Alaska State Legislature
Senate Rules Committee
Senator Bill Wielechowski, Chair

Senate Bill 114
Sectional Analysis

Section 1 [AS 43.20.019] (Pass-Through Entity Tax). Adds a new section establishing a 9.4% tax on income above $4 million for an entity in the business of oil or gas production or transportation by pipeline in the state that is not incorporated as a C-Corporation; allows DOR to aggregate the income of two or more entities that would reasonably be expected to be attributable to a single entity.

Section 2 [AS 43.55.011(e)] (Ringfencing NS). Conforming to add the term "unit" to the types of geographically bounded areas which is subject to the state production tax and references that "unit" applicability is established under later subsection (q).

Section 3 [AS 43.55.011(f)] (Ringfencing NS). Conforming to establish that on or after the retroactive effective date of the Act of January 1, 2023, "units" will be subject to the same minimum tax floor as leases or properties are under current law.

Section 4 [AS 43.55.011(o)] (Ringfencing NS). Conforming to add the term "unit" to the types of geographically bounded areas that are subject to tax as gas production outside of the Cook Inlet sedimentary basin.

Section 5 [AS 43.55.011] (Ringfencing NS). Adds a new subsection (q) to establish that on or after the retroactive effective date of the Act of January 1, 2023, the state production tax will be levied at the unit level if the unit includes land north of 68 degrees North Latitude, which is the North Slope of Alaska.

Section 6 [AS 43.55.020(a)] (Ringfencing NS). Providing for the process for the payment of production taxes on or after the retroactive effective date of the Act of January 1, 2023 for the North Slope, which will be levied by at the unit level and paid by monthly installment payments of the estimated tax for the calendar year; the installment payment may be an amount that is adjusted to account for deductions in profit for capital spending or for deductions from carry-forward lease expenditures; also conforming to provide for the process for the payment of production taxes for leases and properties that are not units located in the North Slope.

Section 7 [AS 43.55.020(e)] (Ringfencing NS). Conforming to add the term "unit" to the types of geographically bounded areas from which flared or released gas is deemed produced gas or, if wasted, is not deemed produced gas.

Section 8 [AS 43.55.020(g)] (Ringfencing NS). Conforming to provide for accrual of interest to the State on underpaid installment payments by a producer.

Section 9 [AS 43.55.020(h)] (Ringfencing NS). Conforming to provide for accrual of interest to a producer on overpaid installment payments to the State.

Section 10 [AS 43.55.020(j)] (Ringfencing NS). Conforming to add the term "unit" to the types of geographically bounded areas on which gas used as cushion gas in a storage facility is not deemed used gas and on which withdrawn gas is not deemed produced until all previously injected non-native gas into a storage facility of the unit has been withdrawn.

Section 11 [AS 43.55.020(l)] (Ringfencing NS). Conforming to add the term "unit" to the types of geographically bounded areas that are covered by the formula for settlements between the royalty owner and the producer over taxable royalty oil.

Section 12 [AS 43.55.024(c)] (Ringfencing NS). Conforming to delete language referencing an expired and never used "Middle Earth" credit whose statutory authority is repealed as a clean-up by this bill.

Section 13 [AS 43.55.024(e)] (Ringfencing NS). Conforming to delete the reference to an expired and never used "Middle Earth" credit whose statutory authority is repealed as a clean-up by this bill.

Section 14 [AS 43.55.025(i)] (Per-Barrel Credits & Investment). Conforming to establish a limitation to a producer's ability to apply the flat $5 per-barrel credit to new fields receiving a reduction in the gross value at the point of production under later subsection (k).

Section 15 [AS 43.55.025(i)] (Per-Barrel Credits & Investment). Conforming to establish a limitation to a producer's ability to apply the sliding-scale per-barrel credit to units of the North Slope under later subsection (k); also amending the sliding-scale per-barrel credit from a range of $8-to-$1 at wellhead oil values of a range of less than $80 to less than $150, to a reduction in range of $5-to-$1 at wellhead oil values of a range of less than $80 to less than $120.

Section 16 [AS 43.55.024] (Per-Barrel Credits & Investment). Adds a new subsection (k) establishing that a producer may not apply per-barrel credit deductions to reduce the producer's tax liability in an amount exceeding the producer's qualified capital expenditures for the lease, property, or unit; and restricts unused per-barrel credits from operating as carried forward losses.

Section 17 [AS 43.55.030(e)](Ringfencing NS). Conforming to add the term "unit" to the types of geographically bounded areas for which an explorer or producer that incurs a lease or unit expenditure or receives a tax credit for a lease expenditure but who is not in production is required to provide certain information to the state.

Section 18 [AS 43.55.030(f)] (Ringfencing NS). Conforming to add the term "unit" to the types of geographically bounded areas for which a producer, explorer, or operator may be required to file monthly reports providing certain information, including about lease or unit expenditures.

Section 19 [AS 43.55.040] (Ringfencing NS). Conforming to add the term "unit" to the types of geographically bounded areas under the powers of the Department of Revenue about which reports and other records and information about lease or unit expenditures may be required to be filed.

Section 20 [AS 43.55.075(b)] (Ringfencing NS). Conforming to provide that a production tax amount or the availability of a tax credit concerning a lease or unit expenditure could be impacted by the decision of an adjudicative body.

Section 21 [AS 43.55.160(a)] (Ringfencing NS). Conforming to ensure an expired and never used "Middle Earth" credit whose statutory authority is repealed as a clean-up by this bill is referenced as a former provision.

Section 22 [AS 43.55.160(e)] (Ringfencing NS). Conforming to provide references to later subsections (h)(2)-(4) which address annual production tax value for taxable oil or gas for which a producer applies adjusted lease expenditures as deductions, but resulting in a permissible carry-forward annual losses which avoids a production tax liability of less than zero, and to ensure that later subsection (h)(5) is excluded from the application of this subsection.

Section 23 [AS 43.55.160(f)] (Ringfencing NS). Conforming to establish that new fields on the North Slope permissibly subject to the 20% reduction in the gross value at the point of production for production tax will be levied at the unit level.

Section 24 [AS 43.55.160(g)] (Ringfencing NS). Conforming to establish that new fields on the North Slope permissibly subject to the additional 10% reduction in the gross value at the point of production for production tax due to application of a royalty share of more than 12.5% will be levied at the unit level.

Section 25 [AS 43.55.160(h)] (Ringfencing NS). Conforming to provide the means of determining the annual production tax value of taxable oil at for different locations in the state on various dates of applicability and establishing that on or after the retroactive effective date of the Act of January 1, 2023 for the North Slope, the production tax value of taxable oil will be measured by the gross value of the point of production from each unit, but less the producer's expenditures for that unit for the calendar year.

Section 26 [AS 43.55.160] (Ringfencing NS). Adds a new subsection (i) that, for units located in the North Slope, applies adjusted lease expenditures as deductions to apply as carry-forward annual losses which avoids a production tax value of less than zero.

Section 27 [AS 43.55.165(a)] (Ringfencing NS). Conforming to address the items that constitute a producer's lease or unit expenditures, as for the ringfenced units located in the North Slope.

Section 28 [AS 43.55.165(b)] (Ringfencing NS). Conforming to add the term "unit" to the types of geographically bounded areas for which activities need not be performed upon while still counted as upstream costs of the point of production and conforming to address factors in determining what costs are considered lease or unit expenditures.

Section 29 [AS 43.55.165(e)] (Ringfencing NS). Conforming to address the items that do not constitute a producer's lease or unit expenditures, as for the ringfenced units located in the North Slope.

Section 30 [AS 43.55.165(g)] (Ringfencing NS). Conforming to add the term "unit" to the types of geographically bounded areas that are reasonably allocated lease or unit expenditures when the expenditures were to explore for, develop, or produce oil and/or gas deposits fully or partially located on land contained both outside the state and inside the state.

Section 31 [AS 43.55.165(h)] (Ringfencing NS). Conforming to add the term "unit" to the types of geographically bounded areas for which the adoption of regulations is required for reasonable methods of allocating lease or unit expenditure exploration, development, or production costs attributable between oil and gas, or for two types of gases, as between the oil and the gas or the two types of gases, or for those costs attributable to oil or gas located within different units.

Section 32 [AS 43.55.165(l)] (Ringfencing NS). Conforming to establish that a producer may elect to apply all or a portion of the producer's carried-forward annual losses and may carry forward unused carried-forward annual losses to the producer's lease or unit expenditures.

Section 33 [AS 43.55.165(m)] (Ringfencing NS). Conforming to address the amount of a taxpayer's liability when applying the taxpayer's carried-forward annual loss combined with lease or unit expenditures and tax credits taken.

Section 34 [AS 43.55.165(n)] (Ringfencing NS). Establishes "Ringfencing" in that, for carried-forward annual losses incurred on or after the effective date of the Act for units located in the North Slope, the deductions may: (1) only be applied against the production tax value for the unit in which the losses were incurred, and (2) only beginning in the calendar year in which production began on that unit.

Section 35 [AS 43.55.165(o)] (Ringfencing NS). Conforming to address diminution of carried-forward annual losses by 1/10th of their value for each year beginning in the 11th year that a lease or unit expenditure was incurred but that production has not begun on that bounded area, and to address diminution of carried-forward annual losses by 1/8th of their value each year under certain statutorily provided circumstances.

Section 36 [AS 43.55.165(r)] (Ringfencing NS). Conforming to address adoption of regulations for lease or unit expenditures resulting in carried-forward annual losses must include exploration expenditures on the unit when reasonably related to that unit.

Section 37 [AS 43.55.170(a)] (Ringfencing NS). Conforming to address adjustments to lease or unit expenditures that must be made by subtracting certain payments or credits received by the producer.

Section 38 [AS 43.55.170(b)] (Ringfencing NS). Conforming to address the situation when certain payments or credits received by a producer is more than the applicable lease and unit expenditures for the calendar year, the deduction must still be made from the lease or unit expenditures the resulting negative number is still applied for the determination of the production tax value of the taxable oil or gas.

Section 39 [AS 43.55.180(a)] (Ringfencing NS). Conforming to address mandatory studies on the effect of the state's production tax regime on the entry of new producers, state revenue, and on tax administration and compliance, with particular attention to production tax rates, tax credits, and adjustments for lease and unit expenditures.

Section 40 [AS 43.55.890] (Ringfencing NS). Conforming to address permissible publication of aggregated information by month or calendar year, including for lease or unit expenditures or for adjustments to lease or unit expenditures.

Section 41 [AS 43.55.895(b)] (Ringfencing NS). Conforming to address a producer that is a municipal entity that is subject to oil and gas production tax must allocate lease and unit expenditures in proportion to its taxable oil and gas production.

Section 42 (Repealed Laws). AS 43.55.024(a), AS 43.55.024(b), and AS 43.55024(f), all which are related to an expired and never used “Middle Earth” credit, are repealed.

Section 43 (Applicability of the Act). Provides uncodified law that the pass-through entity taxation provisions apply to qualified taxable income over $4 million beginning on January 1, 2023; the reduction to per-barrel credits and requirement for investment apply to a producer’s production beginning on January 1, 2023; and the ringfencing of capital expenditure deductions on the North Slope apply to expenditures beginning January 1, 2023.

Section 44 (Transition Sections). Establishes uncodified transition provisions for the payment of taxes due under the Act.

Section 45 (Retroactive Regulatory Authority). Authorizes the Department of Revenue to effect retroactive regulations to carry out the provisions of the Act.

Section 46 (Retroactivity). The provisions of the Act are retroactive to January 1, 2023.

Section 47 (Effective Date). The Act has an immediate effective date.