

MINUTES
SENATE FINANCE COMMITTEE
Second Special Session
May 20, 2006
6:08 p.m.

CALL TO ORDER

Co-Chair Lyda Green convened the meeting at approximately [6:08:13 PM](#).

PRESENT

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Bert Stedman
Senator Lyman Hoffman
Senator Donny Olson

Also Attending: SENATOR BEN STEVENS; SENATOR JOHN COWDERY; SENATOR TOM WAGONER; SENATOR HOLLIS FRENCH; SENATOR GARY STEVENS; BILL CORBUS, Commissioner, Department of Revenue; DAN DICKINSON, Certified Public Accountant, former Director of the Tax Division, secured as a consultant by the Office of the Governor

Attending via Teleconference: From an Offnet Location: ROBERT MINTZ, Attorney with Preston Gates Ellis law firm, former Assistant Attorney General, Oil, Gas & Mining Section, Department of Law, secured as a consultant to the Department of Law

SUMMARY INFORMATION

SB 2001-OIL AND GAS TAX

The Committee heard a bill overview from the Commissioner of the Department of Revenue, a consultant to the Office of the Governor, and a consultant to the Department of Law. Five amendments were adopted and the bill was held in Committee.

#sb2001

SENATE BILL NO. 2001

"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; providing that provisions of AS 43.55 do not apply to certain oil and gas subject to a contract executed under the Alaska Stranded Gas Development Act; 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."

This was the first hearing for this bill in the Senate Finance Committee.

[6:09:08 PM](#)

BILL CORBUS, Commissioner, Department of Revenue, testified on behalf of the Governor Frank Murkowski Administration. This Petroleum Production Tax (PPT) legislation would provide the "right balance" in the effort to replace the "broken" Economic Limit Factor (ELF) severance tax system currently in effect. It would incentivize investment in the State, would include "special incentives" to encourage small companies to explore the State's resources, and would enhance the State's revenue stream, particularly at higher per barrel oil prices.

Commissioner Corbus expressed that the greatest risk facing the State "is that the producers failed to make the significant investments needed to monetize the State's gas reserves and to arrest the decline in oil production."

Commissioner Corbus overviewed the key provisions in this bill. It would implement a 20 percent tax rate and a 20 percent tax credit (20/20) with an effective date of July first 2006. It would also provide a \$12 million base allowance deduction and a five-year lookback on capital expenditures with a two for one recoupment transition provision. Many of the "improvements" made to the PPT bill by the House and Senate this past regular Session were incorporated into the bill.

[6:11:52 PM](#)

Senator Bunde appreciated the information the Administration had provided on both this bill and the natural gas pipeline legislation, the Alaska Stranded Gas Development Act (ASGDA). Even though, these were separate pieces of legislation, the PPT "does relate" to the gas pipeline legislation as it was likely that the ASGDA contract "would require certainty in that" the PPT tax rate "be locked in" for 30 to 45 years. Thus, his question was whether SB 2001, like the version of SB 305, relating to the establishment of a PPT system, passed by the House of Representatives during the regular session, included that consideration.

Commissioner Corbus affirmed.

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Senator Hoffman, asked whether Sec. 43.55.890. Relationship to Alaska Stranded Gas Development Act., added to article 4 of Sec. 43.55 by Section 30, on page 28 line 18 was new language. If that were the case, he asked the reason for its inclusion in the PPT.

Commissioner Corbus stated that this language specifies "what's going to happen in the contract". Dan Dickinson would provide further information on this issue during his forthcoming presentation.

DAN DICKINSON, Certified Public Accountant, former Director of the Tax Division, secured as a consultant by the Office of the Governor, affirmed that this issue would be addressed in his presentation.

Senator Hoffman acknowledged.

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ROBERT MINTZ, Attorney with Preston Gates Ellis law firm, former Assistant Attorney General, Oil, Gas & Mining Section, Civil Division, Department of Law, secured as a consultant to the Department of Law, testified via teleconference from an offnet location.

Mr. Mintz reviewed the provisions in the bill that differed from those of the version of the PPT bill, SB 305, passed by the House during the regular session. The first "most obvious

change" was that the bill's title had been shortened to "a more general description of the subject". This would "minimize inadvertent problems with the title" that might be incurred by future amendments.

Mr. Mintz next addressed substantive changes in the bill. The first was "the change in the basic tax rate from 21.5 percent to 20 percent" as depicted in subsection (e), added to AS 43.55.011 by Section 5, on page 3 line 11.

Mr. Mintz stated that since this bill does not contain a Progressivity tax component, language pertinent to the high energy cost fund that had been incorporated into the PPT bill passed by the House and which would have been supported by appropriations from Progressivity tax revenue, was deleted from this bill.

Mr. Mintz noted that subsection (g) added to AS 43.55.011 by Section 5, on page 4 after line 4 reflected language added to SB 305 in the House. This subsection would limit the gas tax that could be levied in Cook Inlet. This would be further addressed in Mr. Dickinson's presentation. He noted that while some "minor editorial changes" had been made to subsection (g), their effect was not substantive.

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Mr. Mintz informed the Committee that, due to an oversight, an amendment would be required to correct language in subsection (f) in Sec. 43.55.024. Tax credits for certain losses and expenditures., added to AS 43.55 by Section 12 on page 9 line 8. Subsection (f) contained language added to the version of SB 305 passed by the House, dealing "with refunding credits directly from the State treasury". A technical amendment would be required to address the reference "to a threshold of 50,000 barrels of oil equivalent", as the definition of "oil equivalent" was not included in the bill. He reminded that 6,000 cubic feet of gas was the equivalent of a barrel of oil.

Mr. Mintz next directed attention to subsection (g) in Sec. 43.55.024. Tax credits for certain losses and expenditures., added to AS 43.55 by Section 12 on page 9 line 28. This subsection addressed a situation where the Department of Revenue might determine there was a problem with a tax credit certificate issued to an explorer or a producer after that

certificate had been sold to another producer. The determination was that the certificate would continue to be valid, and that the department would "recover back against the original producer or explorer". The change was that the words "or deny" had been omitted after the word "adjust" on line 28 as it was deemed "somewhat redundant here because adjust could be down to zero".

Mr. Mintz also noted that new language had been added to subsection (g) on page 10 lines 1 and 2. This language clarified that were a tax liability to result from that error in the tax credit certificate amount, other tax credit certificates issued to that producer or explorer could "be reduced to account for the adjustment".

Mr. Mintz next addressed language in subsection (c) of Sec. 43.55.160. Determination of production tax value of oil and gas., added to article 1 of AS 43.55 by Section 25, on page 19 line 30. This subsection pertained to lease expenditures, which are deductible costs. The word "total" was omitted prior to the word "costs" in (c)(1) line 31 in consideration of how to treat other provisions relating to lease expenditures such as billings conducted under a unit operating agreement. The language in the bill reads as follows.

- (c) For purposes of this section,
 - (1) a producer's lease expenditures for a period are the costs upstream of the point of production of oil and gas that are incurred on or after July 1, 2006, by ...

Mr. Mintz addressed another language change in subsection (c)(1) page 20 line 2. The words "direct, and ordinary, and necessary" are three adjectives used in defining what would be considered deductible lease expenditures. During the House deliberations on the PPT bill during the regular session, Representative Mike Hawker had pointed out that because the words "'ordinary and necessary' always go together" and were "a phrase used in the federal income tax code which is specifically incorporated by this bill", they should not be listed "separately". Therefore, the words, "direct and" were intentionally added to the language.

Mr. Mintz characterized the change in subsection (c)(1)(A) in Sec. 43.55.160. Determination of production tax value of oil and gas., added to AS 43.55 by Section 25, on page 20 line 11 as a minor change. This section of the bill defined what the

Department of Revenue should refer to "for guidance in determining what deductible lease expenditures are". Industry practices and standards are the primary basis in determining what costs should be allowed to be billed to one's partners. The versions of the PPT bills discussed during the regular session considered industry standards in both the State and the country. The reference to the United States was eliminated from this bill. The determination was that the experience in the State would be sufficient. It would also be "more relevant and better defined".

Mr. Mintz noted that slight language alterations had occurred in subsection (c)(3) in Sec. 43.55.160. Determination of production tax value of oil and gas., added to AS 43.55 by Section 25, on page 21 line 4. He reminded that deductible lease expenditures were those costs upstream of the point of production. Costs downstream of the point of production typically involved "the costs of transporting oil and gas from where it was produced to where it's sold". Those costs would continue to be deductible under the PPT as they were under ELF; upstream costs would be added. "There was concern that the term upstream might be misinterpreted as being a kind of geographical concept rather than an operational concept." Subsection (c)(3) clarifies that the geographical location of where the cost is incurred would not be a factor; the determination would be on the type of operation upstream of the point of production. While this language had been included in the version of SB 305 passed by the House, minor changes were made to clarify that "it applies to exploration and development as well as production activities".

Mr. Mintz, referencing the aforementioned limit on tax on gas produced in Cook Inlet, added by the House in SB 305 and as denoted in this bill in Section 5, subsection (g), stated that as a result of carving out a geographic distinction for a particular area in the State, the deductible lease expenditures applying to that area must also be considered in calculating the new PPT tax for that area. Thus, language in subsection (c)(4) in Sec. 43.55.160. Determination of production tax value of oil and gas., added to AS 43.55 by Section 25, on page 21 line 8 was changed to accommodate that geographic distinction. The language was now specific to Cook Inlet as opposed to the more general language included in the version of SB 305 passed by the House.

Mr. Mintz noted that, for purposes of clarity, language changes had also been made to subsection (d) in Sec. 43.55.160. Determination of production tax value of oil and gas., added to AS 43.55 by Section 25, on page 21 line 24. This section previously listed the direct costs that could be deductible as well as those that would be excluded. In order to "avoid confusion", subsection (d) now only listed things that could not be deducted. Items that could be deducted were now included in subsection (c)(5)(C) of that section, beginning on page 21 line 20. The content of that subsection had not changed.

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Mr. Mintz reiterated that while the direct costs that could be deducted had not changed, changes had been made to the content of things that would not be deductible as specified in subsection (d); specifically subsection (d)(6) on page 22, line 2.

(d) For purposes of (c) of this section, lease expenditures do not include ...

(6) costs arising from fraud, wilful misconduct, or gross negligence

Mr. Mintz explained that previous PPT bills specified "negligence" rather than "gross negligence" as denoted in this bill. One of the key points raised during regular session committee discussions on this issue was "a concern that simple negligence could get caught up with all sorts of relatively routine events like fender benders that would cause unnecessary accounting headaches to try and exclude that sort of thing". "The primary concern" was "with oil spills and the desire on the part of many legislators that oil spill expenses and damages not be deductible". Those issues, which are now addressed in a separate subsection of subsection (d), would not even require a determination of "simple negligence".

Mr. Mintz next addressed language changes in subsection (d)(16) of Sec. 43.55.160. Determination of production tax value of oil and gas., added to AS 43.55 by Section 25, on page 22 line 21, dealing with exclusion provisions regarding dismantlement, removal, surrender, or abandonment issues. This provision regarded the multiplier calculation included in the version of SB 305 passed by the House for determining the percent of the

costs of dismantling a facility. For example, the multiplier for a facility that had been in use 15 years prior to the effective date of this bill and for 10 would be ten over 25. The change in this provision was that the term "well" was changed to "well pad" on line 27 of the provision in consideration of the fact that numerous wells are abandoned as part of routine maintenance operations. These were not end of life operations whereas the reference to abandoning a well pad would be.

Mr. Mintz stated that another change in subsection (d)(16) is on page 23 lines 2 through 5. The language was changed to clarify that the costs associated with renovating, enhancing or replacing a facility "would not be prohibited from being deducted".

Mr. Mintz next addressed changes in subsection (d)(17) of Sec. 43.55.160. Determination of production tax value of oil and gas., added to AS 43.55 by Section 25, on page 23 line 6. This provision dealt with "the prohibition of deductions" for "losses or damages for costs associated with unpermitted oil discharge". The change clarified that this prohibition would not apply were the oil discharge confined to a gravel pad, as the determination was that these would likely be "very small, somewhat routine leaks" that would be "administratively burdensome" to track.

Mr. Mintz advised that the provision in subsection (d)(18) of Sec. 43.55.160. Determination of production tax value of oil and gas., added to AS 43.55 by Section 25, on page 23 line 13 was one of the exclusions that had been moved from subsection (c).

Mr. Mintz advised that subsection (e) of Sec. 43.55.160. Determination of production tax value of oil and gas., added to AS 43.55 by Section 25, on page 23 line 15 was a "very important subsection ... It implements the concept that only net costs are deductible". For example, "if a producer purchases an asset, and then later on sells it, the sale price has to be deducted from the purchase price. Only the difference could be deducted." He explained that one of the things contemplated in this legislation is that billings under a unit operating agreement would be treated as lease expenditures. However, some items in those billings are actually netted by the unit operator before the billings occur, and thus they should not be subtracted from the lease expenditures. "This provision simply recognizes that that could happen and makes sure that there's no double subtraction ...".

Mr. Mintz noted that the version of SB 305 passed by the House included a provision that "an insurance recovery from a third-party insurer" was also a cost that had to be netted against costs. This language is now included in Sec. 25 subsection (e)(2) on page 24 line 4. In addition, qualifying language had been added to specify that this would only apply to insurance recovered from a third party insurer, as oftentimes, companies self-insure. An internal transfer of funds was not considered additional money received by the company.

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Mr. Mintz next addressed attention to subsection (a) in Sec. 43.55.170. Additional nontransferable tax credit., added to AS 43.55 by Section 25, on page 25 line 24. This provision established "a credit of up to 12 million dollars" a year" provided as one million dollars a month to each producer. The House limited this to producers with production below 100,000 barrels of oil BOE a day. This limitation was removed from this bill, and therefore any producers would qualify for this credit.

Mr. Mintz stated that the new section, Sec. 43.55.890. Relationship to Alaska Stranded Gas Development Act, added to article 4 of AS 43.55 by Section 30, on page 28 lines 15 was the focus of the question asked earlier by Senator Hoffman about the need to include the references to the ASGDA in this legislation.

Mr. Mintz stated that this language was added to clarify and emphasize something in the production tax statute "that was already a necessary aspect of the ASGDA and the contract under it". That being "if and when there's a contract approved and put into force under the ASGDA if that contract provides for payment in lieu of taxes for oil or gas or both that those payments in lieu of taxes are going to be what govern and not the production tax statute provision. This would avoid any doubt that that's the intention".

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Senator Hoffman was unsure that including this language in the PPT legislation would be "absolutely necessary", as he thought "the tax could go in and of itself and if and when the gas contract is passed that is where we would deal with the

necessity of including the, whatever, rates are adopted by the legislature into that contract".

Mr. Mintz agreed with Senator Hoffman; but stressed that the provision was added to assist "in clarifying the law and the effect of the law". It would "affirm what is the law as provided under the ASGDA". While "helpful and informative, it's not essential to the rest of the production tax legislation".

[6:38:18 PM](#)

Mr. Mintz then directed attention to a new Applicability section added to the uncodified law of the State of Alaska by Section 36, on page 31 line 19. This language simply clarified that the new provisions of the PPT would apply to oil and gas produced on or after July 1, 2006 rather than the April first date specified in the version of SB 305 passed by the House.

Mr. Mintz then addressed technical changes made in the bill relating to the July first date change. A new section titled "Transition: Regulations and Retroactivity of Regulators" was added to the uncodified law of the State of Alaska by Sec. 38 on page 24, line 7. This language would authorize the Department of Revenue to begin addressing regulations prior to the new July first effective date, even though the provisions they would be implementing would not take effect until July first.

Mr. Mintz stated that the "Contingent retroactivity of provisions of Act" section was added to the uncodified law of the State of Alaska by Section 40 on page 34 line 31. This section would only be implemented were the PPT legislation not passed before July first 2006.

Mr. Mintz stated that while the version of SB 305 passed by the House had an immediate effective date for all provisions of the bill, Section 42 on page 35 line 5 specified which provisions of the PPT would take effect on July first.

Mr. Mintz concluded his remarks.

[6:40:23 PM](#)

Senator Bunde concluded that the provisions in this bill did not "substantially" differ from those in the version of SB 305 passed by the House during the regular session.

Mr. Mintz responded that other than the effective date, the change in the tax rate, and the deletion of the progressivity element, the majority of the other details were essentially the same. Changes made to other provisions could be characterized as refinements, adjustments, or clarifications.

Senator Bunde acknowledged, and noted that he had intended the focus of his question to be to the non-core elements of the bill.

Senator Olson asked why the Administration felt this bill would be more acceptable than previous versions of the bill.

[6:41:47 PM](#)

Commissioner Corbus responded that the Administration "strongly feels that the bill that we've presented to you this session is the proper way to go and we're asking you to carefully consider what we're proposing".

Senator Olson opined that the inclusion of the ASGDA provisions added to article 4 of AS 43.55 by Sec. 30 added to the complexity of the considerations. This issue was one of the provisions that impeded the progression of the PPT during the regular session, likewise, could continue to be detrimental to the passage of this legislation.

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Mr. Dickinson stated that the approach to the ASGDA in this bill was to make the relationship between the two issues "simpler" to understand. During the regular session discussions, the Administration was told that "it was very difficult to evaluate the PPT because there was no gas contract, it was sort of the 300 pound gorilla stomping around the room and people couldn't focus in on it". Therefore, the effort was to "clarify the fact that if and when that contract, when there's a valid contract executed, in effect, those provisions will supersede these".

Mr. Dickinson reiterated that the intent was to clarify that there was not "some sort of mysterious tie-in between the two and that the provision here stands on its own and the contract will have its own terms and supersede those".

[6:43:55 PM](#)

Co-Chair Green asked whether the definition of "6,000 cubic feet of gas is considered to be equivalent to one barrel of oil" as depicted in Sec. 25 subsection (d)(16) on page 23, line 1, was the language that should be added to Sec. 12 subsection (f) added to Sec. 43.55.024. Tax credits for certain losses and expenditures, added to AS 43.55 by Sec. 12, on page 9 line 8.

Mr. Mintz stated that that was correct in "substance" as the current provision was lacking definition of the phrase "barrel of oil equivalent".

Co-Chair Green understood that either Mr. Mintz or Mr. Dickinson would provide the appropriate language in this regard.

[6:45:02 PM](#)

Governor's PPT Legislation
Alaska Senate
2006 Special Session
Dan E. Dickinson CPA
May 20, 2006

[Note: The pages in this document are not numbered; therefore, for reference purposes, the Senate Finance Committee Secretary made a notation on each page of the corresponding timestamp in which that page was addressed in this hearing. General descriptive information of each page is provided in the body of these minutes when feasible. A copy of the handout can be obtained by contacting the Legislative Research Library at (907)465-3808.]

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Page 2

Gov's PPT Legislation

- 1 billion of investment
- Each percentage change in credit (with no change in investment) is 10 million dollars a year in taxes.
- At 60 Dollars a barrel, current volumes

- Each percentage change in tax rate (with no change in investment) is 110 million dollars.

Page 3

Gov's PPT Legislation

- Additional \$12 million Credit for All Producers
- Only three producers disqualified under House Limitations (\$36 million a year)
- Move from retroactive April 1 date to prospective July 1 date
- At forecast price \$53.60, \$175 million

Mr. Dickinson stated that this presentation [copy on file] would address two topics to which considerable discussion had previously occurred.

Mr. Dickinson stated that the first topic addressed how the four key issues that had changed between the version of SB 305 passed by the House during the regular session and this bill would affect "the dollars involved".

[6:46:35 PM](#)

Mr. Dickinson reviewed the information on page 2.

[6:47:06 PM](#)

Mr. Dickinson then read the provisions in the bill as compared to that of the House bill, as portrayed on page 3.

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Page 4

Cook Inlet

Mr. Dickinson stated that the second topic would be to the provisions in the bill that were specific to Cook Inlet.

[6:49:06 PM](#)

Page 5

Sec. 5. 43.55.011(g)

- Tax Calculation for each Lease or Property producing gas on April 1, 2006:
- Calculate under bill, then calculate cap:
 - (A) Amount of Gas produced in month times
 - (B) Rate in 12 month base period, times
 - Rate = [10% *ELF* (1- royalty rate)]
 - (C) PV in the 12 month base period

Mr. Dickinson stated that the PPT tax calculation for Cook Inlet (CI) gas, as specified in this bill in a subsection (g), added to AS 43.55.011 by Section 5, on page 4 line 5, mirrored that passed by the House.

Mr. Dickinson explained that in addition to the regular PPT calculation, a separate calculation would be conducted to determine the CI tax "ceiling". If the regular PPT tax was higher than the CI tax limit, then the CI limit would apply.

Mr. Dickinson noted that the CI tax calculation was a two part process. The first part would be the determination of the CI tax base period, which was based on the one year term from April 1 2005 through March 31, 2006 "for each lease or property" that was producing in CI on April 1, 2006. Each lease or property qualifying under this provision would have an individual base rate.

Mr. Dickinson stated that the next step would be to determine the prevailing value (PV) during that base period "for deliveries in CI". These calculations would result in determining the tax rate limit. The tax calculation for production in CI would be compared to that "cap". The only thing that would increase an entity's tax would be an increase in volume. Taxes would decrease were volumes to decline.

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Page 6

Sec. 5. 43.55.011(g)

- Tax Calculation for each new Lease or Property after April 1, 2006, thru 2016:

- Calculate under bill, then calculate cap:
 - (A) Amount of Gas produced in month times
 - (B) Rate in 12 month base period for all CI leases or properties, times
 - Rate = [10% * ELF* (1- royalty rate)]
 - (C) PV in the 12 month base period for all CI leases or properties

Mr. Dickinson stated that this calculation would be applied to new leases or property producing during the 15 year period beginning after April 1, 2006 and ending in 2016. The average of all the tax rates in Cook Inlet would be utilized to determine the base year rate pertinent to these leases and properties.

[6:52:11 PM](#)

Page 7

Sec. 5. 43.55.011(g)

- PV = \$3.86
- Average ELF was .5
- New fields tax cap will be
- $3.86 \times 10\% \times .5 \times .875 = 17$ cents per mcf
- Existing fields between zero (0 ELF) and 34 cents (100 % ELF per mcf

Mr. Dickinson reviewed the examples of the CI tax calculation.

[6:54:18 PM](#)

Page 8

Sec. 5. 43.55.011(g)

- For purposes of cap have to isolate tax on each mcf of CI gas (Sec. 25.page 21 line 18 - 21)
- "the lease expenditures that are applicable to oil or gas produced in an area of the state shall be determined under regulations adopted by the department that provide for reasonable methods of allocating costs between oil and gas and between areas of the state"

Mr. Dickinson stated that this section was required to allow the State to develop regulations specific to Cook Inlet. "Arbitrary standards" might be required to address such situations as when a producer's costs might be divided between Cook Inlet and the North Slope.

[6:55:12 PM](#)

Mr. Dickinson explained that the chart on page 9 depicted a 12 year history of the prevailing value of Cook Inlet Gas. These determinations were the result of the Department of Revenue's review of certain transactions. The prevailing value in 1994 and 1995 was less than \$1.50. "A dramatic increase" in the PV was experienced after the year 2000. In the year 2000, the State collected \$16 million in taxes on Cook Inlet gas. \$23 million was collected in the first quarter of 2003. Approximately \$32 million in taxes was expected for last year. These increases were primarily driven by the "increase in the value of the gas being delivered in the Cook Inlet".

[6:57:07 PM](#)

Page 10

Sec. 25 AS 43.55.160(a)

- Gross Value P/P of Oil statewide
- Less 3/4 of Gross Value P/P of CI oil
- Plus 2/3 G/V at P/P of Gas not from CI
- Less 1/6 of G/V P/P of non NS gas
- Less all lease expenditures except CI
- [plus 1/3 GV point of production CI gas
- Less CI gas lease expenditures]
- = Production Tax Value

Mr. Dickinson stated that one of the arguments against specifying a limit on tax in CI was that the PPT tax already included provisions which considered CI. To that point, he reviewed the seven step process specified in Sec. 25. He noted that the language in this section was identical to that in the version of SB 305 that passed the House.

[6:57:40 PM](#)

Mr. Dickinson noted that the language being reviewed was Sec. 43.55.160(a), added to article 1 of AS 43.55 by Section 25, on page 18 line 16.

[6:58:25 PM](#)

Mr. Dickinson reviewed the process specified in Sec. 25 subsection (a). Currently, most of the gas in the State is produced either from CI or NS. However, gas produced in other areas such as Bristol Bay would "qualify under" this provision.

[7:00:20 PM](#)

Page 11

Gas Revenues

- $2/3$ on North Slope
- $2/3 - 1/6 = 1/2$ elsewhere statewide
- $1/3$ in Cook Inlet

Mr. Dickinson stated that this page depicts "the consequence" of the previous calculation on net revenues. For example, $2/3$ of the gas revenues on the NS would be taxable.

[7:01:01 PM](#)

Co-Chair Wilken referred back the "Gov's PPT Legislation" information on page 2 of the presentation; specifically that at \$60 a barrel, each one percent change in the tax rate would equate to \$110 million. He asked what each one percent change would equate to at a \$40 barrel price.

[7:01:34 PM](#)

Mr. Dickinson recalled that at a \$40 barrel price, each percent would equate to approximately \$48 million.

[7:01:54 PM](#)

Senator Dyson ascertained from Commissioner Corbus' remarks that the PPT process to date has resulted in improved legislation.

Commissioner Corbus affirmed.

Senator Dyson asked whether Commissioner Corbus considered this bill to be "an improvement" over the version of SB 305 passed by the House during the regular session.

Commissioner Corbus stated "yes".

7:03:02 PM

Senator Bunde asked Commissioner Corbus whether the long range forecast projecting a \$40 price per barrel of oil was still considered accurate.

Commissioner Corbus responded that the long range forecast was \$25.50 per barrel.

Senator Bunde qualified that to be the State forecast. Other forecasts called for higher prices. That was important as a \$50 barrel price would be required to balance the State's FY 07 budget.

Senator Dyson pointed out that the State historically underestimated the price of oil and overestimated production. He hoped that the Department of Revenue's "pattern" of underestimating prices would continue in this case, but that the production forecast was more accurate than previous ones.

7:04:38 PM

Co-Chair Green referred back to the question pertaining to the definition of BOE as it relates to language in Sec. 12 subsection (f) on page nine, on line 8.

Senator Bunde asked for further clarification.

Co-Chair Green understood there was a need to include the definition of the term "barrels of oil equivalent" in this section.

Mr. Dickinson suggested that the appropriate language be "a barrel of oil is 6,000 cubic feet of gas or one barrel of oil". As currently written, language in subsection (d)(16) of Sec. 43.55.160. Determination of production tax value of oil and gas., added to article 1 of AS 43.55 by Sec. 25, on page 23 line 2 "does not define a barrel of oil equivalent".

Co-Chair Green, Mr. Dickinson, and Mr. Mintz further discussed the appropriate definition language.

Amendment #1: This conceptual amendment inserts language before "In this section" to subsection (l) of Sec. 43.55.024. Tax credits for certain losses and expenditures., added by Section 12 on page 11 line 31. The amended language reads as follows.

(l) In this section, "barrel of oil equivalent", or "boe", means, one barrel in the case of oil or 6,000 cubic feet in the case of gas. In this section, "qualified capital expenditure" means, except as otherwise provided in (i) of this section...

Co-Chair Green moved for adoption of the amendment.

There being no objection, the amendment was ADOPTED.

AT EASE [7:10:39 PM](#) / [7:17:26 PM](#)

Amendment #2: This conceptual amendment inserts "a day" following "equivalent" in Sec. 43.55.024, added in Section 12, on page 9, line 8. The amended language reads as follows.

(f) Under standards established in regulations adopted by the department and subject to appropriations made by law, the department, on the written application of the person to whom a transferable tax credit has been issued under (d) of this section and whose average amount of oil and gas produced a day taxable under AS 43.55.011(e) is not more than 50,000 barrels of oil equivalent a day for the preceding calendar year, shall issue a cash refund, in whole or in part, for the certificate if the department finds...

Co-Chair Green moved for adoption.

Co-Chair Green explained that this language would quantify the circumstances in which a refund would be considered.

Mr. Mintz, Mr. Dickinson, and Co-Chair Green discussed the potential redundancy of including "a day" twice in one sentence. Mr. Mintz concluded that such redundancy would not be detrimental if it addressed a concern.

Without objection, the amendment was ADOPTED.

[7:19:57 PM](#)

Co-Chair Wilken asked whether the fiscal impact of Sec. 43.55.170. Additional nontransferable tax credit., added to article 1 of AS. 43.55 by Section 25, on page 25, line 24, of this bill as compared to that of the version of SB 305 passed by the House during the regular session had been determined. He recalled that it might incur a 100 to 200 million dollar difference a year.

[7:20:42 PM](#)

Mr. Dickinson recalled that the fiscal impact of allowing eight producers to qualify for full credits under this section would equate to approximately \$96 million a year. Removal of the three major producers would lower that amount by \$36 million to \$60 million. This would be separate of the \$25 million in refundable credits.

In response to a question from Co-Chair Wilken, Mr. Dickinson stated that the fiscal impact of Sec. 43.55.170, as specified in this bill, would be \$96 million. The fiscal impact of the House provision would have been \$60 million or \$36 million less than that.

[7:22:22 PM](#)

Mr. Dickinson informed the Committee that a spreadsheet titled "Comparison of PPT Bill Versions - Highlights" [copy on file] had been distributed. It compared the provisions of this bill to that of other PPT versions that had been discussed.

[7:23:07 PM](#)

Amendment #3: This conceptual amendment deletes the language of subsections (g) and (h) of Sec. 43.55.011, added by Section 5, on page 4, line 5 through page 5, line 6, and inserts the language of subsections (g) and (h) of Sec. 43.55.011, added by Section 5 of CS SB 305 (FIN), 24-GS2052\R, with the exception that ".002" be replaced with ".001". The amended language reads as follows.

(g) In addition to the taxes levied under (e) and (f) of this section, if the average ANS West Coast price per barrel of oil during a month exceeds \$50, there is levied on the producer of oil a tax for oil produced during that month from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax levied under this subsection is equal to

$$[((\text{ANS West Coast price} - \$50) \times .001) \times [\text{ANS wellhead price} \times (1 - \text{PPT rate})]] \times (\text{total taxable barrels of oil at the point of production})$$
where

(1) "ANS wellhead price" means the prevailing value for oil produced in the Alaska North Slope area; and

(2) the PPT, or production profit tax, rate is the tax rate described in (e) of this section.

(h) For purposes of (g) of this section, the department may calculate the average price or may, by regulation, specify the method by which the average price shall be calculated with reference to one or more published sources of price information. If, in the department's judgment, reliable published sources of price information on Alaska North Slope crude oil cease, or appear likely to soon cease, to be available, or if, in the department's judgment, the price of Alaska North Slope crude oil ceases, or appears likely to soon cease, to be a reliable indicator of the general price level of crude oils, the department shall, by regulation, specify a substitute formula for computing the oil price index. The substitute formula specified by the department under this subsection must bear, as nearly as is reasonably possible, to same relationship to the general price level of crude oils as did the price of Alaska North Slope crude oil.

Senator Stedman moved for adoption. He explained that this amendment would reinstate the Progressivity provisions included in the Finance committee substitute for SB 305, Version 24-GS2052\R.

Senator Hoffman asked whether the Progressivity element being proposed was based on gross.

Senator Stedman stated it was on the net with a .001 calculation mechanism.

Senator Hoffman stated that the Progressivity element passed by this Committee during the regular session was based on gross and had a .002 multiplier.

Senator Stedman did not have a copy of Version "R" with him.

[7:24:25 PM](#)

Co-Chair Green understood that the intent of the amendment was to propose a Progressivity element with a \$50 trigger price, based on net, with a .001 multiplier.

Senator Stedman affirmed.

In response to a comment from Senator Hoffman, Senator Stedman clarified that the Progressivity was based on the net.

Senator Olson recalled that the Progressivity provision in the version of SB 306 passed from this Committee was based on the gross.

Co-Chair Green stated that the Progressivity element in the PPT bill initially addressed by the Committee had been based on net. The Committee changed it to gross. However, the version of SB 305 passed by the House during the regular session was on the net.

Senator Dyson ascertained therefore, that, as a result of utilizing a net calculation, Progressivity would not be triggered until the barrel price reached \$65 under the assumption that each barrel would cost approximately \$15 to produce.

Senator Stedman advised that, as proposed, Progressivity would be triggered at \$35 per barrel.

Senator Dyson agreed.

In response to a question from Co-Chair Wilken, Senator Stedman stated that .001 was one tenth of one percent.

Senator Hoffman asked the multiplier on the net passed by the House.

Senator Stedman stated that the House multiplier was .0025.

Senator Hoffman offered a motion to amend the amendment to delete ".001" and insert ".0015".

Co-Chair Green objected to the motion to amend the amendment.

Senator Olson requested an explanation.

Senator Hoffman stated that serious consideration had been given to the .0025 multiplier adopted by the House during the regular session. He deemed .0001 to be "too much of a reduction"; .0015 would be appropriate.

[7:27:55 PM](#)

A roll call was taken on the motion to amend the amendment.

IN FAVOR: Senator Hoffman and Senator Olson

OPPOSED: Senator Stedman, Senator Bunde, Senator Dyson, Co-Chair Wilken and Co-Chair Green

The motion FAILED (2-5)

The amendment FAILED to be amended.

Without objection, Amendment #3 was ADOPTED.

[7:28:39 PM](#)

Amendment #4: This conceptual amendment deletes "20 percent" and inserts "22.5 percent" to subsection (e) of AS 43.55.011 added by Section 5 on page 3, line 11. The amended language reads as follows.

(e) There is levied on the producer of oil or gas a tax for all oil and gas produced each month from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under (g) of this section, the tax is equal to 22.5 percent of the production tax value of the taxable oil and gas as calculated under AS 43.55.160.

The amendment also authorized conforming changes to be made in regards to items affected by this amendment.

Co-Chair Wilken moved for adoption. He clarified that the credit rate of 20 percent provided for in this bill would remain unchanged.

There being no objection, Amendment #4 was ADOPTED.

Co-Chair Green announced that the Division of Legal and Research Services would be authorized to make conforming changes as necessary to incorporate the adopted amendments.

Amendment #5: This conceptual amendment would insert a provision to "limit the tax on gas produced from Cook Inlet so that it cannot exceed the cap set in the House Floor version" of HCS CS SB 305 (FIN) am H, 24-GS2052\B.A.

Senator Stedman moved for adoption.

AT EASE [7:30:55 PM](#) / [7:31:29 PM](#)

Without objection, the motion to adopt the amendment was WITHDRAWN by Senator Stedman.

Amendment #6: This conceptual amendment reads as follows.

Replace July 1, 2006 with an effective date of new production tax to be April 1, 2006 with all applicable dates adjusted to April 1, 2006.

Corresponding dates of July 31st should also be adjusted to April 30th to reflect the effective date of the tax to be April 1, 2006.

Senator Bunde and Senator Hoffman moved for adoption of the amendment.

Senator Bunde noted this provision was included in the version of SB 305 passed from this Committee as well as from the House of Representatives.

Senator Hoffman advised that, after additional review, he might offer an amendment to address his concern about Sec. 30 which addresses the ASGDA.

AT EASE 7:33:58 PM \ [7:34:02 PM](#)

Co-Chair Green stated that a work draft encompassing these amendments would be developed.

[7:34:16 PM](#)

There being no objection, the amendment was ADOPTED.

Co-Chair Wilken requested that a legal opinion be obtained from the Division of Legal and Research Services regarding the provisions of Sec. 30.

Co-Chair Green agreed to the request.

Co-Chair Green announced that a committee substitute would be drafted to incorporate the adopted amendments. If the committee substitute was found satisfactory, the intent was to report the bill from Committee the following day.

The bill was HELD in Committee.

#

ADJOURNMENT

Co-Chair Lyda Green adjourned the meeting at [7:35:47 PM](#).