



LAWS OF ALASKA

2012

Source

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Chapter No.

AN ACT

Relating to taxes and tax credits; exempting certain small businesses from the corporate income tax; relating to oil and gas production taxes; relating to tax credits for oil and gas exploration; relating to tax credits and cost savings for liquefied natural gas storage and reducing costs to consumers; relating to an exemption from rental payments on state land for certain liquefied natural gas facilities; relating to transferable film production tax credits and film production tax credit certificates; relating to the taxes against which a film production tax credit may be applied; transferring the film office to the Department of Revenue and relating to that office; establishing the Alaska Film Incentive Review Commission; establishing a film production promotion program; relating to the amount of credit that may be awarded for compensation to producers, directors, writers, and actors who are not residents; providing for a fee to be paid at the time an application for eligibility for the film production tax credit is filed; providing a one-time credit for the first episodic scripted television production in the state; requiring the legislative audit division to audit the Alaska film production incentive program; providing for an effective date by repealing the effective dates of secs. 3 and 4, ch. 63, SLA 2008; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

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3 exploration; relating to tax credits and cost savings for liquefied natural gas storage and
4 reducing costs to consumers; relating to an exemption from rental payments on state land for
5 certain liquefied natural gas facilities; relating to transferable film production tax credits and
6 film production tax credit certificates; relating to the taxes against which a film production tax
7 credit may be applied; transferring the film office to the Department of Revenue and relating
8 to that office; establishing the Alaska Film Incentive Review Commission; establishing a film
9 production promotion program; relating to the amount of credit that may be awarded for
10 compensation to producers, directors, writers, and actors who are not residents; providing for
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12 filed; providing a one-time credit for the first episodic scripted television production in the

1 state; requiring the legislative audit division to audit the Alaska film production incentive
2 program; providing for an effective date by repealing the effective dates of secs. 3 and 4, ch.
3 63, SLA 2008; and providing for an effective date.

4
5 * **Section 1.** AS 24.20.271 is amended to read:

6 **Sec. 24.20.271. Powers and duties.** The legislative audit division shall

7 (1) conduct a performance post-audit of boards and commissions
8 designated in AS 44.66.010 and of those programs and activities of agencies subject to
9 termination as determined in the manner set out in AS 44.66.020 and 44.66.030, and
10 make the audit, together with a written report, available to the legislature not later than
11 the first day of the regular session of the legislature convening in each year set out
12 with reference to boards, commissions, or agency programs whose activities are
13 subject to termination as prescribed in AS 44.66; the division shall notify the
14 legislature that the audit and report are available;

15 (2) audit at least once every three years the books and accounts of all
16 custodians of public funds and all disbursing officers of the state;

17 (3) at the direction of the Legislative Budget and Audit Committee,
18 conduct performance post-audits on any agency of state government;

19 (4) cooperate with state agencies by offering advice and assistance as
20 requested in establishing or improving the accounting systems used by state agencies;

21 (5) require the assistance and cooperation of all state officials and
22 other state employees in the inspection, examination, and audit of state agency books
23 and accounts;

24 (6) have access at all times to the books, accounts, reports, or other
25 records, whether confidential or not, of every state agency;

26 (7) ascertain, as necessary for audit verification, the amount of agency
27 funds on deposit in any bank as shown on the books of the bank; no bank may be held
28 liable for making information required under this paragraph available to the legislative
29 audit division;

30 (8) complete studies and prepare reports, memoranda, or other

1 materials as directed by the Legislative Budget and Audit Committee;

2 (9) have direct access to any information related to the management of
3 the University of Alaska and have the same right of access as exists with respect to
4 every other state agency;

5 (10) conduct an audit every two years of information found in the
6 annual reports required under AS 42.05.211 and AS 42.06.220 regarding compliance
7 by the Regulatory Commission of Alaska with the requirements of AS 42.05.175(a) -
8 (e) and of the timeline extensions made by the commission under AS 42.05.175(f),
9 and of other performance measures adopted by the commission;

10 (11) conduct audits of the Alaska film production incentive
11 program (AS 44.25.100 - 44.25.190) and make the audits available to the
12 legislature on the first day of the regular session of the legislature in 2015, 2017,
13 and 2021.

14 * **Sec. 2.** AS 38.05 is amended by adding a new section to read:

15 **Sec. 38.05.096. Exemption from rental payments on land leased for certain**
16 **liquefied natural gas storage facilities.** (a) A person leasing state land for a liquefied
17 natural gas storage facility other than a gas storage facility subject to AS 38.05.180(u)
18 may request an exemption from lease payments as provided in this section. The
19 exemption is applicable for the periods described in (b) of this section.

20 (b) The exemption is available for the calendar year in which the liquefied
21 natural gas storage facility commences commercial operation and for each of the nine
22 calendar years immediately following the first year of commercial operation.
23 However, an exemption is not applicable for the calendar year after the facility ceases
24 commercial operation or for any subsequent calendar year.

25 (c) The lessee shall provide the director with any information the director
26 requests to determine whether the lessee qualifies for the exemption.

27 (d) Information related to state land leased for a liquefied natural gas storage
28 facility qualifying for the exemption in this section is public information and may be
29 furnished to the Regulatory Commission of Alaska. On request, the director shall
30 provide the name of each person using state land leased for a liquefied natural gas
31 storage facility, the years for which an exemption was granted, and the amount of the

1 exemption.

2 (e) A person receiving an exemption for a payment under this section that
3 contracts to store liquefied natural gas for a utility regulated under AS 42.05 shall
4 reduce the storage price to reflect the value of the exemption.

5 (f) In this section,

6 (1) "ceases commercial operation" and "commences commercial
7 operation" have the meanings given in AS 31.05.032;

8 (2) "liquefied natural gas storage facility" has the meaning given in
9 AS 42.05.990.

10 * **Sec. 3.** AS 42.05.381(k) is amended to read:

11 (k) The cost to the utility of storing gas in a gas storage facility **or storing**
12 **liquefied natural gas in a liquefied natural gas storage facility** that is allowed in
13 determining a just and reasonable rate shall reflect the reduction in cost attributable to
14 any exemption from a payment due under **AS 38.05.096 or 38.05.180(u), as**
15 **applicable**, [AS 38.05.180(u)] and the value of a tax credit that the owner of the gas
16 storage facility received under AS 43.20.046 **or 43.20.047, as applicable**. The
17 commission may request the (1) commissioner of natural resources to report the value
18 of the exemption from a payment due under **AS 38.05.096 or 38.05.180(u), as**
19 **applicable**, [AS 38.05.180(u)] that the gas storage facility received; and (2)
20 commissioner of revenue to report information on the amount of tax credits claimed
21 under AS 43.20.046 **and 43.20.047, as applicable**, for the gas storage facility **or**
22 **liquefied natural gas storage facility**. In this subsection,

23 **(1) "gas storage facility" has the meaning given in AS 31.05.032;**

24 **(2) "liquefied natural gas storage facility" has the meaning given**
25 **in AS 42.05.990.**

26 * **Sec. 4.** AS 42.05.990(5) is amended to read:

27 (5) "public utility" or "utility" includes every corporation whether
28 public, cooperative, or otherwise, company, individual, or association of individuals,
29 their lessees, trustees, or receivers appointed by a court, that owns, operates, manages,
30 or controls any plant, pipeline, or system for

31 (A) furnishing, by generation, transmission, or distribution,

1 electrical service to the public for compensation;

2 (B) furnishing telecommunications service to the public for
3 compensation;

4 (C) furnishing water, steam, or sewer service to the public for
5 compensation;

6 (D) furnishing by transmission or distribution of natural or
7 manufactured gas to the public for compensation;

8 (E) furnishing for distribution or by distribution petroleum or
9 petroleum products to the public for compensation when the consumer has no
10 alternative in the choice of supplier of a comparable product and service at an
11 equal or lesser price;

12 (F) furnishing collection and disposal service of garbage,
13 refuse, trash, or other waste material to the public for compensation;

14 (G) furnishing the service of natural gas storage to the public
15 for compensation;

16 **(H) furnishing the service of liquefied natural gas storage to**
17 **the public for compensation;**

18 * **Sec. 5.** AS 42.05.990 is amended by adding new paragraphs to read:

19 (11) "liquefied natural gas storage facility" means a facility that
20 receives natural gas volumes in a liquid or gaseous state from customers, holds the gas
21 volumes in a liquid state in a reservoir, and delivers the gas volumes in a liquid or
22 gaseous state to the customer; in this paragraph, "facility" includes

23 (A) all parts of the facility from the point at which the natural
24 gas volumes are received by the facility from the customer to the point at
25 which the natural gas volumes are delivered by the facility to the customer;

26 (B) a facility consisting of a reservoir, either underground or
27 aboveground, and one or more of the following components of the facility:

28 (i) pipe;

29 (ii) compressor stations;

30 (iii) station equipment;

31 (iv) liquefaction plant or facility;

- 1 (v) gasification plant or facility;
- 2 (vi) on-site or remote monitoring, supervision, and
- 3 control facilities;
- 4 (vii) gas processing plants and gas treatment plants, but
- 5 not including a manufacturing plant or facility;
- 6 (viii) other equipment necessary to receive, place into
- 7 the reservoir, monitor, remove from the reservoir, process, and deliver
- 8 natural gas;
- 9 (12) "reservoir" means a receptacle or chamber, either natural or man-
- 10 made, holding a gas or liquid, and includes a tank or a depleted or nearly depleted
- 11 pool;
- 12 (13) "service of liquefied natural gas storage" means the operation of a
- 13 liquefied natural gas storage facility; "service of liquefied natural gas storage" does
- 14 not include the storage of liquefied natural gas
- 15 (A) owned by or contractually obligated to the owner, operator,
- 16 or manager of the liquefied natural gas storage facility;
- 17 (B) that is incidental to the production or sale of natural gas to
- 18 one or more third-party customers; or
- 19 (C) for which the price of storage is not separately itemized.

20 * **Sec. 6.** AS 43.20.012 is amended to read:

21 **Sec. 43.20.012. Limitation on application of chapter; credits. (a)** The tax

22 imposed by this chapter does not

23 **(1) apply to an individual;**

24 **(2) apply to a fiduciary; or**

25 **(3) for a tax year beginning after December 31, 2012, apply to an**

26 **Alaska corporation that is a qualified small business and that meets the active**

27 **business requirement in 26 U.S.C. 1202(e) as that subsection read on January 1,**

28 **2012** [APPLY TO INDIVIDUALS OR TO FIDUCIARIES].

29 **(b) An** [HOWEVER, AN] individual may file a return under this chapter in

30 order to receive a tax credit under AS 43.20.013.

31 * **Sec. 7.** AS 43.20.012 is amended by adding new subsections to read:

1 (c) For the purposes of (a)(3) of this section,

2 (1) whether a corporation qualifies under (a)(3) of this section shall be
3 determined on the first day of the tax year for which the corporation claims it qualifies
4 under (a)(3) of this section;

5 (2) all corporations that are members of the same parent-subsidary
6 controlled group shall be treated as one corporation.

7 (d) In this section,

8 (1) "Alaska corporation" means a corporation that has been
9 incorporated in the state or is authorized to do business in the state;

10 (2) "parent-subsidary controlled group" has the meaning given in 26
11 U.S.C. 1202 as that section read on January 1, 2012;

12 (3) "qualified small business" has the meaning given in 26 U.S.C. 1202
13 as that section read on January 1, 2012, and does not include a construction,
14 transportation, utility, or fisheries business.

15 * **Sec. 8.** AS 43.20.012, as amended by secs. 6 and 7 of this Act, is repealed and reenacted
16 to read:

17 **Sec. 43.20.012. Limitation on application of chapter; credits.** The tax
18 imposed by this chapter does not apply to individuals or to fiduciaries. However, an
19 individual may file a return under this chapter to receive a tax credit under
20 AS 43.20.013.

21 * **Sec. 9.** AS 43.20 is amended by adding a new section to article 1 to read:

22 **Sec. 43.20.047. Liquefied natural gas storage facility tax credit.** (a) A
23 person that is an owner of a liquefied natural gas storage facility described in (b) of
24 this section that commences commercial operation before January 1, 2020, may apply
25 a refundable credit against a tax liability that may be imposed on the person under this
26 chapter or receive the amount of the credit in the form of a payment for the taxable
27 year in which the liquefied natural gas storage facility commences commercial
28 operation. The tax credit or payment under this section may not exceed the lesser of
29 \$15,000,000 or 50 percent of the costs incurred to establish or expand the liquefied
30 natural gas storage facility. The tax credit in this section is in addition to any other
31 credit under this chapter for which the person is eligible.

1 (b) To qualify for the credit in this section, a liquefied natural gas storage
2 facility

3 (1) must have a liquefied natural gas storage volume of not less than
4 25,000 gallons of liquefied natural gas, or, if the credit is claimed for an expansion, the
5 expansion must have increased the capacity of an existing liquefied natural gas storage
6 facility by more than 25,000 gallons;

7 (2) may not have been in operation as a liquefied natural gas storage
8 facility before January 1, 2011, unless the tax credit in this section is based on the
9 expansion of the liquefied natural gas storage facility after December 31, 2011;

10 (3) must be regulated under AS 42.05 as a utility and be available to
11 furnish the service of liquefied natural gas storage to customers, utilities, or industrial
12 facilities; in this paragraph, "service of liquefied natural gas storage" has the meaning
13 given in AS 42.05.990;

14 (4) if located on state land and leased or subject to a lease under
15 AS 38.05, must be in compliance with the terms of the lease; and

16 (5) must have commenced commercial operation on or before the date
17 the person takes a credit under (a) of this section or applies for a payment under (a) of
18 this section.

19 (c) To claim the credit or request a payment, a person shall submit to the
20 department a certification of the capacity of the liquefied natural gas storage facility
21 measured in gallons or the capacity of an expansion to an existing liquefied natural gas
22 storage facility measured in gallons, the date that the liquefied natural gas storage
23 facility commenced commercial operation, the date that any expansion to the liquefied
24 natural gas storage facility commenced commercial operation, and other information
25 required by the department.

26 (d) A person applying the credit under this section against a liability under this
27 chapter shall claim the credit on the person's return. A person entitled to a tax credit
28 under this section that is greater than the person's tax liability under this chapter may
29 request a refund or payment in the amount of the unused portion of the tax credit.

30 (e) The department may use money available in the oil and gas tax credit fund
31 established in AS 43.55.028 to make a refund or payment under (d) of this section in

1 whole or in part if the department finds that (1) the claimant does not have an
2 outstanding liability to the state for unpaid delinquent taxes under this title; and (2)
3 after application of all available tax credits, the claimant's total tax liability under this
4 chapter for the calendar year in which the claim is made is zero. In this subsection,
5 "unpaid delinquent tax" means an amount of tax for which the department has issued
6 an assessment that has not been paid and, if contested, has not been finally resolved in
7 the taxpayer's favor.

8 (f) For the purpose of determining the amount of the credit under this section,
9 the costs incurred to establish a liquefied natural gas storage facility or to expand a
10 liquefied natural gas storage facility shall be submitted to the department with
11 verification by an independent certified public accountant licensed in the state. The
12 volume of working liquefied natural gas storage or volume of the expansion to an
13 existing liquefied natural gas storage facility shall be verified by a professional
14 engineer licensed in the state with relevant experience.

15 (g) A person may not receive a credit under this section for the acquisition of a
16 liquefied natural gas storage facility for which a credit has been taken under this
17 section.

18 (h) If the liquefied natural gas storage facility for which a credit was received
19 under this section ceases commercial operation during the nine calendar years
20 immediately following the calendar year in which the liquefied natural gas storage
21 facility commences commercial operation, the tax liability under this chapter of the
22 person who claimed the credit shall be increased, and a person not subject to the tax
23 under this chapter that received a payment under (d) and (e) of this section shall be
24 liable to the state in the amount determined in this subsection. The amount of the
25 increase in tax liability or liability to the state

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

30 (2) for a person not subject to the tax due under this chapter, shall be
31 determined and assessed as of December 31 of the calendar year in which the liquefied

1 natural gas storage facility ceases commercial operation, regardless of whether the
2 liquefied natural gas storage facility subsequently resumes commercial operation; and

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

8 (i) The issuance of a refund under this section does not limit the department's
9 ability to later audit or adjust the claim if the department determines, as a result of the
10 audit, that the person that claimed the credit was not entitled to the amount of the
11 credit. The tax liability of the person receiving the credit under this section is
12 increased by the amount of the credit that exceeds that to which the person was
13 entitled. If the tax liability is increased under this subsection, the increase bears
14 interest at the rate set by AS 43.05.225 from the date the refund was issued.

15 (j) A person claiming a tax credit under this section for a liquefied natural gas
16 storage facility that ceases commercial operation within nine calendar years
17 immediately following the calendar year in which the liquefied natural gas storage
18 facility commences commercial operation shall notify the department in writing of the
19 date the liquefied natural gas storage facility ceased commercial operation. The notice
20 must be filed with the return for the taxable year in which the liquefied natural gas
21 storage facility ceases commercial operation.

22 (k) A refund under this section does not bear interest.

23 (l) In this section,

24 (1) "ceases commercial operation" means that the liquefied natural gas
25 storage facility fails to add or withdraw 20 percent or more of its working capacity of
26 liquefied natural gas during a calendar year after the calendar year in which the
27 liquefied natural gas storage facility commences commercial operation;

28 (2) "commences commercial operation" means the first input of
29 liquefied natural gas into a liquefied natural gas storage facility for purposes other than
30 testing;

31 (3) "liquefied natural gas storage facility" has the meaning given in

AS 42.05.990.

* **Sec. 10.** 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), [AND] (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)(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. 11.** AS 43.55.011 is amended by adding a new subsection to read:

(p) For the seven years immediately following the commencement of commercial production of oil or gas produced from leases or properties in the state that are outside the Cook Inlet sedimentary basin and that do not include land located north of 68 degrees North latitude, where that commercial production began after December 31, 2012, and before January 1, 2022, the levy of tax under (e) of this section for oil and gas may not exceed four percent of the gross value at the point of production.

* **Sec. 12.** AS 43.55.020(a) is amended to read:

(a) For a calendar year, a producer subject to tax under 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 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 produced from leases or properties in the state outside the Cook Inlet sedimentary basin but not subject to

AS 43.55.011(o) or (p), other than leases or properties subject to AS 43.55.011(f), the greater of

(i) zero; or

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

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

(C) for oil and gas produced from each lease or property subject to AS 43.55.011(j), (k), [OR] (o), or (p), 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

1 by subtracting 1/12 of the producer's adjusted lease expenditures for the
2 calendar year of production under AS 43.55.165 and 43.55.170 that are
3 deductible under AS 43.55.160 for oil or gas, respectively, produced
4 from the lease or property from the gross value at the point of
5 production of the oil or gas, respectively, produced from the lease or
6 property during the month for which the installment payment is
7 calculated;

8 (2) an amount calculated under (1)(C) of this subsection for oil or gas
9 produced from a lease or property

10 (A) subject to AS 43.55.011(j), (k), or (o) may not exceed the
11 product obtained by carrying out the calculation set out in AS 43.55.011(j)(1)
12 or (2) or 43.55.011(o), as applicable, for gas or set out in AS 43.55.011(k)(1)
13 or (2), as applicable, for oil, but substituting in AS 43.55.011(j)(1)(A) or (2)(A)
14 or 43.55.011(o), as applicable, the amount of taxable gas produced during the
15 month for the amount of taxable gas produced during the calendar year and
16 substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the amount of
17 taxable oil produced during the month for the amount of taxable oil produced
18 during the calendar year;

19 (B) subject to AS 43.55.011(p) may not exceed four percent
20 of the gross value at the point of production of the oil or gas;

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

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

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

1 during the month;

2 (4) any amount of tax levied by AS 43.55.011(e) or (i), net of any
3 credits applied as allowed by law, that exceeds the total of the amounts due as
4 installment payments of estimated tax is due on March 31 of the year following the
5 calendar year of production.

6 * **Sec. 13.** AS 43.55.025(a) is amended to read:

7 (a) Subject to the terms and conditions of this section, a credit against the
8 production tax levied by AS 43.55.011(e) is allowed for exploration expenditures that
9 qualify under (b) of this section in an amount equal to one of the following:

10 (1) 30 percent of the total exploration expenditures that qualify only
11 under (b) and (c) of this section;

12 (2) 30 percent of the total exploration expenditures that qualify only
13 under (b) and (d) of this section;

14 (3) 40 percent of the total exploration expenditures that qualify under
15 (b), (c), and (d) of this section;

16 (4) 40 percent of the total exploration expenditures that qualify only
17 under (b) and (e) of this section; [OR]

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

22 **(6) the lesser of \$25,000,000 or 80 percent of the total exploration**
23 **drilling expenditures described in (n) of this section and that qualify under (b)**
24 **and (c) of this section; or**

25 **(7) the lesser of \$7,500,000 or 75 percent of the total seismic**
26 **exploration expenditures described in (o) of this section and that qualify under**
27 **(b) of this section.**

28 * **Sec. 14.** AS 43.55.025(c) is amended to read:

29 (c) To be eligible for **a** [THE 30 PERCENT] production tax credit authorized
30 by (a)(1), **(3), or (6)** of this section [OR THE 40 PERCENT PRODUCTION TAX
31 CREDIT AUTHORIZED BY (a)(3) OF THIS SECTION], exploration expenditures

1 must

2 (1) qualify under (b) of this section; and

3 (2) be for an exploration well, subject to the following:

4 (A) before the well is spudded,

5 (i) the explorer shall submit to the commissioner of
6 natural resources the information necessary to determine whether the
7 geological objective of the well is a potential oil or gas trap that is
8 distinctly separate from any trap that has been tested by a preexisting
9 well;

10 (ii) at the time of the submittal of information under (i)
11 of this subparagraph, the commissioner of natural resources may
12 request from the explorer that specific data sets, ancillary data, and
13 reports including all results, and copies of well data collected and data
14 analyses for the well be provided to the Department of Natural
15 Resources upon completion of the drilling; in this sub-subparagraph,
16 well data include all analyses conducted on physical material, and well
17 logs collected from the well and sample analyses; testing geophysical
18 and velocity data including vertical seismic profiles and check shot
19 surveys; testing data and analyses; age data; geochemical analyses; and
20 access to tangible material; and

21 (iii) the commissioner of natural resources must make
22 an affirmative determination as to whether the geological objective of
23 the well is a potential oil or gas trap that is distinctly separate from any
24 trap that has been tested by a preexisting well and what information
25 under (ii) of this subparagraph must be submitted by the explorer after
26 completion, abandonment, or suspension under AS 31.05.030; the
27 commissioner of natural resources shall make that determination within
28 60 days after receiving all the necessary information from the explorer
29 based on the information received and on other information the
30 commissioner of natural resources considers relevant;

31 (B) for an exploration well other than a well to explore a Cook

1 Inlet prospect, the well must be located and drilled in such a manner that the
2 bottom hole is located not less than three miles away from the bottom hole of a
3 preexisting well drilled for oil or gas, irrespective of whether the preexisting
4 well has been completed, suspended, or abandoned;

5 (C) after completion, suspension, or abandonment under
6 AS 31.05.030 of the exploration well, the commissioner of natural resources
7 must determine that the well was consistent with achieving the explorer's
8 stated geological objective.

9 * **Sec. 15.** AS 43.55.025 is amended by adding new subsections to read:

10 (n) The persons that drill the first four exploration wells in the state and within
11 the areas described in (p) of this section on state lands, private lands, or federal
12 onshore lands for the purpose of discovering oil or gas that penetrate and evaluate a
13 prospect in a basin described in (p) of this section are eligible for a credit under (a)(6)
14 of this section. A credit under this subsection may not be taken for more than two
15 exploration wells in a single area described in (p)(1) - (6) of this section. Exploration
16 expenditures eligible for the credit in this subsection must be incurred for work
17 performed after June 1, 2012, and before July 1, 2016. A person planning to drill an
18 exploration well on private land and to apply for a credit under this subsection shall
19 obtain written consent from the owner of the oil and gas interest for the full public
20 release of all well data after the expiration of the confidentiality period applicable to
21 information collected under (f) of this section. The written consent of the owner of the
22 oil and gas interest must be submitted to the commissioner of natural resources before
23 approval of the proposed exploration well. In addition to the requirements in (c) of this
24 section and submission of the written consent of the owner of the oil and gas interest, a
25 person planning to drill an exploration well shall obtain approval from the
26 commissioner of natural resources before the well is spudded. The commissioner of
27 natural resources shall make a written determination approving or rejecting an
28 exploration well within 60 days after receiving the request for approval or as soon as is
29 practicable thereafter. Before approving the exploration well, the commissioner of
30 natural resources shall consider the following: the location of the well; the proximity
31 to a community in need of a local energy source; the proximity of existing

1 infrastructure; the experience and safety record of the explorer in conducting
2 operations in remote or roadless areas; the projected cost schedule; whether seismic
3 mapping and seismic data sufficiently identify a particular trap for exploration;
4 whether the targeted and planned depth and range are designed to penetrate and fully
5 evaluate the hydrocarbon potential of the proposed prospect and reach the level below
6 which economic hydrocarbon reservoirs are likely to be found, or reach 12,000 feet or
7 more true vertical depth; and whether the exploration plan provides for a full
8 evaluation of the wellbore below surface casing to the depth of the well. Whether the
9 exploration well for which a credit is requested under this subsection is located within
10 an area and a basin described under (p) of this section shall be determined by the
11 commissioner of natural resources and reported to the commissioner. A taxpayer that
12 obtains a credit under this subsection may not claim a tax credit under AS 43.55.023
13 or another provision in this section for the same exploration expenditure.

14 (o) The persons that conduct the first four seismic exploration projects in the
15 state and within the areas described in (p) of this section for the purpose of discovering
16 oil or gas in a basin are eligible for the credit under (a)(7) of this section. A credit
17 under this subsection may not be taken for more than one seismic exploration project
18 in a single area described in (p)(1) - (6) of this section. Exploration expenditures
19 eligible for the credit in this subsection must be incurred for work performed after
20 June 1, 2012, and before July 1, 2016. A person planning to conduct a seismic
21 exploration project on private land and to apply for a credit under this subsection shall
22 obtain written consent from the owner of the oil and gas interest for the full public
23 release of all geophysical data and compliance with the data submission requirements
24 in (f)(2) of this section. Notwithstanding (f)(2)(C)(ii) of this section, to qualify for a
25 credit under this subsection, a person shall submit the written consent of the owner of
26 the oil and gas interest for the release of data if applicable, and all data required under
27 (f)(2) of this section to the Department of Natural Resources and shall agree in writing
28 that all seismic data requirements submitted under the requirements of (f)(2) of this
29 section may be made public two years after receiving a credit under this subsection. A
30 person intending to qualify for the tax credit under this subsection shall obtain
31 approval from the commissioner of natural resources before the commencement of the

1 seismic exploration activities. The commissioner of natural resources shall make a
2 written determination approving or rejecting a seismic project within 60 days after
3 receiving the request for approval or as soon as is practicable thereafter. Before
4 approving a seismic exploration project, the commissioner shall consider the
5 following: the location of the project; the projected cost schedule; the data acquisition
6 and data processing plan; the reasons for choosing the particular area for seismic
7 exploration; and the experience and safety record of the person in conducting seismic
8 exploration operations in remote or roadless areas. Whether the seismic exploration
9 project for which a credit is requested under this subsection is located in a basin
10 described in (p) of this section shall be determined by the commissioner of natural
11 resources and reported to the commissioner. A taxpayer that obtains a credit under this
12 subsection may not claim a tax credit under AS 43.55.023 or another provision in this
13 section for the same exploration expenditure.

14 (p) The activity that is the basis for a credit claimed under (a)(6) and (n) of
15 this section or (a)(7) and (o) of this section must be for the exploration of a basin and
16 within the following areas whose central points are determined using the World
17 Geographic System of 1984 datum,

18 (1) 100 miles from 66.896128 degrees North, -162.598187 degrees
19 West;

20 (2) 150 miles from 64.839474 degrees North, -147.72094 degrees
21 West;

22 (3) 50 miles from 62.776428 degrees North, -164.495201 degrees
23 West;

24 (4) 50 miles from 62.110357 degrees North, -145.530551 degrees
25 West;

26 (5) 100 miles from 58.189868 degrees North, -157.371104 degrees
27 West;

28 (6) 100 miles from 56.005988 degrees North, -160.56083 degrees
29 West.

30 * **Sec. 16.** AS 43.55.028(a) is amended to read:

31 (a) The oil and gas tax credit fund is established as a separate fund of the state.

1 The purpose of the fund is to purchase transferable tax credit certificates issued under
2 AS 43.55.023 and production tax credit certificates issued under AS 43.55.025 and to
3 pay refunds **and payments** claimed under AS 43.20.046 **or 43.20.047**.

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

5 (g) The department may adopt regulations to carry out the purposes of this
6 section, including standards and procedures to allocate available money among
7 applications for purchases under this chapter and claims for refunds **and payments**
8 under AS 43.20.046 **or 43.20.047** when the total amount of the applications for
9 purchase and claims for refund exceed the amount of available money in the fund. The
10 regulations adopted by the department may not, when allocating available money in
11 the fund under this section, distinguish an application for the purchase of a credit
12 certificate issued under AS 43.55.023(m) or a claim for **a refund or payment** under
13 AS 43.20.046 **or AS 43.20.047**.

14 * **Sec. 18.** AS 43.55.160(a) is amended to read:

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

16 (1) AS 43.55.011(e), the annual production tax value of the taxable **oil,**
17 **gas, or** [(A)] oil and gas **subject to this paragraph** produced during a calendar year
18 [FROM LEASES OR PROPERTIES IN THE STATE THAT INCLUDE LAND
19 NORTH OF 68 DEGREES NORTH LATITUDE] is the gross value at the point of
20 production of the **oil, gas, or** oil and gas taxable under AS 43.55.011(e) [AND
21 PRODUCED BY THE PRODUCER FROM THOSE LEASES OR PROPERTIES],
22 less the producer's lease expenditures under AS 43.55.165 for the calendar year
23 applicable to the **oil, gas, or** oil and gas, **as applicable,** produced by the producer from
24 [THOSE] leases or properties, as adjusted under AS 43.55.170; **this paragraph**
25 **applies to**

26 **(A) oil and gas produced from leases or properties in the**
27 **state that include land north of 68 degrees North latitude, other than gas**
28 **produced before 2022 and used in the state** [THIS SUBPARAGRAPH
29 DOES NOT APPLY TO GAS SUBJECT TO AS 43.55.011(o)];

30 (B) oil and gas produced [DURING A CALENDAR YEAR]
31 from leases or properties in the state outside the Cook Inlet sedimentary basin,

1 no part of which is north of 68 degrees North latitude [, IS THE GROSS
2 VALUE AT THE POINT OF PRODUCTION OF THE OIL AND GAS
3 TAXABLE UNDER AS 43.55.011(e) AND PRODUCED BY THE
4 PRODUCER FROM THOSE LEASES OR PROPERTIES, LESS THE
5 PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE
6 CALENDAR YEAR APPLICABLE TO THE OIL AND GAS PRODUCED
7 BY THE PRODUCER FROM THOSE LEASES OR PROPERTIES, AS
8 ADJUSTED UNDER AS 43.55.170]; this subparagraph does not apply to gas

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

10 (ii) oil and gas subject to AS 43.55.011(p) [SUBJECT
11 TO AS 43.55.011(o)];

12 (C) oil produced before 2022 [DURING A CALENDAR
13 YEAR] from a lease or property in the Cook Inlet sedimentary basin [IS THE
14 GROSS VALUE AT THE POINT OF PRODUCTION OF THE OIL
15 TAXABLE UNDER AS 43.55.011(e) AND PRODUCED BY THE
16 PRODUCER FROM THAT LEASE OR PROPERTY, LESS THE
17 PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE
18 CALENDAR YEAR APPLICABLE TO THE OIL PRODUCED BY THE
19 PRODUCER FROM THAT LEASE OR PROPERTY, AS ADJUSTED
20 UNDER AS 43.55.170];

21 (D) gas produced before 2022 [DURING A CALENDAR
22 YEAR] from a lease or property in the Cook Inlet sedimentary basin [IS THE
23 GROSS VALUE AT THE POINT OF PRODUCTION OF THE GAS
24 TAXABLE UNDER AS 43.55.011(e) AND PRODUCED BY THE
25 PRODUCER FROM THAT LEASE OR PROPERTY, LESS THE
26 PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE
27 CALENDAR YEAR APPLICABLE TO THE GAS PRODUCED BY THE
28 PRODUCER FROM THAT LEASE OR PROPERTY, AS ADJUSTED
29 UNDER AS 43.55.170];

30 (E) gas produced before 2022 [DURING A CALENDAR
31 YEAR] from a lease or property in the state outside the Cook Inlet

1 sedimentary basin and used in the state [IS THE GROSS VALUE AT THE
2 POINT OF PRODUCTION OF THAT GAS TAXABLE UNDER
3 AS 43.55.011(e) AND PRODUCED BY THE PRODUCER FROM THAT
4 LEASE OR PROPERTY, LESS THE PRODUCER'S LEASE
5 EXPENDITURES UNDER AS 43.55.165 FOR THE CALENDAR YEAR
6 APPLICABLE TO THAT GAS PRODUCED BY THE PRODUCER FROM
7 THAT LEASE OR PROPERTY, AS ADJUSTED UNDER AS 43.55.170];

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

10 **(G) oil and gas produced from a lease or property no part**
11 **of which is north of 68 degrees North latitude, other than oil or gas**
12 **described in (B), (C), (D), (E), or (F) of this paragraph;**

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

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

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

31 (C) oil produced during a month from a lease or property in the

1 Cook Inlet sedimentary basin is the gross value at the point of production of
2 the oil taxable under AS 43.55.011(e) and produced by the producer from that
3 lease or property, less 1/12 of the producer's lease expenditures under
4 AS 43.55.165 for the calendar year applicable to the oil produced by the
5 producer from that lease or property, as adjusted under AS 43.55.170;

6 (D) gas produced during a month from a lease or property in
7 the Cook Inlet sedimentary basin is the gross value at the point of production
8 of the gas taxable under AS 43.55.011(e) and produced by the producer from
9 that lease or property, less 1/12 of the producer's lease expenditures under
10 AS 43.55.165 for the calendar year applicable to the gas produced by the
11 producer from that lease or property, as adjusted under AS 43.55.170;

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

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

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

1 any of the limitations under AS 43.55.011(j), (k), [OR] (o), or (p) that have positive
2 production tax values so as to reduce the tax liability calculated without regard to the
3 limitation to the maximum amount provided for under the applicable provision of
4 AS 43.55.011(j), (k), [OR] (o), or (p). Only the amount of those adjusted lease
5 expenditures remaining after the accounting provided for under this subsection may be
6 used to establish a carried-forward annual loss under AS 43.55.023(b). In this
7 subsection, "producer" includes "explorer."

8 * **Sec. 20.** AS 43.75.130(f) is amended to read:

9 (f) For purposes of this section, tax revenue collected under AS 43.75.015
10 from a person entitled to a credit under AS 43.75.035, [OR] 43.75.036, or
11 AS 43.98.030 shall be calculated as if the person's tax were collected without applying
12 the credit; tax revenue collected does not include the amount of a tax credit recaptured
13 under AS 43.75.035(g) or 43.75.036(g).

14 * **Sec. 21.** AS 43.77.060(e) is amended to read:

15 (e) For purposes of this section, tax revenue collected under AS 43.77.010
16 from a person entitled to a credit under AS 43.77.035, [OR] 43.77.045, or
17 AS 43.98.030 shall be calculated as if the person's tax had been collected without
18 applying the credits.

19 * **Sec. 22.** AS 43.98.030(a) is amended to read:

20 (a) The [IN COOPERATION WITH THE FILM OFFICE IN THE
21 DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC
22 DEVELOPMENT, THE] department shall provide a transferable film production tax
23 credit certificate to a producer, as defined in AS 44.25.190 [AS 44.33.239], for
24 qualified production expenditures under AS 44.25.100 - 44.25.190. The department
25 shall publish the name and contact information for each person provided a
26 transferable tax credit certificate under this subsection [AS 44.33.231 -
27 44.33.239].

28 * **Sec. 23.** AS 43.98.030(b) is amended to read:

29 (b) A tax credit certificate provided under (a) of this section may be sold,
30 assigned, exchanged, conveyed, or otherwise transferred in whole or in part.

31 * **Sec. 24.** AS 43.98.030(c) is amended to read:

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

* **Sec. 25.** AS 43.98.030(e) is amended to read:

(e) A **transferable film production tax** credit **certificate** provided under (a) of this section, whether sold, assigned, exchanged, conveyed, or otherwise transferred, in whole or in part, must be used within **six** [THREE] years after being provided by the department.

* **Sec. 26.** AS 43.98.030(f) is amended to read:

(f) The **total amount** [NUMBER] of tax credits provided in the aggregate under this section may not exceed

(1) \$100,000,000 for productions qualified under former AS 44.33.234 before July 1, 2013; and

(2) \$200,000,000 for productions qualified under AS 44.25.120 after June 30, 2013, and before July 1, 2023.

* **Sec. 27.** AS 43.98.030 is amended by adding new subsections to read:

(g) A person acquiring two or more film production tax credit certificates provided under (a) of this section may combine the unused amounts of the credits for sale, assignment, exchange, conveyance, or other transfer. At the request of a person holding a film production tax credit, the department shall replace a certificate that represents the full amount of tax credit available with multiple certificates that each represent a portion of the total tax credit available for the purpose of sale, assignment, exchange, conveyance, or other transfer under this subsection or, on request, shall provide one tax credit certificate that represents the combined value of multiple tax credit certificates. A tax credit certificate provided by the department under this subsection must state the expiration date and the amount of each credit that is included in the certificate. Combining or splitting unused amounts of credits under this subsection does not change or extend the time period in which each credit that is

1 included in the combination or split must be used.

2 (h) Subject to appropriation, the department may purchase a transferable film
3 production tax credit certificate for 75 percent of the amount of each credit that is
4 included in the certificate.

5 * **Sec. 28.** AS 44.25 is amended by adding new sections to read:

6 **Article 3. Film Office.**

7 **Sec. 44.25.100. Film office.** The film office is created in the Department of
8 Revenue. The film office shall administer the Alaska film production incentive
9 program.

10 **Sec. 44.25.105. Duties.** (a) The film office shall make available to the
11 legislature, within 30 days after the start of each regular session, a report of the
12 activities conducted by the film office under AS 44.25.100 - 44.25.190. The report
13 must include

14 (1) the number of applications received under AS 44.25.120;

15 (2) the number of applications approved by the film office;

16 (3) the number of, and amount of, tax credits disbursed under
17 AS 44.25.110;

18 (4) the total amount of expenditures that were paid by productions
19 qualifying for the film production tax credit that were not qualified expenditures;

20 (5) the total amount of qualified expenditures that were paid by
21 productions qualifying for the film production tax credit to Alaska businesses;

22 (6) the total amount of qualified expenditures that were paid by
23 productions qualifying for the film production tax credit to Alaska residents as wages;

24 (7) the total amount of qualified expenditures that were paid by
25 productions qualifying for the film production tax credit for wages paid to individuals
26 who were not residents;

27 (8) the total number of residents employed by productions qualifying
28 for the film production tax credit;

29 (9) the total number of individuals employed by productions qualifying
30 for the film production tax credit who were not residents;

31 (10) the number of productions qualifying for the film production tax

1 credit that used a third party to sell, assign, exchange, convey, or otherwise transfer, in
2 whole or in part, a tax credit certificate received by the production; in this paragraph,
3 "third party" means a person other than the producer or an employee of the producer
4 of the production qualifying for the film production tax credit; and

5 (11) the number of purchases of transferable film production tax credit
6 certificates under AS 43.98.030(h) and the total amount of film production tax credits
7 shown on the certificates purchased by the Department of Revenue.

8 (b) The film office shall design a logo that represents the film office and must
9 be included in a film qualifying for a film production tax credit under AS 44.25.100 -
10 44.25.190.

11 (c) The film office shall provide an on-site liaison to a film production that is
12 subject to the maximum application fee under AS 44.25.120(d). The liaison shall assist
13 the producer in meeting the requirements of AS 44.25.100 - 44.25.190 and ensure that
14 the production is in the best interests of the state as described in the application filed
15 under AS 44.25.120 and approved under AS 44.25.150.

16 **Sec. 44.25.110. Alaska film production incentive program.** Subject to
17 appropriations for the purpose, the film office shall administer the Alaska film
18 production incentive program to provide a tax credit under AS 43.98.030 for certain
19 film production expenditures incurred in the state.

20 **Sec. 44.25.115. Eligibility.** (a) A film production is eligible for a tax credit
21 under AS 43.98.030, if the

22 (1) producer has \$75,000 or more in qualified expenditures in a
23 consecutive 36-month period under AS 44.25.130;

24 (2) Alaska Film Incentive Review Commission determines that the
25 production is not contrary to the best interests of the state; and

26 (3) production is approved by the film office.

27 (b) In determining under (a) of this section whether a production is not
28 contrary to the best interests of the state, the Alaska Film Incentive Review
29 Commission shall consider the effect of the production on

30 (1) both the immediate and long-term prospects for the film industry in
31 the state;

1 (2) both the immediate and long-term prospects for the employment of
2 Alaska residents;

3 (3) both the immediate and long-term prospects for the economy of the
4 state;

5 (4) the public perception of state policy on the utilization and
6 development of the natural resources of the state; and

7 (5) the immediate and long-term prospects for the fiscal health of the
8 state.

9 **Sec. 44.25.120. Qualification for film production tax credit.** (a) A film
10 producer may apply for the film production tax credit under AS 43.98.030 by
11 submitting an application to the film office on a form provided by the film office. The
12 application must include

13 (1) a script or synopsis of the production;
14 (2) the names of the producer, director, and proposed cast;
15 (3) estimated start, completion, and filming dates; and
16 (4) other information the film office may require to determine the
17 producer's qualification for a credit and the estimated amount of the credit.

18 (b) If the Alaska Film Incentive Review Commission approves an application
19 submitted under (a) of this section, the film office shall issue a notice of qualification
20 to the producer. The notice of qualification must include a determination by the film
21 office of the estimated film production tax credit for which the production qualifies.

22 (c) Information submitted in an application under (a) of this section is
23 confidential and is not subject to inspection or copying under AS 40.25.110 -
24 40.25.125.

25 (d) At the time an application is submitted under (a) of this section, a film
26 producer shall submit an application fee equal to 0.2 percent of the estimated total
27 qualified expenditures to be incurred in the state, except that the application fee may
28 not be less than \$200 or more than \$5,000. The application fee is not subject to refund.

29 **Sec. 44.25.125. Award of film production tax credit.** (a) Subject to
30 AS 43.98.030(f) and to (i) of this section, the film office shall determine the amount of
31 the tax credit under AS 43.98.030 available to a producer who has obtained a notice of

1 qualification under AS 44.25.120(b), based on the qualified expenditures of the
2 production under AS 44.25.130. After the film office determines the amount of the tax
3 credit, the tax credit shall be submitted to the Alaska Film Incentive Review
4 Commission for approval.

5 (b) Except as provided in (k) of this section, the base amount of a tax credit
6 awarded under this section is equal to 30 percent of the qualified expenditures of a
7 production.

8 (c) In determining the amount of the tax credit and subject to approval by the
9 Alaska Film Incentive Review Commission, the applicable percentage provided by (b)
10 of this section shall be increased by the film office based on the following criteria:

11 (1) an additional 20 percent of qualified expenditures that are wages
12 paid to Alaska residents;

13 (2) an additional six percent of qualified expenditures made in a rural
14 area; and

15 (3) an additional two percent of qualified expenditures made in the
16 state between October 1 and March 30.

17 (d) After completion of the production, the producer shall provide the film
18 office with a production cost report detailing the qualified expenditures of the
19 production, with verification by an independent certified public accountant, licensed in
20 the state and approved by the film office, that the costs claimed in the report are
21 qualified expenditures under AS 44.25.130 and that there is no outstanding balance for
22 a qualified expenditure that is due to a person in the state. The independent certified
23 public accountant providing verification under this subsection may not engage in the
24 sale, assignment, exchange, conveyance, or other transfer of a tax credit certificate that
25 includes a credit based on the qualified expenditures that are verified by that
26 independent certified public accountant. If the independent certified public accountant
27 providing verification under this subsection subsequently engages in the sale,
28 assignment, exchange, conveyance, or other transfer of a credit for which a qualified
29 expenditure was verified by that independent certified public accountant, the film
30 office may require the producer providing the production cost report to have the
31 qualified expenditures verified by an independent certified public accountant licensed

1 in the state that is not engaged in the sale, assignment, exchange, conveyance, or other
2 transfer related to a credit for the qualified expenditures.

3 (e) Subject to (g) of this section, the film office shall determine the amount of
4 the tax credit based on the information provided by the producer under (d) of this
5 section and, after approval by the Alaska Film Incentive Review Commission, shall
6 award a tax credit under AS 43.98.030 if the producer has satisfied all requirements
7 under AS 44.25.100 - 44.25.190.

8 (f) The award of a tax credit under this section is conditioned on the
9 producer's and the production's full compliance with all applicable state laws and
10 regulations. At the request of the film office, a producer shall provide any information
11 necessary for the film office to determine the producer's and production's compliance
12 with this subsection.

13 (g) In determining the amount of a tax credit awarded under this section, the
14 film office shall reduce the amount of the tax credit by any amount the film office
15 considers necessary to allow the state, or a political subdivision of the state, to recover
16 the cost of any damages caused by any act or omission of the producer or production.

17 (h) The film office may withhold the award of a tax credit under this section if
18 the office determines that there are filed, but unresolved, legal actions in the state
19 involving the producer or production.

20 (i) To qualify for the tax credit under AS 43.98.030, a producer shall include,

21 (1) in the end credits of each qualified film, the film office logo
22 designed under AS 44.25.105(b) and the words, "Filmed in Alaska with the Support of
23 the State of Alaska"; or

24 (2) on each DVD or other media produced for distribution, a short
25 Alaska promotional video or advertisement approved by the Alaska Film Incentive
26 Review Commission.

27 (j) The Department of Revenue may not provide a tax credit certificate under
28 AS 43.98.030 to a producer that fails to meet the requirements in (i) of this section.

29 (k) In place of the 30 percent credit applicable to qualified expenditures under
30 (a) of this section, the tax credit for expenditures for services performed in the state,
31 including all salaries, wages, compensation, and related benefits, by producers,

1 directors, writers, and principal actors that fail to meet the eligibility requirements for
2 a permanent fund dividend in AS 43.23.005(a)(2) - (7), and all entities representing
3 producers, directors, writers, and principal actors that fail to meet the eligibility
4 requirements for a permanent fund dividend in AS 43.23.005(a)(2) - (7), is five
5 percent. The amount of the five percent credit may be increased by adding an amount
6 equal to 50 percent of the qualified expenditures paid to residents of the state under
7 AS 44.25.130(a)(10) and 50 percent of the qualified expenditures paid under
8 AS 44.25.130(a)(11) - (13) and (15). In this subsection, "principal actors" means the
9 five highest compensated actors or entities representing the five highest compensated
10 actors in the production.

11 **Sec. 44.25.130. Determination of qualified expenditures.** (a) Expenditures
12 made by a production company licensed to do business in the state in connection with
13 a film production approved by the film office that shall be considered qualified
14 expenditures must be directly related to the production and be incurred in the state.
15 Only expenditures that are ordinary, reasonable, and not in excess of fair market value
16 and that are for real or tangible property, fees, services, or state or municipal taxes
17 shall be considered. Expenditures may include

- 18 (1) costs of set construction and operation;
- 19 (2) costs of wardrobes, make-up, accessories, and related services;
- 20 (3) costs associated with photography and sound synchronization;
- 21 (4) costs of lighting and related services and materials;
- 22 (5) costs of editing and related services;
- 23 (6) rental of facilities and equipment;
- 24 (7) leasing of vehicles;
- 25 (8) costs of food and lodging;
- 26 (9) costs of digital or tape editing, film processing, transfer of film to
27 tape or digital format, transfer of digital media to film or tape, sound mixing, and
28 special and visual effects;
- 29 (10) the total aggregate expenditures for services performed in the
30 state, including all salaries, wages, compensation, and related benefits provided to
31 producers, directors, writers, actors, and other personnel that are directly attributable

1 to services performed in the state;

2 (11) the costs of the use of an Alaska business for processing qualified
3 payroll and related expenditures;

4 (12) costs of music, if performed, composed, or recorded by an Alaska
5 musician, or released or published by an Alaska business;

6 (13) costs of intrastate travel, if provided by an Alaska business;

7 (14) costs relating to the design, construction, improvement, or repair
8 of a film, video, television, or digital production or postproduction facility or related
9 property, infrastructure, or equipment, except commercial exhibition facilities, as
10 determined by the film office;

11 (15) costs of state or municipal taxes levied in Alaska on the lease or
12 rental of passenger or recreational vehicles or the rental of rooms or other lodging; or

13 (16) other similar production expenditures as determined by the film
14 office.

15 (b) Production costs that may not be considered qualified expenditures include

16 (1) costs related to the acquisition, determination, transfer, or use of a
17 film production tax credit under AS 43.98.030;

18 (2) postproduction expenditures for marketing and distribution;

19 (3) production financing, depreciation, and amortization costs, and
20 other costs that are not cash or cash equivalent expenditures directly attributable to
21 production costs incurred in the state;

22 (4) amounts that are later reimbursed or reasonably anticipated to be
23 reimbursed, resulting in a reduction in production costs;

24 (5) amounts that are reasonably anticipated to be recovered through
25 subsequent sale or other realization of value by disposal of an asset that has been
26 claimed as a qualified expenditure;

27 (6) amounts that are paid to a person or entity as a result of
28 participation in profits from the exploitation of the production;

29 (7) costs incurred in the purchase of real or tangible property for which
30 a qualified expenditure has, at any time, been claimed.

31 **Sec. 44.25.135. Recovery of film production tax credit.** (a) The film office

1 may review, audit, and bring legal proceedings to recover any amount of a tax credit
2 awarded under AS 44.25.125 from a producer or production to which a credit was
3 awarded if the film office determines that the film producer or production is liable for
4 damages to the state, or any political subdivision of the state.

5 (b) Legal proceedings may not be brought under (a) of this section more than
6 six years after the date the tax credit was awarded under AS 44.25.125.

7 **Sec. 44.25.140. Regulations.** The film office may adopt procedures and
8 regulations to carry out its functions under AS 44.25.100 - 44.25.190.

9 **Sec. 44.25.145. Alaska Film Incentive Review Commission.** (a) The Alaska
10 Film Incentive Review Commission is created in the Department of Revenue.

11 (b) The membership of the commission consists of the

12 (1) commissioner of commerce, community, and economic
13 development;

14 (2) commissioner of natural resources;

15 (3) commissioner of revenue;

16 (4) commissioner of labor and workforce development.

17 (c) A majority of the commission constitutes a quorum. Approval of an
18 application for qualification under AS 44.25.120 and 44.25.150 and the award of film
19 production tax credits under AS 44.25.120 and 44.25.150 require an affirmative vote
20 by three members of the commission.

21 (d) The commission shall employ an executive director and additional staff to
22 support the work of the commission, oversee the film office, and carry out the duties
23 of the film office under AS 44.25.100 - 44.25.190. The commission shall provide
24 general direction to the executive director and staff for the operation of the film office.

25 (e) The commission may consult with individuals knowledgeable about film
26 production and accounting as necessary to perform the duties of the commission.

27 **Sec. 44.25.150. Review of qualifications and award of film production tax**
28 **credits.** (a) The executive director shall review each application submitted to the film
29 office under AS 44.25.120 and each production cost report submitted to the film office
30 under AS 44.25.125.

31 (b) After finding that an application submitted under AS 44.25.120 is

1 complete, the executive director shall review the application and submit the
2 application for approval to the commission along with a recommendation to approve
3 or reject the application. After reviewing the application, the recommendation of the
4 executive director, and additional information an applicant may provide or the
5 commission may request, the commission shall make a decision as to whether the
6 production proposed in the application and the estimated amount of the film
7 production tax credit are in the best interest of the state. The commission may not
8 approve an application for a film production that the commission finds is contrary to
9 the natural resource development policy of the state. The commission shall issue a
10 decision either approving or rejecting the application and qualification of the
11 applicant. A decision of the commission on the qualification of an applicant is in the
12 discretion of the commission and is not subject to appeal except on the issue of
13 whether the decision of the commission is arbitrary or capricious. If appealed, the
14 appeal is subject to AS 44.62 (Administrative Procedure Act).

15 (c) After reviewing the production cost report submitted by a producer under
16 AS 44.25.125, the executive director shall review and verify the information included
17 on the production cost report. The executive director shall determine the amount of the
18 credit for which the producer may qualify and make a recommendation to the
19 commission as to the amount of the credit to be awarded. The commission may
20 approve the credit amount recommended by the executive director, adjust the amount
21 of the credit, deny all or part of the credit, or return the production cost report to the
22 executive director for additional review. The denial of a film production tax credit
23 under this section is subject to appeal under AS 44.62 (Administrative Procedure Act).

24 **Sec. 44.25.190. Definitions.** In AS 44.25.100 - 44.25.190,

25 (1) "Alaska business" means

26 (A) a person who holds a current Alaska business license;

27 (B) a person who provides goods or services under the name as
28 appearing on the person's current Alaska business license;

29 (C) a person who has maintained a place of business within the
30 state staffed by the person or an employee of the person for a period of six
31 months immediately preceding the date the goods or services were provided;

1 (D) a person who is

2 (i) incorporated or qualified to do business under the
3 laws of the state;

4 (ii) a sole proprietorship, and the proprietor is a resident
5 of the state;

6 (iii) a limited liability company organized under
7 AS 10.50, and all members are residents of the state; or

8 (iv) a partnership under former AS 32.05, AS 32.06, or
9 AS 32.11, and all partners are residents of the state; and

10 (E) if the business is a joint venture, a joint venture composed
11 entirely of ventures that qualify under (A) - (D) of this paragraph;

12 (2) "film" includes television, commercials, and videos;

13 (3) "film office" means the film office created under AS 44.25.100;

14 (4) "producer" means a person who arranges financing for or
15 supervises the production of a film, video, commercial, or television production or
16 pilot;

17 (5) "rural area" means a community in the state with a population of
18 1,500 or less or a community with a population of 10,000 or less that is not connected
19 by road or rail to Anchorage or Fairbanks.

20 * **Sec. 29.** AS 44.33.231 is repealed and reenacted to read:

21 **Sec. 44.33.231. Film production promotion program.** (a) The film
22 production promotion program is established in the Department of Commerce,
23 Community, and Economic Development.

24 (b) The purpose of the film production promotion program is to

25 (1) work with organizations in the private sector for the expansion and
26 development of film production industries in the state;

27 (2) promote Alaska as an appropriate location for film production;

28 (3) provide production assistance through connecting film directors,
29 makers, and producers with Alaska location scouts and contractors, including
30 contractors providing assistance with permit applications; and

31 (4) certify Alaska film production internship training programs and

1 promote the employment of program interns by eligible productions.

2 (c) On request, the Department of Commerce, Community, and Economic
3 Development, through the film production promotion program, shall assist the
4 Department of Revenue in the administration of the Alaska film production incentive
5 program (AS 44.25.110).

6 * **Sec. 30.** AS 44.33.232, 44.33.233, 44.33.234, 44.33.235, 44.33.236, 44.33.237, 44.33.238,
7 and 44.33.239 are repealed.

8 * **Sec. 31.** AS 43.98.030; AS 44.25.100, 44.25.105, 44.25.110, 44.25.115, 44.25.120,
9 44.25.125, 44.25.130, 44.25.140, 44.25.145, 44.25.150, 44.25.190; and AS 44.33.231(c) are
10 repealed.

11 * **Sec. 32.** AS 44.25.135 is repealed.

12 * **Sec. 33.** AS 24.20.271(11) is repealed.

13 * **Sec. 34.** Sections 3, 4, 5, and 6, ch. 63, SLA 2008, are repealed.

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

16 INCENTIVE CREDIT FOR FIRST EPISODIC SCRIPTED TELEVISION
17 PRODUCTION IN THE STATE. (a) Subject to appropriation, the first episodic scripted
18 television production produced after the effective date of this section is entitled to an
19 additional film production tax credit of six percent of the total qualified expenditures incurred
20 in the state. The production is eligible for the film production tax credit in this section after 16
21 episodes have been completed and are ready for television broadcast.

22 (b) The credit in this section shall be administered in the same manner as the film
23 production tax credit under AS 44.25.100 - 44.25.190.

24 (c) In this section, "episodic scripted television production" means a production for
25 television broadcast that is based on a script written before production; "episodic scripted
26 television production" does not include what is commonly referred to as reality television, for
27 which actors in the production do not perform using previously scripted dialogue or actions.

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

30 TRANSITION. (a) The employee or employees in the film office in the Department of
31 Commerce, Community, and Economic Development shall be transferred to the Department

1 of Revenue on the effective date of this section and shall be the staff authorized for the Alaska
2 Film Incentive Review Commission established by AS 44.25.145, enacted by sec. 28 of this
3 Act. The Alaska Film Incentive Review Commission shall designate an executive director as
4 soon as practicable after the effective date of this section.

5 (b) Subject to AS 43.98.030(f), as amended by sec. 26 of this Act, secs. 31 and 32 of
6 this Act do not prohibit the film office from determining a film production's qualified
7 expenditures, awarding a tax credit, or reviewing a tax credit under the provisions repealed by
8 secs. 31 and 32 of this Act that has received a notice of qualification under AS 44.25.120(b),
9 enacted by sec. 28 of this Act, before July 1, 2023.

10 (c) A film production tax credit may be used to offset taxes imposed under the
11 provisions identified in AS 43.98.030(c), as amended by sec. 24 of this Act, or sold or
12 exchanged for a transferable tax credit certificate under AS 43.98.030(a), as amended by sec.
13 22 of this Act, within three years after being provided by the Department of Revenue,
14 notwithstanding the repeal of AS 43.98.030 in sec. 31 of this Act.

15 (d) A film production tax credit that is being withheld under AS 44.25.125(h), enacted
16 by sec. 28 of this Act, may continue to be withheld by the film office, notwithstanding the
17 repeal of AS 44.25.125 in sec. 31 of this Act.

18 * **Sec. 37.** The uncoded law of the State of Alaska is amended by adding a new section to
19 read:

20 NOTIFICATION. When the amount of tax credits provided under AS 43.98.030(f), as
21 amended by sec. 26 of this Act, in the aggregate and the estimated amount of tax credits that
22 could be claimed based on notices of qualification issued by the film office under
23 AS 44.33.234, repealed by sec. 30 of this Act, together equal \$100,000,000 before July 1,
24 2013, or under AS 44.25.120, enacted by sec. 28 of this Act, together equal \$200,000,000
25 after June 30, 2013, and before July 1, 2023, the commissioner of revenue shall notify the
26 presiding officers of each house of the legislature and the revisor of statutes in writing.

27 * **Sec. 38.** The uncoded law of the State of Alaska is amended by adding a new section to
28 read:

29 NONSEVERABILITY. Notwithstanding AS 01.10.030, the provisions of secs. 1 and
30 20 - 30 of this Act are not severable from each other if a provision in secs. 1 and 20 - 30 of
31 this Act is held invalid.

1 * **Sec. 39.** Sections 7 and 8, ch. 63, SLA 2008, are repealed.

2 * **Sec. 40.** Section 31 of this Act takes effect on the earlier of the following:

3 (1) July 1, 2023; or

4 (2) the date the commissioner of revenue notifies the presiding officers of each
5 house of the legislature and the revisor of statutes in writing of the \$200,000,000 amount after
6 June 30, 2013, and before July 1, 2023, under sec. 37 of this Act.

7 * **Sec. 41.** Section 32 of this Act takes effect on the earlier of the following:

8 (1) July 1, 2029; or

9 (2) six years after the date the commissioner of revenue notifies the presiding
10 officers of each house of the legislature and the revisor of statutes in writing of the
11 \$200,000,000 amount after June 30, 2013, and before July 1, 2023, under sec. 37 of this Act.

12 * **Sec. 42.** Section 33 of this Act takes effect January 1, 2022.

13 * **Sec. 43.** Sections 1, 20 - 30, and 34 - 39 of this Act take effect July 1, 2013.

14 * **Sec. 44.** Sections 6 and 7 of this Act take effect July 1, 2012.

15 * **Sec. 45.** Section 8 of this Act takes effect July 1, 2023.

16 * **Sec. 46.** Sections 10 - 15, 18, and 19 of this Act take effect January 1, 2013.

17 * **Sec. 47.** Except as provided in secs. 40 - 46 of this Act, this Act takes effect immediately
18 under AS 01.10.070(c).