

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

STATE OF ALASKA, DEPARTMENT)
OF REVENUE,)

Appellant/Cross-Appellee,)

. v.)

EXXON MOBIL CORPORATION,)

Appellee/Cross-Appellant.)

Case No. 3AN-25-04654CI

DECISION ON APPEAL

I. Introduction

This appeal involves a dispute over whether Exxon Mobil Corporation ("Exxon") may apply one specific type of excess oil production tax credit to prior years, when the oil was not produced, by amending its tax return in order to seek a refund from the State.

Since 2014, oil producers earn two types of tax credits for every barrel of oil produced, which they can apply against their production tax liability - one type of per-barrel credit for production from certain newer properties and a second per-barrel credit for all other production at older fields located above 68 degrees North latitude (the North Slope).¹ The latter of these two is a sliding-scale credit set forth in AS 43.55.024(j) (hereafter "the Sliding-Scale Credit"). Interpretation of this statute, and whether the Sliding-Scale Credit may be carried back to prior years' returns is the primary question of this appeal. Producers cannot use the Sliding-Scale Credit to reduce their tax liability below a certain amount in a given year.² Thus, a producer may forfeit credits from the production year if credits earned exceed what may be applied.

¹ See AS 43.55.024(i); AS 43.55.024(j).

² See AS 43.55.024U).

The only relevant facts for this appeal are as follows. Exxon had reached the statutory floor of applying Sliding-Scale Credits for 2020 when it filed its 2020 tax return with the State of Alaska, Department of Revenue ("Revenue" or "DOR"). On March 28, 2023, Exxon filed an amended 2019 tax return claiming a carryback of its excess Sliding-Scale Credits under AS 43.55.024(j) from 2020 and attempted to apply them to its 2019 tax liability.³ At the time in 2023, Exxon had already paid its 2019 taxes, so it sought a refund of the amount of 2020 Sliding-Scale Credits carried back on the amended 2019 return.⁴

DOR performed an audit of Exxon's amended 2019 return and concluded that AS 43.55.024(j) does not allow the Sliding-Scale Credits to be carried back.

The parties now argue whether the statute allows carrybacks, whether the legislature intended this, and if so, whether a refund is allowed upon amending a return. The parties strongly argue opposite readings of the text of AS 43.55.024(j) but the court does not find it to be ambiguous. When read in tandem with the surrounding subsections, it is clear the legislature did not intend to allow the credits to be carried back. This interpretation is supported by the legislative history and is consistent with the overall purpose of the tax credit statute, and relevant regulations.

II. Facts and proceedings

a. Statutory framework background

Alaska's oil and gas production tax scheme has undergone several major overhauls in the past 20 years. In 2006, the legislature modified the production tax under the Petroleum Profits Tax.⁵ In 2007, the legislature amended the statutes under the Alaska Clear and Equitable Share Act ("ACES").⁶ Under ACES, the legislature introduced a base tax rate and incorporated various credits for producers.⁷ Most notably, in 2013, the

³ [Exe. 48]

⁴ While a dollar amount is cited in the briefs, the numbers are not relevant to this decision as the only question is the interpretation of the statute.

⁵ Ch. 2, § 5, TSSLA 2006.

⁶ Ch. 1 SSSLA 2007.

⁷ See House Bill 2001 (adding sections AS 43.55.011(e), ((j)), and (f). The amendment also added sections AS 43.55.023 and AS 43.55.025).

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legislature passed Senate Bill 21 ("SB 21"), also known as the More Alaska Production Act ("MAPA").⁸ SB 21 introduced two per-barrel tax credits: a flat \$5 per barrel credit and a per barrel sliding-scale credit based on the average gross value at the point of production ("GVPP").⁹ The legislature expressly prohibited carryforwards and transfers of these per-barrel credits.¹⁰ At the time SB 21 was approved, neither the Petroleum Profits Tax, ACES, or MAPA incorporated any mechanism allowing production credits to be carried back to prior years.¹¹

Finally, in 2017, the legislature amended the production tax again.¹² The legislature introduced carrybacks to the production tax scheme by adding provisions which explicitly authorize carrybacks in AS 43.55.023 and .025.¹³ The 2017 amendments did not modify section .024 regarding the Sliding-Scale Credit or the prohibitions on carryforwards and transferability.¹⁴

i. Oil and gas production taxes

Alaska's oil and gas production tax on oil and gas produced between January 1, 2014 and December 31, 2021 "is equal to the annual production tax value of the taxable oil and gas as calculated under AS 43.55.160(a)(1) multiplied by 35%."¹⁵ A producer may reduce this tax liability by applying applicable tax credits. The nontransferable tax credits statute, AS 43.55.024, establishes four credits, split into two categories: producer-specific credits¹⁶ and per-barrel production credits.¹⁷ The two per-barrel production credits are applied against the producer's tax liability for the calendar year and differ from each other mainly in one way: subsection .024(i) provides a flat per-barrel credit of \$5 for oil produced

⁸ See SB 21, 28th Leg., 1st Reg. Sess. (Alaska 2013).

⁹ See AS 43.55.024(j).

¹⁰ See AS 43.55.024(h) ("An unused tax credit or portion of a tax credit under this section is not transferable and may not be carried forward for use in a later calendar year").

¹¹ See Ch. 2, §§1-40, TSSLA 2006; Ch. 1, §§1-77 SSSLA 2007.

¹² Ch. 3 §§ 1-47 SSSLA (2017).

¹³ See AS 43.55.023(c)(3)(A) and AS 43.55.025(h)(3)(A).

¹⁴ Ch. 3 §§ 1-47 SSSLA (2017).

¹⁵ AS 43.55.011(e)(2).

¹⁶ See AS 43.55.024(a) and (c).

¹⁷ See AS 43.55.024(i) and (j).

from comparatively new fields, while subsection .024(j) provides a credit sliding from \$8 to \$0 per barrel of oil produced from legacy fields, depending on the monthly price.¹⁸

Sliding-Scale Credits are limited in that they may not reduce a producer's tax liability below a minimum tax percentage.¹⁹ Other statutory subsections prohibit a producer from reducing its liability below zero.²⁰ As a result, a producer may have unused credits because it is statutorily prohibited from applying them below the statutory floor.

ii. The Sliding-Scale Credit

The relevant portion of the AS 43.55.024(j) at issue reads:

"A producer may apply against the producer's tax liability for the calendar year under AS 43.55.011(e) a tax credit in the amount specified in this subsection for each barrel of oil taxable under AS 43.55.011(e) that does not receive a reduction in the gross value at the point of production under AS 43.55.160(±) or ((j)) and that is produced during a calendar year after December 31, 2013, from leases or properties north of 68 degrees North latitude. A tax credit under this subsection may not reduce a producer's tax liability for a calendar year under AS 43.55.011(e) below the amount calculated under AS 43.55.011(f). The amount of the tax credit for a barrel of taxable oil subject to this subsection produced during a month of the calendar year is... ."21

In sum, the statute establishes a sliding-scale credit where the per-barrel credit phases out from \$8 to \$0 as the price of oil increases from \$80 per barrel up over \$150. Thus, the sliding scale credit incentivizes stable production in varying markets by offering higher credits as prices drop. This also stabilizes revenue to the state.

b. Facts of the case

In 2019, Exxon produced oil and gas on Alaska's North Slope.²² In March 2020, Exxon timely calculated and paid the amounts due to the State under the production tax for the 2019 calendar year.²³ Exxon's North Slope oil and gas production continued in 2020,

¹⁸ See *id.*

¹⁹ See AS 43.55.024(j) (citing AS 43.55.011(t)) ("zero [to]four percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil..... is more than \$25").

²⁰ See AS 43.55.023(c)(1); AS 43.55.024(f), ((j), (i); AS 43.55.025(i).

²¹ See AS 43.55.024(j).

²² ROA 000185.

²³ ROA 000150.

and in March 2021, Exxon filed a return for its 2020 production tax where it applied the Sliding-Scale Credits it earned in 2020 to reduce its 2020 production tax.²⁴ However, Exxon had excess Sliding-Scale Credits in 2020 due to the extent of its oil production. Two years later, on March 28, 2023, Exxon filed an amended 2019 return requesting a refund of 2019 taxes paid based on the carryback of its excess 2020 Sliding-Scale Credits.²⁵

c. Proceedings

Upon receiving the amended return, DOR performed a limited audit to review Exxon's application of the 2020 Sliding Scale Credits to the 2019 tax liability.²⁶ DOR concluded that the plain language of AS 43.55.024(j) prohibited Exxon from carrying back Sliding-Scale Credits.²⁷ The audit also asserted that the legislative history supported DOR's reading of the statute, noting that the rationale for creating the credit - to impact a taxpayer's liability in a specific year - would not be achieved by allowing a taxpayer to apply these credits to *any* tax year.²⁸

On June 13, 2023, Exxon appealed the audit determination and requested an informal conference decision.²⁹ On October 4, 2023, a Revenue Appeals Officer issued a decision upholding DOR's disallowance of Exxon's carryback of the Sliding-Scale Credit.³⁰ The Appeals Officer compared the meaning of "a calendar year" to "the calendar year" in the statute of AS 43.55.024(j).³¹ The officer explained that, while other statutes explicitly provide for carrybacks of credits, no authorization for carrybacks existed in subsection .024(j).³² On October 31, 2023, Exxon appealed DOR's decision to the Office of Administrative Hearings ("OAH").³³

²⁴ ROA 000151.

²⁵ ROA 000151.

²⁶ ROA 000148-56.

²⁷ ROA 000151-53.

²⁸ ROA 000153-54.

²⁹ ROA 000136.

³⁰ ROA 000192.

³¹ ROA 000187-89.

³² ROA 000189.

³³ ROA 000003.

OAH issued its decision on November 14, 2024.³⁴ OAH concluded that carrybacks were allowed under the statute and reversed DOR's decision to the extent that it denied Exxon's carryback of the Sliding-Scale Credits.³⁵ However, OAH affirmed DOR's denial of Exxon's claim for a refund.³⁶ In its decision, OAH construed AS 43.55.024(j) strictly against the State³⁷ and applied an independent judgment standard of review.³⁸

DOR appealed OAH's conclusion that the lack of explicit prohibition permitted Exxon to carry back sliding scale credits.³⁹ Exxon cross-appealed OAH's conclusion that the lack of explicit authorization for DOR to issue a refund meant that Exxon was not entitled to a refund.⁴⁰ The appeals were consolidated into the instant case.

III. Standard of Review

The parties disagree on which standard of review applies in this appeal. DOR cites its agency expertise, and argues that reasonable basis review applies.⁴¹ Exxon opposes, and argues that the substitution of judgment standard applies.⁴² "In an appeal from an agency decision, [the appellate court] directly review[s] the agency action in question rather than the decision of the [lower appellate] court."⁴³

a. The standards of review for administrative appeals

"There are two standards of review that can be applied to an agency's interpretation of a statute."⁴⁴ "If the issue involves agency expertise or the determination of fundamental policy questions on subjects committed to the agency's discretion, reasonable basis review applies."⁴⁵ When the issue involves "questions of law" where "no agency expertise is

³⁴ ROA 000282.

³⁵ ROA 000265-80.

³⁶ ROA 000280-82.

³⁷ ROA 000264-65.

³⁸ ROA 000265.

³⁹ See Appellant Notice of Appeal (filed Feb. 11, 2026).

⁴⁰ See Appellee Notice of Appeal (filed originally in 3AN-25-04878CI).

⁴¹ See Appellant Brief at 19-21.

⁴² See Appellee Brief at 9-11.

⁴³ *State v. Pub. Safety Employees Ass'n*, 93 P.3d 409, 413 (Alaska 2004).

⁴⁴ *Municipality of Anchorage v. Department of Revenue*, 588 P.3d 631, 640 (Alaska 2026) (citing *Marathon Oil Co. v. State, Dep't of Nat. Res.*, 254 P.3d 1078, 1082 (Alaska 2011)).

⁴⁵ *City of Valdez v. State*, 372 P.3d 240, 246 (Alaska 2016).

involved in the agency's interpretation, [the court] applies the substitution of judgment standard."⁴⁶

b. The substitution of judgment standard of review applies.

"When a case requires resolution of policy questions which lie within the agency's area of expertise and are inseparable from the facts underlying the agency's decision, [the court] defers to an agency's interpretation of a statute if it has a 'reasonable basis' in the law."⁴⁷ The court applies reasonable basis review "to administrative action taken pursuant to a legislative delegation of fundamental policy-making authority."⁴⁸

DOR argues the court should use the reasonable basis standard to review its interpretation of the production tax statutes at issue in this case. The Alaska Supreme Court addressed this same question in its recent opinion in *Municipality of Anchorage v. Department of Revenue*.⁴⁹ The same analysis applies here.

This case concerns whether the legislature intends that excess sliding-scale credits can be carried back to prior years to generate a refund. This is "ultimately a question of legislative intent rather than a question of technical expertise about oil and gas, business, or accounting."⁵⁰ Although DOR argues that "the oil and gas production tax is a complex set of tax statutes and regulations,"⁵¹ "statutory interpretation - even of complex laws - is within the scope of the court's special competency."⁵² If the court were interpreting 15 AAC 55.305(c), which is the regulation DOR promulgated to address carrybacks in AS 43.55.023 and .025, then the court might use a different standard of review, because the statute expressly delegates that policy-making authority. But here, the court is tasked with pure statutory interpretation.

⁴⁶ *Valdez*, 372 P.3d at 246; see also *Municipality of Anchorage*, 588 P.3d at 640.

⁴⁷ *Municipality*, 588 P.3d at 640 (quoting *Tesoro Alaska Petroleum Co. v. Kenai Pipe Line Co.*, 746 P.2d 896, 903 (Alaska 1987)).

⁴⁸ *Id.* at 641.

⁴⁹ *Id.*

⁵⁰ *Id.* at 642.

⁵¹ Appellant Reply at 8.

⁵² *Municipality*, 588 P.3d at 642.

Here, "the legislature itself determined how . . . oil and gas producers are to be treated with respect to production taxes and credits."⁵³ "There is no indication that the legislature delegated authority to the Department of Revenue to make fundamental policy decisions on this question."⁵⁴

The statutory interpretation question here is "not dependent on the agency's technical expertise, nor is it a matter of fundamental policy for the agency to decide."⁵⁵ The instant interpretation requires discerning whether the legislature itself intended for sliding-scale credits to be carried back, not what DOR intends. Therefore, the court substitutes its judgment to interpret the statute in question. The court "gives no deference to the agency's statutory interpretation."⁵⁶

Under the substitution of judgment standard, the court exercises its own independent judgment "substituting it for that of the agency even if the agency's interpretation has a reasonable basis in law."⁵⁷ Although the court exercises its own judgment, it "adopt[s] the rule of law that is most persuasive in light of precedent, reason, and policy while giving due deliberative weight 'to what the agency has done, especially where the agency interpretation is longstanding.'"⁵⁸

Under this standard, the court interprets the statute *de novo*.⁵⁹ De novo review requires the consideration of three factors: "the language of the statute, the legislative history, and the legislative purpose behind the statute."⁶⁰

IV. Discussion

The parties raise a combined seven points on appeal.⁶¹ Each point falls squarely within two fundamental questions to this appeal: (1) Does the statutory scheme of AS

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.* at 640.

⁵⁷ *City of Valdez*, 372 P.2d at 246.

⁵⁸ *Municipality*, 588 P.3d at 640 (quoting *City of Valdez*, 372 P.3d at 246).

⁵⁹ *City of Valdez*, 372 P.3d at 248.

⁶⁰ *Id.*

⁶¹ See Appellant Statement of Points on Appeal (filed Feb. 11, 2025) (1. The OAH erred when it did not defer to DOR's informal conference decision as required by AS 43.05.435(3); 2. The OAH erred when it construed the relevant statutes against the state and strictly in favor of the taxpayer; 3. The OAH erred when it found that taxpayers may carryback AS 43.55.024(j) credits; 4. The OAH erred by allowing carryback credits without express DORv. Exxon

43.55.024(j) allow sliding-scale credits to be carried back; and if so, (2) are carryback credits refundable?

a. Tax credit statutes are construed against the taxpayer.

A *tax* statute imposes a general obligation on taxpayers to contribute to the cost of government.⁶² A *tax credit* statute provides a mechanism for relief by which a taxpayer may subtract an amount directly from the computed tax itself.⁶³ "In the interpretation of statutes levying taxes it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out."⁶⁴ In cases of doubt, laws imposing a tax are construed most strongly against the government, and in favor of the taxpayer.⁶⁵

The opposite rule applies to laws granting relief from the general tax treatment; such as exemptions and credits. In *State, Department of Revenue v. OSG Bulk Ships, Inc.*, the Alaska Supreme Court upheld a narrow construction of a *tax credit* statute on the basis that it was "consistent with the following canon of construction: Exemptions are narrowly construed against the taxpayer."⁶⁶ More recently, the Alaska Supreme Court utilized this rule in *Municipality of Anchorage v. Department of Revenue* to "resolve any lingering ambiguity about what the legislature intended" concerning interpretation of an oil and gas *tax credit* statute.⁶⁷ Although the canon speaks in terms of exemptions, the court applied it directly to *tax credit* statutes, treating credits as another form of tax relief. Likewise, the U.S. Supreme Court has recognized that a credit "has greater value to the taxpayer than a

provisions in Alaska law; 5. The OAH erred in holding that Exxon could carryback AS 43.55.024(j) credits to reduce additional tax liability, "such as increased liability resulting from a court case." 6. The OAH erred in reversing DOR's informal conference decision "to the extent it finds Exxon could not carryback excess Sliding Scale credits); See also Appellee Statement of Points (filed Feb. 25, 2025) (1. Although the OAH correctly determined that AS 43.55.024(j) permits Exxon to carryback its Sliding Scale Credits, OAH erred when it concluded that the applicable statutes and regulations do not allow Exxon to seek a refund of those carried back amounts).

⁶² See *DeVilbiss v. Matanuska-Susitna Borough*, 356 P.3d 290 (Alaska 2015); See also *Welch v. Henry*, 305 U.S. 134 (1938).

⁶³ See *Union Oil Co. of California v. Department of Revenue*, 560 P.2d 21, 25 (Alaska 1977) ("a credit in taxation refers to the amount which may be subtracted from the computed tax itself, in contrast to a deduction which is generally subtracted from gross income").

⁶⁴ *Gould v. Gould*, 245 U.S. 151, 153 (1917).

⁶⁵ *Id.*

⁶⁶ *State, Department of Revenue v. OSG Bulk Ships, Inc.*, 961 P.2d 399,409 (Alaska 1998).

⁶⁷ 588 P.3d 631, 647 (Alaska 2026).

deduction or exemption" because "[a] credit directly reduces the amount of tax that must be paid, dollar for dollar, whereas a deduction reduces tax liability only indirectly by reducing the taxable estate."⁶⁸ Thus, the rule that a tax relief statute must be narrowly construed against the taxpayer is most applicable to a tax credit in particular, as the most beneficial category of tax relief.

This case concerns the ability to carry back a *tax credit*; essentially determining the permissible scope of the tax credit. Thus, the general rule that any doubt in a *tax* statute should be construed in favor of the taxpayer does not apply. That rule is intended to prevent the State from *imposing' taxes* beyond what the legislature has clearly authorized. That rationale does not apply where, as here, the issue involves determining whether the legislature intended *tax relief* within a *tax credit* statute. Because this case concerns the scope of a tax credit and not the imposition of a tax, the applicable canon is that the tax credit statute is construed narrowly against the taxpayer. Accordingly, the court utilizes this canon while interpreting the legislature's intent regarding carrybacks within AS 43.55.024(j).⁶⁹

The court concludes that OAH erred in applying the opposite canon. OAH divorces the application of the tax credit by carrying it back from the taxpayer's receipt of that credit. But this is a distinction without substance. If the taxpayer is not able to carry back excess credits-and therefore must forfeit the credits-then the question of carrying back is itself the question of receipt of the credit. The privilege to carry back is the question of qualifying for that tax credit. Thus, this appeal fundamentally *does* concern a tax credit.

⁶⁸ *U.S. v. Hemme*, 476 U.S. 558,561 n.1 (1986).

⁶⁹ This canon was explained in more detail by the Alaska Supreme Court in *Greater Anchorage Area Borough v. Sisters of Charity of House of Providence*, 553 P.2d 467, 469 (Alaska 1976):

"All property is benefited by the security and protection furnished by the State, and it is only just and equitable that expenses incurred in the operation and maintenance of government should be fairly apportioned upon the property of all. An exemption from taxation releases property from this obligation to bear its share of the cost of government and serves to disturb to some extent, that equality in the distribution of this common burden upon all property which is the object and aim of every just system of taxation. While reasonable exemptions based upon various grounds of public policy are permissible, yet taxation is the general rule It is for this reason that statutes granting exemptions from taxation are strictly construed. A taxpayer is not entitled to an exemption unless he shows that he comes within either the express words or the necessary implication of some statute confelTing this privilege upon him."

b. OAH erred when it found that Exxon can carry back sliding-scale production credits.

i. The plain language of AS 43.55.024(j) makes it clear that carrybacks are not allowed

"When interpreting statutes using independent judgment, [the court] consider[s] the statutes' language, purpose, and legislative history."⁷⁰ The court begins "with the text and its plain meaning, and [] use[s] a 'sliding-scale approach' to interpret the language."⁷¹ "Under this approach, 'the plainer the statutory language is, the more convincing the evidence of contrary legislative purpose or intent must be' to overcome the plain meaning of the statute's text."⁷² "When interpreting statutes, [courts] presume 'that the legislature intended every word, sentence, or provision of a statute to have some purpose, force, and effect, and that no words or provisions are superfluous...'"⁷³ "It is a canon of statutory construction that the reading of the statute should not render any of its sections meaningless."⁷⁴ Courts interpret statutes "in context with other pertinent provisions rather than in isolation, and with a view toward reconciling conflict and producing a harmonious whole."⁷⁵ The language of a statute is "construed in accordance with its common usage, unless the word or phrase in question has acquired a peculiar meaning, by virtue of statutory definition or judicial construction."⁷⁶

The statute in question reads:

"A producer **may** apply against the producer's tax liability for **the calendar year** under AS 43.55.011(e) a tax credit in the amount specified in this subsection for each barrel of oil taxable under AS 43.55.011(e) that does not receive a reduction in the gross value at the point of production under AS 43.55.160(f) and ((j) and that is produced during **a calendar year** after December 31, 2013, from leases or properties north of 68 degrees North latitude. A tax credit under this subsection may not reduce a producer's tax liability for **a calendar year** under AS 43.55.011(e) below the amount

⁷⁰ *Municipality*, 588 P.3d at 642.

⁷¹ *Id.* at 643 (quoting *State v. Planned Parenthood of the Great NW.*, 436 P.3d 984, 992 (Alaska 2019)).

⁷² *Id.* (quoting *State v. Fyfe*, 370 P.3d 1092, 1095 (Alaska 2016)).

⁷³ *Medicine Crow v. Beecher*, 507 P.3d 452, 458 (Alaska 2025).

⁷⁴ *Id.* (quoting *Municipality of Anchorage v. Suzuki*, 41 P.3d 147, 151 (Alaska 2002)).

⁷⁵ *Id.* (quoting *Blythe p. v. State, Dep't of Health & Soc. Servs., Off. of Child's Servs.*, 524 P.3d 238, 246 (Alaska 2023)).

⁷⁶ *Suzuki*, 41 P.3d at 151.

calculated under AS 43.55.011(f). The amount of the tax credit for a barrel of taxable oil subject to this subsection produced during a month of **the calendar year** is... "⁷⁷

It is clear from the statutory text alone that the legislature did not include any language that refers to the concept of a carryback. The statute itself does not mention or explicitly address the term "carryback." Neither does it incorporate any of the same language, such as "for a prior year," that the legislature used in other sections where the statute allows for carrybacks.⁷⁸ Nor does it use phrases such as "regardless of when the credit was earned," to indicate that the credit can be applied in another year, as it did in adjacent subsections.⁷⁹ It cannot be ignored how plain it is that the language of subsection .024(j) omits any language that would clearly establish a path to carrying back a credit.

Exxon argues in passing that the use of the phrase "may apply" supports an interpretation that a producer may choose in what year it may utilize the sliding scale credit.⁸⁰ DOR counters that the phrase "may apply" in the first sentence of the statute "permits taxpayers to either use or forego its sliding scale credits" because the language does not indicate the ability to carry back credits.⁸¹ The court agrees with DOR. OAH put it perfectly when it said the following:

The subsection starts by stating that taxpayers "may" apply the Sliding Scale credit... The term 'may' generally denotes permissive or discretionary authority."⁸² Here, the word "may" precedes the word "apply," indicating that taxpayers have discretion whether to apply this credit. The remainder of the sentence specifies what it is the taxpayer may apply ("a tax credit ... for each [non-GVR North Slope] barrel ... produced during a calendar year after December 31, 2013") and what the taxpayer may apply it to ("tax liability for the calendar year"). Given the structure of this sentence, "may" refers to discretion to apply the Sliding Scale credit, but does not address when a

⁷⁷ AS 43.55.024(i) (emphasis added).

⁷⁸ See AS 43.55.023(c) (The qualified capital expenditure credit "may, regardless of when the credit was earned, be used to satisfy a tax, interest, penalty, fee, or other charge... "); AS 43.55.025(h) (the oil and gas exploration credit "may, regardless of when the credit was earned, be applied to satisfy a tax, interest, penalty, fee, or other charge... "); AS 43.55.025(h)(3)(A) ("related to the tax due under this chapter for a prior year... "); AS 43.55.023(b)(3)(A) ("related to the tax due under this chapter for a **prior year** ... ").

⁷⁹ *Id.*

⁸⁰ See Appellee Brief at 11.

⁸¹ Appellant Brief at 27.

⁸² *Gerber v. Juneau Bartlett Mem'l Hosp.*, 2 P.3d 74, 76 (Alaska 2000).

taxpayer may do so, whether or not a taxpayer may apply a credit to a year other than when it was earned, or whether a taxpayer may carry back this credit. The permissive nature of "may," thus does not, in and of itself, either allow or prohibit a carryback.⁸³

Next, and most importantly, the parties' dispute centers on the meaning of the phrase "a calendar year" as it relates to "the calendar year" in the first sentence of AS 43.55.024(j). The parties agree, and the court agrees, that "the calendar year" refers to the particular tax year against which the producer seeks to apply the credit.⁸⁴ In this instance, that would be 2019. As the Alaska Supreme Court has observed, "[T]he definite article 'the' particularizes the subject which it precedes [and] is a word of limitation as opposed to the indefinite or generalizing force of 'a.'"⁸⁵ The dispute, therefore, is not the meaning of "the calendar year," but whether the legislature used the phrase "a calendar year" merely to identify the year in which the qualifying production occurred or, as Exxon contends, to authorize application of the resulting credit to any tax year.

Exxon contends that the phrase "a calendar year" authorizes a producer to apply the sliding-scale credit against a tax liability arising in *any* calendar year, including a prior year through a carryback.⁸⁶ DOR argues that the phrase merely identifies the tax year for which the credit is earned and calculated.⁸⁷ The Court agrees with DOR for two reasons: (1) because subsection (J), when read as a whole with the remainder of AS 43.55.024, consistently treats the sliding-scale credit as a current-year production credit rather than a credit that may be applied across tax years; and (2) the legislature's express use of the term "any calendar year" throughout the rest of the statute enforces that "a calendar year" must be treated distinctly from "any calendar year." That is, the court cannot presume that the use of "a" was simply sloppy drafting when "any" was intended. The word "any" is a

⁸³ ROA 000266.

⁸⁴ See Appellee Brief at 12; Appellant Brief at 27.

⁸⁵ *Hakala v. Atxam Corp.*, 753 P.2d 1144, 1148 (Alaska 1988) (quoting *Brooks v. Zabka*, 450 P.2d 653, 655 (Colo. 1969)).

⁸⁶ See Appellee Brief at 12-13. ("a calendar year refers to any year after December 31, 2013")("a calendar year refers to any year")("This means that a producer's tax liability associated with oil produced during any specific calendar year is eligible to be reduced by the producer's Sliding Scale Credits earned in any year").

⁸⁷ See Appellant Brief at 28-29.

much stronger expression than "a" which requires contextual inference to be used as the equivalent of "any." The legislature also used the focused term "prior year" rather than the aimless "a calendar year" in both AS 43.055.023 and 43.55.025 to specifically address carrybacks, making it untenable to read subsection .024(j)'s complete lack of indicative language to imply the same intention.

Both parties agree that the first sentence of .024(j) is the lynchpin of the subsection and either allows or prohibits carrybacks. Exxon places substantial weight on the legislature's use of the phrase "a calendar year," arguing that the indefinite article "a" means "any" calendar year.⁸⁸ The court is not persuaded because the phrase does not perform the function Exxon assigns to it and would go against mandatory canons of construction. The problem with Exxon's reading of the statute is that it requires two different statutory phrases to carry the same meaning. "Principles of statutory construction mandate that [the court] assume the legislature meant to differentiate between two concepts when it used two different terms."⁸⁹ Thus, Exxon must persuade the court that when the legislature used the phrase "a calendar year" in AS 43.55.024(j), it intended the phrase to mean "any calendar year," despite the legislature's deliberate and express use of the latter phrase elsewhere throughout AS 43.55.024.⁹⁰

There is no need to force an interpretation that can only be seen as requiring the drafting to be shoddy. The applicability of the credit to a given tax year is clearly essential. In 2013, SB 21 amended AS 43.55.011(e) and addressed taxes for three discrete timeframes, before and after January 1, 2014, and after January 1, 2022. It also amended AS 43.55.024 to address credits and their applicability with reference to specific years. Twice it references the timeframe when the oil is produced upon which a credit is based—both times using "in a calendar year after December 31, 2013." All of these references are

⁸⁸ See Appellee Brief at 13 ("As OAH correctly observed, 'the calendar year' refers to a specific tax year, whereas 'a calendar year' refers to any year after December 31, 2013") ("This means that a producer's tax liability associated with oil produced during any specific calendar year is eligible to be reduced by the producer's sliding scale credits earned in any year").

⁸⁹ *Spine Ctr., LLC v. Mat-Su Valley Med. Ctr., LLC*, 440 P.3d 176, 182 (Alaska 2019); See also *Titus v. Department of Corrections*, 496 P.3d 412, 416 n.8 (Alaska 2021).

⁹⁰ See AS 43.55.024(b), (d), (f), and (j).

plainly setting forth the effective date of the tax or credit being described. The singular article "the" is not used because *every* year after December 31, 2013 qualifies. Likewise, the non-specific article "any" is not used because the clause is referencing a relevant calendar year, to which the tax or credit is being determined. Thus, read together, "the calendar year" in the first sentence of section .024(j) plainly refers to the year of the tax liability being calculated and "a calendar year after December 31, 2013" refers to when "the calendar year" must fall. Thus, these are the same year, but described in two different ways. One to identify the year at issue, the other to establish its qualification.

This reading is consistent throughout section .024, where the legislature uses the phrase "a calendar year" when describing the tax period relevant to computing or applying a particular credit. For example, subsections (a) and (c) each provide that, "[f]or a calendar year for which a producer's tax liability ... exceeds zero," a qualifying producer may claim the respective producer credit. "A calendar year" in this context means the unit of computation, January 1 to December 31, for the tax liability.

By contrast, when the legislature intended to describe the limit of a credit, it employed different language. Subsections (b), (d), (f), and ((j) each refer to "any calendar year." There, the word "any" performs meaningful work by expanding the reach of the statutory limitation beyond a single tax year. The legislature's opposing use of both phrases ("a calendar year" and "any calendar year") within the same statutory section demonstrates that they are not interchangeable. "That [the legislature] used different language in these two provisions strongly suggests that it meant for them to work differently."⁹¹ Erasing the distinction between the terms, as Exxon urges, and reading "a calendar year" in subsection 0) to mean "any calendar year" would erase a distinction the legislature itself drew. The court cannot do so.

⁹¹ *Stanley v. City of Sanford, Florida*, 606 U.S. 46, 53 (2025).

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Had the legislature intended the Sliding-Scale Credit to be applied to liabilities arising in different tax years, it would say so expressly, as it does elsewhere in Chapter 43.55 when authorizing carryforwards or carrybacks to other tax years.⁹²

ii. **Silence is not authorization.**

Exxon also relies on AS 43.55.024(h), arguing that if the legislature intended to prohibit carrybacks, it could have done so expressly and thus, carrybacks are allowed.⁹³ That argument overlooks the statutory timeline. Subsection (h), together with subsections (i) and (j), was enacted in 2013. At that time, Alaska's production tax statutes did not authorize carrybacks. The legislature did not introduce a carryback mechanism until 2017. Accordingly, when subsection (h) was enacted, there was no need to expressly prohibit carrybacks because no carryback provision yet existed.

As a general notion, the concept of carrying back a tax credit is not a basic or natural feature inherent in every tax regime. Carrying back anything in taxation by nature requires an amendment of a prior tax return. In contrast, a carryforward is a more natural concept because it can be recorded contemporaneously on the current tax return and then incorporated in sequence on the following or future return, without requiring any amendment. A carryback is such a laborious exercise that the court cannot find, in light of reason and policy, that a carryback is available by permissive silence if not expressly prohibited in the text. This is a plainly unreasonable notion. The legislature indicated as much by its delegation in AS 43.55.023(h) to DOR to adopt regulations including "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." No such directive or warning was given in subsection .024(j) because the risk was not present when the credit was only applicable to the year of production.

⁹² See AS 43.55.023(c) (The qualified capital expenditure credit "may, **regardless** of when the credit was earned, be used to satisfy a tax, interest, penalty, fee, or other charge... "); AS 43.55.025(h) (the oil and gas exploration credit "may, **regardless** of when the credit was earned, be applied to satisfy a tax, interest, penalty, fee, or other charge... "); AS 43.55.025(h)(3)(A) ("related to the tax due under this chapter for a prior year... "); AS 43.55.023(b)(3)(A) ("related to the tax due under this chapter for a prior year ... ") (emphasis added).

⁹³ Appellee Brief at 13.

The Court therefore declines to infer legislative intent from the absence of language that had no place in the statutory scheme at the time. When the legislature later introduced carryback mechanisms in 2017, it did so by expressly authorizing carrybacks and only for specified credits. The legislature did not amend AS 43.55.024(j) or (h) to provide the same authority. That sequence of enactments undermines, rather than supports, Exxon's proposed interpretation.

Accordingly, the Court concludes that the phrase "a calendar year" in AS 43.55.024(j) identifies the annual period in which the Sliding-Scale Credit is earned, and calculated. It does not authorize the credit's application to tax liabilities arising in different calendar years. This reading maintains harmony with the other statutory sections and subsections as well as the monthly computation method for the Sliding-Scale Credit itself.

iii. The legislative history, statutory purpose, and the canon of strict construction support the conclusion that carrybacks of Sliding-Scale Credits are not allowed.

Legislative history must be read as a whole, not as though each successive draft begins with a blank slate. For example, in examining competing legislative histories from different enactment years, the Alaska Supreme Court has held that an earlier legislative history enacting one subsection cannot simply be displaced by a later legislative history amending a different subsection; both form part of the cumulative record.⁹⁴ All drafts referred to by DOR appear within AS 43.55.024's legislative history (SB 21), and must be considered.

The conclusion that the legislature intended "a calendar year" to differ from "any calendar year" is consistent with the legislative history and purpose of the statute. As stated by OAH, "[h]ere, neither party pointed to any legislative history expressly addressing a carryback of sliding-scale credits. Nor does there appear to be any."⁹⁵ The lack of any explicit discussion regarding carrybacks is unsurprising for two reasons. First; carrybacks

⁹⁴ See *Roberge v. ASRC Construction Holding Company*, 503 P.3d 102 (Alaska 2022); See also *Municipality of Anchorage v. Department of Revenue*, 588 P.3d 631 (Alaska 2026) (where the Court analyzed multiple earlier versions and amendments of the same oil and gas tax).

⁹⁵ ROA 000277.

did not exist when the legislature enacted SB 21 in 2013, they were not introduced until 2017. Second, by the time subsection .024(j) was added to SB 21, the legislature had completed its discussions concerning when per-barrel production credits must be applied under subsection .024(i).

Like subsection .024(j), subsection .024(i) assigns a per-barrel credit for oil produced.⁹⁶ At multiple times throughout the legislative history, and through multiple drafts, the legislature was consistently instructed and assured that the per-barrel credit must be used in the year that the oil was produced.

- SB 21 was introduced in January 2013.⁹⁷ The initial draft of SB 21 did not include any per-barrel production tax credit.⁹⁸
- On February 22, 2013, in discussion for a substitute of SB 21, Sharon Long, a member of Senator Cathy Giessel's staff, explained that the per-barrel credit "must be used against the tax liability for the year in which the barrel was produced."⁹⁹
- On February 28, 2013, the Department of Law and DOR instructed the Senate Finance Committee that the per-barrel tax credit was "applicable to the producer's tax liability for the year the oil was produced."¹⁰⁰
- On March 4, 2013, Roger Marks, a legislative consultant for the Legislative Budget and Audit Committee, instructed the Senate Finance Committee that if the producer's credits, when applied, went below the "tax floor either under the net or the gross, portions of that ... credit that [producers] haven't used, [they]

⁹⁶ AS 43.55.024(i) ("A producer may apply against the producer's tax liability for the calendar year under AS 43.55.011(e) a tax credit of \$5 for each barrel of oil taxable under AS 43.55.011(e) that receives a reduction in the gross value at the point of production under AS 43.55.160(f) or (j) and that is produced during a calendar year after December 31, 2013. A tax credit authorized by this subsection may not reduce a producer's tax liability for a calendar year under AS 43.55.011(e) below zero").

⁹⁷ See Senate Journal, Alaska State Leg. 28th Leg. Pg. 33 (Jan. 16, 2013).

⁹⁸ See S.B. 21, 28th Leg., 1st Sess. (Alaska 2013).

⁹⁹ *Oil and Gas Production Tax: Hearing on S.B. 21 Before the S. Res. Standing Comm.* 28th Leg. (Feb. 22, 2013) (Statement of Sharon Long, staff to Sen. Giessel); Appellant Brief at 6.

¹⁰⁰ Departments of Revenue and Law: Sectional Review, CSSB 21 (RES), Senate Finance Committee (Feb. 28, 2013) (https://www.akleg.gov/basis/get_documents.asp?session=28&docid=2594).

lose it, [and] don't get to pick it up again."¹⁰¹ This implies it must be used in the year of production.

- On March 12, 2013, another substitute to the bill was introduced.¹⁰² Suzanne Armstrong, a member of Senator Kevin Meyer's staff, informed the committee that the "per-barrel allowance was maintained" in the new substitute.¹⁰³
- On March 21, 2013, the Senate passed SB 21 and transmitted it to the House.¹⁰⁴
- On March 22, 2013, DOR advisor Michael Pawlowski testified the per-barrel credit "is applicable to the producer's tax liability for the year the oil was produced."¹⁰⁵
- On April 5, 2013, the House Resources Committee adopted a new draft of SB 21.¹⁰⁶ The new draft introduced the Sliding-Scale Credit.¹⁰⁷
- No further testimony was received illustrating when the subsection .024(i) or .024(j) credits must be applied by a producer other than from Mr. Pawlowski who stated on April 6 that ".024 credits are ... only used to offset your liability in that particular year."¹⁰⁸

Exxon argues that DOR's legislative history argument is unavailing because it "cites legislative history from before [024(j) was introduced], that relates to a different tax credit."¹⁰⁹ Exxon claims that this legislative history is "not probative of the legislature's intent with respect to the sliding scale credit" because it was for a "different tax credit that never became law."¹¹⁰ Exxon finalizes its argument that the legislative history cannot be

¹⁰¹ *Oil and Gas Production Tax: Hearing on S.B. 21 Before the S. Fin. Comm.* 28th Leg., at 9:46:18 a.m., (March 4, 2013) (Statement of Roger Marks, Legislative consultant, Legislative Budget and Audit Committee).

¹⁰² *See Oil and Gas Production Tax: Hearing on S.B. 21 Before the S. Fin. Comm.*, 28th Leg., 2 (Mar. 12, 2013).

¹⁰³ *Oil and Gas Production Tax: Hearing on S.B. 21 Before the S. Fin. Comm.*, 28th Leg., 4 (Mar. 12, 2013).

¹⁰⁴ *See Senate Journal*, Alaska State Leg. 28th Leg. 0758 -0759 (Mar. 21, 2013).

¹⁰⁵ *Oil and Gas Production Tax: Hearing on S.B. 21 Before the H. Res. Comm.* 28th Leg. (Mar. 22, 2013) (Statement of Michael Pawlowski Advisor, Petroleum Fiscal Systems, Department of Revenue); *See also* ROA 000040.

¹⁰⁶ *See Senate Journal*, Alaska State Leg. 28th Leg. Pg. 18 (Apr. 5, 2013).

¹⁰⁷ *Id*

¹⁰⁸ *Oil and Gas Production Tax: Hearing on S.B. 21 Before the H. Res. Comm.* 28th Leg. At 10:28:20 a.m. (Apr. 6, 2013) (Statement of Michael Pawlowski Advisor, Petroleum Fiscal Systems, Department of Revenue).

¹⁰⁹ Appellee Brief at 18.

¹¹⁰ *Id*

relied on because it "provides no indication of intent with respect to the language at issue in this case."¹¹¹ The court disagrees.

All discussions concerning the year in which producers must apply per-barrel credits occurred during testimony addressing the proposed language of AS 43.55.024(i), before the legislature adopted the final version of SB 21. When the legislature passed the final bill, it enacted both AS 43.55.024(i) and AS 43.55.024(j), using the same operative language governing the application of per-barrel credits.¹¹² The court finds no legislative discussion suggesting that the newly enacted subsection (j) was intended to operate differently from subsection (i) with respect to the year in which the credits may be applied against tax liability. Nor does the legislative history contain any indication that the legislature intended the two per-barrel credits to be treated differently in that regard.

Exxon's argument would effectively require the court to disregard this legislative history because the relevant testimony occurred before subsection (j) appeared in the final bill. But legislative history is not confined to discussions occurring after the precise statutory language is introduced. Courts routinely consider committee testimony, bill revisions, and the evolution of legislation to discern legislative intent. Here, the discussions regarding the operation of the per-barrel credit preceded the enactment of the final bill that incorporated the same operative language into both subsections (i) and (j). That history therefore informs the meaning of both provisions, not just subsection (i).

Exxon appears to argue that because the legislature did not restate, after the final draft was introduced containing subsection (J), that the per-barrel credit must be used in the year the oil was produced, the legislature abandoned that understanding. But that logic does not follow. The absence of repeated discussion in later committee meetings or bill drafts does not negate or supersede earlier explanations unless the legislature affirmatively

¹¹¹ *Id.*; See also ROA 000278 (Where OAH made the same observation and stated that "the legislative testimony DOR cites also addresses a tax credit, [but] is not the tax credit at issue here").

¹¹² Both credits use the language "a producer may apply against the producer's tax liability for the calendar year under AS 43.55.011(e) a tax credit" calculated "for each barrel of oil taxable under AS 43.55.011(e)". The only substantive difference between the two provisions is the amount of the credit. Otherwise, the legislature used the same operative language to define who may claim the credit, against what liability it may be applied (for each barrel of oil taxable under AS 43.55.011(e) pertaining to GVPP), and the production that gives rise to it ("produced during a calendar year after December 31, 2013").

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indicates that it intended a different result. Accepting Exxon's position would require the legislature to restate every previously expressed rationale each time a bill is amended or redrafted. That is not how the legislative process operates. Instead, earlier discussions remain part of the bill's legislative history unless they are contradicted or displaced by subsequent legislative action.

Contrary to Exxon's assertion that the legislative history concerns "a different tax credit", both subsection (i) and subsection (j) are *per-barrel tax credits*. AS 43.55.024(i) and (j) were enacted together, use much identical language, and establish complementary per-barrel credits. Legislative history demonstrates that subsection (i) was intended to operate only with respect to the year in which the qualifying oil was produced. The legislature then copied that same operative language into subsection (j). Absent some textual indication that identical language carries different temporal meaning in subsection (j), the court presumes the legislature intended the same meaning.

Unlike DOR, Exxon points to **no** legislative history that would support its conclusion that a carryback or the language of the statute should be read in the manner it suggests. Within this void, Exxon again seeks the court to treat similar language differently. DOR has highlighted how the legislative history for subsection .024(i) was explicitly introduced as "applicable to the producer's tax liability for the year the oil was produced, is not transferable, and any unused portion may not be carried forward for use in a later calendar year" and how the credit was "applicable to the producer's tax liability for the year the oil was produced."¹¹³ Exxon makes no attempt, nor provides any legislative history, to illustrate why the legislature would incorporate the same language, within the same statute, but have an entirely different intention concerning the meaning.

For the same reasons that the court does not find silence as to carrybacks in the text of the statute as authorizing, the court likewise does not find silence in the legislative history to indicate support for Exxon's position. Put simply, the legislative history is not neutral, as Exxon and OAH characterized. It is in fact supportive of DOR's position.

¹¹³ Appellant Brief at 8.

Reading the statute in the way Exxon intends also defeats the purpose of the statute. Two main purposes are illustrated by DOR; (1) incentivizing oil production; and (2) ensuring [more consistent] revenue to the state.¹¹⁴ These purposes make sense in tandem because incentivizing oil production through a sliding-scale credit addresses revenue to the state in lower price environments analyzed year-by-year.

Carrying back certainly is valuable to the producer because it maximizes the possibility of a tax credit. But examined as a closed system, "the value of being able to produce in a particular year is not impacted by future spending or the price of oil in future years."¹¹⁵ The credit is determined by the month-by-month price in *the year of production*. Under Exxon's reading of the statute, oil production is instead incentivized by the speculative availability of future excess credits. This is wholly illogical. A high profit year is when the greatest tax liability would exist to apply a carryback to. A low price/profit year is when the greatest credit would be earned and "banked" to apply to another year. If the state intended to allow that credit to be paid back to the producer when the price was low, the state would be going in the red when its tax revenue was the lowest by granting a high credit and refunding the high tax revenue from a peak year.

Exxon attempts to illustrate the fulfillment of the first purpose by pointing to statements made by the DOR Deputy Commissioner after SB 21 was passed.¹¹⁶ However, the court "does not consider testimony given after a statute's passage to be a relevant component of that statute's legislative history."¹¹⁷

Likewise, the second statutory purpose is undercut if the court were to read in Exxon's interpretation. Exxon discusses this second purpose as a "long-term investment" strategy¹¹⁸ but does not explain how the state issuing large refunds for oil production in

¹¹⁴ *Id.* at 4.

¹¹⁵ ROA 000271.

¹¹⁶ Appellee Brief at 22.

¹¹⁷ *Ward v. State, Dept. of Public Safety*, 288 P.3d 94, 104 (Alaska 2012) (citing *Marlow v. Municipality of Anchorage*, 889 P.2d 599, 603 n. 2 (1995) (holding that later statements of legislators are not relevant to legislative history); *Dep't of Cmty. & Reg'l Affairs v. Sisters of Providence in Wash.*, 752 P.2d 1012, 1015 (Alaska 1988) (holding that letter written by legislator three years after enactment was irrelevant to legislative history)).

¹¹⁸ See Governor Sean Parnell Transmittal Letter, S.B. 21, (Jan. 16, 2013) ("By reforming the credit system, this bill rebalances the current tax structure to ensure revenues to the State in low price environments"); See also Senate Journal, Alaska State Leg. 28th Leg. 0231 (Feb. 8, 2013) ("The committee recognizes that oil revenue is extremely DORv. Exxon

years the oil was not produced aligns with this strategy. Should the court allow "a calendar year" to mean "any calendar year" within this statute, it means that the state would be refunding and losing money to producers every year in perpetuity. Refunding producers to effectively erode the high years after-the-fact is exactly opposite to the purpose of ensuring revenue to the State. Allowing consistent amendment and refund for credit application in years where the oil was not produced creates no assurances and defeats this purpose.

c. Carryback credits for a refund

Because the court concludes that Sliding-Scale Credits may not be carried back, it need not address the issue of a refund. However, for argument's sake, the court affirms the conclusion of *OAH* in this respect. While it would seem illogical on its face for the legislature to craft a credit carryback and not allow a refund, the applicable regulation, adopted in 2018 before the subject year of this appeal, is not silent on this question.¹¹⁹ The regulation expressly spells out that a carryback could only be applied "against the additional amount of tax and associated interest" or an assessed "penalty," "provided no claim for refund would result." Thus, even if a carryback were allowed, a refund would still not be permitted, as Exxon seeks here. Thus, under both parties' points on appeal, Exxon's position fails.

V. Conclusion

The court **REVERSES** *OAH*'s decision concerning the availability of a carryback. DOR's interpretation is affirmed. Therefore, Exxon may not carry back the sliding-scale credit.

DATED this 3rd day of September 2026 at Anchorage.

SIGNED

Ian Wheelles

SUPERIOR COURT JUDGE

important to the State of Alaska and currently funding over 90% of Alaska's essential services and critical infrastructure").

¹¹⁹ 15 AAC 55.305(c).

