

# ALASKA STATE LEGISLATURE

## SENATE FINANCE COMMITTEE

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### Sectional Analysis: Senate CS for CS for HB 111 Version B

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*(Sections take effect January 1, 2018, except where otherwise noted)*

- Section 1 Amends AS 31.05.030(n), *Alaska Oil and Gas Conservation Act, Powers and duties of commission.*  
Conforming to the Sec. 28 requirement that the Alaska Oil and Gas Conservation Commission determine the start of regular production for purposes of applying a carry-forward annual loss.
- Section 2 Amends AS 43.05.225, *Administration of Revenue Laws, Interest.*  
For all delinquent taxes under the Department of Revenue, interest is three points above the annual rate set by the 12<sup>th</sup> Federal Reserve District, compounded quarterly, and is applied the entire time a tax is delinquent.
- Section 3 Amends AS 43.20.044(a), *Alaska Net Income Tax Act, Exploration incentive credit*  
A taxpayer that earns an exploration credit under AS 43.55.025 for work done after July 1, 2016, may apply the credit against the taxpayer's own corporate income tax. Effective immediately.
- Section 4 Amends AS 43.20.047(h), *Alaska Net Income Tax Act, Liquefied natural gas storage facility tax credit.*  
Conforming to the future repeal of the Oil and Gas Tax Credit Fund and conforming repeals. Effective the later of Jan. 1, 2022, or when there are no outstanding applications for credit refunds.
- Section 5 Amends AS 43.55.023(c), *Oil and Gas Production Tax, Tax credits for certain losses and expenditures.*  
Credits earned under this section may be applied against prior-year taxes, interest, penalties or fees related to the oil and gas production tax, providing those liabilities have not been subject to an administrative proceeding or litigation. Credits may not be used against conservation surcharges or the private royalty tax. Effective immediately.
- Section 6 Amends AS 43.55.023(d), *Oil and Gas Production Tax, Tax credits for certain losses and expenditures.*  
Cash payments for credits under this section are available only for work performed before Jan. 1, 2018.

- Section 7 Amends AS 43.55.023(d), *Oil and Gas Production Tax, Tax credits for certain losses and expenditures*, as amended by Sec. 6.  
Conforming to the future repeal in Sec. 31 of the Oil and Gas Tax Credit Fund. Effective the later of Jan. 1, 2022, or when there are no outstanding applications for credit refunds.
- Section 8 Amends AS 43.55.023(e), *Oil and Gas Production Tax, Tax credits for certain losses and expenditures*.  
Transferrable tax credit certificates issued under this section may be applied against prior-year taxes, interest, penalties or fees related to the oil and gas production tax, providing those liabilities have not been subject to an administrative proceeding or litigation. Credits may not be used against conservation surcharges or the private royalty tax. Effective immediately.
- Section 9 Amends AS 43.55.023(g), *Oil and Gas Production Tax, Tax credits for certain losses and expenditures*.  
Conforming to the future repeal in Sec. 31 of the Oil and Gas Tax Credit Fund. Effective the later of Jan. 1, 2022, or when there are no outstanding applications for credit refunds.
- Section 10 Amends AS 43.55.025(a), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration*.  
Credits under this section for work done on or after July 1, 2016, may be applied against corporate income taxes. Effective immediately.
- Section 11 Amends AS 43.55.025(a), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration*, as amended by Sec. 10.  
Conforming to the sunset of the AS 43.55.025(a)(4) credit after Jan. 1, 2018, in Sec. 12.
- Section 12 Amends AS 43.55.025(b), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration*.  
The 40% credit for seismic work under AS 43.55.025(a)(4) will not be available for work done after Jan. 1, 2018.
- Section 13 Amends AS 43.55.025(f), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration*.  
Exploration credits under AS 43.55.025 for work done after July 1, 2016, against corporate income taxes. Effective immediately.
- Section 14 Amends AS 43.55.025(g), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration*.  
Exploration tax credits under this section that are transferred to another taxpayer may not be applied against the purchaser's corporate income taxes. Effective immediately.

Section 15 Amends AS 43.55.025(h), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration.*

Tax credit certificates and tax credits under this section may be applied against prior-year taxes, interest, penalties or fees related to the oil and gas production tax, providing those liabilities have not been subject to an administrative proceeding or litigation. Credits may not be used against conservation surcharges or the private royalty tax. Effective immediately.

Section 16 Amends AS 43.55.025(i), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration.*

Exploration credits issued under this section for work done after July 1, 2016, may be used against corporate income tax, but may not be used to reduce corporate income taxes below zero. Effective immediately.

Section 17 Amends AS 43.55.025(k), *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration.*

Conforming to the sunset of the seismic credit in Sec. 12.

Section 18 Adds a new subsection to AS 43.55.025, *Oil and Gas Production Tax, Alternative tax credit for oil and gas exploration.*

Creates a conditional tax credit certificate that the Department of Revenue must issue to explorers. The conditional certificate enables the holder to submit an application for a refund while waiting for the state to issue a transferrable certificate, but the conditional certificates may not be purchased by the state. Effective immediately.

Section 19 Amends AS 43.55.028(a), *Oil and Gas Production Tax, Oil and gas tax credit fund established; cash purchase of tax credit certificates.*

As of Jan. 1, 2018, the tax credit fund is only able to purchase oil and gas tax credits issued for work done before Jan. 1, 2018, and to purchase instate refinery and LNG storage facility income tax credits.

Section 20 Amends AS 43.55.028(e), *Oil and Gas Production Tax, Oil and gas tax credit fund established; cash purchase of tax credit certificates.*

Allows the Department of Revenue to accept, but not purchase, a conditional certificate from an explorer. Effective immediately.

Section 21 Amends AS 43.55.028(e), *Oil and Gas Production Tax, Oil and gas tax credit fund established; cash purchase of tax credit certificates*, as amended by Sec. 20. Conforming to the Sec. 19 provision ending new entries to the credit purchase program Jan. 1, 2018.

Section 22 Amends AS 43.55.029(a), *Oil and Gas Production Tax, Assignment of tax credit certificate.*

Conforming to the Sec. 30 repeal of the net operating loss credit.

- Section 23 Amends AS 43.55.160(d), *Oil and Gas Production Tax, Determination of production tax value of oil and gas.*  
Conforming to the Sec. 30 repeal of the net operating loss credit.
- Section 24 Amends AS 43.55.160(e), *Oil and Gas Production Tax, Determination of production tax value of oil and gas.*  
North Slope and Middle Earth lease expenditures may be used to establish a carried-forward annual loss. Gross value reductions for new oil cannot make a loss larger than it would otherwise be. Also, makes conforming changes to the Sec. 30 repeal of the net operating loss credit and the Sec. 25 terms for lease expenditures.
- Section 25 Amends AS 43.55.165(a), *Oil and Gas Production Tax, Lease expenditures.*  
Lease expenditures include those, for the North Slope and Middle Earth, that were unable to be deducted in the previous year.
- Section 26 Amends AS 43.55.165(f), *Oil and Gas Production Tax, Lease expenditures.*  
Conforming to the Sec. 30 repeal of the net operating loss credit.
- Section 27 Adds a new paragraph to AS 43.55.165(l), *Oil and Gas Production Tax, Lease expenditures.*  
Defines “carried-forward annual loss” as a loss established per Sec. 25.
- Section 28 Adds new subsections to AS 43.55.165, *Oil and Gas Production Tax, Lease expenditures.*  
Implements new terms for how a carried-forward annual loss is applied. A taxpayer may choose to apply all or some of its loss, or to carry it forward. In applying carry-forward annual losses, a producer subject to the minimum tax may apply the amount that would reduce taxes to the equal amount under the minimum tax, and not to zero. Carry-forward annual losses in excess of the amount applied to reduce taxes to the equal of the minimum tax are carried forward.  
Fifty percent of carry-forward annual losses incurred from a lease or property not yet in production may be used immediately; the remaining 50% may be used once the lease or property enters regular production, as determined by the Alaska Oil and Gas Conservation Commission.
- Section 29 Amends AS 43.55.170(c), *Oil and Gas Production Tax, Adjustments to lease expenditures.*  
Conforming to the Sec. 30 repeal of the net operating loss credit.
- Section 30 Repealer  
Repeals the net operating loss credit, AS 43.55.023(b), on Jan. 1, 2018.

- Section 31     Repealer  
At the later of Jan. 1, 2022, or when all outstanding applications for credit refunds have been paid, repeals the Oil and Gas Tax Credit Fund and AS 43.55.028; assignability of credits to third parties, AS 43.55.029; and makes conforming repeals in sections of statute referencing the fund: AS 43.05.230(l), *Administration of Revenue Laws, Disclosure of tax returns and reports*, annual disclosure of disbursements from the fund; AS 43.20.046(e), *Alaska Net Income Tax Act, Gas storage facility tax credit*, use of fund to pay the credit; AS 43.20.047(e), *Alaska Net Income Tax Act, Liquefied natural gas storage facility tax credit*, use of fund to pay the credit; and AS 43.20.053(e), *Alaska Net Income Tax Act, Qualified in-state oil refinery infrastructure expenditures tax credit*, use of fund to pay the credit.
- Section 32     Applicability  
Credits under AS 43.55.025 may be applied against corporate income taxes by the company that incurred the credits, regardless of when the credits were earned. Effective immediately.
- Section 33     Applicability  
Credits may be applied against prior year oil and gas tax liabilities, regardless of when the credits were earned. Effective immediately.
- Section 34     Applicability  
The new provisions related to lease expenditures apply to lease expenditures incurred on or after Jan. 1, 2018.
- Section 35     Transition language  
Interest rates charged on delinquent taxes for calendar year 2017 are the rates in statute before the changes in Sec. 2 take effect on Jan. 1, 2018.
- Section 36     Transition language  
Ensures the public disclosure of tax credit refund recipients is made on April 30 of the year following the year in which the Oil and Gas Tax Credit Fund is repealed, as the public disclosure is also repealed to conform. Effective the later of Jan. 1, 2022, or when there are no outstanding applications for credit refunds.
- Section 37     Transition language  
Taxpayers who incur a loss before Jan. 1, 2018, remain eligible for the net operating loss credit in current statute that is repealed as of Jan. 1, 2018.
- Section 38     Transition language  
When the Oil and Gas Tax Credit Fund is repealed after outstanding applications have been paid, any balance of the fund lapses into the general fund. Effective the later of Jan. 1, 2022, or when there are no outstanding applications for refunds.

- Section 39      Transition language  
Dept. of Revenue may adopt regulations retroactively. Effective immediately.
- Section 40      Conditional effect, notification language  
Sections related to the repeal of the Oil and Gas Tax Credit Fund take effect only after the Commissioner of Revenue notifies the revisors when there are no outstanding applications for the purchase of tax credits, and it has been at least one year since an application has been received. Effective immediately.
- Section 41      Effective date  
Sets an immediate effective date for sections related to the ability to use Middle Earth exploration credits against the company's own corporate income tax liability, and to use credits against prior year tax liabilities that have not been subject to an administrative proceeding or to litigation.
- Section 42      Effective date  
Sets a Jan. 1, 2018, effective date for Section 25, which is treated separately because it makes changes to a section of statute that is undergoing other changes this year based on House Bill 247 of 2016.
- Section 43      Effective date  
Sets an effective date of the later of Jan. 1, 2022, or Jan. 1 of the year in which notice is provided that all outstanding applicants for credit purchases have been paid, for the repeal of the Oil and Gas Tax Credit Fund and conforming sections.
- Section 44      Effective date  
Sets a Jan. 1, 2018 effective date for all other sections.