

**CS FOR HOUSE BILL NO. 331(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/2/18

Referred: Today's Calendar

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act establishing the Alaska Tax Credit Certificate Bond Corporation; relating to**  
2 **the issuance of bonds by the Alaska Tax Credit Certificate Bond Corporation; relating**  
3 **to purchases of tax credit certificates and refunds and payments of tax credits; relating**  
4 **to the oil and gas tax credit fund; relating to overriding royalty interest agreements;**  
5 **providing for an effective date by repealing the effective date of secs. 2, 5, 8, 10, 31, 37,**  
6 **and 40, ch. 3, SSSLA 2017; and providing for an effective date."**

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

8 \* **Section 1.** AS 36.30.850(b) is amended by adding new paragraphs to read:

9 (49) contracts of the Alaska Tax Credit Certificate Bond Corporation  
10 under AS 37.18;

11 (50) overriding royalty interest agreements under AS 44.37.230.

12 \* **Sec. 2.** AS 37 is amended by adding a new chapter to read:

13 **Chapter 18. Alaska Tax Credit Certificate Bond Corporation.**

1           **Sec. 37.18.010. Alaska Tax Credit Certificate Bond Corporation.** The  
 2 Alaska Tax Credit Certificate Bond Corporation is established in the Department of  
 3 Revenue. The corporation is a public corporation and government instrumentality  
 4 managed by a board of directors. The purpose of the corporation is to finance under  
 5 AS 43.55.028

6                           (1) the purchase of

7                                   (A) transferable tax credit certificates issued under  
 8 AS 43.55.023;

9                                   (B) production tax credit certificates issued under  
 10 AS 43.55.025; and

11                           (2) the payment of refunds and payments claimed under AS 43.20.046,  
 12 43.20.047, or 43.20.053.

13           **Sec. 37.18.020. Board of directors.** The directors of the corporation are the  
 14 commissioner of commerce, community, and economic development, the  
 15 commissioner of administration, and the commissioner of revenue. If a director is  
 16 absent or otherwise unable to act, the director's designee in the department shall act as  
 17 a director of the corporation in the director's place.

18           **Sec. 37.18.030. Bond authorization; powers of the corporation.** (a) The  
 19 issuance and sale of bonds by the corporation is authorized as provided in this section  
 20 for purposes of financing purchases, refunds, and payments under AS 43.55.028 and  
 21 the costs of issuance and administration of the bonds. The net proceeds of the sale of  
 22 the bonds remaining after payment of costs of issuance and administration may be  
 23 disbursed to the commissioner of revenue for purchases, refunds, and payments under  
 24 AS 43.55.028. Accrued interest paid on the bonds shall be paid into the reserve fund.  
 25 The corporation may not issue bonds, except for refunding bonds, after December 31,  
 26 2021.

27                           (b) The total unpaid principal amount of bonds, including refunding bonds,  
 28 but excluding refunded bonds, issued by the corporation for the purposes of financing  
 29 purchases, refunds, and payments under AS 43.55.028 may not exceed  
 30 \$1,000,000,000.

31                           (c) The bonds do not constitute a general obligation of the state and are not

1 state debt within the meaning of art. IX, sec. 8, Constitution of the State of Alaska.  
 2 Authorization by the legislature and ratification by qualified voters of the state is not  
 3 required under art. IX, sec. 8, Constitution of the State of Alaska.

4 (d) The corporation may enter into agreements with other state agencies as  
 5 necessary or convenient to implement this chapter.

6 (e) The corporation may contract for the services of underwriters, paying  
 7 agents, trustees, escrow agents, bond printers, rating agencies, bond insurance, credit  
 8 enhancement providers, accountants, financial advisors, disclosure counsel, and bond  
 9 counsel, and other services as are necessary or desirable to accomplish the issuance  
 10 and sale of bonds.

11 **Sec. 37.18.040. Reserve fund.** (a) The corporation may establish and maintain  
 12 a special fund called the Alaska Tax Credit Certificate Bond Corporation reserve fund.  
 13 The reserve fund consists of

14 (1) money appropriated to the reserve fund by the legislature for the  
 15 purpose of the reserve fund in accordance with the provisions of (g) of this section;

16 (2) proceeds of bonds required to be deposited in the fund by terms of  
 17 a

18 (A) contract between the corporation and its bondholders; or

19 (B) resolution of the corporation with respect to the proceeds of

20 bonds;

21 (3) other money appropriated by the legislature to the reserve fund;  
 22 and

23 (4) other money of the corporation that it decides to deposit in the  
 24 reserve fund.

25 (b) Money in the reserve fund shall be held and applied solely to the payment  
 26 of the interest on and principal of bonds of the corporation as the interest and principal  
 27 become due and payable to the retirement of bonds, or for disbursement to the  
 28 commissioner of revenue for purchases or payments under AS 43.55.028. Money may  
 29 not be withdrawn if a withdrawal would reduce the amount in the reserve fund to an  
 30 amount less than the required debt service reserve except for payment of interest then  
 31 due and payable on bonds and the principal of bonds then maturing and payable and

1 for the retirement of bonds in accordance with the terms of a contract between the  
2 corporation and its bondholders and for which payments of other money of the  
3 corporation is not then available.

4 (c) Money in the reserve fund in excess of the required debt service reserve,  
5 whether because of investment or otherwise, may be withdrawn at any time by the  
6 corporation for disbursement by the commissioner of revenue for purchases or  
7 payments under AS 43.55.028 or transferred to another fund or account of the  
8 corporation.

9 (d) Money in the reserve fund may be invested in the same manner and on the  
10 same conditions as permitted for investment of funds belonging to the state or held in  
11 the treasury under AS 37.10.070; however, the corporation may agree with the  
12 bondholders to further limit those investments.

13 (e) For purposes of valuation, investments in the reserve fund shall be valued  
14 at par or, if purchased at less than par, at cost unless otherwise provided by resolution  
15 of the corporation. Valuation on a particular date shall include the amount of interest  
16 then earned or accrued to that date on the money or investments in the reserve fund.

17 (f) Notwithstanding any other provision of this chapter, the corporation may  
18 not issue bonds unless there is in the reserve fund the required debt service reserve for  
19 all bonds then issued and outstanding and for the bonds to be issued; however, the  
20 corporation may satisfy this requirement by depositing as much of the proceeds of the  
21 bonds to be issued, on their issuance, as is needed to meet the required debt service  
22 reserve or by funding the reserve fund with cash, a surety bond, letter of credit, or  
23 other instrument in the amount necessary to meet the required debt service reserve.  
24 The corporation may, at any time, issue its bonds or notes for the purpose of  
25 increasing the amount in the reserve fund to the required debt service reserve, or to  
26 meet whatever higher or additional reserve that may be fixed by the corporation with  
27 respect to the fund.

28 (g) To ensure the maintenance of the required debt service reserve in the  
29 reserve fund, the legislature may appropriate annually to the corporation for deposit in  
30 the fund the sum, certified by the chair of the corporation to the governor and to the  
31 legislature, that is necessary to restore the fund to an amount equal to the required debt

1 service reserve. The chair annually, before January 30, shall make and deliver to the  
 2 governor and to the legislature a certificate stating the sum required to restore the fund  
 3 to that amount, and the certified sum may be appropriated and paid to the corporation  
 4 during the then current state fiscal year. Nothing in this subsection creates a debt or  
 5 liability of the state.

6 (h) All references to the reserve fund in this section include special accounts  
 7 within the reserve fund that may be created by the corporation to secure the payment  
 8 of particular bonds.

9 (i) The commissioner of revenue may, subject to appropriation, lend surplus  
 10 money in the general fund to the corporation for deposit to any account in the reserve  
 11 fund in an amount equal to the required debt service reserve. The loans shall be made  
 12 on the terms and conditions that may be agreed on by the commissioner of revenue  
 13 and the corporation, including, without limitation, terms and conditions providing that  
 14 the loans need not be repaid until the obligations of the corporation secured and to be  
 15 secured by the account in the reserve fund are no longer outstanding.

16 (j) In this section, "required debt service reserve" means, on the date of  
 17 computation, the amount required to be on deposit in the reserve fund as provided by  
 18 resolution of the corporation.

19 **Sec. 37.18.050. Bond terms.** (a) The bonds may be issued and sold at public  
 20 or negotiated sale in the manner, in the amounts or series, and at the time or times that  
 21 the corporation determines the bonds, or each series of them, shall be sold at the price  
 22 and on the terms, conditions, and covenants set by the corporation after considering  
 23 market conditions. Interest rates may be fixed or variable. The corporation shall  
 24 publish notice of an adopted resolution.

25 (b) The bonds mature at the time or times fixed by the corporation. The bonds  
 26 may be subject to redemption before their fixed maturities, as determined by the  
 27 corporation, with or without a premium or premiums. The bonds may be in  
 28 denominations determined by the corporation; may be issued in fully or partially  
 29 registered form; must be payable as to principal and interest at the place or places  
 30 determined by the corporation; must be signed in the manner provided by the  
 31 corporation; and must be issued under and subject to the terms, conditions, covenants,

1 and protective features safeguarding payment of the bonds as found necessary by the  
 2 corporation. The corporation may, when necessary or desirable, enter into an  
 3 agreement with a provider of credit enhancement to provide liquidity or security for  
 4 the bonds, including bond insurance, letters of credit, surety bonds, or standby bond  
 5 purchase agreements.

6 (c) If the corporation finds it reasonably necessary, the corporation may select  
 7 a trustee or trustees for the holders of the bonds, or any series of them, for the  
 8 safeguarding and disbursement of any of the money in the bond reserve fund or for  
 9 duties with respect to the enforcement, authentication, delivery, payment, and  
 10 registration of the bonds as the corporation may determine. The corporation shall fix  
 11 the rights, duties, powers, and obligations of the trustee or trustees.

12 (d) In its determination of all matters and questions relating to the issuance  
 13 and sale of the bonds and the fixing of their maturities, terms, conditions, and  
 14 covenants as provided in (a) and (b) of this section, the decisions of the corporation  
 15 shall be those that are reasonably necessary for the best interests of the state and its  
 16 inhabitants and that will accomplish the most advantageous sale of the bonds.  
 17 Decisions of the corporation, as expressed in a bond resolution, are final and are  
 18 conclusively considered to comply with the requirements of this chapter.

19 **Sec. 37.18.060. Bond resolution.** The corporation shall authorize the issuance  
 20 of bonds by adopting a resolution and shall prepare all other documents and  
 21 proceedings necessary for the issuance, sale, and delivery of the bonds or any part or  
 22 series of them. The bond resolution must fix the principal amount, denominations,  
 23 date, maturities, manner of sale, place or places of payment, rights of redemption, if  
 24 any, terms, form, conditions, and covenants of the bonds or each series of them. The  
 25 corporation shall publish notice of the adopted resolution.

26 **Sec. 37.18.070. Enforcement by bond owner.** (a) The owner or owners of not  
 27 less than 10 percent, or a higher percentage as specified in a bond resolution, of the  
 28 aggregate principal amount of any series or issue of bonds or the trustee for the owners  
 29 of the bonds or any series of them may, by appropriate proceedings in state court,  
 30 require and compel the transfer, setting aside, and payment of money and the  
 31 enforcement of all of the terms, conditions, and covenants as required and provided in

1 this chapter, as appropriate, and the bond resolution.

2 (b) A proceeding under (a) of this section may be commenced and conducted  
3 only in the Superior Court for the State of Alaska, First Judicial District at Juneau.

4 **Sec. 37.18.080. Purposes; limitation on issuance.** The proceeds of bonds may  
5 be used for the purposes described in AS 37.18.030, as appropriate. Bonds may not be  
6 issued unless the corporation first finds that the discount rate under AS 43.55.028(m)  
7 exceeds the true interest cost to be paid on the bonds by at least 1.5 percent annually.

8 **Sec. 37.18.090. Refunding.** (a) The corporation may refund the bonds or any  
9 part of them at or before their maturities or redemption dates by the issuance of  
10 refunding bonds of the corporation if, in the opinion of the corporation, refunding is  
11 advantageous to and in the best interest of the corporation, the state, and the state's  
12 inhabitants.

13 (b) The issuance of refunding bonds need not be authorized by the legislature  
14 or ratified by qualified voters of the state, as required by art. IX, sec. 8, Constitution of  
15 the State of Alaska. The corporation shall adopt the resolution or resolutions and  
16 prepare all other documents and proceedings necessary for the issuance, exchange or  
17 sale, and delivery of the refunding bonds. All provisions of this chapter are applicable  
18 to the refunding bonds and to the issuance, sale, or exchange of them, except as  
19 otherwise provided in this section.

20 (c) Refunding bonds may be issued in a principal amount sufficient to provide  
21 money for the advance or current refunding of all bonds to be refunded and interest on  
22 the refunded bonds and, in addition, for the payment of all costs of issuance and  
23 administration of the refunding bonds. Those expenses also include the difference in  
24 amount between the par value of the refunding bonds and any amount less than par for  
25 which the refunding bonds are sold; the premium, if any, necessary to be paid to call  
26 or retire the outstanding bonds and the interest accruing on them to the date of the call  
27 or retirement; and other of those costs.

28 (d) The corporation may contract with a refunding trustee to hold the proceeds  
29 of refunding bonds in trust until the proceeds, together with earnings on the proceeds,  
30 are applied to pay the principal of, premium, if any, and interest on the bonds to be  
31 refunded. Until the refunding bond proceeds are applied, the proceeds may be invested

1 in direct obligations of, or obligations guaranteed by, the United States or an agency or  
 2 corporation of the United States whose obligations constitute direct obligations of, or  
 3 obligations guaranteed by, the United States, or other obligations specified in a bond  
 4 resolution.

5 (e) The corporation is authorized to incur expenses to carry out this section.

6 **Sec. 37.18.100. Bonds as legal investments.** The bonds are legal investments  
 7 for all banks, trust companies, savings banks, savings and loan associations, and other  
 8 persons carrying on a banking business, all insurance companies and other persons  
 9 carrying on an insurance business, and all executors, administrators, trustees, and other  
 10 fiduciaries. The bonds may be accepted as security for deposits of all money of the  
 11 state and its political subdivisions.

12 **Sec. 37.18.110. Limitation on judicial action.** A person may not bring a  
 13 judicial action to contest the constitutionality or validity of this chapter or the  
 14 constitutionality or validity of a bond issued and sold under this chapter unless the  
 15 action is commenced in a court of the state of competent jurisdiction within 45 days  
 16 after the corporation adopts a resolution under AS 37.18.060 authorizing the issuance  
 17 of bonds. A person that fails to commence an action in the time provided under this  
 18 section is barred from commencing an action to contest the constitutionality or validity  
 19 of a bond issued and sold under this chapter.

20 **Sec. 37.18.170. Statutory construction.** This chapter shall be liberally  
 21 construed to carry out the purposes for which it was enacted.

22 **Sec. 37.18.180. Regulations.** The corporation may adopt regulations necessary  
 23 to implement the provisions of this chapter.

24 **Sec. 37.18.190. Definitions.** In this chapter,

25 (1) "bond resolution" means the resolution or resolutions adopted by  
 26 the corporation under AS 37.18.060 authorizing the issuance of bonds;

27 (2) "bonds" means the bonds authorized in this chapter;

28 (3) "corporation" means the Alaska Tax Credit Certificate Bond  
 29 Corporation created in AS 37.18.010;

30 (4) "costs of issuance and administration" means all costs associated  
 31 with issuance and administration of bonds and refunding bonds, including costs of

1 bond printing, official statements, financial advisors, travel costs, rating agencies,  
 2 bond insurance, letters and lines of credit for credit enhancement, underwriters,  
 3 remarketing agents, legal services, paying agents, bonds registrars, bond and escrow  
 4 trustees, arbitrage rebate, administrative costs, both direct and indirect, and all other  
 5 costs;

6 (5) "reserve fund" means the Alaska Tax Credit Certificate Bond  
 7 Corporation reserve fund established in AS 37.18.040.

8 \* **Sec. 3.** AS 43.20.046(e) is amended to read:

9 (e) Subject to the requirements in **AS 43.55.028** [AS 43.55.028(j)], the  
 10 department may use **either** available money in the oil and gas tax credit fund  
 11 established in AS 43.55.028 **or, subject to appropriation by the legislature, money**  
 12 **disbursed to the commissioner for refunds under AS 43.55.028 from the Alaska**  
 13 **Tax Credit Certificate Bond Corporation reserve fund established in**  
 14 **AS 37.18.040, or both,** to make the refund applied for under (d) of this section in  
 15 whole or in part if the department finds that, after application of all available tax  
 16 credits, the claimant's total tax liability under this chapter for the calendar year in  
 17 which the claim is made is zero.

18 \* **Sec. 4.** AS 43.20.047(e) is amended to read:

19 (e) Subject to the requirements in **AS 43.55.028** [AS 43.55.028(j)], the  
 20 department may use **either** money available in the oil and gas tax credit fund  
 21 established in AS 43.55.028 **or, subject to appropriation by the legislature, money**  
 22 **disbursed to the commissioner for refunds and payments under AS 43.55.028**  
 23 **from the Alaska Tax Credit Certificate Bond Corporation reserve fund**  
 24 **established in AS 37.18.040, or both,** to make a refund or payment under (d) of this  
 25 section in whole or in part if the department finds that, after application of all available  
 26 tax credits, the claimant's total tax liability under this chapter for the calendar year in  
 27 which the claim is made is zero.

28 \* **Sec. 5.** AS 43.20.053(e) is amended to read:

29 (e) Subject to the requirements in **AS 43.55.028** [AS 43.55.028(j)], the  
 30 department may use **either** money available in the oil and gas tax credit fund  
 31 established in AS 43.55.028 **or, subject to appropriation by the legislature, money**

1 **disbursed to the commissioner for refunds and payments under AS 43.55.028**  
 2 **from the Alaska Tax Credit Certificate Bond Corporation reserve fund**  
 3 **established in AS 37.18.040, or both,** to make a refund or payment under (d) of this  
 4 section in whole or in part if the department finds that, after application of all available  
 5 tax credits, the claimant's total tax liability under this chapter for the calendar year in  
 6 which the claim is made is zero.

7 \* **Sec. 6.** AS 43.55.028(b) is amended to read:

8 (b) The oil and gas tax credit fund consists of

9 (1) money appropriated to the fund, including any appropriation of the  
 10 percentage provided under (c) of this section of all revenue from taxes levied by  
 11 AS 43.55.011 that is not required to be deposited in the constitutional budget reserve  
 12 fund established in art. IX, sec. 17(a), Constitution of the State of Alaska, **less the**  
 13 **amount described in (r) of this section;** and

14 (2) earnings on the fund.

15 \* **Sec. 7.** AS 43.55.028(e) is amended to read:

16 (e) The department, on the written application of a person to whom a  
 17 transferable tax credit certificate has been issued under AS 43.55.023(d) or former  
 18 AS 43.55.023(m) for an expenditure incurred before July 1, 2017, or to whom a  
 19 production tax credit certificate has been issued under AS 43.55.025(f) for an  
 20 expenditure incurred before July 1, 2017, may use **either** available money in the oil  
 21 and gas tax credit fund **or, subject to appropriation by the legislature, money**  
 22 **disbursed to the commissioner, or both,** to purchase, in whole or in part, the  
 23 certificate. The department may not purchase **with money from the oil and gas tax**  
 24 **credit fund** a total of more than \$70,000,000 in tax credit certificates from a person in  
 25 a calendar year. **The total amount of purchases made by the department with**  
 26 **money from the oil and gas tax credit fund from a person in a year may not**  
 27 **exceed the assumed payment amount for each year, as calculated under (l) of this**  
 28 **section without the discount provided in (m) of this section.** Before purchasing a  
 29 certificate or part of a certificate, the department shall find that

30 (1) the calendar year of the purchase is not earlier than the first  
 31 calendar year for which the credit shown on the certificate would otherwise be allowed

1 to be applied against a tax;

2 (2) the application is not the result of the division of a single entity into  
3 multiple entities that would reasonably be expected to apply as a single entity if the  
4 \$70,000,000 limitation in this subsection did not exist;

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

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

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

13 \* **Sec. 8.** AS 43.55.028(g) is amended to read:

14 (g) The department shall adopt regulations to carry out the purposes of this  
15 section, including standards and procedures to allocate available money among  
16 applications for purchases under this chapter and claims for refunds and payments  
17 under AS 43.20.046, 43.20.047, or 43.20.053 when the total amount of the  
18 applications for purchase and claims for refund exceed the amount of available money  
19 in the fund. The regulations adopted by the department

20 (1) may not, when allocating available money in the fund under this  
21 section, distinguish an application for the purchase of a credit certificate issued under  
22 former AS 43.55.023(m) or a claim for a refund or payment under AS 43.20.046,  
23 43.20.047, or 43.20.053;

24 (2) must, when allocating available money in the fund under this  
25 section, grant a preference, between two applicants, to the applicant with a higher  
26 percentage of resident workers in the applicant's workforce, including workers  
27 employed by the applicant's direct contractors, in the state in the previous calendar  
28 year; in this paragraph, "resident worker" has the meaning given in AS 43.40.092(b);

29 (3) must, **for a purchase from money in the fund,** provide for the  
30 purchase of the amount equal to the first 50 percent of the credit repurchase limit for  
31 each person under (e) of this section at a rate of 100 percent of the value of the

1 certificate or portion of the certificate requested to be purchased and the amount equal  
 2 to the next 50 percent of the credit repurchase limit for each person under (e) of this  
 3 section at a rate of 75 percent of the value of the certificate or portion of the certificate  
 4 requested to be purchased.

5 \* **Sec. 9.** AS 43.55.028(i) is amended to read:

6 (i) In this section,

7 **(1) "money disbursed to the commissioner" means money**  
 8 **disbursed to the commissioner from the Alaska Tax Credit Certificate Bond**  
 9 **Corporation reserve fund established in AS 37.18.040;**

10 **(2) "qualified capital expenditure" has the meaning given in**  
 11 **AS 43.55.023;**

12 **(3) "true interest cost" means the true interest cost of the bonds**  
 13 **anticipated to be issued under AS 37.18.**

14 \* **Sec. 10.** AS 43.55.028(j) is amended to read:

15 (j) If an applicant or claimant has an outstanding liability to the state directly  
 16 related to the applicant's or claimant's oil or gas exploration, development, or  
 17 production and the department has not previously reduced the amount paid to that  
 18 applicant or claimant for a certificate or refund because of that outstanding liability,  
 19 the department may purchase only that portion of a certificate or pay only that portion  
 20 of a refund that exceeds the outstanding liability, **regardless of whether the purchase**  
 21 **is made with money from the fund or money disbursed to the commissioner.** After  
 22 notifying the applicant or claimant, the department may apply the amount by which  
 23 the department reduced its purchase of a certificate or payment for a refund because of  
 24 an outstanding liability to satisfy the outstanding liability. Satisfaction of an  
 25 outstanding liability under this subsection does not affect the applicant's ability to  
 26 contest that liability. The department may enter into contracts or agreements with  
 27 another department to which the outstanding liability is owed. In this subsection,  
 28 "outstanding liability" means an amount of tax, interest, penalty, fee, rental, royalty, or  
 29 other charge for which the state has issued a demand for payment that has not been  
 30 paid when due and, if contested, has not been finally resolved against the state.

31 \* **Sec. 11.** AS 43.55.028 is amended by adding new subsections to read:

1 (k) The department may negotiate a purchase, refund, or payment under this  
2 section to be made from money disbursed to the commissioner. Before making a  
3 purchase, refund, or payment, the department shall calculate the maximum amount for  
4 a purchase, refund, or payment under (l) of this section. An applicant or claimant that  
5 has requested a purchase, refund, or payment by the department from the fund shall  
6 provide a notice of interest to the department by the date determined by the  
7 commissioner if the applicant or claimant is interested in a purchase, refund, or  
8 payment from money disbursed to the commissioner instead. An applicant or claimant  
9 that requests a purchase, refund, or payment from the fund on or after July 1, 2018,  
10 shall include any notice of interest in a purchase, refund, or payment from money  
11 disbursed to the commissioner at the same time that the applicant or claimant requests  
12 a purchase, refund, or payment by the department from the fund. The department may  
13 not use money disbursed to the commissioner for a purchase, refund, or payment  
14 under this section if the applicant or claimant fails to provide the department with a  
15 notice of interest in a purchase, refund, or payment from money disbursed to the  
16 commissioner. A notice of interest for a purchase, refund, or payment from money  
17 disbursed to the commissioner must include all of the requests for purchases, refunds,  
18 or payments made by the applicant or claimant and, if applicable, a statement  
19 indicating whether the applicant intends to meet a condition in (m)(1) - (3) of this  
20 section. An applicant or claimant may not include in a notice of interest a request for  
21 purchase, refund, or payment from the fund if the request could have been included in  
22 a previous notice of interest under this subsection. The department shall make an offer  
23 of purchase, refund, or payment with money disbursed to the commissioner to an  
24 applicant or claimant that provides the department with a timely notice of interest. The  
25 department shall make an offer of purchase, refund, or payment from money disbursed  
26 to the commissioner at a time based on the anticipated schedule for disbursement of  
27 money to the commissioner. The applicant or claimant shall notify the department of  
28 acceptance of the offer of purchase, refund, or payment within 10 days after the offer  
29 is made. An offer of purchase, refund, or payment must be conditioned on the  
30 disbursement of money to the commissioner. A transferable tax credit certificate  
31 issued under AS 43.55.023, production tax credit certificate issued under

1 AS 43.55.025, or claim for refunds or payments under AS 43.20.046, 43.20.047, or  
 2 43.20.053 is not eligible for purchase by the department with money disbursed to the  
 3 commissioner if the applicant or claimant

4 (1) fails to provide the department with a notice of interest of an offer  
 5 of purchase, refund, or payment from money disbursed to the commissioner by the  
 6 date determined by the commissioner under this subsection; or

7 (2) declines an offer of purchase, refund, or payment by the  
 8 department with money disbursed to the commissioner for that transferable tax credit  
 9 certificate, production tax credit certificate, or refund or claim for payment.

10 (l) The department shall calculate the maximum amount for a purchase,  
 11 refund, or payment with money disbursed to the commissioner. The maximum amount  
 12 for a purchase, refund, or payment is the sum of the assumed payment amounts for  
 13 purchases, refunds, and payments for each year discounted as provided in (m) of this  
 14 section. The assumed payment amount for each year is the assumed appropriations to  
 15 the fund multiplied by the assumed proration amount calculated in this subsection. The  
 16 assumed appropriation to the fund each year is an amount equal to the percentage  
 17 provided under (c) of this section of the total taxes levied by AS 43.55.011 as forecast  
 18 by the department before the application of tax credits. The assumed proration amount  
 19 is that proportion of payments the department would have allocated from the fund, if  
 20 money had not been disbursed to the commissioner, based on the date of the request  
 21 for purchase, refund, or payment from the fund. When determining the assumed  
 22 proration amount under this subsection, the department shall

23 (1) allocate requests received in the same year together;

24 (2) prioritize requests for payments from the earliest to the latest year;

25 and

26 (3) assume that no purchases are made with money disbursed to the  
 27 commissioner.

28 (m) For purposes of the calculation in (l) of this section, the department shall  
 29 discount the assumed payment amount each year after the first year by a discount rate.  
 30 Unless another discount rate in this subsection applies, a discount rate of 10 percent  
 31 applies to the assumed payment amount for a request for purchase of a transferable tax

1 credit certificate issued under AS 43.55.023 or a production tax credit certificate  
 2 issued under AS 43.55.025. An applicant's agreement to a discount rate under (1) - (3)  
 3 of this subsection is only consideration for the amount that the purchase exceeds the  
 4 amount that would have been purchased in the absence of the agreement. For a refund  
 5 or claim for payment under AS 43.20.046, 43.20.047, or 43.20.053, the discount rate  
 6 is the true interest cost plus 1.5 percent, but may not exceed 10 percent. For a purchase  
 7 of a transferable tax credit certificate issued under AS 43.55.023 or a production tax  
 8 credit certificate issued under AS 43.55.025, the discount rate is the true interest cost  
 9 plus 1.5 percent, but may not exceed 10 percent, in total,

10 (1) for either a transferable tax credit certificate issued under  
 11 AS 43.55.023 for which the applicant submitted data required under  
 12 AS 43.55.025(f)(2) or a production tax credit certificate issued under AS 43.55.025, if  
 13 the applicant agrees as a condition of the purchase that the 10-year confidentiality  
 14 period under AS 43.55.025(f)(2)(C)(ii) that would otherwise apply to the seismic data  
 15 or other geophysical data is waived by the applicant;

16 (2) if the applicant, or an entity related to the applicant with the  
 17 applicant's consent, and the Department of Natural Resources agree to an overriding  
 18 royalty interest agreement under AS 44.37.230; or

19 (3) if the applicant commits to incur, not later than 24 months after the  
 20 purchase of the certificate, qualified capital expenditures in an amount greater than or  
 21 equal to the purchase amount, and

22 (A) the applicant provides to the department evidence of the  
 23 commitment and a plan to

24 (i) use the qualified capital expenditures for the purpose  
 25 of increasing production of oil or gas from leases or properties in the  
 26 state; and

27 (ii) maximize the hiring of state residents and use of  
 28 state businesses related to qualified capital expenditures;

29 (B) the applicant agrees in writing that, if the applicant does not  
 30 incur qualified capital expenditures in an amount greater than or equal to the  
 31 purchase amount within 24 months after the purchase of the certificate, the

1 applicant shall pay the department the lesser of the difference between the  
2 purchase amount and the

3 (i) amount the applicant would have been paid had this  
4 subsection not applied; or

5 (ii) actual amount of qualified capital expenditures  
6 incurred by the applicant in the 24-month period; and

7 (C) after reviewing documents submitted under (A) and (B) of  
8 this paragraph, the commissioner approves the reduced discount rate for the  
9 purchase.

10 (n) An agreement under (m)(3)(B) of this section may require the applicant to  
11 pay the department interest on the amount due under (m)(3)(B) of this section. The  
12 interest rate must be consistent with the interest rate provided for a delinquent tax  
13 under AS 43.05.225. Payment under (m)(3)(B) of this section and interest under this  
14 subsection is waived if the department determines that the applicant could not incur  
15 the qualified capital expenditures because of a natural disaster, injunction or other  
16 court order, or administrative order.

17 (o) An applicant or claimant may not use a transferable tax credit certificate  
18 issued under AS 43.55.023, production tax credit certificate issued under  
19 AS 43.55.025, or refund or claim for payment under AS 43.20.046, 43.20.047, or  
20 43.20.053 purchased by the department with money disbursed to the commissioner  
21 against tax liability, even if the purchase, refund, or payment amount was less than the  
22 total amount requested for purchase, refund, or payment.

23 (p) The department shall provide to the Department of Natural Resources the  
24 information necessary to evaluate an overriding royalty interest for the purposes of  
25 AS 44.37.230.

26 (q) After bonds are first issued by the Alaska Tax Credit Certificate Bond  
27 Corporation established under AS 37.18.010, the legislature may determine the  
28 amount of an appropriation under (b)(1) of this section by multiplying the percentage  
29 under (c) of this section by the net revenue from taxes levied by AS 43.55.011.

30 (r) The legislature may reduce an appropriation made under (b)(1) of this  
31 section by an amount equal to the amount appropriated to the Alaska Tax Credit

1 Certificate Bond Corporation for maintenance of the required debt service reserve in  
 2 the Alaska Tax Credit Certificate Bond Corporation reserve fund, as calculated under  
 3 AS 37.18.040(g).

4 (s) The legislature may, for purposes of making purchases, refunds, and  
 5 payments under this section, appropriate an amount equal to the amount disbursed to  
 6 the commissioner by the corporation for purchases, refunds, and payments under this  
 7 section.

8 \* **Sec. 12.** AS 44.37 is amended by adding a new section to read:

9 **Article 4. Tax Credit Certificates and Overriding Royalties.**

10 **Sec. 44.37.230. Duties of the department with respect to purchases of tax**  
 11 **credit certificates and overriding royalty interest agreements.** (a) The department  
 12 shall provide necessary information to and consult with the Department of Revenue to  
 13 determine whether a discount rate is applicable under AS 43.55.028(m).

14 (b) The department may enter into an overriding royalty interest agreement in  
 15 favor of the state with an applicant that requests a purchase by the Department of  
 16 Revenue under AS 43.55.028 from money disbursed to the commissioner of revenue  
 17 from the Alaska Tax Credit Certificate Bond Corporation reserve fund established in  
 18 AS 37.18.040 of a transferable tax credit certificate issued under AS 43.55.023 or  
 19 production tax credit certificate issued under AS 43.55.025. The department may enter  
 20 into an agreement only if the anticipated net present value from the agreement to the  
 21 state is equal to or greater than the remainder of the value of the tax credit certificate  
 22 requested for purchase at the proposed reduced discount rate under  
 23 AS 43.55.028(m)(2), subtracted from the value of the tax credit certificate requested  
 24 for purchase in the absence of the agreement.

25 (c) An applicant requesting a reduced discount rate under AS 43.55.028(m)(2)  
 26 shall submit a proposed agreement to the department. The proposed agreement must  
 27 include

28 (1) a description of the lease or leases in which the applicant holds a  
 29 working interest that are subject to the proposed agreement;

30 (2) the overriding royalty interest in oil produced from the lease or  
 31 leases offered to the state under the proposed agreement expressed as a percentage of

1 the total oil produced from the lease or leases; a percentage proposed under this  
2 paragraph may not exceed the working interest of the applicant.

3 (d) The monthly payment to the state under an agreement is calculated by  
4 multiplying the prevailing value of the monthly oil production from the lease or leases  
5 subject to the agreement by the product of the total monthly volume of oil production  
6 from the lease or leases subject to the agreement and the percent of total oil production  
7 offered to the state under the agreement. A deduction may not be applied to a payment  
8 calculated under this subsection. The Department of Revenue shall determine and post  
9 on its Internet website the prevailing value of the oil under AS 43.55 as provided in  
10 regulation.

11 (e) The amount of an underpayment or overpayment of a monthly payment for  
12 a payment in an agreement bears interest in each calendar quarter at the rate of 5.25  
13 percentage points above the annual rate charged to member banks for advances by the  
14 12th Federal Reserve District as of the first day of that calendar quarter, compounded  
15 quarterly as of the last day of that quarter.

16 (f) When evaluating an agreement, the department shall consider

17 (1) the anticipated costs to issue and administer a bond under AS 37.18  
18 if the tax credit certificate is purchased at a reduced discount rate under  
19 AS 43.55.028(m)(2);

20 (2) the production or projected production from a lease subject to the  
21 proposed agreement;

22 (3) the value or projected value of the oil produced from a lease  
23 subject to the proposed agreement;

24 (4) the timing for production from a lease subject to the proposed  
25 agreement;

26 (5) the likelihood of production from a lease subject to the proposed  
27 agreement;

28 (6) the existence of and burdens on other interests on a lease subject to  
29 the proposed agreement;

30 (7) cost data or financial information submitted with the proposed  
31 agreement; and

1 (8) other information submitted with the proposed agreement.

2 (g) The department may request from an applicant additional information  
3 necessary to make a determination under (f) of this section. Before an agreement may  
4 be entered into, an applicant shall provide the information requested by the department  
5 under this subsection.

6 (h) The department may enter into an agreement necessary to carry out the  
7 purpose of this section, including an agreement to maintain the confidentiality of  
8 information submitted to the department to evaluate an overriding royalty interest  
9 agreement.

10 (i) The department shall separately account for the revenue collected from an  
11 agreement that the department deposits in the general fund. The legislature may  
12 appropriate the annual estimated balance in the account to the Alaska tax credit  
13 certificate bond corporation reserve fund established under AS 37.18.040.

14 (j) In this section, unless the context requires otherwise,

15 (1) "agreement" means an overriding royalty interest agreement  
16 described in this section;

17 (2) "applicant" includes an agent or representative of the applicant;

18 (3) "department" means the Department of Natural Resources.

19 \* **Sec. 13.** Sections 2, 5, 8, 10, 31, 37, 40, and 43, ch. 3, SSSLA 2017, are repealed.

20 \* **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to  
21 read:

22 NOTICE TO REVISOR OF STATUTES. (a) The commissioner of revenue shall  
23 notify the revisor of statutes in writing

24 (1) if bonds

25 (A) are not issued under AS 37.18.010 - 37.18.190 by January 1, 2022;

26 or

27 (B) are issued under AS 37.18.010 - 37.18.190 before January 1, 2022,

28 when the principal amounts of the bonds issued under AS 37.18.010 - 37.18.190,  
29 together with the interest on them and any interest owing on unpaid installments of  
30 interest, and all other obligations with respect to the bonds, have been fully met and  
31 discharged; and

1 (2) when

2 (A) there are no outstanding applications for purchase of tax credit  
3 certificates or claims for refunds or payments for which payment has not been made  
4 under AS 43.55.028(e); and

5 (B) it has been at least one year since a person has applied for a  
6 purchase, refund, or payment under AS 43.55.028.

7 (b) In this section,

8 (1) "claim for refund or payment" means a refund or payment claimed under  
9 AS 43.20.046, 43.20.047, or 43.20.053 subject to payment under AS 43.55.028;

10 (2) "tax credit certificate" means a transferable tax credit certificate issued  
11 under AS 43.55.023 or a production tax credit certificate issued under AS 43.55.025 subject  
12 to purchase under AS 43.55.028.

13 \* **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to  
14 read:

15 TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any  
16 contrary provision of AS 44.62.240, if the

17 (1) Department of Revenue expressly designates in a regulation that the  
18 regulation applies retroactively, a regulation adopted by the Department of Revenue to  
19 implement, interpret, make specific, or otherwise carry out this Act may apply retroactively to  
20 the effective date of the law implemented by the regulation;

21 (2) Department of Natural Resources expressly designates in a regulation that  
22 the regulation applies retroactively, a regulation adopted by the Department of Natural  
23 Resources to implement, interpret, make specific, or otherwise carry out this Act may apply  
24 retroactively to the effective date of the law implemented by the regulation.

25 \* **Sec. 16.** Section 46, ch. 3, SSSLA 2017, is repealed.

26 \* **Sec. 17.** This Act takes effect immediately under AS 01.10.070(c).