

SENATE CS FOR CS FOR HOUSE BILL NO. 111(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/25/17

Referred: Finance

Sponsor(s): HOUSE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the oil and gas production tax and credits against the oil and gas
2 production tax; relating to certain tax credits under the tax on corporations and the
3 refund of those credits; relating to the applicability of certain credits earned under the
4 oil and gas production tax to the tax on corporations; relating to interest applicable to
5 delinquent taxes; relating to lease expenditures; and providing for an effective date."

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

7 * **Section 1.** AS 43.05.225 is amended to read:

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

9 (1) a delinquent tax **under this title**

10 (A) [UNDER THIS TITLE,] before January 1, 2014, bears
11 interest in each calendar quarter at the rate of five percentage points above the
12 annual rate charged member banks for advances by the 12th Federal Reserve
13 District as of the first day of that calendar quarter, or at the annual rate of 11

1 percent, whichever is greater, compounded quarterly as of the last day of that
2 quarter;

3 (B) [UNDER THIS TITLE,] on and after January 1, 2014, **and**
4 **before January 1, 2018** [EXCEPT AS PROVIDED IN (C) OF THIS
5 PARAGRAPH], bears interest in each calendar quarter at the rate of three
6 percentage points above the annual rate charged member banks for advances
7 by the 12th Federal Reserve District as of the first day of that calendar quarter;

8 (C) [UNDER AS 43.55,] on and after January 1, **2018** [2017,

9 (i) FOR THE FIRST THREE YEARS AFTER A TAX
10 BECOMES DELINQUENT], bears interest in each calendar quarter at
11 the rate of **three** [SEVEN] percentage points above the annual rate
12 charged member banks for advances by the 12th federal reserve district
13 as of the first day of that calendar quarter, compounded quarterly as of
14 the last day of that quarter; [AND

15 (ii) AFTER THE FIRST THREE YEARS AFTER A
16 TAX BECOMES DELINQUENT, DOES NOT BEAR INTEREST;]

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

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

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

21 * **Sec. 2.** AS 43.20.044(a) is amended to read:

22 (a) A taxpayer may apply as a credit against the tax levied under this chapter

23 **(1) the exploration incentive credit authorized by AS 27.30;**

24 **(2) the alternative tax credit for oil and gas exploration authorized**
25 **by AS 43.55.025.**

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

27 (e) Subject to **AS 43.20.057** [THE REQUIREMENTS IN AS 43.55.028(j)],
28 the department may [USE AVAILABLE MONEY IN THE OIL AND GAS TAX
29 CREDIT FUND ESTABLISHED IN AS 43.55.028 TO] make **a** [THE] refund applied
30 for under (d) of this section in whole or in part if the department finds that, after
31 application of all available tax credits, the claimant's total tax liability under this

1 chapter for the calendar year in which the claim is made is zero.

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

3 (e) Subject to AS 43.20.057 [THE REQUIREMENTS IN AS 43.55.028(j)],
 4 the department may [USE MONEY AVAILABLE IN THE OIL AND GAS TAX
 5 CREDIT FUND ESTABLISHED IN AS 43.55.028 TO] make a refund or payment
 6 under (d) of this section in whole or in part if the department finds that, after
 7 application of all available tax credits, the claimant's total tax liability under this
 8 chapter for the calendar year in which the claim is made is zero.

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

10 (e) Subject to AS 43.20.057 [THE REQUIREMENTS IN AS 43.55.028(j)],
 11 the department may [USE MONEY AVAILABLE IN THE OIL AND GAS TAX
 12 CREDIT FUND ESTABLISHED IN AS 43.55.028 TO] make a refund or payment
 13 under (d) of this section in whole or in part if the department finds that, after
 14 application of all available tax credits, the claimant's total tax liability under this
 15 chapter for the calendar year in which the claim is made is zero.

16 * **Sec. 6.** AS 43.20 is amended by adding a new section to read:

17 **Sec. 43.20.057. Credit refunds and payments.** (a) Subject to appropriation
 18 for a purpose described in this section, the department may make a refund or payment
 19 claimed under AS 43.20.046, 43.20.047, or 43.20.053.

20 (b) The department shall adopt regulations to carry out the purposes of this
 21 section, including standards and procedures to allocate available money among claims
 22 for refunds and payments under AS 43.20.046, 43.20.047, and 43.20.053 when the
 23 total amount of the applications for purchase and claims for refund exceeds the
 24 amount of available money appropriated for the purposes described in this section.
 25 The regulations adopted by the department

26 (1) may not, when allocating available money under this section,
 27 distinguish an application for a claim for a refund or payment under AS 43.20.046,
 28 43.20.047, or 43.20.053; and

29 (2) must, when allocating available money under this section, grant a
 30 preference, between two claimants, to the claimant with a higher percentage of
 31 resident workers in the claimant's workforce, including workers employed by the

1 claimant's direct contractors, in the state in the previous calendar year; in this
2 paragraph, "resident worker" has the meaning given in AS 43.40.092(b).

3 (c) If a claimant has an outstanding liability to the state directly related to the
4 claimant's oil or gas exploration, development, or production and the department has
5 not previously reduced the amount paid to that claimant for refund because of that
6 outstanding liability, the department may pay only that portion of a refund that
7 exceeds the outstanding liability. After notifying the claimant, the department may
8 apply the amount by which the department reduced payment for a refund because of
9 an outstanding liability to satisfy the outstanding liability. Satisfaction of an
10 outstanding liability under this subsection does not affect the claimant's ability to
11 contest that liability. The department may enter into contracts or agreements with
12 another department to which the outstanding liability is owed. In this subsection,
13 "outstanding liability" means an amount of tax, interest, penalty, fee, rental, royalty, or
14 other charge for which the state has issued a demand for payment that has not been
15 paid when due and, if contested, has not been finally resolved against the state.

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

17 (c) A credit or portion of a credit under this section

18 **(1)** may not be used to reduce a person's tax liability under
19 AS 43.55.011(e) for any calendar year below zero;

20 **(2) may, if** [, AND ANY UNUSED CREDIT OR PORTION OF A
21 CREDIT] not used under this subsection, [MAY] be applied in a later calendar year;

22 **(3) may, regardless of when the credit was earned, be used to**
23 **satisfy an outstanding tax, interest, penalty, fee, or other charge related to the tax**
24 **due under this chapter, including an amount assessed as a result of an amended**
25 **return under AS 43.55.075(b), that has not been subject to an administrative**
26 **proceeding or litigation.**

27 * **Sec. 8.** AS 43.55.023(d) is amended to read:

28 (d) A person that is entitled to take a tax credit under this section that wishes
29 to transfer the unused credit to another person [OR OBTAIN A CASH PAYMENT
30 UNDER AS 43.55.028] may apply to the department for a transferable tax credit
31 certificate. An application under this subsection must be in a form prescribed by the

1 department and must include supporting information and documentation that the
 2 department reasonably requires. The department shall grant or deny an application, or
 3 grant an application as to a lesser amount than that claimed and deny it as to the
 4 excess, not later than 120 days after the latest of (1) March 31 of the year following
 5 the calendar year in which the qualified capital expenditure or carried-forward annual
 6 loss for which the credit is claimed was incurred; (2) the date the statement required
 7 under AS 43.55.030(a) or (e) was filed for the calendar year in which the qualified
 8 capital expenditure or carried-forward annual loss for which the credit is claimed was
 9 incurred; or (3) the date the application was received by the department. If, based on
 10 the information then available to it, the department is reasonably satisfied that the
 11 applicant is entitled to a credit, the department shall issue the applicant a transferable
 12 tax credit certificate for the amount of the credit. A certificate issued under this
 13 subsection does not expire.

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

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

21 **(1)** [ONLY] against a tax levied by AS 43.55.011(e); **however** [.
 22 HOWEVER], a credit shown on a transferable tax credit certificate may not be applied
 23 **under this paragraph** to reduce a transferee's total tax liability under
 24 AS 43.55.011(e) for oil and gas produced during a calendar year to less than 80
 25 percent of the tax that would otherwise be due without applying that credit; **any** [.
 26 ANY] portion of a credit not used under this **paragraph** [SUBSECTION] may be
 27 applied in a later period; **or**

28 **(2) regardless of when the credit was earned, to satisfy an**
 29 **outstanding tax, interest, penalty, fee, or other charge related to the tax due**
 30 **under this chapter, including an amount assessed as a result of an amended**
 31 **return under AS 43.55.075(b), that has not been subject to an administrative**

1 **proceeding or litigation.**

2 * **Sec. 10.** AS 43.55.024 is amended by adding a new subsection to read:

3 (k) In a calendar year for which a tax credit under (j) of this section is used to
4 reduce a producer's tax liability below the amount due under AS 43.55.011(e), a tax
5 credit under (c) or (i) of this section may be used to reduce the producer's tax liability
6 for that year below the amount calculated under AS 43.55.011(f), but not below zero.
7 The department may not restrict the order in which the credits under (c), (i), and (j) of
8 this section are applied when calculating tax liability under this chapter.

9 * **Sec. 11.** AS 43.55.025(a) is amended to read:

10 (a) Subject to the terms and conditions of this section, a credit against the
11 [PRODUCTION] tax levied by AS 43.55.011(e) **or AS 43.20** is allowed for
12 exploration expenditures that qualify under (b) of this section in an amount equal to
13 one of the following:

14 (1) 30 percent of the total exploration expenditures that qualify only
15 under (b) and (c) of this section;

16 (2) 30 percent of the total exploration expenditures that qualify only
17 under (b) and (d) of this section;

18 (3) 40 percent of the total exploration expenditures that qualify under
19 (b), (c), and (d) of this section;

20 (4) 40 percent of the total exploration expenditures that qualify only
21 under (b) and (e) of this section;

22 (5) 80, 90, or 100 percent, or a lesser amount described in (l) of this
23 section, of the total exploration expenditures described in (b)(1) and (2) of this section
24 and not excluded by (b)(3) and (4) of this section that qualify only under (l) of this
25 section;

26 (6) the lesser of \$25,000,000 or 80 percent of the total exploration
27 drilling expenditures described in (m) of this section and that qualify under (b) and
28 (c)(1), (c)(2)(A), and (c)(2)(C) of this section; or

29 (7) the lesser of \$7,500,000 or 75 percent of the total seismic
30 exploration expenditures described in (n) of this section and that qualify under (b) of
31 this section.

1 * **Sec. 12.** AS 43.55.025(f) is amended to read:

2 (f) For a production tax credit under this section,

3 (1) an explorer shall, in a form prescribed by the department and,
4 except for a credit under (k) of this section, within six months of the completion of the
5 exploration activity, claim the credit and submit information sufficient to demonstrate
6 to the department's satisfaction that the claimed exploration expenditures qualify under
7 this section; in addition, the explorer shall submit information necessary for the
8 commissioner of natural resources to evaluate the validity of the explorer's compliance
9 with the requirements of this section;

10 (2) an explorer shall agree, in writing,

11 (A) to notify the Department of Natural Resources, within 30
12 days after completion of seismic or geophysical data processing, completion of
13 well drilling, or filing of a claim for credit, whichever is the latest, for which
14 exploration costs are claimed, of the date of completion and submit a report to
15 that department describing the processing sequence and providing a list of data
16 sets available;

17 (B) to provide to the Department of Natural Resources, within
18 30 days after the date of a request, unless a longer period is provided by the
19 Department of Natural Resources, specific data sets, ancillary data, and reports
20 identified in (A) of this paragraph; in this subparagraph,

21 (i) a seismic or geophysical data set includes the data
22 for an entire seismic survey, irrespective of whether the survey area
23 covers nonstate land in addition to state land or land in a unit in
24 addition to land outside a unit;

25 (ii) well data include all analyses conducted on physical
26 material, and well logs collected from the well, results, and copies of
27 data collected and data analyses for the well, including well logs;
28 sample analyses; testing geophysical and velocity data including
29 seismic profiles and check shot surveys; testing data and analyses; age
30 data; geochemical analyses; and tangible material;

31 (C) that, notwithstanding any provision of AS 38, information

1 provided under this paragraph will be held confidential by the Department of
2 Natural Resources,

3 (i) in the case of well data, until the expiration of the
4 24-month period of confidentiality described in AS 31.05.035(c), at
5 which time the Department of Natural Resources will release the
6 information after 30 days' public notice unless, in the discretion of the
7 commissioner of natural resources, it is necessary to protect
8 information relating to the valuation of unleased acreage in the same
9 vicinity, or unless the well is on private land and the owner, including
10 the lessor but not the lessee, of the oil and gas resources has not given
11 permission to release the well data;

12 (ii) in the case of seismic or other geophysical data,
13 other than seismic data acquired by seismic exploration subject to (k) of
14 this section, for 10 years following the completion date, at which time
15 the Department of Natural Resources will release the information after
16 30 days' public notice, except as to seismic or other geophysical data
17 acquired from private land, unless the owner, including a lessor but not
18 a lessee, of the oil and gas resources in the private land gives
19 permission to release the seismic or other geophysical data associated
20 with the private land;

21 (iii) in the case of seismic data obtained by seismic
22 exploration subject to (k) of this section, only until the expiration of 30
23 days' public notice issued on or after the date the production tax credit
24 certificate is issued under (5) of this subsection;

25 (3) if more than one explorer holds an interest in a well or seismic
26 exploration, each explorer may claim an amount of credit that is proportional to the
27 explorer's cost incurred;

28 (4) the department may exercise the full extent of its powers as though
29 the explorer were a taxpayer under this title, in order to verify that the claimed
30 expenditures are qualified exploration expenditures under this section; and

31 (5) if the department is satisfied that the explorer's claimed

1 expenditures are qualified under this section and that all data required to be submitted
 2 under this section have been submitted, the department shall issue to the explorer a
 3 production tax credit certificate for the amount of credit to be allowed against
 4 [PRODUCTION] taxes levied by AS 43.55.011(e) **and AS 43.20; for a production**
 5 **tax credit under (a)(4) of this section, the department shall grant or deny an**
 6 **application, or grant an application as to a lesser amount than that claimed and**
 7 **deny it as to the excess, not later than 120 days after the date that the department**
 8 **has received the application and all data required to be submitted under this**
 9 **section**; notwithstanding any contrary provision of AS 38, AS 40.25.100, or
 10 AS 43.05.230, the following information is not confidential:

- 11 (A) the explorer's name;
- 12 (B) the date of the application;
- 13 (C) the location of the well or seismic exploration;
- 14 (D) the date of the department's issuance of the certificate; and
- 15 (E) the date on which the information required to be submitted

16 under this section will be released.

17 * **Sec. 13.** AS 43.55.025(h) is amended to read:

18 (h) A producer that purchases a production tax credit certificate may apply the
 19 credits against its production tax levied by AS 43.55.011(e). Regardless of the price
 20 the producer paid for the certificate, the producer may receive a credit against its
 21 production tax liability for the full amount of the credit, but for not more than the
 22 amount for which the certificate is issued. A production tax credit **or production tax**
 23 **credit certificate** allowed under this section

24 **(1) may not be applied more than once;**

25 **(2) may be applied**

26 **(A) in a later calendar year; or**

27 **(B) regardless of when the credit was earned, to satisfy an**
 28 **outstanding tax, interest, penalty, fee, or other charge related to the tax**
 29 **due under this chapter, including an amount assessed as a result of an**
 30 **amended return under AS 43.55.075(b), that has not been subject to an**
 31 **administrative proceeding or litigation.**

1 * **Sec. 14.** AS 43.55.025(i) is amended to read:

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

3 (1) a credit may not be applied to reduce a taxpayer's tax liability under

4 (A) AS 43.55.011(e) below zero for a calendar year;

5 (B) AS 43.20 below zero for a tax year; and

6 (2) an amount of the production tax credit in excess of the amount that
7 may be applied for a calendar or tax year under this subsection may be carried
8 forward and applied against the taxpayer's tax liability under AS 43.55.011(e) in one
9 or more later calendar years or under AS 43.20 in one or more later tax years.

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

11 (e) Subject to appropriation for a purpose described in this section, for a
12 credit earned before January 1, 2018, the [THE] department, on the written
13 application of a person to whom a transferable tax credit certificate has been issued
14 under AS 43.55.023(d) or former AS 43.55.023(m) or to whom a production tax credit
15 certificate has been issued under AS 43.55.025(f), may [USE AVAILABLE MONEY
16 IN THE OIL AND GAS TAX CREDIT FUND TO] purchase, in whole or in part, the
17 certificate. [THE DEPARTMENT MAY NOT PURCHASE A TOTAL OF MORE
18 THAN \$70,000,000 IN TAX CREDIT CERTIFICATES FROM A PERSON IN A
19 CALENDAR YEAR.] Before purchasing a certificate or part of a certificate, the
20 department shall find that

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

24 (2) [THE APPLICATION IS NOT THE RESULT OF THE
25 DIVISION OF A SINGLE ENTITY INTO MULTIPLE ENTITIES THAT WOULD
26 REASONABLY BE EXPECTED TO APPLY AS A SINGLE ENTITY IF THE
27 \$70,000,000 LIMITATION IN THIS SUBSECTION DID NOT EXIST];

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

31 (3) [(4)] the applicant's average daily production of oil and gas taxable

1 under AS 43.55.011(e) during the calendar year preceding the calendar year in which
 2 the application is made was not more than 50,000 BTU equivalent barrels; and

3 **(4)** [(5)] the purchase is consistent with this section and regulations
 4 adopted under this section.

5 * **Sec. 16.** AS 43.55.028(g) is amended to read:

6 (g) The department shall adopt regulations to carry out the purposes of this
 7 section, including standards and procedures to allocate available money among
 8 applications for **the purchase of credit certificates** [PURCHASES UNDER THIS
 9 CHAPTER AND CLAIMS FOR REFUNDS AND PAYMENTS UNDER
 10 AS 43.20.046, 43.20.047, OR 43.20.053] when the total amount of the applications for
 11 purchase **exceeds** [AND CLAIMS FOR REFUND EXCEED] the amount of
 12 [AVAILABLE] money **appropriated for the purposes described in this section** [IN
 13 THE FUND]. The regulations adopted by the department

14 [(1) MAY NOT, WHEN ALLOCATING AVAILABLE MONEY IN
 15 THE FUND UNDER THIS SECTION, DISTINGUISH AN APPLICATION FOR
 16 THE PURCHASE OF A CREDIT CERTIFICATE ISSUED UNDER FORMER
 17 AS 43.55.023(m) OR A CLAIM FOR A REFUND OR PAYMENT UNDER
 18 AS 43.20.046, 43.20.047, OR 43.20.053;

19 (2)] must, when allocating [AVAILABLE] money [IN THE FUND]
 20 under this section, grant a preference, between two applicants, to the applicant with a
 21 higher percentage of resident workers in the applicant's workforce, including workers
 22 employed by the applicant's direct contractors, in the state in the previous calendar
 23 year. **In** [; IN] this **subsection** [PARAGRAPH], "resident worker" has the meaning
 24 given in AS 43.40.092(b) [;

25 (3) MUST PROVIDE FOR THE PURCHASE OF THE AMOUNT
 26 EQUAL TO THE FIRST 50 PERCENT OF THE CREDIT REPURCHASE LIMIT
 27 FOR EACH PERSON UNDER (e) OF THIS SECTION AT A RATE OF 100
 28 PERCENT OF THE VALUE OF THE CERTIFICATE OR PORTION OF THE
 29 CERTIFICATE REQUESTED TO BE PURCHASED AND THE AMOUNT EQUAL
 30 TO THE NEXT 50 PERCENT OF THE CREDIT REPURCHASE LIMIT FOR
 31 EACH PERSON UNDER (e) OF THIS SECTION AT A RATE OF 75 PERCENT OF

1 THE VALUE OF THE CERTIFICATE OR PORTION OF THE CERTIFICATE
2 REQUESTED TO BE PURCHASED].

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

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

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

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

1 department to purchase the certificate under AS 43.55.028(e).

2 * **Sec. 19.** AS 43.55.160(d) is amended to read:

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

14 * **Sec. 20.** AS 43.55.160(e) is amended to read:

15 (e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170
 16 **incurred to produce oil or gas from leases or properties north of 68 degrees**
 17 **North latitude** that would otherwise be deductible by a producer in a calendar year
 18 but whose deduction would cause an annual production tax value calculated under
 19 (a)(1) or (h) of this section of taxable oil or gas produced during the calendar year to
 20 be less than zero may be used to establish a carried-forward annual loss under
 21 **AS 43.55.165(a)(3)** [AS 43.55.023(b)]. However, the department shall provide by
 22 regulation a method to ensure that, for a period for which a producer's tax liability is
 23 limited by **AS 43.55.011(o)** [AS 43.55.011(j), (k), (o), OR (p)], any adjusted lease
 24 expenditures under AS 43.55.165 and 43.55.170 that would otherwise be deductible
 25 by a producer for that period but whose deduction would cause a production tax value
 26 calculated under **(a)(1)(E)** [(a)(1)(C), (D), (E), OR (F), OR (h)(3)] of this section to be
 27 less than zero are accounted for as though the adjusted lease expenditures had first
 28 been used as deductions in calculating the production tax values of oil or gas subject to
 29 any of the limitations under **AS 43.55.011(o)** [AS 43.55.011(j), (k), (o), OR (p)] that
 30 have positive production tax values so as to reduce the tax liability calculated without
 31 regard to the limitation to the maximum amount provided for under the applicable

1 provision of **AS 43.55.011(o)** [AS 43.55.011(j), (k), (o), OR (p)]. Only the amount of
 2 those adjusted lease expenditures remaining after the accounting provided for under
 3 this subsection may be used to establish a carried-forward annual loss under
 4 **AS 43.55.165(a)(3)** [AS 43.55.023(b)]. In this subsection, "producer" includes
 5 "explorer."

6 * **Sec. 21.** AS 43.55.165(a), as amended by sec. 29, ch. 4, 4SSLA 2016, is amended to read:

7 (a) For purposes of this chapter, a producer's lease expenditures for a calendar
 8 year are

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

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

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

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

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

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

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

29 **(3) lease expenditures incurred in a previous calendar year,**
 30 **subject to (m) - (p) of this section, that**

31 **(A) met the requirements of AS 43.55.160(e) in the year in**

1 **which the lease expenditures were incurred;**

2 **(B) have not been deducted in the determination of the**
 3 **production tax value of oil and gas under AS 43.55.160(a) or (h) in a**
 4 **previous calendar year;**

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

6 **(D) were incurred to explore for, develop, or produce an oil**
 7 **or gas deposit located north of 68 degrees North latitude.**

8 * **Sec. 22.** AS 43.55.165(f) is amended to read:

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

13 * **Sec. 23.** AS 43.55.165 is amended by adding new subsections to read:

14 (m) A loss carried forward under (a)(3) of this section shall increase in value
 15 at a rate of 10 percent, compounded annually. An increase in value under this
 16 subsection begins to accrue on January 1 of the calendar year immediately following
 17 the calendar year in which the loss was accrued and no longer accrues on
 18 December 31 of the calendar year immediately preceding the calendar year in which a
 19 carried-forward annual loss is applied. An increase in value accrued under this
 20 subsection has no value except as applied in this section. An increase in value may not
 21 accrue

22 (1) for a partial calendar year;

23 (2) for more than seven calendar years, consecutive or nonconsecutive;

24 or

25 (3) on a loss carried forward by a producer that, during the calendar
 26 year in which the loss was accrued, had commercial production of oil or gas produced
 27 from a lease or property located north of 68 degrees North latitude.

28 (n) A loss carried forward under (a)(3) of this section may be applied only in a
 29 calendar year after application of a producer's lease expenditures that are incurred in
 30 that calendar year.

31 (o) An increase in value accrued under (m) of this section may be applied only

1 in

2 (1) a calendar year in which the producer applying the increase in
3 value under (m) of this section

4 (A) has production of oil or gas from a lease or property that
5 includes land north of 68 degrees North latitude; and

6 (B) holds a right, title, or interest in the lease or property where
7 the lease expenditure was incurred that accrued the increase in value; and

8 (2) the calendar year commercial production begins on the lease or
9 property where the lease expenditure was incurred that accrued the increase in value or
10 in a later calendar year.

11 (p) During a calendar year in which a taxpayer is subject to the tax under
12 AS 43.55.011(f), the amount of annual carried-forward loss applied in that year is
13 equal to the amount, when combined with the lease expenditures of the current year,
14 necessary to reduce the amount calculated under AS 43.55.011(e) to the equivalent
15 amount of tax due under AS 43.55.011(f). An amount of carried-forward annual loss
16 in excess of the amount described in this subsection may continue to be carried
17 forward.

18 * **Sec. 24.** AS 43.55.170(c) is amended to read:

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

23 * **Sec. 25.** AS 43.55.023(b), 43.55.028(a), 43.55.028(b), 43.55.028(c), 43.55.028(d),
24 43.55.028(f), 43.55.028(h), 43.55.028(i), and 43.55.029(b)(4) are repealed.

25 * **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 **APPLICABILITY: TAX CREDITS UNDER AS 43.55.025 APPLIED AGAINST**
28 **TAX DUE UNDER AS 43.20.** AS 43.20.044(a), as amended by sec. 2 of this Act, and
29 AS 43.55.025(a), (f), and (i), as amended by secs. 11, 12, and 14 of this Act, apply to a tax
30 credit that has been earned under AS 43.55.025, regardless of when the credit was earned.

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

1 read:

2 **APPLICABILITY: APPLICATION FOR A PRODUCTION TAX CREDIT UNDER**
 3 AS 43.55.025(a). AS 43.55.025(f), as amended by sec. 12 of this Act, applies to an
 4 application for a production tax credit under AS 43.55.025(a)(4), regardless of when the
 5 application was submitted, except that, for the purposes of AS 43.55.025(f), an application
 6 received before January 1, 2017, shall be considered received on the effective date of this
 7 section.

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

10 **APPLICABILITY: CREDIT CERTIFICATE CARRYBACK.** AS 43.55.023(c), as
 11 amended by sec. 7 of this Act, AS 43.55.023(e), as amended by sec. 9 of this Act, and
 12 AS 43.55.025(h), as amended by sec. 13 of this Act, apply to a transferable tax credit
 13 certificate issued under AS 43.55.023(d) or a production tax credit certificate issued under
 14 AS 43.55.025(f), regardless of when the certificate was issued.

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

17 **APPLICABILITY: LEASE EXPENDITURES.** AS 43.55.165(a)(3) and 43.55.165(m)
 18 - (p), added by secs. 21 and 23 of this Act, apply to a lease expenditure incurred on or after
 19 the effective date of secs. 21 and 23 of this Act.

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

22 **TRANSITION: INTEREST ON DELINQUENT TAXES.** Notwithstanding the
 23 effective date of sec. 1 of this Act, a delinquent tax under AS 43.55 bears interest in each
 24 calendar quarter of 2017 as provided under AS 43.05.225(1) as that paragraph read on the day
 25 before the effective date of sec. 1 of this Act.

26 * **Sec. 31.** The uncodified law of the State of Alaska is amended by adding a new section to
 27 read:

28 **TRANSITION: CARRIED-FORWARD ANNUAL LOSSES.** (a) Notwithstanding the
 29 repeal of AS 43.55.023(b) by sec. 25 of this Act and the amendments to AS 43.55.160(d) and
 30 (e), 43.55.165(f), and 43.55.170(c) by secs. 19, 20, 22, and 24 of this Act, a taxpayer who
 31 incurs a carried-forward annual loss before the repeal of AS 43.55.023(b) by sec. 25 of this

1 Act that qualifies for a carried-forward annual loss credit under AS 43.55.023(b) may apply
 2 for a credit or tax credit certificate under AS 43.55.023(d), subject to the requirements of
 3 AS 43.55.160(d) and (e), as those subsections read on the day before the repeal of
 4 AS 43.55.023(b) by sec. 25 of this Act.

5 (b) The Department of Revenue may continue to apply and enforce AS 43.55.023(b),
 6 as that subsection read on the day before the repeal of AS 43.55.023(b) by sec. 25 of this Act,
 7 for a carried-forward annual loss incurred before the repeal of AS 43.55.023(b) by sec. 25 of
 8 this Act.

9 * **Sec. 32.** The uncodified law of the State of Alaska is amended by adding a new section to
 10 read:

11 TRANSITION: PURCHASE OF TRANSFERABLE TAX CREDIT
 12 CERTIFICATES. On and after the effective date of secs. 15 - 17 of this Act, the department
 13 may, subject to AS 43.55.028(e), (g), and (j), as amended by secs. 15 - 17 of this Act,
 14 purchase a transferable tax credit certificate issued under AS 43.55.023(d) or former
 15 AS 43.55.023(m) earned for activity occurring before the effective date of secs. 15 - 17 of this
 16 Act.

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

19 TRANSITION: OIL AND GAS CREDIT FUND. Subject to appropriation, the
 20 balance of the oil and gas tax credit fund created under AS 43.55.028(a) and repealed by sec.
 21 25 of this Act lapses into the general fund.

22 * **Sec. 34.** Sections 2, 7, 9, 11 - 14, and 26 - 28 of this Act take effect immediately under
 23 AS 01.10.070(c).

24 * **Sec. 35.** Section 21 of this Act takes effect on the effective date of sec. 29, ch. 4, 4SSLA
 25 2016.

26 * **Sec. 36.** Except as provided in secs. 34 and 35 of this Act, this Act takes effect January 1,
 27 2018.