

**SENATE CS FOR CS FOR HOUSE BILL NO. 246(RES) am S**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Amended: 5/20/03

Offered: 5/18/03

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

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to certain audits regarding oil and gas royalty and net profits, to audits  
2 regarding costs relating to exploration incentive credits and oil and gas exploration  
3 licenses, and to the limitation on upland acreage that a person may take or hold under  
4 oil and gas leases; and providing for an effective date."

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

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

7 (a) The **department may conduct audits regarding** [DEPARTMENT OF  
8 REVENUE SHALL AUDIT REPORTS, PAYMENTS, AND PAYMENTS DUE  
9 RELATING TO] royalty and net profits under oil and gas contracts, agreements, or  
10 leases under this chapter **and regarding costs related to oil and gas exploration**  
11 **licenses and exploration incentive credits under this chapter or under AS 41.09.**

12 **For purposes of audit under this section,**

13 **(1) the department may examine the books, papers, records, or**  
14 **memoranda of a person regarding matters related to the audit; and**

1                   **(2) the records and premises where a business is conducted shall**  
 2                   **be open at all reasonable times for inspection by the department.**

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

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

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

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

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

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

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

4 (h) A person who knowingly violates (f) of this section commits the crime of  
5 misuse of confidential information under AS 11.56.860. In this subsection,  
6 "knowingly" has the meaning given in AS 11.81.900.

7 (i) In the course of carrying out its responsibilities under this section, the  
8 department may subpoena any person to appear and produce books, records, papers, or  
9 memoranda bearing upon matters relating to an audit under this section and to give  
10 testimony or answer interrogatories under oath regarding those matters. The  
11 department may administer oaths to persons who are so subpoenaed. A subpoena  
12 issued under this section may compel attendance of a witness or production of a  
13 document or thing, located inside or outside the state, to the maximum extent  
14 permitted by law. The authority to issue a subpoena under this section may not be  
15 delegated by the commissioner.

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

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

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

30 \* **Sec. 5.** AS 38.05.140(c) is amended to read:

31 (c) A person may not take or hold at one time phosphate leases on state land

1 exceeding in the aggregate 10,240 acres. A person may not take or hold sodium leases  
 2 or permits during the life of sodium leases on state land exceeding in the aggregate  
 3 acreage 5,120 acres, except that the commissioner may, where it is necessary in order  
 4 to secure the economic mining of sodium compounds, permit a person to take or hold  
 5 sodium leases or permits for up to 15,360 acres. A person may not take or hold at any  
 6 one time oil or gas leases exceeding in the aggregate 500,000 acres granted on tide and  
 7 submerged land, **including leases held both as lessee and under option or**  
 8 **operating agreement from others. A person may not take or hold at any one time**  
 9 **oil or gas leases exceeding in the aggregate 750,000** [AND 500,000] acres on all  
 10 land other than tide and submerged land, **of which not more than 500,000 acres may**  
 11 **be located north of the Umiat baseline,** including leases held both as lessee and  
 12 under option or operating agreement from others. Where more than a single person  
 13 holds an interest in an oil or gas lease, each person shall be charged only with that  
 14 percentage of the total acreage **that** [WHICH] corresponds to its percentage share of  
 15 the total beneficial interest in the lease.

16 \* **Sec. 6.** AS 43.05.040(a) is amended to read:

17 (a) The department may examine the books, papers, records, or memoranda of  
 18 any person to ascertain the correctness of a return filed or to determine whether a tax  
 19 [OR A PAYMENT FOR OIL OR GAS ROYALTY OR NET PROFITS SHARES  
 20 UNDER A CONTRACT, AGREEMENT, OR LEASE UNDER AS 38.05] is due, or  
 21 in an investigation or inspection in connection with tax matters [OR MATTERS  
 22 RELATING TO OIL AND GAS ROYALTY OR NET PROFITS UNDER  
 23 CONTRACTS, AGREEMENTS, OR LEASES UNDER AS 38.05]. The records and  
 24 the premises where a business is conducted shall be open at all reasonable times for  
 25 official inspection, and the department may subpoena any person to appear and  
 26 produce books, records, papers, or memoranda bearing upon tax matters [OR  
 27 MATTERS RELATING TO OIL AND GAS ROYALTY OR NET PROFITS  
 28 UNDER CONTRACTS, AGREEMENTS, OR LEASES UNDER AS 38.05], and to  
 29 give testimony or answer interrogatories under oath respecting tax matters [OR  
 30 MATTERS RELATED TO OIL AND GAS ROYALTY OR NET PROFITS UNDER  
 31 CONTRACTS, AGREEMENTS, OR LEASES UNDER AS 38.05], and the

1 department may administer oaths to persons who are so subpoenaed. A subpoena  
 2 issued under this section may compel attendance of a witness or production of a  
 3 document or thing, located either inside or outside the state, to the maximum extent  
 4 permitted by law.

5 \* **Sec. 7.** AS 43.05.230(a) is amended to read:

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

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

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

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

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

17 (5) as otherwise provided in this section.

18 \* **Sec. 8.** AS 38.05.036(d), 38.05.036(e), and AS 43.05.010(15) are repealed.

19 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
 20 read:

21 TRANSITION. (a) Litigation, hearings, investigations, and other proceedings  
 22 pending under a law amended or repealed by secs. 1 - 4 and 6 - 8 of this Act, or in connection  
 23 with functions transferred by secs. 1 - 4 and 6 - 8 of this Act, continue in effect and may be  
 24 continued and completed notwithstanding a transfer or amendment or repeal provided for in  
 25 secs. 1 - 4 and 6 - 8 of this Act.

26 (b) Contracts, rights, liabilities, and obligations created by or under a law amended or  
 27 repealed by secs. 1 - 4 and 6 - 8 of this Act and in effect on June 30, 2003, remain in effect  
 28 notwithstanding this Act's taking effect. Records and appropriations of agencies of the state  
 29 whose functions are transferred under secs. 1 - 4 and 6 - 8 of this Act shall be transferred to  
 30 implement those provisions of this Act.

31 \* **Sec. 10.** Section 5 of this Act takes effect immediately under AS 01.10.070(c).

1     \* **Sec. 11.** Except as provided in sec. 10 of this Act, this Act takes effect July 1, 2003.