

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SRES 12706

dollars – averages 45%. This is under consideration by the U.S. government for increase, but it is highly doubtful with the boom going on in deep water exploration and development that the U.S. government would increase the government take from 45% to 68%.

In other producing states that compete for investment by our AVCG investors, the state and federal combined government takes in 2006 were as follows and averaged 45-57%:

U.S. Gulf of Mexico	45%
Colorado	51%
Wyoming	52%
Kansas	53%
Texas	53%
New Mexico	53%
Oklahoma	53%
California	53%
Louisiana	57%

To my knowledge, these states do not have the added progressivity surcharge tax which further separates Alaska in government take from these competing states. I would argue that Alaska should have a government take of 55% if we were to maintain long-term competitiveness with these other states for investment dollars. Having said that, some of these states do not have the prospectivity of Alaska, so Alaska could command some premium in take, but certainly not as high as being proposed in ACES.

If Alaska set a government take at 60% to the government and 40% to the investor, the ACES legislation should be amended to allow for a base tax rate of 22.5% not 25%, should be amended to allow for a trigger price of \$40 per barrel and not \$30 per barrel, and the incremental progressivity tax rate increase should be 0.2% per dollar.

- 3) Change the trigger price to \$40 per barrel net and not \$30 per barrel.** If the government take is to be the fair and equitable 60% and not the unfair 68%, the trigger price should stay the same as in the PPT law, i.e. \$40 per barrel net. If Alaska is to share in high prices with the progressivity surcharge tax, then Alaska should share in the pain of low prices. To amend the trigger price lower when and if prices collapse will be a false economy measure for the State of Alaska. When prices fall and a company's cash flow is sharply reduced, capital spending will fall. A "double whammy" to be taxed more with a progressivity tax at lower prices further reduces the amount of capital for re-investment.

- 4) **Consider some type of "Transitional Investment Expenditure (TIE)" tax credit.** This provision allowed for in PPT was repealed in ACES. While this provision does not greatly benefit our company, AVCG, because we did not have large seismic or exploration drilling costs between March 31, 2001, and April 1, 2006, it is important to other major investors in Alaska.

As an example, the largest explorer and developer in Alaska, ConocoPhillips, now with the ARCO heritage assets was hardest hit in tax exposure with the change from the old severance tax law to the PPT and now to ACES. I simply think allowing a good steward who is the largest explorer in Alaska some transition allowance to ease the pain of greatly increased taxes is the right thing to do and can only build better, more trusting relationships.

Again, this provision does not greatly benefit our company, however.

### **Concluding Remarks**

This concludes my remarks. I tried to share the perspective of an independent exploration company that only invests in Alaska. My ultimate wish would be for the State to leave PPT alone and re-review it under the law as planned in 2011 or perhaps even in 2010. But if the ACES train has left the station and cannot be stopped, I urge you to at least consider the five things our company would not change in this bill and the four things we would change.

The above comments are offered with a hope that there can be an eventual win-win solution to this complex subject of the State realizing more revenues at higher prices while attracting exploration and development investors who can also realize upside at higher prices for the substantial risk they have taken in the remote and harsh environment of the North Slope. In the end, I hope both sides get a fair and equitable share at all price levels.

And my comments are offered with the highest sincerity that the State and Industry can someday restore a mutual trust at all levels.

I sincerely thank you for the opportunity to present my comments, and I would be happy to take any questions.

Respectfully submitted,

Ken Thompson

October 25, 2007

TESTIMONY OF CRAIG HAYMES  
ON PROPOSED SB 2001  
TO THE ALASKA SENATE RESOURCES COMMITTEE ON OIL & GAS  
OCTOBER 25, 2007

**INTRODUCTION**

Mr. Chairman, members of the committee:

Good morning. For the record, my name is Craig Haymes. I am the Production Manager for ExxonMobil in Alaska, a position I have held since January 2007. I have the pleasure of living in Anchorage with my family. Prior to January this year I was involved with Arctic oil and gas projects on the East coast of Canada for almost five years.

I want to thank the committee for the opportunity to express ExxonMobil's views today regarding the Administration's proposed tax increase.

Let me state upfront, ExxonMobil believes the current PPT tax rate and the increase proposed by the Administration will have a negative impact on resource investments in Alaska. ExxonMobil does not support the proposed tax increase by the Administration.

We believe that Alaska needs to focus on a long-term resource development policy. The policy should encourage increasing investment that is needed to maximize the development of Alaska's resources. Alaska is rich in undiscovered resource potential, yet oil production continues to decline from mature basins. Oil production today is one

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third of the peak of over 2 million barrels per day in 1988. Alaska faces a significant challenge. We have a common goal to maximize economic resource development and need to work together; Government, industry, and the people of Alaska, to enhance the development of Alaska's rich resources and the future.

### **EXXONMOBIL IN ALASKA**

ExxonMobil invests all over the world to meet the growing need for energy. Over the last 20 years we have invested close to \$280 billion dollars to search for new supplies of energy, build new production facilities, expand refinery capacity and deploy new, environmentally sound technologies.

ExxonMobil believes technology innovation is the key to meeting the world and Alaska's energy challenges. Technology is the lifeblood of our industry. ExxonMobil currently spends close to \$1 billion per year on research and technology. We have consistently applied our technology in Alaska to unlock and develop resources. We have significant arctic experience around the world.

Some examples of technology applications that we have contributed to Alaska are

- The installation of the ice resistant Granite Point platform in Cook Inlet, which is still producing oil.
- Significant research and engineering for the Prudhoe Bay completion designs for permafrost
- The installation of the first Concrete Island Drilling System (CIDS) to drill exploration wells in ice covered waters in the Alaska Beaufort Sea.

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- The first full-field 3-D simulation model of Prudhoe Bay, leading to many enhanced oil recovery and development drilling programs that are still being pursued today.

The application of technology will continue to be a key to the future of Alaska's resource developments.

ExxonMobil has had a presence in Alaska for over 50 years and has been a key player in Alaska's oil industry development, spending and investing over \$20 billion dollars. We hold the largest working interest at Prudhoe Bay (36.4%) and our current working interest share of oil production in the state is approximately 150,000 barrels per day. We are also the largest owner of discovered Alaska gas resource.

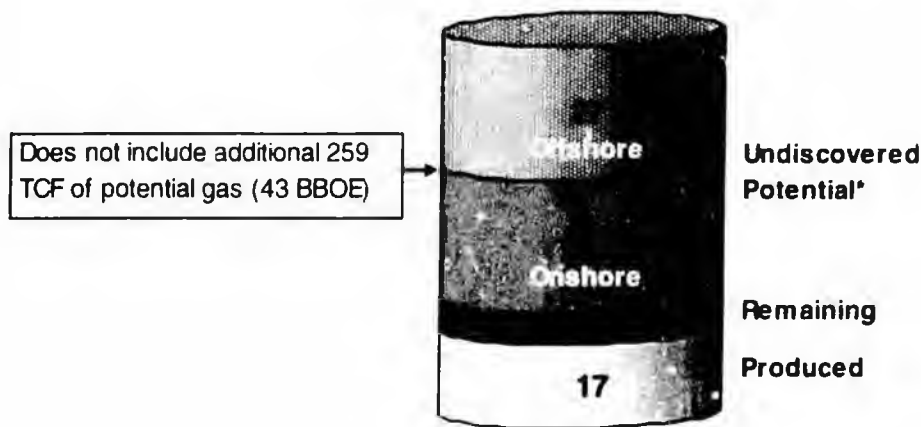
We are currently active with our co-owners at Prudhoe Bay, Kuparuk, Duck Island, Granite Point and Point Thomson. Over the last two years we have participated in the drilling of over 70% of the wells on the North Slope - over 130 wells were drilled at Prudhoe Bay alone - this drilling will add 50,000 B/D of oil production in 2007, an important contribution to help mitigate production decline.

We are proud of the role that our company has played in Alaska, which we believe has benefited both the State and the industry, and we look forward to working with Alaska for many years to come.

**ALASKA RESOURCE POTENTIAL IS SIGNIFICANT**

I would like to take a few moments to discuss Alaska's resource opportunities. Alaska has significant oil and gas resources. According to the US Geological Survey and the US Minerals Management Service, Alaska's undiscovered technically recoverable resources are 53 billion barrels of oil. This is in addition to the Department of Natural Resources estimate for known remaining oil resources of 6 billion barrels. To date Alaska has produced close to 17 billion barrels of oil - this is a world class result – but is less than one fourth of the potential total of 76 billion barrels. That is, Alaska still has the potential to produce another 59 billion barrels of oil. The gas resource potential almost doubles this undiscovered potential on an oil equivalent basis.

**Alaska Resource Assessment  
76 Billion Barrels of Oil**



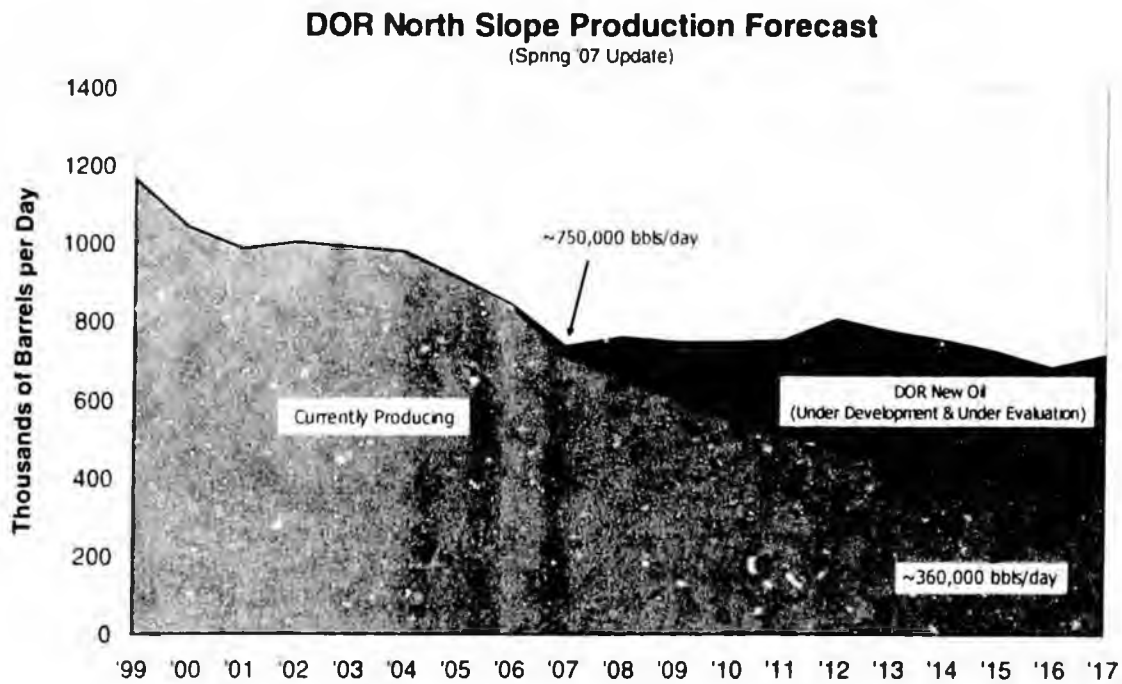
SOURCE: USGS, MMS, DNR

\* mean undiscovered technically recoverable resource

Whilst Alaska's resource potential is high, the Oil and Gas Journal and Energy Information Administration report that its world ranking of proved reserves has declined from 14<sup>th</sup> in 1977 to a position closer to 30<sup>th</sup> today.

**ALASKA'S FUTURE OIL PRODUCTION**

Today Alaska is producing approximately 750,000 barrels of oil per day from the North Slope, one third of its peak production. The Department of Revenue's production outlook, from their Spring Revenue Sources Book, shows that they estimate a 9% annual decline in Alaska's current base production. As the chart illustrates, at this decline rate, over the next ten years Alaska's current base production, shown in green, will drop to around 360,000 barrels per day. That is a production level of less than half of today's.

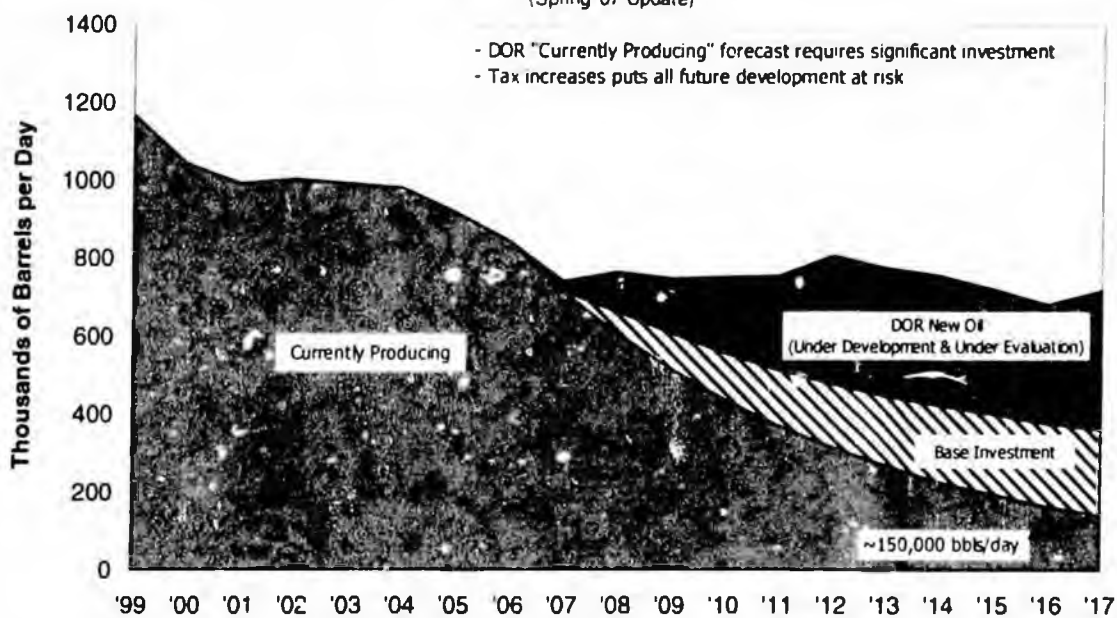


The Department of Revenue also forecasts that this base production decline will be partially mitigated with the development and production of oil in categories called "Under Development and Under Evaluation", shown in blue on the chart. These categories include future investments, such as development drilling, satellite developments, and enhanced oil recovery from existing fields. Based on this forecast, over 50% of the

projected oil production in 10 years will come from new investments. I might say that again, 50% of future oil production in 10 years is not even developed or producing today. Considering that most new projects take at least 5-7 years to bring to production on the North Slope, investment decisions for these activities, particularly in the near term, will be critical to underpin the future of Alaska's oil production.

As I mentioned earlier, the Department of Revenue forecast is based on a 9% annual decline in Alaska's current base production. However, this decline assumes that production enhancement investments at the core Prudhoe Bay, Kuparuk and Alpine areas continue. The Department of Revenue forecast, as shown, does not highlight that this activity requires investment decisions that are no different from the "Under Development and Under Evaluation" categories. As such, a more accurate representation of the future oil production and investment levels required to achieve the Department of Revenue forecast is illustrated in the following chart.

**DOR North Slope Production Forecast**  
(Spring '07 Update)



As this chart shows, Alaska's oil production from the North Slope could be as low as 150,000 barrels per day within 10 years, (assuming 15% decline, which is typical for large oil fields such as Prudhoe Bay), without ongoing and increasing investment. Based on this forecast, within 10 years, 75% of production will come from new investments.

Conservatively, we estimate that at least \$30-40 billion of investment is required within the next 10 years to achieve the Department of Revenue forecast. This does not include the billions of dollars of additional operating expenditures that would be required to support the developments once they are producing. This is a significant level of future investment and spending.

The high tax rate in PPT and the proposed tax increase put this investment at significant risk. Alaska needs to encourage the increasing investments required, not only in exploration activities, but also in the ongoing development of existing and new fields.

**ALASKA IS A HIGH COST REGION**

Complicating the significant future investments required to mitigate Alaska's production decline is its high costs. Alaska has unique challenges resulting in a high cost environment for exploration and development and very mature producing fields with growing unit costs. Many factors contribute to Alaska's higher costs including:

- Severe arctic conditions, placing limitations on when drilling and other operations can be undertaken
- A sensitive environment, requiring significant and due diligence measures to protect it
- Remote location of the resource and distance to market
- Current restrictions for future exploration opportunities

All combine to create a unique and high cost environment for Alaska.

### **ALASKA'S SO-CALLED LEGACY FIELDS**

The two largest oil fields in Alaska - Prudhoe Bay and Kuparuk, have been producing since 1977 and 1981, respectively. Today these two fields account for over 70% of the State's North Slope oil production. Assuming that exploration and investment activity continues in these fields, they could remain at this level of production contribution for the next decade.

These so called legacy fields require continuous investment to keep the oil flowing and the facilities operating at capacity. This is the same for any oil field in the world. During the production phase there are many changes in operating parameters, such as reservoir pressure changes, oil, gas and water production changes, changes in operating conditions, and ongoing technical challenges. In order to keep the oil flowing, these changes require additional investments, such as the addition of water and gas injection and gas compression facilities, which are historical significant investments at Prudhoe Bay.

Currently, the owners spend over \$2 billion dollars to optimize and enhance production from Prudhoe Bay and Kuparuk. These spending levels are in addition to the capital investments pursuing new wells, projects, and enhanced oil recovery opportunities. These operating expenditures are essential to mitigate production decline at these significant fields, which are critical to the future of Alaska's North Slope oil production.

Many of today's exploration and development activities are occurring in and around Prudhoe Bay and Kuparuk.

As an example, since the year 2000 there have been multiple Prudhoe Bay satellite fields developed - Aurora, Borealis, Midnight Sun, Polaris, and Orion - which are currently contributing over 40,000 B/D of oil production. These developments would not have been possible without the infrastructure and facility sharing of Prudhoe Bay, which reduced the development and operating costs of these satellites. As satellite fields are developed it reduces exploration and development costs for future new projects, as the infrastructure on the North Slope expands.

If the major Prudhoe Bay and Kuparuk developments did not exist these satellite fields would not have been economic to develop.

As another example, for the past seven years over 900 new wells have been drilled in Prudhoe Bay and Kuparuk. The drilling of these new wells has slowed the overall production decline from 12-15% to an estimated 6-9%. Almost 40% of Prudhoe Bay's production today is from these new wells.

For the past two years, development drilling at Prudhoe Bay has achieved the equivalent of the important Oooguruk development. This example highlights the importance of exploring for and developing new oil in and around the Prudhoe Bay and Kuparuk fields – all are important to the economic benefit and future of Alaska.

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Let me re-emphasize that Prudhoe Bay and Kuparuk have the potential to continue to be critical contributors to Alaska's oil production. They have the potential to remain key hubs and enablers for exploration and development of heavy or viscous oil, light oil and gas. Encouraging increasing investment at these key fields is as important as encouraging investment in exploration and development of new fields. Without these two hubs, Alaska will be severely challenged to realize the full potential of its resources.

Progressing a tax policy that singles out and penalizes these fields will discourage investment not only at these fields but will also impact future investment attractiveness to explore and develop other Alaska oil and gas resources.

#### **PROPOSED TAX INCREASE MORE COMPLICATED**

In analyzing the Administration's tax proposal, we found that virtually all of the provisions are simply tax rate increases or further increases in complexity.

As an example, under the Administration's proposed tax increase the two so-called Legacy Fields, Prudhoe Bay and Kuparuk, would have a separate 10% gross minimum tax and be segregated from each other and all other North Slope fields. This gross tax would be in addition to the base royalty payments. With this minimum gross tax the State would be insulated from price and cost risks, whilst retaining the upside potential from the progressivity element. The Administration is simply proposing to increase its take while shifting the development risks to the producers. Essentially, at low price, producers are penalized.

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Companies are willing to accept the risks of long-term, capital intensive investments when there is a corresponding opportunity for upside potential and a sharing of risk should prices fall. Under the Administration's proposed tax increase, investors will need to assume a higher economic risk when making funding decisions for future investments and spending.

The Administration has also proposed that all revenues and expenses for the Legacy Fields will have to be accounted for separately, with separate taxes paid for each unit and their satellites. This would include Alaska's heavy or viscous oil reserves produced from those Legacy Fields - a resource that already has significant economic and technical hurdles to overcome. No other fields, units or regions within the state would be subjected to these administrative burdens.

The ring-fencing of the Prudhoe Bay and Kuparuk Units makes the tax proposal more complex than the existing PPT.

**EXXONMOBIL POSITON ON THE ENACTED PPT**

I believe it is important that I clarify ExxonMobil's position on the current PPT.

ExxonMobil did not support the PPT that was enacted last year. As we testified last year, we supported the concept of a net based tax but stated that the proposed 20% tax rate, in the original PPT bill, would not encourage the full development of Alaska's resources. We agreed with the 20% tax rate in order to support the progression of a gas pipeline project.

The PPT that was ultimately enacted increased the already high 20% base tax rate to 22.5% with progressivity - more than doubling industry's taxation. Alaska's current PPT tax rate is too high. When combined with the gross royalties and the high development and operating costs, it makes Alaska one of the most expensive regions to invest.

There has been a lot of discussion recently on PPT revenues and forecasts, which has been used in part to support the Administration's proposal to increase taxes. PPT has only been in existence for slightly more than one year. The Department of Revenue has not completed its PPT regulations or started any PPT audit. ExxonMobil, like a number of the other producers, met with the Department of Revenue several months ago to discuss ways to help the State better forecast its expected PPT revenues and we are willing to continue those efforts. We are also willing to work with DOR auditors to improve their understanding of joint interest billings.

**FISCAL PREDICTABILITY IS IMPORTANT**

I would now like to address another important element of the business environment - fiscal predictability. ExxonMobil, and I believe the industry, values a predictable fiscal environment in which to make long term investment decisions. Our investments are capital intensive and are evaluated over timeframes of decades. Any change in the fiscal regime has a direct impact on how we view predictability of the Alaska fiscal environment, which in turn directly impacts how we evaluate on a risk basis future investment decisions. Let me reemphasize this point. Because of the nature and magnitude of the risks associated with any oil or gas investment, coupled with the amount of time required to recoup that investment, fiscal terms that are predictable are key to any investment decision.

The Administration's proposed tax increase would represent the third significant change to Alaska's fiscal terms in the past three years. Changing the fiscal environment for capital intensive projects, that take many years to generate a return, can only reduce the attractiveness of future investments. Each time taxes are raised, the attractiveness of any prospective well or project diminishes and the likelihood of it not being funded increases. For every well or project not progressed, additional production and State revenues are lost. As mentioned earlier, to mitigate oil production decline Alaska needs to increase investment. The Administration's proposed tax increase will reduce investment.

ExxonMobil expects to be involved in Alaska for many years to come. The policies established today and in the future will impact the attractiveness of future potential projects and the future of Alaska.

**ALASKA NEEDS A LONG-TERM RESOURCE DEVELOPMENT POLICY**

As I mentioned earlier, Alaska has significant resource potential, but with many unique cost challenges. It will take significant resources, technology, investment and teamwork from everyone to realize the full potential. Alaska and industry collaboratively need to create a resource development policy that encourages investment for long-term production and growth. This is a complex issue and needs significant time and effort from all parties. It is beneficial to look at what others have done.

The Canadian province of Alberta has enormous unconventional crude oil resources. Alberta's oil sands represent the potential of over 170 billion barrels of crude, and, like Alaska's resources, are located in higher cost, remote arctic regions that require significant investments to develop.

Alberta adopted a resource development policy approach, designed to increase industry investment and production. Their approach has proven successful due to a number of key factors:

- Collaborative pursuit of resource development objectives
- Development of technologies jointly with industry to reduce costs, increase oil recovery, and upgrade viscous oil to marketable products
- Creation of a level playing field for all projects
- Sharing risks with the investors by maintaining a lower gross revenue based tax, that is, lowering royalties significantly
- Providing long term fiscal predictability

Alberta's success suggests that Alaska should seriously consider what other regions are doing to encourage investment.

A long-term sustainable resource development policy is required to enable Alaska to maximize its oil and gas resource. There are many factors that need to be considered. It is a complex issue. I hope that key points addressed in my testimony are considered:

- Alaska has significant resource potential, but it is in a high cost environment
- Oil production is already one third of its peak, yet we have only produced one fourth of the oil resource potential
- In 10 years, 75% of Alaska's future oil production needs over \$30-40 billion of new investments - investments that are needed sooner than 10 years.
- Prudhoe Bay and Kuparuk are the "hub" of the North Slope, they
  - Represent 70% of North Slope oil production for the next 10+ years
  - Can be the backbone for future exploration and economic developments, whether it is existing production, future light oil, heavy oil, or gas
  - Need increasing investments to achieve their potential
- Development drilling at Prudhoe Bay and Kuparuk over the last 2 years has added 50,000 B/D of new oil production in 2007

We propose a collaborative approach to develop a sustainable long term resource policy that will encourage the needed increasing investments and build the future of Alaska for many generations to come. ExxonMobil looks forward to working with the Administration, the legislators, industry and the people of Alaska in the future pursuit and development of its oil and gas resources.

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To encourage full development of Alaska's resources, the PPT tax rate needs to be lowered, and should not include a gross revenue based component. Increasing investment fuels the economy.

Thank you again Mister Chairman for the opportunity to testify today.

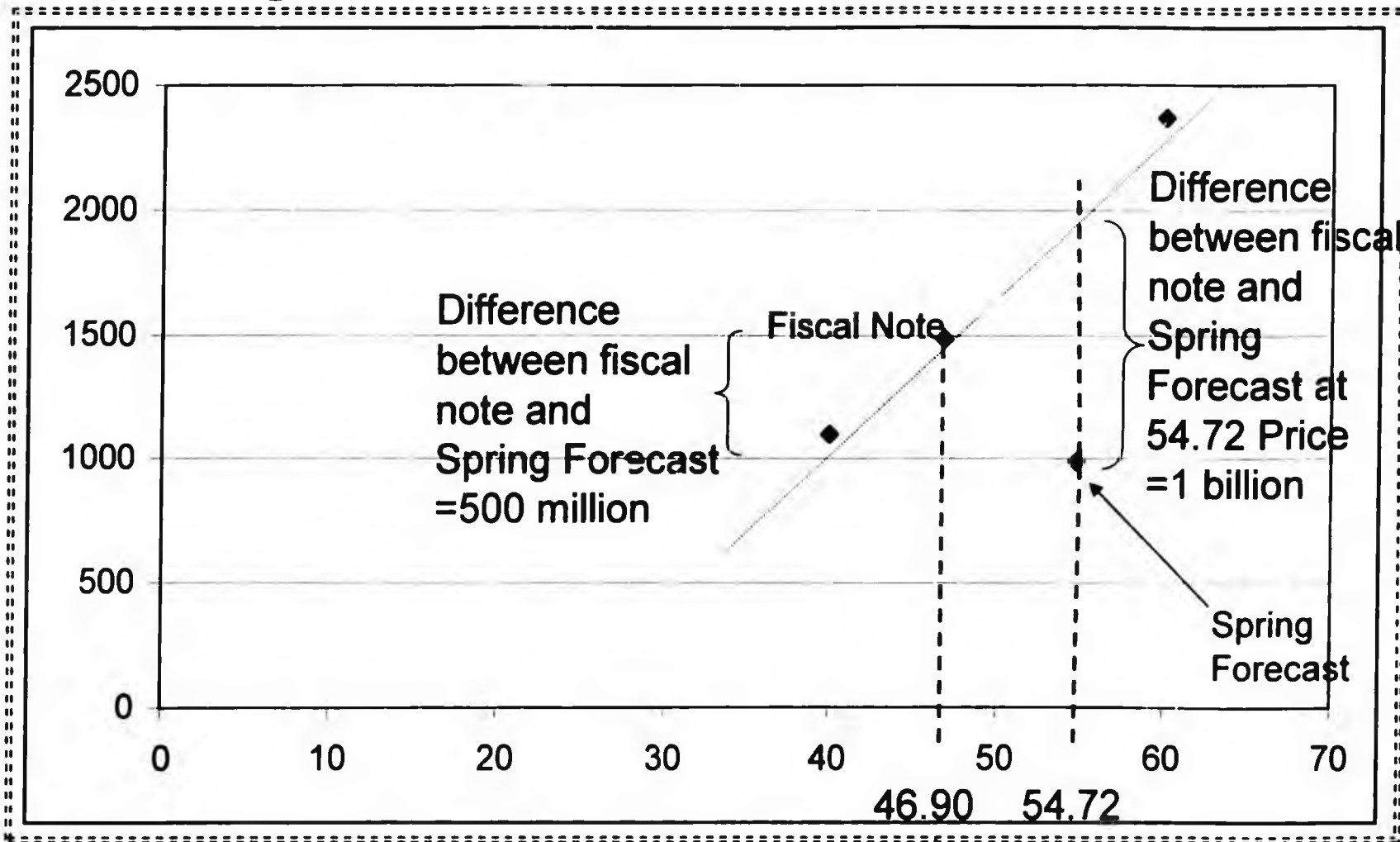
High Level Estimate of \$800 Million Shortfall in FY 2008  
Driven by higher reported costs

Estimated Costs - \$2 billion - Doubled - additional \$2 billion	2,000 (in millions)
Effect of Opex	22.5%
Effect of Capex	22.5%
Credit	20%
Assumed 100% TIE Match	10%
	<hr/> 52.5%
Assume 50/50 split	37.5%
Tax difference from 2000	750.0 (in millions)

10/25/2007

Dan Dickinson  
Senate Resources

# Summer 06 Fiscal Note versus Spring 2007 Forecast for FY 2008



10/25/2007

Dan Dickinson  
Senate Resources

**SB**

**2001**

**(FILE 16)**

**10/26/07**

# ALASKA STATE LEGISLATURE

Sen. Charlie Huggins, Chair  
Sen. Bert Stedman, Vice Chair  
Sen. Lyda Green  
Sen. Gary Stevens  
Sen. Lesil McGuire  
Sen. Bill Wielechowski  
Sen. Thomas Wagoner



State Capitol, Room 119  
Juneau AK 99801-1182  
907-465-3878  
Fax: 907-465-3265  
800-862-3878

## Senate Resources Committee

Butrovich Rm 205

Friday, October 26, 2007

~~1:00~~ p.m. - TBD  
1:30

## AGENDA

SB 2001 - Oil and Gas Production Tax  
PPT Amendments

Patrick Galvin, Commissioner, Dept. of Revenue

John Iverson, Director, Tax Division, Dept. of Revenue

Gary Rogers, Revenue Audit Supervisor, Dept. of Revenue

Rich Ruggiero, Gaffney Cline & Associates

**1. Gavel In & Call to Order : Note time – members present**

**I CALL THE SENATE RESOURCES COMMITTEE TO ORDER ON FRIDAY  
OCTOBER 26, 2007. LET THE RECORD REFLECT THAT IT IS \_\_\_\_\_  
A.M..**

**PRESENT ARE:**

**Vice-Chairman Senator Bert Stedman  
Senator Gary Stevens  
Senator Lyda Green  
Senator Lesil McGuire  
Senator Bill Wielechowski  
Senator Tom Wagoner  
& myself, Senator Charlie Huggins**

**2. SB 2001 OIL & GAS TAX AMENDMENTS**

**Callbacks for Administration**

**Pat Galvin – Commissioner, D.O.R.  
John Iverson – Dir., Tax Division, D.O.R.  
Gary Rogers - Revenue Audit Supervisor, D.O.R.  
Rich Ruggiero – Gaffney Cline**

**3. Announce: We'll be back tomorrow @ 10 AM, --THIS IS A TIME CHANGE--  
And may be delayed until after our floor session.**

**6. Meeting adjourned @ \_\_\_\_\_.**

10/26/07 SPES SB2001 -

Impact of the 10% Legacy Floor - ConocoPhillips

Testimony and a slide presentation from ConocoPhillips on 10/24/07 indicate that higher investment can trigger the floor which would make less investment.

Can the Department please go through this scenario and provide your comments?

ACGA

Ability to use Joint Interest Billings (JIBs) as a starting point for audits:

Why is the specific authority given to the Department to use JIBs being removed in ACES? JIBs appear to be an excellent starting point (given the fact that they've been audited by partners in a project) for audit purposes by DOR. If this authority is removed by ACES, when it is specifically now authorized, on what basis does DOR believe it will be allowed to use them?

Section 1 "confirmation by clarification of the long-standing interpretation of AS 43.05.260 by DOR relating to limitation of assessments for the production tax on oil and gas and conservation surcharges on oil". Why is it necessary to confirm this interpretation? Are there matters currently being adjudicated which would be impacted by this new "confirmation" and if so, what is the nature of those? Why isn't the regulatory language in 15 AAC 55.200 sufficient and what is the practical effect of AS 43.55.075(b) in the ACES legislation?

Extension of the statute of limitations from three to six years. Why does the department feel it's necessary to extend the statute of limitations from three years to six? Three years is used for all of tax structures in the state, so what is it about PPT that requires an additional three years?

**SB**

**2001**

**(FILE 17)**

**10/27/07**

**Gavel In & Call to order:**

I CALL THE SENATE RESOURCES COMMITTEE TO ORDER.

LET THE RECORD REFLECT THAT IT IS \_\_\_\_\_ A.M.

**Saturday, October 27, 2007**

**Present Are:**

**Vice Chair Senator Bert Stedman  
Senator Gary Stevens  
Senator Lyda Green  
Senator Lesil McGuire  
Senator Bill Wielechowski  
Senator Tom Wagoner  
& myself, Senator Charlie Huggins**

Before us today on the Agenda is:      **CS SB 2001 Work Draft 25-GS0014/E  
Bullock 10/26/07  
Relating to - OIL & GAS TAX AMENDMENTS**

Sen. Stedman - "Mr. Chairman I move that we adopt CS SB 2001  
Work Draft 25-GS0014/E  
Bullock 10/26/07

We have here today:

Don Bullock, Legislative Counsel  
& Steve Porter, LB&A Consultant

-Mr. Chairman, I move that Committee Substitute for SB 2001 Work Draft 25-GS0014 Version 'E', be moved from committee with individual recommendations and fiscal notes to follow."

**Meeting Adjourned @ \_\_\_\_\_**

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 10/18/07

FURTHER: Judiciary  
 Finance

Date of 5-Day Notice: 2nd Special Session  
 (in accordance with Uniform Rule 23)

DATE TURNED  
 IN TO OFFICE: 10/29/07

Resources Committee considered SENATE BILL NO. 2001

**SB 2001 OIL & GAS TAX AMENDMENTS**

"An Act relating to the production tax on oil and gas and to conservation surcharges on oil; relating to the issuance of advisory bulletins and the disclosure of certain information relating to the production tax and the sharing between agencies of certain information relating to the production tax and to oil and gas or gas only leases; amending the State Personnel Act to place in the exempt service certain state oil and gas auditors and their immediate supervisors; establishing an oil and gas tax credit fund and authorizing payment from that fund; providing for retroactive application of certain statutory and regulatory provisions relating to the production tax on oil and gas and conservation surcharges on oil; making conforming amendments; and providing for an effective date."

and recommends:

be replaced with  SCS or  CS SB 2001 (RES)

adopt previous  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt \_\_\_\_\_ Letter of Intent

further referral to \_\_\_\_\_ Committee

**SENATE BILL:**

Same Title  
 New Title

**HOUSE BILL:**

Same Title  
 Technical Title Change  
 New Title w/  
 SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
REV	10/28	✓			4

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Green			✓	
	McBure				✓
	STEVEN STARNMAN				✓
	Wielechawski				✓
	WAGNER				✓
CHAIR:					✓

# 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

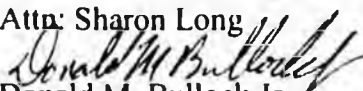
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

October 26, 2007

**SUBJECT:** New version of CSSB 2001( ) (Work Order No. 25-GS0014)

**TO:** Senator Charlie Huggins  
Chair of the Senate Resources Committee  
Attn: Sharon Long

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

Enclosed is a new version of CSSB 2001( ) that is based on the previous version and includes the sections you requested from SB 2001.

The addition of the three sections you requested requires additional sections from SB 2001 to conform to changes in this version. Among the additional sections incorporated from SB 2001 are a section amending AS 43.55.170(a) and a section repealing AS 43.55.160(c) and (d). The repeal of AS 43.55.165(c) and (d) is necessary because the concepts in those subsections were replaced in the repealed and reenacted AS 43.55.165(a).

Please read this draft carefully to ensure that it is consistent with your intent.

DMB:ljw  
07-385.ljw

Enclosure

25-GS0014E  
Bullock  
10/26/07

**CS FOR SENATE BILL NO. 2001( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIFTH LEGISLATURE - SECOND SPECIAL SESSION**

**BY**

**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 sharing between agencies of certain information relating to the  
3 production tax and to oil and gas or gas only leases; amending the State Personnel Act  
4 to place in the exempt service certain state oil and gas auditors and their immediate  
5 supervisors; providing for retroactive application of certain statutory and regulatory  
6 provisions relating to the production tax on oil and gas; making conforming  
7 amendments; and providing for an effective date."

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

9 \* **Section 1.** AS 38.05.035(a) is amended to read:

10 (a) The director shall

11 (1) have general charge and supervision of the division and may  
12 exercise the powers specifically delegated to the director; the director may employ  
13 and fix the compensation of assistants and employees necessary for the operations of

1 the division; the director [AND] is the certifying officer of the division, with the  
2 consent of the commissioner, and may approve vouchers for disbursements of money  
3 appropriated to the division;

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

6 (3) execute laws, rules, regulations, and orders adopted by the  
7 commissioner;

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

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

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

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

22 (8) [REPEALED]

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

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

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

31 (C) all geological, geophysical, and engineering data supplied,

1 whether or not concerned with the extraction or development of natural  
2 resources;

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

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

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

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

15 **(10)** [(11)] select and employ or obtain at reasonable compensation  
16 cadastral, appraisal, or other professional personnel the director considers necessary  
17 for the proper operation of the division;

18 **(11)** [(12)] be the certifying agent of the state to select, accept, and  
19 secure by whatever action is necessary in the name of the state, by deed, sale, gift,  
20 devise, judgment, operation of law, or other means any land, of whatever nature or  
21 interest, available to the state; and be the certifying agent of the state, to select,  
22 accept, or secure by whatever action is necessary in the name of the state any land, or  
23 title or interest to land available, granted, or subject to being transferred to the state  
24 for any purpose;

25 **(12) on request, furnish records, files, and other information**  
26 **related to the administration of AS 38.05.180 to the Department of Revenue for**  
27 **use in forecasting state revenue under or administering AS 43.55, whether or not**  
28 **those records, files, and other information are required to be kept confidential**  
29 **under (8) of this subsection; in the case of records, files, or other information**  
30 **required to be kept confidential under (8) of this subsection, the Department of**  
31 **Revenue shall maintain the confidentiality that the Department of Natural**

1           **Resources is required to extend to records, files, and other information under (8)**  
2           **of this subsection**

3                           [(13) REPEALED

4                           (14) REPEALED].

5           \* **Sec. 2.** AS 38.05.036(b) is amended to read:

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

13           \* **Sec. 3.** AS 38.05.036(f) is amended to read:

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

20           \* **Sec. 4.** AS 38.05.036(g) is amended to read:

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

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

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

1 \* Sec. 6. AS 38.05.133(e) is amended to read:

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

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

8 (j) The commissioner

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

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

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

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

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

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

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

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

29 (3) shall provide for an increase or decrease or other modification of  
30 the state's royalty share by a sliding scale royalty or other mechanism that shall be  
31 based on a change in the price of oil or gas and may also be based on other relevant

1 factors such as a change in production rate, projected ultimate recovery, development  
2 costs, and operating costs;

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

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

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

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

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

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

25 (B) shall keep the data confidential under AS 38.05.035(a)(8)  
26 [AS 38.05.035(a)(9)] at the request of the lessee or lessees making application  
27 for the royalty reduction; the confidential data may be disclosed by the  
28 commissioner to legislators and to the legislative auditor and as directed by  
29 the chair or vice-chair of the Legislative Budget and Audit Committee to the  
30 director of the division of legislative finance, the permanent employees of  
31 their respective divisions who are responsible for evaluating a royalty

1 reduction, and to agents or contractors of the legislative auditor or the  
2 legislative finance director who are engaged under contract to evaluate the  
3 royalty reduction, if they sign an appropriate confidentiality agreement;

4 (7) may

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

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

29 (8) shall make and publish a preliminary findings and determination  
30 on the royalty reduction application, give reasonable public notice of the preliminary  
31 findings and determination, and invite public comment on the preliminary findings

1 and determination during a 30-day period for receipt of public comment;

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

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

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

12 (B) the chairs of the legislature's standing committees on  
13 resources; and

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

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

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

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

24 (C) transmit a copy of the final findings and determination to  
25 the lessee;

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

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

31 (12) is not limited by the provisions of AS 38.05.134(3) or (f) of this

1 section in the commissioner's determination under this subsection.

2 \* **Sec. 8.** AS 38.05.275(c) is amended to read:

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

5 \* **Sec. 9.** AS 39.25.110 is amended by adding a new paragraph to read:

6 (42) oil and gas auditors performing

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

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

11 \* **Sec. 10.** AS 41.09.010(d) is amended to read:

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

24 \* **Sec. 11.** AS 43.05.230(a) is amended to read:

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

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

30 (2) in connection with official investigations or proceedings of the  
31 child support enforcement agency, whether judicial or administrative, involving child

1 support obligations imposed or imposable under AS 25 or AS 47;

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

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

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

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

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

14 \* Sec. 13. AS 43.55.023(i) is amended to read:

15 (i) For the purposes of this section,

16 (1) a producer's or explorer's transitional investment expenditures are  
17 the sum of the expenditures the producer or explorer incurred after March 31, 2001,  
18 and before April 1, 2006, that would be qualified capital expenditures if they were  
19 incurred after March 31, 2006, less the sum of the payments or credits the producer or  
20 explorer received before April 1, 2006, for the sale or other transfer of assets,  
21 including geological, geophysical, or well data or interpretations, acquired by the  
22 producer or explorer as a result of expenditures the producer or explorer incurred  
23 before April 1, 2006, that would be qualified capital expenditures, if they were  
24 incurred after March 31, 2006;

25 (2) a producer or explorer that did not have commercial production  
26 of oil or gas from a lease or property in the state before January 1, 2008, may  
27 elect to take a tax credit against a tax levied by [DUE UNDER] AS 43.55.011(e) in  
28 the amount of 20 percent of the producer's or explorer's transitional investment  
29 expenditures, but only to the extent that the amount does not exceed 1/10 of the  
30 producer's or explorer's qualified capital expenditures that were incurred after  
31 March 31, 2006, and before January 1, 2008 [ARE INCURRED DURING THE

1 CALENDAR YEAR FOR WHICH THE CREDIT IS TAKEN];

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

4 (A) for any calendar year after [THE LATER OF

5 (i)] 2013; [OR

6 (ii) THE SIXTH CALENDAR YEAR AFTER THE  
7 CALENDAR YEAR FOR WHICH THE PRODUCER FIRST  
8 APPLIES A CREDIT UNDER THIS SUBSECTION AGAINST A  
9 TAX DUE UNDER AS 43.55.011(e), IF THE PRODUCER DID NOT  
10 HAVE COMMERCIAL PRODUCTION OF OIL OR GAS FROM A  
11 LEASE OR PROPERTY IN THE STATE BEFORE APRIL 1, 2006;]

12 (B) more than once; or

13 (C) if a credit for that expenditure was taken under  
14 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025:

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

18 \* Sec. 14. AS 43.55.030(a) is amended to read:

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

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

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

31 (3) the gross amount of oil and the gross amount of gas produced from

1 each lease or property, and the percentage of the gross amount of oil and gas owned  
2 by the [EACH] producer [FOR WHOM THE TAX IS PAID];

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

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

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

13 (7) the production tax values of the oil and gas under  
14 AS 43.55.160;

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

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

19 \* Sec. 15. AS 43.55.030(d) is amended to read:

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

28 \* Sec. 16. AS 43.55.030 is amended by adding new subsections to read:

29 (e) An explorer or producer that incurs a lease expenditure under  
30 AS 43.55.165 or receives a payment or credit under AS 43.55.170 during a calendar  
31 year but does not produce oil or gas from a lease or property in the state during the

1 calendar year shall file with the department on March 31 of the following year a  
2 statement, under oath, in a form prescribed by the department, giving, with other  
3 information required, the following:

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

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

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

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

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

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

17 (4) lease expenditures and adjustments under AS 43.55.165 and  
18 43.55.170;

19 (5) joint interest billings;

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

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

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

25 \* **Sec. 17.** AS 43.55.040 is amended to read:

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

28 (1) require a person engaged in production and the agent or employee  
29 of the person, and the purchaser of oil or gas, or the owner of a royalty interest in oil  
30 or gas to furnish, whether by the filing of regular statements or reports or otherwise,  
31 additional information that is considered by the department as necessary to compute

1 the amount of the tax; notwithstanding any contrary provision of law, the disclosure  
 2 of additional information under this paragraph to the producer obligated to pay the tax  
 3 does not violate AS 10.25.100(a) or AS 43.05.230(a); before disclosing information  
 4 under this paragraph that is otherwise required to be held confidential under  
 5 AS 40.25.100(a) or AS 43.05.230(a), the department shall

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

9 (B) impose appropriate conditions limiting

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

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

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

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

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

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

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

23 **(5) require a producer, an explorer, or an operator of a lease or**  
 24 **property to file reports and copies of records that the department considers**  
 25 **necessary to forecast state revenue under this chapter; in the case of reports and**  
 26 **copies of records relating to proposed, expected, or approved unit expenditures**  
 27 **for a unit for which one or more working interest owners other than the**  
 28 **operator have authority to approve unit expenditures, the required reports and**  
 29 **copies of records are limited to those reports or copies of records that constitute**  
 30 **or disclose communications between the operator and the working interest**  
 31 **owners relating to unit budget matters; 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**  
3                   **department under standards adopted in regulation by the department, of not**  
4                   **more than \$1,000 for each day the person fails to file the report, statement, or**  
5                   **other 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.**

8 \* **Sec. 18.** AS 43.55.110 is amended by adding new subsections to read:

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

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

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

20 \* **Sec. 19.** AS 43.55.165(a) is repealed and reenacted to read:

21                   (a) For purposes of this chapter, a producer's lease expenditures for a calendar  
22                   year are

23                   (1) costs, other than items listed in (e) of this section, that are

24                   (A) incurred by the producer during the calendar year after  
25                   March 31, 2006, to explore for, develop, or produce oil or gas deposits located  
26                   within the producer's leases or properties in the state or, in the case of land in  
27                   which the producer does not own an operating right, operating interest, or  
28                   working interest, to explore for oil or gas deposits within other land in the  
29                   state; and

30                   (B) allowed by the department by regulation, based on the  
31                   department's determination that the costs satisfy the following three

1 requirements:

2 (i) the costs must be incurred upstream of the point of  
3 production of oil and gas;

4 (ii) the costs must be ordinary and necessary costs of  
5 exploring for, developing, or producing, as applicable, oil or gas  
6 deposits; and

7 (iii) the costs must be direct costs of exploring for,  
8 developing, or producing, as applicable, oil or gas deposits; and

9 (2) a reasonable allowance for that calendar year, as determined under  
10 regulations adopted by the department, for overhead expenses that are directly related  
11 to exploring for, developing, or producing, as applicable, the oil or gas deposits.

12 \* **Sec. 20.** AS 43.55.165(b) is amended to read:

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

14 (1) direct costs include

15 (A) an expenditure, when incurred, to acquire an item if the  
16 acquisition cost is otherwise a direct cost, notwithstanding that the  
17 expenditure may be required to be capitalized rather than treated as an  
18 expense for financial 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;

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

26 (2) an activity does not need to be physically located on, near, or  
27 within the premises of the lease or property within which an oil or gas deposit being  
28 explored for, developed, or produced is located in order for the cost of the activity to  
29 be a cost upstream of the point of production of the oil or gas;

30 **(3) in determining whether costs are lease expenditures, the**  
31 **department shall consider, among other factors, the**

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

8                    (B) standards adopted by the Department of Natural  
9                    Resources that determine the costs, other than items listed in (e) of this  
10                   section, that a lessee is allowed to deduct from revenue in calculating net  
11                   profits under a lease issued under AS 38.05.180(f)(3)(B), (D), or (E).

12 \* Sec. 21. AS 43.55.165(e) is amended to read:

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

14                                (1) depreciation, depletion, or amortization;

15                                (2) oil or gas royalty payments, production payments, lease profit  
16                    shares, or other payments or distributions of a share of oil or gas production, profit, or  
17                    revenue;

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

19                                (4) interest or other financing charges or costs of raising equity or  
20                    debt capital;

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

22                                (6) costs arising from fraud, wilful misconduct, [OR] gross  
23                    negligence, violation of law, or failure to comply with an obligation under a lease,  
24                    permit, or license issued by the state or federal government;

25                                (7) fines or penalties imposed by law;

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

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

31                                (10) amounts paid to indemnify the state; the exclusion provided by

1 this paragraph does not apply to the costs of obtaining insurance or a surety bond  
2 from a third-party insurer or surety;

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

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

6 (13) an expenditure incurred to purchase an interest in any  
7 corporation, partnership, limited liability company, business trust, or any other  
8 business entity, whether or not the transaction is treated as an asset sale for federal  
9 income tax purposes;

10 (14) a tax levied under AS 43.55.011;

11 (15) [THE PORTION OF] costs incurred for dismantlement, removal,  
12 surrender, or abandonment of a facility, pipeline, well pad, platform, or other  
13 structure, or for the restoration of a lease, field, unit, area, tract of land, body of  
14 water, or right-of-way in conjunction with dismantlement, removal, surrender, or  
15 abandonment [, THAT IS ATTRIBUTABLE TO PRODUCTION OF OIL OR GAS  
16 OCCURRING BEFORE APRIL 1, 2006; THE PORTION IS CALCULATED AS A  
17 RATIO OF THE AMOUNT OF OIL AND GAS PRODUCTION, IN BARRELS OF  
18 OIL EQUIVALENT, ASSOCIATED WITH THE FACILITY, PIPELINE, WELL  
19 PAD, PLATFORM, OTHER STRUCTURE, LEASE, FIELD, UNIT, AREA, BODY  
20 OF WATER, OR RIGHT-OF-WAY OCCURRING BEFORE APRIL 1, 2006. TO  
21 THE TOTAL AMOUNT OF OIL AND GAS PRODUCTION, IN BARRELS OF  
22 OIL EQUIVALENT, ASSOCIATED WITH THAT FACILITY, PIPELINE, WELL  
23 PAD, PLATFORM, OTHER STRUCTURE, LEASE, FIELD, UNIT, AREA, BODY  
24 OF WATER, OR RIGHT-OF-WAY THROUGH THE END OF THE CALENDAR  
25 MONTH BEFORE COMMENCEMENT OF THE DISMANTLEMENT,  
26 REMOVAL, SURRENDER, OR ABANDONMENT]; a cost is not excluded under  
27 this paragraph if the dismantlement, removal, surrender, or abandonment for which  
28 the cost is incurred is undertaken for the purpose of replacing, renovating, or  
29 improving the facility, pipeline, well pad, platform, or other structure; [FOR THE  
30 PURPOSES OF THIS PARAGRAPH, "BARREL OF OIL EQUIVALENT" MEANS  
31 (A) IN THE CASE OF OIL, ONE BARREL;

1 (B) IN THE CASE OF GAS, 6,000 CUBIC FEET;]

2 (16) costs incurred for containment, control, cleanup, or removal in  
3 connection with any unpermitted release of oil or a hazardous substance and any  
4 liability for damages imposed on the producer or explorer for that unpermitted  
5 release; this paragraph does not apply to the cost of developing and maintaining an oil  
6 discharge prevention and contingency plan under A.S. 46.04.030;

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

9 (18) that portion of expenditures, that would otherwise be qualified  
10 capital expenditures, as defined in AS 43.55.023 [AS 43.55.023(k)], incurred during a  
11 calendar year that are less than the product of \$0.30 multiplied by the total taxable  
12 production from each lease or property, in BTU equivalent barrels, during that  
13 calendar year, except that, when a portion of a calendar year is subject to this  
14 provision, the expenditures and volumes shall be prorated within that calendar year;

15 (19) costs incurred for repair, replacement, or deferred  
16 maintenance of a facility, a pipeline, a structure, or equipment, other than a well,  
17 that results in or is undertaken in response to a failure, problem, or event that  
18 results in an unscheduled interruption of, or reduction in the rate of, oil or gas  
19 production; or costs incurred for repair, replacement, or deferred maintenance  
20 of a facility, a pipeline, a structure, or equipment, other than a well, that is  
21 undertaken in response to, or is otherwise associated with, an unpermitted  
22 release of a hazardous substance or of gas; however, costs under this paragraph  
23 that would otherwise constitute lease expenditures under (a) of this section may  
24 be treated as lease expenditures if the department determines that the repair or  
25 replacement is solely necessitated by an act of war, by an unanticipated grave  
26 natural disaster or other natural phenomenon of an exceptional, inevitable, and  
27 irresistible character, the effects of which could not have been prevented or  
28 avoided by the exercise of due care or foresight, or by an intentional or negligent  
29 act or omission of a third party, other than a party or its agents in privity of  
30 contract with, or employed by, the producer or an operator acting for the  
31 producer, but only if the producer or operator, as applicable, exercised due care

1 in operating and maintaining the facility, pipeline, structure, or equipment, and  
2 took reasonable precautions against the act or omission of the third party and  
3 against the consequences of the act or omission; in this paragraph,

4 (A) "costs incurred for repair, replacement, or deferred  
5 maintenance of a facility, a pipeline, a structure, or equipment" includes  
6 costs to dismantle and remove the facility, pipeline, structure, or  
7 equipment that is being replaced;

8 (B) "hazardous substance" has the meaning given in  
9 AS 46.03.820;

10 (C) "replacement" includes renovation or improvement;

11 (20) costs incurred to construct, acquire, or operate a refinery or  
12 crude oil topping plant, regardless of whether the products of the refinery or  
13 topping plant are used in oil or gas exploration, development, or production  
14 operations; however, if a producer owns a refinery or crude oil topping plant  
15 that is located on or near the premises of the producer's lease or property in the  
16 state and that processes the producer's oil produced from that lease or property  
17 into a product that the producer uses in the operation of the lease or property in  
18 drilling for or producing oil or gas, the producer's lease expenditures include the  
19 amount calculated by subtracting from the fair market value of the product used  
20 the prevailing value, as determined under AS 43.55.020(f), of the oil that is  
21 processed.

22 \* Sec. 22. AS 43.55.170(a) is amended to read:

23 (a) A [UNLESS THE PAYMENT OR CREDIT HAS ALREADY BEEN  
24 SUBTRACTED IN CALCULATING BILLABLE OR BILLED COSTS UNDER  
25 AS 43.55.165(c) OR (d). A] producer's lease expenditures under AS 43.55.165 must  
26 be adjusted by subtracting payments or credits, other than tax credits, received by the  
27 producer or by an operator acting for the producer for

28 (1) the use by another person of a production facility in which the  
29 producer has an ownership interest or the management by the producer of a  
30 production facility under a management agreement providing for the producer to  
31 receive a management fee;

1 (2) a reimbursement or similar payment that offsets the producer's  
2 lease expenditures, including an insurance recovery from a third-party insurer and a  
3 payment from the state or federal government for reimbursement of the producer's  
4 upstream costs, including costs for gathering, separating, cleaning, dehydration,  
5 compressing, or other field handling associated with the production of oil or gas  
6 upstream of the point of production;

7 (3) the sale or other transfer of

8 (A) an asset, including geological, geophysical, or well data or  
9 interpretations, acquired by the producer as a result of a lease expenditure or  
10 an expenditure that would be a lease expenditure if it were incurred after  
11 March 31, 2006; for purposes of this subparagraph,

12 (i) if a producer removes from the state, for use outside  
13 the state, an asset described in this subparagraph, the value of the asset  
14 at the time it is removed is considered a payment received by the  
15 producer for sale or transfer of the asset;

16 (ii) for a transaction that is an internal transfer or is  
17 otherwise not an arm's length transaction, if the sale or transfer of the  
18 asset is made for less than fair market value, the amount subtracted  
19 must be the fair market value; and

20 (B) oil or gas

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

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

25 \* **Sec. 23.** AS 43.55 is amended by adding a new section to article 4 to read:

26 **Sec. 43.55.890. Disclosure of tax information.** Notwithstanding any contrary  
27 provision of AS 40.25.100, and regardless of whether the information is considered  
28 under AS 43.05.230(e) to constitute statistics classified to prevent the identification of  
29 particular returns or reports, the department may publish the following information  
30 under this chapter, if aggregated among three or more producers or explorers,  
31 showing by month or calendar year and by lease or property, unit, or area of the state:

- 1 (1) the amount of oil or gas production;  
2 (2) the amount of taxes levied under this chapter or paid under this  
3 chapter;  
4 (3) the effective tax rates under this chapter;  
5 (4) the gross value of oil or gas at the point of production;  
6 (5) the transportation costs for oil or gas;  
7 (6) qualified capital expenditures under AS 43.55.023(k);  
8 (7) exploration expenditures under AS 43.55.025;  
9 (8) production tax values of oil or gas under AS 43.55.160;  
10 (9) lease expenditures under AS 43.55.165;  
11 (10) adjustments to lease expenditures under AS 43.55.170;  
12 (11) tax credits applicable or potentially applicable against taxes  
13 levied by this chapter.

14 \* Sec. 24. AS 43.55.900 is amended by adding new paragraphs to read:

15 (22) "producer" means an owner of an operating right, operating  
16 interest, or working interest in a mineral interest in oil or gas;

17 (23) "unit" means a group of tracts of land that is

18 (A) subject to a cooperative or a unit plan of development or  
19 operation that has been certified by the commissioner of natural resources  
20 under AS 38.05.180(p);

21 (B) subject to a cooperative or a unit plan of development or  
22 operation that has been certified by the United States Secretary of the Interior  
23 under 30 U.S.C. 226(m);

24 (C) subject to an agreement of the owners of interests in the  
25 tracts of land to validly integrate their interests to provide for the unitized  
26 management, development, and operation of the tracts of land as a unit, within  
27 the meaning of AS 31.05.110(a); or

28 (D) within the unit area of a unit created by order of the  
29 Alaska Oil and Gas Conservation Commission under AS 31.05.110(b).

30 \* Sec. 25. AS 43.55.165(c) and 43.55.165(d) are repealed.

31 \* Sec. 26. AS 43.55.011(f) is repealed.

1 \* **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3 APPLICABILITY. (a) Sections 21, 22, and 25 of this Act apply to oil and gas  
4 produced after March 31, 2006.

5 (b) Sections 19, 20, and 26 of this Act apply to oil and gas produced after  
6 December 31, 2007.

7 (c) Sections 14 and 16 of this Act apply to statements and reports under  
8 AS 43.55.030(a), as amended by sec. 14 of this Act, and AS 43.55.030(e) and (f), as added  
9 by sec. 16 of this Act, required to be filed after December 31, 2007.

10 \* **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 TRANSITION: ASSIGNMENT OF OIL AND GAS AUDITORS IN THE  
13 DEPARTMENT OF REVENUE AND DEPARTMENT OF NATURAL RESOURCES.  
14 Notwithstanding any contrary provision of law, employees employed as oil and gas auditors  
15 performing production tax audits or as their immediate supervisors in the Department of  
16 Revenue and employees employed as oil and gas auditors performing royalty audits,  
17 including net profit share audits, or as their immediate supervisors in the Department of  
18 Natural Resources are assigned to the exempt service in accordance with AS 39.25.110(42),  
19 added by sec. 9 of this Act, and may not be included in the general government or  
20 supervisory collective bargaining units of state employees except as provided in this section.  
21 All oil and gas auditors performing production tax audits or royalty audits and their  
22 immediate supervisors hired before the effective date of sec. 9 of this Act have the option of  
23 (1) continuing in the general government or supervisory collective bargaining units and being  
24 subject to their respective collective bargaining agreements; or (2) being removed from those  
25 bargaining units. Those employees have 90 days from the effective date of sec. 9 of this Act  
26 to exercise the option to continue in the collective bargaining units. The option taken under  
27 this section by the employee is irrevocable. The employees choosing to be removed from  
28 those bargaining units are removed after any notice period required by a collective  
29 bargaining agreement.

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

1           TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any  
2 contrary provision of AS 44.62.240,

3           (1) if the Department of Revenue expressly designates in the regulation that  
4 the regulation applies retroactively to that date, a regulation adopted by the Department of  
5 Revenue to implement, interpret, make specific, or otherwise carry out

6                       (A) secs. 21, 22, and 25 of this Act may apply retroactively to April 1,  
7 2006;

8                       (B) secs. 13, 14, 16, 19, 20, and 26 of this Act may apply retroactively  
9 to January 1, 2008;

10           (2) a regulation adopted by the Department of Natural Resources to  
11 implement, interpret, make specific, or otherwise carry out statutory provisions for the  
12 administration of oil and gas leases issued under AS 38.05.180(f)(3)(B), (D), or (E), to the  
13 extent the regulation deals with the treatment of oil and gas production taxes in determining  
14 net profits under those leases, may apply retroactively to April 1, 2006, if the Department of  
15 Natural Resources expressly designates in the regulation that the regulation applies  
16 retroactively to that date.

17       \* Sec. 30. The uncoded law of the State of Alaska is amended by adding a new section to  
18 read:

19           TRANSITION: REGULATIONS. The Department of Natural Resources and the  
20 Department of Revenue may proceed to adopt regulations to implement this Act. The  
21 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the  
22 effective date of the law implemented by the regulation.

23       \* Sec. 31. The uncoded law of the State of Alaska is amended by adding a new section to  
24 read:

25           RETROACTIVITY OF CERTAIN PROVISIONS OF THIS ACT. Sections 21, 22,  
26 25, and 29 of this Act are retroactive to April 1, 2006.

27       \* Sec. 32. Sections 13, 14, 16, 19, 20, and 26 of this Act take effect January 1, 2008.

28       \* Sec. 33. Except as provided in sec. 32 of this Act, this Act takes effect immediately under  
29 AS 01.10.070(c).