

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SJUD 12566

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 1, 2007

SUBJECT: Request for CSSB 2001(JUD) (Work Order No. 25-GS0014\K)

TO: Senator Hollis French
Chair of the Senate Judiciary Committee

FROM: *Donald M. Bullock*
Donald M. Bullock
Legislative Counsel

*to: Don
from: Lewis*

Based on my meeting with this morning, it is my understanding that the changes outlined below are requested to be made to CSSB 2001(RES) for the drafting of CSSB 2001(JUD). Note that some issues are not yet fully resolved.

SB 80 Issue

OK ✓
Add the following concept from CSSB 80(FIN), page 3, lines 25 - 26 to AS 43.55.165(e)(19) in CSSB 2001(RES) at page 19, line 15 through page 20, line 10.

Statute of Limitations

OK ✓
From SB 2001, add secs. 14 and 50 to extend the statute of limitations for assessment to six years.

also add section 1 of original bill back in — intent language

Gross value at the point of production, reasonable and actual costs

Amend AS 43.55.150 as necessary to return to the alternative bases for using reasonable costs:

OK ✓
Sec. 43.55.150. Determination of gross value at the point of production. (a) For the purposes of AS 43.55.011 - 43.55.180, the gross value at the point of production is calculated using the reasonable costs of transportation of the oil or gas. The reasonable costs of transportation are the actual costs, except when the

- (1) parties to the transportation of oil or gas are affiliated;
- (2) contract for the transportation of oil or gas is not an arm's length transaction or is not representative of the market value of that transportation; or [AND]
- (3) method of transportation of oil or gas is not reasonable in view of existing alternative methods of transportation.

(b) If the department finds that the conditions in (a)(1), (2), or [AND] (3) of this section are present, the department shall determine the reasonable costs of transportation, using the fair market value of like transportation, the fair market value of equally efficient and available alternative modes of transportation, or

Insert "may include"

OK - I called them!

Qui tam

Insert Senator Wielechowski's qui tam provision in sec. 18, regarding the administration of AS 43.55.

Reports of gross value at the point of production and lease expenditures

In sec. 17, AS 43.55.040 regarding powers of the Department of Revenue, require a producer that has a total production in the state of more than 100,000 barrels a day to report the gross value of the oil and gas produced in the state for a calendar year and the total lease expenditures in the state for that calendar year. Provide that the commissioner may publish that information.

OK

Point of production

Include language to be provided that defines the point of production for determining gross value at the point of production.

no drop

Retroactivity

Make provisions in the bill, that would otherwise be effective January 1, 2008 and applicable to oil and gas produced after December 31, 2007, retroactive to January 1, 2007 and applicable to oil and gas produced after December 31, 2006.

no drop

Presumptions and burden of proof

If these are included in the CS, provide language identifying when the burden of proof falls on the taxpayer and with regard to what issues.

Please provide me with additional guidance as noted above, and correct any misstated part or your request.

OK

DMB:med
07-392.med

other reasonable methods. Transportation costs fixed by tariff rates properly on file with the Regulatory Commission of Alaska or other regulatory agency shall be considered prima facie reasonable.

Tax rate and progressivity

Use the 25 percent tax rate from sec. 17 of the governor's bill, but use a rate of 0.4 percent for the progressive rate; use the governor's \$30 trigger.

OK ✓

Have the progressivity tax calculated each month, and reflect the monthly calculation in the installment payment provisions (see sec. 18 of CSHB 2001(O&G)).

Tax credits that may be purchased by the state

Note that unless secs. 28 (amending AS 43.55.023(d)), 30 (amending AS 43.55.023(g)), and 69 (providing for transition with regard to applications) from SB 2001 are included in CSSB 2001(JUD), sec. 28 has no reference in law.

If AS 43.55.028 in sec. 45 of SB 2001 is inserted into the bill, change AS 43.55.028(b) to refer to the earnings of the fund. The amended AS 43.55.028(b) should look something like this, except that the bracketed language would not appear in the bill and the material that is underlined and bold would be in plain text:

keep fund eliminate ACES references (leaves PPT credit)

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

[(2) EARNINGS ON THE FUND].

Partially-exempt auditors

Waiting for more information.

I spoke w/ Alan Wayne on this

Provide for PX oil and gas auditors that are distinguished from other oil and gas auditors; policy-makers; intent section to state no more than four positions; describe pay limitations.

Lease expenditures

- pre-audit

Limit lease expenditures to those incurred in the state.

none

Other limits on lease expenditures as recommended by Representative Gara and Senator Guess.

Information required by the Department of Revenue

On page 14, line 29 of CSSB 2001:

Delete "**are limited to**"

Q in town

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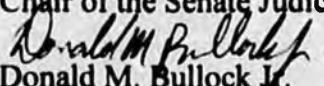
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MEMORANDUM

November 1, 2007

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TO: Senator Hollis French
Chair of the Senate Judiciary Committee

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

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Gross value at the point of production, reasonable and actual costs

Amend AS 43.55.150 as necessary to return to the alternative bases for using reasonable costs:

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(1) parties to the transportation of oil or gas are affiliated;
(2) contract for the transportation of oil or gas is not an arm's length transaction or is not representative of the market value of that transportation; or
[AND]

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(b) If the department finds that the conditions in (a)(1), (2), or [AND] (3) of this section are present, the department shall determine the reasonable costs of transportation, using the fair market value of like transportation, the fair market value of equally efficient and available alternative modes of transportation, or

other reasonable methods. Transportation costs fixed by tariff rates properly on file with the Regulatory Commission of Alaska or other regulatory agency shall be considered prima facie reasonable.

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- (b) The oil and gas tax credit fund consists of
- [(1)] money appropriated to the fund, including any appropriation of the percentage provided under (c) of this section of all revenue from taxes levied by AS 43.55.011 that is not required to be deposited in the constitutional budget reserve fund established in art. IX, sec. 17(a), Constitution of the State of Alaska; and **any appropriation from the earnings of the fund**
 - [(2) EARNINGS ON THE FUND].

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Limit lease expenditures to those incurred in the state.

Other limits on lease expenditures as recommended by Representative Gara and Senator Guess.

Information required by the Department of Revenue

On page 14, line 29 of CSSB 2001:

Delete "**are limited to**"

Senator Hollis French

November 1, 2007

Page 3

Insert "may include"

Oui tam

Insert Senator Wielechowski's qui tam provision in sec. 18, regarding the administration of AS 43.55.

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Make provisions in the bill, that would otherwise be effective January 1, 2008 and applicable to oil and gas produced after December 31, 2007, retroactive to January 1, 2007 and applicable to oil and gas produced after December 31, 2006.

Presumptions and burden of proof

If these are included in the CS, provide language identifying when the burden of proof falls on the taxpayer and with regard to what issues.

Please provide me with additional guidance as noted above, and correct any misstated part or your request.

DMB:med

07-392.med

Alaska State Legislature

Senator Hollis French, Chair
State Capitol, Room 417
Juneau, Alaska 99801
Phone: (907) 465-3892
Fax: (907) 465-6595



Committee Members:
Senator Charlie Huggins
Senator Bill Wielechowski
Senator Lesil McGuire
Senator Gene Therriault

Senate Judiciary Committee

MEMORANDUM

Date: November 3, 2007

TO: Don Bullock, Leg. Legal

FROM: Cindy Smith, Senator French

RE: Committee final CS for SB2001

Please prepare a final (S) JUD CS for SB2001, with the following amendments to 25-GS0014\K:

Amendment #1: Language from 25-GS0014\K.8 (attached) *OK*

Amendment #2: On Page 25, add "In addition to other penalties prescribed by law," immediately following (a) on line 10, and immediately following (b) on Line 14. *OK*

Amendment #3: On page 27, lines 11-12, delete language "for the purpose from penalties collected by the department under this chapter" *OK - but maybe amendment #11*

Amendment #4: See attached amendment #4. *OK*

(note amendment number 5 was withdrawn) *—*

Amendment #6: Language from 25-GS0014\K.2 (attached) *OK*

Amendment #7: Language from 25-GS0014\K.9 (attached). *OK*

Amendment #8: See amendment #8, attached. *OK*

Amendment #9: Language from 25-GS0014\K.1 with appropriate conforming amendments to date sections dealing with various tax provisions *JA*

Amendment #10: Language from GS0014\M.2 as amended per attached copy. *OLC*

Amendment #11: Language from 25-GS0014\K.13, as amended per attached copy *OLC*

(amendment #12 was withdrawn) *—*

Amendment #13: On Page 27, at line 18, after the word "employee" insert "or an agent of the state". *OLC*

Amendment #14: Language from 25-GS0014\K.12 as amended on attached copy.

Amendment #15: Language attached.

Amendment #16: Language from 25-GS0014\K.15, attached.

AMENDMENT # 1

OFFERED IN THE SENATE

TO: CSSB 2001(JUD), Draft Version "K"

- 1 Page 25, line 22:
- 2 Delete "10"
- 3 Insert "20"

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MEMORANDUM

November 2, 2007

SUBJECT: Drafting error in CSSB 2001(JUD)
(Work Order No. 25-GS0014\K.8)

TO: Senator Hollis French

FROM: Alpheus Bullard *RAB*
Legislative Counsel

CSSB 2001(JUD) (25-GS0014\K) contained a drafting error at page 25, line 22. The draft read:

"(2) a gross understatement of tax for any taxable year exists if the amount of the understatement for the taxable year exceeds the lesser of 10 percent of the tax required to be shown on the return for the taxable year or \$20,000,000;" (emphasis added).

The amendment corrects the draft to read:

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

If you have any questions, please do not hesitate to contact our office.

TLAB:med
07-398.med

Enclosure

Amendment #4

Conceptual Amendment to CSSB 2001(JUD) version K

Repeal and reenact AS 43.55.011(e) to read:

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

Repeal and reenact AS 43.55.011(g) to read:

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

Amend AS 43.55.011(h) to read:

(h) For purposes of (g) of this section, the price index for a month is calculated by subtracting 30 [40] from the number that is equal to the quotient of the total of the [MONTHLY] production tax values [VALUE] of the taxable oil and gas produced by the producer from all leases or properties in the state during that month, as calculated OK

under AS 43.55.160, divided by the total amount of that [THE TAXABLE] oil and gas produced by the producer during that month, in BTU equivalent barrels. However, a price index calculated under this subsection may not be less than zero.

Page 14, line 13 of the CS: delete "AS 43.55.160(a)(2)" and insert "AS 43.55.160" *OK 7*

Page 28, line 8, through page 29, line 5: delete all material and insert "AS 43.55.011(e) and 43.55.020(a)(2) [AS 43.55.011(g)], the [MONTHLY] production tax"

Page 29, lines 7, 14, 22, and 29: replace "(A)", "(B)", "(C)", and "(D)" with "(1)", "(2)", "(3)", and "(4)", respectively *BK*

Amend AS 43.55.160(c) to read:

(c) Notwithstanding any contrary provision of AS 43.55.150, for purposes of calculating a [MONTHLY] production tax value under (a) [(a)(2)] of this section, the gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) [AS 43.55.011(g)] is calculated under regulations adopted by the department that provide for using an appropriate monthly share of the producer's costs of transportation for the calendar year. *OK*

Amend AS 43.55.160(e) to read:

(e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer in a calendar year but whose deduction would cause a [AN ANNUAL] production tax value calculated under (a) [(a)(1)] of this *OK*

section of taxable oil or gas produced during the calendar year to be less than zero may be used to establish a carried-forward annual loss under AS 43.55.023(b). In this subsection, "producer" includes "explorer."

Amend AS 43.55.170(b) to read:

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

OK

Delete 43.55.160(c) from the repeal in Sec. 49 of the bill.

AMENDMENT

6

OFFERED IN THE SENATE

BY SENATOR THERRIAULT

TO: CSSB 2001(JUD), Draft Version "K"

1 Page 2, line 3:

2 Delete "sec. 37"

3 Insert "sec. 46"

4

5 Page 19, following line 7:

6 Insert new bill sections to read:

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

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

12 (1) 20 percent of the total exploration expenditures that qualify only
13 under (b) and (c) of this section;

14 (2) 20 percent of the total exploration expenditures [FOR WORK
15 PERFORMED BEFORE JULY 1, 2007, AND] that qualify only under (b) and (d) of
16 this section;

17 (3) 40 percent of the total exploration expenditures that qualify under
18 (b), (c), and (d) of this section; or

19 (4) 40 percent of the total exploration expenditures that qualify only
20 under (b) and (e) of this section.

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

22 (b) To qualify for the production tax credit under (a) of this section, an
23 exploration expenditure must be incurred for work performed [ON OR] after
24 December 31, 2007 [JULY 1, 2003], and before July 1, 2016, [EXCEPT THAT AN

1 EXPLORATION EXPENDITURE FOR A COOK INLET PROSPECT MUST BE
2 INCURRED FOR WORK PERFORMED ON OR AFTER JULY 1, 2005.] and

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

5 (2) if for an exploration well,

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

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

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

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

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

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

27 * **Sec. 31.** AS 43.55.025(c) is repealed and reenacted to read:

28 (c) To be eligible for the 20 percent production tax credit authorized by (a)(1)
29 of this section or the 40 percent production tax credit authorized by (a)(3) of this DUC
30 section, exploration expenditures must

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

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

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

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

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

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

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

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

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

28 (A) to notify the Department of Natural Resources, within 30
29 days after completion of seismic or geophysical data processing, completion of
30 [A] well **drilling**, or filing of a claim for credit, whichever is the latest, for
31 which exploration costs are claimed, of the date of completion and submit a

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

15 (B) to provide to the Department of Natural Resources, within
16 30 days after the date of a request. unless a longer period is provided by the
17 Department of Natural Resources, specific data sets, ancillary data, and
18 reports identified in (A) of this paragraph; in this subparagraph,

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

23 (ii) well data include all derivative products, results,
24 and copies of data collected and data analyses for the well; well
25 logs; sample analyses; geophysical and velocity data including
26 vertical seismic profiles and check shot surveys; and tangible
27 material including, for each whole core collected, a lengthwise cut
28 slab that is at least 1/3 of the whole core volume, and representative
29 samples, as specified by the Department of Natural Resources, of
30 other gaseous, liquid, or solid material collected from drilling or
31 testing the well;

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

4 (i) in the case of well data, until the expiration of the
 5 24-month period of confidentiality described in AS 31.05.035(c),
 6 without extension, after which the Department of Natural
 7 Resources [FOR 10 YEARS FOLLOWING THE COMPLETION
 8 DATE, AT WHICH TIME THAT DEPARTMENT] will release the
 9 information after 30 days' public notice;

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

15 (iii) in the case of seismic data obtained by seismic
 16 exploration subject to (I) of this section, only until the expiration of
 17 30 days' public notice issued on or after the date the production tax
 18 credit certificates are issued under (5) of this subsection; and

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

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

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

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

30 (4) the department may exercise the full extent of its powers as though
 31 the explorer were a taxpayer under this title, in order to verify that the claimed

1 expenditures are qualified exploration expenditures under this section; and

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

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

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

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

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

18 **and**

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

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

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

27 * Sec. 34. AS 43.55.025(h) is amended to read:

28 (h) A producer that purchases a production tax credit certificate may apply the
 29 credits against its production tax liability under AS 43.55.011(e) [OR (f)]. Regardless
 30 of the price the producer paid for the certificate, the producer may receive a credit
 31 against its production tax liability for the full amount of the credit, but for not more

1 than the amount for which the certificate is issued. A production tax credit allowed
2 under this section may not be applied more than once.

3 * Sec. 35. AS 43.55.025(i) is repealed and reenacted to read:

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

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

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

11 * Sec. 36. AS 43.55.025(k) is amended by adding a new paragraph to read:

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

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

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

21 (1) have been for seismic exploration that

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

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

29 (2) qualify under (b)(3) of this section."
30

31 Renumber the following bill sections accordingly.

1

2 Page 37, line 28:

3 Delete "Sections 42 - 45 and 48"

4 Insert "Sections 51 - 54 and 57"

5

6 Page 37, line 30:

7 Delete "and 41"

8 Insert "34, 35, 37, and 50"

9

10 Page 38, line 1:

11 Delete "Sections 30 - 32"

12 Insert "Sections 39 - 41"

13

14 Page 38, line 2:

15 Delete "sec. 30"

16 Insert "sec. 39"

17

18 Page 38, line 3:

19 Delete "sec. 32"

20 Insert "sec. 41"

21

22 Page 38, line 4:

23 Delete "Section 36"

24 Insert "Section 45"

25

26 Page 38, line 5:

27 Delete "sec. 36"

28 Insert "sec. 45"

29

30 Page 38, line 6:

31 Delete "sec. 37"

1 Insert "sec. 46"

2

3 Page 38, line 8:

4 Delete "37"

5 Insert "46"

6

7 Page 38, following line 8:

8 Insert a new subsection to read:

9 "(f) Sections 29 - 32 and 36 of this Act apply to exploration expenditures incurred for
10 work performed after December 31, 2007, that are the bases of tax credits that may be
11 claimed against taxes levied for oil and gas produced after December 31, 2007."

12

13 Page 38, line 25:

14 Delete "Sections 42 - 45 and 48"

15 Insert "Sections 51 - 54 and 57"

16

17 Page 38, line 27:

18 Delete "and 30"

19 Insert ", 29 - 32, 34 - 37, and 39"

20

21 Page 39, lines 13 - 14:

22 Delete "Sections 42 - 45 and 48"

23 Insert "Sections 51 - 54 and 57"

24

25 Page 39, line 15:

26 Delete "Sections 15 - 28, 30 - 32, and 49"

27 Insert "Sections 15 - 32, 34 - 37, 39 - 41, and 58"

28

29 Page 39, line 16:

30 Delete "sec. 55"

31 Insert "sec. 64"

AMENDMENT

#7

OFFERED IN THE SENATE

BY SENATOR THERRIAULT

TO: CSSB 2001(JUD), Draft Version "K"

- 1 Page 27, line 16, following "exceed":
- 2 Insert "the lesser of \$1,000,000 or"

Page 2, line 2 following "LEGISLATIVE INTENT." through line 5:

Delete all material

Insert:

"It is the intent of the legislature that provisions of this Act will ensure a fair and equitable means of assessing and taxing Alaska's oil and gas resources; encourage the availability to Alaska's citizens of affordable gas produced, transported, and consumed within Alaska; and confirm by clarification the long-standing interpretation of AS 43.05.260 by the Department of Revenue by enactment of AS 43.55.075(b), enacted by sec. 37 of this Act, relating to limitation of assessments for the production tax on oil and gas and conservation surcharges on oil."

Page 11, line 3:

Following "(j),":

Delete "and"

Following "(k)":

Insert "and (o)"

Page 11, following line 6:

Insert a new bill section to read:

**** Sec. 16. AS 43.55.011(f) is amended to read:**

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

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

(2) three percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is over \$20 but not over \$25;

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

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

(5) zero percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the

United States West Coast during the calendar year for which the tax is due is \$15 or less.”

Renumber the following bill sections accordingly.

Page 13, line 7:

Following "against":

Delete "the"

Insert "that [THE]"

Following "tax":

Delete "levied by (e) of this section"

Insert "[LEVIED BY (e) OF THIS SECTION]"

Page 13, line 8:

Delete "for [ON] that gas"

Insert "[ON THAT GAS]"

Insert "and tax credits under AS 38.05.180(i), AS 41.09.010, AS 43.20.043, AS 43.55.024, and AS 43.55.025 that are allocated to gas subject to (o) of this section and that are available to be applied against a tax levied by (e) of this section for that gas during a calendar year may be applied only against that tax"

Page 13, line 9:

Following "basin":

Insert "or to gas subject to (o) of this section, respectively,"

Page 13, line 12:

Following "that":

Insert "respective"

Page 13, line 13:

Following "following":

Insert ", applied separately for the Cook Inlet sedimentary basin and for gas subject to (o) of this section, respectively:"

Page 13, line 15:

Following "section" as first appearing:

Insert "or under (o) of this section"

Page 13, following line 26:

Insert a new bill section to read:

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

(n) Allocation of credits under (m) of this section shall be made under regulations adopted by the department that provide for reasonable methods of allocating tax credits to gas produced from leases or properties in the Cook Inlet sedimentary basin and to gas subject to (o) of this section. The method of allocating tax credits available under

AS 43.55.024 shall be based in the number of BTU equivalent barrels produced from a lease or property.”

Page 13, line 27:

Insert a new bill section to read:

“*Sec. 22. AS 43.55.011 is amended by adding a new subsection to read:

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

Renumber the following bill sections accordingly.

Page 28, line 10:

Following "latitude":

Insert "other than gas subject to AS 43.55.011(o)."

Page 28, line 18:

Following "latitude,":

Insert "other than gas subject to AS 43.55.011(o)."

Page 29, line 8:

Following "latitude":

Insert "other than gas subject to AS 43.55.011(o),"

Page 29, line 16:

Following "latitude,":

Insert "other than gas subject to AS 43.55.011(o),"

Page 29, line 5:

Insert:

“(E) gas produced during a calendar year from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer’s lease expenditures under AS 43.55.165 for the calendar year applicable to that gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;”

Page 30, line 4, following “AS 43.55.170”:

Insert “;

“(E) gas produced during a month from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer’s lease expenditures under AS 43.55.165 for the calendar year

**applicable to that gas produced by the producer from that lease or property,
as adjusted under AS 43.55.170"**

Page 35, following line 12:

Insert a new bill section to read:

"*Sec. 45. AS 43.55.165(h) is amended to read:

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

Renumber the following bill sections accordingly.

AMENDMENT #9

OFFERED IN THE SENATE

BY SENATOR WIELECHOWSKI

TO: CSSB 2001(JUD), Draft Version "K"

1.2 billion

1 Page 2, line 2, following "INTENT":

2 Insert "(a)"

3

4 Page 2, following line 5:

5 Insert a new subsection to read:

6 "(b) It is the intent of the legislature that the amount of money received by the state as
7 a result of the retroactivity of certain provisions under sec. 54 of this Act that exceeds the
8 amount the state would have received if those provisions had not been made retroactive will
9 be appropriated to the budget reserve fund (art. IX, sec. 17, Constitution of the State of
10 Alaska)."

11

12 Page 37, line 29:

13 Delete "March 31, 2006"

14 Insert "December 31, 2006"

15

16 Page 38, lines 25 - 26:

17 Delete "April 1, 2006"

18 Insert "January 1, 2007"

19

20 Page 39, line 2:

21 Delete "April 1, 2006"

22 Insert "January 1, 2007"

23

24 Page 39, line 14:

Corrosion

- 1 Delete "April 1, 2006"
- 2 Insert "January 1, 2007"

AMENDMENT

#10

French
L. L. L.

OFFERED IN THE SENATE
TO: CSSB 2001(RES)

1 Page 1, following line 8:

2 Insert a new bill section to read:

3 **** Section 1.** AS 37.10 is amended by adding a new section to read:

4 **Sec. 37.10.440. Appropriations to the budget reserve fund of production**

5 **tax revenue.** (a) By February 1 of each year, the Department of Revenue shall

6 determine the amount of money received by the state for the general fund during the

7 immediately preceding calendar year from the tax levied under AS 43.55.011, as well

8 as the amount the state would have received that year from the tax levied under

9 ^{(e) + (g)} AS 43.55.011 under the law in effect immediately before January 1, 2008. If the

10 amount received is greater than the amount that would have been received under

11 ~~AS 43.55.011~~ under the law in effect immediately before January 1, 2008, the

12 department shall report the difference between the two amounts to the legislature.

13 (b) The legislature may appropriate 50 percent of the amount identified by the

14 Department of Revenue under (a) of this section to the budget reserve fund (art. IX,

15 sec. 17, Constitution of the State of Alaska).

16 (c) Nothing in this section requires that money be appropriated or creates a

17 dedicated fund."

18

19 Renumber the following bill sections accordingly.

20

21 Page 23, line 3:

22 Delete "Sections 21, 22, and 25"

23 Insert "Sections 22, 23, and 26"

1

2 Page 23, line 5:

3 Delete "Sections 19, 20, and 26"

4 Insert "Sections 20, 21, and 27"

5

6 Page 23, line 7:

7 Delete "Sections 14 and 16"

8 Insert "Sections 15 and 17"

9

10 Page 23, line 8:

11 Delete "sec. 14"

12 Insert "sec. 15"

13

14 Page 23, line 9:

15 Delete "sec. 16"

16 Insert "sec. 17"

17

18 Page 23, line 19:

19 Delete "sec. 9"

20 Insert "sec. 10"

21

22 Page 23, line 22:

23 Delete "sec. 9"

24 Insert "sec. 10"

25

26 Page 23, line 25:

27 Delete "sec. 9"

28 Insert "sec. 10"

29

30 Page 24, line 6:

31 Delete "secs. 21, 22, and 25"

- 1 Insert "secs. 22, 23, and 26"
- 2
- 3 Page 24, line 8:
- 4 Delete "secs. 13, 14, 16, 19, 20, and 26"
- 5 Insert "secs. 14, 15, 17, 20, 21, and 27"
- 6
- 7 Page 24, lines 25 - 26:
- 8 Delete "Sections 21, 22, 25, and 29"
- 9 Insert "Sections 22, 23, 26, and 30"
- 10
- 11 Page 24, line 27:
- 12 Delete "Sections 13, 14, 16, 19, 20, and 26"
- 13 Insert "Sections 14, 15, 17, 20, 21, and 27"
- 14
- 15 Page 24, line 28:
- 16 Delete "sec. 32"
- 17 Insert "sec. 33"

AMENDMENT #11

OFFERED IN THE SENATE

BY SENATOR THERRIAULT

TO: CSSB 2001(JUD), Draft Version "K"

1 Page 27, line 25:

2 Delete "or is not representative"

3 Insert "~~requiring payment~~ [OR IS NOT REPRESENTATIVE]"

delete this change

substitute

4

5 Page 27, line 30:

6 Delete "the conditions"

change

below

7 Insert "a condition [THE CONDITIONS]"

8

9 Page 27, line 31:

10 Delete "are"

11 Insert "is [ARE]"

12

13 Page 28, lines 3 - 4:

14 Delete "properly on file with"

15 Insert "that have been adjudicated just and reasonable by [PROPERLY ON FILE

16 WITH]"

*insert on lines
25-26
~~insert~~*

*(a) not arms length
(b) not representative of...
amending*

as per Bullock

[Handwritten notes and signatures in a box, including names like BWP, CAN, and #11]

AMENDMENT # 14

OFFERED IN THE SENATE

BY SENATOR WIELECHOWSKI

TO: CSSB 2001(JUD), Draft Version "K"

1 Page 25, following line 16:

2 Insert a new subsection to read:

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

7

8 Reletter the following subsection accordingly.



AMENDMENT

15

Wolchanski

OFFERED IN THE SENATE

TO: CSSB 2001(JUD) Draft Version "K"

Section 10

Page 9, line 17

Following "Revenue," insert "**and the Department of Natural Resources**"

Section 51

Page 38, line 14:

Following "Revenue," insert "**and no more than two oil and gas revenue audit manager positions to be created in the Department of Natural Resources.**"

AMENDMENT

#16

OFFERED IN THE SENATE

BY SENATOR WIELECHOWSKI

TO: CSSB 2001(JUD), Draft Version "K"

1 Page 30, line 28, through page 31, line 30:

2 Delete all material and insert:

3 **"* Sec. 43. 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

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

13 (ii) [,] sales and use taxes, motor fuel taxes, and excise
14 taxes related to transactions or activities involving oil or gas
15 exploration, development, or production;

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

23 (D) purchased fuel;

1 (E) routine maintenance;

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

4 (G) other direct costs as may be established in regulations
 5 adopted by the department;

6 (2) in determining whether costs are lease expenditures, the
 7 department may consider, among other factors, the

8 (A) typical industry practices and standards in the state
 9 that determine the costs, other than items listed in (e) of this section, that
 10 an operator is allowed to bill a producer that is not the operator, under
 11 unit operating agreements or similar operating agreements that were in
 12 effect before December 2, 2005, and were subject to negotiation with at
 13 least one producer with substantial bargaining power, other than the
 14 operator; and

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

25
 26 Page 32, lines 14 - 16:

27 Delete

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

31

1 Insert

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

7

8 Page 32, lines 23 - 24:

9 Delete

10 "(12) for a transaction that is an internal transfer or is otherwise not an
11 arm's length transaction, expenditures incurred that are in excess of fair market value;"

12

13 Insert

14 "(12) an expenditure otherwise deductible under (b) of this section
15 that is a result of [FOR A TRANSACTION THAT IS] an internal transfer, a
16 transaction with an affiliate, or a transaction between related parties, or is
17 otherwise not an arm's length transaction, unless the producer establishes to the
18 satisfaction of the department that the amount of the expenditure does not exceed
19 the [EXPENDITURES INCURRED THAT ARE IN EXCESS OF] fair market value
20 of the expenditure;"

21

22 Page 35, line 12, following "processed":

23 Insert ";

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

26 (22) overhead, office, or administrative expenses, and all other
27 indirect costs of oil or gas exploration, development, or production"

25-GS0014K
Bullock
11/2/07

CS FOR SENATE BILL NO. 2001(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SPECIAL SESSION

BY THE SENATE JUDICIARY COMMITTEE

**Offered:
Referred:**

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the production tax on oil and gas and to conservation surcharges on**
2 **oil; relating to the issuance of advisory bulletins and the disclosure of certain**
3 **information relating to the production tax and the sharing between agencies of certain**
4 **information relating to the production tax and to oil and gas or gas only leases;**
5 **amending the State Personnel Act to place in the exempt service certain state oil and**
6 **gas audit managers; providing for civil penalties relating to oil and gas production tax**
7 **payments; establishing an oil and gas tax credit fund and authorizing payment from**
8 **that fund; providing for retroactive application of certain statutory and regulatory**
9 **provisions relating to the production tax on oil and gas and conservation surcharges on**
10 **oil; making conforming amendments; and providing for an effective date."**

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

12 *** Section 1. The uncodified law of the State of Alaska is amended by adding a new section**

1 to read:

2 LEGISLATIVE INTENT. It is the intent of the legislature that AS 43.55.075(b),
3 enacted by sec. 37 of this Act, confirm by clarification the long-standing interpretation of
4 AS 43.05.260 by the Department of Revenue relating to limitation of assessments for the
5 production tax on oil and gas and conservation surcharges on oil.

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

7 (a) The director shall

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

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

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

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

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

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

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

1 (8) [REPEALED

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

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

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

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

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

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

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

19 (9) [(10)] account for the fees, licenses, taxes, or other money
20 received in the administration of this chapter including the sale or leasing of land,
21 identify their source, and promptly transmit them to the proper fiscal department after
22 crediting them to the proper fund; receipts from land application filing fees and
23 charges for copies of maps and records shall be deposited immediately in the general
24 fund of the state by the director;

25 (10) [(11)] select and employ or obtain at reasonable compensation
26 cadastral, appraisal, or other professional personnel the director considers necessary
27 for the proper operation of the division;

28 (11) [(12)] be the certifying agent of the state to select, accept, and
29 secure by whatever action is necessary in the name of the state, by deed, sale, gift,
30 devise, judgment, operation of law, or other means any land, of whatever nature or
31 interest, available to the state; and be the certifying agent of the state, to select,

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

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

13 [(13) REPEALED

14 (14) REPEALED].

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

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

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

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

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

31 (g) Nothing in this section prohibits the publication of statistics in a manner

1 that maintains the confidentiality of information to the extent required by an
2 agreement with the department or by AS 38.05.035(a)(8) [AS 38.05.035(a)(9)] or
3 AS 41.09.010(d).

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

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

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

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

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

18 (j) The commissioner

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

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

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

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

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

29 (B) to prolong the economic life of an oil or gas field or pool
30 as per barrel or barrel equivalent costs increase or as the price of oil or gas
31 decreases, and the increase or decrease is sufficient to make future production

1 no longer economically feasible; or

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

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

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

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

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

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

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

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

31 (A) may require disclosure of only the financial and technical

1 data related to development, production, and transportation of oil and gas or
2 gas only from the field or pool that are reasonably available to the applicant;
3 and

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

14 (7) may

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

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

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

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

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

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

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

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

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

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

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

30 (B) make a final findings and determination; the
31 commissioner's final findings and determination prepared under this

1 subparagraph regarding a royalty reduction is final and not appealable to the
2 court;

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

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

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

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

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

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

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

16 (42) oil and gas audit managers employed in a professional capacity
17 by the Department of Revenue to collect oil and gas revenue by developing policy,
18 conducting studies, drafting proposed regulations, enforcing regulations, and
19 supervising audits by oil and gas revenue auditors.

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

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

1 interest of the state in evaluating or developing its land.

2 * **Sec. 12.** AS 43.05.230(a) is amended to read:

3 (a) It is unlawful for a current or former officer, employee, or agent of the
4 state to divulge the amount of income or the particulars set out or disclosed in a report
5 or return made under this title, except

6 (1) in connection with official investigations or proceedings of the
7 department, whether judicial or administrative, involving taxes due under this title;

8 (2) in connection with official investigations or proceedings of the
9 child support enforcement agency, whether judicial or administrative, involving child
10 support obligations imposed or imposable under AS 25 or AS 47;

11 (3) as provided in AS 38.05.036 pertaining to audit functions of the
12 Department of Natural Resources;

13 (4) as provided in AS 43.05.405 - 43.05.499; and

14 (5) as otherwise provided in this section or AS 43.55.890.

15 * **Sec. 13.** AS 43.05.230(h) is amended to read:

16 (h) The commissioner shall, upon request, furnish to the Department of
17 Natural Resources copies of tax returns, reports, and other documents filed under
18 AS 43.55 or AS 43.65, and the Department of Revenue's determinations and
19 workpapers under those chapters. The Department of Natural Resources shall
20 maintain the confidentiality that the Department of Revenue is required to extend to
21 the returns, reports, documents, determinations, and workpapers furnished to the
22 Department of Natural Resources under this subsection.

23 * **Sec. 14.** AS 43.05.260(a) is amended to read:

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

30 * **Sec. 15.** AS 43.55.011(e) is repealed and reenacted to read:

31 (e) There is levied on the producer of oil or gas a tax for all oil and gas

1 produced each calendar year from each lease or property in the state, less any oil and
2 gas the ownership or right to which is exempt from taxation or constitutes a
3 landowner's royalty interest. Except as otherwise provided under (f), (j), and (k) of
4 this section, the tax is equal to the production tax value of the taxable oil and gas as
5 calculated under AS 43.55.160 multiplied by the tax rate determined under (g) of this
6 section.

7 * **Sec. 16.** AS 43.55.011(g) is repealed and reenacted to read:

8 (g) The tax rate applied to the production tax value of oil and gas under (e) of
9 this section is 25 percent plus, for each month in which the price index determined
10 under (h) of this section is greater than zero, 0.40 multiplied by the price index
11 determined under (h) of this section. However, the amount calculated under this
12 subsection for any month may not exceed 50 percent of the monthly production tax
13 value of the taxable oil and gas as calculated under AS 43.55.160.

14 * **Sec. 17.** AS 43.55.011(h) is amended to read:

15 (h) For purposes of (g) of this section, the price index for a month is
16 calculated by subtracting 30 [40] from the number that is equal to the quotient of the
17 total monthly production tax value of the taxable oil and gas produced by the
18 producer from all leases or properties in the state during that month, as calculated
19 under AS 43.55.160, divided by the total amount of that [THE TAXABLE] oil and
20 gas produced by the producer during that month, in BTU equivalent barrels.
21 However, a price index calculated under this subsection may not be less than zero.

22 * **Sec. 18.** AS 43.55.011(j) is amended to read:

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

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

1 the point of production of the taxable gas produced from the lease or property during
2 the 12-month period ending on March 31, 2006, by the total amount of that gas;

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

11 * Sec. 19. AS 43.55.011(k) is amended to read:

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

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

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

31 * Sec. 20. AS 43.55.011(m) is amended to read:

1 (m) Notwithstanding any contrary provision of AS 38.05.180(i),
2 AS 41.09.010, AS 43.20.043, AS 43.55.024, or 43.55.025, tax credits under
3 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, AS 43.55.024, and 43.55.025 that are
4 allocated to gas produced from leases or properties in the Cook Inlet sedimentary
5 basin and that are available to be applied against a tax levied by (e) of this section for
6 [ON] gas produced from leases or properties in the Cook Inlet sedimentary basin
7 during a calendar year may be applied only against the tax levied by (e) of this section
8 for [ON] that gas. The amount by which the amount of tax credits that are allocated
9 to gas produced from leases or properties in the Cook Inlet sedimentary basin and that
10 the producer would otherwise be allowed to use for a later calendar year or transfer to
11 another person exceeds the amount of tax credits whose application would reduce the
12 tax levied by (e) of this section for [ON] that gas to zero, if any, is considered the
13 amount of excess tax credits, and the excess tax credits are subject to the following:

14 (1) for each lease or property for which a limitation under (j) or (k) of
15 this section on the tax levied by (e) [AND (g)] of this section has the effect of
16 reducing the producer's tax below the amount of tax that would be levied in the
17 absence of that limitation, the producer shall calculate the amount of that reduction;

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

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

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

27 * Sec. 21. AS 43.55.020(a) is amended to read:

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

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

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

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

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

17 [(3) THE SECOND OF THE TWO AMOUNTS USED TO
18 CALCULATE THE INSTALLMENT PAYMENT FOR A MONTH UNDER (1) OF
19 THIS SUBSECTION IS THE AMOUNT CALCULATED FOR THE MONTH]
20 under AS 43.55.011(g);

21 **(2)** [(4)] an installment payment of the estimated tax levied by
22 AS 43.55.011(i) for each lease or property is due for each month of the calendar year
23 on the last day of the following month; the amount of the installment payment is the
24 sum of

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

29 (B) the applicable percentage rate for gas provided under
30 AS 43.55.011(i), multiplied times the gross value at the point of production of
31 the gas taxable under AS 43.55.011(i) and produced from the lease or property