

SENATE FINANCE COMMITTEE

May 15, 2016

9:02 a.m.

[9:02:13 AM](#)

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 9:02 a.m.

MEMBERS PRESENT

Senator Anna MacKinnon, Co-Chair
Senator Pete Kelly, Co-Chair
Senator Peter Micciche, Vice-Chair
Senator Click Bishop
Senator Mike Dunleavy
Senator Lyman Hoffman
Senator Donny Olson

MEMBERS ABSENT

None

ALSO PRESENT

Dan Seckers, ExxonMobil, Juneau; Barbara Huff Tuckness, Director, Legislative and Government Affairs, Teamsters Local 959, Juneau; Senator Cathy Giessel; Representative Tammie Wilson; Representative Sam Kito; Senator John Coghill; Representative Dan Ortiz; Representative Paul Seaton; Representative Louise Stutes.

PRESENT VIA TELECONFERENCE

Jon Cook, CFO, Airport Equipment Rentals, Fairbanks; Kara Moriarty, CEO, Alaska Oil and Gas Association, Anchorage; Pete Stokes, President, Alaska Support Industry Alliance, Anchorage; Maynard Tapp, Self, Anchorage; Carl Portman, Self, Anchorage; Scott Jepsen, Vice-President, External Affairs, ConocoPhillips, Anchorage; Bill Armstrong, President and Owner, Armstrong Oil and Gas, New Orleans; Jeff Hastings, Self, Anchorage; Michael Erstrom, Self, Soldotna; Marleanna Hall, Executive Director, Resource Development Council, Anchorage; Andy Bond, Self, Anchorage;

Michael Heiring, Representative, Udelhoven Oil Field System Services, Anchorage; Dale Hoffman, Self, Anchorage; George Pierce, Self, Kasilof; Pat Foley, Caelus Energy Alaska, Anchorage; Mike Coons, Self, Palmer; Gretchan Stoddard, Self, Anchorage; Pamela Throop, Self, Fairbanks; Steve Sutherlin, Self, Anchorage; Linda Leary, Self, Eagle River; Javen Ose, Self, Anchorage; Jeffrey Ham, Self, Kenai; Deborah Brollini, Self, Anchorage; Daniel Donkel, Donkel Oil and Gas, Orlando; Mary Toutonghi, Self, Anchorage; William Reiner, Self, Anchorage.

SUMMARY

2d CSHB 247(RLS)am

TAX;CREDITS;INTEREST;REFUNDS;O & G

2d CSHB 247(RLS)am was HEARD and HELD in committee for further consideration.

PUBLIC TESTIMONY

#hb247

2d CS FOR HOUSE BILL NO. 247(RLS) am

"An Act amending the powers of the board of trustees of the Alaska Retirement Management Board to authorize purchase and sale of transferable tax credit certificates issued in conjunction with the production tax on oil and gas; relating to interest applicable to delinquent tax; relating to the oil and gas production tax, tax payments, and credits; relating to exploration incentive credits; relating to refunds for the gas storage facility tax credit, the liquefied natural gas storage facility tax credit, and the qualified in-state oil refinery infrastructure expenditures tax credit; relating to the confidential information status and public record status of information in the possession of the Department of Revenue; relating to oil and gas lease expenditures and production tax credits for municipal entities; requiring a bond or cash deposit with a business license application for an oil or gas business; establishing a legislative working group to study the fiscal regime and tax structure and rates for oil and gas produced south of 68 degrees North latitude; and providing for an effective date."

[9:03:22 AM](#)

^PUBLIC TESTIMONY

[9:03:23 AM](#)

JON COOK, CFO, AIRPORT EQUIPMENT RENTALS, FAIRBANKS (via teleconference), opposed the current version of the legislation. He stated that his company was the largest heavy and light duty equipment rental company in the state, including branches in Deadhorse and Kenai. He announced that the company was a Fairbanks family-owned based with 125 employees. He understood that there were many difficult choices currently facing the legislature. He understood that there would be some reform necessary. He stressed that the state was experiencing problems paying the earned past credits, and struggling to issue certificates for moneys owed. He remarked that the certificates would be able to be sold in the secondary financial markets and allow customers to pay their bills. He stressed that there was current uncertainty in the supplier and contractor community in the financial departments related to changes to programs on a retroactive basis. He stated that there were \$7 million that the state had yet to pay in past liabilities, so he did not feel that there should be a new credit regime. He shared that his company, and others like it, had invested millions of dollars a year for credit-funded projects. Without the credits, the companies would cease investment. He did not feel that retroactive changes were the wrong choice, because it would be detrimental to the state's reputation and bond rating. He did not feel that there should be arbitrary payments to the state. He felt that there were some perceptions that the credits only related to Wall Street hedge funds and the three major oil producers. He stressed that he had a small company, and the change would negatively affect his business. He reiterated that there were many small Alaskan business affected by the change in the regime.

[9:07:31 AM](#)

Senator Dunleavy queried the number of statewide employees in Mr. Cook's business. Mr. Cook replied that he had 120 employees.

Senator Dunleavy queried the specific negative impacts to the company, should the credit program be changed. Mr. Cook

responded that his company would be able to weather the change, but he stated that many other companies would have a difficult time adjusting to a change.

Senator Dunleavy noted that many people in Alaska believed that the credits only affected the large oil companies. He wanted to understand how many support services would be affected by the change in the oil tax credit system.

[9:09:43 AM](#)

AT EASE

[9:10:13 AM](#)

RECONVENED

[9:10:20 AM](#)

AT EASE

[9:12:05 AM](#)

RECONVENED

[9:12:31 AM](#)

KARA MORIARTY, CEO, ALASKA OIL AND GAS ASSOCIATION, ANCHORAGE (via teleconference), read from a prepared statement:

Good Morning Co-Chairs MacKinnon and Kelly, and members of the Committee. For the record, my name is Kara Moriarty and I'm the President/CEO of the Alaska Oil and Gas Association, commonly referred to as "AOGA".

Thank you for the opportunity to testify on the Committee Substitute (CS) for HB 247. I have unanimous consent of my diverse group of members to offer these brief thoughts today.

In listening to your discussion yesterday, I was encouraged several of you were asking very important questions such as, "What will the bill do to production and jobs?" We would also encourage you to ask, "How will state revenues be impacted by this bill next year or even five years from now? What will Alaska's economy look like following the adoption of this bill?"

HB 247 is a dramatic shift in oil tax policy for both Cook Inlet and the North Slope, and it will definitely result in less production, less investment, fewer

Alaskans working, and ultimately, and somewhat ironically, less revenue for the State.

In my limited time this morning, it is impossible to go through every section of the bill that causes concern, especially when industry did not see the full 60 page amendment to HB 247 until it was introduced on the House floor. There was no opportunity for industry or the public to fully vet some of the concepts contained in the bill before you. There have also been claims that industry was okay with the amendment. Let me be clear, all AOGA members believe the bill before you is the worst committee substitute to date.

Unfortunately, in this low price environment we have seen a dramatic cutback in industry. Most painfully, Alaskans have lost jobs. We recognize the operating budgets are not final, but there could be 50-75 state employees that will lose jobs too. But for the oil and gas industry, the job loss has been even more severe, with over 1,000 Alaskans no longer working directly for industry as compared to a year ago. This does not include the contractor workforce.

As a reminder, the McDowell Group has estimated that for every direct job the industry provides another 20 jobs are created throughout the broader Alaskan economy. I know of no other private sector industry, or state government agency that creates such economic growth, so we would respectfully disagree with comments that suggest cutbacks from the oil and gas industry would not be as harmful to the Alaskan economy as reductions in other industries or government.

There was also a suggestion that the state can't do anything about the current downturn in the oil industry because the decisions have been driven by the price of oil. That is partially true. While there will be impacts due to price that are out of the state's control, state policies can exacerbate the problem. Will the state have policies that drive investment to Alaska when prices go up?

Under this bill the answer is no. Instead, it creates policies that will not drive investment to Alaska from explorers and producers alike when prices go up because it will now take a much higher oil price for industry investment to return or increase in Alaska, if it returns at all.

As the state grapples with low prices, and budget shortfalls, ironically, the State is actually setting

the stage for an inevitable loss of revenue regardless of what credits it removes or taxes it raises.

Under this bill, the State will see lower oil and gas production, which will then drain State finances. For example, the owners of Prudhoe Bay just updated their plan of development and have estimated that production will decline about 20,000 - 60,000 barrels per day due to the shut-down of 3 rigs. This lost drilling time could result in a 10-30 percent decline in Prudhoe Bay alone

Utilizing the Department of Revenue's Spring Forecast, we have examined what production decline will look like over the next five years. I believe you have the charts we have developed. If production estimates stay where they were in April, production in FY 2021 will be about 418,600, about a 4 percent decline. However, if the proposed legislation is enacted, the DOR's production estimates will become far too optimistic. In reality, increased taxes and omitting tax credits will accelerate production decline.

If we had a 10 percent decline per year for 5 years, production would be about 307,000 barrels per day, and in terms state revenue, a 10 percent decline in production will result in \$793 million less in royalties alone for the State.

The technical aspects of operating TAPS are made more challenging with less production. Alyeska has stated that TAPS faces a significant operational obstacle at throughputs at around 300,000 barrels per day, which is about the 10 percent decline mark. Despite some of the best and most innovative people in the industry focused on this scenario, an operational solution has not yet been identified to sustain TAPS operation at this level.

It is fair to say, that this 6th change in tax policy in 11 years makes several fundamental alterations to SB 21 and to the tax system in Cook Inlet. This new policy will not attract investment or new independents to Alaska, causing exciting projects to be shelved. The bill spells doom for Cook Inlet as some credits will be removed in less than 6 weeks which is basically a retroactive tax increase as companies have made investments for the calendar year expecting a credit system to remain in place for a longer period. Additionally in Cook Inlet, the companies will be faced with extremely high tax rates, which will

invariably be passed onto South Central natural gas consumers in the near future.

This bill sends a strong signal to the world that Alaska is constantly changing tax policies, regardless of oil price, and regardless of the economic condition of the industry.

In closing, the industry is not asking for a tax decrease or for tax or royalty relief. But it is my job to let you know what impacts your decisions will have.

The bill will not increase production from the Slope or Cook Inlet.

It will not encourage new companies to invest in Alaska, and will likely drive companies out of the state.

It will not lead to more long-term revenues for the state.

It will not provide long-term energy security.

We understand the politics associated with this issue are challenging. We get it. And yet, to my member companies, the politics are largely irrelevant to the core of what drives decision-making, and that is economics. My member companies will not pursue projects that don't pencil out. I can assure you that HB 247 just made project economics worse for producers and explorers alike, and the decisions the companies will make in response will not be good for Alaska.

Thank you for the opportunity to testify today, and I'm happy to take any questions you may have.

[9:20:07 AM](#)

PETE STOKES, PRESIDENT, ALASKA SUPPORT INDUSTRY ALLIANCE, ANCHORAGE (via teleconference), testified against the current version of the bill. He stated that the members of his organization had recently experienced 2000 lost jobs due to the recent downturn in oil price. He felt that there was lack of understanding of the fiscal impacts of the bill. He stressed that the amendments passed on the House floor were not properly vetted by testimony or committee process. He stated that the forecast assumed that the price of oil would be \$40 per barrel by FY 17. He remarked that there could be an updated oil revenue forecast, which assumed a higher price of oil. He stated that an increase in oil tax at a low price of oil would be detrimental to future investment and production. He stressed that the bill would case additional job loss and opportunities as a

result of increased oil taxes. He urged the committee not to pass HB 247.

Vice-Chair Micciche stressed that the committee would take the time to vet the bill and any changes that may occur. He queried any specific problems with the bill. Mr. Stokes replied that every change to the fiscal terms had a multitude of components. He agreed to provide further information.

Vice-Chair Micciche stressed that he was interested in specific problems with the legislation.

Co-Chair MacKinnon shared that industry members were given five to seven minutes, and public testimony was given three minutes.

9:27:08 AM

MAYNARD TAPP, SELF, ANCHORAGE (via teleconference), urged the committee to focus on increasing production in the oil pipeline. He did not believe that revenue would be from taxes. He felt that taxes and credits only confused the industry, and how they want to invest in Alaska.

CARL PORTMAN, SELF, ANCHORAGE (via teleconference), spoke against the current version of the legislation. He testified against increasing taxes on the oil and gas industry. He stressed that the industry was losing millions of dollars in the current environment. He remarked that the current oil and gas policy had encouraged production.

9:30:35 AM

SCOTT JEPSEN, VICE-PRESIDENT, EXTERNAL AFFAIRS, CONOCOPHILLIPS, ANCHORAGE (via teleconference), spoke against the legislation. He shared that ConocoPhillips had increased development and production since the most recent oil and gas tax reform legislation [SB 21]. He shared that ConocoPhillips was one of the most active investors in the oil and gas industry in Alaska. He shared various activities that ConocoPhillips had engaged in to increase production and investment in the state. He read from a prepared statement:

COP has historically been one of the state's most active investors and that is especially true since passage of SB21.

- o We have funded and constructed the first drill site in Kuparuk in 13 years.

- o We have increased our rig count from 3 pre-SB21 to 4 to 5 and as high as 6 during exploration. This compares to our current L48 rig count of 3, down from 20+ several years ago.

- o We are also pursuing new developments in NPRA (GMT-1 and GMT-2) as well as additional development of the viscous oil resource in the Kuparuk River Unit.

- o We have been a net severance tax payer and continue to be a net severance tax payer.

- o We continue to be an active explorer and investor, but detrimental changes in SB21 could negatively impact our investment plans both near term and long term.

- o With that as background, I will now talk about the elements of the House bill that impact ConocoPhillips. I will not be addressing the reimbursable tax credits because COP is not eligible for those credits. In case the committee is interested, we have put together a one-pager that summarizes ConocoPhillips' position with regard to the various tax credits. It is our estimate that we will receive very little benefit from any of the tax credit provisions in the next fiscal year. For the sake of time today, I have chosen not to go through the one-pager, but if there is interest, we would be happy to provide it to the Committee.

With regard to the elements of the bill that affect ConocoPhillips:

- o GVR - The changes in the GVR will make new field economics less competitive with other investment opportunities. Developing new fields like GMT-1 and GMT-2 is more expensive than

drilling in the L48 simply because we need more infrastructure to bring the wells on line. A three year GVR does little to help the economics of these new developments and even a seven year GVR is only marginally helpful. Changing the GVR as described in the bill passed in the House may negatively impact the likelihood of funding for these types of projects.

- o Changes to the gross minimum tax - Changing the gross minimum tax rate from 4 percent to 5 percent, even as a function of oil price, is simply sending the wrong signal to investors. One of the key things Alaska can do to maintain its competitive edge is to at least keep the basic tax structure in place. This change represents a fundamental change in the tax structure and one that will cause investors like ConocoPhillips to be much more wary about investing in the state.

- o Monthly versus yearly use of the per barrel and other credits - There is also language in the bill that attempts to change the use of the per barrel and other credits from a yearly basis to a monthly basis. This change is reportedly to address Director Alper's theory of "migrating" tax credits. If one reads the SB21 legislation, it is clear that the intent of the legislation and the regulations that were drafted from SB21 was to make estimated monthly payments but finalize payments based upon yearly results. There is no ability for the tax payer to "shift" tax credits from one month to another - we are simply following the regulations laid out by the State. Attempting to restrict the per barrel and other credits to monthly results versus yearly results essentially turns the tax into a monthly tax which in the end will make tax compliance more difficult with more complex audits. DOR already has issues with completing audits in the six year time frame they have available - this will make it even harder to complete audits and is clearly a reformulation of the intent of SB21 without any overarching tax policy framework other than to increase State take in times of price volatility.

o NOLs - While we do not envision that the NOLs by a company like COP are as potentially significant as Director Alper has claimed, it does not make sense to limit NOLs by the large producers to just one year while continuing the NOL provisions for the small producers, non-producers and non-tax payers in perpetuity. The long term investors who have been, and depending upon the tax framework, may continue to invest billions in the North Slope, are the large producers like ConocoPhillips. The philosophy of continuing NOLs for the small and non-producers and eliminating a recovery of NOLs against severance tax liability for the large producers is not consistent and has a potentially differential, negative impact on the State's most consistent investors.

o Interest rate on amounts owed - The increase in interest rate for payments owed to the State does not seem reasonable given the very long time frame it takes for the state to finalize audits. We typically do not get audit results for 6 years, and then it can take 3 to 4 years to finally resolve the points of disagreement. We believe the interest rate provisions in SB21 should be left standing until the state can turn around and finalize its audits in a reasonable time frame (for example 3 years).

o Tax credit disclosures - Based upon our review to date, we do not see any issues with the tax credits disclosure provisions as described in the House bill.

Concluding comments

o Any changes that increase the tax burden, especially in times of low prices when the industry is cash flow negative, will likely result in adversely impacting ConocoPhillips' current and future investments.

o Significant changes in the tax law would validate concerns regarding the State's ability to implement a stable oil and gas fiscal policy. It has only been about 20 months since voters

ratified SB 21. Long term investment requires a durable, reasonable fiscal framework. We have had six changes in Alaska's oil and gas tax framework in the last 11 years. Another significant change will negatively impact investor's view of Alaska and could adversely impact long term investment plans.

Co-Chair MacKinnon requested the analysis and written comments. Mr. Jepsen agreed to provide that information.

[9:37:46 AM](#)

BILL ARMSTRONG, PRESIDENT AND OWNER, ARMSTRONG OIL AND GAS, NEW ORLEANS (via teleconference), testified against the current legislation. He announced that his company was the largest independent oil and gas company in the state. He stated that the most recently developed fields originated in his office in Denver. He shared that Armstrong had a recent new discovery, which would be one of the largest fields in the history of the North Slope. He felt that it would possibly produce 120,000 barrels a day, which would be a significant percentage of the oil in the Trans-Alaska Pipeline System (TAPS). He stressed that had "brought more players" and "more money to the state than anybody." He felt that he was a "walking, talking chamber of commerce for the state of Alaska oil and gas players." He felt that Alaska had a positive future on the North Slope.

[9:44:40 AM](#)

Senator Bishop noted the felt that the state and the producers were partners. He announced that he had worked in the oil and gas industry in the past, and remarked that he had experienced a wage reduction at another time of business strife. He wondered if there was room to index the credits, in order to protect the state. Mr. Armstrong replied that there was some potential with that idea, if there was a way to make it work for both parties. He felt that the state always wants more revenue regardless of whether the price of oil was high or low.

Co-Chair MacKinnon wondered whether Armstrong produced oil, or only drilled wells. Mr. Armstrong responded that the two projects created by Armstrong were producing almost 10 percent of the capacity in TAPS. He stated that there was a new field that was currently under an environmental impact

study, and he hoped that it would come online soon. He stated that the production on that new field would provide almost 50 percent of TAPS. He stated that his company was also drilling new wells.

Co-Chair MacKinnon wondered if Armstrong produced the wells, or whether it was in partnership. She specifically wondered if Armstrong's oil was in TAPS, or if another company had purchased the unit post-drilling. Mr. Armstrong replied that that there were partners that he had worked with to produce the barrels. He stressed that his new development would be Armstrong's development.

9:50:26 AM

JEFF HASTINGS, SELF, ANCHORAGE (via teleconference), read from a prepared statement:

Good Morning;

My name is Jeff Hastings. I am the Executive Chairman for SAE Exploration, a managing member of Kuukpik/SAE, our Joint Venture with the native village of Nuiqsut. My family has lived and labored in the state since 1987. Our companies employ an average of 400 Alaskans annually.

I would like to start by extending our appreciation for the long hours that have been clocked and the efforts of legislators and their staff. We acknowledge that these are difficult times and there is no easy or, single solution to the fiscal gap we Alaskans currently face.

Today we would like to draw attention to the condition and state of many of the prime contractors and subcontractors that are being effected by the uncertainty and lack of confidence in the current tax credit program and the provisions in the current version of HB247.

Over the past 7-8 months we have seen the erosion of third party lenders willing to project finance, or lend against outstanding tax certificates. The State's tax certificates, once regarded as AAA credit worthy are now wrought with enough uncertainty that even high risk lenders and factoring firms will not entertain lending against the program. Our clients, who have had program financing at the closing table, have watched the money needed to fund or continue their programs,

vaporize as the uncertainty of monetization under current programs increases.

The timing of the audit and certification process, which is now a "first application in, first certificate out" process, is an unknown variable adding to the inability to finance the receivable of the state.

Once a certificate is awarded there is no schedule, current funding, or apparent plan for the state to fund and pay for those credits that have already been earned.

This lack of a viable plan to pay the State's obligation under the current tax credit program is causing a trickle down of financial distress that extends from the explorer, to the prime contractor, to the subcontractors that depend on the state to meet its obligation timely.

The latest version of HB247 has several provisions that will cause further stress on a long line of Alaskan companies who employ thousands of Alaskans.

This version of the bill further restricts a holder of a certificate from assigning those certificates to "The Secondary Market", those entities who currently pay production tax.

This version of the bill also provides for purchase of the tax certificates by the pension fund at the rate of 60 percent. The fund can then turn around and cash the certificate back into the Department of Revenue for 100 percent of the face value. When did the State of Alaska get into the factoring business? Is the State and expecting Alaskan companies who have earned and are now owed the funds to take a 40 percent haircut and in the same motion provide a windfall to another group of Alaskans that are participants through the pension fund?

In essence, the State, through the months of uncertainty of how currently earned credits will be treated and new provisions contained in the current version of HB247, has all but eliminated the opportunity for third party lending, restricted or nominalized the secondary market to trade or assign certificates and appears to be taking advantage of the distress this situation has caused by offering a factoring facility that will cause damage to many Alaskans families while providing a windfall for others.

We all know change is needed in many areas of our spending. However, to claw back monies earned by Alaska companies, or not to provide payment visibility on obligations of the State is negatively effecting thousands of families in the State. There has to be a better way to fund the program and provide visibility to allow companies to help themselves and the State through this trough.

Thank you for your time this morning. If there is any information or, support we can provide to you or your staff we are available anytime.

Senator Bishop wondered how many employees were directly employed by Mr. Hastings' company. Mr. Hastings responded that he employed an average of 400 employees a year.

Senator Bishop queried the number of contractors annually. Mr. Hastings stated that there were approximately 100 to 150 sub-contracts per year, which did not include the suppliers.

Senator Bishop queried the annual payroll. Mr. Hastings replied responded that the monthly Alaskan payroll averaged just above \$1.2 million.

[9:56:55 AM](#)

MICHAEL ERSTROM, SELF, SOLDOTNA (via teleconference), spoke against the legislation. He remarked that there would be a direct effect on the community, should the tax regime change. He shared that he had seen several companies retreat from business in Alaska, when the price of oil was better than the current price. He stressed that there were companies that were attempting to work in the current environment, and actively losing money in the meantime. He felt that changing the rules would make it much more difficult for those companies to conduct business, and would make Alaska less appealing for business investment.

[9:58:44 AM](#)

MARLEANNA HALL, EXECUTIVE DIRECTOR, RESOURCE DEVELOPMENT COUNCIL, ANCHORAGE (via teleconference), spoke against the current version of the bill. She stated that her organization was a statewide trade association comprised of individuals and companies from Alaska's oil and gas; mining; forest products; fisheries; and tourism industries.

She stressed that her members were the "lifeblood" of Alaska's economy. She believed that the best approach to expand the economy and generate new revenues for the state was to produce more oil; attract more tourists; harvest more fish; and mine more minerals. She stated that raising taxes on companies that were reporting record losses in a negative cash flow was not sound fiscal policy. She echoed Ms. Moriarty's comments.

Vice-Chair Micciche wondered if there was an aspect within tax credit policy that was appropriate, without deeper changes to the policy itself. Ms. Hall replied that she was not a tax expert, and agreed to provide a more detailed answer. She reiterated that increasing or changing the tax policy would jeopardize investment. She stressed that the tax structure change would result in less oil in the Trans-Alaska Pipeline System (TAPS).

Vice-Chair Micciche pointed out that it was appropriate for the committee to evaluate the current status, and stressed that there should be a focus on production that resulted in a better bottom line to state. He stressed that he equally evaluated all companies. He understood that he had asked an unfair question, because it was not her area of expertise.

Senator Bishop wondered whether any member companies had done a wage reduction with their employees to remain competitive. Ms. Hall responded that there had been a large number of layoffs over the previous 18 months. She stated that she did not know if there had been any wage reductions, but restated that there were many layoffs.

[10:05:08 AM](#)

DAN SECKERS, EXXONMOBIL, JUNEAU, testified against the legislation. He stressed that raising taxes on an industry that was losing money would not lead to more production, but rather it would do the exact opposite. He remarked that the committee substitute would not lead to more production, more investment, more jobs, nor long-term sustainable revenues. He addressed some detail as related to Vice-Chair Micciche's concerns about the taxes. He looked at Section 80, which would raise the interest rate on tax over and under payments. He stressed that the problem with Section 80 was that it did not address the core issue. He remarked that it was not the interest rate, but rather the length of time the department was allowed to do audits. He shared

that ExxonMobil had received its 2009 tax assessment six years after they filed the return; with interest accruing that entire span of time. He stressed that raising the interest rate would only provide more incentive for the department, so the interest could continue to accrue. He looked at Section 14 would raise the gross minimum tax from 4 percent to 5 percent. Raising the minimum tax on gross revenue was a regressive tax increase, and would have significant adverse impacts on future investments. He believed that BP had shared that a 1 percent increase in the minimum tax would equate to a shutdown of a rig for at least one-half year. The loss of any drilling rig meant lost production, lost jobs, and lost revenues. He felt that it would send the wrong message to companies looking to invest in Alaska. He looked at Section 4, which would eliminate the recovery of future operating losses for most companies. It would represent a substantial and negative change to the overall balanced reform that was brought forth in previous oil and gas legislation [SB 21]. He stated that SB 21 raised the base tax rate to 35 percent. As part of the tax rate increase, it allowed for net operating losses to be carried forward or be determined at that rate. He stressed that recovering net operating losses, when a company earned a profit into the future, was a cornerstone of any net-based tax system. He reiterated that the tax had more net income based features than a gross tax. The deductibility of costs and losses that differentiated a net system from a gross system. Allowing a company, regardless of its production levels to carry forward losses that could not be deducted in a current year was critical to the concept of a net-based tax system, and the concept of balancing revenues and expenses. He stated that the allowing of the recovery of losses represented an immediate and significant tax increase. He looked at Section 41, which would further raise the production tax by changing the way the gross value at the point of production was determined and applied, by preventing the gross value from dropping below zero. He stated that it seemed like a reasonable provision. He explained, however, that the provision represented a disguised tax increase and a substantive change to the production tax law. He explained that, under the law, a producer did not file a field-by-field or unit-by-unit tax return. He announced that the producer filed by segment. He explained that the production tax would be based on the true economics of the entire operations and investment of that entire segment. He stated that, if the administration intended to limit the

termination and application of the gross value at the point of production to a field-by-field or unit-by-unit basis, then it changed the substance of the production tax law. It changed the consolidated way in which investments were evaluated, and how a producer's tax liability was determined.

Mr. Seckers addressed a provision, which was not technically in the committee substitute, but rather alluded to by Commissioner Hoffbeck the previous day: the concept of migrating tax credits.

[10:12:28 AM](#)

Vice-Chair Micciche felt that it was awkward to point at other business models, but felt that the testimony referred to the industry as a whole. He looked at the past tax liability interest rate, and understood that the length of time had been difficult. He queried a position regarding a change that would take into an account the extension of time that put an equal impact on the state that would not penalize the companies. Mr. Seckers replied that most companies filed its returns as accurately as possible. He stated that ExxonMobil had licenses who were required by law to file the returns accurately, and had zero tolerance who took exception to the rule within the company. He stressed that the concern was about six years to audit based on a law that had been in place for over a decade. He felt that the administration had an incentive to wait with the results, because the interest accrued could not be reduced. He felt that mitigation to that problem would be helpful. He remarked that the state could shorten the statute of limitations to three years, as was previously in statute.

Co-Chair MacKinnon shared that a conversation about interest may be best with the Tax Division present. She stressed that some tax payers were more forthcoming with their information request, and others were less likely to be forthcoming. As a result, some information would be exchanged several times.

Vice-Chair Micciche queried regimes that would go negative on tax liability for ExxonMobil. Mr. Seckers responded that any net income base system has the possibility of allowing the tax liability to go to zero with losses carried forward or backward. He urged a conversation with enalytica,

because that company had experience throughout the world. He shared that most production taxes were not net-based, which is why the state had many deductions. He stressed that the system was set up specifically for Alaska, because it was expensive to conduct business in remote locations. He stressed that a net-based system allowed for the equalization of marginal fields and large fields. He felt that a gross tax would cause a disadvantage to the independent companies. He stressed that a gross tax structure taxed phantom income, because companies were losing money and getting taxed at a higher rate.

10:17:01 AM

Co-Chair MacKinnon wondered if ExxonMobil continued to conduct business as usual after the price of oil declined. Mr. Seckers responded that ExxonMobil continued to operate Point Thompson as it always had. He remarked that ExxonMobil had shares in other fields, so there was a focus on what was best for the field at any point in time. He shared that ExxonMobil had four decision points: efficiencies; activity levels; discretionary spending; and layoffs. He stated that ExxonMobil had not yet experienced layoffs as a result of the lower oil price.

Co-Chair MacKinnon queried efforts to reduce costs. Mr. Seckers replied that he was focused on taxes in ExxonMobil, so it was difficult to answer that question. He shared that the company was examining a broad perspective to bring the highest value share to Alaskans and ExxonMobil shareholders.

Co-Chair MacKinnon shared that Alaskans were also examining efficiencies. She announced that the legislature had reduced costs, and had proposed an almost \$1.5 billion reduction. She stated that there had been a change in activity levels, reduced discretionary spending, and were examining possible layoffs. She wondered if the contractors hired by ExxonMobil were currently employed, or were some contracts discontinued. Mr. Seckers replied that that the industry was not interested in any change in the law, and stressed that no one wanted any job loss. He agreed to provide further information.

Co-Chair MacKinnon stressed that Alaska was attempting to respond to a shortfall in the same manner that the industry was responding to the shortfall.

Senator Hoffman queried comments on the Alaska Hire provisions, and promoting those individuals in order to receive the credits. Mr. Seckers replied that ExxonMobil had never qualified for the refundable credit section. He furthered that ExxonMobil did its best to hire as many Alaskans as possible. He announced that Point Thompson had 80 percent Alaskans working. He stressed that ExxonMobil supported the hiring of Alaskans.

Senator Bishop recalled that ExxonMobil had 91 percent of Point Thompson employed by Alaskans including all contractors and subcontractors. He felt that ExxonMobil had sustained its agreement, and thanked Mr. Seckers for their efforts.

Co-Chair MacKinnon wondered whether ExxonMobil had adjusted its dividend program. Mr. Seckers responded that ExxonMobil had maintained its dividend program exactly how it had been for the previous number of years.

[10:24:10 AM](#)

BARBARA HUFF TUCKNESS, DIRECTOR, LEGISLATIVE AND GOVERNMENT AFFAIRS, TEAMSTERS LOCAL 959, JUNEAU, spoke against legislation, because she felt the bill negatively impacted the development of current and future oil. She testified in support of efforts made to examine additional revenue sources, adjustments to the Permanent Fund, and sound reductions to the state's budget. She felt that the legislature should make the flow of oil through the pipeline a high priority. She stressed that more oil production meant more revenue. She furthered that more production also meant more jobs for the citizens of the state. She remarked that the oil industry, up until recently, had paid 90 percent of the state budget. She stressed that billions of dollars of oil revenue had been used to improve statewide infrastructure; paid for public schools; paid for public safety; and paid for capital projects such as convention centers, sports arenas, and hospitals. She felt that there would be no conversation about the adjustment of oil taxes, had the price of oil not decreased greatly. She urged the committee to carefully consider the impact of current and future production, especially in the time of low oil prices. She stressed that the industry had continued to invest in more new projects as a result of the recent passage of oil and gas tax

legislation. She understood that there had been fewer members working in the oil industry, because of the downturn of the oil price. She stressed that stability in the oil industry was critical to future investment, because investment led to new development and jobs. She testified in support of the Alaska Hire provision in the bill. She felt that any changes to the bill be conducted in a manner that would assure that the industry would continue to invest in the state.

Senator Bishop queried any contract negotiations to reopen any parts of the North Slope. Ms. Tuckness agreed to provide that information.

Co-Chair MacKinnon encouraged the testifiers to submit written testimony.

10:30:23 AM

ANDY BOND, SELF, ANCHORAGE (via teleconference), testified against the legislation. He felt that the future of Alaska looked so "bleak", that he did not think his children would be able to stay and raise families in Alaska. He remarked that the recent downturn in the oil price had caused massive layoffs in the oil industry across all companies. He also stressed that capital investments for Alaska oil exploration and development had been greatly reduced. He felt that adding additional taxes on the oil industry would further reduce investment and require higher oil prices before many companies could return to business. He had seen many changes in tax policies; companies; oil prices; and other impacts. He felt that tax policies were often overreactions to oil price changes and other factors. He remarked that the current tax structure was very beneficial to the state, and had attracted significant investment in recent years. He felt that the tax credits countered Alaska's high-cost environment, and allowed the state to compete with other international oil investments. He stressed that higher taxes would discourage future investment. Companies were currently nervous about additional changes to the tax structure. He announced that tax policy stability was a key factor for many companies. He stressed that the state should first reduce the deficit by making substantial cuts to state government and services. He also encouraged the committee to use funds from the state's savings accounts, and reducing or eliminating the Permanent Fund Dividend (PFD).

Co-Chair MacKinnon wondered if the testimony was specifically for the North Slope, or if the comments could also be applied to Cook Inlet. Mr. Bond replied that he was speaking specifically to the North Slope, but also the Southcentral gas supply situation.

[10:34:09 AM](#)

MICHAEL HEIRING, REPRESENTATIVE, UDELHOVEN OIL FIELD SYSTEM SERVICES, ANCHORAGE (via teleconference), spoke against the legislation. He felt that the governor appeared to be "oblivious to the impact it will have on the future of Alaska." He did not believe that there had been proof of the benefit of the legislation. He was not convinced that the state had reduced the state budget.

[10:35:36 AM](#)

DALE HOFFMAN, SELF, ANCHORAGE (via teleconference), spoke against the bill. He announced his history working for the oil industry. He remarked that he had witnessed many recent changes to the oil and gas tax structure. He stressed that generating cash for the industry provided most of the state's revenue. He shared that the industry was losing money, because of the decline in the oil price. He felt that the state needed a robust oil and gas industry, which would continue invest capital, exploration, and development. He stated that the investment would fund the current economy and provide oil and gas for the upcoming decade. He shared that he had seen recent layoffs in all of the companies in the industry, including the company that he worked for, which laid off 25 percent of its personnel. He reiterated that increasing taxes on the oil industry would reduce future investment and require higher oil prices before many Alaskans could return to work. He shared that he had worked in California, the Gulf of Mexico, the Rocky Mountains, and Alaska. He stressed that Alaska was the most difficult of those places to do business.

[10:38:56 AM](#)

GEORGE PIERCE, SELF, KASILOF (via teleconference), spoke in favor of the bill. He felt that scheduling public testimony on Sunday morning was sneaky, because many people were in church. He felt that the legislators wanted the public to believe that the \$64 billion in the oil industry was

achieved through tax credits, but disagreed with that notion. He shared that the state had given more than \$7 billion from 2007 to 2015, but the majority of the \$64 billion came from the state with zero credits. He remarked that the oil industry was provided every possible credit from the state and federal government. He encouraged the committee to increase taxes on oil companies in the Cook Inlet and the North Slope. He felt that Cook Inlet was 60 percent of the credit problem. He wanted the credits to expire, and spoke against extensions to expiration dates. He remarked that the oil industry was using the credits to inflate the size of the operating credit.

10:45:15 AM

PAT FOLEY, CAELUS ENERGY ALASKA, ANCHORAGE (via teleconference), testified against the current version of the bill. He believed that the bill would result in less activity, exploration, and production which would lead to less jobs and dramatically less revenue for the state. He explained that the bill "stripped away" many of the incentives created by the current tax structure. The incentives specifically encouraged Caelus to come to the state and make significant investments in various projects. He felt that the damaging aspects of the bill focused on the sunset of the refundable net operating loss credits. He disagreed with the application of the five dollar per barrel, and its limits. He felt that the entire bill represented a significant tax increase on all companies, whether those companies were new, old, large, or small. He stressed that the refundable net operating loss credit allowed more work to occur. He shared that every company had limited amounts of capital, so the credits were used to add to the existing capital which accelerated the pace of the projects. The bill was only favorable with regard to the cashable credit, but was terribly unfavorable because it excluded any exploration activity. He hoped that the committee understood that exploration was the "lifeblood of the oil industry", because it was essential to future development. He shared that, since 2007, over \$6 billion in credits had been paid. Those credits could be divided two-thirds in the form of avoided taxes, and one-third in actual refundable credits. He shared that, to date, the state had received over \$60 billion in revenue.

Senator Bishop queried the price per barrel number in order to conduct new exploration. Mr. Foley replied that between

\$60 and \$70 per barrels was a level to incentivize activation in the North Slope and pursue new exploration.

Co-Chair MacKinnon looked at the document provide by Caelus to the committee (copy on file), which showed the variability of price ranges and potential revenue to the state. She wondered if that was the lifetime numbers. Mr. Foley replied in the affirmative.

Co-Chair MacKinnon queried how the state should differentiate between the loss of production in response to the commodity price and its volatility versus tax credit reform. Mr. Foley responded that Caelus was recently forced to discontinue its operation on the island, because of the low oil price. He shared that there needed to be oil price recovery and confidence in a healthy oil tax environment before the operation could reopen.

[10:54:07 AM](#)

MIKE COONS, SELF, PALMER (via teleconference), queried the version of the bill.

Co-Chair MacKinnon stated that the version was passed out of the House as amended on the House floor version C.A.

Mr. Coons testified against the legislation. He spoke to the amendment that was passed on the House floor, and felt that the amendment was not properly vetted in the committee process. He shared that he was in favor of the current tax structure. He felt that the legislation had serious negative impact on the state.

Co-Chair MacKinnon handed the gavel to Vice-Chair Micciche.

[10:57:23 AM](#)

GRETCHAN STODDARD, SELF, ANCHORAGE (via teleconference), felt that she did not have representation in the House, so she was counting on the Senate to represent her family's interest. She spoke against the legislation. She stated that she and her husband worked in the Cook Inlet gas production industry. She shared that her husband's job was currently in flux, and she did not know whether her husband and son's health insurance would remain intact. She shared that she had benefitted from oil and gas tax credits. She shared that she was a contractor to plan how to shut down

platforms and waste disposal. She understood that there may be a change in the oil and gas tax structure change, and that the state may not be able to continue to write checks at its current level. She was concerned about the changes to the production taxes. She remarked that there was a very recent change to the production tax structure, and did not feel that there should be an additional change. She felt that there may be a change in Cook Inlet production tax in 2019, but she expressed concern. She remarked that the state had high health care costs, which affected every aspect of the state. She stressed that the increased cost to health care caused an additional budget reduction in other aspects of the state. She felt that the state needed to control the high cost of health care. She shared that she currently had a high-deductible health care plan. She remarked that her husband sold supplies to the industry, and his company would be merging with a company, so there was uncertainty regarding that merger.

[11:01:49 AM](#)

PAMELA THROOP, SELF, FAIRBANKS (via teleconference), spoke against the current version of the legislation. She announced that she supported the original version from the governor. She felt that the oil and gas industry was the most profitable industry in the world, as were able to hire the best attorneys, accountants, negotiators, and lobbyists. She remarked that the state did not have the same money and expertise as the oil companies. She felt that everything seemed to be skewed in the oil companies' favor. She stressed that there was a current "trickle-down distress" to the communities of Alaska. She shared that many professors in Alaska were worried for their jobs. She understood that it was expensive to conduct business in Alaska, but stressed that it was expensive to conduct business in third-world countries. She remarked that the oil companies were conducting business in third-world countries, but it was a more volatile government. She shared that it was projected to be 13,300 monthly average jobs in the oil and gas industry, as outlined in the Alaska economic trends in 2016. She stated that in 2014 there were 14,100 jobs, and in 2015 there were 14,300 jobs. She felt that the passage of SB 21 had cost the state 1000 jobs, rather than increasing the number of jobs in Alaska. She believed that the legislature, administration, and citizens of the state must impose restraint in order to keep the state from continuing to waste money. She remarked that

there were credits to encourage South-central Alaska receive gas, but stressed that there were no efforts in Fairbanks to bring gas to Fairbanks. She requested a comparison between Alaska's tax structure and other sovereigns in the world. She wondered if Alaska was competitive with those other countries. She felt that Alaska was paying too high of oil and gas tax credits.

Vice-Chair Micciche requested an explanation of her perspective. Ms. Throop stated that she wanted to eliminate the credit in the way that the governor had requested of the legislature.

[11:08:25 AM](#)

STEVE SUTHERLIN, SELF, ANCHORAGE (via teleconference), spoke against the bill. He shared that he worked to advise companies that wanted to come to Alaska to do business in the oil and gas industry. He shared that he had worked with a company that wanted to do business in Cook Inlet. He shared that he had worked with a company that wanted to drill off-shore in the Arctic, but those plans fell through. He hoped that more small companies and deals with state lands to keep the pipeline operating into the future. He felt that the tax issues had been represented by those that were most affected, but he wanted to address the tax incentives. He felt that there should not be a focus on the cash tax credit, because those credits would be paid eventually. He stressed that the smaller companies often looked to the larger companies when establishing a strategy. He shared that the regulations placed on the companies were a greater burden on the smaller producers than on the larger producers.

Vice-Chair Micciche queried the position on the bill. Mr. Sutherlin responded that he was against the bill. He urged the committee to keep the structure the same.

[11:15:58 AM](#)

LINDA LEARY, SELF, EAGLE RIVER (via teleconference), shared that she knew of many small businesses that were impacted by the claw back provisions. She stressed that businesses conducted their work based on money that was already committed and promises made to ensure the work. She stressed that there would be small companies struggling, and even filing bankruptcy. She stressed that the state

should pay the money owed to the businesses to ensure proper business and maintain the state's credit rating. She felt that the state should meet its past obligation without hurting the existing businesses.

Vice-Chair Micciche queried the claw back provision. Ms. Leary replied that there was a provision that discounted what was owed from a previous tax credit.

Vice-Chair Micciche felt that she was referring to the ARM Board provision.

11:19:00 AM

JAVEN OSE, SELF, ANCHORAGE (via teleconference), echoed the remarks of Mr. Pierce and Ms. Throop. He testified against "giving away half the farm." He understood that there may need to be an adjustment to the tax structure, and smaller companies could see a 5 or 10 percent increase. He felt that the credits in Cook Inlet were "absurd." He stressed that Alaska did not need to face the hardship of other third-world countries. He spoke in favor of reducing the oil company tax credits.

11:21:03 AM

JEFFREY HAM, SELF, KENAI (via teleconference), spoke against the bill. He explained that investing money in an industry where the rules and regulations was incredibly hard. He stressed that, back in 2009, 2010, 2011, there was testimony about the probability of facilities getting closed down and gas would be imported into the state. He felt that the tax credits had a huge impact in the development of Cook Inlet gas. He shared that there was a profound difference between the gas industry of 8 years ago and the current time. He felt that many people forget about the past, and only acted when faced with a crisis. He felt that reacting by changing the structure was the wrong approach. He urged the committee to examine how the dollars were spent in prosperous and impoverished times. He felt that the state should not punish the companies that were currently losing money.

Vice-Chair Micciche surmised that Mr. Ham was against the bill. Mr. Ham agreed.

11:25:30 AM

DEBORAH BROLLINI, SELF, ANCHORAGE (via teleconference), spoke against the bill. She stressed that TAPS was shut down in 2011, but the state was lucky that the contractors were able to bring it back online in a number of days and not weeks and months. She stressed that there were great challenges to operate the pipeline below 500,000 barrels per day. She shared that the cost of operating TAPS declines as oil production declines.

11:27:28 AM

DANIEL DONKEL, DONKEL OIL AND GAS, ORLANDO (via teleconference), spoke against the legislation. He felt that the state would be better served to not act in haste in response to the Saudi Arabian flooding of the oil markets, which he felt was designed to put Alaska out of business. He remarked that Saudi Arabia has enough money to put Alaska out of business, because they had a reserve of \$600 billion with a burn rate of \$100 billion per year. He felt that Alaska was smart, and was grateful that the legislators cared about Alaska. He pointed out that Senator Bishop and Co-Chair MacKinnon had done a remarkable job. He stressed that Prudhoe Bay was discovered with one oil well, but was currently supplying 80 percent of the state's oil. He stated that the credits provided was the smartest move by the state. He felt that established credits was intended to allow the independents compete against the major oil companies who controlled 99 percent of the oil market. He remarked that after the Valdez oil spill, there was bond that restricted the small independent companies from bringing the oil to California.

11:34:48 AM

MARY TOUTONGHI, SELF, ANCHORAGE (via teleconference), stated that she was testifying with five other individuals from District 30, and she announced their names. She spoke against the legislation. She expressed concern about the subsidies for the oil companies. She remarked that the state was making a large number of donations to a group of oil companies who were not obliged to offer anything in return. She shared that the state was paying up to \$7 million to \$8 million per year in addition to the \$6 billion offered in the previous year. She felt that a number of elderly people were not able to receive eight dollars' worth of food stamps per month for several months.

She stressed that the world was entering a new stage of development, and the state was behind the other developed countries.

Vice-Chair Micciche wondered if the testifier was against the legislation. Ms. Toutonghi replied that she was in favor of raising the taxes on the oil companies.

[11:39:21 AM](#)

WILLIAM REINER, SELF, ANCHORAGE (via teleconference), testified in favor of halting the credits as of June 2016. He felt that there would be a lag time to pay off some of the credits over time. He understood that there was additional legislation required to accomplish the personal agendas. He announced that he had provided a 10-K about Donkel Oil and Gas. He shared that he had worked at Ted Stevens International Airport, so he was an "end user" of the oil and gas industry. He felt that the state moved too quickly to respond to the collapse of the price of oil by raising the taxes of the end users. He remarked that the end user was subjected to the business end of the free market enterprise.

Vice-Chair Micciche queried a position on the bill. Mr. Reiner replied that he wanted to halt tax credits by June 2016.

Vice-Chair Micciche appreciated the testimony. Mr. Reiner wondered if the bill was the best option.

Vice-Chair Micciche stressed that public testimony only related to the bill before the committee.

Vice-Chair Micciche CLOSED public testimony.

2d CSHB 247(RLS)am was HEARD and HELD in committee for further consideration.

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ADJOURNMENT

[11:46:57 AM](#)

The meeting was adjourned at 11:46 a.m.