

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

February 25, 2011

1:11 p.m.

**MEMBERS PRESENT**

Representative Eric Feige, Co-Chair  
Representative Paul Seaton, Co-Chair  
Representative Peggy Wilson, Vice Chair  
Representative Alan Dick  
Representative Neal Foster  
Representative Cathy Engstrom Munoz

**MEMBERS ABSENT**

Representative Bob Herron  
Representative Berta Gardner  
Representative Scott Kawasaki

**COMMITTEE CALENDAR**

HOUSE BILL NO. 110

"An Act relating to the interest rate applicable to certain amounts due for fees, taxes, and payments made and property delivered to the Department of Revenue; relating to the oil and gas production tax rate; relating to monthly installment payments of estimated oil and gas production tax; relating to oil and gas production tax credits for certain expenditures, including qualified capital credits for exploration, development, and production; relating to the limitation on assessment of oil and gas production taxes; relating to the determination of oil and gas production tax values; making conforming amendments; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 110

SHORT TITLE: PRODUCTION TAX ON OIL AND GAS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/18/11	(H)	READ THE FIRST TIME - REFERRALS
01/18/11	(H)	RES, FIN
02/07/11	(H)	RES AT 1:00 PM BARNES 124
02/07/11	(H)	Heard & Held

02/07/11 (H) MINUTE(RES)  
02/21/11 (H) RES AT 1:00 PM BARNES 124  
02/21/11 (H) Heard & Held  
02/21/11 (H) MINUTE(RES)  
02/21/11 (H) RES AT 5:15 PM BARNES 124  
02/21/11 (H) Heard & Held  
02/21/11 (H) MINUTE(RES)  
02/23/11 (H) RES AT 1:00 PM BARNES 124  
02/23/11 (H) Heard & Held  
02/23/11 (H) MINUTE(RES)  
02/25/11 (H) RES AT 1:00 PM BARNES 124

#### **WITNESS REGISTER**

JOE BALASH, Deputy Commissioner  
Office of the Commissioner  
Department of Natural Resources (DNR)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during discussion of HB 110.

BRYAN BUTCHER, Acting Commissioner  
Department of Revenue (DOR)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during discussion of HB 110.

LENNIE DEES, Audit Master  
Production Audit Group  
Tax Division  
Department of Revenue  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during discussion of HB 110.

DONALD BULLOCK JR., Attorney  
Legislative Legal Counsel  
Legislative Legal and Research Services  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during discussion of HB 110.

#### **ACTION NARRATIVE**

[1:11:58 PM](#)

CO-CHAIR ERIC FEIGE called the House Resources Standing Committee meeting to order at 1:11 p.m. Representatives Feige, Seaton, P. Wilson, Dick, Foster, and Munoz were present at the call to order.

**HB 110-PRODUCTION TAX ON OIL AND GAS**

[1:12:23 PM](#)

CO-CHAIR FEIGE announced that the only order of business is HOUSE BILL NO. 110, "An Act relating to the interest rate applicable to certain amounts due for fees, taxes, and payments made and property delivered to the Department of Revenue; relating to the oil and gas production tax rate; relating to monthly installment payments of estimated oil and gas production tax; relating to oil and gas production tax credits for certain expenditures, including qualified capital credits for exploration, development, and production; relating to the limitation on assessment of oil and gas production taxes; relating to the determination of oil and gas production tax values; making conforming amendments; and providing for an effective date."

[1:12:46 PM](#)

CO-CHAIR FEIGE moved to adopt Amendment 1, labeled 27-GH1007\A.2, Bullock, 2/22/11, which read:

Page 3, line 10:

Delete "as of December 31, 2010, was or had previously been"

Insert "on December 31, 2008, was"

REPRESENTATIVE P. WILSON objected for discussion.

[1:13:28 PM](#)

CO-CHAIR FEIGE explained that HB 110 would divide the unitized and non-unitized areas as a means to apply a lower base rate with progressivity for the non-unitized areas. He offered his belief that the intent of the governor was to offer a lower tax rate to induce more exploration and future production. He pointed out that some areas were already unitized, but did not yet have any production or exploration. He explained that Amendment 1 would adjust the date on page 3, line 10, to include these units in the lower non-unitized base tax rate.

1:15:19 PM

CO-CHAIR SEATON noted that the Point Thomson unit is currently under contest and may be de-unitized; if it was re-unitized, would the 15 percent [tax] rate be permanent, he asked.

CO-CHAIR FEIGE replied that because Point Thomson was a unit on that date it would not receive the 15 percent rate.

CO-CHAIR SEATON, referring to proposed Amendment 1, asked whether the deletion of "or had previously been" would allow leases that were de-unitized, and then re-unitized at a later date, to qualify for the 15 percent tax rate.

CO-CHAIR FEIGE offered his belief that it would not. He stated that "if they were a unit on that date [December 31, 2008], they would fall under the higher base rate."

1:17:03 PM

CO-CHAIR SEATON expressed concern with removing "or had previously been" from proposed Amendment 1. He explained that a unit could be de-unitized, and then, if re-unitized after December 31, 2010, it would be recognized as a new unit, and qualify for the lower tax rate of 15 percent.

JOE BALASH, Deputy Commissioner, Office of the Commissioner, Department of Natural Resources (DNR) explained that the language in proposed Amendment 1, "or had previously been," was speaking to individual leases, and would preserve the designations as of December 31, 2008. Directing his remarks to Point Thomson, he stated that designations would be determined by what existed on December 31, 2008.

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CO-CHAIR SEATON offered his belief that removal of "or had previously been" would allow units to re-unitize in order to qualify for the 15 percent tax rate, as it removed the statutory restriction.

MR. BALASH pointed out that many individual land parcels had, over the past 35 years, been in a unit at one time or another. He explained that leases were initially individual, were unitized, and then were contracted out. He noted that many leases, currently not in a unit, had been in another unit at

some point in the last 35 years. He offered his understanding that the intent of proposed Amendment 1 was to ensure that when a lease was returned for re-releasing, the process would begin again, and the lease was eligible for the lower tax rate.

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CO-CHAIR SEATON allowed that proposed Amendment 1 was a possible solution for that issue, but surmised that it could open the potential problem he described earlier. He stated his desire to avoid this "loophole" problem.

MR. BALASH responded that DNR did not see any legal problem or concern with the language as written for proposed Amendment 1.

[1:24:14 PM](#)

CO-CHAIR SEATON cited an example of expansion to a unit with a subsequent re-unitizing, and asked if this would qualify as a new unit, eligible for the lower tax rate.

MR. BALASH offered his belief that this was not the case because all the leases that were in those units would be static as of the amended date.

CO-CHAIR SEATON expressed his disagreement with this assessment.

REPRESENTATIVE MUNOZ agreed with Representative Seaton that the language was confusing.

[1:27:16 PM](#)

CO-CHAIR FEIGE stated that proposed Amendment 1 would amend HB 110 to read that "if a piece of property was within a unit on December 31, 2008, it gets taxed at ... the base rate of 25 percent plus progressivity. Places that weren't unitized on that date do not; they get taxed at the lower rate, which is designed to encourage production." He pointed out that units existing prior to December 31, 2008, which did not have production, were areas of exploration, with the potential for oil.

MR. BALASH expressed his agreement with Co-Chair Feige.

CO-CHAIR FEIGE stated that throughout Alaska history there had been many leases that were parts of units, and these had been released for whatever reason. He ascertained that inclusion of

"had previously been" in proposed Amendment 1 would maintain the higher tax rate for all of these leases, and would not encourage additional exploration.

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REPRESENTATIVE P. WILSON asked what the tax rate would be if the lease was dissolved for Point Thomson.

MR. BALASH declined to speak about the Point Thomson lease due to the current litigation. However, he offered the Rockflower Unit as an example, which was a collection of leases south of Prudhoe Bay. The unit was formed by Eni, which subsequently released the leases, all of which had been in a unit as of December 31, 2008. He shared that Great Bear Petroleum picked up these leases at the lease sale in the fall of 2010. He pointed out the intent to ensure these leases were available at the lower tax rate, as they were not part of a unit currently in production. In further response, he agreed that the Great Bear Petroleum leases would be taxed at the lower rate, if proposed Amendment 1 was approved.

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CO-CHAIR SEATON asked when Point Thomson was unitized.

MR. BALASH offered his belief that it was unitized in 1981.

CO-CHAIR SEATON, referring to "was within a unit or in commercial production," asked if this pertained to a non-producing lease within a unit.

MR. BALASH explained that, as HB 110 would be applied statewide, it was necessary to draft language to address all scenarios. He agreed that individual leases producing prior to the date in statute would be taxed at the higher tax rate.

[1:35:01 PM](#)

CO-CHAIR FEIGE moved to adopt Amendment 1.

REPRESENTATIVE P. WILSON removed her objection. There being no further objection, it was so ordered.

[1:35:36 PM](#)

The committee took a brief at-ease.

[1:36:45 PM](#)

CO-CHAIR SEATON moved to adopt Amendment 2, labeled 27-GH1007\A.36, Bullock, 2/24/11, which read:

Page 1, line 6, following "production":

Insert "relating to certain additional nontransferable oil and gas production tax credits;"

Page 12, following line 5:

Insert new bill sections to read:

**\* Sec. 17.** AS 43.55.024(b) is amended to read:

(b) A producer may not take a tax credit under (a) of this section for any calendar year after the later of

(1) 2021 [2016]; or

(2) the ninth calendar year after the calendar year during which the producer first has commercial oil or gas production before May 1, 2021 [2016], from at least one lease or property in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, if the producer did not have commercial oil or gas production from a lease or property in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, before April 1, 2006.

**\* Sec. 18.** AS 43.55.024(d) is amended to read:

(d) A producer may not take a tax credit under (c) of this section for any calendar year after the later of

(1) 2021 [2016]; or

(2) if the producer did not have commercial oil or gas production from a lease or property in the state before April 1, 2006, the ninth calendar year after the calendar year during which the producer first has commercial oil or gas production before May 1, 2021 [2016], from at least one lease or property in the state."

Renumber the following bill sections accordingly.

Page 16, line 10:

Delete "Sections 6 - 9 and 20"

Insert "Sections 6 - 9 and 22"

Page 16, line 12:  
Delete "Section 19"  
Insert "Section 21"

Page 16, line 20:  
Delete "Sections 11, 12, 14 - 18, 24, and 25(a)"  
Insert "Sections 11, 12, 14 - 16, 19, 20, 26, and 27(a)"

Page 16, line 21:  
Delete "Sections 6 - 9, 20, and 25(b)"  
Insert "Sections 6 - 9, 22, and 27(b)"

Page 16, line 22:  
Delete "Sections 19 and 25(c)"  
Insert "Sections 21 and 27(c)"

Page 16, line 23:  
Delete "secs. 27 - 29"  
Insert "secs. 29 - 31"

[1:37:05 PM](#)

REPRESENTATIVE P. WILSON objected for discussion.

CO-CHAIR SEATON explained that proposed Amendment 2 related to the small producer tax credits, a \$12 million credit for producers of less than 100,000 barrels per day. He declared that the proposed amendment extended the sunset date of this credit for an additional five years, from 2016 to 2021.

REPRESENTATIVE P. WILSON understood that proposed Amendment 2 extended the tax credit period from 5 years to 10 years.

CO-CHAIR SEATON agreed.

REPRESENTATIVE P. WILSON removed her objection.

[1:39:07 PM](#)

The committee took an at-ease from 1:39 p.m. to 1:41 p.m.

[1:41:05 PM](#)

There being no objection, Amendment 2 was adopted.

CO-CHAIR SEATON moved to adopt Amendment 3, labeled 27-GH1007\A.3, Mischel/Bullock, 2/23/11, which read:

Page 1, lines 4 - 5:

Delete "**for certain expenditures**"

Page 12, following line 5:

Insert a new bill section to read:

"\* **Sec. 17.** AS 43.55.024(c) is amended to read:

(c) For a calendar year for which a producer's tax liability under AS 43.55.011(e) exceeds zero before application of any credits under this chapter, other than a credit under (a) of this section but after application of any credit under (a) of this section, a producer that is qualified under (e) of this section and whose average amount of oil and gas produced a day and taxable under AS 43.55.011(e) is less than 100,000 BTU equivalent barrels a day may apply a tax credit under this subsection against that liability. A producer whose average amount of oil and gas produced a day and taxable under AS 43.55.011(e) is

(1) not more than 50,000 BTU equivalent barrels may apply a tax credit of not more than \$15,000,000 [\$12,000,000] for the calendar year;

(2) more than 50,000 and less than 100,000 BTU equivalent barrels may apply a tax credit of not more than \$15,000,000 [\$12,000,000] multiplied by the following fraction for the calendar year:

$$1 - [2 \times (AP - 50,000)] / 100,000$$

where AP = the average amount of oil and gas taxable under AS 43.55.011(e), produced a day during the calendar year in BTU equivalent barrels."

Renumber the following bill sections accordingly.

Page 16, line 10:

Delete "Sections 6 - 9 and 20"

Insert "Sections 6 - 9 and 21"

Page 16, line 12:

Delete "Section 19"

Insert "Section 20"

Page 16, line 20:

Delete "Sections 11, 12, 14 - 18, 24, and 25(a)"

Insert "Sections 11, 12, 14 - 16, 18, 19, 25, and 26(a)"

Page 16, line 21:

Delete "Sections 6 - 9, 20, and 25(b)"

Insert "Sections 6 - 9, 21, and 26(b)"

Page 16, line 22:

Delete "Sections 19 and 25(c)"

Insert "Sections 20 and 26(c)"

Page 16, line 23:

Delete "secs. 27 - 29"

Insert "secs. 28 - 30"

REPRESENTATIVE P. WILSON objected for discussion.

[1:41:51 PM](#)

CO-CHAIR SEATON reported that proposed Amendment 3, relating to the credits extended in Amendment 2, would insert Section 17 in proposed HB 110. He explained that the proposed amendment would increase the small producer tax credits, which producers had declared important for the financing of exploration and development, from \$12 million to \$15 million. He emphasized that these annual credits could not be sold, could only be used if there was oil production, and were applied to any production under 100,000 barrels per day. He shared that this was an existing law, which merely changed the credit from \$12 million annually to \$15 million annually.

CO-CHAIR FEIGE asked why it was necessary to change the bill title.

CO-CHAIR SEATON replied that the bill did not address the small producer tax credit. He referred to the testimony stating that the short date on the tax credits was delaying the project financing. In response to Representative Herron, he pointed out that the producers had indicated that an increase in the credit amount would be helpful.

[1:44:55 PM](#)

REPRESENTATIVE MUNOZ reflected that the primary criticism from the small producers had been for the tax credit extension over two years, instead of one year.

CO-CHAIR FEIGE agreed that was one criticism.

REPRESENTATIVE MUNOZ asked if the small producers had offered a suggestion for a specific credit amount.

CO-CHAIR SEATON referred to a conversation between Representative Herron and the producers for the increase in the tax credit. He indicated that the earlier amount had needed an adjustment for inflation. He stated that a committee goal was to offer reasonable support for the small producers to attract investment capital.

BRYAN BUTCHER, Acting Commissioner, Department of Revenue (DOR), replied that DOR did not have any concerns with proposed Amendment 3.

REPRESENTATIVE P. WILSON removed her objection. There being no further objection, it was so ordered.

[1:47:31 PM](#)

CO-CHAIR SEATON moved to adopt Amendment 4, labeled 27-GH1007\A.4, Mischel/Bullock, 2/23/11, which read:

Page 12, following line 5:

Insert new bill sections to read:

"\* **Sec. 17.** AS 43.55.025(b) is amended to read:

(b) To qualify for the production tax credit under (a) of this section, an exploration expenditure must be incurred for work performed after June 30, 2008, and before July 1, **2021** [2016], and

(1) may be for seismic or other geophysical exploration costs not connected with a specific well;

(2) if for an exploration well,

(A) must be incurred by an explorer that holds an interest in the exploration well for which the production tax credit is claimed;

(B) may be for either a well that encounters an oil or gas deposit or a dry hole;

(C) must be for a well that has been completed, suspended, or abandoned at the time the explorer claims the tax credit under (f) of this section; and

(D) must be for goods, services, or rentals of personal property reasonably required for the surface preparation, drilling, casing, cementing, and logging of an exploration well, and, in the case

of a dry hole, for the expenses required for abandonment if the well is abandoned within 18 months after the date the well was spudded;

(3) may not be for administration, supervision, engineering, or lease operating costs; geological or management costs; community relations or environmental costs; bonuses, taxes, or other payments to governments related to the well; costs, including repairs and replacements, arising from or associated with fraud, wilful misconduct, gross negligence, criminal negligence, or violation of law, including a violation of 33 U.S.C. 1319(c)(1) or 1321(b)(3) (Clean Water Act); or other costs that are generally recognized as indirect costs or financing costs; and

(4) may not be incurred for an exploration well or seismic exploration that is included in a plan of exploration or a plan of development for any unit before May 14, 2003.

\* **Sec. 18.** AS 43.55.025(k) is amended to read:

(k) Subject to the terms and conditions of this section, if a claim is filed under (f)(1) of this section before January 1, 2021 [2016], a credit against the production tax levied by AS 43.55.011(e) is allowed in an amount equal to five percent of an eligible expenditure under this subsection incurred for seismic exploration performed before July 1, 2003. To be eligible under this subsection, an expenditure must

(1) have been for seismic exploration that

(A) obtained data that the commissioner of natural resources considers to be in the best interest of the state to acquire for public distribution; and

(B) was conducted outside the boundaries of a production unit; however, the amount of the expenditure that is otherwise eligible under this section is reduced proportionately by the portion of the seismic exploration activity that crossed into a production unit; and

(2) qualify under (b)(3) of this section."

Renumber the following bill sections accordingly.

Page 16, line 10:

Delete "Sections 6 - 9 and 20"

Insert "Sections 6 - 9 and 22"

Page 16, line 12:  
Delete "Section 19"  
Insert "Section 21"

Page 16, line 20:  
Delete "Sections 11, 12, 14 - 18, 24, and 25(a)"  
Insert "Sections 11, 12, 14 - 16, 19, 20, 26, and  
27(a)"

Page 16, line 21:  
Delete "Sections 6 - 9, 20, and 25(b)"  
Insert "Sections 6 - 9, 22, and 27(b)"

Page 16, line 22:  
Delete "Sections 19 and 25(c)"  
Insert "Sections 21 and 27(c)"

Page 16, line 23:  
Delete "secs. 27 - 29"  
Insert "secs. 29 - 31"

REPRESENTATIVE P. WILSON objected for discussion.

CO-CHAIR SEATON explained that proposed Amendment 4 extended the production tax credit date from 2016 to 2021.

[1:48:40 PM](#)

The committee took an at-ease from 1:48 p.m. to 1:50 p.m.

[1:50:13 PM](#)

REPRESENTATIVE P. WILSON requested an explanation of proposed Amendment 4.

CO-CHAIR SEATON explained that proposed Amendment 4 would extend the sunset date for exploration tax credits by five years, from 2016 to 2021, with the goal of enhancing exploration. In further response, he confirmed that the only change effected by proposed Amendment 4 would be an addition of five years for the exploration tax credits.

REPRESENTATIVE P. WILSON removed her objection.

[1:52:28 PM](#)

ACTING COMMISSIONER BUTCHER, in response to Co-Chair Feige, said that proposed Amendment 4 was "a policy call for the committee and the Department of Revenue is fine either way."

There being no further objection, Amendment 4 was adopted.

[1:53:07 PM](#)

The committee took a brief at-ease.

[1:53:56 PM](#)

CO-CHAIR SEATON moved to adopt Amendment 5, labeled 27-GH1007\A.6, Mischel/Bullock, 2/23/11, which read:

Page 16, line 8:

Delete "Sections 11, 12, 15, and 16"

Insert "Sections 15 and 16"

Page 16, line 20:

Delete "Sections 11, 12, 14 - 18, 24, and 25(a)"

Insert "Sections 14 - 18, 24, and 25(a)"

Page 16, following line 22:

Insert a new bill section to read:

"\* **Sec. 30.** Sections 11 and 12 of this Act take effect immediately under AS 01.10.070(c)."

Re-number the following bill section accordingly.

Page 16, line 23:

Delete "secs. 27 - 29"

Insert "secs. 27 - 30"

REPRESENTATIVE P. WILSON objected for discussion.

CO-CHAIR SEATON explained that proposed Amendment 5 would modify the refundable tax credits given to explorers and small producers to be immediately effective.

[1:56:10 PM](#)

REPRESENTATIVE P. WILSON asked whether this affected DOR.

ACTING COMMISSIONER BUTCHER said it was more difficult for DOR to administer tax credits in the middle of a year. He suggested making the date retroactive to January 1, 2011.

CO-CHAIR SEATON moved to adopt Conceptual Amendment 1 to Amendment 5, which would change the effective date retroactive to January 1, 2011.

There being no objection, Conceptual Amendment 1 to Amendment 5 was approved.

CO-CHAIR FEIGE asked for an explanation of lines 1-3 of proposed Amendment 5.

CO-CHAIR SEATON replied that this would reorder the sections, and move Sections 11 and 12 to the new Section 30 of the bill, making them effective immediately. He said there were no substantive changes to the amounts of credit.

[1:58:39 PM](#)

REPRESENTATIVE MUNOZ requested an interpretation of proposed Amendment 5 by an attorney from Legislative Legal and Research Services.

REPRESENTATIVE P. WILSON explained that proposed Amendment 5 did not remove Sections 11 and 12, but merely reinserted them elsewhere.

REPRESENTATIVE MUNOZ agreed to this interpretation.

CO-CHAIR FEIGE restated that proposed Amendment 5 would make Sections 11 and 12 retroactive to January 1, 2011.

CO-CHAIR SEATON confirmed, noting that this was only the case for the one tax credit.

[2:00:40 PM](#)

REPRESENTATIVE P. WILSON understood that proposed Amendment 5 would move Sections 11 and 12 into Section 30 of the bill, and would change the effective date to January 1, 2011. She removed her objection.

CO-CHAIR FEIGE moved to adopt Amendment 5, as amended. There being no objection, it was so ordered.

[2:01:39 PM](#)

CO-CHAIR SEATON moved to adopt Amendment 6, labeled 27-GH1007\A.19, Bullock, 2/23/11, which read:

Page 12, following line 5:

Insert new bill sections to read:

"\* **Sec. 17.** AS 43.55.025(a) is amended to read:

(a) Subject to the terms and conditions of this section, a credit against the production tax levied by AS 43.55.011(e) is allowed for exploration expenditures that qualify under (b) of this section in an amount equal to one of the following:

(1) 30 percent of the total exploration expenditures that qualify only under (b) and (c) of this section;

(2) 30 percent of the total exploration expenditures that qualify only under (b) and (d) of this section;

(3) 40 percent of the total exploration expenditures that qualify under (b), (c), and (d) of this section;

(4) 40 percent of the total exploration expenditures that qualify only under (b) and (e) of this section; [OR]

(5) 80, 90, or 100 percent, or a lesser amount described in (1) of this section, of the total exploration expenditures described in (b)(1) and (2) of this section and not excluded by (b)(3) and (4) of this section that qualify only under (1) of this section; or

(6) 30 percent of the total exploration expenditures that qualify only under (b) and (n) of this section.

\* **Sec. 18.** AS 43.55.025 is amended by adding a new subsection to read:

(n) To be eligible for the 30 percent production tax credit authorized by (a)(6) of this section, exploration expenditures must be for a well drilled north of 68 degrees North latitude that is

(1) outside of a unit; or

(2) within a unit formed after June 30, 2008, and the exploration expenditures are incurred before the later of the date that is four years after the date the

(A) unit is formed; or

(B) first exploration well is drilled on a lease or property that is within the unit."

Renumber the following bill sections accordingly.

Page 16, line 8:

Delete "Sections 11, 12, 15, and 16"  
Insert "Sections 11, 12, and 15 - 18"

Page 16, line 10:

Delete "Sections 6 - 9 and 20"  
Insert "Sections 6 - 9 and 22"

Page 16, line 12:

Delete "Section 19"  
Insert "Section 21"

Page 16, line 20:

Delete "Sections 11, 12, 14 - 18, 24, and 25(a)"  
Insert "Sections 11, 12, 14 - 20, 26, and 27(a)"

Page 16, line 21:

Delete "Sections 6 - 9, 20, and 25(b)"  
Insert "Sections 6 - 9, 22, and 27(b)"

Page 16, line 22:

Delete "Sections 19 and 25(c)"  
Insert "Sections 21 and 27(c)"

Page 16, line 23:

Delete "secs. 27 - 29"  
Insert "secs. 29 - 31"

REPRESENTATIVE P. WILSON objected for discussion.

[2:02:00 PM](#)

CO-CHAIR SEATON noting that the exploration tax credits were extended to 2021, directed attention to the Division of Oil & Gas drilling technology handout [included in members' packets]. He explained that wells were previously drilled vertically, but that current technology allows for lateral drilling. He stated that the current limitation on exploration required a minimum three mile distance from the bottom of another well. Proposed Amendment 6 would allow the 30 percent exploration credits within or outside a unit, and would remove the distance requirement. It would apply to wells outside a unit and wells within a unit for 4 years after the first well was drilled and would therefore not create a permanent obligation for a 30 percent tax credit. He stated that this was an incentive to

drill more rapidly, to stimulate production, and to not limit proximate exploration.

[2:06:14 PM](#)

REPRESENTATIVE P. WILSON read line 19 of proposed Amendment 6: "30 percent of the total exploration expenditures that qualify only under (b)...." She asked to what (b) referred.

CO-CHAIR SEATON explained that "(b) says you're drilling a well and it's not in a producing field."

REPRESENTATIVE P. WILSON asked if it was in a unit.

CO-CHAIR SEATON replied that it was not in a producing field or unit.

[2:07:11 PM](#)

REPRESENTATIVE P. WILSON, directing attention to line 20 of proposed Amendment 6, asked for an explanation of (n).

CO-CHAIR SEATON explained that (n) was the new Section 18, starting on line 21, which stated that eligibility was limited to the North Slope, north of 68 degrees, and required a well to be outside a unit, or within a unit formed after June [30], 2008.

REPRESENTATIVE P. WILSON understood it was in a currently non-producing field, or on the North Slope that is outside of a unit or within a unit formed after June [30], 2008.

CO-CHAIR SEATON replied correct. He elaborated that this eliminated the requirement for spacing and distance.

[2:09:08 PM](#)

The committee took an at-ease from 2:09 p.m. to 2:13 p.m.

[2:13:20 PM](#)

ACTING COMMISSIONER BUTCHER, in response to Co-Chair Feige, said DOR and DNR were comfortable with proposed Amendment 6.

REPRESENTATIVE P. WILSON removed her objection. There being no further objection, Amendment 6 was adopted.

[2:14:43 PM](#)

REPRESENTATIVE P. WILSON moved to adopt Amendment 7, labeled 27-GH1007\A.38, Bullock, 2/25/11, which read:

Page 1, line 7, following "**values;**":

Insert "**relating to the disclosure of certain tax information;**"

Page 15, following line 15:

Insert a new bill section to read:

"\* **Sec. 21.** AS 43.55.890 is amended to read:

**Sec. 43.55.890. Disclosure of tax information.** Notwithstanding any contrary provision of AS 40.25.100, and regardless of whether the information is considered under AS 43.05.230(e) to constitute statistics classified to prevent the identification of particular returns or reports, the department may publish the following information under this chapter, if aggregated among three or more producers or explorers, showing, by month or calendar year and by lease or property, unit, or area of the state:

- (1) the amount of oil or gas production;
  - (2) the amount of taxes levied under this chapter or paid under this chapter;
  - (3) the effective tax rates under this chapter;
  - (4) the gross value of oil or gas at the point of production;
  - (5) the transportation costs for oil or gas;
  - (6) qualified capital expenditures, as defined in AS 43.55.023;
  - (7) exploration expenditures under AS 43.55.025;
  - (8) production tax values of oil or gas under AS 43.55.160;
  - (9) lease expenditures under AS 43.55.165;
  - (10) adjustments to lease expenditures under AS 43.55.170;
  - (11) tax credits applicable or potentially applicable against taxes levied by this chapter;
- the information relating to tax credits under this paragraph, to the extent the information is available to the department, must include the statutory**

authority for each type of credit taken, the amount of credits taken under each statute authorizing a tax credit, and whether the credit is for an expenditure related to oil or gas exploration, development, or production, including the drilling of wells; performing work on existing wells; conducting geological or geophysical exploration; acquiring, constructing, or installing new facilities or equipment; and maintaining, repairing, or replacing existing facilities or equipment."

Renumber the following bill sections accordingly.

Page 16, following line 19:

Insert a new bill section to read:

"\* **Sec. 28.** Section 21 of this Act takes effect immediately under AS 01.10.070(c)."

Renumber the following bill sections accordingly.

Page 16, line 20:

Delete "Sections 11, 12, 14 - 18, 24, and 25(a)"

Insert "Sections 11, 12, 14 - 18, 25, and 26(a)"

Page 16, line 21:

Delete "Sections 6 - 9, 20, and 25(b)"

Insert "Sections 6 - 9, 20, and 26(b)"

Page 16, line 22:

Delete "Sections 19 and 25(c)"

Insert "Sections 19 and 26(c)"

Page 16, line 23:

Delete "secs. 27 - 29"

Insert "secs. 28 - 31"

CO-CHAIR SEATON objected for discussion.

[2:14:58 PM](#)

REPRESENTATIVE P. WILSON pointed out that Alaska statute did not allow state auditors to share financial information with the legislature. She noted that this tax credit information had to include the statutory authority for each type of credit taken. She read from page 2, lines 2-10, of proposed Amendment 7: "the amount of credits taken under each statute authorizing a tax credit, and whether the credit is for an expenditure related to

oil or gas exploration, development, or production including the drilling of wells; performing work on existing wells; conducting geological or geophysical exploration; acquiring, constructing, or installing new facilities or equipment; and maintaining, repairing, or replacing existing facilities or equipment." She opined that this would reveal how the tax credits were being used.

[2:18:22 PM](#)

CO-CHAIR SEATON presumed the intention of proposed Amendment 7 was for different categories of information and did not require that the information be aggregated.

REPRESENTATIVE P. WILSON replied that her desire was to ensure that this did not include any proprietary information.

[2:20:10 PM](#)

REPRESENTATIVE P. WILSON, in response to Co-Chair Feige, confirmed that aggregating the information would destroy the individuality of that information, but would allow the legislature to know what the credits were taken for. In further response, she confirmed that it would allow the legislature to know the information as it applies to the credit as a whole.

CO-CHAIR SEATON said he would like to hear from Legislative Legal and Research Services to ensure that proposed Amendment 7 would fully accomplish the intention.

[2:21:37 PM](#)

CO-CHAIR FEIGE referred to page 2, line 16, of proposed Amendment 7 and asked about the best effective date.

ACTING COMMISSIONER BUTCHER deferred to the DOR auditor.

[2:22:35 PM](#)

The committee took an at-ease from 2:22 p.m. to 2:24 p.m.

[2:24:09 PM](#)

ACTING COMMISSIONER BUTCHER related that the DOR auditor suggested an effective date of January 1, 2012, as it would require new regulations be written.

REPRESENTATIVE P. WILSON said her understanding from talks with DOR auditors was that the department already has this information. Her intention was for the legislature's immediate receipt of this information for use in times like this.

ACTING COMMISSIONER BUTCHER replied it would not make a huge difference either way because it was still necessary for DOR to write regulations for the bill and its amendments.

REPRESENTATIVE P. WILSON said she was hesitant to postpone the effective date.

[2:26:04 PM](#)

CO-CHAIR SEATON asked whether there were any regulations for information which was already being reported to the legislature.

ACTING COMMISSIONER BUTCHER replied that DOR did receive the information, but it was not in a form that would allow it to be reported to the legislature.

REPRESENTATIVE P. WILSON understood that DOR had recently revised the forms on which the producers report. She surmised these new forms could be used to gather the information requested by the legislature.

ACTING COMMISSIONER BUTCHER offered his agreement.

[2:27:18 PM](#)

REPRESENTATIVE P. WILSON asked whether the effective date change was still necessary.

LENNIE DEES, Audit Master, Production Audit Group, Tax Division, Department of Revenue, replied that DOR did request information, but it was summarized, with expenditures by region, and it was not presented in the categories listed in proposed Amendment 7. He opined that it would be necessary to define the categories through regulations.

[2:28:20 PM](#)

REPRESENTATIVE P. WILSON surmised that DOR does not require taxpayers to specify what the tax credit was spent on.

MR. DEES replied that only the total amount was submitted annually on the March 31 true-up for the preceding year.

REPRESENTATIVE P. WILSON stated that by all means she wants DOR to be able to [require taxpayers to specify what the tax credit was spent on] so in the future the legislature can see whether the credits went to where the legislature intended.

[2:28:59 PM](#)

REPRESENTATIVE P. WILSON moved Conceptual Amendment 1 to Amendment 7, which would state:

Page 2, line 16:

Delete "immediately"

Insert "January 1, 2012"

There being no objection, Conceptual Amendment 1 to Amendment 7 was adopted.

[2:29:55 PM](#)

CO-CHAIR SEATON requested clarification of the categories included on page 2, [lines 5-10], of Amendment 7.

DONALD BULLOCK JR., Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, explained that the semicolons separated the groups of similar types of expenditures. So, what is separated by commas within a semicolon is one group of expenditures. In further response, he said that oil and gas exploration, production, and development included all the well work, and were types of expenditures in this category.

[2:32:08 PM](#)

CO-CHAIR SEATON asked whether this was a reporting category.

MR. BULLOCK pointed out that this section, AS 43.55.890, did not impose any obligation on taxpayers to report information, but rather stated the information which DOR had that could be published. He acknowledged that there was some information which was required by statute to be submitted.

[2:33:06 PM](#)

CO-CHAIR SEATON opined that the problem was determining capital expenditures and how much was used for maintenance and how much is used in the drilling of wells. He understood Mr. Bullock to

be saying that, statutorily, Alaska did not require a separate reporting for maintenance and for well drilling.

MR. BULLOCK explained that each [tax] credit had specific requirements under statute, and it was incumbent upon DOR to determine that the money was spent for the appropriate thing. He noted that DOR could supplement the statutory requirements with additional reasonable information requests and requirements. He pointed out the necessity for initially receiving as much information as possible to the amount of audit time later.

[2:35:08 PM](#)

CO-CHAIR SEATON offered his belief that DOR was unable to discriminate between the capital expenditures for maintenance and capital expenditures for well drilling and production. He pointed out that the reason for proposed Amendment 7 was to delineate more discreet categories of expenses, and asked whether the proposed amendment's wording would accomplish this.

MR. BULLOCK replied that proposed Amendment 7 would not specifically accomplish this. He suggested that DOR be asked whether it was getting this information. He explained that taxpayers had to account for these expenses during application for the tax credit so DOR would have this information.

REPRESENTATIVE P. WILSON asked that Mr. Dees return to testify.

MR. BULLOCK clarified that existing law only specified which information on hand could be published. The requirement for what information must be provided by the taxpayer would be elsewhere.

[2:37:50 PM](#)

REPRESENTATIVE P. WILSON explained that the DOR response to her request for information was that the department could not share the information. She asked whether proposed Amendment 7 would now allow this information to be shared with the legislature.

MR. DEES offered his belief that the amended AS.43.55.890 would allow DOR to distribute the information for the listed categories. He explained that there were two ways for a company to acquire [tax] credits: one was to apply to DOR and to provide detailed expenditure information for the credit. However, for a company taking the expenditures off its tax

liability, DOR only required that the company report the amount of the capital expenditures and the amount of credit the company was using, without the detail of the expenditures. He explained that the details were not forthcoming until an audit of the tax filings. The changes in AS 43.55.890, coupled with changes in other regulations, would allow for more details on the expenditures. The future effective date for the bill would allow DOR to determine the categories, and the activities within each category, to be reported. This would provide more expenditure detail prior to an audit.

[2:42:42 PM](#)

REPRESENTATIVE P. WILSON asked if proposed Amendment 7 would allow DOR to develop a form which provided the necessary information for the legislature.

MR. DEES replied that this would be the goal.

CO-CHAIR SEATON asked whether a reporting requirement would accomplish the goal of requiring companies to submit detailed information by specific category.

MR. DEES offered his belief that DOR, through existing statute, had the authority to require this information.

[2:45:01 PM](#)

CO-CHAIR SEATON surmised that although the state had the authority, it had not required these details for past reports, and it would now be able to distribute this aggregated information in each category to the legislature.

MR. DEES responded that that was his belief.

ACTING COMMISSIONER BUTCHER added that according to the Department of Law (DOL), DOR had the authority to collect the information being discussed, and DOR intended to do so.

[2:46:22 PM](#)

CO-CHAIR FEIGE asked if proposed Amendment 7 would place additional reporting requirements on the taxpayers.

ACTING COMMISSIONER BUTCHER reported that under current statute DOR could gather this information, although it had not done so.

He noted that proposed Amendment 7 pertained to the reporting of information, and allowed this.

CO-CHAIR FEIGE asked what additional requirements were placed on the taxpayers.

ACTING COMMISSIONER BUTCHER replied that DOR did not consider this to be an onerous amount of work as this information was already reported and was made available during the audit. This information would be provided to the legislature under proposed Amendment 7.

[2:47:59 PM](#)

CO-CHAIR FEIGE asked whether this information could be released prior to the audit.

ACTING COMMISSIONER BUTCHER responded that the information could be released before the audit. He said the issue here was a matter of timing and getting an idea of what was going on as it was going on or soon after, as opposed to waiting three years for the audits to be finished. In further response, he concurred that proposed Amendment 7 would facilitate a rapid dispersal of information to the legislature.

CO-CHAIR SEATON understood Acting Commissioner Butcher to be saying that when a taxpayer completes its monthly application of capital credits against its taxes, those will be put into the categories and reported to DOR at the time the credit is taken on the company's taxes.

ACTING COMMISSIONER BUTCHER said [the department] has not discussed in detail whether it would be monthly or quarterly, but it would be something in that general area.

[2:50:18 PM](#)

REPRESENTATIVE P. WILSON asked whether, given the discussion here and the current statutes, this would be accomplished with proposed Amendment 7.

MR. BULLOCK answered he believes legislators can get the facts to see what the expenditures were for because the statutes say that to qualify for an expenditure the taxpayer must do a certain thing and the taxpayer must be able to provide documentation if challenged. This same thing would apply to a company taking a credit for a well-related expenditure.

However, what legislators will not know is whether that expenditure would have been incurred without the credit, so legislators will never really know whether giving a credit actually caused the activity.

[2:51:41 PM](#)

REPRESENTATIVE P. WILSON opined that having the information would still make analysis easier.

MR. BULLOCK offered his agreement.

CO-CHAIR SEATON removed his objection to proposed Amendment 7. There being no further objection, Amendment 7, as amended, was adopted.

[2:53:20 PM](#)

The committee took a brief at-ease.

[2:54:29 PM](#)

CO-CHAIR SEATON pointed out that DNR was working on the request for applicable data similar to DOR. He said work on additional amendments would be ongoing with Mr. Bullock and those amendments would be distributed as soon as available.

[HB 110 was held over.]

[2:57:05 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:57 p.m.