

**HB**

**247 -**

**FILE 2**

<TARGET><BILL>HB 247</BILL><SUBJECT>HB 247 - FILE  
2</SUBJECT><COMM>HRLS29</COMM></TARGET>

29-GH2609\M  
Nauman/Shutts  
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**2d CS FOR HOUSE BILL NO. 247( )**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-NINTH LEGISLATURE - SECOND SESSION

**BY**

**Offered:  
Referred:**

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

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the powers and duties of the Alaska Oil and Gas Conservation  
2 Commission; relating to the exploration incentive credits; relating to confidential  
3 information status and public record status of information in the possession of the  
4 Department of Revenue; relating to interest applicable to delinquent tax; relating to oil  
5 and gas production tax credits; relating to tax credit certificates; relating to the  
6 calculation of the production tax value of oil and gas; relating to refunds for the gas  
7 storage facility tax credit, the liquefied natural gas storage facility tax credit, and the  
8 qualified in-state oil refinery infrastructure expenditures tax credit; relating to the  
9 purchase of tax credit certificates from the oil and gas tax credit fund; relating to lease  
10 expenditures; relating to oil and gas lease expenditures and production tax credits for  
11 municipal entities; requiring a bond or cash deposit with a business license application  
12 for an oil or gas business; establishing a legislative working group to study the tax

1 structure for oil and gas produced south of 68 degrees North latitude; and providing for  
2 an effective date."

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

4 \* **Section 1.** AS 31.05.030 is amended by adding a new subsection to read:

5 (n) The commission shall determine the commencement of regular production  
6 from a lease or property for purposes of AS 43.55.160(f) and (g).

7 \* **Sec. 2.** AS 38.05.036(a) is amended to read:

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

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

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

17 \* **Sec. 3.** AS 38.05.036(b) is amended to read:

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

25 \* **Sec. 4.** AS 38.05.036(c) is amended to read:

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

1 subject to the provisions of AS 43.05.230.

2 \* **Sec. 5.** AS 38.05.036(f) is amended to read:

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

9 \* **Sec. 6.** AS 38.05.036(g) is amended to read:

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

13 \* **Sec. 7.** AS 40.25.100(a) is amended to read:

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

27 \* **Sec. 8.** AS 43.05.225 is amended to read:

28 **Sec. 43.05.225. Interest.** Unless otherwise provided,

29 (1) a delinquent tax under this title,

30 (A) before January 1, 2014, bears interest in each calendar  
31 quarter at the rate of five percentage points above the annual rate charged

1 member banks for advances by the 12th Federal Reserve District as of the first  
2 day of that calendar quarter, or at the annual rate of 11 percent, whichever is  
3 greater, compounded quarterly as of the last day of that quarter; [OR]

4 (B) on and after January 1, 2014, and before January 1, 2017,  
5 bears interest in each calendar quarter at the rate of three percentage points  
6 above the annual rate charged member banks for advances by the 12th Federal  
7 Reserve District as of the first day of that calendar quarter; and

8 (C) on and after January 1, 2017, bears interest in each  
9 calendar quarter at the rate of five percentage points above the annual  
10 rate charged member banks for advances by the 12th Federal Reserve  
11 District as of the first day of that calendar quarter, compounded quarterly  
12 as of the last day of that quarter;

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

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

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

17 \* **Sec. 9.** AS 43.05.230 is amended by adding a new subsection to read:

18 (l) For tax credit certificates purchased by the department in the preceding  
19 calendar year under AS 43.55.028, the department shall make the following  
20 information public by April 30 of each year:

21 (1) the name of each person from whom the department purchased a  
22 transferable tax credit certificate; and

23 (2) the aggregate amount of the tax credit certificates purchased from  
24 the person in the preceding calendar year.

25 \* **Sec. 10.** AS 43.20.046(e) is amended to read:

26 (e) The department may [USE AVAILABLE MONEY IN THE OIL AND  
27 GAS TAX CREDIT FUND ESTABLISHED IN AS 43.55.028 TO] make the refund  
28 applied for under (d) of this section in whole or in part if the department finds that (1)  
29 the claimant does not have an outstanding liability to the state [FOR UNPAID  
30 DELINQUENT TAXES UNDER THIS TITLE]; and (2) after application of all  
31 available tax credits, the claimant's total tax liability under this chapter for the calendar

1 year in which the claim is made is zero. [IN THIS SUBSECTION, "UNPAID  
2 DELINQUENT TAX" MEANS AN AMOUNT OF TAX FOR WHICH THE  
3 DEPARTMENT HAS ISSUED AN ASSESSMENT THAT HAS NOT BEEN PAID  
4 AND, IF CONTESTED, HAS NOT BEEN FINALLY RESOLVED IN THE  
5 TAXPAYER'S FAVOR.]

6 \* **Sec. 11.** AS 43.20.047(e) is amended to read:

7 (e) The department may [USE MONEY AVAILABLE IN THE OIL AND  
8 GAS TAX CREDIT FUND ESTABLISHED IN AS 43.55.028 TO] make a refund or  
9 payment under (d) of this section in whole or in part if the department finds that (1)  
10 the claimant does not have an outstanding liability to the state [FOR UNPAID  
11 DELINQUENT TAXES UNDER THIS TITLE]; and (2) after application of all  
12 available tax credits, the claimant's total tax liability under this chapter for the calendar  
13 year in which the claim is made is zero. [IN THIS SUBSECTION, "UNPAID  
14 DELINQUENT TAX" MEANS AN AMOUNT OF TAX FOR WHICH THE  
15 DEPARTMENT HAS ISSUED AN ASSESSMENT THAT HAS NOT BEEN PAID  
16 AND, IF CONTESTED, HAS NOT BEEN FINALLY RESOLVED IN THE  
17 TAXPAYER'S FAVOR.]

18 \* **Sec. 12.** AS 43.20.053(e) is amended to read:

19 (e) The department may [USE MONEY AVAILABLE IN THE OIL AND  
20 GAS TAX CREDIT FUND ESTABLISHED IN AS 43.55.028 TO] make a refund or  
21 payment under (d) of this section in whole or in part if the department finds that

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

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

26 \* **Sec. 13.** AS 43.55.011(m) is amended to read:

27 (m) Notwithstanding any contrary provision of [AS 38.05.180(i),  
28 AS 41.09.010,] AS 43.55.024 [,] or 43.55.025, the department shall provide by  
29 regulation a method to ensure that, for a calendar year for which a producer's tax  
30 liability is limited by (j), (k), or (o) of this section, tax credits based on a lease  
31 expenditure incurred before January 1, 2011, that are otherwise available under

1 [AS 38.05.180(i), AS 41.09.010,] AS 43.55.024 [,] or 43.55.025 and allocated to gas  
2 subject to the limitations in (j), (k), and (o) of this section are accounted for as though  
3 the credits had been applied first against a tax liability calculated without regard to the  
4 limitations under (j), (k), and (o) of this section so as to reduce the tax liability to the  
5 maximum amount provided for under (j) or (o) of this section for the production of gas  
6 or (k) of this section for the production of oil. The regulation must provide for a  
7 reasonable method to allocate tax credits to gas subject to (j) and (o) of this section.  
8 Only the amount of a tax credit remaining after the accounting provided for under this  
9 subsection may be used for a later calendar year, transferred to another person, or  
10 applied against a tax levied on the production of oil or gas not subject to (j), (k), or (o)  
11 of this section to the extent otherwise allowed.

12 \* **Sec. 14.** AS 43.55.023(a) is amended to read:

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

15 (1) notwithstanding that a qualified capital expenditure may be a  
16 deductible lease expenditure for purposes of calculating the production tax value of oil  
17 and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under  
18 [AS 38.05.180(i), AS 41.09.010,] AS 43.20.043 [,] or AS 43.55.025, a producer or  
19 explorer that incurs a qualified capital expenditure south of 68 degrees North  
20 latitude may [ALSO] elect to apply a tax credit against a tax levied by  
21 AS 43.55.011(e) in the amount of

22 (A) 30 percent of that expenditure incurred during  
23 calendar year 2017; or

24 (B) 20 percent of that expenditure incurred during calendar  
25 year 2018;

26 (2) [A PRODUCER OR EXPLORER MAY TAKE A CREDIT FOR  
27 A QUALIFIED CAPITAL EXPENDITURE INCURRED IN CONNECTION WITH  
28 GEOLOGICAL OR GEOPHYSICAL EXPLORATION OR IN CONNECTION  
29 WITH AN EXPLORATION WELL ONLY IF THE PRODUCER OR EXPLORER

30 (A) AGREES, IN WRITING, TO THE APPLICABLE  
31 PROVISIONS OF AS 43.55.025(f)(2); AND

1 (B) SUBMITS TO THE DEPARTMENT OF NATURAL  
2 RESOURCES ALL DATA THAT WOULD BE REQUIRED TO BE  
3 SUBMITTED UNDER AS 43.55.025(f)(2);

4 (3)] a credit for a qualified capital expenditure incurred **after**  
5 **December 31, 2016,** to explore for, develop, or produce oil or gas deposits located **in**  
6 **the Cook Inlet sedimentary basin** [NORTH OF 68 DEGREES NORTH  
7 LATITUDE] may be taken only if, **during calendar year 2016,** the **producer or**  
8 **explorer had regular production of oil or gas in the Cook Inlet sedimentary basin**  
9 [EXPENDITURE IS INCURRED BEFORE JANUARY 1, 2014].

10 \* **Sec. 15.** AS 43.55.023(b) is amended to read:

11 (b) Before January 1, 2014, a producer or explorer may elect to take a tax  
12 credit in the amount of 25 percent of a carried-forward annual loss. For lease  
13 expenditures incurred on and after January 1, 2014, and before January 1, 2016, to  
14 explore for, develop, or produce oil or gas deposits located north of 68 degrees North  
15 latitude, a producer or explorer may elect to take a tax credit in the amount of 45  
16 percent of a carried-forward annual loss. For lease expenditures incurred on and after  
17 January 1, 2016, to explore for, develop, or produce oil or gas deposits located north  
18 of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in  
19 the amount of 35 percent of a carried-forward annual loss. For lease expenditures  
20 incurred on or after January 1, 2014, **and before January 1, 2018,** to explore for,  
21 develop, or produce oil or gas deposits located south of 68 degrees North latitude, a  
22 producer or explorer may elect to take a tax credit in the amount of 25 percent of a  
23 carried-forward annual loss. A credit under this subsection may be applied against a  
24 tax levied by AS 43.55.011(e). For purposes of this subsection, a carried-forward  
25 annual loss is the amount of a producer's or explorer's adjusted lease expenditures  
26 under AS 43.55.165 and 43.55.170 for a previous calendar year that was not  
27 deductible in calculating production tax values for that calendar year under  
28 AS 43.55.160. **For lease expenditures incurred on or after January 1, 2017, any**  
29 **reduction under AS 43.55.160(f) or (g) is added back to the calculation of**  
30 **production tax values for that calendar year under AS 43.55.160 for the**  
31 **determination of a carried-forward annual loss under this subsection. A credit**

1 under this subsection may be taken for lease expenditures incurred after  
2 December 31, 2016,

3 (1) in the Cook Inlet sedimentary basin only if, during calendar  
4 year 2016, the producer or explorer had regular production of oil or gas in the  
5 Cook Inlet sedimentary basin;

6 (2) north of 68 degrees North latitude only if, during calendar year  
7 2016, the producer or explorer had regular production of less than 20,000 BTU  
8 equivalent barrels a day in the state.

9 \* Sec. 16. AS 43.55.023(d) is amended to read:

10 (d) A person that is entitled to take a tax credit under this section that wishes  
11 to transfer the unused credit to another person or obtain a cash payment under  
12 AS 43.55.028 may apply to the department for a transferable tax credit certificate. An  
13 application under this subsection must be in a form prescribed by the department and  
14 must include supporting information and documentation that the department  
15 reasonably requires. The department shall grant or deny an application, or grant an  
16 application as to a lesser amount than that claimed and deny it as to the excess, not  
17 later than 120 days after the latest of (1) March 31 of the year following the calendar  
18 year in which the [QUALIFIED CAPITAL EXPENDITURE OR] carried-forward  
19 annual loss for which the credit is claimed was incurred; (2) the date the statement  
20 required under AS 43.55.030(a) or (e) was filed for the calendar year in which the  
21 [QUALIFIED CAPITAL EXPENDITURE OR] carried-forward annual loss for which  
22 the credit is claimed was incurred; or (3) the date the application was received by the  
23 department. If, based on the information then available to it, the department is  
24 reasonably satisfied that the applicant is entitled to a credit, the department shall issue  
25 the applicant a transferable tax credit certificate for the amount of the credit. A  
26 certificate issued under this subsection does not expire.

27 \* Sec. 17. AS 43.55.024(i) is amended to read:

28 (i) A producer may apply against the producer's tax liability for the calendar  
29 year under AS 43.55.011(e) a tax credit of \$5 for each barrel of oil taxable under  
30 AS 43.55.011(e) that receives a reduction in the gross value at the point of  
31 production under [MEETS ONE OR MORE OF THE CRITERIA IN]

1 AS 43.55.160(f) or (g) and that is produced during a calendar year after December 31,  
2 2013. A tax credit authorized by this subsection may not reduce a producer's tax  
3 liability for a calendar year under AS 43.55.011(e) below zero.

4 \* **Sec. 18.** AS 43.55.024(j) is amended to read:

5 (j) A producer may apply against the producer's tax liability for the calendar  
6 year under AS 43.55.011(e) a tax credit in the amount specified in this subsection for  
7 each barrel of oil taxable under AS 43.55.011(e) that does not **receive a reduction in**  
8 **the gross value at the point of production under** [MEET ANY OF THE CRITERIA  
9 IN] AS 43.55.160(f) or (g) and that is produced during a calendar year after  
10 December 31, 2013, from leases or properties north of 68 degrees North latitude. A tax  
11 credit under this subsection may not reduce a producer's tax liability for a calendar  
12 year under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f). The  
13 amount of the tax credit for a barrel of taxable oil subject to this subsection produced  
14 during a month of the calendar year is

15 (1) \$8 for each barrel of taxable oil if the average gross value at the  
16 point of production for the month is less than \$80 a barrel;

17 (2) \$7 for each barrel of taxable oil if the average gross value at the  
18 point of production for the month is greater than or equal to \$80 a barrel, but less than  
19 \$90 a barrel;

20 (3) \$6 for each barrel of taxable oil if the average gross value at the  
21 point of production for the month is greater than or equal to \$90 a barrel, but less than  
22 \$100 a barrel;

23 (4) \$5 for each barrel of taxable oil if the average gross value at the  
24 point of production for the month is greater than or equal to \$100 a barrel, but less  
25 than \$110 a barrel;

26 (5) \$4 for each barrel of taxable oil if the average gross value at the  
27 point of production for the month is greater than or equal to \$110 a barrel, but less  
28 than \$120 a barrel;

29 (6) \$3 for each barrel of taxable oil if the average gross value at the  
30 point of production for the month is greater than or equal to \$120 a barrel, but less  
31 than \$130 a barrel;

1 (7) \$2 for each barrel of taxable oil if the average gross value at the  
2 point of production for the month is greater than or equal to \$130 a barrel, but less  
3 than \$140 a barrel;

4 (8) \$1 for each barrel of taxable oil if the average gross value at the  
5 point of production for the month is greater than or equal to \$140 a barrel, but less  
6 than \$150 a barrel;

7 (9) zero if the average gross value at the point of production for the  
8 month is greater than or equal to \$150 a barrel.

9 \* **Sec. 19.** AS 43.55.025(m) is amended to read:

10 (m) The persons that drill the first four exploration wells in the state and  
11 within the areas described in (o) of this section on state lands, private lands, or federal  
12 onshore lands for the purpose of discovering oil or gas that penetrate and evaluate a  
13 prospect in a basin described in (o) of this section are eligible for a credit under (a)(6)  
14 of this section. A credit under this subsection may not be taken for more than two  
15 exploration wells in a single area described in (o)(1) - (6) of this section. Exploration  
16 expenditures eligible for the credit in this subsection must be incurred for work  
17 performed after June 1, 2012, and before July 1, 2016, **except that expenditures to**  
18 **complete an exploration well that was spudded but not completed before July 1,**  
19 **2016, are eligible for the credit under this subsection.** A person planning to drill an  
20 exploration well on private land and to apply for a credit under this subsection shall  
21 obtain written consent from the owner of the oil and gas interest for the full public  
22 release of all well data after the expiration of the confidentiality period applicable to  
23 information collected under (f) of this section. The written consent of the owner of the  
24 oil and gas interest must be submitted to the commissioner of natural resources before  
25 approval of the proposed exploration well. In addition to the requirements in (c)(1),  
26 (c)(2)(A), and (c)(2)(C) of this section and submission of the written consent of the  
27 owner of the oil and gas interest, a person planning to drill an exploration well shall  
28 obtain approval from the commissioner of natural resources before the well is  
29 spudded. The commissioner of natural resources shall make a written determination  
30 approving or rejecting an exploration well within 60 days after receiving the request  
31 for approval or as soon as is practicable thereafter. Before approving the exploration

1 well, the commissioner of natural resources shall consider the following: the location  
2 of the well; the proximity to a community in need of a local energy source; the  
3 proximity of existing infrastructure; the experience and safety record of the explorer in  
4 conducting operations in remote or roadless areas; the projected cost schedule;  
5 whether seismic mapping and seismic data sufficiently identify a particular trap for  
6 exploration; whether the targeted and planned depth and range are designed to  
7 penetrate and fully evaluate the hydrocarbon potential of the proposed prospect and  
8 reach the level below which economic hydrocarbon reservoirs are likely to be found,  
9 or reach 12,000 feet or more true vertical depth; and whether the exploration plan  
10 provides for a full evaluation of the wellbore below surface casing to the depth of the  
11 well. Whether the exploration well for which a credit is requested under this  
12 subsection is located within an area and a basin described under (o) of this section  
13 shall be determined by the commissioner of natural resources and reported to the  
14 commissioner. A taxpayer that obtains a credit under this subsection may not claim a  
15 tax credit under AS 43.55.023 or another provision in this section for the same  
16 exploration expenditure.

17 \* **Sec. 20.** AS 43.55.025(m), as amended by sec. 19 of this Act, is amended to read:

18 (m) The persons that drill the first four exploration wells in the state and  
19 within the areas described in (o) of this section on state lands, private lands, or federal  
20 onshore lands for the purpose of discovering oil or gas that penetrate and evaluate a  
21 prospect in a basin described in (o) of this section are eligible for a credit under (a)(6)  
22 of this section. A credit under this subsection may not be taken for more than two  
23 exploration wells in a single area described in (o)(1) - (6) of this section. Exploration  
24 expenditures eligible for the credit in this subsection must be incurred for work  
25 performed after June 1, 2012, and before July 1, 2016, except that expenditures to  
26 complete an exploration well that was spudded but not completed before July 1, 2016,  
27 are eligible for the credit under this subsection. A person planning to drill an  
28 exploration well on private land and to apply for a credit under this subsection shall  
29 obtain written consent from the owner of the oil and gas interest for the full public  
30 release of all well data after the expiration of the confidentiality period applicable to  
31 information collected under (f) of this section. The written consent of the owner of the

1 oil and gas interest must be submitted to the commissioner of natural resources before  
2 approval of the proposed exploration well. In addition to the requirements in (c)(1),  
3 (c)(2)(A), and (c)(2)(C) of this section and submission of the written consent of the  
4 owner of the oil and gas interest, a person planning to drill an exploration well shall  
5 obtain approval from the commissioner of natural resources before the well is  
6 spudded. The commissioner of natural resources shall make a written determination  
7 approving or rejecting an exploration well within 60 days after receiving the request  
8 for approval or as soon as is practicable thereafter. Before approving the exploration  
9 well, the commissioner of natural resources shall consider the following: the location  
10 of the well; the proximity to a community in need of a local energy source; the  
11 proximity of existing infrastructure; the experience and safety record of the explorer in  
12 conducting operations in remote or roadless areas; the projected cost schedule;  
13 whether seismic mapping and seismic data sufficiently identify a particular trap for  
14 exploration; whether the targeted and planned depth and range are designed to  
15 penetrate and fully evaluate the hydrocarbon potential of the proposed prospect and  
16 reach the level below which economic hydrocarbon reservoirs are likely to be found,  
17 or reach 12,000 feet or more true vertical depth; and whether the exploration plan  
18 provides for a full evaluation of the wellbore below surface casing to the depth of the  
19 well. Whether the exploration well for which a credit is requested under this  
20 subsection is located within an area and a basin described under (o) of this section  
21 shall be determined by the commissioner of natural resources and reported to the  
22 commissioner. A taxpayer that obtains a credit under this subsection may not claim a  
23 tax credit under [AS 43.55.023 OR] another provision in this section for the same  
24 exploration expenditure.

25 \* **Sec. 21.** AS 43.55.025(o) is amended to read:

26 (o) The activity that is the basis for a credit claimed under (a)(6) and (m) of  
27 this section [OR (a)(7) AND (n) OF THIS SECTION] must be for the exploration of a  
28 basin and within the following areas whose central points are determined using the  
29 World Geographic System of 1984 datum,

30 (1) 100 miles from 66.896128 degrees North, -162.598187 degrees  
31 West;

- 1 (2) 150 miles from 64.839474 degrees North, -147.72094 degrees  
2 West;
- 3 (3) 50 miles from 62.776428 degrees North, -164.495201 degrees  
4 West;
- 5 (4) 50 miles from 62.110357 degrees North, -145.530551 degrees  
6 West;
- 7 (5) 100 miles from 58.189868 degrees North, -157.371104 degrees  
8 West;
- 9 (6) 100 miles from 56.005988 degrees North, -160.56083 degrees  
10 West.

11 \* **Sec. 22.** AS 43.55.028(a) is amended to read:

12 (a) The oil and gas tax credit fund is established as a separate fund of the state.  
13 The purpose of the fund is to purchase transferable tax credit certificates issued under  
14 AS 43.55.023 and production tax credit certificates issued under AS 43.55.025 [AND  
15 TO PAY REFUNDS AND PAYMENTS CLAIMED UNDER AS 43.20.046,  
16 43.20.047, OR 43.20.053].

17 \* **Sec. 23.** AS 43.55.028(a), as amended by sec. 22 of this Act, is amended to read:

18 (a) The oil and gas tax credit fund is established as a separate fund of the state.  
19 The purpose of the fund is to purchase transferable tax credit certificates issued under  
20 **former** AS 43.55.023 and production tax credit certificates issued under  
21 AS 43.55.025.

22 \* **Sec. 24.** AS 43.55.028(e) is amended to read:

23 (e) The department, on the written application of a person to whom a  
24 transferable tax credit certificate has been issued under AS 43.55.023(d) or former  
25 AS 43.55.023(m) or to whom a production tax credit certificate has been issued under  
26 AS 43.55.025(f), may use available money in the oil and gas tax credit fund to  
27 purchase, in whole or in part, the certificate. **The department may not purchase a**  
28 **total of more than \$85,000,000 in tax credit certificates from a person in a**  
29 **calendar year. The department may purchase a certificate or part of a certificate**  
30 **only** if the department finds that

- 31 (1) the calendar year of the purchase is not earlier than the first

1 calendar year for which the credit shown on the certificate would otherwise be allowed  
2 to be applied against a tax;

3 (2) the application is not the result of the division of a single entity  
4 into multiple entities that would reasonably be expected to apply as a single entity  
5 if the \$85,000,000 limitation in this subsection did not exist [APPLICANT DOES  
6 NOT HAVE AN OUTSTANDING LIABILITY TO THE STATE FOR UNPAID  
7 DELINQUENT TAXES UNDER THIS TITLE];

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

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

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

16 \* **Sec. 25.** AS 43.55.028(e), as amended by sec. 24 of this Act, is amended to read:

17 (e) The department, on the written application of a person to whom a  
18 transferable tax credit certificate has been issued under former AS 43.55.023(d) or  
19 (m) [FORMER AS 43.55.023(m)] or to whom a production tax credit certificate has  
20 been issued under AS 43.55.025(f), may use available money in the oil and gas tax  
21 credit fund to purchase, in whole or in part, the certificate. The department may not  
22 purchase a total of more than \$85,000,000 in tax credit certificates from a person in a  
23 calendar year. The department may purchase a certificate or part of a certificate only if  
24 the department finds that

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

28 (2) the application is not the result of the division of a single entity into  
29 multiple entities that would reasonably be expected to apply as a single entity if the  
30 \$85,000,000 limitation in this subsection did not exist;

31 (3) the applicant's total tax liability under AS 43.55.011(e), after

1 application of all available tax credits, for the calendar year in which the application is  
2 made is zero;

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

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

8 \* **Sec. 26.** AS 43.55.028(g) is amended to read:

9 (g) The department **shall** [MAY] adopt regulations to carry out the purposes  
10 of this section, including standards and procedures to allocate available money among  
11 applications for purchases under this chapter [AND CLAIMS FOR REFUNDS AND  
12 PAYMENTS UNDER AS 43.20.046, 43.20.047, OR 43.20.053] when the total  
13 amount of the applications for purchase [AND CLAIMS FOR REFUND] exceed the  
14 amount of available money in the fund. The regulations adopted by the department  
15 **must grant a preference to an applicant if at least 80 percent of the applicant's**  
16 **workforce in the state in the previous calendar year was composed of resident**  
17 **workers; in this subsection, "resident worker" has the meaning given in**  
18 **AS 43.40.092(b)** [MAY NOT, WHEN ALLOCATING AVAILABLE MONEY IN  
19 THE FUND UNDER THIS SECTION, DISTINGUISH AN APPLICATION FOR  
20 THE PURCHASE OF A CREDIT CERTIFICATE ISSUED UNDER FORMER  
21 AS 43.55.023(m) OR A CLAIM FOR A REFUND OR PAYMENT UNDER  
22 AS 43.20.046, 43.20.047, OR 43.20.053].

23 \* **Sec. 27.** AS 43.55.028 is amended by adding a new subsection to read:

24 (j) If an applicant has an outstanding liability to the state directly related to the  
25 applicant's oil or gas exploration, development, or production that has not previously  
26 been the basis of a reduction by the department under this subsection, the department  
27 may purchase only that portion of a certificate that exceeds the outstanding liability.  
28 The department may apply the amount by which the department reduced its purchase  
29 of a certificate because of an outstanding liability to satisfy the outstanding liability,  
30 except that, if the outstanding liability is contested through an appeal or adjudicatory  
31 proceeding already established by law, the department may apply the amount to satisfy

1 the outstanding liability only with the applicant's consent. Satisfaction of an  
2 outstanding liability under this subsection does not affect the applicant's ability to  
3 contest that liability. The department may enter into contracts or agreements with  
4 another department to which the outstanding liability is owed.

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

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

18 \* **Sec. 29.** AS 43.55.029(a), as amended by sec. 28 of this Act, is amended to read:

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

1 \* **Sec. 30.** AS 43.55.029(a), as amended by secs. 28 and 29 of this Act, is amended to read:

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

15 \* **Sec. 31.** AS 43.55.030(a) is amended to read:

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

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

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

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

31 (4) the gross value at the point of production of the oil and of the gas

1 produced from each lease or property owned by the producer and the costs of  
2 transportation of the oil and gas;

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

6 (6) the producer's [QUALIFIED CAPITAL EXPENDITURES, AS  
7 DEFINED IN AS 43.55.023, OTHER] lease expenditures under AS 43.55.165 [,] and  
8 adjustments or other payments or credits under AS 43.55.170;

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

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

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

14 \* **Sec. 32.** AS 43.55.030(e) is amended to read:

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

21 (1) the explorer's or producer's [QUALIFIED CAPITAL  
22 EXPENDITURES, AS DEFINED IN AS 43.55.023, OTHER] lease expenditures  
23 under AS 43.55.165 [,] and adjustments or other payments or credits under  
24 AS 43.55.170; and

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

28 \* **Sec. 33.** AS 43.55.075(b) is amended to read:

29 (b) A decision of a regulatory agency, court, or other body with authority to  
30 resolve disputes that results in a retroactive change to a lease expenditure, to an  
31 adjustment to a lease expenditure, to costs of transportation, to sale price, to prevailing

1 value, or to consideration of quality differentials relating to the commingling of oils  
2 has a corresponding effect, either an increase or decrease, as applicable, on the  
3 production tax value of oil or gas or the amount or availability of a tax credit as  
4 determined under this chapter. For purposes of this section, a change to a lease  
5 expenditure includes a change in the categorization of a lease expenditure as a  
6 qualified capital expenditure for the purposes of former AS 43.55.023(a) or as not a  
7 qualified capital expenditure for the purposes of former AS 43.55.023(a). The  
8 producer shall

9 (1) within 60 days after the change, notify the department in writing;

10 and

11 (2) within 120 days after the change, file amended returns covering all  
12 periods affected by the change, unless the department agrees otherwise or a stay is in  
13 place that affects the filing or payment, regardless of the pendency of appeals of the  
14 decision.

15 \* **Sec. 34.** AS 43.55.160(d) is amended to read:

16 (d) Irrespective of whether a producer produces taxable oil or gas during a  
17 calendar year or month, the producer is considered to have generated a positive  
18 production tax value if a calculation described in (a) of this section yields a positive  
19 number because the producer's adjusted lease expenditures for a calendar year under  
20 AS 43.55.165 and 43.55.170 are less than zero as a result of the producer's receiving a  
21 payment or credit under AS 43.55.170. [AN EXPLORER THAT HAS TAKEN A  
22 TAX CREDIT UNDER AS 43.55.023(b) OR THAT HAS OBTAINED A  
23 TRANSFERABLE TAX CREDIT CERTIFICATE UNDER AS 43.55.023(d) FOR  
24 THE AMOUNT OF A TAX CREDIT UNDER AS 43.55.023(b) IS CONSIDERED A  
25 PRODUCER, SUBJECT TO THE TAX LEVIED UNDER AS 43.55.011(e), TO THE  
26 EXTENT THAT THE EXPLORER GENERATES A POSITIVE PRODUCTION  
27 TAX VALUE AS THE RESULT OF THE EXPLORER'S RECEIVING A  
28 PAYMENT OR CREDIT UNDER AS 43.55.170.]

29 \* **Sec. 35.** AS 43.55.160(e) is amended to read:

30 (e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that  
31 would otherwise be deductible by a producer in a calendar year but whose deduction

1 would cause an annual production tax value calculated under (a)(1) or (h) of this  
2 section of taxable oil or gas produced during the calendar year to be less than zero  
3 may be used to establish a carried-forward annual loss under AS 43.55.023(b) or  
4 43.55.165(a)(3). However, the department shall provide by regulation a method to  
5 ensure that, for a period for which a producer's tax liability is limited by  
6 AS 43.55.011(j), (k), (o), or (p), any adjusted lease expenditures under AS 43.55.165  
7 and 43.55.170 that would otherwise be deductible by a producer for that period but  
8 whose deduction would cause a production tax value calculated under (a)(1)(C), (D),  
9 (E), or (F), or (h)(3) of this section to be less than zero are accounted for as though the  
10 adjusted lease expenditures had first been used as deductions in calculating the  
11 production tax values of oil or gas subject to any of the limitations under  
12 AS 43.55.011(j), (k), (o), or (p) that have positive production tax values so as to  
13 reduce the tax liability calculated without regard to the limitation to the maximum  
14 amount provided for under the applicable provision of AS 43.55.011(j), (k), (o), or (p).  
15 Only the amount of those adjusted lease expenditures remaining after the accounting  
16 provided for under this subsection may be used to establish a carried-forward annual  
17 loss under AS 43.55.023(b) or 43.55.165(a)(3). For lease expenditures incurred on  
18 or after January 1, 2017, a reduction in gross value at the point of production  
19 under (f) or (g) of this section shall be added back to the calculation of  
20 production tax value for the determination of a carried-forward annual loss. In  
21 this subsection, "producer" includes "explorer."

22 \* **Sec. 36.** AS 43.55.160(e), as amended by sec. 35 of this Act, is amended to read:

23 (e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that  
24 would otherwise be deductible by a producer in a calendar year but whose deduction  
25 would cause an annual production tax value calculated under (a)(1) or (h) of this  
26 section of taxable oil or gas produced during the calendar year to be less than zero  
27 may be used to establish a carried-forward annual loss under AS 43.55.165(a)(3)  
28 [AS 43.55.023(b) OR 43.55.165(a)(3)]. However, the department shall provide by  
29 regulation a method to ensure that, for a period for which a producer's tax liability is  
30 limited by AS 43.55.011(j), (k), (o), or (p), any adjusted lease expenditures under  
31 AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer for that

1 period but whose deduction would cause a production tax value calculated under  
2 (a)(1)(C), (D), (E), or (F), or (h)(3) of this section to be less than zero are accounted  
3 for as though the adjusted lease expenditures had first been used as deductions in  
4 calculating the production tax values of oil or gas subject to any of the limitations  
5 under AS 43.55.011(j), (k), (o), or (p) that have positive production tax values so as to  
6 reduce the tax liability calculated without regard to the limitation to the maximum  
7 amount provided for under the applicable provision of AS 43.55.011(j), (k), (o), or (p).  
8 Only the amount of those adjusted lease expenditures remaining after the accounting  
9 provided for under this subsection may be used to establish a carried-forward annual  
10 loss under AS 43.55.165(a)(3) [AS 43.55.023(b) OR 43.55.165(a)(3)]. For lease  
11 expenditures incurred on or after January 1, 2017, a reduction in gross value at the  
12 point of production under (f) or (g) of this section shall be added back to the  
13 calculation of production tax value for the determination of a carried-forward annual  
14 loss. In this subsection, "producer" includes "explorer."

15 \* **Sec. 37.** AS 43.55.160(f) is amended to read:

16 (f) On and after January 1, 2014, in the calculation of an annual production tax  
17 value of a producer under (a)(1)(A) or (h)(1) of this section, the gross value at the  
18 point of production of oil or gas produced from a lease or property north of 68 degrees  
19 North latitude meeting one or more of the following criteria is reduced by 20 percent:  
20 (1) the oil or gas is produced from a lease or property that does not contain a lease that  
21 was within a unit on January 1, 2003; (2) the oil or gas is produced from a  
22 participating area established after December 31, 2011, that is within a unit formed  
23 under AS 38.05.180(p) before January 1, 2003, if the participating area does not  
24 contain a reservoir that had previously been in a participating area established before  
25 December 31, 2011; (3) the oil or gas is produced from acreage that was added to an  
26 existing participating area by the Department of Natural Resources on and after  
27 January 1, 2014, and the producer demonstrates to the department that the volume of  
28 oil or gas produced is from acreage added to an existing participating area. This  
29 subsection does not apply to gas produced before 2022 that is used in the state or to  
30 gas produced on and after January 1, 2022. For oil or gas first produced after  
31 December 31, 2016, a reduction allowed under this subsection applies to oil or gas

1 produced from a lease or property for the first 10 years after the commencement  
2 of regular production of oil or gas from that lease or property. For oil or gas first  
3 produced before January 1, 2017, a reduction allowed under this subsection for a  
4 lease or property expires January 1, 2026. The Alaska Oil and Gas Conservation  
5 Commission shall determine the commencement of regular production for  
6 purposes of this subsection. A reduction under this subsection may not reduce the  
7 gross value at the point of production below zero. In this subsection, "participating  
8 area" means a reservoir or portion of a reservoir producing or contributing to  
9 production as approved by the Department of Natural Resources.

10 \* **Sec. 38.** AS 43.55.160(g) is amended to read:

11 (g) On and after January 1, 2014, in addition to the reduction under (f) of this  
12 section, in the calculation of an annual production tax value of a producer under  
13 (a)(1)(A) or (h)(1) of this section, the gross value at the point of production of oil or  
14 gas produced from a lease or property north of 68 degrees North latitude that does not  
15 contain a lease that was within a unit on January 1, 2003, is reduced by 10 percent if  
16 the oil or gas is produced from a unit made up solely of leases that have a royalty  
17 share of more than 12.5 percent in amount or value of the production removed or sold  
18 from the lease as determined under AS 38.05.180(f). This subsection does not apply if  
19 the royalty obligation for one or more of the leases in the unit has been reduced to 12.5  
20 percent or less under AS 38.05.180(j) for all or part of the calendar year for which the  
21 annual production tax value is calculated. This subsection does not apply to gas  
22 produced before 2022 that is used in the state or to gas produced on and after  
23 January 1, 2022. For oil or gas first produced after December 31, 2016, a  
24 reduction allowed under this subsection applies to oil or gas produced from a  
25 lease or property for the first 10 years after the commencement of regular  
26 production of oil or gas from that lease or property. For oil or gas first produced  
27 before January 1, 2017, a reduction allowed under this subsection for a lease or  
28 property expires January 1, 2026. A reduction under this subsection may not reduce  
29 the gross value at the point of production below zero. The Alaska Oil and Gas  
30 Conservation Commission shall determine the commencement of regular  
31 production for purposes of this subsection.

1 \* **Sec. 39.** AS 43.55.165(a) is amended to read:

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

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

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

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

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

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

19 (iii) the costs must be direct costs of exploring for,  
20 developing, or producing, as applicable, oil or gas deposits; [AND]

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

24 **(3) lease expenditures incurred in a previous year that**

25 **(A) met the requirements of AS 43.55.160(e) in the year in**  
26 **which the lease expenditures were incurred;**

27 **(B) have not been deducted in the determination of the**  
28 **production tax value of oil and gas under AS 43.55.160(a) in a previous**  
29 **calendar year;**

30 **(C) were not the basis of a credit under this title; and**

31 **(D) were incurred to explore for, develop, or produce oil or**

1                    **gas deposits located north of 68 degrees North latitude.**

2       \* **Sec. 40.** AS 43.55.165(f) is amended to read:

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

7       \* **Sec. 41.** AS 43.55.170(c) is amended to read:

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

12       \* **Sec. 42.** AS 43.55.180(a) is amended to read:

13                    (a) The department shall study

14                    (1) the effects of the provisions of this chapter on oil and gas  
15                    exploration, development, and production in the state, on investment expenditures for  
16                    oil and gas exploration, development, and production in the state, on the entry of new  
17                    producers into the oil and gas industry in the state, on state revenue, and on tax  
18                    administration and compliance, giving particular attention to the tax rates provided  
19                    under AS 43.55.011, the tax credits provided under **AS 43.55.024, 43.55.025, and**  
20                    **former AS 43.55.023** [AS 43.55.023 - 43.55.025], and the deductions for and  
21                    adjustments to lease expenditures provided under AS 43.55.160 - 43.55.170; and

22                    (2) the effects of the tax rates under AS 43.55.011(i) on state revenue  
23                    and on oil and gas exploration, development, and production on private land, and the  
24                    fairness of those tax rates for private landowners.

25       \* **Sec. 43.** AS 43.55.895(b) is amended to read:

26                    (b) A municipal entity subject to taxation because of this section

27                    **(1) is eligible for [ALL] tax credits proportionate to its production**  
28                    **taxable under AS 43.55.011(e); and**

29                    **(2) shall allocate its lease expenditures in proportion to its**  
30                    **production taxable under AS 43.55.011(e)** [UNDER THIS CHAPTER TO THE  
31                    SAME EXTENT AS ANY OTHER PRODUCER].

1 \* **Sec. 44.** AS 43.55.900 is amended by adding a new paragraph to read:

2 (26) "regular production" has the meaning given in AS 31.05.170.

3 \* **Sec. 45.** AS 43.70 is amended by adding new sections to read:

4 **Sec. 43.70.025. Bond or cash deposit required for an oil or gas business.** (a)

5 At the time of applying for a license under this chapter, an applicant engaged in the  
6 business of oil or gas exploration, development, or production shall file a surety bond  
7 in the amount of \$250,000 running to the state, conditioned upon the applicant's  
8 promise to pay all

9 (1) taxes and contributions due the state and political subdivisions; and

10 (2) persons furnishing labor or material or renting or supplying  
11 equipment to the applicant.

12 (b) In lieu of the surety bond required under this section, the applicant may  
13 file with the commissioner a cash deposit or other negotiable security acceptable to the  
14 commissioner in the amount of \$250,000.

15 (c) The bond required by this section remains in effect until cancelled by  
16 action of the surety, the principal, or if the commissioner finds that the business is  
17 producing oil or gas in commercial quantities, by the commissioner.

18 **Sec. 43.70.028. Claims against an oil or gas business.** (a) A person having a  
19 claim against a person required to file a surety bond under AS 43.70.025 because of  
20 the failure to pay a liability described in AS 43.70.025(a) may bring suit upon the  
21 bond. A copy of the complaint shall be served by registered or certified mail on the  
22 commissioner at the time suit is filed, and the commissioner shall maintain a record,  
23 available for public inspection, of all suits commenced. This service on the  
24 commissioner shall constitute service on the surety, and the commissioner shall  
25 transmit the complaint or a copy of it to the surety within 72 hours after it is received.  
26 The surety on the bond is not liable in an aggregate amount in excess of that named in  
27 the bond, but if claims pending at any one time exceed the amount of the bond, the  
28 claims shall be satisfied from the bond in the following order:

29 (1) material, equipment, and supplies delivered in the state;

30 (2) labor, including employee benefits;

31 (3) taxes and other amounts due to the city and borough, in that order;

1 (4) repair of public facilities;

2 (5) taxes and other amounts due to the state.

3 (b) If a judgment is entered against a cash deposit, the commissioner, upon  
4 receipt of a certified copy of a final judgment, shall pay the judgment from the amount  
5 of the deposit in accordance with the priorities set out in (a) of this section.

6 (c) An action described in (a) of this section may not be commenced on the  
7 bond more than three years after the bond's cancellation.

8 \* **Sec. 46.** AS 43.99.950 is amended by adding a new paragraph to read:

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

13 \* **Sec. 47.** AS 38.05.180(i); AS 41.09.010, 41.09.020, 41.09.030, 41.09.090;  
14 AS 43.20.053(j)(4); AS 43.55.023(l), 43.55.023(n), 43.55.025(a)(5), 43.55.025(a)(7),  
15 43.55.025(l), 43.55.025(n), 43.55.165(j), and 43.55.165(k) are repealed January 1, 2017.

16 \* **Sec. 48.** AS 43.55.023(a), 43.55.023(o), 43.55.028(i), 43.55.075(d)(1), 43.55.165(e)(18),  
17 and 43.55.890(6) are repealed January 1, 2019.

18 \* **Sec. 49.** AS 43.55.023, 43.55.165(f), and 43.55.170(c) are repealed January 1, 2020.

19 \* **Sec. 50.** The uncodified law of the State of Alaska is amended by adding a new section to  
20 read:

21 **LEGISLATIVE WORKING GROUP.** (a) A legislative working group is established  
22 to analyze the Cook Inlet fiscal regime for oil and gas, review the state's tax structure and  
23 rates on oil and gas produced south of 68 degrees North latitude, recommend changes to the  
24 legislature for consideration during the First Regular Session of the Thirtieth Alaska State  
25 Legislature, and develop terms for a comprehensive fiscal regime to take effect January 1,  
26 2019, including,

27 (1) a tax structure that accounts for the unique circumstances for each oil and  
28 gas producing area south of 68 degrees North latitude;

29 (2) incentives other than direct monetary support from the state for the  
30 exploration, development, and production of oil and gas south of 68 degrees North latitude;

31 (3) consideration of the competitiveness of the area south of 68 degrees North

1 latitude to attract new oil and gas development;

2 (4) consideration of the unique market considerations of the Cook Inlet  
3 sedimentary basin and the need to support energy supply security for communities in  
4 Southcentral Alaska;

5 (5) alternative means of state support for the exploration, development, and  
6 production of oil and gas in the Cook Inlet sedimentary basin, including loan guarantees or  
7 other financial support through the Alaska Industrial Development and Export Authority, or  
8 other state corporation or entity.

9 (b) The working group consists of

10 (1) two co-chairs, one of whom is a member of the house appointed by the  
11 speaker of the house of representatives, and one of whom is a member of the senate appointed  
12 by the president of the senate; and

13 (2) members appointed by the co-chairs; members must be legislators and  
14 must include members of the majority and minority caucuses.

15 (c) The co-chairs of the working group may form an advisory group to the working  
16 group, composed of members who are not legislators and who have expertise and skills to  
17 assist in the review and development of a new plan for the tax structure and rates on oil and  
18 gas produced south of 68 degrees North latitude. The members of an advisory group may  
19 include commissioners or employees of state departments, members of the oil and gas  
20 industry or trade associations, and economists.

21 (d) The working group may be supported by legislative consultants under contract  
22 through the Legislative Budget and Audit Committee.

23 \* **Sec. 51.** The uncodified law of the State of Alaska is amended by adding a new section to  
24 read:

25 APPLICABILITY. (a) Sections 24 and 27 of this Act, and regulations related to a tax  
26 credit certificate purchase preference for applicants with a workforce of resident workers,  
27 adopted under AS 43.55.028(g), as amended by sec. 26 of this Act, apply to a purchase  
28 applied for on or after the effective dates of secs. 24, 26, and 27 of this Act.

29 (b) AS 43.55.165(a), as amended by sec. 39 of this Act, applies to lease expenditures  
30 calculated for a calendar year after December 31, 2016.

31 \* **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 TRANSITION: WELL LEASE EXPENDITURES. (a) Notwithstanding the repeal of  
3 AS 43.55.023(l) and (n) by sec. 47 of this Act, and the amendment of AS 43.55.029(a) by sec.  
4 28 of this Act, a taxpayer who incurs a well lease expenditure before the repeal of  
5 AS 43.55.023(l) and (n) by sec. 47 of this Act that qualifies for a well lease expenditure credit  
6 under AS 43.55.023(l) may apply for a credit or transferable tax credit certificate under  
7 AS 43.55.023 and assign the tax credit under AS 43.55.029, as those sections read on the day  
8 before the repeal of AS 43.55.023(l) and (n) by sec. 47 of this Act.

9 (b) The Department of Revenue may continue to apply and enforce AS 43.55.023(l),  
10 as that section read on the day before the repeal of AS 43.55.023(l) by sec. 47 of this Act, for  
11 well lease expenditures incurred before the repeal of AS 43.55.023(l) by sec. 47 of this Act.

12 \* **Sec. 53.** The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 TRANSITION: QUALIFIED CAPITAL EXPENDITURES. (a) Notwithstanding the  
15 repeal of AS 43.55.023(a) and (o) by sec. 48 of this Act, and the amendments to  
16 AS 45.55.023(d) by sec. 16 of this Act, AS 43.55.029(a) by sec. 29 of this Act,  
17 AS 43.55.030(a) and (e) by secs. 31 and 32 of this Act, AS 43.55.075(b) by sec. 33 of this  
18 Act, AS 43.55.165(f) by sec. 40 of this Act, and AS 43.55.170(c) by sec. 41 of this Act, a  
19 taxpayer who incurs a qualified capital expenditure before the repeal of AS 43.55.023(a) and  
20 (o) by sec. 48 of this Act that qualifies for a qualified capital expenditure credit under  
21 AS 43.55.023(a) may apply for a credit or tax credit certificate under AS 43.55.023(d) and, as  
22 applicable, assign the tax credit under AS 43.55.029, as those sections read on the day before  
23 the repeal of AS 43.55.023(a) by sec. 48 of this Act.

24 (b) The Department of Revenue may continue to apply and enforce AS 43.55.023(a)  
25 and (o) and 43.55.029, as those sections read on the day before the repeal of AS 43.55.023(a)  
26 by sec. 48 of this Act, for qualified capital expenditures incurred before the repeal of  
27 AS 43.55.023(a) by sec. 48 of this Act.

28 \* **Sec. 54.** The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 TRANSITION: CARRIED-FORWARD ANNUAL LOSS. (a) Notwithstanding the  
31 repeal of AS 43.55.023(b), 43.55.165(f), and 43.55.170(c) by sec. 49 of this Act, and the

1 amendments of AS 43.55.029(a) by sec. 30 of this Act, AS 43.55.160(d) by sec. 34 of this  
2 Act, and AS 43.55.160(e) by sec. 36 of this Act, a taxpayer who incurs a carried-forward  
3 annual loss before the repeal of AS 43.55.023(b) by sec. 49 of this Act that qualifies for a  
4 carried-forward annual loss credit under AS 43.55.023(b) may apply for a credit or tax credit  
5 certificate under AS 43.55.023(d) and assign the tax credit under AS 43.55.029, subject to the  
6 requirements of AS 43.55.160(d) and (e), as those sections read on the day before the repeal  
7 of AS 43.55.023(b) by sec. 49 of this Act.

8 (b) The Department of Revenue may continue to apply and enforce AS 43.55.023(b),  
9 as that section read on the day before the repeal of AS 43.55.023(b) by sec. 49 of this Act, for  
10 a carried-forward annual loss incurred before the repeal of AS 43.55.023(b) by sec. 49 of this  
11 Act.

12 \* **Sec. 55.** The uncoded law of the State of Alaska is amended by adding a new section to  
13 read:

14 TRANSITION: AS 43.55.023 CREDITS. Notwithstanding the repeal of  
15 AS 43.55.023, 43.55.165(f), and 43.55.170(c) by sec. 49 of this Act, and the amendments to  
16 AS 43.55.025(m) by sec. 20 of this Act, AS 43.55.028(a) and (e) by secs. 23 and 25 of this  
17 Act, AS 43.55.029(a) by sec. 30 of this Act, AS 43.55.160(d) by sec. 34 of this Act, and  
18 AS 43.55.180(a) by sec. 42 of this Act, the Department of Revenue may continue to apply and  
19 enforce AS 43.55.023, as that section read on the day before the repeal of AS 43.55.023 by  
20 sec. 49 of this Act, for a credit earned before the repeal of AS 43.55.023 by sec. 49 of this  
21 Act.

22 \* **Sec. 56.** The uncoded law of the State of Alaska is amended by adding a new section to  
23 read:

24 TRANSITION: LEASE EXPENDITURES FOR A CALENDAR YEAR AFTER  
25 2006 AND BEFORE 2010. Notwithstanding AS 43.55.165(a), as amended by sec. 39 of this  
26 Act, and the repeal of AS 43.55.165(j) and (k) by sec. 47 of this Act, AS 43.55.165(j) and (k)  
27 apply to a producer's total lease expenditures for a calendar year after 2006 and before 2010  
28 under AS 43.55.165, as that section read on the day before the repeal of AS 43.55.165(j) and  
29 (k) by sec. 47 of this Act.

30 \* **Sec. 57.** The uncoded law of the State of Alaska is amended by adding a new section to  
31 read:

1           TRANSITION: EXPLORATION EXPENDITURES AND SEISMIC  
2 EXPLORATION EXPENDITURES. (a) Notwithstanding the repeal of AS 43.55.025(a)(5),  
3 (a)(7), (l), and (n) by sec. 47 of this Act, a taxpayer who incurs an exploration expenditure or  
4 seismic exploration expenditure before the repeal of AS 43.55.025(a)(5), (a)(7), (l), and (n) by  
5 sec. 47 of this Act that qualifies for an exploration or seismic exploration expenditure credit  
6 under AS 43.55.025(a)(5) or (a)(7) may apply for a credit or production tax credit certificate  
7 under AS 43.55.025 and assign the tax credit under AS 43.55.029, as those sections read on  
8 the day before the repeal of AS 43.55.025(a)(5), (a)(7), (l), and (n) by sec. 47 of this Act.

9           (b) The Department of Revenue may continue to apply and enforce  
10 AS 43.55.025(a)(5), (a)(7), (l), and (n), as those sections read on the day before the repeal of  
11 AS 43.55.025(a)(5), (a)(7), (l), and (n) by sec. 47 of this Act, for exploration expenditures and  
12 seismic exploration expenditures incurred before the repeal of AS 43.55.025(a)(5), (a)(7), (l),  
13 and (n) by sec. 47 of this Act.

14       \* **Sec. 58.** The uncodified law of the State of Alaska is amended by adding a new section to  
15 read:

16           TRANSITION: REGULATIONS. The Department of Revenue, the Department of  
17 Natural Resources, the Department of Commerce, Community, and Economic Development,  
18 and the Alaska Oil and Gas Conservation Commission may adopt regulations necessary to  
19 implement the changes made by this Act. The regulations take effect under AS 44.62  
20 (Administrative Procedure Act), but not before the effective date of the law implemented by  
21 the regulation. The Department of Revenue shall adopt regulations governing the use of tax  
22 credits under AS 43.55 for a calendar year for which the applicable tax credit provisions of  
23 AS 43.55 differ as between parts of the year as a result of this Act.

24       \* **Sec. 59.** The uncodified law of the State of Alaska is amended by adding a new section to  
25 read:

26           TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any  
27 contrary provision of AS 44.62.240,

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

1           (2) if the Department of Natural Resources expressly designates in the  
2 regulation that the regulation applies retroactively, a regulation adopted by the Department of  
3 Natural Resources to implement, interpret, make specific, or otherwise carry out the statutory  
4 amendments in this Act affecting the administration of oil and gas leases issued under  
5 AS 38.05.180(f)(3)(B), (D), or (E), to the extent the regulation relates to the treatment of oil  
6 and gas production taxes in determining net profits under those leases, may apply  
7 retroactively to the effective date of the law implemented by the regulation.

8       \* **Sec. 60.** Sections 19, 50, 58, and 59 of this Act take effect immediately under  
9 AS 01.10.070(c).

10       \* **Sec. 61.** Sections 16, 29, 31 - 33, 40, 41, 48, and 53 of this Act take effect January 1,  
11 2019.

12       \* **Sec. 62.** Sections 20, 23, 25, 30, 34, 36, 42, 49, 54, and 55 of this Act take effect  
13 January 1, 2020.

14       \* **Sec. 63.** Except as provided in secs. 60 - 62 of this Act, this Act takes effect January 1,  
15 2017.

# Fiscal Note

State of Alaska  
2016 Legislative Session

Bill Version: HB 247  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB247CS(RLS)-DOR-TAX-05-01-16  
Title: TAX;CREDITS;INTEREST;REFUNDS;O & G  
Sponsor: RLS BY REQUEST OF THE GOVERNOR  
Requester: House Rules Committee

Department: Department of Revenue  
Appropriation: Taxation and Treasury  
Allocation: Tax Division  
OMB Component Number: 2476

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates					
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None								
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time								
Part-time								
Temporary								

<b>Change in Revenues</b>	0.0		5,000.0	12,500.0	100,000.0	100,000.0	122,500.0
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**Estimated SUPPLEMENTAL (FY2016) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2017) cost:** 1,200.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? yes  
If yes, by what date are the regulations to be adopted, amended or repealed? 01/01/17

**Why this fiscal note differs from previous version:**

Prepared By: Dan Stickel, Assistant Chief Economist  
Division: Tax Division  
Approved By: Jerry Burnett, Deputy Commissioner  
Agency: Department of Revenue

Phone: (907)465-3279  
Date: 04/30/2016 01:00 PM  
Date: 05/01/16

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2016 LEGISLATIVE SESSION

BILL NO. HB247

### Analysis

#### Bill Background

This legislation is a comprehensive attempt to reform and reduce the cost of Alaska's current program of providing direct tax credit rebates and other advantages to oil and gas companies. Various credits have been added to statute since 2003, with state repurchase beginning in 2007. Through the end of FY 2016, about \$8 billion in tax credits will be received by companies. This includes both credits used against tax liability and credits repurchased by the state; it also includes activity on both the North Slope and other areas of the state.

A substantial number of companies rely on these credits to support and subsidize their Alaska operations. For work done in 2015, in many cases the state is paying 55%-65% of the cost of a project during the development phase, and up to 85% of exploration costs. These large numbers result from "stacking" multiple credits. With the transition towards a system based mostly on state support through deductible lease expenditures, the state's contribution towards many projects will be reduced by 50% or more.

The Administration identified several themes, or goals, of this legislation as originally introduced. These include: (1) Reduce the state's annual cash outlay; (2) Protect Net Operating Loss credits especially for exploration activity; (3) Limit repurchases to companies who need the support; (4) Strengthen the minimum tax and prevent abuses to the system; (5) Be more open and transparent; and (6) Honor and pay credits earned to date and through any transition period. To address this final point, this legislation envisions a fund capitalization appropriation to cover any tax credits earned through the effective date. Savings due to reductions in future appropriations needed to repurchase tax credits will be captured in the separate fund capitalization fiscal note.

#### Summary of Fiscal Impact

With the revisions proposed in the Rules Committee substitute, we anticipate additional revenue of up to \$122.5 million per year over the time period contained in the fiscal note. No additional revenue is expected in FY17, due to the phased implementation of various bill provisions, and the expectation that major producers will be able to apply credits earned prior to the effective date of this bill against tax payments in FY17-19.

Once fully implemented, the majority of the revenue impacts from this bill for the North Slope will be due to the strengthening of the so-called minimum tax "floor," via elimination of the net operating loss credits that can now be applied against a tax liability. Instead, companies would be required to carry forward lease expenditures to a future tax liability. In the Cook Inlet, the revenue impacts from this bill will be due to elimination of the net operating loss, capital expenditure, and well lease expenditure credits; companies in the Cook Inlet will also not be allowed to carry forward lease expenditures.

A small indeterminate amount of additional revenue would come from the restoration of compound interest and an increase in the interest rate for assessed delinquent taxes.

#### Implementation Cost

The changes anticipated in this bill will require somewhat substantial reprogramming of the Tax Revenue Management System and Revenue Online tax portal. We have received a preliminary estimate from the software developer, which allows us to reduce our one-time cost to about \$1,200,000 to accomplish these changes. We do not anticipate any additional costs to administer the tax program.

There will also be a need for substantial amendments to existing regulations to fully implement the changes.

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2016 LEGISLATIVE SESSION

BILL NO. HB247

Analysis Continued

**Detail of Specific Provisions**

**1) Repeal of certain credits and closing of loopholes**

For areas outside the North Slope (Cook Inlet and Middle Earth), the Rules committee substitute eliminates the Well Lease Expenditure Credit effective 1/1/17. The Qualified Capital Expenditure Credit is increased from 20% to 30% for 2017, then returns to 20% for 2018, then is eliminated effective 1/1/19. Additionally, the Carried Forward Annual Loss (or "Net Operating Loss") credit is eliminated effective 1/1/18. The net effect of these changes will be to reduce state contribution for new Cook Inlet projects from the current 45-65% range to zero beginning in 2019. However, this bill creates a legislative working group and envisions crafting a new Cook Inlet tax regime to take effect in 2019.

For the North Slope, the Rules committee substitute eliminates the Carried Forward Annual Loss credit effective 1/1/17 with a 3-year transition period for companies with production in 2016 and less than 20,000 barrels per day of production. After 1/1/17 (or the 3-year transition period), a company may carry forward any lease expenditures that exceed their Gross Value at Point of Production, and apply those in calculating a subsequent year's tax liability. Unlike the current credits, these carry forward lease expenditures could not be used to reduce a tax payment below the minimum tax; however other credits could still be used to reduce a tax payment below the minimum tax.

Although we are not forecasting changes to behavior in this analysis, it is reasonable to expect that certain companies who are years from production and tax liability may be less inclined to make investments given the state's reduced support for those investments and the reduced ability to monetize what support remains.

The bill also eliminates a provision of current law that enables companies having production of "new oil" on the North Slope and also claiming a net operating loss to use a Gross Value Reduction to increase the size of a net operating loss credit. It also eliminates another loophole that has been used by municipal utilities who also own oil or gas production. If a portion of that production is sold to an outside party, the proposed change ensures that these entities are only able to deduct or claim a pro-rated portion of their lease expenditures for the purpose of applying for credits.

**2) Deferral or loss of eligibility for credit repurchase**

Currently any company with less than 50,000 bbl / day of production in Alaska is eligible to have tax credit certificates repurchased by the state without limit, subject to appropriation. This bill adds an additional restriction to repurchase, so that no single company can receive more than \$85 million per year in state cash repurchases. Although this would not have any impact based on currently forecasted activity and other provisions of this bill, it provides an element of protection from large "outlier" projects that could otherwise result in large state credit liability.

**3) Other changes**

In the CS, the "gross value reduction" for new oil only applies for the first ten years of production, and is lost on 1/1/26 for fields currently receiving that reduction. Additionally, the bill restores quarterly compound interest for delinquent taxes, underpayments, and tax assessments. Current statute has included simple interest since 2014, which is believed to be an inadvertent amendment made in SB21. The interest rate is increased from 3% above the federal discount rate to 5% above.

There is a small extension to a Frontier Areas exploration credit to enable wells in-process on 7/1/17 to be completed under the program before it sunsets. The committee substitute also repeals several older and currently unused exploration incentive credit programs, and authorizes the Department of Revenue to use credit certificates to offset a company's other obligations to the state prior to repurchase. It also establishes a legislative working group to review the state's tax structure for Cook Inlet and other areas outside the North Slope, to provide recommendations to the legislature for consideration in 2017.

Analysis Continued

Fiscal Detail of CSHB247(RLS)\M (Revenue and Budget Impacts)

Revised 4-30-16 by Department of Revenue

CSHB247(RLS)\M

Provisions in CSHB 247 (RLS) and their Estimated Fiscal Impact as compared to Spring 2016 Forecast (\$millions) - FORECAST PRICE<sup>1</sup>

Note: this table attempts to value the impact of each of the items independently, except where noted. In some cases, the total value of several impacts will not equal the sum of the individual impact values.

Brief Description of Provision - Includes only provisions anticipated to have a direct fiscal impact	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
1. Cook Inlet changes: The net operating loss credit is eliminated effective 1/1/18. The QCE and well lease exp credits are replaced with a 30% transition credit effective 1/1/17, a 20% transition credit effective 1/1/18, and zero credits effective 1/1/19.	\$0	\$0-\$10	\$10-\$15	\$10-\$15	\$10-\$15	\$30-\$40	\$30-\$40	\$30-\$40	\$30-\$40
2. North Slope changes: The net operating loss credit for North Slope is eliminated effective 1/1/17; lease expenditures not used in a calendar year may be carried forward effective 1/1/17; 3-year transition period for refunds for companies with production in 2016 and less than 20,000 barrels per day of production. GVR cannot be used to create or increase a net operating loss.	\$0	\$0	\$0	\$75-\$100	\$75-\$100	\$75-\$100	\$40-\$60	\$40-\$60	(\$10)-\$0
3. GVR-eligible production qualifies for the GVR for a period of 10 years or until 1/1/26.	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
4. The interest rate on delinquent taxes is changed to 5% above the Fed Res Discount rate, compounded quarterly	Indeterminate								
5. A tax exempt entity may earn credits applicable to only those lease expenditures subject to tax	Indeterminate								
<b>Total Revenue Impact</b>	\$0	\$0 to \$10	\$10 to \$15	\$85 to \$115	\$85 to \$115	\$105 to \$140	\$70 to \$100	\$70 to \$100	\$20 to \$40
A. Budget impact of change in net operating loss credits, and QCE/WLE credits for Cook Inlet (provision 1 above)	\$0	\$0-\$10	\$20-\$30	\$40-\$50	\$100-\$125	\$100-\$125	\$75-\$100	\$75-\$100	\$75-\$100
B. Budget impact of change in net operating loss credits, lease expenditures applicability, and GVR calculation for North Slope (provision 2 above)	\$0	\$40-\$60	\$125-\$150	\$100-\$125	\$100-\$125	\$100-\$125	\$125-\$150	\$125-\$150	\$125-\$150
C. Budget impact of exploration credit extension for well spudded by 7/1/16	(\$5)-\$0	(\$5)-\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
D. Budget impact of GVR applying to fields for a period of 10 years (provision 3 above)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Budget Impact</b>	(\$5) to \$0	\$35 to \$70	\$145 to \$180	\$140 to \$175	\$200 to \$250	\$200 to \$250	\$200 to \$250	\$200 to \$250	\$200 to \$250
<b>Total Fiscal Impact - does not include revenue impacts from potential changes in investment<sup>2</sup></b>	(\$-5) to \$0	\$35 to \$80	\$155 to \$195	\$225 to \$290	\$285 to \$365	\$305 to \$390	\$270 to \$350	\$270 to \$350	\$220 to \$290
Non-refundable carry-forward credits balance at fiscal year end - current law <sup>3</sup>	\$618	\$751	\$732	\$585	\$265	\$136	\$59	\$0	\$0
Non-refundable carry-forward credits balance (or equivalent) at fiscal year end - proposed <sup>3</sup>	\$708	\$947	\$952	\$950	\$877	\$859	\$860	\$896	\$941
<b>Change in year-end balance due to bill</b>	\$90	\$196	\$220	\$365	\$612	\$723	\$801	\$896	\$941

<sup>1</sup>The impacts listed are based on production and prices and company investment as forecasted in DOR's Spring 2016 revenue forecast. The forecasted oil prices are between \$38.89 and \$65.90.

<sup>2</sup>NOTE: "Total Fiscal Impact" includes best estimates of both revenue and operating budget impacts.

<sup>3</sup>These rows include estimates of carried-forward credits, and carried-forward lease expenditures, for previous calendar years, plus estimates of credits and carried-forward lease expenditures that will be earned on activity through June 30 of the fiscal year. For carried-forward lease expenditures, the balance shown is the credit-equivalent value of those expenditures assuming a 35% tax rate (for example, \$100 million of carried-forward lease expenditures equate to \$35 million of credits).

NOTE: The fiscal impact of this bill is an estimate based on the Spring 2016 revenue forecast. Estimates shown here are draft / preliminary based on our interpretation of possible changes. We reserve the right to make modifications to estimates for any forthcoming fiscal notes.

# Fiscal Note

State of Alaska  
2016 Legislative Session

Bill Version: HB 247  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB247 (HRLS) Fund Cap 5-1-16  
Title: TAX;CREDITS;INTEREST;REFUNDS;O & G  
Sponsor: RLS BY REQUEST OF THE GOVERNOR  
Requester: House Rules

Department: Fund Capitalization  
Appropriation: Fund Capitalization (no approps out)  
Allocation: Oil and Gas Tax Credit Fund  
OMB Component Number: 2894

## Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2017 Request	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>OPERATING EXPENDITURES</b>	<b>FY 2017</b>	<b>FY 2017</b>					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits	1,600,000.0	73,425.0					
Miscellaneous							
<b>Total Operating</b>	<b>1,600,000.0</b>	<b>73,425.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

## Fund Source (Operating Only)

1001 CBR Fund	1,600,000.0						
1004 Gen Fund		73,425.0					
<b>Total</b>	<b>1,600,000.0</b>	<b>73,425.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

## Positions

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2016) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2017) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

## ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency?  
If yes, by what date are the regulations to be adopted, amended or repealed?

## Why this fiscal note differs from previous version:

This fiscal note appropriates \$1.6 billion from the Constitutional Budget Reserve to the Oil & Gas Tax Credit Fund. The amount is intended to pay for tax credit claims through FY25. This appropriation requires a supermajority vote in each body.

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2016 LEGISLATIVE SESSION

BILL NO. HB 247

**Analysis**

This fiscal note capitalizes the Oil and Gas Tax Credit Fund with \$1.6 billion from the Constitutional Budget Reserve Fund. This appropriation is expected to be sufficient to fully pay out tax credits that have already been earned and that will be earned during the phase-out period of the bill. As shown in the table on the following page, HB 247 is projected to reduce credits from \$3.2 billion to \$1.7 billion through FY25, reducing State payments by \$1.5 billion during that period.

Sections 10-12 of the bill eliminate the ability of DOR to pay three tax credits out of the .028 fund that is used to pay out production tax credits. These three credits (the refinery tax credit, the LNG storage facility credit, and the gas storage facility credit) are against the corporate income tax, not the production tax, but they can currently be refunded like a production tax credit. This change would mean that DOR would need a new appropriation to pay out those credits. The tax credit fund would remain for production tax credits, but this would clearly separate the production tax credits from the corporate income tax credits.

This version of HB 247 eliminates net annual loss (NOL) credits after FY16 and replaces them with the ability to carry forward lease expenditures. That means that taxpayers would still have their FY16 NOL balance (about \$600 million) available to use to reduce their production tax liability to zero in FY17 and a couple of years beyond, but they would not be earning additional NOLs in those years. Instead, they can carry forward their unused lease expenditures. Those lease expenditures could be applied to future tax years to bring them down to the minimum tax. The balance shown at the bottom of DOR's analysis on the fourth page of this fiscal note shows over \$2 billion of those carried forward lease expenditures. However, the potential reduction in taxpayer liability would only be about 35% of those amounts.

<b>Impact of HB 247 on Oil and Gas Tax Credits (\$ millions)</b>									
	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
Projected Credits--No Action (1)	775	500	375	270	250	250	250	250	250
Cumulative Credits	775	1,275	1,650	1,920	2,170	2,420	2,670	2,920	3,170
Projected Impact of HB 247 (2)									
Low	5	(35)	(145)	(140)	(200)	(200)	(200)	(200)	(200)
High	-	(70)	(180)	(175)	(250)	(250)	(250)	(250)	(250)
Average	3	(53)	(163)	(158)	(225)	(225)	(225)	(225)	(225)
Net Credit Claims under HB 247									
Net Credit Claims under HB 247	778	448	213	113	25	25	25	25	25
Cumulative Claims	778	1,225	1,438	1,550	1,575	1,600	1,625	1,650	1,675
Change in Costs under HB 247									
Change in Costs under HB 247	3	(53)	(163)	(158)	(225)	(225)	(225)	(225)	(225)
Cumulative Change	3	(50)	(213)	(370)	(595)	(820)	(1,045)	(1,270)	(1,495)
(1) Source: DOR Spring 2016 Revenue Sources Book									
(2) Source: DOR analysis included in this fiscal note									

Analysis Continued

Fiscal Detail of CSHB247(RLS)\M (Revenue and Budget Impacts)

Revised 4-30-16 by Department of Revenue

CSHB247(RLS)\M

Provisions in CSHB 247 (RLS) and their Estimated Fiscal Impact as compared to Spring 2016 Forecast (\$millions) - FORECAST PRICE<sup>1</sup>

Note: this table attempts to value the impact of each of the items independently, except where noted. In some cases, the total value of several impacts will not equal the sum of the individual impact values.

Brief Description of Provision - Includes only provisions anticipated to have a direct fiscal impact	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
1. Cook Inlet changes: The net operating loss credit is eliminated effective 1/1/18. The OCE and well lease exp credits are replaced with a 30% transition credit effective 1/1/17, a 20% transition credit effective 1/1/18, and zero credits effective 1/1/19.	\$0	\$0-\$10	\$10-\$15	\$10-\$15	\$10-\$15	\$30-\$40	\$30-\$40	\$30-\$40	\$30-\$40
2. North Slope changes: The net operating loss credit for North Slope is eliminated effective 1/1/17; lease expenditures not used in a calendar year may be carried forward effective 1/1/17; 3-year transition period for refunds for companies with production in 2016 and less than 20,000 barrels per day of production. GVR cannot be used to create or increase a net operating loss.	\$0	\$0	\$0	\$75-\$100	\$75-\$100	\$75-\$100	\$40-\$60	\$40-\$60	(\$10)-\$0
3. GVR-eligible production qualifies for the GVR for a period of 10 years or until 1/1/26.	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
4. The interest rate on delinquent taxes is changed to 5% above the Fed Res Discount rate, compounded quarterly	Indeterminate								
5. A tax exempt entity may earn credits applicable to only those lease expenditures subject to tax	Indeterminate								
<b>Total Revenue Impact</b>	\$0	\$0 to \$10	\$10 to \$15	\$85 to \$115	\$85 to \$115	\$105 to \$140	\$70 to \$100	\$70 to \$100	\$20 to \$40
A. Budget impact of change in net operating loss credits, and OCE/WLE credits for Cook Inlet (provision 1 above)	\$0	\$0-\$10	\$20-\$30	\$40-\$50	\$100-\$125	\$100-\$125	\$75-\$100	\$75-\$100	\$75-\$100
B. Budget impact of change in net operating loss credits, lease expenditures applicability, and GVR calculation for North Slope (provision 2 above)	\$0	\$40-\$60	\$125-\$150	\$100-\$125	\$100-\$125	\$100-\$125	\$125-\$150	\$125-\$150	\$125-\$150
C. Budget impact of exploration credit extension for well spudded by 7/1/16	(\$5)-\$0	(\$5)-\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
D. Budget impact of GVR applying to fields for a period of 10 years (provision 3 above)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Budget Impact</b>	(\$5) to \$0	\$35 to \$70	\$145 to \$180	\$140 to \$175	\$200 to \$250	\$200 to \$250	\$200 to \$250	\$200 to \$250	\$200 to \$250
<b>Total Fiscal Impact - does not include revenue impacts from potential changes in investment<sup>2</sup></b>	(\$-5) to \$0	\$35 to \$80	\$155 to \$195	\$225 to \$290	\$285 to \$365	\$305 to \$390	\$270 to \$350	\$270 to \$350	\$220 to \$290
Non-refundable carry-forward credits balance at fiscal year end - current law <sup>3</sup>	\$618	\$751	\$732	\$585	\$265	\$136	\$59	\$0	\$0
Non-refundable carry-forward credits balance (or equivalent) at fiscal year end - proposed <sup>3</sup>	\$708	\$947	\$952	\$950	\$877	\$859	\$860	\$896	\$941
<b>Change in year-end balance due to bill</b>	<b>\$90</b>	<b>\$196</b>	<b>\$220</b>	<b>\$365</b>	<b>\$612</b>	<b>\$723</b>	<b>\$801</b>	<b>\$896</b>	<b>\$941</b>

<sup>1</sup>The impacts listed are based on production and prices and company investment as forecasted in DGR's Spring 2016 revenue forecast. The forecasted oil prices are between \$38.89 and \$65.90.

<sup>2</sup>NOTE: "Total Fiscal Impact" includes best estimates of both revenue and operating budget impacts.

<sup>3</sup>These rows include estimates of carried-forward credits, and carried-forward lease expenditures, for previous calendar years, plus estimates of credits and carried-forward lease expenditures that will be earned on activity through June 30 of the fiscal year. For carried-forward lease expenditures, the balance shown is the credit-equivalent value of those expenditures assuming a 35% tax rate (for example, \$100 million of carried-forward lease expenditures equate to \$35 million of credits).

NOTE: The fiscal impact of this bill is an estimate based on the Spring 2016 revenue forecast. Estimates shown here are draft / preliminary based on our interpretation of possible changes. We reserve the right to make modifications to estimates for any forthcoming fiscal notes.

**2d CS FOR HOUSE BILL NO. 247( )**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-NINTH LEGISLATURE - SECOND SESSION

**BY**

**Offered:  
Referred:**

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

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the powers and duties of the Alaska Oil and Gas Conservation  
2 Commission; relating to the exploration incentive credits; relating to confidential  
3 information status and public record status of information in the possession of the  
4 Department of Revenue; relating to interest applicable to delinquent tax; relating to oil  
5 and gas production tax credits; relating to tax credit certificates; relating to the  
6 calculation of the production tax value of oil and gas; relating to refunds for the gas  
7 storage facility tax credit, the liquefied natural gas storage facility tax credit, and the  
8 qualified in-state oil refinery infrastructure expenditures tax credit; relating to the  
9 purchase of tax credit certificates from the oil and gas tax credit fund; relating to lease  
10 expenditures; relating to oil and gas lease expenditures and production tax credits for  
11 municipal entities; relating to a bond or cash deposit required for an oil or gas business;  
12 establishing a legislative working group to study the tax structure for oil and gas

1 **produced south of 68 degrees North latitude; and providing for an effective date."**

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

3 \* **Section 1.** AS 31.05.030 is amended by adding a new subsection to read:

4 (n) The commission shall determine the commencement of regular production  
5 from a lease or property for purposes of AS 43.55.160(f) and (g).

6 \* **Sec. 2.** AS 38.05.036(a) is amended to read:

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

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

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

16 \* **Sec. 3.** AS 38.05.036(b) is amended to read:

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

24 \* **Sec. 4.** AS 38.05.036(c) is amended to read:

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

1 \* **Sec. 5.** AS 38.05.036(f) is amended to read:

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

8 \* **Sec. 6.** AS 38.05.036(g) is amended to read:

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

12 \* **Sec. 7.** AS 40.25.100(a) is amended to read:

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

26 \* **Sec. 8.** AS 43.05.225 is amended to read:

27 **Sec. 43.05.225. Interest.** Unless otherwise provided,

28 (1) a delinquent tax under this title,

29 (A) before January 1, 2014, bears interest in each calendar  
30 quarter at the rate of five percentage points above the annual rate charged  
31 member banks for advances by the 12th Federal Reserve District as of the first

1 day of that calendar quarter, or at the annual rate of 11 percent, whichever is  
2 greater, compounded quarterly as of the last day of that quarter; [OR]

3 (B) on and after January 1, 2014, and before January 1, 2017,  
4 bears interest in each calendar quarter at the rate of three percentage points  
5 above the annual rate charged member banks for advances by the 12th Federal  
6 Reserve District as of the first day of that calendar quarter; and

7 (C) on and after January 1, 2017, bears interest in each  
8 calendar quarter at the rate of five percentage points above the annual  
9 rate charged member banks for advances by the 12th Federal Reserve  
10 District as of the first day of that calendar quarter, compounded quarterly  
11 as of the last day of that quarter;

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

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

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

16 \* **Sec. 9.** AS 43.05.230 is amended by adding a new subsection to read:

17 (I) For tax credit certificates purchased by the department in the preceding  
18 calendar year under AS 43.55.028, the department shall make the following  
19 information public by April 30 of each year:

20 (1) the name of each person from whom the department purchased a  
21 transferable tax credit certificate; and

22 (2) the aggregate amount of the tax credit certificates purchased from  
23 the person in the preceding calendar year.

24 \* **Sec. 10.** AS 43.20.046(e) is amended to read:

25 (e) The department may [USE AVAILABLE MONEY IN THE OIL AND  
26 GAS TAX CREDIT FUND ESTABLISHED IN AS 43.55.028 TO] make the refund  
27 applied for under (d) of this section in whole or in part if the department finds that (1)  
28 the claimant does not have an outstanding liability to the state for unpaid delinquent  
29 taxes under this title; and (2) after application of all available tax credits, the  
30 claimant's total tax liability under this chapter for the calendar year in which the claim  
31 is made is zero. [IN THIS SUBSECTION, "UNPAID DELINQUENT TAX" MEANS

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

4 \* **Sec. 11.** AS 43.20.047(e) is amended to read:

5 (e) The department may [USE MONEY AVAILABLE IN THE OIL AND  
6 GAS TAX CREDIT FUND ESTABLISHED IN AS 43.55.028 TO] make a refund or  
7 payment under (d) of this section in whole or in part if the department finds that (1)  
8 the claimant does not have an outstanding liability to the state for unpaid delinquent  
9 taxes under this title; and (2) after application of all available tax credits, the  
10 claimant's total tax liability under this chapter for the calendar year in which the claim  
11 is made is zero. [IN THIS SUBSECTION, "UNPAID DELINQUENT TAX" MEANS  
12 AN AMOUNT OF TAX FOR WHICH THE DEPARTMENT HAS ISSUED AN  
13 ASSESSMENT THAT HAS NOT BEEN PAID AND, IF CONTESTED, HAS NOT  
14 BEEN FINALLY RESOLVED IN THE TAXPAYER'S FAVOR.]

15 \* **Sec. 12.** AS 43.20.053(e) is amended to read:

16 (e) The department may [USE MONEY AVAILABLE IN THE OIL AND  
17 GAS TAX CREDIT FUND ESTABLISHED IN AS 43.55.028 TO] make a refund or  
18 payment under (d) of this section in whole or in part if the department finds that

19 (1) the claimant does not have an outstanding liability to the state for  
20 unpaid delinquent taxes under this title; and

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

23 \* **Sec. 13.** AS 43.20.340 is amended by adding a new paragraph to read:

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

27 \* **Sec. 14.** AS 43.55.011(m) is amended to read:

28 (m) Notwithstanding any contrary provision of [AS 38.05.180(i),  
29 AS 41.09.010,] AS 43.55.024 [,] or 43.55.025, the department shall provide by  
30 regulation a method to ensure that, for a calendar year for which a producer's tax  
31 liability is limited by (j), (k), or (o) of this section, tax credits based on a lease

1 expenditure incurred before January 1, 2011, that are otherwise available under  
2 [AS 38.05.180(i), AS 41.09.010,] AS 43.55.024 [,] or 43.55.025 and allocated to gas  
3 subject to the limitations in (j), (k), and (o) of this section are accounted for as though  
4 the credits had been applied first against a tax liability calculated without regard to the  
5 limitations under (j), (k), and (o) of this section so as to reduce the tax liability to the  
6 maximum amount provided for under (j) or (o) of this section for the production of gas  
7 or (k) of this section for the production of oil. The regulation must provide for a  
8 reasonable method to allocate tax credits to gas subject to (j) and (o) of this section.  
9 Only the amount of a tax credit remaining after the accounting provided for under this  
10 subsection may be used for a later calendar year, transferred to another person, or  
11 applied against a tax levied on the production of oil or gas not subject to (j), (k), or (o)  
12 of this section to the extent otherwise allowed.

13 \* **Sec. 15.** AS 43.55.023(a) is amended to read:

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

16 (1) notwithstanding that a qualified capital expenditure may be a  
17 deductible lease expenditure for purposes of calculating the production tax value of oil  
18 and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under  
19 [AS 38.05.180(i), AS 41.09.010,] AS 43.20.043 [,] or AS 43.55.025, a producer or  
20 explorer that incurs a qualified capital expenditure south of 68 degrees North  
21 latitude may [ALSO] elect to apply a tax credit against a tax levied by  
22 AS 43.55.011(e) in the amount of

23 (A) 30 percent of that expenditure incurred during  
24 calendar year 2017; or

25 (B) 20 percent of that expenditure incurred during calendar  
26 year 2018;

27 (2) [A PRODUCER OR EXPLORER MAY TAKE A CREDIT FOR  
28 A QUALIFIED CAPITAL EXPENDITURE INCURRED IN CONNECTION WITH  
29 GEOLOGICAL OR GEOPHYSICAL EXPLORATION OR IN CONNECTION  
30 WITH AN EXPLORATION WELL ONLY IF THE PRODUCER OR EXPLORER

31 (A) AGREES, IN WRITING, TO THE APPLICABLE

1 PROVISIONS OF AS 43.55.025(f)(2); AND

2 (B) SUBMITS TO THE DEPARTMENT OF NATURAL  
3 RESOURCES ALL DATA THAT WOULD BE REQUIRED TO BE  
4 SUBMITTED UNDER AS 43.55.025(f)(2);

5 (3)] a credit for a qualified capital expenditure incurred to explore for,  
6 develop, or produce oil or gas deposits located in the Cook Inlet sedimentary basin  
7 [NORTH OF 68 DEGREES NORTH LATITUDE] may be taken only if the producer  
8 or explorer produced oil or gas in the Cook Inlet sedimentary basin before  
9 January 1, 2017 [EXPENDITURE IS INCURRED BEFORE JANUARY 1, 2014].

10 \* Sec. 16. AS 43.55.023(b) is amended to read:

11 (b) Before January 1, 2014, a producer or explorer may elect to take a tax  
12 credit in the amount of 25 percent of a carried-forward annual loss. For lease  
13 expenditures incurred on and after January 1, 2014, and before January 1, 2016, to  
14 explore for, develop, or produce oil or gas deposits located north of 68 degrees North  
15 latitude, a producer or explorer may elect to take a tax credit in the amount of 45  
16 percent of a carried-forward annual loss. For lease expenditures incurred on and after  
17 January 1, 2016, to explore for, develop, or produce oil or gas deposits located north  
18 of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in  
19 the amount of 35 percent of a carried-forward annual loss. For lease expenditures  
20 incurred on or after January 1, 2014, and before January 1, 2018, to explore for,  
21 develop, or produce oil or gas deposits located south of 68 degrees North latitude, a  
22 producer or explorer may elect to take a tax credit in the amount of 25 percent of a  
23 carried-forward annual loss. A credit under this subsection may be applied against a  
24 tax levied by AS 43.55.011(e). For purposes of this subsection, a carried-forward  
25 annual loss is the amount of a producer's or explorer's adjusted lease expenditures  
26 under AS 43.55.165 and 43.55.170 for a previous calendar year that was not  
27 deductible in calculating production tax values for that calendar year under  
28 AS 43.55.160. A credit under this subsection may be taken for lease expenditures  
29 incurred after December 31, 2016,

30 (1) in the Cook Inlet sedimentary basin only if the producer or  
31 explorer taking the credit produced oil or gas in the Cook Inlet sedimentary

1 **basin before January 1, 2017;**

2 **(2) north of 68 degrees North latitude only if, during calendar year**  
3 **2016, the producer or explorer produced an average of more than zero and less**  
4 **than 20,000 BTU equivalent barrels a day in the state.**

5 \* **Sec. 17.** AS 43.55.023(d) is amended to read:

6 (d) A person that is entitled to take a tax credit under this section that wishes  
7 to [TRANSFER THE UNUSED CREDIT TO ANOTHER PERSON OR] obtain a  
8 cash payment under AS 43.55.028 may apply to the department for a **nontransferable**  
9 [TRANSFERABLE] tax credit certificate. An application under this subsection must  
10 be in a form prescribed by the department and must include supporting information  
11 and documentation that the department reasonably requires. The department shall  
12 grant or deny an application, or grant an application as to a lesser amount than that  
13 claimed and deny it as to the excess, not later than 120 days after the latest of (1)  
14 March 31 of the year following the calendar year in which the qualified capital  
15 expenditure or carried-forward annual loss for which the credit is claimed was  
16 incurred; (2) the date the statement required under AS 43.55.030(a) or (e) was filed for  
17 the calendar year in which the qualified capital expenditure or carried-forward annual  
18 loss for which the credit is claimed was incurred; or (3) the date the application was  
19 received by the department. If, based on the information then available to it, the  
20 department is reasonably satisfied that the applicant is entitled to a credit, the  
21 department shall issue the applicant a [TRANSFERABLE] tax credit certificate for the  
22 amount of the credit. A certificate issued under this subsection does not expire.

23 \* **Sec. 18.** AS 43.55.023(g) is amended to read:

24 (g) The issuance of a [TRANSFERABLE] tax credit certificate under (d) of  
25 this section or former (m) of this section or the purchase of a certificate under  
26 AS 43.55.028 does not limit the department's ability to later audit a tax credit claim to  
27 which the certificate relates or to adjust the claim if the department determines, as a  
28 result of the audit, that the applicant was not entitled to the amount of the credit for  
29 which the certificate was issued. The tax liability of the applicant under  
30 AS 43.55.011(e) and 43.55.017 - 43.55.180 is increased by the amount of the credit  
31 that exceeds that to which the applicant was entitled, or the applicant's available valid

1 outstanding credits applicable against the tax levied by AS 43.55.011(e) are reduced  
2 by that amount. If the applicant's tax liability is increased under this subsection, the  
3 increase bears interest under AS 43.05.225 from the date the [TRANSFERABLE] tax  
4 credit certificate was issued. For purposes of this subsection, an applicant that is an  
5 explorer is considered a producer subject to the tax levied by AS 43.55.011(e).

6 \* **Sec. 19.** AS 43.55.023(k) is amended to read:

7 (k) An entity that is exempt from taxation under this chapter may not apply for  
8 a [TRANSFERABLE] tax credit certificate **under (d) of this section.**

9 \* **Sec. 20.** AS 43.55.024(i) is amended to read:

10 (i) A producer may apply against the producer's tax liability for the calendar  
11 year under AS 43.55.011(e) a tax credit of \$5 for each barrel of oil taxable under  
12 AS 43.55.011(e) that **receives a reduction in the gross value at the point of**  
13 **production under** [MEETS ONE OR MORE OF THE CRITERIA IN]  
14 AS 43.55.160(f) or (g) and that is produced during a calendar year after December 31,  
15 2013. A tax credit authorized by this subsection may not reduce a producer's tax  
16 liability for a calendar year under AS 43.55.011(e) below zero.

17 \* **Sec. 21.** AS 43.55.024(j) is amended to read:

18 (j) A producer may apply against the producer's tax liability for the calendar  
19 year under AS 43.55.011(e) a tax credit in the amount specified in this subsection for  
20 each barrel of oil taxable under AS 43.55.011(e) that does not **receive a reduction in**  
21 **the gross value at the point of production under** [MEET ANY OF THE CRITERIA  
22 IN] AS 43.55.160(f) or (g) and that is produced during a calendar year after  
23 December 31, 2013, from leases or properties north of 68 degrees North latitude. A tax  
24 credit under this subsection may not reduce a producer's tax liability for a calendar  
25 year under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f). The  
26 amount of the tax credit for a barrel of taxable oil subject to this subsection produced  
27 during a month of the calendar year is

28 (1) \$8 for each barrel of taxable oil if the average gross value at the  
29 point of production for the month is less than \$80 a barrel;

30 (2) \$7 for each barrel of taxable oil if the average gross value at the  
31 point of production for the month is greater than or equal to \$80 a barrel, but less than

1 \$90 a barrel;

2 (3) \$6 for each barrel of taxable oil if the average gross value at the  
3 point of production for the month is greater than or equal to \$90 a barrel, but less than  
4 \$100 a barrel;

5 (4) \$5 for each barrel of taxable oil if the average gross value at the  
6 point of production for the month is greater than or equal to \$100 a barrel, but less  
7 than \$110 a barrel;

8 (5) \$4 for each barrel of taxable oil if the average gross value at the  
9 point of production for the month is greater than or equal to \$110 a barrel, but less  
10 than \$120 a barrel;

11 (6) \$3 for each barrel of taxable oil if the average gross value at the  
12 point of production for the month is greater than or equal to \$120 a barrel, but less  
13 than \$130 a barrel;

14 (7) \$2 for each barrel of taxable oil if the average gross value at the  
15 point of production for the month is greater than or equal to \$130 a barrel, but less  
16 than \$140 a barrel;

17 (8) \$1 for each barrel of taxable oil if the average gross value at the  
18 point of production for the month is greater than or equal to \$140 a barrel, but less  
19 than \$150 a barrel;

20 (9) zero if the average gross value at the point of production for the  
21 month is greater than or equal to \$150 a barrel.

22 \* **Sec. 22.** AS 43.55.025(m) is amended to read:

23 (m) The persons that drill the first four exploration wells in the state and  
24 within the areas described in (o) of this section on state lands, private lands, or federal  
25 onshore lands for the purpose of discovering oil or gas that penetrate and evaluate a  
26 prospect in a basin described in (o) of this section are eligible for a credit under (a)(6)  
27 of this section. A credit under this subsection may not be taken for more than two  
28 exploration wells in a single area described in (o)(1) - (6) of this section. Exploration  
29 expenditures eligible for the credit in this subsection must be incurred for work  
30 performed after June 1, 2012, and before July 1, 2016, **except that expenditures to**  
31 **complete an exploration well that was spudded but not completed before July 1,**

1 **2016, are eligible for the credit under this subsection.** A person planning to drill an  
2 exploration well on private land and to apply for a credit under this subsection shall  
3 obtain written consent from the owner of the oil and gas interest for the full public  
4 release of all well data after the expiration of the confidentiality period applicable to  
5 information collected under (f) of this section. The written consent of the owner of the  
6 oil and gas interest must be submitted to the commissioner of natural resources before  
7 approval of the proposed exploration well. In addition to the requirements in (c)(1),  
8 (c)(2)(A), and (c)(2)(C) of this section and submission of the written consent of the  
9 owner of the oil and gas interest, a person planning to drill an exploration well shall  
10 obtain approval from the commissioner of natural resources before the well is  
11 spudded. The commissioner of natural resources shall make a written determination  
12 approving or rejecting an exploration well within 60 days after receiving the request  
13 for approval or as soon as is practicable thereafter. Before approving the exploration  
14 well, the commissioner of natural resources shall consider the following: the location  
15 of the well; the proximity to a community in need of a local energy source; the  
16 proximity of existing infrastructure; the experience and safety record of the explorer in  
17 conducting operations in remote or roadless areas; the projected cost schedule;  
18 whether seismic mapping and seismic data sufficiently identify a particular trap for  
19 exploration; whether the targeted and planned depth and range are designed to  
20 penetrate and fully evaluate the hydrocarbon potential of the proposed prospect and  
21 reach the level below which economic hydrocarbon reservoirs are likely to be found,  
22 or reach 12,000 feet or more true vertical depth; and whether the exploration plan  
23 provides for a full evaluation of the wellbore below surface casing to the depth of the  
24 well. Whether the exploration well for which a credit is requested under this  
25 subsection is located within an area and a basin described under (o) of this section  
26 shall be determined by the commissioner of natural resources and reported to the  
27 commissioner. A taxpayer that obtains a credit under this subsection may not claim a  
28 tax credit under AS 43.55.023 or another provision in this section for the same  
29 exploration expenditure.

30 \* **Sec. 23.** AS 43.55.025(m), as amended by sec. 22 of this Act, is amended to read:

31 (m) The persons that drill the first four exploration wells in the state and

1 within the areas described in (o) of this section on state lands, private lands, or federal  
2 onshore lands for the purpose of discovering oil or gas that penetrate and evaluate a  
3 prospect in a basin described in (o) of this section are eligible for a credit under (a)(6)  
4 of this section. A credit under this subsection may not be taken for more than two  
5 exploration wells in a single area described in (o)(1) - (6) of this section. Exploration  
6 expenditures eligible for the credit in this subsection must be incurred for work  
7 performed after June 1, 2012, and before July 1, 2016, except that expenditures to  
8 complete an exploration well that was spudded but not completed before July 1, 2016,  
9 are eligible for the credit under this subsection. A person planning to drill an  
10 exploration well on private land and to apply for a credit under this subsection shall  
11 obtain written consent from the owner of the oil and gas interest for the full public  
12 release of all well data after the expiration of the confidentiality period applicable to  
13 information collected under (f) of this section. The written consent of the owner of the  
14 oil and gas interest must be submitted to the commissioner of natural resources before  
15 approval of the proposed exploration well. In addition to the requirements in (c)(1),  
16 (c)(2)(A), and (c)(2)(C) of this section and submission of the written consent of the  
17 owner of the oil and gas interest, a person planning to drill an exploration well shall  
18 obtain approval from the commissioner of natural resources before the well is  
19 spudded. The commissioner of natural resources shall make a written determination  
20 approving or rejecting an exploration well within 60 days after receiving the request  
21 for approval or as soon as is practicable thereafter. Before approving the exploration  
22 well, the commissioner of natural resources shall consider the following: the location  
23 of the well; the proximity to a community in need of a local energy source; the  
24 proximity of existing infrastructure; the experience and safety record of the explorer in  
25 conducting operations in remote or roadless areas; the projected cost schedule;  
26 whether seismic mapping and seismic data sufficiently identify a particular trap for  
27 exploration; whether the targeted and planned depth and range are designed to  
28 penetrate and fully evaluate the hydrocarbon potential of the proposed prospect and  
29 reach the level below which economic hydrocarbon reservoirs are likely to be found,  
30 or reach 12,000 feet or more true vertical depth; and whether the exploration plan  
31 provides for a full evaluation of the wellbore below surface casing to the depth of the

1 well. Whether the exploration well for which a credit is requested under this  
2 subsection is located within an area and a basin described under (o) of this section  
3 shall be determined by the commissioner of natural resources and reported to the  
4 commissioner. A taxpayer that obtains a credit under this subsection may not claim a  
5 tax credit under [AS 43.55.023 OR] another provision in this section for the same  
6 exploration expenditure.

7 \* **Sec. 24.** AS 43.55.025(o) is amended to read:

8 (o) The activity that is the basis for a credit claimed under (a)(6) and (m) of  
9 this section [OR (a)(7) AND (n) OF THIS SECTION] must be for the exploration of a  
10 basin and within the following areas whose central points are determined using the  
11 World Geographic System of 1984 datum,

12 (1) 100 miles from 66.896128 degrees North, -162.598187 degrees  
13 West;

14 (2) 150 miles from 64.839474 degrees North, -147.72094 degrees  
15 West;

16 (3) 50 miles from 62.776428 degrees North, -164.495201 degrees  
17 West;

18 (4) 50 miles from 62.110357 degrees North, -145.530551 degrees  
19 West;

20 (5) 100 miles from 58.189868 degrees North, -157.371104 degrees  
21 West;

22 (6) 100 miles from 56.005988 degrees North, -160.56083 degrees  
23 West.

24 \* **Sec. 25.** AS 43.55.028(a) is amended to read:

25 (a) The oil and gas tax credit fund is established as a separate fund of the state.  
26 The purpose of the fund is to purchase transferable **and nontransferable** tax credit  
27 certificates issued under AS 43.55.023 and production tax credit certificates issued  
28 under AS 43.55.025 [AND TO PAY REFUNDS AND PAYMENTS CLAIMED  
29 UNDER AS 43.20.046, 43.20.047, OR 43.20.053].

30 \* **Sec. 26.** AS 43.55.028(a), as amended by sec. 25 of this Act, is amended to read:

31 (a) The oil and gas tax credit fund is established as a separate fund of the state.

1 The purpose of the fund is to purchase transferable and nontransferable tax credit  
2 certificates issued under former AS 43.55.023 and production tax credit certificates  
3 issued under AS 43.55.025.

4 \* **Sec. 27.** AS 43.55.028(e) is amended to read:

5 (e) The department, on the written application of a person to whom a  
6 transferable or nontransferable tax credit certificate has been issued under  
7 AS 43.55.023(d) or former AS 43.55.023(m) or to whom a production tax credit  
8 certificate has been issued under AS 43.55.025(f), may use available money in the oil  
9 and gas tax credit fund to purchase, in whole or in part, the certificate. The  
10 department may not purchase a total of more than \$85,000,000 in tax credit  
11 certificates from a person in a calendar year. The department may purchase a  
12 certificate or part of a certificate only if the department finds that

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

16 (2) the application is not the result of the division of a single entity  
17 into multiple entities that would reasonably be expected to apply as a single entity  
18 if the \$85,000,000 limitation in this subsection did not exist [APPLICANT DOES  
19 NOT HAVE AN OUTSTANDING LIABILITY TO THE STATE FOR UNPAID  
20 DELINQUENT TAXES UNDER THIS TITLE];

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

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

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

29 \* **Sec. 28.** AS 43.55.028(e), as amended by sec. 27 of this Act, is amended to read:

30 (e) The department, on the written application of a person to whom a  
31 transferable or nontransferable tax credit certificate has been issued under former

1 AS 43.55.023(d) or (m) [FORMER AS 43.55.023(m)] or to whom a production tax  
2 credit certificate has been issued under AS 43.55.025(f), may use available money in  
3 the oil and gas tax credit fund to purchase, in whole or in part, the certificate. The  
4 department may not purchase a total of more than \$85,000,000 in tax credit certificates  
5 from a person in a calendar year. The department may purchase a certificate or part of  
6 a certificate only if the department finds that

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

10 (2) the application is not the result of the division of a single entity into  
11 multiple entities that would reasonably be expected to apply as a single entity if the  
12 \$85,000,000 limitation in this subsection did not exist;

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

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

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

21 \* **Sec. 29.** AS 43.55.028(g) is amended to read:

22 (g) The department **shall** [MAY] adopt regulations to carry out the purposes  
23 of this section, including standards and procedures to allocate available money among  
24 applications for purchases under this chapter [AND CLAIMS FOR REFUNDS AND  
25 PAYMENTS UNDER AS 43.20.046, 43.20.047, OR 43.20.053] when the total  
26 amount of the applications for purchase [AND CLAIMS FOR REFUND] exceed the  
27 amount of available money in the fund. The regulations adopted by the department  
28 **must grant a preference to an applicant if at least 80 percent of the applicant's**  
29 **workforce in the state in the previous calendar year was composed of resident**  
30 **workers; in this subsection, "resident worker" has the meaning given in**  
31 **AS 43.40.092(b)** [MAY NOT, WHEN ALLOCATING AVAILABLE MONEY IN

1 THE FUND UNDER THIS SECTION, DISTINGUISH AN APPLICATION FOR  
2 THE PURCHASE OF A CREDIT CERTIFICATE ISSUED UNDER FORMER  
3 AS 43.55.023(m) OR A CLAIM FOR A REFUND OR PAYMENT UNDER  
4 AS 43.20.046, 43.20.047, OR 43.20.053].

5 \* **Sec. 30.** AS 43.55.028 is amended by adding a new subsection to read:

6 (j) If an applicant has an outstanding liability to the state directly related to the  
7 applicant's oil or gas exploration, development, or production that has not previously  
8 been the basis of a reduction by the department under this subsection, the department  
9 may purchase only that portion of a certificate that exceeds the outstanding liability.  
10 The department may apply the amount by which the department reduced its purchase  
11 of a certificate because of an outstanding liability to satisfy the outstanding liability,  
12 except that, if the outstanding liability is contested, the department may apply the  
13 amount to satisfy the outstanding liability only with the applicant's consent.  
14 Satisfaction of an outstanding liability under this subsection does not affect the  
15 applicant's ability to contest that liability. The department may enter into contracts or  
16 agreements with another department to which the outstanding liability is owed. In this  
17 subsection, "outstanding liability" means an amount of tax, interest, penalty, fee,  
18 rental, royalty, or other charge for which the state has issued a demand for payment  
19 that has not been paid when due and, if contested, has not been finally resolved against  
20 the state.

21 \* **Sec. 31.** AS 43.55.029(a) is amended to read:

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

1 assignment remains effective and shall be filed with the department by the explorer or  
2 producer together with any application for the department to purchase the certificate  
3 under AS 43.55.028(e).

4 \* **Sec. 32.** AS 43.55.029(a), as amended by sec. 31 of this Act, is amended to read:

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

18 \* **Sec. 33.** AS 43.55.029(a), as amended by secs. 31 and 32 of this Act, is amended to read:

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

1 \* **Sec. 34.** AS 43.55.030(a) is amended to read:

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

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

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

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

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

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

23 (6) the producer's [QUALIFIED CAPITAL EXPENDITURES, AS  
24 DEFINED IN AS 43.55.023, OTHER] lease expenditures under AS 43.55.165 [,] and  
25 adjustments or other payments or credits under AS 43.55.170;

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

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

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

31 \* **Sec. 35.** AS 43.55.030(e) is amended to read:

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

7 (1) the explorer's or producer's [QUALIFIED CAPITAL  
8 EXPENDITURES, AS DEFINED IN AS 43.55.023, OTHER] lease expenditures  
9 under AS 43.55.165 [,] and adjustments or other payments or credits under  
10 AS 43.55.170; and

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

14 \* **Sec. 36.** AS 43.55.075(b) is amended to read:

15 (b) A decision of a regulatory agency, court, or other body with authority to  
16 resolve disputes that results in a retroactive change to a lease expenditure, to an  
17 adjustment to a lease expenditure, to costs of transportation, to sale price, to prevailing  
18 value, or to consideration of quality differentials relating to the commingling of oils  
19 has a corresponding effect, either an increase or decrease, as applicable, on the  
20 production tax value of oil or gas or the amount or availability of a tax credit as  
21 determined under this chapter. For purposes of this section, a change to a lease  
22 expenditure includes a change in the categorization of a lease expenditure as a  
23 qualified capital expenditure for the purposes of former AS 43.55.023(a) or as not a  
24 qualified capital expenditure for the purposes of former AS 43.55.023(a). The  
25 producer shall

26 (1) within 60 days after the change, notify the department in writing;  
27 and

28 (2) within 120 days after the change, file amended returns covering all  
29 periods affected by the change, unless the department agrees otherwise or a stay is in  
30 place that affects the filing or payment, regardless of the pendency of appeals of the  
31 decision.

1 \* **Sec. 37.** AS 43.55.160(d) is amended to read:

2 (d) Irrespective of whether a producer produces taxable oil or gas during a  
3 calendar year or month, the producer is considered to have generated a positive  
4 production tax value if a calculation described in (a) of this section yields a positive  
5 number because the producer's adjusted lease expenditures for a calendar year under  
6 AS 43.55.165 and 43.55.170 are less than zero as a result of the producer's receiving a  
7 payment or credit under AS 43.55.170. An explorer that has taken a tax credit under  
8 AS 43.55.023(b) or that has obtained a [TRANSFERABLE] tax credit certificate  
9 under AS 43.55.023(d) for the amount of a tax credit under AS 43.55.023(b) is  
10 considered a producer, subject to the tax levied under AS 43.55.011(e), to the extent  
11 that the explorer generates a positive production tax value as the result of the  
12 explorer's receiving a payment or credit under AS 43.55.170.

13 \* **Sec. 38.** AS 43.55.160(d), as amended by sec. 37 of this Act, is amended to read:

14 (d) Irrespective of whether a producer produces taxable oil or gas during a  
15 calendar year or month, the producer is considered to have generated a positive  
16 production tax value if a calculation described in (a) of this section yields a positive  
17 number because the producer's adjusted lease expenditures for a calendar year under  
18 AS 43.55.165 and 43.55.170 are less than zero as a result of the producer's receiving a  
19 payment or credit under AS 43.55.170. [AN EXPLORER THAT HAS TAKEN A  
20 TAX CREDIT UNDER AS 43.55.023(b) OR THAT HAS OBTAINED A TAX  
21 CREDIT CERTIFICATE UNDER AS 43.55.023(d) FOR THE AMOUNT OF A TAX  
22 CREDIT UNDER AS 43.55.023(b) IS CONSIDERED A PRODUCER, SUBJECT  
23 TO THE TAX LEVIED UNDER AS 43.55.011(e), TO THE EXTENT THAT THE  
24 EXPLORER GENERATES A POSITIVE PRODUCTION TAX VALUE AS THE  
25 RESULT OF THE EXPLORER'S RECEIVING A PAYMENT OR CREDIT UNDER  
26 AS 43.55.170.]

27 \* **Sec. 39.** AS 43.55.160(e) is amended to read:

28 (e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that  
29 would otherwise be deductible by a producer in a calendar year but whose deduction  
30 would cause an annual production tax value calculated under (a)(1) or (h) of this  
31 section of taxable oil or gas produced during the calendar year to be less than zero

1 may be used to establish a carried-forward annual loss under AS 43.55.023(b) or  
2 43.55.165(a)(3). However, the department shall provide by regulation a method to  
3 ensure that, for a period for which a producer's tax liability is limited by  
4 AS 43.55.011(j), (k), (o), or (p), any adjusted lease expenditures under AS 43.55.165  
5 and 43.55.170 that would otherwise be deductible by a producer for that period but  
6 whose deduction would cause a production tax value calculated under (a)(1)(C), (D),  
7 (E), or (F), or (h)(3) of this section to be less than zero are accounted for as though the  
8 adjusted lease expenditures had first been used as deductions in calculating the  
9 production tax values of oil or gas subject to any of the limitations under  
10 AS 43.55.011(j), (k), (o), or (p) that have positive production tax values so as to  
11 reduce the tax liability calculated without regard to the limitation to the maximum  
12 amount provided for under the applicable provision of AS 43.55.011(j), (k), (o), or (p).  
13 Only the amount of those adjusted lease expenditures remaining after the accounting  
14 provided for under this subsection may be used to establish a carried-forward annual  
15 loss under AS 43.55.023(b) or 43.55.165(a)(3). For lease expenditures incurred on  
16 or after January 1, 2017, a reduction in gross value at the point of production  
17 under (f) or (g) of this section shall be added back to the calculation of  
18 production tax value for the determination of a carried-forward annual loss. In  
19 this subsection, "producer" includes "explorer."

20 \* **Sec. 40.** AS 43.55.160(e), as amended by sec. 39 of this Act, is amended to read:

21 (e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that  
22 would otherwise be deductible by a producer in a calendar year but whose deduction  
23 would cause an annual production tax value calculated under (a)(1) or (h) of this  
24 section of taxable oil or gas produced during the calendar year to be less than zero  
25 may be used to establish a carried-forward annual loss under AS 43.55.165(a)(3)  
26 [AS 43.55.023(b) OR 43.55.165(a)(3)]. However, the department shall provide by  
27 regulation a method to ensure that, for a period for which a producer's tax liability is  
28 limited by AS 43.55.011(j), (k), (o), or (p), any adjusted lease expenditures under  
29 AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer for that  
30 period but whose deduction would cause a production tax value calculated under  
31 (a)(1)(C), (D), (E), or (F), or (h)(3) of this section to be less than zero are accounted

1 for as though the adjusted lease expenditures had first been used as deductions in  
2 calculating the production tax values of oil or gas subject to any of the limitations  
3 under AS 43.55.011(j), (k), (o), or (p) that have positive production tax values so as to  
4 reduce the tax liability calculated without regard to the limitation to the maximum  
5 amount provided for under the applicable provision of AS 43.55.011(j), (k), (o), or (p).  
6 Only the amount of those adjusted lease expenditures remaining after the accounting  
7 provided for under this subsection may be used to establish a carried-forward annual  
8 loss under AS 43.55.165(a)(3) [AS 43.55.023(b) OR 43.55.165(a)(3)]. For lease  
9 expenditures incurred on or after January 1, 2017, a reduction in gross value at the  
10 point of production under (f) or (g) of this section shall be added back to the  
11 calculation of production tax value for the determination of a carried-forward annual  
12 loss. In this subsection, "producer" includes "explorer."

13 \* **Sec. 41.** AS 43.55.160(f) is amended to read:

14 (f) On and after January 1, 2014, in the calculation of an annual production tax  
15 value of a producer under (a)(1)(A) or (h)(1) of this section, the gross value at the  
16 point of production of oil or gas produced from a lease or property north of 68 degrees  
17 North latitude meeting one or more of the following criteria is reduced by 20 percent:  
18 (1) the oil or gas is produced from a lease or property that does not contain a lease that  
19 was within a unit on January 1, 2003; (2) the oil or gas is produced from a  
20 participating area established after December 31, 2011, that is within a unit formed  
21 under AS 38.05.180(p) before January 1, 2003, if the participating area does not  
22 contain a reservoir that had previously been in a participating area established before  
23 December 31, 2011; (3) the oil or gas is produced from acreage that was added to an  
24 existing participating area by the Department of Natural Resources on and after  
25 January 1, 2014, and the producer demonstrates to the department that the volume of  
26 oil or gas produced is from acreage added to an existing participating area. This  
27 subsection does not apply to gas produced before 2022 that is used in the state or to  
28 gas produced on and after January 1, 2022. **For oil or gas first produced after  
29 December 31, 2016, a reduction allowed under this subsection applies to oil or gas  
30 produced from a lease or property for the first 10 years after the commencement  
31 of regular production of oil or gas from that lease or property. For oil or gas first**

1        produced before January 1, 2017, a reduction allowed under this subsection for a  
2        lease or property expires January 1, 2026. The Alaska Oil and Gas Conservation  
3        Commission shall determine the commencement of regular production for  
4        purposes of this subsection. A reduction under this subsection may not reduce the  
5        gross value at the point of production below zero. In this subsection, "participating  
6        area" means a reservoir or portion of a reservoir producing or contributing to  
7        production as approved by the Department of Natural Resources.

8        \* **Sec. 42.** AS 43.55.160(g) is amended to read:

9                (g) On and after January 1, 2014, in addition to the reduction under (f) of this  
10              section, in the calculation of an annual production tax value of a producer under  
11              (a)(1)(A) or (h)(1) of this section, the gross value at the point of production of oil or  
12              gas produced from a lease or property north of 68 degrees North latitude that does not  
13              contain a lease that was within a unit on January 1, 2003, is reduced by 10 percent if  
14              the oil or gas is produced from a unit made up solely of leases that have a royalty  
15              share of more than 12.5 percent in amount or value of the production removed or sold  
16              from the lease as determined under AS 38.05.180(f). This subsection does not apply if  
17              the royalty obligation for one or more of the leases in the unit has been reduced to 12.5  
18              percent or less under AS 38.05.180(j) for all or part of the calendar year for which the  
19              annual production tax value is calculated. This subsection does not apply to gas  
20              produced before 2022 that is used in the state or to gas produced on and after  
21              January 1, 2022. For oil or gas first produced after December 31, 2016, a  
22              reduction allowed under this subsection applies to oil or gas produced from a  
23              lease or property for the first 10 years after the commencement of regular  
24              production of oil or gas from that lease or property. For oil or gas first produced  
25              before January 1, 2017, a reduction allowed under this subsection for a lease or  
26              property expires January 1, 2026. A reduction under this subsection may not reduce  
27              the gross value at the point of production below zero. The Alaska Oil and Gas  
28              Conservation Commission shall determine the commencement of regular  
29              production for purposes of this subsection.

30        \* **Sec. 43.** AS 43.55.160 is amended by adding a new subsection to read:

31                (i) In this section, "regular production" has the meaning given in

1 AS 31.05.170.

2 \* **Sec. 44.** AS 43.55.165(a) is amended to read:

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

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

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

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

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

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

20 (iii) the costs must be direct costs of exploring for,  
21 developing, or producing, as applicable, oil or gas deposits; [AND]

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

25 **(3) lease expenditures incurred in a previous year that**

26 **(A) meet the requirements of AS 43.55.160(e);**

27 **(B) have not been deducted in the determination of the**  
28 **production tax value of oil and gas under AS 43.55.160(a) in a previous**  
29 **calendar year;**

30 **(C) were not the basis of a credit under this title; and**

31 **(D) were incurred to explore for, develop, or produce oil or**

1                    **gas deposits located north of 68 degrees North latitude.**

2       \* **Sec. 45.** AS 43.55.165(f) is amended to read:

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

7       \* **Sec. 46.** AS 43.55.170(c) is amended to read:

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

12       \* **Sec. 47.** AS 43.55.180(a) is amended to read:

13                    (a) The department shall study

14                                (1) the effects of the provisions of this chapter on oil and gas  
15                                exploration, development, and production in the state, on investment expenditures for  
16                                oil and gas exploration, development, and production in the state, on the entry of new  
17                                producers into the oil and gas industry in the state, on state revenue, and on tax  
18                                administration and compliance, giving particular attention to the tax rates provided  
19                                under AS 43.55.011, the tax credits provided under **AS 43.55.024, 43.55.025, and**  
20                                **former AS 43.55.023** [AS 43.55.023 - 43.55.025], and the deductions for and  
21                                adjustments to lease expenditures provided under AS 43.55.160 - 43.55.170; and

22                                (2) the effects of the tax rates under AS 43.55.011(i) on state revenue  
23                                and on oil and gas exploration, development, and production on private land, and the  
24                                fairness of those tax rates for private landowners.

25       \* **Sec. 48.** AS 43.55.895(b) is amended to read:

26                    (b) A municipal entity subject to taxation because of this section

27                                (1) is eligible for [ALL] tax credits **proportionate to its production**  
28                                **taxable under AS 43.55.011(e); and**

29                                (2) **shall allocate its lease expenditures in proportion to its**  
30                                **production taxable under AS 43.55.011(e)** [UNDER THIS CHAPTER TO THE  
31                                SAME EXTENT AS ANY OTHER PRODUCER].

1 \* **Sec. 49.** AS 43.70 is amended by adding new sections to read:

2 **Sec. 43.70.025. Bond or cash deposit required for an oil or gas business.** (a)

3 At the time of applying for a license under this chapter, an applicant engaged in the  
4 business of oil or gas exploration, development, or production shall file a surety bond  
5 in the amount of \$250,000 running to the state, conditioned upon the applicant's  
6 promise to pay all

7 (1) taxes and contributions due the state and political subdivisions; and

8 (2) persons furnishing labor or material or renting or supplying  
9 equipment to the applicant.

10 (b) In lieu of the surety bond required under this section, the applicant may  
11 file with the commissioner a cash deposit or other negotiable security acceptable to the  
12 commissioner in the amount of \$250,000.

13 (c) The bond required by this section remains in effect until cancelled by  
14 action of the surety, the principal, or if the commissioner finds that the business is  
15 producing oil or gas in commercial quantities, by the commissioner.

16 **Sec. 43.70.028. Claims against an oil or gas business.** (a) A person having a  
17 claim against a person required to file a surety bond under AS 43.70.025 because of  
18 the failure to pay a liability described in AS 43.70.025(a) may bring suit upon the  
19 bond. A copy of the complaint shall be served by registered or certified mail on the  
20 commissioner at the time suit is filed, and the commissioner shall maintain a record,  
21 available for public inspection, of all suits commenced. This service on the  
22 commissioner shall constitute service on the surety, and the commissioner shall  
23 transmit the complaint or a copy of it to the surety within 72 hours after it is received.  
24 The surety on the bond is not liable in an aggregate amount in excess of that named in  
25 the bond, but if claims pending at any one time exceed the amount of the bond, the  
26 claims shall be satisfied from the bond in the following order:

27 (1) material, equipment, and supplies delivered in the state;

28 (2) labor, including employee benefits;

29 (3) taxes and other amounts due to the city and borough, in that order;

30 (4) repair of public facilities;

31 (5) taxes and other amounts due to the state.

1 (b) If a judgment is entered against a cash deposit, the commissioner, upon  
2 receipt of a certified copy of a final judgment, shall pay the judgment from the amount  
3 of the deposit in accordance with the priorities set out in (a) of this section.

4 (c) An action described in (a) of this section may not be commenced on the  
5 bond more than three years after the bond's cancellation.

6 \* **Sec. 50.** AS 38.05.180(i); AS 41.09.010, 41.09.020, 41.09.030, 41.09.090;  
7 AS 43.20.053(j)(4); AS 43.55.023(l), 43.55.023(n), 43.55.025(a)(5), 43.55.025(a)(7),  
8 43.55.025(l), 43.55.025(n), 43.55.165(j), and 43.55.165(k) are repealed January 1, 2017.

9 \* **Sec. 51.** AS 43.55.023(a), 43.55.023(o), 43.55.028(i), 43.55.075(d)(1), 43.55.165(e)(18),  
10 and 43.55.890(6) are repealed January 1, 2019.

11 \* **Sec. 52.** AS 43.55.023, 43.55.165(f), and 43.55.170(c) are repealed January 1, 2020.

12 \* **Sec. 53.** The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 **LEGISLATIVE WORKING GROUP.** (a) A legislative working group is established  
15 to analyze the Cook Inlet fiscal regime for oil and gas, review the state's tax structure and  
16 rates on oil and gas produced south of 68 degrees North latitude, recommend changes to the  
17 legislature for consideration during the First Regular Session of the Thirtieth Alaska State  
18 Legislature, and develop terms for a comprehensive fiscal regime to take effect January 1,  
19 2019, including,

20 (1) a tax structure that accounts for the unique circumstances for each oil and  
21 gas producing area south of 68 degrees North latitude;

22 (2) incentives other than direct monetary support from the state for the  
23 exploration, development, and production of oil and gas south of 68 degrees North latitude;

24 (3) consideration of the competitiveness of the area south of 68 degrees North  
25 latitude to attract new oil and gas development;

26 (4) consideration of the unique market considerations of the Cook Inlet  
27 sedimentary basin and the need to support energy supply security for communities in  
28 Southcentral Alaska;

29 (5) alternative means of state support for the exploration, development, and  
30 production of oil and gas in the Cook Inlet sedimentary basin, including loan guarantees or  
31 other financial support through the Alaska Industrial Development and Export Authority, or

1 other state corporation or entity.

2 (b) The working group consists of

3 (1) two co-chairs, one of whom is a member of the house appointed by the  
4 speaker of the house of representatives, and one of whom is a member of the senate appointed  
5 by the president of the senate; and

6 (2) members appointed by the co-chairs; members must be legislators and  
7 must include members of the majority and minority caucuses.

8 (c) The co-chairs of the working group may form an advisory group to the working  
9 group, composed of members who are not legislators and who have expertise and skills to  
10 assist in the review and development of a new plan for the tax structure and rates on oil and  
11 gas produced south of 68 degrees North latitude. The members of an advisory group may  
12 include commissioners or employees of state departments, members of the oil and gas  
13 industry or trade associations, and economists.

14 (d) The working group may be supported by legislative consultants under contract  
15 through the Legislative Budget and Audit Committee.

16 \* **Sec. 54.** The uncodified law of the State of Alaska is amended by adding a new section to  
17 read:

18 **APPLICABILITY.** (a) Sections 27 and 30 of this Act, and regulations related to a tax  
19 credit certificate purchase preference for applicants with a workforce of resident workers,  
20 adopted under AS 43.55.028(g), as amended by sec. 29 of this Act, apply to a purchase  
21 applied for on or after the effective dates of secs. 27, 29, and 30 of this Act.

22 (b) AS 43.55.023(a)(2), as amended by sec. 15 of this Act, applies to a qualified  
23 capital expenditure incurred in the Cook Inlet sedimentary basin after December 31, 2016.

24 (c) AS 43.55.023(b)(1) and (2), added by sec. 16 of this Act, apply to a carried-  
25 forward annual loss for expenditures incurred in the Cook Inlet sedimentary basin or north of  
26 68 degrees North latitude after December 31, 2016.

27 (d) AS 43.55.165(a), as amended by sec. 44 of this Act, applies to lease expenditures  
28 calculated for a calendar year after December 31, 2016.

29 \* **Sec. 55.** The uncodified law of the State of Alaska is amended by adding a new section to  
30 read:

31 **TRANSITION: WELL LEASE EXPENDITURES.** (a) Notwithstanding the repeal of

1 AS 43.55.023(l) and (n) by sec. 50 of this Act, and the amendment of AS 43.55.029(a) by sec.  
2 31 of this Act, a taxpayer who incurs a well lease expenditure before the repeal of  
3 AS 43.55.023(l) and (n) by sec. 50 of this Act that qualifies for a well lease expenditure credit  
4 under AS 43.55.023(l) may apply for a credit or transferable tax credit certificate under  
5 AS 43.55.023 and assign the tax credit under AS 43.55.029, as those sections read on the day  
6 before the repeal of AS 43.55.023(l) and (n) by sec. 50 of this Act.

7 (b) The Department of Revenue may continue to apply and enforce AS 43.55.023(l),  
8 as that section read on the day before the repeal of AS 43.55.023(l) by sec. 50 of this Act, for  
9 well lease expenditures incurred before the repeal of AS 43.55.023(l) by sec. 50 of this Act.

10 \* **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 **TRANSITION: AS 43.55.023 CREDIT CERTIFICATES.** Notwithstanding  
13 AS 43.55.023(d), as amended by sec. 17 of this Act, and as otherwise provided by law, a  
14 taxpayer who incurs a qualified capital expenditure eligible for a credit under AS 43.55.023(a)  
15 or a carried-forward annual loss eligible for a credit under AS 43.55.023(b) before the  
16 effective date of sec. 17 of this Act may apply for a transferable tax credit certificate under  
17 AS 43.55.023(d), as that section read on the day before the effective date of sec. 17 of this  
18 Act. Transferable tax credit certificates issued under AS 43.55.023(d) for expenditures  
19 incurred before the effective date of sec. 17 of this Act remain transferable.

20 \* **Sec. 57.** The uncodified law of the State of Alaska is amended by adding a new section to  
21 read:

22 **TRANSITION: QUALIFIED CAPITAL EXPENDITURES.** (a) Notwithstanding the  
23 repeal of AS 43.55.023(a) and (o) by sec. 51 of this Act, and the amendments to  
24 AS 43.55.029(a), 43.55.030(a) and (e), 43.55.075(b), 43.55.165(f), and 43.55.170(c) by secs.  
25 32, 34 - 36, 45, and 46 of this Act, a taxpayer who incurs a qualified capital expenditure  
26 before the repeal of AS 43.55.023(a) and (o) by sec. 51 of this Act that qualifies for a  
27 qualified capital expenditure credit under AS 43.55.023(a) may apply for a credit or tax credit  
28 certificate under AS 43.55.023(d) and, as applicable, assign the tax credit under  
29 AS 43.55.029, as those sections read on the day before the repeal of AS 43.55.023(a) by sec.  
30 51 of this Act.

31 (b) The Department of Revenue may continue to apply and enforce AS 43.55.023(a)

1 and (o) and 43.55.029, as those sections read on the day before the repeal of AS 43.55.023(a)  
2 by sec. 51 of this Act, for qualified capital expenditures incurred before the repeal of  
3 AS 43.55.023(a) by sec. 51 of this Act.

4 \* **Sec. 58.** The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 TRANSITION: CARRIED-FORWARD ANNUAL LOSS. (a) Notwithstanding the  
7 repeal of AS 43.55.023(b), 43.55.165(f), and 43.55.170(c) by sec. 52 of this Act, and the  
8 amendments of AS 43.55.029(a) by sec. 33 of this Act, AS 43.55.160(d) by sec. 38 of this  
9 Act, and AS 43.55.160(e) by sec. 40 of this Act, a taxpayer who incurs a carried-forward  
10 annual loss before the repeal of AS 43.55.023(b) by sec. 52 of this Act that qualifies for a  
11 carried-forward annual loss credit under AS 43.55.023(b) may apply for a credit or tax credit  
12 certificate under AS 43.55.023(d) and assign the tax credit under AS 43.55.029, subject to the  
13 requirements of AS 43.55.160(d) and (e), as those sections read on the day before the repeal  
14 of AS 43.55.023(b) by sec. 52 of this Act.

15 (b) The Department of Revenue may continue to apply and enforce AS 43.55.023(b),  
16 as that section read on the day before the repeal of AS 43.55.023(b) by sec. 52 of this Act, for  
17 a carried-forward annual loss incurred before the repeal of AS 43.55.023(b) by sec. 52 of this  
18 Act.

19 \* **Sec. 59.** The uncodified law of the State of Alaska is amended by adding a new section to  
20 read:

21 TRANSITION: AS 43.55.023 CREDITS. Notwithstanding the repeal of  
22 AS 43.55.023, 43.55.165(f), and 43.55.170(c) by sec. 52 of this Act, and the amendments to  
23 AS 43.55.025(m), 43.55.028(a) and (e), 43.55.029(a), 43.55.160(d), and 43.55.180(a) by secs.  
24 23, 26, 28, 33, 38, and 47 of this Act, the Department of Revenue may continue to apply and  
25 enforce AS 43.55.023, as that section read on the day before the repeal of AS 43.55.023 by  
26 sec. 52 of this Act, for a credit earned before the repeal of AS 43.55.023 by sec. 52 of this  
27 Act.

28 \* **Sec. 60.** The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 TRANSITION: LEASE EXPENDITURES FOR A CALENDAR YEAR AFTER  
31 2006 AND BEFORE 2010. Notwithstanding AS 43.55.165(a), as amended by sec. 44 of this

1 Act, and the repeal of AS 43.55.165(j) and (k) by sec. 50 of this Act, AS 43.55.165(j) and (k)  
2 apply to a producer's total lease expenditures for a calendar year after 2006 and before 2010  
3 under AS 43.55.165, as that section read on the day before the repeal of AS 43.55.165(j) and  
4 (k) by sec. 50 of this Act.

5 \* **Sec. 61.** The uncodified law of the State of Alaska is amended by adding a new section to  
6 read:

7 TRANSITION: EXPLORATION EXPENDITURES AND SEISMIC  
8 EXPLORATION EXPENDITURES. (a) Notwithstanding the repeal of AS 43.55.025(a)(5),  
9 (a)(7), (l), and (n) by sec. 50 of this Act, a taxpayer who incurs an exploration expenditure or  
10 seismic exploration expenditure before the repeal of AS 43.55.025(a)(5), (a)(7), (l), and (n) by  
11 sec. 50 of this Act that qualifies for an exploration or seismic exploration expenditure credit  
12 under AS 43.55.025(a)(5) or (a)(7) may apply for a credit or production tax credit certificate  
13 under AS 43.55.025 and assign the tax credit under AS 43.55.029, as those sections read on  
14 the day before the repeal of AS 43.55.025(a)(5), (a)(7), (l), and (n) by sec. 50 of this Act.

15 (b) The Department of Revenue may continue to apply and enforce  
16 AS 43.55.025(a)(5), (a)(7), (l), and (n), as those sections read on the day before the repeal of  
17 AS 43.55.025(a)(5), (a)(7), (l), and (n) by of sec. 50 of this Act, for exploration expenditures  
18 and seismic exploration expenditures incurred before the repeal of AS 43.55.025(a)(5), (a)(7),  
19 (l), and (n) by sec. 50 of this Act.

20 \* **Sec. 62.** The uncodified law of the State of Alaska is amended by adding a new section to  
21 read:

22 TRANSITION: REGULATIONS. The Department of Revenue and the Department of  
23 Natural Resources may adopt regulations necessary to implement the changes made by this  
24 Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not  
25 before the effective date of the law implemented by the regulation. The Department of  
26 Revenue shall adopt regulations governing the use of tax credits under AS 43.55 for a  
27 calendar year for which the applicable tax credit provisions of AS 43.55 differ as between  
28 parts of the year as a result of this Act.

29 \* **Sec. 63.** The uncodified law of the State of Alaska is amended by adding a new section to  
30 read:

31 TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any

1 contrary provision of AS 44.62.240,

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

6 (2) if the Department of Natural Resources expressly designates in the  
7 regulation that the regulation applies retroactively, a regulation adopted by the Department of  
8 Natural Resources to implement, interpret, make specific, or otherwise carry out the statutory  
9 amendments in this Act affecting the administration of oil and gas leases issued under  
10 AS 38.05.180(f)(3)(B), (D), or (E), to the extent the regulation relates to the treatment of oil  
11 and gas production taxes in determining net profits under those leases, may apply  
12 retroactively to the effective date of the law implemented by the regulation.

13 \* **Sec. 64.** Sections 22, 53, and 62 of this Act take effect immediately under  
14 AS 01.10.070(c).

15 \* **Sec. 65.** Sections 32, 34 - 36, 45, 46, and 57 of this Act take effect January 1, 2019.

16 \* **Sec. 66.** Sections 23, 26, 28, 33, 38, 40, 47, 58, and 59 of this Act take effect January 1,  
17 2020.

18 \* **Sec. 67.** Except as provided in secs. 64 - 66 of this Act, this Act takes effect January 1,  
19 2017.



# ALASKA STATE LEGISLATURE HOUSE RULES COMMITTEE

**REPRESENTATIVE CRAIG JOHNSON, CHAIRMAN**  
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## Summary of \Q version

The Q version work draft closes out the state's tax credit program, except for the Middle Earth 30-40% exploration credit that sunsets in 2022, phasing out credits between Jan. 1, 2017, and Jan. 1, 2020.

In phasing out the Net Operating Loss carry-forward on the North Slope, the bill implements a system of carrying forward lease expenditures that a business is unable to deduct in the current year. This approach is consistent with Federal tax treatment of business losses.

## Statewide:

- No more than \$85 million per company in credits cashed back, per year.
- Refunds are prioritized to companies with at least 80% Alaska hire.
- Disclosure of some information to the public: the Department of Revenue will make public, annually, the name of a company receiving refunds for credits, as well as the total dollars refunded to the company for the year.
- Outstanding liability – providing a liability is not contested, DOR can apply a withheld credit against a liability without the taxpayer's consent.
- Includes requirement for a \$250,000 surety bond and provisions for prioritizing claims.
- Municipal producers must allocate lease expenditure to taxable production, so credits are not received/earned for nontaxable production.
- Maintaining assignability of credit certificates, even without transferability: While tax certificates for work done in 2017 and forward will no longer be transferrable to entities for application against production tax liability, they can be assigned to other parties for cash.
- The income tax credits for the instate refinery and LNG storage facilities remain in statute, but as those are not oil and gas production tax-related credits, they are no longer refundable from the Oil and Gas Tax Credit Fund. They are refundable by the Department of Revenue generally.
- Interest rates increase from 3 points above the federal discount rate in current statute, simple interest, to five points above, compounding quarterly. The switch to simple interest after the first four years of a delinquency is removed.

## Specific to the Cook Inlet and Middle Earth:

- For 2016, all credits currently in statute continue: 20% QCE, 40% WLE, 25% NOL

- In order to receive any Cook Inlet credits from 2017 on, a company must have oil or gas production in Cook Inlet by the end of 2016.
- For 2017, the 40% WLE is repealed. Companies are eligible for a 30% capital credit, and for a 25% NOL credit; the 25% NOL credit terminates at the end of 2017.
- For 2018, companies are eligible for a 20% capital credit only; this credit terminates at the end of 2018.
- Legislative working group with tighter language, being explicit that the new regime to be developed would take place with the expiration of credits, in Jan. 1, 2019.
- There is an additional benefit for Middle Earth; this is the extension of the 025(a)(6) credit for a well spudded, but not completed, by July 2016.
- And, for Middle Earth, this bill does not change the 2022 sunset of the Middle Earth exploration credit.

#### **Specific to the North Slope:**

- The 35% NOL credit sunsets at the end of 2016 for companies producing more than 20,000 barrels per day and companies with no production. Companies producing oil or gas on the North Slope by the end of 2016, up to 20,000 barrels per day, continue to receive the 35% refundable NOL through 2019.
- Except for those smallest producers, the NOL no longer applies. Instead, companies in pre-production development or with more than 20,000 barrels per day production will be able to carry forward lease expenditures they were unable to deduct in the current year. Changing the NOL from a credit to carry-forward lease expenditure deductions hardens the 4% gross minimum floor; unlike credits, deductions cannot reduce production tax value before the gross minimum tax.
- The GVR reduction for new oil goes from a timeless benefit under current statute, to a 10-year benefit once regular production starts. The new oil per-barrel-credit also applies only while the new oil is receiving the GVR reduction. Once new oil 'graduates' into normal oil after 10 years, and no longer receives the new-oil benefits, it is taxed as any other normal oil and is eligible for the sliding scale per-barrel reduction, like all normal oil.
- Previous bill versions have all included a provision to prevent the use of the GVR from increasing the amount of a loss. This bill retains that provision, but moves the language from the NOL credit section.



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## 2d CS for House Bill 247 ( ) Version \Q

- Section 1 Adds a new subsection to AS 31.05.030, Alaska Oil and Gas Conservation Act. Requires the Alaska Oil and Gas Conservation Commission to determine the start of regular production of new oil. Effective Jan. 1, 2017.
- Secs. 2-6 Amend AS 38.05.036 (a), (b), (c), (f) and (g), Alaska Land Act, Audit of royalty and net profit payments and costs. Conforming to the Section 50 repeal of AS 41.09, an old Department of Natural Resources exploration credit program. Effective Jan. 1, 2017.
- Section 7 Amends AS 40.25.100(a), Public Record Disclosures, Disposition of tax information. Conforming to Section 9, which requires the Department of Revenue to make public some taxpayer information. Effective Jan. 1, 2017.
- Section 8 Amends AS 43.05.225, Administration of Revenue Laws, Interest. The interest rate on delinquent taxes is five points above the 12<sup>th</sup> Federal Reserve District rate, compounded quarterly. Effective Jan. 1, 2017.
- Section 9 Adds a new subsection to AS 43.05.230, Administration of Revenue Laws, Disclosure of tax returns and reports. Requires the Department of Revenue to make public by April 30 of each year, the name of a company from whom the department purchases a tax credit certificate and the total amount of tax credit certificates purchased from each company. Effective Jan. 1, 2017.
- Section 10 Amends AS 43.20.046(e), Alaska Net Income Tax Act, Gas storage facility tax credit. The Department of Revenue will no longer use the Oil and Gas Tax Credit Fund to refund gas storage facility credits. The credits remain refundable by DOR. Also, definition of "unpaid delinquent taxes" is removed, as a new definition applicable to AS 43.20, Alaska Net Income Tax Act, is added in Section 13. Effective Jan. 1, 2017.
- Section 11 Amends AS 43.20.047(e), Alaska Net Income Tax Act, Liquefied natural gas storage facility tax credit. The Department of Revenue will no longer use the Oil and Gas Tax Credit Fund to refund LNG storage facility credits. The credits remain refundable by DOR. Also, definition of "unpaid delinquent taxes" is removed, as a new definition applicable to AS 43.20, Alaska Net Income Tax Act, is added in Section 13. Effective Jan. 1, 2017.

- Section 12 Amends AS 43.20.053(e), Alaska Net Income Tax Act, Qualified in-state oil refinery infrastructure expenditures tax credit. The Department of Revenue will no longer use the Oil and Gas Tax Credit Fund to refund instate refinery credits. The credits remain refundable by DOR. Effective Jan. 1, 2017.
- Section 13 Adds a new paragraph to AS 43.20.340, Alaska Net Income Tax Act, Definitions. Adds a definition of 'unpaid delinquent tax' to the income tax statutes, to be applied in refunding income tax credits including the gas storage facility, LNG storage facility, and instate refinery credits. Effective Jan. 1, 2017.
- Section 14 Amends AS 43.55.011(m), Oil and Gas Production Tax. Conforming to the Section 50 repeal of the DNR credit programs in AS 38.05.180(i) and AS 41.09. Effective Jan. 1, 2017.
- Section 15 Amends AS 43.55.023(a), Oil and Gas Production Tax, Tax credits for certain losses and expenditures. For work done outside of the North Slope, a qualified capital expenditure credit of 30% is available in 2017, reducing to 20% in 2018. For Cook Inlet, a company must have oil or gas production in Cook Inlet by the end of 2016 in order to be eligible for this credit. Also, conforming to the Section 50 repeal of the DNR credit programs in AS 38.05.180(i) and AS 41.09. Effective Jan. 1, 2017.
- Section 16 Amends AS 43.55.023(b), Oil and Gas Production Tax, Tax credits for certain losses and expenditures. The 35% net operating loss credit on the North Slope terminates at the end of 2016, except for companies producing oil or gas on the North Slope by the end of 2016, the 35% credit (refundable) is available through 2019, providing the company produces more than zero and less than 20,000 barrels per day in 2016. The 25% net operating loss credit in areas other than the North Slope remains at 25% in 2017, then terminates. To receive the credit in Cook Inlet, a company must have oil or gas production in Cook Inlet by the end of 2016. Effective Jan. 1, 2017.
- Section 17 Amends AS 43.55.023(d), Oil and Gas Production Tax, Tax credits for certain losses and expenditures. Allows nontransferable tax credit certificates only, for credits earned under AS 43.55.023. Effective Jan. 1, 2017.
- Section 18 Amends AS 43.55.023(g), Oil and Gas Production Tax, Tax credits for certain losses and expenditures. Conforms to the Section 17 change ending the issuance of transferrable tax certificates for AS 43.55.023 credits. Effective Jan. 1, 2017.
- Section 19 Amends AS 43.55.023(k), Oil and Gas Production Tax, Tax credits for certain losses and expenditures. Conforms to the end of transferrable tax certificates for AS 43.55.023 credits. Effective Jan. 1, 2017.

- Section 20 Amends AS 43.55.024(i), Oil and Gas Production Tax, Additional nontransferable tax credits. Companies may apply the \$5 per-barrel new oil credit only for oil receiving the 10-year gross value reduction for new oil. Effective Jan. 1, 2017.
- Section 21 Amends AS 43.55.024(j), Oil and Gas Production Tax, Additional nontransferable tax credits. Once new oil is no longer eligible for new oil benefits and is being taxed as normal oil, the oil is also eligible for the sliding-scale per-barrel credit. Effective Jan. 1, 2017.
- Section 22 Amends AS 43.55.025(m), Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration. Extends a Middle Earth credit to a company that has spudded but not completed a well by July 1, 2016. The AS 43.55.025(a)(6) credit covers 80% of eligible costs, up to \$25 million. Effective immediately.
- Section 23 Amends AS 43.55.025(m), Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration, as amended by Section 22. Conforming to the Section 51 repeal of AS 43.55.023. Effective Jan. 1, 2020.
- Section 24 Amends AS 43.55.025(o), Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration. Conforms to the Section 50 repeal of AS 43.55.025 (a)(5), (a)(7), (l), and (n). Effective Jan. 1, 2017.
- Section 25 Amends AS 43.55.028(a), Oil and Gas Production Tax, Oil and gas tax credit fund. Conforms to Section 17 related to transferrable tax credits; and, removes the authority to use the fund to pay refunds for the income tax credits related to the instate refinery, LNG storage facility, and gas storage facility. Effective Jan. 1, 2017.
- Section 26 Amends As 43.55.028(a), Oil and Gas Production Tax, Oil and gas tax credit fund, as amended by Sec. 25. Conforming to the Section 52 repeal of AS 43.55.023. Effective Jan. 1, 2020.
- Section 27 Amends AS 43.55.028(e), Oil and Gas Production Tax, Oil and gas tax credit fund. Limits the maximum state repurchase of tax credits to \$85 million per company, per year. Requires the Department of Revenue to, before purchasing credit certificates, find that the applicant is not the result of the division of a single entity into multiple entities that would reasonably have been expected to apply as a single entity. Also, conforms to Section 17 related to transferrable tax certificates. Effective Jan. 1, 2017.
- Section 28 Amends AS 43.55.028(e), Oil and Gas Production Tax, Oil and gas tax credit fund, as amended by Sec. 27. Conforms to the Section 52 repeal of AS 43.55.023. Effective Jan. 1, 2020.

- Section 29 Amends AS 43.55.028(g), Oil and Gas Production Tax, Oil and gas tax credit fund. Requires the Department of Revenue to adopt regulations granting preference to companies with at least 80% Alaska hire, in case there is not enough money in the Oil and Gas Tax Credit Fund to cover all applicants. Also, as credits for LNG storage facilities, gas storage facilities and instate refineries would no longer be refunded through the fund, makes conforming adjustments. Effective Jan. 1, 2017.
- Section 30 Adds a new subsection to AS 43.55.028, Oil and Gas Production Tax, Oil and gas tax credit fund. Ensures an outstanding liability to the state related to oil and gas activity is withheld from the amount of a tax certificate purchased by the Department of Revenue using the Oil and Gas Tax Credit Fund. The department may use the withheld amount to satisfy an outstanding liability, providing the liability is not being contested, without the taxpayer's consent. Satisfying a liability in this manner would not affect the applicant's ability to contest a liability. Effective Jan. 1, 2017.
- Section 31 Amends AS 43.55.029(a), Oil and Gas Production Tax, Assignment of tax credit certificate. Conforming to the Section 50 repeal of the well lease expenditure credit in AS 43.55.023(l); and ensuring both transferrable or nontransferable certificates can be assigned to a third party. Effective Jan. 1, 2017.
- Section 32 Amends AS 43.55.029(a), Oil and Gas Production Tax, Assignment of tax credit certificate, as amended by Sec. 31. Conforms to the Sec. 51 repeal of the qualified capital expenditure credit in AS 43.55.023(a). Effective Jan. 1, 2019.
- Section 33 Amends AS 43.55.029(a), Oil and Gas Production Tax, Assignment of tax credit certificate, as amended by Secs. 31 and 32. Conforms to the repeal of the net operating loss credit in AS 43.55.023(b). Effective Jan. 1, 2020.
- Section 34 Amends AS 43.55.030(a), Oil and Gas Production Tax, Filing of statements. Conforms to the repeal of the qualified capital expenditure credit in Section 51. Effective Jan. 1, 2019.
- Section 35 Amends AS 43.55.030(e), Oil and Gas Production Tax, Filing of statements. Conforms to the Section 51 repeal of the qualified capital expenditure credit, AS 43.55.023(a). Effective Jan. 1, 2019.
- Section 36 Amends AS 43.55.075(b), Oil and Gas Production Tax, Limitation on assessment and amended returns. Conforms to the Section 51 repeal of the qualified capital expenditure credit, AS 43.55.023(a). Effective Jan. 1, 2019.
- Section 37 Amends AS 43.55.160(d), Oil and Gas Production Tax, Determination of production tax value of oil and gas. Conforms to Sec. 17 related to transferrable credits. Effective Jan. 1, 2017.

- Section 38 Amends AS 43.55.160(d), Oil and Gas Production Tax, Determination of production tax value of oil and gas, as amended by Section 37. Conforms to the Section 52 repeal of AS 43.55.023. Effective Jan. 1, 2020.
- Section 39 Amends AS 43.55.160(e), Oil and Gas Production Tax, Determination of production tax value of oil and gas. Requires that, for the purposes of calculating a carried-forward annual loss, any reduction due to the Gross Value Reduction for new oil is added back to the tax calculation. This prevents the GVR from increasing the amount of a loss Also, conforms to the new lease expenditure provisions in Section 44. Effective Jan. 1, 2017.
- Section 40 Amends AS 43.55.160(e), Oil and Gas Production Tax, Determination of production tax value of oil and gas, as amended by Sec. 39. Conforming to Section 52 repeal of AS 43.55.023. Effective Jan. 1, 2020.
- Secs. 41-42 Amends AS 43.55.160(f), Oil and Gas Production Tax, Determination of production tax value of oil and gas. For the gross value reduction for new oil, reduces the period in which the reduction applies from a lifetime benefit in current statute, to a 10-year benefit, beginning once regular production starts from a lease or property. The Alaska Oil and Gas Conservation Commission will determine when regular production begins. For new oil already receiving the gross value reduction, the benefit terminates Jan. 1, 2026. Effective Jan. 1, 2017.
- Section 43 Adds a new subsection to AS 43.55.160, Oil and Gas Production Tax, Determination of production tax value of oil and gas. Applies the AS 31.05.170 definition of 'regular production'. Effective Jan. 1, 2017.
- Section 44 Amends AS 43.55.165(a), Oil and Gas Production Tax, Lease expenditures. For the North Slope, lease expenditures include lease expenditures incurred in a prior year that have not been previously deducted in determining oil and gas taxes and were not the basis of a credit. This section allows lease expenditures to carry over from a prior year. Also, conforming to the Section 50 repeal of AS 43.55.165(j) and (k). Effective Jan. 1, 2017.
- Section 45 Amends AS 43.55.165(f), Oil and Gas Production Tax, Lease expenditures. Conforming to the Section 51 repeal of the qualified capital expenditure credit, 43.55.023(a). Effective Jan. 1, 2019.
- Section 46 Amends AS 43.55.170(c), Oil and Gas Production Tax, Adjustments to lease expenditures. Conforming to the Section 51 repeal of the qualified capital expenditure credit, AS 43.55.023(a). Effective Jan. 1, 2019.
- Section 47 Amends AS 43.55.180(a), Oil and Gas Production Tax, Required report. Conforms to the Section 52 repeal of 43.55.023. Effective Jan. 1, 2020.

- Section 48 Amends AS 43.55.895(b), Oil and Gas Production Tax, Applicability to municipal entities. Requires allocation of lease expenditures and tax credits between taxable and exempt production for a municipal entity. Effective Jan. 1, 2017.
- Section 49 Adds new sections to AS 43.70, Alaska Business License Act. Requires a \$250,000 surety bond for oil and gas businesses, allowing the Department of Revenue commissioner to cancel the requirement once a business is producing oil or gas in commercial quantities. Provides a framework for people with claims against a business required to post the surety bond; prioritizes satisfaction of types of claims. Effective Jan. 1, 2017.
- Section 50 On Jan. 1, 2017, repeals multiple sections of statute, including the old DNR exploration credit programs; the well lease expenditure credit; and pre-2010 tax statutes. (See attached 'Summary of Repeals')
- Section 51 On Jan. 1, 2019, repeals the qualified capital expenditure credit. (See attached "Summary of Repeals")
- Section 52 On Jan. 1, 2020, repeals all credits remaining in 43.55.023. (See attached "Summary of Repeals")
- Section 53 Adds a new section to uncodified law creating a Legislative Working Group to develop a comprehensive tax regime for oil and gas in Cook Inlet and Middle Earth, to take effect Jan. 1, 2019, once the current credits are phased out. The working group's proposal is to be presented to the Legislature in the 2017 regular session, and should include evaluation of incentives other than direct monetary support, including loan guarantees. Effective immediately.
- Section 54 Applicability language.
- Section 55 Transition language related to the Jan. 1, 2017, repeal of the well lease expenditure credits, AS 43.55.023(l) and (n). Effective Jan. 1, 2017.
- Section 56 Transition language related to credit certificates. Effective Jan. 1, 2017.
- Section 57 Transition language related to the repeal of the qualified capital expenditure credit. Effective Jan. 1, 2019.
- Section 58 Transition language related to the repeal of the carry-forward annual loss credit. Effective Jan. 1, 2020.
- Section 59 Transition language related to credits. Effective Jan. 1, 2020.
- Section 60 Transition language related to lease expenditures and the repeal of AS 43.55.165(j) and (k). Effective Jan. 1, 2017.

- Section 61 Transition language related to exploration and seismic expenditures. Effective Jan. 1, 2017.
- Section 62 Transition language authorizing the Department of Revenue and Department of Natural Resources to adopt regulations for this act. Effective immediately.
- Section 63 Transition language authorizing the Department of Revenue and Department of Natural Resources to adopt retroactive regulations for this act.
- Section 64 Immediate effective date for sections 22 (extension of Middle Earth credit for a well spudded but not completed), 53 (Legislative Working Group) and 62 (authority to adopt regulations).
- Section 65 Jan. 1, 2019, effective date for sections 32, 34-36, 45, 46 and 57.
- Section 66 Jan. 1, 2020, effective date for sections 23, 26, 28, 33, 38, 40, 47, 58 and 59.
- Section 67 Jan. 1, 2017, effective date for all other sections.

**Provisions in HB 247 and their Estimated Fiscal Impact as compared to Spring 2016 Forecast (\$millions) - FORECAST PRICE<sup>1</sup>**

Note: this table attempts to value the impact of each of the items independently, except where noted. In some cases, the total value of several impacts will not equal the sum of the individual impact values.

Brief Description of Provision - Includes only provisions anticipated to have a direct fiscal impact	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
1. Minimum tax cannot be reduced by net operating loss credit, small producer credit, per-taxable-barrel credits applicable to GVR-eligible production, or alternative credit for exploration.	\$120-\$140	\$175-\$200	\$175-\$200	\$150-\$175	\$175-\$200	\$125-\$150
2. Minimum tax change from multiple percentages to a flat 5% of GVPP (assuming #1 above)	\$40-\$50	\$40-\$50	\$50-\$60	\$70-\$90	\$30-\$40	\$30-\$40
3. Qualified capital expenditure credits and well lease expenditure credits are repealed	\$10-\$15	\$10-\$15	\$10-\$15	\$10-\$15	\$10-\$15	\$30-\$40
4. No true-up of sliding scale per-taxable-barrel credits on annual return	No impact at forecast price - could benefit State under volatile prices					
5. The GVR cannot be used to create or increase a net operating loss	\$0	\$0	\$0	\$0	\$0	\$5-\$15
6. Credits expire 10 years after they are earned	\$0	\$0	\$0	\$0	\$0	\$0
7. A tax exempt entity may earn credits applicable to only those lease expenditures subject to tax	Indeterminate					
8. The gross value at the point of production cannot be less than zero	\$0	\$0	\$0	\$0	\$0	\$0
9. The interest rate on delinquent taxes is changed to 7% above the Fed Res Discount rate, compounded quarterly	Indeterminate					
<b>Total Revenue Impact</b>	<b>\$170 to \$205</b>	<b>\$225 to \$265</b>	<b>\$235 to \$275</b>	<b>\$230 to \$280</b>	<b>\$215 to \$255</b>	<b>\$190 to \$245</b>
A. The GVR cannot be used to create or increase a net operating loss (provision 5 above)	\$0	\$10-\$20	\$20-\$30	\$15-\$25	\$0-\$10	\$0-\$10
B. Budget impact of repeal of qualified capital and well lease expenditure credits (provision 3 above)	\$30-\$40	\$50-\$75	\$40-\$50	\$30-\$40	\$75-\$100	\$75-\$100
C. Budget impact of limiting refunds to \$25 million per company per year. This provision applies only for credits earned from activity after 7/1/16.	\$10-\$20	\$50-\$75	\$75-100	\$10-\$20	\$10-\$20	\$20-\$40
D. Budget impact of limiting refunds by the percentage of a company's Alaska resident hire	Indeterminate					
E. Budget impact of limiting refunds to companies with no outstanding liability to the State	Indeterminate					
F. Budget impact of limiting refunds to companies with annual gross revenues of <\$10 billion <sup>2</sup>	\$20-\$40	\$40-\$60	\$40-\$60	\$40-\$60	\$20-\$40	\$20-\$40
<b>Total Budget Impact</b>	<b>\$60 to \$100</b>	<b>\$150 to \$230</b>	<b>\$175 to \$240</b>	<b>\$95 to \$145</b>	<b>\$105 to \$170</b>	<b>\$115 to \$190</b>
<b>Total Fiscal Impact - does not include revenue impacts from potential changes in investment<sup>3</sup></b>	<b>\$230 to \$305</b>	<b>\$375 to \$495</b>	<b>\$410 to \$515</b>	<b>\$325 to \$425</b>	<b>\$320 to \$425</b>	<b>\$305 to \$435</b>

Non-refundable carry-forward credits balance at fiscal year end - current law <sup>4</sup>	618	751	732	585	265	136
Non-refundable carry-forward credits balance at fiscal year end - proposed <sup>4</sup>	773	1128	1226	1223	1230	1240
<b>change due to bill</b>	<b>155</b>	<b>377</b>	<b>494</b>	<b>638</b>	<b>965</b>	<b>1104</b>

<sup>1</sup>The impacts listed are based on production and prices as forecasted in DOR's Spring 2016 revenue forecast. The forecasted oil prices are between \$38.89 and \$61.64.

<sup>2</sup>Estimates shown for this provision are incremental to the budget impact of limiting refunds to \$25 million per company per year. As a standalone provision, these estimates would be higher.

<sup>3</sup>NOTE: "Total Fiscal Impact" includes best estimates of both revenue and operating budget impacts.

<sup>4</sup>These rows include estimates of carried-forward credits for previous calendar years, plus estimates of credits that will be earned on activity through June 30 of the fiscal year.

**NOTE: The fiscal impact of this bill is an estimate based on the final Spring 2016 revenue forecast. Estimates shown here are draft / preliminary based on our interpretation of possible changes. We reserve the right to make modifications to estimates for any forthcoming fiscal notes.**

**Provisions in CSHB 247 (RLS) and their Estimated Fiscal Impact as compared to Spring 2016 Forecast (\$millions) - FORECAST PRICE<sup>1</sup>**

Note: this table attempts to value the impact of each of the items independently, except where noted. In some cases, the total value of several impacts will not equal the sum of the individual impact values.

Brief Description of Provision - Includes only provisions anticipated to have a direct fiscal impact	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
1. Cook Inlet changes: The net operating loss credit is eliminated effective 1/1/18. The QCE and well lease exp credits are replaced with a 30% transition credit effective 1/1/17, a 20% transition credit effective 1/1/18, and zero credits effective 1/1/19.	\$0	\$0-\$10	\$10-\$15	\$10-\$15	\$10-\$15	\$30-\$40
2. North Slope changes: The net operating loss credit for North Slope is eliminated effective 1/1/17; lease expenditures not used in a calendar year may be carried forward effective 1/1/17; 3-year transition period for refunds for companies with production in 2016. GVR cannot be used to create or increase a net operating loss.	\$0	\$0	\$0	\$75-\$100	\$75-\$100	\$75-\$100
3. GVR-eligible production qualifies for the GVR for a period of 10 years or until 1/1/26.	\$0	\$0	\$0	\$0	\$0	\$0
4. The interest rate on delinquent taxes is changed to 5% above the Fed Res Discount rate, compounded quarterly	Indeterminate					
5. A tax exempt entity may earn credits applicable to only those lease expenditures subject to tax	Indeterminate					
<b>Total Revenue Impact</b>	<b>\$0</b>	<b>\$0-\$10</b>	<b>\$10-\$15</b>	<b>\$85-\$115</b>	<b>\$85-\$115</b>	<b>\$105-\$140</b>
A. Budget impact of change in net operating loss credits, and QCE/WLE credits for Cook Inlet (provision 1 above)	\$0	\$0-\$10	\$20-\$30	\$40-\$50	\$100-\$125	\$100-\$125
B. Budget impact of change in net operating loss credits, lease expenditures applicability, and GVR calculation for North Slope (provision 2 above)	\$0	\$40-\$60	\$125-\$150	\$100-\$125	\$100-\$125	\$100-\$125
C. Budget impact of exploration credit extension for well spudded by 7/1/16	(\$5)-\$0	(\$5)-\$0	\$0	\$0	\$0	\$0
D. Budget impact of GVR applying to fields for a period of 10 years (provision 4 above)	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Budget Impact</b>	<b>(\$5)-\$0</b>	<b>\$35-\$70</b>	<b>\$145-\$180</b>	<b>\$140-\$175</b>	<b>\$200-\$250</b>	<b>\$200-\$250</b>
<b>Total Fiscal Impact - does not include revenue impacts from potential changes in investment<sup>2</sup></b>	<b>(\$5)-\$0</b>	<b>\$35-\$80</b>	<b>\$155-\$195</b>	<b>\$225-\$290</b>	<b>\$285-\$365</b>	<b>\$305-\$390</b>
Non-refundable carry-forward credits balance at fiscal year end - current law <sup>3</sup>	\$618	\$751	\$732	\$585	\$265	\$136
Non-refundable carry-forward credits balance at fiscal year end - proposed <sup>3</sup>	\$470	\$331	\$165	\$114	\$81	\$81
<b>Change in year-end balance due to bill</b>	<b>-\$148</b>	<b>-\$420</b>	<b>-\$567</b>	<b>-\$471</b>	<b>-\$184</b>	<b>-\$55</b>
Carry-forward lease expenditures balance at fiscal year end - current law <sup>3</sup>	\$0	\$0	\$0	\$0	\$0	\$0
Carry-forward lease expenditures balance at fiscal year end - proposed <sup>3</sup>	\$650	\$1,740	\$2,240	\$2,370	\$2,270	\$2,220
<b>Change in year-end balance due to bill</b>	<b>\$650</b>	<b>\$1,740</b>	<b>\$2,240</b>	<b>\$2,370</b>	<b>\$2,270</b>	<b>\$2,220</b>

<sup>1</sup>The impacts listed are based on production and prices as forecasted in DOR's Spring 2016 revenue forecast. The forecasted oil prices are between \$38.89 and \$61.64.<sup>2</sup>NOTE: "Total Fiscal Impact" includes best estimates of both revenue and operating budget impacts.<sup>3</sup>These rows include estimates of carried-forward credits, and carried-forward lease expenditures, for previous calendar years, plus estimates of credits that will be earned on activity through June 30 of the fiscal year.**NOTE: The fiscal impact of this bill is an estimate based on the Spring 2016 revenue forecast. Estimates shown here are draft / preliminary based on our**

<b>Assumptions for Revenue Estimates</b>	<b>Price of Oil</b>	<b>\$50</b>
	<b>Transport Cost</b>	<b>\$10</b>
	<b>Volume in BBL / Day</b>	<b>10,000</b>
	<b>Royalty Rate</b>	<b>12.50%</b>

### Applicability of State Royalty, Tax, and Credits by Geographic and Legal Ownership of Land

Revised 3/12/16 by Dan Sticklel

Land status	Revenue component				Royalty or Tax on Pvt. Royalty (revenue in \$millions)
	Production tax / credits	Royalty	Corporate Income Tax	Property Tax	
<b>Offshore beyond 6 miles - Federal OCS</b>	Do not apply	Federal royalties applies; zero shared back to state (in Alaska; other states do receive shared royalties)	Not included in apportionment factor	Does not apply	\$ -
<b>Offshore 3-6 miles - Federal OCS 8(g) area</b>	Do not apply	Federal royalties applies; 27% shared back to state with no restrictions	Not included in apportionment factor	Does not apply	\$ 4.9
<b>State lands</b>	All credits available; tax applies to all taxable production	State royalty applies	All property, production, and sales included in apportionment factor	Applies to all oil and gas property	\$ 18.3
<b>NPR-A - federal owned</b>	All credits available; tax applies to all taxable production	Federal royalty applies; 50% of royalties are shared back to state but must be used for benefit of local communities	All property, production, and sales included in apportionment factor	Applies to all oil and gas property	\$ 9.1
<b>ANWR</b>	All credits available; tax applies to all taxable production	Federal royalty applies; 90% shared back to state with no restrictions (under current law)	All property, production, and sales included in apportionment factor	Applies to all oil and gas property	\$ 16.4
<b>Other federal land</b>	All credits available; tax applies to all taxable production	Federal royalties applies; 90% shared back to state with no restrictions	All property, production, and sales included in apportionment factor	Applies to all oil and gas property	\$ 16.4
<b>Private land (including Alaska Native Corporation)</b>	All credits available; tax applies to all taxable production	Privately negotiated royalty applies; not shared with state. However state levies 5% (oil) or 1.667% (gas) gross tax on the value of private landowner royalty interest as part of production tax	All property, production, and sales included in apportionment factor	Applies to all oil and gas property	\$ 0.9

**Notes:**

Offshore submerged lands in the 0-3 miles category treated same as similar onshore land.

# Fiscal Note

State of Alaska  
2016 Legislative Session

Bill Version:	CSHB 247(FIN)
Fiscal Note Number:	5
(H) Publish Date:	4/9/2016

Identifier: HB247CS(FIN)-DNR-DOG-4-8-16  
 Title: TAX;CREDITS;INTEREST;REFUNDS;O & G  
 Sponsor: RLS BY REQUEST OF THE GOVERNOR  
 Requester: House Finance

Department: Department of Natural Resources  
 Appropriation: Oil & Gas  
 Allocation: Oil & Gas  
 OMB Component Number: 439

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
			FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>OPERATING EXPENDITURES</b>							
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2016) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2017) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
 If yes, by what date are the regulations to be adopted, amended or repealed? N/A

**Why this fiscal note differs from previous version:**

Revised in response to Committee Substitute. No numbers or analysis were changed.
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Prepared By: Corri Feige, Director  
 Division: Division of Oil & Gas  
 Approved By: Marty Rutherford, Acting Commissioner  
 Agency: Department of Natural Resources

Phone: (907)269-8775  
 Date: 04/01/2016 12:00 AM  
 Date: 04/01/16

REPORTED OUT OF  
HFC 04/09/2016

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2016 LEGISLATIVE SESSION

**Analysis**

No fiscal impact.

# Fiscal Note

State of Alaska  
2016 Legislative Session

Bill Version:	CSHB 247(FIN)
Fiscal Note Number:	6
(H) Publish Date:	4/9/2016

Identifier: HB247CS(FIN)-DOR-TAX-04-08-16  
 Title: TAX;CREDITS;INTEREST;REFUNDS;O & G  
 Sponsor: RLS BY REQUEST OF THE GOVERNOR  
 Requester: House Finance Committee

Department: Department of Revenue  
 Appropriation: Taxation and Treasury  
 Allocation: Tax Division  
 OMB Component Number: 2476

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2017 Request	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>OPERATING EXPENDITURES</b>	<b>FY 2017</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>	20,000.0		90,000.0	90,000.0	95,000.0	145,000.0	210,000.0
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**Estimated SUPPLEMENTAL (FY2016) cost:** 0.0 (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**Estimated CAPITAL (FY2017) cost:** 1,200.0 (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? yes  
 If yes, by what date are the regulations to be adopted, amended or repealed? 01/01/17

**Why this fiscal note differs from previous version:**

Revised to conform to changes in the Finance Committee Substitute. Also revised to include as a new baseline scenario the Final Spring 2016 Revenue Forecast. This document only includes the revenue raising numbers, with any program expenditure savings being captured in the companion FUNDCAP fiscal note offered by the Finance Committee.

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 Agency: Department of Revenue

Phone: (907)465-8221  
 Date: 04/08/2016 10:00 PM  
 Date: 04/08/16

REPORTED OUT OF  
HFC 04/09/2016

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## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2016 LEGISLATIVE SESSION

## Analysis

**Bill Background**

This legislation is a comprehensive attempt to reform and reduce the cost of Alaska's current program of providing direct tax credit rebates and other advantages to oil and gas companies. Various credits have been added to statute since 2003, with state repurchase beginning in 2007. Through the end of FY 2016, about \$8 billion in tax credits will be received by companies. This includes both credits used against tax liability and credits repurchased by the state; it also includes activity on both the North Slope and other areas of the state.

A substantial number of companies rely on these credits to support and subsidize their Alaska operations. For work done in 2015, in many cases the state is paying 55%-65% of the cost of a project during the development phase, and up to 85% of exploration costs. These large numbers result from "stacking" multiple credits. With the transition towards a system based mostly on operating loss credits, and the repeal or reduction of the expenditure credits that are stacked with those loss credits, the state's contribution towards many projects will be reduced roughly by half.

There are several themes, or goals, of this legislation as originally introduced. These include:

- \* Reduce the state's annual cash outlay
- \* Protect Net Operating Loss credits especially for exploration activity
- \* Limit repurchases to companies who need the support
- \* Strengthen the minimum tax and prevent abuses to the system
- \* Be more open and transparent
- \* Honor and pay credits earned to date and through any transition period.

To address the final bullet point, above, this legislation envisions a fund capitalization appropriation to cover any tax credits earned through the effective date. Savings due to reductions in future appropriations needed to repurchase tax credits will be captured in the separate fund capitalization fiscal note.

**Summary of Fiscal Impact**

With the revisions proposed in the Finance Committee substitute, we anticipate additional revenue of \$90 to \$210 million per year over the time period contained in the fiscal note, with a smaller number in FY17 due to the mid-year effective date. Of this, the majority will be due to the strengthening of the so-called minimum tax "floor," preventing certain credits from being used to reduce tax payments at low oil prices. Savings will be saved through reduced operating budget expenditures. Other revenues will come from certain production moving from the lower "new oil" regime to the higher "legacy oil" regime after five years of production. The current "tax cap" on Cook Inlet production is also repealed. A small indeterminate amount would come from the restoration of compound interest and an increase in the interest rate for assessed delinquent taxes.

**Implementation Cost**

The changes anticipated in this bill will require somewhat substantial reprogramming of the Tax Revenue Management System and Revenue Online tax portal. We have received a preliminary estimate from the software developer, which allows us to reduce our one-time cost to about \$1,200,000 to accomplish these changes. We do not anticipate any additional costs to administer the tax program.

There will also be a need for substantial amendments to existing regulations to fully implement the changes.

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## Analysis Continued

### Detail of Specific Provisions

#### 1) Repeal of certain credits and closing of loopholes

The Finance committee substitute reduces the Cook Inlet Well Lease Expenditure Credit (AS 43.55.023(l)) from 40% to 30% in 2017 and 20% in 2018. This credit, and the 20% Qualified Capital Expenditure Credit (AS 43.55.023(a)) are repealed in 2022 in anticipation of the sunset of the remaining "Cook Inlet Tax Caps" and a new tax regime for Cook Inlet. Also in 2017, the Carried Forward Annual Loss (or "New Operating Loss," AS 43.55.023(b)) credit is reduced from 25% to 10% for Cook Inlet. Higher credit levels are retained in the so-called "middle earth" areas.

The net effect of these changes will be to reduce state contribution for new Cook Inlet projects from the current 45-65% range to 25% beginning in 2018. Companies who do not have an operating loss will remain eligible to receive the Capital and Well credits. This would continue to provide cash support to potentially profitable companies who, due to existing tax caps, effectively pay no production taxes.

The bill also eliminates a loophole that enables companies who have production of "new oil" on the North Slope but also claim a net operating loss. With the changes, companies will no longer be able to use a Gross Value Reduction to increase the size of a net operating loss credit. Current law can result in situations where the credit received can be greater than 100% of a company's actual loss. It also eliminates another loophole that has been used by municipal utilities who also own oil or gas production. If a portion of that production is sold to an outside party, the proposed change ensures that these entities are only able to deduct or claim a pro-rated portion of their lease expenditures for the purpose of applying for credits.

#### 2) Deferral or loss of eligibility for credit repurchase

Currently any company with less than 50,000 bbl / day of production in Alaska is eligible to have tax credit certificates repurchased by the state without limit, subject to appropriation. This legislation adds an additional restriction to repurchase, so that no single company can receive more than \$100 million per year in state cash repurchases. Although this would not have any impact based on currently forecasted activity, it provides an element of protection from large "outlier" projects that could otherwise result in multibillion dollar state credit liability in advance of production.

#### 3) Other changes

In the CS, the "gross value reduction" for new oil only applies for the first five years of production, and is lost on 1/1/21 for fields currently receiving that reduction. The Cook Inlet tax cap on oil, which is tied to the 2005 "ELF" rate of 0%, is repealed on 1/1/17.

Additionally, the bill restores quarterly compound interest for delinquent taxes, underpayments, and tax assessments. Current statute has included simple interest since 2014, which is believed to be an inadvertent amendment made in SB21. The interest rate is increased from 3% above the federal discount rate to 5% above.

There is a small extension to a Frontier Areas exploration credit to enable wells in-process on 7/1/17 to be completed under the program before it sunsets. The committee substitute also repeals several older and currently unused exploration incentive credit programs, and authorizes the Department of Revenue to use credit certificates to offset a company's other obligations to the state prior to repurchase. It also establishes a legislative working group to review the state's tax structure for Cook Inlet and other areas outside the North Slope, to provide recommendations to the legislature for consideration in 2017.

Analysis Continued

Fiscal Detail of CSHB247(FIN)\F (Revenue and Budget Impacts)

Provisions in CSHB 247(FIN) \ F and their Estimated Fiscal Impact as compared to Spring 2016 Forecast (\$millions) - FORECAST PRICE<sup>1</sup>

Note: this table attempts to value the impact of each of the items independently, except where noted. In some cases, the total value of several impacts will not equal the sum of the individual impact values.

Brief Description of Provision - Includes only provisions anticipated to have a direct fiscal impact	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
1. The rate for net operating loss credits for Cook Inlet is changed to 10% for companies with a previous credit and zero for other companies.	\$0	\$0	\$0	\$0	\$0	\$0
2. The rate for QCE credits for Cook Inlet is changed to 10%; the rate for well lease exp credits for Cook Inlet is changed to 30% on 1/1/17 and then 20% on 1/1/18	\$0	\$0	\$0	\$0	\$0	\$10-\$20
3. The tax limitation for Cook Inlet oil is repealed effective 1/1/17.	\$0-\$10	\$0-\$10	\$0-\$10	\$5-\$15	\$10-\$20	\$15-\$25
4. For North Slope, certain tax credits cannot reduce liability below 2% of GVPP effective 1/1/17.	\$10-\$20	\$70-\$100	\$70-\$100	\$70-\$100	\$100-\$150	\$100-\$150
5. The interest rate on delinquent taxes is changed to 5% above the Fed Res Discount rate, compounded quarterly	Indeterminate					
6. The GVR cannot be used to create or increase a net operating loss	\$0	\$0	\$0	\$0	\$0	\$5-\$15
7. GVR-eligible production qualifies for the GVR for a period of 5 years or until 1/1/21.	\$0	\$0	\$0	\$0	\$0-\$10	\$30-\$50
8. A tax exempt entity may earn credits applicable to only those lease expenditures subject to tax	Indeterminate					
<b>Total Revenue Impact</b>	<b>\$10-\$30</b>	<b>\$70-\$110</b>	<b>\$70-\$110</b>	<b>\$75-\$115</b>	<b>\$110-\$180</b>	<b>\$160-\$260</b>
Budget impact of change in net operating loss credits for Cook Inlet (provision 1 above)	\$0	\$0-\$10	\$10-\$20	\$10-\$20	\$10-\$20	\$10-\$20
Budget impact of change in QCE/WLE credits for Cook Inlet (provision 2 above)	\$0	\$15-\$25	\$15-\$25	\$15-\$25	\$45-\$60	\$45-\$60
Budget impact of not allowing certain credits to reduce North Slope below 2% of GVPP (provision 4 above)	\$0	\$0	\$0	\$0	\$0-\$10	\$0-\$10
Budget impact of limiting refunds to \$100 million per company/per project per year (only shifts timing of refunds)	Confidential due to limited use - net neutral as impact shifted to later years					
The GVR cannot be used to create or increase a net operating loss (provision 6 above)	0	\$10-\$20	\$20-\$30	\$15-\$25	\$5-\$15	\$0-\$10
Budget impact of exploration credit extension for well spudded by 7/1/16	(\$5)-\$0	(\$5)-\$0	\$0	\$0	\$0	\$0
Budget impact of GVR applying to fields for a period of 5 years (provision 7 above)	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Budget Impact</b>	<b>(\$5)-\$0</b>	<b>\$20-\$55</b>	<b>\$45-\$75</b>	<b>\$40-\$70</b>	<b>\$60-\$105</b>	<b>\$55-\$100</b>
<b>Total Fiscal Impact - does not include revenue impacts from potential changes in investment<sup>2</sup></b>	<b>\$5-\$30</b>	<b>\$90-\$165</b>	<b>\$115-\$185</b>	<b>\$115-\$185</b>	<b>\$170-\$285</b>	<b>\$215-\$360</b>
Non-refundable carry-forward credits balance at fiscal year end - current law <sup>3</sup>	\$618	\$751	\$732	\$585	\$265	\$136
Non-refundable carry-forward credits balance at fiscal year end - proposed <sup>3</sup>	\$676	\$941	\$1,065	\$1,055	\$957	\$923
<b>Change in year-end balance due to bill</b>	<b>\$58</b>	<b>\$190</b>	<b>\$333</b>	<b>\$470</b>	<b>\$692</b>	<b>\$787</b>

<sup>1</sup>The impacts listed are based on production and prices as forecasted in DOR's Spring 2016 revenue forecast. The forecasted oil prices are between \$38.89 and \$61.64.

<sup>2</sup>NOTE: "Total Fiscal Impact" includes best estimates of both revenue and operating budget impacts.

**NOTE: The fiscal impact of this bill is an estimate based on the Spring 2016 revenue forecast. Estimates shown here are draft / preliminary based on our interpretation of possible changes. We reserve the right to make modifications to estimates for any forthcoming fiscal notes.**