

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

March 29, 2006

3:20 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

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."

MOVED CSSB 305(RES) OUT OF COMMITTEE

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) Heard & Held
03/04/06 (S) MINUTE(RES)
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) Heard & Held
03/15/06 (S) MINUTE(RES)
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) <Pending Referral>
 03/24/06 (S) RES AT 10:00 AM BUTROVICH 205
 03/24/06 (S) Heard & Held
 03/24/06 (S) MINUTE(RES)
 03/25/06 (S) FIN AT 10:00 AM SENATE FINANCE 532
 03/25/06 (S) -- Meeting Canceled --
 03/27/06 (S) RES AT 3:30 PM BUTROVICH 205
 03/27/06 (S) Heard & Held
 03/27/06 (S) MINUTE(RES)
 03/29/06 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/29/06 (S) RES AT 3:00 PM BUTROVICH 205

WITNESS REGISTER

JOE BALASH

Staff to the Legislative Budget and Audit Committee
 Alaska State Capitol
 Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 305.

MARY JACKSON

Staff to the Senate Resources Committee
 Alaska State Capitol
 Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 305.

ROBYNN WILSON, Director

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

POSITION STATEMENT: Answered questions related to SB 305.

ACTION NARRATIVE

CHAIR THOMAS WAGONER reconvened the 3/27/06 Senate Resources Standing Committee meeting on 3/29/06 at [3:20:46 PM](#). Present at the call to order were Senators Ben Stevens, Stedman, Seekins, Dyson, Elton and Chair Wagoner.

SB 305-OIL AND GAS PRODUCTION TAX

CHAIR WAGONER announced that the committee would continue working on CSSB 305(RES), work draft Version I and that Amendment Y.18 was up for consideration.

SENATOR BEN STEVENS said he received an email message saying the committee wasn't going to discussion amendments today.

CHAIR WAGONER clarified that the committee wouldn't discuss new amendments. He reminded Senator Stevens that he had asked to have Y.18 and Y.24 held for today's meeting so he was extending a courtesy.

[3:23:20 PM](#)

SENATOR BEN STEVENS explained that Amendment Y.18 relates to Version Y and the cross reference in Version I is found on page 10, lines 25-27, and page 18, lines 26-29. It relates to the March 19, 2006 memo Mr. Balash circulated from Don Shepler.

SENATOR BEN STEVENS moved Amendment Y.18.

24-GS2052\Y.18
Chenoweth

AMENDMENT Y.18

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

BEN STEVENS

Page 12, line 20:
Delete ";"
Insert "."

Page 12, lines 21 - 29:
Delete all material.

CHAIR WAGONER objected.

SENATOR BEN STEVENS explained that Mr. Shepler's memo relates to the ability to use tax credits against investments in a FERC regulated asset. He had two concerns with the language. The first has to do with existing assets on the North Slope that are FERC or RCA regulated. If the new language were inserted, those facilities could not use the tax credit in the future. He said Mr. Shepler's memo is inconclusive; it says that "FERC may take into consideration the credits or they may not." He thought about that and came to the conclusion that by putting the language in, the state would never be able to benefit from the credit methodology that's in place. He reasoned that all infrastructure on the North Slope is eligible for a credit except for the pieces that are regulated.

Now, we know that FERC uses cost methodology; they take the capital asset, the cost of the asset, the amount to operate and then they derive a tariff. And the tariff is deducted back to the wellhead value, which royalty oil is derived from as well as what taxable oil is derived from. So if we say to ourselves, just to use an instance, a \$10 million pipeline, FERC will say it cost \$10 million to build and it costs so much to operate and they derive the tariff. But if we say you've got a credit mechanism and if, in fact, FERC says okay you've only got \$8 million in that line and costs to operate, the tariff will go down. Therefore our value will go up; royalty oil value will go up and tax value will go up because you have less of a deduction. But if we, in fact, enact this legislation and this language, we'll never be able to do that. The state would never be able to benefit, because that's really the only way we ever benefit from the credit - is by saying the tariff is lower and the value of oil is higher. And because Mr. Shepler's conclusion is non-conclusive; it says FERC may do it, but then again, they may not do it. They may roll in reduced rates to the tariff or to the ratepayer, but then again, they may not. But this will say we'll never be able to get it.

[3:27:38 PM](#)

SENATOR KOOKESH arrived.

[3:27:57 PM](#)

SENATOR BEN STEVENS opined if the state is going to give credit mechanisms, it ought to be able to benefit from it in the future through lower tariffs and therefore, higher royalty value and higher taxable value.

SENATOR BEN STEVENS said the second piece of language he objected to is outlined in the first statement of Mr. Shepler's memo, which says:

You asked whether proposed net profits tax credits and deductions associated with investments in a North Slope Gas Treatment Plant (GTP) would be flowed-through to customers who ship gas through the plant.

SENATOR BEN STEVENS said he has always been in the position that this bill should focus on existing production, facilities that

are going to be built to enhance current production in oil and gas and not take something in the future into consideration. He said:

Because in the future, we'll see the whole picture; we don't see that picture now. And so we've taken something from the front and we put something into this picture and said you can't do that, but we don't know what it means. And for those reasons I would move that Y.18 strikes the language in Y version [Version I] on page 10, at the bottom, lines 25-27 and again on page 18, lines 26-29.

[3:29:11 PM](#)

SENATOR STEDMAN asked if the reference is to Version I.

CHAIR WAGONER answered yes Version I.

[3:29:42 PM](#)

SENATOR STEDMAN said he had a similar concern with the paragraph because he didn't want to preclude that credit in the future. He noted that this committee hadn't talked a whole lot about the effect of the tariff and how it plays in with the credits so he would suggest that they avoid a tactical error by modifying it and dealing with it at a later date.

[3:31:05 PM](#)

SENATOR ELTON said his concern is if that is taken out and FERC does not consider the credit in setting the tariff, what they have essentially done is set up a system in which the taxpayer gets a double benefit. They would get the increased tariff plus the credit. He said it's easier to leave the language in and if it becomes a problem address it then rather than assume the flip side.

[3:31:54 PM](#)

SENATOR SEEKINS said it's a policy decision and it doesn't have anything to do with how FERC will treat that in the end. If FERC ignores the credit and takes 100 percent of the value of the asset and rolls it into the tariff, he understands that the state would own 20 percent of the pipe.

So, in effect, the people of the State of Alaska would get 20 percent of the tariff over a long term. So, there's some income stream that comes to the people of the State of Alaska there. However, where we cut off where that gathering system is before it gets into the

main pipe itself, that adds some incentive to being able to construct that facility, construct the collections process, get it to the gas treatment plant and do that, I think that's a worthwhile investment as well - because we basically give a 20 percent credit against that capital investment and it's an incentive to get that process moving. I'm not so sure that the oil companies - I think that the State of Alaska by doing this doesn't really have that much to risk in being able to give that credit as far down-line as we want to regardless of how FERC treats it. And I'd be in favor of striking the language.

[3:33:52 PM](#)

SENATOR STEDMAN said after listening to Senator Elton's comments, he believes there is some confusion.

If there's a credit applied to some infrastructure that there's going to a tariff charged on, the tariff is charged on the equity position, not on the debt. And if we, the state, give a credit to lower the equity position, we should in turn see a lowering of the tariff....

[3:34:38 PM](#)

SENATOR ELTON countered that may be true if the state has an equity position, but if it's a FERC-regulated asset that the state doesn't have an equity position in, then that wouldn't be the case.

[3:35:05 PM](#)

SENATOR STEDMAN said even if the state had no equity interest and it grants credits, it wouldn't be advantageous to the state to grant credits and not get a movement in the tariff calculation.

[3:35:45 PM](#)

SENATOR ELTON said he appreciated the byplay, but:

If FERC doesn't set the tariff in a manner that reflects the credit, the royalty product that is going through that the state owns is going to be paying the higher credit. At the same time, the taxpayer is able to use the credit to lower their payments to the state. So, the state could end up giving a credit for a tariff that doesn't reflect the credit and end up

paying more for the transportation of the product the state owns going through that pipe.

[3:36:27 PM](#)

SENATOR SEEKINS expressed the opinion that it could happen, but it isn't likely.

[3:36:37 PM](#)

SENATOR BEN STEVENS referred members to Mr. Shepler's "Conclusion" on the final page of his memo that says:

I have not found any clear binding precedent that answers the question you posed. However, since FERC bases rates on the costs incurred to provide the services, the fact that project sponsors received quantifiable state tax credits and deductions as a direct result of investing in a GTP suggests that FERC would be inclined to require those benefits be flowed through to the shippers who make use of the GTP. This would be the result I would expect.

SENATOR BEN STEVENS closed his argument saying he thought the bill should focus on projects that would enhance existing oil production or gas associated with that production. He thought they should leave the questions about FERC and the GTP to a date when it is in front of them.

CHAIR WAGONER maintained his objection.

A roll call vote was taken and the motion to adopt Amendment Y.18 passed with 5 yeas and 2 nays. Senator Dyson, Senator Stedman, Senator Ben Stevens, Senator Seekins and Senator Wagoner voted in favor and Senator Elton and Senator Kookesh voted against.

SENATOR BEN STEVENS asked, as a point of order, if the reference was with both sections in the bill.

CHAIR WAGONER replied, "Right." He announced that Amendment Y.24 was before the committee.

[3:39:25 PM](#)

SENATOR BEN STEVENS withdrew amendment Y.24 and Senator Stedman concurred.

SENATOR BEN STEVENS spoke to the reason he withdrew the amendment, which relates to Section 43.55.160 (d)(2)(M) costs

that are not to be included when determining value. He said he agrees with Mr. Chenoweth's memo indicating that the section is unwieldy and he intends to recommend that the next committee break it into subsections instead of subparagraphs.

CHAIR WAGONER agreed. He asked Mr. Balash to present Amendment 1B.

SENATOR SEEKINS moved Amendment 1B.

AMENDMENT 1B

OFFERED IN THE SENATE TO: CSSB 305(RES), draft version 24-GS2052\I. BY SENATOR WAGONER

Page 19, lines 19-23: delete all material, insert
(1)the use by another person of a production facility in which the producer has an ownership interest or the management by the producer of a production facility under management agreement providing for the producer to receive a management fee;

Page 20, line 2: replace (o) with (n) and after "2006;" insert

For purposes of this subsection, if a producer removes from the state, for use outside the state, an asset described in this subparagraph, the value of the asset at the time it is removed is considered a payment received by the producer for the transfer of the asset;

Page 22, line 13: insert "(b)," at the beginning of the line

Page 22, line 14: delete "or (d)(2)(0)"

Page 22, line 16: delete "(d)(2)(N) or (d)(2)(0)" and insert (e)(3)(A)

Page 22, lines 27-28: after due: delete all material and insert

If a producer fails to comply with a request under this paragraph, there shall be added to any underpayment determined by the department under this section a penalty in the amount of 5 percent of the underpayment.

Page 22, line 29 through page 23, line 11: delete all material and reorder

Page 23, lines 12-14: delete all material and insert
(n)For purposes of determining the amount of the adjustment by subtraction that must be made to a producer's lease expenditures as a result of the producer's receiving a payment or credit under (e)(3)(A) of this section,

Page 23, lines 22-26: delete all material and reorder

[3:43:02 PM](#)

SENATOR BEN STEVENS objected.

JOE BALASH, staff to the Legislative Budget and Audit Committee, explained that Amendment 1B is the product of an effort between the committee's tax counsel, Mr. Marvin Kirsner, and his partner Carolyn Fanaroff, with the firm of Greenberg Traurig along with the Department of Law and Department of Revenue to make sure everything is captured correctly in Section 43.55.160, Section 22 of the bill. Mr. Kirsner had raised a few areas in his analysis of the governor's legislation which he thought could be tightened to reduce potential write offs for deduction purposes in the PPT. This section deals with those deductions.

He said the first part of the amendment, page 19, lines 19-23, deals with the scenario where a company is receiving revenue from a different company for production facilities' use and Mr. Kirsner recommended that that be broadened to include the type of event where somebody divests themselves of that asset and then receives a management fee - that that be counted as well. After discussion on the phone, Mr. Mintz and Mr. Kirsner worked out this agreeable language for easier reading.

MR. BALASH said language on page 20 fits in with another section of the amendment to reorder language so that it's more efficient in the application and administration of the statute. It takes care of the situation where somebody purchases an asset, collects the deduction, and then moves that asset out of state for use out of state. It requires that value to be recaptured by the state.

The third item on page 22, line 13, requests insertion of (b). That was a technical administrative point the department requested and it doesn't make any substantive changes.

MR. BALASH said that language on page 22, line 14, deals with subsection (m) and directs the agency to look at determinations of cost that occur in (d)(2)(N) for the purposes of making subtractions. That language is in the lease adjustments in subsection (e). To get language to read properly on page 14, the words "or (d)(2)(O)" are deleted. Then on line 16, the very first words, "(d)(2)(N) or (d)(2)(O)" need to be deleted and replaced with "(e)(3)(A)".

Further down page 22, lines 27-28, is clarifying language that the department requested. It sets a penalty in the event that a taxpayer fails to comply with a request for information by the department. In previous versions of this amendment, it was at 20 percent and the chair requested that it reflect 5 percent to match with similar civil penalties on tax forms.

MR. BALASH said beginning on page 22, line 29, through page 23, line 11, subsection (n) is going to be deleted entirely. It is an area that duplicated an item in the (d)(2) list of things that are excluded from direct costs.

On page 23, lines 12-14, is language that Mr. Mintz at the Department of Law recommended to make it clearer and easier to understand. It says subsection (n) because the previous subsection (n) is going to be deleted and that helps with the reordering.

Finally, on page 23, lines 22-26, is the recapture mechanism for the transfer of assets outside the state. It was added into (e)(3)(A) and is no longer needed in the new subsection (n).

[3:50:40 PM](#)

SENATOR STEDMAN referenced the last sentence of the second paragraph of the second page of the Kirsner/Fanaroff memo and asked if there is some lack of support from the department on some of the insertions.

[3:50:48 PM](#)

MR. BALASH replied:

The one area which we covered in the teleconference which the department continued to maintain its objection to or failed to agree with Mr. Kirsner on the need for, were the audit powers - and in the I version, that appears as subsection (m) where a standard is set for how to treat transactions that are not at arm's length. It directs the department to

adopt regulations that would incorporate the audit powers of section 482 of the Internal Revenue Code. These are audit powers, which the department feels may not be necessary. Our tax counsel continues to think that they would potentially be.

SENATOR STEDMAN asked to hear from the department on that issue.

[3:51:16 PM](#)

ROBYNN WILSON, Director, Tax Division, Department of Revenue (DOR), referenced a letter from the department that says insertion isn't critical. She said if, on the advice of counsel, the committee includes that's okay, but if doing so it somehow derails the main point of the legislation then the department is more neutral.

[3:52:13 PM](#)

CHAIR WAGONER asked if another way of saying it is that it isn't needed, but including it would provide a tool that could be used at some point.

Ms. WILSON replied yes. Under the rules of ordinary, necessary and direct she would argue that something in excess of fair market value is not necessary or direct or ordinary. However, she noted, an attached legal memo counters that argument so that discussion could take place at a later time. If the committee elects to leave it out, DOR will argue for ordinary and necessary. If the committee elects to leave it in, it would be an additional tool. She acknowledged that IRS Section 482 audits are cumbersome, but the benefit is that they provide ranges and guidance for arm's length values for particular kinds of services, assets and so forth. She reiterated it doesn't have to be included if it distracts from the main point of the legislation.

CHAIR Wagoner asked if there was further discussion or objection.

SENATOR BEN STEVEN maintained his objection.

A roll call vote was taken and the motion to adopt Amendment 1B passed with 6 yeas and 1 nay. Senator Stedman, Senator Elton, Senator Kookesh, Senator Seekins, Senator Dyson, and Senator Wagoner voted in favor and Senator Ben Stevens voted against.

CHAIR WAGONER asked Ms. Jackson to outline the changes between Version Y and Version I.

SENATOR SEEKINS asked for clarification that Version I had been adopted as the working document.

CHAIR WAGONER said yes. [work draft Version I was adopted during the 3/27/06 meeting.]

[3:55:28 PM](#)

MARY JACKSON, staff to the Senate Resources Committee, outlined the changes in work draft Version I from Version Y.

Page 1 includes title changes, which are the result of deletions such as the Cook Inlet feature, and insertions such as the new claw back and progressivity.

Page 2, Section 1, line 12, references Section 11 of AS 43.55.020(f) and Version Y referenced Section 14.

Page 2, Sections 2, 3 and 4, have no changes.

Page 3, Section 5, pertains to private royalty and Progressivity. In Version Y that section contained the Cook Inlet provision, which was deleted from Version I.

Page 3, line 25, contains the new phrase, "... from a lease that is in effect on the effective date of this subsection." It is the result of adopting Amendment Y.40.

Page 4, line 6, the phrase, "except as otherwise provided in (4) of this subsection," was deleted. Page 4, lines 12, 13, and 14 is a new subsection (4). Ms. Jackson said that is a result of adopting Amendment Y.40.

The new progressivity features on page 4 and the top of page 5 were corrected by the committee and replaced on Monday as a result of adopting Amendment I.2.

[3:59:14 PM](#)

SENATOR SEEKINS referenced page 4, line 23, and asked if that was amended from property tax to profits tax.

MS. JACKSON said yes, there were several of those amendments. It was done again in Amendment I.2

Page 5, Section 6, is a Cook Inlet section in Version Y that was eliminated. She said this is basically Section 9 of Version Y. Section 9.

Page 5, Section 7, contains technical changes on lines 25-30. It was an insert that reads, "after the last day of the third month following the calendar quarter of production, as described in this subsection, ..." She said it's clean-up language that is needed because of the true up. It is Version Y, Section 10.

Page 6, Section 9, has no changes. It is the Version Y, Section 12.

Page 6, Section 10, has no changes. It is Version Y, Section 13.

Page 6, Section 11, line 28, inserts the terms, "produced but" and "produced and" so that both sides of the phrase were captured with the term "produced". That is a result of adopting Amendment Y.34, Ms. Jackson said.

Page 7, Section 12, is required for private royalty reference. It is Version Y, Section 15.

Page 7, Section 13, has tax credits for which there were a number of changes. Unfortunately, there were also a number of changes that were not made. The 5,000-barrel amendment replaced the \$73 million standard deduction and the Cook Inlet provision. Mr. Mintz drew up the amendment and neglected to remove all of the Cook Inlet provisions so some show up here. For instance, page 7, lines 15-19 relating to 20 percent and 30 percent should have been removed and was not. She suggested to the chair that this would be a good time advise the committee that there is an amendment that clears the language up.

[4:03:31 PM](#)

CHAIR WAGONER explained the amendment. On page 7, line 14, after "amount of" insert "20 percent of that expenditure." and delete all of lines 15-19.

SENATOR BEN STEVENS asked if that includes development, production, and exploration.

CHAIR WAGONER said it includes all three.

[4:04:14 PM](#)

MS. JACKSON continued.

Page 7, line 25, contains drafting changes. Also, subparagraph (B) on line 30 contains some of the 30 percent provision that

was to be deleted. She noted that the amendment that members had would delete page 7, lines 30-31 and page 8, lines 1-2.

Page 8, lines 10-18, is also language related to the 30 percent that should have been deleted and was not. It is subsection (b) and (c). Ms. Jackson noted that those are included in the new amendment.

Page 8, line 19, reads "A producer may elect..." Ms. Jackson said the committee amended Amendment Y.12 to insert "or explorer" after "A producer" on page 8, line 19 and "or explorer's" after "A producer's" on line 24. She said she didn't have that on her sheet so it wasn't included in this draft, but it does need to be inserted. Page 2, lines 19-26, is the new language from Amendment Y.12.

Page 9, lines 17-27, reflect the changes made in Technical Amendment 1.

Page 10, line 26, inserted "economically" so it reads, "economically regulated".

CHAIR WAGONER advised that that language was removed in Amendment Y.18.

MS. JACKSON acknowledged that.

[4:08:27 PM](#)

Page 11, Section 14, has no changes. It is Version Y, Section 18. She noted that Version Y, Section 14 was deleted in the new 5,000 barrel.

Page 11, Section 15, has no changes. It is Version Y, Section 19.

Page 12, Section 16, contains new language as a result of adopting of Technical Amendment 1. The language is relevant to the true up.

Page 12, Section 17, language is the same except on page 13, lines 2-3, which was changed as a result of adoption of Amendment Y.21. The Version Y language read, "the use of the information to use for the purpose of determining or contesting the producer's tax obligation;"

Page 13, Section 18, has no changes. It is Version Y, Section 22.

Page 13, Section 19, has no changes. It is Version Y, Section 23.

Page 13, Section 20, line 30, the word "or" was deleted.

Page 14, Section 21, line 2, has slight nomenclature changes. It previously read, "new subsections" and now it reads, "a new subsection". She noted that this section was amended as a result of adopting Amendment I.1 on Monday, March 27, 2006.

Page 14, Section 22, page 15, lines 4-6, subsection (2) is an insert from Substantive Amendment 2.

Page 15, line 28 "under (g)(3)" is a revision under Substantive Amendment 2.

Page 15, line 31 through page 16, line 5, is new language that the administration requested.

Page 17, lines 11-14, is new language from the administration that was adopted as a result of Administrative Amendment 1.

Page 17, line 22, the language "of capital assets" was deleted.

Page 18, lines 17-24, contains new language. The administration identified sub-subparagraph (i), which relates to proportionate allocation of costs for abandonment, as a problematic. Ms. Jackson said she forwarded the requested language to legislative legal and it was inserted instead of making it an amendment. She advised the committee that it could leave the language or delete it, but it was a request from the administration.

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Page 18, lines 25-29, reflect changes as a result of Amendment Y.18.

Page 18, line 31, was changed to read, "amounts incurred," at the request of the administration.

Page 19, lines 5-6, language was changed to read, "whether or not the transaction is treated as an asset sale for federal income tax purposes." Ms. Jackson noted that the language was previously adopted in an administrative amendment.

Page 19, line 7-18, inserts new language so it reads, "certain payments or credits received by the producer, as provided in this subsection. If one or more ..." The administration requested the language.

Page 20, line 14, contains the new April 1, 2001 date to conform to the new claw back.

Page 20, line 19, "on or after January 1, 2003" was deleted to conform the new times and dates for the new claw back.

Page 20, line 21, "multiplied by" was deleted.

Page 20, lines 22-30, is the new claw back section.

Page 20, line 31 through page 21, line 3 needs to be deleted. It has to do with the transitional investments.

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Page 21 relates to the new 5,000 barrel that replaces the \$73 million deduction.

Page 22, lines 14-16, and line 26 contain changes the drafter made.

Page 23, line 5, changes reference to "(d)(2)(0)". The drafter made the correction.

Page 24, Section 22, at the end of the section the term "ordinary" needs to be reinserted. That is in the amendment, Ms. Jackson said; the drafter deleted it.

Page 24, Section 23, has no changes. It is Version Y, Section 27.

Section 24 has no changes. It is Version Y, Section 28.

Page 25, Section 26, has no changes. It is Version Y, Section 30.

Page 25, Section 27, has no changes. It is Version Y, Section 32.

Page 25, Section 28, has no changes.

Page 26, Section 29, has no changes. It is Version Y, Section 33.

Section 30, contains a new (17) definition for the Cook Inlet basin. It references back to the private royalty provisions that were inserted. There are no changes in subsections (18) or (19).

Page 27, Section 31, contains the repealers reflecting the revisions that were made.

Page 27, Section 32, is the applicability. It contains the dates that apply to the specific sections.

Page 27, Section 33, contains the transitional provisions.

Page 27, line 31, and page 28, lines 1-3, needs to be deleted. It's a continuation of the 30 percent credit that wasn't picked up.

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SENATOR ELTON asked for verification that the language on page 18, lines 17-24, was added by the drafter and not as the result of an amendment or direction from the committee.

MS. JACKSON said yes. The administration raised the question of how to tell the proportionate costs with abandonment before and after the bill. The administration provided the language and due to a miscommunication with the drafter, it was inserted into the work draft instead of written as an amendment.

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SENATOR ELTON asked if the net effect of the language is that abandonment becomes a cost that can be used to reduce tax margin after the effective date of the bill but not before. He questioned the impact that might have because previous discussion assumed that abandonment would not be allowed. He called it a significant policy shift simply because the drafter inserted it in the bill.

MS. JACKSON responded that provision was already included.

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BEN STEVENS said it is still a part of (d)(2)(M) and all the subsections are exclusions from the deduction.

CHAIR WAGONER clarified they are excluded from allowable deductions.

[4:24:51 PM](#) at ease [4:26:12 PM](#)

SENATOR SEEKINS moved Amendment 2B.

AMENDMENT 2B

OFFERED IN THE SENATE TO CSSB 305(RES), draft version 24-
GS2052\I (dated 3/27/06) BY SENATOR WAGONER

Page 7, line 14, after "amount of" insert:
"20 percent of that expenditure."

Page 7, lines 16 - 19, delete all material.

Page 7, line 30 - page 8, line 18, delete all
material.

Page 10, lines 26-27, following "Federal Energy
Regulatory Commission," insert:
"the"

Page 18, line 25, following "a pipeline, facility"
insert:
"other asset"

Page 18, line 28, following "successor" insert:
"regulatory"

Page 20, lines 12 - page 21, lines 3, delete all
material and insert deleted materials into Section 13
on page 10, line 28 as new subsection (i)

Page 10, line 28, renumber accordingly.

Page 20, line 31 - page 21, line 3: delete all
material.

Page 24, line 5: Insert new (s):
"(2) "ordinary and necessary" has the meaning given
"ordinary and necessary" in 26 U.S.C. 162 (Internal
Revenue Code) and regulations adopted under that
section;

Page 24, line 5, renumber accordingly.

Page 27, lines 31-32, and page 28, lines 1-3, delete
all material.

CHAIR WAGONER objected for discussion purposes and asked Ms. Jackson to go through the amendment.

MS. JACKSON read Amendment 2B. Explanations, questions, comments, discussion and motions follow.

Page 7, lines 15-19, relate to correcting the 30 percent provision.

Page 7, line 30, through page 8, line 18, relates to correcting the 30 percent provision.

SENATOR SEEKINS moved to amend Amendment 2B to delete lines 8-9 of. There being no objection, Amendment 1 to Amendment 2B passed.

[4:28:32 PM](#)

MS. JACKSON asked that Senator Seekins' amendment delete lines 8-16.

SENATOR SEEKINS moved Amendment 2 to Amendment 2B to delete lines 10-15. There being no objection, Amendment 2 to Amendment 2B passed.

[4:30:33 PM](#)

Page 20, line 12 through page 21, line 3, the purpose of deleting the material is to move the subsection out of Section 22 and insert it in tax credits in Section 13.

CHAIR WAGONER explained that is to allow a 20 percent credit instead of a 25 percent deduction.

[4:31:44 PM](#)

SENATOR BEN STEVENS asked if the correction is made so the new section can be calculated against the determination.

CHAIR WAGONER said that hasn't been addressed, but he would assume so. Basically it was transferred from the determination of production tax value in Section 22 to tax credits in Section 13. If the language remained in Section 22 it would allow a deduction of 25 percent instead of a credit of 20 percent under Section 13.

BEN STEVENS expressed confusion because he thought the 25 percent was for loss carried-forward and he didn't believe that producers that would exercise the transitional expenditures have a loss carried-forward.

CHAIR WAGONER reminded him they discussed this last week and he thought they reached concurrence.

SENATOR BEN STEVENS replied he concurs it shouldn't be a 25 percent rate. He mentioned the loss carried-forward on page 8, line 19, and said he'd look it over and get back if he had concerns.

ROBYNN WILSON said the 25 percent credit referred to on page 8, line 19, talks about loss carried-forward, but it is a special section within the general credit section. It starts on page 7, line 9, and it gives a 20 percent credit. She said she believes the 25 percent Senator Stevens referred to applies to loss carried-forward and the general credit amount is 20 percent.

In Version I it is a deduction so with the 25 percent tax rate it's worth 25 percent. Moving it into the credit section would give a benefit of 20 percent rather than 25 percent. She said she understands that to be the intention.

SENATOR BEN STEVENS said his understanding is that the only time you get 25 percent credit is when there is a loss carried-forward and he wouldn't classify a transition as a loss.

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Page 20, line 31 through page 21, line 3, relates to the transition that wasn't removed.

Page 27, line 31 through page 28, lines 1-3 relates to the 30 percent deduction that should have been deleted.

CHAIR WAGONER asked if there were further questions or discussion on Amendment 2B.

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SENATOR DYSON asked why the 30 percent deduction for exploration was removed.

CHAIR WAGONER explained that was part of an earlier Cook Inlet provision that called for a 20 percent tax and a 30 percent credit. When it was changed to 5,000 barrels both were to be removed. For some reason, reference to the 30 percent credit has appeared in subsequent drafts.

CHAIR WAGONER removed his objection. Finding no further objection he announced that Amendment 2B was adopted.

SENATOR SEEKINS moved CSSB 305(RES), Version I as amended, from committee with individual recommendations and attached fiscal notes.

SENATOR BEN STEVENS objected.

A roll call vote was taken and the motion to move CSSB 305(RES) from committee passed with 5 yeas and 2 nays. Senator Elton, Senator Kookesh, Senator Dyson, Senator Stedman, and Senator Wagoner voted for and Senator Ben Stevens and Senator Seekins voted against.

[4:43:25 PM](#) at ease [4:47:09 PM](#)

There being no further business to come before the committee, Chair Wagoner adjourned the meeting at [4:47:21 PM](#).