

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

March 1, 2017

3:30 p.m.

MEMBERS PRESENT

Senator Cathy Giessel, Chair
Senator John Coghill, Vice Chair
Senator Natasha von Imhof
Senator Bert Stedman
Senator Shelley Hughes
Senator Kevin Meyer
Senator Bill Wielechowski

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 60

"An Act relating to sport fishing, hunting, or trapping licenses, tags, or permits; relating to penalties for certain sport fishing, hunting, and trapping license violations; relating to restrictions on the issuance of sport fishing, hunting, and trapping licenses; creating violations and amending fines and restitution for certain fish and game offenses; creating an exemption from payment of restitution for certain unlawful takings of big game animals; relating to commercial fishing violations; allowing lost federal matching funds from the Pittman - Robertson, Dingell - Johnson/Wallop - Breaux programs to be included in an order of restitution; adding a definition of 'electronic form'; and providing for an effective date."

- MOVED SB 60 OUT OF COMMITTEE

SENATE BILL NO. 44

"An Act relating to information concerning oil and gas taxes, including information about expenditures that must be provided to claim an oil and gas production tax credit for those expenditures; relating to the disclosure of that information; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 60

SHORT TITLE: FISH & GAME: OFFENSES;LICENSES;PENALTIES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/15/17	(S)	READ THE FIRST TIME - REFERRALS
02/15/17	(S)	RES, JUD, FIN
02/27/17	(S)	RES AT 3:30 PM BUTROVICH 205
02/27/17	(S)	Heard & Held
02/27/17	(S)	MINUTE(RES)
03/01/17	(S)	RES AT 3:30 PM BUTROVICH 205

BILL: SB 44

SHORT TITLE: OIL & GAS TAX CREDIT REPORTING

SPONSOR(s): GARDNER

02/01/17	(S)	READ THE FIRST TIME - REFERRALS
02/01/17	(S)	RES, FIN
03/01/17	(S)	RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

DICK ROHRER, representing himself
Kodiak, Alaska

POSITION STATEMENT: Supported SB 60.

AL BARRETTE, representing himself
Fairbanks, Alaska

POSITION STATEMENT: Supported SB 60.

BRUCE DALE, Director
Division of Wildlife Conservation
Alaska Department of Fish and Game (ADF&G)
Palmer, Alaska

POSITION STATEMENT: Commented on SB 60.

MAJOR BERNARD CHASTAIN, Deputy Director
Alaska Wildlife Troopers
Alaska Department of Fish and Game (ADF&G)
Anchorage, Alaska

POSITION STATEMENT: Commented during the discussion of SB 60.

SENATOR GARDNER
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 44.

SAMANTHA HARRIS, staff to Senator Gardner
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Commented on SB 44 for the sponsor.

EMILY NAUMAN, Legislative Attorney
Legislative Legal Services
Legislative Affairs Agency
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Commented on SB 44.

RANDALL HOFFBECK, Commissioner
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Comment on SB 44.

LENNIE DEES, Audit Master
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Commented on SB 44.

RICHARD RUGGIERO, Legislative Consultant
Castle Gap Advisors
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Commented on SB 44.

ACTION NARRATIVE

[3:30:19 PM](#)

CHAIR CATHY GIESSEL called the Senate Resources Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Coghill, Stedman, Von Imhof, Wielechowski, Hughes, and Chair Giessel. Senator Meyer joined the meeting shortly thereafter.

SB 60-FISH & GAME: OFFENSES;LICENSES;PENALTIES

[3:30:43 PM](#)

CHAIR GIESSEL announced consideration of SB 60 and opened public testimony. She said SB 60 was proposed by the State Troopers, Fish and Wildlife Enforcement, and Alaska Department of Fish and Game. It would increase the fines for violations.

DICK ROHRER, representing himself, Kodiak, Alaska, supported SB 60. However he questioned if a violation in other countries like Mexico and Canada should be included in section 2. He liked the opportunity in section 3 for someone to be able to show their license later when they don't have it on them. He fully supported the increased fees in section 17 and especially the qualifier in section 18 where if a person makes a mistake and turns it in immediately they are not subject to those fines.

CHAIR GIESSEL thanked him and noted that the bill has another referral to the Judiciary Committee, and three of those members are on this committee and they will take his comments forward.

AL BARRETTE, representing himself, Fairbanks, Alaska, supported SB 60, adding that all of his questions were answered by Major Chastain. However, he asked the committee to consider removing the taxidermy license requirement on page 2, line 6. He is not opposed to licenses, but he is opposed to redundant licensing. He has a business license for a fur tannery and now he is also now being required to have this taxidermy license, which is a duplicate of the ADF&G license and costs \$100 a year. He doesn't know where that money goes or what it is used for. He knows it doesn't directly affect any taxidermist or the industry in this state. He suggested they contact other taxidermists to get support for that amendment.

CHAIR GIESSEL thanked him and said she hadn't heard from any other taxidermists. She asked Mr. Dale to respond to the comments about the taxidermy license.

[3:35:04 PM](#)

BRUCE DALE, Director, Division of Wildlife Conservation, Alaska Department of Fish and Game (ADF&G), Palmer, Alaska, answered that they did some research on the taxidermy license and found that the money goes to the general fund and is not directly returned to the department for any special purpose. The licensing requirement provides a statutory basis for regulations relative to taxidermy and taxidermists. At this time those regulations say that sale of game trophies is illegal. However, licensed taxidermists can get a permit from the department - if they can show they have tried to contact the owner if he hasn't paid for it or picked it up after six months - to sell the trophy which they otherwise wouldn't be able to do. This type of permit is used 9 or 10 times a year by licensed taxidermists and involves a pretty insignificant amount of time, about a day or a day and a half.

MR. DALE said the taxidermist license is \$200 every two years and the program takes in about \$13,000 annually (to the general fund). The amount of the licensing is more than what it costs to administer the regulations. But the license itself does provide the basis by which the board or commissioner can make regulations for taxidermy.

CHAIR GIESSEL thanked him and reiterated that the bill will move to the Judiciary Committee where the chair, Senator Coghill, would address the issue.

SENATOR COGHILL said he would probably look at it in the context of what other places have a permit or licensing requirement and still have to get a business license.

CHAIR GIESSEL, finding no further comments, closed public testimony.

SENATOR STEDMAN said it seems like the double increase in fines might be justified by inflation since they were last set in 1988, but doubling them will not stop commercial fishermen from violating. It seems to be just another penalty added to a long list of other actions that can be taken against them. He wanted the Judiciary Committee to look at the impact of these fines on everyone, especially commercial fishermen.

CHAIR GIESSEL said along with that issue, they talked about the discretion given to the prosecutor in terms of the level of discipline. That is also a Judicial Committee issue.

MAJOR BERNARD CHASTAIN, Deputy Director, Alaska Wildlife Troopers, Alaska Department of Fish and Game (ADF&G), Anchorage, Alaska, said he would be happy to talk to the Judiciary Committee about the commercial fishing strict liability penalties and with Senator Stedman if he has additional questions.

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SENATOR COGHILL moved to report SB 60, version A, from committee with individual recommendations and attached fiscal note(s). There were no objections and it was so ordered.

[3:41:45 PM](#)

At ease

SB 44-OIL & GAS TAX CREDIT REPORTING

[3:43:41 PM](#)

CHAIR GIESSEL announced consideration of SB 44, sponsored by Senator Gardner. Since the State of Alaska has been offering incentives to various industries there has been a constant tension between the public's right to know how public money is being spent and the need for those investments to not be compromised by undermining the competitiveness of those decisions. She welcomed Senator Gardner.

SENATOR GARDNER, sponsor of SB 44, Alaska State Legislature, Juneau, Alaska, said this measure is about transparency in how state funds are used. If they want to support and ensure a continuing effort for the state to participate in supporting and promoting resource development in oil and gas fields, they have to understand what the state's investments have done in the past and what they are doing now, where efforts are being effective and where money might just be poured down a hole. The first step is to understand which companies are getting how much and in broad strokes what they are doing with it. She did not want any information of a competitive nature or for people to reveal things they don't want other companies to know about. She is interested in how much money a company claimed from the state for what they are doing and how it is being spent.

[3:47:21 PM](#)

SAMANTHA HARRIS, staff to Senator Gardner, Alaska State Legislature, Juneau, Alaska, began a sectional analysis of SB 44.

Section 1 amends statutes dealing with confidentiality and exemptions of that confidentiality. This section expands current exemptions to provide information like a description of an expenditure, its purpose, and the lease or property for which that expenditure was incurred. It would allow the Department of Revenue (DOR) to collect that information and share it.

[3:48:30 PM](#)

Section 2 expands language that was added last year under HB 247 that requires disclosure of cash credits. It requires more information regarding non-cash credits like credit certificates purchased by the department in the preceding calendar year, the name of each person or department for which a tax credit was issued, the aggregate amount of the tax credit certificates purchased from the person in the preceding calendar year, and information submitted during the previous calendar year.

[3:49:10 PM](#)

Section 3 amends existing statute concerning tax return information from oil and gas explorers and producers that are producing oil and gas, asking that they now report to the DOR a description of their expenditure, and the purpose for the lease or property for which it was incurred.

[3:49:34 PM](#)

Section 4 is very similar to section 3 and amends a different area of statute concerning oil and gas producers and explorers that do not produce oil and gas and asks them to provide the same information in section 3.

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Section 5 concerns dates for reports to be made available to the legislature. There could be a date conflict here, because it's convenient for the legislature to receive a report early on in session. But this section asks for a report to be submitted within 10 days of a regular legislature's convening time, and due to the nature of tax information, that isn't available until the end of April. So in section 2, April 30 is the date for information submitted to the department, but it might also be more practical to have the same date for the legislature. However, session might not still be in then. So this issue is up to the discretion of the committee.

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Section 6 provides for an effective date of July 1, 2017. This means if they stick to the first 10 days of a session date, then a report won't be available until January 2019. But using the April 30 date would allow a partial report to be available by April 2018.

CHAIR GIESSEL asked about section 4 that relates to folks who are not producing oil or gas at this time, but are getting credits that aren't cashable.

MS. HARRIS replied that the bill only concerns credits under AS 43.55.023 and .025. while section 4 addresses credits only under .023.

CHAIR GIESSEL said her question was related to explorers that aren't yet producing oil or gas from a lease or property and asked what kind of information they want disclosure of, because some of it could be proprietary.

MS. HARRIS replied that the intent of the bill is not to gain that proprietary information, but just to understand what the

public funds do to increase production of oil and gas. The sponsor is open to changes to make sure that proprietary information is not being shared. The bill packet has an example on how Louisiana collects information and requires their disclosures in broad strokes.

SENATOR VON IMHOF asked if the bill includes different tax credits and net operating losses (NOL).

MS. HARRIS answered yes.

[3:55:45 PM](#)

SENATOR VON IMHOF asked if the sponsor intends to evaluate tax credit effectiveness, and what additional information they are asking for to be able to evaluate that the credits are working.

MS. HARRIS answered that the sponsor feels that gaining the description of the expenditure and what it is going towards will help in the assessment.

SENATOR VON IMHOF said she suspects it might play out this way: If she gets a \$1,000 credit in cash, she could either spend it on phone, rent, gas, utilities, whatever; she kind of pools it with the money she already has to spend on her collective expenditures. She asked how that is any different than a rig, a road, a payroll, permits, or whatever it may be. These companies can say they have earmarked the credit for a rig or that they have used the money for all the things they need in order to explore this new area. It's hard to sometimes qualify and she didn't know if they would get exactly what the sponsor is asking for.

MS. HARRIS said the sponsor understands the concern, but the intent is that the information is helpful, and this is just one way to approach it.

CHAIR GIESSEL said she would invite Commissioner Hoffbeck to comment it.

SENATOR COGHILL asked, since sections 3 and 4 are prescriptive, why is the language on page 2, line 27, - under a regulation adopted by the department - necessary.

[3:58:19 PM](#)

EMILY NAUMAN, Legislative Attorney, Legislative Legal Services, Legislative Affairs Agency, Alaska State Legislature, Juneau, Alaska, answered that the intent is to give the department some

flexibility in the type and nature of information that would be collected under the new and expanded language, but the exact intent of that language belongs with the sponsor.

SENATOR COGHILL recapped that the bill is prescriptive and asked what the department might use that flexibility for.

SENATOR WIELECHOWSKI said when he does his taxes it's a pain to itemize the deductions, but he doesn't have to take them. He looks at this the same way: if you don't want to take advantage of billions of dollars in tax credits, you don't have to, but if you do want to take advantage of billions of dollars in public money, you simply have to write down what you used it for.

[4:00:27 PM](#)

MS. HARRIS said that is correct. The intent of this legislation is that because these are public funds, the sponsor thinks there should be some accountability.

[4:00:52 PM](#)

CHAIR GIESSEL commented that no single company gets billions in a tax credit; it's more like millions and that is small change in these types of developments.

SENATOR WIELECHOWSKI asked how much in net operating losses are being claimed in 2018.

MS. HARRIS said she didn't have that on the top of her head, but could look through her notes.

SENATOR WIELECHOWSKI said his understanding is that about \$8 billion in tax credits have been paid out in recent years.

MS. HARRIS said that is the figure she has as well, and it was provided to members in the bill packet on page 29 of a DOR presentation.

CHAIR GIESSEL asked for the timeframe involved in the \$8 billion.

MS. HARRIS replied that figure is from FY2007-2016.

CHAIR GIESSEL asked if Ms. Harris had the amount of revenue that the State of Alaska appreciated during that same timeframe.

MS. HARRIS said she didn't have that information at her fingertips.

4:02:35 PM

RANDALL HOFFBECK, Commissioner, Department of Revenue, Juneau, Alaska, said the genesis of what SB 60 is trying to accomplish is that while the Department of Revenue (DOR) gets to see the data, it doesn't have the ability to share it with the decision makers who have to decide whether in fact the tax/credit system is functioning, appropriate, or the most efficient. The bill sponsor has simply said it makes sense for the legislature and the public to have access to at least some level of information as it makes these difficult decisions, although it would never be the level of detail the department gets.

SENATOR COGHILL agreed that they should get the information, but asked if this regulation capacity is necessary in order to make those decisions.

COMMISSIONER HOFFBECK said having regulatory authority is important because sideboards are needed on some things that may not be fully detailed in the legislation. The difficulty that Senator von Imhof was referring to is in how to determine which piece of work is causing the net operating loss. This is not an issue for the non-producers, because whatever they are working on is creating their loss and they don't have anything to write that off against. It becomes more difficult when a producer is producing a certain amount of oil and also maybe developing a field that doesn't have production, and how to parse out which piece of development is creating a loss.

SENATOR COGHILL said language on page 3, line 10, for the credit claim is pretty detailed and "down to the penny" and some expenditures are blended and asked if that was the reason for the regulation or if the language is explicit enough to say "every expenditure blended or not."

COMMISSIONER HOFFBECK answered that it's not intended to get down to the pennies; it's more the idea of for instance spending a billion dollars in capex and opex, but only generating a \$100 million in loss, and what piece that loss is associated with. So, you don't have to report everything on the entire billion dollars, just on the piece that is a loss.

SENATOR COGHILL said detailing every expenditure looks like a lot of work and asked if that could be gotten to a legislature in the kind of timeframe outlined in the bill.

4:08:20 PM

COMMISSIONER HOFFBECK said that language is in section 5 and it could be removed, because an earlier section provides for a different deadline, April, which is doable. Ten days would be very difficult and conflicts with the April language.

SENATOR WIELECHOWSKI said he had asked a question before about tax credit subsidies that went to various producers, and the chair corrected him saying that various companies haven't gotten billions. He wanted to ask if the commissioner could get the committee a list of how much each producer has gotten in tax credits and what the general purpose of those credits were for.

COMMISSIONER HOFFBECK answered that he couldn't provide that information, but that is the reason for this legislation.

SENATOR WIELECHOWSKI commented: "You mean to tell me that me, sitting here as a policy maker, have doled out \$8 billion in public subsidies and I can't even see what those - that money has gone to?"

COMMISSIONER HOFFBECK answered that the department has strict confidentiality statutes and cannot release that information because of them.

[4:09:59 PM](#)

SENATOR STEDMAN said he wanted to put that into context, because he thought the bill was written to target company-specific details. He also had concerns with the general subject matter, because as policy makers, legislators get the Revenue Sources Book from the DOR in the fall. It provides insight into what is going on with revenue projections and expenses and what the department feels would be of interest given the circumstances of the year. Without that they would be totally lost. The Revenue Sources Book is compiled with monthly data from multiple companies and put together and delivered as a one lump sum annual book and legislators don't have the ability to look at all the different components like from the previous questioner: what company got what credit.

One of the frustrating things is that industry has in-depth data on themselves per company in multiple fields and the legislature gets a consolidated number. This is what makes it difficult to set policy. We're talking billions in credits, he said. He's not interested in particular companies, but in particular fields, and surmises that the department would be in a better position to tell them what is working and what isn't.

For an example, Point Thomson where the 20 percent capital tax credit was deleted had billions in development costs and was critical to the State of Alaska to get that field on line and expand the infrastructure. The state was able to the first few years of the tax credits applicable to the development and could see the credit number for Point Thomson. Then a couple of years went by and that kind of all got merged together into one credit number for the North Slope. Now the field is up and running and has a high tariff because it's a long ways away. But the policy makers don't know what it costs the industry and how well it's working.

SENATOR STEDMAN said he is not interested in the credits BP, ExxonMobil, or ConocoPhillips got, but he is interested in what the industry got, so when he has a better feel for what is good, bad, or otherwise policy. The DOR has the information but it is confidential. The commissioner should be able to tell him if a particular policy works for the state or not, so it can be fixed.

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COMMISSIONER HOFFBECK said he concurred; he thought sharing more information with the legislature would be in everybody's best interest. Going forward, HB 247 gave the department the ability to report the name of a company and how much they have collected in credits, but only on the credits for which a check has been written (not certificates) and he couldn't go backwards.

[4:18:20 PM](#)

SENATOR MEYER said industry's concern with transparency is maybe tipping off the competition.

COMMISSIONER HOFFBECK said that was true and legislative consultant Mr. Ruggiero could talk about how other jurisdictions deal with transparency.

SENATOR MEYER said these tax credits have quite a history going back to PPT. The 20 percent credit was in ACES and other credits have been sprinkled in along the way. For the most part, the credits had two objectives: to get smaller companies on to the North Slope and to get more oil in the pipeline. Both objectives have been met. Small companies like Caelus, Hilcorp, Armstrong, Brooks Range, Great Bear and a couple of Native corporations are up there and have some discoveries. The big three are actually putting more oil in the pipeline, as well. So, wouldn't you say that our tax credits are a success?

COMMISSIONER HOFFBECK replied that a lot of things came into play with the new discoveries, and production and credits were part of that, but there may be a more efficient way to apply the credits now. People realize the state has a place in helping incentivize certain activity, but the limited resources it has have to be used as surgically as possible.

SENATOR MEYER said it gets kind of confusing on the per-taxable barrel credit that bumped the base rate of 25 percent up to 35 percent, which in itself would be the highest in the world. But then they said since they weren't going to have progressivity anymore like under ACES they would use a sliding scale so that the higher the price the closer to the 35 percent we get. He asked if that is a tax credit or just part of the production tax.

COMMISSIONER HOFFBECK replied that the administration has been pretty consistent in feeling the per-barrel credit is part of the tax system. It was felt that 35 percent was too high and the credit was a way of offsetting that rate at lower oil prices.

SENATOR MEYER stated that if people try to add the per taxable barrel credit to the total tax credits, that's not really apples and apples.

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COMMISSIONER HOFFBECK replied that their presentations have parsed that credit out from the rest of the credits as a separate line item.

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SENATOR VON IMHOF said in retrospect a more robust evaluation system and process should have occurred many years ago when the tax credits were rolled out. If we are going to be giving away tax payers money, there should be some level of confidence that it is being used in the highest and best use. But we didn't and HB 247 attempted to address that and its first report will happen in April and that should be revealing in what kind of information can be collected.

[4:24:58 PM](#)

COMMISSIONER HOFFBECK remarked that the April report will be enlightening to a point, because it covers only the credits the department has written checks for and it's only since the effective date of the bill. So of the \$700 or \$800 million worth of credits they will see a report on only about \$70 million of them.

CHAIR GIESSEL said having written checks is somewhat constrained by the Governor's veto of the monies to fund those checks.

COMMISSIONER HOFFBECK responded yes and no: yes, the Governor did veto the \$500 million worth of credits last year down to the statutory level for the credits, so it depends on whether the statute was the driver or the appropriation process.

SENATOR COGHILL said he was concerned about the phrase "unless prohibited by law" and that from legislator's perspective they need to know what that actual hurdle is for the unreported things.

COMMISSIONER HOFFBECK replied they would make sure that is part of the report.

CHAIR GIESSEL asked if any federal laws constrain the disclosure by publically traded companies.

COMMISSIOENER HOFFBECK replied that he was not aware of any.

[4:28:48 PM](#)

LENNIE DEES, Audit Master, Department of Revenue, Anchorage, Alaska, added that he didn't know of any laws that would prohibit those disclosures. AS 43.55.890 is what the commissioner referred to as the disclosure law and the fact that that information has to be aggregated in order to disclose it. That would be the law that would impact this section the most.

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CHAIR GIESSEL said her secondary question was related to the net operating losses and if there are any federal laws that regulated publically traded companies and the disclosure of their tax information.

MR. DEES answered that he was not aware of any.

[4:30:03 PM](#)

SENATOR WIELECHOWSKI said some new committee members are unaware of the fact that the legislature had tried to fix this problem several times with legislation, but the bills often haven't gotten a hearing. So, he is glad it is finally getting a hearing. He asked to be provided with a detailed analysis of what percentage of oil in the pipeline is related to tax credits, a detailed analysis of the projects' and fields' net

present values, internal rates of return, and how they are impacted by the \$8 billion in subsidies the state has provided.

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COMMISSIONER HOFFBECK replied they would not be able to provide detailed information on net present value and IRR; that would require providing internal company information. In all honesty, they could make a stab at how much oil is based on the credits, but regulatory issues have occurred as well as changes in other portions of the tax regime: credits and oil prices issues: a multitude of things all come together to create the production the state has now. One thing is pretty clear as far as what they can report: they could not report information on company income-related type investment before it was reported to the shareholders. So, they have to wait until the companies' annual reports are filed to have access to the data in the fashion they could share.

CHAIR GIESSEL thanked him for that very helpful information.

[4:32:37 PM](#)

SENATOR STEDMAN said Senator Meyer had talked about the 35 percent base tax and the per barrel sliding scale calculation that basically puts the state into a gross tax calculation (less than \$70/oil) and the residual issue is a 35 percent base tax becomes an NOL deductible percentage of opex and capex, which is - everyone has an opinion - exceptionally high. In dealing with that and even to say it's not high will give the argument to the folks that think it is a squared up good rate.

It helps in numerous ways with the longevity of the pipeline, the state's revenue stream and jobs, and getting into developments like Smith Bay with maybe 300,000 barrels a day. But there is a little thing called cash flow between today and tomorrow, and it looks like that project will have billions invested before first oil.

"How do we cash flow 35 percent of the cost of that going forward when we can't meet our payroll today and it doesn't look like we're going to meet our payroll tomorrow...?" With that being said, Senator Stedman asked how a policy maker knows what is a good deal for the state and industry so they are not changing course all the time, and will that project be co-mingled with the rest so he just gets one number?

COMMISSIONER HOFFBECK replied that Smith Bay would generate a \$3.5 billion NOL credit, and the state could deal with it a

couple of ways. One way was is in HB 247 last year that capped the annual cash payment at \$75 million, but because only half of that was at 100 percent and half was at 75 percent it works out to be about \$62 million-plus that they could cash in any given year if they are willing to take the haircut on the second half of that \$75 million. That would reduce the state's liability during the development years. But there would be multiple partners who could all claim a piece of the credit, so it's a little bit uncertain about how big the liability would be. It's fairly certain that a good share of that \$3.5 billion would still be unreimbursed credits at the time that the field went into production. Then those, of course, would be deductions against tax liability until the credits were used up.

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Secondly, they would bump into the current situation where there is no mandatory requirement to cash out the credits and making it subject to appropriation. And if the state doesn't have the money to pay the credits it simply would not be able to cash the credits out. That creates a lot of uncertainty for those that are relying on the credits for developing their fields. The administration has taken the position that the state is better off with a credit program that it can afford and give some certainty rather than a program that may be higher than it can afford that creates uncertainty before the fields come into development.

For a field that may already be in development that may be in a NOL situation - which is essentially all they are talking about ultimately for any big dollars - because all credits have been repealed for Cook Inlet effective the end of this FY18, a few credits are left in Middle Earth and the NOL is the only credit left on the North Slope. If a company has an NOL credit and they report it under this new language, they would tell you where that loss was within the bigger construct of their company.

[4:39:41 PM](#)

SENATOR STEDMAN said there could be sizeable shift in field economics with delayed payments while everyone wants stability.

COMMISSIONER HOFFBECK said the department has a robust full-cycle economic model for showing the impacts of various credit regimes and when the credits get paid is a big driver in the economics of the development.

SENATOR COGHILL said he tended to agree with some of that assessment and he struggles with a couple of mechanical things

in the bill. At this point he is looking at the regulation adopted by on page 2, line 27. It had a very prescriptive list of 10 items that should be reported on by March 31 under oath. Now there are 10 things and of those number, 10 has three major parts to it. The language that bothers him is "information required" and then the statute now read 9 things. Now it will be required under a regulation, not a law. How would he interpret that?"

COMMISSIONER HOFFBECK asked if he could defer that answer.

CHAIR GIESSEL added that was her concern as well. She asked the commissioner to speculate, but did he have any sense of how the disclosures that are proposed in SB 44 might affect companies accessing money from lending institutions. Would the lenders have concerns lending to a company that is disclosing as much information as proposed?

COMMISSIONER HOFFBECK asked if he could defer that answer to Mr. Ruggerio's expertise.

CHAIR GIESSEL said a slide from the tax director points out \$8 billion in credits over a 10-year period and asked how much revenue was realized in that time to the State of Alaska.

[4:44:11 PM](#)

COMMISSIONER HOFFBECK said he would have to bring that back to her.

SENATOR STEDMAN said this comment was geared more for the people at home who are watching, but when he has been talking about the inability to get data and asking revenue questions they can't answer, sometimes when individual companies do answer the question in private. He didn't want the public to think the industry is completely shutting the policy makers out. The Big Three have been good over the years and helpful in letting them know how the tax mechanism works.

SENATOR HUGHES remarked that the commissioner said he would be taking a stab in the dark to try to figure out what percentage of oil and pipeline resulted from tax credits, and yet he has all the proprietary information. This bill would provide the legislature with less detailed information and if it is a stab in the dark for him, how would the legislature having access to less information help them determine whether a particular tax credit is effective or not?

COMMISSIONER HOFFBECK replied the piece the department doesn't have is they don't sit in the board room and don't know what piece triggered an investment decision. As to how much more legislators will be able to parse out, they will not be able to parse out precisely how much oil is in the pipeline due to the credits, but they will be able to see which companies received the credits and how much those companies are producing. That will give them some idea of whether or not the credits are being efficiently used. Probably some of the older credits are the more egregious and those have been repealed.

SENATOR HUGHES said she understands that Texas and Louisiana have collected some of this information and asked if that has worked for them in figuring out what is effective.

COMMISSIONER HOFFBECK again deferred to Mr. Ruggiero on that question.

CHAIR GIESSEL added that he just illustrated why so many of the credits in ACES were repealed - because they were not resulting in production.

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SENATOR WIELECHOWSKI asked if they have no idea if any of the tax credits result in getting more oil or not, why should the state continue to offer tax credits at all.

COMMISSIONER HOFFBECK replied that they can see in their full-cycle economic modeling where a field would be economic with a credit boost and where it would be uneconomic without it.

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CHAIR GIESSEL thanked the commissioner for his presentation and noted that Senator Gardner asked to hear from Richard Ruggiero and welcomed him to the table.

[4:51:07 PM](#)

RICHARD RUGGIERO, Legislative Consultant, Castle Gap Advisors, Alaska State Legislature, Juneau, Alaska, said 10 years ago, as a member of the Gaffney Cline team he wrote in a memo that basically Alaska was one of the most opaque places with respect to data coming from the oil companies for this body to be able to make its policy decisions. And today it remains the same. The state is actually making decisions with a whole lot less information than similar bodies in the other governments he works for. For members who don't know him, he spent decades as big oil, he spent over a decade advising governments, and he

spent almost a decade with a large service company, so he has varied perspectives.

He said for legislators to make good durable decisions and understand how well the credits are working they need another layer of information and detail. One difference he still sees today is that the Tax Division is the one talking about production and it is bound by confidentiality of the tax return it gets. But 90-plus percent of the information that goes on a tax return is basic oil field operating data that all the other regimes he works for report to the equivalent of the DNR or the AOGCC here in Alaska and openly report it. In fact, he could go on line and show them a field in Norway that has well-by-well detail with a 30-year history of the capital that was spent and the production that resulted from that capital, as well as a five-year projection of work they plan on doing, what plans have been approved, and what the expectations are for that country as they move forward.

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Secondly, Mr. Ruggiero, said with respect to data transparency, he knows they get into a continual discussion of how much someone got paid being confidential tax payer information, but now there is a global initiative called the "Extraction Industry Transparency Initiative," which many governments have signed on to including the U.S. government. The Securities and Exchange Commission (SEC) is going to require anyone who is listed on their stock exchange to publish, if they are part of the extraction industry, the payments they make to governments and disaggregate those into five or six categories. That type of law is already in place in Europe. He can show them what every oil company has paid to Norway in terms of license bonuses, royalty, petroleum taxes, and income taxes. He could go to the U.K. website and find out how much a company that operates in Alaska actually paid the State of Alaska as income tax, royalty, and as license fees in 2015. There is also a 2014 report.

So, companies are required to provide information, and if he could make a suggestion he would say that elsewhere in the world much more information changes hands than in Alaska, and that data is available to the government for setting policy with respect to what acreage it makes available, to what data that helps others come in, and data to inform making tax policy.

MR. RUGGIERO said comments were made with respect to whether a 35 percent credit too high or too low, and the one piece he would make is whether the credit in place is a net operating

loss (NOL) and if that was not allowed that would move Alaska to the bottom of the competitive rankings in the world. Every regime, everywhere, allows companies especially with a development like Smith Bay, to deduct the cost of what it took to get that production from the future revenues of that project. To deny that would really move Alaska to the bottom of the competitive scale.

Now, various countries around the world have different means by which they treat that NOL. Some give the equivalent of what Alaska has - the qualifying capital expenditure. In other places, because there are long lead times between when the money is spent and when the actual production comes on they will offer forms of uplift - another way of saying interest - as it's carried forward, so that way the time value loss does not become a big kicker to their economics.

He could offer a whole lot more information if he had more time. He could show them the EITI Initiative, standard terms for production sharing contracts that show Alaska is competing more against places around the world than the Lower 48. That would show the type of data requirements that the oil companies have to disclose and what rights the governments have under those contracts to use that data for their purposes.

SENATOR MEYER asked why he feels Alaska's competition is more global versus the Lower 48. And he wanted to know how Alaska competes globally on a competitive basis with its current tax rate.

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MR. RUGGIERO answered the reason he said Alaska is competing more globally than in the U.S. is that Alaska and the Lower 48 are two very different businesses. Alaska is a large project, long-lead times, significant scale on the reserves, and to an extent a slow steady decline. Business in the Lower 48 is buy acreage today, have a rig there in a week, and have production on line in 30 days. But it's production that declines 60-80 percent in the first two years. North Dakota had the same fiscal system forever until the production picked up and that was due to the shale technology. But they drilled tens of thousands of wells. And if you look at North Dakota production today, it is falling off faster than it rose, because the rigs have stopped with the drop in the price of oil.

SENATOR STEDMAN said he wanted to hear more from Mr. Ruggiero on some of the newer changes internationally that the industry is

dealing with as far as disclosure. It would be very beneficial to keep up with what is going on around the planet.

CHAIR GIESSEL held SB 44 in committee, adding that she would invite Mr. Ruggiero back.

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CHAIR GIESSEL adjourned the Senate Resources Committee meeting at 5:00 p.m.