

CS FOR HOUSE BILL NO. 247(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to interest applicable to delinquent tax; relating to the oil and gas
2 production tax, tax payments, and credits; relating to refunds for the gas storage facility
3 tax credit, the liquefied natural gas storage facility tax credit, and the qualified in-state
4 oil refinery infrastructure expenditures tax credit; relating to oil and gas lease
5 expenditures and production tax credits for municipal entities; establishing a legislative
6 working group to study the tax structure for oil and gas produced south of 68 degrees
7 North latitude; and providing for an effective date."

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

9 * **Section 1.** AS 38.05.036(a) is amended to read:

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

1 of an audit under this section,

2 (1) the department may examine the books, papers, records, or
3 memoranda of a person regarding matters related to the audit; and

4 (2) the records and premises where a business is conducted shall be
5 open at all reasonable times for inspection by the department.

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

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

14 * **Sec. 3.** AS 38.05.036(c) is amended to read:

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

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

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

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

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

1 * **Sec. 6.** AS 43.05.225 is amended to read:

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

3 (1) a delinquent tax under this title,

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

9 (B) on and after January 1, 2014, bears interest [IN EACH
10 CALENDAR QUARTER] at the rate of three percentage points above the
11 annual rate charged member banks for advances by the 12th Federal Reserve
12 District as of the first day of that calendar quarter **compounded quarterly as**
13 **of the last day of that quarter;**

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

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

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

18 * **Sec. 7.** AS 43.20.046(e) is amended to read:

19 (e) **Subject to the requirements in AS 43.55.028(e), the** [THE] department
20 may use available money in the oil and gas tax credit fund established in AS 43.55.028
21 to make the refund applied for under (d) of this section in whole or in part if the
22 department finds that, [(1) THE CLAIMANT DOES NOT HAVE AN
23 OUTSTANDING LIABILITY TO THE STATE FOR UNPAID DELINQUENT
24 TAXES UNDER THIS TITLE; AND (2)] after application of all available tax credits,
25 the claimant's total tax liability under this chapter for the calendar year in which the
26 claim is made is zero. [IN THIS SUBSECTION, "UNPAID DELINQUENT TAX"
27 MEANS AN AMOUNT OF TAX FOR WHICH THE DEPARTMENT HAS ISSUED
28 AN ASSESSMENT THAT HAS NOT BEEN PAID AND, IF CONTESTED, HAS
29 NOT BEEN FINALLY RESOLVED IN THE TAXPAYER'S FAVOR.]

30 * **Sec. 8.** AS 43.20.047(e) is amended to read:

31 (e) **Subject to the requirements in AS 43.55.028(e), the** [THE] department

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

11 * **Sec. 9.** AS 43.20.053(e) is amended to read:

12 (e) **Subject to the requirements in AS 43.55.028(e), the** [THE] department
13 may use money available in the oil and gas tax credit fund established in AS 43.55.028
14 to make a refund or payment under (d) of this section in whole or in part if the
15 department finds that,

16 [(1) THE CLAIMANT DOES NOT HAVE AN OUTSTANDING
17 LIABILITY TO THE STATE FOR UNPAID DELINQUENT TAXES UNDER THIS
18 TITLE; AND

19 (2)] after application of all available tax credits, the claimant's total tax
20 liability under this chapter for the calendar year in which the claim is made is zero.

21 * **Sec. 10.** AS 43.55.011(m) is amended to read:

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

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

7 * **Sec. 11.** AS 43.55.023(a) is amended to read:

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

10 (1) notwithstanding that a qualified capital expenditure may be a
11 deductible lease expenditure for purposes of calculating the production tax value of oil
12 and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under
13 [AS 38.05.180(i), AS 41.09.010,] AS 43.20.043 [,] or AS 43.55.025, a producer or
14 explorer that incurs a qualified capital expenditure may also elect to apply a tax credit
15 against a tax levied by AS 43.55.011(e) in the amount of 20 percent of that
16 expenditure;

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

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

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

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

27 * **Sec. 12.** AS 43.55.023(b) is amended to read:

28 (b) Before January 1, 2014, a producer or explorer may elect to take a tax
29 credit in the amount of 25 percent of a carried-forward annual loss. For lease
30 expenditures incurred on and after January 1, 2014, and before January 1, 2016, to
31 explore for, develop, or produce oil or gas deposits located north of 68 degrees North

1 latitude, a producer or explorer may elect to take a tax credit in the amount of 45
2 percent of a carried-forward annual loss. For lease expenditures incurred on and after
3 January 1, 2016, to explore for, develop, or produce oil or gas deposits located north
4 of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in
5 the amount of 35 percent of a carried-forward annual loss. For lease expenditures
6 incurred on or after January 1, 2014, **and before January 1, 2017,** to explore for,
7 develop, or produce oil or gas deposits located south of 68 degrees North latitude, a
8 producer or explorer may elect to take a tax credit in the amount of 25 percent of a
9 carried-forward annual loss. **For lease expenditures incurred on or after January 1,**
10 **2017, to explore for, develop, or produce oil or gas deposits located south of 68**
11 **degrees North latitude, a producer or explorer may elect to take a tax credit in**
12 **the amount of 10 percent of a carried-forward annual loss.** A credit under this
13 subsection may be applied against a tax levied by AS 43.55.011(e). For purposes of
14 this subsection,

15 (1) a carried-forward annual loss is the amount of a producer's or
16 explorer's adjusted lease expenditures under AS 43.55.165 and 43.55.170 for a
17 previous calendar year that was not deductible in calculating production tax values for
18 that calendar year under AS 43.55.160;

19 (2) **for lease expenditures incurred on or after January 1, 2017,**
20 **any reduction under AS 43.55.160(f) or (g) is added back to the calculation of**
21 **production tax values for that calendar year under AS 43.55.160 for the**
22 **determination of a carried-forward annual loss.**

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

24 (d) A person that is entitled to take a tax credit under this section that wishes
25 to transfer the unused credit to another person or obtain a cash payment under
26 AS 43.55.028 may apply to the department for a transferable tax credit certificate. An
27 application under this subsection must be in a form prescribed by the department and
28 must include supporting information and documentation that the department
29 reasonably requires. The department shall grant or deny an application, or grant an
30 application as to a lesser amount than that claimed and deny it as to the excess, not
31 later than 120 days after the latest of (1) March 31 of the year following the calendar

1 year in which the [QUALIFIED CAPITAL EXPENDITURE OR] carried-forward
2 annual loss for which the credit is claimed was incurred; (2) the date the statement
3 required under AS 43.55.030(a) or (e) was filed for the calendar year in which the
4 [QUALIFIED CAPITAL EXPENDITURE OR] carried-forward annual loss for which
5 the credit is claimed was incurred; or (3) the date the application was received by the
6 department. If, based on the information then available to it, the department is
7 reasonably satisfied that the applicant is entitled to a credit, the department shall issue
8 the applicant a transferable tax credit certificate for the amount of the credit. A
9 certificate issued under this subsection does not expire.

10 * **Sec. 14.** AS 43.55.023(e) is amended to read:

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

22 * **Sec. 15.** AS 43.55.023(l) is amended to read:

23 (l) A producer or explorer may apply for a tax credit for a well lease
24 expenditure incurred in the state south of 68 degrees North latitude after June 30,
25 2010, as follows:

26 (1) notwithstanding that a well lease expenditure incurred in the state
27 south of 68 degrees North latitude may be a deductible lease expenditure for purposes
28 of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a
29 credit for that expenditure is taken under (a) of this section, [AS 38.05.180(i),
30 AS 41.09.010,] AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a
31 well lease expenditure in the state south of 68 degrees North latitude may elect to

1 apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of

2 (A) 40 percent of an [THAT] expenditure incurred before
3 January 1, 2017;

4 (B) 30 percent of an expenditure incurred on or after
5 January 1, 2017, and before January 1, 2018;

6 (C) 20 percent of an expenditure incurred on or after
7 January 1, 2018 [; A TAX CREDIT UNDER THIS PARAGRAPH MAY BE
8 APPLIED FOR A SINGLE CALENDAR YEAR];

9 (2) a producer or explorer may take a credit for a well lease
10 expenditure incurred in the state south of 68 degrees North latitude in connection with
11 geological or geophysical exploration or in connection with an exploration well only if
12 the producer or explorer

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

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

17 * **Sec. 16.** AS 43.55.028(e) is amended to read:

18 (e) The department, on the written application of a person to whom a
19 transferable tax credit certificate has been issued under AS 43.55.023(d) or former
20 AS 43.55.023(m) or to whom a production tax credit certificate has been issued under
21 AS 43.55.025(f), may use available money in the oil and gas tax credit fund to
22 purchase, in whole or in part, the certificate. The department may not purchase a
23 total of more than \$200,000,000 in tax credit certificates from a person in a
24 calendar year. Before purchasing a certificate or part of a certificate, [IF] the
25 department shall find [FINDS] that

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

29 (2) the application is not the result of the division of a single entity
30 into multiple entities that would reasonably be expected to apply as a single entity
31 if the \$200,000,000 limitations in this subsection did not exist [APPLICANT DOES

1 NOT HAVE AN OUTSTANDING LIABILITY TO THE STATE FOR UNPAID
2 DELINQUENT TAXES UNDER THIS TITLE];

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

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

9 (5) the purchase is consistent with this section and regulations adopted
10 under this section.

11 * **Sec. 17.** AS 43.55.028 is amended by adding a new subsection to read:

12 (j) If an applicant has an outstanding liability to the state directly related to the
13 applicant's oil or gas production or exploration and the department has not previously
14 reduced the amount paid to that applicant for a certificate because of that outstanding
15 liability, the department may purchase only that portion of a certificate that exceeds
16 the outstanding liability. With the applicant's consent, the department may apply the
17 amount by which the department reduced its purchase of a certificate because of an
18 outstanding liability to satisfy the outstanding liability. Satisfaction of an outstanding
19 liability under this subsection does not affect the applicant's ability to contest that
20 liability. The department may enter into contracts or agreements with another
21 department to which the outstanding liability is owed.

22 * **Sec. 18.** AS 43.55.029(a) is amended to read:

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

1 or producer, the notice of assignment remains effective and shall be filed with the
2 department by the explorer or producer together with any application for the
3 department to purchase the certificate under AS 43.55.028(e).

4 * **Sec. 19.** AS 43.55.030(a) is amended to read:

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

10 (1) a description of each lease or property from which oil or gas was
11 produced, by name, legal description, lease number, or accounting codes assigned by
12 the department;

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

15 (3) the gross amount of oil and the gross amount of gas produced from
16 each lease or property, separately identifying the gross amount of gas produced from
17 each oil and gas lease to which an effective election under AS 43.55.014(a) applies,
18 the amount of gas delivered to the state under AS 43.55.014(b), and the percentage of
19 the gross amount of oil and gas owned by the producer;

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

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

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

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

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

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

3 * **Sec. 20.** AS 43.55.030(e) is amended to read:

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

10 (1) the explorer's or producer's qualified capital expenditures, [AS
11 DEFINED IN AS 43.55.023,] other lease expenditures under AS 43.55.165, and
12 adjustments or other payments or credits under AS 43.55.170; and

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

16 * **Sec. 21.** AS 43.55.165(a) is amended to read:

17 (a) **For** [EXCEPT AS PROVIDED IN (j) AND (k) OF THIS SECTION,
18 FOR] purposes of this chapter, a producer's lease expenditures for a calendar year are

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

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

26 (B) allowed by the department by regulation, based on the
27 department's determination that the costs satisfy the following three
28 requirements:

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

31 (ii) the costs must be ordinary and necessary costs of

1 exploring for, developing, or producing, as applicable, oil or gas
2 deposits; and

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

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

8 * **Sec. 22.** AS 43.55.165(e) is amended to read:

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

10 (1) depreciation, depletion, or amortization;

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

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

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

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

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

23 (7) fines or penalties imposed by law;

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

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

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

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

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

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

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

12 (15) costs incurred for dismantlement, removal, surrender, or
13 abandonment of a facility, pipeline, well pad, platform, or other structure, or for the
14 restoration of a lease, field, unit, area, tract of land, body of water, or right-of-way in
15 conjunction with dismantlement, removal, surrender, or abandonment; a cost is not
16 excluded under this paragraph if the dismantlement, removal, surrender, or
17 abandonment for which the cost is incurred is undertaken for the purpose of replacing,
18 renovating, or improving the facility, pipeline, well pad, platform, or other structure;

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

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

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

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

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

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

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

27 (20) costs incurred to construct, acquire, or operate a refinery or crude
28 oil topping plant, regardless of whether the products of the refinery or topping plant
29 are used in oil or gas exploration, development, or production operations; however, if
30 a producer owns a refinery or crude oil topping plant that is located on or near the
31 premises of the producer's lease or property in the state and that processes the

1 producer's oil produced from that lease or property into a product that the producer
2 uses in the operation of the lease or property in drilling for or producing oil or gas, the
3 producer's lease expenditures include the amount calculated by subtracting from the
4 fair market value of the product used the prevailing value, as determined under
5 AS 43.55.020(f), of the oil that is processed;

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

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

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

13 * **Sec. 24.** AS 43.55.170(c) is amended to read:

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

18 * **Sec. 25.** AS 43.55.890 is amended to read:

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

- 25 (1) the amount of oil or gas production;
- 26 (2) the amount of taxes levied under this chapter or paid under this
27 chapter;
- 28 (3) the effective tax rates under this chapter;
- 29 (4) the gross value of oil or gas at the point of production;
- 30 (5) the transportation costs for oil or gas;
- 31 (6) qualified capital expenditures [, AS DEFINED IN AS 43.55.023];

- 1 (7) exploration expenditures under AS 43.55.025;
- 2 (8) production tax values of oil or gas under AS 43.55.160;
- 3 (9) lease expenditures under AS 43.55.165;
- 4 (10) adjustments to lease expenditures under AS 43.55.170;
- 5 (11) tax credits applicable or potentially applicable against taxes levied
- 6 by this chapter.

7 * **Sec. 26.** AS 43.55.895(b) is amended to read:

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

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

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

14 * **Sec. 27.** AS 43.55.900 is amended by adding a new paragraph to read:

15 (26) "qualified capital expenditure"

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

19 (i) incurred for geological or geophysical exploration;

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

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

30 (B) does not include an expenditure incurred to acquire an asset
31 the cost of previously acquiring which was a lease expenditure under

1 AS 43.55.165 or would have been a lease expenditure under AS 43.55.165 if it
2 had been incurred after March 31, 2006, or that has previously been placed in
3 service in the state; an expenditure to acquire an asset is not excluded under
4 this subparagraph if not more than an immaterial portion of the asset meets a
5 description under this subparagraph; for purposes of this subparagraph, "asset"
6 includes geological, geophysical, and well data and interpretations.

7 * **Sec. 28.** AS 38.05.180(i); AS 41.09.010, 41.09.020, 41.09.030, and 41.09.090 are
8 repealed.

9 * **Sec. 29.** AS 43.55.023(a), 43.55.023(l), 43.55.023(n), 43.55.023(o), 43.55.028(i),
10 43.55.075(d)(1), 43.55.165(j), and 43.55.165(k) are repealed.

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

13 **LEGISLATIVE WORKING GROUP.** (a) A legislative working group is established
14 to analyze the Cook Inlet fiscal regime for oil and gas, review the state's tax structure and
15 rates on oil and gas produced south of 68 degrees North latitude, recommend changes to the
16 legislature for consideration during the First Regular Session of the Thirtieth Alaska State
17 Legislature, and develop terms for a comprehensive fiscal regime for the area south of 68
18 degrees North latitude including,

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

21 (2) incentives for the exploration, development, and production of oil and gas
22 south of 68 degrees North latitude;

23 (3) consideration of the competitiveness of the area to attract new oil and gas
24 development;

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

28 (5) alternative means of state support for the exploration, development, and
29 production of oil and gas in this area, including through the Alaska Industrial Export and
30 Development Authority;

31 (6) analysis of whether refundable state tax credits are still necessary for a

1 new regime;

2 (7) evaluation of the need for disclosure of some confidential information to
3 help legislators shape policy, including an evaluation of the associated state and federal
4 constitutional issues related to statutory waivers of taxpayer confidentiality.

5 (b) The working group consists of

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

9 (2) members appointed by the co-chairs; members must be legislators.

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

16 (d) The working group is to be supported by legislative consultants now under
17 contract through the Legislative Budget and Audit Committee.

18 * **Sec. 31.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 **APPLICABILITY.** Sections 7 - 9, 16, and 17 of this Act apply to a refund or payment
21 applied for on or after January 1, 2017.

22 * **Sec. 32.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 **TRANSITION: QUALIFIED CAPITAL EXPENDITURES AND WELL LEASE**
25 **EXPENDITURES.** (a) Notwithstanding the repeal of AS 43.55.023(a), (l), (n), and (o) by sec.
26 29 of this Act, and the amendments to AS 43.55.023(d) and (e), 43.55.029(a), 43.55.165(f),
27 and 43.55.170(c) by secs. 13, 14, 18, 23, and 24 of this Act, a taxpayer who incurs

28 (1) a qualified capital expenditure before the effective date of sec. 29 of this
29 Act that qualifies for a qualified capital expenditure credit under AS 43.55.023(a) may apply
30 for a credit or transferable tax credit certificate under AS 43.55.023 and assign the tax credit
31 under AS 43.55.029, as those sections read on the day before the effective date of sec. 29 of

1 this Act;

2 (2) a well lease expenditure before the effective date of sec. 29 of this Act that
3 qualifies for a well lease expenditure credit under AS 43.55.023(l) may apply for a credit or
4 transferable tax credit certificate under AS 43.55.023 and assign the tax credit under
5 AS 43.55.029, as those sections read on the day before the effective date of sec. 29 of this
6 Act.

7 (b) The Department of Revenue may continue to apply and enforce AS 43.55.023 and
8 43.55.029, as those sections read on the day before the effective date of sec. 29 of this Act, for
9 qualified capital expenditures and well lease expenditures incurred before the effective date of
10 sec. 29 of this Act.

11 * **Sec. 33.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 **TRANSITION: LEASE EXPENDITURES FOR A CALENDAR YEAR AFTER**
14 **2006 AND BEFORE 2010.** Notwithstanding AS 43.55.165(a), as amended by sec. 21 of this
15 Act, and the repeal of AS 43.55.165(j) and (k) by sec. 29 of this Act, AS 43.55.165(j) and (k)
16 apply to a producer's total lease expenditures for a calendar year after 2006 and before 2010
17 under AS 43.55.165, as that section read on the day before the effective date of sec. 29 of this
18 Act.

19 * **Sec. 34.** 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 and the Department of
22 Natural Resources may adopt regulations necessary to implement the changes made by this
23 Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
24 before the effective date of the law implemented by the regulation. The Department of
25 Revenue shall adopt regulations governing the use of tax credits under AS 43.55 for a
26 calendar year for which the applicable tax credit provisions of AS 43.55 differ as between
27 parts of the year as a result of this Act.

28 * **Sec. 35.** The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

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

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

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

12 * **Sec. 36.** Sections 30 and 34 of this Act take effect immediately under AS 01.10.070(c).

13 * **Sec. 37.** Sections 13, 14, 18 - 25, 27, 29, 32, and 33 of this Act take effect January 1,
14 2022.

15 * **Sec. 38.** Except as provided in secs. 36 and 37 of this Act, this Act takes effect January 1,
16 2017.