

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672
1540 SCOMM 57: SENATE SPECIAL COMMITTEE ON OIL & GAS, 1987-1988 337

1 (2) execute an agreement with the department to keep the
2 return or return information confidential, to abide by regulations
3 adopted by the department under (h) of this section, and to return the
4 documents to the department.

5 (h) The commissioner shall adopt regulations governing the
6 transmittal, receipt, safekeeping, duplication, accounting for, and
7 return of the confidential tax return and return information trans-
8 ferred under (b) and (c) of this section.

9 (i) This section does not permit the transfer to the legislature
10 of confidential tax returns and return information provided by the
11 Internal Revenue Service under exchange agreements with the depart-
12 ment.

13 (j) In this section

14 (1) "return" has the meaning given in 26 U.S.C. 6103(b)(1),
15 except that "secretary" is read as "department" and "this title" means
16 AS 43;

17 (2) "return information" has the meaning given in 26 U.S.C.
18 6103(b)(2)(A), except that "secretary" is read as "department" and
19 "this title" means AS 43.

20 * Sec. 8. AS 43.20.030 is amended by adding a new subsection to read:

21 (h) The department may grant an extension for filing a return
22 required under this section. The extension may not exceed 30 days
23 beyond the filing date or the extension granted to the taxpayer by the
24 Internal Revenue Service for filing the taxpayer's federal income tax
25 return, whichever is later. Granting the extension does not affect
26 the due dates for payment of the tax.

27 * Sec. 9. AS 43.05.232, as enacted by sec. 7 of this Act, applies to
28 all confidential tax returns and return information in the possession of
29 the department on or after the effective date of this Act.

1 * Sec. 10. This Act takes effect immediately under AS 01.10.070(c).



ALASKA STATE LEGISLATURE

SENATE SPECIAL COMMITTEE ON OIL AND GAS

Senator Bettye Fahrenkamp
Chairman
Senator Jack Coghill
Senator Paul Fischer

P.O. Box V, State Capitol
Juneau, Alaska 99811
(907) 465-3834

March 23, 1987

SCS CSHB 58am (Oil and Gas), RELATING TO CONFIDENTIAL TAX INFORMATION; RELATING TO THE FILING OF TAX RETURNS.

COMPARISON OF CSHB 58 (Finance)am, PROPOSED SENATE CS AND PROPOSED INDUSTRY DRAFT

Section 1: A finding and purpose section is included to assist the courts in interpreting the bill. A taxpayer's right to privacy under Alaska Constitution Article 1, Section 22 must be balanced with the legislature's need for information on how the state's tax laws are working.

All three versions contain this identical section.

Section 2: Adds a new section to Title 24, Article 2, on legislative employees. It would prohibit a present or former employee or agent of the legislature from disclosing confidential tax information.

All three versions contain this identical section.

Section 3: Adds a new section to the Legislative Standards of Conduct Code. Disclosure of confidential tax information by persons covered by the Code would be prohibited.

All three versions contain this identical section.

Section 4: Also adds to the Legislative Standards of Conduct Code a section to protect confidential information that may have been a source of a complaint before the Legislative Ethics Committee.

All three versions contain this identical section.

Section 5: Amends existing statute that prohibits disclosure of confidential tax information by state employees to allow the transfer of information to the legislature.

All three versions contain this identical section.

Section 6: Establishes penalties for violation of the confidentiality provisions. Current statute provides penalties only for an "intentional" violation.

House version: A "knowing" violation is a class A misdemeanor (Maximum penalties: 1 year imprisonment and \$5,000); a "grossly negligent" violation is subject to a civil penalty of \$5,000.

Senate version: A "knowing" violation is a class A misdemeanor (Maximum penalties: 1 year imprisonment and \$5,000); a "grossly negligent" violation is subject to a civil penalty of \$5,000. Clarifies that the Department of Revenue will enforce and collect the civil penalties.

Industry version: Reduces standard for civil penalty from "gross negligence" to simple "negligence". A "knowing" violation is a class A misdemeanor (Maximum penalties: 1 year imprisonment and \$5,000); a "negligent" violation is subject to a civil penalty of \$5,000.

Section 7: Creates a new section of statute to deal specifically with the transfer of confidential tax information to the legislature.

(a) Establishes purposes for which tax information may be transferred to the legislature (to assist in consideration of tax legislation, oversight of the administration of tax laws, including the review of settlements, litigation, and audits, or estimation of future state revenues), and purposes for which information may not be transferred (to direct the executive branch in its audit, litigation, or settlement efforts, or to embarrass, harass, or discriminate against a taxpayer).

All three versions contain this identical subsection.

(b) Establishes a procedure for requesting tax information.

House version: After adoption of a simple resolution that identifies the scope of the inquiry and allows a committee to receive information, a committee chair or co-chair may make a written request. During the interim, the chairman of the Legislative Budget and Audit Committee may request information if a majority of the committee agree.

Senate version: Does not include provision for interim requests. Requires adoption of simple resolution.

Industry version: Does not include provision for interim requests. Requires adoption of simple resolution.

- (c) Allows the commissioner to transfer unrequested information under certain conditions.

House version: Only if a written finding is filed showing that the transfer is in the best interest of the state. Lists points the commissioner must consider (whether the information would demonstrate the application of a tax or the effect of a change in tax law, assist in estimating revenues, or clarify information provided by a taxpayer, and the potential harm a taxpayer may suffer by the possible subsequent illegal disclosure of the information). Requires the commissioner to provide affected taxpayers with a copy of the written finding before the information is transferred.

Senate version: Identical to House.

Industry version: Only if a taxpayer has testified before a committee and the department has information that is inconsistent with that testimony.

- (d) Requires that confidential information be considered only in executive session.

House version: Specifies that all legislators may attend the session. Authorizes the chair or co-chair to designate employees and agents allowed to attend and review the tax information, but to minimize the number of such employees. Authorizes the chair to allow the taxpayer whose returns are being considered to attend the executive session.

Senate version: Identical to House.

Industry version: Specifies that all legislators may attend the session. Requires the chair or co-chair to limit the number of employees and agents allowed to attend. There is no provision for allowing employees or agents to review the tax information. Authorizes the chair to allow the taxpayer whose returns are being considered to attend the executive session.

- (e) Requires that the commissioner notify the taxpayer of the contents of the information transferred to the committee.

All versions contain this identical subsection.

- (f) This section restricts the commissioner's ability to transfer commercially sensitive tax information.

House version: Requires that, when more than one type of information will satisfy the legislature's request, the commissioner must choose the least commercially sensitive information.

Senate version: Identical to House.

Industry version: Requires written determination that commercially sensitive information is in the least intrusive form. Requires contracts or transactional documents to be edited or summarized.

- (g) Specifies that anyone authorized to receive confidential information must sign a form acknowledging that disclosure of the information is prohibited by law, and agreeing to abide by procedures adopted by the department.

All versions contain this identical subsection.

- (h) Establishes procedures for handling confidential tax information.

House version: Requires the commissioner to adopt regulations governing the transmittal, receipt, safekeeping, duplication, accounting for, and return of the information.

Senate version: Identical to House.

Industry version: Requires the commissioner to adopt regulations. Specifies centralized safekeeping and limitations on duplication and removal of documents.

- (i) Ensures that the exchange of information agreement with the Internal Revenue Service will not be violated.

All three versions contain this identical subsection.

- (j) Defines "return" and "return information".

House version: References definition used in federal law.

Senate version: Identical to House.

Industry version: Limits to six items:

- 1) taxpayer's identity,
- 2) tax returns required by law,
- 3) annual amount of collections for each tax,
- 4) the amount of an assessment for each issue and each taxpayer,
- 5) a description of the issues involved in the assessment,
- 6) the amount, nature and basis of settlements.

Section 8: Amends existing law to allow the department to grant taxpayers an extension for filing their returns.

House version: Allows only a 30 day extension beyond filing date or IRS extension.

Senate version: Identical to House.

Industry version: Allows a reasonable extension not more than one month beyond IRS maximum.

Section 9: Specifies that the act applies to all returns and return information in the possession of the department on the effective date of the act.

House and Senate versions contain this section.

Industry version does not contain this section.

Section 10: The bill has an immediate effective date.

House and Senate versions contain this section.

Industry version does not contain this section.

NOTE 1. SECT. 6: THIS CHANGE WOULD LOWER THE STANDARD OF REPROACHABLE CONDUCT TO "ORDINARY NEGLIGENCE". "GROSS NEGLIGENCE" IS AN INAPPROPRIATELY LOW STANDARD OF BEHAVIOR IN THE CONTEXT OF HANDLING CONFIDENTIAL TAXPAYER INFORMATION.

NOTE 2. SECT. 7(c): THIS CHANGE LIMITS THE COMMISSIONER OF REVENUE'S AUTHORITY TO PROVIDE TAXPAYER INFORMATION TO THE SITUATION IN WHICH A TAXPAYER HAS PROVIDED FALSE OR MISLEADING INFORMATION TO THE LEGISLATURE REGARDING ITS TAX MATTERS.

NOTE 3. SECT. 7(d): THIS CHANGE ESTABLISHES FIXED NUMBERS OF LEGISLATIVE EMPLOYEES AND AGENTS WHO WOULD HAVE ACCESS TO THE TAXPAYER INFORMATION SO AS TO MINIMIZE THE RISK OF UNAUTHORIZED DISCLOSURE.

NOTE 4. SECT. 7(f): THIS CHANGE WOULD PROVIDE FURTHER ASSURANCE TO THE TAXPAYERS OF THE STATE THAT HIGHLY SENSITIVE OR PROPRIETARY INFORMATION WAS TRANSFERRED TO THE LEGISLATURE ONLY IN THOSE INSTANCES IN WHICH THERE WAS NO LESS INTRUSIVE OR SENSITIVE FORM FOR PROVIDING THE INFORMATION.

NOTE 5. SECT. 7(h): THIS CHANGE WOULD PROVIDE FURTHER ASSURANCE THAT THE TAXPAYER INFORMATION WAS HANDLED IN THE SAFEST MANNER AND THAT RISKS OF UNAUTHORIZED OR INADVERTENT DISCLOSURE WERE MINIMIZED.

NOTE 6. SECT. 7(j): THIS CHANGE WOULD PERMIT THE TRANSFER OF THE VAST MAJORITY OF THE INFORMATION THAT THE DEPARTMENT OF REVENUE HAS. HOWEVER, THE DEPARTMENT OF REVENUE COULD NOT TRANSFER THE TRANSACTIONAL DOCUMENTS GOVERNING THE PURCHASE AND SALE OF OIL AND GAS PRODUCTION OR OTHER ASSETS. AS A RESULT, THIS HIGHLY SENSITIVE AND PROPRIETARY INFORMATION WOULD NOT BE EXPOSED TO THE RISKS OF UNAUTHORIZED OR INADVERTENT DISCLOSURE, WHILE AT THE SAME TIME THE LEGISLATURE WOULD HAVE ACCESS TO VAST AMOUNTS OF TAXPAYER INFORMATION NECESSARY TO CARRY OUT ITS RELATED RESPONSIBILITIES.

NOTE 7. SECT. 8: THIS SECTION GIVES THE COMMISSIONER THE ABILITY TO GRANT AN EXTENSION FOR FILING AN ALASKAN TAX RETURN. AOGA HAS REQUESTED THIS LANGUAGE TO GIVE GREATER FLEXIBILITY TO THE COMMISSIONER IN HIS ABILITY TO GRANT EXTENSION. THIS SECTION DOES NOT AFFECT THE DATE WHEN TAXES ARE DUE OR THE AMOUNT OWED.

Proposed industry amendments

For an Act entitled: "An Act relating to confidential tax information; relating to the filing of tax returns; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE.

(a) The legislature finds that

(1) the majority of the state's revenue is derived from taxation;

(2) tax revenue enables the state to provide essential services to the citizens of the state to ensure the public health and welfare;

(3) the elected representatives of the people of the state must be assured that the state is receiving all of the income to which it is entitled and that the tax laws are operating in the manner intended by the legislature;

(4) the legislature must exercise its oversight authority to ensure that tax revenue collection by the Department of Revenue is efficient, fair, prompt, and in the best interest of the state;

(5) there is legitimate and compelling governmental interest in the legislature having adequate access to tax-related information to allow responsible oversight;

(6) without sufficient information, the legislature cannot adequately determine that the state's tax revenue collection functions are properly administered and that tax revenue due the state is promptly received;

(7) tax returns and return information contain confidential information, often regarding sensitive business information;

(8) taxpayers have protections against public disclosure of certain tax information;

(9) exchange agreements with the Internal Revenue Service require that certain tax information not be publicly disclosed;

(10) protection of confidentiality fosters full disclosure by taxpayers to taxing authorities and therefore promotes effective administration of tax programs; and

(11) legislators and legislative employees who improperly disclose confidential tax information should be subject to the same sanctions imposed against executive branch employees.

(b) The purpose of this Act is to ensure that

(1) the state is receiving all the tax revenue due the state;

(2) oversight of the tax revenue collection function is effectively provided;

(3) tax revenue due to the state is available to provide for the public health and welfare of the citizens of the state;

(4) taxpayers are protected from improper disclosure of tax information;

(5) the exchange agreements with the Internal Revenue Service regarding tax information are not jeopardized;

(6) tax programs are administered fairly; and

(7) the right of the people to privacy is recognized and may not be infringed.

* Sec. 2. AS 24.10 is amended by adding a new section to article 2 to read:

Sec. 24.10.070. CONFIDENTIALITY OF INFORMATION. A present or former employee or agent of the legislature may not disclose tax

information contained in a report or return filed under AS 43.05.230 and furnished to the person under AS 43.05.232.

* Sec. 3. AS 24.60.060 is amended by adding a new subsection to read:

(b) A person to whom this chapter applies may not disclose tax information contained in a report or a return filed under AS 43.05.230 and furnished to the person under AS 43.05.232.

* Sec. 4. AS 24.60 is amended by adding a new section to read:

Sec. 24.60.172. SPECIAL PROCEEDINGS BEFORE THE COMMITTEE. Notwithstanding AS 24.60.170, if a complaint before the committee involves an allegation that a person to whom this chapter applies has disclosed tax information contained in a report or return filed under AS 43 with the Department of Revenue and furnished to the person under AS 43.05.232, and if the taxpayer or third party whose tax information is alleged to have been improperly disclosed does not agree to the public disclosure of the identity of the taxpayer, the third party, or the tax information,

(1) the hearing may not be held in open session;

(2) a transcript containing confidential tax information shall be edited to prevent the disclosure of the confidential information;

(3) a decision, if made public, shall be edited to prevent the disclosure of the tax information and to protect the identity of the taxpayer or the third party; and

(4) a public statement may not contain information identifying the taxpayer, a third party, or the tax information.

* Sec. 5 AS 43.05.230(a) is amended to read:

(a) It is unlawful for a current or former officer, employee, or agent of the state to divulge the amount of income or the particulars set out or disclosed in a report or return made under this title,

except

(1) in connection with official investigations or proceedings of the department, whether judicial or administrative, involving taxes due under this title;

(2) in connection with official investigations or proceedings of the child support enforcement agency, whether judicial or administrative, involving child support obligations imposed or imposable under AS 25 or AS 47;

(3) as provided in AS 38.05.036 pertaining to audit functions; and

(4) as otherwise provided in this section or in AS 43.05.232.

* Sec. 6. AS 43.05.230 (f) is repealed and reenacted to read:

(f) A person who knowingly violates a provision of this section is guilty of a class A misdemeanor. A person whose negligence results in a violation of this section is subject to a civil penalty of \$5,000.

* Sec. 7. AS 43.05 is amended by adding a new section to read:

Sec. 43.05.232. DISCLOSURE OF CONFIDENTIAL TAX RETURNS AND RETURN INFORMATION TO THE LEGISLATURE. (a) Confidential tax returns and return information may not be requested by a legislative committee under (b) of this section or transferred to a legislative committee under (c) of this section,

(1) unless the purpose of the committee's request under (b) of this section or of the transfer under (c) of this section is

(A) to assist the committee in carrying out its responsibilities to consider tax legislation;

(B) to oversee the effective and efficient administration of the state's tax laws, including the review of audits, litigation, or settlements; or

(C) to estimate future state revenue;

(2) if the purpose of the request or transfer is to direct the executive branch in its audit, litigation, or settlement efforts, or to collect information to embarrass, harass, or discriminate against a taxpayer.

(b) After a legislative committee identified the scope of an investigation or inquiry relating to matters of taxation and after adoption by either house of the legislature of a simple resolution giving the committee authority to receive confidential tax information, the committee chair or co-chair may request confidential tax returns and return information and the commissioner of revenue shall provide the requested returns or return information. The request shall be in writing and may identify a particular taxpayer.

(c) When consistent with the purposes set out in (a) of this section, the commissioner may transfer unrequested confidential taxpayer returns or return information to a legislative committee. If the taxpayer has testified before a legislative committee, either orally or in writing concerning a tax matter under this title and the Department of Revenue has taxpayer returns or return information that is inconsistent with the testimony or information offered by the taxpayer. [See NOTE 2]

(d) A legislative committee shall consider tax returns and return information transferred under (b) or (c) of this section in executive session only, unless the taxpayer and any third party whose tax return or return information is being considered in conjunction with the taxpayer's return or return information consent in writing to a disclosure in open session. The executive session must be open to all legislators. The committee chair or co-chair shall limit the number of employees and agents designated. [See NOTE 3]. The designated employees and agents may attend the executive session. The chair or co-chair may allow a taxpayer whose confidential tax return or return

information is being considered to attend the portion of the executive session that considers that taxpayer's confidential tax return or return information.

(e) When confidential tax returns or return information concerning a specific taxpayer are provided to a legislative committee under this section, the commissioner shall notify the taxpayer of the content and delivery of the return and return information to the committee.

(f) Before providing confidential tax return or return information under (b) or (c) of this section, the commissioner shall make a written determination that the information to be provided is in the least intrusive form with regard to the taxpayer's commercially sensitive material. Contracts or other transactional documents shall not be transferred if they can be summarized or edited in a manner that does not disclose the details of the transaction or the identity of the taxpayer or the trading partner of the taxpayer. [See NOTE 4]

(g) Disclosure contrary to the provisions of this section by a member or former member of the legislature or by a present or former employee or agent of the legislature of a return or return information that is confidential under AS 43.05.230 and transferred to the legislature under this section is a violation of AS 43.05.230. A member of the legislature or an employee or agent of the legislature, before receiving or reviewing a return or return information provided by the commissioner under (b) or (c) of this section, shall, on a form prepared by the commissioner,

(1) acknowledge that the return or return information is confidential and that a disclosure of the return or return information contrary to the provisions of this section is prohibited by law; and

(2) execute an agreement with the department to keep the return or return information confidential, to abide by regulations adopted by the department under (h) of this section and to return the

documents to the department.

(h) The commissioner shall adopt regulations governing the transmittal, receipt, centralized safekeeping, limitations on duplication and removal, accounting for possession, and return of the confidential tax return and return information transferred under (b) and (c) of this section. [See NOTE 5]

(i) This section does not permit the transfer to the legislature of confidential tax returns and return information provided by the Internal Revenue Service under exchange agreements with the department.

(j) In this section "return" and "return information" shall include only the following items:

- (1) the taxpayer's identity;
- (2) the taxpayer's tax returns required by law;
- (3) The annual amount of collections from a taxpayer for each tax;
- (4) the amount of an assessment made by the Department of Revenue for each issue and each tax period;
- (5) the issues involved in the assessment along with a complete description of the issue;
- (6) the amount, nature, and basis of any executed settlement between the Department of Revenue and the taxpayer. [See NOTE 6]

* Sec. 8. AS 43.20.030 is amended by adding a new subsection to read:

(k) The department may grant a reasonable extension of time for filing a return by this section. Such extension shall not be for more than one month beyond the maximum period allowable under the Internal Revenue Code for extensions of time to file federal income tax returns. An extension of time to file the return shall not affect the date when payment is due. [See NOTE 7]

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Lannister
3/4/87

Original sponsor: Rules/Legislative
Budget and Audit

SENATE
IN THE HOUSE

OIL + GAS
SENATE 70 (Oil + Gas) BY THE FINANCE COMMITTEE
CS FOR HOUSE BILL NO. 58 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA
FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to confidential tax information;
relating to the filing of tax returns; and providing
for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature
finds that

(1) the majority of the state's revenue is derived from taxation;

(2) tax revenue enables the state to provide essential services
to the citizens of the state to ensure the public health and welfare;

(3) the elected representatives of the people of the state must
be assured that the state is receiving all of the income to which it is
entitled and that the tax laws are operating in the manner intended by the
legislature;

(4) the legislature must exercise its oversight authority to
ensure that tax revenue collection by the Department of Revenue is efficient,
fair, prompt, and in the best interest of the state;

(5) there is a legitimate and compelling governmental interest
in the legislature having adequate access to tax-related information to
allow responsible oversight;

(6) without sufficient information, the legislature cannot
adequately determine that the state's tax revenue collection functions are
properly administered and that tax revenue due the state is promptly received;

1 (7) tax returns and return information contain confidential
2 information, often regarding sensitive business information;

3 (8) taxpayers have protections against public disclosure of
4 certain tax information;

5 (9) exchange agreements with the Internal Revenue Service re-
6 quire that certain tax information not be publicly disclosed;

7 (10) protection of confidentiality fosters full disclosure by
8 taxpayers to taxing authorities and therefore promotes effective adminis-
9 tration of tax programs; and

10 (11) legislators and legislative employees who improperly dis-
11 close confidential tax information should be subject to the same sanctions
12 imposed against executive branch employees.

13 (b) The purpose of this Act is to ensure that

14 (1) the state is receiving all the tax revenue due the state;

15 (2) oversight of the tax revenue collection function is effec-
16 tively provided;

17 (3) tax revenue due to the state is available to provide for the
18 public health and welfare of the citizens of the state;

19 (4) taxpayers are protected from improper disclosure of tax
20 information;

21 (5) the exchange agreements with the Internal Revenue Service
22 regarding tax information are not jeopardized;

23 (6) tax programs are administered fairly; and

24 (7) the right of the people to privacy is recognized and may not
25 be infringed.

26 * Sec. 2. AS 24.10 is amended by adding a new section to article 2 to
27 read:

28 Sec. 24.10.070. CONFIDENTIALITY OF INFORMATION. A present or
29 former employee or agent of the legislature may not disclose tax

1 information contained in a report or return filed under AS 43.05.230
2 and furnished to the person under AS 43.05.232.

3 * Sec. 3. AS 24.60.060 is amended by adding a new subsection to read:

4 (b) A person to whom this chapter applies may not disclose tax
5 information contained in a report or a return filed under AS 43.05.230
6 and furnished to the person under AS 43.05.232.

7 * Sec. 4. AS 24.60 is amended by adding a new section to read:

8 Sec. 24.60.172. SPECIAL PROCEEDINGS BEFORE THE COMMITTEE.
9 Notwithstanding AS 24.60.170, if a complaint before the committee
10 involves an allegation that a person to whom this chapter applies has
11 disclosed tax information contained in a report or return filed under
12 AS 43 with the Department of Revenue and furnished to the person under
13 AS 43.05.232, and if the taxpayer or a third party whose tax informa-
14 tion is alleged to have been improperly disclosed does not agree to
15 the public disclosure of the identity of the taxpayer, the third
16 party, or the tax information,

17 (1) the hearing may not be held in open session;

18 (2) a transcript containing confidential tax information
19 shall be edited to prevent the disclosure of the confidential informa-
20 tion;

21 (3) a decision, if made public, shall be edited to prevent
22 the disclosure of the tax information and to protect the identity of
23 the taxpayer or the third party; and

24 (4) a public statement may not contain information identi-
25 fying the taxpayer, a third party, or the tax information.

26 * Sec. 5. AS 43.05.230(a) is amended to read:

27 (a) It is unlawful for a current or former officer, employee, or
28 agent of the state to divulge the amount of income or the particulars
29 set out or disclosed in a report or return made under this title.

1 except

2 (1) in connection with official investigations or proceed-
3 ings of the department, whether judicial or administrative, involving
4 taxes due under this title;

5 (2) in connection with official investigations or proceed-
6 ings of the child support enforcement agency, whether judicial or
7 administrative, involving child support obligations imposed or im-
8 posable under AS 25 or AS 47;

9 (3) as provided in AS 38.05.036 pertaining to audit func-
10 tions; and

11 (4) as otherwise provided in this section or in AS 43.-
12 05.232.

13 * Sec. 6. AS 43.05.230(f) is repealed and reenacted to read:

14 (f) A person who knowingly violates a provision of this section
15 is guilty of a class A misdemeanor. A person whose gross negligence
16 results in a violation of this section is subject to a civil penalty
17 of \$5,000. *THE Department shall enforce + collect a civil penalty*
18 *under this section.*

18 * Sec. 7. AS 43.05 is amended by adding a new section to read:

19 Sec. 43.05.232. DISCLOSURE OF CONFIDENTIAL TAX RETURNS AND
20 RETURN INFORMATION TO THE LEGISLATURE. (a) Confidential tax returns
21 and return information may not be requested by a legislative committee
22 under (b) of this section or transferred to a legislative committee
23 under (c) of this section,

24 (1) unless the purpose of the committee's request under (b)
25 of this section or of the transfer under (c) of this section is

26 (A) to assist the committee in carrying out its re-
27 sponsibilities to consider tax legislation;

28 (B) to oversee the effective and efficient adminis-
29 tration of the state's tax laws, including the review of audits.

1 litigation, or settlements; or

2 (C) to estimate future state revenue;

3 (2) if the purpose of the request or transfer is to direct
4 the executive branch in its audit, litigation, or settlement efforts,
5 or to collect information to embarrass, harass, or discriminate
6 against a taxpayer.

7 (b) After a legislative committee identifies the scope of an
8 investigation or inquiry relating to matters of taxation, and after
9 adoption by either house of the legislature of a simple resolution
10 giving the committee authority to receive confidential tax informa-
11 tion, the committee chair or co-chair may request confidential tax
12 returns and return information and the commissioner of revenue shall
13 provide the requested returns or return information. The request
14 shall be in writing and may identify a particular taxpayer.

15 (c) When consistent with the purposes set out in (a) of this
16 section, the commissioner may transfer unrequested confidential tax-
17 payer returns or return information to a legislative committee after
18 making a written determination that the transfer of the return or
19 return information is in the best interest of the state. Before the
20 return or return information is transferred, the commissioner shall
21 provide a copy of the commissioner's determination to the taxpayer
22 whose return or return information is to be transferred. In determin-
23 ing whether the transfer of the return or return information is in the
24 best interest of the state, the commissioner shall consider

25 (1) if the legislative committee is reviewing the adminis-
26 tration of a tax imposed by this title, whether the return or return
27 information would demonstrate the application of a tax;

28 (2) if the legislative committee is considering adding a
29 new tax or amending an existing tax, whether the return or return

1 information would demonstrate the effect on taxpayers of a change in
2 tax law;

3 (3) whether the return or return information would assist
4 the legislative committee in estimating future state revenue;

5 (4) whether the return or return information would clarify
6 or rectify information provided by a taxpayer to a legislative commit-
7 tee;

8 (5) the potential harm the taxpayer may suffer by the
9 possible subsequent disclosure of the return or return information
10 illegally;

11 (6) any other interest of the taxpayer in avoiding the
12 transfer of the return or return information.

13 (d) A legislative committee shall consider tax returns and
14 return information transferred under (b) or (c) of this section in
15 executive session only, unless the taxpayer and any third party whose
16 tax return or return information is being considered in conjunction
17 with the taxpayer's return or return information consent in writing to
18 a disclosure in open session. The executive session must be open to
19 all legislators. The committee chair or co-chair may designate legis-
20 lative employees and agents to inspect the confidential tax returns
21 and return information, but the chair or co-chair shall seek to mini-
22 mize the number of employees and agents designated. The designated
23 employees and agents may attend the executive session. The chair or
24 co-chair may allow a taxpayer whose confidential tax return or return
25 information is being considered to attend the portion of the executive
26 session that considers that taxpayer's confidential tax return or
27 return information.

28 (e) When confidential tax returns or return information concern-
29 ing a specific taxpayer are provided to a legislative committee under

1 this section, the commissioner shall notify the taxpayer of the con-
2 tent and delivery of the return and return information to the commit-
3 tee.

4 (f) Before providing confidential tax return or return informa-
5 tion under (b) or (c) of this section, the commissioner shall review
6 the purpose of the proposed transfer of the return or return informa-
7 tion to determine what types of confidential tax return or return
8 information will provide the needed information. If more than one
9 type of confidential tax return or return information will provide the
10 needed information, the commissioner shall choose the return or return
11 information that, in the commissioner's discretion, is the least
12 commercially sensitive.

13 (g) Disclosure contrary to the provisions of this section by a
14 member or former member of the legislature or by a present or former
15 employee or agent of the legislature of a return or return information
16 that is confidential under AS 43.05.230 and transferred to the
17 legislature under this section is a violation of AS 43.05.230. A
18 member of the legislature and an employee or agent of the legislature,
19 before receiving or reviewing a return or return information provided
20 by the commissioner under (b) or (c) of this section, shall, on a form
21 prepared by the commissioner,

22 (1) acknowledge that the return or return information is
23 confidential and that a disclosure of the return or return information
24 contrary to the provisions of this section is prohibited by law; and

25 (2) execute an agreement with the department to keep the
26 return or return information confidential, to abide by regulations
27 adopted by the department, and to return the documents to the depart-
28 ment.

29 (h) The commissioner shall adopt regulations governing the

1 transmittal, receipt, safekeeping, duplication, accounting for, and
2 return of the confidential tax return and return information
3 transferred under (b) and (c) of this section.

4 (i) This section does not permit the transfer to the legislature
5 of confidential tax returns and return information provided by the
6 Internal Revenue Service under exchange agreements with the depart-
7 ment.

8 (j) In this section

9 (1) "return" has the meaning given in 26 U.S.C. 6103(b)(1),
10 except that "secretary" is read as "department" and "this title" means
11 AS 43;

12 (2) "return information" has the meaning given in 26
13 U.S.C. 6103(b)(2)(A), except that "secretary" is read as "department"
14 and "this title" means AS 43.

15 * Sec. 8. AS 43.20.030 is amended by adding a new subsection to read:

16 (h) The department may grant an extension for filing a return
17 required under this section. The extension may not exceed 30 days
18 beyond the filing date or the extension granted to the taxpayer by the
19 Internal Revenue Service for filing the taxpayer's federal income tax
20 return, whichever is later. Granting the extension does not affect
21 the due dates for payment of the tax.

22 * Sec. 9. AS 43.05.232, as enacted by sec. 7 of this Act, applies to
23 all confidential tax returns and return information in the possession of
24 the department on or after the effective date of this Act.

25 * Sec. 10. This Act takes effect immediately under AS 01.10.070(c).
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Testimony of
Exxon Company, U.S.A.
Senate CS for CSHB-58 (O&G)
Senate Special Committee on Oil & Gas
April 30, 1987

Exxon appreciates the opportunity we have had to express our concerns about CSHB-58 to the Special Oil and Gas Committee members and other participants. We especially appreciate your efforts both in improving the security procedures which govern the transmittal of taxpayer information to the legislature and in affording the taxpayer the opportunity of notification and comment to a proposed transfer of information.

However, we continue to believe that this bill is unnecessary. Under AS 43.05.010, the Commissioner already has the responsibility to inform the legislature about the efficiency and effectiveness of the Department of Revenue and may communicate in general terms concerning the operations of his department and the tax laws. Since we believe the current law is sufficient to keep the legislature informed, we urge you to reconsider the need for this bill.

Thank you.

MLJ/570:dag
4/28/87



ALASKA STATE LEGISLATURE

SENATE SPECIAL COMMITTEE ON OIL AND GAS

Senator Bettye Fahrenkamp
Chairman
Senator Jack Coghill
Senator Paul Fischer

P.O. Box V, State Capitol
Juneau, Alaska 99811
(907) 465-3834

April 27, 1987

SCS CSHB 58am (Oil and Gas), RELATING TO CONFIDENTIAL TAX INFORMATION; RELATING TO THE FILING OF TAX RETURNS.

COMPARISON OF HOUSE PASSED AND PROPOSED SENATE BILLS.

INCLUDES APRIL 24 OIL AND GAS COMMITTEE SUBSTITUTE.

Section 1: A finding and purpose section is included to assist the courts in interpreting the bill. A taxpayer's right to privacy under Alaska Constitution Article 1, Section 22 must be balanced with the legislature's need for information on how the state's tax laws are working.

Both versions contain this identical section.

Section 2: Adds a new section to Title 24, Article 2, on legislative employees. It would prohibit a present or former employee or agent of the legislature from disclosing confidential tax information.

Both versions contain this identical section.

Section 3: Adds a new section to the Legislative Standards of Conduct Code. Disclosure of confidential tax information by persons covered by the Code would be prohibited.

Both versions contain this identical section.

Section 4: Also adds to the Legislative Standards of Conduct Code a section to protect confidential information that may have been a source of a complaint before the Legislative Ethics Committee.

Both versions contain this identical section.

Section 5: Amends existing statute that prohibits disclosure of confidential tax information by state employees to allow the transfer of information to the legislature.

Both versions contain this identical section.

Section 6: Establishes penalties for violation of the confidentiality provisions. Current statute provides penalties only for an "intentional" violation.

House version: A "knowing" violation is a class A misdemeanor (Maximum penalties: 1 year imprisonment and \$5,000); a "grossly negligent" violation is subject to a civil penalty of \$5,000.

April 24 Oil and Gas CS: A "knowing" violation is a class A misdemeanor (Maximum penalties: 1 year imprisonment and \$5,000). Reduces standard for civil penalty from "gross negligence" to simple "negligence". Clarifies that penalties for negligence apply to only members or former members of the legislature and present or former employees or agents of the legislature. Directs the Department of Revenue to enforce and collect the civil penalties.

Section 7: Creates a new section of statute to deal specifically with the transfer of confidential tax information to the legislature.

- (a) Establishes purposes for which tax information may be transferred to the legislature (to assist in consideration of tax legislation, oversight of the administration of tax laws, including the review of settlements, litigation, and audits, or estimation of future state revenues), and purposes for which information may not be transferred (to direct the executive branch in its audit, litigation, or settlement efforts, or to embarrass, harass, or discriminate against a taxpayer).

Both versions contain this identical subsection.

- (b) Establishes a procedure for requesting tax information.

House version: After adoption of a simple resolution that identifies the scope of the inquiry and allows a committee to receive information, a committee chair or co-chair may make a written request. During the interim, the chairman of the Legislative Budget and Audit Committee may request information if a majority of the committee agree.

April 24 Oil and Gas CS: Removes mechanism for interim requests. Requires adoption of simple resolution.

- (c) Allows the commissioner to transfer unrequested information under certain conditions.

House version: Only if a written finding is filed showing that the transfer is in the best interest of the state. Lists points the commissioner must consider (whether the information would demonstrate the application of a tax or

the effect of a change in tax law, assist in estimating revenues, or clarify information provided by a taxpayer, and the potential harm a taxpayer may suffer by the possible subsequent illegal disclosure of the information). Requires the commissioner to provide affected taxpayers with a copy of the written finding before the information is transferred.

April 24 Oil and Gas CS: Requires written finding as in House version. Notification requirement moved to subsection (e).

- (d) This section restricts the commissioner's ability to transfer commercially sensitive tax information.

House version: Requires that, when more than one type of information will satisfy the legislature's request, the commissioner must choose the least commercially sensitive information.

April 24 Oil and Gas CS: Adds a requirement that the commissioner shall transfer summary documents instead of transactional documents whenever possible.

- (e) Requires the commissioner to provide the taxpayer with a comment period before transferring information to the Legislature. Under a transfer initiated by the commissioner, the finding and a notification of the contents of the information must be provided to the taxpayer ten days before information is transferred to the legislature. If the transfer is the result of a legislative request, the comment period is five days. Within the last 36 days of session, or during special sessions, the comment period is reduced to three days.

April 24 Oil and Gas CS: This is a new subsection.

- (f) To ensure that any additional taxpayer comments will also be kept confidential, this subsection requires all written comments to be submitted to the department and then transferred to the committee within 24 hours.

April 24 Oil and Gas CS: This is a new subsection.

- (g) Requires that confidential information be considered only in executive session.

House version: Specifies that all legislators may attend the session. Authorizes the chair or co-chair to designate employees and agents allowed to attend and review the tax information, but to minimize the number of such employees. Authorizes the chair to allow the taxpayer whose returns are being considered to attend the executive session.

April 21 Oil and Gas CS: Replaces the phrase "seek to minimize" with "limit".

(h) Specifies that anyone authorized to receive confidential information must sign a form acknowledging that disclosure of the information is prohibited by law, and agreeing to abide by procedures adopted by the department.

Both versions contain this identical subsection.

(i) Establishes procedures for handling confidential tax information.

House version: Requires the commissioner to adopt regulations governing the transmittal, receipt, safekeeping, duplication, accounting for, and return of the information.

April 24 Oil and Gas CS: Specifies that the department of revenue will be responsible for the duplication and numbering of documents transferred to the legislature. Also adds "removal from storage or filing location" and "accounting for possession" to the list of regulations that the department will adopt.

(j) Ensures that the exchange of information agreement with the Internal Revenue Service will not be violated.

Both versions contain this identical subsection.

(k) Defines "return" and "return information".

House version: References definition used in federal law.

April 24 Oil and Gas CS: Also references definition used in federal law. Specifies that "return and return information" does not include "transactional documents" prepared during a tax period within two years of the transfer. It also defines "transactional documents".

Section 8: Amends existing law to allow the department to grant taxpayers an extension for filing their returns.

House version: Allows only a 30 day extension beyond filing date or IRS extension.

April 24 Oil and Gas CS: Allows a reasonable extension not more than one month beyond IRS maximum.

Section 9: Specifies that the act applies to all returns and return information in the possession of the department on the effective date of the act.

Both versions contain this section.

Section 10: Clarifies that regulations will be adopted before confidential information is transferred.

April 24 Oil and Gas CS: This is a new section.

Section 11: The bill has an immediate effective date.

Both versions contain this section.

Standard Alaska
Production Company
900 East Benson Boulevard
P.O. Box 196612
Anchorage, Alaska 99519-6612
(907) 561-5111

STANDARD
ALASKA PRODUCTION

MY NAME IS JIM PALMER. I AM THE MANAGER OF GOVERNMENTAL AFFAIRS FOR
STANDARD ALASKA PRODUCTION COMPANY.

STANDARD APPRECIATES THE ATTENTION WHICH THIS COMMITTEE HAS PAID TO OUR
CONCERNS ABOUT HOUSE BILL 58. CHANGES SUCH AS ALLOWING THE TAXPAYER AN
OPPORTUNITY TO REVIEW THE CONTENTS OF THE INFORMATION TO BE TRANSFERRED AND
TO COMMENT THEREON IS A VALUABLE PROTECTION TO ALL TAXPAYERS. THIS
OPPORTUNITY BY THE TAXPAYER TO REVIEW AND COMMENT IS ALSO VALUABLE TO THE
LEGISLATURE IN THAT THE LEGISLATURE IS MORE LIKELY TO RECEIVE A BALANCED
PACKAGE OF INFORMATION. COMPARED TO EARLIER VERSIONS, THE CURRENT BILL
STRIKES A FAR BETTER BALANCE OF THE TAXPAYER'S PRIVACY RIGHTS WITH THE
LEGISLATURE'S NEED TO KNOW CERTAIN INFORMATION.

STANDARD DOES STOP SHORT OF ENDORSING THE BILL, HOWEVER, BECAUSE WITH
60 LEGISLATORS AND THEIR AIDES AND AGENTS HAVING ACCESS TO HIGHLY CONFIDENTIAL
INFORMATION, THERE IS AN UNAVOIDABLE CONCERN ABOUT UNAUTHORIZED DISCLOSURE.
ADDITIONALLY, THE BILL COULD ALLOW A FUTURE LEGISLATIVE BODY TO PERFORM
EXECUTIVE FUNCTIONS. THIS COULD OCCUR WHERE THE LEGISLATURE UNDULY INFLUENCES
THE DEPARTMENT IN THE EXECUTION OF AUDITS.

WHILE WE HAVE BASIC PROBLEMS WITH THE THRUST OF THE BILL, WE BELIEVE THIS
COMMITTEE HAS INCORPORATED MANY SAFEGUARDS IN HB 58 WHICH ARE BENEFICIAL.
IF THE LEGISLATURE BELIEVES THAT A BILL OF THIS TYPE IS NECESSARY, WE THINK
THE OIL AND GAS COMMITTEE SUBSTITUTE CLOSES MANY OF THE LOOPHOLES THAT
PREVIOUS VERSIONS HAD. STANDARD AGAIN THANKS THIS COMMITTEE FOR THE GOOD
FAITH MANNER IN WHICH THE COMMITTEE LISTENED TO OUR CONCERNS AND FOR THE
INCORPORATION OF CHANGES INTO THE BILL.

ARCO Alaska, Inc.
Post Office Box 100360
Anchorage, Alaska 99510-0360
Telephone 907 276 1215



April 29, 1987

Senator Bettye Fahrenkamp
Chairman
Senate Oil & Gas Committee
Pouch V
Juneau, Alaska 99801

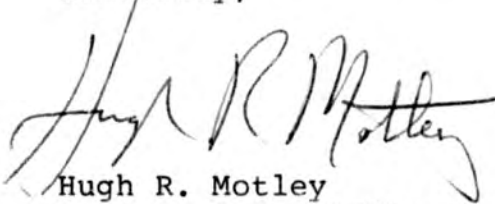
Dear Senator Fahrenkamp:

ARCO Alaska, Inc. greatly appreciated the opportunity to provide input during the shaping of what is now Senate CS for CS for HB 58. As a result of this process, the bill has, in our view, been substantially improved.

Unfortunately, we are still unable to endorse this bill because it permits unrequested information to be transferred out of the Department of Revenue and it subjects some of our most sensitive business documents to the risks of disclosure.

We do however, recognize the legislature's need for certain information and regret that we were unable to fully resolve our concerns during our extensive sessions.

Sincerely,



Hugh R. Motley
Assistant Tax Officer

5-0321N
Bannister
4/24/87

Original sponsor: Rules/Legislative
Budget and Audit

1 IN THE HOUSE

BY THE SENATE SPECIAL COMMITTEE
ON OIL AND GAS

2 SENATE CS FOR CS FOR HOUSE BILL NO. 58 (O&G)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to confidential tax information;
7 relating to the filing of tax returns; and providing
8 for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature
11 finds that

12 (1) the majority of the state's revenue is derived from taxa-
13 tion;

14 (2) tax revenue enables the state to provide essential services
15 to the citizens of the state to ensure the public health and welfare;

16 (3) the elected representatives of the people of the state must
17 be assured that the state is receiving all of the income to which it is
18 entitled and that the tax laws are operating in the manner intended by the
19 legislature;

20 (4) the legislature must exercise its oversight authority to
21 ensure that tax revenue collection by the Department of Revenue is effi-
22 cient, fair, prompt, and in the best interest of the state;

23 (5) there is a legitimate and compelling governmental interest
24 in the legislature having adequate access to tax-related information to
25 allow responsible oversight;

26 (6) without sufficient information, the legislature cannot
27 adequately determine that the state's tax revenue collection functions are
28 properly administered and that tax revenue due the state is promptly re-

1 (7) tax returns and return information contain confidential
2 information, often regarding sensitive business information;

3 (8) taxpayers have protections against public disclosure of
4 certain tax information;

5 (9) exchange agreements with the Internal Revenue Service re-
6 quire that certain tax information not be publicly disclosed;

7 (10) protection of confidentiality fosters full disclosure by
8 taxpayers to taxing authorities and therefore promotes effective adminis-
9 tration of tax programs; and

10 (11) legislators and legislative employees who improperly dis-
11 close confidential tax information should be subject to the same sanctions
12 imposed against executive branch employees.

13 (b) The purpose of this Act is to ensure that

14 (1) the state is receiving all the tax revenue due the state;

15 (2) oversight of the tax revenue collection function is effec-
16 tively provided;

17 (3) tax revenue due to the state is available to provide for the
18 public health and welfare of the citizens of the state;

19 (4) taxpayers are protected from improper disclosure of tax
20 information;

21 (5) the exchange agreements with the Internal Revenue Service
22 regarding tax information are not jeopardized;

23 (6) tax programs are administered fairly; and

24 (7) the right of the people to privacy is recognized and may not
25 be infringed.

26 * Sec. 2. AS 24.10 is amended by adding a new section to article 2 to
27 read:

28 Sec. 24.10.070. CONFIDENTIALITY OF INFORMATION. A present or
29

1 information contained in a report or return filed under AS 43 and
2 furnished to the person under AS 43.05.232.

3 * Sec. 3. AS 24.60.060 is amended by adding a new subsection to read:

4 (b) A person to whom this chapter applies may not disclose tax
5 information contained in a report or a return filed under AS 43 and
6 furnished to the person under AS 43.05.232.

7 * Sec. 4. AS 24.60 is amended by adding a new section to read:

8 Sec. 24.60.172. SPECIAL PROCEEDINGS BEFORE THE COMMITTEE.
9 Notwithstanding AS 24.60.170, if a complaint before the committee
10 involves an allegation that a person to whom this chapter applies has
11 disclosed tax information contained in a report or return filed under
12 AS 43 with the Department of Revenue and furnished to the person under
13 AS 43.05.232, and if the taxpayer or a third party whose tax informa-
14 tion is alleged to have been improperly disclosed does not agree to
15 the public disclosure of the identity of the taxpayer, the third
16 party, or the tax information,

17 (1) the hearing may not be held in open session;

18 (2) a transcript containing confidential tax information
19 shall be edited to prevent the disclosure of the confidential informa-
20 tion;

21 (3) a decision, if made public, shall be edited to prevent
22 the disclosure of the tax information and to protect the identity of
23 the taxpayer or the third party; and

24 (4) a public statement may not contain information identi-
25 fying the taxpayer, a third party, or the tax information.

26 * Sec. 5. AS 43.05.230(a) is amended to read:

27 (a) It is unlawful for a current or former officer, employee, or
28 agent of the state to divulge the amount of income or the particulars
29

1 except

2 (1) in connection with official investigations or proceed-
3 ings of the department, whether judicial or administrative, involving
4 taxes due under this title;

5 (2) in connection with official investigations or proceed-
6 ings of the child support enforcement agency, whether judicial or
7 administrative, involving child support obligations imposed or im-
8 posable under AS 25 or AS 47;

9 (3) as provided in AS 38.05.036 pertaining to audit func-
10 tions; and

11 (4) as otherwise provided in this section or in AS 43.-
12 05.232.

13 * Sec. 6. AS 43.05.230(f) is repealed and reenacted to read:

14 (f) A person who knowingly violates a provision of this section
15 is guilty of a class A misdemeanor. If the negligence of a member or
16 former member of the legislature, or a present or former employee or
17 agent of the legislature results in a violation of this section, the
18 member, employee, or agent is subject to a civil penalty of \$5,000.
19 The department shall enforce this section and collect the civil penal-
20 ty established by this subsection.

21 * Sec. 7. AS 43.05 is amended by adding a new section to read:

22 Sec. 43.05.232. DISCLOSURE OF CONFIDENTIAL TAX RETURNS AND
23 RETURN INFORMATION TO THE LEGISLATURE. (a) Confidential tax returns
24 and return information may not be requested by a legislative committee
25 under (b) of this section or transferred to a legislative committee
26 under (c) of this section,

27 (1) unless the purpose of the committee's request under (b)
28 of this section or of the transfer under (c) of this section is
29

responsibilities to consider tax legislation;

(B) to oversee the effective and efficient administration of the state's tax laws, including the review of audits, litigation, or settlements; or

(C) to estimate future state revenue;

(2) if the purpose of the request or transfer is to direct the executive branch in its audit, litigation, or settlement efforts, or to collect information to embarrass, harass, or discriminate against a taxpayer.

(b) After a legislative committee identifies the scope of an investigation or inquiry relating to matters of taxation, and after adoption by either house of the legislature of a simple resolution giving the committee authority to receive confidential tax information, the committee chair or co-chair may request confidential tax returns and return information and the commissioner of revenue shall provide the requested returns or return information. The request shall be in writing and may identify a particular taxpayer.

(c) When consistent with the purposes set out in (a) of this section, the commissioner may transfer unrequested confidential taxpayer returns or return information to a legislative committee after making a written determination that the transfer of the return or return information is in the best interest of the state. In determining whether the transfer of the return or return information is in the best interest of the state, the commissioner shall consider

(1) if the legislative committee is reviewing the administration of a tax imposed by this title, whether the return or return information would demonstrate the application of a tax;

(2) if the legislative committee is considering adding a

1 information would demonstrate the effect on taxpayers of a change in
2 tax law;

3 (3) whether the return or return information would assist
4 the legislative committee in estimating future state revenue;

5 (4) whether the return or return information would clarify
6 or rectify information provided by a taxpayer to a legislative commit-
7 tee;

8 (5) the potential harm the taxpayer may suffer by the
9 possible subsequent disclosure of the return or return information
10 illegally;

11 (6) any other interest of the taxpayer in avoiding the
12 transfer of the return or return information.

13 (d) Before providing confidential tax return or return informa-
14 tion in response to a legislative request under (b) of this section or
15 under a commissioner's determination made under (c) of this section,
16 the commissioner shall review the purpose of the proposed transfer of
17 the return or return information to determine what types of confiden-
18 tial tax return or return information will provide the needed informa-
19 tion. If more than one type of confidential tax return or return
20 information will provide the needed information, the commissioner
21 shall choose the return or return information that, in the commis-
22 sioner's discretion, is the least commercially sensitive. Whenever
23 possible, instead of transactional documents, the commissioner shall
24 transfer summary documents or analyses that have been prepared by the
25 department. In this subsection, "summary documents or analyses"
26 includes audit narratives, informal conference decisions, and formal
27 hearing decisions.

28 (e) Before transferring the return or return information under
29 (b) or (c) of this section, the commissioner shall notify the taxpayer

1 whose return or return information is to be transferred of the pro-
2 posed transfer and the content of the return or return information to
3 be transferred, and, if the transfer is under (c) of this section,
4 provide the taxpayer with a copy of the commissioner's determination.
5 Within 10 days after receiving the determination and notification of a
6 transfer proposed under (c) of this section, or within five days after
7 receiving the notification of a transfer proposed under (b) of this
8 section, the taxpayer may submit additional analysis, comment, or
9 other information to the department, unless the legislative request or
10 commissioner's determination is made after the 84th day of a regular
11 session of the legislature or during a special session of the legisla-
12 ture, in which case the time period for the taxpayer to submit addi-
13 tional information is three days. When the period for submitting
14 additional information has expired, the commissioner shall transfer to
15 the committee the return or return information, including the addi-
16 tional information, if any, received by the commissioner from the
17 taxpayer under this subsection. A taxpayer may waive the provisions
18 of this subsection by providing the commissioner with a written waiver
19 signed by the taxpayer.

20 (f) If, in addition to the additional analysis, comment, and
21 other information filed by the taxpayer with the department under (e)
22 of this section, a taxpayer wants to provide a legislative committee
23 with analysis, comment, and other written information on the tax-
24 payer's return or return information being considered by the committee
25 under this section, the taxpayer shall file the information with the
26 department and request that the department transfer the information to
27 the legislative committee. The department shall transfer the informa-
28 tion to the committee within 24 hours after receiving the information
29 and the request.

1 (g) A legislative committee shall consider tax returns and
2 return information transferred under (b), (c), (e), or (f) of this
3 section in executive session only, unless the taxpayer and any third
4 party whose tax return or return information is being considered in
5 conjunction with the taxpayer's return or return information consent
6 in writing to a disclosure in open session. The executive session
7 must be open to all legislators. The committee chair or co-chair may
8 designate legislative employees and agents to inspect the confidential
9 tax returns and return information, but the chair or co-chair shall
10 limit the number of employees and agents designated. The designated
11 employees and agents may attend the executive session. The chair or
12 co-chair may allow a taxpayer whose confidential tax return or return
13 information is being considered to attend the portion of the executive
14 session that considers that taxpayer's confidential tax return or
15 return information.

16 (h) Disclosure contrary to the provisions of this section by a
17 member or former member of the legislature or by a present or former
18 employee or agent of the legislature of a return or return information
19 that is confidential under AS 43.05.230 and transferred to the legis-
20 lature under this section is a violation of AS 43.05.230. A member of
21 the legislature or an employee or agent of the legislature, before
22 receiving or reviewing a return or return information provided by the
23 commissioner under (b), (c), or (e) of this section, shall, on a form
24 prepared by the commissioner,

25 (1) acknowledge that the return or return information is
26 confidential and that a disclosure of the return or return information
27 contrary to the provisions of this section is prohibited by law; and

28 (2) execute an agreement with the department to keep the
29 return or return information confidential, to abide by regulations

1 adopted by the department under (i) of this section, and to return the
2 documents to the department.

3 (i) The commissioner shall adopt regulations governing the
4 transmittal, receipt, safekeeping, removal from storage or filing
5 location, accounting for possession, and return of the confidential
6 tax return and return information transferred under (b), (c), and (e)
7 of this section. The department shall have the exclusive responsibil-
8 ity for the duplication and numbering of the confidential tax return
9 and return information provided to the legislature under this section.

10 (j) This section does not permit the transfer to the legislature
11 of confidential tax returns and return information provided by the
12 Internal Revenue Service under exchange agreements with the depart-
13 ment.

14 (k) In this section

15 (1) "return" has the meaning given in 26 U.S.C. 6103(b)(1),
16 except that "secretary" is read as "department" and "this title" means
17 AS 43;

18 (2) "return information" has the meaning given in 26 U.S.C.
19 6103(b)(2)(A), except that "secretary" is read as "department" and
20 "this title" means AS 43; "return information" does not include trans-
21 actional documents prepared during a tax period that ended within two
22 years of the date of the transfer of the "return information" under
23 (b), (c), or (e) of this section;

24 (3) "transactional document" means a document that relates
25 to the sale, exchange, or other transfer by a taxpayer of real proper-
26 ty or tangible or intangible personal property and that

27 (A) constitutes all or part of a contract or agreement
28 concerning the sale, exchange, or other transfer, including
29 contract amendments, billings, and invoices; or

1 (B) summarizes one or more of the terms of the sale,
2 exchange, or other transfer.

3 * Sec. 8. AS 43.20.030 is amended by adding a new subsection to read:

4 (h) The department may grant a reasonable extension of time for
5 filing a return under this section. The extension may not be for more
6 than 30 days beyond the maximum period allowable under 26 U.S.C.
7 (Internal Revenue Code) for extensions of time to file federal income
8 tax returns. An extension of time to file a return does not affect
9 the date when the payment is due.

10 * Sec. 9. AS 43.05.232, as added by sec. 7 of this Act, applies to all
11 confidential tax returns and return information in the possession of the
12 department on or after the effective date of this Act.

13 * Sec. 10. The Department of Revenue shall adopt the regulations re-
14 quired by AS 43.05.232(i), enacted by sec. 7 of this Act, before the de-
15 partment transfers a return or return information to a legislative commit-
16 tee under AS 43.05.232.

17 * Sec. 11. This Act takes effect immediately under AS 01.10.070(c).
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April 30, 1987

CSHB 58am (Finance), RELATING TO CONFIDENTIAL TAX INFORMATION; RELATING TO THE FILING OF TAX RETURNS.

A Committee Substitute has been prepared.

It is a result of a number of meetings with representatives of the state's major taxpayers.

TO TESTIFY:

DANNY CONSENSTEIN, Committee staff

Review section by section the provisions of the bill and the changes made in our proposed committee substitute.

JIM PALMER, Standard Alaska Production Company

The other companies will present written testimony only.

HUGH MALONE, Commissioner, Department of Revenue

1-29-87

BRIEFING BY

DNR

DIV. of Oil
& GAS

SENATE SPECIAL COMMITTEE ON
OIL AND GAS
January 29, 1987
3:30 p.m.

MEMBERS PRESENT

Senator Bettye Fahrenkamp, Chairman
Senator Jack Coghill
Senator Paul Fischer

COMMITTEE CALENDAR

Briefing on oil and gas matters by Jim Eason, Director,
Division of Oil and Gas, Department of Natural Resources

ACTION NARRATIVE

TAPE ONE SIDE ONE
January 29, 1987

Number 001

The meeting was called to order at 3:30 p.m. by Chairman Fahrenkamp. She then invited Jim Eason to make his presentation to the committee.

Number 005

The first item Mr. Eason discussed was 8(g) revenue sharing, which is a section of the OCS Lands Act that was amended in 1978 to provide that when there is federal leasing of offshore submerged lands adjacent to tracts that are within three miles of a state's three mile limit, the states should have a "fair and equitable" share of those revenues. Between the time Congress enacted those amendments and the time Interior should have been paying money, no one could agree what a fair and equitable share was, and it ended up going to court. Congress resolved the dispute by providing a 27% share of revenues to the states.

Number 062

Senator Fahrenkamp asked if the state opposed that position. Mr. Eason responded that the state fought the Interior's position until Congress decided to act. However, he did not think it was fair to say they had fought the final decision.

Senator Fahrenkamp inquired if the fund had revenues set aside in it. Mr. Eason replied that there was in excess of

\$5 billion, which was for all states with leases that had been issued in the 8(g) zone since the 1978 amendments. Alaska has received about \$54 million and another \$134 million will be received in installments over the next 15 years. There is a separate escrow account for the disputed acreage and under last year's amendments the state stands to get something from that escrow account.

Number 130

Senator Coghill questioned Mr. Eason as to whether the state was getting interest as a part of the settlement. Mr. Eason replied that interest was included in the Congressional settlement.

Number 224

A discussion followed on the Seal Island discovery and a Louisiana court case that will have an effect on that discovery.

Number 273

The second issue Mr. Eason discussed was the Petro Star-Chevron Contract. He said it was not certain if they would be asking the Legislature for a proposed amendment this session. As background, he said Commissioner Wunnicke had given tentative approval to come before the Legislature with Petro Star and Chevron to amend the contract. However, he said he had not had time to brief the new DNR Commissioner on the background or to get a sense if the Administration is going to support the proposed amendment.

Mr. Eason said the contract provides approximately 6500 barrels a day to Chevron and Petro Star from the Kuparuk River Unit. After the negotiation and the Legislature's review of the contract, a new policy of the TAPS carriers which made the Kuparuk oil more expensive to take than the Prudhoe Bay oil.

He said Commissioner Wunnicke had tentatively agreed that the Administration would have probably recommended to the Legislature that they approve an adjustment to offset the surcharge on oil delivered through TAPS. He told the committee that his department would keep them advised on what position the Administration is developing on amending the contract.

Number 420

Mr. Eason then addressed the suspension of production by Conoco, Inc., operators of the Milne Point Unit. He said the operator intends it to be a temporary measure. Last year Conoco requested a reduction in the state's 20%

royalty on production from the unit. However, the statutes that allow for royalty reduction also require two years of production and a showing of non-economics which had not occurred.

Number 466

The next issue discussed by Mr. Eason was the Arctic National Wildlife Refuge. He said no decisions have been made on the several issues under consideration. The state has sat in on several discussions between Fish & Wildlife and Interior representatives since the first week of December and no decisions have been made yet on the state's position.

Number 520

Senator Fahrenkamp asked if a decision will be binding upon the various agencies within the state. Mr. Eason responded that he did not know. Senator Fahrenkamp requested that if Mr. Eason is in attendance at further discussions on ANWR that from a legislative point of view, they'd like to have some kind of assurances that the Administration will speak with one voice.

Number 533

Senator Coghill questioned when the first seismic agreements were made. Mr. Eason responded that the first surveys were done three years ago.

Number 580

Next Mr. Eason discussed disputed acreage. The state generally owns three miles from the coastline outward and always, except off of ANWR, owns the islands. When the bill was drafted it stipulated that ANWR includes the offshore islands, but he said what isn't clear is whether the water between the island and the mainland is included. The state contends that the submerged lands between the islands and mainland are state lands.

Number 607

Mr. Eason said the department has an oil and gas lease sale proposed for June of this year called the Camden Bay sale, which will lease submerged lands offshore of the islands. He said there is a lot of attention to that sale developing as a result of the fact that it is off of ANWR, and they believe it will be a very controversial sale and they will have to be very meticulous and careful on how they proceed. He said they would keep the committee informed on the status of that sale and their ongoing efforts to hold it on time.

TAPE ONE SIDE TWO
January 29, 1987

Number 650

Senator Fahrenkamp said that in discussions between some members of the Legislature and our Congressional delegation there seems to be some doubt as to what the state's share of revenue from federal lands will be. She asked Mr. Eason to bring the committee up to date on what he felt might happen.

Mr. Eason said that some people within the Department of Interior may be considering a recommendation that the state's entitlement be reduced.

Senator Fahrenkamp asked whether the state had not fully taken advantage of invitations to participate in Interior's planning in ANWR.

Mr. Eason responded that he was not aware of any opportunity that was not accepted at least as far as oil and gas was concerned. He said he had never heard of a formal or informal proposal by an agency or legislator for changing the revenue split.

Senator Fahrenkamp concluded that it was either some misinformation or lack of lines of communication.

Number 740

Mr. Eason said his division is expecting to receive more requests to allow flexibility under the lease for deferrals or opportunities to delay obligations.

He said that although they are aware that there's a need to allow more flexibility under the lease agreements when companies don't have the financial ability and resources to operate, they also realize they have an obligation to enforce leases equally.

Number 848

In response to questions by Senator Coghill, Mr. Eason said he favors a strict interpretation of lease diligence with minimal attempts to provide leeway.

Number 917

Mr. Eason next discussed the West Sak sands project. The estimates of oil contained in the area range up into the high billions of barrels, much larger than the main reservoir at Prudhoe Bay. Although ARCO has abandoned the

project, they said publicly that they were impressed with the results.

Number 973

The next item on the agenda was the 1987 Five-Year Oil and Gas Leasing Schedule which provides for two lease sales each year as opposed to the former three per year. The division believes that its new schedule will provide the state with a strong, judicious leasing program over the next five years. They feel that although it is a lessening of the pace, they think it is appropriate under the circumstances and think that it also assures that they put their concentration and attention on legally defensible findings for the sales that are important to them and industry and, at the same time, deferring areas that are of no interest to industry.

Number 033

Senator Fahrenkamp then asked Mr. Eason about the outcome of Lease Sale 51 and how he thought we could make Alaska leases more attractive and more competitive. She also asked questions on the permitting system and an extensive discussion followed.

Number 170

The next area of discussion was exempt sales. Exempt sales allow the division to conduct competitive lease sales not on the formal five-year schedule under specific conditions. He said that this year two areas, one on the North Slope and the other in Cook Inlet, have been identified for exempt sales and they are reviewing their schedule now to determine whether they can do that.

Number 230

The next item was the TAPS Tariff. He said the state did conclude a settlement with the TAPS carriers last year. As a result of that settlement, and resulting reduced transportation costs, the state has received about \$94 million in increased royalty payments.

Also, as an update to the committee, he said that the Alaska Public Utilities Commission was holding hearings on the intra-state tariff. He said it was not clear to him, at that time, what position the APUC was going to take, but there was a possibility that they are moving toward a decision to require a different rate for intra-state tariff than for inter-state tariff.

Number 247

The last item he spoke to, which was a very time consuming project, was the Cook Inlet Royalty Oil Sale. He said that after many months the federal regulations were amended, but didn't allow everything they had hoped. They allowed a limited export from Cook Inlet, but the ability to export Cook Inlet oil depends upon which side of the Inlet you're on. He said after the preliminary decision to sell approximately 3,600 barrels per day to Chinese Petroleum Corporation of Taiwan, and then following public comment, a final decision was issued on January 8, 1987.

TAPE TWO SIDE ONE
January 29, 1987

He concluded by saying delivery of 94 percent of the state's daily royalty oil production from the west side of Cook Inlet is expected to begin in July 1987.

Number 305

Following the conclusion of Mr. Eason's briefing, there was a lengthy question and answer period. He discussed problems with the denomination provision in royalty oil contracts, the status of the Valdez refinery project, gas valuation procedures discussed before the Federal Royalty Management and Advisory Committee, Beaufort Sea drilling restrictions, and BLM's proposed management plan for the Teshekpuk Lake area.

Number 566

Senator Fahrenkamp thanked Mr. Eason for the briefing and said the committee should be as up to date as possible and know where the problem areas were. She then adjourned the meeting at 5:22 p.m.

STATE OF ALASKA



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4941

SENATE SPECIAL COMMITTEE ON OIL AND GAS

MEMORANDUM

TO: Members, Senate Special Committee on Oil and Gas

FROM: Committee Staff

RE: Committee Meeting, January 29, 1987

DATE: January 28, 1987

On Thursday, January 29 at 3:30 pm in the Beltz Room, the Senate Special Committee on Oil and Gas will receive a briefing from the Department of Natural Resources, Division of Oil and Gas. Jim Eason, Director of the Division, will present an overview of the the division's functions and a review of current policy issues affecting oil and gas development. In addition to the issues listed on the attached agenda, Mr. Eason will provide an update on Cook Inlet gas contracts, the results of this week's Lease Sale #51, and a review of the January, 1987 documents "Five year Oil and Gas Leasing Program" and "Historical and Projected Oil and Gas Consumption". If you have not received copies of the above documents, committee staff will be glad to provide you with them.

OFFICE OF THE COMMISSIONER

Pouch M

Juneau, Alaska 99811

(907) 465-2400

Danny,

This is the draft outline for the presentation to the Senate Resources Committee on Wednesday.

It appears we could do one of several things:

- ① Repeat the presentation
- ② See if there are questions ~~the~~ from the presentation before Senate Resources*
- ③ Do #2 above + add
 - A. Cook Inlet Gas ~~Update~~
 - B. Results of Lease Sale 51
 - C. Other?

I'd suggest option #3.

Please call.

Bob

* This assumes everyone attended the Senate Resources presentation



Alaska Department of

**NATURAL
RESOURCES**

DIVISION OF OIL AND GAS
James E. Eason, Director

- 1. Division Responsibilities**
- 2. Division Staff**
- 3. Division Issues**
 - A. 8(g) Revenue Sharing**
 - B. Petro Star-Chevron Contract Amendment**
 - C. Milne Point Shutdown**
 - D. ANWR**
 - 1. State supports opening for leasing**
 - 2. Land trades**
 - 3. Disputed acreage**
 - 4. Revenue sharing**
 - 5. Impacts of decisions on state sales**
 - E. Diligence provisions of state oil and gas leases**
 - F. West Sak Pilot Project Abandonment**
 - G. Five-Year Leasing Program**
 - 1. Sale schedule reduced**
 - 2. Exempt sales**
 - H. TAPS Tariff**
 - 1. Settlement**
 - 2. APUC rate setting**
 - I. Cook Inlet Royalty Oil Sale**

Danny,

As requested, here is the agenda for the presentation to the Senate Resources Committee on 12/28.

R. Butts

DIVISION OF OIL AND GAS
James E. Eason, Director

1. Division Responsibilities

The Division of Oil and Gas' primary responsibilities are to assure that prospective oil, gas and geothermal lands are made available for competitive leasing and that the state receives full value for these resources; to assure that all revenues due the state from leasing and production are received; and, to assure that persons holding oil, gas or geothermal leases conduct their surface operations in an environmentally sound and socially conscious manner. The division is comprised of the Director's Office and three management sections: Lease Sales, Lease Administration and Royalty Accounting.

2. Division Staff

The Division of Oil and Gas has 39 employees as of January 1987. There are 38 employees in the Anchorage central office and one employee in the Juneau commissioner's office. The Juneau employee is project manager for formulating the department's response to oil and gas proposals and projects on federal lands, and acts as division liaison with Juneau agencies and the legislature.

3. Division Issues

A. 8(g) Revenue Sharing

The State of Alaska shares in revenues from the leasing of certain OCS tracts within three miles of state submerged lands. Congress amended the OCS Lands Act last year to provide for a 27 percent share of all bonuses, rentals and royalties from the leasing of these 8(g) tracts with the adjoining coastal states. As a result of Congress' action, certain funds, which had been escrowed pending the determination of each state's "fair and equitable" share were distributed. This resulted in the receipt of \$51 million in unanticipated revenues for Alaska in 1986, with another \$134 million to be received over the next 15 years. However, since the recent amendment was adopted, there has been another development that may affect the amount the state receives from OCS leasing in the 8(g) zone. The U.S. District Court for the Western District of Louisiana has ruled against the State of Louisiana in its lawsuit to compel the Secretary of the Interior to require joint unitization of federal leases which are claimed to be draining reserves from adjacent state leases. In reasserting its pre-1986 amendment position, Interior is claiming that Section 8(g) only requires reimbursement to states for drainage, and that Congress has determined that 27 percent of the revenues are sufficient compensation, regardless of the factual circumstances governing the actual ownership of the resources. Interior's adoption of this posture is likely to make it more difficult to negotiate joint state-federal unit agreements in which resources are allocated on the basis of tract ownership to determine revenue distribution.

B. Petro Star-Chevron Contract Amendment

Last session the legislature approved the department's long term sale of approximately 6500 bbls per day of royalty oil to Petro Star and Chevron. Under the price term of that contract, the purchasers buy royalty oil from the Kuparuk Unit, but pay the state a price which is calculated using the volume weighted average of the prices reported by the producers from the Prudhoe Bay Unit rather than the Kuparuk River Unit. Starting with this Prudhoe Bay price, all upstream transportation-related tariffs, quality-differential adjustments and field costs associated with purchasing Kuparuk River Unit oil vis a vis Prudhoe Bay Unit oil are then netted out to determine the interim (pre-Amerada Hess resolution) per barrel price paid by Petro Star and Chevron for the royalty oil.

It was the intent of the parties to "normalize" the price paid for Kuparuk oil with the price paid for Prudhoe Bay royalty oil without either penalty or benefit accruing to either of the parties. However, subsequent actions by the TAPS carriers have resulted in increased costs under the Petro Star and Chevron contract.

Since the legislature's review of this subject contract, all TAPS carriers have instituted a practice of charging a surcharge for oil delivered to TAPS from the Kuparuk River Unit. The amount charged is variable, but it appears that most carriers are charging \$0.11 per barrel; however one carrier is currently charging \$0.12 per barrel. This surcharge is not a transportation tariff, per se, and it is not a gravity-based quality adjustment. The stated basis for the adjustment is that it compensates the carriers for transporting oil with a "pumpability" factor different from that of the average Prudhoe Bay crude oil.

Chevron has asked the department to amend the contract to allow deduction of this new cost in calculating its purchase price, but the department has informed Chevron that it believes that an administrative remedy is impossible since the requested amendment would result in a material reduction in the price the state receives for the oil, and the contract itself and the applicable statute require legislative review and approval. Although the department has not yet received a formal request for a contract amendment, it expects Chevron to request the legislature's review of its price term this session.

C. Milne Point Shutdown

Conoco, Inc., operators of the Milne Point Unit, have suspended production. The "warm" shutdown means that production could be reinitiated with a minimum of effort and expense. The direct cost to the state of lost production from Milne Point is minimal because production had declined to about 9,000 bbls per day before the decision was made to suspend operations. During 1986, Conoco requested a reduction in the state's 20% royalty on production from the unit. Although the department worked with Conoco to explore alternatives, and supported a legislative amendment which would have given the commissioner explicit authority to reduce the

royalty rate before two years of production had occurred, no reduction was granted. The division does not know whether Conoco will seek legislative relief from the royalty provisions this session.

D. ANWR

1. State supports opening for leasing

The Department of Natural Resources strongly supports the opening of the Arctic National Wildlife Refuge (ANWR) for oil and gas leasing, and is actively participating with other agencies in the administration to develop a response to the Secretary of the Interior's proposed leasing in ANWR which is contained in the 1002 report released by the U.S. Fish and Wildlife Service late last fall.

2. Land trades

On another front in the ANWR arena the Department is participating in discussion with Interior concerning proposed exchange of state lands for lands within ANWR. The U.S. Fish and Wildlife Service is also discussing potential trades with several Native corporations.

3. Disputed acreage

Although the draft Interior report on ANWR recognizes the submerged lands ownership dispute between the state and federal governments regarding the coastal lagoons between the mainland and offshore barrier islands, it does not address the navigability status of inland waterways. The state also asserts ownership of the submerged lands underlying the Aichilik, Jago, Okilak, Hulahula, Sadlerochit, Staines and Canning rivers. The state maintains that these are navigable waterbodies with title vested to the state at the time of statehood.

4. Revenue sharing

Under present law, the state is entitled to receive 90 percent of the revenues (bonus, rent and royalty) derived from oil and gas production on ANWR. Recent comments by Interior representative Bill Horn suggest that there is some discussion underway to determine Interior's position on whether Congress should take some action to reduce the state's share from future leasing of ANWR.

5. Impacts of decisions on state sales

Currently, the state has two lease sales scheduled on state submerged lands offshore of ANWR (Sale 50, Camden Bay, June 1987; Sale 55, Demarcation Point, June 1988). These areas are considered highly prospective. It is important from the department's perspective that the state urge Congress to allow the potential for the siting in ANWR of oil and gas facilities needed to support offshore oil and gas development. As written, none of the alternatives contained in the draft Department of the Interior report titled "Arctic National Wildlife Refuge, Alaska, Coastal Plain Resource Assessment" (the 1002 report) specifically state that support facilities, if needed, would be permitted.

E. Diligence provisions of state oil and gas leases

In the state's present economic climate, it is likely that there will be increased pressure on the legislature, the administration and the division to relax the diligence provisions of the state's oil and gas leases, to extend drilling and development commitments, and to reduce lessees' royalty obligations. These actions represent major policy decisions which will continue to deserve careful review and thoughtful discussion to assure that the state's long-term interests are protected. It is likely that the proponents of such actions will focus on the current and near-term economic conditions to support their requests; however, petroleum industry activity and crude oil prices traditionally have been cyclical, and this fact should guide consideration of requests to amend the enforcement provisions of state oil and gas leases.

F. West Sak Pilot Project Abandonment

A pilot project by ARCO to evaluate the production characteristics of the West Sak sands has been abandoned. The wells have been plugged and abandoned, and the production facilities are for sale. The lack of firm development plans indicates to the division that the lease owners are not considering production of the West Sak heavy oil in the near future.

G. Five-Year Leasing Program

1. Sale schedule reduced

Since its inception in 1979, the state's formal Five-Year Oil and Gas Leasing Schedule has consisted of three sales a year. This year, in response to state agency budget cuts and reduced industry exploration funds, the division has developed a schedule of two lease sales each year through 1991. Comments were solicited last fall on this reduced schedule. As expected, a variety of opinion was expressed. Comments from industry were mixed. A majority of the companies supported decreasing the number of sales on the schedule, but wanted high potential areas left on the leasing program. Comments from agencies and environmental groups generally supported the reduced schedule. The division believes that its new schedule will provide the state with a strong, judicious leasing program over the next five years.

2. Exempt sales

The division receives several requests from industry each year to hold "exempt" oil and gas lease sales. Exempt sales are provided for in AS 38.05.180(d)(1) through (4), which allows the division to conduct competitive lease sales not on the formal five-year schedule under specific conditions. These conditions range from potential drainage situations to anticipation of early development and evaluation of the acreage being leased. In conducting an exempt sale the division must follow all of the considerable legal requirements imposed on regularly scheduled sales. Already this year the division has received one request for an unscheduled exempt acreage sale in Cook Inlet, and has had an informal inquiry from another company about the feasibility of a North Slope exempt sale. These sales have traditionally

made money for the state, and I personally believe it is a good policy to make acreage available for releasing on an expedited basis particularly where there is known interest. However, the division's ability to respond to these requests will relate directly to the level of funding it receives in FY '88. The division anticipates that it will be able to respond to some exempt sale requests if funding is maintained at the FY '87 Revised level.

H. TAPS Tariff

1. Settlement

On October 23, 1985, the Federal Energy Regulatory Commission (FERC) approved an agreement between the State of Alaska and six of the eight owners of TAPS settling the TAPS tariff litigation. On June 27, 1986, FERC approved an amendment to extend the TAPS tariff settlement to the two remaining owners of TAPS. In the majority of cases, the new tariffs were less than the tariffs individually established by the eight separate pipeline companies, commonly referred to as "carriers".

Under the terms of the settlement, the approved TAPS tariffs were applied retroactively for TAPS shipments effective January 1, 1982. The carriers were required to give refunds to all who had shipped oil ("shippers") after that date. Similarly shippers were required to reimburse the state for any excess transportation charges that had been deducted in determining the royalty value of the state's oil. Because the well head value of North Slope oil increases in proportion to the decrease in tariffs, the value of Alaska's North Slope royalty oil was enhanced by the settlement. Consequently, producers of North Slope oil were required to make additional royalty payments to the state based on the royalty-in-value (R-I-V) taken by these producers. In addition to increased royalty payments from the producers, the state also received increased royalty payments from those who purchased Alaska royalty oil during the period covered by the settlement.

Many of the royalty-in-kind (R-I-K) contracts had clauses which used the producers' reported values (R-I-V) as the basis for the R-I-K value. Thus, as R-I-V values were revised upward, so also were R-I-K values, resulting in additional payments to the state. At the end of October 1986, the state had received almost \$94 million in increased royalty payments resulting from the TAPS settlement.

2. APUC rate setting

The FERC tariff applies to interstate shipments of oil. The Alaska Public Utilities Commission (APUC) has authority to set tariffs for intrastate shipments of oil through the TAPS line. The APUC currently is considering the intrastate tariff question. Early indications are that the APUC will not accept the FERC tariff for intrastate shipments. This would result in different tariffs being charged for similar oil movements.

I. Cook Inlet Royalty Oil Sale

In 1986, marketing of Alaska's royalty oil entered a new era with the first offering of Cook Inlet royalty oil to a Pacific Rim country. On December 5, the Commissioner of Natural Resources issued a preliminary decision to sell approximately 3,600 barrels per day of Cook Inlet royalty oil to the Chinese Petroleum Corporation of Taiwan, which submitted a premium bid of \$1.83 per barrel above the volume weighted average of producers' reported values plus cleaning and dehydrating charges and platform to shore charges. Following public comment, a final decision was issued on January 8, 1987, and delivery of 97 percent of the state's daily royalty oil production from the west side of Cook Inlet is expected to begin in July 1987.

The successful negotiation of this contract culminated a long and complicated lobbying effort on the part of the state to gain federal permission to export Cook Inlet oil and a detailed solicitation by the department to attract interest in the sale. The formal process which resulted in Alaska's first export sale of royalty oil began on July 15, 1986, when the department issued a Solicitation for Offers to Purchase West Side Cook Inlet Royalty Oil. The solicitation and its exhibits provided information on the proposed sale, under a one-year contract, of 97 percent of the state's daily royalty oil production (3,600 barrels per day) from fields on the west side of Cook Inlet. In response to the department's solicitation, seven companies submitted bids. Because the sale was a non-competitive disposal, the Commissioner was required to consider other factors in addition to the per barrel price offered by prospective purchasers, such as the effects of the sale on the state's economy, the projected positive and negative environmental effects of the transaction, and the effects on existing private commercial enterprise and investments.

0733R

1/29/07
3:32

✓BF
✓Fischer
✓Coghill

Eason

(g) Revenue Sharing -

Sec of OCS Land Act amended. 1978
"fair and equitable" split.
in Court.

Congress - 27% share to state.
(also got 1979 lands)

Alaska 54 million
+ 134 over next 15 yrs
another acc't for disputed acreage.

After boundary dispute

Tom Koester handling dispute.
Master's report to Signers

only within 3 miles of 3 mile boundary
ongoing discussion re: joint-fed
utilization.
like SEAL ISLAND

Louisiana pursuing legislative
solution —
compell Sec of Int to
utilize

check w/ Mark Worcester, Law

2) Petro Star Chevron Contract Amendment

Chevron would like to pursue amendment.

Negotiated & approved last session

6500 / bbl

2000 Petro

4000 Chev

$$\begin{array}{r} 6500 \\ 15 \\ \hline 325 \\ 65 \\ \hline 975.00 \end{array}$$

~ \$1000/day

wanted Kupank oil

price term based on Prodhoe price
deducted

Premium

35¢/b Petro
50¢/b Chev.

TAPS is charging a "popularity factor"
surcharge or credit allowed.

charging 15¢/b as surcharge.

deducting it from in-value price,
royalty payment

→ Ask Maynard -
settlement allows adjustment.
how much ^{freedom} do they have to rate
surcharge.

③ Shutdown of Milne Point.

Royalty relief -

Department agreed w/ Conoco -

→ Statutes require 2 years production
+ showing of non-economic

Check w/ Conoco -

would royalty relief have helped?

④ ANWR -

→ Revenue 7:00 am

1) Caribou

2) Land Trades -

State participating.
no decision made

Cog

looking at broad federal issues?

BAE

assume That administration
speak w/ one voice.

Log

surveys a ANMR -

- 3 years ago - Susan

ASRC well completed last fall

SOHIO, BP, Chevron.

AOACC has confidential data

State has geophysical data

deep seismic data was

Disputed Average

State always owns islands

ANMR includes offshore island.

water between ~~state~~ islands + mainland.
disputed.

Camden Bay #50 in 6/87

3 miles seaward of islands

OCS sale offshore of it.

Revenue sharing -

Congress will want to see our share reduced.

effort to
w/in Interior reduce

→ [Read RO's report]

• ~~Do~~ WORK COMMITMENTS

on ~~all~~ diligence provisions

supports keeping leases to their contract.

don't use work commitments anymore

WEST SAK SANDS

2000 - 2800 ft. shallow.

geologically young.

heavy, low-gravity oil -
difficult to produce.

Arco - West Sak pilot project
proved high rates of production

also has abandoned-

5-Year schedule -

led to 2/yr.

concentrated on North Slope or
near known production.

#51

289,000 Barrels
100,000 in first year

Much of it was reffered average

Favorable - 12% yearly
no net profit since
min. bid \$2/acre.

2070 were bid in.

101,000 out of
50,000 acres.

Permit before -
seems to be working.

Dave Johnson } working on
Wade School } stratification study

Exempt sales.

looking at streaming
potential in CI and North Slope

TAPS Tariff

99 million in increased royalties

Export of CI Oil

Still some prohibitions

West side is OK

East - pipeline crosses Fed ROW
mixes w/ Fed oil from
Swanson River.

Bid for China Petro - Taiwan

1.83/bbl premium
3600/day for 1 year only
each delivery subject to cancellation, in case
of national emergency.

ROYALTY DENOMINATION

Tesoro denomination last year

in new contracts
would be something you could delete
continued

Valders

AK Pacific refing.
interested -
moved offices to anch -
negotiating directly w / production

Fed Royalty Management Advisory Comm

Gas Valuation
Regulations ~~Before~~ Dept of Interior
Valuation procedures.

[Beaufort Sea drilling restrictions

concerns a Carter Bay which
NSB is happy.

Teshepunk -

decision not to sign

→ check this out

Petro Star - Mapeo -

adjourned 5:20

2-3-87

JOINT SPECIAL
COMMITTEE
ON TAX
POLICY

STATE OF ALASKA



POUCH V
JUNEAU, ALASKA 99811
(907) 485-4941

SENATE SPECIAL COMMITTEE ON OIL AND GAS

MEMORANDUM

TO: Members, Senate Special Committee on Oil and Gas

FROM: Committee Staff

RE: Joint Special Committee on Tax Policy Meeting,
February 3, 1987

DATE: February 2, 1987

On Tuesday, February 3, the regularly scheduled meeting of the Senate Special Committee on Oil and Gas has been cancelled so that members will be able to attend the Joint Special Committee on Tax Policy Meeting. The meeting will be held at 3:30 pm in House Finance. Attached please find a draft of the first report of the Tax Policy Committee. Discussion of oil and gas taxes, including options for changes to the Economic Limit Factor and the oil and gas income tax, should be of particular interest to committee members.

Also attached for your review is a letter from the Commissioner of the Department of Natural Resources regarding a determination to take royalty oil in money (in- value).



Official Business

Alaska State Legislature

Pouch V
State Capitol
Juneau, Alaska 99811

JOINT SPECIAL COMMITTEE ON TAX POLICY

AGENDA for February 3, 1987

1. Overview of Department of Revenue Tax Reports
Vince Wright, Chief of Research
2. Review Draft of Tax Policy Committee Report



Official Business

Alaska State Legislature

JOINT SPECIAL COMMITTEE ON TAX POLICY

Pouch V
State Capitol
Juneau, Alaska 99811

January 27, 1987

MEMORANDUM

TO: Members, Joint Special Committee on Tax Policy

FROM: Rep. John Sund, House Co-Chair

RE: Draft Committee Report

Attached please find a draft of the first report of the Joint Special Committee on Tax Policy. The report is limited in scope for three reasons: The committee took no votes and made no recommendations, the Senate Chairman resigned from the Legislature, and the House Chairmanship changed hands (from Rep. Grussendorf to Rep. Sund) at the final meeting, in December.

Please review the report and Table of Contents of materials to be attached to the final report and let me know any changes you might recommend.

DRAFT TAX POLICY COMMITTEE REPORT

Table of Contents:

1. Memo from the Chairman
2. Committee Report Draft
3. SCR 42
4. Membership list
5. Bibliography
6. Income Tax Report
7. Minutes
8. ELF Reports
9. Revenue Projections by tax type
10. Misc. Revenues report

A. Introduction

The purpose of this report is to outline briefly issues of Alaska tax policy considered by the Joint Special Committee on Tax Policy.

The Committee was created by the passage of Senate Concurrent Resolution 42, in May 1986. It is scheduled to dissolve on the 11th day of the second session of the Fifteenth Alaska Legislature, in January 1988.

Membership on the Committee includes three members from the House, three from the Senate, two from the Administration, and three public members.

The Committee has a comprehensive charge of examining all issues relating to tax policy in Alaska.

The Committee has met three times, in Anchorage (see minutes, attached).

B. Issues explored by the Tax Policy Committee

Before evaluating any specific taxes, it is important to establish criteria for evaluation. The Department of Revenue, in a memo given to the Committee on alternative means for increasing revenues, listed five criteria for evaluating tax policies.

The five are:

Economic Efficiency: What effect does the proposed tax law change have on incentives and economic decision-making which may alter consumption, production or resource allocation decisions?

Equity: Who bears the burden of the tax and how does that burden compare with ability to pay or benefits received? Is the tax progressive or regressive with respect to income and/or wealth?

Elasticity: What is the sensitivity of the tax revenue yield to changes in economic or demographic conditions? As income or population increase and decrease does tax revenue increase or decrease in greater, lesser or equal proportion?

Administrative Efficiency: How costly is the tax to administer in terms of resources devoted to administration and compliance relative to the revenue yield of the tax? Who bears the burden of administrative cost, the taxpayer, the State, or the tax collector if different from the state?

Political Feasibility: How acceptable is a proposed tax law change to the legislature and/or the electorate given the existing social, political, and economic conditions? Who benefits, who loses, and who has the most political power?

In addition to these, the Committee considered several other tax evaluation criteria:

Revenue raised for the state: How much revenue does the tax change raise for the State?

Employment Impact: What will be the impact on employment in the public and private sector?

Capital Impact: What will be the impact on investment capital availability in Alaska?

New Federal Tax Code: How does the proposed tax law change relate to the new Federal Tax Code?

For oil and gas taxes, the Committee looked at several additional evaluation criteria:

Impact on exploration, development and production.

Relative impacts on small and large fields.

Impact on secondary and tertiary recovery and recoverable reserves.

Possibility of premature shutdown of producing fields, and future oil and gas production loss.

Impact on Cook Inlet fields.

Impact on royalty income.

Impact on severance income.

Alaska Tax Policy

ELF

Much of the Committee's time has been spent on questions relating to the Alaska Severance Tax, in particular, the Economic Limit Factor (ELF). The purpose of the ELF is to provide severance tax relief to marginal oil fields in order to keep them in production, retaining economic benefits for the state. The ELF is calculated to be a number between zero and one and can be thought of as representing a percentage of the nominal severance tax rate (e.g. a field with an ELF of 0.6 means 60% of the nominal severance tax rate is applied to that field). The ELF is an issue at this time largely because an ELF provision that sets the ELF at 1.0 if the calculated ELF is greater than 0.7, expires after a field has been in production for ten years, and Prudhoe Bay will have been in production for ten years as of July 1987. When the ten-year exemption for Prudhoe Bay expires, and no changes are made to the law, the ELF for Prudhoe Bay will go to an estimated .82, reducing severance taxes by over \$100 million per year. The oil industry opposes any change to the ELF formula, saying that it will reduce producer revenues available for reinvestment in Alaska, reduce research and development in Alaska and may cause premature shutdown of producing fields.

Eight options were considered for the ELF:

1) Fix the per-barrel severance tax floor at \$.80 to which ELF does not apply.

	FY 88	FY 89	FY 88-2005
Revenue from this option:	30 M	20 M	210 M (50% case)

[Source: Dept. of Revenue]

2) Same as #1, plus set 300 bbl/day PEL (Production Economic Limit) in statute (now a rebuttable presumption), and repeal the ELF exponent.

3) Set the per-barrel floor at \$1.50 and index it with inflation. The \$1.50 figure was selected based on applying a CPI inflator to the original \$.80 floor. This option was rejected by the Committee based mainly on the fact that it would have a severe negative impact on oil production in Cook Inlet.

4) Repeal the ELF entirely on all fields. This option was rejected as the Committee supported the policy of giving marginal oil fields a tax break as with the ELF.

5) Modify the exponent of the ELF formula and base the PEL on field production rather than per-well production. The modification of the ELF exponent would have the effect of giving additional tax relief to marginal fields while increasing the tax receipts from very large fields. The net result would be an increase in severance tax income over present law.

	FY 88	FY 89	FY 88-2005
Revenue from this option:	140 M	140 M	1,670 M (50% case)

[Source: Dept. of Revenue]

6) Include the provisions of option 5 with the addition of a floor which is not affected by the ELF. This option was rejected by the Committee based on the negative effects on Cook Inlet oil fields stemming from the floor change.

7) Extend the ten-year Prudhoe Bay exemption to fifteen years.

8) No change in the law, i.e. allow the scheduled application of ELF to Prudhoe Bay.

Oil and Gas Income Tax

The major issues considered regarding the Oil and Gas Income Tax revolve around the question of separate accounting of oil and gas income in Alaska versus that of apportioning Alaska income by formula. Present law uses the 'modified apportionment' approach. Separate accounting was used in Alaska for the years 1978-1981, but was repealed because the State was exposed to the possibility of large tax refunds if the courts had ruled for the oil companies who brought suit. The State Supreme Court and the U.S. Supreme Court ruled in favor of the state, holding that separate accounting is within the prerogative of the legislature as a method of determining Alaska income for taxation.

Separate accounting is generally considered to more accurately reflect oil and gas income earned in Alaska. Separate accounting has the disadvantage of being more volatile, that is state income closely follows the rise and fall of oil prices on the world

market. The oil and gas industry vigorously opposes the imposition of separate accounting in Alaska as they feel that it can expose them to taxation on more than 100% of their earnings. House Bill 353, which would have reinstated separate accounting was introduced in the Fourteenth Legislature, but did not pass either body. According to the most recent (January, 1987) report of the Alaska Department of Revenue, at current oil prices separate accounting would result in lower revenues for the state. They show a crossover point where separate accounting would result in more revenue for the state at \$14-16/barrel wellhead value.

Individual Income Tax

The State of Alaska is one of seven states without an individual income tax. The Committee requested a report from the Department of Revenue on the revenue potential and economic impacts of a personal income tax. The report was completed at the end of December, 1986, and is attached. The report examines three types of state income taxes and examines revenue potentials of each against two possible economic scenarios for the state's future. It is interesting to note that were the State to reimpose the individual income tax with the same rate structure as was in effect before it was repealed, the tax would yield between \$399 million (low economic scenario) and \$436 million (moderate economic scenario) for tax year 1988. These amounts exceed previous estimates by approximately \$100 million.

State Sales Tax

The State of Alaska is one of five states without a statewide sales tax. The Department of Revenue recently completed a study of the revenue potential of a statewide sales tax. The report concludes that in calendar year 1988, if sales of food are not exempted, a retail sales tax would yield \$38,355,000 per one percent tax. In addition, the service sector of the economy, could yield approximately \$14 million per one percent tax.

Issues to be explored by Committee

There are a great many tax issues which could be productively explored by the Joint Special Committee on Tax Policy. An outline of some of these issues is provided below.

1. Corporate Income Tax
 - a) Rates
 - b) Worldwide Combination
 - c) Separate entity
 - d) Waters' edge
 - e) Changes to Apportionment formula
2. Severance Tax
 - a) Definition of a marginal field?
 - b) Definition of Field, Unit
3. Motor Fuel taxes
4. Special tax incentives and credits
 - a) Exploration Incentive
 - b) Mining License 3.5-year moratorium

- c) Special Industrial Tax Credit
- d) Credits included in adoption of IRS code
- e) Investment Tax Credit
- f) Non-Highway Use refund
- g) Oil Gravity Adjustment
- 5. Oil and Gas Property Tax (ad valorem)
 - a) Municipal uniformity
- 6. Disputed taxes
 - a) DOR need for auditors, etc.
 - b) Taxpayer Confidentiality
 - c) Outlook for settlements
- 7. Lottery
- 8. Oil & Gas Reserves Tax
- 9. Tobacco Tax
- 10. Alcohol Tax
- 11. Gross Receipts Tax
- 12. School Tax
- 13. Fisheries Taxes

Conclusion The Joint Special Committee on Tax Policy has attempted to establish policy guidelines to examine Alaska's tax structure. The Committee has developed information regarding impacts of some proposed tax schemes. Other than rejecting certain proposals relating to the ELF, the Committee has reached no conclusions or recommendations regarding any specific tax proposal.

* PLEASE NOTE: Circled reports are those which will be included in Table of Contents.

BIBLIOGRAPHY OF MATERIALS

JOINT SPECIAL COMMITTEE ON TAX POLICY

January, 1987

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Official Business

Alaska State Legislature

Senate

Office of the Secretary

Pouch V
State Capitol
Juneau, Alaska 99811

January 30, 1987

M E M O R A N D U M

TO: Senator Bettye Fahrenkamp, Co-Chairman
Senate Special Committee on Oil & Gas

FROM: Peggy Mulligan *PM*
Secretary of the Senate

SUBJECT: Letter from Judith M. Brady, Commissioner,
Department of Natural Resources regarding
"Determination to Take Royalty in Money
(In Value)"

The President has referred the attached letter to your committee for review.

*Special oil and gas
Resources*

RECEIVED JAN 28 1987

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: (907) 465-2400

January 26, 1987

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Reference: Determination to Take Royalty in Money (In Value)

Dear Senator Faiks:

Under the provisions of AS 38.05.182(b), I am writing to inform you of my determinations to accept royalty in value for certain royalties from production in the Prudhoe Bay, Kuparuk River and Milne Point Units on the North Slope, as well as from the Granite Point and Middle Ground Shoal fields and the McArthur River and Trading Bay Units in Cook Inlet. The rationale for these decisions is summarized below.

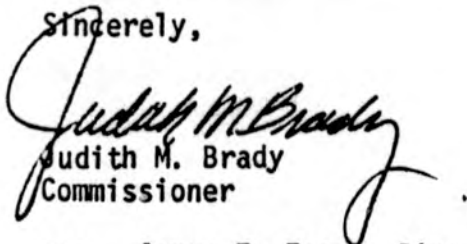
As you are aware, a fairly large percentage of royalty production from the North Slope Units remains committed to long-term negotiated contracts with Chevron, Mapco, Tesoro, Golden Valley Electric Association, and Petro Star, Inc. In addition, a percentage of the remaining production continues to be taken in value to ensure that the department has ample royalty production to offset the lessees' costs of cleaning, dehydrating and handling the state's share of the oil, and to ensure that the state has continued access to the producers' royalty sales reports. The remainder of the royalty production from the Prudhoe Bay Unit and approximately 80 percent from the Kuparuk River Unit, and all production from the Milne Point Unit remain in value. Following the department's February 4, 1986 competitive sale of royalty oil from Prudhoe Bay Unit, at which no bids were received, former Commissioner Wunnicke decided that additional competitive sales of state royalty oil should be deferred until world crude oil markets stabilized.

Jan Faiks, President of the Senate
January 26, 1987
Page 2

Currently, and until July 1987, all Cook Inlet royalty production is taken in value. The department has entered into a one year contract for the sale of 97 percent of west side Cook Inlet royalty oil with Chinese Petroleum Corporation with deliveries to commence July 10, 1987. This volume will comprise approximately 80 percent of available Cook Inlet royalty oil. Oil which is produced from the Middle Ground Shoal field on the east side of Cook Inlet and the remaining 3 percent of the west side royalty oil will be left in value. For logistical reasons--primarily resulting from insufficient storage capacity, rapidly declining volumes, and commingling of federal production--it was impractical to offer the east side volume with the rest of the Cook Inlet royalty oil. Consequently, because of its relatively small volume this oil will likely remain in value.

If you have any questions regarding these determinations, or would like to discuss the department's policies in more detail, please feel free to contact me.

Sincerely,


Judith M. Brady
Commissioner

cc: James E. Eason, Director, Division of Oil and Gas
Donna Wood Johnson, Royalty Manager, Division of Oil and Gas
Steve Porter, Assistant Attorney General, DOL

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