

HOUSE FINANCE COMMITTEE  
May 6, 2006  
9:15 a.m.

CALL TO ORDER

Co-Chair Chenault called the House Finance Committee meeting to order at [9:15:52 AM](#).

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 Beth Kerttula  
Representative Carl Moses  
Representative Bruce Weyhrauch

MEMBERS ABSENT

None

ALSO PRESENT

Robynn Wilson, Director, Division of Tax, Department of Revenue; Dan Dickinson, Consultant, Tax Division, Department of Revenue; Mr. Robert Mintz, Assistant Attorney General, Department of Law; Representative Ralph Samuels; Representative Harry Crawford; Representative Norm Rokeberg; Representative Ethan Berkowitz; Representative Carl Gatto; Representative Donny Olson

PRESENT VIA TELECONFERENCE

None

SUMMARY

CSSB 305(FIN) am

"An Act repealing the oil production tax and the gas production tax and providing for a production tax on oil and gas; relating to the calculation of the gross value at the point of production of oil and gas and to the determination of the value of oil and gas for purposes of the production tax on oil and gas; providing for tax credits against the production tax on oil and gas; relating to the relationship of the production tax on oil and gas to other taxes, to the dates those tax payments

and surcharges are due, to interest on overpayments of the tax, and to the treatment of the tax in a producer's settlement with the royalty owners; relating to flared gas, and to oil and gas used in the operation of a lease or property under the production tax; relating to the prevailing value of oil and gas under the production tax; relating to surcharges on oil; relating to statements or other information required to be filed with or furnished to the Department of Revenue, to the penalty for failure to file certain reports for the tax, to the powers of the Department of Revenue, and to the disclosure of certain information required to be furnished to the Department of Revenue as applicable to the administration of the tax; relating to criminal penalties for violating conditions governing access to and use of confidential information relating to the tax, and to the deposit of tax money collected by the Department of Revenue; amending the definitions of 'gas,' 'oil,' and certain other terms for purposes of the production tax, and as the definition of the term 'gas' applies in the Alaska Stranded Gas Development Act, and adding further definitions; making conforming amendments; and providing for an effective date."

HCS CSSB 305 (FIN) was REPORTED out of Committee with an "amend" recommendation and with a new fiscal note by the Department of Revenue.

[9:16:01 AM](#)

CS FOR SENATE BILL NO. 305(FIN) am

"An Act repealing the oil production tax and the gas production tax and providing for a production tax on oil and gas; relating to the calculation of the gross value at the point of production of oil and gas and to the determination of the value of oil and gas for purposes of the production tax on oil and gas; providing for tax credits against the production tax on oil and gas; relating to the relationship of the production tax on oil and gas to other taxes, to the dates those tax payments and surcharges are due, to interest on overpayments of the tax, and to the treatment of the tax in a producer's settlement with the royalty owners; relating to flared gas, and to oil and gas used in the operation of a lease or property under the production tax; relating to the prevailing value of oil and gas under the production tax; relating to surcharges on oil; relating to statements or other information required to be filed with or furnished to

the Department of Revenue, to the penalty for failure to file certain reports for the tax, to the powers of the Department of Revenue, and to the disclosure of certain information required to be furnished to the Department of Revenue as applicable to the administration of the tax; relating to criminal penalties for violating conditions governing access to and use of confidential information relating to the tax, and to the deposit of tax money collected by the Department of Revenue; amending the definitions of 'gas,' 'oil,' and certain other terms for purposes of the production tax, and as the definition of the term 'gas' applies in the Alaska Stranded Gas Development Act, and adding further definitions; making conforming amendments; and providing for an effective date."

[9:17:40 AM](#)

Representative Kerttula MOVED to ADOPT Amendment 38 b:

Page 1, line 1, through page 2, line - 9:  
Delete all material.

Insert **"An Act relating to oil and gas, the oil and gas properties production (severance) tax as it applies to oil; providing for an adjustment to increase the tax collected when oil prices exceed \$20 per barrel and to reduce the tax collected when oil prices fall below \$16 per barrel; providing for relief from the tax when the price per barrel is low or when the taxpayer demonstrates that a reduction in the tax is necessary to establish or reestablish production from an oil field or pool that would not otherwise be economically feasible; delaying until July 1, 2016, the deadline for certain exploration expenditures that form the basis for a credit against the tax on oil and gas produced from a lease or property in the state; and amending the powers and duties of the Alaska Oil and Gas Conservation Commission."**

Page 2, line 11, through page 36, line 5:  
Delete all material and insert:

**\* Section 1.** AS 31.05.030(d) is amended to read:

- (d) The commission may require
  - (1) identification of ownership of wells, producing leases, tanks, plants and drilling structures;
  - (2) the making and filing of reports, well logs, drilling logs, electric logs, lithologic logs, directional surveys, and all other subsurface information on a well drilled for oil or gas, or for the discovery of oil or gas, or for geologic information, and the required reports and information

shall be filed within 30 days after the completion, abandonment, or suspension of the well;

(3) the drilling, casing, and plugging of wells in a manner that will prevent the escape of oil or gas out of one stratum into another, the intrusion of water into an oil or gas stratum, the pollution of fresh water supplies by oil, gas, or salt water, and prevent blowouts, cavings, seepages and fires;

(4) the furnishing of a reasonable bond with sufficient surety conditions for the performance of the duty to plug each dry or abandoned well or the repair of wells causing waste;

(5) the operation of wells with efficient gas-oil and water-oil ratios, and may fix these ratios;

(6) the gauging or other measuring of oil and gas to determine the quality and quantity of oil and gas;

(7) every person who produces oil or gas in the state to keep and maintain for a period of five years in the state complete and accurate records of the quantities of oil and gas produced, which shall be available for examination by the Department of Natural Resources or its agents at all reasonable times;

(8) the measuring and monitoring of oil and gas pool pressures;

(9) the filing and approval of a plan of development and operation for a field or pool in order to prevent waste, ensure [INSURE] a greater ultimate recovery of oil and gas, and protect the correlative rights of persons owning interests in the tracts of land affected.

(10) working interest owners to provide, at a commercially reasonable rate of return, not to exceed costs plus 10 percent, access to production and other facilities whenever necessary; the commission may act under this paragraph

(A) to

(i) maximize the economic and physical recovery of the state's oil and gas resources;

(ii) maximize competition among parties seeking to explore and develop the state's oil and gas resources;

(iii) minimize the adverse affects of exploration, development, production, and transportation activity; or

(iv) otherwise protect the best interest of the state; and

(B) only if the commission finds that the facility has excess capacity and that directing the working interest owner to provide access by or for the benefit of others would not

materially interfere with the owner's paramount use of the facility.

\* **Sec. 2.** AS 36.30.850(b)(33) is amended to read:

(33) contracts between the Department of Natural Resources or the Department of Revenue, as appropriate, and contractors qualified to evaluate hydrocarbon development, production, transportation, and economics, to assist the commissioner of natural resources or the commissioner of revenue, as appropriate, in evaluating applications for

(A) royalty increases or decreases or other royalty adjustments, and evaluating the related financial and technical data, entered into under AS 38.05.180(j); or

(B) tax reductions, and evaluating the related financial and technical data, as authorized by AS 43.55.011(i) and (j);

\* **Sec. 3.** AS 43.55.011(a) is amended to read:

(a) There is levied upon the producer of oil a tax for all oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax is equal to,

(1) in the case of North Slope oil, either the percentage-of-value amount calculated under (b)(1) [(b)] of this section or the cents-per-barrel amount calculated under (c)(1) [(c)] of this section, whichever is greater; if [, MULTIPLIED BY THE ECONOMIC LIMIT FACTOR DETERMINED FOR THE OIL PRODUCTION OF THE LEASE OR PROPERTY UNDER AS 43.55.013. IF] the amounts calculated under (b)(1) and (c)(1) [(b) AND (c)] of this section are equal, the amount calculated under (b)(1) [(b)] of this section shall be treated as if it were the greater for purposes of this section;

(2) in the case of oil that is not North Slope oil, either the percentage-of-value amount calculated under (b)(2) of this section or the cents-per-barrel amount calculated under (c)(2) of this section, whichever is greater, multiplied by the economic limit factor determined for the oil production of the lease or property under AS 43.55.013; if the amounts calculated under (b)(2) and (c)(2) of this section are equal, the amount calculated under (b)(2) of this section shall be treated as if it were the greater for purposes of this section.

\* **Sec. 4.** AS 43.55.011(b) is amended to read:

(b) The percentage-of-value amount equals,

(1) in the case of North Slope oil, the tax rate set out in (e) of this section multiplied by the gross value at the point of production of taxable oil produced from the lease or property;

(2) in the case of oil that is not North Slope oil, 12.25 percent of the gross value at the point of production of taxable oil produced on or

before June 30, 1981, from the lease or property and 15 percent of the gross value at the point of production of taxable oil produced from the lease or property after June 30, 1981; except that, for a lease or property coming into commercial oil production after June 30, 1981, the percentage-of-value amount equals 12.25 percent of the gross value at the point of production of taxable oil produced from the lease or property in the first five years after the start of commercial oil production and equals 15 percent of the gross value at the point of production of taxable oil produced [THEREAFTER] from the lease or property.

\* **Sec. 5.** AS 43.55.011(c) is amended to read:

(c) The cents-per-barrel amount equals,

(1) in the case of North Slope oil, \$0.80 per barrel of taxable crude oil produced from the lease or property, as adjusted by AS 43.55.012, multiplied by the economic limit factor determined for oil production of the lease or property under AS 43.55.013 and by the price adjustment factor set out in (e)(2)(D) of this section;

(2) in the case of oil that is not North Slope oil, \$0.60 per barrel of taxable old crude oil produced from the lease or property, and \$0.80 per barrel for all other taxable oil produced from the lease or property, both as adjusted by AS 43.55.012.

\* **Sec. 6.** AS 43.55.011 is amended by adding new subsections to read:

(e) This subsection and (f) - (k) of this section apply only to North Slope oil. Except as provided in (h) of this section for heavy oil, the tax rate is the lesser of

(1) 25 percent; or

(2) the product of the volume adjusted tax rate multiplied by the price adjustment factor; for purposes of

(A) this paragraph, the volume adjusted tax rate is the greater of

(i) the applicable tax rate, not to exceed five percent, determined under (C) of this paragraph, except that, if during a month in which the West Coast prevailing value for oil under AS 43.55.020(f) is less than \$12, the applicable tax rate is zero and the volume adjusted tax rate is determined only by the application of (ii) of this subparagraph; or

(ii) the economic limit factor determined for the oil production of the lease or property under AS 43.55.013 multiplied by the nominal tax rate;

(B) subparagraph (A) of this paragraph, the nominal tax rate is

(i) 12.25 percent during the first five years from the date that is the start of commercial oil production; and

(ii) 15 percent after the first five years from the date that is the start of commercial oil production;

(C) sub-subparagraph (A)(i) of this paragraph, during each month in which the West Coast prevailing value for oil under AS 43.55.020(f) averages

(i) at least \$16, the applicable rate is five percent;

(ii) at least \$15 but not \$16, the applicable rate is four percent;

(iii) at least \$14 but not \$15, the applicable rate is three percent;

(iv) at least \$13 but not \$14, the applicable rate is two percent; and

(v) at least \$12 but not \$13, the applicable rate is one percent; and

(D) this paragraph and for the purpose of determining the cents-per-barrel amount under (c) of this section, the price adjustment factor is one, except that the price adjustment factor is the West Coast prevailing value divided by

(i) 16 during each month in which the West Coast prevailing value for oil under AS 43.55.020(f) averages less than \$16 per barrel;

(ii) 20 during each month in which the West Coast prevailing value for oil under AS 43.55.020(f) averages more than \$20 per barrel.

(f) During a month in which the West Coast prevailing value for oil determined under AS 43.55.020(f) on which tax is due under this chapter averages less than \$10 per barrel, the payment of

(1) one-half of the tax due and payable under this chapter is waived; and

(2) the remaining one-half of the tax due and payable under this chapter is deferred, subject to the following:

(A) the amount of tax payment that is deferred under this paragraph is payable by the taxpayer

(i) during each month in which the West Coast prevailing value for oil on which tax is due under this chapter averages at least \$16 per barrel; and

(ii) sequentially on a month-for-month basis in the order in which the tax payment was deferred based on payment of one month's deferred tax during each month that the West Coast prevailing value for oil on

which tax is due under this chapter averages at least \$16 per barrel; and

(B) amounts due and payable because of a payment deferral under this paragraph bear interest at the rate of a 10-year note of the United States treasury at the time of the deferral.

(g) On and after July 1, 2006, the commissioner shall

(1) annually revise the dollar prices described in (e) and (f) of this section and the related denominators set out in (e)(2)(D)(i) and (ii) of this section to reflect inflation as defined by regulation adopted by the department; and

(2) promptly report the application of the revisions to all taxpayers subject to the tax levied and collected under this chapter.

(h) Notwithstanding (e) of this section, the tax rate for heavy oil is the volume adjusted tax rate. The volume adjusted tax rate for heavy oil is determined by multiplying the economic limit factor determined for the oil production of the lease or property under AS 43.55.013 by the nominal tax rate set out in (e)(2)(A)(i) and (ii) of this section. In this subsection, "heavy oil" means oil equal to or less than 20 degrees API gravity.

(i) A producer of oil that is North Slope oil may apply for a reduction of the tax due under (e), (j), and (k) of this section on the production of the oil

(1) if and to the extent that the amount calculated under (A) of this paragraph is greater than the amount calculated under (B) of this paragraph, but a reduction of the tax may not result in collection of tax due under this section that is less than the amount calculated under (B) of this paragraph:

(A) the amount of tax on the production of the oil that results from applying the provisions of (e) of this section;

(B) the amount of tax on the production of the oil that would result from not applying the provisions of (e) of this section; and

(2) if the commissioner determines that the application meets the requirements of AS 38.05.180(j)(1)(A), (j)(1)(B), or (j)(1)(C).

(j) When the commissioner receives an application under (i) of this section, the commissioner

(1) may not approve a tax reduction

(A) unless the applicant makes a clear and convincing showing that the tax reduction meets the requirements of (i) of this section and this subsection and is in the best interests of the state;

(B) that reduces the amount of the tax recovered to less than the amount determined under (i)(1)(B) of this section;

(C) without including an explicit condition that the tax reduction is not assignable without the prior written approval, which may not be unreasonably withheld, by the commissioner; the commissioner shall, in the preliminary and final findings and determinations, set out the conditions under which the tax reduction may be assigned;

(2) shall require the applicant to submit, with the application for the tax reduction, financial and technical data that demonstrate that the requirements of (i) of this section and this subsection are met; the commissioner

(A) may require disclosure of only the financial and technical data related to development, production, and transportation of oil and gas or gas only from the field or pool that are reasonably available to the applicant; and

(B) shall keep the data confidential under AS 38.05.035(a)(9) at the request of the applicant; the confidential data may be disclosed by the commissioner to legislators and to the legislative auditor and as directed by the chair or vice-chair of the Legislative Budget and Audit Committee to the director of the division of legislative finance, the permanent employees of their respective divisions who are responsible for evaluating a tax reduction, and to agents or contractors of the legislative auditor or the legislative finance director who are engaged under contract to evaluate the tax reduction, if they sign an appropriate confidentiality agreement;

(3) may require the applicant for the tax reduction under (i) of this section and this subsection to pay for the services of an independent contractor, selected by the applicant from a list of qualified consultants compiled by the commissioner, to evaluate hydrocarbon development, production, transportation, and economics and to assist the commissioner in evaluating the application and financial and technical data; if, under this paragraph, the commissioner requires payment for the services of an independent contractor, the total cost of the services to be paid for by the applicant may not exceed \$150,000 for each application, and the commissioner shall determine the relevant scope of the work to be performed by the contractor; selection of an independent contractor under this paragraph is not subject to AS 36.30;

(4) shall make and publish a preliminary findings and determination on the tax reduction application, give reasonable public notice of the

preliminary findings and determination, and invite public comment on the preliminary findings and determination during a 30-day period for receipt of public comment;

(5) shall offer to appear before the Legislative Budget and Audit Committee, on a day that is not earlier than 10 days and not later than 20 days after giving public notice under (4) of this subsection, to provide the committee a review of the commissioner's preliminary findings and determination on the tax reduction application and administrative process; if the Legislative Budget and Audit Committee accepts the commissioner's offer, the committee shall give notice of the committee's meeting to all members of the legislature;

(6) shall make copies of the preliminary findings and determination available to

(A) the presiding officer of each house of the legislature;

(B) the chairs of the legislature's standing committees on resources; and

(C) the chairs of the legislature's special committees on oil and gas, if any; and

(7) shall, within 30 days after the close of the public comment period under (4) of this subsection,

(A) prepare a summary of the public response to the commissioner's preliminary findings and determination;

(B) make a final findings and determination; the commissioner's final findings and determination prepared under this subparagraph regarding a tax reduction is final and not appealable to the court;

(C) transmit a copy of the final findings and determination to the lessee; and

(D) make copies of the final findings and determination available to each person who submitted comment under (4) of this subsection and who has filed a request for the copies.

(k) In this section, "North Slope oil" means oil produced from a portion of a reservoir located north of 68 degrees North latitude.

\* **Sec. 7.** AS 43.55.012(b) is amended to read:

(b) The cents-per-barrel amount set out in AS 43.55.011(c)(1) and (2) [AS 43.55.011(c)] applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees, the cents-per-barrel amount shall be reduced by \$.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount shall be increased by \$.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment under

this subsection, fractional degrees of API gravity shall be disregarded.

\* **Sec. 8.** AS 43.55.025(b) is amended to read:

(b) To qualify for the production tax credit under (a) of this section, an exploration expenditure must be incurred for work performed on or after July 1, 2003, and before July 1, 2016 [2007], except that an exploration expenditure for a Cook Inlet prospect must be incurred for work performed on or after July 1, 2005, [AND BEFORE JULY 1, 2010, AND EXCEPT THAT AN EXPLORATION EXPENDITURE, IN WHOLE OR IN PART, SOUTH OF 68 DEGREES, 15 MINUTES, NORTH LATITUDE, AND NOT PART OF A COOK INLET PROSPECT MUST BE INCURRED FOR WORK PERFORMED ON OR AFTER JULY 1, 2003, AND BEFORE JULY 1, 2010,] and

(1) may be for seismic or geophysical exploration costs not connected with a specific well;

(2) if for an exploration well,

(A) must be incurred by an explorer that holds an interest in the exploration well for which the production tax credit is claimed;

(B) may be for either an oil or gas discovery well or a dry hole; and

(C) must be for goods, services, or rentals of personal property reasonably required for the surface preparation, drilling, casing, cementing, and logging of an exploration well, and, in the case of a dry hole, for the expenses required for abandonment if the well is abandoned within 18 months after the date the well was spudded;

(3) may not be for testing, stimulation, or completion costs; administration, supervision, engineering, or lease operating costs; geological or management costs; community relations or environmental costs; bonuses, taxes, or other payments to governments related to the well; or other costs that are generally recognized as indirect costs or financing costs; and

(4) may not be incurred for an exploration well or seismic exploration that is included in a plan of exploration or a plan of development for any unit on May 13, 2003."

Co-Chair Chenault OBJECTED.

REPRESENTATIVE HARRY CRAWFORD explained that the amendment puts an adjusted ELF in place. It goes from 5 percent at \$16 per barrel to 25 percent at \$100 per barrel. At \$60 per barrel it is at 15 percent. It taxes at the gross amount of production. He opined that a net profits tax introduces inefficiency into the system. He related his experience as an ironworker and the two types of contracts used, "cost

plus" contract and "hard money" contract. The hard money contracts are far more efficient.

Representative Crawford mentioned inefficiencies in the TAPS project due to the cost plus contract used. The emphasis was on running up costs rather than trying to get the job done in the cheapest, most efficient manner. The current PPT puts an emphasis on raising the cost. The amendment has a facilities access provision to help the explorers, provides the state protection at low oil prices, and raises the same amount of money as from the PPT, but does not allow for costs to be inflated. It uses real numbers.

[9:22:57 AM](#)

Representative Crawford recalled testimony about how well ELF worked in the past. The amendment builds on the ELF concept. It raises the price 2.5 percent for every \$10 per barrel and maxes out at 25 percent at \$100 per barrel. It is a simple tax on the gross, rather than on the net.

[9:24:44 AM](#)

DAN DICKINSON, CONSULTANT, TAX DIVISION, DEPARTMENT OF REVENUE agreed that there are some good ideas for taxing on the gross. The PPT focuses on investment, is a tax on net, and is a better way to go. He spoke against Amendment 38 b.

Co-Chair Chenault spoke of his experience with bid jobs and maintained that they often run over cost and are not as efficient as time and material jobs. It depends on management and the accuracy of bidding and standards vary. He spoke against the amendment. He maintained that the current HCS has been worked on to their best ability.

[9:28:49 AM](#)

Representative Stoltze noted that gross vs. net was not discussed previously. He requested Representative Samuels' perspective.

REPRESENTATIVE RALPH SAMUELS noted that the most disturbing part of the debate has been about the tax rate, and it should have been about the methodology - whether or not to use direct cost recovery as a method of taxation for oil. He opined that progressivity is the most important factor. As long as progressivity is included, the risk at the low end is worth it. The trust factor is based on how to make sure that the corporations don't "game us on the cost". He wanted to make sure to get the cost recovery right. He agreed to go with the net tax. He assured the committee that auditing would take place in the future. He maintained that the smaller players would be needed eventually. For the larger fields today, access to information such as tax

returns is vital in order to tax the net. There needs to be pressure on the administration for accurate information.

Representative Samuels stated his dislike for regulators. He agreed that most of this should be in regulation to prevent political fighting in the future. He said he has bought into the idea of cost recovery and is comfortable going with the net tax and the risk to the state, which is in the cost recovery.

[9:34:32 AM](#)

Representative Kerttula asked for Representative Berkowitz's opinion.

REPRESENTATIVE ETHAN BERKOWITZ agreed with Representative Samuels' comment that there has not been enough talk about structure. He opined that the gross process, as proposed by the amendment, is the way to go because it protects the state's assets. He noted that people who work for the state, protecting the state's assets, get lured into the private sector, which leaves the state at a competitive disadvantage. This conversation should be about creating a method that is transparent, simple and easy to administer. He requested more time for a conversation about gross and net.

[9:37:06 AM](#)

Representative Crawford said his intention was to get the conversation started. Some consultants reported on the merits to PPT, but agreed it would take accountants and lawyers to make it work. A better system would be a tax on the gross. The allegiance of the oil companies is to their shareholders. The state's job is to protect the state for the future. PPT is not in the state's best interest. The legislature should have been debating all along what the best system for Alaska is.

Representative Kerttula agreed with Representative Samuels' comments on the structure. With the PPT there are too many questions. Without certainty, more questions need to be asked. Amendment 38 b maintains the ELF as a wise first step.

[9:41:26 AM](#)

A roll call vote was taken on the motion to ADOPT Amendment 38 b.

IN FAVOR: Kerttula, Moses, Joule

OPPOSED: Stoltze, Weyhrauch, Foster, Hawker, Holm, Kelly, Chenault, Meyer

The MOTION FAILED (3-8).

[9:42:49 AM](#)

Representative Weyhrauch MOVED to ADOPT Amendment 40:

Page 5, line 4, following "gas":

Insert ", except that, for years beginning after December 31, 2007, the commissioner shall adjust the number to be subtracted to account for inflation"

Page 5, lines 5 - 6:

Delete all material and insert:

"For purposes of this subsection,

(1) a barrel of oil equivalent is a barrel of oil, in the case of oil, or 6,000 cubic feet of gas, in the case of gas; and

(2) the commissioner shall adjust the figure to be subtracted according to and to the extent of changes in the Consumer Price Index for all Urban Consumers for the Anchorage Metropolitan Area compiled by the Bureau of Labor Statistics, United States Department of Labor and applied to the rate specified in this subsection; for purposes of this subsection, the index for January of 2007, is the reference base index."

Representative Hawker OBJECTED.

Representative Weyhrauch related that Amendment 40 is intended to deal with inflation. He requested the Department's viewpoint.

Mr. Dickinson said going to a net calculation on the progressivity would take care of half of the issue; it will decrease the profit. The change in the value of the purchasing power of oil is not dealt with in the net. He stated support for Amendment 40.

Representative Hawker MAINTAINED his OBJECTION. He said the amendment is an issue that he does not agree with. Inflation indexing is not the way to go. Budget and program decisions need to be consistent.

[9:46:58 AM](#)

Representative Holm concurred with Representative Hawker. He asked if there is data about petroleum products tracking inflation or leading inflation. In this case price structuring with petroleum cannot be tied to inflation. He noted that education funding requested to be tied to inflation.

[9:48:36 AM](#)

MR. ROBERT MINTZ, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, suggested a technical correction to the amendment. He suggested to use the phrase "the number 35".

Representative Weyhrauch requested a vote as the amendment stands.

Representative Kerttula wondered about the concern regarding inflation.

A roll call vote was taken on the motion to ADOPT Amendment 40.

IN FAVOR: Weyhrauch, Foster, Meyer  
OPPOSED: Moses, Stoltze, Hawker, Holm, Joule, Kelly  
Kerttula, Chenault

The MOTION FAILED (3-8).

Representative Weyhrauch MOVED to ADOPT Amendment 41:

Page 2, line 8, following "**amendments;**":  
Insert "**relating to the disposition of state income affected by a provision of this Act;**"

Page 2, following line 25:  
Insert a new bill section to read:  
"**\* Sec. 2.** AS 37.13.145 is amended by adding a new subsection to read:

(e) Notwithstanding (b) of this section, income earned on money awarded in or received as a result of litigation arising out of this Act, including settlement, summary judgment, or a tax adjustment that is tied to the outcome of that litigation, or interest earned on the money, or on the earnings of the money, shall be treated in the same manner as other income of the Alaska permanent fund, except that it is not available for distribution to the dividend fund or for transfers to the principal under (c) of this section, and shall be annually deposited into the Alaska capital income fund (AS 37.05.565)."

Renumber the following bill sections accordingly.

Renumber internal references to bill sections in accordance with this amendment. Below are all internal bill section references in this bill:

Page 2, line 13 and 22:  
Page 32, lines 16, 17, 19, 20, 24, 26, 29, and 31  
Page 33, lines 2, 4, 6, 8, 11, 14, 16, 22, 23, and 30  
Page 34, lines 1, 4, 5, 11, 13, 15, 21, 23, 25, and 27  
Page 35, lines 1, 2, and 15  
Page 36, lines 2, 3, and 4

Representative Hawker OBJECTED.

Representative Weyhrauch explained that the amendment is derived from the Amerada Hess issue that resulted in appeals to the 9<sup>th</sup> Circuit Court regarding a fair trial and bias due to the judge and jury receiving a Permanent Fund Dividend. The amendment anticipates future litigation.

[9:50:53 AM](#)

Mr. Dickinson said he was confused about the reference to Amerada Hess. No taxes flow directly into the Permanent Fund. He said he doesn't understand the problem being addressed.

Representative Weyhrauch explained that he does not want anything to hold up any payments to the state if there is any litigation that results in a trial.

Representative Hawker said he does not read that intent into the amendment. He noted no connection to Amerada Hess.

Representative Weyhrauch WITHDREW Amendment 41.

[9:53:34 AM](#)

At-Ease.

[11:12:48 AM](#)

Representative Weyhrauch MOVED to ADOPT Amendment 42:

Page 4, line 31, following "section.":  
Insert "However, application of this subsection may not, when added to the tax levied under (e) or (f) of this section, impose a total tax levy of more than 25 percent of the production tax value of taxable oil and gas as calculated under AS 43.55.160."

Representative Hawker OBJECTED.

Representative Weyhrauch MOVED to AMEND Amendment 42: Delete "or (f)". There being NO OBJECTION, it was so ordered.

Representative Weyhrauch spoke about Amendment 42. It deals with whether there should be a cap on the interest rate. The amendment would cap it at 25 percent. He requested an opinion from the Department about the ceiling.

Ms. Wilson replied that there is no cap on the tax rate in the bill. The Department believes there should be a cap.

Representative Hawker maintained that the citizens of Alaska should participate in the upside of high oil prices. He argued against a tax rate cap.

Representative Kerttula asked at what price 100 percent is reached. Ms. Wilson said it appears to be at \$380. Mr. Dickinson added that many taxes come out of the producer's share: royalties, income tax, property taxes, and federal dollars. A cap has to take this into consideration.

[11:19:37 AM](#)

Representative Hawker MAINTAINED his OBJECTION.

Ms. Wilson added that today's oil prices used to seem out of the realm of possibility. She requested that the bill be intact and functional into the future.

Representative Kelly recalled a 50 percent cap from the House Resources' version of the bill. He argued that 25 percent is too low.

A roll call vote was taken on the motion to ADOPT Amendment 42, as amended.

IN FAVOR: Weyhrauch, Foster

OPPOSED: Stoltze, Hawker, Holm, Joule, Kelly, Kerttula  
Moses, Chenault, Meyer

The MOTION FAILED (2-9).

[11:22:09 AM](#)

Representative Weyhrauch MOVED to ADOPT Amendment 43:

Page 2, line 8, following "**amendments;**":

Insert "**amending the powers of the board of trustees of the Alaska Retirement Management Board to authorize purchase and sale of transferable tax credit certificates issued in conjunction with the production tax on oil and gas;**"

Page 2, following line 25:

Insert a new bill section to read:

"\* **Sec. 2.** AS 37.10.220(b) is amended to read:

- (b) The board may
- (1) employ outside investment advisors to review investment policies;
  - (2) enter into an agreement with the fiduciary of another state fund in order to assume the management and investment of those assets;
  - (3) contract for other services necessary to execute the board's powers and duties;

(4) enter into confidentiality agreements that would exempt records from AS 40.25.110 and 40.25.120 if the records contain information that could affect the value of investment by the board or that could impair the ability of the board to acquire, maintain, or dispose of investments;

**(5) purchase transferable tax credit certificates issued under AS 43.55.024 for 90 percent of the face value of a certificate, and sell transferable tax credit certificates to the Department of Revenue under AS 43.55.024(k) for a cash refund; the board may, under this paragraph, sell a transferable tax credit only if the commissioner of revenue determines that economic conditions are acceptable for the state to purchase and pay for the credit; the board shall apply the proceeds from a sale made under this paragraph to defray the unfunded pension liabilities of the systems for which the board has responsibility.**"

Renumber the following bill sections accordingly.

Page 12, following line 17:

Insert a new subsection to read:

"(k) Under standards established in regulations adopted by the department and subject to appropriations made by law, the department, on the written application of the person to whom a transferable tax credit has been issued under (e) of this section, shall issue a cash refund, in whole or in part, for the certificate if the department finds

(1) after investigation and audit of the tax credit claim by the department, the applicant is entitled to the credit to the extent of the refund amount;

(2) within 24 months after having applied for the transferable tax credit certificate, the applicant incurred a qualified capital expenditure or was the successful bidder on a bid submitted for a lease on state land under AS 38.05.180(f);

(3) the amount of the refund would not exceed the total of qualified capital expenditures and successful bids described in (2) of this subsection that have not been the subject of a finding made under this paragraph for purposes of a previous refund;

(4) the applicant  
(A) does not have an outstanding liability to the state for unpaid delinquent taxes under this title; or  
(B) has an outstanding liability to the state for unpaid delinquent taxes under this title, but the department may issue a cash refund for the certificate to the applicant only if

(i) the applicant's outstanding liability is more than one year old and is the subject of a proceeding before an administrative law judge or court to resolve a dispute about the applicant's liability for the tax; and

(ii) the applicant agrees in writing that, if, as a result of a final order or judgment in a proceeding described in (i) of this subparagraph, the applicant is found to be liable for payment of the tax, the applicant shall remit the tax payment to the department within 30 days after the order or judgment, together with interest at the rate of 18 percent, calculated as for a tax that has become delinquent under this title; and

(5) the sum of the amount of the refund applied for and amounts previously refunded to the applicant during the calendar year under this subsection would not exceed \$10,000,000."

Reletter the following subsection accordingly.

Conform internal references to bill sections in accordance with this amendment.

Co-Chair Chenault OBJECTED.

Representative Weyhrauch said the first part has already been addressed. The second part deals with taxpayers. He asked the Department to consider the issue of resolving tax disputes expeditiously.

Representative Weyhrauch WITHDREW Amendment 43.

[11:23:45 AM](#)

Representative Weyhrauch MOVED to ADOPT Amendment 44:

Page 24, line 6, following "oil":

Insert ";

(Q) costs, expenses, and damages associated with unpermitted oil discharges"

Representative Hawker OBJECTED.

Representative Weyhrauch explained Amendment 44. He addressed costs associated with an unpermitted oil discharge.

Representative Hawker wondered if such expenses might encompass costs related to prevention of unpermitted

discharges. Representative Weyhrauch thought that costs for prevention were already incorporated.

[11:25:43 AM](#)

Ms. Wilson responded that the amendment is not clear whether prevention expenses would be included. It is a policy call.

Representative Weyhrauch addressed Representative Hawker's concern. He MOVED to AMEND Amendment 44 by adding the words "but not costs, expenses, and damages associated with prevention of oil discharges."

Representative Kerttula voiced a concern. She suggested other wording: "incurred as a result of unpermitted oil discharges".

Representative Weyhrauch WITHDREW Amendment 44.

[11:29:15 AM](#)

Representative Hawker MOVED to ADOPT Amendment 5 a:

Page 23, line 3, following "misconduct, or"  
Insert "gross"

Co-Chair Chenault OBJECTED.

Representative Hawker related that the amendment elevates the standard for disallowance of cost to gross negligence, as opposed to ordinary negligence.

Co-Chair Chenault WITHDREW his objection.

Representative Kerttula OBJECTED. She maintained that it left out too much.

A roll call vote was taken on the motion.

IN FAVOR: Moses, Foster, Hawker, Meyer, Chenault  
OPPOSED: Stoltze, Weyhrauch, Holm, Joule, Kelly, Kerttula

The MOTION FAILED (5-6).

[11:31:34 AM](#)

Co-Chair Chenault MOVED to ADOPT Amendment 14:

Page 15, lines 18 - 28:  
Delete "]; however, notwithstanding any other provision of this section, after the end of the calendar year following the calendar year in which the total of production tax credit certificates issued by the

department under this section based on exploration expenditures for Cook Inlet prospects reaches \$20,000,000, the department may not issue to an explorer a production tax credit certificate [IF THE TOTAL OF PRODUCTION TAX CREDITS SUBMITTED FOR COOK INLET PRODUCTION,] based on an exploration expenditure for a Cook Inlet prospect [EXPENDITURES FOR WORK PERFORMED DURING THE PERIOD DESCRIBED IN (b) OF THIS SECTION FOR THAT PRODUCTION, THAT HAVE BEEN APPROVED BY THE DEPARTMENT EXCEEDS \$20,000,000]"

Insert "; HOWEVER, NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DEPARTMENT MAY NOT ISSUE TO AN EXPLORER A PRODUCTION TAX CREDIT CERTIFICATE IF THE TOTAL OF PRODUCTION TAX CREDITS SUBMITTED FOR COOK INLET PRODUCTION, BASED ON EXPLORATION EXPENDITURES FOR WORK PERFORMED DURING THE PERIOD DESCRIBED IN (b) OF THIS SECTION FOR THAT PRODUCTION, THAT HAVE BEEN APPROVED BY THE DEPARTMENT EXCEEDS \$20,000,000]"

Representative Weyhrauch OBJECTED.

Representative Rokeberg spoke to the amendment. It would repeal the \$20 million cap for tax credit certificates in Cook Inlet. It is a housekeeping measure. The cap is not needed in Cook Inlet. This issue came up years ago in a previous bill.

Representative Weyhrauch requested the Department's opinion.

Ms. Wilson said the Department has no problem with removing the cap. All the amendment is doing is removing the CS language to get rid of the \$20 million cap. The fix was intended to be a cap when Cook Inlet credits reached \$20 million. The statute reads that there would be no credits issued anywhere at that cap. There are other problems if the cap is reached in October. The so-called fix in the CS took care of the problem by giving a year's notice.

[11:36:17 AM](#)

Representative Kerttula asked if the bill already deals with those issues. Ms. Wilson said the CS takes care of the technical problem of Cook Inlet vs. the rest of the state and the sunset. The amendment takes the cap out of the picture completely.

Representative Weyhrauch WITHDREW his OBJECTION.

Representative Kerttula OBJECTED and restated her question. Ms. Wilson reiterated the explanation.

Representative Kerttula asked why the cap was left on in the bill and what the consequence is of removing it. Ms. Wilson replied that Cook Inlet is separate from the PPT.

[11:39:16 AM](#)

At-ease.

[11:45:40 AM](#)

Representative Kerttula said she now understands the intent of the amendment. She WITHDREW her OBJECTION. There being NO further OBJECTION, Amendment 14 was ADOPTED.

Representative Weyhrauch commented that he appreciated the efforts of everyone involved with this bill.

[11:47:19 AM](#)

Co-Chair Chenault noted that fiscal notes were addressed earlier.

Co-Chair Chenault MOVED to REPORT CSSB 305 (FIN) am out of Committee with individual recommendations and with the accompanying fiscal note.

Co-Chair Chenault said that this debate could have continued into next year. The current version of SB 305 is the best effort at this time. He opined that this is the right step forward for the state to receive a fair share of its oil resources. It encourages industry to invest. The gas pipeline is a big project on the horizon.

Representative Stoltze wished that the legislature's consultants could have been at the table as well, for more access to their information. This process is one step, leading to the next phase of the gas line.

[11:52:10 AM](#)

Representative Kerttula stated that she would object to the bill reporting from committee. She thanked the committee for its hard work. She opined that the bill has not had the right focus - structure was not dealt with - and the gas contract needs to be before the committee. She spoke of many uncertainties. She voiced strong concerns about the bill.

Representative Joule termed this bill a part of the long-term fiscal plan, which did not get discussed this session. He said it is irresponsible not to have a larger fiscal plan.

Representative Kelly opined that the dealing were fair. He wished for more time to deal with Cook Inlet issues and the cap. He spoke in favor of using the rate of 1/3.

[11:56:36 AM](#)

Representative Hawker thanked Co-Chair Chenault and the committee for its work to set the stage for Alaska's economic independence into the future. He recalled all the various testimony regarding the bill. He remembered the consultant who said, "No matter what he says, it will be wrong". He believed that due diligence was accomplished. He said he is comfortable with the proposal in front of the committee.

[11:58:51 AM](#)

Representative Kerttula MAINTAINED her OBJECTION.

A roll call vote was taken on the motion to REPORT CSSB 305 (FIN) am out of Committee.

IN FAVOR: Stoltze, Weyhrauch, Hawker, Holm, Joule, Kelly,  
Moses, Chenault, Meyer

OPPOSED: Foster, Kerttula

The MOTION PASSED (9-2).

HCS CSSB 305 (FIN) was REPORTED out of Committee with an "amend" recommendation and with a new fiscal note by the Department of Revenue.

[12:00:26 PM](#)

At-ease.

ADJOURNMENT

The meeting was adjourned at 12:08 PM.