

27-LS1142E

Nauman

4/7/12

CS FOR HOUSE BILL NO. 328(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES SEATON, Gardner

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to the oil and gas corporate income tax; relating to the credits against
2 the oil and gas corporate income tax; making conforming amendments; and providing
3 for an effective date."

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

5 * **Section 1.** AS 21.96.070(d) is amended to read:

6 (d) A contribution claimed as a credit under this section may not

7 (1) be the basis for a credit claimed under more than one provision of
8 this title; and

9 (2) when combined with contributions that are the basis for credits
10 taken during the taxpayer's tax year under AS 21.96.075, AS 43.20.014,
11 AS 43.21.310, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, or
12 AS 43.77.045, result in the total amount of credits exceeding \$5,000,000; if the
13 taxpayer is a member of an affiliated group, then the total amount of credits may not
14 exceed \$5,000,000 for the affiliated group; in this paragraph, "affiliated group" has the

meaning given in AS 43.20.073.

* **Sec. 2.** AS 21.96.070(d), as amended by sec. 7, ch. 92, SLA 2010, is amended to read:

(d) A contribution claimed as a credit under this section may not

(1) be the basis for a credit claimed under more than one provision of this title; and

(2) when combined with contributions that are the basis for credits taken during the taxpayer's tax year under AS 21.96.075, AS 43.20.014, AS 43.21.310, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in the total amount of credits exceeding \$150,000.

* **Sec. 3.** AS 21.96.075(c) is amended to read:

(c) A contribution claimed by a taxpayer as a credit under this section may not

(1) be the basis for a credit claimed under more than one provision of this title;

(2) when combined with contributions that are the basis for credits taken during the taxpayer's tax year under AS 21.96.070, AS 43.20.014, AS 43.21.310, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in the total amount of credits exceeding \$5,000,000; if the taxpayer is a member of an affiliated group, then the total amount of credits may not exceed \$5,000,000 for the affiliated group; in this paragraph, "affiliated group" has the meaning given in AS 43.20.073; or

(3) be claimed as a credit unless the contribution qualifies for the credit under (d) of this section.

* **Sec. 4.** AS 21.96.075(c), as amended by sec. 10, ch. 92, SLA 2010, is amended to read:

(c) A contribution claimed by a taxpayer as a credit under this section may not

(1) be the basis for a credit claimed under more than one provision of this title;

(2) when combined with contributions that are the basis for credits taken during the taxpayer's tax year under AS 21.96.070, AS 43.20.014, AS 43.21.310, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in the total amount of credits exceeding \$150,000; or

(3) be claimed as a credit unless the contribution qualifies for the credit

under (d) of this section.

* **Sec. 5.** AS 29.60.599(1) is amended to read:

(1) "barrel," when used with reference to oil, means the quantity of oil contained in 42 United States gallons of 231 cubic inches each, measured at a temperature of 60 degrees Fahrenheit and an absolute pressure of 14.65 pounds a square inch [HAS THE MEANING GIVEN IN AS 43.20.072];

* **Sec. 6.** AS 41.09.010(b) is amended to read:

(b) An exploration incentive credit extended under (a) of this section may be applied against

(1) a payment or obligation against which a credit authorized by AS 38.05.180(i) may be claimed;

(2) taxes payable under AS 43.20 or AS 43.21, as applicable; and

(3) oil and gas bonus payments due the state under AS 38.05.180(f).

* **Sec. 7.** AS 43.20.011 is amended by adding a new subsection to read:

(g) For purposes of calculating the tax under (e) of this section, the taxable income of a corporation engaged in the production or transportation of crude oil or natural gas shall be determined in accordance with AS 43.21.

* **Sec. 8.** AS 43.20.014(d) is amended to read:

(d) A contribution claimed as a credit under this section may not

(1) be the basis for a credit claimed under another provision of this title;

(2) also be allowed as a deduction under 26 U.S.C. 170 against the tax imposed by this chapter; and

(3) when combined with contributions that are the basis for credits taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.21.310, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in the total amount of credits exceeding \$5,000,000; if the taxpayer is a member of an affiliated group, then the total amount of credits may not exceed \$5,000,000 for the affiliated group; in this paragraph, "affiliated group" has the meaning given in AS 43.20.073.

* **Sec. 9.** AS 43.20.014(d), as amended by sec. 18, ch. 92, SLA 2010, is amended to read:

(d) A contribution claimed as a credit under this section may not

(1) be the basis for a credit claimed under another provision of this title;

(2) also be allowed as a deduction under 26 U.S.C. 170 against the tax imposed by this chapter; and

(3) when combined with contributions that are the basis for credits taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.21.310, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in the total amount of credits exceeding \$150,000.

* **Sec. 10.** AS 43.20.073(f) is amended to read:

(f) This section does not apply to taxpayers subject to AS 43.21 [AS 43.20.072 ENGAGED IN

(1) THE PRODUCTION OF OIL OR GAS FROM A LEASE OR PROPERTY IN THE STATE; OR

(2) THE TRANSPORTATION OF OIL OR GAS BY REGULATED PIPELINE IN THE STATE].

* **Sec. 11.** AS 43.21 is amended by adding new sections to read:

Article 1. Determination of Taxable Income.

Sec. 43.21.200. Application. This chapter applies to every corporation doing business in the state that derives income from the production of oil or gas from a lease or property in the state or from the pipeline transportation of oil or gas in the state. The tax calculated under this chapter is measured by the total taxable income of the corporation during the tax period as defined by AS 43.21.210 - 43.21.250 and is calculated at the rates established under AS 43.20.011(e).

Sec. 43.21.210. Internal Revenue Code adopted by reference. (a) 26 U.S.C. 1 - 1399 and 6001 - 7872 (Internal Revenue Code), as amended, are adopted by reference as a part of this chapter. These portions of the Internal Revenue Code have full force and effect under this chapter unless excepted to or modified by other provisions of this chapter.

(b) When portions of the Internal Revenue Code incorporated by reference as provided in (a) of this section refer to rules and regulations adopted by the United

1 States Commissioner of Internal Revenue, or hereafter adopted, those portions shall be
2 regarded as regulations adopted by the department under and in accord with the
3 provisions of this chapter, unless and until the department adopts specific regulations
4 in place of those portions conformable with this chapter.

5 **Sec. 43.21.220. Determination of taxable income from oil and gas**
6 **production.** (a) The taxable income of a corporation from the production of oil and
7 gas from a lease or property in the state is the corporation's net income as calculated in
8 accordance with this section.

9 (b) Gross income of a corporation from oil and gas production is the sum of
10 the gross value at the point of production of oil or gas produced from a lease or
11 property in the state, any gain or loss resulting from the sale of a lease, and any gain or
12 loss resulting from the sale of property used in the production of oil and gas in the
13 state. The department shall by regulation determine a uniform method of establishing
14 the gross value at the point of production. For the purpose of determining the gross
15 value at the point of production under this subsection, the department shall use
16 AS 43.55.150 for the determination of transportation costs.

17 (c) Net income from oil and gas production shall be determined by deducting
18 from gross income the following:

- 19 (1) royalties paid in kind or in value;
- 20 (2) taxes imposed under AS 43.55 that are actually paid or incurred by
21 the corporation on the production from a lease or property in the state;
- 22 (3) taxes imposed under AS 29.45.080 - 29.45.090 and AS 43.56 that
23 are actually paid or incurred by the corporation on property used directly in the
24 production of oil or gas from a lease or property in the state, including property used
25 in production, gathering, treatment, or preparation of the oil or gas for pipeline
26 transportation, but only if those property tax payments were due and payable only
27 after the date of commercial production from the lease or property with which the
28 property was associated;
- 29 (4) the direct costs incurred by or for the corporation in operating the
30 lease or property, including the direct costs of producing, gathering, treating, or
31 preparing the oil or gas for pipeline transportation, but net of any payments received

1 for those activities and not including any indirect cost or overhead expense;

2 (5) depreciation, under 26 U.S.C. 167 (Internal Revenue Code) or
3 another reasonable method as the department may by regulation establish, on property
4 used directly in the production, gathering, treatment, or preparation of the oil or gas
5 for pipeline transportation, including amortization of capitalized interest for
6 investments in that property at a rate not to exceed the average cost to the taxpayer of
7 borrowed capital during the year in which the interest is capitalized; for purposes of
8 this paragraph, property capitalized under AS 43.20 shall maintain its adjusted basis,
9 less any depreciation taken under AS 43.20 and any amount attributable to that
10 property received as a credit under this title;

11 (6) the amortization of lease acquisition payments and taxes paid or
12 incurred under AS 29.45.080, 29.45.090, or AS 43.56, including capitalized interest,
13 for or on producing properties before the commencement of commercial production
14 from the lease or property for which the property is being used;

15 (7) interest expense of the corporation, not capitalized during
16 construction, that was paid or incurred in connection with property in the state;
17 however, the interest expense may not exceed that portion of the total interest paid by
18 the consolidated business of which the corporation is a part, determined by
19 multiplying the total interest by a fraction, the numerator of which is the value of the
20 corporation's real and tangible personal property used directly in the production of oil
21 or gas from a lease or property in the state and the denominator of which is the value
22 of all real and tangible personal property of the consolidated business; in this
23 paragraph, "total interest paid by the consolidated business" does not include interest
24 expense arising from intercompany obligations within the consolidated business
25 except to the extent that the interest expense reflects a pass-through of interest on a
26 third-party borrowing by the parent or other member of the consolidated business with
27 the purpose, expressed at the time of the third-party borrowing, of financing Alaska
28 business activity of the taxpayer corporation;

29 (8) expenses incurred by the corporation after December 31, 2012, of
30 unsuccessful exploration of oil or gas in the state, including the acquisition costs of
31 abandoned properties, dry hole costs, and the costs of geologic and geophysical

1 exploration related to those abandoned properties;

2 (9) general overhead or administrative expense incurred by the
3 corporation attributable to deriving income from the production of oil or gas from a
4 lease or property in the state to the extent that the general overhead or administrative
5 expense does not exceed that portion of the total general overhead or administrative
6 expense incurred by the consolidated business of which the corporation is a part,
7 determined by multiplying the total general overhead or administrative expense by a
8 fraction, the numerator of which is the value of the corporation's real and tangible
9 personal property used directly in the production of oil or gas from a lease or property
10 in the state and the denominator of which is the value of all real and tangible personal
11 property of the consolidated business;

12 (10) the amount of income from the production of oil and gas from a
13 lease or property that is divided among the regional Native corporations under 43
14 U.S.C. 1606(i) (sec. 7(i), Alaska Native Claims Settlement Act, P.L. 92-203);

15 (11) net operating loss carry forward amounts accrued from taxes paid
16 under AS 43.20 or AS 43.21 for expenditures related to the production of oil or gas
17 from a lease or property in the state or from pipeline transportation of oil or gas in the
18 state, except that a net operating loss amount that resulted from an expenditure that
19 was also the basis of a credit under this title may not be deducted under this paragraph.

20 (d) Deductions from gross income under this section may not include
21 expenses previously deducted on a return filed under AS 43.20.

22 (e) If a corporation subject to this chapter shares the production or proceeds of
23 the production from a lease or property through a working interest, royalty interest,
24 overriding royalty interest, production payment, net profit interest, joint venture, or
25 other agreement, the taxpayer shall allocate the deductions from gross income between
26 the corporation and the persons with whom the corporation has the agreement in
27 accordance with the terms of the agreement.

28 **Sec. 43.21.230. Determination of income from oil and gas pipeline**
29 **transportation.** (a) Except as provided in (c) of this section, taxable income
30 attributable to the transportation of oil in a pipeline engaged in interstate commerce in
31 this state is the amount reported or that would be required to be reported to the Federal

1 Energy Regulatory Commission or its successors as net operating income, less those
2 portions of interest and general overhead or administrative expense attributable to the
3 pipeline transportation of oil in the state, except that taxable income shall also include
4 taxes on or measured by income. The department shall establish regulations governing
5 the determination of interest and general overhead or administrative expense
6 attributable to pipeline transportation of oil in the state.

7 (b) Except as provided in (c) of this section, taxable income attributable to the
8 transportation of natural gas in a pipeline engaged in interstate commerce in this state
9 is the amount reported or that would be required to be reported to the Federal Energy
10 Regulatory Commission as net operating income, less that portion of interest and
11 general overhead or administrative expense attributable to pipeline transportation in
12 the state, except that the taxable income shall also include taxes on or measured by
13 income. The department shall establish regulations governing the determination of
14 interest and general overhead or administrative expense attributable to pipeline
15 transportation of natural gas in the state.

16 (c) Taxable income attributable to the transportation of oil or natural gas in
17 this state of a corporation not under the jurisdiction of the Federal Energy Regulatory
18 Commission, or of a corporation under the jurisdiction of the Federal Energy
19 Regulatory Commission but not reporting the operation of pipelines in the state
20 separately from the operation of pipelines elsewhere, shall be based on an amount
21 equal to the amount that would have been reported to the Federal Energy Regulatory
22 Commission under (a) of this section in the case of oil pipelines, or under (b) of this
23 section, in the case of natural gas pipelines, had the corporation been, in fact, under the
24 jurisdiction of the Federal Energy Regulatory Commission for the taxable year and
25 required to report on the operation of pipelines in the state separately from the
26 operation of pipelines elsewhere.

27 **Sec. 43.21.240. Determination of income from activities other than oil and**
28 **gas production or pipeline transportation.** (a) Taxable income of a corporation
29 subject to this chapter from activities in this state other than the production of oil or
30 gas from a lease or property in the state or the pipeline transportation of oil or gas in
31 the state shall be determined in accordance with the method established in art. IV of

AS 43.19.010 and in AS 43.20.071, as modified by (b) - (d) of this section.

(b) The total taxable income of a consolidated business is its entire income less the portion of that entire income attributable to worldwide production and pipeline transportation of oil and gas. In this subsection, for a member of a consolidated business who is

(1) required to file under the Internal Revenue Code, "entire income" means the taxpayer's taxable income as the term is used in AS 43.20.011 - 43.20.065;

(2) not required to file under the Internal Revenue Code, "entire income" means an income determination prepared in accordance with generally accepted accounting principles, except that a taxpayer may elect to report income as the income would be determined under (1) of this subsection.

(c) The numerator and denominator of the property factor, of the payroll factor, and of the sales factor shall be calculated without reference to that portion of property, payroll, or sales directly related to the production of oil or gas from a lease of property in the state or the pipeline transportation of oil or gas in the state.

(d) The value attributed to vessels transporting Alaska oil or gas of a consolidated business that are not owned or effectively owned by the consolidated business shall be excluded from the property factor.

Sec. 43.21.250. Applicability of tax to a consolidated business. The provisions of this chapter apply to a consolidated business whether or not the taxpayer is the parent or controlling corporation.

Article 2. Calculation of Tax; Returns.

Sec. 43.21.300. Calculation of tax. (a) The amount of the tax payable on the taxable income of a corporation subject to tax under this chapter shall be determined using the tax rates in AS 43.20.011(e).

(b) For purposes of this chapter, the department may combine taxable income of corporations subject to tax under this chapter who are part of the same consolidated business.

(c) If the methods of allocation and apportionment provided in this chapter do not fairly represent the extent of a corporation's business activity in the state, the corporation may petition for or the department may require, in respect to all or any

1 part of the corporation's business activity, if reasonable, the employment of any
2 method authorized under art. IV, sec. 18, AS 43.19.010 (Multistate Tax Compact), to
3 carry out an equitable allocation and apportionment of the corporation's income. The
4 commissioner shall include in the annual report required in AS 43.21.410 a report on
5 all relief granted under this subsection, including, for each case, a statement of the
6 changes in tax liability resulting from the granting of relief, the tax years involved, and
7 a description of the method of determining taxable income that was substituted for the
8 methods provided in this chapter.

9 **Sec. 43.21.310. Income tax education credit.** (a) A taxpayer is allowed as a
10 credit against the tax due under this chapter for cash contributions accepted

11 (1) for direct instruction, research, and educational support purposes,
12 including library and museum acquisitions, and contributions to endowment, by an
13 Alaska university foundation or by a nonprofit, public or private, Alaska two-year or
14 four-year college accredited by a regional accreditation association;

15 (2) for secondary school level vocational education courses, programs,
16 and facilities by a school district in the state;

17 (3) for vocational education courses, programs, and facilities by a
18 state-operated vocational technical education and training school;

19 (4) for a facility or an annual intercollegiate sports tournament by a
20 nonprofit, public or private, Alaska two-year or four-year college accredited by a
21 regional accreditation association;

22 (5) for Alaska Native cultural or heritage programs and educational
23 support, including mentoring and tutoring, provided by a nonprofit agency for public
24 school staff and for students who are in grades kindergarten through 12 in the state;
25 and

26 (6) for education, research, rehabilitation, and facilities by an
27 institution that is located in the state and that qualifies as a coastal ecosystem learning
28 center under the Coastal America Partnership established by the federal government.

29 (b) The amount of the credit is

30 (1) 50 percent of contributions of not more than \$100,000;

31 (2) 100 percent of the next \$200,000 of contributions; and

1 (3) 50 percent of the amount of contributions that exceed \$300,000.

2 (c) Each public college and university shall include in its annual operating
3 budget request contributions received and how the contributions were used.

4 (d) A contribution claimed as a credit under this section may not

5 (1) be claimed as a credit under another provision of this title;

6 (2) also be allowed as a deduction under 26 U.S.C. 170 against the tax
7 imposed by this chapter; and

8 (3) when combined with contributions that are the basis for credits
9 taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014,
10 AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in
11 the total amount of credits exceeding \$5,000,000; if the taxpayer is a member of an
12 affiliated group, then the total amount of credits may not exceed \$5,000,000 for the
13 affiliated group; in this paragraph, "affiliated group" has the meaning given in
14 AS 43.20.073.

15 (e) The credit under this section may not reduce a person's tax liability under
16 this chapter to below zero for any tax year. An unused credit or portion of a credit not
17 used under this section for a tax year may not be sold, traded, transferred, or applied in
18 a subsequent tax year.

19 (f) In this section,

20 (1) "school district" means a borough school district, a city school
21 district, a regional educational attendance area, or a state boarding school;

22 (2) "vocational education" means organized educational activities that
23 offer a sequence of courses that provides individuals with the academic and technical
24 knowledge and skills the individuals need to prepare for further education and for
25 careers other than careers requiring a baccalaureate, master's, or doctoral degree.

26 **Sec. 43.21.320. Credits.** In addition to the credit allowed under AS 43.21.310,
27 a credit under AS 43.20.043, 43.20.044, or 43.20.046 may also be applied against the
28 tax levied under this chapter, unless a credit for the same expenditure has been taken
29 against a tax levied under AS 43.20 or AS 43.55.

30 **Sec. 43.21.330. Returns and payment of taxes.** (a) A corporation subject to
31 tax under this chapter and required to make a return under the Internal Revenue Code

1 shall, within 30 days after the federal return is required to be filed, submit a return
2 setting out

3 (1) the amount of tax due under this chapter, less credits claimed
4 against the tax; and

5 (2) other information the department may require to carry out the
6 purposes of this chapter.

7 (b) The return shall be made under oath or shall contain a written declaration
8 that it is made under penalty of perjury and shall be made on a form prescribed by the
9 department.

10 (c) On request by the department, a taxpayer shall furnish to the department a
11 true and correct copy of each annual tax return the taxpayer has filed with the United
12 States Internal Revenue Service. Every taxpayer shall notify the department in writing
13 of any modification of the taxpayer's federal income tax return and of a recomputation
14 of tax or determination of deficiency. A full statement of the facts must accompany
15 this notice. The notice shall be filed within 60 days after the final determination of the
16 modification, recomputation, or deficiency, and the taxpayer shall pay the additional
17 tax or penalty under this chapter. For purposes of this section, a determination shall be
18 considered to be final at the time an amended federal return is filed or a notice of
19 deficiency or an assessment is mailed to the taxpayer by the Internal Revenue Service,
20 except that in no event shall a determination be considered final for purposes of this
21 section until the taxpayer has exhausted the taxpayer's rights of appeal under federal
22 law.

23 (d) The total amount of tax imposed by this chapter is due and payable to the
24 department at the same time and in the same manner as the tax payable to the United
25 States Internal Revenue Service, including quarterly estimated tax prepayments,
26 except that a taxpayer with an estimated tax liability of less than \$1,000,000 for the
27 year is not required to make quarterly prepayments of the estimated tax.

28 (e) A tax due under this section is payable even if the assessment is under
29 appeal or the validity, enforceability, or application of this chapter or any provision of
30 this chapter is challenged before the department or in the courts.

31 (f) An unpaid amount of an installment payment required under (d) of this

1 section that is not paid when due shall be treated as an underpayment under 26 U.S.C.
2 6655 (Internal Revenue Code) and shall accrue interest at a rate appropriate for the
3 state prescribed in regulation.

4 **Article 3. Administrative Matters.**

5 **Sec. 43.21.400. Regulations.** The department shall adopt regulations in
6 accordance with AS 44.62 (Administrative Procedure Act) to implement this chapter.
7 In the adoption of regulations under this section, the department shall use the 1981
8 regulations adopted under former provisions of this chapter as guidance. Regulations
9 adopted under this section must include methods for accounting for

10 (1) intercompany transactions in a fair and equitable manner and to
11 prevent purposeful tax evasion or manipulation of income or deductions, including
12 transactions for costs incurred by a party outside of the state that are related to oil or
13 gas production from a lease or property in the state or to pipeline transportation of oil
14 or gas in the state; and

15 (2) transactions between parent and subsidiary companies.

16 **Sec. 43.21.410. Public reporting.** (a) The commissioner shall compile and
17 transmit to the legislature an annual report of state revenue and the implementation of
18 taxation policies under this chapter. The report must include total aggregate income
19 tax paid by corporations subject to this chapter and aggregate income and deductions
20 by category, classified so as to prevent the identification of particular returns or
21 reports.

22 (b) The legislative auditor shall notify the legislature on or before the first day
23 of each regular session that the annual report reviewing the actions of the department
24 in administering this chapter is available.

25 **Sec. 43.21.420. Information disclosure.** Notwithstanding AS 43.05.320, the
26 department shall disclose to a legislator, on request, information collected from a
27 taxpayer to the extent that

- 28 (1) the taxpayer is a publicly traded company;
29 (2) the information has been filed in a quarterly, annual, or other
30 periodic report to the United States Securities Exchange Commission; and
31 (3) the information has been made public by the United States

Securities Exchange Commission.

Sec. 43.21.499. Definitions. Unless the context requires otherwise, the definitions contained in AS 43.55.900 are applicable to this chapter. In addition, in this chapter,

(1) "consolidated business" means a corporation or group of corporations having more than 50 percent common ownership, direct or indirect, or a group of corporations in which there is common control, either direct or indirect, as evidenced by an arrangement, contract, or agreement;

(2) "Internal Revenue Code" has the meaning given in AS 43.20.340.

* **Sec. 12.** AS 43.21.310(a), added by sec. 11 of this Act, is amended to read:

(a) A taxpayer is allowed as a credit against the tax due under this chapter for cash contributions accepted

(1) for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association;

(2) for secondary school level vocational education courses and [,] programs [, AND FACILITIES] by a school district in the state;

(3) [FOR VOCATIONAL EDUCATION COURSES, PROGRAMS, AND FACILITIES] by a state-operated vocational technical education and training school [;

(4) FOR A FACILITY OR AN ANNUAL INTERCOLLEGIATE SPORTS TOURNAMENT BY A NONPROFIT, PUBLIC OR PRIVATE, ALASKA TWO-YEAR OR FOUR-YEAR COLLEGE ACCREDITED BY A REGIONAL ACCREDITATION ASSOCIATION;

(5) FOR ALASKA NATIVE CULTURAL OR HERITAGE PROGRAMS AND EDUCATIONAL SUPPORT, INCLUDING MENTORING AND TUTORING, PROVIDED BY A NONPROFIT AGENCY FOR PUBLIC SCHOOL STAFF AND FOR STUDENTS WHO ARE IN GRADES KINDERGARTEN THROUGH 12 IN THE STATE; AND

(6) FOR EDUCATION, RESEARCH, REHABILITATION, AND

1 FACILITIES BY AN INSTITUTION THAT IS LOCATED IN THE STATE AND
2 THAT QUALIFIES AS A COASTAL ECOSYSTEM LEARNING CENTER
3 UNDER THE COASTAL AMERICA PARTNERSHIP ESTABLISHED BY THE
4 FEDERAL GOVERNMENT].

5 * **Sec. 13.** AS 43.21.310(b), added by sec. 11 of this Act, is amended to read:

6 (b) The amount of the credit is

7 (1) 50 percent of contributions of not more than \$100,000; **and**

8 (2) 100 percent of the next **\$100,000** [\$200,000] of contributions [;

9 AND

10 (3) 50 PERCENT OF THE AMOUNT OF CONTRIBUTIONS THAT
11 EXCEED \$300,000].

12 * **Sec. 14.** AS 43.21.310(d), added by sec. 11 of this Act, is amended to read:

13 (d) A contribution claimed as a credit under this section may not

14 (1) be claimed as a credit under another provision of this title;

15 (2) also be allowed as a deduction under 26 U.S.C. 170 against the tax
16 imposed by this chapter; and

17 (3) when combined with credits taken during the taxpayer's tax year
18 under AS 21.96.070, 21.96.075, AS 43.20.014, AS 43.55.019, AS 43.56.018,
19 AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in the total amount of credits
20 exceeding **\$150,000** [\$5,000,000; IF THE TAXPAYER IS A MEMBER OF AN
21 AFFILIATED GROUP, THEN THE TOTAL AMOUNT OF CREDITS MAY NOT
22 EXCEED \$5,000,000 FOR THE AFFILIATED GROUP; IN THIS PARAGRAPH,
23 "AFFILIATED GROUP" HAS THE MEANING GIVEN IN 43.20.073].

24 * **Sec. 15.** AS 43.55.019(d) is amended to read:

25 (d) A contribution claimed as a credit under this section may not

26 (1) be the basis for a credit claimed under another provision of this
27 title; and

28 (2) when combined with contributions that are the basis for credits
29 taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014,
30 **AS 43.21.310**, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in
31 the total amount of credits exceeding \$5,000,000; if the taxpayer is a member of an

1 affiliated group, then the total amount of credits may not exceed \$5,000,000 for the
2 affiliated group; in this paragraph, "affiliated group" has the meaning given in
3 AS 43.20.073.

4 * **Sec. 16.** AS 43.55.019(d), as amended by sec. 25, ch. 92, SLA 2010, is amended to read:

5 (d) A contribution claimed as a credit under this section may not

6 (1) be the basis for a credit claimed under another provision of this
7 title; and

8 (2) when combined with contributions that are the basis for credits
9 taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014,
10 **AS 43.21.310**, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in
11 the total amount of credits exceeding \$150,000.

12 * **Sec. 17.** AS 43.56.018(d) is amended to read:

13 (d) A contribution claimed as a credit under this section may not

14 (1) be the basis for a credit claimed under another provision of this
15 title; and

16 (2) when combined with contributions that are the basis for credits
17 taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014,
18 **AS 43.21.310**, AS 43.55.019, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in
19 the total amount of credits exceeding \$5,000,000; if the taxpayer is a member of an
20 affiliated group, then the total amount of credits may not exceed \$5,000,000 for the
21 affiliated group; in this paragraph, "affiliated group" has the meaning given in
22 AS 43.20.073.

23 * **Sec. 18.** AS 43.56.018(d), as amended by sec. 32, ch. 92, SLA 2010, is amended to read:

24 (d) A contribution claimed as a credit under this section may not

25 (1) be the basis for a credit claimed under another provision of this
26 title; and

27 (2) when combined with contributions that are the basis for credits
28 taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014,
29 **AS 43.21.310**, AS 43.55.019, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in
30 the total amount of credits exceeding \$150,000.

31 * **Sec. 19.** AS 43.65.018(d) is amended to read:

1 (d) A contribution claimed as a credit under this section may not

2 (1) be the basis for a credit claimed under another provision of this
3 title; and

4 (2) when combined with contributions that are the basis for credits
5 taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014,
6 AS 43.21.310, AS 43.55.019, AS 43.56.018, AS 43.75.018, or AS 43.77.045, result in
7 the total amount of the credits exceeding \$5,000,000; if the taxpayer is a member of an
8 affiliated group, then the total amount of credits may not exceed \$5,000,000 for the
9 affiliated group; in this paragraph, "affiliated group" has the meaning given in
10 AS 43.20.073.

11 * **Sec. 20.** AS 43.65.018(d), as amended by sec. 39, ch. 92, SLA 2010, is amended to read:

12 (d) A contribution claimed as a credit under this section may not

13 (1) be the basis for a credit claimed under another provision of this
14 title; and

15 (2) when combined with contributions that are the basis for credits
16 taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014,
17 AS 43.21.310, AS 43.55.019, AS 43.56.018, AS 43.65.018, or AS 43.77.045, result in
18 the total amount of the credits exceeding \$150,000.

19 * **Sec. 21.** AS 43.75.018(d) is amended to read:

20 (d) A contribution claimed as a credit under this section may not

21 (1) be the basis for a credit claimed under another provision of this
22 title; and

23 (2) when combined with contributions that are the basis for credits
24 taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014,
25 AS 43.21.310, AS 43.55.019, AS 43.56.018, AS 43.65.018, or AS 43.77.045, result in
26 the total amount of the credits exceeding \$5,000,000; if the taxpayer is a member of an
27 affiliated group, then the total amount of credits may not exceed \$5,000,000 for the
28 affiliated group; in this paragraph, "affiliated group" has the meaning given in
29 AS 43.20.073.

30 * **Sec. 22.** AS 43.75.018(d), as amended by sec. 46, ch. 92, SLA 2010, is amended to read:

31 (d) A contribution claimed as a credit under this section may not

(1) be the basis for a credit claimed under another provision of this title; and

(2) when combined with contributions that are the basis for credits taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014, AS 43.21.310, AS 43.55.019, AS 43.56.018, AS 43.65.018, or AS 43.77.045, result in the total amount of the credits exceeding \$150,000.

* **Sec. 23.** AS 43.77.045(d) is amended to read:

(d) A contribution claimed as a credit under this section may not

(1) be the basis for a credit claimed under another provision of this title; and

(2) when combined with contributions that are the basis for credits taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014, AS 43.21.310, AS 43.55.019, AS 43.56.018, AS 43.65.018, or AS 43.75.018, result in the total amount of the credits exceeding \$5,000,000; if the taxpayer is a member of an affiliated group, then the total amount of credits may not exceed \$5,000,000 for the affiliated group; in this paragraph, "affiliated group" has the meaning given in AS 43.20.073.

* **Sec. 24.** AS 43.77.045(d), as amended by sec. 53, ch. 92, SLA 2010, is amended to read:

(d) A contribution claimed as a credit under this section may not

(1) be the basis for a credit claimed under another provision of this title; and

(2) when combined with contributions that are the basis for credits taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014, AS 43.21.310, AS 43.55.019, AS 43.56.018, AS 43.65.018, or AS 43.75.018, result in the total amount of the credits exceeding \$150,000.

* **Sec. 25.** AS 43.82.210(a) is amended to read:

(a) If the commissioner approves an application and proposed project plan under AS 43.82.140, the commissioner may develop proposed terms for inclusion in a contract under AS 43.82.020 for periodic payment in lieu of one or more of the following taxes that otherwise would be imposed by the state or a municipality on the qualified sponsor or member of a qualified sponsor group as a consequence of

1 participating in an approved qualified project:

- 2 (1) oil and gas production taxes and oil surcharges under AS 43.55;
- 3 (2) oil and gas exploration, production, and pipeline transportation
- 4 property taxes under AS 43.56;
- 5 (3) oil and gas corporate income tax under AS 43.21; [REPEALED]
- 6 (4) Alaska net income tax under AS 43.20;
- 7 (5) municipal sales and use tax under AS 29.45.650 - 29.45.710;
- 8 (6) municipal property tax under AS 29.45.010 - 29.45.250 or
- 9 29.45.550 - 29.45.600;
- 10 (7) municipal special assessments under AS 29.46;
- 11 (8) a comparable tax or levy imposed by the state or a municipality
- 12 after June 18, 1998;
- 13 (9) other state or municipal taxes or categories of taxes identified by
- 14 the commissioner.

15 * **Sec. 26.** AS 43.20.072 is repealed.

16 * **Sec. 27.** The uncoded law of the State of Alaska is amended by adding a new section to

17 read:

18 APPLICABILITY. AS 43.21, added by sec. 11 of this Act, applies to taxable income

19 earned or received after December 31, 2012.

20 * **Sec. 28.** The uncoded law of the State of Alaska is amended by adding a new section to

21 read:

22 REGULATIONS. (a) The Department of Revenue may adopt regulations necessary to

23 implement AS 43.21, added by sec. 11 of this Act. The regulations take effect under AS 44.62

24 (Administrative Procedure Act), but not before the effective date of the law implemented by

25 regulation.

26 (b) The Department of Revenue shall provide by regulation for a transition for a

27 corporation subject to tax under AS 43.20 before December 31, 2012, to avoid double

28 taxation of the same income or double deduction of the same expense of the corporation as a

29 result of becoming subject to tax under AS 43.21, added by sec. 11 of this Act.

30 (c) The Department of Revenue may adopt regulations necessary to provide a five-

31 year transition period for the adoption of applicable depreciation schedules.

1 * **Sec. 29.** Sections 2, 4, 9, 12 - 14, 16, 18, 20, 22, and 24 of this Act take effect on the
2 effective date specified in sec. 57, ch. 92 SLA 2010, as amended by sec. 15, ch. 7 FSSLA
3 2011, and as may be further amended.

4 * **Sec. 30.** Section 28 of this Act takes effect immediately under AS 01.10.070(c).

5 * **Sec. 31.** Except as provided in secs. 29 and 30 of this Act, this Act takes effect January 1,
6 2013.