

SENATE BILL NO. 21

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/16/13

Referred: Senate Special Committee on Trans Alaska Pipeline System Throughput, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to appropriations from taxes paid under the Alaska Net Income Tax**
2 **Act; relating to the oil and gas production tax rate; relating to gas used in the state;**
3 **relating to monthly installment payments of the oil and gas production tax; relating to**
4 **oil and gas production tax credits for certain losses and expenditures; relating to oil and**
5 **gas production tax credit certificates; relating to nontransferable tax credits based on**
6 **production; relating to the oil and gas tax credit fund; relating to annual statements by**
7 **producers and explorers; relating to the determination of annual oil and gas production**
8 **tax values including adjustments based on a percentage of gross value at the point of**
9 **production from certain leases or properties; making conforming amendments; and**
10 **providing for an effective date."**

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

12 *** Section 1.** AS 29.60.850(b) is amended to read:

(b) Each fiscal year, the legislature may appropriate to the community revenue sharing fund [AN AMOUNT EQUAL TO 20 PERCENT OF THE] money received by the state during the previous calendar year under AS 43.20.030(c) [AS 43.55.011(g)]. The amount may not exceed

(1) \$60,000,000; or

(2) the amount that, when added to the fund balance on June 30 of the previous fiscal year, equals \$180,000,000.

* **Sec. 2.** 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. Except as otherwise provided under (f), (j), (k), (o), and (p) of this section, the tax is equal to [THE SUM OF

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

(2) THE SUM, OVER ALL MONTHS OF THE CALENDAR YEAR, OF THE TAX AMOUNTS DETERMINED UNDER (g) OF THIS SECTION].

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

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

* **Sec. 4.** AS 43.55.020(a) is amended to read:

(a) For a calendar year, a producer subject to tax under AS 43.55.011 [AS 43.55.011(e) - (i) OR (p)] shall pay the tax as follows:

(1) 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

1 sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be
 2 applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount
 3 of the installment payment may not be less than zero:

4 (A) for oil and gas not subject to AS 43.55.011(o) or (p)
 5 produced from leases or properties in the state outside the Cook Inlet
 6 sedimentary basin [BUT NOT SUBJECT TO AS 43.55.011(o) OR (p)], other
 7 than leases or properties subject to AS 43.55.011(f), the greater of

8 (i) zero; or

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

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

19 (i) zero;

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

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

month for which the installment payment is calculated;

(C) for oil or [AND] gas [PRODUCED FROM EACH LEASE OR PROPERTY] subject to AS 43.55.011(j), (k), or (o) [, OR (p)], 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 [PRODUCED FROM A LEASE OR PROPERTY]

(A)] 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;

[(B) SUBJECT TO AS 43.55.011(p) MAY NOT EXCEED FOUR PERCENT OF THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE OIL OR GAS;]

(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 [AS 43.55.011(e) OR (i)], 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.

* **Sec. 5.** AS 43.55.020(a), as amended by sec. 4 of this Act, 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) 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 of [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 of [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, except that for the purposes of this calculation the gross value at the point of production of oil and gas subject to AS 43.55.160(f) is reduced by 20 percent;

(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 of [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 of [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.

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

(d) 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

1 excess to the royalty owner. Unless otherwise agreed between the producer and the
 2 royalty owner, the amount of the tax paid under AS 43.55.011(e) [AS 43.55.011(e) -
 3 (g)] on taxable royalty oil and gas for a calendar year, other than oil and gas the
 4 ownership or right to which constitutes a landowner's royalty interest, is considered to
 5 be the gross value at the point of production of the taxable royalty oil and gas
 6 produced during the calendar year multiplied by a figure that is a quotient, in which

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

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

12 * **Sec. 7.** AS 43.55.023(a) is amended to read:

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

15 (1) notwithstanding that a qualified capital expenditure may be a
 16 deductible lease expenditure for purposes of calculating the production tax value of oil
 17 and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under
 18 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or
 19 explorer that incurs a qualified capital expenditure may also elect to apply a tax credit
 20 against a tax levied by AS 43.55.011(e) in the amount of 20 percent of that
 21 expenditure; [HOWEVER, NOT MORE THAN HALF OF THE TAX CREDIT MAY
 22 BE APPLIED FOR A SINGLE CALENDAR YEAR;]

23 (2) a producer or explorer may take a credit for a qualified capital
 24 expenditure incurred in connection with geological or geophysical exploration or in
 25 connection with an exploration well only if the producer or explorer

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

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

30 * **Sec. 8.** AS 43.55.023(a), as amended by sec. 7 of the Act, is amended to read:

31 (a) A producer or explorer may take a tax credit for a qualified capital

1 expenditure as follows:

2 (1) notwithstanding that a qualified capital expenditure may be a
3 deductible lease expenditure for purposes of calculating the production tax value of oil
4 and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under
5 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or
6 explorer that incurs a qualified capital expenditure may also elect to apply a tax credit
7 against a tax levied by AS 43.55.011(e) in the amount of 20 percent of that
8 expenditure;

9 (2) a producer or explorer may take a credit for a qualified capital
10 expenditure incurred in connection with geological or geophysical exploration or in
11 connection with an exploration well only if the producer or explorer

12 (A) agrees, in writing, to the applicable provisions of
13 AS 43.55.025(f)(2); and

14 (B) submits to the Department of Natural Resources all data
15 that would be required to be submitted under AS 43.55.025(f)(2);

16 **(3) a credit for a qualified capital expenditure incurred to explore**
17 **for, develop, or produce oil or gas deposits located north of 68 degrees North**
18 **latitude may be taken only if the expenditure is incurred before January 1, 2014.**

19 * **Sec. 9.** AS 43.55.023(b) is amended to read:

20 (b) A producer or explorer may elect to take a tax credit in the amount of 25
21 percent of a carried-forward annual loss; **except that a tax credit based on lease**
22 **expenditures incurred after December 31, 2013, to explore for, develop, or**
23 **produce oil or gas deposits located north of 68 degrees North latitude is subject to**
24 **the provisions of (p) - (u) of this section.** A credit under this subsection may be
25 applied against a tax levied by AS 43.55.011(e). For purposes of this subsection, a
26 carried-forward annual loss is the amount of a producer's or explorer's adjusted lease
27 expenditures under AS 43.55.165 and 43.55.170 for a previous calendar year that was
28 not deductible in calculating production tax values for that calendar year under
29 AS 43.55.160.

30 * **Sec. 10.** AS 43.55.023(c) is amended to read:

31 (c) A credit or portion of a credit under this section may not be used to reduce

1 a person's tax liability under AS 43.55.011(e) for any calendar year below zero, and
 2 any unused credit or portion of a credit not used under this subsection may be applied
 3 in a later calendar year, **except as otherwise provided under (p) - (u) of this section.**

4 * **Sec. 11.** AS 43.55.023(d) is amended to read:

5 (d) Except as limited by (i) of this section, a person that is entitled to take a tax
 6 credit under this section that wishes to transfer the unused credit to another person or
 7 obtain a cash payment under AS 43.55.028 may apply to the department for **a**
 8 transferable tax credit **certificate** [CERTIFICATES]. An application under this
 9 subsection must be in a form prescribed by the department and must include
 10 supporting information and documentation that the department reasonably requires.
 11 The department shall grant or deny an application, or grant an application as to a lesser
 12 amount than that claimed and deny it as to the excess, not later than 120 days after the
 13 latest of (1) March 31 of the year following the calendar year in which the qualified
 14 capital expenditure or carried-forward annual loss for which the credit is claimed was
 15 incurred; (2) the date the statement required under AS 43.55.030(a) or (e) was filed for
 16 the calendar year in which the qualified capital expenditure or carried-forward annual
 17 loss for which the credit is claimed was incurred; or (3) the date the application was
 18 received by the department. If, based on the information then available to it, the
 19 department is reasonably satisfied that the applicant is entitled to a credit, the
 20 department shall issue the applicant **a** [TWO] transferable tax credit **certificate for**
 21 [CERTIFICATES, EACH FOR HALF OF] the amount of the credit. [THE CREDIT
 22 SHOWN ON ONE OF THE TWO CERTIFICATES IS AVAILABLE FOR
 23 IMMEDIATE USE. THE CREDIT SHOWN ON THE SECOND OF THE TWO
 24 CERTIFICATES MAY NOT BE APPLIED AGAINST A TAX FOR A CALENDAR
 25 YEAR EARLIER THAN THE CALENDAR YEAR FOLLOWING THE
 26 CALENDAR YEAR IN WHICH THE CERTIFICATE IS ISSUED, AND THE
 27 CERTIFICATE MUST CONTAIN A CONSPICUOUS STATEMENT TO THAT
 28 EFFECT.] A certificate issued under this subsection does not expire.

29 * **Sec. 12.** AS 43.55.023(d), as amended by sec. 11 of this Act, is amended to read:

30 (d) Except **for a tax credit based on lease expenditures incurred after**
 31 **December 31, 2013, to explore for, develop, or produce oil or gas deposits located**

north of 68 degrees North latitude [AS LIMITED BY (i) OF THIS SECTION], a person that is entitled to take a tax credit under this section that wishes to transfer the unused credit to another person or obtain a cash payment under AS 43.55.028 may apply to the department for a transferable tax credit certificate. An application under this subsection must be in a form prescribed by the department and must include supporting information and documentation that the department reasonably requires. The department shall grant or deny an application, or grant an application as to a lesser amount than that claimed and deny it as to the excess, not later than 120 days after the latest of (1) March 31 of the year following the calendar year in which the qualified capital expenditure or carried-forward annual loss for which the credit is claimed was incurred; (2) the date the statement required under AS 43.55.030(a) or (e) was filed for the calendar year in which the qualified capital expenditure or carried-forward annual loss for which the credit is claimed was incurred; or (3) the date the application was received by the department. If, based on the information then available to it, the department is reasonably satisfied that the applicant is entitled to a credit, the department shall issue the applicant a transferable tax credit certificate for the amount of the credit. A certificate issued under this subsection does not expire.

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

(g) The issuance of a transferable tax credit certificate under (d) of this section or former (m) of this section or the purchase of a certificate under AS 43.55.028 does not limit the department's ability to later audit a tax credit claim to which the certificate relates or to adjust the claim if the department determines, as a result of the audit, that the applicant was not entitled to the amount of the credit for which the certificate was issued. The tax liability of the applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is increased by the amount of the credit that exceeds that to which the applicant was entitled, or the applicant's available valid outstanding credits applicable against the tax levied by AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is increased under this subsection, the increase bears interest under AS 43.05.225 from the date the transferable tax credit certificate was issued. For purposes of this subsection, an applicant that is an explorer is considered a producer subject to the tax levied by AS 43.55.011(e).

1 * **Sec. 14.** AS 43.55.023(n) is amended to read:

2 (n) For the purposes of (l) [AND (m)] of this section, a well lease expenditure
3 incurred in the state south of 68 degrees North latitude is a lease expenditure that is

4 (1) directly related to an exploration well, a stratigraphic test well, a
5 producing well, or an injection well other than a disposal well, located in the state
6 south of 68 degrees North latitude, if the expenditure is a qualified capital expenditure
7 and an intangible drilling and development cost authorized under 26 U.S.C. (Internal
8 Revenue Code), as amended, and 26 C.F.R. 1.612-4, regardless of the elections made
9 under 26 U.S.C. 263(c); in this paragraph, an expenditure directly related to a well
10 includes an expenditure for well sidetracking, well deepening, well completion or
11 recompletion, or well workover, regardless of whether the well is or has been a
12 producing well; or

13 (2) an expense for seismic work conducted within the boundaries of a
14 production or exploration unit.

15 * **Sec. 15.** AS 43.55.023 is amended by adding new subsections to read:

16 (p) A tax credit under (b) of this section based on lease expenditures incurred
17 after December 31, 2013, to explore for, develop, or produce oil or gas deposits
18 located north of 68 degrees North latitude may not be applied against a tax liability for
19 a calendar year that is

20 (1) two or more calendar years later than the calendar year during
21 which the lease expenditures were incurred, unless the producer has complied with the
22 filing requirements of AS 43.55.030(g);

23 (2) more than 10 calendar years later than the calendar year during
24 which the lease expenditures were incurred.

25 (q) A tax credit under (b) of this section based on lease expenditures incurred
26 during a given calendar year after December 31, 2014, to explore for, develop, or
27 produce oil or gas deposits located north of 68 degrees North latitude may not be
28 applied against a person's tax liability unless the person has applied against the
29 person's tax liability the entire amount of all available tax credits under (b) of this
30 section based on lease expenditures incurred during earlier calendar years after
31 December 31, 2013, to explore for, develop, or produce oil or gas deposits located

1 north of 68 degrees North latitude.

2 (r) Except as otherwise provided under (s) of this section, an amount of a tax
3 credit subject to (p)(1) of this section that is carried forward in compliance with
4 AS 43.55.030(g) increases at an annual rate of 15 percent, compounded annually, as
5 provided in this subsection. An amount of a tax credit begins to increase under this
6 subsection on January 1 of the second calendar year immediately following the
7 calendar year during which the lease expenditures on which the credit is based were
8 incurred, unless that second calendar year is the calendar year against the person's tax
9 liability for which the amount of the credit is applied. An amount of a tax credit stops
10 increasing under this subsection on December 31 of the calendar year immediately
11 preceding the calendar year against the person's tax liability for which the amount of
12 the credit is applied. An increase in the amount of a tax credit under this subsection
13 has no value except as applied against the person's tax liability and expires if not used
14 before the time provided under (p)(2) of this section.

15 (s) An amount of a tax credit subject to (p)(1) of this section is not increased
16 under (r) of this section for any period during or after a calendar year against a
17 person's tax liability for which the amount of the credit could have been applied. For
18 purposes of this subsection, the amount of a tax credit subject to (p)(1) of this section
19 that could have been applied against a person's tax liability for a calendar year is
20 determined by performing the following calculations, as applicable:

21 (1) subtract the amount, if any, of the person's tax credits under
22 AS 43.55.019 and 43.55.024(c) that has been applied against the tax levied on the
23 person for the calendar year by AS 43.55.011(e) from the amount, if any, of that tax; if
24 the remainder is not more than zero, the amount of a tax credit subject to (p)(1) of this
25 section that could have been applied against a person's tax liability for the calendar
26 year is zero;

27 (2) if the remainder obtained under (1) of this subsection is positive,
28 subtract that remainder from the total amount of the person's tax credits under (b) of
29 this section based on lease expenditures incurred after December 31, 2013, to explore
30 for, develop, or produce oil or gas deposits located north of 68 degrees North latitude
31 that was available, without regard to the limitation under (q) of this section, to be

1 applied against the tax levied on the person for the calendar year by AS 43.55.011(e),
 2 including any increase in the amount of the tax credits under (r) of this section through
 3 December 31 of the previous calendar year; if the remainder is negative, it is
 4 considered to be equal to zero for purposes of this paragraph;

5 (3) subtract the remainder obtained under (2) of this subsection from
 6 the amount, if any, of the person's tax credits under (b) of this section based on lease
 7 expenditures incurred after December 31, 2013, to explore for, develop, or produce oil
 8 or gas deposits located north of 68 degrees North latitude that was available, without
 9 regard to the limitation under (q) of this section, to be applied against the tax levied on
 10 the person for the calendar year by AS 43.55.011(e), including any increase in the
 11 amount of the tax credits under (r) of this section through December 31 of the previous
 12 calendar year, but that was not applied against that tax; the remainder is the amount of
 13 a tax credit subject to (p)(1) of this section that could have been applied against the
 14 person's tax liability for the calendar year.

15 (t) A tax credit under (b) of this section based on lease expenditures incurred
 16 after December 31, 2013, to explore for, develop, or produce oil or gas deposits
 17 located north of 68 degrees North latitude is not transferable except as provided in this
 18 subsection. A person that is entitled to take a tax credit under (b) of this section based
 19 on lease expenditures incurred after December 31, 2013, to explore for, develop, or
 20 produce oil or gas deposits located north of 68 degrees North latitude may transfer the
 21 tax credit to another person that acquires from the transferor an operating right,
 22 operating interest, or working interest in a lease or property in the state that includes
 23 land north of 68 degrees North latitude in which the transferor owned an operating
 24 right, operating interest, or working interest at the time the lease expenditures were
 25 incurred. A transferee may transfer the tax credit to another person that acquires from
 26 the transferee an operating right, operating interest, or working interest in that lease or
 27 property. A transferee's use of a tax credit is subject to the provisions of (u) of this
 28 section. A transfer is conditioned on the filing with the department by the transferor
 29 and transferee of notices or a joint notice in a form and manner prescribed by the
 30 department and providing information and certifications required by the department by
 31 regulation. A transferee's application of a tax credit again the transferee's production

1 tax liability is subject to audit by the department to the same extent as a tax credit that
2 has not been transferred.

3 (u) The provisions of this subsection apply to tax credits under (b) of this
4 section based on lease expenditures incurred after December 31, 2013, to explore for,
5 develop, or produce oil or gas deposits located north of 68 degrees North latitude
6 when the tax credit is used by a producer to which the tax credit has been transferred
7 under (t) of this section, by a producer or successor of a producer that has acquired the
8 person that incurred the lease expenditures on which the tax credit is based, or by a
9 producer or successor of a producer created by the merger of the person that incurred
10 the lease expenditures on which the tax credit is based with another person. The total
11 amount of a producer's tax credits subject to this subsection that may be applied
12 against the producer's tax liability under AS 43.55.011(e) for a calendar year may not
13 exceed 20 percent of the sum of the following amounts calculated for each lease or
14 property in the state that includes land north of 68 degrees North latitude from which
15 the producer produces oil or gas during the calendar year and in which the person that
16 incurred the lease expenditures on which the tax credit is based had owned an
17 operating right, operating interest, or working interest when the lease expenditures
18 were incurred:

19 GV X OS

20 where GV = the gross value at the point of production of the oil and gas, taxable under
21 AS 43.55.011(e), produced by the producer during the calendar year from the lease or
22 property; and OS = the percentage operating right, operating interest, or working
23 interest in the lease or property that had been owned by the person that incurred the
24 lease expenditures on which the tax credit is based when the lease expenditures were
25 incurred.

26 * **Sec. 16.** AS 43.55.024(d) is amended to read:

27 (d) A producer may not take a tax credit under (c) of this section for any
28 calendar year after the later of

29 (1) 2022 [2016]; or

30 (2) if the producer did not have commercial oil or gas production from
31 a lease or property in the state before April 1, 2006, the ninth calendar year after the

1 calendar year during which the producer first has commercial oil or gas production
2 before May 1, 2022 [2016], from at least one lease or property in the state.

3 * **Sec. 17.** AS 43.55.028(e) is amended to read:

4 (e) The department, on the written application of a person to whom a
5 transferable tax credit certificate has been issued under AS 43.55.023(d) or **former**
6 **AS 43.55.023(m)** [(m)] or to whom a production tax credit certificate has been issued
7 under AS 43.55.025(f), may use available money in the oil and gas tax credit fund to
8 purchase, in whole or in part, the certificate 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 applicant does not have an outstanding liability to the state for
13 unpaid delinquent taxes under this title;

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

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

20 (5) the purchase is consistent with this section and regulations adopted
21 under this section.

22 * **Sec. 18.** AS 43.55.028(g) is amended to read:

23 (g) The department may adopt regulations to carry out the purposes of this
24 section, including standards and procedures to allocate available money among
25 applications for purchases under this chapter and claims for refunds and payments
26 under AS 43.20.046 or 43.20.047 when the total amount of the applications for
27 purchase and claims for refund exceed the amount of available money in the fund. The
28 regulations adopted by the department may not, when allocating available money in
29 the fund under this section, distinguish an application for the purchase of a credit
30 certificate issued under **former** AS 43.55.023(m) or a claim for a refund or payment
31 under AS 43.20.046 or 43.20.047.

1 * **Sec. 19.** AS 43.55.030(e) is amended to read:

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

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

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

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

15 (g) A person that intends to carry forward a tax credit subject to
16 AS 43.55.023(p)(1) so that the credit will be available to be applied against the
17 person's tax liability for a calendar year that is two or more calendar years later than
18 the calendar year during which the lease expenditures on which the credit is based
19 were incurred, subject to the limitation of AS 43.55.023(p)(2), shall file with the
20 department a statement, under oath, in a form prescribed by the department, on
21 March 31 of the year immediately following the calendar year during which the lease
22 expenditures on which the credit is based were incurred, and on March 31 of each
23 subsequent year until, and including, the last calendar year against the person's tax
24 liability for which an amount of the credit is applied. The statement must include

25 (1) documentation of the nature and amount of adjusted lease
26 expenditures for which a credit is claimed and intended to be carried forward, unless
27 provided in a previously filed statement under this subsection;

28 (2) calculation of the amount of the claimed credit, unless provided in
29 a previously filed statement under this subsection, and of any increase in an amount of
30 credit under AS 43.55.023(r), and documentation of compliance with the limitations
31 provided in AS 43.55.023(s);

(3) identification of any amount of the credit that was applied against the person's tax liability for the calendar year preceding the year in which the statement is due and of the amount of the credit that continues to be carried forward;

(4) other information required by the department.

* **Sec. 21.** AS 43.55.160(a) is amended to read:

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

(1) AS 43.55.011(e), the annual production tax value of the taxable oil, gas, or oil and gas subject to this paragraph produced during a calendar year is the gross value at the point of production of the 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, as applicable, produced by the producer from leases or properties, as adjusted under AS 43.55.170; this paragraph applies to

(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; this subparagraph does not apply to [GAS]

(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 [A] lease or property in the Cook Inlet sedimentary basin;

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

(E) gas produced before 2022 from each [A] 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

1 state [A LEASE OR PROPERTY] no part of which is north of 68 degrees
2 North latitude, other than oil or gas described in (B), (C), (D), (E), or (F) of
3 this paragraph;

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

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

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

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

28 (D) gas produced during a month from a lease or property in
29 the Cook Inlet sedimentary basin is the gross value at the point of production
30 of the gas taxable under AS 43.55.011(e) and produced by the producer from
31 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. 22.** AS 43.55.160(a) is repealed and reenacted to read:

(a) Except as provided in (b) and (f) of this section, for the purposes of AS 43.55.011(e), the annual production tax value of taxable oil, gas, or oil and gas produced by a producer during a calendar year, in a given category for which a separate production tax value is required to be calculated under this subsection, is equal to the gross value at the point of production of that oil, gas, or oil and gas, respectively, taxable under AS 43.55.011(e), less the producer's lease expenditures under AS 43.55.165 for the calendar year that are applicable to the oil, gas, or oil and gas, respectively, in that category produced by the producer during the calendar year, as adjusted under AS 43.55.170. A separate annual production tax value must be calculated for

(1) 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;

(2) 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, during a calendar year 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); this paragraph does not apply to

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

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

(3) oil produced before 2022 from each lease or property in the Cook

1 Inlet sedimentary basin;

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

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

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

9 (7) oil and gas produced from leases or properties in the state no part
10 of which is north of 68 degrees North latitude, other than oil or gas described in (2),
11 (3), (4), (5), or (6) of this subsection.

12 * **Sec. 23.** AS 43.55.160(e) 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) [(a)(1)] 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 43.55.023(b).
18 However, the department shall provide by regulation a method to ensure that, for a
19 period for which a producer's tax liability is limited by AS 43.55.011(j), (k), (o), or
20 (p), any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that would
21 otherwise be deductible by a producer for that period but whose deduction would
22 cause a production tax value calculated under (a)(3), (4), (5), or (6) [(a)(1)(C), (D),
23 (E), OR (F)] of this section to be less than zero are accounted for as though the
24 adjusted lease expenditures had first been used as deductions in calculating the
25 production tax values of oil or gas subject to any of the limitations under
26 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 43.55.023(b). In this subsection, "producer" includes "explorer."

1 * **Sec. 24.** AS 43.55.160 is amended by adding a new subsection to read:

2 (f) In the calculation of an annual production tax value under (a)(1) of this
 3 section, the gross value at the point of production of oil or gas meeting either or both
 4 of the following criteria is reduced by 20 percent: (1) the oil or gas is produced from a
 5 lease or property that does not contain land that was within a unit on January 1, 2003;
 6 (2) the oil or gas is produced from a participating area established after December 31,
 7 2011, that is within a unit formed under AS 38.05.180(p) before January 1, 2003, if
 8 the participating area does not contain a reservoir that had previously been in a
 9 participating area established before January 1, 2012. However, the gross value at the
 10 point of production is not reduced if it is zero or less before any reduction.

11 * **Sec. 25.** AS 43.55.023(m) is repealed.

12 * **Sec. 26.** AS 43.55.011(g), 43.55.023(i), and 43.55.160(c) are repealed.

13 * **Sec. 27.** The uncoded law of the State of Alaska is amended by adding a new section to
 14 read:

15 APPLICABILITY. (a) Sections 2, 5, 6, 22 - 24, and 26 of this Act apply to oil and gas
 16 produced after December 31, 2013.

17 (b) Sections 3 and 21 apply to oil and gas produced after December 31, 2012.

18 (c) Sections 7, 11, 13, 14, and 25 of this Act apply to expenditures incurred after
 19 December 31, 2012.

20 (d) Sections 9, 10, 12, 15, and 20 of this Act apply to expenditures incurred after
 21 December 31, 2013.

22 * **Sec. 28.** The uncoded law of the State of Alaska is amended by adding a new section to
 23 read:

24 RETROACTIVITY. Sections 3, 7, 11, 13, 14, 17, 21, and 25 of this Act are retroactive
 25 to January 1, 2013.

26 * **Sec. 29.** The uncoded law of the State of Alaska is amending by adding a new section to
 27 read:

28 TRANSITION: REGULATIONS. The Department of Revenue may adopt regulations
 29 to implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure
 30 Act), but not before the effective date of the respective provision of this Act.

31 * **Sec. 30.** Sections 1, 2, 5, 6, 9, 10, 12, 15, 20, 22 - 24, and 26 of this Act take effect

1 January 1, 2014.

2 * **Sec. 31.** Except as provided in sec. 30 of this Act, this Act takes effect immediately under

3 AS 01.10.070(c).