

HB

48

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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State Capitol
Juneau, Alaska 99801-1182
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MEMORANDUM

February 6, 2007

SUBJECT: CSHB 48(STA) (Work Order No. 25-LS0259\A)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee

FROM: Pam Finley
Revisor of Statutes

Enclosed is the CS you requested. Unfortunately, the addition of a reference to AS 43.55.025 on page 2, lines 4 and 6, does not fit well. While AS 43.55.023 has a provision for a cash refund, AS 43.55.025 does not. AS 43.55.025(g) allows for the sale of certificates issued under that section, but does not provide for a cash refund. Therefore, the references to cash refunds on page 2, lines 6, 11, and 13 do not make sense when applied to certificates issued under AS 43.55.025.

PF:med
07-077.med

Enclosure

Alaska State Legislature

Chairman:
State Affairs Committee

Vice-Chairman
Economic Development, Trade & Tourism
Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees
Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety



A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
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FAX

To: Legal Services

Fax #: 2029

From: Nancy Manly x2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

of Pages (including cover): 1

Phone: 907-465-4931
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Re: State Affairs Final CS for HB 48

Please draft a final CS for HB 48. The committee adopted a House Bill 48 Version C which was amended.

1) Amendment #1

Page 2, Line 4: after "43.55.023" insert "and 43.55.025"

Page 2, Line 5: after "43.55.023(1)" insert "and 43.55.025"

TRANSACTION REPORT

FEB-06-2007 TUE 12:10 PM

FOR: REPRESENTATIVE BOB LYNN 907 465 4316

SEND(M)

DATE	START	RECEIVER	PAGES	TIME	NOTE	M#
FEB-06	12:10 PM	2029	1	27"	JK	16

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 48
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue 04
 Title Retirement Board Purchase PPT Credits RDU Taxation and Treasury
 Component Tax Division
 Sponsor Representatives Seaton, Kelly
 Requester (H) State Affairs Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	*	*	*	*	*	*
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

*This bill would authorize the Alaska Retirement Management Board (ARM) to purchase transferable tax credit certificates issued under AS 43.55.023 for 92 percent of the face value of the certificates. The ARM board would then sell the certificates to the Department of Revenue for the full face value of the certificates, unless the commissioner of the Department of Revenue determines that economic conditions are not acceptable for the state to purchase and pay for the certificates. The proceeds of these sales would be used by the ARM board to defray the unfunded pension liabilities for which the board is responsible.

Alaska Statutes 43.55 currently offers three clearly identifiable means of obtaining and selling tax credits for petroleum exploration activity and other capital costs relating to petroleum production.

Prepared by: Brian Andrews, Cherie Nienhuis and Roger Marks Phone 465-2300
 Division Treasury and Tax Date/Time 2/5/07 10:00 AM
 Approved by: Jerry Burnett Date 2/5/2006
 Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. HB 48

ANALYSIS CONTINUATION

AS 43.55.025, known as the Exploration Incentive Credit, offers tax credits for either 20% or 40% of exploration expenditures incurred before July 1, 2016. The certificates issued under this program can be carried forward or transferred. The bill under consideration (HB 48) does not authorize the purchase of these certificates.

Tax credits generated under AS 43.55.023, through excess capital expenditures or net losses, can also be carried forward or transferred. Current statutes allow these credit certificates to be sold to (1) other companies (AS 43.55.023(e)), or (2) to the state Department of Revenue (AS 43.55.023(f)).

Although there are qualifying criteria for the state's purchase of credit certificates at AS 43.55.023(f), there are no restrictions on the amount to be paid for the certificates (other than the maximum refund per taxpayer of \$25 million per year), and it is assumed that the state would pay full face value for the certificates. There are also no restrictions on the amount other companies can pay for the certificates, although it is assumed they would pay less than face value and current statutes limit the amount transferred certificates can reduce a taxpayer's liability to 20 percent per year.

Given the three options and their qualifying criteria, it is difficult to assess which program certificate holders will favor. Were the expenditures to qualify under the EIC 40% credit program, then it is likely that would be the first choice. Alternatively, should the expenditures qualify only for the 20% credit, then it is likely that the certificates would be transferred to the highest bidder. The highest bidder could be another company, the state Department of Revenue, or, under this bill, the ARM board.

Exploration Tax Credits

43.55.025

- Extends exploration tax credits six years to 2016
- 20% credit for exploration wells more than 3 miles from an existing well (C.I. deemed separate target)
- 20% for wells more than 25 miles from existing unit (10 miles for Cook Inlet)
- 40% credit if both conditions are met
- 40% credit for seismic operations not associated with a well

OIL AND GAS PRODUCTION TAXES

AS 43.56

Description

Alaska imposes the production tax on all oil and gas produced in Alaska. The Oil and Gas Production Tax and the Conservation Surcharge on Oil are severance taxes.

Rate

The rate of taxation for oil varies depending on the age of the field and the economic limit factor (ELF) which varies depending on field size and well productivity.

The severance tax rate on oil is 12.25% of production value as determined at the point of production, for the first five (5) years of production and 15% thereafter. There is a minimum tax of \$0.80/bbl.

Both the percent of value and the cents per barrel tax rates are subject to the ELF. The effective tax rate is the appropriate tax rate multiplied by the ELF.

The ELF formula results in lower tax rates for smaller, low productive fields and higher tax rates for larger highly productive fields. The formula is difficult to characterize in a simple way because it is based on a fraction that is calculated using fractional exponents and is unique for every combination of field size and well productivity. A field that produces 300 bbl/day per well or less has an ELF of zero i.e. no severance taxes are assessed.

On January 12, 2005 the Tax Division issued a decision to aggregate certain Prudhoe Bay area oil fields for purposes of calculating the economic limit factor (ELF). The Prudhoe Bay Initial participating area, the Aurora, the Borealis, the Midnight Sun, the Orion, the Polaris, and the Point McIntyre participating areas are the fields that were aggregated under this decision. That decision was effective for oil produced on or after February 12, 2005. The decision has been appealed by the taxpayers.

The table below reflects the aggregated Prudhoe Bay area ELF. In Fiscal Year 2005, four of Alaska's North Slope 24 producing fields had an ELF higher than 0.1:

Field	ELF	FY05 Tax Rate
Prudhoe	843033	12.6455%
North Star	834275	10.2199%
Alpine	829133	10.1569%
Kuparuk	050742	00.7611%
Tarn	009742	00.1461%

The 3 largest fields account for 94% of all production tax revenues.

The severance tax rate on gas is 10% of production value. There is a minimum tax of \$0.064/mcf. The gas severance tax rate is also subject to an ELF based on daily gas production per well.

Returns

Returns are filed monthly and due with payment of taxes on or before the 20th day of the month following the month of production.

Exemptions

The tax on oil is levied on all production except for public (government) royalty production. The tax on gas is levied on all production except for public (government) royalty production and gas used in production operations including enhanced recovery, or flared for safety purposes.

Credits

Education - Taxpayers making contributions to accredited Alaska universities or colleges for educational purposes may take a tax credit for 50% of the first \$100,000, 100% of the next \$100,000 of contributions with a maximum credit of \$150,000 per tax year.

Oil and Gas Exploration Incentive - There are two exploration credits available to the producers. The first "Oil and Gas Exploration Incentive" is approved by the commissioner of Department of Natural Resources, and the second "Oil and Gas Exploration Tax Credit" is approved by the Department of Revenue. A producer may claim either one, but not both.

Taxpayers may take a credit for up to 50% on state land (or 25% on non state lands) of oil and gas exploration costs approved by the commissioner of Natural Resources. An approved oil and gas exploration incentive credit may not exceed \$5 million per project and is limited to \$30 million per taxpayer. Taxpayers may apply the credit against 100% of oil and gas production taxes.

Oil and Gas Exploration Tax Credit - Explorers may take a credit against their production taxes of (1) 20% of allowable expenses for exploration wells drilled more than 3 miles from a preexisting well, (2) 20% of allowable expenses for exploration wells drilled more than 25 miles from the boundary of a unit or (3) 40% of allowable expenses for certain seismic work and for exploration wells that meet both condition (1) and (2). Once approved, the credit or any remaining portion of it can be either carried forward month to month until fully applied, or sold to another taxpayer.

OIL AND GAS PRODUCTION TAXES

AS 43.56

To qualify the work must have been performed between July 1, 2003 and July 1, 2007. However the credits could not be applied until after July 1, 2004 (i.e. in FY 2005).

The legislature extended the time until July 1, 2010 for qualifying work south of the Brooks Range and including the Alaska Peninsula and Bristol Bay, the Nenana Basin, the Red Dog Mine Area, the Healy Basin and Cook Inlet. The new rules also changed the 3 mile and 25 mile rules for the Cook Inlet to reflect a more mature exploration area.

The table below reports the credits issued under the program through September 30, 2005:

Area	Project	Number of Projects	Credits Issued
20 % Credits Issued			
Cook Inlet	Wells	1	\$392,293
North Slope	Wells	1	\$3,588,666
Total 20 % credits issued			\$3,980,959
40 % Credits Issued			
Cook Inlet	Seismic	1	\$754,619
Cook Inlet	Wells	0	\$0
North Slope	Seismic	0	\$0
North Slope	Wells	1	\$9,719,482
Total 40 % credits issued			\$10,474,101
Total credits issued, (through 9.30.05)			\$14,455,060

Disposition of Revenue

All revenue derived from the Oil and Gas Production Tax is deposited in the General Fund except that payments received as a consequence of an assessment are deposited in the Constitutional Budget Reserve Fund (CBRF).

History

1955 – The legislature enacts an oil and gas production tax of 1% of production value.

1967 – A 1% disaster production tax is enacted to provide relief after the Fairbanks flood

1968 – The legislature increases oil and gas production tax from 1% to 3% of production value.

1970 – The legislature repeals the disaster oil and gas production tax. The legislature changes the oil production tax to a graduated tax with rates of 3% on the first 300 barrels per day per well, 5% on the next 700 barrels per day per well, 6% on the next 1500 barrels

per day and 8% on production exceeding 2500 barrels per day per well.

1972 – The legislature establishes a minimum oil production tax based on "cents per barrel" equivalent to percent of value tax on oil with wellhead value of \$2.65 per barrel.

1973 – The legislature revises the "stairstep" rate schedule to lower production levels. The legislature indexes the cents per barrel minimum to the wholesale price index for crude oil published by the US Bureau of Labor Statistics.

1977 – The legislature raises the nominal gas production tax rate to 10%. The legislature raises the nominal oil production tax rate to 12.25% and adopts the oil and gas economic limit factors.

1981 – As part of legislation that repealed the separate accounting oil and gas corporation income tax, the nominal tax rate on oil produced prior to 1981 was raised to 15% and fields coming into production after 1981 are taxed at 12.25% for five years after which the rate increases to 15%. The oil economic limit factor is now subject to a rounding rule so that if the calculated factor is greater than or equal to 0.7 during the first 10 years of production, the factor is set to 1.0.

1989 – The legislature changes the economic limit factor for oil production taxes to include a field size factor in the formula, fixes the production at the economic limit (not rebuttable) at 300 barrels per well per day, and drops the rounding rule. The legislature fixes production at the economic limit for gas production at 3000 mcf per well per day.

2002 - Alaska Veterans' Memorial Endowment, SB 267, provides credits of up to 50% for contributions of not more than \$100,000 and 75% of the next \$100,000 in contributions made to the Veterans' Memorial Endowment Fund. The tax credit expired July 1, 2003.

2003 – To encourage drilling for oil and gas within the state, AS 43.55.025 provided a new tax credit for exploration costs. The minimum credit is 20% and the maximum 40% for qualified expenditures.

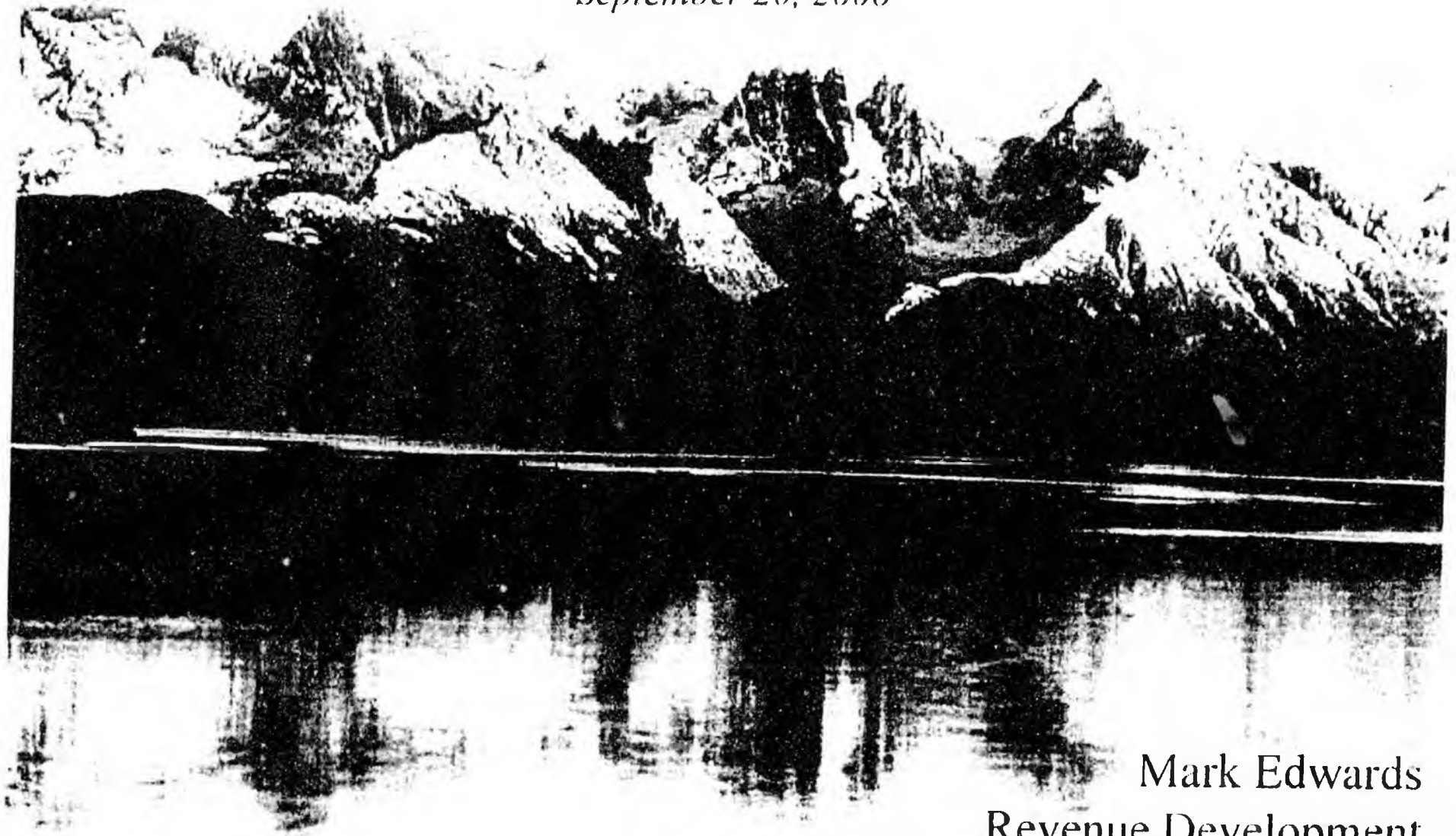
2005 - Prudhoe Bay area oil fields are aggregated for purposes of calculating the economic limit factor, effective February 1, 2005.

2005 – To expand the exploration credit enacted the previous year, the deadline was extended until July 1, 2010 for qualifying work south of the Brooks Range (i.e. non-North Slope). New rules also changed the 3 mile and 25 mile rules for the Cook Inlet allowing closer

South Central Alaska Energy Forum

Taxes and Incentives

September 20, 2006



Mark Edwards
Revenue Development
Department of Revenue

Tradable Capital Investment Tax Credits - 43.55.023 (a)–(h)

- 20% tax credit for qualified capital expenditures
And 20% Net Operating Loss
- Unused credit can be applied in future years
- Transferable and re-transferable with a certificate
- Producers of less than 50,000 BTU equivalent barrels per day can get a cash refund if they meet certain qualifications
- Flexible for a wide variety of circumstances, can be cashed out, traded or saved

REPRESENTATIVE PAUL SEATON

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ALASKA STATE LEGISLATURE House District 35

HB 48 Sponsor Statement

HB 48 addresses the massive unfunded liability in the state retirement system by allowing the Alaska Management Retirement (ARM) Board to purchase transferable credits established under the Petroleum Profits Tax and obtain reimbursement of the credits through the Department of Revenue (DOR). The ARM Board shall then apply the return on their investment to the state's unfunded liability.

Under HB 48 the ARM Board is not required to purchase the credits. However, if the ARM Board does purchase the credit, it must do so at a rate of 92% of the face value of the credit certificate.

The Petroleum Production Tax (PPT) directs the DOR to reimburse companies for 100% of the face value of their transferable tax credit certificates (AS 43.55.023 (f)). When the ARM Board reimburses their credit purchased at 92% through the DOR for 100% face value, the Board will realize an 8% return on their investment. This is close to the ARM Board's annual target rate of 8.25% but because it is a short term instead of a yearly return it significantly improves the overall rate of return on their portfolio and reduces the state's long term unfunded liability.

HB 48 provides an additional benefit to small oil and gas companies. The PPT created a direct refund of up to \$25,000,000 in transferable tax credit per company each year. These transferable credits only arise when a company generates investment credit but has insufficient production tax against which to take the credit. This generally would be an exploration company before any production begins. Beyond that amount the credits are tradable and may be purchased and utilized to offset another company's PPT liability up to an annual limit of 20% of their tax liability. The explorers and small producers are concerned about the discount rate that they may be forced to accept for the transfer since the credits can only be applied to the PPT liability and there are few companies large enough (with enough tax liability under the PPT) to utilize the credits. In the past, 90% has been paid for similar credits, although with a limited pool of users this rate could fall to 70% or 80%. HB 48 would effectively set a "floor" on the discount rate at 92%, ensuring an equitable return for the companies actually making the investment in exploration.

ALASKA STATE LEGISLATURE
REPRESENTATIVE PAUL SEATON
House District 35

The language in HB 48 is permissive and does not require the DOR to incur a debt. Before the DOR reimburses the credit certificate the Commissioner must make the determination that the economic conditions are acceptable for the state to purchase the credit. Since the Commissioner of Revenue is a statutory member of the ARM Board the determination of the ability to get the face value reimbursement will be known by the Board before it takes action to purchase a transferable tax credit.

Sec. 43.55.023 Tax credits for certain losses and expenditures.

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

(1) notwithstanding that a qualified capital expenditure may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160 (a), unless a credit for that expenditure is taken under AS 38.05.180 (i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a qualified capital expenditure may also elect to take a tax credit against a tax due under AS 43.55.011 (e) in the amount of 20 percent of the expenditure;

(2) a producer or explorer may take a credit for a qualified capital expenditure incurred in connection with geological or geophysical exploration or in connection with an exploration well only if the producer or explorer provides to the department, as part of the statement required under AS 43.55.030 (a) for the calendar year for which the credit is sought to be taken, the producer's or explorer's written agreement

(A) to notify the Department of Natural Resources, before the later of 30 days after completion of the geological or geophysical data processing or completion of the well, or 30 days after the statement is filed, of the date of completion and to submit a report to that department describing the processing sequence and provide a list of data sets available;

(B) to provide to the Department of Natural Resources, within 30 days after the date of a request, specific data sets, ancillary data, and reports identified in (A) of this paragraph;

(C) that, notwithstanding any provision of AS 38, the Department of Natural Resources shall hold confidential the information provided to that department under this paragraph for 10 years following the completion date, after which the department shall publicly release the information after 30 days' public notice.

(b) A producer or explorer may elect to take a tax credit in the amount of 20 percent of a carried-forward annual loss. A credit under this subsection may be applied against a tax due under AS 43.55.011 (e). For purposes of this subsection, a carried-forward annual loss is the amount of a producer's or explorer's adjusted lease expenditures under AS 43.55.165 and 43.55.170 for a previous calendar year that was not deductible for that calendar year under AS 43.55.160 (b) and (c).

(c) A credit or portion of a credit under this section may not be used to reduce a person's tax liability under AS 43.55.011 (e) for any calendar year below zero, and any unused credit or portion of a credit not used under this subsection may be applied in a later calendar year.

(d) Except as limited by (i) of this section, a person entitled to take a tax credit under this section that wishes to transfer the unused credit to another person may apply to the department for a transferable tax credit certificate. An application under this subsection must be in a form prescribed by the department and must include supporting information and documentation that the department reasonably requires. The department shall grant or deny an application, or grant an application as to a lesser amount than that claimed and deny it as to the excess, not later than 60 days after the latest of (1) March 31 of the year following the calendar year in which the qualified capital expenditure or carried-forward annual loss for which the credit is claimed was incurred; (2) if the applicant is required under AS 43.55.030(a) to file a statement on or before March 31 of the year following the calendar year in which the qualified capital expenditures or carried-forward annual loss for which the credit is claimed was incurred, the date the statement was filed; or (3) the date the application was received by the department. If, based on the information then available to it, the department is reasonably satisfied that the applicant is entitled to a credit, the department shall issue the applicant a transferable tax credit certificate for the amount of the credit. A certificate issued under this subsection does not expire.

(e) A person to which a transferable tax credit certificate is issued under (d) of this section may transfer the certificate to another person, and a transferee may further transfer the certificate. Subject to the limitations set out in (a) - (c) of this section, and notwithstanding any action the department may take with respect to the applicant under (g) of this section, the owner of a certificate may apply the credit or a portion of the credit shown on the certificate only against a tax due under AS 43.55.011 (e). However, a credit shown on a transferable tax credit certificate may not be applied to reduce a transferee's total tax due under AS 43.55.011 (e) on oil and gas produced during a calendar year to less than 80 percent of the tax that would otherwise be due without applying that credit. Any portion of a credit not used under this subsection may be applied in a later period.

(f) Under standards established in regulations adopted by the department and subject to appropriations made by law, the department, on the written application of the person to whom a transferable tax credit has been issued under (d) of this section and whose average amount of oil and gas produced a day taxable under AS 43.55.011 (e) is not more than 50,000 BTU equivalent barrels a day for the preceding calendar year, shall issue a cash refund, in whole or in part, for the certificate if the department finds

(1) within 24 months after having applied for the transferable tax credit certificate, that the applicant incurred a qualified capital expenditure or was the successful bidder on a bid submitted for a lease on state land under AS 38.05.180 (1);

(2) that the amount of the refund would not exceed the total of qualified capital expenditures and successful bids described in (1) of this subsection that have not been the subject of a finding made under this paragraph for purposes of a previous refund;

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

(4) that the sum of the amount of the refund applied for and amounts previously refunded to the applicant during the calendar year under this subsection would not exceed \$25,000,000.

(g) The issuance of a transferable tax credit certificate under (d) of this section or the issuance of a cash refund under (f) of this section does not limit the department's ability to later audit a tax credit claim to which the certificate relates or to adjust the claim if the department determines, as a result of the audit, that the applicant was not entitled to the amount of the credit for which the certificate was issued. The tax liability of the applicant under AS 43.55.011 (e) and 43.55.017 - 43.55.180 is increased by the amount of the credit that exceeds that to which the applicant was entitled, or the applicant's available valid outstanding credit applicable against the tax levied by AS 43.55.011 (e) are reduced by that amount. If the applicant's tax liability is increased under this subsection, the increase bears interest under AS 43.05.225 from the date the transferable tax credit certificate was issued. For purposes of this subsection, an applicant that is an explorer is considered a producer subject to the tax levied by AS 43.55.011 (e).

(h) Regulations adopted to implement this section must include provisions prescribing reporting, record keeping, and certification procedures and requirements to verify the accuracy of credits claimed and to ensure that a credit is not used more than once.

(i) For the purposes of this section,

(1) a producer's or explorer's transitional investment expenditures are the sum of the expenditures the producer or explorer incurred after March 31, 2001, and before April 1, 2006, that would be qualified capital expenditures if they were incurred after March 31, 2006, less the sum of the payments or credits the producer or explorer received before April 1, 2006, for the sale or other transfer of assets, including geological, geophysical, or well data or interpretations, acquired by the producer or explorer as a result of expenditures the producer or explorer incurred before April 1, 2006, that would be qualified capital expenditures, if they were incurred after March 31, 2006;

(2) a producer or explorer may elect to take a tax credit against a tax due under AS 43.55.011 (e) in the amount of 20 percent of the producer's or explorer's transitional investment expenditures, but only to the extent that the amount does not exceed 1/10 of the producer's or explorer's qualified capital expenditures that are incurred during the calendar year for which the credit is taken;

(3) a producer or explorer may not take a tax credit for a transitional investment expenditure

(A) for any calendar year after the later of

(i) 2013; or

(ii) the sixth calendar year after the calendar year for which the producer first applies a credit under this subsection against a tax due under AS 43.55.011 (e), if the producer did not have commercial production of oil or gas from a lease or property in the state before April 1, 2006;

(B) more than once; or

(C) if a credit for that expenditure was taken under AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025;

(4) notwithstanding (d), (e), and (g) of this section, a producer or explorer may not transfer a tax credit or obtain a transferable tax credit certificate for a transitional investment expenditure.

(j) As a condition of receiving a tax credit under this section, a producer or explorer that obtains the tax credit for or directly related to a pipeline, facility, or other asset that is or becomes subject to regulation by the Federal Energy Regulatory Commission, the Regulatory Commission of Alaska, or a successor regulatory body shall at all times support and in all rate proceedings file to flow through 100 percent of the tax credits to ratepayers as a reduction in the costs of service for the pipeline, facility, or other asset.

(k) In this section, "qualified capital expenditure"

(1) means, except as otherwise provided in (2) of this subsection, an expenditure that is a lease expenditure under AS 43.55.165 and is

(A) incurred for geological or geophysical exploration; or

(B) treated as a capitalized expenditure under 26 U.S.C. (Internal Revenue Code), as amended, regardless of elections made under 26 U.S.C. 263(c)(Internal Revenue Code), as amended, and is

(i) treated as a capitalized expenditure for federal income tax reporting purposes by the person incurring the expenditure; or

(ii) eligible to be deducted as an expense under 26 U.S.C. 263(c)(Internal Revenue Code), as amended;

(2) does not include an expenditure incurred to acquire an asset (A) the cost of previously acquiring which was a lease expenditure under AS 43.55.165 or would have been a lease expenditure under AS 43.55.165 if it had been incurred after March 31, 2006; for purposes of this subparagraph, "asset" includes geological, geophysical, and well data and interpretations; or (B) that has previously been placed in service in the state; an expenditure to acquire an asset is not excluded under this paragraph if not more than an immaterial portion of the asset meets a description under this paragraph.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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MEMORANDUM

February 6, 2007

SUBJECT: CSHB 48(STA) (Work Order No. 25-LS0259\E)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee

FROM: Pam Finley
Revisor of Statutes

Enclosed is the CS you requested. Unfortunately, the addition of a reference to AS 43.55.025 on page 2, lines 4 and 6, does not fit well. While AS 43.55.023 has a provision for a cash refund, AS 43.55.025 does not. AS 43.55.025(g) allows for the sale of certificates issued under that section, but does not provide for a cash refund. Therefore, the references to cash refunds on page 2, lines 6, 11, and 13 do not make sense when applied to certificates issued under AS 43.55.025.

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REPRESENTATIVE PAUL SEATON

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ALASKA STATE LEGISLATURE House District 35

MEMORANDUM

Date: February 1, 2007
To: Representative Bob Lynn, Chairman
House State Affairs Committee
From: Representative Paul Seaton 
Re: HB 48 Bill Hearing Request

I would like to request that HB 48 be scheduled in the House State Affairs Committee at your earliest possible convenience.

HB 48 allows the Alaska Retirement Management Board to purchase transferable tax credits established under 43.55.023 of the Petroleum Production Tax and allows the Department of Revenue to reimburse the ARM Board for these credits at 100% face value of the credit certificate. HB 48 directs the ARM Board to apply the return on this transaction to the unfunded liability in the state retirement system.

Nancy Manly

Subject: Fiscal Notes HB 21 and HB 48

Attachments: HB021-DOA-GS-1-30-07 .pdf; HB048-REV-TT-02-05-07 .pdf

Londi: These are the two bills that passed out of STA Committee today. Attached is an electronic version of the fiscal notes.

Thanks,
Nancy

2/6/2007

Conceptual Amendment to HB 48

Amendment #1

Passed

Page 2, line 4: after "43.55.023" insert "and 43.55.025" —

Page 2, line 5: after "43.55.023(1)" insert "and 43.55.025"

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 48
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue 04
 Title Retirement Board Purchase PPT Credits RDU Taxation and Treasury
 Component Tax Division
 Sponsor Representatives Seaton, Kelly
 Requester (H) State Affairs Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

*This bill would authorize the Alaska Retirement Management Board (ARM) to purchase transferable tax credit certificates issued under AS 43.55.023 for 92 percent of the face value of the certificates. The ARM board would then sell the certificates to the Department of Revenue for the full face value of the certificates, unless the commissioner of the Department of Revenue determines that economic conditions are not acceptable for the state to purchase and pay for the certificates. The proceeds of these sales would be used by the ARM board to defray the unfunded pension liabilities for which the board is responsible.

Alaska Statutes 43.55 currently offers three clearly identifiable means of obtaining and selling tax credits for petroleum exploration activity and other capital costs relating to petroleum production.

Prepared by: Brian Andrews, Cherie Nienhuis and Roger Marks Phone 465-2300
 Division Treasury and Tax Date/Time 2/5/07 10:00 AM
 Approved by: Jerry Burnett Date 2/5/2006
 Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. HB 48

ANALYSIS CONTINUATION

AS 43.55.025, known as the Exploration Incentive Credit, offers tax credits for either 20% or 40% of exploration expenditures incurred before July 1, 2016. The certificates issued under this program can be carried forward or transferred. The bill under consideration (HB 48) does not authorize the purchase of these certificates.

Tax credits generated under AS 43.55.023, through excess capital expenditures or net losses, can also be carried forward or transferred. Current statutes allow these credit certificates to be sold to (1) other companies (AS 43.55.023(e)), or (2) to the state Department of Revenue (AS 43.55.023(f)).

Although there are qualifying criteria for the state's purchase of credit certificates at AS 43.55.023(f), there are no restrictions on the amount to be paid for the certificates (other than the maximum refund per taxpayer of \$25 million per year), and it is assumed that the state would pay full face value for the certificates. There are also no restrictions on the amount other companies can pay for the certificates, although it is assumed they would pay less than face value and current statutes limit the amount transferred certificates can reduce a taxpayer's liability to 20 percent per year.

Given the three options and their qualifying criteria, it is difficult to assess which program certificate holders will favor. Were the expenditures to qualify under the EIC 40% credit program, then it is likely that would be the first choice. Alternatively, should the expenditures qualify only for the 20% credit, then it is likely that the certificates would be transferred to the highest bidder. The highest bidder could be another company, the state Department of Revenue, or, under this bill, the ARM board.