

11584 HOUSE RESOURCES

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: H.B. 464
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title Wanton Waste of Big Game RDU _____
 Component _____
 Sponsor Representative Eric Croft
 Requester House Resources Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Sarah A. Gilbertson, Legislative Liaison
 Division: Commissioner's Office
 Approved by: Commissioner McKie Campbell
 Agency: Alaska Department of Fish and Game

Phone 465-6137
 Date/Time 4/5/06 11:46 AM
 Date 4/5/2006

June 1 - Dec 31, as animal food or bait. (See *Use of game*, page 21).

representative (see *Emergency taking of game*, page 21).

Except in the Brown Bear Subsistence Areas, you are not required to keep the meat of a brown/grizzly bear. If you take a brown/grizzly bear in any of these subsistence areas under a registration permit for subsistence purposes, you are required to salvage all meat for human consumption; salvage of the hide or skull is optional.

You MAY NOT hunt black bears over bait or scent lures, except under a bait station permit.

Estimated Maximum Weights of Some Alaska Big Game Species

This table is an estimate of the maximum weight that the hunter might expect to handle and transport from the field for Alaska big game animals.

<i>species</i>	<i>live adult weight lbs.</i>	<i>carcass weight lbs^a</i>	<i>boned-out carcass lbs^b</i>
<i>moose</i>	1650	990	564
<i>caribou</i>	500	300	171
<i>bison</i>	2000	1200	684
<i>elk</i>	1350	810	462
<i>mt. goat</i>	280	168	96
<i>Dall sheep</i>	230	138	79
<i>muskox</i>	800	480	274
<i>Sitka black-tailed deer</i>	200	120	68
<i>black bear</i>	350	210	120
<i>brown bear</i>	1250	750	428

^a *Weight following removal of viscera, head, hide, and lower legs.*

^b *Weight of carcass meat after all bones are removed.*

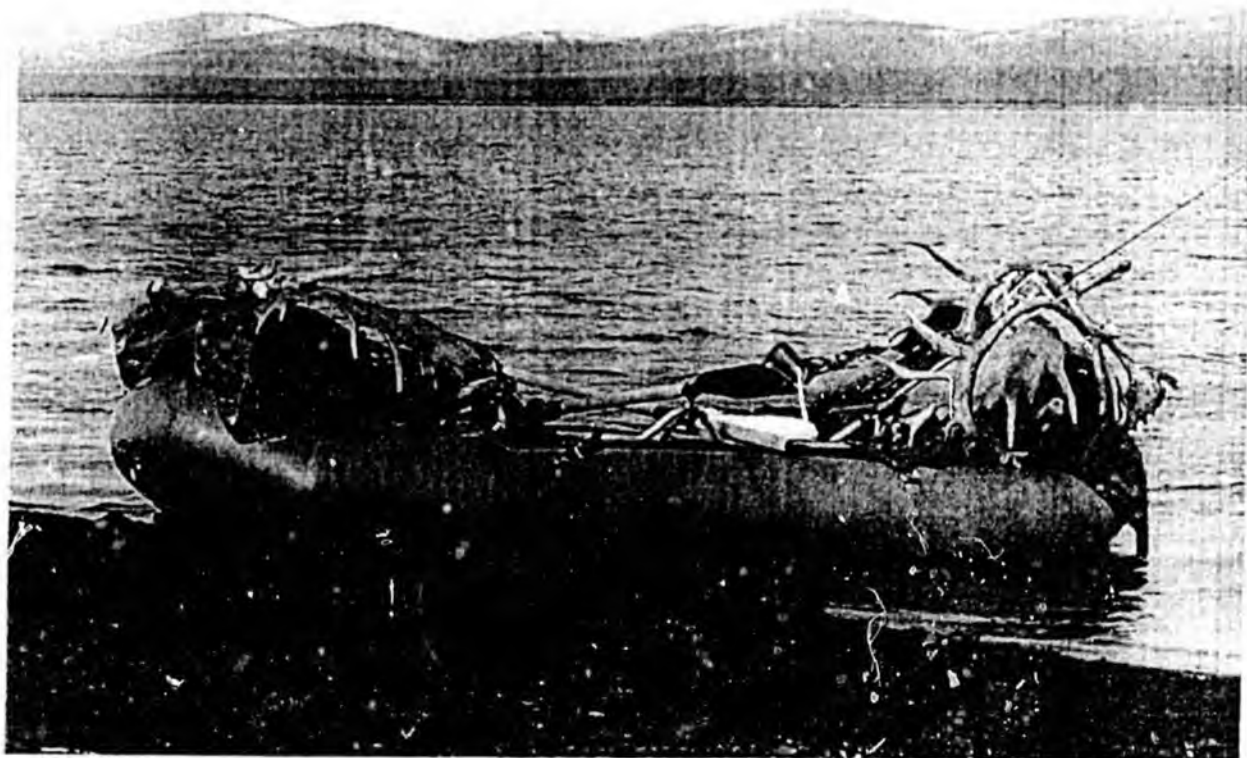
Salvage

From June 1 and 20 salvage June 1 salvage

From June 1 (except salvage June 1 - be salvaged Bears to for pet)

For Unskull mainder be salva

Four hunters returned to Kivalina in this raft, September 2005



Alaska Board of Game
2006-163-BOG
Alaska Board of Fisheries
2006-247-FB

A Resolution Regarding Declining Fish & Wildlife Enforcement in Alaska

WHEREAS, the Board of Game and Board of Fisheries have received numerous public complaints in recent years concerning the decreasing level and effectiveness of fish and wildlife enforcement in Alaska; and

WHEREAS, management plans are formed by the Alaska Department of Fish & Game to support the constitutional mandate to maintain fish and game populations on sustained yield principle; and

WHEREAS, regulations are developed by the Alaska Boards of Fisheries and Game through the public process to support management plans. And, all management plans rely upon public compliance with regulations to achieve success; and

WHEREAS, enforcement is a crucial element needed to ensure long-term compliance with regulations by the public; and

WHEREAS, the Alaska Department of Public Safety is the front-line agency tasked by the legislature with enforcing regulations pertaining to fish and game; and

WHEREAS; vigorous, proactive efforts are required to positively affect compliance by the public in fish and game regulations; and

WHEREAS, fish and wildlife enforcement is a critical element in the state's fish and wildlife management programs; and

WHEREAS, every subsistence, personal use, recreational or commercial resource management program is dependent on adequate enforcement for the programs to be successful; and

WHEREAS, Alaskans have traditionally supported a strong and effective fish and wildlife enforcement program in the state; and

WHEREAS, Alaskans have been assured that the integration of the fish and wildlife enforcement programs into the Alaska State Troopers system would not result in any decreased level of effectiveness in our fish and wildlife enforcement efforts; and

WHEREAS, in 2003 the Division of Fish and Wildlife Protection was eliminated and re-established as a separate Bureau within the Alaska State Troopers; and

WHEREAS, in response to expressed concerns by the Boards of Fisheries and Game, the Department of Public Safety provided the Boards with requested enforcement data from 2000 - 2005 for the purpose of comparing the level and effectiveness of the fish and wildlife enforcement program both before and after the final merger, and

WHEREAS, the final integration of the fish and wildlife enforcement staff into the Alaska State Troopers in 2003 resulted in the following: a 122% average increase in Alaska State Trooper patrol and investigations time by fish and wildlife personnel; a 24% decrease in fish and wildlife patrol and investigation time by fish and wildlife personnel; an 88% average annual increase in Alaska State Trooper contacts; a 20% average annual decrease in fish and wildlife contacts; a 76% annual increase in Alaska State Trooper warnings by fish and wildlife personnel; an 8% annual decrease in fish and wildlife warnings by fish and wildlife personnel; and a 50% average annual increase in Alaska State Troopers citations by Bureau of Wildlife Enforcement personnel; and

WHEREAS, the level of contributions to the Fish and Game Fund from fish and wildlife convictions has been steadily decreasing from approximately \$1.1 million in 1990 to \$51,000 in 2005 which indicates that although troopers are making citizen contacts, they are issuing citations on less serious violations rather than focusing on the more onerous and destructive violations and the fish and wildlife investigation unit responsible for the larger commercial fines has become significantly less effective; and

WHEREAS, the primary emphasis and accepted principles of fish and wildlife enforcement relating to promoting voluntary compliance, preventing resource violations rather than focusing only on apprehending violators, educating the public about the conservation purposes for fish and wildlife regulations, emphasizing selective sting and special investigations directed at commercial operators and discouraging violations through a continued presence in the field have been deemphasized by the Trooper merger process; and

WHEREAS, there is not a consistent cross-training of Alaska State Troopers and Alaska Bureau of Wildlife Enforcement personnel which results in Alaska State Troopers unable to assist in fish and wildlife enforcement activities while Alaska Bureau of Wildlife Enforcement personnel are expected to assist in Alaska State Trooper public safety activities; and

NOW THEREFORE BE IT RESOLVED that the Boards of Fisheries and Game respectfully request that the Commissioner of Public Safety consider reestablishing the separate Division of Fish and Wildlife Protection with its identified separate identification and mission; and

BE IT FURTHER RESOLVED that the Alaska Department of Public Safety must maximize its enforcement of fish and game regulations to the greatest extent possible in order to preserve and protect the fish and game resources of the State of Alaska for public use and future generations; and

BE IT FURTHER RESOLVED that the Boards of Fisheries and Game respectfully request the Governor and the Legislature provide the Alaska State Troopers with adequate funds for their identified public safety mission rather than depending on the Division of Fish and Wildlife Protection to continually fill in for inadequate numbers of State Trooper positions; and

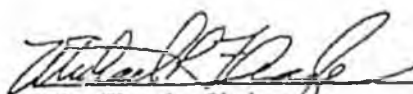
BE IT FURTHER RESOLVED that the Boards of Fisheries and Game respectfully requests the Governor and the Legislature provide an increase of approximately \$18 million to the Fish and Wildlife Protection Division for their fish and wildlife enforcement effort; and

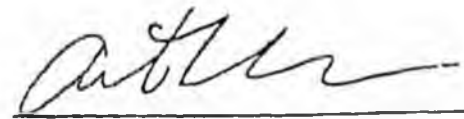
BE IT FURTHER RESOLVED that the Boards of Fisheries and Game respectfully requests that the Commissioner of Public Safety begin a program to recruit Fish and Wildlife Enforcement officers separately from Alaska State Troopers for the purpose of adequately providing for career officers in the fish and wildlife enforcement field; and

BE IT FURTHER RESOLVED that the Alaska Boards of Fisheries and Game request that, to the greatest extent possible, the Alaska Bureau of Wildlife Enforcement within the Division of Alaska State Troopers, focus efforts on enforcing, patrolling and documenting criminal activity in the areas of fish and game regulations. Every effort is encouraged for the Alaska Bureau of Wildlife Enforcement to remove duties from enforcement personnel that do not pertain to the enforcement of fish and game regulations.

BE IT FURTHER RESOLVED that the Boards of Fisheries and Game respectfully requests that the Governor's office and the Alaska State Legislature provide a reasonable level of oversight over the fish and wildlife enforcement performance of the Department of Public Safety to assure that our fish and wildlife resources are being adequately protected and our fish and wildlife management programs receive the enforcement support needed to make our programs successful.

Copies of this resolution are being sent to Commissioner William Tandeske of the Department of Public Safety, Governor Frank Murkowski, Commissioner McKie Campbell of the Department of Fish and Game, and the House and Senate leadership.


Mike Fleagle, Chairman
Alaska Board of Game


Art Nelson, Chairman
Alaska Board of Fisheries

Date: March 19, 2006

Date: March 23, 2006

Vote: 6-0

Vote: 7-0

HB

484



Alaska State Legislature

Representative Peggy Wilson

House District 2

Putting Alaska's Families First

SPONSOR STATEMENT

CSHB 484

"Fishery Association Reimbursement"

In 2002, the Alaska legislature created salmon fishery associations (AS 16.40.250) to encourage fleet reduction in the Alaska salmon fisheries. Salmon fishery associations may be formed in salmon fisheries throughout the state to facilitate a permit buyback program.

CSHB 484 is a housekeeping measure to clarify what may happen to the revenue if the Commercial Fishery Entry Commission should find it necessary to sell (re-issue) permits that have been relinquished under the buyback program authorized under AS 16.40.250.

Under CSHB484 the legislature may appropriate revenue from the permit sale (re-issue) to the Association that paid money or incurred debt to remove the permit from the market in the first place.

The state (CFEC) has the responsibility to monitor each limited entry fishery. In the event the CFEC determines more permits are needed in a salmon fishery through an optimum number determination or court action, the provisions of HB 484 would apply.

I ask for your support of CSHB 484 "Fishery Association Reimbursement."

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 484(FSH)
 (H) Publish Date: 3/24/2006

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish & Game
 Title FISHERY ASSOCIATION REIMBURSEMENT RDU _____
 Component _____
 Sponsor Representative Wilson Component No. _____
 Requester _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
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Contractual						
Supplies						
Equipment						
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Grants & Claims						
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CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cos.: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Ian Fisk
 Division: Staff, Representative Thomas
 Approved by: Representative Thomas and Representative LeDoux
 Agency: Co-Chairs, House Special Committee on Fisheries

Phone 465-6867
 Date/Time 3/22/06 2:09 PM
 Date _____



March 20, 2006

Representative Thomas and LeDoux, Co-Chairs
House Fisheries Committee
State Capitol Building
Juneau, Alaska

Dear Mr. and Madame Chair,

The Southeast Alaska Seiners Association (SEAS) urges you to pass HB484, relating to fixing a simple housekeeping measure regarding statutorily authorized fleet consolidation associations. And although this fix is a simple one, it is nonetheless incredibly important.

For years, salmon fishermen in Alaska have agonized over the question of fleet consolidation or buybacks. There are a number of considerations that make consolidation a fit for some regions and not for others. But there has always been one limiting factor in even initiating discussion of the question of "whether to do a buyback" in a region. This factor has been the requirement of "optimum number". Unfortunately our forefathers did not foresee the problems and the lack of durability in "optimum number" studies. But that is an issue for another day.

So the problem for the fleets, simply put, is that they may have to pay a bunch of money for permits that may then be reissued and resold by CFEC at a later date. Therefore the fishermen would have wasted their money to buy back permits just to see those same permits resold again.

HB484 solves, at least temporarily for decades, the "optimum number" issue. The fishermen's association in that region will be able to recover the funds that they expended for the permits that they bought back originally. This will have a positive effect on the way fleet consolidation is viewed by Alaska's fleets who may be of a mind to use fleet consolidation under state statute. This is what SEAS is in the midst of pursuing and we are sure others will follow.

Sincerely

Dan Castle
President, SEAS

Support



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110
Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

March 21, 2006

Representative Bill Thomas, Co-Chairman
Special Committee on Fisheries
Alaska State Legislature
State Capitol (Mail Stop 3100)
Juneau AK 99801

Dear Representative Thomas,

The United Fishermen of Alaska (UFA) supports House Bill 484, allowing for revenue received from issuance of additional entry permits to be appropriated for reimbursement to salmon fishery associations.

In 2002 we supported HB 286 to create the option for fishermen to proceed with self-funded voluntary fleet reduction, to be paid for by an assessment from fishery revenues from the remaining fleet after such a buyback. In the detailed analysis of this it has been pointed out that the possibility of permits being reissued after such a buyback would disrupt the mechanisms of the payback for the permits that were bought back. We support HB 484 as a fine tuning of the mechanism for self-funded buybacks, in the spirit and intention of the legislation already passed.

UFA represents 31 Alaska commercial fishing organizations throughout the state, altogether representing thousands of Alaska commercial fishermen. We appreciate your consideration of our input.

Respectfully,

Bob Thorstenson Jr
President

Mark Vinsel
Executive Director

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Druggers Association • Alaska Longline Fishermen's Association • Armstrong Keta • At-sea Processors Association
Bristol Bay Reserve • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association • Cordova District Fishermen United
Douglas Island Pink and Chum • Fishing Vessel Owners Association • Groundfish Forum • Kenai Peninsula Fishermen's Association
Kodiak Regional Aquaculture Association • North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association
Old Harbor Fishermen's Association • Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation
Purse Seine Vessel Owner Association • Seafood Producers Cooperative • Southeast Alaska Herring Seiners Marketing Association
Southeast Alaska Fisherman's Alliance • Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners Association
Southern Southeast Regional Aquaculture Association • United Catcher Boats • United Salmon Association • United Southeast Alaska Gillnetters
Valdez Fisheries Development Association • Western Gulf of Alaska Fishermen

HB

488

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 17, 2006

SUBJECT: Resources Committee amendment 8 to CSHB 488(RES), draft version "Y" (Work Order No. 24-GH2052\Y)

TO: Representative Jay Ramras
Representative Ralph Comuels
Co-Chairs of the House Resources Committee

FROM: Jack Chenoweth
Assistant Revisor

Tim Benintendi has provided copies of amendments adopted by the committee during yesterday's mark-up of the above-captioned bill.

To meet the direction set out in committee amendment 8 ("delete sections relating to transitional investment expenditures"), captioned as a conceptual amendment, unless someone gives me different guidance, to meet the committee's direction, I propose to delete

- (1) AS 43.55.160(a)(3) [bill, page 17, lines 26 to the end of the sentence on line 28];
- (2) all of AS 43.55.160(b)(2) [bill, page 18, lines 14 - 22]; and
- (3) all of AS 43.55.160(g) and (h) [bill, page 21, line 25, through page 23, line 6].

The deletions will necessitate some internal renumbering or relettering.

If there are other provisions covered under the general direction that deserve attention or that were intended to be encompassed within the scope of committee amendment 8, please advise.

JBC:ljw
06-135.ljw

cc: Representative Mary Kapsner, amendment sponsor

LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 16, 2006

SUBJECT: Editorial amendments offered to CSHB 488 (RES), draft version "Y" (Work Order No. 24-GH2052\Y.9)

TO: Representative Ralph Samuels
Representative Jay Ramras
Co-Chairs of the House Resources Committee

FROM: Jack Chenoweth
Assistant Revisor

Since I am not (yet) preparing a further committee substitute, Assistant Attorney General Rob Mintz and Department of Law Legislation Editor B.J. Jordan asked me to prepare and submit the enclosed for the House Resources Committee's consideration.

The amendment's first entry is made to conform exactly the language of proposed AS 43.55.011(f) to like references in subsections (a) and (e).

The second is necessary to limit the section reference to the specific subsection referenced later in paragraphs (1) and (2).

The third, omitting bill section 24 from the list of sections taking an immediate effective date, aligns the effective date of the text of the amendment made in that bill section to other provisions imposing the new production tax to be effective, under this version, on April 1, 2006.

JBC:med
06-222.med

Enclosure

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 488(RES), Draft Version "Y"

1 Page 4, line 9, following "for":

2 Insert "all"

3

4 Page 5, line 31:

5 Delete "AS 43.55.011"

6 Insert "AS 43.55.011(a)"

7

8 Page 30, line 22:

9 Delete "24,"

LEGAL SERVICES

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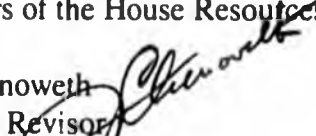
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 16, 2006

SUBJECT: Amendments to CSHB 488(RES), draft version "Y"
(Work Order No. 24-GH2052\Y.4 - Y.7)

TO: Representative Jay Ramras
Representative Ralph Samuels
Co-Chairs of the House Resources Committee

FROM: Jack Chenoweth
Assistant Revisor 

Dan Dickinson visited me this morning, bringing with him four "clean-up" amendments to the draft committee substitute supplied yesterday. Since I could not assure him that we could produce a new draft committee substitute incorporating the changes by the time of your scheduled early afternoon hearing, this memo transmits that material set out as four amendments.

In the main, the material tracks the language offered by Mr. Dickinson. However, in amendment Y.6, reference in material supplied by Mr. Dickinson to "sec. 16" seemed incorrect, and I renumbered; please check the references.

I told Dan that, in any final version of the committee substitute, the content of bill sections 29 - 31, amending various subsections of AS 43.55.201, would be brought together in just one bill section, and the content of bill sections 33 - 35, amending various subsections of AS 43.55.300, would be similarly treated.

JBC:med
06-221.med

Enclosures

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHE 488(RES), Draft Version "Y"

1 Page 21, lines 3 - 4:

2 Delete "any payment or credit"

3 Insert "certain payments or credits received by the producer, as provided in this
4 subsection. If, during a month or, under (f) of this section, during a calendar year, a producer
5 receives one or more payments or credits subject to this subsection and if either the total
6 amount of the payments or credits exceeds the amount of the producer's lease expenditures or
7 the producer does not have any lease expenditures, the producer shall nevertheless subtract
8 the payments or credits from the lease expenditures or from zero, respectively, and the
9 producer's adjusted lease expenditures for that month or calendar year are a negative number.
10 The producer shall apply that negative number to the calculation made under (a) of this
11 section. The payments or credits that a producer must subtract from the producer's lease
12 expenditures, or from zero, under this subsection are payments or credits that"

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 488(RES), Draft Version "Y"

1 Page 24, lines 3 - 4:

2 Delete "may apply a tax credit against that liability under this section."

3 Insert "and, during the calendar year, has incurred a qualified capital expenditure, as
4 that term is defined in AS 43.55.024, may apply a tax credit, in an amount that does not
5 exceed the amount of that expenditure, against that liability under this section. An unused
6 portion of a tax credit may be applied to the extent otherwise allowed under this section for
7 one or more months during the same calendar year."

8

9 Page 24, lines 6 - 7:

10 Delete "before applications for any credits under this chapter"

11 Insert "for any month"

12

13 Page 24, line 23, following "qualified":

14 Insert "capital"

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 488(RES), Draft Version, "Y"

1 Page 29, line 31, following "REGULATIONS":

2 Delete "."

3 Insert "AND RETROACTIVITY OF REGULATIONS. (a)"

4

5 Page 30, following line 3:

6 Insert a new subsection to read:

7 "(b) Notwithstanding any contrary provision of AS 44.62.240, a regulation adopted
8 by the Department of Revenue to implement, interpret, make specific, or otherwise carry out
9 the provisions of secs. 5, 6, 8 - 11, 13 - 15, 17 - 20, 22, and 25 - 41 of this Act may apply
10 retroactively as of April 1, 2006, if the Department of Revenue expressly designates in the
11 regulation that the regulation applies retroactively to that date."

AMENDMENT

OFFERED IN THE HOUSE

TC CSHB 488(RES), Draft Version "Y"

1 Page 29, lines 5 - 6:

2 Delete "the sections of this Act that are not effective April 1, 2006"

3 Insert "secs. 8 and 13 of this Act"

4

5 Page 29, lines 14 - 15:

6 Delete "the sections of this Act that are not effective April 1, 2006"

7 Insert "secs. 5 and 6 of this Act"

8

9 Page 29, line 17, following "Act,":

10 Insert "or AS 43.55.030(e), added by sec. 22 of this Act,"

11

12 Page 29, lines 18 - 19:

13 Delete "the sections of this Act that are not effective April 1, 2006"

14 Insert "secs. 20 and 22 of this Act"

24-GH2052\Y
Chenoweth
3/15/06

CS FOR HOUSE BILL NO. 483(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

**Offered:
Referred:**

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

A BILL

FOR AN ACT ENTITLED

1 "An Act repealing the oil production tax and gas production tax and providing for a
2 production tax on oil and gas; relating to the relationship of that tax to other taxes, to
3 the dates those tax payments and surcharges are due, to interest on overpayments of the
4 tax, and to the treatment of the tax in a producer's settlement with the royalty owners;
5 relating to flared gas, and to oil and gas used in the operation of a lease or property
6 under the production tax; relating to the prevailing value of oil or gas under the
7 production tax; providing for tax credits against the tax for certain expenditures and
8 losses; amending the rates applicable to each of the two tax surcharges imposed on oil
9 under the production tax that are used to support the oil and hazardous substance
10 release prevention and response fund and relating to those surcharges; relating to
11 statements or other information required to be filed with or furnished to the
12 Department of Revenue, and relating to the penalty for failure to file certain reports, for

1 the tax; relating to the powers of the Department of Revenue, and to the disclosure of
2 certain information required to be furnished to the Department of Revenue, as
3 applicable to the administration of the tax; relating to criminal penalties for violating
4 conditions governing access to and use of confidential information relating to the tax,
5 and to the deposit of tax money collected by the Department of Revenue; relating to the
6 calculation of the gross value at the point of production of oil or gas; relating to the
7 determination of the production tax value of oil and gas for purposes of a tax on the
8 production tax value of oil and gas; relating to the definitions of 'gas,' 'oil,' and certain
9 other terms for purposes of the production tax, and as the definition of the term 'gas'
10 applies in the Alaska Stranded Gas Development Act; making conforming amendments;
11 making uniform throughout the state the deadline for certain exploration expenditures
12 used as credits against the production tax on oil and gas produced from a lease or
13 property in the state by extending to July 1, 2016, the deadline for those expenditures
14 and limiting use of the resultant credits; and providing for an effective date."

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

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

18 INTENT OF SEC. 12 OF THIS ACT. It is the intent of the legislature through sec. 12
19 of this Act to confirm by clarification the long-standing interpretation of AS 43.55.020(f) by
20 the Department of Revenue.

21 * **Sec. 2.** AS 43.05.230(f) is amended to read:

22 (f) A wilful violation of the provisions of this section or of a condition
23 imposed under AS 43.55.040(1)(B) is punishable by a fine of not more than \$5,000,
24 or by imprisonment for not more than two years, or by both.

25 * **Sec. 3.** AS 43.20.031(c) is amended to read:

26 (c) In computing the tax under this chapter, the taxpayer is not entitled to

1 deduct any taxes based on or measured by net income. The taxpayer may deduct the
2 tax levied and paid under AS 43.55.

3 * Sec. 4. AS 43.20.072(b) is amended to read:

4 (b) A taxpayer's business income to be apportioned under this section to the
5 state shall be the federal taxable income of the taxpayer's consolidated business for the
6 tax period, except that

7 (1) taxes based on or measured by net income that are deducted in the
8 determination of the federal taxable income shall be added back; the tax levied and
9 paid under AS 43.55 may not be added back;

10 (2) intangible drilling and development costs that are deducted as
11 expenses under 26 U.S.C. 263(c) (Internal Revenue Code) in the determination of the
12 federal taxable income shall be capitalized and depreciated as if the option to treat
13 them as expenses under 26 U.S.C. 263(c) (Internal Revenue Code) had not been
14 exercised;

15 (3) depletion deducted on the percentage depletion basis under 26
16 U.S.C. 613 (Internal Revenue Code) in the determination of the federal taxable income
17 shall be recomputed and deducted on the cost depletion basis under 26 U.S.C. 612
18 (Internal Revenue Code); and

19 (4) depreciation shall be computed on the basis of 26 U.S.C. 167
20 (Internal Revenue Code) as that section read on June 30, 1981.

21 * Sec. 5. AS 43.55.011(a) is repealed and reenacted to read:

22 (a) There is levied on the producer of oil or gas a tax for all oil and gas
23 produced each month from each lease or property in the state less any oil and gas the
24 ownership or right to which is exempt from taxation or constitutes a lessor's royalty
25 interest under an oil and gas lease. The tax is equal to 20 percent of the production tax
26 value of the taxable oil and gas as calculated under AS 43.55.160.

27 * Sec. 6. AS 43.55.011 is amended by adding new subsections to read:

28 (e) There is levied on the producer of oil or gas a tax for all oil and gas
29 produced each month from each lease or property in the state the ownership or right to
30 which constitutes a lessor's royalty interest under an oil and gas lease, except for oil
31 and gas the ownership or right to which is exempt from taxation. The tax is equal to

1 five percent of the gross value at the point of production of the oil and gas. However,
2 if the department determines that, for purposes of reducing the producer's tax liability
3 under this subsection, the producer has received or will receive consideration from the
4 lessor offsetting all or a part of the producer's royalty obligation, the tax under this
5 subsection is equal to 20 percent of the gross value at the point of production of the oil
6 and gas.

7 (f) In addition to the taxes levied under (a) and (e) of this section, for each
8 month for which the oil price index determined under (g) of this section is greater than
9 zero, there is levied upon the producer of oil or gas a tax for oil and gas produced
10 during that month from each lease or property in the state, less any oil and gas the
11 ownership or right to which is exempt from taxation. The tax is equal to .30 percent of
12 the gross value at the point of production of the oil and gas multiplied by the oil price
13 index as determined under (g) of this section.

14 (g) The oil price index for a month is the number equal to the average United
15 States Gulf Coast price determined under (h) of this section for that month of West
16 Texas Intermediate crude oil in dollars per barrel, less 50, except that, if the average
17 price determined under (h) of this section is

- 18 (1) not more than \$50 per barrel, the oil price index is zero; and
19 (2) more than \$150 per barrel, the oil price index is 100.

20 (h) For purposes of (f) and (g) of this section, the department may calculate
21 the average price or may, by regulation, specify the method by which the average
22 price shall be calculated with reference to one or more published sources of price
23 information. If, in the department's judgment, reliable published sources of price
24 information on West Texas Intermediate crude oil cease, or appear likely to soon
25 cease, to be available, or if, in the department's judgment, the price of West Texas
26 Intermediate crude oil ceases, or appears likely to soon cease, to be a reliable indicator
27 of the general price level of crude oils, the department shall, by regulation, specify a
28 substitute formula for computing the oil price index. The substitute formula specified
29 by the department under this subsection must bear, as nearly as is reasonably possible,
30 the same relationship to the general price level of crude oils as did the United States
31 Gulf Coast price of West Texas Intermediate crude oil.

1 * Sec. 7. AS 43.55.017(a) is amended to read:

2 (a) Except as provided in this chapter, the taxes imposed by this chapter are in
3 place of all taxes now imposed by the state or any of its municipalities, and neither the
4 state nor a municipality may impose a tax on [UPON]

5 (1) producing oil or gas leases;

6 (2) oil or gas produced or extracted in the state;

7 (3) the value of intangible drilling and development costs, as
8 described in 26 U.S.C. 263(c) (Internal Revenue Code), as amended through
9 January 1, 1974 [EXPLORATION EXPENSES].

10 * Sec. 8. AS 43.55.020(a) is repealed and reenacted to read:

11 (a) The tax levied under AS 43.55.011(a) shall be paid monthly. The tax, net
12 of any credits applied under this chapter, is due on the last day of each calendar month
13 on oil and gas produced from each lease or property during the preceding month. An
14 unpaid amount of tax that is not paid when due in accordance with this subsection
15 becomes delinquent. An overpayment of tax for a month may be applied against the
16 tax due for a later month. Notwithstanding any contrary provision of AS 43.05.280,
17 interest on an overpayment is allowed only from a date that is 90 days after the
18 statement required under AS 43.55.030(e) to be filed on or before March 31 of the
19 year following the calendar year during which the oil and gas were produced is filed.
20 However, interest is not allowed if the overpayment was refunded within the 90-day
21 period.

22 * Sec. 9. AS 43.55.020(b) is amended to read:

23 (b) The production tax on oil and [OR] gas shall be paid by or on behalf of the
24 producer.

25 * Sec. 10. AS 43.55.020(d) is amended to read:

26 (d) In making settlement with the royalty owner for oil or gas that is taxable
27 under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable
28 royalty oil and [OR] gas, or may deduct taxable royalty oil or gas equivalent in value
29 at the time the tax becomes due to the amount of the tax paid. Unless otherwise
30 agreed between the producer and the royalty owner, the amount of the tax paid
31 under AS 43.55.011 on taxable royalty oil and gas for a month other than oil or

1 gas the ownership or right to which constitutes a lessor's royalty interest under
2 an oil or gas lease is considered to be the gross value at the point of production of
3 the taxable royalty oil and gas produced during the month multiplied by a figure
4 that is a quotient, in which

5 (1) the numerator is the producer's total tax liability under
6 AS 43.55.011(a) for the month of production; and

7 (2) the denominator is the total gross value at the point of
8 production of the oil and gas taxable under AS 43.55.011(a) produced by the
9 producer from all leases and properties in the state during the month.

10 * Sec. 11. AS 43.55.020(e) is repealed and reenacted to read:

11 (e) Gas flared, released, or allowed to escape in excess of the amount
12 authorized by the Alaska Oil and Gas Conservation Commission is considered, for the
13 purpose of AS 43.55.011 - 43.55.170, as gas produced from a lease or property. Oil or
14 gas used in the operation of a lease or property in the state in drilling for or producing
15 oil or gas, or for repressuring, except to the extent determined by the Alaska Oil and
16 Gas Conservation Commission to be waste, is not considered, for the purpose of
17 AS 43.55.011 - 43.55.170, as oil or gas produced from a lease or property.

18 * Sec. 12. AS 43.55.020(f) is amended to read:

19 (f) If oil or gas is not sold, or if oil or gas is sold under circumstances where
20 the sale price does not represent the prevailing value for oil or gas of like kind,
21 character, or quality in the field or area from which the product is produced, the
22 department may require the tax to be paid upon the basis of the value of oil or gas of
23 the same kind, quality, and character prevailing during the calendar month of
24 production for that field or area.

25 * Sec. 13. AS 43.55.020 is amended by adding new subsections to read:

26 (g) The tax levied under AS 43.55.011(e) and (f) shall be paid monthly and is
27 due on the last day of each calendar month on oil and gas produced from each lease or
28 property during the preceding month, and, if not paid before the end of the month in
29 which it becomes due, the tax becomes delinquent.

30 (h) If less than 90 percent of the total tax levied under AS 43.55.011(a), (e),
31 and (f) is paid when due under this section, a civil penalty of five percent of the

1 difference between the amount paid and 90 percent of the tax due shall be added to the
2 tax. The amount shall be added irrespective of whether the underpayment is also
3 subject to a penalty under AS 43.05.220. However, a penalty paid under this
4 subsection may be credited against a penalty or penalties assessed under AS 43.05.220
5 with respect to the same underpayment, but the credit may not exceed the total amount
6 of those penalties.

7 * **Sec. 14.** AS 43.55 is amended by adding a new section to read:

8 **Sec. 43.55.024. Tax credits for certain losses and expenditures.** (a)

9 Notwithstanding that a qualified capital expenditure may be a deductible lease
10 expenditure for purposes of calculating the production tax value of oil and gas under
11 AS 43.55.160(a), a producer or explorer that incurs a qualified capital expenditure
12 may also elect to take a tax credit in the amount of 20 percent of that expenditure,
13 unless a credit for that expenditure is taken under AS 43.55.025. A credit under this
14 subsection may be applied only against a tax due under AS 43.55.011(a). For a
15 calendar year for which the producer makes an election under AS 43.55.160(f), instead
16 of taking a tax credit of 20 percent of each separate qualified capital expenditure after
17 it has been incurred, a producer that incurs a qualified capital expenditure during that
18 year and that wishes to apply a credit based on that expenditure against a tax due
19 under AS 43.55.011(a) shall calculate and apply every month an annualized tax credit
20 in an amount equal to one and two-thirds percent of the total qualified capital
21 expenditures incurred during that year and for which the tax credit is taken for that
22 year.

23 (b) A producer or explorer may elect to take a tax credit in the amount of 20
24 percent of a carried-forward annual loss. A credit under this subsection may be applied
25 only against a tax due under AS 43.55.011(a). For purposes of this subsection, a
26 carried-forward annual loss is the amount of a producer's or explorer's adjusted lease
27 expenditures under AS 43.55.160 for a previous calendar year that was not deductible
28 in any month under AS 43.55.160(a) and (b).

29 (c) A credit or portion of a credit under this section may not be used to reduce
30 a person's tax liability under AS 43.55.011(a) for any month below zero, and any
31 unused credit or portion of a credit not used under this subsection may be applied in a

1 later month.

2 (d) A person entitled to take a tax credit under this section that wishes to
3 transfer the unused credit to another person or to obtain a refund under (f) of this
4 section may apply to the department for a transferable tax credit certificate. An
5 application under this subsection must be on a form prescribed by the department and
6 must include supporting information and documentation that the department
7 reasonably requires. The department shall grant or deny an application, or grant an
8 application as to a lesser amount than that claimed and deny it as to the excess, not
9 later than 60 days after the latest of (1) March 31 of the year following the calendar
10 year in which the qualified capital expenditure or carried-forward annual loss for
11 which the credit is claimed was incurred; (2) if the applicant is required under
12 AS 43.55.030(e) to file a statement on or before March 31 of the year following the
13 calendar year in which the qualified capital expenditures or carried-forward annual
14 loss for which the credit was incurred, the date the statement was filed; or (3) the date
15 the application was received by the department. If, based on the information then
16 available to it, the department is reasonably satisfied that the applicant is entitled to a
17 credit, the department shall issue the applicant a transferable tax credit certificate for
18 the amount of the credit. A certificate issued under this subsection does not expire.

19 (e) A person to which a transferable tax credit certificate is issued under (d) of
20 this section may transfer the certificate to another person, and a transferee may further
21 transfer the certificate. Subject to the limitations set out in (a) - (c) of this section, and
22 notwithstanding any action the department may take with respect to the applicant
23 under (g) of this section, the owner of a certificate may apply the credit or a portion of
24 the credit shown on the certificate only against a tax due under AS 43.55.011(a).
25 However, a credit shown on a transferable tax credit certificate may not be applied to
26 reduce a transferee's total tax due under AS 43.55.011(a) on oil and gas produced
27 during a calendar year to less than 80 percent of the tax that would otherwise be due
28 without applying that credit, and any portion of a credit not used under this subsection
29 may be applied in a later period.

30 (f) Under standards established in regulations adopted by the department and
31 subject to appropriations made by law, the department, on the written application of

1 the person to whom a transferable tax credit has been issued under (d) of this section,
2 shall issue a cash refund, in whole or in part, for the certificate if the department finds

3 (1) after investigation and audit of the tax credit claim by the
4 department, the applicant is entitled to the credit to the extent of the refund amount;

5 (2) within 24 months after having applied for the transferable tax credit
6 certificate, the applicant incurred a qualified capital expenditure or was the successful
7 bidder on a bid submitted for a lease on state land under AS 38.05.180(f);

8 (3) the amount of the refund would not exceed the total of qualified
9 capital expenditures and successful bids described in (2) of this subsection that have
10 not been the subject of a finding made under this paragraph for purposes of a previous
11 refund;

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

14 (5) the sum of the amount of the refund applied for and amounts
15 previously refunded to the applicant during the calendar year under this subsection
16 would not exceed \$10,000,000.

17 (g) The issuance of a transferable tax credit certificate under (d) of this section
18 does not limit the department's ability to later investigate or audit a tax credit claim to
19 which the certificate relates or to adjust or deny the claim if the department determines
20 that the applicant was not entitled to the amount of the credit for which the certificate
21 was issued. The tax liability of the applicant under AS 43.55.011 - 43.55.170 is
22 increased by the amount of the credit that exceeds that to which the applicant was
23 entitled. That amount bears interest under AS 43.05.225 from the date the transferable
24 tax credit certificate was issued. For purposes of this subsection, an applicant that is an
25 explorer is considered a producer subject to the tax levied under AS 43.55.011.

26 (h) The department may adopt regulations to carry out the purposes of this
27 section, including prescribing reporting, record keeping, and certification procedures
28 and requirements to verify the accuracy of credits claimed and to ensure that a credit is
29 not used more than once, and otherwise implementing this section.

30 (i) A producer or explorer may not elect to take a tax credit under this section
31 for a lease expenditure under AS 43.55.160 that is an expenditure incurred

1 (1) to acquire an asset (A) the cost of previously acquiring which was a
2 lease expenditure under AS 43.55.160(c) or would have been a lease expenditure
3 under AS 43.55.160(c) if it had been incurred on or after April 1, 2006; or (B) that has
4 previously been placed in service in the state; an expenditure to acquire an asset is not
5 excluded under this paragraph if not more than an immaterial portion of the asset
6 meets a description under (A) or (B) of this paragraph; for purposes of this paragraph,
7 "asset" includes geological, geophysical, and well data and interpretations; or

8 (2) for an extended period of disuse, dismantlement, removal,
9 surrender, or abandonment of a well, facility, pipeline, platform, or other structure, or
10 for the restoration of a lease, field, unit, area, or body of water in conjunction with an
11 extended period of disuse, dismantlement, removal, surrender, or abandonment of a
12 facility described in this paragraph.

13 (j) In this section, "qualified capital expenditure" means, except as otherwise
14 provided in (i) of this section, an expenditure that is a lease expenditure under
15 AS 43.55.160 and is

16 (1) incurred for geological or geophysical exploration; or

17 (2) treated as a capitalized expenditure under 26 U.S.C. (Internal
18 Revenue Code), as amended, regardless of elections made under 26 U.S.C. 263(c)
19 (Internal Revenue Code), as amended, and either is treated as a capitalized expenditure
20 by the person incurring the expenditure or is eligible to be deducted as an expense
21 under 26 U.S.C. 263(c) (Internal Revenue Code), as amended.

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

23 (a) Subject to the terms and conditions of this section, on oil and gas produced
24 on or after July 1, 2004, from an oil and gas lease, or on gas produced from a gas only
25 lease, a credit against the production tax due under AS 43.55.011(a) [THIS
26 CHAPTER] is allowed for exploration expenditures that qualify under (b) of this
27 section in an amount equal to one of the following:

28 (1) 20 percent of the total exploration expenditures that qualify only
29 under (b) and (c) of this section;

30 (2) 20 percent of the total exploration expenditures for work performed
31 before July 1, 2007, and that qualify only under (b) and (d) of this section;

1 (3) 40 percent of the total exploration expenditures that qualify under
2 (b), (c), and (d) of this section; or

3 (4) 40 percent of the total exploration expenditures that qualify only
4 under (b) and (e) of this section.

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

6 (b) To qualify for the production tax credit under (a) of this section, an
7 exploration expenditure must be incurred for work performed on or after July 1, 2003,
8 and before July 1, 2016 [2007], except that an exploration expenditure for a Cook Inlet
9 prospect must be incurred for work performed on or after July 1, 2005, [AND
10 BEFORE JULY 1, 2010, AND EXCEPT THAT AN EXPLORATION
11 EXPENDITURE, IN WHOLE OR IN PART, SOUTH OF 68 DEGREE, 15
12 MINUTES, NORTH LATITUDE, AND NOT PART OF A COOK INLET
13 PROSPECT MUST BE INCURRED FOR WORK PERFORMED ON OR AFTER
14 JULY 1, 2003, AND BEFORE JULY 1, 2010,] and

15 (1) may be for seismic or geophysical exploration costs not connected
16 with a specific well;

17 (2) if for an exploration well,

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

20 (B) may be for either an oil or gas discovery well or a dry hole;

21 and

22 (C) must be for goods, services, or rentals of personal property
23 reasonably required for the surface preparation, drilling, casing, cementing,
24 and logging of an exploration well, and, in the case of a dry hole, for the
25 expenses required for abandonment if the well is abandoned within 18 months
26 after the date the well was spudded;

27 (3) may not be for testing, stimulation, or completion costs;
28 administration, supervision, engineering, or lease operating costs; geological or
29 management costs; community relations or environmental costs; bonuses, taxes, or
30 other payments to governments related to the well; or other costs that are generally
31 recognized as indirect costs or financing costs; and

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

4 * Sec. 17. AS 43.55.025(f) is amended to read:

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

6 (1) an explorer shall, in a form prescribed by the department and
7 within six months of the completion of the exploration activity, claim the credit and
8 submit information sufficient to demonstrate to the department's satisfaction that the
9 claimed exploration expenditures qualify under this section;

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

11 (A) to notify the Department of Natural Resources, within 30
12 days after completion of seismic or geophysical data processing, completion of
13 a well, or filing of a claim for credit, whichever is the latest, for which
14 exploration costs are claimed, of the date of completion and submit a report to
15 that department describing the processing sequence and providing a list of data
16 sets available; if, under (c)(2)(B) of this section, an explorer submits a claim
17 for a credit for expenditures for an exploration well that is located within three
18 miles of a well already drilled for oil and gas, in addition to the submissions
19 required under (1) of this subsection, the explorer shall submit the information
20 necessary for the commissioner of natural resources to evaluate the validity of
21 the explorer's claim that the well is directed at a distinctly separate exploration
22 target, and the commissioner of natural resources shall, upon receipt of all
23 evidence sufficient for the commissioner to evaluate the explorer's claim, make
24 that determination within 60 days;

25 (B) to provide to the Department of Natural Resources, within
26 30 days after the date of a request, specific data sets, ancillary data, and reports
27 identified in (A) of this paragraph;

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

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

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

7 (5) if the department is satisfied that the explorer's claimed
8 expenditures are qualified under this section, the department shall issue to the explorer
9 a production tax credit certificate for the amount of credit to be allowed against
10 production taxes due under AS 43.55.011(a) [THIS CHAPTER]; however,
11 notwithstanding any other provision of this section, the department may not issue to an
12 explorer a production tax credit certificate if the total of production tax credits
13 submitted for Cook Inlet production, based on exploration expenditures for work
14 performed during the period described in (b) of this section for that production, that
15 have been approved by the department exceeds \$20,000,000.

16 * Sec. 18. AS 43.55.025(h) is amended to read:

17 (h) A producer that purchases a production tax credit certificate may apply the
18 credits against its production tax liability under AS 43.55.011(a) [THIS CHAPTER].
19 Regardless of the price the producer paid for the certificate, the producer may receive
20 a credit against its production tax liability for the full amount of the credit, but for not
21 more than the amount for which the certificate is issued. A production tax credit
22 allowed under this section may not be applied more than once.

23 * Sec. 19. AS 43.55.025(i) is amended to read:

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

25 (1) the amount of the credit that may be applied against the production
26 tax for each tax month may not exceed the total production tax liability under
27 AS 43.55.011(a) of the taxpayer applying the credit for the same month; and

28 (2) an amount of the production tax credit that is greater than the total
29 tax liability under AS 43.55.011(a) of the taxpayer applying the credit for a tax month
30 may be carried forward and applied against the taxpayer's production tax liability
31 under AS 43.55.011(a) in one or more immediately following months.

1 * Sec. 20. AS 43.55.030(a) is amended to read.

2 (a) The tax shall be paid to the department and the person paying the tax shall
3 file with the department at the time the tax is required to be paid a statement, under
4 oath, on forms prescribed by or acceptable to the department, giving, with other
5 information required, the following:

6 (1) a description of each [THE] lease or property from which the oil
7 and [OR] gas were [WAS] produced, by name, legal description, lease number, or
8 [BY] accounting codes [CODE NUMBERS] assigned by the department;

9 (2) the names of the producer and the person paying the tax;

10 (3) the gross amount of oil and the gross amount of [OR] gas
11 produced from each [THE] lease or property, and the percentage of the gross amount
12 of oil and gas owned by each producer for whom the tax is paid;

13 (4) the gross [TOTAL] value at the point of production of the oil
14 and of the [OR] gas produced from each [THE] lease or property owned by each
15 producer for whom the tax is paid; [AND]

16 (5) the name of the first purchaser and the price received for the oil
17 and for the [OR] gas, unless relieved from this requirement in whole or in part by
18 the department; and

19 (6) the producer's lease expenditures and adjustments as
20 calculated under AS 43.55.160 [IF SOLD IN THE STATE].

21 * Sec. 21. AS 43.55.030(d) is amended to read:

22 (d) Reports by or on behalf of the producer are delinquent the first day
23 following the day the tax is due. [EACH PRODUCER IS SUBJECT TO A PENALTY
24 OF \$25 A DAY FOR EACH LEASE OR PROPERTY UPON WHICH THE
25 REPORT IS NOT FILED. THE PENALTY FOR FAILURE TO FILE A REPORT IS
26 IN ADDITION TO THE PENALTY FOR DELINQUENT TAXES, AND IS A LIEN
27 AGAINST THE ASSETS OF THE PRODUCER.]

28 * Sec. 22. AS 43.55.030 is amended by adding a new subsection to read:

29 (e) The person paying the tax under AS 43.55.011(a) shall file a statement on
30 or before March 31 of a year showing any adjustments or corrections to the statements
31 that were required under (a) of this section to be filed for the months of the preceding

1 calendar year during which the oil or gas was produced.

2 * Sec. 23. AS 43.55.040 is amended to read:

3 **Sec. 43.55.040. Powers of Department of Revenue.** Except as provided in
4 AS 43.05.405 - 43.05.409, the department may

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

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

18 (B) impose appropriate conditions limiting

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

23 (ii) the use of the information to use for the purpose
24 of determining or contesting the producer's tax obligation;

25 (2) examine the books, records, and files of such a person;

26 (3) conduct hearings and compel the attendance of witnesses and the
27 production of books, records, and papers of any person; and

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

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

1 (B) the rendition of the oil and gas for taxing purposes.

2 * Sec. 24. AS 43.55.080 is amended to read:

3 **Sec. 43.55.080. Collection and deposit of revenue.** Except as otherwise
4 provided under art. IX, sec. 17, Constitution of the State of Alaska, the [THE]
5 department shall deposit in the general fund the money collected by it under
6 AS 43.55.011 - 43.55.170 [AS 43.55.011 - 43.55.150].

7 * Sec. 25. AS 43.55.135 is amended to read:

8 **Sec. 43.55.135. Measurement.** For the purposes of AS 43.55.011 - 43.55.170
9 [AS 43.55.011 - 43.55.150], oil is [SHALL BE] measured in terms of a "barrel of oil"
10 and gas is [SHALL BE] measured in terms of a "cubic foot of gas."

11 * Sec. 26. AS 43.55.150(a) is amended to read:

12 (a) For the purposes of AS 43.55.011 - 43.55.170 [AS 43.55.011 - 43.55.150],
13 the gross value at the point of production is [SHALL BE] calculated using the
14 reasonable costs of transportation of the oil or gas. The reasonable costs of
15 transportation are [SHALL BE] the actual costs, except when the

16 (1) [WHEN THE] parties to the transportation of oil or gas are
17 affiliated;

18 (2) [WHEN THE] contract for the transportation of oil or gas is not an
19 arm's length transaction or is not representative of the market value of that
20 transportation;

21 (3) [WHEN THE] method of transportation of oil or gas is not
22 reasonable in view of existing alternative methods of transportation.

23 * Sec. 27. AS 43.55.150 is amended by adding a new subsection to read:

24 (d) Under regulations adopted by the department, the department may allow a
25 producer, subject to limitations prescribed by the department as to the frequency of
26 making elections, to elect prospectively to calculate the gross value at the point of
27 production of oil or gas based in whole or part on

28 (1) a royalty value determined under a royalty settlement agreement
29 between the producer and the state, with adjustments if appropriate;

30 (2) a formula prescribed by the department that uses, with adjustments
31 if appropriate, a royalty value or valuation methodology accepted by the

1 (A) Department of Natural Resources under AS 38.05, in the
2 case of oil and gas produced from a lease issued by the Department of Natural
3 Resources or produced from a lease or property that is part of a unit approved
4 by the Department of Natural Resources; or

5 (B) United States Department of the Interior under applicable
6 federal oil and gas leasing statutes, in the case of oil and gas produced from a
7 lease issued by the United States Department of the Interior that is not part of a
8 unit approved by the Department of Natural Resources, or produced from a
9 lease or property that is part of a unit approved by the United States
10 Department of the Interior but not approved by the Department of Natural
11 Resources; or

12 (3) another formula prescribed by the Department of Revenue that
13 reasonably estimates a value for the oil or gas at a specific geographical location, such
14 as the point of tender or delivery into a common carrier pipeline; the formula may use
15 factors such as published price indices for oil or gas in or outside the state, quality
16 differentials for oil or gas, transportation costs between markets, and inflation
17 adjustments.

18 * Sec. 28. AS 43.55 is amended by adding new sections to article 1 to read:

19 **Sec. 43.55.160. Determination of production tax value of oil and gas. (a)**

20 Except as provided in (f) of this section, for purposes of AS 43.55.011(a), the
21 production tax value of the taxable oil and gas produced during a month is the total of
22 the gross value at the point of production of the oil and gas taxable under
23 AS 43.55.011(a) and produced by the producer from all leases or properties in the
24 state, (1) less the producer's tax paid for the month under AS 43.55.011(f); (2) less the
25 producer's lease expenditures for the month as adjusted under (e) of this section, and
26 (3) to the extent allowed under (g) of this section and until the total amount of the
27 producer's transitional investment expenditures has been deducted, less an amount
28 equal to 1/84 of the producer's transitional investment expenditures. However, the
29 production tax value calculated under this subsection may not be less than zero. If a
30 producer does not produce taxable oil or gas during a month, the producer is
31 considered to have generated a positive production tax value if the calculation

1 described in this subsection yields a positive number because the producer's adjusted
2 lease expenditures for a month are less than zero as a result of the producer's receiving
3 a payment or credit under (e) of this section or otherwise.

4 (b) For purposes of administration of (a) of this section,

5 (1) any adjusted lease expenditures that would otherwise be deductible
6 in a month but the deduction of which would cause the production tax value calculated
7 under (a) of this section of the taxable oil and gas produced during the month to be
8 less than zero may be added to the producer's adjusted lease expenditures for one or
9 more other months in the same calendar year; the total of any adjusted lease
10 expenditures that are not deductible in any month during a calendar year because their
11 deduction would cause the production tax value calculated under (a) of this section of
12 the taxable oil and gas produced during one or more months to be less than zero may
13 be used to establish a carried-forward annual loss under AS 43.55.024(b);

14 (2) an amount of transitional investment expenditures that would
15 otherwise be deductible in a month but the deduction of which would cause the
16 production tax value calculated under (a) of this section of the taxable oil and gas
17 produced during the month to be less than zero

18 (A) may be deducted in a later month during any calendar year
19 to the extent allowed under (g) of this section, but not more than 1/84 of a
20 producer's transitional investment expenditures may be deducted in any month;

21 (B) may not be used to establish a carried-forward annual loss
22 under AS 43.55.024(b);

23 (3) an explorer that has taken a tax credit under AS 43.55.024(b) or
24 that has obtained a transferable tax credit certificate under AS 43.55.024(d) for the
25 amount of a tax credit under AS 43.55.024(b) is considered a producer, subject to the
26 tax levied under AS 43.55.011(a), to the extent that the explorer generates a positive
27 production tax value as the result of the explorer's receiving a payment or credit
28 described in (e) of this section.

29 (c) For purposes of this section,

30 (1) a producer's lease expenditures for a period are the total costs
31 upstream of the point of production of oil and gas that are incurred on or after April 1,

1 2006, by the producer during the period and that are direct, ordinary, and necessary
2 costs of exploring for, developing, or producing oil or gas deposits located within the
3 producer's leases or properties in the state or, in the case of land in which the producer
4 does not own a working interest, direct, ordinary, and necessary costs of exploring for
5 oil or gas deposits located within other land in the state; however, lease expenditures
6 do not include the costs incurred to satisfy a work commitment under an exploration
7 license under AS 38.05.132; in determining whether costs are direct, ordinary, and
8 necessary costs of exploring for, developing, or producing an oil or gas deposit located
9 within a lease or property or other land in the state, the department shall give
10 substantial weight to

11 (A) the typical industry practices and standards in the state and
12 in the United States as to costs that an operator is allowed to bill a working
13 interest owner that is not the operator, under unit operating agreements or
14 similar operating agreements that were in effect on or before December 1,
15 2005, and were subject to negotiation with working interest owners, not the
16 operator, with substantial bargaining power; and

17 (B) the standards adopted by the Department of Natural
18 Resources as to the costs, other than interest, that a lessee is allowed to deduct
19 from revenue in calculating net profits under a lease issued under
20 AS 38.05.180(f)(3)(B), (D), or (E);

21 (2) the Department of Revenue may authorize a producer, including a
22 producer that is the operator, to treat as its lease expenditures under this section the
23 costs paid by the producer that are billed to the producer by an operator in accordance
24 with the terms of a unit operating agreement or similar operating agreement if the
25 Department of Revenue finds that

26 (A) the pertinent provisions of the operating agreement are
27 substantially consistent with the Department of Revenue's determinations and
28 standards otherwise applicable under this subsection; and

29 (B) at least one working interest owner party to the agreement,
30 other than the operator, has substantial incentive and ability to effectively audit
31 billings under the agreement.

1 (d) For purposes of (c) of this section, "direct costs"

2 (1) includes

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

7 (B) payments of property taxes, sales and use taxes, motor fuel
8 taxes, and excise taxes;

9 (C) a reasonable allowance, as determined under regulations
10 adopted by the department, for overhead expenses directly related to exploring
11 for, developing, and producing oil or gas deposits located within leases or
12 properties or other land in the state;

13 (2) does not include

14 (A) depreciation or amortization;

15 (B) royalty payments for oil and gas;

16 (C) taxes based on or measured by net income;

17 (D) interest or other financing charges or costs of raising equity
18 or debt capital;

19 (E) acquisition costs for a lease or property or exploration
20 license;

21 (F) costs arising from fraud, wilful misconduct, or negligence;

22 (G) fines or penalties imposed by law;

23 (H) costs of arbitration, litigation, or other dispute resolution
24 activities that involve the state or concern the rights or obligations among
25 owners of interests in, or rights to production from, one or more leases or
26 properties or a unit;

27 (I) donations;

28 (J) costs incurred in organizing a partnership, joint venture, or
29 other business entity or arrangement;

30 (K) amounts paid to indemnify the state; the exclusion
31 provided by this paragraph does not apply to the costs of obtaining insurance

1 or a surety bond from a third-party insurer or surety;

2 (L) surcharges levied under AS 43.55.201 or 43.55.300.

3 (e) A producer's lease expenditures must be adjusted by subtracting any
4 payment or credit the producer receives for

5 (1) the use by another person of a production facility in which the
6 producer has an ownership interest;

7 (2) a reimbursement or similar payment that offsets the producer's
8 lease expenditures, including a payment from the state or federal government for
9 reimbursement of the producer's upstream costs, including costs for gathering,
10 separating, cleaning, dehydration, con.pressing, or other field handling associated with
11 the production of oil or gas upstream of the point of production;

12 (3) the sale or other transfer of

13 (A) an asset, including geological, geophysical, or well data or
14 interpretations, acquired by the producer as a result of a lease expenditure or an
15 expenditure that would be a lease expenditure if it were incurred on or after
16 April 1, 2006; and

17 (B) oil or gas

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

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

22 (f) In place of the adjusted lease expenditures for a month under (a) of this
23 section, a producer may, at any time, elect to substitute, for every month of a calendar
24 year, one-twelfth of the producer's adjusted lease expenditures for the calendar year.

25 (g) For purposes of this section,

26 (1) a producer's transitional investment expenditures are the sum of the
27 expenditures the producer incurred on or after January 1, 2003, and before April 1,
28 2006, that would be qualified capital expenditures, as defined in AS 43.55.024, if they
29 were incurred on or after April 1, 2006, less the sum of the payments or credits the
30 producer received before April 1, 2006, for the sale or other transfer of assets,
31 including geological, geophysical, or well data or interpretations, acquired by the

1 producer as a result of expenditures the producer incurred before April 1, 2006, that
2 would be qualified capital expenditures, as defined in AS 43.55.024, if they were
3 incurred on or after April 1, 2006, multiplied by

4 (A) 25 percent for expenditures incurred on or after January 1,
5 2003, and before January 1, 2004;

6 (B) 50 percent for expenditures incurred on or after January 1,
7 2004, and before January 1, 2005; and

8 (C) 75 percent for expenditures incurred on or after January 1,
9 2005, and before April 1, 2006;

10 (2) notwithstanding (1) of this subsection, an amount of transitional
11 investment expenditures may not be deducted under (a) of this section for a month for
12 which the average price of Alaska North Slope oil delivered on the United States West
13 Coast, as determined under (h) of this section, is equal to or less than \$40 a barrel, as
14 adjusted for inflation under (h) of this section.

15 (h) The average price described in (g) of this section shall be an average, as
16 calculated using a formula prescribed by the department by regulation, of published
17 daily spot price assessments during the month for Alaska North Slope oil delivered on
18 the United States West Coast. However, if the department determines that the daily
19 assessments cease to be published throughout the calendar year or appear likely to
20 soon cease to be published throughout the calendar year or that they cease to be
21 reliable evidence of market conditions or appear likely to soon cease to be reliable
22 evidence of market conditions, the department shall by regulation provide that the
23 average price described in (g) of this section is the prevailing value of Alaska North
24 Slope oil delivered on the United States West Coast as determined under regulations
25 of the department implementing AS 43.55.020(f). For each year after 2006, the
26 department shall adjust the reference price of \$40 a barrel set out in (g) of this section
27 for inflation. The dollar amount in (g) of this section changes according to and to the
28 extent of changes in the Consumer Price Index for all urban consumers for the
29 Anchorage Metropolitan Area compiled by the Bureau of Labor Statistics, United
30 States Department of Labor (the index). The index for January of 2006 is the reference
31 base index. If the index is revised, the percentage of change is calculated based on the

1 revised index. If a revision of the index changes the reference base index, a revised
2 reference base index is determined by multiplying the reference base index applicable
3 by the rebasing factor furnished by the United States Bureau of Labor Statistics. If the
4 index is superseded, the index referred to in this section is the one represented by the
5 United States Bureau of Labor Statistics as reflecting most accurately changes in the
6 purchasing power of the dollar for Alaska consumers.

7 (i) The department shall specify or approve a reasonable allocation method for
8 determining the portion of a cost that is appropriately treated as a lease expenditure
9 under (c) of this section if a cost that would otherwise constitute a lease expenditure
10 under (c) of this section is incurred to explore for, develop, or produce

11 (1) both an oil or gas deposit located within land outside the state and
12 an oil or gas deposit located within a lease or property, or other land, in the state; or

13 (2) an oil or gas deposit located partly within land outside the state and
14 partly within a lease or property, or other land, in the state.

15 (j) The department may adopt regulations that establish additional standards
16 necessary to carrying out the purposes of this section.

17 (k) For purposes of AS 43.55.024(a) and (b) and only as to expenditures
18 incurred to explore for an oil or gas deposit located within land in which an explorer
19 does not own a working interest, the term "producer" in (b), (c), and (e) of this section
20 includes "explorer."

21 (l) For purposes of this section,

22 (1) "explore" includes conducting geological or geophysical
23 exploration, including drilling a stratigraphic test well, but the drilling of a
24 stratigraphic test well qualifies under this paragraph only if the well's target zones are
25 located in the state;

26 (2) "ordinary and necessary" has the meaning given "ordinary and
27 necessary" in 26 U.S.C. 162 (Internal Revenue Code) and regulations adopted under
28 that section;

29 (3) "stratigraphic test well" means a well drilled for the sole purpose of
30 obtaining geological information to aid in exploring for an oil or gas deposit and the
31 target zones of which are located in the state.

1 **Sec. 43.55.170. Additional nontransferable credit.** (a) For a month for which
2 a producer's tax liability under AS 43.55.011(a) exceeds zero before application of any
3 credits under this chapter, a producer that is qualified under (b) of this section may
4 apply a tax credit against that liability under this section. The tax credit authorized by
5 this subsection may be calculated and applied so that

6 (1) the producer's tax liability under AS 43.55.011(a) before
7 applications of any credits under this chapter is not reduced below zero; and

8 (2) the total of the tax credits applied under this subsection during a
9 calendar year does not exceed \$10,000,000, except that the total of the tax credits
10 applied under this subsection during calendar year 2016 does not exceed \$2,500,000.

11 (b) On written application by a producer, including any information the
12 department may require, the department shall determine whether the producer
13 qualifies under this section for a calendar year. To qualify under this section, a
14 producer must demonstrate that its operation in the state or its ownership of an interest
15 in a lease or property in the state as a distinct producer entity would not result in the
16 division among multiple producer entities of any production tax liability under
17 AS 43.55.011(a) that would be reasonably expected to be attributed to a single
18 producer entity if the tax credit provision of (a) of this section did not exist.

19 (c) An unused tax credit or portion of a tax credit under this section is not
20 transferable under AS 43.55.024(d) or refundable under AS 43.55.024(f), and may not
21 be carried forward to or used in a later calendar year.

22 (d) The use of a tax credit under this section does not prevent a producer from
23 taking a tax credit under AS 43.55.024(a) or 43.55.025 for the same qualified
24 expenditure.

25 (e) A producer may not claim a credit under this section for a qualified capital
26 expenditure incurred after March 31, 2016.

27 * **Sec. 29.** AS 43.55.201(a) is amended to read:

28 (a) Every producer of oil shall pay a surcharge of \$.01 [\$.02] per barrel of oil
29 produced from each lease or property in the state, less any oil the ownership or right to
30 which is exempt from taxation.

31 * **Sec. 30.** AS 43.55.201(b) is amended to read:

1 (b) The surcharge imposed by (a) of this section is in addition to and shall be
2 paid in the same manner as the tax imposed by AS 43.55.011 - 43.55.170,
3 [AS 43.55.011 - 43.55.150;] and is in addition to the surcharge imposed by
4 AS 43.55.300 - 43.55.310.

5 * Sec. 31. AS 43.55.201(c) is amended to read:

6 (c) A producer of oil shall make reports of production in the same manner and
7 under the same penalties as required under AS 43.55.011 - 43.55.170 [AS 43.55.011 -
8 43.55.150].

9 * Sec. 32. AS 43.55.201 is amended by adding a new subsection to read:

10 (d) Oil not considered under AS 43.55.020(e) to be produced from a lease or
11 property is not considered to be produced from a lease or property for purposes of this
12 section.

13 * Sec. 33. AS 43.55.300(a) is amended to read:

14 (a) Every producer of oil shall pay a surcharge of \$.04 [\$.03] per barrel of oil
15 produced from each lease or property in the state, less any oil the ownership or right to
16 which is exempt from taxation.

17 * Sec. 34. AS 43.55.300(b) is amended to read:

18 (b) The surcharge imposed by (a) of this section is in addition to and shall be
19 paid in the same manner as the tax imposed by AS 43.55.011 - 43.55.170,
20 [AS 43.55.011 - 43.55.150;] and is in addition to the surcharge imposed by
21 AS 43.55.201 - 43.55.231.

22 * Sec. 35. AS 43.55.300(c) is amended to read:

23 (c) A producer of oil shall make reports of production in the same manner and
24 under the same penalties as required under AS 43.55.011 - 43.55.170 [AS 43.55.011 -
25 43.55.150].

26 * Sec. 36. AS 43.55.300 is amended by adding a new subsection to read:

27 (d) Oil not considered under AS 43.55.020(e) to be produced from a lease or
28 property is not considered to be produced from a lease or property for purposes of this
29 section.

30 * Sec. 37. AS 43.55.900(6) is repealed and reenacted to read:

31 (6) "gas" means

- 1 (A) all natural, associated, or casinghead gas;
- 2 (B) all hydrocarbons that
- 3 (i) are recovered by mechanical separation of well
- 4 fluids or by gas processing; and
- 5 (ii) exist in a gaseous phase at the completion of
- 6 mechanical separation and any gas processing; and
- 7 (C) all other hydrocarbons produced from a well not defined as
- 8 oil;

9 * Sec. 38. AS 43.55.900(7) is repealed and reenacted to read:

10 (7) "gross value at the point of production" means

11 (A) for oil, the value of the oil at the automatic custody transfer

12 meter or device through which the oil enters into the facilities of a carrier

13 pipeline or other transportation carrier in a condition of pipeline quality; in the

14 absence of an automatic custody transfer meter or device, "gross value at the

15 point of production" means the value of the oil at the mechanism or device to

16 measure the quantity of oil that has been approved by the department for that

17 purpose, through which the oil is tendered and accepted in a condition of

18 pipeline quality into the facilities of a carrier pipeline or other transportation

19 carrier or into a field topping plant;

20 (B) for gas, other than gas described in (C) of this paragraph,

21 that is

22 (i) not subjected to or recovered by mechanical

23 separation or gas processing, the value of the gas at the first point

24 where the gas is accurately metered;

25 (ii) subjected to or recovered by mechanical separation

26 but not gas processing, the value of the gas at the first point where the

27 gas is accurately metered after completion of mechanical separation;

28 (iii) subjected to or recovered by gas processing, the

29 value of the gas at the first point where the gas is accurately metered

30 after completion of gas processing;

31 (C) for gas run through an integrated gas processing and gas

1 treatment facility that does not accurately meter the gas after the gas
2 processing and before the gas treatment, the value of the gas at the first point
3 where gas processing is completed or where gas treatment begins, whichever is
4 further upstream;

5 * Sec. 39. AS 43.55.900(10) is repealed and reenacted to read:

6 (10) "oil" means

7 (A) crude petroleum oil; and

8 (B) all liquid hydrocarbons that are recovered by mechanical
9 separation of well fluids or by gas processing;

10 * Sec. 40. AS 43.55.900 is amended by adding new paragraphs to read:

11 (17) "explorer" means a person who, in exploring for new oil or gas
12 reserves, incurs expenditures;

13 (18) "gas processing"

14 (A) means processing a gaseous mixture of hydrocarbons

15 (i) by means of absorption, adsorption, externally
16 applied refrigeration, artificial compression followed by adiabatic
17 expansion using the Joule-Thomson effect, or another physical process
18 that is not mechanical separation;

19 (ii) for the purpose of extracting and recovering liquid
20 hydrocarbons; and

21 (iii) upstream of any gas treatment and upstream of the
22 inlet of any gas pipeline system transporting gas to a market;

23 (B) does not include gas treatment;

24 (19) "gas treatment"

25 (A) means conditioning gas and removing from gas
26 nonhydrocarbon substances for the purpose of rendering the gas acceptable for
27 tender and acceptance into a gas pipeline system; and

28 (B) includes incidentally removing liquid hydrocarbons from
29 the gas.

30 * Sec. 41. AS 43.55.011(b), 43.55.011(c), 43.55.012(b), 43.55.013, 43.55.016,
31 43.55.025(k)(3), 43.55.900(1), 43.55.900(8), 43.55.900(11), 43.55.900(12), and

1 43.55.900(16) are repealed.

2 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 **APPLICABILITY.** (a) Sections 5, 6, 8 - 11, 13, 14, 15, 17 - 20, 22, and 26 - 41 of this
5 Act apply to oil and gas produced on or after April 1, 2006.

6 (b) Section 12 of this Act applies to oil and gas produced before, on, or after the
7 effective date of sec. 12 of this Act.

8 * **Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 **TRANSITIONAL PROVISIONS.** (a) Notwithstanding any contrary provision of
11 AS 43.55.024(a), enacted by sec. 14 of this Act, for oil and gas produced on or after April 1,
12 2006, and before January 1, 2007, the phrase "every month an annualized tax credit in an
13 amount equal to one and two-thirds percent" in AS 43.55.024(a), enacted by sec. 14 of this
14 Act, shall be replaced by the phrase "every month during the period April 1, 2006, through
15 December 31, 2006, an annualized tax credit in an amount equal to 2.222 percent."

16 (b) Notwithstanding any contrary provision of AS 43.55.024(e), enacted by sec. 14 of
17 this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007, the
18 phrase "a calendar year" in AS 43.55.024(e), enacted by sec. 14 of this Act, shall be replaced
19 by the phrase "the last nine months of the calendar year."

20 (c) Notwithstanding any contrary provision of AS 43.55.160(f), enacted by sec. 28 of
21 this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007, the
22 phrase "for every month of a calendar year, one-twelfth of the producer's adjusted lease
23 expenditures for the calendar year" in AS 43.55.160(f), enacted by sec. 28 of this Act, shall be
24 replaced by the phrase "for each of the last nine months of 2006, one-ninth of the producer's
25 adjusted lease expenditures for that nine-month period."

26 (d) Notwithstanding any contrary provision of AS 43.55.170(a), enacted by sec. 28 of
27 this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007, the
28 amount of "\$10,000,000" in AS 43.55.170(a)(2), enacted by sec. 28 of this Act, shall be
29 replaced by the amount "\$7,500,000."

30 (e) For oil and gas produced before April 1, 2006, the provisions of AS 43.55, and
31 regulations adopted under AS 43.55, that were in effect before April 1, 2006, and that were

1 applicable to the oil and gas continue to apply to that oil and gas.

2 (f) Notwithstanding any contrary provision of AS 43.55.020(a), as repealed and
3 reenacted by sec. 8 of this Act, or of AS 43.55.020(g), as enacted by sec. 13 of this Act, for oil
4 and gas produced on or after April 1, 2006, and before the first day of the first month that
5 begins at least 180 days after the effective date of the sections of this Act that are not effective
6 April 1, 2006,

7 (1) the amount of the taxes that would have been levied upon the producer
8 under AS 43.55, as the provisions of that chapter read on March 31, 2006, is due on the last
9 day of each calendar month on the oil and gas that was produced from each lease or property
10 during the preceding month;

11 (2) the portion, if any, of the taxes levied under AS 43.55.011(a), as repealed
12 and reenacted by sec. 5 of this Act, and under AS 43.55.011(e) and (f), as enacted by sec. 6 of
13 this Act, that remains unpaid, net of any credits applied as allowed by law, is due on the last
14 day of the second month that begins at least 180 days after the effective date of the sections of
15 this Act that are not effective April 1, 2006.

16 (g) Notwithstanding any contrary provision of AS 43.55.030(a), as amended by sec.
17 20 of this Act, for oil and gas produced on or after April 1, 2006, and before the first day of
18 the first month that begins at least 180 days after the effective date of the sections of this Act
19 that are not effective April 1, 2006, the person paying the tax shall file with the Department of
20 Revenue, at the time an amount of tax is due

21 (1) under (f)(1) of this section, the statement required under former
22 AS 43.55.030(a), as that subsection read on March 31, 2006; and

23 (2) under (f)(2) of this section, the statement required under AS 43.55.030(e),
24 enacted by sec. 22 of this Act.

25 (h) For purposes of taxes to be calculated and due under (f)(1) of this section and
26 statements to be filed under (g)(1) of this section, regulations that were adopted by the
27 Department of Revenue under AS 43.55, as the provisions of that chapter read on March 31,
28 2006, and that were in effect on that date apply to those taxes and statements.

29 * **Sec. 44.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 **TRANSITION: REGULATIONS.** The Department of Revenue may proceed to adopt

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

4 * **Sec. 45.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 **REVISOR'S INSTRUCTION.** The revisor of statutes is instructed to change the
7 heading of

8 (1) AS 43.55 from "Oil and Gas Production Taxes and Oil Surcharge" to "Oil
9 and Gas Production Tax and Oil Surcharge";

10 (2) article 1 of AS 43.55 from "Oil and Gas Properties Production Taxes" to
11 "Oil and Gas Production Tax";

12 (3) AS 43.55.011 from "Oil production tax" to "Oil and gas production tax";

13 (4) AS 43.55.025 from "Tax credit for oil and gas exploration or gas only
14 exploration" to "Alternative tax credit for oil and gas exploration or gas only exploration";

15 (5) AS 43.55.150 from "Determination of gross value" to "Determination of
16 gross value at the point of production."

17 * **Sec. 46.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 **CONDITIONAL RETROACTIVITY.** If the sections of this Act that, under sec. 48 of
20 this Act, are scheduled to take effect April 1, 2006, take effect on or after April 1, 2006, those
21 sections of this Act are retroactive to April 1, 2006.

22 * **Sec. 47.** Sections 1 - 4, 7, 12, 16, 21, 23, 24, and 42 - 46 of this Act take effect
23 immediately under AS 01.10.070(c).

24 * **Sec. 48.** Except as provided in sec. 47 of this Act, this Act takes effect April 1, 2006.

(AMENDS 'F')
(INVERSION 'y')

H Res Notes HB 488
by R.P. SAMUELS

March 14, 2005

Notes re: Substantive Changes to HB488 by the House Resources Committee

1. Make tax rate progressive-

Reasoning- The State should make more money at higher prices, and a larger percentage of the whole pie at extremely high prices. The Committee has increased the Governor's 20% tax rate to a progressive system. The 20% number will be in effect until the price of oil (West Texas Intermediate, WTI) reaches \$50/barrel. After \$50/barrel, the tax rate increases by .30% per \$1.00 increase in the oil price (WTI). The rate caps at 50% at about \$150.00/barrel, in case of a global oil shock. This makes the tax rate at \$60.00/barrel 23.5%, and \$70.00/barrel 26.5% and continues to escalate from there.

We feel that this keeps investment opportunity in Alaska very strong, but balances it out by taking advantage of windfalls in high spikes of oil prices.

2. Reduce Transitional Money as deductible allowance- The Governor allowed five years of past investments to be deducted as costs. The rationale behind the transition provision was that investments made for the previous five years directly led to the production of oil that is now being taxed at a higher rate. The Committee feels that this rationale is partly true, but that a full five years of looking back is not appropriate. The cost recovery of the five years of investments has already been enhanced by extremely high oil prices. The Committee has replaced the 100% cost recovery of the previous five years with a

greatly scaled back program. The CS will allow 75% of 2005 expenditures, 50% of 2004 expenditures, and 25% of 2003 expenditures to be deducted as costs. The payback period of six years that was in the original legislation has been increased to seven years. The same caveat of oil prices being at least \$40/barrel (ANS) before cost recovery is allowed remains the same. Additionally, the Committee has determined that the inflation indexing mechanism on the \$40 price shall be in statute, not left up to regulators. This change reduces the amount of deduction allowed by industry from 5 billion to 2 billion and reduces the amount of the credit from approximately \$1 billion to \$300 million. Therefore, instead of the State absorbing \$167 million annually in scheduled credits, the amount will be reduced to approximately \$43 million per year.

3. Exploration enhancement- The SB185 exploration tax credits of 40% will be extended 10 years. The Governor's credit rate of 20% remains intact. The Committee feels that this will significantly enhance explorers and independents. Department of Revenue has testified that exploration investment in new fields represents less than ten percent of all development and exploration investment dollars. The Committee wishes to emphasize exploration. As they do currently, the company will choose between which credit is most beneficial to them.
4. No credit for abandonment costs- The CS contains specific language that abandonment costs will not be eligible for tax credits.

5. Private Royalties- The CS sets private royalty oil severance tax rates at 5%.

6. AOGA technical changes- AOGA worked in conjunction with the Governor's office to suggest several technical changes and clarifications to the bill. Some of these changes are incorporated into the CS.

7. Contingency sur-charges- The CS will leave current statute in place, which makes a 5 cent/barrel sur-charge non-deductible and non-creditable. Currently, of the 5-cent/barrel charge, 2 cent/barrel is deposited into the Response Mitigation Account until the account reaches \$50 million. After this, the 2-cent/barrel charge is suspended. The CS lowers this amount to one cent/barrel. The remaining 3-cent/barrel charge is deposited into Prevention Mitigation Account. The CS increases this to 4 cents/barrel, while dropping the Mitigation money to 1 cent/barrel, leaving the total sur-charge at 5 cents/barrel.

8. Effective date- CS changes the effective date of the bill from 1 July to 1 April, the start of the second calendar quarter. This will result in an almost immediate effective date and will gain the State over 200 million dollars in the current fiscal year.

9. Issues surrounding the \$73 million allowance- The CS eliminates the 73 million annual dollar allowance, which resulted in a \$14.6 million credit. Instead, the Committee implemented an annual direct tax credit, dollar for dollar, for the first \$10 million worth of expenditures. The credit is annual, non-transferable, non-salable and not eligible for carry forward. The credit can only be applied to the current year's severance tax. If there is no tax, the credit cannot be claimed. If a company has income but spends less than 10 million dollars, there is an only claim credit up to amount that was spent.

10. Tax Credit Repurchase Program- To help protect explorers and new entrants to Alaska, the State will buy up to \$10 million per year per company for credits at 100% of face value. Companies must show that an equivalent amount to the credit is being reinvested for exploration or lease purchases in Alaska.

11. Penalties on underpayment of less than 90% of monthly tax liability- The CS puts in place a 5% penalty for underpayment of the monthly severance tax bill for any amount below the 90% threshold. In addition, interest will be charged on any payment shortfall less than the full liability.

CS for HB 488 (Res)
Suggested Inserts

March 14 2006

Insert 1 [*Sec 6 (page 4)]:

Alternatives:

prepared by DAN
DICKINSON and ROBERT
MINTZ to version 'F'

Alternative 1: Restore previous language, with a single percentage applicable to all lessor royalty production.

The tax is equal to five percent of the gross value at the point of production of the oil and gas. However, if the department determines that, for purposes of reducing the producer's tax liability under this section, the producer has received or will receive consideration from the lessor offsetting all or a part of the producer's royalty obligation, the tax is equal to 20 percent of the gross value at the point of production of the oil and gas.

Alternative 2:

Except as otherwise provided under this subsection, the tax is equal to (1) five percent of the gross value at the point of production of the oil and gas for a lessor's royalty interest under an oil and gas lease that is in effect on the effective date of this section, or (2) seven and one-half percent of the gross value at the point of production of the oil and gas for a lessor's royalty interest under an oil and gas lease that takes effect after the effective date of this section. However, if the department determines that, for purposes of reducing a producer's tax liability under this section, the producer has received or will receive consideration from the lessor offsetting all or a part of the producer's royalty obligation, the tax is equal to 20 percent of the gross value at the point of production of the oil and gas.

Insert 2 [*Sec 6 (page 4)]:

(g) The oil price index for a month is the number equal to the average United States Gulf Coast price determined under (h) of this section for that month of West Texas Intermediate crude oil in dollars per barrel, less 50, except that, if the average price determined under (h) of this section is

Insert 3 [*Sec 13 (page 7)]:

Alternative 1: Delete (h), because AS 43.05.220 already applies to any underpayment of tax, whether the underpayment is greater or less than 10 percent of what is due.

Alternative 2: If the intent is to provide a safe harbor from penalties under AS 43.55.220(a) or (b) (but not a safe harbor from interest) when a producer pays at least 90% of the tax levied under AS 43.55.011(a), change (h) to read as follows:

(h) Notwithstanding any contrary provision of AS 43.05.220, a producer that pays at least 90 percent of the tax levied under AS 43.55.011(a) when due is not liable for a penalty for underpayment of the tax under AS 43.55.220(a) [or 43.55.220(b) or both, depending on the committee's preference].

Insert 4 [*Sec 14 (page 8)]:

(f) Under standards established in regulations adopted by the department and subject to appropriations enacted by law, the department, upon the written application of the person to whom a transferable tax credit certificate has been issued under (d) of this

section, will issue a cash refund in whole or in part for the certificate if the department finds that

(1) after investigation and audit by the department of the tax credit claim, the applicant is entitled to the credit to the extent of the refund amount;

(2) within 24 months after having applied for the transferable tax credit certificate, the applicant incurred a qualified capital expenditure or was the successful bidder on a bid submitted for a lease on state land under AS 38.05.180(f);

(3) the amount of the refund does not exceed the total of qualified capital expenditures and successful bids described in (2) of this subsection that have not been the subject of a comparison under this paragraph for purposes of a previous refund;

(4) the applicant has no outstanding liability to the state for unpaid delinquent taxes under this title; and

(5) the total amount refunded to the applicant during the calendar year under this subsection does not exceed \$10,000,000.

Insert 5 [*Sec 18 (page 12)]:

(e) The person paying the tax levied under AS 43.55.011(a) shall file a statement...

Insert 6 [*Sec 24 (page 15)]:

Even if a producer produces no taxable oil or gas during a month, the producer is considered to have generated a positive production tax value if the calculation described

in this subsection yields a positive number because the producer's adjusted lease expenditures for a month are less than zero, as a result of the producer's receiving a payment or credit described in (e) of this section or otherwise. For purposes of this subsection, an explorer that previously took a tax credit under AS 43.55.024(b) or obtained a transferable tax credit certificate under AS 43.55.024(d) for the amount of a tax credit under AS 43.55.024(b) is considered a producer subject to the tax levied under AS 43.55.011(1) to the extent that the explorer generates a positive production tax value as the result of the explorer's receiving a payment or credit described in (e) of this section.

Insert 7 [*Sec 24 (page 17)]:

(A) an expenditure, when incurred, to acquire an item whose acquisition cost is otherwise a direct cost, notwithstanding that the expenditure may be required to be capitalized rather than expensed for financial accounting or federal income tax purposes;

Insert 8 [*Sec. 24 (page 20)]:

the drilling of a stratigraphic test well is considered geological exploration for an oil or gas deposit located within land in the state only if the well's target zones are located in the state.

Insert 9 [*Sec 24 (page 20)]:

Sec. 43.55.170. Additional nontransferable credit. (a) For a month for which a producer's tax liability under AS 43.55.011(a) exceeds zero before application of any credits under this chapter without regard to this section, a producer that is qualified under (b) of this section may apply a tax credit against that liability under this section. The tax credit authorized by this subsection may be calculated and applied so that

(1) the producer's tax liability under AS 43.55.011(a) before application of any credits under this chapter without regard to this section is not reduced below zero;

(2) the total of the tax credits applied under this subsection during a calendar year does not exceed \$10,000,000; and

(3) the total of the tax credits applied under this subsection during calendar year 2016 does not exceed \$2,500,000.

Insert 10 [*Sec. 24 (page 21)]:

(c) An unused tax credit or portion of a tax credit under this section is not transferable under AS 43.55.024(d) or refundable under AS 43.55.024(f) and may not be carried forward to or used in a later calendar year.

Insert 11 [*Sec. 24 (page 2!)]:

(e) The use of a tax credit under this section does not bar the producer from taking a tax credit under AS 43.55.024(a) or AS 43.55.025 for the same qualified capital expenditure.

Insert 12 [*Sec 26 (page 21)]:

AS 43.55.201(b) is amended to read:

(b) The surcharge imposed by (a) of this section is in addition to and shall be paid in the same manner as the tax imposed by AS 43.55.011 – 43.55.170 [AS 43.55.011 – 43.55.150]; and is in addition to the surcharge imposed by AS 43.55.300 – 43.55.310.

Insert 13 [*Sec 30 (page 22)]:

AS 43.55.300(b) is amended to read:

(b) The surcharge imposed by (a) of this section is in addition to and shall be paid in the same manner as the tax imposed by AS 43.55.011 – 43.55.170 [AS 43.55.011 – 43.55.150]; and is in addition to the surcharge imposed by AS 43.55.201 – 43.55.231.

Insert 14 [*Sec. 39 (page 25)]

Additional transition provision in sec. 39:

(d) Notwithstanding any contrary provision of AS 43.55.170(a), enacted by sec. 24 of this Act, for oil and gas produced on or after April 1, 2006, and before January 1,

2007, the amount "\$10,000,000" in AS 43.55.170(a)(2), enacted by sec. 24 of this Act, shall be replaced by the amount "\$7,500,000."

Insert 15 [*Sec 39 (page 25)]:

Additional transition provisions in sec. 39:

(f) Notwithstanding any contrary provision of AS 43.55.020(a), as repealed and reenacted by sec. 8 of this Act, or of AS 43.55.020(g), as enacted by sec. 13 of this Act, for oil and gas produced on or after April 1, 2006, and before the first day of the first month that begins at least 180 days after the effective date of this Act,

(1) the amount of the taxes that would have been levied upon the producer under AS 43.55, as that chapter existed on March 31, 2006, is due on the last day of each calendar month on oil and gas produced from each lease or property during the preceding month;

(2) the portion, if any, of the taxes levied under AS 43.55.011(a), as repealed and reenacted by sec. 5 of this Act, and under AS 43.55.011(e) and (f), as enacted by sec. 6 of this Act, that remains unpaid, net of any credits applied as allowed by law, is due on the last day of the second month that begins at last 180 days after the effective date of this Act.

(g) Notwithstanding any contrary provision of AS 43.55.030(a), as amended by sec. 16 of this Act, for oil and gas produced on or after April 1, 2006, and before the first day of the first month that begins at least 180 days after the effective date of this Act, the person paying the tax shall file with the department

(1) at the time an amount of tax is due under (f)(1) of this section, the statement required under AS 43.55.030(a), as that provision existed on March 31, 2006:

(2) at the time an amount of tax is due under (f)(2) of this section, the statement required under AS 43.55.030(e), added by sec. 18 of this Act.

(h) For purposes of taxes to be calculated and due under (f)(1) of this section, and statements to be filed under (g)(1) of this section, regulations that were adopted by the Department of Revenue under AS 43.55, as that chapter existed on March 31, 2006, and that were in effect on the day before the effective date of this Act, apply to those taxes and statements.

*This version not released
to the H.RES committee*

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**CS FOR HOUSE BILL NO. 488(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

*Marking by
DAN DICKINSON
and ROBERT
MINTZ.*

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act repealing the oil production tax and gas production tax and providing for a
2 production tax on oil and gas; relating to the relationship of that tax to other taxes, to
3 the dates those tax payments and surcharges are due, to interest on overpayments of the
4 tax, and to the treatment of the tax in a producer's settlement with the royalty owners;
5 relating to flared gas, and to oil and gas used in the operation of a lease or property
6 under the production tax; relating to the prevailing value of oil or gas under the
7 production tax; providing for tax credits against the tax for certain expenditures ^{and} losses,
8 ~~and surcharges~~; amending the rates applicable to each of the two tax surcharges
9 imposed on oil under the production tax that are used to support the oil and hazardous
10 substance release prevention and response fund and relating to those surcharges;
11 relating to statements or other information required to be filed with or furnished to the
12 Department of Revenue, and relating to the penalty for failure to file certain reports, for

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1 the tax; relating to the powers of the Department of Revenue, and to the disclosure of
 2 certain information required to be furnished to the Department of Revenue, as
 3 applicable to the administration of the tax; relating to criminal penalties for violating
 4 conditions governing access to and use of confidential information relating to the tax,
 5 and to the deposit of tax money collected by the Department of Revenue; relating to the
 6 calculation of the gross value at the point of production of oil or gas; relating to the
 7 determination of the production tax value of oil and gas for purposes of a tax on the
 8 production tax value of oil and gas; relating to the definitions of 'gas,' 'oil,' and certain
 9 other terms for purposes of the production tax, ~~and as the definition of the term 'gas'~~
 10 ~~applies in the Alaska Stranded Gas Development Act;~~ making conforming amendments;
 11 making uniform throughout the state the deadline for certain exploration expenditures
 12 used as credits against the production tax on oil and gas produced from a lease or
 13 property in the state by extending to July 1, 2010, the deadline for those expenditures on
 14 leases or properties located north of 68 degrees, 15 minutes, North latitude; and
 15 providing for an effective date."

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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

19 INTENT OF SEC. 12 OF THIS ACT. It is the intent of the legislature through sec. 12
20 of this Act to confirm by clarification the long-standing interpretation of AS 43.55.020(f) by
21 the Department of Revenue.

22 * Sec. 2. AS 43.05.230(f) is amended to read:

23 (f) A wilful violation of the provisions of this section or of a condition
24 imposed under AS 43.55.040(1)(B) is punishable by a fine of not more than \$5,000,
25 or by imprisonment for not more than two years, or by both.

26 * Sec. 3. AS 43.20.031(c) is amended to read:

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(c) In computing the tax under this chapter, the taxpayer is not entitled to deduct any taxes based on or measured by net income. The taxpayer may deduct the tax levied and paid under AS 43.55.

* Sec. 4. AS 43.20.072(b) is amended to read:

(b) A taxpayer's business income to be apportioned under this section to the state shall be the federal taxable income of the taxpayer's consolidated business for the tax period, except that

(1) taxes based on or measured by net income that are deducted in the determination of the federal taxable income shall be added back; the tax levied and paid under AS 43.55 may not be added back;

(2) intangible drilling and development costs that are deducted as expenses under 26 U.S.C. 263(c) (Internal Revenue Code) in the determination of the federal taxable income shall be capitalized and depreciated as if the option to treat them as expenses under 26 U.S.C. 263(c) (Internal Revenue Code) had not been exercised;

(3) depletion deducted on the percentage depletion basis under 26 U.S.C. 613 (Internal Revenue Code) in the determination of the federal taxable income shall be recomputed and deducted on the cost depletion basis under 26 U.S.C. 612 (Internal Revenue Code); and

(4) depreciation shall be computed on the basis of 26 U.S.C. 167 (Internal Revenue Code) as that section read on June 30, 1981.

* Sec. 5. AS 43.55.011(a) is repealed and reenacted to read:

(a) There is levied on the producer of oil or gas a tax for all oil and gas produced each 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 lessor's royalty interest under an oil and gas lease. The tax is equal to 20 percent of the production tax value of the taxable oil and gas as calculated under AS 43.55.160.

* Sec. 6. AS 43.55.011 is amended by adding new subsections to read:

(e) There is levied on the producer of oil or gas a tax for all oil and gas produced each month from each lease or property in the state the ownership or right to which constitutes a lessor's royalty interest under an oil and gas lease, except for oil

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and gas the ownership or right to which is exempt from taxation. For purposes of this subsection, for a lessor's royalty interest under an oil and gas lease

(1) that is in effect on the effective date of this section, the tax levied on the oil and gas is equal to five percent of the gross value at the point of production of the oil and gas; however, if the department determines that, for purposes of reducing the producer's tax liability under this paragraph, the producer has received or will receive consideration from the lessor offsetting all or a part of the producer's royalty obligation, the tax under this subsection is equal to 20 percent of the gross value at the point of production of the oil and gas; and

(2) other than an interest described in (1) of this subsection, the tax levied on the oil and gas is equal to a rate to be determined by the commissioner based on the gross value at the point of production.

(f) In addition to the taxes levied under (a) and (e) of this section, for each month for which the oil price index determined under (g) of this section is greater than zero, there is levied upon the producer of oil or gas a tax for oil and gas produced during 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. The tax is equal to .30 percent multiplied by the oil price index as determined under (g) of this section.

~~(g) The oil price index for a month is the average United States Gulf Coast price for that month of West Texas Intermediate crude oil in dollars per barrel, less \$50, except that, if the average price determined under this subsection is~~

(1) not more than \$50 per barrel, the oil price index is zero; and

(2) more than \$150 per barrel, the oil price index is 100.

(h) For purposes of (f) and (g) of this section, the department may calculate the average price or may, by regulation, specify the method by which the average price shall be calculated with reference to one or more published sources of price information. If, in the department's judgment, reliable published sources of price information on West Texas Intermediate crude oil cease, or appear likely to soon cease, to be available, or if, in the department's judgment, the price of West Texas Intermediate crude oil ceases, or appears likely to soon cease, to be a reliable indicator of the general price level of crude oils, the department shall, by regulation, specify a

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of the gross value at the point of production of the oil and gas

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1 substitute formula for computing the oil price index. The substitute formula specified
 2 by the department under this subsection must bear, as nearly as is reasonably possible,
 3 the same relationship to the general price level of crude oils as did the United States
 4 Gulf Coast price of West Texas Intermediate crude oil.

5 * Sec. 7. AS 43.55.017(a) is amended to read:

6 (n) Except as provided in this chapter, the taxes imposed by this chapter are in
 7 place of all taxes now imposed by the state or any of its municipalities, and neither the
 8 state nor a municipality may impose a tax on [UPON]

- 9 (1) producing oil or gas leases;
- 10 (2) oil or gas produced or extracted in the state;
- 11 (3) the value of intangible drilling and development costs, as
 12 described in 26 U.S.C. 263(c) (Internal Revenue Code), as amended through
 13 January 1, 1974 [EXPLORATION EXPENSES].

14 * Sec. 8. AS 43.55.020(a) is repealed and reenacted to read:

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15 (a) The tax levied under AS 43.55.011(a) shall be paid ^{Monthly} ~~as set out in this~~
 16 ~~subsection~~. The tax, net of any credits applied under this chapter, is due on the last day
 17 of each calendar month on oil and gas produced from each lease or property during the
 18 preceding month. An unpaid amount of tax that is not paid when due in accordance
 19 with this subsection becomes delinquent. An overpayment of tax for a month may be
 20 applied against the tax due for a later month. Notwithstanding any contrary provision
 21 of AS 43.05.280, interest on an overpayment is allowed only from a date that is 90
 22 days after the statement required under AS 43.55.030(e) to be filed on or before
 23 March 31 of the year following the calendar year during which the oil and gas were
 24 produced is filed. However, interest is not allowed if the overpayment was refunded
 25 within the 90-day period.

26 * Sec. 9. AS 43.55.020(b) is amended to read:

27 (b) The production tax on oil and [OR] gas shall be paid by or on behalf of the
 28 producer.

29 * Sec. 10. AS 43.55.020(d) is amended to read:

30 (d) In making settlement with the royalty owner for oil or gas that is taxable
 31 under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable

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1 royalty oil and [OR] gas, or may deduct (taxable royalty oil or gas equivalent in value
2 at the time the tax becomes due to the amount of the tax paid. Unless otherwise
3 agreed between the producer and the royalty owner, the amount of the tax paid
4 under AS 43.55.011 on taxable royalty oil and gas for a month other than oil or
5 gas the ownership or right to which constitutes a lessor's royalty interest under
6 an oil or gas lease is considered to be the gross value at the point of production of
7 the taxable royalty oil and gas produced during the month multiplied by a figure
8 that is a quotient, in which

9 (1) the numerator is the producer's total tax liability under
10 AS 43.55.011(a) for the month of production; and

11 (2) the denominator is the total gross value at the point of
12 production of the oil and gas taxable under AS 43.55.011(a) produced by the
13 producer from all leases and properties in the state during the month.

14 * Sec. 11. AS 43.55.020(e) is repealed and reenacted to read:

15 (e) Gas flared, released, or allowed to escape in excess of the amount
16 authorized by the Alaska Oil and Gas Conservation Commission is considered, for the
17 purpose of AS 43.55.011 - 43.55.170, as gas produced from a lease or property. Oil or
18 gas used in the operation of a lease or property in the state in drilling for or producing
19 oil or gas, or for repressuring, except to the extent determined by the Alaska Oil and
20 Gas Conservation Commission to be waste, is not considered, for the purpose of
21 AS 43.55.011 - 43.55.170, as oil or gas produced from a lease or property.

22 * Sec. 12. AS 43.55.020(f) is amended to read:

23 (f) If oil or gas is not sold, or if oil or gas is sold under circumstances where
24 the sale price does not represent the prevailing value for oil or gas of like kind,
25 character, or quality in the field or area from which the product is produced, the
26 department may require the tax to be paid upon the basis of the value of oil or gas of
27 the same kind, quality, and character prevailing during the calendar month of
28 production for that field or area.

29 * Sec. 13. AS 43.55.020 is amended by adding new subsections to read:

30 (g) The tax levied under AS 43.55.011(e) and (f) shall be paid monthly and is
31 due on the last day of each calendar month on oil and gas produced from each lease or

CSHB 488(RES)

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1 property during the preceding month, and, if not paid before the end of the month in
2 which it becomes due, the tax becomes delinquent.

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3 ~~(h) The penalty provisions of AS 43.05.220 apply to a producer who fails to~~
4 ~~pay at least 90 percent of the tax when due under (e) or (g) of this section.~~

Insert 3

5 * Sec. 14. AS 43.55 is amended by adding a new section to read:

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6 Sec. 43.55.024. Tax credits for certain losses and expenditures. (a)

7 Notwithstanding that a qualified capital expenditure may be a deductible lease
8 expenditure for purposes of calculating the production tax value of oil and gas under
9 AS 43.55.160(a), a producer or explorer that incurs a qualified capital expenditure
10 may also elect to take a tax credit in the amount of 20 percent of that expenditure,
11 unless a credit for that expenditure is taken under AS 43.55.025. A credit under this
12 subsection may be applied only against a tax due under AS 43.55.011(a). For a
13 calendar year for which the producer makes an election under AS 43.55.160(f), instead
14 of taking a tax credit of 20 percent of each separate qualified capital expenditure after
15 it has been incurred, a producer that incurs a qualified capital expenditure during that
16 year and that wishes to apply a credit based on that expenditure against a tax due
17 under AS 43.55.011(a) shall calculate and apply every month an annualized tax credit
18 in an amount equal to one and two-thirds percent of the total qualified capital
19 expenditures incurred during that year and for which the tax credit is taken for that
20 year.

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21 (b) A producer ^{or explorer} may elect to take a tax credit in the amount of 20 percent of a
22 carried-forward annual loss. A credit under this subsection may be applied only
23 against a tax due under AS 43.55.011(a). For purposes of this subsection, a carried-
24 forward annual loss is the amount of a producer's ^{or explorers} adjusted lease expenditures under
25 AS 43.55.160 for a previous calendar year that was not deductible in any month under
26 AS 43.55.160(a) and (b).

27 (c) A credit or portion of a credit under this section may not be used to reduce
28 a person's tax liability under AS 43.55.011(a) for any month below zero, and any
29 unused credit or portion of a credit not used under this subsection may be applied in a
30 later month.

31 (d) A person entitled to take a tax credit under this section that wishes to

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or to request a refund under (F) of this section

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transfer the unused credit to another person may apply to the department for a transferable tax credit certificate. An application under this subsection must be on a form prescribed by the department and must include supporting information and documentation that the department reasonably requires. The department shall grant or deny an application, or grant an application as to a lesser amount than that claimed and deny it as to the excess, not later than 60 days after the latest of (1) March 31 of the year following the calendar year in which the qualified capital expenditure or carried-forward annual loss for which the credit is claimed was incurred; (2) if the applicant is required under AS 43.55.030(a) and (c) to file a statement on or before March 31 of the year following the calendar year in which the qualified capital expenditures or carried-forward annual loss for which the credit was incurred, the date the statement was filed; or (3) the date the application was received by the department. If, based on the information then available to it, the department is reasonably satisfied that the applicant is entitled to a credit, the department shall issue the applicant a transferable tax credit certificate for the amount of the credit. A certificate issued under this subsection does not expire.

(e) A person to which a transferable tax credit certificate is issued under (d) of this section may transfer the certificate to another person, and a transferee may further transfer the certificate. Subject to the limitations set out in (a) - (c) of this section, and notwithstanding any action the department may take with respect to the applicant under (g) of this section, the owner of a certificate may apply the credit or a portion of the credit shown on the certificate only against a tax due under AS 43.55.011(a). However, a credit shown on a transferable tax credit certificate may not be applied to reduce a ~~producer's~~ ^{transferor's} total tax due under AS 43.55.011(a) on oil and gas produced during a calendar year to less than 80 percent of the tax that would otherwise be due without applying that credit, and any portion of a credit not used under this subsection may be applied in a later period.

~~(f) Under standards established in regulations adopted by the department, the commissioner may repurchase a transferable tax credit certificate issued under (d) of this section if~~
~~(1) within 24 months after the date of issuance of the tax credit~~

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~~certificate, the person to whom the certificate was issued or any transferee of the certificate makes a qualified capital expenditure in this state or is the successful bidder on a bid submitted for a lease on state land under AS 38.05.180(f); and~~

~~(2) the expenditure made or bid submitted under (1) of this subsection is not less than the amount of the transferable tax credit certificates issued under (d) of this section.~~

(g) The issuance of a transferable tax credit certificate under (d) of this section does not limit the department's ability to later investigate or audit a tax credit claim to which the certificate relates or to adjust or deny the claim if the department determines that the applicant was not entitled to the amount of the credit for which the certificate was issued. The tax liability of the applicant under AS 43.55.011 - 43.55.170 is increased by the amount of the credit that exceeds that to which the applicant was entitled. That amount bears interest under AS 43.05.225 from the date the transferable tax credit certificate was issued. For purposes of this subsection, an applicant that is an explorer is considered a producer subject to the tax levied under AS 43.55.011.

(h) The department may adopt regulations to carry out the purposes of this section, including prescribing reporting, record keeping, and certification procedures and requirements to verify the accuracy of credits claimed and to ensure that a credit is not used more than once, and otherwise implementing this section.

(i) A producer or explorer may not elect to take a tax credit under this section for a lease expenditure under AS 43.55.160 that is an expenditure incurred

(1) to acquire an asset (A) the cost of previously acquiring which was a lease expenditure under AS 43.55.160(c) or would have been a lease expenditure under AS 43.55.160(c) if it had been incurred on or after April 1, 2006; or (B) that has previously been placed in service in the state; an expenditure to acquire an asset is not excluded under this paragraph if not more than an immaterial portion of the asset meets a description under (A) or (B) of this paragraph; for purposes of this paragraph, "asset" includes geological, geophysical, and well data and interpretations; or

(2) for an extended period of disuse, dismantlement, removal, surrender, or abandonment of a well, facility, pipeline, platform, or other structure, or for the restoration of a lease, field, unit, area, or body of water in conjunction with an

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1 extended period of disuse, dismantlement, removal, surrender, or abandonment of a
2 facility described in this paragraph.

3 (j) In this section,

4 (1) "explorer" has the meaning given in AS 43.55.025;

5 (2) "qualified capital expenditure" means, except as otherwise
6 provided in (i) of this section, an expenditure that is a lease expenditure under
7 AS 43.55.160 and is

8 (A) incurred for geological or geophysical exploration; or

9 (B) treated as a capitalized expenditure under 26 U.S.C.
10 (Internal Revenue Code), as amended, regardless of elections made under 26
11 U.S.C. 263(c) (Internal Revenue Code), as amended, and either is treated as a
12 capitalized expenditure by the person incurring the expenditure or is eligible to
13 be deducted as an expense under 26 U.S.C. 263(c) (Internal Revenue Code), as
14 amended.

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

16 (b) To qualify for the production tax credit under (a) of this section, an
17 exploration expenditure must be incurred for work performed on or after July 1, 2003,
18 and before July (2010 [2007]), except that an exploration expenditure for a Cook Inlet
19 prospect must be incurred for work performed on or after July 1, 2005, [AND
20 BEFORE JULY 1, 2010, AND EXCEPT THAT AN EXPLORATION
21 EXPENDITURE, IN WHOLE OR IN PART, SOUTH OF 68 DEGREES, 15
22 MINUTES, NORTH LATITUDE, AND NOT PART OF A COOK INLET
23 PROSPECT MUST BE INCURRED FOR WORK PERFORMED ON OR AFTER
24 JULY 1, 2003, AND BEFORE JULY 1, 2010,] and

25 (1) may be for seismic or geophysical exploration costs not connected
26 with a specific well;

27 (2) if for an exploration well,

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

30 (B) may be for either an oil or gas discovery well or a dry hole;

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

(3) may not be for testing, stimulation, or completion costs; administration, supervision, engineering, or lease operating costs; geological or management costs; community relations or environmental costs; bonuses, taxes, or other payments to governments related to the well; or other costs that are generally recognized as indirect costs or financing costs; and

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

* Sec. 16. AS 43.55.030(a) is amended to read:

(a) The tax shall be paid to the department and the person paying the tax shall file with the department at the time the tax ~~is~~ is required to be paid a statement, under oath, on forms prescribed by or acceptable to the department, giving, with other information required, the following:

(1) a description of each [THE] lease or property from which the oil and [OR] gas were [WAS] produced, by name, legal description, lease number, or [3Y] accounting codes [CODE NUMBERS] assigned by the department;

(2) the names of the producer and the person paying the tax;

(3) the gross amount of oil and the gross amount of [OR] gas produced from each [THE] lease or property, and the percentage of the gross amount of oil and gas owned by each producer for whom the tax is paid;

(4) the gross [TOTAL] value at the point of production of the oil and of the [OR] gas produced from each [THE] lease or property owned by each producer for whom the tax is paid; [AND]

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

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(6) the producer's lease expenditures and adjustments as calculated under AS 43.55.160 [IF SOLD IN THE STATE].

* Sec. 17. AS 43.55.030(d) is amended to read:

(d) Reports by or on behalf of the producer are delinquent the first day following the day the tax is due. ~~The provisions of AS 43.05.220 apply to reports that are not timely filed under this section.~~ TEACH PRODUCER IS SUBJECT TO A PENALTY OF \$25 A DAY FOR EACH LEASE OR PROPERTY UPON WHICH THE REPORT IS NOT FILED.] ~~The penalty for failure to file a report is in addition to the penalty for delinquent taxes, and is a lien against the assets of the producer~~

* Sec. 18. AS 43.55.030 is amended by adding a new subsection to read:

~~(e) In addition to other required information, the statement required to be filed on or before March 31 of a year must show~~ ^{showing} any adjustments or corrections to the statements that were required under (a) of this section to be filed for the months of the preceding calendar year during which the oil or gas was produced.

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* Sec. 19. AS 43.55.040 is amended to read:

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

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

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

(B) impose appropriate conditions limiting

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

(ii) the use of the information to use for the purpose of determining or contesting the producer's tax obligation;

(2) examine the books, records, and files of such a person;

(3) conduct hearings and compel the attendance of witnesses and the production of books, records, and papers of any person; and

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

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

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

* Sec. 20. AS 43.55.080 is amended to read:

Sec. 43.55.080. Collection and deposit of revenue. Except as otherwise provided under art. IX, sec. 17, Constitution of the State of Alaska, the [THE] department shall deposit in the general fund the money collected by it under AS 43.55.011 - 43.55.170 [AS 43.55.011 - 43.55.150].

* Sec. 21. AS 43.55.135 is amended to read:

Sec. 43.55.135. Measurement. For the purposes of AS 43.55.011 - 43.55.170 [AS 43.55.011 - 43.55.150], oil is [SHALL BE] measured in terms of a "barrel of oil" and gas is [SHALL BE] measured in terms of a "cubic foot of gas."

* Sec. 22. AS 43.55.150(a) is amended to read:

(a) For the purposes of AS 43.55.011 - 43.55.170 [AS 43.55.011 - 43.55.150], the gross value at the point of production is [SHALL BE] calculated using the reasonable costs of transportation of the oil or gas. The reasonable costs of transportation are [SHALL BE] the actual costs, except when the

(1) [WHEN THE] parties to the transportation of oil or gas are affiliated;

(2) [WHEN THE] contract for the transportation of oil or gas is not an

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1 arm's length transaction or is not representative of the market value of that
2 transportation;

3 (3) [WHEN THE] method of transportation of oil or gas is not
4 reasonable in view of existing alternative methods of transportation.

5 * Sec. 23. AS 43.55.150 is amended by adding a new subsection to read:

6 (d) Under regulations adopted by the department, the department may allow a
7 producer, subject to limitations prescribed by the department as to the frequency of
8 making elections, to elect prospectively to calculate the gross value at the point of
9 production of oil or gas based in whole or part on

10 (1) a royalty value determined under a royalty settlement agreement
11 between the producer and the state, with adjustments if appropriate;

12 (2) a formula prescribed by the department that uses, with adjustments
13 if appropriate, a royalty value or valuation methodology accepted by the

14 (A) Department of Natural Resources under AS 38.05, in the
15 case of oil and gas produced from a lease issued by the Department of Natural
16 Resources or produced from a lease or property that is part of a unit approved
17 by the Department of Natural Resources; or

18 (B) United States Department of the Interior under applicable
19 federal oil and gas leasing statutes, in the case of oil and gas produced from a
20 lease issued by the United States Department of the Interior that is not part of a
21 unit approved by the Department of Natural Resources, or produced from a
22 lease or property that is part of a unit approved by the United States
23 Department of the Interior but not approved by the Department of Natural
24 Resources; or

25 (3) another formula prescribed by the Department of Revenue that
26 reasonably estimates a value for the oil or gas at a specific geographical location, such
27 as the point of tender or delivery into a common carrier pipeline; the formula may use
28 factors such as published price indices for oil or gas in or outside the state, quality
29 differentials for oil or gas, transportation costs between markets, and inflation
30 adjustments.

31 * Sec. 24. AS 43.55 is amended by adding new sections to article 1 to read:

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Sec. 43.55.160. Determination of production tax value of oil and gas. (a)
Except as provided in (f) of this section, for purposes of AS 43.55.011(a), the production tax value of the taxable oil and gas produced during a month is the total of the gross value at the point of production of the oil and gas taxable under AS 43.55.011(a) and produced by the producer from all leases or properties in the state, (1) less the producer's tax paid for the month under AS 43.55.011(f); (2) less the producer's lease expenditures for the month as adjusted under (e) of this section, and (3) to the extent allowed under (g) of this section and until the total amount of the producer's transitional investment expenditures has been deducted, less an amount equal to 1/84 of the producer's transitional investment expenditures. However, the production tax value calculated under this subsection may not be less than zero.

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

(1) any adjusted lease expenditures that would otherwise be deductible in a month but whose deduction would cause the production tax value calculated under (a) of this section of the taxable oil and gas produced during the month to be less than zero may be added to the producer's adjusted lease expenditures for one or more other months in the same calendar year; the total of any adjusted lease expenditures that are not deductible in any month during a calendar year because their deduction would cause the production tax value calculated under (a) of this section of the taxable oil and gas produced during one or more months to be less than zero may be used to establish a carried-forward annual loss under AS 43.55.024(b);

(2) an amount of transitional investment expenditures that would otherwise be deductible in a month but whose deduction would cause the production tax value calculated under (a) of this section of the taxable oil and gas produced during the month to be less than zero

(A) may be deducted in a later month during any calendar year to the extent allowed under (g) of this section, but not more than 1/84 of a producer's transitional investment expenditures may be deducted in any month;

(B) may not be used to establish a carried-forward annual loss under AS 43.55.024(b).

(c) For purposes of this section,

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(1) a producer's lease expenditures for a period are the total costs upstream of the point of production of oil and gas that are incurred on or after April 1, 2006, by the producer during the period and that are direct, ordinary, and necessary costs of exploring for, developing, or producing oil or gas ~~from~~ deposits located within the producer's leases or properties in the state or, in the case of land in which the producer does not own a working interest, direct, ordinary, and necessary costs of exploring for oil or gas deposits located within other land in the state; however, lease expenditures do not include the costs incurred to satisfy a work commitment under an exploration license under AS 38.05.132; in determining whether costs are direct, ordinary, and necessary costs of exploring for, developing, or producing an oil or gas ~~from a~~ deposit of oil or gas located within a lease or property or other land in the state, the department shall give substantial weight to

(A) the typical industry practices and standards in the state and in the United States as to costs that an operator is allowed to bill a working interest owner that is not the operator, under unit operating agreements or similar operating agreements that were in effect on or before December 1, 2005, and were subject to negotiation with working interest owners, not the operator, with substantial bargaining power; and

(B) the standards adopted by the Department of Natural Resources as to the costs, other than interest, that a lessee is allowed to deduct from revenue in calculating net profits under a lease issued under AS 38.05.180(f)(3)(B), (D), or (E);

(2) the Department of Revenue may authorize a producer, including ~~the operator or a working interest owner~~, to treat as its lease expenditures under this section the costs paid by the producer that are billed to the producer by an operator in accordance with the terms of a unit operating agreement or similar operating agreement if the Department of Revenue finds that

(A) the pertinent provisions of the operating agreement are substantially consistent with the Department of Revenue's determinations and standards otherwise applicable under this subsection; and

(B) at least one working interest owner party to the agreement,