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HOUSE CS FOR CS FOR SENATE BILL NO. 23( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS ELLIS, McGuire, French, Davis, Wielechowski, Kookesh, Meyer, Menard, Egan, Stedman

REPRESENTATIVES Petersen, Herron, Tuck

A BILL

FOR AN ACT ENTITLED

"An Act relating to taxes and tax credits; relating to oil and gas production taxes; relating to tax credits for oil and gas exploration; relating to tax credits and cost savings for liquefied natural gas storage and reducing costs to consumers; relating to an exemption from rental payments on state land for certain liquefied natural gas facilities; relating to transferable film production tax credits and film production tax credit certificates; relating to the taxes against which a film production tax credit may be applied; transferring the film office to the Department of Revenue and relating to that office; establishing the Alaska Film Incentive Review Commission; establishing a film production promotion program; relating to the amount of credit that may be awarded for compensation to producers, directors, writers, and actors who are not residents; providing for a fee to be paid at the time an application for eligibility for the film production tax credit is filed; providing a one-time credit for the first episodic scripted television production in the state; requiring the legislative audit division to audit the

Alaska film production incentive program; providing for an effective date by repealing the effective dates of secs. 3 and 4, ch. 63, SLA 2008; and providing for an effective date."

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

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

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

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

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

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

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

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

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

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

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

materials as directed by the Legislative Budget and Audit Committee;

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

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

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

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

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

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

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

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

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

(f) In this section,

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

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

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

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

<u>(1)</u> "gas storage facility" has the meaning given in AS 31.05.032**<u>;</u>**

<u>(2) "liquefied natural gas storage facility" has the meaning given in AS 42.05.990</u>.

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

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

(A) furnishing, by generation, transmission, or distribution, electrical service to the public for compensation;

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

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

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

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

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

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

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

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

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

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

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

(i) pipe;

(ii) compressor stations;

(iii) station equipment;

(iv) liquefaction plant or facility;

(v) gasification plant or facility;

(vi) on-site or remote monitoring, supervision, and control facilities;

(vii) gas processing plants and gas treatment plants, but not including a manufacturing plant or facility;

(viii) other equipment necessary to receive, place into the reservoir, monitor, remove from the reservoir, process, and deliver natural gas;

(12) "reservoir" means a receptacle or chamber, either natural or man-made, holding a gas or liquid, and includes a tank or a depleted or nearly depleted pool;

(13) "service of liquefied natural gas storage" means the operation of a liquefied natural gas storage facility; "service of liquefied natural gas storage" does not include the storage of liquefied natural gas

(A) owned by or contractually obligated to the owner, operator, or manager of the liquefied natural gas storage facility;

(B) that is incidental to the production or sale of natural gas to one or more third-party customers; or

(C) for which the price of storage is not separately itemized.

*** Sec. 6.** AS 43.20 is amended by adding a new section to article 1 to read:

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

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

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

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

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

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

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

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

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

(e) 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. In this subsection, "unpaid delinquent tax" means an amount of tax for which the department has issued an assessment that has not been paid and, if contested, has not been finally resolved in the taxpayer's favor.

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

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

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

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

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

liquefied natural gas storage facility subsequently resumes commercial operation; and

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

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

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

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

(*l*) In this section,

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

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

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

*** Sec. 7.** AS 43.55.011(e) is amended to read:

(e) There is levied on the producer of oil or gas a tax for all oil and gas produced each calendar year from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under (f), (j), (k), [AND] (o)**, and (p)** of this section, the tax is equal to the sum of

(1) the annual production tax value of the taxable oil and gas as calculated under AS 43.55.160(a)(1)**, as adjusted by AS 43.55.162,** multiplied by 25 percent; and

(2) the sum, over all months of the calendar year, of the tax amounts determined under (g) of this section.

*** Sec. 8.** AS 43.55.011(g) is amended to read:

(g) For each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2) **of a** [PER] BTU equivalent barrel of the taxable oil and gas is more than $30, the amount of tax for purposes of (e)(2) of this section is determined by multiplying the monthly production tax value of the taxable oil and gas produced during the month**, as adjusted by AS 43.55.162,** by the tax rate calculated as follows:

(1) if the producer's average monthly production tax value **of a** [PER] BTU equivalent barrel of the taxable oil and gas for the month is not more than $92.50, the tax rate is 0.4 percent multiplied by the number that represents the difference between that average monthly production tax value **of a** [PER] BTU equivalent barrel and $30; or

(2) if the producer's average monthly production tax value **of a** [PER] BTU equivalent barrel of the taxable oil and gas for the month is more than $92.50, the tax rate is the sum of 25 percent and the product of 0.1 percent multiplied by the number that represents the difference between the average monthly production tax value **of a** [PER] BTU equivalent barrel and $92.50, except that the sum determined under this paragraph may not exceed 50 percent.

*** Sec. 9.** AS 43.55.011 is amended by adding a new subsection to read:

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

*** Sec. 10.** AS 43.55.020(a) is amended to read:

(a) For a calendar year, a producer subject to tax under AS 43.55.011(e) - (i) **<u>or (p)</u>** shall pay the tax as follows:

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

(A) for oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin but not subject to AS 43.55.011(o) **<u>or (p)</u>**, other than leases or properties subject to AS 43.55.011(f), the greater of

(i) zero; or

(ii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the leases or properties under AS 43.55.160 **<u>and 1/12 of the adjustment to production tax value for the calendar year under AS 43.55.162</u>** from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;

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

(i) zero;

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

(iii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for those leases or properties under AS 43.55.160 **<u>and 1/12 of the adjustment to production tax value for the calendar year under AS 43.55.162</u>** from the gross value at the point of production of the oil and gas produced from those leases or properties during the month for which the installment payment is calculated;

(C) for oil and gas produced from each lease or property subject to AS 43.55.011(j), (k), [OR] (o), **<u>or (p),</u>** the greater of

(i) zero; or

(ii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 **<u>and 1/12 of the adjustment to production tax value for the calendar year under AS 43.55.162</u>** for oil or gas, **<u>as applicable</u>** [RESPECTIVELY], produced from the lease or property from the gross value at the point of production of the oil or gas, **<u>as applicable</u>** [RESPECTIVELY], produced from the lease or property during the month for which the installment payment is calculated;

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

(A) 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;

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

(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(e) or (i), 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.

*** Sec. 11.** AS 43.55.025(a) is amended to read:

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

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

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

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

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

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

<u>**(6) the lesser of $25,000,000 or 80 percent of the total exploration drilling expenditures described in (n) of this section and that qualify under (b) and (c) of this section; or**</u>

<u>**(7) the lesser of $7,500,000 or 75 percent of the total seismic exploration expenditures described in (o) of this section and that qualify under (b) of this section**</u>.

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

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

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

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

(A) before the well is spudded,

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

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

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

(B) for an exploration well other than a well to explore a Cook Inlet prospect, the well must be located and drilled in such a manner that the bottom hole is located not less than three miles away from the bottom hole of a preexisting well drilled for oil or gas, irrespective of whether the preexisting well has been completed, suspended, or abandoned;

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

*** Sec. 13.** AS 43.55.025 is amended by adding new subsections to read:

(n) The persons that drill the first four exploration wells in the state and within the areas described in (p) of this section on state lands, private lands, or federal onshore lands for the purpose of discovering oil or gas that penetrate and evaluate a prospect in a basin described in (p) of this section are eligible for a credit under (a)(6) of this section. A credit under this subsection may not be taken for more than two exploration wells in a single area described in (p)(1) - (6) of this section. Exploration expenditures eligible for the credit in this subsection must be incurred for work performed after June 1, 2012, and before July 1, 2016. A person planning to drill an exploration well on private land and to apply for a credit under this subsection shall obtain written consent from the owner of the oil and gas interest for the full public release of all well data after the expiration of the confidentiality period applicable to information collected under (f) of this section. The written consent of the owner of the oil and gas interest must be submitted to the commissioner of natural resources before approval of the proposed exploration well. In addition to the requirements in (c) of this section and submission of the written consent of the owner of the oil and gas interest, a person planning to drill an exploration well shall obtain approval from the commissioner of natural resources before the well is spudded. The commissioner of natural resources shall make a written determination approving or rejecting an exploration well within 60 days after receiving the request for approval or as soon as is practicable thereafter. Before approving the exploration well, the commissioner of natural resources shall consider the following: the location of the well; the proximity to a community in need of a local energy source; the proximity of existing infrastructure; the experience and safety record of the explorer in conducting operations in remote or roadless areas; the projected cost schedule; whether seismic mapping and seismic data sufficiently identify a particular trap for exploration; whether the targeted and planned depth and range are designed to penetrate and fully evaluate the hydrocarbon potential of the proposed prospect and reach the level below which economic hydrocarbon reservoirs are likely to be found, or reach 12,000 feet or more true vertical depth; and whether the exploration plan provides for a full evaluation of the wellbore below surface casing to the depth of the well. Whether the exploration well for which a credit is requested under this subsection is located within an area and a basin described under (p) of this section shall be determined by the commissioner of natural resources and reported to the commissioner. A taxpayer that obtains a credit under this subsection may not claim a tax credit under AS 43.55.023 or another provision in this section for the same exploration expenditure.

(o) The persons that conduct the first four seismic exploration projects in the state and within the areas described in (p) of this section for the purpose of discovering oil or gas in a basin are eligible for the credit under (a)(7) of this section. A credit under this subsection may not be taken for more than one seismic exploration project in a single area described in (p)(1) - (6) of this section. Exploration expenditures eligible for the credit in this subsection must be incurred for work performed after June 1, 2012, and before July 1, 2016. A person planning to conduct a seismic exploration project on private land and to apply for a credit under this subsection shall obtain written consent from the owner of the oil and gas interest for the full public release of all geophysical data and compliance with the data submission requirements in (f)(2) of this section. Notwithstanding (f)(2)(C)(ii) of this section, to qualify for a credit under this subsection, a person shall submit the written consent of the owner of the oil and gas interest for the release of data if applicable, and all data required under (f)(2) of this section to the Department of Natural Resources and shall agree in writing that all seismic data requirements submitted under the requirements of (f)(2) of this section may be made public two years after receiving a credit under this subsection. A person intending to qualify for the tax credit under this subsection shall obtain approval from the commissioner of natural resources before the commencement of the seismic exploration activities. The commissioner of natural resources shall make a written determination approving or rejecting a seismic project within 60 days after receiving the request for approval or as soon as is practicable thereafter. Before approving a seismic exploration project, the commissioner shall consider the following: the location of the project; the projected cost schedule; the data acquisition and data processing plan; the reasons for choosing the particular area for seismic exploration; and the experience and safety record of the person in conducting seismic exploration operations in remote or roadless areas. Whether the seismic exploration project for which a credit is requested under this subsection is located in a basin described in (p) of this section shall be determined by the commissioner of natural resources and reported to the commissioner. A taxpayer that obtains a credit under this subsection may not claim a tax credit under AS 43.55.023 or another provision in this section for the same exploration expenditure.

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

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

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

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

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

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

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

*** Sec. 14.** 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 **<u>and payments</u>** claimed under AS 43.20.046 **<u>or 43.20.047</u>**.

*** Sec. 15.** AS 43.55.028(g) is amended to read:

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

*** Sec. 16.** AS 43.55.160(a) is amended to read:

(a) Except as provided in (b) of this section, **<u>and subject to adjustment under AS 43.55.162,</u>** for the purposes of

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

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

(B) oil and gas produced [DURING A CALENDAR YEAR] from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude [, IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE OIL AND GAS TAXABLE UNDER AS 43.55.011(e) AND PRODUCED BY THE PRODUCER FROM THOSE LEASES OR PROPERTIES, LESS THE PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE CALENDAR YEAR APPLICABLE TO THE OIL AND GAS PRODUCED BY THE PRODUCER FROM THOSE LEASES OR PROPERTIES, AS ADJUSTED UNDER AS 43.55.170]; this subparagraph does not apply to gas

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

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

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

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

(E) gas produced **before 2022** [DURING A CALENDAR YEAR] from a lease or property **in the state** outside the Cook Inlet sedimentary basin and used in the state [IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF THAT GAS TAXABLE UNDER AS 43.55.011(e) AND PRODUCED BY THE PRODUCER FROM THAT LEASE OR PROPERTY, LESS THE PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE CALENDAR YEAR APPLICABLE TO THAT GAS PRODUCED BY THE PRODUCER FROM THAT LEASE OR PROPERTY, AS ADJUSTED UNDER AS 43.55.170];

(F) oil and gas subject to AS 43.55.011(p) produced from

<u>leases or properties in the state;</u>

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

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

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

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

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

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

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

*** Sec. 17.** AS 43.55.160(e) is amended to read:

(e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer in a calendar year but whose deduction would cause an annual production tax value calculated under (a)(1) of this section of taxable oil or gas produced during the calendar year to be less than zero may be used to establish a carried-forward annual loss under AS 43.55.023(b). However, the department shall provide by regulation a method to ensure that, for a period for which a producer's tax liability is limited by AS 43.55.011(j), (k), [OR] (o), **<u>or (p),</u>** any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer for that period but whose deduction would cause a production tax value calculated under (a)(1)(C), (D), [OR] (E)**<u>, or (F)</u>** of this section to be less than zero are accounted for as though the adjusted lease expenditures had first been used as deductions in calculating the production tax values of oil or gas subject to any of the limitations under AS 43.55.011(j), (k), [OR] (o)**<u>, or (p)</u>** that have positive production tax values so as to reduce the tax liability calculated without regard to the limitation to the maximum amount provided for under the applicable provision of AS 43.55.011(j), (k), [OR] (o)**<u>, or (p)</u>**. Only the amount of those adjusted lease expenditures remaining after the accounting provided for under this subsection may be used to establish a carried-forward annual loss under AS 43.55.023(b). In this subsection, "producer" includes "explorer."

*** Sec. 18.** AS 43.55 is amended by adding a new section to read:

Sec. 43.55.162. Adjustment to production tax value for increasing oil and gas production. The production tax value of oil and gas produced during the first 10 consecutive years after the start of sustained production or produced during the first 10 consecutive years after the effective date of this bill section, whichever is later, from a lease or property outside of the Cook Inlet sedimentary basin that was not, as of January 1, 2008, within a unit or in commercial production, is reduced by, for the calendar year, 30 percent of the gross value at the point of production of that oil and gas. The rate of tax under AS 43.55.011(g) shall be determined before the application of the adjustment provided by this section.

*** Sec. 19.** AS 43.75.130(f) is amended to read:

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

*** Sec. 20.** AS 43.77.060(e) is amended to read:

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

*** Sec. 21.** AS 43.98.030(a) is amended to read:

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

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

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

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

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

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

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

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

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

<u>(1)</u> $100,000,000 **<u>for productions qualified under AS 44.25.120 before July 1, 2013; and</u>**

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

*** Sec. 26.** AS 43.98.030 is amended by adding new subsections to read:

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

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

*** Sec. 27.** AS 44.25 is amended by adding new sections to read:

Article 3. Film Office.

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

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

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

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

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

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

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

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

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

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

(9) the total number of individuals employed by productions qualifying

for the film production tax credit who were not residents;

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

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

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

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

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

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

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

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

(3) production is approved by the film office.

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

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

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

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

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

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

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

(1) a script or synopsis of the production;

(2) the names of the producer, director, and proposed cast;

(3) estimated start, completion, and filming dates; and

(4) other information the film office may require to determine the producer's qualification for a credit and the estimated amount of the credit.

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

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

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

Sec. 44.25.125. Award of film production tax credit. (a) Subject to

AS 43.98.030(f) and to (i) of this section, the film office shall determine the amount of the tax credit under AS 43.98.030 available to a producer who has obtained a notice of qualification under AS 44.25.120(b), based on the qualified expenditures of the production under AS 44.25.130. After the film office determines the amount of the tax credit, the tax credit shall be submitted to the Alaska Film Incentive Review Commission for approval.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) In place of the 30 percent credit applicable to qualified expenditures under (a) of this section, the tax credit for expenditures for services performed in the state, including all salaries, wages, compensation, and related benefits, by producers, directors, writers, and principal actors that fail to meet the eligibility requirements for a permanent fund dividend in AS 43.23.005(a)(2) - (7), and all entities representing producers, directors, writers, and principal actors that fail to meet the eligibility requirements for a permanent fund dividend in AS 43.23.005(a)(2) - (7), is five percent. The amount of the five percent credit may be increased by adding an amount equal to 50 percent of the qualified expenditures paid to residents of the state under AS 44.25.130(a)(10) and 50 percent of the qualified expenditures paid under AS 44.25.130(a)(11) - (13) and (15). In this subsection, "principal actors" means the five highest compensated actors or entities representing the five highest compensated actors in the production.

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

(1) costs of set construction and operation;

(2) costs of wardrobes, make-up, accessories, and related services;

(3) costs associated with photography and sound synchronization;

(4) costs of lighting and related services and materials;

(5) costs of editing and related services;

(6) rental of facilities and equipment;

(7) leasing of vehicles;

(8) costs of food and lodging;

(9) costs of digital or tape editing, film processing, transfer of film to tape or digital format, transfer of digital media to film or tape, sound mixing, and special and visual effects;

(10) the total aggregate expenditures for services performed in the state, including all salaries, wages, compensation, and related benefits provided to producers, directors, writers, actors, and other personnel that are directly attributable to services performed in the state;

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

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

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

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

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

(16) other similar production expenditures as determined by the film office in cooperation with the Department of Revenue.

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

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

(2) postproduction expenditures for marketing and distribution;

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

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

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

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

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

Sec. 44.25.135. Recovery of film production tax credit. (a) The film office may review, audit, and bring legal proceedings to recover any amount of a tax credit awarded under AS 44.25.125 from a producer or production to which a credit was awarded if the film office determines that the film producer or production is liable for damages to the state, or any political subdivision of the state.

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

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

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

(b) The membership of the commission consists of the

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

(2) commissioner of natural resources;

(3) commissioner of revenue;

(4) commissioner of labor and workforce development.

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

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

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

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

(b) After finding that an application submitted under AS 44.25.120 is complete, the executive director shall review the application and submit the application for approval to the commission along with a recommendation to approve or reject the application. After reviewing the application, the recommendation of the executive director, and additional information an applicant may provide or the commission may request, the commission shall make a decision as to whether the production proposed in the application and the estimated amount of the film production tax credit is in the best interest of the state. The commission may not approve an application for a film production that the commission finds is contrary to the natural resource development policy of the state. The commission shall issue a decision either approving or rejecting the application and qualification of the applicant. A decision of the commission on the qualification of an applicant is in the discretion of the commission and is not subject to appeal except on the issue of whether the decision of the commission is arbitrary or capricious. If appealed, the appeal is subject to AS 44.62 (Administrative Procedure Act).

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

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

(1) "Alaska business" means

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

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

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

(D) a person who is

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

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

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

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

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

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

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

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

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

*** Sec. 28.** AS 44.33.231 is repealed and reenacted to read:

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

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

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

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

(3) provide production assistance through connecting film directors,

makers, and producers with Alaska location scouts and contractors, including contractors providing assistance with permit applications; and

(4) certify Alaska film production internship training programs and promote the employment of program interns by eligible productions.

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

*** Sec. 29.** AS 44.33.232, 44.33.233, 44.33.234, 44.33.235, 44.33.236, 44.33.237, 44.33.238, and 44.33.239 are repealed.

*** Sec. 30.** AS 43.98.030; AS 44.25.100, 44.25.105, 44.25.110, 44.25.115, 44.25.120, 44.25.125, 44.25.130, 44.25.140, 44.25.145, 44.25.150, 44.25.190; and AS 44.33.231(c) are repealed.

*** Sec. 31.** AS 44.25.135 is repealed.

*** Sec. 32.** AS 24.20.271(11) is repealed.

*** Sec. 33.** Sections 3, 4, 5, and 6, ch. 63, SLA 2008, are repealed.

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

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

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

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

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

TRANSITION. (a) The employee or employees in the film office in the Department of Commerce, Community, and Economic Development shall be transferred to the Department of Revenue on the effective date of this section and shall be the staff authorized for the Alaska Film Incentive Review Commission established by AS 44.25.145, enacted by sec. 27 of this Act. The Alaska Film Incentive Review Commission shall designate an executive director as soon as practicable after the effective date of this section.

(b) Subject to AS 43.98.030(f), as amended by sec. 25 of this Act, secs. 30 and 31 of this Act do not prohibit the film office from determining a film production's qualified expenditures, awarding a tax credit, or reviewing a tax credit under the provisions repealed by secs. 30 and 31 of this Act that has received a notice of qualification under AS 44.25.120(b), enacted by sec. 27 of this Act, before July 1, 2023.

(c) A film production tax credit may be used to offset taxes imposed under the provisions identified in AS 43.98.030(c), as amended by sec. 23 of this Act, or sold or exchanged for a transferable tax credit certificate under AS 43.98.030(a), as amended by sec. 21 of this Act, within three years after being provided by the Department of Revenue, notwithstanding the repeal of AS 43.98.030 in sec. 30 of this Act.

(d) A film production tax credit that is being withheld under AS 44.25.125(h), enacted by sec. 27 of this Act, may continue to be withheld by the film office, notwithstanding the repeal of AS 44.25.125 in sec. 30 of this Act.

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

NOTIFICATION. When the amount of tax credits provided under AS 43.98.030(f), as amended by sec. 25 of this Act, in the aggregate and the estimated amount of tax credits that could be claimed based on notices of qualification issued by the film office under AS 44.25.120(b), enacted by sec. 27 of this Act, together equal $100,000,000 before July 1, 2013, or $200,000,000 after June 30, 2013, and before July 1, 2023, the commissioner of revenue shall notify the presiding officers of each house of the legislature and the revisor of statutes in writing.

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

NONSEVERABILITY. Notwithstanding AS 01.10.030, the provisions of secs. 1 and 19 - 24 of this Act are not severable from each other if a provision in secs. 1 and 19 - 24 is held invalid.

*** Sec. 38.** Sections 7 and 8, ch. 63, SLA 2008, are repealed.

*** Sec. 39.** Section 30 of this Act takes effect on the earlier of the following:

(1) July 1, 2023; or

(2) the date the commissioner of revenue notifies the presiding officers of each house of the legislature and the revisor of statutes in writing of the $200,000,000 amount after June 30, 2013, and before July 1, 2023, under sec. 36 of this Act.

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

(1) July 1, 2029; or

(2) six years after the date the commissioner of revenue notifies the presiding officers of each house of the legislature and the revisor of statutes in writing of the $200,000,000 amount after June 30, 2013, and before July 1, 2023, under sec. 36 of this Act.

*** Sec. 41.** Section 32 of this Act takes effect January 1, 2022.

*** Sec. 42.** Sections 1 and 19 - 38 of this Act take effect July 1, 2013.

*** Sec. 43.** Sections 7 - 13 and 16 - 18 of this Act take effect January 1, 2013.

*** Sec. 44.** Except as provided in secs. 39 - 43 of this Act, this Act takes effect immediately under AS 01.10.070(c).