

2d CS FOR HOUSE BILL NO. 247(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Offered: 5/12/16

Referred: Today's Calendar

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the powers and duties of the Alaska Oil and Gas Conservation
2 Commission; relating to exploration incentive credits; relating to confidential
3 information status and public record status of information in the possession of the
4 Department of Revenue; relating to interest applicable to delinquent tax; relating to the
5 oil and gas production tax rate for certain oil exempt from taxation or constituting a
6 landowner's royalty interest; relating to oil and gas production tax credits; relating to
7 tax credit certificates; relating to the calculation of the production tax value of oil and
8 gas; relating to refunds for the gas storage facility tax credit, the liquefied natural gas
9 storage facility tax credit, and the qualified in-state oil refinery infrastructure
10 expenditures tax credit; relating to the purchase of tax credit certificates from the oil
11 and gas tax credit fund; relating to lease expenditures; relating to oil and gas lease
12 expenditures and production tax credits for municipal entities; requiring a bond or cash

1 deposit with a business license application for an oil or gas business; establishing a
2 legislative working group to study the fiscal regime and tax structure and rates for oil
3 and gas produced south of 68 degrees North latitude; and providing for an effective
4 date."

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

6 * **Section 1.** AS 31.05.030 is amended by adding a new subsection to read:

- 7 (n) Upon request of the commissioner of revenue, the commission shall
- 8 (1) verify regular production for the purposes of AS 43.55.023(b) and
9 (l); and
- 10 (2) determine the commencement of regular production from a lease or
11 property for purposes of AS 43.55.160(f) and (g).

12 * **Sec. 2.** AS 38.05.036(a) is amended to read:

13 (a) The department may conduct audits regarding royalty and net profits under
14 oil and gas contracts, agreements, or leases under this chapter and regarding costs
15 related to exploration licenses entered into under AS 38.05.131 - 38.05.134 and
16 exploration incentive credits under this chapter [OR UNDER AS 41.09]. For purposes
17 of an audit under this section,

- 18 (1) the department may examine the books, papers, records, or
19 memoranda of a person regarding matters related to the audit; and
- 20 (2) the records and premises where a business is conducted shall be
21 open at all reasonable times for inspection by the department.

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

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

1 * **Sec. 4.** AS 38.05.036(c) is amended to read:

2 (c) The department may obtain from the Department of Revenue all
3 information obtained under AS 43 relating to royalty and net profits and to exploration
4 incentive credits. The department may use the information for purposes of carrying out
5 its responsibilities and functions under this chapter [AND AS 41.09]. Information
6 made available to the department that was obtained under AS 43 is confidential and
7 subject to the provisions of AS 43.05.230.

8 * **Sec. 5.** AS 38.05.036(f) is amended to read:

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

15 * **Sec. 6.** AS 38.05.036(g) is amended to read:

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

19 * **Sec. 7.** AS 40.25.100(a) is amended to read:

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

1 under AS 43.05.405 - 43.05.499.

2 * **Sec. 8.** AS 43.05.225 is amended to read:

3 **Sec. 43.05.225. Interest.** Unless otherwise provided,

4 (1) a delinquent tax under this title,

5 (A) before January 1, 2014, bears interest in each calendar
6 quarter at the rate of five percentage points above the annual rate charged
7 member banks for advances by the 12th Federal Reserve District as of the first
8 day of that calendar quarter, or at the annual rate of 11 percent, whichever is
9 greater, compounded quarterly as of the last day of that quarter; [OR]

10 (B) on and after January 1, 2014, **and before January 1, 2017,**
11 bears interest in each calendar quarter at the rate of three percentage points
12 above the annual rate charged member banks for advances by the 12th Federal
13 Reserve District as of the first day of that calendar quarter; **and**

14 **(C) on and after January 1, 2017, bears interest in each**
15 **calendar quarter at the rate of five percentage points above the annual**
16 **rate charged member banks for advances by the 12th Federal Reserve**
17 **District as of the first day of that calendar quarter, compounded quarterly**
18 **as of the last day of that quarter;**

19 (2) the interest rate is 12 percent a year for

20 (A) delinquent fees payable under AS 05.15.095(c); and

21 (B) unclaimed property that is not timely paid or delivered, as
22 allowed by AS 34.45.470(a).

23 * **Sec. 9.** AS 43.05.230 is amended by adding a new subsection to read:

24 (l) For tax credit certificates purchased by the department in the preceding
25 calendar year under AS 43.55.028, the department shall make the following
26 information public by April 30 of each year:

27 (1) the name of each person from whom the department purchased a
28 transferable tax credit certificate; and

29 (2) the aggregate amount of the tax credit certificates purchased from
30 the person in the preceding calendar year.

31 * **Sec. 10.** AS 43.20.046(e) is amended to read:

1 (e) The department may use available money in the oil and gas tax credit fund
 2 established in AS 43.55.028 to make the refund applied for under (d) of this section in
 3 whole or in part if the department finds that (1) the claimant does not have an
 4 outstanding liability to the state [FOR UNPAID DELINQUENT TAXES UNDER
 5 THIS TITLE]; and (2) after application of all available tax credits, the claimant's total
 6 tax liability under this chapter for the calendar year in which the claim is made is zero.
 7 [IN THIS SUBSECTION, "UNPAID DELINQUENT TAX" MEANS AN AMOUNT
 8 OF TAX FOR WHICH THE DEPARTMENT HAS ISSUED AN ASSESSMENT
 9 THAT HAS NOT BEEN PAID AND, IF CONTESTED, HAS NOT BEEN FINALLY
 10 RESOLVED IN THE TAXPAYER'S FAVOR.]

11 * **Sec. 11.** AS 43.20.047(e) is amended to read:

12 (e) The department may use money available in the oil and gas tax credit fund
 13 established in AS 43.55.028 to make a refund or payment under (d) of this section in
 14 whole or in part if the department finds that (1) the claimant does not have an
 15 outstanding liability to the state [FOR UNPAID DELINQUENT TAXES UNDER
 16 THIS TITLE]; and (2) after application of all available tax credits, the claimant's total
 17 tax liability under this chapter for the calendar year in which the claim is made is zero.
 18 [IN THIS SUBSECTION, "UNPAID DELINQUENT TAX" MEANS AN AMOUNT
 19 OF TAX FOR WHICH THE DEPARTMENT HAS ISSUED AN ASSESSMENT
 20 THAT HAS NOT BEEN PAID AND, IF CONTESTED, HAS NOT BEEN FINALLY
 21 RESOLVED IN THE TAXPAYER'S FAVOR.]

22 * **Sec. 12.** AS 43.20.053(e) is amended to read:

23 (e) The department may use money available in the oil and gas tax credit fund
 24 established in AS 43.55.028 to make a refund or payment under (d) of this section in
 25 whole or in part if the department finds that
 26 (1) the claimant does not have an outstanding liability to the state
 27 [FOR UNPAID DELINQUENT TAXES UNDER THIS TITLE]; and
 28 (2) after application of all available tax credits, the claimant's total tax
 29 liability under this chapter for the calendar year in which the claim is made is zero.

30 * **Sec. 13.** AS 43.55.011(i) is amended to read:

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

1 produced each calendar year from each lease or property in the state the ownership or
 2 right to which constitutes a landowner's royalty interest, except for oil and gas the
 3 ownership or right to which is exempt from taxation. **The levy of tax under this**
 4 **subsection may not be less than zero.** The provisions of this subsection apply to a
 5 landowner's royalty interest as follows:

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

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

10 (3) if the department determines that, for purposes of reducing the
 11 producer's tax liability under (1) or (2) of this subsection, the producer has received or
 12 will receive consideration from the royalty owner offsetting all or a part of the
 13 producer's royalty obligation, other than a deduction under AS 43.55.020 related to a
 14 settlement with a royalty owner of the amount of a tax paid, then, notwithstanding (1)
 15 and (2) of this subsection, the tax is equal to 25 percent of the gross value at the point
 16 of production of the oil and gas.

17 * **Sec. 14.** AS 43.55.011(m) is amended to read:

18 (m) Notwithstanding any contrary provision of [AS 38.05.180(i),
 19 AS 41.09.010,] AS 43.55.024 [,] or 43.55.025, the department shall provide by
 20 regulation a method to ensure that, for a calendar year for which a producer's tax
 21 liability is limited by (j), (k), or (o) of this section, tax credits based on a lease
 22 expenditure incurred before January 1, 2011, that are otherwise available under
 23 [AS 38.05.180(i), AS 41.09.010,] AS 43.55.024 [,] or 43.55.025 and allocated to gas
 24 subject to the limitations in (j), (k), and (o) of this section are accounted for as though
 25 the credits had been applied first against a tax liability calculated without regard to the
 26 limitations under (j), (k), and (o) of this section so as to reduce the tax liability to the
 27 maximum amount provided for under (j) or (o) of this section for the production of gas
 28 or (k) of this section for the production of oil. The regulation must provide for a
 29 reasonable method to allocate tax credits to gas subject to (j) and (o) of this section.
 30 Only the amount of a tax credit remaining after the accounting provided for under this
 31 subsection may be used for a later calendar year, transferred to another person, or

1 applied against a tax levied on the production of oil or gas not subject to (j), (k), or (o)
2 of this section to the extent otherwise allowed.

3 * **Sec. 15.** AS 43.55.023(b) is amended to read:

4 (b) Before January 1, 2014, a producer or explorer may elect to take a tax
5 credit in the amount of 25 percent of a carried-forward annual loss. For lease
6 expenditures incurred on and after January 1, 2014, and before January 1, 2016, to
7 explore for, develop, or produce oil or gas deposits located north of 68 degrees North
8 latitude, a producer or explorer may elect to take a tax credit in the amount of 45
9 percent of a carried-forward annual loss. For lease expenditures incurred on and after
10 January 1, 2016, to explore for, develop, or produce oil or gas deposits located north
11 of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in
12 the amount of 35 percent of a carried-forward annual loss. For lease expenditures
13 incurred on or after January 1, 2014, **and before January 1, 2018,** to explore for,
14 develop, or produce oil or gas deposits located south of 68 degrees North latitude, a
15 producer or explorer may elect to take a tax credit in the amount of 25 percent of a
16 carried-forward annual loss. A credit under this subsection may be applied against a
17 tax levied by AS 43.55.011(e). For purposes of this subsection, a carried-forward
18 annual loss is the amount of a producer's or explorer's adjusted lease expenditures
19 under AS 43.55.165 and 43.55.170 for a previous calendar year that was not
20 deductible in calculating production tax values for that calendar year under
21 AS 43.55.160. **For lease expenditures incurred on or after January 1, 2017, any**
22 **reduction under AS 43.55.160(f) or (g) is added back to the calculation of**
23 **production tax values for that calendar year under AS 43.55.160 for the**
24 **determination of a carried-forward annual loss under this subsection. A credit**
25 **under this subsection may be taken for lease expenditures incurred after**
26 **December 31, 2016,**

27 **(1) in the Cook Inlet sedimentary basin only if, during calendar**
28 **year 2016, the producer or explorer had regular production of oil or gas in the**
29 **Cook Inlet sedimentary basin;**

30 **(2) north of 68 degrees North latitude only if,**

31 **(A) during calendar year 2016, the producer or explorer**

1 had regular production of an average of less than 15,000 BTU equivalent
 2 barrels a day in the state; and

3 (B) the lease expenditures were incurred under a unit plan
 4 of development or a plan of exploration approved before January 1, 2017,
 5 by the commissioner of natural resources consistent with AS 38.05.180.

6 * **Sec. 16.** AS 43.55.023(d) is amended to read:

7 (d) A person that is entitled to take a tax credit under this section that wishes
 8 to transfer the unused credit to another person or obtain a cash payment under
 9 AS 43.55.028 may apply to the department for a transferable tax credit certificate. An
 10 application under this subsection must be in a form prescribed by the department and
 11 must include supporting information and documentation that the department
 12 reasonably requires. The department shall grant or deny an application, or grant an
 13 application as to a lesser amount than that claimed and deny it as to the excess, not
 14 later than 120 days after the latest of (1) March 31 of the year following the calendar
 15 year in which the [QUALIFIED CAPITAL EXPENDITURE OR] carried-forward
 16 annual loss for which the credit is claimed was incurred; (2) the date the statement
 17 required under AS 43.55.030(a) or (e) was filed for the calendar year in which the
 18 [QUALIFIED CAPITAL EXPENDITURE OR] carried-forward annual loss for which
 19 the credit is claimed was incurred; or (3) the date the application was received by the
 20 department. If, based on the information then available to it, the department is
 21 reasonably satisfied that the applicant is entitled to a credit, the department shall issue
 22 the applicant a transferable tax credit certificate for the amount of the credit. A
 23 certificate issued under this subsection does not expire.

24 * **Sec. 17.** AS 43.55.023(e) is amended to read:

25 (e) A person to which a transferable tax credit certificate is issued under (d) of
 26 this section may transfer the certificate to another person, and a transferee may further
 27 transfer the certificate. Subject to the limitations set out in **former (a) of this section**
 28 **and (b) - (d)** [(a) - (d)] of this section, and notwithstanding any action the department
 29 may take with respect to the applicant under (g) of this section, the owner of a
 30 certificate may apply the credit or a portion of the credit shown on the certificate only
 31 against a tax levied by AS 43.55.011(e). However, a credit shown on a transferable tax

1 credit certificate may not be applied to reduce a transferee's total tax liability under
 2 AS 43.55.011(e) for oil and gas produced during a calendar year to less than 80
 3 percent of the tax that would otherwise be due without applying that credit. Any
 4 portion of a credit not used under this subsection may be applied in a later period.

5 * **Sec. 18.** AS 43.55.023(l) is amended to read:

6 (l) A producer or explorer may apply for a tax credit for a well lease
 7 expenditure incurred in the state south of 68 degrees North latitude after June 30,
 8 2010, as follows:

9 (1) notwithstanding that a well lease expenditure incurred in the state
 10 south of 68 degrees North latitude may be a deductible lease expenditure for purposes
 11 of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a
 12 credit for that expenditure is taken under [(a) OF THIS SECTION, AS 38.05.180(i),
 13 AS 41.09.010,] AS 43.20.043 [,] or AS 43.55.025, a producer or explorer that incurs a
 14 well lease expenditure in the state south of 68 degrees North latitude may elect to
 15 apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of

16 (A) 40 percent of that expenditure **incurred before calendar**
 17 **year 2017;**

18 (B) **20 percent of that expenditure incurred in calendar**
 19 **year 2017 or 2018** [A TAX CREDIT UNDER THIS PARAGRAPH MAY BE
 20 APPLIED FOR A SINGLE CALENDAR YEAR];

21 (2) a producer or explorer may take a credit for a well lease
 22 expenditure incurred

23 (A) in the state south of 68 degrees North latitude in connection
 24 with geological or geophysical exploration or in connection with an
 25 exploration well only if the producer or explorer

26 (i) [(A)] agrees, in writing, to the applicable provisions
 27 of AS 43.55.025(f)(2); and

28 (ii) [(B)] submits to the Department of Natural
 29 Resources all data that would be required to be submitted under
 30 AS 43.55.025(f)(2);

31 **(B) in the Cook Inlet sedimentary basin only if, during**

1 **calendar year 2016, the producer or explorer had regular production of**
 2 **oil or gas in the Cook Inlet sedimentary basin.**

3 * **Sec. 19.** AS 43.55.024(i) is amended to read:

4 (i) A producer may apply against the producer's tax liability for the calendar
 5 year under AS 43.55.011(e) a tax credit of \$5 for each barrel of oil taxable under
 6 AS 43.55.011(e) that **receives a reduction in the gross value at the point of**
 7 **production under** [MEETS ONE OR MORE OF THE CRITERIA IN]
 8 AS 43.55.160(f) or (g) and that is produced during a calendar year after December 31,
 9 2013. A tax credit authorized by this subsection may not reduce a producer's tax
 10 liability for a calendar year under AS 43.55.011(e) below zero.

11 * **Sec. 20.** AS 43.55.024(j) is amended to read:

12 (j) A producer may apply against the producer's tax liability for the calendar
 13 year under AS 43.55.011(e) a tax credit in the amount specified in this subsection for
 14 each barrel of oil taxable under AS 43.55.011(e) that does not **receive a reduction in**
 15 **the gross value at the point of production under** [MEET ANY OF THE CRITERIA
 16 IN] AS 43.55.160(f) or (g) and that is produced during a calendar year after
 17 December 31, 2013, from leases or properties north of 68 degrees North latitude. A tax
 18 credit under this subsection may not reduce a producer's tax liability for a calendar
 19 year under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f). The
 20 amount of the tax credit for a barrel of taxable oil subject to this subsection produced
 21 during a month of the calendar year is

22 (1) \$8 for each barrel of taxable oil if the average gross value at the
 23 point of production for the month is less than \$80 a barrel;

24 (2) \$7 for each barrel of taxable oil if the average gross value at the
 25 point of production for the month is greater than or equal to \$80 a barrel, but less than
 26 \$90 a barrel;

27 (3) \$6 for each barrel of taxable oil if the average gross value at the
 28 point of production for the month is greater than or equal to \$90 a barrel, but less than
 29 \$100 a barrel;

30 (4) \$5 for each barrel of taxable oil if the average gross value at the
 31 point of production for the month is greater than or equal to \$100 a barrel, but less

1 than \$110 a barrel;

2 (5) \$4 for each barrel of taxable oil if the average gross value at the
3 point of production for the month is greater than or equal to \$110 a barrel, but less
4 than \$120 a barrel;

5 (6) \$3 for each barrel of taxable oil if the average gross value at the
6 point of production for the month is greater than or equal to \$120 a barrel, but less
7 than \$130 a barrel;

8 (7) \$2 for each barrel of taxable oil if the average gross value at the
9 point of production for the month is greater than or equal to \$130 a barrel, but less
10 than \$140 a barrel;

11 (8) \$1 for each barrel of taxable oil if the average gross value at the
12 point of production for the month is greater than or equal to \$140 a barrel, but less
13 than \$150 a barrel;

14 (9) zero if the average gross value at the point of production for the
15 month is greater than or equal to \$150 a barrel.

16 * **Sec. 21.** AS 43.55.025(m) is amended to read:

17 (m) The persons that drill the first four exploration wells in the state and
18 within the areas described in (o) of this section on state lands, private lands, or federal
19 onshore lands for the purpose of discovering oil or gas that penetrate and evaluate a
20 prospect in a basin described in (o) of this section are eligible for a credit under (a)(6)
21 of this section. A credit under this subsection may not be taken for more than two
22 exploration wells in a single area described in (o)(1) - (6) of this section. Exploration
23 expenditures eligible for the credit in this subsection **in an area described in (o)(1) -**
24 **(3), (5), or (6) of this section** must be incurred for work performed after June 1, 2012,
25 and before July 1, 2016. **Notwithstanding (b) of this section, exploration**
26 **expenditures eligible for the credit in this subsection in the area described in**
27 **(o)(4) of this section must be for work performed after June 1, 2012, and before**
28 **January 1, 2017, except that expenditures to complete an exploration well in an**
29 **area described in (o)(4) of this section that was spudded but not completed before**
30 **January 1, 2017, are eligible for the credit under this subsection.** A person
31 planning to drill an exploration well on private land and to apply for a credit under this

1 subsection shall obtain written consent from the owner of the oil and gas interest for
2 the full public release of all well data after the expiration of the confidentiality period
3 applicable to information collected under (f) of this section. The written consent of the
4 owner of the oil and gas interest must be submitted to the commissioner of natural
5 resources before approval of the proposed exploration well. In addition to the
6 requirements in (c)(1), (c)(2)(A), and (c)(2)(C) of this section and submission of the
7 written consent of the owner of the oil and gas interest, a person planning to drill an
8 exploration well shall obtain approval from the commissioner of natural resources
9 before the well is spudded. The commissioner of natural resources shall make a
10 written determination approving or rejecting an exploration well within 60 days after
11 receiving the request for approval or as soon as is practicable thereafter. Before
12 approving the exploration well, the commissioner of natural resources shall consider
13 the following: the location of the well; the proximity to a community in need of a local
14 energy source; the proximity of existing infrastructure; the experience and safety
15 record of the explorer in conducting operations in remote or roadless areas; the
16 projected cost schedule; whether seismic mapping and seismic data sufficiently
17 identify a particular trap for exploration; whether the targeted and planned depth and
18 range are designed to penetrate and fully evaluate the hydrocarbon potential of the
19 proposed prospect and reach the level below which economic hydrocarbon reservoirs
20 are likely to be found, or reach 12,000 feet or more true vertical depth; and whether
21 the exploration plan provides for a full evaluation of the wellbore below surface casing
22 to the depth of the well. Whether the exploration well for which a credit is requested
23 under this subsection is located within an area and a basin described under (o) of this
24 section shall be determined by the commissioner of natural resources and reported to
25 the commissioner. A taxpayer that obtains a credit under this subsection may not claim
26 a tax credit under AS 43.55.023 or another provision in this section for the same
27 exploration expenditure.

28 * **Sec. 22.** AS 43.55.025(m), as amended by sec. 21 of this Act, is amended to read:

29 (m) The persons that drill the first four exploration wells in the state and
30 within the areas described in (o) of this section on state lands, private lands, or federal
31 onshore lands for the purpose of discovering oil or gas that penetrate and evaluate a

1 prospect in a basin described in (o) of this section are eligible for a credit under (a)(6)
2 of this section. A credit under this subsection may not be taken for more than two
3 exploration wells in a single area described in (o)(1) - (6) of this section. Exploration
4 expenditures eligible for the credit in this subsection in an area described in (o)(1) -
5 (3), (5), or (6) of this section must be incurred for work performed after June 1, 2012,
6 and before July 1, 2016. Notwithstanding (b) of this section, exploration expenditures
7 eligible for the credit in this subsection in the area described in (o)(4) of this section
8 must be for work performed after June 1, 2012, and before January 1, 2017, except
9 that expenditures to complete an exploration well in an area described in (o)(4) of this
10 section that was spudded but not completed before January 1, 2017, are eligible for the
11 credit under this subsection. A person planning to drill an exploration well on private
12 land and to apply for a credit under this subsection shall obtain written consent from
13 the owner of the oil and gas interest for the full public release of all well data after the
14 expiration of the confidentiality period applicable to information collected under (f) of
15 this section. The written consent of the owner of the oil and gas interest must be
16 submitted to the commissioner of natural resources before approval of the proposed
17 exploration well. In addition to the requirements in (c)(1), (c)(2)(A), and (c)(2)(C) of
18 this section and submission of the written consent of the owner of the oil and gas
19 interest, a person planning to drill an exploration well shall obtain approval from the
20 commissioner of natural resources before the well is spudded. The commissioner of
21 natural resources shall make a written determination approving or rejecting an
22 exploration well within 60 days after receiving the request for approval or as soon as is
23 practicable thereafter. Before approving the exploration well, the commissioner of
24 natural resources shall consider the following: the location of the well; the proximity
25 to a community in need of a local energy source; the proximity of existing
26 infrastructure; the experience and safety record of the explorer in conducting
27 operations in remote or roadless areas; the projected cost schedule; whether seismic
28 mapping and seismic data sufficiently identify a particular trap for exploration;
29 whether the targeted and planned depth and range are designed to penetrate and fully
30 evaluate the hydrocarbon potential of the proposed prospect and reach the level below
31 which economic hydrocarbon reservoirs are likely to be found, or reach 12,000 feet or

1 more true vertical depth; and whether the exploration plan provides for a full
 2 evaluation of the wellbore below surface casing to the depth of the well. Whether the
 3 exploration well for which a credit is requested under this subsection is located within
 4 an area and a basin described under (o) of this section shall be determined by the
 5 commissioner of natural resources and reported to the commissioner. A taxpayer that
 6 obtains a credit under this subsection may not claim a tax credit under [AS 43.55.023
 7 OR] another provision in this section for the same exploration expenditure.

8 * **Sec. 23.** AS 43.55.025(o) is amended to read:

9 (o) The activity that is the basis for a credit claimed under (a)(6) and (m) of
 10 this section [OR (a)(7) AND (n) OF THIS SECTION] must be for the exploration of a
 11 basin and within the following areas whose central points are determined using the
 12 World Geographic System of 1984 datum,

13 (1) 100 miles from 66.896128 degrees North, -162.598187 degrees
 14 West;

15 (2) 150 miles from 64.839474 degrees North, -147.72094 degrees
 16 West;

17 (3) 50 miles from 62.776428 degrees North, -164.495201 degrees
 18 West;

19 (4) 50 miles from 62.110357 degrees North, -145.530551 degrees
 20 West;

21 (5) 100 miles from 58.189868 degrees North, -157.371104 degrees
 22 West;

23 (6) 100 miles from 56.005988 degrees North, -160.56083 degrees
 24 West.

25 * **Sec. 24.** AS 43.55.028(a) is amended to read:

26 (a) The oil and gas tax credit fund is established as a separate fund of the state.
 27 The purpose of the fund is to purchase transferable tax credit certificates issued under
 28 **former** AS 43.55.023 and production tax credit certificates issued under AS 43.55.025
 29 and to pay refunds and payments claimed under AS 43.20.046, 43.20.047, or
 30 43.20.053.

31 * **Sec. 25.** AS 43.55.028(e) is amended to read:

1 (e) The department, on the written application of a person to whom a
 2 transferable tax credit certificate has been issued under AS 43.55.023(d) or former
 3 AS 43.55.023(m) or to whom a production tax credit certificate has been issued under
 4 AS 43.55.025(f), may use available money in the oil and gas tax credit fund to
 5 purchase, in whole or in part, the certificate. **The department may not purchase a**
 6 **total of more than \$75,000,000 in tax credit certificates from a person in a**
 7 **calendar year. The department may purchase a certificate or part of a certificate**
 8 **only** if the department finds that

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

12 (2) the **application is not the result of the division of a single entity**
 13 **into multiple entities that would reasonably be expected to apply as a single entity**
 14 **if the \$75,000,000 limitation in this subsection did not exist** [APPLICANT DOES
 15 NOT HAVE AN OUTSTANDING LIABILITY TO THE STATE FOR UNPAID
 16 DELINQUENT TAXES UNDER THIS TITLE];

17 (3) the applicant's total tax liability under AS 43.55.011(e), after
 18 application of all available tax credits, for the calendar year in which the application is
 19 made is zero;

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

23 (5) the purchase is consistent with this section and regulations adopted
 24 under this section.

25 * **Sec. 26.** AS 43.55.028(e), as amended by sec. 25 of this Act, is amended to read:

26 (e) The department, on the written application of a person to whom a
 27 transferable tax credit certificate has been issued under **former** AS 43.55.023(d) or
 28 **(m)** [FORMER AS 43.55.023(m)] or to whom a production tax credit certificate has
 29 been issued under AS 43.55.025(f), may use available money in the oil and gas tax
 30 credit fund to purchase, in whole or in part, the certificate. The department may not
 31 purchase a total of more than \$75,000,000 in tax credit certificates from a person in a

1 calendar year. The department may purchase a certificate or part of a certificate only if
2 the department finds that

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

6 (2) the application is not the result of the division of a single entity into
7 multiple entities that would reasonably be expected to apply as a single entity if the
8 \$75,000,000 limitation in this subsection did not exist;

9 (3) the applicant's total tax liability under AS 43.55.011(e), after
10 application of all available tax credits, for the calendar year in which the application is
11 made is zero;

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

15 (5) the purchase is consistent with this section and regulations adopted
16 under this section.

17 * **Sec. 27.** AS 43.55.028(g) is amended to read:

18 (g) The department **shall** [MAY] adopt regulations to carry out the purposes
19 of this section, including standards and procedures to allocate available money among
20 applications for purchases under this chapter and claims for refunds and payments
21 under AS 43.20.046, 43.20.047, or 43.20.053 when the total amount of the
22 applications for purchase and claims for refund exceed the amount of available money
23 in the fund. The regulations adopted by the department, **when allocating available**
24 **money in the fund under this section,**

25 (1) may not [, WHEN ALLOCATING AVAILABLE MONEY IN
26 THE FUND UNDER THIS SECTION,] distinguish an application for the purchase of
27 a credit certificate issued under former AS 43.55.023(m) or a claim for a refund or
28 payment under AS 43.20.046, 43.20.047, or 43.20.053;

29 (2) **must grant a preference to an applicant if at least 80 percent of**
30 **the applicant's workforce in the state in the previous calendar year was**
31 **composed of resident workers; in this paragraph, "resident worker" has the**

1 **meaning given in AS 43.40.092(b).**

2 * **Sec. 28.** AS 43.55.028 is amended by adding a new subsection to read:

3 (j) If an applicant has an outstanding liability to the state directly related to the
4 applicant's oil or gas exploration, development, or production that has not previously
5 been the basis of a reduction by the department under this subsection, the department
6 may purchase only that portion of a certificate that exceeds the outstanding liability.
7 The department may apply the amount by which the department reduced its purchase
8 of a certificate because of an outstanding liability to satisfy the outstanding liability,
9 except that, if the outstanding liability is contested through an appeal or adjudicatory
10 proceeding already established by law, the department may apply the amount to satisfy
11 the outstanding liability only with the applicant's consent. Satisfaction of an
12 outstanding liability under this subsection does not affect the applicant's ability to
13 contest that liability. The department may enter into contracts or agreements with
14 another department to which the outstanding liability is owed.

15 * **Sec. 29.** AS 43.55.029(a) is amended to read:

16 (a) An explorer or producer that has applied for a production tax credit under
17 **AS 43.55.023(b)** [AS 43.55.023(a), (b),] or *(l)*, [OR] 43.55.025(a), **or former**
18 **AS 43.55.023(a)** may make a present assignment of the production tax credit
19 certificate expected to be issued by the department to a third-party assignee. The
20 assignment may be made either at the time the application is filed with the department
21 or not later than 30 days after the date of filing with the department. Once a notice of
22 assignment in compliance with this section is filed with the department, the
23 assignment is irrevocable and cannot be modified by the explorer or producer without
24 the written consent of the assignee named in the assignment. If a production tax credit
25 certificate is issued to the explorer or producer, the notice of assignment remains
26 effective and shall be filed with the department by the explorer or producer together
27 with any application for the department to purchase the certificate under
28 AS 43.55.028(e).

29 * **Sec. 30.** AS 43.55.029(a), as amended by sec. 29 of this Act, is amended to read:

30 (a) An explorer or producer that has applied for a production tax credit under
31 AS 43.55.023(b) [OR *(l)*], 43.55.025(a), or former AS 43.55.023(a) **or (l)** may make a

1 present assignment of the production tax credit certificate expected to be issued by the
2 department to a third-party assignee. The assignment may be made either at the time
3 the application is filed with the department or not later than 30 days after the date of
4 filing with the department. Once a notice of assignment in compliance with this
5 section is filed with the department, the assignment is irrevocable and cannot be
6 modified by the explorer or producer without the written consent of the assignee
7 named in the assignment. If a production tax credit certificate is issued to the explorer
8 or producer, the notice of assignment remains effective and shall be filed with the
9 department by the explorer or producer together with any application for the
10 department to purchase the certificate under AS 43.55.028(e).

11 * **Sec. 31.** AS 43.55.029(a), as amended by secs. 29 and 30 of this Act, is amended to read:

12 (a) An explorer or producer that has applied for a production tax credit under
13 AS 43.55.025(a) [AS 43.55.023(b), 43.55.025(a),] or former AS 43.55.023(a), ~~(b),~~ or
14 (l) may make a present assignment of the production tax credit certificate expected to
15 be issued by the department to a third-party assignee. The assignment may be made
16 either at the time the application is filed with the department or not later than 30 days
17 after the date of filing with the department. Once a notice of assignment in compliance
18 with this section is filed with the department, the assignment is irrevocable and cannot
19 be modified by the explorer or producer without the written consent of the assignee
20 named in the assignment. If a production tax credit certificate is issued to the explorer
21 or producer, the notice of assignment remains effective and shall be filed with the
22 department by the explorer or producer together with any application for the
23 department to purchase the certificate under AS 43.55.028(e).

24 * **Sec. 32.** AS 43.55.030(a) is amended to read:

25 (a) A producer that produces oil or gas from a lease or property in the state
26 during a calendar year, whether or not any tax payment is due under AS 43.55.020(a)
27 for that oil or gas, shall file with the department on March 31 of the following year a
28 statement, under oath, in a form prescribed by the department, giving, with other
29 information required, the following:

30 (1) a description of each lease or property from which oil or gas was
31 produced, by name, legal description, lease number, or accounting codes assigned by

1 the department;

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

4 (3) the gross amount of oil and the gross amount of gas produced from
5 each lease or property, separately identifying the gross amount of gas produced from
6 each oil and gas lease to which an effective election under AS 43.55.014(a) applies,
7 the amount of gas delivered to the state under AS 43.55.014(b), and the percentage of
8 the gross amount of oil and gas owned by the producer;

9 (4) the gross value at the point of production of the oil and of the gas
10 produced from each lease or property owned by the producer and the costs of
11 transportation of the oil and gas;

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

15 (6) the producer's qualified capital expenditures, [AS DEFINED IN
16 AS 43.55.023,] other lease expenditures under AS 43.55.165, and adjustments or other
17 payments or credits under AS 43.55.170;

18 (7) the production tax values of the oil and gas under AS 43.55.160(a)
19 or of the oil under AS 43.55.160(h), as applicable;

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

21 (9) calculations showing the amounts, if any, that were or are due
22 under AS 43.55.020(a) and interest on any underpayment or overpayment.

23 * **Sec. 33.** AS 43.55.030(e) is amended to read:

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

30 (1) the explorer's or producer's qualified capital expenditures, [AS
31 DEFINED IN AS 43.55.023,] other lease expenditures under AS 43.55.165, and

1 adjustments or other payments or credits under AS 43.55.170; and

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

5 * **Sec. 34.** AS 43.55.160(d) is amended to read:

6 (d) Irrespective of whether a producer produces taxable oil or gas during a
7 calendar year or month, the producer is considered to have generated a positive
8 production tax value if a calculation described in (a) of this section yields a positive
9 number because the producer's adjusted lease expenditures for a calendar year under
10 AS 43.55.165 and 43.55.170 are less than zero as a result of the producer's receiving a
11 payment or credit under AS 43.55.170. [AN EXPLORER THAT HAS TAKEN A
12 TAX CREDIT UNDER AS 43.55.023(b) OR THAT HAS OBTAINED A
13 TRANSFERABLE TAX CREDIT CERTIFICATE UNDER AS 43.55.023(d) FOR
14 THE AMOUNT OF A TAX CREDIT UNDER AS 43.55.023(b) IS CONSIDERED A
15 PRODUCER, SUBJECT TO THE TAX LEVIED UNDER AS 43.55.011(e), TO THE
16 EXTENT THAT THE EXPLORER GENERATES A POSITIVE PRODUCTION
17 TAX VALUE AS THE RESULT OF THE EXPLORER'S RECEIVING A
18 PAYMENT OR CREDIT UNDER AS 43.55.170.]

19 * **Sec. 35.** AS 43.55.160(e) is amended to read:

20 (e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that
21 would otherwise be deductible by a producer in a calendar year but whose deduction
22 would cause an annual production tax value calculated under (a)(1) or (h) of this
23 section of taxable oil or gas produced during the calendar year to be less than zero
24 may be used to establish a carried-forward annual loss under AS 43.55.023(b) **or**
25 **43.55.165(a)(3)**. However, the department shall provide by regulation a method to
26 ensure that, for a period for which a producer's tax liability is limited by
27 AS 43.55.011(j), (k), (o), or (p), any adjusted lease expenditures under AS 43.55.165
28 and 43.55.170 that would otherwise be deductible by a producer for that period but
29 whose deduction would cause a production tax value calculated under (a)(1)(C), (D),
30 (E), or (F), or (h)(3) of this section to be less than zero are accounted for as though the
31 adjusted lease expenditures had first been used as deductions in calculating the

1 production tax values of oil or gas subject to any of the limitations under
 2 AS 43.55.011(j), (k), (o), or (p) that have positive production tax values so as to
 3 reduce the tax liability calculated without regard to the limitation to the maximum
 4 amount provided for under the applicable provision of AS 43.55.011(j), (k), (o), or (p).
 5 Only the amount of those adjusted lease expenditures remaining after the accounting
 6 provided for under this subsection may be used to establish a carried-forward annual
 7 loss under AS 43.55.023(b) **or 43.55.165(a)(3). For lease expenditures incurred on**
 8 **or after January 1, 2017, a reduction in gross value at the point of production**
 9 **under (f) or (g) of this section shall be added back to the calculation of**
 10 **production tax value for the determination of a carried-forward annual loss.** In
 11 this subsection, "producer" includes "explorer."

12 * **Sec. 36.** AS 43.55.160(e), as amended by sec. 35 of this Act, is amended to read:

13 (e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that
 14 would otherwise be deductible by a producer in a calendar year but whose deduction
 15 would cause an annual production tax value calculated under (a)(1) or (h) of this
 16 section of taxable oil or gas produced during the calendar year to be less than zero
 17 may be used to establish a carried-forward annual loss under **AS 43.55.165(a)(3)**
 18 [AS 43.55.023(b) OR 43.55.165(a)(3)]. However, the department shall provide by
 19 regulation a method to ensure that, for a period for which a producer's tax liability is
 20 limited by AS 43.55.011(j), (k), (o), or (p), any adjusted lease expenditures under
 21 AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer for that
 22 period but whose deduction would cause a production tax value calculated under
 23 (a)(1)(C), (D), (E), or (F), or (h)(3) of this section to be less than zero are accounted
 24 for as though the adjusted lease expenditures had first been used as deductions in
 25 calculating the production tax values of oil or gas subject to any of the limitations
 26 under AS 43.55.011(j), (k), (o), or (p) that have positive production tax values so as to
 27 reduce the tax liability calculated without regard to the limitation to the maximum
 28 amount provided for under the applicable provision of AS 43.55.011(j), (k), (o), or (p).
 29 Only the amount of those adjusted lease expenditures remaining after the accounting
 30 provided for under this subsection may be used to establish a carried-forward annual
 31 loss under **AS 43.55.165(a)(3)** [AS 43.55.023(b) OR 43.55.165(a)(3)]. For lease

1 expenditures incurred on or after January 1, 2017, a reduction in gross value at the
 2 point of production under (f) or (g) of this section shall be added back to the
 3 calculation of production tax value for the determination of a carried-forward annual
 4 loss. In this subsection, "producer" includes "explorer."

5 * **Sec. 37.** AS 43.55.160(f) is amended to read:

6 (f) On and after January 1, 2014, in the calculation of an annual production tax
 7 value of a producer under (a)(1)(A) or (h)(1) of this section, the gross value at the
 8 point of production of oil or gas produced from a lease or property north of 68 degrees
 9 North latitude meeting one or more of the following criteria is reduced by 20 percent:
 10 (1) the oil or gas is produced from a lease or property that does not contain a lease that
 11 was within a unit on January 1, 2003; (2) the oil or gas is produced from a
 12 participating area established after December 31, 2011, that is within a unit formed
 13 under AS 38.05.180(p) before January 1, 2003, if the participating area does not
 14 contain a reservoir that had previously been in a participating area established before
 15 December 31, 2011; (3) the oil or gas is produced from acreage that was added to an
 16 existing participating area by the Department of Natural Resources on and after
 17 January 1, 2014, and the producer demonstrates to the department that the volume of
 18 oil or gas produced is from acreage added to an existing participating area. This
 19 subsection does not apply to gas produced before 2022 that is used in the state or to
 20 gas produced on and after January 1, 2022. **For oil or gas first produced after**
 21 **December 31, 2016, a reduction allowed under this subsection applies to oil or gas**
 22 **produced from a lease or property for the first 10 years after the commencement**
 23 **of regular production of oil or gas from that lease or property. For oil or gas first**
 24 **produced before January 1, 2017, a reduction allowed under this subsection for a**
 25 **lease or property expires January 1, 2026. The Alaska Oil and Gas Conservation**
 26 **Commission shall determine the commencement of regular production for**
 27 **purposes of this subsection.** A reduction under this subsection may not reduce the
 28 gross value at the point of production below zero. In this subsection, "participating
 29 area" means a reservoir or portion of a reservoir producing or contributing to
 30 production as approved by the Department of Natural Resources.

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

1 (g) On and after January 1, 2014, in addition to the reduction under (f) of this
 2 section, in the calculation of an annual production tax value of a producer under
 3 (a)(1)(A) or (h)(1) of this section, the gross value at the point of production of oil or
 4 gas produced from a lease or property north of 68 degrees North latitude that does not
 5 contain a lease that was within a unit on January 1, 2003, is reduced by 10 percent if
 6 the oil or gas is produced from a unit made up solely of leases that have a royalty
 7 share of more than 12.5 percent in amount or value of the production removed or sold
 8 from the lease as determined under AS 38.05.180(f). This subsection does not apply if
 9 the royalty obligation for one or more of the leases in the unit has been reduced to 12.5
 10 percent or less under AS 38.05.180(j) for all or part of the calendar year for which the
 11 annual production tax value is calculated. This subsection does not apply to gas
 12 produced before 2022 that is used in the state or to gas produced on and after
 13 January 1, 2022. **For oil or gas first produced after December 31, 2016, a**
 14 **reduction allowed under this subsection applies to oil or gas produced from a**
 15 **lease or property for the first 10 years after the commencement of regular**
 16 **production of oil or gas from that lease or property. For oil or gas first produced**
 17 **before January 1, 2017, a reduction allowed under this subsection for a lease or**
 18 **property expires January 1, 2026. The Alaska Oil and Gas Conservation**
 19 **Commission shall determine the commencement of regular production for**
 20 **purposes of this subsection.** A reduction under this subsection may not reduce the
 21 gross value at the point of production below zero.

22 * **Sec. 39.** AS 43.55.165(a) is amended to read:

23 (a) **For the** [EXCEPT AS PROVIDED IN (j) AND (k) OF THIS SECTION,
 24 FOR] purposes of this chapter, a producer's lease expenditures for a calendar year are
 25 (1) costs, other than items listed in (e) of this section, that are
 26 (A) incurred by the producer during the calendar year after
 27 March 31, 2006, to explore for, develop, or produce oil or gas deposits located
 28 within the producer's leases or properties in the state or, in the case of land in
 29 which the producer does not own an operating right, operating interest, or
 30 working interest, to explore for oil or gas deposits within other land in the
 31 state; and

1 (B) allowed by the department by regulation, based on the
 2 department's determination that the costs satisfy the following three
 3 requirements:

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

6 (ii) the costs must be ordinary and necessary costs of
 7 exploring for, developing, or producing, as applicable, oil or gas
 8 deposits; and

9 (iii) the costs must be direct costs of exploring for,
 10 developing, or producing, as applicable, oil or gas deposits; [AND]

11 (2) a reasonable allowance for that calendar year, as determined under
 12 regulations adopted by the department, for overhead expenses that are directly related
 13 to exploring for, developing, or producing, as applicable, the oil or gas deposits; **and**

14 **(3) lease expenditures incurred in a previous year that**

15 **(A) met the requirements of AS 43.55.160(e) in the year in**
 16 **which the lease expenditures were incurred;**

17 **(B) have not been deducted in the determination of the**
 18 **production tax value of oil and gas under AS 43.55.160(a) in a previous**
 19 **calendar year;**

20 **(C) were not the basis of a credit under this title; and**

21 **(D) were incurred to explore for, develop, or produce oil or**
 22 **gas deposits located north of 68 degrees North latitude.**

23 * **Sec. 40.** AS 43.55.165(e) is amended to read:

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

25 (1) depreciation, depletion, or amortization;

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

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

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

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

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

7 (7) fines or penalties imposed by law;

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

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

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

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

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

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

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

27 (15) costs incurred for dismantlement, removal, surrender, or
28 abandonment of a facility, pipeline, well pad, platform, or other structure, or for the
29 restoration of a lease, field, unit, area, tract of land, body of water, or right-of-way in
30 conjunction with dismantlement, removal, surrender, or abandonment; a cost is not
31 excluded under this paragraph if the dismantlement, removal, surrender, or

1 abandonment for which the cost is incurred is undertaken for the purpose of replacing,
2 renovating, or improving the facility, pipeline, well pad, platform, or other structure;

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

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

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

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

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

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

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

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

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

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

23 * **Sec. 41.** AS 43.55.165(f) is amended to read:

24 (f) For purposes of **AS 43.55.023(b)** [AS 43.55.023(a) AND (b)] and only as
 25 to expenditures incurred to explore for an oil or gas deposit located within land in
 26 which an explorer does not own a working interest, the term "producer" in this section
 27 includes "explorer."

28 * **Sec. 42.** AS 43.55.170(c) is amended to read:

29 (c) For purposes of **AS 43.55.023(b)** [AS 43.55.023(a) AND (b)] and only as
 30 to expenditures incurred to explore for an oil or gas deposit located within land in
 31 which an explorer does not own a working interest, the term "producer" in this section

1 includes "explorer."

2 * **Sec. 43.** AS 43.55.180(a) is amended to read:

3 (a) The department shall study

4 (1) the effects of the provisions of this chapter on oil and gas
5 exploration, development, and production in the state, on investment expenditures for
6 oil and gas exploration, development, and production in the state, on the entry of new
7 producers into the oil and gas industry in the state, on state revenue, and on tax
8 administration and compliance, giving particular attention to the tax rates provided
9 under AS 43.55.011, the tax credits provided under **AS 43.55.024, 43.55.025, and**
10 **former AS 43.55.023** [AS 43.55.023 - 43.55.025], and the deductions for and
11 adjustments to lease expenditures provided under AS 43.55.160 - 43.55.170; and

12 (2) the effects of the tax rates under AS 43.55.011(i) on state revenue
13 and on oil and gas exploration, development, and production on private land, and the
14 fairness of those tax rates for private landowners.

15 * **Sec. 44.** AS 43.55.890 is amended to read:

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

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

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

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

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

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

28 (6) qualified capital expenditures [, AS DEFINED IN AS 43.55.023];

29 (7) exploration expenditures under AS 43.55.025;

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

31 (9) lease expenditures under AS 43.55.165;

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

2 (11) tax credits applicable or potentially applicable against taxes levied
3 by this chapter.

4 * **Sec. 45.** AS 43.55.895(b) is amended to read:

5 (b) A municipal entity subject to taxation because of this section

6 (1) is eligible for [ALL] tax credits **proportionate to its production**
7 **taxable under AS 43.55.011(e); and**

8 **(2) shall allocate its lease expenditures in proportion to its**
9 **production taxable under AS 43.55.011(e)** [UNDER THIS CHAPTER TO THE
10 SAME EXTENT AS ANY OTHER PRODUCER].

11 * **Sec. 46.** AS 43.55.900 is amended by adding new paragraphs to read:

12 (26) "qualified capital expenditure"

13 (A) means, except as otherwise provided in (B) of this
14 paragraph, an expenditure that is a lease expenditure under AS 43.55.165 and
15 is

16 (i) incurred for geological or geophysical exploration;

17 (ii) treated as a capitalized expenditure under 26 U.S.C.
18 (Internal Revenue Code), as amended, regardless of elections made
19 under 26 U.S.C. 263(c) (Internal Revenue Code), as amended, and is
20 treated as a capitalized expenditure for federal income tax reporting
21 purposes by the person incurring the expenditure; or

22 (iii) treated as a capitalized expenditure under 26 U.S.C.
23 (Internal Revenue Code), as amended, regardless of elections made
24 under 26 U.S.C. 263(c) (Internal Revenue Code), as amended, and is
25 eligible to be deducted as an expense under 26 U.S.C. 263(c) (Internal
26 Revenue Code), as amended;

27 (B) does not include an expenditure incurred to acquire an asset
28 the cost of previously acquiring which was a lease expenditure under
29 AS 43.55.165 or would have been a lease expenditure under AS 43.55.165 if it
30 had been incurred after March 31, 2006, or that has previously been placed in
31 service in the state; an expenditure to acquire an asset is not excluded under

1 this subparagraph if not more than an immaterial portion of the asset meets a
 2 description under this subparagraph; for purposes of this subparagraph, "asset"
 3 includes geological, geophysical, and well data and interpretations;

4 (27) "regular production" has the meaning given in AS 31.05.170.

5 * **Sec. 47.** AS 43.70 is amended by adding new sections to read:

6 **Sec. 43.70.025. Bond or cash deposit required for an oil or gas business.** (a)

7 At the time of applying for a license under this chapter, an applicant engaged in the
 8 business of oil or gas exploration, development, or production shall file a surety bond
 9 in the amount of \$250,000 running to the state, conditioned upon the applicant's
 10 promise to pay

11 (1) taxes and contributions due the state and political subdivisions;

12 (2) persons furnishing labor or material or renting or supplying
 13 equipment to the applicant; and

14 (3) costs of repairs to public facilities.

15 (b) In lieu of the surety bond required under this section, the applicant may
 16 file with the commissioner a cash deposit or other negotiable security acceptable to the
 17 commissioner in the amount of \$250,000.

18 (c) The bond required by this section remains in effect until cancelled by
 19 action of the surety, the principal, or, if the commissioner finds that the business is
 20 producing oil or gas in commercial quantities, by the commissioner.

21 **Sec. 43.70.028. Claims against an oil or gas business.** (a) A person having a
 22 claim against a person required to file a surety bond under AS 43.70.025 because of
 23 the failure to pay a liability described in AS 43.70.025(a) may bring suit upon the
 24 bond. A copy of the complaint shall be served by registered or certified mail on the
 25 commissioner at the time suit is filed, and the commissioner shall maintain a record,
 26 available for public inspection, of all suits commenced. This service on the
 27 commissioner shall constitute service on the surety, and the commissioner shall
 28 transmit the complaint or a copy of it to the surety within 72 hours after it is received.
 29 The surety on the bond is not liable in an aggregate amount in excess of that named in
 30 the bond, but, if claims pending at any one time exceed the amount of the bond, the
 31 claims shall be satisfied from the bond in the following order:

- 1 (1) material, equipment, and supplies delivered in the state;
- 2 (2) labor, including employee benefits;
- 3 (3) taxes and other amounts due to the city and borough, in that order;
- 4 (4) repair of public facilities;
- 5 (5) taxes and other amounts due to the state.

6 (b) If a judgment is entered against a cash deposit, the commissioner, upon
7 receipt of a certified copy of a final judgment, shall pay the judgment from the amount
8 of the deposit in accordance with the priorities set out in (a) of this section.

9 (c) An action described in (a) of this section may not be commenced on the
10 bond more than three years after the bond's cancellation.

11 * **Sec. 48.** AS 43.99.950 is amended by adding a new paragraph to read:

12 (3) "outstanding liability to the state" means an amount of tax, interest,
13 penalty, fee, rental, royalty, or other charge for which the state has issued a demand
14 for payment that has not been paid when due and, if contested, has not been finally
15 resolved against the state.

16 * **Sec. 49.** AS 38.05.180(i); AS 41.09.010, 41.09.020, 41.09.030, 41.09.090;
17 AS 43.20.053(j)(4); AS 43.55.023(a), 43.55.023(o), 43.55.025(a)(5), 43.55.025(a)(7),
18 43.55.025(l), 43.55.025(n), 43.55.028(i), 43.55.075(d)(1), 43.55.165(j), and 43.55.165(k) are
19 repealed January 1, 2017.

20 * **Sec. 50.** AS 43.55.023(l) and 43.55.023(n) are repealed January 1, 2019.

21 * **Sec. 51.** AS 43.55.023, 43.55.165(f), and 43.55.170(c) are repealed January 1, 2020.

22 * **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 **LEGISLATIVE WORKING GROUP.** (a) A legislative working group is established
25 to analyze the Cook Inlet fiscal regime for oil and gas, review the state's tax structure and
26 rates on oil and gas produced south of 68 degrees North latitude, recommend changes to the
27 legislature for consideration during the First Regular Session of the Thirtieth Alaska State
28 Legislature, and develop terms for a comprehensive fiscal regime to take effect January 1,
29 2019, including,

30 (1) a tax structure that accounts for the unique circumstances for each oil and
31 gas producing area south of 68 degrees North latitude;

1 (2) incentives other than direct monetary support from the state for the
2 exploration, development, and production of oil and gas south of 68 degrees North latitude;

3 (3) consideration of the competitiveness of the area south of 68 degrees North
4 latitude to attract new oil and gas development;

5 (4) consideration of the unique market considerations of the Cook Inlet
6 sedimentary basin and the need to support energy supply security for communities in
7 Southcentral Alaska;

8 (5) alternative means of state support for the exploration, development, and
9 production of oil and gas in the Cook Inlet sedimentary basin, including loan guarantees or
10 other financial support through the Alaska Industrial Development and Export Authority or
11 other state corporation or entity.

12 (b) The working group consists of

13 (1) two co-chairs, one of whom is a member of the house of representatives
14 appointed by the speaker of the house of representatives, and one of whom is a member of the
15 senate appointed by the president of the senate; and

16 (2) members appointed by the co-chairs; members must be legislators and
17 must include members of the majority and minority caucuses.

18 (c) The co-chairs of the working group may form an advisory group to the working
19 group, composed of members who are not legislators and who have expertise and skills to
20 assist in the review and development of a new plan for the tax structure and rates on oil and
21 gas produced south of 68 degrees North latitude. The members of an advisory group may
22 include commissioners or employees of state departments, members of the oil and gas
23 industry or trade associations, and economists.

24 (d) The working group may be supported by legislative consultants under contract
25 through the Legislative Budget and Audit Committee.

26 * **Sec. 53.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 **APPLICABILITY.** (a) AS 43.55.028(e), as amended by sec. 25 of this Act,
29 AS 43.55.028(j), added by sec. 28 of this Act, and regulations related to a tax credit certificate
30 purchase preference for applicants with a workforce of resident workers, adopted under
31 AS 43.55.028(g), as amended by sec. 27 of this Act, apply to a purchase applied for on or

1 after the effective date of secs. 25, 27, and 28 of this Act.

2 (b) AS 43.55.165(a), as amended by sec. 39 of this Act, applies to lease expenditures
3 calculated for a calendar year after December 31, 2016.

4 * **Sec. 54.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 **TRANSITION: QUALIFIED CAPITAL EXPENDITURES.** (a) Notwithstanding the
7 repeal of AS 43.55.023(a) and (o) by sec. 49 of this Act, and the amendments to
8 AS 45.55.023(d) by sec. 16 of this Act, AS 43.55.029(a) by sec. 29 of this Act,
9 AS 43.55.030(a) and (e) by secs. 32 and 33 of this Act, AS 43.55.165(f) by sec. 41 of this Act,
10 and AS 43.55.170(c) by sec. 42 of this Act, a taxpayer who incurs a qualified capital
11 expenditure before the repeal of AS 43.55.023(a) and (o) by sec. 49 of this Act that qualifies
12 for a qualified capital expenditure credit under AS 43.55.023(a) may apply for a credit or tax
13 credit certificate under AS 43.55.023(d) and, as applicable, assign the tax credit under
14 AS 43.55.029, as those sections read on the day before the repeal of AS 43.55.023(a) by sec.
15 49 of this Act.

16 (b) The Department of Revenue may continue to apply and enforce AS 43.55.023(a)
17 and (o) and 43.55.029, as those sections read on the day before the repeal of AS 43.55.023(a)
18 by sec. 49 of this Act, for qualified capital expenditures incurred before the repeal of
19 AS 43.55.023(a) by sec. 49 of this Act.

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

22 **TRANSITION: WELL LEASE EXPENDITURES.** (a) Notwithstanding the repeal of
23 AS 43.55.023(l) and (n) by sec. 50 of this Act, and the amendment of AS 43.55.029(a) by sec.
24 30 of this Act, a taxpayer who incurs a well lease expenditure before the repeal of
25 AS 43.55.023(l) and (n) by sec. 50 of this Act that qualifies for a well lease expenditure credit
26 under AS 43.55.023(l) may apply for a credit or transferable tax credit certificate under
27 AS 43.55.023 and assign the tax credit under AS 43.55.029, as those sections read on the day
28 before the repeal of AS 43.55.023(l) and (n) by sec. 50 of this Act.

29 (b) The Department of Revenue may continue to apply and enforce AS 43.55.023(l),
30 as that subsection read on the day before the repeal of AS 43.55.023(l) by sec. 50 of this Act,
31 for well lease expenditures incurred before the repeal of AS 43.55.023(l) by sec. 50 of this

1 Act.

2 * **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 TRANSITION: CARRIED-FORWARD ANNUAL LOSSES. (a) Notwithstanding the
5 repeal of AS 43.55.023, 43.55.165(f), and 43.55.170(c) by sec. 51 of this Act, and the
6 amendments of AS 43.55.029(a) by sec. 31 of this Act, AS 43.55.160(d) by sec. 34 of this
7 Act, and AS 43.55.160(e) by sec. 36 of this Act, a taxpayer who incurs a carried-forward
8 annual loss before the repeal of AS 43.55.023 by sec. 51 of this Act that qualifies for a
9 carried-forward annual loss credit under AS 43.55.023(b) may apply for a credit or tax credit
10 certificate under AS 43.55.023(d) and assign the tax credit under AS 43.55.029, subject to the
11 requirements of AS 43.55.160(d) and (e), as those sections read on the day before the repeal
12 of AS 43.55.023 by sec. 51 of this Act.

13 (b) The Department of Revenue may continue to apply and enforce AS 43.55.023(b),
14 as that section read on the day before the repeal of AS 43.55.023(b) by sec. 51 of this Act, for
15 a carried-forward annual loss incurred before the repeal of AS 43.55.023(b) by sec. 51 of this
16 Act.

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

19 TRANSITION: AS 43.55.023 CREDITS. Notwithstanding the repeal of
20 AS 43.55.023, 43.55.165(f), and 43.55.170(c) by sec. 51 of this Act, and the amendments to
21 AS 43.55.025(m) by sec. 22 of this Act, AS 43.55.028(a) and (e) by secs. 24 and 26 of this
22 Act, AS 43.55.029(a) by sec. 31 of this Act, AS 43.55.160(d) by sec. 34 of this Act, and
23 AS 43.55.180(a) by sec. 43 of this Act, the Department of Revenue may continue to apply and
24 enforce AS 43.55.023, as that section read on the day before the repeal of AS 43.55.023 by
25 sec. 51 of this Act, for a credit earned before the repeal of AS 43.55.023 by sec. 51 of this
26 Act.

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

29 TRANSITION: LEASE EXPENDITURES FOR A CALENDAR YEAR AFTER
30 2006 AND BEFORE 2010. Notwithstanding AS 43.55.165(a), as amended by sec. 39 of this
31 Act, and the repeal of AS 43.55.165(j) and (k) by sec. 49 of this Act, AS 43.55.165(j) and (k)

1 apply to a producer's total lease expenditures for a calendar year after 2006 and before 2010
2 under AS 43.55.165, as that section read on the day before the repeal of AS 43.55.165(j) and
3 (k) by sec. 49 of this Act.

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

6 TRANSITION: EXPLORATION EXPENDITURES AND SEISMIC
7 EXPLORATION EXPENDITURES. (a) Notwithstanding the repeal of AS 43.55.025(a)(5),
8 (a)(7), (l), and (n) by sec. 49 of this Act, a taxpayer who incurs an exploration expenditure or
9 seismic exploration expenditure before the repeal of AS 43.55.025(a)(5), (a)(7), (l), and (n) by
10 sec. 49 of this Act that qualifies for an exploration or seismic exploration expenditure credit
11 under AS 43.55.025(a)(5) or (a)(7) may apply for a credit or production tax credit certificate
12 under AS 43.55.025 and assign the tax credit under AS 43.55.029, as those sections read on
13 the day before the repeal of AS 43.55.025(a)(5), (a)(7), (l), and (n) by sec. 49 of this Act.

14 (b) The Department of Revenue may continue to apply and enforce
15 AS 43.55.025(a)(5), (a)(7), (l), and (n), as those sections read on the day before the repeal of
16 AS 43.55.025(a)(5), (a)(7), (l), and (n) by sec. 49 of this Act, for exploration expenditures and
17 seismic exploration expenditures incurred before the repeal of AS 43.55.025(a)(5), (a)(7), (l),
18 and (n) by sec. 49 of this Act.

19 * **Sec. 60.** The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 TRANSITION: REGULATIONS. The Department of Revenue, the Department of
22 Natural Resources, the Department of Commerce, Community, and Economic Development,
23 and the Alaska Oil and Gas Conservation Commission may adopt regulations necessary to
24 implement the changes made by this Act. The regulations take effect under AS 44.62
25 (Administrative Procedure Act), but not before the effective date of the law implemented by
26 the regulation. The Department of Revenue shall adopt regulations governing the use of tax
27 credits under AS 43.55 for a calendar year for which the applicable tax credit provisions of
28 AS 43.55 differ as between parts of the year as a result of this Act.

29 * **Sec. 61.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any

1 contrary provision of AS 44.62.240,

2 (1) if the Department of Revenue expressly designates in a regulation that the
3 regulation applies retroactively, a regulation adopted by the Department of Revenue to
4 implement, interpret, make specific, or otherwise carry out this Act may apply retroactively to
5 the effective date of the law implemented by the regulation;

6 (2) if the Department of Natural Resources expressly designates in the
7 regulation that the regulation applies retroactively, a regulation adopted by the Department of
8 Natural Resources to implement, interpret, make specific, or otherwise carry out the statutory
9 amendments in this Act affecting the administration of oil and gas leases issued under
10 AS 38.05.180(f)(3)(B), (D), or (E), to the extent the regulation relates to the treatment of oil
11 and gas production taxes in determining net profits under those leases, may apply
12 retroactively to the effective date of the law implemented by the regulation.

13 * **Sec. 62.** Sections 21, 52, 60, and 61 of this Act take effect immediately under
14 AS 01.10.070(c).

15 * **Sec. 63.** Sections 30, 50, and 55 of this Act take effect January 1, 2019.

16 * **Sec. 64.** Sections 22, 24, 26, 31, 34, 36, 43, 51, 56, and 57 of this Act take effect
17 January 1, 2020.

18 * **Sec. 65.** Except as provided in secs. 62 - 64 of this Act, this Act takes effect January 1,
19 2017.