

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

February 25, 2013

3:32 p.m.

MEMBERS PRESENT

Senator Cathy Giessel, Chair
Senator Fred Dyson, Vice Chair
Senator Peter Micciche
Senator Lesil McGuire
Senator Anna Fairclough
Senator Hollis French

MEMBERS ABSENT

Senator Click Bishop

COMMITTEE CALENDAR

SENATE BILL NO. 21

"An Act relating to appropriations from taxes paid under the Alaska Net Income Tax Act; relating to the oil and gas production tax rate; relating to gas used in the state; relating to monthly installment payments of the oil and gas production tax; relating to oil and gas production tax credits for certain losses and expenditures; relating to oil and gas production tax credit certificates; relating to nontransferable tax credits based on production; relating to the oil and gas tax credit fund; relating to annual statements by producers and explorers; relating to the determination of annual oil and gas production tax values including adjustments based on a percentage of gross value at the point of production from certain leases or properties; making conforming amendments; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 21

SHORT TITLE: OIL AND GAS PRODUCTION TAX

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/16/13	(S)	READ THE FIRST TIME - REFERRALS
01/16/13	(S)	TTP, RES, FIN
01/22/13	(S)	TTP AT 3:30 PM BELTZ 105 (TSBldg)

01/22/13 (S) Heard & Held
 01/22/13 (S) MINUTE(TTP)
 01/24/13 (S) TTP AT 3:30 PM BUTROVICH 205
 01/24/13 (S) Heard & Held
 01/24/13 (S) MINUTE(TTP)
 01/29/13 (S) TTP AT 3:30 PM BELTZ 105 (TSBldg)
 01/29/13 (S) Heard & Held
 01/29/13 (S) MINUTE(TTP)
 01/31/13 (S) TTP AT 1:00 PM BUTROVICH 205
 01/31/13 (S) Heard & Held
 01/31/13 (S) MINUTE(TTP)
 02/05/13 (S) TTP AT 3:30 PM BUTROVICH 205
 02/05/13 (S) Heard & Held
 02/05/13 (S) MINUTE(TTP)
 02/07/13 (S) TTP AT 3:30 PM BUTROVICH 205
 02/07/13 (S) Moved SB 21 Out of Committee
 02/07/13 (S) MINUTE(TTP)
 02/08/13 (S) TTP RPT 1NR 4AM
 02/08/13 (S) NR: DUNLEAVY
 02/08/13 (S) AM: MICCICHE, GARDNER, FAIRCLOUGH,
 MCGUIRE
 02/08/13 (S) LETTER OF INTENT WITH TTP REPORT
 02/09/13 (S) TTP AT 10:00 AM BUTROVICH 205
 02/09/13 (S) -- MEETING CANCELED --
 02/11/13 (S) RES AT 3:30 PM BUTROVICH 205
 02/11/13 (S) Heard & Held
 02/11/13 (S) MINUTE(RES)
 02/13/13 (S) RES AT 3:30 PM BUTROVICH 205
 02/13/13 (S) Heard & Held
 02/13/13 (S) MINUTE(RES)
 02/15/13 (S) RES AT 3:30 PM BUTROVICH 205
 02/15/13 (S) Heard & Held
 02/15/13 (S) MINUTE(RES)
 02/18/13 (S) RES AT 3:30 PM BUTROVICH 205
 02/18/13 (S) Heard & Held
 02/18/13 (S) MINUTE(RES)
 02/20/13 (S) RES AT 3:30 PM BUTROVICH 205
 02/20/13 (S) Heard & Held
 02/20/13 (S) MINUTE(RES)
 02/22/13 (S) RES AT 3:30 PM BUTROVICH 205
 02/22/13 (S) Heard & Held
 02/22/13 (S) MINUTE(RES)
 02/25/13 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

JOE BALASH, Deputy Commissioner

Department of Natural Resources (DNR)
Juneau, Alaska

POSITION STATEMENT: Available to answer questions on the amendments to SB 21.

BILL BARRON, Director
Division of Oil and Gas
Department of Natural Resources (DNR)
Juneau, Alaska

POSITION STATEMENT: Available to answer questions on the amendments to SB 21.

MICHAEL PAWLOWSKI, Advisor
Petroleum and Fiscal Systems
Office of the Commissioner
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Answered question on SB 21 and CSSB 21().

DOUG SMITH
President
Alaska Support Industry Alliance
Anchorage, Alaska

POSITION STATEMENT: Supported SB 21.

KEN THOMPSON, investor and co-owner
Alaska Venture Capital Group (AVCG)
Brooks Range Petroleum, wholly-owned subsidiary of AVCG
Anchorage, Alaska

POSITION STATEMENT: Supported CSSB 21().

BOB HEINRICH, Vice President
Finance and Administration
ConocoPhillips

POSITION STATEMENT: Appreciated the committee's efforts to incorporate their suggestions into the governors principles in SB 21, but the base rate was still too high.

SCOTT JEPSEN, Vice President
External Affairs
ConocoPhillips

POSITION STATEMENT: Responded to a letter written by Senator French indicating that more investment would lead to less decline in the TAPS throughput.

DEBORAH BROLLINI, representing herself and her children
Anchorage, Alaska

POSITION STATEMENT: Supported the CSSB 21 () and especially the Competitive Review Board in order to make sound business decisions and take the politics out of the process.

KARL WESTLAND, speaking on his own behalf
Anchorage, Alaska

POSITION STATEMENT: Opposed SB 21 and preferred SB 50.

ACTION NARRATIVE

[3:32:13 PM](#)

CHAIR CATHY GIESSEL called the Senate Resources Standing Committee meeting to order at 3:32 p.m. Present at the call to order were Senators French, Micciche, McGuire, Dyson and Chair Giessel.

SB 21-OIL AND GAS PRODUCTION TAX

[3:34:00 PM](#)

CHAIR GIESSEL announced SB 21 to be up for consideration [CSSB 21(), version 28-GS1647\U, was before the committee]. She noted that version N had the same text as version U, and that fiscal notes were still being drafted.

SENATOR DYSON moved to adopt CSSB 21(RES), version 28-GS1647\N, as the working document. There was no objection, and version N was before the committee.

[3:35:03 PM](#)

JOE BALASH, Deputy Commissioner, Department of Natural Resources (DNR), Juneau, Alaska, said he was available to answer questions about the amendments to SB 21.

BILL BARRON, Director, Division of Oil and Gas, Department of Natural Resources (DNR), Juneau, Alaska, said he was also available to answer questions on SB 21.

SENATOR FRENCH said he wanted him to speak to the expanded incentive credit (EIC) for the North Slope that eliminates the three mile boundary restriction and its fiscal impact to the state.

[3:36:48 PM](#)

SENATOR FAIRCLOUGH joined the committee.

MR. BALASH said the changes to the .025 credit [page 20, lines 16-18] would eliminate the three-mile boundary from the bottom-

hole location of a well to the exploration well in question to determine whether or not it is available for it. In this case, the credit is 30 percent and a typical well would cost around \$15 million. There would be additional costs on top of that depending on how far away from existing infrastructure that is - so the construction of an ice road and man camp - and then depending upon how much work you want to do from that well - multiple side tracks or testing the discovery. So the state's 30 percent share would amount to a hair under \$5 million. However, these provisions require that information from the well be shared with the state after the well has been completed.

SENATOR FRENCH asked if all those restrictions on line 7 - you can't get a credit for administration, supervision and engineering, lease operating, geological and management costs (page 19, lines 7-11) - would still apply to these more generous credits.

MR. BALASH answered yes; subsection (b) starting on line 20 on page 19 refers to those restrictions.

[3:39:41 PM](#)

CHAIR GIESSEL said that reducing the barrier around the wells on page 20, lines 17-24, was brought up by Brooks Range.

SENATOR FRENCH asked Mr. Balash to walk through section 15 starting on page 14.

[3:40:21 PM](#)

MR. BALASH said this section would be best addressed by the Department of Revenue, because it is about credits and he wanted to respect the relative turf of his "sister department."

[3:40:49 PM](#)

MICHAEL PAWLOWSKI, Advisor, Petroleum and Fiscal Systems, Office of the Commissioner, Department of Revenue (DOR), Anchorage, Alaska, said this is the loss carry forward provision. It was not changed from the initial version and that he appreciated their maintaining that nexus between when the majority of the credit is given to a company being tied to when the production actually occurs. That is what this section is intended to do.

Under existing law, when a company accrues a loss carry forward credit, they can get it redeemed by the state. Section 15 restricts how this credit can be carried forward and applied against future production taxes. The tax obligation has to exist for the credit to have any value (page 14, line 17).

SENATOR FRENCH asked how the increase of the base rate from 25 to 35 percent affects the size of these credits.

MR. PAWLOWSKI explained the base rate and the carry forward credit serve in a similar relationship and in order to retain the type of parity the governor's bill attempted to do, of bringing new entrants to a level playing field with existing incumbents, the loss carry forward credit needed to be increased to 35 percent, because a person with a tax liability would essentially get a deduction at the value of the base rate. So if the base rate is 35 percent, an existing incumbent player would get a 35 percent benefit. A person without a tax liability, a new entrant, would not. Now 35 percent loss carry forward credit must be used only when there is a production tax liability for it to be used against.

SENATOR FRENCH asked if the increase in the base rate increases the value of the credit.

MR. PAWLOWSKI answered yes.

[3:44:32 PM](#)

DOUG SMITH, President, Alaska Support Industry Alliance, Anchorage, Alaska, supported SB 21. He said he had pulled together some information from Mr. Keithley and the McDowell Group and the most alarming thing that struck a lot Alaskans was the issue of jobs. In 2000, North Slope production was about 108,000 barrels for every oil and gas industry job and by 2010 that had dropped to 28,000 barrels per job. He said most of these jobs are not putting significant new quantities, if any, of oil into the pipeline; most expenditure was going to maintaining the base and operating facilities and infrastructure.

[3:47:41 PM](#)

He said the \$5 credit is valuable, but their only concern is that it leans towards being progressive in terms of when companies are evaluating projects. Maybe it is the right balance, but we don't want to lose our competitive posture at higher prices.

[3:48:29 PM](#)

MR. SMITH said the Alliance supported expanding the gross revenue exclusion (GRE), because it ensures that the legacy fields aren't left behind in seeking new production and new oil; and they are our largest new oil potential. They also supported

expanding the exploration incentive credit (EIC) to help the current independents and new explorers in finding more oil.

MR. SMITH said they also supported the qualified industry service (QIS) credit that tries to induce more jobs into the industry by using legal measures. It would give Alaskans opportunity to compete where maybe some module fabrication is being done outside of Alaska or other products where we haven't used the full capacity of our market here to provide services to the industry. For instance, their company moved fabrication of their hot oil units from Canada to a south Anchorage fabrication facility. As a C corporation, they pay taxes and create tangible personal property from raw materials that they will pay property tax on. A single hot oil unit creates eight full time jobs when it goes to work on the North Slope, and it participates in down-hole stimulation, well work-overs and intervention activities that put more oil in the pipeline. He thought this credit would probably become "self-funding" or more through both job creation and additional tax base. He didn't see it as a government subsidy, but rather an opportunity to increase a competitive posture that could actually generate more jobs and economic activity for the state.

[3:51:52 PM](#)

Over half the value of his members' wages of nearly \$2 billion is related to oil and gas extraction. The trickle down effects of that payroll is almost incalculable. A lot is at stake through employment and state economics beyond the treasury, and a tax policy is needed that will keep that thriving for a long time to come.

SENATOR MCGUIRE said she agreed with his comments that expansion of the GRE was a step in the right direction, but the known and currently producing legacy areas are still the best opportunity for increased production investment, and the currently producing areas of the legacy fields will be best stimulated by a competitive base rate, and that the correct level of base rate is one that induces significant new investment in the currently producing legacy areas. She asked him what rate he would set for the base rate.

MR. SMITH replied he didn't have an answer that was any better than the ones from their consultants, but the Alliance supported a competitive legacy field environment and would like to see government take go closer to 60 percent. He had seen the 55 percent rate in the CS and understood the need to bring in state revenues and that there are very few options to do that. He

remarked that the Competitive Review Board would be a forward-looking opportunity that is objective and un-politicized; and it would be nice to be ahead of that curve.

CHAIR GIESSEL thanked him for calling in and testifying.

[3:56:46 PM](#)

KEN THOMPSON, investor and co-owner, Alaska Venture Capital Group (AVCG), Brooks Range Petroleum, wholly-owned subsidiary of AVCG, Anchorage, Alaska, said he is a former president of ARCO Alaska. He gave a little background on why they should consider his company's perspectives. They have been the most active explorer accounting for 28 percent of all the exploration wells on the North Slope state lands in 2007 - 2012. They have drilled more exploration wells on state lands on the North Slope than ConocoPhillips, BP, ExxonMobil, Eni, Repsol, and Armstrong combined during that time period, and have spent a little over \$200 million. They had three discoveries and acquired a discovery. Their Mustang field development is under way currently and that start producing 44 million barrels of new oil in about 18 months with a spend of almost \$600 million. AVCG has three other developments that need further delineation and those will start and be staged in each of the three years for another \$1.5 billion of capital spend.

MR. THOMPSON said while the state's refunded tax credits, totaling \$69 million for them, had made a big difference, that the state would receive back much more in just the first year of Mustang production and about \$1.2 billion over the entire field life. All of their credits had been redeployed on the North Slope in drilling and seismic. None had been sent outside to their headquarters and none had been put into dividends.

It has made a big difference, because sometimes they can drill three exploration wells instead of two or two wells instead of one and that has accelerated discoveries. They have also appreciated that it is in cash, because they currently don't have production.

[3:59:52 PM](#)

MR. THOMPSON said he believed strongly that Alaska could level and turn production up; it would come from a mix of improvements in the legacy fields and exploration, which could add over 50,000 barrels of oil a day. This was significant because North Slope oil production year-to-year is declining by about 50,000 barrels per day.

[4:00:46 PM](#)

Overall they see the CS as a positive in growing production. It increased the carry forward loss credit (CFL) from 25 to 35 percent. In the past they had received it in cash and have just turned around and put it into the drill bit, but now that payout will be deferred to be applied against new production and it will again be redeploy into facilities and drilling. They also appreciated extending the small producer credit from 2016 out to 2022. He said he talks about this credit with companies in the Lower 48 when he tries to get them to come up here. In his case it would reduce their tax by \$12 million and they just put that back into the drill bit and facilities.

He said the CS also specifies a 20 percent QCE tax credit payment in a single year, but eliminates it at 2013; the positive is they like the more immediate cash in one year versus two, because again that is incorporated into their capital needs especially on their Mustang development. The negative is that they won't have the cash payment in 2015 for the year 2014; and while it would have been nice to get, it is a wish list item. They understand the situation and will try to find additional capital to offset it.

[4:03:02 PM](#)

MR. THOMPSON said eliminating the progressivity simplifies the tax calculation, which is the largest negative public relations issue Alaska faces. He had talked with over 200 potential investors in the last 18 months and only 19 were interested in Alaska, and now they have narrowed it down to only 2 potential partners to make their half billion investment at Mustang. Of the ones that fell out, the progressivity was a big negative. Maybe he could go back to them and tell them it has been removed.

A negative is increasing the base rate from 25 to 35 percent, but that is partially offset by the positive of the \$5/bbl produced credit. It better balances the relative state/producer takes at low oil prices and that is well appreciated when prices cycle low.

For new oil, it increases the 20 percent GRE to 30 percent and importantly amends the definition of the leases that can be included in the GRE. The positive here is that it should incentivize new oil production in terms of qualifying a few more leases with existing producers.

Removing the old distance limitations and having a 30 percent exploration incentive credit (EIC) is a huge plus and means that he will be able to reach more companies and bring in more partners to help explore.

Overall, Mr. Thompson thanked them for the changes in the CS saying they should help AVCG attract new capital, which is his full time job now. And that has been difficult for the last year and a half. He will be meeting with two companies in Dallas this week that could be huge funders and he was optimistic about that.

4:06:46 PM

CHAIR GIESSEL said she was reading the Petroleum News February 24 issue and the headline was "AIDEA Eyeing Oil Production Facility." They were talking about investing \$45 million in a facility in the Mustang field. She asked him to talk a little about that and the road funding.

MR. THOMPSON said AIDEA [Alaska Industrial Development and Export Authority] is great to work with; they understood their business and want to help companies get a leg up. Once they get a cash flow that can be directed into more activity.

He said the road funding had been finalized when Brooks Range Petroleum entered into a partnership with AIDEA that will provide 80 percent of the funding for road pad, developing a gravel mine and an ice road to get out to the mine; it will cost \$25 million, so AIDEA will provide \$20 million in a loan and AVCG, Brooks Range and Ramshorn will provide the other \$5 million. Once P & I is paid, the road reverts to ownership by Brooks Range Petroleum. In the meantime it is owned by Mustang Road LLC that AIDEA controls.

4:09:14 PM

MR. THOMPSON said that in February AIDEA approved \$100,000 for studies that are under way to consider additionally funding Mustang oil production processing facilities costing a little over \$200 million. AIDEA would only fund a loan for \$45 million and had talked with a Singapore firm, Ixion Holdings, to contribute \$95-125 million. (Ixion helped fund the jack up in Cook Inlet.) Forty or fifty million more could be funded by Alaska banks and two or three had voiced interest in the production facility. It would be a creative LLC structure like the road; full development funding would be \$333 million and that would be provided by ABCG, the parent company of Brooks Range and by Ramshorn Exploration. He would be in discussions

later this week with other companies on perhaps partnering with them on that piece, as well.

[4:10:56 PM](#)

CHAIR GIESSEL commented that funded by Alaskan banks was an exciting concept in terms of getting our own fiscal entities engaged on the North Slope. They would only take that risk if they viewed it as a solid investment.

MR. THOMPSON said they like the hard assets - the production facilities and equipment that can be used on other fields - after Mustang field depletes for example. So, it is a good investment and it is known oil, which also reduces the risk.

SENATOR MICCICHE said he was happy that Mr. Thompson was relatively supportive of the changes. He was glad of a little bit of resistance and would have been suspicious without it. But the legislature's job was to get competitive with other OECD producing areas while reducing the state's tax rate as little as possible. They felt that increasing the base rate to 35 percent with \$5/bbl credit and increasing the GREs to 30 percent puts up Alaska in that competitive range. And Little Red Services and Alliance supported the Competitive Review Board that would keep us in that ballpark.

MR. THOMPSON said he understood the state need to balance its needs with those of the explorers.

[4:13:43 PM](#)

BOB HEINRICH, Vice President, Finance and Administration, ConocoPhillips, said he appreciated the committee's efforts to incorporate their suggestions into the governor's principles in SB 21. They have advocated changes to ACES that eliminates progressivity and creates a flat tax rate over a broad price range and that provides a business climate to attract investment and overcome Alaska's inherent cost disadvantages. The CS moves toward achieving several of those goals. In particular it has resulted in a relatively flat tax rate with only a slightly progressive nature over a broad range of prices, a real positive step. Expanding the GRE and the ability to apply it to production from expansion of PAs within existing units is also positive, however, they had not had the time to fully evaluate that impact on potential projects.

[4:15:53 PM](#)

ConocoPhillips was concerned that the CS remains a tax increase relative to ACES at lower prices levels and that could be fixed

by decreasing the base rate. Also, even though the overall level of government take as estimated by Econ One appears to be in the ballpark with the average government take of other jurisdictions, the question remains as to whether it will be enough to compensate for the high costs of exploration and development in Alaska. They hadn't done enough analysis to answer that question from ConocoPhillips' point of view, but the answer is likely to be different for every company.

[4:16:57 PM](#)

SENATOR FRENCH said he sent Mr. Jepsen a slide and a question last week and asked if Mr. Jepsen had a chance to formulate a response about declining rates and what is achievable at certain investment levels.

[4:17:15 PM](#)

SCOTT JEPSEN, Vice President, External Affairs, ConocoPhillips, said it is difficult to say what the decline rate will be, but with more investment the decline rate will be less.

[4:19:15 PM](#)

SENATOR FRENCH moved Amendment 1.

28-GS1647\N.3
Nauman/Bullock

AMENDMENT 1

OFFERED IN THE SENATE BY SENATOR FRENCH
TO: CSSB 21(RES), Draft Version "N"

Page 1, lines 1 - 2:

Delete **"relating to appropriations from taxes paid under the Alaska Net Income Tax Act; providing a tax credit against the corporation income tax for qualified oil and gas service industry expenditures;"**

Page 1, lines 3 - 4:

Delete **"relating to gas used in the state;"**

Page 1, lines 5 - 8:

Delete **"for certain losses and expenditures; relating to oil and gas production tax credit certificates; relating to nontransferable tax credits based on production; relating to the oil and gas tax credit fund; relating to annual statements by producers and explorers"**

Insert "; amending the minimum tax on oil and gas production; relating to oil and gas leases"

Page 1, lines 11 - 12:

Delete "establishing the Oil and Gas Competitive Review Board; making conforming amendments"

Insert "; relating to the financing of the development of oil and gas resources by the Alaska Industrial Development and Export Authority"

Page 2, line 2, through page 31, line 1:

Delete all material and insert:

"* **Section 1.** AS 38.05.180(h) is amended to read:

(h) The commissioner shall [MAY] include terms in a [ANY] lease that impose [IMPOSING] a minimum work commitment on the lessee to implement the plan of development submitted by the lessee with a bid for an oil and gas or gas only lease. The terms of the minimum work commitment must [. THESE TERMS SHALL BE MADE PUBLIC BEFORE THE SALE, AND MAY] include appropriate penalty provisions to take effect in the event the lessee does not fulfill the minimum work commitment. If it is demonstrated that a lease has been proven unproductive by actions of adjacent lease holders, the commissioner may set aside a work commitment. The commissioner may waive for a period not to exceed one two-year period any term of a minimum work commitment if the commissioner makes a written finding either that conditions preventing drilling or exploration were beyond the lessee's reasonable ability to foresee or control or that the lessee has demonstrated through good faith efforts an intent and ability to drill or develop the lease during the term of the waiver.

* **Sec. 2.** AS 38.05.180(x) is amended to read:

(x) A lessee conducting or permitting any exploration for, or development or production of, oil or gas on state land shall provide the commissioner access to all noninterpretive data obtained from that lease; shall provide the commissioner access to all information necessary to perform an economic analysis under (ii)(2) of this section, including the capital, operating, production, and development costs and an estimate of total reserves; and shall provide copies of that data and information, as the commissioner may request. The confidentiality provisions of

AS 38.05.035 apply to the information obtained under this subsection.

* **Sec. 3.** AS 38.05.180 is amended by adding new subsections to read:

(hh) The commissioner shall require each bidder for an oil and gas lease or gas only lease and each lessee applying for an extension or renewal of an oil and gas lease or gas only lease to submit a plan of development for exploring, developing, and producing from the lease within the period of the lease or the extension or renewal of the lease. The commissioner shall review each plan of development and determine whether the proposed plan of development is reasonably expected to develop the lease in the best interest of the state. The plan of development shall be included in a lease along with penalties for failing to comply with the plan of development and other terms of the lease. A bidder may not be a qualified bidder for the purposes of (f)(1) of this section if the commissioner finds that the bidder has not submitted a proposed plan of development that is in the best interest of the state or that the person that submitted the plan of development is not reasonably capable of implementing the plan.

(ii) The commissioner shall

(1) review each oil and gas lease or gas only lease each year for the purpose of determining whether a lease is being developed in the best interest of the state, whether the lessee is complying with the plan of development applicable to the lease, and whether revision of a plan of development, including the planned rate of development, would provide the maximum benefit to the people of the state;

(2) every five years, perform an economic analysis on each participating area and determine whether the participating area is capable of increased production in paying quantities over the current rate of production or plan of development;

(3) enforce the terms of each oil and gas lease or gas only lease, including imposing any applicable penalty or other remedy for noncompliance, within a reasonable time after finding that a lessee is out of compliance with the terms of the lease;

(4) submit a report to the legislature before the first day of each regular session that lists each oil and gas or gas only lessee that is

found to be out of compliance and the action by the commissioner to bring the lessee back into compliance or to terminate the lease.

(jj) For the purposes of (hh) and (ii) of this section, a plan of development for a cooperative or unit under (p) of this section is the plan of development for a lease within the cooperative or unit, except where a different plan of development is established for a lease within the cooperative or unit.

(kk) For purposes of (ii) of this section,

(1) "participating area" means that part of an oil and gas lease unit area to which production is allocated in the manner described in a unit agreement;

(2) "production in paying quantities" means production in quantities sufficient to yield a return in excess of drilling, development, and operating costs.

* **Sec. 4.** AS 43.55.011(e) is amended to read:

(e) There is levied on the producer of oil or gas a tax for all oil and gas produced each calendar year from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under (f), (j), (k), (o), and (p) of this section, the tax is equal to the sum of

(1) the annual production tax value of the taxable oil and gas as calculated under AS 43.55.160(a)(1), as adjusted by AS 43.55.162, multiplied by 25 percent; and

(2) the sum, over all months of the calendar year, of the tax amounts determined under (g) of this section.

* **Sec. 5.** AS 43.55.011(f) is repealed and reenacted to read:

(f) Except for oil and gas subject to (i) of this section and gas subject to (o) of this section, the provisions of this subsection apply to oil and gas produced from each lease or property within a unit or nonunitized reservoir that has cumulatively produced 1,000,000,000 BTU equivalent barrels of oil or gas by the close of the most recent calendar year and from which the average daily oil and gas production from the unit or nonunitized reservoir during the most recent calendar year exceeded 100,000 BTU equivalent barrels. Notwithstanding any contrary provision of

law, a producer may not apply tax credits to reduce its total tax liability under (e) and (g) of this section for oil and gas produced from all leases or properties within the unit or nonunitized reservoir below 10 percent of the total gross value at the point of production of that oil and gas. If the amount of tax calculated by multiplying the tax rates in (e) and (g) of this section by the total production tax value of the oil and gas taxable under (e) and (g) of this section produced from all of the producer's leases or properties within the unit or nonunitized reservoir is less than 10 percent of the total gross value at the point of production of that oil and gas, the tax levied by (e) and (g) of this section for that oil and gas is equal to 10 percent of the total gross value at the point of production of that oil and gas.

* **Sec. 6.** AS 43.55.011(g) is amended to read:

(g) For each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2) of a [PER] BTU equivalent barrel of the taxable oil and gas is more than \$30, the amount of tax for purposes of (e)(2) of this section is determined by multiplying the monthly production tax value of the taxable oil and gas produced during the month, as adjusted by AS 43.55.162, by the tax rate calculated as follows:

(1) if the producer's average monthly production tax value of a [PER] BTU equivalent barrel of the taxable oil and gas for the month is not more than \$92.50, the tax rate is 0.4 percent multiplied by the number that represents the difference between that average monthly production tax value of a [PER] BTU equivalent barrel and \$30; or

(2) if the producer's average monthly production tax value of a [PER] BTU equivalent barrel of the taxable oil and gas for the month is more than \$92.50, the tax rate is the sum of 25 percent and the product of 0.1 percent multiplied by the number that represents the difference between the average monthly production tax value of a [PER] BTU equivalent barrel and \$92.50, except that the sum determined under this paragraph may not exceed 30 [50] percent.

* **Sec. 7.** AS 43.55.020(a) is amended to read:

(a) For a calendar year, a producer subject to tax under AS 43.55.011(e) - (i) or (p) shall pay the tax as follows:

(1) an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; except as otherwise provided under (2) of this subsection, the amount of the installment payment is the sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount of the installment payment may not be less than zero:

(A) for oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin but not subject to AS 43.55.011(o) or (p), other than leases or properties subject to AS 43.55.011(f), the greater of

(i) zero; or

(ii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the leases or properties under AS 43.55.160 and 1/12 of the adjustment to production tax value for the calendar year under AS 43.55.162 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;

(B) for oil and gas produced from leases or properties subject to AS 43.55.011(f), 10 percent of the gross value at the point of production of that oil and gas [THE GREATEST OF

(i) ZERO;

(ii) ZERO PERCENT, ONE PERCENT, TWO PERCENT, THREE PERCENT, OR FOUR PERCENT, AS APPLICABLE, OF THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE OIL AND GAS PRODUCED FROM ALL LEASES OR PROPERTIES DURING THE MONTH FOR WHICH THE INSTALLMENT PAYMENT IS CALCULATED; OR

(iii) THE SUM OF 25 PERCENT AND THE TAX RATE CALCULATED FOR THE MONTH UNDER AS 43.55.011(g) MULTIPLIED BY THE REMAINDER OBTAINED BY SUBTRACTING 1/12 OF THE PRODUCER'S ADJUSTED LEASE EXPENDITURES FOR THE CALENDAR YEAR OF PRODUCTION UNDER AS 43.55.165 AND 43.55.170 THAT ARE DEDUCTIBLE FOR THOSE LEASES OR PROPERTIES UNDER AS 43.55.160 FROM THE GROSS VALUE AT

THE POINT OF PRODUCTION OF THE OIL AND GAS PRODUCED FROM THOSE LEASES OR PROPERTIES DURING THE MONTH FOR WHICH THE INSTALLMENT PAYMENT IS CALCULATED];

(C) for oil and gas produced from each lease or property subject to AS 43.55.011(j), (k), (o), or (p), the greater of

(i) zero; or

(ii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 and 1/12 of the adjustment to production tax value for the calendar year under AS 43.55.162 for oil or gas, as applicable [RESPECTIVELY], produced from the lease or property from the gross value at the point of production of the oil or gas, as applicable [RESPECTIVELY], produced from the lease or property during the month for which the installment payment is calculated;

(2) an amount calculated under (1)(C) of this subsection for oil or gas produced from a lease or property

(A) subject to AS 43.55.011(j), (k), or (o) may not exceed the product obtained by carrying out the calculation set out in AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable gas produced during the month for the amount of taxable gas produced during the calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the amount of taxable oil produced during the month for the amount of taxable oil produced during the calendar year;

(B) subject to AS 43.55.011(p) may not exceed four percent of the gross value at the point of production of the oil or gas;

(3) an installment payment of the estimated tax levied by AS 43.55.011(i) for each lease or property is due for each month of the calendar year on the last day of the following month; the amount of the installment payment is the sum of

(A) the applicable tax rate for oil provided under AS 43.55.011(i), multiplied by the

gross value at the point of production of the oil taxable under AS 43.55.011(i) and produced from the lease or property during the month; and

(B) the applicable tax rate for gas provided under AS 43.55.011(i), multiplied by the gross value at the point of production of the gas taxable under AS 43.55.011(i) and produced from the lease or property during the month;

(4) any amount of tax levied by AS 43.55.011(e) or (i), net of any credits applied as allowed by law, that exceeds the total of the amounts due as installment payments of estimated tax is due on March 31 of the year following the calendar year of production.

* **Sec. 8.** 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) **2022** [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, **2022** [2016], from at least one lease or property in the state.

* **Sec. 9.** AS 43.55 is amended by adding a new section to read:

Sec. 43.55.026. Heavy oil research and development tax credit. (a) A taxpayer may apply 20 percent of the taxpayer's expenditure attributable to this state for research and development related to improving methods of producing heavy oil in the state for the taxable year that exceeds the base amount, but not to exceed \$10,000,000, as a credit against the state tax liability imposed on the taxpayer under this chapter.

(b) Research and development expenditures in this section are attributable to this state if the research and development is being conducted in this state or the payroll of employees conducting the research and development is in this state. In this subsection, payroll of an employee is in this state if compensation is paid to an employee in this state and reported as paid in this state in the quarterly contribution report under AS 23.20 to the Department of Labor and Workforce Development.

(c) If the tax credit under this section exceeds the taxpayer's tax liability after other tax credits are taken under this chapter for the year in which the expenditure is incurred, the excess of the tax credit over the liability may be carried forward for up to seven years. If an unused credit is carried forward to a tax year from an earlier year, the credit arising in the earliest year is applied first against the tax liability for the year.

(d) A person may not claim a credit under this section for research and development expenditures that were deducted in the calculation of tax liability under AS 43.55.011(e).

(e) Each year, if three or more taxpayers claim the credit authorized under this section during the immediately preceding year, the department shall report to the legislature the number of taxpayers who claimed credits under this section in the prior year, the total cumulative amount of credits granted to all taxpayers under this section for the prior tax year, a description of the research and development projects for which the credit was granted, and the total cumulative number of employees conducting the research and development for which all taxpayers claim the credit.

(f) The commissioner shall establish in regulation a method for apportioning research expenditures of a producer related to heavy oil production in and outside of the state. When developing the regulations, the commissioner may consider the relative amounts of heavy oil the producer is seeking to produce in areas in and outside of the state or consider another reasonable basis on which fairly to apportion costs for research related to in-state oil production and oil produced outside of the state.

(g) In this section, "base amount" means the average of research and development expenditures related to improving methods of producing heavy oil and attributable to this state for the three tax years immediately preceding the taxable year for which the credit is being claimed.

* **Sec. 10.** AS 43.55.030(a) is amended to read:

(a) A producer that produces oil or gas from a lease or property in the state during a calendar year, whether or not any tax payment is due under AS 43.55.020(a) for that oil or gas, shall file with

the department on March 31 of the following year a statement, under oath, in a form prescribed by the department, giving, with other information required by the department under a regulation adopted by the department, the following:

(1) a description of each lease or property from which oil or gas was produced, by name, legal description, lease number, or accounting codes assigned by the department;

(2) the names of the producer and, if different, the person paying the tax, if any;

(3) the gross amount of oil and the gross amount of gas produced from each lease or property, and the percentage of the gross amount of oil and gas owned by the producer;

(4) the gross value at the point of production of the oil and of the gas produced from each lease or property owned by the producer and the costs of transportation of the oil and gas;

(5) the name of the first purchaser and the price received for the oil and for the gas, unless relieved from this requirement in whole or in part by the department;

(6) the producer's qualified capital expenditures, as defined in AS 43.55.023, other lease expenditures under AS 43.55.165, and adjustments or other payments or credits under AS 43.55.170;

(7) the production tax values of the oil and gas under AS 43.55.160;

(8) any claims for tax credits to be applied; [AND]

(9) calculations showing the amounts, if any, that were or are due under AS 43.55.020(a) and interest on any underpayment or overpayment; and

(10) for each expenditure that is the basis for a credit claimed under AS 43.55.023 or 43.55.025, a description of the expenditure, a detailed description of the purpose of the expenditure, and a description of the lease or property for which the expenditure was incurred; notwithstanding AS 40.25.100(a) and AS 43.05.230(a), information submitted under this paragraph may be disclosed to the public and shall be disclosed to the legislature in a report submitted within 10 days after the convening of the next regular legislative session following the date a statement is filed under this section.

* Sec. 11. AS 43.55.030(e) is amended to read:

(e) An explorer or producer that incurs a lease expenditure under AS 43.55.165 or receives a payment or credit under AS 43.55.170 during a calendar year but does not produce oil or gas from a lease or property in the state during the calendar year shall file with the department on March 31 of the following year a statement, under oath, in a form prescribed by the department, giving, with other information required **by the department under a regulation adopted by the department**, the following:

(1) the producer's qualified capital expenditures, as defined in AS 43.55.023, other lease expenditures under AS 43.55.165, and adjustments or other payments or credits under AS 43.55.170; [AND]

(2) if the explorer or producer receives a payment or credit under AS 43.55.170, calculations showing whether the explorer or producer is liable for a tax under AS 43.55.160(d) or 43.55.170(b) and, if so, the amount; **and**

(3) **for each expenditure that is the basis for a credit claimed under this chapter, a description of the expenditure, a detailed description of the purpose of the expenditure, and a description of the lease or property for which the expenditure was incurred; notwithstanding AS 40.25.100(a) and AS 43.05.230(a), information submitted under this paragraph may be disclosed to the public and shall be disclosed to the legislature in a report submitted within 10 days after the convening of the next regular legislative session following the date a statement is filed under this section.**

* Sec. 12. AS 43.55.160(a) is amended to read:

(a) Except as provided in (b) of this section, **and subject to adjustment under AS 43.55.162,** for the purposes of

(1) AS 43.55.011(e), the annual production tax value of the taxable oil, gas, or oil and gas subject to this paragraph produced during a calendar year is the gross value at the point of production of the oil, gas, or oil and gas taxable under AS 43.55.011(e), less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil, gas, or oil and gas, as applicable, produced by the producer from leases or properties, as adjusted under AS 43.55.170; this paragraph applies to

(A) oil and gas produced from leases or properties in the state that include land north of 68 degrees North latitude, other than gas produced before 2022 and used in the state;

(B) oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude; this subparagraph does not apply to gas

(i) produced before 2022 and used in the state; or

(ii) oil and gas subject to AS 43.55.011(p);

(C) oil produced before 2022 from a lease or property in the Cook Inlet sedimentary basin;

(D) gas produced before 2022 from a lease or property in the Cook Inlet sedimentary basin;

(E) gas produced before 2022 from a lease or property in the state outside the Cook Inlet sedimentary basin and used in the state;

(F) oil and gas subject to AS 43.55.011(p) produced from leases or properties in the state;

(G) oil and gas produced from a lease or property no part of which is north of 68 degrees North latitude, other than oil or gas described in (B), (C), (D), (E), or (F) of this paragraph;

(2) AS 43.55.011(g), the monthly production tax value of the taxable

(A) oil and gas produced during a month from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas subject to AS 43.55.011(o);

(B) oil and gas produced during a month from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less 1/12 of the

producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas subject to AS 43.55.011(o);

(C) oil produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the oil taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(D) gas produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(E) gas produced during a month from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to that gas produced by the producer from that lease or property, as adjusted under AS 43.55.170.

* **Sec. 13.** AS 43.55 is amended by adding a new section to read:

Sec. 43.55.162. Adjustments to production tax value. (a) The annual production tax value of oil produced from a lease or property north of 68 degrees North latitude by the producer is reduced, during the first seven consecutive years after the start of commercial production by 20 percent of the gross value at the point of production of oil produced during the calendar year. This subsection does not apply to a lease or property that

(1) was in commercial production before January 1, 2007;

(2) is located within a unit area that has never had commercial production; or

(3) is located within a unit for more than 20 years before the first commercial production on the lease or property.

(b) The annual production tax value of oil or gas produced by a producer is reduced during the first five consecutive years after the start of commercial production by 10 percent if the oil or gas is produced from a participating area established after December 31, 2012, that is within a unit formed under AS 38.05.180(p) before January 1, 2003, if the participating area does not contain a reservoir that had previously been in a participating area established before January 1, 2012. This subsection does not apply to production from a lease or property located within a unit for more than 20 years before the first commercial production on the lease or property.

(c) The annual production tax value of heavy oil produced by a producer is reduced by 10 percent of the gross value at the point of production of heavy oil produced, for the calendar year, from a lease or property that is located within a unit area existing on January 1, 2014.

(d) For a calendar year after 2012, the annual production tax value of oil produced by a producer that produced oil in 2012 is reduced by 10 percent of the gross value at the point of production of the volume of oil produced during the calendar year in excess of the total volume produced by the producer in 2012. The volume of oil produced by a producer in 2012 is the average daily statewide production of the producer, excluding from the calculation the days on which production is significantly reduced, multiplied by the number of days in the calendar year. For the purposes of this subsection, production is significantly reduced when the production volume of oil for the day is less than one-half of the quotient of the total volume of oil production that is produced by the producer for the year and the number of days in the calendar year. A producer that increases its volume of production through the purchase, merger, or other acquisition of another producer is the sum of the producer's total target volume and the total target volume for the producer that is purchased, merged with, or otherwise acquired; however, if the

producer that is purchased, merged with, or otherwise acquired did not have a target volume determined under this section, the volume of the increased production that is attributable to the purchase, merger, or other acquisition may not be considered for the purpose of determining whether the producer that acquired the additional production has increased the volume of production above its target volume.

(e) A reduction in production tax value provided by this section may not be combined with any other reduction in production tax value provided by this section in the same year. Oil or gas from a lease or property that produces oil or gas that results in a production tax reduction under (a) of this section is ineligible for a production tax reduction under (b) and (c) of this section and may not be used in the calculation of production volume under (d) of this section.

(f) A reduction in production tax value provided by this section may not reduce the production tax value of a producer below zero.

(g) The rate of tax under AS 43.55.011(g) shall be determined before the application of the adjustment provided by this section.

(h) In this section,

(1) "commercial production" means the production of oil for the purpose of sale or other beneficial use, except when the sale or beneficial use is incidental to the testing of an unproved well or unproved completion interval;

(2) "participating area" means that part of an oil and gas lease unit to which production is allocated in the manner described in a unit agreement.

* **Sec. 14.** AS 43.55.990 is amended by adding a new paragraph to read:

(14) "heavy oil" means oil with an American Petroleum Institute gravity of less than 18 degrees.

* **Sec. 15.** AS 44.88.080 is amended by adding a new paragraph to read:

(32) to acquire an interest in a project as necessary or appropriate to provide working or venture capital for an oil or natural gas development project under AS 44.88.800 and 44.88.810, whether by purchase, gift, or lease.

* **Sec. 16.** AS 44.88 is amended by adding new sections to read:

Article 9A. Interest in Oil and Gas Resources.

Sec. 44.88.800. Acquisition of interest in businesses. (a) The authority may acquire, through purchase or other means, an interest in a lease held by a corporation or other business entity in an oil or natural gas field in the state that has been explored, but only if the authority determines the leaseholder has made reasonable efforts to obtain financing from the private sector to develop the lease and those efforts have, in whole or part, been unsuccessful. The authority shall exercise due diligence in acquiring a leasehold interest under this section.

(b) If the authority acquires a leasehold interest under this section, the authority may use the authority's assets, as appropriate, to aid in the development of the oil or natural gas field in which the business entity has a leasehold interest.

Sec. 44.88.810. Alaska resource development fund.

(a) The Alaska resource development fund is established in the authority for the purpose of developing oil and gas resources, and consists of appropriations to the fund. The authority shall manage the fund and may create separate accounts within it. Income of the fund or of enterprises of the authority shall be separately accounted for and may be appropriated to the fund.

(b) The authority may use money from the fund to carry out the purpose of the fund set out in (a) of this section.

* **Sec. 17.** AS 44.88.900(10) is amended to read:

(10) "project" means

(A) a plant or facility used or intended for use in connection with making, processing, preparing, transporting, or producing in any manner, goods, products, or substances of any kind or nature or in connection with developing or utilizing a natural resource, or extracting, smelting, transporting, converting, assembling, or producing in any manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and materials, products, or substances of any kind or nature;

(B) a plant or facility used or intended for use in connection with a business enterprise;

(C) commercial activity by a business enterprise;

(D) a plant or facility demonstrating technological advances of new methods and procedures and prototype commercial applications for the

exploration, development, production, transportation, conversion, and use of energy resources;

(E) infrastructure for a new tourism destination facility or for the expansion of a tourism destination facility; in this subparagraph, "tourism destination facility" does not include a hotel or other overnight lodging facility;

(F) a plant or facility, other than a plant or facility described in (D) of this paragraph, for the generation, transmission, development, transportation, conversion, or use of energy resources;

(G) a plant or facility that enhances, provides for, or promotes economic development with respect to transportation, communications, community public purposes, technical innovations, prototype commercial applications of intellectual property, or research;

(H) a plant or facility used or intended for use as a federal facility, including a United States military, national guard, or coast guard facility;

(I) infrastructure for an area that is designated as a military facility zone under AS 26.30;

(J) development of an oil and gas field by providing working or venture capital in exchange for an equity interest;

* **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) Section 1 of this Act and AS 38.05.180(hh), enacted by sec. 3 of this Act, apply to a proposed lease sale and the renewal or extension of a lease on or after the effective date of this Act.

(b) The reduction in production tax value under AS 43.55.162, enacted by sec. 13 of this Act, applies to oil or gas produced after December 31, 2013.

* **Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE APPROVAL; NORTH SLOPE OIL PROCESSING FACILITY. (a) The Alaska Industrial Development and Export Authority may issue a loan to a producer of oil or gas to finance the construction and improvement of an oil processing facility on the Alaska North Slope and flow lines and other surface infrastructure for the facility. A loan under this section shall

(1) be issued to a producer that produces less than 100,000 barrels of oil a day;

(2) be issued for the purpose of financing a facility to facilitate production from a unit established after January 1, 2014; and

(3) have an interest rate that does not exceed the prime rate of interest plus one percent.

(b) In this section, "prime rate" means the lowest United States money center prime rate of interest that is published in the Wall Street Journal.

* **Sec. 20.** Section 19 of this Act is repealed June 30, 2017. Repeal of sec. 19 of this Act does not affect loans issued by the Alaska Industrial Development and Export Authority under sec. 19 of this Act before June 30, 2017.

* **Sec. 21.** This Act takes effect January 1, 2014."

CHAIR GIESSEL objected for discussion purposes.

SENATOR FRENCH explained that Legislative Legal said this is not stripping the bill, but it essentially replaces the provisions of SB 21 with those of SB 50 where they differ. The amendment is designed to keep ACES in place and make a good system better, because he believes that the governor's approach and the committee modifications so far are the wrong policy. He said as Mr. Jepsen had noted in previous testimony that for FY14, 15, and 16 there would be a 3.3 percent decline rate, five and a half years after ACES passed, and that is about as good as one could realistically expect until the heavy oil puzzle or the shale oil puzzle gets cracked or until OCS oil comes to us from offshore.

He was also concerned that an Econ One slide, number 11, from February 13, entitled "Capital Spending" made it look like capital spending had leveled off on the North Slope, but he had updated the slide, because it stopped in 2012, with projected capital spending in the Revenue Sources Book. And for 2013 and 2014 it showed substantial jumps in capital spending in each of those years from \$2.4 billion in 2012 to \$3.3 billion in 2013 and to \$3.8 billion 2014.

Senator French said he was actually chagrined that they were shown a slide that didn't accurately depict what was happening on the North Slope both now and in the near future. He said that the DOR goes to great lengths to formulate the estimates and they are fairly accurate, being based on real interviews with the industry. It took him back to first causes and the fact that the people who are saying ACES is broken are the taxpayers and that is more or less what you would expect them to say. Even

when the ExxonMobil tax attorney was asked by the committee what an appropriate tax level would be, he couldn't or wouldn't say, Senator French said he thought the answer would have been zero from Exxon's perspective, but the legislature has to set a fair tax policy from the perspective of the whole state.

4:24:00 PM

That is what this amendment is meant to do: it offers a fuller spectrum of ways to incentivize oil on the North Slope without just touching the tax dial. It does that by looking at incentivizing heavy oil research and development, by making state loans available for production facilities in new oil fields that require development plans with initial leases on state land. It maintains a reasonable share of windfall profits for the producers and caps progressivity at about 55 percent; it allows for the gross revenue exclusions they had talked about today and ends them in seven years, extends the small producer tax credit out to 2022, and provides a tax credit for research and development for heavy oil. It touches on the things that are needed but still keeps the basic system of ACES in place.

SENATOR FRENCH said that a presentation given last year in this committee by Shelby Gerking, an Economics Professor who had been working on this issue for close to 35 years, who had done more than 20 peer reviewed economic studies of production taxes and the relationship between production taxes and spending and production going back for 35 years, said that even a substantial tax increase from zero to 25 percent doesn't affect production very much.

A new report said that Gerking analyzed a 28-year 7-state data set compiled by the American Petroleum Institute and found that taxes have some impact; for example cutting severance taxes from 25 percent of well head value to zero increased long term production by 13 percent, but in most cases the changes were very small. That comported with his experience in Alaska when the ELF (economic limit factor) tax rates on the North Slope started in 1996 at about 12 percent and went down to below 1 percent in 2006. That was a real time experiment in dropping the production taxes, but unfortunately the decline curve continued going down at 7 percent a year. His concern was that the approach being offered by the governor and by the CS was still the same idea - lower taxes and hope for the best - but with this evidence and Alaska's experience he didn't think that was the way to go.

SENATOR FRENCH, in closing, reminded them of the Constitution they had all sworn to uphold and Article 8, Section 2, says we have to get the maximum benefit out of our natural resources. If they do something less than that, they are not serving the state well.

SENATOR FAIRCLOUGH said she wanted to speak to the issue of fairness first and as far as Alaska's share goes, fair is one-third, one-third, one-third. When she listened to Vic Fisher talk about that particular clause in the Constitution, he said government take should be somewhere around two-thirds.

[4:28:40 PM](#)

At ease from 4:28 to 4:30

[4:30:19 PM](#)

CHAIR GIESSEL called the meeting back to order and asked for further comments from committee members.

SENATOR MICCICHE commented that a constituent called, because he made a comment about what the state spent on Dr. Gerking last year. For the record, he wanted to correct himself that Dr. Gerking was not compensated and had volunteered that information. He was happy to hear that and still disagreed with his concepts on tax law incentives.

He said the increased spending not being directed to new production was the key to this proposal. It exposes the state to significant payouts that didn't lead to additional production, and that is one of the issues that SB 21 tried to address.

Another issue was that the oil decline experienced by Alaska when there was almost no taxes with ELF was one similar to those experienced in other oil producing states. And when the price of oil did pick up recently so did their production - significantly; yet Alaska's has remained in decline. So clearly there is a competitive issue with the ACES structure.

SENATOR MICCICHE said it was also somewhat interesting that ACES was just fine a couple of weeks back and they had finally gotten to the point where they agree that it's not fine and needs significant adjustment and the vehicle for that is SB 21. He had heard the maximum benefit comment often, but getting the maximum benefit for the people of Alaska means not leaving oil in the ground and being competitive in producing what resources God has blessed Alaska with.

[4:33:29 PM](#)

SENATOR MCGUIRE echoed those comments, particularly about progressivity and said she opposed the amendment. They want a system that reflects some progressivity or one that at least has a predictable tax rate. But they have heard over and over again that is the place where ACES was really broken. It was broken in the credits in the sense that the state was handing out credits in areas that were not necessarily inducing the kind of investment that leads to production. It was broken in the sense that it put the state coffers at an exposure rate that it can't necessarily meet. Just today they heard Ken Thompson, a life-long Alaskan, say the one most important thing to investors was fixing progressivity; Cambridge Energy Research's binders that are sent to global investors showed absurd tax calculations of anywhere from 25 to 75 percent. So lawmakers are putting a predictable competitive tax system in place for the State of Alaska.

[4:36:22 PM](#)

SENATOR FAIRCLOUGH said when they look at maximum benefit for the people of Alaska they look at what is going to be there for future generations.

CHAIR GIESSEL commented that they looked at UK's brown field (legacy fields) credits when they significantly changed their tax structure last year and have seen the resulting significant investments and expect more production by 2017 or earlier. Investment takes time to increase production and that will be seen in the UK. This emphasizes the many examples around the world, Alberta being another one, where the tax structure makes a difference in terms of investment.

CHAIR GIESSEL asked for a roll call vote on Amendment 1.

A roll call vote was taken: Senator French voted yea; Senators Dyson, Micciche, McGuire, Fairclough, and Giessel voted nay. Therefore, Amendment 1 failed on a 1:5 vote.

[4:39:53 PM](#)

SENATOR FRENCH moved Amendment 2.

28-GS1647\N.2
Bullock

AMENDMENT 2

OFFERED IN THE SENATE
TO: CSSB 21(RES), Draft Version "N"

BY SENATOR FRENCH

Page 1, line 3:

Delete "**rate**"

Insert "**rates**"

Page 2, following line 9:

Insert a new bill section to read:

"* **Sec. 2.** AS 29.60.850(b), as amended by sec. 1 of this Act, is amended to read:

(b) Each fiscal year, the legislature may appropriate to the community revenue sharing fund an amount equal to 20 percent of the money received by the state during the previous calendar year under AS 43.55.011(q) [AS 43.20.030(c)]. The amount may not exceed

(1) \$60,000,000; or

(2) the amount that, when added to the fund balance on June 30 of the previous fiscal year, equals \$180,000,000."

Renumber the following bill sections accordingly.

Page 4, following line 4:

Insert a new bill section to read:

"* **Sec. 5.** AS 43.55.011(e), as amended by sec. 4 of this Act, is amended to read:

(e) There is levied on the producer of oil or gas a tax for all oil and gas produced each calendar year from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under (f), (j), (k), (o), and (p) of this section, the tax is equal to the sum of

(1) the annual production tax value of the taxable oil and gas as calculated under AS 43.55.160(a)(1) [AS 43.55.160(a)] multiplied by 25 [35] percent; and

(2) the sum, over all months of the calendar year, of the tax amounts determined under (q) of this section."

Renumber the following bill sections accordingly.

Page 4, following line 10:

Insert new bill sections to read:

**** Sec. 7.** AS 43.55.011(o), as amended by sec. 6 of this Act, is amended to read:

(o) Notwithstanding other provisions of this section, for a calendar year before 2022, the tax levied under (e) of this section for each 1,000 cubic feet of gas for gas produced from a lease or property outside the Cook Inlet sedimentary basin and used in the state [, OTHER THAN GAS SUBJECT TO (p) OF THIS SECTION,] may not exceed the amount of tax for each 1,000 cubic feet of gas that is determined under (j)(2) of this section.

*** Sec. 8.** AS 43.55.011 is amended by adding a new subsection to read:

(q) For each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2) of a BTU equivalent barrel of the taxable oil and gas is more than \$30, the amount of tax for purposes of (e)(2) of this section is determined by multiplying the monthly production tax value of the taxable oil and gas produced during the month by the tax rate calculated as follows:

(1) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is not more than \$92.50, the tax rate is 0.4 percent multiplied by the number that represents the difference between that average monthly production tax value of a BTU equivalent barrel and \$30; or

(2) if the producer's average monthly production tax value of a BTU equivalent barrel of the taxable oil and gas for the month is more than \$92.50, the tax rate is the sum of 25 percent and the product of 0.1 percent multiplied by the number that represents the difference between the average monthly production tax value of a BTU equivalent barrel and \$92.50, except that the sum determined under this paragraph may not exceed 50 percent."

Renumber the following bill sections accordingly.

Page 7, line 13:

Delete "sec. 5"

Insert "sec. 9"

Page 10, following line 10:

Insert a new bill section to read:

"* **Sec. 11.** AS 43.55.020(a), as amended by secs. 9 and 10 of this Act, is repealed and reenacted to read:

(a) For a calendar year, a producer subject to tax under AS 43.55.011(e), (f), (h), (i), (p), or (q) shall pay the tax as follows:

(1) an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; except as otherwise provided under (2) of this subsection, the amount of the installment payment is the sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount of the installment payment may not be less than zero:

(A) for oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin but not subject to AS 43.55.011(o) or (p), other than leases or properties subject to AS 43.55.011(f), the greater of

(i) zero; or

(ii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(q) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the leases or properties under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;

(B) for oil and gas produced from leases or properties subject to AS 43.55.011(f), the greatest of

(i) zero;

(ii) zero percent, one percent, two percent, three percent, or four percent, as applicable, of the gross value at the point of production of the oil and gas produced from all leases or properties during the month for which the installment payment is calculated; or

(iii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(q) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for those leases or

properties under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from those leases or properties during the month for which the installment payment is calculated;

(C) for oil and gas produced from each lease or property subject to AS 43.55.011(j), (k), (o), or (p), the greater of

(i) zero; or

(ii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(q) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 for oil or gas, respectively, produced from the lease or property from the gross value at the point of production of the oil or gas, respectively, produced from the lease or property during the month for which the installment payment is calculated;

(2) an amount calculated under (1)(C) of this subsection for oil or gas produced from a lease or property

(A) subject to AS 43.55.011(j), (k), or (o) may not exceed the product obtained by carrying out the calculation set out in AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable gas produced during the month for the amount of taxable gas produced during the calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the amount of taxable oil produced during the month for the amount of taxable oil produced during the calendar year;

(B) subject to AS 43.55.011(p) may not exceed four percent of the gross value at the point of production of the oil or gas;

(3) an installment payment of the estimated tax levied by AS 43.55.011(i) for each lease or property is due for each month of the calendar year on the last day of the following month; the amount of the installment payment is the sum of

(A) the applicable tax rate for oil provided under AS 43.55.011(i), multiplied by the gross value at the point of production of the oil

taxable under AS 43.55.011(i) and produced from the lease or property during the month; and

(B) the applicable tax rate for gas provided under AS 43.55.011(i), multiplied by the gross value at the point of production of the gas taxable under AS 43.55.011(i) and produced from the lease or property during the month;

(4) any amount of tax levied by AS 43.55.011(e) or (i), net of any credits applied as allowed by law, that exceeds the total of the amounts due as installment payments of estimated tax is due on March 31 of the year following the calendar year of production."

Renumber the following bill sections accordingly.

Page 10, following line 28:

Insert a new bill section to read:

"* **Sec. 13.** AS 43.55.020(d), as amended by sec. 12 of this Act, is amended to read:

(d) In making settlement with the royalty owner for oil and gas that is taxable under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable royalty oil and gas, or may deduct taxable royalty oil or gas equivalent in value at the time the tax becomes due to the amount of the tax paid. If the total deductions of installment payments of estimated tax for a calendar year exceed the actual tax for that calendar year, the producer shall, before April 1 of the following year, refund the excess to the royalty owner. Unless otherwise agreed between the producer and the royalty owner, the amount of the tax paid under AS 43.55.011(e), (f), and (g) [AS 43.55.011(e)] on taxable royalty oil and gas for a calendar year, other than oil and gas the ownership or right to which constitutes a landowner's royalty interest, is considered to be the gross value at the point of production of the taxable royalty oil and gas produced during the calendar year multiplied by a figure that is a quotient, in which

(1) the numerator is the producer's total tax liability under AS 43.55.011(e), (f), and (g) [AS 43.55.011(e)] for the calendar year of production; and

(2) the denominator is the total gross value at the point of production of the oil and gas taxable under AS 43.55.011(e), (f), and (g)

[AS 43.55.011(e)] produced by the producer from all leases and properties in the state during the calendar year."

Renumber the following bill sections accordingly.

Page 11, following line 18:

Insert a new bill section to read:

"* **Sec. 15.** AS 43.55.023(a), as amended by sec. 14 of this Act, is amended to read:

(a) A producer or explorer may take a tax credit for a qualified capital expenditure as follows:

(1) notwithstanding that a qualified capital expenditure may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a qualified capital expenditure may also elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of 20 percent of that expenditure; **however, not more than half of the tax credit may be applied for a single calendar year;**

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

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

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

(3) A CREDIT FOR A QUALIFIED CAPITAL EXPENDITURE INCURRED TO EXPLORE FOR, DEVELOP, OR PRODUCE OIL OR GAS DEPOSITS LOCATED NORTH OF 68 DEGREES NORTH LATITUDE MAY BE TAKEN ONLY IF THE EXPENDITURE IS INCURRED BEFORE JANUARY 1, 2014]."

Renumber the following bill sections accordingly.

Page 11, following line 29:

Insert a new bill section to read:

"* **Sec. 17.** AS 43.55.023(b), as amended by sec. 16 of this Act, is amended to read:

(b) **A** [EXCEPT AS PROVIDED IN (p) - (u) OF THIS SECTION FOR A TAX CREDIT BASED ON LEASE EXPENDITURES INCURRED AFTER DECEMBER 31, 2013, TO EXPLORE FOR, DEVELOP, OR PRODUCE OIL OR GAS DEPOSITS LOCATED NORTH OF 68 DEGREES NORTH LATITUDE, A] producer or explorer may elect to take a tax credit in the amount of **25** [35] percent of a carried-forward annual loss. A credit under this subsection may be applied against a tax levied by AS 43.55.011(e). For purposes of this subsection, a carried-forward annual loss is the amount of a producer's or explorer's adjusted lease expenditures under AS 43.55.165 and 43.55.170 for a previous calendar year that was not deductible in calculating production tax values for that calendar year under AS 43.55.160."

Renumber the following bill sections accordingly.

Page 12, following line 4:

Insert a new bill section to read:

"* **Sec. 19.** AS 43.55.023(c), as amended by sec. 18 of this Act, is amended to read:

(c) A credit or portion of a credit under this section may not be used to reduce a person's tax liability under AS 43.55.011(e) for any calendar year below zero, **and** [. EXCEPT AS OTHERWISE PROVIDED UNDER (p) - (u) OF THIS SECTION,] any unused credit or portion of a credit not used under this subsection may be applied in a later calendar year.

Renumber the following bill sections accordingly.

Page 12, line 30:

Delete "sec. 11"

Insert "sec. 20"

Page 13, following line 18:

Insert a new bill section to read:

"* **Sec. 22.** AS 43.55.023(d), as amended by secs. 20 and 21 of this Act, is amended to read:

(d) **A** [EXCEPT FOR A TAX CREDIT BASED ON A LEASE EXPENDITURE INCURRED AFTER DECEMBER 31, 2013, TO EXPLORE FOR, DEVELOP, OR PRODUCE OIL OR GAS DEPOSITS LOCATED NORTH OF 68 DEGREES NORTH LATITUDE, A] person that is entitled to take a tax credit under this section that wishes to transfer the unused credit to another person or obtain a cash payment under

AS 43.55.028 may apply to the department for [A] transferable tax credit certificates [CERTIFICATE]. An application under this subsection must be in a form prescribed by the department and must include supporting information and documentation that the department reasonably requires. The department shall grant or deny an application, or grant an application as to a lesser amount than that claimed and deny it as to the excess, not later than 120 days after the latest of (1) March 31 of the year following the calendar year in which the qualified capital expenditure or carried-forward annual loss for which the credit is claimed was incurred; (2) the date the statement required under AS 43.55.030(a) or (e) was filed for the calendar year in which the qualified capital expenditure or carried-forward annual loss for which the credit is claimed was incurred; or (3) the date the application was received by the department. If, based on the information then available to it, the department is reasonably satisfied that the applicant is entitled to a credit, the department shall issue the applicant two [A] transferable tax credit certificates, each for half of [CERTIFICATE FOR] the amount of the credit. The credit shown on one of the two certificates is available for immediate use. The credit shown on the second of the two certificates may not be applied against a tax for a calendar year earlier than the calendar year following the calendar year in which the certificate is issued, and the certificate must contain a conspicuous statement to that effect. A certificate issued under this subsection does not expire."

Renumber the following bill sections accordingly.

Page 14, following line 1:

Insert a new bill section to read:

"* **Sec. 24.** AS 43.55.023(g), as amended by sec. 23 of this Act, is amended to read:

(g) The issuance of a transferable tax credit certificate under (d), (v), of this section or former (m) of this section or the purchase of a certificate under AS 43.55.028 does not limit the department's ability to later audit a tax credit claim to which the certificate relates or to adjust the claim if the department determines, as a result of the audit, that the applicant was not entitled to the amount of the

credit for which the certificate was issued. The tax liability of the applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is increased by the amount of the credit that exceeds that to which the applicant was entitled, or the applicant's available valid outstanding credits applicable against the tax levied by AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is increased under this subsection, the increase bears interest under AS 43.05.225 from the date the transferable tax credit certificate was issued. For purposes of this subsection, an applicant that is an explorer is considered a producer subject to the tax levied by AS 43.55.011(e)."

Renumber the following bill sections accordingly.

Page 14, following line 15:

Insert a new bill section to read:

"* **Sec. 26.** AS 43.55.023(n), as amended by sec. 25 of this Act, is amended to read:

(n) For the purposes of (l) and (v) of this section, a well lease expenditure incurred in the state south of 68 degrees North latitude is a lease expenditure that is

(1) directly related to an exploration well, a stratigraphic test well, a producing well, or an injection well other than a disposal well, located in the state south of 68 degrees North latitude, if the expenditure is a qualified capital expenditure and an intangible drilling and development cost authorized under 26 U.S.C. (Internal Revenue Code), as amended, and 26 C.F.R. 1.612-4, regardless of the elections made under 26 U.S.C. 263(c); in this paragraph, an expenditure directly related to a well includes an expenditure for well sidetracking, well deepening, well completion or recompletion, or well workover, regardless of whether the well is or has been a producing well; or

(2) an expense for seismic work conducted within the boundaries of a production or exploration unit."

Renumber the following bill sections accordingly.

Page 17, following line 27:

Insert a new subsection to read:

"(v) For a lease expenditure incurred in the state south of 68 degrees North latitude after December 31, 2017, that qualifies for tax credits under (a) and (b) of this section, and for a well lease expenditure incurred in the state south of 68 degrees North latitude that qualifies for a tax credit under (1) of this section, the department shall issue transferable tax credit certificates to the person entitled to the credit for the full amount of the credit. The transferable tax credit certificates do not expire."

Page 20, following line 28:

Insert a new bill section to read:

"* **Sec. 33.** AS 43.55.025(c), as amended by sec. 32 of this Act, is amended to read:

(c) To be eligible for a production tax credit authorized by (a)(1), (3), or (6) of this section, exploration expenditures must

(1) qualify under (b) of this section; and

(2) be for an exploration well, subject to

the following:

(A) before the well is spudded,

(i) the explorer shall submit to the commissioner of natural resources the information necessary to determine whether the geological objective of the well is a potential oil or gas trap that is distinctly separate from any trap that has been tested by a preexisting well;

(ii) at the time of the submittal of information under (i) of this subparagraph, the commissioner of natural resources may request from the explorer that specific data sets, ancillary data, and reports including all results, and copies of well data collected and data analyses for the well be provided to the Department of Natural Resources upon completion of the drilling; in this sub-subparagraph, well data include all analyses conducted on physical material, and well logs collected from the well and sample analyses; testing geophysical and velocity data including vertical seismic profiles and check shot surveys; testing data and analyses; age data; geochemical analyses; and access to tangible material; and

(iii) the commissioner of natural resources must make an affirmative determination as to whether the geological objective of the well is a potential

oil or gas trap that is distinctly separate from any trap that has been tested by a preexisting well and what information under (ii) of this subparagraph must be submitted by the explorer after completion, abandonment, or suspension under AS 31.05.030; the commissioner of natural resources shall make that determination within 60 days after receiving all the necessary information from the explorer based on the information received and on other information the commissioner of natural resources considers relevant;

(B) for an exploration well other than a well to explore a Cook Inlet prospect, the well must be located and drilled in such a manner that the bottom hole is located not less than three miles away from the bottom hole of a preexisting well drilled for oil or gas, irrespective of whether the preexisting well has been completed, suspended, or abandoned;

(C) after completion, suspension, or abandonment under AS 31.05.030 of the exploration well, the commissioner of natural resources must determine that the well was consistent with achieving the explorer's stated geological objective."

Page 21, following line 16:

Insert a new bill section to read:

"* **Sec. 35.** AS 43.55.028(e), as amended by sec. 34 of this Act, is amended to read:

(e) The department, on the written application of a person to whom a transferable tax credit certificate has been issued under AS 43.55.023(d) or (v) or former AS 43.55.023(m) or to whom a production tax credit certificate has been issued under AS 43.55.025(f), may use available money in the oil and gas tax credit fund to purchase, in whole or in part, the certificate if the department finds that

(1) the calendar year of the purchase is not earlier than the first calendar year for which the credit shown on the certificate would otherwise be allowed to be applied against a tax;

(2) the applicant does not have an outstanding liability to the state for unpaid delinquent taxes under this title;

(3) the applicant's total tax liability under AS 43.55.011(e), after application of all available tax credits, for the calendar year in which the application is made is zero;

(4) the applicant's average daily production of oil and gas taxable under AS 43.55.011(e) during the calendar year preceding the calendar year in which the application is made was not more than 50,000 BTU equivalent barrels; and

(5) the purchase is consistent with this section and regulations adopted under this section."

Renumber the following bill sections accordingly.

Page 21, following line 26:

Insert a new bill section to read:

"* **Sec. 37.** AS 43.55.028(g), as amended by sec. 36 of this Act, is amended to read:

(g) The department may adopt regulations to carry out the purposes of this section, including standards and procedures to allocate available money among applications for purchases under this chapter and claims for refunds and payments under AS 43.20.046 or 43.20.047 when the total amount of the applications for purchase and claims for refund exceed the amount of available money in the fund. The regulations adopted by the department may not, when allocating available money in the fund under this section, distinguish an application for the purchase of a credit certificate issued under AS 43.55.023(v) or former AS 43.55.023(m), or a claim for a refund or payment under AS 43.20.046 or 43.20.047."

Renumber the following bill sections accordingly.

Page 22, following line 8:

Insert a new bill section to read:

"* **Sec. 39.** AS 43.55.030(e), as amended by sec. 38 of this Act, is amended to read:

(e) An explorer or producer that incurs a lease expenditure under AS 43.55.165 or receives a payment or credit under AS 43.55.170 during a calendar year but does not produce oil or gas from a lease or property in the state during the calendar year shall file with the department on March 31 of the following year a statement, under oath, in a form prescribed by the department, giving, with other information required, the following:

(1) the [EXPLORER'S OR] producer's qualified capital expenditures, as defined in AS 43.55.023, other lease expenditures under

AS 43.55.165, and adjustments or other payments or credits under AS 43.55.170; and

(2) if the explorer or producer receives a payment or credit under AS 43.55.170, calculations showing whether the explorer or producer is liable for a tax under AS 43.55.160(d) or 43.55.170(b) and, if so, the amount."

Renumber the following bill sections accordingly.

Page 26, following line 5:

Insert a new bill section to read:

"* **Sec. 43.** AS 43.55.160(a), as amended by secs. 41 and 42 of this Act, is repealed and reenacted to read:

(a) Except as provided in (b) of this section, for the purposes of

(1) AS 43.55.011(e), the annual production tax value of the taxable oil, gas, or oil and gas subject to this paragraph produced during a calendar year is the gross value at the point of production of the oil, gas, or oil and gas taxable under AS 43.55.011(e), less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil, gas, or oil and gas, as applicable, produced by the producer from leases or properties, as adjusted under AS 43.55.170; this paragraph applies to

(A) oil and gas produced from leases or properties in the state that include land north of 68 degrees North latitude, other than gas produced before 2022 and used in the state;

(B) oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude; this subparagraph does not apply to

(i) gas produced before 2022 and used in the state; or

(ii) oil and gas subject to AS 43.55.011(p);

(C) oil produced before 2022 from a lease or property in the Cook Inlet sedimentary basin;

(D) gas produced before 2022 from a lease or property in the Cook Inlet sedimentary basin;

(E) gas produced before 2022 from a lease or property in the state outside the Cook Inlet sedimentary basin and used in the state;

(F) oil and gas subject to AS 43.55.011(p) produced from leases or properties in the state;

(G) oil and gas produced from a lease or property no part of which is north of 68 degrees North latitude, other than oil or gas described in (B), (C), (D), (E), or (F) of this paragraph;

(2) AS 43.55.011(q), the monthly production tax value of the taxable

(A) oil and gas produced during a month from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas subject to AS 43.55.011(o);

(B) oil and gas produced during a month from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas subject to AS 43.55.011(o);

(C) oil produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the oil taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(D) gas produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the

producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(E) gas produced during a month from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to that gas produced by the producer from that lease or property, as adjusted under AS 43.55.170."

Renumber the following bill sections accordingly.

Page 26, following line 25:

Insert a new bill section to read:

"* **Sec. 45.** AS 43.55.160(e), as amended by sec. 44 of this Act, is amended to read:

(e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer in a calendar year but whose deduction would cause an annual production tax value calculated under (a)(1) [(a)] of this section of taxable oil or gas produced during the calendar year to be less than zero may be used to establish a carried-forward annual loss under AS 43.55.023(b). However, the department shall provide by regulation a method to ensure that, for a period for which a producer's tax liability is limited by AS 43.55.011(j), (k), (o), or (p), any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer for that period but whose deduction would cause a production tax value calculated under (a)(1)(C), (D), (E), or (F) [(a)(3), (4), (5), OR (6)] of this section to be less than zero are accounted for as though the adjusted lease expenditures had first been used as deductions in calculating the production tax values of oil or gas subject to any of the limitations under AS 43.55.011(j), (k), (o), or (p) that have positive production tax values so as to reduce the tax liability calculated without regard to the limitation to the maximum amount provided for under the applicable provision of AS 43.55.011(j), (k), (o), or

(p). Only the amount of those adjusted lease expenditures remaining after the accounting provided for under this subsection may be used to establish a carried-forward annual loss under AS 43.55.023(b). In this subsection, "producer" includes "explorer."

Renumber the following bill sections accordingly.

Page 27, following line 11:

Insert a new bill section to read:

"* Sec. 47. AS 43.55.160 is amended by adding a new subsection to read:

(g) Notwithstanding any contrary provision of AS 43.55.150, for purposes of calculating a monthly production tax value under (a)(2) of this section, the gross value at the point of production of the oil and gas is calculated under regulations adopted by the department that provide for using an appropriate monthly share of the producer's costs of transportation for the calendar year."

Renumber the following bill sections accordingly.

Page 29, following line 28:

Insert a new bill section to read:

"* Sec. 50. AS 43.55.023(p), 43.55.023(q), 43.55.023(r), 43.55.023(s), 43.55.023(t), 43.55.023(u), 43.55.024(i), 43.55.030(g), and 43.55.160(f) are repealed January 1, 2018."

Renumber the following bill sections accordingly.

Page 30, line 2:

Delete "Sections 3, 6, 7, and 26 - 28"

Insert "Sections 4, 10, 12, 42, 44, and 46"

Page 30, line 4:

Delete "Sections 4 and 25"

Insert "Sections 6 and 41"

Page 30, line 6:

Delete "Sections 8, 11, 13, and 14 of this Act and AS 43.55.023(a)(1), as amended by sec. 8"

Insert "Sections 14, 20, 23, and 25 of this Act and AS 43.55.023(a)(1), as amended by sec. 14"

Page 30, line 8:

Delete "Sections 9, 10, 12, 15, and 24"
Insert "Sections 16, 18, 21, 27, and 40"

Page 30, following line 9:

Insert new subsections to read:

"(e) Sections 5, 7, 8, 11, 13, 43, and 45 of this Act apply to oil and gas produced after December 31, 2017.

(f) Sections 15, 17, 19, 22, 24, and 26 of this Act and AS 43.55.023(v), enacted by sec. 27 of this Act, apply to expenditures incurred after December 31, 2017."

Page 30, line 14:

Delete "sec. 29"

Insert "sec. 48"

Page 30, line 27:

Delete "Sections 4, 11, 13, 14, 21, 25, and 30 of this Act and AS 43.55.023(a)(1), as amended by sec. 8"

Insert "Sections 6, 20, 23, 25, 34, 41, and 49 of this Act and AS 43.55.023(a)(1), as amended by sec. 14"

Page 30, line 29:

Delete "Sections 1, 3, 6, 7, 9, 10, 12, 15, 17, 18, 24, and 26 - 28 of this Act"

Insert "Sections 1, 4, 10, 12, 16, 18, 21, 29, 30, 40, 42, 44, 46, and 50 of this Act, and AS 43.55.023(p) - (u), enacted by sec. 27 of this Act,"

Page 30, following line 30:

Insert a new bill section to read:

"* **Sec. 57.** Sections 2, 5, 7, 8, 11, 13, 15, 17, 19, 22, 24, 26, 33, 35, 37, 39, 43, 45, 47, and 51 of this Act, and AS 43.55.023(v), enacted by sec. 27 of this Act, take effect January 1, 2018."

Renumber the following bill section accordingly.

Page 30, line 31:

Delete "sec. 37"

Insert "secs. 57 and 58"

CHAIR GIESSEL objected for discussion purposes.

SENATOR FRENCH said Amendment 2 was another lengthy amendment that sunsets provisions of CSSB 21() on December 31, 2017 unless some action is taken by the legislature. On that sunset date the law would refer to the current tax law, ACES. Putting this sunset on the books ahead of time will alleviate the legislature from having to change the tax law if the changes don't work. In his experience it is extremely difficult to change oil tax laws, whether you want to raise them or lower them.

CHAIR GIESSEL asked for a roll call vote on Amendment 2.

A roll call vote was taken: Senator French voted yea; Senators Micciche, Fairclough, McGuire, Dyson and Giessel voted nay. Therefore, Amendment 2 failed on a 1:5 vote.

SENATOR FRENCH moved Amendment 3.

28-GS1647\N.1
Bullock

AMENDMENT 3

OFFERED IN THE SENATE BY SENATOR FRENCH
TO: CSSB 21(RES), Draft Version "N"

Page 26, line 28, following "section,":

Insert "for the first seven years immediately following the commencement of production subject to tax under AS 43.55.011(e),"

CHAIR GIESSEL objected for purposes of discussion.

4:43:30 PM

SENATOR FRENCH explained that this amendment simply puts a seven-year time limit on the application of the new GRE that in the CS is increased to 30 percent. He felt the new oil under the GRE is defined very broadly and could encompass some fields already under development and production: three of those are Pt. Thomson, Oooguruk and Nikiatchuq. The amendment would give adequate time for a company to make back its original investment before paying full taxes on production.

To illustrate how it would work, he took a slide from a Pioneer presentation of a few days ago and drew green lines to show when the GRE would start, which is when the first production begins and to when it would stop seven years out, just as the

production starts to crest and tail off. Most of the economic impact of the GRE will be used in those first few years to get a field off the blocks he reasoned. Once it is online and profitable, it no longer needs that boost.

SENATOR FRENCH said the other thing he was concerned about was if they were careful, they will find a world fairly soon where all the oil being produced on the North Slope would be oil produced with a GRE. It would be a reduced-tax oil that will slowly swallow up the rest of the "legacy oil" with very significant impacts to the state treasury. He encouraged them to think about an eight or nine year exclusion if they didn't like the seven years, because this aspect of the lax law needs to be contained.

SENATOR MICCICHE said he wanted to hear Mr. Pawlowski comment on that.

CHAIR GIESSEL said she wanted to comment first and referred back to a DOR letter, dated February 7, 2013, that came to a member of the TAPS Throughput Committee. This exact question was posed on page 5 as question 14:

The gross revenue exclusion is forever. Was there consideration of doing a seven-year exclusion as we did with the Middle Earth legislation last session.

The DOR answered:

Yes, consideration was given to a seven-year GRE as well as the life of recovery GRE that is proposed in SB 21. Including the GRE for the life of recovery enhances the investment metrics relative to a seven-year GRE. It also encourages continuing investment and recovery from new fields and removes the potential that oil recovery may be inefficiently front-loaded in a new project.

[4:47:36 PM](#)

CHAIR GIESSEL said they are looking at creating a tax structure that is durable for the long term; so investors coming in know that this GRE will be in place for all new oil as they go forward. So putting an expiration date on it will affect the investment metrics.

MR. PAWLOWSKI said that letter adequately described the basic issue the department considered in looking at this. The GRE was targeted specifically to units that were formed after January 1, 2013 trying to be very careful to limit them to new oil or new

participating areas (PA). They heard testimony that that was too limited and the committee considered applying it to expansions of PAs and for all the things that can be considered new oil, and so, the language in the CS puts the burden on industry to prove that the expansion is indeed new oil for qualification of the GRE. The key is that the GRE does not exist in isolation. It is intended to offset both the higher base rate in the CS and the removal of monetized credits. That balance between the state's exposure to an up-front credit obligation in exchange for the long-term returns - looking at the level of production that the state is experiencing today - created some of the impetus behind the overall balance that the governor tried to strike and that the committee is trying to advance.

[4:49:40 PM](#)

SENATOR MICCICHE said the only reason they are in this discussion is a focus on the future state treasury. The benefits of SB 21 leading to competitiveness are elimination of punitive progressivity and GREs that are directed toward production. The real worry was the ACES credits that were coming out of the treasury and not necessarily going to any real production.

MR. PAWLOWSKI said in addition while taking a step back from whether they are or not directed to production, the added value of the credits based on spending when balanced against a tax system that is based on price, really leads to a situation where - whether it's for an incumbent producer or a new entrant - a large credit liability was created to offset a high tax rate. So, the goal was to get to being competitive in a way that doesn't risk the treasury upfront while providing the predictable environment for companies to make the investments that are going to grow production.

SENATOR MICCICHE clarified that ACES' credits didn't lead to production and the GREs are designed to ensure production.

MR. PAWLOWSKI agreed.

[4:51:57 PM](#)

SENATOR FAIRCLOUGH said she would be voting against this now, but it's an interesting proposal to consider for the long term and our children's future. She said she would make sure the conversation was carried forward in the Senate Finance Committee of which she was a member.

CHAIR GIESSEL added that they were planning on sending a letter of intent forward with the ideas that have been discussed that may not have been caught in the CS and this would be among them.

CHAIR GIESSEL asked for a roll call.

A roll call vote was taken: Senator French voted yea; Senators McGuire, Fairclough, Dyson, Micciche, and Senator Giessel voted nay. Therefore, Amendment 3 failed on a 1:5 vote.

[4:53:41 PM](#)

SENATOR FRENCH moved Amendment 4.

28-GS1647\N.4
Nauman/Bullock

AMENDMENT 4

OFFERED IN THE SENATE BY SENATOR FRENCH
TO: CSSB 21(RES), Draft Version "N"

Page 1, line 11, following "**Board;**":

Insert "**relating to the financing of oil processing facilities on the North Slope by the Alaska Industrial Development and Export Authority;**"

Page 29, following line 26:

Insert new bill sections to read:

*** Sec. 30.** AS 44.88.080 is amended by adding a new paragraph to read:

(32) to acquire an interest in a project as necessary or appropriate to provide working or venture capital for an oil or natural gas development project under AS 44.88.800 and 44.88.810, whether by purchase, gift, or lease.

*** Sec. 31.** AS 44.88 is amended by adding new sections to read:

Article 9A. Interest in Oil and Gas Resources.

Sec. 44.88.800. Acquisition of interest in businesses. (a) The authority may acquire, through purchase or other means, an interest in a lease held by a corporation or other business entity in an oil or natural gas field in the state that has been explored, but only if the authority determines the leaseholder has made reasonable efforts to obtain financing from the private sector to develop the lease and those efforts have, in whole or part, been unsuccessful. The

authority shall exercise due diligence in acquiring a leasehold interest under this section.

(b) If the authority acquires a leasehold interest under this section, the authority may use the authority's assets, as appropriate, to aid in the development of the oil or natural gas field in which the business entity has a leasehold interest.

Sec. 44.88.810. Alaska resource development fund.

(a) The Alaska resource development fund is established in the authority for the purpose of developing oil and gas resources, and consists of appropriations to the fund. The authority shall manage the fund and may create separate accounts within it. Income of the fund or of enterprises of the authority shall be separately accounted for and may be appropriated to the fund.

(b) The authority may use money from the fund to carry out the purpose of the fund set out in (a) of this section.

* **Sec. 32.** AS 44.88.900(10) is amended to read:

(10) "project" means

(A) a plant or facility used or intended for use in connection with making, processing, preparing, transporting, or producing in any manner, goods, products, or substances of any kind or nature or in connection with developing or utilizing a natural resource, or extracting, smelting, transporting, converting, assembling, or producing in any manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and materials, products, or substances of any kind or nature;

(B) a plant or facility used or intended for use in connection with a business enterprise;

(C) commercial activity by a business enterprise;

(D) a plant or facility demonstrating technological advances of new methods and procedures and prototype commercial applications for the exploration, development, production, transportation, conversion, and use of energy resources;

(E) infrastructure for a new tourism destination facility or for the expansion of a tourism destination facility; in this subparagraph, "tourism destination facility" does not include a hotel or other overnight lodging facility;

(F) a plant or facility, other than a plant or facility described in (D) of this paragraph, for

the generation, transmission, development, transportation, conversion, or use of energy resources;

(G) a plant or facility that enhances, provides for, or promotes economic development with respect to transportation, communications, community public purposes, technical innovations, prototype commercial applications of intellectual property, or research;

(H) a plant or facility used or intended for use as a federal facility, including a United States military, national guard, or coast guard facility;

(I) infrastructure for an area that is designated as a military facility zone under AS 26.30;

(J) development of an oil and gas field by providing working or venture capital in exchange for an equity interest;"

Renumber the following bill sections accordingly.

Page 30, line 27:

Delete "30"

Insert "33"

Page 30, line 31:

Delete "sec. 37"

Insert "sec. 40"

CHAIR GIESSEL objected for discussion purposes.

SENATOR FRENCH explained that this would come under the heading of state direct financial investment (SDFI). Two years ago he took part in a week-long tour of Norway put on by the Institute of the North that was attended by many policy makers. He found some parallels between their system and ours and the point of contact went back to Governor Wally Hickel who loved to tell the story about how he made an X in the ground and told the oil companies that if you don't drill here I will, the basic idea being that at some level the state needs to take on management of its own resources. But Senator French said he didn't believe Alaska would ever have a state run oil company, but he did think Alaska would see more state direct financial investment, and that is what this amendment was designed to help further. Mr. Keithley spoke of this in glowing terms. It would help align the state and producers in a way that few other ideas do; you're sitting right next to the industry as an investor putting

dollars to work on projects that might not otherwise be achievable.

SENATOR FRENCH said testimony had indicated that it takes all three partners to agree to an investment on the North Slope and if one partner says no the investment doesn't go forward. New leases could be structured such that the state could take the place of the partner that doesn't want to invest. He brought that example up, because BP might be hard pressed to just pay the claims that result from the Gulf disaster in the trial that is just beginning and the awards could run in the tens of billions, not to mention being able to fully invest on the North Slope no matter what our tax rate is.

SENATOR FRENCH said this idea had already been seen through AIDEA helping Brooks Range develop its road and production facility and in Cook Inlet through the purchase of a jack up rig. This takes the idea one step forward by allowing AIDEA to actually take an equity position in the investment so the state is not just a bank but a partner who is co-investing. He felt that sooner or later Alaska would realize the best way to grow the Alaskan oil industry was to use state dollars to make investments happen here.

CHAIR GIESSEL said she had contacted AIDEA and asked about having an equity interest in a development project and it was pointed out that an equity interest owner faces a substantial risk if there is a bankruptcy and that would also be a complicating factor in what is otherwise a tax bill. However, she had noticed the SB 23 addresses the financing functions of AIDEA and might be a more appropriate place for this kind of expansion of their authority and activity.

SENATOR MICCICHE pointed out that AIDEA currently has the ability to invest on a limited basis in projects by helping with infrastructure, the kinds of things he thought were appropriate for our western government, but he didn't think that type of discussion should happen with SB 21.

CHAIR GIESSEL asked for a roll call on Amendment 4.

A roll call vote was taken: Senator French voted yea; Senators McGuire, Micciche, Dyson, Fairclough and Giessel voted nay. Therefore, Amendment 4 failed on a 1:5 vote.

[5:00:23 PM](#)

At ease from 5:00 to 5:31 p.m.

[5:31:05 PM](#)

CHAIR GIESSEL reconvened the meeting at 5:31 p.m. and opened public testimony.

DEBORAH BROLLINI, speaking on her own behalf and that of her children, Anchorage, Alaska, supported the CSSB 21(), and especially establishing the Competitive Review Board in order to make sound business decisions and take the politics out of the process. She hoped it would help lawmakers make long term decisions that will provide her children with a future they deserve.

SENATOR MCGUIRE said that Ms. Brollini was one of her constituents and truly speaks on behalf of herself and her children. She thanked Ms. Brollini for her support and for her blog on Alaska energy issues.

[5:35:01 PM](#)

At ease from 5:35 to 5:38 p.m.

[5:38:05 PM](#)

KARL WESTLAND, speaking on his own behalf, Anchorage, Alaska, opposed SB 21 and preferred SB 50. Oil companies need incentives to continue work on the North Slope and not just give them a blank check and say Alaska should not benefit in the high oil prices.

CHAIR GIESSEL invited Mr. Warren from Kenai, Alaska, representing himself, to submit his written comments since he could not be heard by phone.

CHAIR GIESSEL, finding no further comments, closed public testimony on SB 21.

[5:41:15 PM](#)

At ease from 5:41 p.m. to 5:42 p.m.

[5:42:55 PM](#)

There being no further business to come before the committee, Chair Giessel adjourned the Senate Resources Standing Committee at 5:42 p.m.