

**CS FOR HOUSE BILL NO. 2001(O&G)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIFTH LEGISLATURE - SECOND SPECIAL SESSION**

**BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS**

**Offered: 10/29/07**

**Referred: Resources, Finance**

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

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to the production tax on oil and gas and to conservation surcharges on**  
2   **oil; providing a limit on the amount of tax that may be levied on the production of**  
3   **certain gas that is produced outside of the Cook Inlet sedimentary basin and south of 68**  
4   **degrees North latitude; relating to the sharing between agencies of certain information**  
5   **relating to the production tax and to oil and gas or gas only leases; expanding the**  
6   **period in which the Department of Revenue may assess the amount of oil and gas**  
7   **production tax and conservation surcharges; amending the State Personnel Act to place**  
8   **in the exempt service certain state oil and gas auditors and their immediate supervisors;**  
9   **providing for retroactive application of certain statutory and regulatory provisions**  
10   **relating to the production tax on oil and gas and conservation surcharges on oil;**  
11   **making conforming amendments; and providing for an effective date."**

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

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

2             (a) The director shall

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

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

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

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

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

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

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

27                    (8) [REPEALED]

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

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

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

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

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

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

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

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

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

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

30 (12) on request, furnish records, files, and other information  
31 related to the administration of AS 38.05.180 to the Department of Revenue for

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

[(13) REPEALED

(14) REPEALED].

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

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

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

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

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

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

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

(f) As part of the timber sale negotiations authorized by this section, the

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

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

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

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

13 (j) The commissioner

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

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

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

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

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

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

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

30 (2) may not grant a royalty modification unless the lessee or lessees  
 31 requesting the change make a clear and convincing showing that a modification of

royalty meets the requirements of this subsection and is in the best interests of the state;

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

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

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

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

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

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

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

(B) shall keep the data confidential under AS 38.05.035(a)(8) [AS 38.05.035(a)(9)] at the request of the lessee or lessees making application

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

9 (7) may

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

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

by the contractor; selection of an independent contractor under this subparagraph is not subject to AS 36.30;

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

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

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

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

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

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

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

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

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

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

(D) with the applicant's consent, amend the applicant's lease or



unitization agreement consistent with the commissioner's final decision; and

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

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

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

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

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

(42) oil and gas auditors performing

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

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

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

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

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

(a) It is unlawful for a current or former officer, employee, or agent of the state to divulge the amount of income or the particulars set out or disclosed in a report

1 or return made under this title, except

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

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

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

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

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

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

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

19 \* **Sec. 13.** AS 43.05.260(a) is amended to read:

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

26 \* **Sec. 14.** AS 43.55.011(j) is amended to read:

27 (j) For a calendar year before 2022, the total tax levied by (e) and (o) [(g)] of  
28 this section on gas produced from a lease or property in the Cook Inlet sedimentary  
29 basin may not exceed

30 (1) for a lease or property that first commenced commercial  
31 production of gas before April 1, 2006, the product obtained by multiplying (A) the

1 amount of taxable gas produced during the calendar year from the lease or property,  
 2 times (B) the average rate of tax that was imposed under this chapter on taxable gas  
 3 produced from the lease or property for the 12-month period ending on March 31,  
 4 2006, times (C) the quotient obtained by dividing the total gross value at the point of  
 5 production of the taxable gas produced from the lease or property during the 12-  
 6 month period ending on March 31, 2006, by the total amount of that gas;

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

15 \* **Sec. 15.** AS 43.55.011(k) is amended to read:

16 (k) For a calendar year before 2022, the total tax levied by (e) and (o) [(g)] of  
 17 this section on oil produced from a lease or property in the Cook Inlet sedimentary  
 18 basin may not exceed

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

27 (2) for a lease or property that first commences commercial  
 28 production of oil after March 31, 2006, the product obtained by multiplying (A) the  
 29 amount of taxable oil produced during the calendar year from the lease or property,  
 30 times (B) the average rate of tax that was imposed under this chapter on taxable oil  
 31 produced from all leases or properties in the Cook Inlet sedimentary basin for the 12-

1 month period ending on March 31, 2006, times (C) the average prevailing value for  
 2 oil produced and delivered in the Cook Inlet area for the 12-month period ending on  
 3 March 31, 2006, as determined by the department under AS 43.55.020(f).

4 \* **Sec. 16.** AS 43.55.011(l) is amended to read:

5 (l) When a limitation under (j) or (k) of this section on the tax levied  
 6 by (e) and (o) [(g)] of this section has the effect of reducing the producer's tax on oil  
 7 or gas produced from a lease or property below the amount of tax that would be  
 8 levied in the absence of that limitation, the amount of the reduction is applied first  
 9 against the tax levied by (o) [(g)] of this section. However, that tax may not be  
 10 reduced below zero.

11 \* **Sec. 17.** AS 43.55.011(m) is amended to read:

12 (m) Notwithstanding any contrary provision of AS 38.05.180(i),  
 13 AS 41.09.010, AS 43.20.043, AS 43.55.024, or 43.55.025, tax credits under  
 14 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, AS 43.55.024, and 43.55.025 that are  
 15 allocated to gas produced from leases or properties in the Cook Inlet sedimentary  
 16 basin and that are available to be applied against a tax levied by (e) of this section **for**  
 17 [ON] gas produced from leases or properties in the Cook Inlet sedimentary basin  
 18 during a calendar year may be applied only against the tax levied by (e) of this section  
 19 **for** [ON] that gas. The amount by which the amount of tax credits that are allocated  
 20 to gas produced from leases or properties in the Cook Inlet sedimentary basin and that  
 21 the producer would otherwise be allowed to use for a later calendar year or transfer to  
 22 another person exceeds the amount of tax credits whose application would reduce the  
 23 tax levied by (e) of this section **for** [ON] that gas to zero, if any, is considered the  
 24 amount of excess tax credits, and the excess tax credits are subject to the following:

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

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

31 (3) the producer shall reduce the amount of excess tax credits by the

1 total calculated under (2) of this subsection, but not to less than zero;

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

7 \* **Sec. 18.** AS 43.55.011 is amended by adding new subsections to read:

8 (o) In addition to the tax levied under (e) of this section, for each month for  
9 which the gross value at the point of production exceeds \$50 a barrel, there is levied  
10 on the producer of oil or gas a tax for all oil and gas produced that month from each  
11 lease or property in the state, less any oil and gas the ownership or right to which is  
12 exempt from taxation or constitutes a landowner's royalty interest. Except as  
13 otherwise provided under (j) and (k) of this section, the tax levied under this  
14 subsection is equal to the sum over all months of the calendar year of the amount  
15 calculated under this subsection. For each month for which this subsection applies,  
16 the tax is equal to .225 percent of the monthly gross value at the point of production  
17 of the taxable oil and gas multiplied by the number that represents the difference  
18 between (1) the quotient of the total monthly gross value at the point of production of  
19 the taxable oil and gas produced by the producer during that month divided by the  
20 amount of taxable oil and gas produced by the producer in BTU equivalent barrels,  
21 and (2) \$50. The tax levied under this subsection may not be less than zero or more  
22 than 25 percent of the gross value at the point of production of the taxable oil and gas.

23 (p) For a calendar year before 2022, the tax levied by (e) and (o) of this  
24 section for gas produced from a lease or property that is outside of the Cook Inlet  
25 sedimentary basin and no part of which is north of 68 degrees North latitude may not  
26 exceed the product of the amount of taxable gas produced during the calendar year  
27 from the lease or property, multiplied by the average rate of tax imposed under this  
28 chapter for taxable gas produced from all leases or properties in the Cook Inlet  
29 sedimentary basin, multiplied by the average prevailing value for gas delivered in the  
30 Cook Inlet area for the 12-month period ending March 31, 2006, as determined by the  
31 department under AS 43.55.020(f). This subsection applies only to gas produced from

1 a lease or property for which the start of regular deliveries of marketable gas is after  
2 December 31, 2007.

3 \* **Sec. 19.** AS 43.55.020(a) is amended to read:

4 (a) For a calendar year, a producer subject to tax under AS 43.55.011(e), (f),  
5 [(g), OR] (i), or (o), and notwithstanding that a producer may be liable for the tax  
6 under AS 43.55.011(f) rather than the tax under AS 43.55.011(e), shall pay the tax as  
7 follows:

8 (1) an installment payment of the estimated tax levied by  
9 AS 43.55.011(e) or (f), net of any tax credits applied as allowed by law, is due for  
10 each month of the calendar year on the last day of the following month; the amount of  
11 the installment payment is the sum of the amounts calculated under (2) and (3) of this  
12 subsection, but not less than zero;

13 (2) the first of the two amounts used to calculate the installment  
14 payment for a month under (1) of this subsection is equal to the remainder obtained  
15 by subtracting

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

18 (B) the total of the monthly production values calculated  
19 under [IN THE MANNER PROVIDED IN] AS 43.55.160(a)(2) of all oil and  
20 gas taxable under AS 43.55.011(e) and produced by the producer from leases  
21 or properties in the state during the month, multiplied by 22.5 percent;

22 (3) the second of the two amounts used to calculate the installment  
23 payment for a month under (1) of this subsection is the amount calculated for the  
24 month under AS 43.55.011(o) [AS 43.55.011(g)];

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

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

1 during the month; plus

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

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

10 \* **Sec. 20.** AS 43.55.020(d) is amended to read:

11 (d) In making settlement with the royalty owner for oil and gas that is taxable  
12 under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable  
13 royalty oil and gas, or may deduct taxable royalty oil or gas equivalent in value at the  
14 time the tax becomes due to the amount of the tax paid. If the total deductions of  
15 installment payments of estimated tax for a calendar year exceed the actual tax for  
16 that calendar year, the producer shall, before April 1 of the following year, refund the  
17 excess to the royalty owner. Unless otherwise agreed between the producer and the  
18 royalty owner, the amount of the tax paid under AS 43.55.011(e), (f), and (o)  
19 [AS 43.55.011(e) - (g)] on taxable royalty oil and gas for a calendar year, other than  
20 oil and gas the ownership or right to which constitutes a landowner's royalty interest,  
21 is considered to be the gross value at the point of production of the taxable royalty oil  
22 and gas produced during the calendar year multiplied by a figure that is a quotient, in  
23 which

24 (1) the numerator is the producer's total tax liability under  
25 AS 43.55.011(e), (f), and (o) [AS 43.55.011(e) - (g)] for the calendar year of  
26 production; and

27 (2) the denominator is the total gross value at the point of production  
28 of the oil and gas taxable under AS 43.55.011(e), (f), and (o) [AS 43.55.011(e) - (g)]  
29 produced by the producer from all leases and properties in the state during the  
30 calendar year.

31 \* **Sec. 21.** AS 43.55.020(g) is amended to read:

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

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

(h) Notwithstanding any contrary provision of AS 43.05.280,

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

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

or

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

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

(3) interest is allowed under (2) of this subsection only from a date that is 90 days after the later of [THE] March 31 **following the calendar year of production** [DESCRIBED IN AS 43.55.030(a)] or the date that the statement required under AS 43.55.030(a) is filed; interest is not allowed if the overpayment



1 was refunded within the 90-day period;

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

4 \* **Sec. 23.** AS 43.55.023(d) is amended to read:

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

23 \* **Sec. 24.** AS 43.55.023(i) is amended to read:

24 (i) For the purposes of this section,  
25 (1) a producer's or explorer's transitional investment expenditures are  
26 the sum of the expenditures the producer or explorer incurred after March 31, **2003**  
27 [2001], and before April 1, 2006, that would be qualified capital expenditures if they  
28 were incurred after March 31, 2006, less the sum of the payments or credits the  
29 producer or explorer received before April 1, 2006, for the sale or other transfer of  
30 assets, including geological, geophysical, or well data or interpretations, acquired by  
31 the producer or explorer as a result of expenditures the producer or explorer incurred

1 before April 1, 2006, that would be qualified capital expenditures, if they were  
2 incurred after March 31, 2006;

3 (2) a producer or explorer may elect to take a tax credit against a tax  
4 due under AS 43.55.011(e) in the amount of 20 percent of the producer's or explorer's  
5 transitional investment expenditures, but only to the extent that the amount does not  
6 exceed 1/10 of the producer's or explorer's qualified capital expenditures that are  
7 incurred during the calendar year for which the credit is taken;

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

10 (A) for any calendar year after the later of

11 (i) 2013; or

12 (ii) the sixth calendar year after the calendar year for  
13 which the producer first applies a credit under this subsection against a  
14 tax due under AS 43.55.011(e), if the producer did not have  
15 commercial production of oil or gas from a lease or property in the  
16 state before April 1, 2006;

17 (B) more than once; or

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

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

23 \* **Sec. 25.** AS 43.55.023 is amended by adding a new subsection to read:

24 (I) A person that is exempt from taxation under this chapter may not apply for  
25 a transferable tax credit certificate.

26 \* **Sec. 26.** AS 43.55.030(a) is amended to read:

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

oath, in a form prescribed by the department, giving, with other information required, the following:

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

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

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

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

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

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

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

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

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

\* **Sec. 27.** AS 43.55.030 is amended by adding new subsections to read:

(e) An explorer or producer that incurs a lease expenditure under AS 43.55.165 or receives a payment or credit under AS 43.55.170 during a calendar year but does not produce oil or gas from a lease or property in the state during the calendar year shall file with the department on March 31 of the following year a

statement, under oath, in a form prescribed by the department, giving, with other information required, the following:

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

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

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

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

(2) transportation costs of the oil and gas;

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

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

(5) joint interest billings;

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

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

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

\* **Sec. 28.** AS 43.55.040 is amended to read:

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

(1) require a person engaged in production and the agent or employee of the person, and the purchaser of oil or gas, or the owner of a royalty interest in oil or gas to furnish, whether by the filing of regular statements or reports or otherwise, additional information that is considered by the department as necessary to compute the amount of the tax; notwithstanding any contrary provision of law, the disclosure

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

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

8 (B) impose appropriate conditions limiting

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

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

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

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

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

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

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

22 **(5) require a producer, an explorer, or an operator of a lease or**  
 23 **property to file reports and copies of records that the department considers**  
 24 **necessary to forecast state revenue under this chapter; in the case of reports and**  
 25 **copies of records relating to proposed, expected, or approved unit expenditures**  
 26 **for a unit for which one or more working interest owners other than the**  
 27 **operator have authority to approve unit expenditures, the required reports and**  
 28 **copies of records are limited to those reports or copies of records that constitute**  
 29 **or disclose communications between the operator and the working interest**  
 30 **owners relating to unit budget matters.**

31 \* Sec. 29. AS 43.55 is amended by adding a new section to read:

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

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

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

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

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

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

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

29                   (d) In this section,

30                               (1) "qualified capital expenditure" has the meaning given in  
 31 AS 43.55.023;

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

3 \* **Sec. 30.** AS 43.55.110 is amended by adding new subsections to read:

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

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

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

15 \* **Sec. 31.** AS 43.55.160(a) is amended to read:

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

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

18 (A) oil and gas produced during a calendar year from leases or  
19 properties in the state that include land north of 68 degrees North latitude is  
20 the gross value at the point of production of the oil and gas taxable under  
21 AS 43.55.011(e) and produced by the producer from those leases or  
22 properties, less the producer's lease expenditures under AS 43.55.165 for the  
23 calendar year applicable to the oil and gas produced by the producer from  
24 those leases or properties, as adjusted under AS 43.55.170;

25 (B) oil and gas produced during a calendar year from leases or  
26 properties in the state outside the Cook Inlet sedimentary basin, no part of  
27 which is north of 68 degrees North latitude, is the gross value at the point of  
28 production of the oil and gas taxable under AS 43.55.011(e) and produced by  
29 the producer from those leases or properties, less the producer's lease  
30 expenditures under AS 43.55.165 for the calendar year applicable to the oil  
31 and gas produced by the producer from those leases or properties, as adjusted

1 under AS 43.55.170;

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

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

14 (2) AS 43.55.020(a)(2)(B) [AS 43.55.011(g)], the monthly production  
15 tax value of the taxable

16 (A) oil and gas produced during a month from leases or  
17 properties in the state that include land north of 68 degrees North latitude is  
18 the gross value at the point of production of the oil and gas taxable under  
19 AS 43.55.011(e) [AS 43.55.011(g)] and produced by the producer from those  
20 leases or properties, less 1/12 of the producer's lease expenditures under  
21 AS 43.55.165 for the calendar year applicable to the oil and gas produced by  
22 the producer from those leases or properties, as adjusted under AS 43.55.170;

23 (B) oil and gas produced during a month from leases or  
24 properties in the state outside the Cook Inlet sedimentary basin, no part of  
25 which is north of 68 degrees North latitude, is the gross value at the point of  
26 production of the oil and gas taxable under AS 43.55.011(e)  
27 [AS 43.55.011(g)] and produced by the producer from those leases or  
28 properties, less 1/12 of the producer's lease expenditures under AS 43.55.165  
29 for the calendar year applicable to the oil and gas produced by the producer  
30 from those leases or properties, as adjusted under AS 43.55.170;

31 (C) oil produced during a month from a lease or property in



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

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

\* **Sec. 32.** AS 43.55.165(a) is amended to read:

(a) Except as provided under (e) [(c) - (e)] of this section, for the purposes of AS 43.55.160, a producer's lease expenditures for a calendar year are the ordinary and necessary costs upstream of the point of production of oil and gas that are incurred during the calendar year by the producer after March 31, 2006, and that are direct costs of exploring for, developing, or producing oil or gas deposits located within the producer's leases or properties in the state or, in the case of land in which the producer does not own a working interest, that are direct costs of exploring for oil or gas deposits located within other land in the state. In determining whether costs are lease expenditures, the department shall consider, among other factors,

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

(2) the standards adopted by the Department of Natural Resources that determine the costs, other than items listed in (e) of this section, that a lessee is

1 allowed to deduct from revenue in calculating net profits under a lease issued under  
 2 AS 38.05.180(f)(3)(B), (D), or (E).

3 \* **Sec. 33.** AS 43.55.165(e) is amended to read:

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

5 (1) depreciation, depletion, or amortization;

6 (2) oil or gas royalty payments, production payments, lease profit  
 7 shares, or other payments or distributions of a share of oil or gas production, profit, or  
 8 revenue;

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

10 (4) interest or other financing charges or costs of raising equity or  
 11 debt capital;

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

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

16 (7) fines or penalties imposed by law;

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

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

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

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

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

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

(14) a tax levied under AS 43.55.011;

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

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

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

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

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

(18) that portion of expenditures, that would otherwise be qualified

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

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

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

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

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

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

13 \* Sec. 34. AS 43.55.170(a) is amended to read:

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

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

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

29 (3) the sale or other transfer of

30 (A) an asset, including geological, geophysical, or well data or  
 31 interpretations, acquired by the producer as a result of a lease expenditure or

an expenditure that would be a lease expenditure if it were incurred after March 31, 2006; for purposes of this subparagraph,

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

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

(B) oil or gas

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

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

\* **Sec. 35.** AS 43.55 is amended by adding a new section to article 4 to read:

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

(1) the amount of oil or gas production;

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

(3) the effective tax rates under this chapter;

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

(5) the transportation costs for oil or gas;

(6) qualified capital expenditures under AS 43.55.023(k);

(7) exploration expenditures under AS 43.55.025;

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

- 1 (9) lease expenditures under AS 43.55.165;
- 2 (10) adjustments to lease expenditures under AS 43.55.170;
- 3 (11) tax credits applicable or potentially applicable against taxes
- 4 levied by this chapter.

5 \* **Sec. 36.** AS 43.55.900 is amended by adding new paragraphs to read:

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

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

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

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

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

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

21 \* **Sec. 37.** AS 43.55.165(c) and 43.55.165(d) are repealed.

22 \* **Sec. 38.** AS 43.55.011(g), 43.55.011(h), and 43.55.160(c) are repealed.

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

25 **APPLICABILITY.** (a) Sections 24, 25, 32 - 34, and 37 of this Act apply to oil and  
26 gas produced after March 31, 2006.

27 (b) Sections 14 - 20, 31, and 38 of this Act apply to oil and gas produced after  
28 December 31, 2007.

29 (c) Sections 26 and 27 of this Act apply to statements and reports under  
30 AS 43.55.030(a), as amended by sec. 26 of this Act, and AS 43.55.030(e) and (f), as added  
31 by sec. 27 of this Act, required to be filed after December 31, 2007.

(d) AS 43.55.075(a), enacted by sec. 29 of this Act, applies to any tax liability under AS 43.55 with respect to which the period of limitations on assessment under AS 43.05.260 had not expired before the effective date of secs. 13 and 29 of this Act.

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

TRANSITION: ASSIGNMENT OF OIL AND GAS AUDITORS IN THE DEPARTMENT OF REVENUE AND DEPARTMENT OF NATURAL RESOURCES.

Notwithstanding any contrary provision of law, employees employed as oil and gas auditors performing production tax audits or as their immediate supervisors in the Department of Revenue and employees employed as oil and gas auditors performing royalty audits, including net profit share audits, or as their immediate supervisors in the Department of Natural Resources are assigned to the exempt service in accordance with AS 39.25.110(42), added by sec. 9 of this Act, and may not be included in the general government or supervisory collective bargaining units of state employees except as provided in this section. All oil and gas auditors performing production tax audits or royalty audits and their immediate supervisors hired before the effective date of sec. 9 of this Act have the option of (1) continuing in the general government or supervisory collective bargaining units and being subject to their respective collective bargaining agreements; or (2) being removed from those bargaining units. Those employees have 90 days from the effective date of sec. 9 of this Act to exercise the option to continue in the collective bargaining units. The option taken under this section by the employee is irrevocable. The employees choosing to be removed from those bargaining units are removed after any notice period required by a collective bargaining agreement.

**\* Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to read:

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

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

(A) secs. 24, 25, 32 - 34, and 37 of this Act may apply retroactively to



1 April 1, 2006;

2 (B) secs. 14 - 20, 26, 27, 31, and 38 of this Act may apply  
3 retroactively to January 1, 2008;

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

11 \* **Sec. 42.** The uncoded law of the State of Alaska is amended by adding a new section to  
12 read:

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

17 \* **Sec. 43.** The uncoded law of the State of Alaska is amended by adding a new section to  
18 read:

19 RETROACTIVITY OF CERTAIN PROVISIONS OF THIS ACT. Sections 24, 25,  
20 32 - 34, and 37 of this Act are retroactive to April 1, 2006.

21 \* **Sec. 44.** Sections 14 - 20, 26, 27, 31, and 38 of this Act take effect January 1, 2008.

22 \* **Sec. 45.** Except as provided in sec. 44 of this Act, this Act takes effect immediately under  
23 AS 01.10.070(c).