

**HOUSE CS FOR CS FOR SENATE BILL NO. 305(FIN) am H**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/7/06

Offered: 5/6/06

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

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act repealing the oil production tax and the gas production tax and providing for a  
2 production tax on oil and gas; relating to the calculation of the gross value at the point  
3 of production of oil and gas and to the determination of the value of oil and gas for  
4 purposes of the production tax on oil and gas; providing for tax credits against the  
5 production tax on oil and gas; relating to the relationship of the production tax on oil  
6 and gas to other taxes, to the dates those tax payments and surcharges are due, to  
7 interest on overpayments of the tax, and to the treatment of the tax in a producer's  
8 settlement with the royalty owners; relating to flared gas, and to oil and gas used in the  
9 operation of a lease or property under the production tax; relating to the prevailing  
10 value of oil and gas under the production tax; relating to surcharges on oil; relating to  
11 statements or other information required to be filed with or furnished to the  
12 Department of Revenue, to the penalty for failure to file certain reports for the tax, to

1 the powers of the Department of Revenue, and to the disclosure of certain information  
 2 required to be furnished to the Department of Revenue as applicable to the  
 3 administration of the tax; relating to criminal penalties for violating conditions  
 4 governing access to and use of confidential information relating to the tax, and to the  
 5 deposit of tax money collected by the Department of Revenue; amending the definitions  
 6 of 'gas,' 'oil,' and certain other terms for purposes of the production tax, and as the  
 7 definition of the term 'gas' applies in the Alaska Stranded Gas Development Act, and  
 8 adding further definitions; making conforming amendments; and providing for an  
 9 effective date."

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

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

13 LEGISLATIVE INTENT. (a) It is the intent of the legislature through sec. 11 of this  
 14 Act to confirm by clarification the long-standing interpretation of AS 43.55.020(f) by the  
 15 Department of Revenue.

16 (b) It is the intent of the legislature that the division or other unit of the Department of  
 17 Environmental Conservation assigned responsibility for administration of the programs under  
 18 AS 46.08 that are principally supported by the conservation surcharges on oil levied under  
 19 AS 43.55.201 - 43.55.299 and 43.55.300 - 43.55.310

20 (1) reduce program costs, including personnel costs, as necessary to operate  
 21 within the revenue anticipated to be generated by those surcharges, in the amounts of those  
 22 surcharges as amended by secs. 26 and 28 of this Act; and

23 (2) request appropriations for exceptional program needs and expansions  
 24 beyond what can be provided from the estimated amounts collected from those surcharges  
 25 from alternative funding sources.

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

27 (f) A wilful violation of the provisions of this section **or of a condition**  
 28 **imposed under AS 43.55.040(1)(B)** is punishable by a fine of not more than \$5,000,

1 or by imprisonment for not more than two years, or by both.

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

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

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

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

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

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

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

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

24 \* **Sec. 5.** AS 43.55.011 is amended by adding new subsections to read:

25 (e) There is levied on the producer of oil or gas a tax for all oil and gas  
26 produced each month from each lease or property in the state, less any oil and gas the  
27 ownership or right to which is exempt from taxation or constitutes a landowner's  
28 royalty interest. Except as otherwise provided under (i) of this section, the tax is equal  
29 to 21.5 percent of the production tax value of the taxable oil and gas as calculated  
30 under AS 43.55.160.

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

1 produced each month from each lease or property in the state the ownership or right to  
2 which constitutes a landowner's royalty interest, except for oil and gas the ownership  
3 or right to which is exempt from taxation. The provisions of this subsection apply to a  
4 landowner's royalty interest as follows:

5 (1) the rate of tax levied on oil is equal to five percent of the gross  
6 value at the point of production of the oil;

7 (2) the rate of tax levied on gas is equal to 1.667 percent of the gross  
8 value at the point of production of the gas;

9 (3) if the department determines that, for purposes of reducing the  
10 producer's tax liability under (1) or (2) of this subsection, the producer has received or  
11 will receive consideration from the royalty owner offsetting all or a part of the  
12 producer's royalty obligation, other than a deduction under AS 43.55.020(d) of the  
13 amount of a tax paid,

14 (A) notwithstanding (1) of this subsection, the tax is equal to

15 (i) for oil that is produced from a lease or property in  
16 the Cook Inlet sedimentary basin, five percent of the gross value at the  
17 point of production of the oil;

18 (ii) for oil, except oil described in (i) of this  
19 subparagraph, 20 percent of the gross value at the point of production  
20 of the oil; and

21 (B) notwithstanding (2) of this subsection, for gas the tax is  
22 equal to 6.67 percent of the gross value at the point of production of the gas.

23 (g) In addition to the taxes levied under (e) and (f) of this section, during each  
24 month for which the price index determined under (h) of this section is greater than  
25 zero, there is levied on the producer of oil or gas a tax for all oil and gas produced  
26 during that month from each lease or property in the state, less any oil and gas the  
27 ownership or right to which is exempt from taxation or constitutes a landowner's  
28 royalty interest. Except as otherwise provided under (i) of this section, the tax levied  
29 under this subsection is equal to .25 percent of the production tax value of the taxable  
30 oil and gas as calculated under AS 43.55.160, multiplied by the price index  
31 determined under (h) of this section. However, application of this subsection may not,

1 when added to the tax levied under (e) of this section, impose a total tax levy of more  
 2 than 50 percent of the production tax value of taxable oil and gas as calculated under  
 3 AS 43.55.160. The legislature may appropriate amounts from the annual estimated  
 4 balance of the account maintained under AS 37.05.142 for deposits into the general  
 5 fund of the proceeds of the tax levied under this subsection to the high energy cost  
 6 offset fund established by AS 43.55.420.

7 (h) For purposes of (g) of this section, the price index for a month is calculated  
 8 by subtracting 35 from the number that is equal to the quotient of the production tax  
 9 value of the taxable oil and gas produced during that month, as calculated under  
 10 AS 43.55.160, divided by the number of barrels of oil equivalent of that oil and gas.  
 11 For purposes of this subsection, a barrel of oil equivalent is a barrel of oil, in the case  
 12 of oil, or 6,000 cubic feet of gas, in the case of gas.

13 (i) For a month that ends before April 1, 2021, the total tax levied by (e) and  
 14 (g) of this section on gas produced from a lease or property in the Cook Inlet  
 15 sedimentary basin may not exceed

16 (1) for a lease or property that first commenced commercial production  
 17 of gas before April 1, 2006, (A) the amount of gas produced from the lease or  
 18 property, (B) multiplied by the average rate of tax that was imposed under this chapter  
 19 on gas produced from the lease or property for the 12-month period ending on  
 20 March 31, 2006, and (C) multiplied by the average prevailing value for gas delivered  
 21 in the Cook Inlet area for the 12-month period ending March 31, 2006, as determined  
 22 by the department under AS 43.55.020(f);

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

30 \* **Sec. 6.** AS 43.55.017(a) is amended to read:

31 (a) Except as provided in this chapter, the taxes imposed by this chapter are in

1 place of all taxes now imposed by the state or any of its municipalities, and neither the  
2 state nor a municipality may impose a tax on [UPON]

3 (1) producing oil or gas leases;

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

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

8 \* **Sec. 7.** AS 43.55.020(a) is repealed and reenacted to read:

9 (a) Ninety-five percent of the total tax levied under AS 43.55.011(e) - (g), net  
10 of any credits applied under this chapter, is due on the last day of each calendar month  
11 on oil and gas produced from each lease or property during the preceding month. The  
12 remaining portion of the tax levied under AS 43.55.011(e) - (g), net of any credits  
13 applied under this chapter, is due on March 31 of the year following the calendar year  
14 during which the oil and gas were produced. An unpaid amount of tax that is not paid  
15 when due in accordance with this subsection becomes delinquent. An overpayment of  
16 tax with respect to a month may be applied against the tax due for any later month.  
17 Notwithstanding any contrary provision of AS 43.05.280, interest on an overpayment  
18 is allowed only from a date that is 90 days after the later of (1) the March 31 described  
19 in this subsection, or (2) the date that the statement required under AS 43.55.030(a)  
20 and (e) to be filed on or before that March 31 is filed. Interest is not allowed if the  
21 overpayment was refunded within the 90-day period.

22 \* **Sec. 8.** AS 43.55.020(b) is amended to read:

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

25 \* **Sec. 9.** AS 43.55.020(d) is amended to read:

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

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

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

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

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

11 (e) Gas flared, released, or allowed to escape in excess of the amount  
 12 authorized by the Alaska Oil and Gas Conservation Commission is considered, for the  
 13 purpose of AS 43.55.011 - 43.55.180, as gas produced from a lease or property. Oil or  
 14 gas used in the operation of a lease or property in the state in drilling for or producing  
 15 oil or gas, or for repressuring, except to the extent determined by the Alaska Oil and  
 16 Gas Conservation Commission to be waste, is not considered, for the purpose of  
 17 AS 43.55.011 - 43.55.180, as oil or gas produced from a lease or property.

18 \* **Sec. 11.** AS 43.55.020(f) is amended to read:

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

26 \* **Sec. 12.** AS 43.55 is amended by adding a new section to read:

27 **Sec. 43.55.024. Tax credits for certain losses and expenditures.** (a) A  
 28 producer or explorer may take a tax credit for a qualified capital expenditure as  
 29 follows:

30 (1) notwithstanding that a qualified capital expenditure may be a  
 31 deductible lease expenditure for purposes of calculating the production tax value of oil

1 and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under  
2 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025,

3 (A) a producer or explorer that incurs a qualified capital  
4 expenditure may also elect to take a tax credit against a tax due under  
5 AS 43.55.011(e) in the amount of 20 percent of that expenditure;

6 (B) for a calendar year for which the producer makes an  
7 election under AS 43.55.160(f), instead of taking a tax credit at a rate  
8 authorized by (A) of this paragraph as to each separate qualified capital  
9 expenditure after it has been incurred, a producer that incurs a qualified capital  
10 expenditure during that year and that wishes to apply a credit based on that  
11 expenditure against a tax due under AS 43.55.011(e) shall calculate and apply  
12 every month an annualized tax credit in an amount equal to 1 2/3 percent of the  
13 total qualified capital expenditures incurred during that year and for which the  
14 tax credit is taken for that year;

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

20 (A) to notify the Department of Natural Resources, within 30  
21 days after completion of the geological or geophysical data processing or  
22 completion of the well, or within 30 days after the statement is filed, whichever  
23 is the latest, of the date of completion and to submit a report to that department  
24 describing the processing sequence and provide a list of data sets available;

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

28 (C) that, notwithstanding any provision of AS 38, the  
29 Department of Natural Resources shall hold confidential the information  
30 provided to that department under this paragraph for 10 years following the  
31 completion date, after which the department shall publicly release the



1 information after 30 days' public notice.

2 (b) A producer or explorer may elect to take a tax credit in the amount of 20  
3 percent of a carried-forward annual loss. A credit under this subsection may be applied  
4 against a tax due under AS 43.55.011(e) and may be applied irrespective of whether  
5 the producer or explorer also claims a credit for transitional investment expenditures  
6 authorized by (j) of this section. For purposes of this subsection, a carried-forward  
7 annual loss is the amount of a producer's or explorer's adjusted lease expenditures  
8 under AS 43.55.160 for a previous calendar year that was not deductible in any month  
9 under AS 43.55.160(a) and (b).

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

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

31 (e) A person to which a transferable tax credit certificate is issued under (d) of

1 this section may transfer the certificate to another person, and a transferee may further  
2 transfer the certificate. Subject to the limitations set out in (a) - (c) of this section, and  
3 notwithstanding any action the department may take with respect to the applicant  
4 under (g) of this section, the owner of a certificate may apply the credit or a portion of  
5 the credit shown on the certificate only against a tax due under AS 43.55.011(e).  
6 However, a credit shown on a transferable tax credit certificate may not be applied to  
7 reduce a transferee's total tax due under AS 43.55.011(e) on oil and gas produced  
8 during a calendar year to less than 80 percent of the tax that would otherwise be due  
9 without applying that credit. Any portion of a credit not used under this subsection  
10 may be applied in a later period.

11 (f) Under standards established in regulations adopted by the department and  
12 subject to appropriations made by law, the department, on the written application of  
13 the person to whom a transferable tax credit has been issued under (d) of this section  
14 and whose average amount of oil and gas produced a day taxable under  
15 AS 43.55.011(e) is not more than 50,000 barrels of oil equivalent a day for the  
16 preceding calendar year, shall issue a cash refund, in whole or in part, for the  
17 certificate if the department finds

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

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

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

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

30 (5) that the sum of the amount of the refund applied for and amounts  
31 previously refunded to the applicant during the calendar year under this subsection

1 would not exceed \$25,000,000.

2 (g) The issuance of a transferable tax credit certificate under (d) of this section  
3 does not limit the department's ability to later audit a tax credit claim to which the  
4 certificate relates or to adjust or deny the claim if the department determines that the  
5 applicant was not entitled to the amount of the credit for which the certificate was  
6 issued. The tax liability of the applicant under AS 43.55.011(e) and 43.55.017 -  
7 43.55.180 is increased by the amount of the credit that exceeds that to which the  
8 applicant was entitled. That amount bears interest under AS 43.05.225 from the date  
9 the transferable tax credit certificate was issued. For purposes of this subsection, an  
10 applicant that is an explorer is considered a producer subject to the tax levied under  
11 AS 43.55.011(e).

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

16 (i) A person may not elect to take a tax credit under (a) or (j) of this section for  
17 an expenditure incurred to acquire an asset (1) the cost of previously acquiring which  
18 was a lease expenditure under AS 43.55.160(c) or would have been a lease  
19 expenditure under AS 43.55.160(c) if it had been incurred on or after April 1, 2006; or  
20 (2) that has previously been placed in service in the state. An expenditure to acquire an  
21 asset is not excluded under this subsection if not more than an immaterial portion of  
22 the asset meets a description under (1) or (2) of this subsection. For purposes of this  
23 subsection, "asset" includes geological, geophysical, and well data and interpretations.

24 (j) For the purposes of this section,

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

1 before April 1, 2006, that would be qualified capital expenditures, if they were  
2 incurred on or after April 1, 2006;

3 (2) a producer or explorer may elect to take a tax credit against a tax  
4 due under AS 43.55.011(e) in the amount of 20 percent of the producer's or explorer's  
5 transitional investment expenditures, but only to the extent that the amount does not  
6 exceed

7 (A) one-half of the producer's or explorer's qualified capital  
8 expenditures that are incurred during the month for which the credit is taken, if  
9 the producer or explorer does not make an election under AS 43.55.160(f);

10 (B) 1/24 of the producer's or explorer's qualified capital  
11 expenditures that are incurred during the calendar year that includes the month  
12 for which the credit is taken, if the producer or explorer makes an election  
13 under AS 43.55.160(f);

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

16 (A) for any month that ends the later of

17 (i) April 30, 2013; or

18 (ii) the seventh anniversary of the last day of the month  
19 for which the producer first applies a credit under this subsection  
20 against a tax due under AS 43.55.011(e), if the producer did not have  
21 commercial production of oil or gas from a lease or property in the state  
22 before April 1, 2006;

23 (B) more than once; or

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

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

29 (k) As a condition of receiving a tax credit under this section, a producer or  
30 explorer that obtains the tax credit for or directly related to a pipeline, facility, or other  
31 asset that is or becomes subject to regulation by the Federal Energy Regulatory

1 Commission or the Regulatory Commission of Alaska, or a successor regulatory body  
 2 shall at all times support and in all rate proceedings file to flow through 100 percent of  
 3 the tax credits to ratepayers as a reduction in the costs of service for the pipeline,  
 4 facility, or other asset.

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

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

9 (2) treated as a capitalized expenditure under 26 U.S.C. (Internal  
 10 Revenue Code), as amended, regardless of elections made under 26 U.S.C. 263(c)  
 11 (Internal Revenue Code), as amended, and is

12 (A) treated as a capitalized expenditure for federal income tax  
 13 reporting purposes by the person incurring the expenditure; or

14 (B) eligible to be deducted as an expense under 26 U.S.C.  
 15 263(c) (Internal Revenue Code), as amended.

16 \* **Sec. 13.** AS 43.55.025(a) is amended to read:

17 (a) Subject to the terms and conditions of this section, [ON OIL AND GAS  
 18 PRODUCED ON OR AFTER JULY 1, 2004, FROM AN OIL AND GAS LEASE,  
 19 OR ON GAS PRODUCED FROM A GAS ONLY LEASE,] a credit against the  
 20 production tax due under AS 43.55.011(e) [THIS CHAPTER] is allowed for  
 21 exploration expenditures that qualify under (b) of this section in an amount equal to  
 22 one of the following:

23 (1) 20 percent of the total exploration expenditures that qualify only  
 24 under (b) and (c) of this section;

25 (2) 20 percent of the total exploration expenditures for work performed  
 26 before July 1, 2007, and that qualify only under (b) and (d) of this section;

27 (3) 40 percent of the total exploration expenditures that qualify under  
 28 (b), (c), and (d) of this section; or

29 (4) 40 percent of the total exploration expenditures that qualify only  
 30 under (b) and (e) of this section.

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

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

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

12 (2) if for an exploration well,

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

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

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

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

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

30 \* **Sec. 15.** AS 43.55.025(f) is amended to read:

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

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

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

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

20 (B) to provide to the Department of Natural Resources, within  
21 30 days after the date of a request, specific data sets, ancillary data, and reports  
22 identified in (A) of this paragraph;

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

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

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

1 expenditures are qualified exploration expenditures under this section; and

2 (5) if the department is satisfied that the explorer's claimed  
 3 expenditures are qualified under this section, the department shall issue to the explorer  
 4 a production tax credit certificate for the amount of credit to be allowed against  
 5 production taxes due under AS 43.55.011(e) [THIS CHAPTER; HOWEVER,  
 6 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE  
 7 DEPARTMENT MAY NOT ISSUE TO AN EXPLORER A PRODUCTION TAX  
 8 CREDIT CERTIFICATE IF THE TOTAL OF PRODUCTION TAX CREDITS  
 9 SUBMITTED FOR COOK INLET PRODUCTION, BASED ON EXPLORATION  
 10 EXPENDITURES FOR WORK PERFORMED DURING THE PERIOD  
 11 DESCRIBED IN (b) OF THIS SECTION FOR THAT PRODUCTION, THAT HAVE  
 12 BEEN APPROVED BY THE DEPARTMENT EXCEEDS \$20,000,000].

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

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

20 \* **Sec. 17.** AS 43.55.025(i) is amended to read:

21 (i) For a production tax credit under this section,  
 22 (1) the amount of the credit that may be applied against the production  
 23 tax for each tax month may not exceed the total production tax liability under  
 24 AS 43.55.011(e) of the taxpayer applying the credit for the same month; and  
 25 (2) an amount of the production tax credit that is greater than the total  
 26 tax liability under AS 43.55.011(e) of the taxpayer applying the credit for a tax month  
 27 may be carried forward and applied against the taxpayer's production tax liability  
 28 under AS 43.55.011(e) in one or more immediately following months.

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

30 (a) The tax shall be paid to the department, and the person paying the tax shall  
 31 file with the department at the time the tax or a portion of the tax is required to be



1 paid a statement, under oath, on forms prescribed by or acceptable to the department,  
2 giving, with other information required, the following:

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

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

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

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

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

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

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

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

25 \* **Sec. 20.** AS 43.55.030 is amended by adding a new subsection to read:

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

30 \* **Sec. 21.** AS 43.55.040 is amended to read:

31 **Sec. 43.55.040. Powers of Department of Revenue.** Except as provided in

1 AS 43.05.405 - 43.05.499, the department may

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

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

15 (B) impose appropriate conditions limiting

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

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

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

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

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

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

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

30 \* **Sec. 22.** AS 43.55.080 is amended to read:

31 **Sec. 43.55.080. Collection and deposit of revenue. Except as otherwise**

1 **provided under art. IX, sec. 17, Constitution of the State of Alaska, the** [THE]  
 2 department shall deposit in the general fund the money collected by it under  
 3 **AS 43.55.011 - 43.55.180** [AS 43.55.011 - 43.55.150].

4 \* **Sec. 23.** AS 43.55.135 is amended to read:

5 **Sec. 43.55.135. Measurement.** For the purposes of **AS 43.55.011 - 43.55.180**  
 6 [AS 43.55.011 - 43.55.150], oil **is** [SHALL BE] measured in terms of a "barrel of oil"  
 7 and gas **is** [SHALL BE] measured in terms of a "cubic foot of gas."

8 \* **Sec. 24.** AS 43.55.150(a) is amended to read:

9 (a) For the purposes of **AS 43.55.011 - 43.55.180** [AS 43.55.011 - 43.55.150],  
 10 the gross value **at the point of production is** [SHALL BE] calculated using the  
 11 reasonable costs of transportation of the oil or gas. The reasonable costs of  
 12 transportation **are** [SHALL BE] the actual costs, except **when the**

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

15 (2) [WHEN THE] contract for the transportation of oil or gas is not an  
 16 arm's length transaction or is not representative of the market value of that  
 17 transportation; **and**

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

20 \* **Sec. 25.** AS 43.55 is amended by adding new sections to article 1 to read:

21 **Sec. 43.55.160. Determination of production tax value of oil and gas.** (a)  
 22 Except as provided in (f) of this section, for purposes of AS 43.55.011(e) and (g), the  
 23 production tax value of the taxable oil and gas produced during a month, other than  
 24 gas produced from leases or properties in the Cook Inlet sedimentary basin, is (1) the  
 25 total of (A) the gross value at the point of production of the oil taxable under  
 26 AS 43.55.011(e) and (g) and produced by the producer from all leases or properties in  
 27 the state, less three-quarters of the gross value at the point of production of the oil  
 28 taxable under AS 43.55.011(e) and (g) and produced by the producer from leases or  
 29 properties in the Cook Inlet sedimentary basin, and (B) two-thirds of the gross value at  
 30 the point of production of the gas taxable under AS 43.55.011(e) and (g) and produced  
 31 by the producer from all leases or properties in the state outside the Cook Inlet

1 sedimentary basin, less one-sixth of the gross value at the point of production of the  
2 gas taxable under AS 43.55.011(e) and (g) and produced by the producer from all  
3 leases or properties in the state located south of 68 degrees 15 minutes North latitude  
4 outside of the Cook Inlet sedimentary basin, (2) less the producer's lease expenditures  
5 for the month as adjusted under (e) of this section, other than lease expenditures  
6 applicable to gas produced from leases or properties in the Cook Inlet sedimentary  
7 basin. Except as provided in (f) of this section, for the purposes of AS 43.55.011(e)  
8 and (g), the production tax value of the taxable gas produced during a month from  
9 leases or properties in the Cook Inlet sedimentary basin is one-third of the gross value  
10 at the point of production of the gas taxable under AS 43.55.011(e) and (g) and  
11 produced by the producer from those leases or properties, less the producer's lease  
12 expenditures for the month applicable to gas produced from leases or properties in the  
13 Cook Inlet sedimentary basin, as adjusted under (e) of this section. However, a  
14 production tax value calculated under this subsection may not be less than zero. If a  
15 producer does not produce taxable oil or gas during a month, the producer is  
16 considered to have generated a positive production tax value if the calculation  
17 described in this subsection yields a positive number because the producer's adjusted  
18 lease expenditures for a month are less than zero as a result of the producer's receiving  
19 a payment or credit under (e) of this section or otherwise.

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

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

30 (2) an explorer that has taken a tax credit under AS 43.55.024(b) or  
31 that has obtained a transferable tax credit certificate under AS 43.55.024(d) for the

1 amount of a tax credit under AS 43.55.024(b) is considered a producer, subject to the  
2 tax levied under AS 43.55.011(e), to the extent that the explorer generates a positive  
3 production tax value as the result of the explorer's receiving a payment or credit  
4 described in (e) of this section.

5 (c) For purposes of this section,

6 (1) a producer's lease expenditures for a period are the total costs  
7 upstream of the point of production of oil and gas that are incurred on or after April 1,  
8 2006, by the producer during the period and that are direct, ordinary and necessary  
9 costs of exploring for, developing, or producing oil or gas deposits located within the  
10 producer's leases or properties in the state or, in the case of land in which the producer  
11 does not own a working interest, direct, ordinary and necessary costs of exploring for  
12 oil or gas deposits located within other land in the state; however, lease expenditures  
13 do not include the costs incurred to satisfy a work commitment under an exploration  
14 license under AS 38.05.132; in determining whether costs are direct, ordinary and  
15 necessary costs of exploring for, developing, or producing oil or gas deposits located  
16 within a lease or property or other land in the state,

17 (A) the department shall give substantial weight to the typical  
18 industry practices and standards in the state and in the United States that  
19 determine the costs that an operator is allowed to bill a working interest owner  
20 that is not the operator, under unit operating agreements or similar operating  
21 agreements that were in effect on or before December 1, 2005, and were  
22 subject to negotiation with at least one working interest owner with substantial  
23 bargaining power, other than the operator; and

24 (B) as to matters that are not addressed by the industry  
25 practices and standards described in (A) of this paragraph or as to which those  
26 practices and standards are not clear or are not uniform, the department shall  
27 give substantial weight to the standards adopted by the Department of Natural  
28 Resources that determine the costs, other than interest, that a lessee is allowed  
29 to deduct from revenue in calculating net profits under a lease issued under  
30 AS 38.05.180(f)(3)(B), (D), or (E);

31 (2) the Department of Revenue may authorize a producer, including a

1 producer that is an operator, to treat as its lease expenditures under this section the  
 2 costs paid by the producer that are billed to the producer by an operator in accordance  
 3 with the terms of a unit operating agreement or similar operating agreement if the  
 4 Department of Revenue finds that

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

8 (B) at least one working interest owner party to the agreement,  
 9 other than the operator, has substantial incentive and ability to effectively audit  
 10 billings under the agreement;

11 (3) an activity does not need to be physically located on or near the  
 12 premises of the lease or property from which oil or gas is recovered in order for the  
 13 cost of the activity to be a cost upstream of the point of production of the oil or gas;

14 (4) the lease expenditures that are applicable to oil or gas produced in  
 15 an area of the state shall be determined under regulations adopted by the department  
 16 that provide for reasonable methods of allocating costs between oil and gas and  
 17 between areas of the state.

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

19 (1) includes

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

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

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

30 (2) does not include

31 (A) depreciation, depletion, or amortization;

1 (B) oil or gas royalty payments, production payments, lease  
 2 profit shares, or other payments or distributions of a share of oil or gas  
 3 production, profit, or revenue;

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

5 (D) interest or other financing charges or costs of raising equity  
 6 or debt capital;

7 (E) acquisition costs for a lease or property or exploration  
 8 license;

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

10 (G) fines or penalties imposed by law;

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

15 (I) donations;

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

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

21 (L) surcharges levied under AS 43.55.201 or 43.55.300;

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

25 (N) an expenditure incurred to purchase an interest in any  
 26 corporation, partnership, limited liability company, business trust, or any other  
 27 business entity, whether or not the transaction is treated as an asset sale for  
 28 federal income tax purposes;

29 (O) a tax levied under AS 43.55.011;

30 (P) the portion of costs incurred for dismantlement, removal,  
 31 surrender, or abandonment of a well, facility, pipeline, platform, or other

1 structure, or for the restoration of a lease, field, unit, area, body of water, or  
2 right-of-way in conjunction with dismantlement, removal, surrender, or  
3 abandonment, that is attributable to production of oil or gas occurring before  
4 April 1, 2006; the portion is calculated as a ratio of the amount of oil and gas  
5 production associated with the well, facility, pipeline, platform, or other  
6 structure, lease, field, unit, area, body of water, or right-of-way occurring  
7 before April 1, 2006 to the total amount of oil and gas production associated  
8 with that well, facility, pipeline, platform, or other structure, lease, field, unit,  
9 area, body of water, or right-of-way through the end of the calendar month  
10 before commencement of the dismantlement, removal, surrender, or  
11 abandonment; for purposes of the ratio calculated under this subparagraph,  
12 6,000 cubic feet of gas is considered to be equivalent to one barrel of oil;

13 (Q) losses or damages resulting from an unpermitted oil  
14 discharge or costs to contain, clean up, or remediate an unpermitted oil  
15 discharge to the extent that those costs exceed the routine costs of operation for  
16 a producer or explorer that would otherwise be incurred as lease expenditures  
17 in the absence of the unpermitted oil discharge; this subparagraph does not  
18 apply to the cost of developing and maintaining an oil discharge prevention  
19 and contingency plan under AS 46.04.030.

20 (e) A producer's lease expenditures must be adjusted by subtracting certain  
21 payments or credits received by the producer, as provided in this subsection. If one or  
22 more payments or credits subject to this subsection are received by a producer during  
23 a month or, under (f) of this section, during a calendar year, and if either the total  
24 amount of the payments or credits exceeds the amount of the producer's lease  
25 expenditures or the producer has no lease expenditures, the producer shall nevertheless  
26 subtract those payments or credits from the lease expenditures or from zero,  
27 respectively, and the producer's adjusted lease expenditures for that month or calendar  
28 year are a negative number and shall be applied to the calculation under (a) of this  
29 section as a negative number. The payments or credits that a producer shall subtract  
30 from the producer's lease expenditures, or from zero, under this subsection are  
31 payments or credits, other than tax credits, received by the producer for



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

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

10 (3) the sale or other transfer of

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

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

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

23 (B) oil or gas

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

26 (ii) the cost of acquiring which is a lease expenditure  
27 incurred by the person that acquires the oil or gas;

28 (4) insurance recoveries.

29 (f) In place of the adjusted lease expenditures for a month under (a) of this  
30 section, a producer may, at any time, elect to substitute, for every month of a calendar  
31 year, 1/12 of the producer's adjusted lease expenditures for the calendar year. An

1 election made under this subsection applies to calculation of the tax under  
2 AS 43.55.011(e) and (g).

3 (g) The department shall specify or approve a reasonable allocation method  
4 for determining the portion of a cost that is appropriately treated as a lease expenditure  
5 under (c) of this section if a cost that would otherwise constitute a lease expenditure  
6 under (c) of this section is incurred to explore for, develop, or produce

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

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

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

15 (i) The department may adopt regulations that establish additional standards  
16 necessary to carrying out the purposes of this section, including the incorporation of  
17 the concepts of 26 U.S.C. 482 (Internal Revenue Code), as amended, the related or  
18 accompanying regulations of that section, and any ruling or guidance issued by the  
19 United States Internal Revenue Service that relates to that section.

20 (j) For purposes of this section,

21 (1) "explore" includes conducting geological or geophysical  
22 exploration, including drilling a stratigraphic test well;

23 (2) "ordinary and necessary" has the meaning given to "ordinary and  
24 necessary" in 26 U.S.C. 162 (Internal Revenue Code), as amended, and regulations  
25 adopted under that section;

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

29 **Sec. 43.55.170. Additional nontransferable tax credit.** (a) For a month for  
30 which a producer's tax liability under AS 43.55.011(e) exceeds zero before application  
31 of any credits under this chapter, a producer that is qualified under (c) of this section

1 and whose average amount of oil and gas produced a day and taxable under  
 2 AS 43.55.011(e) is less than 100,000 barrels of oil equivalent a day may apply a tax  
 3 credit under this section against that liability. A producer whose average amount of oil  
 4 and gas produced a day and taxable under AS 43.55.011(e) is

5 (1) not more than 50,000 barrels of oil equivalent may apply a tax  
 6 credit of up to \$1,000,000 for the month;

7 (2) more than 50,000 and less than 100,000 barrels of oil equivalent  
 8 may apply a tax credit of up to the following fraction of \$1,000,000 for the month:

$$9 \quad 1 - [2 \times (AP - 50,000)]/100,000,$$

10 where AP = the average amount of oil and gas, expressed as barrels of oil equivalent,  
 11 produced a day during the month and taxable under AS 43.55.011(e).

12 (b) A producer may not take a tax credit under this section for any month that  
 13 ends the later of

14 (1) March 31, 2016; or

15 (2) the 10th anniversary of the last day of the month for which the  
 16 producer first has commercial oil or gas production from at least one lease or property  
 17 in the state, if the producer did not have commercial oil or gas production from a lease  
 18 or property in the state before April 1, 2006.

19 (c) On written application by a producer, including any information the  
 20 department may require, the department shall determine whether the producer  
 21 qualifies under this section for a calendar year. To qualify under this section, a  
 22 producer must demonstrate that its operation in the state or its ownership of an interest  
 23 in a lease or property in the state as a distinct producer entity would not result in the  
 24 division among multiple producer entities of any production tax liability under  
 25 AS 43.55.011(e) that would be reasonably expected to be attributed to a single  
 26 producer entity if the tax credit provision of (a) of this section did not exist.

27 (d) A tax credit authorized by this section may not be applied to reduce a  
 28 producer's tax liability under AS 43.55.011(e) for any month below zero. An unused  
 29 portion of a tax credit that could otherwise be applied for a month but whose  
 30 application would cause the producer's tax liability under AS 43.55.011(e) for the  
 31 month to be less than zero may be applied for one or more other months in the same

1 calendar year to the extent otherwise allowed under this section.

2 (e) An unused tax credit or portion of a tax credit under this section is not  
3 transferable and may not be carried forward to or used in a later calendar year.

4 (f) For the purposes of this section, a barrel of oil equivalent is

5 (1) one barrel of oil, in the case of oil;

6 (2) 6,000 cubic feet of gas, in the case of gas.

7 **Sec. 43.55.180. Required reports.** (a) The Department of Revenue shall

8 (1) study

9 (A) the effects of the tax rates under AS 43.55.011(f) and of  
10 potential changes in those tax rates on state revenue and on oil and gas  
11 exploration, development, and production on private land; and

12 (B) the fairness of the tax rates under AS 43.55.011(f) and of  
13 potential changes in those tax rates for private landowners; and

14 (2) prepare a report on or before the first day of the 2013 regular  
15 session of the legislature on the results of the study made under (1) of this subsection,  
16 including a recommendation as to whether those tax rates should be changed; the  
17 department shall notify the legislature that the report prepared under this paragraph is  
18 available.

19 (b) The Department of Revenue shall

20 (1) study the effects of the credits authorized by AS 43.55.025 and  
21 43.55.170 on state revenue, on the encouragement of exploration, development, and  
22 production of oil and gas deposits located in the state, and on the encouragement of  
23 new entrants into the oil and gas industry in the state; and

24 (2) prepare a report on or before the first day of the 2015 regular  
25 session of the legislature on the results of the study made under (1) of this subsection,  
26 and shall include with the report a recommendation as to whether the legislature  
27 should extend the availability of the credits under AS 43.55.025 and 43.55.170; the  
28 department shall notify the legislature that the report prepared under this paragraph is  
29 available.

30 \* **Sec. 26.** AS 43.55.201 is amended to read:

31 **Sec. 43.55.201. Surcharge levied.** (a) Every producer of oil shall pay a

1 surcharge of **\$.01** [\$.02] per barrel of oil produced from each lease or property in the  
 2 state, less any oil the ownership or right to which is exempt from taxation.

3 (b) The surcharge imposed by (a) of this section is in addition to **the tax**  
 4 **imposed by AS 43.55.011** and **is due on the last day of the month on oil produced**  
 5 **from each lease or property during the preceding month. The surcharge** [SHALL  
 6 BE PAID IN THE SAME MANNER AS THE TAX IMPOSED BY AS 43.55.011 -  
 7 43.55.150; AND] is in addition to the surcharge imposed by AS 43.55.300 -  
 8 43.55.310.

9 (c) A producer of oil shall make reports of production in the same manner and  
 10 under the same penalties as required under **AS 43.55.011 - 43.55.180** [AS 43.55.011 -  
 11 43.55.150].

12 \* **Sec. 27.** AS 43.55.201 is amended by adding a new subsection to read:

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

16 \* **Sec. 28.** AS 43.55.300 is amended to read:

17 **Sec. 43.55.300. Surcharge levied.** (a) Every producer of oil shall pay a  
 18 surcharge of **\$.04** [\$.03] per barrel of oil produced from each lease or property in the  
 19 state, less any oil the ownership or right to which is exempt from taxation.

20 (b) The surcharge imposed by (a) of this section is in addition to **the tax**  
 21 **imposed by AS 43.55.011** and **is due on the last day of the month on oil produced**  
 22 **from each lease or property during the preceding month. The surcharge** [SHALL  
 23 BE PAID IN THE SAME MANNER AS THE TAX IMPOSED BY AS 43.55.011 -  
 24 43.55.150; AND] is in addition to the surcharge imposed by AS 43.55.201 -  
 25 43.55.231.

26 (c) A producer of oil shall make reports of production in the same manner and  
 27 under the same penalties as required under **AS 43.55.011 - 43.55.180** [AS 43.55.011 -  
 28 43.55.150].

29 \* **Sec. 29.** AS 43.55.300 is amended by adding a new subsection to read:

30 (d) Oil not considered under AS 43.55.020(e) to be produced from a lease or  
 31 property is not considered to be produced from a lease or property for purposes of this

1 section.

2 \* **Sec. 30.** AS 43.55 is amended by adding a new section to read:

3 **Sec. 43.55.420. High energy cost offset fund.** (a) The high energy cost offset  
4 fund is established as a separate fund in the general fund. The fund consists of all  
5 money appropriated to it.

6 (b) The high energy cost offset fund shall be invested by the Department of  
7 Revenue so as to yield competitive market rates, as provided in AS 37.10.071. Money  
8 in the fund may be appropriated to provide cost offsets for higher energy costs of  
9 consumers.

10 (c) Nothing in this section creates a dedication of funds.

11 \* **Sec. 31.** AS 43.55.900(6) is repealed and reenacted to read:

12 (6) "gas" means

13 (A) all natural, associated, or casinghead gas;

14 (B) all hydrocarbons that

15 (i) are recovered by mechanical separation of well  
16 fluids or by gas processing in a gas processing plant; and

17 (ii) exist in a gaseous phase at the completion of  
18 mechanical separation and any gas processing in a gas processing plant;  
19 and

20 (C) all other hydrocarbons produced from a well not defined as  
21 oil;

22 \* **Sec. 32.** AS 43.55.900(7) is repealed and reenacted to read:

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

24 (A) for oil, the value of the oil at its point of production  
25 without deduction of any costs upstream of that point of production;

26 (B) for gas, the value of the gas at its point of production  
27 without deduction of any costs upstream of that point of production;

28 \* **Sec. 33.** AS 43.55.900(10) is repealed and reenacted to read:

29 (10) "oil" means

30 (A) crude petroleum oil; and

31 (B) all liquid hydrocarbons that are recovered by mechanical

1 separation of well fluids or by gas processing in a gas processing plant;

2 \* **Sec. 34.** AS 43.55.900 is amended by adding new paragraphs to read:

3 (17) "Cook Inlet sedimentary basin" has the meaning given in  
4 regulations adopted to implement AS 38.05.180(f)(4);

5 (18) "explorer" means a person who, in exploring for new oil or gas  
6 reserves, incurs expenditures;

7 (19) "gas processing"

8 (A) means processing a gaseous mixture of hydrocarbons

9 (i) by means of absorption, adsorption, externally  
10 applied refrigeration, artificial compression followed by adiabatic  
11 expansion using the Joule-Thomson effect, or another physical process  
12 that is not mechanical separation; and

13 (ii) for the purpose of extracting and recovering liquid  
14 hydrocarbons;

15 (B) does not include gas treatment;

16 (20) "gas processing plant" means a facility that

17 (A) extracts and recovers liquid hydrocarbons from a gaseous  
18 mixture of hydrocarbons by gas processing; and

19 (B) is located upstream of any gas treatment and upstream of  
20 the inlet of any gas pipeline system transporting gas to a market;

21 (21) "gas treatment"

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

25 (B) includes incidentally removing liquid hydrocarbons from  
26 the gas;

27 (C) does not include

28 (i) dehydration required to facilitate the movement of  
29 gas from the well to the point where gas processing takes place;

30 (ii) the scrubbing of liquids from gas to facilitate gas  
31 processing;

1 (22) "landowner's royalty interest" means

2 (A) a lessor's royalty interest under an oil and gas lease; or

3 (B) a royalty interest that is

4 (i) held by a surface owner of land from which oil or  
5 gas is produced; and

6 (ii) granted in exchange for the right to use the surface  
7 of that land or as compensation for damage to the surface of that land;

8 (23) "oil and gas lease" includes an oil and gas lease, a gas only lease,  
9 and an oil only lease;

10 (24) "point of production" means

11 (A) for oil, the automatic custody transfer meter or device  
12 through which the oil enters into the facilities of a carrier pipeline or other  
13 transportation carrier in a condition of pipeline quality; in the absence of an  
14 automatic custody transfer meter or device, "point of production" means the  
15 mechanism or device to measure the quantity of oil that has been approved by  
16 the department for that purpose, through which the oil is tendered and accepted  
17 in a condition of pipeline quality into the facilities of a carrier pipeline or other  
18 transportation carrier or into a field topping plant;

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

21 (i) not subjected to or recovered by mechanical  
22 separation or run through a gas processing plant, the first point where  
23 the gas is accurately metered;

24 (ii) subjected to or recovered by mechanical separation  
25 but not run through a gas processing plant, the first point where the gas  
26 is accurately metered after completion of mechanical separation;

27 (iii) run through a gas processing plant, the first point  
28 where the gas is accurately metered downstream of the plant;

29 (C) for gas run through an integrated gas processing plant and  
30 gas treatment facility that does not accurately meter the gas after the gas  
31 processing and before the gas treatment, the first point where gas processing is



1 completed or where gas treatment begins, whichever is further upstream.

2 \* **Sec. 35.** AS 43.55.011(a), 43.55.011(b), 43.55.011(c), 43.55.012, 43.55.013, 43.55.016,  
3 43.55.025(k)(1), 43.55.025(k)(3), 43.55.900(1), 43.55.900(8), 43.55.900(11), 43.55.900(12),  
4 and 43.55.900(16) are repealed.

5 \* **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to  
6 read:

7 **APPLICABILITY.** (a) Sections 5, 7 - 10, 12, 13, 15 - 18, 20, 24, 26 - 29, and 31 - 35  
8 of this Act and AS 43.55.160 and 43.55.170, enacted by sec. 25 of this Act, apply to oil and  
9 gas produced on or after April 1, 2006.

10 (b) Section 11 of this Act applies to oil and gas produced before, on, or after the  
11 effective date of sec. 11 of this Act.

12 \* **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 **TRANSITIONAL PROVISIONS.** (a) Notwithstanding any contrary provision of  
15 AS 43.55.024(a), enacted by sec. 12 of this Act, for oil and gas produced on or after April 1,  
16 2006, and before January 1, 2007, the phrase "every month an annualized tax credit in an  
17 amount equal to 1 2/3 percent" in AS 43.55.024(a)(1)(B), enacted by sec. 12 of this Act, shall  
18 be replaced by the phrase "every month during the period April 1, 2006, through  
19 December 31, 2006, an annualized tax credit in an amount equal to 2.222 percent."

20 (b) Notwithstanding any contrary provision of AS 43.55.024(e), enacted by sec. 12 of  
21 this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007, the  
22 phrase "a calendar year" in AS 43.55.024(e), enacted by sec. 12 of this Act, shall be replaced  
23 by the phrase "the last nine months of the calendar year."

24 (c) Notwithstanding any contrary provision of AS 43.55.024(j)(2), enacted by sec. 12  
25 of this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007,

26 (1) the number "1/24" in AS 43.55.024(j)(2)(B), enacted by sec. 12 of this  
27 Act, shall be replaced by the number "1/18";

28 (2) the phrase "calendar year" in AS 43.55.024(j)(2)(B), enacted by sec. 12 of  
29 this Act, shall be replaced by the phrase "last nine months of the calendar year."

30 (d) Notwithstanding any contrary provision of AS 43.55.160(f), enacted by sec. 25 of  
31 this Act, for oil and gas produced on or after April 1, 2006, and before January 1, 2007, the

1 phrase "for every month of a calendar year, 1/12 of the producer's adjusted lease expenditures  
 2 for the calendar year" in AS 43.55.160(f), enacted by sec. 25 of this Act, shall be replaced by  
 3 the phrase "for each of the last nine months of 2006, one-ninth of the producer's adjusted lease  
 4 expenditures for that nine-month period."

5 (e) For oil and gas produced before April 1, 2006, the provisions of AS 43.55, and  
 6 regulations adopted under AS 43.55, that were in effect before April 1, 2006, and that were  
 7 applicable to the oil and gas continue to apply to that oil and gas.

8 (f) Notwithstanding any contrary provision of AS 43.55.020(a), as repealed and  
 9 reenacted by sec. 7 of this Act, for oil and gas produced on or after April 1, 2006, and before  
 10 the first day of the first month that begins at least 10 months after the effective date of sec. 7  
 11 of this Act,

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

16 (2) the portion, if any, of the taxes levied under AS 43.55.011(e) - (g), enacted  
 17 by sec. 5 of this Act, that is due under AS 43.55.020(a), as repealed and reenacted by sec. 7 of  
 18 this Act, and that remains unpaid, net of any credits applied as allowed by law, is due on the  
 19 last day of the first month that begins at least 10 months after the effective date of sec. 5 of  
 20 this Act.

21 (g) Notwithstanding any contrary provision of AS 43.55.030(a), as amended by sec.  
 22 18 of this Act, for oil and gas produced on or after April 1, 2006, and before the first day of  
 23 the first month that begins at least 10 months after the effective date of sec. 18 of this Act, the  
 24 person paying the tax shall file with the Department of Revenue, at the time an amount of tax  
 25 is due

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

28 (2) under (f)(2) of this section, the statements required under AS 43.55.030(a),  
 29 as amended by sec. 18 of this Act.

30 (h) Notwithstanding any contrary provision of AS 43.55.201(a) or (b), as amended by  
 31 sec. 26 of this Act, or AS 43.55.300(a) or (b), as amended by sec. 28 of this Act, for oil

1 produced on or after April 1, 2006, and before the first day of the first month that begins at  
2 least 10 months after the effective date of secs. 26 and 28 of this Act,

3 (1) the amount of the surcharges that would have been imposed on the  
4 producer under AS 43.55, as the provisions of that chapter read on March 31, 2006, is due on  
5 the last day of each calendar month on oil produced from each lease or property during the  
6 preceding month;

7 (2) the portion, if any, of the surcharges imposed under AS 43.55.201(a), as  
8 amended by sec. 26 of this Act, and AS 43.55.300(a), as amended by sec. 28 of this Act, and  
9 that remains unpaid is due on the last day of the first month that begins at least 10 months  
10 after the effective date of secs. 26 and 28 of this Act.

11 (i) Notwithstanding any contrary provision of AS 43.55.201(c), as amended by sec.  
12 26 of this Act, or AS 43.55.300(c), as amended by sec. 28 of this Act, for oil produced on or  
13 after April 1, 2006, and before the first day of the first month that begins at least 10 months  
14 after the effective date of secs. 26 and 28 of this Act, at the time an amount of surcharge is  
15 due,

16 (1) under (h)(1) of this section, the producer shall file the report of production  
17 required under former AS 43.55.201(c) and 43.55.300(c), as those provisions read on  
18 March 31, 2006; and

19 (2) under (h)(2) of this section, the producer shall file the report of production  
20 required under former AS 43.55.201(c), as amended by sec. 26 of this Act, and  
21 AS 43.55.300(c), as amended by sec. 28 of this Act.

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

26 \* **Sec. 38.** The uncodified law of the State of Alaska is amended by adding a new section to  
27 read:

28 **TRANSITION: RETROACTIVITY OF REGULATIONS.** Notwithstanding any  
29 contrary provision of AS 44.62.240, a regulation adopted by the Department of Revenue to  
30 implement, interpret make specific, or otherwise carry out the provisions of secs. 5, 7 - 10, 12,  
31 13, 15 - 18, 20, 24 - 29, 31 - 35, and 37 of this Act may apply retroactively as of April 1,

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

3 \* **Sec. 39.** The uncodified law of the State of Alaska is amended by adding a new section to  
 4 read:

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

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

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

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

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

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

16 \* **Sec. 40.** The uncodified law of the State of Alaska is amended by adding a new section to  
 17 read:

18 RETROACTIVITY OF PROVISIONS OF ACT. Sections 5, 7 - 10, 12, 13, 15 - 18,  
 19 20, 24 - 29, 31 - 37 of this Act are retroactive to April 1, 2006.

20 \* **Sec. 41.** This Act takes effect immediately under AS 01.10.070(c).