

SENATE BILL NO. 38

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/21/99

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

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

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

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

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

1 **reasonable times for inspection by the department.**

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

3 (b) The Department of Revenue may **obtain from the department** [INSPECT
4 ALL REPORTS AND OTHER] information [FILED IN SUPPORT OF OR] relating
5 to royalty and net profits payments **and to exploration incentive credits under this**
6 **chapter or under AS 41.09**, whether or not that information is confidential. **The**
7 **Department of Revenue may use the information in carrying out its functions and**
8 **responsibilities under AS 43**, and shall hold that information confidential to the extent
9 required **by an agreement with the department or by AS 38.05.035(a)(9),**
10 **AS 41.09.010(d)**, [UNDER OIL AND GAS AGREEMENTS, CONTRACTS, OR
11 LEASES, OR BY THIS CHAPTER] or AS 43.05.230.

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

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

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

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

31 (g) Nothing in this section prohibits the publication of statistics in a manner

1 that maintains the confidentiality of information to the extent required by an agreement
2 with the department or by AS 38.05.035(a)(9) or AS 41.09.010(d).

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

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

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

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

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

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

28 (a) The department may examine the books, papers, records, or memoranda
29 of any person to ascertain the correctness of a return filed or to determine whether a
30 tax [OR A PAYMENT FOR OIL OR GAS ROYALTY OR NET PROFITS SHARES
31 UNDER A CONTRACT, AGREEMENT, OR LEASE UNDER AS 38.05] is due, or

1 in an investigation or inspection in connection with tax matters [OR MATTERS
2 RELATING TO OIL AND GAS ROYALTY OR NET PROFITS UNDER
3 CONTRACTS, AGREEMENTS, OR LEASES UNDER AS 38.05]. The records and
4 the premises where a business is conducted shall be open at all reasonable times for
5 official inspection, and the department may subpoena any person to appear and
6 produce books, records, papers, or memoranda bearing upon tax matters [OR
7 MATTERS RELATING TO OIL AND GAS ROYALTY OR NET PROFITS UNDER
8 CONTRACTS, AGREEMENTS, OR LEASES UNDER AS 38.05], and to give
9 testimony or answer interrogatories under oath respecting tax matters [OR MATTERS
10 RELATED TO OIL AND GAS ROYALTY OR NET PROFITS UNDER
11 CONTRACTS, AGREEMENTS, OR LEASES UNDER AS 38.05], and the department
12 may administer oaths to persons who are so subpoenaed. A subpoena issued under this
13 section may compel attendance of a witness or production of a document or thing,
14 located either inside or outside the state, to the maximum extent permitted by law.

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

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

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

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

24 (3) as provided in AS 38.05.036 pertaining to audit functions **of the**
25 **Department of Natural Resources;**

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

27 (5) as otherwise provided in this section.

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

29 * **Sec. 8.** TRANSITION. (a) Litigation, hearings, investigations, and other proceedings
30 pending under a law amended or repealed by this Act, or in connection with functions
31 transferred by this Act, continue in effect and may be continued and completed

1 notwithstanding a transfer or amendment or repeal provided for in this Act.

2 (b) Contracts, rights, liabilities, and obligations created by or under a law amended
3 or repealed by this Act and in effect on June 30, 1999 remain in effect notwithstanding this
4 Act's taking effect. Records and appropriations of agencies of the state whose functions are
5 transferred under this Act shall be transferred to implement the provisions of this Act.

6 * **Sec. 9.** This Act takes effect July 1, 1999.