

SENATE JOURNAL
ALASKA STATE LEGISLATURE
TWENTY-FOURTH LEGISLATURE

SECOND SESSION

Juneau, Alaska Tuesday February 21, 2006

Forty-fourth Day

Pursuant to adjournment the Senate was called to order by President Stevens at 1:48 p.m.

The roll showed seventeen members present. Senators Cowdery, Ellis, Green were excused from a call of the Senate.

The prayer was offered by the Chaplain, Pastor Tom Matthews of the Douglas Island Bible Church. Senator Hoffman moved and asked unanimous consent that the prayer be spread. Without objection, it was so ordered.

Dear Lord,

I today just want to lift up this delegation gathered here to discuss the business of this great state. I recognize the sacrifice each of these representatives has made to be here. They left their families, their jobs, the security of their homes to come here and serve the needs of this state. I pray that You would bless them in their deliberations. Give them wisdom beyond their own abilities, wisdom that truly comes from above. Thank You for Your Word that tells us You are active in the affairs of man and that Your presence is indeed here in this room today.

Lord, I lift up our servicemen and servicewomen who are even now in harm's way. Thank You for their willingness, if need be, to sacrifice their lives for this country. We recognize it was this sacrifice that

bought our freedom, and that it is this sacrifice that maintains our freedom today. Help us never to take this for granted.

Finally Lord, I thank You for Your ultimate sacrifice. The sacrifice that made it possible for us to have eternal hope for our future. The sacrifice of Your Son, Jesus Christ.

In all this we are careful to give You the glory.

In the name of Your Son, Jesus Christ, I lift this prayer today. Amen.

Senator French led the Senate in the Pledge of Allegiance.

Certification

Senator Gary Stevens moved and asked unanimous consent that the journals for the fortieth through forty-third legislative days be approved as certified by the Secretary. Without objection, it was so ordered.

Recess

Senator Gary Stevens moved and asked unanimous consent that the Senate stand in recess to the Joint Session. Without objection, the Senate recessed at 1:51 p.m.

After Recess

Joint Session in the House

Speaker Harris called the House to order and in accordance with Uniform Rule 51 turned the gavel over to President Stevens, who called the Joint Session to order at 2:12 p.m.

The purpose of the Joint Session was to hear an address by the Honorable Lisa Murkowski, U.S. Senator for Alaska.

Senator Gary Stevens moved and asked unanimous consent that the roll call of the Senate be waived and all members be shown as present. Without objection, it was so ordered.

Representative Coghill moved and asked unanimous consent that the roll call of the House be waived and all members be shown as present. Without objection, it was so ordered.

President Stevens appointed Representative Foster and Senator Bunde to escort U.S. Senator Murkowski to the Joint Session.

The Senate Sergeant at Arms, Gary Stambaugh, announced Senator Lisa Murkowski's entrance to the House Chamber.

The Honorable Lisa Murkowski was escorted to the rostrum and welcomed by President Stevens.

Senator Murkowski delivered her address. This address appears in Senate and House Joint Journal Supplement No. 12.

Following her address, there was a question and answer period. The Honorable Lisa Murkowski received a standing ovation and was escorted from the chamber by Senator Bunde and Representative Foster.

Senator Gary Stevens moved and asked unanimous consent that the Joint Session stand in adjournment. Without objection, President Stevens adjourned the Joint Session at 3:08 p.m.

After Recess

In the Senate

The Senate reconvened at 3:21 p.m.

The presence of Senator Ellis was noted.

Messages from the House

Message dated February 17 was read, stating the House passed and transmitted for consideration:

First Reading and Reference of House Bills**HB 208**

CS FOR HOUSE BILL NO. 208(FIN) am BY THE HOUSE FINANCE COMMITTEE, entitled:

"An Act authorizing the Department of Military and Veterans' Affairs to establish and maintain Alaskan veterans' cemeteries; and establishing the Alaska veterans' cemetery fund in the general fund."

was read the first time and referred to the Finance Committee.

Communications

Disclosure letters received in accordance with AS 24.60 will be published in Senate Journal Supplement No. 5 and Senate and House Joint Journal Supplement No. 13.

Introduction and Reference of Senate Bills**SB 304**

SENATE BILL NO. 304 BY THE SENATE TRANSPORTATION COMMITTEE, entitled:

"An Act relating to the privileges of airport parking shuttles and to fees or charges imposed on a person who is not a lessee or holder of a privilege to use the property or a facility of an airport."

was read the first time and referred to the Transportation and Finance Committees.

SB 305

SENATE BILL NO. 305 BY THE SENATE RULES
COMMITTEE BY REQUEST OF THE GOVERNOR,
entitled:

"An Act repealing the oil production tax and gas production tax and providing for a production tax on the net value of oil and gas; relating to the relationship of the production tax to other taxes; relating to the dates tax payments and surcharges are due under AS 43.55; relating to interest on overpayments under AS 43.55; relating to the treatment of oil and gas production tax in a producer's settlement with the royalty owner; relating to flared gas, and to oil and gas used in the operation of a lease or property, under AS 43.55; relating to the prevailing value of oil or gas under AS 43.55; providing for tax credits against the tax due under AS 43.55 for certain expenditures, losses, and surcharges; relating to statements or other information required to be filed with or furnished to the Department of Revenue, and relating to the penalty for failure to file certain reports, under AS 43.55; relating to the powers of the Department of Revenue, and to the disclosure of certain information required to be furnished to the Department of Revenue, under AS 43.55; relating to criminal penalties for violating conditions governing access to and use of confidential information relating to the oil and gas production tax; relating to the deposit of money collected by the Department of Revenue under AS 43.55; relating to the calculation of the gross value at the point of production of oil or gas; relating to the determination of the net value of taxable oil and gas for purposes of a production tax on the net value of oil and gas; relating to the definitions of 'gas,' 'oil,' and certain other terms for purposes of AS 43.55; making conforming amendments; and providing for an effective date."

was read the first time and referred to the Resources and Finance Committees.

The following fiscal information was published today:

Fiscal Note No. 1, zero, Department of Natural Resources
Fiscal Note No. 2, Department of Revenue

The presence of Senator Cowdery was noted.

SB 305

Governor's transmittal letter dated February 21:

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the oil and gas production tax.

This bill would eliminate the economic limit factor (ELF) from the determination of production tax, and would replace it with a more progressive and investment-friendly tax system.

Under current law, the tax imposed on oil or gas production generally is determined by multiplying the gross value at the point of production times the appropriate tax rate times the economic limit factor for that production.

The economic limit factor was intended to provide a proxy for costs. It is determined by a complex formula that uses as input the total production from, and productivity of, the wells in a field. The theory behind the economic limit is that a producer would not be taxed for production below the economic limit while still recovering costs. However, this has not worked well in recent practice. On the one hand, under current conditions, producers are allowed proxy costs several times their actual costs. On the other hand, a producer reinvesting its profits from Alaska production in exploration, production, or development in the state may receive little or no tax benefit compared to a producer who exports its profits and makes those same investments in another state or country.

As explained in more detail below, this bill introduces two important investment-friendly tax concepts in place of the economic limit factor.

- The tax proposed in the bill is based essentially on the cash flow from a lease, or the profit net of all qualified costs. Thus, a deduction is allowed for all upstream costs, including expenses and capital investment. In other words, the tax base is not gross value at the point of production but the net value. In addition, every producer is allowed an annual allowance of up to \$73 million, so if a producer's cash flow is \$73 million or less in a year, there would be no tax.

- A 20 percent tax credit is allowed for all the upstream capital investment, even if a deduction was taken for that investment as described above. Another credit is allowed for operating losses.

Because of this proposed switch from a gross to net basis, a higher tax rate is appropriate and this bill would raise the rate (before applying ELF) from the current 15 percent (or 12.25 percent for new production) to 20 percent. In addition, the minimum tax is repealed. Thus, as mentioned above, a company would incur a production tax liability only if it has positive cash flow from its Alaska production properties greater than \$73 million a year.

Upstream Cost Deduction

The calculation of the net value of a producer's oil and gas starts with gross value, which is essentially unchanged from current law, with some streamlining. Direct lease costs, including both capital investment and operating costs are deducted from that gross value. If in any month the total cash flow is reduced to zero by those costs, remaining costs are carried forward to future months (or, if unused by the end of a calendar year, are translated into a credit applicable in future years). In addition, each producer is granted an allowance of up to \$200,000 a day or \$73 million a year. That is, if after calculating its net profit a producer still showed positive cash flows of \$73 million or less, this allowance may be used to reduce that cash flow to zero (though again, not any lower). If the producer showed a positive cash flow of more than \$73 million, the allowance would be used to reduce the taxable cash flow by \$73 million. Finally, as a transition measure, for the first 72 months in which the Alaska North Slope oil spot price is above \$40 a barrel, a producer is allowed to include in its upstream deduction a pro rata amount of capital costs incurred in the five years before the new production tax takes effect.

In the interests of streamlining and simplicity, the Department of Revenue is directed to take into account the kind of costs that an operator typically bills a working interest owner (and a working interest owner typically audits) and the Department of Natural Resources' net profit share lease regulations.

A number of indirect costs that may not be included in the calculation of direct lease costs are specified in the bill. Finally, the bill specifies that any deduction for lease expenses must be reduced by any reimbursements that a taxpayer receives from other taxpayers, say, for example, for use of facilities, or from the government where such payments are in the nature of field costs.

New Investment Credits

Two major new credits are provided for in the bill.

(1) A credit would be allowed against the production tax for 20 percent of any qualified investment, even though that same outlay may also be deductible in calculating taxable net value of the oil and gas. This credit and the exploration credits under AS 43.55.025 may not both be taken for the same expenditures. Qualified capital expenditures include outlays for new (or new-to-Alaska) assets that are treated as capital under the federal tax code, as well as geological and geophysical exploration costs and drilling costs that would be expensed under the federal tax code.

(2) A credit also would be allowed for 20 percent of any annual loss. Because the tax due can only be reduced to zero (and not below zero), mechanically this is the same as allowing unclaimed expense to be carried forward year to year, but for tax administration purposes it is preferable for carry forwards to be in the form of credits.

These credits would be non-refundable; that is, they could not be used to reduce a taxpayer's liability below zero. However, any credit not used in a given period could either be carried forward or sold to another taxpayer who might better be able to use it. Taxpayers who purchase credits may not use the credits to reduce their production taxes by more than 20 percent in any year.

In addition to the two major new credits, producers would be allowed to credit their oil conservation surcharge payments under AS 43.55 against the production tax.

Other Provisions

In providing for taxation of the net value of oil and gas, the bill also would preserve most of the current provisions on calculating gross value at the point of production, since this calculation is an intermediate step in calculating taxable net value. This approach has the benefit of conserving the body of regulations, interpretations, and case law that has developed over several decades. In the interest of fostering simplicity and efficiency, however, the bill would make a significant addition to the current provisions, authorizing the Department of Revenue to allow taxpayers, if appropriate, to rely on royalty settlement agreements with the Department of Natural Resources (DNR), or other royalty values or methodologies accepted by the DNR, or the United States Department of the Interior (in the case of some federal leases or units) or to use a simplifying formula approved by the Department of Revenue.

The bill would make several changes in current law to facilitate administration of the new production tax approach. The subjects addressed include tax returns and tax payment due dates, definitions of oil and gas and other terms, and treatment of private royalty oil and gas for production tax purposes. The bill clarifies how the Department of Revenue may disclose certain otherwise confidential information to taxpayers when the information affects their tax liabilities. Persons who violate the conditions of such disclosure would be subject to the same criminal penalties that currently apply to state employees who violate taxpayer confidentiality. The bill also simplifies the tax treatment of flared gas and extends to oil the current tax exemption for gas that is used on the lease.

The bill would make needed updates and clarifications to certain provisions of the production tax statute: confirming the Department of Revenue's long-standing application of the prevailing value concept to internal transfers of oil or gas, incorporating a necessary reference to the constitutional budget reserve fund regarding the department's disposition of revenue, and repealing a specific failure-to-file penalty that is superfluous in the light of the general penalty provisions of the revenue laws.

The proposed new production tax on net value, and related provisions of the bill, would apply prospectively, as of July 1, 2006. The bill has an immediate effective date for other purposes.

This bill will greatly improve Alaska's oil and gas tax system, encouraging investment in the state, making tax administration more predictable, better reflecting the variable economics of oil and gas development, and providing Alaskans with a fairer share of the value of the oil and gas taken out of the ground in our state. I urge your prompt and favorable action on this legislation.

Sincerely yours,

/s/

Frank H. Murkowski
Governor

Consideration of the Calendar

Second Reading of Senate Bills

SB 177

SENATE BILL NO. 177 "An Act eliminating the requirement that persons using titles or descriptions of services that incorporate the terms 'psychotherapy,' 'psychotherapeutic,' or 'psychotherapist' be licensed by the Board of Psychologist and Psychological Associate Examiners" was read the second time.

Senator Gary Stevens moved and asked unanimous consent for the adoption of the Health, Education and Social Services Committee Substitute offered on page 2075. Without objection, CS FOR SENATE BILL NO. 177(HES) "An Act eliminating the prohibition on the use by certain licensed professionals of titles or descriptions of services that incorporate the terms 'psychoanalysis,' 'psychoanalyst,' 'psychotherapy,' 'psychotherapeutic,' or 'psychotherapist'" was adopted.

President Stevens stated CS FOR SENATE BILL NO. 177(HES) will be on the February 22 calendar.

SB 210

SENATE BILL NO. 210 "An Act relating to the manufacture and transportation of alcoholic beverages; relating to forfeitures of property for violations of alcoholic beverage laws; and relating to violations of alcoholic beverage laws" was read the second time.

President Stevens stated SENATE BILL NO. 210 will be on the February 22 calendar.

Second Reading of House Bills**HB 217**

HOUSE BILL NO. 217(title am) "An Act relating to the determination of full and true value of taxable municipal property for purposes of providing planning assistance to the Department of Education and Early Development and the legislature, calculating funding for education, calculating school district participating shares for school construction grants, and calculating tax resource equalization payments and excluding from that determination the value of property in certain areas detached from a municipality and the value of certain property involved with oil and gas that is not taxed by a municipality" was read the second time

Senator Wilken, Cochair, moved and asked unanimous consent for the adoption of the Finance Senate Committee Substitute offered on page 2057. Without objection, SENATE CS FOR HOUSE BILL NO. 217(FIN) was adopted.

President Stevens stated SENATE CS FOR HOUSE BILL NO. 217(FIN) will be on the February 22 calendar.

Unfinished Business

Senator Davis moved and asked unanimous consent to be excused from a call of the Senate on February 24. Without objection, Senator Davis was excused.

SB 277

Senators Ellis, Guess, French, Kookesh moved and asked unanimous consent to be shown as cosponsors on SENATE BILL NO. 277 "An Act relating to eligibility requirements for medical assistance for certain children, pregnant women, and persons in medical or intermediate care facilities; and providing for an effective date." Without objection, it was so ordered.

Announcements

Announcements are at the end of the journal.

Adjournment

Senator Gary Stevens moved and asked unanimous consent that the Senate stand in adjournment until 11:00 a.m., February 22, 2006. Without objection, the Senate adjourned at 3:32 p.m.

Kirsten Waid
Secretary of the Senate

February 2006

Announcements

Americans with Disabilities Act Notice - Persons with disabilities who require special accommodation or alternative communication formats to access committee meetings may contact the appropriate committee office or the Legislative Information Office in their community. Reasonable advance notice is needed to accommodate the request. For further information, call the ADA Coordinator at 465-3854 Voice/465-4980 TDD.

STANDING COMMITTEES

+ indicates teleconference
 = indicates bill previously heard/scheduled

COMMUNITY & REGIONAL AFFAIRS

Feb 22	Wednesday	Beltz 211	1:30 PM
+ SB 265	BONDS OF BOND BANK AUTHORITY		
+ SB 193	DEFERRAL OF MUNICIPAL PROPERTY TAXES		
+ SB 247	REVENUE SHARING PROGRAM		
+ SB 246	APPROP TO REVENUE SHARING FUND		
Feb 24	Friday	Beltz 211	1:30 PM
	No Meeting Scheduled		

FINANCE

Feb 21	Tuesday	Senate Finance 532	9:00 AM
	No Meeting Scheduled		
Feb 22	Wednesday	Senate Finance 532	9:00 AM
+ HB 243	SWAN LAKE-TYEE LAKE INTERTIE		
	Bills Previously Heard/Scheduled		
Feb 23	Thursday	Senate Finance 532	9:00 AM
	Joint w/(H) Finance		
	Presentation by Callan Associates -		
	Re: PFD Five-Year Forecast		
Feb 24	Friday	Senate Finance 532	9:00 AM
	No Meeting Scheduled		

HEALTH, EDUCATION & SOCIAL SERVICES

Feb 22 Wednesday Butrovich 205 1:30 PM
 + Overview: Medicare Prescription Drugs -
 Department of Health & Social Services
 + SB 299 NONDISCRIMINATION HEALTH CARE PROVIDERS
 Bills Previously Heard/Scheduled
 += SB 250 DOMESTIC VIOLENCE/SEXUAL ASSAULT COUNCIL

Feb 24 Friday Butrovich 205 1:30 PM
 No Meeting Scheduled

JUDICIARY

Feb 21 Tuesday Butrovich 205 8:30 AM
 += SJR 20 CONST. AM: BENEFITS & MARRIAGE
 + Bills Previously Heard/Scheduled

Feb 22 Wednesday Butrovich 205 8:30 AM
 + SB 301 CHANGE OF VENUE IN CIVIL CASES
 + SB 222 PROTECTION OF PERSONAL INFORMATION
 + Bills Previously Heard/Scheduled

Feb 23 Thursday Butrovich 205 8:30 AM
 No Meeting Scheduled

LABOR & COMMERCE

Feb 21 Tuesday Beltz 211 1:30 PM
 No Meeting Scheduled

Feb 23 Thursday Beltz 211 1:30 PM
 + SB 298 TRUSTS: CHALLENGES; CLAIMS; LIABILITIES
 Bills Previously Heard/Scheduled
 Including but Not Limited to:
 += SB 289 INSURANCE

RESOURCES

Feb 22 Wednesday Butrovich 205 3:30 PM
 + SB 305 OIL AND GAS PRODUCTION TAX
 Presentation by Administration

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RESOURCES (continued)

Feb 23 Thursday Butrovich 205 3:30 PM
 += SB 305 OIL AND GAS PRODUCTION TAX
 Presentation by Administration

Feb 24 Friday Butrovich 205 3:30 PM
 += SB 305 OIL AND GAS PRODUCTION TAX
 Presentation by Administration

Feb 25 Saturday Senate Finance 532 10:00 AM
 -- Time and Location Change --
 + Joint w/(H) Resources
 += SB 305 OIL AND GAS PRODUCTION TAX
 Public Hearings

STATE AFFAIRS

Feb 21 Tuesday Butrovich 205 3:30 PM
 No Meeting Scheduled

Feb 23 Thursday Butrovich 205 3:30 PM
 += SB 274 STATE FIREARM DISPOSAL AND INVENTORY
 Bills Previously Heard/Scheduled

Feb 28 Tuesday Butrovich 205 3:30 PM
 + SB 279 OPERATING BUDGET MISSIONS/DESIRED RESULTS
 + HB 167 DECEASED VETERAN DEATH CERTIFICATE/HONOR
 Bills Previously Heard/Scheduled

Mar 02 Thursday Butrovich 205 3:30 PM
 Joint w/(H) State Affairs
 Alaska 20/20 2006 Annual Report
 Bills Previously Heard/Scheduled

TRANSPORTATION

Feb 21 Tuesday Butrovich 205 1:30 PM
 No Meeting Scheduled

Feb 23 Thursday Butrovich 205 1:30 PM
 + SB 300 MOTOR VEHICLE NEGATIVE EQUITY
 + SB 273 MOTOR VEHICLE SALES

TRANSPORTATION (continued)

Feb 25 **Saturday** **Wasilla Lio Conf Rm** **1:30 PM**
 -- Note Time and Location Change --
 + Joint w/(H) Transportation
 Meeting with the House Finance
 Budget Subcommittee on Public Safety
 "Discussion of Highway Safety Issues"
 <At 3:15 p.m. there will be a brief
 project status and update on the Knik
 Arm Bridge>

FINANCE SUBCOMMITTEES

COMMERCE, COMMUNITY & ECONOMIC DEV

Feb 28 **Tuesday** **Beltz 211** **8:00 AM**
 Budget Overview: DCCED

Mar 07 **Tuesday** **Beltz 211** **8:00 AM**
 Budget Detail

Mar 14 **Tuesday** **Beltz 211** **8:00 AM**
 Budget Detail

Mar 21 **Tuesday** **Beltz 211** **8:00 AM**
 Budget Detail

Mar 28 **Tuesday** **Beltz 211** **8:00 AM**
 Budget Detail

Apr 04 **Tuesday** **Beltz 211** **8:00 AM**
 Budget Closeout

EDUCATION & EARLY DEVELOPMENT

Feb 22 **Wednesday** **Senate Finance 532** **4:30 PM**
 General Overview on the Operating Budget
 (emphasis on new or expanded programs)

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ENVIRONMENTAL CONSERVATION

Feb 23 Thursday Butrovich 205 8:00 AM
 -- Location Change --
 Departmental Overview

LABOR & WORKFORCE DEVELOPMENT

Feb 23 Thursday Fahrenkamp 203 8:00 AM
 + Budget Overview
 -- Testimony <Invitation Only> --

LAW

Feb 23 Thursday Senate Finance 532 4:30 PM
 Budget Overview: Dept of Law

Mar 02 Thursday Senate Finance 532 4:30 PM
 Budget Detail

Mar 09 Thursday Senate Finance 532 4:30 PM
 Budget Detail

Mar 16 Thursday Senate Finance 532 4:30 PM
 Budget Detail

Mar 23 Thursday Senate Finance 532 4:30 PM
 Budget Detail

Mar 30 Thursday Senate Finance 532 4:30 PM
 Budget Closeout

MILITARY AND VETERANS AFFAIRS

Feb 23 Thursday Beltz 211 7:30 AM
 + FY07 Operating Budget

PUBLIC SAFETY

Feb 21 Tuesday Butrovich 205 3:30 PM
 + FY07 Operating Budget

REVENUE

Feb 23	Thursday	Senate Finance 532	1:30 PM
	Budget Overview: Dept of Revenue		
Mar 02	Thursday	Senate Finance 532	1:30 PM
	Budget Detail		
Mar 09	Thursday	Senate Finance 532	1:30 PM
	Budget Detail		
Mar 16	Thursday	Senate Finance 532	1:30 PM
	Budget Detail		
Mar 23	Thursday	Senate Finance 532	1:30 PM
	Budget Detail		
Mar 30	Thursday	Senate Finance 532	1:30 PM
	Budget Closeout		

UNIVERSITY OF ALASKA

Feb 28	Tuesday	Butrovich 205	5:00 PM
	-- Teleconference <Listen Only> --		
	Overview of National Education Trends		
	Julie Bell, National Conference of State Legislatures		

JOINT COMMITTEES**ADMINISTRATIVE REGULATION REVIEW**

Feb 21	Tuesday	Fahrenkamp 203	3:00 PM
	-- Location Change --		
	Changes to Regulations Adopted by		
	Dept. of Health & Human Services		
	Re: Durable Medical Equipment Supplies		

LEGISLATIVE COUNCIL

Feb 21	Tuesday	Terry Miller 104	11:30 AM
	Statute Publishing RFP Subcommittee		
	Executive Session		

OTHER MEETINGS

JOINT LEGISLATIVE HEALTH CAUCUS

Mar 01 Wednesday Butrovich 205 12:00 PM
Topic: "Black Holes in the Health Care Universe"
A light lunch will be served.

JOINT SESSION

Feb 21 Tuesday House Chamber 2:00 PM
Address by the Honorable Lisa Murkowski, U.S. Senator

Mar 22 Wednesday House Chamber 11:00 AM
Address by the Honorable Ted Stevens, U.S. Senator