CS FOR HOUSE BILL NO. 58(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/15/00
Referred: Rules

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to certain audits regarding oil and gas royalty and net profits and to audits regarding costs relating to exploration incentive credits and oil and gas exploration licenses; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 38.05.036(a) is amended to read:

(a) The department may conduct audits regarding [DEPARTMENT OF REVENUE SHALL AUDIT REPORTS, PAYMENTS, AND PAYMENTS DUE RELATING TO] royalty and net profits under [OIL AND GAS CONTRACTS, AGREEMENTS, OR LEASES UNDER] this chapter and regarding costs related to oil and gas exploration licenses and exploration incentive credits under this chapter or under AS 41.09. For purposes of audit under this section, the department may examine the books, papers, records, or memoranda of a person regarding matters related to the audit. For purposes of audit under this section, the records and premises where a business is conducted shall be open at all
reasonable times for inspection by the department.

* Sec. 2. AS 38.05.036(b) is amended to read:

(b) The Department of Revenue may obtain from the department information relating to royalty and net profits payments and to exploration incentive credits under this chapter or under AS 41.09, whether or not that information is confidential. The Department of Revenue may use the information in carrying out its functions and responsibilities under AS 43, and shall hold that information confidential to the extent required by an agreement with the department or by AS 38.05.035(a)(9), AS 41.09.010(d), or by this chapter.

* Sec. 3. AS 38.05.036(c) is amended to read:

(c) The department may obtain from the Department of Revenue all information obtained under AS 43 relating to royalty and net profits and to exploration incentive credits. The department may use the information for purposes of carrying out its responsibilities and functions under this chapter and AS 41.09 [PAYMENTS, INCLUDING INFORMATION OBTAINED UNDER AS 43, MAY BE MADE AVAILABLE TO THE DEPARTMENT, IN THE FORM OF SUMMARIES AND, WHEN IN FURTHERANCE OF THE DEPARTMENT’S ROYALTY AND NET PROFITS FUNCTIONS, RELEVANT PORTIONS OF THE AUDITS]. Information made available to the department that was obtained under AS 43 is confidential and subject to the provisions of AS 43.05.230.

* Sec. 4. AS 38.05.036 is amended by adding new subsections to read:

(f) Except as otherwise provided in this section or in connection with official investigations or proceedings of the department, it is unlawful for a current or former officer, employee, or agent of the state to divulge information obtained by the department as a result of an audit under this section that is required by an agreement with the department or by AS 38.05.035(a)(9) or AS 41.09.010(d) to be kept confidential.

(g) Nothing in this section prohibits the publication of statistics in a manner
that maintains the confidentiality of information to the extent required by an agreement with the department or by AS 38.05.035(a)(9) or AS 41.09.010(d).

(h) A wilful violation of (f) of this section is punishable by a fine of not more than $5,000, or by imprisonment for not more than two years, or both.

(i) In the course of carrying out its responsibilities under this section, the department may subpoena any person to appear and produce books, records, papers, or memoranda bearing upon matters relating to an audit under this section and to give testimony or answer interrogatories under oath regarding those matters. The department may administer oaths to persons who are so subpoenaed. A subpoena issued under this section may compel attendance of a witness or production of a document or thing, located either inside or outside the state, to the maximum extent permitted by law.

(j) A subpoena may be served by the commissioner of public safety or a peace officer designated by the commissioner of public safety, by a person designated by the department, or as otherwise provided by law. A subpoena may also be served by registered or certified mail for delivery restricted only to the person subpoenaed. The return delivery receipt must be addressed so that the receipt is returned to the department.

(k) If a person who is subpoenaed neglects or refuses to obey the subpoena issued as provided in this section, the department may report the fact to the superior court or the appropriate court of another jurisdiction, and may seek an order from the court compelling obedience to the subpoena. The court, to the maximum extent permitted by law, may compel obedience to the subpoena to the same extent as witnesses may be compelled to obey the subpoenas of the court.

(l) The department may conduct audits under this section concurrently with Department of Revenue audits or investigations under AS 43.

* Sec. 5. AS 43.05.040(a) is amended to read:

(a) The department may examine the books, papers, records, or memoranda of any person to ascertain the correctness of a return filed or to determine whether a tax [OR A PAYMENT FOR OIL OR GAS ROYALTY OR NET PROFITS SHARES UNDER A CONTRACT, AGREEMENT, OR LEASE UNDER AS 38.05] is due, or
in an investigation or inspection in connection with tax matters [OR MATTERS RELATING TO OIL AND GAS ROYALTY OR NET PROFITS UNDER CONTRACTS, AGREEMENTS, OR LEASES UNDER AS 38.05]. The records and the premises where a business is conducted shall be open at all reasonable times for official inspection, and the department may subpoena any person to appear and produce books, records, papers, or memoranda bearing upon tax matters [OR MATTERS RELATING TO OIL AND GAS ROYALTY OR NET PROFITS UNDER CONTRACTS, AGREEMENTS, OR LEASES UNDER AS 38.05], and to give testimony or answer interrogatories under oath respecting tax matters [OR MATTERS RELATED TO OIL AND GAS ROYALTY OR NET PROFITS UNDER CONTRACTS, AGREEMENTS, OR LEASES UNDER AS 38.05], and the department may administer oaths to persons who are so subpoenaed. A subpoena issued under this section may compel attendance of a witness or production of a document or thing, located either inside or outside the state, to the maximum extent permitted by law.

* Sec. 6. AS 43.05.230(a) is amended to read:

(a) It is unlawful for a current or former officer, employee, or agent of the state to divulge the amount of income or the particulars set out or disclosed in a report or return made under this title, except

(1) in connection with official investigations or proceedings of the department, whether judicial or administrative, involving taxes due under this title;

(2) in connection with official investigations or proceedings of the child support enforcement agency, whether judicial or administrative, involving child support obligations imposed or imposable under AS 25 or AS 47;

(3) as provided in AS 38.05.036 pertaining to audit functions of the Department of Natural Resources:

(4) as provided in AS 43.05.400 - 43.05.499; and

(5) as otherwise provided in this section.

* Sec. 7. AS 38.05.036(d), 38.05.036(e), and AS 43.05.010(15) are repealed.

* Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION. (a) Litigation, hearings, investigations, and other proceedings pending
under a law amended or repealed by this Act, or in connection with functions transferred by
this Act, continue in effect and may be continued and completed notwithstanding a transfer
or amendment or repeal provided for in this Act.
(b) Contracts, rights, liabilities, and obligations created by or under a law amended
or repealed by this Act and in effect on June 30, 2000, remain in effect notwithstanding this
Act’s taking effect. Records and appropriations of agencies of the state whose functions are
transferred under this Act shall be transferred to implement the provisions of this Act.

* Sec. 9. This Act takes effect July 1, 2000.