

HB

20001

(1 1/4/07)

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB2001(H Res)
 () Publish Date: _____

Identifier (file name): _____ Dept. Affected: Revenue 04
 Title An Act relating to the production tax on oil and gas. RDU Taxation and Treasury
 Component Tax Division
 Sponsor Governor
 Requester _____ Component Number _____

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services	1,215.7	1,215.7	1,215.7	1,215.7	1,215.7	1,215.7	1,215.7
Travel							
Contractual	1,018.4	1,018.4	1,018.4	511.8	5.2	5.2	5.2
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	2,234.1	2,234.1	2,234.1	1,727.5	1,220.9	1,220.9	1,220.9

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES ()		727,000.0	513,000.0	560,000.0	835,000.0	813,000.0	596,000.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	2,234.1	2,234.1	2,234.1	1,727.5	1,220.9	1,220.9	645.9
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	2,234.1	2,234.1	2,234.1	1,727.5	1,220.9	1,220.9	645.9

Estimate of any current year (FY2008) cost: 3,409.2

POSITIONS

Full-time	1	1	1	1	1	1	1
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This bill makes economic and several administrative changes to the state's current petroleum profits tax. The bill retains the current tax system's structure, which taxes the net value of petroleum resources. The bill makes the following changes to the current system: It institutes a rate of 25% on net income. It calculates the progressivity surcharge as the difference between the per barrel net revenue and \$30 at 0.2%, 0.3% between \$30 and \$40, 0.4% between \$50 and \$60, and 0.5% over \$60, at a rate of 0.225%, which applies to gross revenue at the point of production. Second, it eliminates the period by which past investments are recognized in the transition investment expenditure credits (AS 43.55.023(i)) from April 1, 2001 to April 1, 2003. Pipeline tariffs are based on reasonable rates. EIC credits are increased from 30% to 40%. The effective date of the bill is January 1, 2007.

Administrative changes to the current tax system include the following: excludes from qualified lease expenditures those expenses related to unscheduled production interruptions; excludes dismantlement, removal & restoration (DR&R) costs from allowable

Prepared by: Johanna Bales, Roger Marks, Cherie Nienhuis Phone 269-6628
 Division Tax Division Date/Time 11/4/07 9:00 PM
 Approved by: Jerry Burnett Date 11/4/2007
Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. LL08-0014

ANALYSIS CONTINUATION

Certain lease expenditure allowance provisions are retroactive to April 1, 2006; the other provisions of the tax proposal become effective January 1, 2008.

Personal Services: The department will reclassify the existing 5 vacant auditor positions, and create 4 to 5 senior level auditor positions with extensive industry oil and gas auditing experience. These positions will be classified as the Department's most senior level auditor positions and will have salaries that are consistent with market comparables and will be beyond the current salary levels allowed under the existing Oil and Gas Revenue Auditor (OGRA) pay classification system. In addition, the department expects that it will need one additional Programmer Analyst V position to maintain and manage the new oil and gas production tax database system at a cost of \$115,700 annually. The existing oil and gas specialist, oil and gas revenue auditors, and their immediate supervisor will be offered the opportunity to opt into an exempt status with individual salaries established commensurate with experience and skill level, and consistent with market comparables.

The need for exempt status is based upon the difficulties the department has recruiting experienced auditors to administer the tax. The current pay range for an Oil and Gas Revenue Auditor is on the low range of the pay range for roughly similar jobs. The department estimates the new exempt positions and the potential salary increases associated with the change of existing staff to exempt status, will cost the state approximately \$1,100,000 annually.

Contractual: Contractual expenditures include \$1,013,200 annually to contract for audit assistance. This estimate is based on 3 auditors, working 40 hours per week each, for 4 years starting in January 2008 at an average rate of \$100 per hour, plus estimated transportation and lodging costs, and additional costs for training auditors. The need for such assistance is based upon the department's substantial difficulty in recruiting enough auditors to administer the oil and gas production tax. The department only anticipates the need for contract audit assistance for 4 years while the department recruits and trains auditors for positions that are currently vacant. The contract auditors would work in conjunction with department auditors during this time to maximize department resources and help train department auditors. The department will also need an additional \$5,200 each year in contractual costs associated with the new Analyst Programmer V position.

Current FY2008 costs: The department expects it will incur costs beginning January 2008 to immediately implement the new production tax structure. Those costs include: **Contractual** - \$2,620,800 capital funding to fund the scoping and development of an oil and gas production tax database system (including associated hardware) and \$506,600 to contract for audit assistance (as described above). The new database system will permit accurate and efficient management of information submitted by taxpayers to facilitate auditing and forecasting of revenues, and timely and accurate reports for internal and public uses. The proposed system will accommodate the migration of ELF-based data and continue to collect supplemental data from producers on volumes, wells and production. The system will include income-based data, including tracking credits, required under PPT and upon which the ACES tax structure is based. The system will also integrate into the division's accounting systems. **Personal Services** - \$218,000 from the period January 1, 2008 through June 30, 2008 due to creating an exempt class of oil and gas revenue auditors and increasing pay to more closely reflect what the market in Alaska pays for roughly similar positions. In addition, we will recruit for the Analyst Programmer V and bring that person on board to participate in the database scoping meetings. We estimate FY 2008 costs for this position to be approximately \$57,800. **Supplies** - \$6,000 for a computer and software for the new analyst programmer V position.

See page 3 for projected revenue estimates.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. _____

ANALYSIS CONTINUATION

**Estimated Production Tax Revenues, PPT and ACES, at
Various Prices (in \$millions nominal)**

Fall 2007 DOR Official Forecast Prices

Fiscal Year	ANS WC \$ per barrel (in REAL dollars)	ANS WC \$ per barrel (in NOMINAL dollars)	Status Quo - PPT	CSHB2001 (Res)	Increase or (Decrease) from PPT
2008	71.65	71.65	1,915	2,830	915
2009	64.55	66.30	1,693	2,420	727
2010	60.05	63.40	1,531	2,044	513
2011	59.70	64.75	1,670	2,236	566
2012	59.55	66.35	1,746	2,581	835
2013	58.90	67.45	1,647	2,460	813
2014	58.25	68.55	1,642	2,238	596

DOR Forecast nominal prices rounded to the nearest \$0.05

\$60 per barrel in REAL dollars

Fiscal Year	ANS WC \$ per barrel (in REAL dollars)	ANS WC \$ per barrel (in NOMINAL dollars)	Status Quo - PPT	CSHB2001 (Res)	Increase or (Decrease) from PPT
2008	60.00	60.00	1,051	1,582	531
2009	60.00	61.65	1,435	2,038	603
2010	60.00	63.35	1,562	2,081	519
2011	60.00	65.09	1,695	2,271	576
2012	60.00	66.88	1,783	2,632	849
2013	60.00	68.72	1,733	2,587	854
2014	60.00	70.61	1,776	2,437	661

\$80 per barrel in REAL dollars

Fiscal Year	ANS WC \$ per barrel (in REAL dollars)	ANS WC \$ per barrel (in NOMINAL dollars)	Status Quo - PPT	CSHB2001 (Res)	Increase or (Decrease) from PPT
2008	80.00	80.00	2,650	3,983	1,333
2009	80.00	82.20	3,031	4,489	1,458
2010	80.00	84.46	3,266	4,700	1,434
2011	80.00	86.78	3,481	5,071	1,590
2012	80.00	89.17	3,668	5,667	1,999
2013	80.00	91.62	3,619	5,669	2,050
2014	80.00	94.14	3,690	5,585	1,895

Additional revenues for the second half of FY 2007 would be \$244 million.

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2012	80.00	89.17	3,668	5,667	1,999
2013	80.00	91.62	3,619	5,669	2,050
2014	80.00	94.14	3,690	5,585	1,895

Additional revenues for the second half of FY 2007 would be \$244 million.

State of Alaska
Department of Revenue
Commissioner's Office



SARAH PALIN, GOVERNOR
333 Willoughby Avenue, 11th Floor
P.O. Box 110400
Juneau, Alaska 99811-0405
Phone: (907) 465-2300
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November 4, 2007

The Honorable Carl Gatto
Co-Chair, House Resources Committee
State Capitol, Room 108
Juneau, AK 99801-3100

The Honorable Craig Johnson
Co-Chair, House Resources Committee
State Capitol, Room 126
Juneau, AK 99801-3100

Cc: All Members, House Resources Committee

Re: Request for Additional Information for CS HB 2001(O&G) dated 11-2-07

Dear Representatives Gatto and Johnson:

I am writing in response to the above titled memorandum compiling the outstanding questions from the House Resource Committee relating to CS HB 2001(O&G).

Questions 1) and 4) - Rep. Seaton requested a follow up on definitions regarding levels of negligence in provision 165(e), page 28 and better definitions for Sec. 33 AS 43.55.165(e). There are different levels of negligence and those levels vary under federal statutory law, state civil law, and state statutory law. There are three levels of negligence: common negligence, gross negligence and criminal negligence. Common negligence is conduct that deviates from that of a reasonable person. Gross negligence is conduct that is an extreme deviation from that of a reasonable person. Both common negligence and gross negligence can exist without statute. Criminal negligence is a creature of statute only, and is usually described as conduct taken in reckless or wanton disregard of a serious harm being legislated against. Existing PPT law and Sec. 33 use the term "gross negligence".

Question 2- Representative Johnson inquired about "due care" in provision 165(e) (19) page 28, line 22. The term "due care" is a common negligence standard. This term appears on lines 19 and 22. This term prevents a producer from deducting costs where the costs result from natural disasters or the actions of third parties if the producer's exercise of due care (i.e. actions that a reasonable person would have taken under similar circumstances) would have been averted the damage and need to incur costs.

Question 3- Rep. Roses asked how often audits continue beyond the current 3 year statute of limitations periods. This question was answered earlier on October 30. A copy of that response is attached.

Letter to Representatives Gatto and Johnson
November 4, 2007
Page 2 of 2

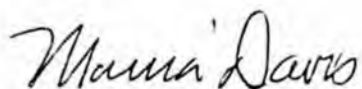
Question 5- Rep. Guttenberg asked whether the administration had spoken to the bargaining units with regard to exempt class of auditors. The Dept of Administration has historically worked with the bargaining unit representing the states oil and gas production tax auditors, but there has been no resolution of the existing barriers to hiring additional auditors. The state does not bargain its state classification and pay plan with the unions. They do bargain the pay rates.

Question 6- Rep. Seaton requested a sectional analysis and side-by-side comparison of HB 2001 and CSHVB 2001(O&G). This was provided previously.

Question 7- Rep. Seaton asked about the retroactivity of provision .030(d) of HB 2001 which was not contained in CSHB 2001 (O&G). This question was answered earlier on October 30, 2007. See attached.

Question 8- Rep. Gatto asked if personnel within DNR and DOR who violate the applicable confidentiality laws can be convicted of a class C felony. This question was answered earlier on October 30, 2007. See attached.

Sincerely,



Marcia Davis, Deputy Commissioner
Department of Revenue

Attachment: Letter to Rep. Gatto, October 30, 2007

State of Alaska
Department of Revenue
Commissioner's Office



SARAH PALIN, GOVERNOR
333 Willoughby Avenue, 11th Floor
P.O. Box 110400
Juneau, Alaska 99811-0405
Phone: (907) 465-2300
Fax: (907) 465-2394

To: Carl Gatto, *Chairman*
House Resources Committee
Capitol Building, Room 108

October 30, 2007

CC: All Members
House Resources Committee

Dear Representative Gatto:

A number of questions were posed during the October 19th hearing of the House Resources Committee. The answers are provided below. If your own records indicate requests which we have not addressed, please notify my office and we will respond as soon as possible.

1. Representative Johnson requested organizational charts for the respective audit divisions of the Department of Revenue and Department of Natural Resources. The requested organization charts, with position vacancies noted are attached.
2. Representative Seaton inquired about the retroactivity of the penalty assessed under ACES for failure to submit required information, in response to testimony given by the Alaska Oil and Gas Association (AOGA).

Under Sections 47 and 49 of the HB 2001, the penalty for failing to file a report by the time required by the department is a fine of not more than \$1,000 per day the failure continues. These two sections were not included in Section 71 of the bill and thus are not effective retroactively. Nor are they included in Section 72 which provides an effective date of January 1, 2008. Therefore, under Section 73, these two sections would take effect immediately in accordance with AS 01.10.070(c).

3. Representative Seaton asked whether in-field use of fuel products from a topping plant would be exempt from royalty.

Fuel gas and crude oil used in field operations is royalty free. The crude oil topping plants sell fuels on the slope. The oil that is consumed in the topping plants that goes into the diesel that is sold does pay royalty. The oil consumed by the topping plants is allocated to lease operations (royalty free) and sales (royalty payable), based upon the ratio of diesel consumption. Likewise the gas that powers the topping plants is also allocated based on the same factor. Royalty is due on the fraction of gas consumption due to third party diesel sales.

4. Representative Seaton asked whether value added petroleum products created in Alaska are taxed under the Alaska Production tax statute.

AS 43.55.020(e) excludes from the production tax, oil or gas produced from a lease that is used in the state for drilling, producing oil or gas, or for repressuring. Therefore, oil refined into diesel in a North Slope crude oil topping plant is not be subject to the production tax if the diesel is used in oil and gas operations. Oil refined into diesel not used for oil and gas operations would be subject to production tax.

5. Representative Roses asked how frequently production tax audits need to be completed beyond the current 3 year statute of limitations.

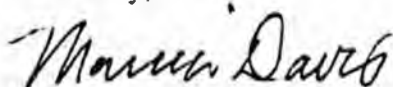
For the 4-5 smaller taxpayers who do not transport their own oil, the department performs what is known as a "desk audit". These taxpayers sell their oil at pump station one and very little information is needed from the taxpayer and the audits are all completed within the current three year statute of limitation. The remaining 6-7 taxpayers are the larger taxpayers whose audits are "full blown". They either move their own crude or sell at the Valdez terminal. Much more information is needed from these taxpayers and almost all require waiver and extension of the statute of limitations which only happens with taxpayer consent. One very large taxpayer refuses to sign an extension of the statute of limitations as a corporate policy. For the largest taxpayers, where we conduct full audits, we need extensions for 85% of those taxpayers.

6. Representative Gatto asked if personnel within DNR and DOR who violate the applicable confidentiality laws can be convicted of a class C felony.

If DOR employees unlawfully disclose confidential tax information, they are subject to a criminal penalty under AS 43.05.230(f), namely, a fine of not more than \$5,000, or by imprisonment for not more than two years, or by both. This offense is defined in AS 43, not in the criminal statutes, and there is no language classifying the offense as a type of felony or misdemeanor. However, the maximum imprisonment authorized in AS 43.05.230(f) is more than the one-year maximum for a Class A misdemeanor and is within the five year maximum for a Class C felony, so it appears to be equivalent to a Class C felony.

Pursuant to AS 38.05.036, if DNR employees use confidential oil and gas information obtained in connection with royalty and net profit audits for personal gain or not in connection with their official duties, they commit the crime of "Misuse of Confidential Information" under AS 11.56.860, and if convicted are guilty of a Class A misdemeanor.

Sincerely,



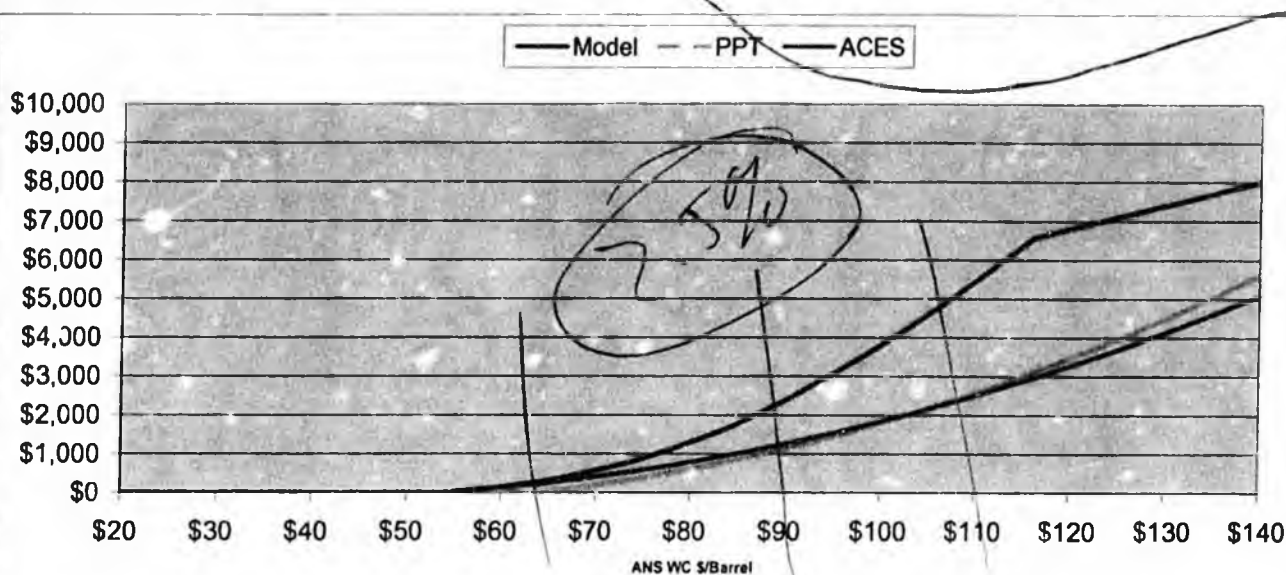
Marcia Davis

Deputy Commissioner Department of Revenue

Simplistic Model of Progressive Surcharge Tax ONLY, with Set Production

Test Case User Inputs	Inputs
Transportation cost + etc. to wellhead, \$/bl	\$7.00
Total upstream costs	
Separate Costs? (Y or N)	N
(enter if NO to separate costs)	\$16.00
(calculated if YES to separate costs)	
Opex	\$8.00
Capex	\$7.00
Total calculated costs	\$15.00
Average royalty rate	12.5%
Basu PPT Rate	25.0%
Trigger - WC, Wellhead or Net (WC, WH or N)	
Net or Gross Progressivity (N, WH or WC)	n
Continuous slope or elbows (C or E)	wh
Top progressivity slope	e
First trigger based on choice, above	25.0%
Slope	\$30
Second trigger	0.00200
Slope	\$40
Third trigger	0.00300
Slope	\$50
Fourth trigger	0.00400
Slope	\$60
Fifth trigger	0.00500
Slope	\$200
Slope	0.00000

Note: set trigger to large number to invalidate it.



ANS WC	Model	PPT	ACES
\$10	\$0	\$0	\$0
\$15	\$0	\$0	\$0
\$20	\$0	\$0	\$0
\$25	\$0	\$0	\$0
\$30	\$0	\$0	\$0
\$35	\$0	\$0	\$0
\$40	\$0	\$0	\$0
\$45	\$0	\$0	\$0
\$50	\$0	\$0	\$0
\$55	\$23	\$0	\$18
\$60	\$153	\$0	\$124
\$65	\$321	\$29	\$254
\$70	\$577	\$191	\$407
\$75	\$885	\$383	\$585
\$80	\$1,301	\$606	\$787
\$85	\$1,785	\$858	\$1,014

ANS WC	Model	PPT	ACES
\$90	\$2,399	\$1,141	\$1,264
\$95	\$3,074	\$1,454	\$1,538
\$100	\$3,809	\$1,786	\$1,836
\$105	\$4,604	\$2,169	\$2,159
\$110	\$5,459	\$2,572	\$2,505
\$115	\$6,374	\$3,006	\$2,876
\$120	\$6,805	\$3,469	\$3,271
\$125	\$7,107	\$3,962	\$3,690
\$130	\$7,408	\$4,486	\$4,132
\$135	\$7,709	\$5,040	\$4,599
\$140	\$8,010	\$5,623	\$5,091
\$145	\$8,311	\$6,237	\$5,606
\$150	\$8,612	\$6,881	\$6,145
\$155	\$8,913	\$7,555	\$6,708
\$160	\$9,214	\$8,259	\$7,296
\$165	\$9,516	\$8,905	\$7,907

25% "Equal Share" is reached at \$116
production at 754,300 barrels per day

1.4 Bill

1301

216 mil
407
191
216,000

225

577
191
486
300 mil
acc PPT

577
407
170

486 mil acc PPT
170 mil acc ACES