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Chapter No.

AN ACT

Relating to the production tax on oil and gas and to conservation surcharges on oil; providing a limit on the amount of tax that may be levied on the production of certain gas that is produced outside of the Cook Inlet sedimentary basin; relating to the sharing between agencies of certain information relating to the production tax and to oil and gas or gas only leases; expanding the period in which the Department of Revenue may assess the amount of oil and gas production tax and conservation surcharges; relating to state oil and gas audit masters; relating to oil and gas auditors and certain oil and gas auditor supervisors; establishing an oil and gas tax credit fund and authorizing payment from that fund; making conforming amendments; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to the production tax on oil and gas and to conservation surcharges on oil; providing
2 a limit on the amount of tax that may be levied on the production of certain gas that is
3 produced outside of the Cook Inlet sedimentary basin; relating to the sharing between
4 agencies of certain information relating to the production tax and to oil and gas or gas only
5 leases; expanding the period in which the Department of Revenue may assess the amount of
6 oil and gas production tax and conservation surcharges; relating to state oil and gas audit
7 masters; relating to oil and gas auditors and certain oil and gas auditor supervisors;
8 establishing an oil and gas tax credit fund and authorizing payment from that fund; making
9 conforming amendments; and providing for an effective date.

10

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

1 to read:

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

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

6 (2) encourage the availability to Alaska's citizens of affordable gas produced,
7 transported, and consumed within the state as one step towards reasonable and equitable
8 energy costs throughout Alaska.

9 (b) It is the intent of the legislature that AS 43.55.075(b), enacted by sec. 51 of this
10 Act, confirm by clarification the long-standing interpretation of AS 43.05.260 by the
11 Department of Revenue relating to limitation of assessments for the production tax on oil and
12 gas and conservation surcharges on oil.

13 (c) It is the intent of the legislature that the amount of money received by the state as
14 a result of the retroactivity of certain provisions under sec. 74 of this Act that exceeds the
15 amount of money the state would have received if those provisions had not taken effect until
16 January 1, 2008, will be appropriated to the public education fund (AS 14.17.300).

17 (d) It is the intent of the legislature that the legislature will responsibly invest the
18 amounts received after December 31, 2007, as the result of the enactment of this Act that
19 exceed the amounts that would have been received under AS 43.55.011 - 43.55.180, as those
20 provisions read on June 30, 2007, as if those provisions had been applied after December 31,
21 2007, by making appropriations to the following:

22 (1) the public education fund (AS 14.17.300);

23 (2) the budget reserve fund (art. IX, sec. 17, Constitution of the State of
24 Alaska);

25 (3) to extinguish the amount of the employers' unfunded liability in the
26 teachers' defined benefit retirement plan and the public employees' defined benefit retirement
27 plan;

28 (4) the development and implementation of a long-range fiscal plan for the
29 state; and

30 (5) for statewide energy needs of Alaskans to assist with rising energy costs.

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

1 (a) The director shall

2 (1) have general charge and supervision of the division and may
3 exercise the powers specifically delegated to the director; **the director** may employ
4 and fix the compensation of assistants and employees necessary for the operations of
5 the division; **the director** [AND] is the certifying officer of the division, with the
6 consent of the commissioner, and may approve vouchers for disbursements of money
7 appropriated to the division;

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

10 (3) execute laws, rules, regulations, and orders adopted by the
11 commissioner;

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

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

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

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

26 (8) [REPEALED]

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

31 (A) the name of the person nominating or applying for the sale,

1 lease, or other disposal of land by competitive bidding;

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

4 (C) all geological, geophysical, and engineering data supplied,
5 whether or not concerned with the extraction or development of natural
6 resources;

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

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

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

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

19 **(10)** [(11)] select and employ or obtain at reasonable compensation
20 cadastral, appraisal, or other professional personnel the director considers necessary
21 for the proper operation of the division;

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

29 **(12) on request, furnish records, files, and other information**
30 **related to the administration of AS 38.05.180 to the Department of Revenue for**
31 **use in forecasting state revenue under or administering AS 43.55, whether or not**

1 those records, files, and other information are required to be kept confidential
2 under (8) of this subsection; in the case of records, files, or other information
3 required to be kept confidential under (8) of this subsection, the Department of
4 Revenue shall maintain the confidentiality that the Department of Natural
5 Resources is required to extend to records, files, and other information under (8)
6 of this subsection

7 [(13) REPEALED

8 (14) REPEALED].

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

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

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

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

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

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

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

30 (f) As part of the timber sale negotiations authorized by this section, the
31 commissioner may require a prospective purchaser negotiating a timber sale contract

1 to submit financial and technical data that demonstrates that the requirements of this
2 section have been or will be met. Upon the prospective purchaser's request, the
3 commissioner shall keep data provided by the purchaser confidential in accordance
4 with the requirements of **AS 38.05.035(a)(8)** [AS 38.05.035(a)(9)].

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

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

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

12 (j) The commissioner

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

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

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

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

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

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

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

29 (2) may not grant a royalty modification unless the lessee or lessees
30 requesting the change make a clear and convincing showing that a modification of
31 royalty meets the requirements of this subsection and is in the best interests of the

1 state;

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

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

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

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

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

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

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

29 (B) shall keep the data confidential under **AS 38.05.035(a)(8)**
30 [AS 38.05.035(a)(9)] at the request of the lessee or lessees making application
31 for the royalty reduction; the confidential data may be disclosed by the

1 commissioner to legislators and to the legislative auditor and as directed by the
2 chair or vice-chair of the Legislative Budget and Audit Committee to the
3 director of the division of legislative finance, the permanent employees of their
4 respective divisions who are responsible for evaluating a royalty reduction, and
5 to agents or contractors of the legislative auditor or the legislative finance
6 director who are engaged under contract to evaluate the royalty reduction, if
7 they sign an appropriate confidentiality agreement;

8 (7) may

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

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

1 subparagraph is not subject to AS 36.30;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (42) oil and gas audit masters employed in a professional capacity by
11 the Department of Revenue and the Department of Natural Resources to collect oil and
12 gas revenue by developing policy, conducting studies, drafting proposed regulations,
13 enforcing regulations, and directing audits by oil and gas revenue auditors.

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

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

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

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

31 (1) in connection with official investigations or proceedings of the

1 department, whether judicial or administrative, involving taxes due under this title;

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

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

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

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

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

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

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

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

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

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

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

1 (2) the sum, over all months of the calendar year, of the tax amounts
2 determined under (g) of this section.

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

4 (f) The levy of tax under this section **for** [ON A PRODUCER OF] oil and gas
5 produced north of 68 degrees North latitude, **other than oil and gas production**
6 **subject to (i) of this section and gas subject to (o) of this section,** may not be less
7 than

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

11 (2) three percent of the gross value at the point of production when the
12 average price per barrel for Alaska North Slope crude oil for sale on the United States
13 West Coast during the calendar year for which the tax is due is over \$20 but not over
14 \$25;

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

19 (4) one percent of the gross value at the point of production when the
20 average price per barrel for Alaska North Slope crude oil for sale on the United States
21 West Coast during the calendar year for which the tax is due is over \$15 but not over
22 \$17.50; or

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

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

27 (g) For each month of the calendar year for which the producer's average
28 monthly production tax value under AS 43.55.160(a)(2) per BTU equivalent barrel of
29 the taxable oil and gas is more than \$30, the amount of tax for purposes of (e)(2) of
30 this section is determined by multiplying the monthly production tax value of the
31 taxable oil and gas produced during the month by the tax rate calculated as follows:

1 (1) if the producer's average monthly production tax value per BTU
2 equivalent barrel of the taxable oil and gas for the month is not more than \$92.50, the
3 tax rate is 0.4 percent multiplied by the number that represents the difference between
4 that average monthly production tax value per BTU equivalent barrel and \$30; or

5 (2) if the producer's average monthly production tax value per BTU
6 equivalent barrel of the taxable oil and gas for the month is more than \$92.50, the tax
7 rate is the sum of 25 percent and the product of 0.1 percent multiplied by the number
8 that represents the difference between the average monthly production tax value per
9 BTU equivalent barrel and \$92.50, except that the sum determined under this
10 paragraph may not exceed 50 percent.

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

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

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

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

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

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

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

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

20 * **Sec. 20.** AS 43.55.011(m) is repealed and reenacted to read:

21 (m) Notwithstanding any contrary provision of AS 38.05.180(i),
22 AS 41.09.010, AS 43.55.024, or 43.55.025, the department shall provide by regulation
23 a method to ensure that, for a calendar year for which a producer's tax liability is
24 limited by (j), (k), or (o) of this section, tax credits otherwise available under
25 AS 38.05.180(i), AS 41.09.010, AS 43.55.024, or 43.55.025 and allocated to gas
26 subject to the limitations in (j), (k), and (o) of this section are accounted for as though
27 the credits had been applied first against a tax liability calculated without regard to the
28 limitations under (j), (k), and (o) of this section so as to reduce the tax liability to the
29 maximum amount provided for under (j) or (o) of this section for the production of gas
30 or (k) of this section for the production of oil. The regulation must provide for a
31 reasonable method to allocate tax credits to gas subject to (j) and (o) of this section.

1 Only the amount of a tax credit remaining after the accounting provided for under this
2 subsection may be used for a later calendar year, transferred to another person, or
3 applied against a tax levied on the production of oil or gas not subject to (j), (k), or (o)
4 of this section to the extent otherwise allowed.

5 * **Sec. 21.** AS 43.55.011 is amended by adding a new subsection to read:

6 (o) Notwithstanding other provisions of this section, for a calendar year before
7 2022, the tax levied under (e) of this section for each 1,000 cubic feet of gas for gas
8 produced from a lease or property outside the Cook Inlet sedimentary basin and used
9 in the state may not exceed the amount of tax for each 1,000 cubic feet of gas that is
10 determined under (j)(2) of this section.

11 * **Sec. 22.** AS 43.55.020(a) is repealed and reenacted to read:

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

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

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

25 (i) zero; or

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

1 the leases or properties during the month for which the installment
2 payment is calculated;

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

5 (i) zero;

6 (ii) zero percent, one percent, two percent, three
7 percent, or four percent, as applicable, of the gross value at the point of
8 production of the oil and gas produced from all leases or properties
9 during the month for which the installment payment is calculated; or

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

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

20 (i) zero; or

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

30 (2) an amount calculated under (1)(C) of this subsection for oil or gas
31 produced from a lease or property subject to AS 43.55.011(j), (k), or (o) may not

1 exceed the product obtained by carrying out the calculation set out in
2 AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in
3 AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in
4 AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable
5 gas produced during the month for the amount of taxable gas produced during the
6 calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the
7 amount of taxable oil produced during the month for the amount of taxable oil
8 produced during the calendar year;

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

13 (A) the applicable tax rate for oil provided under
14 AS 43.55.011(i), multiplied by the gross value at the point of production of the
15 oil taxable under AS 43.55.011(i) and produced from the lease or property
16 during the month; and

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

21 (4) any amount of tax levied by AS 43.55.011(e) or (i), net of any
22 credits applied as allowed by law, that exceeds the total of the amounts due as
23 installment payments of estimated tax is due on March 31 of the year following the
24 calendar year of production.

25 * **Sec. 23.** AS 43.55.020(g) is amended to read:

26 (g) Notwithstanding any contrary provision of AS 43.05.225, an unpaid
27 amount of an installment payment required under **(a)(1) - (3)** [(a)(1) - (4)] of this
28 section that is not paid when due bears interest (1) at the rate provided for an
29 underpayment under 26 U.S.C. 6621 (Internal Revenue Code), as amended,
30 compounded daily, from the date the installment payment is due until [THE] March 31
31 **following the calendar year of production** [DESCRIBED IN AS 43.55.030(a)], and

1 (2) as provided for a delinquent tax under AS 43.05.225 after that March 31. Interest
2 accrued under (1) of this subsection that remains unpaid after that March 31 is treated
3 as an addition to tax that bears interest under (2) of this subsection. An unpaid amount
4 of tax due under (a)(4) [(a)(5)] of this section that is not paid when due bears interest
5 as provided for a delinquent tax under AS 43.05.225.

6 * **Sec. 24.** AS 43.55.020(h) is amended to read:

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

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

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

14 or

15 (B) [THE] March 31 following the calendar year of
16 production [DESCRIBED IN AS 43.55.030(a)];

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

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

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

29 * **Sec. 25.** AS 43.55.023(a) is amended to read:

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

1 (1) notwithstanding that a qualified capital expenditure may be a
2 deductible lease expenditure for purposes of calculating the production tax value of oil
3 and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under
4 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or
5 explorer that incurs a qualified capital expenditure may also elect to **apply** [TAKE] a
6 tax credit against a tax **levied by** [DUE UNDER] AS 43.55.011(e) in the amount of 20
7 percent of that expenditure; **however, not more than half of the tax credit may be**
8 **applied for a single calendar year;**

9 (2) a producer or explorer may take a credit for a qualified capital
10 expenditure incurred in connection with geological or geophysical exploration or in
11 connection with an exploration well only if the producer or explorer [PROVIDES TO
12 THE DEPARTMENT, AS PART OF THE STATEMENT REQUIRED UNDER
13 AS 43.55.030(a) FOR THE CALENDAR YEAR FOR WHICH THE CREDIT IS
14 SOUGHT TO BE TAKEN, THE PRODUCER'S OR EXPLORER'S WRITTEN
15 AGREEMENT]

16 (A) **agrees, in writing, to the applicable provisions of**
17 **AS 43.55.025(f)(2)** [TO NOTIFY THE DEPARTMENT OF NATURAL
18 RESOURCES, BEFORE THE LATER OF 30 DAYS AFTER COMPLETION
19 OF THE GEOLOGICAL OR GEOPHYSICAL DATA PROCESSING OR
20 COMPLETION OF THE WELL, OR 30 DAYS AFTER THE STATEMENT
21 IS FILED, OF THE DATE OF COMPLETION AND TO SUBMIT A
22 REPORT TO THAT DEPARTMENT DESCRIBING THE PROCESSING
23 SEQUENCE AND PROVIDE A LIST OF DATA SETS AVAILABLE];

24 (B) **submits** [TO PROVIDE] to the Department of Natural
25 Resources **all data that would be required to be submitted under**
26 **AS 43.55.025(f)(2)** [, WITHIN 30 DAYS AFTER THE DATE OF A
27 REQUEST, SPECIFIC DATA SETS, ANCILLARY DATA, AND REPORTS
28 IDENTIFIED IN (A) OF THIS PARAGRAPH;

29 (C) THAT, NOTWITHSTANDING ANY PROVISION OF
30 AS 38, THE DEPARTMENT OF NATURAL RESOURCES SHALL HOLD
31 CONFIDENTIAL THE INFORMATION PROVIDED TO THAT

1 DEPARTMENT UNDER THIS PARAGRAPH FOR 10 YEARS
2 FOLLOWING THE COMPLETION DATE, AFTER WHICH THE
3 DEPARTMENT SHALL PUBLICLY RELEASE THE INFORMATION
4 AFTER 30 DAYS' PUBLIC NOTICE].

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

6 (b) A producer or explorer may elect to take a tax credit in the amount of **25**
7 [20] percent of a carried-forward annual loss. A credit under this subsection may be
8 applied against a tax **levied by** [DUE UNDER] AS 43.55.011(e). For purposes of this
9 subsection, a carried-forward annual loss is the amount of a producer's or explorer's
10 adjusted lease expenditures under AS 43.55.165 and 43.55.170 for a previous calendar
11 year that was not deductible **in calculating production tax values** for that calendar
12 year under **AS 43.55.160** [AS 43.55.160(b) AND (e)].

13 * **Sec. 27.** AS 43.55.023(d) is amended to read:

14 (d) Except as limited by (i) of this section, a person **that is** entitled to take a
15 tax credit under this section that wishes to transfer the unused credit to another person
16 **or obtain a cash payment under AS 43.55.028** may apply to the department for [A]
17 transferable tax credit **certificates** [CERTIFICATE]. An application under this
18 subsection must be in a form prescribed by the department and must include
19 supporting information and documentation that the department reasonably requires.
20 The department shall grant or deny an application, or grant an application as to a lesser
21 amount than that claimed and deny it as to the excess, not later than **120** [60] days
22 after the latest of (1) March 31 of the year following the calendar year in which the
23 qualified capital expenditure or carried-forward annual loss for which the credit is
24 claimed was incurred; (2) [IF THE APPLICANT IS REQUIRED UNDER
25 AS 43.55.030(a) TO FILE A STATEMENT ON OR BEFORE MARCH 31 OF THE
26 YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE QUALIFIED
27 CAPITAL EXPENDITURES OR CARRIED-FORWARD ANNUAL LOSS FOR
28 WHICH THE CREDIT IS CLAIMED WAS INCURRED,] the date the statement
29 **required under AS 43.55.030(a) or (e)** was filed **for the calendar year in which the**
30 **qualified capital expenditure or carried-forward annual loss for which the credit**
31 **is claimed was incurred;** or (3) the date the application was received by the

1 department. If, based on the information then available to it, the department is
2 reasonably satisfied that the applicant is entitled to a credit, the department shall issue
3 the applicant **two** [A] transferable tax credit **certificates, each** [CERTIFICATE] for
4 **half of** the amount of the credit. **The credit shown on one of the two certificates is**
5 **available for immediate use. The credit shown on the second of the two**
6 **certificates may not be applied against a tax for a calendar year earlier than the**
7 **calendar year following the calendar year in which the certificate is issued, and**
8 **the certificate must contain a conspicuous statement to that effect.** A certificate
9 issued under this subsection does not expire.

10 * **Sec. 28.** AS 43.55.023(e) is amended to read:

11 (e) A person to which a transferable tax credit certificate is issued under (d) of
12 this section may transfer the certificate to another person, and a transferee may further
13 transfer the certificate. Subject to the limitations set out in **(a) - (d)** [(a) - (c)] of this
14 section, and notwithstanding any action the department may take with respect to the
15 applicant under (g) of this section, the owner of a certificate may apply the credit or a
16 portion of the credit shown on the certificate only against a tax **levied by** [DUE
17 UNDER] AS 43.55.011(e). However, a credit shown on a transferable tax credit
18 certificate may not be applied to reduce a transferee's total tax **liability** [DUE] under
19 AS 43.55.011(e) **for** [ON] oil and gas produced during a calendar year to less than 80
20 percent of the tax that would otherwise be due without applying that credit. Any
21 portion of a credit not used under this subsection may be applied in a later period.

22 * **Sec. 29.** AS 43.55.023(g) is amended to read:

23 (g) The issuance of a transferable tax credit certificate under (d) of this section
24 or the **purchase of a certificate** [ISSUANCE OF A CASH REFUND] under
25 **AS 43.55.028** [(f) OF THIS SECTION] does not limit the department's ability to later
26 audit a tax credit claim to which the certificate relates or to adjust the claim if the
27 department determines, as a result of the audit, that the applicant was not entitled to
28 the amount of the credit for which the certificate was issued. The tax liability of the
29 applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is increased by the amount
30 of the credit that exceeds that to which the applicant was entitled, or the applicant's
31 available valid outstanding credits applicable against the tax levied by

1 AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is increased
2 under this subsection, the increase bears interest under AS 43.05.225 from the date the
3 transferable tax credit certificate was issued. For purposes of this subsection, an
4 applicant that is an explorer is considered a producer subject to the tax levied by
5 AS 43.55.011(e).

6 * **Sec. 30.** AS 43.55.023(i) is amended to read:

7 (i) For the purposes of this section,

8 (1) a producer's or explorer's transitional investment expenditures are
9 the sum of the expenditures the producer or explorer incurred after March 31, 2001,
10 and before April 1, 2006, that would be qualified capital expenditures if they were
11 incurred after March 31, 2006, less the sum of the payments or credits the producer or
12 explorer received before April 1, 2006, for the sale or other transfer of assets,
13 including geological, geophysical, or well data or interpretations, acquired by the
14 producer or explorer as a result of expenditures the producer or explorer incurred
15 before April 1, 2006, that would be qualified capital expenditures, if they were
16 incurred after March 31, 2006;

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

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

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

28 (i)] 2013; [OR

29 (ii) THE SIXTH CALENDAR YEAR AFTER THE
30 CALENDAR YEAR FOR WHICH THE PRODUCER FIRST
31 APPLIES A CREDIT UNDER THIS SUBSECTION AGAINST A

1 TAX DUE UNDER AS 43.55.011(e), IF THE PRODUCER DID NOT
2 HAVE COMMERCIAL PRODUCTION OF OIL OR GAS FROM A
3 LEASE OR PROPERTY IN THE STATE BEFORE APRIL 1, 2006;]

4 (B) more than once; or

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

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

10 * **Sec. 31.** AS 43.55.023 is amended by adding a new subsection to read:

11 (l) An entity that is exempt from taxation under this chapter may not apply for
12 a transferable tax credit certificate.

13 * **Sec. 32.** AS 43.55.024(a) is amended to read:

14 (a) For a calendar year for which a producer's tax liability under
15 AS 43.55.011(e) [OR (f)] on oil and gas produced from leases or properties outside the
16 Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude,
17 exceeds zero before application of any credits under this chapter, a producer that is
18 qualified under (e) of this section may apply a tax credit against that liability of not
19 more than \$6,000,000.

20 * **Sec. 33.** AS 43.55.024(c) is amended to read:

21 (c) For a calendar year for which a producer's tax liability under
22 AS 43.55.011(e) [OR (f)] exceeds zero before application of any credits under this
23 chapter, other than a credit under (a) of this section but after application of any credit
24 under (a) of this section, a producer that is qualified under (e) of this section and
25 whose average amount of oil and gas produced a day and taxable under
26 AS 43.55.011(e) [OR (f)] is less than 100,000 BTU equivalent barrels a day may apply
27 a tax credit under this subsection against that liability. A producer whose average
28 amount of oil and gas produced a day and taxable under AS 43.55.011(e) [OR (f)] is

29 (1) not more than 50,000 BTU equivalent barrels may apply a tax
30 credit of not more than \$12,000,000 for the calendar year;

31 (2) more than 50,000 and less than 100,000 BTU equivalent barrels

1 may apply a tax credit of not more than \$12,000,000 multiplied by the following
2 fraction for the calendar year:

$$3 \quad 1 - [2 \times (AP - 50,000)] \div 100,000$$

4 where AP = the average amount of oil and gas taxable under AS 43.55.011(e) [OR
5 (f)], produced a day during the calendar year in BTU equivalent barrels.

6 * **Sec. 34.** AS 43.55.024(e) is amended to read:

7 (e) On written application by a producer that includes any information the
8 department may require, the department shall determine whether the producer
9 qualifies for a calendar year under this section. To qualify under this section, a
10 producer must demonstrate that its operation in the state or its ownership of an interest
11 in a lease or property in the state as a distinct producer would not result in the division
12 among multiple producer entities of any production tax liability under
13 AS 43.55.011(e) [OR (f)] that reasonably would be expected to be attributed to a
14 single producer if the tax credit provisions of (a) or (c) of this section did not exist.

15 * **Sec. 35.** AS 43.55.024(g) is amended to read:

16 (g) A tax credit authorized by (c) of this section may not be applied to reduce
17 a producer's tax liability for any calendar year under AS 43.55.011(e) [OR (f)] below
18 zero.

19 * **Sec. 36.** AS 43.55.025(a) is amended to read:

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

24 (1) **30** [20] percent of the total exploration expenditures that qualify
25 only under (b) and (c) of this section;

26 (2) **30** [20] percent of the total exploration expenditures [FOR WORK
27 PERFORMED BEFORE JULY 1, 2007, AND] that qualify only under (b) and (d) of
28 this section;

29 (3) 40 percent of the total exploration expenditures that qualify under
30 (b), (c), and (d) of this section; or

31 (4) 40 percent of the total exploration expenditures that qualify only

1 under (b) and (e) of this section.

2 * **Sec. 37.** AS 43.55.025(b) is amended to read:

3 (b) To qualify for the production tax credit under (a) of this section, an
4 exploration expenditure must be incurred for work performed [ON OR] after **June 30,**
5 **2008** [JULY 1, 2003], and before July 1, 2016, [EXCEPT THAT AN
6 EXPLORATION EXPENDITURE FOR A COOK INLET PROSPECT MUST BE
7 INCURRED FOR WORK PERFORMED ON OR AFTER JULY 1, 2005,] and

8 (1) may be for seismic or **other** geophysical exploration costs not
9 connected with a specific well;

10 (2) if for an exploration well,

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

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

15 (C) must be for **a well that has been completed, suspended,**
16 **or abandoned at the time the explorer claims the tax credit under (f) of**
17 **this section; and**

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

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

31 (4) may not be incurred for an exploration well or seismic exploration

1 that is included in a plan of exploration or a plan of development for any unit **before**
2 **May 14, 2003** [ON MAY 13, 2003].

3 * **Sec. 38.** AS 43.55.025(c) is repealed and reenacted to read:

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

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

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

9 (A) before the well is spudded,

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

15 (ii) at the time of the submittal of information under (i)
16 of this subparagraph, the commissioner of natural resources may
17 request from the explorer that specific data sets, ancillary data, and
18 reports including all results, and copies of well data collected and data
19 analyses for the well be provided to the Department of Natural
20 Resources upon completion of the drilling; in this sub-subparagraph,
21 well data include all analyses conducted on physical material, and well
22 logs collected from the well and sample analyses; testing geophysical
23 and velocity data including vertical seismic profiles and check shot
24 surveys; testing data and analyses; age data; geochemical analyses; and
25 access to tangible material; and

26 (iii) the commissioner of natural resources must make
27 an affirmative determination as to whether the geological objective of
28 the well is a potential oil or gas trap that is distinctly separate from any
29 trap that has been tested by a preexisting well and what information
30 under (ii) of this subparagraph must be submitted by the explorer after
31 completion, abandonment, or suspension under AS 31.05.030; the

1 commissioner of natural resources shall make that determination within
2 60 days after receiving all the necessary information from the explorer
3 based on the information received and on other information the
4 commissioner of natural resources considers relevant;

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

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

14 * **Sec. 39.** AS 43.55.025(d) is amended to read:

15 (d) To be eligible for the **30** [20] percent production tax credit authorized by
16 (a)(2) of this section or the 40 percent production tax credit authorized by (a)(3) of this
17 section, an exploration expenditure must

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

19 (2) be for an exploration well that is located not less than 25 miles
20 outside of the outer boundary, as delineated on July 1, 2003, of any unit that is under a
21 plan of development, except that for an exploration well for a Cook Inlet prospect to
22 qualify under this paragraph, the exploration well must be located not less than 10
23 miles outside the outer boundary, as delineated on July 1, 2003, of any unit that is
24 under a plan of development.

25 * **Sec. 40.** AS 43.55.025(f) is amended to read:

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

27 (1) an explorer shall, in a form prescribed by the department and,
28 **except for a credit under (l) of this section,** within six months of the completion of
29 the exploration activity, claim the credit and submit information sufficient to
30 demonstrate to the department's satisfaction that the claimed exploration expenditures
31 qualify under this section; **in addition, the explorer shall submit information**

1 **necessary for the commissioner of natural resources to evaluate the validity of the**
2 **explorer's compliance with the requirements of this section;**

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

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

22 (B) to provide to the Department of Natural Resources, within
23 30 days after the date of a request, **unless a longer period is provided by the**
24 **Department of Natural Resources**, specific data sets, ancillary data, and
25 reports identified in (A) of this paragraph; **in this subparagraph,**

26 **(i) a seismic or geophysical data set includes the data**
27 **for an entire seismic survey, irrespective of whether the survey**
28 **area covers nonstate land in addition to state land or land in a unit**
29 **in addition to land outside a unit;**

30 **(ii) well data include all analyses conducted on**
31 **physical material, and well logs collected from the well, results, and**

1 copies of data collected and data analyses for the well, including
2 well logs; sample analyses; testing geophysical and velocity data
3 including seismic profiles and check shot surveys; testing data and
4 analyses; age data; geochemical analyses; and tangible material;

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

8 (i) in the case of well data, until the expiration of the
9 24-month period of confidentiality described in AS 31.05.035(c)
10 [FOR 10 YEARS FOLLOWING THE COMPLETION DATE], at
11 which time the Department of Natural Resources [THAT
12 DEPARTMENT] will release the information after 30 days' public
13 notice unless, in the discretion of the commissioner of natural
14 resources, it is necessary to protect information relating to the
15 valuation of unleased acreage in the same vicinity, or unless the
16 well is on private land and the owner, including the lessor but not
17 the lessee, of the oil and gas resources has not given permission to
18 release the well data;

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

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

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

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

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

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

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

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

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

18 **and**

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

22 * **Sec. 41.** AS 43.55.025(g) is amended to read:

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

27 * **Sec. 42.** AS 43.55.025(h) is amended to read:

28 (h) A producer that purchases a production tax credit certificate may apply the
29 credits against its production tax **levied by** [LIABILITY UNDER] AS 43.55.011(e)
30 [OR (f)]. Regardless of the price the producer paid for the certificate, the producer
31 may receive a credit against its production tax liability for the full amount of the

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

3 * **Sec. 43.** AS 43.55.025(i) is repealed and reenacted to read:

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

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

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

11 * **Sec. 44.** AS 43.55.025(k) is amended by adding a new paragraph to read:

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

15 * **Sec. 45.** AS 43.55.025 is amended by adding a new subsection to read:

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

21 (1) have been for seismic exploration that

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

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

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

30 * **Sec. 46.** AS 43.55 is amended by adding a new section to read:

31 **Sec. 43.55.028. Oil and gas tax credit fund established; cash purchases of**

1 **tax credit certificates.** (a) The oil and gas tax credit fund is established as a separate
2 fund of the state. The purpose of the fund is to purchase certain transferable tax credit
3 certificates issued under AS 43.55.023 and certain production tax credit certificates
4 issued under AS 43.55.025.

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

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

10 (2) earnings on the fund.

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

16 (1) \$60 a barrel or higher, the applicable percentage is 10 percent;

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

18 (d) The department shall manage the fund.

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

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

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

31 (3) the amount expended for the purchase would not exceed the total of

1 qualified capital expenditures and successful bids described in (2) of this subsection
2 that have not been the subject of a finding made under this paragraph for purposes of a
3 previous purchase of a certificate;

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

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

9 (6) the applicant's average daily production of oil and gas taxable
10 under AS 43.55.011(e) during the calendar year preceding the calendar year in which
11 the application is made was not more than 50,000 BTU equivalent barrels; and

12 (7) the purchase is consistent with this section and regulations adopted
13 under this section.

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

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

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

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

23 * **Sec. 47.** AS 43.55.030(a) is amended to read:

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

31 (1) a description of each lease or property from which [THE] oil **or**

1 [AND] gas **was** [WERE] produced, by name, legal description, lease number, or
2 accounting codes assigned by the department;

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

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

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

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

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

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

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

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

24 * **Sec. 48.** AS 43.55.030(d) is amended to read:

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

1 **this title. In this subsection, "report" includes a statement.**

2 * **Sec. 49.** AS 43.55.030 is amended by adding new subsections to read:

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

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

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

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

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

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

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

22 (4) lease expenditures and adjustments under AS 43.55.165 and
23 43.55.170;

24 (5) joint interest billings;

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

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

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

30 * **Sec. 50.** 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 otherwise,
5 additional information that is considered by the department as necessary to compute
6 the amount of the tax; notwithstanding any contrary provision of law, the disclosure of
7 additional information under this paragraph to the producer obligated to pay the tax
8 does not violate AS 40.25.100(a) or AS 43.05.230(a); before disclosing information
9 under this paragraph that is otherwise required to be held confidential under
10 AS 40.25.100(a) or AS 43.05.230(a), the department shall

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

14 (B) impose appropriate conditions limiting

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

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

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

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

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

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

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

28 **(5) require a producer, an explorer, or an operator of a lease or**
29 **property to file reports and copies of records that the department considers**
30 **necessary to forecast state revenue under this chapter; in the case of reports and**
31 **copies of records relating to proposed, expected, or approved unit expenditures**

1 for a unit for which one or more working interest owners other than the operator
2 have authority to approve unit expenditures, the required reports and copies of
3 records are limited to those reports or copies of records that constitute or disclose
4 communications between the operator and the working interest owners relating
5 to unit budget matters;

6 (6) require a producer that has an average total production in the
7 state of more than 100,000 barrels a day for a calendar year to report the gross
8 value at the point of production of the producer's taxable oil and gas in the state
9 for a calendar year and the total amount of lease expenditures in the state for
10 that calendar year; and

11 (7) assess against a person required under this section to file a
12 report, statement, or other document a penalty, as determined by the department
13 under standards adopted in regulation by the department, of not more than
14 \$1,000 for each day the person fails to file the report, statement, or other
15 document after notice by the department; the penalty is in addition to any
16 penalties under AS 43.05.220 and 43.05.290 and is assessed, collected, and paid in
17 the same manner as a tax deficiency under this title; the penalty shall bear
18 interest at the rate specified under AS 43.05.225(1).

19 * **Sec. 51.** AS 43.55 is amended by adding a new section to read:

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

23 (b) A decision of a regulatory agency, court, or other body with authority to
24 resolve disputes that results in a retroactive change to a lease expenditure, to an
25 adjustment to a lease expenditure, to costs of transportation, to sale price, to prevailing
26 value, or to consideration of quality differentials relating to the commingling of oils
27 has a corresponding effect, either an increase or decrease, as applicable, on the
28 production tax value of oil or gas or the amount or availability of a tax credit as
29 determined under this chapter. For purposes of this section, a change to a lease
30 expenditure includes a change in the categorization of a lease expenditure as a
31 qualified capital expenditure or as not a qualified capital expenditure. The producer

1 shall

2 (1) within 60 days after the change, notify the department in writing;

3 and

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

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

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

14 (2) within 120 days after the final determination of the alteration,
15 modification, recomputation, or deficiency, file amended returns covering all affected
16 periods.

17 (d) In this section,

18 (1) "qualified capital expenditure" has the meaning given in
19 AS 43.55.023;

20 (2) "return" includes a report, a statement, and an amended return,
21 report, or statement.

22 * **Sec. 52.** AS 43.55.110 is amended by adding new subsections to read:

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

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

28 (g) Notwithstanding AS 44.62, the department may issue, for the information
29 and guidance of producers, explorers, and other interested persons, advisory bulletins
30 stating the department's interpretation of provisions of this chapter and of regulations
31 adopted under this chapter. Unless otherwise provided by the department by

1 regulation, interpretations stated in the advisory bulletins are not binding on the
2 department or others.

3 (h) Subject to legislative appropriation, the department may compensate a
4 person who provides information to the department about noncompliance with the
5 provisions of this chapter by an explorer or a producer of oil or gas if that information
6 leads to the collection of additional taxes, penalties, or interest from the producer. The
7 amount of compensation under this subsection may not exceed the lesser of \$500,000
8 or 10 percent of the additional tax, penalty, or interest collected as a result of the
9 information. A state employee or an agent of the state is not eligible for compensation
10 under this subsection.

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

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

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

19 * **Sec. 53.** AS 43.55.150 is amended to read:

20 **Sec. 43.55.150. Determination of gross value at the point of production.** (a)

21 For the purposes of AS 43.55.011 - 43.55.180, the gross value at the point of
22 production is calculated using the **actual** [REASONABLE] costs of transportation of
23 the oil or gas [. THE REASONABLE COSTS OF TRANSPORTATION ARE THE
24 ACTUAL COSTS], except when the

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

28 (2) contract for the transportation of oil or gas is not an arm's length
29 transaction [OR IS NOT REPRESENTATIVE OF THE MARKET VALUE OF
30 THAT TRANSPORTATION]; **or** [AND]

31 (3) method **or terms** of transportation of oil or gas **are** [IS] not

1 reasonable in view of existing alternative [METHODS OF] transportation **options**.

2 (b) If the department finds that **a condition** [THE CONDITIONS] in (a)(1),
3 (2), **or** [AND] (3) of this section **is** [ARE] present, **the gross value at the point of**
4 **production is calculated using the actual costs of transportation, or the**
5 **reasonable costs of transportation as determined under this subsection,**
6 **whichever is lower. The** [THE] department shall determine the reasonable costs of
7 transportation, using the fair market value of like transportation, the fair market value
8 of equally efficient and available alternative modes of transportation, or other
9 reasonable methods. Transportation costs fixed by tariff rates **that have been**
10 **adjudicated as just and reasonable by** [PROPERLY ON FILE WITH] the
11 Regulatory Commission of Alaska or **another** [OTHER] regulatory agency **and**
12 **transportation costs in an arm's length transaction paid by parties not affiliated**
13 **with an owner of the method of transportation** shall be considered prima facie
14 reasonable.

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

17 (1) the amount of loss of or damage to, or of expense incurred due to
18 the loss of or damage to, a vessel used to transport oil if the loss, damage, or expense
19 is incurred in connection with a catastrophic oil discharge from the vessel into the
20 marine or inland waters of the state;

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

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

28 * **Sec. 54.** AS 43.55.160(a) is amended to read:

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

30 (1) AS 43.55.011(e), the annual production tax value of the taxable

31 (A) oil and gas produced during a calendar year from leases or

1 properties in the state that include land north of 68 degrees North latitude is the
2 gross value at the point of production of the oil and gas taxable under
3 AS 43.55.011(e) and produced by the producer from those leases or properties,
4 less the producer's lease expenditures under AS 43.55.165 for the calendar year
5 applicable to the oil and gas produced by the producer from those leases or
6 properties, as adjusted under AS 43.55.170; **this subparagraph does not**
7 **apply to gas subject to AS 43.55.011(o);**

8 (B) oil and gas produced during a calendar year from leases or
9 properties in the state outside the Cook Inlet sedimentary basin, no part of
10 which is north of 68 degrees North latitude, is the gross value at the point of
11 production of the oil and gas taxable under AS 43.55.011(e) and produced by
12 the producer from those leases or properties, less the producer's lease
13 expenditures under AS 43.55.165 for the calendar year applicable to the oil and
14 gas produced by the producer from those leases or properties, as adjusted under
15 AS 43.55.170; **this subparagraph does not apply to gas subject to**
16 **AS 43.55.011(o);**

17 (C) oil produced during a calendar year from a lease or
18 property in the Cook Inlet sedimentary basin is the gross value at the point of
19 production of the oil taxable under AS 43.55.011(e) and produced by the
20 producer from that lease or property, less the producer's lease expenditures
21 under AS 43.55.165 for the calendar year applicable to the oil produced by the
22 producer from that lease or property, as adjusted under AS 43.55.170;

23 (D) gas produced during a calendar year from a lease or
24 property in the Cook Inlet sedimentary basin is the gross value at the point of
25 production of the gas taxable under AS 43.55.011(e) and produced by the
26 producer from that lease or property, less the producer's lease expenditures
27 under AS 43.55.165 for the calendar year applicable to the gas produced by the
28 producer from that lease or property, as adjusted under AS 43.55.170;

29 **(E) gas produced during a calendar year from a lease or**
30 **property outside the Cook Inlet sedimentary basin and used in the state is**
31 **the gross value at the point of production of that gas taxable under**

1 AS 43.55.011(e) and produced by the producer from that lease or
2 property, less the producer's lease expenditures under AS 43.55.165 for
3 the calendar year applicable to that gas produced by the producer from
4 that lease or property, as adjusted under AS 43.55.170;

5 (2) AS 43.55.011(g), the monthly production tax value of the taxable

6 (A) oil and gas produced during a month from leases or
7 properties in the state that include land north of 68 degrees North latitude is the
8 gross value at the point of production of the oil and gas taxable under
9 AS 43.55.011(e) [AS 43.55.011(g)] and produced by the producer from those
10 leases or properties, less 1/12 of the producer's lease expenditures under
11 AS 43.55.165 for the calendar year applicable to the oil and gas produced by
12 the producer from those leases or properties, as adjusted under AS 43.55.170;
13 this subparagraph does not apply to gas subject to AS 43.55.011(o);

14 (B) oil and gas produced during a month from leases or
15 properties in the state outside the Cook Inlet sedimentary basin, no part of
16 which is north of 68 degrees North latitude, is the gross value at the point of
17 production of the oil and gas taxable under AS 43.55.011(e) [AS 43.55.011(g)]
18 and produced by the producer from those leases or properties, less 1/12 of the
19 producer's lease expenditures under AS 43.55.165 for the calendar year
20 applicable to the oil and gas produced by the producer from those leases or
21 properties, as adjusted under AS 43.55.170; this subparagraph does not
22 apply to gas subject to AS 43.55.011(o);

23 (C) oil produced during a month from a lease or property in the
24 Cook Inlet sedimentary basin is the gross value at the point of production of
25 the oil taxable under AS 43.55.011(e) [AS 43.55.011(g)] and produced by the
26 producer from that lease or property, less 1/12 of the producer's lease
27 expenditures under AS 43.55.165 for the calendar year applicable to the oil
28 produced by the producer from that lease or property, as adjusted under
29 AS 43.55.170;

30 (D) gas produced during a month from a lease or property in
31 the Cook Inlet sedimentary basin is the gross value at the point of production

1 of the gas taxable under AS 43.55.011(e) [AS 43.55.011(g)] and produced by
2 the producer from that lease or property, less 1/12 of the producer's lease
3 expenditures under AS 43.55.165 for the calendar year applicable to the gas
4 produced by the producer from that lease or property, as adjusted under
5 AS 43.55.170;

6 (E) gas produced during a month from a lease or property
7 outside the Cook Inlet sedimentary basin and used in the state is the gross
8 value at the point of production of that gas taxable under AS 43.55.011(e)
9 and produced by the producer from that lease or property, less 1/12 of the
10 producer's lease expenditures under AS 43.55.165 for the calendar year
11 applicable to that gas produced by the producer from that lease or
12 property, as adjusted under AS 43.55.170.

13 * **Sec. 55.** AS 43.55.160(b) is amended to read:

14 (b) A production tax value calculated under [(a) OF] this section may not be
15 less than zero.

16 * **Sec. 56.** AS 43.55.160(c) is amended to read:

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

23 * **Sec. 57.** AS 43.55.160(e) is amended to read:

24 (e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that
25 would otherwise be deductible by a producer in a calendar year but whose deduction
26 would cause an annual production tax value calculated under (a)(1) of this section of
27 taxable oil or gas produced during the calendar year to be less than zero may be used
28 to establish a carried-forward annual loss under AS 43.55.023(b). However, the
29 department shall provide by regulation a method to ensure that, for a period for
30 which a producer's tax liability is limited by AS 43.55.011(j), (k), or (o), any
31 adjusted lease expenditures under AS 43.55.165 and 43.55.170 that would

1 otherwise be deductible by a producer for that period but whose deduction would
2 cause a production tax value calculated under (a)(1)(C), (D), or (E) of this section
3 to be less than zero are accounted for as though the adjusted lease expenditures
4 had first been used as deductions in calculating the production tax values of oil or
5 gas subject to any of the limitations under AS 43.55.011(j), (k), or (o) that have
6 positive production tax values so as to reduce the tax liability calculated without
7 regard to the limitation to the maximum amount provided for under the
8 applicable provision of AS 43.55.011(j), (k), or (o). Only the amount of those
9 adjusted lease expenditures remaining after the accounting provided for under
10 this subsection may be used to establish a carried-forward annual loss under
11 AS 43.55.023(b). In this subsection, "producer" includes "explorer."

12 * **Sec. 58.** AS 43.55.165(a) is repealed and reenacted to read:

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

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

16 (A) incurred by the producer during the calendar year after
17 March 31, 2006, to explore for, develop, or produce oil or gas deposits located
18 within the producer's leases or properties in the state or, in the case of land in
19 which the producer does not own an operating right, operating interest, or
20 working interest, to explore for oil or gas deposits within other land in the
21 state; and

22 (B) allowed by the department by regulation, based on the
23 department's determination that the costs satisfy the following three
24 requirements:

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

27 (ii) the costs must be ordinary and necessary costs of
28 exploring for, developing, or producing, as applicable, oil or gas
29 deposits; and

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

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

4 * **Sec. 59.** AS 43.55.165(b) is amended to read:

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

6 (1) direct costs include

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

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

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

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

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

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

31 **(B) standards adopted by the Department of Natural**

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

4 * **Sec. 60.** AS 43.55.165(e) is amended to read:

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

6 (1) depreciation, depletion, or amortization;

7 (2) oil or gas royalty payments, production payments, lease profit
8 shares, or other payments or distributions of a share of oil or gas production, profit, or
9 revenue, **except that a producer's lease expenditures applicable to oil and gas**
10 **produced from a lease issued under AS 38.05.180(f)(3)(B), (D), or (E) include the**
11 **share of net profit paid to the state under that lease;**

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

13 (4) interest or other financing charges or costs of raising equity or debt
14 capital;

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

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

19 (7) fines or penalties imposed by law;

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

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

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

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

29 (12) **an expenditure otherwise deductible under (b) of this section**
30 **that is a result of** [FOR A TRANSACTION THAT IS] **an internal transfer, a**
31 **transaction with an affiliate, or a transaction between related parties,** or is

1 otherwise not an arm's length transaction, **unless the producer establishes to the**
2 **satisfaction of the department that the amount of the expenditure does not exceed**
3 **the** [EXPENDITURES INCURRED THAT ARE IN EXCESS OF] fair market value
4 **of the expenditure;**

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

9 (14) a tax levied under AS 43.55.011;

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

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

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

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

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

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

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

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

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

8 (B) "hazardous substance" has the meaning given in
9 AS 46.03.826;

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

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

22 (21) costs of lobbying, public relations, public relations
23 advertising, or policy advocacy.

24 * Sec. 61. AS 43.55.165(h) is amended to read:

25 (h) The department shall adopt regulations that provide for reasonable
26 methods of allocating costs between oil and gas, between gas subject to
27 AS 43.55.011(o) and other gas, and between leases or properties in those
28 circumstances where an allocation of costs is required to determine [THE
29 DETERMINATION OF THE] lease expenditures that are costs of exploring for,
30 developing, or producing oil deposits or costs of exploring for, developing, or
31 producing gas deposits [APPLICABLE TO OIL OR TO GAS], or that are costs of

1 exploring for, developing, or producing oil or gas deposits located within
2 [APPLICABLE TO OIL AND GAS PRODUCED FROM] different leases or
3 properties [, REQUIRES AN ALLOCATION OF COSTS].

4 * **Sec. 62.** AS 43.55.165 is amended by adding new subsections to read:

5 (k) For purposes of AS 43.55.160, for a calendar year after 2006 and before
6 2010, a producer's total lease expenditures, before adjustment under AS 43.55.170,
7 that are applicable to oil and gas produced by the producer from all leases or
8 properties from which 1,000,000,000 BTU equivalent barrels of oil or gas have been
9 cumulatively produced by the close of 2006 and from which the average daily oil and
10 gas production during 2006 exceeded 100,000 BTU equivalent barrels as the unit
11 boundaries were defined on January 1, 2007, are determined under this subsection and
12 (l) of this section. Except as otherwise provided under (l) of this section, the
13 producer's total lease expenditures, other than qualified capital expenditures, (1) for
14 calendar year 2007, are equal to the product of 1.37 multiplied by the total lease
15 expenditures for calendar year 2006, other than qualified capital expenditures, that are
16 applicable to oil and gas produced by the producer from all leases or properties within
17 the unit, as reported on the producer's statement under AS 43.55.030(a) for calendar
18 year 2006, and (2) for a calendar year after 2007, are equal to the product of 1.03
19 multiplied by the total lease expenditures, other than qualified capital expenditures,
20 determined for the previous calendar year under this subsection. The producer's total
21 lease expenditures for a calendar year after 2006 that are applicable to oil and gas
22 produced by the producer from all leases or properties within a unit subject to this
23 subsection are the sum of the producer's qualified capital expenditures incurred during
24 the calendar year that are applicable to that oil and gas plus the lease expenditures,
25 other than qualified capital expenditures, that are applicable to that oil and gas as
26 determined under this subsection and (l) of this section. If a producer whose lease
27 expenditures for 2006 are used to determine lease expenditures for a later calendar
28 year under this subsection transfers an interest in an affected lease or property to a
29 different producer or if the unit area of the applicable unit is changed from the area as
30 it existed on December 31, 2006, the transferee's lease expenditures applicable to oil
31 and gas produced by the transferee from the lease or property and a producer's lease

1 expenditures applicable to oil or gas produced from a lease or property within a unit
2 area as it existed on December 31, 2006, continue to be determined under this
3 subsection using those 2006 lease expenditures. In this subsection, "qualified capital
4 expenditures" has the meaning given in AS 43.55.023.

5 (l) If, after audit by the department of a producer's statement or amended
6 statement under AS 43.55.030(a) for calendar year 2006, the department finally
7 determines that the reported amount of total lease expenditures, other than qualified
8 capital expenditures, for calendar year 2006 applicable to oil and gas produced by the
9 producer from all leases or properties within a unit subject to (k) of this section
10 exceeds by more than 10 percent the actual amount of those lease expenditures, other
11 than qualified capital expenditures, the producer or transferee, as applicable, shall (1)
12 substitute the actual amount of those lease expenditures, other than qualified capital
13 expenditures, for purposes of the calculations set out in (k) of this section, and (2) file
14 amended statements for affected past tax periods within 60 days after the final
15 determination. The commissioner may adjust the deduction applicable under (k) of
16 this section on changes in unit boundaries.

17 * **Sec. 63.** AS 43.55.170(a) is amended to read:

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

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

27 (2) a reimbursement or similar payment that offsets the producer's
28 lease expenditures, including an insurance recovery from a third-party insurer and a
29 payment from the state or federal government for reimbursement of the producer's
30 upstream costs, including costs for gathering, separating, cleaning, dehydration,
31 compressing, or other field handling associated with the production of oil or gas

1 upstream of the point of production;

2 (3) the sale or other transfer of

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

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

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

15 (B) oil or gas

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

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

20 * **Sec. 64.** AS 43.55 is amended by adding new sections to article 4 to read:

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

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

28 (2) the amount of taxes levied under this chapter or paid under this
29 chapter;

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

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

- 1 (5) the transportation costs for oil or gas;
- 2 (6) qualified capital expenditures, as defined in AS 43.55.023;
- 3 (7) exploration expenditures under AS 43.55.025;
- 4 (8) production tax values of oil or gas under AS 43.55.160;
- 5 (9) lease expenditures under AS 43.55.165;
- 6 (10) adjustments to lease expenditures under AS 43.55.170;
- 7 (11) tax credits applicable or potentially applicable against taxes levied
- 8 by this chapter.

9 **Sec. 43.55.895. Applicability to municipal entities.** (a) Notwithstanding
10 AS 29.35.670(a) or other provision of law, a producer that is a municipal entity is
11 subject to taxation and payment of surcharges under this chapter for oil and gas that it
12 sells to another party.

13 (b) A municipal entity subject to taxation because of this section is eligible for
14 all tax credits under this chapter to the same extent as any other producer.

15 (c) In this section, "municipal entity" means a municipality, municipally
16 owned utility, public corporation of a municipality, or entity established by more than
17 one municipality.

18 * **Sec. 65.** AS 43.55.900 is amended by adding new paragraphs to read:

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

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

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

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

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

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

3 (24) "used in the state" means delivered for consumption as fuel in the
4 state, including as fuel consumed to generate electricity.

5 * **Sec. 66.** AS 43.55.011(h), 43.55.011(l), 43.55.011(n), 43.55.165(c), and 43.55.165(d) are
6 repealed.

7 * **Sec. 67.** AS 43.55.023(f) is repealed.

8 * **Sec. 68.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 APPLICABILITY. (a) AS 43.55.075(a), enacted by sec. 51 of this Act, applies to any
11 tax liability under AS 43.55 for the production of oil and gas after December 31, 2006.

12 (b) If an application made under AS 43.55.023(f) is received by the Department of
13 Revenue before January 1, 2008, and is still outstanding on that date, the application is
14 considered to be an application under AS 43.55.028, enacted by sec. 46 of this Act.

15 * **Sec. 69.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

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

25 * **Sec. 70.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

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

31 (1) oil and gas tax audits in the Department of Revenue under the direction of

1 an oil and gas revenue audit master;

2 (2) royalty audits, including net profit share audits, in the Department of
3 Natural Resources under the direction of an oil and gas revenue audit master.

4 * **Sec. 71.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 TRANSITION: PAYMENT OF TAX; FILING. (a) A person subject to tax under
7 AS 43.55 that is required to make one or more installment payments of estimated tax or other
8 payment of tax under AS 43.55.020(a) during the period after March 31, 2006, and before the
9 effective date of sec. 22 of this Act, and under AS 43.55.020(a), as repealed and reenacted by
10 sec. 22 of this Act, for the production of oil or gas during a month after March 31, 2006, and
11 before the effective date of sec. 22 of this Act but that failed to pay the full amount of the
12 installment payments or other payment of tax required under AS 43.55 because of the
13 retroactive application of AS 43.55.165(e)(6) and (19), as amended and enacted in the
14 amendment to AS 43.55.165(e) in sec. 60 of this Act, that are retroactive to April 1, 2006,
15 under sec. 74(b) of this Act, and the retroactive application of secs. 15 - 28, 32 - 35, 53 - 61,
16 63, 65, and 66 of this Act, and that part of AS 43.55.165(e) in sec. 60 of this Act under sec.
17 74(d) of this Act, shall pay, before April 1, 2008, the balance of any tax due under AS 43.55
18 for the period after March 31, 2006, and before the effective date of this section.

19 (b) A person required to file a statement under AS 43.55.030(a), as amended by sec.
20 47 of this Act, or a statement under AS 43.55.030(e) or (f), as enacted by sec. 49 of this Act,
21 but that failed to file a statement required under AS 43.55 because of the retroactive
22 application of sections of this Act under sec. 74(d) of this Act, shall file, before April 1, 2008,
23 any statement required to have been filed after June 30, 2007, and before the effective date of
24 this section.

25 * **Sec. 72.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any
28 contrary provision of AS 44.62.240,

29 (1) if the Department of Revenue expressly designates in the regulation that
30 the regulation applies retroactively to that date, a regulation adopted by the Department of
31 Revenue to implement, interpret, make specific, or otherwise carry out secs. 15 - 28, 32 - 35,

1 53 - 61, 63, 65, and 66 of this Act may apply retroactively to July 1, 2007, except that a
2 regulation adopted by the Department of Revenue to implement, interpret, make specific, or
3 otherwise carry out AS 43.55.165(e)(6) and (19), as amended and enacted in the amendment
4 to AS 43.55.165(e) in sec. 60 of this Act, may apply retroactively to April 1, 2006, and a
5 regulation adopted by the Department of Revenue to implement, interpret, make specific, or
6 otherwise carry out AS 43.55.165(k) and (l), as enacted by sec. 62 of this Act, may apply
7 retroactively to January 1, 2007;

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

15 * **Sec. 73.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 **TRANSITION: REGULATIONS.** The Department of Natural Resources and the
18 Department of Revenue may proceed to adopt regulations to implement this Act. The
19 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
20 effective date of the law implemented by the regulation. The department shall adopt
21 regulations governing the use of tax credits under AS 43.55 for a calendar year for which the
22 applicable tax credit provisions of AS 43.55 differ as between parts of the year as a result of
23 the retroactive application of a provision of this Act.

24 * **Sec. 74.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 **RETROACTIVITY OF CERTAIN PROVISIONS OF THIS ACT.** (a) Section 41 of
27 this Act, and AS 43.55.895, enacted by sec. 64 of this Act, are retroactive to July 1, 2003.

28 (b) Section 31 of this Act and AS 43.55.165(e)(6) and (19), as amended and enacted
29 by the amendment to AS 43.55.165(e) in sec. 60 of this Act, are retroactive to April 1, 2006.

30 (c) AS 43.55.165(k) and (l), enacted by sec. 62 of this Act, are retroactive to
31 January 1, 2007.

1 (d) Except as provided in (b) of this section, secs. 15 - 28, 32 - 35, 53 - 61, 63, 65, and
2 66 of this Act are retroactive to July 1, 2007.

3 * **Sec. 75.** Sections 29, 30, 46, and 67 of this Act take effect January 1, 2008.

4 * **Sec. 76.** Sections 36 - 40 and 42 - 45 of this Act take effect July 1, 2008.

5 * **Sec. 77.** Except as provided in secs. 75 and 76 of this Act, this Act takes effect
6 immediately under AS 01.10.070(c).