

SENATE FINANCE COMMITTEE

May 1, 2023

9:01 a.m.

[9:01:26 AM](#)

CALL TO ORDER

Co-Chair Olson called the Senate Finance Committee meeting to order at 9:01 a.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Donny Olson, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Click Bishop
Senator Jesse Kiehl
Senator Kelly Merrick
Senator David Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Senator Bill Wielechowski, Sponsor; Fadil Limani, Deputy Commissioner, Department of Revenue; Dan Stickel, Chief Economist, Economic Research Group, Tax Division, Department of Revenue; Kara Moriarty, President and Chief Executive Officer, Alaska Oil and Gas Association; Rich Ruggiero, Principal, In3nergy; Senator Cathy Giessel.

SUMMARY

SB 114 OIL and GAS PRODUCTION TAX; INCOME TAX

SB 114 was HEARD and HELD in committee for further consideration.

#sb114

SENATE BILL NO. 114

"An Act establishing an income tax on certain entities producing or transporting oil or gas in the state;

relating to the oil and gas production tax; and providing for an effective date."

9:02:13 AM

SENATOR BILL WIELECHOWSKI, SPONSOR, provided a brief overview of the bill and the bill's history within the legislature.

9:04:31 AM

FADIL LIMANI, DEPUTY COMMISSIONER, DEPARTMENT OF REVENUE, introduced himself.

Mr. Limani discussed the presentation, "SB 114 (CS) Oil and Gas Production Tax; Income Tax, Senate Finance Committee" (copy on file). He addressed slide 2, "Bill Sponsor Request to Department of Revenue":

- Updated Fiscal Note
- Government Take Analysis
 - Both current statute and SB114 (CS)
 - Retrospective view back to a net profits tax in 2006
 - Prospective view next ten years
- Confirm whether the tax division has adequate information, based on what is currently submitted by taxpayers, to apply the "credit limit" in new section AS 43.55.024(k), which is the same in both versions of the bill.

Mr. Limani pointed to slide 3, "Presentation Overview":

- Tax Program History
- Oil and Gas Corporate Income Tax
- Oil and Gas Production Tax
- Proposed Legislation
- Updated Fiscal Note Summary
- Distribution of Profits
- Effective Tax Rates
- Order of Operations

Mr. Limani looked at slide 5, "Oil and Gas Corporate Income Tax: Historical Review":

- Alaska Net Income Tax Act -1949 (Under AS 43.20)

- Uniform Division of Income for Tax Purposes Act (UDIPTA) -1959
- Multistate Tax Compact (MTC) -1970 (Under AS 43.19)
- Revised to include adopting Internal Revenue Code (IRC) by reference unless excluded -1975
- Repealed Individual Income Tax and Retained S-Corporation Exemption -1980
- Adopted Current Oil and Gas Apportionment Factor on worldwide income (was separate accounting) -1981

Mr. Limani highlighted slide 6, "Oil and Gas Corporate Income Tax: Current Fiscal Regime":

- Applies to C-Corporations only
 - Many, but not all, companies in Alaska
- "Alaska Taxable Income" determined using an "apportionment factor"
 - Non-Petroleum -based on U.S. "water's edge" activity, apportioned to Alaska based on Alaska's share of property, payroll, and sales
 - Petroleum -based on worldwide activity, apportioned to Alaska based on Alaska's share of property, production, and sales/tariffs
- Bracketed tax rate, with highest rate of 9.4 percent on taxable income over \$222,000

[9:10:10 AM](#)

Mr. Limani pointed to slide 7, "Oil and Gas Production Tax: Historical Review":

- Economic Limit Factor (ELF) -pre-2006
- Petroleum Production Tax (PPT) -2006
- Alaska's Clear and Equitable Share (ACES) -2007
 - HB280 (Cook Inlet Recovery Act) -2010
- More Alaska Production Act (SB21) -2013
 - HB247 -2016
 - HB111 -2017

Mr. Limani discussed slide 8, "Oil and Gas Production Tax: Current Fiscal Regime":

SB21 Goals

- Enhance global competitiveness and investment climate
- Incentivize North Slope Development
- Stabilize production

SB21 Summary

- Tax Base = 35 percent Production Tax Value (Gross Value less lease expenditures)
- Minimum Tax Floor = 4 percent Gross Value
- Progressivity = Sliding scale credit \$0 -\$8 per taxable barrel

Co-Chair Hoffman wondered whether the goals had been met.

Mr. Limani asked which goals were referenced by Co-Chair Hoffman.

Co-Chair Hoffman pointed to the goals laid out as the three bullet points on page 8.

[9:13:05 AM](#)

DAN STICKEL, CHIEF ECONOMIST, ECONOMIC RESEARCH GROUP, TAX DIVISION, DEPARTMENT OF REVENUE, replied that SB 21 had overall shown a tax reduction to the industry to it enhanced the state's global competitiveness. He stated that there had been some new development that showed a result of incentivizing new development, but he deferred to the industry remarking on that goal. He stated that a stabilization of production had occurred since this passage of SB 21.

Co-Chair Hoffman recalled that a goal was to attempt to fill the Trans-Alaska Pipeline System (TAPS) to at least half full at one million barrels per day, and asked for comment on that.

Mr. Stickel replied that it was an aspirational goal that was laid out by the administration at the time of SB 21. He stressed that it should be viewed as "aspirational", and remarked that TAPS had not reached a million barrels per day.

[9:15:13 AM](#)

Co-Chair Olson noted that the promise of the specific number of barrels to the pipeline had caught the legislature's attention, but that had not happened. He asked what the state could have done to ensure the achievement of that goal.

Mr. Stickel replied that the subject could be part of a broader conversation beyond what they were prepared to discuss.

Senator Bishop stressed that there should be caution when discussing lofty goals because of the possibility of litigation.

Senator Kiehl queried the historical analysis on SB 21.

Mr. Stickel replied that there was a separate presentation on the subject.

Co-Chair Stedman agreed, and asked for a refresher of presentations on production previously to that legislation, and the forecasted long-term production compared to the actual results.

Mr. Limani pointed to slide 10, "Primary Bill Provisions":

- Oil and Gas Corporate Income Tax
- Oil and Gas Production Tax
- Sliding Scale Per Barrel Credit Rate Changes
- Per Barrel Credits tied to Capital Spend
- Retroactive to January 1, 2023

[9:20:10 AM](#)

Mr. Limani displayed slide 11, "Oil and Gas Corporate Income Tax":

Current law, only C-Corporations are subject to Alaska's corporate income tax - Oil and Gas and Non-Oil and Gas

Proposed Legislation Provisions-SB 114 (CS)

- Would tax oil and gas pass-through entities with "qualified taxable income" over \$4 million at a rate of 9.4 percent
- "Qualified taxable income" as income from the production of oil or gas from a lease or property in the state or from the transportation of oil or gas by pipeline in the state

Senator Kiehl wondered whether the bill had written the portion of the income as oil and gas income, other corporate income tax, worldwide, or waters edge.

Mr. Limani replied with, "oil and gas."

Co-Chair Olson recalled that there would be an amendment to clarify the corporate tax changes so Alaska could get its share.

Mr. Limani replied that there was an agreement with the bill sponsor to incorporate the changes, but remarked that he had not yet seen a draft of that language.

Mr. Limani looked at slide 12, "Oil and Gas Corporate Income Tax":

SB 114 (CS) Perspective Fiscal Impacts:

- 28 non-C-Corporation, oil and gas entities doing business in Alaska. Real revenue impact is uncertain due to limited data

Co-Chair Olson wondered whether the number was high because it had a retroactive effective date of 18 months.

Mr. Limani replied in the affirmative.

Co-Chair Hoffman wondered whether the administration had a position on the retroactive effective date.

Mr. Limani replied that the administration provided their feedback, but the department would wait to declare a position until there was proposed language from the bill sponsor.

Co-Chair Olson surmised that the administration had not ruled out being against the effective date.

Mr. Limani replied that there was a current review of amendments.

Co-Chair Stedman wondered whether the administration was supportive of the concept of the bill.

Mr. Limani replied that the department did not have a position on the bill.

[9:25:24 AM](#)

Senator Wilson queried the estimated fiscal impacts of why there was a steep decline in outgoing years.

Mr. Limani deferred to Mr. Stickel.

Mr. Stickel replied that the estimated fiscal impacts displayed on slide 12 showed a decline because 1) the oil price forecast showed some backwardation, so the oil price was expected to decrease over time; and 2) the share of production from the non-seed corporations was expected to decrease over time.

Co-Chair Hoffman wondered whether the administration had a position on the S-corporations to C-corporations to level the playing field in the industry.

Mr. Limani replied in the negative.

Mr. Limani highlighted slide 13, "Oil and Gas Corporate Income Tax Brackets." He noted that there was a chart on the left-hand side that summarized the existing tax brackets. The right-hand side showed what the proposed legislation.

Co-Chair Stedman wondered whether the previous Department of Revenue (DOR) commissioner had advocated a change. He asked whether there was a change in that direction, or if he misspoke.

Mr. Limani replied that the administration did not currently have a position on the legislation, and was only providing the facts as requested by the bill sponsor.

Co-Chair Stedman requested a focus on the bill as amended in detail.

Senator Merrick queried how many companies fit into each of the categories displayed on the slide.

Mr. Limani agreed to provide that information.

[9:30:04 AM](#)

Senator Bishop requested the modeling of SB 21 as it originally passed the Senate for a side-by-side comparison.

Co-Chair Olson wondered whether the request was for DOR to provide that information.

Senator Bishop replied that he would like DOR to provide that information.

Co-Chair Olson asked whether that was possible of Mr. Limani.

Mr. Limani replied in the affirmative.

Mr. Limani discussed slide 14, "Oil and Gas Production Tax: Per Barrel Credits":

SB 114(CS) Proposed Legislative Provisions:

- Would change the per barrel credit rates (sliding scale per barrel credits only)
- Would limit the per taxable barrel credits to the amount of qualified capital expenditures

Mr. Limani looked at slide 15, "Oil and Gas Production Tax: Per Barrel Credits":

Retrospective and Perspective Fiscal Impacts

Mr. Limani pointed to slide 16, "Oil and Gas Production Tax: Sliding Scale Per Barrel Credits":

Sliding Scale Credit Rate Changes

Mr. Limani highlighted slide 17, "Oil and Gas Production Tax: Sliding Scale Per Barrel Credits":

SB 114 (CS) "Crossover"

Due to other changes in the bill, the "crossover" between the gross and net taxes moves from about \$53 to \$40 per barrel

Mr. Stickel addressed slide 19, "Disclaimer":

- Alaska's severance tax is one of the most complex in the world and portions are subject to interpretation and dispute
- These numbers are rough approximations based on public data, as presented in the Spring 2023 Revenue Sources Book and other revenue forecasts
- This presentation is solely for illustrative general purposes.
 - o Not an official statement as to any particular tax liability, interpretation, or treatment

- o Not tax advice or guidance
- Some numbers may differ due to rounding

[9:34:27 AM](#)

Mr. Stickel pointed to slide 20, "Updated Fiscal Note." He stated that the fiscal table assumed no changes to production or investment, which was consistent with the preparation of other fiscal notes for oil and gas tax legislation. He remarked that each of the major provisions of the bill were detailed within the slide.

Mr. Stickel discussed slide 21, "Updated Fiscal Note-Illustration." He stated that the slide showed a range of prices, but the numbers excluded the retroactive payment for the January through June 2023 period.

[9:40:34 AM](#)

Co-Chair Hoffman looked at slide 20, and requested the number of impacts going back to the sale to Hillcorp, and how much money the state received in that timeframe.

[9:41:04 AM](#)

AT EASE

[9:42:10 AM](#)

RECONVENED

[9:42:15 AM](#)

Mr. Limani replied that a similar request was in the works, and agreed to provide that information.

Senator Merrick wanted to clarify the presentation's bill version.

[9:42:51 AM](#)

AT EASE

[9:43:12 AM](#)

RECONVENED

[9:43:16 AM](#)

Mr. Limani replied that the modeling in the presentation incorporated the current version of the bill and the changes within.

Co-Chair Stedman asked how the department integrated the Willow Project into the modeling.

Mr. Stickel replied that the Willow Project was incorporated into the Spring 2023 forecast on a risked basis, so there was a portion but not all of the potential production and cost from that field.

Co-Chair Stedman wondered whether there would be an adjustment up or down with all incorporated costs.

Mr. Stickel responded that adding all costs and revenue from Willow would result in a lower production tax value until production came online in about FY 28.

[9:45:42 AM](#)

Mr. Stickel displayed slide 23, "North Slope Distribution of Profits":

- Based on Spring 2023 Forecast for FY 2024
- Assumes "typical" barrel of oil production
- Assumes a single taxpayer on state land, 12.5 percent royalty
- Assumes \$2.00 per barrel property tax
- Assumes 4.25 percent effective state corporate income tax, 21 percent federal corporate income tax
 - o 4.25 percent is based on historical analysis for companies subject to state corporate income tax
- Does not include any potential changes in company behavior or investment as a result of this proposal
- For SB114 (CS), impact of capital expenditure limit on tax credits is estimated based on deductible capital expenditures

Mr. Stickel discussed slide 24, "Government Take Per Barrel: Status Quo vs. SB 114 (CS) (Total CapEx)."

Senator Kiehl noted that the 9.4 percent corporate income tax rate made about a 2 percent difference in the take, but the previous slide showed that 4 percent was the effective tax rate. He asked for more detail regarding that difference.

Mr. Stickel explained that the state corporate income tax applied to worldwide income as apportioned to Alaska based on Alaska's share of production, property, sales, and tariffs. He stated that, generally, Alaska tended to be slightly more profitable than the rest of the world, so the effective tax rate was where the 4.25 percent rule was determined.

Senator Kiehl stated that the next step showed that it was only a 2 percent difference in the state "take."

Mr. Stickel noted that there was an overall profit, which was the total cashflow available for distribution. He stated that royalties, property tax, and state production tax was removed from that profit. The state corporate income tax only applied to the remaining share of profits after those subtractions.

[9:51:01 AM](#)

Co-Chair Olson noted that there was a display on the chart that showed corporate income tax being paid at 50 percent, but under SB 117 there was a reduction to 48 percent for the companies that did not pay state income tax.

Mr. Stickel replied that the left and the middle barrel were based on current law, and the only difference between them was whether the company was subject to state corporate income tax.

Mr. Stickel highlighted slide 25, Government Take at Various Oil Prices: Status Quo (w/ CIT, Total CapEx)."

Mr. Stickel pointed to slide 26, Government Take at Various Oil Prices: Status Quo (w/o CIT, Total CapEx)."

Mr. Stickel discussed slide 27, "Government Take at Various Oil Prices: SB 114 (CS) (Total CapEx)."

Senator Wilson queried any comparisons with the neighboring oil and gas producing states.

Mr. Stickel replied that he did not.

[9:55:01 AM](#)

Senator Wilson asked for that comparison.

Mr. Stickel stated that there was not currently a tax consultant, but agreed to provide some high level illustrations.

Mr. Stickel looked at slide 28, "Government Take: Retrospective and Prospective."

Co-Chair Olson queried the effect of SB 21 on the slide.

Mr. Stickel replied that SB 21 had a modest impact on overall government take.

Co-Chair Stedman remarked that the rate was set at the federal tax rate, but felt that it was a corporate income tax issue.

[10:00:32 AM](#)

Mr. Stickel addressed slide 30, "Effective Tax Rate: Status Quo vs SB 114 (CS) (Non-GVR, Total CapEx)."

Mr. Stickel pointed to slide 31, "Effective Tax Rate: Status Quo vs SB 114 (CS) (GVR, Total CapEx)."

Co-Chair Stedman wondered where the Willow and Pikka oil fields would fall within the two slides.

Mr. Stickel replied that they were new developments, so they would likely be eligible for the gross value production provisions.

[10:05:12 AM](#)

Mr. Stickel discussed slide 33, "Production Tax "Order of Operations": FY 2024."

Mr. Stickel highlighted slide 34, "Production Tax "Order of Operations": FY 2024 with SB114 (CS)."

Co-Chair Olson wondered whether the 76 percent tax increase was the actual government take.

Mr. Stickel replied that looking at the actual percentage of property from the industry should be referred to from

the government take slides, which showed the government take increasing to 55 percent.

Co-Chair Olson wondered if the state received a significantly smaller portion than the \$566 million.

Mr. Stickel replied that he did not understand the question.

Senator Kiehl queried the delta in government take as a percentage.

Mr. Stickel replied that the delta in overall government take was a 5 to 7 percent increase in government take.

Mr. Stickel pointed to slide 35, "Lease Expenditures Example: Takeaways":

- Under both status quo (current law) and SB 114 (CS), companies that spend more in Alaska pay less taxes, when above the minimum tax floor
- Current law provides a 35 percent tax savings for additional investments, when above the minimum tax floor
- Capping tax credits by capital expenditures creates potential for "gold plating"
 - In certain circumstances, SB 114 (CS) would provide a 135 percent tax saving for additional investments, when above the minimum tax floor
 - Dollar-for-dollar increase in tax credits plus 35 percent tax deduction
- Each company and field would have unique economics, creating varying incentives between and within fields
- Adds complexity and uncertainty, and encourages inefficient investment decisions

[10:10:11 AM](#)

Co-Chair Stedman looked at slide 28, and wondered whether the delta change was due to the corporate income tax change.

Mr. Stickel replied that there were various impacts on the changes to the state.

Co-Chair Olson handed the gavel to Co-Chair Stedman.

[10:13:24 AM](#)

KARA MORIARTY, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ALASKA OIL AND GAS ASSOCIATION, (AOGA) discussed the presentation, "AOGA Senate Finance Committee May 1, 2023" (copy on file).

Ms. Moriarty looked at slide 2. She stated that the legislation was a massive tax increase, and her membership was unanimously opposed to the bill.

Ms. Moriarty addressed slide 3:

"Alaska's oil and gas remains the single most important economic engine in the state."

[10:15:31 AM](#)

Ms. Moriarty pointed to slide 4, "Cook Inlet Historical Natural Gas Production and Consumption By End-Use." She stated that oil and gas companies currently had less money to invest in Alaska.

Ms. Moriarty discussed slide 5, "Principles":

Governor's principles:

Tax reform must be fair to Alaskans

Encourage new production

Simple so that it restores balance to the system

Durable for the long-term

Ms. Moriarty displayed slide 6, "SB 114 is not the same as Senate Finance version of SB 21."

Co-Chair Stedman handed the gavel to Co-Chair Olson.

[10:21:35 AM](#)

Ms. Moriarty pointed to slide 7, "Current Tax Policy (SB 21) Achieving Principles." The slide detailed actual production, and the red line was the final DOR forecast under ACES, which showed that production would continue to decline at the same level of its trajectory. She stressed that production had stabilized since the passage of SB 21.

[10:25:11 AM](#)

Co-Chair Hoffman noted that the bill would "level the playing field" for producers. He remarked that the change in the corporation status would level it in order for Hillcorp to be in the level with the other corporations. He remarked that the loophole was never intended until Hillcorp had purchased the asset. He wondered whether there was opposition to that particular provision.

Ms. Moriarty replied that AOGA was opposed to every portion of the bill.

Co-Chair Hoffman surmised that there was support of a dual system of tax structure for the major producers on the North Slope.

Ms. Moriarty replied that AOGA worked by unanimous consent, and she stated that they opposed all sections of the bill.

Co-Chair Hoffman said, "that is why we are the policy makers."

Senator Kiehl agreed that the slide showed positive and negative correlations. He remarked that the slide did not show that roughly every development had the same basic production curve. He wondered whether the line in 2005 to 2015 correlated to the steep decline to a "long tail" in production.

Ms. Moriarty replied that it was based on geology, because it was known that there was "a lot of oil and gas remaining on the North Slope." She remarked that there was a belief that there was still 2 billion barrels of oil in the legacy fields.

Co-Chair Stedman recalled presentations that showed the forecasts and the actuals of the legacy fields. He noted that there should have been a consideration of the smaller operators and their corporation categorization.

[10:31:47 AM](#)

AT EASE

[10:32:31 AM](#)

RECONVENED

[10:32:57 AM](#)

RICH RUGGIERO, PRINCIPAL, IN3ENERGY, replied to Co-Chair Kiehl's question. He stated that it may take ten to fifteen years to reach 15 percent of production in a new field.

Mr. Ruggiero looked at the presentation, "SB 114, Senate Finance, May 1, 2023" (copy on file). He looked at slide 2, "Overview":

- The traditional oil and gas business is headed into uncharted territory adding new levels of risk
- Items such as tax rate and credits are just part of the state's complex fiscal system
- Does SB114 incentivize the right behavior and will it sustain a long term future for oil and gas in Alaska, and a future where production is stable and growing so TAPS can continue to operate?

Mr. Ruggiero pointed to slide 3, "Our Experience":

Working on Alaska Oil Taxes:

- 2006-2012 Administration/Governor PPT, ACES, LNG, Gas vs Oil
 - 2016-2022 LB and A SB21, HB111, LNG, Ballot Initiative
- General Industry Training

Career Covers Three Perspectives:

- Big Oil Operations
- Big 3 Service Company
- Government Advisor

Mr. Ruggiero discussed his time before the committee during Alaska's Clear and Equitable Share (ACES) and other consulting opportunities and oil-centric work in his resume. He continued to discuss his extensive background in the field.

[10:39:46 AM](#)

Mr. Ruggiero looked at slide 4, "What we bring to the table":

- Fiscal system consulting around the globe, including Alaska
- Contracted by DOR, Governor, Legislature, and now AOGA

- One of a handful of people that have worked in Alaska petroleum tax issues from PPT through to the present
- Some views shared today have been shared previously over the last 17 years while working here in Alaska
- Our starting point is always that stable, attractive fiscal systems are designed and administered based on agreed goals and drivers that are durable over the longer term
- Alaska needs to decide what its primary drivers are

Mr. Ruggiero noted that several members currently at the table had been involved in crafting ACES.

[10:43:59 AM](#)

Mr. Ruggiero pointed to slide 7, "Understanding Alaska's Tax Code":

- ANSWC value used to set the gross tax percentage
- GVPP value used to calculate the gross minimum tax
- PTV value used to calculate the preliminary net tax
- GVPP value used to determine the allowable credit level which is then subtracted from the preliminary net tax
- Tax owed is the greater of gross or net after credits
- UNLESS the unit is GVR eligible in which case:
 - GVPP is reduced by 20 percent or 30 percent
 - Flat \$5 per barrel credit which can pierce the gross minimum tax floor and take the tax owed to zero

Co-Chair Stedman asked that acronyms be defined.

Mr. Ruggiero looked at slide 8, "Overview, Tax System Design":

- After 40+ years working with dozens of petroleum fiscal systems:
 - There is no ideal or best petroleum fiscal system
 - Each government has a unique set of circumstances, resources and drivers
 - Governments need to balance their needs with the global competition for investment capital

- While change is constant in the industry, recent global events and pressures are massively shifting how producers think about, plan and do business
- Alaska finds itself facing a common government conundrum:
 - Does it place priority on fulfilling short term revenue needs knowing how much extra it takes could possibly negatively impact longer term revenues needed to fund the state for future generations?
 - Fiscal system design is part science and part art

[10:50:46 AM](#)

AT EASE

[10:54:43 AM](#)

RECONVENED

Mr. Ruggiero stated that he had summarized the introduction, and felt that the remaining presentation would provide more detail.

SB 114 was HEARD and HELD in committee for further consideration.

#

ADJOURNMENT

[10:55:33 AM](#)

The meeting was adjourned at 10:55 a.m.