Alaska State Legislature
House Rules Committee
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2d CS for House Bill 247 (   ) Version \M

Section 1	Adds a new subsection to AS 31.05.030, Alaska Oil and Gas Conservation Act. Requires the Alaska Oil and Gas Conservation Commission to determine the start of regular production of new oil. Effective Jan. 1, 2017.
Secs. 2-6	Amend AS 38.05.036 (a), (b), (c), (f) and (g), Alaska Land Act, Audit of royalty and net profit payments and costs. Conforming to the Section 47 repeal of AS 41.09, an old Department of Natural Resources exploration credit program. Effective Jan. 1, 2017.
Section 7	Amends AS 40.25.100(a), Public Record Disclosures, Disposition of tax information. Conforming to Section 9, which requires the Department of Revenue to make public some taxpayer information. Effective Jan. 1, 2017.
Section 8	Amends AS 43.05.225, Administration of Revenue Laws, Interest. The interest rate on delinquent taxes is five points above the 12th Federal Reserve District rate, compounded quarterly. Effective Jan. 1, 2017.
Section 9	Adds a new subsection to AS 43.05.230, Administration of Revenue Laws, Disclosure of tax returns and reports. Requires the Department of Revenue to make public by April 30 of each year, the name of a company from whom the department purchases a tax credit certificate and the total amount of tax credit certificates purchased from each company. Effective Jan. 1, 2017.
Section 10	Amends AS 43.20.046(e), Alaska Net Income Tax Act, Gas storage facility tax credit. The Department of Revenue will no longer use the Oil and Gas Tax Credit Fund to refund gas storage facility credits. The credits remain refundable by DOR. Also, definition of “unpaid delinquent taxes” is removed, as a new definition for “outstanding liability” applicable to AS Title 43, Revenue and Taxation, is added in Section 46. Effective Jan. 1, 2017.
Section 11	Amends AS 43.20.047(e), Alaska Net Income Tax Act, Liquefied natural gas storage facility tax credit. The Department of Revenue will no longer use the Oil and Gas Tax Credit Fund to refund LNG storage facility credits. The credits remain refundable by DOR. Also, definition of “unpaid delinquent taxes” is removed, as a new definition for “outstanding liability” applicable to AS Title 43, Revenue and Taxation, is added in Section 46. Effective Jan. 1, 2017.

Section 12	Amends AS 43.20.053(e), Alaska Net Income Tax Act, Qualified in-state oil refinery infrastructure expenditures tax credit. The Department of Revenue will no longer use the Oil and Gas Tax Credit Fund to refund instate refinery credits. The credits remain refundable by DOR. Also, reference to "unpaid delinquent taxes" is removed, as a new definition for "outstanding liability" applicable to AS Title 43, Revenue and Taxation, is added in Section 46. Effective Jan. 1, 2017.
Section 13	Amends AS 43.55.011(m), Oil and Gas Production Tax. Conforming to the Section 47 repeal of the DNR credit programs in AS 38.05.180(i) and AS 41.09. Effective Jan. 1, 2017.
Section 14	Amends AS 43.55.023(a), Oil and Gas Production Tax, Tax credits for certain losses and expenditures. For work done outside of the North Slope, a qualified capital expenditure credit of 30% is available in 2017, reducing to 20% in 2018. For Cook Inlet, a company must have regular production of oil or gas in Cook Inlet in calendar year 2016 in order to be eligible for this credit any year going forward. Also, conforming to the Section 47 repeal of the DNR credit programs in AS 38.05.180(i) and AS 41.09. Effective Jan. 1, 2017.
Section 15	Amends AS 43.55.023(b), Oil and Gas Production Tax, Tax credits for certain losses and expenditures. The 35% net operating loss credit on the North Slope terminates at the end of 2016, except for companies with regular production of oil or gas on the North Slope in calendar year 2016, the 35% credit (refundable) is available through 2019, providing the company produces less than 20,000 barrels per day in 2016. The 25% net operating loss credit in areas other than the North Slope remains at 25% in 2017, then terminates. To receive the credit in Cook Inlet, a company must have regular production of oil or gas in Cook Inlet in calendar year 2016. Also, ensures that the application of a gross value reduction for new oil cannot increase the size of a loss. Effective Jan. 1, 2017.
Section 16	Amends AS 43.55.023(d), Oil and Gas Production Tax, Tax credits for certain losses and expenditures. Conforms to the Section 48 repeal of AS 43.55.023(a), qualified capital expenditure credit. Effective Jan. 1, 2019.
Section 17	Amends AS 43.55.024(i), Oil and Gas Production Tax, Additional nontransferable tax credits. Companies may apply the $5 per-barrel new oil credit only for oil receiving the 10-year gross value reduction. Effective Jan. 1, 2017.
Section 18	Amends AS 43.55.024(j), Oil and Gas Production Tax, Additional nontransferable tax credits. Once new oil is no longer eligible for new oil benefits and is being taxed as normal oil, the oil is also eligible for the sliding-scale per-barrel credit. Effective Jan. 1, 2017.
Section 19	Amends AS 43.55.025(m), Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration. Extends a Middle Earth credit to a company that has

spudded but not completed a well by July 1, 2016. The AS 43.55.025(a)(6) credit covers 80% of eligible costs, up to $25 million. Effective immediately.

Section 20 Amends AS 43.55.025(m), Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration, as amended by Section 19. Conforming to the Section 49 repeal of AS 43.55.023. Effective Jan. 1, 2020.

Section 21 Amends AS 43.55.025(o), Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration. Conforms to the Section 47 repeal of AS 43.55.025 (a)(7), (l), and (n). Effective Jan. 1, 2017.

Section 22 Amends AS 43.55.028(a), Oil and Gas Production Tax, Oil and gas tax credit fund. Removes the authority to use the fund to pay refunds for the income tax credits related to the instate refinery, LNG storage facility, and gas storage facility. Effective Jan. 1, 2017.

Section 23 Amends As 43.55.028(a), Oil and Gas Production Tax, Oil and gas tax credit fund, as amended by Sec. 22. Conforming to the Section 49 repeal of AS 43.55.023. Effective Jan. 1, 2020.

Section 24 Amends AS 43.55.028(e), Oil and Gas Production Tax, Oil and gas tax credit fund. Limits the maximum state repurchase of tax credits to $85 million per company, per year. Requires the Department of Revenue to, before purchasing credit certificates, find that the applicant is not the result of the division of a single entity into multiple entities that would reasonably have been expected to apply as a single entity. Effective Jan. 1, 2017.

Section 25 Amends AS 43.55.028(e), Oil and Gas Production Tax, Oil and gas tax credit fund, as amended by Sec. 24. Conforms to the Section 49 repeal of AS 43.55.023. Effective Jan. 1, 2020.

Section 26 Amends AS 43.55.028(g), Oil and Gas Production Tax, Oil and gas tax credit fund. Requires the Dept. of Revenue to adopt regulations granting preference to companies with at least 80% Alaska hire, in case there is not enough money in the Oil and Gas Tax Credit Fund to cover all applicants. Also, as credits for LNG storage facilities, gas storage facilities and instate refineries would no longer be refunded through the fund, makes conforming adjustments. Effective Jan. 1, 2017.

Section 27 Adds a new subsection to AS 43.55.028, Oil and Gas Production Tax, Oil and gas tax credit fund. Ensures an outstanding liability to the state related to oil and gas activity is withheld from the amount of a tax certificate purchased by the Dept. of Revenue using the Oil and Gas Tax Credit Fund. The department may use the withheld amount to satisfy an outstanding liability, providing the liability is not being contested through an appeal or adjudicatory process established in law, without the taxpayer’s consent. Satisfying a liability in this manner would not affect the applicant’s ability to contest a liability. Effective Jan. 1, 2017.

Section 28	Amends AS 43.55.029(a), Oil and Gas Production Tax, Assignment of tax credit certificate. Conforming to the Section 47 repeal of the well lease expenditure credit in AS 43.55.023(l). Effective Jan. 1, 2017.
Section 29	Amends AS 43.55.029(a), Oil and Gas Production Tax, Assignment of tax credit certificate, as amended by Sec. 28. Conforms to the Sec. 48 repeal of the qualified capital expenditure credit in AS 43.55.023(a). Effective Jan. 1, 2019.
Section 30	Amends AS 43.55.029(a), Oil and Gas Production Tax, Assignment of tax credit certificate, as amended by Secs. 28 and 29. Conforms to the Sec. 49 repeal of the net operating loss credit in AS 43.55.023(b). Effective Jan. 1, 2020.
Section 31	Amends AS 43.55.030(a), Oil and Gas Production Tax, Filing of statements. Conforms to the repeal of the qualified capital expenditure credit in Section 48. Effective Jan. 1, 2019.
Section 32	Amends AS 43.55.030(e), Oil and Gas Production Tax, Filing of statements. Conforms to the Section 48 repeal of the qualified capital expenditure credit, AS 43.55.023(a). Effective Jan. 1, 2019.
Section 33	Amends AS 43.55.075(b), Oil and Gas Production Tax, Limitation on assessment and amended returns. Conforms to the Section 48 repeal of the qualified capital expenditure credit, AS 43.55.023(a). Effective Jan. 1, 2019.
Section 34	Amends AS 43.55.160(d), Oil and Gas Production Tax, Determination of production tax value of oil and gas, as amended by Section 37. Conforms to the Section 48 repeal of AS 43.55.023. Effective Jan. 1, 2020.
Section 35	Amends AS 43.55.160(e), Oil and Gas Production Tax, Determination of production tax value of oil and gas. Requires that, for the purposes of calculating a carried-forward annual loss, any reduction due to the Gross Value Reduction for new oil is added back to the tax calculation. This prevents the GVR from increasing the amount of a loss. Also, conforms to the new lease expenditure provisions in Section 39. Effective Jan. 1, 2017.
Section 36	Amends AS 43.55.160(e), Oil and Gas Production Tax, Determination of production tax value of oil and gas, as amended by Sec. 35. Conforming to Section 49 repeal of AS 43.55.023. Effective Jan. 1, 2020.
Secs. 37-38	Amend AS 43.55.160(f) and (g), Oil and Gas Production Tax, Determination of production tax value of oil and gas. For the gross value reduction for new oil, reduces the period in which the reduction applies from a lifetime benefit in current statute, to a 10-year benefit, beginning once regular production starts from a lease or property. The Alaska Oil and Gas Conservation Commission will

determine when regular production begins. For new oil already receiving the gross value reduction, the benefit terminates Jan. 1, 2026. Effective Jan. 1, 2017.

Section 39 Amends AS 43.55.165(a), Oil and Gas Production Tax, Lease expenditures. For the North Slope, lease expenditures include lease expenditures incurred in a prior year that have not been previously deducted in determining oil and gas taxes and were not the basis of a credit. This section allows lease expenditures to carry over from a prior year. Also, conforming to the Section 47 repeal of AS 43.55.165(j) and (k). Effective Jan. 1, 2017.

Section 40 Amends AS 43.55.165(f), Oil and Gas Production Tax, Lease expenditures. Conforming to the Section 48 repeal of the qualified capital expenditure credit, 43.55.023(a). Effective Jan. 1, 2019.

Section 41 Amends AS 43.55.170(c), Oil and Gas Production Tax, Adjustments to lease expenditures. Conforming to the Section 48 repeal of the qualified capital expenditure credit, AS 43.55.023(a). Effective Jan. 1, 2019.

Section 42 Amends AS 43.55.180(a), Oil and Gas Production Tax, Required report. Conforms to the Section 49 repeal of 43.55.023. Effective Jan. 1, 2020.

Section 43 Amends AS 43.55.895(b), Oil and Gas Production Tax, Applicability to municipal entities. Requires allocation of lease expenditures and tax credits between taxable and exempt production for a municipal entity. Effective Jan. 1, 2017.

Section 44 Adds a new paragraph to AS 43.55.900, Oil and Gas Production Tax, Definitions. Defines “regular production” as defined in AS 31.05.170. Effective Jan. 1, 2017.

Section 45 Adds new sections to AS 43.70, Alaska Business License Act. Requires a $250,000 surety bond for oil and gas businesses, allowing the Department of Commerce commissioner to cancel the requirement once a business is producing oil or gas in commercial quantities. Provides a framework for people with claims against a business required to post the surety bond; prioritizes satisfaction of types of claims. Effective Jan. 1, 2017.

Section 46 Adds a new paragraph to AS 43.99.950, Revenue and Taxation, General Provisions, defining “outstanding liability to the state.” Effective Jan. 1, 2017.

Section 47 On Jan. 1, 2017, repeals multiple sections of statute, including the old DNR exploration credit programs; the well lease expenditure credit; and pre-2010 tax statutes. (See attached Summary of Repeals)

Section 48 On Jan. 1, 2019, repeals the qualified capital expenditure credit. (See attached Summary of Repeals)

Section 49	On Jan. 1, 2020, repeals all credits remaining in 43.55.023. (See attached Summary of Repeals)
Section 50	Adds a new section to uncodified law creating a Legislative Working Group to develop a comprehensive tax regime for oil and gas in Cook Inlet and Middle Earth, to take effect Jan. 1, 2019, once the current credits are phased out. The working group's proposal is to be presented to the Legislature in the 2017 regular session, and should include evaluation of incentives other than direct monetary support, including loan guarantees. Effective immediately.
Section 51	Applicability language.
Section 52	Transition language related to the Jan. 1, 2017, repeal of the well lease expenditure credits, AS 43.55.023(l) and (n). Effective Jan. 1, 2017.
Section 53	Transition language related to the repeal of the qualified capital expenditure credit. Effective Jan. 1, 2019.
Section 54	Transition language related to the repeal of the carry-forward annual loss credit. Effective Jan. 1, 2020.
Section 55	Transition language related to credits. Effective Jan. 1, 2020.
Section 56	Transition language related to lease expenditures and the repeal of AS 43.55.165(j) and (k). Effective Jan. 1, 2017.
Section 57	Transition language related to exploration and seismic expenditures. Effective Jan. 1, 2017.
Section 58	Transition language authorizing the Department of Revenue, Department of Natural Resources, Department of Commerce, Community and Economic Development, and the Alaska Oil and Gas Conservation Commission to adopt regulations for this act. Effective immediately.
Section 59	Transition language authorizing the Department of Revenue and Department of Natural Resources to adopt retroactive regulations. Effective immediately.
Section 60	Immediate effective date for sections 19 (extension of Middle Earth credit for a well spudded but not completed), 50 (Legislative Working Group), 58 (authority to adopt regulations) and 59 (authority to adopt retroactive regulations).
Section 61	Jan. 1, 2019, effective date for sections 16, 29, 31-33, 40, 41, 48, and 53.
Section 62	Jan. 1, 2020, effective date for sections 20, 23, 25, 30, 34, 36, 42, 49, 54, and 55.
Section 63	Jan. 1, 2017, effective date for all other sections.

CS for HB 247 \M - Summary of Repealers

Jan. 1, 2017 (Section 47)

AS 38.05.180(i) Repeals an old Department of Natural Resources exploration incentive credit program.

AS 41.09.010-.030, 090 Repeals a currently un-used exploration incentive credit program.

AS 43.20.053(j)(4) Repeals the definition of "unpaid delinquent tax" in the instate refinery credit statute. A definition of "unpaid delinquent tax" is added to the income tax statute in Section 13.

> (j) In this section,
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> > (4) "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.

AS 43.55.023(l) Repeals the 40% well lease expenditure credit.

AS 43.55.023(n) Related to the repeal of the well lease expenditure credit.

> (n) For the purposes of (l) of this section, a well lease expenditure incurred in the state south of 68 degrees North latitude is a lease expenditure that is
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> > (1) directly related to an exploration well, a stratigraphic test well, a producing well, or an injection well other than a disposal well, located in the state south of 68 degrees North latitude, if the expenditure is a qualified capital expenditure and an intangible drilling and development cost authorized under 26 U.S.C. (Internal Revenue Code), as amended, and 26 C.F.R. 1.612-4, regardless of the elections made under 26 U.S.C. 263(c); in this paragraph, an expenditure directly related to a well includes an expenditure for well sidetracking, well deepening, well completion or recompletion, or well workover, regardless of whether the well is or has been a producing well; or
> >
> > (2) an expense for seismic work conducted within the boundaries of a production or exploration unit.

AS 43.55.025(a)(5), (7) Repeals exploration credits that are only good for work done before July 2016. Retains the (a)(6) credit, which is extended for spudded but not completed wells in Middle Earth, in Section 22.

> (a) Subject to the terms and conditions of this section, a credit against the production tax levied by AS 43.55.011(e) is allowed for exploration expenditures that qualify under (b) of this section in an amount equal to one of the following:

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

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

AS 43.55.025(l)	Repeals the jack-up rig credit eligibility criteria, conforming to the repeal of the AS 43.55.025 (a)(5) credit.
AS 43.55.025(n)	Repeals eligibility criteria for a seismic exploration credit associated with AS 43.55.025 (a)(7), which is repealed.
AS 43.55.165(j)	Repeals the "standard deduction" limitation on lease expenditure inflation that expired in 2010.
AS 43.55.165(k)	Repeals the "standard deduction" limitation on lease expenditure inflation that expired in 2010.

Jan. 1, 2019 (Section 48)

AS 43.55.023(a)	Repeals the qualified capital expenditure credit.
AS 43.55.023(o)	Conforming to the repeal of the qualified capital expenditure credit.

(o) In this section, "qualified capital expenditure"

(1) means, except as otherwise provided in (2) of this subsection, an expenditure that is a lease expenditure under AS 43.55.165 and is

(A) incurred for geological or geophysical exploration or

(B) 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

(i) treated as a capitalized expenditure for federal income tax reporting purposes by the person incurring the expenditure; or

(ii) eligible to be deducted as an expense under 26 U.S.C. 263(c) (Internal Revenue Code), as amended;

(2) does not include an expenditure incurred to acquire an asset (A) 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; for purposes of this subparagraph, "asset" includes geological, geophysical, and well data and interpretations; or (B) that has previously been placed in service in the state; an expenditure to acquire an asset is not excluded under this paragraph if not more than an immaterial portion of the asset meets a description under this paragraph.

AS 43.55.028(i) Conforming to the repeal of the qualified capital expenditure credit.

(i) In this section, "qualified capital expenditure" has the meaning given in AS 43.55.023.

AS 43.55.075(d)(1) Conforming to the repeal of the qualified capital expenditure credit.

(d) In this section,

(1) "qualified capital expenditure" has the meaning given in AS 43.55.023;

AS 43.55.165(e)(18) Conforming to the repeal of the qualified capital expenditure credit.

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

(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;

AS 43.55.890(6) Conforming to the repeal of the qualified capital expenditure credit.

AS 43.55.890: 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:

(6) qualified capital expenditures, as defined in AS 43.55.023;

Jan. 1, 2020 (Section 49)

AS 43.55.023 Repeals the single remaining AS 43.55.023 credit, (b), for net operating losses on the North Slope

AS 43.55.165(f) Conforming to the repeal of AS 43.55.023.

AS 43.55.165,Oil and Gas Production Tax; Lease expenditures; (f) For purposes of 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."

AS 43.55.170(c) Conforming to the repeal of AS 43.55.023.

AS 43.55.170, Oil and Gas Production Tax, Adjustments to lease expenditure; (c) For purposes of 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."