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**77**

# ALASKA STATE LEGISLATURE



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## SENATE RESOURCES COMMITTEE

### SB 77 SPONSOR STATEMENT "Net Profit Share Under/Overpayments"

In 1998, the Legislature enacted AS 38.05.135 (g), exempting the Department of Natural Resources from calculating interest on small over or underpayments of royalty if the interest is \$150 or less. The cost of calculating these small over/underpayments was more than the interest received or credit applied. Prior to 1998, DNR was calculating these small payments manually. For the 12 months prior to October 31, 2000, the State processed 1716 royalty filings where interest amounts were between a negative \$150 and a positive \$150. The net amount of these under/overpayments was a positive \$4,096.

The effort of calculating, processing and tracking interest for small under/overpayments was not cost effective for the oil companies or the State. With the advent of the State's new Oil and Gas Royalty Accounting System, all interest is calculated electronically. Also, most royalty payers are using main frame computer systems and sending their royalty reports electronically. The failure to repeal AS 38.05.135 (g), would require the Department and royalty payers to reprogram their computer systems to not compute under or overpayments of less than \$150.

The sophisticated computer systems used by the royalty payers and the State are now able to quickly compute the interest owed on even the smallest under or overpayment. All the royalty payments are automatically summed together and one wire transfer is used for payment. The repeal of AS 38.05.135 (g) will solve the problem of the administrative burden on the part of the royalty payers and the State to manually track very small amounts of interest. It is an unnecessary expense to reprogram computer systems to handle separate interest calculations for these small interest amounts, especially when a much easier option is available.



Sec. ~~AS~~ 38.05.135. Leasing generally; royalty and net profit share payments and interest.

(a) Except ~~as~~ otherwise provided, valuable mineral deposits in land belonging to the state shall be open to exploration, development, and the extraction of minerals. All land, together with tide, submerged, or shoreland, to which the state holds title to or to which the state may become entitled, may be obtained by permit or lease for the purpose of exploration, development, and the extraction of minerals. Except ~~as~~ specifically limited by ~~AS~~ 38.05.131 - 38.05.181, land may be withheld from lease application on a first-come, first-served basis, and offered only on a competitive bid basis when determined by the commissioner to be in the best interests of the state.

(b) When mineral land is to be leased, in addition to any other notice given, notice must also be given ~~as~~ provided in ~~AS~~ 38.05.945 .

(c) Payment of a royalty or a net profit share payment to the state under a lease issued under ~~AS~~ 38.05.135 - 38.05.181 becomes due on the date and in the manner specified in the lease or in a regulation adopted by the commissioner.

(d) If a royalty or net profit share payment to which the state is entitled under ~~AS~~ 38.05.135 - 38.05.181 is not paid or is underpaid when it becomes due under (c) of this section, the unpaid amount of the royalty or net profit share payment bears interest in a calendar quarter at the rate of five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District ~~as~~ of the first day of that calendar quarter, or at the annual rate of 11 percent, whichever is greater, compounded quarterly ~~as~~ of the last day of that quarter.

(e) If a royalty or net profit share payment to which the state is entitled under ~~AS~~ 38.05.135 - 38.05.181 is overpaid, interest at the rate and compounded in the manner provided in (d) of this section shall be allowed and paid on the overpayment. The interest allowance is subject to the following:

(1) if the state grants a credit against future payments for the overpayment, the state shall pay interest on the overpayment

(A) from the date that is the later of the date the overpayment was

(i) due; or

(ii) received;

(B) to the date that is the earlier of the date

(i) of notice to the lessee of the credit; or

(ii) on which the lessee actually takes the credit;

(2) if the state refunds the overpayment, the state shall pay interest on the overpayment

**STATUTE**

(A) from the date that is the later of the date the overpayment was

(i) due; or

(ii) received;

(B) to the date the state issues the refund.

(f) The issuance by the state and acceptance by a lessee of a credit or refund of an overpayment under (e) of this section does not affect any right of the state or lessee to claim an adjustment and interest on the overpayment.

⌘g⌘ Notwithstanding (d) and (e) of this section, interest may not be paid on

(1) an underpayment of a royalty or net profit share due under this title if the amount of interest is \$150 or less and the underpayment is paid up within 60 days after the date upon which the payment was due under (c) of this section without regard to an extension of time for filing of the necessary royalty or net profit report; or

(2) an overpayment of a royalty or net profit share due under this title if the amount of interest is \$150 or less and the state issues a credit for or refund of the overpayment within 60 days after receipt of the overpayment.

Sec. 38.05.137. Leasing agreements.

The commissioner is authorized to enter into cooperative mineral leasing agreements with the United States regarding land which is the subject of a title dispute between federal and state authorities. Any such lease need not conform to the provisions of state law applicable to state leases issued under the authority of this chapter.

Sec. 38.05.140. Limitations.

(a) A person may not take or hold coal leases or permits during the life of coal leases on state land exceeding an aggregate of 46,080 acres, except that a person may apply for coal leases or permits for acreage in addition to 46,080 acres, not exceeding a total of 5,120 additional acres of state land. The additional area applied for shall be in multiples of 40 acres and the application shall contain a statement that the granting of a lease for additional land is necessary for the person to carry on business economically and is in the public interest. On the filing of the application, except as provided by AS 38.05.177(a)(2)(C), the coal deposits in the land covered by the application shall be temporarily set aside and withdrawn from all other forms of disposal provided under AS 38.05.135 - 38.05.181.

(b) The commissioner shall, after posting notice of the pending application in the local land office, conduct public hearings on the application for additional acreage. After public hearings, to the extent the commissioner finds to be in the public interest and necessary for the applicant in order to carry on business economically, the commissioner may, under regulations adopted by the commissioner, permit the person to take or hold coal leases or permits for an additional aggregate acreage of not more than 5,120 acres.

(c) A person may not take or hold at one time phosphate leases on state land exceeding in

bp



BP Exploration (Alaska) Inc.  
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Anchorage, Alaska 99519-6612  
(907) 561-5111

February 8, 2001

Senator John Torgerson  
State Capitol, Room 427  
Juneau, AK 99801-1182

Re: Repeal of AS 38.05.135(g)

Senator Torgerson,

BP Exploration (Alaska) Inc. supports the proposal by the Department of Natural Resources (DNR) to repeal AS 38.05.135(g). This statute sets a floor at \$150 for interest to accrue on royalty and net-profit overpayments and underpayments; no interest is payable for any over/under-payments of \$150 or less.

The idea of setting a floor to avoid dealing with nominal over/under-payments seems reasonable at first, because it appears to save DNR and the oil and gas lessees the trouble of calculating interest when the changes are too inconsequential. However, in practice, this rule turns out to be more bother than it is worth for both DNR and the lessees. This is because the spreadsheet software that comes standard on personal computers currently allows for the calculation of interest with no additional effort, regardless of how small or large each particular over/under-payment happens to be. In fact, by creating the \$150 threshold, AS 38.05.135(g) actually makes it harder for lessees to comply (and for DOR to administer), whenever the spreadsheet software calculates an over/under-payment, the program has to be specially modified to see whether that over/under-payment is over \$150 or not, and to calculate and include the interest only when the adjustment is above this threshold. It would be significantly easier, in terms of lessee compliance and agency administration, to calculate the interest every time instead of only some of the time.

Because complete accuracy in accounting for interest can be achieved for less effort than with the present rule in AS 38.05.135(g), there is no reason for the less accurate rule to continue. We therefore hope you will give DNR's proposal to repeal AS 38.05.135(g) your favorable consideration and support. Please feel free to call me at (907) 564-4039 if you have any questions or wish to discuss this further.

Sincerely yours,

A handwritten signature in cursive script, reading "Geoffrey E. Stein", is written over a faint, dotted grid background.

Geoffrey E. Stein  
Associate General Tax Counsel

GES:tw

**LETTER**



# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 77  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Natural Resources  
 BRU: Oil & Gas Development  
 Component: Oil & Gas Development  
 Component Number: 439

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title: Nat Profit Share Under/Ovsrpayments  
 Sponsor: Senator Torgerson  
 Requester: Senate Resources

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: none

Check this box (X) if funding for this bill is included in the Governor's FY2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Approval of this Bill will result in savings of administrative time and resources for both the state and the oil and gas lessees. When oil and gas royalty reports were processed manually the interest waiver was justified from a time and resources standpoint. However, now that the reports are processed automatically, the reverse is true. Manual intervention and exception programming is currently required on a case-by-case basis in order to implement the interest waiver; not having to do this would streamline the process in Royalty Accounting. The original intent of AS 38.05.135(g) is no longer operative. The Bill sponsor statement correctly identifies the historical interest payment amounts that would be effected by repeal of AS 38.05.135(g).

There is no fiscal impact anticipated with implementation of this legislation.

Prepared by: William Van Dyke Phone 269-8786  
 Division: Oil and Gas Date/Time 20-Feb-01  
 Approved by: Pat Pourchot Date 20-Feb-01  
 Agency: Natural Resources

For distribution information, call the Governor's Legislative Office