Alaska State Legislature
House Resources Committee

Representative Andy Josephson
State Capitol, Room 102
Juneau, AK 99801
Phone: (907) 465-4939

Representative Geran Tarr
State Capitol, Room 126
Juneau, AK 99801
Phone: (907) 465-3424

Representative Geran Tarr, Co-Chair
Representative Andy Josephson, Co-Chair

SECTIONAL ANALYSIS

HB 111: OIL AND GAS PRODUCTION TAX; PAYMENTS; CREDITS

Ver 30-LS0450\O

Section 1. Amends AS 43.05.225 regarding interest on delinquent oil and gas production tax payments to remove a three year limit on accrual of interest. Since 2014, the interest rate for delinquent taxes was set three points above the Federal discount rate. HB 247 added a new section increasing the rate for oil and gas to seven points above the Federal discount rate compounded. The higher rate applies only for the first three years after the tax becomes delinquent after which there is no interest. The amendment repeals the three year limit because zero interest discourages companies from settling tax disputes with the state.

Section 2. Amends AS 43.55.011(f) to change the North Slope minimum tax from not less than four percent of the gross value to five percent for oil and gas produced after 2018. The section removes the variable minimum tax that would occur at sustained oil prices at below $25 per barrel; the five percent minimum tax would apply at all prices.

> Note: The section ends the minimum tax for oil and gas in 2022. That is not the intent. The minimum tax for oil should continue past 2022. In existing statute, the net production tax on gas will change to a gross value tax system in 2022 and the minimum tax for gas will end. A correction will be made in a future draft of the bill.

Section 3. Adds a new section to AS 43.55.011 to make it clear that application of any tax credit issued under the oil and gas production tax may not be used to reduce the minimum tax of five percent. The second sentence in this subsection relates to fixing a situation where a taxpayer can apply per barrel credits that cannot be used in one month due to the minimum tax to offset a tax liability from a different month in that calendar year (the “migrating” credit issue). This issue only occurs in a year where the tax rate is below the minimum tax in some months and above the minimum tax in other months in a year.

Section 4. Amends AS 43.55.020, related to monthly installment payments, to reflect the change to the minimum tax in section 2 and the migrating credit issue in section 3.

Section 5. Changes the carried-forward annual loss – the net operating loss – credit rate on the North Slope from 35 percent to 15 percent. After January 1, 2018, a taxpayer will only be able to apply for tax credits up to 15 percent of their net operating loss.

Section 6. Amends AS 43.55.023(d) to remove the ability for taxpayers to apply for a cash payment for net operating loss credits issued under AS 43.55.023(b).

Section 7. Amends AS 43.55.024(j), the per barrel tax credit, from zero to $8 to zero to $5 per barrel depending on the price of oil. The most a taxpayer could receive is a credit of $5 per barrel at prices below $80.

Section 8. Amends AS 43.55.028(a) to reflect the section that removes the ability for taxpayers to apply for a cash payment for net operating loss credits. The only credits that may qualify for a cash payment are the qualified capital expenditure credits in AS 43.55.023(a) and the well lease expenditure credits in AS 43.55.023(l). Under HB 247, for Cook Inlet, the qualified capital expenditure and well lease expenditure credits apply only to expenditures incurred before January 1, 2017. Once those credits phase out, the only credits that may qualify for cash payments are capital expenditure and well lease expenditure credits acquired by companies operating in the area outside Cook Inlet and the North Slope known as “Middle Earth.”

Section 9. Changes AS 43.55.028(e) to limit the state’s purchase of credits to $35 million per company. Only companies with production of not more than 15,000 barrels per day may apply for a cash payment. Current law sets the purchase limit at $70 million and applies to companies with not more than 50,000 barrels per day.

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Section 10. Adds a new section to AS 43.55.150 to ensure that the gross value at the point of production does not go below zero. The gross value is determined by subtracting tariffs and transportation costs from the West Coast sale price per barrel. The gross value at the point of production is used in various calculations throughout the production tax statute.

Section 11. Repeals AS 43.55.028(g)(3). The language proposed to be repealed was added in HB 247. If an applicant wanted to apply for the full $70 million in credits in one year, they would receive 100 percent of the first $35 million and 75 percent of the other $35 million. This was to give applicants an incentive to wait and collect credits in a future year and lessen the cash outlay by the state in a single year.

Section 12. (a) Sections 3 and 4 – the five percent minimum tax and resolution of the migrating tax issue – apply to credits applied to reduce a tax liability for the tax year starting on or after January 1, 2018. (b) The changes to the net operating loss credit in section 5 apply to lease expenditures incurred on or after January 1, 2018.

Section 13. If a person has applied for cash payment of a net operating loss credit before January 1, 2018, the department may purchase the credit.

Section 14. The change to the interest rate is retroactive to January 1, 2017.

Section 15. The change to the interest rate and its retroactivity is effective immediately.

Section 16. All other sections take effect January 1, 2018.