# HOUSE BILL NO. 72

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

**BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**Introduced: 1/16/13**
**Referred: Resources, Finance**

## A BILL

## FOR AN ACT ENTITLED

**"An Act relating to appropriations from taxes paid under the Alaska Net Income Tax Act; relating to the oil and gas production tax rate; relating to gas used in the state; relating to monthly installment payments of the oil and gas production tax; relating to oil and gas production tax credits for certain losses and expenditures; relating to oil and gas production tax credit certificates; relating to nontransferable tax credits based on production; relating to the oil and gas tax credit fund; relating to annual statements by producers and explorers; relating to the determination of annual oil and gas production tax values including adjustments based on a percentage of gross value at the point of production from certain leases or properties; making conforming amendments; and providing for an effective date."**

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

*** Section 1.** AS 29.60.850(b) is amended to read:

(b) Each fiscal year, the legislature may appropriate to the community revenue sharing fund [AN AMOUNT EQUAL TO 20 PERCENT OF THE] money received by the state during the previous calendar year under **AS 43.20.030(c)** [AS 43.55.011(g)]. The amount may not exceed

(1) $60,000,000; or

(2) the amount that, when added to the fund balance on June 30 of the previous fiscal year, equals $180,000,000.

*** Sec. 2.** 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), (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)** [AS 43.55.160(a)(1)] 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. 3.** AS 43.55.011(o) is amended to read:

(o) Notwithstanding other provisions of this section, for a calendar year before 2022, the tax levied under (e) of this section for each 1,000 cubic feet of gas for gas produced from a lease or property outside the Cook Inlet sedimentary basin and used in the state**, other than gas subject to (p) of this section,** may not exceed the amount of tax for each 1,000 cubic feet of gas that is determined under (j)(2) of this section.

*** Sec. 4.** AS 43.55.020(a) is amended to read**:**

(a) For a calendar year, a producer subject to tax under **AS 43.55.011** [AS 43.55.011(e) - (i) OR (p)] 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 **not subject to AS 43.55.011(o) or (p)** produced from leases or properties in the state outside the Cook Inlet sedimentary basin [BUT NOT SUBJECT TO AS 43.55.011(o) OR (p)], 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 **oil and gas** [LEASES OR PROPERTIES] under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;

(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 **the** [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 **the oil and gas** [THOSE LEASES OR PROPERTIES] under AS 43.55.160 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 **<u>or</u>** [AND] gas [PRODUCED FROM EACH LEASE OR PROPERTY] subject to AS 43.55.011(j), (k), **<u>or</u>** (o) [, OR (p)], **<u>for each lease or property,</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 for **<u>the</u>** oil or gas, respectively, produced from the lease or property from the gross value at the point of production of the oil or gas, respectively, produced from the lease or property during the month for which the installment payment is calculated;

**<u>(D) for oil and gas subject to AS 43.55.011(p), the lesser of</u>**

**<u>(i) 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 oil and gas under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated, but not less than zero; or</u>**

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

(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 <u>**AS 43.55.011**</u> [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. 5.** AS 43.55.020(a), as amended by sec. 4 of this Act, is amended to read**:**

(a) For a calendar year, a producer subject to tax under AS 43.55.011 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 not subject to AS 43.55.011(o) or (p) produced from leases or properties in the state outside the Cook Inlet sedimentary basin, other than leases or properties subject to AS 43.55.011(f), the greater of

(i) zero; or

(ii) [THE SUM OF] 25 percent ***<u>of</u>*** [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 oil and gas under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;

(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 the leases or properties during the month for which the installment payment is calculated; or

(iii) [THE SUM OF] 25 percent ***<u>of</u>*** [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 oil and gas under AS 43.55.160 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**, except that for the purposes of this calculation the gross value at the point of production of oil and gas subject to AS 43.55.160(f) is reduced by 20 percent**;

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

(i) zero; or

(ii) [THE SUM OF] 25 percent **of** [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 for the oil or gas, respectively, produced from the lease or property from the gross value at the point of production of the oil or gas, respectively, produced from the lease or property during the month for which the installment payment is calculated;

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

(i) [THE SUM OF] 25 percent **of** [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 oil and gas under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated, but not less than zero; or

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

(2) an amount calculated under (1)(C) of this subsection for oil or gas

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

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

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

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

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

*** Sec. 6.** AS 43.55.020(d) is amended to read:

(d) In making settlement with the royalty owner for oil and gas that is taxable under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable royalty oil and gas, or may deduct taxable royalty oil or gas equivalent in value at the time the tax becomes due to the amount of the tax paid. If the total deductions of installment payments of estimated tax for a calendar year exceed the actual tax for that calendar year, the producer shall, before April 1 of the following year, refund the excess to the royalty owner. Unless otherwise agreed between the producer and the royalty owner, the amount of the tax paid under **AS 43.55.011(e)** [AS 43.55.011(e) - (g)] on taxable royalty oil and gas for a calendar year, other than oil and gas the ownership or right to which constitutes a landowner's royalty interest, is considered to be the gross value at the point of production of the taxable royalty oil and gas produced during the calendar year multiplied by a figure that is a quotient, in which

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

(2) the denominator is the total gross value at the point of production of the oil and gas taxable under **AS 43.55.011(e)** [AS 43.55.011(e) - (g)] produced by the producer from all leases and properties in the state during the calendar year.

*** Sec. 7.** AS 43.55.023(a) is amended to read:

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

(1) notwithstanding that a qualified capital expenditure may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a qualified capital expenditure may also elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of 20 percent of that expenditure; [HOWEVER, NOT MORE THAN HALF OF THE TAX CREDIT MAY BE APPLIED FOR A SINGLE CALENDAR YEAR;]

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

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

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

*** Sec. 8.** AS 43.55.023(a), as amended by sec. 7 of the Act, is amended to read:

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

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

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

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

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

**(3) a credit for a qualified capital expenditure incurred to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude may be taken only if the expenditure is incurred before January 1, 2014**.

*** Sec. 9.** AS 43.55.023(b) is amended to read:

(b) A producer or explorer may elect to take a tax credit in the amount of 25 percent of a carried-forward annual loss**; except that a tax credit based on lease expenditures incurred after December 31, 2013, to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude is subject to the provisions of (p) - (u) of this section**. A credit under this subsection may be applied against a tax levied by AS 43.55.011(e). For purposes of this subsection, a carried-forward annual loss is the amount of a producer's or explorer's adjusted lease expenditures under AS 43.55.165 and 43.55.170 for a previous calendar year that was not deductible in calculating production tax values for that calendar year under AS 43.55.160.

*** Sec. 10.** AS 43.55.023(c) is amended to read:

(c) A credit or portion of a credit under this section may not be used to reduce a person's tax liability under AS 43.55.011(e) for any calendar year below zero, and any unused credit or portion of a credit not used under this subsection may be applied in a later calendar year**, except as otherwise provided under (p) - (u) of this section**.

*** Sec. 11.** AS 43.55.023(d) is amended to read:

(d) Except as limited by (i) of this section, a person that is entitled to take a tax credit under this section that wishes to transfer the unused credit to another person or obtain a cash payment under AS 43.55.028 may apply to the department for **a** transferable tax credit **certificate** [CERTIFICATES]. An application under this subsection must be in a form prescribed by the department and must include supporting information and documentation that the department reasonably requires. The department shall grant or deny an application, or grant an application as to a lesser amount than that claimed and deny it as to the excess, not later than 120 days after the latest of (1) March 31 of the year following the calendar year in which the qualified capital expenditure or carried-forward annual loss for which the credit is claimed was incurred; (2) the date the statement required under AS 43.55.030(a) or (e) was filed for the calendar year in which the qualified capital expenditure or carried-forward annual loss for which the credit is claimed was incurred; or (3) the date the application was received by the department. If, based on the information then available to it, the department is reasonably satisfied that the applicant is entitled to a credit, the department shall issue the applicant **a** [TWO] transferable tax credit **certificate for** [CERTIFICATES, EACH FOR HALF OF] the amount of the credit. [THE CREDIT SHOWN ON ONE OF THE TWO CERTIFICATES IS AVAILABLE FOR IMMEDIATE USE. THE CREDIT SHOWN ON THE SECOND OF THE TWO CERTIFICATES MAY NOT BE APPLIED AGAINST A TAX FOR A CALENDAR YEAR EARLIER THAN THE CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE CERTIFICATE IS ISSUED, AND THE CERTIFICATE MUST CONTAIN A CONSPICUOUS STATEMENT TO THAT EFFECT.] A certificate issued under this subsection does not expire.

*** Sec. 12.** AS 43.55.023(d), as amended by sec. 11 of this Act, is amended to read:

(d) Except **for a tax credit based on lease expenditures incurred after December 31, 2013, to explore for, develop, or produce oil or gas deposits located**

**north of 68 degrees North latitude** [AS LIMITED BY (i) OF THIS SECTION], a person that is entitled to take a tax credit under this section that wishes to transfer the unused credit to another person or obtain a cash payment under AS 43.55.028 may apply to the department for a transferable tax credit certificate. An application under this subsection must be in a form prescribed by the department and must include supporting information and documentation that the department reasonably requires. The department shall grant or deny an application, or grant an application as to a lesser amount than that claimed and deny it as to the excess, not later than 120 days after the latest of (1) March 31 of the year following the calendar year in which the qualified capital expenditure or carried-forward annual loss for which the credit is claimed was incurred; (2) the date the statement required under AS 43.55.030(a) or (e) was filed for the calendar year in which the qualified capital expenditure or carried-forward annual loss for which the credit is claimed was incurred; or (3) the date the application was received by the department. If, based on the information then available to it, the department is reasonably satisfied that the applicant is entitled to a credit, the department shall issue the applicant a transferable tax credit certificate for the amount of the credit. A certificate issued under this subsection does not expire.

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

(g) The issuance of a transferable tax credit certificate under (d) **of this section** or **former** (m) of this section or the purchase of a certificate under AS 43.55.028 does not limit the department's ability to later audit a tax credit claim to which the certificate relates or to adjust the claim if the department determines, as a result of the audit, that the applicant was not entitled to the amount of the credit for which the certificate was issued. The tax liability of the applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is increased by the amount of the credit that exceeds that to which the applicant was entitled, or the applicant's available valid outstanding credits applicable against the tax levied by AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is increased under this subsection, the increase bears interest under AS 43.05.225 from the date the transferable tax credit certificate was issued. For purposes of this subsection, an applicant that is an explorer is considered a producer subject to the tax levied by AS 43.55.011(e).

*** Sec. 14.** AS 43.55.023(n) is amended to read:

(n) For the purposes of (*l*) [AND (m)] of this section, a well lease expenditure incurred in the state south of 68 degrees North latitude is a lease expenditure that is

(1) directly related to an exploration well, a stratigraphic test well, a producing well, or an injection well other than a disposal well, located in the state south of 68 degrees North latitude, if the expenditure is a qualified capital expenditure and an intangible drilling and development cost authorized under 26 U.S.C. (Internal Revenue Code), as amended, and 26 C.F.R. 1.612-4, regardless of the elections made under 26 U.S.C. 263(c); in this paragraph, an expenditure directly related to a well includes an expenditure for well sidetracking, well deepening, well completion or recompletion, or well workover, regardless of whether the well is or has been a producing well; or

(2) an expense for seismic work conducted within the boundaries of a production or exploration unit.

*** Sec. 15.** AS 43.55.023 is amended by adding new subsections to read:

(p) A tax credit under (b) of this section based on lease expenditures incurred after December 31, 2013, to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude may not be applied against a tax liability for a calendar year that is

(1) two or more calendar years later than the calendar year during which the lease expenditures were incurred, unless the producer has complied with the filing requirements of AS 43.55.030(g);

(2) more than 10 calendar years later than the calendar year during which the lease expenditures were incurred.

(q) A tax credit under (b) of this section based on lease expenditures incurred during a given calendar year after December 31, 2014, to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude may not be applied against a person's tax liability unless the person has applied against the person's tax liability the entire amount of all available tax credits under (b) of this section based on lease expenditures incurred during earlier calendar years after December 31, 2013, to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude.

(r) Except as otherwise provided under (s) of this section, an amount of a tax credit subject to (p)(1) of this section that is carried forward in compliance with AS 43.55.030(g) increases at an annual rate of 15 percent, compounded annually, as provided in this subsection. An amount of a tax credit begins to increase under this subsection on January 1 of the second calendar year immediately following the calendar year during which the lease expenditures on which the credit is based were incurred, unless that second calendar year is the calendar year against the person's tax liability for which the amount of the credit is applied. An amount of a tax credit stops increasing under this subsection on December 31 of the calendar year immediately preceding the calendar year against the person's tax liability for which the amount of the credit is applied. An increase in the amount of a tax credit under this subsection has no value except as applied against the person's tax liability and expires if not used before the time provided under (p)(2) of this section.

(s) An amount of a tax credit subject to (p)(1) of this section is not increased under (r) of this section for any period during or after a calendar year against a person's tax liability for which the amount of the credit could have been applied. For purposes of this subsection, the amount of a tax credit subject to (p)(1) of this section that could have been applied against a person's tax liability for a calendar year is determined by performing the following calculations, as applicable:

(1) subtract the amount, if any, of the person's tax credits under AS 43.55.019 and 43.55.024(c) that has been applied against the tax levied on the person for the calendar year by AS 43.55.011(e) from the amount, if any, of that tax; if the remainder is not more than zero, the amount of a tax credit subject to (p)(1) of this section that could have been applied against a person's tax liability for the calendar year is zero;

(2) if the remainder obtained under (1) of this subsection is positive, subtract that remainder from the total amount of the person's tax credits under (b) of this section based on lease expenditures incurred after December 31, 2013, to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude that was available, without regard to the limitation under (q) of this section, to be

applied against the tax levied on the person for the calendar year by AS 43.55.011(e), including any increase in the amount of the tax credits under (r) of this section through December 31 of the previous calendar year; if the remainder is negative, it is considered to be equal to zero for purposes of this paragraph;

(3) subtract the remainder obtained under (2) of this subsection from the amount, if any, of the person's tax credits under (b) of this section based on lease expenditures incurred after December 31, 2013, to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude that was available, without regard to the limitation under (q) of this section, to be applied against the tax levied on the person for the calendar year by AS 43.55.011(e), including any increase in the amount of the tax credits under (r) of this section through December 31 of the previous calendar year, but that was not applied against that tax; the remainder is the amount of a tax credit subject to (p)(1) of this section that could have been applied against the person's tax liability for the calendar year.

(t) A tax credit under (b) of this section based on lease expenditures incurred after December 31, 2013, to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude is not transferable except as provided in this subsection. A person that is entitled to take a tax credit under (b) of this section based on lease expenditures incurred after December 31, 2013, to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude may transfer the tax credit to another person that acquires from the transferor an operating right, operating interest, or working interest in a lease or property in the state that includes land north of 68 degrees North latitude in which the transferor owned an operating right, operating interest, or working interest at the time the lease expenditures were incurred. A transferee may transfer the tax credit to another person that acquires from the transferee an operating right, operating interest, or working interest in that lease or property. A transferee's use of a tax credit is subject to the provisions of (u) of this section. A transfer is conditioned on the filing with the department by the transferor and transferee of notices or a joint notice in a form and manner prescribed by the department and providing information and certifications required by the department by regulation. A transferee's application of a tax credit again the transferee's production tax liability is subject to audit by the department to the same extent as a tax credit that has not been transferred.

(u) The provisions of this subsection apply to tax credits under (b) of this section based on lease expenditures incurred after December 31, 2013, to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude when the tax credit is used by a producer to which the tax credit has been transferred under (t) of this section, by a producer or successor of a producer that has acquired the person that incurred the lease expenditures on which the tax credit is based, or by a producer or successor of a producer created by the merger of the person that incurred the lease expenditures on which the tax credit is based with another person. The total amount of a producer's tax credits subject to this subsection that may be applied against the producer's tax liability under AS 43.55.011(e) for a calendar year may not exceed 20 percent of the sum of the following amounts calculated for each lease or property in the state that includes land north of 68 degrees North latitude from which the producer produces oil or gas during the calendar year and in which the person that incurred the lease expenditures on which the tax credit is based had owned an operating right, operating interest, or working interest when the lease expenditures were incurred:

$$GV \times OS$$

where GV = the gross value at the point of production of the oil and gas, taxable under AS 43.55.011(e), produced by the producer during the calendar year from the lease or property; and OS = the percentage operating right, operating interest, or working interest in the lease or property that had been owned by the person that incurred the lease expenditures on which the tax credit is based when the lease expenditures were incurred.

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

(d) A producer may not take a tax credit under (c) of this section for any calendar year after the later of

(1) <u>**2022**</u> [2016]; or

(2) if the producer did not have commercial oil or gas production from a lease or property in the state before April 1, 2006, the ninth calendar year after the

calendar year during which the producer first has commercial oil or gas production before May 1, **<u>2022</u>** [2016], from at least one lease or property in the state.

*** Sec. 17.** AS 43.55.028(e) is amended to read:

(e) The department, on the written application of a person to whom a transferable tax credit certificate has been issued under AS 43.55.023(d) or **<u>former AS 43.55.023(m)</u>** [(m)] or to whom a production tax credit certificate has been issued under AS 43.55.025(f), may use available money in the oil and gas tax credit fund to purchase, in whole or in part, the certificate if the department finds that

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

(2) the applicant does not have an outstanding liability to the state for unpaid delinquent taxes under this title;

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

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

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

*** Sec. 18.** 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 and payments under AS 43.20.046 or 43.20.047 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 **<u>former</u>** AS 43.55.023(m) or a claim for a refund or payment under AS 43.20.046 or 43.20.047.

*** Sec. 19.** AS 43.55.030(e) is amended to read:

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

(1) the **<u>explorer's or</u>** producer's qualified capital expenditures, as defined in AS 43.55.023, other lease expenditures under AS 43.55.165, and adjustments or other payments or credits under AS 43.55.170; and

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

*** Sec. 20.** AS 43.55.030 is amended by adding a new subsection to read:

(g) A person that intends to carry forward a tax credit subject to AS 43.55.023(p)(1) so that the credit will be available to be applied against the person's tax liability for a calendar year that is two or more calendar years later than the calendar year during which the lease expenditures on which the credit is based were incurred, subject to the limitation of AS 43.55.023(p)(2), shall file with the department a statement, under oath, in a form prescribed by the department, on March 31 of the year immediately following the calendar year during which the lease expenditures on which the credit is based were incurred, and on March 31 of each subsequent year until, and including, the last calendar year against the person's tax liability for which an amount of the credit is applied. The statement must include

(1) documentation of the nature and amount of adjusted lease expenditures for which a credit is claimed and intended to be carried forward, unless provided in a previously filed statement under this subsection;

(2) calculation of the amount of the claimed credit, unless provided in a previously filed statement under this subsection, and of any increase in an amount of credit under AS 43.55.023(r), and documentation of compliance with the limitations provided in AS 43.55.023(s);

(3) identification of any amount of the credit that was applied against the person's tax liability for the calendar year preceding the year in which the statement is due and of the amount of the credit that continues to be carried forward;

(4) other information required by the department.

*** Sec. 21.** AS 43.55.160(a) is amended to read:

(a) Except as provided in (b) of this section, for the purposes of

(1) AS 43.55.011(e), the annual production tax value of the taxable oil, gas, or oil and gas subject to this paragraph produced during a calendar year is the gross value at the point of production of the oil, gas, or oil and gas taxable under AS 43.55.011(e), less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil, gas, or oil and gas, as applicable, produced by the producer from leases or properties, as adjusted under AS 43.55.170; this paragraph applies to

(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;

(B) oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude; this subparagraph does not apply to [GAS]

(i) **<u>gas</u>** produced before 2022 and used in the state; or

(ii) oil and gas subject to AS 43.55.011(p);

(C) oil produced before 2022 from **<u>each</u>** [A] lease or property in the Cook Inlet sedimentary basin;

(D) gas produced before 2022 from **<u>each</u>** [A] lease or property in the Cook Inlet sedimentary basin;

(E) gas produced before 2022 from **<u>each</u>** [A] lease or property in the state outside the Cook Inlet sedimentary basin and used in the state**<u>, other than gas subject to AS 43.55.011(p)</u>**;

(F) oil and gas subject to AS 43.55.011(p) produced from leases or properties in the state;

(G) oil and gas produced from **<u>leases or properties in the</u>**

**state** [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;

(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. 22.** AS 43.55.160(a) is repealed and reenacted to read:

(a) Except as provided in (b) and (f) of this section, for the purposes of AS 43.55.011(e), the annual production tax value of taxable oil, gas, or oil and gas produced by a producer during a calendar year, in a given category for which a separate production tax value is required to be calculated under this subsection, is equal to the gross value at the point of production of that oil, gas, or oil and gas, respectively, taxable under AS 43.55.011(e), less the producer's lease expenditures under AS 43.55.165 for the calendar year that are applicable to the oil, gas, or oil and gas, respectively, in that category produced by the producer during the calendar year, as adjusted under AS 43.55.170. A separate annual production tax value must be calculated for

(1) 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;

(2) oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, during a calendar year before or during the last calendar year under AS 43.55.024(b) for which the producer could take a tax credit under AS 43.55.024(a); this paragraph does not apply to

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

(B) oil and gas subject to AS 43.55.011(p);

(3) oil produced before 2022 from each lease or property in the Cook

Inlet sedimentary basin;

(4) gas produced before 2022 from each lease or property in the Cook Inlet sedimentary basin;

(5) gas produced before 2022 from each lease or property in the state outside the Cook Inlet sedimentary basin and used in the state, other than gas subject to AS 43.55.011(p);

(6) oil and gas subject to AS 43.55.011(p) produced from leases or properties in the state;

(7) oil and gas produced from leases or properties in the state no part of which is north of 68 degrees North latitude, other than oil or gas described in (2), (3), (4), (5), or (6) of this subsection.

*** Sec. 23.** 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 <u>**(a)**</u> [(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), (o), or (p), 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 <u>**(a)(3), (4), (5), or (6)**</u> [(a)(1)(C), (D), (E), OR (F)] 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), (o), or (p) 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), (o), or (p). 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. 24.** AS 43.55.160 is amended by adding a new subsection to read:

(f) In the calculation of an annual production tax value under (a)(1) of this section, the gross value at the point of production of oil or gas meeting either or both of the following criteria is reduced by 20 percent: (1) the oil or gas is produced from a lease or property that does not contain land that was within a unit on January 1, 2003; (2) the oil or gas is produced from a participating area established after December 31, 2011, that is within a unit formed under AS 38.05.180(p) before January 1, 2003, if the participating area does not contain a reservoir that had previously been in a participating area established before January 1, 2012. However, the gross value at the point of production is not reduced if it is zero or less before any reduction.

*** Sec. 25.** AS 43.55.023(m) is repealed.

*** Sec. 26.** AS 43.55.011(g), 43.55.023(i), and 43.55.160(c) are repealed.

*** Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) Sections 2, 5, 6, 22 - 24, and 26 of this Act apply to oil and gas produced after December 31, 2013.

(b) Sections 3 and 21 apply to oil and gas produced after December 31, 2012.

(c) Sections 7, 11, 13, 14, and 25 of this Act apply to expenditures incurred after December 31, 2012.

(d) Sections 9, 10, 12, 15, and 20 of this Act apply to expenditures incurred after December 31, 2013.

*** Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY. Sections 3, 7, 11, 13, 14, 17, 21, and 25 of this Act are retroactive to January 1, 2013.

*** Sec. 29.** The uncodified law of the State of Alaska is amending by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Revenue may adopt regulations to implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the respective provision of this Act.

*** Sec. 30.** Sections 1, 2, 5, 6, 9, 10, 12, 15, 20, 22 - 24, and 26 of this Act take effect

January 1, 2014.

*** Sec. 31.** Except as provided in sec. 30 of this Act, this Act takes effect immediately under AS 01.10.070(c).