Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version:	HB 247
Fiscal Note Number:	
() Publish Date:	

Identifier:	HB247-DOR-TAX-03-28-16	Department:	Department of Revenue
Title:	TAX;CREDITS;INTEREST;REFUNDS;O & G	Appropriation:	Taxation and Treasury
Sponsor:	RLS BY REQUEST OF THE GOVERNOR	Allocation:	Tax Division
Requester:	House Finance Committee	OMB Component Number:	2476

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2017**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits	(17,500.0)		(70,000.0)	(47,500.0)	(35,000.0)	(55,000.0)	(55,000.0)
Miscellaneous							
Total Operating	**(17,500.0)**	**0.0**	**(70,000.0)**	**(47,500.0)**	**(35,000.0)**	**(55,000.0)**	**(55,000.0)**

Fund Source (Operating Only)

1004 Gen Fund	(17,500.0)		(70,000.0)	(47,500.0)	(35,000.0)	(55,000.0)	(55,000.0)
Total	**(17,500.0)**	**0.0**	**(70,000.0)**	**(47,500.0)**	**(35,000.0)**	**(55,000.0)**	**(55,000.0)**

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues	***		***	***	***	***	***

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 1,200.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? yes
If yes, by what date are the regulations to be adopted, amended or repealed? 01/01/17

Why this fiscal note differs from previous version:

Revised to conform to changes in the Resources Committee Substitute. Also revised to include as a new baseline scenario the Spring 2016
Preliminary Revenue Forecast. Analysis methodology has also changed, to include more "granular" modeling of each individual bill component.

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Division:	Tax Division	Date:	03/28/2016 04:00 PM
Approved By:	Jerry Burnett, Deputy Commissioner	Date:	03/29/16
Agency:	Department of Revenue		

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. CS HB247(RES)\I

Analysis

Fiscal Detail of HB247 Resources Committee Substitute
(Revenue and Budget Impacts)

Provisions in CSHB247(RES) and their Estimated Fiscal Impact as compared to Spring 2016 Forecast ($millions) - FORECAST PRICE[1]

Note regarding this table: this table attempts to value the impact of each of the items independently, except where noted. In some cases, the total value of several impacts will not equal the sum of the individual impact values.

Brief Description of Provision - Includes only provisions anticipated to have a direct fiscal impact	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
1. The GVR cannot be used to create or increase a net operating loss (REVENUE IMPACT)	$0	$0	$0	$0	$0	$5-$15
2. The well lease expenditure credit is reduced from 40% to 30% on 1/1/17, to 20% on 1/1/18	$0	$0	$0	$0	$0	$5-$15
3. For non-North Slope, the net operating loss credit is reduced from 25% to 10% of the carried-forward loss	$0	$0	$0	$0	$0	$0
4. A tax exempt entity may earn credits applicable to only those lease expenditures subject to tax	Indeterminate					
5. The State may withhold payment of a credit refund to companies with an outstanding liability to the State	Indeterminate					
6. The interest rate on delinquent taxes from simple interest to interest compounded quarterly	Indeterminate					
Total Revenue Impact	**$0**	**$0**	**$0**	**$0**	**$0**	**$10 to $30**
The GVR cannot be used to create or increase a net operating loss (BUDGET IMPACT)	$5-$10	$20-$30	$15-$25	$5-$15	$0-$10	$0-$10
Budget impact of reduction of well lease expenditure credit (provision 3 above)	$0-$5	$15-$25	$10-$20	$10-$20	$35-$45	$35-$45
Budget impact of reduction in net operating loss credit for non-North Slope (provision 4 above)	$5-$10	$20-$30	$10-$15	$5-$15	$5-$15	$5-$15
Budget impact of limitation of cash refunds for credits to $200 million per company per year	$0	$0	$0	$0	$0	$0
Total Budget Impact	**$10 to $25**	**$55 to $85**	**$35 to $60**	**$20 to $50**	**$40 to $70**	**$40 to $70**
Total Fiscal Impact (does not include revenue impacts from potential changes in investment)[2]	**$10 to $25**	**$55 to $85**	**$35 to $60**	**$20 to $50**	**$40 to $70**	**$50 to $100**
Non-refundable carry-forward credits balance at fiscal year end - current law[3]	632	766	747	600	284	151
Non-refundable carry-forward credits balance at fiscal year end - proposed[3]	627	746	708	548	269	146
Net change in carry-forward credits due to bill	**-5**	**-15**	**-19**	**-13**	**37**	**10**

[1]The impacts listed are based on production and prices as forecasted in our Spring 2016 revenue forecast. The forecasted oil prices are between $38.89 and $61.64. All data here are estimates; all figures have been rounded to reflect the uncertainty in the estimates.

[2]NOTE: "Total Fiscal Impact" includes best estimates combining both revenue and operating budget impacts.

[3]These rows include estimates of carried-forward credits for previous calendar years, plus estimates of credits that will be earned on activity through June 30 of the fiscal year.

NOTE: The fiscal impact of this bill is an estimate based on the preliminary Spring 2016 revenue forecast. Estimates shown here are draft / preliminary based on our interpretation of possible changes. We reserve the right to make modifications to estimates for any forthcoming fiscal notes.

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. CS HB247(RES)\I

Analysis Continued

Fiscal Detail of HB247 As Originally Proposed
(Revenue and Budget Impacts)

Provisions in HB 247 and their Estimated Fiscal Impact as compared to preliminary Spring 2016 Forecast ($millions) - FORECAST PRICE[1]

Note regarding this table: this table attempts to value the impact of each of the items independently, except where noted. In some cases, the total value of several impacts will not equal the sum of the individual

Brief Description of Provision - Includes only provisions anticipated to have a direct fiscal impact	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
1a. Minimum tax cannot be reduced by **net operating loss credit**	$100	$150	$170	$185	$190	$150
1b. Minimum tax cannot be reduced by **small producer credit**	$10	$5	$5	$5	$5	$5
1c. Minimum tax cannot be reduced by **per-taxable-barrel credits applicable to GVR-eligible production**	$15	$25	$40	$40	$20	$20
1d. Minimum tax cannot be reduced by the **alternative credit for exploration credit**	$0	$0	$0	$0	$0	$0
2. Minimum tax change from multiple percentages to a flat 5% of GVPP combined with 1a-1d above	$175	$235	$265	$280	$270	$215
3. Qualified capital expenditure credits and well lease expenditure credits are repealed	$10-$15	$10-$15	$10-$15	$10-$15	$10-$15	$30-$40
4. No true-up of sliding scale per-taxable-barrel credits on annual return	No impact at forecast price - could benefit State under volatile prices					
5. The GVR cannot be used to create or increase a net operating loss (REVENUE IMPACT ONLY)	$0	$0	$0	$0	$0	$5-$15
6. Credits expire 10 years after they are earned	$0	$0	$0	$0	$0	$0
7. A tax exempt entity may earn credits applicable to only those lease expenditures subject to tax	Indeterminate					
8. The gross value at the point of production cannot be less than zero	$0	$0	$0	$0	$0	$0
9. The interest rate on delinquent taxes is changed to 7% above the Fed Res Discount rate, compounded quart	Indeterminate					
Total Revenue Impact	**$185 to $190**	**$245 to $250**	**$275 to $280**	**$290 to $295**	**$280 to $285**	**$250 to $270**
The GVR cannot be used to create or increase a net operating loss (BUDGET IMPACT ONLY)	$10-$20	$20-$30	$15-$25	$5-$15	$0-$10	$0-$10
Budget impact of repeal of qualified capital and well lease expenditure credits (provision 3 above)	$35	$65	$45	$50	$85	$90
Budget impact of limiting refunds to $25 million per company per year (only shifts timing of refunds)	$500	$50	$0	($100)	($10)	($10)
Budget impact of limiting refunds by the percentage of a company's Alaska resident hire	Indeterminate					
Budget impact of limiting refunds to companies with no outstanding liability to the State	Indeterminate					
Budget impact of limiting refunds to companies with annual gross revenues of <$10 billion[2]	$40-$60	$40-$60	$40-$60	$20-$40	$20-$40	$20-$40
Total Budget Impact	**$585 to $615**	**$175 to $205**	**$100 to $130**	**$-25 to $5**	**$95 to $125**	**$100 to $130**
Total Fiscal Impact - does not include revenue impacts from potential changes in investment[3]	**$770 to $805**	**$420 to $455**	**$375 to $410**	**$265 to $300**	**$375 to $410**	**$350 to $400**
Non-refundable carry-forward credits balance at fiscal year end - current law[4]	632	766	747	600	284	151
Non-refundable carry-forward credits balance at fiscal year end - proposed[4]	1225	1513	1585	1536	1490	1500
Net change in carry-forward credits due to bill	**593**	**154**	**91**	**98**	**270**	**143**

[1]The impacts listed are based on production and prices as forecasted in DOR's preliminary Spring 2016 revenue forecast. The forecasted oil prices are between $38.89 and $61.64. All data here are estimates; all figures have been rounded to reflect the uncertainty in the estimates.

[2]Estimates shown for this provision are incremental to the budget impact of limiting refunds to $25 million per company per year. As a standalone provision, these estimates would be much higher, especially in the first year.

[3]NOTE: "Total Fiscal Impact" includes best estimates combining both revenue and operating budget impacts.

[4]These rows include estimates of carried-forward credits for previous calendar years, plus estimates of credits that will be earned on activity through June 30 of the fiscal year.

NOTE: The fiscal impact of this bill is an estimate based on the preliminary Spring 2016 revenue forecast. Estimates shown here are draft / preliminary based on our interpretation of possible changes. We reserve the right to make modifications to estimates for any forthcoming fiscal notes.

Analysis Continued

Bill Background

This legislation is a comprehensive attempt to reform and reduce the cost of Alaska's current program of providing direct tax credit rebates and other advantages to oil and gas companies. Various credits have been added to statute since 2003, with state repurchase beginning in 2007. Through the end of FY 2016, about $8 billion in tax credits will be received by companies. This includes both credits used against tax liability and credits repurchased by the state; it also includes activity on both the North Slope and other areas of the state.

A substantial number of companies rely on these credits to support and subsidize their Alaska operations. Currently, in many cases the state is paying 55%-65% of the cost of a project during the development phase, and up to 85% of exploration costs. These large numbers result from "stacking" multiple credits. With the transition towards a system based mostly on operating loss credits, and the repeal or reduction of the expenditure credits that are stacked with those loss credits, the state's contribution towards many projects will be reduced roughly by half.

There are several themes, or goals, of this legislation as originally introduced. These include:

* Reduce the state's annual cash outlay
* Protect Net Operating Loss credits especially for exploration activity
* Limit repurchases to companies who need the support
* Strengthen the minimum tax and prevent abuses to the system
* Be more open and transparent
* Honor and pay credits earned to date and through any transition period.

To address the final bullet point, above, this legislation envisions a fund capitalization appropriation to cover any tax credits earned through the effective date. As originally introduced, this would have covered the last of the credits that would have been paid in FY 2016 if not for the $500 million limit established by the governor's line-item veto, all estimated credits that would be paid in FY 2017, and credits earned in the first part of calendar year 2016 before the effective date of the bill. The transition funds will total nearly $1 billion. This appropriation was described in earlier versions of this fiscal note, but was not passed on from the prior commitee.

Summary of Fiscal Impact

An earlier version of this fiscal note described DOR's estimate for this legislation as originally introduced. In order to provide an "apples to apples" comparison given the transition to the Spring revenue forecast, we have also re-modeled the governor's original bill using the new more detailed methodology.

With the revisions proposed in the committee substitute, we anticipate a fiscal impact of $35-$70 million per year over the time period contained in the fiscal note, with a smaller number in FY17 due to the mid-year effective date. Of this, nearly all will be saved through reduced operating budget expenditures. Only a small indeterminate amount would come from increased revenues, due to the restoration of compound interest for assessed delinquent taxes.
The savings occur because some tax credit certificates would be smaller or would no longer be earned due to the repeal and reduction of certain specific credits as well as the closing of certain loopholes.

Implementation Cost

The changes anticipated in this bill will require somewhat substantial reprogramming of the Tax Revenue Management System and Revenue Online tax portal. We have received a preliminary estimate from the software developer, which allows us to reduce our one-time cost to about $1,200,000 to accomplish these changes. We do not anticipate any additional costs to administer the tax program.

STATE OF ALASKA **BILL NO.** CS HB247(RES)\I
2016 LEGISLATIVE SESSION

Analysis Continued

Detail of Specific Provisions
1) Repeal of certain credits and closing of loopholes
The committee substitute reduces the Well Lease Expenditure Credit (AS 43.55.023(l)) from 40% to 30% in 2017 and 20% in 2018. This credit, and the 20% Qualified Capital Expenditure Credit (AS 43.55.023(a)) are repealed in 2022 in anticipation of the sunset of the existing "Cook Inlet Tax Caps" and a new tax regime for Cook Inlet. Also in 2017, the Carried Forward Annual Loss (or "New Operating Loss," AS 43.55.023(b)) credit is reduced from 25% to 10% for areas outside the North Slope.

The net effect of these changes will be to reduce state contribution for new projects from the current 45-65% range to 30% beginning in 2018. Companies who do not have an operating loss will remain eligible to receive the Capital and Well credits. This would continue to provide cash support to potentially profitable companies who, due to existing tax caps, effectively pay no production taxes.

The bill also eliminates a loophole that enables companies who have production of "new oil" on the North Slope but also claim a net operating loss. With the changes, companies will no longer be able to use a Gross Value Reduction to increase the size of a net operating loss credit. Current law can result in situations where the credit received can be greater than 100% of a company's actual loss.

It also eliminates another loophole that has been used by municipal utilities who also own oil or gas production. If a portion of that production is sold to an outside party, the proposed change ensures that these entities are only able to deduct or claim a pro-rated portion of their lease expenditures for the purpose of applying for credits.

2) Deferral or loss of eligibility for credit repurchase
Currently any company with less than 50,000 bbl / day of production in Alaska is eligible to have tax credit certificates repurchased by the state without limit, subject to appropriation. This legislation adds an additional restriction to repurchase, so that no single company can receive more than $200 million per year in state cash repurchases. Although this would not have any impact based on currently forecasted activity, it provides an element of protection from very large "outlier" projects that could otherwise result in multibillion dollar state credit liability in advance of production.

3) Other changes
Additionally, the bill restores quarterly compound interest for delinquent taxes, underpayments, and tax assessments. Current statute has included simple interest since 2014, which is believed to be an inadvertent amendment made in SB21.

The committee substitute also repeals several older and currently unused exploration incentive credit programs, and authorizes the Department of Revenue to use credit certificates to offset a company's other obligations to the state prior to repurchase. It also establishes a legislative working group to review the state's tax structure for Cook Inlet and other areas outside the North Slope, to provide recommendations to the legislature for consideration in 2017.