

SB

305

(FILE 21)

LEGAL SERVICES

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MEMORANDUM

March 23, 2006

SUBJECT: Penalty provision proposed to apply for non-transmittal of information or evidence supporting arms-length transactions, offered for inclusion in CSSB 305(RES) (Work Order No. 24-GS2052Y)

TO: Senator Tom Wagoner, Chair
Senate Resources Committee

FROM: Jack Chenoweth
Assistant Revisor

In the middle of the last of the four pages of material you provided, there is language proposing that

... if a producer fails to comply with a request under this paragraph [proposed AS 43.55.160(1)(2), relating to failure of compliance with the provision directing submission of supporting documentation to assess arm's length nature of direct cost transactions], there shall be added to any [tax] underpayment determined by the department under this section a penalty in the amount of 20 percent of the underpayment.

There are penalties in the state tax laws for various actions or inactions, including failure to make full tax payment¹ and wilful tax evasion,² but, except for a criminal provision,³

¹ So, for example, see AS 43.05.220(a):

(a) Five percent shall be added to a tax for each 30-day period or fraction of the period during which the taxpayer fails to file at the time or times required by law or regulation a return or report, or pay the full amount of the tax, or a portion or a deficiency of the tax, as finally determined by the department and required by this title, unless it is shown that the failure is due to a reasonable cause and not to wilful neglect. The penalty may not exceed 25 percent in the aggregate. The penalty is computed only on the unpaid balance of the tax liability as determined by the department. The department shall prescribe by regulation circumstances which constitute reasonable cause for purposes of this section.

there is currently no financial penalty set out for a taxpayer's failure to respond to requests for documentation. What I understand happens, civilly, is that, if information is insufficient to verify a tax determination, the department may proceed under AS 43.05.245:

If a taxpayer fails to file a return or report required by this title in the time required by law or regulation, or makes an erroneous or fraudulent return, the department shall proceed to assess the license fees, tax, penalties, or interest and make a return from information that it obtains. An assessment or a return subscribed by the department in accordance with this section is presumed sufficient for all legal purposes. . . . The assessment of license

AS 43.05.220(b):

(b) If a tax deficiency or part of a tax deficiency is due to negligence or intentional disregard of law or regulation without intent to defraud, five percent of the total amount of the tax deficiency shall be assessed, collected, and paid in the same manner as a tax deficiency.

and AS 43.05.220(c):

(c) If a tax deficiency or part of a tax deficiency is due to fraud, a civil fraud penalty equal to 50 percent of the tax due or \$500, whichever is greater, shall be added to the tax. This penalty is in addition to penalties determined under (a) or (b) of this section.

² Apart from subsections (a) - (c), AS 43.05.220(d) also sets out a civil penalty for wilful tax evasion:

(d) A person required to collect or account for a tax imposed by this title who willfully fails to collect the tax or to truthfully account for and pay over the tax, or willfully attempts to evade payment of the tax is, in addition to other penalties provided by law, liable for a civil penalty equal to the total amount of the tax not collected, not accounted for, not paid over, or evaded. The penalty imposed by this subsection is in place of the tax not paid to the state. This penalty shall be paid upon demand by the commissioner or a designee of the commissioner, and shall be assessed and collected in the same manner as taxes are assessed and collected under this title.

³ The provision is to be found in AS 43.05.290(c):

(c) A person required under this title to pay a tax, make a return, keep records, *or supply information*, who willfully fails to pay the tax or estimated tax, make the return, keep the records, or supply the information at the time or times required by law or regulation is, in addition to other penalties provided by this title, guilty of a class A misdemeanor.

fees, tax, penalties, or interest under this section occurs when the department issues a notice and demand for payment of the license fees, tax, penalties, or interest. The notice and demand for payment is issued when the notice and demand is delivered to the taxpayer in person or placed in the United States mail, addressed to the last known address of the taxpayer. . . .

The department also may compel production of relevant information by subpoena, AS 43.05.040:

(a) The department may examine the books, papers, records, or memoranda of any person to ascertain the correctness of a return filed or to determine whether a tax is due, or in an investigation or inspection in connection with tax matters. . . . [T]he department may subpoena any person to appear and produce books, records, papers, or memoranda bearing upon tax matters and to give testimony or answer interrogatories under oath respecting tax matters. The department may administer oaths to persons who are so subpoenaed. A subpoena issued under this section may compel attendance of a witness or production of a document or thing, located either inside or outside the state, to the maximum extent permitted by law.

(c) If a person who is subpoenaed neglects or refuses to obey the subpoena issued as provided in this section, the department may report the fact to the superior court or the appropriate court of another jurisdiction, and may seek an order from the court compelling obedience to the subpoena. The court, to the maximum extent permitted by law, may compel obedience to the subpoena to the same extent as witnesses may be compelled to obey the subpoenas of the court.

All this is by way of a preface to my assertion that the language proposed that is the subject of this memo is in the nature of a "new" penalty and not necessarily a further penalty based on a taxpayer's nonpayment of taxes. In other words, while the measure of the proposed penalty is a percentage of underpaid taxes, in point of fact the penalty appears to be the first financial civil penalty that would attach for failure to provide or deliver information from which the department may ascertain the correctness of a return filed or to determine whether a tax is due as part of an investigation or inspection in connection with one element of petroleum production tax matters.

*

Whether the further penalty proposed to be applicable for a taxpayer's failure to provide information required under AS 43.55.160(1)(2) would be regarded as unnecessarily harsh is a policy judgment that I can't make.

Penalties to be imposed under revenue laws are designed to attach to a taxpayer's conduct, especially insofar as it is intentional or wilful rather than accidental. The federal

Internal Revenue Code contains numerous penalty provisions, of varying financial severity, depending upon the nature of taxpayer conduct, and the state statutes addressing administration of the tax laws contain materials that, while not nearly as complex, reflect the same enforcement philosophy.

The United States Supreme Court has endorsed the position, at least with respect to the federal internal revenue laws, that tax penalty statutes should be strictly construed:

We are here concerned with a taxing Act which imposes a penalty. The law is settled that "penal statutes are to be construed strictly[.]"
[citing] *Federal Communications Commission v. American Broadcasting Co.*, 347 U.S. 284, 286 [1954].

Commissioner of Internal Revenue v. Acker, 361 U.S. 87, 91 (1959) (note omitted). Despite a very few examples where courts have been sensitive to and generally labored to avoid applications that result in imposition of double penalties on taxpayers,⁴ there is little to indicate to me that, except in unusual circumstances, legislative imposition of a series of civil penalties reflecting egregious taxpayer conduct would not be upheld against a challenge. And, although in the criminal law, there are precedents by which separate criminal statutes punishing the same identical acts differently, one as a misdemeanor under one statute and as a felony under the other, may present a legitimate equal protection question, bear in mind that the tax penalty statutes are civil in nature -- imposition of the penalty does not require evidence of a prior criminal conviction -- so the court should be expected to be more differential of the legislature's judgment as to the circumstances in which failure to produce information warrants a financial penalty.

JBC:med
06-238.med

⁴ For example, *In re Tax Refund Litigation*, 766 F. Supp. 1248 (E.D.N.Y. 1991) (court found that, implicit in the federal tax code is the understanding that any one entity may constitute no more than one "person" for purposes of authorized penalties, that reduction of penalty was warranted where IRS imposed a double penalty by assessing penalties against individuals and their partnership where the partnership is not a legal entity separate from its partners under New York law or under the Internal Revenue Code, but reduction of penalty was not warranted when the penalties were assessed against both individuals and a subchapter S corporation, on a finding that a subchapter S corporation is still legally an entity separate from its shareholders), *aff'd in part and rev'd in part on other grounds sub nom. In re MDL-731 Tax Refund Litigation*, 989 F.2d 1290 (2d Cir. 1993), *cert. den. sub nom. Madison Library, Inc. v. United States*, 510 U.S. 964 (1993).

ALASKA STATE LEGISLATURE
SENATOR BERT K. STEDMAN

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FOR FILE

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MEMORANDUM

To: Senator Tom Wagoner/ Mary Jackson
From: Senator Bert Stedman / Kim Carnot *B.S. by KAC*
Date: March 22, 2006
Subject: Amendments to CS SB 305 (RES) Version "Y"

Attached please find 31 amendments to CS SB 305 (RES) Version "Y" for consideration by the Senate Resources Committee. Amendments Y.1 and Y.2 are offered by Senator Ben Stevens. Amendments Y.3 - Y.31 are offered jointly by Senator Stedman and Senator Ben Stevens.

*ACTED ON
3-24-06
- [Signature]*

DISTRICT A

Ketchikan • Sitka • Petersburg • Wrangell
Pelican • Elfin Cove • Port Alexander • Saxman • Meyers Chuck • Thorne Bay • Coffman Cove • Hollis

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR BEN STEVENS

TO: CSSB 305(RES), Draft Version "Y"

- 1 Page 4, line 29:
- 2 Delete "25 percent"
- 3 Insert "20 percent"

Y.1 & Y.2 taken up as 1-amendment
Y = SEEKINS, STEVENS
N = ELTON, STEAMIN, WABOWER

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR BEN STEVENS

TO: CSSB 305(RES), Draft Version "Y"

- 1 Page 10, line 11, following "amount of":
- 2 Delete "25 percent"
- 3 Insert "20 percent"

W/A

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

1 Page 3, line 31, through page 4, line 23:

2 Delete all material.

3

4 Renumber the following bill sections accordingly.

5

6 Renumber internal references to bill sections in accordance with this amendment. Below are
7 all internal bill section references in this bill:

8 Page 2, line 14

9 Page 28, line 30

10 Page 29, lines 1 - 2

11 Page 29, line 6

12 Page 29, line 9

13 Page 29, line 13

14 Page 29, line 16

15 Page 29, line 18

16 Page 29, line 20

17 Page 29, line 23

18 Page 30, line 19

19 Page 30, line 22

20 Page 30, line 24.

W/A

24-GS2052Y.4
Chenoweth
3/20/06

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

1 Page 5. lines 6 - 9:

2 Delete all material and insert:

3 "(1) the rate of tax levied on oil and gas produced is five percent;"

W/D - see 7.40

24-GS2052Y.5
Chenoweth
3/20/06

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

1 Page 5, lines 27 - 29:

2 Delete all material and insert:

3 "(4) the commissioner shall determine the rate applicable to the lessor's
4 royalty interest on private lease holdings on leases that are entered into after the
5 effective date of this subsection."

W/D

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

1 Page 5, line 31, through page 6, line 1:

2 Delete "United States Gulf Coast price for that month of West Texas Intermediate
3 crude oil"

4 Insert "Alaska North Slope wellhead price for that month"

5

6 Page 6, lines 6 - 17:

7 Delete all material.

W/A

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

1 Page 6, lines 18 - 27:

2 Delete all material.

3

4 Renumber the following bill sections accordingly.

5

6 Renumber internal references to bill sections in accordance with this amendment. Below are
7 all internal bill section references in this bill:

8 Page 2, line 14

9 Page 28, line 30

10 Page 29, lines 1 - 2

11 Page 29, line 6

12 Page 29, line 9

13 Page 29, line 13

14 Page 29, line 16

15 Page 29, line 18

16 Page 29, line 20

17 Page 29, line 23

18 Page 30, line 19

19 Page 30, line 22

20 Page 30, line 24.

W/A

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

1 Page 7, lines 16 - 23:

2 Delete all material.

3 Insert "Notwithstanding any contrary provision of AS 43.05.280, interest on an
4 overpayment is allowed only from a date that is 90 days after the last day of the third month
5 following the calendar quarter of production, as described in this subsection, and interest is
6 not allowed if the overpayment was refunded within the 90-day period. In addition, the
7 producer shall comply with the requirements of AS 43.55.030(a) and 43.55.030(e). In this
8 subsection, "calendar quarter" means each of the three-month periods ending March 31,
9 June 30, September 30, and December 31."

10

11 Page 15, lines 4 - 7:

12 Delete all material and insert:

13 "(e) In addition to other required information, the producer shall file a
14 statement, on or before the last day of each calendar quarter of a year, showing any
15 adjustments or corrections to the statements that were required under (a) of this section
16 to be filed for the three months of the preceding calendar year during which the oil or
17 gas was produced. In this subsection, "calendar quarter" means each of the three-
18 month periods ending March 31, June 30, September 30, and December 31."

3 Yea
Stevens
Stedman
0450A

3 NAY
ELTON
KOOKE
WADSWER

24-GS2052Y.9
Chenoweth
3/20/06

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

1 Page 7, line 27, through page 8, line 11:

2 Delete all material and insert:

3 ** Sec. 12. AS 43.55.020(d) is amended to read:

4 (d) In making settlement with the royalty owner with respect to oil or gas
5 that is taxable under AS 43.55.011, the producer may deduct the amount of the tax
6 paid on taxable royalty oil and [OR] gas, or may deduct taxable royalty oil or gas
7 equivalent in value at the time the tax becomes due to the amount of the tax paid.
8 Unless otherwise agreed between the producer and the royalty owner, the
9 amount of the tax paid on taxable royalty oil and gas for a month is considered to
10 be the quantity of that taxable royalty oil and gas produced during the month
11 multiplied by the quotient of the producer's total tax liability for the month of
12 production under AS 43.55.011 divided by the producer's total quantity of
13 taxable oil and gas, other than royalty oil and gas, produced from all leases and
14 properties in the state during the month. For purposes of the product calculated
15 under this subsection, 6,000 cubic feet of gas is considered to be equivalent in
16 amount to one barrel of oil."

WJA

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

- 1 Page 3, lines 27 - 31:
- 2 Delete all material.
- 3
- 4 Renumber the following bill sections accordingly.
- 5
- 6 Renumber internal references to bill sections in accordance with this amendment. Below are
- 7 all internal bill section references in this bill:
- 8 Page 2, line 14
- 9 Page 28, line 30
- 10 Page 29, lines 1 - 2
- 11 Page 29, line 6
- 12 Page 29, line 9
- 13 Page 29, line 13
- 14 Page 29, line 16
- 15 Page 29, line 18
- 16 Page 29, line 20
- 17 Page 29, line 23
- 18 Page 30, line 19
- 19 Page 30, line 22
- 20 Page 30, line 24.

W/A

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

1 Page 9, lines 6 - 12:

2 Delete all material and insert:

3 "(1) a producer or explorer that incurs a qualified capital expenditure
4 may also elect to take a tax credit in the amount of 20 percent of that expenditure;"

5

6 Page 9, line 19, through page 10, line 10:

7 Delete all material.

8 Insert "equal to one and two-thirds percent of the total qualified capital expenditures
9 incurred for expenditures during that year and for which the tax credit is taken for that year;

10 (3) for purposes of (1) and (2) of this subsection, a qualified capital
11 expenditure is eligible for treatment under this subsection only if the qualified capital
12 expenditure

13 (A) was incurred on or after the effective date of this section;

14 and

15 (B) meets the requirements of AS 43.55.025(b)(1) - (4)."

16

17 Page 29, line 9:

18 Delete "AS 43.55.024(a)(1)(A)"

19 Insert "AS 43.55.024(a)(2)(A)"

20

21 Page 29, line 13:

22 Delete "AS 43.55.024(a)(1)(B)"

23 Insert "AS 43.55.024(a)(2)(B)"

Passed
6-yea

AMENDMENT

OFFERED IN THE SENATE BY SENATORS STEDMAN AND
TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

- 1 Page 10, lines 11 - 16:
- 2 Delete all material and insert:
- 3 "(b) A producer may elect to take a tax credit in the amount of 25 percent of a
- 4 carried-forward annual loss. A credit under this subsection may be applied against a
- 5 tax for which a credit may be elected under (a) of this section and may be applied
- 6 irrespective of whether the producer also claims a deduction of transitional investment
- 7 expenditures authorized by AS 43.55.160. For purposes of this subsection, a carried-
- 8 forward annual loss is the amount of a producer's adjusted lease expenditures under
- 9 AS 43.55.160 for a previous calendar year that was not deductible in any month under
- 10 AS 43.55.160(a) and (b)."

W/P

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STFDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

1 Page 11, line 13, following "AS 43.20.":

2 Insert "However, credits shown on transferable tax credit certificates may not be
3 applied to reduce a producer's total tax due under AS 43.55.011(e) and AS 43.55.017 -
4 43.55.160 on oil and gas produced during a calendar year to less than 80 percent of the tax
5 that would otherwise be due without applying those credits. Any portion of a credit not used
6 for that reason may be applied in a later period."

W/A

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

- 1 Page 11, lines 12 - 13:
- 2 Delete "or AS 43.20"

W/A

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

1 Page 11, line 11:

2 Delete "(g)"

3 Insert "(f)"

4

5 Page 11, lines 14 - 23:

6 Delete all material.

7

8 Reletter the following subsections accordingly.

9

10 Page 13, line 2:

11 Delete "(i)"

12 Insert "(h)"

W/O

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

- 1 Page 11, lines 28 - 29:
- 2 Delete "AS 43.55.011(e) and 43.55.017 - 43.55.160"
- 3 Insert "AS 43.55.011 - 43.55.160"

W/A

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

- 1 Page 12, lines 9 - 15:
- 2 Delete all material.
- 3
- 4 Renumber the following paragraphs accordingly.

W/A

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES). Draft Version "Y"

BEN STEVENS

- 1 Page 12, line 20:
- 2 Delete ";"
- 3 Insert "."
- 4
- 5 Page 12, lines 21 - 29:
- 6 Delete all material.

w/d

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y"

BEN STEVENS

1 Page 13, line 11, through page 14, line 7:

2 Delete all material.

3

4 Renumber the following bill sections accordingly.

5

6 Renumber internal references to bill sections in accordance with this amendment. Below are
7 all internal bill section references in this bill:

8 Page 2, line 14

9 Page 28, line 30

10 Page 29, lines 1 - 2

11 Page 29, line 6

12 Page 29, line 9

13 Page 29, line 13

14 Page 29, line 16

15 Page 29, line 18

16 Page 29, line 20

17 Page 29, line 23

18 Page 30, line 19

19 Page 30, line 22

20 Page 30, line 24.

Passed
NO OBJ
Seeks absent

24-GS2052\Y.20
Chenoweth
3/20/06

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES). Draft Version "Y"

BEN STEVENS

- 1 Page 14, line 24, following "gas":
- 2 Insert "unless relieved from this requirement in whole or in part by the
- 3 department"

AMENDMENT

OFFERED IN THE SENATE BY SENATORS STEDMAN AND
TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

1 Page 15, lines 29 - 30:

2 Delete all material and insert:

3 "(ii) the use of the information to use for that
4 purpose:"

*NO OBJ
Seeking absent*

W/A

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

- 1 Page 16, line 26:
- 2 Delete "or"

FAILED
Y
N
Stevens
Stedman
ELTON
DYSON
KOOFFER
WAGONER

AMENDMENT

OFFERED IN THE SENATE BY SENATORS STEDMAN AND
TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

1 Page 16, line 30, through page 17, line 23:

2 Delete all material and insert:

3 "(d) Under regulations adopted by the department, the department may allow a
4 producer, subject to limitations prescribed by the department as to the frequency of
5 making elections, to elect prospectively to calculate the gross value at the point of
6 production of oil or gas based in whole or part upon

7 (1) a royalty value determined under a royalty settlement agreement
8 between the producer and the state, with adjustments if appropriate;

9 (2) a formula prescribed by the department that uses, with adjustments
10 if appropriate, a royalty value or valuation methodology accepted by the

11 (A) Department of Natural Resources under AS 38.05, in the
12 case of oil and gas produced from a lease issued by the Department of Natural
13 Resources or produced from a lease or property that is part of a unit approved
14 by the Department of Natural Resources; or

15 (B) United States Department of the Interior under applicable
16 federal oil and gas leasing statutes, in the case of oil and gas produced from a
17 lease issued by the United States Department of the Interior that is not part of a
18 unit approved by the Department of Natural Resources, or produced from a
19 lease or property that is part of a unit approved by the United States
20 Department of the Interior but not approved by the Department of Natural
21 Resources; or

22 (3) another formula prescribed by the Department of Revenue that
23 reasonably estimates a value for the oil or gas at a specific geographical location such

1 as the point of tender or delivery into a common carrier pipeline; the formula may use
2 such factors as published price indices for oil or gas in or outside the state, quality
3 differentials for oil or gas, transportation costs between markets, and inflation
4 adjustments."

Stevens
reserve right
on Monday

24-GS2052\Y.24
Chenoweth
3/21/06

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 505(RES), Draft Version "Y" BEN STEVENS

1 Page 20, line 24:

2 Delete ";"

3 Insert "."

4

5 Page 20, line 25, through page 21, line 15:

6 Delete all material.

7

8 Page 22, lines 1 - 2:

9 Delete "the provisions of (l) and (n) of this section apply to an asset that is subject to
10 this subparagraph;"

11

12 Page 23, line 29, through page 24, line 13:

13 Delete all material.

14

15 Reletter the following subsections accordingly.

16

17 Page 24, line 19:

18 Delete "(1)"

19

20 Page 24, lines 21 - 23:

21 Delete

22

23

"(A) direct cost under (d)(2)(M) of this section, as a purchase
of assets by the producer; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

(B)"

Page 24, line 24:

Delete ";"

Insert "."

Page 24, lines 25 - 27:

Delete all material.

Page 25, lines 2 - 5:

Delete

"(A) the principle set out in (l) of this section, as interpreted and implemented by the regulations of the department authorized by (l)(1) of this section, applies; and

(B)"

W/A

AMENDMENT

OFFERED IN THE SENATE BY SENATORS STEDMAN AND
TO: CSSB 305(RES). Draft Version "Y" BEN STEVENS

- 1 Page 17, line 30:
- 2 Delete "(1)"
- 3
- 4 Page 17, line 31, through page 18, line 1:
- 5 Delete "and (2) to the extent allowed under (g) of this section and until the total
- 6 amount of the producer's transitional investment expenditures has been deducted, less an
- 7 amount equal to 1/48 of the producer's transitional investment expenditures"
- 8
- 9 Page 18, line 6:
- 10 Delete "(1)"
- 11
- 12 Page 18, line 10:
- 13 Delete "; the"
- 14 Insert ". The"
- 15
- 16 Page 18, line 14:
- 17 Delete ";
- 18 Insert ".
- 19
- 20 Page 18, lines 15 - 23:
- 21 Delete all material.
- 22
- 23 Page 21, line 10:

- 1 Delete "(l)"
- 2 Insert "(j)"
- 3
- 4 Page 21, line 14:
- 5 Delete "(l) and (m)"
- 6 Insert "(j) and (k)"
- 7
- 8 Page 22, line 1:
- 9 Delete "(l) and (n)"
- 10 Insert "(j) and (l)"
- 11
- 12 Page 22, line 11, through page 23, line 14:
- 13 Delete all material.
- 14
- 15 Reletter the following subsections accordingly.
- 16
- 17 Page 24, line 25:
- 18 Delete "(l)"
- 19 Insert "(j)"
- 20
- 21 Page 24, line 27:
- 22 Delete "(l)(1)"
- 23 Insert "(j)(1)"
- 24
- 25 Page 25, line 2:
- 26 Delete "(l)"
- 27 Insert "(j)"
- 28
- 29 Page 25, line 3:
- 30 Delete "(l)(1)"
- 31 Insert "(j)(1)"

*Amended to
delete all but
lines 19 & 20*

*NO OBS
SEEKING
ABSENT*

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

- 1 Page 21, line 10:
- 2 Delete "(l)"
- 3 Insert "(k)"
- 4
- 5 Page 21, line 14:
- 6 Delete "(l) and (m)"
- 7 Insert "(k) and (l)"
- 8
- 9 Page 22, line 1:
- 10 Delete "(l) and (n)"
- 11 Insert "(k) and (m)"
- 12
- 13 Page 22, line 30:
- 14 Delete ", as determined under (h) of this section,"
- 15
- 16 Page 22, lines 30 - 31:
- 17 Delete ", as adjusted for inflation under (h) of this section"
- 18
- 19 Page 23, lines 1 - 14:
- 20 Delete all material.
- 21
- 22 Reletter the following subsections accordingly.
- 23

2
0



1 Page 24, line 25:

2 Delete "(l)"

3 Insert "(k)"

4

5 Page 24, line 27:

6 Delete "(l)(1)"

7 Insert "(k)(1)"

8

9 Page 25, line 2:

10 Delete "(l)"

11 Insert "(k)"

12

13 Page 25, line 3:

14 Delete "(l)(1)"

15 Insert "(k)(1)"

WYA

AMENDMENT

OFFERED IN THE SENATE BY SENATORS STEDMAN AND
TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

- 1 Page 21, lines 10 - 11:
- 2 Delete "the provisions of (l) of this section apply to a determination under this
- 3 subparagraph;"
- 4
- 5 Page 21, lines 14 - 15:
- 6 Delete "; the provisions of (l) and (m) of this section apply to a determination under
- 7 this subparagraph"
- 8
- 9 Page 22, lines 1 - 2:
- 10 Delete "the provisions of (l) and (n) of this section apply to an asset that is subject to
- 11 this subparagraph;"
- 12
- 13 Page 23, line 29, through page 25, line 26:
- 14 Delete all material.

FAILED
U - Stevens
N - Dyson, Elton, Steadman,
Kousser, Wagoner
Seekins absent

AMENDMENT

OFFERED IN THE SENATE BY SENATORS STEDMAN AND
TO: CSSB 305(RES). Draft Version "1" BEN STEVENS

1 Page 25, line 27, through page 26, line 7:

2 Delete all material and insert:

3 **** Sec. 27.** AS 43.55.201(b) is amended to read:

4 (b) The surcharge imposed by (a) of this section is in addition to the tax
5 imposed by AS 43.55.011 and shall be paid in the [SAME] manner described in
6 AS 43.55.020. The surcharge [AS THE TAX IMPOSED BY AS 43.55.011 -
7 43.55.150; AND] is in addition to the surcharge imposed by AS 43.55.300 -
8 43.55.310.

9 *** Sec. 28.** AS 43.55.201(c) is amended to read:

10 (c) A producer of oil shall make reports of production in the same manner and
11 under the same penalties as required under AS 43.55.011 - 43.55.160 [AS 43.55.011 -
12 43.55.150]."

13
14 Renumber the following bill sections accordingly.

15
16 Page 28, line 30:

17 Delete "24 - 35"

18 Insert "24 - 36"

19
20 Page 30, line 19:

21 Delete "sec. 42"

22 Insert "sec. 43"

23

1 Page 30, line 22:

2 Delete "36 - 40"

3 Insert "37 - 41"

4

5 Page 30, line 24:

6 Delete "sec. 41"

7 Insert "sec. 42"

W/A

AMENDMENT

OFFERED IN THE SENATE

BY SENATORS STEDMAN AND

TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

- 1 Page 26, line 14:
- 2 Delete "\$.05"
- 3 Insert "\$.04"

W/A

AMENDMENT

OFFERED IN THE SENATE BY SENATORS STEDMAN AND
TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

- 1 Page 28, lines 26 - 27:
- 2 Delete all material and insert:
- 3 "* **Sec. 35.** AS 43.55.011(b), 43.55.011(c), 43.55.012(b), 43.55.013(b), 43.55.013(c),
- 4 43.55.013(d), 43.55.013(g), 43.55.013(h), 43.55.013(i), 43.55.013(j), 43.55.013(k),
- 5 43.55.016, 43.55.900(1), 43.55.900(8), 43.55.900(11), 43.55.900(12), and 43.55.900(16) are
- 6 repealed."

W/A

AMENDMENT

OFFERED IN THE SENATE BY SENATORS STEDMAN AND
TO: CSSB 305(RES), Draft Version "Y" BEN STEVENS

1 Page 30, following line 3:

2 Insert a new bill section to read:

3 "* Sec. 39. Section 37 of this Act is repealed April 1, 2012."
4

5 Renumber the following bill sections accordingly.
6

7 Page 30, line 19:

8 Delete "sec. 42"

9 Insert "sec. 43"
10

11 Page 30, line 22:

12 Delete "36 - 40"

13 Insert "36 - 41"
14

15 Page 30, line 24:

16 Delete "sec. 41"

17 Insert "sec. 42"

Replaces 4.5

#5

24-GS2052Y.40
Chenoweth
3/22/06

AMENDMENT

OFFERED IN THE SEN. TE

BY SENATOR BEN STEVENS

TO: CSSB 305(RLs), Draft Version "Y"

1 Page 5, line 6, following "produced":

2 Insert "from a lease that is in effect on the effective date of this subsection"

3

4 Page 5, line 7:

5 Delete "from"

6 Insert "in"

7

8 Page 5, line 20:

9 Delete "except as otherwise provided in (4) of this subsection."

10

11 Page 5, lines 27 - 29:

12 Delete all material and insert:

13 "(4) the commissioner shall recommend to the legislature the rate of
14 tax applicable to the lessor's royalty interest on private lease holdings on leases that
15 are entered into after the effective date of this subsection."

Two objections removed
Amend passed

Passed
4:

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR STEDMAN

TO: CSSB 305(RES), Draft Version "Y"

1 Page 5, line 30, through page 6, line 5:

2 Delete all material and insert:

3 "(g) In addition to the taxes levied under (e) and (f) of this section, there is
4 levied upon the producer of oil a tax for oil produced during that month from each
5 lease or property in the state, less any oil the ownership or right to which is exempt
6 from taxation. The tax levied under this subsection is equal to

7 $((\text{ANS West Coast price} - \$40) \times .002) \times \text{ANS wellhead price} \times (1 - \text{PPT rate})$

8 where

9 (1) "ANS wellhead price" means the prevailing value for oil produced
10 in the Alaska North Slope area; and

11 (2) the PPT, or production property tax, rate is 25 percent."

12

13 Page 6, line 10:

14 Delete "West Texas Intermediate"

15 Insert "Alaska North Slope"

16

17 Page 6, lines 11 - 12:

18 Delete "West Texas Intermediate"

19 Insert "Alaska North Slope"

20

21 Page 6, lines 16 - 17:

22 Delete "United States Gulf Coast price of West Texas Intermediate"

23 Insert "price of Alaska North Slope"

FAILED
1 YEA
SNAY
STEWENS
ELTON, WYSON,
KOOKESH,
WAGONS R,
STERMAN,

24-GS2052\Y.43
Chenoweth
3/24/06

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR BEN STEVENS

TO: CSSB 305(RES), Draft Version "Y"

1 Page 4, lines 28 - 30:

2 Delete "The tax is equal to 25 percent of the production tax value of the taxable oil
3 and gas as calculated under AS 43.55.160."

4 Insert "The tax applicable to

5 (1) oil is equal to the sum of 25 percent of the production tax value of
6 the taxable oil as calculated under AS 43.55.160 and an amount determined by the
7 formula

$$((\text{ANS wellhead price} - \$40) \times .0015)$$

8 in which "ANS wellhead price" means the prevailing value for oil produced in the
9 Alaska North Slope area; and

10
11 (2) gas is equal to the sum of 25 percent of the production tax value of
12 the taxable gas as calculated under AS 43.55.160."

13
14 Page 5, line 30, through page 6, line 5:

15 Delete all material.

16
17 Relatter the following subsection accordingly.

18
19 Page 6, line 6:

20 Delete "(g)"

21 Insert "(e)(1)"

22
23 Page 6, line 10:

- 1 Delete "West Texas Intermediate"
- 2 Insert "Alaska North Slope"
- 3
- 4 Page 6, lines 11 - 12:
- 5 Delete "West Texas Intermediate"
- 6 Insert "Alaska North Slope"
- 7
- 8 Page 6, lines 16 - 17:
- 9 Delete "United States Gulf Coast price of West Texas Intermediate"
- 10 Insert "price of Alaska North Slope"



Kenai Chamber of Commerce
402 Overland
Kenai, Alaska 99611

(907) 283-7989
(907) 283-7183 (Fax)

April 24, 2006

Senator Tom Wagoner
State Capitol, Room 427
Juneau, AK 99801-1182

Dear Senator Wagoner:

The Kenai Chamber of Commerce understands the Alaska Legislature is considering substantial changes to current oil and gas industry taxes and related incentives for future oil and gas industry development. We recognize this initiative involves a variety of very complicated issues and the ultimate outcome will impact our state, industry and small businesses for many years to come. Our Chamber believes any change to the current tax structure could impact the industry's ability to continue future investment on existing and future oil and gas prospects.

When considering changes to the current oil and gas tax structure, we urge both the Governor and the Legislature to recognize the unique circumstances under which the Cook Inlet oil and gas producers operate. We ask that the Administration and the Legislature both work with the Cook Inlet operators to fully understand their operating challenges. Should the proposed tax impose any undue, inadvertent, or disproportionate consequences upon them, we request that those issues be addressed prior to final adoption of the new tax structure.

The profitability of the oil industry's operations in Cook Inlet is mutually beneficial to us all, and we at the Kenai Chamber of Commerce want to make certain that the current climate of investment and development in the region is strengthened, and not adversely affected by the proposed change in the tax structure. We appreciate any efforts the State makes to that end.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Swamer".

Dr. Dennis Swamer, President

cc: Alaska Legislature



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Fax

To: Alaska State Legislature From: Greater Fairbanks Chamber of Commerce

Fax: Pages: 3 w/cover sheet

Phone: Date: April 21, 2006

Re: ***** PPT Resolution *****

● Comments:

Our Fax Machine reported Several Errors while trying to send this Fax yesterday. Please use *****THIS COPY***** of the AMENDED PPT resolution.

Please Note the change in the 2nd to last WHEREAS, and the additional AND BE IT FURTHER RESOLVED.

Thank you

- Benefactors*
- ACS Media, LLC
 - Alaska Airlines
 - Alaska Communications Systems
 - Alaska Digital Printing
 - Alaska Railroad
 - Alaska USA Federal Credit Union
 - Alaska Pipeline Service Company
 - AT&T Alascon
 - Boeing Company
 - BP Exploration (Alaska) Inc.
 - CellularOne
 - ConocoPhillips Alaska, Inc
 - Denali State Bank
 - Design Alaska, Inc.
 - Digital Express
 - Doyon, Limited
 - ExxonMobil
 - Fairbanks Building & Construction Trades
 - Fairbanks Daily Newswinner
 - Fairbanks Memorial Hospital & Denali Center
 - Fairbanks Natural Gas, LLC
 - First National Bank Alaska
 - Flint Hills Resources
 - Flowline Alaska
 - Fort Knox Gold Mine
 - GCI
 - Golden Heart Utilities
 - Golden Valley Electric Association
 - Key Bank of Alaska
 - MAC Federal Credit Union
 - Mt. McKinley Bank
 - Northrim Bank
 - Phone Directories Company
 - Sandaa's Flowers & Gifts
 - Seekins Ford, Lincoln, Mercury
 - Tanana Valley Clinic
 - Totem Ocean Trailer Express
 - University of Alaska Fairbanks
 - Usibelli Coal Mine, Inc.
 - Wells Fargo Bank Alaska
 - Westmark Fairbanks Hotel & Conference Center

Introduced By: Board of Directors
 Date Introduced: April 10, 2006
 Date Passed: April 10, 2006
 Date Transmitted: April 11, 2006
 Date Amended: April 18, 2006

**A RESOLUTION OF THE
 GREATER FAIRBANKS CHAMBER OF COMMERCE (GFCC)
 IN SUPPORT OF A NEW PETROLEUM PRODUCTION TAX (PPT) FOR
 ALASKA**

Resolution 06-0410, as amended

WHEREAS, it is the mission of the Greater Fairbanks Chamber of Commerce (GFCC) to support and advocate for a strong investment and economic development climate; and

WHEREAS, the oil and gas industry dramatically impacts multiple segments of the private-sector economy; and

WHEREAS, oil and gas royalties and taxes currently provide nearly 90 percent of the State's general revenue; and

WHEREAS, Alaska's oil production rate of decline urgently requires arrest; and

WHEREAS, the current rates of investment by industry are inadequate to arrest or improve this decline; and

WHEREAS, once declining oil production reaches 600,000 bpd, the viability of Interior refineries will be severely compromised; and

WHEREAS, the existing severance tax system - Economic Limit Factor (ELF) - is currently not in the best interest of all stakeholders; and

WHEREAS, a globally recognized new tax system- petroleum production tax (PPT) - has been proposed by the Governor; and

WHEREAS, the PPT ultimately approved by the Legislature will directly impact how attractive Alaska is for investment;

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of the GFCC supports legislation that embodies the following goals and tenets:

- a reasonable increase of return to Alaska;
- provides strong incentive for maximum statewide oil and gas exploration and development investment by the industry;
- furthers a 50-year vision to extend the North Slope oil production infrastructure;
- is nationally and globally competitive;
- lends itself to ease of administration;
- expeditiously advances a gas pipeline project;

AND BE IT FURTHER RESOLVED that a tax rate higher than 20 percent and a total tax take that substantially exceeds the PPT legislations' original version - as does the Senate Resources CS - could very well be counter productive to the GFCC goals and tenets outlined above,

AND BE IT FURTHER RESOLVED that copies of this resolution be sent to Governor Frank Murkowski, the Alaska Legislature, the GFCC membership, the statewide media, Alaska State Chamber of Commerce, Anchorage Chamber of Commerce, Resource Development Council, Alaska Oil and Gas Association, The Alliance and FEDC.

Approved the 18th day of April, 2006

Marilyn Romano

Marilyn Romano
GFCC Board Chair

Lanien M. Livingston

Lanien Livingston
President/CEO

Margaret Russell

Margaret Russell
Government Affairs Committee Co-Chair

Charlie Boddy

Charlie Boddy
Government Affairs Committee Co-Chair

Rhonda P. Boyles

Rhonda Boyles
Natural Resources Committee Chair