

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

March 16, 2006

12:39 p.m.

**MEMBERS PRESENT**

Representative Jay Ramras, Co-Chair  
Representative Ralph Samuels, Co-Chair  
Representative Jim Elkins  
Representative Carl Gatto  
Representative Gabrielle LeDoux (via teleconference)  
Representative Kurt Olson  
Representative Paul Seaton  
Representative Harry Crawford  
Representative Mary Kapsner

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

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."

- HEARD AND HELD

#### PREVIOUS COMMITTEE ACTION

BILL: HB 488

SHORT TITLE: OIL AND GAS PRODUCTION TAX

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/21/06	(H)	READ THE FIRST TIME - REFERRALS
02/21/06	(H)	RES, FIN
02/22/06	(H)	RES AT 12:30 AM HOUSE FINANCE 519
02/22/06	(H)	Heard & Held
02/22/06	(H)	MINUTE(RES)
02/23/06	(H)	RES AT 12:30 AM HOUSE FINANCE 519
02/23/06	(H)	Heard & Held
02/23/06	(H)	MINUTE(RES)
02/24/06	(H)	RES AT 12:30 AM HOUSE FINANCE 519
02/24/06	(H)	Heard & Held
02/24/06	(H)	MINUTE(RES)
02/25/06	(H)	RES AT 10:00 AM SENATE FINANCE 532
02/25/06	(H)	Joint with Senate Resources
02/27/06	(H)	RES AT 12:30 AM CAPITOL 124
02/27/06	(H)	Heard & Held
02/27/06	(H)	MINUTE(RES)
02/28/06	(H)	RES AT 12:30 AM CAPITOL 124
02/28/06	(H)	Heard & Held
02/28/06	(H)	MINUTE(RES)
03/01/06	(H)	RES AT 12:30 AM CAPITOL 124
03/01/06	(H)	Heard & Held
03/01/06	(H)	MINUTE(RES)
03/02/06	(H)	RES AT 12:00 AM CAPITOL 124
03/02/06	(H)	Heard & Held
03/02/06	(H)	MINUTE(RES)
03/03/06	(H)	RES AT 12:30 AM CAPITOL 124
03/03/06	(H)	Heard & Held
03/03/06	(H)	MINUTE(RES)
03/04/06	(H)	RES AT 2:00 PM HOUSE FINANCE 519
03/04/06	(H)	Heard & Held
03/04/06	(H)	MINUTE(RES)
03/06/06	(H)	FIN AT 12:30 AM HOUSE FINANCE 519
03/06/06	(H)	Presentation by Legislative Consultant

03/06/06	(H)	RES AT 12:30 AM HOUSE FINANCE 519
03/06/06	(H)	Testimony by legislative consultant
03/07/06	(H)	RES AT 12:30 AM CAPITOL 124
03/07/06	(H)	Heard & Held
03/07/06	(H)	MINUTE(RES)
03/08/06	(H)	RES AT 12:30 AM CAPITOL 106
03/08/06	(H)	-- Meeting Canceled --
03/09/06	(H)	RES AT 12:30 AM CAPITOL 106
03/09/06	(H)	-- Meeting Canceled --
03/10/06	(H)	RES AT 12:30 AM CAPITOL 106
03/10/06	(H)	Heard & Held
03/10/06	(H)	MINUTE(RES)
03/11/06	(H)	RES AT 10:00 AM CAPITOL 106
03/11/06	(H)	-- Meeting Canceled --
03/13/06	(H)	RES AT 10:00 AM CAPITOL 124
03/13/06	(H)	Heard & Held
03/13/06	(H)	MINUTE(RES)
03/14/06	(H)	RES AT 12:30 AM CAPITOL 124
03/14/06	(H)	Heard & Held
03/14/06	(H)	MINUTE(RES)
03/15/06	(H)	RES AT 1:15 PM CAPITOL 124
03/15/06	(H)	Heard & Held
03/15/06	(H)	MINUTE(RES)
03/16/06	(H)	RES AT 12:30 AM CAPITOL 124

**WITNESS REGISTER**

ROBERT MINTZ, Assistant Attorney General  
Oil, Gas & Mining Section  
Civil Division  
Department of Law  
Anchorage, Alaska  
POSITION STATEMENT: Answered questions on HB 488.

DAN DICKINSON, Consultant  
to the Office of the Governor  
Anchorage, Alaska  
POSITION STATEMENT: Answered questions on HB 488.

ROBYNN WILSON, Director  
Tax Division  
Department of Revenue  
Anchorage, Alaska  
POSITION STATEMENT: Answered questions on HB 488.

## **ACTION NARRATIVE**

**CO-CHAIR RALPH SAMUELS** called the House Resources Standing Committee meeting to order at 12:39 PM. Representatives Ramras, Samuels, Elkins, Crawford, Kapsner, Gatto, Seaton, and Olson were present at the call to order. Representative LeDoux was on teleconference.

[12:40:42 PM](#)

The committee took an at-ease from [12:41:35 PM](#) to [12:51:04 PM](#).

### HB 488-OIL AND GAS PRODUCTION TAX

CO-CHAIR SAMUELS announced that the only order of business would be 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."

[12:51:25 PM](#)

CO-CHAIR SAMUELS said the committee had the draft committee substitute (CS) for HB 488 last night, and he has been working with Robert Mintz, the original drafter of the bill for the administration, and John Chenoweth, the drafter for the legislature, to make sure "the rough patches were smoothed over." He said some of the rough patches were not yet fixed, so he would like to adopt the CS and then amend it. There are five amendments that the two drafters agree on, he stated.

REPRESENTATIVE SEATON moved to adopt the committee substitute (CS) for HB 488, labeled 24-GH2052\Y, Chenoweth, 3/15/06, as a working document. Hearing no objections, version Y was before the committee.

ROBERT MINTZ, Assistant Attorney General, Oil, Gas & Mining Section, Civil Division, Department of Law, said he has the package of amendments.

CO-CHAIR RAMRAS moved to adopt Amendment 1, labeled 24-GH2052\Y.4, Chenoweth, 3/16/06, as follows [original punctuation provided]:

Page 21, lines 3 - 4:

Delete "any payment or credit"

Insert "certain payments or credits received by the producer, as provided in this subsection. If, during a month or, under (f) of this section, during a calendar year, a producer receives one or more payments or credits subject to this subsection and if either the total amount of the payments or credits exceeds the amount of the producer's lease expenditures or the producer does not have any lease expenditures, the producer shall nevertheless subtract the payments or credits from the lease expenditures or from zero, respectively, and the producer's adjusted lease expenditures for that month or calendar year are a negative number. The producer shall apply that negative number to the calculation made under (a) of this section. The payments or credits that a producer must subtract from the producer's lease expenditures, or from zero, under this subsection are payments or credits that"

CO-CHAIR SAMUELS objected.

MR. MINTZ said Amendment 1 applies to page 21, lines 3-4 of the CS, and it relates to the important aspect of the production tax

value of oil and gas. He said that the proposed profit-based petroleum production tax (PPT) involves subtracting lease expenditures from the gross value of oil at the point of production. "In order to carry through the concept of net expenditures and to avoid windfalls, there's a requirement in subsection (e) of AS 43.55.160 that lease expenditures be adjusted by subtracting certain payments that the producer gets--reimbursements, for example, or if you have a lease expenditure that resulted in acquiring an asset, and then you sell the asset, what you receive for that sale would also have to be deducted as an adjustment."

MR. MINTZ said Amendment 1 addresses a timing problem in the CS. He said it is partially addressed at the bottom of page 17 and the top of page 18 in the CS. There could be a situation with negative lease expenditures that would give rise to a tax, but the Department of Law determined that an additional explanation is necessary, he said. The amendment explains how it could be possible to have a negative lease expenditure. He gave a hypothetical example of a company doing exploration work in 2007 and said that:

It cost \$10 million in lease expenditures, that would be deducted, but that causes a net loss which under Section 024 can be converted into a carry-forward credit of \$2 million--that's 20 percent. Then that can be sold, yielding up to \$2 million in receipts. But let's say the next year, 2008, an asset that was generated as a result of those exploration expenditures, such as seismic data or other valuable data, let's say that was sold for \$1 million. Under subsection (e) of 160, that's required to be subtracted from the explorer's lease expenditures as an adjustment, as I was just describing; however, it may be that there are no lease expenditures in 2008 to deduct them against. That would basically cause a windfall. So what this amendment does, is even if you have no lease expenditures in a particular time period or if your lease expenditures are too small to offset the adjustment, you still have to subtract that payment that you get as an adjustment. And if you get a negative number, so be it. The negative number will be entered into the tax calculation.

[12:57:11 PM](#)

REPRESENTATIVE SEATON asked if that means it is carried forward as an expense or generates a loss that could be taken as a credit.

[12:57:32 PM](#)

MR. MINTZ said it is the opposite of that. "What it's saying is, if you get a reimbursement or a payment that would reduce your expenses, it could reduce it below zero if your expenses are not great enough, and basically that becomes a taxable value under subsection (a) of 160. So it would actually generate a tax."

[12:58:05 PM](#)

CO-CHAIR SAMUELS removed his objection. Hearing no further objections, Amendment 1 carried.

CO-CHAIR RAMRAS moved Amendment 2, labeled 24-GH2052\Y.5, Chenoweth, 3/16/06, as follows [original punctuation provided]:

Page 24, lines 3 - 4:

Delete "may apply a tax credit against that liability under this section."

Insert "and, during the calendar year, has incurred a qualified capital expenditure, as that term is defined in AS 43.55.024, may apply a tax credit, in an amount that does not exceed the amount of that expenditure, against that liability under this section. An unused portion of a tax credit may be applied to the extent otherwise allowed under this section for one or more months during the same calendar year."

Page 24, lines 6 - 7:

Delete "before applications for any credits under this chapter"

Insert "for any month"

Page 24, line 23, following "qualified":

Insert "capital"

CO-CHAIR SAMUELS objected.

MR. MINTZ said Amendment 2 is a fix to a provision that was added by the committee. Referring to page 24, he said the committee's intention was to replace the \$73 million allowance

with a new credit limited to \$10 million per year. He noted that the credit was meant to be triggered by a qualified capital expenditure, but, in the drafting that fundamental aspect got left out. The first part of Amendment 2 makes that correction, he said. In order to take that tax credit there has to be a qualified capital expenditure during the calendar year, and it cannot exceed the amount of the expenditure. The second part of Amendment 2 corrects a phrase "that didn't really work," and states "the same thing that is true for all the other credits in the bill, which is you can never use a credit to reduce your actual tax due below zero." He said the third part of the amendment inserts "capital" to correct a terminology omission.

[1:00:33 PM](#)

REPRESENTATIVE SEATON asked about the capital expenditure and if the change was to differentiate reinvestment capital expenditures from operational expenditures.

MR. MINTZ said that is correct; a qualified capital expenditure is actually defined in Section 024 as a subset of lease expenditures, and the subset consists of things of a capital nature. He said the only exception is the cost of geological and geophysical exploration.

[1:01:33 PM](#)

REPRESENTATIVE SEATON asked if it is correct to say that purchasing an additional lease could not be used as "part of this."

MR. MINTZ said that is correct, because the direct cost excludes acquisition costs of leases or other properties.

[1:02:10 PM](#)

CO-CHAIR SAMUELS removed his objection.

REPRESENTATIVE SEATON objected and asked the intent of not allowing this to be used for lease acquisitions. He said the committee was trying to stimulate exploration and activity in Alaska, and asked the consequences of allowing the inclusion of lease acquisition costs.

CO-CHAIR SAMUELS suggested voting on the amendment and adding that later.

REPRESENTATIVE SEATON removed his objection. Hearing no further objections, Amendment 2 carried.

CO-CHAIR RAMRAS moved Amendment 3, labeled 24-GH2052\Y.6, Chenoweth, 3/16/06, as follows [original punctuation provided]:

Page 29, line 31, following "REGULATIONS":

Delete "."

Insert "AND RETROACTIVITY OF REGULATIONS. (a)"

Page 30, following line 3:

Insert a new subsection to read:

"(b) Notwithstanding any contrary provision of AS 44.62.240, a regulation adopted by the Department of Revenue to implement, interpret, make specific, or otherwise carry out the provisions of secs. 5, 6, 8 - 11, 13 - 15, 17 - 20, 22, and 25 - 41 of this Act may apply retroactively as of April 1, 2006, if the Department of Revenue expressly designates in the regulation that the regulation applies retroactively to that date."

CO-CHAIR SAMUELS objected.

MR. MINTZ said Amendment 3 is a very important technical change. [The CS] would begin the new PPT on April 1, 2006. It may or may not have a retroactive effect, but the language needs to have authorization for the Department of Revenue to allow retroactivity. The PPT would apply to oil and gas produced on or after that date, but it takes months for complex regulations to be developed, he stated. Under the Emergency Procedure Act, there is a general restriction on making regulations retroactive, so in order to make sure that the PPT is applicable at the right time, this amendment's authorization language is required.

[1:05:10 PM](#)

CO-CHAIR SAMUELS said there will be an amendment to move the effective date of the PPT to January 1, 2006. He asked how the amendment should reflect that.

MR. MINTZ said it would need to be changed by the legislature.

[1:05:47 PM](#)

CO-CHAIR SAMUELS removed his objection. Hearing no further objections, Amendment 3 carried.

CO-CHAIR RAMRAS moved Amendment 4, labeled 24-GH2052\Y.7, Chenoweth, 3/16/06, as follows [original punctuation provided]:

Page 29, lines 5 - 6:

Delete "the sections of this Act that are not effective April 1, 2006"

Insert "secs. 8 and 13 of this Act"

Page 29, lines 14 - 15:

Delete "the sections of this Act that are not effective April 1, 2006"

Insert "secs. 5 and 6 of this Act"

Page 29, line 17, following "Act,":

Insert "or AS 43.55.030(e), added by sec. 22 of this Act,"

Page 29, lines 18 - 19:

Delete "the sections of this Act that are not effective April 1, 2006"

Insert "secs. 20 and 22 of this Act"

CO-CHAIR SAMUELS objected.

[1:06:31 PM](#)

MR. MINTZ said these are fairly technical changes regarding the transition provisions of HB 488. He explained that there are two sets of transition provisions. The original bill provided that the new provisions would start on July 1, and some of the provisions were calendar year numbers. He said the transition provision said that for the first six months of implementation, "those things" will be divided in half to prorate them for six months. "Some of these changes do the same thing, but because the CS would start the new tax provisions in effect on April 1, we're talking about 9 months out of 12, rather than 6 months out of 12."

MR. MINTZ said the other transition provisions are about how taxpayers will initially file, because it will take time for producers to respond to the new law. It would be unfair to penalize a producer for underpaying in April if the law didn't take effect until May. "Even if it [passed by April], it would be hard to respond that quickly," he noted. For the first six

months after the production tax changes, the producer can file returns required under federal law, and later the producer will have to pay the additional tax and file a true-up statement. These provisions were in the CS, but the references to the effective dates were not clear, he said.

[1:09:48 PM](#)

CO-CHAIR SAMUELS removed his objection. Hearing no further objections, Amendment 4 carried.

CO-CHAIR RAMRAS moved Amendment 7, labeled 24-GH2052\Y.9, Chenoweth, 3/16/06, as follows [original punctuation provided]:

Page 4, line 9, following "for":  
Insert "all"

Page 5, line 31:  
Delete "AS 43.55.011"  
Insert "AS 43.55.011(a)"

Page 30, line 22:  
Delete "24,"

The committee took an at-ease from [1:10:58 PM](#) to [1:12:59 PM](#).

CO-CHAIR SAMUELS objected.

MR. MINTZ said the basic language that has always been in the production tax statute refers to levying a tax for all oil and gas produced. He added that that is still in section 011 (a), which was in the original HB 488. The CS has new elements of the production tax, and one subsection has the correct phrase, "all oil and gas," but the second subsection does not have the word "all".

[1:14:17 PM](#)

MR. MINTZ said the provisions go on to say "except for the tax-exempt oil and gas," which is the state or federal royalty share, "but it starts off with the general statement of taxing all oil and gas." He said the second part relates to the taxation of private royalty oil and gas. "This relates to the fact that the CS now has three different elements of production tax, whereas the original bill only had a single element, which used to be called the 'net value tax'." The CS calls it the 'production tax value tax'. He said Section 10, Page 5,

provides a default methodology for calculating a private royalty share of the tax. He noted that when the two elements of the tax were added, the reference to 43.55.011 became too broad. So line 31, page 5, is intended to be the tax only under 011 (a), which is the tax on production tax value or what was previously called net value. The change on page 30, line 22, relates to which provisions of the act would take effect immediately and which would take effect on April 1. He said the amendment removes Section 24 from what would take effect immediately because it conforms the production tax statute to the requirements of the constitutional budget reserve fund amendment. "There is a reference in that provision to AS 43.55.011 through 43.55.170, which is basically the production tax statute. Well, 170 is a new provision, which won't take effect until April 1, and therefore, this section of the bill, which refers to 170, it wouldn't make sense for it to take effect before April 1.

[1:17:27 PM](#)

REPRESENTATIVE SEATON referred to inserting "all". He asked if the definition of "produce" still omits resources utilized in the operations of the industry.

MR. MINTZ said that was correct.

CO-CHAIR SAMUELS removed his objection. Hearing no further objections, Amendment 7 carried.

[1:18:14 PM](#)

REPRESENTATIVE OLSON moved Amendment 5, as follows [original punctuation provided]:

Page 4, line 9:  
delete "or gas" "and gas"

Page 4, line 10  
delete "and gas"

Page 4, line 12  
delete "and gas"

CO-CHAIR SAMUELS objected.

REPRESENTATIVE OLSON said the amendment removes gas from the progressive portion of HB 488.

CO-CHAIR SAMUELS said there was testimony yesterday that pointed out that a spike in oil prices doesn't necessarily mean gas will follow, "but you'd be raising the tax on gas because of an event that triggered a spike in oil prices. There were some concerns about that. So the gas portion of this bill, right now, if this amendment passes, will not be progressive." He said the surcharge will not apply to gas.

[1:19:23 PM](#)

REPRESENTATIVE CRAWFORD said the bill treats gas at 6,000 cubic feet to one barrel of oil, and it is a disparity of about nine to one. "Wouldn't it be better to just go ahead and take gas completely out of this?" He read a rationale to that idea:

Not enough information has been provided as to the impact of this new tax structure on current and future gas production in Cook Inlet and on the North Slope, as well as how this will relate to, or be impacted by, the gas pipeline. Gas has historically been taxed differently, at different rates and no information has been provided as to why it should now be taxed in the same way or at the same level. Also, no information has been provided that would explain the implications of allowing the amalgamation of both oil and gas expenditures on a statewide basis and across deduction and credit of oil expenditures against the gas tax and gas expenditures against the oil tax. Once the information has been provided on all these fronts, appropriate changes can be made in the gas production tax.

REPRESENTATIVE CRAWFORD said the state could be opening a can of worms and end up subsidizing production facilities for gas fields that the state had no intention of doing, and writing it off of profits against oil. He said it is a scary proposition, and he thinks there should be an amendment to take gas out of the bill.

CO-CHAIR SAMUELS asked Representative Crawford if he intends to do that.

[1:22:14 PM](#)

REPRESENTATIVE CRAWFORD said he has been trying to write that amendment, but it is difficult. "But it can be done. We have

taxed gas and oil separately in the past. It is just going to take some work."

[1:22:45 PM](#)

CO-CHAIR SAMUELS suggested having the debate tomorrow when the amendment is ready. He noted that Amendment 5 is a very small bite out of that apple.

REPRESENTATIVE CRAWFORD said he wished he knew what was right. He said he appreciates the work Co-Chair Samuels has done, and he is not equipped to go forward with the bill as it is, especially with gas included in it. "I would prefer to just say no." He said he is still not convinced that a net profit tax is appropriate. There is weight behind the progressivity but it doesn't go far enough. Taxing the gas at 6 to 1 with oil is a mistake, he stated.

[1:25:39 PM](#)

CO-CHAIR SAMUELS said he has no problems with dealing with it later.

CO-CHAIR RAMRAS said he is in favor of progressivity for both oil and gas, but he will support Amendment 5 because of what happened during Hurricane Katrina when gas spiked and oil went up more slowly. He suggested that the legislature create a cleaner product for progressivity for gas tied to the Henry Hub measurement. If progressivity is developed for gas, it must be tied to the appropriate indicator, he stated.

[1:27:22 PM](#)

REPRESENTATIVE GATTO said he agrees. He never thought oil and gas should be in the same bill, just as coal shouldn't be in the bill. This bill is already complicated, and another bill could be written for gas using HB 488 as a framework.

CO-CHAIR SAMUELS said there are a plethora of problems with taking gas out of the bill. "The entire point of the bill was to go take the royalty away and go to cost recovery. And how are you going to determine the cost recovery factions of two products coming out of the same hole in the ground?" he asked. "I can guarantee, whichever one was a tax advantage of the person who drilled the hole in the ground is where they would shovel the cost recovery." It would take another two months to write a gas bill, and it would be hugely problematic to try to

account for it. He said he agrees with the amendment because of what [Mark] Hanley said. Some other indicator is a better way to go, he said.

[1:29:59 PM](#)

REPRESENTATIVE SEATON said he wants consultants to provide an analysis on progressivity for gas. He said he will support the amendment--not to remove progressivity for gas but to get out of tying gas to oil until there is an appropriate method for gas.

[1:30:52 PM](#)

REPRESENTATIVE GATTO asked about proportioning gas and oil cost recovery. He suggested using BTUs, and said there will be ways to deal with the cost recovery question.

REPRESENTATIVE CRAWFORD said the price of BTUs are different for oil and gas, so that would not solve the problem.

CO-CHAIR SAMUELS removed his objection. Hearing no further objections, Amendment 5 carried.

REPRESENTATIVE KAPSNER moved Amendment 6, labeled 24-GH2052\F.1, Chenoweth, 3/15/06, as follows [original punctuation provided]:

Page 9, line 24:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 16, lines 2 - 3:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 18, line 15:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 18, lines 26 - 27:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 18, line 28:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 18, line 29:

Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 19, line 1:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 19, line 2:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 19, line 8:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 21, line 23:  
Delete "March 31, 2016"  
Insert "December 31, 2015"

Page 25, line 1:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 25, lines 6 - 24:  
Delete all material and insert:  
"TRANSITIONAL PROVISIONS. (a) For oil and gas produced before January 1, 2006, the provisions of AS 43.55, and regulations adopted under AS 43.55, that were in effect before January 1, 2006, and that were applicable to the oil and gas continue to apply to that oil and gas.  
(b) Notwithstanding any provision in this Act to the contrary,  
(1) a report and payment of production tax on oil and gas due under AS 43.55, as enacted by this Act, for any period before the effective date of this Act is due on the last day of the month following the month in which the effective date of this Act occurs; and  
(2) penalty provisions of AS 43.55.020(h), added by sec. 13 of this Act, and of AS 43.55.030(d), amended by sec. 17 of this Act, apply to taxes that are due and unpaid and reports that are not filed by the date described in (1) of this subsection."

Page 26, lines 13 - 20:  
Delete all material and insert:

"\* **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY. Sections 5, 6, 8 - 11, 13, 14, 16 - 18, and 22 - 37 are retroactive to January 1, 2006, and apply to oil and gas produced on and after that date.

\* **Sec. 43.** This Act takes effect immediately under AS 01.10.070(c)."

CO-CHAIR SAMUELS objected.

REPRESENTATIVE KAPSNER said Amendment 6 retroactively implements the PPT to January 1, and she quoted consultant Pedro van Meurs, who said: "Whether you start the date on January 1 or July 1, really has no impact on the competitiveness of the system because new investors would look at new investments and would not even have to pay tax for now for awhile." Mr. van Meurs said the two dates are equally attractive to investors. The only difference would be six months more of revenues, adding \$250 million to state coffers.

[1:33:45 PM](#)

CO-CHAIR SAMUELS maintained his objection because he would not want the Internal Revenue Service to tax him retroactively. He said he hates to go back and change the rules because the investors didn't plan on it.

REPRESENTATIVE GATTO said the bill will be in effect for 20-30 years, and the \$250 million is a small piece of it.

A roll call vote was taken. Representatives Elkins, Crawford and Kapsner voted in favor of Amendment 6. Representatives Gatto, Olson, Ramras, Samuels, Seaton, and LeDoux voted against it. Therefore, Amendment 6 failed by a vote of 3-6.

REPRESENTATIVE KAPSNER offered Amendment 8 as follows:

Delete sections relating to transitional investment expenditures.

CO-CHAIR SAMUELS objected.

REPRESENTATIVE KAPSNER said in keeping with the philosophy of not wanting to retroactively implement any laws, Amendment 8 deletes all sections of transitional investment expenditures. She said if the committee's philosophy on retroactivity is

negative with regard to the effective date, it should maintain that philosophy across the board.

1:37:46 PM

CO-CHAIR SAMUELS said it is "a little bit of an apple and orange argument." He said he did not believe in using investments made five years ago; an investment five years ago was not based on the high oil prices. "Should we penalize them because of high oil prices? And in effect that is what we did in the CS." He said the state will be the beneficiary. He said he talked to all the members and spread out the payment from six years to seven years. "We cut back quite a bit of the expenditures." He said the state can't say it is taxing the oil at a higher rate but it has more oil to tax because of those investments.

1:39:20 PM

CO-CHAIR RAMRAS said he is against Amendment 8. The transition credits amounted to \$5 billion, and 20 percent "was going to come back against the state as a credit to be used by the oil companies worth about \$1 billion." He said the CS reduced the credit to \$3-400 million spread over seven years. Some of the oil companies have testified that it takes ten years to bring the oil to market, so he said it is reasonable to apply a five-year yardstick. He said because of the price of oil, the oil companies are enjoying a significantly greater return than forecasted. He noted that oil price projections were about \$30 per barrel five years ago. He believes that those capital expenditures have borne fruit, and many will enjoy a reasonable horizon of high oil prices. He opposes Amendment 8, because he has "stewarded a fair program recognizing a lot of the transition credits for which they have enjoyed some benefit and those capital costs that are still at risk in the market place."

1:41:49 PM

REPRESENTATIVE CRAWFORD said he represents House District 21, the people of South Muldoon, and they have not been treated properly. He said the legislature dallied when it should have been redoing the severance tax years ago. It was evident at least two years ago that oil taxes should have been fixed. The industry collected \$3 billion in profits, some of which should have gone to people of Alaska, he stated. It seems that if this tax bill can't even be retroactive to January 1, "we're not going back to get their profits that I don't believe they should have gotten." He said it is up to the legislature to stay in

the midrange around the world of total government take after discounting for transportation and production costs. He said the oil companies got far more than they should have. "This has been a hugely rewarding deal for the oil companies." Representative Kapsner is right, he noted.

[1:44:07 PM](#)

REPRESENTATIVE SEATON said this is a troubling issue. He said, "those investments were there and yet we were under-collecting. ELF was not aggregated for a good portion of that time. There were a significant amount of taxes left on the table." He said he doesn't think that future capital expenditures will be made based on past capital credit. Representative Olson mentioned that investors are going into Libya in spite of nationalized capitalization.

[1:46:02 PM](#)

REPRESENTATIVE GATTO said this bill already has retroactivity in that today is March 16 and the bill won't be signed by April 1. "It is a matter of saying how retroactive. But since we've already picked a date, I think it's fair to just leave that date there."

REPRESENTATIVE LEDOUX said she struggled with Representative Kapsner's first amendment regarding the start date, and she couldn't swallow that amendment because of the retroactivity. She said that if there will not be a look-back for the effective date, she will support this amendment.

[1:47:27 PM](#)

A roll call vote was taken. Representatives Seaton, LeDoux, Elkins, Crawford and Kapsner voted in favor of Amendment 8. Representatives Gatto, Olson, Ramras and Samuels voted against it. Therefore, Amendment 8 passed by a vote of 5-4.

[1:48:24 PM](#)

CO-CHAIR SAMUELS asked that Amendment 9 be held pending research of its ramifications.

[1:49:18 PM](#)

REPRESENTATIVE KAPSNER introduced Amendment 10 as follows [original punctuation provided]:

Page 31, line 1

Add the following:

"Sec. 49. AS 43.55. is amended to read:

Sec.43.55.400. High energy cost offset fund.

(a) The high energy cost offset fund is established as a separate fund in the general fund. The fund consists of all money appropriated to it.

(b) The high energy cost offset fund shall be invested by the Department of Revenue so as to yield competitive market rates, as provided in AS 37.10.071. Money in the fund may be appropriated to provide cost offsets for high energy costs of consumers.

(c) Nothing in this section creates a dedication of funds

CO-CHAIR SAMUELS objected.

REPRESENTATIVE KAPSNER said the committee recognizes that the consumers of Alaska are suffering under high oil prices while the industry and the state enjoys the benefits. Amendment 10 would establish a high energy cost offset fund, funded when the price of crude gets to a certain amount. "The more you pay for stove oil, the more benefit you would receive." It doesn't set a price trigger, she explained.

[1:50:48 PM](#)

REPRESENTATIVE SEATON said he will not support the amendment because it is unrelated to the tax bill before the committee. He noted that the legislature is establishing similar funds, and they should be separate pieces of legislation.

[1:51:24 PM](#)

CO-CHAIR SAMUELS said he agrees that the state benefits, and it is an easier job to sit here with high oil prices. He said it is tough to pay \$6 per gallon for aviation fuel in Cold Bay to get people to a village where they pay \$6-7 per gallon for heating fuel. He said he whole-heartedly understands the problem, but he thinks HB 488 is the wrong vehicle. The bill is already complicated. He said the resources committee could work on separate legislation that wouldn't be so politically treacherous.

[1:52:42 PM](#)

REPRESENTATIVE CRAWFORD said he agrees that the amendment is politically treacherous, but it is a statement the legislature could make. He said it doesn't say what the cost will be but a statement of intent. With high oil prices, the state is benefiting and people are suffering. "Now would be the proper time to make this statement."

1:53:30 PM

CO-CHAIR RAMRAS said he will oppose the amendment but will go on record of supporting the issue. He said he was amused by Anadarko Petroleum Corporation's testimony bemoaning the increasing cost of oil development by complaining of high-energy costs. He said he has seen the decrease in discretionary spending of Fairbanks citizens and the use of credit cards to heat their homes. High oil prices will do great harm to Alaskans, especially rural Alaskans. He said he will address this in another vehicle.

A roll call vote was taken. Representatives LeDoux, Crawford and Kapsner voted in favor of Amendment 10. Representatives Gatto, Olson, Ramras, Elkins, Seaton and Samuels voted against it. Therefore, Amendment 10 failed by a vote of 3-6.

1:55:58 PM

REPRESENTATIVE CRAWFORD moved conceptual Amendment 11, described by him as follows [original punctuation provided]:

This amendment would prevent a deduction from taxable income for the clean-up of oil spills, as in existing law Sec. 43.55.150 (c)(1) on the severance tax.

The existing language reads "the amount of loss of or damage to, or of expense incurred due to the loss of or damage to, a vessel used to transport oil if the loss, damage, or expense is incurred in connection with a catastrophic oil discharge from the vessel into the marine or inland waters of the state".

In addition, unless prohibited elsewhere in this bill, a provision should be added preventing a taxpayer from deducting the cost of any oil-spill related damage or penalty payments to a governmental or private party.

CO-CHAIR RAMRAS objected.

REPRESENTATIVE CRAWFORD said the state should not pay for the cost of clean up of a spill, like the Exxon Valdez spill, or that it should allow a deduction against profits for the cost of settlements. He said his amendment uses the same language of existing statute.

[1:58:02 PM](#)

CO-CHAIR SAMUELS asked if the amendment technically fit into the law.

DAN DICKINSON, Consultant to the Office of the Governor, said he is confused. He said that after the Exxon Valdez oil spill of 1989, the following language "stepped in." "In determining the gross value of oil under (a), the department may not allow, as a reasonable cost of transportation." He said, "Our current statute prohibits...we may not allow these as a deduction currently. So I'm concerned. I guess I am simply confused as to what this conceptual amendment is showing."

CO-CHAIR SAMUELS asked Mr. Dickinson if he meant that what Representative Crawford wants is already in law; spill expenses are not deductible.

MR. DICKINSON said, "Unless the question is, if we cannot do it for purposes of gross and...this conceptual amendment will mean we cannot either do it for purposes of net."

[1:59:26 PM](#)

REPRESENTATIVE CRAWFORD said he doesn't want spill costs to be written off against profits.

MR. DICKINSON stated, "I think to clarify your question is, we already, those are already not allowed in the calculation of the gross. And...so the question would be if we would transfer and make sure this is also not allowed for purposes of the net. It would be a conceptual issue."

[2:00:00 PM](#)

REPRESENTATIVE SEATON asked about the CS. "Are we amending or deleting this previous language and, therefore, do we need to have this in?"

MR. DICKINSON said, "No, this section would not be altered by either the bill that the administration submitted or the CS. Currently this language stands unchanged in both."

CO-CHAIR SAMUELS said he still wants to know if it is already a law that companies can't deduct [the costs of oil spills] "in any way, shape or form?"

[2:00:53 PM](#)

MR. DICKINSON said, "That is correct. You cannot use it in calculating the gross value, and then, what we have done, is we said you start with the gross value, you subtract a bunch more things to come to net. I suppose it is possible that an argument could be made that these costs, if they were lease related, could be calculated as part of that net deduction. Generally, I suppose, inland waters of the state might include a spill to a river, upstream on the lease."

[2:01:24 PM](#)

REPRESENTATIVE GATTO asked if this is the Joe Hazelwood amendment.

MR. DICKINSON said he believes this was introduced to deal with the costs that were spent...

REPRESENTATIVE GATTO interjected and asked if any part of the oil cleanup costs in 1989 applied to net profits for state or federal taxes as a normal cost of doing business.

[2:01:57 PM](#)

MR. DICKINSON said the state was not calculating profit at that time. "Because of the passage of this piece of legislation, those costs were generally not considered a cost of transportation."

ROBYNN WILSON, Director, Tax Division, Department of Revenue, said those expenses for spill cleanup are a normal, ordinary and necessary business expense and so would be deductible for federal income taxes, "and, therefore, because we piggy-back off of federal rules, would have been deducted then for state income tax purposes."

[2:02:55 PM](#)

REPRESENTATIVE SEATON asked if the intent of the amendment is that costs incurred in spill cleanup would not be a deductible expense under the PPT.

REPRESENTATIVE CRAWFORD said that is right, as well as the cost of any damages or settlement against the company. "I don't believe we should be, in any way, allowing that as a deduction for doing business against the profits."

[2:03:44 PM](#)

REPRESENTATIVE SEATON said he is confused with the addition of the last sentence [of the amendment], and suggested splitting it into two amendments. "One is that this would not be considered an allowable deduction for the PPT, and the other...that it wouldn't be able to be used for any other kind of deduction." He noted that there may be some legal constraints in changing income tax language.

[2:04:28 PM](#)

REPRESENTATIVE CRAWFORD said he would be happy with limiting the amendment to the costs of oil spill cleanup and awarded damages under the PPT.

CO-CHAIR SAMUELS said, "So we will go with calling the amendment against the PPT for the costs of any oil spill related damage or penalty payments to a governmental or private entity against the PPT as Amendment 11a, which is on the table before us now."

REPRESENTATIVE GATTO said oil can be spilled without the fault of the producer, including acts of terrorism and vandalism and normal wear and tear. He said the recent spill came from an undetectable pinhole. "Is it your intent, in this amendment, to penalize the companies for conditions for which they have no control?"

[2:05:50 PM](#)

REPRESENTATIVE CRAWFORD said the intent was to follow the law as it is written now. There may be other passages that exempt acts of god, but he knows this is a law he wants continued under the PPT, "that they can't deduct it." There may be times that things could happen, but maybe the pinhole could've been taken care of through routine maintenance. He noted that there have been cutbacks on corrosion control and x-raying the pipeline to determine the fitness of the walls, "because they're trying to

reduce expenses." He said he has friends that worked on corrosion control, and they have been laid off. He said he doesn't know if that was part of the reason the recent oil spill happened, but it could have been. He said he doesn't want to speculate, but "a lot of this stuff is preventable."

[2:08:05 PM](#)

REPRESENTATIVE GATTO asked about piggyback arrangements. He said he understands what happens on the federal income tax regarding spill cleanup being an allowable expense, "but then you said you were able to piggyback back to the state, and that seems to be the reverse direction."

MS. WILSON said the calculation of state corporate taxable income begins with federal taxable income, and it follows with certain state modifications. "That means that if something is deducted on the federal tax return, that's sort of our starting point. We adopt most of the Internal Revenue Code by reference."

REPRESENTATIVE GATTO deduced that oil companies can take benefit from the expenses of cleaning up oil.

MS. WILSON said, "That is correct, and we calculate corporate income tax based on worldwide income apportioned to Alaska, so not only, for example, oil spills in Alaska but oil spills in Indonesia."

REPRESENTATIVE GATTO postulated that the federal government does not consider whether it was the oil company's fault or not.

MS. WILSON said that is correct, but she noted that the third paragraph has questions about penalties. "Penalties are specifically not allowed as a deduction, federally, if it's a penalty for breaking the law. It does not exclude penalties that may contractual."

[2:10:22 PM](#)

REPRESENTATIVE GATTO noted that the \$2 billion that the state might get from Exxon Valdez oil spill would not be deductible. "Is that a settlement or a penalty?"

MR. DICKINSON said that might depend, and he doesn't know the legal call. He said judgments to individuals might be different.

[2:10:51 PM](#)

MS. WILSON said it would depend on how damages would be split up.

MR. DICKINSON said page 20, lines 21 and 22, of the CS "already prohibits any costs arising from fraud, willful misconduct or negligence...wouldn't cover all spill costs, but it could deal with ones...in which negligence were a factor. And then the next line in which we essentially repeat the federal notion here: 'but the fines and penalties imposed by law'."

[2:11:39 PM](#)

CO-CHAIR SAMUELS said Amendment 11a is before the committee, "which would conceptually state that you could not deduct the cost of any oil spill related damage or penalty payments to any government of private party. [It] would not allow that off of the PPT."

MR. DICKINSON said that the language referred to by "the maker of the amendment" is for a catastrophic oil spill, which is defined in statute. He said he believed that the recent spill would not be defined as catastrophic and would not qualify.

CO-CHAIR SAMUELS suggested getting the language and taking the issue up tomorrow. He said he tends to agree with the amendment and asked that the bill drafters be consulted.

[2:12:42 PM](#)

CO-CHAIR SAMUELS said the question is if throwing a rod in a truck is considered an oil spill.

REPRESENTATIVE CRAWFORD said the amendment refers to a vessel, so that could not include throwing a rod in a truck. "I think this is a fairly clear statement."

CO-CHAIR SAMUELS said he understands, and he would like to see it in writing.

REPRESENTATIVE CRAWFORD withdrew Amendment 11.

[2:13:48 PM](#)

REPRESENTATIVE GATTO suggested he find out if a pipeline is a "vessel".

[2:14:09 PM](#)

REPRESENTATIVE SEATON moved Amendment 12, labeled 24-GH2052\Y.8, Chenoweth, 3/16/06, as follows [original punctuation provided]:

Page 4, line 16:  
Delete "50"  
Insert "45"

Page 4, line 18:  
Delete "\$50"  
Insert "\$45"

Page 4, line 19:  
Delete "\$150"  
Insert "\$145"

CO-CHAIR SAMUELS objected.

REPRESENTATIVE SEATON said the starting point for the escalation of the surcharge has been discussed, and Amendment 12 moves that point to \$45 per barrel. He said decisions are made at \$40 per barrel. "Within our bill, we've got West Texas Intermediate [WTI]; we looked at a \$2.00 charge on that. We also talked about some way to work on inflation, and so if we look at that \$3.00 difference between the \$42 and now is being \$3.00-worth of inflation over the course of time here. That would get us to \$45. This would mean that between the time we're at 20/20, and the point at which we would reach 25 percent, which was...the other range that we were looking at for a start throughout the full range, we would be at \$60. So this corresponds to \$60 before we reach the 25 percent rate. So that's the intent of the amendment--to move this down \$5.00."

CO-CHAIR SAMUELS maintained his objection. He said he has a gut feeling, and he doesn't believe all of the numbers that the economists are providing. He asked about Alaska's economy over the long run. He said numbers are being thrown around, and he lies awake at night thinking about the \$100 million here and the \$100 million there. He spoke of the lowest common denominator for oil companies, and "if something on the bubble falls off, it is a tremendous amount of money, which all of us--and I am probably the worst offender at this--throwing a lot of big numbers around that get spent in my community and in Fairbanks--

it gets spread in every community." He added that the \$50 amount would end up with more than 20 percent tax at \$60 per barrel. He said the goal was to get past "this bell curve of the decision making process, and nobody will tell us what the number is." He fears a damage to the economy if investments aren't made. He said the legislature could turn things around by adjusting the tax rate, but "we tried to get as far away from the decision making matrix...in the \$30s and the \$40s, and if we shot a little bit high, you leave some money on the table, but you don't damage the economy. And to me that's the trade off and the balance and that is the crux of the entire bill." He noted that Mr. Wenzel of ConocoPhillips Alaska, Inc. said the company can't leave Alaska, but they can reduce projects, which will cause a decline in productivity--a little at a time. He said the number he came up with was a happy medium "to try to get away from the decision-making, and we got into the mid-20s at current oil prices." He said it is a tough call because the decision matrix might be higher than he thinks it is. He said his concern is if production and prices drop, "we've stuck it to the Alaskan economy."

[2:20:43 PM](#)

REPRESENTATIVE SEATON said he agrees it is a balancing act. He said economists have said 20 percent or 25 percent, and this CS is at 20 percent, "and at some point we have to have that escalator that gets us there, and this doesn't get us to 25 percent until we reach \$60 a barrel." He added that all testimony showed that investment decisions are based on approximately \$40 per barrel, with \$30 per barrel being used as "crunch time". "When we're looking at \$45 to start a 0.3 percent increase, I don't think that that's going to be influencing those decisions." He said the legislature hired an [ex]-Arco chief economist for his expertise on the matter who gave various scenarios from \$35 to \$50 per barrel. Representative Seaton said he came up with \$40 per barrel as a good figure.

[2:22:47 PM](#)

CO-CHAIR RAMRAS spoke of charts comparing WTI with ANS. He noted that HB 488 keys off of WTI at \$50 per barrel, and historically ANS has sold at \$2.31 less. He said that range goes up to \$3 or \$4.00, meaning that progressivity kicks in when WTI hits \$50 per barrel, which means that Alaskan crude is generally priced at \$47.70. He said the bill is about three things. It is a tax bill, and he is happy it is based on net

profits, which he agrees with, and it is layered with progressivity. It is time to catch up with the rest of the globe. He said the bill is also about getting more oil in the pipeline, and that is the most important thing for him. He said it will include additional production in legacy fields, and he was told that the partners in those fields have veto power, "and that means that every investment has to meet the investment profile for all three companies." He noted that a six-well program might have oil in one out of those six wells. He said there aren't any Prudhoe Bays left except for the natural gas pipeline and the Arctic National Wildlife Refuge, and Mary Cantwell and her friends are preventing drilling there. He said what is left is an enormous amount of 25-500-million barrel fields, and many are in the legacy fields, which are controlled by the three large producers. He said it is important to set the table for those three companies so they will invest in that oil. He said he was interested in the BP charts showing 50 more years in Alaska, beginning with 100 percent oil and phasing to nearly 100 percent natural gas. He said he is interested in how to get the last barrel of oil. His priority is getting more oil, and the new tax is his third highest priority. He compared HB 488 to the awards from the Olympics.

[2:29:18 PM](#)

CO-CHAIR RAMRAS said he opposes Amendment 12 because "this is the bronze medal component of what we are trying to do, and I'm interested in scoring the gold and silver first for the State of Alaska, and the bronze is third for me."

[2:29:43 PM](#)

REPRESENTATIVE CRAWFORD said that was a beautiful speech, but he disagrees. He said this net profit tax is putting all our eggs in the one basket of high oil prices. He said he has been burned before, with promises of blue skies. He said he is sure there will be oil prices in the mid \$20s or lower. In 1986 and 1989 battles, legislators were trying to get the state through hard times, so they decided to give up money at the high end to protect the state at the low end. "By going for more progressivity at the high end and still not taking care of the lower end, I'm not sure that that's the right way to go." He asked what the state would have to give up on the high end [of oil prices] if there was more protection at the low end. He said he is inclined to support the amendment, but in light of a future amendment to create protection at low oil prices, he is not sure this amendment is appropriate. He opined that going to

a net profits tax rather than fixing the severance tax is the problem. A severance tax would be more easily verifiable. He said movies never make money, including blockbusters like "The Titanic," and he found that it is because of a net profits tax. He is afraid of going to a PPT, and some leases on the North Slope are net profit leases where the state doesn't do nearly as well as on severance tax leases. "I am not sure we are doing the right thing by going for another \$5 in price for progressivity. I think that our foundation is rotten. I think this whole concept really is a pig, and we're putting perfume on the pig, and I think we're wrong."

[2:34:34 PM](#)

A roll call vote was taken. Representatives Seaton, Crawford and Kapsner voted in favor of Amendment 12. Representatives Gatto, Olson, Ramras, Elkins, LeDoux and Samuels voted against it. Therefore, Amendment 12 failed by a vote of 3-6.

The committee took an at-ease from 2:35 p.m. to 2:44 p.m.

CO-CHAIR SAMUELS said he sought to ensure that all members were aware of how the progressivity works in the CS, and he asked Mr. Dickinson to discuss it.

MR. DICKINSON said he will refer to the CS, page 4, subsections (f), (g), and (h), and describe what they do. He said the main point is that the CS adds an extra tax on gross, unlike the original HB 488. The PPT will be on the net after deducting all costs. The surcharge in (f), (g), and (h) will be on the gross—the same thing the ELF tax is levied on, which is the wellhead value of oil. He said in subsection (f), the tax is equal to 0.3 percent of the gross value at the point of production multiplied by the oil price index. "So we get gross value at the point of production, and we multiply it times this number. The number's going to be calculated, as set out in (g), as the WTI, the price of WTI minus 50, times 0.3. So when oil prices are \$50 [per barrel], 50 - 50 equals zero, and this tax will not kick in." He repeated that the tax will not kick in at any price below \$50 per barrel. If the price of oil is \$51 per barrel, there would be an index of 1, and multiplying 1 by 0.3 would equal a tax of 3/10 of a percent on all taxable barrels at their gross value. He explained that taxable barrels will be everything except the state and federal royalty share. He used an example of \$60 per barrel. He subtracted \$50, got 10, and

then multiplied that by 0.003, which causes an additional 3 percent tax on the wellhead gross value.

MR. DICKINSON said that tax will be added to the PPT. "If we get up into a situation where there's a crisis, and we get into the \$100 or \$150 range, a tax on net and a tax on gross are essentially going to be on the same base, because...let's say the costs are \$10 per barrel on the North Slope. So one of the taxes will be based on \$150 and the other one will be based on \$140 dollars, so the difference will not be huge. As the prices fall, you will see a bigger difference between net and gross."

MR. DICKINSON said there are two effects. The surcharge will be on a slightly higher value than the net tax, so if prices are at \$60 per barrel and there are \$10 of costs, the net tax would be on a \$10 lower price than the gross tax. Also, this tax is specifically made deductible for purposes of the PPT, he said. It is almost like an overriding royalty, he explained. He said it is stated on Page 17, line 24.

MR. DICKINSON noted that the tax in (f), (g) and (h) will be based on wellhead value. One tax is deductible for the other, and at a 20 percent tax rate, "you will only be receiving, essentially, 80 percent of the amount indicated here." He said the third point is that it is based on WTI, a marker that is acknowledged worldwide. He said there is graph that plots WTI versus ANS, and it captures all the swings; when one goes up, the other goes up. He said that has been a useful measure.

[2:52:23 PM](#)

REPRESENTATIVE SEATON spoke of the gross versus the net when there are high prices, "doesn't that mean that we have the greatest impact at the lower prices? In other words, the differential between gross and net is much more at the lower price end." "Aren't we getting more impact at just marginally higher prices?"

MR. DICKINSON said that if prices went to \$150 per barrel, at that point it caps out at 30 percent. So a company would be paying 30 percent of the gross on the surcharge, and paying 20 percent of the net under the PPT. Someone might add them together and say it would be a 50 percent tax, but at \$150, it would be fairly accurate to say it is approaching 50 percent because "what you're taking a percentage of...let's say that WTI is \$150, the ANS wellhead was going to be \$140, and then after

deducting all costs you might be down to \$135. They're going to be very close together."

REPRESENTATIVE SEATON said, "If we have a difference between \$140 and \$150, so we go up a dollar. The impact of that dollar is much less, between net and gross, than it is between \$50 and \$51, because you've got..."

The committee took an at-ease from 2:55 p.m. to 3:05 p.m.

CO-CHAIR SAMUELS listed items on the agenda for the following day, March 17, 2006, including Amendment 9, the deletion of certain portions of section 27; Amendment 13, raising the tax from 20 to 25 [percent]; an amendment on a tax floor at low ends; language on the deductibility of oil spills; and other amendments that may surface.

[3:06:29 PM](#)

REPRESENTATIVE CRAWFORD noted that the idea of splitting gas and oil in the bill will be considered.

[HB 488 was held over]

#### **ADJOURNMENT**

[3:06:43 PM](#)

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:06 p.m.