Departments of Revenue and Law: Sectional Review
CSSB 21(RES)
28-GS1647\C
February 28, 2013
Senate Finance Committee

Main Provisions

- **Corporate Tax Credit for Qualified Oil and Gas Service Industry Expenditures**
- **Production Tax Rate : 35% flat rate, no progressivity**
- **Tax Credits**
  - Eliminates current 20% capital expenditure tax credit for North Slope activities but establishes a North Slope tax credit applicable to production tax liabilities.
  - Extends the small producer tax credit and provides a $5 per barrel of oil tax credit.
  - Expands the exploration well tax credit.
- **Gross Value Reduction**
  - Establishes 30 percent reduction from the gross value at the point of production for oil and gas produced from new units, new participating areas, and expanded portions of participating areas.
- **Oil and Gas Competitive Review Board**
- **Hold Cook Inlet and Middle Earth harmless**

Sec. 2 - Qualified Oil and Gas Industry Service Expenditure Tax Credit

- Amends AS 43.20, the Alaska Net Income Tax Act, by adding a new section.
- Provides a 10 percent tax credit for qualified oil and gas industry service expenditures incurred in the state.
- A taxpayer may not apply more than $10,000,000 in tax credits under this section for a tax year regardless of whether the taxpayer earned the tax credit or received the tax credit by transfer.
- Expires if not used against a tax liability within seven calendar years.
- Qualified oil and gas service industry expenditure must be directly attributable to in-state manufacture or modification of tangible personal property that has a useful life of three years or more used in the exploration, development, or production of oil or gas.

Sec. 3 - Tax Rate

- AS 43.55.011(e) is amended to levy an annual flat tax rate of 35%.
- AS 43.55.011(g), the monthly progressivity tax, is repealed.
- This change applies to oil and gas produced after December 31, 2013.
- Effective date of January 1, 2014.

Sec. 1- Community Revenue Sharing Fund

- Amends AS 29.60.850(b) to change the source of revenue that funds the community revenue sharing fund to AS 43.20.030(c), the Alaska Net Income Tax Act, from progressivity under AS 43.55.011(g) (repealed in this bill).
- Effective date of January 1, 2014

Sec. 8 - Qualified Capital Expenditure Tax Credit

- AS 43.55.023(a)(3) is a new provision limiting the 20% qualified capital expenditure tax credit for expenditures incurred to explore for, develop, or produce oil and gas deposits on the North Slope to expenditures incurred before January 1, 2014.
- Tax credits for expenditures incurred to explore for, develop, or produce oil and gas deposits south of the North Slope are not impacted.
- The full amount of a tax credit certificate may be issued in a single year.

Sec. 9 - Carried-Forward Tax Credit AS 43.55.023(b)

- Amends AS 43.55.023(b) to retain a tax credit of 25% for a carried-forward annual loss for adjusted lease expenditures incurred **outside of the North Slope.**

- Provides a tax credit of 35% for a carried-forward annual loss for adjusted lease expenditures incurred after December 31, 2013 **on the North Slope**, subject to the requirements in new subsections (p)-(u).

Sec. 16 - North Slope Carried-Forward Tax Credit
AS 43.55.023(p) – (u)

- **Key characteristics:**
  - 10 year time limit on use.
  - Must be applied on a first-earned, first used basis.
  - Reporting requirements to the Department of Revenue.
  - May only be used to reduce production tax liability under AS 43.55.011(e), limited transferability, not redeemable for cash.
  - May apply a 15 % annual increase to the 35% tax credit base.
- . **AS 43.55.023(p)** requires producers to file an annual statement with the Department of Revenue under new subsection AS 43.55.030(g) to use the tax credit two years after incurring expenditures. The tax credit may not be used more than 10 calendar years later than the date the expenditures were incurred

Sec. 16 - North Slope Carried-Forward Tax Credit : AS 43.55.023(q)

- “First earned, first used” rule.
- Applies to expenditures after December 31, 2014.
- Assures credits earned in earlier calendar years are used up before later earned credits.

Sec. 16 - North Slope Carried Forward Tax Credit: AS 43.55.023(r)

- Increases at 15% annually *if* compliance with new AS 43.55.030(g).
- Increase begins January 1st of the second calendar year after credit earned.
- Increase stops December 31st of calendar year before credit used.
- Increase has *no value except as applied to 43.55 taxes*
- 2015 → 2017 (Increase begins January 1, 2017 *unless* used against 2016 or 2017 taxes).

Sec. 16 -North Slope Carried-Forward Tax Credit: AS 43.55.023(s)

- Implements subsections (p)(1) and (r).
- (s)(1): first apply education tax credit, small producer tax credit, and $5 per oil barrel tax credit in the new AS 43.55.024(i) .
- (s)(2): subtract positive remainder from tax credits.
- (s)(3): rule to determine if all available tax credits were applied.
- No increase in amount of a tax credit if the producer failed to apply available tax credits.

Sec. 16 - North Slope Carried-Forward Tax Credit: AS 43.55.023(t)

AS 43.55.023(t) provides exceptions to allow for the limited transfer of the tax credit:

- Transfer is limited to a person that acquires an interest in the lease or property upon which the credit is based.
- Transferee's use of credit subject to rules in subsection (u).
- The Department of Revenue must be notified of the transfer.
- Transferee subject to audit by the Department of Revenue.

Sec. 16 - North Slope Carried-Forward Tax Credit
AS 43.55.023(u)

- Limits applicable to transferee or successor Company created by acquisition or merger.
- The "total amount" of tax credits "may not exceed 20 percent" of a sum based on
  - GV x OS
    - Gross value at the point of production taxable oil and gas produced from the lease or property, and
    - The percentage interest in the lease or property previously owned by the person that incurred the expenditures.

Sec. 17 - Small Producer Tax Credit

- Amends AS 43.55.024(d) to extend the tax credit for small producers (under 50,000 a day average BTU equivalent barrels) by six years, the later of either 2022 or the ninth calendar year after production for production before May 1, 2022.
- The tax credit is not transferable and any unused portion may not be carried forward for use in a later calendar year.

Sec. 19 - $5 Per Oil Barrel Tax Credit

- Amends AS 43.55.024 by adding a new a tax credit of $5 for each barrel of oil subject to tax under AS 43.55.011(e) applicable to the producer’s tax liability for the year the oil was produced.
- The tax credit is not transferable, any unused portion may not be carried forward for use in a later calendar year and it may not be applied to reduce the producer’s tax liability to below zero.

Sec. 20 - Alternative Tax Credit for Oil and Gas Exploration

- The sunset provision in AS 43.55.025(b) is extended from July 1, 2016 to July 1, 2022.
- AS 43.55.025(c), relating to exploration wells, is amended by deleting the 3 mile distance requirement for exploration wells outside Cook Inlet in AS 43.55.025(c)(2)(B).
- New subsection (q) provides expenditures claimed for a tax credit under AS 43.55.025 may not also be claimed for a tax credit under AS 43.55.023 or another provision of AS 43.55.025.

Sec. 30 - Gross Revenue Exclusion for North Slope Oil and Gas

- Provides that for the determination of the annual production tax value of oil and gas produced north of 68 degrees North latitude, that the gross value at the point of production is reduced by 30 percent for the oil or gas:
  1) Produced from a lease or property that does not contain a lease that was within a unit as of January 1, 2003;
  2) Produced from a participating area established after December 31, 2011 that was within a unit formed under AS 38.05.180(p) before January 1, 2003, if the participating area does not contain a reservoir previously established in a participating area;
  3) Produced from the expanded acreage of an existing participating area that was expanded by the Department of Natural Resources after December 31, 2011 provided the producer demonstrates to the Department of Revenue the volumes of oil and gas produced from the expanded acreage.

Oil and Gas Competitiveness Review Board AS 43.98.040-070

- AS 43.98.040 Establishes a 9 member board
- Governor designates chair every two years. Governor may replace and remove members.
- Members serve 6 year terms, may be reappointed.
- The Board meets four times a year to review investment, fiscal systems and to identify factors that affect oil and gas investment.
- The Board reports annually to the Legislature with recommendations.
- The Board sunsets December 31, 2022.