Fiscal Note

State of Alaska
2023 Legislative Session

Bill Version: SB 114
Fiscal Note Number:
() Publish Date:

Identifier: SB114-DOR-TAX-03-28-23
Title: OIL & GAS PRODUCTION TAX; INCOME TAX
Sponsor: RLS
Requester: (S) Finance

Department: Department of Revenue
Appropriation: Taxation and Treasury
Allocation: Tax Division
OMB Component Number: 2476

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2024 Appropriation Requested	Included in Governor's FY2024 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2024**	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**
Personal Services							
Travel							
Services	200.0						
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	**200.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Fund Source (Operating Only)

1004 Gen Fund (UGF)	200.0						
Total	**200.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

1004 Gen Fund (UGF)	1,313,000.0		866,000.0	879,000.0	819,000.0	738,000.0	682,000.0
Total	**1,313,000.0**	**0.0**	**866,000.0**	**879,000.0**	**819,000.0**	**738,000.0**	**682,000.0**

Estimated SUPPLEMENTAL (FY2023) cost: 0.0 *(separate supplemental appropriation required)*

Estimated CAPITAL (FY2024) cost: 1,750.0 *(separate capital appropriation required)*

Does the bill create or modify a new fund or account? No

(Supplemental/Capital/New Fund - discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 01/01/24

Why this fiscal note differs from previous version/comments:

Not applicable, initial version.

Prepared By: Colleen M. Glover, Division Director Phone: (907)269-1033
Division: Tax Division Date: 03/28/2023
Approved By: Eric DeMoulin, Director Date: 03/29/23
Agency: Department of Revenue

STATE OF ALASKA **BILL NO.** SB 114
2023 LEGISLATIVE SESSION

Analysis

Background – Corporate Income Tax
Under current law, C-Corporations doing business in the state are subject to corporate income tax under AS 43.20. The bill proposes to tax certain oil and gas pass-through entities with qualified taxable income over $4,000,000 at a rate of 9.4%. The bill defines "qualified taxable income" to mean 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.

This bill provides authority for the Department of Revenue, Tax Division ("Department") to adopt regulations and establishes a retroactive effective date of January 1, 2023.

Background – Oil and Gas Production Tax
This bill proposes three significant changes to the North Slope oil production tax calculations under AS 43.55:
1. North Slope oil taxes are levied separately for each unit. This includes a separate calculation and application of minimum tax floor, per-taxable-barrel credits, and carried-forward annual losses (CFALs).
2. The sliding-scale per-taxable-barrel credit under AS 43.55.024(j) is reduced with a maximum value of $5 per taxable barrel at gross value at the point of production (or commonly called wellhead) values below $80 per barrel, to $1 at wellhead values equal to or greater than $110 per barrel.
3. The per-taxable-barrel credits under both AS 43.55.024(i) and AS 43.55.024(j) applied within a unit during a year may not exceed capital expenditures within that unit during the year.

This bill changes the tax structure for oil produced from North Slope from effectively one segment, or tax calculation, to a separate tax for each unit.

This bill provides authority for the Department to adopt regulations and establishes a retroactive effective date of January 1, 2023.

Revenue Impact – All Tax Changes
The revenue impact of the corporate income tax portion of this legislation is highly uncertain, as the Department does not have detailed financial information for the companies that would be impacted. Further, the revenue impact would likely be concentrated in a small number of companies.

To prepare the revenue estimate for this legislation, the Department used a fairly simple approach given the uncertainty. First, under the Spring 2023 revenue forecast, the share of oil and gas production estimated to be attributable to pass-through entities was calculated for each fiscal year. Second, the corporate income tax forecast was "scaled up" to assume that pass-through entities would pay corporate income tax at a similar rate as C-Corporations based on production.

In addition to the corporate income tax impacts, the remaining estimated revenue impact of this bill results from increased production tax revenue from North Slope oil production. The revenue impact for the oil production tax changes are modeled based on Spring 2023 forecast information. Assumptions used to generate the revenue stream were based on the Department's Spring 2023 forecasts for oil production, oil prices, transportation costs, and company spending/investment. The estimated revenue impact shows the increase in production tax revenue due to the three production tax changes, holding all else equal per the Spring 2023 Forecast. The revenue estimate does not account for any potential changes to company investment or production as a result of the tax changes.

The total estimated revenue impact from all changes in this bill is $1.3 billion for FY2024, $866 million for FY2025, and decreasing to $682 million in FY2029. The FY2024 revenue estimate includes estimated additional tax due of $437 million for January 1, 2023, to June 30, 2023, due to the retroactive effective date.

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2023 LEGISLATIVE SESSION

BILL NO. SB 114

Analysis

The enclosed chart shows the estimated revenue impacts based on the Spring 2023 forecast and at a range of Alaska North Slope (ANS) prices.

Implementation Cost – All Tax Changes
The proposed legislation requires the Department to update its Tax Revenue Management System (TRMS) and Revenue Online (ROL) which allows a taxpayer to file a return online. There will also be a need for significant amendments to existing regulations to fully implement the changes. The $1.75 million capital request reflects an estimate for our contract with FAST Enterprises to significantly change the existing Corporate Income Tax and the Oil & Gas Production Tax modules for these tax changes in TRMS. In addition to changing the tax return filing and examination functions, the contractor will need to provide changes for the associated databases, forms, communications, and integration with our existing imaging, accounting, and collections modules. There would also need to be changes to Revenue Online, the online program that allow taxpayers to file, pay, and request refunds electronically.

The Department will also require expert help in drafting regulations. The FY2024 services cost includes $200,000 to enable the Department to hire an expert, develop a plan, and begin working on regulations. This would also support the additional costs associated with regulation package development with the Department of Law.

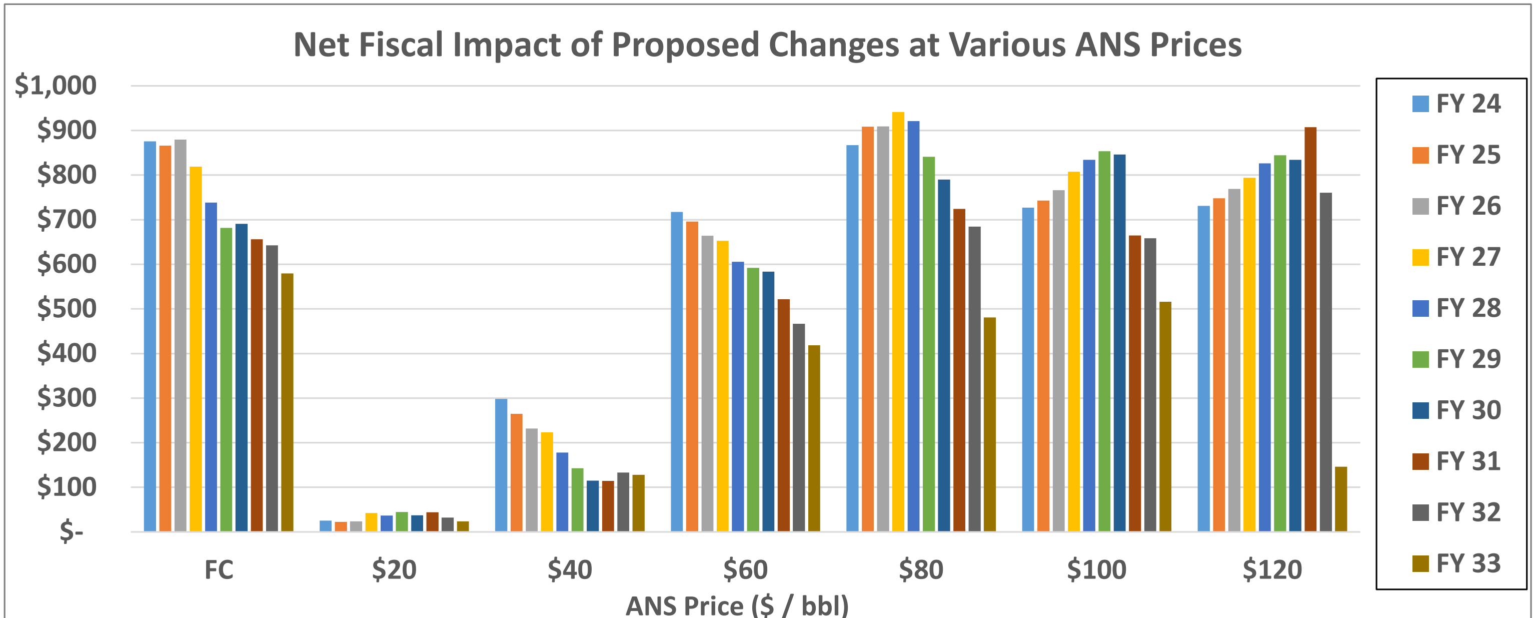
Aside from one-time costs for programming and regulations support, the Department can implement this legislation with existing resources and does not anticipate any continuing costs or additional staff needs.

Estimated Impact of Senate Bill 114, based on Spring 2023 Forecast ($millions) - FC PRICE

Revised 3/28/2023 by Dept of Revenue

Description of Provision	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033
1. Retroactive to 1/1/23, for all units, taxes and per-taxable-barrel credits are calculated and applied separately for each unit.	$396	$303	$320	$266	$229	$203	$232	$225	$242	$221
2. Retroactive to 1/1/23, for all units, the sliding-scale per-taxable-barrel credit is reduced with a maximum value of $5 per taxable barrel at wellhead values below $80 per barrel, reducing down to $1 at wellhead values equal to or greater than $110 per barrel.	$586	$322	$339	$243	$172	$146	$144	$148	$154	$240
3. Retroactive to 1/1/23, per-taxable-barrel credits applied within a unit during a year may not exceed capital expenditures within that unit during the year.	$279	$174	$162	$157	$120	$112	$107	$102	$97	$88
4. Retroactive to 1/1/23, apply a 9.4% tax on income over $4 million for oil and gas companies not subject to corporate income tax, including S-corporations.	$190	$122	$119	$116	$106	$110	$113	$109	$98	$88
5. Additional impact of implementing above provisions together.	-$139	-$54	-$61	$36	$111	$111	$94	$72	$51	-$56
Total Fiscal Impact - (does not include potential changes in investment)	**$1,313**	**$866**	**$879**	**$819**	**$738**	**$682**	**$690**	**$656**	**$643**	**$579**

NOTE: The fiscal impact of this proposal is an estimate based on the Spring 2023 revenue forecast. This analysis assumes that new tax rates and provisions are applied retroactive to January 1, 2023. **Estimates shown here are draft / preliminary based on our interpretation of possible changes, and do not include any changes in company behavior as a result of this proposal. We reserve the right to make modifications to estimates for any forthcoming fiscal notes.**



Note: FY 23 impacts reflected in this chart do not include $437 million of payments for retroactive tax increase for January 1, 2023 to June 30, 2023.