

ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE

March 27, 2010

10:06 a.m.

MEMBERS PRESENT

Representative Craig Johnson, Co-Chair
Representative Mark Neuman, Co-Chair
Representative Bryce Edgmon
Representative Kurt Olson
Representative Paul Seaton
Representative Peggy Wilson
Representative David Guttenberg
Representative Scott Kawasaki

MEMBERS ABSENT

Representative Chris Tuck

COMMITTEE CALENDAR

HOUSE BILL NO. 337

"An Act relating to interest on certain underpayments or overpayments for the oil and gas production tax, to certificates for certain oil and gas production tax credits for qualified capital expenditures, and to alternative tax credits for expenditures for certain oil and gas development and exploration activities for the oil and gas production tax; relating to the use of the oil and gas tax credit fund to purchase certain tax credit certificates; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 337

SHORT TITLE: OIL AND GAS PROD. TAX: CREDITS/INTEREST

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/10/10	(H)	READ THE FIRST TIME - REFERRALS
02/10/10	(H)	RES, FIN
03/10/10	(H)	RES AT 1:00 PM BARNES 124
03/10/10	(H)	Heard & Held
03/10/10	(H)	MINUTE(RES)
03/27/10	(H)	RES AT 10:00 AM BARNES 124

WITNESS REGISTER

MARCIA DAVIS, Deputy Commissioner
Office of the Commissioner
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Provided an overview of HB 337 and Conceptual Amendment 1 on behalf of the administration.

DAN E. DICKINSON, CPA
Consultant to the Legislative Budget and Audit Committee
Anchorage, Alaska

POSITION STATEMENT: During the hearing on HB 337, answered questions.

ACTION NARRATIVE

[10:06:11 AM](#)

CO-CHAIR CRAIG JOHNSON called the House Resources Standing Committee meeting to order at 10:06 a.m. Representatives Seaton, P. Wilson, Olson, Edgmon, Neuman, and Johnson were present at the call to order. Representatives Guttenberg and Kawasaki arrived as the meeting was in progress.

HB 337-OIL AND GAS PROD. TAX: CREDITS/INTEREST

[Contains discussion of HB 308]

[10:06:31 AM](#)

CO-CHAIR JOHNSON announced that the only order of business is HOUSE BILL NO. 337 "An Act relating to interest on certain underpayments or overpayments for the oil and gas production tax, to certificates for certain oil and gas production tax credits for qualified capital expenditures, and to alternative tax credits for expenditures for certain oil and gas development and exploration activities for the oil and gas production tax; relating to the use of the oil and gas tax credit fund to purchase certain tax credit certificates; and providing for an effective date."

[10:07:56 AM](#)

MARCIA DAVIS, Deputy Commissioner, Office of the Commissioner, Department of Revenue, noted that most of the elements in the

governor's bill, HB 337, have already been discussed and incorporated into HB 308. A key provision in the governor's bill would allow the Department of Revenue to waive interest in those cases where a taxpayer has failed to pay the full amount of tax because of a retroactive change in regulations.

MS. DAVIS said another key provision of HB 337 is aimed at those taxpayers allowed to cash in their credits because they produce 50,000 or less barrels per day of oil equivalent. Currently, for these taxpayers to receive the monetary value of their credits the credits must be spread over two years and the taxpayer must demonstrate that it has spent in the following year the same amount of money it is seeking to get as cash for the credit. She related that the department has now learned from experience that there is a hitch in getting cash infusions into the hands of new entrants. Projects require a large investment in capital costs to get as far as production. However, once at production, the extra expenditure of large sums of money is no longer needed. Because many of the smaller producers undertake only one project, this results in the smaller producers being unable to monetize their credits at the very time necessary to kick off production.

[10:09:56 AM](#)

CO-CHAIR JOHNSON asked whether it is dollar for dollar and whether this is sufficient.

MS. DAVIS responded current law does not require that the same amount of capital be spent as previously spent; rather, the taxpayer must spend an amount that equates to the amount of credit money it is trying to get back. She noted that not all new entrants have this problem because some have a number of projects and the timing of projects allows them to work in phases. However, it does affect how these taxpayers phase the spending of their money and might sometimes cause them to hold back on spending so they have money for the following year, which can affect the efficiency and timing of the projects. She said the credits have been a success because they are bringing in new entrants that are staying, but these entrants need this capital to stay in Alaska and further development by these companies has been constrained. Additionally, given the current economy, it has been difficult for these companies to raise capital for advanced funding.

[10:12:00 AM](#)

CO-CHAIR NEUMAN understood it is the Department of Revenue that determines the taxes owed. He surmised it is also the department that determines whether additional tax is owed when regulations are changed retroactively.

MS. DAVIS replied correct.

CO-CHAIR NEUMAN further understood that credits cannot be received unless the taxpayer spends money and a taxpayer cannot receive more money back in credits than what it had in expenditures.

MS. DAVIS answered correct.

[10:12:54 AM](#)

CO-CHAIR NEUMAN inquired whether it is the department's opinion that a taxpayer should be able to use its credits in the first year. He presumed there is less exploration because of the downturn in the economy.

MS. DAVIS responded it would absolutely be easier for taxpayers to use their credits in the first year. Receiving this money sooner gives a taxpayer more options for its next move as an investor and developer. Regarding the downturn of the economy, she said she is referring to the global downturn since that is basically where equity money flows. She related that the department has had conversations with new entrants that are not publicly-traded companies. These companies must go to the private equity market to generate capital. That capital is tighter, but that equity market is also hungry because investors are looking for something beyond the stock market that will provide a payoff. However, these investors are generally looking for single projects, not a company to invest in for 20 years, and they therefore want to know what the payout will be and how soon the return of capital will occur so they can balance that against the risk. This is different than the large international corporations that have corporate headquarters that dole out the money globally.

[10:14:58 AM](#)

CO-CHAIR NEUMAN understood the market is flooded with these transferable credits and offerings to purchase them have been as low as 50 cents on the dollar.

MS. DAVIS replied correct, the taxpayers that cannot use these credits against their own bill are stuck and they are forced to go to the market if they need money faster than the two years allows. Other taxpayers in this market may already have their own credits and not need any more; or, other taxpayers may not be that concerned about it and will buy the credits at a discount if they can.

[10:16:16 AM](#)

REPRESENTATIVE OLSON asked what the form looks like that the companies must fill out to apply for their credits.

MS. DAVIS answered she has not personally seen the application form, only the Excel spreadsheet. She deferred to Mr. Dan Stickel.

DAN E. DICKINSON, CPA, Consultant to the Legislative Budget and Audit Committee, responded to the question because Mr. Dan Stickel was not on line, saying he will immediately mail an electronic copy of the form to the co-chairs.

[10:17:50 AM](#)

REPRESENTATIVE SEATON inquired whether there is a way to prioritize the processing of credits for the small producers, given Ms. Davis's [3/26/10 statement that when up against the statute of limitation for audits the department's tax specialists must process the audits first and the credits second].

MS. DAVIS replied that HB 337 would not change the status quo for the statute of limitation, which is currently six years for those audits being conducted under Alaska's Clear and Equitable Share (ACES) and the petroleum production profits tax (PPT). While the Department of Revenue can always use more production auditors, she said staffing is such that with the six-year statute of limitation a priority can be put on the credits. The department has been working to ensure there is not a lag in getting credits out and the only time this does not happen is when the statute of limitation is reached for audits.

[10:19:13 AM](#)

REPRESENTATIVE SEATON asked whether a section needs to be included in HB 337 that requires the Department of Revenue to

prioritize the processing of credits for small producers, given the example provided by Ms. Davis on 3/26/10.

MS. DAVIS answered the situation she described yesterday is currently a unique circumstance because the department has very few three-year statute of limitation audits remaining. She said she was using that as an example of what would happen across the board if all of the statutes of limitation became three years [as proposed by HB 308]. She understood that the tax specialist in the circumstance she described would be through with the audit this week and able to process the credits early next week.

CO-CHAIR JOHNSON inquired what the problem is with three-year statutes of limitation if the department is bumping up against very few of them.

MS. DAVIS responded the department is not bumping up against them because looking down the pike the statute of limitation is six years, not three years, and the department is staffed accordingly. The department has been processing credits knowing it is not hitting a wall.

[10:20:59 AM](#)

MS. DAVIS resumed her overview of HB 337, stating that HB 337 would change the wait for credits from two years to one. She said the tax credit in the governor's bill is similar to aspects of HB 308. In the governor's bill the credit is housed under AS 43.55.025, which is the exploration credit that would cover both operating and capital expenditures associated with exploration. A development section is being proposed for addition to AS 43.55.025. The credit amplification for infield drilling would expire July 2016.

[10:22:01 AM](#)

CO-CHAIR JOHNSON asked whether infield drilling and/or workovers would need to be finished by 2016 or begun by 2016.

MS. DAVIS replied it would be the cost incurred; the cost must be incurred after June [30], 2010, and before July 1, 2016. In further response, she confirmed the window to receive credits for infield drilling would be five to six years.

CO-CHAIR JOHNSON stated he will ask representatives of the industry whether that is enough time to plan, execute, and spend the money when they come before the committee on 3/29/10. He

further inquired whether the administration is firm on the sunset date.

MS. DAVIS answered she will discuss this with Commissioner Galvin and get back to the committee.

CO-CHAIR JOHNSON added that if the provision is working the state would want to continue it.

MS. DAVIS said this provision is in Section 8 at the top of page 6 under subparagraph (A), which states that it "must be for exploration or for development well expenditures incurred for work performed after June 30, 2010, and before July 1, 2016".

[10:24:08 AM](#)

MS. DAVIS continued her overview, explaining that HB 337 would give the Department of Revenue the authority to implement retroactive regulations that deal with those provisions of the bill that reach back into the past.

REPRESENTATIVE SEATON requested an explanation of the retroactive regulations.

MS. DAVIS responded the retroactive regulations would relate to the provision for waiver of interest and would go back to February 27, 2007, when ACES became effective. Retroactive regulations would also apply to the area of capital credit expenditure and the section that changes net operating losses and credits from two years to one year.

[10:25:57 AM](#)

REPRESENTATIVE SEATON understood the capital credit portion of that retroactivity would be on the one year versus two-year application.

MS. DAVIS replied yes.

REPRESENTATIVE SEATON surmised it would not go back and give capital credits.

MS. DAVIS answered no, the new capital credit, which is the 30 percent increase for infield, would be effective July 1, 2010, the start of the next fiscal year. In further response, she said this effective date was chosen for purposes of establishing no change to what people felt were the fiscal revenues that were

going to flow over fiscal year 2010. As far as regulations, it is helpful to have the regulations be able to be retroactive where the law goes back in time.

[10:27:37 AM](#)

REPRESENTATIVE SEATON noted that when HB 337 was previously heard, he requested a written analysis of the fiscal impact.

CO-CHAIR JOHNSON said that has not yet been received. He asked Ms. Davis whether it could be received by 3/29/10.

MS. DAVIS agreed to do so. She asked whether the request is for a retrospective view of the governor's bill and what these credits would have cost in 2008 and 2009.

REPRESENTATIVE SEATON responded correct.

[10:28:23 AM](#)

CO-CHAIR NEUMAN recalled that such fiscal comparisons were looked at for HB 308 [on 3/26/10] and he believes they would be substantially the same.

MS. DAVIS replied that the information she provided yesterday was only for the impact of the progressivity; it did not include the impact of the credits. She agreed that the credit piece for the bills is shared in common. She explained that the Department of Revenue is challenged for tracking the credits because it does not have a tracking system and will have to manually pull the returns to look at them. Additionally, she said the department is challenged with ensuring the confidentiality of Cook Inlet data because there are fewer taxpayers involved there.

[10:29:25 AM](#)

REPRESENTATIVE SEATON clarified he is not asking for in-depth information, just a thumbnail estimate of the projected fiscal impact to the state. He said he also requested an analysis of what the interest provision would do.

MS. DAVIS answered the department does not factor interest into its revenue projections, so this would have a zero revenue impact. She explained the department has no way of estimating who has or has not complied with tax liability. While she could

go back to old years, she said she is unsure that those years would be indicative of the current or future years.

REPRESENTATIVE SEATON said that if an amount of interest had been assessed to date, it would indicate the difference between that assessment and the change in rate.

MS. DAVIS said she will look into whether the department has any interest assessments and, if so, she will bring that information to the committee.

REPRESENTATIVE GUTTENBERG commented he does not want to know who pays what, but he does not feel comfortable being asked to make a decision on policy when it is shrouded behind confidentiality.

MS. DAVIS said she understood.

[10:33:25 AM](#)

CO-CHAIR JOHNSON moved to adopt Conceptual Amendment 1, dated 3/27/2010, suggested by the Department of Revenue, and written by the department as follows:

Page 1, following line 7

Insert new bill sections to read:

****Sec. 1.** AS.05.15.095(c) is amended to read:

(c) A delinquent fee bears interest at the rate set by AS 43.05.225(2) [AS 43.05.225].

Sec. 2. AS 34.45.470(a) is amended to read:

(a) A person who fails to pay or deliver property within the time prescribed by this chapter may be required to pay to the department interest at the annual rate calculated under **AS 43.05.225(2)** [AS 43.05.225] on the property or the value of it from the date the property should have been paid or delivered.

Sec. 3. AS 43.05.225 (1) is amended to read:

Sec. 43.05.225. Interest. Unless otherwise provided,

(1) When a tax levied in this title becomes delinquent, it bears interest in a calendar quarter at the rate of five percentage points above the annual rate charged member banks for advances by the 12th 15 Federal Reserve District as of the first day of that calendar quarter, [OR AT THE ANNUAL RATE OF 11 PERCENT, WHICHEVER IS GREATER,] compounded quarterly as of the 1st day of that quarter;

Sec. 4. AS 43.50.570 is amended to read:

Sec. 43.50.570. Interest. A licensee who fails to pay an amount due for the purchase of stamps within the time required

(1) is considered to have failed to pay the cigarette taxes due under this chapter; and

(2) shall pay interest at the rate established under AS 43.55.225(1)[AS 43.05.225] from the date on which the amount became due until the date of payment.

Sec. 5. AS 43.55.020(g) is amended to read:

(g) Notwithstanding any contrary provision of AS 43.05.225, an unpaid amount of an installment payment required under (a)(1)-(3) of this section that is not paid when due bears interest (1) at the rate provided for an underpayment under 26 U.S.C. 6621 (Internal Revenue Code), as amended, compounded daily, from the date the installment payment is due until March 31 following the calendar year of production, and (2) as provided for a delinquent tax under AS 43.05.225(1)[AS 43.05.225] after that March 31. Interest accrued under (1) of this subsection that remains unpaid after that March 31 is treated as an addition to tax that bears interest under (2) of this subsection. An unpaid amount of tax due under (a)(4) of this section that is not paid when due bears interest as provided for a delinquent tax under AS 43.05.225(1)[AS 43.05.225].

Page 2, lines 5-10:

Delete language and insert the following:

"effective, if

(A) the department determines that the producer's underpayment resulted because the regulation was not in effect when the payment was due; and

(B) the producer demonstrates that it made a good faith estimate of its tax obligation in light of the regulations then in effect when the payment was due and paid the estimate tax;"

Page 3, line 7:

Delete "AS 43.55.025(f)[AS 43.55.025(f)(2)]"

Insert "AS 43.55.025(f)(2)"

Page 3, line 9-10:

Delete "AS 43.55.025(f) [AS 43.55.025(f)(2)]"

Insert "AS 43.55.025(f)(2)"

Page 4, lines 5-31
Page 5, lines 1-31
Page 6, lines 1-31
Page 7, lines 1-31
Page 8, lines 1-31
Page 9, lines 1-25

Delete all material and insert new sections:

Sec. 9. AS 43.55.023(g) is amended to read:

(g) The issuance of a transferable tax credit certificate under (d) of this section or the purchase of a certificate under AS 43.55.028 does not limit the department's ability to later audit a tax credit claim to which the certificate relates or to adjust the claim if the department determines, as a result of the audit, that the applicant was not entitled to the amount of the credit for which the certificate was issued. The tax liability of the applicant under AS 43.55.011(e) and 43.55.017-43.55.180 is increased by the amount of the credit that exceeds that to which the applicant was entitled, or the applicant's available valid outstanding credits applicable against the tax levied by AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is increased under this subsection, the increase bears interest under **AS 43.55.225(1)** [AS 43.05.225] from the date the transferable tax credit certificate was issued. For purposes of this subsection, an applicant that is an explorer is considered a producer subject to the tax levied by AS 43.55.011(e).

Sec. 10. AS 43.55.023 is amended by adding a new subsection to read:

(m) A producer or explorer may take a tax credit for a well-related expenditure incurred after June 30, 2010 and before July 1, 2016, as follows:

(1) notwithstanding that a well-related expenditure may be a deductible lease expenditure under AS 43.55.165 for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit 1 for that expenditure is taken under (a) of this section, AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a well-related expenditure may also elect to apply a credit against a

tax levied by AS 43.55.011(e) in the amount of 30 percent of that expenditure;

(2) a producer or explorer may take a credit for a well-related expenditure incurred in connection with geological or geophysical exploration or in connection with an exploration well only if the producer or explorer

(A) agrees, in writing, to the applicable provisions of AS 43.55.025(f)(2); and

(B) submits to the Department of Natural Resources all data that would be required to be submitted under AS 43.55.025(f)(2) for a credit under AS 43.55.025;

(3) in this subsection, "well-related expenditure" means a lease expenditure

(A) directly related to an exploration well, a stratigraphic test well, a producing well, or an injection well other than a disposal well, if the expenditure is a qualified capital expenditure and an intangible drilling and development cost under 26 U.S.C. 263(c), as amended, and 26 C.F.R 1.612-4, regardless of the elections made under 26 U.S.C. 263(c); in this subparagraph, an expenditure directly related to a well includes an expenditure for well drilling, well sidetracking, well deepening, well testing, well stimulation, well completion or recompletion, or well workover, regardless as to whether the well is or has been a producing well; or

(B) for seismic work conducted within the boundaries of a production or exploration unit.

Page 9, following line 26:

Insert new bill sections to read:

Sec. 12. AS 43.77.020(d) is amended to read:

(d) A person subject to the tax under this chapter shall make quarterly payments of the tax estimated to be due for the year, as required under regulations adopted by the department. A taxpayer will be subject to an estimated tax penalty, determined by applying the interest rate specified in AS 43.05.225(1) [AS 43.55.225] to the underpayment for each quarter, unless the taxpayer makes estimated tax payment in equal installments that total either

(1) at least 90 percent of the taxpayer's tax liability under this chapter for the tax year; or

(2) at least 100 percent of the taxpayer's tax liability under this chapter for the prior tax year.

Sec. 13. AS 43.90.430 is amended to read:

Sec. 43.90.430. Interest. When a payment due to the state under this chapter becomes delinquent, the payment bears interest at the rate applicable to a delinquent tax under **AS 43.05.225(1)** [AS 43.05.225].

Page 9, line 29:

Delete both occurrences of "1" and insert "6"

Page 10, line 2-6:

Delete all material.

Page 10, lines 9-10:

Delete all material

Insert the following:

"RETROACTIVITY OF SECS. 6-8 OF THIS ACT. (a) Section 6 of this Act is retroactive to February 28, 2007.

(b) Section 7 and 8 of this Act are retroactive to January 1, 2010.

Page 10, line 17:

Delete "1, 2, or 3"

Insert "6, 7, or 8"

Page 10, line 19:

Delete "Sections 4 - 12"

Insert "Sections 1 - 5, and 9 - 13"

Re-number the bill sections accordingly.

REPRESENTATIVE P. WILSON objected to the conceptual amendment for discussion purposes.

CO-CHAIR JOHNSON said he is moving Conceptual Amendment 1 for review purposes only and no action will be taken on the amendment until it has been properly drafted by Legislative Legal and Research Services.

[10:34:09 AM](#)

MS. DAVIS spoke to the amendment, explaining that the work and discussions on HB 308 made it clear there were some ways to improve the governor's bill, given that HB 308 includes several provisions found in HB 337. The amendment would clean up Sections 1, 2, 3, 4, and 5 from the time when the department's interest statute, AS 43.05.225, was split into two parts - the first for delinquent taxes and the second part for blatant nonpayment of taxes. Other provisions in the department's purview also referenced AS 43.05.225 when it was just a single item, so those provisions do not specify which of the two parts of the current AS 43.05.225 apply. Thus, Section 1 deals with gaming interest, Section 2 with unclaimed property interest, Section 3 with the Department of Revenue interest provision, Section 4 with the tobacco stamp interest, and Section 5 deals with the ACES monthly installment interest.

[10:36:19 AM](#)

MS. DAVIS pointed out that Section 3 is the provision the House Resources Standing Committee amended [in HB 308] by removing the 11 percent interest rate and changing it to 3 points above the Federal Reserve rate. The governor's bill did not address the interest rate, but in retrospect the administration agrees that 11 percent is too steep and in HB 337 is now proposing a rate of 5 percent above the Federal Reserve rate. The administration believes 3 percent above the Federal Reserve rate is too low to prevent the state from becoming the banker, given that today's Federal Reserve rate is 0.75 percent.

CO-CHAIR JOHNSON appreciated the administration's consideration of this issue.

CO-CHAIR JOHNSON, in response to Representative Guttenberg, confirmed that the committee should receive the Legislative Legal and Research Services' version of Conceptual Amendment 1 on 3/29/10.

[10:37:52 AM](#)

MS. DAVIS, in response to Co-Chair Neuman, agreed that gaming in Section 1 relates to the lottery [and not gaming of the state's tax system]. She further agreed that Section 1 continues to give the Department of Revenue the authority to determine whether nonpayment of taxes was done purposely to receive a financial benefit and Section 3 changes the interest rate on back tax payments that are due.

[10:38:47 AM](#)

MS. DAVIS noted that Section 1 of HB 337 would become Section 6 as a result of Conceptual Amendment 1 and it deals with the department's right to waive interest where appropriate. Page 2, lines 18-24, of the amendment proposes new language in response to the committee's previous debate about whose burden of proof it is to determine whether a taxpayer did or did not pay the correct tax amount because of reliance on existing law without new regulations. Under this language, the determination of whether interest would be waived would be dependent upon: "(A) the department determines that the producer's underpayment resulted because the regulation was not in effect when the payment was due; and (B) the producer demonstrates that it made a good faith estimate of its tax obligation in light of the regulations then in effect when the payment was due...." The bill's original language would require the department to prove a lack of good faith, which would be complicated. The amendment's language makes it clear that the producer must demonstrate its good faith, which is generally the way most laws are written.

[10:40:31 AM](#)

MS. DAVIS explained the suggested changes at the bottom of page 2 and top of page 3 in the amendment are cleanups that came out of HB 308. Language in HB 308 would require the taxpayer to share data with the Department of Natural Resources (DNR) when the state gives a credit for infield drilling and seismic activities. The reference in HB 308 is to AS 43.55.025(f)(2), which is much clearer than referencing just AS 43.55.025(f). Thus, Conceptual Amendment 1 would result in HB 337 picking up that more precise reference and would make it very clear that the obligation is to give data after-the-fact and that pre-approval is not required.

[10:41:23 AM](#)

MS. DAVIS said the big change is on page 3 of the amendment. The governor's bill had the credit for infield drilling contained in AS 43.55.025, which is the exploration incentive credit section; HB 308 contained the credit under AS 43.55.023, which is the capital credit section. After listening to committee discussion and testimony by Mr. Dan Dickinson, it became clear that putting this under AS 43.55.023 would provide a brighter line for identifying what types of costs or expenses get the credit. Therefore, Conceptual Amendment 1 would change

HB 337 to put the credit for infield drilling under AS 43.55.023. The governor's bill would still maintain some of its original changes which are focused on the exploration and development phase; HB 337 does not have a production ongoing credit for ongoing operations. She said yesterday's discussions clarified what things would fall under this credit and she estimates that 95-98 percent of those things would fall under the exploration and development phase. Accessing new reserves and enhancing reserve production profiles are important to the governor, she related.

CO-CHAIR NEUMAN understood Ms. Davis to be saying that credits under AS 43.55.023 will provide taxpayers with the benefit of fluid working capital.

MS. DAVIS responded correct.

[10:43:46 AM](#)

MS. DAVIS continued discussing the proposed conceptual amendment, noting that the 4.5 percent overhead would not be added to the credit, which is different than in HB 308. She said the administration is very uncomfortable opening that door because none of the other credits have overhead contained in them; this helps with the department's administrative work easier and provides consistency with the other credits. She clarified that her reference to HB 308 is regarding Amendment 3, adopted on 3/26/10, and which changed that provision. She reiterated that there is a sunset provision for part of this credit.

[10:46:01 AM](#)

MS. DAVIS explained that Conceptual Amendment 1 would add new sections to HB 337 - Section 12 and Section 13. These are additional interest provisions related to dividing AS 43.05.225 into two parts, as discussed earlier. Section 12 deals with the fisheries tax and Section 13 deals with the Alaska Gasline Inducement Act (AGIA) interest. She noted that page 5, lines 20-21, of the amendment would correct the section numbers in the bill, and page 5, lines 23-24, of the amendment would delete Section 14 of the bill because it is no longer needed since the new credit will now be applied under AS 43.55.023 instead of AS 43.55.025. The changes on page 6 of the amendment are the renumbering of sections in the bill.

[10:46:52 AM](#)

REPRESENTATIVE SEATON noted the state has a number of different interest rates on its different taxes, such as the fisheries tax. He asked that the analysis of the effective changes in the interest rate for the production tax that he requested earlier also look at these other taxes, such as the fisheries tax.

MS. DAVIS agreed to do so.

REPRESENTATIVE SEATON clarified that he is asking only for a thumbnail look. Regarding fisheries taxes and interest, he noted the state has appealed a lawsuit, the "Carlson case", which is based on interest charges. He said he would like to get an opinion from the attorney general as to whether there is any interaction with doing this while at the same time appealing that case.

CO-CHAIR JOHNSON said the bill does not change any fish taxes.

[10:49:05 AM](#)

CO-CHAIR NEUMAN cautioned that the Department of Revenue is being asked to provide a lot of information by 3/29/10.

MS. DAVIS responded the department will do its best to comply.

CO-CHAIR JOHNSON suggested the oil-related information receive first priority and the fish-related information second priority.

CO-CHAIR NEUMAN said he wants to ensure the focus remains on the contents of the bill and what the bill affects.

REPRESENTATIVE SEATON clarified his request is specifically on Conceptual Amendment 1 and the tax provisions contained in the amendment, and he does not want to move forward without an understanding of what the effects would be.

[10:51:32 AM](#)

MS. DAVIS, in response to Representative P. Wilson, stated that interest on cigarette taxes due as a result of Internet purchases would be dropped from 11 percent to 5.75 percent. In further response, she said that under Conceptual Amendment 1 the effective date for this drop in interest on cigarette taxes would be July 1, 2010.

REPRESENTATIVE SEATON noted that if the effective date is changed for interest on cigarette taxes, the committee will need to look at those numbers.

[10:54:40 AM](#)

MS. DAVIS, in response to Co-Chair Johnson and Representative Seaton, suggested putting Conceptual Amendment 1 into the form of a committee substitute for HB 337 because this would make everything easier to read.

CO-CHAIR JOHNSON agreed.

REPRESENTATIVE SEATON also agreed.

[10:55:33 AM](#)

CO-CHAIR NEUMAN commented that he thinks many of the differences between HB 308 and HB 337 have been put aside and forward movement is occurring where there is agreement.

CO-CHAIR JOHNSON stated public testimony will be taken on 3/29/10.

CO-CHAIR NEUMAN requested that any members contemplating amendments talk to other members about their intent should the paperwork not be available 24 hours in advance.

[11:00:22 AM](#)

REPRESENTATIVE SEATON advised he has one amendment already drafted that would help to make the transferable credits more saleable through the Alaska Retirement Management (ARM) Board. He said he also wants to look at the amount of tax credit on the infield versus exploration tax credits and whether to provide any different incentive, which would only be a number change.

CO-CHAIR JOHNSON said another way to look at that is guaranteed flow down the pipeline versus risky flow, with infield credits having the advantage of being a more guaranteed source of revenue to the state.

CO-CHAIR NEUMAN agreed with trying to provide an opportunity to sell credits beyond just the [three] companies that can now buy them. He said well workovers are keeping the pipeline throughput from dropping even further. New technology is keeping the state afloat and the state needs to allow that to

continue. He said he therefore believes that credits for well workovers are important.

11:03:09 AM

[Members discussed having people available at the next meeting to answer questions about the possible purchase of transferable credits by the ARM Board.]

[HB 337 was held over.]

11:05:15 AM

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 11:05 p.m.