

ALASKA STATE LEGISLATURE

Session:

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REPRESENTATIVE STEVE THOMPSON DISTRICT 3

MEMORANDUM

Date: Tuesday, March 11, 2014

To: Representative Bill Stoltze
House Finance Co-Chair

From: Rep. Steve Thompson

A handwritten signature in blue ink, appearing to be "SMT", written over the name "Rep. Steve Thompson".

RE: House Bill 306

Thank you for the opportunity to respond to certain requests and questions asked on Thursday, March 6th, 2014 regarding HB 306, "Evaluation of Indirect Expenditures; Tax Credits".

Many of the committee members requested a comprehensive list of all of the tax credits in the Department of Revenue. The following list of credits, years enacted, sunset dates and detailed credit explanations came from the Legislative Research Report, Department of Revenue Fall 2013 Resource Book, and Department of Revenue Tax Division 2013 Annual Report.

List of Credits with Enacted/Amended and Sunset Dates

<u>Credit</u>	<u>Year Enacted</u>	<u>Sunset/Expiration Date</u>
Exploration Incentive Credit	1978	None
Qualified Capital Expenditure & Well Lease Expenditure Credit	2006 Amended 2007	None
Carried-Forward Annual Loss Credit	2006 Amended 2008	None
Small Producer/New Area Dev. Credit	2006	2016

E-mail Representative Steve_Thompson@akleg.gov

Transitional Investment Expenditure Credit	2006 Amended 2008	2013
Alternative Credit for Exploration	2003 Amended 2008	2016
Cook Inlet Jack-Up Rig Credit	2010	2016
Frontier Basin Credit	2012	2016
Federal Tax Credits	1975	None
Gas Exploration and Development Credit	2003 Amended 2010	None
Gas Storage Facility Credit	2011	2015
Veteran Employment Tax Credit	2012	None
LNG Storage Facility Credit	2012	None
Film Production Credit	2008 Amended 2012	2023
Education Credit	1987 Amended 2012	None
Minerals Exploration Incentive Credit	1995	None
Scholarship Contribution Credit	1986	None
Salmon Product Development Credit	2003 Amended 2010	2019
Community Development Quota Credit	1993	None

Credits Applicable to the Oil and Gas Production Tax

Alternative Credit for Exploration

AS 43.55.025(a)(1)-(4)

The Alternative Credit for Exploration is a transferable credit for expenditures for certain oil and gas exploration activities. Outside of Cook inlet, the credit is 40% for seismic costs outside an existing unit, 30% for drilling costs greater than 25 miles from an existing unit, 30% for pre-approved new targets greater than 3 miles from an existing well, and 40% for pre-approved new targets greater than 3 miles from a well and greater than 25 miles from an existing unit. The 3-mile limit has been dropped for wells in "Frontier Basins," as described under the Frontier Basin Credit below. For Cook Inlet, the credit is 40% for seismic costs outside an existing unit, 30% or drilling costs greater than 10 miles from an existing unit, 30% for pre-approved new targets, and 40% for drilling costs that are greater than 10 miles from an existing unit and pre-approved new targets. The credit expires on July 1, 2016 for the North Slope and Cook Inlet; for areas other than the North Slope and Cook Inlet, the credit expires January 1, 2022.

Carried-Forward Annual Loss Credit

AS 43.55.023(b)

This credit is a transferable credit for a carried-forward annual loss, defined as a producer or explorer's adjusted lease expenditures that are not deductible in calculating production tax values for the calendar year. The credit is currently 25% of the carried-forward annual loss. Beginning January 1, 2014, the credit for carried-forward annual losses incurred on the North Slope increases to 45% of the loss, and certificates for these credits may be taken in a single year. On January 1, 2016, the credits for losses incurred on the North Slope decreases to 35% of the loss.

Cook Inlet Jack-Up Rig Credit**AS 43.55.025(a)(5)**

This credit is for exploration expenses for the first three wells drilled by the first jack-up rig brought in to Cook Inlet. It is only for expenses incurred in drilling wells that test pre-tertiary; all three wells must be drilled by unaffiliated parties using the same rig. The credit is 100% of costs for the first well up to \$25 million, 90% of costs for the second well up to \$22.5 million, and 80% of costs for the third well up to \$20 million. If the exploration well is brought into production, the operator repays 50% of the credit over ten years following production start-up.

Education Credit

See "Credits Applicable to Multiple Tax Programs."

Exploration Incentive Credit**AS 38.05.180(i)**

The exploration incentive credit is a non-transferrable credit for the cost of drilling or seismic work performed under a limited time period established by the Commissioner of the Department of Natural Resources. Credit may be granted for up to 50% of the cost of drilling or seismic work, not to exceed 50% of the tax liability to which it is being applied. This credit may also be applied against the State royalty.

Frontier Basin Credit**AS 43.55.025(a)(6)-(7)**

The Frontier Basin Credit is for expenses for the first four persons to drill exploration wells and the first four persons to conduct seismic projects within an area designated in AS 43.55.025(p), also called the "Frontier Basins." The credit is for the lesser of 80% of qualified exploration drilling expenses or \$25 million; or for seismic projects, credit is for lesser of 75% of qualified seismic exploration expenditures or \$7.5million. It includes expenditures incurred for work performed after June 1, 2012 and before July 1, 2016.

Per-Taxable-Barrel Credit**AS 43.55.024(j)**

Beginning January 1, 2014, there is a per-taxable-barrel credit for oil production on the North Slope. This credit cannot be transferred, carried forward, or used to reduce the producer's tax liability to less than zero. In areas that qualify for a gross value reduction (GVR), the credit is \$5per taxable barrel. Those areas are defined in AS 43.55.160(f) and (g).For areas that do not qualify fora GVR, the credit is on a \$10increment sliding scale. The sliding scale credit is a dollar-per-taxable barrel credit ranging from zero dollars per barrel at per-barrel gross value at point of production (GVPP) values greater than \$150to \$8 per barrel at per-barrel GVPP values less than \$80. The sliding scale credit may not reduce the producer's tax liability to less than the minimum tax established under AS 43.55.011(f).

Qualified Capital Expenditure and Well Lease Expenditure Credit**AS 43.55.023(a) and (l)**

This credit is a transferable tax credit for qualified oil and gas capital expenditures in the State. It can be taken in lieu of exploration incentive credits under AS 43.55.025 and gas exploration credits under AS43.20.043. The credit is 20% of eligible expenditures anywhere in the State, or 40% for qualified well lease expenditures for areas other than the North Slope. The qualified capital expenditure credit will no longer be available for North Slope capital expenditures beginning January 1,2014.

Small Producer / New Area Development Credit

AS 43.55.024(a) and (c)

The Small Producer Credit is a non-transferable credit for oil and gas produced by small producers, defined as having average taxable oil and gas production of less than 100,000 BTU equivalent barrels per day. The credit is available until the later of 2016 or nine years after the first commercial production of oil and gas on the properties for which the credit applies. The small producer credit is capped at \$12 million annually for producers with less than 50,000 BTU equivalent barrels per day. The credits then phases out, reaching to zero for producers with 100,000 or more BTU equivalent barrels per day. The credit may only be used against a tax liability, providing the producer has a positive tax liability before the application of credits. The New Area Development Credit is a credit of up to \$6 million per company annually, for oil or gas produced from leases outside Cook Inlet and south of 68 degrees North latitude, providing the producer has a positive tax liability on that production before the application of credits. The credit is available until the later of 2016 or nine years after the first commercial production of oil and gas on the properties for which the credit applies.

Transitional Investment Expenditure Credit

AS 43.55.023(i)

The transitional investment expenditure credit is a non-transferable credit for qualified oil and gas capital expenditures incurred between March 31, 2001 and April 1, 2006. It is only available to companies that did not have production in commercial quantities prior to January 1, 2008. The credit may not be used after December 31, 2013. The credit is 20% of qualified oil and gas capital expenditures incurred between March 31, 2001 and April 1, 2006, not to exceed 10% of the capital expenditures incurred between March 31, 2006 and January 1, 2008.

Credits Applicable to Corporate Income Tax

Education Credit

See "Credits Applicable to Multiple Tax Programs."

Gas Exploration and Development Credit

AS 43.20.043

The Gas Exploration and Development Credit is a nontransferable credit for qualified expenditures for the exploration and development of non-North Slope natural gas reserves. The credit is 25% of qualified expenditures for investment after January 1, 2010; investments in existing units qualify. The credit is capped at 75% of tax liability as calculated before applying other credits.

Gas Storage Facility Credit

AS 43.20.046

The Gas Storage Facility Credit is a non-transferable credit for the costs incurred to establish a natural gas storage facility. The credit is \$1.50 per thousand cubic feet of "working gas" storage capacity as determined by the Alaska Oil and Gas Conservation Commission. It does not apply to gas storage related to a gas sales pipeline on the North Slope. To qualify, the facility must operate as a public utility regulated by the Regulatory Commission of Alaska with open access for third parties. It is effective for facilities placed into service between January 1, 2011 and December 31, 2015. The maximum credit is the lesser of \$15 million or 25% of costs incurred to establish the facility.

Internal Revenue Code Credits Adopted By Reference

AS 43.20.021

Under Alaska's blanket adoption of the federal Internal Revenue Code, taxpayers can claim all federal incentive credits. Federal credits that refund other federal taxes are not allowed. Multistate taxpayers apportion their total federal incentive credits. In most cases, the credit is limited to 18% of the amount of the credit determined for federal income tax purposes which is attributable to Alaska.

LNG Storage Facility Credit

AS 43.20.047

The LNG Storage Facility Credit is a non-transferable credit for the costs incurred to establish a storage facility for liquefied natural gas. The credit is lesser of \$15 million or 50% of costs incurred to establish the facility. It applies to facilities with a minimum storage capacity of 25,000 gallons of LNG, and that are public utilities regulated by the Regulatory Commission of Alaska. It is for facilities placed into service after January 1, 2011.

Oil and Gas Industry Service Expenditures Credit

AS 43.20.049

The Oil and Gas Industry Service Expenditures Credit is a credit of 10% of qualified oil and gas industry service expenditures that are for in-state manufacture or in-state modification of oil and gas tangible personal property with a service life of three years or more. The credit may be applied to corporate income tax liabilities in amounts up to \$10 million per taxpayer per year. The credit is effective for expenditures incurred after January 1, 2014. The credit is not transferable but any amount of the credit that exceeds the taxpayer's liability may be carried forward up to five years.

Minerals Exploration Incentive Credit

See "Credits Applicable to Multiple Tax Programs."

Veteran Employment Tax Credit

AS 43.20.048

The Veteran Employment Credit is a non-transferable credit for corporate income taxpayers that employ qualified veterans in the State. A "qualified veteran" is a veteran who was unemployed for more than four weeks preceding the employment date and who was discharged or released from military service not more than ten years before employment date (for a disabled veteran) or not more than two years before employment date (for a veteran who is not disabled). The credit is \$3,000 for a disabled veteran or \$2,000 for a veteran who is not disabled for employment for a minimum of 1,560 hours during 12 consecutive months following the veteran's employment date. For seasonal employment, the credit is \$1,000 for a veteran employed for a minimum of 500 hours during three consecutive months following the employment date.

Credits Applicable to Fisheries Taxes

Community Development Quota Credit

AS 43.77.040

The Community Development Quota Credit is a non-transferable credit for contributions to an Alaska nonprofit corporation that is dedicated to fisheries industry related expenditures. The credit is available only for fishery resources harvested under a community development quota (CDQ). The credit is 100% of contribution amount up to a maximum of 45.45% of tax liability on fishery resources harvested under a CDQ.

Education Credit

See "Credits Applicable to Multiple Tax Programs."

Other Taxes Credit**AS 43.77.030**

The Other Taxes Credit is a nontransferable credit for taxes paid to another jurisdiction on fishery resources landed in Alaska. The credit is 100% of taxes paid with a maximum of 100% of the Alaska tax liability on the fishery resources.

Salmon Product Development Credit**AS 43.75.035**

The Salmon Product Development Credit is a non-transferable credit for eligible capital expenditures to expand value-added processing of Alaska salmon, including ice-making machines. The credit is 50% of qualified investments up to 50% of tax liability incurred for processing salmon during the tax year. The credit may be carried forward for three years, but the authorizing statute is scheduled to sunset on December 31, 2015.

Scholarship Contributions Credit**AS 43.75.032, AS 43.77.035**

The Scholarship Contributions Credit is applicable to both the Fisheries Business Tax and the Fishery Resource Landing Tax. It is a non-transferable credit for contributions to the A.W. "Winn" Brindle memorial education loan account. The credit is 100% of the contribution amount, up to a maximum of 5% of tax liability.

Credits Applicable to Multiple Tax Programs

Education Credit**AS 21.96.070, AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, AS 43.77.045**

The Education Credit is a nontransferable credit applicable to the Corporate Income Tax, Fisheries Business Tax, Fishery Resource Landing Tax, Insurance Premiums Tax, Title Insurance Premiums Tax, Mining License Tax, Oil and Gas Production Tax, and the Oil and Gas Property Tax. It is a nontransferable credit for contributions to vocational educational programs, accredited Alaska universities or colleges for educational purposes or facilities, annual intercollegiate sports tournaments, Alaska Native educational programs, and facilities that qualify under the Coastal American Partnership. The credit is available for up to 50% of annual contributions up to \$100,000, 100% of the next \$200,000, and 50% of annual contributions beyond \$300,000 up to \$10 Million. The credit for any one taxpayer cannot exceed \$5,000,000 annually across all eligible tax types. The credit at these rates is effective from January 1, 2011 until December 31, 2020, at which point the maximum credit for any taxpayer is \$150,000 per year.

Film Production Credit**AS 43.98.030, under AS 21.09.210, AS 21.66.110, AS 43.20, AS 43.55, AS 43.56, AS 43.65, AS 43.75, AS 43.77**

The Film Production Credit is a transferable credit for expenditures on eligible film production activities in Alaska. Effective July 1, 2013: 1) a producer must spend at least \$75,000 in qualified expenditures over a consecutive 24-month period to qualify, 2) the credit is 30% of eligible film production expenditures, plus an additional 20% credit for wages paid to Alaska residents, plus

an additional 6% credit for filming in a rural area, plus an additional 2% credit for filming between October 1 and March 30, 3) the credits must be used within six years, 4) the tax credit applies to multiple tax programs in addition to corporate income tax. The program is capped at a \$300 million maximum budget for all projects and expires on July 1, 2023.

Minerals Exploration Incentive Credit

AS 27.30.030, AS 43.20.044

The Minerals Exploration Incentive Credit is applicable to the Corporate Income Tax, Mining License Tax, and Mineral Production Royalty. It is a non-transferable credit for eligible costs of mineral or coal exploration activities and must be used within fifteen years. The credit is 100% of allowable exploration costs with a maximum of \$20 million. For mining license tax (MLT), the credit is limited to the lesser of 50% of the MLT liability at the mining operation at which the exploration occurred or 50% of total MLT liability. For the corporate income tax, it is limited to the lesser of 50% of the MLT liability at the mining operation at which the exploration occurred or 50% of total CIT liability. For mineral royalty, the credit is limited to 50% of royalty liability from the mining operation at which the exploration activity occurred.

Responses to Specific Questions

CCED responded to Rep. Newman's question regarding encumbered funds allocated to departments for specific education and school funding.

Funding for schools goes almost exclusively through the Dept. of Education and is not appropriated under AS 37.05.316-.317. Likewise grants for; water and sewer projects appropriated to ADEC/ Village Safe Water, roads, airports, and harbors through DOT&PF, or projects through the Alaska Energy Program are all appropriated under different statutory authorities and the provisions in this bill would not apply.

Legislative Legal responded to Rep Wilson's question regarding the difference (if any) to a Repealer or Sunset provision.

In legal terms there is no difference between a "Repealer" and a "Sunset" provision. The effect is still accomplished on a specified date.

CCED responded to concerns about the administration of lapsing grants to unincorporated communities and named recipients and substantial work.

Currently, AS 37.05.318 prohibits the Department from enacting regulations with regard to the administration of grants appropriated under 37.05.315 - .317, so there is no regulatory definition of this term. The Department however, does have an obligation to prudently manage these public funds.

In order to meet the intent of this statute, approximately seven months prior to the lapsing date of a legislative grant, grant administrators send a notice to all grantee's with a grant balance, notifying them of the upcoming funding lapse date. A copy of one of these notices and the response from the grantee is attached. In order for a grant to be extended, a grantee must meet the following 4 requirements:

1. A grant must have a balance of \$1,000 or more.
2. The grantee must file a written request.
3. The grantee must be current on progress and financial reporting.

4. Financial and Progress Reports must reflect that substantial progress towards project completion has been made on the project. If a grantee cannot demonstrate substantial ongoing progress, they must provide a written explanation for the delays and written assurance that the project can be successfully completed within one year.

The Department feels that item number 4 addresses the statutory requirement of determining substantial, ongoing work. While not a statutory requirement, to be consistent with all designated legislative grants, the Department currently use this same process for grants issued under the authority of AS 37.05.316 (Named Recipients) and .317 (Unincorporated Communities).

The following is an example of the current process.



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

**Department of Commerce, Community,
and Economic Development**

DIVISION OF COMMUNITY AND REGIONAL AFFAIRS

550 West Seventh Avenue, Suite 1640
Anchorage, Alaska 99501
Main: 907.269.4252
TDD: 907.465.5437
Fax: 907.269.4066

January 9, 2014

Derek Martin, City Manager
City of Kotzebue
PO Box 46
Kotzebue, Alaska 99752

Re: Important Information Regarding Grants due to lapse on June 30, 2014

Dear Derek:

This notice is to inform you that the grant referenced below is due to lapse on June 30, 2014.

Grant #08-DC-465, Regional Recreation Center Construction

Please review the options on the attached form, check the appropriate box and return the completed form to our office no later than **February 14, 2014**. If you are requesting an extension for this grant, you will need to meet the necessary requirements on the attached form and submit supporting documentation.

If you have any questions please call me at (907)269-4252. I will be happy to assist you in the preparation of the required information.

Sincerely,

A handwritten signature in cursive script that reads "Rachel Spicer".

Rachel Spicer
Grant Administrator II

Enclosures

DESIGNATED LEGISLATIVE LAPSING GRANT CONFIRMATION

Department of Commerce, Community, and Economic Development, Division of Community and Regional Affairs

Grantee: City of Kotzebue	Grant #: 08-DC-465
Project Title: Regional Recreation Center Construction	Lapse Date: 06/30/2014
Amount of Award: \$250,000.00	Balance as of (01/9/2014): \$250,000.00

Please check one of the following boxes, sign and return this form to the address below no later than **February 14, 2014**.

- ☐ An extension of this grant is requested. Extensions are contingent upon approval and grants will not be extended past June 30, 2014, unless the following conditions are met:
1. A grant must have a balance of \$1,000.00 or more in order to be considered for an extension;
 2. A written request to extend the grant must be submitted to this office;
 3. Financial and Progress Reporting for the grant must be current; and
 4. Financial and Progress Reports must reflect that substantial progress toward project completion has been made on the project. If you cannot demonstrate substantial ongoing progress, you must provide a written explanation for the delays and written assurance that the project can be successfully completed by June 30, 2015, in order for the Department to consider a one year extension.
- ☐ The balance of funds will be spent prior to June 30, 2014, and it is understood that a final financial progress report is due to DCRA no later than July 15, 2014.
- ☐ This project is complete and it is understood that any unexpended funds on June 30, 2014, will lapse into the general fund.
- ☐ This grantee will be seeking a re-appropriation or a language amendment directly from the Legislature. It is understood that these changes are contingent upon legislative approval and funds may not be spent towards the new purpose until legislation passes and notification is received from DCRA. Financial reporting requirements and grant agreement conditions remain in effect for the current project while pending reappropriation or language amendment.

Signature of Authorized Chief Administrator

Date

Derek Martin, City Manager

Printed Name and Title

Confirmations can be faxed to 907.269.4252, attached to an email to: rachel.spicer@alaska.gov or mailed to:
DCCED/DCRA, 550 West 7th Ave., Suite 1640, Anchorage, Alaska 99501-3510



P.O. Box 46
Kotzebue, Alaska 99752

City Hall
(907) 442-3401

Police Dept.
(907) 442-3351

Fire Dept.
(907) 442-3404

Public Works
(907) 442-3401

February 10, 2014

Rachel Spicer, Grants Administrator
State of Alaska, DCCED
DCRA Grants Section
550 West 7th Avenue, Suite 1640
Anchorage, Alaska 99501

RE: 08-DC-465: Regional Recreation Center Construction -Grant Extension Request

Dear Ms. Spicer:

The City of Kotzebue is requesting a 6 month extension beyond the June 30, 2014 deadline to December 31, 2014. As you know, the City of Kotzebue, through its contractor Drake Construction Inc. (DCI) was able to place 40,000 cubic yards of Swan Lake fill at the project site. Site leveling, which included the placement of geotextile fabric & classified fill, took place at the end of the construction season. Unfortunately, the winter weather prevented the final grading of the five acre site, seeding of the ball field, installation of the security fencing, and installation of the site amenities such as the bleachers and ball field fencing. Some of these items will arrive on the July 2014 marine transportation service.

Therefore, the City of Kotzebue respectfully request that you extend this grant to December 31, 2014, as indicated in the attached form. Under separate cover, all financial/progress reports should be current.

Thank you for your consideration of this request. For any questions or comments, do not hesitate to contact me at (907) 442-5101.

Sincerely,
City of Kotzebue

Derek Martin, City Manager

Cc: 484 DCCED Grant file

Enclosure: DCCED Grant Extension Request [1 pg]

DESIGNATED LEGISLATIVE LAPSING GRANT CONFIRMATION

Department of Commerce, Community, and Economic Development, Division of Community and Regional Affairs

Grantee: City of Kotzebue	Grant #: 08-DC-465
Project Title: Regional Recreation Center Construction	Lapse Date: 06/30/2014
Amount of Award: \$250,000.00	Balance as of (01/9/2014): \$250,000.00

Please check one of the following boxes, sign and return this form to the address below no later than **February 14, 2014**.

☒ An extension of this grant is requested. Extensions are contingent upon approval and grants will not be extended past June 30, 2014, unless the following conditions are met:

1. A grant must have a balance of \$1,000.00 or more in order to be considered for an extension;
2. A written request to extend the grant must be submitted to this office;
3. Financial and Progress Reporting for the grant must be current; and
4. Financial and Progress Reports must reflect that substantial progress toward project completion has been made on the project. If you cannot demonstrate substantial ongoing progress, you must provide a written explanation for the delays and written assurance that the project can be successfully completed by June 30, 2015, in order for the Department to consider a one year extension.

☐ The balance of funds will be spent prior to June 30, 2014, and it is understood that a final financial progress report is due to DCRA no later than July 15, 2014.

☐ This project is complete and it is understood that any unexpended funds on June 30, 2014, will lapse into the general fund.

☐ This grantee will be seeking a re-appropriation or a language amendment directly from the Legislature. It is understood that these changes are contingent upon legislative approval and funds may not be spent towards the new purpose until legislation passes and notification is received from DCRA. Financial reporting requirements and grant agreement conditions remain in effect for the current project while pending reappropriation or language amendment.


Signature of Authorized Chief Administrator

01/31/14
Date

Derek Martin, City Manager
Printed Name and Title

Confirmations can be faxed to 907.269.4252, attached to an email to: rachel.spicer@alaska.gov or mailed to:
DCCED/DCRA, 550 West 7th Ave., Suite 1640, Anchorage, Alaska 99501-3510