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CS FOR HOUSE BILL NO. 247(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

"An Act relating to interest applicable to delinquent tax; relating to the oil and gas production tax, tax payments, and credits; relating to refunds for the gas storage facility tax credit, the liquefied natural gas storage facility tax credit, and the qualified in-state oil refinery infrastructure expenditures tax credit; relating to oil and gas lease expenditures and production tax credits for municipal entities; establishing a legislative working group to study the tax structure for oil and gas produced south of 68 degrees North latitude; and providing for an effective date."

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

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

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

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

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

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

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

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

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

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

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

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

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

*** Sec. 6.** AS 43.05.225 is amended to read:

Sec. 43.05.225. Interest. Unless otherwise provided,

(1) a delinquent tax under this title,

(A) before January 1, 2014, bears interest in each calendar quarter at the rate of five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District as of the first day of that calendar quarter, or at the annual rate of 11 percent, whichever is greater, compounded quarterly as of the last day of that quarter; or

(B) on and after January 1, 2014, bears interest [IN EACH CALENDAR QUARTER] at the rate of three percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District as of the first day of that calendar quarter **<u>compounded quarterly as of the last day of that quarter</u>**;

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

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

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

*** Sec. 7.** AS 43.20.046(e) is amended to read:

(e) **<u>Subject to the requirements in AS 43.55.028(e), the</u>** [THE] department may use available money in the oil and gas tax credit fund established in AS 43.55.028 to make the refund applied for under (d) of this section in whole or in part if the department finds that**<u>,</u>** [(1) THE CLAIMANT DOES NOT HAVE AN OUTSTANDING LIABILITY TO THE STATE FOR UNPAID DELINQUENT TAXES UNDER THIS TITLE; AND (2)] after application of all available tax credits, the claimant's total tax liability under this chapter for the calendar year in which the claim is made is zero. [IN THIS SUBSECTION, "UNPAID DELINQUENT TAX" MEANS AN AMOUNT OF TAX FOR WHICH THE DEPARTMENT HAS ISSUED AN ASSESSMENT THAT HAS NOT BEEN PAID AND, IF CONTESTED, HAS NOT BEEN FINALLY RESOLVED IN THE TAXPAYER'S FAVOR.]

*** Sec. 8.** AS 43.20.047(e) is amended to read:

(e) **<u>Subject to the requirements in AS 43.55.028(e), the</u>** [THE] department may use money available in the oil and gas tax credit fund established in AS 43.55.028 to make a refund or payment under (d) of this section in whole or in part if the department finds that**,** [(1) THE CLAIMANT DOES NOT HAVE AN OUTSTANDING LIABILITY TO THE STATE FOR UNPAID DELINQUENT TAXES UNDER THIS TITLE; AND (2)] after application of all available tax credits, the claimant's total tax liability under this chapter for the calendar year in which the claim is made is zero. [IN THIS SUBSECTION, "UNPAID DELINQUENT TAX" MEANS AN AMOUNT OF TAX FOR WHICH THE DEPARTMENT HAS ISSUED AN ASSESSMENT THAT HAS NOT BEEN PAID AND, IF CONTESTED, HAS NOT BEEN FINALLY RESOLVED IN THE TAXPAYER'S FAVOR.]

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

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

[(1) THE CLAIMANT DOES NOT HAVE AN OUTSTANDING LIABILITY TO THE STATE FOR UNPAID DELINQUENT TAXES UNDER THIS TITLE; AND

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

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

(m) Notwithstanding any contrary provision of [AS 38.05.180(i), AS 41.09.010,] AS 43.55.024 [,] or 43.55.025, the department shall provide by regulation a method to ensure that, for a calendar year for which a producer's tax liability is limited by (j), (k), or (o) of this section, tax credits based on a lease expenditure incurred before January 1, 2011, that are otherwise available under [AS 38.05.180(i), AS 41.09.010,] AS 43.55.024 [,] or 43.55.025 and allocated to gas subject to the limitations in (j), (k), and (o) of this section are accounted for as though the credits had been applied first against a tax liability calculated without regard to the limitations under (j), (k), and (o) of this section so as to reduce the tax liability to the maximum amount provided for under (j) or (o) of this section for the production of gas or (k) of this section for the production of oil. The regulation must provide for a reasonable method to allocate tax credits to gas subject to (j) and (o) of this section. Only the amount of a tax credit remaining after the accounting provided for under this subsection may be used for a later calendar year, transferred to another person, or applied against a tax levied on the production of oil or gas not subject to (j), (k), or (o) of this section to the extent otherwise allowed.

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

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

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

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

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

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

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

*** Sec. 12.** AS 43.55.023(b) is amended to read:

(b) Before January 1, 2014, a producer or explorer may elect to take a tax credit in the amount of 25 percent of a carried-forward annual loss. For lease expenditures incurred on and after January 1, 2014, and before January 1, 2016, to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in the amount of 45 percent of a carried-forward annual loss. For lease expenditures incurred on and after January 1, 2016, to explore for, develop, or produce oil or gas deposits located north of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in the amount of 35 percent of a carried-forward annual loss. For lease expenditures incurred on or after January 1, 2014, **and before January 1, 2017,** to explore for, develop, or produce oil or gas deposits located south of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in the amount of 25 percent of a carried-forward annual loss. **For lease expenditures incurred on or after January 1, 2017, to explore for, develop, or produce oil or gas deposits located south of 68 degrees North latitude, a producer or explorer may elect to take a tax credit in the amount of 10 percent of a carried-forward annual loss.** A credit under this subsection may be applied against a tax levied by AS 43.55.011(e). For purposes of this subsection,

(1) a carried-forward annual loss is the amount of a producer's or explorer's adjusted lease expenditures under AS 43.55.165 and 43.55.170 for a previous calendar year that was not deductible in calculating production tax values for that calendar year under AS 43.55.160**;**

(2) for lease expenditures incurred on or after January 1, 2017, any reduction under AS 43.55.160(f) or (g) is added back to the calculation of production tax values for that calendar year under AS 43.55.160 for the determination of a carried-forward annual loss.

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

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

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

(e) A person to which a transferable tax credit certificate is issued under (d) of this section may transfer the certificate to another person, and a transferee may further transfer the certificate. Subject to the limitations set out in <u>**former (a) of this section and (b) - (d)**</u> [(a) - (d)] of this section, and notwithstanding any action the department may take with respect to the applicant under (g) of this section, the owner of a certificate may apply the credit or a portion of the credit shown on the certificate only against a tax levied by AS 43.55.011(e). However, a credit shown on a transferable tax credit certificate may not be applied to reduce a transferee's total tax liability under AS 43.55.011(e) for oil and gas produced during a calendar year to less than 80 percent of the tax that would otherwise be due without applying that credit. Any portion of a credit not used under this subsection may be applied in a later period.

*** Sec. 15.** AS 43.55.023(*l*) is amended to read:

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

(1) notwithstanding that a well lease expenditure incurred in the state south of 68 degrees North latitude may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under (a) of this section, [AS 38.05.180(i), AS 41.09.010,] AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a well lease expenditure in the state south of 68 degrees North latitude may elect to

apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of

(A) 40 percent of **an** [THAT] expenditure **incurred before January 1, 2017;**

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

(C) 20 percent of an expenditure incurred on or after January 1, 2018 [; A TAX CREDIT UNDER THIS PARAGRAPH MAY BE APPLIED FOR A SINGLE CALENDAR YEAR];

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

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

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

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

(e) The department, on the written application of a person to whom a transferable tax credit certificate has been issued under AS 43.55.023(d) or former AS 43.55.023(m) or to whom a production tax credit certificate has been issued under AS 43.55.025(f), may use available money in the oil and gas tax credit fund to purchase, in whole or in part, the certificate**. The department may not purchase a total of more than $200,000,000 in tax credit certificates from a person in a calendar year. Before purchasing a certificate or part of a certificate,** [IF] the department **shall find** [FINDS] that

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

(2) the **application is not the result of the division of a single entity into multiple entities that would reasonably be expected to apply as a single entity if the $200,000,000 limitations in this subsection did not exist** [APPLICANT DOES

NOT HAVE AN OUTSTANDING LIABILITY TO THE STATE FOR UNPAID DELINQUENT TAXES UNDER THIS TITLE];

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

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

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

*** Sec. 17.** AS 43.55.028 is amended by adding a new subsection to read:

(j) If an applicant has an outstanding liability to the state directly related to the applicant's oil or gas production or exploration and the department has not previously reduced the amount paid to that applicant for a certificate because of that outstanding liability, the department may purchase only that portion of a certificate that exceeds the outstanding liability. With the applicant's consent, the department may apply the amount by which the department reduced its purchase of a certificate because of an outstanding liability to satisfy the outstanding liability. Satisfaction of an outstanding liability under this subsection does not affect the applicant's ability to contest that liability. The department may enter into contracts or agreements with another department to which the outstanding liability is owed.

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

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

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

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

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

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

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

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

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

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

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

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

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

*** Sec. 20.** AS 43.55.030(e) is amended to read:

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

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

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

*** Sec. 21.** AS 43.55.165(a) is amended to read:

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

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

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

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

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

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

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

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

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

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

(1) depreciation, depletion, or amortization;

(2) oil or gas royalty payments, production payments, lease profit shares, or other payments or distributions of a share of oil or gas production, profit, or revenue, except that a producer's lease expenditures applicable to oil and gas produced from a lease issued under AS 38.05.180(f)(3)(B), (D), or (E) include the share of net profit paid to the state under that lease;

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

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

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

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

(7) fines or penalties imposed by law;

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

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

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

(11) surcharges levied under AS 43.55.201 or 43.55.300;

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

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

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

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

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

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

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

(19) costs incurred for repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or equipment, other than a well, that results in or is undertaken in response to a failure, problem, or event that results in an unscheduled interruption of, or reduction in the rate of, oil or gas production; or costs incurred for repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or equipment, other than a well, that is undertaken in response to, or is otherwise associated with, an unpermitted release of a hazardous substance or of gas; however, costs under this paragraph that would otherwise constitute lease expenditures under (a) and (b) of this section may be treated as lease expenditures if the department determines that the repair or replacement is solely necessitated by an act of war, by an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight, or by an intentional or negligent act or omission of a third party, other than a party or its agents in privity of contract with, or employed by, the producer or an operator acting for the producer, but only if the producer or operator, as applicable, exercised due care in operating and maintaining the facility, pipeline, structure, or equipment, and took reasonable precautions against the act or omission of the third party and against the consequences of the act or omission; in this paragraph,

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

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

(C) "replacement" includes renovation or improvement;

(20) costs incurred to construct, acquire, or operate a refinery or crude oil topping plant, regardless of whether the products of the refinery or topping plant are used in oil or gas exploration, development, or production operations; however, if a producer owns a refinery or crude oil topping plant that is located on or near the premises of the producer's lease or property in the state and that processes the

producer's oil produced from that lease or property into a product that the producer uses in the operation of the lease or property in drilling for or producing oil or gas, the producer's lease expenditures include the amount calculated by subtracting from the fair market value of the product used the prevailing value, as determined under AS 43.55.020(f), of the oil that is processed;

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

*** Sec. 23.** AS 43.55.165(f) is amended to read:

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

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

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

*** Sec. 25.** AS 43.55.890 is amended to read:

Sec. 43.55.890. Disclosure of tax information. Notwithstanding any contrary provision of AS 40.25.100, and regardless of whether the information is considered under AS 43.05.230(e) to constitute statistics classified to prevent the identification of particular returns or reports, the department may publish the following information under this chapter, if aggregated among three or more producers or explorers, showing by month or calendar year and by lease or property, unit, or area of the state:

(1) the amount of oil or gas production;

(2) the amount of taxes levied under this chapter or paid under this chapter;

(3) the effective tax rates under this chapter;

(4) the gross value of oil or gas at the point of production;

(5) the transportation costs for oil or gas;

(6) qualified capital expenditures [, AS DEFINED IN AS 43.55.023];

(7) exploration expenditures under AS 43.55.025;

(8) production tax values of oil or gas under AS 43.55.160;

(9) lease expenditures under AS 43.55.165;

(10) adjustments to lease expenditures under AS 43.55.170;

(11) tax credits applicable or potentially applicable against taxes levied by this chapter.

*** Sec. 26.** AS 43.55.895(b) is amended to read:

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

<u>(1)</u> is eligible for [ALL] tax credits **<u>proportionate to its production taxable under AS 43.55.011(e); and</u>**

<u>(2) shall allocate its lease expenditures in proportion to its production taxable under AS 43.55.011(e)</u> [UNDER THIS CHAPTER TO THE SAME EXTENT AS ANY OTHER PRODUCER].

*** Sec. 27.** AS 43.55.900 is amended by adding a new paragraph to read:

(26) "qualified capital expenditure"

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

(i) incurred for geological or geophysical exploration;

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

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

(B) does not include an expenditure incurred to acquire an asset the cost of previously acquiring which was a lease expenditure under

AS 43.55.165 or would have been a lease expenditure under AS 43.55.165 if it had been incurred after March 31, 2006, or that has previously been placed in service in the state; an expenditure to acquire an asset is not excluded under this subparagraph if not more than an immaterial portion of the asset meets a description under this subparagraph; for purposes of this subparagraph, "asset" includes geological, geophysical, and well data and interpretations.

* **Sec. 28.** AS 38.05.180(i); AS 41.09.010, 41.09.020, 41.09.030, and 41.09.090 are repealed.

* **Sec. 29.** AS 43.55.023(a), 43.55.023(*l*), 43.55.023(n), 43.55.023(o), 43.55.028(i), 43.55.075(d)(1), 43.55.165(j), and 43.55.165(k) are repealed.

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

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

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

(2) incentives for the exploration, development, and production of oil and gas south of 68 degrees North latitude;

(3) consideration of the competitiveness of the area to attract new oil and gas development;

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

(5) alternative means of state support for the exploration, development, and production of oil and gas in this area, including through the Alaska Industrial Export and Development Authority;

(6) analysis of whether refundable state tax credits are still necessary for a

new regime;

(7) evaluation of the need for disclosure of some confidential information to help legislators shape policy, including an evaluation of the associated state and federal constitutional issues related to statutory waivers of taxpayer confidentiality.

(b) The working group consists of

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

(2) members appointed by the co-chairs; members must be legislators.

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

(d) The working group is to be supported by legislative consultants now under contract through the Legislative Budget and Audit Committee.

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

APPLICABILITY. Sections 7 - 9, 16, and 17 of this Act apply to a refund or payment applied for on or after January 1, 2017.

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

TRANSITION: QUALIFIED CAPITAL EXPENDITURES AND WELL LEASE EXPENDITURES. (a) Notwithstanding the repeal of AS 43.55.023(a), (*l*), (n), and (o) by sec. 29 of this Act, and the amendments to AS 43.55.023(d) and (e), 43.55.029(a), 43.55.165(f), and 43.55.170(c) by secs. 13, 14, 18, 23, and 24 of this Act, a taxpayer who incurs

(1) a qualified capital expenditure before the effective date of sec. 29 of this Act that qualifies for a qualified capital expenditure credit under AS 43.55.023(a) may apply for a credit or transferable tax credit certificate under AS 43.55.023 and assign the tax credit under AS 43.55.029, as those sections read on the day before the effective date of sec. 29 of

this Act;

(2) a well lease expenditure before the effective date of sec. 29 of this Act that qualifies for a well lease expenditure credit under AS 43.55.023(*l*) may apply for a credit or transferable tax credit certificate under AS 43.55.023 and assign the tax credit under AS 43.55.029, as those sections read on the day before the effective date of sec. 29 of this Act.

(b) The Department of Revenue may continue to apply and enforce AS 43.55.023 and 43.55.029, as those sections read on the day before the effective date of sec. 29 of this Act, for qualified capital expenditures and well lease expenditures incurred before the effective date of sec. 29 of this Act.

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

TRANSITION: LEASE EXPENDITURES FOR A CALENDAR YEAR AFTER 2006 AND BEFORE 2010. Notwithstanding AS 43.55.165(a), as amended by sec. 21 of this Act, and the repeal of AS 43.55.165(j) and (k) by sec. 29 of this Act, AS 43.55.165(j) and (k) apply to a producer's total lease expenditures for a calendar year after 2006 and before 2010 under AS 43.55.165, as that section read on the day before the effective date of sec. 29 of this Act.

*** Sec. 34.** The uncodified law of the State of Alaska is amended by adding a new section to read:

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

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

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

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

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

*** Sec. 36.** Sections 30 and 34 of this Act take effect immediately under AS 01.10.070(c).

*** Sec. 37.** Sections 13, 14, 18 - 25, 27, 29, 32, and 33 of this Act take effect January 1, 2022.

*** Sec. 38.** Except as provided in secs. 36 and 37 of this Act, this Act takes effect January 1, 2017.