

CS FOR HOUSE BILL NO. 2001(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SPECIAL SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 11/11/07

Offered: 11/11/07

Sponsor(s): HOUSE 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; providing a limit on the amount of tax that may be levied on the production of**
3 **certain gas that is produced outside of the Cook Inlet sedimentary basin; relating to the**
4 **sharing between agencies of certain information relating to the production tax and to**
5 **oil and gas or gas only leases; expanding the period in which the Department of**
6 **Revenue may assess the amount of oil and gas production tax and conservation**
7 **surcharges; prohibiting a producer or explorer from receiving tax credits if certain**
8 **judgments are not satisfied and requiring, as a condition of receiving the tax credits, the**
9 **deposit of the amount of certain unpaid judgments and certain interest on those**
10 **judgments in the court during an appeal and relating to that interest; relating to state**
11 **oil and gas audit masters; making conforming amendments; and providing for an**
12 **effective date."**

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

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

4 LEGISLATIVE INTENT. (a) It is the intent of the legislature that the provisions of
5 this Act will

6 (1) ensure a fair and equitable means of assessing and taxing Alaska's oil and
7 gas resources; and

8 (2) encourage the availability to Alaska's citizens of affordable gas produced,
9 transported, and consumed within the state.

10 (b) It is the intent of the legislature that AS 43.55.075(b), enacted by sec. 41 of this
11 Act, relating to the limitation of assessments for the production tax on oil and gas and
12 conservation surcharges on oil, confirms by clarification the long-standing interpretation of
13 AS 43.05.260 by the Department of Revenue.

14 (c) It is the intent of the legislature that costs disallowed in accordance with
15 AS 43.55.165(e)(6), as amended by sec. 48 of this Act, include costs, subsequent to the
16 effective date of the enactment of AS 43.55.165(e)(6), incurred as a result of monitoring and
17 management decisions that fail to properly consider risks posed by changing operating
18 conditions and result in failure to take necessary actions to prevent a pipeline spill,
19 interruption of service, or shutdown.

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

21 (a) The director shall

22 (1) have general charge and supervision of the division and may
23 exercise the powers specifically delegated to the director; **the director** may employ
24 and fix the compensation of assistants and employees necessary for the operations of
25 the division; **the director** [AND] is the certifying officer of the division, with the
26 consent of the commissioner, and may approve vouchers for disbursements of money
27 appropriated to the division;

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

30 (3) execute laws, rules, regulations, and orders adopted by the
31 commissioner;

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

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

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

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

15 (8) [REPEALED]

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

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

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

24 (C) all geological, geophysical, and engineering data supplied,
25 whether or not concerned with the extraction or development of natural
26 resources;

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

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

31 (F) requests for information or applications by public agencies

for land **that** [WHICH] is being considered for use for a public purpose;

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

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

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

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

[(13) REPEALED

(14) REPEALED].

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

(b) The Department of Revenue may obtain from the department information relating to royalty and net profits payments and to exploration incentive credits under

1 this chapter or under AS 41.09, whether or not that information is confidential. The
 2 Department of Revenue may use the information in carrying out its functions and
 3 responsibilities under AS 43, and shall hold that information confidential to the extent
 4 required by an agreement with the department or by AS 38.05.035(a)(8)
 5 [AS 38.05.035(a)(9)], AS 41.09.010(d), or AS 43.05.230.

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

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

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

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

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

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

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

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

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

1 (j) The commissioner

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) may

(A) require the lessee or lessees making application for the royalty reduction under (1)(A) of this subsection to pay for the services of an independent contractor, selected by the lessee or lessees from a list of

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

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

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

26 (9) shall offer to appear before the Legislative Budget and Audit
 27 Committee, on a day that is not earlier than 10 days and not later than 20 days after
 28 giving public notice under (8) of this subsection, to provide the committee a review of
 29 the commissioner's preliminary findings and determination on the royalty reduction
 30 application and administrative process; if the Legislative Budget and Audit
 31 Committee accepts the commissioner's offer, the committee shall give notice of the

committee's meeting to all members of the legislature;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(42) oil and gas auditor masters employed in a professional capacity by the Department of Revenue and the Department of Natural Resources to collect oil

1 and gas revenue by developing policy, conduction studies, drafting proposed
 2 regulations, enforcing regulations, and directing audits by oil and gas revenue
 3 auditors.

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

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

17 * **Sec. 12.** AS 42.45 is amended by adding a new section to read:

18 **Sec. 42.45.045. Appropriations for the low income heating energy**
 19 **assistance program.** (a) By February 1 each year, the Department of Revenue shall
 20 determine whether the state received for the general fund, during the immediately
 21 preceding calendar year, an amount of money from the tax levied under
 22 AS 43.55.011(e) because the price index calculated under AS 43.55.011(h) was
 23 greater than zero. If the state received an amount of money because the price index
 24 calculated under AS 43.55.011(h) was greater than zero, the department shall notify
 25 the legislature of that amount.

26 (b) The legislature may annually appropriate up to \$50,000,000 of the amount
 27 reported under (a) of this section for the low income heating energy assistance
 28 program.

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

31 (d) For purposes of this section, "low income heating energy assistance

1 program" means the program created by 7 AAC 44.010 to implement the federal
 2 Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. 8621 et
 3 seq.).

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

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

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

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

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

20 (e) There is levied on the producer of oil or gas a tax for all oil and gas
 21 produced each calendar year from each lease or property in the state, less any oil and
 22 gas the ownership or right to which is exempt from taxation or constitutes a
 23 landowner's royalty interest. Except as otherwise provided under (f), (j), (k), and (o)
 24 of this section, the tax is equal to the sum of

25 (1) the production tax value of the taxable oil and gas as calculated
 26 under AS 43.55.160 multiplied by 25 percent; and

27 (2) the sum, over all months of the calendar year, of the tax amounts
 28 calculated under (g) of this section.

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

30 (f) The levy of tax under this section **for** [ON A PRODUCER OF] oil and gas
 31 produced **from leases or properties that include land** north of 68 degrees North

1 latitude, other than oil and gas subject to (i) of this section and gas subject to (o)
 2 of this section, may not be less than

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

6 (2) three percent of the gross value at the point of production when the
 7 average price per barrel for Alaska North Slope crude oil for sale on the United States
 8 West Coast during the calendar year for which the tax is due is over \$20 but not over
 9 \$25;

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

14 (4) one percent of the gross value at the point of production when the
 15 average price per barrel for Alaska North Slope crude oil for sale on the United States
 16 West Coast during the calendar year for which the tax is due is over \$15 but not over
 17 \$17.50; or

18 (5) zero percent of the gross value at the point of production when the
 19 average price per barrel for Alaska North Slope crude oil for sale on the United States
 20 West Coast during the calendar year for which the tax is due is \$15 or less.

21 * **Sec. 17.** AS 43.55.011(g) is repealed and reenacted to read:

22 (g) For each month for which the price index determined under (h) of this
 23 section is greater than zero, the amount of tax for purposes of (e)(2) of this section is
 24 calculated as follows: (1) for oil and gas produced from each lease or property, the
 25 monthly production tax value is calculated in the manner described in
 26 AS 43.55.160(a) and (b), except that the gross value at the point of production for the
 27 month is substituted for the gross value at the point of production for the calendar
 28 year and 1/12 of the applicable adjusted lease expenditures for the calendar year is
 29 substituted for the applicable adjusted lease expenditures for the calendar year; (2) the
 30 monthly production tax value determined under (1) of this subsection is multiplied by
 31 the progressivity tax rate for the month. The progressivity tax rate for a month is the

1 product of 0.4 percent multiplied by the price index for the month determined under
 2 (h) of this section, except that the progressivity tax rate for a month may not exceed
 3 25 percent. Notwithstanding any contrary provision of AS 43.55.150, for purposes of
 4 calculating a monthly production tax value under this subsection, the gross value at
 5 the point of production of the oil and gas is calculated under regulations adopted by
 6 the department that provide for using an appropriate monthly share of the producer's
 7 costs of transportation for the calendar year.

8 * **Sec. 18.** AS 43.55.011(h) is repealed and reenacted to read:

9 (h) For purposes of (g) of this section, the price index for a month is
 10 calculated by subtracting 30 from the number that is equal to the total of the monthly
 11 production tax values, as calculated under (g) of this section, of the taxable oil and
 12 gas produced by the producer from all leases and properties in the state during that
 13 month, divided by the total amount of taxable oil and gas produced by the producer
 14 from all leases and properties in the state during that month, in BTU equivalent
 15 barrels. However, a price index calculated under this subsection may not be less than
 16 zero.

17 * **Sec. 19.** AS 43.55.011(j) is amended to read:

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

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

29 (2) for a lease or property that first commences commercial
 30 production of gas after March 31, 2006, the product obtained by multiplying (A) the
 31 amount of taxable gas produced during the calendar year from the lease or property,

1 times (B) the average rate of tax that was imposed under this chapter **for** [ON]
 2 taxable gas produced from all leases or properties in the Cook Inlet sedimentary basin
 3 for the 12-month period ending on March 31, 2006, times (C) the average prevailing
 4 value for gas delivered in the Cook Inlet area for the 12-month period ending
 5 March 31, 2006, as determined by the department under AS 43.55.020(f).

6 * **Sec. 20.** AS 43.55.011(k) is amended to read:

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

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

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

26 * **Sec. 21.** AS 43.55.011(m) is amended to read:

27 (m) Notwithstanding any contrary provision of AS 38.05.180(i),
 28 AS 41.09.010, AS 43.20.043, AS 43.55.024, or 43.55.025, tax credits under
 29 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, AS 43.55.024, and 43.55.025 that are
 30 allocated to gas produced from leases or properties in the Cook Inlet sedimentary
 31 basin and that are available to be applied against a tax levied by (e) of this section **for**

1 [ON] gas produced from leases or properties in the Cook Inlet sedimentary basin
 2 during a calendar year may be applied only against the tax levied by (e) of this section
 3 **for** [ON] that gas. The amount by which the amount of tax credits that are allocated
 4 to gas produced from leases or properties in the Cook Inlet sedimentary basin and that
 5 the producer would otherwise be allowed to use for a later calendar year or transfer to
 6 another person exceeds the amount of tax credits whose application would reduce the
 7 tax levied by (e) of this section **for** [ON] that gas to zero, if any, is considered the
 8 amount of excess tax credits, and the excess tax credits are subject to the following:

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

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

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

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

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

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

28 * **Sec. 23.** AS 43.55.020(a) is repealed and reenacted to read:

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

31 (1) an installment payment of the estimated tax levied by

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

(A) for oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin or not subject to AS 43.55.011(o), other than leases or properties subject to AS 43.55.011(f), the greater of

(i) zero; or

(ii) the sum of 25 percent and the progressivity tax rate calculated under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the leases or properties under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;

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

(i) zero;

(ii) zero percent, one percent, two percent, three percent, or four percent, as applicable, of the gross value at the point of production of the oil and gas produced from those properties; or

(iii) the sum of 25 percent and the progressivity tax rate calculated under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for those leases or properties under AS 43.55.160 from the gross value at the point of production of the oil

1 and gas produced from those leases or properties during the month for
 2 which the installment payment is calculated;

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

5 (i) zero; or

6 (ii) the sum of 25 percent and the progressivity tax rate
 7 calculated under AS 43.55.011(g) multiplied by the remainder
 8 obtained by subtracting 1/12 of the producer's adjusted lease
 9 expenditures for the calendar year of production under AS 43.55.165
 10 and 43.55.170 that are deductible under AS 43.55.160 for oil or gas,
 11 respectively, produced from the lease or property from the gross value
 12 at the point of production of the oil or gas, respectively, produced from
 13 the lease or property during the month for which the installment
 14 payment is calculated;

15 (2) an amount calculated under (1)(C) of this subsection for oil or gas
 16 produced from a lease or property subject to AS 43.55.011(j), (k), or (o) may not
 17 exceed the product obtained by carrying out the calculation set out in
 18 AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in
 19 AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in
 20 AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable
 21 gas produced during the month for the amount of taxable gas produced during the
 22 calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the
 23 amount of taxable oil produced during the month for the amount of taxable oil
 24 produced during the calendar year;

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

29 (A) the applicable tax rate for oil provided under
 30 AS 43.55.011(i), multiplied by the gross value at the point of production of
 31 the oil taxable under AS 43.55.011(i) and produced from the lease or property

1 during the month; and

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

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

10 * **Sec. 24.** AS 43.55.020(g) is amended to read:

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

22 * **Sec. 25.** AS 43.55.020(h) is amended to read:

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

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

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

30 or

31 (B) [THE] March 31 following the calendar year of

1 **production** [DESCRIBED IN AS 43.55.030(a)];

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

7 (3) interest is allowed under (2) of this subsection only from a date
8 that is 90 days after the later of [THE] March 31 **following the calendar year of**
9 **production** [DESCRIBED IN AS 43.55.030(a)] or the date that the statement
10 required under AS 43.55.030(a) is filed; interest is not allowed if the overpayment
11 was refunded within the 90-day period;

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

14 * **Sec. 26.** AS 43.55.023(b) is amended to read:

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

22 * **Sec. 27.** AS 43.55.023(i) is amended to read:

23 (i) For the purposes of this section,

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

1 incurred after March 31, 2006;

2 (2) a producer or explorer that did not have commercial production
 3 of oil or gas from a lease or property in the state before January 1, 2008, may
 4 elect to take a tax credit against a tax levied by [DUE UNDER] AS 43.55.011(e) in
 5 the amount of 20 percent of the producer's or explorer's transitional investment
 6 expenditures, but only to the extent that the amount does not exceed 1/10 of the
 7 producer's or explorer's qualified capital expenditures that were incurred after
 8 March 31, 2006, and before January 1, 2008 [ARE INCURRED DURING THE
 9 CALENDAR YEAR FOR WHICH THE CREDIT IS TAKEN];

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

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

13 (i)] 2013; [OR

14 (ii) THE SIXTH CALENDAR YEAR AFTER THE
 15 CALENDAR YEAR FOR WHICH THE PRODUCER FIRST
 16 APPLIES A CREDIT UNDER THIS SUBSECTION AGAINST A
 17 TAX DUE UNDER AS 43.55.011(e), IF THE PRODUCER DID NOT
 18 HAVE COMMERCIAL PRODUCTION OF OIL OR GAS FROM A
 19 LEASE OR PROPERTY IN THE STATE BEFORE APRIL 1, 2006;]

20 (B) more than once; or

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

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

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

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

1 issued to a person under (d) of this section and purchased by the Alaska Retirement
2 Management Board.

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

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

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

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

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

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

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

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

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

25 (2) if for an exploration well,

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

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

30 (C) must be for a well that has been completed, suspended,
31 or abandoned under AS 31.05.030 at the time the explorer claims the tax

credit under (f) of this section; and

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

(3) may not be for [TESTING, STIMULATION, OR COMPLETION COSTS;] administration, supervision, engineering, or lease operating costs; geological or management costs; community relations or environmental costs; bonuses, taxes, or other payments to governments related to the well; **costs, including repairs and replacements, arising from or associated with fraud, wilful misconduct, gross negligence, criminal negligence, or violation of law, including a violation of 33 U.S.C. 1319(c)(1) or 1321(b)(3) (Clean Water Act),** or other costs that are generally recognized as indirect costs or financing costs; and

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

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

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

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

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

(A) before spudding the well,

(i) the explorer shall submit to the commissioner of natural resources the information necessary to determine whether the geological objective of the well is a potential oil or gas trap that is distinctly separate from any trap that has been tested by a preexisting well;

(ii) at the time of the request for a determination under (i), the commissioner of natural resources may request from the

explorer that specific data sets, ancillary data, and reports including all results, and copies of data collected and data analyses for the well be provided to the Department of Natural Resources upon completion of the well; in this subparagraph, well data includes all analyses conducted on physical material, and well logs collected from the well and sample analyses; testing geophysical and velocity data including vertical seismic profiles and check shot surveys; testing data and analyses; age data; geochemical analyses; and access to tangible material; and

(iii) the commissioner of natural resources must make an affirmative determination on whether the geological objective of the well is a potential oil or gas trap that is distinctly separate from any trap that has been tested by a preexisting well and what information under (ii) must be submitted after completion, abandonment, or suspension under AS 31.05.030; the commissioner of natural resources shall decide whether to make that determination within 60 days after receiving all the necessary information from the explorer and based on the information received and on other information the commissioner of natural resources may consider relevant;

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

(C) after completion, abandonment, or suspension under AS 31.05.030 of the exploration well, the commissioner of natural resources must determine that the well was consistent with achieving the explorer's stated geological objective.

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

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

(1) an explorer shall, in a form prescribed by the department and,

1 **except for a credit under (I) of this section,** within six months of the completion of
 2 the exploration activity, claim the credit and submit information sufficient to
 3 demonstrate to the department's satisfaction that the claimed exploration expenditures
 4 qualify under this section; **in addition, the explorer shall submit information**
 5 **necessary for the commissioner of natural resources to evaluate the validity of**
 6 **the explorer's compliance with the requirements of this section;**

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

8 (A) to notify the Department of Natural Resources, within 30
 9 days after completion of seismic or geophysical data processing, completion
 10 of [A] well **drilling**, or filing of a claim for credit, whichever is the latest, for
 11 which exploration costs are claimed, of the date of completion and submit a
 12 report to that department describing the processing sequence and providing a
 13 list of data sets available; [IF, UNDER (c)(2)(B) OF THIS SECTION, AN
 14 EXPLORER SUBMITS A CLAIM FOR A CREDIT FOR EXPENDITURES
 15 FOR AN EXPLORATION WELL THAT IS LOCATED WITHIN THREE
 16 MILES OF A WELL ALREADY DRILLED FOR OIL AND GAS, IN
 17 ADDITION TO THE SUBMISSIONS REQUIRED UNDER (1) OF THIS
 18 SUBSECTION, THE EXPLORER SHALL SUBMIT THE INFORMATION
 19 NECESSARY FOR THE COMMISSIONER OF NATURAL RESOURCES
 20 TO EVALUATE THE VALIDITY OF THE EXPLORER'S CLAIM THAT
 21 THE WELL IS DIRECTED AT A DISTINCTLY SEPARATE
 22 EXPLORATION TARGET, AND THE COMMISSIONER OF NATURAL
 23 RESOURCES SHALL, UPON RECEIPT OF ALL EVIDENCE
 24 SUFFICIENT FOR THE COMMISSIONER TO EVALUATE THE
 25 EXPLORER'S CLAIM, MAKE THAT DETERMINATION WITHIN 60
 26 DAYS;]

27 (B) to provide to the Department of Natural Resources, within
 28 30 days after the date of a request, **unless a longer period is provided by the**
 29 **Department of Natural Resources,** specific data sets, ancillary data, and
 30 reports identified in (A) of this paragraph; **in this subparagraph, a seismic**
 31 **or geophysical data set includes the data for an entire seismic survey,**

irrespective of whether the survey areas cover nonstate land in addition to state land or land in a unit in addition to land outside a unit;

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

(i) in the case of well data, until the expiration of the 24-month period of confidentiality described in AS 31.05.035(c) [FOR 10 YEARS FOLLOWING THE COMPLETION DATE], at which time the Department of Natural Resources [THAT DEPARTMENT] will release the information after 30 days' public notice unless, in the discretion of the commissioner of natural resources, it is necessary to protect information relating to the valuation of unleased acreage in the same vicinity, or unless the well is on private land and the owner, including the lessor but not the lessee, of the oil and gas resources has not given permission to release the well data;

(ii) in the case of seismic or other geophysical data, other than seismic data acquired by seismic exploration subject to (I) of this section, for 10 years following the completion date, at which time the Department of Natural Resources will release the information after 30 days' public notice, except as to seismic or other geophysical data acquired from private land, unless the owner, including a lessor but not a lessee, of the oil and gas resources in the private land gives permission to release the seismic or other geophysical data associated with the private land;

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

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

explorer's cost incurred;

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

(5) if the department is satisfied that the explorer's claimed expenditures are qualified under this section **and that all data required to be submitted under this section have been submitted**, the department shall issue to the explorer a production tax credit certificate for the amount of credit to be allowed against production taxes **levied by AS 43.55.011(e) or (f); the credit is available for immediate use; notwithstanding any contrary provision of AS 38, AS 40.25.100, or AS 43.05.230, the following information is not confidential:**

(A) the explorer's name;

(B) the date of the application;

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

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

and

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

* **Sec. 33.** AS 43.55.025(i) is repealed and reenacted to read:

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

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

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

* **Sec. 34.** AS 43.55.025(k) is amended by adding a new paragraph to read:

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

1 * **Sec. 35.** AS 43.55.025 is amended by adding new subsections to read:

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

7 (1) have been for seismic exploration that

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

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

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

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

21 * **Sec. 36.** AS 43.55.030(a) is amended to read:

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

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

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

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

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

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

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

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

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

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

* Sec. 37. AS 43.55.030(d) is amended to read:

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

* Sec. 38. AS 43.55.030 is amended by adding new subsections to read:

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

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

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

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

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

(2) transportation costs of the oil and gas;

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

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

(5) joint interest billings;

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

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

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

* **Sec. 39.** AS 43.55.040 is amended to read:

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

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

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

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

12 (B) impose appropriate conditions limiting

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

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

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

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

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

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

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

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

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

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

* **Sec. 40.** AS 43.55 is amended by adding a new section to read:

Sec. 43.55.055. Penalty for understatement of tax. (a) In addition to other penalties prescribed by law, if there is a substantial understatement of tax required to be shown on a statement required under AS 43.55.030(a), there shall be added to the tax an amount equal to 10 percent of the substantial understatement of tax.

(b) In addition to other penalties prescribed by law, if there is a gross understatement of tax required to be shown on a statement required under AS 43.55.030(a), there shall be added to the tax an amount equal to 20 percent of the gross understatement of tax.

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

(d) For purposes of this section,

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

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

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

4 * **Sec. 41.** AS 43.55 is amended by adding new sections to read:

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

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

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

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

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

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

30 (2) within 120 days after the final determination of the alteration,
 31 modification, recomputation, or deficiency, file amended returns covering all affected

1 periods.

2 (d) In this section,

3 (1) "qualified capital expenditure" has the meaning given in
4 AS 43.55.023;

5 (2) "return" includes a report, a statement, and an amended return,
6 report, or statement.

7 **Sec. 43.55.078. Exceptions to tax credits.** (a) For a calendar year after 2007,
8 a producer or explorer may not take a tax credit under AS 43.55.023, 43.55.024, or
9 43.55.025 against a tax levied under this chapter if a state court or administrative
10 agency or federal court that has subject matter jurisdiction has entered a judgment in
11 favor of the state or a political subdivision of the state in an amount greater than
12 \$100,000 against the producer or explorer, the producer or explorer has not satisfied
13 the judgment, and the judgment concerns a matter having connections with this state
14 that are sufficient to satisfy constitutional jurisdictional requirements.

15 (b) Notwithstanding (a) of this section, the producer or explorer may receive
16 a tax credit described in (a) of this section if

17 (1) the judgment is appealed but the appeal has not been decided; and

18 (2) the producer or explorer deposits in the court where the judgment
19 was entered or the appeal is pending, in the form of cash, bond, or other security,

20 (A) the full amount of the judgment; and

21 (B) post-judgment interest on the judgment amount described
22 in (A) of this paragraph; notwithstanding another provision of law, the post-
23 judgment interest rate compounded quarterly on a judgment the amount of
24 which is deposited under (a) of this paragraph is equal to the greater of

25 (i) the applicable statutory rate; or

26 (ii) the rate of return on the producer's or explorer's
27 equity as shown on the producer's or explorer's most recent quarterly
28 earnings report as of the date of the notice of appeal.

29 (c) In this section,

30 (1) "judgment" means any final administrative determination or
31 judgment in favor of the state or a political subdivision of the state;

1 (2) "producer or explorer" includes an affiliate of a producer or
2 explorer.

3 * **Sec. 42.** AS 43.55.110 is amended by adding new subsections to read:

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

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

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

15 (h) Subject to legislative appropriation, the department may compensate a
16 person who provides information to the department about noncompliance with the
17 provisions of this chapter by an explorer or a producer of oil or gas if that information
18 leads to the collection of additional taxes, penalties, or interest from the producer.
19 The amount of compensation under this subsection may not exceed the lesser of
20 \$1,000,000 or 10 percent of the additional tax, penalty, or interest collected as a result
21 of the information. A state employee or an agent of the state is not eligible for
22 compensation under this subsection.

23 (i) A person who, under (h) of this section, provides, in
24 bad faith, to the department erroneous information about
25 noncompliance with the provisions of this chapter by an explorer or
26 producer of oil or gas shall pay to the

27 (1) department all expenses related to the department's investigation
28 of the alleged noncompliance; and

29 (2) explorer or producer about whom the noncompliance was alleged
30 all expenses that are incurred by the explorer or producer relating to the department's
31 investigation of the alleged noncompliance.

* **Sec. 43.** AS 43.55.150 is amended to read:

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 actual [REASONABLE] costs of transportation of the oil or gas [. THE REASONABLE COSTS OF TRANSPORTATION ARE THE ACTUAL COSTS], except when the

(1) shipper [PARTIES TO THE TRANSPORTATION] of oil or gas is [ARE] affiliated with the transportation carrier or with a person that owns an interest in the transportation facility;

(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 or terms of transportation of oil or gas are [IS] not reasonable in view of existing alternative [METHODS OF] transportation options.

(b) If the department finds that a condition [THE CONDITIONS] in (a)(1), (2), or [AND] (3) of this section is [ARE] present, the gross value at the point of production is calculated using the actual costs of transportation, or the reasonable costs of transportation as determined under this subsection, whichever is lower. The [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 that have been adjudicated as just and reasonable by [PROPERLY ON FILE WITH] the Regulatory Commission of Alaska or another [OTHER] regulatory agency and transportation costs in an arm's length transaction paid by parties not affiliated with an owner of the method of transportation shall be considered prima facie reasonable.

(c) In determining the gross value of oil under [(a) OF] this section, the department may not allow as reasonable costs of transportation

(1) the amount of loss of or damage to, or of expense incurred due to the loss of or damage to, a vessel used to transport oil if the loss, damage, or expense

1 is incurred in connection with a catastrophic oil discharge from the vessel into the
2 marine or inland waters of the state;

3 (2) the incremental costs of transportation of the oil that are
4 attributable to temporary use of or chartered or substituted service provided by
5 another vessel due to the loss of or damage to a vessel regularly used to transport oil
6 and that are incurred in connection with a catastrophic oil discharge into the marine or
7 inland waters of the state; and

8 (3) the costs incurred to charter, contract, or hire vessels and
9 equipment used to contain or clean up a catastrophic oil discharge.

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

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

12 [(1)] AS 43.55.011(e), the [ANNUAL] production tax value of the
13 taxable

14 (1) [(A)] oil and gas produced during a calendar year from leases or
15 properties in the state that include land north of 68 degrees North latitude is the gross
16 value at the point of production of the oil and gas taxable under AS 43.55.011(e) and
17 produced by the producer from those leases or properties, less the producer's lease
18 expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas
19 produced by the producer from those leases or properties, as adjusted under
20 AS 43.55.170; **this subparagraph does not apply to gas subject to**
21 **AS 43.55.011(o);**

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

30 (3) [(C)] oil produced during a calendar year from a lease or property
31 in the Cook Inlet sedimentary basin is the gross value at the point of production of the

oil 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 the oil produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(4) [(D)] gas produced during a calendar year from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the 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 the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(5) 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

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

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

(B) OIL AND GAS PRODUCED DURING A MONTH FROM LEASES OR PROPERTIES IN THE STATE OUTSIDE THE COOK

1 INLET SEDIMENTARY BASIN, NO PART OF WHICH IS NORTH OF 68
 2 DEGREES NORTH LATITUDE, IS THE GROSS VALUE AT THE POINT
 3 OF PRODUCTION OF THE OIL AND GAS TAXABLE UNDER
 4 AS 43.55.011(g) AND PRODUCED BY THE PRODUCER FROM THOSE
 5 LEASES OR PROPERTIES, LESS 1/12 OF THE PRODUCER'S LEASE
 6 EXPENDITURES UNDER AS 43.55.165 FOR THE CALENDAR YEAR
 7 APPLICABLE TO THE OIL AND GAS PRODUCED BY THE PRODUCER
 8 FROM THOSE LEASES OR PROPERTIES, AS ADJUSTED UNDER
 9 AS 43.55.170;

10 (C) OIL PRODUCED DURING A MONTH FROM A
 11 LEASE OR PROPERTY IN THE COOK INLET SEDIMENTARY BASIN
 12 IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE OIL
 13 TAXABLE UNDER AS 43.55.011(g) AND PRODUCED BY THE
 14 PRODUCER FROM THAT LEASE OR PROPERTY, LESS 1/12 OF THE
 15 PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE
 16 CALENDAR YEAR APPLICABLE TO THE OIL PRODUCED BY THE
 17 PRODUCER FROM THAT LEASE OR PROPERTY, AS ADJUSTED
 18 UNDER AS 43.55.170;

19 (D) GAS PRODUCED DURING A MONTH FROM A
 20 LEASE OR PROPERTY IN THE COOK INLET SEDIMENTARY BASIN
 21 IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE GAS
 22 TAXABLE UNDER AS 43.55.011(g) AND PRODUCED BY THE
 23 PRODUCER FROM THAT LEASE OR PROPERTY, LESS 1/12 OF THE
 24 PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE
 25 CALENDAR YEAR APPLICABLE TO THE GAS PRODUCED BY THE
 26 PRODUCER FROM THAT LEASE OR PROPERTY, AS ADJUSTED
 27 UNDER AS 43.55.170].

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

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

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

4 * **Sec. 46.** AS 43.55.165(a) is repealed and reenacted to read:

5 (a) Except as provided in (k) and (l) of this section for purposes of this
 6 chapter, a producer's lease expenditures for a calendar year are

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

8 (A) incurred in the state by the producer during the calendar
 9 year after March 31, 2006, to explore for, develop, or produce oil or gas
 10 deposits located within the producer's leases or properties in the state or, in the
 11 case of land in which the producer does not own an operating right, operating
 12 interest, or working interest, to explore for oil or gas deposits within other
 13 land in the state; and

14 (B) allowed by the department by regulation, based on the
 15 department's determination that the costs satisfy the following three
 16 requirements:

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

19 (ii) the costs must be ordinary and necessary costs of
 20 exploring for, developing, or producing, as applicable, oil or gas
 21 deposits; and

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

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

27 * **Sec. 47.** AS 43.55.165(b) is amended to read:

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

29 (1) direct costs include

30 (A) an expenditure, when incurred, to acquire an item if the
 31 acquisition cost is otherwise a direct cost, notwithstanding that the

expenditure may be required to be capitalized rather than treated as an expense for financial accounting or federal income tax purposes;

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

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

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

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

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

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

* Sec. 48. AS 43.55.165(e) is amended to read:

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

(1) depreciation, depletion, or amortization;

(2) oil or gas royalty payments, production payments, lease profit shares, or other payments or distributions of a share of oil or gas production, profit, or

- 1 revenue;
- 2 (3) taxes based on or measured by net income;
- 3 (4) interest or other financing charges or costs of raising equity or
- 4 debt capital;
- 5 (5) acquisition costs for a lease or property or exploration license;
- 6 (6) costs, **including repairs and replacements,** arising from **or**
- 7 **associated with** fraud, wilful misconduct, [OR] gross negligence, **criminal**
- 8 **negligence, or violation of law, including a violation of 33 U.S.C. 1319(c)(1) or**
- 9 **1321(b)(3) (Clean Water Act);**
- 10 (7) fines or penalties imposed by law;
- 11 (8) costs of arbitration, litigation, or other dispute resolution activities
- 12 that involve the state or concern the rights or obligations among owners of interests
- 13 in, or rights to production from, one or more leases or properties or a unit;
- 14 (9) costs incurred in organizing a partnership, joint venture, or other
- 15 business entity or arrangement;
- 16 (10) amounts paid to indemnify the state; the exclusion provided by
- 17 this paragraph does not apply to the costs of obtaining insurance or a surety bond
- 18 from a third-party insurer or surety;
- 19 (11) surcharges levied under AS 43.55.201 or 43.55.300;
- 20 (12) **an expenditure incurred** for a transaction that is an internal
- 21 transfer or is otherwise not an arm's length transaction, **unless the producer**
- 22 **establishes to the satisfaction of the department that the expenditure is not**
- 23 **[EXPENDITURES INCURRED THAT ARE]** in excess of fair market value;
- 24 (13) an expenditure incurred to purchase an interest in any
- 25 corporation, partnership, limited liability company, business trust, or any other
- 26 business entity, whether or not the transaction is treated as an asset sale for federal
- 27 income tax purposes;
- 28 (14) a tax levied under AS 43.55.011;
- 29 (15) [THE PORTION OF] costs incurred for dismantlement, removal,
- 30 surrender, or abandonment of a facility, pipeline, well pad, platform, or other
- 31 structure, or for the restoration of a lease, field, unit, area, **tract of land,** body of

water, or right-of-way in conjunction with dismantlement, removal, surrender, or abandonment [, THAT IS ATTRIBUTABLE TO PRODUCTION OF OIL OR GAS OCCURRING BEFORE APRIL 1, 2006; THE PORTION IS CALCULATED AS A RATIO OF THE AMOUNT OF OIL AND GAS PRODUCTION, IN BARRELS OF OIL EQUIVALENT, ASSOCIATED WITH THE FACILITY, PIPELINE, WELL PAD, PLATFORM, OTHER STRUCTURE, LEASE, FIELD, UNIT, AREA, BODY OF WATER, OR RIGHT-OF-WAY OCCURRING BEFORE APRIL 1, 2006, TO THE TOTAL AMOUNT OF OIL AND GAS PRODUCTION, IN BARRELS OF OIL EQUIVALENT, ASSOCIATED WITH THAT FACILITY, PIPELINE, WELL PAD, PLATFORM, OTHER STRUCTURE, LEASE, FIELD, UNIT, AREA, BODY OF WATER, OR RIGHT-OF-WAY THROUGH THE END OF THE CALENDAR MONTH BEFORE COMMENCEMENT OF THE DISMANTLEMENT, REMOVAL, SURRENDER, OR ABANDONMENT]; a cost is not excluded under this paragraph if the dismantlement, removal, surrender, or abandonment for which the cost is incurred is undertaken for the purpose of replacing, renovating, or improving the facility, pipeline, well pad, platform, or other structure; [FOR THE PURPOSES OF THIS PARAGRAPH, "BARREL OF OIL EQUIVALENT" MEANS

(A) IN THE CASE OF OIL, ONE BARREL;

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

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

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

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

provision, the expenditures and volumes shall be prorated within that calendar year;

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

(20) costs of lobbying, public relations, public relations advertising, or policy advocacy.

* **Sec. 49.** 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 **an allocation of costs is required to determine** [THE DETERMINATION OF THE] lease expenditures that are **costs of exploring for, developing, or producing oil deposits or costs of exploring for, developing, or producing gas deposits** [APPLICABLE TO OIL OR TO GAS], or that are **costs of exploring for, developing, or producing oil or gas deposits located within** [APPLICABLE TO OIL AND GAS PRODUCED FROM] different leases or properties [, REQUIRES AN ALLOCATION OF COSTS].

* **Sec. 50.** AS 43.55.165 is amended by adding new subsections to read:

(k) For purposes of AS 43.55.160, for a calendar year after 2006, a producer's total lease expenditures, before adjustment under AS 43.55.170, that are applicable to oil and gas produced by the producer from all leases or properties within a unit from which 1,000,000,000 BTU equivalent barrels of oil or gas have been cumulatively produced by the close of the most recent calendar year and from which the average

daily oil and gas production during the most recent calendar year exceeded 100,000 BTU equivalent barrels are determined under this subsection and (l) of this section. Except as otherwise provided under (l) of this section, the producer's total lease expenditures, other than qualified capital expenditures, (1) for calendar year 2007, are equal to the product of 1.37 multiplied by the total lease expenditures for calendar year 2006, other than qualified capital expenditures, that are applicable to oil and gas produced by the producer from all leases or properties within the unit, as reported on the producer's statement under AS 43.55.030(a) for calendar year 2006, and (2) for a calendar year after 2007, are equal to the product of 1.03 multiplied by the total lease expenditures, other than qualified capital expenditures, determined for the previous calendar year under this subsection. The producer's total lease expenditures for a calendar year after 2006 that are applicable to oil and gas produced by the producer from all leases or properties within a unit subject to this subsection are the sum of the producer's qualified capital expenditures incurred during the calendar year that are applicable to that oil and gas plus the lease expenditures, other than qualified capital expenditures, that are applicable to that oil and gas as determined under this subsection and (l) of this section. If a producer whose lease expenditures for 2006 are used to determine lease expenditures for a later calendar year under this subsection transfers an interest in an affected lease or property to a different producer, the transferee's lease expenditures applicable to oil and gas produced by the transferee from the lease or property continue to be determined under this subsection using those 2006 lease expenditures. In this subsection, "qualified capital expenditures" has the meaning given in AS 43.55.023.

(l) If, after audit by the department of a producer's statement or amended statement under AS 43.55.030(a) for calendar year 2006, the department finally determines that the reported amount of total lease expenditures, other than qualified capital expenditures, for calendar year 2006 applicable to oil and gas produced by the producer from all leases or properties within a unit subject to (k) of this section exceeds by more than 10 percent the actual amount of those lease expenditures, other than qualified capital expenditures, the producer or transferee, as applicable, shall (1) substitute the actual amount of those lease expenditures, other than qualified capital

1 expenditures, for purposes of the calculations set out in (k) of this section, and (2) file
 2 amended statements for affected past tax periods within 60 days after the final
 3 determination.

4 * **Sec. 51.** AS 43.55.170(a) is amended to read:

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

10 (1) the use by another person of a production facility in which the
 11 producer has an ownership interest or the management by the producer of a
 12 production facility under a management agreement providing for the producer to
 13 receive a management fee;

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

20 (3) the sale or other transfer of

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

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

29 (ii) for a transaction that is an internal transfer or is
 30 otherwise not an arm's length transaction, if the sale or transfer of the
 31 asset is made for less than fair market value, the amount subtracted

1 must be the fair market value; and

2 (B) oil or gas

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

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

7 * **Sec. 52.** AS 43.55 is amended by adding a new section to article 4 to read:

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

14 (1) the amount of oil or gas production;

15 (2) the amount of taxes levied under this chapter or paid under this
16 chapter;

17 (3) the effective tax rates under this chapter;

18 (4) the gross value of oil or gas at the point of production;

19 (5) the transportation costs for oil or gas;

20 (6) qualified capital expenditures as defined in AS 43.55.023;

21 (7) exploration expenditures under AS 43.55.025;

22 (8) production tax values of oil or gas under AS 43.55.160;

23 (9) lease expenditures under AS 43.55.165;

24 (10) adjustments to lease expenditures under AS 43.55.170;

25 (11) tax credits applicable or potentially applicable against taxes
26 levied by this chapter.

27 * **Sec. 53.** AS 43.55.900 is amended by adding new paragraphs to read:

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

30 (23) "progressivity tax rate" means that part of the tax rate in
31 AS 43.55.011(g) that exceeds 25 percent;

1 (24) "unit" means a group of tracts of land that is

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

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

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

12 (D) within the unit area of a unit created by order of the
13 Alaska Oil and Gas Conservation Commission under AS 31.05.110(b);

14 (25) "used in the state" means delivered for consumption as fuel in the
15 state, including as fuel consumed to generate electricity.

16 * **Sec. 54.** AS 43.55.160(c), 43.55.165(c), 43.55.165(d), and 43.55.180 are repealed.

17 * **Sec. 55.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 APPLICABILITY. (a) Sections 15 - 36, 38, 44 - 51, and 54 of this Act apply to oil
20 and gas produced after December 31, 2007.

21 (b) Sections 36 and 38 of this Act apply to statements and reports under
22 AS 43.55.030(a), as amended by sec. 36 of this Act, and AS 43.55.030(e) and (f), as added
23 by sec. 38 of this Act, required to be filed after December 31, 2007.

24 (c) Sections 29 - 32 and 34 of this Act apply to exploration expenditures incurred for
25 work performed after December 31, 2006, that are the basis of tax credits that may be
26 claimed against taxes levied for oil and gas produced after December 31, 2007.

27 (d) AS 43.55.055, enacted by sec. 40 of this Act, applies to understatements made
28 after the effective date of sec. 40 of this Act.

29 (e) AS 43.55.075(a), enacted by sec. 41 of this Act, applies to any tax liability under
30 AS 43.55 with respect to which the period of limitations on assessment under AS 43.05.260
31 had not expired before the effective date of secs. 14 and 41 of this Act.

(f) The penalty in AS 43.55.030(d), enacted by the amendment to AS 43.55.030(d) in sec. 37 of this Act, applies to any report required to be filed after the effective date of sec. 37 of this Act that is not filed timely.

(g) The penalty in AS 43.55.040(6), enacted by the amendment to AS 43.55.040 in sec. 39 of this Act, applies to any report, statement, or other document required to be filed after the effective date of sec. 39 of this Act.

*** Sec. 56.** The uncodified law of the State of Alaska is amended by adding new sections to read:

OIL AND GAS REVENUE AUDIT MASTER POSITIONS; LEGISLATIVE INTENT. It is the intent of the legislature that the commissioner of administration shall cause not more than four oil and gas revenue audit master positions to be created in the Department of Revenue and not more than two oil and gas revenue audit master positions to be created in the Department of natural Resources. Oil and gas revenue audit masters shall be employed in a professional capacity to collect oil and gas revenue by developing policy, conducting studies, drafting proposed regulations, enforcing regulations, and directing audits by oil and gas auditors.

OIL AND GAS AUDITORS; CLASSIFICATION AND PAY PLANS. Notwithstanding AS 39.25.150(2), the Department of Administration shall develop and implement a distinct position classification plan and a distinct pay plan for oil and gas auditors and their immediate supervisors that perform

(1) production tax audits in the Department of Revenue;

(2) royalty audits, including net profit share audits, in the Department of Natural Resources.

*** Sec. 57.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: DEPARTMENT OF NATURAL RESOURCES REGULATIONS. Notwithstanding any contrary provision of AS 44.62.240, a regulation adopted by the Department of Natural Resources to implement, interpret, make specific, or otherwise carry out statutory provisions for the administration of oil and gas leases issued under AS 38.05.180(f)(3)(B), (D), or (E), to the extent the regulation deals with the treatment of oil and gas production taxes in determining net profits under those leases, may apply

1 retroactively to April 1, 2006, if the Department of Natural Resources expressly designates in
 2 the regulation that the regulation applies retroactively to that date.

3 * **Sec. 58.** The uncodified law of the State of Alaska is amended by adding a new section to
 4 read:

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

9 * **Sec. 59.** The uncodified law of the State of Alaska is amended by adding a new section to
 10 read:

11 REVISOR'S INSTRUCTION. In the following statute sections, the revisor of statutes
 12 shall substitute the spanned reference

13 (1) AS 43.55.011 - 43.55.170" for the spanned reference "AS 43.55.011 -
 14 43.55.180": AS 43.55.020(e), 43.55.080, 43.55.135, 43.55.150(a), 43.55.201(c), and
 15 43.55.300(c);

16 (2) "AS 43.55.017 - 43.55.170" for the spanned reference "AS 43.55.017 -
 17 43.55.180": AS 43.55.023(g).

18 * **Sec. 60.** Sections 15 - 36, 38, 44 - 51, and 54 of this Act take effect January 1, 2008.

19 * **Sec. 61.** Except as provided in sec. 60 of this Act, this Act takes effect immediately under
 20 AS 01.10.070(c).