

HOUSE FINANCE COMMITTEE  
March 28, 2006  
2:09 P.M.

CALL TO ORDER

Co-Chair Chenault called the House Finance Committee meeting to order at [2:09:20 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair  
Representative Kevin Meyer, Co-Chair  
Representative Bill Stoltze, Vice-Chair  
Representative Richard Foster  
Representative Mike Hawker  
Representative Jim Holm  
Representative Reggie Joule  
Representative Mike Kelly  
Representative Carl Moses  
Representative Bruce Weyhrauch

MEMBERS ABSENT

Representative Beth Kerttula

ALSO PRESENT

Representative Ralph Samuels; Representative Ethan Berkowitz; Robynn Wilson, Director, Division of Tax, Department of Revenue; Dan Dickinson, Consultant, Office of the Governor

PRESENT VIA TELECONFERENCE

Robert Mintz, Assistant Attorney General, Department of Law, Anchorage

SUMMARY

HB 488      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.

HB 488 was HEARD & HELD in Committee for further consideration.

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#HB488

HOUSE BILL NO. 488

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.

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REPRESENTATIVE RALPH SAMUELS, CHAIR, HOUSE RESOURCES COMMITTEE, attempted to explain the changes made during the House Resources Committee (HRC) process. That Committee did not change the general structure of the bill, which would have changed the system, but instead changed the net profits after costs were recovered by the industry.

Representative Samuels voiced concern regarding how the State of Alaska would keep up with the global functions. He pointed out that the Administration testified that in major fields, there is more than one owner and already concern. He said there needs to be safeguards for fields that have most of the revenue for the State. Other factors addressed were cost recovery for the State's tax advantage and the methodology used.

Representative Samuels noted items changed made during the Committee process:

- Kept the tax rate @ 20% until a price reached \$50 dollars per barrel. There was talk about increased cost to cover inflation. Representative Samuels did not support adding a dollar figure to the bill. It was argued that technology could decrease the escalator determination.
- A separate escalator was tied to the price of gas.

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Representative Samuels did not anticipate a problem resulting from the change to the escalator. The transitional money was eliminated by an amendment offered in the Committee. Additionally, a \$73 million dollar allowance was changed to a tax credit. The credit cannot be transferred or sold.

HRC placed language that does not allow for abandonment cost fees for tax credits. Private royalty owners will pay a severance tax on their royalties at a rate set of 5%.

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Representative Samuels stated that the contingency surcharges were left in place, both non-deductible and non-creditable. Currently, there is a five-cent per barrel charge, with two-cents suspended; the suspended amount was lowered to one-cent per barrel and they increased the non-suspended amount to four cents per barrel.

HRC changed the effective date from the 1<sup>st</sup> of July to the 1<sup>st</sup> of April 2006. That change would reach the nearest quarter after signed, making it easier for the Department of Revenue's quarterly system.

Representative Samuels noted that the Committee implemented a tax credit purchase program. The State could buy at full face value up to ten million gallons per year per company. A tax credit would be sellable; it would allow them to go to a big company. In the bill, only 20% of the tax liability could be paid for the purchased tax credit.

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The House Resources Committee decided that the State could buy up to \$10 million dollars per year per company at the 100% value as long as the money was reinvested into lease-purchases. It was indicated that the \$10 million dollars might not be enough. He encouraged the Finance Committee reconsider that number and adjust it upward. There are penalties imposed on underpayment. More penalties were added in addition to a high interest rate.

Representative Samuels said during the amendment phase, language was added that costs could not be used as cost recovery. He noted that the State requires an industry to have the necessary clean-up machinery. The language of the bill addresses catastrophic oil spill needs.

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Representative Samuels stipulated that there was no action taken on tax credits for heavy oil. He commented that HRC choose not to have a separate tax for gas and oil. He knew that the future of the slope would include heavy oil. There was discussion, however, no action was taken on tax credits.

Amendments discussed but rejected were:

- Removing "gas" from the bill and replacing it with simply "oil".
- The tax floor amendment failed and that concern was in regard to cost recovery.
- Energy assistance failed.
- Moving the effective date back to January failed.

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Representative Samuels continued:

- There was debate to move the price point and that failed.

He admitted there had been major issues.

Representative Samuels urged two points that the member's not be lobbied on:

- Risk and cost recovery; and
- How much exposure received through the credits.

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Co-Chair Meyer inquired why West Texas Intermediate (WTI) was chosen over Alaska North Slope (ANS). Representative Samuels acknowledged it was debated. There were variations, with roughly a \$2 dollar per barrel difference. [In audible].

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Co-Chair Meyer asked why the \$50 dollars per barrel price was chosen rather than current market price. Representative Samuels explained that the Committee attempted to move past the current bell-curve. He mentioned the \$45 dollar per barrel range, which would have had less impact. During the Committee process, there was an amendment offered, however, he warned that prices could get out of control. No one is expecting the price to remain at \$60 dollars per barrel.

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Co-Chair Meyer questioned if the "credit-side" had been mentioned. Representative Samuels replied it had been discussed and that he believed from testimony heard, some of the major players could use it. Regardless, they were more concerned with the tax rate than the credit.

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Co-Chair Meyer mentioned action taken in the Senate Resources Committee and asked how HRC understands the 2 for 1 provision brought forward. Representative Samuels replied [inaudible].

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Representative Holm asked if different rates for incentives were considered for the majors and the explorers. Representative Samuels advised that they had looked at the current tax credits for SB 185 [passed last year], for premature true exploratory. He believed that most of the production expenditures occurred in Prudhoe & Kuparuk. He warned about providing incentives and not adding to the true production.

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Representative Samuels mentioned small changes proposed by the Alaska Oil and Gas Association (AOGA). The original bill had the term "the net value of oil and gas" and AOGA wanted it changed to "taxable value". AOGA requested applying the Petroleum Production Tax (PPT) against income taxes; HRC chose not to grant that. Discussions with AOGA did not happen in Committee; however, they met with the two Co-Chairs of the House Resources Committee and the Commissioner of the Department of Revenue, in considering the letters from AOGA. The Committee made only the technical changes proposed by AOGA.

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Representative Kelly inquired if the Committee had considered different tax rates. Representative Samuels replied that there had been many graphs providing various numbers. There are numerous assumptions regarding how much investment would be appropriate versus the amount of risk. He hoped that the ultimate choice would be the middle rate.

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Representative Holm asked if there had been assurances made by any of the oil companies. Representative Samuels stated that would be impossible.

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DAN DICKINSON, CONSULTANT, OFFICE OF THE GOVERNOR, noted that he would assist Mr. Mintz, Department of Law, to navigate through the Governor's bill as proposed and the committee substitute brought forward by the House Resources Committee.

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ROBERT MINTZ, (TESTIFIED VIA TELECONFERENCE), ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, ANCHORAGE, referenced the handout, comprised of two parts: (Copy on File).

- The logical connections of how the new production tax would work, while attempting to identify the main differences between the two bills; and
- The second part provides a flow chart identifying how the calculations had been determined.

Mr. Mintz noted Page 2, indicates the new production tax provisions, which apply to oil and gas produced on or after, July 1<sup>st</sup>, 2006 (HB 488) and April 1<sup>st</sup>, 2006, (CS HB 488 RES).

Mr. Mintz referenced Page 3, AS 43.55.011(a) - There is levied upon the producer, a tax for all oil and gas produced each month. The tax is equal to 20% of the net value, under AS 43.55.160. He emphasized that Section was the most fundamental of the bill.

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Mr. Mintz referenced Page 4, Section 5, AS 43.55.011(a) - there is levied upon the producer, a tax for all oil and gas produced each month, [except for] a lessor's royalty interest. The tax is equal to 20% of the production tax value, under AS 43.55.160.

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Page 5, Section 6, AS 43.55.011(e) - There is levied upon the producer, a tax for all oil and gas produced each month, the ownership or right to which constitutes a lessor's royalty interest. The tax is equal to five percent of the gross value at the point of production.

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Mr. Mintz referenced Page 6, AS 43.55.011-(k). There is levied upon the producer a tax for all oil equal to .30% of the gross value at the point of production, multiplied by the oil price index and a tax for all gas, equal to 2% of the gross value at the point of production multiplied by the gas price index.

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Representative Hawker asked what "lessor" meant on Page 4 & 5; he thought it should be defined. Mr. Mintz advised that the slides only highlight, and that they do leave out language. The assumption is "lessor under an oil and gas lease". It is clear in oil and gas terms and is frequently referred to in that Industry. He thought if there was ambiguity, the Department of Revenue could clarify it by regulation.

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Mr. Mintz noted on Page 7, the original bill has a single production tax of 20% of the net value and in contrast, the committee substitute has four production tax components:

- 20% of net value except for lessor royalty share
- 5% of gross value for lessor royalty share
- A progressive-rate oil tax on gross value, including lessor royalty share
- A progressive-rate gas tax on gross value, including lessor royalty share

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Page 8, Section 21, AS 43.55.160(a), provides a determination of the net value, which is the total of the gross value at the point of production of oil and gas from all leases or properties in the State, less lease expenditures as adjusted and 1/72 of transitional investment expenditures.

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Representative Kelly referred to the 5% royalty rate and asked what happened to the 12.5%, indicated on Page 7. Mr. Mintz explained that 12.5% was the typical royalty percentage, which represents the share production that the royalty owner (lessor) is entitled to.

Mr. Dickinson clarified that the royalty rates were not being changed; there would be a royalty in the lease. The point made is the private royalty share, which the committee substitute places a 5% tax. He noted that the 5% would apply to the landowner. On the piece of the private royalty share, a separate tax would be placed upon that at a lower rate, to acknowledge the fact that the royalty owner would not be sharing net costs allowed in the bill.

Representative Weyhrauch noted Section 21 of the original bill, pointing out that the language indicates all leases from producers in the State. He asked if that literally meant "all". Mr. Mintz responded it was meant for a particular producer. He pointed out that on Page 18, Line 17 of the committee substitute addresses that. There are leases on properties in the State. Representative Weyhrauch worried about the ambiguity of that language. Mr. Dickinson pointed out that language has been in statute for a long time and is not the issue.

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Mr. Mintz stated that Page 9, Section 28, AS 43.55.160(a), production tax value is the total of the gross value at the

point of production of oil and gas from all leases or properties in the State, less [progressively taxes on gross value] and less lease expenditures.

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Mr. Mintz highlighted Page 10, Sections 31 [HB 488] and Section 34, (RES), AS 43.55.900(7), "gross value at the point of production" means, for oil, the value at the meter in pipeline quality; for gas, the value where metered [after any separation or gas processing].

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Page 11, AS 43.55.150(a), gross value at the point of production is calculated using the reasonable costs of transportation. Most oil is transported to the West Coast and includes the cost of transportation.

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Mr. Mintz referenced Page 12, AS 43.55.150(d), the Department may allow gross value [to be calculated based upon] a royalty settlement agreement or a formula that uses [DNR or the U.S. Department of Interior] royalty, valuation or another formula that reasonably estimates a value.

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Page 13, Section 21, AS 43.55.160©, lease expenditures are the total costs upstream of the point of production on or after July 1, 2006, that are the direct, ordinary and necessary costs of exploring for, developing or producing oil or gas deposits located in the State.

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Mr. Mintz pointed out that Page 14, Section 28, AS 43.5.160©, the lease expenditure are the total costs upstream of the point of production on or after January 1, 2006, that are the direct, ordinary and necessary costs of exploring for developing or producing oil or gas deposits located in the State.

Mr. Dickinson interjected that the Administration addresses that differently from Representative Samuels. He noted the transitional investment expenditures for five years, which was entirely removed. There was a separate amendment regarding the taxation date.

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Mr. Mintz noted a question in HRC regarding if those terms were defined. The producer can add on the cost anywhere in

the State. The costs of exploration and development are all combined. It is not necessary to distinguish between those stages. He added that there are a few minor exceptions. The term direct, ordinary and necessary are addressed on Page 15.

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Page 15, AS 43.55.160©, Section 21/28, explains that in determining direct, ordinary and necessary costs, the Department shall give substantial weight to typical industry practices and standards as to billable costs under unit operating agreements and the Department of Natural Resources net profits share lease regulations.

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Mr. Mintz referenced Page 16, Section 28, AS 43.55.160(j)(2), and that the committee substitute adds a definition of "ordinary and necessary" to make it clear that Internal Revenue Code (IRC) meaning is adopted.

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Mr. Mintz noted that Page 17, Section 28, AS 43.55.160©, continues language that the lease expenditures do not include catastrophic oil discharge expenses or damages.

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Page 18, AS 43.55.160(d) provides specific examples of and exclusions from "direct costs". The committee substitute has several improvements recommended by the Administration:

- (d)(1)(A) and (d)(2)(A), clarifying treatment of capitalized expenditures
- (d)(2)(L), ensuring that conservation surcharges are not deductible

Page 19, AS 43.55.160(e) - [Lease expenditures must be adjusted by subtracting payments the producer receives for:

- (1) Another's use of a production facility;
- (2) Reimbursement, e.g. field costs paid by State, that offset lease expenditures; and
- (3) Sale of assets acquired through lease expenditures or of non-taxable oil or gas used in lease operations.]

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Mr. Mintz referenced Page 20, Section 28, AS 43.55.160(a), (b)(2), and (e). At the recommendation of the

Administration, the committee substitute addressed potential timing mismatches between lease expenditures and adjustment that would be recognized even if a producer or explorer has no production or has low lease expenditures, and when an adjustment payment is received.

Representative Hawker inquired who had identified the issue on Page 20. Mr. Mintz believed it was an internal catch. Representative Hawker recommended it would be easier to understand if a separate section addressed mis-matches. Mr. Dickinson replied that could be considered, acknowledged it would add important clarification.

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ROBYNN WILSON, DIRECTOR, DIVISION OF TAX, DEPARTMENT OF REVENUE, acknowledged that was a long section. She deferred to the Department of Law attorneys.

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Mr. Mintz referenced Pages 21 & 22, Section 21, AS 43.55.160(g)&(i), regarding the transitional investment expenditures being capital expenditures less the sale of assets acquired as a result of those expenditures. A producer that is qualified may reduce the net value by deducting an allowance. The total of the allowance during the calendar year does not exceed \$73 million dollars. An unused allowance may not be carried forward.

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Page 23, AS 43.55.020(a), the tax levied under AS 43.55.011, net of any credits applied under that chapter, is due. The tax levied under AS 43.55.0119(a), net any credits applied under that chapter are due.

Mr. Mintz continued Page 24, explains that a producer that incurs a qualified capital expenditure may elect to take a tax credit in the amount of 20% of that expenditure.

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Mr. Mintz identified the types of credits found on Page 25:

- Qualified capital expenditure - a lease expenditure for G&G exploration, intangible drilling costs and other expenditures capitalized under IRC; and
- Does not include purchase of a previously acquired or used asset.

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Page 26, Section 14, AS 43.55.024(i)(2), "qualified capital expenditure" does not include an expenditure incurred for an extended period of disuse, dismantlement, removal or abandonment or for the restoration of a lease, field, etc.

Representative Hawker asked if that would provide an adequate "comfort zone"; he worried it might be too broad. Mr. Dickinson replied they were receptive to any additional thoughts. Traditionally, the individuals regulated are usually three years behind. The Senate is looking closely at that also.

Representative Hawker pointed out the amount of regulatory authority needed and was concerned with about the amount of time essential to create regulations.

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Ms. Wilson pointed out that the bill specifically address asset credits i.e. capitalization. She noted on that issue, the Department believes that to the extend the ordinary and necessary, if there are transactions occurring that generate a price over fair market value, it would not be ordinary, necessary or direct. She agreed that there could be language added to tighten it.

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Mr. Mintz advised, there is a need for extensive regulation implementation. One of the provisions of the bill provides authority to the Department of Revenue to provide retroactive regulations. Representative Hawker worried about "retroactive regulations".

Representative Weyhrauch inquired if the Legislature would have to authorize retroactive regulations by statute. Mr. Mintz said it is important for the Legislature to specifically authorize that. The Administrative Procedures Act recognizes two types of regulations:

- Legislative regulations and
- Interpretative regulations.

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Mr. Mintz highlighted Page 27, AS 43.55.024(b), which addresses that a producer may elect to take a tax credit of 20% of a carried-forward annual loss, which is the amount of a previous year's lease expenditures that were not deductible because they would have reduced the net value of the oil and gas below zero.

Mr. Mintz explained that on Page 28, a producer entitled to a tax credit might apply to the Department of Revenue for a transferable tax credit certificate. Once issued, the certificate may be used for its face value, but a transferee may not apply for a certificate to reduce its tax liability by more than 20% during a calendar year.

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Representative Hawker inquired if the intent was to be limited to producers only. He thought that the explorers should be included in the provisions. Mr. Mintz replied that was correct and true in the original bill. It would only matter to an explorer that is not also a producer.

Representative Hawker pointed out that it is language found in the original bill, not the committee substitute.

Ms. Wilson informed members that there are two parts of the bill indicating purposes of that section and that an "explorer" is considered a producer. It is already taken care of.

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Mr. Mintz referred to Page 29, Section 14, AS 43.55.024(f), the Department of Revenue shall issue a cash refund for a transferable tax credit certificate if:

- Producer's total refunds in calendar year do not exceed \$10 million dollars;
- Producer invests or buys an oil and gas lease for at least the amount of the refund;
- Producer owes no delinquent taxes.

Mr. Mintz explained Page 30, Section 28, AS 43.55.170-Additional nontransferable credits. Up to \$12 million dollars in a calendar year may be taken as a tax credit if taken under AS 43.55.024 or 43.55.025 for the same expenditure.

- Unused credit may not be carried forward or transferred;
- The provision expires April 1, 2016

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Representative Weyhrauch referenced Page 29, Section 14, regarding issuance of the tax credit by the Department. He asked if the intent was that no credit be paid if it were in dispute. Mr. Mintz replied that would depend on the

definition of "delinquent". He offered to check the statute.

Mr. Dickinson added that the policy call requested by the Department is if there is an amount legally owed, no checks would be issued until it was resolved.

Representative Hawker followed up regarding provisions for refunding the credit; he wondered about the terminology of an investigative audit. He questioned if accepting the audit would compromise the State's ability to provide other audits.

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Ms. Wilson mentioned the production audits the State provides. Mr. Dickinson added if there was an ongoing income tax audit, a person would not hold up the issuance or refunding of a credit if there was no delinquency.

Representative Hawker asked if the State had the human resources to actually investigate the claims. Ms. Wilson affirmed that the fiscal note would provide sufficient support.

Mr. Mintz added that the State is not precluded from future audits as long as the statute of limitation has not run out.

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Mr. Mintz pointed out that Page 31, AS 43.55.170(b), the producer's qualification for the additional nontransferable credit. It is an anti-splitting provision to prevent abuse of the \$12 million dollar per producer credit. It is essential that the same anti-splitting provision is in Section 21 of the original bill, for the \$73 million dollar per producer allowance.

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Page 32 - the original bill allowed a credit to be taken for conservation surcharge payments and the committee substitute does not, but reduces Section 201 surcharge from \$.02 to \$.01 per barrel and increases Section 300 surcharge from \$.03 to \$.04 per barrel.

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Mr. Mintz discussed Page 34, Section 7, 90% of the production tax, net credits, is due each month. The remainder is due March 31<sup>st</sup> of the next calendar year.

Mr. Mintz observed that 100% of the total production tax, net credits are due each month. Payment of less than 90% of

the total tax due triggers an automatic 5% penalty on the deficiency.

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Representative Weyhrauch referred to Page 35, addressing payment of less than 90% without facing a penalty. Mr. Mintz stated that anytime there is an underpayment, it automatically triggers an interest obligation.

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Representative Hawker clarified that in the original version, every month, 90% of the estimated amount of the obligation would be paid; the last 10% would be paid at the end of the calendar year and that the final report would be due on March 31<sup>st</sup>. Ms. Wilson agreed.

Representative Hawker said that the committee substitute indicates they would pay every month, 100% of the obligation. He mentioned the penalty provision.

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Ms. Wilson agreed, pointing out the offset; she requested that Mr. Mintz add further clarification.

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Representative Hawker reiterated his concerns, noting he was worried that it would require the State to audit on a monthly cycle. Ms. Wilson understood that there would be monthly returns and when an audit occurs for the production tax, that information is considered discrete and the returns are audited monthly.

Mr. Dickinson stated that the production tax currently does not have a 90% repay; it is due monthly. Representative Hawker commented that is a policy call.

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Representative Holm asked why the interest rate was tied to a fixed number; in normal circumstances, it is prime + a number. Mr. Dickinson replied that they do that and add a floor of 11%; interest rates in the early '80's were above 11%, the federal discount rate number used, San Francisco plus 5%.

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Mr. Mintz referenced "safe-harbors" providing a monthly calculation and tax and has the option of annualizing the lease expenditures over the course of a calendar year. The

language provides the option of deducting 1/12 of the annual expenditures versus the monthly expenditure.

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Mr. Mintz referenced Page 36, which addresses the royalty share. The producer may deduct from royalty the amount of the tax paid on taxable royalty oil and gas.

- The original bill provides a default formula for allocating the 20% tax on net value to the royalty share.
- The committee substitute provides a slightly different formula for allocating the 20% tax on net value to the non-lesser royalty share.

Mr. Mintz informed members that the remainder of the handout illustrates the steps used in determining the tax calculations.

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He continued, Page 38, AS 43.55.150, AS 43.55.900, itemizes the gross value of oil in the State. Oil should be kept separate from gas. The numbers provide the total statewide gross value of producer's oil.

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Page 39, AS 43.55.150, AS 43.55.900, highlights the gross value of total gas statewide, value of producer's gas.

Page 40, AS 43.55.150, AS 43.55.900, provides a calculation of the gross value of oil and gas and the total statewide gross value of producer's oil and gas.

Page 41, AS 43.55.160(b)-(f) highlights the lease expenditures, which provide the:

- Exploration, development & production costs
- Adjusted lease expenditures
- Deductible lease expenditures

Mr. Mintz continued, Page 42, AS 43.55.160(a), provides the production tax value including the total gross value of oil and gas leading to the production tax value of oil and gas including the progressive rate tax on gross value and lease expenditures.

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Page 43, AS 43.55.170, highlights Nontransferable Credits, including qualified producer, qualified capital expenditures with credit amounts, and credit up to \$12 million dollars.

Mr. Mintz continued, Page 44, Section 024, Tax Credits, AS 43.55.024(a)&(b) highlights excess lease expenditures in a calendar year carried forward, the annual loss credit, qualified capital expenditures, and the qualified capital expenditure credit.

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Page 45, Transferable Tax-credit Certificates, AS 43.55.024(d)-(g). The page summarizes the producer's tax credit application to the Department of Revenue and approval from that Department, leading to the transferable tax credit certificate.

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Mr. Mintz pointed out Page 46, Tax Calculations, AS 43.55.011(a), 43.55.024, 43.55.025, and 43.55.170. These sections indicate production tax value of oil and gas at the 20% tax before credit, minus the producer's own credit by subtracting up to 20% of the remainder of the tax and then determining the payable tax.

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Page 47, Tax Calculations, AS 43.55.011(f)-(h) highlights the chart providing the additional taxes payable. The tax is deductible from the gross value.

Page 48, Tax Calculation, as 43.55.011(i)-(k), demonstrates the same calculation for the tax rate based on the percentage index providing the tax payable.

Page 49, Tax Calculation, AS 43.55.011(e), speaks to the gross value at the point of production of the lessor's royalty share of oil and gas multiplied by 5%, creating the tax payable.

Mr. Mintz concluded with the presentation, addressing Page 50, Tax Payment, AS 43.55.020(a), (g), and (h).

- (a)-Tax payable under AS 43.55.011(a)
- (e)-Tax payable under AS 43.55.011(e)
- (f)-Tax payable under AS 43.55.011(f)
- (i)-Tax payable under AS 43.55.011(i)
- This total would be due at the end of the following month.

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Co-Chair Chenault referenced Page 48 and asked how that tax rate would apply to Cook Inlet. Mr. Mintz replied it applies to the total statewide gross value of the producer's gas, including Cook Inlet.

Mr. Dickinson noted that Cook Inlet prices are usually not as high as the Henry Hub area. There is only one contract tied to it. He thought that the averages fell below Henry Hub. The point is that it applies to the lower price contracts even if they are triggered by payment, then it would apply on the gross value.

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Representative Holm asked if the 5% penalty was compounded annually. Ms. Wilson explained, it is a "one time penalty", specific to that month. The general penalty provisions do apply but does have an offset.

[4:16:37 PM](#)

Ms. Wilson reviewed the fiscal note dated 3/25/06. She referenced Page 3 of the note, which provides three price assumptions, the first based on the Department of Revenue's forecast. The second was based on a medium price of \$40 dollars per barrel; the third, based on a high price scenario @ \$60 dollars per barrel. Modeling corrections have been made to the original fiscal note, which indicate the recalculation of effects of the corporate income tax. That information is separately shown in columns 4 & 5, on Page 3.

Ms. Wilson continued, Page 4 of the fiscal note, indicates the spring forecast of production and price. Columns 6, 7, and 8 apply the spring forecast. The last three columns show all changes made to the proposed committee substitute.

[4:20:12 PM](#)

A detail analysis and assumptions are explained on Page 2 of the fiscal note. Overall, the Department is requesting three auditor positions with a net increase of six auditors. In addition, the contractual expenses are included for writing the regulations, with numbers summarized on Page 1.

[4:22:22 PM](#)

Co-Chair Chenault inquired if the three unfilled requested positions were current departmental positions. Ms. Wilson explained there would be three new auditor positions added.

[4:23:01 PM](#)

Representative Joule asked if the three new requested audit positions would give a total of six for the Department. Ms. Wilson stated that currently, the Department has three vacant positions and if the bill passes, those would be filled, with the addition of the three vacant positions, a total new hire of six positions.

[4:23:55 PM](#)

Representative Joule inquired if the fiscal request represented the number of auditors needed. Ms. Wilson replied it was part of the request and that passage of the legislation clearly requires new audit positions. Representative Joule questioned the Department about the auditing procedures for these companies. He thought it would not be good "self-policing".

Mr. Dickinson commented that the Department has attempted to establish a standard, regarding as long as the operating agreements do not change, there will be cost obligations to address those concerns and the State is obligated under statute to do just that.

[4:26:31 PM](#)

Representative Kelly agreed with Representative Joule.

[4:27:02 PM](#)

Co-Chair Chenault questioned if the three unfilled positions had been funded positions for the Department. Ms. Wilson responded they were funded positions.

[4:27:44 PM](#)

Representative Hawker advised that there is a bill currently in the House Finance Committee addressing funding of unfilled positions. He added that the salary ranges for the State's audit positions are not competitive. The State needs to put out a competitive salary; he urged that the Legislature "step up to the plate" to address such concerns. Co-Chair Chenault commented that the State could get some auditors cheaper.

[4:28:50 PM](#)

HB 488 was HELD in Committee for further consideration.  
#

ADJOURNMENT

The meeting was adjourned at 4:28 P.M.