read:

1 (D) Subject to the terms and conditions of this section, if a claim is filed under  
 2 (I)(1) of this section before January 1, 2016, a credit against the production tax levied  
 3 by AS 43.55.011(e) or (I) is allowed in an amount equal to five percent of an eligible  
 4 expenditure under this subsection incurred for seismic exploration performed before  
 5 July 1, 2003. To be eligible under this subsection, an expenditure must

6 (1) have been for seismic exploration that

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

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

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

15 \* Sec. 37. AS 43.55.025 is amended by adding a new subsection to read:

16 (m) Subject to appropriations made by law, if and to the extent that purchase  
 17 of transferable tax credits by the Alaska Retirement Management Board is authorized  
 18 by law, the department shall issue a cash refund to the Alaska Retirement  
 19 Management Board for a transferable tax credit originally issued to an explorer under  
 20 (i) of this section and purchased by the Alaska Retirement Management Board.

21 \* Sec. 38. AS 43.55.030(a) is amended to read:

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

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

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

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

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

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

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

16 (7) the production tax values of the oil and gas under  
17 AS 43.55.160;

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

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

22 \* Sec. 39. AS 43.55.030(d) is amended to read:

23 (d) Reports required under this section [BY OR ON BEHALF OF THE  
24 PRODUCER] are delinquent the first day following the day the report is due. The  
25 person required to file the report is liable for a penalty, as determined by the  
26 department under standards adopted in regulation by the department, of not  
27 more than \$1,000 for each day the person fails to file the report at the time  
28 required. The penalty is in addition to the penalties in AS 43.05.220 and  
29 43.05.290 and is assessed, collected, and paid in the same manner as a tax  
30 delinquency under this title. In this subsection, "report" includes a statement."

31 \* Sec. 40. AS 43.55.030 is amended by adding new subsections to read:

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

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

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

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

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

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

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

20 (4) lease expenditures and adjustments under AS 43.55.165 and  
21 43.55.170;

22 (5) joint interest billings;

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

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

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

28 \* Sec. 41. AS 43.55.040 is amended to read:

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

31 (1) require a person engaged in production and the agent or employee

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

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

12 (B) impose appropriate conditions limiting

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

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

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

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

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

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

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

26 (5) require a producer, an explorer, or an operator of a lease or  
27 property to file reports and copies of records that the department considers  
28 necessary to forecast state revenue under this chapter; in the case of reports and  
29 copies of records relating to proposed, expected, or approved unit expenditures  
30 for a unit for which one or more working interest owners other than the  
31 operator have authority to approve unit expenditures, the required reports and

1 copies of records are limited to those reports or copies of records that constitute  
2 or disclose communications between the operator and the working interest  
3 owners relating to unit budget matters; and

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

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

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

16 (b) A decision of a regulatory agency, court, or other body with authority to  
17 resolve disputes that results in a retroactive change to a lease expenditure, to an  
18 adjustment to a lease expenditure, to costs of transportation, to sale price, to  
19 prevailing value, or to consideration of quality differentials relating to the  
20 commingling of oils has a corresponding effect, either an increase or decrease, as  
21 applicable, on the production tax value of oil or gas or the amount or availability of a  
22 tax credit as determined under this chapter. For purposes of this section, a change to a  
23 lease expenditure includes a change in the categorization of a lease expenditure as a  
24 qualified capital expenditure or as not a qualified capital expenditure. The producer  
25 shall

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

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

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

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

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

10 (d) In this section,

11 (1) "qualified capital expenditure" has the meaning given in  
12 AS 43.55.023;

13 (2) "return" includes a report, a statement, and an amended return,  
14 report, or statement.

15 \* Sec. 43. AS 43.55.110 is amended by adding new subsections to read:

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

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

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

27 \* Sec. 44. AS 43.55.160(a) is amended to read:

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

29 [(1)] AS 43.55.011(c), the annual production tax value of the taxable

30 (1) [(A)] oil and gas produced during a calendar year from leases or  
31 properties in the state that include land north of 68 degrees North latitude is the gross

1 value at the point of production of the oil and gas taxable under AS 43.55.011(e) and  
2 produced by the producer from those leases or properties, less the producer's lease  
3 expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas  
4 produced by the producer from those leases or properties, as adjusted under  
5 AS 43.55.170; this subparagraph does not apply to gas subject to  
6 AS 43.55.011(o);

7 (2) [(B)] oil and gas produced during a calendar year from leases or  
8 properties in the state outside the Cook Inlet sedimentary basin, no part of which is  
9 north of 68 degrees North latitude, is the gross value at the point of production of the  
10 oil and gas taxable under AS 43.55.011(e) and produced by the producer from those  
11 leases or properties, less the producer's lease expenditures under AS 43.55.165 for the  
12 calendar year applicable to the oil and gas produced by the producer from those leases  
13 or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to  
14 gas subject to AS 43.55.011(o);

15 (3) [(C)] oil produced during a calendar year from a lease or property  
16 in the Cook Inlet sedimentary basin is the gross value at the point of production of the  
17 oil taxable under AS 43.55.011(e) and produced by the producer from that lease or  
18 property, less the producer's lease expenditures under AS 43.55.165 for the calendar  
19 year applicable to the oil produced by the producer from that lease or property, as  
20 adjusted under AS 43.55.170;

21 (4) [(D)] gas produced during a calendar year from a lease or property  
22 in the Cook Inlet sedimentary basin is the gross value at the point of production of the  
23 gas taxable under AS 43.55.011(e) and produced by the producer from that lease or  
24 property, less the producer's lease expenditures under AS 43.55.165 for the calendar  
25 year applicable to the gas produced by the producer from that lease or property, as  
26 adjusted under AS 43.55.170;

27 (5) gas produced during a calendar year from a lease or property  
28 outside the Cook Inlet sedimentary basin and used in the state is the gross value  
29 at the point of production of that gas taxable under AS 43.55.011(e) and  
30 produced by the producer from that lease or property, less the producer's lease  
31 expenditures under AS 43.55.165 for the calendar year applicable to that gas

1       produced by the producer from that lease or property, as adjusted under  
2       AS 43.55.170

3                [(2) AS 43.55.011(g), THE MONTHLY PRODUCTION TAX  
4       VALUE OF THE TAXABLE

5                       (A) OIL AND GAS PRODUCED DURING A MONTH  
6       FROM LEASES OR PROPERTIES IN THE STATE THAT INCLUDE  
7       LAND NORTH OF 68 DEGREES NORTH LATITUDE IS THE GROSS  
8       VALUE AT THE POINT OF PRODUCTION OF THE OIL AND GAS  
9       TAXABLE UNDER AS 43.55.011(g) AND PRODUCED BY THE  
10      PRODUCER FROM THOSE LEASES OR PROPERTIES, LESS 1/12 OF  
11      THE PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR  
12      THE CALENDAR YEAR APPLICABLE TO THE OIL AND GAS  
13      PRODUCED BY THE PRODUCER FROM THOSE LEASES OR  
14      PROPERTIES, AS ADJUSTED UNDER AS 43.55.170;

15                      (B) OIL AND GAS PRODUCED DURING A MONTH  
16      FROM LEASES OR PROPERTIES IN THE STATE OUTSIDE THE COOK  
17      INLET SEDIMENTARY BASIN, NO PART OF WHICH IS NORTH OF 68  
18      DEGREES NORTH LATITUDE, IS THE GROSS VALUE AT THE POINT  
19      OF PRODUCTION OF THE OIL AND GAS TAXABLE UNDER  
20      AS 43.55.011(g) AND PRODUCED BY THE PRODUCER FROM THOSE  
21      LEASES OR PROPERTIES, LESS 1/12 OF THE PRODUCER'S LEASE  
22      EXPENDITURES UNDER AS 43.55.165 FOR THE CALENDAR YEAR  
23      APPLICABLE TO THE OIL AND GAS PRODUCED BY THE PRODUCER  
24      FROM THOSE LEASES OR PROPERTIES, AS ADJUSTED UNDER  
25      AS 43.55.170;

26                      (C) OIL PRODUCED DURING A MONTH FROM A  
27      LEASE OR PROPERTY IN THE COOK INLET SEDIMENTARY BASIN  
28      IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE OIL  
29      TAXABLE UNDER AS 43.55.011(g) AND PRODUCED BY THE  
30      PRODUCER FROM THAT LEASE OR PROPERTY, LESS 1/12 OF THE  
31      PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE

1 CALENDAR YEAR APPLICABLE TO THE OIL PRODUCED BY THE  
2 PRODUCER FROM THAT LEASE OR PROPERTY, AS ADJUSTED  
3 UNDER AS 43.55.170;

4 (D) GAS PRODUCED DURING A MONTH FROM A  
5 LEASE OR PROPERTY IN THE COOK INLET SEDIMENTARY BASIN  
6 IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE GAS  
7 TAXABLE UNDER AS 43.55.011(g) AND PRODUCED BY THE  
8 PRODUCER FROM THAT LEASE OR PROPERTY, LESS 1/12 OF THE  
9 PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE  
10 CALENDAR YEAR APPLICABLE TO THE GAS PRODUCED BY THE  
11 PRODUCER FROM THAT LEASE OR PROPERTY, AS ADJUSTED  
12 UNDER AS 43.55.170].

13 \* Sec. 45. AS 43.55.160(e) is amended to read:

14 (e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that  
15 would otherwise be deductible by a producer in a calendar year but whose deduction  
16 would cause an annual production tax value calculated under (a) [(a)(1)] of this  
17 section of taxable oil or gas produced during the calendar year to be less than zero  
18 may be used to establish a carried-forward annual loss under AS 43.55.023(b). In this  
19 subsection, "producer" includes "explorer."

20 \* Sec. 46. AS 43.55.165(a) is amended to read:

21 (a) Except as provided under (c) and (e) [(c) - (e)] of this section, for the  
22 purposes of AS 43.55.160, a producer's lease expenditures for a calendar year are the  
23 ordinary and necessary costs upstream of the point of production of oil and gas that  
24 are incurred during the calendar year by the producer after March 31, 2006, and that  
25 are direct costs of exploring for, developing, or producing oil or gas deposits located  
26 within the producer's leases or properties in the state or, in the case of land in which  
27 the producer does not own a working interest, that are direct costs of exploring for oil  
28 or gas deposits located within other land in the state. In determining whether costs are  
29 lease expenditures, the department shall consider, among other factors,

30 (1) the typical industry practices and standards in the state that  
31 determine the costs, other than items listed in (e) of this section, that an operator is