

HOUSE FINANCE COMMITTEE
August 2, 2006
7:28 p.m.

CALL TO ORDER

Co-Chair Chenault called the House Finance Committee meeting to order at [7:28:32 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 Beth Kerttula
Representative Bruce Weyhrauch

MEMBERS ABSENT

Representative Carl Moses

ALSO PRESENT

Robynn Wilson, Director, Division of Tax, Department of Revenue; William Corbus, Commissioner, Department of Revenue; Dan Dickinson, Consultant, Tax Division, Department of Revenue; Representative Paul Seaton; Representative Mark Neuman; Representative Carl Gatto; Representative Ethan Berkowitz; Representative Ralph Samuels; Representative Norm Rokeberg; Representative Les Gara; Representative Charlie Guttenberg; Representative Vic Kohring; Representative Harry Crawford; Representative Peggy Wilson; Representative Kurt Olson;

PRESENT VIA TELECONFERENCE

None
#hb3001
SUMMARY

HB 3001 An Act relating to the production tax on oil and gas and to conservation surcharges on oil; relating to criminal penalties for violating conditions governing access to and use of confidential information relating to the production tax; amending the definition of 'gas' as that definition applies in the Alaska Stranded Gas Development Act; making conforming amendments; and providing for an effective date.

HB 3001 was heard and HELD in Committee for further consideration.

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HOUSE BILL NO. 3001

An Act relating to the production tax on oil and gas and to conservation surcharges on oil; relating to criminal penalties for violating conditions governing access to and use of confidential information relating to the production tax; amending the definition of 'gas' as that definition applies in the Alaska Stranded Gas Development Act; making conforming amendments; and providing for an effective date.

Co-Chair Chenault stated his intent to consider amendments to CSHB 3001 (FIN), 24-GH2096\I Bullock 8/1/06 (adopted by the Committee on 8/1). He noted that the bill would be held in Committee to allow members to review any changes.

Co-Chair Chenault MOVED to adopt Amendment 1, 24-GH2096\I.11, Bullock, 8/1/06 (copy on file.) Representative Stoltze OBJECTED.

Co-Chair Chenault explained that Amendment 1 makes grammatical and sentence structure corrections suggested by Legislative Legal Services.

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ROBYN WILSON, DIRECTOR, DIVISION OF TAX, DEPARTMENT OF REVENUE, reviewed grammatical and sentence structure corrections in Amendment 1. She observed that language changes were made to be consistent with regulations.

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Ms. Wilson gave an explanation of the changes proposed in Amendment 1:

- As 43.55.020(A), lines 29 removes "under" and replaces "in the manner provided in". AS 43.55.160 is not exactly on point but it provides the manner in which that will be calculated, hence the language changes.
- Page 9, the amendment deletes Line 6 & 7 completely and also deletes the items "IP=" on Line 4. With adoption of the amendment it would read "12 x (MP-1/12 x BP)"

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Ms. Wilson went on to describe deletion of duplicative language. Other changes outline were:

- The change of later to "latest".
- "Certificate" deleted - doesn't change anything, just corrects language. There is no such thing as a "cash refund certificate".
- "That ends" was deleted for clarity.

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Ms. Wilson reviewed Section 13, which amends 43.55.024; the new area development credit is the only credit remaining in this section.

She explained other changes made in order to clarify language:

- "South" is deleted and replaced with "no part of which is north".
- Deletes "month" and inserts "calendar year" where appropriate. This is a language clarification to reflect the change to calendar year payments.

Ms. Wilson explained the clarification on page 24, line 19-26:

- "Oil and gas leased or property" would be replaced with "leases or properties to the state".
- "Includes" would become "include"
- Instead of "that lease or property" it would say "those leases or properties" as it would on line 25. The way the language is presently suggests that the production tax value had to be calculated lease by lease rather than on a slope-wide basis.

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Ms. Wilson explained that subsections (c) and (d), which refer to Cook Inlet oil and gas were not changed; because the tax ceiling is an ELF based system it is calculated lease by lease.

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Ms. Wilson reviewed the definition of heating value on Page 37, line 27. The drafter suggested "evolved" be deleted and be replaced with "released" for general clarity.

Representative Stoltze WITHDREW his OBJECTION to adopting Amendment 1.

AT EASE: [7:46:19 PM](#)
RECONVENED: [7:48:41 PM](#)

Co-Chair Meyer OBJECTED in order to disclose a potential conflict of interest. He noted that he is an employee of ConocoPhillips, which would be affected by the legislation and asked to be excused from voting.

Representative Stoltze OBJECTED. Co-Chair Chenault noted the objection and observed that Vice-Chair Meyer would be required to vote.

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Representative Hawker declared the existence of a potential conflict of interest because a member of his family is employed in the oil industry. He asked to be excused from the proceedings.

Representative Stoltze OBJECTED. He opined that he it would be unfair to preclude district 32 from representation.

Co-Chair Chenault noted the objection and observed that Representative Hawker would be required to vote.

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Co-Chair Chenault also declared a potential conflict of interest.

Representative Stoltze OBJECTED.

Co-Chair Chenault noted that he would be required to vote.

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Co-Chair Meyer WITHDREW his OBJECTION. There being no further objections, Amendment 1 was adopted.

Co-Chair Chenault MOVED to ADOPT Conceptual Amendment 2A (copy on file.) Representative Stoltze OBJECTED.

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DAN DICKINSON, CONSULTANT, TAX DIVISION, DEPARTMENT OF REVENUE, provided members with a handout containing a number of tables [L1](copy on file.) He explained that the amendment utilizes a variable tax rate rather than a fixed tax rate. The tax rate would vary between 20 - 25%. He pointed out that it would not affect progressivity.

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Mr. Dickinson drew attention to the first table, "Dollar Per barrel investment", which calculated the tax rate on the per barrel investment. He explained that if investment is less than a dollar per barrel, the tax rate is 25 percent. A \$7 per barrel investment shows a tax rate of 20 percent. This illustrates the ability of a company to drive down the tax rate by investing.

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Mr. Dickinson referred to page 2 of the handout: "Capital Spending on the North Slope, 2002-2006". He focused on the bottom box, which showed the average dollar per barrel, investment, and volume. He noted that the volume metric is taken from the Department of Revenue. The actual investment figures are taken from a handout provided by ConocoPhillips. He pointed out that the highest investments are in the \$4 range.

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Mr. Dickinson went on to explain Subsections 1, 2 & 3 [L2] of Amendment 2.A. He reviewed the table: "Millions of Dollars of Annual Investment" and noted that it provides a sense of ranges and a mechanical set of operations [L3]. He explained that, generally, as volumes decline, investment also declines. [L4] The purpose of the variable tax rate is to reverse this trend and encourage investment, through the lowering of the tax rate. The higher levels of investment generally occur at prices above \$6 per barrel. At the \$6 per barrel investment the tax rate would be at its lowest point of 20%; the tax rate would not drop below this point.

Subsection (2) calculates investments across the state into a single BTU.

In response to earlier comments regarding gold-plating, Mr. Dickinson explained the formula contained in Subsection (3):

A producer's tax rate for a calendar year shall be the higher of the rate determined in (1) and the rate represented by "R" in the following formula, except that the rate may not be greater than 25 percent or less than 20 percent:

$$\left[\left\{ (R \times QC) + (.2 \times QC) + [(.25 - R) \times PT] \right\} \times (1 - IR) \right] + (QC \times IR) = .75 \times QC \text{ where:}$$

QC = the producer's qualified capital expenditures incurred during the calendar year;

PT = the total annual production tax value calculated under AS 43.55.160(a)(1) of taxable oil and gas produced by the producer from leases or

properties in the state during the calendar year;
and

IR = the highest percentage tax rate imposed on the taxable income of a corporation by 26 U.S.C. 11 (Internal Revenue Code), as amended, without regard to any additional amount of tax provided under that section in form of the lesser of a dollar amount or a percentage of income in excess of a stated minimum.

Mr. Dickinson went on to say, investments must be rational investments that lead to production. He noted that the result of the formula used in the conceptual amendment 2.A. is that tax benefits are capped at 75%.

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Representative Joule asked about page 2 of Mr. Dickinson's handout. He asked if the investments are a reflection of investments for oil. He also noted that if this is the case, the increase in gas investments would put the industry tax rate at 20%. Mr. Dickinson agreed. Representative Joule concluded that investment dollars would be related to gas in the future and that would result in industry getting the 20% tax rate.

Mr. Dickinson observed that the investments depicted are only related to production. He made two points: that much of the investments related to gas would not qualify as investment dollars; and only upstream investments would qualify as investment dollars. He gave specific examples of investment that would and would not qualify.

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Representative Kerttula asked if the upstream expenditures set the rate. Mr. Dickinson affirmed. Representative Kerttula noted that would take care of decline. Mr. Dickinson agreed that a big part of arresting decline would be upstream investment. Representative Kerttula asked what it would cost to keep up with the decline. Mr. Dickinson reported that there had not been specific calculations to determine the cost to halt decline.

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Representative Kerttula thought it would be difficult to determine the amount companies would be spending. She further questioned if what the companies needed to spend could be determined theoretically. Mr. Dickinson felt it would be difficult due to all the variables involved when making investment decisions. Representative Kerttula asked

how often the tax rate would be determined. Mr. Dickinson replied that it would be calculated on a yearly basis.

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Ms. Wilson continued to explain Conceptual Amendment 2.A: Where there were blanks in the bill with regards to progressivity the following changes were made:

- Insert ".25" (denotes the slope of the progressivity curve); "25" (represents the maximum rate of progressivity) and "40" (the trigger point), respectively.

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Ms. Wilson went on to say the next part of the amendment deals with the base allowance credit. Wording changes made are simply conforming language. She explained that "2005 or" was deleted since it was irrelevant under the investment tax scenario.

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Ms. Wilson further specified changes representing conforming language adjusting from a production scheme to an investment scheme, which allows the producer to know what the rate is. The drafter took out Section 43.55.024 and reinserted it, without change. She summarized that the remaining changes were technical, grammatical or conforming language accommodating the investment approach.

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Co-Chair Chenault said it was not his intent to not move Amendment 2 tonight.

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The meeting was RECESSED TO THE CALL OF THE CHAIR until 10:00 am, August 3, 2006.