HOUSE BILL NO. 277

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/24/14
Referred: Resources, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

"An Act relating to the purposes of the Alaska Gasline Development Corporation to advance to develop a large-diameter natural gas pipeline project, including treatment and liquefaction facilities; establishing the large-diameter natural gas pipeline project fund; creating a subsidiary related to a large-diameter natural gas pipeline project, including treatment and liquefaction facilities; relating to the authority of the commissioner of natural resources to negotiate contracts related to North Slope natural gas projects, to enter into confidentiality agreements in support of contract negotiations and implementation, and to take custody of gas delivered to the state under an election to pay the oil and gas production tax in kind; relating to the sale, exchange, or disposal of gas delivered to the state under an election to pay the oil and gas production tax in kind; relating to the duties of the commissioner of revenue to direct the disposition of revenues received from gas delivered to the state in kind and to consult with the

commissioner of natural resources on the custody and disposition of gas delivered to the state in kind; relating to the authority of the commissioner of natural resources to propose modifications to existing state oil and gas leases; making certain information provided to the Department of Natural Resources and the Department of Revenue exempt from inspection as a public record; making certain tax information related to an election to pay the oil and gas production tax in kind exempt from tax confidentiality provisions; relating to establishing under the oil and gas production tax a gross tax rate for gas after 2021; making the alternate minimum tax on oil and gas produced north of 68 degrees North latitude after 2021 apply only to oil; relating to apportionment factors of the Alaska Net Income Tax Act; authorizing a producer's election to pay the oil and gas production tax in kind for certain gas and relating to the authorization; relating to monthly installment payments of the oil and gas production tax; relating to interest payments on monthly installment payments of the oil and gas production tax; relating to settlements between producers and royalty owners for oil and gas production tax; relating to annual statements by producers and explorers; relating to annual production tax values; relating to lease expenditures; amending the definition of gross value at the 'point of production' for gas for purposes of the oil and gas production tax; adding definitions related to natural gas terms; clarifying that credit may not be taken against the in-kind levy of the oil and gas production tax for gas for purposes of the exploration incentive credit, the oil or gas producer education credit, and the film production tax credit; making conforming amendments; and providing for an effective date."

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

*** Section 1.** AS 31.25.005 is amended to read:

Sec. 31.25.005. Purpose. The corporation shall, for the benefit of the state, to the fullest extent possible,

(1) advance an in-state natural gas pipeline as described in the July 1, 2011, project plan prepared under former AS 38.34.040 by the corporation while a subsidiary of the Alaska Housing Finance Corporation, with modifications determined by the corporation to be appropriate to develop, finance, construct, and operate an in-state natural gas pipeline in a safe, prudent, economical, and efficient manner, for the purpose of making natural gas, including propane and other hydrocarbons associated with natural gas other than oil, available to Fairbanks, the Southcentral region of the state, and other communities in the state at the lowest rates possible;

(2) endeavor to develop natural gas pipelines and other transportation mechanisms to deliver natural gas, including propane and other hydrocarbons associated with natural gas other than oil, to public utility and industrial customers in areas of the state to which the natural gas, including propane and other hydrocarbons associated with natural gas other than oil, may be delivered at commercially reasonable rates; and

(3) endeavor to develop natural gas pipelines and other transportation mechanisms that offer commercially reasonable rates for shippers and access for shippers who produce natural gas, including propane and other hydrocarbons associated with natural gas other than oil, in the state**;**

(4) advance to develop a large-diameter natural gas pipeline project other than the in-state natural gas pipeline described in (1) of this section by acquiring an equity interest in a large-diameter natural gas pipeline project through the subsidiary under AS 31.25.122;

(5) advance to develop, finance, construct, and operate facilities for liquefaction and treatment in connection with a large-diameter natural gas pipeline project other than the in-state natural gas pipeline described in (1) of this section through the subsidiary under AS 31.25.122.

*** Sec. 2.** AS 31.25.010 is amended to read:

Sec. 31.25.010. Structure. The Alaska Gasline Development Corporation is a public corporation and government instrumentality located for administrative purposes in the Department of Commerce, Community, and Economic Development, but having a legal existence independent of and separate from the state. The corporation may not be terminated as long as it has bonds, notes, or other obligations outstanding. The corporation may dissolve when no bonds, notes, or other obligations of the corporation or a subsidiary of the corporation are outstanding and the corporation or a subsidiary of the corporation is no longer engaged in the development, financing, construction, or operation of an in-state natural gas pipeline **or a large-diameter natural gas pipeline project**. Upon termination of the corporation, its rights and property pass to the state.

*** Sec. 3.** AS 31.25.080(f) is amended to read:

(f) The corporation shall, to the maximum extent practicable without delaying the progress of developing **the** [AN] in-state natural gas pipeline project **described in AS 31.25.005(1)** and without causing the in-state natural gas pipeline project **described in AS 31.25.005(1)** to become a competing natural gas pipeline project for purposes of AS 43.90.440, coordinate with and accommodate the developers of a large-diameter [IN-STATE] natural gas pipeline **project** by planning for the development and use of [COMMON] pipeline facilities from the North Slope to [THE LIVENGOOD AREA OR TO ANOTHER POINT FROM WHICH A LARGE-DIAMETER IN-STATE NATURAL GAS PIPELINE MAY BE CONSTRUCTED SOUTH TO] tidewater in either the Prince William Sound or Cook Inlet area. **The corporation may use money appropriated to the large-diameter natural gas pipeline project fund created in AS 31.25.110 for the purposes described in this subsection and may not use money appropriated to the in-state natural gas pipeline fund created in AS 31.25.100 for the purposes described in this subsection.** [IN THIS SUBSECTION, "LARGE-DIAMETER IN-STATE NATURAL GAS PIPELINE" MEANS A PIPELINE IN THE STATE WITH A DIAMETER OF 42 INCHES OR MORE.]

*** Sec. 4.** AS 31.25.100 is amended to read:

Sec. 31.25.100. In-state natural gas pipeline fund. The in-state natural gas pipeline fund is established in the corporation and consists of money appropriated to it. The corporation shall determine fund management and may contract with the Department of Revenue for fund management. Unless otherwise provided by law, money appropriated to the fund lapses into the general fund on the day this section is repealed. Interest and other income received on money in the fund shall be separately accounted for and may be appropriated to the fund. The corporation may use money appropriated to the fund without further appropriation **solely** for the cost of managing the fund and for the planning, financing, development, acquisition, maintenance, construction, and operation of **the** [AN] in-state natural gas pipeline **described in AS 31.25.005(1) and may not use money appropriated to the fund for any other purpose, including the purposes described in AS 31.25.005(4) and (5) and 31.25.080(f)**.

*** Sec. 5.** AS 31.25 is amended by adding a new section to read:

Sec. 31.25.110. Large-diameter natural gas pipeline project fund. The large-diameter natural gas pipeline project fund is established in the subsidiary and consists of money appropriated to it. The subsidiary shall determine fund management and may contract with the Department of Revenue for fund management. Interest and other income received on money in the fund shall be separately accounted for and may be appropriated to the fund. The subsidiary may use money appropriated to the fund without further appropriation for the purpose of managing the fund and for the planning, financing, acquisition, maintenance, construction, and operation of a large-diameter natural gas pipeline project, including treatment and liquefaction facilities, and may not use the money appropriated to the fund for the purpose described in AS 31.25.005(1). If money is appropriated to the fund to finance the cost of a large-diameter natural gas pipeline project described in AS 31.25.005(4) and (5), the subsidiary shall create an account in the fund for that purpose and shall hold the money appropriated for that purpose in that account. In this section, "subsidiary" means a subsidiary established under AS 31.25.122.

*** Sec. 6.** AS 31.25.120 is amended to read:

Sec. 31.25.120. Creation of subsidiaries for an in-state natural gas pipeline project. The corporation may create subsidiary corporations for the purpose of developing, constructing, operating, and financing in-state natural gas pipeline projects or other transportation mechanisms; for the purpose of aiding in the development, construction, operation, and financing of in-state natural gas pipeline projects; or for the purpose of acquiring the state's royalty share of natural gas, natural gas from the North Slope, and natural gas from other regions of the state, including the state's outer continental shelf, and making that natural gas available to markets in the state, including the delivery of natural gas, including propane and other hydrocarbons associated with natural gas other than oil, to coastal communities in the state, or for export. A subsidiary corporation created under this section may be incorporated under AS 10.20.146 - 10.20.166. **<u>Except as provided in AS 31.25.110, the</u>** [THE] corporation may transfer assets of the corporation to a subsidiary created under this section. A subsidiary created under this section may borrow money and issue bonds as evidence of that borrowing and has all the powers of the corporation that the corporation grants to it. Unless otherwise provided by the corporation, the debts, liabilities, and obligations of a subsidiary corporation created under this section are not the debts, liabilities, or obligations of the corporation. **<u>A subsidiary corporation created under this section may use money appropriated under AS 31.25.100 and may not use money appropriated under AS 31.25.110.</u>**

*** Sec. 7.** AS 31.25 is amended by adding a new section to read:

Sec. 31.25.122. Creation of a subsidiary for a large-diameter natural gas pipeline project. (a) To maximize the economic recovery and value of the state's natural gas royalties and gas tax revenues for the benefit of the people of the state, a subsidiary of the corporation is established as a public corporation and government instrumentality for administrative purposes of the corporation, but having a legal existence independent of and separate from the state and the corporation, for the purposes of acquiring a state equity interest in a large-diameter natural gas pipeline project, in natural gas treatment facilities, in liquefaction facilities, and in marine terminal facilities related to a large-diameter natural gas project, and in entities that are developing, constructing, and operating such facilities; for the purposes of financing the acquisition, capital costs and operating costs related to the state equity interests; for the purposes of supporting in the development, construction, operation, and financing a large-diameter natural gas pipeline project in which the subsidiary has an equity interest; and for the purposes of transferring net revenues received by the subsidiary related to equity interests acquired to the permanent fund and the general fund as determined by the commissioner of natural resources in consultation with the commissioner of revenue. The subsidiary created under this section may use money appropriated under AS 31.25.110 and may not use money appropriated under AS 31.25.100.

(b) The subsidiary created under this section shall be governed by a board of directors consisting of

(1) the chair of the corporation;

(2) the commissioner of natural resources;

(3) the commissioner of revenue; and

(4) four public members, one of whom is a public member of the board of directors under AS 31.25.030(a)(1).

(c) Public members of the subsidiary board shall be appointed by the governor. Subsidiary board members appointed under (b)(4) of this section shall be compensated as provided in AS 31.25.020(d). Public members of the subsidiary board serve five-year terms. A public member serves at the pleasure of the governor. The provisions of AS 31.25.030, 31.25.035, and 31.25.040 apply to the board of the subsidiary.

(d) In addition to other powers granted in this section, the subsidiary may

(1) determine the form of ownership and the operating structure of a large-diameter natural gas pipeline project developed by the subsidiary and may enter into agreements with other persons for joint ownership, joint operation, or both, of a large-diameter natural gas pipeline project;

(2) plan, finance, construct, develop, acquire, maintain, and operate a pipeline system and other transportation mechanism, including pipelines, treatment and liquefaction facilities, marine terminals, compressors, storage facilities, and other related facilities, equipment, and works of public improvement in the state to facilitate production, transportation, and delivery of natural gas or other related natural resources to the point of consumption or to the point of distribution for consumption;

(3) lease or rent facilities, structures, and properties;

(4) exercise the power of eminent domain and file a declaration of taking under AS 09.55.240 - 09.55.460 to acquire land or an interest in land that is

necessary for a large-diameter natural gas pipeline project; the exercise of powers by the subsidiary under this paragraph may not exceed the permissible exercise of the powers by the state;

(5) acquire, by purchase, lease, or gift, land, structures, real or personal property, an interest in property, a right-of-way, a franchise, an easement, or other interest in land, or an interest in or right to capacity in a pipeline system determined to be necessary or convenient for the development, financing, construction, or operation of a large-diameter natural gas pipeline project;

(6) transfer or otherwise dispose of all or part of a large-diameter natural gas pipeline project developed by the subsidiary or transfer or otherwise dispose of an interest in an asset of the subsidiary;

(7) elect to provide transportation of natural gas as a contract carrier, common carrier, or otherwise;

(8) provide light, water, security, and other services for property of the subsidiary;

(9) conduct hearings to gather and develop data consistent with the purpose and powers of the subsidiary;

(10) advocate for new capacity in the project before regulatory agencies;

(11) make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the subsidiary under this section, including a contract with a person, firm, corporation, governmental agency, or other entity;

(12) sue and be sued in its own name;

(13) adopt an official seal;

(14) adopt bylaws for the regulation of its affairs and the conduct of its business and adopt regulations and policies in connection with the performance of its functions and duties;

(15) employ fiscal consultants, engineers, attorneys, appraisers, and other consultants and employees that may, in the judgment of the subsidiary, be required and fix and pay their compensation from funds available to the subsidiary;

(16) procure insurance against a loss in connection with its operation;

(17) borrow money as provided in this chapter to carry out its corporate purposes and issue its obligations as evidence of borrowing;

(18) include in a borrowing the amounts necessary to pay financing charges, to pay interest on the obligations, and to pay the interest, consultant, advisory, and legal fees, and other expenses that are necessary or incident to the borrowing;

(19) receive, administer, and comply with the conditions and requirements of an appropriation, gift, grant, or donation of property or money;

(20) do all acts and things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied in this section;

(21) invest or reinvest, subject to its contracts with noteholders and bondholders, money or funds held by the subsidiary, including funds in the large-diameter natural gas project pipeline fund (AS 31.25.110), in obligations or other securities or investments in which banks or trust companies in the state may legally invest funds held in reserves or sinking funds or funds not required for immediate disbursement, and in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the state or the United States;

(22) enter into, as it determines to be necessary or appropriate, any swap or hedge, cap, or other contract providing for payments based on levels of or changes in interest rates or indices or in the cost or price of any commodity, supply, or expense expected to be used or incurred in connection with the acquisition, construction, or operation of any facility or property owned, leased, or operated by the subsidiary, or an option with respect to any of the foregoing.

(e) Except as provided in AS 31.25.100, the corporation may transfer assets to the subsidiary. The provisions of AS 31.25.090, 31.25.130, 31.25.140, 31.25.160, 31.25.170, 31.25.180, 31.25.190, 31.25.200, 31.25.210, 31.25.220, 31.25.230, 31.25.240, 31.25.250, 31.25.260, 31.25.270, and 31.25.390 apply to the subsidiary created under this section for a large-diameter natural gas pipeline project, and references in those sections to

(1) "the corporation" shall refer to the subsidiary created under this section; and

(2) "in-state natural gas pipeline" shall refer to a large-diameter natural gas pipeline project as described in AS 31.25.005(4) and (5).

(f) The subsidiary under this section shall employ a project coordinator, who may not be a member of the board. The project coordinator shall be appointed by the subsidiary board and serves at the pleasure of the subsidiary board. The subsidiary board may engage professional and technical advisers as independent contractors. The project coordinator may hire employees for the subsidiary and engage professional and technical advisers as independent contractors upon approval of the subsidiary board. Employees of the subsidiary created under this section are state employees in the exempt service under AS 39.25.110. The subsidiary board shall prescribe the duties and compensation of subsidiary personnel, including the project coordinator.

(g) The subsidiary may not be terminated as long as it has bonds, notes, or other obligations outstanding. Upon termination of the subsidiary, its rights and property pass to the state.

*** Sec. 8.** AS 31.25.390(5) is amended to read:

(5) "in-state natural gas pipeline" means a natural gas pipeline for transporting natural gas in the state <u>**as described in AS 31.25.005(1)**</u>;

*** Sec. 9.** AS 31.25.390 is amended by adding new paragraphs to read:

(7) "large-diameter natural gas pipeline project" means a natural gas pipeline project as described in AS 31.25.005(4) and (5) that includes facilities for treatment and liquefaction of natural gas, including any marine terminal facilities;

(8) "subsidiary board" means the governing board of a subsidiary created under AS 31.25.122.

*** Sec. 10.** AS 38.05.020(b) is amended to read:

(b) The commissioner may

(1) establish reasonable procedures and adopt reasonable regulations necessary to carry out this chapter and, whenever necessary, issue directives or orders to the director to carry out specific functions and duties; regulations adopted by the commissioner shall be adopted under AS 44.62 (Administrative Procedure Act); orders by the commissioner classifying land, issued after January 3, 1959, are not required to be adopted under AS 44.62 (Administrative Procedure Act);

(2) enter into agreements considered necessary to carry out the purposes of this chapter, including agreements with federal and state agencies;

(3) review any order or action of the director;

(4) exercise the powers and do the acts necessary to carry out the provisions and objectives of this chapter;

(5) notwithstanding the provisions of any other section of this chapter, grant an extension of the time within which payments due on any exploration license, lease, or sale of state land, minerals, or materials may be made, including payment of rental and royalties, on a finding that compliance with the requirements is or was prevented by reason of war, riots, or acts of God;

(6) classify tracts for agricultural uses;

(7) after consulting with the Board of Agriculture and Conservation (AS 03.09.010), waive, postpone, or otherwise modify the development requirements of a contract for the sale of agricultural land if

(A) the land is inaccessible by road; or

(B) transportation, marketing, and development costs render the required development uneconomic;

(8) reconvey or relinquish land or an interest in land to the federal government if

(A) the land is described in an amended application for an allotment under 43 U.S.C. 1617; and

(B) the reconveyance or relinquishment is

(i) for the purposes provided in 43 U.S.C. 1617; and

(ii) in the best interests of the state;

(9) lead and coordinate all matters relating to the state's review and authorization of resource development projects;

(10) **enter into commercial agreements with a duration of not more than two years for project services related to a North Slope natural gas project;**

(11) in consultation with the commissioner of revenue, participate in the negotiation of contracts and development of terms for inclusion in proposed contracts associated with a North Slope natural gas project; a contract

negotiated under this paragraph to which the state is a party is not effective unless the legislature authorizes the governor to execute the contract;

(12) enter into confidentiality agreements to maintain the confidentiality of information related to contract negotiations and contract implementation associated with a North Slope natural gas project; information under those confidentiality agreements is not subject to AS 40.25 (Alaska Public Records Act), except that

(A) the terms of a proposed contract that the commissioner presents to the legislature for the purpose of obtaining authorization for the governor to execute is not confidential; and

(B) confidential information obtained under this paragraph may be shared with the legislature only in committees held in executive session or under confidentiality agreements;

(13) exercise the powers and do the acts necessary to carry out the provisions and objectives of AS 43.90 that relate to this chapter.

*** Sec. 11.** AS 38.05.020(b), as amended by sec. 10 of this Act, is amended to read:

(b) The commissioner may

(1) establish reasonable procedures and adopt reasonable regulations necessary to carry out this chapter and, whenever necessary, issue directives or orders to the director to carry out specific functions and duties; regulations adopted by the commissioner shall be adopted under AS 44.62 (Administrative Procedure Act); orders by the commissioner classifying land, issued after January 3, 1959, are not required to be adopted under AS 44.62 (Administrative Procedure Act);

(2) enter into agreements considered necessary to carry out the purposes of this chapter, including agreements with federal and state agencies;

(3) review any order or action of the director;

(4) exercise the powers and do the acts necessary to carry out the provisions and objectives of this chapter;

(5) notwithstanding the provisions of any other section of this chapter, grant an extension of the time within which payments due on any exploration license, lease, or sale of state land, minerals, or materials may be made, including payment of

rental and royalties, on a finding that compliance with the requirements is or was prevented by reason of war, riots, or acts of God;

(6) classify tracts for agricultural uses;

(7) after consulting with the Board of Agriculture and Conservation (AS 03.09.010), waive, postpone, or otherwise modify the development requirements of a contract for the sale of agricultural land if

(A) the land is inaccessible by road; or

(B) transportation, marketing, and development costs render the required development uneconomic;

(8) reconvey or relinquish land or an interest in land to the federal government if

(A) the land is described in an amended application for an allotment under 43 U.S.C. 1617; and

(B) the reconveyance or relinquishment is

(i) for the purposes provided in 43 U.S.C. 1617; and

(ii) in the best interests of the state;

(9) lead and coordinate all matters relating to the state's review and authorization of resource development projects;

(10) enter into commercial agreements with a duration of not more than two years for project services related to a North Slope natural gas project;

(11) in consultation with the commissioner of revenue, participate in the negotiation of contracts and development of terms for inclusion in proposed contracts associated with a North Slope natural gas project; a contract negotiated under this paragraph to which the state is a party is not effective unless the legislature authorizes the governor to execute the contract;

(12) enter into confidentiality agreements to maintain the confidentiality of information related to contract negotiations and contract implementation associated with a North Slope natural gas project; information under those confidentiality agreements is not subject to AS 40.25 (Alaska Public Records Act), except that

(A) the terms of a proposed contract that the commissioner presents to the legislature for the purpose of obtaining authorization for the governor to execute is not confidential; and

(B) confidential information obtained under this paragraph may be shared with the legislature only in committees held in executive session or under confidentiality agreements;

(13) **in consultation with the commissioner of revenue, take custody of gas delivered to the state under AS 43.55.014(b) and manage the project services and disposition and sale of that gas;**

(14) exercise the powers and do the acts necessary to carry out the provisions and objectives of AS 43.90 that relate to this chapter.

*** Sec. 12.** AS 38.05.180(i) is amended to read:

(i) The commissioner may provide for the establishment of an exploration incentive credit system under which a lessee of state land drilling an exploratory well on that land may earn credits based upon the footage drilled and the region in which the well is situated. The commissioner may also provide for credits to be earned by persons performing geophysical work on state land, if that work is performed during the two seasons immediately preceding an announced lease sale and on land included within the sale area and the geophysical information is made public following the sale. Credits may not exceed 50 percent of the cost of the drilling or geophysical work. Credits may be used during a limited period established by the commissioner and may be assigned during that period. Credits may be applied against (1) royalty and rental payments for oil and gas or for gas only payable to the state or (2) taxes payable under **AS 43.55.011** [AS 43.55]. A credit may not exceed 50 percent of the payment toward which it is being applied. Amounts due the Alaska permanent fund (AS 37.13.010) shall be calculated before the application of credits under this subsection.

*** Sec. 13.** AS 38.05.180 is amended by adding a new subsection to read:

(hh) Notwithstanding any other provisions of this chapter, if the commissioner makes a written determination that a North Slope natural gas project has sufficient financial commitment for a work plan and budget necessary to support major permits and regulatory filings required by state and federal agencies, and sufficient commitment of gas by lessees, the commissioner may propose modifications to existing leases that relate to

(1) switching between taking the state's royalty gas in value and in kind to ensure that the state's actions do not unreasonably

(A) cause the lessee or other person to bear disproportionate transportation costs with respect to the state's royalty gas; or

(B) interfere with long-term marketing of natural gas by the lessee or other person;

(2) providing a method for establishing a fair market value for each component of the state's royalty gas and using appropriate adjustments to reflect fair market value deductions for actual and reasonable transportation and processing costs for the state's royalty gas from the North Slope to the first destination market; and

(3) establishing fixed royalty rates and modifying net profit shares under leases subject to this subsection.

*** Sec. 14.** AS 38.05.180(hh), as enacted in sec. 13 of this Act, is amended to read:

(hh) Notwithstanding any other provisions of this chapter, if the commissioner makes a written determination that a North Slope natural gas project has sufficient financial commitment for a work plan and budget necessary to support major permits and regulatory filings required by state and federal agencies, and sufficient commitment of gas by lessees, the commissioner may propose modifications to existing leases that relate to

(1) switching between taking the state's royalty gas in value and in kind to ensure that the state's actions do not unreasonably

(A) cause the lessee or other person to bear disproportionate transportation costs with respect to the state's royalty gas **<u>or gas delivered to the state under AS 43.55.014(b)</u>**; or

(B) interfere with long-term marketing of natural gas by the lessee or other person;

(2) providing a method for establishing a fair market value for each component of the state's royalty gas and using appropriate adjustments to reflect fair market value deductions for actual and reasonable transportation and processing costs for the state's royalty gas from the North Slope to the first destination market; and

(3) establishing fixed royalty rates and modifying net profit shares under leases subject to this subsection.

*** Sec. 15.** AS 38.05.183(a) is amended to read:

(a) The sale, exchange, or other disposal of a mineral obtained by the state as a royalty under AS 38.05.182, [OR] the sale, exchange, or other disposal in whole or in part of a right to receive future mineral production under a state lease under this chapter, **or the sale, exchange, or other disposal of gas delivered to the state under AS 43.55.014(b)** shall be by competitive bid and the sale, exchange, or other disposal made to the highest responsible bidder, except that competitive bidding is not required when the commissioner, after prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board under AS 38.06.050, determines that the best interest of the state does not require it or that no competition exists.

*** Sec. 16.** AS 38.05.183(c) is amended to read:

(c) If the commissioner determines that a sale, exchange, or other disposal of a mineral obtained by the state as a royalty under AS 38.05.182**,** [OR] of a right to receive future mineral production under a state lease under this chapter**, or of gas delivered to the state under AS 43.55.014(b)** shall be made otherwise than by competitive bid, and the Alaska Royalty Oil and Gas Development Advisory Board has been notified in writing of that determination, the commissioner shall make public in writing the specific findings and conclusions upon which that determination is based.

*** Sec. 17.** AS 38.05.183(d) is amended to read:

(d) Oil or gas taken in kind by the state as its royalty share **or gas delivered to the state under AS 43.55.014(b)** may not be sold or otherwise disposed of for export from the state until the commissioner determines that the [ROYALTY-IN-KIND] oil or gas is surplus to the present and projected intrastate domestic and industrial needs. The commissioner shall make public, in writing, the specific findings and reasons on which the determination is based.

*** Sec. 18.** AS 38.05.183(e) is amended to read:

(e) When a sale, exchange, or other disposal of oil or gas taken in kind by the state as its royalty share, or a sale, exchange, or other disposal in whole or in part of a right to receive future royalty oil or gas, under a state lease under this chapter is made other than by competitive bid, **or when a sale, exchange, or other disposal of gas delivered to the state under AS 43.55.014(b) is made other than by competitive bid,** the sale, exchange, or other disposal shall be awarded by the commissioner to the prospective buyer whose proposal offers the maximum benefits to citizens of the state. The commissioner shall consider

(1) the cash value offered;

(2) the projected effects of the sale, exchange, or other disposal on the economy of the state;

(3) the projected benefits of refining or processing the oil or gas in the state;

(4) the ability of the prospective buyer to provide refined products or by-products for distribution and sale in the state with price or supply benefits to the citizens of the state; and

(5) the criteria listed in AS 38.06.070(a).

*** Sec. 19.** AS 38.05.965 is amended by adding new paragraphs to read:

(26) "North Slope natural gas project" means a project to produce natural gas from state oil and gas leases that include land north of 68 degrees North latitude for transport in a gaseous state from the North Slope;

(27) "project services" means services provided by a gas treatment plant, pipeline, liquefaction facility, or marine terminal, marine transportation services, or other services necessary to take natural gas to market.

*** Sec. 20.** AS 40.25.100(a) is amended to read:

(a) Information in the possession of the Department of Revenue that discloses the particulars of the business or affairs of a taxpayer or other person**, including information under AS 38.05.020(b)(11) that is subject to a confidentiality agreement under AS 38.05.020(b)(12),** is not a matter of public record, except as provided in AS 43.05.230(i) or for purposes of investigation and law enforcement. The information shall be kept confidential except when its production is required in an official investigation, administrative adjudication under AS 43.05.405 - 43.05.499, or court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports and items, prohibit the publication of tax lists showing the names of taxpayers who are delinquent and relevant information that may assist in the collection of delinquent taxes, or prohibit the publication of records, proceedings, and decisions under AS 43.05.405 - 43.05.499.

*** Sec. 21.** AS 40.25.100, as amended by sec. 20 of this Act, is amended to read:

(a) Information in the possession of the Department of Revenue that discloses the particulars of the business or affairs of a taxpayer or other person, including information under AS 38.05.020(b)(11) that is subject to a confidentiality agreement under AS 38.05.020(b)(12), is not a matter of public record, except as provided in AS 43.05.230(i) **<u>or (k)</u>** or for purposes of investigation and law enforcement. The information shall be kept confidential except when its production is required in an official investigation, administrative adjudication under AS 43.05.405 - 43.05.499, or court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports and items, prohibit the publication of tax lists showing the names of taxpayers who are delinquent and relevant information that may assist in the collection of delinquent taxes, or prohibit the publication of records, proceedings, and decisions under AS 43.05.405 - 43.05.499.

*** Sec. 22.** AS 40.25.120(a) is amended to read:

(a) Every person has a right to inspect a public record in the state, including public records in recorders' offices, except

(1) records of vital statistics and adoption proceedings, which shall be treated in the manner required by AS 18.50;

(2) records pertaining to juveniles unless disclosure is authorized by law;

(3) medical and related public health records;

(4) records required to be kept confidential by a federal law or regulation or by state law;

(5) to the extent the records are required to be kept confidential under 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure

or retain federal assistance;

(6) records or information compiled for law enforcement purposes, but only to the extent that the production of the law enforcement records or information

(A) could reasonably be expected to interfere with enforcement proceedings;

(B) would deprive a person of a right to a fair trial or an impartial adjudication;

(C) could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a suspect, defendant, victim, or witness;

(D) could reasonably be expected to disclose the identity of a confidential source;

(E) would disclose confidential techniques and procedures for law enforcement investigations or prosecutions;

(F) would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law; or

(G) could reasonably be expected to endanger the life or physical safety of an individual;

(7) names, addresses, and other information identifying a person as a participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the advance college tuition savings program under AS 14.40.803 - 14.40.817;

(8) public records containing information that would disclose or might lead to the disclosure of a component in the process used to execute or adopt an electronic signature if the disclosure would or might cause the electronic signature to cease being under the sole control of the person using it;

(9) reports submitted under AS 05.25.030 concerning certain collisions, accidents, or other casualties involving boats;

(10) records or information pertaining to a plan, program, or procedures for establishing, maintaining, or restoring security in the state, or to a detailed description or evaluation of systems, facilities, or infrastructure in the state, but only to the extent that the production of the records or information

(A) could reasonably be expected to interfere with the implementation or enforcement of the security plan, program, or procedures;

(B) would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or

(C) could reasonably be expected to endanger the life or physical safety of an individual or to present a real and substantial risk to the public health and welfare;

(11) the written notification regarding a proposed regulation provided under AS 24.20.105 to the Department of Law and the affected state agency and communications between the Legislative Affairs Agency, the Department of Law, and the affected state agency under AS 24.20.105;

(12) records that are

(A) proprietary, privileged, or a trade secret in accordance with AS 43.90.150 or 43.90.220(e);

(B) applications that are received under AS 43.90 until notice is published under AS 43.90.160;

(13) information of the Alaska Gasline Development Corporation created under AS 31.25.010 or a subsidiary of the Alaska Gasline Development Corporation that is confidential by law or under a valid confidentiality agreement**;**

(14) information under AS 38.05.020(b)(11) that is subject to a confidentiality agreement under AS 38.05.020(b)(12).

*** Sec. 23.** AS 43.05.010 is amended to read:

Sec. 43.05.010. Duties of the commissioner. The commissioner of revenue shall

(1) exercise general supervision and direct the activities of the Department of Revenue;

(2) supervise the fiscal affairs and responsibilities of the department;

(3) prescribe uniform rules for investigations and hearings;

(4) keep a record of all departmental proceedings, record and file all bonds, and assume custody of returns, reports, papers, and documents of the

department;

(5) adopt a seal and affix it to each order, process, or certificate issued by the commissioner;

(6) keep a record of each order, process, and certificate issued by the commissioner, and keep the record open to public inspection at all reasonable times;

(7) hold hearings and investigations necessary for the administration of state tax and revenue laws;

(8) except as provided in AS 43.05.405 - 43.05.499 and in AS 44.64.030, hear and determine appeals of a matter within the jurisdiction of the Department of Revenue and enter orders on the appeals that are final unless reversed or modified by the courts;

(9) issue subpoenas to require the attendance of witnesses and the production of necessary books, papers, documents, correspondence, and other things;

(10) order the taking of depositions before a person competent to administer oaths;

(11) administer oaths and take acknowledgments;

(12) request the attorney general for rulings on the interpretation of the tax and revenue laws administered by the department;

(13) call upon the attorney general to institute actions for recovery of unpaid taxes, fees, excises, additions to tax, penalties, and interest;

(14) issue warrants for the collection of unpaid tax penalties and interest and take all steps necessary and proper to enforce full and complete compliance with the tax, license, excise, and other revenue laws of the state;

(15) report to the legislature before February 15 of each year the total amount of contributions reported and the total amount of credit claimed during the previous calendar year under AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, and AS 43.77.045**;**

(16) consult with the commissioner of natural resources on negotiation of contracts and development of terms for inclusion in proposed contracts associated with a North Slope natural gas project.

*** Sec. 24.** AS 43.05.010, as amended by sec. 23 of this Act, is amended to read:

Sec. 43.05.010. Duties of the commissioner. The commissioner of revenue shall

(1) exercise general supervision and direct the activities of the Department of Revenue;

(2) supervise the fiscal affairs and responsibilities of the department;

(3) prescribe uniform rules for investigations and hearings;

(4) keep a record of all departmental proceedings, record and file all bonds, and assume custody of returns, reports, papers, and documents of the department;

(5) adopt a seal and affix it to each order, process, or certificate issued by the commissioner;

(6) keep a record of each order, process, and certificate issued by the commissioner, and keep the record open to public inspection at all reasonable times;

(7) hold hearings and investigations necessary for the administration of state tax and revenue laws;

(8) except as provided in AS 43.05.405 - 43.05.499 and in AS 44.64.030, hear and determine appeals of a matter within the jurisdiction of the Department of Revenue and enter orders on the appeals that are final unless reversed or modified by the courts;

(9) issue subpoenas to require the attendance of witnesses and the production of necessary books, papers, documents, correspondence, and other things;

(10) order the taking of depositions before a person competent to administer oaths;

(11) administer oaths and take acknowledgments;

(12) request the attorney general for rulings on the interpretation of the tax and revenue laws administered by the department;

(13) call upon the attorney general to institute actions for recovery of unpaid taxes, fees, excises, additions to tax, penalties, and interest;

(14) issue warrants for the collection of unpaid tax penalties and interest and take all steps necessary and proper to enforce full and complete compliance with the tax, license, excise, and other revenue laws of the state;

(15) report to the legislature before February 15 of each year the total amount of contributions reported and the total amount of credit claimed during the previous calendar year under AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, and AS 43.77.045;

(16) consult with the commissioner of natural resources on negotiation of contracts and development of terms for inclusion in proposed contracts associated with a North Slope natural gas project**;**

(17) direct the disposition of revenues received from gas delivered to the state under AS 43.55.014(b) by entering into agreements with the commissioner of natural resources related to the management of the custody and disposition of gas delivered to the state under AS 43.55.014(b).

*** Sec. 25.** AS 43.05.230 is amended by adding a new subsection to read:

(k) The name of each person that the department has allowed to make an election under AS 43.55.014(a) and the amount of gas produced from each lease or property to which an effective election under AS 43.55.014 applies is public information.

*** Sec. 26.** AS 43.20.144(f) is amended to read:

(f) The extraction factor of a taxpayer subject to this section is a fraction,

(1) the numerator of which is the sum of the following for the tax period:

(A) the number of barrels of the taxpayer's oil (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer in this state; and

(B) one-sixth of the number of Mcf of the taxpayer's gas**, including gas subject to an election under AS 43.55.014,** (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer in this state, excluding reinjected gas; and

(2) the denominator of which is the sum of the following for the tax period:

(A) the number of barrels of oil of the taxpayer's consolidated business (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer's consolidated business everywhere; and

(B) one-sixth of the number of Mcf of gas**<u>, including gas subject to an election under AS 43.55.014,</u>** of the taxpayer's consolidated business (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer's consolidated business everywhere, excluding reinjected gas.

*** Sec. 27.** AS 43.55.011(e) is amended to read:

(e) There is levied on the producer of oil or gas a tax for all oil and gas produced each calendar year from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest **<u>or for which a tax is levied by AS 43.55.014</u>**. Except as otherwise provided under (f), (j), (k), (o), and (p) of this section, **<u>for oil and gas produced</u>**

(1) before January 1, 2014, the tax is equal to the sum of

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

(B) the sum, over all months of the calendar year, of the tax amounts determined under (g) of this section;

(2) on and after January 1, 2014, **<u>and before January 1, 2022,</u>** the tax is equal to the annual production tax value of the taxable oil and gas as calculated under AS 43.55.160(a)(1) multiplied by 35 percent**<u>;</u>**

<u>(3) on and after January 1, 2022, the tax for</u>

<u>(A) oil is equal to the annual production tax value of the taxable oil as calculated under AS 43.55.160(h) multiplied by 35 percent;</u>

<u>(B) gas is equal to 10.5 percent of the gross value at the point of production of the taxable gas; if the gross value at the point of production of gas produced from a lease or property is less than zero, that gross value at the point of production is considered zero for purposes of this subparagraph</u>.

*** Sec. 28.** AS 43.55.011(f) is amended to read:

(f) The levy of tax under **<u>(e) of</u>** this section for

(1) oil and gas produced **before January 1, 2022, from leases or properties that include land** north of 68 degrees North latitude, other than [OIL AND GAS PRODUCTION SUBJECT TO (i) OF THIS SECTION AND] gas subject to (o) of this section, may not be less than

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

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

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

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

(E) [(5)] zero percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is $15 or less**; and**

(2) oil produced on and after January 1, 2022, from leases or properties that include land north of 68 degrees North latitude, may not be less than

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

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

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

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

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

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

Sec. 43.55.014. Payment in kind of tax for gas. (a) For gas produced on and after January 1, 2022, from oil and gas leases that have been modified under AS 38.05.180(hh), other than gas described in (e) of this section, the department may allow a producer to make an irrevocable election, under regulations adopted by the department, to pay a production tax in kind levied by this section in lieu of the tax otherwise levied for the gas by AS 43.55.011(e).

(b) A production tax in kind is levied by this section equal to 10.5 percent of the gas otherwise taxable under AS 43.55.011(e)(3) produced from each lease or property to which an effective election under (a) of this section applies, when and as that gas is produced. The producer shall pay the tax in kind by delivering that 10.5 percent of the gas to the state at the entrance of the transportation facility specified by the state.

(c) The Department of Natural Resources shall manage under AS 38.05.020(b)(13) the custody and disposition of gas delivered to the state under (b) of this section.

(d) If a deficiency in a tax levied by this section is assessed, or if a provision of this title providing for interest or a penalty based on a percentage of a tax liability or tax deficiency applies to gas for which a tax is levied by this section, the amount of the deficiency and the tax amount on which the interest or penalty percentage is calculated is treated for the purpose only of that calculation as having been levied by AS 43.55.011(e) rather than this section.

(e) This section does not apply to gas

(1) flared, released, or allowed to escape upstream of the point of production of gas; or

(2) used in the operation of a lease or property in the state for drilling for or producing oil or gas, or for repressuring a reservoir.

*** Sec. 30.** AS 43.55.019(a) is amended to read:

(a) A producer of oil or gas is allowed a credit against the tax **levied by AS 43.55.011(e)** [DUE UNDER THIS CHAPTER] for cash contributions accepted for

(1) direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association;

(2) secondary school level vocational education courses, programs, and facilities by a school district in the state;

(3) vocational education courses, programs, and facilities by a state-operated vocational technical education and training school;

(4) a facility or an annual intercollegiate sports tournament by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association;

(5) Alaska Native cultural or heritage programs and educational support, including mentoring and tutoring, provided by a nonprofit agency for public school staff and for students who are in grades kindergarten through 12 in the state;

(6) education, research, rehabilitation, and facilities by an institution that is located in the state and that qualifies as a coastal ecosystem learning center

under the Coastal America Partnership established by the federal government; and

(7) the Alaska higher education investment fund under AS 37.14.750.

*** Sec. 31.** AS 43.55.019(e) is amended to read:

(e) The credit under this section may not reduce a person's tax liability under **AS 43.55.011(e)** [THIS CHAPTER] to below zero for any tax year. An unused credit or portion of a credit not used under this section for a tax year may not be sold, traded, transferred, or applied in a subsequent tax year.

*** Sec. 32.** AS 43.55.020(a) is amended to read:

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

(1) **for oil and gas produced** before January 1, 2014, an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; except as otherwise provided under (2) of this subsection, the amount of the installment payment is the sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount of the installment payment may not be less than zero:

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

(i) zero; or

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

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

(i) zero;

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

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

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

(i) zero; or

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

(D) for oil and gas subject to AS 43.55.011(p), the lesser of

(i) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil and gas under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated, but not less than zero; or

(ii) four percent of the gross value at the point of production of the oil and gas produced from the leases or properties during the month, but not less than zero;

(2) an amount calculated under (1)(C) of this subsection for oil or gas subject to AS 43.55.011(j), (k), or (o) may not exceed the product obtained by carrying out the calculation set out in AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable gas produced during the month for the amount of taxable gas produced during the calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the amount of taxable oil produced during the month for the amount of taxable oil produced during the calendar year;

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

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

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

(4) any amount of tax levied by AS 43.55.011, net of any credits applied as allowed by law, that exceeds the total of the amounts due as installment

payments of estimated tax is due on March 31 of the year following the calendar year of production;

(5) **<u>for oil and gas produced</u>** on and after January 1, 2014, **<u>and before January 1, 2022,</u>** an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; except as otherwise provided under (6) of this subsection, the amount of the installment payment is the sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount of the installment payment may not be less than zero:

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

(i) zero; or

(ii) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil and gas under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;

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

(i) zero;

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

(iii) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil and gas under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from those leases or properties during the month for which the installment payment is calculated, except that, for the purposes of this calculation, a reduction from the gross value at the point of production may apply for oil and gas subject to AS 43.55.160(f) or (g);

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

(i) zero; or

(ii) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 for the oil or gas, respectively, produced from the lease or property from the gross value at the point of production of the oil or gas, respectively, produced from the lease or property during the month for which the installment payment is calculated;

(D) for oil and gas subject to AS 43.55.011(p), the lesser of

(i) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil and gas under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated, but not less than zero; or

(ii) four percent of the gross value at the point of production of the oil and gas produced from the leases or properties during the month, but not less than zero;

(6) an amount calculated under (5)(C) of this subsection for oil or gas subject to AS 43.55.011(j), (k), or (o) may not exceed the product obtained by

carrying out the calculation set out in AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable gas produced during the month for the amount of taxable gas produced during the calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the amount of taxable oil produced during the month for the amount of taxable oil produced during the calendar year**;**

(7) for oil and gas produced on or after January 1, 2022, an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; the amount of the installment payment is the sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount of the installment payment may not be less than zero:

(A) for oil produced from leases or properties that include land north of 68 degrees North latitude, the greatest of

(i) zero;

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

(iii) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil under AS 43.55.160(h)(1) from the gross value at the point of production of the oil produced from those leases or properties during the month for which the installment payment is calculated, except that, for the purposes of this calculation, a reduction from the gross value at the point of production may apply for oil subject to AS 43.55.160(f) or

43.55.160(f) and (g);

(B) for oil produced before or during the last calendar year under AS 43.55.024(b) for which the producer could take a tax credit under AS 43.55.024(a), from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, other than leases or properties subject to AS 43.55.011(p), the greater of

(i) zero; or

(ii) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil under AS 43.55.160(h)(2) from the gross value at the point of production of the oil produced from the leases or properties during the month for which the installment payment is calculated;

(C) for oil and gas produced from leases or properties subject to AS 43.55.011(p), except as otherwise provided under (8) of this subsection, the sum of

(i) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil under AS 43.55.160(h)(3) from the gross value at the point of production of the oil produced from the leases or properties during the month for which the installment payment is calculated, but not less than zero; and

(ii) 10.5 percent of the gross value at the point of production of the gas produced from the leases or properties during the month, but not less than zero;

(D) for oil produced from leases or properties in the state, no part of which is north of 68 degrees North latitude, other than leases or properties subject to (B) or (C) of this paragraph, the greater of

(i) zero; or

(ii) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil under AS 43.55.160(h)(4) from the gross value at the point of production of the oil produced from the leases or properties during the month for which the installment payment is calculated;

(E) for gas produced from each lease or property in the state, other than a lease or property subject to AS 43.55.011(p), 10.5 percent of the gross value at the point of production of the gas produced from the lease or property during the month for which the installment payment is calculated, but not less than zero;

(8) an amount calculated under (7)(C) of this subsection may not exceed four percent of the gross value at the point of production of the oil and gas produced from leases or properties subject to AS 43.55.011(p) during the month for which the installment payment is calculated;

(9) for purposes of the calculation under (1)(B)(ii), (5)(B)(ii), and (7)(A)(ii) of this subsection, the applicable percentage of the gross value at the point of production is determined under AS 43.55.011(f)(1) or (2) but substituting the phrase "month for which the installment payment is calculated" in AS 43.55.011(f)(1) and (2) for the phrase "calendar year for which the tax is due."

*** Sec. 33.** AS 43.55.020(g) is amended to read:

(g) Notwithstanding any contrary provision of AS 43.05.225,

(1) before January 1, 2014, an unpaid amount of an installment payment required under (a)(1) - (3) of this section that is not paid when due bears interest (A) 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 March 31 following the calendar year of production, and (B) as provided for a delinquent tax under AS 43.05.225 after that March 31; interest accrued

under (A) of this paragraph that remains unpaid after that March 31 is treated as an addition to tax that bears interest under (B) of this paragraph; an unpaid amount of tax due under (a)(4) of this section that is not paid when due bears interest as provided for a delinquent tax under AS 43.05.225;

(2) on and after January 1, 2014, an unpaid amount of an installment payment required under (a)(3), (5), [OR] (6)**, or (7)** of this section that is not paid when due bears interest (A) 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 March 31 following the calendar year of production, and (B) as provided for a delinquent tax under AS 43.05.225 after that March 31; interest accrued under (A) of this paragraph that remains unpaid after that March 31 is treated as an addition to tax that bears interest under (B) of this paragraph; an unpaid amount of tax due under (a)(4) of this section that is not paid when due bears interest as provided for a delinquent tax under AS 43.05.225.

*** Sec. 34.** 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), (2), (3), (5), (6), or (7)** [(a)(1) - (3), (5), OR (6)] 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) March 31 following the calendar year of production;

(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 March 31 following the calendar year of production 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 March 31 following the calendar year of production or the date that the statement required under AS 43.55.030(a) is filed; interest is not allowed

if the overpayment was refunded within the 90-day period;

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

*** Sec. 35.** AS 43.55.020(*l*) is amended to read:

(*l*) **For oil and gas produced on** [ON] and after January 1, 2014, **and before January 1, 2022,** in making settlement with the royalty owner for oil and gas that is taxable under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable royalty oil and gas, or may deduct taxable royalty oil or gas equivalent in value at the time the tax becomes due to the amount of the tax paid. If the total deductions of installment payments of estimated tax for a calendar year exceed the actual tax for that calendar year, the producer shall, before April 1 of the following year, refund the excess to the royalty owner. Unless otherwise agreed between the producer and the royalty owner, the amount of the tax paid under AS 43.55.011(e) on taxable royalty oil and gas for a calendar year, other than oil and gas the ownership or right to which constitutes a landowner's royalty interest, is considered to be the gross value at the point of production of the taxable royalty oil and gas produced during the calendar year multiplied by a figure that is a quotient, in which

(1) the numerator is the producer's total tax liability under **AS 43.55.011(e)(2)** [AS 43.55.011(e)] for the calendar year of production; and

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

*** Sec. 36.** AS 43.55.020 is amended by adding a new subsection to read:

(m) For oil and gas produced on and after January 1, 2022, in making settlement with the royalty owner for oil and gas that is taxable under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable royalty oil and gas, or may deduct taxable royalty oil or gas equivalent in value at the time the tax becomes due to the amount of the tax paid. If the total deductions of installment payments of estimated tax for a calendar year exceed the actual tax for that calendar year, the producer shall, before April 1 of the following year, refund the excess to the royalty owner. In making settlement with the royalty owner for gas that is taxable under

AS 43.55.014, the producer may deduct the amount of the gas paid as in kind tax on taxable royalty gas or may deduct the gross value at the point of production of the gas paid as in-kind tax on taxable royalty gas. Unless otherwise agreed between the producer and the royalty owner, the amount of the tax paid under AS 43.55.011(e) on taxable royalty oil for a calendar year, other than oil the ownership or right to which constitutes a landowner's royalty interest, is considered to be the gross value at the point of production of the taxable royalty oil produced during the calendar year multiplied by a figure that is a quotient, in which

(1) the numerator is the producer's total tax liability under AS 43.55.011(e)(3)(A) for the calendar year of production; and

(2) the denominator is the total gross value at the point of production of the oil taxable under AS 43.55.011(e) produced by the producer from all leases and properties in the state during the calendar year.

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

(a) A producer that produces oil or gas from a lease or property in the state during a calendar year, whether or not any tax payment is due under AS 43.55.020(a) for that oil or gas, 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) a description of each lease or property from which oil or gas was 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, **separately identifying the gross amount of gas produced from each lease or property to which an effective election under AS 43.55.014(a) applies, the amount of gas delivered to the state under AS 43.55.014(b),** and the percentage of the gross amount of oil and gas owned by the producer;

(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 producer and the costs of

transportation of the oil and gas;

(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;

(6) 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;

(7) the production tax values of the oil and gas under **AS 43.55.160(a) or of the oil under AS 43.55.160(h), as applicable** [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.

*** Sec. 38.** AS 43.55.160(a) is amended to read:

(a) **For oil and gas produced before January 1, 2022, except** [EXCEPT] as provided in (b), (f), and (g) of this section, for the purposes of

(1) AS 43.55.011(e)(1) **and (2)**, the annual production tax value of taxable oil, gas, or oil and gas produced during a calendar year in a category for which a separate annual production tax value is required to be calculated under this paragraph is the gross value at the point of production of that oil, gas, or oil and gas taxable under AS 43.55.011(e), less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil, gas, or oil and gas in that category produced by the producer during the calendar year, as adjusted under AS 43.55.170; a separate annual production tax value shall be calculated for

(A) oil and gas produced from leases or properties in the state that include land north of 68 degrees North latitude, other than gas produced before 2022 and used in the state;

(B) oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude and that qualifies for a tax credit under AS 43.55.024(a) and (b); this subparagraph does not apply to

(i) gas produced before 2022 and used in the state; or

(ii) oil and gas subject to AS 43.55.011(p);

(C) oil produced before 2022 from each lease or property in the Cook Inlet sedimentary basin;

(D) gas produced before 2022 from each lease or property in the Cook Inlet sedimentary basin;

(E) gas produced before 2022 from each lease or property in the state outside the Cook Inlet sedimentary basin and used in the state, other than gas subject to AS 43.55.011(p);

(F) oil and gas subject to AS 43.55.011(p) produced from leases or properties in the state;

(G) oil and gas produced from leases or properties in the state no part of which is north of 68 degrees North latitude, other than oil or gas described in (B), (C), (D), (E), or (F) of this paragraph;

(2) AS 43.55.011(g), for oil and gas produced before January 1, 2014, the monthly production tax value of the taxable

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

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

AS 43.55.011(o);

(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) 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) 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;

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

*** Sec. 39.** AS 43.55.160(e) is amended to read:

(e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer in a calendar year but whose deduction would cause an annual production tax value calculated under (a)(1) <u>**or (h)**</u> of this section of taxable oil or gas produced during the calendar year to be less than zero may be used to establish a carried-forward annual loss under AS 43.55.023(b). However, the department shall provide by regulation a method to ensure that, for a period for which a producer's tax liability is limited by AS 43.55.011(j), (k), (o), or (p), any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer for that period but whose deduction would cause a production tax value calculated under (a)(1)(C), (D), (E), or (F) of this section to be less than zero are accounted for as though the adjusted lease expenditures had first been used as deductions in calculating the production tax values of oil or gas subject to any of the limitations under AS 43.55.011(j), (k), (o), or (p) that have positive production tax values so as to reduce the tax liability calculated without regard to the limitation to the maximum amount provided for under the applicable provision of AS 43.55.011(j), (k), (o), or (p). Only the amount of those adjusted lease expenditures remaining after the accounting provided for under this subsection may be used to establish a carried-forward annual loss under AS 43.55.023(b). In this subsection, "producer" includes "explorer."

*** Sec. 40.** AS 43.55.160(f) is amended to read:

(f) On and after January 1, 2014, in the calculation of an annual production tax value of a producer under **<u>(a)(1)(A) or (h)(1)</u>** [(a)(1)] of this section, the gross value at the point of production of oil or gas produced from a lease or property north of 68 degrees North latitude meeting one or more of the following criteria is reduced by 20 percent: (1) the oil or gas is produced from a lease or property that does not contain a lease that was within a unit on January 1, 2003; (2) the oil or gas is produced from a participating area established after December 31, 2011, that is within a unit formed under AS 38.05.180(p) before January 1, 2003, if the participating area does not contain a reservoir that had previously been in a participating area established before December 31, 2011; (3) the oil or gas is produced from acreage that was added to an existing participating area by the Department of Natural Resources on and after January 1, 2014, and the producer demonstrates to the department that the volume of oil or gas produced is from acreage added to an existing participating area. This subsection does not apply to gas produced before 2022 that is used in the state **<u>or to gas produced on and after January 1, 2022</u>**. A reduction under this subsection may not reduce the gross value at the point of production below zero. In this subsection, "participating area" means a reservoir or portion of a reservoir producing or contributing to production as approved by the Department of Natural Resources.

*** Sec. 41.** AS 43.55.160(g) is amended to read:

(g) On and after January 1, 2014, in addition to the reduction under (f) of this section, in the calculation of an annual production tax value of a producer under

(a)(1)(A) or (h)(1) [(a)(1)] of this section, the gross value at the point of production of oil or gas produced from a lease or property **north of 68 degrees North latitude** that does not contain a lease that was within a unit on January 1, 2003, is reduced by 10 percent if the oil or gas is produced from a unit made up solely of leases that have a royalty share of more than 12.5 percent in amount or value of the production removed or sold from the lease as determined under AS 38.05.180(f). This subsection does not apply if the royalty obligation for one or more of the leases in the unit has been reduced to 12.5 percent or less under AS 38.05.180(j) for all or part of the calendar year for which the annual production tax value is calculated. This subsection does not apply to gas produced before 2022 that is used in the state **or to gas produced on and after January 1, 2022**. A reduction under this subsection may not reduce the gross value at the point of production below zero.

*** Sec. 42.** AS 43.55.160 is amended by adding a new subsection to read:

(h) For oil produced on and after January 1, 2022, except as provided in (b), (f), and (g) of this section, for the purposes of AS 43.55.011(e)(3), the annual production tax value of oil taxable under AS 43.55.011(e) produced by a producer during a calendar year

(1) from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of that oil, less the producer's lease expenditures under AS 43.55.165 for the calendar year incurred to explore for, develop, or produce oil or gas deposits located in the state north of 68 degrees North latitude or located in leases or properties in the state that include land north of 68 degrees North latitude, as adjusted under AS 43.55.170;

(2) before or during the last calendar year under AS 43.55.024(b) for which the producer could take a tax credit under AS 43.55.024(a), from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, other than leases or properties subject to AS 43.55.011(p), is the gross value at the point of production of that oil, less the producer's lease expenditures under AS 43.55.165 for the calendar year incurred to explore for, develop, or produce oil or gas deposits located in the state outside the Cook Inlet sedimentary basin and south of 68 degrees North latitude, other than oil or

gas deposits located in a lease or property that includes land north of 68 degrees North latitude or that is subject to AS 43.55.011(p) or, before January 1, 2027, from which commercial production has not begun, as adjusted under AS 43.55.170;

(3) from leases or properties subject to AS 43.55.011(p) is the gross value at the point of production of that oil, less the producer's lease expenditures under AS 43.55.165 for the calendar year incurred to explore for, develop, or produce oil or gas deposits located in leases or properties subject to AS 43.55.011(p) or, before January 1, 2027, located in leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude from which commercial production has not begun, as adjusted under AS 43.55.170;

(4) from leases or properties in the state no part of which is north of 68 degrees North latitude, other than leases or properties subject to (2) or (3) of this subsection, is the gross value at the point of production of that oil less the producer's lease expenditures under AS 43.55.165 for the calendar year incurred to explore for, develop, or produce oil or gas deposits located in the state south of 68 degrees North latitude, other than oil or gas deposits located in a lease or property in the state that includes land north of 68 degrees North latitude, and excluding lease expenditures that are deductible under (2) or (3) of this subsection or would be deductible under (2) or (3) of this subsection if not prohibited by (b) of this section, as adjusted under AS 43.55.170.

*** Sec. 43.** AS 43.55.165(e) is amended to read:

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

(1) depreciation, depletion, or amortization;

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

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

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

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

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

(7) fines or penalties imposed by law;

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

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

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

(11) surcharges levied under AS 43.55.201 or 43.55.300;

(12) an expenditure otherwise deductible under (b) of this section that is a result of an internal transfer, a transaction with an affiliate, or a transaction between related parties, or is otherwise not an arm's length transaction, unless the producer establishes to the satisfaction of the department that the amount of the expenditure does not exceed the fair market value of the expenditure;

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

(14) a tax levied under AS 43.55.011 **or 43.55.014**;

(15) 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; 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;

(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, 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) and (b) 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;

(C) "replacement" includes renovation or improvement;

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

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

*** Sec. 44.** AS 43.55.900(10) is amended to read:

(10) "gas processing plant" means a facility that

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

(B) is located upstream of **<u>the inlet of</u>** any **<u>pipeline transporting gas to a</u>** gas treatment **<u>plant</u>** and upstream of the inlet of any gas pipeline system transporting gas to a market;

*** Sec. 45.** AS 43.55.900(20) is amended to read:

(20) "point of production" means

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

(B) for gas [, OTHER THAN GAS DESCRIBED IN (C) OF THIS PARAGRAPH,] that is

(i) not subjected to or recovered by mechanical separation or run through a gas processing plant, the **furthest upstream of the** first point where the gas is accurately metered**, the inlet of any pipeline transporting the gas to a gas treatment plant, or the inlet of any gas pipeline system transporting gas to a market**;

(ii) subjected to or recovered by mechanical separation but not run through a gas processing plant, the **furthest upstream of the** first point where the gas is accurately metered after completion of mechanical separation**, the inlet of any pipeline transporting the gas to a gas treatment plant, or the inlet of any gas pipeline system transporting gas to a market**;

(iii) run through a gas processing plant, the **furthest upstream of the** first point where the gas is accurately metered downstream of the plant**, the inlet of any pipeline transporting the gas to a gas treatment plant, or the inlet of any gas pipeline system transporting gas to a market**;

[(C) FOR GAS RUN THROUGH AN INTEGRATED GAS PROCESSING PLANT AND GAS TREATMENT FACILITY THAT DOES NOT ACCURATELY METER THE GAS AFTER THE GAS PROCESSING AND BEFORE THE GAS TREATMENT, THE FIRST POINT WHERE GAS PROCESSING IS COMPLETED OR WHERE GAS TREATMENT BEGINS, WHICHEVER IS FURTHER UPSTREAM;]

*** Sec. 46.** AS 43.55.900 is amended by adding a new paragraph to read:

(25) "gas treatment plant" means a facility that performs gas treatment, regardless of whether the facility also performs gas processing.

*** Sec. 47.** AS 43.98.030(c) is amended to read:

(c) A taxpayer acquiring a transferable tax credit certificate may use the credit or a portion of the credit to offset taxes imposed under AS 21.09.210, AS 21.66.110, AS 43.20, **<u>AS 43.55.011</u>** [AS 43.55], AS 43.56, AS 43.65, AS 43.75, and AS 43.77. Except as provided in (e) of this section, any portion of the credit not used may be used at a later period or transferred under (b) of this section.

*** Sec. 48.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Revenue and the Department of Natural Resources may adopt regulations to implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the provisions of this Act being implemented.

*** Sec. 49.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the catch line of AS 38.05.183 from "Sale of royalty" to "Sale of royalty and of gas delivered to the state under AS 43.55.014(b)."

*** Sec. 50.** Sections 1 - 10, 12, 13, 19, 20, 22, 23, 30, 31, 47, and 48 of this Act take effect immediately under AS 01.10.070(c).

*** Sec. 51.** Except as provided in sec. 50 of this Act, this Act takes effect January 1, 2015.