

SECTIONAL ANALYSIS
HCS CSSB 21 (RES)
28-GS1647\S

Section 1: Conforming amendments to AS 05.15.095(c) (delinquent gaming fees) required by amendment to AS 43.05.225, interest rates due on delinquent taxes.

Section 2: AS 29.60.850(b), relating to certain appropriations to the general fund is amended to remove the reference to AS 43.55.011(g) and to reference instead AS 43.20.030(c), relating to payments under the Alaska Net Income Tax Act. The legislature may appropriate revenues from AS 43.20.030 or an amount to the community revenue sharing fund not to exceed \$60,000,000 or the amount that, when added to the fund balance on June 30 of the previous fiscal year, equals \$180,000,000.

Section 3: Conforming amendments to AS 34.45.470(a) (unclaimed property) required by amendment to AS 43.05.225, interest rates due on delinquent taxes.

Section 4: AS 43.05.225, interest, is amended to allow that interest rates under current law apply to delinquent taxes and fees before January 1 2014.

Section 5: Amends AS 43.05.225, for interest on delinquent taxes after January 1, 2014; to add subsection (b)(1) providing that interest accrues at the rate of three percentage points above the applicable annual federal rate and subsection (b)(2) to refer to the interest rate for delinquent fees (AS 05.15.095(c)) and unclaimed property (AS 34.45.470(a)).

Sections 6-7: Conforming amendments to AS 43.20.046(i) (gas storage credit) and 43.20.047(i) (LNG storage credit) required by amendment to AS 43.05.225, interest rates due on delinquent taxes.

Section 8: Amends AS 43.20, the Alaska Net Income Tax Act, by adding a new section, AS 43.20.049, to establish a credit for qualified oil and gas service industry expenditures to be effective for a tax year beginning after the date of this act. A taxpayer may apply a tax credit for 10 percent of the taxpayer's qualified oil and gas service industry expenditures incurred in the state, limited to not more than \$10,000,000 in a tax year. The credit or unused portion of the credit may be carried forward for five years. An expenditure that is the basis for the credit may not be used as a deduction under Chapter 20, a credit or deduction under another provision in Title 43, or for any federal credit under Title 43.

Subsection (d) provides that the Department of Revenue may publish the total amount of tax credits claimed under this section along with a description of the expenditures that were the basis of the tax credits in a year that three or more taxpayers claim a tax credit under this section.

Subsection (e) provides definitions of “manufacture”, “modification” and “qualified oil and gas service industry expenditure.”

Section 9: Conforming amendment to AS 43.50.570 (cigarette stamps) required by amendment to AS 43.05.225, interest rates due on delinquent taxes before January 1, 2014.

Section 10: Conforming amendment to AS 43.50.570 (cigarette stamps) required by new subsection (b) to AS 43.05.225, interest rates due on delinquent taxes after January 1, 2014.

Section 11: Amends AS 43.55.011(e), relating to the levy of the oil and gas production tax. For oil and gas produced before January 1, 2014, the levy of tax remains at the current base rate of 25 percent and the monthly progressivity tax. For oil and gas produced after December 31, 2013 new subsection AS 43.55.011(e)(2) would levy on producers of oil and gas produced each calendar year a flat rate tax of 33 percent (instead of the current 25 percent plus progressivity) of the production tax value of taxable oil and gas produced from each lease or property in the state

Section 12: A conforming amendment is made to AS 43.55.011(i), payment of production tax on private landowner royalties.

Section 13: Amends AS 43.55.011(o), relating to gas used in the state, to clarify that the tax ceiling applicable to gas used in the state does not apply to gas subject to AS 43.55.011(p) (the seven year tax limitation of four percent of gross value at the point of production for oil and gas first produced commercially outside of the Cook Inlet basin and south of 68 degrees North latitude after December 31, 2012, and before January 1, 2022).

Section 14: Amends AS 43.55.020(a), monthly installment payments of estimated tax, for oil and gas produced after January 1, 2014 to apply the new base rate of 33 percent, remove reference to the monthly progressivity tax for oil and gas produced after December 31, 2013, and to account for the reduction in gross value at the point of production for new oil and gas that meets the criteria in new subsection (f), AS 43.55.160 of the bill.

Section 15: A conforming amendment to AS 43.55.020(d), related to payment by a producer to a private royalty owner before January 1, 2014.

Section 16: Conforming amendments to AS 43.55.020(g) (unpaid installment payments) required by new subsection (b) to AS 43.05.225, the interest rates due on delinquent taxes that will apply on or after January 1, 2014.

Section 17: Adds a new section, AS 43.55.020(*l*), related to payment by a producer to a private royalty owner, to apply for settlements with a private royalty owner after January 1, 2014.

Section 18: Amends AS 43.55.023(a) to eliminate the current restrictions on use of a tax credit for qualified capital expenditures and allow the full amount of a tax credit to be applied in a single calendar for expenditures incurred on or after January 1, 2013. A new subsection is added to limit the 20 percent tax credit for qualified capital expenditures incurred north of 68 degrees North latitude (North Slope) to expenditures incurred before January 1, 2014.

Section 19: Amends AS 43.55.023(b) to provide that the carried-forward annual loss credit will continue to be in the amount of 25 percent for lease expenditures incurred south of 68 degrees North latitude, but the credit will be in the amount of 33 percent based on expenditures incurred after December 31, 2013, to explore for, develop, or produce oil and gas deposits located on the North Slope.

Section 20: Amends AS 43.55.023(d), issuance of transferable and redeemable tax credit certificates for qualified capital expenditures, to conform to the amendments to AS 43.55.023(a) authorizing the Department of Revenue to issue one tax credit certificate for the full amount of a transferable tax credit.

Section 21: Amends AS 43.55.023(g), issuance of tax credit certificates, to conform to amendments to AS 43.55.020(d) related to issuance of tax credit certificates.

Section 22: Amends AS 43.55.023(n), issuance of tax credit certificates, to conform to amendments to AS 43.55.020(d).

Section 23: Adds a new section, AS 43.55.023(p), to account for limitations based on AS 43.55.023(i), the transitional investment expenditure credit, before January 1, 2014.

Section 24: Amends AS 43.55.024, the small producer credit, by extending the sunset date from 2016 to 2022.

Section 25: Amends AS 43.55.024(e) to reference only subsections (a) (the new area credit) and (c) (the small producer credit) to conform to the new per barrel credits in AS 43.55.024 (i) and (j).

Section 26: Amends AS 43.55.024 to add two new non-transferable tax credits. Subsection (i) provides for a credit of \$5 for each barrel of oil taxable under AS 43.55.011(e) produced in a calendar year after December 31, 2013 that meets the criteria of AS 43.55.160(f), the gross revenue reduction for certain North Slope production.

Subsection (j) provides a sliding scale credit based on the monthly gross value at the point of production of each barrel of taxable oil produced on the North Slope after December 31, 2013 that does not meet the criteria in AS 43.55.160(f). The sliding scale credit may not be applied to reduce a producer's tax liability under AS 43.55.011(e) to below the amount calculated under AS 43.55.011(f), the alternate minimum tax on North Slope oil and gas.

Sections 27 -28: Amends AS 43.55.025 (a) the alternative tax credit for oil and gas exploration so that the three mile well limitation in AS 43.55.025(c)(2)(B) does not apply to subsection (m), the basin tax credit for up to four exploration wells drilled after June 1, 2012 and before July 1, 2016 outside of the Cook Inlet sedimentary basin and south of the North Slope.

Sections 29 -30: Amends AS 43.55.028(e) and (g) (oil and gas tax credit fund) to conform to changes in the issuance of tax credit certificates in AS 43.55.020(d).

Section 31: Amends AS 43.55.030(e)(1), "Filing of statements", to clarify current practice that both explorers and producers must file statements reporting qualified capital expenditures and other information required under AS 43.55.030(e) even if they do not produce oil or gas.

Section 32: Amends AS 43.55.160, relating to calculation of annual and monthly production tax values, to account for new subsection (f), and makes clarifying and conforming amendments.

Section 33: Amends AS 43.55.160 by adding new subsection (f) which provides that in calculating the annual production tax value for oil and gas produced from the North Slope on or after January 1, 2014, the gross value at the point of production of the oil or gas meeting one or more of the following criteria is reduced by 20 percent 1) oil or gas produced from a lease or property that does not contain a lease that was within a unit on January 1, 2003; (2) oil or gas produced from a participating area, established after December 31, 2011, within a unit formed by the Department of Natural Resources before January 1, 2003 if the participating area does not contain a reservoir that was previously in a participating area; (3) oil or gas produced from acreage that was added to an existing participating area by the Department of Natural Resources on or after January 1, 2014, and the producer demonstrates to the Department of Revenue the volume of oil or gas from the added acreage.

Adds a new subsection (g) for calculation of annual production tax value for oil and gas produced on or after January 1, 2014.

Section 34: Repeals and reenacts AS 43.55.165(a) related to deductible lease expenditures, which are ordinary and necessary costs upstream of the point of production

of oil and gas incurred during a calendar year. In determining whether a cost is a lease expenditure, the Department of Revenue is directed to consider typical industry practices that determine the costs a field operator is allowed to bill a working interest owner, and the standards developed by the Department of Natural Resources that a lessee may deduct under a lease issued under AS 38.05.180(b)(3)(B), (D), or (E), the net profit share lease provisions.

Section 35: Repeals and reenacts AS 43.55.165(b), related to qualifications for lease expenditures, for direct costs, a reasonable allowance for overhead (to be determined by regulations) and to provide that an activity need not be physically located on the lease or property in order for the cost to be considered upstream of the point of production of the oil or gas.

Section 36: AS 43.55.165 is amended to add a new section (m) to allow the Department of Revenue to consider whether a unit operating agreement or similar agreement is consistent with the Department's determinations and standards under subsection (a) concerning whether costs are lease expenditures, and to allow the Department to authorize or require a producer to treat as lease expenditures costs, other than statutorily excluded costs, that are billed or billable to the producer by the operator under the operating agreement, including a reasonable percentage for overhead expenses related to oil and gas exploration, development and production. The Department is given the discretion, in subsection (n), to authorize or require costs under a unit operating agreement or similar agreement to be treated as lease expenditures if certain conditions related to audit billings by the parties to the unit operating agreement or similar agreement are met.

Section 37: Amends AS 43.55.180 to require a report by the Department of Revenue to the legislature on the first day of the 2016 legislative session. The report must consider the effects of AS 43.55 on oil and gas exploration, development, and production, on investment for the same, on the entry of new producers of oil and gas, on state revenue, on tax administration and compliance under AS 43.55011, AS 43.55.023 – 43.55.025, and 43.55.160 – 170 and the effect of tax rates for private landowner royalties on state revenues and oil and gas exploration, development, and production on private land.

Section 38: Amends AS 43.56.160, relating to interest on the oil and gas exploration, production, and pipeline transportation property tax, to conform to amendments to AS 43.05.225, interest rate for delinquent taxes.

Section 39: Amends AS 43.77.020(d), relating to payments of the fishery resource landing tax, to conform to amendments to AS 43.05.225 relating to interest rates for delinquent taxes.

Section 40: Amends AS 43.90.430, relating to interest to payments due the state under the Alaska Gasline Inducement Act, to conform to the changes in bill section 4, amendments to AS 43.05.225.

Section 41: Amends AS 44.88.140(a), related to property exempt from taxation of the Alaska Industrial Development and Export Authority (AIDEA), to include reference to new AS 44.88.168 in the bill

Section 42: Adds new section AS 44.88.168 to allow AIDEA to issue bonds for an oil processing facility and to establish an oil and gas infrastructure fund. The fund will consist of appropriated funds, and is not an account in the revolving loan fund. Money in the fund will be used to finance the construction or improvement of an oil and gas processing facility on the North Slope, including flow lines and other surface infrastructure.

Section 43: Repeals AS 43.55.023(m) related to tax credit certificates to conform to changes made so that tax credit certificates statewide will be issued as one certificate.

Section 44: Repeals AS 43.05.225(a), AS 43.50.570(a), AS 43.55.011(e)(1), AS 43.55.011(g), AS 43.55.020(d), 43.55.023(i), AS 43.55.023(p). AS 43.55.160(a)(2) and AS 43.55.160(c) as of January 1, 2014.

Section 45 : Applicability sections for sections that apply to oil and gas produced after a certain date and for expenditures incurred after a certain date.

Section 46 : Transitional provision providing the Department of Revenue's authority to adopt regulations, to be effective not before the date of the effective date of the provisions of this bill.

Section 47: Provisions related to legislative approval of AIDEA bonding issuance.

Section 48: Provisions related to retroactive application of certain sections.