

HOUSE BILL NO. 51

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE SEATON

Introduced: 1/16/13

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to oil and gas; relating to the oil and gas corporate income tax; relating
2 to the oil and gas production tax; relating to tax credits; allowing the Alaska Industrial
3 Development and Export Authority to issue bonds for an oil processing facility; making
4 conforming amendments; and providing for an effective date."

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

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

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

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

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

1 exceed \$5,000,000 for the affiliated group; in this paragraph, "affiliated group" has the
2 meaning given in AS 43.20.145.

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

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

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

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

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

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

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

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, AS 43.20.014,
17 **AS 43.21.310**, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, or
18 AS 43.77.045, result in the total amount of credits exceeding \$5,000,000; if the
19 taxpayer is a member of an affiliated group, then the total amount of credits may not
20 exceed \$5,000,000 for the affiliated group; in this paragraph, "affiliated group" has the
21 meaning given in AS 43.20.145; or

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

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

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

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

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, AS 43.20.014,
30 **AS 43.21.310**, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, or
31 AS 43.77.045, result in the total amount of credits exceeding \$150,000; or

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

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

4 (1) "barrel," when used with reference to oil, **means the quantity of**
5 **oil contained in 42 United States gallons of 231 cubic inches each, measured at a**
6 **temperature of 60 degrees Fahrenheit and an absolute pressure of 14.65 pounds a**
7 **square inch** [HAS THE MEANING GIVEN IN AS 43.20.144];

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

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

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

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

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

15 * **Sec. 7.** AS 43.20.011(e) is amended to read:

16 (e) **For each corporation not engaged in the production or transportation**
17 **of crude oil or natural gas within the state, there** [THERE] is imposed for each
18 taxable year upon the entire taxable income of **the** [EVERY] corporation derived from
19 sources within the state a tax computed as follows:

20 If the taxable income is:	Then the tax is:
21 Less than \$10,000	1 percent of the taxable income
22 \$10,000 but less than \$20,000	\$100 plus 2 percent of the taxable 23 income over \$10,000
24 \$20,000 but less than \$30,000	\$300 plus 3 percent of the taxable 25 income over \$20,000
26 \$30,000 but less than \$40,000	\$600 plus 4 percent of the taxable 27 income over \$30,000
28 \$40,000 but less than \$50,000	\$1,000 plus 5 percent of the taxable 29 income over \$40,000
30 \$50,000 but less than \$60,000	\$1,500 plus 6 percent of the taxable 31 income over \$50,000

1	\$60,000 but less than \$70,000	\$2,100 plus 7 percent of the taxable
2		income over \$60,000
3	\$70,000 but less than \$80,000	\$2,800 plus 8 percent of the taxable
4		income over \$70,000
5	\$80,000 but less than \$90,000	\$3,600 plus 9 percent of the taxable
6		income over \$80,000
7	\$90,000 or more	\$4,500 plus 9.4 percent of the taxable
8		income over \$90,000.

9 * **Sec. 8.** AS 43.20.011 is amended by adding a new subsection to read:

10 (g) There is imposed for each taxable year upon the entire taxable income of
 11 every corporation engaged in the production or transportation of crude oil or natural
 12 gas within the state a tax of 6.2 percent of taxable income. The taxable income of a
 13 corporation engaged in the production or transportation of crude oil or natural gas
 14 within the state shall be determined in accordance with AS 43.21.

15 * **Sec. 9.** AS 43.20.014(d) is amended to read:

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

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

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

21 (3) when combined with contributions that are the basis for credits
 22 taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, **AS 43.21.310**,
 23 AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in
 24 the total amount of credits exceeding \$5,000,000; if the taxpayer is a member of an
 25 affiliated group, then the total amount of credits may not exceed \$5,000,000 for the
 26 affiliated group; in this paragraph, "affiliated group" has the meaning given in
 27 AS 43.20.145.

28 * **Sec. 10.** AS 43.20.014(d), as amended by sec. 18, ch. 92, SLA 2010, is amended to read:

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

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

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

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

7 * **Sec. 11.** AS 43.20.145(f) is amended to read:

8 (f) This section does not apply to taxpayers subject to AS 43.21
9 [AS 43.20.144 ENGAGED IN

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

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

14 * **Sec. 12.** AS 43.21 is amended by adding new sections to read:

15 **Article 1. Determination of Taxable Income.**

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

22 **Sec. 43.21.210. Internal Revenue Code adopted by reference.** (a) 26 U.S.C.
23 1 - 1399 and 6001 - 7872 (Internal Revenue Code), as amended, are adopted by
24 reference as a part of this chapter. These portions of the Internal Revenue Code have
25 full force and effect under this chapter unless excepted to or modified by other
26 provisions of this chapter.

27 (b) When portions of the Internal Revenue Code incorporated by reference as
28 provided in (a) of this section refer to regulations adopted by the United States
29 Commissioner of Internal Revenue, or hereafter adopted, those portions shall be
30 regarded as regulations adopted by the department under and in accord with the
31 provisions of this chapter, unless and until the department adopts specific regulations

1 in place of those portions conformable with this chapter.

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

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

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

16 (1) royalties paid in kind or in value;

17 (2) taxes imposed under AS 43.55 that are actually paid or incurred by
18 the corporation on the production from a lease or property in the state;

19 (3) taxes imposed under AS 29.45.080 - 29.45.090 and AS 43.56 that
20 are actually paid or incurred by the corporation on property used directly in the
21 production of oil or gas from a lease or property in the state, including property used
22 in production, gathering, treatment, or preparation of the oil or gas for pipeline
23 transportation, but only if those property tax payments were due and payable only
24 after the date of commercial production from the lease or property with which the
25 property was associated;

26 (4) the direct costs incurred by or for the corporation in operating the
27 lease or property, including the direct costs of producing, gathering, treating, or
28 preparing the oil or gas for pipeline transportation, but net of any payments received
29 for those activities and not including any indirect cost or overhead expense;

30 (5) depreciation, under 26 U.S.C. 167 (Internal Revenue Code) or
31 another reasonable method as the department may by regulation establish, on property

1 used directly in the production, gathering, treatment, or preparation of the oil or gas
2 for pipeline transportation, including amortization of capitalized interest for
3 investments in that property at a rate not to exceed the average cost to the taxpayer of
4 borrowed capital during the year in which the interest is capitalized; for purposes of
5 this paragraph, property capitalized under AS 43.20 shall maintain its adjusted basis,
6 less any depreciation taken under AS 43.20 and any amount attributable to that
7 property received as a credit under this title;

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

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

26 (8) expenses incurred by the corporation after December 31, 2013, of
27 unsuccessful exploration of oil or gas in the state, including the acquisition costs of
28 abandoned properties, dry hole costs, and the costs of geologic and geophysical
29 exploration related to those abandoned properties;

30 (9) general overhead or administrative expense incurred by the
31 corporation attributable to deriving income from the production of oil or gas from a

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

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

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

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

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

25 **Sec. 43.21.230. Determination of income from oil and gas pipeline**
 26 **transportation.** (a) Except as provided in (c) of this section, taxable income
 27 attributable to the transportation of oil in a pipeline engaged in interstate commerce in
 28 this state is the amount reported or that would be required to be reported to the Federal
 29 Energy Regulatory Commission or its successors as net operating income, except that
 30 the taxable income shall also include taxes based on or measured by net income, less
 31 those portions of interest and general overhead or administrative expense attributable

1 to the pipeline transportation of oil in the state. The department shall establish
2 regulations governing the determination of interest and general overhead or
3 administrative expense directly attributable to pipeline transportation of oil in the
4 state.

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

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

26 **Sec. 43.21.240. Determination of income from activities other than oil and**
27 **gas production or pipeline transportation.** (a) Taxable income of a corporation
28 subject to this chapter from activities in this state other than the production of oil or
29 gas from a lease or property in the state or the pipeline transportation of oil or gas in
30 the state shall be determined in accordance with the method established in art. IV of
31 AS 43.19.010 and in AS 43.20.143, as modified by (b) - (d) of this section.

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

5 (1) required to file under the Internal Revenue Code, "entire income"
6 means the taxpayer's taxable income as the term is used in AS 43.20.011 - 43.20.142;

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

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

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

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

21 **Article 2. Calculation of Tax; Returns.**

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

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

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

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

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

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

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

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

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

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

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

28 (7) for the Alaska higher education investment fund under
 29 AS 37.14.750.

30 (b) The amount of the credit is

31 (1) 50 percent of contributions of not more than \$100,000;

1 (2) 100 percent of the next \$200,000 of contributions; and

2 (3) 50 percent of the amount of contributions that exceed \$300,000.

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

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

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

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

9 (3) when combined with contributions that are the basis for credits
10 taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014,
11 AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in
12 the total amount of credits exceeding \$5,000,000; if the taxpayer is a member of an
13 affiliated group, then the total amount of credits may not exceed \$5,000,000 for the
14 affiliated group; in this paragraph, "affiliated group" has the meaning given in
15 AS 43.20.145.

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

20 (f) In this section,

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

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

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

31 **Sec. 43.21.330. Returns and payment of taxes.** (a) A corporation subject to

1 tax under this chapter and required to make a return under the Internal Revenue Code
2 shall, within 30 days after the federal return is required to be filed, submit a return
3 setting out

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

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

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

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

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

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

1 (f) An unpaid amount of an installment payment required under (d) of this
 2 section that is not paid when due shall be treated as an underpayment under 26 U.S.C.
 3 6655 (Internal Revenue Code) and shall accrue interest at a rate appropriate for the
 4 state prescribed in regulation.

5 **Article 3. Administrative Matters.**

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

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

16 (2) transactions between parent and subsidiary companies.

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

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

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

29 (1) the taxpayer is a publicly traded company;

30 (2) the information has been filed in a quarterly, annual, or other
 31 periodic report to the United States Securities Exchange Commission; and

1 (3) the information has been made public by the United States
2 Securities Exchange Commission.

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

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

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

11 * **Sec. 13.** AS 43.21.310(a), added by sec. 12 of this Act, is amended to read:

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

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

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

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

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

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

1 (6) FOR EDUCATION, RESEARCH, REHABILITATION, AND
 2 FACILITIES BY AN INSTITUTION THAT IS LOCATED IN THE STATE AND
 3 THAT QUALIFIES AS A COASTAL ECOSYSTEM LEARNING CENTER
 4 UNDER THE COASTAL AMERICA PARTNERSHIP ESTABLISHED BY THE
 5 FEDERAL GOVERNMENT; AND

6 (7)] for the Alaska higher education investment fund under
 7 AS 37.14.750. .

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

9 (b) The amount of the credit is

10 (1) 50 percent of contributions of not more than \$100,000; **and**

11 (2) 100 percent of the next **\$100,000** [\$200,000] of contributions [;

12 AND

13 (3) 50 PERCENT OF THE AMOUNT OF CONTRIBUTIONS THAT
 14 EXCEED \$300,000].

15 * **Sec. 15.** AS 43.21.310(d), added by sec. 12 of this Act, is amended to read:

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

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

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

20 (3) when combined with credits taken during the taxpayer's tax year
 21 under AS 21.96.070, 21.96.075, AS 43.20.014, AS 43.55.019, AS 43.56.018,
 22 AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in the total amount of credits
 23 exceeding **\$150,000** [\$5,000,000; IF THE TAXPAYER IS A MEMBER OF AN
 24 AFFILIATED GROUP, THEN THE TOTAL AMOUNT OF CREDITS MAY NOT
 25 EXCEED \$5,000,000 FOR THE AFFILIATED GROUP; IN THIS PARAGRAPH,
 26 "AFFILIATED GROUP" HAS THE MEANING GIVEN IN 43.20.145].

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

28 (g) For each month of the calendar year for which the producer's average
 29 monthly production tax value under AS 43.55.160(a)(2) **of a** [PER] BTU equivalent
 30 barrel of the taxable oil and gas is more than \$30, the amount of tax for purposes of
 31 (e)(2) of this section is determined by multiplying the monthly production tax value of

1 the taxable oil and gas produced during the month by **a tax rate equal to** [THE TAX
2 RATE CALCULATED AS FOLLOWS:

3 (1) IF THE PRODUCER'S AVERAGE MONTHLY PRODUCTION
4 TAX VALUE PER BTU EQUIVALENT BARREL OF THE TAXABLE OIL AND
5 GAS FOR THE MONTH IS NOT MORE THAN \$92.50, THE TAX RATE IS] 0.4
6 percent multiplied by the number that represents the difference between that average
7 monthly production tax value **of a** [PER] BTU equivalent barrel and \$30 [; OR

8 (2) IF THE PRODUCER'S AVERAGE MONTHLY PRODUCTION
9 TAX VALUE PER BTU EQUIVALENT BARREL OF THE TAXABLE OIL AND
10 GAS FOR THE MONTH IS MORE THAN \$92.50, THE TAX RATE IS THE SUM
11 OF 25 PERCENT AND THE PRODUCT OF 0.1 PERCENT MULTIPLIED BY THE
12 NUMBER THAT REPRESENTS THE DIFFERENCE BETWEEN THE AVERAGE
13 MONTHLY PRODUCTION TAX VALUE PER BTU EQUIVALENT BARREL
14 AND \$92.50], except that the **tax rate** [SUM] determined under this **subsection**
15 [PARAGRAPH] may not exceed **25** [50] percent.

16 * **Sec. 17.** AS 43.55.019(d) is amended to read:

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

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

20 (2) when combined with contributions that are the basis for credits
21 taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014,
22 **AS 43.21.310**, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in
23 the total amount of credits exceeding \$5,000,000; if the taxpayer is a member of an
24 affiliated group, then the total amount of credits may not exceed \$5,000,000 for the
25 affiliated group; in this paragraph, "affiliated group" has the meaning given in
26 AS 43.20.145.

27 * **Sec. 18.** AS 43.55.019(d), as amended by sec. 25, ch. 92, SLA 2010, is amended to read:

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

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

31 (2) when combined with contributions that are the basis for credits

1 taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014,
 2 **AS 43.21.310**, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, result in
 3 the total amount of credits exceeding \$150,000.

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

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

7 (1) notwithstanding that a qualified capital expenditure may be a
 8 deductible lease expenditure for purposes of calculating the production tax value of oil
 9 and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under
 10 AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or
 11 explorer that incurs a qualified capital expenditure may also elect to apply a tax credit
 12 against a tax levied by AS 43.55.011(e) in the amount of 20 percent of that
 13 expenditure; however, not more than half of the tax credit may be applied for a single
 14 calendar year **unless the commissioner determines that economic conditions are**
 15 **acceptable for the entire tax credit to be applied in a single calendar year;**

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

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

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

23 * **Sec. 20.** AS 43.55.023(d) is amended to read:

24 (d) Except as limited by (i) of this section, a person that is entitled to take a tax
 25 credit under this section that wishes to transfer the unused credit to another person or
 26 obtain a cash payment under AS 43.55.028 may apply to the department for
 27 transferable tax credit certificates. An application under this subsection must be in a
 28 form prescribed by the department and must include supporting information and
 29 documentation that the department reasonably requires. The department shall grant or
 30 deny an application, or grant an application as to a lesser amount than that claimed and
 31 deny it as to the excess, not later than 120 days after the latest of (1) March 31 of the

1 year following the calendar year in which the qualified capital expenditure or carried-
 2 forward annual loss for which the credit is claimed was incurred; (2) the date the
 3 statement required under AS 43.55.030(a) or (e) was filed for the calendar year in
 4 which the qualified capital expenditure or carried-forward annual loss for which the
 5 credit is claimed was incurred; or (3) the date the application was received by the
 6 department. If, based on the information then available to it, the department is
 7 reasonably satisfied that the applicant is entitled to a credit, the department shall issue
 8 the applicant two transferable tax credit certificates, each for half of the amount of the
 9 credit. The credit shown on one of the two certificates is available for immediate use.
 10 The credit shown on the second of the two certificates may not be applied against a tax
 11 for a calendar year earlier than the calendar year following the calendar year in which
 12 the certificate is issued **unless the commissioner determines that economic**
 13 **conditions are acceptable for the entire tax credit to be applied in a single**
 14 **calendar year**, and the certificate must contain a conspicuous statement to that effect.
 15 A certificate issued under this subsection does not expire.

16 * **Sec. 21.** AS 43.55.024(b) is amended to read:

17 (b) A producer may not take a tax credit under (a) of this section for any
 18 calendar year after the later of
 19 (1) **2023** [2016]; or
 20 (2) the ninth calendar year after the calendar year during which the
 21 producer first has commercial oil or gas production before May 1, **2023** [2016], from
 22 at least one lease or property in the state outside the Cook Inlet sedimentary basin, no
 23 part of which is north of 68 degrees North latitude, if the producer did not have
 24 commercial oil or gas production from a lease or property in the state outside the Cook
 25 Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, before
 26 April 1, 2006.

27 * **Sec. 22.** AS 43.55.024(d) is amended to read:

28 (d) A producer may not take a tax credit under (c) of this section for any
 29 calendar year after the later of
 30 (1) **2023** [2016]; or
 31 (2) if the producer did not have commercial oil or gas production from

1 a lease or property in the state before April 1, 2006, the ninth calendar year after the
2 calendar year during which the producer first has commercial oil or gas production
3 before May 1, **2023** [2016], from at least one lease or property in the state.

4 * **Sec. 23.** AS 43.56.018(d) 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 43.55.019, 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 43.20.145.

15 * **Sec. 24.** AS 43.56.018(d), as amended by sec. 32, ch. 92, SLA 2010, is amended to read:

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

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

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

23 * **Sec. 25.** AS 43.65.018(d) 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 43.56.018, AS 43.75.018, or AS 43.77.045, result in
30 the total amount of the credits exceeding \$5,000,000; if the taxpayer is a member of an
31 affiliated group, then the total amount of credits may not exceed \$5,000,000 for the

1 affiliated group; in this paragraph, "affiliated group" has the meaning given in
2 AS 43.20.145.

3 * **Sec. 26.** AS 43.65.018(d), as amended by sec. 39, ch. 92, SLA 2010, is amended to read:

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

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

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

11 * **Sec. 27.** AS 43.75.018(d) 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 \$5,000,000; if the taxpayer is a member of an
19 affiliated group, then the total amount of credits may not exceed \$5,000,000 for the
20 affiliated group; in this paragraph, "affiliated group" has the meaning given in
21 AS 43.20.145.

22 * **Sec. 28.** AS 43.75.018(d), as amended by sec. 46, ch. 92, SLA 2010, is amended to read:

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

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

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

30 * **Sec. 29.** AS 43.77.045(d) is amended to read:

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

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

3 (2) when combined with contributions that are the basis for credits
4 taken during the taxpayer's tax year under AS 21.96.070, 21.96.075, AS 43.20.014,
5 AS 43.21.310, AS 43.55.019, AS 43.56.018, AS 43.65.018, or AS 43.75.018, result in
6 the total amount of the credits exceeding \$5,000,000; if the taxpayer is a member of an
7 affiliated group, then the total amount of credits may not exceed \$5,000,000 for the
8 affiliated group; in this paragraph, "affiliated group" has the meaning given in
9 AS 43.20.145.

10 * **Sec. 30.** AS 43.77.045(d), as amended by sec. 53, ch. 92, SLA 2010, is amended to read:

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

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

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

18 * **Sec. 31.** AS 43.82.210(a) is amended to read:

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

25 (1) oil and gas production taxes and oil surcharges under AS 43.55;

26 (2) oil and gas exploration, production, and pipeline transportation
27 property taxes under AS 43.56;

28 (3) oil and gas corporate income tax under AS 43.21; [REPEALED]

29 (4) Alaska net income tax under AS 43.20;

30 (5) municipal sales and use tax under AS 29.45.650 - 29.45.710;

31 (6) municipal property tax under AS 29.45.010 - 29.45.250 or

1 29.45.550 - 29.45.600;

2 (7) municipal special assessments under AS 29.46;

3 (8) a comparable tax or levy imposed by the state or a municipality
4 after June 18, 1998;

5 (9) other state or municipal taxes or categories of taxes identified by
6 the commissioner.

7 * **Sec. 32.** AS 43.20.144 is repealed.

8 * **Sec. 33.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 **APPLICABILITY.** AS 43.21, added by sec. 12 of this Act, applies to taxable income
11 earned or received after December 31, 2013.

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

14 **REGULATIONS.** (a) The Department of Revenue may adopt regulations necessary to
15 implement AS 43.21, added by sec. 12 of this Act. The regulations take effect under AS 44.62
16 (Administrative Procedure Act), but not before the effective date of the law implemented by
17 regulation.

18 (b) The Department of Revenue shall provide by regulation for a transition for a
19 corporation subject to tax under AS 43.20 before December 31, 2013, to avoid double
20 taxation of the same income or double deduction of the same expense of the corporation as a
21 result of becoming subject to tax under AS 43.21, added by sec. 12 of this Act.

22 (c) The Department of Revenue may adopt regulations necessary to provide a five-
23 year transition period for the adoption of applicable depreciation schedules.

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

26 **LEGISLATIVE APPROVAL; NORTH SLOPE OIL PROCESSING FACILITY.** (a)
27 The Alaska Industrial Development and Export Authority may issue bonds to finance the
28 construction and improvement of an oil processing facility on the Alaska North Slope and
29 flow lines and other surface infrastructure for the facility. The processing facility, flow lines,
30 and other surface infrastructure for the facility shall be owned by the authority and financed
31 under AS 44.88.172 - 44.88.177. The principal amount of the bonds provided by the authority

1 for the facility, flow lines, and other surface infrastructure may not exceed \$200,000,000 and
2 may include the costs of funding reserves and other costs of issuing the bonds that the
3 authority considers reasonable and appropriate.

4 (b) This section constitutes the legislative approval required by AS 44.88.095(g).

5 (c) The bonds authorized by this section may not be considered in calculating the
6 authority's bonding limitation under AS 44.88.095(a).

7 * **Sec. 36.** Section 35 of this Act is repealed June 30, 2017. Repeal of sec. 35 of this Act
8 does not affect bonds the authority issues under sec. 35 of this Act before June 30, 2017.

9 * **Sec. 37.** Sections 2, 4, 10, 13 - 15, 18, 24, 26, 28, and 30 of this Act take effect on the
10 effective date specified in sec. 57, ch. 92, SLA 2010, as amended by sec. 15, ch. 7, FSSLA
11 2011, and as that section may be further amended.

12 * **Sec. 38.** Section 34 of this Act takes effect immediately under AS 01.10.070(c).

13 * **Sec. 39.** Except as provided in secs. 37 and 38 of this Act, this Act takes effect January 1,
14 2014.