

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 28, 2006

1:21 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Co-Chair
Representative Ralph Samuels, Co-Chair
Representative Jim Elkins
Representative Carl Gatto
Representative Gabrielle LeDoux
Representative Paul Seaton
Representative Harry Crawford
Representative Mary Kapsner

MEMBERS ABSENT

Representative Kurt Olson

COMMITTEE CALENDAR

HOUSE BILL NO. 498

"An Act authorizing tax credits against the production tax on oil and gas for qualified expenditures for challenged or nonconventional oil or gas and for qualified expenditures for nonconventional or renewable energy resources; giving the Act contingent effect; and providing for an effective date."

- MOVED CSHB 498(RES) OUT OF COMMITTEE

HOUSE BILL NO. 497

"An Act providing for the transfer of property at Clark Bay to the Inter-Island Ferry Authority."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 498

SHORT TITLE: TAX CREDITS NONCONVENTIONAL OIL/GAS

SPONSOR(S): RULES

04/03/06	(H)	READ THE FIRST TIME - REFERRALS
04/03/06	(H)	O&G, RES, FIN
04/11/06	(H)	O&G AT 8:00 AM CAPITOL 120
04/11/06	(H)	Moved Out of Committee

04/11/06 (H) MINUTE(O&G)
 04/12/06 (H) O&G RPT 2DP 1NR 3AM
 04/12/06 (H) DP: ROKEBERG, KOHRING;
 04/12/06 (H) NR: SAMUELS
 04/12/06 (H) AM: GUTTENBERG, DAHLSTROM, MCGUIRE
 04/12/06 (H) LETTER OF INTENT WITH O&G REPORT
 (FORTHCOMING)
 04/19/06 (H) RES AT 1:00 PM CAPITOL 124
 04/19/06 (H) Heard & Held
 04/19/06 (H) MINUTE(RES)
 04/20/06 (H) RES AT 1:00 PM CAPITOL 124
 04/20/06 (H) Heard & Held
 04/20/06 (H) MINUTE(RES)
 04/21/06 (H) CORRECTED O&G RPT 2DP 2NR 2AM
 04/21/06 (H) DP: ROKEBERG, KOHRING;
 04/21/06 (H) NR: SAMUELS, DAHLSTROM;
 04/21/06 (H) AM: MCGUIRE, GUTTENBERG
 04/21/06 (H) RES AT 1:00 PM CAPITOL 124
 04/21/06 (H) Heard & Held
 04/21/06 (H) MINUTE(RES)
 04/27/06 (H) RES AT 1:30 PM CAPITOL 124

BILL: HB 497

SHORT TITLE: TRANSFER CLARK BAY TERMINAL
 SPONSOR(s): TRANSPORTATION

03/29/06 (H) READ THE FIRST TIME - REFERRALS
 03/29/06 (H) RES, FIN
 04/26/06 (H) RES AT 1:00 PM CAPITOL 124
 04/26/06 (H) Heard & Held
 04/26/06 (H) MINUTE(RES)
 04/27/06 (H) RES AT 1:30 PM CAPITOL 124

WITNESS REGISTER

REPRESENTATIVE NORM ROKEBERG
 Alaska State Legislature
 Juneau, Alaska
 POSITION STATEMENT: Discussed HB 498 as sponsor.

BILL VAN DYKE, Director
 Division of Oil and Gas
 Department of Natural Resources
 POSITION STATEMENT: Answered questions regarding HB 498.

ROBERT MINTZ, Assistant Attorney General
 Oil, Gas, and Mining Section

Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding HB 498.

MICHAEL HURLEY,
ConocoPhillips Alaska, Inc.
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding HB 498.

ACTION NARRATIVE

CO-CHAIR RALPH SAMUELS called the House Resources Standing Committee meeting to order at [1:21:38 PM](#). Representatives Elkins, Ramras, Samuels, Gatto, and Seaton were present at the call to order. Representatives LeDoux, Crawford, and Kapsner arrived as the meeting was in progress.

HB 498-TAX CREDITS NONCONVENTIONAL OIL/GAS

CO-CHAIR SAMUELS announced that the first order of business would be HOUSE BILL NO. 498, "An Act authorizing tax credits against the production tax on oil and gas for qualified expenditures for challenged or nonconventional oil or gas and for qualified expenditures for nonconventional or renewable energy resources; giving the Act contingent effect; and providing for an effective date."

CO-CHAIR RAMRAS REPRESENTATIVE moved to adopt the committee substitute (CS) to HB 498, 24-LS1817\S, Chenoweth, 4/26/06. Hearing no objections, Version S was before the committee.

[1:22:24 PM](#)

CO-CHAIR SAMUELS listed the changes in the CS from the original bill. He said the CS eliminates research and development credits and delineates geographical areas of known heavy oil fields. The CS allows the Department of Natural Resources (DNR) to determine new heavy oil areas and then report it to Legislative Budget and Audit and the Department of Revenue (DOR), which will issue the credit after 30 days. The credit is non transferable, and the CS "tightens up some of the language on qualified capital expenditure." The CS eliminates the alternative energy section of the bill because it was exclusive to the oil industry, and he said gas was left in the CS because heavy oil doesn't have much gas within it. Exploration costs will not be eligible for the challenged-oil credit, he added.

[1:25:24 PM](#)

REPRESENTATIVE NORM ROKEBERG thanked Co-Chair Samuels, the staff at DOR and DNR, and ConocoPhillips Alaska, Inc. for "spending the weekend with me." He noted that the CS is a light version of the bill. He said the key element is defining everything as qualified development expenditures rather than qualified capital expenditures. He said one of the amendments being considered relates to page 3, line 21 (i), and the definition of challenged oil pools, and it "includes the Ugnu or Schrader Bluff within the Prudhoe Bay unit or the Milne Point Unit, except that portion of a pool in the Schrader Bluff formation produced from the drill site "s"...and then the West Sac Ugnu within Kuparuk, except those portions in the pool West Sac information produced and from drill site 1c, 1d, e, and 1i...and including the Lisburne." He said there is an email to remove the exceptions. He said he has been specific to minimize the application of the credit and left the door open to encourage other companies "to enter and develop formations on the North Slope or anywhere in Alaska." With a few tweaks, it is a good piece of legislation, he opined. He wants the bill to go to House Finance Committee to include it in [the legislation for the petroleum production tax], where they might want to substitute portions of this bill into that one. He said, "This is more of a rifle shot area at the area that we as the citizens of the State of Alaska want to develop, and not a broad-brushed, open-ended credit."

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CO-CHAIR SAMUELS said a lot of people heard the comments made by Pedro van Meurs in the last few days. "But I would concur with the rules chairman, that if we get this to the next committee we may be able to use some of the language ... I wouldn't see that this bill would pass as a stand-alone bill." He stated that he did not get a chance to meet with Dr. van Meurs, but he has no problem with getting HB 498 to the next committee.

REPRESENTATIVE ROKEBERG said Daniel Johnston, a legislative consultant, issued "what I would call a glowing endorsement of the idea of having heavier, challenged oil having ... greater incentives [indecipherable] so we have the two consultants diametrically opposed, and my opinion of Mr. Johnston went up significantly after I read his letter."

[1:32:04 PM](#)

REPRESENTATIVE SEATON said the 30-day notice [of heavy oil determination] to Legislative Budget and Audit (LB&A) is short for such projects, especially if there will be any kind of challenge to the designation.

REPRESENTATIVE ROKEBERG said he was involved in a bill for royalty relief 12 years ago, and he and Representative Kohring fixed the bill three years ago to narrow down the legislative and governor reviews. He said this 30-day period is only the period after there's been notice.

CO-CHAIR SAMUELS said LB&A is inundated with everything coming to the legislature. He asked how long it would take DNR to go through seismic and geologic data to come up with a ruling on whether there was heavy oil.

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BILL VAN DYKE, Director, Division of Oil and Gas, Department of Natural Resources (DNR), said it is unlikely that someone would apply for the credit for only one well, unless it is a well that expands an existing pool. "You are building your information over time...the actual determination would probably just take a month or two." There would be a lot information by then and "you'd sort of know where you were going to likely go with it."

CO-CHAIR SAMUELS asked about the timeline and not delaying a project. He said it would depend on the time of year, but he wondered if a few more weeks would really matter.

[1:36:35 PM](#)

REPRESENTATIVE ROKEBERG said the bill allows six months for DNR to make a determination after an application from the industry.

CO-CHAIR SAMUELS asked about sending a copy of the application to the committee so the members could follow the process.

REPRESENTATIVE ROKEBERG said he didn't think the committee would want "a stack of technical data."

[1:37:48 PM](#)

MR. VAN DYKE said most of the information will be confidential.

CO-CHAIR SAMUELS said he doesn't have an opinion.

REPRESENTATIVE SEATON asked about qualified development expenditures, and he said on line 13, page 4, the bill states: a lease expenditure under AS43.55.160, the primary purpose for challenged oil and qualified capital. He said, "As this is constructed, they're all 'ands', right? We're not talking about ordinary operating costs, and I just wanted to make sure that wasn't an opening. I wanted to make sure that those three -- a, b, and c -- were all 'ands'."

REPRESENTATIVE ROKEBERG said they are all conjunctive and they have to all apply.

REPRESENTATIVE SEATON said he just wants to make sure that the bill is not mistakenly allowing "any lease expenditure; it's got to be a lease expenditure that's for challenged oil and also has to be a capitalized expenditure."

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The committee took an at-ease from 1:40 to 1:41 p.m.

CO-CHAIR SAMUELS explained Amendment 2, labeled 24-LS1817\S.1, April 27, 2006, as follows [original punctuation provided]:

Page 3, Line 25-27

Amend as follows:

(ii) the Milne Point Unit; [except for that portion or portions of a pool in the Schrader Bluff formation produced from the drill site S area;]

Page 3, Line 29-30

Amend as follows:

...River Unit; [, except for that portion or portions of a pool in the West Sak formation produced from the drill site 1C, 1D, 1E, or 1J drill site areas;]

CO-CHAIR SAMUELS said it looks like a conforming amendment.

MR. VAN DYKE said, "If you're going to define viscous oil pools...in the known core area oil pools--if you're going to include the Prudhoe Bay Unit, Ugnu, and Schrader Bluff formations, and that would be on page 3, line 24. If those entire pools are going to be included, then I don't see really

any justification to exclude the core areas in other oil pools. It's either all the core areas are included or all the core areas are excluded." He said the current bill is a mix of the two ideas; line 24, page 3 includes the core areas in Prudhoe Bay, and lines 25-30 exclude other core areas, and he said he doesn't see the logic.

[1:43:00 PM](#)

REPRESENTATIVE ROKEBERG said Scott Digert is the subsurface team leader from BP and supports the amendment.

CO-CHAIR SAMUELS said this was discussed over the weekend and he wants the bill to "specifically say there are geographical areas—we wanted to eliminate those four drill sites and leave another one in. That was the specific intent of the CS."

REPRESENTATIVE ROKEBERG said he received Mr. Van Dyke's email prior to writing the CS, and said Mr. Van Dyke said that "removing them, given the way we redefined the eligible fields, was inappropriate after we had put the sideboards up by limiting the scope of the definition, therefore, not making it necessary to accept those particular existing drill pads because the credits would only be due on future development expenditures, not retrospective expenditures. And those are, like, projects in progress, so you don't want to—they're actually sinking money down those holes—you want to keep them doing that, so we don't want to 'disincent' those and have them get a credit for a drill pad down the block, a new one, when you couldn't get it on the current one they're working on to try to—because these are test pads. They're producing but you want to make them produce more."

[1:45:30 PM](#)

CO-CHAIR SAMUELS said, "What we did is we included Orion and Polaris and excluded the drill sites because the drill sites were actually producing."

MR. VAN DYKE said that is correct.

CO-CHAIR SAMUELS said he excluded 1c, 1d, 1e, 1j, and there was one other because they are already producing. That was the middle ground that was reached by including Orion and Polaris.

MR. VAN DYKE said there are viscous oil drill sites in Prudhoe Bay that are producing today, and one or two yet to be built. Prudhoe Bay is a mix. He said his email had excluded most of

it, and that is where the debate is. It is hard to divide the Prudhoe Bay viscous oil pools by drill sites, he opined.

[1:47:13 PM](#)

CO-CHAIR SAMUELS said the email said, "except the oil produced from those four drill sites," and you also want to exclude Orion and Polaris.

MR. VAN DYKE said that is correct, the email from last week had drill site "s" in Milne Point; drill sites 1c, 1d, 1e, 1j in Kuparuk; plus an area in Prudhoe Bay. He said the CS adopted that idea from Milne Point and Kuparuk, but not his suggestion from Prudhoe Bay. He said he had discussions with the "Kuparuk and Milne Point folks" and then indicated in his email that it may be wiser to not exclude those areas. He stated that carving out areas creates disincentives.

CO-CHAIR SAMUELS said, "We could go back to your original view and take out Orion and Polaris, but we drafted the entire bill based on the conversation we had this weekend, and we took most of what you wanted and we put Orion and Polaris there."

MR. VAN DYKE said, "At Prudhoe Bay you could name a couple drill sites in Prudhoe and that would leave room for any new drill sites to earn credits, and that would be the way...to approach Prudhoe Bay." He said by going the "exclusion route," the bill would exclude w and z pads.

[1:49:01 PM](#)

REPRESENTATIVE ROKEBERG read an email from Scott Digert of BP saying that BP would need to spend \$10 million to \$30 million to target additional reservoir layers from the Milne pad. There is a sound argument for not excluding those drill pads when they are still under development, he said.

CO-CHAIR SAMUELS said that argument could have been made a week ago.

REPRESENTATIVE ROKEBERG said, "Yea, [in] a perfect world."

[1:50:54 PM](#)

REPRESENTATIVE SEATON moved Amendment 2, as described above. Hearing no objections, Amendment 2 carried.

CO-CHAIR SAMUELS asked if Mr. Van Dyke agrees with conceptual Amendment 1, which "appears to be a technical definition." Conceptual Amendment 1, labeled 24-LS1817\S.2, April 27, 2006, is as follows [original punctuation provided]:

Page 3, Line 20

Amend as follows:

...in an oil pool[.] and the method to be used to determine the average permeability of an oil pool's reservoir rock.

MR. VAN DYKE said he agrees that it is a technical definition.

REPRESENTATIVE SEATON said he would move it but he doesn't understand it.

MR. VAN DYKE said the amendment is similar to a regulation that would state how one would determine API [American Petroleum Institute] gravity for a pool. This language would state how permeability is determined. He noted that parts of a reservoir will differ, so there needs to be an average.

[1:54:12 PM](#)

REPRESENTATIVE SEATON asked if the amendment refers to other oil challenges rather than viscosity.

MR. VAN DYKE said yes; it would use permeability to define challenged oil.

Hearing no objections, conceptual Amendment 1 carried.

REPRESENTATIVE SEATON moved Amendment 3, labeled 24-LS1817\S.2, Chenoweth, 4/27/06, as follows [original punctuation provided]:

Page 2, line 30:

Delete "(i)(1)(A) - (D)"

Insert "(m)(1)(A) - (D)"

Page 3, following line 12:

Insert new subsections to read:

"(g) If the department determines under (i) of this section that the average price of Alaska North Slope oil on the United States West Coast during the period April 1, 2006, through March 31, 2016, is \$50 a

barrel or more, a producer that takes a credit under this section shall repay to the department, no later than June 30, 2016, the amount of the credit, with interest at the rate prescribed in this subsection. Interest is at a rate equal to the rate of return, as determined by the department, that is earned by the budget reserve fund established under art. IX, sec. 17, Constitution of the State of Alaska, from the date the credit was applied against the producer's tax liability until the earlier of June 30, 2016, or the date the payment is made to the department. Interest on an amount unpaid after June 30, 2016, is at the rate prescribed under AS 43.05.225(1) from July 1, 2016 until the date the payment is made to the department.

(h) A producer that otherwise is allowed to apply a credit under this section against a tax due for a month ending before April 1, 2016, may defer using the credit until after April 30, 2016. If the department determines under (i) of this section that the average price of Alaska North Slope oil on the United States West Coast during the period April 1, 2006, through March 31, 2016, is less than \$50 a barrel, the producer then may apply the credit against a tax due under AS 43.55.011(a) or may request a refund from the department of the amount of the credit, with interest at the rate prescribed in this subsection. Interest is at a rate equal to the rate of return, as determined by the department, that is earned by the budget reserve fund established under art. IX, sec. 17, Constitution of the State of Alaska, from the date the tax under AS 43.55.011(e) was due against which the amount of a credit could have been applied against the producer's tax liability in accordance with (c) of this section, until

(1) the date the amount of the credit is actually applied against a tax under this subsection, if it is applied; or (2) the earlier of 90 days after a refund request for the amount of the credit is received by the department or the refund is paid, if a refund is requested. Interest on an amount unpaid 90 days after a refund request is received by the department is at the rate prescribed under AS 43.05.225(1) from the 91st day after the refund request is received until the date the refund is paid.

(i) The department shall, by regulation, specify the method by which the average price of Alaska North

Slope oil on the United States West Coast shall be calculated, with reference to one or more published sources of price information. The department shall make available to the public no later than April 30, 2016, its determination of the average price of Alaska North Slope oil on the United States West Coast during the period April 1, 2006, through March 31, 2016.

(j) For purposes of the period of limitations provided under AS 43.05.260, an amount that a producer is obligated to repay to the department under (g) of this section is considered a tax imposed by this title for which a return is filed on June 30, 2016. A producer that incurs an expenditure before April 1, 2016, for which a credit is claimed under this section shall maintain until July 1, 2019, its records sufficient to show whether the expenditure is a qualified development expenditure and to show the tax liability against which the credit is or, under (h) of this section, could have been applied."

Reletter the following subsections accordingly.

Page 3, line 13:
Delete "(h)"
Insert "(l)"

CO-CHAIR SAMUELS objected.

REPRESENTATIVE SEATON said Amendment 3 provides a price guideline [to qualify for the credits], which is an ANS West Coast price of \$50 [per barrel]. There is a look-back period in applying for credits, "just as in the bill, or they could be delayed, and then at the end of the ten-year period, you'd look at the average price of the oil and if it had exceeded that price cap, then the company would repay the state for the credit because it wouldn't have been...needed, because it was at a price level that was economic to develop." Oil price will either exceed a certain amount or there will be a credit, he said. He said he would "conceptually change from the price of ANS West Coast to average price at point of production."

The committee took an at-ease from [1:57:05 PM](#) to [1:57:11 PM](#).

CO-CHAIR SAMUELS said he doesn't know the consequences of changing the price to the point of production.

REPRESENTATIVE SEATON said the House Finance Committee could look at that.

REPRESENTATIVE ROKEBERG asked if Representative Seaton wanted to adjust the price.

REPRESENTATIVE SEATON said he will leave it to the House Finance Committee. He said "some of the companies" suggested inflation proofing, but "that complicates everything." He added that if it is incorporated into the PPT, it can be adjusted to conform.

CO-CHAIR SAMUELS said the Department of Revenue can look at it.

REPRESENTATIVE SEATON said Ms. Wilson of DOR did look at it.

REPRESENTATIVE CRAWFORD noted that Amendment 3 said a company "may defer using the credit until after April, 30 2016," and in the bill it says "shall calculate and apply every month," and he asked if that is a conflict.

[1:59:48 PM](#)

REPRESENTATIVE SEATON said page 2, line 1, of the bill reads: the producer makes an election. He said the producer makes an election and then amortized it or...elects to put it off to the sunset period.

REPRESENTATIVE ROKEBERG said there would be a true-up period, so this is a cap on the credit. If oil exceeds \$50 [per barrel] there is no credit.

ROBERT MINTZ, Assistant Attorney General, Oil, Gas, and Mining Section, Department of Law, said line 12, page 1, states: a credit under this subsection is subject to the provisions of g to j. He surmised that "would tell you that, where subsection (b) says that you shall take a credit every month, that wouldn't apply if you were deferring it."

[2:01:52 PM](#)

CO-CHAIR SAMUELS said to pass it as a conceptual amendment.

CO-CHAIR SAMUELS removed his objection. Hearing no further objections, Conceptual Amendment 3 carried. He said Amendment 4 will not be offered, and Amendment 5 is from Mr. Mintz.

REPRESENTATIVE SEATON moved Amendment 5 as follows:

Page 4, line 20,

Delete "producer"

Insert "expenditure"

Hearing no objection, Amendment 5 carried.

CO-CHAIR SAMUELS asked Mr. Mintz if an "and" should be added on page 4, line 13. "Do we need to put an "and" after the AS43.55.160 to make sure that we include all three of these?"

MR. MINTZ said there is an "and" at the end of line 13; it is read as if it is a sentence in three parts.

[2:04:11 PM](#)

REPRESENTATIVE SEATON moved conceptual Amendment 6 as follows:

Page 2, line 19

Delete "30"

Insert "45"

CO-CHAIR SAMUELS objected.

REPRESENTATIVE ROKEBERG said he sees "no purpose in allowing a piece of paper to sit on the desk of LB&A another 15 days."

CO-CHAIR SAMUELS said the point was to give the legislature a voice, and during the interim it could take two weeks to get a quorum. During the session it is no problem. "By the time you got something, you read it, you understood it on day 1, it would still take you two weeks to get a quorum together."

[2:06:03 PM](#)

REPRESENTATIVE ROKEBERG said if someone lights a fire, the chair of LB&A could have a meeting. He said politicians react to something that is brought to their attention.

REPRESENTATIVE SEATON said he is not sure how DNR would provide the notice, but he assumes it would go out to more than just the chair of LB&A. Most of these projects are long term, he said,

and it takes awhile to get delineation and get it sanctioned after it was applied for.

CO-CHAIR SAMUELS asked the process for ConocoPhillips once it completed testing and got the information to DNR. He asked if the Board of Directors had to be informed and if the timing between 30 and 45 days matters.

MICHAEL HURLEY, ConocoPhillips Alaska, Inc., said it will take awhile to do a project. It is always painful to have a piece of paper sitting on somebody's desk, "but it's going to take awhile to get things done for a new pool."

[2:08:59 PM](#)

Hearing no further objections, Amendment 6 carried.

REPRESENTATIVE SEATON moved to report the CS for HB 498, labeled 24-LS1817\S, Chenoweth, 4/26/06, as amended, out of committee with individual recommendations and the accompanying fiscal notes. Hearing no objection, CSHB 498(RES) passed out of the House Resources Standing Committee.

HB 497-TRANSFER CLARK BAY TERMINAL

[2:09:37 PM](#)

CO-CHAIR SAMUELS asked Representative Elkins about HB 497.

REPRESENTATIVE ELKINS said he pulled the bill because, "after we had the big discussion in here," the interest group decided to pursue a lease from the state [instead of a land grant].

[HB 497 was heard and held]

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at [2:10 PM](#).