

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 22, 2016

6:02 p.m.

MEMBERS PRESENT

Representative Benjamin Nageak, Co-Chair
Representative David Talerico, Co-Chair
Representative Bob Herron
Representative Craig Johnson
Representative Kurt Olson
Representative Paul Seaton
Representative Andy Josephson
Representative Geran Tarr
Representative Mike Chenault (alternate)

MEMBERS ABSENT

Representative Mike Hawker, Vice Chair

COMMITTEE CALENDAR

HOUSE BILL NO. 247

"An Act relating to confidential information status and public record status of information in the possession of the Department of Revenue; relating to interest applicable to delinquent tax; relating to disclosure of oil and gas production tax credit information; relating to refunds for the gas storage facility tax credit, the liquefied natural gas storage facility tax credit, and the qualified in-state oil refinery infrastructure expenditures tax credit; relating to the minimum tax for certain oil and gas production; relating to the minimum tax calculation for monthly installment payments of estimated tax; relating to interest on monthly installment payments of estimated tax; relating to limitations for the application of tax credits; relating to oil and gas production tax credits for certain losses and expenditures; relating to limitations for nontransferable oil and gas production tax credits based on oil production and the alternative tax credit for oil and gas exploration; relating to purchase of tax credit certificates from the oil and gas tax credit fund; relating to a minimum for gross value at the point of production; relating to lease expenditures and tax credits for municipal entities; adding a definition for "qualified capital expenditure"; adding a definition for "outstanding liability to the state"; repealing oil and gas exploration incentive credits; repealing the

limitation on the application of credits against tax liability for lease expenditures incurred before January 1, 2011; repealing provisions related to the monthly installment payments for estimated tax for oil and gas produced before January 1, 2014; repealing the oil and gas production tax credit for qualified capital expenditures and certain well expenditures; repealing the calculation for certain lease expenditures applicable before January 1, 2011; making conforming amendments; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 247

SHORT TITLE: TAX;CREDITS;INTEREST;REFUNDS;O & G

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/16	(H)	READ THE FIRST TIME - REFERRALS
01/19/16	(H)	RES, FIN
02/03/16	(H)	RES AT 1:00 PM BARNES 124
02/03/16	(H)	Heard & Held
02/03/16	(H)	MINUTE(RES)
02/05/16	(H)	RES AT 1:00 PM BARNES 124
02/05/16	(H)	-- MEETING CANCELED --
02/10/16	(H)	RES AT 1:00 PM BARNES 124
02/10/16	(H)	Heard & Held
02/10/16	(H)	MINUTE(RES)
02/12/16	(H)	RES AT 1:00 PM BARNES 124
02/12/16	(H)	Heard & Held
02/12/16	(H)	MINUTE(RES)
02/13/16	(H)	RES AT 1:00 PM BARNES 124
02/13/16	(H)	-- MEETING CANCELED --
02/22/16	(H)	RES AT 1:00 PM BARNES 124
02/22/16	(H)	Heard & Held
02/22/16	(H)	MINUTE(RES)
02/24/16	(H)	RES AT 1:00 PM BARNES 124
02/24/16	(H)	Heard & Held
02/24/16	(H)	MINUTE(RES)
02/25/16	(H)	RES AT 8:30 AM BARNES 124
02/25/16	(H)	Heard & Held
02/25/16	(H)	MINUTE(RES)
02/25/16	(H)	RES AT 1:00 PM BARNES 124
02/25/16	(H)	Heard & Held
02/25/16	(H)	MINUTE(RES)
02/26/16	(H)	RES AT 1:00 PM BARNES 124
02/26/16	(H)	Heard & Held

02/26/16	(H)	MINUTE(RES)
02/27/16	(H)	RES AT 10:00 AM BARNES 124
02/27/16	(H)	Heard & Held
02/27/16	(H)	MINUTE(RES)
02/29/16	(H)	RES AT 1:00 PM BARNES 124
02/29/16	(H)	Heard & Held
02/29/16	(H)	MINUTE(RES)
02/29/16	(H)	RES AT 6:00 PM BARNES 124
02/29/16	(H)	Heard & Held
02/29/16	(H)	MINUTE(RES)
03/01/16	(H)	RES AT 1:00 PM BARNES 124
03/01/16	(H)	Heard & Held
03/01/16	(H)	MINUTE(RES)
03/02/16	(H)	RES AT 1:00 PM BARNES 124
03/02/16	(H)	Heard & Held
03/02/16	(H)	MINUTE(RES)
03/02/16	(H)	RES AT 6:00 PM BARNES 124
03/02/16	(H)	Heard & Held
03/02/16	(H)	MINUTE(RES)
03/07/16	(H)	RES AT 1:00 PM BARNES 124
03/07/16	(H)	Heard & Held
03/07/16	(H)	MINUTE(RES)
03/07/16	(H)	RES AT 6:00 PM BARNES 124
03/07/16	(H)	Heard & Held
03/07/16	(H)	MINUTE(RES)
03/08/16	(H)	RES AT 1:00 PM BARNES 124
03/08/16	(H)	Heard & Held
03/08/16	(H)	MINUTE(RES)
03/09/16	(H)	RES AT 1:00 PM BARNES 124
03/09/16	(H)	Heard & Held
03/09/16	(H)	MINUTE(RES)
03/11/16	(H)	RES AT 1:00 PM BARNES 124
03/11/16	(H)	-- MEETING CANCELED --
03/14/16	(H)	RES AT 1:00 PM BARNES 124
03/14/16	(H)	Heard & Held
03/14/16	(H)	MINUTE(RES)
03/14/16	(H)	RES AT 6:00 PM BARNES 124
03/14/16	(H)	Heard & Held
03/14/16	(H)	MINUTE(RES)
03/16/16	(H)	RES AT 1:00 PM BARNES 124
03/16/16	(H)	Scheduled but Not Heard
03/18/16	(H)	RES AT 1:00 PM BARNES 124
03/18/16	(H)	Scheduled but Not Heard
03/19/16	(H)	RES AT 1:00 PM BARNES 124
03/19/16	(H)	Heard & Held
03/19/16	(H)	MINUTE(RES)
03/21/16	(H)	RES AT 1:00 PM BARNES 124

03/21/16	(H)	Heard & Held
03/21/16	(H)	MINUTE(RES)
03/21/16	(H)	RES AT 6:00 PM BARNES 124
03/21/16	(H)	-- MEETING CANCELED --
03/22/16	(H)	RES AT 1:00 PM BARNES 124
03/22/16	(H)	RES AT 6:00 PM BARNES 124

WITNESS REGISTER

SUSIE SHUTTS, Attorney
 Legislative Legal Counsel
 Legislative Legal and Research Services
 Legislative Affairs Agency
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Answered questions related to proposed amendments to the proposed committee substitute for HB 247, Version P.

RENA DELBRIDGE, Staff
 Representative Mike Hawker
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Answered questions related to proposed amendments to the proposed committee substitute for HB 247, Version P.

KEN ALPER, Director
 Tax Division
 Department of Revenue (DOR)
 Juneau, Alaska

POSITION STATEMENT: Answered questions related to proposed amendments to the proposed committee substitute for HB 247, Version P.

EMILY NAUMAN, Attorney, Legislative Legal Counsel
 Legislative Legal and Research Services
 Legislative Affairs Agency
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Answered questions related to proposed amendments to the proposed committee substitute for HB 247, Version P.

MICHAEL HURLEY, Director
 Government Relations and Community Affairs
 ConocoPhillips Alaska, Inc.

Anchorage, Alaska

POSITION STATEMENT: Answered questions related to proposed amendments to the proposed committee substitute for HB 247, Version P.

MARY HUNTER GRAMLING, Assistant Attorney General
Natural Resources Section
Civil Division (Juneau)
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Answered questions related to proposed amendments to the proposed committee substitute for HB 247, Version P.

ACTION NARRATIVE

[6:02:04 PM](#)

[**CO-CHAIR BENJAMIN NAGEAK** called the House Resources Standing Committee meeting to order at 6:02 p.m. Representatives Seaton, Josephson, Tarr, Herron, Chenault (alternate), Johnson, Olson, Talerico, and Nageak were present at the call to order.]

HB 247-TAX;CREDITS;INTEREST;REFUNDS;O & G

[6:02:06 PM](#)

[**CO-CHAIR NAGEAK** announced that the only order of business is HOUSE BILL NO. 247, "An Act relating to confidential information status and public record status of information in the possession of the Department of Revenue; relating to interest applicable to delinquent tax; relating to disclosure of oil and gas production tax credit information; relating to refunds for the gas storage facility tax credit, the liquefied natural gas storage facility tax credit, and the qualified in-state oil refinery infrastructure expenditures tax credit; relating to the minimum tax for certain oil and gas production; relating to the minimum tax calculation for monthly installment payments of estimated tax; relating to interest on monthly installment payments of estimated tax; relating to limitations for the application of tax credits; relating to oil and gas production tax credits for certain losses and expenditures; relating to limitations for nontransferable oil and gas production tax credits based on oil production and the alternative tax credit for oil and gas exploration; relating to purchase of tax credit certificates from the oil and gas tax credit fund; relating to a minimum for

gross value at the point of production; relating to lease expenditures and tax credits for municipal entities; adding a definition for "qualified capital expenditure"; adding a definition for "outstanding liability to the state"; repealing oil and gas exploration incentive credits; repealing the limitation on the application of credits against tax liability for lease expenditures incurred before January 1, 2011; repealing provisions related to the monthly installment payments for estimated tax for oil and gas produced before January 1, 2014; repealing the oil and gas production tax credit for qualified capital expenditures and certain well expenditures; repealing the calculation for certain lease expenditures applicable before January 1, 2011; making conforming amendments; and providing for an effective date."]

[Before the committee was the proposed committee substitute (CS) for HB 247, Version 29-GH2609\P, Shutts, 3/18/16, adopted as the working document on 3/19/16.]

[During this hearing, amendments to Version P of HB 247 were discussed or adopted. Because of their length, the longer amendments are found at the end of the minutes for this bill. The shorter amendments are included in the main text.]

[6:02:14 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 17, labeled 29-GH2609\P.4, Shutts, 3/19/16, which read:

Page 3, line 10:
Delete "three"
Insert "**five** [THREE]"

CO-CHAIR TALERICO objected to the amendment.

CO-CHAIR NAGEAK objected to the amendment for the purpose of discussion.

REPRESENTATIVE SEATON supported Amendment 17, stating that a 3 percent interest rate [above the Federal Reserve rate] is too low, 7 percent is too high, and 5 percent seems about right.

[6:03:02 PM](#)

REPRESENTATIVE JOSEPHSON explained Amendment 17. He said the 11 percent interest rate under Alaska's Clear and Equitable Share (ACES) [House Bill 2001, passed in 2007, Twenty-Fifth Alaska

State Legislature] was excessive. However, he continued, an opportunity cost is at issue here as well as a sovereignty discussion to some degree. According to the Tax Division director, he related, the administration's goal [under HB 247] was to strike an interest rate that was closer to what the permanent fund might earn. Amendment 17 proposes less than that and is still a friendly industry rate, that is the state could make more with its own money doing something else than it would receive in interest. Representative Josephson recalled the committee's earlier discussion [during its 1:00 p.m. hearing on HB 247] about what the law calls "scienter," which basically means what is in someone's mind when thinking about not paying a liability and whether it is an honest dispute or someone trying in his/her mind to say he/she could turn this into an honest dispute. He said he is not going to go there, but posited that both sides are obviously very aware of the interest rate. He offered his agreement that the statute of limitations, an issue that has come up in regard to the interest rate, needs to be rectified by the state because it would help the industry and be fair. But at the same time, he continued, the statute of limitations is a very much black or white kind of law. [The proposed interest rate in] Amendment 17 would be somewhat fairer without being as excessive as was the ACES number. Five percent is not punitive, it is a fair compromise number, and it still recognizes the proper place of the industry in the state.

[6:05:50 PM](#)

CO-CHAIR TALERICO noted that in his many discussions with Co-Chair Nageak it was recognized that the 12th Federal Reserve District is a variable rate based off the commercial banking loans that the Federal Reserve will make and is something over which the state has no control. He pointed out that the interest rate would be the Federal Reserve rate plus 3 percent. The rate is variable and can change at any time, so what is really being looked at is a rate that someone else sets plus 3 percent on top of that. He said he is opposed to Amendment 17 because of the variability in that rate and the state's lack of control over that rate.

REPRESENTATIVE TARR offered her support for Amendment 17. She said she appreciates the comments about the variable rate and the state having little control over that, but noted that it is cheaper to borrow money with the low rates. Amendment 17 tries to strike the balance between what kind of opportunities are provided at these different interest rates and consideration

must be given as to whether the state would earn more if those dollars were invested in the state's accounts.

6:08:04 PM

REPRESENTATIVE JOSEPHSON concluded his explanation of Amendment 17. In regard to the co-chairs' discussion of the Federal Reserve, he said the Tax Division director previously stated that the interest rate is two-way. So, to the extent that the truth is found through the hearings process when there is a contest, both the industry and the state are risking equally. If the rate varies it could impact the state as well if the state does not have a legitimate position. He understood that when a settlement is achieved it usually will also settle the interest rate, so that when there is a meeting of the minds in a settlement over a disputed issue related to these complicated tax formulas, they will also generally settle the interest rate.

6:09:41 PM

CO-CHAIR TALERICO maintained his objection to Amendment 17.

A roll call vote was taken. Representatives Seaton, Josephson, Tarr voted in favor of Amendment 17. Representatives Herron, Chenault, Johnson, Olson, Talerico, and Nageak voted against it. Therefore, Amendment 17 failed by a vote of 3-6.

6:10:30 PM

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 18, labeled 29-GH2609\P.28, Nauman/Shutts, 3/21/16. [Amendment 18 is provided at the end of the minutes on HB 247.]

CO-CHAIR TALERICO objected to the amendment.

REPRESENTATIVE JOSEPHSON explained Amendment 18, noting that in virtually every hearing the subject came up of trying to invest state dollars in plays or developments that are a better bet than others. He said Amendment 18 would add a requirement for receiving credits that a company must show in advance that a project is not feasible without the credit. He recalled numerous oil and gas companies telling the committee that without the well lease expenditure [credit] or the qualified capital expense credit they might go out of business and be forced to leave Alaska. If that is true, then instead of repealing these credits altogether Amendment 18 would provide for credits when necessary. By July 1 of the year before the

credit is to be claimed a company must demonstrate to the commissioner of the Department of Revenue (DOR), who would then consult with the commissioner of the Department of Natural Resources (DNR), and together they would find that the activities qualifying as a well lease expenditure (WLE) or a qualified capital expenditure (QCE) are economically infeasible without the credits. He conceded that this law would probably need some regulations to accompany it, but that if a project is feasible without the credits then it is feasible without the credits. For example, this came up in the Caelus Energy Alaska, LLC, decision on royalty relief and in the Agrium Inc. dispute, in which he took Agrium's position as well as Caelus's. When there was some vetting and the case was made that it was not economical without state assistance, the state saw the wisdom of assisting and that, he said, is what Amendment 18 is about.

[6:12:54 PM](#)

REPRESENTATIVE TARR supported Amendment 18. She said it would provide an opportunity to be more careful and thoughtful in how these credits are applied so the state does not find itself investing in projects that do not come to fruition and are costly to the state's unrestricted general fund.

CO-CHAIR TALERICO expressed his concern that it would be cumbersome to the company trying to identify a credit a year in advance as well as to the commissioner trying to make a feasibility judgement on that particular credit. He requested the amendment sponsor to explain how this would function, saying this might be a detriment to doing as much work as possible.

REPRESENTATIVE JOHNSON said the difficulty he sees is having the two commissioners get together with no end date, because without an end date the commissioners could run a project out of business by not meeting. Without a required deadline for approval or disapproval the commissioners could deny it by not meeting. He argued that this would put a lot of responsibility for the state's resources in the hands of two individuals.

[6:15:54 PM](#)

REPRESENTATIVE JOSEPHSON concluded his explanation of Amendment 18. He maintained that Amendment 18 does lay out something of a schedule on [page 1], lines 14-15. He said the amendment would result in more economic analysis of a project so there is not this blanket approval that has been going on and that will next year result in \$825 million of additional outlay [by the state]

that is without discretion, it just happens. While this description might be a little different for exploration credits, he added, it is mostly not different and for that reason he is offering Amendment 18.

[6:16:51 PM](#)

CO-CHAIR TALERICO maintained his objection to Amendment 18.

A roll call vote was taken. Representatives Tarr and Josephson voted in favor of Amendment 18. Representatives Herron, Chenault, Johnson, Olson, Seaton, Talerico, and Nageak voted against it. Therefore, Amendment 18 failed by a vote of 2-7.

[6:17:45 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 19, labeled 29-GH2609\P.49, Shutts, 3/21/16, which read:

Page 8, line 23:

Delete "\$200,000,000"

Insert "\$75,000,000"

Page 8, line 23, following "person":

Insert "for each lease"

Page 8, line 31:

Delete "\$200,000,000"

Insert "\$75,000,000"

CO-CHAIR TALERICO objected to the amendment.

REPRESENTATIVE JOSEPHSON explained Amendment 19, recalling that yesterday Mr. Alper reported that there have been 6 instances of a company having received more than \$100 million since the credit system began in about 2007, and 11 instances of a company having received between \$50 million and \$100 million, for a total of 17 instances exceeding \$50 million. This is part of the concern he has generally, he said. If the state was making \$10-\$12 billion per year in production revenue as it did in 2009, 2010, and 2011, and maybe 2012, then all things would be possible and affordable. However, the new spring forecast is for a \$1.5 billion deficit and this is on top of the state's other deficit of about \$3.5 billion. The committee substitute spans two years of spring forecast. The new \$1.5 billion deficit means the tax credits really need to be reined in. Amendment 19 is an effort to strike some compromise. The

committee has discussed how \$200 million could be a problem in a situation like Armstrong Oil & Gas Inc.'s Pikka Unit. At [the committee's 1:00 p.m. hearing today] it was identified that the \$200 million theoretically would not be capped for certain credits that are unlikely to apply for repurchase, such as refineries, gas storage [facilities], and [liquefied natural gas (LNG) storage facilities]. Although the \$200 million cap is something, he said, it is not very limiting and for that reason he is offering Amendment 19.

[6:20:26 PM](#)

REPRESENTATIVE JOHNSON expressed his concern with Amendment 19, saying he is perplexed in that there are a lot more leases than there are companies. [By using the word "lease"], a company holding multiple leases could get to the \$75 million cap multiple times, as opposed to per company which would only be once. He asserted that using the word "lease" would open this up to a very large potential drain of money.

CO-CHAIR TALERICO maintained his objection to Amendment 19.

[6:21:45 PM](#)

REPRESENTATIVE JOSEPHSON concluded his explanation of Amendment 19, stating that unless there was a drafting error the intention here is a way of saying the entire lease will only enjoy \$75 million. As written, Version P would prohibit a single company from breaking into, say, five little companies with each getting \$200 million, making this a \$1.2 billion problem. However, Version P would not solve the problem of partnering. Drawing attention to the CS, page 8, line 23, he explained that with Amendment 19 the CS would say a \$75 million limit for the entire lease in one unit, presumably.

REPRESENTATIVE TARR requested it be confirmed that Amendment 19 is drafted as stated by the sponsor.

SUSIE SHUTTS, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, Alaska State Legislature, replied she would read Amendment 19, lines 5-6, to be from a person for each lease. So, she continued, "a lease could have more than one person that ... has a tax credit certificate purchased, but it would be each person for one lease would be limited."

[6:23:50 PM](#)

REPRESENTATIVE SEATON, regarding the explanation by Ms. Shutts, stated that units are composed of multiple leases. So, with the terminology that is had, this could be multiple applications if there were 20 leases in an area that was one field being developed. He requested Ms. Shutts to confirm if he is correct.

MS. SHUTTS responded, "Yes, this would only be a limitation per person per lease."

REPRESENTATIVE CHENAULT noted that leases can be made up of many leases inside a field. So, he surmised, if he was John Q Oil Company and he owned 10 leases inside a field he would be eligible for up to 10 credits if he chose to take them that way. He asked whether his interpretation is correct.

MS. SHUTTS answered correct, it would be per lease. So if there were 10 leases, then a person would only be limited for the \$200 million amount per lease.

REPRESENTATIVE CHENAULT therefore surmised he could be eligible for up to \$2 billion.

MS. SHUTTS replied correct, nothing in Amendment 19 would prohibit that. It would just be a limitation per lease and if the person was otherwise eligible.

REPRESENTATIVE JOHNSON inquired whether a lease can be held by a partnership.

MS. SHUTTS responded that she was unsure.

REPRESENTATIVE JOHNSON remarked that Representative Chenault's question is germane, but if there were partners in a lease it could be multiplied times two or three, and if there were three partners in each of those leases as described by Representative Chenault, it could be a huge amount. He said he opposes Amendment 19 due to this and the lack of clarity.

[6:27:09 PM](#)

REPRESENTATIVE JOSEPHSON inquired whether the committee would entertain an amendment to Amendment 19 that would read on line 6 of the amendment "for each lease or property".

REPRESENTATIVE JOSEPHSON withdrew Amendment 19 upon committee members expressing their disapproval of this proposed amendment to Amendment 19.

[6:27:44 PM](#)

REPRESENTATIVE TARR moved to adopt Amendment 20, labeled 29-GH2609\P.37, Shutts, 3/21/16, which read:

Page 8, line 23:

Delete "\$200,000,000"

Insert "\$100,000,000"

Page 8, line 31:

Delete "\$200,000,000"

Insert "\$100,000,000"

CO-CHAIR TALERICO objected to the amendment.

REPRESENTATIVE TARR explained Amendment 20. She noted that the administration brought forward HB 247 to look at what the state could afford and sustain. The substantially smaller cap of \$25 million considered in the original version of the bill would have had a substantial fiscal impact in the near term. She said she is concerned that the \$200 million [proposed in Version P] is such a large amount. While a big development is hoped for, the state could find itself in the position where it cannot reasonably afford the credits. If the state cannot afford this today and it is known the state likely cannot afford those kind of numbers in the next few years, does the state put itself in the same potential for a difficult situation where those would have to be carried over to a future year, causing an unintended consequence of actually deterring development? She said she wants to ensure the state has a reasonable number that it can afford that does not result in fiscal years where the state would be unable to fully pay that commitment and would have to roll it forward, creating a potential ripple effect on investment. While \$100 million may not go very far in the world of oil development on the North Slope, she said it is still much more generous than the \$25 million cap in the original bill. She posited that this is one of the areas where the public might be most critical of members' actions.

[6:31:16 PM](#)

REPRESENTATIVE SEATON stated he is definitely of the opinion that \$200 million is too high. However, he continued, better

solutions will be coming up in the amendment process and for this reason he is opposed to Amendment 20.

REPRESENTATIVE JOHNSON recalled that \$200 million was put in to protect the state against an outlier, an elephant field that could be billions of dollars. Whether \$200 million or \$100 million is the right number he does not know, but it serves the purpose of keeping the state out of a huge billion dollar plus liability that would happen if there was another Alpine field. He said he would like to send the committee substitute to the House Finance Committee for that committee to determine whether \$200 million is the right number.

[6:32:33 PM](#)

REPRESENTATIVE TARR concluded her explanation of Amendment 20. She expressed her concern that the House Finance Committee will not have the time to delve deeply into the bill with only 26 days left in the session. She offered her hope that the House Finance Committee is watching the conversation of this committee and will be able to get up to speed quickly. While she does not want to deter development, she is having a hard time looking forward should it continue being a fiscal impact of \$600 million or more and how the state will be able to afford that relative to other essential state services. If the state finds itself in the situation where it cannot, and something must be done like what was done with the [governor's] veto last year, then the state may end up shooting itself in the foot. She said she worries about the state getting in over its head and continuing to stay there.

[6:33:56 PM](#)

CO-CHAIR TALERICO maintained his objection to Amendment 20.

A roll call vote was taken. Representatives Josephson and Tarr voted in favor of Amendment 20. Representatives Herron, Chenault, Johnson, Olson, Seaton, Talerico, and Nageak voted against it. Therefore, Amendment 20 failed by a vote of 2-7.

[6:34:48 PM](#)

REPRESENTATIVE JOSEPHSON withdrew Amendment 21, labeled 29-GH2609\P.56, Shutts, 3/21/16, but stated he still has concerns about the outstanding liability issue.

[6:35:21 PM](#)

REPRESENTATIVE TARR moved to adopt Amendment 22, labeled 29-GH2609\P.38, Shutts, 3/21/16. [Amendment 22 is provided at the end of the minutes on HB 247.]

REPRESENTATIVE OLSON objected to the amendment.

CO-CHAIR TALERICO objected to the amendment.

REPRESENTATIVE TARR explained that instead of adjusting the cap from \$200 million to \$100 million, Amendment 22 would keep the earning potential of \$200 million but would limit the use potential to \$100 million in any calendar year and anything in excess of \$100 million would roll over to the following calendar year. She reiterated her concern over the state's ability to realistically afford an annual credit cost in the range of \$600 million or more. She said Amendment 22 is an attractive option because, given it would take a very substantial project to be earning at that level, the frequency at which it would happen will be limited and it is known from the modeling that this type of big spend is only going to be in [a project's] early years during build out. Under the amendment there would not be a time limit if it rolled over to the next calendar year because it would be unlikely it would continue for an extended period of time and would correct itself within a window of a few years after that. Thus, the extraordinarily generous cap of \$200 million per year would remain under Amendment 22, but would be limited to the use of \$100 million per year as way to honor the earning of the credits while considering the state's near-term financial outlook.

[6:38:03 PM](#)

REPRESENTATIVE SEATON understood Amendment 22 would limit the amount of credit a company could earn in a year to \$200 million no matter how much the company spends.

REPRESENTATIVE TARR confirmed that that is correct.

REPRESENTATIVE CHENAULT asked whether Amendment 22 would be diluting the value of the tax credits in a given year.

REPRESENTATIVE TARR replied she does not see it in that way. In cases where there is transferability it would have the potential to have somewhat of an impact there because of the limit. But, that is true of all the other credits if the transferability option is used, so this would not be unique. The companies

would have the certainty that they can earn that large amount but also there would be a limit. According to the modeling, there would be a two or three year period where a company would earn like that; once out of the major build years the company would get into much lower credit earning scenarios where it would quickly be able to roll those over into the next calendar year and would retain the value of the credit.

REPRESENTATIVE CHENAULT surmised the company would be able to stack those credits. He said he is concerned that if the earner only gets 50 cents on the dollar for the tax credit and it is sold to someone else, then the incentive is not really meeting what the desire was for it to do.

REPRESENTATIVE TARR responded that there would be the limitation in statute, but it would be the company's choice whether to transfer the credits. Should the company choose not to use the transferability option it would retain 100 percent, \$1 would be \$1, it just would be carried over to a credit earned in the following year. Because the \$200 million cap is so substantial it would, she allowed, sort of have the unintended consequence that Representative Chenault might be suggesting.

[6:41:33 PM](#)

REPRESENTATIVE OLSON asked whether the model referred to by Representative Tarr was distributed to members.

REPRESENTATIVE TARR replied she has many pages of models that the [Department of Revenue] prepared for the committee.

REPRESENTATIVE OLSON requested Representative Tarr to copy and distribute the model she is referring to.

CO-CHAIR TALERICO maintained his objection to Amendment 22.

REPRESENTATIVE TARR requested an at-ease so she could provide a copy of the modeling.

[6:42:40 PM](#)

The committee took an at-ease from 6:42 p.m. to 6:47 p.m.

[6:47:11 PM](#)

REPRESENTATIVE TARR noted the modeling in question was in the Department of Revenue's (DOR) 2/24/16 presentation entitled,

"Additional Modeling and Scenario Analysis - Part 2," on slides 27 through about 39 regarding field assumptions for 750 million barrels of oil. These slides show the example of peak years that might butt up to the \$200 million cap and also show it would be a limited period of time of about two or three years in which those would be rolled over, and then it would be clear.

[6:48:20 PM](#)

CO-CHAIR TALERICO maintained his objection to Amendment 22.

A roll call vote was taken. Representatives Josephson and Tarr voted in favor of Amendment 22. Representatives Seaton, Johnson, Olson, Talerico, Nageak, and Herron voted against it. Therefore, Amendment 22 failed by a vote of 2-6.

[6:49:17 PM](#)

REPRESENTATIVE JOSEPHSON withdrew Amendment 23, labeled 29-GH2609\P.23, Shutts, 3/20/16.

[6:49:43 PM](#)

REPRESENTATIVE TARR moved Amendment 24, labeled 29-GH2609\P.39, Shutts, 3/21/16, which read:

Page 18, line 9, following "legislators":
Insert "and must include members of the majority
and minority caucuses"

CO-CHAIR TALERICO objected to the amendment.

REPRESENTATIVE TARR explained Amendment 24. She pointed out she has worked with a few pieces of legislation that provided for task forces or working groups and the language was sometimes very prescriptive on who the members would be. The provision [in Version P] is not quite as prescriptive and leaves it more to the discretion of the co-chairs [of the proposed legislative working group]. It is important to work together in a bi-partisan way through the Cook Inlet working group, she stressed. Making this minor improvement to that working group structure would be important for working together, something that is appreciated by the public.

[6:51:09 PM](#)

REPRESENTATIVE HERRON stated it is not critical, but he thinks the speaker and the president should be consulted on the appointments of the members by the co-chairs.

REPRESENTATIVE JOHNSON said every task force and committee that he has been associated with has had representation from the majority and the minority, and he would anticipate that to continue. He said he will support the amendment, but qualified that he does not think it is needed.

6:52:29 PM

REPRESENTATIVE JOSEPHSON referred to page 18 of Version P and said he thought Ms. Delbridge stated during introduction of the CS that interested members of the minority caucus would be represented through the president and the speaker and there would not be a place at the table for minority caucus members.

RENA DELBRIDGE, Staff, Representative Mike Hawker, Alaska State Legislature, replied she does not know that that is what she said. She recalled Representative Tarr had a question as to whether minority and majority members would be engaged and that she had offered her belief that the co-chairs had indicated in drafting the CS that they fully intended that everyone in the legislature is able to participate in a group like this. The only prescription is that the group would be led by two co-chairs, one appointed by the President of the Senate and one appointed by the Speaker of the House, and those co-chairs would appoint the members of the legislative working group.

6:53:50 PM

REPRESENTATIVE JOSEPHSON supported Amendment 24, saying that the Senate working group worked very impressively. There was a role by the minority caucus and it was filled by Senator Wielechowski. Everyone was very respectful and a good document was produced on 12/1/15.

CO-CHAIR NAGEAK commented he thinks this body is as respectful as the other body.

REPRESENTATIVE JOSEPHSON said that is his point.

REPRESENTATIVE JOHNSON quipped that the Senate was not that respectful because there were no House members on that Senate working group and upon asking the House was told it would not be on the group.

REPRESENTATIVE CHENAULT noted it was stated earlier that efforts have been made to try to include minority members in any task force and he does not see that changing. If Amendment 24 makes the minority more comfortable, he said, then he will support it.

[6:55:08 PM](#)

REPRESENTATIVE TARR concluded her explanation of Amendment 24, stating it would give her constituents an idea that legislative members are going to work together on this, which would be a positive thing during these challenging times.

CO-CHAIR NAGEAK said he thinks there has been fairness and that that will continue.

[6:55:46 PM](#)

CO-CHAIR TALERICO removed his objection to Amendment 24.

REPRESENTATIVE JOHNSON objected in order to put the vote on the record.

A roll call vote was taken. Representatives Olson, Seaton, Josephson, Tarr, Herron, Chenault, Johnson, Talerico, and Nageak voted in favor of Amendment 24. Therefore, Amendment 24 passed by a vote of 9-0.

[6:56:47 PM](#)

REPRESENTATIVE JOSEPHSON withdrew Amendment 25, labeled 29-GH2609\P.9, Nauman, 3/20/16, stating it is redundant of another amendment.

[6:57:05 PM](#)

REPRESENTATIVE TARR moved to adopt Amendment 26, labeled 29-GH2609\P.40, Nauman/Shutts, 3/21/16. [Amendment 26 is provided at the end of the minutes on HB 247.]

CO-CHAIR TALERICO objected to the amendment.

[6:57:15 PM](#)

REPRESENTATIVE TARR explained Amendment 26. She noted that the original version of HB 247 included a couple of provisions about making information more available to the public. She said

another amendment will be forthcoming to address getting at more detailed information related to tax records while being clear not to violate any Internal Revenue Service (IRS) rules or antitrust laws. Amendment 26, however, is much more generic in application. She pointed out that page 2, lines 3-10, of the amendment are very similar to the provision in the governor's original bill, although the format in the amendment is slightly different. It is basically the same request for the name of the person claiming the credit, the aggregate amount for the calendar year, and a brief description to give the Alaska public a better understanding of how things are going. This has the potential to support the work that is trying to be accomplished with the credits, she posited. For example, in conversing with neighbors she has noticed that they do not have the opportunity to hear the lengthy conversations that take place in this building and in some ways there may be mistrust that may not be warranted. Sharing this information with the public in a legal way, while still protecting the companies, could help bridge that gap and help people understand more. It even has the potential for people to think that more should be done because these investments are what is leading to this activity and job growth and new opportunities can be seen.

[6:59:40 PM](#)

REPRESENTATIVE JOSEPHSON supported Amendment 26, saying he wants to echo what was said by Representative Tarr. The cost of the credits is under \$700 million this year and is projected to be under \$900 million next year, he said. As this cost grows, his constituents are going to be asking more and more about what [the state] is doing and what [the state] is getting for what it is doing. He maintained there is a way to disclose the names of companies, their aggregate amounts, and the description of their activities without disclosing proprietary information that would violate the IRS code. [The credits] have become such a massive part of the state's portfolio, third after education and healthcare, so that the questions from constituents will grow, not lessen, and they are entitled to know what they are investing in. Thus, Amendment 26 is very important.

[7:01:04 PM](#)

REPRESENTATIVE SEATON requested Mr. Alper be allowed to address Amendment 26 and whether DOR would be able to put forward this information without disclosing taxpayer information.

REPRESENTATIVE TARR noted that the language in Amendment 26 comes from Section 8, page 4, lines 25-29, of the original bill and she therefore surmised that the provision was done right.

KEN ALPER, Director, Tax Division, Department of Revenue (DOR), responded that the structure of Amendment 26 is different, the legislative drafting put in numbers 1, 2, and 3, but the content of what is being asked for is identical to that in Section 8 of the administration's original bill. A concern was raised that if the [net] operating loss credits are released it might in fact be disclosing confidential taxpayer information. However, that is no longer an issue because the [qualified capital expenditure] credit has been retained at least for the next five years, so DOR thinks that is less of a problem because there is going to be a blended set of information. Bringing attention to [page 2 of Amendment 26], line 8, exemption to the credit in AS 43.55.024(j), he noted that this is the per-barrel credit. He explained that everyone knows how many barrels were produced and everyone knows what the price of oil is more or less, so there can be a back-in to what people got. If the per-barrel credits received by a company are disclosed, it would be possible to tell how much a company received for its oil, which might be perceived to be a way of backing-in to the company's revenue. [The department] did its best to restrict this, but the goal is to make more information available related to these credits.

[7:03:33 PM](#)

CO-CHAIR TALERICO expressed his concern with page 2, line 7, of Amendment 26, which states, "a description of the taxpayer's activities" and line 9, which states, "the aggregate amount of credits". He said "the taxpayer's activities" sounds to him like proprietary information for the operations of what these folks do on a regular basis and he thinks that they are pretty sensitive to that information to operate their business, and therefore it is a red flag to him.

REPRESENTATIVE SEATON requested DOR be allowed to state the meaning of "taxpayer's activities that generated the credits". For example, whether that description is meaning North Slope activity or particular well lease activity.

CO-CHAIR NAGEAK said his understanding is that "a description of the taxpayer's activities" would mean anything.

MR. ALPER reiterated that the language in Amendment 26 is all but identical to that proposed in the original bill. He said he

therefore he is comfortable speaking to what the intent was when proposing the original bill and it is a much more general sense of activities, such as "we drilled an exploration well in XYZ Unit in the months of May through September or something." There is no desire for a detailed sense of the minute-to-minute or what the detailed project was. That is the sort of thing that he would be amenable to more restrictive language or that DOR would resolve in the regulatory process. The department only wants to be able to give the type of information to give the public the sense as to where the people's money is going; for example, a credit was provided towards an exploration project or a drill pad or simply that there was an operating loss for overall North Slope activities.

REPRESENTATIVE JOHNSON stated he has the utmost confidence in this administration and in Mr. Alper, but future administrations might view that language as opening the door to anything. The committee is hopefully coming up with a document that is durable and will not need to be revisited, he continued, and therefore he cannot support Amendment 26 as it stands.

[7:06:58 PM](#)

REPRESENTATIVE TARR concluded her explanation of Amendment 26. She reiterated that there were parts of the original bill she liked and that is what she worked from. She said her thought in keeping this a little more generic was to be more succinct in the statute and let the regulations be more descriptive, and suggested it may be slightly more generic than what Mr. Alper said. Given her constituents would like to better understand exploration, development, and production activities, and their associated costs, she said it could be positive because many times during budget conversations people are shocked at the cost of things. These developments are very expensive and this proposed provision could have the impact of people having a much better understanding and why the state being a co-investor might be necessary even in tough budget times. The good thing about leaving it a little more generic in the statute and relying on a regulatory process is all the people who do this work professionally then would have the opportunity to work with DOR to define in more detail what that would mean. Everybody would have the chance to weigh in through the public comment period and that would be the better way to inform the department and come up with the detailed language that would outline what information would become public. She said her thought is that it would be a couple-page document, something that is easy for people to look at.

[7:09:11 PM](#)

CO-CHAIR TALERICO maintained his objection to Amendment 26.

A roll call vote was taken. Representatives Josephson, Tarr, and Seaton voted in favor of Amendment 26. Representatives Herron, Chenault, Johnson, Olson, Talerico, and Nageak voted against it. Therefore, Amendment 26 failed by a vote of 3-6.

[7:10:11 PM](#)

REPRESENTATIVE JOSEPHSON withdrew Amendment 27, labeled 29-GH2609\P.11, Nauman/Shutts, 3/19/16.

[7:10:17 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 28, labeled 29-GH2609\P.54, Nauman/Shutts, 3/21/16. [Amendment 28 is provided at the end of the minutes on HB 247.]

CO-CHAIR TALERICO objected to the amendment.

REPRESENTATIVE JOSEPHSON explained Amendment 28 is about data sharing. It would enable the Department of Natural Resources (DNR) to receive seismic and downhole information after the sunset of the alternative credits for exploration, which sunset in about four months for the North Slope and in about six years for the Cook Inlet and Middle Earth. Between 2004 and 2014, he related, DNR received 725 line miles of onshore and offshore two-dimensional (2D) data and around 600 square miles of similar three-dimensional (3D) data. Frontier Basin explorers made significant contributions to the state in exchange for credits by providing seismic data to the State of Alaska, along with gravity magnetics and lakebed geochemical surveys. Current law states that to be reimbursed for seismic and well work under the alternative credit for exploration, the applying company will have its well, seismic, and geographic data made public two years after filing for a rebate for well data and ten years after filing for a rebate for seismic and geophysical data. The Senate working group in its final report made two key recommendations, he said. One was about a hard 4 percent floor, and the second was about the importance of disclosure of data to the state for a number of reasons. The first reason stated by the working group is that the proprietary information is so valuable that companies are likely to warehouse it without moving the project forward. By sharing it with the public

eventually other firms can use it to develop oil and gas resources. The second reason stated by the working group is that if a company collects data but cannot fully execute a project, another firm will later be able to use the information so it does not go to waste. The third stated reason is that when the State of Alaska actually owns the data it is a benefit because of its high value. The Senate working group, chaired by Senator Giessel, found it was critical that the State of Alaska get all the seismic and well data possible, he said, and that is what Amendment 28 aims to achieve.

[7:13:19 PM](#)

REPRESENTATIVE CHENAULT said what he takes out of Amendment 28 is that it is for all credits. He believed that the net operating loss (NOL) [credit] does not currently separate the company's activities for the whole year. For the qualified capital expense (QCE) [credit] and the well lease expenditure (WLE) [credit], he continued, if a company applies as an explorer the company already has to share that data with DNR. That is the data DNR has to-date and that should be enough for DNR to use to help bring others to the state and to show what great potential is here. For well work that is not exploration, companies already give data to the Alaska Oil and Gas Conservation Commission (AOGCC) and much of that information is already made public. While more information may be great, he said he thinks that a number of these issues being asked for in Amendment 28 are already in statute.

REPRESENTATIVE TARR specified she is interested in this issue because in the co-investor relationship this data is of material value and can help with further development of Alaska's natural resources. Providing access to that data makes the state's investment have more value. Version P retained some provisions but made some changed ones, and therefore she understands that there is a gap under the language of Version P. She suggested it would be of help to hear a response to what was said by Representative Chenault.

CO-CHAIR TALERICO maintained his objection to Amendment 28.

[7:15:57 PM](#)

REPRESENTATIVE SEATON requested that Ms. Delbridge or the Department of Revenue be allowed to address the aforementioned.

MS. DELBRIDGE confirmed the alternative credit for exploration expires in a few months as stated by Representative Josephson and offered her belief that this credit has covered the bulk of exploration work, also supported by other credits. The desire to keep seismic and exploration data coming to DNR was clearly articulated by the department, she continued. The problem, then, is what credit to use to access that data. The NOL does not segregate exploration and other activity; it simply applies to a company's statewide activities as a loss. Companies that are in Middle Earth keep getting that alternative credit for exploration until 2022, she believed, so some data will continue coming from that. For companies doing business in Cook Inlet that choose to claim the AS [43].53.023 QCE credit, there is paragraph (2) for an explorer to take in conjunction with geological or geophysical exploration or in connection with an exploration well. They are bound to take that only if they agree in writing to the terms of .025(f)(2), which she believes is the same statute that Representative Josephson mentioned in his amendment. For companies that are interested in the well lease expenditure credit, AS 43.55.023(1), there is again a paragraph (2) for an explorer who may take a credit for lease expenditures incurred in the state south of the North Slope in connection with that geological or geophysical exploration in exploration wells. Again, if an explorer takes this credit the explorer must agree in writing to submit that data to DNR along the same lines of AS 43.55.025(f)(2). So, she said, there is data that would still come to DNR under those same terms for exploration and geophysical seismic work for those people working under the QCE and WLE credits and also in Middle Earth for the alternative exploration credit.

[7:19:01 PM](#)

REPRESENTATIVE SEATON posed a scenario of a producer drilling wells and shooting seismic within the unit generating data, and noted that since the producer has it under lease it is not a competitive advantage or disadvantage. Using the net operating loss credit there, or other credits under .023, seems like the state is basically buying that data with the 35 percent credits or whatever credits that are being applied. He asked whether there is a downside to having this section apply to .023.

MS. DELBRIDGE requested clarification on whether Representative Seaton is talking about exploration wells in an existing unit or simply additional production wells.

REPRESENTATIVE SEATON replied it is already unitized; exploration work within the unit, the unit is covering the entire pool.

MS. DELBRIDGE answered that for additional exploration work within a unit, the company essentially has a proprietary interest in how it chooses to develop that and what kind of potential it has. It might include the addition of additional leases into a unit at some point, they are working that. In regard to production related drilling for well activity, once something is going the AOGCC gets all that data from the producer and it is made public on AOGCC's website within, she believed, 30 days. So, once a company is producing something there is no real proprietary interest, but there is not necessarily the value to DNR in having that information available to promote the value of a piece of property that someone else already has claim to develop. For exploration activity related to the NOL, again the NOL does not break out exploration or any particular activities, it is a company's overall loss incurred for that tax year. Hypothetically, a company could have an NOL that relates to three different properties that it is working in different parts of Alaska. She imagined that to segregate certain parts of that as exploration or not part of the NOL could be extraordinarily challenging.

[7:21:50 PM](#)

REPRESENTATIVE TARR pointed out that .023, paragraph (2), and .025(f)(2) are the exploration components of the QCE and the WLE. She surmised that in the case of a producer, that producer would previously have had to share that data.

MS. DELBRIDGE offered her belief that that would depend on whether the producer applied for one of those credits and if the producer applied for it as that exploration credit, given there are the other exploration credits available on the North Slope and in Cook Inlet. The value to DNR of having that exploration data is for properties that someone chooses not to develop and then at the end of 10 years DNR can make that public and potentially attract other investors to look at those fields since the rocks don't change. What is seen out of those could have value 10 years in the future to someone else with different technology and interests.

[7:23:25 PM](#)

REPRESENTATIVE JOSEPHSON noted the QCEs would remain on the books if Version P stands as it is through the process and the WLEs would away (the WLEs are QCEs plus something more), but he is still concerned about gaps in the process. Version P calls for a gradual elimination of the well lease expenditure and he does not see in AS 43.55 an unequivocal statement like is presented in proposed subsection (q) of Amendment 28 that would say for all credits, whether credits come or credits go, they would all appear in AS 43.55.023. Seismic and well data is tangible property interest and cannot be demanded without being paid for, but in exchange for generous credits the state can command some strength in requiring that the data be delivered. Alaska has a pressing deficit, that deficit changed in the last three or four days, and it is unknown whether the state is going to have QCEs or well lease expenditures at the end of the day. It is unknown what the credit regime will look like exactly, but it is known that it will be in AS 43.55 and Amendment 28 would cover it so the state would be guaranteed that it would continue to get that data and that there would be no gap in the process.

[7:25:39 PM](#)

CO-CHAIR TALERICO maintained his objection to Amendment 28.

A roll call vote was taken. Representatives Josephson and Tarr voted in favor of Amendment 28. Representatives Seaton, Herron, Chenault, Johnson, Olson, Talerico, and Nageak voted against it. Therefore, Amendment 28 failed by a vote of 2-7.

[7:26:38 PM](#)

REPRESENTATIVE TARR withdrew Amendment 29, labeled 29-GH2609\P.45, Shutts, 3/21/16, stating this amendment was already covered under Amendment 2, which was adopted earlier.

[7:26:58 PM](#)

REPRESENTATIVE TARR moved to adopt Amendment 30, labeled 29-GH2609\P.42, Shutts, 3/21/16. [Amendment 30 is provided at the end of the minutes on HB 247.]

CO-CHAIR TALERICO objected to the amendment.

REPRESENTATIVE TARR explained that Amendment 30 is along the same lines as the previous amendment and that the committee had some discussion about this when it adopted [Amendment 2]. Amendment 2 defined outstanding liability to the state as not

just unpaid delinquent taxes but also other outstanding liabilities. Amendment 30 would still be relevant because it relates to delinquent taxes as well as other outstanding liabilities. She said that when developing Amendment 30 she was working from the original version of the bill, page 4, lines 30-31, through page 5, line 29.

[7:28:59 PM](#)

REPRESENTATIVE HERRON asked what the target is for these conforming changes. For example, whether the target is in-state refineries, liquefied natural gas (LNG) storage facilities, or gas storage facilities.

REPRESENTATIVE TARR answered, "All three." While that was not well described in the original version of the bill, she said, Version P included those three.

REPRESENTATIVE HERRON inquired whether Representative Tarr believes these are necessary conforming changes.

REPRESENTATIVE TARR drew attention to the language that would be replaced under Amendment 30 and said the key thing is that the deleted language just has "unpaid delinquent taxes" and Amendment 30 would say "outstanding liability". So, in reference to the three particular credits mentioned by Representative Herron, it would expand what the outstanding liability means to be beyond just the delinquent taxes and be what Amendment 2 put back into Version P, which is the same definition that was in the original version of the bill.

[7:30:50 PM](#)

[Co-Chair Talerico's objection to Amendment 30 was treated as maintained.]

A roll call vote was taken. Representatives Josephson and Tarr voted in favor of Amendment 30. Representatives Olson, Herron, Chenault, Johnson, Talerico, Nageak, and Seaton voted against it. Therefore, Amendment 30 failed by a vote of 2-7.

[7:31:45 PM](#)

CO-CHAIR TALERICO specified for the public that NOL is a net operating loss, a QCE is qualified capital expenditure, and a WLE is a well lease expenditure.

[7:32:28 PM](#)

REPRESENTATIVE TARR withdrew Amendment 31, labeled 29-GH2609\P.41, Nauman/Shutts, 3/21/16, stating it is the same amendment as Amendment 32.

[7:32:46 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 32, labeled 29-GH2609\P.53, Nauman/Shutts, 3/21/16. [Amendment 32 is provided at the end of the minutes on HB 247.]

REPRESENTATIVE OLSON objected to the amendment.

[7:33:03 PM](#)

REPRESENTATIVE JOSEPHSON explained that, in effect, Amendment 32 is an amendment to Senate Bill 21 [More Alaska Production Act (MAPA), passed in 2013, Twenty-Eighth Alaska State Legislature]. He recalled that in [Governor Walker's] gubernatorial campaign prior to December 2014, around the time the state began to seriously deficit spend, the governor had said he did not want to make any changes to Senate Bill 21. His sense of Governor Walker's fiscal plan, he said, is that the governor wanted everyone to contribute, so he included in his fiscal plan a tax on fishing, cruise ships relative to other local taxes in Southeast Alaska, tobacco, mining, personal income, alcohol, and motor fuel, plus a cut to the permanent fund dividend. A tax on marijuana has been introduced by a colleague, not the governor. Representative Josephson said he suspects that when the administration was looking at its fiscal plan, probably sometime after July 1 because it took that long to come up with a budget, the administration thought the oil industry a major player that should contribute something as well, so the administration is recommending an increase to the floor on gross production from 4 percent to 5 percent. As has been heard before, there was no vetting or modeling of oil prices at the prices found today. The governor has said he wants everyone to have skin in the game. Amendment 32 is a \$50 million revenue measure, he continued, that is worth offering even though he suspects it will not gain the favor of five members of the committee.

[7:35:56 PM](#)

REPRESENTATIVE TARR supported Amendment 32. What is best for the state and the financial pressure on the state is what is guiding her, she said. Amendment 32 would make HB 247 start to

have a bigger impact and would be a good step forward when combined with other proposed measures. She recalled that the minimum tax of Senate Bill 21 keeps Alaska on the low end relative to other jurisdictions. The state would remain very competitive relative to other areas, she concluded.

CO-CHAIR TALERICO asked whether Amendment 32 would eliminate the step-down should oil prices decline below \$25.

REPRESENTATIVE JOSEPHSON responded that he knows the step-down Co-Chair Talerico is talking about, but he thinks the amendment just targets today's price range of \$30-\$18. He allowed he may need to "phone a friend" in this regard. However, he continued, Amendment 32 was not designed to change the step-down; it was designed to reinstate the original bill and provide for an increase of the gross floor from 4 percent to 5 percent.

[7:38:42 PM](#)

The committee took an at-ease from 7:38 p.m. to 7:47 p.m.

[7:47:18 PM](#)

REPRESENTATIVE JOSEPHSON clarified that page 2 of Amendment 32 does eliminate the step-down, so the amendment would create a hard floor of 5 percent. He said he cannot speak to whether the amendment would deal with deductions underneath the 5 percent for credits; that will be taken up in other amendments. He understood that at current prices the net operating loss would drive someone's profit beneath zero anyway.

[7:48:45 PM](#)

REPRESENTATIVE OLSON maintained his objection to Amendment 32.

A roll call vote was taken. Representatives Josephson and Tarr voted in favor of Amendment 32. Representatives Johnson, Olson, Seaton, Herron, Chenault, Talerico, and Nageak voted against it. Therefore, Amendment 32 failed by a vote of 2-7.

[7:49:38 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 33, labeled 29-GH2609\P.27, Nauman/Shutts, 3/19/16. [Amendment 33 is provided at the end of the minutes on HB 247.]

CO-CHAIR TALERICO objected to the amendment.

7:49:53 PM

REPRESENTATIVE JOSEPHSON explained Amendment 33. He recalled the legislature's consultant, enalytica, saying that in fiscal year (FY) 2014 this amendment might have saved the state as much as \$100 million. Amendment 33 would harden the [minimum tax] floor. Because the floor would be fixed at 4 percent, the amendment would also disallow the movement of per-barrel tax credits within a month, which DOR referred to as a migration problem. There is some foundation for that for two reasons, he said. One, it appears there was some inadvertence in not seeing this phenomenon. The 2013 legislature that looked at the tax regime did not vet the situation of fluctuating barrels where if a company could not use all of its per-barrel credit it could then carry credit over into the next month. Part of the factor was the volatility of the market, which was probably not vetted as much, although he cannot say that the committee asked Director Alper about that as much as the general due diligence applied to that issue. The committee heard testimony about the inability to claim an entire per-barrel credit during a specific month could be held and used later. The testimony was that this was total inadvertence, it arises during a period of price volatility. Very approximately this item was part of a floor hardening spreadsheet that indicated loss of \$50 million in revenue to the state, which the committee saw as recently as yesterday.

REPRESENTATIVE JOSEPHSON continued, explaining that Amendment 33 would revive subsections (b) and (c) of the original Section 17 of HB 247. Under current law, he noted, sliding-scale credits lost due to minimum tax can be recovered at annual true-ups. He recalled that the bi-partisan Senate working group met about six times [in fall 2015], meeting for a total of about eighteen hours, and bringing together many experts and many people, including AOGA. Lenders addressing the working group expressed a need for borrowers to provide monthly reports regarding capital requirements and cash positions. One could take from that that it is unlikely that that is not happening, and that there is some great accounting difficulty in following this amendment. Then again, the Senate working group wanted a fixed floor and the chair of the working group recommended as much. He offered his belief that this was a nod to the need to reflect that this was a 4 percent floor and that people believed it was a 4 percent floor. However, he said, it never really was and for that reason he is offering Amendment 32.

[7:53:38 PM](#)

REPRESENTATIVE SEATON recalled the committee looking at this in testimony, and questioning and finding that it was related to the monthly tax calculation for the per-barrel credit, which mirrored the monthly progressivity tax that was in the previous tax regime. Given that is what it was built for and if it is not doing that job, then the committee did not do the job it thought it was doing when it created this, he posited. He offered his support for Amendment 33, saying it is essential the committee implement what it intended to implement when passing [Senate Bill 21].

REPRESENTATIVE JOSEPHSON noted that Representative Seaton also stated the aforementioned at a previous committee meeting. It corroborates what he has said, which is that to the extent there is legislative history, it reflects a different result. This was inadvertent and is resulting in millions of dollars lost to the state, particularly in times of volatility.

[7:55:18 PM](#)

CO-CHAIR TALERICO maintained his objection to Amendment 33.

A roll call vote was taken. Representatives Seaton, Josephson, and Tarr voted in favor of Amendment 33. Representatives Chenault, Johnson, Olson, Herron, Talerico, and Nageak voted against it. Therefore, Amendment 33 failed by a vote of 3-6.

[7:56:14 PM](#)

REPRESENTATIVE TARR moved to adopt Amendment 34, labeled 29-GH2609\P.36, Shutts, 3/21/16, which read:

Page 6, line 6:

Delete "and before January 1, 2017,"

Page 6, lines 9 - 12:

Delete "For lease expenditures incurred on or after January 1, 2017, to explore for, develop, or produce oil or gas deposits located south of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in the amount of 10 percent of a carried-forward annual loss."

Page 8, line 2:

Delete "40"

Insert "30 [40]"

Page 8, line 4:

Delete "30"

Insert "20"

Page 8, lines 5 - 8:

Delete ", and before January 1, 2018;

(C) 20 percent of an expenditure incurred
on or after January 1, 2018"

REPRESENTATIVE OLSON objected to Amendment 34.

[7:56:25 PM](#)

REPRESENTATIVE TARR explained Amendment 34. She reminded members that the credits kept for Cook Inlet are the net operating loss, the qualified capital expenditure, and the well lease expenditure credits. Version P would provide a step-down of the well lease expenditure credit, keeping it at 40 percent, then dropping it to 30 percent in the next calendar year, and then going down to 20 percent. Amendment 34 would get to the 20 percent one year earlier. Amendment 34 would also keep the 25 percent net operating loss [credit], whereas Version P would provide for a 10 percent net operating loss [credit]. In some ways this is a matter of philosophy regarding the different levers. On the North Slope there is a 35 percent net operating loss [credit] when a company has a loss, which matches the 35 percent tax rate, barring the per-barrel credit. However, those credits are split differently in Cook Inlet, and there is no production tax opportunity to the state to match things up. She said her thinking is that the state should be more generous during the early end of things when companies are operating at a loss and this is where she sees the credits being able to play a bigger role. Then, once in production and a company is paying production tax, except in Cook Inlet, the state has less reason to be generous. The net impact under Version P would be that it actually goes down to 30 percent by the end of that two-year period, and the QCE and WLE would expire in 2022. Amendment 34 would not affect the expiration date for those two particular credits but would make adjustment on the WLE and NOL, and because these credits can be stacked it would end up being more generous under the amendment for a company operating at a loss than is Version P.

[7:59:19 PM](#)

CO-CHAIR TALERICO opposed Amendment 34, pointing out that during development of the committee substitute he was trying to navigate a little more of a transition in the elimination of tax credits in Cook Inlet. He said he does not want to pull the rug out from under someone and wants to provide them some time. He understood that Amendment 34 would remove that date and would be effective nearly immediately.

8:00:21 PM

REPRESENTATIVE HERRON said that in looking at the amendment and the bill, there might be an inadvertent retroactive clause.

REPRESENTATIVE TARR stated it is not inadvertent.

REPRESENTATIVE HERRON asked whether that is a good thing.

REPRESENTATIVE TARR replied that the committee looked at work currently being done in Cook Inlet and there is a company that is really still in production that would be able to have access to these credits. It is a matter of philosophy with the different levers, she said, and she thinks the state should be more generous in the pre-production phase where there is truly loss, so the larger net operating loss should be kept. Version P would accommodate some existing work, which makes her slightly uncomfortable in thinking it is leaning towards special interest legislation because it favors maybe one particular company more than others. In general, she continued, she would prefer to err on the side of a more generous net operating loss for support, which is how the legislature has structured things on the North Slope and leads her to look at that type of infrastructure.

8:02:32 PM

REPRESENTATIVE CHENAULT stated that the tax credits in Cook Inlet have done exactly what the legislature expected them to do and exactly what the legislature hoped for them to do, which was to incentivize exploration and more production of both oil and gas. He said he is aware of at least two companies that are on the verge of continuing to increase the supply of natural gas and oil to Alaska refineries and the majority of citizens who live in the Railbelt. While some may make the argument about Cook Inlet gas prices compared to other areas of the world, those tax credits did exactly what they were intended to do. He allowed he is okay with downsizing those, but asserted that cutting them or going back retroactively is a disincentive. These corporations can go elsewhere and they may. Care must be

taken as those levers are moved to ensure the region does not end up back in the position it was in a number of years ago when the importation of LNG was being considered.

8:04:37 PM

REPRESENTATIVE TARR concluded her explanation of Amendment 34, saying she does not disagree with Representative Chenault. Guiding her towards this amendment, she continued, is that it is downsizes one credit and upsizes another. The amendment is saying that the stage where the state needs to be helping companies is when they are losing money while not yet in production. That is the phase where she is more comfortable being more generous, which is why condensing the step-down from a three-year transition to a two-year transition seems appropriate to her. [Under current law, state support] for calendar year 2016 is about 65 percent; under Amendment 34 it would be 55 percent, so still above 50 percent. One of the producers [before the committee] talked about the credits being a co-investor situation. When it goes beyond an equal split, she posited, it is more like the state is a primary investor rather than a co-investor for that particular project. Under Amendment 34 in calendar year 2016, the maximum could be 55 percent if a company has a loss stackable with the well lease expenditure credit, and then it would go down to 45 percent. In those out years for a company that has a loss, Amendment 34 is actually more generous than Version P.

REPRESENTATIVE TARR further noted that the legislature's consultant [analytical] has advised that a price between \$5 and \$7 [per thousand cubic feet] should be able to support any development, and it was reported to the committee that some of the new, recently signed contracts through 2023 are at a price of \$7.49 going up to \$8.19. The net operating loss opportunity could be more important for encouraging continued activity, she posited. It is a matter of which options and kind of behaviors are trying to be created. Some of the other amendments that have come before the committee underscore her point that without having access to some of the information it is very difficult for her as a policymaker to say what the best tool is and what gets the results that are the most favorable for the state. She reiterated that it comes down to philosophy as far as which activities to encourage and at what phases of development.

8:07:32 PM

CO-CHAIR TALERICO maintained his objection to Amendment 34.

A roll call vote was taken. Representatives Seaton, Josephson, and Tarr voted in favor of Amendment 34. Representatives Herron, Chenault, Johnson, Olson, Talerico, and Nageak voted against it. Therefore, Amendment 34 failed by a vote of 3-6.

[8:08:32 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 35, labeled 29-GH2609\P.7, Shutts, 3/19/16. [Amendment 35 is provided at the end of the minutes on HB 247.]

REPRESENTATIVE JOHNSON objected to the amendment.

[8:08:52 PM](#)

REPRESENTATIVE JOSEPHSON explained that Amendment 35 would step-down the qualified capital expenditure [credit] to 10 percent the middle of summer 2016 and would repeal it altogether summer 2017. He said the amendment reflects some urgency because of the state's huge deficit, an issue addressed by many of his amendments. For example, during four hours of the committee's meeting time today, the state incurred another \$1.6 million of debt. Some companies in the industry have started to contract and retrench, and it is appropriate for the state do the same because the state cannot meet these obligations in this unsustainable way. The governor's original bill was more aggressive than Amendment 35, resulting in \$200 million in savings on the well lease expenditure and qualified capital expenditure [credits]; so, it can be surmised that Amendment 35 would be less than that and would not achieve what the administration hoped to achieve. He offered his belief that the qualified capital expenditure [credits] have served their purpose - they have stimulated production in Cook Inlet. He allowed that everyone who testified that this would impact their economics is right by definition. He said his other concern with the QCE [credit] is that it has been stacked with NOL credits and resulted in 45-65 percent State of Alaska support. That was not necessarily fully anticipated by the previous legislature and is the reason why he is moving this amendment.

[8:11:29 PM](#)

REPRESENTATIVE JOHNSON stated that the same arguments apply to Amendment 35 as did Amendment 34 - the credits have done exactly what they were supposed to do. Because he does not want to see

the Anchorage mayor on television regarding brownouts, he is opposed to Amendment 35.

REPRESENTATIVE HERRON asked whether there are sunsets on these two [credits].

REPRESENTATIVE JOSEPHSON replied he thinks the QCE [credit] will sunset in 2022.

REPRESENTATIVE HERRON said he just wanted this on the record.

REPRESENTATIVE SEATON stated he supports Amendment 35 because he is concerned about some of the earlier amendments as well as the tax credits being paid out substantially in Cook Inlet for gas production, which is fully supported by the price.

REPRESENTATIVE TARR said the aforementioned is why she has been interested in making some modifications. While she does not want to again experience the situation [of brownouts] in her community, it was heard from the utilities that things are pretty good and contracts are in place through 2023. By providing a [legislative] working group in the bill, the committee has acknowledged that there is an opportunity to review and see what is still needed and that the legislature may have accomplished what it hoped to. It is for that reason that she supports Amendment 35.

REPRESENTATIVE OLSON noted that while the contracts may be in place, he does not believe all the gas is yet in place through 2023.

REPRESENTATIVE JOSEPHSON said his memory of the testimony is that it is either 70 or 75 percent covered through 2023, so Representative Olson is right in that respect. The rest is sort of behind the pipe, which may not satisfy everybody. He recalled Mr. Armstrong [of Armstrong Oil & Gas Inc.] testifying that this is the most favorable economic environment on the planet. So, given the state's financial situation, Representative Josephson said he would like to make it the second most favorable and he is okay with that because the state has other problems.

[8:15:25 PM](#)

REPRESENTATIVE JOHNSON maintained his objection to Amendment 35.

A roll call vote was taken. Representatives Tarr, Seaton, and Josephson voted in favor of Amendment 35. Representatives Herron, Chenault, Johnson, Olson, Talerico, and Nageak voted against it. Therefore, Amendment 35 failed by a vote of 3-6.

[8:16:11 PM](#)

REPRESENTATIVE TARR moved to adopt Amendment 36, 29-GH2609\P.43, Nauman/Shutts, 3/21/16, which read:

Page 9, line 11:

Delete "a new subsection"

Insert "new subsections"

Page 9, following line 21:

Insert a new subsection to read:

"(k) The percentage of a transferable tax credit certificate issued under AS 43.55.023(d) or former AS 43.55.023(m) or a production tax credit certificate issued under AS 43.55.025(f) purchased by the department may not exceed the percentage of resident workers in the applicant's workforce in the state in the preceding calendar year, including workers employed by the applicant's contractors. An amount of a credit not purchased because of application of this subsection may be applied against the applicant's tax liability under this chapter. In this subsection, "resident worker" has the meaning given in AS 43.40.092(b)."

REPRESENTATIVE OLSON objected to the amendment.

[8:16:22 PM](#)

REPRESENTATIVE TARR explained Amendment 36 relates to Alaska hire, another of the provisions she liked in the original version of HB 247. The language for Amendment 36 comes from page 19, lines 27-31, and page 20, lines 1-3, of the original bill. The legislature can never go wrong in encouraging more Alaska hire, she said. The committee previously discussed the complexity of how this provision would work, but this is something the department can work through if there is a potential challenge. If the state were to institute an income tax, about \$70 million would come to the state from out-of-state [workers] employed in a variety of industries. This is also a workforce development issue, she posited, because she sees it as an incentive for international companies that are downsizing

their workforce around the world to do Alaska hire rather than move employees cut from another location to Alaska. Additionally, should the North Slope gasline project go forward, this provision would help ensure an Alaska workforce ready to work on that project.

[8:19:24 PM](#)

REPRESENTATIVE CHENAULT stated that while he thinks 100 percent Alaska hire is a great goal, he does not think it will ever happen. The amendment may have some constitutional issues on how far the state can go with Alaska hire, he posited, because any American has the constitutional right to go anywhere in the U.S. to work. This is trying to interject social policy into a tax bill and is not a wise investment for the state to do. While he is a firm supporter of Alaska hire, something which he has done throughout his business career, there are things in the amendment that he thinks are problematic, such as having it apply to subcontractors that bring up specialty contractors to do work that Alaskans are not trained to do, although that is not to say Alaskans cannot be trained as that is something he would like to see done. The amendment would put more hurdles in the way of what is wanted, which is investment in production. Other industries in Alaska have a lower percentage of Alaska hire than does the oil industry. In his 35 years of making a living in the oil industry he has seen many outside contractors, but he has also seen many Alaska contractors that have the talent and ability to work Alaskans.

[8:22:08 PM](#)

REPRESENTATIVE SEATON pointed out that the state's education tax credits are being used to educate and hire Alaska workers and must be used within the state to promote local workforces. He said this would be a great provision to also have on any tax credits that the state gives to other industries. This is not targeting the oil industry, it is saying that if dollars are being paid out of the state treasury then there are certain things the state has a right to expect and one of those things is that those companies value Alaskan workers and skills with something more than just the equivalency that they do as the workforce. In other words, if there are two workers and there is no difference in those workers, then that is not a good situation for keeping Alaskans hired when there is workforce reduction. A company benefitting from tax credits paid at a higher rate by hiring Alaskans is a good thing. It would be a constitutional problem if the state says a company has to hire

somebody, he said, but that is not the case if the state is saying that a company qualifies for more of a tax credit payment that is dependent upon whether the company is hiring Alaskans. That is totally appropriate, it is coming out of the public treasury, and Alaskans having jobs is a public benefit. He said he supports Amendment 36 because it is only saying that Alaska's treasury will reimburse based on the percentage. He added he would not support the amendment if these tax credits were not transferable to someone else, but they are. They can be sold to anybody else that has a tax liability, so it is not limiting what the company can do with those tax credits, it is only directing purchase by the department and that is a public benefit and provides a better enhancement for the Alaska workforce.

[8:24:54 PM](#)

REPRESENTATIVE JOSEPHSON said he supports Amendment 36. Noting he taught constitutional law for six years, he explained that an important distinction is that the thing being exchanged here is an entirely optional program to begin with. No one has a constitutional right to a credit, it is a voluntary program, and the program could be eliminated. That distinction is critical and therefore is not a constitutional problem.

REPRESENTATIVE TARR concluded her explanation of Amendment 36. She said she agrees with Representative Seaton and that the committee has an opportunity today to think about how to use this legislation to encourage more Alaska hire. She added that she also appreciates Representative Josephson's comments because she recalls DOR's testimony about working with the Department of Law (DOL) to avoid any legal problems. A provision like this amendment would give her the opportunity when talking with her neighbors to say that this has a material value and that the company only earns based on its Alaska hire. It would allow her neighbors to conclude that the credit is a good investment because it is about developing Alaska's economy and workforce.

[8:27:19 PM](#)

REPRESENTATIVE OLSON maintained his objection to Amendment 36.

A roll call vote was taken. Representatives Josephson, Tarr, and Seaton voted in favor of Amendment 36. Representatives Herron, Chenault, Johnson, Olson, Talerico, and Nageak voted against it. Therefore, Amendment 36 failed by a vote of 3-6.

[8:28:07 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 37, labeled 29-GH2609\P.52, Nauman/Shutts, 3/21/16, which read:

Page 6, line 12, following "loss.":

Insert "Notwithstanding that a qualified capital expenditure may be a deductible lease expenditure for purposes of calculating the production tax value of oil, gas, or oil and gas under AS 43.55.160(a), a producer or explorer may not apply against the taxes due under this chapter a credit under this subsection in the same tax year that a producer or explorer applies a credit under (a) of this section."

Page 9, line 11:

Delete "a new subsection"

Insert "new subsections"

Page 9, following line 21:

Insert a new subsection to read:

"(k) The department may not, in the same calendar year, purchase both a transferable tax credit certificate or a portion of a transferable tax credit certificate issued as a result of a carried-forward annual loss under AS 43.55.023(b) and a qualified expenditure under AS 43.55.023(a)."

Page 18, line 20, following "APPLICABILITY.":

Insert "(a)"

Page 18, following line 21:

Insert a new subsection to read:

"(b) The limitation on the purchase of tax credits by the Department of Revenue under AS 43.55.023(b), as amended by sec. 12 of this Act, and AS 43.55.028(k), added by sec. 17 of this Act, applies to credit purchases from credit purchase applications received on or after the effective date of secs. 12 and 17 of this Act."

CO-CHAIR TALERICO objected to Amendment 37.

[8:28:19 PM](#)

REPRESENTATIVE JOSEPHSON explained Amendment 37 would disallow the combination of a net operating loss with a qualified capital expenditure or a well lease expenditure. The fundamental problem, he said, is the "stackability phenomenon" of the credits and the getting to 65 or 85 cents on the dollar. He related that he sometimes stops himself to ask, "Why don't we have an Alaska company that simply drills oil at 85 cents a dollar?" That aside, he said the qualified capital expenditure and well lease expenditure were implemented to reinvigorate the Cook Inlet Basin, which has been accomplished and has been a success. However, the result of the stacking is 45-65 percent state support for development in Cook Inlet. Although the committee substitute sees that problem, it does not in his view address it as promptly as he would like given the fiscal crisis. So, Amendment 37 would provide for an effective date in nine months, January 1, 2017. The amendment would no longer allow an expenditure credit stacked with a net operating loss and as a consequence it would reduce the state's exposure. Reducing stackability is a step toward the goal of reducing state outlay and transitioning to a system that hopefully is largely a net operating loss system.

[8:30:41 PM](#)

REPRESENTATIVE TARR supported Amendment 37, saying it is another opportunity for some additional protections for the state.

REPRESENTATIVE JOHNSON said he is trying to envision what would be happening if this provision were in place now while companies are losing money. He said there are still people investing and if this were in place now he is not sure there would be that investment; this is keeping companies operating while they are experiencing losses. The state is blessed to have some companies that have vision and are continuing to invest even though they are losing millions of dollars a day.

CO-CHAIR NAGEAK commented that incentives have been around for a very long time in the rest of the U.S. Whenever something needs to be done or built, incentives are given to people in different companies. Incentives have been used since the U.S. was born. So, incentives are nothing new for spurring investment. If it was not for oil this state would not be this rich with the money that has been put away for the future. This is the same for the municipalities that are along the pipeline and they will continue to be enriched through more investment during these hard times. The companies are not making money here in Alaska

and given the current low oil prices he is surprised that companies are still here and still out looking for more oil.

8:34:21 PM

REPRESENTATIVE JOSEPHSON concluded his explanation of the amendment. He agreed with Co-Chair Nageak that oil has greatly helped the state. While he is too young to remember the 1960s very well, he said he thinks people were happy back then in a different kind of way. However, in his mind's eye Amendment 37 is not about the North Slope, but about Cook Inlet. Of the \$625 million in repurchasables, about \$400 million was Cook Inlet. Companies are making money in Cook Inlet and the state cannot afford all of it, as much as it would like to. While it is true that there are capital credits on the North Slope, his understanding is that under Senate Bill 21 the plan was to use more of a net operating loss and the gross value reduction (GVR) for the new oil. He reiterated that he is offering Amendment 37 for Cook Inlet.

8:35:55 PM

REPRESENTATIVE JOHNSON maintained his objection to Amendment 37.

A roll call vote was taken. Representatives Josephson and Tarr voted in favor of Amendment 37. Representatives Seaton, Herron, Johnson, Olson, Talerico, and Nageak voted against it. Therefore, Amendment 37 failed by a vote of 2-6.

8:37:02 PM

REPRESENTATIVE TARR moved to adopt Amendment 38, labeled 29-GH2609\P.44, Nauman/Shutts, 3/21/16. [Amendment 38 is provided at the end of the minutes on HB 247.]

REPRESENTATIVE OLSON objected to the amendment.

8:37:08 PM

REPRESENTATIVE TARR explained that Amendment 38 is related to the gross value at the point of production and is the exact language from the original version of HB 247, Section 31, page 21, lines 29-30. She said this was discussed in the PowerPoint presentation entitled, "Additional Modeling and Scenario Analysis - Part 1a," provided to the committee on 2/22-24/16. Drawing attention to slide 50 which states that [under HB 247] the gross value cannot go below zero, she said this means that

at current market prices of around \$30 per barrel the transportation costs must be \$30 or less. Referring to slide 51 depicting Trans-Alaska Pipeline System (TAPS) tariffs and pipeline tariffs for different units, she pointed out that these transportation costs range from a low of \$6.45 to a high of \$28.49 at Point Thomson. Turning to slide 52 she noted that today's oil price has hovered around \$38 a barrel, but pointed out that if the price dropped to \$30 the Point Thomson Unit would have a negative gross value at a tariff of \$28.49 plus a marine transportation cost [of \$3.37]. Amendment 38 would prevent that gross value from going below zero. She explained that for purposes of calculating the taxes on the entire segment, the negative would be used to offset the positive in another area and that could have a material impact. Bringing attention to the example given on slide 52, she pointed out that using the negative to offset positive values elsewhere would result in a tax reduction of 35 percent of the difference because the company would be able to apply the net operating loss portion of that. While the state is not experiencing this situation now, she said Amendment 38 would protect the state should prices go lower.

[8:40:17 PM](#)

REPRESENTATIVE OLSON maintained his objection to Amendment 38.

REPRESENTATIVE SEATON stated he is worried somewhat about this issue because some areas in the state have very high credits and companies might do a project that is far afield because they can offset other tax from other places in their portfolio. The hit would be to the state while it would be equalized within the company. He posited that the price does not have to go down to \$30 a barrel, it just has to be that the costs incurred in the field are large in respect to whatever the price is. The state opens itself to additional losses that could be determined by issues other than what is good for the state. Therefore, he continued, Amendment 38 is a good amendment to ensure that the calculation on the point of production value is not less than zero to offset other developments.

REPRESENTATIVE JOHNSON said he finds it inconceivable that a company would invest someplace that is marginal just to get a tax break. These companies invest to pump and sell oil and to make a profit and he does not believe that many companies view tax credits as profit. Getting that oil to market is where the profit is. Secondly, what is being talked about here is new oil. Much of that is farther out from infrastructure and is the

oil that the state needs to develop now and that is what this credit does. To take away that incentive to move beyond the legacy fields and proven reserves would do the state a disservice. He said he is therefore opposed to Amendment 38.

[8:43:28 PM](#)

REPRESENTATIVE TARR concluded her explanation of Amendment 38 by noting there is a distinction between gross value reduction (new oil) versus gross value at the point of production. She said Representative Seaton brought up the other potential example relative to the development that is going on now. The one circumstance that edges toward a situation like that would be Point Thomson, but it is true about doing a development farther out. Adopting Amendment 38 would avoid a level of vulnerability to the state. While it has been stated repeatedly that changes should not be made right now for companies that are investing, what makes Amendment 38 different is that it is not a change that would impact what someone is doing right now because the price is at \$38 and hopefully going up. If put in place now, companies would have to make a decision based on knowing that this was the policy in place. She surmised this was probably not discussed during consideration of Senate Bill 21 because the modeling was done for prices around \$80 and so this would never have been a part of the conversation. The amendment is planning ahead and would give the companies the idea of needing to look at that, think about the price window, and make a decision.

[8:46:00 PM](#)

REPRESENTATIVE OLSON maintained his objection to Amendment 38.

A roll call vote was taken. Representatives Seaton, Josephson, and Tarr voted in favor of Amendment 38. Representatives Olson, Herron, Johnson, Talerico, and Nageak voted against it. Therefore, Amendment 38 failed by a vote of 3-5.

[8:46:51 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 39, labeled 29-GH2609\P.50, Shutts, 3/21/16, which read:

Page 9, line 8:

Delete "and"

Insert "[AND]"

Page 9, line 9, following "(5)":

Insert "during the calendar year preceding the calendar year in which the application is made, the applicant's revenue generated from the applicant's oil and gas business, including the revenue of the applicant's affiliates if the applicant is part of an affiliated group, did not exceed \$10,000,000,000; and (6)"

REPRESENTATIVE OLSON objected to Amendment 39.

[8:47:01 PM](#)

REPRESENTATIVE JOSEPHSON explained Amendment 39. He related that several legislators looked at the work of the director of the Tax Division, his team, and the administration, and some people wanted the administration to be of a reform mind more than it was. But, when HB 247 was originally brought forth, he could instantly see what he thought was intuitive wisdom about some things and that is what Amendment 39 speaks to. The administration made the case that there are companies in Alaska that have global revenue exceeding \$10 billion, an example being the Italian energy company ENI. The State of Alaska's revenue exceeds \$1 billion this year, yet the state is paying ENI reimbursable tax credits. If the overall discussion is to incentivize, one might argue that more of an incentive would be to not pay those and to instead require oil production and then take it in the next year against liability. This is an example of where he is sure that people sit in their board rooms in Milan and say, "Geez, we can get tens of millions of dollars paid back to us if we have a loss or we don't produce." But, he continued, that is really not what is at issue for companies of this size, and for that reason he is offering Amendment 38.

REPRESENTATIVE TARR said she supports Amendment 39 because a good feature of the original bill was that it recognized the difference between the balance sheets of a big company versus a small company. However, that provision was not retained in Version P, which treats all companies equally. The needs of smaller companies have previously been recognized by the legislature as being different than more well established companies, and for this reason she supports Amendment 39.

[8:50:00 PM](#)

REPRESENTATIVE OLSON maintained his objection to Amendment 39.

A roll call vote was taken. Representatives Seaton, Josephson, and Tarr voted in favor of Amendment 39. Representatives Johnson, Olson, Herron, Chenault, Talerico, and Nageak voted against it. Therefore, Amendment 39 failed by a vote of 3-6.

[8:50:42 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 40, labeled 29-GH2609\P.26, Nauman/Shutts, 3/19/16. [Amendment 40 is provided at the end of the minutes on HB 247.]

REPRESENTATIVE OLSON objected to the amendment.

[8:50:54 PM](#)

REPRESENTATIVE JOSEPHSON explained Amendment 40 would provide a four-year limit on the gross value reduction (GVR). He said he is offering a four-year limit because he finds very compelling the argument that things age. The GVR definition [under current law] is incredibly generous, he continued. It is a three-pronged disjunctive test, so only one element needs to be met. The GVR starts in 2003 and goes as far as 2011. New oil should not logically be new oil forever. Ultimately everything will be new and everything will have an additional 20 percent discount. This would be a savings. He pointed out that he took the very document that Senate Bill 21 speaks to, the Oil and Gas Competitiveness Review Board's first document. In the section on peer states, the board says that North Dakota offers an oil extraction tax (OET) for very low production volume wells and incentives for horizontal drilling and each of these incentives appears to last for 18 months. While the OET is not exactly what the GVR is, it reminds him of that. Oklahoma gives horizontal wells a reduction for 48 months, deep wells a reduction for 48 months, and really deep wells beneath 17,500 feet a reduction for five years. Those were the only two states in the document. The GVR needs to be reduced or at least capped, he posited. Amendment 40 is designed to start its clock now with an effective date of January 1, 2017, and everyone would get four years and they would get that from the time of production. The amendment does not say that those doing this for the previous decade are out of luck, so the amendment is a step-down and not a rug pulling.

[8:54:08 PM](#)

REPRESENTATIVE SEATON said he really thinks the GVR needs a term limit on how long new oil is considered new oil. He noted that

his amendment offered five years and he prefers that, but he is willing to support four years as well, because the state's future liability is at risk.

REPRESENTATIVE TARR stated she supports Amendment 40 because the conversation was about new oil and at some point four or five years down the road she does not see how it can still qualify as new. It is not a change with immediate impact because it still has a four-year application after January 1, 2017.

REPRESENTATIVE JOHNSON argued that this is a fundamental change to the tax structure. He said he thinks this was thought out very clearly in recognizing that the future of Alaska and the future of TAPS is new oil. He agreed it is generous but said that without that new oil the state's future is bleak and he does not want to do anything that would reduce that new oil. The state is going to pay for what it does one way or the other. It can be paid for in the future with reduced production or it can be paid for today by keeping that production and preserving that production for future generations. Regardless of whether it is a step-down or a rug pulling, he is not inclined to do anything that affects new oil because it is the state's livelihood and its future.

[8:56:42 PM](#)

REPRESENTATIVE OLSON maintained his objection to Amendment 40.

A roll call vote was taken. Representatives Seaton, Josephson, and Tarr voted in favor of Amendment 40. Representatives Chenault, Johnson, Olson, Herron, Talerico, and Nageak voted against it. Therefore, Amendment 40 failed by a vote of 3-6.

[8:57:29 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 41, labeled 29-GH2609\P.25, Shutts, 3/21/16. [Amendment 41 is provided at the end of the minutes on HB 247.]

CO-CHAIR TALERICO objected to the amendment.

REPRESENTATIVE JOSEPHSON explained Amendment 41. He said evidence from the administration is that repeal of the qualified capital expenditure and well lease expenditure [credits] would save the state \$200 million per year. Amendment 41 would repeal the well lease expenditure faster than does Version P. The committee has heard there is some redundancy in what the lease

expenditure and the qualified capital expenditure cover and that is an important feature. The purpose of both of them was to incentivize gas production in Cook Inlet to secure energy supply in Southcentral Alaska. While he lived through the entire period of threatened brownouts and blackouts, he did not personally go through any exercises but did see the television spots. The renaissance had its effect, he continued, there is now a profitable steady stream of natural gas in the Cook Inlet. If these credits did in fact cause this gas development, they have served their purpose and the well lease expenditure and arguably the qualified capital expenditure could or should be repealed. There is some duplication between the well lease expenditure and the qualified capital expenditure. While personally he would like to gradually reduce the well lease expenditure, he is concerned about what is now a \$4.1 billion deficit, which on [3/20/16] was a \$3.8 billion deficit. Next year for the first time in Alaska history, the state will be bringing in less total revenue from the oil industry, all sources, except for the 25 percent of royalty that goes to the permanent fund, than the state will be paying out in tax credits. Given that gas is under pipe or under contract through 2023, the great imperative, he posited, is to eliminate the well lease expenditure now or by July 1 [2016], and therefore he is offering this amendment.

CO-CHAIR TALERICO opposed Amendment 41, saying it is still very important to create a transitional period regardless of how bleak the information. He said he does not want it to be bleak in households, planning for continuing on with projects, or planning for production. It is important to carefully navigate through here with a scalpel, not a machete.

REPRESENTATIVE JOSEPHSON concluded explaining Amendment 41 by stating that his worry about the state's fiscal future is why he is offering these amendments.

[9:01:21 PM](#)

CO-CHAIR TALERICO maintained his objection to Amendment 41.

A roll call vote was taken. Representatives Josephson and Tarr voted in favor of Amendment 41. Representatives Herron, Chenault, Johnson, Olson, Seaton, Talerico, and Nageak voted against it. Therefore, Amendment 41 failed by a vote of 2-7.

[9:02:11 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 42, labeled 29-GH2609\P.3, Nauman/Shutts, 3/19/16. [Amendment 42 is provided at the end of the minutes on HB 247.]

CO-CHAIR TALERICO objected to the amendment.

REPRESENTATIVE JOSEPHSON explained that Amendment 42 would revive Section 17(b) of the original version of HB 247 and would harden the floor for all purposes. He reported that the [fall 2015 Senate] working group concluded there may have been some inadvertence in terms of whether the 4 percent was a floor that could be gone beneath for purposes of deducting credits further from that floor. It was the biggest cost saving feature by Senator Giessel's December 1, 2015, draft report. The Senate working group found that there was inadvertence in that there was a misunderstanding probably because no one modeled prices this low, which should be a lesson that every price should be modeled. The credits would not be lost under Amendment 42, they could be carried forward to a year of tax liability. So, Amendment 42 would provide a hard floor of 4 percent that no qualified capital expenditure [credit], well lease expenditure [credit], net operating loss [credit], nontransferable tax credit, or alternative tax credit can penetrate. The effective date would be January 1, 2017. He offered his belief that the only tax credit now that can pierce the 4 percent floor is the sliding-scale per-barrel credit. The governor's fiscal note [for the original bill] believed that this feature would save the state \$50 million. Amendment 42 is consistent with the legislative intent, he said, and that is why he is offering it.

[9:04:35 PM](#)

CO-CHAIR TALERICO maintained his objection to Amendment 42.

A roll call vote was taken. Representatives Tarr, Seaton, and Josephson voted in favor of Amendment 42. Representatives Herron, Chenault, Johnson, Olson, Talerico, and Nageak voted against it. Therefore, Amendment 42 failed by a vote of 3-6.

[9:05:33 PM](#)

REPRESENTATIVE TARR moved to adopt Amendment 43, labeled 29-GH2609\P.46, Nauman, 3/21/16. [Amendment 43 is provided at the end of the minutes on HB 247.]

REPRESENTATIVE HERRON objected to the amendment.

REPRESENTATIVE TARR explained that Amendment 43 is the original version of the bill with the exception of the effective dates. The effective date under the amendment would be July 1, 2016, while one section in the original bill was retroactive to January 1, 2016. The amendment has no retroactive provisions. Prompting her to introduce Amendment 43, is her concern that with just 26 days left [in the session, the legislature] does not yet have a plan. The governor has put out a plan, and while she does not like all of its provisions, it does stress the need for thinking holistically and looking at a comprehensive solution. This was the most substantial part of the governor's plan with the \$500 million associated with it, twice as much as the income tax under the governor's plan minus the big changes in the permanent fund. However, the "back of the napkin" estimated fiscal impact looked at by the committee on [3/21/16] was just \$50 million. Given the legislature must put together a plan that must now get to a \$4.1 billion deficit solution, it is hard for her to see where the other big ticket items will come from. If it is not HB 247, then what? Adopting Amendment 43 would fill a current \$500 million hole, she posited.

[9:08:23 PM](#)

REPRESENTATIVE JOSEPHSON said the Department of Revenue (DOR) deserves a lot of credit for bringing the original version of the bill before the committee. That bill was comprehensive and designed to show real deference and respect, perhaps with the exception of its proposed 1 percent increase, arguably 20 percent increase, in the gross production tax floor. The original version of HB 247 generally said that Senate Bill 21 is the law of the land and there are some excesses in the credits and those have to be reined in. [The deficit] was \$50 million in 2007, it will be \$800 million in FY 2018, an increase of 1,600 percent in a decade. Why that is sustainable he does not know. If it were \$200 million he would say the state could afford this. While this is very important it just is not affordable, he said, and therefore he supports Amendment 43.

CO-CHAIR TALERICO offered his appreciation to the administration for bringing forth HB 247 and the administration's explanation that everything brought forward was written in pencil and the committee was to vet it. He said the bill was certainly vetted by the committee over the course of 23 or 24 educational and informational meetings. The bill that will be moved out of committee is also written in pencil, because it will be heard in other committees, the floor, and the other body. Therefore, it is highly unlikely that whatever product is produced in this

committee is the end result. He said his opposition to Amendment 43 is because the bill that the committee has worked its way through will be turned over to others and those people will also work very hard on it. The committee has produced a lot of information and those other people will have the opportunity to go through that information. He said he has been very impressed that other members of the legislature can tell him what this committee has been doing. He reiterated his opposition to Amendment 43.

9:11:51 PM

REPRESENTATIVE SEATON said Amendment 43 looks at putting aside all the work the committee has done. When a bill comes before a committee, it becomes the committee's bill to work on and the committee has worked on HB 247 very diligently. With all of the amendments considered tonight, the committee has looked at difference in philosophies, difference in perspective of where there should and should not be cost savings, where to make sure that industry is not impacted, and where the state's treasury is protected. Given the aforementioned and that others will be looking at the bill put forth by the committee, he said he does not support Amendment 43.

REPRESENTATIVE TARR concluded her explanation of Amendment 43. Offering her appreciation for Representative Seaton's and Co-Chair Talerico's comments, she noted that this amendment was at the end of her own list of amendments. She explained it was more an opportunity to reflect back on the work that was done by the committee. None of the four amendments adopted tonight had a real financial impact. Her comments tonight are, in part, to give some indication to the others who will be looking at the bill as to where she is at. Given there are only 26 days left to see how all the pieces are going to fit together, the legislature is not as far along overall as she would like to be. The bill was originally well thought out, she posited, and part of an overall plan and is a lead that the legislature needs to take. While the bill is written in pencil there is not any other legislation, with the exception of permanent fund proposals, moving through the process right now that would have that kind of impact on the state's \$4.1 billion debt.

9:15:19 PM

REPRESENTATIVE HERRON maintained his objection to Amendment 43.

A roll call vote was taken. Representatives Josephson and Tarr voted in favor of Amendment 43. Representatives Herron, Chenault, Johnson, Olson, Seaton, Talerico, and Nageak voted against it. Therefore, Amendment 34 failed by a vote of 2-7.

[9:16:22 PM](#)

REPRESENTATIVE TARR moved to adopt Amendment 44, labeled 29-GH2609\P.47, Nauman/Shutts, 3/21/16. [Amendment 44 is provided at the end of the minutes on HB 247.]

REPRESENTATIVE HERRON objected to Amendment 44.

REPRESENTATIVE TARR explained Amendment 44. Noting it will look familiar, she drew attention to page 29 of the amendment and said the difference is the effective date of January 1, 2017. Reiterating her concern about not having an overall plan, she said she is offering the amendment so members would have in mind that within the original structure of the bill this may have been another opportunity. She recalled the administration's testimony before the committee about having worked with the Senate working group and industry folks in developing the original proposal. Something that troubled people was the idea of making changes effective July 1 for the state's fiscal year because that would be disruptive mid-year for a tax calendar year. Therefore, Amendment 44 would push the effective date to January 1 of the next year.

REPRESENTATIVE HERRON maintained his objection to Amendment 44.

[9:17:53 PM](#)

REPRESENTATIVE JOHNSON said he takes exception to the statement that was made during consideration of a previous amendment that there is no fiscal impact with the CS. He maintained that there will be great fiscal impact of the bill that is passed, and while it is not going to be tomorrow or the effective date of July 1 of any particular year, it is going to have a great impact for future generations. Doing things in this legislation that stifle production or take oil out of TAPS will cause multiple years to restart an industry that is bleeding money. That will have tremendous impact, probably not today but it will in 10 years. The price will be paid for what is done and it can either be paid now and preserve the production for future generations or the money can be taken now and provide for this generation and abandon future generations. He said he did not come to the legislature to abandon future generations, or to

preserve the status quo, or to continue to fund what he thinks is government that is a bit out of control. He came to make this place better for his family, his children, and his grandchildren. The legislation that the committee is going to pass has tremendous financial impacts, he said. Whether tomorrow or in 10 years, the bill will come due and he would rather pay it today so that he is the one to suffer rather than future generations.

REPRESENTATIVE JOSEPHSON agreed with Representative Johnson that Amendment 44 would impact the oil and gas industry in both Cook Inlet and the North Slope. Industry may decide to develop elsewhere in some circumstances. But, he continued, he is also worried about the \$283 million cut by the legislature and the job losses from that. It is also important that the impacts of these credits be made more transparent. It is this guessing game where the administration violates a law if it tells legislators what is working. It is a bizarre system. One of the PowerPoints presented to the committee showed that \$900 million has been spent on Cook Inlet and \$450 million of it did not produce anything. He said he supports Amendment 44 because it goes to the whole heart of the matter.

REPRESENTATIVE HERRON maintained his objection to Amendment 44.

9:21:43 PM

REPRESENTATIVE TARR concluded her explanation of Amendment 44. She said if she thought Amendment 44 would in any way compromise the future she would not have introduced it. Her concern, she continued, is the potential for a recession today and people leaving Alaska. Because she sees a more immediate sense of urgency about that, and if it can be addressed today and quality of life and essential state services maintained, as well as investing in education to provide the well educated workforce that is needed to have a thriving economy, then the state's future will be sound. The current situation is a negative cash flow for both the state and the companies. Keeping the state afloat right now is the savings earned during the regime of Alaska's Clear and Equitable Share [House Bill 2001, passed in 2007, Twenty-Fifth Alaska State Legislature] and the 2008 record high price of about \$140 a barrel. The state's partner companies during that same time period were also earning billions of dollars on an annual basis and just like the State of Alaska had to save money for tough times. For example, the publically posted annual profits for BP were \$2 billion in 2008 and almost \$2 billion in 2009; for ConocoPhillips it was \$2.3

billion in 2008, \$1.5 billion in 2009, and \$1.7 billion in 2010. The state's "savings spree" of \$18 billion is what is going to carry it through and there should be that same level of expectation of the companies that had record profits during that time. She expressed her concern that the burden be less weighted on individual Alaskans in order to get to the future that is wanted. She pointed out that similar concerns are shared, but the pathways seen for getting there are different.

[9:24:33 PM](#)

A roll call vote was taken. Representatives Josephson and Tarr voted in favor of Amendment 44. Representatives Seaton, Herron, Chenault, Johnson, Olson, Talerico, and Nageak voted against it. Therefore, Amendment 44 failed by a vote of 2-7.

[9:25:48 PM](#)

REPRESENTATIVE TARR moved to adopt Amendment 45, labeled 29-GH2609\P.57, Nauman/Shutts, 3/21/16. [Amendment 45 is provided at the end of the minutes on HB 247.]

REPRESENTATIVE OLSON objected to the amendment.

REPRESENTATIVE JOHNSON objected to the amendment.

[9:25:53 PM](#)

REPRESENTATIVE TARR explained Amendment 45. She recalled that the issue of confidentiality came up repeatedly during the committee's conversations relative to the sections in the original version of the bill. The committee heard concerns about confidentiality from ExxonMobil Corporation and Alaska Oil and Gas Association (AOGA), and she followed up with them afterward regarding working on language. She related that she requested an amendment [from Legislative Legal and Research Services] using the confidentiality language that was put into the final version of Senate Bill 138 [passed in 2014, Twenty-Eighth Alaska State Legislature]. This language is in Section 24(b)(12)(B) on page 17 and states:

"the commissioner may share confidential information obtained under this paragraph with members of the legislature, their agents, and contractors on request under confidentiality agreements, either in committees held in executive session or individually;"

REPRESENTATIVE TARR pointed out that the aforementioned language in Senate Bill 138 is, in turn, modeled off of language that was included in the Alaska Gasline Inducement Act (AGIA) [HB 177, passed in 2007, Twenty-Fifth Alaska State Legislature]. Thus, she said, there was some consistency in these confidentiality provisions.

REPRESENTATIVE TARR continued, explaining that the amendment she requested [from Legislative Legal and Research Services] did not show up. But, what did show up was some language that industry had worked on and then forwarded to the co-chairs, which is what is seen in Amendment 45. In addition to having those same type of provisions, it is more explicit in the types of information that can be shared. One major difference is that [the amendment she had requested] did not have any civil penalties or fines associated with it. However, the penalties and fines included in Amendment 45 give the industry a higher level of comfort that this important confidential tax information could be shared. While she did not get to talk to [industry], she can imagine that having two protective provisions would be better than one from [industry's] perspective.

REPRESENTATIVE TARR stated that the tremendous challenge with trying to figure out which opportunities to take advantage of is not knowing well enough how they are working. She can look back at last year and know \$900 million was spent in the Cook Inlet, and that \$450 million led to production and \$450 million did not. For the North Slope, she believed, the expenditure was more than \$1.2 billion with a two-thirds split between what led to production and what did not. Beyond that she has no information and that makes it very difficult. Clearly what is trying to be accomplished here is credit programs that incentivize the right kind of behavior so there are no gaps in exploration, development, or production. That is the intention here and the expectation should be just like when reviewing gas contracts and legislators have an opportunity to sign the confidentiality agreement. She said she can be comfortable with the penalties included in Amendment 45 because she can imagine why industry wants protection of this important information.

[9:30:19 PM](#)

REPRESENTATIVE JOHNSON noted there are rules that say any legislator can attend an executive session. He asked whether there is the ability to prevent a person from attending an executive session if the person has not signed a confidentiality agreement but chooses to show up in an executive session.

EMILY NAUMAN, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, Alaska State Legislature, replied that she does not know the answer to that question. She said it is a very valid concern as Uniform Rule 22(d) does prevent any member of the legislature from being excluded from a legislative session. She said she personally does not know the consequences of enacting a law that directly conflicts with one of the Uniform Rules. She suggested Doug Gardner be asked the question when he is in the office tomorrow.

REPRESENTATIVE JOHNSON responded that there is no tomorrow.

MS. NAUMAN apologized for not knowing the answer off the top of her head, but added she would be happy to look into it.

[9:31:55 PM](#)

REPRESENTATIVE JOHNSON stated that he sees a real problem with the aforementioned. Secondly, he said, he would like to know the definition of "industry" when the statement is made that "industry" supports the amendment.

REPRESENTATIVE TARR answered that [Senate Bill 138 and AGIA] passed with this same language and there have not been any challenges to that. She reread the language from Senate Bill 138 and said the language is very similar in nature with the exception of having a penalty. She pointed out that the executive session provision from the Uniform Rules was brought to her attention today through a memorandum from Legislative Legal and Research Services. She surmised committee members may have seen the memorandum.

REPRESENTATIVE JOHNSON responded he has not seen the memorandum.

REPRESENTATIVE TARR, continuing, said this did not come up with Senate Bill 138. She reiterated that that is the language she had originally requested and that was because she had not heard back from AOGA in her request to both ExxonMobil Corporation and to AOGA for suggestions because they were the ones saying they had trouble with what pieces of information would be released. This would be a way of getting around that because it would not be made public, it would only be made available to the policymakers. Legislators went through the same thing under the Stranded Gas Development Act [House Bill 16, passed in 2003, Twenty-Third Alaska State Legislature], so there are three

instances where the legislature has used the same mechanism to get at that information and there have not been any challenges. Regarding "industry," she said she reached out to Kevin Jardell, lobbyist for ExxonMobil Corporation. Mr. Jardell stated, and this was echoed in committee, that AOGA would like to come forward because AOGA works something through all of its industry members to get some level of uniformity and acceptance of a particular policy. She noted that this language was forwarded to her as well as to Rena Delbridge, staff for Representative Hawker.

9:34:30 PM

REPRESENTATIVE JOHNSON, in regard to the other three bills, stated that just because the legislature did it once or three times does not make it right. While ExxonMobil Corporation may have said it is okay, that company does not represent the industry and he believes others may have a different view. Not every company is a member of AOGA, so he does not want to make the blanket statement that industry approves of this. He said he would like to hear the opinion of ConocoPhillips Alaska, Inc., a company that is not a member of AOGA and that is a major player on the North Slope.

MICHAEL HURLEY, Director, Government Relations and Community Affairs, ConocoPhillips Alaska, Inc., testified that this afternoon was the first he had seen this particular language and it brought up two concerns for his company. The first being one of process. The process laid out in this amendment is basically a discussion between the Department of Revenue (DOR) and the legislature. As laid out, there is no notice to the company. So, the legislature could schedule the meeting tomorrow with DOR and talk about all of ConocoPhillips's confidential data and tax information and he would not know about it. He would not know who was there, what was being talked about, what records were being produced. The process just seems flawed to him in that it could happen to any particular company and there are quite a few companies that are not members of AOGA. Therefore, it was a little disconcerting to have a process laid out where companies would not even know what was going on or even that a meeting had occurred.

9:37:19 PM

MR. HURLEY continued, saying the second issue that concerns his company is why that meeting would occur. He has heard the discussion about lack of transparency or information. In regard

to the examples talked about by Representative Tarr a few minutes ago, would sitting down and looking at what tax credits ConocoPhillips took in 2015 really tell legislators how to make policy for the whole state going forward? He said he doubts it, because it often takes years to mature and get to the point where the company knows whether something is successful. For example, if legislators had looked at BP's tax returns and credits for the Badami oil field they would have thought BP had a success. But everyone knows that did not play out. The judgement of whether a tax credit program is or is not successful is one that is made over a long period of time, not by looking at a particular company's tax credits for the last year, it is not the nature of the business.

MR. HURLEY stated it would concern him if legislators started making decisions based on looking at a company's tax credit usage and then trying to make policy that applies to all tax credits. The IRS has very, very strict codes about how confidential information with the IRS can be used. One of the reasons the IRS does that, one of the reasons the IRS has very strict rules, is because what the IRS does not want to see happen is have the kind of tax credit process turned into a political process where people sit around in an executive session and decide who they do or do not like, and that they want one company to have more credits and another less credits. Starting to look into people's individual tax returns to see what they did or did not do seems to be the road down which people could go.

[9:40:32 PM](#)

REPRESENTATIVE JOSEPHSON said he respectfully has some concern in regard to Mr. Hurley's testimony. The first issue raised was that the industry would not know who attended [the executive session]. As he reads the amendment he is not sure what industry would do with that information anyway, because if someone approached a legislator and said, "I don't know what you heard, but let me tell you something," the legislator would have to play dumb. The second point that a company would not know in year one, two, or three, and while he does not know what the retroactivity of the amendment is, he thinks the industry should expect that with the state paying \$800 million or more there might be some constituents who are going to ask about that and legislators could learn something. For example, it might be found that an area near Teshekpuk Lake is just fruitless, there is no oil to develop there, or that the west side of Cook Inlet near Shelikof Strait is too far south and nothing bore fruit

there. He does not know, but he is very interested in knowing. Stating respect for Mr. Hurley, he said he sensed it was being said that legislators cannot sort it out or make good judgements based on the information. That is important because legislators are already making blanket judgements about what percentage of QCE and whether it should be statewide and legislators are doing this with very little knowledge. So, his response to Mr. Hurley is, "Right back at you with great respect." Legislators are already making blanket statements about what does and does not work but while flying sort of blind.

REPRESENTATIVE JOSEPHSON continued. Addressing Amendment 45 itself, he said he has concerns only in that some legislators, one example being Senator Berta Gardner, do not generally as a principle sign confidentiality agreements because then she has to "ring fence" in her own mind when she is talking to people. All legislators do that to some degree, but there is that censoring and a criminal penalty would make a person censor in a hurry. Additionally, he thinks some constituents might call him asking why he is privy to this information while the constituent is not. But, if this is the best that can be gotten, it is something, and no one has to sign the confidentiality agreement. The process must be started of figuring out what is working, he said, and therefore he supports the amendment.

9:43:50 PM

REPRESENTATIVE CHENAULT said he is not sure where he really wants to go with this. He noted he has not been on this committee for the last 10-14 years like some members have. Those members get to go through this on a regular basis and maybe things stick in their minds that do not stick in his. He said if his memory is correct he does not think that the Department of Law liked the provision that was in Senate Bill 138, and he is not sure that the provisions are all the same. He asked whether the Department of Law has a position on Amendment 45.

MARY HUNTER GRAMLING, Assistant Attorney General, Natural Resources Section, Civil Division (Juneau), Department of Law (DOL), responded that there are conflicting attorney general opinions that are public on the issue of confidentiality agreements in executive session on tax issues. She believed that the current attorney general and Governor Walker's administration overall are very much in favor of transparency in government and just based on that policy she thinks they would be opposed to executive sessions as a policy matter. There have

been conflicting legal issues on this and DOL has not published a formal attorney general opinion on this issue with this attorney general and so she cannot say anything more than that she thinks as a general policy matter they would be opposed to it. Even the most lenient of the attorney general opinions that was in favor of executive sessions did say that there was risk to the department and the employees when they appeared in executive sessions, she continued. This statute is very explicit, so it might help mitigate some of the risks because this sort of statute was not in existence when those opinions were drafted. However, as transparency is a hallmark of this administration, she does not feel comfortable saying whether DOL would support it other than noting that there is conflicting attorney general opinions and Governor Walker and the attorney general are very much in favor of transparency when possible.

[9:46:46 PM](#)

REPRESENTATIVE CHENAULT requested Ms. Delbridge to address the statement that the language in ACES and Senate Bill 138 is similar, because he does not remember this.

MS. DELBRIDGE responded she cannot recall off the top of her head the specific terms of the AGIA provisions. She was able to refresh herself on the Senate Bill 138 provisions and those are in AS 38.05.020(B), which allowed the department to share confidential information under a confidentiality agreement. It did not require legislators to be meeting in some kind of session committee format in order to receive that. It provided for individual meetings or meetings outside of that framework that might run into those conflicts with the Uniform Rule. That was a slightly different context in the sense that that was sharing information that is held proprietary by a project and so, she believed, the agreement was linked to another agreement with a project to provide that access and in this instance it is an entity providing access to confidential taxpayer information. The language in Amendment 45 certainly is modeled after the concept in Senate Bill 138, but it is slightly different, in particular in Senate Bill 138 it allowed for legislators to make sure that their agents, their consultants, staff, people they felt important to be present for that information sharing, are also there and Amendment 45 provides for that as well.

REPRESENTATIVE CHENAULT read aloud from Uniform Rule 22(d), which states in its entirety:

The provisions of this rule may not be interpreted as permitting the exclusion of a legislator from an executive session, whether or not the legislator is a member of the body that is meeting. A legislator not a member of the body holding an executive session shall, however, be subject to the same rules of confidentiality and decorum as pertain to regular members of the body.

REPRESENTATIVE CHENAULT surmised that "rules of confidentiality" could be interpreted to mean the signing of a confidentiality agreement.

[9:49:56 PM](#)

REPRESENTATIVE SEATON recalled that during AGIA he signed a confidentiality agreement and went over to the room and found stacks of books about compressors and other things of no meaning to him, and that was the last confidentiality agreement he has signed. He noted he has been in the legislature for quite a while and gone through a number of these and the legislature has not had a problem forming policy. The legislature sometimes gets knocked because it wants to change something and is asked whether a study has been done showing what the effect will be, but the legislature has not cared because its job is to form policy. The legislature looks at the best information it can to see what might be the effect and consultants are brought in to provide what is projected to be the effect. The effect will never be known until the policy is done. He said he really wants to see transparency, but when going down to the level of looking at the data of individual taxpayers he is unsure how legislators would use that because it is a broader scope that is used. Legislators need to make policy for the state to the best of their ability and he is not sure that Amendment 45 would give legislators the information on which to make policy.

REPRESENTATIVE JOSEPHSON related he has received a text from someone at ExxonMobil that seems to indicate AOGA approves of this amendment but not necessarily ExxonMobil. He shared that he was in a telephone conference with AOGA and this appears to be the amendment that AOGA approved of. He qualified that he is using the word "approved" broadly.

REPRESENTATIVE HERRON said he has an overabundance of caution and will not support Amendment 45, but suggested that this conversation should be further explored.

9:53:26 PM

REPRESENTATIVE TARR argued that Amendment 45 is one of the most important amendments offered tonight. She disagreed with Representative Seaton about the usefulness of this information. Because she has taught at a university for 20 years she tends to err on the side of more information and be a student as much as possible to learn about things. Therefore, she would delve into this information if she had the opportunity to. Her sense of frustration is that in the original bill there were some very limited provisions about releasing information and industry said that was unacceptable. She tried to work around that and be sensitive to any of the IRS limitations so as to not do anything that would get anyone in trouble. She looked back at previous work the committee has done and this was a big part of the conversation about Senate Bill 138. She put in an amendment that was lost somewhere and which she believed was sent to the co-chairs. As a result of hearing from AOGA things are more clearly delineated in Amendment 45 on page 2, subparagraphs (A), (B), and (C). She offered her belief that this is language that could be acceptable and that maintains that privacy but would give legislators some access. This is really important information for legislators to have and that could be very instructive. There is always the opportunity to repeal a law if it turns out to not be as helpful as was thought.

9:55:51 PM

REPRESENTATIVE TARR said right now she feels that her neighbors are demanding to have more of this information. Right now this bill does not provide any opportunities for some of that information to be made public to them. However, it could give them some level of comfort to know that she has the opportunity to see that information. Some of the amendments she has offered are opportunities to actually strengthen the work that is being done. If, for example, over a multi-year basis she had had the opportunity to be looking at this information she cannot say today how that might influence what she is thinking, but it is very possible that her understanding of something is not correct. By seeing that information she would be able to correct those errors in her own mind. She would rather err on the side of having more information and to study things as much as possible and to understand at the greatest level of detail what the implications of the legislature's actions are. Amendment 45 is a pretty big ask for legislators to feel comfortable that there be a penalty associated with any disclosure of that information. When trying to strike a balance

with competing ideas then sometimes everybody gives a little. It would be her preference that penalty language not be included in the amendment, but she is willing to give a little to go with what the industry says it can be comfortable with. Equally this should be supported. Legislators should do due diligence in understanding how these provisions work. If the legislature was going to consider gas contracts then legislators would probably all sign confidentiality agreements so they could understand the detailed provisions of those documents.

REPRESENTATIVE TARR further noted her appreciation for Governor Walker's policy directive that transparency is key for his administration. But, there are limitations to that, there is not the opportunity to release this kind of information, it is confidential taxpayer information. [Amendment 45] would provide the opportunity to do that in a very limited scope for the people who need to understand it and make the policy. It would provide that information in a private way and it would be legally prohibited from sharing outside of that. If that is the best that can be done, then that is the best that can be done, and she would ask committee members to support the amendment.

[9:58:50 PM](#)

REPRESENTATIVE JOHNSON maintained his objection to Amendment 45.

A roll call vote was taken. Representatives Josephson and Tarr voted in favor of Amendment 45. Representatives Olson, Seaton, Herron, Chenault, Johnson, Talerico, and Nageak voted against it. Therefore, Amendment 45 failed by a vote of 2-7.

[9:59:36 PM](#)

The committee took an at-ease from 9:59 p.m. to 10:07 p.m.

[10:07:56 PM](#)

CO-CHAIR NAGEAK noted that Representative Seaton will offer a new version of Amendment 4.

REPRESENTATIVE SEATON moved to adopt Amendment 4, labeled 29-GH2609\P.59, Nauman/Shutts, 3/22/16, which read:

Page 8, line 18:

Delete "The"

Insert "Subject to the limitations in (k) of this section, the [THE]"

Page 8, lines 22 - 24:

Delete "The department may not purchase a total of more than \$200,000,000 in tax credit certificates from a person in a calendar year."

Page 8, line 31:

Delete "\$200,000,000 limitations in this subsection"

Insert "limitations in (k) of this section"

Page 9, line 11:

Delete "a new subsection"

Insert "new subsections"

Page 9, following line 21:

Insert a new subsection to read:

"(k) In a calendar year, the department may not purchase tax credit certificates issued under this chapter if the sum of the purchases exceeds \$50,000,000 a person or \$200,000,000 a unit. If the total of the credit purchases applied for under this section and subject to the limitation in this subsection exceeds \$200,000,000 for a unit, the department shall prorate the purchase of tax credit certificates based on ownership interest in the unit. When calculating a sum of purchases under this subsection, the department shall include amounts used to reduce an outstanding liability under (j) of this section."

REPRESENTATIVE OLSON objected to the amendment.

[10:08:24 PM](#)

REPRESENTATIVE SEATON explained Amendment 4. He recounted that the committee dealt with the subject of a \$25 million limitation on the net operating loss proposed in the original bill. [Version P] changed that to \$200 million. He pointed out the difficulty of a large development in which there could be multiple companies and the \$200 million per company could run the state into a very difficult problem of paying the credits it would be obligated to pay. Amendment 4 would limit the redemption in a tax year to \$50 million per person, which means company, and limits an aggregate redemption to \$200 million for each unit. He explained that a unit looks over a pool of oil, it is a project, and is something that is definable. This

amendment recognizes the \$200 million that the co-chairs submitted in [Version P] but would get around the problem of multiple companies coming in and being partners in that project and the state suddenly having much more liability. Amendment 4 would not affect the earning of the tax credits, only the timing of the cash redemption by the state. Amendment 4 would not impact people using tax credits to offset against their tax liability, so it would only be about the cash out of the treasury.

REPRESENTATIVE SEATON continued his explanation of Amendment 4. He recalled the theoretical project on the North Slope from Mr. Armstrong's testimony [Armstrong Oil & Gas Inc.], which could reach \$800 million a year. He noted it is now known that today the state does not have that kind of income. It could be that next year the state will have zero net money from production tax under the current law. Amendment 4 would give twice the individual company redemption of the original bill and would protect the state budget from volatile and unpredictable liability. The committee has discussed this issue a number of times trying to find a solution and doing it by the unit means that the state would be protected against those outlier conditions that could be very large. Representative Seaton concluded his explanation of Amendment 4 by adding that it is the solution that the co-chairs were trying to find in the \$200 million solution and how to protect the state from potential large liabilities, and it would double what the original version of the bill brought forward for individual companies.

[10:11:59 PM](#)

REPRESENTATIVE OLSON maintained his objection to Amendment 4.

A roll call vote was taken. Representatives Seaton, Josephson, and Tarr voted in favor of Amendment 4. Representatives Johnson, Olson, Herron, Chenault, Talerico, and Nageak voted against it. Therefore, Amendment 4 failed by a vote of 3-6.

[10:12:55 PM](#)

The committee took an at-ease from 10:12 p.m. to 10:15 p.m.

[10:15:29 PM](#)

CO-CHAIR TALERICO moved to report the CS for HB 247, Version 29-GH2609\P, Shutts, 3/18/16, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE TARR objected for the purpose of discussion.

[10:15:51 PM](#)

REPRESENTATIVE TARR stated that the committee has had the opportunity during the amendments to talk about the more holistic view of what is currently going on in the state and how this legislation might fit into it. She said she was hoping the committee would produce a bill that she could support because she feels it is one of the most important components of the only fiscal plan that has been suggested to legislators so far by the governor. She cannot support the bill in its current form because other proposals are being considered and there just are not that many options. There is a \$4.1 billion deficit and very few options for where that gap will be filled. She characterized the current version of the bill as unrecognizable relative to the bill's original version, and said that in many ways the committee really worked on two different pieces of legislation. The current version will not get the state on the path to sustainability and that the state can afford. Children are being told their education dollars have to be cut and senior benefits are being cut because the state cannot afford everything. She said she is shocked that the legislature would move forward with proposals like that without sharing the burden. She said she fears for the state.

[10:17:49 PM](#)

REPRESENTATIVE JOSEPHSON offered his appreciation for everything done by the co-chairs, saying it has been appropriate in terms of procedure and courtesies. He said he shares Representative Tarr's concerns. A theme heard tonight is that there is a real cause for alarm if the credits are not in place as they are. But they could be even more generous, and so if the goal is to incentivize then even more could be done. It was just 10 years ago that the incentives were \$53 million, now they are over \$600 million and are projected to be \$800 million. The Department of Environmental Conservation (DEC) is a \$20 million general fund (GF) budget, so the state could do 25 DEC's on these credits. Next year the number grows. The increase is 1,600 percent since 2007. He said he thought that the Senate working group's work and its recommendations of using a hard 4 percent floor would be a common denominator, that that would be at least the committee's own floor for the CS. He also thought that the discussion of inadvertence, something talked about by enalytica, would have been a source to say, "oh well this wasn't vetted

very well by the Senate Bill 21 committees because the economic climate was so different."

REPRESENTATIVE JOSEPHSON recalled that earlier today it was heard that the net operating loss (NOL) is designed to be commensurate with the tax rate. He charged that that is not true because the bill reduces the NOL and it is not commensurate with the tax rate in Cook Inlet right now anyway, so the idea that the net operating loss should match the tax rate just is not true. He further recalled hearing earlier today that the state wants industry to spend even when it is losing money. There is evidence that that is absolutely true, but he thinks it needs to be much less true. He is surprised that given that next year the state is going to spend \$825 million on this and bring in \$680 million, he would have thought that there would have been real sense of urgency, like this is totally unsustainable. With all of the aforementioned he has real concern even though he realizes this is not the end of the road for this bill unless it does not move. He expressed his surprise that there is the feeling that the state must double down on these credits when the industry itself is making cutbacks.

[10:20:58 PM](#)

REPRESENTATIVE SEATON drew attention to the fiscal note [for the original version of the bill] for component number 2894, which is over \$926 million for capitalizing the [oil and gas tax credit] fund. He pointed out that this is not addressed in the CS. Therefore, the fiscal note is just "hanging out there" and he would suggest that to follow the bill and have the fiscal note be appropriate to the bill the committee should zero out that fiscal note and let the House Finance Committee address it in the appropriate way. Previously in committee Representative Hawker has found that when a fiscal note was not significantly attached to the bill the committee has zeroed out the fiscal note to let the House Finance Committee appropriately do it.

REPRESENTATIVE JOHNSON agreed with Representative Seaton. Rather than a zero fiscal note he suggested the fiscal note be indeterminate.

REPRESENTATIVE TARR thanked the co-chairs and their staff for their good work.

[10:23:22 PM](#)

REPRESENTATIVE JOHNSON moved to adopt an indeterminate fiscal note as opposed to the current fiscal note. There being no objection, an indeterminate fiscal note was adopted to accompany the committee substitute.

[10:23:55 PM](#)

The committee took a brief at-ease.

[10:24:34 PM](#)

REPRESENTATIVE JOHNSON clarified he meant for both fiscal notes to be indeterminate, not just one.

CO-CHAIR TALERICO withdrew his original motion to report the CS for HB 247, Version 29-GH2609\P, Shutts, 3/18/16, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

[10:25:00 PM](#)

CO-CHAIR TALERICO moved to report the CS for HB 247, Version 29-GH2609\P, Shutts, 3/18/16, as amended, out of committee with individual recommendations and the amended indeterminate fiscal notes.

REPRESENTATIVE TARR objected for the purpose of calling a vote.

A roll call vote was taken. Representatives Chenault, Johnson, Olson, Seaton, Herron, Talerico, and Nageak voted in favor of the motion to report the CS for HB 247, Version 29-GH2609\P, Shutts, 3/18/16, as amended, out of committee with individual recommendations and the amended indeterminate fiscal notes. Representatives Tarr and Josephson voted against it. Therefore, CSHB 247(RES) was reported out of the House Resources Standing Committee by a vote of 7-2.

[10:26:46 PM](#)

The committee took an at-ease from 10:26 p.m. to 10:29 p.m.

[10:29:54 PM](#)

CO-CHAIR NAGEAK thanked the committee members and their staff for their patience and hard work on HB 247.

AMENDMENTS to HB 247, VERSION 29-GH2609\P, Shutts, 3/18/16

Amendment 18, 29-GH2609\P.28, Nauman/Shutts, 3/21/16:

Page 5, line 8:

Delete "A"

Insert "Subject to the limitation in (q) of this section, a [A]"

Page 7, line 23:

Delete "A"

Insert "Subject to the limitation in (q) of this section, a [A]"

Page 8, following line 16:

Insert a new bill section to read:

"* **Sec. 16.** AS 43.55.023 is amended by adding a new subsection to read:

(q) For a calendar year starting on or after January 1, 2017, to qualify for a credit under this section, a producer or explorer shall, by July 1 of the year before the credit is expected to be claimed, submit to the commissioner the total amount of expenditures expected to be claimed in the next calendar year. To receive a credit after January 1, 2017, the commissioner shall approve the amount under this subsection. The commissioner, in consultation with the commissioner of natural resources, may not approve an amount under this subsection unless the credit is necessary to make the activity of the producer or explorer economically feasible. This subsection does not apply to a credit under (b) of this section."

Renumber the following bill sections accordingly.

Page 18, line 20:

Delete "16, and 17"

Insert "17, and 18"

Page 18, lines 25 - 26:

Delete "sec. 29"

Insert "sec. 30"

Page 18, line 27:

Delete "18, 23, and 24"

Insert "19, 24, and 25"

Page 18, line 28:
Delete "sec. 29"
Insert "sec. 30"

Page 18, line 31:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 2:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 5:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 8:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 10:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 14:
Delete "sec. 21"
Insert "sec. 22"

Page 19, line 15:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 17:
Delete "sec. 29"
Insert "sec. 30"

Page 20, line 12:
Delete "Sections 30 and 34"
Insert "Sections 31 and 35"

Page 20, line 13:
Delete "18 - 25, 27, 29, 32, and 33"
Insert "19 - 26, 28, 30, 33, and 34"

Page 20, line 15:
Delete "secs. 36 and 37"
Insert "secs. 37 and 38"

Amendment 22, labeled 29-GH2609\P.38, Shutts, 3/21/16:

Page 7, line 14:

Delete "and (b) - (d) [(a) - (d)] of this section"

Insert ", (b) - (d) [(a) - (d)] of this section,
and AS 43.55.028(e)"

Page 7, line 20, following "credit":

Insert "and may not be applied to reduce a transferee's total tax liability under AS 43.55.011(e) by more than \$100,000,000 in a calendar year"

Page 8, following line 16:

Insert a new bill section to read:

"* **Sec. 16.** AS 43.55.025(h) is amended to read:

(h) Subject to the limitations in AS 43.55.028(e), a [A] producer that purchases a production tax credit certificate may apply the credits against its production tax levied by AS 43.55.011(e) for up to \$100,000,000 of its production tax liability in a calendar year.

Regardless of the price the producer paid for the certificate, the producer may receive a credit against its production tax liability for the full amount of the credit, but for not more than the amount for which the certificate is issued. A production tax credit allowed under this section may not be applied more than once."

Renumber the following bill sections accordingly.

Page 8, line 23:

Delete "\$200,000,000"

Insert "\$100,000,000"

Page 8, line 24, following "year":

Insert ". The amount by which a person has reduced the person's production tax liability under AS 43.55.011(e) by using transferable tax credit certificates counts toward the \$100,000,000 limitation"

Page 8, line 31:

Delete "\$200,000,000"

Insert "\$100,000,000"

Page 18, line 20:
Delete "16, and 17"
Insert "17, and 18"

Page 18, lines 25 - 26:
Delete "sec. 29"
Insert "sec. 30"

Page 18, line 27:
Delete "18, 23, and 24"
Insert "19, 24, and 25"

Page 18, line 28:
Delete "sec. 29"
Insert "sec. 30"

Page 18, line 31:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 2:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 5:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 8:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 10:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 14:
Delete "sec. 21"
Insert "sec. 22"

Page 19, line 15:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 17:
Delete "sec. 29"

Insert "sec. 30"

Page 20, line 12:

Delete "Sections 30 and 34"

Insert "Sections 31 and 35"

Page 20, line 13:

Delete "18 - 25, 27, 29, 32, and 33"

Insert "19 - 26, 28, 30, 33, and 34"

Page 20, line 15:

Delete "secs. 36 and 37"

Insert "secs. 37 and 38"

Amendment 26, labeled 29-GH2609\P.40, Nauman/Shutts, 3/21/16:

Page 1, line 1, following "Act":

Insert "**relating to confidential information status and public record status of information in the possession of the Department of Revenue;**"

Page 2, following line 31:

Insert a new bill section to read:

"* **Sec. 6.** AS 40.25.100(a) is amended to read:

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

Renumber the following bill sections accordingly.

Page 3, following line 17:

Insert a new bill section to read:

"* **Sec. 8.** AS 43.05.230 is amended by adding a new subsection to read:

(1) The following information for persons claiming a credit under AS 43.55 is public:

(1) the name of each person claiming a credit under AS 43.55;

(2) the aggregate amount of credits under AS 43.55 claimed by the taxpayer in the calendar year, except for the credit in AS 43.55.024(j); and

(3) a description of the taxpayer's activities that generated the credits claimed under AS 43.55."

Renumber the following bill sections accordingly.

Page 18, line 20:

Delete "Sections 7 - 9, 16, and 17"

Insert "Sections 9 - 11, 18, and 19"

Page 18, lines 25 - 26:

Delete "sec. 29"

Insert "sec. 31"

Page 18, line 27:

Delete "secs. 13, 14, 18, 23, and 24"

Insert "secs. 15, 16, 20, 25, and 26"

Page 18, line 28:

Delete "sec. 29"

Insert "sec. 31"

Page 18, line 31:

Delete "sec. 29"

Insert "sec. 31"

Page 19, line 2:

Delete "sec. 29"

Insert "sec. 31"

Page 19, line 5:

Delete "sec. 29"

Insert "sec. 31"

Page 19, line 8:

Delete "sec. 29"
Insert "sec. 31"

Page 19, line 10:
Delete "sec. 29"
Insert "sec. 31"

Page 19, line 14:
Delete "sec. 21"
Insert "sec. 23"

Page 19, line 15:
Delete "sec. 29"
Insert "sec. 31"

Page 19, line 17:
Delete "sec. 29"
Insert "sec. 31"

Page 20, line 12:
Delete "Sections 30 and 34"
Insert "Sections 32 and 36"

Page 20, line 13:
Delete "Sections 13, 14, 18 - 25, 27, 29, 32, and
33"
Insert "Sections 15, 16, 20 - 27, 29, 31, 34, and
35"

Page 20, line 15:
Delete "secs. 36 and 37"
Insert "secs. 38 and 39"

Amendment 28, labeled 29-GH2609\P.54, Nauman/Shutts, 3/21/16:

Page 8, following line 16:
Insert a new bill section to read:

"* **Sec. 16.** AS 43.55.023 is amended by adding a new subsection to read:

(q) For the lease expenditures incurred toward a credit under this section, a producer or explorer shall

(1) agree, in writing, to the requirements that an explorer must agree to under AS 43.55.025(f)(2); and

(2) submit to the Department of Natural Resources all data that an explorer must submit under AS 43.55.025(f)(2)."

Renumber the following bill sections accordingly.

Page 18, line 20:

Delete "16, and 17"

Insert "17, and 18"

Page 18, lines 25 - 26:

Delete "sec. 29"

Insert "sec. 30"

Page 18, line 27:

Delete "18, 23, and 24"

Insert "19, 24, and 25"

Page 18, line 28:

Delete "sec. 29"

Insert "sec. 30"

Page 18, line 31:

Delete "sec. 29"

Insert "sec. 30"

Page 19, line 2:

Delete "sec. 29"

Insert "sec. 30"

Page 19, line 5:

Delete "sec. 29"

Insert "sec. 30"

Page 19, line 8:

Delete "sec. 29"

Insert "sec. 30"

Page 19, line 10:

Delete "sec. 29"

Insert "sec. 30"

Page 19, line 14:

Delete "sec. 21"

Insert "sec. 22"

Page 19, line 15:

Delete "sec. 29"
Insert "sec. 30"

Page 19, line 17:
Delete "sec. 29"
Insert "sec. 30"

Page 20, line 12:
Delete "Sections 30 and 34"
Insert "Sections 31 and 35"

Page 20, line 13:
Delete "18 - 25, 27, 29, 32, and 33"
Insert "19 - 26, 28, 30, 33, and 34"

Page 20, line 15:
Delete "secs. 36 and 37"
Insert "secs. 37 and 38"

Amendment 30, labeled 29-GH2609\P.42, Shutts, 3/21/16:

Page 3, lines 22 - 24:
Delete " [(1) THE CLAIMANT DOES NOT HAVE AN
OUTSTANDING LIABILITY TO THE STATE FOR UNPAID
DELINQUENT TAXES UNDER THIS TITLE; AND (2)]"
Insert "(1) the claimant does not have an
outstanding liability to the state [FOR UNPAID
DELINQUENT TAXES UNDER THIS TITLE]; and (2)"

Page 4, lines 3 - 5:
Delete " [(1) THE CLAIMANT DOES NOT HAVE AN
OUTSTANDING LIABILITY TO THE STATE FOR UNPAID
DELINQUENT TAXES UNDER THIS TITLE; AND (2)]"
Insert "(1) the claimant does not have an
outstanding liability to the state [FOR UNPAID
DELINQUENT TAXES UNDER THIS TITLE]; and (2)"

Page 4, lines 15 - 17:
Delete " [(1) THE CLAIMANT DOES NOT HAVE AN
OUTSTANDING LIABILITY TO THE STATE FOR UNPAID
DELINQUENT TAXES UNDER THIS TITLE; AND (2)]"
Insert "(1) the claimant does not have an
outstanding liability to the state [FOR UNPAID
DELINQUENT TAXES UNDER THIS TITLE]; and (2)"

Page 17, following line 6:
Insert a new bill section to read:

"* **Sec. 28.** AS 43.99.950 is amended by adding a new paragraph to read:

(3) "outstanding liability to the state" means an amount of tax, interest, penalty, fee, rental, royalty, or other charge for which the state has issued a demand for payment that has not been paid when due and, if contested, has not been finally resolved against the state."

Renumber the following bill sections accordingly.

Page 18, lines 25 - 26:

Delete "sec. 29"

Insert "sec. 30"

Page 18, line 28:

Delete "sec. 29"

Insert "sec. 30"

Page 18, line 31:

Delete "sec. 29"

Insert "sec. 30"

Page 19, line 2:

Delete "sec. 29"

Insert "sec. 30"

Page 19, line 5:

Delete "sec. 29"

Insert "sec. 30"

Page 19, line 8:

Delete "sec. 29"

Insert "sec. 30"

Page 19, line 10:

Delete "sec. 29"

Insert "sec. 30"

Page 19, line 15:

Delete "sec. 29"

Insert "sec. 30"

Page 19, line 17:

Delete "sec. 29"

Insert "sec. 30"

Page 20, line 12:
Delete "Sections 30 and 34"
Insert "Sections 31 and 35"

Page 20, line 13:
Delete "29, 32, and 33"
Insert "30, 33, and 34"

Page 20, line 15:
Delete "secs. 36 and 37"
Insert "secs. 37 and 38"

Amendment 32, labeled 29-GH2609\p.53, Nauman/Shutts, 3/21/16:

Page 4, following line 20:
Insert a new bill section to read:

"* Sec. 10. AS 43.55.011(f) is amended to read:

(f) The levy of tax under (e) of this section for

(1) oil and gas produced before January 1, 2017 [JANUARY 1, 2022], from leases or properties that include land north of 68 degrees North latitude, other than gas subject to (o) of this section, may not be less than

(A) four percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is more than \$25;

(B) three percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is over \$20 but not over \$25;

(C) two percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is over \$17.50 but not over \$20;

(D) one percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is over \$15 but not over \$17.50;
or

(E) zero percent of the gross value at the point of production when the average price per barrel

for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is \$15 or less; [AND]

(2) oil and gas produced on and after January 1, 2017, and before January 1, 2022, from leases or properties that include land north of 68 degrees North latitude, other than gas subject to (o) of this section, may not be less than five percent of the gross value at the point of production; and

(3) oil produced on and after January 1, 2022, from leases or properties that include land north of 68 degrees North latitude may not be less than five percent of the gross value at the point of production

[(A) FOUR PERCENT OF THE GROSS VALUE AT THE POINT OF PRODUCTION WHEN THE AVERAGE PRICE PER BARREL FOR ALASKA NORTH SLOPE CRUDE OIL FOR SALE ON THE UNITED STATES WEST COAST DURING THE CALENDAR YEAR FOR WHICH THE TAX IS DUE IS MORE THAN \$25;

(B) THREE PERCENT OF THE GROSS VALUE AT THE POINT OF PRODUCTION WHEN THE AVERAGE PRICE PER BARREL FOR ALASKA NORTH SLOPE CRUDE OIL FOR SALE ON THE UNITED STATES WEST COAST DURING THE CALENDAR YEAR FOR WHICH THE TAX IS DUE IS OVER \$20 BUT NOT OVER \$25;

(C) TWO PERCENT OF THE GROSS VALUE AT THE POINT OF PRODUCTION WHEN THE AVERAGE PRICE PER BARREL FOR ALASKA NORTH SLOPE CRUDE OIL FOR SALE ON THE UNITED STATES WEST COAST DURING THE CALENDAR YEAR FOR WHICH THE TAX IS DUE IS OVER \$17.50 BUT NOT OVER \$20;

(D) ONE PERCENT OF THE GROSS VALUE AT THE POINT OF PRODUCTION WHEN THE AVERAGE PRICE PER BARREL FOR ALASKA NORTH SLOPE CRUDE OIL FOR SALE ON THE UNITED STATES WEST COAST DURING THE CALENDAR YEAR FOR WHICH THE TAX IS DUE IS OVER \$15 BUT NOT OVER \$17.50; OR

(E) ZERO PERCENT OF THE GROSS VALUE AT THE POINT OF PRODUCTION WHEN THE AVERAGE PRICE PER BARREL FOR ALASKA NORTH SLOPE CRUDE OIL FOR SALE ON THE UNITED STATES WEST COAST DURING THE CALENDAR YEAR FOR WHICH THE TAX IS DUE IS \$15 OR LESS]."

Renumber the following bill sections accordingly.

Page 5, following line 6:

Insert new bill sections to read:

"* **Sec. 12.** AS 43.55.020(a) 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) for oil and gas produced before January 1, 2014, 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 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 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;

(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 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 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;

(5) for oil and gas produced on and after January 1, 2014, and before January 1, 2022, an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; except as otherwise provided under (6) 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) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil and gas under AS 43.55.160 from

the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;

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

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

(i) zero; or

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

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

(i) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil and gas under AS 43.55.160 from the gross value at the point of production of the oil

and gas produced from the leases or properties during the month for which the installment payment is calculated, but not less than zero; or

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

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

(7) for oil and gas produced on or after January 1, 2022, an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; the amount of the installment payment is the sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount of the installment payment may not be less than zero:

(A) for oil produced from leases or properties that include land north of 68 degrees North latitude, the greatest of

(i) zero;

(ii) **five** [ZERO PERCENT, ONE PERCENT, TWO PERCENT, THREE PERCENT, OR FOUR] percent [, AS APPLICABLE,] of the gross value at the point of production of the oil produced from the leases or properties during the month for which the installment payment is calculated; or

(iii) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and

43.55.170 that are deductible for the oil under AS 43.55.160(h)(1) from the gross value at the point of production of the oil produced from those leases or properties during the month for which the installment payment is calculated, except that, for the purposes of this calculation, a reduction from the gross value at the point of production may apply for oil subject to AS 43.55.160(f) or 43.55.160(f) and (g);

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

(i) zero; or

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

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

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

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

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

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

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

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

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

* **Sec. 13.** AS 43.55.020(i) is amended to read:

(i) Notwithstanding any contrary provision of AS 43.05.225 or (g) or (h) of this section, if the amount of a tax payment, including an installment payment, due under (a)(1) - **(5)** [(4)] of this section is affected by the retroactive application of a regulation adopted under this chapter, the department shall determine whether the retroactive application of the regulation caused an underpayment or an overpayment of the amount due and adjust the interest due on the affected payment as follows:

(1) if an underpayment of the amount due occurred, the department shall waive interest that would otherwise accrue for the underpayment before the first day of the second month following the month in which the regulation became effective, if

(A) the department determines that the producer's underpayment resulted because the regulation was not in effect when the payment was due; and

(B) the producer demonstrates that it made a good faith estimate of its tax obligation in light of the regulations then in effect when the payment was due and paid the estimated tax;

(2) if an overpayment of the amount due occurred and the department determines that the producer's overpayment resulted because the regulation was not in effect when the payment was due, the obligation for a refund for the overpayment does not begin to accrue interest earlier than the following, as applicable:

(A) except as otherwise provided under (B) of this paragraph, the first day of the second month following the month in which the regulation became effective;

(B) 90 days after an amended statement under AS 43.55.030(a) and an application to request a refund of production tax paid is filed, if the overpayment was for a period for which an amended statement under AS 43.55.030(a) was required to be filed before the regulation became effective."

Renumber the following bill sections accordingly.

Page 18, line 20:

Delete "16, and 17"

Insert "19, and 20"

Page 18, lines 25 - 26:

Delete "sec. 29"

Insert "sec. 32"

Page 18, line 27:

Delete "secs. 13, 14, 18, 23, and 24"

Insert "secs. 16, 17, 21, 26, and 27"

Page 18, line 28:

Delete "sec. 29"

Insert "sec. 32"

Page 18, line 31:

Delete "sec. 29"

Insert "sec. 32"

Page 19, line 2:
Delete "sec. 29"
Insert "sec. 32"

Page 19, line 5:
Delete "sec. 29"
Insert "sec. 32"

Page 19, line 8:
Delete "sec. 29"
Insert "sec. 32"

Page 19, line 10:
Delete "sec. 29"
Insert "sec. 32"

Page 19, line 14:
Delete "sec. 21"
Insert "sec. 24"

Page 19, line 15:
Delete "sec. 29"
Insert "sec. 32"

Page 19, line 17:
Delete "sec. 29"
Insert "sec. 32"

Page 20, line 12:
Delete "Sections 30 and 34"
Insert "Sections 33 and 37"

Page 20, line 13:
Delete "Sections 13, 14, 18 - 25, 27, 29, 32, and
33"
Insert "Sections 16, 17, 21 - 28, 30, 32, 35, and
36"

Page 20, line 15:
Delete "secs. 36 and 37"
Insert "secs. 39 and 40"

Amendment 33, labeled 29-GH2609\P.27, Nauman/Shutts, 3/19/16:

Page 1, line 4, following "**credit;**":

Insert "relating to the minimum tax for certain oil and gas production; relating to the minimum tax calculation for monthly installment payments of estimated tax;"

Page 5, following line 6:

Insert a new bill section to read:

"* **Sec. 11.** AS 43.55 is amended by adding a new section to read:

Sec. 43.55.022. Limitations on tax credits. (a) A tax credit or a fraction of a tax credit under AS 43.55.023, 43.55.024, and 43.55.025 may not be subtracted in calculating an installment payment of estimated tax required under AS 43.55.020(a) if the resulting amount of the installment payment would be less than the amount in AS 43.55.020(a)(5)(B)(ii) or (7)(A)(ii), as applicable.

(b) The total amount of tax credits under AS 43.55.023, 43.55.024, and 43.55.025 that may be applied against a tax levied by AS 43.55.011(e) for a calendar year may not exceed the sum of the amount of the tax credits or fractions of tax credits that are allowed under (a) of this section to be subtracted in calculating the installment payments of estimated tax for each month in the calendar year."

Renumber the following bill sections accordingly.

Page 6, following line 22:

Insert a new bill section to read:

"* **Sec. 14.** 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 the amount calculated under AS 43.55.011(f) [ZERO], and any unused credit or portion of a credit not used under this subsection may be applied in a later calendar year."

Renumber the following bill sections accordingly.

Page 8, following line 16:

Insert new bill sections to read:

"* **Sec. 18.** AS 43.55.024(g) is amended to read:

(g) A tax credit authorized by (c) of this section may not be applied to reduce a producer's tax liability for any calendar year under AS 43.55.011(e)

below the amount calculated under AS 43.55.011(f) [ZERO].

* **Sec. 19.** AS 43.55.024(i) is amended to read:

(i) A producer may apply against the producer's tax liability for the calendar year under AS 43.55.011(e) a tax credit of \$5 for each barrel of oil taxable under AS 43.55.011(e) that meets one or more of the criteria in AS 43.55.160(f) or (g) and that is produced during a calendar year after December 31, 2013. A tax credit authorized by this subsection may not reduce a producer's tax liability for a calendar year under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f) [ZERO].

* **Sec. 20.** AS 43.55.025(i) is amended to read:

(i) For a production tax credit under this section,

(1) a credit may not be applied to reduce a taxpayer's tax liability under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f) [ZERO] for a calendar year; and

(2) an amount of the production tax credit in excess of the amount that may be applied for a calendar year under this subsection may be carried forward and applied against the taxpayer's tax liability under AS 43.55.011(e) in one or more later calendar years."

Renumber the following bill sections accordingly.

Page 18, line 20, following "APPLICABILITY.":

Delete "Sections 7 - 9, 16, and 17"

Insert "(a) Sections 7 - 9, 21, and 22"

Page 18, following line 21:

Insert a new subsection to read:

"(b) The limitations on the use of tax credits added in AS 43.55.022, added by sec. 11 of this Act, AS 43.55.024(g) and (i), as amended by secs. 18 and 19 of this Act, and AS 43.55.025(i), as amended by sec. 20 of this Act, apply to credits applied to reduce a tax liability for a tax year starting on or after the effective date of secs. 11 and 18 - 20 of this Act."

Page 18, lines 25 - 26:

Delete "sec. 29"

Insert "sec. 34"

Page 18, line 27:
Delete "secs. 13, 14, 18, 23, and 24"
Insert "secs. 15, 16, 23, 28, and 29"

Page 18, line 28:
Delete "sec. 29"
Insert "sec. 34"

Page 18, line 31:
Delete "sec. 29"
Insert "sec. 34"

Page 19, line 2:
Delete "sec. 29"
Insert "sec. 34"

Page 19, line 5:
Delete "sec. 29"
Insert "sec. 34"

Page 19, line 8:
Delete "sec. 29"
Insert "sec. 34"

Page 19, line 10:
Delete "sec. 29"
Insert "sec. 34"

Page 19, line 14:
Delete "sec. 21"
Insert "sec. 26"

Page 19, line 15:
Delete "sec. 29"
Insert "sec. 34"

Page 19, line 17:
Delete "sec. 29"
Insert "sec. 34"

Page 20, line 12:
Delete "Sections 30 and 34"
Insert "Sections 35 and 39"

Page 20, line 13:
Delete "Sections 13, 14, 18 - 25, 27, 29, 32, and
33"

Insert "Sections 15, 16, 23 - 30, 32, 34, 37, and 38"

Page 20, line 15:

Delete "secs. 36 and 37"

Insert "secs. 41 and 42"

Amendment 35, labeled 29-GH2609\P.7, Shutts, 3/19/16:

Page 5, lines 7 - 26:

Delete all material and insert:

"* **Sec. 11.** 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

(A) 20 percent of **an** [THAT] expenditure incurred before July 1, 2016;

(B) 10 percent of an expenditure incurred on or after July 1, 2016;

(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. 12.** AS 43.55.023(a), as amended by sec. 11 of this 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

(A) 20 percent of an expenditure incurred before July 1, 2016;

(B) 10 percent of an expenditure incurred on or after July 1, 2016;

(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."

Renumber the following bill sections accordingly.

Page 8, following line 16:

Insert a new bill section to read:

"* **Sec. 17.** AS 43.55.023(1), as amended by sec. 16 of this Act, is amended to read:

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

(1) notwithstanding that a well lease expenditure incurred in the state south of 68 degrees North latitude may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under [(a) OF THIS SECTION,] AS 43.20.043, or AS 43.55.025, a producer or

explorer that incurs a well lease expenditure in the state south of 68 degrees North latitude may elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of

(A) 40 percent of an expenditure incurred before January 1, 2017;

(B) 30 percent of an expenditure incurred on or after January 1, 2017, and before January 1, 2018;

(C) 20 percent of an expenditure incurred on or after January 1, 2018;

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

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

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

Renumber the following bill sections accordingly.

Page 9, line 24:

Delete "(1) or under AS 43.55.023(b)"

Insert "under AS 43.55.023(b) or (1)"

Page 10, following line 3:

Insert a new bill section to read:

"* **Sec. 21.** AS 43.55.029(a), as amended by sec. 20 of this Act, is amended to read:

(a) An explorer or producer that has applied for a production tax credit under former AS 43.55.023(a) or (1) or under AS 43.55.023(b) or (1) or 43.55.025(a) may make a present assignment of the production tax credit certificate expected to be issued by the department to a third-party assignee. The assignment may be made either at the time the application is filed with the department or not later than 30 days after the date of filing with the department. Once a notice of assignment in compliance with this section is filed with the department, the assignment is irrevocable and cannot be modified by the explorer or producer without the written consent of the assignee named in the assignment. If a production tax credit

certificate is issued to the explorer or producer, the notice of assignment remains effective and shall be filed with the department by the explorer or producer together with any application for the department to purchase the certificate under AS 43.55.028(e)."

Renumber the following bill sections accordingly.

Page 17, line 9:

Delete "43.55.023(1), 43.55.023(n)"

Page 17, following line 10:

Insert a new bill section to read:

"* **Sec. 33.** AS 43.55.023(1) and 43.55.023(n) are repealed."

Page 18, line 20:

Delete "16, and 17"

Insert "18, and 19"

Page 18, lines 24 - 25:

Delete "AND WELL LEASE EXPENDITURES"

Page 18, line 25:

Delete ", (1), (n),"

Page 18, line 26:

Delete "sec. 29"

Insert "sec. 32"

Page 18, line 27:

Delete "secs. 13, 14, 18, 23, and 24"

Insert "secs. 14, 15, 20, 26, and 27"

Page 18, line 28:

Delete "(1)"

Delete "sec. 29"

Insert "sec. 32"

Page 18, line 31:

Delete "sec. 29"

Insert "sec. 32"

Page 19, line 1:

Delete ";"

Insert "."

Page 19, lines 2 - 6:
Delete all material.

Page 19, line 8:
Delete "sec. 29"
Insert "sec. 32"

Page 19, line 10:
Delete "sec. 29"
Insert "sec. 32"

Page 19, following line 10:
Insert a new bill section to read:

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

TRANSITION: WELL LEASE EXPENDITURES. (a)
Notwithstanding the repeal of AS 43.55.023(1) and (n) by sec. 33 of this Act, and the amendment to AS 43.55.029(a) by sec. 21 of this Act, a taxpayer who incurs a well lease expenditure before the effective date of sec. 33 of this Act that qualifies for a well lease expenditure credit under AS 43.55.023(1) may apply for a credit or transferable tax credit certificate under AS 43.55.023 and assign the tax credit under AS 43.55.029, as those sections read on the day before the effective date of sec. 33 of this Act.

(b) The Department of Revenue may continue to apply and enforce AS 43.55.023 and 43.55.029, as those sections read on the day before the effective date of sec. 33 of this Act, for qualified capital expenditures and well lease expenditures incurred before the effective date of sec. 33 of this Act."

Renumber the following bill sections accordingly.

Page 19, line 14:
Delete "sec. 21"
Insert "sec. 24"

Page 19, line 15:
Delete "sec. 29"
Insert "sec. 32"

Page 19, line 17:
Delete "sec. 29"
Insert "sec. 32"

Page 20, line 12:
Delete "Sections 30 and 34"
Insert "Sections 34 and 39"

Page 20, following line 12:
Insert a new bill section to read:
"*** Sec. 42.** Section 11 of this Act takes effect
July 1, 2016."

Renumber the following bill sections accordingly.

Page 20, line 13:
Delete "Sections 13, 14, 18 - 25, 27, 29, 32, and
33"
Insert "Sections 14, 15, 20, 22 - 28, 30, 32, 36,
and 38"

Page 20, lines 13 - 14:
Delete "January 1, 2022"
Insert "July 1, 2017"

Page 20, following line 14:
Insert a new bill section to read:
"*** Sec. 44.** Sections 21, 33, and 37 of this Act
take effect January 1, 2022."

Renumber the following bill section accordingly.

Page 20, line 15:
Delete "secs. 36 and 37"
Insert "secs. 41 - 44"

Amendment 38, labeled 29-GH2609\P.44, Nauman/Shutts, 3/21/16:

Page 11, following line 15:
Insert a new bill section to read:
"*** Sec. 21.** AS 43.55.150 is amended by adding a new
subsection to read:
(d) The gross value at the point of production
may not be less than zero."

Renumber the following bill sections accordingly.

Page 18, lines 25 - 26:
Delete "sec. 29"
Insert "sec. 30"

Page 18, line 27:
Delete "23, and 24"
Insert "24, and 25"

Page 18, line 28:
Delete "sec. 29"
Insert "sec. 30"

Page 18, line 31:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 2:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 5:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 8:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 10:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 14:
Delete "sec. 21"
Insert "sec. 22"

Page 19, line 15:
Delete "sec. 29"
Insert "sec. 30"

Page 19, line 17:
Delete "sec. 29"
Insert "sec. 30"

Page 20, line 12:
Delete "Sections 30 and 34"
Insert "Sections 31 and 35"

Page 20, line 13:
Delete "18 - 25, 27, 29, 32, and 33"

Insert "18 - 20, 22 - 26, 28, 30, 33, and 34"

Page 20, line 15:

Delete "secs. 36 and 37"

Insert "secs. 37 and 38"

Amendment 40, labeled 29-GH2609\P.26, Nauman/Shutts, 3/19/16:

Page 11, following line 15:

Insert new bill sections to read:

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

(f) On and after January 1, 2014, in the calculation of an annual production tax value of a producer under (a)(1)(A) or (h)(1) of this section, the gross value at the point of production of oil or gas produced from a lease or property north of 68 degrees North latitude meeting one or more 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 a lease 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 December 31, 2011; (3) the oil or gas is produced from acreage that was added to an existing participating area by the Department of Natural Resources on and after January 1, 2014, and the producer demonstrates to the department that the volume of oil or gas produced is from acreage added to an existing participating area. This subsection does not apply to gas produced before 2022 that is used in the state or to gas produced on and after January 1, 2022. For oil or gas produced after January 1, 2017, the reduction under this subsection shall apply to oil or gas produced from a lease or property for the first four years after the commencement of production in commercial quantities of oil or gas from that lease or property. For oil or gas produced before January 1, 2017, the reduction under this subsection for a lease or property shall expire January 1, 2021. A reduction under this subsection may not reduce the gross value at the point of production below zero. In this subsection, "participating area" means a reservoir or portion of a reservoir producing or contributing to

production as approved by the Department of Natural Resources.

* **Sec. 22.** AS 43.55.160(g) is amended to read:

(g) On and after January 1, 2014, in addition to the reduction under (f) of this section, in the calculation of an annual production tax value of a producer under (a)(1)(A) or (h)(1) of this section, the gross value at the point of production of oil or gas produced from a lease or property north of 68 degrees North latitude that does not contain a lease that was within a unit on January 1, 2003, is reduced by 10 percent if the oil or gas is produced from a unit made up solely of leases that have a royalty share of more than 12.5 percent in amount or value of the production removed or sold from the lease as determined under AS 38.05.180(f). This subsection does not apply if the royalty obligation for one or more of the leases in the unit has been reduced to 12.5 percent or less under AS 38.05.180(j) for all or part of the calendar year for which the annual production tax value is calculated. This subsection does not apply to gas produced before 2022 that is used in the state or to gas produced on and after January 1, 2022. **For oil or gas produced after January 1, 2017, the reduction under this subsection shall apply to oil or gas produced from a lease or property for the first four years after the commencement of production in commercial quantities of oil or gas from that lease or property. For oil or gas produced before January 1, 2017, the reduction under this subsection for a lease or property shall expire January 1, 2021.** A reduction under this subsection may not reduce the gross value at the point of production below zero."

Renumber the following bill sections accordingly.

Page 18, lines 25 - 26:

Delete "sec. 29"

Insert "sec. 31"

Page 18, line 27:

Delete "23, and 24"

Insert "25, and 26"

Page 18, line 28:

Delete "sec. 29"

Insert "sec. 31"

Page 18, line 31:
Delete "sec. 29"
Insert "sec. 31"

Page 19, line 2:
Delete "sec. 29"
Insert "sec. 31"

Page 19, line 5:
Delete "sec. 29"
Insert "sec. 31"

Page 19, line 8:
Delete "sec. 29"
Insert "sec. 31"

Page 19, line 10:
Delete "sec. 29"
Insert "sec. 31"

Page 19, line 14:
Delete "sec. 21"
Insert "sec. 23"

Page 19, line 15:
Delete "sec. 29"
Insert "sec. 31"

Page 19, line 17:
Delete "sec. 29"
Insert "sec. 31"

Page 20, line 12:
Delete "Sections 30 and 34"
Insert "Sections 32 and 36"

Page 20, line 13:
Delete "18 - 25, 27, 29, 32, and 33"
Insert "18 - 20, 23 - 27, 29, 31, 34, and 35"

Page 20, line 15:
Delete "secs. 36 and 37"
Insert "secs. 38 and 39"

Amendment 41, labeled 29-GH2609\P.25, Shutts, 3/21/16:

Page 8, lines 5 - 7:

Delete ", and before January 1, 2018;
(C) 20 percent of an expenditure incurred
on or after January 1, 2018"

Page 9, line 22, through page 10, line 3:

Delete all material and insert:

"* **Sec. 18.** AS 43.55.029(a) is amended to read:

(a) An explorer or producer that has applied for a production tax credit under **former AS 43.55.023(1)** **or** AS 43.55.023(a) **or** [,] (b) [, OR (1)] or 43.55.025(a) may make a present assignment of the production tax credit certificate expected to be issued by the department to a third-party assignee. The assignment may be made either at the time the application is filed with the department or not later than 30 days after the date of filing with the department. Once a notice of assignment in compliance with this section is filed with the department, the assignment is irrevocable and cannot be modified by the explorer or producer without the written consent of the assignee named in the assignment. If a production tax credit certificate is issued to the explorer or producer, the notice of assignment remains effective and shall be filed with the department by the explorer or producer together with any application for the department to purchase the certificate under AS 43.55.028(e).

* **Sec. 19.** AS 43.55.029(a), as amended by sec. 18 of this Act, is amended to read:

(a) An explorer or producer that has applied for a production tax credit under former **AS 43.55.023(a)** **or** **(1)** [AS 43.55.023(1)] or **AS 43.55.023(b)** [AS 43.55.023(a) OR (b)] or 43.55.025(a) may make a present assignment of the production tax credit certificate expected to be issued by the department to a third-party assignee. The assignment may be made either at the time the application is filed with the department or not later than 30 days after the date of filing with the department. Once a notice of assignment in compliance with this section is filed with the department, the assignment is irrevocable and cannot be modified by the explorer or producer without the written consent of the assignee named in the assignment. If a production tax credit certificate is issued to the explorer or producer, the notice of assignment remains effective and shall be filed with

the department by the explorer or producer together with any application for the department to purchase the certificate under AS 43.55.028(e)."

Renumber the following bill sections accordingly.

Page 17, following line 8:

Insert a new bill section to read:

"* **Sec. 30.** AS 43.55.023(1) and 43.55.023(n) are repealed."

Renumber the following bill sections accordingly.

Page 17, line 9:

Delete "43.55.023(1), 43.55.023(n),"

Page 18, lines 24 - 25:

Delete "AND WELL LEASE EXPENDITURES"

Page 18, line 25:

Delete ", (1), (n),"

Page 18, line 26:

Delete "sec. 29"

Insert "sec. 31"

Page 18, line 27:

Delete "18, 23, and 24"

Insert "19, 24, and 25"

Page 18, line 28:

Delete "(1)"

Delete "sec. 29"

Insert "sec. 31"

Page 18, line 31:

Delete "sec. 29"

Insert "sec. 31"

Page 19, line 1:

Delete ";"

Insert "."

Page 19, lines 2 - 6:

Delete all material.

Page 19, line 8:

Delete "sec. 29"
Insert "sec. 31"

Page 19, line 10:
Delete "sec. 29"
Insert "sec. 31"

Page 19, following line 10:
Insert a new bill section to read:

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

TRANSITION: WELL LEASE EXPENDITURES. (a)
Notwithstanding the repeal of AS 43.55.023(1) and (n) by sec. 30 of this Act, and the amendment to AS 43.55.029(a) by sec. 18 of this Act, a producer or explorer who incurs a well lease expenditure before the effective date of sec. 30 of this Act that qualifies for a well lease expenditure credit under AS 43.55.023(1) may apply for a credit or transferable tax credit certificate under AS 43.55.023 and assign the tax credit under AS 43.55.029, as those sections read on the day before the effective date of sec. 30 of this Act.

(b) The Department of Revenue may continue to apply and enforce AS 43.55.023 and 43.55.029, as those sections read on the day before the effective date of sec. 30 of this Act, for qualified capital expenditures and well lease expenditures incurred before the effective date of sec. 30 of this Act."

Renumber the following bill sections accordingly.

Page 19, line 14:
Delete "sec. 21"
Insert "sec. 22"

Page 19, line 15:
Delete "sec. 29"
Insert "sec. 31"

Page 19, line 17:
Delete "sec. 29"
Insert "sec. 31"

Page 20, line 12:
Delete "Sections 30 and 34"
Insert "Sections 32 and 37"

Page 20, following line 12:

Insert a new bill section to read:

"* Sec. 40. Sections 18, 30, and 35 of this Act take effect July 1, 2017."

Renumber the following bill sections accordingly.

Page 20, line 13:

Delete "18 - 25, 27, 29, 32, and 33"

Insert "19 - 26, 28, 31, 34, and 36"

Page 20, line 15:

Delete "secs. 36 and 37"

Insert "secs. 39 - 41"

Amendment 42, labeled 29-GH2609\P.3, Nauman/Shutts, 3/19/16:

Page 1, line 4, following "**credit;**":

Insert "**relating to a limitation on the application of tax credits; relating to the calculation for monthly installment payments of estimated tax;**"

Page 5, following line 6:

Insert a new bill section to read:

"* Sec. 11. AS 43.55 is amended by adding a new section to read:

Sec. 43.55.022. Limitations on tax credits. A tax credit or a fraction of a tax credit under AS 43.55.023, 43.55.024, and 43.55.025 may not be subtracted in calculating an installment payment of estimated tax required under AS 43.55.020(a) if the resulting amount of the installment payment would be less than the amount in AS 43.55.020(a)(5)(B)(ii) or 43.55.020(a)(7)(A)(ii), as applicable."

Renumber the following bill sections accordingly.

Page 6, following line 22:

Insert a new bill section to read:

"* Sec. 14. 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 the amount calculated under AS 43.55.011(f) [ZERO], and any unused credit or portion of a credit

not used under this subsection may be applied in a later calendar year."

Renumber the following bill sections accordingly.

Page 8, following line 16:

Insert new bill sections to read:

*** Sec. 18.** AS 43.55.024(g) is amended to read:

(g) A tax credit authorized by (c) of this section may not be applied to reduce a producer's tax liability for any calendar year under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f) [ZERO].

*** Sec. 19.** AS 43.55.024(i) is amended to read:

(i) A producer may apply against the producer's tax liability for the calendar year under AS 43.55.011(e) a tax credit of \$5 for each barrel of oil taxable under AS 43.55.011(e) that meets one or more of the criteria in AS 43.55.160(f) or (g) and that is produced during a calendar year after December 31, 2013. A tax credit authorized by this subsection may not reduce a producer's tax liability for a calendar year under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f) [ZERO].

*** Sec. 20.** AS 43.55.025(i) is amended to read:

(i) For a production tax credit under this section,

(1) a credit may not be applied to reduce a taxpayer's tax liability under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f) [ZERO] for a calendar year; and

(2) an amount of the production tax credit in excess of the amount that may be applied for a calendar year under this subsection may be carried forward and applied against the taxpayer's tax liability under AS 43.55.011(e) in one or more later calendar years."

Renumber the following bill sections accordingly.

Page 18, line 20, following "APPLICABILITY.":

Insert "(a)"

Page 18, line 20:

Delete "16, and 17"

Insert "21, and 22"

Page 18, following line 21:

Insert a new subsection to read:

"(b) The limitations on the use of tax credits added in AS 43.55.022, added by sec. 11 of this Act, AS 43.55.024(g) and (i), as amended by secs. 18 and 19 of this Act, and AS 43.55.025(i), as amended by sec. 20 of this Act, apply to credits applied to reduce a tax liability for a tax year starting on or after the effective date of secs. 11 and 18 - 20 of this Act."

Page 18, lines 25 - 26:

Delete "sec. 29"

Insert "sec. 34"

Page 18, line 27:

Delete "secs. 13, 14, 18, 23, and 24"

Insert "secs. 15, 16, 23, 28, and 29"

Page 18, line 28:

Delete "sec. 29"

Insert "sec. 34"

Page 18, line 31:

Delete "sec. 29"

Insert "sec. 34"

Page 19, line 2:

Delete "sec. 29"

Insert "sec. 34"

Page 19, line 5:

Delete "sec. 29"

Insert "sec. 34"

Page 19, line 8:

Delete "sec. 29"

Insert "sec. 34"

Page 19, line 10:

Delete "sec. 29"

Insert "sec. 34"

Page 19, line 14:

Delete "sec. 21"

Insert "sec. 26"

Page 19, line 15:

Delete "sec. 29"
Insert "sec. 34"

Page 19, line 17:
Delete "sec. 29"
Insert "sec. 34"

Page 20, line 12:
Delete "Sections 30 and 34"
Insert "Sections 35 and 39"

Page 20, line 13:
Delete "Sections 13, 14, 18 - 25, 27, 29, 32, and
33"
Insert "Sections 15, 16, 23 - 30, 32, 34, 37, and
38"

Page 20, line 15:
Delete "secs. 36 and 37"
Insert "secs. 41 and 42"

Amendment 43, labeled 29-GH2609\P.46, Nauman, 3/21/16:

Page 1, lines 1 - 7:
Delete all material and insert:
"An Act relating to confidential information status and public record status of information in the possession of the Department of Revenue; relating to interest applicable to delinquent tax; relating to disclosure of oil and gas production tax credit information; relating to refunds for the gas storage facility tax credit, the liquefied natural gas storage facility tax credit, and the qualified in-state oil refinery infrastructure expenditures tax credit; relating to the minimum tax for certain oil and gas production; relating to the minimum tax calculation for monthly installment payments of estimated tax; relating to interest on monthly installment payments of estimated tax; relating to limitations for the application of tax credits; relating to oil and gas production tax credits for certain losses and expenditures; relating to limitations for nontransferable oil and gas production tax credits based on oil production and the alternative tax credit for oil and gas exploration; relating to purchase of tax credit certificates from the oil and gas tax credit fund; relating to a minimum for gross value at

the point of production; relating to lease expenditures and tax credits for municipal entities; adding a definition for "qualified capital expenditure"; adding a definition for "outstanding liability to the state"; repealing oil and gas exploration incentive credits; repealing the limitation on the application of credits against tax liability for lease expenditures incurred before January 1, 2011; repealing provisions related to the monthly installment payments for estimated tax for oil and gas produced before January 1, 2014; repealing the oil and gas production tax credit for qualified capital expenditures and certain well expenditures; repealing the calculation for certain lease expenditures applicable before January 1, 2011; making conforming amendments; and providing for an effective date."

Page 1, line 9, through page 20, line 16:

Delete all material and insert:

*** Section 1.** AS 38.05.036(a) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

* **Sec. 6.** AS 40.25.100(a) is amended to read:

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

publication of records, proceedings, and decisions under AS 43.05.405 - 43.05.499.

* **Sec. 7.** AS 43.05.225 is amended to read:

Sec. 43.05.225. Interest. Unless otherwise provided,

(1) a delinquent tax under this title,

[(A) BEFORE JANUARY 1, 2014, BEARS INTEREST IN EACH CALENDAR QUARTER AT THE RATE OF FIVE PERCENTAGE POINTS ABOVE THE ANNUAL RATE CHARGED MEMBER BANKS FOR ADVANCES BY THE 12TH FEDERAL RESERVE DISTRICT AS OF THE FIRST DAY OF THAT CALENDAR QUARTER, OR AT THE ANNUAL RATE OF 11 PERCENT, WHICHEVER IS GREATER, COMPOUNDED QUARTERLY AS OF THE LAST DAY OF THAT QUARTER; OR

(B) ON AND AFTER JANUARY 1, 2014,] bears interest in each calendar quarter at the rate of **seven** [THREE] percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District as of the first day of that calendar quarter **compounded quarterly as of the last day of that quarter;**

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

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

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

* **Sec. 8.** AS 43.05.230 is amended by adding a new subsection to read:

(1) The name of each person claiming a credit under AS 43.55, the aggregate amount of credits under AS 43.55, except for the credit in AS 43.55.024(j), claimed by the taxpayer in the calendar year, and a description of the taxpayer's activities that generated the credits claimed are public information.

* **Sec. 9.** AS 43.20.046(e) is amended to read:

(e) The department may use available money in the oil and gas tax credit fund established in AS 43.55.028 to make the refund applied for under (d) of this section in whole or in part if the department finds that (1) the claimant does not have an outstanding liability to the state [FOR UNPAID DELINQUENT TAXES UNDER THIS TITLE]; and (2) after application of all available tax credits, the claimant's total tax liability under this chapter for the calendar year in which the claim is made is zero. [IN THIS SUBSECTION, "UNPAID DELINQUENT TAX" MEANS AN

AMOUNT OF TAX FOR WHICH THE DEPARTMENT HAS ISSUED AN ASSESSMENT THAT HAS NOT BEEN PAID AND, IF CONTESTED, HAS NOT BEEN FINALLY RESOLVED IN THE TAXPAYER'S FAVOR.]

* **Sec. 10.** AS 43.20.047(e) is amended to read:

(e) The department may use money available in the oil and gas tax credit fund established in AS 43.55.028 to make a refund or payment under (d) of this section in whole or in part if the department finds that

(1) the claimant does not have an outstanding liability to the state [FOR UNPAID DELINQUENT TAXES UNDER THIS TITLE]; and

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

* **Sec. 11.** AS 43.20.053(e) is amended to read:

(e) The department may use money available in the oil and gas tax credit fund established in AS 43.55.028 to make a refund or payment under (d) of this section in whole or in part if the department finds that

(1) the claimant does not have an outstanding liability to the state [FOR UNPAID DELINQUENT TAXES UNDER THIS TITLE]; and

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

* **Sec. 12.** AS 43.55.011(f) is repealed and reenacted to read:

(f) The levy of tax under (e) of this section for

(1) oil and gas produced before January 1, 2022, from leases or properties that include land north of 68 degrees North latitude, other than gas subject to (o) of this section, may not be less than five percent of the gross value at the point of production; and

(2) oil produced on and after January 1, 2022, from leases or properties that include land north of 68 degrees North latitude, may not be less

than five percent of the gross value at the point of production.

* **Sec. 13.** AS 43.55.020(a) 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) for oil and gas produced before January 1, 2014, 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 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 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;

(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 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 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;

(5) for oil and gas produced on and after January 1, 2014, and before January 1, 2022, an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; except as otherwise provided under (6) 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) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's

adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil and gas under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;

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

(i) zero;

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

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

(i) zero; or

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

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

(i) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of

production under AS 43.55.165 and 43.55.170 that are deductible for the oil and gas under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated, but not less than zero; or

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

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

(7) for oil and gas produced on or after January 1, 2022, an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; the amount of the installment payment is the sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount of the installment payment may not be less than zero:

(A) for oil produced from leases or properties that include land north of 68 degrees North latitude, the greatest of

(i) zero;

(ii) five [ZERO PERCENT, ONE PERCENT, TWO PERCENT, THREE PERCENT, OR FOUR] percent [, AS APPLICABLE,] of the gross value at the point of production of the oil produced from the leases or properties during the month for which the installment payment is calculated; or

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

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

(i) zero; or

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

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

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

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

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

(i) zero; or

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

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

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

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

* **Sec. 14.** AS 43.55.020(g) is repealed and reenacted to read:

(g) Notwithstanding any contrary provision of AS 43.05.225, an unpaid amount of an installment payment required under (a)(3), (5), (6), or (7) of this section that is not paid when due bears interest (1) at the rate provided for an underpayment under 26 U.S.C. 6621 (Internal Revenue Code), as amended, compounded daily, from the date the installment payment is due until March 31 following the calendar year of production; and (2) as provided for a delinquent tax under AS 43.05.225 after that March 31,

interest accrued under (1) of this subsection that remains unpaid after that March 31 is treated as an addition to tax that bears interest under (2) of this subsection, an unpaid amount of tax due under (a)(4) of this section that is not paid when due bears interest as provided for a delinquent tax under AS 43.05.225.

* **Sec. 15.** AS 43.55.020(h) is amended to read:

(h) Notwithstanding any contrary provision of AS 43.05.280,

(1) an overpayment of an installment payment required under (a)(3) [(a)(1), (2), (3)], (5), (6), or (7) of this section bears interest at the rate provided for an overpayment under 26 U.S.C. 6621 (Internal Revenue Code), as amended, compounded daily, from the later of the date the installment payment is due or the date the overpayment is made, until the earlier of

(A) the date it is refunded or is applied to an underpayment; or

(B) March 31 following the calendar year of production;

(2) except as provided under (1) of this subsection, interest with respect to an overpayment is allowed only on any net overpayment of the payments required under (a) of this section that remains after the later of March 31 following the calendar year of production or the date that the statement required under AS 43.55.030(a) is filed;

(3) interest is allowed under (2) of this subsection only from a date that is 90 days after the later of March 31 following the calendar year of production or the date that the statement required under AS 43.55.030(a) is filed; interest is not allowed if the overpayment was refunded within the 90-day period;

(4) interest under (2) and (3) of this subsection is paid at the rate and in the manner provided in AS 43.05.225(1).

* **Sec. 16.** AS 43.55.020(i) is amended to read:

(i) Notwithstanding any contrary provision of AS 43.05.225 or (g) or (h) of this section, if the amount of a tax payment, including an installment payment, due under (a)(3) - (5) [(a)(1) - (4)] of this section is affected by the retroactive application of a regulation adopted under this chapter, the department shall determine whether the retroactive

application of the regulation caused an underpayment or an overpayment of the amount due and adjust the interest due on the affected payment as follows:

(1) if an underpayment of the amount due occurred, the department shall waive interest that would otherwise accrue for the underpayment before the first day of the second month following the month in which the regulation became effective, if

(A) the department determines that the producer's underpayment resulted because the regulation was not in effect when the payment was due; and

(B) the producer demonstrates that it made a good faith estimate of its tax obligation in light of the regulations then in effect when the payment was due and paid the estimated tax;

(2) if an overpayment of the amount due occurred and the department determines that the producer's overpayment resulted because the regulation was not in effect when the payment was due, the obligation for a refund for the overpayment does not begin to accrue interest earlier than the following, as applicable:

(A) except as otherwise provided under (B) of this paragraph, the first day of the second month following the month in which the regulation became effective;

(B) 90 days after an amended statement under AS 43.55.030(a) and an application to request a refund of production tax paid is filed, if the overpayment was for a period for which an amended statement under AS 43.55.030(a) was required to be filed before the regulation became effective.

* **Sec. 17.** AS 43.55 is amended by adding a new section to read:

Sec. 43.55.022. Limitations on tax credits. (a) Notwithstanding any contrary provision of AS 43.55, the application of tax credits under AS 43.55 is subject to the limitations set out in this section.

(b) A tax credit or a fraction of a tax credit under AS 43.55.023, 43.55.024, and 43.55.025 may not be subtracted in calculating an installment payment of estimated tax required under AS 43.55.020(a) if the resulting amount of the installment payment would be less than the amount in AS 43.55.020(a)(5)(B)(ii) or 43.55.020(a)(7)(A)(ii), as applicable.

(c) The total amount of tax credits under AS 43.55.023, 43.55.024, and 43.55.025 that may be applied against a tax levied by AS 43.55.011(e) for a calendar year may not exceed the sum of the amount of the tax credits or fractions of tax credits that are allowed under (b) of this section to be subtracted in calculating the installment payments of estimated tax for each month in the calendar year.

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

(b) [BEFORE JANUARY 1, 2014, A PRODUCER OR EXPLORER MAY ELECT TO TAKE A TAX CREDIT IN THE AMOUNT OF 25 PERCENT OF A CARRIED-FORWARD ANNUAL LOSS. FOR LEASE EXPENDITURES INCURRED ON AND AFTER JANUARY 1, 2014, AND BEFORE JANUARY 1, 2016, TO EXPLORE FOR, DEVELOP, OR PRODUCE OIL OR GAS DEPOSITS LOCATED NORTH OF 68 DEGREES NORTH LATITUDE, A PRODUCER OR EXPLORER MAY ELECT TO TAKE A TAX CREDIT IN THE AMOUNT OF 45 PERCENT OF A CARRIED-FORWARD ANNUAL LOSS.] For lease expenditures incurred on and after January 1, 2016, to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in the amount of 35 percent of a carried-forward annual loss. For lease expenditures incurred on or after January 1, 2014, to explore for, develop, or produce oil or gas deposits located south of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in the amount of 25 percent of a carried-forward annual loss. 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. For the purpose of a credit under this subsection, any reduction under AS 43.55.160(f) or (g) is added back to the calculation of production tax values for that calendar year under AS 43.55.160 for the determination of a carried-forward annual loss.

* **Sec. 19.** 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 the amount calculated under AS 43.55.011(f) [ZERO], and any unused credit or portion of a credit

not used under this subsection may be applied in a later calendar year. An unused credit or portion of a credit may not be applied in a calendar year later than the 10th calendar year in which the carried-forward annual loss for which the credit is claimed was incurred.

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

(d) 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 expires after 10 years from the calendar year in which the carried-forward annual loss for which the credit is claimed was incurred [DOES NOT EXPIRE].

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

(e) A person to which a transferable tax credit certificate is issued under (d) of this section may transfer the certificate to another person, and a transferee may further transfer the certificate. Subject to the limitations set out in (b) - (d) [(a) - (d)] of this section, and notwithstanding any action the department may take with respect to the applicant under (g) of this section, the owner of a certificate may apply the credit or a portion of the credit shown

on the certificate only against a tax levied by AS 43.55.011(e). However, a credit shown on a transferable tax credit certificate may not be applied to reduce a transferee's total tax liability under AS 43.55.011(e) for oil and gas produced during a calendar year to less than 80 percent of the tax that would otherwise be due without applying that credit. Any portion of a credit not used under this subsection may be applied in a later period.

* **Sec. 22.** AS 43.55.023 is amended by adding a new section to read:

(q) A producer or explorer shall comply with the notice and information provision requirements in AS 43.55.025(f)(2) for the lease expenditures incurred towards a credit under this section. The Department of Natural Resources shall hold the confidential information under AS 43.55.025(f)(2)(C). For a producer or explorer required to comply with the notice and information requirements of this section, the Department of Natural Resources may publish the name of the producer or explorer, the location of the well or seismic exploration, and the date on which information required to be submitted under this section may be released.

* **Sec. 23.** AS 43.55.024(g) is amended to read:

(g) A tax credit authorized by (c) of this section may not be applied to reduce a producer's tax liability for any calendar year under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f) [ZERO].

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

(i) A producer may apply against the producer's tax liability for the calendar year under AS 43.55.011(e) a tax credit of \$5 for each barrel of oil taxable under AS 43.55.011(e) that meets one or more of the criteria in AS 43.55.160(f) or (g) and that is produced during a calendar year after December 31, 2013. A tax credit authorized by this subsection may not reduce a producer's tax liability for a calendar year under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f) [ZERO].

* **Sec. 25.** AS 43.55.025(i) is amended to read:

(i) For a production tax credit under this section,

(1) a credit may not be applied to reduce a taxpayer's tax liability under AS 43.55.011(e) below

the amount calculated under AS 43.55.011(f) [ZERO] for a calendar year; and

(2) an amount of the production tax credit in excess of the amount that may be applied for a calendar year under this subsection may be carried forward and applied against the taxpayer's tax liability under AS 43.55.011(e) in one or more later calendar years.

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

(e) The department, on the written application of a person to whom a transferable tax credit certificate has been issued under AS 43.55.023(d) or former AS 43.55.023(m) or to whom a production tax credit certificate has been issued under AS 43.55.025(f), may use available money in the oil and gas tax credit fund to purchase, in whole or in part, the certificate 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 applicant's revenues generated from the applicant's oil and gas business, including the revenues of the applicant's affiliates if the applicant is part of an affiliated group, during the calendar year preceding the calendar year in which the application is made were less than \$10,000,000;

(6) the amount expended for the purchase and amounts previously purchased from the applicant during the calendar year the sum of which would not exceed \$25,000,000; and

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

* **Sec. 27.** AS 43.55.028 is amended by adding a new subsections to read:

(j) The percentage of a transferable tax credit certificate or a production tax credit certificate purchased by the department may not exceed the percentage of the applicant's workforce in the state in the previous calendar year that were resident workers. The applicant's workforce in the state includes resident workers employed by the applicant's contractors. An amount of a credit not purchased due to application of this subsection may be applied against the applicant's tax liability under this chapter. In this subsection, "resident worker" has the meaning given in AS 43.40.092(b).

* **Sec. 28.** AS 43.55.029(a) is amended to read:

(a) An explorer or producer that has applied for a production tax credit under **AS 43.55.023(b)** [AS 43.55.023(a), (b), OR (1)] or 43.55.025(a) may make a present assignment of the production tax credit certificate expected to be issued by the department to a third-party assignee. The assignment may be made either **when** [AT THE TIME] the application is filed with the department or not later than 30 days after the date of filing with the department. Once a notice of assignment in compliance with this section is filed with the department, the assignment is irrevocable and cannot be modified by the explorer or producer without the written consent of the assignee named in the assignment. If a production tax credit certificate is issued to the explorer or producer, the notice of assignment remains effective and shall be filed with the department by the explorer or producer together with any application for the department to purchase the certificate under AS 43.55.028(e).

* **Sec. 29.** AS 43.55.030(a) is amended to read:

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

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

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

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

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

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

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

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

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

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

*** Sec. 30.** 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 explorer's or 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. 31.** AS 43.55.150 is amended by adding a new subsection to read:

(d) The gross value at the point of production may not be less than zero.

* **Sec. 32.** AS 43.55.165(a) is amended to read:

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

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

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

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

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

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

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

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

* **Sec. 33.** AS 43.55.165(e) is amended to read:

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

(1) depreciation, depletion, or amortization;

(2) oil or gas royalty payments, production payments, lease profit shares, or other payments or distributions of a share of oil or gas production, profit, or revenue, except that a producer's lease expenditures applicable to oil and gas produced from a

lease issued under AS 38.05.180(f)(3)(B), (D), or (E) include the share of net profit paid to the state under that lease;

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

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

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

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

(7) fines or penalties imposed by law;

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

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

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

(11) surcharges levied under AS 43.55.201 or 43.55.300;

(12) an expenditure otherwise deductible under (b) of this section that is a result of an internal transfer, a transaction with an affiliate, or a transaction between related parties, or is otherwise not an arm's length transaction, unless the producer establishes to the satisfaction of the department that the amount of the expenditure does not exceed the fair market value of the expenditure;

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

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

(15) costs incurred for dismantlement, removal, surrender, or abandonment of a facility,

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

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

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

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

(19) costs incurred for repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or equipment, other than a well, that results in or is undertaken in response to a failure, problem, or event that results in an unscheduled interruption of, or reduction in the rate of, oil or gas production; or costs incurred for repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or equipment, other than a well, that is undertaken in response to, or is otherwise associated with, an unpermitted release of a hazardous substance or of gas; however, costs under this paragraph that would otherwise constitute lease expenditures under (a) and (b) of this section may be treated as lease expenditures if the department determines that the repair or replacement is solely

necessitated by an act of war, by an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight, or by an intentional or negligent act or omission of a third party, other than a party or its agents in privity of contract with, or employed by, the producer or an operator acting for the producer, but only if the producer or operator, as applicable, exercised due care in operating and maintaining the facility, pipeline, structure, or equipment, and took reasonable precautions against the act or omission of the third party and against the consequences of the act or omission; in this paragraph,

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

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

(C) "replacement" includes renovation or improvement;

(20) costs incurred to construct, acquire, or operate a refinery or crude oil topping plant, regardless of whether the products of the refinery or topping plant are used in oil or gas exploration, development, or production operations; however, if a producer owns a refinery or crude oil topping plant that is located on or near the premises of the producer's lease or property in the state and that processes the producer's oil produced from that lease or property into a product that the producer uses in the operation of the lease or property in drilling for or producing oil or gas, the producer's lease expenditures include the amount calculated by subtracting from the fair market value of the product used the prevailing value, as determined under AS 43.55.020(f), of the oil that is processed;

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

* **Sec. 34.** AS 43.55.165(f) is amended to read:

(f) For purposes of AS 43.55.023(b) [AS 43.55.023(a) AND (b)] and only as to expenditures incurred to explore for an oil or gas deposit located within land in which an explorer does not own a

working interest, the term "producer" in this section includes "explorer."

* **Sec. 35.** AS 43.55.170(c) is amended to read:

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

* **Sec. 36.** AS 43.55.890 is amended to read:

Sec. 43.55.890. Disclosure of tax information.

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

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

* **Sec. 37.** AS 43.55.895(b) is amended to read:

(b) A municipal entity subject to taxation because of this section is eligible for [ALL] tax credits proportionate to its production taxable under AS 43.55.011(e). A municipal entity shall allocate its lease expenditures in proportion to its production

taxable under AS 43.55.011(e) [UNDER THIS CHAPTER TO THE SAME EXTENT AS ANY OTHER PRODUCER].

* **Sec. 38.** AS 43.55.900 is amended by adding a new paragraph to read:

(26) "qualified capital expenditure"

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

(i) incurred for geological or geophysical exploration;

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

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

(B) does not include an expenditure incurred to acquire an asset

(i) the cost of previously acquiring which was a lease expenditure under AS 43.55.165 or would have been a lease expenditure under AS 43.55.165 if it had been incurred after March 31, 2006; or

(ii) that has previously been placed in service in the state; an expenditure to acquire an asset is not excluded under this paragraph if not more than an immaterial portion of the asset meets a description under this paragraph; for purposes of this subparagraph, "asset" includes geological, geophysical, and well data and interpretations.

* **Sec. 39.** AS 43.99.950 is amended by adding a new paragraph to read:

(3) "outstanding liability to the state" means an amount of tax, interest, penalty, fee, rental, royalty, or other charge for which the state has issued a demand for payment that has not been paid when due and, if contested, has not been finally resolved against the state.

* **Sec. 40.** AS 38.05.180(i); AS 41.09.010, 41.09.020, 41.09.030, 41.09.090; AS 43.20.053(j)(4); AS 43.55.011(m), 43.55.020(a)(1), 43.55.020(a)(2),

43.55.023(a), 43.55.023(l), 43.55.023(n), AS
43.55.023(o), 43.55.028(i), 43.55.075(d)(1),
43.55.165(j), and 43.55.165(k) are repealed.

*** Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) Section 17 of this Act applies to credits against the oil and gas production tax levied by AS 43.55.011(e) for oil and gas produced on and after July 1, 2016.

(b) Sections 8 - 11 and 26 - 28 of this Act, and the repeal of AS 43.55.023(a) and (l) in sec. 40 of this Act, apply to expenditures incurred on and after July 1, 2016.

(c) Sections 12, 13, and 16 of this Act apply to oil and gas produced on and after July 1, 2016.

(d) For the purpose of determining the last calendar year that a credit or an unused portion of a credit under AS 43.55.023(c) or credit certificate under AS 43.55.023(d) may be carried forward due to the limitations in AS 43.55.023(c) and (d), as amended by secs. 19 and 20 of this Act,

(1) the carried-forward annual loss for a tax credit under AS 43.55.023(c), for expenditures incurred before July 1, 2016, is considered to have been incurred on July 1, 2016;

(2) the carried-forward annual loss for a tax credit certificate under AS 43.55.023(d), for expenditures incurred before July 1, 2016, is considered to have been incurred on the later of July 1, 2016, or the date the tax credit certificate is issued.

*** Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to read:

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

*** Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to read:

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

(1) if the Department of Revenue expressly designates in a regulation that the regulation applies retroactively, a regulation adopted by the Department of Revenue to implement, interpret, make specific, or otherwise carry out this Act may apply retroactively to July 1, 2016, as applicable;

(2) a regulation adopted by the Department of Natural Resources to implement, interpret, make specific, or otherwise carry out statutory provisions for the administration of oil and gas leases issued under AS 38.05.180(f)(3)(B), (D), or (E), to the extent the regulation relates to the treatment of oil and gas production taxes in determining net profits under those leases, may apply retroactively to July 1, 2016, as applicable, if the Department of Natural Resources expressly designates in the regulation that the regulation applies retroactively to one of those dates.

* **Sec. 44.** Sections 17, 42, and 43 of this Act take effect immediately under AS 01.10.070(c).

* **Sec. 45.** Except as provided in sec. 44 of this Act, this Act takes effect July 1, 2016."

Amendment 44, labeled 29-GH2609\P.47, Nauman/Shutts, 3/21/16:

Page 1, lines 1 - 7:

Delete all material and insert:

"**An Act relating to confidential information status and public record status of information in the possession of the Department of Revenue; relating to interest applicable to delinquent tax; relating to disclosure of oil and gas production tax credit information; relating to refunds for the gas storage facility tax credit, the liquefied natural gas storage facility tax credit, and the qualified in-state oil refinery infrastructure expenditures tax credit; relating to the minimum tax for certain oil and gas production; relating to the minimum tax calculation for monthly installment payments of estimated tax; relating to interest on monthly installment payments of estimated tax; relating to limitations for the application of tax credits; relating to oil and gas production tax credits for certain losses and expenditures; relating to limitations for**

nontransferable oil and gas production tax credits based on oil production and the alternative tax credit for oil and gas exploration; relating to purchase of tax credit certificates from the oil and gas tax credit fund; relating to a minimum for gross value at the point of production; relating to lease expenditures and tax credits for municipal entities; adding a definition for "qualified capital expenditure"; adding a definition for "outstanding liability to the state"; repealing oil and gas exploration incentive credits; repealing the limitation on the application of credits against tax liability for lease expenditures incurred before January 1, 2011; repealing provisions related to the monthly installment payments for estimated tax for oil and gas produced before January 1, 2014; repealing the oil and gas production tax credit for qualified capital expenditures and certain well expenditures; repealing the calculation for certain lease expenditures applicable before January 1, 2011; making conforming amendments; and providing for an effective date."

Page 1, line 9, through page 20, line 16:

Delete all material and insert:

*** Section 1.** AS 38.05.036(a) is amended to read:

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

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

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

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

(b) The Department of Revenue may obtain from the department information relating to royalty and net profits payments and to exploration incentive credits under this chapter [OR UNDER AS 41.09], whether or not that information is confidential. The Department of Revenue may use the information in carrying out its functions and responsibilities under AS 43, and shall

hold that information confidential to the extent required by an agreement with the department or by AS 38.05.035(a)(8) [, AS 41.09.010(d),] or AS 43.05.230.

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

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

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

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

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

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

* **Sec. 6.** AS 40.25.100(a) is amended to read:

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

particular reports and items, prohibit the publication of tax lists showing the names of taxpayers who are delinquent and relevant information that may assist in the collection of delinquent taxes, or prohibit the publication of records, proceedings, and decisions under AS 43.05.405 - 43.05.499.

* **Sec. 7.** AS 43.05.225 is amended to read:

Sec. 43.05.225. Interest. Unless otherwise provided,

(1) a delinquent tax under this title,

[(A) BEFORE JANUARY 1, 2014, BEARS INTEREST IN EACH CALENDAR QUARTER AT THE RATE OF FIVE PERCENTAGE POINTS ABOVE THE ANNUAL RATE CHARGED MEMBER BANKS FOR ADVANCES BY THE 12TH FEDERAL RESERVE DISTRICT AS OF THE FIRST DAY OF THAT CALENDAR QUARTER, OR AT THE ANNUAL RATE OF 11 PERCENT, WHICHEVER IS GREATER, COMPOUNDED QUARTERLY AS OF THE LAST DAY OF THAT QUARTER; OR

(B) ON AND AFTER JANUARY 1, 2014,] bears interest in each calendar quarter at the rate of seven [THREE] percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District as of the first day of that calendar quarter compounded quarterly as of the last day of that quarter;

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

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

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

* **Sec. 8.** AS 43.05.230 is amended by adding a new subsection to read:

(1) The name of each person claiming a credit under AS 43.55, the aggregate amount of credits under AS 43.55, except for the credit in AS 43.55.024(j), claimed by the taxpayer in the calendar year, and a description of the taxpayer's activities that generated the credits claimed are public information.

* **Sec. 9.** AS 43.20.046(e) is amended to read:

(e) The department may use available money in the oil and gas tax credit fund established in AS 43.55.028 to make the refund applied for under (d) of this section in whole or in part if the department finds that (1) the claimant does not have an outstanding liability to the state [FOR UNPAID DELINQUENT TAXES UNDER THIS TITLE]; and (2) after

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

* **Sec. 10.** AS 43.20.047(e) is amended to read:

(e) The department may use money available in the oil and gas tax credit fund established in AS 43.55.028 to make a refund or payment under (d) of this section in whole or in part if the department finds that

(1) the claimant does not have an outstanding liability to the state [FOR UNPAID DELINQUENT TAXES UNDER THIS TITLE]; and

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

* **Sec. 11.** AS 43.20.053(e) is amended to read:

(e) The department may use money available in the oil and gas tax credit fund established in AS 43.55.028 to make a refund or payment under (d) of this section in whole or in part if the department finds that

(1) the claimant does not have an outstanding liability to the state [FOR UNPAID DELINQUENT TAXES UNDER THIS TITLE]; and

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

* **Sec. 12.** AS 43.55.011(f) is repealed and reenacted to read:

(f) The levy of tax under (e) of this section for

(1) oil and gas produced before January 1, 2022, from leases or properties that include land north of 68 degrees North latitude, other than gas subject to (o) of this section, may not be less than five percent of the gross value at the point of production; and

(2) oil produced on and after January 1, 2022, from leases or properties that include land north of 68 degrees North latitude, may not be less than five percent of the gross value at the point of production.

* **Sec. 13.** AS 43.55.020(a) 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) for oil and gas produced before January 1, 2014, 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 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 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;

(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 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 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;

(5) for oil and gas produced on and after January 1, 2014, and before January 1, 2022, an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; except as otherwise provided under (6) 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) 35 percent multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the oil and gas under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;

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

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

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

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

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

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

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

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

(7) for oil and gas produced on or after January 1, 2022, an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; the amount of the installment payment is the sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount of the installment payment may not be less than zero:

(A) for oil produced from leases or properties that include land north of 68 degrees North latitude, the greatest of

(i) zero;

(ii) five [ZERO PERCENT, ONE PERCENT, TWO PERCENT, THREE PERCENT, OR FOUR] percent [, AS APPLICABLE,] of the gross value at the point of production of the oil produced from the leases or

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

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

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

(i) zero; or

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

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

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

(ii) 13 percent of the gross value at the point of production of the gas produced from the

leases or properties during the month, but not less than zero;

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

(i) zero; or

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

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

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

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

* **Sec. 14.** AS 43.55.020(g) is repealed and reenacted to read:

(g) Notwithstanding any contrary provision of AS 43.05.225, an unpaid amount of an installment payment required under (a)(3), (5), (6), or (7) of this section that is not paid when due bears interest (1) at the rate provided for an underpayment under 26 U.S.C. 6621 (Internal Revenue Code), as amended, compounded daily, from the date the installment payment is due until March 31 following the calendar

year of production; and (2) as provided for a delinquent tax under AS 43.05.225 after that March 31, interest accrued under (1) of this subsection that remains unpaid after that March 31 is treated as an addition to tax that bears interest under (2) of this subsection, an unpaid amount of tax due under (a)(4) of this section that is not paid when due bears interest as provided for a delinquent tax under AS 43.05.225.

* **Sec. 15.** AS 43.55.020(h) is amended to read:

(h) Notwithstanding any contrary provision of AS 43.05.280,

(1) an overpayment of an installment payment required under (a)(3) [(a)(1), (2), (3)], (5), (6), or (7) of this section bears interest at the rate provided for an overpayment under 26 U.S.C. 6621 (Internal Revenue Code), as amended, compounded daily, from the later of the date the installment payment is due or the date the overpayment is made, until the earlier of

(A) the date it is refunded or is applied to an underpayment; or

(B) March 31 following the calendar year of production;

(2) except as provided under (1) of this subsection, interest with respect to an overpayment is allowed only on any net overpayment of the payments required under (a) of this section that remains after the later of March 31 following the calendar year of production or the date that the statement required under AS 43.55.030(a) is filed;

(3) interest is allowed under (2) of this subsection only from a date that is 90 days after the later of March 31 following the calendar year of production or the date that the statement required under AS 43.55.030(a) is filed; interest is not allowed if the overpayment was refunded within the 90-day period;

(4) interest under (2) and (3) of this subsection is paid at the rate and in the manner provided in AS 43.05.225(1).

* **Sec. 16.** AS 43.55.020(i) is amended to read:

(i) Notwithstanding any contrary provision of AS 43.05.225 or (g) or (h) of this section, if the amount of a tax payment, including an installment payment, due under (a)(3) - (5) [(a)(1) - (4)] of this section is affected by the retroactive application of

a regulation adopted under this chapter, the department shall determine whether the retroactive application of the regulation caused an underpayment or an overpayment of the amount due and adjust the interest due on the affected payment as follows:

(1) if an underpayment of the amount due occurred, the department shall waive interest that would otherwise accrue for the underpayment before the first day of the second month following the month in which the regulation became effective, if

(A) the department determines that the producer's underpayment resulted because the regulation was not in effect when the payment was due; and

(B) the producer demonstrates that it made a good faith estimate of its tax obligation in light of the regulations then in effect when the payment was due and paid the estimated tax;

(2) if an overpayment of the amount due occurred and the department determines that the producer's overpayment resulted because the regulation was not in effect when the payment was due, the obligation for a refund for the overpayment does not begin to accrue interest earlier than the following, as applicable:

(A) except as otherwise provided under (B) of this paragraph, the first day of the second month following the month in which the regulation became effective;

(B) 90 days after an amended statement under AS 43.55.030(a) and an application to request a refund of production tax paid is filed, if the overpayment was for a period for which an amended statement under AS 43.55.030(a) was required to be filed before the regulation became effective.

* **Sec. 17.** AS 43.55 is amended by adding a new section to read:

Sec. 43.55.022. Limitations on tax credits. (a) Notwithstanding any contrary provision of AS 43.55, the application of tax credits under AS 43.55 is subject to the limitations set out in this section.

(b) A tax credit or a fraction of a tax credit under AS 43.55.023, 43.55.024, and 43.55.025 may not be subtracted in calculating an installment payment of estimated tax required under AS 43.55.020(a) if the resulting amount of the installment payment would be

less than the amount in AS 43.55.020(a)(5)(B)(ii) or 43.55.020(a)(7)(A)(ii), as applicable.

(c) The total amount of tax credits under AS 43.55.023, 43.55.024, and 43.55.025 that may be applied against a tax levied by AS 43.55.011(e) for a calendar year may not exceed the sum of the amount of the tax credits or fractions of tax credits that are allowed under (b) of this section to be subtracted in calculating the installment payments of estimated tax for each month in the calendar year.

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

(b) [BEFORE JANUARY 1, 2014, A PRODUCER OR EXPLORER MAY ELECT TO TAKE A TAX CREDIT IN THE AMOUNT OF 25 PERCENT OF A CARRIED-FORWARD ANNUAL LOSS. FOR LEASE EXPENDITURES INCURRED ON AND AFTER JANUARY 1, 2014, AND BEFORE JANUARY 1, 2016, TO EXPLORE FOR, DEVELOP, OR PRODUCE OIL OR GAS DEPOSITS LOCATED NORTH OF 68 DEGREES NORTH LATITUDE, A PRODUCER OR EXPLORER MAY ELECT TO TAKE A TAX CREDIT IN THE AMOUNT OF 45 PERCENT OF A CARRIED-FORWARD ANNUAL LOSS.] For lease expenditures incurred on and after January 1, 2016, to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in the amount of 35 percent of a carried-forward annual loss. For lease expenditures incurred on or after January 1, 2014, to explore for, develop, or produce oil or gas deposits located south of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in the amount of 25 percent of a carried-forward annual loss. 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. For the purpose of a credit under this subsection, any reduction under AS 43.55.160(f) or (g) is added back to the calculation of production tax values for that calendar year under AS 43.55.160 for the determination of a carried-forward annual loss.

* **Sec. 19.** 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 the amount calculated under AS 43.55.011(f) [ZERO], and any unused credit or portion of a credit not used under this subsection may be applied in a later calendar year. An unused credit or portion of a credit may not be applied in a calendar year later than the 10th calendar year in which the carried-forward annual loss for which the credit is claimed was incurred.

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

(d) 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 expires after 10 years from the calendar year in which the carried-forward annual loss for which the credit is claimed was incurred [DOES NOT EXPIRE].

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

(e) A person to which a transferable tax credit certificate is issued under (d) of this section may transfer the certificate to another person, and a transferee may further transfer the certificate. Subject to the limitations set out in (b) - (d) [(a) - (d)] of this section, and notwithstanding any action the department may take with respect to the applicant

under (g) of this section, the owner of a certificate may apply the credit or a portion of the credit shown on the certificate only against a tax levied by AS 43.55.011(e). However, a credit shown on a transferable tax credit certificate may not be applied to reduce a transferee's total tax liability under AS 43.55.011(e) for oil and gas produced during a calendar year to less than 80 percent of the tax that would otherwise be due without applying that credit. Any portion of a credit not used under this subsection may be applied in a later period.

* **Sec. 22.** AS 43.55.023 is amended by adding a new section to read:

(q) A producer or explorer shall comply with the notice and information provision requirements in AS 43.55.025(f)(2) for the lease expenditures incurred towards a credit under this section. The Department of Natural Resources shall hold the confidential information under AS 43.55.025(f)(2)(C). For a producer or explorer required to comply with the notice and information requirements of this section, the Department of Natural Resources may publish the name of the producer or explorer, the location of the well or seismic exploration, and the date on which information required to be submitted under this section may be released.

* **Sec. 23.** AS 43.55.024(g) is amended to read:

(g) A tax credit authorized by (c) of this section may not be applied to reduce a producer's tax liability for any calendar year under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f) [ZERO].

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

(i) A producer may apply against the producer's tax liability for the calendar year under AS 43.55.011(e) a tax credit of \$5 for each barrel of oil taxable under AS 43.55.011(e) that meets one or more of the criteria in AS 43.55.160(f) or (g) and that is produced during a calendar year after December 31, 2013. A tax credit authorized by this subsection may not reduce a producer's tax liability for a calendar year under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f) [ZERO].

* **Sec. 25.** AS 43.55.025(i) is amended to read:

(i) For a production tax credit under this section,

(1) a credit may not be applied to reduce a taxpayer's tax liability under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f) [ZERO] for a calendar year; and

(2) an amount of the production tax credit in excess of the amount that may be applied for a calendar year under this subsection may be carried forward and applied against the taxpayer's tax liability under AS 43.55.011(e) in one or more later calendar years.

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

(e) The department, on the written application of a person to whom a transferable tax credit certificate has been issued under AS 43.55.023(d) or former AS 43.55.023(m) or to whom a production tax credit certificate has been issued under AS 43.55.025(f), may use available money in the oil and gas tax credit fund to purchase, in whole or in part, the certificate 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 applicant's revenues generated from the applicant's oil and gas business, including the revenues of the applicant's affiliates if the applicant is part of an affiliated group, during the calendar year preceding the calendar year in which the application is made were less than \$10,000,000,000;

(6) the amount expended for the purchase and amounts previously purchased from the applicant during the calendar year the sum of which would not exceed \$25,000,000; and

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

* **Sec. 27.** AS 43.55.028 is amended by adding a new subsections to read:

(j) The percentage of a transferable tax credit certificate or a production tax credit certificate purchased by the department may not exceed the percentage of the applicant's workforce in the state in the previous calendar year that were resident workers. The applicant's workforce in the state includes resident workers employed by the applicant's contractors. An amount of a credit not purchased due to application of this subsection may be applied against the applicant's tax liability under this chapter. In this subsection, "resident worker" has the meaning given in AS 43.40.092(b).

* **Sec. 28.** AS 43.55.029(a) is amended to read:

(a) An explorer or producer that has applied for a production tax credit under **AS 43.55.023(b)** [AS 43.55.023(a), (b), OR (1)] or 43.55.025(a) may make a present assignment of the production tax credit certificate expected to be issued by the department to a third-party assignee. The assignment may be made either **when** [AT THE TIME] the application is filed with the department or not later than 30 days after the date of filing with the department. Once a notice of assignment in compliance with this section is filed with the department, the assignment is irrevocable and cannot be modified by the explorer or producer without the written consent of the assignee named in the assignment. If a production tax credit certificate is issued to the explorer or producer, the notice of assignment remains effective and shall be filed with the department by the explorer or producer together with any application for the department to purchase the certificate under AS 43.55.028(e).

* **Sec. 29.** AS 43.55.030(a) is amended to read:

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

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

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

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

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

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

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

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

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

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

* **Sec. 30.** 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 explorer's or 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. 31.** AS 43.55.150 is amended by adding a new subsection to read:

(d) The gross value at the point of production may not be less than zero.

* **Sec. 32.** AS 43.55.165(a) is amended to read:

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

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

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

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

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

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

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

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

* **Sec. 33.** AS 43.55.165(e) is amended to read:

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

(1) depreciation, depletion, or amortization;

(2) oil or gas royalty payments, production payments, lease profit shares, or other payments or distributions of a share of oil or gas production, profit, or revenue, except that a producer's lease expenditures applicable to oil and gas produced from a

lease issued under AS 38.05.180(f)(3)(B), (D), or (E) include the share of net profit paid to the state under that lease;

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

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

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

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

(7) fines or penalties imposed by law;

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

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

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

(11) surcharges levied under AS 43.55.201 or 43.55.300;

(12) an expenditure otherwise deductible under (b) of this section that is a result of an internal transfer, a transaction with an affiliate, or a transaction between related parties, or is otherwise not an arm's length transaction, unless the producer establishes to the satisfaction of the department that the amount of the expenditure does not exceed the fair market value of the expenditure;

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

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

(15) costs incurred for dismantlement, removal, surrender, or abandonment of a facility,

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

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

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

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

(19) costs incurred for repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or equipment, other than a well, that results in or is undertaken in response to a failure, problem, or event that results in an unscheduled interruption of, or reduction in the rate of, oil or gas production; or costs incurred for repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or equipment, other than a well, that is undertaken in response to, or is otherwise associated with, an unpermitted release of a hazardous substance or of gas; however, costs under this paragraph that would otherwise constitute lease expenditures under (a) and (b) of this section may be treated as lease expenditures if the department determines that the repair or replacement is solely

necessitated by an act of war, by an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight, or by an intentional or negligent act or omission of a third party, other than a party or its agents in privity of contract with, or employed by, the producer or an operator acting for the producer, but only if the producer or operator, as applicable, exercised due care in operating and maintaining the facility, pipeline, structure, or equipment, and took reasonable precautions against the act or omission of the third party and against the consequences of the act or omission; in this paragraph,

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

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

(C) "replacement" includes renovation or improvement;

(20) costs incurred to construct, acquire, or operate a refinery or crude oil topping plant, regardless of whether the products of the refinery or topping plant are used in oil or gas exploration, development, or production operations; however, if a producer owns a refinery or crude oil topping plant that is located on or near the premises of the producer's lease or property in the state and that processes the producer's oil produced from that lease or property into a product that the producer uses in the operation of the lease or property in drilling for or producing oil or gas, the producer's lease expenditures include the amount calculated by subtracting from the fair market value of the product used the prevailing value, as determined under AS 43.55.020(f), of the oil that is processed;

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

* **Sec. 34.** AS 43.55.165(f) is amended to read:

(f) For purposes of AS 43.55.023(b) [AS 43.55.023(a) AND (b)] and only as to expenditures incurred to explore for an oil or gas deposit located within land in which an explorer does not own a

working interest, the term "producer" in this section includes "explorer."

* **Sec. 35.** AS 43.55.170(c) is amended to read:

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

* **Sec. 36.** AS 43.55.890 is amended to read:

Sec. 43.55.890. Disclosure of tax information.

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

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

* **Sec. 37.** AS 43.55.895(b) is amended to read:

(b) A municipal entity subject to taxation because of this section is eligible for [ALL] tax credits proportionate to its production taxable under AS 43.55.011(e). A municipal entity shall allocate its lease expenditures in proportion to its production

taxable under AS 43.55.011(e) [UNDER THIS CHAPTER TO THE SAME EXTENT AS ANY OTHER PRODUCER].

* **Sec. 38.** AS 43.55.900 is amended by adding a new paragraph to read:

(26) "qualified capital expenditure"

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

(i) incurred for geological or geophysical exploration;

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

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

(B) does not include an expenditure incurred to acquire an asset

(i) the cost of previously acquiring which was a lease expenditure under AS 43.55.165 or would have been a lease expenditure under AS 43.55.165 if it had been incurred after March 31, 2006; or

(ii) that has previously been placed in service in the state; an expenditure to acquire an asset is not excluded under this paragraph if not more than an immaterial portion of the asset meets a description under this paragraph; for purposes of this subparagraph, "asset" includes geological, geophysical, and well data and interpretations.

* **Sec. 39.** AS 43.99.950 is amended by adding a new paragraph to read:

(3) "outstanding liability to the state" means an amount of tax, interest, penalty, fee, rental, royalty, or other charge for which the state has issued a demand for payment that has not been paid when due and, if contested, has not been finally resolved against the state.

* **Sec. 40.** AS 38.05.180(i); AS 41.09.010, 41.09.020, 41.09.030, 41.09.090; AS 43.20.053(j)(4); AS 43.55.011(m), 43.55.020(a)(1), 43.55.020(a)(2),

43.55.023(a), 43.55.023(l), 43.55.023(n),
AS 43.55.023(o), 43.55.028(i), 43.55.075(d)(1),
43.55.165(j), and 43.55.165(k) are repealed.

* **Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) Section 17 of this Act applies to credits against the oil and gas production tax levied by AS 43.55.011(e) for oil and gas produced on and after January 1, 2017.

(b) Sections 8 - 11 and 26 - 28 of this Act, and the repeal of AS 43.55.023(a) and (l) in sec. 40 of this Act, apply to expenditures incurred on and after January 1, 2017.

(c) Sections 12, 13, and 16 of this Act apply to oil and gas produced on and after January 1, 2017.

(d) For the purpose of determining the last calendar year that a credit or an unused portion of a credit under AS 43.55.023(c) or credit certificate under AS 43.55.023(d) may be carried forward due to the limitations in AS 43.55.023(c) and (d), as amended by secs. 19 and 20 of this Act,

(1) the carried-forward annual loss for a tax credit under AS 43.55.023(c), for expenditures incurred before January 1, 2017, is considered to have been incurred on January 1, 2017;

(2) the carried-forward annual loss for a tax credit certificate under AS 43.55.023(d), for expenditures incurred before January 1, 2017, is considered to have been incurred on January 1, 2017, or the date the tax credit certificate is issued.

* **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to read:

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

* **Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to read:

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

(1) if the Department of Revenue expressly designates in a regulation that the regulation applies retroactively, a regulation adopted by the Department of Revenue to implement, interpret, make specific, or otherwise carry out this Act may apply retroactively to January 1, 2017, as applicable;

(2) a regulation adopted by the Department of Natural Resources to implement, interpret, make specific, or otherwise carry out statutory provisions for the administration of oil and gas leases issued under AS 38.05.180(f)(3)(B), (D), or (E), to the extent the regulation relates to the treatment of oil and gas production taxes in determining net profits under those leases, may apply retroactively to January 1, 2017, as applicable, if the Department of Natural Resources expressly designates in the regulation that the regulation applies retroactively to one of those dates.

* **Sec. 44.** Sections 17, 42, and 43 of this Act take effect immediately under AS 01.10.070(c).

* **Sec. 45.** Except as provided in sec. 44 of this Act, this Act takes effect January 1, 2017."

Amendment 45, labeled 29-GH2609\P.57, Nauman/Shutts, 3/21/16:

Page 1, line 1, following "**tax;**":

Insert "**relating to confidential tax information in the possession of the Department of Revenue;**"

Page 3, following line 17:

Insert new bill sections to read:

"* **Sec. 7.** AS 43.05.230(f) is amended to read:

(f) A wilful violation of the provisions of this section or of a condition imposed under AS 43.55.040(1)(B) is punishable by a fine of not more than \$5,000, or by imprisonment for not more than two years, or by both. **The penalty under this subsection may be in addition to, and not in place of, an applicable criminal sanction under state or federal law.**

* **Sec. 8.** AS 43.05.230 is amended by adding a new subsection to read:

(1) The department may disclose confidential tax information, documents, or other materials related to

a credit for oil and gas investment, exploration, production, delivery, storage, or use against a tax imposed under AS 43.20 or AS 43.55 to a legislator, an agent of a legislator or a legislative committee, or a contractor of a legislator or a legislative committee if

(1) the information is disclosed during an executive session of a committee hearing or an executive session of a meeting of one house of the legislature as a committee of the whole;

(2) only legislators, agents, and contractors complying with the remainder of this subsection are in attendance at the committee meeting;

(3) written information, documents, or other materials are clearly labeled as confidential tax information;

(4) the legislator, agent, or contractor has executed an agreement with the department

(A) that acknowledges that tax information, documents, and materials received under this subsection are confidential by law;

(B) that acknowledges that it is illegal to publicly disclose confidential tax information, documents, or materials received under this subsection unless the information is otherwise publicly available; and

(C) in which the legislator, agent, or contractor agrees not to

(i) disclose the information received during the meeting or the contents of documents or materials viewed during a committee meeting under this section; and

(ii) remove any written information, documents, or materials from the physical location of the committee meeting."

Renumber the following bill sections accordingly.

Page 18, line 20:

Delete "Sections 7 - 9, 16, and 17"

Insert "Sections 9 - 11, 18, and 19"

Page 18, lines 25 - 26:

Delete "sec. 29"

Insert "sec. 31"

Page 18, line 27:

Delete "secs. 13, 14, 18, 23, and 24"
Insert "secs. 15, 16, 20, 25, and 26"

Page 18, line 28:
Delete "sec. 29"
Insert "sec. 31"

Page 18, line 31:
Delete "sec. 29"
Insert "sec. 31"

Page 19, line 2:
Delete "sec. 29"
Insert "sec. 31"

Page 19, line 5:
Delete "sec. 29"
Insert "sec. 31"

Page 19, line 8:
Delete "sec. 29"
Insert "sec. 31"

Page 19, line 10:
Delete "sec. 29"
Insert "sec. 31"

Page 19, line 14:
Delete "sec. 21"
Insert "sec. 23"

Page 19, line 15:
Delete "sec. 29"
Insert "sec. 31"

Page 19, line 17:
Delete "sec. 29"
Insert "sec. 31"

Page 20, line 12:
Delete "Sections 30 and 34"
Insert "Sections 32 and 36"

Page 20, line 13:
Delete "Sections 13, 14, 18 - 25, 27, 29, 32, and
33"

Insert "Sections 15, 16, 20 - 27, 29, 31, 34, and
35"

Page 20, line 15:

Delete "secs. 36 and 37"

Insert "secs. 38 and 39"

[End of amendments to HB 247, Version P; CSHB 247(RES) was reported from the House Resources Standing Committee.]

[10:30:23 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 10:30 p.m.