

**ALASKA STATE LEGISLATURE**  
**SENATE RESOURCES STANDING COMMITTEE**

March 24, 2006  
10:06 a.m.

**MEMBERS PRESENT**

Senator Thomas Wagoner, Chair  
Senator Ralph Seekins, Vice Chair  
Senator Ben Stevens  
Senator Bert Stedman  
Senator Kim Elton  
Senator Albert Kookesh  
Senator Fred Dyson

**MEMBERS ABSENT**

All present

**OTHER MEMBERS PRESENT**

Senator Charlie Huggins  
Senator Lyda Green

**COMMITTEE CALENDAR**

SENATE BILL NO. 305

"An Act repealing the oil production tax and gas production tax and providing for a production tax on the net value of oil and gas; relating to the relationship of the production tax to other taxes; relating to the dates tax payments and surcharges are due under AS 43.55; relating to interest on overpayments under AS 43.55; relating to the treatment of oil and gas production tax in a producer's settlement with the royalty owner; relating to flared gas, and to oil and gas used in the operation of a lease or property, under AS 43.55; relating to the prevailing value of oil or gas under AS 43.55; providing for tax credits against the tax due under AS 43.55 for certain expenditures, losses, and surcharges; relating to statements or other information required to be filed with or furnished to the Department of Revenue, and relating to the penalty for failure to file certain reports, under AS 43.55; relating to the powers of the Department of Revenue, and to the disclosure of certain information required to be furnished to the Department of Revenue, under AS 43.55; relating to criminal penalties for violating conditions governing access to and use of confidential information relating to the oil and gas production tax; relating to the deposit of

money collected by the Department of Revenue under AS 43.55; relating to the calculation of the gross value at the point of production of oil or gas; relating to the determination of the net value of taxable oil and gas for purposes of a production tax on the net value of oil and gas; relating to the definitions of 'gas,' 'oil,' and certain other terms for purposes of AS 43.55; making conforming amendments; and providing for an effective date."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 305

SHORT TITLE: OIL AND GAS PRODUCTION TAX

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/21/06	(S)	READ THE FIRST TIME - REFERRALS
02/21/06	(S)	RES, FIN
02/22/06	(S)	RES AT 3:30 PM BUTROVICH 205
02/22/06	(S)	Heard & Held
02/22/06	(S)	MINUTE(RES)
02/23/06	(S)	RES AT 3:30 PM BUTROVICH 205
02/23/06	(S)	Heard & Held
02/23/06	(S)	MINUTE(RES)
02/24/06	(S)	RES AT 3:30 PM BUTROVICH 205
02/24/06	(S)	Heard & Held
02/24/06	(S)	MINUTE(RES)
02/25/06	(S)	RES AT 9:00 AM BUTROVICH 205
02/25/06	(S)	-- Reconvene from 02/24/06 --
02/25/06	(H)	RES AT 10:00 AM SENATE FINANCE 532
02/25/06	(S)	Heard & Held
02/25/06	(S)	MINUTE(RES)
02/27/06	(S)	RES AT 3:30 PM BUTROVICH 205
02/27/06	(S)	Heard & Held
02/27/06	(S)	MINUTE(RES)
02/28/06	(S)	RES AT 3:30 PM BUTROVICH 205
02/28/06	(S)	Heard & Held
02/28/06	(S)	MINUTE(RES)
03/01/06	(S)	RES AT 3:30 PM BUTROVICH 205
03/01/06	(S)	Heard & Held
03/01/06	(S)	MINUTE(RES)
03/02/06	(S)	RES AT 1:30 PM BUTROVICH 205
03/02/06	(S)	Heard & Held
03/02/06	(S)	MINUTE(RES)
03/02/06	(S)	RES AT 3:30 PM BUTROVICH 205
03/02/06	(S)	Heard & Held
03/02/06	(S)	MINUTE(RES)

03/03/06 (S) RES AT 3:30 PM BUTROVICH 205  
03/03/06 (S) -- Meeting Canceled --  
03/04/06 (S) RES AT 10:00 AM SENATE FINANCE 532  
03/04/06 (S) Presentation by Legislative Consultants  
03/06/06 (S) RES AT 3:30 PM SENATE FINANCE 532  
03/06/06 (S) Heard & Held  
03/06/06 (S) MINUTE(RES)  
03/07/06 (S) RES AT 3:30 PM BUTROVICH 205  
03/07/06 (S) Heard & Held  
03/07/06 (S) MINUTE(RES)  
03/08/06 (S) RES AT 3:30 PM BUTROVICH 205  
03/08/06 (S) -- Meeting Canceled --  
03/09/06 (S) RES AT 3:30 PM BUTROVICH 205  
03/09/06 (S) -- Meeting Canceled --  
03/10/06 (S) RES AT 3:30 PM BUTROVICH 205  
03/10/06 (S) -- Meeting Canceled --  
03/11/06 (H) RES AT 10:00 AM CAPITOL 106  
03/11/06 (H) -- Meeting Canceled --  
03/13/06 (S) RES AT 3:30 PM BUTROVICH 205  
03/13/06 (S) Heard & Held  
03/13/06 (S) MINUTE(RES)  
03/14/06 (S) RES AT 3:30 PM BUTROVICH 205  
03/14/06 (S) Heard & Held  
03/14/06 (S) MINUTE(RES)  
03/15/06 (S) RES AT 3:30 PM BUTROVICH 205  
03/15/06 (S) -- Testimony <Invitation Only> --  
03/16/06 (S) RES AT 3:30 PM BUTROVICH 205  
03/16/06 (S) -- Meeting Canceled --  
03/17/06 (S) RES AT 3:30 PM BUTROVICH 205  
03/17/06 (S) Heard & Held  
03/17/06 (S) MINUTE(RES)  
03/18/06 (H) RES AT 10:00 AM CAPITOL 124  
03/18/06 (H) -- Meeting Canceled --  
03/19/06 (S) RES AT 1:00 PM BUTROVICH 205  
03/19/06 (S) Heard & Held  
03/19/06 (S) MINUTE(RES)  
03/20/06 (S) RES AT 3:30 PM BUTROVICH 205  
03/20/06 (S) Heard & Held  
03/20/06 (S) MINUTE(RES)  
03/21/06 (S) RES AT 3:30 PM BUTROVICH 205  
03/21/06 (S) -- Meeting Canceled --  
03/22/06 (S) RES AT 10:00 AM BUTROVICH 205  
03/22/06 (S) -- Testimony <Invitation Only> --  
03/23/06 (S) RES AT 10:00 AM BUTROVICH 205  
03/23/06 (S) Above Bill continued from 03/22/06 Mtg  
03/24/06 (S) FIN AT 9:00 AM SENATE FINANCE 532  
03/24/06 (S) RES AT 10:00 AM BUTROVICH 205

**WITNESS REGISTER**

KIMBERLY CARNOT

Staff to Senator Bert Stedman

Alaska State Capitol

Juneau, AK 99801-1182

**POSITION STATEMENT:** Commented on amendments to CSSB 305(RES).

DAN DICKINSON, CPA

Consultant to the Governor

Office of the Governor

PO Box 110001

Juneau AK 998811-0001

**POSITION STATEMENT:** Commented on amendments to CSSB 305(RES).

ROBYNN WILSON, Director

Tax Division

Department of Revenue

PO Box 110400

Juneau, AK 99811-0400

**POSITION STATEMENT:** Commented on amendments to CSSB 305(RES).

**ACTION NARRATIVE**

**CHAIR THOMAS WAGONER** called the Senate Resources Standing Committee meeting to order at [10:06:59 AM](#). Present were Senators Ben Stevens, Bert Stedman, Ralph Seekins, Kim Elton and Chair Thomas Wagoner.

**SB 305-OIL AND GAS PRODUCTION TAX**

CHAIR THOMAS WAGONER announced the committee was continuing to hear SB 305 and today it would consider, in numerical order, Amendments Y.1 through Y.31 and Amendment Y.42.

SENATOR BEN STEVENS asked the committee to defer consideration of Amendments Y.1 and Y.2 until last because they deal with rates and are the most substantive.

CHAIR WAGONER objected.

SENATOR BEN STEVENS moved to combine Amendments Y.1 and Y.2 into Amendment 1.

CHAIR WAGONER announced that without objection it was so ordered.

SENATOR BEN STEVENS moved Amendment 1.

24-GS2052\Y.1  
24-GS2052\Y.2  
Chenoweth

**AMENDMENT 1**

OFFERED IN THE SENATE BY SENATOR BEN STEVENS  
TO: CSSB 305(RES), Draft Version "Y"

Page 4, line 29:

Delete "25 percent"

Insert "20 percent"

Page 10, line 11, following "amount of":

Delete "25 percent"

Insert "20 percent"

CHAIR WAGONER objected.

SENATOR BEN STEVENS said he offered the amendment to return the tax rate to 20 percent based on the assumption that, in total, SB 305 is intended to encourage investment and everything he has learned in school and business indicates that increasing tax rates is a disincentive to business. He strongly disagreed with the consultants who indicated that the increase wouldn't be a disincentive.

[10:11:42 AM](#)

SENATOR BERT STEDMAN opposed Amendment 1 and said he agreed with the consultants who determined that a 25 percent tax rate would not put undue strain on the state's relationship with producers. The spread between a 20/20 and a 25/20 tax is 4.3 percent with an escalator at \$40. When oil is at or below \$40 per barrel, the government's take changes by 2.4 percent, not 5 percent because the state's tax can be deducted from the federal tax. He agreed with the general concept that increasing taxes suppresses the economy, but in this case the people of the state own the oil and gas and so the tax and the royalty mechanism is being used to sell the commodity into the marketplace.

[10:14:35 AM](#)

SENATOR RALPH SEEKINS said that he's hearing that the 25/20-rate won't negatively influence the investment climate, but observed that the investment climate is already unacceptable. He said:

We're already seeing a rapid decline in terms of production in the North Slope oil fields.... We're at a point where the more we push tax costs up, the more we discourage free investment. I think that when we look at almost doubling our severance tax with the 20/20, that we started to get into a position where as we looked yesterday with the progressivity factor, if we adopt that progressivity factor at current oil prices, we're really at a 30/20; we're not at a 25/25.

My way of looking at it is we have pushed this to the point where we may not have discouraged negatively at 25/20, but I would have to wonder about 30/20 - if we haven't pushed this to the point where we are discouraging free investment.... If we price that oil barrel too high today, in terms of what we take as a government, how many more or how many less will we take out of the ground in the future? And I believe that the 25/20, with the progressivity factors that we're going to build into it, have put us in a position where we are going to discourage free investment in those oil fields - in development and the continued harvesting of the oil that's in that area.... I would vote for this amendment because I think the starting point, if we're going to put escalators in as the price goes up, is way too high at 25/20....

[10:18:36 AM](#)

SENATOR ELTON said he thought the progressivity at current oil prices was closer to 27 percent than 30 percent.

CHAIR WAGONER mentioned that this is just the start of the process and other things in this bill also relate to the 25/20, like credits for exploration and the clawback provision.

[10:19:19 AM](#)

SENATOR STEDMAN noted that at \$40, the difference between the 20/20 and the 25/20, with the escalator, is 2.4 percent for total government take. That means the industry shrank. Prices above \$40 are in the abnormally high range and then government take increases from 2.4 percent to 4.3 percent, which would move the total government take up to 61.8 percent.

[10:21:20 AM](#)

SENATOR SEEKINS remarked that the status quo government take at current value is 42.8 percent and at 20/20, it would go to 57.5 percent. The 25/20 would add another 4.3 percent. "So, it depends on where we start the comparison."

[10:22:31 AM](#)

SENATOR BEN STEVENS said he appreciated all the economic analysis and comparisons of Alaska with the rest of the world done by all the consultants, but those were based on assumptions in foreign nations and how their economies work; and on projections in Alaska. "So, an economic forecast is exactly that. It's based on forecasting of assumptions." He is basing his decision on what is going to happen in Alaska and stated:

I am convinced that the balance of the bill at 20/20 with the incentives that are in there are going to make Alaska a more attractive place to invest to stop the decline of oil and to bridge the oil production at current rates or, hopefully increasing rates, until the fact that we can get to a gas economy. I don't think that the 25/20 gets us that. And when the consultants are gone - I don't see them here - you know, they came in and dropped a number on the table and got on the plane and went back to work. The ones that are here are the ones who are affected by the rate that we're talking about - and the future legislatures are the ones that are going to be affected by the impact of the rate that we're talking about. Because if we have an unintended consequence and that production declines more rapidly as a result of this bill, it doesn't matter what happens. We could go to 50/20, but the reality is that the revenue stream that the state receives is based on production, not on tax rate. Without a production rate, there is no tax and I think that this pushes us to a point to where the potential for a more rapid decline off the North Slope is possible and I'm not willing to take that risk for that possibility. Therefore, I'll stay at 20 and I think 20 is - there is no blood left in the sponge. It's wrung out.

[10:26:03 AM](#)

CHAIR WAGONER countered that they keep talking about the difference between 25/20 and 20/20 and he heard Angus Walker testify that at 20/20, BP no longer has any interest in being a

maximum investor on the North Slope, to hold or increase the production level.

So, I'm not sure that we need to say that at 20/20 we're going to have a robust climate for all the majors to reinvest in Alaska. I think it takes additional incentives like we've done with the clawback to get them to reinvest. Because he was very emphatic about the fact that he didn't think BP liked even the 20/20 scenario and would like to see 15/20 or 15/25. So, I'm comfortable where we're at for the time being.

10:26:59 AM

SENATOR BEN STEVENS said the 20 percent credit has never been an issue and he wanted to talk about the 25 percent tax rate in the amendment, which he did as follows:

If this is going to be the floor at what your progressivity clause comes on with the amendment we adopted yesterday, it's an important rate and my basis is that the floor of the tax rate at 25 is an onerous rate by competition of capital and moving it to 20 may be too high as well. Twenty is a doubling of the existing rate. What is disappointing to me, and it continues to be a disappointment, is that we have never seen numbers in comparison - in terms of numbers, which is money of what this impact does and the revenues streams it generates. It's phenomenal the amount of money we talk about at 2.5 percent government take. What is the actual monetary value, not only to the state, but to the impact to the Alaskan economy as a whole, not just to the producers? With that, Mr. Chairman, I call the question.

10:29:00 AM

SENATOR BEN STEVENS called the question. Senators Seekins, and Ben Stevens voted yea; Senators Stedman, Elton and Wagoner voted nay; so the motion failed.

CHAIR WAGONER announced Amendment Y.3 to be up for consideration.

24-GS2052\Y.3  
Chenoweth

**AMENDMENT Y.3**

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

Page 3, line 31, through page 4, line 23:  
Delete all material.

Renumber the following bill sections accordingly.

Renumber internal references to bill sections in accordance with this amendment. Below are all internal bill section references in this bill:

Page 2, line 14  
Page 28, line 30  
Page 29, lines 1 - 2  
Page 29, line 6  
Page 29, line 9  
Page 29, line 13  
Page 29, line 16  
Page 29, line 18  
Page 29, line 20  
Page 29, line 23  
Page 30, line 19  
Page 30, line 22  
Page 30, line 24.

[10:29:27 AM](#)

KIMBERLY CARNOT, staff to Senator Bert Stedman, said that Amendment Y.3 pulled out the Cook Inlet formula as it referred to ELF (Economic Limit Factor) and it is the same as Substantive Amendment 1, which has been taken care of.

CHAIR WAGONER noted that it hadn't been adopted yet. He said they would next consider Amendment Y.4.

24-GS2052\Y.4  
Chenoweth

**AMENDMENT Y.4**

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

Page 5, lines 6 - 9:

Delete all material and insert:

"(1) the rate of tax levied on oil and gas produced is five percent;"

MS. CARNOT explained that the amendment dealt with page 5, lines 6 - 9, which pulled out the 1.5 percent for Cook Inlet, and is the same as Substantive Amendment 4. She didn't know if the sponsors still wanted a discussion.

SENATOR BEN STEVENS said he didn't want to discussion Y.4, but he did have a substitute amendment for Y.5.

[10:30:32 AM](#)

SENATOR STEDMAN noted that there may be some timing elements with the amendments.

CHAIR WAGONER announced Amendment Y.5 to be up for consideration.

24-GS2052\Y.5  
Chenoweth

**AMENDMENT Y.5**

OFFERED IN THE SENATE BY SENATORS STEDMAN AND  
TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

Page 5, lines 27 - 29:

Delete all material and insert:

"(4) the commissioner shall determine the rate applicable to the lessor's royalty interest on private lease holdings on leases that are entered into after the effective date of this subsection."

MS. CARNOT said the intent of Amendment Y.5 was to have Subsection 2 and 3 apply to leases prior to the effective date of the act on page 5. It was addressed a little bit in Technical Amendment 1.

[10:31:13 AM](#)

SENATOR BEN STEVENS moved his substitute amendment for Y.5.

[10:32:06 AM](#) at ease [10:34:24 AM](#)

SENATOR BEN STEVENS restated his motion to adopt Amendment Y.40, his substitute for Y.5, as follows:

24-GS2052\Y.40  
Chenoweth

**AMENDMENT Y.40**

OFFERED IN THE SENATE

BY SENATOR BEN STEVENS

TO: CSSB 305(RES), Draft Version "Y"

Page 5, line 6, following "produced":

Insert "from a lease that is in effect on the effective date of this subsection"

Page 5, line 7:

Delete "from"

Insert "in"

Page 5, line 20:

Delete "except as otherwise provided in (4) of this subsection,"

Page 5, lines 27 - 29:

Delete all material and insert:

"(4) the commissioner shall recommend to the legislature the rate of tax applicable to the lessor's royalty interest on private lease holdings on leases that are entered into after the effective date of this subsection."

CHAIR WAGONER objected for discussion purposes.

SENATOR BEN STEVENS explained that this amendment says the private royalty interest rates that were adopted yesterday will apply to all leases that are in production on the effective date. That is the context of all the changes in the amendment. It deletes the material on lines 27 - 29, on page 5, from the original CS and inserts:

the commissioner shall recommend to the legislature the rate of tax applicable to the lessor's royalty interest on private lease holdings on leases that are entered into after the effective date of this subsection.

He said this essentially means the rates approved yesterday for any agreement or leases that are in effect now for a private royalty holder are in perpetuity, but future leases are open to analyses.

[10:37:32 AM](#)

CHAIR WAGONER said he supported this amendment.

SENATOR ELTON said he supported it as well, but suggested they might not want to put this section in a gasline contract, because any change to the PPT would have to be negotiated in the context of the gasline contract.

CHAIR WAGONER withdrew his objection and the motion carried.

10:38:49 AM

SENATOR BEN STEVENS moved Amendment Y.6.

24-GS2052\Y.6  
Chenoweth

**AMENDMENT Y.6**

OFFERED IN THE SENATE BY SENATORS STEDMAN AND  
TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

Page 5, line 31, through page 6, line 1:

Delete "United States Gulf Coast price for that  
month of West Texas Intermediate crude oil"

Insert "Alaska North Slope wellhead price for  
that month"

Page 6, lines 6 - 17:

Delete all material.

CHAIR WAGONER objected for discussion.

SENATOR BEN STEVENS said this has to do with the trigger point on the transition period. So, it may not be needed. He withdrew Amendment Y.6.

MS. CARNOT suggested that Amendment Y.7 be withdrawn also, since its subject was dealt with in Substantive Amendment 1. She said that Amendment Y.8 dealt with the quarterly true up, which was also addressed by Technical Amendment 1.

SENATOR BEN STEVENS noted that Amendment Y.8 was withdrawn.

MS. CARNOT explained that Amendment Y.9 dealt with page 7, line 27, through page 8, line 11, and clarified the change the governor made in his formula for royalty share determination.

24-GS2052\Y.9  
Chenoweth

**AMENDMENT Y.9**

Page 7, line 27, through page 8, line 11:

Delete all material and insert:

"\* **Sec. 12.** AS 43.55.020(d) is amended to read:

(d) In making settlement with the royalty owner with respect to oil or gas that is taxable under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable royalty oil and [OR] gas, or may deduct taxable royalty oil or gas equivalent in value at the time the tax becomes due to the amount of the tax paid. Unless otherwise agreed between the producer and the royalty owner, the amount of the tax paid on taxable royalty oil and gas for a month is considered to be the quantity of that taxable royalty oil and gas produced during the month multiplied by the quotient of the producer's total tax liability for the month of production under AS 43.55.011 divided by the producer's total quantity of taxable oil and gas, other than royalty oil and gas, produced from all leases and properties in the state during the month. For purposes of the product calculated under this subsection, 6,000 cubic feet of gas is considered to be equivalent in amount to one barrel of oil."

[10:41:03 AM](#)

SENATOR BEN STEVENS questioned whether this had been taken care of in the technical amendment or not. This sets two different points of production.

DAN DICKINSON, CPA, Consultant to the Governor, explained that Amendment Y.9 is a formula dealing with overriding private royalty interests. Senator Stevens was referring to some material in Cook Inlet and that was deleted yesterday; this refers to something different.

CHAIR WAGONER said he had a note that said it referred to Section 9 of the governor's original bill.

MS. CARNOT backed him up saying it was on page 4 of the original bill.

MR. DICKINSON explained that the change has to do with portions of the tax that are being used in a settlement between a private royalty owner and the producer that paid that tax. He said:

I believe the difference between the governor's bill and the CS would be that technical difference - line 29 of the CS, you will notice there is an (e) after 43.55.011 and in the amendment there is not.... And then on page 8 in the CS, there is a slightly different structure.

[10:43:59 AM](#)

SENATOR BEN STEVENS thanked Mr. Dickinson for his explanation and said this amendment goes back to the original language.

MR. DICKINSON said after he had talked with AOGA, he made those additional changes and stated:

I believe that if we're trying to technically bring all those shareholders, stakeholders, in, including the administration in, we should look at whether this amendment does that precisely. I think it simply restores the language that was in the governor's bill. We may have further thoughts on that.

[10:46:16 AM](#)

SENATOR BEN STEVENS said the original bill deals with the whole Subchapter 55.011, (a) through (d), (e) or (f). He was concerned about adding the additional level because Mr. Dickinson said that (e) applies to (a). The original bill applies the PPT in (a), not in (e).

MR. DICKINSON said that Senator Stevens made an accurate point, which would be one focus. The second focus he wanted to clarify is the formula on lines 11 - 16 that was proposed by the administration is based on a volumetric division. However, he said, "In talking with AOGA and some of the private royalty owners, the notion is that maybe a slightly more complex formula that dealt with valuation would be a better way of doing it."

[10:48:25 AM](#)

CHAIR WAGONER asked if they wanted to vote on the amendment.

SENATOR BEN STEVENS said the base question is if taxes for everybody are going to be based on volume or value and whatever it is, it should be consistent.

MR. DICKINSON pointed out that the changes in line 5 represent one thing and the changes in lines 10 - 16 address Senator

Stevens' concern. The current CS has a division based on value. The proposed amendment is a division based on volume.

[10:50:43 AM](#)

SENATOR SEEKINS asked if there is a reason for preferring one system over the other or is this an attempt to establish consistency.

SENATOR BEN STEVENS replied that the CS was based on value and that was changed to volume in the amendment. He was looking for consistency, because he didn't see a significant impact on the revenue stream to either party.

[10:51:55 AM](#)

MR. DICKINSON added that this would not impact the state's revenue stream and deals only with the relationship between a private royalty owner and a producer who must pay the taxes on it.

[10:52:12 AM](#)

SENATOR BEN STEVENS remarked, "I understand that; we get it one way or the other; it just depends on how it's measured." He said he supported simplicity and consistency.

[10:52:39 AM](#)

MR. DICKINSON clarified that the amendment would go back to volumetrics and they could carve that issue out of the amendment at line 5.

[10:53:00 AM](#)

SENATOR KOOKESH arrived.

[10:53:08 AM](#)

SENATOR ELTON said he didn't necessarily disagree with the maker of the amendment, but he thought it should be set aside until they could hear what led the administration to the CS version.

MR. DICKINSON said that could be undertaken during the noon break.

CHAIR WAGONER said okay to that and set Amendment Y.9 aside.

[10:54:07 AM](#)

MS. CARNOT said that Amendment Y.10 deals with the Cook Inlet formula and that had been addressed.

[10:54:40 AM](#)

MS. CARNOT explained that Amendment Y.11 deals with changes on pages 9 and 29.

CHAIR WAGONER and SENATOR BEN STEVENS pointed out that issue had been taken care of by 5,000-barrel credit.

10:55:20 AM

MS. CARNOT went on to Amendment Y.12 saying its sponsors wanted the credit to apply to the adjusted PPT and the statutory reference in the CS seemed to apply it to just the base amount so it didn't incorporate the transition expenses.

CHAIR WAGONER said that maybe this was a good place to recess.

10:56:30 AM Recess 2:04:39 PM

CHAIR WAGONER called the meeting back to order at 2:04.

2:05:10 PM

SENATOR BEN STEVENS moved Amendment Y.12.

24-GS2052\Y.12  
Chenoweth

**AMENDMENT Y.12**

OFFERED IN THE SENATE BY SENATORS STEDMAN AND  
TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

Page 10, lines 11 - 16:

Delete all material and insert:

"(b) A producer may elect to take a tax credit in the amount of 25 percent of a carried-forward annual loss. A credit under this subsection may be applied against a tax for which a credit may be elected under (a) of this section and may be applied irrespective of whether the producer also claims a deduction of transitional investment expenditures authorized by AS 43.55.160. For purposes of this subsection, a carried-forward annual loss is the amount of a producer's adjusted lease expenditures under AS 43.55.160 for a previous calendar year that was not deductible in any month under AS 43.55.160(a) and (b)."

CHAIR WAGONER objected for an explanation.

MS. CARNOT explained that Y.12 addresses an issue on page 10, lines 11 - 16, of the CS that apply expenses to the adjusted PPT rate to apply to incorporate transition expenses. It is a statutory reference change.

SENATOR BEN STEVENS said this amendment was drafted before adoption of the 2 for 1 clause.

2:07:03 PM

SENATOR FRED DYSON asked if this amendment would increase the credit from 20 to 25 percent.

SENATOR BEN STEVENS said he understands that the loss carried-forward and credit are now based on the tax rate, not the credit rate.

2:08:19 PM

MS. CARNOT said the new language in Amendment Y.12 picks up on line 15, page 10, of the CS and says:

A credit under this subsection may be applied against a tax for which a credit may be elected under (a) of this section and may be applied irrespective of whether the producer also claims a deduction of transitional investment expenditures authorized by AS 43.55.160.

ROBYNN WILSON, Director, Tax Division, Department of Revenue, commented that she discussed this with Mr. Dickinson and they suggested adding "or explorer" after "producer" on lines 3 and 8 of Amendment Y.12.

SENATOR BEN STEVENS explained:

This just takes into consideration the calculation of the loss carried forward and the transition carry forward and if you recall, the references on lines 9 and 10 are reference to the sections that the tax payer can't use any of these exemptions to take their liability below zero. It just incorporates the credit that's used for a carry forward in the transition. It can't be used to take it below zero.

SENATOR BEN STEVENS made adding "or explorer" after "producer" on lines 3 and 8 a friendly amendment.

CHAIR WAGONER maintained his objection and asked for a roll call vote. Senator Ben Stevens, Elton, Kookesh, Dyson, Stedman and Wagoner voted yea; so the motion carried.

CHAIR WAGONER announced that Amendment Y.9 was back before the committee.

[2:14:32 PM](#)

SENATOR BEN STEVENS moved to adopt Amendment Y.9.

24-GS2052\Y.9  
Chenoweth

**AMENDMENT Y.9**

OFFERED IN THE SENATE BY SENATORS STEDMAN AND  
TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

Page 7, line 27, through page 8, line 11:

Delete all material and insert:

"\* **Sec. 12.** AS 43.55.020(d) is amended to read:

(d) In making settlement with the royalty owner **with respect to oil or gas that is taxable under AS 43.55.011,** the producer may deduct the amount of the tax paid on **taxable** royalty oil **and** [OR] gas, or may deduct **taxable** royalty oil or gas equivalent in value at the time the tax becomes due to the amount of the tax paid. **Unless otherwise agreed between the producer and the royalty owner, the amount of the tax paid on taxable royalty oil and gas for a month is considered to be the quantity of that taxable royalty oil and gas produced during the month multiplied by the quotient of the producer's total tax liability for the month of production under AS 43.55.011 divided by the producer's total quantity of taxable oil and gas, other than royalty oil and gas, produced from all leases and properties in the state during the month. For purposes of the product calculated under this subsection, 6,000 cubic feet of gas is considered to be equivalent in amount to one barrel of oil.**"

CHAIR WAGONER objected for discussion purposes.

MS. WILSON explained that the first sentence is consistent with the previous language that says the tax on the private royalty amount will be passed on it. The second sentence, the guts of

the amendment, says if the tax is not lease-specific, then, in the absence of an agreement otherwise, there is a formula to allocate that. She noted that the ratio on line 10 of the amendment is quantity of that tax royalty over the denominator on line 12 of total quantity. She compared that to what was in the CS, which is gross value in both places. She understood that the administration has had conversations with AOGA and in general the preference is to use the language in the CS now - gross value.

[2:16:13 PM](#)

SENATOR BEN STEVENS maintained his motion to adopt Amendment Y.9.

CHAIR WAGONER maintained his objection.

SENATOR DYSON said he wanted more explanation of what difference the amendment would make.

MS. WILSON explained that it may potentially make no difference, but there is concern that in using the quantity of the taxable royalty the difference in net value will be slightly different. It doesn't recognize the differences in value from a particular lease. The CS uses a ratio of the gross value, so it's not a question of taxing both net and gross; it is saying once you figure out what the tax is, it will be allocated based on a ratio looking back at gross value rather than the taxable royalty in the amendment. There is concern about a possible mismatch.

SENATOR DYSON asked what AOGA's view was on this issue.

MS. WILSON replied their preferred language was in the current CS, which talks about gross value.

SENATOR DYSON asked Senator Stevens why he supports this language.

SENATOR BEN STEVENS explained that this amendment takes language back to the original SB 305. He emphasized:

It's important to understand that this is a payment that the producer is making on behalf of the royalty owners, which is a very minimal impact. The difference is one is the original bill as well as the amendment calculates that payable tax based on volumetric calculation. The CS as well as AOGA, which I believe

AOGA submitted the language for the CS, wants it based on valuation. So this takes it back to the original volumetric measurement, which is based on a formula calculated under this subsection - it essentially sets 6,000 cf of gas equivalent to the amount of one barrel of oil in statute.

[2:20:03 PM](#)

SENATOR KIM ELTON asked Ms. Wilson if she suggested that lines 1 - 7 of the amendment are non-substantive and don't change the intention of the section and that the substantive changes are from line 8 on.

MS. WILSON replied that she didn't mean to say there were no substantive changes. She focused on what sentence 1 accomplished. She noted (e) is removed on line 5 of the amendment, so it would then apply to all taxes.

SENATOR BEN STEVENS clarified there is no (e) in the original version; it is created with the CS.

CHAIR WAGONER asked for a roll call vote. Senators Stedman, Ben Stevens and Dyson voted yea; Senators Elton, Kookesh, and Wagoner voted nay; and the amendment failed.

[2:22:45 PM](#)

SENATOR STEDMAN moved to adopt Amendment Y.13.

SENATOR BEN STEVENS said that Amendments Y.13, Y.14, and Y.15 had been dealt with already.

[2:24:20 PM](#)

MS. CARNOT explained that Y.16 is a return to the governor's language, because the CS excluded heavy oil and some gas ELF adjustors. They couldn't figure out why the CS took some sections out of page 7 of the original bill and were looking for an explanation.

SENATOR BEN STEVENS moved Amendment Y.16.

24-GS2052\Y.16  
Chenoweth

**AMENDMENT Y.16**

OFFERED IN THE SENATE BY SENATORS STEDMAN AND  
TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

Page 11, lines 28 - 29:

Delete "AS 43.55.011(e) and 43.55.017 -  
43.55.160"

Insert "AS 43.55.011 - 43.55.160"

CHAIR WAGONER objected for discussion purposes.

SENATOR BEN STEVENS asked members to look at page 11, lines 28 and 29, of the CS that read: "The tax liability of the applicant under AS 43.55.011(e) and 43.55.017 - 43.55.160". He began to see the CS eliminated .013, which is an adjustment in rates, the ELF factor, which is being repealed; .016 is the gas production tax and .017 is all taxes related to others. Now that the committee repealed the Cook Inlet provisions along with the oil and gas ELF, this amendment is no longer needed. So, he withdrew Amendment Y.16.

[2:27:02 PM](#)

SENATOR BEN STEVENS moved Amendment Y.17.

24-GS2052\Y.17  
Chenoweth

**AMENDMENT Y.17**

OFFERED IN THE SENATE BY SENATORS STEDMAN AND  
TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

Page 12, lines 9 - 15:

Delete all material.

Re-number the following paragraphs accordingly.

CHAIR WAGONER objected for an explanation.

SENATOR BEN STEVENS explained this is an addition to the original bill and has to do with deductions under lease expenditures and assets previously placed in service in the state. It falls under what is and what is not eligible for a tax credit. The original bill did not require this provision. He argued there are regulations in place with extensive requirements on what qualifies for credit or reduction and this may be redundant.

MS. WILSON explained that the provision this amendment seeks to delete is not a transfer pricing issue and is in Section 12 of the original bill. This provision prevents churning of assets so

two entities on the North Slope can't just rotate assets amongst themselves and generate credits that wouldn't normally be there. That's why "placed in service" is key language.

SENATOR BEN STEVENS asked her if current regulations outline what is a lease expense and what isn't.

MS. WILSON replied no, not for this specific issue. Current language exists for lease expenditures and transfer pricing.

SENATOR BEN STEVENS asked if there was any statutory or regulatory language.

MS. WILSON replied no.

SENATOR BEN STEVENS withdrew Amendment Y.17.

[2:34:44 PM](#)

SENATOR BEN STEVENS withdrew Amendment Y.18, saying it had been taken care of already.

[2:34:57 PM](#)

SENATOR BEN STEVENS asked to go back to Y.18 and asked if lines 25 - 30 on page 12 were removed.

CHAIR WAGONER replied that they removed lines 22 - 30. He said that would be checked.

[2:36:09 PM](#)

SENATOR ELTON recollected that they made some changes, but said "successor regulatory body" rather than "similar".

SENATOR BEN STEVENS went back to Technical Amendment 1 at the bottom of the page and said that Senator Elton was correct. He withdrew Amendment Y.18 under the assumption that part was already adopted.

[2:38:03 PM](#)

SENATOR BEN STEVENS withdrew Amendment Y.19.

[2:38:26 PM](#)

SENATOR BEN STEVENS moved Amendment Y.20.

24-GS2052\Y.20  
Chenoweth

**AMENDMENT Y.20**

OFFERED IN THE SENATE BY SENATORS STEDMAN AND  
TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

Page 14, line 24, following "gas":

Insert ", unless relieved from this requirement  
in whole or in part by the department"

CHAIR WAGONER objected for an explanation.

SENATOR BEN STEVENS explained that this puts original language back that the CS removed. The original section gave the department the discretion to relieve someone from filing.

MS. WILSON added that he was correct.

SENATOR ELTON followed up that this doesn't relieve the taxpayer of the necessity of providing it if the department deems so.

CHAIR WAGONER withdrew his objection; so Amendment Y.20 was adopted.

[2:42:27 PM](#)

SENATOR BEN STEVENS moved Amendment Y.21 and objected for an explanation.

24-GS2052\Y.21  
Chenoweth

**AMENDMENT Y.21**

OFFERED IN THE SENATE BY SENATORS STEDMAN AND  
TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

Page 15, lines 29 - 30:

Delete all material and insert:

"(ii) the use of the information to use for  
that purpose;"

SENATOR BEN STEVENS said that page 15, lines 29 - 30 say: (ii) the use of the information to use for the purpose of determining or contesting the producer's tax obligation;" and has to do with the powers of the department when deciding what's reported in the filings. This takes language back to the original version. He thought that the CS used language that is redundant.

MS. WILSON concurred with his explanation.

SENATOR BEN STEVENS withdrew his objection; and without further objection, Amendment Y.21 was adopted.

SENATOR BEN STEVENS withdrew Amendment Y.22.

[2:44:56 PM](#)

SENATOR STEDMAN said he concurred with all the withdrawn amendments because his name is also on them.

[2:45:25 PM](#)

SENATOR BEN STEVENS moved Amendment Y.23.

24-GS2052\Y.23  
Chenoweth

**AMENDMENT Y.23**

OFFERED IN THE SENATE BY SENATORS STEDMAN AND  
TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

Page 16, line 30, through page 17, line 23:

Delete all material and insert:

"(d) Under regulations adopted by the department, the department may allow a producer, subject to limitations prescribed by the department as to the frequency of making elections, to elect prospectively to calculate the gross value at the point of production of oil or gas based in whole or part upon

(1) a royalty value determined under a royalty settlement agreement between the producer and the state, with adjustments if appropriate;

(2) a formula prescribed by the department that uses, with adjustments if appropriate, a royalty value or valuation methodology accepted by the

(A) Department of Natural Resources under AS 38.05, in the case of oil and gas produced from a lease issued by the Department of Natural Resources or produced from a lease or property that is part of a unit approved by the Department of Natural Resources; or

(B) United States Department of the Interior under applicable federal oil and gas leasing statutes, in the case of oil and gas produced from a lease issued by the United States Department of the Interior that is not part of a unit approved by the Department of Natural Resources, or produced from a lease or property that is part of a unit approved by

the United States Department of the Interior but not approved by the Department of Natural Resources; or

(3) another formula prescribed by the Department of Revenue that reasonably estimates a value for the oil or gas at a specific geographical location such as the point of tender or delivery into a common carrier pipeline; the formula may use such factors as published price indices for oil or gas in or outside the state, quality differentials for oil or gas, transportation costs between markets, and inflation adjustments."

CHAIR WAGONER objected for discussion purposes.

SENATOR BEN STEVENS explained that this amendment goes back to original language and would change Substantive Amendment 5 [that hasn't been adopted]. He said this amendment would give a tool to the department that would allow a producer, subject to limitations, to apply royalty settlement agreements when calculating price or a tax valuation. It would simplify a ratepayer's calculation. The CS does not allow royalty settlement agreements to be used except if it is accepted by the Department of Natural Resources or the Department of Interior, and Substantive Amendment 5 doesn't allow it to be used at all.

[2:49:43 PM](#)

SENATOR ELTON said he didn't like using royalty value for a couple of reasons. He felt that using it, in general, would mean that the value would be less than the other two prescribed ways. It would also encourage people to contest royalty value for two reasons. They could cut their liabilities if royalty value was lower and under this they would be able to cut their production tax as well. Further, he said:

I don't think we want to encourage that kind of system and then I'm still bothered by the fact in the same field, two different operators or two different entities participating in the same field, would have two different tax rates. So, I don't favor using royalty value as one of the three methods of evaluation.

[2:50:49 PM](#)

CHAIR WAGONER said that's the main problem he has also. He said will plans to vote against this, but he wasn't going to bring up Substantive Amendment 5 either. He wanted to look at a clean CS first.

[2:51:14 PM](#)

SENATOR DYSON asked where the administration stood on Amendment Y.23.

MS. WILSON replied that the administration supports the ability to use royalty values for a simplification. The department has two sets of auditors, one on one floor and one on another, looking at the same data and that isn't very efficient from an overall state standpoint. She said the administration did not view this as a critical piece to the PPT and didn't have a strong feeling about it.

[2:53:14 PM](#)

SENATOR STEDMAN asked if there had been problems in the past on this issue.

MS. WILSON said it's not a critical piece, but it would streamline accounting.

[2:53:49 PM](#)

SENATOR BEN STEVENS gave his final argument saying it gives the department another tool to use for ratepayers if they have royalty settlements, if they agree to use that methodology in accounting the formula for their tax liability. It's a tool for efficiency.

[2:54:56 PM](#)

SENATOR ELTON didn't disagree, but he suggested for that one efficiency, they would be introducing new inefficiencies. Allowing royalty oil to be one of the three methods of evaluation would probably put a lot more pressure on attorneys, because, he suspected, if a producer could save two ways, both on the royalty side and the production tax side, the state would be encouraging them to do that. He wasn't sure how well the department would exercise its judgment and he thought it was the legislature's policy call.

CHAIR WAGONER maintained his objection and asked for a roll call vote. Senators Ben Stevens and Stedman voted yea; Senators Kookesh, Dyson, Elton, and Wagoner voted nay; and the amendment failed.

[2:58:18 PM](#)

SENATOR BEN STEVENS moved Amendment Y.24.

24-GS2052\Y.24

AMENDMENT Y.24

OFFERED IN THE SENATE BY SENATORS STEDMAN AND  
TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

Page 20, line 24:

Delete ";"

Insert "."

Page 20, line 25, through page 21, line 15:

Delete all material.

Page 22, lines 1 - 2:

Delete "the provisions of (l) and (n) of this section apply to an asset that is subject to this subparagraph;"

Page 23, line 29, through page 24, line 13:

Delete all material.

Reletter the following subsections accordingly.

Page 24, line 19:

Delete "(1)"

Page 24, lines 21 - 23:

Delete

"(A) direct cost under (d)(2)(M) of this section, as a purchase of assets by the producer; and  
(B)"

Page 24, line 24:

Delete ";"

Insert "."

Page 24, lines 25 - 27:

Delete all material.

Page 25, lines 2 - 5:

Delete

"(A) the principle set out in (l) of this section, as interpreted and implemented by the regulations of the department authorized by (l)(1) of this section, applies; and  
(B)"

CHAIR WAGONER objected for discussion purposes.

SENATOR BEN STEVENS said the committee had already spent a lot of time working through this extremely complex provision. Language on page 19, line 27, section (d) defines direct costs. His amendment deleted surcharges levied under the 470 Fund (L) [page 20, line 25, of the CS]. It also deleted dismantlement and abandonment as a direct cost in section (M), because it was a surcharge.

MS. WILSON elaborated that those charges would not be subject to a credit because they are not exploration or capital, but they could arguably be a deduction and that would be a policy call.

[3:05:02 PM](#)

CHAIR WAGONER said if this section weren't done right, it could put the state back on the hook for a lot of abandonment expenses it doesn't want to be on the hook for.

[3:05:30 PM](#)

SENATOR DYSON wondered if they should wait until they get a clean CS to work with.

SENATOR BEN STEVENS said he wanted to work on simplifying the issue.

MS. WILSON reviewed the concerns she brought up last Saturday, [March 18]. Page 23, line 29, through page 24, line 1, of the CS has a clear misreference and she said she believed the intent in (l) was to deal with non-arm's length transactions and also talk about transfer pricing in that context. Deleting sections on page 20 would not be talking about arm's length transactions, but about making surcharges deductible and abandonment deductible. They are two different problems. Part of her concern with this amendment goes to page 24, line 14, section (m), which addresses purchases of businesses. She said, "We don't want to make, just because somebody purchased a business with a lot of assets, that it be available for credit." She cautioned the committee to be mindful of that piece.

[3:09:51 PM](#)

SENATOR BEN STEVENS said line 12 of the Amendment Y.24 deletes section (l), but it leaves section (m) in. He reviewed that abandonment on lines 20 - 23 of the amendment was a policy call; lines 12 - 14 covered company-to-company transactions or purchases; lines 12 - 13 covered arm's length transactions and transfer pricing.

[3:14:42 PM](#)

SENATOR DYSON wanted to know how the state had been handling these issues in the past.

[3:14:57 PM](#)

SENATOR ELTON asked if the new CS would have correct references and then it would pick up this amendment that accomplishes what Senator Stevens' amendment tries to accomplish.

CHAIR WAGONER responded that the CS would have to be amended to have correct references.

[3:16:30 PM](#)

MS. CARNOT suggested that Ms. Wilson could articulate what changes she would make and the committee could make a conceptual amendment to allow that to take place.

SENATOR BEN STEVENS withdrew the amendment with the understanding that they would look at a clean CS to see if it resolved the issue.

[3:17:06 PM](#) At ease [3:18:29 PM](#)

CHAIR WAGONER announced that Amendment Y.25 [clawback provision] had been taken care of.

[3:19:29 PM](#)

SENATOR BEN STEVENS moved Amendment Y.26 and objected for discussion purposes.

24-GS2052\Y.26  
Chenoweth

**AMENDMENT Y.26**

OFFERED IN THE SENATE BY SENATORS STEDMAN AND  
TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

Page 21, line 10:  
Delete "(l)"  
Insert "(k)"

Page 21, line 14:  
Delete "(l) and (m)"  
Insert "(k) and (l)"

Page 22, line 1:  
Delete "(l) and (n)"  
Insert "(k) and (m)"

Page 22, line 30:  
Delete ", as determined under (h) of this section,"

Page 22, lines 30 - 31:  
Delete ", as adjusted for inflation under (h) of this section"

Page 23, lines 1 - 14:  
Delete all material.

Reletter the following subsections accordingly.

Page 24, line 25:  
Delete "(l)"  
Insert "(k)"

Page 24, line 27:  
Delete "(l)(1)"  
Insert "(k)(1)"

Page 25, line 2:  
Delete "(l)"  
Insert "(k)"

Page 25, line 3:  
Delete "(l)(1)"  
Insert "(k)(1)"

SENATOR BEN STEVENS said this contained some technical corrections in (l) and (m) that related back to page 24.

[3:23:03 PM](#)

SENATOR BEN STEVENS removed his objection.

CHAIR WAGONER said they should divide the question.

[3:23:46 PM](#)

SENATOR BEN STEVENS divided the question to delete the escalator on page 1, lines 18 - 21.

MS. WILSON said her understanding is that the amendment has to do with an escalator that is about the \$40 a barrel on transition deductions.

SENATOR BEN STEVENS stood corrected and restated that the division would start on page 1, lines 19 - 23, of Amendment Y.26.

SENATOR ELTON asked if the amendment before the committee deleted (h) on page 23 of the CS [page 1, lines 13 - 23 of the amendment].

SENATOR BEN STEVENS replied yes.

CHAIR WAGONER labeled that Amendment 26A.

SENATOR BEN STEVENS and withdrew his objection.

CHAIR WAGONER indicated that Senator Stedman agreed and without further objection, Amendment 26A was adopted.

[3:27:08 PM](#)

[Amendment Y.27 was withdrawn.]

[3:28:22 PM](#)

SENATOR BEN STEVENS moved Amendment Y.28 and objected for discussion purposes.

24-GS2052\Y.28  
Chenoweth

**AMENDMENT Y.28**

OFFERED IN THE SENATE BY SENATORS STEDMAN AND  
TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

Page 25, line 27, through page 26, line 7:

Delete all material and insert:

"\* **Sec. 27.** AS 43.55.201(b) is amended to read:

(b) The surcharge imposed by (a) of this section is in addition to **the tax imposed by AS 43.55.011** and shall be paid in the [SAME] manner **described in AS 43.55.020. The surcharge** [AS THE TAX IMPOSED BY AS 43.55.011 - 43.55.150; AND] is in addition to the surcharge imposed by AS 43.55.300 - 43.55.310.

\* **Sec. 28.** AS 43.55.201(c) is amended to read:

(c) A producer of oil shall make reports of production in the same manner and under the same penalties as required under **AS 43.55.011 - 43.55.160** [AS 43.55.011 - 43.55.150]."

Renumber the following bill sections accordingly.

Page 28, line 30:  
Delete "24 - 35"  
Insert "24 - 36"

Page 30, line 19:  
Delete "sec. 42"  
Insert "sec. 43"

Page 30, line 22:  
Delete "36 - 40"  
Insert "37 - 41"

Page 30, line 24:  
Delete "sec. 41"  
Insert "sec. 42"

SENATOR BEN STEVENS explained that this amendment deletes the 470 Fund surcharge in the CS and inserts original language. The rates are referred to in Amendment Y.29.

[3:29:48 PM](#)

SENATOR ELTON said the net effect is to go back to the original language, but Amendment Y.29 suggests a new amount.

SENATOR BEN STEVENS said the new amount was correct.

[3:30:41 PM](#)

SENATOR ELTON asked what amount was in the governor's bill.

MS. WILSON said Amendment Y.28 looked like the same language that was in the CS. She said she would appreciate clarification in case she missed something.

SENATOR BEN STEVENS explained that it changes the reference on page 25, line 31 of the CS that says "Surcharge levied." He said the language is the same, but the reference is different.

[3:32:45 PM](#)

MS. CARNOT explained that Amendment Y.28 goes back to the original language, which had a surcharge of \$.02; the CS has it at \$.01. Amendment Y.29 affects the CS on page 26, line 12, by changing the \$.05 in 43.55.300 back to the \$.03. She explained that the combination of the two amendments goes back to the

original that says there will be a 4 percent surcharge and \$.02 of it is deductible.

[3:36:41 PM](#)

MS. CARNOT said the original reference in the original bill is on page 17, section 22 and, "The request made to the drafter for the CS was simply on page 25, line 29, delete \$.01 and reinsert \$.02. What you have here is all the language that is in the governor's bill. It just put it back in."

[3:37:18 PM](#)

SENATOR DYSON asked if they were correcting a drafting error.

SENATOR BEN STEVENS replied no.

SENATOR DYSON asked why \$.01 was put in to the CS.

CHAIR WAGONER remarked that he is the one who put it in.

[3:38:11 PM](#) at ease [3:40:25 PM](#)

CHAIR WAGONER said he asked the co-chair of the Senate Finance Committee, Senator Wilken, why the changes were in the CS and he was directed by him to ask the Department of Environmental Conservation. He related that the department had been asking the Finance Committee for more funds and so he asked for an accounting of how the funds had been used in the past. He was going to have that report forwarded to the Finance Committee when it came through.

[3:41:29 PM](#)

SENATOR BEN STEVENS said he appreciated that and that he also wanted to know why the funds were drained and why the DEC wanted to change its distribution.

SENATOR DYSON said that the Finance Committee has been asked in the last couple of weeks for funds for activities that have been funded from the 470 Fund and "the pot's dry." It feels like the money is being used inappropriately or the contribution is not enough.

CHAIR WAGONER said they would find out when the report comes in. He figured the fund generated \$15 million a year.

[3:44:48 PM](#)

SENATOR ELTON asked the maker of the amendment if a secondary change would make a portion of the surcharge eligible for a credit.

SENATOR BEN STEVENS replied no and that those charges are already exempt in statute.

CHAIR WAGONER asked if the governor's bill allowed the surcharge to be deducted.

MS. WILSON replied yes; but added that in the CS the surcharges are specifically not deductible.

SENATOR BEN STEVENS removed his objection.

CHAIR WAGONER objected for a roll call vote.

[3:48:08 PM](#)

SENATOR BEN STEVENS explained that the two rates in current statute charge are \$.02 for 55.210 - the proposed amendment keeps it at \$.02, whereas the CS takes it to \$.01 - and the other surcharge in 55.300, which is currently \$.03 and the CS takes that to \$.05; whereas the amendment takes it to \$.04.

CHAIR WAGONER said that was not the amendment that was before the committee.

SENATOR BEN STEVENS said he stood corrected.

CHAIR WAGONER asked again for a roll call vote. Senator Ben Stevens voted yea; Senators Dyson, Stedman, Elton, Kookesh, and Wagoner voted nay; so, Amendment Y.28 failed.

[3:50:06 PM](#)

SENATORS BEN STEVENS and STEDMAN withdrew Amendment Y.29

SENATOR BEN STEVENS said that Amendment Y.30 had to do with repealers that were related to some of the corrections in the technical amendments and he withdrew Amendment Y.30. Senator Stedman concurred.

[3:50:49 PM](#)

SENATOR BEN STEVENS moved to adopt Amendment Y.31.

24-GS2052\Y.31  
Chenoweth

**AMENDMENT Y.31**

OFFERED IN THE SENATE BY SENATORS STEDMAN AND  
TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

Page 30, following line 3:

Insert a new bill section to read:

"\* **Sec. 39.** Section 37 of this Act is repealed  
April 1, 2012."

Renumber the following bill sections accordingly.

Page 30, line 19:

Delete "sec. 42"

Insert "sec. 43"

Page 30, line 22:

Delete "36 - 40"

Insert "36 - 41"

Page 30, line "24:

Delete "sec. 41"

Insert "sec. 42"

CHAIR WAGONER objected for an explanation.

SENATOR BEN STEVENS explained that it had to do with the  
transition provision in section 37.

CHAIR WAGONER withdrew his objection.

SENATOR BEN STEVENS withdrew the Amendment Y.31.

SENATOR STEDMAN concurred.

[3:52:27 PM](#) at ease [4:01:25 PM](#)

CHAIR WAGONER announced Amendment Y.42 to be up for  
consideration.

SENATOR STEDMAN moved to adopt Amendment Y.42.

24-GS2052\Y.42  
Chenoweth

**AMENDMENT Y.42**

OFFERED IN THE SENATE BY SENATOR STEDMAN  
TO: CSSB 305(RES), Draft Version "Y"

Page 5, line 30, through page 6, line 5:

Delete all material and insert:

"(g) In addition to the taxes levied under (e) and (f) of this section, there is levied upon 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

$((\text{ANS West Coast price} - \$40) \times .002) \times \text{ANS wellhead price} \times (1 - \text{PPT rate})$

where

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

(2) the PPT, or production property tax, rate is 25 percent."

Page 6, line 10:

Delete "West Texas Intermediate"

Insert "Alaska North Slope"

Page 6, lines 11 - 12:

Delete "West Texas Intermediate"

Insert "Alaska North Slope"

Page 6, lines 16 - 17:

Delete "United States Gulf Coast price of West Texas Intermediate"

Insert "price of Alaska North Slope"

CHAIR WAGONER objected for an explanation.

SENATOR STEDMAN said this corrects a drafting error in yesterday's amendment that used ANS instead of WTI, but inadvertently used the wellhead price as a base figure to subtract the trigger from. It formerly read, ANS, West Coast price less \$40 [the trigger]. He pointed out that when the West Coast ANS price moves up towards the wellhead, it picks up \$6 or \$7 and that the amendment also puts in the multiplier number that was adopted yesterday [.002].

[4:04:02 PM](#)

SENATOR DYSON said he thought Senator Stedman was correcting a mistake he talked him into making.

[4:04:59 PM](#)

SENATOR STEDMAN admitted he should have picked it up because the second half of the equation is correct. "When you set your benchmark number or your trigger number, you should use ANS West Coast, which would be like the price in Los Angeles."

SENATOR DYSON asked if this would increase the state's take.

SENATOR STEDMAN replied yes.

[4:06:11 PM](#)

SENATOR BEN STEVENS objected for same reasons he objected yesterday. If a tax is being placed on ANS oil and the PPT is based on ANS wellhead because that is the point of production, and then there is a trigger mechanism for the progressivity that is based on a valuation that is higher than that - "It's a premature trigger."

[4:06:53 PM](#)

SENATOR STEDMAN clarified that the formula has basically two parts. One is the trigger price, which benched off the ANS West Coast price multiplied by a factor of .002. The tax calculation part uses the ANS wellhead price x 1, minus the PPT tax rate, which is .25.

So, I feel that it does not prematurely trigger it. There's two separate issues here, because the tax in question here is deductible against the PPT and that's why it's structured like this and we went over the complexities of that, pros and cons, yesterday. So, I won't take the committee time today. But there are two separate pieces to this and then they are multiplied together.

[4:08:13 PM](#) recessed [4:09:20 PM](#)

CHAIR WAGONER called the meeting back to order at 4:09.

SENATOR STEDMAN withdrew Amendment Y.42 and moved to rescind the committee's action yesterday on Substantive Amendment 3, the escalator portion. There were no objections.

SENATOR STEDMAN moved to adopt Amendment Y.42.

24-GS2052\Y.42  
Chenoweth

**AMENDMENT Y.42**

OFFERED IN THE SENATE

BY SENATOR STEDMAN

TO: CSSB 305(RES), Draft Version "Y"

Page 5, line 30, through page 6, line 5:

Delete all material and insert:

"(g) In addition to the taxes levied under (e) and (f) of this section, there is levied upon 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

$((\text{ANS West Coast price} - \$40) \times .002) \times \text{ANS wellhead price} \times (1 - \text{PPT rate})$

where

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

(2) the PPT, or production property tax, rate is 25 percent."

Page 6, line 10:

Delete "West Texas Intermediate"

Insert "Alaska North Slope"

Page 6, lines 11 - 12:

Delete "West Texas Intermediate"

Insert "Alaska North Slope"

Page 6, lines 16 - 17:

Delete "United States Gulf Coast price of West Texas Intermediate"

Insert "price of Alaska North Slope"

CHAIR WAGONER objected for discussion, but there were no questions. So, he withdrew his objection and Amendment Y.42 was adopted.

[4:10:46 PM](#)

SENATOR BEN STEVENS moved to adopt Amendment Y.43.

24-GS2052\Y.43  
Chenoweth

**AMENDMENT Y.43**

OFFERED IN THE SENATE

BY SENATOR BEN STEVENS

TO: CSSB 305(RES), Draft Version "Y"

Page 4, lines 28 - 30:

Delete "The tax is equal to 25 percent of the production tax value of the taxable oil and gas as calculated under AS 43.55.160."

Insert "The tax applicable to

(1) oil is equal to the sum of 25 percent of the production tax value of the taxable oil as calculated under AS 43.55.160 and an amount determined by the formula

((ANS wellhead price - \$40) x .0015)

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

(2) gas is equal to the sum of 25 percent of the production tax value of the taxable gas as calculated under AS 43.55.160."

Page 5, line 30, through page 6, line 5:

Delete all material.

Reletter the following subsection accordingly.

Page 6, line 6:

Delete "(g)"

Insert "(e)(1)"

Page 6, line 10:

Delete "West Texas Intermediate"

Insert "Alaska North Slope"

Page 6, lines 11 - 12:

Delete "West Texas Intermediate"

Insert "Alaska North Slope"

Page 6, lines 16 - 17:

Delete "United States Gulf Coast price of West Texas Intermediate"

Insert "price of Alaska North Slope"

CHAIR WAGONER objected for discussion.

SENATOR BEN STEVENS explained that this amendment tries to address a couple of things that haven't been addressed in adopting the new Amendment Y.42 or the progressivity formula as introduced. First, it has no CPI indicator for the trigger, but more importantly it doesn't have a CPI indicator for costs. So, it doesn't take into consideration the future escalation of costs of production and other costs to the industry. It also doesn't address the difference between the progressivity clause on gas versus oil. It does trigger an increase on the PPT on gas based on an oil price, which is a flaw in Y.42.

He said that two other issues are addressed in Amendment Y.43 and one is a significant policy call - that the progressivity clause is exempt from the taxation. He exclaimed, "For the life of me, I haven't quite figured out the justification of a progressivity tax is exempt from a production tax on which it's derived from!" He said that progressivity should be simple to understand and apply.

SENATOR BEN STEVENS said the progressivity component in Y.43 is based on net, not gross. He reasoned:

Logic tells me an increase in a tax based on net production should be based on net production. So, this is an attempt to simplify the formula, because it removes the exemption, it includes a percentage to be added to the existing PPT rate.

[4:15:36 PM](#)

SENATOR BEN STEVENS further explained that it removed gas from the formula and put the progressivity clause on oil. He inserted ANS wellhead price in the formula and lowered the slope from .2 to .15. He recalled under the prior formula, the progressivity clause was exempt, therefore the effective rate of the taxation, instead of a real increase, was about half a percent. He reasoned further:

Since the effective rate of the tax exemption is a half a percent less, why do we need to do that? Just lower the slope; take away the tax exemption and you have a simpler method of progressivity to understand based on net profits, exempting gas....

[4:17:42 PM](#)

SENATOR ELTON said he looks at it a little differently. He sees it as now having two relatively simple taxes - the PPT, which is a tax on net value, and a progressivity tax, which is a tax on

gross. The proposed amendment mixes a net tax with a gross tax and makes one tax that is more complex rather than two taxes that are simple.

[4:18:20 PM](#)

SENATOR STEDMAN said he thought Senator Stevens' basic premise of having two taxes could be discussed in the Finance Committee. One of the cons of having two separate taxes is you have one tax that can be used for "whatever purposes." The issue of imbedding it in the same paragraph is that the PPT tax creates more complexity. The concept needs to be reviewed. He said he would ask Econ One to see if it could come up with another way of accomplishing the same thing.

[4:20:28 PM](#)

SENATOR DYSON said he wanted to think about it and asked if "tax exempt tax" was a term of art.

MS. WILSON replied that she wouldn't classify it as a term of art, but thought they were considering whether a windfall profits surcharge should be deductible for purposes of the PPT. When the department talks about exempt from tax, it's referring to the state and federal royalty piece that is exempt from tax.

SENATOR DYSON remarked that it's really a deductible tax.

MS. WILSON replied that was correct and whether or not it's deductible would be a policy call.

[4:22:14 PM](#)

SENATOR BEN STEVENS said he hadn't seen anything from Econ One that hasn't confused them to death. He took issue with the fact that it's a gross tax combined with a net tax.

It takes a tax on gross and converts the progressivity to a net tax system that we're embracing and enacting in this bill - because it takes the section out. There is no longer a section (g) based on gross revenue. It's now a part of section (a) that changes it. It says the oil is the sum of 25 percent plus the formula. So, it's not any longer based on gross. Again, we can have analysts run it and we can have everybody understand it, but whether it's labeled a windfall tax or a progressive tax or a ratcheted progressive tax, or a high value tax on prices of oil, it's still a tax. A tax is something that the government takes. Why have one portion of the

government take deductible from another portion. We just had a conversation on whether the 470 Funds should be deductible from the fund. So, here we're talking about let's debate whether 470s are deductible, well let's debate whether this tax is deductible or that tax is deductible or this surcharge. So, the concept of deductible surcharges or deductible windfalls - to me it doesn't make sense. If we're looking at government take increase, lets look at it as a whole and say this is what we're going to do. That's what I'm trying to do.

[4:24:50 PM](#)

SENATOR BEN STEVENS also encouraged members to consider that gas is escalated on the price of oil now, which is a flaw and needs to be addressed. The costs associated with production of oil and gas in the future, because there is no CPI adjuster, is an issue that needs to be addressed, but it is addressed by taking under the net instead of the gross. He wound up his argument saying that he hoped the issue wouldn't die with the vote about to take place.

CHAIR WAGONER said he didn't think it should die and should be followed up. He asked if there was further discussion.

[4:26:25 PM](#)

SENATOR STEDMAN said he intended to look at this in the next committee of referral.

MS. WILSON said she had heard discussion about net versus gross and she couldn't see that Amendment Y.42 said it's a tax on gross.

SENATOR STEDMAN said it looked to him like the tax was calculated on the market value of the asset or commodity, not the gross or the net.

CHAIR WAGONER maintained his objection and called for a roll call vote. Senator Ben Stevens voted yea; Senators Stedman, Elton, Kookesh, Dyson and Wagoner voted nay; so, the motion failed.

[4:29:43 PM](#) Recess [4:32:M](#)

CHAIR WAGONER called the meeting back to order and announced that he would hold Administrative Amendment 1 and Amendments

Y.24 and Y.18. There being no further business to come before the committee, he adjourned the meeting at [4:34:59 PM](#).