

**SB**

**305**

**(FILE 1)**

## SB 305 PPT – Admin Presentations

Senate Resources 2-22-06

### Contents

- Cover Sheet \_\_\_\_\_ 1 page
- Glossary of Terms \_\_\_\_\_ 3 pages
- Wilson: Petroleum Profits Tax \_\_\_\_\_ 20 pages
- Dickinson: Proposed Production Tax \_\_\_\_\_ 15 pages

**Library**  
*Senate Resources Committee*

## Glossary of Terms Related to the Production Profit Tax

### Capitalize.

1. In an accounting sense, the periodic expensing (amortization) of capital costs through depreciation or depletion.
2. To convert an (anticipated) income stream to a present value by dividing by an interest rate, as in the dividend discount model.
3. To record capital outlays as additions to asset value rather than as expense.

Generally, expenditures that will yield benefits to future operations beyond the accounting period in which they are incurred are capitalized—that is, they are depreciated at either a statutory rate or a rate consistent with the useful life of the asset.

### Cash Flow

1. Net income plus depreciation, depletion, and amortization and other non-cash expenses. Usually synonymous with cash earnings and operating cash flow.
2. An analysis of all the changes that affect the cash account during an accounting period.

### Dollars-of-the Day

A term usually associated with cost estimates that indicate the effects of anticipated inflation have been taken into account. For example, if a well costs \$5 million right now in "today's dollars" (the opposite of dollars-of-the day), then the cost of the well two years from now might be estimated at \$5.51 million in dollars-of-the-day assuming a 5% inflation factor. Also called *escalated dollars*.

### Dutch Disease

The adverse results of large-scale positive shock to a single sector of a nation's economy, so named because of the problems associated with large-scale development of the Groningen Gas field in the Netherlands in the 1970s. Typically the sector of economy that is booming causes widespread inflation and other sectors, particularly agriculture, suffer from inability to attract workers. The drastic increase in foreign exchange can cause problems with local currencies and fiscal and monetary problems can occur without proper management.

### Equity Oil

Usually this term refers to oil or revenues after cost recovery (or cost oil). It is also referred to as profit oil or share oil—terms that are most often associated with PSCs. Generally speaking, the analog to equity oil in a concessionary system would be pretax cash flow. Like pretax cash flow, equity oil may also be subject to taxation.

### Expense

1. In a financial sense, a non-capital cost associated most often with operations or production.
2. In accounting, costs incurred in a given accounting period as expenses and charged against revenues. To expense a particular cost is to charge it against income during the accounting period in which it was spent. The opposite would be to capitalize the cost and charge it off through some depreciation schedule.

**Exploratory Well**

A well drilled in an unproved area. This can include: (1) a well in proved area seeking a new reservoir in a significantly deeper horizon, (2) a well drilled substantially beyond the limits of existing production. Exploratory wells are defined partly by distance from proved production and by degree of risk associated with the drilling. Wildcat wells involve a higher degree of risk than exploratory wells.

**Fiscal System**

Technically, the legislated taxation structure for a country including royalty payments. In popular language, the term includes all aspects of contractual and fiscal elements that make up a given government-foreign oil company relationship.

**Government Take**

The total government share of profit oil or revenues not associated with cost recovery. Same as government after-tax equity split and government marginal take.

**Heavy Oil**

A type of crude oil which is very viscous and does not flow easily. There is no one definition, and may be characterized as having an American Petroleum Institute [API] gravity less than 20°. The common characteristics properties are the following:

- High specific gravity
- Low hydrogen to carbon ratios
- High carbon residues and
- High contents of asphaltenes, heavy metal, sulphur and nitrogen

**Incentives**

Fiscal or contractual elements employed by host government that make petroleum exploration or development more economically attractive includes such things as:

- Royalty Holidays
- Tax holidays
- Tax credits
- Reduced government participation
- Lower government take
- Investment credits/uplifts
- Accelerated depreciation

**Intangible Drilling and Development Costs (IDCs)**

Expenditures for wages, transportation, fuel, fungible supplies used in drilling and equipping wells for production.

**Intangibles**

All intangible assets such as goodwill, patents, trademarks, unamortized debts discounts, and deferred charges.

**Investment Credit**

A fiscal incentive where the government allows a company to recover an additional percentage of tangible capital expenditure. For example, if a contractor spent \$10 million on expenditures eligible for a 20% investment credit, then the contractor would actually be able to recover \$12 million through cost recovery (see Uplift). These incentives can be taxable. Sometime the investment credit is mistakenly referred to as an investment tax credit.

**Netback**

Many royalty calculations are based upon gross revenues from some point of valuation, usually the last value off of a production platform or at the boundary of a field or license area. The point of sale, however, may be different than the point of valuation. The statutory royalty calculation may allow the transportation costs from the point of valuation to the point of sale to be deducted. This is called *netback formula*.

**Operating Profit (or Loss)**

The difference between business revenues and the associated costs and expenses exclusive of interest or other financing expenses, and extraordinary items, or ancillary activities. Synonymous with net operating profit (or loss), operating income (or loss), and net operating income (or loss).

**Production Sharing Agreement**

This (PSA) is the same as a Production Sharing Contract (PSC). While at one time this term was quite common, it is use less frequently now, and the term *Production Sharing Contract* is becoming more common.

**Production Sharing Contract**

A contractual agreement between a contractor and a host government whereby the contractor bears all exploration costs and risks and development and production costs in return for a stipulated share of the production resulting from this effort.

**Progressive Taxation**

Where tax rates increase as the basis to which the applied tax increases. Or where tax rates decrease as the basis decreases. The opposite of regressive taxation.

**Severance Tax**

A tax on the removal of minerals or petroleum from the ground, usually levied as a percentage of the gross value of the minerals removed. The tax can also be levied on the basis of so many cents per barrel or per million cubic feet of gas.

**Tax**

A compulsory payment pursuant to the authority of a government. Fines, penalties, interest, and customs duties are not taxes.

**Working Interest**

The percentage of interest ownership a company (or government) has in joint venture, partnership, or consortium. The expense-bearing interest of various working-interest owners during exploration, development, and production operations may change at certain stages of a contract or license. For example, a partner with a 20% working interest in a concession may be required to pay 30% of exploration costs but only a 20% share of development costs. With government participation, the host government usually pays no exploration expenses but pays prorated development and operating costs and expenses.

# Petroleum Profits Tax (PPT)

## Overview

Alaska Department of Revenue  
Before the Alaska State Legislature

Robynn J. Wilson

# Problems with Current Production Tax

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- No incentive in tax system to reinvest in Alaska
- Low take (internationally) at high prices, high take at low prices
- Maturing of North Slope leads to declines in tax revenue

# Components of PPT

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- Tax Base
- Rate
- Incentive Credits
- Base Allowance
- Transition Provision

# Gross vs. Net

## Current Tax on Gross

Value at wellhead      \$50.00

Times: tax rate            15%

Tax before ELF            \$7.50

## PPT on Net

Value at wellhead      \$50.00

Less:

Lease op exps            (12.50)

Net taxable                \$37.50

Times: tax rate            20%

Tax before  
credits                      \$7.50

# Tax Base

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Gross value at point of production

Less: Lease expenditures

- ♦ operating costs
- ♦ capital expenditures
- ♦ allowance for overhead

# Non-deductible expenses

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- Depreciation
- Royalty payments
- Taxes based on net income
- Interest & financing charges
- Lease acquisition costs
- Other costs

# Determining value under current system

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West coast value

\$



# Gross Value under PPT

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Producer can elect to use:

- Royalty value
- DOR formula that estimates a value at a specific location such as point of delivery into a common carrier pipeline

Tax Rate 20%

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of **Net** Profits

# Incentive Credits

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- **20%** of qualified capital expenditures
  
- May be taken on:
  - ♦ Exploration costs
  - ♦ Capital costs **incurred on lease**
  
- Credits are transferable

# How are losses handled?

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|                |                |
|----------------|----------------|
| Gross value    | \$50.00        |
| less:          |                |
| Lease op exps  | (12.50)        |
| Capital exp's  | <u>(60.00)</u> |
| Net loss (NOL) | (\$22.50)      |

# Net Operating Losses (NOL's)

- Can be converted to Credits
- 20% of loss

# Base Allowance

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- \$73 million deduction
- Available to each corporation
- Cannot reduce taxable income below zero

# Other provisions

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- Monthly return filing
- 90% payment safe harbor
- Yearly true-up on 3/31
- Effective date 7/1/06

# Transition Provision

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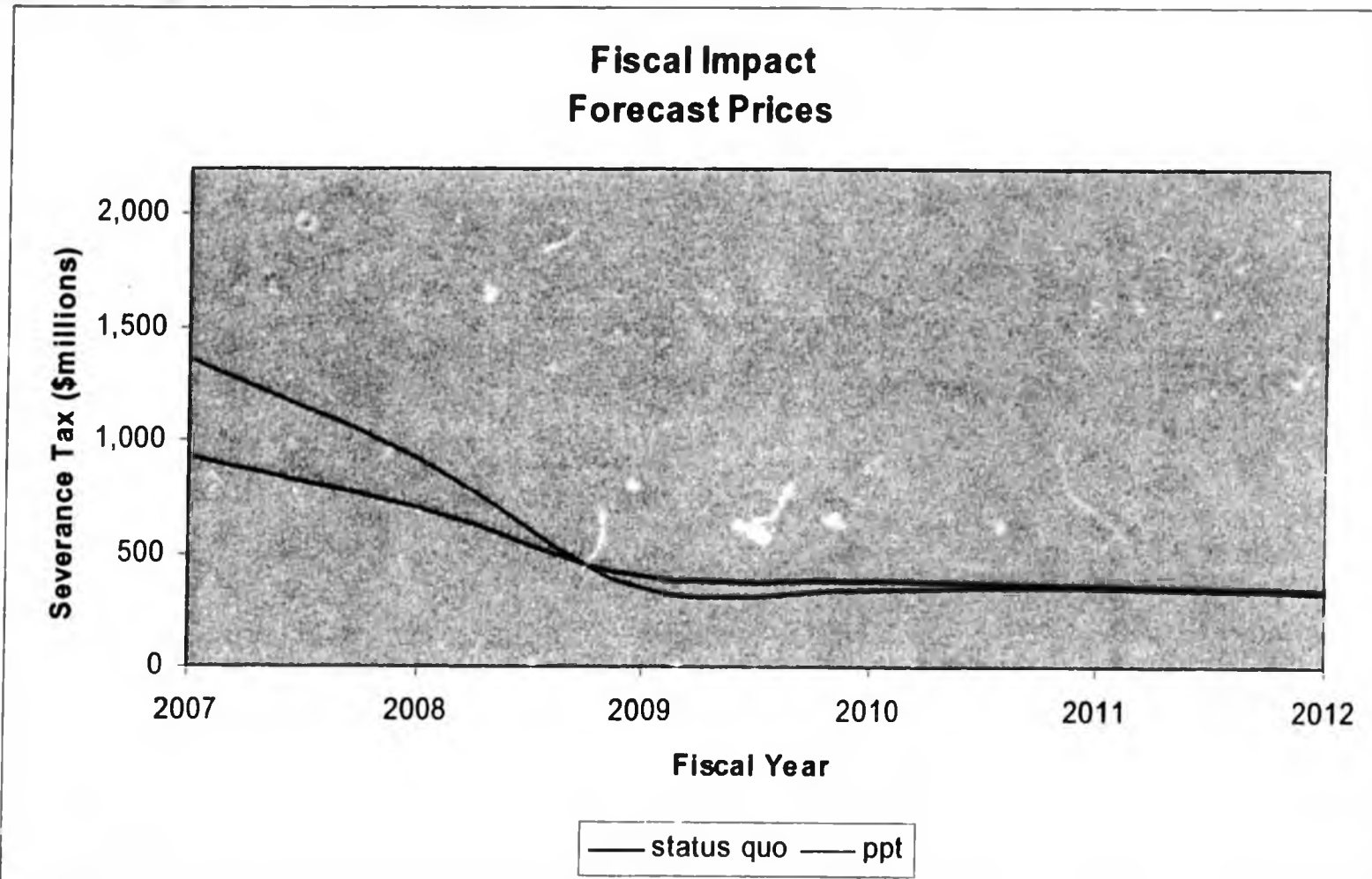
- Allows cost recovery of assets placed in service 7/01—6/06
- Deduction of 1/6 of cost in each of 6 transition years
- Deduction available only when average price of oil exceeds \$40

# Revenue

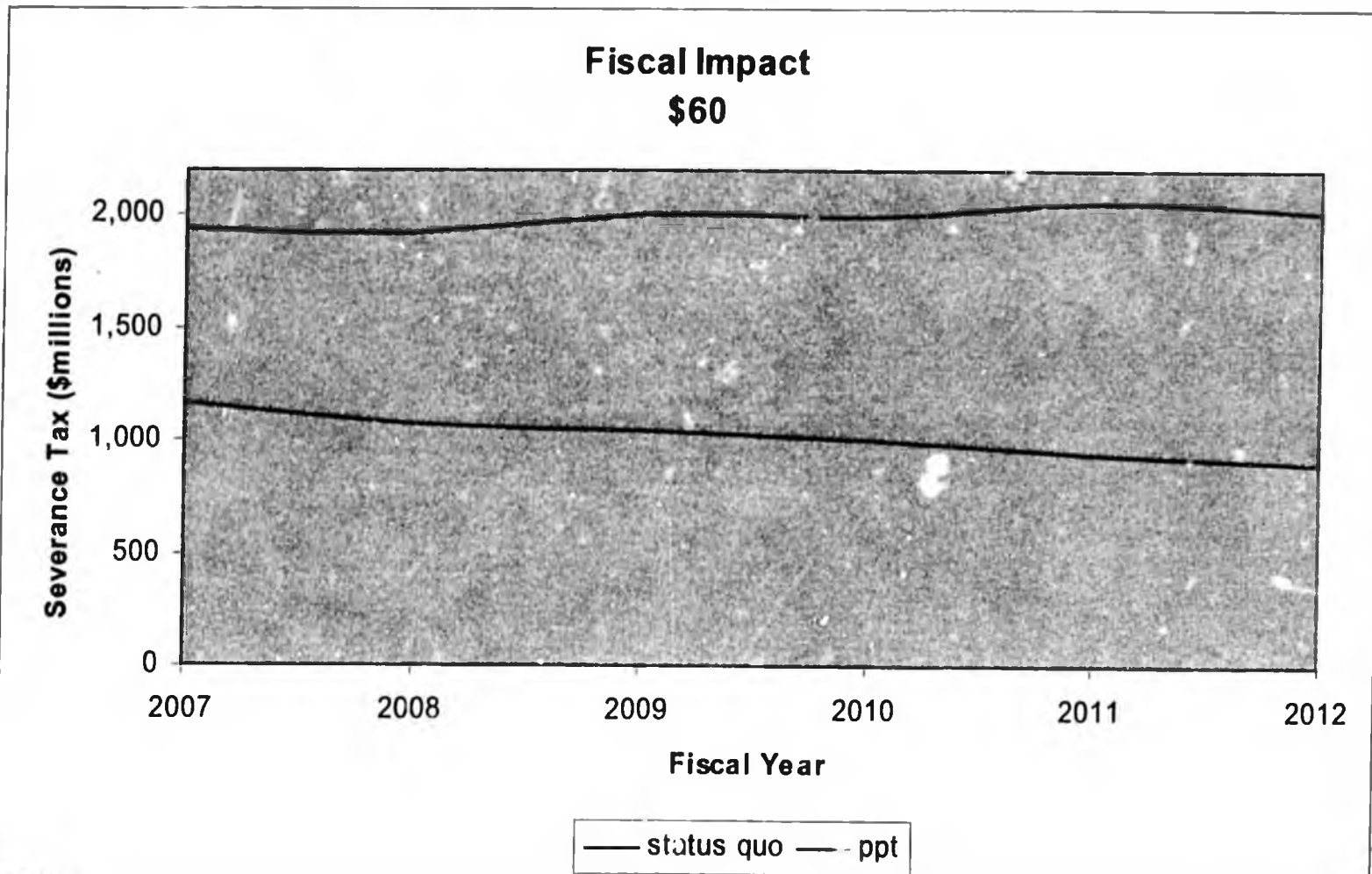
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- Additional revenue from PPT will depend primarily on two factors:
  - Price of oil/gas
  - Producer investment in the state

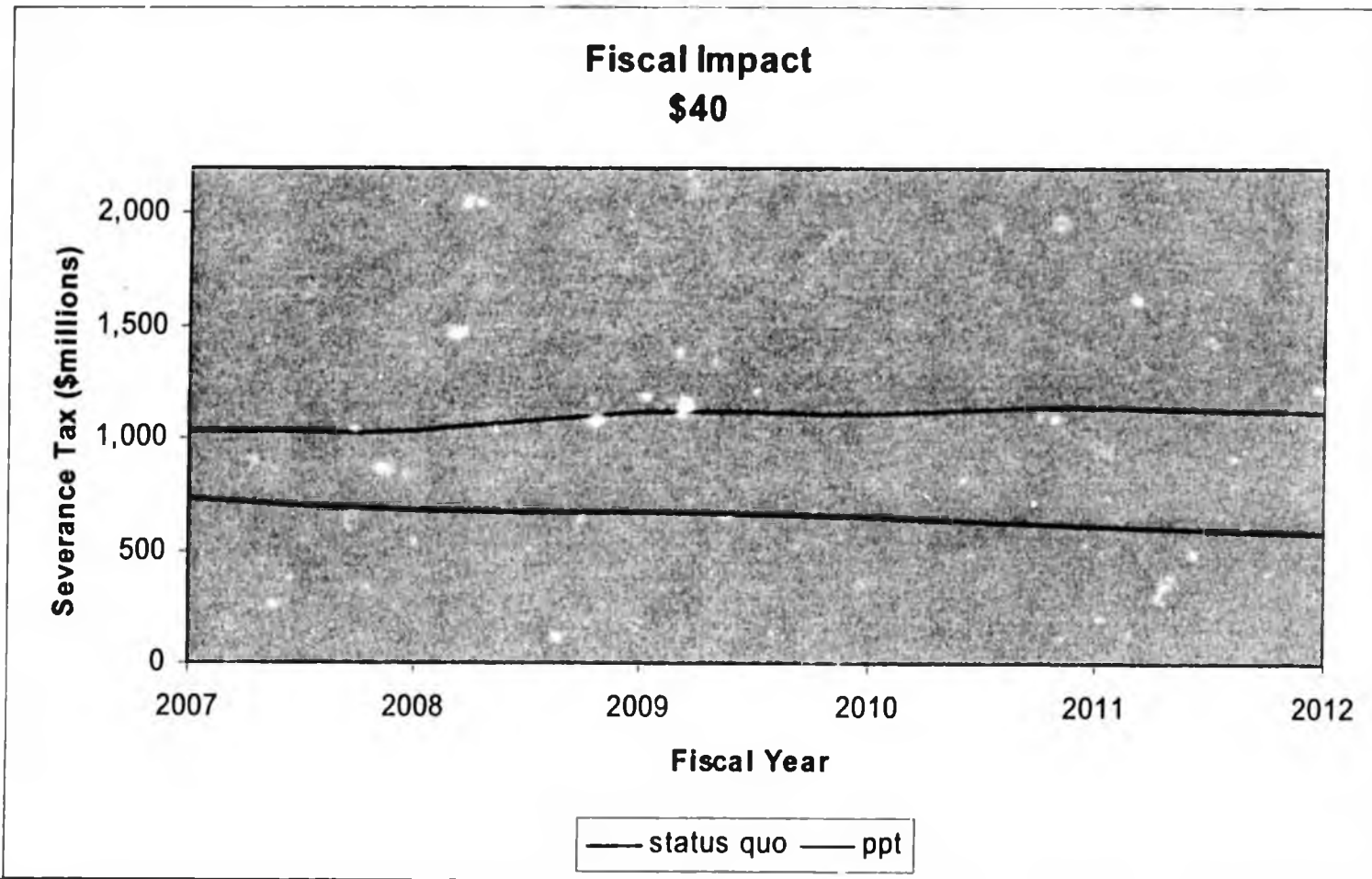
# Incremental Revenue based on DOR Forecast:



# Incremental Revenue based on \$60 oil



# Incremental Revenue based on \$40 oil:



# PPT: A Tax for Alaska's Future

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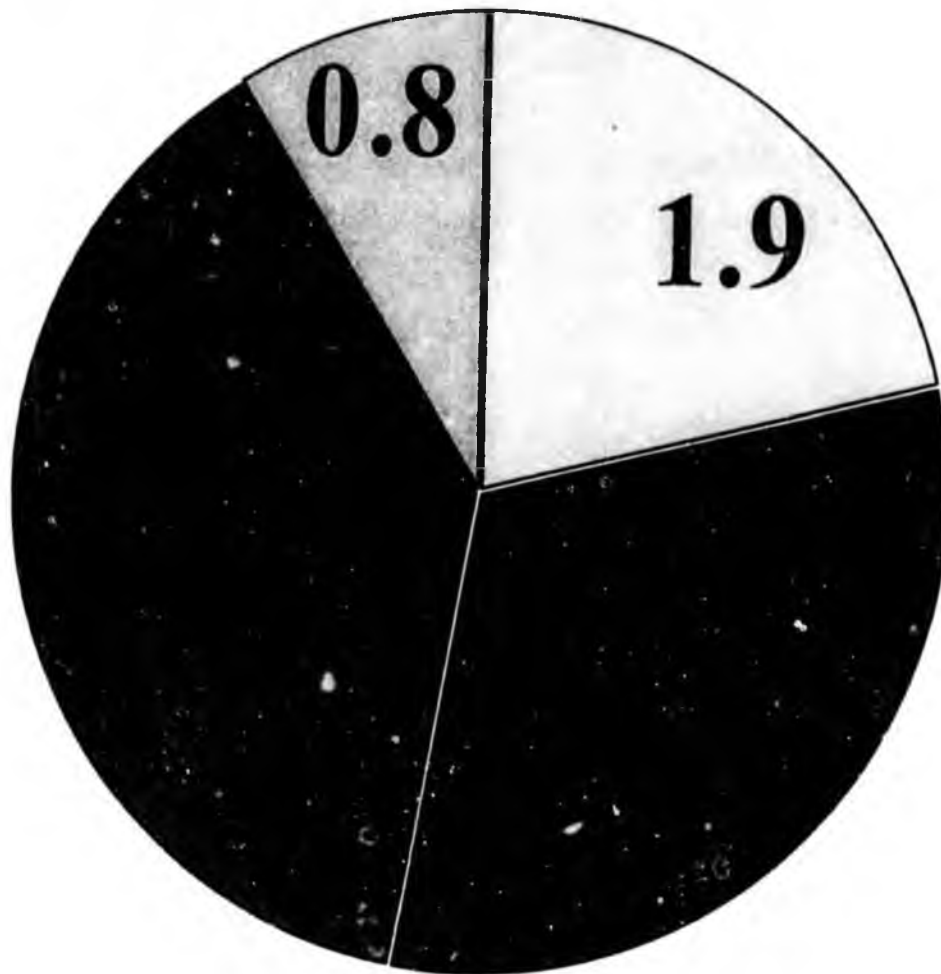
# Proposed Production Tax

Alaska State Legislature  
Senate & House of Representatives  
Resources Committees

Dan E. Dickinson, CPA  
*February 22, 2006*

# Unrestricted & Restricted Revenue \$ 8.9 Billion

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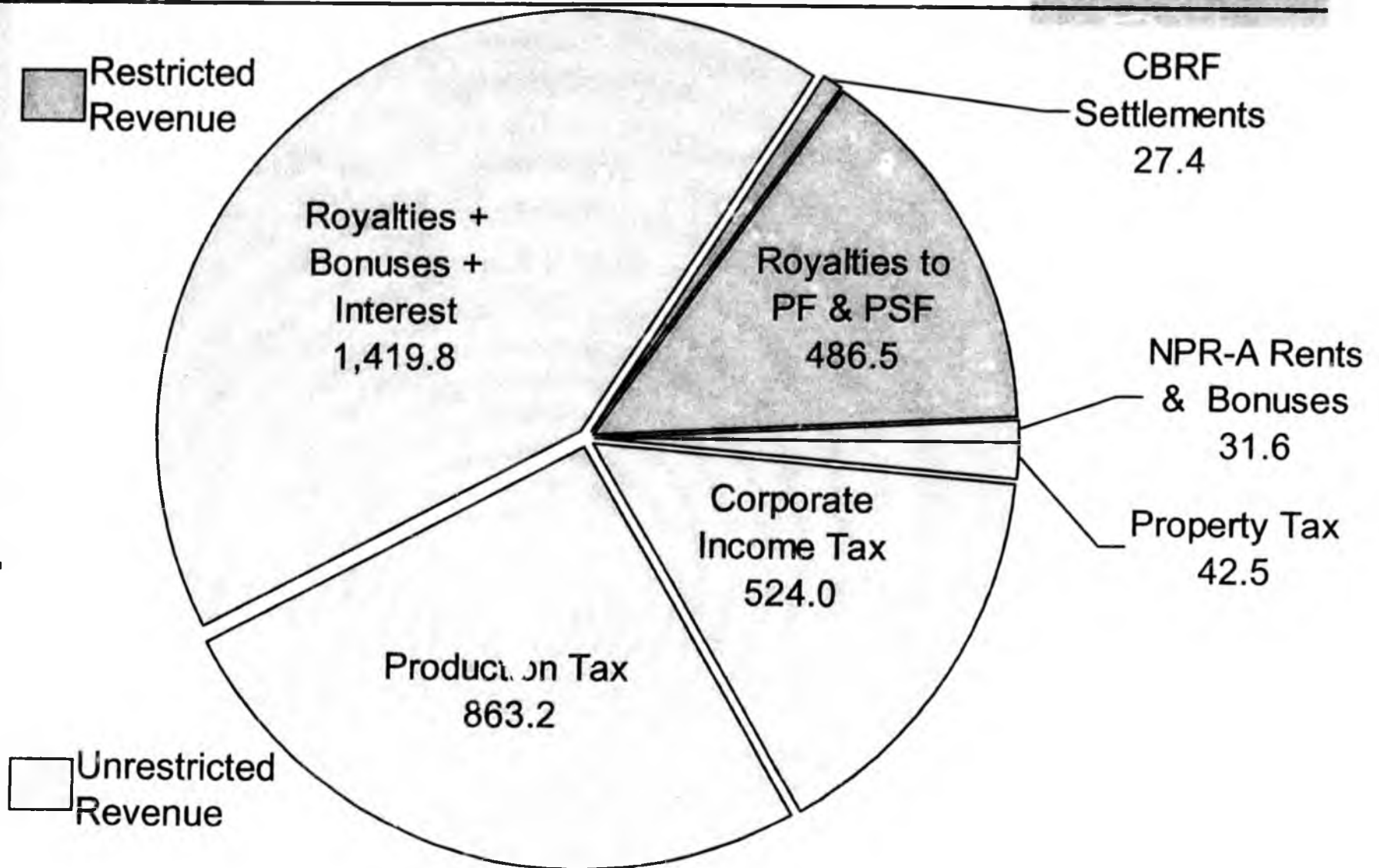


FY 2005

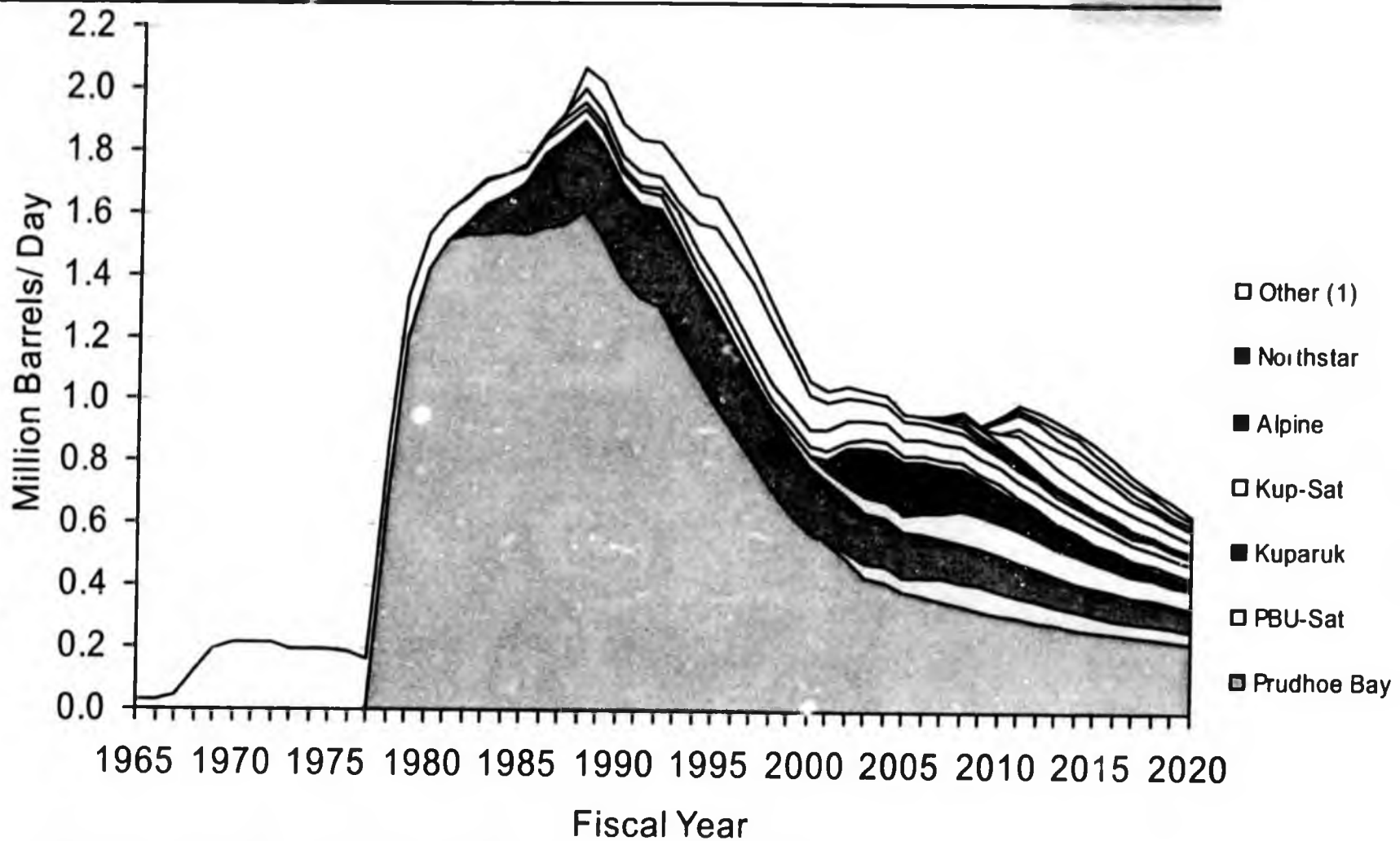
- Federal
- Investment
- Oil
- Other

# FY 2005 Petroleum Revenue

## \$ Million



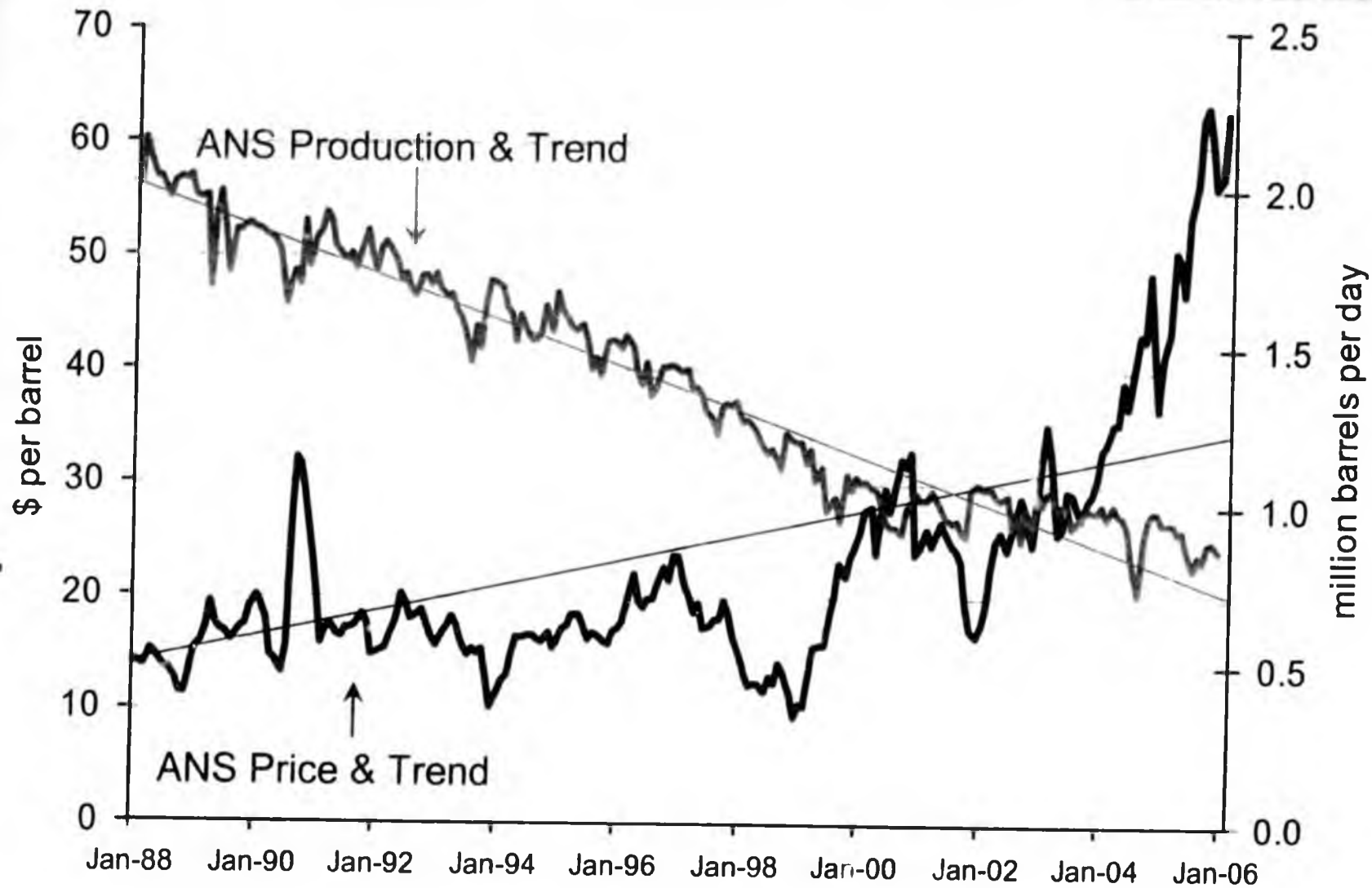
# Alaska Oil Production



Source: Fall 2005 Revenue Sources Book; Alaska Department of Revenue, Tax Division

(1) Cook Inlet, Duck Island, Milne Point, Greater Point McIntyre, Liberty, Known On & Offshore, Fiord and N-PRA.

# ANS West Coast Price & Oil Production

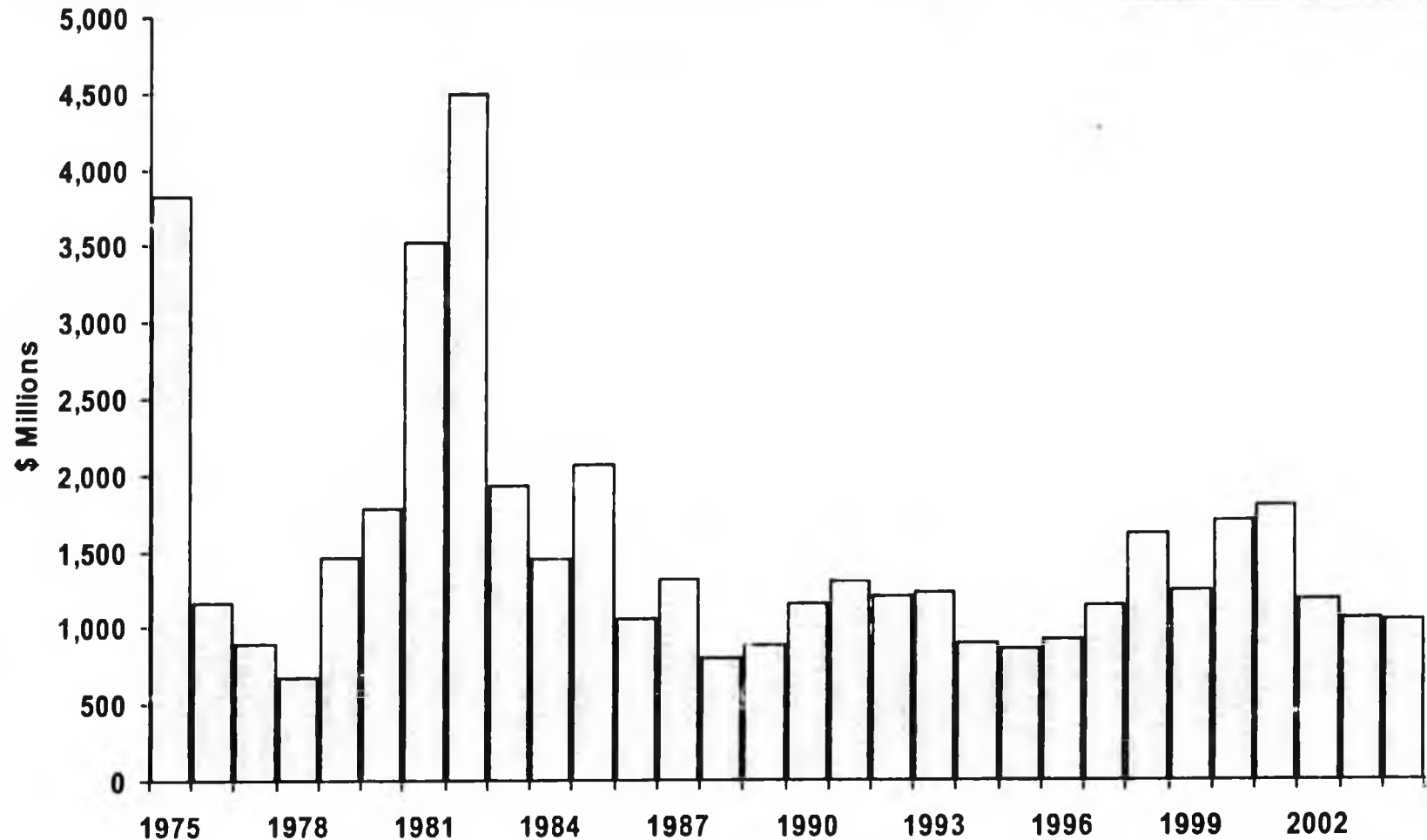


# Status Quo Issues

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- Revenues
- Investment
- Production
- Revenues

# Capital Spending on ANS Wells, Field Facilities & Exploration



Source: 1975-1989: Data from "International Oil Tax Comparison Study", April 1990;  
1990-2000: BP and ARCO Annual Reports and communications;  
2001-2004: BP and ConocoPhillips 2002-2003 Annual Reports and communications.

# 1. How the World Works (2005)

|                                       | Volume<br>Millions barrels | \$ per barrel  | \$ Million       |
|---------------------------------------|----------------------------|----------------|------------------|
| Destination Value at Market           | 330                        | \$43.43        | \$14,332         |
| Less Tankering &<br>Pipelines         | <u>330</u>                 | <u>\$ 4.51</u> | <u>(\$1,488)</u> |
| Gross Value at Point of<br>Production | 330                        | \$38.92        | \$12,844         |
| Less Upstream Costs                   |                            |                |                  |
| Operating:                            |                            | \$ 3.33        |                  |
| Capital and Exploration:              |                            | <u>\$ 3.18</u> |                  |
| Total                                 | 330                        | \$ 6.52        | (\$2,150)        |
| Net Value at Point of<br>Production   | 330                        | \$32.40        | \$ 10,694        |

## 2. Current Production Tax

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|                                    | \$ Million         |
|------------------------------------|--------------------|
| Gross Value at Point of Production | \$12,843.60        |
| Royalty Rate                       | 0.875              |
| Value Net of Royalty               | <u>\$11,238.15</u> |
| Tax Rate                           | 0.15               |
| ELF Rate                           | 0.55               |
| Tax (current)                      | \$ 927.15          |

### 3. Proposed Production Tax (PPT)

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|                                      | \$Million           |
|--------------------------------------|---------------------|
| Value Net of Royalty                 | \$11 238.2          |
| Less Upstream Cost Deductions        | <u>(\$ 2,150.0)</u> |
| Taxable Value at Point of Production | \$ 9,088.2          |
|                                      | <u>.20</u>          |
|                                      | <u>\$ 1,817.6</u>   |
| Tax Prior to Credits                 |                     |
| Credits (1,050 *.2)                  | (\$210.0)           |
| Proposed Production Tax              | \$ 1,607.6          |

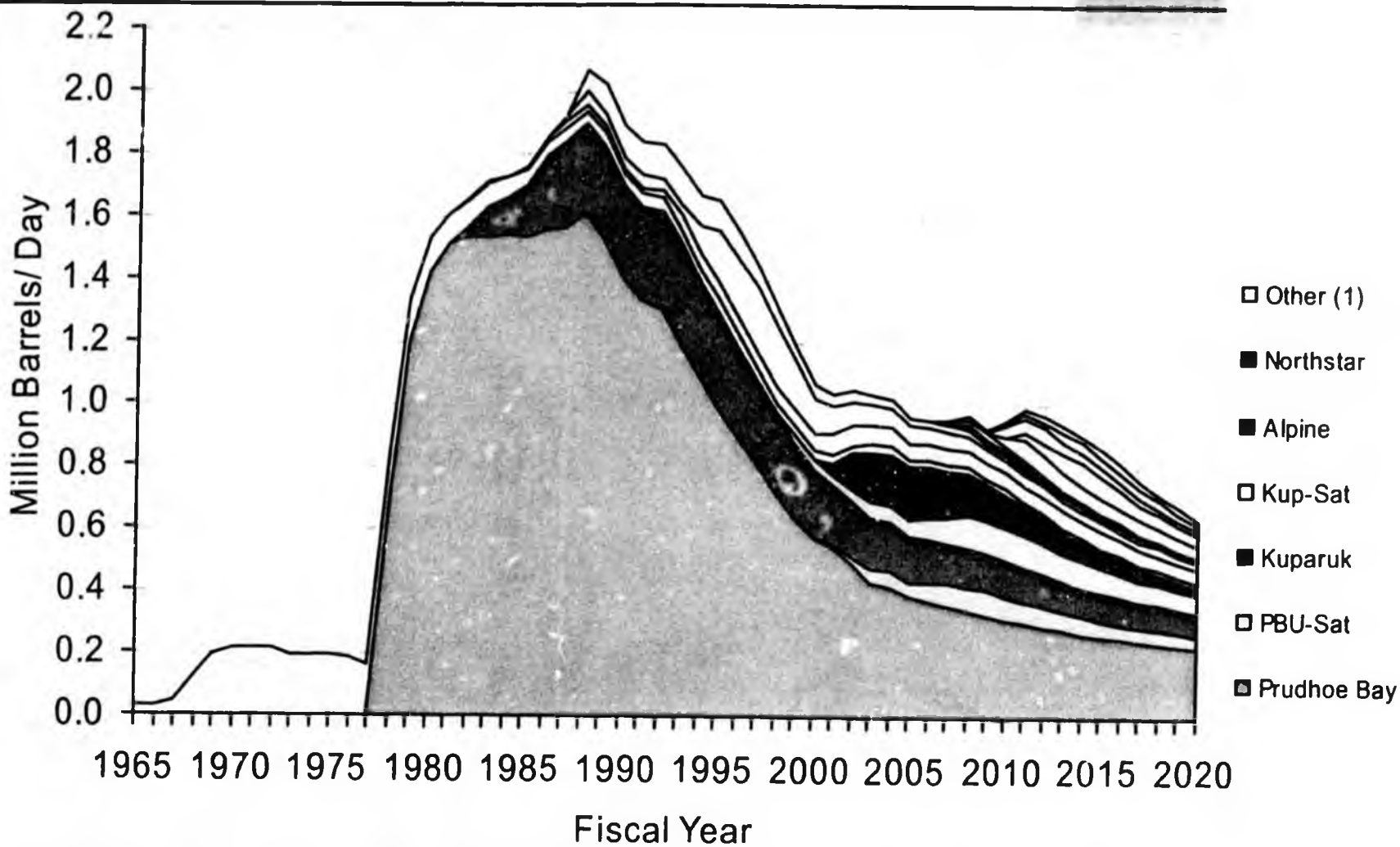
## 4. PPT with Investment

|                                      | \$ in Billion       |
|--------------------------------------|---------------------|
| Production Tax Net of Royalty        | \$11,238.2          |
| Less Upstream Cost Deductions        | <u>(\$ 3,850.0)</u> |
| Taxable Value at Point of Production | \$ 7,388.2          |
| <i>Times Tax Rate</i>                | <u>.20</u>          |
| Tax Prior to Credits                 | \$ 1,477.2          |
| Credits (1,050+1,700)*.2             | (\$550.0)           |
| Proposed Production Tax              | \$ 927.6            |

## 5. Implicit Cost From Proxy

|                                | \$ in Billion        |
|--------------------------------|----------------------|
| Production Tax Net of Royalty  | \$11,238.15          |
| Less Implicit Costs from Proxy | <u>(\$ 5,057.00)</u> |
|                                | \$ 6,181.00          |
| Tax Rate                       | 0.15                 |
| Same Production Tax            | \$ 927.15            |

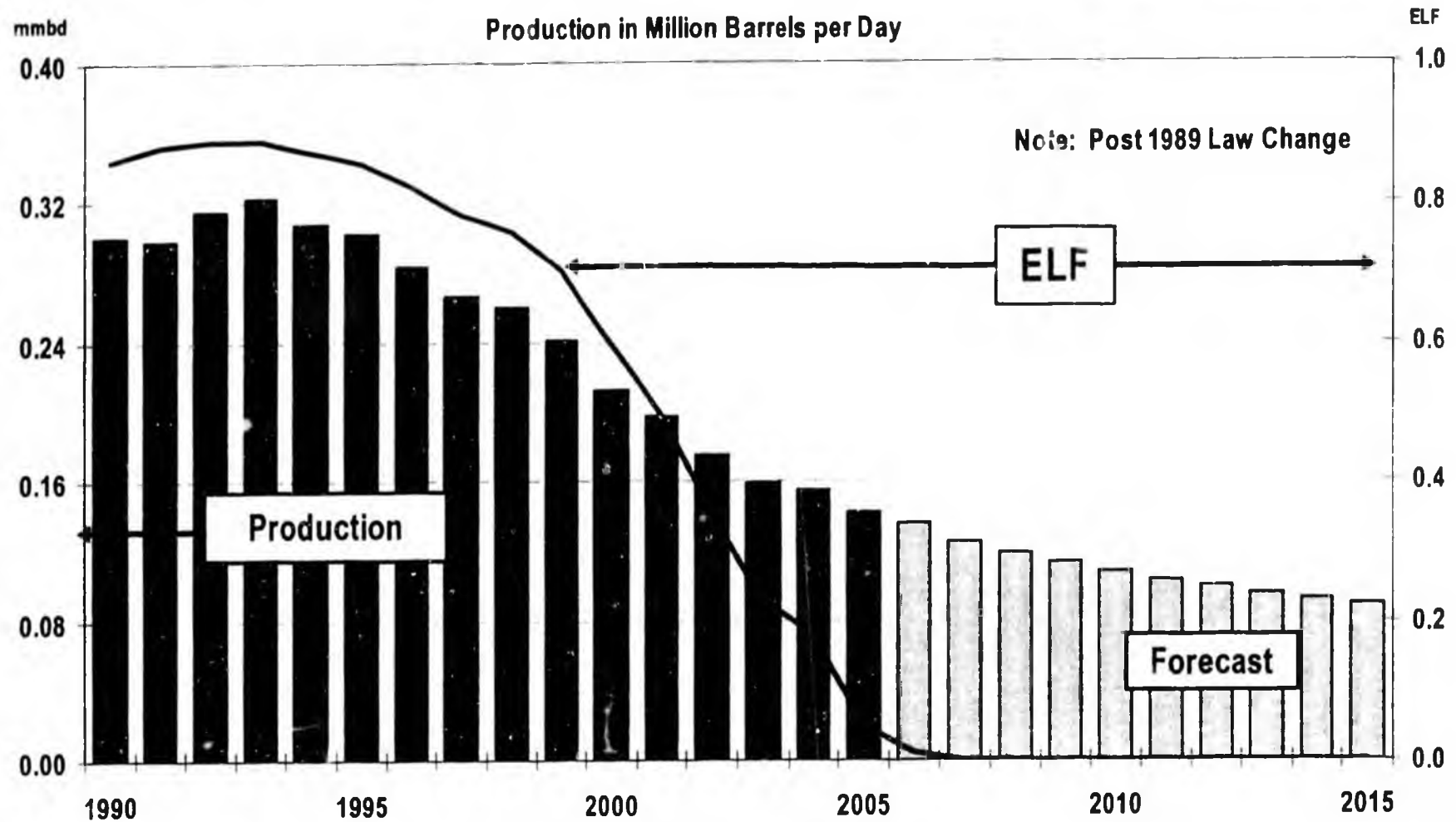
# Alaska Oil Production



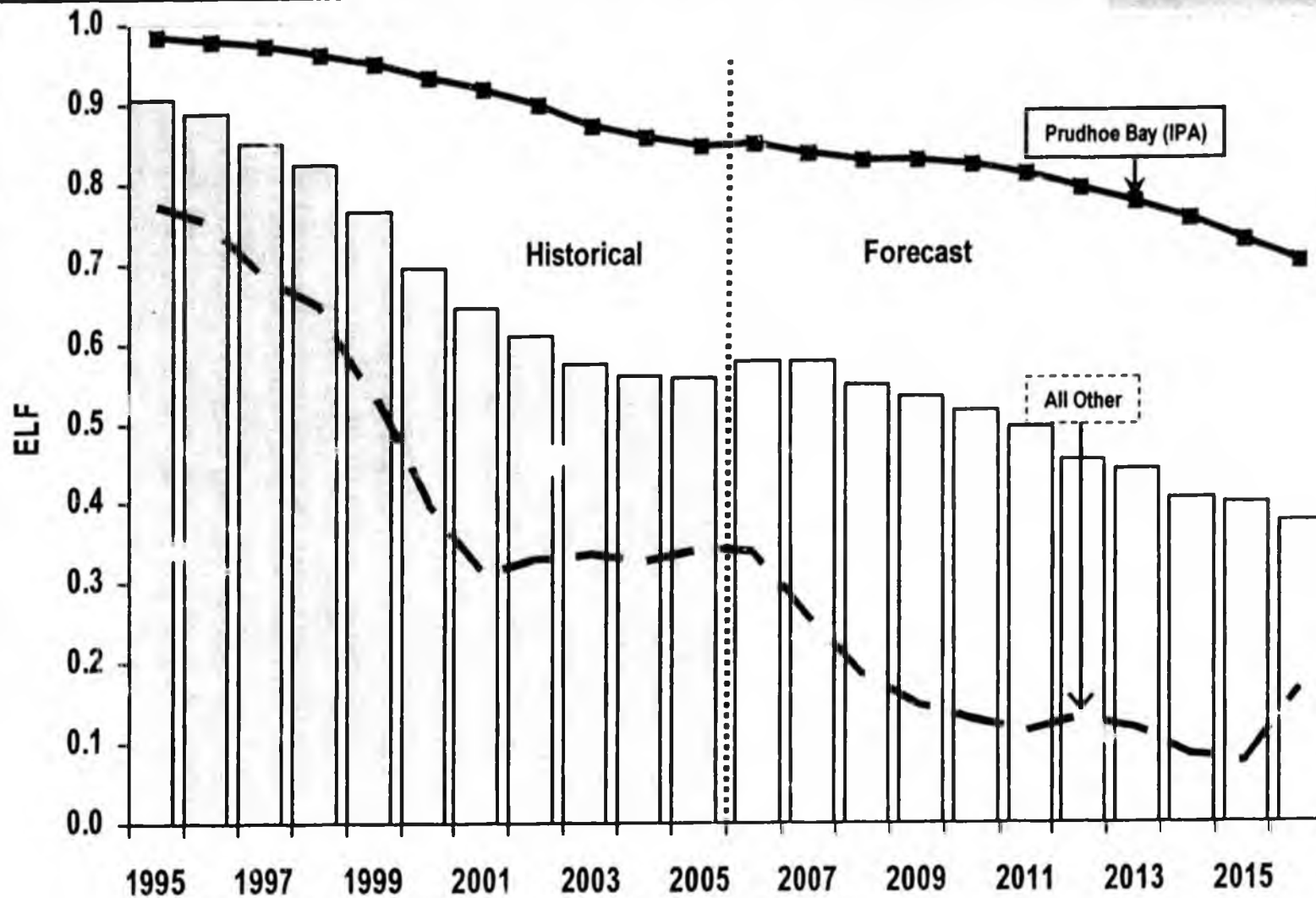
Source: Fall 2005 Revenue Sources Book; Alaska Department of Revenue, Tax Division

(1) Cook Inlet, Duck Island, Milne Point, Greater Point McIntyre, Liberty, Known On & Offshore, Fiord and N-PRA.

# Kuparuk ELF: Change with Aggregate ELF Decision



# Economic Limit Factor, FY 1995-2005 and FY 2006-2016



SB 305 PPT – Bill

Senate Resources 2-22-06

Contents

- Cover Sheet \_\_\_\_\_ 1 page
- SB 305a \_\_\_\_\_ 22 pages
- Fiscal Notes
  - ~ DNR Fiscal Note 2-15-06 \_\_\_\_\_ 1 page
  - o DOR Fiscal Note 2-21-06 \_\_\_\_\_ 3 pages
- Alaska Statutes Modified by SB 305 \_\_\_\_\_ 2 pages
- AS 43.55 - Current Statutes (pages 504 – 518)

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: LL06-0052-DNR-O&G-02  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
 Title: Repealing the oil production tax and gas RDU: Resource Development  
production tax etc Component: Oil & Gas Development  
 Sponsor: Rules by Request of Governor  
 Requester: Governor Component No.: 439

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

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

| OPERATING EXPENDITURES | FY 2007    | FY 2008    | FY 2009    | FY 2010    | FY 2011    | FY 2012    |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

|   |            |            |            |            |            |            |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                   |            |            |            |            |            |            |
| 1003 GF Match                           |            |            |            |            |            |            |
| 1004 GF                                 |            |            |            |            |            |            |
| 1005 GF/Program Receipts                |            |            |            |            |            |            |
| 1037 GF/Mental Health                   |            |            |            |            |            |            |
| Other (Specify Type--Do not abbreviate) |            |            |            |            |            |            |
| <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 (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

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

Prepared by: Bill VanDyke, Acting Director Phone: 907-269-8800  
 Division: Oil & Gas Date/Time: 2/15/2006  
 Approved by: Michael Menge, Commissioner Date: 2/15/2006  
 Agency: Natural Resources

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number \_\_\_\_\_  
Bill Version: 773060052  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
Title: An Act Relating to the Production Tax on RDU: Tax and Treasury  
Oil and Gas Component: Tax  
Sponsor: Rules Committee  
Requester: Governor Component No.: 2476

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

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

| OPERATING EXPENDITURES         | FY 2007        | FY 2008      | FY 2009      | FY 2010      | FY 2011      | FY 2012      |
|--------------------------------|----------------|--------------|--------------|--------------|--------------|--------------|
| Personal Services              | 359.2          | 366.4        | 373.7        | 381.2        | 388.8        | 396.6        |
| Travel                         |                |              |              |              |              |              |
| Contractual                    | 1,200.0        | 520.0        |              |              |              |              |
| Supplies                       | 24.0           |              |              |              |              |              |
| Equipment                      |                |              |              |              |              |              |
| Land & Structures              |                |              |              |              |              |              |
| Grants & Claims                |                |              |              |              |              |              |
| Miscellaneous (OH office, etc) | .80            | 18.0         | 18.0         | 18.0         | 18.0         | 18.0         |
| <b>TOTAL OPERATING</b>         | <b>1,601.2</b> | <b>904.4</b> | <b>391.7</b> | <b>399.2</b> | <b>406.8</b> | <b>414.6</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |                             |
|-------------------------------|-----------------------------|
| <b>CHANGE IN REVENUES ( )</b> | <i>See analysis section</i> |
|-------------------------------|-----------------------------|

**FUND SOURCE (Thousands of Dollars)**

|   |                |              |              |              |              |              |
|---|----------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts                   |                |              |              |              |              |              |
| 1003 Gr Match                           |                |              |              |              |              |              |
| 1004 GF                                 | 1,601.2        | 904.4        | 391.7        | 399.2        | 406.8        | 414.6        |
| 1005 GF/Program Receipts                |                |              |              |              |              |              |
| 1037 GF/Mental Health                   |                |              |              |              |              |              |
| Other: (Specify Type-Do not abbreviate) |                |              |              |              |              |              |
| <b>TOTAL</b>                            | <b>1,601.2</b> | <b>904.4</b> | <b>391.7</b> | <b>399.2</b> | <b>406.8</b> | <b>414.6</b> |

Estimate of any current year (FY2006) cost: 275.0

Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

|           |   |   |   |   |   |   |
|-----------|---|---|---|---|---|---|
| Full-time | 4 | 4 | 4 | 4 | 4 | 4 |
| Part-time |   |   |   |   |   |   |
| Temporary |   |   |   |   |   |   |

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

This bill would amend the oil and gas production tax by basing the tax on the net value of the oil and gas. The net value is the wellhead value (net of royalty) less all qualified lease expenditures, including capital and operating costs, property taxes, and an additional \$73 million per year allowance for each producer. (The allowance can be no greater than the net value before the allowance.) The net income would be subject to a 20% tax, less a credit of 20% which applies to capital costs upstream of the point of production. In addition, there would be a deduction for capital costs incurred over the previous five years, which can be realized over the next six years, but only in years where the ANS price is over \$40. It is estimated this would reduce revenues about \$170 million in years when it was realized. In years where the ANS price is under \$40 the deduction can be carried forward.

Prepared by: Robynn Wilson, Michael Williams, and Roger Marks Phone 269-1019  
Division: Tax Division Date/Time: 2/21/06 12:00 AM  
Approved by: Jerry Burnett Date: 2/21/2006  
Agency: Department of Revenue

**ANALYSIS CONTINUATION**

The figures in the table below reflect the revenues that would be received from the bill relative to the status quo under various prices. They are predicated on the oil volumes in the Department of Revenue Fall 2005 Revenue Sources Book. The figures reflect North Slope activity; the impact of Cook Inlet is expected to be modest. They assume that seven producers utilize the full allowance. The status quo assumes the January 2005 ELF aggregation decision by the Department of Revenue from Prudhoe Bay continues.

The cost assumptions are as follows:

- \$100 mm/yr exploration
- \$1/bbl on-going capital on all barrels
- \$3.50/bbl developmental capital on 2/3 of existing conventional oil
- \$8/bbl developmental capital on 2/3 of existing heavy oil
- \$3.50/bbl developmental capital on new conventional oil
- \$8/bbl developmental capital on new heavy oil
- \$3/bbl operating cost on conventional oil
- \$5/bbl operating cost on heavy oil

The following table shows the 2007-2012 receipts from the bill, sensitive to different oil prices. These include the Department of Revenue forecast, a \$40 price, and a \$60 price. (Note that the status quo numbers are slightly different from what is reflected in the Fall 2005 Revenue Sources Book because of some minor changes in assumptions introduced since Fall 2005, and because of some differences between what some taxpayers actually remit and what is ultimately expected to be collected.)

Operating expenditures include costs for 3 additional positions for auditors: 1 O & G Specialist (Range 23), 1 O & G Revenue Auditor IV (Range 22), and 1 O & G Revenue Auditor III (Range 20). These positions would be used to fulfill additional audit responsibilities inherent in a net profits tax. In addition, we request 1 additional position for a Tax Tech III (Range 14) to process additional information and tax returns that will be required, and additional credit applications anticipated. Personal Services reflect a 2% yearly increase.

Contractual expenses include \$100,000 and \$70,000 for programming in FY 07 and FY 08, respectively, \$250,000 in each of FY 07 and FY 08 for help in writing regulations, and \$850,000 and \$200,000 in FY 07 and FY 08, respectively, for auditing costs related to the new transition rules. Supplies include computers and other supplies necessary for new positions.

**FISCAL NOTE**

**ANALYSIS CONTINUATION (MILLIONS OF 2005 DOLLARS)**

| Fiscal Year | DOR Forecast | Status Quo Tax | Tax from Bill | Gain from Bill |
|-------------|--------------|----------------|---------------|----------------|
| 2007        | 49.20        | 934            | 1,363         | 429            |
| 2008        | 40.95        | 697            | 915           | 217            |
| 2009        | 25.50        | 404            | 349           | -55            |
| 2010        | 25.50        | 387            | 339           | -48            |
| 2011        | 25.50        | 362            | 351           | -11            |
| 2012        | 25.50        | 343            | 332           | -10            |

.....  
Fiscal Medium Status Quo Tax from Gain from

| Year | Price | Tax | Bill  | Bill |
|------|-------|-----|-------|------|
| 2007 | 40.00 | 737 | 1,038 | 301  |
| 2008 | 40.00 | 679 | 1,031 | 353  |
| 2009 | 40.00 | 673 | 1,118 | 445  |
| 2010 | 40.00 | 646 | 1,106 | 460  |
| 2011 | 40.00 | 606 | 1,138 | 532  |
| 2012 | 40.00 | 576 | 1,112 | 536  |

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| Fiscal Year | High Price | Status Quo Tax | Tax from Bill | Gain from Bill |
|-------------|------------|----------------|---------------|----------------|
| 2007        | 60.00      | 1,165          | 1,938         | 773            |
| 2008        | 60.00      | 1,069          | 1,917         | 848            |
| 2009        | 60.00      | 1,042          | 2,007         | 965            |
| 2010        | 60.00      | 1,003          | 1,992         | 989            |
| 2011        | 60.00      | 941            | 2,051         | 1,110          |
| 2012        | 60.00      | 896            | 2,014         | 1,117          |

## (SIRS) Alaska Statutes Modified by SB 305

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BILL : SB 305

A/R Alaska Statute Modified

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- A 43.05.230(f)
- A 43.20.031(c)
- A 43.20.072(b)
- A 43.55
- A 43.55
- A 43.55
- A 43.55
- A 43.55.011(a)
- R 43.55.011(b)
- R 43.55.011(c)
- R 43.55.012(b)
- R 43.55.013(b)
- R 43.55.013(c)
- R 43.55.013(d)
- R 43.55.013(g)
- R 43.55.013(h)
- R 43.55.013(i)
- R 43.55.013(j)
- R 43.55.013(k)
- R 43.55.016
- A 43.55.017(a)
- A 43.55.020(a)
- A 43.55.020(b)
- A 43.55.020(d)
- A 43.55.020(e)
- A 43.55.020(f)

A 43.55.030  
A 43.55.030(a)  
A 43.55.030(d)  
A 43.55.040  
A 43.55.080  
A 43.55.135  
A 43.55.150  
A 43.55.150(a)  
A 43.55.201  
A 43.55.201(b)  
A 43.55.201(c)  
A 43.55.300  
A 43.55.300(b)  
A 43.55.300(c)  
A 43.55.900  
R 43.55.900(1)  
A 43.55.900(10)  
R 43.55.900(11)  
R 43.55.900(12)  
R 43.55.900(16)  
A 43.55.900(6)  
A 43.55.900(7)  
R 43.55.900(8)

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(B) emergency or fire equipment that is necessary to the preservation of life or property;

(C) a farm vehicle that is controlled and operated by a farmer, used to transport agricultural products, farm machinery, or farm supplies to or from that farmer's farm, not used in the operations of a common or contract motor carrier, and used within 150 miles of the farmer's farm;

(D) a recreational vehicle; or

(E) a taxicab;

(3) "recreational vehicle" means

(A) a motor vehicle or trailer for recreational dwelling purposes;

(B) a motor home or other vehicle with a motor home body style;

(C) a one-piece camper vehicle; and

(D) any other self-propelled vehicle with living quarters;

(4) "tax" means the excise tax levied under this chapter on the charge made for the rental of a passenger or recreational vehicle;

(5) "vehicle" means a device in, upon, or by which a person or property may be transported or drawn upon or immediately over a highway or vehicular way or area; "vehicle" does not include

(A) devices used exclusively upon stationary rails or tracks;

(B) mobile homes; or

(C) watercraft. (§ 1 ch 105 SLA 2003; am § 1 ch 29 SLA 2004)

**Cross references.** — For provision directing the manner of the Department of Revenue's implementation of the 2004 addition of subparagraph (2)(E) of this section, see § 2, ch. 29, SLA 2004, in the 2004 Temporary and Special Acts.

**Effect of amendments.** — The 2004 amendment,

effective May 8, 2004, retroactive to January 1, 2004, added paragraph (2)(e) and made related changes.

**Editor's notes.** — Section 3, ch. 29, SLA 2004, makes the 2004 addition of subparagraph (2)(E) of this section retroactive to January 1, 2004.

## Chapter 55. Oil and Gas Production Taxes and Oil Surcharge.

### Article

1. Oil and Gas Properties Production Taxes (§§ 43.55.011 — 43.55.150)
2. Conservation Surcharge on Oil (§§ 43.55.201 — 43.55.299)
3. Additional Conservation Surcharge on Oil (§§ 43.55.300, 43.55.310)
4. General Provisions (§ 43.55.900)

**Administrative Code.** — For oil and gas properties production tax, see 15 AAC 55.

### NOTES TO DECISIONS

**No apportionment formula to calculate interest expense.** — Administrative regulation precluded the use of an apportionment formula by the department of revenue to calculate allowable interest expense for debt incurred to construct the trans-Alaska pipeline system. *State, Dep't of Revenue v. Atlantic Richfield Co.*, 858 P.2d 307 (Alaska 1993) (decided under former AS 43.21.030).

**Entitlements benefit qualified as taxable income.** — The entitlements benefit a gas company received from internally transferring and refining federal price-controlled Alaska North Shore oil qualified as taxable income under former AS 43.21.020 (since repealed). *State, Dep't of Revenue v. Atlantic Richfield Co.*, 858 P.2d 307 (Alaska 1993).

**Collateral references.** — 71 Am. Jur. 2d, State and Local Taxation, §§ 155-157.  
84 C.J.S., Taxation, §§ 494-500.

State tax on or in respect of goods shipped in interstate commerce to consignee for sale on consign-

or's account without previous sale or order for purchase. 4 ALR2d 244.

Constitutional exemption from taxation as subject to legislative regulation respecting conditions of its assertion. 4 ALR2d 744.

power of legislature to remit, release, or compromise tax claim. 28 ALR2d 1425.  
 when right to refund of state or local taxes accrues, in statute limiting time for applying for refund. ALR2d 1350.  
 legislative power to exempt from taxation property, losses, or uses additional to those specified in constitution. 61 ALR2d 1031.

Financial hardship or inability to pay taxes as rendering inapplicable statutes denying remedy by injunction against assessment or collection of tax. 65 ALR2d 550.

Expenses and taxes deductible by lessee in computing lessor's oil and gas royalty or other return. 73 ALR2d 1056.

## Article 1. Oil and Gas Properties Production Taxes.

### Section

Oil production tax  
 Adjustment in tax rates  
 Economic limit factor  
 Gas production tax  
 Relation to other taxes  
 Oil or gas producer education credit  
 Payment of tax  
 Tax credit for oil and gas exploration or gas only exploration

### Section

30. Filing of statements  
 40. Powers of Department of Revenue  
 50. Incorrect returns  
 60. Delinquency  
 80. Collection and deposit of revenue  
 90. Refunds  
 110. Administration  
 135. Measurement  
 150. Determination of gross value

*Sec. 43.55.010. Gross production tax. [Repealed, § 9 ch 136 SLA 1977.]*

**Sec. 43.55.011. Oil production tax.** (a) There is levied upon the producer of oil a tax on all oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-barrel amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for the oil production of the lease or property under AS 43.55.013. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 12.25 percent of the gross value at the point of production of taxable oil produced on or before June 30, 1981, from the lease or property and 15 percent of the gross value at the point of production of taxable oil produced from the lease or property after June 30, 1981; except that for a lease or property coming into commercial oil production after June 30, 1981, the percentage-of-value amount equals 12.25 percent of the gross value at the point of production of taxable oil produced from the lease or property in the first five years after the start of commercial oil production and equals 15 percent of the gross value at the point of production of taxable oil produced thereafter from the lease or property.

(c) The cents-per-barrel amount equals \$0.60 per barrel of taxable old crude oil produced from the lease or property, and \$0.80 per barrel for all other taxable oil produced from the lease or property, both as adjusted by AS 43.55.012.

(d) *[Repealed, § 18 ch 116 SLA 1981.]* § 1 ch 136 SLA 1977; am §§ 12, 18 ch 116 SLA 1981.

**Cross references.** — For oil and gas leasing provisions, see AS 38.05.180.

**Sec. 43.55.012. Adjustment in tax rates.** (a) *[Repealed, § 18 ch 116 SLA 1981.]*

(b) The cents-per-barrel amount set out in AS 43.55.011(c) applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees the cents-per-barrel amount shall be reduced by \$.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount shall be increased by \$.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment

under this subsection, fractional degrees of API gravity shall be disregarded. (§ 1 ch 136 SLA 1977; am § 18 ch 116 SLA 1981; am § 47 ch 50 SLA 1989)

**Sec. 43.55.013. Economic limit factor.** (a) *[Repealed, § 18 ch 116 SLA 1981.]*

(b) The economic limit factor for oil production of a lease or property shall be computed according to the following formula:

$$(1 - [PEL/TP]) \exp ([150,000/(TP/Days)] \exp [1460 \times WD/PEL])$$

where: PEL = the monthly production rate at the economic limit;  
 TP = the total production during the month for which the tax is to be paid;  
 WD = the total number of well days in the month for which the tax is to be paid;  
 Days = the number of days in the month for which the tax is to be paid; and  
 exp = exponent.

(c) The economic limit factor for gas production of a lease or property equals one minus the ratio of the monthly production rate at the economic limit to the production during the month for which the tax is to be paid.

(d) The monthly production rate at the economic limit for a lease or property is 300 barrels times the number of well days for the lease or property during the month for which the tax is to be paid.

(e) *[Repealed, § 3 ch 25 SLA 1989.]*

(f) *[Repealed, § 3 ch 25 SLA 1989.]*

(g) The monthly production at the economic limit for a lease or property is presumed to be 3,000 Mcf times the number of well days for the lease or property during that month for which the tax is to be paid. The taxpayer may rebut this presumption by providing clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The hearing shall be held before February 15 of the year or within six months after commencement of gas production for a lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (i) of this section into the average monthly direct operating cost determined under (h) of this section.

(h) The average monthly direct operating cost for gas production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include only royalty actually and currently paid, production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the production operations. Additional direct operating costs not listed in this section may be included only after their inclusion in a regulation adopted by the department. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the gas production operations of the lease or property, or any other cost not directly related to the gas production operations of the lease or property.

(i) For the purpose of calculating the economic limit, the value at the point of production of gas produced from the lease or property shall be determined on the basis of the volume weighted average price paid for gas of like quality and pressure in the same field.

(j) The department may aggregate two or more leases or properties (or portions of them), for purposes of determining economic limit factors under this section and applying them to AS 43.55.011 or AS 43.55.016, when economically interdependent oil or gas production operations are not confined to a single lease or property. The department may

also segregate a lease or property into two or more parts, for purposes of determining economic limit factors under this section and applying them under AS 43.55.011 or AS 43.55.016, when two or more economically independent oil or gas production operations are being conducted on it, or when old crude oil is produced from the same lease or property as other oil.

(k) A determination of the monthly production rate at the economic limit for a lease or property is retroactive to January 1 of the current year. For production of a lease or property commencing after January 1, the determination of the monthly production rate at the economic limit for that lease or property made within six months after the commencement of production is retroactive to the commencement of production. (§ 1 ch 136 SLA 1977; am §§ 13 — 16, 18 ch 116 SLA 1981; am §§ 1 — 3 ch 25 SLA 1989; am § 15 ch 108 SLA 1996)

**Opinions of attorney general.** — The 1989 amendment could be made retroactive without an immediate effective date. June 1, 1989 Op. Att'y Gen., overruling March 31, 1988 Inf. Op. Att'y Gen., insofar as it is inconsistent with this opinion.  
Absence of the Senate president's authentication

did not affect the power of the governor to take action on the 1989 bill, passed by both houses of the legislature June 1, 1989 Op. Att'y Gen.

Mistaken description of the 1989 bill by the Senate president did not invalidate the Senate's vote on the bill June 1, 1989 Op. Att'y Gen.

#### NOTES TO DECISIONS

**Retroactivity of 1989 amendments.** — Alaska Const., art. II, § 18 does not require a two-thirds vote of both houses of the legislature for the passage of

laws containing retroactive provisions, such as the 1989 bill modifying the economic limit factor. ARCO Alaska, Inc. v. State, 824 P.2d 708 (Alaska 1992).

*Sec. 43.55.015. Tax per barrel of oil. [Repealed, § 9 ch 136 SLA 1977.]*

**Sec. 43.55.016. Gas production tax.** (a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production of the lease or property under AS 43.55.013. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 percent of the gross value at the point of production of the taxable gas produced from the lease or property.

(c) The cents-per-Mcf amount equals \$.064 per 1,000 cubic feet of taxable gas produced from the lease or property. (§ 1 ch 136 SLA 1977; am § 26 ch 168 SLA 1990)

**Sec. 43.55.017. Relation to other taxes.** (a) Except as provided in this chapter, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) producing oil or gas leases;

(2) oil or gas produced or extracted in the state;

(3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by income taxes, franchise taxes, or taxes upon the retail sale of oil or gas products. (§ 1 ch 136 SLA 1977; am § 36 ch 32 SLA 1997; am § 4 ch 34 SLA 1999)

**Effect of amendments.** — The 1999 amendment, effective July 1, 1999, deleted "AS 43.57 or" preceding

"income taxes" in the first sentence of subsection (c) and made a minor stylistic change

**Opinions of attorney general.** — A municipality may not levy a transportation tax on crude oil flowing through the Trans Alaska Pipeline (pipeline) while the crude oil passes through the municipality. November 15, 1989 Op. Att'y Gen.

## NOTES TO DECISIONS

Cited in *Liberati v Bristol Bay Borough*, 584 P.2d 1115 (Alaska 1978).

*Sec. 43.55.018. Credit against tax. [Repealed, § 18 ch 116 SLA 1981.]*

**Sec. 43.55.019. Oil or gas producer education credit.** (a) For cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association, a producer of oil or gas is allowed as a credit against the tax due under this chapter

- (1) 50 percent of contributions of not more than \$100,000; and
- (2) 100 percent of the next \$100,000 of contributions.

(b) *[Repealed, § 12 ch 71 SLA 1991.]*

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) A contribution claimed as a credit under this section may not be claimed as a credit under another provision of this title; and

(2) when combined with credits taken during the taxpayer's tax year under AS 21.89.070, 21.89.075, AS 43.20.014, AS 43.56.015, AS 43.65.018, AS 43.75.018, or AS 43.77.045, exceed \$150,000.

(e) The department may, by regulation, establish procedures by which a taxpayer may allocate a pro rata share of a credit claimed under this section against monthly tax payments made during the tax year. (§ 4 ch 58 SLA 1987; am § 49 ch 21 SLA 1991; am §§ 4, 5, 12 ch 71 SLA 1991; am § 5 ch 21 SLA 1994; am § 18 ch 126 SLA 1994; am § 17 ch 81 SLA 1996; am § 4 ch 86 SLA 2000; am §§ 10, 11 ch 46 SLA 2002)

**Revisor's notes.** — References to "AS 43.55.011 — 43.55.150" were substituted for "this chapter" in (a) of this section in 1989 to reflect the enactment of AS 43.55.200 — 43.55.240.

In 1991, to harmonize the amendments made by chs. 21 and 71, SLA 1991, the words "by an Alaska" were inserted before "university foundation" in (a) of this section.

**Cross references.** — For statement of legislative purpose in connection with the enactment of this section, see § 1, ch. 58, SLA 1987 in the Temporary

and Special Acts; for legislative findings, intent, and purpose relating to the amendment of subsection (d) by ch. 81, SLA 1996, see § 1, ch. 81, SLA 1996 in the Temporary and Special Acts.

**Effect of amendments.** — The 2000 amendment, effective July 1, 2000, inserted a section reference in paragraph (d)(2).

The 2002 amendment, effective June 19, 2002, added section references in paragraph (d)(2) and, effective July 1, 2003, deleted those added references.

**Sec. 43.55.020. Payment of tax.** (a) The production tax on oil or gas shall be paid monthly. The tax is due on the 20th day of each calendar month on oil or gas produced from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

(b) The production tax on oil or gas shall be paid by or on behalf of the producer.

(c) *[Repealed, § 7 ch 101 SLA 1972.]*

(d) In making settlement with the royalty owner the producer may deduct the amount of the tax paid on royalty oil or gas, or may deduct royalty oil or gas equivalent in value at the time the tax becomes due to the amount of the tax paid.

(e) Gas produced in excess of that needed for safety purposes, except gas used in the operation of a lease or property in drilling for or producing oil or gas, or for repressuring, is considered, for the purpose of AS 43.55.011 — 43.55.150 and in the amount used, as gas produced from a lease or property. Gas flared beyond the amount authorized for safety by

the Alaska Oil and Gas Conservation Commission under AS 31.05 is considered as gas produced, except that it is subject to a penalty equal to the tax computed under AS 43.55.016 per 1,000 cubic feet of gas for the month in which the gas was flared.

(f) If oil or gas is sold under circumstances where the sale price does not represent the prevailing value for oil or gas of like kind, character, or quality in the field or area from which the product is produced, the department may require the tax to be paid upon the basis of the value of oil or gas of the same kind, quality, and character prevailing during the calendar month of production for that field or area. (§ 3 ch 7 ESLA 1955; am §§ 5 — 9 ch 101 SLA 1972; am § 7 ch 107 SLA 1976; am §§ 2, 3 ch 136 SLA 1977; am § 3 ch 158 SLA 1978; am §§ 48, 49 ch 50 SLA 1989; am § 27 ch 168 SLA 1990)

**Revisor's notes.** — A reference to "AS 43.55.011 — 43.55.150" was substituted for "this chapter" in (e) of this section in 1989 to reflect the enactment of AS 43.55.200 — 43.55.240

**Legislative history reports.** — For report on ch. 101, SLA 1972 (FCCS HCSSE 168), see 1972 House Journal, p. 963. For report on ch. 107, SLA 1976 (SCS CSHB 583), see 1976 House Journal, p. 556.

#### NOTES TO DECISIONS

Cited in *Hickel v. Halford*, 872 P.2d 171 (Alaska 1994).

*Sec. 43.55.021. Alaska veterans' memorial endowment fund contribution credit. [Repealed. § 25 ch 46 SLA 2002.]*

#### **Sec. 43.55.025. Tax credit for oil and gas exploration or gas only exploration.**

(a) Subject to the terms and conditions of this section, on oil and gas produced from an oil and gas lease, or on gas produced from a gas only lease, on or after July 1, 2004, a credit against the tax due under this chapter is allowed in an amount equal to

(1) 20 percent of the total exploration expenditures that qualify under (b) and (c) of this section, 20 percent of the total exploration expenditures that qualify under (b) and (d) of this section, or both, for a total credit that does not exceed 40 percent of the total exploration expenditures; or

(2) 40 percent of the total exploration expenditures that qualify under (b) and (e) of this section, for a total production tax credit that does not exceed 40 percent of the total qualified exploration expenditures.

(b) To qualify for the production tax credit under (a) of this section, an exploration expenditure must be incurred for work performed on or after July 1, 2003, and before July 1, 2007, and

(1) may be for seismic or geophysical exploration costs not connected with a specific well;

(2) if for an exploration well,

(A) must be incurred by an explorer that holds an interest in the exploration well for which the production tax credit is claimed;

(B) may be for either an oil or gas discovery well or a dry hole; and

(C) must be for goods, services, or rentals of personal property reasonably required for the surface preparation, drilling, casing, cementing, and logging of an exploration well, and, in the case of a dry hole, for the expenses required for abandonment if the well is abandoned within 18 months after the date the well was spudded;

(3) may not be for testing, stimulation, or completion costs; administration, supervision, engineering, or lease operating costs; geological or management costs; community relations or environmental costs; bonuses, taxes, or other payments to governments related to the well; or other costs that are generally recognized as indirect costs or financing costs; and

(4) may not be incurred for an exploration well or seismic exploration that is included in a plan of exploration or a plan of development for any unit on May 13, 2003.

(c) To be eligible for a 20 percent production tax credit, exploration expenditures must

(1) qualify under (b) of this section; and

(2) be for an exploration well that is located and drilled in such a manner that the bottom hole is located not less than three miles away from the bottom hole of a preexisting suspended, completed, or abandoned oil or gas well; in this paragraph, "preexisting" means a well that was spudded more than 150 days but less than 35 years before the exploration well was spudded.

(d) To be eligible for an additional 20 percent production tax credit, an exploration expenditure must

(1) qualify under (b) of this section; and

(2) be for an exploration well that is located not less than 25 miles outside of the outer boundary, as delineated on July 1, 2003, of any unit that is under a plan of development.

(e) To be eligible for the 40 percent production tax credit in (a) of this section, the exploration expenditure must

(1) qualify under (b) of this section;

(2) be for seismic exploration; and

(3) have been conducted outside the boundaries of a production unit or an exploration unit; however, the amount of the expenditure that is otherwise eligible under this subsection is reduced proportionately by the portion of the seismic exploration activity that crossed into a production unit or an exploration unit.

(f) For a production tax credit under this section,

(1) an explorer shall, in a form prescribed by the department and within six months of the completion of the exploration activity, claim the credit and submit information sufficient to demonstrate to the department's satisfaction that the claimed exploration expenditures qualify under this section;

(2) an explorer shall agree, in writing,

(A) to notify the Department of Natural Resources, within 30 days after completion of seismic or geophysical data processing, completion of a well, or filing of a claim for credit, whichever is the latest, for which exploration costs are claimed, of the date of completion and submit a report to that department describing the processing sequence and providing a list of data sets available;

(B) to provide to the Department of Natural Resources, within 30 days after the date of a request, specific data sets, ancillary data, and reports identified in (A) of this paragraph;

(C) that, notwithstanding any provision of AS 38, information provided under this paragraph will be held confidential by the Department of Natural Resources for 10 years following the completion date, at which time that department will release the information after 30 days' public notice;

(3) if more than one explorer holds an interest in a well or seismic exploration, each explorer may claim an amount of credit that is proportional to the explorer's cost incurred;

(4) the department may exercise the full extent of its powers as though the explorer were a taxpayer under this title, in order to verify that the claimed expenditures are qualified exploration expenditures under this section; and

(5) if the department is satisfied that the explorer's claimed expenditures are qualified under this section, the department shall issue to the explorer a production tax credit certificate for the amount of credit to be allowed against production taxes due under this chapter.

(g) An explorer may transfer, convey, or sell its production tax credit certificate to any person, and any person who receives a production tax credit certificate may also transfer, convey, or sell the certificate.

(h) A producer that purchases a production tax credit certificate may apply the credits against its production tax liability under this chapter. Regardless of the price the

producer paid for the certificate, the producer may receive a credit against its production tax liability for the full amount of the credit, but for not more than the amount for which the certificate is issued. A production tax credit allowed under this section may not be applied more than once.

(i) For a production tax credit under this section,

(1) the amount of the credit that may be applied against the production tax for each tax month may not exceed the total production tax liability of the taxpayer applying the credit for the same month; and

(2) an amount of the production tax credit that is greater than the total tax liability of the taxpayer applying the credit for a tax month may be carried forward and applied against the taxpayer's production tax liability in one or more immediately following months.

(j) Notwithstanding any other provision of this title, of AS 31.05, or of AS 40.25.100, the department shall provide to the Department of Natural Resources information submitted with a claim under this section to support the eligibility of an exploration expenditure, including seismic exploration data and well data, and any information described in (f)(2) of this section received by the department.

(k) In this section, "explorer" means a person who, in exploring for new oil or gas reserves, incurs expenditures. (§ 3 ch 59 SLA 2003; am § 49 ch 49 SLA 2004)

**Effect of amendments.** — The 2004 amendment, effective June 5, 2004, inserted "from an oil and gas lease, or on gas produced from a gas only lease" in the introductory language of subsection (a)

**Effective dates.** — Section 3, ch 59, SLA 2003, which enacted this section, took effect on September 9, 2003

**Sec. 43.55.030. Filing of statements.** (a) The tax shall be paid to the department and the person paying the tax shall file with the department at the time the tax is required to be paid a statement, under oath, on forms prescribed by or acceptable to the department, giving with other information required, the following:

(1) a description of the lease or property from which the oil or gas was produced, by name, legal description, lease number or by accounting code numbers assigned by the department;

(2) the names of the producer and the person paying the tax;

(3) the gross amount of oil or gas produced from the lease or property, and the percentage of the gross amount owned by each producer for whom the tax is paid;

(4) the total value of the oil or gas produced from the lease or property owned by each producer for whom the tax is paid; and

(5) the name of the first purchaser and the price received for the oil or gas if sold in the state.

(b) *[Repealed, § 11 ch 101 SLA 1972.]*

(c) *[Repealed, § 11 ch 101 SLA 1972.]*

(d) Reports by or on behalf of the producer are delinquent the first day following the day the tax is due. Each producer is subject to a penalty of \$25 a day for each lease or property upon which the report is not filed. The penalty for failure to file a report is in addition to the penalty for delinquent taxes, and is a lien against the assets of the producer. (§ 4 ch 7 ESLA 1955; am §§ 10 — 12 ch 101 SLA 1972; am §§ 4 — 6 ch 136 SLA 1977)

**Sec. 43.55.040. Powers of Department of Revenue.** [See delayed amendment note.] Except as provided in AS 43.05.400 — 43.05.499, the department may

(1) require a person engaged in production and the agent or employee of the person, and the purchaser of oil or gas, or the owner of a royalty interest in oil or gas to furnish additional information that is considered by the department as necessary to compute the amount of the tax:

- (2) examine the books, records, and files of such a person;
- (3) conduct hearings and compel the attendance of witnesses and the production of books, records, and papers of any person; and
- (4) make an investigation or hold an inquiry that is considered necessary to a disclosure of the facts as to
  - (A) the amount of production from any oil or gas location, or of a company or other producer of oil or gas; and
  - (B) the rendition of the oil and gas for taxing purposes. (§ 5 cl. 7 ESLA 1955; am § 16 ch 108 SLA 1996)

**Delayed amendment.** — Under §§ 75 and 97, ch 163, SLA 2004, effective July 1, 2005, this section will read as follows: "Powers of Department of Revenue. Except as provided in AS 43.05.405 — 43.05.499, the department may

"1) require a person engaged in production and the agent or employee of the person, and the purchaser of oil or gas, or the owner of a royalty interest in oil or gas to furnish additional information that is considered by the department as necessary to compute the amount of the tax;

"2) examine the books, records, and files of such a person;

"3) conduct hearings and compel the attendance of witnesses and the production of books, records, and papers of any person; and

"4) make an investigation or hold an inquiry that is considered necessary to a disclosure of the facts as to

"(A) the amount of production from any oil or gas location, or of a company or other producer of oil or gas; and

"(B) the rendition of the oil and gas for taxing purposes."

**Sec. 43.55.050. Incorrect returns.** The department may determine whether or not a return required by this chapter to be filed with it is correct. If a person makes an untrue or incorrect return of the gross production or the value of it, or fails or refuses to make a return, the department shall, under regulations adopted by it, determine the correct amount of gross production or the value of it, and compute the tax. (§ 6 ch 7 ESLA 1955)

**Sec. 43.55.060. Delinquency.** When the tax provided for in this chapter becomes delinquent, it bears interest as provided in AS 43.05.225(1). If any person fails to make a report required by this chapter, within the time prescribed by law for the report, the department shall examine the books, records and files of the person to determine the amount and value of the production to compute the tax, and the department shall add to the tax the cost of the examination, together with any penalties accrued. (§ 7 ch 7 ESLA 1955; am § 4 ch 58 SLA 1971; am § 13 ch 82 SLA 1982; am § 5 ch 23 SLA 1991)

*Sec. 43.55.070. Lien for tax. [Repealed, § 4 ch 94 SLA 1976. For current law, see AS 43.10.035.]*

**Sec. 43.55.080. Collection and deposit of revenue.** The department shall deposit in the general fund the money collected by it under AS 43.55.011 — 43.55.150. (§ 10 ch 7 ESLA 1955; am § 14 ch 101 SLA 1972)

**Revisor's notes.** — A reference to "AS 43.55.011 — 43.55.150" was substituted for "this chapter" in this section in 1989 to reflect the enactment of AS 43.55.200 — 43.55.240.

**Sec. 43.55.090. Refunds.** In case of overpayment, duplicate payment or payment made in error, the department may refund the amount of the overpayment under AS 43.10.210. (§ 11 ch 7 ESLA 1955; am § 28 ch 168 SLA 1990)

**Revisor's notes.** — In 1998, "AS 43.10.210" was substituted for "AS 43.15.010" to reflect the 1990 renumbering of AS 43.15.010.

*Sec. 43.55.100. Acceptance of deductions. [Repealed, § 15 ch 101 SLA 1972.]*

**Sec. 43.55.110. Administration.** (a) The department may adopt regulations for the purpose of making and filing reports required by this chapter and otherwise necessary to the enforcement of this chapter.

(b) The department may require a sufficient bond from every person charged with the making and filing of reports and the payment of the tax. The bond shall run to the state and shall be conditioned upon the making and filing of reports as required by law, upon compliance with the regulations of the department, and for the prompt payment, by the principal on the bond, of all taxes due the state by virtue of this chapter.

(c) If reports required have not been filed, or are insufficient to furnish the information required by the department, the department shall institute, in the name of the state upon relation of the department, the necessary action or proceedings to enjoin the person from continuing operations until the reports are filed.

(d) Upon showing that the state is in danger of losing its claims or the property is being mismanaged, dissipated or concealed, a receiver shall be appointed at the suit of the state. (§ 13 ch 7 ESLA 1955)

*Secs. 43.55.120 — 43.55.130. Noncompliance and false reports. [Repealed, § 46 ch 113 SLA 1980. For criminal penalties, see AS 43.05.290.]*

**Sec. 43.55.135. Measurement.** For the purposes of AS 43.55.011 — 43.55.150, oil shall be measured in terms of a "barrel of oil" and gas shall be measured in terms of a "cubic foot of gas." (§ 16 ch 101 SLA 1972)

*Revisor's notes.* — A reference to "AS 43.55.011 — section in 1989 to reflect the enactment of AS 43.55.150" was substituted for "this chapter" in this 43.55.200 — 43.55.240

*Sec. 43.55.140. [Renumbered as AS 43.55.900.]*

**Sec. 43.55.150. Determination of gross value.** (a) For the purposes of AS 43.55.011 — 43.55.150, the gross value shall be calculated using the reasonable costs of transportation of the oil or gas. The reasonable costs of transportation shall be the actual costs, except

- (1) when the parties to the transportation of oil or gas are affiliated;
- (2) when the contract for the transportation of oil or gas is not an arm's length transaction or is not representative of the market value of that transportation;
- (3) when the method of transportation of oil or gas is not reasonable in view of existing alternative methods of transportation.

(b) If the department finds that the conditions in (a)(1), (2), and (3) of this section are present, the department shall determine the reasonable costs of transportation, using the fair market value of like transportation, the fair market value of equally efficient and available alternative modes of transportation, or other reasonable methods. Transportation costs fixed by tariff rates properly on file with the Regulatory Commission of Alaska or other regulatory agency shall be considered prima facie reasonable.

(c) In determining the gross value of oil under (a) of this section, the department may not allow as reasonable costs of transportation

(1) the amount of loss of or damage to, or of expense incurred due to the loss of or damage to, a vessel used to transport oil if the loss, damage, or expense is incurred in connection with a catastrophic oil discharge from the vessel into the marine or inland waters of the state;

(2) the incremental costs of transportation of the oil that are attributable to temporary use of or chartered or substituted service provided by another vessel due to the loss of or damage to a vessel regularly used to transport oil and that are incurred in connection with a catastrophic oil discharge into the marine or inland waters of the state; and

(3) the costs incurred to charter, contract, or hire vessels and equipment used to contain or clean up a catastrophic oil discharge. (§ 6 cl 107 SLA 1976; am § 92 ch 59 SLA 1982; am § 1 ch 114 SLA 1989)

**Revisor's notes.** — A reference to "AS 43.55.011 — 43.55.150" was substituted for "this chapter" in (a) of this section in 1989 to reflect the enactment of AS 43.55.200 — 43.55.240.

In 1999, the current reference in subsection (b) to "Regulatory Commission of Alaska" was substituted

for "Alaska Public Utilities Commission" in accordance with § 20(a), ch. 25, SLA 1999.

**Legislative history reports.** — For legislative letter of intent in connection with the enactment of (c) of this section by § 1, ch. 114, SLA 1989 (HCS CSSB 299 Res.), see 1989 Senate Journal 1507.

## Article 2. Conservation Surcharge on Oil.

### Section

201. Surcharge levied  
211. Use of revenue derived from surcharge  
221. Suspension and reimposition of the surcharge

### Section

231. Surcharge not imposed  
299. Definitions

**Cross references.** — For legislative findings and purpose in connection with the enactment of this article, see § 1 ch. 112, SLA 1989 in the Temporary and Special Acts.

**Editor's notes.** — Section 5, ch. 112, SLA 1989 provides that chapter 112 "does not relieve a person

responsible for an oil terminal facility, offshore exploration or production facility, or a vessel that transports crude oil, or a person who has control of a hazardous substance, from the responsibility for containing and cleaning up a discharge of oil or the hazardous substance as required by law."

*Sec. 43.55.200. Surcharge levied. [Repealed, § 43 ch 128 SLA 1994.]*

**Sec. 43.55.201. Surcharge levied.** (a) Every producer of oil shall pay a surcharge of \$.02 per barrel of oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation.

(b) The surcharge imposed by (a) of this section is in addition to and shall be paid in the same manner as the tax imposed by AS 43.55.011 — 43.55.150; and is in addition to the surcharge imposed by AS 43.55.300 — 43.55.310.

(c) A producer of oil shall make reports of production in the same manner and under the same penalties as required under AS 43.55.011 — 43.55.150. (§ 13 ch 128 SLA 1994)

*Sec. 43.55.210. Disposition of proceeds of surcharge. [Repealed, § 43 ch 128 SLA 1994.]*

**Sec. 43.55.211. Use of revenue derived from surcharge.** The legislature may appropriate the annual estimated balance of the account maintained under AS 37.05.142 for deposits into the general fund of the proceeds of the surcharge levied under AS 43.55.201 to the response account in the oil and hazardous substance release prevention and response fund established by AS 46.08.010. (§ 14 ch 128 SLA 1994)

*Sec. 43.55.220. Use of revenue derived from surcharge. [Repealed, § 43 ch 128 SLA 1994.]*

**Sec. 43.55.221. Suspension and reimposition of the surcharge.** (a) Not later than 30 days after the end of each calendar quarter, the commissioner of administration shall determine, as of the end of that quarter, the fiscal year's

(1) unreserved and unobligated balance in the response account of the oil and hazardous substance release prevention and response fund established in AS 46.08.010; for purposes of this paragraph, the "unreserved and unobligated balance in the response account" means the cash balance of the account less the sum of

- (A) reserves for outstanding appropriations from the account;
- (B) encumbrances of money in the account; and
- (C) other liabilities of the account;

(2) balance of the account maintained under AS 37.05.142 that accounts for the proceeds of the surcharge that are deposited in the general fund;

(3) the balance of the response mitigation account established by AS 46.08.025(b) that originated from the sources described in AS 46.08.025(a)(3) and that is available for appropriation to the response account of the fund established in AS 46.08.010.

(b) Within 15 days after making the determinations required by (a) of this section, the commissioner of administration shall

(1) add the amounts determined under (a)(1) — (3) of this section; and

(2) report the sum calculated under (1) of this subsection to the commissioner of revenue.

(c) In making the determination required by (a) of this section, the commissioner of administration may not consider money described in (a) of this section that is subject to a dedication imposed by law that restricts the use of the money to a specific purpose for which the response account of the oil and hazardous substance release prevention and response fund established in AS 46.08.010 may not be lawfully expended.

(d) If the commissioner of administration reports that the sum reported under (b) of this section equals or exceeds \$50,000,000, the commissioner of revenue shall suspend imposition and collection of the surcharge levied and collected under AS 43.55.201. Suspension of the imposition and collection of the surcharge begins on the first day of the calendar quarter next following the commissioner's receipt of the commissioner of administration's report under (b) of this section. Before the first day of a suspension authorized by this subsection, the commissioner shall make a reasonable effort to notify all persons who are known to the department to be paying the surcharge under AS 43.55.201 that the surcharge will be suspended.

(e) Except as provided in AS 43.55.231, if the commissioner of administration reports that the sum reported under (b) of this section is less than \$50,000,000, the commissioner of revenue shall require imposition and collection of the surcharge authorized under AS 43.55.201. If the surcharge is not in effect, reimposition of the surcharge begins on the first day of the calendar quarter next following the commissioner's receipt of the commissioner of administration's report under (b) of this section. Before the first day of reimposition of the surcharge authorized by this subsection, the commissioner shall make a reasonable effort to notify all persons who are known to the department to be required to pay the surcharge under AS 43.55.201 that the surcharge will be reimposed. (§ 15 ch 128 SLA 1994)

*Sec. 43.55.230. Suspension and reimposition of the surcharge. [Repealed, § 43 ch 128 SLA 1994.]*

**Sec. 43.55.231. Surcharge not imposed.** (a) The surcharge authorized by AS 43.55.201 is not levied during any fiscal year for which

(1) the legislature does not, during the regular or a special legislative session preceding the first day of the fiscal year, appropriate at least an amount equal to the amount determined under (b) of this section from the general fund to the response account in the oil and hazardous substance release prevention and response fund; or

(2) the legislature, during the regular or a special legislative session preceding the first day of the fiscal year, appropriates at least the amount of money equal to the amount determined under (b) of this section from the general fund to the response account in the oil and hazardous substance release prevention and response fund and that appropriation is vetoed or reduced by the governor.

(b) The amount of money required to be appropriated from the general fund to the response account in the oil and hazardous substance release prevention and response

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fund by (a) of this section is the amount, determined for the last day of the preceding fiscal year, that is the sum of the actual or estimated balance of

- (1) the account maintained under AS 37.05.142 to account for all proceeds of the surcharge that are deposited into the general fund; and
- (2) the portion of the balance of the response mitigation account established by AS 46.08.025(b) that originated from the recovery of money described in AS 46.08.025(a)(3). (§ 16 ch 128 SLA 1994)

*Sec. 43.55.240. Surcharge not imposed. [Repealed, § 43 ch 128 SLA 1994.]*

**Sec. 43.55.299. Definitions.** In AS 43.55.201 — 43.55.299,

- (1) "response account" means the oil and hazardous substance release response account established in AS 46.08.010(a)(2);
- (2) "response mitigation account" means the oil and hazardous substance release response mitigation account established in AS 46.08.025(b). (§ 17 ch 128 SLA 1994)

### Article 3. Additional Conservation Surcharge on Oil.

#### Section

300. Surcharge levied  
310. Use of revenue derived from surcharge

**Sec. 43.55.300. Surcharge levied.** (a) Every producer of oil shall pay a surcharge of \$.03 per barrel of oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation.

(b) The surcharge imposed by (a) of this section is in addition to and shall be paid in the same manner as the tax imposed by AS 43.55.011 — 43.55.150; and is in addition to the surcharge imposed by AS 43.55.201 — 43.55.231.

(c) A producer of oil shall make reports of production in the same manner and under the same penalties as required under AS 43.55.011 — 43.55.150. (§ 17 ch 128 SLA 1994)

**Sec. 43.55.310. Use of revenue derived from surcharge.** The legislature may appropriate the annual estimated balance of the account maintained under AS 37.05.142 for deposits into the general fund of the proceeds of the surcharge levied under AS 43.55.300 to the oil and hazardous substance release prevention account in the oil and hazardous substance release prevention and response fund established by AS 46.08.010. (§ 17 ch 128 SLA 1994)

### Article 4. General Provisions.

#### Section

900. Definitions

**Sec. 43.55.900. Definitions.** In this chapter,

- (1) "API gravity" means the specific gravity of oil measured in degrees on the American Petroleum Institute scale;
- (2) "barrel of oil" means 42 United States gallons of oil of 231 cubic inches a gallon computed at a temperature of 60 degrees Fahrenheit;
- (3) "catastrophic oil discharge" has the meaning given in AS 46.04.900;
- (4) "cubic foot of gas" means the volume of gas contained in one cubic foot of space measured at a pressure base of 14.65 pounds per square inch absolute and a temperature base of 60 degrees Fahrenheit;
- (5) *[Repealed, § 38 ch 168 SLA 1990.]*

(6) "gas" means all natural, associated or casinghead gas, all hydrocarbons produced at the wellhead not defined as oil, and all liquid hydrocarbons extracted at a gas processing plant;

(7) "gross value at the point of production" means

(A) for oil, the value of the oil at the point where it is metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality on the premises of the lease or property from which it is recovered; however, if the oil is not of pipeline quality when it is removed from the premises of the lease or property from which it is recovered, or if the oil recovered from a lease or property is not metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) on the premises of the lease or property from which it is recovered, then the gross value at the point of production is the value of that oil at the off-premises location where the oil is first metered or measured (by automatic custody transfer meter, tank gauge, or other method approved by the commissioner) in a condition of pipeline quality;

(B) for gas recovered from or in association with oil, the value of the gas at the point where it is accurately metered or measured after separation from the oil or gas run through a gas processing plant, the gross value at the point of production is the full consideration received by the producer for the gas if sold in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a reasonable allowance for processing the gas at the plant and for transporting the gas to the plant from the premises upon which the oil production operation is conducted; and

(C) for gas not recovered from or in association with oil, the value of the gas at the point where it is accurately metered or measured or the value of the gas at the point of sale, if any, on the premises of the lease or property from which the gas is recovered, whichever is the higher value; for gas run through a gas processing plant, the gross value at the point of production is the full consideration received by the producer for the gas if sold in an arm's length transaction or, in the absence of an arm's length transaction, is the sum of the value of the liquids extracted from the gas at the plant and the value of the residue gas, less a reasonable allowance for processing the gas at the plant and for transporting the gas to the plant from the point where it was accurately metered or measured;

(8) "intangible drilling expenses" as defined in 26 U.S.C. 263(c) (Internal Revenue Code) as defined on January 1, 1974;

(9) "lease or property" means any right, title, or interest in or the right to produce or recover oil or gas including:

(A) a mineral interest;

(B) a leasehold interest;

(C) a working interest, royalty interest, overriding royalty interest, production payment, net profit interest, or any other interest in a lease, concession, joint venture, or other agreement for exploration, development, or production of oil and gas or of gas only;

(D) a working interest, royalty interest, overriding royalty interest, production payment, net profit interest or any other interest in an agreement for unitization or pooling under the provisions of 26 U.S.C. 614(b)(3) (Internal Revenue Code) as defined on January 1, 1974;

(10) "oil" means crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered by separation from gas other than at a gas processing plant;

(11) "oil production operation" means the operation by which oil is recovered from a lease or property and rendered into oil of pipeline quality, and includes any gathering done before the oil is finally rendered into oil of pipeline quality;

(12) "old crude oil" means crude oil production classified as "old crude oil" in 10 CFR Chapter II Part 212-72 on May 1, 1977, and which is also classified as "old crude oil" on the date of production;

(13) "ownership or right to which is exempt from taxation" means any ownership interest of the federal government or the state;

(14) "pipeline quality" means good and merchantable condition;

(15) "surcharge" means

(A) when used in AS 43.55.201 — 43.55.299, the surcharge levied by AS 43.55.201;

(B) when used in AS 43.55.300 — 43.55.310, the surcharge levied by AS 43.55.300;

(16) "well days" means the number of days in which a well is operating during a month. § 1 ch 7 ESLA 1955; am § 17 ch 101 SLA 1972; am § 3 ch 4 FSSLA 1973; am § 4 ch 159 SLA 1975; am §§ 7, 9 ch 136 SLA 1977; am § 2 ch 112 SLA 1989; am § 2 ch 114 SLA 1989; am § 38 ch 168 SLA 1990; am § 18 ch 128 SLA 1994; am § 50 ch 49 SLA 2004)

**Revisor's notes.** — Formerly AS 43.55.140. Renumbered in 1989. The section was reorganized in 1983 to alphabetize the defined terms. Paragraph (3) was enacted as (15) and paragraph (15) was enacted as AS 43.55.290. Renumbered, with corresponding word changes, in 1989, at which time the remaining

paragraphs were renumbered accordingly.

**Effect of amendments.** — The 2004 amendment, effective June 5, 2004, in subparagraph (9)(C) deleted "oil and gas" preceding "exploration" and added "of oil and gas or of gas only" at the end, and made stylistic changes.

## Chapter 56. Oil and Gas Exploration, Production, and Pipeline Transportation Property Taxes.

**Section**

- 10 Levy of tax
- 18 Oil or gas property education credit
- 20 Exemptions
- 30 In place of other taxes
- 40 State Assessment Review Board
- 50 Per diem and expenses
- 60 Assessment
- 70 Returns
- 80 Investigation
- 90 Assessment roll
- 100 Assessment notice

**Section**

- 110 Appeal to the department
- 120 Appeal to the board
- 130 Hearings of the board
- 135 Certification
- 140 Supplementary assessment rolls
- 150 Collection and deposit
- 160 Interest and penalty
- 180 Remedy
- 200 Regulations
- 210 Definitions

**Administrative Code.** — For oil and gas exploration, production and pipeline transportation property tax, see 15 AAC 56.

**Collateral references.** — 71 Am. Jur. 2d, State and Local Taxation, §§ 155-157.

84 C.J.S., Taxation, §§ 95-98, 398-400, 415, 494-500.

Constitutional exemption from taxation as subject to legislative regulation respecting conditions of its assertion. 4 ALR2d 744.

Loading or unloading interstate freight in performance of obligation resting upon one other than interstate carrier as interstate commerce as regards local taxation. 10 ALR2d 651.

Property destined for removal from state as subject to taxation therein. 11 ALR2d 938.

Power of legislature to remit, release, or compromise tax claim. 28 ALR2d 1425.

Validity of provision for exemption from taxation of property transferred to private parties for redevelopment purposes. 44 ALR2d 1446.

When right to refund of state or local taxes accrues within statute limiting time for applying for refund. 46 ALR2d 1350.

Legislative power to exempt from taxation property purposes, or uses additional to those specified in constitution. 61 ALR2d 1031.

Financial hardship or inability to pay taxes as rendering inapplicable statutes denying remedy by injunction against assessment or collection of tax. 65 ALR2d 550.

Expenses and taxes deductible by lessee in computing lessor's oil and gas royalty or other return. 70 ALR2d 1056.

Right of property taxpayer to recover back taxes voluntarily but mistakenly paid a second or successive time. 84 ALR2d 1133.

Transportation, freight, mailing, or handling charges billed separately to purchaser of goods as subject to sales or use taxes. 2 ALR4th 1124.