

AK LEGISLATURE SPECIAL COMMITTEE ON FUTURE OF THE STATE
SCOTT COUNTY 148 3220⁴

SCOMM

148:9



LEGISLATIVE BUDGET & AUDIT COMMITTEE

Representative Ralph Samuels, Chairman

SPONSOR STATEMENT

CS for HOUSE BILL 183

"An Act relating to the regulation and permitting of drilling and other operations by the Alaska Oil and Gas Conservation Commission, to civil penalties assessed by the commission, to reconsideration and appeal of decisions and the allocation of costs in investigations and hearings before the commission, and to information filed with and fees of the commission; and providing for an effective date."

The Alaska Oil and Gas Conservation Commission (AOGCC) requested legislation that would make several needed updates and improvements to Title 31, its governing statute.

CS for House Bill 183 would accomplish the following:

1. Clarify the Commission's authority to regulate underground storage of natural gas. Gas storage is a way of dealing with seasonal variations in demand. Although the Commission clearly has statutory authority to regulate other types of underground injection related to oil & gas operations, the statute is unclear as to the Commission's authority with respect to gas storage.
2. Clarify that the Commission's existing authority to regulate various types of oil and gas operations, such as drilling and plugging wells and disposing of oil field wastes, may be for public health and safety purposes as well as conservation purposes. Currently, the statute uses the phrase "for conservation purposes." While this is a broad concept, there are aspects of the Commission's mission, such as preventing well blowouts or explosions that clearly impact public health and safety. There should be no question that the latter are appropriate goals of Commission oversight of oil field operations, and the bill would make this explicit.

3. Make a "mid-course correction" in a regulatory program concerning nonconventional gas, in particular, coal bed methane. One of the new requirements is for the operator of a well used for production **or production testing** of coal bed methane "to design and implement a water well testing program to provide baseline data on water quality and quantity." However, production testing is a short-term activity that would not have a significant impact on aquifers. Moreover, production testing often occurs during exploratory activities and is very low risk to the environment, before an operator has any idea whether a prospect may ultimately be developed and put in production. Requiring an operator to design and implement a water well testing program at this early stage is an unnecessary burden that will discourage exploration without providing an offsetting public benefit. The bill would therefore modify this requirement to apply only to regular production of coal bed methane, not production testing.

4. Update the reconsideration and appeals provision. There is a conflict between the judicial appeal provisions of the Alaska Oil and Gas Conservation Act, which date essentially unchanged from a territorial enactment in 1955, and the more modern and streamlined uniform appeal provisions of the judiciary statute. The Commission has taken the position that the judiciary statute superseded the earlier territorial enactment, and the Supreme Court recently upheld that position in *Allen v. Alaska Oil and Gas Conservation Commission*, 139 P3d 564 (Alaska 2006). This bill would eliminate the outmoded territorial provisions and leave appeals from Commission decisions to be governed by the uniform procedures of the judiciary statute and Rules of Appellate Procedure.

5. Deletes the requirement that an applicant pay a \$100 fee for a permit to drill a well in this state. For some years the Commission has been fully funded by the regulated industry through a regulatory cost charge. The costs associated with permitting are more efficiently collected as part of the overall regulatory cost charge rather than by subtracting an **estimate** of the fees that might be generated in the coming year.

6. Narrows the data that would be subject to a 24-month period of confidentiality to only the data from "exploratory" and "stratigraphic test" wells; and, to those portions of applications for permits to drill such wells that the commission determines contain proprietary information. This change is consistent with the regulatory practice in most other oil and gas producing states that does not afford confidentiality to well data in established oil and gas fields.

7. Adds a new subsection (f) to clarify that information "voluntarily" provided under subsection (d) of this section does not apply to information submitted in connection with a petition for a Commission order or in connection with a hearing. This is consistent with Commission practice which requires the applicant to make a showing that the information is entitled to confidentiality under another provision of law as one would, for example, for proprietary information or trade secrets.

8. Updates the penalty section by increasing the penalty amounts available to the Commission and adds a specific list of criteria for the Commission to consider in determining the amount of a penalty. The bill would change the maximum amount of a penalty from \$5,000 a day for each day of violation, to provide for a civil penalty of ***no more than \$100,000 for an initial violation, and, no more than \$10,000 a day for each day thereafter on which the violation continues.*** It also increases the civil penalty for natural gas that is flared, vented or otherwise determined to be waste from the fair market value to two times the fair market value. It also adds a new subsection setting out factors to be used in determining the amount of a penalty.

9. Makes a few housekeeping changes like substituting the Commission for an outdated reference to the Department of Natural Resources (the Department of Natural Resources has independent authority in Title 38), updating the classification of wells, and substituting ***for which a permit to drill has been issued by the commission*** where it is more efficient than listing each type of well subject to the Commission's authority.



LEGISLATIVE BUDGET & AUDIT COMMITTEE

Representative Ralph Samuels, Chairman

SECTIONAL ANALYSIS

CS for House Bill 183

Section 1. Statement of intent

- (a) Confirms that AS 22.10.020(d), or court rules, have superseded inconsistent appeal provisions of AS 31.05.080; and
- (b) Confirms that civil penalties may be administratively assessed by the Commission.

Section 2. Substitutes the language "for which a permit to drill has been issued by the commission" to capture all wells under the commission's regulatory authority rather than listing each type of well in (d)(2) and substitutes the word commission for an outdated reference to the Department of Natural Resources in (d)(7).

Section 3. Clarifies that the commission may regulate drilling and other oil and gas operations not only for conservation purposes but, as in the case of preventing blowouts or explosions, for public health and safety purposes under (e)(l).

(e)(l)(B) substitutes more precise terminology for the term "shooting."

(e)(l)(G) clarifies the commission's authority to regulate underground natural gas storage.

Section 4. Updates the various classifications of wells regulated by the Commission, to allow the Commission to more precisely classify each well and to reflect the increasing complexity of oil and gas drilling operations.

Section 5. Slightly narrows a requirement enacted in 2004 relating to coal bed methane operations. The 2004 enactment requires a water well testing program whenever a well is drilled for production **or production testing** of coal bed methane. Production testing is a short-term operation that may occur during the exploration phase and presents minimal risk to the environment. Requiring a water well testing program in such circumstances may discourage exploration with no significant offsetting benefit to the public. The bill therefore would modify the requirement to apply only where a well will be used for regular production of coal bed methane.

Section 6. Substitutes the language "for which a permit to drill has been issued by the commission" to capture all wells under the commission's regulatory authority rather than listing each type of well.

Section 7. Narrows the data that would be subject to a 24-month period of confidentiality to only the data from "exploratory" and "stratigraphic test" wells; and, to those portions of applications for permits to drill such wells that the commission determines contain proprietary information. This change is consistent with the regulatory practice in most other oil and gas producing states that does not afford confidentiality to well data in established oil and gas fields.

Section 8. Adds a new subsection (f) to clarify that information "voluntarily" provided under subsection (d) of this section does not apply to information submitted in connection with a petition for a Commission order or in connection with a hearing. This is consistent with Commission practice which requires the applicant to make a showing that the information is entitled to confidentiality under another provision of law as one would, for example, for proprietary information or trade secrets.

Section 9. The current statute uses the term "rehearing" and in accordance with more modern usage, the bill substitutes the term "reconsideration" for "rehearing."

Section 10. Clarifies that a person who has applied for reconsideration and who is dissatisfied with the disposition of the application for reconsideration may appeal to the Superior Court. The questions reviewed on appeal are limited to the questions presented to the Commission by the application for reconsideration. This section and section 15 update the appeal provisions of the existing statute by eliminating outmoded procedures that were enacted before statehood and clarifying that appeals from the Commission decisions are subject to the uniform procedures established in the judiciary statute, AS 22.10.020(d), and the Rules of Appellate Procedure.

Section 11. Allows the Commission to allocate costs of time incurred by Commission staff for investigation or hearings.

Section 12. Deletes the requirement that an applicant pay a \$100 fee for a permit to drill a well in this state. The Commission has been fully funded by the regulated industry through a regulatory cost charge. The costs associated with permitting are more efficiently collected as part of the overall regulatory cost charge rather than by subtracting an estimate of the fees that might be generated in the coming year.

This section also clarifies the types of wells that require a permit from the Commission and requires the Commission to consider the nature and magnitude of violations by an applicant if a permit is denied.

Section 13. Deletes the reference to the \$100 fee for the permit to drill from the regulatory cost charge formula.

Section 14. Updates the penalty section by increasing the penalty amounts available to the Commission. This section would change the penalty from \$5,000 a day for each day of violation to ***no more than a \$100,000 for the initial violation, and, no more than \$10,000 a day for each day thereafter on which the violation continues.***

Makes clear that civil penalties may be administratively assessed by the Commission and if not paid are recoverable by a lawsuit filed by the attorney general on behalf of the Commission.

Increases the civil penalties for natural gas that is flared, vented, or otherwise determined to be waste from the fair market value to two times the fair market value.

Adds a new subsection setting out the factors to be used in determining the amount of a penalty.

Section 15. AS 31.05.080(c), and AS 31.05.080(d) are repealed to eliminate outmoded procedures that were enacted before statehood.

Section 16. Adds a revisors' instruction to change the heading of AS 31.05.080 from "Rehearings and appeals" to "Reconsiderations and appeals."

Section 17. Provides for an immediate effective date under AS 01.01.070(c).

CS FOR HOUSE BILL NO. 183(O&G)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Offered:

Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND AUDIT COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the regulation and permitting of drilling and other operations by the**
2 **Alaska Oil and Gas Conservation Commission, to civil penalties assessed by the**
3 **commission, to reconsideration and appeal of decisions and the allocation of costs in**
4 **investigations and hearings before the commission, and to information filed with and**
5 **fees of the commission; and providing for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 LEGISLATIVE INTENT OF SECS. 10, 14, AND 15 OF THIS ACT. (a) It is the
10 intent of the legislature through secs. 10 and 15 of this Act to confirm by clarification that
11 AS 22.10.020(d), or court rules, have superseded inconsistent provisions of AS 31.05.080(b)
12 as they existed the day before the effective date of this Act.

13 (b) It is the intent of the legislature through the enactment of AS 31.05.150(f) in sec.

1 14 of this Act to confirm by clarification the long-standing interpretation of AS 31.05.150(d),
2 as that section read before the effective date of this Act, by the Alaska Oil and Gas
3 Conservation Commission that civil penalties may be administratively assessed by the
4 commission and if not paid are recoverable by suit in the appropriate superior court as
5 determined by court rules.

6 * **Sec. 2.** AS 31.05.030(d) is repealed and reenacted to read:

7 (d) The commission may require

8 (1) identification of ownership of wells, producing leases, tanks,
9 plants, and drilling structures;

10 (2) the making and filing of reports, well logs, drilling logs, electric
11 logs, lithologic logs, directional surveys, and all other subsurface information on a
12 well for which a permit to drill has been issued by the commission, subject to the
13 following:

14 (A) the reports required to be filed by the commission under
15 this paragraph shall be filed within 30 days after the completion, abandonment,
16 or suspension of the well; and

17 (B) the well logs, drilling logs, electric logs, lithologic logs,
18 directional surveys, and all other information required to be filed by the
19 commission under this paragraph shall be filed within 90 days after the
20 completion, abandonment, or suspension of the well, unless extended by the
21 commission on request;

22 (3) the drilling, casing and plugging of wells in a manner that will
23 prevent the escape of oil or gas out of one stratum into another, the intrusion of water
24 into an oil or gas stratum, the pollution of fresh water supplies by oil, gas or salt water,
25 and prevent blowouts, cavings, seepages and fires;

26 (4) the furnishing of a reasonable bond with sufficient surety
27 conditions for the performance of the duty to plug each dry or abandoned well or the
28 repair of wells causing waste;

29 (5) the operation of wells with efficient gas-oil and water-oil ratios,
30 and may fix these ratios;

31 (6) the gauging or other measuring of oil and gas to determine the

1 quality and quantity of oil and gas;

2 (7) every person who produces oil or gas in the state to keep and
3 maintain for a period of five years in the state complete and accurate records of the
4 quantities of oil and gas produced, which shall be available for examination by the
5 commission at all reasonable times;

6 (8) the measuring and monitoring of oil and gas pool pressures;

7 (9) the filing and approval of a plan of development and operation for
8 a field or pool to prevent waste, ensure a greater ultimate recovery of oil and gas, and
9 protect the correlative rights of persons owning interests in the tracts of land affected.

10 * Sec. 3. AS 31.05.030(e) is amended to read:

11 (e) The commission may regulate

12 (1) for conservation purposes and, to the extent not in conflict with
13 regulation by the Department of Labor and Workforce Development or the
14 Department of Environmental Conservation, for public health and safety
15 purposes,

16 (A) the drilling, producing, and plugging of wells;

17 (B) the perforating, fracture simulation, [SHOOTING] and
18 chemical treatment of wells;

19 (C) the spacing of wells;

20 (D) the disposal of salt water, nonpotable water, and oil field
21 wastes;

22 (E) the contamination or waste of underground water;

23 (F) the quantity and rate of the production of oil and gas from a
24 well or property; this authority shall also apply to a well or property in a
25 voluntary cooperative or unit plan of development or operation entered into in
26 accordance with AS 38.05.180(p);

27 (G) the underground injection of gas for purposes of
28 storage;

29 (2) the disposal of drilling mud, cuttings, and nonhazardous drilling
30 operation wastes in the annular space of a [AN OIL OR GAS] well for which a
31 permit to drill has been issued by the commission [OR IN THE ANNULAR

1 SPACE OF A WATER WELL ASSOCIATED WITH OIL OR GAS
 2 EXPLORATION AND PRODUCTION]; in this paragraph, a "nonhazardous drilling
 3 operation waste" means a waste, other than a hazardous waste identified by the
 4 Environmental Protection Agency in 40 C.F.R., Part 261, its regulation identifying and
 5 listing hazardous wastes, associated with the act of drilling a [AN OIL OR GAS] well
 6 for exploratory or production purposes.

7 * **Sec. 4.** AS 31.05.030(f) is amended to read:

8 (f) The commission may classify a well or a specific portion of a well
 9 [WELLS] as an exploratory, development, service, or stratigraphic test well and
 10 may classify a development well as an oil or gas well [WELLS] for purposes
 11 material to the interpretation or enforcement of this chapter.

12 * **Sec. 5.** AS 31.05.030(j) is amended to read:

13 (j) For exploration and development operations involving nonconventional
 14 gas, the commission

15 (1) may not

16 (A) issue a permit to drill under this chapter if the well would
 17 be used to produce gas from an aquifer that serves as a source of water for
 18 human consumption or agricultural purposes unless the commission
 19 determines that the well will not adversely affect the aquifer as a source of
 20 water for human consumption or agricultural purposes; or

21 (B) allow injection of produced water except at depths below
 22 known sources of water for human consumption or agricultural purposes;

23 (2) shall

24 (A) regulate hydraulic fracturing in nonconventional gas wells
 25 to ensure [ASSURE] protection of drinking water quality;

26 (B) regulate the disposal of wastes produced from the
 27 operations unless the disposal is otherwise subject to regulation by the
 28 Department of Environmental Conservation or the United States
 29 Environmental Protection Agency;

30 (C) [REPEALED

31 (D)] as a condition of approval of a permit to drill a well for

1 regular production [OR PRODUCTION TESTING] of coal bed methane,
 2 require the operator to design and implement a water well testing program to
 3 provide baseline data on water quality and quantity; the commission shall
 4 make the results of the water well testing program available to the public.

5 * **Sec. 6.** AS 31.05.035(a) is amended to read:

6 (a) For all wells for which a permit to drill has been issued by the commission
 7 [SINCE JANUARY 3, 1959], the commission may require:

8 (1) the making and filing of reports, well logs, drilling logs, electric
 9 logs, lithologic logs, directional surveys, and all other subsurface information on a
 10 well for which a permit to drill has been issued by the commission [DRILLED
 11 FOR OIL OR GAS, OR FOR THE DISCOVERY OF OIL OR GAS, OR FOR
 12 GEOLOGIC INFORMATION];

13 (2) the filing of flow test information and all logs, except experimental
 14 logs and velocity surveys run on a well and not required by (1) of this subsection; and

15 (3) the operator to make available for copying the digitized log
 16 information, if it is available, on any log required to be filed under (1) or (2) of this
 17 subsection.

18 * **Sec. 7.** AS 31.05.035(c) is amended to read:

19 (c) The reports and information required in (a) of this section that relate to an
 20 exploratory or stratigraphic test well and those portions of an application for a
 21 permit to drill an exploratory or stratigraphic test well that the commission
 22 determines contain proprietary engineering or geotechnical information shall be
 23 kept confidential for 24 months following the 30-day filing period unless the owner of
 24 the well gives written permission to release the application and reports and
 25 information at an earlier date. If the commissioner of natural resources finds that the
 26 required reports and information contain significant information relating to the
 27 valuation of unleased land in the same vicinity, the commissioner shall keep the
 28 reports and information confidential for a reasonable time after the disposition of all
 29 affected unleased land, unless the owner of the well gives written permission to
 30 release the reports and information at an earlier date. Well surface and bottom hole
 31 locations [LOCATION], well depth, well status, [AND] production data, and

1 production reports required by the commission to be filed subsequent to the 30-day
2 filing period shall be considered public information and may not be classified
3 confidential. Production data, as used in this subsection, means volume, gravity and
4 gas-oil ratio of all production of oil or gas after the well begins regular production.

5 * **Sec. 8.** AS 31.05.035 is amended by adding a new subsection to read:

6 (f) Confidentiality under (d) of this section is not applicable to information
7 submitted with or as part of a petition for a commission order or to information
8 submitted for or as part of a hearing before the commission.

9 * **Sec. 9.** AS 31.05.080(a) is amended to read:

10 (a) Within 20 days after written notice of the entry of an order or decision of
11 the commission, or such further time as the commission grants for good cause shown,
12 a person affected by it may file with the commission an application for
13 reconsideration [THE REHEARING IN RESPECT] of the matter determined by the
14 order or decision, setting out [FORTH] the respect in which the order or decision is
15 believed to be erroneous. The commission shall grant or refuse the application in
16 whole or in part within 10 days after it is filed, and failure to act on it within this
17 period is a refusal of it and a final disposition of the application. If reconsideration
18 [THE HEARING] is granted, the commission may enter a new order or decision after
19 reconsideration [REHEARING] as may be required under the circumstances.

20 * **Sec. 10.** AS 31.05.080(b) is repealed and reenacted to read:

21 (b) A person who has applied for reconsideration and is dissatisfied with the
22 disposition of the application for reconsideration may appeal to the superior court. The
23 questions reviewed on appeal are limited to the questions presented to the commission
24 by the application for reconsideration.

25 * **Sec. 11.** AS 31.05.085(a) is amended to read:

26 (a) During a hearing or investigation held under this chapter, the commission
27 may allocate the costs of the hearing or investigation among the parties, including the
28 commission, as is just under the circumstances. In allocating costs, the commission
29 shall consider the regulatory cost charge paid by a person under AS 31.05.093 and
30 may consider the results, evidence of good faith, other relevant factors, and mitigating
31 circumstances. The costs allocated may include

(1) the costs of any time devoted to the investigation or hearing by hired consultants, whether or not the consultants appear as witnesses or participants; [AND]

(2) any out-of-pocket expenses incurred by the commission in the particular proceeding; and

(3) when the investigation or hearing relates to a violation of a provision of this chapter, a regulation adopted under this chapter, or an order, stipulation, or term of a permit issued by the commission, the costs of any time devoted to the investigation or hearing by the commission staff.

* **Sec. 12.** AS 31.05.090 is repealed and reenacted to read:

Sec. 31.05.090. Permits to drill wells. (a) A person must apply for and receive a permit from the commission before drilling

(1) a well in search of oil or gas;

(2) a well in support of the recovery or production of oil or gas;

(3) an underground injection well for the purpose of gas storage; or

(4) an underground injection well for which the state has acquired primary enforcement responsibility under AS 31.05.030(h).

(b) A person must submit a separate permit application for each well. The permit application must be in the form required by the commission and include all information required by the commission.

(c) After receiving an application under (b) of this section, the commission shall promptly approve or deny the application for a permit to drill.

(d) In making a determination under (c) of this section, the commissioner shall consider whether the

(1) proposed well is contrary to law, a provision of this chapter, a regulation adopted under this chapter, or an order, stipulation, or term of a permit issued by the commission; or

(2) applicant is in violation of a provision of this chapter, a regulation adopted under this chapter, or an order, stipulation, or term of a permit issued by the commission and the magnitude of such violation.

* **Sec. 13.** AS 31.05.093(c) is amended to read:

(c) The commission shall determine the regulatory cost charges levied under this section so that the total amount to be collected approximately equals the appropriations made for the operating costs of the commission under this chapter for the fiscal year [, LESS THE ESTIMATED TOTAL OF THE FEES TO BE COLLECTED UNDER AS 31.05.090. IF THE AMOUNT THE COMMISSION EXPECTS TO COLLECT UNDER THIS SECTION AND UNDER AS 31.05.090 EXCEEDS THE APPROPRIATIONS MADE FOR THE OPERATING COSTS OF THE COMMISSION UNDER THIS CHAPTER, THE COMMISSION SHALL, BY ORDER, ADJUST THE REGULATORY COST CHARGES SO THAT THE TOTAL AMOUNT OF THE REGULATORY COST CHARGES AND FEES THAT ARE COLLECTED APPROXIMATELY EQUALS THE APPROPRIATIONS MADE FOR THE OPERATING COSTS OF THE COMMISSION UNDER THIS CHAPTER FOR THE FISCAL YEAR].

* **Sec. 14.** AS 31.05.150 is repealed and reenacted to read:

Sec. 31.05.150. Penalties. (a) In addition to the penalties in (b) - (e) of this section, a person who violates a provision of this chapter, a regulation adopted under this chapter, or an order, stipulation, or term of a permit issued by the commission is liable for a civil penalty of not more than \$100,000 for the initial violation and not more than \$10,000 for each day thereafter on which the violation continues.

(b) A person who knowingly commits an act specified in AS 11.46.630(a) for the purpose of evading a provision of this chapter, a regulation adopted under this chapter, or an order, stipulation, or term of a permit issued by the commission, is guilty of a class A misdemeanor.

(c) A person who knowingly aids or abets another person in the violation of a provision of this chapter, a regulation adopted under this chapter, or an order, stipulation, or term of a permit issued by the commission, is subject to the same penalty as that prescribed in this chapter for the violation by the other person.

(d) In addition to the penalties in (a) - (c) and (e) of this section, the commission may impose a civil penalty for each 1,000 cubic feet of natural gas flared, vented, or otherwise determined to be waste as defined in AS 31.05.170. The penalty shall be twice the fair market value of the natural gas at the point of waste.

1 (e) A person who knowingly violates a provision of this chapter, a regulation
2 adopted under this chapter, or an order, stipulation, or term of a permit issued by the
3 commission is guilty of a misdemeanor punishable by a fine of not more than \$10,000
4 a day for each day of violation.

5 (f) The commission may assess the civil penalties provided in this section and,
6 if not paid, the penalties are recoverable by suit filed by the attorney general in the
7 name and on behalf of the commission in the superior court. The payment of a penalty
8 does not relieve a person on whom the penalty is imposed from liability to any other
9 person for damages arising out of the violation.

10 (g) In determining the amount of a penalty assessed under (a) of this section,
11 the commission shall consider

12 (1) the extent to which the person committing the violation was acting
13 in good faith in attempting to comply;

14 (2) the extent to which the person committing the violation acted in a
15 wilful or knowing manner;

16 (3) the extent and seriousness of the violation and the actual or
17 potential threat to public health or the environment;

18 (4) the injury to the public resulting from the violation;

19 (5) the benefits derived by the person committing the violation from
20 the violation;

21 (6) the history of compliance or noncompliance by the person
22 committing the violation with the provisions of this chapter, the regulations adopted
23 under this chapter, and the orders, stipulations, or terms of permits issued by the
24 commission;

25 (7) the need to deter similar behavior by the person committing the
26 violation and others similarly situated at the time of the violation or in the future;

27 (8) the effort made by the person committing the violation to correct
28 the violation and prevent future violations; and

29 (9) other factors considered relevant to the assessment that are adopted
30 by the commission in regulation.

31 * **Sec. 15.** AS 31.05.080(c) and 31.05.080(d) are repealed.

1 * **Sec. 16.** The uncoded law of the State of Alaska is amended by adding a new section to
2 read:

3 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
4 heading of AS 31.05.080 from "Rehearings and appeals" to "Reconsiderations and appeals."

5 * **Sec. 17.** This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB183-DOA-AOGCC 3-7-07
 Bill Version: HB183
 () Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Administration

Title Oil and Gas Conservation Commission

RDU AOGCC

Component AOGCC

Sponsor Rules by Request of Leg Budget & Audit

Requester House Oil & Gas

Component No. 2010

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1162 AOGCC Receipts	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill is not anticipated to have any fiscal impact on the Alaska Oil and Gas Conservation Commission (AOGCC).

The majority of the amendments are technical revisions involving responsibilities that are already under the purview of the AOGCC. The bill deletes the requirement that an applicant pay a \$100 fee for a permit to drill a well. Since the Commission is fully funded through a regulatory cost charge, it is more efficient to collect these fees as part of the overall regulatory cost charge rather than by subtracting an estimate of the fees to be generated in the coming year and then collecting by individual application. This will also streamline the process for permitting as the Commission moves towards implementing e-permitting.

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Division: Alaska Oil and Gas Conservation Commission

Approved by: Rachael Petro, Deputy Commissioner

Agency: Department of Administration

Phone 793-1221

Date/Time 3/7/07 2:00 PM

Date 3/7/07

5

Date Referred to Committee: March 7, 2007

Judiciary

Date of Committee Action: April 12, 2007

HB 183

OIL & GAS CONSERVATION COMMISSION

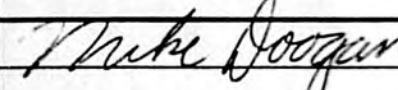
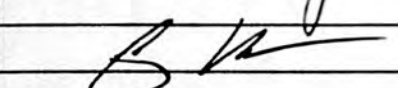
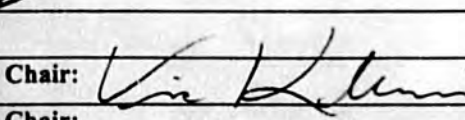
"An Act relating to the regulation and permitting of drilling and other operations by the Alaska Oil and Gas Conservation Commission, to civil penalties assessed by the commission, to reconsideration and appeal of decisions and the allocation of costs in investigations and hearings before the commission, and to information filed with and fees of the commission; and providing for an effective date."

Recommends it be replaced with ☐ HCS or ☒ CS for HB 183 (O+G)
For Senate Bills with new title: ☐ Technical Title ☐ New Title: HCR ☐ Same Title ☐ New Title

- [] attach amendments
[] add new referral to _____ Committee
[] Letter of Intent _____ Committee

*List of
Abbrev
for
Depts.:*
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

[illegible][illegible]

Signing with recommendations		Printed Last Name	DP	DNP	NR	AM
		DOOGAN			✓	
		R. AMICK	X			
		Owen KAWA	✓		X	
Chair: 		Keleny	X			
Chair:						



LEGISLATIVE BUDGET & AUDIT COMMITTEE

Representative Ralph Samuels, Chairman

SPONSOR STATEMENT

HOUSE BILL 193

"An Act relating to the regulation and permitting of drilling and other operations by the Alaska Oil and Gas Conservation Commission, to civil penalties assessed by the commission, to reconsideration and appeal of decisions and the allocation of costs in investigations and hearings before the commission, and to information filed with and fees of the commission; and providing for an effective date."

The Alaska Oil and Gas Conservation Commission (AOGCC) requested legislation that would make several needed updates and improvements to Title 31, its governing statute.

House Bill 183 would accomplish the following:

1. Clarify the Commission's authority to regulate underground storage of natural gas. Gas storage is a way of dealing with seasonal variations in demand. Although the Commission clearly has statutory authority to regulate other types of underground injection related to oil & gas operations, the statute is unclear as to the Commission's authority with respect to gas storage injection.
2. Clarify that the Commission's existing authority to regulate various types of oil and gas operations, such as drilling and plugging wells and disposing of oil field wastes, may be for public health and safety purposes as well as conservation purposes. Currently, the statute uses the phrase "for conservation purposes." While this is a broad concept, there are aspects of the Commission's mission, such as preventing well blowouts or explosions that clearly impact public health and safety. There should be no question that the latter are appropriate goals of Commission oversight of oil field operations, and the bill would make this explicit.

3. Make a "mid-course correction" in a regulatory program concerning nonconventional gas, in particular, coal bed methane. One of the new requirements is for the operator of a well used for production **or production testing** of coal bed methane "to design and implement a water well testing program to provide baseline data on water quality and quantity." However, production testing is a short-term activity that would not have a significant impact on aquifers. Moreover, production testing often occurs during exploratory activities and is very low risk to the environment, before an operator has any idea whether a prospect may ultimately be developed and put in production. Requiring an operator to design and implement a water well testing program at this early stage is an unnecessary burden that will discourage exploration without providing an offsetting public benefit. The bill would therefore modify this requirement to apply only to regular production of coal bed methane, not production testing.

4. Update the reconsideration & appeals provision. There is a conflict between the judicial appeal provisions of the Alaska Oil and Gas Conservation Act, which date essentially unchanged from a territorial enactment in 1955, and the more modern and streamlined uniform appeal provisions of the judiciary statute. The Commission has taken the position that the judiciary statute superseded the earlier territorial enactment, and the Supreme Court recently upheld that position in *Allen v. Alaska Oil and Gas Conservation Commission*, 139 P3d 564 (Alaska 2006). This bill would eliminate the outmoded territorial provisions and leave appeals from Commission decisions to be governed by the uniform procedures of the judiciary statute and court rules.

5. Delete the requirement that an applicant pay a \$1 00 fee for a permit to drill a well in this state. For some years the Commission has been fully funded by the regulated industry through a regulatory cost charge. The costs associated with permitting are more efficiently collected as part of the overall regulatory cost charge rather than by subtracting an **estimate** of the fees that might be generated in the coming year.

6. Specify that only data from "exploratory" and "stratigraphic test" wells is subject to a 24-month period of confidentiality. This change is consistent with the regulatory practice in most other oil and gas producing states that does not afford confidentiality well data in established oil and gas fields. The Commission recognizes that some wells that are drilled within the boundaries of an existing oil and gas field would be entitled to confidentiality because they are drilled to delineate a pool or are drilled near a lease boundary. The Commission believes that protection can be provided through regulation.

Sponsor Statement

Page 3

House Bill 183

7. Add a new subsection that makes clear that information submitted in connection with a petition for a Commission order or in connection with a hearing will not be held confidential solely on the claim that it is being provided "voluntarily" to the Commission. This amendment is consistent with Commission practice which requires the applicant to make a showing that the information is entitled to confidentiality under another provision of law or as one would, for example, for proprietary information or trade secrets.

8. Update the penalty section by increasing the penalty amounts available to the Commission and adds a specific list of criteria for the Commission to consider in determining the amount of a penalty. The bill would change the maximum amount of a penalty from \$5,000 a day for each day of violation, to provide for a civil penalty of **no more than \$1 00,000 for a single violation, or in the Commission's discretion, no more than \$25,000 a day for each day of violation**. It also increases the civil penalty for gas that is flared, vented or otherwise determined to be waste from the fair market value to two times the fair market value. This amendment essentially shifts the penalty previously imposed by the Department of Revenue for flared gas to the Commission. Prior to the recent legislative changes to the oil and gas tax laws, the Department of Revenue also imposed a penalty equal to the fair market value of the flared gas whenever the Commission determined it was waste.

9. Make a few housekeeping changes like substituting the Commission for an outdated reference to the Department of Natural Resources (the Department of Natural Resources has independent authority in Title 38), updating the classification of wells, and substituting **for which a permit to drill has been issued by the commission** where it is more efficient than listing each type of well subject to the Commission's authority.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB183-DOA-AOGCC 3-7-07
Bill Version: HB183
() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Administration

Title: Oil and Gas Conservation Commission

RDU: AOGCC

Component: AOGCC

Sponsor: Rules by Request of Leg Budget & Audit

Requester: House Oil & Gas

Component No. 2010

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1162 AOGCC Receipts	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill is not anticipated to have any fiscal impact on the Alaska Oil and Gas Conservation Commission (AOGCC).

The majority of the amendments are technical revisions involving responsibilities that are already under the purview of the AOGCC. The bill deletes the requirement that an applicant pay a \$100 fee for a permit to drill a well. Since the Commission is fully funded through a regulatory cost charge, it is more efficient to collect these fees as part of the overall regulatory cost charge rather than by subtracting an estimate of the fees to be generated in the coming year and then collecting by individual application. This will also streamline the process for permitting as the Commission moves towards implementing e-permitting.

Prepared by: Josy J. Colombie, Special Assistant I

Phone 793-1221

Division: Alaska Oil and Gas Conservation Commission

Date/Time 3/7/07 2:00 PM

Approved by: Rachael Petro, Deputy Commissioner

Date 3/7/07

Agency: Department of Administration



LEGISLATIVE BUDGET & AUDIT COMMITTEE

Representative Ralph Samuels, Chairman

SECTIONAL ANALYSIS

House Bill 183

Section 1. Statement of intent

(a) Confirms that AS 22.1 0.020(d), or court rules, have superseded inconsistent appeal provisions of AS 31.05.080; and

(b) Confirms that civil penalties may be administratively assessed by the Commission.

Section 2. Substitutes the language "for which a permit to drill has been issued by the commission" to capture all wells under the commission's regulatory authority rather than listing each type of well in (d)(2) and substitutes the word commission for an outdated reference to the Department of Natural Resources in (d) (7).

Section 3. Clarifies that the commission may regulate drilling and other oil and gas operations not only for conservation purposes but, as in the case of preventing blowouts or explosions, for public health and safety purposes under (e) (l).

(e)(l)(B) substitutes more precise terminology for the term "shooting"

(e)(l)(G) clarifies the commission's authority to regulate underground natural gas storage.

Section 4. Updates the various classifications of wells regulated by the commission.

Section 5. Slightly narrows a requirement enacted in 2004 relating to coal bed methane operations. The 2004 enactment requires a water well testing program whenever a well is drilled for production **or production testing** of coal bed methane. Production testing is a short-term operation that may occur during the exploration phase and is very low risk to the environment.

Requiring a water well testing program in such circumstances may discourage exploration with no significant offsetting benefit to the public. The bill therefore would modify the requirement to apply only where a well will be used for regular production of coal bed methane.

Section 6. Substitutes the language "for which a permit to drill has been issued by the commission" to capture all wells under the commission's regulatory authority rather than listing each type of well.

Section 7. Narrows the data that would be subject to a 24-month period of confidentiality to only the data from "exploratory" and "stratigraphic test" wells. This change is consistent with the regulatory practice in most other oil and gas producing states that does not afford confidentiality to well data in established oil and gas fields.

Section 8. Adds a new subsection (f) to clarify that information "voluntarily" provided under subsection (d) of this section does not apply to information submitted in connection with a petition for a Commission order or in connection with a hearing. This is consistent with Commission practice which requires the applicant to make a showing that the information is entitled to confidentiality under another provision of law as one would, for example, for proprietary information or trade secrets.

Section 9. The current statute uses the term "rehearing" and in accordance with more modern usage, the bill substitutes the term "reconsideration" for "rehearing."

Section 10. Clarifies that a person who has applied for reconsideration and who is dissatisfied with the disposition of the application for reconsideration may appeal to the Superior Court. The questions reviewed on appeal are limited to the questions presented to the Commission by the application for reconsideration. This section and section 19 update the appeal provisions of the existing statute by eliminating outmoded procedures that were enacted before statehood and clarifying that appeals from the Commission decisions are subject to the uniform procedures established in the judiciary statute, AS 22.10.020(d), and the Rules of Appellate Procedure.

Section 11. Allows the commission to allocate costs incurred by Commission staff for investigation or hearings.

Section 12. Deletes the requirement that an applicant pay a \$100 fee for a permit to drill a well in this state. The Commission has been fully funded by the regulated industry through a regulatory cost charge. The costs associated with permitting are more efficiently collected as part of the overall regulatory cost charge rather than by subtracting an estimate of the fees that might be generated in the coming year.

Section 13. Deletes the reference to the \$100 fee for the permit to drill from the regulatory cost charge formula.

Section 14. Updates the penalty section by increasing the penalty amounts available to the Commission. This section would change the penalty from \$5,000 a day for each day of violation to ***no more than a \$1 00,000 for a single violation, or in the commission's discretion, no more than \$25,000 a day for each day of violation.***

Section 15. Makes clear that civil penalties may be administratively assessed by the Commission and if not paid are recoverable by a lawsuit filed by the attorney general on behalf of the Commission.

Section 16. Increases the civil penalties for gas that is flared, vented, or otherwise determined to be waste from the fair market value to two times the fair market value. This amendment essentially shifts the penalty previously imposed by the Department of Revenue for flared gas to the Commission.

Section 17. Adds a new subsection setting out the factors to be used in determining the amount of a penalty.

Section 18. AS 31.05.080(c), and AS 31.05.080(d) are repealed to eliminate outmoded procedures that were enacted before statehood.

Section 19. Adds a revisors' instruction to change the heading of AS 31.05.080 from "Rehearings and appeals" to "Reconsiderations and appeals."

Section 20. Provides for an immediate effective date under AS 01 .01.070(c).

WITNESS LIST – HOUSE BILL 183

Commissioner John Norman, Alaska Oil and Gas Conservation Commission

Judy Brady, Alaska Oil & Gas Association

Cheryl Sutton, Staff, Legislative Budget and Audit Committee – 465-2705

SCOMM

148:10

ALASKA STATE LEGISLATURE



Official Business

HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Representative Kurt Olson, Chair
State Capitol, Room 408
Juneau, AK 99801-1182
Phone 907-465-2693 Fax 907-465-3835

Friday, October 19, 2007

1:30 pm – 6 pm

Room 519

AGENDA

HB 2001

Oil and Gas Tax Amendments

Requester Presentation by: Governor's Production Tax Team

Patrick Galvin, Commissioner Dept. of Revenue
Marcia Davis, Deputy Commissioner Dept. of Revenue
Jon Iversen, Dir. Tax Div., Dept of Revenue
Bob George, Gaffney, Cline & Associates
Rich Ruggiero, Gaffney, Cline & Associates

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education & Early Development
State of Alaska

ALASKA STATE LEGISLATURE



Official Business

HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Representative Kurt Olson, Chair
State Capitol, Room 408
Juneau, AK 99801-1182
Phone 907-465-2693 Fax 907-465-3835

Friday, October 19, 2007

1:30 pm – 6 pm

Room 519

AGENDA

HB 2001

Oil and Gas Tax Amendments

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Bob George, Gaffney, Cline & Associates

Rich Ruggiero, Gaffney, Cline & Associates

ALASKA STATE LEGISLATURE



Official Business

HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Representative Kurt Olson, Chair
State Capitol, Room 408
Juneau, AK 99801-1182
Phone 907-465-2693 Fax 907-465-3835

Representative Ralph Samuels
Representative Nancy Dahlstrom
Representative Scott Kawasaki

Representative Jay Ramras
Representative Mike Doogan

HB 2001 Bill Packet Information October 19, 2007

Enclosed Documents:

- HB 2001 "Oil & Gas Tax Amendments" bill - ver. 25-GH0014\A
- Fiscal Notes
 - 1. Administration
 - 2. Dept. of Revenue
 - 3. Dept. of Natural Resources
- Bullock Sectional - HB 2001
- Dept. of Revenue - Sectional Analysis
- Porter-Dickinson Sectional - referencing "Work Draft" version
- Dickinson - Detail Comparison Matrix- referencing "Work Draft" version
- Dickinson - Summary Comparison Matrix- referencing "Work Draft" version
- Dickinson Revenue Estimate - referencing "Work Draft" version
- Leg Finance Review - referencing "Work Draft" version
- Letter from Governor to Representative Doogan
- Public comments
- Statutes AS 43.55

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
 Component: Office of the Commissioner
 Sponsor: Governor Component Number: 45
 Requester: _____

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
OPERATING EXPENDITURES	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()							

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

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

Identifier (file name): LL 08-0014-DOR-TAX-10-17-07
Title: An Act relating to the production tax on oil and gas...

Dept. Affected: Revenue 04
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 Required		Information				
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services	1,215.7	1,215.7	1,215.7	1,215.7	1,215.7	1,215.7	1,215.7
Travel							
Contractual	1,018.4	1,018.4	1,018.4	511.8	5.2	5.2	5.2
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	2,234.1	2,234.1	2,234.1	1,727.5	1,220.9	1,220.9	1,220.9

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES ()		675,000.0	603,000.0	589,000.0	624,000.0	597,000.0	416,000.0
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FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill makes 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

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

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	ACES	Increase or (Decrease) 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 barrel (in REAL dollars)	ANS WC \$ per barrel (in NOMINAL dollars)	Status Quo - PPT	ACES	Increase or (Decrease) 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 barrel (in REAL dollars)	ANS WC \$ per barrel (in NOMINAL dollars)	Status Quo - PPT	ACES	Increase or (Decrease) 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	3,988	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

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education & Early Development
State of Alaska

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
Title: An Act relating to the production tax on oil and gas..

Dept. Affected: Revenue 04
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 Required		Information				
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services	1,215.7	1,215.7	1,215.7	1,215.7	1,215.7	1,215.7	1,215.7
Travel							
Contractual	1,018.4	1,018.4	1,018.4	511.8	5.2	5.2	5.2
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	2,234.1	2,234.1	2,234.1	1,727.5	1,220.9	1,220.9	1,220.9
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ()		675,000.0	603,000.0	589,000.0	624,000.0	597,000.0	416,000.0

FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill makes 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.

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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 barrel (in REAL dollars)	ANS WC \$ per barrel (in NOMINAL dollars)	Status Quo - PPT	ACES	Increase or (Decrease) 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 barrel (in REAL dollars)	ANS WC \$ per barrel (in NOMINAL dollars)	Status Quo - PPT	ACES	Increase or (Decrease) 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 barrel (in REAL dollars)	ANS WC \$ per barrel (in NOMINAL dollars)	Status Quo - PPT	ACES	Increase or (Decrease) 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	3,988	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

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 2008-0014
Bill Version: HB 2001
(H) Publish Date: 10/18/07

Identifier (file name): #773-08-0014-DNR-10-17-07
Title: ACES

Dept. Affected: Natural Resources
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
OPERATING EXPENDITURES							
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							
TOTAL OPERATING	303.5	0.0	303.5	303.5	303.5	303.5	303.5

CAPITAL EXPENDITURES							
-----------------------------	--	--	--	--	--	--	--

CHANGE IN REVENUES ()							
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FUND SOURCE (Thousands of Dollars)

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							
TOTAL	303.5	0.0	303.5	303.5	303.5	303.5	303.5

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
Division: Oil and Gas

Phone 269-8800
Date/Time 10/17/2007

Approved by: Tom Irwin, Commissioner
Natural Resources

Date 10/17/2007

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 these 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.

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

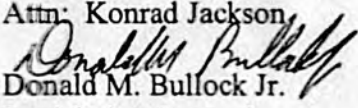
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

October 19, 2007

SUBJECT: Sectional analysis for HB 2001 (Work Order No. 25-GH0014\A)

TO: Representative Kurt Olson
Attn: Konrad Jackson

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. States that the enactment of AS 43.55.075(b) in sec. 50 of the bill is to "confirm by clarification the long-standing interpretation of AS 43.05.260 by the [department]." (AS 43.05.260 relates to the limitation on assessment for taxes imposed by AS 43.)

Section 2. Amends AS 38.05.035(a) by adding a new paragraph that requires the director of the division of lands to furnish records, files, and other information related to the administration of AS 38.05.180 (oil and gas and gas only leasing) to the Department of Revenue for use in forecasting state revenue and the administration of AS 43.55 (oil and gas production tax and surcharges). In the case of information required to be held confidential under AS 38.05.035(a)(8), the Department of Revenue is to maintain the same level of confidentiality of the information as is required of the director of the division of lands.

Section 3. Amends AS 38.05.036(b) by changing a cross-reference to a paragraph in AS 38.05.035(a); the change is required because the amendment of AS 38.05.035(a) in sec. 2 renumbered some paragraphs in the subsection and added a new paragraph.

Section 4. Amends AS 38.05.036(f) by changing a cross-reference to a paragraph in AS 38.05.035(a); the change is required because the amendment of AS 38.05.035(a) in sec. 2 renumbered some paragraphs in the subsection and added a new paragraph.

Section 5. Amends AS 38.05.036(g) by changing a cross-reference to a paragraph in AS 38.05.035(a); the change is required because the amendment of AS 38.05.035(a) in sec. 2 renumbered some paragraphs in the subsection and added a new paragraph.

Section 6. Amends AS 38.05.123(f) by changing a cross-reference to a paragraph in AS 38.05.035(a); the change is required because the amendment of AS 38.05.035(a) in sec. 2 renumbered some paragraphs in the subsection and added a new paragraph.

Section 7. Amends AS 38.05.135(e) by changing a cross-reference to a paragraph in AS 38.05.035(a); the change is required because the amendment of AS 38.05.035(a) in sec. 2 renumbered some paragraphs in the subsection and added a new paragraph.

Section 8. Amends AS 38.05.180(j) by changing a cross-reference to a paragraph in AS 38.05.035(a); the change is required because the amendment of AS 38.05.035(a) in sec. 2 renumbered some paragraphs in the subsection and added a new paragraph.

Section 9. Amends AS 38.05.275(c) by changing a cross-reference to a paragraph in AS 38.05.035(a); the change is required because the amendment of AS 38.05.035(a) in sec. 2 renumbered some paragraphs in the subsection and added a new paragraph.

Section 10. Adds a new paragraph to AS 39.25.110 that makes oil and gas production tax auditors and their immediate supervisors in the Department of Revenue, and oil and gas royalty auditors and their immediate supervisors in the Department of Natural Resources exempt employees.

Section 11. Amends AS 41.09.010(d) by changing a cross-reference to a paragraph in AS 38.05.035(a); the change is required because the amendment of AS 38.05.035(a) in sec. 2 renumbered some paragraphs in the subsection and added a new paragraph.

Section 12. Amends AS 43.05.230(a) to include AS 43.55.890 (added by sec. 61 of the bill) as authority for divulging the amount of income or the particulars set out or disclosed in a report or return made under AS 43, notwithstanding the general prohibition in AS 43.05.230.

Section 13. Amends AS 43.05.230(h) by adding tax returns, reports, and documents filed under AS 43.55 and the Department of Revenue's determinations and workpapers under AS 43.55 and AS 43.65 to the information that the Department of Revenue is required to furnish to the Department of Natural Resources.

Section 14. Amends AS 43.05.260(a) to include AS 43.55.075 (added by sec. 50 of the bill) as an exception to the general three-year statute of limitation on assessment.

Section 15. Repeals and reenacts AS 43.55.011(e); the reenactment changes levy from a monthly to a calendar year basis; with certain exceptions, provides that the tax is equal to the production tax value of the taxable oil and gas multiplied by the percentage

determined under AS 43.55.011(g) (subsection (g) is repealed and reenacted by sec. 17 of the bill). Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 16. Repeals and reenacts AS 43.55.011(f); the repeal and reenactment creates a new floor for the tax imposed on production from a unit or non-unitized reservoir from which 1,000,000,000 BTU equivalent barrels of oil or gas have been cumulatively produced before the start of the tax year and from which the average daily oil and gas production during the most recent calendar year exceeded 100,000 BTU equivalent barrels a day (so-called "legacy fields"); provides that tax credits may not be used to reduce the tax liability for these leases or properties below 10 percent of the total gross value at the point of production; provides that the effective tax rate under AS 43.55.011(e) may not be less than 10 percent of the total gross value at the point of production. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 17. Repeals and reenacts AS 43.55.011(g); provides that the tax rate applicable to the tax value of oil and gas production is the sum of 25 percent plus the product of 0.20 percent (.002) times the price index determined under AS 43.55.011(h) (subsection (h) is amended in sec. 18 of the bill); limits the tax to a maximum rate of 50 percent. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 18. Amends AS 43.55.011(h) to make the price index determined on a calendar year rather than a monthly basis, and to increase the nominal 25 percent tax when the average production tax value for all leases or properties in the state for the calendar year exceeds \$30. Provides that the price index may not be less than zero.¹ Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 19. Amends AS 43.55.011(j) (relating to Cook Inlet gas) to eliminate a reference to AS 43.55.011(g); the reference to AS 43.55.011(g) is no longer applicable with the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill and the repeal and reenactment of AS 43.55.011(g) in sec. 17 of the bill. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 20. Amends AS 43.55.011(k) (relating to Cook Inlet oil) to eliminate a reference to AS 43.55.011(g); the reference to AS 43.55.011(g) is no longer applicable with the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill and the repeal and

¹ For example, if the average production tax value is \$35 a BTU equivalent barrel, the tax rate is 26%. This is determined by starting with the 25% base rate in AS 43.55.011(g) and adding the product of 0.2% multiplied by 5, with "5" representing the difference between 30 and the average production tax value a BTU equivalent barrel.

reenactment of AS 43.55.011(g) in sec. 17 of the bill. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 21. Amends AS 43.55.011(m) by adding new limitations for excess tax credits associated with Cook Inlet gas production based on new subsections added to AS 43.55.160 by sec. 55 of the bill. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 22. Repeals and reenacts AS 43.55.020(a); provides the methods for determining the amount of monthly installment payments for the tax imposed on leases or properties outside of Cook Inlet excluding fields subject to tax under AS 43.55.011(f) (legacy fields), on leases or properties subject to AS 43.55.011(f), and on leases or properties in Cook Inlet; provides a limit on the amount of the installment payment for oil and gas produced in Cook Inlet; provides the method for determining the amount of the installment payment for the tax imposed on the production of taxable royalty oil and gas; and provides that any tax remaining due after the payment of the installment payments is due on March 31 of the year following the calendar year of production. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 23. Amends AS 43.55.020(d) by changing a reference to the statute under which the tax is levied to conform with the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 24. Amends AS 43.55.020(g) by changing references to paragraphs in AS 43.55.020(a) to conform to the repeal and reenactment of AS 43.55.020(a) in sec. 22 of the bill; clarifies the period during which interest accrues under 26 U.S.C. 6621 on the underpayment of an installment. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 25. Amends AS 43.55.020(h) by changing references to paragraphs in AS 43.55.020(a) to conform to the repeal and reenactment of AS 43.55.020(a) in sec. 22 of the bill; clarifies the period during which interest accrues under 26 U.S.C. 6621 on the overpayment of an installment. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 26. Amends AS 43.55.023(a) to require that no more than one-half of a credit for a qualified capital expenditure be applied in a single calendar year; amends the requirements for submitting information to the Department of Natural Resources as a

condition of taking the credit by referencing AS 43.55.025(f)(2) (AS 43.55.025(f)(2) is amended in sec. 39 of the bill); prohibits a credit for a qualified capital expenditure for exploration, development, or production on a lease or property subject to tax under AS 43.55.011(f) (legacy fields) from being applied against a tax for oil and gas production outside of those leases or properties. (The specific reporting requirements in the existing subsection are incorporated into the amended AS 43.55.025(f) in sec. 39 of the bill.) Under sec. 66 of the bill, this section applies to expenditures incurred after December 31, 2007, that are the basis for tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 27. AS 43.55.023(b) is amended to increase the percentage of a carried-forward annual loss that may be taken as a tax credit from 20 to 25 percent; incorporates a limitation on a carried-forward annual loss under AS 43.55.160(h) (AS 43.55.160(h) is added in sec. 55 and is applicable to Cook Inlet); prohibits the carry-forward of adjusted lease expenditures to explore, develop, or produce oil or gas deposits within a unit or non-unitized reservoir subject to AS 43.55.011(f) (legacy fields). Under sec. 66 of the bill, this section applies to expenditures incurred after December 31, 2007, that are the basis for tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 28. Amends AS 43.55.023(d) to limit the application of the subsection by making an exception for tax credits based on certain expenditures in legacy fields (AS 43.55.023(a)(3) in sec. 26 of the bill); references the ability to obtain a cash payment for tax credits under AS 43.55.028 (AS 43.55.028 is added in sec. 45 of the bill); doubles the period for the department to grant, deny, or grant a limited credit by changing the period for acting from 60 to 120 days; amends one of the three alternative starting points (the latest is used) to start the period for departmental action on the date a statement under AS 43.55.030(a) or (e) is filed (AS 43.55.030(a) is amended in sec. 46 of the bill and AS 43.55.030(e) is added in sec. 48 of the bill); requires the department to issue two credit certificates for the credits claimed with each certificate applicable to one-half of the credit amount; provides that the tax credit shown on one of the two credit certificates may be used immediately and prohibits the application of the tax credit on the other certificate before the calendar year following the calendar year in which the certificate is issued. Under sec. 66 of the bill, this section applies to expenditures incurred after December 31, 2007, that are the basis for tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 29. Amends AS 43.55.023(e) to conform with the addition of new limitations on tax credits in AS 43.55.023(d) as amended in sec. 28 of the bill; makes a technical correction to recognize that the tax is "levied by" AS 43.55.011(e), as opposed to "due under" that subsection. Under sec. 66 of the bill, this section applies to expenditures incurred after December 31, 2007, that are the basis for tax credits with respect to oil and

gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 30. Amends AS 43.55.023(g) by adding language to reflect the authority granted in AS 43.55.028 (AS 43.55.028 is added in sec. 45 of the bill) for the department to purchase tax credits authorized under AS 43.55.023. Under sec. 66 of the bill, this section applies to (1) transferable tax credit certificates under AS 43.55.023(d), and (2) transferable tax credit certificates under AS 43.55.023(d) in effect before January 1, 2008 for which a cash refund has not been issued under AS 43.25.023(f) before January 1, 2008. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 31. Amends AS 43.55.023 by adding a new subsection that states that an entity that is exempt from tax under AS 43.55 may not apply for a transferable tax credit certificate. Under sec. 71 of the bill, this section is retroactive to April 1, 2006.

Section 32. Amends AS 43.55.024(a) to refer only to AS 43.55.011(e), the subsection under which the tax is levied following the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill, and the repeal and reenactment of AS 43.55.011(f) in sec. 16 of the bill. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 33. Amends AS 43.55.024(c) to refer only to AS 43.55.011(e), the subsection under which the tax is levied following the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill, and the repeal and reenactment of AS 43.55.011(f) in sec. 16 of the bill. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 34. Amends AS 43.55.024(e) to refer only to AS 43.55.011(e), the subsection under which the tax is levied following the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill, and the repeal and reenactment of AS 43.55.011(f) in sec. 16 of the bill. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 35. Amends AS 43.55.024(g) to refer only to AS 43.55.011(e), the subsection under which the tax is levied following the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill, and the repeal and reenactment of AS 43.55.011(f) in sec. 16 of the bill. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 36. Amends AS 43.55.025(a) to refer only to AS 43.55.011(e), the subsection under which the tax is levied following the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill, and the repeal and reenactment of AS 43.55.011(f) in sec. 16 of the bill; makes a technical correction to recognize that the tax is "levied by" AS 43.55.011(e), as opposed to "due under" that subsection; removes the requirement in AS 43.55.020(a)(2) that expenditures must be for work performed before July 1, 2007.

Under sec. 66 of the bill, this section applies to expenditures incurred after December 31, 2007, that are the basis for tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 37. Amends AS 43.55.025(b) by changing the start date of the period in which exploration expenditures may qualify for the tax credit under AS 43.55.025(a) from July 1, 2003 to January 1, 2008; requires that the exploration well be completed or abandoned at the time the credit is claimed by an explorer under AS 43.55.05(f) (AS 43.55.025(f) is amended in sec. 39 of the bill); excludes costs from gross negligence or violation of health, safety, or environmental statutes or regulations from eligibility for the tax credit. Under sec. 66 of the bill, this section applies to expenditures incurred after December 31, 2007, that are the basis for tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 38. Repeals and reenacts AS 43.55.025(c); requires an explorer to submit information to the commissioner of natural resources whether the geological objective of the well is a potential oil or gas trap; requires the commissioner to make the determination within a 60-day time period; requires qualifying exploration wells drilled outside of Cook Inlet to have a bottom hole not less than three miles away from the bottom hole of a preexisting oil or gas well; and requires the commissioner of natural resources to determine that the well adequately achieved the explorer's stated geological objective. The "definition of preexisting well" in current law is moved to sec. 43 of the bill where AS 43.55.025(k) is amended by adding the definition in a new paragraph. Under sec. 66 of the bill, this section applies to expenditures incurred after December 31, 2007, that are the basis for tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 39. Amends AS 43.55.025(f) by adding an exception for a credit under AS 43.55.025(l) (AS 43.55.025(l) is a new subsection added by sec. 44 of the bill) and expanding the description of information required to be furnished to the Department of Natural Resources; describes the periods during which information submitted under this subsection to the Department of Natural Resources will be held confidential; requires the Department of Revenue to issue two production tax credit certificates, each for one-half of the amount of the credit allowed against production taxes; provides that the credit associated with one certificate may be used immediately and prohibits the application of the credit associated with the second of the two certificates before the calendar year following the year in which the certificate is issued; states that some information related to the production credit is not confidential. Under sec. 66 of the bill, this section applies to expenditures incurred after December 31, 2007, that are the basis for tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 40. Amends AS 43.55.025(g) to prohibit an explorer that is exempt from the production tax from transferring, conveying, or selling a production tax credit certificate. Under sec. 71 of the bill, this section is retroactive to July 1, 2003.

Section 41. Amends AS 43.55.025(h) to refer only to AS 43.55.011(e), the subsection under which the tax is levied following the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill, and the repeal and reenactment of AS 43.55.011(f) in sec. 16 of the bill. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 42. Repeals and reenacts AS 43.55.025(i). The reenacted provision prohibits applying a tax credit to reduce a taxpayers tax liability below zero and allows tax credits that may not be applied for a calendar year to be carried forward to later calendar years. The reenacted provision is substantively similar to existing law. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 43. Amends AS 43.55.025(k) by adding a new paragraph that defines "preexisting well." Under sec. 66 of the bill, this section applies to expenditures incurred after December 31, 2007, that are the basis for tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 44. Amends AS 43.55.025 by adding a new subsection -- AS 43.55.025(l) -- that relates to a claim for a production tax credit under AS 43.55.025 that is filed before January 1, 2016. Provides for a production tax credit equal to five percent of an eligible expenditure for seismic exploration performed before July 1, 2003; states the terms an expenditure must satisfy to qualify for the credit. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 45. Adds a new section to AS 43.55 -- AS 43.55.028 -- that establishes the oil and gas tax credit fund and provides for the purchase by the department of certain transferable tax credit certificates issued under AS 43.55.023 and certain production tax certificates issued under AS 43.55.025. Money in the fund consists of earnings on the fund and appropriations to the fund out of production taxes levied under AS 43.55.011. Requires the Department of Revenue to manage the fund and to use money in the fund to purchase tax credit certificates that satisfy certain conditions. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 46. Amends AS 43.55.030(a) to make the statement filing requirement apply to all producers rather than only those producers with a tax liability. Adds additional information requirements to those in current law. Under sec. 66 of the bill, this section applies to statements and reports required to be filed after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 47. Amends AS 43.55.030(d) by making a person required to file a report under the section liable for a penalty of \$1,000 for each day the person fails to file the report; provides that the penalty is in addition to existing penalties in AS 43.05.220 and 43.05.290; includes a statement within the meaning of "report" in the subsection.

Section 48. Adds subsections (e) and (f) to AS 43.55.030. AS 43.55.030(e) requires an explorer or a producer that does not produce oil or gas during the calendar year to report the producer's qualified capital expenditures and other lease expenditures; also requires a producer or explorer receiving a payment or credit under AS 43.55.170 to show whether a tax is due based on AS 43.55.160(d) or 43.55.170(b) and, if so, the amount of the tax. AS 43.55.030(f) authorizes the Department of Revenue to require monthly reports of information related to the determination of the amount of tax due under the chapter. Under sec. 66 of the bill, this section applies to statements and reports required to be filed after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 49. Amends AS 43.55.040 by adding additional paragraphs that authorize the Department of Revenue to require a producer, explorer, or operator to file reports and records that the department considers necessary to forecast state revenue under AS 43.55, and authorizes a \$1,000 a day penalty against a person who fails to file a report, statement, or other document required under that section.

Section 50. Adds a new section -- AS 43.55.075 -- to AS 43.55. AS 43.55.075 expands the limitation period for making an assessment of tax imposed by AS 43.55 from three years to six years after the latest return was filed. Requires a producer to report retroactive changes that affect an element used in determining the tax under AS 43.55 and to file amended returns for the periods affected by the change. Under sec. 66 of the bill, AS 43.55.075(a) applies to any tax liability for which the period of limitation had not expired as of the effective date of secs. 14 and 50 of the bill.

Section 51. Adds subsections (e), (f), and (g) to AS 43.55.110. AS 43.55.110(e) and (f) authorize the Department of Revenue to require filing and payment by electronic means; AS 43.55.110(g) authorizes the Department of Revenue to issue non-binding advisory bulletins stating the department's interpretation of AS 43.55 and regulations adopted under the chapter.

Section 52. Repeals and reenacts AS 43.55.160(a). Provides for the determination of the production tax value of oil and gas produced outside of Cook Inlet, oil produced in Cook Inlet, and gas produced in Cook Inlet. For oil and gas produced outside of Cook Inlet, the production tax value is the gross value at the point of production for that oil or gas, reduced by the lease expenditures and adjustments that are the costs of exploring for, developing, or producing oil located within the leases or properties, and, if the first reduction results in a positive number, lease expenditures and adjustments that are allocated to those leases or properties under AS 43.55.160(e) - (g). (AS 43.55.160(e) is

repealed and reenacted in sec. 54 of the bill; AS 43.55.160(f) and (g) are added by sec. 55 of the bill.) For oil and gas produced in Cook Inlet, the production tax value is the gross value at the point of production for that oil or gas, reduced by the lease expenditures and adjustments that are the costs of exploring for, developing, or producing oil located within the leases or properties. (The reenacted subsection removes the distinction between oil and gas produced north of 68 degrees North latitude and other oil and gas produced outside of Cook Inlet; however, the distinction between areas in the state continues in AS 43.55.160(f) and (g).) Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 53. Amends AS 43.55.160(b) to refer to the tax value calculated under the section, rather than under only (a) of the section. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 54. Repeals and reenacts AS 43.55.160(e). The reenacted provision addresses three situations in which a producer or explorer may have lease expenditure adjustments, part or all of which could be carried forward rather than being used during the current tax year: 1) the adjustments, if taken as a deduction would reduce the taxable value of oil and gas produced from a lease or property below zero; 2) the costs were incurred on leases or properties outside of Cook Inlet that did not produce oil or gas during the calendar year; 3) the costs are the producer's costs for the exploration for oil or gas located on land outside of Cook Inlet and in which the producer or explorer does not have an operating right, operating interest, or working interest. Before any such expenditures may be carried forward, the adjustments must first be allocated to those leases or properties under new subsections AS 43.55.160(f) and (g) (AS 43.55.160(f) and (g) are added in sec. 55 of the bill.) The current provision provides for a carry forward of adjusted lease expenditures if the adjustments would reduce the taxable value of oil or gas produced during the calendar year below zero. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 55. Amends AS 43.55.160 by adding four new subsections -- AS 43.55.160(f), (g), (h), and (i). AS 43.55.160(f) provides for the allocation of adjusted lease expenditures that are the costs of exploring for, developing, or producing deposits within leases or properties that include land north of 68 degrees North latitude, and AS 43.55.160(g) provides for the allocation of adjusted lease expenditures that are the costs of exploring for, developing, or producing deposits within leases or properties outside of Cook Inlet and no part of which is north of 68 degrees North latitude. AS 43.55.160(h) describes "Cook Inlet excess adjusted lease expenditures" and provides the means by which excess adjusted lease expenditures attributable to Cook Inlet may be used to establish a carried-forward annual loss under AS 43.55.023(b) (AS 43.55.023(b) is amended in sec. 27 of the bill). AS 43.55.160(i) describes the calculations a producer subject to AS 43.55.160(h) is required to perform for determining the only amount of

excess adjusted lease expenditures that may be carried forward under AS 43.55.160(h). Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 56. Repeals and reenacts AS 43.55.165(a), which describes a producer's lease expenditures. The reenacted subsection describes the types of costs that qualify and provides standards for the department to determine which costs may be allowed. The reasonable allowance for overhead expenses is moved into this subsection from the current AS 43.55.165(b). The reenacted AS 43.55.165(a) did not include from the existing provision references to typical industry standards in the state, costs an operator is allowed to bill to another working interest owner, and the standards used by the Department of Natural Resources when determining net profits for certain leases, as standards for determining lease expenditures. (The deleted reference standards are moved to AS 43.55.165(b) in sec. 57 of the bill.) Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 57. Amends AS 43.55.165(b) by deleting the provision for the allowance of reasonable overhead expenses (which was moved to AS 43.55.165(a) in sec. 56 of the bill) and incorporating factors that appear in the current AS 43.55.165(a) for determining what costs are lease expenditures. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 58. Amends AS 43.55.165(e) (relating to excluded lease expenditures) by deleting language in AS 43.55.165(e)(15) that relates to dismantlement, removal, surrender, or abandonment costs attributable to production before April 1, 2006, and adding additional categories of excluded costs. AS 43.55.165(e)(6) is amended to exclude costs that arise from a violation of law or the failure to comply with an obligation under a lease, permit, or license issued by the state or federal government. AS 43.55.165(e)(19) is added to exclude costs for repair, replacement, or deferred maintenance undertaken in response to an unscheduled interruption or reduction in the rate of production or undertaken in response to an unpermitted release of gas or other hazardous substances. (AS 43.55.165(e)(19) appears to address concerns similar to those addressed in HB 128 and SB 80, but uses different criteria than those in the existing legislation for determining excluded costs.) AS 43.55.165(e)(20) is added to exclude costs related to a refinery or crude oil topping plant, but allows the value of certain products produced from such a facility to be lease expenditures. Under sec. 66 of the bill, this section applies to oil and gas produced after March 31, 2006. Under sec. 71 of the bill, this section is retroactive to April 1, 2006.

Section 59. Amends AS 43.55.165(h) by specifying that the lease expenditures that are allocated are the costs of exploring for, developing, or producing oil or gas deposits. Under sec. 66 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, this section takes effect January 1, 2008.

Section 60. Amends AS 43.55.170(a) by deleting an exception relating to the subtraction of a payment or credit in calculating billable or billed costs. Under sec. 66 of the bill, this section applies to oil and gas produced after March 31, 2006. Under sec. 71 of the bill, this section is retroactive to April 1, 2006.

Section 61. Adds a new section to AS 43.55 -- AS 43.55.890. The new section provides for the publication of information, if aggregated among three or more producers or explorers, that includes the amount of oil or gas production, the amount of taxes levied and paid under AS 43.55, and other information related to credits, expenditures, and the value of oil and gas produced.

Section 62. Amends AS 43.55.900 by adding definitions for "non-unitized reservoir," "pool," "producer," and "unit."

Section 63. Repeals AS 43.55.023(f) (relating to refundable credits).

Section 64. Repeals AS 43.55.165(c) and (d) (relating to the determination of lease expenditures using operating agreements). Under sec. 66 of the bill, these repeals apply to oil and gas produced after March 31, 2006. Under sec. 71 of the bill, these repeals are retroactive to April 1, 2006.

Section 65. Repeals AS 43.55.011(l) (relating to the taking of a tax reduction for Cook Inlet production), 43.55.023(i) (relating to transitional investment expenditures occurring after March 31, 2001, and before April 1, 2006), 43.55.160(c) (relating to the determination of the production tax value of oil and gas taxable under AS 43.55.011(g)). Under sec. 66 of the bill, these repeals apply to oil and gas produced after December 31, 2007. Under sec. 72 of the bill, these repeals are effective January 1, 2008.

Section 66. Makes identified bill sections applicable to oil and gas produced after March 31, 2006 and after December 31, 2007, to expenditures incurred after December 31, 2007, to tax credit certificates that have not been refunded, and statements and reports required to be filed after December 31, 2007.

Section 67. Provides for the assignment of current oil and gas auditors in the Department of Revenue and the Department of Natural Resources and their immediate supervisors to the exempt service, but allows those individuals hired before the effective date of sec. 10 of the bill (adding these position classifications to the exempt service) to choose to continue in the classified service.

Section 68. Allows regulations adopted by the Department of Revenue and the Department of Natural Resources to be retroactively applied. Under sec. 71 of the bill, this section is retroactive to April 1, 2006.

Representative Kurt Olson
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Section 69. Provides for the treatment of pending applications for transferable credits and for the refund of credits under AS 43.55.023.

Section 70. Authorizes the Department of Natural Resources and the Department of Revenue to proceed with the adoption of regulations necessary to implement the Act but provides that an adopted regulation may not take effect before the effective date of the law being implemented.

Section 71. Provides for the retroactivity of certain provisions of the Act. The retroactivity is noted in the analysis of the bill sections above.

Section 72. Makes certain provisions of the Act effective January 1, 2008. The sections effective on this date are noted in the analysis of the bill sections above.

Section 73. Except as provided in sec. 72, makes the Act take effect immediately.

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State of Alaska

Department of Revenue
Commissioner's Office



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The Honorable Mike Doogan
House District 25 Representative
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(907) 269-0216

October 17, 2007

Dear Representative Doogan,

Thank you for your questions and we look forward to working with you through the ACES process. Your original questions and the Department's answers are set forth below. Please let me know if you require any additional material.

1. Deputy Commissioner Marcia Davis said at the outset that the administration wanted to fashion a tax plan that encouraged industry investment and enhanced state revenue. Are these goals listed in priority order; that is, in instances that inevitable trade-offs arose between the two goals, were they decided in favor of investment over revenue?

The two goals are of equal value. The balance of the two goals leads to the ultimate objective to maximize the total value of oil and gas resources received by the state.

2. Was the failure to predict income from the existing PPT all attributable to higher costs being claimed by the industry? If not, what other factors led to the spectacular chasm between what had been predicted for PPT and what was paid?

The difference between the PPT forecast and actual tax revenues was due primarily to the inaccurate nature of the cost information used in the forecast calculation. The fiscal notes provided during the 2006 PPT debate relied on a variety of sources, including reports of outside experts, public statements from the North Slope producers, and some 2002 - 2004 cost information provided by the producers. The current PPT law does not require industry to supply detailed information relating to past or future costs, making it difficult for the department to determine whether the increases were due primarily to increase prices on current investments (price per item), or from an increased level of investment activity (more items purchased). This is one of the primary reasons ACES seeks to make the companies/taxpayers report their costs to us in real time--and prospectively.

To some extent we know that costs increased as a result of increased prices. The department has verified a global price escalation that took place over the past two years due to both the global increase in material and labor costs due to increasing demand, and the North Slope specific renewal of many industry sub-contracts. The contracts negotiated by producers in late 2005 and 2006 were at substantially higher prices than their earlier contracts. The prior lower priced contracts were negotiated at a time when producers believed that oil prices would fall, and that belief suppressed the pricing of contractors who knew that work would only materialized if the oil and gas projects could be shown to be profitable at approximately \$20 barrel oil. We anticipate costs to rise slightly more before leveling off after the coming fiscal year, as additional North Slope contracts are re-negotiated.

3. Since there has been no auditing of costs claimed by the industry under PPT, what confidence can we have that the administration's revenue projections based on that data are accurate?

For our projections we have used the costs filed by the producers in their tax returns. Until these returns are audited, the appropriateness and accuracy of the reported cost amounts remain open questions. It is unlikely that the industry has understated its costs

ACES contains provisions that will rectify the situation the administration currently faces. ACES will improve DOR projections through stricter reporting requirements that are not contingent solely upon tax returns. It will include the obligation to supply DOR with documentation that is currently supplied by the unit operators to the other unit working interest owners relating to budgetary matters. This information will contain the operators' forecasted costs for the next 12 to 18 months associated with the Unit's approved operations plan. While these plans can be changed by the working interest owners over time, the DOR will likewise be made aware of those changes real time.

In addition, current information will be made more readily and timely available to the DOR by the ACES provisions that (1) enhance the DOR's ability to hire a sufficient number of qualified oil and gas tax auditors to speed up our auditing process, (2) create a comprehensive, workable database where the data is derived via computer from standardized monthly and annual tax reporting forms, and (3) an extended statute-of-limitations to complete any assessments on filed returns, which will enable DOR to focus on high priority audits without concern that lower priority audits will be timed out.

4. Insofar as the administration's plan is based on confidential information, how will the legislature be able to satisfy itself that such data is accurate and is being interpreted properly?

The economic models created by DOR and DNR personnel that analyze various tax proposals were built using a substantial amount of confidential tax payer information, and confidential resource data, without which the models cannot be manipulated. We have been advised by the Department of Law that the legislature may only review this underlying confidential information when the legislature is in executive session and accompanied by signed confidentiality agreements. While this limits what we may allow legislator's to inspect prior to the start of the session, we are happy to share our methodology, including assumptions, so that legislators can understand the analytical underpinnings of the models as a first step to verifying the validity of their results.

5. In what ways is the administration's tax plan "intended to drive new production?" What sort of research was performed to estimate the effect of the state's production tax policy on the industry's decisions to explore or develop? What other factors are involved? Where do state taxes rank in the hierarchy of industry decision-making?

Investment decisions are influenced by a number of considerations including resource potential, tax structure, regulatory environment, infrastructure, political stability and many others. Although the resource itself is generally the most significant driver, each company must gage each of these elements according to its own strengths and investment objectives.

From a state's perspective, it is important to understand the relative value of its resource, in addition to how its other features compare to those of competing areas. The state's ability to acquire the greatest possible value for its resources, however, depends largely on the state's ability to understand and respond to investment behavior. This means that regulatory and fiscal systems must be structured in a way that allow companies to meet investor expectations efficiently, but allow the state flexibility in capturing the greatest share of the resource's economic rent.

In structuring a tax system, the state has many tools at its disposal which affect companies in different ways at different periods in a project's economic life cycle. The most significant elements affecting an area's investment attractiveness allow a company to recoup its initial investment dollars as soon as possible. Value contributed by the state through capital credits reduce an investor's up-front costs and have a much greater positive effect on a project's net present value than does a reduction in tax rates. When an oil company invests, its future cash flow has uncertainties because of unexpected reservoir performance, and uncertainty relating to oil price. The sooner it recovers its initial capital investment, the more able the producer is able to weather the downside risks associated with production and oil price.

Both royalties and production taxes reduce the net cash flow that a company receives in the same way that operating and capital expenses do. These factors were taken into

consideration in the Administration's modeling efforts, along with cost and sales price sensitivities.

The analysis done by the Administration was based on sampled range of real projects, currently posed for development in Alaska. We were able to model the impact of various tax structures on exploration and development of these projects within the context Alaska's cost environment. The analysis showed several interesting things.

One thing we found was that a straight gross tax rate, at anything like the rate that would be necessary to raise the kind of money that the state should expect to receive from its resource, resulted in quite unfavorable investment metrics across the development plays examined. We also examined a number of gross tax variations incorporating different exploration and development incentives, but were unable to find one that balanced our objectives as well as some of the net-based approaches.

6. What is the history of industry investment in exploration and development in Alaska, in terms of dollars spent? Has Alaska's percentage of worldwide annual spending for exploration changed during the past 10 years?

Please see attached documents.

7. What happened to the "challenges of writing regulations for PPT" mentioned in the department's analysis of Aug. 3?

The second round of regulations has been largely focused on describing lease expenditures and addressing joint interest auditing. The department anticipates that although challenges will remain, the ACES proposal will be more administrable and drafting regulations for ACES will be a simpler task.

ACES take a clearer approach to defining allowable lease expenditures by enabling the department to make determinations regarding what costs are included. The current PPT language requires the department make explicit exclusions, and to accept unit accounting conclusions regarding which costs qualify.

ACES also removes from consideration as leasehold expenses certain disputable classes of costs such as proportionate abandonment costs, crude oil topping plant costs, and replacement and repair costs associated with unscheduled reduced or shut in production, oil spills or gas releases. These clarifications greatly simplify the technical regulations relating to leasehold expenses.

8. *Is the administration considering contracting for auditors needed for any net profits tax?*

Yes. The department plans to use a contractor in the short-term, along with department auditors, for a compliance review focused on leasehold expenditures that is anticipated to begin immediately. The use of contractors, however, is not a sustainable solution for the state and are only planned to be used over the next 2-4 years. They will help to augment and fully develop the department's own upstream auditing ability and auditor training programs. Requirements for auditors will change substantially during the first two years as our auditors are provided with the appropriate information.

9. *The original PPT was written as a method of getting a gas pipeline. Since that approach has failed, what will the administration be proposing for provisions that allowed producers to write gas line costs off against their oil taxes?*

The administration believes that a fair tax on oil should not impact the state's prospects for a gasline. ACES, as proposed, will not address the gasline directly but leave in place language from the existing PPT which disallows a gasline project from accruing certain credits (see below). The administration also believes that the most appropriate time to address any changes in the production tax as it applies to gas would be prior to the first open season, but at a time when more economic information is known about gas commercialization opportunities and gas projects are better defined.

AS 43.20.043 (f) of the existing PPT language states:

A taxpayer is not entitled to a credit under this section for expenditures that are made or incurred for the qualified capital investment or for qualified services made for exploration and development of gas that occur in the area of Alaska lying north of 68 degrees North latitude or that are made or incurred to transport gas from reserves located in the area of Alaska lying north of 68 degrees North latitude.

10. *What are the proposed credits for oil exploration and development credited against?*

The credits will offset liability for production taxes. To the extent a company's credits are larger than its production tax liability, the company may transfer credits to another taxpayer. In the case of qualified applicants that produce an average of 50,000 barrels per day or less, the applicant may seek a refund of the credits from the state.

Tax liability = [(Value - Costs) x tax rate] - credits.

Value = volume of oil x wellhead value*

Costs = allowable capital expenditures + operating expenditures

Rate = 25% + .2% for every dollar that net income** per barrel exceeds \$30

*Wellhead value = ANS price - transportation costs (TAPS tariff)

**Net income = Value - Costs