

SENATE FINANCE COMMITTEE
March 20, 2012
9:03 a.m.

9:03:02 AM

CALL TO ORDER

Co-Chair Stedman called the Senate Finance Committee meeting to order at 9:03 a.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Lesil McGuire, Vice-Chair
Senator Johnny Ellis
Senator Dennis Egan
Senator Donny Olson
Senator Joe Thomas

MEMBERS ABSENT

None

ALSO PRESENT

Senator Bill Wielechowski, Sponsor; Michelle Sydeman, Staff, Senator Bill Wielechowski; Johanna Bales, Deputy Director, Tax Division, Department of Revenue; Michael Hurley, Director, Government Affairs, ConocoPhillips Alaska; Senator Cathy Giessel, Sponsor.

PRESENT VIA TELECONFERENCE

Lisa Evans, Assistant Director, Sport Fish Division, Alaska Department of Fish and Game; Deborah Vogt, Self, Haines; Kara Moriarty, Executive Director, Alaska Oil and Gas Association; Chancy Croft, Self, Anchorage; Rebecca Reichlin, Board Chair, Four Valleys Community Schools, Girdwood; Dianna Hiibner, Ski Area General Manager, Alyeska Resort, Girdwood.

SUMMARY

SB 91 SPORT FISHING GUIDING SERVICES

SB 91 was HEARD and HELD in committee for further consideration.

SB 146 SNOW CLASSIC

SB 146 was HEARD and HELD in committee for further consideration.

SB 201 OIL AND GAS CORPORATE TAXES

SB 201 was HEARD and HELD in committee for further consideration.

#sb91

SENATE BILL NO. 91

"An Act amending the termination date of the licensing of sport fishing operators and sport fishing guides; and providing for an effective date."

[9:04:02 AM](#)

Co-Chair Hoffman MOVED to ADOPT the proposed committee substitute (CS) for SB 91, Work Draft 27-LS0550\M (Bullard, 3/16/12).

Co-Chair Stedman OBJECTED for discussion. He explained that the CS extended the sunset date from FY 13 to FY 17. He WITHDREW his OBJECTION. There being NO further OBJECTION, the CS was ADOPTED.

SENATOR LESIL MCGUIRE, SPONSOR, introduced SB 91 and stated that the legislature had put the licensing of sport fish operators in place in 2004. The licensing had been beneficial to the state; the program had tracked more than 1.8 million clients, of which 88 percent were non-residents who had taken more than 460,000 guided trips in Alaska. An important feature of the program was aimed at ensuring that sport fish guides operated under basic standards and that data was provided to the Department of Fish and Game (DFG). She discussed struggles related to the tracking of salmon returns; the program was part of an overall state strategy to better manage its resources. She referred to a prior version of the bill that would have created a more comprehensive program, which she hoped the legislature

could look at down the road. The CS extended the sunset to prevent the program from expiring in the near future.

Co-Chair Stedman pointed to the one fiscal note from DFG that reflected a \$400,000 cost to administer the program; the increment had been included in the governor's FY 13 budget.

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LISA EVANS, ASSISTANT DIRECTOR, SPORT FISH DIVISION, ALASKA DEPARTMENT OF FISH AND GAME (via teleconference), highlighted that the sport fish guide program was very important to the department and fisheries managers. She relayed that the program provided critical data on guided sport fishing activities and was an effective tool for successful fisheries management in the state. Data collected from the program was used extensively to analyze regulatory options and inform decisions on pacific halibut within the International Pacific Halibut Commission and the North Pacific Fisheries Management Council. She furthered that the data was also used in a variety of ways by DFG fisheries managers at a local level and to inform decisions made by the Board of Fisheries. She elaborated that in 2010 logbooks had been modified to specifically query charter vessel operators for the harvest of sable fish by clients in Southeast Alaska because in 2009 the board had adopted an annual limit for non-residents. The data had been taken to the board in 2010 and 2011 to repeal the annual region-wide eight fish limit in order to open up opportunities for non-resident anglers and the sport fish guiding industry.

Ms. Evans explained that the program provided documentation of harvest patterns within specific timeframes (e.g. bag limits), which helped fisheries managers to evaluate and update the regulatory structure for certain species. She detailed that freshwater logbook catch and harvest statistics were used in Kodiak to routinely observe preseason establishment of management objectives and for in-season assessment of harvest and effort. Local area managers relied on the data when considering management options for local fisheries. She had many statewide examples showing how managers used the information gathered under the program. She communicated that DFG had responded to concerns of the sport fish guide industry by working to modernize its logbook reporting process. The prior year the department had reported all guided sport fish harvest of

halibut caught in May through June by July 15, 2011 in a pilot program that used a scanable logbook. The department planned to implement a scanning technology for guided freshwater sport fish activities that would result in more timely data reporting. She informed the committee that sport fishing was a \$1.4 billion industry in the state and without the information collected under the program fisheries managers would lose a necessary tool. She expounded that in the absence of the data, fisheries would likely be managed more conservatively in order to fulfill the department's mission to protect and improve Alaska's recreational fisheries resources.

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Senator Olson queried the attitude of the sport fish guide industry towards DFG, given that licenses had not been required prior to 2004. Ms. Evans noted that some guides were not fond of the requirement but she believed that in general the industry recognized the importance of the data that was collected by the department.

Senator Olson asked whether sport fish guides would likely recommend the program or not. Ms. Evans replied that some guides may express that the program was slightly cumbersome and that they would prefer to be able to report electronically; however, she believed that in general guides would say that they liked the program because it protected their opportunity to have a viable economic industry.

Senator Olson wondered what the penalties were for non-compliance. Ms. Evans responded that the penalties were outlined in statute; she would follow up with the information.

[9:12:25 AM](#)

Senator McGuire opined that approximately 80 percent of the guides supported the program; many of the supporters were local Alaskans who were interested in protecting their resource. Pushback had been received when a bill had been introduced that would have established a board to oversee the program, which would have resulted in enhanced penalties; the bill had been introduced at the same time federal government had cracked down on salt water guides. She shared that members of the industry had expressed their

support for a simple extension of the license program as an alternative to the less popular legislation. She added that concerns had been expressed related to efficiencies; the department was taking steps to address the issue, but many of the guides would like to see an electronic reporting system.

Co-Chair Stedman CLOSED public testimony.

SB 91 was HEARD and HELD in committee for further consideration.

[9:14:18 AM](#)

AT EASE

[9:16:16 AM](#)

RECONVENED

#sb201

SENATE BILL NO. 201

"An Act relating to the oil and gas corporate income tax; relating to the credits against the oil and gas corporate income tax; making conforming amendments; and providing for an effective date."

[9:16:33 AM](#)

Co-Chair Stedman discussed that the subject included in SB 201 had been brought up by consultants in the past and that he thought the bill presentation would be useful.

SENATOR BILL WIELECHOWSKI, SPONSOR, explained that SB 201 addressed how corporate income taxes were calculated when dealing with oil and gas taxes. He relayed that corporate income taxes in the state were generally 9.4 percent of the profits made by a company (e.g. if a company earned \$100,000 it would typically pay \$9,400); however, the taxes were calculated differently for multinational companies in relation to oil and gas. Oil and gas companies were allowed to calculate their worldwide profits and to apportion the profits based on production sales and facilities property; therefore, a company could make \$2 billion in Alaska, but only pay a corporate income tax based on a much lower worldwide number. He elaborated that separate accounting allowed companies to write-off bad investments made in other parts of the world (i.e. Libya or the Gulf of Mexico)

on their Alaska taxes. Conversely, if Alaska was a less profitable place to do business, under separate accounting the bill would result in a lower tax rate for the oil industry. He shared that the concept in SB 201 had been recommended by oil consultant Pedro van Meurs.

9:19:06 AM

MICHELLE SYDEMAN, STAFF, SENATOR BILL WIELECHOWSKI, provided a PowerPoint presentation titled "SB 201: Separate Accounting of Oil and Gas Corporate Income Taxes" (copy on file). She read from the presentation (pages 2 through 4):

Senate Bill 201 would reinstate the separate accounting method of calculating corporate income tax paid by the oil and gas industry.

Under separate accounting, oil and gas companies pay tax on the income they earn within a particular jurisdiction as opposed to a share of their worldwide earnings.

This method is used by EVERY oil and gas producing nation in the world, including the United States, according to a March 9, 2012, analysis by Roger Marks, requested by LB&A [Legislative Budget and Audit].

Ms. Sydeman noted that she had received a phone call (prior to the meeting) from Johanna Bales within the Department of Revenue Tax Division who believed the U.S. used a variation on separate accounting. She returned to the presentation (pages 5 and 6):

Separate Accounting is also used by some U.S. states, including Oklahoma and Mississippi, and is offered as an option to O&G taxpayers in Louisiana.

Since oil production in Alaska began, the O&G industry has strongly urged the State to use a worldwide apportionment method for calculating their income tax.

Ms. Sydeman moved to slide 7:

The O&G industry is the only industry in Alaska that uses this method.

The income of other multinational corporations operating in Alaska is apportioned on a "water's edge" or U.S.-only basis.

[9:20:44 AM](#)

Ms. Sydeman turned to slides 8 through 11:

In the mid-70s, Alaska realized that it would lose significant revenue under the apportionment method.

After 63 hearings and 4 years of analysis and debate, the legislature adopted separate accounting in 1978.

Under AS 43.21, revenues generated in Alaska, less expenses, became the basis for the 9.4 percent state corporate income tax.

The oil companies sued. They lost in the lower court and appealed to the State Supreme Court.

Four years later, in 1982, the State reverted to the apportionment system because the legislature feared a potential cost of \$1.8 billion if Alaska lost.

Ms. Sydeman moved to slide 12, which included a screenshot of a document that had been provided to the Alaska Supreme Court by the state, showing the state's potential liability of \$1.8 billion. She continued on slides 13 through 14:

At the time, the legislature saw that as too great a liability, given the treasury balance in 1981.

However, two years later, the state won on all points at the Alaska Supreme Court, and in 1986, the United States Supreme Court declined the oil companies' appeal request, stating there were no federal issues.

Ms. Sydeman noted that the industry had raised numerous constitutional issues ranging from violations of commerce clause due process and equal protection; the U.S. Supreme Court had determined that none of the issues were relevant.

[9:22:25 AM](#)

Ms. Sydeman turned to slides 15 and 16:

Separate accounting has never been reinstated.

In 2000, the Department of Revenue estimated that Alaska lost \$4.7 billion between 1982 and 1997 because of the switch from separate accounting to apportionment.

Ms. Sydeman pointed to an analysis that had been done by Dan Dickenson who had worked in the Department of Revenue Tax Division at the time (slide 17). [The slide showed a comparison of actual oil and gas corporate income tax collected with estimated revenues using a separate accounting income tax approach.]

Ms. Sydeman presented slide 18 with the disclaimer that she had not seen a fiscal note for the bill; however a House companion bill had a DOR fiscal note estimating a \$250 million annual loss. Slide 18:

The DOR fiscal note for this bill also estimates that Alaska is losing about \$250 million a year due to its use of worldwide apportionment as opposed to separate accounting.

Ms. Sydeman discussed slide 19:

Statements made over the past decade by oil industry executives support the conclusion that Alaska loses income using formulary apportionment.

Ms. Sydeman shared that statements included (slide 20):

"...Norway, the U.K., Alaska, Indonesia, all have relatively high, higher than average margins."

Jeffrey Wayne Sheets, CFO and Senior VP of Finance for ConocoPhillips, in a 2011 Q3 conference call.

"Talk about Alaska, we like Alaska. . . . Last year 240,000 BOE a day, strong cash margins in this area... We'll invest \$350 million in exploitation this year, all at very good returns."

Greg Garland, Senior Vice President of Exploration and Production for the Americas with ConocoPhillips. Said on March 23, 2011.

9:24:06 AM

Ms. Sydeman read from slides 22 through 25:

" ... Alaska's role in BP's portfolio is to provide a stable production base and cash flow to fuel growth elsewhere in the business while improving margins and returns."

Alaska Business Unit, Mid-Stream Alaska, Trans-Alaska Pipeline Pump Station Electrification Decision Support Package - Sanction, February 9, 2004, page 13

These statements are confirmed by information contained in Securities and Exchange Commission filings, which show that per BOE (Barrel of Earnings) earnings in Alaska for ConocoPhillips are nearly double what they are in the Lower 48 or the rest of the world.

A Legislative Research report issued yesterday compares net income per BOE from Alaska, the Lower 48 and the rest of the world from 2000-2010.

- Alaska average: \$15.10
- Lower 48 average: \$8.79
- Rest of world average: \$8.57

One cause of this difference in net income per BOE is lower value gas production in other jurisdictions intermingled with higher value oil production. But this intermingling is exactly what occurs with formulary apportionment.

Ms. Sydeman pointed to a line graph on slide 26 titled "Figure 3: ConocoPhillips: Net Income per Barrel of Oil Equivalent" (developed by Legislative Research Services). She explained that the blue line showed Alaska's net income per barrel of oil equivalent; the red line represented the Lower 48, the gray line represented international, and the purple line represented global. She moved to slide 27 that included a table depicting the information used on slide 26. The average net income per barrel of oil over 11 years was shown on the far right; Alaska was nearly double the Lower 48, international, and global numbers.

Ms. Sydeman turned to slide 28:

Recently international oil industry consultant Pedro Van Meurs testified to this committee that he believes worldwide apportionment is cumbersome, an obstacle to new investment, and not in the state's best interest.

Ms. Sydeman provided several quotes from Mr. van Meurs on slides 29 and 30:

"I have always been in favor of calculating the Alaska portion of the corporate income tax entirely on the revenues and costs attributable to Alaska and not to any other part of the world."

Pedro Van Meurs on worldwide apportionment: "It messes up significantly the Alaska possibility for giving these kind of incentives, making these kind of rules, allowing international companies to benefit."

Ms. Sydeman elaborated that Mr. van Meurs was referring to some of the recommendations he had made to the Senate Finance Committee for incentivizing higher cost and heavy and shale oil; he felt that it would be much easier to do using a separate account methodology. She read an additional quote from Mr. van Meurs on slide 31 (she noted that the quote related to Roger Marks' findings that most jurisdictions used a separate accounting methodology):

"It makes the tax system very cumbersome to run. In fact, it is actually an obstacle to investment in Alaska because it is very difficult to explain to any newcomer how you even have to calculate your state corporate income tax."

Ms. Sydeman provided a concluding remark on separate accounting by Mr. van Meurs (slide 32):

"It gives you far more political freedom to pursue the interests of the state the way the state wants to do."

Ms. Sydeman addressed slides 33 and 34:

A review of the history of this issue is instructive as the legislature reconsiders separate accounting and other changes to our oil tax regime.

- In 1949, the territorial income tax enacted. This tax remained essentially unchanged until 1978.
- Income of multi-state corporations in Alaska was apportioned on the basis of three factors: property, payroll and sales.

Ms. Sydeman relayed that income of multistate corporations in Alaska was currently apportioned on the basis of property, production, and sales.

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Ms. Sydeman discussed slides 35 through 38:

- This method of apportionment was developed principally for mercantile businesses.
- Over many years, it became apparent that it systematically under-calculates income attributable to oil production.

The oil industry in testimony will likely tell you that Alaska should maintain formulary apportionment to be consistent with many other states, avoid the potential for duplicative taxation, and sidestep the administrative burdens associated with separate accounting.

However, all of the constitutional issues regarding duplicative and discriminatory taxation have been resolved, and the fiscal benefits of separate accounting clearly outweigh the costs and administrative challenges.

- According to the fiscal note submitted by DOR (on the House bill version), separate accounting would have generated about \$250 million more in each of the 5 preceding fiscal years.
- The cost[s] of administering the system are estimated to be about \$525,000/year, primarily to hire 4 new tax auditors.

- Thus the benefits are roughly 475 times greater than the costs.

Ms. Sydeman did not believe that the argument that the system was costly and cumbersome to administer held water, given the very different ratio between cost and benefits. She pointed to slide 39 that showed DOR calculations comparing separate accounting and worldwide apportionment for the top 5 oil companies' corporate income taxes during the past five years. She believed DOR had used the calculations to determine its fiscal note for the House companion version of the legislation. She noted that for the five corporations there was a difference of \$190 million per year [on average].

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Ms. Sydeman turned to slide 40:

- It's true that until the 1970s, Alaska lacked the resources and staff to administer a corporate income tax effectively.
- Returns were generally accepted as filed and field audits were never conducted. However, that is not the case today.

Ms. Sydeman discussed slides 41 and 42 related to the late 1970s:

As the development of Prudhoe Bay approached, interest within the legislature on appropriate methods of taxation increased.

Legislative consultants warned that Alaska would receive little income tax from the O&G industry, not only because of the apportionment formula, but also because the state tax was based on federally taxable income, which usually amounted to very little.

Ms. Sydeman noted that Darwin Peterson, Staff, Senator Bert Stedman would distribute several articles related to federal income tax paid primarily by the Exxon Corporation following the meeting. She detailed that one group estimated that the effective tax rate was approximately half of the statutory 35 percent standard for U.S. corporations. She elaborated that Alaska may be getting far

less than imagined if its corporate income tax was based on federal corporate income tax.

Ms. Sydeman moved to slide 43 and provided the perspective of legislative consultants [mentioned on slide 42]:

They argued that income tax should be tied to profitability, rather than production, property, payroll, sales, or other variables which do not represent the health or viability of the industry.

These arguments are true today.

Ms. Sydeman directed attention to slides 44 and 45:

Since little of Alaska's oil is sold instate, the sales factor, which is still part of the formula, minimizes income generated from Alaska.

The property factor is also not as reflective of value as one might expect. It does not include the value of oil or gas in the ground, and facilities are valued at their original cost, not their value today.

Ms. Sydeman pointed to a recent decision by Judge Gleason that looked at the value of the Trans-Alaska Pipeline based on its current economic value of approximately \$9 billion; the value was higher than the original construction cost and would not be reflected in the property factor in the state corporate income tax calculation.

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Ms. Sydeman moved to slides 46 and 47:

Formulary apportionment also fails to recognize the greater profitability of production, compared with refining or retail sales.

It doesn't reflect that not all facets or areas of a company are equally profitable.

In addition, formulary apportionment treats companies with the same earnings (those doing business only in Alaska and multinational corporations) differently.

Ms. Sydeman read a quote from the state's brief to the Alaska Supreme Court on April 27, 1984 (slide 48):

"The three-factor formula bestows a benefit on multistate oil companies that is not shared by other Alaskan businesses. It allows those corporations to pay tax on only a fraction of their Alaska income, which substantially lowers their effective tax rate..."

Ms. Sydeman turned to a quote from the late 1970s on slide 49:

During the hearings on AS 43.21, legislators asked about this:

- Senator John Huber: "Does SOHIO object to paying 9.4% on its true net income the same as they would have to if they were strictly an Alaskan corporation?"
- SOHIO Vice President Richard Donaldson: "Yes"

[9:35:09 AM](#)

Ms. Sydeman addressed slides 50 through 54:

In 1977, the Department of Revenue acknowledged some of the drawbacks of formulary apportionment, including:

1. the federal tax base on which it is based (for U.S. corporations) allows for significant and undesirable erosions in the tax base;
2. the policies underlying many federal tax exemptions, credits and deductions are irrelevant to or inconsistent with state objectives; and
3. none of the property, payroll or sales factors truly represent O&G producing activity in Alaska.

During the same period, the O&G industry made many of the same arguments heard today about ACES. They said separate accounting:

1. would have an adverse impact on exploration and development investment in Alaska;
 2. was unnecessary because Alaska already imposed one of the highest tax burdens of any state on the O&G industry; and
 3. illustrated the instability of the Alaska business climate.
- Exxon released a "Business Climate Analysis" showing Alaska ranked 47th and 48th out of the 50 states on 2 important measures of business friendliness.
 - The company argued that separate accounting would make it worse.

Despite O&G industry opposition to separate accounting in Alaska, it's interesting to note that elsewhere they have sued to be able to use this methodology.

Even in Alaska, industry has sued in support of the right to use separate accounting.

(See State of Alaska v. Amoco Production Company, 676 P. 2d 595, Supreme Court of Alaska.)

[9:37:15 AM](#)

Ms. Sydeman moved to slides 55 through 57:

Separate accounting has several additional benefits the sponsor would like to highlight:

1. It doesn't tax a company until that company makes a profit. Under apportionment, companies begin to pay taxes as soon as they set up shop in Alaska. In this manner, separate accounting encourages new business development.
2. If a company invests in Alaska, it drives down that company's corporate income tax. It is an incentive to additional investment.
3. If oil development in Alaska becomes less profitable than elsewhere, that change in profitability is reflected in the corporate

income tax. Under that circumstance, it would result in a well-deserved tax cut for the oil industry.

4. The separate accounting methods proposed in SB 201 are nearly identical to methods used by other states, the IRS, and other nations. They are also consistent with OECD model treaties.

Ms. Sydeman elaborated that a business would have property that was taxable under worldwide apportionment once it leased property in downtown Anchorage. In relation to point number 2 she noted that the concept was one of the primary principles behind the ACES tax system (the more money a business spent in the state, the less it paid).

Ms. Sydeman closed with slides 58 and 59:

In closing, as the State argued in 1984 to the Alaska Supreme Court, separate accounting "foregoes the surrogates and assumptions of mathematical formulas and looks instead at actual revenues and costs of instate operations."

State of Alaska brief, April 27, 1984, page 41.

It is a fair and equitable method of assessing corporate income taxes that is used successfully around the world and in other U.S. states.

[9:39:19 AM](#)

Co-Chair Stedman asked about the origin of the data on slide 39 and how it had been developed. He asked for specific detail related to 2007 transportation income. Ms. Sydeman replied that the data had been assembled by DOR and deferred the question to Johanna Bales, Tax Division, DOR.

JOHANNA BALES, DEPUTY DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, asked for detail related to the question.

Co-Chair Stedman noted that there was no information about where the data had come from and which companies were included. He wondered why the 2007 transportation income was not negative.

Ms. Bales responded that the data used to develop the table came from oil and gas tax production tax returns; the sponsor of the House version of the bill had requested the calculation using the net profits tax. She detailed that the production tax value of the top five oil and gas companies had been used to calculate the corporate income tax based on language in the bill. She noted that the transportation information came directly from public Federal Regulatory and Exchange Commission (FERC) reports; the department did not know why 2007 had positive transportation income.

Co-Chair Stedman observed that transportation was typically negative due to tariff charges. He wondered whether DOR had broken the figure down to determine whether the positive number was a company specific issue or related to an accounting adjustment. Ms. Bales replied that DOR had looked at it on a company basis, but it had not followed through to determine the cause of the anomaly in 2007. She would follow up with the committee with more detail.

[9:43:05 AM](#)

Co-Chair Stedman asked for verification that the table (on slide 39) included the five major tax paying companies that were in Alaska's legacy fields. Ms. Bales responded in the affirmative.

Co-Chair Stedman asked whether DOR had restated historic revenues and expenses to put them under the ACES system in 2006. Ms. Bales replied in the affirmative.

Co-Chair Stedman surmised that the table included hypothetical numbers looking back at the ACES structure that did not exist. Ms. Bales replied that there was production tax value information for FY 06 and FY 07; DOR had been gathering information from oil companies and its economic research group had pulled the data together. She did not believe that the data was extrapolated.

Co-Chair Stedman asked whether the industry had paid \$630 million in 2006 or whether the figure was used to show what would have occurred if ACES had been in place. Ms. Bales replied that the actual corporate income tax paid came from real corporate income tax returns. The comparison figure had been derived from oil and gas production tax returns, which was the only available data to determine activity

that took place in Alaska. She elaborated that the oil and gas corporate income tax returns did not provide specific Alaska data only.

Co-Chair Stedman inquired what format the \$619 million in 2006 had been calculated (i.e. ACES or the Petroleum Production Tax system (PPT)). Ms. Bales responded that the \$619 million tax was calculated using the production tax value from information the department had received under ACES or PPT coupled with recently acquired information from oil and gas companies to estimate corporate income tax under the legislation, which approximated the petroleum profits tax calculation.

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Co-Chair Stedman asked for verification that the table was not depicting data from a different tax regime. He queried whether the actual tax paid was \$630 million and that using the calculated rate of 9.4 percent would have resulted in \$619 million in tax. Ms. Bales replied that the \$619 million was an estimate based on the production tax petroleum profits; there were some differences in the calculation of net income for the corporate income tax under the bill (compared to PPT). She clarified that DOR had done a quick estimation using the production tax either under ACES or PPT and had used the 9.4 percent tax rate; the figure was an estimate, but DOR believed it was only off from \$10 million to \$20 million per year.

Co-Chair Stedman looked at 2010 and noted that at 9.4 percent the statutory rate was \$638 million. He asked whether the tax collected then would be \$385 million. Ms. Bales answered in the affirmative. Co-Chair Stedman queried which number he would use under the DOR revenue source book. Ms. Bales responded that it would not be possible to tie the actual corporate income tax number to the revenue source book because the book included other oil and gas companies that had not been included in the table.

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Co-Chair Stedman stated that it was his understanding that most of the other companies in the source book would have expenses and credits but no revenue. Ms. Bales replied that it was possible that the companies may have had other activity and did pay corporate income tax. Co-Chair Stedman

surmised that the amount would be small. Ms. Bales replied that she would need to look into the matter.

Co-Chair Stedman asked Ms. Bales to report back to the committee with a total. He clarified that he would like the information related to the oil and gas sector corporate income tax paid. He requested that the five relevant companies be parsed out with production. Ms. Bales agreed.

Co-Chair Stedman inquired whether the expectation in 2011 was similar to those in 2009 and 2010. Ms. Bales responded that based on the table (slide 39), the department's estimate going forward would be similar.

Ms. Bales provided comments from the perspective of the administration. She stated that the bill would run counter to the governor's goals to improve Alaska's tax structure to make long-term investment attractive to companies. She opined that the bill would set Alaska back in terms of its ability to compete with other jurisdictions for oil and gas investment dollars. She stressed that there was nothing simple about separate accounting and that the bill would require companies to calculate their tax on three different methods: separate accounting for oil and gas production activity, FERC accounting for transportation activity, and worldwide apportionment for all other activity. She emphasized that the proposed accounting system would increase complexity for DOR. She pointed out that there was a significant difference between separate accounting and separate entity reporting; the U.S. used separate entity reporting and not separate accounting. She explained that a U.S. corporation that conducted activity in the U.S. and internationally would report and pay tax on all of its income. She believed that there was some general confusion about the definition of separate accounting. She expressed that DOR would like to work with the committee and the bill sponsor to help clarify the impacts the bill would have going forward.

[9:51:56 AM](#)

Senator McGuire wondered whether there was any other industry that paid a severance profits tax and a corporate tax on profits. Ms. Bales responded that the fisheries and mining industries paid severance tax and corporate income tax on profits.

Senator McGuire believed that in order to stay competitive that it may be better to take a look at the overall impact of Alaska's taxes. She opined that Alaska should have a fair split, but should that it should increase its competitiveness through a change in the current structure or through another option.

Co-Chair Stedman pointed to concern related to the net cash position, which could come from several areas, but needed to be counted together; however, the current focus was zeroing in on the corporate income tax. He was concerned that in 2010 the table showed \$638 million in tax, but only \$385 million collected. Page 2 of the revenue source book referenced \$662 million in petroleum corporate income tax for FY 12 and \$728 million in FY 13. He furthered that the committee was using the revenue source book frequently related to models and government split numbers; however, based on the table there appeared to be a substantial \$300 million difference. He referred to numerous presentations that dealt with the government take number, of which corporate income tax was one portion of the total. The number was roughly 9 percent or more of the total hydrocarbon income that dealt with royalties and other. He stressed that the money was substantial.

[9:55:27 AM](#)

Ms. Bales clarified that the table (slide 39) had been prepared quickly for the House; she was happy to expand and refine it for the committee.

Co-Chair Stedman asked DOR to polish up the numbers on the table for 2008 through 2010 and to reference the revenue source book. He noted that there were two separate issues: (1) corporate taxes expected and (2) separate accounting. He explained that the question was - were the numbers and decisions made presently going to provide an accurate picture when "we turn it into cash and stack it on the table." He believed there were areas that needed to be tightened up to ensure that neither the industry nor the state were surprised at the outcome. He relayed that the committee's consultant PFC Energy could work with DOR on the issue.

Senator Thomas queried the reason for the \$252 million corporate income tax difference shown for 2010 (slide 39). Ms. Bales replied that the difference was a result of

calculating corporate income tax on separate accounting using only the net profit tax versus worldwide apportionment.

[9:58:53 AM](#)

Senator Thomas pointed to the Alaskan comparison with the Lower 48 international and global slide 27 and asked whether the higher average net income per barrel would be a likely place for a company to take worldwide deductions.

Ms. Bales replied that one of the reasons worldwide apportionment was attractive to taxing jurisdictions was that it was very difficult for companies to game the system. Once the focus was narrowed to the U.S. or to separate accounting there was more ability for taxpayers to game the system and to either move income out of a jurisdiction or pull expenses into a jurisdiction to offset earned income. Worldwide accounting removed the transfer pricing and inner company activities; as a result corporations were not looking at what expenses they could incur to eliminate paying more taxes in one jurisdiction versus another because they were looking at what was best for the company. She was not certain what the table was trying to show. She understood that Alaska's barrel of oil equivalent was currently priced higher than most other jurisdictions (not always the case in the past), which probably made Alaska more profitable at present. She surmised that separate accounting was most likely the better way to go during a period of higher prices and production in Alaska, but over time as production and value decreased separate accounting would result in lower income for the state. She stressed that worldwide apportionment helped to remove volatility in world markets in relation to corporate income tax.

[10:02:18 AM](#)

Co-Chair Stedman wondered how an accident outside the state (e.g. an oil tanker spill, a platform issue, or other) that was in the billions of dollars would impact Alaska. He pointed to a current concern in the Gulf of Mexico and wondered whether it could fold back in against Alaska's revenue stream. Ms. Bales replied that the types of incidents did cut into worldwide net income; therefore the income base did shrink. She relayed that the state adopted federal law, which meant that penalties and fines were not

deductible; however, the state shared in other expenses or revenue increases such as maintenance, cleanup, and other that were incurred in other jurisdictions worldwide.

Co-Chair Stedman queried whether there was an estimate related to the [2010] Gulf of Mexico oil spill and its impact on Alaska's revenue stream. Ms. Bales replied in the negative.

Co-Chair Stedman wondered whether DOR expected the spill to have any impact to the State of Alaska. Ms. Bales answered that DOR expected that the state would see a reduction in corporate income tax. She noted that it was very possible that the expenses for cleanup were included in 2010 numbers in the presentation.

Co-Chair Stedman requested additional information regarding the department's expectations of the types of incidents that the state may be exposed to. Ms. Bales agreed to provide that information.

Co-Chair Stedman remarked that the state should have an understanding of its risk exposure related to outside incidents.

Senator Olson asked for a comment related to Roger Marks' statement that every oil and gas producing nation in the world used the separate accounting method (slide 4). Ms. Bales believed Mr. Marks had "fallen into the trap" that others did. She stressed that corporate income tax was very complex and that separate accounting was different than separate entity reporting.

Senator Olson asked whether Mr. Marks' statement on slide 4 was a fact. Ms. Bales replied that the statement was incorrect.

[10:06:03 AM](#)

Co-Chair Stedman requested further information related methods used by other states.

MICHAEL HURLEY, DIRECTOR, GOVERNMENT AFFAIRS, CONOCOPHILIPS ALASKA, looked at slide 39 and noted that the production tax value and tax paid did not include the corporate income interest expense or corporate overhead that would be attributable to Alaska; all of the data was excluded in

ACES calculations, but it would be included as part of the calculation under the legislation. He pointed out that the result would be significantly different if the numbers were considered in the calculation.

Co-Chair Stedman surmised that the numbers were non-deductible lease hold expenditures. Mr. Hurley replied that the statement was correct related to ACES, but would not be under SB 201. He relayed that the numbers on slide 39 would need some work to be able to determine whether the statement was true related to the past five fiscal years.

10:09:38 AM

Co-Chair Stedman stated that the committee would work with DOR, consultants, and the industry to obtain a close approximation of the data on slide 39. He wanted to ensure that the numbers used when looking at the broader picture were as accurate as possible.

Mr. Hurley understood. He relayed that ConocoPhillips opposed SB 201. The company did not understand how the bill would improve the fiscal environment needed to attract additional investment and increased production if the goal was to increase revenue from the industry. He stressed that the company evaluated its projects based on the overall fiscal take package. He stated that the bill would go in the opposite direction as SB 192 [oil and gas production tax legislation]. He addressed the philosophy of state corporate income tax. He detailed that policy makers had to decide how to attribute income from multistate companies (e.g. Walmart, Alaska Airlines, ConocoPhillips, or other), to a particular jurisdiction. He stressed that most states used an apportionment formula; each state looked at the local business attributes (e.g. amount of payroll, property, sales, etc.) relative to the business amounts in all other taxing jurisdictions. A fraction was then used based on a combination of the attributes to determine how much of the total income of the business related to the particular state; the process avoided the potential problem of double taxation on the same income.

Mr. Hurley explained that over time the apportionment system had been somewhat standardized by the multistate tax compact, which was overseen by the Multistate Tax Commission; Alaska was currently a member. The system was currently used and was slightly modified for Alaska to

represent its particular circumstances. He discussed that the other method was to use separate accounting, which was a policy call. He believed that one of the reasons Alaska had not switched back to separate accounting was because it resulted in a doubling down on oil prices. Currently the tax system had royalties and the ACES production tax, both of which were heavily dependent on volatile oil prices. He relayed that there was a counter-cyclical nature to the oil and gas industry because when looking at the worldwide income apportioned to Alaska multiple items were taken into account including, income in Alaska, and downstream income (refining, marketing, and distribution occurring in the Lower 48); the profits and income associated with the businesses tended to be counter-cyclical with upstream oil and gas. He explained that a switch to separate accounting would mean total dependence on the upstream business, which was tightly tied to oil prices. He stated that there was currently a counter-cyclical effect taking place because when oil prices were high, refining margins were "really bad," but when oil prices went down, refining margins went up, which resulted in a balancing in the total worldwide income that dampened the volatility of the state income tax.

[10:15:06 AM](#)

Mr. Hurley directed the committee's attention to slide 27. He relayed that the numbers only included upstream data.

Co-Chair Stedman asked for an explanation of upstream and downstream. Mr. Hurley clarified that upstream applied to the exploration and production business; it did not include transportation businesses (e.g. TAPS), the refining, marketing, or distribution in the downstream portion of the business. He reiterated that the data on slide 27 did not include downstream numbers.

Mr. Hurley opined that it was beneficial to the state for DOR to use the federal income tax return as a starting point for the apportionment calculation. He relayed that the federal rules on what constituted a deductible expense had "long been debated and resolved between tax payers and the IRS"; the state saved money and controversy because it was able to rely on federal audits of taxpayers' revenues and expenses. Under a different system, DOR would need to write its own regulations, which would become voluminous if it tried to mirror federal rules. He reiterated that

ConocoPhillips did not support SB 201; it believed that the bill would make the state's fiscal system more dependent on volatile oil prices and that an administratively burdensome process would be necessary to administer the separate accounting system.

Senator Thomas queried the perspective of ConocoPhillips as a corporation versus the perspective of DOR. Mr. Hurley replied that they did not want to see the state in a position of having no revenue when low oil prices occurred; oil prices are cyclical. He stressed that the situation would not be positive for the company either.

[10:19:54 AM](#)

DEBORAH VOGT, SELF, HAINES (via teleconference), was a retired attorney who had handled the separate accounting litigation at the State and U.S. Supreme Courts. She believed that the committee had heard a significant amount of testimony that accurately presented the issues related to separate accounting. She discussed factors in apportionment formulas that were used in Alaska and in other states and the reasons they did not work for oil and gas production. She relayed that prior to the state's adoption of separate accounting it had used the standard three-factor formula (payroll, property, and sales) that was reflected in the Uniform Division of Income for Tax Purposes Act. She explained that the state had moved to separate accounting. She stated that when separate accounting was repealed the state moved to two different, two-factor formulas; one for production and one for pipeline transportation. The formulas had always been combined to a three-factor formula, but she did not believe it accurately represented income earned in the state.

Ms. Vogt furthered that the methods did not accurately attribute income because the factors were not able to accurately include the revenue from oil and gas production. She provided several reasons that the old three-factor formula did not work: (1) the property factor did not include oil in the ground (discovery was not an accounting event). She explained that for a time a method called reserve recognition accounting had been used, which would have put oil reserve values on the books, but the attempt was unsuccessful; (2) the payroll factor was somewhat distorted because compared to other parts of the oil industry production was not a labor intensive activity. The

payroll used in producing when compared to payroll used in refining and marketing tended to understate the income from production. She noted that the industry used a lot of subcontractors for production; (3) the sales factor was currently used and because most of the state's oil was not sold in Alaska; therefore, all of the sales were attributed to jurisdictions outside of the state.

Ms. Vogt discussed that separate accounting was an attempt to isolate and use only the income earned in Alaska. She noted that apportionment had to be used "a little bit" in separate accounting. She expounded that the difference between separate accounting and apportionment was like restaurant accounting; the bill could be divided up between people based on what they ate (separate accounting) or it could be divided equally between the people dining (apportionment). She detailed that if separate accounting was used that apportionment may be used as well for shared items such as wine or bread. She explained that the same thing was true with separate accounting under AS 43.21; apportionment was needed to account for non-oil and gas production or transportation income earned instate and for administration and overhead costs shared amongst companies.

Ms. Vogt continued to address why factors had not worked. The current modified apportionment method was an attempt to design a formula that more accurately represented income activities in Alaska. There was a two-factor formula for production that included property and extraction; extraction was the portion of the oil extracted instate versus extraction everywhere. Transportation used a two-factor formula using property and sales or tariffs (tariffs instate versus tariffs everywhere). She had understood that when the formulas were designed they were to be separately applied to production and to transportation. She noted that there had been an argument that separate corporations were separate tax payers and should have used the formulas separately (FERC required a transportation company to be separately incorporated); however, the factors had always been combined as a three-factor formula, which presented a problem of having a sales factor applied against production income and an extraction factor applied to pipeline transportation income.

Ms. Vogt believed that separate accounting was more accurate than any other designed formulas. She acknowledged that there was more volatility if more of the tax was based

on the price of oil; however, she opined that accuracy was sacrificed under other accounting methods. She added that oil and gas companies paid on a worldwide apportionment that used to apply to all taxpayers; however, at the urging of taxpayers the state had gone from worldwide to water's-edge (i.e. modified apportionment) for all non-oil and gas taxpayers.

Ms. Vogt briefly discussed the separate accounting litigation that she had been involved with. The industry had argued in many jurisdictions that separate accounting more accurately represented their income (e.g. ExxonMobil v. Wisconsin). She addressed that the U.S. Supreme Court had vigorously upheld the refining and marketing states' right to use a three-factor formula and it had looked as if the court may hold that the method was constitutionally required and that separate accounting was not permitted; however, the court had upheld state's rights to do as they pleased. She detailed that when the separate accounting litigation had gone to the U.S. Supreme Court it had found that there was no significant federal issue involved because it was clear from prior cases that states were permitted to use their preferred method.

[10:29:24 AM](#)

Senator Olson asked who would prevail if the state moved to separate accounting and it was challenged legally. Ms. Vogt replied that the legality of separate accounting had been settled and she did not believe that industry could prevail in a legal challenge.

[10:30:21 AM](#)

KARA MORIARTY, EXECUTIVE DIRECTOR, ALASKA OIL AND GAS ASSOCIATION (AOGA)(via teleconference), testified in opposition to the legislation on behalf of the association. She stated that AOGA was a business trade association with a mission to foster the long-term viability of the oil and gas industry in Alaska; member companies accounted for the majority of oil and gas exploration, production, transportation, refining, and marketing activities in the state. She stated that the bill would re-impose the separate accounting income tax that the state had used from 1078 to 1981. Beginning in 1982 the state had moved to the current corporate income tax system under AS 43.20 and apportionment under AS 43.20.072. She referred to a

PowerPoint presentation titled "Oil and Gas: Fueling Alaska's Economy" (copy on file). She relayed that both methods sought to answer the same question: "How much income of a multistate or international business is properly attributable to its instate assets and activities so it can be taxed by that state?" (slide 3).

10:33:30 AM

Ms. Moriarty spoke to slide 4 related to separate accounting:

Separate Accounting

Looks at what the business actually has and does in the state and then seeks to determine directly the net-income as if that instate portion of the business stood alone - separate from the rest of the business.

Ms. Moriarty continued that conceptually separate accounting seemed to tackle the question of how much income was made by the instate portion of a multi-jurisdictional business; however, she stated that appearances could be misleading. She testified that the method's vulnerability arose from the fact that the instate portion of a business did not stand alone from the remainder of the business; whether the business was conducted within a single corporate entity or through a unitary web of coordinated affiliates, the opportunities were often present for the instate portion to engage in business transactions with the out of state portions that shifted income and expenses, gains and losses into and out of the instate portion of the overall business.

10:34:57 AM

Ms. Moriarty illustrated how complicated it could be to unravel transactions among parts of an overall business. She referred to regulations that had been adopted under the Internal Revenue Code to control "artfully created tax opportunities within such a business." She pointed to treasury regulation 1.1502-13 that established the general principles for unraveling various tax effect created by transactions between or among affiliated corporations. She referenced regulations 14 through 16, which applied and adapted the general principles to specific kinds of

businesses or transactions; the related that regulations continued through Section 100.

[10:36:15 AM](#)

Ms. Moriarty spoke to slides 6 and 7 related to apportionment:

Apportionment

Starts with a "pie" containing the apportionable income for the instate and outside business together and then determines how wide a "slice" is attributable to the income-generating potential of the instate portion of the business. It is the "slice" that is then taxes by the state.

- Avoids the need to unravel transactions.
- Avoids the analytical difficulties that arise when a unitary business as a whole is greater than the sum of its individual parts.

Ms. Moriarty discussed that the key assumption underlying apportionment was that overall, money invested, sales, workers, and oil and gas produced all had the same potential instate as they did elsewhere. In relation to oil and gas producers, pipeline companies and their affiliates doing business in Alaska (slide 7):

- The width of a company's "slice" of their respective business's "pie" is the average of the percentages of that business's real or tangible property (at cost), its sales, and its oil and gas production that is present within the state.

[10:38:10 AM](#)

Ms. Moriarty quoted from an Alaska Supreme Court 1984 ruling:

These factors are merely indicative of the business' income producing capabilities. They are not intended to reflect the business' precise sources of income for any particular year. The factors in an apportionment formula represent and attempt to relate the tax

payer's presence within the state to its presence everywhere.

Ms. Moriarty stated that for any given taxpayer the question of whether its Alaska income tax would be greater under separate accounting versus apportionment depended on whether the profitability of the Alaskan business was greater overall than the profitability of the combined instate and out of state business as measured by the per dollar invested, per dollar sold, and per barrel produced. She expounded that apportionment would be preferable if the instate portion of the business was materially superior; if it was materially inferior to out of state business, separate accounting was preferred. Meaning that certain oil and gas taxpayers could start out preferring separate accounting and others would prefer apportionment. She stated that the preferred method depended on a company's own facts and circumstances.

Ms. Moriarty reminded the committee that AOGA represented a diverse group of companies and explained that there was nothing inherent about separate accounting that caused a taxpayer's tax to be greater than tax under apportionment; however, she stressed that there was something inherent about a non-renewable resource like oil and gas. She emphasized that no matter how long an oil company may initially prefer apportionment over separate accounting, there eventually would come a day when the company's resources would become depleted and separate accounting would become the smaller tax for the business; the timing would vary widely between companies. The association believed that it was premature for Alaska to restructure its income tax that would be more suitable for an advanced stage in the oil and gas industry.

Ms. Moriarty expressed that AOGA also thought that the proposed enactment of separate accounting could be ill advised because depending on how the rest of the tax system was restructured, the enactment of separate accounting may turn into a self-fulfilling prophecy; particularly because separate accounting would take more money from industry instead of optimizing opportunities. She stated that "having 100 percent of nothing is just as poor as having 0 percent of everything." She understood that the legislature was working to determine the "sweet spot" between the two extremes where the tradeoff was optimized between the size of one's share and the size of what there was to be shared.

She stressed that the overall government take was already too high in Alaska; therefore increasing the government take through the enactment of separate accounting would be a mistake. She reiterated AOGA's opposition to the legislation.

10:42:55 AM

CHANCY CROFT, SELF, ANCHORAGE (via teleconference), testified in support of separate accounting because he thought that it realistically reflected the income derived by a company's operations in Alaska. He believed it was preferable to an "artificial" system based on inaccurate assumptions. He stated that separate accounting reflected Alaska as a resource producing state and the desires of states down the line that wanted to extract something from Alaska's resource. He provided a fishing analogy and explained that allocation was appropriate if fishermen wanted others using their catch to benefit more than they did; however, he believed separate accounting was the preferred method if a person believed that the real profit from operation came from producing oil in Alaska.

Mr. Croft referred to the 1985 Arco Pipeline v Alaska case that quoted him as saying that the income tax was not designed to pick up additional money but to try to establish equal treatment between companies operating within the state. He stated that Pedro van Meurs was not the first advisor to urge separate accounting to the state; the first was Milton Lipton of Walter, Levy and Associates whose firm advised the legislature for more than 10 years. The same case quoted Mr. Lipton as saying "the purpose of separate accounting is not to get higher taxation but it gives you a direct fix on what the profitability of the industry's operations are."

Mr. Croft elaborated on the reason he believed that the allocation formula was artificial. The supreme court noted that in 1978 to 1980 10 percent of Sohio's payroll, 12 percent of sale, and 50 percent of its property were in Alaska; at the same time the company had indicated that over 90 percent of its oil production derived from Alaska resources. He offered that the question was "are we going to be real or are we going to be artificial"; he thought in fairness to Alaska businesses and to have a stable tax structure, a consistent approach towards the corporate tax rate was important. He stated that separate accounting

provided the consistency; however, the formula approach did not.

Mr. Croft spoke to why separate accounting had been repealed if it was so good. He detailed that former governor Jay Hammond had said that one of his two biggest mistakes as governor had been to repeal separate accounting; he had repealed it for two reasons: (1) the commissioner of DOR had assured him that the change would be revenue neutral and (2) he was worried about the state's ability to repay the tax that had been paid if the supreme court determined that the method was unconstitutional (the supreme court did not hold it unconstitutional). He urged the committee to consider the adoption of separate accounting as the corporate tax method for oil and gas operations and companies operating in the state.

[10:48:22 AM](#)

Co-Chair Stedman relayed that there was one fiscal note from DOR that included the estimated cost to hire four auditors to administer the program; FY 14 costs were \$253,900 because the auditors would be hired halfway through the fiscal year; FY 15 costs would increase to \$522,900 and would remain the same moving forward.

Senator Wielechowski reiterated that the bill was not intended to be a tax increase. The legislature had heard repeatedly from industry that Alaska was not competitive and was not as profitable as other areas; if that was the case or it did become the case, the bill would result in a tax decrease to the industry. He had filed the bill because the state's tax calculation method was bad policy; the rate was currently based on events that were completely unrelated to events occurring in the state. He believed that from a cash flow perspective it was a bad method; world events such as a natural disaster, war, or an oil spill, directly impacted corporate tax collected in Alaska. He thought that separate accounting would enable the state to have a direct ability to fix the system.

Senator McGuire asked whether the sponsor had reviewed data on slide 28 of the presentation that showed a \$10 million loss in 2005; the net calculation from that point forward was almost \$1 billion. She wondered whether he had looked at data prior to 2005 to determine whether the state was losing money at the time.

Senator Wielechowski pointed to slide 17 that had been prepared by former tax director Dan Dickenson regarding the 1982 to 1997 timeframe. The data showed that Alaska had lost \$4.656 billion during the period.

[10:51:30 AM](#)

Senator McGuire pointed to a statement by Mr. Hurley that the current tax method allowed the state to diversify its portfolio risk and that during times of revenue decline perhaps the state would make up the difference through global investment.

Senator Wielechowski responded that for the 15-year period from 1982 to 1997 the state had lost money every year. He referred to another chart showing the ConocoPhillips barrel of oil equivalent indicating that the state had probably lost money every year. The DOR chart showed that the state lost money every year with the exception of 2006. He reiterated that the bill was not about tax increase or decrease; it was about setting policy on collecting taxation. He did not believe the state should have its policy tied to allowing companies to essentially write-off bad investments or disasters in other parts of the world.

Senator McGuire agreed. She surmised that the current tax system was not a good method of diversifying the state's risk and that the state had lost money in almost every case. Senator Wielechowski replied that from a policy perspective it was bad policy to tie Alaska's taxation to events in other countries or states.

SB 201 was HEARD and HELD in committee for further consideration.

[10:53:18 AM](#)

AT EASE

[10:53:51 AM](#)

RECONVENED

#sb146

SENATE BILL NO. 146

"An Act establishing a snow classic as an authorized form of charitable gaming."

10:54:25 AM

SENATOR CATHY GIESSEL, SPONSOR, introduced SB 146 and relayed that it had no fiscal impact. She stated that the bill established a Snow Classic, which was essentially the Nenana Ice Classic in reverse. The bill would add to the charitable gaming list of opportunities for 501(c)(3) non-profit Four Valleys Community School to run a guessing game that would raise money for the schools 250-plus classes offered in the Turnagain Arm area. The school provided scholarships for athletes and local high school graduates and participated in community services with the Girdwood Lion's Club, Rotary, and volunteer fire department. She expounded that the Snow Classic was similar to the Nenana Ice Classic; people would make guesses about the accumulated snow depth at a specific location on Mt. Alyeska on a specific day. She noted that Mt. Alyeska was the state's major ski resort.

Senator Giessel furthered that the profits for the gaming would replace community school funding that had been eliminated from the Anchorage school district; she referred to the community school program that had been run by the Anchorage School District, which had been eliminated 10 years earlier. She relayed that the Girdwood community had elected to continue the program because it was an important service to the community; it provided classes for youths and adults at a low cost with local teachers. The Snow Classic would help Four Valleys achieve self-sufficiency and to keep the classes affordable and available. There were many other charitable gaming opportunities listed in statute (e.g. the Cabbage Classic run by the Palmer Rotary, the Canned Salmon Classic run by the Petersburg Chamber of Commerce, the Deep Freeze Classic in Delta, the Goose Classic in Fairbanks, the King Salmon Classic, the Mercury Classic, and other). The bill had 79 letters of support.

10:57:34 AM

Co-Chair Stedman referenced that the bill had one zero fiscal note.

REBECCA REICHLIN, BOARD CHAIR, FOUR VALLEYS COMMUNITY SCHOOLS, GIRDWOOD (via teleconference), spoke in support of SB 146 on behalf of the Four Valleys Board. She detailed that since 1981 the school's community programs were the

main source of education, recreation, and cultural opportunities for community members of all ages in Girdwood, Bird Creek, Indian, and Portage Valleys. The school served approximately 6,800 participants and had 700 volunteers. The organization had a long and stable history of providing quality programs for the community. She relayed that the Girdwood year-round recreational program through the school was a model that provided extensive and varied opportunities for youths to be physically active; it included activities such as cross country skiing, fall trail running, indoor soccer, downhill and nordic skiing, gymnastics and other. Since 1984 Four Valleys had administered public funds for programs; all awarded monies provided direct community services. To help with funding the school had established partnerships with local businesses, non-profits, and private donors; volunteers contributed their time to support a wide range of activities.

Ms. Reichlin expounded that Four Valleys had a prior history utilizing gaming activities to raise funds; it had offered a Monte Carlo night, but when gaming regulations changed it could not continue to offer the event. The legislation would allow Four Valleys to control its financial destiny. She accentuated that in a small community all of the organizations solicited community support. She relayed that the bill would allow the school to support its mission, eliminate dependence on property tax dollars, and to meet its goal of self-sufficiency. The bill expanded on current gaming regulations.

[11:01:32 AM](#)

DIANNA HIIBNER, SKI AREA GENERAL MANAGER, ALYESKA RESORT, GIRDWOOD (via teleconference), spoke in favor of the legislation on behalf of the resort. The resort had been involved in the Alyeska Snow Classic since its inception. The resort felt that the Snow Classic would be a great fundraising opportunity for Four Valleys Community Schools and the community of Girdwood. She urged the committee to vote in favor of the Snow Classic that would be administered by Four Valleys.

Senator Giessel reiterated that the bill had a zero fiscal note and that it would benefit Girdwood.

SB 146 was HEARD and HELD in committee for further consideration.

Co-Chair Stedman discussed the agenda for the following meeting.

ADJOURNMENT

[11:02:50 AM](#)

The meeting was adjourned at 11:02 AM.