

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

February 23, 2012

3:33 p.m.

MEMBERS PRESENT

Senator Joe Paskvan, Co-Chair
Senator Thomas Wagoner, Co-Chair
Senator Bill Wielechowski, Vice Chair
Senator Bert Stedman
Senator Lesil McGuire
Senator Hollis French
Senator Gary Stevens

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Senator Cathy Giessel
Senator Joe Thomas
Senator Dennis Egan

COMMITTEE CALENDAR

SENATE BILL NO. 192

"An Act relating to the oil and gas production tax; and providing for an effective date."

- HEARD AND HELD

DEPARTMENT OF REVENUE PRESENTATION: ACCESS TO INFORMATION AND FISCAL NOTE ANALYSIS

- HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 192

SHORT TITLE: OIL AND GAS PRODUCTION TAX RATES

SPONSOR(s): RESOURCES

02/08/12	(S)	READ THE FIRST TIME - REFERRALS
02/08/12	(S)	RES, FIN
02/10/12	(S)	RES AT 3:30 PM BUTROVICH 205

02/10/12	(S)	Heard & Held
02/10/12	(S)	MINUTE(RES)
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WITNESS REGISTER

BRYAN BUTCHER, Commissioner
 Department of Revenue (DOR)
 Anchorage, AK

POSITION STATEMENT: Commented on access to information issues relating to oil and gas taxes.

JOHANNA BALES, Deputy Director
 Tax Division
 Department of Revenue
 Anchorage, AK

POSITION STATEMENT: Commented on access to information issues relating to oil and gas taxes.

ACTION NARRATIVE

[3:33:41 PM](#)

CO-CHAIR JOE PASKVAN called the Senate Resources Standing Committee meeting to order at 3:33 p.m. Present at the call to order were Senators French, Stedman, Co-Chair Wagoner and Co-Chair Paskvan.

SB 192-OIL AND GAS PRODUCTION TAX RATES
PRESENTATION: ACCESS TO INFORMATION AND FISCAL NOTE ANALYSIS

CO-CHAIR PASKVAN said that today, [during the continued consideration of SB 192,] the committee would learn more about the Department of Revenue's perspective on access to information and taxpayer confidentiality. This issue first presented itself to him when he read the December 30, 2011 decision regarding the trial de novo on the assessed valuation of the TransAlaska Pipeline system (TAPS). In that decision Judge Gleason wrote that Alaska statutes "grant the division certain investigative powers," but that "there was no persuasive evidence presented at the trial de novo that the division has ever exercised these powers with respect to the valuation of TAPS." Additionally, the Judge wrote:

The division broadly interprets what it considers taxpayer confidential information under applicable statutes and will not disclose such information to the municipality specifically or public generally. The division considers all information that it receives from a taxpayer and taxpayer confidential even if it does not contain the particularities of a taxpayer's business affairs and is obtainable from the public domain.

CO-CHAIR PASKVAN said there is more in the decision about the issue of confidentiality and it has been discussed in detail during a prior hearing, but today is the Department of Revenue's day.

[3:35:42 PM](#)

SENATOR STEVENS joined the committee.

[3:36:58 PM](#)

BRYAN BUTCHER, Commissioner, Department of Revenue (DOR), said he would start out with describing how the assessment process works, and then dig into relevant confidentiality statutes, then how the department gathers information and talk a little about the State Assessment Review Board (SARB), subpoena power, joint and administrative agreements, municipal codes and the benefits of confidentiality. He said that the confidentiality laws in

Alaska are not a lot different than any state or IRS taxpayer applications. He asked Ms. Bales to go through those details.

CO-CHAIR PASKVAN listed the department members available on line and thanked the commissioner for his hard work in assembling the team.

[3:38:06 PM](#)

SENATOR MCGUIRE joined the committee.

[3:38:50 PM](#)

JOHANNA BALES, Deputy Director, Tax Division, Department of Revenue, introduced herself and said she would start off with the assessment process since the confidentiality presentation is driven by the SARB and property tax assessment process.

She said the preliminary assessment is done by the state assessor who puts the property tax roll together. Taxpayers are required to provide the division with their property tax renderings by January 1, each year. Then the Tax Division is required to value all the property and send a property tax statement to each taxpayer by March 1, a pretty quick process. A copy of the assessment at that time is also provided to each municipality in which the property is located so that they are given notice of the assessed value. Taxpayers have 20 days or until March 21 to appeal the assessment. The division must then look at that and issue an informal conferenced decision (ICD) and look at any additional information that is provided, and that is due on March 31, within 10 days of that appeal.

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She said taxpayers and municipalities that don't agree with the final assessment can appeal to the SARB and that is due by April 20. SARB must conduct a hearing and finalize its proceedings no later than May 31 and the certified assessment based on that hearing is due on June 1; tax payments are due June 30.

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She went next to how confidentiality fits into the assessment process. One of the two confidentiality statutes is AS 43.05.230 (where all tax statutes are located). It says basically that it's "unlawful for a current or former employee or officer or agent of the state to divulge the amount of income or particulars set out or disclosed in a report or return made under this title." This is information about the income or particulars set out in a report or return and they receive reports from companies that are not necessarily taxpayers.

CO-CHAIR PASKVAN asked if that is a report on income or a return on income.

MS. BALES replied that the statutes aren't clear on whether it's just a report or a return. Some reports are not related to tax return calculations. For example, under the oil and gas production the division gets monthly reports for revenue forecasting. Those aren't tax returns but they are confidential and they come from taxpayers and other explorers who are not taxpayers.

She related that AS 40.25.100(a), the public records statutes, says information that comes to the Department of Revenue that discloses the particulars of a business or affairs of a taxpayer or other person is not a matter of public record and that information is confidential.

CO-CHAIR PASKVAN asked what "particulars" are.

MS. BALES replied that she interprets that very broadly to mean that information provided by any taxpayer or other person is to remain confidential. She noted that they receive hundreds and thousands of documents every year and it wouldn't be practical for them to make a determination on every document. Besides, if it discloses information about a taxpayer or another person that information should be held confidential.

SENATOR FRENCH asked if she thought the state's statutes need to be changed given how inclusive it is. For example, if he asked her if ConocoPhillips filed a tax return last year, she would not be able answer that question.

MS. BALES said she couldn't disclose whether or not they filed a return and that their mission is to collect taxes and keeping information confidential assists them in their ability to do that.

[3:45:48 PM](#)

CO-CHAIR PASKVAN asked if they receive production forecast information.

MS. BALES answered yes.

CO-CHAIR PASKVAN asked why that information is confidential.

MS. BALES replied because it would be considered business affairs.

COMMISSIONER BUTCHER added that reserves of companies are historically very tightly kept as an affair of that particular business. As they are working with companies to put together an accurate production forecast it would have a chilling effect if a company thought their reserve and estimates information were going to be shared on a company-by-company basis.

CO-CHAIR PASKVAN said he received specific information from BP about their reserves and identified six specific categories. So, the commissioner is saying they treat that information with a high level of confidentiality but it was unhesitatingly disclosed yesterday.

COMMISSIONER BUTCHER replied that he didn't know if that was just a snapshot and that a company can decide to provide any information in any context it likes. But it wouldn't like the department doing that.

[3:49:30 PM](#)

SENATOR STEDMAN said he thought the state should know the resource wealth in its ownership at least in the aggregate; the department should know that and the legislature needs to know that to set public policy.

COMMISSIONER BUTCHER said DNR and the Alaska Oil and Gas Conservation Commission (AOGCC) do know aggregate totals based on their information, but it's fairly broad because the specifics don't exist until an area is actually explored and developed.

SENATOR MCGUIRE said the kind of data taxpayers should provide is a valid conversation, but the broader question is if the Department of Revenue should be the place it goes. Maybe AOGCC or DNR would be a better choice. She suspected the IRS has similar requirements.

CO-CHAIR PASKVAN commented that an order from the court, dated December 29, 2011, addresses this issue. Page 2 says:

This court order that for all fields with three or more producers or explorers the categories of production in that field including under development and under evaluation would be public. For fields with

less than three or more producers or explorers only the total production would be public.

3:52:39 PM

MS. BALES responded that their internal policy is just that; if they can aggregate information of three or more taxpayers and be assured that no particular information about a particular taxpayer can be ascertained, then they can do that and have done so. They have some concern in areas with less than three taxpayers.

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SENATOR WIELECHOWSKI joined the committee.

MS. BALES explained further that AS 43.05.230(g) allows them to aggregate information if the particulars of a specific taxpayer can't be ascertained. They would start with information from three businesses as the aggregation point, but if they believe someone else could figure out what information came from which company they are also required to insure that doesn't happen.

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CO-CHAIR PASKVAN asked why the court's order as to the public nature of these documents having already been decided is not in effect at this time.

MS. BALES answered that it's possible that they had three or more but the second provision kicked in and they felt that information could be figured out for a particular taxpayer. For instance, if you have three steady years of production with three companies and another one comes in and the production spikes, that would be indicative of specifics.

CO-CHAIR PASKVAN said they are talking about production data and when one looks at spring 2011 and fall 2011 there is a loss of nearly 80,000 barrels in that six-month gap. What data would the department receive that would eliminate 79,000 barrels of oil a day? It's troubling. And it would now seem under this court order that the data is public.

3:56:44 PM

COMMISSIONER BUTCHER replied that he would look at that to see if it fits under the operating guidelines. The Gleason case is active and open the Department of Law has advised not to get into details of a case that is currently being litigated.

CO-CHAIR PASKVAN concurred that was a prudent position, but they are talking about underlying data and source documents that can produce dramatic swings in the production forecast in a relatively short period of time - and has now been ordered public.

MS. BALES said the aggregation data amounts not the actual underlying data.

CO-CHAIR PASKVAN said it appears the court resolved that issue.

[3:58:49 PM](#)

MR. BALES said their internal policy right now is that they can aggregate data from three or more taxpayers and give a single number and don't disclose who they are. They also ensure that they don't violate any part of AS 43.05.230 about unintentionally disclosing a particular taxpayer's information.

[3:59:13 PM](#)

CO-CHAIR PASKVAN remarked that a court order trumps your policy.

COMMISSIONER BUTCHER said they understand what he is saying and in this case Ms. Bales is trying to point out that is their policy. The reason why the aggregation is of three companies is because if it were two companies, company A knowing what they are producing would immediately know what Company B was doing.

[4:00:21 PM](#)

SENATOR FRENCH went back to his hypothetical about ConocoPhillips filing a tax return last year and asked if the statute lets them publish a list of delinquent taxpayers.

MS. BALES replied yes, but only if they are publishing those lists to engage in collection activities.

SENATOR FRENCH asked if the delinquency exception is strictly to get them to pay their taxes.

MS. BALES replied yes, but it's twofold. They must have some focused collection activity. And just because a taxpayer hasn't filed a return doesn't necessarily mean he is delinquent.

[4:01:53 PM](#)

SENATOR FRENCH asked if they filed a tax return and didn't pay their taxes would they be delinquent.

MS. BALES responded yes.

SENATOR FRENCH asked if they could file a tax check without filing a return.

MS. BALES answered yes, but they would be subject to a failure to file penalty if their tax liability changed. A penalty is up to 25 percent of the additional tax due. They don't get a whole lot of taxpayers not filing.

[4:02:54 PM](#)

She noted there are some significant penalties, up to \$5,000 for each breach of confidentiality, for disclosing taxpayer information in addition to potentially two years in prison or both.

CO-CHAIR PASKVAN noted that Senator Thomas was in the audience.

MS. BALES pointed out that during ACES legislation several legislators voiced concerns about the Tax Division's ability to keep taxpayer information confidential and discussed increasing penalties for breaches of it. Although their internal policy has been what she stated for 19 years, they actually didn't have a written policy until December 2007. The policy is very broad and outlines some exceptions for sharing information.

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MS. BALES said she would next talk about their information gathering procedures, things they do with all tax types focusing on property tax. Basically, they compel taxpayers to provide information in various ways. They are required to file tax returns and in the case of property tax they are required to send in their property renderings; they are required to sign the tax returns either under penalty of perjury or unsworn falsification. They also receive information for economic research and forecasting purposes in the producers' reports; those aren't signed.

CO-CHAIR PASKVAN asked if she was aware of information regarding about reserves being retained as confidential by the operators that is not disclosed.

MS. BALES replied she was not aware of that. They have something different than what they have provided?

CO-CHAIR PASKVAN replied yes and that the use of subpoena power could provide them to the department.

MS. BALES acknowledged that and went back to the presentation saying taxpayers and municipalities can appeal to Superior Court if they disagree with the SARB decision. The property tax assessment is based on information obtained during the year that the property was rendered. When the companies or municipalities appeal to the Superior Court it happens a couple of years later and often the information the court is looking at is information that wasn't in existence at the time the assessment was done.

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CO-CHAIR PASKVAN said he thought the information existed but wasn't obtained by the department. The parties obtained the information that was in existence through the subpoena power.

MS. BALES replied that it was possible that all of the information wasn't in existence specifically relating to production plans and fields under evaluation (and reserves for the valuation of the pipeline); they are talking about a 2007 assessment year that didn't go to court until 2011.

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SENATOR STEDMAN said Judge Gleason referenced 7 to 8 billion barrels and the AOGCC referenced 4 billion and asked if he was following along correctly.

CO-CHAIR PASKVAN replied they were talking about the spread between those two numbers, and the in-house confidential documents that were obtained through the court process that leads to the court relying on the internal documents saying 7 to 8 billion as compared to the other documents.

COMMISSIONER BUTCHER said he thought Ms. Bales was saying when the case went to court any information that could be gathered in 2011 was at use in the case whereas when they came up with a TAPS evaluation or an estimate of reserves it was made in 2007, 2008 or 2009. They were really getting to the point of going into what the Department of Law had asked them not to do, the details of the case.

[4:11:54 PM](#)

MS. BALES reminded them of the short timeframe in the assessment process between the time property is rendered, the assessment goes out and the informal conference decision. All the available information is looked at at that time.

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She said that SARB was created under Title 43, the confidentiality statutes, However in 1983 there was an AG opinion saying the SARB proceedings are public, because the information SARB provides at the hearings is simply the property and its value. The value of the property at that time was just the cost since TAPS was relatively new. Now they are into the situation where the value of TAPS is based on reserves and things like that. One of the things the opinion stated is that any other taxpayer information or other information about the affairs of the taxpayer must be held confidential.

CO-CHAIR PASKVAN asked her to fill out a little more who sits on the State Assessment Review Board.

MS. BALES answered that SARB is created within the DOR; it is made up of five members with certain qualifications primarily from the municipal property tax appraisers. So the board is made up of municipal property tax appraisers throughout the state; their qualifications are generally in real estate appraisal. The municipal appraising process is public as well, but you can't see money that was put into the property. That is one of the difficulties in having public hearings in SARB. To do that type of evaluation for TAPS specific taxpayer information, reserves, plans of production and things like that are brought in.

She said the board conducts public hearings and meets once a year on May 21. One of the issues is that it doesn't hold the taxpayer information confidential. They believe this is a public hearing and therefore it's all public information, but the AG opinion says it must be held confidential even at the SARB hearings.

CO-CHAIR PASKVAN remarked that they are in a situation where she said SARB information is considered public, but the department's policy is that information is confidential and asked if any of the parties appearing before SARB have asserted their confidentiality.

MS. BALES replied yes. Some of the oil companies have asked that their information be protected and SARB issued a protective order, but SARB believes they don't have the ability to do that. She believes that is where there is a disconnect.

She explained that one of the concerns of the municipalities in a hearing a couple of weeks ago was that they weren't receiving all the information they needed for the SARB hearings and that would be true, because those hearings are open to the public.

And the department didn't provide the information because taxpayer information would be disclosed. SARB has told them they wouldn't issue protective orders even though industry and the department have both requested them.

4:19:16 PM

CO-CHAIR PASKVAN said paragraph 8 in the court order specifically addresses this issue. The SARB body in its 2010 decision indicated with respect to this taxpayer confidentiality that "the process is close to broken and headed in the wrong direction."

MS. BALES said she was aware of that statement, but this is an area she couldn't discuss because of ongoing litigation.

COMMISSIONER BUTCHER said he didn't know specifically what detail was broken, but clearly the process by which SARB is running its meetings is broken in that it is limiting the amount of data that is assessed because of the policy of making confidential information public. It is very difficult to have as rounded a discussion as could occur if it would actually follow state law in keeping confidential information confidential.

SENATOR FRENCH asked if anyone had begun a legal action against SARB to hold them in violation of AS 43.05.230(f).

MS. BALES replied because they know that SARB will not hold the information confidential, the department hasn't provided it. So there has been a violation of the statute. That is where the process is broken.

4:23:00 PM

SENATOR FRENCH asked relative to her second bullet if they intend to not release confidential information or that they in fact had released confidential information and if it's the later where did it come from.

MS. BALES replied SARB has told the department they won't hold the information confidential. She wasn't sure there wasn't a period where they released information and said she would check. In that case, the taxpayer would have to take issue with that and to her knowledge no one had ever asked for a proceeding.

SENATOR FRENCH absolved her of a follow up saying he understood the current lay of the land.

CO-CHAIR PASKVAN noted that she had identified the 1983 AG's opinion saying this is an open public process and asked if there is another AG opinion saying it is not.

MS. BALES answered no and explained that the 1983 opinion says that SARB can hold the proceedings publicly because at that time, 29 years ago, the information being used in property tax assessments was not the reserves data, plans of production and things like that. It was simply the cost of the pipeline. Now the TAPS assessment is based on reserves information, plans of production and future activity of the pipeline. So the AG opinion says two things: one it can be open because that information isn't disclosed, but if that information is provided and used it must be protected. That's where the disconnect is.

CO-CHAIR PASKVAN asked if the reason SARB is requesting the reserve information is because the legislature said it needs this information to come up with a full and accurate assessment. Statute says SARB needs to get this information, the process is a public one, and the DOR is withholding it from SARB.

COMMISSIONER BUTCHER said he had some discussions about the SARB proceeding, but he was unaware of the legislative directive to SARB at the time to gather more information. However, the Department of Law's opinion that confidential data should be kept confidential would trump a SARB directive in the eyes of the department, anyway.

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MS. BALES said their concern is that SARB is reading one part of the AG opinion but not the second part and that contains the reason why the department doesn't provide that information.

CO-CHAIR PASKVAN said AS 43.56.060(e)(2) talks about the SARB process and using proven reserves for its assessment and the Department of Revenue in implementing that in 15 AAC 56.110(c) says that the full and true value of the pipeline property is based upon the estimated life of the proven reserves then technically, economically and legally deliverable. Both the legislature and the DOR said they need the information regarding reserves and SARB is saying there is a broken process with respect to how TAPS is being valued.

COMMISSIONER BUTCHER said the Gleason case is still open and not everything in the decision is accurate. He wouldn't agree with SARB's opinion on this issue.

MS. BALES said one of the municipalities' concerns is that information isn't provided during the SARB proceedings, but they would be willing to provide it to all parties if it was held confidential in accordance with the statutes the department is governed by.

CO-CHAIR PASKVAN asked how you have a public hearing if everything that is said can't be public.

MS. BALES replied that is not different than a Superior Court hearing that is public, but the court has closed sessions for confidential items. It happens.

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MS. BALES said AS 43.05.040(a) grants the department subpoena power, but they are time consuming and expensive - and they can be appealed - making the short timeframes between rendering of property, the initial assessment value, the ICD and the appeal to SARB difficult.

CO-CHAIR PASKVAN asked her to define "expensive."

MS. BALES replied expensive in terms of taxpayer appeals and having to go to court and to compel them to follow the subpoena; the subpoena itself is not expensive. The department has issued subpoenas - she signed three last year - and fortunately they weren't appealed. They are used sparingly, because you have to know what documents you are looking for (although sometimes they have used catch-all subpoenas to get all documents used in calculating a tax or a report). Also it's important to know specifically in the property assessment world that issuing subpoenas in a process that has 10 days to issue an informal conference decision and a 10-day appeal is somewhat useless and they have actually found the discovery process to be more fruitful for property tax issues.

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SENATOR WIELECHOWSKI asked if the department was aware of information in BP's internal documents indicating that Prudhoe and Kuparuk would be cash flow positive through 2054 along with reserves estimates and values.

MS. BALES replied she would have to talk to the property tax assessor to find out what documents he used, but at trial they are four years down the road and some documents weren't even in existence at the time. The court is looking at different data than what was available to them in 2007.

SENATOR WIELECHOWSKI said some reserves information was filed in 10K forms and asked if the department looks at that information periodically or is it something they discovered in a court hearing along with everyone else.

MS. BALES replied that auditors understand what they are looking at; their job at the DOR is to find a fair and reasonable valuation for TAPS and a fair and reasonable tax at the end of the day. They do ask questions and most times they get very reasonable responses.

[4:38:53 PM](#)

She said under property tax statutes they have the ability to enter into joint administrative agreements with municipalities because they use the department's valuation for property tax for their property tax in their respective municipalities. But they can only enter into those agreements with a municipality for the cooperative or joint administration of the assessment authority.

MS. BALES said they had an agreement for several years with the North Slope Borough for sharing information. The North Slope Borough had two property tax auditor positions that worked very closely with the DOR. But those two employees retired and the borough chose not to fill those positions; so the agreement was ended.

CO-CHAIR PASKVAN asked who said that they didn't want to enter into the agreement that this statute allows.

COMMISSIONER BUTCHER replied that a letter from Marcia Davis at the time discusses the situation and she would be happy to get that to the committee.

CO-CHAIR PASKVAN said he was told that specific paragraph was false.

COMMISSIONER BUTCHER asked what specific part.

CO-CHAIR PASKVAN said "continue to cooperative joint administration of the property tax function." He said the statute currently says "may" and asked if he objected to changing it to "shall" enter into agreements....

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COMMISSIONER BUTCHER asked if that would basically be ordering the department and the municipality to go into an agreement as opposed to having it as a possibility.

CO-CHAIR PASKVAN said it would change the discretion for both from "may" to "shall".

COMMISSIONER BUTCHER said from discussions he has had with the department about the joint administrative agreement issue is that municipalities didn't want to provide the necessary resources to assist in the assessment function. It didn't come from the department because working with the North Slope Borough for the 10 years worked very well.

[4:43:24 PM](#)

CO-CHAIR WAGONER said if they change the wording they are as guilty of heavy handedness as the federal government is.

CO-CHAIR PASKVAN added if a municipality says they want to enter into an agreement.

CO-CHAIR WAGONER said that would be fine, but don't force the municipality into having to have an agreement.

MS. BALES said they enjoyed working with the North Slope Borough that provided a lot of assistance and great resources. She has had discussions with a couple of other municipalities that wanted to enter into agreements, but they didn't want to provide the resources needed to assist them in the property tax function. And their understanding of those agreements is that they are not just for the department to provide information to the municipalities, but there is supposed to be a cooperative working arrangement.

MS. BALES noted that some of these municipalities have their own codes that allow them to get information regarding the property that is within their jurisdiction.

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She summarized that the benefits of confidentiality in terms of tax administration lead to cooperation between the department and its taxpayers, it fosters trust, it lends credibility to the division and it aids in obtaining information without costly litigation.

SENATOR STEDMAN said he understands confidentiality, but he was concerned about the huge discrepancy between the AOGCC estimates

of reserves and what was referenced by Judge Gleason when she had the opportunity to look at the confidential data. He remarked, "When you're a 100 percent out in dealing with hundreds of billions of dollars there's something wrong with the system."

COMMISSIONER BUTCHER agreed, but with no disrespect to Judge Gleason that was her opinion; he has talked to DNR and the AOGCC and felt comfortable with the state's estimate of recoverable reserves.

SENATOR STEDMAN asked if he has access to the confidential information that Judge Gleason had and information in BP's "Black Box Room" for liquidation or potential selling of their company and said not having that data is what concerned him.

COMMISSIONER BUTCHER replied that he would have to discuss that in detail with the team that puts the production forecast together. For the most part they have been given access to anything they have asked the companies for as they put the reserves estimates together.

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SENATOR STEDMAN said the discrepancy is too big.

SENATOR WIELECHOWSKI asked if the commissioner agreed with the administration's Gaffney Kline memo of Oct 15, 2007 that said many believe "the state is at a disadvantage to the oil companies in auditing their compliance as little data are routinely provided to the state." They testified the same thing in front of the Resources Committee again last year.

COMMISSIONER BUTCHER said he didn't have a specific yes or no answer to that; he agreed there is information that the department could get that they haven't had, and they gave a presentation as to how they are going about doing that. At the beginning of last year's session when he started this job and began digging into what was known, he was surprise at what they didn't know and that they had statutory powers to get the information. They just hadn't used it. He explained that he didn't want to "throw the Department of Revenue under the bus" because they were in the process of moving from a gross tax to a net tax and were very busy. But the state could and should have more and they are working to get that information. He added that Alaska has more information than any other jurisdiction in North America.

SENATOR WIELECHOWSKI said knowing the economics of the fields is critically important now because they are considering changing the tax structure. They have been accused of inexcusable trustfulness with the oil companies by a judge in the past and they want to make sure the people's resource gets managed for the maximum benefit.

The oil companies have been saying for over a year if you roll back oil taxes they would develop Ipad (that is uneconomic under ACES), and when he asked the director of the Division of Oil and Gas yesterday if it was being held up because of economic or technical reasons, he answered technical. This is the kind of lack of information they are dealing with in trying to figure out what they are going to do to spur more development to get more oil in the pipeline.

COMMISSIONER BUTCHER said they have far more information than when PPT or ACES was passed, and anyone who thought they should have passed either of those and now thinks they shouldn't be taking action because they don't have enough information doesn't ring particularly true.

CO-CHAIR PASKVAN said that was troubling, because he was inferring that trying to get information is a bad goal.

COMMISSIONER BUTCHER responded that getting information is a good goal. He meant when decisions have been made with far less information, it's difficult to understand.

[4:55:37 PM](#)

SENATOR WIELECHOWSKI responded when they worked on ACES he had two binders of DOR economic analysis on fields, net present values, rates of return and such, but he hadn't seen one single document like that from the department this session and he hadn't been able to tell one single field project development that is uneconomic under ACES. They had that information when they did ACES.

COMMISSIONER BUTCHER said he wasn't saying because they had less information they were being irresponsible; they were being responsible. But now they have more information and the decision could still be made responsibly.

SENATOR STEDMAN said he rarely agreed with Senator Wielechowski, and maybe they could work together and update the fields' analysis.

[4:57:04 PM](#)

COMMISSIONER BUTCHER said he would be happy to do that. He also mentioned that they can share all this confidential information with the legislature in an executive session; that has been done in the past. But the issue is the public release of taxpayer information.

[4:57:52 PM](#)

MS. BALES summarized that confidentiality statutes are very broad, so all information they receive regarding business affairs or taxpayer information is confidential. She discussed the SARB and said it is important to note that a complaint they have heard is that municipalities don't have access to this information; but they actually have access to all the information at Superior Court. If they could work on the problems they have with the SARB the department could get that information to them sooner.

When information is provided in an administrative proceeding, whether it be executive session of the legislature or through the SARB, the issue is that the information then isn't suddenly public. The division is allowed to release it for tax purposes only. So, that information cannot be used in other litigation that doesn't involve taxes under Title 43. Again, she said they are willing to enter into agreements with municipalities so they can have information, but those municipalities would have to incur some costs along with the DOR in doing the property tax assessments. The intent of those MOUs isn't simply to give municipalities information.

CO-CHAIR PASKVAN thanked the participants and held SB 192 in committee.

[5:00:30 PM](#)

There being no further business to come before the committee, Co-Chair Paskvan adjourned the Senate Resources Committee meeting at 5:00 p.m.