

**ALASKA STATE LEGISLATURE**  
**SENATE SPECIAL COMMITTEE ON NATURAL GAS DEVELOPMENT**

August 9, 2006

10:26 a.m.

**MEMBERS PRESENT**

Senator Ralph Seekins, Chair  
Senator Lyda Green  
Senator Gary Wilken  
Senator Con Bunde  
Senator Fred Dyson  
Senator Bert Stedman  
Senator Lyman Hoffman  
Senator Thomas Wagoner  
Senator Ben Stevens  
Senator Kim Elton  
Senator Albert Kookesh

**MEMBERS ABSENT**

Senator Donny Olson

**OTHER LEGISLATORS PRESENT**

Senator Gary Stevens  
Senator Gene Therriault  
Senator Charlie Huggins  
Senator Gretchen Guess  
Senator Hollis French  
Representative Kurt Olson  
Representative Mike Kelly

**COMMITTEE CALENDAR**

CS FOR HOUSE BILL NO. 3001(FIN)

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

MOVED SCS CSHB 3001(NGD) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB3001

SHORT TITLE: OIL/GAS PROD. TAX

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

07/12/06	(H)	READ THE FIRST TIME - REFERRALS
07/12/06	(H)	FIN
07/26/06	(H)	FIN AT 10:00 AM HOUSE FINANCE 519
07/26/06	(H)	Heard & Held
07/26/06	(H)	MINUTE(FIN)
07/27/06	(H)	FIN AT 10:00 AM HOUSE FINANCE 519
07/27/06	(H)	Heard & Held
07/27/06	(H)	MINUTE(FIN)
07/31/06	(H)	FIN AT 10:00 AM HOUSE FINANCE 519
07/31/06	(H)	Heard & Held
07/31/06	(H)	MINUTE(FIN)
08/01/06	(H)	FIN AT 10:00 AM HOUSE FINANCE 519
08/01/06	(H)	Heard & Held
08/01/06	(H)	MINUTE(FIN)
08/02/06	(H)	FIN AT 10:00 AM HOUSE FINANCE 519
08/02/06	(H)	-- Testimony <Invitation Only> --
08/03/06	(H)	FIN AT 10:00 AM HOUSE FINANCE 519
08/03/06	(H)	Moved CSHB3001(FIN) Out of Committee
08/03/06	(H)	MINUTE(FIN)
08/04/06	(H)	FIN RPT CS(FIN) 7DP 1NR 1AM
08/04/06	(H)	DP: HAWKER, KELLY, WEYHRAUCH, STOLTZE, FOSTER, MEYER, CHENAULT;
08/04/06	(H)	NR: JOULE;
08/04/06	(H)	AM: KERTTULA
08/06/06	(H)	ENGROSSED
08/06/06	(S)	NGD AT 1:30 PM SENATE FINANCE 532
08/06/06	(S)	-- Meeting Canceled --
08/07/06	(H)	TRANSMITTED TO (S)
08/07/06	(H)	VERSION: CSHB 3001(FIN)
08/07/06	(S)	READ THE FIRST TIME - REFERRALS
08/07/06	(S)	NGD
08/07/06	(S)	NGD AT 1:00 PM SENATE FINANCE 532
08/07/06	(S)	Heard & Held
08/07/06	(S)	MINUTE(NGD)
08/08/06	(S)	NGD AT 9:00 AM SENATE FINANCE 532
08/08/06	(S)	Heard & Held
08/08/06	(S)	MINUTE(NGD)
08/09/06	(S)	NGD AT 10:00 AM SENATE FINANCE 532

**WITNESS REGISTER**

ROBYNN WILSON, Director  
Tax Division

Department of Revenue  
PO Box 110400  
Juneau, AK 99811-0400

**POSITION STATEMENT:** Recommended language for amendments and explained aspects of HB 3001.

KURT FREDRIKKSON, Commissioner  
Department of Environmental Conservation (via teleconference)  
410 Willoughby  
Juneau, AK 99801-1795

**POSITION STATEMENT:** Explained the DEC's position regarding spills and liability for damages and fines.

DR. PEDRO VAN MEURS  
Consultant to the Governor  
Office of the Governor  
PO Box 110001  
Juneau, AK 00911-0001

**POSITION STATEMENT:** Explained aspects of HB 3001.

SENATOR THERRIAULT  
State Capitol, Room 119  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Testified in favor of Amendment 9.

DAN DICKINSON, CPA  
Consultant to the Governor  
Office of the Governor  
PO Box 110001  
Juneau, AK 998811-0001

**POSITION STATEMENT:** Recommended language for amendments and explained aspects of HB 3001.

SENATOR GRETCHEN GUESS  
State Capitol, Room 423  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Testified in favor of Amendment 3.

#### **ACTION NARRATIVE**

**CHAIR RALPH SEEKINS** called the Senate Special Committee on Natural Gas Development meeting to order at [10:26:13 AM](#). Present at the call to order were Senators Fred Dyson, Bert Stedman, Gary Wilken, Lyda Green, Thomas Wagoner, Ben Stevens, Con Bunde, Lyman Hoffman, Kim Elton, Albert Kookesh, and Chair Ralph Seekins.

**CSHB 3001(FIN)- OIL/GAS PROD. TAX**

Chair Seekins opened the floor to public testimony on HB 3001. Hearing none, he closed the floor to public testimony and advised that he would consider amendments to HB 3001 after a short at ease.

At ease from [10:27:39 AM](#) to [10:34:37 AM](#)

[10:36:22 AM](#)

SENATOR WAGONER moved to adopt Amendment 5 Labeled 24-GH2096\P.33. Chair Dyson objected for discussion.

**^AMENDMENT 5**

Page 32, lines 21 - 27:

Delete all material and insert:

"(17) costs incurred for containment, control, cleanup, or removal in connection with any unpermitted release of oil or a hazardous substance and any liability for damages, fines, and penalties imposed on the producer or explorer for that unpermitted release;"

CHAIR SEEKINS removed his objection.

SENATOR BEN STEVENS asked what agency would be responsible for imposing the fines and penalties referred to on line 5 of the amendment.

SENATOR WAGONER responded that it would probably be Department of Environmental Conservation (DEC).

CHAIR SEEKINS said he could have someone from DEC address the committee.

SENATOR BEN STEVENS clarified that he wants to know what agencies would be involved in imposing those fines on the producers.

CHAIR SEEKINS responded that it would probably be DEC or the Environmental Protection Agency (EPA).

SENATOR BEN STEVENS recommended the amendment specify that they will be imposed by the state.

[10:39:19 AM](#)

SENATOR DYSON suggested that the committee go on to the next amendment and come back to this one when the DEC representative arrives.

SENATOR BUNDE concurred with Senator B. Stevens, that the amendment should simply specify that the state of Alaska would impose the penalties.

SENATOR WILKEN asked if there might also be federal sanctions.

SENATOR DYSON asked why the state would want to subsidize a federal fine imposed on a producer.

10:40:35 AM

ROBYNN WILSON, Tax Director, Department of Revenue (DOR), noted that fines and penalties imposed by law are a prohibited deduction in (e)(7) on page 31, line 16 of the bill.

CHAIR SEEKINS asked if paragraph (17) is redundant regarding fines and penalties imposed, but not the damages or costs incurred for containment.

ROBYNN WILSON answered that she believes that is correct to the extent that the fines or penalties are imposed by law rather than contractually.

SENATOR BEN STEVENS speculated that line 15 may also be redundant. It reads "costs arising from fraud, wilful misconduct, or gross negligence" and those fines would be issued upon proof of negligence.

CHAIR SEEKINS read lines 5-6 of the amendment, "liability for damages, fines, and penalties imposed on the producer or explorer for that unpermitted release" and noted that he understands there could be liability imposed on the contractors to the producers; but he is confused about what this refers to.

SENATOR BUNDE said that it seems as if "damages, fines, and penalties" is redundant and the focus of the amendment is on costs.

10:44:00 AM

CHAIR SEEKINS asked Senator Bunde if he was saying that the amendment should read "costs incurred for containment, control, cleanup, or removal in connection with any unpermitted release of oil or a hazardous substance for an unpermitted release".

SENATOR BUNDE agreed.

SENATOR WAGONER said he has no problem with that change.

10:44:40 AM

SENATOR BUNDE proposed Amendment 1 to amendment 5 to delete the reference to "liability for damages, fines, and penalties imposed on the producer or explorer".

SENATOR ELTON objected.

SENATOR DYSON asked why the committee would remove liability for damages. He does not understand why the state should subsidize the cost of damages.

10:46:11 AM

KURT FREDRIKSSON, COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, (via teleconference) replied that DEC's position regarding spills is that they are not a routine cost of doing business. He would view damages, like a spill, as liabilities borne by a company. Those damages are calculated by the DEC under state statute with Department of Law (DOL), based on environmental sensitivity and whether negligence was involved.

10:47:52 AM

SENATOR DYSON asked Commissioner Fredriksson whether liability for damages and fines should be included in tax deductions or credits.

COMMISSIONER FREDRIKSSON replied that he would put that into the category of spill response costs and would not consider them eligible deductions because they result from an illegal activity.

CHAIR SEEKINS stated that "fines or penalties imposed by law" are covered under paragraph (7) on page 31, but it does not appear that damages are covered elsewhere.

10:49:19 AM

SENATOR BUNDE refined Amendment 1 to Amendment 5, to remove only the words "fines and penalties".

There being no objection, the motion to adopt Amendment 1 to amendment 5 carried.

SENATOR ELTON asked Commissioner Fredriksson to clarify whether restoration would be considered a liability for damage.

COMMISSIONER FREDRIKKSON responded that is all part of resource assessment and damage calculations, so the restoration costs are calculated as part of the damages.

10:50:34 AM

SENATOR DYSON directed the committee's attention to paragraph (7) on page 31 and asked if "imposed by law" includes those that are imposed by regulation.

COMMISSIONER FREDRIKKSON answered he believes that "imposed by law" would cover those imposed both by statute and regulation.

CHAIR SEEKINS agreed.

SENATOR DYSON suggested the committee proceed on that assumption.

SENATOR HOFFMAN pointed out that lines 26-27, page 32 of the bill read that "this paragraph does not apply to the cost of developing and maintaining an oil discharge prevention and contingency plan under AS 46.04.030". He asked why this was removed.

SENATOR WAGONER answered that those costs are allowed.

10:54:00 AM

CHAIR SEEKINS asked Commissioner Fredrikkson what the impacts are of the oil spill contingency plans (C plans).

COMMISSIONER FREDRIKKSON responded that an oil spill contingency plan is a legal obligation that is part of the normal cost of business.

SENATOR DYSON asked if the word "plan" includes both the document and the activities required by the plan, such as staging and maintaining equipment.

COMMISSIONER FREDRIKKSON answered that the plan is both the paper and "on the ground" investments to ensure that spills are both prevented and adequately responded to if they occur. It is all part of the cost of doing business in Alaska.

10:57:10 AM

SENATOR ELTON asked Commissioner Fredrikkson to confirm his understanding that the C plans and the costs associated with them are already adjusted for in the tariff.

COMMISSIONER FREDRIKKSON answered that he is not familiar with the tariff provisions and cannot speak to that specifically. He said that the regulated community frequently mentions the high cost of pollution control in Alaska, but the DEC considers it a normal cost of business.

CHAIR SEEKINS asked if this is for producers and explorers, not for the transport company.

ROBYNN WILSON responded that the C plans are considered downstream costs and are not applicable. The language in paragraph (17) clarifies that this paragraph "does not apply to costs of developing and maintaining an oil discharge prevention and contingency plan". This would still be an allowable cost under the amendment as drafted, but she suggested that it be made clear by retaining lines 26-27 in the bill.

[11:00:38 AM](#)

SENATOR WAGONER pointed out that these paragraphs list items that are excluded, and he believes that retaining that language introduces unnecessary complication.

ROBYNN WILSON replied that she can see some confusion arising in the future, and it would be much easier if it were made clear in the language now.

[11:01:31 AM](#)

CHAIR SEEKINS said that Senator Bunde's amendment is on the floor.

SENATOR GREEN moved Amendment 2 to Amendment 5, to include the language that appears after the semicolon on page 32, lines 25-27 of the original bill.

SENATOR ELTON objected because the tariff already accommodates the cost of developing and maintaining the C plans. He then removed his objection.

CHAIR SEEKINS stated that, according to the Department of Revenue, the C plan is not included in this plan. That has to do with the operation of the transport system, the Alyeska Pipeline System.

SENATOR ELTON agreed, but pointed out again that the state is paying for the C plans elsewhere.

SENATOR STEVENS wondered how long it would take to mobilize the facilities on Prince William Sound to respond to a spill in Prudhoe Bay.

There being no objection, the motion to adopt Amendment 2 to Amendment 5 carried.

There being no objection, the motion to adopt Amendment 5 carried.

At ease from [11:04:25 AM](#) to [11:09:25 AM](#)

SENATOR STEDMAN moved to adopt Amendment 1 (24-gh2096\P.36) and objected for discussion. He explained that this removes subsection (f) and inserts a 22.5 percent tax rate, with a .2 slope for progressivity. The rest of it is cleanup to remove the producer-pay language in the bill.

**^AMENDMENT 1**

Page 3, line 8:

Delete "(j) and (k)"  
Insert "(i) and (j)"

Page 3, line 9:

Delete "the annual"  
Insert "22.5 percent of the"

Page 3, lines 10 - 11:

Delete "multiplied by the tax rate determined under (f) of this section"

Page 3, line 12, through page 4, line 25:

Delete all material.

Reletter the following subsections accordingly.

Page 4, line 27:

Delete "(h)"  
Insert "(g)"

Page 4, line 31:

Delete "(j) and (k)"  
Insert "(i) and (j)"

Page 5, line 2:

Delete ".25"

Insert ".20"

Page 5, line 4:  
Delete "(h)"  
Insert "(g)"

Page 5, line 8:  
Delete "(g)"  
Insert "(f)"

Page 5, line 29:  
Delete "(g)"  
Insert "(f)"

Page 6, line 17:  
Delete "(g)"  
Insert "(f)"

Page 7, line 5:  
Delete "(j) or (k)"  
Insert "(i) or (j)"

Page 7, line 6:  
Delete "(g)"  
Insert "(f)"

Page 7, line 9:  
Delete "(g)"  
Insert "(f)"

Page 7, line 23:  
Delete "(j) or (k)"  
Insert "(i) or (j)"

Page 7, line 24:  
Delete "(g)"  
Insert "(f)"

Page 8, line 5:  
Delete "(m)"  
Insert "(l)"

Page 8, lines 16 - 17:  
Delete all material.

Page 8, lines 28 - 29:  
Delete "AS 43.55.011(e), (g), and (i)"

Insert "AS 43.55.011(e), (f), and (h)"

Page 8, line 31:

Delete "(g)"

Insert "(f)"

Page 9, line 12, following "by":

Insert "22.5 percent;"

Page 9, lines 13 - 21:

Delete all material.

Page 9, line 24:

Delete "AS 43.55.011(g)"

Insert "AS 43.55.011(f)"

Page 9, line 26:

Delete "AS 43.55.011(i)"

Insert "AS 43.55.011(h)"

Page 9, line 30:

Delete "AS 43.55.011(i)"

Insert "AS 43.55.011(h)"

Page 9, line 31:

Delete "AS 43.55.011(i)"

Insert "AS 43.55.011(h)"

Page 10, line 3:

Delete "AS 43.55.011(i)"

Insert "AS 43.55.011(h)"

Page 10, line 4:

Delete "AS 43.55.011(i)"

Insert "AS 43.55.011(h)"

Page 10, line 6:

Delete "AS 43.55.011(e), (g), and (i)"

Insert "AS 43.55.011(e), (f), and (h)"

Page 10, line 22:

Delete "(g)"

Insert "(f)"

Page 10, line 28:

Delete "(g)"

Insert "(f)"

Page 10, line 30:

Delete "(g)"

Insert "(f)"

Page 23, line 19, following "department;":

Insert "and"

Page 23, line 20:

Delete all material.

Renumber the following paragraph accordingly.

Page 26, line 21:

Delete "AS 43.55.011(g)"

Insert "AS 43.55.011(f)"

Page 26, line 25:

Delete "AS 43.55.011(g)"

Insert "AS 43.55.011(f)"

Page 27, line 1:

Delete "AS 43.55.011(g)"

Insert "AS 43.55.011(f)"

Page 27, line 8:

Delete "AS 43.55.011(g)"

Insert "AS 43.55.011(f)"

Page 27, line 14:

Delete "AS 43.55.011(g)"

Insert "AS 43.55.011(f)"

Page 27, line 22:

Delete "AS 43.55.011(g)"

Insert "AS 43.55.011(f)"

Page 35, line 22:

Delete "AS 43.55.011(i)"

Insert "AS 43.55.011(h)"

Page 40, line 30:

Delete "AS 43.55.011(e), (g), and (i)"

Insert "AS 43.55.011(e), (f), and (h)"

Page 42, lines 2 - 6:

Delete all material.

Reletter the following subsection accordingly.

SENATOR WILKEN referenced five concerns that were discussed yesterday, including the complication, putting in place a "harvester's formula", encouraging gold-plating, inflation proofing, and basic math that might do the opposite of what was intended. He understands that this amendment removes those concerns and supports it generally, but may offer an amendment to it.

SENATOR BEN STEVENS asked exactly what is being deleted with page 5, lines 13-14.

SENATOR STEDMAN said it just deletes line 20.

CHAIR SEEKINS noted that the drafter said that line needed to be deleted because it is unnecessary, irrelevant and may be confusing if enacted.

SENATOR STEDMAN commented that the amendment appears to be drafted correctly.

[11:16:23 AM](#)

CHAIR SEEKINS said, for the record, the intent of page 5, line 13 is to delete all of line 20 on page 23.

SENATOR WILKEN moved to adopt Amendment 1 to Amendment 1 and objected for discussion. The effect of the amendment as presented, is to decrease the progressivity from .25 to .20 percent. The amendment to Amendment 1 strikes lines 2-4 related to progressivity.

SENATOR WILKEN explained that the committee has generally agreed it is operating in a comfort range of from \$40-\$60 per barrel. The progressivity formula kicks in at \$55 per barrel. The difference between the amendment as written and this amendment to it, is 10 basis points at \$60 per barrel, 40 basis points at \$70 per barrel, and 70 basis points at \$80 per barrel. The amount is almost insignificant; but changing the progressivity formula could be a deal-breaker for the House. He doesn't think it's worth it. The state is about \$1.4 billion upside down after Sunday's oil spill; but if the legislature passes PPT tomorrow, the state will recover at about \$110 million per month.

He summarized by saying that this is an insignificant amendment with regard to the bill; and it is too important to the budget to risk losing it. He wants to leave the .25 alone.

[11:22:37 AM](#)

SENATOR STEDMAN reminded the committee that one of its major concerns was that the state's share in the resource should not decline as prices increase and the progressivity feature was intended to counteract that. He supports Senator Wilken's amendment to change the formula from .25 to .20 percent.

SENATOR WAGONER said that this bill is so close to passing, that he really doesn't want to argue about a little difference in the progressivity formula. He agreed with Senator Wilken that the committee should leave the House's formula intact.

SENATOR ELTON noted that Dr. Van Meurs said he was comfortable with the House formula, and said he supports the amendment to Amendment 1.

[11:27:33 AM](#)

The objection to the amendment was maintained.

The roll was called.

Yea: Senator Kookesh, Senator Bunde, Senator Olson, Senator Dyson, Senator Wilken, Senator Elton, Senator Wagoner, Senator Seekins

Nay: Senator Stevens, Senator Stedman, Senator Hoffman, Senator Green

The motion to adopt Amendment 1 to Amendment 1 carried  
8 Yea, 4 Nay.

SENATOR BEN STEVENS commented that he wants the committee to understand that they aren't passing a 22.5 percent tax rate, it is variable, and does not go below 22.5, but is now at about 28.2 percent.

ROBYNN WILSON brought up a point for consideration. The bill contains a provision that, if there is a loss, it is converted to a credit at 20 percent. If the tax rate is changed to 22.5 percent, the committee may want to change that provision to make it consistent with the new rate. It is found on page 13, line 14 of the bill, and reads, "tax credit for loss is 20 percent".

SENATOR BUNDE asked Ms. Wilson if her point is that it was originally 20/20 and she is suggesting that we now make that 22.5/22.5.

ROBYNN WILSON answered yes, that in different versions of the bill, every change in the tax rate precipitated a change in the tax credit; but it was obviously the original intention that the loss be converted to a credit at the general tax rate to maintain parity.

SENATOR BEN STEVENS commented that the committee has had numerous discussions about what the value of the credit should be. He believes the credits should stay at 20 percent as the House wrote it.

SENATOR DYSON concurred with Senator B. Stevens.

ROBYNN WILSON asked why page 1, line 6 of the amendment deletes the words "the annual" from page 3, line 9 of the bill, since the amendment is not seeking to change the administrative provisions that have moved this from a monthly tax to an annual tax.

SENATOR STEDMAN answered that the amendment was drafted with the governor's language.

ROBYNN WILSON responded that the governor's bill was based on a monthly tax filing, and the language as it is now written is an annual filing with monthly estimated tax payments.

[11:34:54 AM](#)

CHAIR SEEKINS asked for clarification.

ROBYNN WILSON explained that the House CS changed the monthly tax filing to an annual tax filing with monthly estimated payments, so the cash flow is retained, but there is one annual return. She suggested that the committee leave "annual" in bill so it reads, "tax is equal to 22.5 percent of the annual..."

[11:36:37 AM](#)

SENATOR STEDMAN moved to adopt Amendment 2 to Amendment 1, which would delete line 6 of Amendment 1 and insert "22.5 percent of" on line 7 following the words "equal to". The line would then read, "the tax is equal to 22.5 percent of the annual production tax value".

There being no objection, the motion to adopt Amendment 2 to Amendment 1 carried.

SENATOR STEDMAN removed his objection to Amendment 1.

There being no objection, the motion to adopt Amendment 1 carried.

At ease from [11:38:44 AM](#) to [11:44:03 AM](#)

SENATOR WAGONER moved to adopt Amendment 7 and Senator Seekins objected for purpose of discussion.

**^AMENDMENT 7**

Page 32, line 29, following "AS 38.05.132":

Insert ";

(19) that portion of capital expenditures incurred during a calendar year that are less than the product of \$.30 multiplied by the total taxable production from the lease in BTU equivalent barrels during that calendar year.

DR. VAN MEURS explained that there is a gray area in accounting between normal maintenance and improvement costs. If an expenditure were classified as betterment or replacement, it would be a capital expenditure and subject to the 20 percent tax credit as well as the 22.5 percent deduction. Maintenance is a reasonable deduction for PPT; but it is sometimes hard to decide which expenditures fall into that classification. The simplest solution is to take some base expenditure that really will be replacement and, over the next 20 or 30 years, disallow a modest floor of the capital expenditures. From an international perspective, \$.30 per barrel taxable production seems to be a reasonable figure. The intent of this amendment is to clarify that, when repairs turn into replacement, a certain amount of capital expenditures is not subject to deductions or credits.

CHAIR SEEKINS called for questions and removed his objection.

ROBYNN WILSON noted that the term "capital expenditures" is not defined anywhere in the amendment. She suggested inserting the phrase, "that would otherwise qualify as a qualified capital expenditure", because "Qualified capital expenditure" is defined on page 17, line 1 of the bill.

SENATOR BUNDE asked if she was suggesting the insertion of the word "qualified" before "capital expenditures".

ROBYNN WILSON replied that, after the word "expenditure", she suggests inserting the words "that would otherwise qualify as a qualified capital expenditure".

SENATOR BUNDE asked if simply inserting "qualified", so it would read, "that portion of qualified capital expenditures", would work.

ROBYNN WILSON replied that it would work; but it might be necessary to move the definition from Section 024(k) [actually Section 43.55.023(k)] to the definition section in 900.

SENATOR WAGONER recommended that the amendment be set aside until the drafter can be present.

SENATOR BEN STEVENS saw no reason to question the drafter's work.

SENATOR DYSON wondered if the federal definition of what is allowed will include items that Dr. Van Meurs and Senator Wagoner are trying to prevent.

DR. VAN MEURS agreed with Robynn Wilson's suggested language.

SENATOR DYSON asked if he was implying that whatever is allowed under federal code is acceptable.

DR. VAN MEURS answered yes.

ROBYNN WILSON said that, as she understands the amendment, it falls within (e), which is the prohibited deductions list. The total production is multiplied by \$.30 to arrive at a figure that would not be allowed as a deduction or credit. She asked if that is correct.

DR. VAN MEURS answered yes.

CHAIR SEEKINS set the amendment aside pending a review by the drafter and sponsor.

[11:58:10 AM](#)

SENATOR DYSON moved to adopt Amendment 6 and objected for discussion.

**^AMENDMENT 6**

Page 31, line 20;  
delete: (9) donations

SENATOR DYSON explained that the word "donations" is redundant, because donations are not included in the definition of capital expenditures anyway.

MR. DICKINSON agreed that Senator Dyson is correct, it is superfluous and should be deleted.

SENATOR DYSON removed his objection and emphasized that lease expenditures do not include donations, political contributions, lobbying, or the cost of any attempt to affect the political process.

There being no objection, the motion to adopt Amendment 6 carried.

CHAIR SEEKINS advised that the committee will take up amendments 2, 3, 4 and 8 after lunch.

Lunch recess from [12:01:24 PM](#) to 1:12:51 PM

^Amendment 2 was withdrawn.

[1:13:02 PM](#)

SENATOR ELTON moved to adopt Amendment 3.

**^AMENDMENT 3**

Page 32, line 29, following "AS 38.05.132":

Insert ";

(19) for a lease from which gas is produced and in which the holder of a working interest is a party to a contract under AS 43.82, costs related to

(A) a gas processing plant or gas treatment facility upstream from the point of production; and

(B) transportation of the gas from a well to the point of production"

CHAIR SEEKINS objected for discussion.

SENATOR ELTON explained that Article 20.3 of the gasline contract provides a 35 percent cost allowance for expenses related to the gas treatment plant and gas transmission lines.

This amendment excludes these expenses from lease expenditures so that the state will not be giving the companies an additional 40 percent reduction. He also pointed out that the state would already be paying 20 percent of these costs as equity owners under the contract. Without this amendment, the state will end up paying approximately 80 percent of the cost, but have only a 20 percent equity stake in the facilities.

SENATOR BEN STEVENS pointed out that the committee met for three weeks on proposed amendments to the stranded gas act, and this amendment was never offered. In addition, HB 3001 has to do with Title 43.55, a production tax on oil, so the amendment does not belong in this chapter. Finally, he said that the committee agreed it would not do anything that impacts the stranded gas act until it has seen the contract, and he is strongly opposed to this amendment.

[1:16:55 PM](#)

SENATOR OLSON asked if it is true that the state could end up paying 80 percent of the cost, and whether the matter would be addressed at another time.

SENATOR BEN STEVENS replied that it would be addressed in the stranded gas contract if it ever comes before the committee. He said that Senator Elton is talking about prohibiting credits in a contract the legislature has not even seen.

SENATOR BEN STEVENS moved to set the amendment aside until they've looked at the contract.

Elton objected.

CHAIR SEEKINS said that a motion to table is not discussable.

[1:19:07 PM](#)

The roll was called.

Yea: Senator Stedman, Senator Bunde, Senator Wilken,  
Senator Hoffman, Senator B. Stevens, Senator Green,  
Chair Seekins

Nay: Senator Olson, Senator Dyson, Senator Elton,  
Senator Kookesh

The motion to table Amendment 3 carried 7 yea - 4 nay.

[1:19:56 PM](#)

SENATOR ELTON moved Amendment 4 (24-GH2096\P.31).

^AMENDMENT 4

Page 6, line 2:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 6, line 5:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 6, line 8:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 6, line 10:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 6, line 14:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 6, line 15:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 6, line 21:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 6, line 24:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 6, line 27:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 6, line 29:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 7, line 2:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 7, line 3:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 15, line 28:  
Delete "March 31, 2001"  
Insert "December 31, 2000"

Page 15, line 29:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 15, line 30:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 15, line 31:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 16, line 3:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 16, line 4:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 16, line 18:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 17, line 16:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 18, line 2:  
Delete "May 1, 2016"  
Insert "February 1, 2016"

Page 18, line 7:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

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

Page 18, line 30:  
Delete "May 1, 2016"  
Insert "February 1, 2016"

Page 28, line 16:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 32, line 7:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 32, line 10:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 34, line 17:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 40, line 11:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 40, lines 16 - 19:  
Delete "(a) Notwithstanding any contrary provision of AS 43.55.023(i), enacted by sec. 13 of this Act, for oil and gas produced after March 31, 2006, and before January 1, 2007, the phrase "20 percent" in AS 43.55.023(i)(2), enacted by sec. 13 of this Act, shall be replaced by the phrase "15 percent." "

Reletter the following subsections accordingly.

Page 40, line 20:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 40, line 21:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 40, line 24:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 40, line 27:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 41, line 3:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 41, line 6:  
Delete "(c)(1)"  
Insert "(b)(1)"

Page 41, line 7:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 41, line 8:  
Delete "(c)(2)"  
Insert "(b)(2)"

Page 41, line 12:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 41, line 14:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 41, line 22:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 41, line 23:  
Delete "(e)(1)"  
Insert "(d)(1)"

Page 41, line 25:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 41, line 26:  
Delete "(e)(2)"  
Insert "(d)(2)"

Page 41, line 29:  
Delete "(c)(1)"

Insert "(b)(1)"

Page 41, line 30:  
Delete "(d)(1)"  
Insert "(c)(1)"

Page 41, line 31, through page 42, line 1:  
Delete "March 31, 2006"  
Insert "December 31, 2005"

Page 42, lines 7 - 10:  
Delete all material.

Page 42, line 16:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

Page 43, line 4:  
Delete "April 1, 2006"  
Insert "January 1, 2006"

CHAIR SEEKINS objected for discussion.

SENATOR ELTON explained that it sets the effective date of the bill back from April 1, 2006 to January 1, 2006. He recognized that this has been discussed in other committees, and there has been concern about the fairness of making the effective date retroactive; but the new tax recipe has been under discussion since late last year, so January 1 seems appropriate.

[1:22:07 PM](#)

SENATOR BUNDE commented that there is a question of the legality of pushing the date back, even to April 1, so he suspects that January 1 would not be allowed.

CHAIR SEEKINS called Senator Elton's attention to page 5, lines 1-5 and asked him to explain the intent and effect of that deletion.

SENATOR ELTON explained that he was offering this amendment for Senator Guess and recommended that the amendment be set aside until he could speak to the drafter.

CHAIR SEEKINS set Amendment 4 aside.

[1:24:11 PM](#)

SENATOR ELTON moved Amendment 8 (24-GH2096\P.2).

^AMENDMENT 8

Page 8, line 17:

Delete "AS 43.55.023(k)"

Insert "AS 43.55.023(l)"

Page 12, line 16:

Delete "A"

Insert "Except as provided in (k) of this section, a"

Page 15, line 26, following "section,":

Insert "and except as provided in (k) of this section,"

Page 16, following line 31:

Insert a new subsection to read:

"(k) A person engaged in the production of gas in the Point Thomson Unit may not take a credit under this section for a qualified capital expenditure upstream from the point of production of gas from the Point Thomson Unit for a gas processing plant or a gas treatment facility. In this subsection, "Point Thomson Unit" means the land identified by the Department of Natural Resources as the "Point Thomson Unit."

Reletter the following subsection accordingly.

Page 32, line 29, following "AS 38.05.132":

Insert ";

(19) costs related to a gas processing plant or a gas treatment facility upstream from the point of production of gas from the Point Thomson Unit"

Page 33, following line 25:

Insert a new paragraph to read:

"(3) "Point Thomson Unit" means the land identified by the Department of Natural Resources as the "Point Thomson Unit";"

Reorder the following paragraph accordingly.

CHAIR SEEKINS objected for discussion.

SENATOR ELTON explained that this amendment provides that the tax bill before the committee does not allow tax credits for deductions for the Point Thomson unit. The unit's lease holder has not lived up to the lease agreement for almost 30 years, and has violated 23 plans for development.

CHAIR SEEKINS asked if the leaseholder has ignored the law or if it applied for an extension.

SENATOR ELTON replied that it has been notified of violations by DNR 23 times, and has used every option to delay.

[1:28:43 PM](#)

SENATOR BEN STEVENS said he opposes this amendment, because it has to do with the production of gas, which won't occur until they see a finalized contract.

[1:30:32 PM](#)

SENATOR ELTON wrapped up by saying that the considerations have to be whether the amendment makes sense and whether it is right.

CHAIR SEEKINS commented that blame belongs to both the state and the leaseholder.

[1:31:54 PM](#)

The roll was called.

Yea: Senator Olson, Senator Elton, Senator Hoffman,  
Senator Kookesh

Nay: Senator Bunde, Senator Dyson, Senator Wilken,  
Senator B. Stevens, Senator Stedman, Senator Green,  
Senator Wagoner, Chair Seekins

Amendment 8 failed adoption 4 yea - 8 nay.

At ease from [1:32:43 PM](#) to [1:34:56 PM](#)

SENATOR WAGONER moved Amendment 9 (24-GH2096\P.32).

**^AMENDMENT 9**

Page 32, line 29, following "AS 38.05.132":

Insert":

(19) costs or a portion of the costs determined by the commissioner, in consultation with the commissioner of environmental conservation and the

chair of the Alaska Oil and Gas Conservation Commission, to be

(A) related to the repair and replacement of improperly maintained property or equipment; or

(B) incurred to maintain the operational capability of facilities or equipment shut down or operating at diminished capacity because of improper maintenance of property and equipment"

SENATOR GREEN objected for explanation.

SENATOR WAGONER explained that he has presented this amendment on behalf of Senator Therriault.

SENATOR THERRIAULT said the amendment was prompted by the recent shutdown of a portion of the TAPS line due to maintenance issues, which raised the question of how repairs would be handled in a net-based PPT system. The amount of oil produced by the affected fields is approximately 375,000 barrels per day. His calculations indicate that the operating costs, even when there is no production, are about \$1 million per day. The amendment allows the commissioner of revenue, in consultation with the commissioner of the Department of Environmental Conservation (DEC), and the chairman of the Alaska Oil and Gas Conservation Commission (AOGCC) to determine what costs are attributable to lack of maintenance and disallow those costs.

[1:38:20 PM](#)

SENATOR BEN STEVENS commented that paragraph (B) on line 8 might encourage a complete shut down, because the operating expenses would not be deductible when operating at diminished capacity.

SENATOR THERRIAULT said he does not think it would have that effect, because agency personnel have the latitude to look at the costs and agree what is and is not reasonable and allowable.

SENATOR BEN STEVENS reiterated that he believes it would encourage a total shutdown and that it might provide a disincentive to replacing bad equipment.

SENATOR THERRIAULT repeated that, because the commissioners have the flexibility to make determinations on a case-by-case basis, he does not believe that would be the case.

CHAIR SEEKINS used an automobile maintenance analogy to illustrate how the agency representatives might make the

determination and asked if that is how Senator Therriault sees it working.

SENATOR THERRIAULT agreed with his analogy and emphasized that this refers specifically to improperly maintained equipment.

[1:43:47 PM](#)

MR. DICKINSON, Consultant to DOR, commented that his interpretation of the amendment is that all operating costs would be disallowed as long as the plant is operating at diminished capacity, and he does not think that is the intent.

SENATOR THERRIAULT pointed out that line 3 says "costs or a portion of the costs", so there is flexibility.

MR. DICKINSON responded that he would like to see the criteria used to determine that portion.

SENATOR THERRIAULT said that could be fleshed out in regulation through discussion with the companies.

[1:45:59 PM](#)

CHAIR SEEKINS asked if Mr. Dickinson was saying that, if capacity were diminished by 10 percent, all operating costs would be disallowed.

MR. DICKINSON answered yes, that it is not clear what portion is being disallowed.

[1:47:32 PM](#)

SENATOR GREEN asked whether this could open the state to litigation regarding the interpretation of "improper maintenance". She also asked if there is an appeal process in place.

SENATOR THERRIAULT replied that there is an established process for appealing a determination by the commissioner(s).

CHAIR SEEKINS said he would feel more comfortable if it were "additional costs" rather than just "costs".

SENATOR STEDMAN wondered how the retroactive portion of this would work without regulations in place, as it appears to target the current situation on the North Slope.

SENATOR THERRIAULT replied that most of the costs associated with the partial shutdown have not occurred yet and may not for

some time. He feels that our legal process can accommodate this while addressing the pressing concerns of the constituency.

SENATOR STEDMAN said that his constituents are more concerned about the revenue loss than they are about tax issues related to getting the pipe back on line.

[1:52:02 PM](#)

SENATOR BEN STEVENS wondered if the committee is creating something that already exists in the bill. Under Section 43.55.160, the determination of production tax value is calculated by taking the gross value less the producer's lease expenditures under 43.55.165, which are identified in the bill.

SENATOR THERRIAULT said that the cost of repairs qualifies for deductions under this system. Since the tax is imposed at the corporate level, that would include normal maintenance and any additional expenses due to operating the field during a shutdown or partial shutdown. If the expenditure stems from improperly maintained property or equipment, it is not appropriate to charge that back against state revenues, and this amendment seeks to address that.

CHAIR SEEKINS said he believes the intent is to prohibit deductions on additional costs incurred to maintain operations, not normal costs, and suggested inserting the word "additional" on line 3.

[1:57:49 PM](#)

SENATOR THERRIAULT said the amendment applies to "the cost incurred to maintain the operational capabilities of facilities or equipment shutdown or operating at diminished capacity because of improper maintenance". The state has agreed to share the costs because it is getting production; but it makes no sense to deduct the expenses of a field that is shut down or partially shut down against production from other fields.

CHAIR SEEKINS responded that, as long as we are talking about additional costs, he would have fewer objections to the amendment. He is concerned that, as written, it might not accomplish what is intended.

[1:58:10 PM](#)

SENATOR BEN STEVENS reiterated that one would not know if the costs were incurred due to misconduct or negligence until an investigation is completed, and this amendment creates a

disincentive to operate at diminished capacity while that is underway.

SENATOR DYSON supported Senator B. Steven's comments and suggested that the insertion of "additional" on line 3 should allay his concerns. He thought there would have to be an overwhelming tax advantage for a company to choose to shut down.

CHAIR SEEKINS asked Senator Therriault to point to an example when this amendment might come into play.

SENATOR THERRIAULT replied that, if Prudhoe Bay were shut down, the operating costs would continue to accrue at about \$3 per barrel, or roughly \$1 million per day for normal, day-to-day operation of the field. Because of inadequate maintenance however, that cost would not be offset by income from production.

CHAIR SEEKINS asked if Senator Therriault is considering the lack of maintenance referenced in his amendment as wilful misconduct or gross negligence.

SENATOR THERRIAULT replied that he was not sure what legal standard would be used.

CHAIR SEEKINS noted that not pigging the line is a cost already covered by an exclusion in the bill [sub-section (e) paragraph (6), page 31].

[2:04:53 PM](#)

SENATOR THERRIAULT said those were fairly high standards and were not applicable to this provision.

SENATOR BEN STEVENS said he does not want the costs associated with improper maintenance or negligence to be deductible; but instead of being determined by the commissioners, he suggests that the amendment read, "A portion of the costs determined by the court."

SENATOR THERRIAULT replied that a company could appeal the commissioners' decision to disallow costs and, if it were dissatisfied with the result of the appeal, could take it to court. He does not agree that every decision should go to court when it could be handled at the agency level.

SENATOR DYSON asked if all of the commissioners' decisions can be appealed in court.

CHAIR SEEKINS said yes.

SENATOR BEN STEVENS pointed out that, since the term "improperly maintained" is probably not defined in the chapter, every instance would be litigated.

CHAIR SEEKINS contended that the bill already addresses this issue and, if a change is needed, it might be more reasonable to simply add "or improperly maintained" to paragraph (6) on page 31.

SENATOR THERRIAULT said he thinks it is important to add language to clarify what operating expenses and capital expenses are not allowable.

SENATOR DYSON said he does not agree that every instance under this amendment would end up in court.

SENATOR BEN STEVENS said that he still objects to the amendment because he does not want to put anything into statute that would discourage operation of a facility, even at a diminished capacity.

At ease [2:13:30 PM](#) to [2:19:35 PM](#)

CHAIR SEEKINS asked Ms. Wilson how her department would audit this process if the amendment passes.

MS. WILSON answered that she has a real problem with the lack of definition of "improper maintenance". Because it is not defined, every expenditure would have to be audited for improper maintenance. Her department has a three-year statute of limitations on audits, and it could take some time for the court to determine what is improper, making it difficult to evaluate the costs within that time frame.

SENATOR ELTON said he does not know whether it is possible to define "improper maintenance" and thinks the state has to rely on the good judgment of state regulators and commissioners.

MS. WILSON added that rewriting the amendment using the phrase "without reasonable care", which is a standard understood by the court, might resolve the definition issue.

[2:25:37 PM](#)

SENATOR BUNDE said the committee has "gone around the block" six times on this and called for the question.

CHAIR SEEKINS overruled the call in order to allow continued discussion.

SENATOR WILKEN moved Amendment 1 to Amendment 9 and objected to explain. After the second "or" on line 9, insert "the incremental costs of". This would cause lines 8-9 of the amendment to read, "incurred to maintain the operational capability of the facilities or equipment shut down, or the incremental costs of operating at a diminished capacity." He removed his objection.

[2:28:44 PM](#)

SENATOR THERRIAULT supported Senator Wilken's amendment to Amendment 9.

There being no objection, Amendment 1 to Amendment 9 was adopted.

SENATOR THERRIAULT said that Mr. Dickinson recommended that, on line 3, the word "a" before portion be replaced with "that", so it reads "costs or that portion of the costs".

SENATOR DYSON moved Amendment 2 to Amendment 9.

There being no objection, Amendment 2 to Amendment 9 was adopted.

[2:31:05 PM](#)

CHAIR SEEKINS said he would feel better if there were a legal standard for improper maintenance.

SENATOR DYSON agreed. He recommended the following definition: "divergence from prudent industry standards and practice" and suggested that it either be inserted as sub-paragraph (C) in the amendment, or after gross-negligence on line 15, page 31 of the bill.

SENATOR ELTON offered that a third option is to strike "improperly maintained" and insert Senator Dyson's language.

SENATOR THERRIAULT said that he would work with a drafter on this definition.

CHAIR SEEKINS set the amendment aside while Senator Therriault re-drafts the language.

SENATOR WILKEN commented that he likes the concept of "divergence from" because it presupposes that a plan is in place.

SENATOR THERRIAULT referred to the committee's earlier discussion of the conversion rate for losses and exchange for capital credits. The House tried to keep the tax rate and the conversion rate for capital credits the same for good reasons. Small companies that do not have any production, convert their loss into a credit they can sell. He did not think those earlier discussions took into account that, if the producers get to take deductions at the tax rate, but new entrants are capped at 20 percent, it tilts the playing field against new entrants.

[2:38:09 PM](#)

Senator Green suggested that some members have tried to keep them consistent at 20/20.

SENATOR DYSON recalled that Ms. Wilson said there was some value in doing that and asked that she be allowed to comment on it.

SENATOR OLSON asked if he wanted to set the carry-forward to 22.5 percent.

SENATOR THERRIAULT suggested that, whatever the tax rate is set at, the loss conversion mechanism for carry-forward should be the same.

SENATOR BEN STEVENS added that the loss carry-forward applies to the production tax credit. So, if one is not paying a production tax, the rate that applies to that is insignificant. The legislature has always agreed that the credit is transferable and that loss carry-forward is convertible to a credit; but the House determined that the state would buy back those credits. He believes that the state should only buy back 20 percent of the loss carry forward regardless of the tax rate.

[2:42:26 PM](#)

SENATOR BUNDE mentioned that the discussion applies to an amendment that is not before the committee.

[2:42:58 PM](#)

CHAIR SEEKINS announced that Amendment 4 is before the committee.

SENATOR ELTON answered Chair Seekins' question about the language on page 5, of the amendment, lines 1-5. That language applies to oil and gas produced after March 31, 2006 and before January 1, 2007. Because the effective date is moved back to January 2006, the reference to a "partial year" that is in the original bill no longer applies and is deleted. He summarized that there is a question about how far this can be backdated without creating a legal issue; but he does not think this will go over the threshold.

SENATOR WILKEN supported Senator B. Steven's remarks, and commented that he feels this is dangerous ground.

[2:45:24 PM](#)

The roll was called.

Yea: Senator Olson, Senator Elton, Senator Kookesh

Nay: Senator Ben Stevens, Senator Stedman, Senator Bunde, Senator Dyson, Senator Wilken, Senator Hoffman, Senator Green, Senator Wagoner, Senator Seekins

Amendment 4 failed adoption 3 yea - 9 nay.

[2:46:33 PM](#)

CHAIR SEEKINS brought back Amendment 3.

SENATOR BEN STEVENS objected.

The roll was called.

Yea: Senator Olson, Senator Dyson, Senator Elton, Senator Hoffman, Senator Kookesh, Senator Wagoner, Senator Seekins

Nay: Senator Stedman, Senator Bunde, Senator Wilken, Senator Stevens, Senator Green

The motion to bring Amendment 3 back to the table carried 7 yea - 5 nay.

[2:48:21 PM](#)

SENATOR GUESS said she requested Amendment 3 after reading the contract and listening to discussions about whether the gas treatment plant (GTP) and transmission lines are upstream or downstream. If they are upstream, they are part of a lease expenditure. In 20.3 of the May 24 revised contract, page 157, it discusses the state's costs from project sanction to the

first year after gas. One of them is 35 percent of the acquisition, construction, or installation of the GTP and gas transmission pipelines. In response to Senator B. Steven's question, it is up to the administration to determine what the state is going to pay and when it is going to pay it however, if the GTP or the gas transmission pipelines are considered upstream, the producers get an additional 20 percent capital credit, 22.5 percent lease expenditure credit, and the state's 20 percent ownership portion in addition to the 35 percent included in the draft contract. That means the state would pay about 83.9 percent of the cost for those facilities in return for a 20 percent ownership interest. She felt it should be clear in the PPT bill that they are not upstream and are not counted for the deductions and capital expenditures.

[2:52:05 PM](#)

SENATOR STEDMAN said he thought the contract offered an additional 15 percent tacked onto the 20 percent for a total of 35 percent, not 20 plus 35 plus the tax deduction. He said he thinks they need to review the math.

SENATOR BEN STEVENS argued this is dilatory amendment. This information was covered during consideration of the stranded gas amendments. He called for a vote.

SENATOR ELTON commented that yes, this amendment could have been made before; but this deals with facilities that will cost \$5-6 billion, so this is an important amendment.

The roll was called.

Yea: Senator Olson, Senator Elton, Senator Kookesh,

Nay: Senator Bunde, Senator Dyson, Senator Wilken,  
Senator Hoffman, Senator Stevens, Senator Stedman,  
Senator Green, Senator Wagoner, Senator Seekins

Amendment 3 failed adoption 3 yea - 9 nay.

[2:54:46 PM](#) at ease [2:55:24 PM](#)

CHAIR SEEKINS called the meeting back to order.

SENATOR WAGONER moved Amendment 10.

**^AMENDMENT 10**

Page 32, line 29, following "AS 38.05.132":

Insert";

(19) that portion of expenditures that would otherwise be qualified capital expenditures as defined in AS 43.55.024(k), incurred during a calendar year that are less than the product of \$.30 multiplied by the total taxable production from the lease in BTU equivalent barrels during that calendar year, except when a portion of a calendar year is subject to this provision, the expenditures and volumes shall be prorated within that calendar year.

CHAIR SEEKINS objected for discussion.

SENATOR WAGONER said this amendment is the former Amendment 7, with changes. The word "capital" was deleted on line 4 and the following language was inserted on that line after the comma, "that would otherwise be qualified capital expenditures as defined in AS 43.55.024(k)". On line 8, after "year", is inserted "except when a portion of a calendar year is subject to this provision, the expenditures and volumes shall be prorated within that calendar year." The intent is to establish a floor on maintenance costs with the calculation of \$.30 per barrel times total taxable production.

CHAIR SEEKINS removed his objection and Amendment 10 was adopted.

[2:57:50 PM](#) at ease [3:02:57 PM](#)

SENATOR WAGONER moved Amendment 11 (24-GH2096\P.34).

**^AMENDMENT 11**

Page 3, line 5, through page 4, line 25:

Delete all material and insert:

"(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 (j) and (k) of this section, the tax is equal to the greater of 22.5 percent of the production tax value of the taxable oil and gas as calculated under AS 43.55.160, or the minimum tax determined under (f) of this section.

(f) The levy of tax under this section on a producer of oil and gas produced north of 68 degrees North latitude may not be less than

(1) four percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil during the calendar year for which the tax is due is more than \$25;

(2) three percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil during the calendar year for which the tax is due is over \$20 but not over \$25;

(3) two percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil during the calendar year for which the tax is due is over \$17.50 but not over \$20;

(4) one percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil during the calendar year for which the tax is due is over \$15 but not over \$17.50; or

(5) zero percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil during the calendar year for which the tax is due is \$15 or less."

Page 8, lines 11 - 17:

Delete all material.

Page 8, lines 28 - 29:

Delete all material and insert:

"(a) For a calendar year, a producer subject to tax under AS 43.55.011(e), (f), (g), or (i), and notwithstanding that a producer may be liable for the tax under AS 43.55.011(f) rather than the tax under AS 43.55.011(e), shall pay the tax as follows:"

Page 8, line 31:

Delete "and (g)"

Insert "or (f)"

Page 9, line 12, following "by":

Insert "22.5 percent;"

Page 9, lines 13 - 21:

Delete all material.

Page 10, line 6, following "(e),":  
Insert "(f),"

Page 10, line 28, following "AS 43.55.011(e)":  
Insert ", (f),"

Page 10, line 30, following "AS 43.55.011(e)":  
Insert ", (f),"

Page 17, line 24, following "AS 43.55.011(e)":  
Insert "or (f)"

Page 18, line 9, following "AS 43.55.011(e)":  
Insert "or (f)"

Page 18, line 12, following "AS 43.55.011(e)":  
Insert "or (f)"

Page 18, line 15, following "AS 43.55.011(e)":  
Insert "or (f)"

Page 18, line 22, following "AS 43.55.011(e)":  
Insert "or (f)"

Page 19, line 6, following "AS 43.55.011(e)":  
Insert "or (f)"

Page 19, line 13, following "AS 43.55.011(e)":  
Insert "or (f)"

Page 19, line 20, following "AS 43.55.011(e)":  
Insert "or (f)"

Page 22, line 5, following "AS 43.55.011(e)":  
Insert "or (f)"

Page 22, line 15, following "AS 43.55.011(e)":  
Insert "or (f)"

Page 22, line 24, following "AS 43.55.011(e)":  
Insert "or (f)"

Page 22, line 27, following "AS 43.55.011(e)":  
Insert "or (f)"

Page 22, line 29, following "AS 43.55.011(e)":

Insert "or (f)"

Page 23, line 19, following "department;":

Insert "and"

Page 23, line 20:

Delete all material.

Renumber the following paragraph accordingly.

Page 40, line 30, following "(e),":

Insert "(f),"

Page 42, lines 2 - 6:

Delete all material.

Reletter the following subsection accordingly.

CHAIR SEEKINS objected for discussion.

SENATOR WAGONER said it establishes a gross floor.

DR. VAN MEURS explained that the administration has argued that, in a truly net system, you wouldn't deal with a floor; however, there is a concern among Alaskans that the net system could result in significantly less revenue than the state is getting today. Although his calculations show that is not possible, he said there is no harm in establishing a floor of the type contained in the amendment. This would establish a 4 percent floor when the Alaska North Slope (ANS) West Coast price is above \$25 per barrel. Roger Marks' information indicates that, under all conditions, the PPT would bring in much higher income than that, so if the price is over \$25 per barrel the floor would never apply. If the price goes down, that floor should come down. It would be counter-productive to have a tax on very low gross values, so the amendment contains a step-down below \$25 ANS. At \$15 ANS the net value is almost zero, so there is no danger of a loss to Alaska due to this amendment.

[3:07:22 PM](#)

He feels this is a valuable way to express to Alaskans that the tax will never be less than what we have now.

MS. WILSON suggested that the language "for sale on the U.S. west coast" be inserted immediately after the word "oil" on page 1, lines 13, 16, 19, and 22, and on page 2, line 2.

SENATOR WAGONER moved Amendment 1 to Amendment 11. There being no objections the motion carried.

SENATOR STEDMAN said he wants it on the record that it is important to consider the fairness of taking an ever-increasing portion of the upside while protecting ourselves from the downside. The legislature has historically rejected floors, and if we get to the point that the price is below \$25, we may have problems with the lower price and the floor.

CHAIR SEEKINS removed his objection and Amendment 11 am was adopted.

[3:11:32 PM](#) recess [3:28:09 PM](#)

SENATOR WAGONER moved to rescind action on Amendment 10.

Hearing no objection, the motion carried.

SENATOR WAGONER explained that, for consistency with the language in the rest of the bill, Mr. Dickinson suggests deleting the second "the" on line 7 of Amendment 10 and inserting "each". Also, after "lease" on line 7, add "or property".

SENATOR WAGONER moved the above as Amendment 1 to Amendment 10.

SENATOR DYSON objected and commented that, according to the producers, it is very difficult to attach specific costs, particularly of surface equipment, to a lease.

MR. DICKINSON responded that is true, but explained that they will not have to assign specific costs in that way. The language in the amendment allows them to calculate their capital expenditures, multiply total taxable production by \$.30, then reduce the expenditures by that amount.

SENATOR DYSON removed his objection and Amendment 1 to Amendment 10 was adopted.

[3:32:48 PM](#)

SENATOR DYSON said he agrees with Ms. Wilson's suggestion that the tax credit be changed from 20 to 22.5 in order to keep the tax rate and the conversion rate fair and consistent. He offered Amendment 12, which would delete "20" on page 13, line 14, and insert "22.5".

SENATOR HOFFMAN pointed out that the committee had not finished dealing with Amendment 10.

SENATOR WAGONER moved Amendment 10 as amended. There being no objection, Amendment 10 was adopted.

[3:34:57 PM](#)

SENATOR DYSON moved Amendment 12 and objected for discussion.

SENATOR BEN STEVENS objected.

DR. VAN MEURS explained that the House bill contained a variable rate that went from 20-25 percent depending upon reinvestment. The concept was that more aggressive investors would pay less. The 20 percent loss carry-forward was included at the same rate because the House felt it would be contrary to the spirit of a variable rate to reward a producer who is slow to reinvest with a high carry-forward. Also, it seemed fair to the smaller companies to keep the tax rate and the loss carry-forward the same. He commented that he does not agree with the cash out, and agreed with Senator Ben Stevens that tradable credits are enough.

[3:38:57 PM](#)

SENATOR BEN STEVENS said he supports the 20 percent credit for small companies' capital investment. The difference between 20 percent carry-over for capital expenditures versus a 20 percent carry-over for operating losses, is the fact that a company doesn't have an operating loss unless it is producing. On page 13, lines 14-20, the loss carry-forward is defined as follows:

For purposes of this subsection, a carried-forward annual loss is the amount of a producer's or explorer's adjusted lease expenditures under AS 43.55.165 and 43.55.170 for a previous calendar year that was not deductible for that calendar year under AS 43.55.160(b) and (e).

SENATOR BEN STEVENS stressed that 160(b) sets forth the qualifications for production value, and his objection to this is that companies that don't qualify for the production tax because they are producing less than 50,000 barrels a day, are allowed to take their operational carry-forward not at 20 percent, but at 22.5 percent. Not only that, the House has said (on page 15 sub-section (f) of .023) that "the sum of the amount of the refund applied for and amounts previously refunded to the applicant during the calendar year under this subsection would

not exceed \$25,000,000." He said he believes the state is being over generous and objects to the adoption of this amendment.

SENATOR DYSON said this is a help to the small producers that the state is trying to encourage to invest in the pipeline.

MS. WILSON said the loss provision does not distinguish between those that have production and those that do not. It says that, if the company is in a loss position (i.e. its expenditures exceed its production tax value) it ends up with a net loss. If it had generated more production tax value, the loss would have been absorbed and would enjoy a benefit of 22.5 percent; but there are circumstances in which a company might have a lot of expenses during the year as compared to its production tax value. In that case, the producer is allowed to carry them forward. It is similar to the net operating loss recognized by federal income tax; but instead of carrying the loss into the next year and deducting it, it is converted into tax dollars that are carried into the next year.

[3:46:48 PM](#)

DR. VAN MEURS added that, as Ms. Wilson explained, this is not intended to cover operating costs. He presented the example of a new explorer that drills a \$10 million well. He would get a \$2 million tax credit for making the investment, and a \$2.25 million credit for incurring a loss for the year during which he was drilling the well. So, a new explorer would be able to recuperate \$.425 on the dollar on his first exploration well. He compared that to a large producer that drills that same exploration well. That producer would also get back \$.425 on the dollar. This simply puts the new explorer on the same footing as the large producer that drills a well of equal cost.

SENATOR BEN STEVENS said he didn't disagree; but he did not believe the bill contained that same interpretation. If that explanation were true, then page 13, line 18 would not include those two provisions, 165 and 170. He asked Dr. Van Meurs or Ms. Wilson to explain if there is a flaw in his logic.

MS. WILSON replied that page 13, lines 18-19, references a company that, for example, starts production on the last day of the year. It has a little production tax value, but a lot of lease expenditures. At the end of the year, it has a net loss that has not been utilized anywhere and is not deductible. She also referenced page 28, lines 6-11, which reads:

(e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer in a calendar year but whose deduction would cause an annual production tax value calculated under (a)(1) of this section of taxable oil or gas produced during the calendar year to be less than zero may be used to establish a carried-forward annual loss under AS 43.55.023(b).

SENATOR BEN STEVENS said he maintained his objection.

SENATOR STEDMAN pointed out that, when the committee worked through the bill, it did not put any timeframe on carry-forward, and there is still pick-up value in it for the state.

[3:56:16 PM](#)

SENATOR DYSON said that, if he understands the amendment correctly, this would put the producers on equal footing and, while 50,000 barrels is a significant number, he anticipates its use will be like that illustrated by Ms. Wilson.

CHAIR SEEKINS noted a clerical amendment. After "Version P", it should read "HB", not "SB".

The roll was called.

Yea: Senator Kookesh, Senator Bunde, Senator Dyson,  
Senator Wilken, Senator Elton, Senator Wagoner

Nay: Senator Hoffman, Senator B. Stevens, Senator  
Stedman, Senator Olson, Senator Green, Senator Seekins

The amendment failed adoption by 6 yea - 6 nay.

SENATOR WAGONER moved Amendment 13 (24-GH2096\P.37), which replaces Amendment 9.

**^AMENDMENT 13**

Page 32, line 29, following "AS 38.05.132":

Insert ";

(19) costs or that portion of the costs determined by the commissioner, in consultation with the commissioner of environmental conservation and the chair of the Alaska Oil and Gas Conservation Commission and relying on the standard practices of the industry, to be

(A) related to the repair and replacement of improperly maintained property or equipment; or

(B) incurred to maintain the operational capability of facilities or equipment shut down or for the incremental cost of operating at diminished capacity because of improper maintenance of property or equipment"

SENATOR BEN STEVENS objected.

SENATOR WAGONER explained that the difference between Amendment 13 and Amendment 9 is found on line 3, where "a" was replaced by "that", and line 9 after the second "or", where "incremental cost of" was added.

SENATOR THERRIAULT noted that the second change Senator Wagoner referred to is on line 10, where the drafter also added "or for" before the words "the incremental cost". The drafter also modified lines 5-6 to specify that the commissioners could rely on "the standard practices of the industry" in determining whether the equipment was improperly maintained.

[4:01:06 PM](#)

SENATOR WAGONER moved Amendment 1 to Amendment 13, to renumber paragraph (19) on line 3 to (20), because the committee did pass a paragraph (19) previously.

There being no objection, Amendment 1 to Amendment 13 was adopted.

[4:01:26 PM](#)

CHAIR SEEKINS said that, while he understands that the state does not want to authorize deductions for improper maintenance, he is extremely nervous about the size of the bureaucracy that will result from this amendment, and the process that the producers will have to go through to make a pre-determination of what costs should be considered repair or replacement due to improper maintenance based on other standards in the industry. He is not concerned about catastrophic events, but those that effect the day-to-day operations.

[4:06:02 PM](#)

SENATOR GREEN suggested that the words "gross deviation" be inserted on line 5, before "standard".

SENATOR THERRIAULT replied that the addition of that language would set the standard very high and make it difficult to prove.

[4:07:18 PM](#)

The roll was called on Amendment 13.

Yea: Senator Dyson, Senator Wilken, Senator Elton,  
Senator Kookesh, Senator Wagoner

Nay: Senator Olson, Senator Hoffman, Senator B.  
Stevens, Senator Stedman, Senator Bunde, Senator  
Green, Senator, Senator Seekins

Amendment 13 failed adoption by 5 yea - 7 nay.

At ease from [4:08:17 PM](#) to [4:10:30 PM](#)

CHAIR SEEKINS asked for the will of the committee on CSHB 3001 (FIN) as amended.

[4:10:52 PM](#)

SENATOR GREEN moved to report CSHB 3001(FIN) as amended from committee with individual recommendations and attached fiscal note.

[4:11:11 PM](#)

SENATOR ELTON objected. He explained that he believes the work this committee has done has improved the bill that came over from the House, and that his vote against it does not reflect any lack of appreciation for the hard work done by the committee.

[4:11:57 PM](#)

SENATOR ELTON withdrew his objection.

There being no objection, SCS CSHB 3001(NGD) was reported from the Senate Special Committee on Natural Gas Development.

[4:12:20 PM](#) adjourned