

CONFERENCE CS FOR HOUSE BILL NO. 111
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - SECOND SPECIAL SESSION

BY THE CONFERENCE COMMITTEE

Offered:

Sponsor(s): HOUSE RESOURCES COMMITTEE

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to credits against the oil and gas production tax; relating to the**
2 **applicability of certain credits earned under the oil and gas production tax to the tax on**
3 **corporations; relating to tax credit certificates against the oil and gas production tax**
4 **and the issuance and assignment of those certificates; relating to interest applicable to**
5 **delinquent taxes; relating to lease expenditures; relating to the oil and gas tax credit**
6 **fund; relating to a legislative working group; and providing for an effective date."**

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

8 *** Section 1.** AS 40.25.100(a) is amended to read:

9 (a) Information in the possession of the Department of Revenue that discloses
10 the particulars of the business or affairs of a taxpayer or other person, including
11 information under AS 38.05.020(b)(11) that is subject to a confidentiality agreement
12 under AS 38.05.020(b)(12), is not a matter of public record, except as provided in
13 AS 43.05.230(i) - (k) [AS 43.05.230(i) - (l)] or for purposes of investigation and law

1 enforcement. The information shall be kept confidential except when its production is
2 required in an official investigation, administrative adjudication under AS 43.05.405 -
3 43.05.499, or court proceeding. These restrictions do not prohibit the publication of
4 statistics presented in a manner that prevents the identification of particular reports
5 and items, prohibit the publication of tax lists showing the names of taxpayers who are
6 delinquent and relevant information that may assist in the collection of delinquent
7 taxes, or prohibit the publication of records, proceedings, and decisions under
8 AS 43.05.405 - 43.05.499.

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

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

11 (1) a delinquent tax under this title

12 (A) [UNDER THIS TITLE,] before January 1, 2014, bears
13 interest in each calendar quarter at the rate of five percentage points above the
14 annual rate charged member banks for advances by the 12th Federal Reserve
15 District as of the first day of that calendar quarter, or at the annual rate of 11
16 percent, whichever is greater, compounded quarterly as of the last day of that
17 quarter;

18 (B) [UNDER THIS TITLE,] on and after January 1, 2014, **and**
19 **before January 1, 2018** [EXCEPT AS PROVIDED IN (C) OF THIS
20 PARAGRAPH], bears interest in each calendar quarter at the rate of three
21 percentage points above the annual rate charged member banks for advances
22 by the 12th Federal Reserve District as of the first day of that calendar quarter;

23 (C) [UNDER AS 43.55,] on and after January 1, **2018** [2017,

24 (i) FOR THE FIRST THREE YEARS AFTER A TAX
25 BECOMES DELINQUENT], bears interest in each calendar quarter at
26 the rate of **5.25** [SEVEN] percentage points above the annual rate
27 charged member banks for advances by the 12th federal reserve district
28 as of the first day of that calendar quarter, compounded quarterly as of
29 the last day of that quarter; [AND

30 (ii) AFTER THE FIRST THREE YEARS AFTER A
31 TAX BECOMES DELINQUENT, DOES NOT BEAR INTEREST;]

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

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

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

5 * **Sec. 3.** AS 43.20.044(a) is amended to read:

6 (a) A taxpayer may apply as a credit against the tax levied under this chapter

7 (1) the exploration incentive credit authorized by AS 27.30;

8 (2) an alternative tax credit for oil and gas exploration earned by
9 the taxpayer under AS 43.55.025 for exploration expenditures incurred for work
10 performed on or after July 1, 2016.

11 * **Sec. 4.** AS 43.20.047(h) is amended to read:

12 (h) If the liquefied natural gas storage facility for which a credit was received
13 under this section ceases commercial operation during the nine calendar years
14 immediately following the calendar year in which the liquefied natural gas storage
15 facility commences commercial operation, the tax liability under this chapter of the
16 person who claimed the credit shall be increased, and a person not subject to the tax
17 under this chapter that received a payment under (d) **or former** [AND] (e) of this
18 section shall be liable to the state in the amount determined in this subsection. The
19 amount of the increase in tax liability or liability to the state

20 (1) for a person subject to the tax under this chapter, shall be
21 determined and assessed for the taxable year in which the liquefied natural gas storage
22 facility ceases commercial operation, regardless of whether the liquefied natural gas
23 storage facility subsequently resumes commercial operation;

24 (2) for a person not subject to the tax due under this chapter, shall be
25 determined and assessed as of December 31 of the calendar year in which the liquefied
26 natural gas storage facility ceases commercial operation, regardless of whether the
27 liquefied natural gas storage facility subsequently resumes commercial operation; and

28 (3) is equal to the total amount of the credit taken or received as a
29 payment under (d) of this section, as applicable, multiplied by a fraction, the
30 numerator of which is the difference between 10 and the number of calendar years for
31 which the liquefied natural gas storage facility was eligible for a tax credit under this

1 section and the denominator of which is 10.

2 * **Sec. 5.** AS 43.55.023(c) is amended to read:

3 (c) A credit or portion of a credit under this section

4 (1) may not be used to reduce a person's tax liability under
5 AS 43.55.011(e) for any calendar year below zero;

6 (2) may, if [, AND ANY UNUSED CREDIT OR PORTION OF A
7 CREDIT] not used under this subsection, [MAY] be applied in a later calendar year;

8 (3) may, regardless of when the credit was earned, be used to
9 satisfy a tax, interest, penalty, fee, or other charge that

10 (A) is related to the tax due under this chapter for a prior
11 year, except for a surcharge under AS 43.55.201 - 43.55.299 or 43.55.300
12 or the tax levied by AS 43.55.011(i); and

13 (B) has not, for the purpose of art. IX, sec. 17(a),
14 Constitution of the State of Alaska, been subject to an administrative
15 proceeding or litigation.

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

17 (d) A person that is entitled to take a tax credit under this section that wishes
18 to transfer the unused credit to another person [OR OBTAIN A CASH PAYMENT
19 UNDER AS 43.55.028] may apply to the department for a transferable tax credit
20 certificate. Subject to the provisions of AS 43.55.028, a person may apply to the
21 department to obtain a cash payment for a credit earned under this section. An
22 application under this subsection must be in a form prescribed by the department and
23 must include supporting information and documentation that the department
24 reasonably requires. The department shall grant or deny an application, or grant an
25 application as to a lesser amount than that claimed and deny it as to the excess, not
26 later than 120 days after the latest of (1) March 31 of the year following the calendar
27 year in which the qualified capital expenditure or carried-forward annual loss for
28 which the credit is claimed was incurred; (2) the date the statement required under
29 AS 43.55.030(a) or (e) was filed for the calendar year in which the qualified capital
30 expenditure or carried-forward annual loss for which the credit is claimed was
31 incurred; or (3) the date the application was received by the department. If, based on

1 the information then available to it, the department is reasonably satisfied that the
2 applicant is entitled to a credit, the department shall issue the applicant a transferable
3 tax credit certificate for the amount of the credit. A certificate issued under this
4 subsection does not expire.

5 * **Sec. 7.** AS 43.55.023(d), as amended by sec. 6 of this Act, is amended to read:

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

25 * **Sec. 8.** AS 43.55.023(e) is amended to read:

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

1 **(1)** [ONLY] against a tax levied by AS 43.55.011(e); **however** [
 2 HOWEVER], a credit shown on a transferable tax credit certificate may not be applied
 3 **under this paragraph** to reduce a transferee's total tax liability under
 4 AS 43.55.011(e) for oil and gas produced during a calendar year to less than 80
 5 percent of the tax that would otherwise be due without applying that credit; **any** [
 6 ANY] portion of a credit not used under this **paragraph** [SUBSECTION] may be
 7 applied in a later period; **or**

8 **(2) regardless of when the credit was earned, to satisfy a tax,**
 9 **interest, penalty, fee, or other charge that**

10 **(A) is related to the tax due under this chapter, except for a**
 11 **surcharge under AS 43.55.201 - 43.55.299 or 43.55.300 or the tax levied by**
 12 **AS 43.55.011(i);**

13 **(B) is for a calendar year before the year in which the**
 14 **certificate is applied; and**

15 **(C) has not, for the purpose of art. IX, sec. 17(a),**
 16 **Constitution of the State of Alaska, been subject to an administrative**
 17 **proceeding or litigation.**

18 * **Sec. 9.** AS 43.55.023(g) is amended to read:

19 (g) The issuance of a transferable tax credit certificate under (d) of this section
 20 or former (m) of this section [OR THE PURCHASE OF A CERTIFICATE UNDER
 21 AS 43.55.028] does not limit the department's ability to later audit a tax credit claim to
 22 which the certificate relates or to adjust the claim if the department determines, as a
 23 result of the audit, that the applicant was not entitled to the amount of the credit for
 24 which the certificate was issued. The tax liability of the applicant under
 25 AS 43.55.011(e) and 43.55.017 - 43.55.180 is increased by the amount of the credit
 26 that exceeds that to which the applicant was entitled, or the applicant's available valid
 27 outstanding credits applicable against the tax levied by AS 43.55.011(e) are reduced
 28 by that amount. If the applicant's tax liability is increased under this subsection, the
 29 increase bears interest under AS 43.05.225 from the date the transferable tax credit
 30 certificate was issued. For purposes of this subsection, an applicant that is an explorer
 31 is considered a producer subject to the tax levied by AS 43.55.011(e).

1 * **Sec. 10.** AS 43.55.025(a) is amended to read:

2 (a) Subject to the terms and conditions of this section, a credit against the
3 [PRODUCTION] tax levied by AS 43.55.011(e) **or, if the credit is for exploration**
4 **expenditures incurred for work performed on or after July 1, 2016, against the**
5 **tax levied by AS 43.20** is allowed for exploration expenditures that qualify under (b)
6 of this section in an amount equal to one of the following:

7 (1) 30 percent of the total exploration expenditures that qualify only
8 under (b) and (c) of this section;

9 (2) 30 percent of the total exploration expenditures that qualify only
10 under (b) and (d) of this section;

11 (3) 40 percent of the total exploration expenditures that qualify under
12 (b), (c), and (d) of this section;

13 (4) 40 percent of the total exploration expenditures that qualify only
14 under (b) and (e) of this section;

15 (5) 80, 90, or 100 percent, or a lesser amount described in (l) of this
16 section, of the total exploration expenditures described in (b)(1) and (2) of this section
17 and not excluded by (b)(3) and (4) of this section that qualify only under (l) of this
18 section;

19 (6) the lesser of \$25,000,000 or 80 percent of the total exploration
20 drilling expenditures described in (m) of this section and that qualify under (b) and
21 (c)(1), (c)(2)(A), and (c)(2)(C) of this section; or

22 (7) the lesser of \$7,500,000 or 75 percent of the total seismic
23 exploration expenditures described in (n) of this section and that qualify under (b) of
24 this section.

25 * **Sec. 11.** AS 43.55.025(a), as amended by sec. 10 of this Act, is amended to read:

26 (a) Subject to the terms and conditions of this section, a credit against the tax
27 levied by AS 43.55.011(e) or, if the credit is for exploration expenditures incurred for
28 work performed on or after July 1, 2016, against the tax levied by AS 43.20 is allowed
29 for exploration expenditures that qualify under (b) of this section in an amount equal
30 to one of the following:

31 (1) 30 percent of the total exploration expenditures that qualify only

1 under (b) and (c) of this section;

2 (2) 30 percent of the total exploration expenditures that qualify only
3 under (b) and (d) of this section;

4 (3) 40 percent of the total exploration expenditures that qualify under
5 (b), (c), and (d) of this section;

6 (4) 40 percent of the total exploration expenditures that qualify only
7 under (b) and (e) of this section;

8 (5) 80, 90, or 100 percent, or a lesser amount described in (l) of this
9 section, of the total exploration expenditures described in **(b)(2) and (3)** [(b)(1) AND
10 (2)] of this section and not excluded by **(b)(4) and (5)** [(b)(3) AND (4)] of this section
11 that qualify only under (l) of this section;

12 (6) the lesser of \$25,000,000 or 80 percent of the total exploration
13 drilling expenditures described in (m) of this section and that qualify under (b) and
14 (c)(1), (c)(2)(A), and (c)(2)(C) of this section; or

15 (7) the lesser of \$7,500,000 or 75 percent of the total seismic
16 exploration expenditures described in (n) of this section and that qualify under (b) of
17 this section.

18 * **Sec. 12.** AS 43.55.025(b) is amended to read:

19 (b) To qualify for the production tax credit under (a) of this section, an
20 exploration expenditure

21 **(1)** must be incurred for work performed after June 30, 2008, and
22 before July 1, 2016, except that, [TO QUALIFY FOR THE PRODUCTION TAX
23 CREDIT UNDER (a)(1), (2), (3), OR (4) OF THIS SECTION] for exploration
24 conducted outside of the Cook Inlet sedimentary basin and south of 68 degrees North
25 latitude, **to qualify for the production tax credit under**

26 **(A) (a)(1), (2), or (3) of this section,** an exploration
27 expenditure must be incurred for work performed after June 30, 2008, and
28 before January 1, 2022; [,] and

29 **(B) (a)(4) of this section, an exploration expenditure must**
30 **be incurred for work performed after June 30, 2008, and before**
31 **January 1, 2018;**

1 (2) [(1)] may be for seismic or other geophysical exploration costs not
2 connected with a specific well;

3 (3) [(2)] if for an exploration well,

4 (A) must be incurred by an explorer that holds an interest in the
5 exploration well for which the production tax credit is claimed;

6 (B) may be for either a well that encounters an oil or gas
7 deposit or a dry hole;

8 (C) must be for a well that has been completed, suspended, or
9 abandoned at the time the explorer claims the tax credit under (f) of this
10 section; and

11 (D) must be for goods, services, or rentals of personal property
12 reasonably required for the surface preparation, drilling, casing, cementing,
13 and logging of an exploration well, and, in the case of a dry hole, for the
14 expenses required for abandonment if the well is abandoned within 18 months
15 after the date the well was spudded;

16 (4) [(3)] may not be for administration, supervision, engineering, or
17 lease operating costs; geological or management costs; community relations or
18 environmental costs; bonuses, taxes, or other payments to governments related to the
19 well; costs, including repairs and replacements, arising from or associated with fraud,
20 wilful misconduct, gross negligence, criminal negligence, or violation of law,
21 including a violation of 33 U.S.C. 1319(c)(1) or 1321(b)(3) (Clean Water Act); or
22 other costs that are generally recognized as indirect costs or financing costs; and

23 (5) [(4)] may not be incurred for an exploration well or seismic
24 exploration that is included in a plan of exploration or a plan of development for any
25 unit before May 14, 2003.

26 * **Sec. 13.** AS 43.55.025(f) is amended to read:

27 (f) For a production tax credit under this section,

28 (1) an explorer shall, in a form prescribed by the department and,
29 except for a credit under (k) of this section, within six months of the completion of the
30 exploration activity, claim the credit and submit information sufficient to demonstrate
31 to the department's satisfaction that the claimed exploration expenditures qualify under

1 this section; in addition, the explorer shall submit information necessary for the
2 commissioner of natural resources to evaluate the validity of the explorer's compliance
3 with the requirements of this section;

4 (2) an explorer shall agree, in writing,

5 (A) to notify the Department of Natural Resources, within 30
6 days after completion of seismic or geophysical data processing, completion of
7 well drilling, or filing of a claim for credit, whichever is the latest, for which
8 exploration costs are claimed, of the date of completion and submit a report to
9 that department describing the processing sequence and providing a list of data
10 sets available;

11 (B) to provide to the Department of Natural Resources, within
12 30 days after the date of a request, unless a longer period is provided by the
13 Department of Natural Resources, specific data sets, ancillary data, and reports
14 identified in (A) of this paragraph; in this subparagraph,

15 (i) a seismic or geophysical data set includes the data
16 for an entire seismic survey, irrespective of whether the survey area
17 covers nonstate land in addition to state land or land in a unit in
18 addition to land outside a unit;

19 (ii) well data include all analyses conducted on physical
20 material, and well logs collected from the well, results, and copies of
21 data collected and data analyses for the well, including well logs;
22 sample analyses; testing geophysical and velocity data including
23 seismic profiles and check shot surveys; testing data and analyses; age
24 data; geochemical analyses; and tangible material;

25 (C) that, notwithstanding any provision of AS 38, information
26 provided under this paragraph will be held confidential by the Department of
27 Natural Resources,

28 (i) in the case of well data, until the expiration of the
29 24-month period of confidentiality described in AS 31.05.035(c), at
30 which time the Department of Natural Resources will release the
31 information after 30 days' public notice unless, in the discretion of the

1 commissioner of natural resources, it is necessary to protect
2 information relating to the valuation of unleased acreage in the same
3 vicinity, or unless the well is on private land and the owner, including
4 the lessor but not the lessee, of the oil and gas resources has not given
5 permission to release the well data;

6 (ii) in the case of seismic or other geophysical data,
7 other than seismic data acquired by seismic exploration subject to (k) of
8 this section, for 10 years following the completion date, at which time
9 the Department of Natural Resources will release the information after
10 30 days' public notice, except as to seismic or other geophysical data
11 acquired from private land, unless the owner, including a lessor but not
12 a lessee, of the oil and gas resources in the private land gives
13 permission to release the seismic or other geophysical data associated
14 with the private land;

15 (iii) in the case of seismic data obtained by seismic
16 exploration subject to (k) of this section, only until the expiration of 30
17 days' public notice issued on or after the date the production tax credit
18 certificate is issued under (5) of this subsection;

19 (3) if more than one explorer holds an interest in a well or seismic
20 exploration, each explorer may claim an amount of credit that is proportional to the
21 explorer's cost incurred;

22 (4) the department may exercise the full extent of its powers as though
23 the explorer were a taxpayer under this title, in order to verify that the claimed
24 expenditures are qualified exploration expenditures under this section; and

25 (5) if the department is satisfied that the explorer's claimed
26 expenditures are qualified under this section and that all data required to be submitted
27 under this section have been submitted, the department shall issue to the explorer a
28 production tax credit certificate for the amount of credit to be allowed against
29 production taxes levied by AS 43.55.011(e) **and, if the credit is for exploration**
30 **expenditures incurred for work performed on or after July 1, 2016, against taxes**
31 **levied by AS 43.20**; notwithstanding any contrary provision of AS 38, AS 40.25.100,

1 or AS 43.05.230, the following information is not confidential:

2 (A) the explorer's name;

3 (B) the date of the application;

4 (C) the location of the well or seismic exploration;

5 (D) the date of the department's issuance of the certificate; and

6 (E) the date on which the information required to be submitted

7 under this section will be released.

8 * **Sec. 14.** AS 43.55.025(g) is amended to read:

9 (g) An explorer, other than an entity that is exempt from taxation under this
10 chapter, may transfer, convey, or sell its production tax credit certificate to any person,
11 and any person who receives a production tax credit certificate may also transfer,
12 convey, or sell the certificate. **A production tax credit certificate that is**
13 **transferred, conveyed, or sold under this section may not be applied against the**
14 **tax levied by AS 43.20.**

15 * **Sec. 15.** AS 43.55.025(h) is amended to read:

16 (h) A producer that purchases a production tax credit certificate may apply the
17 credits against its production tax levied by AS 43.55.011(e). Regardless of the price
18 the producer paid for the certificate, the producer may receive a credit against its
19 production tax liability for the full amount of the credit, but for not more than the
20 amount for which the certificate is issued. A production tax credit **or a portion of a**
21 **production tax credit or a production tax credit certificate or a portion of a**
22 **production tax credit certificate** allowed under this section

23 **(1) may not be applied more than once;**

24 **(2) may be applied in a later calendar year;**

25 **(3) may, regardless of when the credit was earned, be used to**
26 **satisfy a tax, interest, penalty, fee, or other charge that**

27 **(A) is related to the tax due under this chapter for a prior**
28 **year, except for a surcharge under AS 43.55.201 - 43.55.299 or 43.55.300**
29 **or the tax levied by AS 43.55.011(i); and**

30 **(B) has not, for the purpose of art. IX, sec. 17(a),**
31 **Constitution of the State of Alaska, been subject to an administrative**

1 **proceeding or litigation.**

2 * **Sec. 16.** AS 43.55.025(i) is amended to read:

3 (i) For a production tax credit under this section,

4 (1) a credit may not be applied to reduce a taxpayer's tax liability under
5 AS 43.55.011(e) below zero for a calendar year;

6 **(2) if the production tax credit is for exploration expenditures**
7 **incurred for work performed on or after July 1, 2016, the explorer may apply the**
8 **credit to reduce the explorer's tax liability under AS 43.20, except that the credit**
9 **may not be applied to reduce the explorer's tax liability under AS 43.20 below**
10 **zero for a tax year;** and

11 **(3) [(2)]** an amount of the production tax credit in excess of the amount
12 that may be applied for a calendar **or tax** year under this subsection may be carried
13 forward and applied against the taxpayer's tax liability under AS 43.55.011(e) in one
14 or more later calendar years **or under AS 43.20 in one or more later tax years.**

15 * **Sec. 17.** AS 43.55.025(k) is amended to read:

16 (k) Subject to the terms and conditions of this section, if a claim is filed under
17 (f)(1) of this section before January 1, 2016, a credit against the production tax levied
18 by AS 43.55.011(e) is allowed in an amount equal to five percent of an eligible
19 expenditure under this subsection incurred for seismic exploration performed before
20 July 1, 2003. To be eligible under this subsection, an expenditure must

21 (1) have been for seismic exploration that

22 (A) obtained data that the commissioner of natural resources
23 considers to be in the best interest of the state to acquire for public distribution;
24 and

25 (B) was conducted outside the boundaries of a production unit;
26 however, the amount of the expenditure that is otherwise eligible under this
27 section is reduced proportionately by the portion of the seismic exploration
28 activity that crossed into a production unit; and

29 (2) qualify under **(b)(4)** [(b)(3)] of this section.

30 * **Sec. 18.** AS 43.55.025 is amended by adding a new subsection to read:

31 (q) On the day on which an application for a tax credit certificate is submitted

1 under (f) of this section, the department shall issue to the explorer a conditional tax
2 credit certificate. For the purposes of AS 43.55.028(e), the department may, at the
3 time of an application under AS 43.55.028(e), accept from an explorer a conditional
4 tax credit certificate issued under this subsection; however, the department may not
5 purchase a conditional tax credit certificate. A conditional tax credit certificate under
6 this subsection

7 (1) may be used to apply for the purchase of a tax credit certificate
8 under AS 43.55.028(e) if the conditional tax credit certificate is for exploration
9 expenditures incurred before July 1, 2017;

10 (2) may not be sold, transferred, or conveyed;

11 (3) has no value; and

12 (4) expires on the day on which the department issues a transferable
13 tax credit certificate under (f) of this section.

14 * **Sec. 19.** AS 43.55.028(a) is amended to read:

15 (a) The oil and gas tax credit fund is established as a separate fund of the state.
16 The purpose of the fund is to purchase transferable tax credit certificates issued under
17 AS 43.55.023 and production tax credit certificates issued under AS 43.55.025 and to
18 pay refunds and payments claimed under AS 43.20.046, 43.20.047, or 43.20.053. **The**
19 **oil and gas tax credit fund established under this subsection may not be used to**
20 **purchase a tax credit certificate for a credit earned under this chapter for activity**
21 **occurring on or after July 1, 2017.**

22 * **Sec. 20.** AS 43.55.028(e) is amended to read:

23 (e) The department, on the written application of a person to whom a
24 transferable tax credit certificate has been issued under AS 43.55.023(d) or former
25 AS 43.55.023(m) **for an expenditure incurred before July 1, 2017,** or to whom a
26 production tax credit certificate has been issued under AS 43.55.025(f) **for an**
27 **expenditure incurred before July 1, 2017,** may use available money in the oil and
28 gas tax credit fund to purchase, in whole or in part, the certificate. The department
29 may not purchase a total of more than \$70,000,000 in tax credit certificates from a
30 person in a calendar year. Before purchasing a certificate or part of a certificate, the
31 department shall find that

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

4 (2) the application is not the result of the division of a single entity into
5 multiple entities that would reasonably be expected to apply as a single entity if the
6 \$70,000,000 limitation in this subsection did not exist;

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

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

13 (5) the purchase is consistent with this section and regulations adopted
14 under this section.

15 * **Sec. 21.** AS 43.55.029(a) is amended to read:

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

28 * **Sec. 22.** AS 43.55.160(d) is amended to read:

29 (d) Irrespective of whether a producer produces taxable oil or gas during a
30 calendar year or month, the producer is considered to have generated a positive
31 production tax value if a calculation described in (a) of this section yields a positive

1 number because the producer's adjusted lease expenditures for a calendar year under
2 AS 43.55.165 and 43.55.170 are less than zero as a result of the producer's receiving a
3 payment or credit under AS 43.55.170. An explorer that has [TAKEN A TAX
4 CREDIT UNDER AS 43.55.023(b) OR THAT HAS] obtained a transferable tax credit
5 certificate under AS 43.55.023(d) for the amount of a tax credit under **former**
6 AS 43.55.023(b) is considered a producer, subject to the tax levied **by** [UNDER]
7 AS 43.55.011(e), to the extent that the explorer generates a positive production tax
8 value as the result of the explorer's receiving a payment or credit under AS 43.55.170.

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

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

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

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

19 * **Sec. 25.** AS 43.55.023(b) and 43.55.160(e) are repealed January 1, 2018.

20 * **Sec. 26.** AS 43.05.230(I); AS 43.20.046(e), 43.20.047(e), 43.20.053(e); AS 43.55.025(q),
21 43.55.028, and 43.55.029 are repealed.

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

24 **LEGISLATIVE WORKING GROUP.** (a) A legislative working group is established
25 to analyze the state's fiscal regime for oil and gas, review the state's tax structure and rates on
26 oil and gas produced in the state, recommend changes to the legislature for consideration
27 during the Second Regular Session of the Thirtieth Alaska State Legislature, and develop
28 terms for a comprehensive fiscal regime, including

29 (1) a tax structure that accounts for the unique circumstances for each oil and
30 gas producing area in the state;

31 (2) incentives other than direct monetary support from the state for the

1 exploration, development, and production of oil and gas in the state;

2 (3) consideration of the competitiveness of each area of the state to attract new
3 oil and gas development;

4 (4) alternative means of state support for the exploration, development, and
5 production of oil and gas in the state, including loan guarantees or other financial support
6 through the Alaska Industrial Development and Export Authority, or other state corporation or
7 entity;

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

11 (6) the applicability of the recommended tax structure to gas currently subject
12 to AS 43.55.011(o).

13 (b) The recommended changes under (a) of this section may not include refundable or
14 deductible tax credits.

15 (c) The working group consists of

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

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

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

27 (e) The working group may be supported by legislative consultants under contract
28 through the Legislative Budget and Audit Committee.

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

31 **APPLICABILITY: TAX CREDITS UNDER AS 43.55.025 APPLIED AGAINST**

1 TAX DUE UNDER AS 43.20. AS 43.20.044(a), as amended by sec. 3 of this Act, and
2 AS 43.55.025(a), (f), and (i), as amended by secs. 10, 13, and 16 of this Act, apply to a tax
3 credit that has been earned under AS 43.55.025 for work performed on or after July 1, 2016.

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

6 **APPLICABILITY: TAX CREDIT AND CREDIT CERTIFICATE CARRYBACK.**
7 AS 43.55.023(c), as amended by sec. 5 of this Act, AS 43.55.023(e), as amended by sec. 8 of
8 this Act, and AS 43.55.025(h), as amended by sec. 15 of this Act, apply to a tax credit earned
9 or transferable tax credit certificate issued under AS 43.55.023 or a production tax credit
10 certificate issued under AS 43.55.025(f), regardless of when the credit was earned or the
11 certificate was issued.

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

14 **TRANSITION: INTEREST ON DELINQUENT TAXES.** Notwithstanding the
15 effective date of sec. 2 of this Act, a delinquent tax under AS 43.55 bears interest in each
16 calendar quarter of 2017 as provided under AS 43.05.225(1) as that paragraph read on the day
17 before the effective date of sec. 2 of this Act.

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

20 **TRANSITION: PUBLIC INFORMATION UNDER AS 43.05.230(l).**
21 Notwithstanding the repeal of AS 43.05.230(l) by sec. 26 of this Act, on April 30 of the year
22 following the calendar year in which sec. 26 of this Act takes effect, the Department of
23 Revenue shall make public the information required under AS 43.05.230(l), as that section
24 read on the day before the effective date of sec. 26 of this Act.

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

27 **TRANSITION: CASH PAYMENT FOR A TAX CREDIT EARNED FOR A**
28 **CARRIED-FORWARD ANNUAL LOSS UNDER AS 43.55.023(b) IN CALENDAR YEAR**
29 **2017.** Notwithstanding AS 43.55.023(d) and 43.55.028(a) and (e), as amended by secs. 6, 19,
30 and 20 of this Act, a producer or explorer who earns a tax credit for a carried-forward annual
31 loss under AS 43.55.023(b) in calendar year 2017 may apply to the Department of Revenue

1 for a transferable tax credit certificate under AS 43.55.023(d), as that subsection read on the
2 day before the effective date of sec. 6 of this Act, for the entire amount of the credit earned
3 during calendar year 2017. However, the Department of Revenue may not purchase more than
4 half of the value of a transferable tax credit certificate issued under AS 43.55.023(d), as that
5 subsection read on the day before the effective date of sec. 6 of this Act, for a carried-forward
6 annual loss earned during calendar year 2017 under AS 43.55.023(b); the remainder of the tax
7 credit certificate may be applied against a tax levied by AS 43.55.011(e).

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

10 TRANSITION: CARRIED-FORWARD ANNUAL LOSSES. (a) Notwithstanding the
11 repeal of AS 43.55.023(b) and 43.55.160(e) by sec. 25 of this Act and the amendments to
12 AS 43.55.160(d), 43.55.165(f), and 43.55.170(c) by secs. 22 - 24 of this Act, a taxpayer who
13 incurs a carried-forward annual loss before the repeal of AS 43.55.023(b) by sec. 25 of this
14 Act that qualifies for a credit under AS 43.55.023(b) may apply for a credit under
15 AS 43.55.023(b) or apply for a tax credit certificate under AS 43.55.023(d), subject to the
16 requirements of AS 43.55.160(e), as that subsection read on the day before the repeal of
17 AS 43.55.023(b) by sec. 25 of this Act.

18 (b) The Department of Revenue may continue to apply and enforce AS 43.55.023(b),
19 as that subsection read on the day before the repeal of AS 43.55.023(b) by sec. 25 of this Act,
20 for a carried-forward annual loss incurred before the repeal of AS 43.55.023(b) by sec. 25 of
21 this Act.

22 * **Sec. 34.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 TRANSITION: OIL AND GAS CREDIT FUND. Subject to appropriation, the
25 balance of the oil and gas tax credit fund created under AS 43.55.028(a) and repealed by sec.
26 26 of this Act lapses into the general fund.

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

29 TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any
30 contrary provision of AS 44.62.240, if the Department of Revenue expressly designates in a
31 regulation that the regulation applies retroactively, a regulation adopted by the Department of

1 Revenue to implement, interpret, make specific, or otherwise carry out this Act may apply
2 retroactively to the effective date of the law implemented by the regulation.

3 * **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 **RETROACTIVITY.** Sections 6 and 18 - 20 of this Act are retroactive to July 1, 2017.

6 * **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 **CONDITIONAL EFFECT; NOTIFICATION.** (a) Sections 1, 4, 7, 9, 26, 31, and 34 of
9 this Act take effect only if the commissioner of revenue notifies the revisor of statutes in
10 writing as required under (b) of this section.

11 (b) The commissioner of revenue shall notify the revisor of statutes in writing when

12 (1) there are no outstanding applications for purchase of tax credit certificates
13 or claims for refunds or payments for which payment has not been made under
14 AS 43.55.028(e); and

15 (2) it has been at least one year since a person has applied for a purchase,
16 payment, or refund under AS 43.55.028.

17 (c) In this section,

18 (1) "claim for refund or payment" means a refund and payment claimed under
19 AS 43.20.046, 43.20.047, or 43.20.053 subject to payment under AS 43.55.028;

20 (2) "tax credit certificate" means a transferable tax credit certificate issued
21 under AS 43.55.023 or a production tax credit certificate issued under AS 43.55.025 subject
22 to purchase under AS 43.55.028.

23 * **Sec. 38.** Sections 3, 5, 6, 8, 10, 13 - 16, 18 - 20, 27 - 29, 32, and 35 - 37 of this Act take
24 effect immediately under AS 01.10.070(c).

25 * **Sec. 39.** If, under sec. 37 of this Act, secs. 1, 4, 7, 9, 26, 31, and 34 of this Act take effect,
26 they take effect on the later of

27 (1) January 1, 2022; or

28 (2) January 1 of the calendar year following the year of notice under sec. 37 of
29 this Act.

30 * **Sec. 40.** Except as provided in secs. 38 and 39 of this Act, this Act takes effect January 1,
31 2018.