

12289

HOUSE RES

11/4/07

*Amendment 1*  
to  
AMENDMENT *44*

OFFERED IN THE HOUSE

BY REPRESENTATIVE *Gatto*

TO: AMENDMENT NO. 44 TO CSHB 2001(O&G), Draft Version "L"

- 1 Page 1, line 5, following "produced each":
- 2       Delete "month"
- 3       Insert "calendar year"
- 4
- 5 Page 1, line 8, following "percent of the"
- 6       Insert "annual"

Original

Packet of

Amendments

AMENDMENT /

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 2001(O&G)

1 Page 13, line 31, through page 14, line 2:

2 Delete "produced from a lease or property for which the start of regular deliveries of  
3 marketable gas is after December 31, 2007"

4 Insert

5 "(1) produced from a lease or property for which the start of regular  
6 deliveries of marketable gas is after December 31, 2007; and

7 (2) not available

8 al feedstock for a

9 manufactu

10 as for export from the

11 state; or

12

*Original  
packet  
of amendments*

AMENDMENT /

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 2001(O&G)

1 Page 13, line 31, through page 14, line 2:

2 Delete "produced from a lease or property for which the start of regular deliveries of  
3 marketable gas is after December 31, 2007"

4 Insert

5 "(1) produced from a lease or property for which the start of regular  
6 deliveries of marketable gas is after December 31, 2007; and

7 (2) not supplied for

8 (A) consumption as petrochemical feedstock for a  
9 manufacturing process;

10 (B) processing into liquefied natural gas for export from the  
11 state; or

12 (C) conversion to a liquid"

*Original  
packet  
of amendments*

AMENDMENT

2

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 2001(O&G)

1 Page 13, lines 8 - 22:

2 Delete all material and insert:

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

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

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

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

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

AMENDMENT 3

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 2001(O&G)

1 Page 17, following line 3:

2 Insert a new bill section to read:

3 **\*\* Sec. 23.** AS 43.55.023(b) is amended to read:

4 (b) A producer or explorer may elect to take a tax credit in the amount of the  
5 [20 PERCENT OF A] carried-forward annual loss multiplied by the nominal tax  
6 rate in AS 43.55.011(e). A credit under this subsection may be applied against a tax  
7 due under AS 43.55.011(e). For purposes of this subsection,

8 (1) a carried-forward annual loss is the amount of a producer's or  
9 explorer's adjusted lease expenditures under AS 43.55.165 and 43.55.170 for a  
10 previous calendar year that was not deductible for that calendar year under  
11 AS 43.55.160(b) and (e); and

12 (2) "nominal tax rate" means the tax rate stated in AS 43.55.011(e)  
13 that is not the tax determined at the minimum tax rate that may be applicable  
14 under AS 43.55.011(f).

15

16 Renumber the following bill sections accordingly.

17

18 Page 31, line 25:

19 Delete "Sections 24, 25, 32 - 34, and 37"

20 Insert "Sections 23, 25, 26, 33 - 35, and 38"

21

22 Page 31, line 27:

23 Delete "31, and 38"

1           Insert "32, and 39"

2

3   Page 31, line 29:

4           Delete "Sections 26 and 27"

5           Insert "Sections 27 and 28"

6

7   Page 31, line 30:

8           Delete "sec. 26"

9           Insert "sec. 27"

10

11   Page 31, line 31:

12           Delete "sec. 27"

13           Insert "sec. 28"

14

15   Page 32, line 1:

16           Delete "sec. 29"

17           Insert "sec. 30"

18

19   Page 32, line 3:

20           Delete "29"

21           Insert "30"

22

23   Page 32, line 31:

24           Delete "secs. 24, 25, 32 - 34, and 37"

25           insert "secs. 23, 25, 26, 33 - 35, and 38"

26

27   Page 33, line 2:

28           Delete "26, 27, 31, and 38"

29           Insert "27, 28, 32, and 39"

30

31   Page 33, lines 19 - 20:

1 Delete "Sections 24, 25, 32 - 34, and 37"

2 Insert "Sections 23, 25, 26, 33 - 35, and 38"

3

4 Page 33, line 21:

5 Delete "26, 27, 31, and 38"

6 Insert "27, 28, 32, and 39"

7

8 Page 33, line 22:

9 Delete "sec. 44"

10 Insert "sec. 45"

AMENDMENT 4

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

BY REPRESENTATIVE SEATON  
+ Rep. Wilson

1 Page 1, line 4, following "**latitude**";:

2 Insert "**providing a penalty for the underpayment of an installment payment of**  
3 **the production tax on oil and gas**;"

4  
5 Page 17, following line 3:

6 Insert a new bill section to read:

7 "**\* Sec. 23.** AS 43.55.020 is amended by adding a new subsection to read:

8 (i) A civil penalty shall be added to the amount of an installment payment  
9 required under (a)(1) - (4) of this section if the full amount of the payment is not paid  
10 by the date the payment is due. The penalty is equal to five percent of the difference  
11 between the amount of the installment payment that was made timely and the amount  
12 of the installment payment required under (a)(1) - (4) of this section. If no part of the  
13 required installment payment was made timely, the penalty is equal to five percent of  
14 the installment payment required under (a)(1) - (4) of this section. The penalty is in  
15 addition to the interest imposed under (g) of this section and a penalty added under  
16 AS 43.05.220, if any."

17  
18 Renumber the following bill sections accordingly.

19  
20 Page 31, line 25:

21 Delete "Sections 24, 25, 32 - 34, and 37"

22 Insert "Sections 25, 26, 33 - 35, and 38"

23

1 Page 31, line 27:

2 Delete "31, and 38"

3 Insert "32, and 39"

4

5 Page 31, line 29:

6 Delete "Sections 26 and 27"

7 Insert "Sections 27 and 28"

8

9 Page 31, line 30:

10 Delete "sec. 26"

11 Insert "sec. 27"

13 Page 31, line 31:

14 Delete "sec. 27"

15 Insert "sec. 28"

16

17 Page 32, line 1:

18 Delete "sec. 29"

19 Insert "sec. 30"

20

21 Page 32, line 3:

22 Delete "29"

23 Insert "30"

24

25 Page 32, line 31:

26 Delete "secs. 24, 25, 32 - 34, and 37"

27 Insert "secs. 25, 26, 33 - 35, and 38"

28

29 Page 33, line 2:

30 Delete "26, 27, 31, and 38"

31 Insert "27, 28, 32, and 39"

1

2 Page 33, lines 19 - 20:

3 Delete "Sections 24, 25, 32 - 34, and 37"

4 Insert "Sections 25, 26, 33 - 35, and 38"

5

6 Page 33, line 21:

7 Delete "26, 27, 31, and 38"

8 Insert "27, 28, 32, and 39"

9

10 Page 33, line 22:

11 Delete "sec. 44"

12 Insert "sec. 45"

AMENDMENT 5

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

BY REPRESENTATIVE SEATON

Rep. Roses  
Rep. Wilson

1 Page 18, line 23:

2 Delete "a new subsection"

3 Insert "new subsections"

4

5 Page 18, following line 25:

6 Insert new material to read:

7 "(m) Notwithstanding the limitation on the use of a transferable tax credit by a  
8 transferee under (e) of this section and subject to appropriations made by law, if and to  
9 the extent that purchase of transferable tax credits by the Alaska Retirement  
10 Management Board is authorized by law, the department shall issue a cash refund to  
11 the Alaska Retirement Management Board for a transferable tax credit originally  
12 issued to a person under (d) of this section and purchased by the Alaska Retirement  
13 Management Board.

14 \* Sec. 26. AS 43.55.025 is amended by adding a new subsection to read:

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

20

21 Renumber the following bill sections accordingly.

22

23 Page 31, line 25:

1 Delete "Sections 24, 25, 32 - 34, and 37"

2 Insert "Sections 24 - 26, 33 - 35, and 38"

3

4 Page 31, line 27:

5 Delete "31, and 38"

6 Insert "32, and 39"

7

8 Page 31, line 29:

9 Delete "Sections 26 and 27"

10 Insert "Sections 27 and 28"

11

12 Page 31, line 30:

13 Delete "sec. 26"

14 Insert "sec. 27"

15

16 Page 31, line 31:

17 Delete "sec. 27"

18 Insert "sec. 28"

19

20 Page 32, line 1:

21 Delete "sec. 29"

22 Insert "sec. 30"

23

24 Page 32, line 3:

25 Delete "29"

26 Insert "30"

27

28 Page 32, line 31:

29 Delete "secs. 24, 25, 32 - 34, and 37"

30 Insert "secs. 24 - 26, 33 - 35, and 38"

31

1 Page 33, line 2:

2 Delete "secs. 14 - 20, 26, 27, 31, and 38"

3 Insert "secs. 14 - 20, 27, 28, 32, and 39"

4

5 Page 33, lines 19 - 20:

6 Delete "Sections 24, 25, 32 - 34, and 37"

7 Insert "Sections 24 - 26, 33 - 35, and 38"

8

9 Page 33, line 21:

10 Delete "26, 27, 31, and 38"

11 Insert "27, 28, 32, and 39"

12

13 Page 33, line 22:

14 Delete "sec. 44"

15 Insert "sec. 45"

AMENDMENT 6

OFFERED IN THE HOUSE

TO: CSHB 2001(O&amp;G), Version "L"

1 Page 18, line(s) 25: insert the following:

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

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

6 (1) 30 percent of the total exploration expenditures that qualify on' ' under (b)  
7 and (c) of this section;

8 (2) 30 percent of the total exploration expenditures [FOR WORK PERFORMED  
9 BEFORE JULY 1, 2007, AND] that qualify only under (b) and (d) of this section;

10 (3) 40 percent of the total exploration expenditures that qualify under (b), (c), and  
11 (d) of this section; or

12 (4) 40 percent of the total exploration expenditures that qualify only under (b)  
13 and (e) of this section.

14 \*Sec. \_\_. AS 43.55.025(b) is amended to read:

15 (b) To qualify for the production tax credit under (a) of this section, an exploration  
16 expenditure must be incurred for work performed [ON OR] after December 31, 2007 [JULY 1,  
17 2003], and before July 1, 2016, [EXCEPT THAT AN EXPLORATION EXPENDITURE FOR A  
18 COOK INLET PROSPECT MUST BE INCURRED FOR WORK PERFORMED ON OR  
19 AFTER JULY 1, 2005,] and

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

22 (2) if for an exploration well,

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

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

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

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

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

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

14 \*Sec. \_\_. AS 43.55.025(c) is repealed and reenacted to read:

15                    (c) To be eligible for the 30 percent production tax credit authorized by (a)(1) of this  
 16 section or the 40 percent production tax credit authorized by (a)(3) of this section, exploration  
 17 expenditures must

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

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

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

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

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

4 \*Sec. \_\_. 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, except for a  
 7 credit under (f) of this section, within six months of the completion of the exploration activity,  
 8 claim the credit and submit information sufficient to demonstrate to the department's satisfaction  
 9 that the 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 days after  
 12 completion of seismic or geophysical data processing, completion of [A] well drilling, or  
 13 filing of a claim for credit, whichever is the latest, for which exploration costs are  
 14 claimed, of the date of completion and submit a report to that department describing the  
 15 processing sequence and providing a list of data sets available; [IF, UNDER (c)(2)(B) OF  
 16 THIS SECTION, AN EXPLORER SUBMITS A CLAIM FOR A CREDIT FOR  
 17 EXPENDITURES FOR AN EXPLORATION WELL THAT IS LOCATED WITHIN  
 18 THREE MILES OF A WELL ALREADY DRILLED FOR OIL AND GAS, IN  
 19 ADDITION TO THE SUBMISSIONS REQUIRED UNDER (1) OF THIS  
 20 SUBSECTION, THE EXPLORER SHALL SUBMIT THE INFORMATION  
 21 NECESSARY FOR THE COMMISSIONER OF NATURAL RESOURCES TO  
 22 EVALUATE THE VALIDITY OF THE EXPLORER'S CLAIM THAT THE WELL IS  
 23 DIRECTED AT A DISTINCTLY SEPARATE EXPLORATION TARGET, AND THE  
 24 COMMISSIONER OF NATURAL RESOURCES SHALL, UPON RECEIPT OF ALL  
 25 EVIDENCE SUFFICIENT FOR THE COMMISSIONER TO EVALUATE THE  
 26 EXPLORER'S CLAIM, MAKE THAT DETERMINATION WITHIN 60 DAYS:]

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

31 (i) a seismic or geophysical data set includes the data for an  
 32 entire seismic survey, irrespective of whether the survey area covers  
 33 nonstate land in addition to state land or land in a unit in addition to land  
 34 outside a unit;

1 (i) well data include all derivative products, results, and  
 2 copies of data collected and data analyses for the well including but not  
 3 limited to; well logs; sample analyses; geophysical and velocity data  
 4 including vertical seismic profiles and check shot surveys; and tangible  
 5 material including, for each whole core collected, a lengthwise cut slab that  
 6 is at least 1/3 of the whole core volume, and one set of representative  
 7 samples, as specified by the Department of Natural Resources, of other  
 8 gaseous, liquid, or solid material collected from drilling or testing the well;

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

11 (i) in the case of well data, until the expiration of the 24-  
 12 month period of confidentiality described in AS 31.05.035(c), [FOR 10  
 13 YEARS FOLLOWING THE COMPLETION DATE, AT WHICH TIME THAT  
 14 DEPARTMENT] will release the information after 30 days' public notice, unless  
 15 in the discretion of the commissioner of natural resources, it is necessary to  
 16 protect information relating to the valuation of unleased acreage in the same  
 17 vicinity,

18 (ii) in the case of seismic or other geophysical data, other  
 19 than seismic data acquired by seismic exploration subject to (f) of this  
 20 section, for 10 years following the completion date, at which time the  
 21 Department of Natural Resources will release the information after 30 days'  
 22 public notice;

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

27 (D) that, in the case of well data, the explorer will not make a request  
 28 under AS 38.05.035(c) that the commissioner of natural resources keep the data  
 29 confidential for longer than the 24-month period of confidentiality described in AS  
 30 31.05.035(c);

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

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

1 (B) in the case of a well, each explorer holding an interest in the well  
 2 shall agree, in writing, that the explorer will not make the request described in  
 3 (2)(D) of this subsection;

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

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

17 (A) the explorer's name;

18 (B) the date of the application;

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

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

21 and

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

24 \*Sec. \_\_. AS 43.55.025(g) is amended to read:

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

28 \*Sec. \_\_. AS 43.55.025(h) is amended to read:

29 (h) A producer that purchases a production tax credit certificate may apply the credit's  
 30 against its production tax liability under AS 43.55.011(e) [OR (f)]. Regardless of the price the  
 31 producer paid for the certificate, the producer may receive a credit against its production tax  
 32 liability for the full amount of the credit, but for not more than the amount for which the  
 33 certificate is issued. A production tax credit allowed under this section may not be applied more  
 34 than once.

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

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

3 (1) a credit may not be applied to reduce a taxpayer's tax liability under AS  
4 43.55.011(e) below zero for a calendar year; and

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

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

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

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

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

17 (1) have been for seismic exploration that

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

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

24 (2) qualify under (b)(3) of this section.  
25

AMENDMENT

7

Roses

OFFERED IN THE HOUSE

TO: CSHB 2001(O&G)

1 Page 19, following line 26:

2 Insert a new bill section to read:

3 **"\* Sec. 27. AS 43.55.030(d) is amended to read:**

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

12

13 Renumber the following bill sections accordingly.

14

15 Page 31, line 25:

16 Delete "32 - 34, and 37"

17 Insert "33 - 35, and 38"

18

19 Page 31, line 27:

20 Delete "31, and 38"

21 Insert "32, and 39"

22

23 Page 31, line 29:

1 Delete "27"  
2 Insert "28"  
3  
4 Page 31, line 31:  
5 Delete "sec. 27"  
6 Insert "sec. 28"  
7  
8 Page 32, line 1:  
9 Delete "sec. 29"  
10 Insert "sec. 30"  
11  
12 Page 32, line 3:  
13 Delete "29"  
14 Insert "30"  
15  
16 Page 32, line 31:  
17 Delete "32 - 34, and 37"  
18 Insert "33 - 35, and 38"  
19  
20 Page 33, line 2:  
21 Delete "27, 31, and 38"  
22 Insert "28, 32, and 39"  
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24 Page 33, line 20:  
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26 Insert "33 - 35, and 38"  
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28 Page 33, line 21:  
29 Delete "27, 31, and 38"  
30 Insert "28, 32, and 39"  
31

- 1 Page 33, line 22:
- 2 Delete "sec. 44"
- 3 Insert "sec. 45"

AMENDMENT

8 Anna

OFFERED IN THE HOUSE

TO: CSHB 2001(O&G)

1 Page 21, line 30, following "matters":

2 Insert ";

3 (6) assess against a person required under this section to file a  
4 report, statement, or other document a penalty, as determined by the department  
5 under standards adopted in regulation by the department, of not more than  
6 \$1,000 for each day the person fails to file the report, statement, or other  
7 document at the time required; the penalty is in addition to any penalties under  
8 AS 43.05.220 and 43.05.290 and is assessed, collected, and paid in the same  
9 manner as a tax deficiency under this title; the penalty shall bear interest at the  
10 rate specified under AS 43.05.225(1); notwithstanding authority granted under  
11 AS 43.05.070 to compromise a penalty, the department may not under that  
12 section compromise a penalty under this paragraph by agreeing to accept less  
13 than 50 percent of the penalty originally assessed by the department"

AMENDMENT

9  
*Rep Seaton*

OFFERED IN THE HOUSE

TO: CSHB 2001(O&G)

1 Page 25, line 15, following "under":

2 Insert "(c) or"

3

4 Page 29, lines 14 - 16:

5 Delete "A [UNLESS THE PAYMENT OR CREDIT HAS ALREADY BEEN  
6 SUBTRACTED IN CALCULATING BILLABLE OR BILLED COSTS UNDER  
7 AS 43.55.165(c) OR (d), A]"

8 Insert "Unless the payment or credit has already been subtracted in calculating billable  
9 or billed costs under AS 43.55.165(c) [OR (d)], a"

10

11 Page 31, line 21:

12 Delete "AS 43.55.165(c) and 43.55.165(d) are repealed."

13 Insert "AS 43.55.165(d) is repealed."

AMENDMENT 10

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

BY REPRESENTATIVE SEATON  
Rep. Johnson

- 1 Page 26, line 14:
- 2       Following "negligence<sub>2</sub>":
- 3               Insert "**criminal negligence,**"
- 4       Following "**law,**":
- 5               Insert "**including a violation of 33 U.S.C. 1319(c)(1) or 1321(b)(3) (Clean**
- 6       **Water Act),**"
- 7
- 8 Page 28, line 6, through page 29, line 1:
- 9       Delete all material.
- 10
- 11 Renumber the following paragraph accordingly.

AMENDMENT //

OFFERED IN THE HOUSE

TO: CSHB 2001(O&G)

BY REPRESENTATIVE SEATON

Rep. Johnson  
Rep. Roses  
Rep. Wilson

1 Page 26, following line 2:

2 Insert new bill sections to read:

3 **\*\* Sec. 33.** AS 43.55.165(b) is amended to read:

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

5 (1) direct costs include

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

10 (B) payments of or in lieu of property taxes, sales and use  
11 taxes, motor fuel taxes, and excise taxes;

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

16 (2) an activity must be physically located in the state [DOES NOT  
17 NEED TO BE PHYSICALLY LOCATED ON, NEAR, OR WITHIN THE  
18 PREMISES OF THE LEASE OR PROPERTY WITHIN WHICH AN OIL OR GAS  
19 DEPOSIT BEING EXPLORED FOR, DEVELOPED, OR PRODUCED IS  
20 LOCATED] in order for the cost of the activity to be a cost upstream of the point of  
21 production of the oil or gas.

22 **\* Sec. 34.** AS 43.55.165(b), as amended by sec. 33 of this Act, is amended to read:

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

1 (1) direct costs include

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

6 (B) payments of or in lieu of property taxes, sales and use  
7 taxes, motor fuel taxes, and excise taxes;

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

12 (2) an activity must be physically located on the premises of the lease  
13 or property from which oil or gas is recovered [IN THE STATE] in order for the  
14 cost of the activity to be a cost upstream of the point of production of the oil or gas."  
15

16 Renumber the following bill sections accordingly.

17

18 Page 31, line 25:

19 Delete "32 - 34, and 37"

20 Insert "32, 33, 35, 36, and 39"

21

22 Page 31, line 27:

23 Delete "38"

24 Insert "40"

25

26 Page 32, line 31:

27 Delete "32 - 34, and 37"

28 Insert "32, 33, 35, 36, and 39"

29

30 Page 33, line 2:

31 Delete "38"

1           Insert "40"

2

3   Page 33, line 20:

4           Delete "32 - 34, and 37"

5           Insert "32, 33, 35, 36, and 39"

6

7   Page 33, following line 20:

8           Insert new bill sections to read:

9           **"\* Sec. 46.** The uncodified law of the State of Alaska is amended by adding a new section to  
10 read:

11           CONTINGENT EFFECT. Section 34 of this Act takes effect only if a court of  
12 competent jurisdiction enters a final judgment on the merits, the final judgment is no longer  
13 subject to appeal, and the final judgment nullifies the effect of AS 43.55.165(b), as amended  
14 by sec. 33 of this Act.

15           \* Sec. 47. If sec. 34 of this Act takes effect, it takes effect on the day after the last day on  
16 which the final judgment described in sec. 46 of this Act is no longer subject to appeal."

17

18   Renumber the following bill sections accordingly.

19

20   Page 33, line 21:

21           Delete "38"

22           Insert "40"

23

24   Page 33, line 22:

25           Delete "sec. 44"

26           Insert "secs. 47 and 48"

AMENDMENT

12 Anna Fairclough  
Roses

OFFERED IN THE HOUSE

TO: CSHB 2001(O&G)

- 1 Page 13, line 22, following ".":
- 2       Insert "All money received by the state as a result of the application of this subsection
- 3 shall be deposited by the department into a separate account in the general fund known as the
- 4 progressivity savings account."

AMENDMENT

13

Fairclough

OFFERED IN THE HOUSE

TO: CSHB 2001(O&G)

- 1 Page 22, line 3:
- 2 Delete "six"
- 3 Insert "~~four~~ three"

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

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

## MEMORANDUM

November 3, 2007

**SUBJECT:** Amendment to the production tax on oil and gas legislation  
(CSHB 2001(O&G); amendment L.35)

**TO:** Representative Craig Johnson  
Co-chair of the House Resources Committee  
Attn: Debra Higgins

**FROM:** Tamara Brandt Cook  
Director

TBC

Here is the amendment you request, but please be aware that significant portions of it appear to be outside of the scope of the subjects identified in the Governor's Executive Proclamation calling the special session. That Proclamation lists four subjects, but all involve oil and gas tax and royalty matters. AS 43.05.230 deals with returns and reports for a variety of types of taxes, not just oil and gas tax. Consequently, changes that apply to the section as a whole necessarily affect the tax returns and reports of types of taxes other than oil and gas taxes.

Under Art. II, sec. 9 at special sessions called by the Governor, legislation is limited to the subjects designated in the proclamation and to subjects presented by the Governor. While the matter has not come up in Alaska, the usual remedy imposed by the other courts of a violation of a similar constitutional subject matter limitation has been to invalidate the legislation.

I suppose the Alaska court could construe Art. II, sec. 9 in a way that is extremely deferential to the legislature and decide that the current Proclamation opens up the entire subject of taxation for possible legislation; however, this strikes me as a very remote possibility. Consequently, I recommend that this amendment be substantially narrowed so that it applies only to oil and gas taxes. I also note that, as it is now drafted, amendment L.35 does not fit within the title of the CSHB 2001(O&G). I have not included a bill title change, but if the amendment is adopted without limiting it to oil and gas, the resulting bill will have to include the technical title change to comply with that portion of Art. II, sec. 13 that requires the contents of each bill to be reflected in the title. Because this bill is still in the first house, there is no problem under the Uniform Rules with making the title change.

TBC:med  
07-399.med

Enclosure

AMENDMENT 14

OFFERED IN THE HOUSE

BY REPRESENTATIVE JOHNSON

TO: CSHB 2001(O&G)

1 Page 2, line 29, following "imposed":

2 Delete "tax information, records, and files received from the Department of  
3 Revenue under AS 43.05.230 shall be kept confidential in accordance with that section:"

4  
5 Page 10, line 7, following "provided in":

6 Insert "(j) of this section and"

7  
8 Page 10, following line 10:

9 Insert a new bill section to read:

10 "\*\* Sec. 12. AS 43.05.230(f) is amended to read:

11 (f) A wilful or reckless violation of the provisions of this section or of a  
12 condition imposed under AS 43.55.040(1)(B) is punishable by a fine of not more than  
13 \$25,000, or by imprisonment for not more than five years, or both. A violation of  
14 the provisions of this section or of a condition imposed under AS 43.55.040(1)(B)  
15 because of gross negligence is punishable by a fine of not more than \$5,000, or by  
16 imprisonment for not more than two years, or by both."

17  
18 Renumber the following bill sections accordingly.

19  
20 Page 10, line 12:

21 Delete "The"

22 Insert "Except as provided in (j) of this section, the [THE]"

23

1 Page 10, line 18, following "subsection.":

2 Insert "All materials and information furnished to the Department of Natural  
3 Resources must be clearly stamped, marked, or otherwise designated, on each page, as  
4 being tax materials or information that is required to be kept confidential under this  
5 section."

6

7 Page 10, following line 18:

8 Insert a new bill section to read:

9 **\*\* Sec. 14.** AS 43.05.230 is amended by adding new subsections to read:

10 (j) Notwithstanding any provision of AS 38.05 or AS 41.09, the commissioner  
11 may not furnish to the Department of Natural Resources any information or materials  
12 obtained by the department under AS 43.55 that disclose a person's

13 (1) budget or plans, or lack of a budget or plan, for bidding in any oil  
14 and gas lease sale to be held, or planned or scheduled to be held, by the Department of  
15 Natural Resources under AS 38.05;

16 (2) budget or plans, or lack of a budget or plan, for bidding to  
17 purchase, making an offer to purchase, or soliciting a proposal from the Department of  
18 Natural Resources to sell under AS 38.05.183 and AS 38.06, state royalty oil or gas, or  
19 both, taken in kind under AS 38.05.182;

20 (3) operating and capital budgets for the current and following  
21 calendar years for a lease or property producing oil or gas, or both, including any  
22 assumptions in those budgets regarding market prices or conditions for oil and gas,  
23 unless the Department of Natural Resources certifies in writing to the department that  
24 it has no plan to offer for sale or bid under AS 38.05.183 and AS 38.06, during the  
25 current and following two calendar years, state royalty oil or gas taken in kind under  
26 AS 39.05.182 other than to renew or extend an existing contract to sell state royalty oil  
27 or gas taken in kind; or

28 (4) planned operating and capital budgets for either or both of the  
29 second and third calendar years after the current year for a lease or property producing  
30 oil or gas, or both, including any assumptions in those planned budgets regarding  
31 market prices or conditions for oil and gas, unless the Department of Natural

1 Resources certifies in writing to the department that it has no plan to offer for sale or  
 2 bid under AS 38.05.183 and AS 38.06, during the current and following two calendar  
 3 years, state royalty oil or gas taken in kind.

4 (k) If the department becomes aware that any material or information that is  
 5 confidential under this section has been unlawfully disclosed or is about to be  
 6 unlawfully disclosed in violation of this section, or has probable cause to believe that  
 7 the information has been or is about to be disclosed, the department shall, within 72  
 8 hours of first gaining the awareness or having probable cause, notify each person  
 9 whose confidential material or information is or may be included in that actual,  
 10 apparent, or threatened disclosure. The department shall cooperate to the fullest extent  
 11 permitted by law with each person it notifies under this subsection to prevent the  
 12 disclosure, if possible, and, if the disclosure has occurred or appears to have occurred,  
 13 to recover as quickly as possible all material or information and to minimize its further  
 14 disclosure and dissemination. When the department believes that an unlawful  
 15 disclosure has occurred, it shall report the crime as quickly as practicable to the  
 16 division in the Department of Public Safety responsible for the Alaska state troopers.

17 (l) Each other state agency that receives confidential material or information  
 18 under this section shall, with respect to an actual, apparent, or impending unlawful  
 19 disclosure of that information, have the same duty and authority to respond to the  
 20 situation that the department has under (k) of this section.

21 (m) In this section, "oil" and "gas" have the meanings given in AS 43.55.900."  
 22

23 Renumber the following bill sections accordingly.  
 24

25 Page 30, line 17:

26 Delete "Notwithstanding"

27 Insert "(a) Subject to (b) of this section and notwithstanding"  
 28

29 Page 30, line 22:

30 Delete "lease or property, unit, or"  
 31

1 Page 31, following line 4:

2 Insert a new subsection to read:

3 "(b) The department may not select a group of producers or explorers for  
4 purposes of publishing a category of aggregated information for them if the amount in  
5 that category of information for one of the group accounts for more than 40 percent of  
6 the group's total for that category."  
7

8 Renumber internal references to bill sections in accordance with this amendment in a way that  
9 make: sections 12 and 14, added by this amendment, effective immediately and omits them  
10 from the applicability and retroactive sections. Below are all internal bill section references in  
11 this bill:

12 Page 31, lines 25, 27, 29, 30, and 31

13 Page 32, lines 1, 3, 13, 16, 19, and 31

14 Page 33, lines 2, 19 - 20, 21, and 22

25-GH0014\L  
11/03/07

AMENDMENT

15

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

BY REPRESENTATIVE JOHNSON

Page 10, line 19 – Page 33, line 23

Delete: Sec. 13 through Sec. 45

AMENDMENT 16

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

BY REPRESENTATIVE

Guttenberg

1 Page 1, line 8, following "supervisors":

2 Insert "and to allow them to participate in the public employees' retirement  
3 system defined benefit plan"

4  
5 Page 9, following line 15:

6 Insert new bill sections to read:

7 **\*\* Sec. 10.** AS 39.35.095 is amended to read:

8 **Sec. 39.35.095. Applicability of AS 39.35.095 - 39.35.680.** The  
9 [FOLLOWING] provisions of AS 39.35.095 - 39.35.680 [THIS CHAPTER] apply  
10 only to members first hired before July 1, 2006, or members who are eligible under  
11 AS 39.35.159 to elect the defined benefit plan [: AS 39.35.095 - 39.35.680].

12 **\* Sec. 11.** AS 39.35 is amended by adding a new section to article 3 to read:

13 **Sec. 39.35.159. Election of retirement benefits by oil and gas auditors.**  
14 Notwithstanding any contrary provision of this chapter, an oil and gas auditor under  
15 AS 39.25.110(42) may, within 30 days after commencing employment or within 30  
16 days after the effective date of this section, whichever occurs later, elect to participate  
17 in the defined benefit plan established in AS 39.35.095 - 39.35.680 in lieu of  
18 participating in the defined contribution retirement plan established under  
19 AS 39.35.700 - 39.35.990. A person making an election under this section may not  
20 change the election more than 30 days after commencing employment. The board shall  
21 establish transfer procedures by regulation."  
22

23 Renumber the following bill sections accordingly.

1

2 Page 31, line 25:

3 Delete "Sections 24, 25, 32 - 34, and 37"

4 Insert "Sections 26, 27, 34 - 36, and 39"

5

6 Page 31, line 27:

7 Delete "Sections 14 - 20, 31, and 38"

8 Insert "Sections 16 - 22, 33, and 40"

9

10 Page 31, line 29:

11 Delete "Sections 26 and 27"

12 Insert "Sections 28 and 29"

13

14 Page 31, line 30:

15 Delete "sec. 26"

16 Insert "sec. 28"

17

18 Page 31, line 31:

19 Delete "sec. 27"

20 Insert "sec. 29"

21

22 Page 32, line 1:

23 Delete "sec. 29"

24 Insert "sec. 31"

25

26 Page 32, line 3:

27 Delete "secs. 13 and 29"

28 Insert "secs. 15 and 31"

29

30 Page 32, line 31:

31 Delete "secs. 24, 25, 32 - 34, and 37"

1           Insert "secs. 26, 27, 34 - 36, and 39"

2

3   Page 33, line 2:

4           Delete "secs. 14 - 20, 26, 27, 31, and 38"

5           Insert "secs. 16 - 22, 28, 29, 33, and 40"

6

7   Page 33, lines 19 - 20:

8           Delete "Sections 24, 25, 32 - 34, and 37"

9           Insert "Sections 26, 27, 34 - 36, and 39"

10

11   Page 33, line 21:

12           Delete "Sections 14 - 20, 26, 27, 31, and 38"

13           Insert "Sections 16 - 22, 28, 29, 33, and 40"

14

15   Page 33, line 22:

16           Delete "sec. 44"

17           Insert "sec. 46"

AMENDMENT 17

OFFERED IN THE HOUSE

BY REPRESENTATIVE *Guttenberg*

TO: CSHB 2001(O&G)

1 Page 1, following line 12:

2 Insert a new bill section to read:

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

5 LEGISLATIVE FINDINGS. The legislature finds that

6 (1) notwithstanding the provisions contained in AS 39.25.150(2), it is  
7 appropriate

8 (A) that a distinct position classification plan and pay plan be created  
9 for oil and gas revenue auditors that is in accordance with collective bargaining  
10 agreements negotiated under AS 23.40.070 - 23.40.260; or

11 (B) to add a new level of senior auditors to conduct oil and gas tax and  
12 royalty audits and that these senior employees should be compensated for the extra  
13 knowledge and experience required for this work;

14 (2) the exempt service is not suitable for oil and gas revenue auditors, and  
15 those employees should remain in the classified service;

16 (3) prior recruitment efforts have limited the pool of applicants and increased  
17 the difficulty of recruiting those specialized auditors;

18 (4) to obtain the largest possible pool of applicants, the administration should  
19 use a nationwide search to recruit oil and gas revenue auditors;

20 (5) the nature of the work is uniquely complex, and the consequence of error  
21 is extremely high;

22 (6) the uniqueness of the work and the need to recruit the highest level of state  
23 employees demands that oil and gas auditors be compensated at a rate of pay commensurate

1 with the work involved."

2

3 Page 2, line 1:

4 Delete "Section 1"

5 Insert "Sec. 2"

6

7 Renumber the following bill sections accordingly.

8

9 Renumber internal references to bill sections in accordance with this amendment in a way that  
10 makes sec. 1 of this Act effective January 1, 2008, and omits it from the applicability and  
11 retroactive sections. Below are all internal bill section references in this bill:

12 Page 31, lines 25, 27, 29, 30, and 31

13 Page 32, lines 1, 3, 13, 16, 19, and 31

14 Page 33, lines 2, 19 - 20, 21, and 22

REF EDGMON

18

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 2001(O&G)

1 Page 9, following line 28:

2 Insert a new bill section to read:

3 **\*\* Sec. 11.** AS 42.45 is amended by adding a new section to read:

4 **Sec. 42.45.045. Appropriations for the low income heating energy**  
5 **assistance program and alternative energy projects.** (a) By February 1 each year,  
6 the Department of Revenue shall determine whether the state received for the general  
7 fund, during the immediately preceding calendar year, an amount of money as a result  
8 of the application of AS 43.55.011(o). If the state received an amount as a result of the  
9 application of AS 43.55.011(o), the department shall notify the legislature of that  
10 amount.

11 (b) The legislature may annually appropriate up to \$30,000,000 of the amount  
12 reported under (a) to the low income heating energy assistance program and up to  
13 \$30,000,000 to alternative energy projects.

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

16 (d) For purposes of this section,

17 (1) "alternative energy project" means a system that provides a source  
18 of thermal, mechanical, or electrical energy that is not dependent on a fossil fuel other  
19 than natural gas for the supply of energy;

20 (2) "low income heating energy assistance program" means the  
21 program created by 7 AAC 44.010 to implement the federal Low-Income Home  
22 Energy Assistance Act of 1981, as amended (42 U.S.C. 8621 et seq.)."

23

1 Renumber the following bill sections accordingly.

2

3 Page 31, line 25:

4 Delete "Sections 24, 25, 32 - 34, and 37"

5 Insert "Sections 25, 26, 33 - 35, and 38"

6

7 Page 31, line 27:

8 Delete "Sections 14 - 20, 31, and 38"

9 Insert "Sections 15 - 21, 32, and 39"

10

11 Page 31, line 29:

12 Delete "Sections 26 and 27"

13 Insert "Sections 27 and 28"

14

15 Page 31, line 30:

16 Delete "sec. 26"

17 Insert "sec. 27"

18

19 Page 31, line 31:

20 Delete "sec. 27"

21 Insert "sec. 28"

22

23 Page 32, line 1:

24 Delete "sec. 29"

25 Insert "sec. 30"

26

27 Page 32, line 3:

28 Delete "secs. 13 and 29"

29 Insert "secs. 14 and 30"

30

31 Page 32, line 31:

1 Delete "secs. 24, 25, 32 - 34, and 37"

2 Insert "secs. 25, 26, 33 - 35, and 38"

3

4 Page 33, line 2:

5 Delete "secs. 14 - 20, 26, 27, 31, and 38"

6 Insert "secs. 15 - 21, 27, 28, 32, and 39"

7

8 Page 33, following line 16:

9 Insert a new bill section to read:

10 **"\* Sec. 44.** The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 **APPROPRIATIONS OF PRODUCTION TAX REVENUE.** (a) By February 1 each  
13 year, the Department of Revenue shall determine the amount that the state received in  
14 additional tax revenue for the immediately preceding calendar year as a result of the  
15 retroactive application of AS 43.55.011(o), added by sec. 19 of this Act. The department shall  
16 notify the legislature of that amount. Once the amount received for all years as a result of the  
17 retroactive application of AS 43.55.011(o) exceeds \$100,000,000, the department's obligation  
18 under this section ceases.

19 (b) The legislature may appropriate up to \$100,000,000 of the amount attributable to  
20 retroactive application of AS 43.55.011(o), added by sec. 19 of this Act, for either the low  
21 income heating energy assistance program or for alternative energy projects or for both.

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

24 (d) For purposes of this section,

25 (1) "alternative energy project" means a system that provides a source of  
26 thermal, mechanical, or electrical energy that is not dependent on a fossil fuel other than  
27 natural gas for the supply of energy;

28 (2) "low income heating energy assistance program" means the program  
29 created by 7 AAC 44.010 to implement the federal Low-Income Home Energy Assistance Act  
30 of 1981, as amended (42 U.S.C. 8621 et seq.)."

31

1 Renumber the following bill sections accordingly.

2

3 Page 33, line 19, following "ACT.":

4       Insert "(a)"

5

6 Page 33, following line 20:

7       Insert a new subsection to read:

8       "(b) Sections 15 - 21 and 39 of this Act are retroactive to January 1, 2007."

9

10 Page 33, line 21:

11       Delete "Sections 14 - 20, 26, 27, 31, and 38"

12       Insert "Sections 27, 28, and 32"

13

14 Page 33, line 22:

15       Delete "sec. 44"

16       Insert "sec. 46"

AMENDMENT

19

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSHB 2001(O&G)

Guttenberg

1 Page 10, following line 18:

2 Insert a new bill section to read:

3 **"\* Sec. 13.** AS 43.05.241 is amended by adding a new subsection to read:

4 (b) In an appeal under this section, an amount due under AS 43.55 shall be  
5 paid within 30 days after the date of the service of the informal conference decision. In  
6 place of payment of the amount due, the taxpayer may file a bond with the department  
7 or place funds equal to the amount of the tax obligation in an escrow account, under  
8 escrow instructions approved by the department."  
9

10 Renumber the following bill sections accordingly.

11

12 Page 31, line 25:

13 Delete "Sections 24, 25, 32 - 34, and 37"

14 Insert "Sections 25, 26, 33 - 35, and 38"

15

16 Page 31, line 27:

17 Delete "Sections 14 - 20, 31, and 28"

18 Insert "Sections 15 - 21, 32, and 39"

19

20 Page 31, line 29:

21 Delete "Sections 26 and 27"

22 Insert "Sections 27 and 28"

23

24 Page 31, line 30:

1 Delete "Section 26"

2 Insert "Section 27"

3

4 Page 31, line 31:

5 Delete "sec. 27"

6 Insert "sec. 28"

7

8 Page 32, line 1:

9 Delete "sec. 29"

10 Insert "sec. 30"

11

12 Page 32, line 3:

13 Delete "secs. 13 and 29"

14 Insert "secs. 14 and 30"

15

16 Page 32, following line 3:

17 Insert a new subsection to read:

18 "(e) AS 43.05.241(b), added by sec. 13 of this Act, applies to informal conference  
19 decisions under AS 43.05.240(a) entered on or after the effective date set out in sec. 45 of this  
20 Act."

21

22 Page 32, line 31:

23 Delete "secs. 24, 25, 32 - 34, and 37"

24 Insert "secs. 25, 26, 33 - 35, and 38"

25

26 Page 33, line 2:

27 Delete "secs. 14 - 20, 26, 27, 31, and 38"

28 Insert "secs. 15 - 21, 27, 28, 32, and 39"

29

30 Page 33, lines 19 - 20:

31 Delete "Sections 24, 25, 32 - 34, and 37"

1           Insert "Sections 25, 26, 33 - 35, and 38"

2

3   Page 33, line 21:

4           Delete "Sections 14 - 20, 26, 27, 31, and 38"

5           Insert "Sections 15 - 21, 27, 28, 32, and 39"

6

7   Page 33, line 22:

8           Delete "sec. 44"

9           Insert "sec. 45"

AMENDMENT

20

Representative

Edgman

OFFERED IN THE HOUSE

TO: CSHB 2001(O&G)

1 Page 17, following line 3:

2 Insert a new bill section to read:

3 **"\* Sec. 23.** AS 43.55.023(a) is amended to read:

4 (a) A producer or explorer may take a tax credit for a qualified capital  
5 expenditure as follows:

6 (1) Unless [NOTWITHSTANDING THAT A QUALIFIED CAPITAL  
7 EXPENDITURE MAY BE A DEDUCTIBLE LEASE EXPENDITURE FOR  
8 PURPOSES OF CALCULATING THE PRODUCTION TAX VALUE OF OIL AND  
9 GAS UNDER AS 43.55.160(a), UNLESS] a credit for an [THAT] expenditure is  
10 taken under AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a  
11 producer or explorer that incurs a qualified capital expenditure may [ALSO] elect to  
12 take a tax credit against a tax due under AS 43.55.011(e) in the amount of 20 percent  
13 of that expenditure;

14 (2) a producer or explorer may take a credit for a qualified capital  
15 expenditure incurred in connection with geological or geophysical exploration or in  
16 connection with an exploration well only if the producer or explorer provides to the  
17 department, as part of the statement required under AS 43.55.030(a) for the calendar  
18 year for which the credit is sought to be taken, the producer's or explorer's written  
19 agreement

20 (A) to notify the Department of Natural Resources, before the  
21 later of 30 days after completion of the geological or geophysical data  
22 processing or completion of the well, or 30 days after the statement is filed, of  
23 the date of completion and to submit a report to that department describing the

1 processing sequence and provide a list of data sets available;

2 (B) to provide to the Department of Natural Resources, within  
3 30 days after the date of a request, specific data sets, ancillary data, and reports  
4 identified in (A) of this paragraph;

5 (C) that, notwithstanding any provision of AS 38, the  
6 Department of Natural Resources shall hold confidential the information  
7 provided to that department under this paragraph for 10 years following the  
8 completion date, after which the department shall publicly release the  
9 information after 30 days' public notice."  
10

11 Renumber the following bill sections accordingly.

12  
13 Page 18, following line 22:

14 Insert a new bill section to read:

15 **\*\* Sec. 26. AS 43.55.023(k) is amended to read:**

16 (k) In this section, "qualified capital expenditure"

17 (1) means, except as otherwise provided in (2) of this subsection, an  
18 expenditure that is a lease expenditure under AS 43.55.165, that is not also a lease  
19 expenditure deducted by a producer under AS 43.55.160, and that is

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

21 (B) treated as a capitalized expenditure under 26 U.S.C.  
22 (Internal Revenue Code), as amended, regardless of elections made under 26  
23 U.S.C. 263(c) (Internal Revenue Code), as amended, and is

24 (i) treated as a capitalized expenditure for federal  
25 income tax reporting purposes by the person incurring the expenditure;  
26 or

27 (ii) eligible to be deducted as an expense under 26  
28 U.S.C. 263(c) (Internal Revenue Code), as amended;

29 (2) does not include an expenditure incurred to acquire an asset (A) the  
30 cost of previously acquiring which was a lease expenditure under AS 43.55.165 or  
31 would have been a lease expenditure under AS 43.55.165 if it had been incurred after

1 March 31, 2006; for purposes of this subparagraph, "asset" includes geological,  
2 geophysical, and well data and interpretations; or (B) that has previously been placed  
3 in service in the state; an expenditure to acquire an asset is not excluded under this  
4 paragraph if not more than an immaterial portion of the asset meets a description  
5 under this paragraph."  
6

7 Renumber the following bill sections accordingly.

8  
9 Page 31, line 25:

10 Delete "Sections 24, 25, 32 - 34, and 37"

11 Insert "Sections 23, 25 - 27, 34 - 36, and 39"

12

13 Page 31, line 27:

14 Delete "31, and 38"

15 Insert "33, and 40"

16

17 Page 31, line 29:

18 Delete "Sections 26 and 27"

19 Insert "Sections 28 and 29"

20

21 Page 31, line 30:

22 Delete "sec. 26"

23 Insert "sec. 28"

24

25 Page 31, line 31:

26 Delete "sec. 27"

27 Insert "sec. 29"

28

29 Page 32, line 1:

30 Delete "sec. 29"

31 Insert "sec. 31"

1

2 Page 32, line 3:

3 Delete "29"

4 Insert "31"

5

6 Page 32, line 31:

7 Delete "24, 25, 32 - 34, and 37"

8 Insert "23, 25 - 27, 34 - 36, and 39"

9

10 Page 33, line 2:

11 Delete "26, 27, 31, and 38"

12 Insert "28, 29, 33, and 40"

13

14 Page 33, lines 19 - 20:

15 Delete "Sections 24, 25, 32 - 34, and 37"

16 Insert "Sections 23, 25 - 27, 34 - 36, and 39"

17

18 Page 33, line 21:

19 Delete "26, 27, 31, and 38"

20 Insert "28, 29, 33, and 40"

21

22 Page 33, line 22:

23 Delete "44"

24 Insert "46"

AMENDMENT

21  
Representative  
Edgman

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

1 Page 18, following line 22:

2 Insert a new bill section to read:

3 **\*\* Sec. 25. AS 43.55.023(k) is amended to read:**

4 (k) In this section, "qualified capital expenditure"

5 (1) means, except as otherwise provided in (2) of this subsection, an  
6 expenditure that is [A LEASE EXPENDITURE UNDER AS 43.55.165 AND IS]

7 (A) incurred during the calendar year by a producer or  
8 explorer after March 31, 2006;

9 (B) a direct cost of exploring for or developing oil and gas  
10 deposits located within leases or properties in the state or, in the case of  
11 land in which a producer or explorer does not own a working interest, a  
12 direct cost of exploring for oil or gas deposits located within other land in  
13 the state, including a cost incurred for geological or geophysical exploration;

14 (C) [OR (B)] treated as a capitalized expenditure under 26  
15 U.S.C. (Internal Revenue Code), as amended, regardless of elections made  
16 under 26 U.S.C. 263(c) (Internal Revenue Code), as amended, and is

17 (i) treated as a capital expenditure in the producer's  
18 or explorer's books and records in accordance with generally  
19 accepted accounting principles; and

20 (ii) reported as a capital expenditure in a certified  
21 audited financial statement that is accompanied by the report of an  
22 independent certified accountant [TREATED AS A CAPITALIZED  
23 EXPENDITURE FOR FEDERAL INCOME TAX REPORTING

PURPOSES BY THE PERSON INCURRING THE EXPENDITURE;  
OR

(ii) ELIGIBLE TO BE DEDUCTED AS AN  
EXPENSE UNDER 26 U.S.C. 263(c) (INTERNAL REVENUE  
CODE), AS AMENDED];

(2) does not include an expenditure incurred to acquire an asset (A) the  
cost of previously acquiring which was a lease expenditure under AS 43.55.165 or  
would have been a lease expenditure under AS 43.55.165 if it had been incurred after  
March 31, 2006; for purposes of this subparagraph, "asset" includes geological,  
geophysical, and well data and interpretations; 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 this paragraph."

Renumber the following bill sections accordingly.

*Page 18, following line 25*

~~Page 18, line 23.~~

*Insert a new bill section to read:*  
~~Delete "a new subsection"~~

~~insert "new subsections"~~

*\* Sec. 26. AS 43.55.023 is amended by adding  
new subsections to read:*

~~Page 18, lines 24 - 25:~~

~~Delete all material and insert:~~

*M* A person receiving a credit under this section that exceeds \$20,000,000  
for a calendar year shall provide the department the information and certification  
required by (m) and (n) of this section.

*n* A person receiving a credit as described in *M* of this section shall file with  
the department on March 31 of the year following the calendar year for which the  
credit is claimed copies of all documents describing the purpose, scope, amount, and  
anticipated results of the capital expenditures for which the person is taking the credit.  
Documents that must be filed under this subsection include all documents submitted,  
reviewed, or executed in connection with an authorization for expenditure with respect

1 to the capital expenditures for which the explorer or producer is taking a credit under  
2 this section.

3 A producer or explorer receiving a credit as described in (A) of this section  
4 shall, in addition to the documents required by (A) of this section, provide an affidavit  
5 by the producer's or explorer's chief financial officer certifying in writing under  
6 penalty of perjury that a capital expenditure for which the producer or explorer is  
7 taking a credit under this section was

8 (1) treated as a capital expenditure in the producer's or explorer's own  
9 books and records in accordance with generally accepted accounting principles; and

10 (2) reported as a capital expenditure in a certified and audited financial  
11 statement that was accompanied by the report of a certified public accountant."

12 *Renumber the following bill sections according to*

13 Page 31, line 25:

14 Delete "Sections 24, 25, 32 - 34, and 37"

15 Insert "Sections 24 - 26, 33 - 35, and 38"

) *Renumber*

17 Page 31, line 27:

18 Delete "31, and 38"

19 Insert "32, and 39"

) *Renumber*

21 Page 31, line 29:

22 Delete "Sections 26 and 27"

23 Insert "Sections 27 and 28"

) *Renumber*

25 Page 31, line 30:

26 Delete "sec. 26"

27 Insert "sec. 27"

) *Renumber*

29 Page 31, line 31:

30 Delete "sec. 27"

31 Insert "sec. 28"

) *Renumber*

1

2 Page 32, line 1:

3 Delete "sec. 29"

4 Insert "sec. 30"

5

6 Page 32, line 3:

7 Delete "29"

8 Insert "30"

9

10 Page 32, line 31:

11 Delete "secs. 24, 25, 32 - 34, and 37"

12 Insert "secs. 24 - 26, 33 - 35, and 38"

13

14 Page 33, line 2:

15 Delete "26, 27, 31, and 38"

16 Insert "27, 28, 32, and 39"

17

18 Page 33, lines 19 - 20:

19 Delete "Sections 24, 25, 32 - 34, and 37"

20 Insert "Sections 24 - 26, 33 - 35, and 38"

21

22 Page 33, line 21:

23 Delete "26, 27, 31, and 38"

24 Insert "27, 28, 32, and 39"

25

26 Page 33, line 22:

27 Delete "sec. 44"

28 Insert "sec. 45"

*Renumber*

*Renumber*

*Renumbered*

*Renumber*

*Renumber*

*Renumber*

*Renumber*

AMENDMENT

22

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

BY REPRESENTATIVE

Kawasaki

1 Page 21, following line 30:

2 Insert a new bill section to read:

3 **\*\* Sec. 29.** AS 43.55 is amended by adding a new section to read:

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

8 (b) If there is a gross understatement of tax required to be shown on a return  
9 under this chapter, there shall be added to the tax an amount equal to 40 percent of the  
10 gross understatement of tax.

11 (c) If there is a substantial or gross understatement of tax required to be shown  
12 on a return under this chapter, the department's reasonable costs of establishing the  
13 understatement shall be added to the amount of the penalty established under (a) or (b)  
14 of this section.

15 (d) A penalty imposed under this section is in addition to any other penalty,  
16 remedy, or amount of interest provided by law.

17 (e) For purposes of this section,

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

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

1                   (3) "understatement" means the amount by which the tax required to  
2                   be shown on the return for the taxable year exceeds the amount of the tax reported as  
3                   due by the taxpayer as shown on the return."  
4

5

6                   Renumber the following bill sections accordingly.

7

8                   Page 31, line 25:

9                   Delete "32 - 34, and 37"

10                  Insert "33 - 35, and 38"

11

12                  Page 31, line 27:

13                  Delete "31, and 38"

14                  Insert "32, and 39"

15

16                  Page 32, line 1:

17                  Delete "sec. 29"

18                  Insert "sec. 30"

19

20                  Page 32, line 3:

21                  Delete "29"

22                  Insert "30"

23

24                  Page 32, line 31:

25                  Delete "32 - 34, and 37"

26                  Insert "33 - 35, and 38"

27

28                  Page 33, line 2:

29                  Delete "31, and 38"

30                  Insert "32, and 39"

31

32                  Page 33, line 20:

- 1 Delete "32 - 34, and 37"
- 2 Insert "33 - 35, and 38"
- 3
- 4 Page 33, line 21:
  - 5 Delete "31, and 38"
  - 6 Insert "32, and 39"
  - 7
- 8 Page 33, line 22:
  - 9 Delete "sec. 44"
  - 10 Insert "sec. 45"

AMENDMENT

23

Edgman

OFFERED IN THE HOUSE

TO: CSHB 2001(O&G)

1 Page 25, line 14, through page 29, line 12:

2 Delete all material and insert:

3 "\* Sec. 32. AS 43.55.165(a) is amended to read:

4 (a) Except as provided under (e) [(c) - (e)] of this section, for the purposes of  
5 AS 43.55.160, a producer's lease expenditures for a calendar year are the ordinary and  
6 necessary operating costs upstream of the point of production of oil and gas that are  
7 incurred during the calendar year by the producer after March 31, 2006, and that are  
8 direct operating costs of [EXPLORING FOR, DEVELOPING, OR] producing oil or  
9 gas on [DEPOSITS LOCATED WITHIN] the producer's leases or properties in the  
10 state [OR, IN THE CASE OF LAND IN WHICH THE PRODUCER DOES NOT  
11 OWN A WORKING INTEREST, THAT ARE DIRECT COSTS OF EXPLORING  
12 FOR OIL OR GAS DEPOSITS LOCATED WITHIN OTHER LAND IN THE  
13 STATE. IN DETERMINING WHETHER COSTS ARE LEASE EXPENDITURES,  
14 THE DEPARTMENT SHALL CONSIDER, AMONG OTHER FACTORS,

15 (1) THE TYPICAL INDUSTRY PRACTICES AND STANDARDS  
16 IN THE STATE THAT DETERMINE THE COSTS, OTHER THAN ITEMS  
17 LISTED IN (e) OF THIS SECTION, THAT AN OPERATOR IS ALLOWED TO  
18 BILL A WORKING INTEREST OWNER THAT IS NOT THE OPERATOR,  
19 UNDER UNIT OPERATING AGREEMENTS OR SIMILAR OPERATING  
20 AGREEMENTS THAT WERE IN EFFECT BEFORE DECEMBER 2, 2005, AND  
21 WERE SUBJECT TO NEGOTIATION WITH AT LEAST ONE WORKING  
22 INTEREST OWNER WITH SUBSTANTIAL BARGAINING POWER, OTHER  
23 THAN THE OPERATOR; AND

1                   (2) THE STANDARDS ADOPTED BY THE DEPARTMENT OF  
2 NATURAL RESOURCES THAT DETERMINE THE COSTS, OTHER THAN  
3 ITEMS LISTED IN (e) OF THIS SECTION, THAT A LESSEE IS ALLOWED TO  
4 DEDUCT FROM REVENUE IN CALCULATING NET PROFITS UNDER A  
5 LEASE ISSUED UNDER AS 38.05.180(f)(3)(B), (D), OR (E)].

6 \* Sec. 33. AS 43.55.165(b) is amended to read:

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

8                   [(1)] direct operating costs include the costs of

9                   (1) production supplies;

10                  (2) purchased fuel;

11                  (3) routine maintenance;

12                  (4) the wages and benefits of employees working on production  
13 operations; and

14                  (5) [(A) AN EXPENDITURE, WHEN INCURRED, TO ACQUIRE  
15 AN ITEM IF THE ACQUISITION COST IS OTHERWISE A DIRECT COST,  
16 NOTWITHSTANDING THAT THE EXPENDITURE MAY BE REQUIRED TO BE  
17 CAPITALIZED RATHER THAN TREATED AS AN EXPENSE FOR FINANCIAL  
18 ACCOUNTING OR FEDERAL INCOME TAX PURPOSES;

19                  (B)] payments of or in lieu of property taxes, sales and use  
20 taxes, motor fuel taxes, and excise taxes with respect to property,  
21 transactions, or activities taking place on the producer's leases or  
22 properties in the state [;

23                  (C) A REASONABLE ALLOWANCE, AS DETERMINED  
24 UNDER REGULATIONS ADOPTED BY THE DEPARTMENT, FOR  
25 OVERHEAD EXPENSES DIRECTLY RELATED TO EXPLORING FOR,  
26 DEVELOPING, AND PRODUCING OIL OR GAS DEPOSITS LOCATED  
27 WITHIN LEASES OR PROPERTIES OR OTHER LAND IN THE STATE;

28                  (2) AN ACTIVITY DOES NOT NEED TO BE PHYSICALLY  
29 LOCATED ON, NEAR, OR WITHIN THE PREMISES OF THE LEASE OR  
30 PROPERTY WITHIN WHICH AN OIL OR GAS DEPOSIT BEING EXPLORED  
31 FOR, DEVELOPED, OR PRODUCED IS LOCATED IN ORDER FOR THE COST

1 OF THE ACTIVITY TO BE A COST UPSTREAM OF THE POINT OF  
2 PRODUCTION OF THE OIL OR GAS].

3 \* Sec. 34. AS 43.55.165(e) is amended to read:

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

5 (1) depreciation, depletion, or amortization;

6 (2) oil or gas royalty payments, production payments, lease profit  
7 shares, or other payments or distributions of a share of oil or gas production, profit, or  
8 revenue;

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

10 (4) interest or other financing charges or costs of raising equity or debt  
11 capital;

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

13 (6) costs arising from fraud, wilful misconduct, or gross negligence;

14 (7) fines or penalties imposed by law;

15 (8) costs of arbitration, litigation, or other dispute resolution activities  
16 that involve the state or concern the rights or obligations among owners of interests in,  
17 or rights to production from, one or more leases or properties or a unit;

18 (9) costs incurred in organizing a partnership, joint venture, or other  
19 business entity or arrangement;

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

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

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

31 (13) an expenditure incurred to purchase an interest in any corporation,

1 partnership, limited liability company, business trust, or any other business entity,  
2 whether or not the transaction is treated as an asset sale for federal income tax  
3 purposes;

4 (14) a tax levied under AS 43.55.011;

5 (15) the portion of costs incurred for dismantlement, removal,  
6 surrender, or abandonment of a facility, pipeline, well pad, platform, or other  
7 structure, or for the restoration of a lease, field, unit, area, body of water, or right-of-  
8 way in conjunction with dismantlement, removal, surrender, or abandonment, that is  
9 attributable to production of oil or gas occurring before April 1, 2006; the portion is  
10 calculated as a ratio of the amount of oil and gas production, in barrels of oil  
11 equivalent, associated with the facility, pipeline, well pad, platform, other structure,  
12 lease, field, unit, area, body of water, or right-of-way occurring before April 1, 2006,  
13 to the total amount of oil and gas production, in barrels of oil equivalent, associated  
14 with that facility, pipeline, well pad, platform, other structure, lease, field, unit, area,  
15 body of water, or right-of-way through the end of the calendar month before  
16 commencement of the dismantlement, removal, surrender, or abandonment; a cost is  
17 not excluded under this paragraph if the dismantlement, removal, surrender, or  
18 abandonment for which the cost is incurred is undertaken for the purpose of replacing,  
19 renovating, or improving the facility, pipeline, well pad, platform, or other structure;  
20 for the purposes of this paragraph, "barrel of oil equivalent" means

21 (A) in the case of oil, one barrel;

22 (B) in the case of gas, 6,000 cubic feet;

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

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

30 (18) that portion of expenditures, that would otherwise be qualified  
31 capital expenditures as defined in AS 43.55.023(k), incurred during a calendar year

1 that are less than the product of \$0.30 multiplied by the total taxable production from  
2 each lease or property, in BTU equivalent barrels, during that calendar year, except  
3 that, when a portion of a calendar year is subject to this provision, the expenditures  
4 and volumes shall be prorated within that calendar year;

5 (19) overhead, administrative costs, and other indirect costs and  
6 expenses."

7  
8 Renumber the following bill sections accordingly.

9  
10 Page 31, line 21:

11 Delete "AS 43.55.165(c) and 43.55.165(d)"

12 Insert "AS 43.55.165(c), 43.55.165(d), and 43.55.165(f)"

13  
14 Page 31, line 25:

15 Delete "32 - 34, and 37"

16 Insert "32 - 35, and 38"

17  
18 Page 31, line 27:

19 Delete "38"

20 Insert "39"

21  
22 Page 32, line 31:

23 Delete "32 - 34, and 37"

24 Insert "32 - 35, and 38"

25  
26 Page 33, line 2:

27 Delete "38"

28 Insert "39"

29  
30 Page 33, line 20:

31 Delete "32 - 34, and 37"

1           Insert "32 - 35, and 38"

2

3   Page 33, line 21:

4           Delete "38"

5           Insert "39"

6

7   Page 33, line 22:

8           Delete "sec. 44"

9           Insert "sec. 45"

AMENDMENT

24  
Guttenberg

OFFERED IN THE HOUSE

TO: CSHB 2001(O&G), Draft Version "L"

1 Page 23, following line 14:

2 Insert new bill sections to read:

3 **\*Sec. 31.** AS 43.55.150(a) is amended to read:

4 (a) For the purposes of AS 43.55.011 – 43.55.180, the gross value at the point of  
5 production is calculated using the reasonable costs of transportation of the oil or gas. The  
6 reasonable costs of transportation are the actual costs, except when the

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

8 (2) contract for the transportation of oil or gas (A) is not an arm's length  
9 transaction or (B) is not representative of the market value of that transportation; or

10 [AND]

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

13 **\*Sec. 32.** AS 43.55.150(b) is amended to read:

14 (b) If the department finds that a condition [THE CONDITIONS] in (a)(1), (2),  
15 or [AND] (3) of this section is [ARE] present, the department shall determine the  
16 reasonable costs of transportation, using the fair market value of like transportation, the  
17 fair market value of equally efficient and available alternative modes of transportation, or  
18 other reasonable methods. Transportation costs fixed by tariff rates that have been

1        adjudicated just and reasonable by [PROPERLY ON FILE WITH] the Regulatory  
2        Commission of Alaska or other regulatory agency shall be considered prima facie  
3        reasonable.”

4

5        Renumber the following bili sections accordingly.

AMENDMENT

25  
Representative  
Guttenberg

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

1 Page 25, line 15, following "e":

2 Insert "or (k)"

3  
4 Page 29, following line 12:

5 Insert a new bill section to read:

6 "\*\* Sec. 34. AS 43.55.165 is amended by adding a new subsection to read:

7 (k) A producer's lease expenditures with respect to oil and gas produced from  
8 each lease or property within a unit from which 1,000,000,000 BTU equivalent barrels  
9 of oil or gas have been cumulatively produced by the close of the most recent calendar  
10 year and from which the average daily oil and gas production during the most recent  
11 calendar year exceeded 100,000 BTU equivalent barrels shall be determined according  
12 to this subsection. A producer's lease expenditures for purposes of AS 43.55.160 shall  
13 be equal to the quotient obtained by dividing the producer's lease expenditures for  
14 each lease or property reported on the producer's tax return for 2006 by the total  
15 taxable production of each lease or property as reported on the producer's tax return  
16 for 2006, multiplied by the producer's total taxable production, in BTU equivalent  
17 barrels, during the calendar year. Commencing January 1, 2009, for calendar year  
18 2009 the quotient obtained in this subsection shall be increased by three percent. For  
19 each calendar year thereafter, the previous year's quotient shall be increased by three  
20 percent."

21  
22 Renumber the following bill sections accordingly.

23

1 Page 30, following line 15:

2 Insert a new bill section to read:

3 **\*\* Sec. 36. AS 43.55.180(b) is amended to read:**

4 (b) The department shall prepare a report on or before the first day of the 2011  
5 regular session of the legislature on the results of the study made under (a) of this  
6 section, including recommendations **concerning the amount of lease expenditures**  
7 **specified under AS 43.55.165(k) and** [AS TO] whether any **other** changes should be  
8 made to this chapter. The department shall notify the legislature that the report  
9 prepared under this section is available."

10

11 Renumber the following bill sections accordingly.

12

13 Page 31, line 25:

14 Delete "32 - 34, and 37"

15 Insert "32 - 36, and 39"

16

17 Page 31, line 27:

18 Delete "38"

19 Insert "40"

20

21 Page 32, line 31:

22 Delete "32 - 34, and 37"

23 Insert "32 - 36, and 39"

24

25 Page 33, line 2:

26 Delete "38"

27 Insert "40"

28

29 Page 33, line 20:

30 Delete "32 - 34, and 37"

31 Insert "32 - 36, and 39"

1

2 Page 33, line 21:

3 Delete "38"

4 Insert "40"

5

6 Page 33, line 22:

7 Delete "sec. 44"

8 Insert "sec. 46"

(Replaces #1)

25-GH0014\L.62  
Wayne/Bullock  
11/3/07

AMENDMENT

#26

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 2001(O&G)

1 Page 1, lines 4 - 5:

2 Delete "and south of 68 degrees North latitude"

3

4 Page 13, line 25:

5 Delete "and no part of which is north of 68 degrees North latitude"

6

7 Page 13, line 31, through page 14, line 2:

8 Delete "produced from a lease or property for which the start of regular deliveries of  
9 marketable gas is after December 31, 2007"

10 Insert

11 "(1) produced from a lease or property for which the start of regular  
12 deliveries of marketable gas is after December 31, 2007; and

13 (2) not supplied for

14 (A) consumption as petrochemical feedstock for a  
15 manufacturing process;

16 (B) processing into liquefied natural gas for export from the  
17 state; or

18 (C) conversion to a liquid"

AMENDMENT 27

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

BY *Guttenberg*

1 Page 1, lines 7 - 8:

2 Delete "amending the State Personnel Act to place in the exempt service certain  
3 state oil and gas auditors and their immediate supervisors;"

4 Insert "allowing payment of a higher salary to oil and gas revenue auditors;  
5 requiring the Department of Revenue to study the pay and recruitment of oil and gas  
6 revenue auditors;"

7

8 Page 9, lines 10 - 15:

9 Delete all material and insert:

10 **\*\* Sec. 9.** AS 39.20 is amended by adding a new section to read:

11 **Sec. 39.20.082. Salary of oil and gas revenue auditor in the classified**  
12 **service.** The monthly salary of each oil and gas revenue auditor employed in the  
13 classified service of the state is not less than Range 18, step A, or more than Range 28,  
14 step F, of the salary schedule negotiated between the state and the oil and gas revenue  
15 auditor's collective bargaining unit representative."

16

17 Page 30, following line 15:

18 Insert a new bill section to read:

19 **\*\* Sec. 35.** AS 43.55.180(a) is amended to read:

20 (a) The department shall study

21 (1) the effects of the provisions of this chapter on oil and gas  
22 exploration, development, and production in the state on investment expenditures for  
23 oil and gas exploration, development, and production in the state, on the entry of new

1 producers into the oil and gas industry in the state, on state revenue, and on tax  
 2 administration and compliance, giving particular attention to the tax rates provided  
 3 under AS 43.55.011, the tax credits provided under AS 43.55.023 - 43.55.025, and the  
 4 deductions for and adjustments to lease expenditures provided under AS 43.55.160 -  
 5 43.55.170; and

6 (2) the effects of the tax rates under AS 43.55.011(i) on state revenue  
 7 and on oil and gas exploration, development, and production on private land, and the  
 8 fairness of those tax rates for private landowners;

9 **(3) the effects of the provisions of this chapter on the recruitment**  
 10 **and pay of oil and gas revenue auditors."**

11  
 12 Renumber the following bill sections accordingly.

13  
 14 Page 32, lines 6 - 23:

15 Delete all material and insert:

16 "TRANSITION: EXTRA COMPENSATION FOR OIL AND GAS REVENUE  
 17 AUDITORS. The director of the division of personnel may, within the limitations of  
 18 AS 39.35.082, enacted by sec. 9 of this Act, increase the monthly salary of any oil and gas  
 19 revenue auditor position in the classified service at the Department of Revenue if the director  
 20 of the division of personnel determines the increase is necessary in order to hire or retain an  
 21 employee for the position."

22  
 23 Page 33, following line 20:

24 Insert a new bill section to read:

25 "\* Sec. 45. Section 41 of this Act is repealed July 1, 2011."  
 26

27 Renumber internal references to bill sections in accordance with this amendment in a way that  
 28 makes secs. 9, 35, 41, and 45 of this Act effective immediately and omits them from the  
 29 applicability and retroactive sections. Below are all internal bill section references in this bill:

30 Page 31, lines 25, 27, 29, 30, and 31

31 Page 32, lines 1, 3, 13, 16, 19, and 31

1

Page 33, lines 2, 19 - 20, 21, and 22

AMENDMENT

*Rep. Guttenberg*

OFFERED IN THE HOUSE

TO: CSHB 2001(O&G)

1 Page 17, line 11:

2 Delete "60"

3 Insert "120 [60]"

4

5 Page 17, lines 14 - 17:

6 Delete "if the applicant is required under AS 43.55.030(a) to file a statement on or  
7 before March 31 of the year following the calendar year in which the qualified capital  
8 expenditures or carried-forward annual loss for which the credit is claimed was incurred,"

9 Insert "[IF THE APPLICANT IS REQUIRED UNDER AS 43.55.030(a) TO FILE A  
10 STATEMENT ON OR BEFORE MARCH 31 OF THE YEAR FOLLOWING THE  
11 CALENDAR YEAR IN WHICH THE QUALIFIED CAPITAL EXPENDITURES OR  
12 CARRIED-FORWARD ANNUAL LOSS FOR WHICH THE CREDIT IS CLAIMED WAS  
13 INCURRED,]"

14

15 Page 17, line 18, following "filed":

16 Insert "for the calendar year in which the qualified capital expenditure or carried-  
17 forward annual loss for which the credit is claimed was incurred"

18

19 Page 21, line 21:

20 Delete "and"

21

22 Page 21, line 30, following "matters":

23 Insert "; and"

1                   **(6) assess against a person required under this section to file a**  
2                   **report, statement, or other document a penalty, as determined by the department**  
3                   **under standards adopted in regulation by the department, of not more than**  
4                   **\$1,000 for each day the person fails to file the report, statement, or other**  
5                   **document at the time required; the penalty is in addition to the penalties in**  
6                   **AS 43.05.220 and 43.05.290 and is assessed, collected, and paid in the same**  
7                   **manner as a tax deficiency under this title"**

AMENDMENT 29

OFFERED IN THE HOUSE

BY REPRESENTATIVE GUTTENBERG

TO: CSHB 2001(O&G)

1 Page 1, line 8, following "supervisors;":

2 Insert "establishing an oil and gas tax credit fund and authorizing payment from  
3 that fund;"

4

5 Page 17, line 6, following "person":

6 Insert "or obtain a cash payment under AS 43.55.028"

7

8 Page 17, following line 22:

9 Insert a new bill section to read:

10 "\*\* Sec. 24. AS 43.55.023(g) is amended to read:

11 (g) The issuance of a transferable tax credit certificate under (d) of this section  
12 or the purchase of a certificate [ISSUANCE OF A CASH REFUND] under  
13 AS 43.55.028 [(f) OF THIS SECTION] does not limit the department's ability to later  
14 audit a tax credit claim to which the certificate relates or to adjust the claim if the  
15 department determines, as a result of the audit, that the applicant was not entitled to  
16 the amount of the credit for which the certificate was issued. The tax liability of the  
17 applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is increased by the amount  
18 of the credit that exceeds that to which the applicant was entitled, or the applicant's  
19 available valid outstanding credits applicable against the tax levied by  
20 AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is increased  
21 under this subsection, the increase bears interest under AS 43.05.225 from the date the  
22 transferable tax credit certificate was issued. For purposes of this subsection, an  
23 applicant that is an explorer is considered a producer subject to the tax levied by

1 AS 43.55.011(e)."

2  
3 Renumber the following bill sections accordingly.

4  
5 Page 18, following line 25:

6 Insert a new bill section to read:

7 **\*\* Sec. 27.** AS 43.55 is amended by adding a new section to read:

8 **Sec. 43.55.028. Oil and gas tax credit fund established; cash purchases of**  
9 **tax credit certificates.** (a) The oil and gas tax credit fund is established as a separate  
10 fund of the state. The purpose of the fund is to purchase certain transferable tax credit  
11 certificates issued under AS 43.55.023 and certain production tax credit certificates  
12 issued under AS 43.55.025.

13 (b) The oil and gas tax credit fund consists of

14 (1) money appropriated to the fund, including any appropriation of the  
15 percentage provided under (c) of this section of all revenue from taxes levied by  
16 AS 43.55.011 that is not required to be deposited in the constitutional budget reserve  
17 fund established in art. IX, sec. 17(a), Constitution of the State of Alaska; and

18 (2) earnings on the fund.

19 (c) The applicable percentage for a fiscal year under (b)(1) of this section is  
20 determined with reference to the average price or value forecast by the department for  
21 Alaska North Slope oil sold or otherwise disposed of on the United States West Coast  
22 during the fiscal year for which the appropriation of revenue from taxes levied by  
23 AS 43.55.011 is made. If that forecast is

24 (1) \$60 a barrel or higher, the applicable percentage is 10 percent;

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

26 (d) The department shall manage the fund.

27 (e) The department may, on the written application of the person to whom a  
28 transferable tax credit certificate has been issued under AS 43.55.023(d) or a  
29 production tax credit certificate has been issued under AS 43.55.025(f), use available  
30 money in the oil and gas tax credit fund to purchase, in whole or in part, the certificate  
31 if the department finds that

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

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

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

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

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

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

21 (7) the purchase is consistent with this section and regulations adopted  
22 under this section.

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

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

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

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

1

2 Renumber the following bill sections accordingly.

3

4 Page 31, line 25:

5 Delete "Sections 24, 25, 32 - 34, and 37"

6 Insert "Sections 25, 26, 34 - 36, and 39"

7

8 Page 31, line 27:

9 Delete "31, and 38"

10 Insert "33, and 40"

11

12 Page 31, line 29:

13 Delete "Sections 26 and 27"

14 Insert "Sections 28 and 29"

15

16 Page 31, line 30:

17 Delete "sec. 26"

18 Insert "sec. 28"

19

20 Page 31, line 31:

21 Delete "sec. 27"

22 Insert "sec. 29"

23

24 Page 32, line 1:

25 Delete "sec. 29"

26 Insert "sec. 31"

27

28 Page 32, line 3:

29 Delete "29"

30 Insert "31"

31

1 Page 32, following line 3:

2 Insert a new subsection to read:

3 "(e) Section 24 of this Act applies to transferable tax credit certificates issued  
4 under AS 43.55.023(d), as amended by sec. 23 of this Act, and to transferable tax  
5 credit certificates issued under AS 43.55.023(d), in effect before January 1, 2008, for  
6 which a cash refund has not been issued under AS 43.55.023(f) before January 1,  
7 2008."

8

9 Page 32, line 31:

10 Delete "secs. 24, 25, 32 - 34, and 37"

11 Insert "secs. 25, 26, 34 - 36, and 39"

12

13 Page 33, line 2:

14 Delete "26, 27, 31, and 38"

15 Insert "24, 27 - 29, 33, and 40"

16

17 Page 33, following line 10:

18 Insert a new bill section to read:

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

21 TRANSITION: PENDING APPLICATIONS. If an application made under  
22 AS 43.55.023(f) is received by the Department of Revenue before January 1, 2008, and is still  
23 outstanding on that date, the application is considered to be an application under  
24 AS 43.55.028, enacted by sec. 26 of this Act."

25

26 Renumber the following bill sections accordingly.

27

28 Page 33, lines 19 - 20:

29 Delete "Sections 24, 25, 32 - 34, and 37"

30 Insert "Sections 25, 26, 34 - 36, and 39"

31

1 Page 33, line 21:

2 Delete "26, 27, 31, and 38"

3 Insert "24, 27 - 29, 33, and 40"

4

5 Page 33, line 22:

6 Delete "sec. 44"

7 Insert "sec. 47"

AMENDMENT

30

OFFERED IN THE HOUSE

BY REPRESENTATIVE GUTTENBERG

TO: CSHB 2001(O&G)

1 Page 17, following line 22:

2 Insert a new bill section to read:

3 **\* Sec. 24.** AS 43.55.023(g) is amended to read:

4 (g) The issuance of a transferable tax credit certificate under (d) of this section  
5 or the purchase of a certificate [ISSUANCE OF A CASH REFUND] under  
6 AS 43.55.028 [(f) OF THIS SECTION] does not limit the department's ability to later  
7 audit a tax credit claim to which the certificate relates or to adjust the claim if the  
8 department determines, as a result of the audit, that the applicant was not entitled to  
9 the amount of the credit for which the certificate was issued. The tax liability of the  
10 applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is increased by the amount  
11 of the credit that exceeds that to which the applicant was entitled, or the applicant's  
12 available valid outstanding credits applicable against the tax levied by  
13 AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is increased  
14 under this subsection, the increase bears interest under AS 43.05.225 from the date the  
15 transferable tax credit certificate was issued. For purposes of this subsection, an  
16 applicant that is an explorer is considered a producer subject to the tax levied by  
17 AS 43.55.011(e)."

18

19 Renumber the following bill sections accordingly.

20

21 Page 31, line 22, following "43.55.011(h),":

22 Insert "43.55.023(l),"

23