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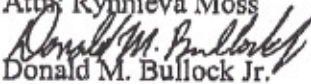
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MEMORANDUM

October 5, 2007

SUBJECT: Sectional summary for the draft of the governor's oil and gas production tax bill (Work Order No. 25-LS8006\A)

TO: Representative John Coghill
Chair of the House Rules Committee
Atty: Rynnieva Moss

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

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

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

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

Section 2. Amends AS 38.05.035(a) by adding a new paragraph that requires the director of the division of lands to furnish information to the Department of Revenue for the purpose of forecasting state revenue and the administration of AS 43.55 (oil and gas production tax and surcharges). The information to be shared includes confidential information relating to sale, lease, or other disposal of land; geological, geophysical, and engineering data; financial information; and other information held by the director. Requires the Department of Revenue to maintain the same confidentiality of the information received under the paragraph as is required of the director of the division of lands with regard to that information.

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

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

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

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

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

Section 8. Amends AS 38.05.180(j)(6)(B) by changing a cross-reference to a paragraph in AS 38.05.035(a); the change is required because the amendment of AS 38.05.035(a) in sec. 2 renumbered some paragraphs in the subsection and added a new paragraph.

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

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

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

Section 12. Amends AS 43.05.230(a) to include AS 43.55.890 (added by sec 61 of the bill), that provides for disclosure of tax information, as an exception to the prohibition against divulging the amount of income or the particulars set out or disclosed in a report or return made under AS 43.

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

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

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Section 15. Repeals and reenacts AS 43.55.011(e); the reenactment changes levy from a monthly to a calendar year basis; with certain exceptions, provides that the tax is equal to the production tax value of the taxable oil and gas multiplied by the percentage determined under AS 43.55.011(g) (subsection (g) is repealed and reenacted by sec. 17 of the bill). Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 16. Repeals and reenacts AS 43.55.011(f); the repeal and reenactment creates a new floor for the tax imposed on production from a unit or non-unitized reservoir from which 1,000,000,000 BTU equivalent barrels of oil or gas have been cumulatively produced before the start of the tax year and from which the average daily oil and gas production during the most recent calendar year exceeded 100,000 BTU equivalent barrels a day (so-called "legacy fields"); provides that tax credits may not be used to reduce the tax liability for these leases or properties below 10 percent of the total gross value at the point of production; provides that the effective tax rate under AS 43.55.011(e) may not be less than 10 percent of the total gross value at the point of production. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 17. Repeals and reenacts AS 43.55.011(g); provides that the tax rate applicable to the tax value of oil and gas production is the sum of 25 percent plus the product of .20 percent (.002) times the price index determined under AS 43.55.011(h) (subsection (h) is amended in sec. 18 of the bill); limits the tax to a maximum rate of 50 percent. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 18. Amends AS 43.55.011(h) to make the price index determined on a calendar year rather than a monthly basis, and to increase the nominal 25 percent tax when the average production tax value for all leases or properties in the state for the calendar year exceeds \$30. Provides that the price index may not be less than zero.¹ Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 19. Amends AS 43.55.011(j) to eliminate a reference to AS 43.55.011(g); the reference to AS 43.55.011(g) is no longer applicable with the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill and the repeal and reenactment of AS 43.55.011(g) in sec. 17 of the bill. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

¹ For example, if the average production tax value is \$35 a BTU equivalent barrel, the tax rate is 26%. This is determined by starting with the 25% base rate in AS 43.55.011(g) and adding the product of .2% multiplied by 5, with "5" representing the difference between 30 and the average production tax value a BTU equivalent barrel.

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Section 20. Amends AS 43.55.011(k) to eliminate a reference to AS 43.55.011(g); the reference to AS 43.55.011(g) is no longer applicable with the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill and the repeal and reenactment of AS 43.55.011(g) in sec. 17 of the bill. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 21. Amends AS 43.55.011(m) to eliminate a reference to AS 43.55.011(g); the reference to AS 43.55.011(g) is no longer applicable with the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill and the repeal and reenactment of AS 43.55.011(g) in sec. 17 of the bill; adds new limitations on excess tax credits based on new subsections added to AS 43.55.160 that are enacted in sec. 54 of the bill. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 22. Repeals and reenacts AS 43.55.020(a); provides the methods for determining the amount of monthly installment payments for the tax imposed on leases or properties outside of Cook Inlet excluding fields subject to tax under AS 43.55.011(f) (legacy fields), on leases or properties subject to AS 43.55.011(f), and on leases or properties in Cook Inlet; provides a limit on the amount of the installment payment for oil and gas produced in Cook Inlet; provides the method for determining the amount of the installment payment for the tax imposed on the production of taxable royalty oil and gas; and provides that any tax remaining due after the payment of the installment payments is due on March 31 of the year following the calendar year of production. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 23. Amends AS 43.55.020(d) by changing a reference to the statute under which the tax is levied to conform with the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 24. Amends AS 43.55.020(g) by changing references to paragraphs in AS 43.55.020(a) to conform to the repeal and reenactment of AS 43.55.020(a) in sec. 22 of the bill; clarifies the period during which interest accrues under 26 U.S.C. 6621 on the underpayment of an installment. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 25. Amends AS 43.55.020(h) by changing references to paragraphs in AS 43.55.020(a) to conform to the repeal and reenactment of AS 43.55.020(a) in sec. 22 of the bill; clarifies the period during which interest accrues under 26 U.S.C. 6621 on the overpayment of an installment. Under sec. 64 of the bill, this section applies to oil and

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gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 26. Amends AS 43.55.023(a) to require that no more than one-half of a credit for a qualified capital expenditure be applied in a single calendar year; amends the requirements for submitting information to the Department of Natural Resources as a condition of taking the credit by referencing AS 43.55.025(f)(2) (AS 43.55.025(f)(2) is amended in sec. 39 of the bill); prohibits a credit for a qualified capital expenditure for exploration, development, or production on a lease or property subject to tax under AS 43.55.011(f) (legacy fields) from being applied against a tax for oil and gas production outside of those leases or properties. (The specific reporting requirements in the existing subsection are incorporated into the amended AS 43.55.025(f) in sec. 39 of the bill.) Under sec. 64 of the bill, this section applies to expenditures incurred after December 31, 2007, as related to tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 27. AS 43.55.023(b) is amended to provide for an election to take 25 percent of a carried-forward annual loss as a tax credit; incorporates a limitation on a carried-forward annual loss under AS 43.55.160(h) (AS 43.55.160(h) is added in sec. 55 and is applicable to Cook Inlet); prohibits the carry-forward of adjusted lease expenditures to explore, develop, or produce oil or gas deposits within a unit or non-unitized reservoir subject to AS 43.55.011(f) (legacy fields). Under sec. 64 of the bill, this section applies to expenditures incurred after December 31, 2007, as related to tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 28. Amends AS 43.55.023(d) to limit the application of the subsection by making an exception for tax credits based on certain expenditures in legacy fields (AS 43.55.023(a)(3) in sec. 26 of the bill); references the ability to obtain a cash payment for tax credits under AS 43.55.028 (AS 43.55.028 is added in sec. 45 of the bill); doubles the period for the department to grant, deny, or grant a limited credit by changing the period for acting from 60 to 120 days; amends one of the three alternative starting points (the latest is used) to start the period for departmental action on the date a statement under AS 43.55.030(a) or (e) is filed (AS 43.55.030(a) is amended in sec. 46 of the bill and AS 43.55.030(e) is added in sec. 48 of the bill); requires the department to issue two credit certificates for the credits claimed with each certificate applicable to one-half of the credit amount; provides that one of the two credit certificates has no time limit and requires the other credit certificate to state the limitation that the credit associated with that certificate may not be applied against a tax for a calendar year earlier than the year following the calendar year for which the certificate was issued. Under sec. 64 of the bill, this section applies to expenditures incurred after December 31, 2007, as related to tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

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Section 29. Amends AS 43.55.023(e) to conform with the addition of new limitations on tax credits in AS 43.55.023(d) as amended in sec. 28 of the bill; makes a technical correction to recognize that the tax is "levied by" AS 43.55.011(e), as opposed to "due under" that subsection. Under sec. 64 of the bill, this section applies to expenditures incurred after December 31, 2007, as related to tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 30. Amends AS 43.55.023(g) by adding language to reflect the authority granted in AS 43.55.028 (AS 43.55.028 is added in sec. 45 of the bill) for the department to purchase tax credits authorized under AS 43.55.023. Under sec. 64 of the bill, this section applies to transferable tax credit certificates under AS 43.55.023(d) for which a cash refund has not been issued under AS 43.25.023(f) before January 1, 2008. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 31. Amends AS 43.55.023 by adding a new subsection that states that an entity that is exempt from tax under AS 43.55 may not apply for a transferable tax credit certificate. Under sec. 69 of the bill, this section is retroactive to April 1, 2006.

Section 32. Amends AS 43.55.024(a) to refer only to AS 43.55.011(e), the subsection under which the tax is levied following the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill, and the repeal and reenactment of AS 43.55.011(f) in sec. 16 of the bill. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 33. Amends AS 43.55.024(c) to refer only to AS 43.55.011(e), the subsection under which the tax is levied following the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill, and the repeal and reenactment of AS 43.55.011(f) in sec. 16 of the bill. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 34. Amends AS 43.55.024(e) to refer only to AS 43.55.011(e), the subsection under which the tax is levied following the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill, and the repeal and reenactment of AS 43.55.011(f) in sec. 16 of the bill. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 35. Amends AS 43.55.024(g) to refer only to AS 43.55.011(e), the subsection under which the tax is levied following the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill, and the repeal and reenactment of AS 43.55.011(f) in sec. 16 of the bill. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 36. Amends AS 43.55.025(a) to refer only to AS 43.55.011(e), the subsection under which the tax is levied following the repeal and reenactment of AS 43.55.011(e) in

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sec. 15 of the bill, and the repeal and reenactment of AS 43.55.011(f) in sec. 16 of the bill; makes a technical correction to recognize that the tax is "levied by" AS 43.55.011(e), as opposed to "due under" that subsection. Under sec. 64 of the bill, this section applies to expenditures incurred after December 31, 2007, as related to tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 37. Amends AS 43.55.025(b) by changing the start date of the period in which exploration expenditures may qualify for the tax credit under AS 43.55.025(a) from July 1, 2003 to January 1, 2008 for all areas outside of Cook Inlet and from July 1, 2005 to January 1, 2008 for a Cook Inlet prospect; expands allowed expenditures for an exploration well that encounters other hydrocarbons in addition to oil or gas; requires that the exploration well be completed or abandoned at the time the credit is claimed by an explorer under AS 43.55.05(f) (AS 43.55.025(f) is amended in sec. 39 of the bill); excludes costs from gross negligence or violation of health, safety, or environmental statutes or regulations from eligibility for the tax credit. Under sec. 64 of the bill, this section applies to expenditures incurred after December 31, 2007, as related to tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 38. Repeals and reenacts AS 43.55.025(c); requires an explorer to submit information to the commissioner of natural resources for the purpose of classifying an exploration well as structural or stratigraphic trap or a combination structural-stratigraphic trap; requires the commissioner to make the determination within a 60-day time period; requires qualifying exploration wells drilled outside of Cook Inlet to have a bottom hole not less than three miles away from the bottom hole of a preexisting oil or gas well; and requires the commissioner of natural resources to determine that the well adequately achieved the explorer's stated geological objective. The "definition of preexisting well" in current law is moved to sec. 43 of the bill where AS 43.55.025(k) is amended by adding the definition in a new paragraph. Under sec. 64 of the bill, this section applies to expenditures incurred after December 31, 2007, as related to tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 39. Amends AS 43.55.025(f) by adding an exception for a credit under AS 43.55.025(l) (AS 43.55.025(l) is a new subsection added by sec. 44 of the bill) and expanding the description of information required to be furnished to the Department of Natural Resources; amends the periods during which well data submitted to the Department of Natural Resources will be held confidential by shortening the periods for well data and seismic data subject to AS 43.55.025(l) from the 10 years in existing law to two years; requires the Department of Revenue to issue two production tax credit certificates, each for one-half of the amount of the credit allowed against production taxes; provides that one of the two credit certificates has no time limit and requires the other credit certificate to state the limitation that the credit associated with that certificate may not be applied against a tax for a calendar year earlier than the year following the

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calendar year for which the certificate was issued; states that some information related to the production credit is not confidential. Under sec. 64 of the bill, this section applies to expenditures incurred after December 31, 2007, as related to tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 40. Amends AS 43.55.025(g) to prohibit an explorer that is exempt from the production tax from transferring, conveying, or selling a production tax credit certificate. Under sec. 69 of the bill, this section is retroactive to July 1, 2003.

Section 41. Amends AS 43.55.025(h) to refer only to AS 43.55.011(e), the subsection under which the tax is levied following the repeal and reenactment of AS 43.55.011(e) in sec. 15 of the bill, and the repeal and reenactment of AS 43.55.011(f) in sec. 16 of the bill. Under sec. 64 of the bill, this section applies to expenditures incurred after December 31, 2007, as related to tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 42. Repeals and reenacts AS 43.55.025(i). The reenacted provision prohibits applying a tax credit to reduce a taxpayers tax liability below zero and allows tax credits that may not be applied for a calendar year to be carried forward to later calendar years. The reenacted provision is substantively similar to existing law. Under sec. 64 of the bill, this section applies to expenditures incurred after December 31, 2007, as related to tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 43. Amends AS 43.55.025(k) by adding a new paragraph that defines "preexisting well." Under sec. 64 of the bill, this section applies to expenditures incurred after December 31, 2007, as related to tax credits with respect to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 44. Amends AS 43.55.025 by adding a new subsection -- AS 43.55.025(l) -- that relates to a claim for a production tax credit under AS 43.55.025 that is filed before January 1, 2016. Provides for a production tax credit equal to five percent of an eligible expenditure for seismic exploration performed before July 1, 2003; states the conditions an expenditure must meet to qualify for the credit. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 45. Adds a new section to AS 43.55 -- AS 43.55.028 -- that establishes the oil and gas tax credit fund and provides for the purchase by the department of certain transferable tax credit certificates issued under AS 43.55.023 and certain production tax certificates issued under AS 43.55.025. Money in the fund consists of earnings on the fund and appropriations to the fund out of production taxes levied under AS 43.55.011. Requires the Department of Revenue to manage the fund and to use money in the fund to

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purchase tax credit certificates that satisfy certain conditions. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 46. Amends AS 43.55.030(a) to make the statement filing requirement apply to all producers rather than only those producers with a tax liability. Adds additional information requirements to those in current law. Under sec. 64 of the bill, this section applies to statements and reports under AS 43.55.030(a), (e), and (f) required to be filed after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

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

Section 48. Adds subsections (e) and (f) to AS 43.55.030. AS 43.55.030(e) requires an explorer or a producer that does not produce oil or gas during the calendar year to report the producer's qualified capital expenditures and other lease expenditures; also requires a producer or explorer receiving a payment or credit under AS 43.55.170 to show whether a tax is due based on AS 43.55.160(d) or 43.55.170(b) and, if so, the amount of the tax. AS 43.55.030(f) authorizes the Department of Revenue to require monthly reports of information related to the determination of the amount of tax due under the chapter. Under sec. 64 of the bill, this section applies to statements and reports under AS 43.55.030(a), (e), and (f) required to be filed after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

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

Section 50. Adds a new section -- AS 43.55.075 -- to AS 43.55. AS 43.55.075 expands the limitation period for making an assessment of tax imposed by AS 43.55 from three years to six years after the latest return was filed. Requires a producer to report retroactive changes that affect an element used in determining the tax under AS 43.55 and to file amended returns for the periods affected by the change.

Section 51. Adds subsections (e) and (f) to AS 43.55.110 to authorize the Department of Revenue to require filing and payment by electronic means.

Section 52. Repeals and reenacts AS 43.55.160(a). Provides for the determination of the production tax value of oil and gas produced outside of Cook Inlet, oil produced in Cook Inlet, and gas produced in Cook Inlet. For oil and gas produced in Cook Inlet, the production tax value is the gross value at the point of production for that oil or gas, reduced by the lease expenditures and adjustments that are the costs of exploring for,

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developing, or producing oil located within the leases or properties. For oil and gas produced outside of Cook Inlet, the production tax value is the gross value at the point of production for that oil or gas, reduced by the lease expenditures and adjustments that are the costs of exploring for, developing, or producing oil located within the leases or properties, plus lease expenditures and adjustments that are allocated to those leases or properties under AS 43.55.160(e) - (g). (AS 43.55.160(e) is repealed and reenacted in sec. 54 of the bill; AS 43.55.160(f) and (g) are added by sec. 55 of the bill.) (The reenacted subsection removes the distinction between oil and gas produced north of 68 degrees North latitude and other oil and gas produced outside of Cook Inlet; however, the distinction between areas in the state continue in AS 43.55.160(f) and (g).) Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 53. Amends AS 43.55.160(b) to refer to the tax value calculated under that section, rather than under only (a) of the section. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 54. Repeals and reenacts AS 43.55.160(e). The reenacted provision addresses three situations in which a producer or explorer may have lease expenditure adjustments, part or all of which could be carried forward rather than being used during the current tax year: 1) the adjustments, if taken as a deduction would reduce the taxable value of oil and gas produced from a lease or property below zero; 2) the costs were incurred on leases or properties with no oil or gas production during the year; 3) the costs are incurred during the exploration for oil or gas located on land in which the producer or explorer does not have an operating right, operating interest, or working interest. Before any such expenditures may be carried forward, the adjustments must first be allocated to those leases or properties under new subsections AS 43.55.160(f) and (g) (AS 43.55.160(f) and (g) are added in sec. 55 of the bill.) The current provision provides for a carry forward of adjusted lease expenditures if the adjustments would reduce the taxable value of oil or gas produced during the calendar year below zero. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

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

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subject to AS 43.55.160(h) is required to perform for determining the only amount of excess adjusted lease expenditures that may be carried forward under AS 43.55.160(h). Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 56. Repeals and reenacts AS 43.55.160(a), which describes a producer's lease expenditures. The reenacted subsection describes the types of costs that qualify and provides standards for the department to determine which costs may be allowed. The reasonable allowance for overhead expenses is moved into this subsection from the current AS 43.55.165(b). The reenacted AS 43.55.160(a) deletes references to typical industry standards in the state, costs an operator is allowed to bill to another working interest owner, and the standards used by the Department of Natural Resources when determining net profits for certain leases, as standards for determining lease expenditures. (The deleted reference standards are moved to AS 43.55.165(b) in sec. 57 of the bill.) Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 57. Amends AS 43.55.165(b) by deleting the provision for the allowance of reasonable overhead expenses (which was moved to AS 43.55.165(a) in sec. 56 of the bill) and incorporating factors that appear in the current AS 43.55.165(a) for determining what costs are lease expenditures. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

Section 58. Amends AS 43.55.165(e) (relating to excluded lease expenditures) by deleting language in AS 43.55.165(e)(15) that relates to dismantlement, removal, surrender, or abandonment costs attributable to production before April 1, 2006, and adding two additional categories of excluded costs. AS 43.55.165(e)(19) is added to exclude costs for repair, replacement, or deferred maintenance undertaken in response to an unscheduled interruption or reduction in the rate of production or undertaken in response to an unpermitted release gas or other hazardous substances. (AS 43.55.165(e)(19) appears to address concerns similar to those addressed in HB 128 and SB 80, but uses different criteria than those in the existing legislation for determining excluded costs.) AS 43.55.165(e)(20) excludes costs related to a refinery or crude oil topping plant, but allows the value of certain products produced from such a facility to be lease expenditures. Under sec. 64 of the bill, this section applies to oil and gas produced after March 31, 2006. Under sec. 69 of the bill, this section is retroactive to April 1, 2006.

Section 59. Amends AS 43.55.165(h) by specifying that the lease expenditures that are allocated are the costs of exploring for, developing, or producing oil or gas deposits. Under sec. 64 of the bill, this section applies to oil and gas produced after December 31, 2007. Under sec. 70 of the bill, this section takes effect January 1, 2008.

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Section 60. Amends AS 43.55.170(a) by deleting an exception relating to the subtraction of a payment or credit in calculating billable or billed costs. Under sec. 64 of the bill, this section applies to oil and gas produced after March 31, 2006. Under sec. 69 of the bill, this section is retroactive to April 1, 2006.

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

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

Section 63. Repeals AS 43.55.023(f) (relating to refundable credits), 43.55.011(i) (relating to the taking a tax reduction for Cook Inlet production), 43.55.023(i) (relating to transitional investment expenditures occurring after March 31, 2001, and before April 1, 2006), 43.55.160(c) (relating to the determination of the production tax value of oil and gas taxable under AS 43.55.011(g)), and 43.55.165(c) and (d) (relating to the determination of lease expenditures using operating agreements). Under sec. 64 of the bill, the repeals of AS 43.55.165(c) and (d) apply to oil and gas produced after March 31, 2006, and the repeals of AS 43.55.011(i), 43.55.023(i), and 43.55.160(c) apply to oil and gas produced after December 31, 2007. Under sec. 69 of the bill, the repeals of AS 43.55.165(c) and (d) are retroactive to April 1, 2006. Under sec. 70 of the bill, the repeals of AS 43.55.011(i), 43.55.023(f) and (i), and 43.55.160(c) are effective January 1, 2008.

Section 64. Makes identified bill sections applicable to oil and gas produced after March 31, 2006 and after December 31, 2007, to expenditures incurred after December 31, 2007, to tax credit certificates that have not been refunded, and statements and reports required to be filed after December 31, 2007.

Section 65. Provides for the assignment of current oil and gas auditors and their immediate supervisors to the exempt service, but allows those individuals hired before the effective date of sec. 10 of the bill (adding these position classifications to the exempt service) to choose to continue in the classified service.

Section 66. Allows regulations adopted by the Department of Revenue and the Department of Natural Resources to be retroactively applied. Under sec. 69 of the bill, this section is retroactive to April 1, 2006.

Section 67. Provides for the treatment of pending applications for transferable credits and for the refund of credits under AS 43.55.023.

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Section 68. Authorizes the Department of Natural Resources and the Department of Revenue to proceed with the adoption of regulations necessary to implement the Act but provides that an adopted regulation may not take effect before the effective date of the law being implemented. Under sec. 69 of the bill, this section is retroactive to April 1, 2006.

Section 69. Provides for the retroactivity of certain provisions of the Act. The retroactivity is noted in the analysis above.

Section 70. Makes certain provisions of the Act effective January 1, 2008. The sections effective on this date are noted in the analysis above.

Section 71. Except as provided in sec. 70, makes the Act take effect immediately.

If I may be of further assistance, please advise.

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