

**ALASKA STATE LEGISLATURE
ADMINISTRATIVE REGULATION REVIEW COMMITTEE**

February 8, 2010

3:11 p.m.

MEMBERS PRESENT

Representative Wes Keller, Chair
Senator Donald Olson, Vice Chair
Representative Carl Gatto
Representative David Guttenberg
Senator Albert Kookesh
Senator Kevin Meyer

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

PROPOSED REGULATIONS RELATING TO EXECUTIVE BRANCH ETHICS

- HEARD

PROPOSED REGULATIONS RELATING TO OIL & GAS TAX CREDIT AND
HEATING VALUE OF GAS

- HEARD

EXECUTIVE SESSION

- HELD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

JUDY BOCKMON, Assistant Attorney General, State Ethics Attorney
Opinions, Appeals & Ethics
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Provided a brief summary of the regulations
regarding the executive branch ethics.

JULIET HILDRETH

Anchorage, Alaska

POSITION STATEMENT: During the hearing on the proposed executive branch ethics regulations, expressed concern with the complainant, petitioner, and the process.

ANDREE MCLEOD

Anchorage, Alaska

POSITION STATEMENT: Expressed concern with the proposed executive branch ethics regulations.

ZANE HENNING

Wasilla, Alaska

POSITION STATEMENT: Testified in objection to the changes [encompassed in the executive branch ethics regulations] in whole.

VALERIE HENNING

Wasilla, Alaska

POSITION STATEMENT: Testified that the changes encompassed in the executive branch ethics regulations are unnecessary.

MARCIA DAVIS, Deputy Commissioner

Department of Revenue

Anchorage, Alaska

POSITION STATEMENT: Provided an overview of the Alaska's Clear and Equitable Share (ACES) regulations process.

ACTION NARRATIVE

[3:11:24 PM](#)

CHAIR WES KELLER called the Administrative Regulation Review Committee meeting to order at 3:11 p.m. Representatives Keller Gatto, and Guttenberg and Senators Olson, Meyer, and Kookesh were present at the call to order.

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CHAIR KELLER explained that per AS 24.05.182 and AS 24.20.400 the task of the Administrative Regulation Review Committee is to review regulations to ensure that they properly implement legislative intent. When the legislature isn't in session, this committee has the power, through a two-thirds vote, to suspend the effectiveness of any given regulation until session begins. The aforementioned can only occur after the proper notice of all involved and it's not an emergency regulation. During session the committee holds hearings, examines regulations for

legislative intent, gathers information, and prepares and distributes memorandums. The committee also investigates findings transmitted to it from the standing committees. In this case, the committee is only responding to questions raised by the regulations attorney. He mentioned that the committee didn't hold a meeting during the interim because members didn't feel it was necessary.

Proposed Regulations Relating to Executive Branch Ethics

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JUDY BOCKMON, Assistant Attorney General, State Ethics Attorney, Opinions, Appeals & Ethics, Department of Law (DOL), said that she would provide a brief summary on the proposed regulations that were published for comment in December. She reminded the committee that the Executive Branch Ethics Act specifies the general standards of conduct and provides the attorney general the authority to interpret and implement the necessary regulations. Generally, the purpose of these regulations is to provide guidance to public officers by clarifying the application of the Act, and thereby promoting good governance and decision making. She pointed out that each of the regulations were the result of requests for specific guidance from other agency's ethics supervisors, other public offices, and DOL's own internal review. For example, she recalled that one of the first things she addressed in her position was the fact that the definition of "publicly disseminated information" didn't take into account the vast use of the Internet and on-line posting to distribute information. Other regulations that are being addressed include the regulations addressing electronic equipment and presumed and insignificant use. The aforementioned is something that the commissioner of the Department of Administration (DOA) requested review of more than a year ago. She noted that the committee has been provided background on some of the regulations that she will mention. She then highlighted the regulation relating to reimbursement or payment of attorney's fees of public officials who are exonerated of ethics complaints. The aforementioned regulation implements an analysis performed by the attorney general that responds to questions from agencies and the department's own internal review on the appropriateness of paying some fees of officials who were exonerated. The regulations accomplish the aforementioned by establishing criteria for application of provisions of the Act dealing with unwarranted benefits. She noted that it was performed in conjunction with DOA's Division of Risk Management. The family travel regulations, which relate

to family travel of the governor's or lieutenant governor's family, attempt to provide guidance to all such that it's clear when the state will and will not pay for those family members to travel. The aforementioned clarification was performed at the recommendation of the independent council. He then noted that there is a regulation regarding gifts of travel, which attempts to describe situations when there is no gift to an individual as well as when there are gifts to an individual but not the state generally. Based on the comments received, Ms. Bockmon said she is trying to make the regulations better or clearer than in the first publication. Significant revisions, she mentioned, would have a republication period. However, that point hasn't yet been reached. In conclusion, Ms. Bockmon related that the goal has been to clarify the application of the Act to provide guidance to state employees, their ethics supervisors, and others in order to ensure that public offices don't violate the Act and promote good decision making.

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CHAIR KELLER requested comment on the regulations addressing the transportation of family members of the governor and lieutenant governor and the payment of legal fees for an exonerated public officer. He asked if the aforementioned regulations site specific statute.

MS. BOCKMON answered that the proposed regulations don't include specific statute citations. With regard to the attorney's fees regulations, an August 5, 2009, attorney general's opinion reviewed a number of questions related to ethics and complaints. One of the questions was regarding reimbursing public officers who are exonerated under the Executive Branch Ethics Act as well as other existing codes of conduct. The aforementioned overall review resulted in the attorney general concluding that there is legal authority to provide some reimbursement. The regulation, she highlighted, sets out standards for determining what reasonable expenses are and how the matter would fit under an ethics act analysis if there is a charge/claim that an individual was inappropriately paying the cost for a public official who is exonerated. The Division of Risk Management has reviewed such a situation and has encompassed it under the division's support it provides to the agencies.

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Due to technical difficulties, the committee took an at-ease from 3:25 p.m. to 3:27 p.m.

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MS. BOCKMON, in response to Representative Gatto, clarified that the Rules of Civil Procedure apply to court proceedings. She explained, "We looked at the type of standards in those ... rules and are incorporated into the regulation of standards that I think is similar. ... To address reasonable attorney's fees ... customarily performed to provide legal services in the situation, which would include maybe ... a paralegal or investigator assistance." She noted that she didn't provide reference to related cost, which would be a possible revision of the regulation as published.

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REPRESENTATIVE GATTO posed a scenario in which the state is defending a member of the executive branch and prevails, and inquired as to how the attorney's fees would be determined since there is no billing.

MS. BOCKMON explained that in a situation in which a public officer is charged with a violation of the Ethics Act or a code of conduct, DOL wouldn't provide the defense directly because it prosecutes such claims. The contemplation is that the public officer may hire outside counsel, and in the appropriate circumstances [the state] would reimburse the attorney's fees of a private attorney.

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REPRESENTATIVE GUTTENBERG, referring to the February 24, 2009, letter from then Acting Attorney General Svobodny, inquired as to who in the family the regulations contemplate is allowed to travel.

MS. BOCKMON related her understanding that in the past, there have been particular circumstances in which the Office of the Governor has decided that it's appropriate for a spouse to attend and have his/her travel paid for by the state for say, the swearing in of the governor. Such circumstances are limited, and therefore there was review of when the travel of a family member would be appropriate. The attempt was to draft a standard to determine when travel [of an immediate family member] is a state purpose and appropriate for the state to pay. In further response to Representative Guttenberg, Ms. Bockmon related her understanding that the limited payment for family

member travel has always come from the Office of the Governor's budget and appropriation. She noted that independent council assured her that he couldn't find any statutory or regulatory standards governing the travel of those officials

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REPRESENTATIVE GUTTENBERG suggested that perhaps it would be easiest to not permit any travel [of family members at the state's expense].

MS. BOCKMON said that would be the legislature's decision. Under the Executive Branch Ethics Act, she is asked to review particular circumstances and weigh whether there is a personal gain or benefit to a personal or financial interest. The significant and insignificant is balanced in the context of particular circumstances. She pointed out that the Executive Branch Ethics Act doesn't provide a broad authority to say, "No, you can't do that at all."

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REPRESENTATIVE GATTO recalled that Frank Murkowski referred to his wife as his personal advisor, and thus she accompanied him on all of his trips. If that's the case, then one could also express the need to take the children because otherwise a great deal of time would be spent calling them and worrying about them, which would make [the governor] less effective and efficient. Therefore, the governor could say that there's a compelling state interest to take the children along. He asked if the aforementioned argument would hold water.

MS. BOCKMON explained that the regulations attempt to draw a line by which one can articulate that the travel of a family member provides a state purpose and benefit. The discussion as to whether it's appropriate for officials to have a family member, including children, travel with him/her could go either way. The citizens of the state may or may not believe that it's appropriate for a governor to travel with family members, depending upon the nature of the event. Therefore, the focus has been on the nature of the event in defining a standard.

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REPRESENTATIVE GATTO pointed out that when one travels via a commercial flight with a child, there's a cost for the child if he/she sits in a seat. He then posed a scenario in which an

official travels via the state airplane, which holds seven, and the official decides to take along his/her spouse and child since there are four empty seats. In the aforementioned case there wouldn't be an extra cost to the state, save perhaps a de minimis amount of fuel. Therefore, he questioned whether there's a difference between occupying a seat on a commercial flight versus on a state-owned flight.

MS. BOCKMON informed the committee that there is a prior advisory opinion on travelling via the state aircraft, which addresses travel of other state officials regarding whether use of the state aircraft provides an unwarranted benefit. The conclusion of the advisory opinion was that it wouldn't be appropriate, absent a state purpose, for an official to travel on the state aircraft at all. There is a distinction, she said, between the two uses.

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CHAIR KELLER reminded the committee that this meeting is to determine whether the regulations are valid, not necessarily helping to draft them.

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SENATOR OLSON posed a scenario in which the governor is a mother who is breastfeeding a child, and asked if that would be covered under the regulation.

MS. BOCKMON responded that she wasn't sure the regulations would cover such a scenario because there would not be a state purpose or benefit. She then pointed out that typically infants who are being breast fed wouldn't need an extra seat or require paying for an extra seat commercially.

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SENATOR OLSON inquired as to how the regulations for travel under the Executive Branch Ethics Act parallel the travel regulations for other branches, such as the legislature. He noted that the state pays for the spouse and children of a legislator to come to Juneau. Furthermore, legislators are given a per diem.

MS. BOCKMON said she wasn't familiar with the legislature's rules governing legislator travel, but it would seem that the

legislature's benefits are different than what's contemplated under the Executive Ethics Act regulations.

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JULIET HILDRETH expressed concern about the complainant, petitioner, and the process. Upon the submission of the ethics complaint, Ms. Hildreth requested that the Select Committee on Legislative Ethics hold everything in silence until the final report is concluded. Unfortunately, this past year complainants used everything from a blog to the radio, and thus circumvented the process on the grounds that it was the complainants' freedom of speech. The aforementioned made a mockery of the Select Committee on Legislative Ethics and the process. She suggested that upon any breach of silence, there should be a fine and the complaint thrown out.

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ANDREE MCLEOD reminded the committee that these regulations refer to the executive branch, which includes the governor, the lieutenant governor, attorney general, and many bureaucrats, not the legislature. These regulations refer to individuals who are not going to be re-elected every two to four years. Furthermore, these individuals are part of a hierarchy that goes all the way to the governor's office. The intent of the Ethics Act, she said, is to resolve issues that come about due to conflicts of interest, which everyone has. She reviewed the processes by which legislators and bureaucrats can approach conflicts of interests. In a situation in which an individual citizen has questions about certain conduct, but the legislature is completely debilitated in challenging any member of the executive branch, which was the case in the first couple of sessions of the Palin Administration, the only way for public citizens to question the conduct of [executive officials] is by filing an ethics complaint. She informed members that the Personnel Board has said that a public citizen must file a complaint rather than fill out a form to question the conduct of these public officials. Ms. McLeod submitted that the changes in the regulations don't improve public service standards or promote and strengthen the faith and confidence of Alaskans in their public officials. She further submitted that the following regulations regarding reimbursement for legal fees, transportation of family members, and state employees who don't claim gifts of travel for state business are not valid. Ms. McLeod expressed hope that the committee would not allow the enactment of those regulations.

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ZANE HENNING related his objection to the changes [encompassed in the regulations] in whole. He further related his objection to the entire process that is being pushed through today. The Executive Branch Ethics Act is an important law on which the attorney general shouldn't make suggestions of changes, other than to the entire legislative body, he opined. There are many changes necessary. There haven't been questions regarding family travel to the degree that it happened in recent years. Furthermore, there weren't questions regarding the attorney's fees needing to be paid to those filing complaints. Moreover, an individual doesn't need to acquire an attorney to represent him/herself for the fees. Mr. Henning expressed the need for there to be an amendment to the Ethics Act such that there is no longer a personnel board overseeing the actual complaint and that elected officials or an elected committee would have oversight.

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CHAIR KELLER informed everyone that every legislator was notified of the regulation change as well as a publicly noticed process open to all Alaskans.

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VALERIE HENNING noted her agreement with the prior two speakers as she finds the changes encompassed in the regulations unnecessary. She then opined that the recently released e-mails in which former Governor Palin and her staff are scurrying to find a reason to justify her children traveling with her proves the point.

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SENATOR MEYER asked if there is an inadvertent conflict of interest with the governor, who appoints the Personnel Board and has to go before the board on any ethics complaints. He pointed out that the legislature has to go before the Select Committee on Legislative Ethics, the appointments for which the legislature isn't involved at all. Therefore, he questioned whether it's too close of a relationship between the governor and the Personnel Board.

MS. BOCKMON recalled that when the Ethics Act was passed in the 1980s, it included a provision that required there be good cause for removal of a member of the Personnel Board. The aforementioned was in order to insulate the members of the Personnel Board from influence [from the administration] when there are ethics complaints. Ms. Bockmon explained that when DOL receives an ethics complaint against the governor, lieutenant governor, or attorney general, it's automatically forwarded to the Personnel Board which hires independent counsel. The independent counsel acts with the authority of the attorney general to perform the investigation and reach a conclusion regarding probable cause, dismissal, and corrective action, as provided and outlined in the Act. If the matter proceeds into the public process of accusation and public hearing, the Personnel Board appoints a hearing officer and ultimately the hearing officer makes a recommendation. At that point, the Personnel Board makes the decision about a complaint. The Personnel Board, she specified, does not make decisions on dismissal or corrective action until after a public hearing.

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SENATOR MEYER noted that there has been discussion regarding making the executive branch subject to ethics standards similar to the legislature. However, the legislature is elected and thus the public can vote out legislators they believe to be unethical. The aforementioned would only apply to the governor and the lieutenant governor, whereas the remaining executive branch employees are appointed by the governor and the public doesn't have much opportunity to weigh-in on other officials.

MS. BOCKMON opined that the Ethics Act provides an opportunity for the public to submit complaints and make reports to ethics supervisors, which would trigger review and an investigation. She said she didn't know how else to integrate the public interest in an [ethics] matter under the current structure.

SENATOR MEYER related his belief that the separate and different systems for the executive branch and the legislative branch are likely warranted.

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REPRESENTATIVE GUTTENBERG expressed concern that the independent counsel hired by the Personnel Board has a lot of authority, while the Personnel Board seems to have a diminished role. He then related his belief that some of the recent dialogue of the

Personnel Board [when addressing complaints regarding former Governor Palin] was very inappropriate. He, too, opined that there's inherently a problem with the Personnel Board responding to cases in which the complaint is against the person that appointed the board members.

MS. BOCKMON reiterated that the legislature [through the aforementioned provision] provided some insulation for the Personnel Board. Furthermore, hiring the independent counsel to make the decisions provides another layer of insulation.

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MS. MCLEOD stated that her experience with the ethics complaints she filed is a good case study of what's wrong. She then opined that the committee is questioning and receiving answers from an individual, an assistant attorney general, who is part of the problem. There is systemically a problem with an assistant attorney general who is employed in DOL by a chief of staff who answers to the governor. Therefore, she opined that the committee's time would be better spent reviewing the complaint process itself because it's broken.

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CHAIR KELLER remarked that although that's not the role of the committee, he agreed with Ms. McLeod that the overall appointment process creates some interesting situations.

Proposed Regulations Relating to Oil & Gas Tax Credit and Heating Value of Gas

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CHAIR KELLER then turned the committee's attention to the proposed regulation changes to the oil and gas tax credit and heating value of gas.

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MARCIA DAVIS, Deputy Commissioner, Department of Revenue, reminded the committee that ACES passed in December of 2007 and the Department of Revenue (DOR) has almost completed its regulations process, which is governed by the Administrative Procedures Act (APA). She then reminded the committee that the petroleum production profits tax (PPT) was the first cataclysmic change to the tax structure, which changed the tax from a gross

tax to a net tax. The department held developing regulations for PPT until it was clear what was happening with the subsequent legislative session. Although the passage of ACES provided clarity, DOR didn't want to write fresh regulations that had a new focus of the tax system. Since the department knew it needed to be correct the first time, it implemented a public workshop process. The department developed an outline of what it thought a specific regulatory approach would be on a topical basis. For instance, the department would review lease expenditures and put out information regarding how it would approach and define it in a notice to the public. The department then presented its approach to those impacted and interested at a workshop. The aforementioned resulted in the department receiving quite a bit of feedback. Ms. Davis explained that a public workshop process was chosen because it is an informal process that allowed the agency to be more nimble and not have to stop for 30 days after every comment and write a formal response for each comment. As a result of the comments during the public workshops, the department drafted regulations. If the sense was that the concept was a general one, the department would hold another workshop. The aforementioned lead to the receipt of more specific comments because the department was putting forth more concrete language. She referred to the process as an iterative process in which each time a deeper appreciation and understanding was gained regarding how industry would deal and cope with the state's regulations and how the state as regulators would be required to ensure integrity, honesty, and accuracy in the process. She noted that in some instances, three workshops were held. Ultimately, when the department felt it had heard enough, draft regulations for the formal comment period were put out for a minimum of 30 days. Interestingly enough, the department rarely heard a comment that it hadn't already heard and discussed extensively during the earlier process. During the public comment period, the department wrote its formal comments and reactions. She noted that in at least one instance, the department pulled [a regulation] back and chose a different approach. The aforementioned is what has been occurring on a topic-by-topic basis over the last two years.

MS. DAVIS, referring to the slides entitled "Tax Division ACES Reg. Process," pointed out that the beginning of the process focused on forms and reporting forms because the taxpayers had to develop a way in which to file their taxes between December 2007 and February 28, 2008. In 2008, the division worked intensively on the process and the questions regarding how to interpret ACES. Since the legislature provided the division the

ability to issue advisory bulletins, they were noticed throughout the process. At this point, of approximately 70 production tax regulations that the division has written new or revised, 46 have been finalized and moved through the lieutenant governor's office. The remaining regulations are a discrete subset of items, including the transportation deduction regulations. The aforementioned was held to the end because it's very relevant to gas as well as oil. The transportation deduction regulations are coming out within the week. She informed the committee that the facility sharing regulations are in the final stage in which DOR's comments are being written and will be forwarded to the lieutenant governor. There is also a regulation relating to the BTU heating value as well as a few miscellaneous regulations that remain.

MS. DAVIS then returned to the facility sharing regulation. She explained that the division is interpreting a statute, AS 43.55.170, that was put in place with the passage of PPT. That statute was designed to ensure that when companies have a facility that they own and operate and incur all the associated costs, when they share the facility the other party pays the facility owner a fee to utilize a portion of the capacity. He explained that [AS 43.55.170] was designed to ensure that the facility owner didn't deduct 100 percent of the cost and pick up a bit on the side. The idea is that the state needed to be held whole such that the facility owner deducted a portion of the cost as did the sharer. However, because of the broad language of AS 43.55.170 most of the facility owners were concerned about how the state would interpret the statute. The concern is that the facility owners would be forced to reflect payments from companies that wanted to share. Although [the facility owners] weren't deducting the costs, the facility owner would have to take its share of costs and further reduce their share by the percentage being paid by the other party. The aforementioned was viewed by the facility owners as a net negative and required the facility owner to gross up the charge. Furthermore, because the payment itself was a payment, the [facility owner] had to gross up the payment's gross ups and thus the facility owner's charges were becoming very steep, which impeded facility sharing. The aforementioned led to review of all the facility sharing agreements during which each of the elements of the facility sharing agreements were broken out and it was clarified, through regulation, how the payments were to be treated. Referring to the slide entitled "Structure of 15 AAC 55.280," she explained that as long as the allocated share of operating costs is the new party's it doesn't have to be offset against the reduced amount. She noted that there is also an

allocated share of [future] capital costs as well as historical costs, which are part of some cost of the facility owner in which a cost that has been incurred is desired to be recovered. These costs could be determined to predate PPT and considered a legitimate business expense that doesn't take anything out of the state. There are two other elements, on which the Legislative Affairs Agency made comments that helped the division with its thinking on the regulation. One of the elements was in reference to the transfer of barrels payment. She explained that there's a make whole payment in which the facility owner that allows the entrance of a new party's field can back out its production to allow for the new party's production. As a sharer, the new party will make the facility owner whole in the process and thus will turn over some barrels downstream. The transfer of barrels was defined as non lease expenditures and thus there is no double dipping, just one deduction. Similarly, the facility owner isn't required to gross up the tax payment multiple times. She opined that the division identified the problem areas and firmly stayed within the confines of the statutory intent of AS 43.55.170 under PPT and ACES. The division facilitated the process of facility sharing, which the division wants to encourage within the confines of the statute. She highlighted the slides entitled "Comments from Industry." In conclusion, Ms. Davis opined, "We believe that our process is working; we believe this iterative process ensures maximum, meaningful input from both the public and the industry; and we think the facility sharing agreement is a perfect example of that."

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REPRESENTATIVE GUTTENBERG recalled that in the past one of the most important aspects of facility sharing costs is allowing for a competitive process to continue at Prudhoe Bay. He inquired as to whether the facility sharing cost is at a point at which it's flat, equal, or restrictive to new entrants.

MS. DAVIS opined that this clarity has substantially aided both the facility owners and new entrants in terms of understanding the playing field. For instance, both parties understand exactly what it means to make commercial concessions and how they will be treated under the tax laws. Facility sharing agreements are starting to come about. In fact, Pioneer was successful in its negotiations with the Kuparuk owners and Savant Alaska is working with the Badami field and sharing facilities with BP Exploration (Alaska) Inc. Therefore, she opined that the makings are present and this is an important

first step in ensuring that many of the potential problems with facility sharing have been addressed.

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REPRESENTATIVE GUTTENBERG noted that he just attended a committee hearing in which legislation to rewrite ACES, HB 308, was considered. However, Ms. Davis is relating that DOR is just now finalizing the regulations that finalize the process. Therefore, he questioned whether one can review far enough back to determine whether ACES is working.

MS. DAVIS informed the committee that upon the request of Commissioner Galvin, the division issued an ACES status report. The report reviewed the data received. The conclusion was that the division can't definitively say that ACES has caused elements, but the capital expenditures (capex) and the operating expenditures (opex) have increased. Although there has been some decrease in drilling activity, it began back in 2005, per the Alaska Oil and Gas Conservation Commission (AOGCC) statistics and thus can't be said to be related to PPT or ACES. The employment statistics relate an increase in oil and gas employment. Although an issue has been raised with regard to unemployment claims, there have been record numbers of oil and gas employment in 2007-2009 successively which will have to be reconciled.

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SENATOR MEYER inquired as to whether the oil companies have been paying taxes during the 2.5 years it has taken to write the regulations. If so, did the oil companies make a best guess payment, he asked. He expressed concern that these businesses could face a large bill if they didn't pay enough in taxes.

MS. DAVIS reminded the committee that the effective dates of PPT and ACES were retroactive. Since industry needed guidance in how to respond, it has been involved in the workshops. She noted that there have been signs along the way regarding what the rules will be and how they will be interpreted. As a matter of fairness, the department is requesting and the governor is recommending that the department be allowed to waive interest on retroactive payments. Currently, the department can waive penalties, which is the department's intent for any underpayment associated with a lack of awareness of what the regulations would be. However, the department doesn't have the statutory authority to waive the interest, which can be a substantial

amount. Therefore, passage of legislation providing the department authority to waive the interest on the underpayments associated with not having clear guidelines is important. In further response to Senator Meyer, Ms. Davis clarified that the department is seeking a waiver of the interest rate when an overpayment or underpayment is the result of the application of a retroactive regulation.

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REPRESENTATIVE GATTO highlighted that ConocoPhillips breaks out its Alaska operation relative to the rest of the country. ConocoPhillips Alaskan operation is fairly profitable while the remainder of the company is not. Currently, an advertisement is running that says 2,000 jobs have been lost since the passage of ACES. The conclusion of that advertisement is that ACES is broken. However, employment is high. He questioned what to tell people.

MS. DAVIS said that the statistics in the ACES status report are valid and accurate. The best response, she suggested, is to have the Department of Labor & Workforce Development (DLWD) address, in detailed manner, what is going on with the status of Alaska's employment. She noted that the unemployment report includes both in-state and out-of-state claims for unemployment. She suggested that there could be an issue with in-state and out-of-state numbers. She further suggested that the unemployment number could be a reflection that when the industry ramped up to address the maintenance issues, the Alaska labor supply was exhausted and thus had to reach out to the Lower 48 for employment, in perhaps a temporary nature. Ms. Davis reiterated that all of the statistics are correct, but one must review them in the context of the story they tell. In further response to Representative Gatto, she confirmed that all the statistics are from DLWD.

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CHAIR KELLER reminded the committee that this committee must decide whether or not to introduce or promote legislation that will annul past regulations.

Executive Session

[4:26:54 PM](#)

SENATOR OLSON made a motion to move to executive session for the purpose of discussing matters with the committee's attorney. There being no objection, the committee went into executive session at 4:27 p.m.

4:58:34 PM

CHAIR KELLER brought the committee back to order at 4:58 p.m.

ADJOURNMENT

There being no further business before the committee, the Administrative Regulation Review Committee meeting was adjourned at 4:59 p.m.