Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version:	SCS CSHB 111(RES)
Fiscal Note Number:	4
(S) Publish Date:	5/1/2017

Identifier: HB111SCS(RES)-DOR-TAX-04-28-17
Title: OIL & GAS PRODUCTION TAX;PAYMENTS;CREDITS
Sponsor: RESOURCES
Requester: Senate Resources

Department: Department of Revenue
Appropriation: Taxation and Treasury
Allocation: Tax Division
OMB Component Number: 2476

Expenditures/Revenues
Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2018**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**	**FY 2023**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Fund Source (Operating Only)

None							
Total	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

1250 UGF Rev (UGF)	(55,000.0)		(30,000.0)	(20,000.0)	(30,000.0)	(45,000.0)	(35,000.0)
Total	**(55,000.0)**	**0.0**	**(30,000.0)**	**(20,000.0)**	**(30,000.0)**	**(45,000.0)**	**(35,000.0)**

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 1,500.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS
Does the bill direct, or will the bill result in, regulation changes adopted by your agency? yes
If yes, by what date are the regulations to be adopted, amended or repealed? 01/01/18

Why this fiscal note differs from previous version:
Revised to reflect Senate Resources committee substitute.

Prepared By:	Ken Alper, Director	Phone:	(907)465-8221
Division:	Tax Division	Date:	04/28/2017 09:37 PM
Approved By:	Jerry Burnett, Deputy Commissioner	Date:	04/28/2017
Agency:	Department of Revenue		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

Analysis

Bill Background

This legislation would make multiple changes to Alaska's oil and gas production tax and tax credit statutes. Various credits have been added to statute since 2003, with state repurchase beginning in 2007. Through the end of FY 2016, about $8 billion in tax credits have been received by companies. This includes both credits used against tax liability and credits repurchased by the state; it also includes activity on both the North Slope and other areas of the state.

According to the sponsors, this legislation builds on work done in 2016 with the passage of HB247. Those changes, combined with the sunset of most exploration credits that also occurred in 2016, reduces the state's estimates of future credit demand. Nevertheless, the volume of tax credit certificates eligible for state purchase continues to grow. If annual appropriations continue according to the statutory formula, the current forecast indicates $1.6 billion in purchasable credits outstanding in 2026. Additionally, there have been several large discoveries recently announced on the North Slope; if any of these were sanctioned and built it could result in additional billions in credit liability that under current law could be payable far in advance of any additional tax or royalty revenue from the development.

With the changes made in this legislation, the state will cease offering transferrable or cashable tax credit certificates for work done on the North Slope. Instead, companies would be expected to carry forward their losses until such time as they owe a tax liability to the state, at which time they could be used to offset the company's oil and gas production taxes. Carried forward losses would be eligible for an "uplift," or interest, to account for the time value of money. Additional changes are made to provide expanded ability for companies to use or transfer credit certificates to offset tax liabilities.

Summary of Revenue Impact

The bill's fiscal impacts can be divided into two categories: increases or decreases to revenue (taxes), and reductions in the demand for tax credit repurchases (appropriations). The cover page table only includes the revenue items as it is impossible to predict future appropriations. Savings due to reductions in demand for future appropriations to purchase tax credits are noted in the summary table on page 4. The table shows the impact at forecasted oil prices. Additionally, the bar charts on page 5 examine the average total impact at a wide range of possible oil prices.

The initial revenue impact from this bill would be concentrated in changes to credits, in which circumstances, are able to be used to reduce taxes below the 4% gross minimum tax "floor." At forecasted prices, where we are not anticipating operating losses from major producers the base production tax and the per-taxable barrel credit. Therefore, the primary revenue impact of the bill is the specific allowance of certain credits under AS 43.55.024 to be used below the "floor." This results in revenue reductions of between $20 and $55 million per year during the fiscal note period.

Also, a small indeterminate amount of revenue, both higher and lower, would come from the elimination of the "zero interest rate" provision after three years of production tax delinquency as well as a reduction in the interest rate for those first three years.

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 111

Analysis

Implementation Cost

The changes anticipated in this bill will require somewhat substantial reprogramming of the Tax Revenue Management System and Revenue Online tax portal. Based on the changes in how credits are used, notably the connection created to Alaska's corporate income tax, we anticipate the programming costs to somewhat exceed the needs created by the passage of HB247 in 2016. Therefore, we are requesting a one-time appropriaton of $1,500,000 to accomplish the various programming and testing needs to implement the changes. We do not anticipate any additional costs to administer the tax program. There will also be a need for substantial amendments to existing regulations to fully implement the changes.

Detail of Specific Provisions

1) Eliminates the Carried Forward Annual Loss Credit (also known as "NOL") credit, which is currently a 35% rate for the North Slope and a 15% rate in "middle earth." The change is effective 1/1/18, and would eliminate or reduce the future liability from this credit. Instead of the credit, North Slope taxpayers will be able to carry forward their excess lease expenditures to be used against future taxes. For companies without production in the year a loss is incurred, the value of carried forward expenditures is increased, or "uplifted" by 10% per year for up to seven years. This change would not impact the existing credit certificates, estimated at about $900 million that will be in company hands at the end of 2017 given no further action.

2) Allows for the small producer credit (AS 43.55.024(c)) and the $5 per barrel credit for GVR-eligible new oil production (AS 43.55.024(i)) to be used below the minimum tax even if the sliding scale per barrel credit is also used by that taxpayer.

3) The tax credit fund in AS 43.55.028 is eliminated. Instead, future tax credit repurchases will be made by ad hoc appropriation. Once the pool of credits that originate from before the effective date are paid, the only new cashable credits would be certain "middle earth" credits as well as corporate income tax-based credits (LNG storage, refinery infrastructure) that will sunset in the next several years.

4) Tax credits can be used to offset tax obligations from a prior year, that result due to an amended tax return or assessment. There are certain limitations on this provision due to the constitutional dedication of revenue resulting to an administrative proceeding to the Constitutional Budget Reserve Fund.

5) The interest rate for delinquent taxpayers is reduced (for the first three years) from seven percent above the federal discount rate to three percent above, compounded quarterly. After three years, the new rate remains rather than reverting to zero. This interest rate change is extended to all taxes administered by the Department of Revenue.

Revised 4-25-17 by Dept. of Revenue

Provisions in SCS CSHB 111 (RES) \P and their Estimated Fiscal Impact based on Spring 2017 Forecast ($millions) - FC PRICE

Description of Provision	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
1. Effective 1/1/18, Operating loss credit eliminated for North Slope and replaced with carry-forward lease expenditures provision. A company may carry forward 100% of North Slope lease expenditures not deducted against tax, and can use to reduce future tax down to minimum tax. Carry-forwards earned by non-producing companies earn uplift of 10% annually for up to 7 years.	$0	$0	$0	$0	-$10	-$5	-$5	$0	$0	$0
2. Effective 1/1/18, Operating loss credit eliminated for Middle Earth.	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
3. Companies utilizing per-taxable-barrel credits for non-GVR production may also use small producer credits or per-taxable-barrel credits for GVR production to reduce liability below minimum tax effective 1/1/18.	-$55	-$15	-$10	-$20	-$30	-$30	-$15	$5	$25	$25
4. Eliminate Oil and Gas tax credit fund; appropriation to repurchase credits earned prior to 1/1/18 for companies with <50,000 barrels per day production (assume all credits are funded); eliminate all future repurchases except for refinery credits and LNG storage facility credit.	$0	-$10	-$10	-$10	-$10	-$10	-$5	-$5	-$5	-$5
5. Tax credit certificates (including purchased certificates) may be used to offset a liability or assessment for prior-year taxes, effective immediately. Allow exploration credits (including transferred credits) to be used against corporate income tax liability.	Indeterminate - Net neutral when combined with budget impact									
6. Interest on all delinquent taxes changed to 3 percent over Federal Reserve rate, effective 1/1/18.	Indeterminate									
Additional impact of implementing above provisions together vs standalone.	$0	-$5	$0	$0	$5	$10	$5	$5	$0	$0
Total Revenue Impact	**-$55**	**-$30**	**-$20**	**-$30**	**-$45**	**-$35**	**-$20**	**$5**	**$20**	**$20**
A. Budget impact of North Slope operating loss credit elimination and carry-forward lease expenditures provisions effective 1/1/18.	$0	$45	$135	$175	$150	$140	$140	$145	$145	$145
B. Budget impact of Middle Earth operating loss credit elimination effective 1/1/18.	$0	$0	<$5	<$5	<$5	<$5	<$5	<$5	<$5	<$5
B. Budget impact of companies utilizing per-taxable-barrel credits for non-GVR production may also use certain other credits to reduce liability below minimum tax effective 1/1/18.	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
C. Budget impact of eliminating tax credit fund, appropraition for outstanding credits, and adding repurchase option for CIT credits.	$0	$10	$10	$10	$10	$10	$5	$5	$5	$5
D. Budget impact allowing tax credit certificates to offset liability or assessment for prior-year taxes, and allowing exploration credits to be used against corporate income tax liability.	Indeterminate - Net neutral when combined with revenue impact									
E. Budget impact of interest changes, effective 1/1/18.	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Additional impact of implementing above provisions together vs standalone	$0	$5	$0	$0	$0	$0	$5	$0	$0	$0
Total Budget Impact	**$0**	**$60**	**$145**	**$185**	**$160**	**$150**	**$150**	**$150**	**$150**	**$150**
Total Fiscal Impact - (does not include potential changes in investment)	**-$55**	**$30**	**$125**	**$155**	**$115**	**$115**	**$130**	**$155**	**$170**	**$170**

Tax impact of carry-forward lease expenditure balances or credits - current law	$63	$55	$55	$55	$55	$55	$55	$49	$26	$0
Tax impact of carry-forward lease expenditure balances or credits - proposed	$105	$275	$465	$625	$770	$935	$1,120	$1,310	$1,525	$1,760
Change in year-end balance due to proposal	**$42**	**$220**	**$410**	**$570**	**$715**	**$880**	**$1,065**	**$1,261**	**$1,499**	**$1,760**

NOTE: The fiscal impact of this proposal is an estimate based on the Spring 2017 revenue forecast. **Estimates shown here are draft / preliminary based on our interpretation of possible changes, and do not include any changes in company behavior as a result of this proposal. We reserve the right to make modifications to estimates for any forthcoming fiscal notes.**

Fiscal Impact of SCS CSHB111(RES) \P at Various Prices