

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

May 3, 2024

3:31 p.m.

MEMBERS PRESENT

Senator Click Bishop, Co-Chair
Senator Cathy Giessel, Co-Chair
Senator Bill Wielechowski, Vice Chair
Senator Scott Kawasaki
Senator James Kaufman
Senator Forrest Dunbar
Senator Matt Claman

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 50(FIN)

"An Act relating to carbon storage on state land; relating to the powers and duties of the Alaska Oil and Gas Conservation Commission; relating to carbon storage exploration licenses; relating to carbon storage leases; relating to carbon storage operator permits; relating to enhanced oil or gas recovery; relating to long-term monitoring and maintenance of storage facilities; relating to carbon oxide sequestration tax credits; relating to the duties of the Department of Natural Resources; relating to carbon dioxide pipelines; and providing for an effective date."

- MOVED SCS CSHB 50(RES) OUT OF COMMITTEE -

PREVIOUS COMMITTEE ACTION

BILL: HB 50

SHORT TITLE: CARBON STORAGE

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/27/23	(H)	READ THE FIRST TIME - REFERRALS
01/27/23	(H)	RES, FIN
02/10/23	(H)	RES AT 1:00 PM BARNES 124
02/10/23	(H)	Heard & Held
02/10/23	(H)	MINUTE(RES)

02/15/23	(H)	RES AT 1:00 PM BARNES 124
02/15/23	(H)	Heard & Held
02/15/23	(H)	MINUTE(RES)
02/17/23	(H)	RES AT 1:00 PM BARNES 124
02/17/23	(H)	Heard & Held
02/17/23	(H)	MINUTE(RES)
02/20/23	(H)	RES AT 1:00 PM BARNES 124
02/20/23	(H)	Heard & Held
02/20/23	(H)	MINUTE(RES)
02/22/23	(H)	RES AT 1:00 PM BARNES 124
02/22/23	(H)	Heard & Held
02/22/23	(H)	MINUTE(RES)
02/24/23	(H)	RES AT 1:00 PM BARNES 124
02/24/23	(H)	Bills Previously Heard/Scheduled
02/27/23	(H)	RES AT 1:00 PM BARNES 124
02/27/23	(H)	Heard & Held
02/27/23	(H)	MINUTE(RES)
03/01/23	(H)	RES AT 1:00 PM BARNES 124
03/01/23	(H)	Heard & Held
03/01/23	(H)	MINUTE(RES)
03/08/23	(H)	RES AT 1:00 PM BARNES 124
03/08/23	(H)	Moved CSHB 50(RES) Out of Committee
03/08/23	(H)	MINUTE(RES)
03/13/23	(H)	RES RPT CS(RES) NEW TITLE 6DP 1NR 1AM
03/13/23	(H)	DP: ARMSTRONG, DIBERT, MCCABE, SADDLER, WRIGHT, MCKAY
03/13/23	(H)	NR: PATKOTAK
03/13/23	(H)	AM: MEARS
03/24/23	(H)	FIN AT 1:30 PM ADAMS 519
03/24/23	(H)	Heard & Held
03/24/23	(H)	MINUTE(FIN)
04/07/23	(H)	FIN AT 1:30 PM ADAMS 519
04/07/23	(H)	-- MEETING CANCELED --
04/11/23	(H)	FIN AT 1:30 PM ADAMS 519
04/11/23	(H)	Heard & Held
04/11/23	(H)	MINUTE(FIN)
04/18/23	(H)	FIN AT 1:30 PM ADAMS 519
04/18/23	(H)	Heard & Held
04/18/23	(H)	MINUTE(FIN)
04/28/23	(H)	FIN AT 1:30 PM ADAMS 519
04/28/23	(H)	Heard & Held
04/28/23	(H)	MINUTE(FIN)
05/03/23	(H)	FIN AT 1:30 PM ADAMS 519
05/03/23	(H)	Heard & Held
05/03/23	(H)	MINUTE(FIN)
05/12/23	(H)	FIN AT 1:30 PM ADAMS 519
05/12/23	(H)	Bills Previously Heard/Scheduled

01/25/24 (H) FIN AT 1:30 PM ADAMS 519
 01/25/24 (H) Heard & Held
 01/25/24 (H) MINUTE(FIN)
 02/19/24 (H) FIN AT 8:30 AM ADAMS 519
 02/19/24 (H) Heard & Held
 02/19/24 (H) MINUTE(FIN)
 03/07/24 (H) FIN AT 11:00 AM ADAMS 519
 03/07/24 (H) -- MEETING CANCELED --
 03/11/24 (H) FIN AT 1:30 PM ADAMS 519
 03/11/24 (H) Heard & Held
 03/11/24 (H) MINUTE(FIN)
 03/14/24 (H) FIN AT 10:00 AM ADAMS 519
 03/14/24 (H) Moved CSHB 50(FIN) Out of Committee
 03/14/24 (H) MINUTE(FIN)
 03/18/24 (H) FIN RPT CS(FIN) NEW TITLE 3DP 5NR 3AM
 03/18/24 (H) DP: CRONK, D.JOHNSON, FOSTER
 03/18/24 (H) NR: GALVIN, COULOMBE, ORTIZ,
 TOMASZEWSKI, EDGMON
 03/18/24 (H) AM: STAPP, HANNAN, JOSEPHSON
 04/17/24 (H) TRANSMITTED TO (S)
 04/17/24 (H) VERSION: CSHB 50(FIN)
 04/19/24 (S) READ THE FIRST TIME - REFERRALS
 04/19/24 (S) RES, FIN
 04/22/24 (S) RES AT 3:30 PM BUTROVICH 205
 04/22/24 (S) Heard & Held
 04/22/24 (S) MINUTE(RES)
 04/24/24 (S) RES AT 3:30 PM BUTROVICH 205
 04/24/24 (S) Heard & Held
 04/24/24 (S) MINUTE(RES)
 05/01/24 (S) RES AT 3:30 PM BUTROVICH 205
 05/01/24 (S) Heard & Held
 05/01/24 (S) MINUTE(RES)
 05/02/24 (S) FIN AT 9:00 AM SENATE FINANCE 532
 05/02/24 (S) <Pending Referral>
 05/03/24 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

JULIA O CONNOR, Staff
 Senator Cathy Giessel
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented the explanation of changes from Version D to H of HB 50.

JOHN BOYLE, Commissioner
 Department of Natural Resources (DNR)

POSITION STATEMENT: Answered questions during the discussion of Amendment 8.

JOHN CROWTHER, Deputy Commissioner
Department of Natural Resources (DNR)

POSITION STATEMENT: Answered questions during the discussion of Amendment 8.

BRANDON SPANOS, Acting Tax Director
Tax Division
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the discussion of Amendment 8.

FADIL LIMANI, Deputy Commissioner
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the discussion of Amendment 10.

ACTION NARRATIVE

[3:31:21 PM](#)

CO-CHAIR CATHY GIESSEL called the Senate Resources Standing Committee meeting to order at 3:31 p.m. Present at the call to order were Senators Dunbar, Wielechowski, Claman, Kawasaki, Co-Chair Bishop, and Co-Chair Giessel. Senator Kaufman arrived thereafter.

HB 50-CARBON STORAGE

[3:32:06 PM](#)

CO-CHAIR GIESSEL announced the consideration of CS FOR HOUSE BILL NO. 50(FIN) "An Act relating to carbon storage on state land; relating to the powers and duties of the Alaska Oil and Gas Conservation Commission; relating to carbon storage exploration licenses; relating to carbon storage leases; relating to carbon storage operator permits; relating to enhanced oil or gas recovery; relating to long-term monitoring and maintenance of storage facilities; relating to carbon oxide sequestration tax credits; relating to the duties of the Department of Natural Resources; relating to carbon dioxide pipelines; and providing for an effective date."

[3:32:15 PM](#)

CO-CHAIR GIESSEL solicited a motion.

[3:32:18 PM](#)

CO-CHAIR BISHOP moved to adopt the Senate committee substitute (SCS) for CSHB 50, work order 33-GH1567\H, as the working document.

[3:32:39 PM](#)

CO-CHAIR GIESSEL objected for purposes of discussion.

[3:32:56 PM](#)

JULIA O CONNOR, Staff, Senator Cathy Giessel, Alaska State Legislature, Juneau, Alaska, presented the explanation of changes from Version D to H of HB 50:

[Original punctuation provided.]

Explanation of Changes
SENATE RESOURCES CS for House Bill 50
Version 33-GH1567\D to 33- GH1567\H

The Committee Substitute adopts the following changes:

- Updated Title
- Added Section 4:
 - Requires Alaska Oil and Gas Conservation Commission to prepare a report on each oil and gas waste case at the start of each regular session.
- Amended Section 6:
 - Declares injection charges generated as revenue to the state are considered a royalty share for use of the state's mineral resources.
- Amended Section 17:
 - Adds minimum commercial terms that were removed from version A of the bill.
 - Sets a minimum of \$20 an acre of carbon storage exploration license fee and injection fee of at least \$2.50 a ton.
 - Adds an increase to the commercial terms every five years based on the Consumer Price Index.
 - Provides a mechanism by which the commissioner can lower the minimum terms upon a best interest finding that the project would be otherwise uneconomic.

- Ensures the Department of Natural Resources' public notice of interest in an exploratory license is adequate to apprise entities who may seek alternatives uses for the underground lease area.
- Verifies DNR's duty and authority over dismantlement and reclamation requirements upon closure of a Carbon Capture Utilization and Storage facility.
- Amended Section 35:
 - Requires DNR to provide state-owned seismic data to players in the energy sector.
- Added Sections 41-47:
 - Adds to Regulatory Commission of Alaska's (RCA) jurisdiction to include the regulation of natural gas storage and liquified natural gas storage, including facilities operated by a pipeline carrier. RCA would have the authority to regulate the cost of storage service.
 - RCA's storage regulation would exempt pipeline carriers on the North Slope and for liquified natural gas import facilities under the jurisdiction of the Feral Energy Regulatory Commission
 - Ensures cost consideration for storing gas or liquified natural gas in determining just and reasonable rates.
 - Addresses confidentiality of records related to finances of gas storage facilities, liquified natural gas storage facilities, or public utilities providing natural gas storage services.

[3:33:19 PM](#)

SENATOR KAUFMAN joined the meeting.

[3:35:51 PM](#)

CO-CHAIR GIESSEL removed her objection; she found no further objection and SCS CSHB 50 was adopted.

[3:36:15 PM](#)

CO-CHAIR GIESSEL noted that Amendment 7 (D.36) was before the committee.

[3:36:17 PM](#)

SENATOR WIELECHOWSKI said that he was withdrawing Amendment 7.

[3:36:24 PM](#)

CO-CHAIR GIESSEL found no objection and Amendment 7 was withdrawn.

[3:36:43 PM](#)

At ease

[3:37:06 PM](#)

CO-CHAIR GIESSEL reconvened the meeting.

[3:37:21 PM](#)

CO-CHAIR GIESSEL solicited a motion.

[3:37:24 PM](#)

SENATOR WIELECHOWSKI moved to adopt Amendment 8, work order 34-GH1567\D.44.

[Note: Amendment 8 was drafted for HB 50, version D, and is therefore a conceptual amendment, as the committee is considering version H.]

33-GH1567\D.44
Dunmire
5/3/24

A M E N D M E N T 8

OFFERED IN THE SENATE BY SENATOR WIELECHOWSKI
TO: CSHB 50 (FIN)

Page 1, line 5, following "**credits**";
Insert "**relating to the oil and gas production tax**";

Page 32, following line 13:
Insert a new bill section to read:
"*** Sec. 38.** AS 43.55.165(e) is amended to read:
(e) For purposes of this section, lease expenditures do not include
(1) depreciation, depletion, or amortization;
(2) oil or gas royalty payments, production payments, lease profit shares, or other payments or distributions of a share of oil or gas production, profit, or revenue, except that a producer's lease expenditures applicable to oil and gas produced from a

lease issued under AS 38.05.180(f)(3)(B), (D), or (E) include the share of net profit paid to the state under that lease;

(3) taxes based on or measured by net income;

(4) interest or other financing charges or costs of raising equity or debt capital;

(5) acquisition costs for a lease or property or exploration license;

(6) costs arising from fraud, wilful misconduct, gross negligence, violation of law, or failure to comply with an obligation under a lease, permit, or license issued by the state or federal government;

(7) fines or penalties imposed by law;

(8) costs of arbitration, litigation, or other dispute resolution activities that involve the state or concern the rights or obligations among owners of interests in,

or rights to production from, one or more leases or properties or a unit;

(9) costs incurred in organizing a partnership, joint venture, or other business entity or arrangement;

(10) amounts paid to indemnify the state; the exclusion provided by this paragraph does not apply to the costs of obtaining insurance or a surety bond from a third-party insurer or surety;

(11) surcharges levied under AS 43.55.201 or 43.55.300;

(12) an expenditure otherwise deductible under (b) of this section that is a result of an internal transfer, a transaction with an affiliate, or a transaction between related parties, or is otherwise not an arm's length transaction, unless the producer establishes to the satisfaction of the department that the amount of the expenditure does not exceed the fair market value of the expenditure;

(13) an expenditure incurred to purchase an interest in any corporation, partnership, limited liability company, business trust, or any other business entity, whether or not the transaction is treated as an asset sale for federal income tax purposes;

(14) a tax levied under AS 43.55.011 or 43.55.014;

(15) costs incurred for dismantlement,

removal, surrender, or abandonment of a facility, pipeline, well pad, platform, or other structure, or for the restoration of a lease, field, unit, area, tract of land, body of water, or right-of-way in conjunction with dismantlement, removal, surrender, or abandonment; a cost is not excluded under this paragraph if the dismantlement, removal, surrender, or abandonment for which the cost is incurred is undertaken for the purpose of replacing, renovating, or improving the facility, pipeline, well pad, platform, or other structure;

(16) costs incurred for containment, control, cleanup, or removal in connection with any unpermitted release of oil or a hazardous substance and any liability for damages imposed on the producer or explorer for that unpermitted release; this paragraph does not apply to the cost of developing and maintaining an oil discharge prevention and contingency plan under AS 46.04.030;

(17) costs incurred to satisfy a work commitment under an exploration license under AS 38.05.132;

(18) that portion of expenditures, that would otherwise be qualified capital expenditures, as defined in AS 43.55.023, incurred during a calendar year that are less than the product of \$0.30 multiplied by the total taxable production from each lease or property, in BTU equivalent barrels, during that calendar year, except that, when a portion of a calendar year is subject to this provision, the expenditures and volumes shall be prorated within that calendar year;

(19) costs incurred for repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or equipment, other than a well, that results in or is undertaken in response to a failure, problem, or event that results in an unscheduled interruption of, or reduction in the rate of, oil or gas production; or costs incurred for repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or equipment, other than a well, that is undertaken in response to, or is otherwise associated with, an unpermitted release of a hazardous substance or of gas; however, costs under this paragraph that would otherwise constitute lease expenditures under (a) and (b) of this section may be treated as lease expenditures if the department

determines that the repair or replacement is solely necessitated by an act of war, by an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight, or by an intentional or negligent act or omission of a third party, other than a party or its agents in privity of contract with, or employed by, the producer or an operator acting for the producer, but only if the producer or operator, as applicable, exercised due care in operating and maintaining the facility, pipeline, structure, or equipment, and took reasonable precautions against the act or omission of the third party and against the consequences of the act or omission; in this paragraph,

(A) "costs incurred for repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or equipment" includes costs to dismantle and remove the facility, pipeline, structure, or equipment that is being replaced;

(B) "hazardous substance" has the meaning given in AS 46.03.826;

(C) "replacement" includes renovation or improvement;

(20) costs incurred to construct, acquire, or operate a refinery or crude oil topping plant, regardless of whether the products of the refinery or topping plant are used in oil or gas exploration, development, or production operations; however, if a producer owns a refinery or crude oil topping plant that is located on or near the premises of the producer's lease or property in the state and that processes the producer's oil produced from that lease or property into a product that the producer uses in the operation of the lease or property in drilling for or producing oil or gas, the producer's lease expenditures include the amount calculated by subtracting from the fair market value of the product used the prevailing value, as determined under AS 43.55.020(f), of the oil that is processed;

(21) costs of lobbying, public relations, public relations advertising, or policy advocacy;

(22) costs incurred as part of a capital expenditure or other action taken for a carbon management purpose under AS 38.05.081 or a carbon offset project under AS 38.95.400 - 38.95.499;

(23) costs incurred to become eligible for, or that result in eligibility to claim, the carbon oxide sequestration credit allowed as to federal taxes under 26 U.S.C. 45Q (Internal Revenue Code), when the costs are expended to construct, acquire, modify, operate, dismantle, or remove a facility for carbon capture, carbon utilization, or carbon storage, including construction and modification of new or existing infrastructure, as well as fees incurred under AS 41.06.160, surcharges incurred under AS 41.06.175, or costs associated with obtaining, operating, or maintaining a license or lease under AS 38.05.700 - 38.05.795."

Renumber the following bill sections accordingly.

Page 35, line 2:

Delete "Section 39"

Insert "Section 40"

[3:37:29 PM](#)

CO-CHAIR GIESSEL objected for purposes of discussion.

[3:37:33 PM](#)

SENATOR WIELECHOWSKI said that Amendment 8 applies to the lease expenditure portion of the law. He noted that Amendment 7 also applied to this section and acknowledged that there were some concerns about that amendment. He said that Amendment 8 is the result of working with the Department of Natural Resources (DNR) and the Department of Revenue (DOR). He directed attention to Amendment 8, page 4, lines 17-25 and explained that lease expenditures would not be deductible for those attempting to become eligible for - or seeking to use the - 45Q tax credits. He stated that carbon capture projects are extremely expensive and would not be economically viable under ordinary terms. He went on to say that large federal tax credits make these projects more economic for the companies; however, the state then pays for a large portion of the cost of building, due to the state's current tax structure. He clarified that Amendment 8 allows companies to either deduct lease expenditures or take advantage of the 45Q tax credits, and thus prevents "double-dipping."

[3:39:23 PM](#)

SENATOR DUNBAR said that the primary challenge with Amendment 8 (as with the previous amendment), is differentiating the legitimate oil recovery activity that may result from carbon

insertion from projects that are specifically focused on carbon sequestration. He opined that Amendment 8 does a good job of separating these. He noted that DOR previously indicated that carbon capture, utilization, and storage (CCUS) projects would not qualify as lease expenditures. He said that Amendment 8 provides additional support for DOR's policy.

[3:40:31 PM](#)

SENATOR KAUFMAN asked to hear from DNR.

[3:41:28 PM](#)

JOHN BOYLE, Commissioner, Department of Natural Resources (DNR), said that DNR is still evaluating Amendment 8. He stated that DNR's main concern with this amendment - which delves into the realm of lease expenditures - is that HB 50 deals solely with the regulation of the permanent storage of captured carbon and does not address the question of allowing companies to include carbon capture as a lease expenditure. He acknowledged that there are concerns related to companies capturing carbon, claiming 45Q tax credits, utilizing the captured carbon in enhanced oil recovery and later deducting carbon capture costs. He said that there is a federal tax component for captured carbon that is utilized for EOR and an associated state credit. He explained that, currently, if a company is interested in capturing carbon and utilizing that carbon for enhanced oil recovery (EOR), it would qualify for both federal and state tax credits. He said that the federal tax credit has been in place since 2008 - and surmised that this is also when the state credit was put in place. The amounts for both credits were increased in 2022 as part of the Inflation Reduction Act, in an effort to further incentivize companies to capture carbon.

[3:43:55 PM](#)

COMMISSIONER BOYLE acknowledged that there is concern related to companies capturing carbon, utilizing this carbon for EOR, and then deducting the costs associated with capturing the carbon from existing production tax liabilities. He pointed out that DOR previously testified that the costs associated with captured carbon would not qualify as an ordinary and necessary expenditure for lease deductions. He reiterated that, while companies would still be able to apply for the tax credits, they would not be able to deduct CCUS costs under the current regulatory structure. He stated that Amendment 8 addresses an issue that DNR does not believe currently exists. He said that DOR is willing to work to create a mechanism that would ensure that this issue would not manifest negatively in the future; however, he expressed concern with the language in Amendment 8

that address lease expenditures, which may inadvertently impact currently allowable lease expenditures. He stated that DNR wants to ensure that the scope of HB 50 does not exceed the original intent.

[3:47:50 PM](#)

JOHN CROWTHER, Deputy Commissioner, Department of Natural Resources (DNR), noted that DNR has not been able to complete the necessary review of Amendment 8. He said that additional time is needed to work with the Department of Law (DOL), DOR, and the Senate on the language of the amendment and expressed a willingness to do so.

[3:48:37 PM](#)

BRANDON SPANOS, Acting Tax Director, Tax Division, Department of Revenue, Anchorage, Alaska, echoed the statements made by DNR. He added that DOR would need to confer with the Department of Law.

[3:49:23 PM](#)

SENATOR CLAMAN asked for confirmation of his understanding that using carbon to increase oil production would be considered a "cost of production."

[3:49:48 PM](#)

COMMISSIONER BOYLE shared his understanding that if a company were to source CO2 for use in EOR, this would be an allowable lease expenditure under current regulation. He deferred to DOR to provide a more detailed answer.

[3:50:26 PM](#)

MR. SPANOS answered that, under current statute, an expense that would enhance oil production that is also "ordinary and necessary" would be an allowable EOR lease expenditure deduction.

[3:50:56 PM](#)

SENATOR CLAMAN asked if companies would also receive federal 45Q tax credit for using the CO2.

[3:51:39 PM](#)

MR. SPANOS replied that this is correct. He explained that the federal income tax is separate from the Alaska Oil and Gas Production tax. He said that companies would receive a credit on their federal income tax 45Q calculation. He reiterated that companies would also be able to take these as EOR lease expenditure deductions on the Alaska Oil and Gas Production Tax,

provided they are "ordinary and necessary" and enhance oil recovery.

[3:52:26 PM](#)

SENATOR WIELECHOWSKI asked for clarification that companies can currently use carbon for EOR on the North Slope and get a lease expenditure reduction.

[3:53:01 PM](#)

MR. SPANOS noted that, as acting director, he is not an oil and gas production tax expert. He said that, currently, if carbon was captured and could economically be used for EOR - and the costs were considered an "ordinary and necessary business expense" (which is determined by DOR during the audit process) - then this would be an allowed EOR lease expenditure deduction.

[3:54:04 PM](#)

SENATOR WIELECHOWSKI conveyed that he has heard conflicting reports about whether these deductions are allowed - as well as reports that it is not currently being done. He shared his belief that a company likely could deduct these expenses and that this is what the state is seeking to disallow. He explained that carbon capture projects are very expensive and are only made economical by the \$60-\$130 tax credits. He pointed out that North Slope producers have projects of this type in other parts of the world. He reiterated that Amendment 8 simply clarifies that companies cannot utilize both the tax deduction and receive the 45Q tax credit. He noted that no other state allows these deductions. He said that, while it may never happen, it has the potential to be extremely expensive for the state. He emphasized that he is not intending to disallow any other EOR lease expenditures, regardless of the costs. Rather, the intention is to disallow companies from utilizing both the lease expenditures and the 45Q tax credits simultaneously. He reiterated that when companies receive both, it distorts project economics in a way that is detrimental to the state budget. He expressed a willingness to work with DOR and DNR going forward. He shared his belief that it is important to include this change in HB 50 as it moves on to the Senate Finance Committee.

[3:56:36 PM](#)

CO-CHAIR GIESSEL confirmed that HB 50 will move next to the Senate Finance Committee. She pointed out that Amendment 8 was drafted for HB 50, version D, and is therefore a conceptual amendment, as the committee is considering version H.

[3:56:57 PM](#)

CO-CHAIR BISHOP asked if the 45Q tax credit terminates in 2033.

[3:57:18 PM](#)

MR. SPANOS replied that he would need to look up this information.

[3:57:33 PM](#)

CO-CHAIR BISHOP said that Mr. Spanos could follow up in the Senate Finance Committee with this information. He commented that no company is currently claiming the EOR credit - and the credit may not be renewed when it expires in 2033. He asked if Amendment 8 would inadvertently stop any standalone point source carbon capture at a generation facility that was to be stored in a Class 6 injection well.

[3:58:29 PM](#)

COMMISSIONER BOYLE answered that, to his knowledge, Amendment 8 would not impact those activities.

[3:58:40 PM](#)

SENATOR CLAMAN asked for clarification that Amendment 8 would allow companies that capture carbon for EOR - but do not claim the 45Q tax credit - to deduct those costs as lease expenditures.

[3:59:29 PM](#)

MR. SPANOS replied that he would need to review the language of Amendment 8.

[3:59:49 PM](#)

SENATOR KAUFMAN expressed concern that Amendment 8 could potentially hamper oil and gas production and EOR. He indicated a need to distinguish between carbon injection for storage versus carbon injection for improved performance. He asked whether it is possible to characterize the difference in activities - or facilities - that would be used to do one versus the other. He suggested that this may give a stronger sense of separation that would exist between the two. He surmised that some may envision a facility that is doing both and wondered what the measuring and/or evaluation process would consist of - and how this would ensure that companies are not "double-dipping."

[4:01:05 PM](#)

COMMISSIONER BOYLE replied that DNR does not believe Amendment 8 would hamper North Slope oil production, insofar as it applies to companies that capture carbon and collect 45Q credits being

prohibited from also claiming this as a lease deduction. He offered a hypothetical situation involving permanent carbon sequestration (which is not an allowable lease expenditure) and explained how an oil company (that is also a producer) may be incentivized to take on this project based on how much of the 45Q tax credit is available for that activity. He noted that this would be independent of the state's existing lease expenditure regulations. He said that a similar situation would occur for an oil company (that is also a producer) considering the direct air capture and permanent sequestration of carbon and seeking the 45Q tax credit for that activity. He pointed out that these expenses are not allowable lease expenditures under the current production tax law. He added that a company that captured carbon and later sold the CO2 to an oil company for EOR, the company responsible for capturing the carbon would be entitled to the 45Q tax credit - which he reiterated is not an allowable lease expenditure. However, a company that is capturing carbon for enhanced oil recovery - which is deemed "ordinary and necessary" for facilitating the increased production of oil - the company purchasing the CO2 could potentially deduct this as a lease expenditure.

[4:04:52 PM](#)

CO-CHAIR BISHOP asked whether an approved class injection well is required to be eligible to claim 45Q tax credits. He commented that EOR credits apply to class 2 wells.

[4:05:29 PM](#)

MR. CROWTHER replied that pure storage operations, which receive a higher 45Q credit amount, must have an approved class 6 well. He explained that it is possible to inject CO2 via a class 2 well - and these can be permitted by the state. Any class 6 well can be permitted by the EPA alone, without primacy. He clarified that, while EOR-related activity can occur through a class 2 well, not all CO2 injection via a class 2 well is eligible for 45Q credits (as there are other requirements that must be met).

[4:06:03 PM](#)

CO-CHAIR BISHOP asked Mr. Crowther to repeat his last sentence.

[4:06:05 PM](#)

MR. CROWTHER restated that carbon can be injected through a class 2 well; however, this does not mean that all carbon injected through that well is eligible for 45Q credits, as there are additional requirements to qualify.

[4:06:28 PM](#)

CO-CHAIR BISHOP asked for clarification regarding whether CO2 injected in a class 2 well would be eligible for 45Q credits.

[4:06:34 PM](#)

MR. CROWTHER clarified that it could be eligible, if it resulted in EOR that involved disposition in the reservoir and if it would otherwise be emitted. He noted that CO2 that is cycled on the North Slope would not otherwise be emitted and is therefore ineligible for 45Q credits.

[4:06:57 PM](#)

CO-CHAIR BISHOP commented that he would seek a more detailed answer regarding 45Q tax credit eligibility in this scenario as HB 50 moves on to the Senate Finance Committee.

[4:07:17 PM](#)

CO-CHAIR GIESSEL removed her objection; she found no further objection and Amendment 8 was adopted.

[4:07:44 PM](#)

CO-CHAIR GIESSEL solicited a motion.

[4:07:45 PM](#)

SENATOR WIELECHOWSKI moved to adopt Amendment 9, work order 33-GH1567\D.45, to HB 50.

[Note: Amendment 9 is a conceptual amendment, as it was drafted to version D of HB 50 and is not complete.]

33-GH1567\D.45
Dunmire
5/3/24

A M E N D M E N T 9

OFFERED IN THE SENATE BY SENATOR WIELECHOWSKI
TO: CSHB 50 (FIN)

Page 1, line 5, following "**credits;**":

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

Page 32, following line 9:

Insert a new bill section to read:

"* **Sec. 37.** AS 43.20 is amended by adding a new section to read:

Sec. 43.20.019. Tax on income attributable to a

qualified entity; renewable energy and electrical grid projects or upgrades fund. (a) If an entity has qualified taxable income over \$4,000,000 in a tax year, the entity shall pay a tax of 9.4 percent on the qualified taxable income over \$4,000,000.

(b) The tax under this section does not apply to a corporation paying tax under AS 43.20.011.

(c) The department shall aggregate the qualified taxable income of two or more entities for the purpose of determining the tax due under this section if the department determines that, without the provisions of this section, the qualified taxable income would reasonably be expected to be attributed to a single entity.

(d) The renewable energy and electrical grid projects or upgrades fund is established in the general fund. The Department of Administration shall separately account for the tax collected under this section and deposit the tax into the renewable energy and electrical grid projects or upgrades fund.

(e) In this section,

(1) "entity" means a

(A) sole proprietorship;

(B) partnership; or

(C) entity that has elected to file federal returns under 26 U.S.C. 1361 - 1379 (Internal Revenue Code);

(2) "qualified taxable income" means 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 before deductions for

(A) dividends and gifts; and

(B) wages, salaries, bonuses, or other similar payments to owners, partners, members, or shareholders of the entity."

Renumber the following bill sections accordingly.

Page 34, following line 20:

Insert new bill sections to read:

"* Sec. 40. The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. Section 37 of this Act applies to an entity with qualified taxable income over \$4,000,000 for a tax year beginning on or after January 1, 2023.

*** Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: PAYMENT OF TAX. A person subject to tax before the effective date of sec. 37 of this Act under AS 43.20.019, added by sec. 37 of this Act, shall pay the balance of the tax due for a tax year ending before January 1, 2024, by January 1, 2025. Until January 1, 2025, the Department of Revenue shall waive interest that would otherwise accrue under AS 43.05.225 and civil and criminal penalties accruing under AS 43.05.220, 43.05.245, and 43.05.290 that are a result of the retroactivity of this Act."

Renumber the following bill sections accordingly.

Page 35, line 2:

Delete all material and insert:

"* Sec. 44. The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY OF REGULATIONS. Notwithstanding a contrary provision of AS 44.62.240, if the Department of Revenue expressly designates in the regulation that the regulation applies retroactively to a specific date, a regulation adopted by the department to implement, interpret, make specific, or otherwise carry out sec. 37 of this Act applies retroactively to that date.

*** Sec. 45.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY. Sections 37, 40, and 41 of this Act are retroactive to January 1, 2023.

*** Sec. 46.** Sections 37, 40 - 42, 44, and 45 of this Act take effect immediately under AS 01.10.070(c)."

[4:07:48 PM](#)

CO-CHAIR GIESSEL objected for purposes of discussion.

[4:07:51 PM](#)

SENATOR WIELECHOWSKI said that Amendment 9 addresses an issue that has been before the legislature for many years. He explained that this amendment closes a loophole and puts North Slope oil companies in parity tax status. He said that there is an S-corporation provision allowing organizations to classify under the IRS tax code rather than a C-corporation. He pointed out that while the majority of North Slope oil companies are C-corporations, one individual (who may be located outside of Alaska) is incorporated as an S-corporation and therefore is not

paying corporate income taxes. He pointed out that Alaska is heavily dependent on the revenue from resource development - and oil is a non-renewable, finite resource. He noted that the state constitution mandates that the legislature seek the maximum benefit for these resources for Alaskans. He stated that Amendment 9 would ensure that companies are not treated differently because of the way they are incorporated, which he added is fundamentally unfair. He noted that the Legislative Finance Department has examined this issue and recommended termination of the S-Corp exclusion. He said that a provision was added on lines 22 and 23 which allows the tax revenue collected to be used to fund renewable energy or electrical grid projects. He estimated that the yearly amount received would be \$100-175 million.

[4:11:56 PM](#)

CO-CHAIR GIESSEL noted that Amendment 9 is a conceptual amendment, as it was drafted to version D of HB 50 and is not complete.

[4:12:08 PM](#)

SENATOR WIELECHOWSKI added that Amendment 9 is retroactive to January 1, 2023.

[4:12:21 PM](#)

SENATOR KAUFMAN expressed opposition to Amendment 9. He said he understands the desire, but believes it is heavy tax policy that should be given full consideration as a bill rather than an amendment.

[4:12:57 PM](#)

CO-CHAIR BISHOP expressed opposition to Amendment 9 until he is able to consider it further.

[4:13:11 PM](#)

CO-CHAIR GIESSEL shared her understanding that the contents of Amendment 9 are also contained in legislation currently before the Senate Finance Committee. She said that the accompanying fiscal note was derived from that legislation.

[4:13:22 PM](#)

CO-CHAIR BISHOP said that he would like to ask the Senate Finance Committee about paragraphs 2 and 3 of the accompanying fiscal note.

[4:13:51 PM](#)

CO-CHAIR GIESSEL read from paragraph 2 of the aforementioned fiscal note, which indicated that DOR is uncertain of the financial impact these changes would have.

[4:14:15 PM](#)

SENATOR CLAMAN expressed opposition to Amendment 9. He voiced concern with removing the S-corporation tax exemption for a single company. He acknowledged that the company in question has a greater amount of tax liability than most but pointed out that C-corporations do not have a minimum for corporate tax payments (instead, all C-corporations pay corporate taxes). He opined that, to remain equitable, the tax exemption should be removed for all S-corporations.

[4:15:01 PM](#)

CO-CHAIR GIESSEL removed her objection.

[4:15:04 PM](#)

CO-CHAIR GIESSEL found further objection and asked for a roll call vote.

[4:15:10 PM](#)

A roll call vote was taken. Senators Wielechowski, Kawasaki, Dunbar, and Giessel voted in favor of Amendment 9 and Senators Kaufman, Claman, and Bishop voted against it. The vote was 4:3.

[4:15:33 PM](#)

CO-CHAIR GIESSEL announced that [Amendment 9] was adopted on a vote of 4 yeas and 3 nays.

[4:15:55 PM](#)

CO-CHAIR GIESSEL solicited a motion.

[4:16:05 PM](#)

SENATOR WIELECHOWSKI moved to adopt Amendment 10, work order 33-GH1567\H.1, to HB 50.

33-GH1567\H.1
Dunmire
5/3/24

A M E N D M E N T 10

OFFERED IN THE SENATE BY SENATOR WIELECHOWSKI
TO: SCS CSHB 50(RES), Draft Version "H"

Page 1, line 11, following "**pipelines;**":
Insert "**relating to state loans for oil and gas**"

development projects in the Cook Inlet sedimentary basin; relating to the Alaska Industrial Development and Export Authority; requiring the Alaska Industrial Development and Export Authority to make certain reports to the legislature; relating to the duties of the Regulatory Commission of Alaska, the Department of Revenue, and the Department of Natural Resources;"

Page 34, following line 31:

Insert a new subsection to read:

"(g) The commission shall, as required under AS 44.88.850(b), determine whether the sale price in a gas sales agreement for gas produced through a project partially or fully funded by a loan under AS 44.88.850 constitutes a just and reasonable immediate delivery price for gas."

Reletter the following subsections accordingly.

Page 35, line 8:

Delete "(g)"

Insert "(h)"

Page 37, following line 29:

Insert new bill sections to read:

*** Sec. 48.** AS 44.25.020 is amended to read:

Sec. 44.25.020. Duties of department. The Department of Revenue shall

(1) enforce the tax laws of the state;
(2) collect, account for, have custody of, invest, and manage all state funds and all revenues of the state except revenues incidental to a program of licensing and regulation carried on by another state department, funds managed and invested by the Alaska Retirement Management Board, and as otherwise provided by law;

(3) invest and manage the balance of the power development fund in accordance with AS 44.83.386;

(4) administer the surety bond program for licensure as a fish processor or primary fish buyer;

(5) provide reasonable assistance to the Alaska Industrial Development and Export Authority under AS 44.88.850(c).

*** Sec. 49.** AS 44.37.020 is amended by adding a new subsection to read:

(d) The Department of Natural Resources shall

provide reasonable assistance to the Alaska Industrial Development and Export Authority under AS 44.88.850(c).

* **Sec. 50.** AS 44.88 is amended by adding new sections to read:

Article 10A. Cook Inlet Reserve-Based Lending.

Sec. 44.88.850. Cook Inlet reserve-based lending account. (a) The Cook Inlet reserve-based lending account is established in the revolving fund. The account consists of money or assets deposited into the account by the authority and contributions from other sources.

(b) The authority may use money in the account to make one or more reserve-based loans to fund oil and gas development projects the authority considers necessary to increase oil and gas production from the Cook Inlet sedimentary basin. The authority may, as a term of the loan, accept an ownership share in the project funded by the loan. If the authority accepts an ownership share as a term of the loan, the ownership share must be in the form of a carried interest that does not obligate the authority to contribute to the development costs of the project. The authority may make a loan under this section only

(1) to a legal entity in compliance with state and federal laws;

(2) if the loan applicant provides a written waiver permitting the authority to access or obtain copies of the loan applicant's confidential records that are in possession of the Department of Natural Resources or the Department of Revenue; information provided to the authority under this section shall be kept confidential by the authority unless disclosure is authorized by the loan applicant or borrower;

(3) if the authority obtains an independent study performed by an experienced, qualified expert that confirms the valuation of the loan security and the capacity of the loan to support the oil and gas development project and to cause or increase the commercial production of oil or gas from the Cook Inlet sedimentary basin;

(4) if the Regulatory Commission of Alaska determines, under AS 42.05.141(g), that the sale price in a gas sales agreement for gas produced through a project partially or fully funded by a loan under this section does not exceed a just and reasonable

immediate delivery price for gas;

(5) if the authority determines that the sales price for oil and gas produced through a project partially or fully funded by a loan under this section is reasonable and in the best interests of residents of the state.

(c) The authority may request assistance from the Department of Revenue under AS 44.25.020(a)(5) or the Department of Natural Resources under AS 44.37.020(d) to execute this section.

(d) The authority may accept an overriding royalty interest in a lease for which a loan has been extended under (b) of this section if, as a term of the loan, the overriding royalty interest is subject to prior approval by the Department of Natural Resources. The authority may only have the overriding royalty interest transferred to the authority if the borrower defaults.

Sec. 44.88.855. Cook Inlet oil and gas development projects; report. (a) The authority shall evaluate oil and gas development projects the authority believes have reasonable potential to increase oil and gas production from the Cook Inlet sedimentary basin. Each year, the authority shall prepare a report related to those oil and gas development projects and shall, by the first day of each regular session of the legislature, deliver the report to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available. At the request of a legislative committee, a representative of the authority shall appear in that committee to review the report. For each oil and gas development project, the report must include

- (1) a cost estimate for the project;
- (2) the potential recoverable gas from the project;
- (3) the projected rate of return for the project;
- (4) if the authority recommends a reserve-based loan for the project, the amount of funds necessary for deposit into the Cook Inlet reserve-based lending account to provide a loan for the project and the recommended source of funds for the deposit.

(b) Notwithstanding AS 44.88.215, 44.88.850(b)(2), or any other law, a borrower's

information shall be subject to the public reporting requirements under this section. Each year, the authority shall prepare a report related to Cook Inlet reserve-based loans made under AS 44.88.850 and shall, by the first day of each regular session of the legislature, deliver the report to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available. At the request of a legislative committee, a representative of the authority shall appear in that committee to review the report. The report must

(1) identify each entity borrowing funds under AS 44.88.850;

(2) list the amount borrowed by each borrower and the date each loan was approved;

(3) include a summary of the terms of the lending agreement with each borrower;

(4) summarize each project for which a loan was made, including the status of the project and the volume of oil and gas produced and expected to be produced from the project;

(5) list the status of payments made on the loan, including whether the loan is or ever was in default.

* **Sec. 51.** AS 44.88.900 is amended by adding new paragraphs to read:

(20) "oil and gas development project" means a development project to produce proven oil or gas reserves;

(21) "reserve-based loan" means a loan made against and fully secured by an oil and gas field, proven undeveloped or developed oil and gas reserves, or other assets of the entity receiving the loan."

Renumber the following bill sections accordingly.

Page 40, line 19:

Delete "Section 51"

Insert "Section 55"

[4:16:07 PM](#)

CO-CHAIR GIESSEL objected for purposes of discussion.

[4:16:11 PM](#)

SENATOR WIELECHOWSKI said that the idea for Amendment 10 generated from Representative McKay in the House Resources

Standing Committee. He explained that this amendment allows Alaska Industrial Development and Export Authority (AIDEA) to offer reserve-space lending. He said that companies in Cook Inlet are facing tremendous capital constraint, in spite of a desire to build and gas is abundant. He surmised that the amount of gas would be enough to solve the state's gas issues for the next ten years. He noted that he has worked with AIDEA, DNR, DOR, Department of Law (DOL), and the governor's office to come up with the language in Amendment 10. He shared his belief that there is support for the amendment. He also noted that there is little cost associated, as this would simply allow AIDEA to offer reserve-space lending. He said that RCA would be required to set just and reasonable gas rates.

[4:18:08 PM](#)

CO-CHAIR BISHOP commented that an explanation of "reserve-space lending" may be helpful for those who are unfamiliar.

[4:18:59 PM](#)

FADIL LIMANI, Deputy Commissioner, Department of Revenue (DOR), Anchorage, Alaska, said that DOR has not been engaged in discussions on Amendment 10 or in conversations related to reserve-space lending.

[4:19:26 PM](#)

CO-CHAIR GIESSEL asked if DOR has any information on reserve-based lending.

[4:19:33 PM](#)

MR. LIMANI replied no. He added that the department has limited information on this topic.

[4:19:45 PM](#)

SENATOR WIELECHOWSKI expressed surprise and said that he spoke with DNR and DOR several times regarding Amendment 10. He pointed out that "reserve-based loan" is defined in Section 51, line 31 of the amendment. He explained that a prospect with a large degree of gas would be able to pledge their reserves as collateral in order to receive a loan through [Alaska Industrial Development and Export Authority (AIDEA)]. He explained how this would protect [AIDEA's] interests.

[4:20:51 PM](#)

CO-CHAIR GIESSEL recalled a Joint Resources committee meeting in which a representative from the Cosmopolitan Oil and Gas Field said that his organization had not approached AIDEA for

financial assistance. She stated that Amendment 11 would open the door for this.

[4:21:32 PM](#)

SENATOR WIELECHOWSKI acknowledged that there are concerns about AIDEA's investments. He opined that there is no better investment than this. He pointed out that there is a crisis in Cook Inlet and said that this provides an opportunity to use the money in AIDEA for something that would benefit at least 70 percent of Alaskans - particularly those who live along the railbelt and utilize natural gas. He emphasized the potential benefit for the economy, residential consumers, and the business community. He reiterated that this is the best investment option and would help the state avoid taking out questionable loans.

[4:22:27 PM](#)

SENATOR DUNBAR opined that 100 percent of Alaskans would benefit.

[4:22:51 PM](#)

CO-CHAIR GIESSEL removed her objection; she found no further objection and Amendment 10 was adopted.

[4:23:15 PM](#)

CO-CHAIR GIESSEL solicited a motion.

[4:23:17 PM](#)

SENATOR CLAMAN moved to adopt Amendment 11, work order 33-GH1567\H.3, to HB 50.

33-GH1567\H.3
Dunmire
5/3/24

A M E N D M E N T 11

OFFERED IN THE SENATE

TO: SCS CSHB 50(RES), Draft Version "H"

Page 1, line 11, following "pipelines;":

Insert "**relating to an audit of carbon storage leases conducted by the legislative audit division;**"

Page 40, following line 13:

Insert a new bill section to read:

"* **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE AUDIT DIVISION REPORT TO THE

LEGISLATURE. The legislative audit division shall conduct an audit of carbon storage leases in the state under AS 38.05.700 - 38.05.795 and submit the audit to the senate secretary and the chief clerk of the house of representatives on or before January 1, 2033, and notify the legislature that the audit is available; the audit must include detailed fiscal information from each fiscal year, beginning with the fiscal year ending June 30, 2025, total revenues and costs to the state associated with carbon storage leases in each fiscal year, and recommendations to improve the carbon storage program."

Renumber the following bill sections accordingly.

Page 35, line 2:

Delete "Section 51"

Insert "Section 52"

[4:23:19 PM](#)

CO-CHAIR GIESSEL objected for purposes of discussion.

[4:23:23 PM](#)

SENATOR CLAMAN said that Amendment 11 is a follow up to the sunset provision in Amendment 2. He explained that this amendment requires an audit in 2033 and an accompanying report to the legislature. The report would include any recommendation for the carbon storage program and would provide input from the Legislative Audit Division about how the program is working. He added that if the legislature decided to make changes to the program in the future, this would provide substantive analysis to aid in making those changes.

[4:24:12 PM](#)

CO-CHAIR GIESSEL wondered if it is realistic to add additional audits to the Legislative Audit Division's workload.

[4:24:38 PM](#)

SENATOR CLAMAN replied that this is a single audit in 2033, rather than an annual audit. He surmised that, given the length of time before the audit date, the Legislative Audit Division would comply.

[4:25:16 PM](#)

CO-CHAIR GIESSEL removed her objection; she found no further objection and Amendment 11 was adopted.

[4:25:33 PM](#)

CO-CHAIR GIESSEL solicited the will of the committee.

[4:25:40 PM](#)

CO-CHAIR BISHOP moved to report SCS CSHB 50, work order 33-GH1567\H, as amended, from committee with individual recommendations and attached fiscal note(s).

[4:26:07 PM](#)

CO-CHAIR GIESSEL found no objection and SCS CSHB 50(RES) was reported from the Senate Resources Standing Committee.

[4:26:35 PM](#)

There being no further business to come before the committee, Co-Chair Giessel adjourned the Senate Resources Standing Committee meeting at 4:26 p.m.