

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR Wietechowski

TO: CSSB 227(RES), Draft Version "I"

1 Page 1, line 12:

2 Delete "sec. 13"

3 Insert "sec. 14"

4

5 Page 2, line 3:

6 Delete "sec. 29"

7 Insert "sec. 33"

8

9 Page 2, following line 4:

10 Insert a new bill section to read:

11 **** Sec. 2.** AS 37.18.010 is amended to read:

12 **Sec. 37.18.010. Alaska Tax Credit Certificate Bond Corporation.** The
13 Alaska Tax Credit Certificate Bond Corporation is established in the Department of
14 Revenue. The corporation is a public corporation and government instrumentality
15 managed by a board of directors. The purpose of the corporation is to finance under
16 AS 43.55.028

17 (1) the purchase of

18 (A) transferable tax credit certificates issued under **former**
19 AS 43.55.023;

20 (B) production tax credit certificates issued under **former**
21 AS 43.55.025; and

22 (2) the payment of refunds and payments claimed under AS 43.20.046,
23 43.20.047, or 43.20.053."

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Renumber the following bill sections accordingly.

Page 30, line 5, through page 48, line 11:

Delete all material and insert:

**** Sec. 15.** AS 43.55.011(e) is repealed and reenacted to read: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 or for which a tax is levied by AS 43.55.014. Except as otherwise provided under (j), (k), (o), and (p) of this section, the tax for

(1) oil is equal to 17.5 percent of the gross value at the point of production of the taxable oil; if the gross value at the point of production of oil produced from a lease or property is less than zero, that gross value at the point of production is considered zero for purposes of this paragraph;

(2) gas is equal to 13 percent of the gross value at the point of production of the taxable gas; if the gross value at the point of production of gas produced from a lease or property is less than zero, that gross value at the point of production is considered zero for purposes of this paragraph.

*** Sec. 16.** AS 43.55.011(p) is amended 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, 2027, the levy of tax under (e) of this section for oil and gas is [MAY NOT EXCEED] four percent of the gross value at the point of production.

*** Sec. 17.** AS 43.55.014(b) is amended to read:

(b) A production tax levied by this section is equal to 13 percent of the gas otherwise taxable under **AS 43.55.011** [AS 43.55.011(e)(3)] produced from each oil and gas lease to which an effective election under (a) of this section applies, when and

1 as that gas is produced. The producer shall pay the tax in gas by delivering that 13
2 percent of the gas to the state at the point of production.

3 * **Sec. 18.** AS 43.55.020(a) is repealed and reenacted to read:

4 (a) Unless otherwise specified under a regulation adopted by the department
5 under (n) of this section, a producer subject to tax under AS 43.55.011 shall pay an
6 installment payment of the estimated tax levied by AS 43.55.011, net of any tax
7 credits applied as allowed by law. The payment is due for each month of the calendar
8 year on the last day of the following month. The amount of the installment payment is
9 the sum of the following amounts, less 1/12 of the tax credits that are allowed by law
10 to be applied against the tax levied by AS 43.55.011(e) for the calendar year, but the
11 amount of the installment payment may not be less than zero:

12 (1) for oil produced from leases or properties in the state, 17.5 percent
13 of the gross value at the point of production of the oil produced from the leases or
14 properties during the month for which the installment payment is calculated, but not
15 less than zero;

16 (2) for gas produced from a lease or property in the state, 13 percent of
17 the gross value at the point of production of the oil produced from the leases or
18 properties during the month for which the installment payment is calculated, but not
19 less than zero.

20 * **Sec. 19.** AS 43.55.020(g) is amended to read:

21 (g) Notwithstanding any contrary provision of AS 43.05.225,

22 [(1) BEFORE JANUARY 1, 2014, AN UNPAID AMOUNT OF AN
23 INSTALLMENT PAYMENT REQUIRED UNDER (a)(1) - (3) OF THIS SECTION
24 THAT IS NOT PAID WHEN DUE BEARS INTEREST (A) AT THE RATE
25 PROVIDED FOR AN UNDERPAYMENT UNDER 26 U.S.C. 6621 (INTERNAL
26 REVENUE CODE), AS AMENDED, COMPOUNDED DAILY, FROM THE DATE
27 THE INSTALLMENT PAYMENT IS DUE UNTIL MARCH 31 FOLLOWING THE
28 CALENDAR YEAR OF PRODUCTION, AND (B) AS PROVIDED FOR A
29 DELINQUENT TAX UNDER AS 43.05.225 AFTER THAT MARCH 31;
30 INTEREST ACCRUED UNDER (A) OF THIS PARAGRAPH THAT REMAINS
31 UNPAID AFTER THAT MARCH 31 IS TREATED AS AN ADDITION TO TAX

1 THAT BEARS INTEREST UNDER (B) OF THIS PARAGRAPH; AN UNPAID
 2 AMOUNT OF TAX DUE UNDER (a)(4) OF THIS SECTION THAT IS NOT PAID
 3 WHEN DUE BEARS INTEREST AS PROVIDED FOR A DELINQUENT TAX
 4 UNDER AS 43.05.225;

5 (2) ON AND AFTER JANUARY 1, 2014,] an unpaid amount of an
 6 installment payment required under (a) [(a)(3), (5), (6), OR (7)] of this section that is
 7 not paid when due bears interest (1) [(A)] at the rate provided for an underpayment
 8 under 26 U.S.C. 6621 (Internal Revenue Code), as amended, compounded daily, from
 9 the date the installment payment is due until March 31 following the calendar year of
 10 production, and (2) [(B)] as provided for a delinquent tax under AS 43.05.225 after
 11 that March 31; interest accrued under (1) [(A)] of this subsection [PARAGRAPH]
 12 that remains unpaid after that March 31 is treated as an addition to tax that bears
 13 interest under (2) [(B)] of this paragraph; an unpaid amount of tax due under (a)
 14 [(a)(4)] of this section that is not paid when due bears interest as provided for a
 15 delinquent tax under AS 43.05.225.

16 * **Sec. 20.** AS 43.55.020(h) is amended to read:

17 (h) Notwithstanding any contrary provision of AS 43.05.280,

18 (1) an overpayment of an installment payment required under (a)
 19 [(a)(1), (2), (3), (5), (6), OR (7)] of this section bears interest at the rate provided for
 20 an overpayment under 26 U.S.C. 6621 (Internal Revenue Code), as amended,
 21 compounded daily, from the later of the date the installment payment is due or the date
 22 the overpayment is made, until the earlier of

23 (A) the date it is refunded or is applied to an underpayment; or

24 (B) March 31 following the calendar year of production;

25 (2) except as provided under (1) of this subsection, interest with
 26 respect to an overpayment is allowed only on any net overpayment of the payments
 27 required under (a) of this section that remains after the later of March 31 following the
 28 calendar year of production or the date that the statement required under
 29 AS 43.55.030(a) is filed;

30 (3) interest is allowed under (2) of this subsection only from a date that
 31 is 90 days after the later of March 31 following the calendar year of production or the

1 date that the statement required under AS 43.55.030(a) is filed; interest is not allowed
2 if the overpayment was refunded within the 90-day period;

3 (4) interest under (2) and (3) of this subsection is paid at the rate and in
4 the manner provided in AS 43.05.225(1).

5 * **Sec. 21.** AS 43.55.020(i) is amended to read:

6 (i) Notwithstanding any contrary provision of
7 AS 43.05.225 or (g) or (h) of this section, if the amount of a tax
8 payment, including an installment payment, due under **(a)** [(a)(1) - (4)]
9 of this section is affected by the retroactive application of a regulation
10 adopted under this chapter, the department shall determine whether the
11 retroactive application of the regulation caused an underpayment or an
12 overpayment of the amount due and adjust the interest due on the
13 affected payment as follows:

14 (1) if an underpayment of the amount due occurred, the department
15 shall waive interest that would otherwise accrue for the underpayment before the first
16 day of the second month following the month in which the regulation became
17 effective, if

18 (A) the department determines that the producer's
19 underpayment resulted because the regulation was not in effect when the
20 payment was due; and

21 (B) the producer demonstrates that it made a good faith
22 estimate of its tax obligation in light of the regulations then in effect when the
23 payment was due and paid the estimated tax;

24 (2) if an overpayment of the amount due occurred and the department
25 determines that the producer's overpayment resulted because the regulation was not in
26 effect when the payment was due, the obligation for a refund for the overpayment does
27 not begin to accrue interest earlier than the following, as applicable:

28 (A) except as otherwise provided under (B) of this paragraph,
29 the first day of the second month following the month in which the regulation
30 became effective;

31 (B) 90 days after an amended statement under AS 43.55.030(a)

1 and an application to request a refund of production tax paid is filed, if the
 2 overpayment was for a period for which an amended statement under
 3 AS 43.55.030(a) was required to be filed before the regulation became
 4 effective.

5 * **Sec. 22.** AS 43.55.020(*l*) is amended to read:

6 (*l*) **In** [FOR OIL AND GAS PRODUCED ON AND AFTER JANUARY 1,
 7 2022, IN] making settlement with the royalty owner for oil and gas that is taxable
 8 under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable
 9 royalty oil and gas, or may deduct taxable royalty oil or gas equivalent in value at the
 10 time the tax becomes due to the amount of the tax paid. If the total deductions of
 11 installment payments of estimated tax for a calendar year exceed the actual tax for that
 12 calendar year, the producer shall, before April 1 of the following year, refund the
 13 excess to the royalty owner. In making settlement with the royalty owner for gas that
 14 is taxable under AS 43.55.014, the producer may deduct the amount of the gas paid as
 15 in-kind tax on taxable royalty gas or may deduct the gross value at the point of
 16 production of the gas paid as in-kind tax on taxable royalty gas. Unless otherwise
 17 agreed between the producer and the royalty owner, the amount of the tax paid under
 18 AS 43.55.011(e) on taxable royalty oil for a calendar year, other than oil the
 19 ownership or right to which constitutes a landowner's royalty interest, is considered to
 20 be the gross value at the point of production of the taxable royalty oil produced during
 21 the calendar year multiplied by a figure that is a quotient, in which

22 (1) the numerator is the producer's total tax liability under
 23 **AS 43.55.011(e)** [AS 43.55.011(e)(3)(A)] for the calendar year of production; and

24 (2) the denominator is the total gross value at the point of production
 25 of the oil taxable under AS 43.55.011(e) produced by the producer from all leases and
 26 properties in the state during the calendar year.

27 * **Sec. 23.** AS 43.55.020 is amended by adding a new subsection to read:

28 (n) The department shall adopt regulations to determine the monthly tax
 29 payments under this section for oil and gas subject to AS 43.55.011(i), (j), (k), (o), and
 30 (p). The regulations adopted under this subsection shall, when possible, be modeled
 31 after AS 43.55.020(a), as that section read on January 1, 2026.

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

2 (a) The oil and gas tax credit fund is established as a separate fund of the state.
3 The purpose of the fund is to purchase transferable tax credit certificates issued under
4 **former** AS 43.55.023 and production tax credit certificates issued under **former**
5 AS 43.55.025 and to pay refunds and payments claimed under AS 43.20.046,
6 43.20.047, or 43.20.053. The oil and gas tax credit fund established under this
7 subsection may not be used to purchase a tax credit certificate for a credit earned
8 under this chapter for activity occurring on or after July 1, 2017.

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

10 (e) The department, on the written application of a person to whom a
11 transferable tax credit certificate has been issued under **former** AS 43.55.023(d) or
12 former AS 43.55.023(m) for an expenditure incurred before July 1, 2017, or to whom
13 a production tax credit certificate has been issued under **former** AS 43.55.025(f) for
14 an expenditure incurred before July 1, 2017, may use either available money in the oil
15 and gas tax credit fund or, subject to appropriation by the legislature, money disbursed
16 to the commissioner, or both, to purchase, in whole or in part, the certificate. The
17 department may not purchase with money from the oil and gas tax credit fund a total
18 of more than \$70,000,000 in tax credit certificates from a person in a calendar year.
19 The total amount of purchases made by the department with money from the oil and
20 gas tax credit fund from a person in a year may not exceed the assumed payment
21 amount for each year, as calculated under (l) of this section without the discount
22 provided in (m) of this section. Before purchasing a certificate or part of a certificate,
23 the department shall find that

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

27 (2) the application is not the result of the division of a single entity into
28 multiple entities that would reasonably be expected to apply as a single entity if the
29 \$70,000,000 limitation in this subsection did not exist;

30 (3) the applicant's total tax liability under AS 43.55.011(e), after
31 application of all available tax credits, for the calendar year in which the application is

1 made is zero;

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

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

7 * **Sec. 26.** AS 43.55.028(i)(2) is amended to read:

8 (2) "qualified capital expenditure" has the meaning given in **former**
9 AS 43.55.023;

10 * **Sec. 27.** AS 43.55.028(k) is amended to read:

11 (k) The department may negotiate a purchase, refund, or payment under this
12 section to be made from money disbursed to the commissioner. Before making a
13 purchase, refund, or payment, the department shall calculate the maximum amount for
14 a purchase, refund, or payment under (l) of this section. An applicant or claimant that
15 has requested a purchase, refund, or payment by the department from the fund shall
16 provide a notice of interest to the department by the date determined by the
17 commissioner if the applicant or claimant is interested in a purchase, refund, or
18 payment from money disbursed to the commissioner instead. An applicant or claimant
19 that requests a purchase, refund, or payment from the fund on or after July 1, 2018,
20 shall include any notice of interest in a purchase, refund, or payment from money
21 disbursed to the commissioner at the same time that the applicant or claimant requests
22 a purchase, refund, or payment by the department from the fund. The department may
23 not use money disbursed to the commissioner for a purchase, refund, or payment
24 under this section if the applicant or claimant fails to provide the department with a
25 notice of interest in a purchase, refund, or payment from money disbursed to the
26 commissioner. A notice of interest for a purchase, refund, or payment from money
27 disbursed to the commissioner must include all of the requests for purchases, refunds,
28 or payments made by the applicant or claimant and, if applicable, a statement
29 indicating whether the applicant intends to meet a condition in (m)(1), (2), or (3) of
30 this section. An applicant or claimant may not include in a notice of interest a request
31 for purchase, refund, or payment from the fund if the request could have been included

1 in a previous notice of interest under this subsection. The department shall make an
2 offer of purchase, refund, or payment with money disbursed to the commissioner to an
3 applicant or claimant that provides the department with a timely notice of interest. The
4 department shall make an offer of purchase, refund, or payment from money disbursed
5 to the commissioner at a time based on the anticipated schedule for disbursement of
6 money to the commissioner. The applicant or claimant shall notify the department of
7 acceptance of the offer of purchase, refund, or payment within 10 days after the offer
8 is made. An offer of purchase, refund, or payment must be conditioned on the
9 disbursement of money to the commissioner. A transferable tax credit certificate
10 issued under former AS 43.55.023, production tax credit certificate issued under
11 former AS 43.55.025, or claim for a refund or payment under AS 43.20.046,
12 43.20.047, or 43.20.053 is not eligible for purchase by the department with money
13 disbursed to the commissioner if the applicant or claimant

14 (1) fails to provide the department with a notice of interest of an offer
15 of purchase, refund, or payment from money disbursed to the commissioner by the
16 date determined by the commissioner under this subsection; or

17 (2) declines an offer of purchase, refund, or payment by the
18 department with money disbursed to the commissioner for that transferable tax credit
19 certificate, production tax credit certificate, or refund or claim for payment.

20 * **Sec. 28.** AS 43.55.028(m) is amended to read:

21 (m) For purposes of the calculation in (l) of this section, the department shall
22 discount the assumed payment amount each year after the first year by a discount rate.
23 Unless another discount rate in this subsection applies, a discount rate of 10 percent
24 applies to the assumed payment amount for a request for purchase of a transferable tax
25 credit certificate issued under former AS 43.55.023 or a production tax credit
26 certificate issued under former AS 43.55.025. An applicant's agreement to a discount
27 rate under (1), (2), or (3) of this subsection is only consideration for the amount that
28 the purchase exceeds the amount that would have been purchased in the absence of the
29 agreement. For a refund or claim for payment under AS 43.20.046, 43.20.047, or
30 43.20.053, the discount rate is the true interest cost plus 1.5 percent, but may not
31 exceed 10 percent. For a purchase of a transferable tax credit certificate issued under

1 **former** AS 43.55.023 or a production tax credit certificate issued under **former**
2 AS 43.55.025, the discount rate is the true interest cost plus 1.5 percent, but may not
3 exceed 10 percent, in total,

4 (1) for either a transferable tax credit certificate issued under **former**
5 AS 43.55.023 for which the applicant submitted data required under **former**
6 AS 43.55.025(f)(2) or a production tax credit certificate issued under **former**
7 AS 43.55.025, if the applicant agrees as a condition of the purchase that the 10-year
8 confidentiality period under **former** AS 43.55.025(f)(2)(C)(ii) that would otherwise
9 apply to the seismic data or other geophysical data is waived by the applicant;

10 (2) if the applicant, or an entity related to the applicant with the
11 applicant's consent, and the Department of Natural Resources agree to an overriding
12 royalty interest agreement under AS 44.37.230; or

13 (3) if the applicant commits to incur, not later than 24 months after the
14 purchase of the certificate, qualified capital expenditures in an amount greater than or
15 equal to the purchase amount, and

16 (A) the applicant provides to the department evidence of the
17 commitment and a plan to

18 (i) use the qualified capital expenditures for the purpose
19 of increasing production of oil or gas from leases or properties in the
20 state; and

21 (ii) maximize the hiring of state residents and use of
22 state businesses related to qualified capital expenditures;

23 (B) the applicant agrees in writing that, if the applicant does not
24 incur qualified capital expenditures in an amount greater than or equal to the
25 purchase amount within 24 months after the purchase of the certificate, the
26 applicant shall pay the department the lesser of the difference between the
27 purchase amount and the

28 (i) amount the applicant would have been paid had this
29 subsection not applied; or

30 (ii) actual amount of qualified capital expenditures
31 incurred by the applicant in the 24-month period; and

1 (C) after reviewing documents submitted under (A) and (B) of
2 this paragraph, the commissioner approves the reduced discount rate for the
3 purchase.

4 * **Sec. 29.** AS 43.55.028(o) is amended to read:

5 (o) An applicant or claimant may not use a transferable tax credit certificate
6 issued under **former** AS 43.55.023, production tax credit certificate issued under
7 **former** AS 43.55.025, or refund or claim for payment under AS 43.20.046, 43.20.047,
8 or 43.20.053 purchased by the department with money disbursed to the commissioner
9 against tax liability, even if the purchase, refund, or payment amount was less than the
10 total amount requested for purchase, refund, or payment.

11 * **Sec. 30.** AS 43.55.075(b) is amended to read:

12 (b) A decision of a regulatory agency, court, or other body with authority to
13 resolve disputes that results in a retroactive change to [A LEASE EXPENDITURE,
14 TO AN ADJUSTMENT TO A LEASE EXPENDITURE, TO] costs of transportation
15 [, TO SALE PRICE], to **gross** [PREVAILING] value, or to consideration of quality
16 differentials relating to the commingling of oils has a corresponding effect, either an
17 increase or decrease, [AS APPLICABLE,] on the **gross** [PRODUCTION TAX] value
18 of oil or gas, [OR THE AMOUNT OR AVAILABILITY OF A TAX CREDIT] as
19 determined under this chapter. [FOR PURPOSES OF THIS SECTION, A CHANGE
20 TO A LEASE EXPENDITURE INCLUDES A CHANGE IN THE
21 CATEGORIZATION OF A LEASE EXPENDITURE AS A QUALIFIED CAPITAL
22 EXPENDITURE OR AS NOT A QUALIFIED CAPITAL EXPENDITURE.] The
23 producer shall

24 (1) within 60 days after the change, notify the department in writing;

25 and

26 (2) within 120 days after the change, file amended returns covering all
27 periods affected by the change, unless the department agrees otherwise or a stay is in
28 place that affects the filing or payment, regardless of the pendency of appeals of the
29 decision.

30 * **Sec. 31.** AS 43.55.180(a) is amended to read:

31 (a) The department shall study

1 (1) the effects of the provisions of this chapter on oil and gas
 2 exploration, development, and production in the state, on investment expenditures for
 3 oil and gas exploration, development, and production in the state, on the entry of new
 4 producers into the oil and gas industry in the state, on state revenue, and on tax
 5 administration and compliance [, GIVING PARTICULAR ATTENTION TO THE
 6 TAX RATES PROVIDED UNDER AS 43.55.011, THE TAX CREDITS PROVIDED
 7 UNDER AS 43.55.023 - 43.55.025, AND THE DEDUCTIONS FOR AND
 8 ADJUSTMENTS TO LEASE EXPENDITURES PROVIDED UNDER AS 43.55.160
 9 - 43.55.170]; and

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

13
 14 Renumber the following bill sections accordingly.

15
 16 Page 49, following line 9:

17 Insert new bill sections to read:

18 **** Sec. 35.** AS 44.37.230(b) is amended to read:

19 (b) The department may enter into an overriding royalty interest agreement in
 20 favor of the state with an applicant that requests a purchase by the Department of
 21 Revenue under AS 43.55.028 from money disbursed to the commissioner of revenue
 22 from the Alaska Tax Credit Certificate Bond Corporation reserve fund established in
 23 AS 37.18.040 of a transferable tax credit certificate issued under **former**
 24 AS 43.55.023 or production tax credit certificate issued under **former** AS 43.55.025.
 25 The department may enter into an agreement only if the anticipated net present value
 26 from the agreement to the state is equal to or greater than the remainder of the value of
 27 the tax credit certificate requested for purchase at the proposed reduced discount rate
 28 under AS 43.55.028(m)(2), subtracted from the value of the tax credit certificate
 29 requested for purchase in the absence of the agreement.

30 *** Sec. 36.** AS 31.05.030(n); AS 43.20.044(a)(2); AS 43.55.011(f), 43.55.011(g),
 31 43.55.020(k), 43.55.023, 43.55.024, 43.55.025, 43.55.029, 43.55.030(a)(6), 43.55.030(a)(7),

1 43.55.030(e), 43.55.030(f)(4), 43.55.075(d)(1), 43.55.160, 43.55.165, 43.55.170,
2 43.55.890(6), 43.55.890(7), 43.55.890(8), 43.55.890(9), 43.55.890(10), and 43.55.895(b)(2)
3 are repealed."

4

5 Renumber the following bill sections accordingly.

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7 Page 49, line 12:

8 Delete "sec. 3"

9 Insert "sec. 4"

10

11 Page 49, line 15:

12 Delete "sec. 12"

13 Insert "sec. 13"

14

15 Page 49, lines 17 - 25:

16 Delete all material.

17

18 Page 49, line 29:

19 Delete "sec. 3" in both places

20 Insert "sec. 4" in both places

21

22 Page 50, line 2:

23 Delete "secs. 3 - 6"

24 Insert "secs. 4 - 7"

25

26 Page 50, line 9:

27 Delete "secs. 3 - 6"

28 Insert "secs. 4 - 7"

29

30 Page 50, line 13:

31 Delete "Sections 3 - 6, 30, and 31"

1 Insert "Sections 4 - 7, 38, and 39"

2

3 Page 50, line 15:

4 Delete "Sections 3 - 6 and 30 - 32"

5 Insert "Sections 4 - 7 and 38 - 40"

6

7 Page 50, line 17:

8 Delete "sec. 33"

9 Insert "sec. 41"