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Nauman/Shutts
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SENATE CS FOR 2d CS FOR HOUSE BILL NO. 247(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

**Offered:
Referred:**

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

A BILL

FOR AN ACT ENTITLED

"An Act relating to the exploration incentive credits; relating to the powers and duties of the Alaska Oil and Gas Conservation Commission; relating to interest applicable to delinquent tax; relating to the oil and gas production tax, tax payments, and credits; relating to tax credit certificates; relating to refunds for the gas storage facility tax credit, the liquefied natural gas storage facility tax credit, and the qualified in-state oil refinery infrastructure expenditures tax credit; relating to oil and gas lease expenditures and production tax credits for municipal entities; requiring a bond or cash deposit with a business license application for an oil or gas business; and providing for an effective date."

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

*** Section 1.** AS 31.05.030 is amended by adding a new subsection to read:

(n) Upon request of the commissioner of revenue, the commission shall

(1) verify regular production for the purposes of AS 43.55.023(b) and (l); and

(2) determine the commencement of regular production from a lease or property for purposes of AS 43.55.160(f) and (g).

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

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

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

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

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

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

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

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

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

(f) Except as otherwise provided in this section or in connection with official

investigations or proceedings of the department, it is unlawful for a current or former officer, employee, or agent of the state to divulge information obtained by the department as a result of an audit under this section that is required by an agreement with the department or by AS 38.05.035(a)(8) [OR AS 41.09.010(d)] to be kept confidential.

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

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

* **Sec. 7.** AS 40.25.100(a) is amended to read:

(a) Information in the possession of the Department of Revenue that discloses the particulars of the business or affairs of a taxpayer or other person, including information under AS 38.05.020(b)(11) that is subject to a confidentiality agreement under AS 38.05.020(b)(12), is not a matter of public record, except as provided in **AS 43.05.230(i) - (l)** [AS 43.05.230(i) OR (k)] or for purposes of investigation and law enforcement. The information shall be kept confidential except when its production is required in an official investigation, administrative adjudication under AS 43.05.405 - 43.05.499, or court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports and items, prohibit the publication of tax lists showing the names of taxpayers who are delinquent and relevant information that may assist in the collection of delinquent taxes, or prohibit the publication of records, proceedings, and decisions under AS 43.05.405 - 43.05.499.

* **Sec. 8.** AS 43.05.225 is amended to read:

Sec. 43.05.225. Interest. Unless otherwise provided,

(1) a delinquent tax [UNDER THIS TITLE,]

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

[OR]

(B) under this title, on and after January 1, 2014, except as provided in (C) of this paragraph, bears interest in each calendar quarter at the rate of three percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District as of the first day of that calendar quarter;

(C) under AS 43.55, on and after January 1, 2017,

(i) for the first three years after a tax becomes delinquent, bears interest in each calendar quarter at the rate of seven percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District as of the first day of that calendar quarter, compounded quarterly as of the last day of that quarter; and

(ii) after the first three years after a tax becomes delinquent, does not bear interest;

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

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

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

* **Sec. 9.** AS 43.05.230 is amended by adding a new subsection to read:

(l) For tax credit certificates purchased by the department in the preceding calendar year under AS 43.55.028, the department shall make the aggregate amount of tax credits purchased under each statutory section or subsection, as applicable, classified to prevent the identification of a particular taxpayer public by April 30 of each year.

* **Sec. 10.** AS 43.20.046(e) is amended to read:

(e) Subject to the requirements in AS 43.55.028(j), the [THE] department may use available money in the oil and gas tax credit fund established in AS 43.55.028 to make the refund applied for under (d) of this section in whole or in part if the department finds that, [(1) THE CLAIMANT DOES NOT HAVE AN OUTSTANDING LIABILITY TO THE STATE FOR UNPAID DELINQUENT

1 TAXES UNDER THIS TITLE; AND (2)] after application of all available tax credits,
2 the claimant's total tax liability under this chapter for the calendar year in which the
3 claim is made is zero. [IN THIS SUBSECTION, "UNPAID DELINQUENT TAX"
4 MEANS AN AMOUNT OF TAX FOR WHICH THE DEPARTMENT HAS ISSUED
5 AN ASSESSMENT THAT HAS NOT BEEN PAID AND, IF CONTESTED, HAS
6 NOT BEEN FINALLY RESOLVED IN THE TAXPAYER'S FAVOR.]

7 * **Sec. 11.** AS 43.20.047(e) is amended to read:

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

19 * **Sec. 12.** AS 43.20.053(a) is amended to read:

20 (a) A taxpayer that owns an in-state oil refinery whose primary function is the
21 manufacturing and sale of refined petroleum products to third parties in arm's length
22 transactions may apply a credit against the tax due under this chapter for a qualified
23 infrastructure expenditure incurred in the state. **For** [FOR] a tax year beginning after
24 December 31, 2014, and before **January 1, 2017, the** [JANUARY 1, 2020. THE] total
25 amount of credit a taxpayer may receive under this section may not exceed the lesser
26 of 40 percent of qualified infrastructure expenditures incurred in the state during the
27 tax year or \$10,000,000 for each in-state refinery for which qualified expenditures are
28 incurred. **For a tax year beginning after December 31, 2016, and before**
29 **January 1, 2018, the total amount of credit a taxpayer may receive under this**
30 **section may not exceed the lesser of 20 percent of qualified infrastructure**
31 **expenditures incurred in the state during the tax year or \$5,000,000 for each in-**

state refinery for which qualified expenditures are incurred.

* **Sec. 13.** AS 43.20.053(e) is amended to read:

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

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

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

* **Sec. 14.** AS 43.55.011(j) is amended to read:

(j) For a calendar year [BEFORE 2022], the tax levied by (e) of this section for gas produced from a lease or property in the Cook Inlet sedimentary basin may not exceed

(1) for a lease or property that first commenced commercial production of gas before April 1, 2006, the product obtained by multiplying (A) the amount of taxable gas produced during the calendar year from the lease or property, times (B) the average rate of tax that was imposed under this chapter for taxable gas produced from the lease or property for the 12-month period ending on March 31, 2006, times (C) the quotient obtained by dividing the total gross value at the point of production of the taxable gas produced from the lease or property during the 12-month period ending on March 31, 2006, by the total amount of that gas;

(2) for a lease or property that first commences commercial production of gas after March 31, 2006, the product obtained by multiplying (A) the amount of taxable gas produced during the calendar year from the lease or property, times (B) the average rate of tax that was imposed under this chapter for taxable gas produced from all leases or properties in the Cook Inlet sedimentary basin for the 12-month period ending on March 31, 2006, times (C) the average prevailing value for gas delivered in the Cook Inlet area for the 12-month period ending March 31, 2006, as determined by the department under AS 43.55.020(f).

* **Sec. 15.** AS 43.55.011(k) is amended to read:

(k) For a calendar year [BEFORE 2022], the tax levied by (e) of this section may not exceed one dollar per barrel of oil for oil produced from a lease or property in the Cook Inlet sedimentary basin [MAY NOT EXCEED

(1) FOR A LEASE OR PROPERTY THAT FIRST COMMENCED COMMERCIAL PRODUCTION OF OIL BEFORE APRIL 1, 2006, THE PRODUCT OBTAINED BY MULTIPLYING (A) THE AMOUNT OF TAXABLE OIL PRODUCED DURING THE CALENDAR YEAR FROM THE LEASE OR PROPERTY, TIMES (B) THE AVERAGE RATE OF TAX THAT WAS IMPOSED UNDER THIS CHAPTER FOR TAXABLE OIL PRODUCED FROM THE LEASE OR PROPERTY FOR THE 12-MONTH PERIOD ENDING ON MARCH 31, 2006, TIMES (C) THE QUOTIENT OBTAINED BY DIVIDING THE TOTAL GROSS VALUE AT THE POINT OF PRODUCTION OF THE TAXABLE OIL PRODUCED FROM THE LEASE OR PROPERTY DURING THE 12-MONTH PERIOD ENDING ON MARCH 31, 2006, BY THE TOTAL AMOUNT OF THAT OIL;

(2) FOR A LEASE OR PROPERTY THAT FIRST COMMENCES COMMERCIAL PRODUCTION OF OIL AFTER MARCH 31, 2006, THE PRODUCT OBTAINED BY MULTIPLYING (A) THE AMOUNT OF TAXABLE OIL PRODUCED DURING THE CALENDAR YEAR FROM THE LEASE OR PROPERTY, TIMES (B) THE AVERAGE RATE OF TAX THAT WAS IMPOSED UNDER THIS CHAPTER FOR TAXABLE OIL PRODUCED FROM ALL LEASES OR PROPERTIES IN THE COOK INLET SEDIMENTARY BASIN FOR THE 12-MONTH PERIOD ENDING ON MARCH 31, 2006, TIMES (C) THE AVERAGE PREVAILING VALUE FOR OIL PRODUCED AND DELIVERED IN THE COOK INLET AREA FOR THE 12-MONTH PERIOD ENDING ON MARCH 31, 2006, AS DETERMINED BY THE DEPARTMENT UNDER AS 43.55.020(f)].

* **Sec. 16.** AS 43.55.011(o) is amended to read:

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

1 amount of tax for each 1,000 cubic feet of gas that is determined under (j)(2) of this
2 section.

3 * **Sec. 17.** AS 43.55.020(a) is amended to read:

4 (a) For a calendar year, a producer subject to tax under AS 43.55.011 shall pay
5 the tax as follows:

6 (1) for oil and gas produced before January 1, 2014, an installment
7 payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied
8 as allowed by law, is due for each month of the calendar year on the last day of the
9 following month; except as otherwise provided under (2) of this subsection, the
10 amount of the installment payment is the sum of the following amounts, less 1/12 of
11 the tax credits that are allowed by law to be applied against the tax levied by
12 AS 43.55.011(e) for the calendar year, but the amount of the installment payment may
13 not be less than zero:

14 (A) for oil and gas not subject to AS 43.55.011(o) or (p)
15 produced from leases or properties in the state outside the cook inlet
16 sedimentary basin, other than leases or properties subject to AS 43.55.011(f),
17 the greater of

18 (i) zero; or

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

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

29 (i) zero;

30 (ii) zero percent, one percent, two percent, three
31 percent, or four percent, as applicable, of the gross value at the point of

1 production of the oil and gas produced from the leases or properties
2 during the month for which the installment payment is calculated; or

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

11 (C) for oil or gas subject to AS 43.55.011(j), (k), or (o), for
12 each lease or property, the greater of

13 (i) zero; or

14 (ii) the sum of 25 percent and the tax rate calculated for
15 the month under AS 43.55.011(g) multiplied by the remainder obtained
16 by subtracting 1/12 of the producer's adjusted lease expenditures for the
17 calendar year of production under AS 43.55.165 and 43.55.170 that are
18 deductible under AS 43.55.160 for the oil or gas, respectively,
19 produced from the lease or property from the gross value at the point of
20 production of the oil or gas, respectively, produced from the lease or
21 property during the month for which the installment payment is
22 calculated;

23 (D) for oil and gas subject to AS 43.55.011(p), the lesser of

24 (i) the sum of 25 percent and the tax rate calculated for
25 the month under AS 43.55.011(g) multiplied by the remainder obtained
26 by subtracting 1/12 of the producer's adjusted lease expenditures for the
27 calendar year of production under AS 43.55.165 and 43.55.170 that are
28 deductible for the oil and gas under AS 43.55.160 from the gross value
29 at the point of production of the oil and gas produced from the leases or
30 properties during the month for which the installment payment is
31 calculated, but not less than zero; or

(ii) four percent of the gross value at the point of production of the oil and gas produced from the leases or properties during the month, but not less than zero;

(2) an amount calculated under (1)(C) of this subsection for oil or gas subject to AS 43.55.011(j), (k), or (o) may not exceed the product obtained by carrying out the calculation set out in AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable gas produced during the month for the amount of taxable gas produced during the calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the amount of taxable oil produced during the month for the amount of taxable oil produced during the calendar year;

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

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

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

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

(5) for oil and gas produced on and after January 1, 2014, and before January 1, 2022, 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

1 month of the calendar year on the last day of the following month; except as otherwise
2 provided under (6) of this subsection, the amount of the installment payment is the
3 sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be
4 applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount
5 of the installment payment may not be less than zero:

6 (A) for oil and gas not subject to AS 43.55.011(o) or (p)
7 produced from leases or properties in the state outside the Cook Inlet
8 sedimentary basin, other than leases or properties subject to AS 43.55.011(f),
9 the greater of

10 (i) zero; or

11 (ii) 35 percent multiplied by the remainder obtained by
12 subtracting 1/12 of the producer's adjusted lease expenditures for the
13 calendar year of production under AS 43.55.165 and 43.55.170 that are
14 deductible for the oil and gas under AS 43.55.160 from the gross value
15 at the point of production of the oil and gas produced from the leases or
16 properties during the month for which the installment payment is
17 calculated;

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

20 (i) zero;

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

25 (iii) 35 percent multiplied by the remainder obtained by
26 subtracting 1/12 of the producer's adjusted lease expenditures for the
27 calendar year of production under AS 43.55.165 and 43.55.170 that are
28 deductible for the oil and gas under AS 43.55.160 from the gross value
29 at the point of production of the oil and gas produced from those leases
30 or properties during the month for which the installment payment is
31 calculated, except that, for the purposes of this calculation, a reduction

from the gross value at the point of production may apply for oil and gas subject to AS 43.55.160(f) or (g);

(C) for oil or gas subject to AS 43.55.011(j), (k), or (o), for each lease or property, the greater of

(i) zero; or

(ii) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 for the oil or gas, respectively, produced from the lease or property from the gross value at the point of production of the oil or gas, respectively, produced from the lease or property during the month for which the installment payment is calculated;

(D) for oil and gas subject to AS 43.55.011(p), the lesser of

(i) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil and gas under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated, but not less than zero; or

(ii) four percent of the gross value at the point of production of the oil and gas produced from the leases or properties during the month, but not less than zero;

(6) an amount calculated under (5)(C) of this subsection for oil or gas subject to AS 43.55.011(j), (k), or (o) may not exceed the product obtained by carrying out the calculation set out in AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable gas produced during the month for the amount of taxable gas produced during the calendar year and substituting in AS 43.55.011(k)(1)(A) or

(2)(A), as applicable, the amount of taxable oil produced during the month for the amount of taxable oil produced during the calendar year;

(7) for oil and gas produced on or after January 1, 2022, 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 (10) 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 produced from leases or properties that include land north of 68 degrees North latitude, 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 produced from the leases or properties during the month for which the installment payment is calculated; or

(iii) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil under AS 43.55.160(h)(1) from the gross value at the point of production of the oil produced from those leases or properties during the month for which the installment payment is calculated, except that, for the purposes of this calculation, a reduction from the gross value at the point of production may apply for oil subject to AS 43.55.160(f) or 43.55.160(f) and (g);

(B) for oil produced before or during the last calendar year under AS 43.55.024(b) for which the producer could take a tax credit under AS 43.55.024(a), from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, other than leases or properties subject to **AS 43.55.011(o) or (p)** [AS 43.55.011(p)],

the greater of

(i) zero; or

(ii) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil under AS 43.55.160(h)(2) from the gross value at the point of production of the oil produced from the leases or properties during the month for which the installment payment is calculated;

(C) for oil and gas produced from leases or properties subject to AS 43.55.011(p), except as otherwise provided under (8) of this subsection, the sum of

(i) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil under AS 43.55.160(h)(3) from the gross value at the point of production of the oil produced from the leases or properties during the month for which the installment payment is calculated, but not less than zero; and

(ii) 13 percent of the gross value at the point of production of the gas produced from the leases or properties during the month, but not less than zero;

(D) for oil produced from leases or properties in the state, no part of which is north of 68 degrees North latitude, other than leases or properties subject to (B), [OR] (C), or (F) of this paragraph, the greater of

(i) zero; or

(ii) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil under AS 43.55.160(h)(4) from the gross value at the point of production of the oil produced from the leases or properties during the month for which the installment payment is calculated;

(E) for gas produced from each lease or property in the state, other than a lease or property subject to AS 43.55.011(o) or (p) [AS 43.55.011(p)], 13 percent of the gross value at the point of production of the gas produced from the lease or property during the month for which the installment payment is calculated, but not less than zero;

(F) for oil subject to AS 43.55.011(k), for each lease or property, the greater of

(i) zero; or

(ii) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 for the oil, produced from the lease or property from the gross value at the point of production of the oil, produced from the lease or property during the month for which the installment payment is calculated;

(G) for gas subject to AS 43.55.011(j) or (o), for each lease or property, the greater of

(i) zero; or

(ii) 13 percent of the gross value at the point of production of the gas produced from the lease or property during the month for which the installment payment is calculated;

(8) an amount calculated under (7)(C) of this subsection may not exceed four percent of the gross value at the point of production of the oil and gas produced from leases or properties subject to AS 43.55.011(p) during the month for which the installment payment is calculated;

(9) for purposes of the calculation under (1)(B)(ii), (5)(B)(ii), and (7)(A)(ii) of this subsection, the applicable percentage of the gross value at the point of production is determined under AS 43.55.011(f)(1) or (2) but substituting the phrase "month for which the installment payment is calculated" in AS 43.55.011(f)(1) and (2) for the phrase "calendar year for which the tax is due";

(10) an amount calculated under (7)(F) or (G) of this subsection

for oil or gas subject to AS 43.55.011(j), (k), or (o) may not exceed the product obtained by carrying out the calculation set out in AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas, or set out in AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable gas produced during the month for the amount of taxable gas produced during the calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the amount of taxable oil produced during the month for the amount of taxable oil produced during the calendar year. [""]

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

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

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

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

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

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

(3) A CREDIT FOR A QUALIFIED CAPITAL EXPENDITURE INCURRED TO EXPLORE FOR, DEVELOP, OR PRODUCE OIL OR GAS DEPOSITS LOCATED NORTH OF 68 DEGREES NORTH LATITUDE MAY BE TAKEN ONLY IF THE EXPENDITURE IS INCURRED BEFORE JANUARY 1, 2014].

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

(b) Before January 1, 2014, a producer or explorer may elect to take a tax credit in the amount of 25 percent of a carried-forward annual loss. For lease expenditures incurred on and after January 1, 2014, and before January 1, 2016, to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in the amount of 45 percent of a carried-forward annual loss. For lease expenditures incurred on and after January 1, 2016, to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in the amount of 35 percent of a carried-forward annual loss. For lease expenditures incurred on or after January 1, 2014, **and before January 1, 2017,** to explore for, develop, or produce oil or gas deposits located south of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in the amount of 25 percent of a carried-forward annual loss. **For lease expenditures incurred on or after January 1, 2017, to explore for, develop, or produce oil or gas deposits located in the Cook Inlet sedimentary basin, a producer or explorer may elect to take a tax credit in the amount of 15 percent of a carried-forward annual loss.** A credit under this subsection may be applied against a tax levied by AS 43.55.011(e). For purposes of this subsection,

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

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

* **Sec. 20.** AS 43.55.023(b), as amended by sec. 19 of this Act, is amended to read:

(b) Before January 1, 2014, a producer or explorer may elect to take a tax credit in the amount of 25 percent of a carried-forward annual loss. For lease expenditures incurred on and after January 1, 2014, and before January 1, 2016, to

1 explore for, develop, or produce oil or gas deposits located north of 68 degrees North
2 latitude, a producer or explorer may elect to take a tax credit in the amount of 45
3 percent of a carried-forward annual loss. For lease expenditures incurred on and after
4 January 1, 2016, to explore for, develop, or produce oil or gas deposits located north
5 of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in
6 the amount of 35 percent of a carried-forward annual loss. [FOR LEASE
7 EXPENDITURES INCURRED ON OR AFTER JANUARY 1, 2014, AND BEFORE
8 JANUARY 1, 2017, TO EXPLORE FOR, DEVELOP, OR PRODUCE OIL OR GAS
9 DEPOSITS LOCATED SOUTH OF 68 DEGREES NORTH LATITUDE, A
10 PRODUCER OR EXPLORER MAY ELECT TO TAKE A TAX CREDIT IN THE
11 AMOUNT OF 25 PERCENT OF A CARRIED-FORWARD ANNUAL LOSS. FOR
12 LEASE EXPENDITURES INCURRED ON OR AFTER JANUARY 1, 2017, TO
13 EXPLORE FOR, DEVELOP, OR PRODUCE OIL OR GAS DEPOSITS LOCATED
14 IN THE COOK INLET SEDIMENTARY BASIN, A PRODUCER OR EXPLORER
15 MAY ELECT TO TAKE A TAX CREDIT IN THE AMOUNT OF 15 PERCENT OF
16 A CARRIED-FORWARD ANNUAL LOSS.] A credit under this subsection may be
17 applied against a tax levied by AS 43.55.011(e). For purposes of this subsection,

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

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

26 * **Sec. 21.** AS 43.55.023(d) is amended to read:

27 (d) A person that is entitled to take a tax credit under this section that wishes
28 to transfer the unused credit to another person or obtain a cash payment under
29 AS 43.55.028 may apply to the department for a transferable tax credit certificate. An
30 application under this subsection must be in a form prescribed by the department and
31 must include supporting information and documentation that the department

1 reasonably requires. The department shall grant or deny an application, or grant an
2 application as to a lesser amount than that claimed and deny it as to the excess, not
3 later than 120 days after the latest of (1) March 31 of the year following the calendar
4 year in which the [QUALIFIED CAPITAL EXPENDITURE OR] carried-forward
5 annual loss for which the credit is claimed was incurred; (2) the date the statement
6 required under AS 43.55.030(a) or (e) was filed for the calendar year in which the
7 [QUALIFIED CAPITAL EXPENDITURE OR] carried-forward annual loss for which
8 the credit is claimed was incurred; or (3) the date the application was received by the
9 department. If, based on the information then available to it, the department is
10 reasonably satisfied that the applicant is entitled to a credit, the department shall issue
11 the applicant a transferable tax credit certificate for the amount of the credit. A
12 certificate issued under this subsection does not expire.

13 * **Sec. 22.** AS 43.55.023(e) is amended to read:

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

25 * **Sec. 23.** AS 43.55.023(l) is amended to read:

26 (l) A producer or explorer may apply for a tax credit for a well lease
27 expenditure incurred in the state south of 68 degrees North latitude after June 30,
28 2010, as follows:

29 (1) notwithstanding that a well lease expenditure incurred in the **Cook**
30 **Inlet sedimentary basin** [STATE SOUTH OF 68 DEGREES NORTH LATITUDE]
31 may be a deductible lease expenditure for purposes of calculating the production tax

value of oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under (a) of this section, [AS 38.05.180(i), AS 41.09.010,] AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a well lease expenditure in the **Cook Inlet sedimentary basin** [STATE SOUTH OF 68 DEGREES NORTH LATITUDE] may elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of **20** [40] percent of that expenditure [; A TAX CREDIT UNDER THIS PARAGRAPH MAY BE APPLIED FOR A SINGLE CALENDAR YEAR];

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

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

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

* **Sec. 24.** AS 43.55.024(i) is amended to read:

(i) A producer may apply against the producer's tax liability for the calendar year under AS 43.55.011(e) a tax credit of \$5 for each barrel of oil taxable under AS 43.55.011(e) that **receives a reduction in the gross value at the point of production under** [MEETS ONE OR MORE OF THE CRITERIA IN] AS 43.55.160(f) or (g) and that is produced during a calendar year after December 31, 2013. A tax credit authorized by this subsection may not reduce a producer's tax liability for a calendar year under AS 43.55.011(e) below zero.

* **Sec. 25.** AS 43.55.024(j) is amended to read:

(j) A producer may apply against the producer's tax liability for the calendar year under AS 43.55.011(e) a tax credit in the amount specified in this subsection for each barrel of oil taxable under AS 43.55.011(e) that does not **receive a reduction in the gross value at the point of production under** [MEET ANY OF THE CRITERIA IN] AS 43.55.160(f) or (g) and that is produced during a calendar year after December 31, 2013, from leases or properties north of 68 degrees North latitude. A tax credit under this subsection may not reduce a producer's tax liability for a calendar

year under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f). The amount of the tax credit for a barrel of taxable oil subject to this subsection produced during a month of the calendar year is

(1) \$8 for each barrel of taxable oil if the average gross value at the point of production for the month is less than \$80 a barrel;

(2) \$7 for each barrel of taxable oil if the average gross value at the point of production for the month is greater than or equal to \$80 a barrel, but less than \$90 a barrel;

(3) \$6 for each barrel of taxable oil if the average gross value at the point of production for the month is greater than or equal to \$90 a barrel, but less than \$100 a barrel;

(4) \$5 for each barrel of taxable oil if the average gross value at the point of production for the month is greater than or equal to \$100 a barrel, but less than \$110 a barrel;

(5) \$4 for each barrel of taxable oil if the average gross value at the point of production for the month is greater than or equal to \$110 a barrel, but less than \$120 a barrel;

(6) \$3 for each barrel of taxable oil if the average gross value at the point of production for the month is greater than or equal to \$120 a barrel, but less than \$130 a barrel;

(7) \$2 for each barrel of taxable oil if the average gross value at the point of production for the month is greater than or equal to \$130 a barrel, but less than \$140 a barrel;

(8) \$1 for each barrel of taxable oil if the average gross value at the point of production for the month is greater than or equal to \$140 a barrel, but less than \$150 a barrel;

(9) zero if the average gross value at the point of production for the month is greater than or equal to \$150 a barrel.

* **Sec. 26.** AS 43.55.028(a) is amended to read:

(a) The oil and gas tax credit fund is established as a separate fund of the state. The purpose of the fund is to purchase transferable tax credit certificates issued under

AS 43.55.023 and production tax credit certificates issued under AS 43.55.025 and to pay refunds and payments claimed under AS 43.20.046 or [,] 43.20.047 [, OR 43.20.053].

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

(e) The department, on the written application of a person to whom a transferable tax credit certificate has been issued under AS 43.55.023(d) or former AS 43.55.023(m) or to whom a production tax credit certificate has been issued under AS 43.55.025(f), may use available money in the oil and gas tax credit fund to purchase, in whole or in part, the certificate. **The department may not purchase a total of more than \$70,000,000 in tax credit certificates from a person in a calendar year. Before purchasing a certificate or part of a certificate,** [IF] the department **shall find** [FINDS] that

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

(2) the **application is not the result of the division of a single entity into multiple entities that would reasonably be expected to apply as a single entity if the \$70,000,000 limitation in this subsection did not exist** [APPLICANT DOES NOT HAVE AN OUTSTANDING LIABILITY TO THE STATE FOR UNPAID DELINQUENT TAXES UNDER THIS TITLE];

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

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

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

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

(g) The department **shall** [MAY] adopt regulations to carry out the purposes of this section, including standards and procedures to allocate available money among

1 applications for purchases under this chapter and claims for refunds and payments
2 under AS 43.20.046, 43.20.047, or 43.20.053 when the total amount of the
3 applications for purchase and claims for refund exceed the amount of available money
4 in the fund. The regulations adopted by the department

5 (1) may not, when allocating available money in the fund under this
6 section, distinguish an application for the purchase of a credit certificate issued under
7 former AS 43.55.023(m) or a claim for a refund or payment under AS 43.20.046,
8 43.20.047, or 43.20.053;

9 (2) must grant a preference to an applicant if at least 75 percent of
10 the applicant's workforce in the state in the previous calendar year was
11 composed of resident workers; in this paragraph, "resident worker" has the
12 meaning given in AS 43.40.092(b);

13 (3) must provide for the purchase of the amount equal to the first
14 50 percent of the credit repurchase limit per person under (e) of this section at a
15 rate of 100 percent of the value of the certificate or portion of the certificate
16 requested to be purchased and the amount equal to the next 50 percent of the
17 credit repurchase limit per person under (e) of this section at a rate of 75 percent
18 of the value of the certificate or portion of the certificate requested to be
19 purchased.

20 * **Sec. 29.** AS 43.55.028(g), as amended by sec. 28 of this Act, is amended to read:

21 (g) The department shall adopt regulations to carry out the purposes of this
22 section, including standards and procedures to allocate available money among
23 applications for purchases under this chapter and claims for refunds and payments
24 under AS 43.20.046 or [,] 43.20.047 [, OR 43.20.053] when the total amount of the
25 applications for purchase and claims for refund exceed the amount of available money
26 in the fund. The regulations adopted by the department

27 (1) may not, when allocating available money in the fund under this
28 section, distinguish an application for the purchase of a credit certificate issued under
29 former AS 43.55.023(m) or a claim for a refund or payment under AS 43.20.046 or [,]
30 43.20.047 [, OR 43.20.053];

31 (2) must grant a preference to an applicant if at least 75 percent of the

applicant's workforce in the state in the previous calendar year was composed of resident workers; in this paragraph, "resident worker" has the meaning given in AS 43.40.092(b);

(3) must provide for the purchase of the amount equal to the first 50 percent of the credit repurchase limit per person under (e) of this section at a rate of 100 percent of the value of the certificate or portion of the certificate requested to be purchased and the amount equal to the next 50 percent of the credit repurchase limit per person under (e) of this section at a rate of 75 percent of the value of the certificate or portion of the certificate requested to be purchased.

* **Sec. 30.** AS 43.55.028 is amended by adding a new subsection to read:

(j) If an applicant or claimant has an outstanding liability to the state directly related to the applicant's or claimant's oil or gas exploration, development, or production and the department has not previously reduced the amount paid to that applicant or claimant for a certificate or refund because of that outstanding liability, the department may purchase only that portion of a certificate or pay only that portion of a refund that exceeds the outstanding liability. After notifying the applicant or claimant, the department may apply the amount by which the department reduced its purchase of a certificate or payment for a refund because of an outstanding liability to satisfy the outstanding liability. Satisfaction of an outstanding liability under this subsection does not affect the applicant's ability to contest that liability. The department may enter into contracts or agreements with another department to which the outstanding liability is owed. In this subsection, "outstanding liability" means an amount of tax, interest, penalty, fee, rental, royalty, or other charge for which the state has issued a demand for payment that has not been paid when due and, if contested, has not been finally resolved against the state.

* **Sec. 31.** AS 43.55.029(a) is amended to read:

(a) An explorer or producer that has applied for a production tax credit under **former** AS 43.55.023(a) [, (b),] or (l) **or under AS 43.55.023(b)** or 43.55.025(a) may make a present assignment of the production tax credit certificate expected to be issued by the department to a third-party assignee. The assignment may be made either at the time the application is filed with the department or not later than 30 days after

the date of filing with the department. Once a notice of assignment in compliance with this section is filed with the department, the assignment is irrevocable and cannot be modified by the explorer or producer without the written consent of the assignee named in the assignment. If a production tax credit certificate is issued to the explorer or producer, the notice of assignment remains effective and shall be filed with the department by the explorer or producer together with any application for the department to purchase the certificate under AS 43.55.028(e).

* **Sec. 32.** AS 43.55.030(a) is amended to read:

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

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

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

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

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

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

(6) the producer's qualified capital expenditures, [AS DEFINED IN AS 43.55.023,] other lease expenditures under AS 43.55.165, and adjustments or other

1 payments or credits under AS 43.55.170;

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

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

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

7 *** Sec. 33.** AS 43.55.030(e) is amended to read:

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

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

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

20 *** Sec. 34.** AS 43.55.160(f) is amended to read:

21 (f) On and after January 1, 2014, in the calculation of an annual production tax
22 value of a producer under (a)(1)(A) or (h)(1) of this section, the gross value at the
23 point of production of oil or gas produced from a lease or property north of 68 degrees
24 North latitude meeting one or more of the following criteria is reduced by 20 percent:
25 (1) the oil or gas is produced from a lease or property that does not contain a lease that
26 was within a unit on January 1, 2003; (2) the oil or gas is produced from a
27 participating area established after December 31, 2011, that is within a unit formed
28 under AS 38.05.180(p) before January 1, 2003, if the participating area does not
29 contain a reservoir that had previously been in a participating area established before
30 December 31, 2011; (3) the oil or gas is produced from acreage that was added to an
31 existing participating area by the Department of Natural Resources on and after

January 1, 2014, and the producer demonstrates to the department that the volume of oil or gas produced is from acreage added to an existing participating area. This subsection does not apply to gas produced before 2022 that is used in the state or to gas produced on and after January 1, 2022. For oil and gas first produced from a lease or property after December 31, 2016, a reduction allowed under this subsection applies from the date of commencement of regular production of oil and gas from that lease or property and expires after three years, consecutive or nonconsecutive, in which the average annual price per barrel for Alaska North Slope crude oil for sale on the United States West Coast is more than \$70 or after seven years, whichever occurs first. For oil and gas first produced from a lease or property before January 1, 2017, a reduction allowed under this subsection expires on the earlier of January 1, 2023, or January 1 following three years, consecutive or nonconsecutive, in which the average annual price per barrel for Alaska North Slope crude oil for sale on the United States West Coast is more than \$70. The Alaska Oil and Gas Conservation Commission shall determine the commencement of regular production of oil and gas for purposes of this section.

A reduction under this subsection may not reduce the gross value at the point of production below zero. In this subsection, "participating area" means a reservoir or portion of a reservoir producing or contributing to production as approved by the Department of Natural Resources.

* **Sec. 35.** AS 43.55.160(g) is amended to read:

(g) On and after January 1, 2014, in addition to the reduction under (f) of this section, in the calculation of an annual production tax value of a producer under (a)(1)(A) or (h)(1) of this section, the gross value at the point of production of oil or gas produced from a lease or property north of 68 degrees North latitude that does not contain a lease that was within a unit on January 1, 2003, is reduced by 10 percent if the oil or gas is produced from a unit made up solely of leases that have a royalty share of more than 12.5 percent in amount or value of the production removed or sold from the lease as determined under AS 38.05.180(f). This subsection does not apply if the royalty obligation for one or more of the leases in the unit has been reduced to 12.5 percent or less under AS 38.05.180(j) for all or part of the calendar year for which the

1 annual production tax value is calculated. This subsection does not apply to gas
2 produced before 2022 that is used in the state or to gas produced on and after
3 January 1, 2022. For oil or gas first produced after December 31, 2016, a
4 reduction allowed under this subsection applies to oil or gas produced from a
5 lease or property for the first seven years after the commencement of regular
6 production of oil or gas from that lease or property. For oil or gas first produced
7 before January 1, 2017, a reduction allowed under this subsection for a lease or
8 property expires January 1, 2023. The Alaska Oil and Gas Conservation
9 Commission shall determine the commencement of regular production for
10 purposes of this subsection. A reduction under this subsection may not reduce the
11 gross value at the point of production below zero.

12 * **Sec. 36.** AS 43.55.165(a) is amended to read:

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

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

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

22 (B) allowed by the department by regulation, based on the
23 department's determination that the costs satisfy the following three
24 requirements:

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

27 (ii) the costs must be ordinary and necessary costs of
28 exploring for, developing, or producing, as applicable, oil or gas
29 deposits; and

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

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

* **Sec. 37.** AS 43.55.165(e) is amended to read:

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

(1) depreciation, depletion, or amortization;

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

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

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

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

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

(7) fines or penalties imposed by law;

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

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

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

(11) surcharges levied under AS 43.55.201 or 43.55.300;

(12) an expenditure otherwise deductible under (b) of this section that is a result of an internal transfer, a transaction with an affiliate, or a transaction between related parties, or is otherwise not an arm's length transaction, unless the

producer establishes to the satisfaction of the department that the amount of the expenditure does not exceed the fair market value of the expenditure;

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

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

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

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

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

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

(19) costs incurred for repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or equipment, other than a well, that results in or is undertaken in response to a failure, problem, or event that results in an unscheduled interruption of, or reduction in the rate of, oil or gas production; or costs incurred for

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

16 (A) "costs incurred for repair, replacement, or deferred
17 maintenance of a facility, a pipeline, a structure, or equipment" includes costs
18 to dismantle and remove the facility, pipeline, structure, or equipment that is
19 being replaced;

20 (B) "hazardous substance" has the meaning given in
21 AS 46.03.826;

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

23 (20) costs incurred to construct, acquire, or operate a refinery or crude
24 oil topping plant, regardless of whether the products of the refinery or topping plant
25 are used in oil or gas exploration, development, or production operations; however, if
26 a producer owns a refinery or crude oil topping plant that is located on or near the
27 premises of the producer's lease or property in the state and that processes the
28 producer's oil produced from that lease or property into a product that the producer
29 uses in the operation of the lease or property in drilling for or producing oil or gas, the
30 producer's lease expenditures include the amount calculated by subtracting from the
31 fair market value of the product used the prevailing value, as determined under

AS 43.55.020(f), of the oil that is processed;

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

* **Sec. 38.** AS 43.55.165(f) is amended to read:

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

* **Sec. 39.** AS 43.55.170(c) is amended to read:

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

* **Sec. 40.** AS 43.55.890 is amended to read:

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

- (1) the amount of oil or gas production;
- (2) the amount of taxes levied under this chapter or paid under this chapter;
- (3) the effective tax rates under this chapter;
- (4) the gross value of oil or gas at the point of production;
- (5) the transportation costs for oil or gas;
- (6) qualified capital expenditures [, AS DEFINED IN AS 43.55.023];
- (7) exploration expenditures under AS 43.55.025;
- (8) production tax values of oil or gas under AS 43.55.160;
- (9) lease expenditures under AS 43.55.165;
- (10) adjustments to lease expenditures under AS 43.55.170;

(11) tax credits applicable or potentially applicable against taxes levied by this chapter.

* **Sec. 41.** AS 43.55.895(b) is amended to read:

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

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

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

* **Sec. 42.** AS 43.55.900 is amended by adding new paragraphs to read:

(26) "qualified capital expenditure"

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

(i) incurred for geological or geophysical exploration;

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

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

(B) does not include an expenditure incurred to acquire an asset the cost of previously acquiring which was a lease expenditure under AS 43.55.165 or would have been a lease expenditure under AS 43.55.165 if it had been incurred after March 31, 2006, or that has previously been placed in service in the state; an expenditure to acquire an asset is not excluded under this subparagraph if not more than an immaterial portion of the asset meets a

description under this subparagraph; for purposes of this subparagraph, "asset" includes geological, geophysical, and well data and interpretations;

(27) "regular production" has the meaning given in AS 31.05.170.

* **Sec. 43.** AS 43.70 is amended by adding new sections to read:

Sec. 43.70.025. Bond or cash deposit required for an oil or gas business. (a)

At the time of applying for a license under this chapter, an applicant engaged in the business of oil or gas exploration, development, or production shall file a surety bond in the amount of \$250,000 running to the state, conditioned upon the applicant's promise to pay all

(1) taxes and contributions due the state and political subdivisions;

(2) persons furnishing labor or material or renting or supplying equipment to the applicant; and

(3) amounts that may be adjudged against the applicant because of negligent or improper work or breach of contract while engaged in the business of oil or gas exploration, development, or production.

(b) In lieu of the surety bond required under this section, the applicant may file with the commissioner a cash deposit or other negotiable security acceptable to the commissioner in the amount of \$250,000.

(c) The bond required by this section remains in effect until cancelled by action of the surety, the principal, or if the commissioner finds that the business is producing oil or gas in commercial quantities, by the commissioner.

Sec. 43.70.028. Claims against an oil or gas business. (a) A person having a claim against a person required to file a surety bond under AS 43.70.025 because of the failure to pay a liability described in AS 43.70.025(a) may bring suit upon the bond. A copy of the complaint shall be served by registered or certified mail on the commissioner at the time suit is filed, and the commissioner shall maintain a record, available for public inspection, of all suits commenced. This service on the commissioner shall constitute service on the surety, and the commissioner shall transmit the complaint or a copy of it to the surety within 72 hours after it is received. The surety on the bond is not liable in an aggregate amount in excess of that named in the bond, but if claims pending at any one time exceed the amount of the bond, the

claims shall be satisfied from the bond in the following order:

(1) labor, including employee benefits;

(2) taxes and contributions due the state, city, and borough, in that order;

(3) material and equipment;

(4) claims for negligent or improper work or breach of contract;

(5) repair of public facilities.

(b) If a judgment is entered against a cash deposit, the commissioner, upon receipt of a certified copy of a final judgment, shall pay the judgment from the amount of the deposit in accordance with the priorities set out in (a) of this section.

(c) An action described in (a) of this section may not be commenced on the bond more than three years after the cancellation of the bond.

* **Sec. 44.** AS 38.05.180(i); AS 41.09.010, 41.09.020, 41.09.030, 41.09.090; AS 43.20.053(j)(4); and AS 43.55.011(m) are repealed January 1, 2017.

* **Sec. 45.** AS 43.20.053; AS 43.55.023(a), 43.55.023(l), 43.55.023(n), 43.55.023(o), 43.55.028(i), 43.55.075(d)(1), 43.55.165(j), and 43.55.165(k) are repealed January 1, 2018.

* **Sec. 46.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) AS 43.20.046(e), as amended by sec. 10 of this Act, AS 43.20.047(e), as amended by sec. 11 of this Act, AS 43.20.053(e), as amended by sec. 13 of this Act, AS 43.55.028(e), as amended by sec. 27 of this Act, AS 43.55.028(j), as amended by sec. 30 of this Act, and regulations related to a tax credit certificate purchase preference for applicants with a workforce of resident workers and tax credit purchase rates, adopted under AS 43.55.028(g), as amended by sec. 29 of this Act, apply to a purchase applied for on or after the effective date of secs. 10, 11, 13, 27, 29, and 30 of this Act.

(b) AS 43.55.011(k), as amended by sec. 15 of this Act, applies to oil produced after the effective date of sec. 15 of this Act.

* **Sec. 47.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: QUALIFIED IN-STATE OIL REFINERY INFRASTRUCTURE EXPENDITURES TAX CREDIT. (a) Notwithstanding the repeal of AS 43.20.053 by sec. 45

of this Act and the amendments to AS 43.55.028(a) and (g) by secs. 26 and 29 of this Act, a taxpayer who incurs a qualified infrastructure expenditure before the repeal of AS 43.20.053 by sec. 45 of this Act that qualifies for a qualified in-state oil refinery infrastructure expenditures tax credit under AS 43.20.053 may apply for a tax credit under AS 43.20.053, as that section read the day before the repeal of AS 43.20.053 by sec. 45 of this Act, apply for a refund or payment under AS 43.55.028(a) and (g), as those sections read the day before the effective date of secs. 26 and 29 of this Act, carry forward a credit subject to the limitations of AS 43.20.053, as that section read the day before the repeal of AS 43.20.053 by sec. 45 of this Act, or be subject to additional tax liability under AS 43.20.053, as that section read the day before the repeal of AS 43.20.053 by sec. 45 of this Act.

(b) The Department of Revenue may continue to apply and enforce AS 43.20.053, as that section read the day before the repeal of AS 43.20.053 by sec. 45 of this Act.

* **Sec. 48.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: QUALIFIED CAPITAL EXPENDITURES AND WELL LEASE EXPENDITURES. (a) Notwithstanding the repeal of AS 43.55.023(a), (l), (n), and (o) by sec. 45 of this Act, and the amendments to AS 43.55.023(d) and (e) by secs. 21 and 22 of this Act, AS 43.55.029(a) by sec. 31 of this Act, AS 43.55.165(f) by sec. 38 of this Act, and AS 43.55.170(c) by sec. 39 of this Act, a taxpayer who incurs

(1) a qualified capital expenditure before the repeal of AS 43.55.023(a) and (o) by sec. 45 of this Act that qualifies for a qualified capital expenditure credit under AS 43.55.023(a) and (o) may apply for a credit or transferable tax credit certificate under AS 43.55.023 and assign the tax credit under AS 43.55.029, as those sections read on the day before the repeal of AS 43.55.023(a) and (o) by sec. 45 of this Act;

(2) a well lease expenditure before the repeal of AS 43.55.023(l) and (n) by sec. 45 of this Act that qualifies for a well lease expenditure credit under AS 43.55.023(l) and (n) may apply for a credit or transferable tax credit certificate under AS 43.55.023 and assign the tax credit under AS 43.55.029, as those sections read on the day before the repeal of AS 43.55.023(l) and (n) by sec. 45 of this Act.

(b) The Department of Revenue may continue to apply and enforce AS 43.55.023(a), (l), (n), and (o) and AS 43.55.029, as those sections read on the day before the repeal of

AS 43.55.023(a), (l), (n), and (o) by sec. 45 of this Act, for qualified capital expenditures and well lease expenditures incurred before the repeal of AS 43.55.023(a), (l), (n), and (o) by sec. 45 of this Act.

* **Sec. 49.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: CARRY FORWARD ANNUAL NET OPERATING LOSS CREDIT. Notwithstanding the amendment of AS 43.55.023(b) by sec. 20 of this Act, a taxpayer who incurs a carried-forward annual loss before the effective date of sec. 20 of this Act that qualifies for a carried-forward annual loss credit under AS 43.55.023(b) may apply for a credit or tax credit certificate under AS 43.55.023(d) and assign the tax credit under AS 43.55.029, subject to the requirements of AS 43.55.160(d) and (e), as those sections read on the day before the effective date of sec. 20 of this Act.

* **Sec. 50.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: LEASE EXPENDITURES FOR A CALENDAR YEAR AFTER 2006 AND BEFORE 2010. Notwithstanding AS 43.55.165(a), as amended by sec. 36 of this Act, and the repeal of AS 43.55.165(j) and (k) by sec. 45 of this Act, AS 43.55.165(j) and (k) apply to a producer's total lease expenditures for a calendar year after 2006 and before 2010 under AS 43.55.165, as that section read on the day before the repeal of AS 43.55.165(j) and (k) by sec. 45 of this Act.

* **Sec. 51.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Revenue, the Department of Natural Resources, the Department of Commerce, Community, and Economic Development, and the Alaska Oil and Gas Conservation Commission may adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation. The Department of Revenue shall adopt regulations governing the use of tax credits under AS 43.55 for a calendar year for which the applicable tax credit provisions of AS 43.55 differ as between parts of the year as a result of this Act.

* **Sec. 52.** The uncoded law of the State of Alaska is amended by adding a new section to

1 read:

2 TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any
3 contrary provision of AS 44.62.240,

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

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

15 * **Sec. 53.** Sections 51 and 52 of this Act take effect immediately under AS 01.10.070(c).

16 * **Sec. 54.** Sections 20 - 22, 26, 29, 31 - 33, 36 - 40, 45, 47 - 50, and AS 43.55.900(26),
17 added by sec. 42 of this Act, take effect January 1, 2018.

18 * **Sec. 55.** Except as provided in secs. 53 and 54 of this Act, this Act takes effect January 1,
19 2017.