

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3288

1 whether the geological objective of the well is a potential oil or gas trap that is  
2 distinctly separate from any trap that has been tested by a preexisting well; and  
3 (ii) the commissioner of natural resources must make an affirmative  
4 determination on that question; the commissioner of natural resources shall  
5 decide whether to make that determination within 60 days after receiving all  
6 the necessary information from the explorer and based on the information  
7 received and on other information the commissioner of natural resources may  
8 consider relevant;

9 (B) for an exploration well other than a well to explore a Cook  
10 Inlet prospect, the well must be located and drilled in such a manner that the  
11 bottom hole is located not less than three miles away from the bottom hole of a  
12 preexisting well drilled for oil or gas, irrespective of whether the preexisting  
13 well has been completed, suspended, or abandoned;

14 (C) after completion, abandonment, or suspension under  
15 AS 31.05.030 of the exploration well, the commissioner of natural resources  
16 must determine that the well adequately achieved the explorer's stated  
17 geological objective.

18 \* Sec. 29. AS 43.55.025(f) is amended to read:

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

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

25 (2) an explorer shall agree, in writing,

26 (A) to notify the Department of Natural Resources, within 30  
27 days after completion of seismic or geophysical data processing, completion of  
28 [A] well drilling, or filing of a claim for credit, whichever is the latest, for  
29 which exploration costs are claimed, of the date of completion and submit a  
30 report to that department describing the processing sequence and providing a  
31 list of data sets available; [IF, UNDER (c)(2)(B) OF THIS SECTION, AN

1 EXPLORER SUBMITS A CLAIM FOR A CREDIT FOR EXPENDITURES  
2 FOR AN EXPLORATION WELL THAT IS LOCATED WITHIN THREE  
3 MILES OF A WELL ALREADY DRILLED FOR OIL AND GAS, IN  
4 ADDITION TO THE SUBMISSIONS REQUIRED UNDER (1) OF THIS  
5 SUBSECTION, THE EXPLORER SHALL SUBMIT THE INFORMATION  
6 NECESSARY FOR THE COMMISSIONER OF NATURAL RESOURCES  
7 TO EVALUATE THE VALIDITY OF THE EXPLORER'S CLAIM THAT  
8 THE WELL IS DIRECTED AT A DISTINCTLY SEPARATE  
9 EXPLORATION TARGET, AND THE COMMISSIONER OF NATURAL  
10 RESOURCES SHALL, UPON RECEIPT OF ALL EVIDENCE SUFFICIENT  
11 FOR THE COMMISSIONER TO EVALUATE THE EXPLORER'S CLAIM,  
12 MAKE THAT DETERMINATION WITHIN 60 DAYS;]

13 (B) to provide to the Department of Natural Resources, within  
14 30 days after the date of a request, unless a longer period is provided by the  
15 Department of Natural Resources, specific data sets, ancillary data, and  
16 reports identified in (A) of this paragraph; in this subparagraph,

17 (i) a seismic or geophysical data set includes the data  
18 for an entire seismic survey, irrespective of whether the survey  
19 area covers nonstate land in addition to state land or land in a unit  
20 in addition to land outside a unit;

21 (ii) well data include all derivative products, results,  
22 and copies of data collected and data analyses for the well,  
23 including well logs; sample analyses; geophysical and velocity data  
24 including vertical seismic profiles and check shot surveys; and  
25 tangible material including, for each whole core collected, a  
26 lengthwise cut slab that is at least 1/3 of the whole core volume, and  
27 representative samples, as specified by the Department of Natural  
28 Resources, of other gaseous, liquid, or solid material collected from  
29 drilling or testing the well;

30 (C) that, notwithstanding any provision of AS 38, information  
31 provided under this paragraph will be held confidential by the Department of

1 Natural Resources

2 (i) in the case of well data, until the expiration of the  
 3 24-month period of confidentiality described in AS 31.05.035(c),  
 4 the Department of Natural Resources [FOR 10 YEARS  
 5 FOLLOWING THE COMPLETION DATE, AT WHICH TIME  
 6 THAT DEPARTMENT] will release the information after 30 days'  
 7 public notice, unless in the discretion of the commissioner of natural  
 8 resources, it is necessary to protect information relating to the  
 9 valuation of unleased acreage in the same vicinity;

10 (ii) in the case of seismic or other geophysical data,  
 11 other than seismic data acquired by seismic exploration subject to  
 12 (D) of this section, for 10 years following the completion date, at  
 13 which time the Department of Natural Resources will release the  
 14 information after 30 days' public notice;

15 (iii) in the case of seismic data obtained by seismic  
 16 exploration subject to (D) of this section, only until the expiration of  
 17 30 days' public notice issued on or after the date the production tax  
 18 credit certificates are issued under (5) of this subsection; and

19 (D) that, in the case of well data, the explorer will not make  
 20 a request under AS 31.05.035(c) that the commissioner of natural  
 21 resources keep the data confidential for longer than the 24-month period  
 22 of confidentiality described in AS 31.05.035(c);

23 (3) if more than one explorer holds an interest in a well or seismic  
 24 exploration,

25 (A) each explorer may claim an amount of credit that is  
 26 proportional to the explorer's cost incurred;

27 (B) in the case of a well, each explorer holding an interest in  
 28 the well shall agree, in writing, that the explorer will not make the request  
 29 described in (2)(D) of this subsection;

30 (4) the department may exercise the full extent of its powers as though  
 31 the explorer were a taxpayer under this title, in order to verify that the claimed

1 expenditures are qualified exploration expenditures under this section; and

2 (5) if the department is satisfied that the explorer's claimed  
3 expenditures are qualified under this section and that all data required to be  
4 submitted under this section have been submitted, the department shall issue to the  
5 explorer a production tax credit certificate for the amount of credit to be allowed  
6 against production taxes levied by AS 43.55.011(e); the credit is available for  
7 immediate use; notwithstanding any contrary provision of AS 38, AS 40.25.100,  
8 or AS 43.05.230, the following information is not confidential:

9 (A) the explorer's name;

10 (B) the date of the application;

11 (C) the location of the well or seismic exploration;

12 (D) the date of the department's issuance of the certificate;

13 and

14 (E) the date on which the information required to be  
15 submitted under this section will be released [DUE UNDER  
16 AS 43.55.011(e) OR (f)].

17 \* Sec. 30. AS 43.55.025(g) is amended to read:

18 (g) An explorer, other than an entity that is exempt from taxation under  
19 this chapter, may transfer, convey, or sell its production tax credit certificate to any  
20 person, and any person who receives a production tax credit certificate may also  
21 transfer, convey, or sell the certificate.

22 \* Sec. 31. AS 43.55.025(h) is amended to read:

23 (h) A producer that purchases a production tax credit certificate may apply the  
24 credits against its production tax liability under AS 43.55.011(e) [OR (f)]. Regardless  
25 of the price the producer paid for the certificate, the producer may receive a credit  
26 against its production tax liability for the full amount of the credit, but for not more  
27 than the amount for which the certificate is issued. A production tax credit allowed  
28 under this section may not be applied more than once.

29 \* Sec. 32. AS 43.55.025(i) is repealed and reenacted to read:

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

31 (1) a credit may not be applied to reduce a taxpayer's tax liability under

1 AS 43.55.011(e) below zero for a calendar year; and

2 (2) an amount of the production tax credit in excess of the amount that  
3 may be applied for a calendar year under this subsection may be carried forward and  
4 applied against the taxpayer's tax liability under AS 43.55.011(e) in one or more later  
5 calendar years.

6 \* Sec. 33. AS 43.55.025(k) is amended by adding a new paragraph to read:

7 (4) "preexisting well" means a well that was spudded more than 540  
8 days but less than 35 years before the date on which the exploration well to which it is  
9 compared is spudded.

10 \* Sec. 34. AS 43.55.025 is amended by adding a new subsection to read:

11 (l) Subject to the terms and conditions of this section, if a claim is filed under  
12 (f)(1) of this section before January 1, 2016, a credit against the production tax levied  
13 by AS 43.55.011(e) is allowed in an amount equal to five percent of an eligible  
14 expenditure under this subsection incurred for seismic exploration performed before  
15 July 1, 2003. To be eligible under this subsection, an expenditure must

16 (1) have been for seismic exploration that

17 (A) obtained data that the commissioner of natural resources  
18 considers to be in the best interest of the state to acquire for public distribution;  
19 and

20 (B) was conducted outside the boundaries of a production unit;  
21 however, the amount of the expenditure that is otherwise eligible under this  
22 section is reduced proportionately by the portion of the seismic exploration  
23 activity that crossed into a production unit; and

24 (2) qualify under (b)(3) of this section."  
25

26 Renumber the following bill sections accordingly.  
27

28 Page 31, line 25:

29 Delete "32 - 34, and 37"

30 Insert "41 - 43, and 46"  
31

1 Page 31, line 27:

2 Delete "31, and 38"

3 Insert "31, 32, 34, 40, and 47"

4

5 Page 31, line 29:

6 Delete "Sections 26 and 27"

7 Insert "Sections 35 and 36"

8

9 Page 31, line 30:

10 Delete "sec. 26"

11 Insert "sec. 35"

12

13 Page 31, line 31:

14 Delete "sec. 27"

15 Insert "sec. 36"

16

17 Page 31, following line 31:

18 Insert a new subsection to read:

19 "(d) Sections 26 - 29 and 33 of this Act apply to exploration expenditures incurred for  
20 work performed after December 31, 2007, that are the basis of tax credits that may be claimed  
21 against taxes levied for oil and gas produced after December 31, 2007."

22

23 Reletter the following subsection accordingly.

24

25 Page 32, line 1:

26 Delete "sec. 29"

27 Insert "sec. 38"

28

29 Page 32, line 3:

30 Delete "29"

31 Insert "38"

1

2 Page 32, line 31:

3 Delete "32 - 34, and 37"

4 Insert "41 - 43, and 46"

5

6 Page 33, line 2:

7 Delete "26, 27, 31, and 38"

8 Insert "26 - 29, 31 - 34, 35, 36, 40, and 47".

9

10 Page 33, line 19, following ".":

11 Insert "(a) Section 30 of this Act is retroactive to July 1, 2003.

12 (b)"

13

14 Page 33, line 20:

15 Delete "32 - 34, and 37"

16 Insert "41 - 43, and 46"

17

18 Page 33, line 21:

19 Delete "26, 27, 31, and 38"

20 Insert "26 - 29, 31 - 34, 35, 36, 40, and 47"

21

22 Page 33, line 22:

23 Delete "sec. 44"

24 Insert "sec. 53"

AMENDMENT

7  
Roses

adopted

OFFERED IN THE HOUSE

TO: CSHB 2001(O&G)

1 Page 19, following line 26:

2 Insert a new bill section to read:

3 \*\* Sec. 27. AS 43.55.030(d) is amended to read:

4 (d) Reports required under this section [BY OR ON BEHALF OF THE  
5 PRODUCER] are delinquent the first day following the day the report is due. The  
6 person required to file the report is liable for a penalty, as determined by the  
7 department under standards adopted in regulation by the department, of not  
8 more than \$1,000 for each day the person fails to file the report at the time  
9 required. The penalty is in addition to the penalties in AS 43.05.220 and 43.05.290  
10 and is assessed, collected, and paid in the same manner as a tax deficiency under  
11 this title. In this subsection, "report" includes a statement."

12  
13 Renumber the following bill sections accordingly.

14  
15 Page 31, line 25:

16 Delete "32 - 34, and 37"

17 Insert "33 - 35, and 38"

18  
19 Page 31, line 27:

20 Delete "31, and 38"

21 Insert "32, and 39"

22  
23 Page 31, line 29:

1 Delete "27"  
2 Insert "28"  
3  
4 Page 31, line 31:  
5 Delete "sec. 27"  
6 Insert "sec. 28"  
7  
8 Page 32, line 1:  
9 Delete "sec. 29"  
10 Insert "sec. 30"  
11  
12 Page 32, line 3:  
13 Delete "29"  
14 Insert "30"  
15  
16 Page 32, line 31:  
17 Delete "32 - 34, and 37"  
18 Insert "33 - 35, and 38"  
19  
20 Page 33, line 2:  
21 Delete "27, 31, and 38"  
22 Insert "28, 32, and 39"  
23  
24 Page 33, line 20:  
25 Delete "32 - 34, and 37"  
26 Insert "33 - 35, and 38"  
27  
28 Page 33, line 21:  
29 Delete "27, 31, and 38"  
30 Insert "28, 32, and 39"  
31

- 1 Page 33, line 22:
- 2 Delete "sec. 44"
- 3 Insert "sec. 45"

AMENDMENT

8 Anna  
adepted

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

1 Page 21, line 30, following "matters":

2 Insert ":

3 (6) assess against a person required under this section to file a  
4 report, statement, or other document a penalty, as determined by the department  
5 under standards adopted in regulation by the department, of not more than  
6 \$1,000 for each day the person fails to file the report, statement, or other  
7 document at the time required; the penalty is in addition to any penalties under  
8 AS 43.05.220 and 43.05.290 and is assessed, collected, and paid in the same  
9 manner as a tax deficiency under this title; the penalty shall bear interest at the  
10 rate specified under AS 43.05.225(1); notwithstanding authority granted under  
11 AS 43.05.070 to compromise a penalty, the department may not under that  
12 section compromise a penalty under this paragraph by agreeing to accept less  
13 than 50 percent of the penalty originally assessed by the department"

AMENDMENT

10

adopted

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

BY REPRESENTATIVE SEATON  
Rep. Johnson

1 Page 26, line 14:

2 Following "negligence,"

3 Insert "criminal negligence,"

4 Following "law,":

5 Insert "including a violation of 33 U.S.C. 1319(c)(1) or 1321(b)(3) (Clean  
6 Water Act),"

7

8 Page 28, line 6, through page 29, line 1:

9 Delete all material.

10

11 Renumber the following paragraph accordingly.

Sec. 33, #6

Sec. 33, #19

Adopted

AMENDMENT //

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

BY REPRESENTATIVE SEATON  
~~Rep. Johnson~~  
~~Rep. Ruses~~  
Rep. Wilson

1 Page 26, following line 2:

2 Insert new bill sections to read:

3 \*\* Sec. 33. AS 43.55.165(b) is amended to read:

4 (b) For purposes of (a) of this section,

5 (1) direct costs include

6 (A) an expenditure, when incurred, to acquire an item if the  
7 acquisition cost is otherwise a direct cost, notwithstanding that the expenditure  
8 may be required to be capitalized rather than treated as an expense for financial  
9 accounting or federal income tax purposes;

10 (B) payments of or in lieu of property taxes, sales and use  
11 taxes, motor fuel taxes, and excise taxes;

12 (C) a reasonable allowance, as determined under regulations  
13 adopted by the department, for overhead expenses directly related to exploring  
14 for, developing, and producing oil or gas deposits located within leases or  
15 properties or other land in the state;

16 (2) an activity must be physically located in the state [DOES NOT  
17 NEED TO BE PHYSICALLY LOCATED ON, NEAR, OR WITHIN THE  
18 PREMISES OF THE LEASE OR PROPERTY WITHIN WHICH AN OIL OR GAS  
19 DEPOSIT BEING EXPLORED FOR, DEVELOPED, OR PRODUCED IS  
20 LOCATED] in order for the cost of the activity to be a cost upstream of the point of  
21 production of the oil or gas.

22 \* Sec. 34. AS 43.55.165(b), as amended by sec. 33 of this Act, is amended to read:

23 (b) For purposes of (a) of this section,

1 (1) direct costs include

2 (A) an expenditure, when incurred, to acquire an item if the  
3 acquisition cost is otherwise a direct cost, notwithstanding that the expenditure  
4 may be required to be capitalized rather than treated as an expense for financial  
5 accounting or federal income tax purposes;

6 (B) payments of or in lieu of property taxes, sales and use  
7 taxes, motor fuel taxes, and excise taxes;

8 (C) a reasonable allowance, as determined under regulations  
9 adopted by the department, for overhead expenses directly related to exploring  
10 for, developing, and producing oil or gas deposits located within leases or  
11 properties or other land in the state;

12 (2) an activity must be physically located on the premises of the lease  
13 or property from which oil or gas is recovered [IN THE STATE] in order for the  
14 cost of the activity to be a cost upstream of the point of production of the oil or gas."  
15

16 Renumber the following bill sections accordingly.

17

18 Page 31, line 25:

19 Delete "32 - 34, and 37"

20 Insert "32, 33, 35, 36, and 39"

21

22 Page 31, line 27:

23 Delete "38"

24 Insert "40"

25

26 Page 32, line 31:

27 Delete "32 - 34, and 37"

28 Insert "32, 33, 35, 36, and 39"

29

30 Page 33, line 2:

31 Delete "38"

1           Insert ' 40"

2

3   Page 33, line 20:

4           Delete "32 - 34, and 37"

5           Insert "32, 33, 35, 36, and 39"

6

7   Page 33, following line 20:

8           Insert new bill sections to read:

9           "\* Sec. 46. The uncodified law of the State of Alaska is amended by adding a new section to  
10 read:

11           CONTINGENT EFFECT. Section 34 of this Act takes effect only if a court of  
12 competent jurisdiction enters a final judgment on the merits, the final judgment is no longer  
13 subject to appeal, and the final judgment nullifies the effect of AS 43.55.165(b), as amended  
14 by sec. 33 of this Act.

15           \* Sec. 47. If sec. 34 of this Act takes effect, it takes effect on the day after the last day on  
16 which the final judgment described in sec. 46 of this Act is no longer subject to appeal."

17

18   Renumber the following bill sections accordingly.

19

20   Page 33, line 21:

21           Delete "38"

22           Insert "40"

23

24   Page 33, line 22:

25           Delete "sec. 44"

26           Insert "secs. 47 and 48"

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

November 4, 2007

Am 24

**SUBJECT:** Transportation rates as determined by AS 43.55.150  
(amendment L.74 to CSHB 2001 (O&G))

**TO:** Representative David Guttenberg  
Attn: Christian Gou-Leonhardt

**FROM:** Aipheus Bullard *AB*  
Legislative Counsel

You have requested an amendment that addressed the subject above. Your submitted draft modified both AS 43.55.1509(a) and (b). No amendment of AS 43.55.150(a) was necessitated by the amendment. Your requested changes to AS 43.55.150(b) included language that provided in relevant part:

Transportation costs fixed by tariff rates that have been adjudicated just and reasonable [PROPERLY ON FILE WITH] the Regulatory Commission of Alaska or other regulatory agency shall be considered prima facie reasonable.

It is unclear to me what this sentence means. I have not been able to contact you, so I have left this language in the draft amendment. This subsection might benefit from further clarification of your intent.

If I can be of further assistance, please do not hesitate to contact me.

ALB:lmb  
07-149.lmb

Enclosure

*Passes as amended*  
AMENDMENT 24 - *Gutterberg*

25-GH0014L.74  
Bullard/Bullock  
11/4/07

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

1 Page 23, following line 14:

2 Insert a new bill section to read:

3 **\*\* Sec. 31. AS 43.55.150(b)** is amended to read:

4 "(b) If the department finds that a condition [THE CONDITIONS] in (a)(1),  
5 (2), or [AND] (3) of this section is [ARE] present, the department shall determine the  
6 reasonable costs of transportation, using the fair market value of like transportation,  
7 the fair market value of equally efficient and available alternative modes of  
8 transportation, or other reasonable methods. Transportation costs fixed by tariff rates  
9 that have been adjudicated just and reasonable by [PROPERLY ON FILE WITH]  
10 the Regulatory Commission of Alaska or other regulatory agency shall be considered  
11 prima facie reasonable."

12  
13 Renumber the following bill sections accordingly.

14  
15 Page 31, line 25:

16 Delete "32 - 34, and 2 "

17 Insert "33 - 35, and 38"

18  
19 Page 31, line 27:

20 Delete "31, and 38"

21 Insert "32, and 39"

22  
23 Page 32, line 31:

Amendment *DB*  
insert line 3-12  
AS 43.55.150(a)

- 1 Delete "32 - 34, and 37"
- 2 Insert "33 - 35, and 38"
- 3
- 4 Page 33, line 2:
  - 5 Delete "31, and 38"
  - 6 Insert "32, and 39"
  - 7
- 8 Page 33, line 20:
  - 9 Delete "32 - 34, and 37"
  - 10 Insert "33 - 35, and 38"
  - 11
- 12 Page 33, line 21:
  - 13 Delete "31, and 38"
  - 14 Insert "32, and 39"
  - 15
- 16 Page 33, line 22:
  - 17 Delete "sec. 44"
  - 18 Insert "sec. 45"

~~Passed~~

AMENDMENT

24  
Guttenberg

OFFERED IN THE HOUSE

TO: CSHB 2001(O&G), Draft Version "L"

~~24a~~

1 Page 23, following line 14:

2 Insert new bill sections to read:

3 **\*\*Sec. 31. AS 43.55.150(a) is amended to read:**

4 (a) For the purposes of AS 43.55.011 – 43.55.180, the gross value at the point of  
5 production is calculated using the reasonable costs of transportation of the oil or gas. The  
6 reasonable costs of transportation are the actual costs, except when the

7 (1) parties to the transportation of oil or gas are affiliated;

8 (2) contract for the transportation of oil or gas (A) is not an arm's length  
9 transaction or (B) is not representative of the market value of that transportation; or  
10 [AND]

11 (3) method of transportation of oil or gas is not reasonable in view of  
12 existing alternative methods of transportation.

13 **\*Sec. 32. AS 43.55.150(b) is amended to read:**

14 (b) If the department finds that a condition [THE CONDITIONS] in (a)(1), (2),  
15 or [AND] (3) of this section is [ARE] present, the department shall determine the  
16 reasonable costs of transportation, using the fair market value of like transportation, the  
17 fair market value of equally efficient and available alternative modes of transportation, or  
18 other reasonable methods. Transportation costs fixed by tariff rates that have been

1        adjudicated just and reasonable by [PROPERLY ON FILE WITH] the Regulatory  
2        Commission of Alaska or other regulatory agency shall be considered prima facie  
3        reasonable.”

4

5        Renumber the following bill sections accordingly.

PLEASE REPLACE AMENDMENT 24 WITH THE  
ATTACHED REVISED AMENDMENT 24

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

November 4, 2007

**SUBJECT:** Transportation rates as determined by AS 43.55.150  
(amendment L.74 to CSHB 2001 (O&G))

**TO:** Representative David Guttenberg  
Attn: Christian Goerz conhardt

**FROM:** Alpheus Bullard *AB*  
Legislative Counsel

You have requested an amendment that addressed the subject above. Your submitted draft modified both AS 43.55.1509(a) and (b). No amendment of AS 43.55.150(a) was necessitated by the amendment. Your requested changes to AS 43.55.150(b) included language that provided in relevant part:

Transportation costs fixed by tariff rates that have been adjudicated just and reasonable [PROPERLY ON FILE WITH] the Regulatory Commission of Alaska or other regulatory agency shall be considered prima facie reasonable.

It is unclear to me what this sentence means. I have not been able to contact you, so I have left this language in the draft amendment. This subsection might benefit from further clarification of your intent.

If I can be of further assistance, please do not hesitate to contact me.

ALB:lmb  
07-149.lmb

Enclosure

AMENDMENT

24

OFFERED IN THE HOUSE

TO: CSHB 2001(O&G)

1 Page 23, following line 14:

2 Insert a new bill section to read:

3 "\* Sec. 31. AS 43.55.150(b) is amended to read:

4 "(b) If the department finds that a condition [THE CONDITIONS] in (a)(1),  
5 (2), or [AND] (3) of this section is [ARE] present, the department shall determine the  
6 reasonable costs of transportation, using the fair market value of like transportation,  
7 the fair market value of equally efficient and available alternative modes of  
8 transportation, or other reasonable methods. Transportation costs fixed by tariff rates  
9 that have been adjudicated just and reasonable by [PROPERLY ON FILE WITH]  
10 the Regulatory Commission of Alaska or other regulatory agency shall be considered  
11 prima facie reasonable."  
12

13 Renumber the following bill sections accordingly.

14

15 Page 31, line 25:

16 Delete "32 - 34, and 37"

17 Insert "33 - 35, and 38"

18

19 Page 31, line 27:

20 Delete "31, and 38"

21 Insert "32, and 39"

22

23 Page 32, line 31:

- 1 Delete "32 - 34, and 37"
- 2 Insert "33 - 35, and 38"
- 3
- 4 Page 33, line 2:
  - 5 Delete "31, and 38"
  - 6 Insert "32, and 39"
  - 7
- 8 Page 33, line 20:
  - 9 Delete "32 - 34, and 37"
  - 10 Insert "33 - 35, and 38"
  - 11
- 12 Page 33, line 21:
  - 13 Delete "31, and 38"
  - 14 Insert "32, and 39"
  - 15
- 16 Page 33, line 22:
  - 17 Delete "sec. 44"
  - 18 Insert "sec. 45"

Handwritten initials: GWS, K, GOR, and a large 'Y' with 'JRS' written vertically to its right.

Handwritten note: "Passed as amended" written in a large, sweeping arc over the printed word "AMENDMENT". To the right of "AMENDMENT" is the handwritten number "29".

25-GH0014\L51  
Kurtz\Bullock  
11/3/07

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

BY REPRESENTATIVE GUTTENBERG

1 Page 1, line 8, following "supervisors;":

2 Insert "establishing an oil and gas tax credit fund and authorizing payment from  
3 that fund;"

5 Page 17, line 6, following "person":

6 Insert "or obtain a cash payment under AS 43.55.028"

8 Page 17, following line 22:

9 Insert a new bill section to read:

10 "\* Sec. 24. AS 43.55.023(g) is amended to read:

11 (g) The issuance of a transferable tax credit certificate under (d) of this section  
12 or the purchase of a certificate [ISSUANCE OF A CASH REFUND] under  
13 AS 43.55.028 [(f) OF THIS SECTION] does not limit the department's ability to later  
14 audit a tax credit claim to which the certificate relates or to adjust the claim if the  
15 department determines, as a result of the audit, that the applicant was not entitled to  
16 the amount of the credit for which the certificate was issued. The tax liability of the  
17 applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is increased by the amount  
18 of the credit that exceeds that to which the applicant was entitled, or the applicant's  
19 available valid outstanding credits applicable against the tax levied by  
20 AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is increased  
21 under this subsection, the increase bears interest under AS 43.05.225 from the date the  
22 transferable tax credit certificate was issued. For purposes of this subsection, an  
23 applicant that is an explorer is considered a producer subject to the tax levied by

Handwritten notes on the right side of the page:  
- "Concept. Amend #1" and "25 million cap" written above a large circle.  
- Inside the circle, the letters "G", "S", "E", "K", "W" are arranged vertically.  
- To the right of the circle, the letters "Y", "N", "F" are written vertically.  
- Further to the right, "cap on \$25 million" is written.

1 AS 43.55.011(e)."

2  
3 Renumber the following bill sections accordingly.

4  
5 Page 18, following line 25:

6 Insert a new bill section to read:

7 **\*\* Sec. 27. AS 43.55 is amended by adding a new section to read:**

8 **Sec. 43.55.028. Oil and gas tax credit fund established; cash purchases of**  
9 **tax credit certificates.** (a) The oil and gas tax credit fund is established as a separate  
10 fund of the state. The purpose of the fund is to purchase certain transferable tax credit  
11 certificates issued under AS 43.55.023 and certain production tax credit certificates  
12 issued under AS 43.55.025.

13 (b) The oil and gas tax credit fund consists of

14 (1) money appropriated to the fund, including any appropriation of the  
15 percentage provided under (c) of this section of all revenue from taxes levied by  
16 AS 43.55.011 that is not required to be deposited in the constitutional budget reserve  
17 fund established in art. IX, sec. 17(a), Constitution of the State of Alaska; and

18 (2) earnings on the fund.

19 (c) The applicable percentage for a fiscal year under (b)(1) of this section is  
20 determined with reference to the average price or value forecast by the department for  
21 Alaska North Slope oil sold or otherwise disposed of on the United States West Coast  
22 during the fiscal year for which the appropriation of revenue from taxes levied by  
23 AS 43.55.011 is made. If that forecast is

24 (1) \$60 a barrel or higher, the applicable percentage is 10 percent;

25 (2) less than \$60 a barrel, the applicable percentage is 15 percent.

26 (d) The department shall manage the fund.

27 (e) The department may, on the written application of the person to whom a  
28 transferable tax credit certificate has been issued under AS 43.55.023(d) or a  
29 production tax credit certificate has been issued under AS 43.55.025(f), use available  
30 money in the oil and gas tax credit fund to purchase, in whole or in part, the certificate  
31 if the department finds that

1 (1) the calendar year of the purchase is not earlier than the first  
2 calendar year for which the credit shown on the certificate would otherwise be allowed  
3 to be applied against a tax;

4 (2) within 24 months after applying for the transferable tax credit  
5 certificate or filing a claim for the production tax credit certificate, the applicant  
6 incurred a qualified capital expenditure or was the successful bidder on a bid  
7 submitted for a lease on state land under AS 38.05.180(f);

8 (3) the amount expended for the purchase would not exceed the total of  
9 qualified capital expenditures and successful bids described in (2) of this subsection  
10 that have not been the subject of a finding made under this paragraph for purposes of a  
11 previous purchase of a certificate;

12 (4) the applicant does not have an outstanding liability to the state for  
13 unpaid delinquent taxes under this title;

14 (5) the applicant's total tax liability under AS 43.55.011(e), after  
15 application of all available tax credits, for the calendar year in which the application is  
16 made is zero;

17 (6) the applicant's average amount of oil and gas taxable under  
18 AS 43.55.011(e) and produced each day during the calendar year preceding the  
19 calendar year in which the application is made was not more than 50,000 BTU  
20 equivalent barrels; and

21 (7) the purchase is consistent with this section and regulations adopted  
22 under this section.

23 (f) Money in the fund remaining at the end of a fiscal year does not lapse and  
24 remains available for expenditure in successive fiscal years.

25 (g) The department may adopt regulations to carry out the purposes of this  
26 section, including standards and procedures to allocate available money among  
27 applications for purchases the total amount of which exceeds the amount of available  
28 money in the fund.

29 (h) Nothing in this section creates a dedicated fund.

30 (i) In this section, "qualified capital expenditure" has the meaning given in  
31 AS 43.55.023."

1

2 Renumber the following bill sections accordingly.

3

4 Page 31, line 25:

5 Delete "Sections 24, 25, 32 - 34, and 37"

6 Insert "Sections 25, 26, 34 - 36, and 39"

7

8 Page 31, line 27:

9 Delete "31, and 38"

10 Insert "33, and 40"

11

12 Page 31, line 29:

13 Delete "Sections 26 and 27"

14 Insert "Sections 28 and 29"

15

16 Page 31, line 30:

17 Delete "sec. 26"

18 Insert "sec. 28"

19

20 Page 31, line 31:

21 Delete "sec. 27"

22 Insert "sec. 29"

23

24 Page 32, line 1:

25 Delete "sec. 29"

26 Insert "sec. 31"

27

28 Page 32, line 3:

29 Delete "29"

30 Insert "31"

31

1 Page 32, following line 3:

2 Insert a new subsection to read:

3 "(e) Section 24 of this Act applies to transferable tax credit certificates issued  
4 under AS 43.55.023(d), as amended by sec. 23 of this Act, and to transferable tax  
5 credit certificates issued under AS 43.55.023(d), in effect before January 1, 2008, for  
6 which a cash refund has not been issued under AS 43.55.023(f) before January 1,  
7 2008."

8

9 Page 32, line 31:

10 Delete "secs. 24, 25, 32 - 34, and 37"

11 Insert "secs. 25, 26, 34 - 36, and 39"

12

13 Page 33, line 2:

14 Delete "26, 27, 31, and 38"

15 Insert "24, 27 - 29, 33, and 40"

16

17 Page 33, following line 10:

18 Insert a new bill section to read:

19 "\* Sec. 43. The uncodified law of the State of Alaska is amended by adding a new section to  
20 read:

21 TRANSITION: PENDING APPLICATIONS. If an application made under  
22 AS 43.55.023(f) is received by the Department of Revenue before January 1, 2008, and is still  
23 outstanding on that date, the application is considered to be an application under  
24 AS 43.55.028, enacted by sec. 26 of this Act."

25

26 Renumber the following bill sections accordingly.

27

28 Page 33, lines 19 - 20:

29 Delete "Sections 24, 25, 32 - 34, and 37"

30 Insert "Sections 25, 26, 34 - 36, and 39"

31

1 Page 33, line 21:

2 Delete "26, 27, 31, and 38"

3 Insert "24, 27 - 29, 33, and 40"

4

5 Page 33, line 22:

6 Delete "sec. 44"

7 Insert "sec. 47"

adopted  
E S K F J  
GA Gu W R

25-GH0014N.71  
Cook/Bullock  
11/3/07

AMENDMENT 38 Rep. Guttenberg

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

#1 Passed  
#2 Passed  
(see attached amend #1)  
" amend #2  
5/4

1 Page 1, following line 12:

2 Insert a new bill section to read:

3 **"\* Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
4 to read:

5 LEGISLATIVE INTENT. It is the intent of the legislature that provisions of this Act

6 (1) ensure a fair and equitable means of assessing and taxing Alaska's oil and  
7 gas resources;

8 (2) encourage the availability to Alaska's citizens of affordable gas produced,  
9 transported, and consumed within the state; and

10 (3) confirm by clarification the longstanding interpretation of AS 43.05.260 by  
11 the Department of Revenue through enactment of AS 43.55.075(b) in sec. 30 of this Act,  
12 relating to limitation of assessments for the production tax on oil and gas and conservation  
13 surcharges on oil."

(WS) (conceptual)  
amend #3  
Passed #3

15 Page 2, line 1:

16 Delete "Section 1"

17 Insert "Sec. 2"

18  
19 Renumber the following bill sections accordingly.

20  
21 Page 14, following line 2:

22 Insert a new subsection to read:

23

pg 1, line 14 -  
subset 4  
- if the company  
gets the credit,  
then than they have  
to pass the tax benefit  
on to their customers.

#4  
~~Conceptual~~  
amend #4  
fair enough  
1 N  
3 W  
5 W  
4 GA

1           "(q) Notwithstanding other provisions of this section, for a calendar year  
2 before 2022, the tax levied ~~under~~<sup>by</sup> this section for each 1,000 cubic feet of gas for gas  
3 produced from a lease or property outside the Cook Inlet sedimentary basin and used  
4 in the state may not exceed the amount of tax for each 1,000 cubic feet of gas that is  
5 determined under (j)(2) of this section."  
6

7 Page 23, line 24, following "AS 43.55.170;":

8           Insert "this subparagraph does not apply to gas taxable under AS 43.55.011(g);"  
9

10 Page 24, line 1, following "AS 43.55.170;":

11           Insert "this subparagraph does not apply to gas taxable under AS 43.55.011(g);"  
12

13 Page 24, following line 13:

14           Insert a new subparagraph to read:

15                           "(E) gas produced during a calendar year from a lease or  
16                           property outside the Cook Inlet sedimentary basin and used in the state is  
17                           the gross value at the point of production of that gas taxable under  
18                           AS 43.55.011(e) and produced by the producer from that lease or  
19                           property, less the producer's lease expenditures under AS 43.55.165 for  
20                           the calendar year applicable to that gas produced by the producer from  
21                           that lease or property, as adjusted under AS 43.55.170;"  
22

23 Page 24, line 22, following "AS 43.55.170;":

24           Insert "this subparagraph does not apply to gas subject to additional tax under  
25 AS 43.55.011(o);"  
26

27 Page 24, line 30, following "AS 43.55.170;":

28           Insert "this subparagraph does not apply to gas subject to additional tax under  
29 AS 43.55.011(o);"  
30

31 Page 25, line 13, following "AS 43.55.170":

1           Insert ":

2                                   (E) gas produced during a month from a lease or property  
 3                                   outside the Cook Inlet sedimentary basin and used in the state is the gross  
 4                                   value at the point of production of that gas taxable under AS 43.55.011(e)  
 5                                   and produced by the producer from that lease or property, less 1/2 of the  
 6                                   producer's lease expenditures under AS 43.55.165 for the calendar year  
 7                                   applicable to that gas produced by the producer from that lease or  
 8                                   property, as adjusted under AS 43.55.170"

9  
 10       Page 29, following line 12:

11           Insert a new bill section to read:

12       "\* Sec. 35. AS 43.55.165(h) is amended to read:

13                   "(h) The department shall adopt regulations that provide for reasonable  
 14                   methods of allocating costs between oil and gas, between gas subject to  
 15                   AS 43.55.011(q) and other gas, and between leases or properties in those  
 16                   circumstances where the determination of the lease expenditures that are applicable to  
 17                   oil or to gas, that are applicable to gas subject to AS 43.55.011(q) or to other gas,  
 18                   or that are applicable to oil and gas produced from different leases or properties,  
 19                   requires an allocation of costs."

20  
 21       Renumber the following bill sections accordingly.

22  
 23       Page 31, line 25:

24           Delete "Sections 24, 25, 32 - 34, and 37"

25           Insert "Sections 25, 26, 33, 34, 36, and 39"

26  
 27       Page 31, line 27:

28           Delete "Sections 14 - 20, 31, and 38"

29           Insert "Sections 15 - 21, 32, 35, and 40"

30  
 31       Page 31, line 29:

1 Delete "Sections 26 and 27"

2 Insert "Sections 27 and 28"

3

4 Page 31, line 30:

5 Delete "sec. 26"

6 Insert "sec. 27"

7

8 Page 31, line 31:

9 Delete "sec. 27"

10 Insert "sec. 28"

11

12 Page 32, line 1:

13 Delete "sec. 29"

14 Insert "sec. 30"

15

16 Page 32, line 3:

17 Delete "secs. 13 and 29"

18 Insert "secs. 14 and 30"

19

20 Page 32, line 13:

21 Delete "sec. 9"

22 Insert "sec. 10"

23

24 Page 32, line 16:

25 Delete "sec. 9"

26 Insert "sec. 10"

27

28 Page 32, line 19:

29 Delete "sec. 9"

30 Insert "sec. 10"

31

1 Page 32, line 31:

2 Delete "secs. 24, 25, 32 - 34, and 37"

3 Insert "secs. 25, 26, 33, 34, 36, and 39"

4

5 Page 33, line 2:

6 Delete "secs. 14 - 20, 26, 27, 31, and 38"

7 Insert "secs. 15 - 21, 27, 28, 32, 35, and 40"

8

9 Page 33, lines 19 - 20:

10 Delete "Sections 24, 25, 32 - 34, and 37"

11 Insert "Sections 25, 26, 33, 34, 36, and 38"

12

13 Page 33, line 21:

14 Delete "Sections 14 - 20, 26, 27, 31, and 38"

15 Insert "Sections 15 - 21, 27, 28, 32, 35, and 40"

16

17 Page 33, line 22:

18 Delete "sec. 44"

19 Insert "sec. 46"

#1  
AMENDMENT

to Amendment #38  
*Accepted*

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: AMENDMENT NO. 38 TO CSHB 2001(O&G), Draft Version "L"

1 Page 1, line 21:

2 Insert "Page 13, line 23, through page 14, line 2:

3 Delete all material"

4

5 Page 2, line 7:

6 Insert "For purposes of this section, "used in the state" means delivered for  
7 consumption as fuel in the state, including as fuel consumed to generate electricity."

*Pg 13-*

AMENDMENT #2 to Amendment #38

OFFERED IN HOUSE

BY REPRESENTATIVE SEATON

TO: AMENDMENT NO. 38 CSHB 2001(O&G), Draft Version "L"

- 1 Page 2, line 2:
- 2 Delete, "under"
- 3 Insert, "by (e) and (o) of"

*under this section -  
Royalty gas*

AMENDMENT #4 TO AMENDMENT #38

Offered by REPRESENTATIVE FAIRCLOUGH

The RCA shall determine if an entity that receives gas that is taxed, for production tax purposes, under the provisions of 43.55.011 (p) falls under their jurisdiction.

new (r)  
or additional  
sentence  
Pg. 2, line 6  
- new subsection (r)  
- reference to (p) section  
to (g)

Adopted  
 amend #1 - adopted  
 amend #2 - adopted  
 amend #3 - failed  
 amend #4 - adopted

|     |    |
|-----|----|
| (Y) | N  |
| K   | R  |
| S   | Gu |
| Ga  | E  |
|     | F  |
|     | W  |
|     | J  |

25-GH0014V.68  
 Wayne/Bullock  
 11/3/07

AMENDMENT 4/3 Rep. Edgmon

OFFERED IN THE HOUSE  
 TO: CSHB 2001(O&G)

Adopted amendment #1  
 DELETE LINE 16, after "located" thru  
 LINE 17, "property"  
~~amendment #2  
 Line 8, delete ", after relations"~~

1 Page 26, lines 17 - 19:

2 Delete

3 "(8) costs of arbitration, litigation, or other dispute resolution activities  
 4 that involve the state or concern the rights or obligations among owners of interests in,  
 5 or rights to production from, one or more leases or properties or a unit;"

6 Insert

7 "(8) costs of arbitration, litigation, [OR OTHER] dispute resolution,  
 8 lobbying, public relations, advertising, or policy advocacy [ACTIVITIES THAT  
 9 INVOLVE THE STATE OR CONCERN THE RIGHTS OR OBLIGATIONS  
 10 AMONG OWNERS OF INTERESTS IN, OR RIGHTS TO PRODUCTION FROM,  
 11 ONE OR MORE LEASES OR PROPERTIES OR A UNIT];"

13 Page 29, line 12, following "processed":

14 Insert ";

15 (21) costs relating to office buildings, fixtures and equipment, and  
 16 real property that is not located on an oil or gas exploration, production, or  
 17 development lease or property in the state; and

18 (22) overhead, office, or administrative expenses and all other  
 19 indirect costs of oil or gas exploration, development, or production"

amendment #2 Adopted  
 Line 8, delete ", after  
 "relations"

amendment #4 Adopted  
 Delete Lines 18-19

~~amendment #3  
 delete lines 12-19~~

|   |    |
|---|----|
| Y | N  |
| R | Gu |
| F | E  |
| W | K  |
| J | Ga |

*Y N*  
*S Gu*  
*Go R*  
*E J*  
*F R*  
*W*  
*Adopted*

AMENDMENT

44

Rep. Gatto

OFFERED IN THE HOUSE  
TO: CSHB 2001(O&G)

W Amendment #1  
*adopted*

1 Page 10, following line 25:  
2 Insert a new bill section to read:

3 "\* Sec. 14. AS 43.55.011(e) is amended to read:

4 (e) There is levied on the producer of oil or gas a tax for all oil and gas  
5 produced each ~~month~~ <sup>calendar year</sup> from each lease or property in the state, less any oil and gas the  
6 ownership or right to which is exempt from taxation or constitutes a landowner's  
7 royalty interest. Except as otherwise provided under (j) and (k) of this section, the tax  
8 is equal to the greater of 25 [22.5] percent of the <sup>annual</sup> production tax value of the taxable  
9 oil and gas as calculated under AS 43.55.160, or the minimum tax determined under  
10 (f) of this section."

11 Renumber the following bill sections accordingly.

12 Page 14, line 21:  
13 Delete "22.5"  
14 Insert "25 [22.5]"

*Conceptual*  
*Roses*  
~~Amendment #2~~  
~~of progress 25~~  
~~no progress 22.5~~

15 Renumber internal references to bill sections in accordance with this amendment in a way that  
16 makes sec. 14 effective January 1, 2008, and adds sec. 14 to (b) of the APPLICABILITY  
17 section and to (1)(B) of the TRANSITION: RETROACTIVITY OF REGULATIONS section.

18 Below are all internal bill section reference in this bill:

- 19 Page 31, lines 25, 27, 29, 30, and 31
- 20 Page 32, lines 1, 3, 13, 16, 19, and 31

1

Page 33, lines 2, 19 - 20, 21, and 22

L

*adopted*

11/4/07

*Amendment I*  
to  
AMENDMENT *44*

OFFERED IN THE HOUSE

BY REPRESENTATIVE *Gatto*

TO: AMENDMENT NO. 44 TO CSHB 2001(O&G), Draft Version "L"

- 1 Page 1, line 5, following "produced each":
- 2 Delete "month"
- 3 Insert "calendar year"
- 4
- 5 Page 1, line 8, following "percent of the"
- 6 Insert "annual"

HB 20001 (O+G)

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSHB2001(O&G)  
( ) Publish Date: \_\_\_\_\_

Identifier (file name): CSHB2001(O&G)-DOR-TAX-10-29-07 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: House Resources Component Number: 2476

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

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

|                               | Appropriation<br>Required | Information    |                |                |                |                |                |                |
|-------------------------------|---------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
|                               |                           | FY 2009        | FY 2009        | FY 2010        | FY 2011        | FY 2012        | FY 2013        | FY 2014        |
| <b>OPERATING EXPENDITURES</b> |                           |                |                |                |                |                |                |                |
| Personal Services             | 1,215.7                   | 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                 |                           |                |                |                |                |                |                |                |
| <b>TOTAL OPERATING</b>        | <b>2,234.1</b>            | <b>2,234.1</b> | <b>2,234.1</b> | <b>1,727.5</b> | <b>1,220.9</b> | <b>1,220.9</b> | <b>1,220.9</b> | <b>1,220.9</b> |

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

|                               |  |                  |                  |                  |                  |                  |                  |
|-------------------------------|--|------------------|------------------|------------------|------------------|------------------|------------------|
| <b>CHANGE IN REVENUES ( )</b> |  | <b>227,000.0</b> | <b>161,000.0</b> | <b>251,000.0</b> | <b>459,000.0</b> | <b>487,000.0</b> | <b>337,000.0</b> |
|-------------------------------|--|------------------|------------------|------------------|------------------|------------------|------------------|

**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 |                |                |                |                |                |                |              |  |
| <b>TOTAL</b>               | <b>2,234.1</b> | <b>2,234.1</b> | <b>2,234.1</b> | <b>1,727.5</b> | <b>1,220.9</b> | <b>1,220.9</b> | <b>645.9</b> |  |

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 two 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: First, it calculates the progressivity surcharge as the difference between the per barrel gross revenue at the point of production and \$50, 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.

Prepared by: Johanna Bales, Roger Marks, Cherie Nienhuis  
Division: Tax Division  
Approved by: Jerry Burnett  
Department of Revenue

Phone: 269-6628  
Date/Time: 10/29/07 9:00 AM  
Date: 10/29/2007

## FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

BILL NO. CSHB2001(O&G)

### ANALYSIS CONTINUATION

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 expenditures; requires taxpayers to provide cost projections to allow the state to better forecast state revenues and pursue changes in reported costs; authorizes public reporting of some cost data; authorizes a short-term audit program; and designates an exempt class of oil and gas auditors.

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. CSHB2001(O&G)

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 (O&G) | Increase or (Decrease) from PPT |
|-------------|--|---|------------------|----------------|---------------------------------|
| 2008        | 71.65                                  | 71.65                                     | 1,915            | 2,007          | 92                              |
| 2009        | 64.55                                  | 66.30                                     | 1,693            | 1,920          | 227                             |
| 2010        | 60.05                                  | 63.40                                     | 1,531            | 1,693          | 161                             |
| 2011        | 59.70                                  | 64.75                                     | 1,670            | 1,920          | 251                             |
| 2012        | 59.55                                  | 66.35                                     | 1,746            | 2,205          | 459                             |
| 2013        | 58.90                                  | 67.45                                     | 1,647            | 2,134          | 487                             |
| 2014        | 58.25                                  | 68.55                                     | 1,642            | 1,979          | 337                             |

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 (O&G) | Increase or (Decrease) from PPT |
|-------------|--|---|------------------|----------------|---------------------------------|
| 2008        | 60.00                                  | 60.00                                     | 1,051            | 1,088          | 38                              |
| 2009        | 60.00                                  | 61.65                                     | 1,435            | 1,575          | 141                             |
| 2010        | 60.00                                  | 63.35                                     | 1,562            | 1,717          | 155                             |
| 2011        | 60.00                                  | 65.09                                     | 1,695            | 1,951          | 256                             |
| 2012        | 60.00                                  | 66.88                                     | 1,783            | 2,253          | 470                             |
| 2013        | 60.00                                  | 68.72                                     | 1,733            | 2,248          | 515                             |
| 2014        | 60.00                                  | 70.61                                     | 1,776            | 2,160          | 384                             |

*\$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 (O&G) | Increase or (Decrease) from PPT |
|-------------|--|---|------------------|----------------|---------------------------------|
| 2008        | 80.00                                  | 80.00                                     | 2,650            | 2,777          | 127                             |
| 2009        | 80.00                                  | 82.20                                     | 3,031            | 3,465          | 434                             |
| 2010        | 80.00                                  | 84.46                                     | 3,266            | 3,730          | 464                             |
| 2011        | 80.00                                  | 86.78                                     | 3,481            | 4,090          | 609                             |
| 2012        | 80.00                                  | 89.17                                     | 3,668            | 4,513          | 845                             |
| 2013        | 80.00                                  | 91.62                                     | 3,619            | 4,526          | 906                             |
| 2014        | 80.00                                  | 94.14                                     | 3,690            | 4,494          | 805                             |

HB 2001

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: HB 2001  
(H) Publish Date: 10/18/07

Identifier (file name): LL 08-0014-DOA-DAS-10-17-07 Dept. Affected: Administration  
Title: An Act relating to the production tax on oil and gas... RDU: Centralized Admin. Services  
Sponsor: Governor Component: Office of the Commissioner  
Requester: \_\_\_\_\_ Component Number: 45

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

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

|                               | Appropriation<br>Required | Information |            |            |            |            |            |            |
|-------------------------------|---------------------------|-------------|------------|------------|------------|------------|------------|------------|
|                               |                           | FY 2009     | FY 2009    | FY 2010    | FY 2011    | FY 2012    | FY 2013    | FY 2014    |
| <b>OPERATING EXPENDITURES</b> |                           |             |            |            |            |            |            |            |
| 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>0.0</b> | <b>0.0</b> |
| <b>CAPITAL EXPENDITURES</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>0.0</b> | <b>0.0</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 Interagency Receipts |            |            |            |            |            |            |            |            |
| <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> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

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

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

This legislation has no fiscal impact on the Department of Administration.

Prepared by: Eric Swanson Phone 465-5655  
Division: Administrative Services Date/Time: \_\_\_\_\_  
Approved by: Annette Kreitzer Date Oct. 12, 2007  
Commissioner

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: HB 2001  
(H) Publish Date: 10/18/07

Identifier (file name): #773-08-0014-DNR-10-17-07 Dept. Affected: Natural Resources  
Title: ACES RDU: Resource Development  
Component: Oil and Gas Development  
Sponsor: Rules Committee  
Requester: Governor Component Number: 439

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

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

|                               | Appropriation Required |            | Information  |              |              |              |              |
|-------------------------------|------------------------|------------|--------------|--------------|--------------|--------------|--------------|
|                               | FY 2009                | FY 2009    | FY 2010      | FY 2011      | FY 2012      | FY 2013      | FY 2014      |
| <b>OPERATING EXPENDITURES</b> |                        |            |              |              |              |              |              |
| Personal Services             | 303.5                  | 0.0        | 303.5        | 303.5        | 303.5        | 303.5        | 303.5        |
| Travel                        |                        |            |              |              |              |              |              |
| Contractual                   |                        |            |              |              |              |              |              |
| Supplies                      |                        |            |              |              |              |              |              |
| Equipment                     |                        |            |              |              |              |              |              |
| Land & Structures             |                        |            |              |              |              |              |              |
| Grants & Claims               |                        |            |              |              |              |              |              |
| Miscellaneous                 |                        |            |              |              |              |              |              |
| <b>TOTAL OPERATING</b>        | <b>303.5</b>           | <b>0.0</b> | <b>303.5</b> | <b>303.5</b> | <b>303.5</b> | <b>303.5</b> | <b>303.5</b> |

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

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

**FUND SOURCE** (Thousands of Dollars)

|                            | FY 2009      | FY 2009    | FY 2010      | FY 2011      | FY 2012      | FY 2013      | FY 2014      |
|----------------------------|--------------|------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts      |              |            |              |              |              |              |              |
| 1003 GF Match              |              |            |              |              |              |              |              |
| 1004 GF                    | 303.5        | 0.0        | 303.5        | 303.5        | 303.5        | 303.5        | 303.5        |
| 1005 GF/Program Receipts   |              |            |              |              |              |              |              |
| 1037 GF/Mental Health      |              |            |              |              |              |              |              |
| Other Interagency Receipts |              |            |              |              |              |              |              |
| <b>TOTAL</b>               | <b>303.5</b> | <b>0.0</b> | <b>303.5</b> | <b>303.5</b> | <b>303.5</b> | <b>303.5</b> | <b>303.5</b> |

Estimate of any current year (FY2008) cost: 177.0

**POSITIONS**

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

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

This bill would amend the oil and gas production tax under AS 43.55 to increase the base tax rate from 22.5% to 25% of net income and have the index-based progressive tax apply when net income per barrel exceeded \$30 rather than the current \$40 per barrel. In addition, this bill would change the minimum tax that currently applies to taxable income generated from North Slope fields, and which, for ANS West Coast prices above \$25 per barrel, is now 4% of gross receipts at the lease boundary. The bill would increase the minimum tax rate to 10 percent gross, but apply this minimum tax only to large North Slope legacy units (Prudhoe Bay Unit and the Kuparuk River Unit). This minimum tax would also prevent these legacy field owners from using credits or deductions generated at these fields to lower their tax burden elsewhere when the minimum tax applies. In addition, the bill allows for tax credits on future work rather than previous work and expands the current exploration incentive credit program to include as many wells that can be drilled in two drilling seasons. It also restricts capital expense deductions to scheduled maintenance and would implement audit and information sharing provisions.

Prepared by: Kevin Banks, Acting Director Phone: 269-8800  
Division: Oil and Gas Date/Time: 10/17/2007  
Approved by: Tom Irwin, Commissioner Date: 10/17/2007  
Natural Resources

FISCAL NOTE #2

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

BILL NO. HB 2001

ANALYSIS CONTINUATION

**\*\*Indeterminate Positive:** The royalty revenue impact to the State of ACES is indeterminate, but most likely positive. ACES improves the economics for new entrants or small Alaska producers, but decreases the attractiveness of investments in legacy fields.

Improvement in new entrant/small producer economics: ACES improves the economics of investing in Alaska for new entrants and small Alaska producers, an improvement that should lead to more investment and resulting royalty revenue. For new entrants and small producers, capital spent to find and develop oil or gas resources will generate a carried-forward annual loss credit of 25 percent rather than the current 20 percent AS 43.055.023(b).

Also, for new entrants and small Alaska producers, the transferable credits (the carried-forward annual loss credit and the 20 percent qualified expenditure credit (AS 43.55.023(a)) will be worth more under ACES. Small producers have indicated that they have been unable to sell their credits to larger tax payers. Under AS 43.55.028, ACES establishes an oil and gas tax credit fund that will help ensure these new and small producers will receive full value for these transferable credits.

Without the fund, the small producer or new entrant may have to carry-forward their credits until they have tax liability. By providing full value up-front for these credits, ACES improves the internal rate of return (IRR) by three to six percent at \$40 per barrel ANS WC.

As a partial offset to this incentive, ACES increases the tax rate from 22.5 to 25.0 percent; has the progressive, index-based, rate kicking in at a lower level; and has credits being spread over two years rather than one. However, on balance, ACES will improve new project economics for new entrants and small Alaska producers.

Decrease in attractiveness of investments in legacy fields: ACES will decrease the attractiveness of investments made by larger, existing producers for three reasons: the higher tax rate, the elimination of the Transition Investment Expenditure (TIE) credit, and the 10 percent minimum tax on legacy fields.

First, ACES increases the tax rate from 22.5 percent to 25.0 percent. In addition, the progressive, index-based rate will start at a lower (\$30) net value per barrel, but escalate at a lower rate (0.20 percent rather than 0.25 percent). Second, by eliminating the TIE credit, new capital spending by existing producers will no longer increase the ability of those producers to take the TIE credit by 10 percent of the capital invested. Third, at lower prices (prices far below where they are today) the minimum 10 percent gross tax applies, lowering or postponing the ability to take the capital expenditure credits. The floor also could eliminate the ability to use deductions generated by new spending to decrease tax liability. If the producers in these legacy fields (Prudhoe Bay Unit and Kuparuk River Unit) believe there is a good chance that prices will decline or costs will increase to the point where the floor applies, they might invest less in additional reserves in these legacy fields.

If these measures (the higher rate, the TIE credit elimination, and the 10 percent floor) cause less investment by existing producers to add reserves, the State will receive less in royalty.

Personal Services: Sections 10 and 67 would reclassify the current oil and gas auditors to exempt status employees. DO&G currently has seven oil and gas auditor positions. The total salary/benefit costs for those seven employees currently equals approximately \$849,147. An increase to exempt status is estimated to cost up to an additional \$303,500 in FY09. The FY08 amount of \$177,000 covers an estimated 7-months at the higher rate.

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: HB 2001  
(H) Publish Date: 10/18/07

Identifier (file name): LL 08-0014-DOR-TAX-10-17-07 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: 2476

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

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

|                               | Appropriation<br>Required | Information      |                  |                  |                  |                  |                  |                |
|-------------------------------|---------------------------|------------------|------------------|------------------|------------------|------------------|------------------|----------------|
|                               |                           | FY 2009          | FY 2009          | FY 2010          | FY 2011          | FY 2012          | FY 2013          | FY 2014        |
| <b>OPERATING EXPENDITURES</b> |                           |                  |                  |                  |                  |                  |                  |                |
| Personal Services             | 1,215.7                   | 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                 |                           |                  |                  |                  |                  |                  |                  |                |
| <b>TOTAL OPERATING</b>        | <b>2,234.1</b>            | <b>2,234.1</b>   | <b>2,234.1</b>   | <b>1,727.5</b>   | <b>1,220.9</b>   | <b>1,220.9</b>   | <b>1,220.9</b>   | <b>1,220.9</b> |
| <b>CAPITAL EXPENDITURES</b>   |                           |                  |                  |                  |                  |                  |                  |                |
| <b>CHANGE IN REVENUES ( )</b> |                           | <b>675,000.0</b> | <b>603,000.0</b> | <b>589,000.0</b> | <b>624,000.0</b> | <b>597,000.0</b> | <b>416,000.0</b> |                |

**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 |                |                |                |                |                |                |              |  |
| <b>TOTAL</b>               | <b>2,234.1</b> | <b>2,234.1</b> | <b>2,234.1</b> | <b>1,727.5</b> | <b>1,220.9</b> | <b>1,220.9</b> | <b>645.9</b> |  |

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 significant changes to the state's current petroleum profits tax. The tax proposal, also known as the Clear and Equitable Share (ACES) plan, like the current tax system, taxes the net value of petroleum resources. The ACES proposal makes the following changes to the tax system: raises the tax rate to 25% on net profits of oil and gas production subject to a 10% floor on legacy fields; adjusts the progressive tax feature to trigger at \$30 net value (annual) and rise at two-tenths of a percent per dollar; eliminates the transitional investment expenditures "TIE" credits; requires that capital costs be taken as credits over two years, rather than immediately; addresses the "corrosion" expense issue; excludes dismantlement, removal & restoration (DR&R) costs from allowable expenditures; expands exploration incentive credit program to cover two field seasons; requires taxpayers to provide cost projections to allow the state to better forecast state revenues and pursue changes in reported costs; authorizes public reporting of some cost data; authorizes a short-term audit program; and designates an exempt class of oil and gas auditors.

Prepared by: Cherie Nienhuis, Roger Marks, Johanna Bales  
Division: Tax Division  
Approved by: Jerry Burnett  
Department of Revenue

Phone: 269-6628  
Date/Time: 10/17/07 12:00 AM  
Date: 10/17/2007

### FISCAL NOTE #3

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

BILL NO. HB 2001

#### ANALYSIS CONTINUATION

The tax proposal would also authorize a fund to be established for the purpose of purchasing tax credit certificates. The fund would receive 10% - 15% of total production tax revenues annually (roughly \$150 million to \$300 million); up to \$250 million of fund revenues would be paid to purchase credits in any given year.

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 #3

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

BILL NO. HB 2001

ANALYSIS CONTINUATION

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

*Fall 2007 DOR Official Forecast Prices*

| Fiscal Year | ANS WC \$ per<br>barrel (in REAL<br>dollars) | ANS WC \$<br>per barrel (in<br>NOMINAL<br>dollars) | Status Quo -<br>PPT | ACES  | Increase or<br>(Decrease)<br>from PPT |
|-------------|--|--|---------------------|-------|---------------------------------------|
| 2008        | 71.65  | 71.65  | 1,915               | 2,330 | 415                                   |
| 2009        | 64.55  | 66.30  | 1,693               | 2,369 | 675                                   |
| 2010        | 60.05  | 63.40  | 1,531               | 2,134 | 603                                   |
| 2011        | 59.70  | 64.75  | 1,670               | 2,258 | 589                                   |
| 2012        | 59.55  | 66.35  | 1,746               | 2,370 | 624                                   |
| 2013        | 58.90  | 67.45  | 1,647               | 2,244 | 597                                   |
| 2014        | 58.25  | 68.55  | 1,642               | 2,058 | 416                                   |

DOR Forecast nominal prices rounded to the nearest \$0.05

*\$60 per barrel in REAL dollars*

| Fiscal Year | ANS WC \$ per<br>barrel (in REAL<br>dollars) | ANS WC \$<br>per barrel (in<br>NOMINAL<br>dollars) | Status Quo -<br>PPT | ACES  | Increase or<br>(Decrease)<br>from PPT |
|-------------|--|--|---------------------|-------|---------------------------------------|
| 2008        | 60.00  | 60.00  | 1,051               | 1,421 | 371                                   |
| 2009        | 60.00  | 61.65  | 1,435               | 1,977 | 542                                   |
| 2010        | 60.00  | 63.35  | 1,562               | 2,170 | 608                                   |
| 2011        | 60.00  | 65.09  | 1,695               | 2,291 | 596                                   |
| 2012        | 60.00  | 66.88  | 1,783               | 2,414 | 631                                   |
| 2013        | 60.00  | 68.72  | 1,733               | 2,347 | 614                                   |
| 2014        | 60.00  | 70.61  | 1,776               | 2,218 | 442                                   |

*\$80 per barrel in REAL dollars*

| Fiscal Year | ANS WC \$ per<br>barrel (in REAL<br>dollars) | ANS WC \$<br>per barrel (in<br>NOMINAL<br>dollars) | Status Quo -<br>PPT | ACES  | Increase or<br>(Decrease)<br>from PPT |
|-------------|--|--|---------------------|-------|---------------------------------------|
| 2008        | 80.00  | 80.00  | 2,650               | 3,089 | 438                                   |
| 2009        | 80.00  | 82.20  | 3,031               | 3,717 | 686                                   |
| 2010        | 80.00  | 84.46  | 3,266               | 3,998 | 722                                   |
| 2011        | 80.00  | 86.78  | 3,481               | 4,189 | 708                                   |
| 2012        | 80.00  | 89.17  | 3,668               | 4,404 | 736                                   |
| 2013        | 80.00  | 91.62  | 3,619               | 4,327 | 708                                   |
| 2014        | 80.00  | 94.14  | 3,690               | 4,204 | 514                                   |

# PUBLIC TESTIMONY

**Alaska Trucking Association, Inc.**

3443 Minnesota Drive · Anchorage, Alaska 99503 · Phone (907) 276-1149 · Fax (907) 274-1946  
[www.aktrucks.org](http://www.aktrucks.org)

*The authoritative voice of the trucking industry in Alaska*

---

November 8, 2007

**SB2001 Oil Tax Issues (PPT)  
Senate and House Finance Committees**

The Alaska Trucking Association is a state wide organization representing trucking interests from Barrow to Ketchikan. In 2008, our association celebrates its 50<sup>th</sup> Anniversary of serving the interests of the trucking industry in Alaska. Our more than 200 member companies represent all of the diverse trucking operations in the state along with many associate members who provide goods and services to our industry. It is important to note that, in Alaska, trucking employs over 20,000 people - 1 out of 14 members of the Alaska workforce. Trucking payrolls total over \$900 million annually. Trucking consists of several thousand family owned and corporate trucking businesses, most of which have fewer than 10 employees.

On behalf of the ATA, I wish to submit the following comments for the record.

It has been said many times that, in developing our natural resources, our constitution requires that we seek maximum return to the citizens of Alaska. While it seems that the emphasis has been on raising taxes to increase tax revenue to the state, we believe that the better way to maximize benefits to Alaskans is to provide good paying, long term jobs for this and future generations.

The State needs to focus on how to slow the decline of production. To accomplish that objective, investments need to continue in existing fields, investments need to be made in heavy oil and investments need to



*If you got it, a truck brought it...*

**Alaska Trucking Association, Inc.**

3443 Minnesota Drive · Anchorage, Alaska 99503 · Phone (907) 278-1149 · Fax (907) 274-1946  
[www.aktrucks.org](http://www.aktrucks.org)

*The authoritative voice of the trucking industry in Alaska*

be made to promote the development of new fields. Existing field development should be the first priority. Most of the new production, in recent years, has occurred in existing fields. Without this base production, heavy oil and other new field development will face major additional challenges.

The oil and gas business is capital intensive and it takes many years for return on investments to occur. Increases to taxes lengthen that recovery time and can negatively impact project economics and investment decisions.

We believe that it is important in setting tax policy to produce adequate revenues for the state but more importantly, encourage further investment in the development of our abundant resources.

We urge you keep the tax rate low and use incentives to encourage increased development investment. As stated earlier, we believe that the better way to maximize benefits to Alaskans is to provide good paying, long term jobs for this and future generations. Investment, not taxes, will provide the jobs we need to ensure our future.

Sincerely,



Aves Thompson  
Executive Director



*If you got it, a truck brought it...*

**Tom Lakosh**

---

**From:** Tom Lakosh [lakosh@gci.net]  
**Sent:** Wednesday, November 07, 2007 2:40 PM  
**To:** 'Bill Stoltz'; 'Bill Thomas'; 'Kevin Meyer'; 'Mary Nelson'; 'Mike Hawker'; 'Mike Kelly'; 'Reggie Joule'; Rep\_Harry\_Crawford@legis.state.ak.us; Rep\_Les\_Gara@legis.state.ak.us; Rep\_Mike\_Chenault@legis.state.ak.us; 'Richard Foster'  
**Cc:** 'sharon\_kelty@legis.state.ak.us'  
**Subject:** Requested amendment

Dear Chairman Chenault and Committee Members;

In attempting to arrange concurrent testimony before House and Senate Finance Committees tomorrow night, I began a discussion of my concerns with the Chairman's staff and she asked that I send my recommended amendments to the entire committee ASAP. I am still preparing my testimony that will in part petition the committee to amend CS HB 2001 (RES) with the prayer for relief embodied in the proposed addition of AS 43.55.011(q), (or something close with the same intent). There is some language that isn't necessary relief, AS 43.55.011(q)(5), but it follows the generally accepted proposition that capex has a higher correlation to the barrels produced than opex. You will find the Due Diligence section from the standard oil and gas lease and argument below the proposed new section 20. I am also including a proposed amendment to AS 38.05.180(q) but this is only provided to show the enhanced ADNR role flowing from the necessary amendment to Sec 20.

**25-GH0014V CS FOR HOUSE BILL NO. 2001(RES)**

\* new Sec. 20. AS 43.55.011 is amended by adding new subsections to read:

(o) In addition to the tax levied under (e) of this section, for each month for which the producer's average monthly production tax value of the taxable oil and gas exceeds \$30 for each BTU equivalent barrel, there is levied on the producer of oil or gas a tax for all oil and gas produced that month from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under (j) and (k) of this section, the tax levied under this subsection is equal to the sum over all months of the calendar year of the amount calculated under this subsection. For each month for which this subsection applies and for which the average monthly production tax value of the taxable oil and gas is

(1) not more than \$40 for each BTU equivalent barrel, the tax is equal to 0.2 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for

each BTU equivalent barrel of the taxable oil and gas for that month and \$30;

(2) more than \$40 but not more than \$50 for each BTU equivalent barrel, the tax is equal to two percent of the gross value at the point of production of the taxable oil and gas for that month plus 0.3 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for each BTU equivalent barrel of the taxable oil and gas for that month and \$40;

(3) more than \$50 but not more than \$60 for each BTU equivalent barrel, the tax is equal to five percent of the gross value at the point of production of the taxable oil and gas for that month plus 0.4 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for each BTU equivalent barrel of the taxable oil and gas for that month and \$50; or

(4) more than \$60 for each BTU equivalent barrel, the tax is equal to nine percent of the gross value at the point of production of the taxable oil and gas for that month plus 0.5 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for each BTU equivalent barrel of the taxable oil and gas for that month and \$60.

(p) Notwithstanding other provisions of this section, for a calendar year before 2022, the tax levied under (c) and (d) of this section for each 1,000 cubic feet of gas for gas produced from a lease or property outside the Cook Inlet sedimentary basin and used in the state may not exceed the

amount of tax for each 1,000 cubic feet of gas that is determined under (j) (2) of this section.

(q) All tax deductions and tax credits allowable to an oil and gas lessee pursuant to the provisions of AS 38.05.180(1), AS 41.09.010, AS 43.20.043 and 43.55.11-.170 shall not be applied for or transferred by a lessee nor approved by the Alaska Department of Revenue unless:

(1) the lessee has fully satisfied the due diligence requirements of its lease to the extent that it has reinvested all windfall profits above the allowable "reasonable profits", as set forth in their lease and determined by the Commissioner of the Alaska Department of Natural Resources, into drilling, producing, and operating wells on the leased area, and;

(2) the plan of operations approved by the Commissioner of the Alaska Department of Natural Resources pursuant to AS 38.05.180 et. seq. and subject to the pool rules promulgated by the Alaska Oil and Gas Conservation Committee requires expenditures in addition to the amounts dedicated to this purpose in (1) of this subsection, and;

(3) all windfall profits, as described in (1) of this subsection, derived by lessee over the lifetime of the lease are used to offset any and all deductions and credits that have been previously granted or may accrue, and;

(4) the tax deductions and tax credits are claimed by lessee to supplement its due diligence requirements only to the extent that such deductions or credits are necessary to timely complete the plan of operations described in (2) of this subsection.

(5) The allowable tax deductions and tax credits are claimed as necessary in the following progressive order: capital expenditure deductions; capital expenditure credits; operating expense deductions.

The relevant standard lease section requiring due diligence is copied below:

**13. DILIGENCE AND PREVENTION OF WASTE.** (a) The lessee shall exercise reasonable diligence in drilling, producing, and operating wells on the leased area unless consent to suspend operations temporarily is granted by the state.

(b) Upon discovery of oil or gas on the leased area in quantities that would appear a reasonable and prudent operator to be sufficient to recover ordinary costs of drilling, completing, and producing an additional well in the same geologic structure at another location with a reasonable profit to the operator, the lessee must drill those wells as a reasonable and prudent operator would drill, having due regard for the interest of the state as well as the interest of the lessee.

(c) The lessee shall perform all operations under this lease in a good and workmanlike manner in accordance with the methods and practices set out in the approved plan of operations and plan of development, with due regard for the prevention of waste of oil, gas, and associated substances and the entrance of water to the oil and gas bearing sands or strata to the destruction or

injury of those sands or strata, and to the preservation and conservation of the property for future productive operations. The lessee shall carry out at the lessee's expense all orders and requirements of the State of Alaska relative to the prevention of waste and to the preservation of the leased area. If the lessee fails to carry out these orders, the state will have the right, together with any other available legal recourse, to

enter the leased area to repair damage or prevent waste at the lessee's expense.

(d) The lessee shall securely plug in an approved manner any well before abandoning it.

**Argument:**

Given this mandated use of all of the lessees' windfall profit beyond a reasonable profit for drilling, completing and producing wells in the interest of the state as set forth in 13(b), there's a dedicated use of the windfall margin:

1. That cannot be refunded with a tax deduction or credit because the state's interest requires the full payment of these costs by lessee under contract
2. where the approved plan of operations does not use up this full windfall margin, the additional state investment detracts from the best interest of the state by incentivizing operations that are already paid for and that would induce investment beyond that of a prudent operator
3. and only if the plan of operations requires more than entire windfall profits available is the best interest of the state advanced by deductions and credits, but only to the extent that such subsidy is required to timely complete the plan of operations .

These facts necessarily establish the credit as a prohibited impairment of the contract.

**Amendments to 38.05.180(q) in red**

(q) A plan authorized by (l.) or (p) of this section, which includes land owned by the state, may contain a provision vesting the commissioner, or a person, committee, or state agency, with authority to modify from time to time the rate of prospecting and development and the quantity and rate of production under the plan to maximize the benefit to the state considering the long term production of all hydrocarbons on such leases or units and as otherwise necessary for most effective utilization of all regional resources. All leases operated under a plan approved or prescribed by the commissioner are excepted in determining holdings or control under AS 38.05.140 . The provisions of this section concerning cooperative or unit plans are in addition to and do not affect AS 31.05.

(A) "Reasonable profit" as used in diligence sections of oil and gas leases is defined for each lessee to the extent that the majority of its Alaskan income is generated from its Alaskan assets dedicated to exploration and production of: light oils and NGLs is that exhibited by the 70<sup>th</sup> percentile of all rates of returns of all Alaskan corporations filing a tax return and showing a profit; heavy oils is that exhibited by the 85<sup>th</sup> percentile of all rates of returns of all Alaskan corporations filing a tax return and showing a profit; Natural Gas is that exhibited by the 94<sup>th</sup> percentile of all rates of returns of all Alaskan corporations filing a tax return and showing a profit.

(B) The definition of due diligence expenditure of net profits after the taking of reasonable profits defined in (A) shall be used for prudent exploration and production drilling operations as proposed by the lessee or unit operator in their plans of operations and annually approved by the commissioner. The commissioner shall, when necessary, issue a conditional permit that modifies the submitted plan of operation to optimize the maximum feasible long term production of all recoverable hydrocarbons on such leases and units. The Commissioner shall also insure that the most effective and efficient means are utilized to develop and conserve the hydrocarbon resources in such plans.

Dear Legislature,

I am currently employed by the State of Alaska, Department of Revenue, Tax Division as an Oil & Gas Revenue Auditor. I have been encouraged by Marcia Davis to independently express my views to you on the proposed job class change for my position from non-exempt to exempt.

I do not feel that my position as an Oil & Gas Revenue Auditor should be changed from non-exempt to exempt, nor any other job directly related to auditing oil and gas taxes. Although the pay increase talked about would be welcomed and beneficial to all currently employed, I believe this change would make our positions very political and take our focus away from the job we are here to do.

I am unsure of the motivation behind the request to make our positions exempt. However, I understand one main point is recruitment and retention of auditors. If the pay scale is the main issue, may I suggest increasing the current auditor pay and leaving our status the way it is? It seems to me that would be a simple solution. I believe that individuals hired in the Oil & Gas Auditor position will not be able to come to work and perform their job duties without proper training no matter how much they are paid. As you all know, the oil and gas tax laws of Alaska are very complicated to understand.

If the status of the Oil & Gas Auditor position was wrapped into HB2001 and the funding for the positions was not available in the future, what would happen to the positions?

How would the legislature insulate exempt positions from the political pressures of any administrations?

Thank you for your time.

Melissa Bayer  
Oil & Gas Revenue Auditor

11/8/2007

**BACKBONE II**

P.O. Box 101700, Anchorage, AK 99510

November 6, 2007

Senator Bert SteinhilberFax (907) 465- 3922

Dear Senator,

We are pleased to see the momentum building through the committee process to rewrite the State's oil taxes and regain the trust of the Alaska people. This special session can be truly historic.

We urge you to talk about the "fair price" for our resources, not taxes. This will counter the anti-tax messages of the industry and those Alaskans whose businesses depend on it. Demanding a "fair price" fits the fiduciary responsibilities of corporate officers, which is your role in our unique Owner State.

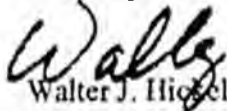
We recommend that you use dollar amounts, not percentages, when explaining the profits the oil companies make from our resources. All Alaskans know what dollars mean, especially when these same companies cut no slack in gasoline or home-heating fuel prices. Nowhere is the high cost of fuel so destructive as in rural Alaska, where gasoline and diesel prices are crippling our communities.

We support a 25 percent tax rate, .4 percent progressivity, full cost reporting from the producers, and information sharing between state departments.

We also suggest that you explain to your constituents what increased oil revenues will be used for. All Alaskans need to understand the need to invest our legacy funds in economic development infrastructure and education, including vocational technical training. Only then will Alaskans truly benefit from the future economic opportunities on the horizon.

Thank you again for your leadership. Both you, as a legislator, and Governor Palin will receive an outpouring of appreciation from our people as you stand tall for Alaska at this time.

Sincerely,

  
Walter J. Hiegel  
David Gottstein

Co-Chairs, Backbone II

C: Governor Sarah Palin  
Commissioner Pat Galvin

*Backbone II is a non-partisan citizen organization that advocates on behalf of Alaskans on oil and gas development issues. Our members have no personal financial stake in the outcome of the current and recent deliberations on oil and gas taxes and gasoline development. We offer our ideas based on their merits and many years of involvement in Alaska public policy issues.*

COPY

John Jay Darrah  
Brooks Range Petroleum Corporation  
510 L Street #601  
Anchorage, AK 99501  
Telephone 907-865-5841

RECEIVED

NOV - 8 2007

November 5, 2007

Re: Special Session

Sen. Bert Stedman  
State Capitol  
Juneau AK 99801

Dear Sen. Stedman,

This morning I read with great disappointment the news coming from Juneau. The bills that have gravitated from both the House and the Senate grossly ramp up oil taxes, and if passed, will ultimately decrease future oil and gas exploration in the State of Alaska.

Fortunately in the short term, Brooks Range Petroleum has signed contracts with its working interest partners that require exploration expenditures in the neighborhood of \$40 million for 2008. I doubt that those same partners' appetites will be as great in ensuing years. As I testified to the Senate, for us once again to rewrite the oil tax after just one cycle of PPT, the State of Alaska is sending the message to the rest of the industry that Alaska's tax system is unstable and unreasonably high.

Brooks Range Petroleum is not going to abandon Alaska, our assets or our efforts to commercialize our small 2007 discovery. Hopefully we will find more reserves in 2008 that will require additional development drilling. However, I am very worried about Brooks Range Petroleum's ability to continue bringing new exploration investment to the State, especially for our larger risk and larger reward frontier plays.

I hope reason prevails for the final disposition of your bill. Thank you for hard work and dedication to keeping Alaska's best interests in mind.

Sincerely,

  
Bo Darrah

2007-11-08-11-22-55

To: Senator Bert Stedman  
Finance Committee Co-Chair  
Fax # 465-3922 / 225-0713

From: Peter McKay  
55441 Chinook Rd  
Kenai, AK 99611  
(907) 776-5745

Date: 10/27/2007

Subject: Yes - Alaska Clear and Equitable Share (ACES)

Dear Mr. Stedman,

I am a constituent who lives in Nikiski.

I strongly support the ACES proposal advanced by Governor Palin.

I support a 25% net base tax rate for North Slope Oil Producers.


I support a base gross tax floor of 10% on the Prudhoe and Kuparuk fields.

**Please act to close the loophole that permits producers to deduct repair cost when repairs are a result of substandard maintenance.**

BP should not be able to deduct the cost of replacing the Prudhoe Bay Oil Transit Lines, or the oil spill on the GC-2 OTL. These were both caused by willful negligence.

I am an oilfield worker. I have first-hand experience with North Slope oil company equipment maintenance programs. They are sub-standard. The failures on the Oil Transit Lines (and many other equipment failures) are the result of years worth of deferred maintenance and cost saving. Negligence. This behavior should not be rewarded with a tax credit.

Thank you for considering my opinion.



Peter McKay



arctic slope  
regional corp

COPY

Honorable Senate President Lyda Green  
Alaska State Senate  
State Capitol Building  
Room 111  
Juneau, AK 99801-1182

*Transmitted via fax: 907-165-3805*

Dear President Green:

On behalf of the Arctic Slope Regional Corporation (ASRC), I am writing to express both concern with and support for certain provisions in CS SB2001 (JUD). ASRC is thankful for the opportunity to weigh-in as an Alaskan company and major employer in this state.

Our primary concern continues to be with the language in Section 36(f)(2)(B) (i) and (ii), which requires oil and gas explorers applying for exploration tax credits to disclose seismic survey and well data from non-State lands.

It is important for the State to consider and protect the rights of private property owners, especially since the actual privately-owned land acreage is significantly smaller than Federal and State owned lands, and most of those private lands are owned by Alaska Native corporations. Alaska Native corporation lands are perhaps the single most important tool Native corporations use to provide benefits to their shareholders and Alaskans in general through employment and other economic contributions to the State. Diminishing the value of private lands by releasing confidential information about them will have the unintended consequence of injuring Native corporations and their ability to participate and invest in the Alaska economy. The burden on Native corporations is especially unfair, since, as landowners, they do not receive the benefit of the tax credits. Their lessees receive those credits, while the Native corporations' land values are diminished by disclosure of data about Native lands to the State and the public.

As discussed in our November 2, 2007, letter, private landowners place high value on data in their negotiations with prospective lessees. This data is proprietary and valuable precisely because it is confidential. Confidential information about our lands is an important property right. Forced disclosure of the data to the State and especially to the public is a "taking" of that property right. It may be appropriate to request a fiscal note on the cost of defending and the State's liability for "taking" claims by Alaskan private property owners.

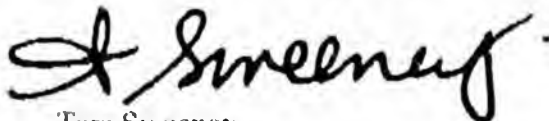
Our second area of concern is with Section 53(b). Recognizing that much committee work remains before final passage, I wish to call your attention to language in this Section that permits the Department of Revenue to substitute its judgment for the detailed and laborious rate-setting work of the Regulatory Commission of Alaska and the Federal Energy Regulatory Commission. Those bodies set intra and inter-state tariffs, respectively, for pipeline common carriers. Both agencies have established expertise to do their work. It is inappropriate for the Department of Revenue to reserve the power to second-guess their decisions about common carrier tariffs.

As you move forward through the legislative process please consider that Arctic Slope Regional Corporation is willing to help craft an acceptable solution to these problems for the benefit of all parties.

Other parts of the bill have great merit, and ASRC urges your support for them. Section 24 of CS SB2001 (JUD) provides an incentive for in-state gas use for the benefit of urban and rural consumers and projects. Also, Sections 31 and 32 in the CS HB2001 (RES) version improve the exploration incentive credits (EIC) and foster a positive climate for exploration throughout the State.

I sincerely appreciate the time invested by you, your committees and the Senate to address these critical matters. I am available to discuss these issues further and to provide additional information about the concerns raised in this letter. Please do not hesitate to contact me directly on my cell phone at (207) 669-8495, or in my office at (907) 339-6066.

Sincerely,  
ARCTIC SLOPE REGIONAL CORPORATION



Tara Sweeney  
Director, Government Affairs

Cc     Senator Denny Osion, District T     Senator  
       Senator Gary Stevens, Senate Majority Leader  
       Senator Charlie Huggins, Senate Majority Whip  
       Senator Gene Theriault, Senate Minority Leader  
       Senator Lyman Hoffmann, Co-Chair Senate Finance Committee  
       Senator Bert Stedman, Co-Chair Senate Finance Committee  
       Senator Benny Davis, District K  
       Senator Johnny Ellis, District L  
       Senator Kim Elton, District B  
       Senator Hobbs French, District M  
       Senator Albert Kookesh, District C  
       Senator Leal McGuire, District N  
       Senator Joe Thomas, District D  
       Senator Bill Wietechowski, District J



November 7, 2007

Re: proposed oil tax increase

Dear Honored State Legislator:

The Governor asserts that the state of Alaska is owed its fair share of oil taxes. I would challenge that to state that working Alaskans deserve a fair share of the economic benefits of a strong oil industry.

Revenue Commissioner Pat Galvin recently stated he wanted to tax the companies up to the tipping point just short of where oil investments would be deterred. This seems a little cynical to me, akin to throttling the golden goose (but hopefully not quite killing it). This policy is shortsighted and counter productive.

The best interests of Alaska will be served by vibrant oil industry that enjoys relatively low taxes. A moderate oil tax burden will help all working Alaskans and all Alaska based companies oilfield and non-oilfield alike. Real estate, commercial and residential construction, government, professionals, services, local merchants, and outside based retailers all benefit in a trickle down effect from a strong oil economy.

Who builds oil field projects in Alaska? Working Alaska men and women, that's who. Alaska based companies with Alaska based payroll supporting Alaska families build these projects. Raising taxes jeopardizes these jobs and businesses.

A lot has been said about other oil provinces raising taxes and foreign governments whose "take" far exceeds that of Alaska. The oil company executives will tell you that the factors influencing investments are first geology (the potential for large undiscovered resources in the basin), then costs, then fiscal regime, including overall take and risk of change in fiscal structure.

Alaska with a mature onshore oil basin and its harsh arctic environment ranks moderate to poor in the first two categories. Recent changes to the tax structure (i.e. last year's \$1B PPT increase) make Alaska look riskier than it has been historically. A high tax rate proposed by ACES would complete the picture by negatively affecting Alaska's competitive position in all categories. Alaska should give a tax incentive to future investment compared to our neighbors with whom we are competing with for investment.

Let us not forget that Alaska, unlike other US states, has a significant royalty interest. This alone should align Alaska with the producers in a quest to maximize production rather than maximizing taxes on a diminishing production stream. Increasing oil taxes means fewer projects will be executed by the producing companies. This means less oil

production in the long run. Less oil production means fewer royalties to the state of Alaska.

Alaskan's fair share of a bright economic future should be given priority instead of a greater Alaska government take.

Very truly yours

*/s/*

Paul K. Wharton

The author has lived in Alaska since 1984 and has been employed during that time in oil, mining, and law. The author currently works for ConocoPhillips Alaska, Inc. in the Anchorage tower. The views expressed here are my own.

## Petition to NOT Change the PPT

|                                 |  |
|---------------------------------|--|
| Petition summary and background | We believe that the October 18, 2007 Special Session on the Petroleum Profits Tax (PPT) has developed an emotional climate that will foster punitive actions instead focusing on facts and a tax policy that encourages growth and investment in Alaska.                                       |
| Action petitioned for           | We, the undersigned, are concerned Alaskans who urge our legislators to NOT make any changes to the PPT during the Special Session. We ask that the Legislators meet with their constituents before the next regular session and discuss how to develop a tax policy that promotes investment. |

| Printed Name     | Signature        | Address   | Comment   | Date    |
|------------------|------------------|---|---|---------|
| Mary L. Whitmore | Mary L. Whitmore | 940 Botanical Hts Cir<br>99515                      | A TAX POLICY SHOULD BE BASED ON FACTS NOT EMOTIONS! | 11-5-07 |
| STREG YOUNG      | Streg Young      | 5145 Skyline DR                                     |   | 11-5-07 |
| Eric K. Hulm     | Eric K. Hulm     | 12610 Nautilus Cir                                  |   | 11-5-07 |
| Ed Whitmore      | Ed Whitmore      | 940 Botanical Hts Cir<br>Anchorage AK 99515         | Stable tax policy that encourages investment        | 11-5-07 |
| Kelly Tynes      | Kelly Tynes      | 3771 Lower Level Cir<br>Anchorage AK                |   | 11-6-07 |
| Walter Almon     | Walter Almon     | 13651 JARVI DR<br>ANCHORAGE AK                      | DECREASE MARGINAL TAX RATE                          | 11-6-07 |
| MARK WICHMAN     | Mark Wichman     | 2919 CAPTAIN COOK EST. CIR.<br>ANCHORAGE, AK 99517  |   | 11-6-07 |
| JENNIFER SHAW    | Jennifer Shaw    | 8934 Northwood Park<br>Circle E. Anchorage AK 99577 | CRAZY   | 11-6-07 |
| Leah Thompson    | Leah Thompson    | 3311 W. 60th Ave<br>Anch AK 99502                   |   | 11-6-07 |
| JIM SPARTE       | Jim Sparte       | 14841 Lakemore Ave<br>Anchorage AK                  |   | 11-7-07 |
| DALE BUENNING    | Dale Buening     | 10167 Cliff Cir                                     |   | 11/7/07 |

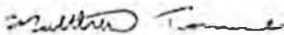
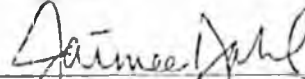
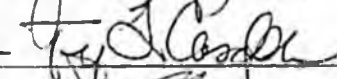


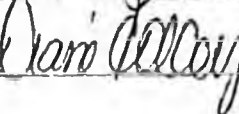
## Petition to NOT Change the PPT

|                                 |  |
|---------------------------------|--|
| Petition summary and background | We believe that the October 18, 2007 Special Session on the Petroleum Profits Tax (PPT) has developed an emotional climate that will foster punitive actions instead focusing on facts and a tax policy that encourages growth and investment in Alaska.                                       |
| Action petitioned for           | We, the undersigned, are concerned Alaskans who urge our legislators to NOT make any changes to the PPT during the Special Session. We ask that the Legislators meet with their constituents before the next regular session and discuss how to develop a tax policy that promotes investment. |

| Printed Name     | Signature          | Address   | Comment   | Date     |
|------------------|--------------------|---|---|----------|
| Olivia Bernhardt | <i>[Signature]</i> | 6222 Green Tree Circle <sup>Anchorage</sup> 99502 |   | 11/1/07  |
| Veronica Reem    | <i>[Signature]</i> | 6110 W. Lee Dr. <sup>Anchorage</sup> 99507        |   | 11/7/07  |
| RALPH PORTER     | <i>[Signature]</i> | 18350 Potter Bluff Circle 99516                   | More Taxes = less JOBS  | 11/7/07  |
| Linda Reising    | <i>[Signature]</i> | 7000 Steinkjer Ave AK 99507                       | "   | 11-7-07  |
| Dan Winter       | <i>[Signature]</i> | 9111 Schalee Dr. <sup>ANC.</sup> 99507            | "   | 11/7/07  |
| John Miller      | <i>[Signature]</i> | 8706 Tuya Circle Eagle River <sup>AK</sup> 99577  |   | 11/7/07  |
| DAVID GRASSBACH  | <i>[Signature]</i> | 310 W 76A "G"                                     |   | 11/7/07  |
| Kim Wynns        | <i>[Signature]</i> | 1892 Brandilyn St. <sup>Anchorage</sup>           | "   | 11/7/07  |
| Tracy Jens       | <i>[Signature]</i> | 10201 <sup>Anchorage, AK</sup>                    |   | 11/7/07  |
| Greene Siquak    | <i>[Signature]</i> | 1401 E. Spruce Ave <sup>Wasilla, AK</sup> 99654   | More Jobs   | 11-7-07  |
| Dixie D Banner   | <i>[Signature]</i> | 1100 Custard <sup>Wasilla AK</sup> 99654          | More jobs<br>less interference w/ our family & personal lives | 11/01/07 |

## Petition to NOT Change the PPT

|                                 |  |
|---------------------------------|--|
| Petition summary and background | We believe that the October 18, 2007 Special Session on the Petroleum Profits Tax (PPT) has developed an emotional climate that will foster punitive actions instead focusing on facts and a tax policy that encourages growth and investment in Alaska.                                       |
| Action petitioned for           | We, the undersigned, are concerned Alaskans who urge our legislators to NOT make any changes to the PPT during the Special Session. We ask that the Legislators meet with their constituents before the next regular session and discuss how to develop a tax policy that promotes investment. |

| Printed Name    | Signature   | Address                             | Comment | Date    |
|-----------------|---|-------------------------------------|---------|---------|
| Matthew Tomme   |    | 4601 Pavlof St. Anchorage, AK 99507 |         | 11/7/07 |
| Jaimie Dahl     |    | 7400 Florence Cir. Anchorage        |         | 11/7/07 |
| TERRY CASOPELLI |    | 12411 Hapa Cir. Anchorage 99575     |         | 11/7/07 |
| Dexter Morse    |    | 12920 Lupine Rd 99516               |         | 11/7/07 |
| CLIFTON DERRICK |   | 3116 PRINCETON WAY 99503            |         | 11/7/07 |
| Diane Colby     |  | 2032 Brantlyn 99516                 |         | 11/7/07 |
|                 |   |                                     |         |         |
|                 |   |                                     |         |         |
|                 |   |                                     |         |         |
|                 |   |                                     |         |         |
|                 |   |                                     |         |         |



=====

6

11-8-07 Paul D. Kendall PPT testimony  
To: Joint Senate and House committees reviewing PPT 2001 bills  
REF: Testimony Enough is Enough, it is time for a new society !

12

Ladies and Gentlemen of the Legislature and fellow citizens of Alaska,

First, I continue to support our Governor in her honorable intentions with PPT .

However; I still prefer a Gross % of production paid to us and then we give back for partnerships and ventures of earned value and substance from a check off like menu . (needs more discussion)

18

ALSO, We may need to cut our losses by letting the big 3 go and bring new lease holders and more eager investors from China – Or at least replace EXXON who is clearly not “showing us the love....”

-----

24

With the ongoing Political and Oil Co. Corruption, Energy Instability, our part time- Legislatures' cut and run to Jubilee, OPEC partnerships, IRAQ Killings, Energy constructed and contrived pricing, Hydrogen Dev., World Oil Companies refusal to testify on record, Our legislature and other bodies not allowing us the citizens to substantially comment and ask questions of substance,

30

I can only conclude the following

The great people of Alaska can and should no longer be a subjugated and enslaved people by Energy interests outside of Alaska.

36

It is time to end this unjustified and illegal economic betrayal and assault on the citizens of Alaska and their families.

This irrational conveyance of our assets to some distant fund or others economic benefit to be enjoyed by a relatively few insiders has to come to an end...

42

The Alaskan people have been an understanding, generous, patient, loyal, and accommodating, partner with the BIG OIL COMPANIES and our POLITICIANS.

48

However; Due to the past, current and predicted ENERGY EVENTS the time has now come for us the citizens of Alaska to begin our next society, a more just and more free society.

54

You, our elected leaders should publicly and honestly determine the annual amount of Cubic Feet of Natural Gas needed for the single family home owner based on the model below:

-----  
 (SFHOM) Single family home owner model = less or up to first 1,000 sq ft living space with 20 x 20 2 car garage, 12 x12 storage shed, 20 X 20 green house on 100' X 100' lot size --- 1 person, 1 vehicle  
 -----

60

The annual allotment per household total amount of energy converted to Cubic Feet of gas shall reflect the home needs for:

HEATING AND COOKING  
 ELECTRICITY

GASOLINE POWERED TRAVEL of 100 miles daily round trip from home.

66

Estimated annual allotment amount of Natural Gas in cubic feet to be in the order of:

| Home use                        | annual max       | cu ft conv | X *100,000 homes | **\$       |
|---------------------------------|------------------|------------|------------------|------------|
| Ht - cook                       | 175 Mcf          | same       | 17.5 MMcf        |            |
| Electricity                     | 8,500 kwh        | 28.2Mcf    | 28.2 MMcf        |            |
| gasoline                        | 1,825 gal (1per) | 224.2 Mcf  | 22.5 MMcf        |            |
| ***TOTALS (all # are estimates) |                  |            | 68.2 MMcf        | discussion |

72

78

\*TOTAL NUMBER OF SINGLE FAMILY HOMES IN ALASKA + DATA ??  
 100,000 homes = 300,000+ population ? a guess \* I have had a hard time trying to gather these numbers by single family home owners, apt complexes, trailers, duplexes, etc...

\*\* the gas comes out of the ground cost nearly nothing in relation to --?

\*\*\* I have tried to make these totals maximum to way over amounts

84

-----  
 (I gathered these energy figures as best I could on such short notice today!)

90

96 You, our elected officials on our behalf should cause and make to happen Now; within the PPT bill this inclusion as a pilot project towards a new history for Alaska by declaring an annual allotment of energy for 100,000 homes as described above.

102 This pilot project annual energy allotment should be made available to 100,000 home owners on a statewide per capita % basis, by longevity, drawing every 3 years or some other local fair and agreeable means...

We as Alaskans can no longer allow the " the conspiratorial few who for profit of their own would be World rulers at our peoples, families and loved ones expense;

108 Again,, We freedom loving Alaskans will no longer be an economically subjugated and enslaved people. It is over!

The time of being economically blood sucked by a few has come and gone! It is time to begin a new society, a better and more free society. It is time for Alaska to take her place in the history of World as that new society.... First of the surely many to follow.

114 By allowing our homes access to our nearly free energy , we will not only stop the exit of large amounts of our money; but we should see a tremendous growth in our housing markets, new technologies, citizen influxes, and substantial infrastructure growth for our state needs.

120 The true and actual gas allotment cost to the Oil Industry and our permanent fund is nearly nill.

ALASKA is perched to be a new and vibrant society, a shining and historical light in the history of the world...  
Its all here;

126 It is time to teach the child who is the parent; to educate the misguided, who have clearly gone to worshipping profits in the place of "spiritual insight" and "Quality of Life"; Other true values.

It is time to become a better and more free society and in order to do that we must come to the aid and defense of the very foundations of our society -

132 The Single family home, Our family's- which we all aspire to be a part of.

IF "fossil fuelers " want to make unbridled profits and wealth, then, so be it; But you shall not make it on the backs of our most fundamental foundations of our society, our homes with our loved ones.

138 The Single Family Home and Our families Energy welfare from this day forward – should be “OFF LIMi’S” to the profiteering and capital generation of a few lazy and power drunk individuals running amuck guised as quasi-free enterprise corporations.

144 Sincerely and Respectfully,

Paul D. Kendall  
907-222-7882

150 [w[a[t[e[r][f[u[e[L[ END [h[y][d[r][o][g[e][n[

Ps.. Mr. Galvin, with all due respect for your intentions and character.

156 I came to this conclusion listening to Ms Nelson and Mr. Thomas asking you about their community needs for energy.. And you advising him (truthfully) that “the energy price his people would pay would be based on the world oil market prices”

162 Well, it don't get much plainer than that! Funny thing about the truth, it is what it is....

Ladies and Gentlemen,  
Enough is Enough! The time has come to free our people. You know this is the truth; You know I am right...and we are not alone!

168 All EXXON permanent fund stock money shall be redirected immediately to other interests unless EXXON settles with our people within 30 days.  
That m neys' interests shall augment the immediate construction of our own Alaska Gas pipeline needs and several Hydro-Electric Power and  
174 Hydrogen Gas projects for our Alaska families new society and new technological energy needs.

180 Further, be it resolved, PIRS and TIRS shall be placed on notice they shall stand at our ready, to serve our needs as the great state of Alaska they created, may now need them yet again to help carry our journey to a new society, a new recognition for Alaska in the worlds history of a freedom loving peoples.

Well, now ima startin to get carried away here so -- Chow ?

TOM LAKOSH P.O. BOX 100648 ANCHORAGE, AK 99510 Ph/Fax (907) 563-7380  
November 8, 2007

For distribution to all Members of the House and Senate Finance Committees before the public testimony session on 11/8/07 at 5:30 PM

**Petition Challenging the Constitutionality of CS SB 2001 and CS HB 2001  
(ACES as Amended)**

If it pleases the Chairman, my name is Tom Lakosh I present this petition to the legislators in both House and Senate Finance Committees on my own behalf but posit claims of unconstitutionality that affect the rights of all Alaskan citizens. Please refer to the written petition submitted to the offices of the Chairmen and otherwise to each legislator via email. I request in response, written conclusions of law and findings of facts and where there are dissenting opinions, I request that such dissent be forwarded as well. I request time and access for oral argument equal to that provided to the Administration and lessees.

The CS versions before the committees are unconstitutional due to violations of Article I Section 7, fair treatment in administrative and legislative investigations, Article I Section 15, prohibition of impairment of contracts, and Article VIII Section 2, legislative development of natural resources in the best interests of its people.

The ACES bill submitted to the legislature and the testimony of the Administration and its consultants is unconstitutional, false, misleading and contains material omissions where they posit mutually exclusive arguments that contradicts their mandated administrative authority pursuant to statutes, regulations, and most importantly, explicit oil and gas lease provisions. The Administration cannot claim that Alaskans must extract a greater percentage of windfall profits at the same time that it claims that further development incentives must be offered where it has the administrative duty to both set the limits of "reasonable profits" and the extent of production and development as stipulated in lease provisions. I first direct the legislators' attention to standard lease sections 13(a) and (b).

13. DILIGENCE AND PREVENTION OF WASTE. (a) The lessee shall exercise reasonable diligence in drilling, producing, and operating wells on the leased area unless consent to suspend operations temporarily is granted by the state.

(b) Upon discovery of oil or gas on the leased area in quantities that would appear to a reasonable and prudent operator to be sufficient to recover ordinary costs of drilling, completing, and producing an additional well in the same geologic structure at another location with a reasonable profit to the operator, the lessee must drill those wells as a reasonable and prudent operator would drill, having due regard for the interest of the state as well as the interest of the lessee.

The plain meaning of these words taken together clearly establishes that lessees must keep drilling and producing hydrocarbons on their lease so long as each additional well will provide a "reasonable profit". The structure of this contract language therefore mimics what is typically known as a "cost-plus contract" where profit is fixed and limited to a "reasonable" rate and all additional windfall profit garnered must be reinvested into the contracted operations. I would assert with a high degree of confidence that there are no cost-plus contracts in the world that would allow the 64%+ rates of return revealed in testimony before you. Under no circumstances would these stratospheric profits be deemed "reasonable" by any competent and unbiased Trier of fact given that the leases are essentially cost-plus contracts of enormous total value. The Administration cannot legitimately claim that there are windfalls to be extracted with higher tax rates and that the state must also subsidize costs that are required to be funded by the same windfall. These arguments are mutually exclusive and may not be deemed credible.

The position of the Administration becomes even more absurd where the leases, statutes and regulations also grant the Alaska Department of Natural resources, ADNRR, complete authority to regulate the plan of operations and plan of development for each lessee and combined lessees in a unit operating plan. I now direct the legislators to the standard lease sections 9(e), 10(a) and 10(b).

9. PLAN OF OPERATIONS. (c) In approving a lease plan of operations or an amendment of a plan, the commissioner will require amendments that the commissioner determines necessary to protect the state's interest. The commissioner will not require an amendment that would be inconsistent with the terms of sale under which the lease was obtained, or with the terms of the lease itself, or which would deprive the lessee of reasonable use of the leasehold interest.

10. PLAN OF DEVELOPMENT. (a) Except as provided in subparagraph (d) below, within 12 months after completion of a well capable of producing oil, gas, or associated substances in paying quantities, the lessee

shall file two copies of an application for approval by the state of an initial plan of development that must describe the lessee's plans for developing the leased area. No development of the leased area may occur until a plan of development has been approved by the state.

(b) The plan of development must be revised, updated, and submitted to the state for approval annually before or on the anniversary date of the previously approved plan. If no changes from an approved plan are contemplated for the following year, a statement to that effect must be filed for approval in lieu of the required revision and update.

The plain meaning of these words taken together with those in the "DILIGENCE AND PREVENTION OF WASTE" section clearly establishes that ADNR must first determine what is in the best interest of the state, in terms of plans of operations and development for each lessee, and then expand any plan of operations or development submitted by a lessee to conform with the best interest of the state so long as it allows "a reasonable profit to the operator". The Administration cannot legitimately claim that state subsidy of costs is needed to incentivize development in the best interest of the state where it is already mandated to amend lessees' plans of operations and development to comport with the state's interest, and there are windfall profits available to fund expanded plans of development. The claim that incentives are needed to advance the interests of the state necessarily implies that lease administration has failed to fully promote the state's interest in conformance with its mandate under lease provisions, statutes and regulations. The proposed increases in taxes to extract windfalls also establishes that the failure to regulate lessees in the best interest of the state is not due to a lack of available funding for imposed expanded plans of operations and development.

While the Administration must preserve the best interests of the state, each legislator and the legislature as a whole must preserve the best interests of the people pursuant to Article VIII Section 2. Legislators must dismiss the vast majority of the arguments of the Administration and lessees as fraudulent on their face and conduct its own investigation consistent with Article I Section 7. The foremost question now before Committee Members is the issue of lease impairment created by the net profits tax and credit system before you in the CS bills that is prohibited by Article I Section 15 and the legislative oversight necessary to correct the failed administration of leases in the best interest of the state or the people.

The primary mechanism of lease contract impairment is presented by the tax deduction and credit provisions in the CS bills that are explicitly designed to offset those

expenditures by lessees who are otherwise required to bear the burden of those costs to the full exhaustion of any windfall profits that may be available to them over the lifetime of lease development. The legislature may well grant subsidies to lessees once these accumulated windfall profits have been fully expended, but it must first determine that the subsidies are actually needed given a proper administration of leases and will result in advancement of the peoples' best interest. The requested relief from impairment of contracts issue would be adoption of my proposed amendments to the CS bills as provided below, (see section (q) in the House CS and (p) in the Senate CS, changes that do not impair the intent would be appreciated):

**25-GH0014\ V CS FOR HOUSE BILL NO. 2001(RES)**

\* **new Sec. 20.** AS 43.55.011 is amended by adding new subsections to read:

(o) In addition to the tax levied under (e) of this section, for each month for which the producer's average monthly production tax value of the taxable oil and gas exceeds \$30 for each BTU equivalent barrel, there is levied on the producer of oil or gas a tax for all oil and gas produced that month from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under (j) and (k) of this section, the tax levied under this subsection is equal to the sum over all months of the calendar year of the amount calculated under this subsection. For each month for which this subsection applies and for which the average monthly production tax value of the taxable oil and gas is

(1) not more than \$40 for each BTU equivalent barrel, the tax is equal to 0.2 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for each BTU equivalent barrel of the taxable oil and gas for that month and \$30;

(2) more than \$40 but not more than \$50 for each BTU equivalent barrel, the tax is equal to two percent of the gross value at the point of production of the taxable oil and gas for that month plus 0.3 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for each BTU equivalent barrel of the taxable oil and gas for that month and \$40;

(3) more than \$50 but not more than \$60 for each BTU equivalent barrel, the tax is equal to five percent of the gross value at the point of production of the taxable oil

and gas for that month plus 0.4 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for each BTU equivalent barrel of the taxable oil and gas for that month and \$50; or

(4) more than \$60 for each BTU equivalent barrel, the tax is equal to nine percent of the gross value at the point of production of the taxable oil and gas for that month plus 0.5 percent of the gross value at the point of production of the taxable oil and gas for that month multiplied by the number that represents the difference between the average production tax value for each BTU equivalent barrel of the taxable oil and gas for that month and \$60.

(p) Notwithstanding other provisions of this section, for a calendar year before 2022, the tax levied under (e) and (o) of this section for each 1,000 cubic feet of gas for gas produced from a lease or property outside the Cook Inlet sedimentary basin and used in the state may not exceed the amount of tax for each 1,000 cubic feet of gas that is determined under (j)(2) of this section.

(q) All tax deductions and tax credits allowable to an oil and gas lessee pursuant to the provisions of AS 38.05.180(i), AS 41.09.010, AS 43.20.043 and 43.55.11-.170 shall not be applied for, or transferred by a lessee nor approved by the Alaska Department of Revenue unless:

(1) the lessee has fully satisfied the diligence requirements of its lease to the extent that it has reinvested all windfall profits above the allowable "reasonable profits", as set forth in their lease diligence sections and determined by the Commissioner of the Alaska Department of Natural Resources, into drilling, producing, and operating wells on the leased area, and;

(2) the plans of operations and development approved by the Commissioner of the Alaska Department of Natural Resources, pursuant to lease provisions and AS 38.05.180 et. seq., requires expenditures in addition to the amounts dedicated to this purpose in (1) of this subsection, and;

(3) all windfall profits, as described in (1) of this subsection, derived by lessee over the lifetime of the lease have been used to offset any and all deductions and credits that have been previously granted or may accrue, and;

(4) the tax deductions and tax credits are claimed by lessee to supplement its lease diligence requirements only to the extent that such deductions or credits are

necessary to timely complete the plans of operations and development described in (2) of this subsection, and;

(5) The tax deductions and tax credits, deemed allowable pursuant to subsection (4) of this section, are claimed by lessee in the following progressive order: capital expenditure deductions; capital expenditure credits; operating expense deductions.

**CS SB 2001 (JUD) 11/05/07**

**\*new Sec. 24 AS 43.55.011 is amended by adding new subsections to read:**

(o) For a calendar year before 2022, the tax levied by (e) of this section for each 1,000 cubic feet of gas that is produced from a lease or property outside of the Cook Inlet sedimentary basin and used in the state may not exceed the amount of tax for each 1,000 cubic feet of gas that is determined under (j)(2) of this section.

(p) All tax deductions and tax credits allowable to an oil and gas lessee pursuant to the provisions of AS 38.05.180(i), AS 41.09.010, AS 43.20.043 and 43.55.11-.170 shall not be applied for, or transferred by a lessee nor approved by the Alaska Department of Revenue unless:

(1) the lessee has fully satisfied the diligence requirements of its lease to the extent that it has reinvested all windfall profits above the allowable "reasonable profits", as set forth in their lease diligence sections and determined by the Commissioner of the Alaska Department of Natural Resources, into drilling, producing, and operating wells on the leased area, and;

(2) the plans of operations and development approved by the Commissioner of the Alaska Department of Natural Resources, pursuant to lease provisions and AS 38.05.180 et. seq., requires expenditures in addition to the amounts dedicated to this purpose in (1) of this subsection, and;

(3) all windfall profits, as described in (1) of this subsection, derived by lessee over the lifetime of the lease have been used to offset any and all deductions and credits that have been previously granted or may accrue, and;

(4) the tax deductions and tax credits are claimed by lessee to supplement its lease diligence requirements only to the extent that such deductions or credits are necessary to timely complete the plans of operations and development described in (2) of this subsection, and;

(5) the tax deductions and tax credits, deemed allowable pursuant to subsection (4) of this section, are claimed by lessee in the following progressive order: capital expenditure deductions; capital expenditure credits; operating expense deductions.

Please note that the proposed structure of profits and tax above directly mimics the royalty and net profits structure described by Pat Foley of Pioneer Natural Resources before the House Finance Committee this afternoon beginning at about 2:20 PM and his testimony is "the other side of the coin" regarding lease impairment imposed by the CS bills. Representative Gara's comments on the matter were quite illuminating on this whole issue as it exposed the primary role that ADNR plays in determining just how much profit may accrue to a lessee and how much revenue the state receives from lessees. The issue of the failed administration of leases can be substantially addressed by the following amendments to the CS bills, (each bill would add an additional section requiring renumbering of successive sections):

**25-GH0014\V CS FOR HOUSE BILL NO. 2001(RES)**

\* **Sec. 9.** AS 33.05.180(q) is amended to read:

(q) A plan authorized by subsections (h) or (p) of this section, which includes land owned by the state, may contain a provision vesting the commissioner, or a person, committee, or state agency, with authority to modify from time to time the rate of prospecting and development and the quantity and rate of production under the plan to maximize the benefit to the state considering the long term production of all hydrocarbons on such leases or units and as otherwise necessary for most effective utilization of all regional resources. All leases operated under a plan approved or prescribed by the commissioner are excepted in determining holdings or control under AS 38.05.140. The provisions of this section concerning cooperative or unit plans are in addition to and do not affect AS 31.05.

(A) The term "reasonable profit" as used in the diligence sections of oil and gas leases is to be defined by the commissioner to reflect the 67<sup>th</sup> percentile of the aggregation of the rates of return granted in "cost-plus contracts" as compared to projects of similar magnitude and complexity to that of each lessee and within a similar legal framework to that experienced in Alaska.

(B) The definition of due diligence expenditure of net profits after the taking of reasonable profits defined in (A) shall be used for prudent exploration and production drilling operations as proposed by the lessee or unit operator in their plans of operations and development. The commissioner shall annually review the

plans of operations and development, and when changes in material conditions indicate that such plans require amendment in the state's best interest's, issue a conditional permit that modifies the submitted plans. The commissioner shall insure that the plans are optimized to provide the maximum long term production of all recoverable hydrocarbons using the most effective and efficient means to develop the hydrocarbon resources on leased properties. The optimization of plans must be performed in conformance with established and prospective pool rules and other constraints promulgated by the Alaska Oil and Gas Conservation Commission.

**CS SB 2001 (JUD) 11/05/07**

\* **Sec. 10.** AS 38.05.180(q) is amended to read:

(q) A plan authorized by subsections (h) or (p) of this section, which includes land owned by the state, may contain a provision vesting the commissioner, or a person, committee, or state agency, with authority to modify from time to time the rate of prospecting and development and the quantity and rate of production under the plan to maximize the benefit to the state considering the long term production of all hydrocarbons on such leases or units and as otherwise necessary for most effective utilization of all regional resources. All leases operated under a plan approved or prescribed by the commissioner are excepted in determining holdings or control under AS 38.05.140. The provisions of this section concerning cooperative or unit plans are in addition to and do not affect AS 31.05.

(A) The term "reasonable profit" as used in the diligence sections of oil and gas leases is to be defined by the commissioner to reflect the 67<sup>th</sup> percentile of the aggregation of the rates of return granted in "cost-plus contracts" as compared to projects of similar magnitude and complexity to that of each lessee and within a similar legal framework to that experienced in Alaska.

(B) The definition of due diligence expenditure of net profits after the taking of reasonable profits defined in (A) shall be used for prudent exploration and production drilling operations as proposed by the lessee or unit operator in their plans of operations and development. The commissioner shall annually review the plans of operations and development, and when changes in material conditions indicate that such plans require amendment in the state's best interest's, issue a conditional permit that modifies the submitted plans. The commissioner shall insure that the plans are optimized to provide the maximum long term production