

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

March 9, 2011

3:34 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Senator Cathy Giessel
Representative Mike Doogan
Representative Les Gara

COMMITTEE CALENDAR

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 & HELD

SENATE BILL NO. 49

"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: 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
03/07/11	(S)	Heard & Held
03/07/11	(S)	MINUTE(RES)
03/09/11	(S)	RES AT 3:30 PM BUTROVICH 205

BILL: SB 49

SHORT TITLE: PRODUCTION TAX ON OIL AND GAS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/11	(S)	READ THE FIRST TIME - REFERRALS
01/19/11	(S)	RES, FIN
03/09/11	(S)	RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

BRYAN BUTCHER, Commissioner-designee
Department of Revenue (DOR)
Anchorage, AK

POSITION STATEMENT: Presented SB 49 to the committee.

SUSAN POLLARD, Assistant Attorney General
Division of Oil, Gas and Mining
Department of Law (DOL)
Juneau, AK

POSITION STATEMENT: Provided technical walk-through of SB 49.

CHERIE NIENHUIS, Acting Chief Economist
Department of Revenue (DOR)
Anchorage, AK

POSITION STATEMENT: Commented on SB 49.

LENNIE DEES, Master Auditor
Department of Revenue (DOR)
Juneau, AK

POSITION STATEMENT: Commented on SB 49.

ACTION NARRATIVE

[3:34:10 PM](#)

CO-CHAIR JOE PASKVAN called the Senate Resources Standing Committee meeting to order at 3:34 p.m. Present at the call to order were Senators Wielechowski, Stedman, McGuire, French, Stevens, Co-Chair Wagoner, and Co-Chair Paskvan.

SB 85-TAX CREDIT FOR NEW OIL & GAS DEVELOPMENT

[3:34:57 PM](#)

CO-CHAIR PASKVAN announced SB 85 to be up for consideration and invited Senator Wagoner, sponsor of SB 85, to make a statement.

CO-CHAIR WAGONER said he wanted to hold the bill for another week, so they would have something that would be easier to model. Therefore, SB 85 was held.

[3:35:57 PM](#)

SB 49-PRODUCTION TAX ON OIL AND GAS

CO-CHAIR PASKVAN announced SB 49 to be up for consideration. He said the bill's sponsor would explain the rationale behind it. He outlined future discussions on the bill and said he intends to inform the public as soon as he knows what the agenda will be.

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BRYAN BUTCHER, Commissioner-designee, Department of Revenue (DOR), stepped forward to present SB 49 to the committee.

COMMISSIONER BUTCHER said the bill covers primarily three topics as well as some smaller ones. The first one, progressivity rates and cap, had gotten a lot of discussion in the building as well as in the press. He explained that SB 49 keeps the base rate of the current production tax of 25 percent and keeps the same progressivity slope but changes from having each additional dollar of progressivity applying to the rest of the barrel to a bracket model similar to federal income taxes - where earnings from \$0-\$30,000 would be taxed at a 10 percent tax rate and \$30,000-40,000 might be taxed at a 15 percent rate, and as one

makes more money the higher tax bracket applies to that bracket but not the entire income.

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The second major change looks at leases or properties that have not been unitized or have not been producing as of the last day in 2010 and starts those with a base tax rate of 15 percent instead of 20 percent. This provision is trying to incentivize development of areas on the North Slope, in particular, that have not been developed yet. This bill will also change the current progressivity cap of 75 percent to 50 percent and to 40 percent for undeveloped fields. So, the progressivity slope would be the same, but shifted down 10 percent for areas that haven't been developed.

The third major thing the bill does is it expands the 40 percent well lease expenditure tax credits from south of 68 degrees (from the last legislature) to north of 68 degrees to include the North Slope.

One of the smaller pieces of the bill is that it changes tax credits being claimed from a two-year period to a one-year period. The effect would be to increase the dollar amount the state would pay out toward taxes in the first year of 2012, but it would go down the next year and flatten out thereafter.

COMMISSIONER BUTCHER said SB 49 also changes the monthly Alaska's Clear and Equitable Share (ACES) tax calculation to a yearly calculation, because that makes it easier for the department to administer and clearer for industry to understand. He then invited Ms. Pollard to go into a little more detail.

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SUSAN POLLARD, Assistant Attorney General, Division of Oil, Gas and Mining, Department of Law (DOL), said her goal today was to do a technical walk-through of SB 49, so at the end of the presentation they would have a good idea of where changes were made to existing law and what each section of the bill intends to accomplish. She said she would use the effective dates for the major components for her general walk through. The progressivity rates and tax cap are covered in sections 8, 9 and 20; the base tax rate is in section 6 (page 3); tax credits are covered in the next seven sections; most of them being conforming amendments. Interest rate changes, statute of limitations and effective dates follow. It is important to remember that the default effective date in this bill happens to be July 1, 2011 because of the interest rate changes. She

cautioned them to be careful with amendments because of the three or four different effective dates.

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MS. POLLARD said the three major components of this bill are establishment of incremental progressivity, establishment of a separate rate for base fields and the extension of last year's well lease expenditure credit to the North Slope.

She explained that currently the based tax of 25 percent is levied by AS 43.55.011(e) and in SB 49 that remains the same; the monthly progressivity tax is calculated under subsection (g) and that has been changed in section 8 to be calculated on an annual basis. But there is still a requirement that monthly estimated payments are made based on the base rate and the progressivity. So, even though the progressivity is going to be calculated annually, there will still be monthly payments.

MS. POLLARD said the language that explains how both the base tax rate and the incremental progressivity will be applied is in section (9) on page 4, beginning on line 12. You calculate the average annual production tax value as is currently done and then calculate the fraction of the production tax value that would fall into each incremental progressivity bracket. Then only the value that is in that bracket is taxed at that higher rate, which is a change from the current system where the highest value dollar percentage applies to all dollars below that. Section 8 (g)(1) applies the progressivity to all the fields that are going to be subject to the 25 percent rate.

Instructions for calculating the progressivity begin on page 5, line 4; the brackets themselves are listed on page 5, lines 18-25.

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CO-CHAIR PASKVAN asked if it would be helpful for the commissioner to explain the use of the term "nominal" production tax rates.

COMMISSIONER BUTCHER replied:

'Nominal' is simply the number that would appear in the bill...as not comparing it to real dollars or just comparing it to what the actual number that is applied in legislation would be, which is 25 percent.

MS. POLLARD said, "This segues nicely because this does make that change to how the nominal rate is calculated, because it is now just the production within that particular bracket. And that's all set out in section 8 of the bill."

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She said a related section, section 9, beginning on page 5, line 26, repeals and reenacts language because it would be too confusing otherwise. This section covers payment of the tax which is levied under AS 43.55.011(e), and some of the tax payment that is determined under (g). Section .020 of the production tax gives instructions on how the tax is paid for the monthly installments.

Section 9 takes into account the change in progressivity from the monthly basis to the annual basis and instructs the taxpayers on how to make their monthly estimated tax payments and how each category of production tax value is reported. Those segments begin on page 6 and appear again in the section dealing with annual production tax value. She said this section makes sure that for every area where there is a separate tax value - North Slope and Cook Inlet oil and gas and gas used in state - that the monthly reporting takes that into account.

SENATOR WIELECHOWSKI asked what the impact would have been over the past three years if ACES payments had been calculated yearly instead of monthly.

COMMISSIONER BUTCHER replied for 2009 and 2010 calculating taxes on a yearly basis would bring the state just under \$100 million less. The most volatile year for oil prices in history was 2008 when that figure was around \$600 million. He added the state would have seen in the range of \$100-200 million less for each year over 10 years with the exception of 2008.

SENATOR WIELECHOWSKI clarified that the state would have lost \$800 million over the last three years if this provision had been in ACES.

COMMISSIONER BUTCHER answered yes.

SENATOR WIELECHOWSKI asked if he projected that the state would lose another \$100-200 million every year for the next decade.

COMMISSIONER BUTCHER replied a lot would depend on how volatile oil was. Over 2009 and 2010, the state treasury would have lost less than \$100 million.

SENATOR WIELECHOWSKI said he didn't see those numbers reflected in his fiscal note.

COMMISSIONER BUTCHER responded that that is because the bill changes the progressivity calculation and it would be impossible to look into the future and make an estimate of what the result might be.

SENATOR STEDMAN asked if the administration intends to present what policy calls were made with these decisions.

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COMMISSIONER BUTCHER replied yes, they are planning on doing that this Friday.

SENATOR STEDMAN recalled that several years ago this committee put the original progressivity in the PPT, because with the [current] flat 20 percent base tax, the state's share of profit oil under advancing oil prices diminishes. That was unacceptable. Legislators put in progressivity that raised the state's share as prices advanced as a policy call; and under ACES it was raised even more. So, he thought it would be beneficial to spend some time on a thorough review of why the policy calls were made - and make sure the public understands.

CO-CHAIR PASKVAN agreed that those policy issues need to be fully understood in order to understand what choices have to be addressed.

MS. POLLARD continued on to the incremental bracketed progressivity in section 8 and the fact that there would still be monthly payments and how they would be calculated (in section 9). A new 15 percent tax rate segment was added to the determination of production tax value for oil and gas in section 20, starting on page 13. This section is repealed and reenacted to make it easier to read and to clean up tax ceiling language that will expire in 2022 that wasn't taken into account when the current AS 43.55.160 was structured.

The basic rules for determining the annual production tax value remains the same, but they have added segments (a term used by the DOR in their regulations, not in the legislation) on page 14 that have a different tax treatment. They make sure they include all possible categories of taxation including the 15 percent rate and the 25 percent rate within both of those rates as well as anything subject to Cook Inlet ceilings or gas used in the

state ceilings and the minimum taxes considered in the section .020 reporting.

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SENATOR WIELECHOWSKI asked her to refresh him about the point of the year 2022.

MS. POLLARD answered there are some tax limitations that apply to gas and oil produced in Cook Inlet and gas produced anywhere in the state for consumption as fuel. Those tax ceilings expire in 2022.

SENATOR WIELECHOWSKI asked if that is being changed.

MS. POLLARD answered that is not being changed.

SENATOR STEDMAN asked the chairman in future presentations to go back and look at why 2022 was in there in dealing with Cook Inlet, and the potential for a major gas line and other "policy creep issues" from Cook Inlet - ring fencing and some incentives - expanding north from Cook Inlet to the North Pole. The history needs to be understood; 2022 is not in there "just by happenchance."

SENATOR WIELECHOWSKI asked the commissioner if he had given any thought to ring fencing for legacy fields or other fields or any thought to decoupling oil and gas.

COMMISSIONER BUTCHER replied no. While the administration is willing to have that discussion, that is not the focus of this legislation, but rather to increase production.

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SENATOR STEDMAN said he wanted the committee to look at the decoupling issue and that maybe they would end up with a better product because of it.

MS. POLLARD stated there are some specific rules that relate to lease expenditures for production that are subject to the tax ceilings. That is also in section .160 which is not changed.

SENATOR WIELECHOWSKI said lease expenditures is another issue to add to the list of the things that need to be discussed. He asked how the regulations are going regarding the lease expenditures that were supposed to be enacted after ACES. Are those complete and does the department have the full ability to audit those lease expenditures?

MS. POLLARD replied that most of the lease expenditure regulations are done, the main component being in 15 AAC 55.250 and .260. She didn't know of any regulations that need to be completed.

COMMISSIONER BUTCHER added that he wasn't aware of any either. He said that Lennie Dees, Master Auditor, Department of Revenue (DOR), would give his presentation next week.

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MS. POLLARD said the next major component of the bill is found in section 6 that amends AS 43.55.011(e), where the production tax is levied. The main change is that the entire tax calculation is in subsection (g) - as opposed to the current setup where the base rate for production tax values under \$30 oil is listed in (e). The reason for that is because that is annual whereas the progressivity was done on a monthly basis. So, they have what she refers to simply as "(e)(1) production," - or "oil and gas produced from a lease or property containing land that, as of December 31, 2010, was or had previously been within a unit or in commercial production, would be subject to the current 25 percent rate plus the incremental progressivity in .011(g)(1)." The new fields production that would be subject to the 15 percent rate plus the progressivity in (g)(2) is listed on page 3, line 17.

CO-CHAIR PASKVAN asked for an explanation of the distinction between a parcel of land that is classified as a unit and one that is not classified as a unit, because that's the distinction in the tax.

COMMISSIONER BUTCHER replied that the lessor property cannot be in a unit, in an area that had been unitized for production, or be in commercial production prior to December 31, 2010.

MS. POLLARD added that DNR was involved in figuring out the language that would best implement the policy. So, both the lessor property and a unit are defined within the production tax; a unit is like a state unit or a unit under federal land. She said a DNR person could do a more detailed explanation.

SENATOR STEDMAN said he would be happy to hear their justification for the 15 percent base tax versus some other number.

MS. POLLARD stated that was the "technical walkthrough" of those four sections.

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She explained that the third major component of the bill - the policy direction - was to expand the 40 percent well lease expenditure credit to the North Slope. The well lease expenditure credit was added to section .023 last year in HB 280, the Cook Inlet Recovery Act, and at first it was limited to Cook Inlet, but now it extends out of Cook Inlet and south of 68 degrees north. The actual language of the credit remains exactly the same, but the language that would keep that credit out of North Slope is simply taken out.

CO-CHAIR PASKVAN asked if there has been a calculation of what the additional credit would amount to going forward.

COMMISSIONER BUTCHER replied that the fiscal note estimates it to be \$200-400 million annually.

SENATOR WIELECHOWSKI asked how they came up with that estimate.

COMMISSIONER BUTCHER invited Ms. Nienhuis who prepared the fiscal note to answer that question.

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CHERIE NIENHUIS, Acting Chief Economist, Department of Revenue (DOR), said their information from which to make that estimate is limited and that is why they provide a range. The department gets some forward-looking drilling cost estimates from operators, because they do ask for projections. But because only the intangible drilling costs pertain to this credit they estimated about 85 percent of the drilling costs they saw forward looking and used a pretty conservative estimate.

SENATOR WIELECHOWSKI asked if these numbers are based on what producers said they are already planning on drilling.

MS. NIENHUIS replied that it has that component to it; they also increased the number slightly because they thought more drilling would be seen with this provision.

SENATOR WIELECHOWSKI asked if this applied to infield drilling on Prudhoe and the North Slope.

MS. NIENHUIS replied this would apply to any kind of drilling that has intangible drilling costs.

SENATOR WIELECHOWSKI asked if she had run any numbers on internal rates of return (ROR) for the infield drilling programs on the North Slope.

MS. NIENHUIS replied no, although they had done internal rates of return for various modeling projects.

SENATOR STEDMAN asked why not.

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MS. NIENHUIS replied probably because they weren't looking at it on a project type basis, but they could.

SENATOR STEDMAN asked if Gaffney Cline, the administration's consultants, had looked at the total credit impacts, the gold plating and rates of return issues. Some oil basins have whole fiscal structures based on rate of return, he said. He wanted them to pay particular attention to the profit oil split, because ultimately they are moving cash from the sovereign to the industry and from the industry to the sovereign. He also wanted to get some idea of sensitivity issues and, if they are looking at credit increases, base tax changes, annual v. monthly, and the step v. the slope change to progressivity. He said he has been concerned since they started expanding credits that the impact is huge and he is not convinced that credits are the solution to the problem. He hadn't even heard a problem defined, yet.

COMMISSIONER BUTCHER said they are certainly willing to model anything he asks them to do.

CO-CHAIR WAGONER said he didn't know why this bill took the 40 percent drilling credit out of Cook Inlet, which was supposed to incent additional drilling and exploration for gas, and put it on the North Slope and applied it to infield drilling for oil.

COMMISSIONER BUTCHER responded that the governor had a bill last year and this is the essence of that bill.

SENATOR WIELECHOWSKI asked for copy of the Gaffney Cline model of infield drilling at Prudhoe Bay with \$80/barrel oil and \$30/barrel oil under the current ACES structure; it had a 123 percent rate of return.

CO-CHAIR PASKVAN asked for an explanation of footnote 6 on page 2 of the fiscal note and the context of the phrase "DOR has very limited data."

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MS. POLLARD explained that when she says they have limited data, it's because they have forward-looking information from operators; sometimes it's for one year, sometimes for several years. Sometimes they get more detail with some units than with others, so she means they can draw some conclusions and assumptions from that data, but it's not all-encompassing.

SENATOR WIELECHOWSKI said the DOR's consultant, Rick Ruggerio, has testified in the House that Alaska has very limited data compared to other sovereigns, and he wanted to know where the data gaps are.

COMMISSIONER BUTCHER responded that he hoped to have their data spreadsheet by this week and it would show where the gaps are.

MS. NIENHUIS reiterated that this does not change the credit that went into effect for expenditures after July 1, 2010 because it was enacted in last year's legislative session. The effective date on this particular credit provision would be January 1, 2012 and it would apply to expenditures after December 31, 2011.

If the credit is changed so that the well lease expenditure credit applies to expenditures north of 68 degrees, then there are conforming amendments they will see made to AS 43.55.028, which is where certain producers can get a cash refund for credit - just to reflect the change in the credit provisions and the repeal of .023(m).

SENATOR WIELECHOWSKI asked if the bill changes the 20 percent credit to 40 percent. His understanding is that it jumps up to 40 percent three miles outside of existing units.

MS. POLLARD answered not for this particular credit. Senator Wielechowski was referring to the alternate tax credit for exploration in section .025. The credit under .023, which is where the well lease expenditure is, doesn't have the distance limitations that the exploration tax credit does.

SENATOR WIELECHOWSKI asked if the tax credit under sections 15 and 16 is currently 20 percent or if this is a tax credit that exists only in Cook Inlet right now.

COMMISSIONER BUTCHER answered that it currently applies south of 68 degrees north latitude.

SENATOR WIELECHOWSKI asked how effectively the 40 percent tax credit south of 68 degrees is working.

COMMISSIONER BUTCHER replied since the bill passed last session and has been in effect less than one year, they don't have any solid data, but they do hear things anecdotally.

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CO-CHAIR PASKVAN asked if the \$200-400 million was in addition to the \$850 million in gross credits being projected for fiscal year (FY) 2012.

COMMISSIONER BUTCHER answered yes, but they did as Ms. Nienhuis said, ratcheted it up with the expectation that there would be more spending as a result of these credits.

SENATOR FRENCH asked a more general question about the theory behind the bill; was it to reduce taxes and get more exploration that eventually leads to more oil production that leads to more tax income or is that money given away in the interests of an operating pipeline and more jobs?

COMMISSIONER BUTCHER answered that one piece of the answer is that they would be presenting reinvestment scenarios that will give them an idea of what amount of reinvestment would need to occur and what level of production they believe will be the result. The second piece is, and what the governor has emphasized, is up to the industry that will be in front of the committee at some point and will have a role in telling legislators what they think SB 49 will do.

SENATOR STEDMAN asked him to gather up all of the revenue from royalties, the base tax, progressivity, property and income taxes from the last seven years before PPT, so they can look at the entire picture of revenue due to the state from the oil industry. He thought it was interesting that the FY12 budget has \$860 million in credits and \$700 million in progressivity, so the industry net wouldn't pay any progressivity.

COMMISSIONER BUTCHER replied that he didn't know specifically what those numbers are, but he has talked to the chairman and would be providing a comparison of credits and progressivity very similar to what Senator Stedman is asking for.

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SENATOR STEDMAN said the reason he asked is that the state doesn't have the ability to look at individual companies; they have to look at the basin as a whole. But across the basin as a whole there is zero projected progressivity to be paid. That progressivity is one of the key issues, although he hasn't heard the argument about why it's wrong yet. The issue before them is the splitting of the profit oil at high oil prices. Industry needs to be asked what these credits are generating.

SENATOR WIELECHOWSKI said they have heard that the hundreds of millions of tax credits the state is giving out aren't leading to any more exploration or any more drilling and asked the commissioner what makes him think that increasing the credits to 40 percent will lead to any additional drilling.

COMMISSIONER BUTCHER answered that this is a piece of a larger view. Companies have come in under ACES and explored over the last few years and are excited about the credits that got them here, but when they got to the point of trying to find deeper pocketed partners to move it to a production unit (where the progressivity piece kicks in), that is where they have been dealing with the lack.

SENATOR MCGUIRE said there is a disconnect; it appears those who are in a position to produce are using credits for things like maintenance. She wanted the department to use its data to break down the numbers showing it's clear that the explorers are benefiting and what credits they are using. The new jobs that have been created on the North Slope, which are very few, have gone to those maintenance-type jobs and she is leaning towards giving the credits once oil has been produced, which is where they would benefit Alaska. She wanted to see from the department an analysis of where the \$3 billion in credits have been used.

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COMMISSIONER BUTCHER responded that when their credit expert gives his presentation next week, the committee will learn everything the department knows - which is a lot more than they knew pre-PPT, but not as much as they would like to know. All of what they would like to know they can get statutorily, but they just haven't put the regulations out to get it. That is something they are working on very actively now.

CO-CHAIR WAGONER asked him to talk about item 6 on the second sheet of the fiscal note. He was curious about where the \$200-\$400 million spread came from and how that came about. For instance, just how many wells were drilled on the North Slope last year?

MS. NIENHUIS responded that she didn't have the number of wells drilled although she could find that number again. She looked at well related expenditures rather than the number of wells. Not every producer uses the same terms for what they are going to do. Typically, she said, 75-85 percent of drilling costs are intangible, and she applied the higher of those two numbers and came up with a conservative range.

SENATOR WIELECHOWSKI said Senator McGuire did a good job of summarizing his thoughts, but he heard Mr. Ruggerio testify in the House last week that the state's tax credits for exploration are some of the best in the world; he didn't know why they need expanding in that area when they see a company like Repsol coming in and spending \$700-800 million. That loop is closing.

MS. POLLARD summarized the only changes in SB 49 happen in AS 43.55.023(the capital credits provision). The main components in the bill to pay attention to are the expansion of the 40 percent to the North Slope and second, when section .023 was enacted in 2006, it didn't have the language that required that credits be split over two-years. That language was added in ACES, and she recalled that was more of a reactive addition as opposed to something proactive. There were concerns about what would happen with some of the credits under ACES, so there was this idea that if you had a credit certificate you could only apply half of it in one year. So, another important component of the governor's bill is to remove that language. Legally that would be fine as well as removing an administrative tangle that is caused now by some credits having to be split and others not, particularly in conjunction with section the well lease expenditure credit provision (section .023(m)).

She explained that some credits that occur outside of Cook Inlet and below the North Slope are not split whereas credits that are incurred on the North Slope are still split. That language would be cleaned up in sections 11, 12, 14 and 24 of the SB 49 and credits would be issued as one; the effective date for those would be January 1, 2012. So, they would just muddle through the rest of this year with the split/non-split issue.

CO-CHAIR PASKVAN said it would be nice to hear the policy reasons why the split occurred initially and what policy arguments are now being advanced as to why it should be changed. It's important to know what happened yesterday so they can make better policy decisions now.

MS. POLLARD added that the transferable credits that don't expire are part of the reason for not having a split.

SENATOR STEDMAN asked for clarification on the last page of the second fiscal note (prepared by Kevin Banks) where it talks about the North Slope producers receiving 20 percent qualified capital expenditure credit for well expenditure. The amendment provides that producers will receive a 40 percent credit for those expenditures.

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MS. POLLARD answered that section could almost be read as if all of the qualified capital expenditure credits on the North Slope will qualify for the 40 percent credit and that's not correct. The only capital expenditures that will qualify for the well lease expenditure credit are specifically defined in subsection (1), the intangible drilling costs.

COMMISSIONER BUTCHER said they would get clarification on that from Kevin Banks.

MS. POLLARD continued on to section 7 on page 3, line 20, that changes the minimum tax that only applies to North Slope production. It compares the gross production tax value based on the threshold percentages that go from 4 percent to zero percent; on the North Slope one would calculate under whatever bracket he is under (the 25 or the 15 percent). That comparison happens on page 6, lines 10-29. The effect is to lower the threshold of the ANS price at which the North Slope minimum applies. So, it would broaden the price ranges at which the taxpayer would have to make that comparison.

SENATOR WIELECHOWSKI asked if this section had ever applied since ACES passed.

COMMISSIONER BUTCHER replied no.

SENATOR WIELECHOWSKI recalled when the governor first came out with ACES, it had a gross floor and industry "really hated that" because it affected their margins. So, the policy call at that time removed the significant gross floor in her bill, but then

took more at the high end. This was at a time when they didn't know if oil was going to be \$30 or \$150 barrel. Now they are giving up more at the top for something that realistically will never be.

COMMISSIONER BUTCHER said Ms. Nienhuis pointed out to him that we are always under the minimum tax, so technically it always applies. But because we are at a dollar amount much above this, the question he is asking is if we ever fall into a period where this applies and not the base in progressivity. And that has not occurred.

CO-CHAIR PASKVAN asked if the concern in part is that the credits are so large that at these hypothetically low prices they so overwhelm the progressivity that this is like an alternative minimum tax.

COMMISSIONER BUTCHER replied that is not how he heard it described. "We just gave ourselves...in the bill a little bit more protection on the bottom end. It's unlikely we'll get to that point, but no one has a crystal ball."

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MS. POLLARD went to the interest rate amendments and explained that this is the interest rate that would apply to both delinquent taxes and the situations where the state might have a refund obligation for an overpayment of the tax. It is the only section of the bill that affects a non-production tax area.

She said that section 3 on page 2 of SB 49 shows the main change. The current interest rate is 5 percentage points above the annual rate charged for advances by the 12th Federal Reserve or 11 percent, whichever is greater. The rate has been at 11 percent for a while. She said section e effectively lowers it to 3 percent above the 12th Federal Reserve rate or 11 percent, whichever is lesser. It would apply basically to most tax types; the ones it would not apply to are specifically detailed in the bill, such as section 1, which is about delinquent permitting fees or section 2 which refers to an unclaimed property statute. There are a variety of conforming amendments, but just where the interest rate is mentioned.

SENATOR WIELECHOWSKI recalled the policy call behind this was a feeling that the state was going to have a hard time with accounting and the department wanted a big stick. Has that changed? How much in delinquent taxes and refunds has there been?

COMMISSIONER BUTCHER replied that the rationale is that this interest rate goes both ways; if a taxpayer underpays, they have to pay the state this amount. If a taxpayer overpays, the state has to pay them back - and it seemed excessively high from both the state and industry views.

4:58:36 PM

LENNIE DEES, Master Auditor, Department of Revenue (DOR), said he would research the number for delinquent taxes and refunds, but agreed that it cuts both ways.

5:00:01 PM

CO-CHAIR PASKVAN said the knowledge and history his committee members bring to this debate is appreciated and adjourned the meeting at 5:00 p.m.