

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

April 10, 2010  
10:18 a.m.

**MEMBERS PRESENT**

Representative Craig Johnson, Co-Chair  
Representative Mark Neuman, Co-Chair  
Representative Bryce Edgmon  
Representative Kurt Olson  
Representative Paul Seaton  
Representative David Guttenberg  
Representative Scott Kawasaki  
Representative Chris Tuck

**MEMBERS ABSENT**

Representative Peggy Wilson

**COMMITTEE CALENDAR**

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 305(FIN)(TITLE AM)

"An Act providing that the tax rate applicable to the production of oil as the average on oil and gas production for appropriation to the community revenue sharing fund; production tax value of oil, gas produced in the Cook Inlet sedimentary basin, and gas relating to the allocation of lease expenditures and adjustments to lease expenditures; produced outside of the Cook Inlet sedimentary basin and used in the state increases and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 301

"An Act relating to the power project fund; authorizing the Alaska Energy Authority to charge and collect fees relating to the power project fund; authorizing the Alaska Energy Authority to sell and authorizing the Alaska Industrial Development and Export Authority to purchase loans of the power project fund; providing legislative approval for the sale and purchase of loans of the power project fund under the memorandum of understanding dated February 17, 2010; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 365

"An Act relating to the power project fund; authorizing the Alaska Energy Authority to charge and collect fees relating to the power project fund; authorizing the Alaska Energy Authority to sell and authorizing the Alaska Industrial Development and Export Authority to purchase loans of the power project fund; providing legislative approval for the sale and purchase of loans of the power project fund under the memorandum of understanding dated February 17, 2010; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 305

SHORT TITLE: SEPARATE OIL & GAS PROD. TAX/ DEDUCTIONS

SPONSOR(S): FINANCE

03/08/10	(S)	READ THE FIRST TIME - REFERRALS
03/08/10	(S)	FIN
03/09/10	(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/09/10	(S)	Heard & Held
03/09/10	(S)	MINUTE(FIN)
03/10/10	(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/10/10	(S)	<Bill Hearing Canceled>
03/11/10	(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/11/10	(S)	-- MEETING CANCELED --
03/12/10	(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/12/10	(S)	Heard & Held
03/12/10	(S)	MINUTE(FIN)
03/18/10	(S)	FIN AT 3:00 PM SENATE FINANCE 532
03/18/10	(S)	Heard & Held
03/18/10	(S)	MINUTE(FIN)
03/29/10	(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/29/10	(S)	<Bill Hearing Postponed>
03/31/10	(S)	FIN RPT CS 6DP 1AM NEW TITLE
03/31/10	(S)	DP: HOFFMAN, STEDMAN, THOMAS, EGAN, OLSON, ELLIS
03/31/10	(S)	AM: HUGGINS
03/31/10	(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/31/10	(S)	Moved CSSB 305(FIN) Out of Committee
03/31/10	(S)	MINUTE(FIN)
04/01/10	(S)	TRANSMITTED TO (H)
04/01/10	(S)	VERSION: CSSB 305(FIN)(TITLE AM)
04/05/10	(H)	READ THE FIRST TIME - REFERRALS
04/05/10	(H)	RES, FIN

04/07/10 (H) RES AT 1:00 PM BARNES 124  
04/07/10 (H) Heard & Held  
04/07/10 (H) MINUTE(RES)  
04/09/10 (H) RES AT 1:00 PM BARNES 124  
04/09/10 (H) Heard & Held  
04/09/10 (H) MINUTE(RES)  
04/10/10 (H) RES AT 10:00 AM BARNES 124

#### **WITNESS REGISTER**

PAT GALVIN, Commissioner  
Department of Revenue (DOR)  
Juneau, Alaska

**POSITION STATEMENT:** During hearing of SB 305, answered questions.

DONALD BULLOCK JR., Attorney  
Legislative Legal Counsel  
Legislative Legal and Research Services  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing on SB 305, explained Amendment 4.

ROGER MARKS, Consulting Petroleum Economist  
Logsdon & Associates  
Anchorage, Alaska

**POSITION STATEMENT:** Reviewed the document entitled "SB 305: Flowchart: 26-LS1577\WA.6".

SENATOR JOE PASKVAN  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided comments on SB 305.

#### **ACTION NARRATIVE**

[10:18:14 AM](#)

**CO-CHAIR MARK NEUMAN** called the House Resources Standing Committee meeting to order at 10:18 a.m. Representatives Tuck, Seaton, Olson, Johnson, Guttenberg, Edgmon, and Neuman were present at the call to order. Representative Kawasaki arrived as the meeting was in progress.

#### **SB 305-SEPARATE OIL & GAS PROD. TAX/ DEDUCTIONS**

[10:18:37 AM](#)

CO-CHAIR NEUMAN announced that the first order of business is CS FOR SENATE BILL NO. 305(FIN)(title am), "An Act providing that the tax rate applicable to the production of oil as the average production tax value of oil, gas produced in the Cook Inlet sedimentary basin, and gas produced outside of the Cook Inlet sedimentary basin and used in the state increases above \$30 shall be 0.4 percent multiplied by the number that represents the difference between that average monthly production tax value and \$30, or the sum of 25 percent and the product of 0.1 percent multiplied by the number that represents the difference between that average monthly production tax value and \$92.50, except that the total rate determined in the calculation may not exceed 50 percent; providing for an increase in the rate of tax on the production of gas as the average production tax value on a BTU equivalent barrel basis of gas produced outside of the Cook Inlet sedimentary basin and not used in the state increases above \$30; relating to payments of the oil and gas production tax; relating to availability of a portion of the money received from the tax on oil and gas production for appropriation to the community revenue sharing fund; relating to the allocation of lease expenditures and adjustments to lease expenditures; and providing for an effective date."

[10:18:55 AM](#)

CO-CHAIR NEUMAN focused the committee's attention on the amendments in the committee packet.

[10:19:42 AM](#)

The committee took an at-ease from 10:19 a.m. to 10:23 a.m.

[10:24:06 AM](#)

REPRESENTATIVE SEATON moved Amendment 1, labeled 26-LS1577\WA.2, Bullock, 4/5/10, the text for which is provided at the end of the minutes.

CO-CHAIR NEUMAN and REPRESENTATIVE OLSON objected.

[10:24:22 AM](#)

REPRESENTATIVE SEATON pointed out that the committee packet includes an explanation of Amendment 1 entitled "Explanation of

Amendment WA.2 to CSSB 305(FIN)(title am)." Representative Seaton explained that Amendment 1 addresses the concern regarding the existing exemption for in-state gas sold off the North Slope. The concern is that having a gas tax rate off the North Slope for citizens of Alaska that is different than that for citizens of any other state would be in violation of the Commerce Clause in the U.S. Constitution, which doesn't allow differential taxation based on the state of residency. The intent is to review a situation in which a producer or consumer sued after the open season. The suit would be in federal court and the remedy requested would be for the non Alaskan residents or producers to have the lower tax rate that was afforded Alaskans. If the federal court accepted the aforementioned remedy, the pipeline's 10 years of operation would generate almost no production tax for the State of Alaska. On the other hand, the federal court could nullify Alaska's exemption for in-state gas use. Representative Seaton opined that if a plaintiff can assert damage after gas flows due to the higher gas price, the likely result would be to lower those costs. If the court raised the cost for Alaskans, it would be a precedent in that a suit could result in a remedy that isn't beneficial to the [plaintiff]. Since the existing statute says "the tax system in place at the start of open season", Amendment 1 would remove the in-state exemption and a forthcoming amendment to Amendment 1 would specify that change would only be in effect for 30 days. The aforementioned would resolve the potential bind described above and the Alaska Gasline Inducement Act (AGIA) terms that specify the tax rate is guaranteed for the first 10 years of gas flowing through the pipeline. Representative Seaton clarified that Amendment 1 with the proposed amendment to it would result in the in-state gas tax not being applicable until 30 days after the effective date of the legislation. The legislation, he reminded the committee, is only useful if it's signed prior to the start of open season and re-implements the existing tax code after 30 days.

[10:29:40 AM](#)

REPRESENTATIVE SEATON moved Conceptual Amendment 2 to Amendment 1, as follows [original punctuation provided]:

The tax provisions for in-state sale of gas from the North Slope and other fields are re-enacted 30-days after the effective date of this act

[10:30:00 AM](#)

CO-CHAIR NEUMAN clarified that the document entitled "Explanation of Amendment WA.2 to CSSB 305(FIN)(title am)" applies if Conceptual Amendment 2 to Amendment 1 passes. Upon determining there was no objection, announced that Conceptual Amendment 2 to Amendment 1 was adopted. Therefore, Amendment 1, as amended, was before the committee.

[10:31:15 AM](#)

CO-CHAIR NEUMAN inquired as to why the producers would sue the state if the tax is lower.

REPRESENTATIVE SEATON opined that a contract provision that specifies an almost 0 percent tax on the gas for 10 years could be advantageous for a company. Furthermore, it could be that when taxes are negotiated, after that open season, the state could negotiate a provision that guarantees the [producers] will not sue. However, the potential of a suit being brought from consumers or an electricity generator in other states would remain. He acknowledged that whether the suit would be successful or not is unknown.

CO-CHAIR NEUMAN remarked that he couldn't see why the producers, when they're paying a lower tax, would sue the state. He said he just didn't believe that would happen.

[10:33:42 AM](#)

CO-CHAIR NEUMAN related that a lot of electrical and utility generating companies are counting on this first open season in order to create the necessary economies of scale to bid on in-state capacity of the pipeline. He highlighted that if this proposal was in place, the taxes that [the residents of Fairbanks] would pay for electrical generation would be much higher because during the initial open season [the tax] would be the current 25 percent plus productivity rather than 5 percent. The aforementioned would result in higher electric and gas bills. A spur line going to Valdez, he opined, with a route to South Central would impact the residents in South Central Alaska similarly.

[10:35:19 AM](#)

REPRESENTATIVE SEATON explained that Amendment 1, as amended, specifies that 30 days after the effective date of the legislation, [the tax] would return to the existing situation in which there's an exemption for in-state use. He clarified that

Amendment 1, as amended, clarifies that there's no need to worry that the export gas will qualify for the in-state gas break. Although there would be no effect on any in-state user, it doesn't mean that in the future, if there's a gas sale, a suit under the Commerce Clause wouldn't be brought. The aforementioned could occur anyway, he said. However, there could be no claim that under AGIA they are entitled to the lower tax rate for 10 years. Representative Seaton said that he didn't believe [under Amendment 1, as amended] there would be any impact on in-state use.

CO-CHAIR NEUMAN interjected, "But we, certainly don't know."

[10:37:06 AM](#)

REPRESENTATIVE GUTTENBERG asked who else, including legal counsel, is present to answer questions.

REPRESENTATIVE SEATON related that Don Bullock, Attorney, Legislative Legal Services, is the drafter.

[10:38:16 AM](#)

PAT GALVIN, Commissioner, Department of Revenue (DOR), stated that [the administration] is aware of the constitutionality issues related to the in-state gas provisions of the production tax. Regarding the concern with Amendment 1, as amended, the Department of Law doesn't view the remedy for a challenge to the favorable in-state tax treatment as eliminating the underlying base tax and imposing the favorable exception as the rule. That is, if it was challenged, it would be challenged based upon the favorable treatment given to a small portion of the gas used within the state. The DOL couldn't think of a situation in which the court had taken an unconstitutional exception to the rule for which the remedy was to eliminate the rule and impose the exception on everyone.

[10:40:24 AM](#)

CO-CHAIR NEUMAN surmised then that a lock-in for in-state use is not seen as a risk.

COMMISSIONER GALVIN noted his agreement, adding that if a subsequent legal challenge is successful, it's not seen as a risk that the low tax rate that's the exception to the existing rule would be imposed on everyone. The aforementioned is the advice from DOL.

CO-CHAIR NEUMAN further surmised, "You don't think it will be an issue."

COMMISSIONER GALVIN replied yes, but if the committee still has concern he suggested that the effective date for the provision start at the beginning of a month, even if it is retroactive to the beginning of the month in which the legislation is passed.

[10:41:57 AM](#)

REPRESENTATIVE SEATON related his understanding that the lawyers don't believe there is risk of a lawsuit from another state and that the federal court would only impose a higher tax on Alaskan gas. He related his further understanding that the courts won't give favorable treatment to the plaintiffs, residents of Chicago claiming they were paying a higher price, in the case.

COMMISSIONER GALVIN clarified that the question wasn't asked in the context of a risk percentage, but rather in terms of the potential outcome. The determination was there was no identified precedent in which the court imposed the exception, which is the concern being expressed, in order to rectify a constitutional challenge. The standard practice when there's a constitutional challenge to an exception of an existing structure, the court rules that that exceptional treatment is unconstitutional and returns it to the state to rectify the exceptional treatment. He suggested that if the desire is to "take it off the table," then do so in a manner that doesn't create an administrative problem.

[10:44:30 AM](#)

REPRESENTATIVE SEATON inquired as to how much and how many people are paying a production tax on the North Slope currently.

COMMISSIONER GALVIN answered that he wasn't sure he is able to reveal that information.

CO-CHAIR NEUMAN surmised that it would be a minimal amount as it would only refer to some of the pump stations and what is sold at Kuparuk.

[10:44:59 AM](#)

COMMISSIONER GALVIN related that he is aware of gas being sold for the purpose of power that is being used between units.

However, he didn't know whether the gas being used between units is being claimed as a taxable event. He restated that he didn't believe he could reveal what taxpayers are involved in that. In response to Co-Chair Johnson, Commissioner Galvin specified that he can't answer these questions because of confidentiality.

[10:45:37 AM](#)

CO-CHAIR NEUMAN noted his assumption that the pump stations probably use a small amount of electrical generation and move over to Kuparuk for electrical generation and use some of the waste heat. However, he assumed that a minimal amount is used.

[10:45:58 AM](#)

COMMISSIONER GALVIN related that when the issue was first identified, the impact in dollar value between the gas in the Cook Inlet area and the gas in the North Slope ranged from \$40 million a year to approaching \$200 million a year when there's high progressivity. The predominant portion of that is from the Cook Inlet area.

[10:46:48 AM](#)

CO-CHAIR NEUMAN asked if it would be safe to say that the miscible gases that are injected or mixed with the oils that are going through the Trans-Alaska Pipeline System (TAPS) are worth much more to the state than the electrical generation being used [at the pump stations].

COMMISSIONER GALVIN answered that it's safe to say the gas that is used for other purposes within the field, whether it's reinjected or used as a miscible injectant, is much more valuable than what's used for [electrical generation at the pump stations].

[10:47:23 AM](#)

REPRESENTATIVE TUCK related his understanding that DOL is saying that there is the potential during this first open season when the tax rate is locked in that the state could be sued due to inter-state commerce laws and the exemption for power generation and fuel for heating would be removed. Therefore, there is the potential for consumers to face higher utility rates. However, the revenue side is protected with the gas going to the Lower 48.

COMMISSIONER GALVIN said that's correct.

10:48:30 AM

REPRESENTATIVE GUTTENBERG, returning to AGIA as a whole, asked if the department explored the possibility of a suit being brought by Chicago ratepayers or Chicago's regulatory commission in response to the open season and as an attempt to receive that lower rate.

COMMISSIONER GALVIN answered that at the time the AGIA statute was put in place, it was evaluated regarding potential claims of equal protection or other constitutional violations due to providing favorable treatment of those who participated in the open season versus those who didn't. The determination was that it wouldn't create a constitutional issue.

10:49:56 AM

REPRESENTATIVE GUTTENBERG opined that the effects [of Amendment 1, as amended] on the Fairbanks Natural Gas (FNG) bonding project are significant. Therefore, he inquired as to the effect provisions that open and close exceptions would have on the bonding market.

COMMISSIONER GALVIN responded that the bonding market reacts unfavorably to uncertainty, in general. Moreover, the bonding market takes into account the relative likelihood of that uncertainty taking place.

10:51:04 AM

REPRESENTATIVE SEATON then offered Conceptual Amendment 3 to Amendment 1, as amended, such that the effective date would be retroactive to April 1 through May 31.

10:54:12 AM

REPRESENTATIVE SEATON explained that he is offering Conceptual Amendment 3 to Amendment 1, as amended, in response to Commissioner Galvin's statement that there are some small sales off the North Slope. Specifying a date would make it easier administratively for the taxpayers that are incurring the taxes. To be effective, it must start of the first binding open season. He noted that the [proposed retroactive effective date] does refer to the year 2010.

CO-CHAIR JOHNSON objected to Conceptual Amendment 3 to Amendment 1, as amended.

[10:55:32 AM](#)

CO-CHAIR JOHNSON then withdrew his objection, but added that he doesn't intend to vote for [Amendment 1, as amended].

There being no further objection, Conceptual Amendment 3 to Amendment 1, as amended, was adopted.

[10:56:10 AM](#)

REPRESENTATIVE TUCK surmised that with [Amendment 1, as amended], any of the advantages for in-state use will be removed for the first open season. However, the aforementioned can be re-implemented to protect [the state] against potential suits that may increase consumers' utility bills since they would lose the tax breaks for in-state use.

[10:56:59 AM](#)

REPRESENTATIVE SEATON highlighted that in actuality there is no way to protect against that because that's a U.S. constitutional problem. However, it protects against having the 10-year AGIA lock-in of that rate for exported gas. Although the in-state rate may have to be changed, [Amendment 1, as amended] protects against the possibility of a lawsuit for which the remedy is the plaintiff receiving the lower tax rate. Representative Seaton said that Representative Tuck is effectively correct, but pointed out that [Amendment 1, as amended] prevents the possibility of the state having an extremely low tax rate for 10 years on gas that's exported to the Lower 48. He reminded the committee that [Amendment 1, as amended] does reenact the in-state gas exemption 60 days later.

[10:58:18 AM](#)

CO-CHAIR NEUMAN interjected that the aforementioned is Representative Seaton's opinion and Commissioner Galvin doesn't hold the same opinion for the reasons stated earlier. Therefore, Co-Chair Neuman maintained his objection to Amendment 1, as amended.

[10:59:41 AM](#)

REPRESENTATIVE SEATON related his belief that the lower in-state tax does pose a risk of legal action, which he opined could likely be found if one were to research the Tonnage Clause and the Commerce Clause in the U.S. Constitution.

[11:00:35 AM](#)

REPRESENTATIVE GUTTENBERG expressed concern with the constitutional question [related to the lower in-state tax], which deserves more analysis. He expressed further concern with the affect [of Amendment 1, as amended] on FNG bonding. The project in Fairbanks is a bridge between now and tomorrow. Representative Guttenberg said that he's not comfortable passing Amendment 1, as amended, without understanding the aforementioned ramifications.

[11:01:55 AM](#)

CO-CHAIR JOHNSON called the question.

[11:02:07 AM](#)

CO-CHAIR NEUMAN, in response to Representative Guttenberg, clarified that the roll will be called on Amendment 1, as amended.

[11:02:31 AM](#)

The committee took a brief at-ease.

[11:03:38 AM](#)

CO-CHAIR JOHNSON withdrew his call for the question.

[11:04:02 AM](#)

CO-CHAIR NEUMAN related his understanding that Amendment 1, as amended, wouldn't allow a discount for a lower [tax] rate for work FNG performed during April 1 to May 31.

[11:04:27 AM](#)

COMMISSIONER GALVIN reminded the committee that at this time FNG is utilizing gas from Cook Inlet, and therefore enjoying the benefits of a tax that wouldn't be impacted by this proposal. He pointed out that [Amendment 1, as amended] only addresses the portion of the law dealing with gas used within the state.

Fairbanks Natural Gas interest is in ensuring that gas from the North Slope and used within the state is protected. This proposal would eliminate the lower tax rate for two months and then reinstate it. Therefore, by the time FNG is actually shipping gas the lower tax rate would be in place. He related his understanding that Representative Guttenberg's question is whether eliminating the lower tax and reinstating it multiple times creates an issue for FNG's financing, which is really a question for FNG.

[11:05:55 AM](#)

CO-CHAIR JOHNSON told the committee that he understood that Representative Kelly has received calls of concern from FNG. He then called the question.

[11:06:31 AM](#)

A roll call vote was taken. Representative Seaton voted in favor of adopting Amendment 1, as amended. Representatives Edgmon, Guttenberg, Kawasaki, Tuck, Olson, Neuman, and Johnson voted against it. Therefore, Amendment 1, as amended, failed to be adopted by a vote of 1-7.

[11:07:45 AM](#)

REPRESENTATIVE GUTTENBERG announced that he would not offer his amendment in the committee packet.

[11:08:18 AM](#)

CO-CHAIR JOHNSON moved Amendment 4, labeled 26-LS1577\WA.6, Bullock, 4/10/10, the text for which is provided at the end of this document.

[11:09:24 AM](#)

CO-CHAIR JOHNSON explained that the intent of Amendment 4 is to enact on April 29 the decoupling legislation before the committee and then repeal it two days later. Therefore, on May 1 the law would be a decoupled oil and gas provision and the current law would be in effect. Amendment 4 would alleviate all the cost allocation, eliminate the additional need for regulations, and satisfy the concerns of one of the Senate Finance Committee co-chairs. Co-Chair Johnson clarified that Amendment 4 would eliminate the May 1 deadline, the cost allocation concerns, and lock the state in for a certain amount

of tax. According to the revisor, Amendment 4 is lengthy because it contains the proposed legislation, the new proposal of Amendment 4, and the current [law]. Co-Chair Johnson offered that Amendment 4 simply provides, for two days, the cover of the \$2 billion potential loss while maintaining the status quo. Co-Chair Johnson characterized Amendment 4 as "an elegant solution to a very complicated problem." He noted that he has talked with Senators Paskvan and Stedman as well as the members of the House Finance Committee. The members of the House Finance Committee related that they would prefer to receive the legislation with Amendment 4 adopted because they would prefer to eliminate whatever is wrong.

[11:13:26 AM](#)

REPRESENTATIVE GUTTENBERG objected to Amendment 4. He then asked if when the 24-hour rule for the House went into effect, the 24-hour [policy] for amendments to the House Resources Standing Committee was abolished.

CO-CHAIR JOHNSON said he had no problem waiting to consider Amendment 4. He then apologized for not adhering to the 24-hour rule, but noted that the drafter was working on Amendment 4 until 1:00 a.m.

[11:14:32 AM](#)

CO-CHAIR NEUMAN expressed interest in the committee doing what it can to address SB 305 today. Therefore, he said his preference is for the committee to act on SB 305 today if the committee is comfortable with Amendment 4 after some explanation from Don Bullock, Legislative Legal Services.

[11:15:21 AM](#)

REPRESENTATIVE GUTTENBERG acknowledged that amendments at the last minute are often the case, particularly at the end of session.

[11:16:10 AM](#)

The committee took an at-ease from 11:16 a.m. to 11:23 a.m.

[11:24:00 AM](#)

DONALD BULLOCK JR., Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs

Agency, explained that, provided SB 305 takes effect before April 30, the adoption of Amendment 4 would mean that SB 305 would take effect then and be applicable on the first day of the open season, which lines up with the timing of the tax exemptions under AGIA and AS 43.90.300 and AS 43.90.320. The day after open season the law would return to the current law. In the future, he noted, there's another trigger. When 1.5 billion cubic feet a day of gas is placed in a pipeline system for delivery to market in the 48 contiguous states or Canada or to a liquefied natural gas (LNG) facility for export out of the state, the provisions in SB 305 that separate the progressive tax on oil and the progressive tax on gas take effect. Mr. Bullock clarified that SB 305 provisions won't take effect unless the legislation is in effect prior to the open season. If the aforementioned is the case, the law would return to current law after the day open season starts and in the future the progressivity split would occur when 1.5 bcf a day of gas is placed in a transportation system for delivery to market.

[11:26:40 AM](#)

CO-CHAIR NEUMAN, regarding the [progressivity split], asked if there has to be more than 1.5 bcf of gas a day exported.

MR. BULLOCK answered yes, and clarified that the gas has to be put into a pipeline to go either to an LNG facility or to market. The trigger, he further clarified, is the volume of 1.5 bcf a day of gas.

[11:27:19 AM](#)

MR. BULLOCK continued by pointing out that Amendment 4, on page 1, lines 1-11, trims the title of SB 305 in order to make the legislation more general and encompass what the act does. As a result of Amendment 4, the legislation wouldn't be as limited as is specified in the title of SB 305. The title change, he highlighted, also makes a reference to the tax on the production of gas and effects the start of the first binding open season. That part of the title is a reference to the condition that has to be met for the separation of the oil progressivity and the gas progressivity to take effect.

[11:28:03 AM](#)

CO-CHAIR NEUMAN surmised that assumes the open season on May 1 by TransCanada is considered a binding open season.

MR. BULLOCK informed the committee that TransCanada's proposal specifies an open season starting on April 30. Although he acknowledged the earlier comments from Commissioner Galvin regarding splitting months, the law says start of the open season. The legislation includes a provision that specifies the commissioner of the Department of Revenue is to notify the revisor of statutes of the date the open season starts in order that the revisor would know whether the provisions in the legislation before the committee can take effect.

[11:29:04 AM](#)

CO-CHAIR NEUMAN asked then if it's Mr. Bullock's opinion that the state would be protected by any potential revenue losses, as predicted by Senator Stedman.

MR. BULLOCK responded that he can tell members what the legislation says. Although the legislation may be subject to litigation, it would only be an issue if binding commitments are received during the first open season.

[11:30:34 AM](#)

REPRESENTATIVE SEATON inquired as to the purpose of AS 43.93.020.

MR. BULLOCK explained that the inducement that is offered to a producer that commits during the first binding open season basically grants that producer an exemption. The exemption from the tax is equal to the difference between what the tax would be under the laws in effect at the start of the open season and the tax liability at a future date. The exemption was utilized per Article 9, which allows the state to use exemptions since the state can't contract away its power to tax. The other inducement offered to those who commit during the open season is a royalty exemption, which is a matter of contract.

[11:32:28 AM](#)

REPRESENTATIVE SEATON surmised then that the effect and purpose of the statute was that there would likely be a higher tax rate in place at the start of open season and a negotiated tax would be negotiated later. He further surmised that the inducement is the difference between the tax rate in effect at open season and the negotiated tax rate, which can't be greater than the tax rate at open season.

MR. BULLOCK agreed, adding that the inducement only has value if taxes increase. If taxes fall below what they are at the start of open season, all producers benefit. The inducement allows the period in which the inducement is live and the producers are able to take the exemption to be the highest rate of tax they will pay regardless of the future. For instance, if the tax rate on gas increases in the future, those who received the inducement wouldn't have to pay the extra amount.

[11:33:50 AM](#)

REPRESENTATIVE GUTTENBERG asked if the term "binding open season" is defined with starting and ending dates.

MR. BULLOCK answered that he didn't know how flexible the start is, but TransCanada's filings with the Federal Energy Regulatory Commission (FERC) state that TransCanada's open season will start April 30 and go through July. Again, he said he didn't know how likely the aforementioned dates would be to change.

REPRESENTATIVE GUTTENBERG surmised that the state is locked in to those dates regardless of a change.

MR. BULLOCK specified that it's a date that's out of the state's control because it's the federal rules governing open seasons. In further response to Representative Guttenberg, Mr. Bullock explained that the conditional effects of the sections of SB 305 that would take effect at the start of the open season are written with the expectation that TransCanada will do what it said and the open season will start [April] 30. On page 23, line 6 of Amendment 4 there is a provision requiring the commissioner of DOR to notify the revisor of statutes the date of the start of the first binding open season for the AGIA project. The purpose of the aforementioned is to keep the revisor abreast of the laws that are in effect. The risk is if these provisions take effect on April 29, but the start of the open season is delayed for a month. In that case, the provisions will be in effect until the day after the open season starts.

[11:37:27 AM](#)

CO-CHAIR JOHNSON asked if it would be problematic to amend Amendment 4 such that the language refers to whenever the open season starts or is a specific date necessary.

MR. BULLOCK pointed out that the problem is this must take effect the day before [the day when the open season starts]. "There's no certainty that would be any more certain about that date if we left it open than we do now," he said. Currently, there are filings with FERC that specify [TransCanada's] open season will start April 30.

[11:38:21 AM](#)

CO-CHAIR JOHNSON, regarding TransCanada's filings that specify open season will start April 30, asked if there would be a violation under AGIA if TransCanada changes the open season date.

MR. BULLOCK stated that AGIA references the first binding open season, whenever it is. Whenever the first binding open season is determined, the aforementioned inducements are offered to those committing during that open season.

[11:39:07 AM](#)

CO-CHAIR NEUMAN clarified that the intent is to avoid locking the state into a certain tax rate when an open season starts.

MR. BULLOCK pointed out that certain provisions take effect April 29, regardless of when the open season starts. However, when the open season starts what is in current law is reenacted and takes effect the day after the start of the binding open season.

[11:40:04 AM](#)

REPRESENTATIVE P. WILSON asked if the language is referring to the first open season.

MR. BULLOCK outlined that both AS 43.90.300 and AS 43.90.320 refer to the first binding open season as the period when someone must commit to firm transportation and capacity in order to receive the tax exemption.

[11:41:01 AM](#)

REPRESENTATIVE P. WILSON then inquired as to the meaning of "binding?"

MR. BULLOCK deferred to Commissioner Galvin because DOR has adopted regulations regarding qualifying for the inducements.

He recalled that the regulations also specify the timeframe in which a firm commitment can be made. A firm commitment means to commit to a certain capacity and it is unconditional.

REPRESENTATIVE P. WILSON explained she wanted to ensure that it's clear what the binding open season is.

MR. BULLOCK deferred to the commissioners of the Department of Natural Resources (DNR) and DOR to provide that assurance. However, he pointed out that the AGIA statute contemplates a first binding open season for the inducements. If the first binding open season doesn't produce firm transportation and there's a second open season, then there are no inducements under AGIA.

[11:42:51 AM](#)

REPRESENTATIVE GUTTENBERG inquired as to the significance of the date on page 9, line 9, of Amendment 4.

MR. BULLOCK specified that the 2022 date is the date the Cook Inlet tax caps expire for oil and gas and when the tax cap on gas used in the state expires. Those dates can be found in AS 43.55.011(j), (k), and (o). Therefore, after [2022] there are no tax caps.

[11:43:49 AM](#)

MR. BULLOCK, in response to questions, offered to review Amendment 4. He pointed out that the 2022 date is in SB 305, but it's taken out during the period of time when the [current] law is in effect for only a few days and then returns when it does become an issue. He then turned the committee's attention to the bottom of page 1 of Amendment 4, which amends Section 1 of CSSB 305(FIN)(title am) that refers to "and (p)". Subsection (p) is the new progressivity section for gas after the split between oil and gas. Section 1 of the legislation specifies that money from the progressive tax in both AS 43.55.011(g) and "(p)" are available for appropriation to the community revenue sharing fund. If this legislation is enacted, April 29 subsection (p) revenue, the gas progressivity, would be available. The bottom of page 1 of Amendment 4 undoes Section 1 of CSSB 305(FIN)(title am) and thus returns to current law and eliminates the reference to subsection (p). However, reference to subsection (p), the progressivity for oil and some of the gas, returns in Section 3 of Amendment 4 when the future condition of 1.5 bcf a day being tendered for shipment to market

is met. The aforementioned structure is throughout Amendment 4. Mr. Bullock clarified that the structure in Amendment 4 is such that the legislation amends current law, an amendment to the provision in the legislation that returns what happened in SB 305 back to current law, followed by a provision that reenacts the provisions in the legislation that separate the progressivity factors.

MR. BULLOCK moved on to page 2 of Amendment 4, which refers to Section 5 that is Section 2 of CSSB 305(FIN)(title am). Section 2 refers to the new progressivity tax on gas. Section 5 in Amendment 4 eliminates the reference to the progressivity on gas. The aforementioned is followed by Section 6, which then returns that separate progressivity into the legislation.

[11:46:59 AM](#)

REPRESENTATIVE TUCK expressed confusion because he recalled that Representative Seaton related that under Amendment 4 [the scenario] would be one in which the order would be old, new, and then old law. However, the drafter seems to indicate that the order would be new, old, new.

MR. BULLOCK clarified that there is existing law, which SB 305 amends. Subsequently, there's a new body of law. Amendment 4 reenacts number (1) and thus the situation is one in which the law returns to current law. In the future, when the 1.5 bcf a day of tendering gas is met, the situation returns to number (2). Mr. Bullock specified, "So, it's current law, amendments by [SB] 305 undoing the amendments for SB 305 to return to current law the day after the open season. And then, at some time in the future, when significant gas is shipped, then the provisions in [SB] 305 take effect again." He noted that when he refers to SB 305 he is referring to CSSB 305(FIN)(title am). "So, current law, new changes to separate the progressivity factors, undoing the separation of the progressivity factors to return to what we have now, and then in the future when that condition of transportation capacity and shipping is met, then we go back to separating the progressivity factors," he explained.

[11:49:11 AM](#)

REPRESENTATIVE SEATON related his understanding that Section 9 of Amendment 4 eliminates the exemption for the time period in Cook Inlet as well.

MR. BULLOCK directed the committee's attention to Section 3 of CSSB 305(FIN)(title am), which becomes Section 7 upon the adoption of Amendment 4. Proposed Section 8 of Amendment 4 would then return to the existing law. Therefore, proposed Section 9 of Amendment 4 re-institutes what is Section 3 of CSSB 305(FIN)(title am) and thus returns to the proposed changes in CSSB 305 (FIN)(title am).

[11:50:26 AM](#)

REPRESENTATIVE SEATON surmised then that Section 9 of Amendment 4 is going to charge Cook Inlet gas at progressivity and doesn't include the ELF exemption calculation. Therefore, for some portion of time the exemption available in the Cook Inlet Sedimentary Basin will be limited.

MR. BULLOCK explained that Cook Inlet gas is subject to a tax cap, which is determined after considering what the tax would be without the cap. Therefore, when determining the progressivity factor, the production tax value of the gas in Cook Inlet is reviewed. The aforementioned is included in the average, combined with gas produced outside of the Cook Inlet Sedimentary Basin as well as oil produced throughout the state. The values are averaged in order to obtain the number that's compared to \$30, which determines the tax rate. The tax rate is applied and AS 43.55.011(m) specifies that the credits must be taken against gas that's subject to the cap. "So, you figure out the tax, you look at the cap, and the cap sets the maximum amount that will be paid on that gas and oil in Cook Inlet and gas produced outside of Cook Inlet and used in the state," he summarized. Therefore, the full value of Cook Inlet, the production tax value, isn't subject to a cap, which is what's used in the progressivity factor of SB 305. Mr. Bullock clarified that the cap is a tax cap not a value cap.

[11:52:29 AM](#)

CO-CHAIR NEUMAN asked if the aforementioned provision applies only to gas produced north of the 68th parallel.

MR. BULLOCK explained that gas produced north of the 68th parallel and used in the state is subject to the cap in AS 43.55.011(o), which is used under SB 305 to determine the tax rate in AS 43.55.011(g). He further explained that AS 43.55.011(g) "under SB 305, uses oil everywhere, including Cook Inlet - gas produced in Cook Inlet and gas produced outside the Cook Inlet and used in the state."

11:53:26 AM

MR. BULLOCK, in response to Representative Tuck, clarified that the production tax value of the oil and gas is what the tax rate is applied to. The 25 percent tax rate is applied to all oil and gas, while the progressive tax rate is determined. The progressive tax rate is also applied to production tax value of the gas. Therefore, the tax percentage is applied to whatever the production tax value is, which is how the tax is determined. When determining the progressive tax, the average production tax value is determined and it's compared to \$30. The rate increases to the extent that value increases above \$30. Mr. Bullock explained:

So, you start with production tax value, you figure out your tax rates, you apply the rates. And I'm not talking about credits; credits come at the end of the line and reduce whatever the tax liability is. So, you figure out what the tax is. You figure out what the tax would be without the caps on Cook Inlet oil and gas, gas produced outside of Cook Inlet used in the state. You figure out what the tax is, you look at the caps and figure out whether the amount that's determined after you do the tax calculation is above or below the cap. If it's above the cap, the cap sets the maximum amount. If it's below that, the cap is not an issue - you just pay the tax. Except that, ... sometimes [AS 43.55.011(o)] requires the cap to be applied even if the tax calculation itself may result in a lower value.

11:56:34 AM

REPRESENTATIVE EDGMON said he would like to see a flow chart that would allow members to walk through the provisions of the legislation. He opined that the committee is being asked to make a very complicated policy decision that has far-reaching impacts in a short period of time.

11:57:49 AM

CO-CHAIR NEUMAN indicated that perhaps some charts could be generated. He reiterated his earlier comment regarding [forwarding this legislation] if the committee is comfortable with it. He then recessed to a call of the chair at 11:58 a.m.

7:04:44 PM

CO-CHAIR NEUMAN called the meeting back to order at 7:04 p.m. Representatives Johnson, Neuman, Olson, Seaton, and Edgmon were present at the call back to order. Representatives Guttenberg, Kawasaki, and Tuck arrived as the meeting was in progress.

7:05:05 PM

CO-CHAIR NEUMAN informed the committee that during the recess, Amendment 4 was incorporated into [CSSB 305(FIN)(title am), as amended], which is a proposed committee substitute (CS) labeled 26-LS1577\M, Bullock, 4/10/10. He also informed the committee that the committee packet should also include a document entitled "SB 305: Flowchart: 26-LS1577\WA.6".

7:06:15 PM

CO-CHAIR JOHNSON withdrew Amendment 4. He then moved that the committee adopt HCS CSSB 305, Version 26-LS1577\M, Bullock, 4/10/10, as the working document. There being no objection, Version M was before the committee.

7:07:25 PM

ROGER MARKS, Consulting Petroleum Economist, Logsdon & Associates, opined that SB 305, the decoupling, actually changes only one small part of the tax, although that could make a big difference. With [the adoption] of Amendment 4, the result is a flipping back and forth between a tax under SB 305 and a tax under the current tax provisions. He opined that it's important to understand the small change the legislation makes requires an understanding of the tax. He then proceeded to the document entitled "SB 305: Flowchart: 26-LS1577\WA.6" and directed attention to slide 2 entitled "Mechanics of Tax (Current & SB 305). Slide 2 reviews the seven steps of the tax under the current provisions of the tax as well as SB 305. "The basic mechanics of how the tax works is not being changed under SB 305," he stated. He then reviewed the seven steps.

7:10:22 PM

REPRESENTATIVE SEATON recalled from earlier presentations that the existing tax isn't allocated on per barrel of oil equivalents (BOEs) but rather on a total gross value comparison.

MR. MARKS explained that under SB 305, if oil and gas is decoupled, the upstream lease capital and operating costs are seen in step 4. As discussed earlier, the cost to produce oil and gas is difficult to separate. However, to enact decoupling the cost between oil and gas needs to be allocated using an allocation methodology. A separate issue, he highlighted, is that under AGIA the oil and gas tax as is in effect on the first day of the binding open season is stabilized. Without decoupling, the tax is one big tax. To enact AGIA when only the gas not the oil is being stabilized, how much of the total tax is oil versus gas has to be determined. The aforementioned is allocating the tax, which is different than allocating costs. In order to allocate the tax, DOR recently adopted regulations regarding how to allocate the total tax between oil and gas, which uses the relative gross value.

[7:12:51 PM](#)

REPRESENTATIVE SEATON opined that although it makes sense, different results are achieved under the current tax regime that allocates costs to gas at the total gross value versus another system that allocates costs on BOEs. In fact, allocating costs on BOEs results in a lower tax for gas. He emphasized, "I want to make sure that we're not going back and fudging the current system and saying, 'If we were calculating that on barrel of oil equivalent it would be something' because that's not what we're doing." He recalled that on April 9, 2010, it was represented that 22 percent of the tax was attributable to the gas whereas under the decoupled amount it was much less than the 22 percent of the tax.

MR. MARKS said that there are two different issues. First, he posed a situation in which SB 305 doesn't exist, the current tax un-decoupled was the tax in effect during the open season, and first gas is in 2020. Per AGIA, the gas tax is stabilized. Therefore, the question is how much of the combined tax is gas versus oil. The DOR regulations allocate the total tax to gas based on the relative gross value, which was the 22 percent/78 percent. The aforementioned, he reminded the committee, was allocating the tax. The other issue is found in step 4, which is allocating the upstream capital and operating costs between oil and gas. Therefore, under step 4, under decoupling, costs are allocated. Current law says DOR shall determine a method to allocate costs between oil and gas. Proposed SB 305 suggests that the department should consider the BOE method, although the department isn't compelled to do so.

[7:16:01 PM](#)

REPRESENTATIVE SEATON surmised then that current law requires the production tax on gas at the start of open season, and thus the comparison will be between the tax value at 22 percent versus the tax value that's generated by decoupling.

MR. MARKS said yes, but added that the numbers he used yesterday were using DOR's regulations on allocating tax based on gross value. He specified that he used BOE method to allocate cost.

CO-CHAIR NEUMAN interjected that the 22 percent was used only because of the numbers used; it doesn't mean that the tax is 22 percent.

[7:17:13 PM](#)

REPRESENTATIVE SEATON remarked that DOR has spreadsheets that haven't been provided to the committee yet. Therefore, he has only cited the materials that the committee has received, which have been models from Mr. Marks.

MR. MARKS informed the committee that he focused on the example [laid out in the document entitled "Notes on Operation of Tax"] in order to illustrate the dilution effect. He noted that he could have used any of the four examples to illustrate the dilution effect.

REPRESENTATIVE SEATON recalled testimony from DOR specifying that the same relationship of lowering the attributable tax was present in every case, regardless of whether the point of production (PoP) or BOE was used.

[7:18:57 PM](#)

REPRESENTATIVE TUCK asked if there are any other methods beyond BOE and point of production to determine the cost allocation.

MR. MARKS answered that all kinds of methods are used to allocate, although it generally depends upon for what it is being used. Therefore, the Senate Finance Committee felt it was appropriate to leave the current statute in place so that DOR, which has better access to cost data and more time, could determine the most appropriate way to allocate cost. In further response to Representative Tuck, Mr. Marks said he didn't believe any method is particularly simpler than another because the methods cause problems under different conditions. The

goal, he indicated, is to find a method that works under most circumstances.

[7:21:01 PM](#)

MR. MARKS returned to his review of slide 2 entitled "Mechanics of Tax (Current & SB 305)". He directed attention to step 5, which divides the production tax value by the total oil and gas BOEs to produce the per BOE production tax value. The aforementioned is the basis of progressivity. Once the progressivity factor is added to the 25 percent base rate, the total tax rate is known. The total tax rate is then applied to the production tax value in order to determine the tax. Mr. Marks then moved on to slide 3 entitled "Progressivity Calculation (Current & SB 305)". Under the current statute the trigger for progressivity is \$30 per BOE production tax value. The progressivity calculation, he reminded the committee, is the same under both the current law and SB 305. The slope is how fast progressivity increases as the value increases. Under current statute the slope is 0.4 percent, and therefore for every dollar increase at the production tax value per BOE the progressivity will increase 0.4 percent. Thus, the production tax value per BOE less \$30 is the amount over \$30, which is subject to progressivity. That amount is then multiplied by 0.004 percent. He then reviewed the example on slide 3, which utilizes an \$80 West Coast price with \$5 for transportation, the gross value would be \$75. If the upstream operating and capital costs were \$25, the production tax value would be \$50. With a base tax rate of 25 percent, the calculation would be such that the production tax value of \$50 less the \$30 trigger would be multiplied by 0.004 percent to amount to 8 percent. The 8 percent added to the 25 percent, the base tax rate, results in a total tax of 33 percent on net value. Then the total tax rate, 33 percent, would be multiplied by the production tax value to determine the tax.

[7:24:08 PM](#)

MR. MARKS continued with slide 4 entitled "How Progressivity Operates Now". He noted that SB 305 changes one small portion of [how progressivity currently operates]. Currently, each company calculates one statewide progressivity rate based on all combined oil and gas activity, which will later be referred to as a bucket. The company then divides its operations into one of five segments: each Cook Inlet oil lease, each Cook Inlet gas lease, North Slope oil and gas except gas used in-state, non-North Slope/non-Cook Inlet oil and gas except gas used in-

state, and non-Cook Inlet gas used in-state. For each segment, the company calculates its tax liability based on the total tax and multiplies that times the segment's production tax value. The aforementioned calculation results in the tax, except for segments 1, 2, and 5 for which the tax liability is also determined under the ELF. Whichever tax [calculation] is lower is what's paid [for segments 1, 2, and 5]. He noted that almost always the ELF will be lower, and thus is the tax [for segments 1, 2, and 5]. Still, statute requires both calculations to be made to determine the tax. Moving on to slide 5 entitled "Currently: One Progressivity Bucket", Mr. Marks opined that there is one progressivity bucket that includes oil, Cook Inlet gas, and other in-state gas. All the activity in the state is either oil, Cook Inlet gas, or other in-state gas and it's all in the bucket and is used to calculate one statewide progressivity tax. He noted that later on he will refer to current statute as the "one bucket world" as described above.

[7:28:45 PM](#)

CO-CHAIR NEUMAN noted that the committee packet includes information from DOR that illustrates different model assumptions that review gas and oil prices and their parity. He noted that actual numbers [are used].

[7:29:06 PM](#)

REPRESENTATIVE SEATON, returning to slide 4, related his understanding that DOR's regulations calculate the tax based on total gross value at the point of production.

MR. MARKS clarified that DOR's regulations do not calculate the tax; rather, the department allocates the total tax between oil and gas.

[7:30:34 PM](#)

REPRESENTATIVE SEATON surmised then that the methodology of calculating this tax on oil and gas is not what is getting fixed at open season, rather it's the tax allocated to gas.

MR. MARKS returned to the example he provided yesterday, and said that the 22 percent of the total tax that was allocated to gas is what's fixed at open season under current statute.

[7:31:24 PM](#)

MR. MARKS turned to the one change made by SB 305. He explained that currently there's one statewide progressivity calculation or one progressivity bucket. The legislation before the committee, however, creates two buckets such that there are two progressivity calculations. The aforementioned achieves the decoupling effect. The first bucket is the same activity that's in the original bucket that is the current activity bucket. Therefore, the first bucket includes oil, Cook Inlet gas, and other in-state gas. Under SB 305 the aforementioned bucket includes the aforementioned, calculates the progressivity together, and treats the five segments as they are now. Also, under SB 305 there is no tax increase on current activity, depending upon how the regulations are interpreted and how the department would change its current regulations. Therefore, as the Alaska Oil and Gas Association (AOGA) pointed out yesterday, the current regulations are giving the department the authority to change regulations and thus it could result in a change in the tax. For understanding what SB 305 does, the first bucket is the way it is under current law.

[7:34:14 PM](#)

MR. MARKS explained that if SB 305 didn't exist, current law remains in effect and there is only one bucket. Therefore, if there is a major gas sale, the gas would go into the one statewide bucket. The aforementioned creates a dilution effect, which was discussed yesterday. However, SB 305 creates a second bucket into which the export gas would be placed in order to avoid diluting the value of the oil. In a situation in which there are two buckets and a major gas sale, the progressivity of all the current activity would be calculated in the first bucket and the progressivity for any export gas would be calculated separately using the same formula. Again, such a methodology wouldn't dilute the oil progressivity.

[7:36:12 PM](#)

MR. MARKS then directed attention to slide 8, which is a flow chart illustrating how the earlier proposed Amendment 4 would work. Under proposed Amendment 4, between now and April 28, 2010, it would be a one bucket world. On April 29, 2010, thru the first day of the binding open season, it would be a two bucket world. The aforementioned would be locked in for the AGIA stability provisions. The second day of the binding open season would be a return to the one bucket world, that is the current system, and remain there until there is a time in which more than 1.5 bcf/d of gas is first tendered into a pipeline or

LNG facility for export shipment. Once more than 1.5 bcf/d is tendered for pipeline or LNG shipment out of state, the situation returns to a two bucket world. In between the time when the second day of binding open season and the time the situation would return to a two bucket world, there would be an opportunity to negotiate another system. In summary, Mr. Marks clarified that under Amendment 4 the situation would be a two bucket world unless negotiations changed that.

[7:38:57 PM](#)

REPRESENTATIVE SEATON surmised that when gas starts flowing in an export gasline, a two-bucket world would be in effect. Whereas, the AGIA terms guarantee that the tax in place during the first day of binding open season would be in effect, and thus a two-bucket world would be in effect.

MR. MARKS noted his agreement with that summarization. However, he clarified that upon entering the two-bucket world on April 29, 2010, that is what's stabilized per AGIA. Still, there could be a negotiation and terms could change such that there are new tax terms. If those tax terms provided a higher tax than what existed in the two-bucket world on April 29, 2010, the taxpayer could take a tax exemption, the difference between what happened after the negotiation and what was in place on April 29, 2010.

[7:40:32 PM](#)

REPRESENTATIVE SEATON, referring to Mr. Marks' presentation on April 9, 2010, returned attention to the [example cases] and slide 6 that addresses the oil and gas taxes decoupled. Under the BOE, as recommended in SB 305, the tax rate on gas would be approximately 3.7 percent.

MR. MARKS asked, "The \$333 million is 3.7 percent of what?"

REPRESENTATIVE SEATON explained that the calculation should be such that the \$333 million [in tax] is divided by the total gross value of \$5.748 billion, which would amount to about 6 percent.

[7:45:05 PM](#)

MR. MARKS surmised then that Representative Seaton is meaning the 3.7 percent is the tax as a percent of gross value.

REPRESENTATIVE SEATON calculated that [dividing the tax by the total gross value on slide 6 of the April 29, 2010, presentation] amounts to 5.78 percent. Therefore, if oil and gas were decoupled, the state would, no matter the negotiation, guarantee that whoever bid at open season would only pay 5.78 percent of the total gross value of gas, for that portion of gas flowing at open season, during the first 10 years of gas flowing.

MR. MARKS stated his agreement that under the scenario laid out in [slide 6], it turns out to be about 6 percent of gross.

[7:45:40 PM](#)

CO-CHAIR NEUMAN remarked, "Again, because of the dilution effect of the oil in the progressivity factor is the differences in the total value to the state that we're seeing."

MR. MARKS commented that there is no question under these scenarios that with decoupling the gas tax would be lower than if oil and gas were combined. As explained on slide 7 of the April 9, 2010, presentation under the current system that combines oil and gas, gas with a value of \$1.66 would be taxed as if it had a value of \$7.83. On the oil side, he cautioned the committee to beware that under the current system, as illustrated on slide 6, oil that's worth \$102 would be taxed as if it were worth \$46.

[7:47:07 PM](#)

REPRESENTATIVE SEATON emphasized that the problem is that AS 43.90.320 fixes, at the start of the open season, the gas tax, not the oil tax. He opined that there can be discussions/negotiations of combining it, but it's not necessary to leave it combined. If the oil and gas [tax] are separated under the model provided as a reasonable-price scenario, the gas tax would be changed from the current system, which per Mr. Marks' calculations would be 22 percent, degrade it to the state and guarantee for the first 10 years of gas flow that companies wouldn't have to pay over 5.78 percent. The aforementioned percentage may be well below a negotiated gas price. If a gas price is the only thing that's legally being fixed at the start of open season and it's not coupled or decoupled being fixed at open season, he questioned why the state would want to place itself in a position that guarantees it will receive no more than 5.78 percent for the first 10 years of gas flow.

MR. MARKS remarked that it's the legislature's decision. However, he explained that by decoupling, the substance is taxed based upon its worth. When the substance is combined with another substance that's worth much more, the value upon which the lower worth substance is taxed is inflated. Whether the aforementioned is healthy for the project is the decision the committee faces.

[7:50:17 PM](#)

CO-CHAIR JOHNSON asked whether a lower tax would be more or less likely to provide an incentive to bid their gas into an open season.

MR. MARKS responded that all other things equal, a lower tax is a larger incentive.

[7:50:45 PM](#)

CO-CHAIR JOHNSON opined that it seems the 10 years of stability being offered would be an incentive to assist the producers to bid their gas into a pipeline. "Is the difference in the numbers that Representative Seaton has outlined and the ability to lock the tax in at whatever rate he came up with versus the future worth the \$2 billion gamble ... to be able to get a higher gas tax to shift that money around; to jeopardize that \$2 billion," he asked. He surmised then that the policy question is whether to decouple and gamble on the \$2 billion or lock something in and decouple and likely guarantee a lower gas tax for 10 years.

MR. MARKS said that he didn't disagree with that assessment. However, from his personal judgment, he opined that once gas taxes are discussed it won't be possible to separate oil taxes. He opined that the oil and gas taxes will have to be reviewed together. The frame of reference will likely be the status quo and the question is what the status quo should be, the \$5 billion world or the \$8 billion world. In further response to Co-Chair Johnson, Mr. Marks confirmed that the \$5 billion is what the state could obtain without decoupling and the \$8 billion is what the state could gain by decoupling, regardless of the gas tax during the 10-year period.

[7:52:48 PM](#)

REPRESENTATIVE EDGMON said he is hearing three different arguments: the department discussed the complexity of

separating the accounting versus the cost allocations; Senator Stedman introduced the oil tax as a way to obtain more revenue; and now there's discussion that this creates incentives for the gas tax development. "Where are we going with this bill," he asked.

MR. MARKS explained that cost allocation is an issue that has to be addressed when decoupling. He noted that it's done all the time around the world and there are provisions in statute for the department to adopt regulations to do it. Under current statute, there are reasons to allocate costs between oil and gas. The aforementioned has been performed just fine. With regard to what happens with gas versus oil, he explained the following. Given the relative values and volumes of oil and gas, when they are decoupled gas taxes decrease and oil taxes increase by more than the decrease in gas taxes. Therefore, on net the state makes more money. "By not decoupling, when you combine these substances of different values, the gas gets sucked up, the oil gets sucked down. By decoupling, oil goes back up, gas goes back down because that's the nature of what they're worth," he clarified.

[7:54:44 PM](#)

REPRESENTATIVE EDGMON asked if Mr. Marks agreed with Senator Stedman's presentation of a dramatic increase that would occur due to decoupling the oil revenue side.

MR. MARKS replied yes, noting that is exactly what he presented yesterday. He reminded the committee that he believes such would happen because under the current system the gas is being taxed at a vastly overrated value relative to what it's worth, which is when it's combined with oil.

REPRESENTATIVE EDGMON surmised then that the department needs to come forward and walk through the various scenarios.

CO-CHAIR NEUMAN remarked that the commission would love to know what the oil and gas futures will be.

REPRESENTATIVE EDGMON opined that's why this is difficult.

[7:56:15 PM](#)

CO-CHAIR NEUMAN, referencing slide 8 of the Logsdon & Associates April 10, 2010, presentation, opined that he views the situation as the two bucket world because AGIA guarantees a 10-year lock

in of the tax rates. He recalled that the numbers Senator Stedman referenced were numbers that were projected by the Department of Energy as the actual cost to the state. He expressed concern that the state could be locked into that rate. The aforementioned is avoided by [going from the one bucket to the two bucket world], but it leaves open the ability to review tax structures on gas.

CO-CHAIR JOHNSON pointed out that before the committee today is fixing a problem, cost allocation, which exists if the legislature chooses to decouple. The large policy call, whether to decouple or not, will not come today with the passage of Version M.

REPRESENTATIVE EDGMON said that he understands that, but would wait to hear from the department.

[8:00:29 PM](#)

REPRESENTATIVE SEATON inquired as to what will be the status quo when negotiations occur at the end of the open season, if [Version M] is passed.

MR. MARKS answered that the status quo will be in place when a gasline is in place, which will be a two bucket decoupled world. If nothing else changes, the aforementioned would start when 1.5 bcf/d is exported.

REPRESENTATIVE SEATON related his understanding that one day after that, when negotiations begin, that it returns to a one bucket world in which oil and gas are combined. The tax consequences will be based on the status quo, which is combined oil and gas for at least 10 years until gas would flow. Therefore, the negotiations will likely be based on everything that's on the table, he surmised. In any case, whether something is in place or not, negotiations on tax rates will include time, rates, progressivity, and what progressivity is based upon. He asked if passage of this legislation would eliminate the aforementioned options from negotiations.

MR. MARKS replied no.

[8:02:36 PM](#)

REPRESENTATIVE GUTTENBERG related his understanding that upon passage of SB 305, the only thing that is fixed and doesn't

change is that 5.7 percent. The gas rate becomes fixed after dropping from 22 percent to 5.7 percent.

MR. MARKS said that's correct.

REPRESENTATIVE GUTTENBERG then questioned why the state would negotiate against itself this far in advance.

MR. MARKS stated that basic negotiating theory is based upon knowing the value of what one has. He suggested that if the state negotiates with the thought that its gas is worth \$8, but it is really worth only \$1.60, it's very likely the negotiations won't go very far, very fast.

REPRESENTATIVE GUTTENBERG said that he understands that the relative value of oil and gas will shift. Therefore, he questioned why the state should decrease the value now.

MR. MARKS explained that under decoupling, the value of gas is determined and an appropriate tax rate is applied. Additionally, when tax terms are discussed with the producers, the issue of being unable to only talk about gas will arise because if the state doesn't like the deal with gas, it will be addressed with oil. Therefore, oil has to be discussed as well and thus this dilution effect is part of the equation. He opined that the aforementioned must be included in the equation as well.

REPRESENTATIVE GUTTENBERG remarked that he didn't disagree.

[8:09:19 PM](#)

REPRESENTATIVE TUCK surmised that this isn't an attempt to fix the value of gas but rather to fix the ceiling of the rate for tax revenue. "I think what it comes down to is what we're going to be locking in for gas, that's going to be determined by a combination of oil and gas in that first open season, and then what you do from there can be changed," he opined. Representative Tuck then turned attention to slide 2 of the Logsdon & Associates presentation dated April 9, 2010. The slide illustrates two scenarios: one with the BOE and the other with PoP. In the example cases of the status quo, the [difference in the state's production tax revenue for oil and for gas] is very similar. However, the example cases under SB 305 significantly changes [the tax revenue]. Upon recalling that the BOE and PoP are merely two methods to determine the value relationship between oil and gas for the cost allocation,

he inquired as to the most common method for determining the value relationship between oil and gas for the cost allocation.

MR. MARKS responded that from his research he believes the most common method is the BOE method.

[8:12:28 PM](#)

REPRESENTATIVE TUCK directed attention to slide 4 of the Logsdon & Associates presentation dated April 10, 2010. From slide 4 he understood that segments 3 and 4 are typically calculated with ELF because once everything is determined, the ELF is usually the lower of the two methods. If the ELF isn't lower, then a progressivity factor is being used. Under the aforementioned scenario, would the dilution effect result, he asked.

MR. MARKS explained that when progressivity is included, one statewide factor of all activity is being used. Therefore, the dilution effect carries through all segments.

REPRESENTATIVE TUCK posed a scenario in which under the status quo that exists today that ELF wasn't lower for segments 3 and 4, and asked whether the progressivity would create the dilution effect.

MR. MARKS answered, "Most definitely." He pointed out that segment 3 is the North Slope oil and gas. In fact, currently a mini-dilution effect is occurring because some producers have North Slope oil and Cook Inlet gas and the Cook Inlet gas dilutes the North Slope oil progressivity factor. Under the status quo for segment 3, 4.5 bcf/d for export gas would be the basic dilution effect that has been discussed.

[8:15:18 PM](#)

SENATOR JOE PASKVAN, Alaska State Legislature, upon a request from Co-Chair Neuman, offered some clarifications for SB 305. He related his belief that the 22 percent is the allocation of the lower revenues that would be received under a combined tax system. By regulation the commissioner has put together a formula for imputing to the lower tax received under the combined tax structure. He recalled that the commissioner's slides related that under the formula it was 22 percent of the \$5.5 billion and the loss was essentially \$2 billion. The 22 percent is the allocation of gas within the \$5.5 billion in revenues. He further recalled that Mr. Marks has said that the tax structure remains the same going forward under the decoupled

system. The triggers, the slopes, and entire progressivity structure remains the same. If the situation was such that gas was more valuable than oil, the progressivity would apply to the gas at the higher value because the tax structures would remain the same. Senator Paskvan, [referring to slide 3 of the presentation entitled "CSSB 305(FIN) MODELING RUNS" dated 4/7/10], opined that what's important for the committee to consider is the total tax take comparison. This is a one-year assumption with 4.5 bcf/d and 500,000 barrels a day. On slide 3 entitled "Total Tax CSSB 305(FIN) less Status Quo BOE Cost Allocation" the total tax was compared assuming CSSB 305(FIN) less the status quo, under various scenarios. From the chart on slide 3, he surmised that in a situation in which there's \$80 a barrel oil and a gas parity of 20:1, the state would lose \$2.2 billion per year if [oil and gas] wasn't decoupled. He pointed out that the green squares on the aforementioned chart indicate when it's in the state's best interest to be decoupled versus the red squares, which illustrate when the state is at risk when not decoupled. Senator Paskvan ascertained that under a BOE cost allocation method it's substantially in the state's interest to decouple. He then opined that the magnitude of losing the \$2.2 billion in any one year completely destabilizes the recovery ability of the downside risk. Senator Paskvan said that he wanted to be sure that the committee understood that the tax rates stay the same.

[8:21:41 PM](#)

REPRESENTATIVE SEATON referred to the April 9, 2010, Logsdon & Associates presentation. He then pointed out that slide 4 relates a status quo situation in which the oil and gas taxes are combined and result in an attributed gas tax of \$1.199 million. However, in a situation in which the oil and gas taxes are decoupled, as illustrated on slide 6, the gas tax alone amounts to \$333.5 million that equates to a 5.8 percent tax. A 5.8 percent tax is very similar to the Cook Inlet exclusion. If the desire is to fix a tax rate for 10 years of first gas flow, Representative Seaton then asked if it would make sense for the state to back off and guarantee that no matter what is negotiated that [the producers] could have almost the ELF tax rate for gas for 10 years. That's what would be guaranteed in a decoupled environment with the presented scenarios in the April 9, 2010, Logsdon & Associates presentation. Therefore, he questioned whether it's sensible for the state to enter into negotiations with that guarantee on the table.

SENATOR PASKVAN opined that all these slides illustrate that "we live in an oil world and we should keep our eye on oil." In fact, on slide 6 the \$8.6 billion in oil revenues illustrates that the policy focus should be on the oil. Referring to [slide] 2, he pointed out that the stack of money in the state's control is always better with decoupling than without out regardless of which cost allocation is used. The 22 percent isn't a tax rate, he clarified, but rather an imputed allocation. He explained that the progressivity formula determines the tax rate, post decoupling.

[8:27:37 PM](#)

REPRESENTATIVE SEATON expressed concern that at the start of open season nothing is being guaranteed in terms of the oil tax rate, rather only the gas tax is being guaranteed. He clarified that only the gas production tax obligation calculated under the gas production tax in effect at the start of the first binding open season is being guaranteed, not the gas tax rate. He expressed concern that the [imputed] amount of tax based on total gross value is the existing tax system, the status quo. He asked if that's correct.

SENATOR PASKVAN recalled that Commissioner Galvin has said that Alaska's tax can go up to the 1.99 figure. If on [slide 6 of the April 9, 2010, Logsdon & Associates presentation] the \$300 million, then Alaska could increase the tax another \$800 million. However, the net value on the gas will be \$2.4 billion. He reiterated that it's an oil world.

[8:30:12 PM](#)

REPRESENTATIVE SEATON pointed out that the gas tax production tax exemption statute guarantees that the tax rate at the start is what's guaranteed. That rate, he reiterated, is almost the Cook Inlet ELF tax rate. He noted that the state only receives \$4 million from all the tax produced in Cook Inlet. Therefore, if this rate is guaranteed for 10 years of gas flow, it would amount to only a few multiple times of the \$4 million. He remarked that the state may receive \$40 million a year in total tax if the state guarantees 5.8 percent maximum tax rate.

[8:32:03 PM](#)

The committee took an at-ease from 8:32 p.m. to 8:42 p.m.

[8:42:33 PM](#)

CO-CHAIR NEUMAN announced that Commissioner Galvin has information for the committee to consider and he can discuss it with the committee at another time.

Text for Amendment 1, labeled 26-LS1577\WA.2, Bullock, 4/5/10, which read:

Page 1, line 2:

Delete "oil,"

Insert "oil produced in the state and"

Page 1, lines 2 - 3:

Delete ", and gas produced outside of the Cook Inlet sedimentary basin and used in the state"

Page 1, lines 10 - 11:

Delete "and not used in the state"

Page 2, line 17:

Delete "(f), (j), (k), and (o)"

Insert "(f), (j), and (k) [(f), (j), (k), AND (o)]

Page 2, following line 24:

Insert a new bill section to read:

"\* **Sec. 3.** AS 43.55.011(f) is amended to read:

(f) The levy of tax under this section for oil and gas produced north of 68 degrees North latitude, other than oil and gas production subject to (i) of this section [AND GAS SUBJECT TO (o) OF THIS SECTION], may not be less than

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

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

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

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

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

Renumber the following bill sections accordingly.

Page 2, line 27:

Delete "AS 43.55.160(a)(2)(A) - (E)"

Insert "AS 43.55.160(a)(2)(A) - (D)"

Page 3, line 1:

Delete ","

Insert "and"

Page 3, lines 2 - 4:

Delete ", and gas produced during the month from a lease or property outside the Cook Inlet sedimentary basin and used in the state"

Page 3, line 6:

Delete "AS 43.55.160(a)(2)(A) - (E)"

Insert "AS 43.55.160(a)(2)(A) - (D)"

Page 3, line 9:

Delete "AS 43.55.160(a)(2)(A) - (E)"

Insert "AS 43.55.160(a)(2)(A) - (D)"

Page 3, line 12:

Delete "AS 43.55.160(a)(2)(A) - (E)"

Insert "AS 43.55.160(a)(2)(A) - (D)"

Page 3, line 16:

Delete "AS 43.55.160(a)(2)(A) - (E)"

Insert "AS 43.55.160(a)(2)(A) - (D)"

Page 3, following line 18:

Insert a new bill section to read:

"\* **Sec. 5.** AS 43.55.011(m) is amended to read:

(m) Notwithstanding any contrary provision of AS 38.05.180(i), AS 41.09.010, AS 43.55.024, or 43.55.025, the department shall provide by regulation a method to ensure that, for a calendar year for which a producer's tax liability is limited by (j) or (k) [(j), (k), OR (o)] of this section, tax credits otherwise available under AS 38.05.180(i), AS 41.09.010, AS 43.55.024, or 43.55.025 and allocated to gas subject to the limitations in (j) or (k) [(j), (k), AND (o)] of this section are accounted for as though the credits had been applied first against a tax liability calculated without regard to the limitations under (j) or (k) [(j), (k), AND (o)] of this section so as to reduce the tax liability to the maximum amount provided for under (j) [(j) OR (o)] of this section for the production of gas or (k) of this section for the production of oil. The regulation must provide for a reasonable method to allocate tax credits to gas subject to (j) [(j) AND (o)] of this section. Only the amount of a tax credit remaining after the accounting provided for under this subsection may be used for a later calendar year, transferred to another person, or applied against a tax levied on the production of oil or gas not subject to (j) or (k) [(j), (k), OR (o)] of this section to the extent otherwise allowed."

Renumber the following bill sections accordingly.

Page 3, line 21:

Delete "AS 43.55.160(a)(2)(F) and (G)"

Insert "AS 43.55.160(a)(2)(E) and (F)"

Page 3, lines 25 - 26:

Delete "or gas produced outside the Cook Inlet sedimentary basin and used in the state"

Page 3, line 29:

Delete "AS 43.55.160(a)(2)(F) and (G)"

Insert "AS 43.55.160(a)(2)(E) and (F)"

Page 4, line 1:

Delete "AS 43.55.160(a)(2)(F) and (G)"

Insert "AS 43.55.160(a)(2)(E) and (F)"

Page 4, line 4:

Delete "AS 43.55.160(a)(2)(F) and (G)"

Insert "AS 43.55.160(a)(2)(E) and (F)"

Page 4, line 7:

Delete "AS 43.55.160(a)(2)(F) and (G)"

Insert "AS 43.55.160(a)(2)(E) and (F)"

Page 4, lines 21 - 22:

Delete "but not subject to AS 43.55.011(o)"

Insert "[BUT NOT SUBJECT TO AS 43.55.011(o)]"

Page 6, line 9:

Delete "AS 43.55.011(j), (k), or (o)"

Insert "AS 43.55.011(j) or (k) [AS 43.55.011(j), (k), OR (o)]"

Page 6, line 31:

Delete "AS 43.55.011(j), (k), or (o)"

Insert "AS 43.55.011(j) or (k) [AS 43.55.011(j), (k), OR (o)]"

Page 7, line 2:

Delete "or 43.55.011(o)"

Insert "[OR 43.55.011(o)]"

Page 7, line 4:

Delete "or 43.55.011(o)"

Insert "[OR 43.55.011(o)]"

Page 9, lines 14 - 21:

Delete "gas produced during a calendar year from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to that gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(F)"

Page 9, lines 27 - 28:

Delete "this subparagraph does not apply to gas used in the state;"

Page 9, line 29:

Delete "(G)"

Insert "(F)"

Page 10, lines 5 - 6:

Delete "; this subparagraph does not apply to gas used in the state;"

Insert "[GAS PRODUCED DURING A CALENDAR YEAR FROM A LEASE OR PROPERTY OUTSIDE THE COOK INLET SEDIMENTARY BASIN AND USED IN THE STATE IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF THAT GAS TAXABLE UNDER AS 43.55.011(e) AND PRODUCED BY THE PRODUCER FROM THAT LEASE OR PROPERTY, LESS THE PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE CALENDAR YEAR APPLICABLE TO THAT GAS PRODUCED BY THE PRODUCER FROM THAT LEASE OR PROPERTY, AS ADJUSTED UNDER AS 43.55.170];"

Page 11, lines 8 - 15:

Delete "gas produced during a month from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to that gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(F)"

Page 11, line 22:

Delete all material.

Page 11, line 23:

Delete "(G)"

Insert "(F)"

Page 11, lines 30 - 31:

Delete "; this subparagraph does not apply to gas used in the state"

Insert "[GAS PRODUCED DURING A MONTH FROM A LEASE OR PROPERTY OUTSIDE THE COOK INLET SEDIMENTARY BASIN AND USED IN THE STATE IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF THAT GAS TAXABLE UNDER AS 43.55.011(e) AND PRODUCED BY THE PRODUCER FROM THAT LEASE OR PROPERTY, LESS 1/12 OF THE PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE CALENDAR YEAR APPLICABLE TO THAT GAS PRODUCED BY THE PRODUCER FROM

THAT LEASE OR PROPERTY, AS ADJUSTED UNDER AS 43.55.170]"

Page 11, following line 31:

Insert a new bill section to read:

"\* **Sec. 10.** AS 43.55.160(e) is amended to read:

(e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer in a calendar year but whose deduction would cause an annual production tax value calculated under (a)(1) of this section of taxable oil or gas produced during the calendar year to be less than zero may be used to establish a carried-forward annual loss under AS 43.55.023(b). However, the department shall provide by regulation a method to ensure that, for a period for which a producer's tax liability is limited by AS 43.55.011(j) or (k) [AS 43.55.011(j), (k), OR (o)], any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer for that period but whose deduction would cause a production tax value calculated under (a)(1)(C) or (D) [(a)(1)(C), (D), OR (E)] of this section to be less than zero are accounted for as though the adjusted lease expenditures had first been used as deductions in calculating the production tax values of oil or gas subject to any of the limitations under AS 43.55.011(j) or (k) [AS 43.55.011(j), (k), OR (o)] that have positive production tax values so as to reduce the tax liability calculated without regard to the limitation to the maximum amount provided for under the applicable provision of AS 43.55.011(j) or (k) [AS 43.55.011(j), (k), OR (o)]. Only the amount of those adjusted lease expenditures remaining after the accounting provided for under this subsection may be used to establish a carried-forward annual loss under AS 43.55.023(b). In this subsection, "producer" includes "explorer."

Renumber the following bill sections accordingly.

Page 12, lines 3 - 4:

Delete ", between gas subject to AS 43.55.011(o) and other gas,"

Insert "[, BETWEEN GAS SUBJECT TO AS 43.55.011(o) AND OTHER GAS,]"

Page 12, line 17:

Delete ", between gas subject to AS 43.55.011(o) and other gas,"

Page 12, following line 27:

Insert a new bill section to read:

"\* **Sec. 13.** AS 43.55.011(o) and AS 43.55.900(24) are repealed."

Renumber the following bill sections accordingly.

Page 13, line 2:

Delete "secs. 2 - 4 and 7"

Insert "secs. 2, 4, 6, and 9"

Page 13, line 5:

Delete "secs. 2 - 4 and 7"

Insert "secs. 2, 4, 6, and 9"

Page 13, line 10:

Delete "Sections 2 - 4 and 7"

Insert "Sections 2, 4, 6, and 9"

Text for Amendment 4, labeled 26-LS1577\WA.6, Bullock, 4/10/10, which read:

Page 1, lines 1 - 11:

Delete "providing that the tax rate applicable to the production of oil as the average production tax value of oil, gas produced in the Cook Inlet sedimentary basin, and gas produced outside of the Cook Inlet sedimentary basin and used in the state increases above \$30 shall be 0.4 percent multiplied by the number that represents the difference between that average monthly production tax value and \$30, or the sum of 25 percent and the product of 0.1 percent multiplied by the number that represents the difference between that average monthly production tax value and \$92.50, except that the total rate determined in the calculation may not exceed 50 percent; providing for an increase in the rate of tax on the production of gas as the average production tax value on a BTU equivalent barrel basis of gas produced outside of the Cook Inlet sedimentary basin and not used in the state increases above \$30"

Insert "relating to that part of the tax on the production of oil and gas that increases as the

average production tax value of the oil and gas increases above \$30"

Page 2, line 2, following "**expenditures;**":

Insert "**relating to the tax on the production of gas in effect at the start of the first binding open season held for the project licensed under the Alaska Gasline Inducement Act;**"

Page 2, following line 12:

Insert new bill sections to read:

"\* **Sec. 2.** AS 29.60.850(b), as amended by sec. 1 of this Act, is amended to read:

(b) Each fiscal year, the legislature may appropriate to the community revenue sharing fund an amount equal to 20 percent of the money received by the state during the previous calendar year under AS 43.55.011(g) [AND (p)]. The amount may not exceed

(1) \$60,000,000; or

(2) the amount that, when added to the fund balance on June 30 of the previous fiscal year, equals \$180,000,000.

\* **Sec. 3.** AS 29.60.850(b), as amended by sec. 2 of this Act, is amended to read:

(b) Each fiscal year, the legislature may appropriate to the community revenue sharing fund an amount equal to 20 percent of the money received by the state during the previous calendar year under AS 43.55.011(g) and (p). The amount may not exceed

(1) \$60,000,000; or

(2) the amount that, when added to the fund balance on June 30 of the previous fiscal year, equals \$180,000,000."

Renumber the following bill sections accordingly.

Page 2, following line 24:

Insert new bill sections to read:

"\* **Sec. 5.** AS 43.55.011(e), as amended by sec. 4 of this Act, is amended to read:

(e) There is levied on the producer of oil or gas a tax for all oil and gas produced each calendar year from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under

(f), (j), (k), and (o) of this section, the tax is equal to the sum of

(1) the annual production tax value of the taxable oil and gas as calculated under AS 43.55.160(a)(1) multiplied by 25 percent; and

(2) the sum, over all months of the calendar year, of the tax amounts determined under

[(A) SUBSECTION] (g) of this section [; AND

(B) SUBSECTION (p) OF THIS SECTION].

\* **Sec. 6.** AS 43.55.011(e) as amended to read:

(e) There is levied on the producer of oil or gas a tax for all oil and gas produced each calendar year from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under (f), (j), (k), and (o) of this section, the tax is equal to the sum of

(1) the annual production tax value of the taxable oil and gas as calculated under AS 43.55.160(a)(1) multiplied by 25 percent; and

(2) the sum, over all months of the calendar year, of the tax amounts determined under

(A) subsection (g) of this section; and

(B) subsection (p) of this section."

Renumber the following bill sections accordingly.

Page 3, following line 18:

Insert new bill sections to read:

"\* **Sec. 8.** AS 43.55.011(g), as amended by sec. 7 of this Act, is amended to read:

(g) For each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2) [AS 43.55.160(a)(2)(A) - (E)]\_of a BTU equivalent barrel of taxable oil and gas is more than \$30, the amount of tax for purposes of (e)(2) [(e)(2)(A)] of this section is determined by multiplying the monthly production tax value of the taxable oil and gas produced during the month [, GAS PRODUCED DURING THE MONTH FROM A LEASE OR PROPERTY IN THE COOK INLET SEDIMENTARY BASIN, AND GAS PRODUCED DURING THE MONTH FROM A LEASE OR PROPERTY OUTSIDE THE COOK INLET SEDIMENTARY BASIN AND USED IN THE STATE] by the tax rate calculated as follows:

(1) if the producer's average monthly production tax value [UNDER AS 43.55.160(a)(2)(A) -

(E)] of a BTU equivalent barrel of taxable oil and gas for the month is not more than \$92.50, the tax rate is 0.4 percent multiplied by the number that represents the difference between the producer's average monthly production tax value [UNDER AS 43.55.160(a)(2)(A) - (E)] of a BTU equivalent barrel of taxable oil and gas and \$30; or

(2) if the producer's average monthly production tax value [UNDER AS 43.55.160(a)(2)(A) - (E)] of a BTU equivalent barrel of taxable oil and gas for the month is more than \$92.50, the tax rate is the sum of 25 percent and the product of 0.1 percent multiplied by the number that represents the difference between the producer's average monthly production tax value [UNDER AS 43.55.160(a)(2)(A) - (E)] of a BTU equivalent barrel of taxable oil and gas and \$92.50, except that the sum determined under this paragraph may not exceed 50 percent.

\* **Sec. 9.** AS 43.55.011(g), as amended by sec. 8 of this Act, is amended to read:

(g) For each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2)(A) - (E) [AS 43.55.160(a)(2)] of a BTU equivalent barrel of taxable oil and gas is more than \$30, the amount of tax for purposes of (e)(2)(A) [(e)(2)] of this section is determined by multiplying the monthly production tax value of the taxable oil [AND GAS] produced during the month, gas produced during the month from a lease or property in the Cook Inlet sedimentary basin, and gas produced during the month from a lease or property outside the Cook Inlet sedimentary basin and used in the state by the tax rate calculated as follows:

(1) if the producer's average monthly production tax value under AS 43.55.160(a)(2)(A) - (E) of a BTU equivalent barrel of taxable oil and gas for the month is not more than \$92.50, the tax rate is 0.4 percent multiplied by the number that represents the difference between the producer's average monthly production tax value under AS 43.55.160(a)(2)(A) - (E) of a BTU equivalent barrel of taxable oil and gas and \$30; or

(2) if the producer's average monthly production tax value under AS 43.55.160(a)(2)(A) - (E) of a BTU equivalent barrel of taxable oil and gas for the month is more than \$92.50, the tax rate is the sum of 25 percent and the product of 0.1 percent

multiplied by the number that represents the difference between the producer's average monthly production tax value under AS 43.55.160(a)(2)(A) - (E) of a BTU equivalent barrel of taxable oil and gas and \$92.50, except that the sum determined under this paragraph may not exceed 50 percent."

Renumber the following bill sections accordingly.

Page 4, following line 9:

Insert a new bill section to read:

"\* **Sec. 11.** AS 43.55.011 is amended by adding a new subsection to read:

(p) For each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2)(F) and (G) of a BTU equivalent barrel of taxable gas is more than \$30, the amount of tax on the production of gas for purposes of (e)(2)(B) of this section is determined by multiplying the monthly production tax value of the taxable gas produced during the month other than gas produced from a lease or property in the Cook Inlet sedimentary basin or gas produced outside the Cook Inlet sedimentary basin and used in the state by the tax rate calculated as follows:

(1) if the producer's average monthly production tax value under AS 43.55.160(a)(2)(F) and (G) of a BTU equivalent barrel of taxable gas for the month is not more than \$92.50, the tax rate is 0.4 percent multiplied by the number that represents the difference between the producer's average monthly production tax value under AS 43.55.160(a)(2)(F) and (G) of a BTU equivalent barrel of gas and \$30; or

(2) if the producer's average monthly production tax value under AS 43.55.160(a)(2)(F) and (G) of a BTU equivalent barrel of taxable gas for the month is more than \$92.50, the tax rate is the sum of 25 percent and the product of 0.1 percent multiplied by the number that represents the difference between the producer's average monthly production tax value under AS 43.55.160(a)(2)(F) and (G) of a BTU equivalent barrel of gas and \$92.50, except that the sum determined under this paragraph may not exceed 50 percent."

Renumber the following bill sections accordingly.

Page 6, line 31:

Delete "before 2022"

Page 7, following line 24:

Insert new bill sections to read:

"\* **Sec. 13.** AS 43.55.020(a), as amended by sec. 12 of this Act, is amended to read:

(a) For a calendar year, a producer subject to tax under AS 43.55.011(e) - (i) [AND (p)] shall pay the tax as follows:

(1) an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; except as otherwise provided under (2) of this subsection, the amount of the installment payment is the sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount of the installment payment may not be less than zero:

(A) for oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin but not subject to AS 43.55.011(o), other than leases or properties subject to AS 43.55.011(f), the greater of

(i) zero; or

(ii) [AN AMOUNT EQUAL TO] the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production [APPLICABLE TO THE OIL PRODUCED BY THE PRODUCER FROM THOSE LEASES AND PROPERTIES] under AS 43.55.165 and 43.55.170 that are deductible for the leases or properties under AS 43.55.160 [,] from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated [ADDED TO THE SUM OF 25 PERCENT AND THE TAX RATE CALCULATED FOR THE MONTH UNDER AS 43.55.011(p) MULTIPLIED BY THE REMAINDER OBTAINED BY SUBTRACTING 1/12 OF THE PRODUCER'S ADJUSTED LEASE EXPENDITURES FOR THE CALENDAR YEAR OF PRODUCTION APPLICABLE TO THE GAS PRODUCED BY THE PRODUCER FROM THOSE LEASES AND PROPERTIES UNDER AS 43.55.165 AND 43.55.170 THAT ARE DEDUCTIBLE FOR THE LEASES OR PROPERTIES UNDER

AS 43.55.160 FROM THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE GAS PRODUCED FROM THE LEASES OR PROPERTIES DURING THE MONTH FOR WHICH THE INSTALLMENT PAYMENT IS CALCULATED];

(B) for oil and gas produced from leases or properties subject to AS 43.55.011(f), the greatest of

(i) zero;

(ii) zero percent, one percent, two percent, three percent, or four percent, as applicable, of the gross value at the point of production of the oil and gas produced from all leases or properties during the month for which the installment payment is calculated; or

(iii) [AN AMOUNT EQUAL TO] the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production [APPLICABLE TO THE OIL PRODUCED BY THE PRODUCER FROM THOSE LEASES AND PROPERTIES] under AS 43.55.165 and 43.55.170 that are deductible for those leases or properties under AS 43.55.160 [,] from the gross value at the point of production of the oil and gas produced from those leases or properties during the month for which the installment payment is calculated [ADDED TO THE SUM OF 25 PERCENT AND THE TAX RATE CALCULATED FOR THE MONTH UNDER AS 43.55.011(p) MULTIPLIED BY THE REMAINDER OBTAINED BY SUBTRACTING 1/12 OF THE PRODUCER'S ADJUSTED LEASE EXPENDITURES FOR THE CALENDAR YEAR OF PRODUCTION APPLICABLE TO THE GAS PRODUCED BY THE PRODUCER FROM THOSE LEASES AND PROPERTIES UNDER AS 43.55.165 AND 43.55.170 THAT ARE DEDUCTIBLE FOR THOSE LEASES OR PROPERTIES UNDER AS 43.55.160 FROM THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE GAS PRODUCED FROM THOSE LEASES OR PROPERTIES DURING THE MONTH FOR WHICH THE INSTALLMENT PAYMENT IS CALCULATED];

(C) for oil and gas produced from each lease or property subject to AS 43.55.011(j), (k), or (o), the greater of

(i) zero; or

(ii) [AN AMOUNT EQUAL TO] the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production [APPLICABLE TO THE OIL PRODUCED BY THE

PRODUCER FROM THOSE LEASES AND PROPERTIES] under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 for oil or gas, respectively, produced from the lease or property [,] from the gross value at the point of production of the oil or gas, respectively, produced from the lease or property during the month for which the installment payment is calculated [ADDED TO THE SUM OF 25 PERCENT AND THE TAX RATE CALCULATED FOR THE MONTH UNDER AS 43.55.011(g) MULTIPLIED BY THE REMAINDER OBTAINED BY SUBTRACTING 1/12 OF THE PRODUCER'S ADJUSTED LEASE EXPENDITURES FOR THE CALENDAR YEAR OF PRODUCTION APPLICABLE TO THE GAS PRODUCED BY THE PRODUCER FROM THE LEASE OR PROPERTY UNDER AS 43.55.165 AND 43.55.170 THAT ARE DEDUCTIBLE UNDER AS 43.55.160 FOR GAS PRODUCED FROM THE LEASE OR PROPERTY, FROM THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE GAS PRODUCED FROM THE LEASE OR PROPERTY DURING THE MONTH FOR WHICH THE INSTALLMENT PAYMENT IS CALCULATED];

(2) an amount calculated under (1)(C) of this subsection for oil or gas produced before 2022 from a lease or property subject to AS 43.55.011(j), (k), or (o) may not exceed the product obtained by carrying out the calculation set out in AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable gas produced during the month for the amount of taxable gas produced during the calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the amount of taxable oil produced during the month for the amount of taxable oil produced during the calendar year;

(3) an installment payment of the estimated tax levied by AS 43.55.011(i) for each lease or property is due for each month of the calendar year on the last day of the following month; the amount of the installment payment is the sum of

(A) the applicable tax rate for oil provided under AS 43.55.011(i), multiplied by the gross value at the point of production of the oil taxable under AS 43.55.011(i) and produced from the lease or property during the month; and

(B) the applicable tax rate for gas provided under AS 43.55.011(i), multiplied by the

gross value at the point of production of the gas taxable under AS 43.55.011(i) and produced from the lease or property during the month;

(4) any amount of tax levied by AS 43.55.011(e) or (i), net of any credits applied as allowed by law, that exceeds the total of the amounts due as installment payments of estimated tax is due on March 31 of the year following the calendar year of production.

\* **Sec. 14.** AS 43.55.020(a), as amended by sec. 13 of this Act, is amended to read:

(a) For a calendar year, a producer subject to tax under AS 43.55.011(e) - (i) **and (p)** shall pay the tax as follows:

(1) an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; except as otherwise provided under (2) of this subsection, the amount of the installment payment is the sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount of the installment payment may not be less than zero:

(A) for oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin but not subject to AS 43.55.011(o), other than leases or properties subject to AS 43.55.011(f), the greater of

(i) zero; or

(ii) **an amount equal to** the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production **applicable to the oil produced by the producer from those leases and properties** under AS 43.55.165 and 43.55.170 that are deductible for the leases or properties under AS 43.55.160, from the gross value at the point of production of the oil [AND GAS] produced from the leases or properties during the month for which the installment payment is calculated **added to the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(p) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for**

the calendar year of production applicable to the gas produced by the producer from those leases and properties under AS 43.55.165 and 43.55.170 that are deductible for the leases or properties under AS 43.55.160 from the gross value at the point of production of the gas produced from the leases or properties during the month for which the installment payment is calculated;

(B) for oil and gas produced from leases or properties subject to AS 43.55.011(f), the greatest of

(i) zero;

(ii) zero percent, one percent, two percent, three percent, or four percent, as applicable, of the gross value at the point of production of the oil and gas produced from all leases or properties during the month for which the installment payment is calculated; or

(iii) an amount equal to the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production applicable to the oil produced by the producer from those leases and properties under AS 43.55.165 and 43.55.170 that are deductible for those leases or properties under AS 43.55.160, from the gross value at the point of production of the oil [AND GAS] produced from those leases or properties during the month for which the installment payment is calculated added to the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(p) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production applicable to the gas produced by the producer from those leases and properties under AS 43.55.165 and 43.55.170 that are deductible for those leases or properties under AS 43.55.160 from the gross value at the point of production of the gas produced from those leases or properties during the month for which the installment payment is calculated;

(C) for oil and gas produced from each lease or property subject to AS 43.55.011(j), (k), or (o), the greater of

(i) zero; or

(ii) an amount equal to the sum of 25 percent and the tax rate calculated for the month

under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production applicable to the oil produced by the producer from those leases and properties under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 for oil [OR GAS, RESPECTIVELY,] produced from the lease or property, from the gross value at the point of production of the oil [OR GAS, RESPECTIVELY,] produced from the lease or property during the month for which the installment payment is calculated added to the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production applicable to the gas produced by the producer from the lease or property under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 for gas produced from the lease or property, from the gross value at the point of production of the gas produced from the lease or property during the month for which the installment payment is calculated;

(2) an amount calculated under (1)(C) of this subsection for oil or gas produced before 2022 from a lease or property subject to AS 43.55.011(j), (k), or (o) may not exceed the product obtained by carrying out the calculation set out in AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable gas produced during the month for the amount of taxable gas produced during the calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the amount of taxable oil produced during the month for the amount of taxable oil produced during the calendar year;

(3) an installment payment of the estimated tax levied by AS 43.55.011(i) for each lease or property is due for each month of the calendar year on the last day of the following month; the amount of the installment payment is the sum of

(A) the applicable tax rate for oil provided under AS 43.55.011(i), multiplied by the gross value at the point of production of the oil

taxable under AS 43.55.011(i) and produced from the lease or property during the month; and

(B) the applicable tax rate for gas provided under AS 43.55.011(i), multiplied by the gross value at the point of production of the gas taxable under AS 43.55.011(i) and produced from the lease or property during the month;

(4) any amount of tax levied by AS 43.55.011(e) or (i), net of any credits applied as allowed by law, that exceeds the total of the amounts due as installment payments of estimated tax is due on March 31 of the year following the calendar year of production."

Renumber the following bill sections accordingly.

Page 8, line 11:

Insert new bill sections to read:

"\* **Sec. 16.** AS 43.55.020(d), as amended by sec. 15 of this Act, is amended to read:

(d) In making settlement with the royalty owner for oil and gas that is taxable under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable royalty oil and 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. If the total deductions of installment payments of estimated tax for a calendar year exceed the actual tax for that calendar year, the producer shall, before April 1 of the following year, refund the excess to the royalty owner. Unless otherwise agreed between the producer and the royalty owner, the amount of the tax paid under AS 43.55.011(e) - (g) [AND (p)] on taxable royalty oil and gas for a calendar year, other than oil and gas the ownership or right to which constitutes a landowner's royalty interest, is considered to be the gross value at the point of production of the taxable royalty oil and gas produced during the calendar year multiplied by a figure that is a quotient, in which

(1) the numerator is the producer's total tax liability under AS 43.55.011(e) - (g) [AND (p)] for the calendar year of production; and

(2) the denominator is the total gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) - (g) [AND (p)] produced

by the producer from all leases and properties in the state during the calendar year.

\* **Sec. 17.** AS 43.55.020(d), as amended by sec. 16 of this Act, is amended to read:

(d) In making settlement with the royalty owner for oil and gas that is taxable under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable royalty oil and 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. If the total deductions of installment payments of estimated tax for a calendar year exceed the actual tax for that calendar year, the producer shall, before April 1 of the following year, refund the excess to the royalty owner. Unless otherwise agreed between the producer and the royalty owner, the amount of the tax paid under AS 43.55.011(e) - (g) and (p) on taxable royalty oil and gas for a calendar year, other than oil and gas the ownership or right to which constitutes a landowner's royalty interest, is considered to be the gross value at the point of production of the taxable royalty oil and gas produced during the calendar year multiplied by a figure that is a quotient, in which

(1) the numerator is the producer's total tax liability under AS 43.55.011(e) - (g) and (p) for the calendar year of production; and

(2) the denominator is the total gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) - (g) and (p) produced by the producer from all leases and properties in the state during the calendar year."

Renumber the following bill sections accordingly.

Page 11, following line 31:

Insert new bill sections to read:

"\* **Sec. 19.** AS 43.55.160(a), as amended by sec. 18 of this Act, is amended to read:

(a) Except as provided in (b) of this section, for the purposes of

(1) AS 43.55.011(e), the annual production tax value of the taxable

(A) oil and gas produced during a calendar year from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) and produced by the

producer from those leases or properties, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas subject to AS 43.55.011(o);

(B) oil and gas produced during a calendar year from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas subject to AS 43.55.011(o);

(C) oil produced during a calendar year from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the oil taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(D) gas produced during a calendar year from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(E) gas produced during a calendar year from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to that gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

[(F) GAS PRODUCED DURING A CALENDAR YEAR FROM LEASES OR PROPERTIES IN THE STATE THAT INCLUDE LAND NORTH OF 68 DEGREES NORTH LATITUDE IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE GAS TAXABLE UNDER AS 43.55.011(e) AND PRODUCED BY THE PRODUCER FROM THOSE LEASES OR PROPERTIES, LESS THE PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE CALENDAR YEAR APPLICABLE TO THE GAS PRODUCED BY THE PRODUCER FROM THOSE LEASES OR PROPERTIES, AS ADJUSTED UNDER AS 43.55.170; THIS SUBPARAGRAPH DOES NOT APPLY TO GAS USED IN THE STATE;

(G) GAS PRODUCED DURING A CALENDAR YEAR FROM LEASES OR PROPERTIES IN THE STATE OUTSIDE THE COOK INLET SEDIMENTARY BASIN, NO PART OF WHICH IS NORTH OF 68 DEGREES NORTH LATITUDE, IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE GAS TAXABLE UNDER AS 43.55.011(e) AND PRODUCED BY THE PRODUCER FROM THOSE LEASES OR PROPERTIES, LESS THE PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE CALENDAR YEAR APPLICABLE TO THE GAS PRODUCED BY THE PRODUCER FROM THOSE LEASES OR PROPERTIES, AS ADJUSTED UNDER AS 43.55.170; THIS SUBPARAGRAPH DOES NOT APPLY TO GAS USED IN THE STATE;]

(2) AS 43.55.011(g) [AND (p)], the monthly production tax value of the taxable

(A) oil and gas produced during a month from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas subject to AS 43.55.011(o);

(B) oil and gas produced during a month from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas produced by the producer from those leases or

properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas subject to AS 43.55.011(o);

(C) oil produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the oil taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(D) gas produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(E) gas produced during a month from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to that gas produced by the producer from that lease or property, as adjusted under AS 43.55.170 [;

(F) GAS PRODUCED DURING A MONTH FROM LEASES OR PROPERTIES IN THE STATE THAT INCLUDE LAND NORTH OF 68 DEGREES NORTH LATITUDE IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE GAS TAXABLE UNDER AS 43.55.011(e) AND PRODUCED BY THE PRODUCER FROM THOSE LEASES OR PROPERTIES, LESS 1/12 OF THE PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE CALENDAR YEAR APPLICABLE TO THE GAS PRODUCED BY THE PRODUCER FROM THOSE LEASES OR PROPERTIES, AS ADJUSTED UNDER AS 43.55.170; THIS SUBPARAGRAPH DOES NOT APPLY TO GAS USED IN THE STATE;

(G) GAS PRODUCED DURING A MONTH FROM LEASES OR PROPERTIES IN THE STATE OUTSIDE THE COOK INLET SEDIMENTARY BASIN, NO PART OF WHICH IS NORTH OF 68 DEGREES NORTH LATITUDE, IS THE GROSS VALUE AT THE POINT OF PRODUCTION OF THE GAS TAXABLE UNDER

AS 43.55.011(e) AND PRODUCED BY THE PRODUCER FROM THOSE LEASES OR PROPERTIES, LESS 1/12 OF THE PRODUCER'S LEASE EXPENDITURES UNDER AS 43.55.165 FOR THE CALENDAR YEAR APPLICABLE TO THE GAS PRODUCED BY THE PRODUCER FROM THOSE LEASES OR PROPERTIES, AS ADJUSTED UNDER AS 43.55.170; THIS SUBPARAGRAPH DOES NOT APPLY TO GAS USED IN THE STATE].

\* **Sec. 20.** AS 43.55.160(a), as amended by sec. 19 of this Act, is amended to read:

(a) Except as provided in (b) of this section, for the purposes of

(1) AS 43.55.011(e), the annual production tax value of the taxable

(A) oil [AND GAS] produced during a calendar year from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of the oil [AND GAS] taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil [AND GAS] produced by the producer from those leases or properties, as adjusted under AS 43.55.170; [THIS SUBPARAGRAPH DOES NOT APPLY TO GAS SUBJECT TO AS 43.55.011(o);]

(B) oil [AND GAS] produced during a calendar year from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the oil [AND GAS] taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil [AND GAS] produced by the producer from those leases or properties, as adjusted under AS 43.55.170; [THIS SUBPARAGRAPH DOES NOT APPLY TO GAS SUBJECT TO AS 43.55.011(o);]

(C) oil produced during a calendar year from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the oil taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(D) gas produced during a calendar year from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(E) gas produced during a calendar year from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to that gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(F) gas produced during a calendar year from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas used in the state;

(G) gas produced during a calendar year from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas used in the state;

(2) AS 43.55.011(g) and (p), the monthly production tax value of the taxable

(A) oil [AND GAS] produced during a month from leases or properties in the state that include land north of 68 degrees North latitude is the gross

value at the point of production of the oil [AND GAS] taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil [AND GAS] produced by the producer from those leases or properties, as adjusted under AS 43.55.170; [THIS SUBPARAGRAPH DOES NOT APPLY TO GAS SUBJECT TO AS 43.55.011(o);]

(B) oil [AND GAS] produced during a month from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the oil [AND GAS] taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil [AND GAS] produced by the producer from those leases or properties, as adjusted under AS 43.55.170; [THIS SUBPARAGRAPH DOES NOT APPLY TO GAS SUBJECT TO AS 43.55.011(o);]

(C) oil produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the oil taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(D) gas produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(E) gas produced during a month from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year

applicable to that gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(F) gas produced during a month from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas used in the state;

(G) gas produced during a month from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas used in the state."

Renumber the following bill sections accordingly.

Page 12, line 28, through page 13, line 11:

Delete all material and insert:

**\* Sec. 23.** AS 43.55.011(p) is repealed.

**\* Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION; REGULATIONS; PAYMENT OF TAX; FILING OF REPORTS. If secs. 1, 4, 7, 10, 12, 15, and 18 of this Act take effect, the Department of Revenue shall adopt regulations providing for the payment of tax and the filing of reports required for the period in which secs. 1, 4, 7, 10, 12, 15, and 18 of this Act are in effect.

**\* Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT OF SECS. 1, 2, 4, 5, 7, 8, 10, 12, 13, 15, 16, 18, 19, AND 23 OF THIS ACT; NOTICE.  
(a) Sections 1, 2, 4, 5, 7, 8, 10, 12, 13, 15, 16, 18,

19, and 23 of this Act take effect only if secs. 21 and 22 of this Act take effect before April 29, 2010.

(b) The commissioner of revenue shall notify the revisor of statutes of the date of the start of the first binding open season for the project licensed under AS 43.90 (Alaska Gasline Inducement Act).

\* **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT OF SECS. 3, 6, 9, 11, 14, 17, AND 20 OF THIS ACT; NOTICE. (a) Sections 3, 6, 9, 11, 14, 17, and 20 of this Act take effect only if more than 1,500,000,000 cubic feet of natural gas a day that is produced in the state is tendered for shipment through a natural gas pipeline project in the state to a market in Canada or the 48 contiguous states, or to a gas liquefaction facility in the state for shipment in a liquefied state by marine transportation to a market outside of the state.

(b) The commissioner of revenue shall notify the revisor of statutes of the date that natural gas was first tendered for shipment under the circumstances described in (a) of this section.

\* **Sec. 27.** If secs. 1, 4, 7, 10, 12, 15, and 18 of this Act take effect, they take effect April 29, 2010.

\* **Sec. 28.** If secs. 2, 5, 8, 13, 16, 19, and 23 of this Act take effect, they take effect on the first day immediately following the date on which the open season starts for the project licensed under AS 43.90.

\* **Sec. 29.** If secs. 3, 6, 9, 11, 14, 17, and 20 take effect, they take effect on the first day of the month immediately following the date on which the condition in sec. 26(a) of this Act is met.

\* **Sec. 30.** Except as provided in secs. 27 - 29 of this Act, this Act takes effect immediately under AS 01.10.070(c)."

[8:43:05 PM](#)

#### **ADJOURNMENT**

CO-CHAIR NEUMAN announced that the committee was recessed to a call of the chair at 8:43 p.m.[SB 305 was left pending.] [This meeting reconvened on April 11, 2010.]