

**ALASKA STATE LEGISLATURE**  
**SENATE RESOURCES STANDING COMMITTEE**

March 7, 2011

3:31 p.m.

**MEMBERS PRESENT**

Senator Joe Paskvan, Co-Chair  
Senator Thomas Wagoner, Co-Chair  
Senator Bill Wielechowski, Vice Chair  
Senator Lesil McGuire  
Senator Hollis French  
Senator Gary Stevens

**MEMBERS ABSENT**

Senator Bert Stedman

**OTHER LEGISLATORS PRESENT**

Senator Cathy Giessel

**COMMITTEE CALENDAR**

HOUSE JOINT RESOLUTION NO. 11

Urging the United States Congress to refrain from passing legislation that designates land in Area 1002 of the Arctic National Wildlife Refuge as wilderness.

- MOVED HJR 11 OUT OF COMMITTEE

SENATE BILL NO. 85

"An Act providing for a tax credit applicable to the oil and gas production tax based on the cost of developing new oil and gas production; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HJR 11

SHORT TITLE: OPPOSING ANWR WILDERNESS DESIGNATION

SPONSOR(S): REPRESENTATIVE(S) MILLETT

01/21/11	(H)	READ THE FIRST TIME - REFERRALS
01/21/11	(H)	RES
02/04/11	(H)	RES AT 1:00 PM BARNES 124

02/04/11 (H) Moved Out of Committee  
02/04/11 (H) MINUTE(RES)  
02/07/11 (H) RES RPT 6DP 1NR  
02/07/11 (H) DP: MUNOZ, GARDNER, KAWASAKI, P.WILSON,  
DICK, FEIGE  
02/07/11 (H) NR: HERRON  
02/14/11 (H) TRANSMITTED TO (S)  
02/14/11 (H) VERSION: HJR 11  
02/16/11 (S) READ THE FIRST TIME - REFERRALS  
02/16/11 (S) RES  
03/07/11 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 85

SHORT TITLE: TAX CREDIT FOR NEW OIL & GAS DEVELOPMENT  
SPONSOR(s): SENATOR(s) WAGONER

02/07/11 (S) READ THE FIRST TIME - REFERRALS  
02/07/11 (S) RES, FIN  
02/25/11 (S) RES AT 3:30 PM BUTROVICH 205  
02/25/11 (S) Heard & Held  
02/25/11 (S) MINUTE(RES)  
02/28/11 (S) RES AT 3:30 PM BUTROVICH 205  
02/28/11 (S) Heard & Held  
02/28/11 (S) MINUTE(RES)  
03/07/11 (S) RES AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

JEFF TURNER

Staff for Representative Millett  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Commented on HJR 11 for the sponsor.

MIKE MILLIGAN

Representing himself

**POSITION STATEMENT:** Had some concerns with SB 85.

BRUCE TANGEMAN, Deputy Commissioner  
Department of Revenue (DOR)  
Juneau, AK

**POSITION STATEMENT:** Supported SB 85.

**ACTION NARRATIVE**

[3:31:18 PM](#)

**CO-CHAIR THOMAS WAGONER** called the Senate Resources Standing Committee meeting to order at 3:31 p.m. Present at the call to order were Senators French, Stevens, McGuire, Co-Chair Paskvan and Co-Chair Wagoner.

**HJR 11-OPPOSING ANWR WILDERNESS DESIGNATION**

[3:32:01 PM](#)

CO-CHAIR WAGONER announced HJR 11 to be up for consideration.

JEFF TURNER, staff for Representative Millett, sponsor of HJR 11, explained that this bill simply states the Alaska Legislature's opposition to any wilderness designation on the 1002 area of the Arctic National Wildlife Refuge (ANWR). It is quite similar to the resolution sponsored by Representative Millett and passed by the legislature two years ago except for one key difference. Right now the U.S. Fish and Wildlife Service is coming up with a draft comprehensive conservation plan for ANWR and it is expected to contain possibly a wilderness recommendation for the 1002 area. That makes at least two pieces of legislation are now in Congress that will lock up the 1002 area that he knows of.

[3:33:33 PM](#)

SENATOR WIELECHOWSKI joined the committee.

MR. TURNER said in 1980, Congress passed the Alaska National Interest Lands Conservation Act (ANILCA) that specifically excluded the 1002 area of ANWR as a result of a compromise to create ANWR in the first place. That gave only Congress the power to allow a wilderness designation or to allow oil and gas development on the 1002 area. Right now, the USGS estimates that ANWR has 4 billion barrels of oil that would certainly help address the decline in TAPS production. This area also has "quite a bit of natural gas" which could fill a future gas pipeline. Any development in ANWR could take place on a footprint as small as 2,000 acres out of the Refuge's 1.5 million acres.

He also said new caribou population numbers indicate the Porcupine Caribou Herd is up to 169,000 animals, an increase of 30 percent from a study done a few years ago. The Central Arctic Caribou Herd is up as well. He said this is ample evidence that oil and gas exploration and production can happen on the North Slope without harming the wildlife resources up there.

SENATOR PASKVAN asked his understanding of the compromise that was reached in passing ANILCA with respect to preserving the right to enter into laws to develop oil and gas resources in the 1002 area.

MR. TURNER answered that Congress understood very well that the 1002 area probably held significant oil and gas resources and decided it should preserve it for future development. So, they agreed to set aside that one small piece of land and the law states that only Congress has the power to allow oil and gas exploration or placing a wilderness designation on it.

SENATOR PASKVAN asked if the wilderness designation was imposed only on areas outside of the 1002 at the time.

MR. TURNER replied that was his understanding.

[3:36:19 PM](#)

SENATOR FRENCH asked what the second "whereas" language on page 2, line 6, meant.

MR. TURNER answered that it states the belief that the U.S. Congress has the power to designate new conservation units within federal lands.

SENATOR FRENCH asked why it is necessary to have that in the resolution.

MR. TURNER answered to state the sponsor's understanding of the law.

[3:38:31 PM](#)

CO-CHAIR WAGONER opened the public hearing. Finding no comments, he closed public testimony.

CO-CHAIR PASKVAN moved to report HJR 11 from committee with individual recommendations and attached fiscal note(s). There were no objections and it was so ordered.

[3:39:18 PM](#)

At ease from 3:39 to 3:41 p.m.

**SB 85-TAX CREDIT FOR NEW OIL & GAS DEVELOPMENT**

[3:41:32 PM](#)

CO-CHAIR WAGONER announced SB 85 to be up for consideration. He open public testimony and said invited testimony would happen on Wednesday.

[3:42:00 PM](#)

MIKE MILLIGAN, representing himself, said he had been an Alaska resident since 1974 and had raised a bunch of kids here and worked on the pipeline; he had also held elected office. One issue that unites all Alaskans regardless of their political persuasion is that they all want to build a gas line, he said. But, due to a movie and New York Times articles he saw last week, he said he is greatly concerned that the hydraulic fracturing occurring in New York, Pennsylvania, Colorado and Wyoming is going to make Alaska's gas less economically viable; they are also convincing the public that natural gas is not a clean energy source. Pennsylvania is using radioactive road salts.

He was concerned, particularly, that the producers would take those tax credits and go to the Lower 48 to develop "this fracturing." He wanted some language - maybe in section 1 that would recognize those oil developers that are not involved in fracturing. He related how using road salts on Pennsylvania roads contributes radioactive substances to the groundwater there.

[3:45:04 PM](#)

CO-CHAIR WAGONER thanked him for testifying, and finding no further comments, closed public testimony. He asked if anyone from DNR could answer committee questions at this time.

[3:46:37 PM](#)

At ease 3:46 to 3:48 p.m.

[3:48:52 PM](#)

CO-CHAIR WAGONER called the meeting back to order at 3:48 p.m..

BRUCE TANGEMAN, Deputy Commissioner, Department of Revenue (DOR), said he had been asked to be available for any questions." In general, he said the department feels that any bill that will increase production and create jobs or attract investment in Alaska is certainly worth looking at. They have done some research and found some technical issues that need to be addressed, but in general they feel they can work with the bill.

SENATOR WIELECHOWSKI asked if this bill has a fiscal note.

CO-CHAIR PASKVAN replied that the fiscal note is indeterminate.

SENATOR WIELECHOWSKI asked if he could come up with a five-year projection on what the fiscal impact might be.

MR. TANGEMAN replied that it is an indeterminate fiscal note, and it would depend on the type and size of investment and size of field, and those cannot be determined at this point.

SENATOR WIELECHOWSKI asked him to talk about some fields that might be incentivized by this tax credit that might therefore provide an estimate.

MR. TANGEMAN replied that this bill looks at fields that are not unitized at this point and it would be more appropriate to ask a producer that question.

SENATOR WIELECHOWSKI asked if he had any sense of leases in fields that are not yet unitized. For instance, Great Bear just purchased 500,000 acres that he assumed hadn't been unitized yet. Any estimates of what this would cost if it were developed the way Great Bear presented to the committee last week?

MR. TANGEMAN replied that would be a DNR question.

[3:52:47 PM](#)

SENATOR WIELECHOWSKI said he thought there would have to be some collaboration between the two departments on anything that would happen.

MR. TANGEMAN replied there would be some coordination between the two departments, but he is not in a position to forecast for development of fields that are not unitized and only unitized fields are addressed in the department's production forecast.

SENATOR WIELECHOWSKI asked if he supports the bill.

MR. TANGEMAN replied that it needs some work in its current form. Their biggest concern is that the sponsor's intent was that the explorer/producer would either use this or the existing structure as a tax credit vehicle - either one or the other. Their biggest concern is that it may not be exactly clear that that is the way forward.

SENATOR WIELECHOWSKI asked if he would support this bill even if he had no idea what it would cost the state.

MR. TANGEMAN replied, revenue aside, that the department would support a bill that would increase production and get more oil in the pipeline. A tax credit structure already exists, and this is a totally different type of tax credit structure that would need a "little work" and would certainly need regulations put in place to implement.

SENATOR WIELECHOWSKI asked him to coordinate with DNR and get some sort of projections together on what impacts they are looking at based on the developments with Repsol, Great Bear and some of the other groups coming into Alaska.

MR. TANGEMAN replied, "Absolutely, Senator Wielechowski."

3:55:59 PM

SENATOR FRENCH said maybe they could use Nakiachuk and Oooguruk numbers for walking them through how the bill would work, and said that Oooguruk cost \$500 million to develop and under this bill they would be getting a dollar-for-dollar credit.

MR. TANGEMAN replied that the amount of the credit would depend on the tax liability for the first five years of production.

CO-CHAIR PASKVAN said following that line of questioning under the definition of "qualified development expenditure" starting on the bottom of page 3 is an expenditure for activities other than exploring for new oil or gas. So for example, if Great Bear had a \$2 billion annual drilling expenditure, would that be a "qualified development expenditure?"

MR. TANGEMAN replied it is a qualified expenditure based on when the pool of oil is certified and the expenses that are incurred up to production. So, it would depend on the acreage that that pool covered and the amount of expenses that went into developing them.

CO-CHAIR PASKVAN put forth a scenario where a pool isn't in a unit and a producer is spending \$2 billion a year in a drilling program there, and asked if that would be a qualified development expenditure?

MR. TANGEMAN answered that he thought it would be a qualified expenditure depending on when the pool was certified as a producing pool or a pool that could be commercially productive. He added that the current tax credit structure is ongoing year to year. This bill is "the clock starts and then once you start producing the clock stops - and the expenditures in between

those time are covered at 100 percent - against the first five years of production...." The difference in tax credits is more of a cash flow issue.

CO-CHAIR PASKVAN asked if the credits are for expenditures during production that are offset against production or are they solely for exploration until the pool is identified.

MR. TANGEMAN replied the credits are for expenditures incurred once the pool has been discovered but has not yet started being producing - expenditures that get the company to the producing stage. Those would be applied against the tax liability in the first five years of production.

[4:00:51 PM](#)

CO-CHAIR PASKVAN said if, for example, the producer was in a \$2 billion annual drilling budget that would not be a qualified development expenditure.

MR. TANGEMAN replied that he may not understand it exactly, but if once a producer has discovered the pool and they are incurring \$2 billion a year but has not produced yet, those expenses would be covered under this bill. But if they have started producing, the clock stops. Only the expenditures in between those times are the expenditures that would be covered under this bill.

CO-CHAIR WAGONER remarked, "It's a kick start."

CO-CHAIR PASKVAN said he was struggling to put it into the context of a choice between this tax credit bill and the existing tax credit and asked how they can analyze what the cost to the state will be with either scheme.

MR. TANGEMAN said he would have to talk to department folks.

CO-CHAIR WAGONER said it might be better to graph out a string of exploration defining a pool and beginning production that this bill would cover.

CO-CHAIR PASKVAN agreed. They need to understand best and worst case scenarios of what is or is not going to be the cost to the State of Alaska under existing law and this potential law.

MR. TANGEMAN agreed, but explained the difficulty in comparing the two will be the fiscal note for the Governor's bill (SB 49) shows the reduction through the first five years against the

production tax (from their production forecast). This looks at how the tax credits would impact the "tax credit pool," a slightly different scenario.

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SENATOR WIELECHOWSKI asked if he had any idea of how much more development this would incentivize.

MR. TANGEMAN answered no.

SENATOR WIELECHOWSKI asked if he would support a lower credit of 90, 80 or 50 percent. Would a lower credit spur development just as well?

MR. TANGEMAN answered that the department would support anything that would increase production that would get more oil into the pipeline whether it's 100 percent or 90.

SENATOR WIELECHOWSKI asked if he had any idea how much more oil this would put into the pipeline.

MR. TANGEMAN answered no; he was not prepared "to go down that road with this particular bill." His projections go with SB 49.

[4:06:17 PM](#)

CO-CHAIR WAGONER said this bill doesn't put a dime into the state treasury nor does it cost the state treasury. The only time it costs anything is when the company goes into production and the five years of production tax. The state still gets its royalty, its corporate and property tax.

[4:07:27 PM](#)

CO-CHAIR PASKVAN followed up saying that he understands the over-arching principal is to increase production, but the analysis needs to include some understanding of what it would cost the state over 10 years even if for the first five years it may consume the entire production tax that would be applied.

MR. TANGEMAN responded that the biggest difference between this bill and the current tax credit system that is in place is that this bill intends it to be a choice - either this credit structure or the existing one. If a producer chose to use the current system, they would carry the costs incurred to production and be reimbursed for the exploration costs that are currently in statute on an annual basis. In they chose this bill they would have to carry all those costs up until the point of production and then start getting relief from those expenses

against their tax liability starting after production. It's more a matter of a cash-flow, carrying-cost type of discussion.

[4:10:21 PM](#)

CO-CHAIR PASKVAN asked for some 10-year hypotheticals for both tax credit structures.

MR. TANGEMAN replied that he would work on that.

CO-CHAIR PASKVAN said that Mr. Tangeman appears to be struggling with the difference between a conventional resource play and an unconventional resource play and asked if this credit would apply to both.

MR. TANGEMAN replied yes; it's available to whoever wants to use it. Then it's up to the explorers and producers to make a choice.

CO-CHAIR WAGONER said they are looking at existing units but this credit could be applied to some areas in those units. They may have some pools of oil that haven't been economic to develop at this time and this might get those a development schedule.

CO-CHAIR PASKVAN said this is where he gets confused and asked if this credit would apply to the development of heavy oil if it's in an existing unit.

CO-CHAIR WAGONER said it wouldn't apply at this time, but the bill could be rewritten so it would apply to some of those areas - as an incentive to get more oil into the pipeline. This bill wasn't designed as a "give-away;" it is designed to put more oil in the pipe.

[4:13:03 PM](#)

SENATOR WIELECHOWSKI asked Mr. Tangeman to address the "gold plating" issue with the 100 percent tax credit.

MR. TANGEMAN answered that he didn't see it as a concern because the developer only has five years to recover his capital expenditures. So, if they are producing a lot, they could recover it quickly; if they are not producing a lot they still have only five years to recover their capex.

SENATOR WIELECHOWSKI asked the "standard amount of time it takes for a producer to recover its capital costs" for drilling a well.

MR. TANGEMAN replied that he didn't know, but would find the answer for him.

CO-CHAIR WAGONER added that it depends on how much the well is producing, because it's based on a curve of production.

SENATOR WIELECHOWSKI said a chart showing how quickly that costs are recovered would be informative.

MR. TANGEMAN replied okay.

[4:15:34 PM](#)

CO-CHAIR WAGONER thanked him and adjourned the meeting at 4:15 p.m.