

HOUSE FINANCE COMMITTEE
April 10, 2018
5:04 p.m.

5:04:55 PM

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 5:04 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Les Gara, Vice-Chair
Representative Jason Grenn
Representative David Guttenberg
Representative Scott Kawasaki
Representative Dan Ortiz
Representative Lance Pruitt
Representative Steve Thompson
Representative Cathy Tilton
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Representative Paul Seaton, Sponsor; Elizabeth Diament, Staff, Representative Paul Seaton; Ken Alper, Director, Tax Division, Department of Revenue; Sheldon Fisher, Commissioner, Department of Revenue; Representative Andy Josephson; Representative George Rauscher

PRESENT VIA TELECONFERENCE

SUMMARY

HB 411 OIL & GAS PRODUCTION TAX; PAYMENTS; CREDITS

HB 411 was HEARD and HELD in committee for further consideration.

Co-Chair Foster discussed housekeeping.

#hb411

HOUSE BILL NO. 411

"An Act relating to the oil and gas production tax, tax payments, and credits; and providing for an effective date."

[5:05:48 PM](#)

REPRESENTATIVE PAUL SEATON, SPONSOR, provided a PowerPoint presentation, "HB 411: An Act relating to the oil and gas production tax, tax payments, and credits; and providing for an effective date" dated April 10, 2018 (copy on file).

ELIZABETH DIAMENT, STAFF, REPRESENTATIVE PAUL SEATON, introduced herself.

Co-Chair Seaton provided background on the bill. He relayed that the conference committee from the 2017 session had not addressed production tax changes in the bill and that the bill had been revised to reflect that credits were no longer available to work on the North Slope. He explained that the presentation would focus on updates to HB 111, which had been in Senate Resources Committee for the past year. The conference committee on HB 111 had established a legislative working group to analyze the state's fiscal regime for oil and gas and review changes for presentation to the legislature. He said that the group had only met twice, with no recommendations made to the legislature to-date. He shared that the legislature had three sets of consultants for oil and gas taxes, only one made a single presentation to the legislature, but none had made a recommendation. He stated that the HB 411 was nearly identical to the version of HB 111 that had advanced to the Senate. He relayed there was a basic rule of thumb worldwide: about two-thirds of the wealth of an oil regime went to government take, or non-producers. However, currently the producers' share was 48 percent in Alaska. He stated that Alaska was not getting its fair share of oil wealth from legacy fields or new fields.

[5:09:54 PM](#)

Co-Chair Seaton stated that the bill would do three things:

First, it repeals the per barrel credits for Gross Value Reduction (GVR) and nonGVR oil. These credits significantly reduce the effective production tax rate on oil to well below the 35% as set in statute. The credits change the effective tax rate depending on the price of oil. As oil prices decrease the proportional tax reduction increases. This acts as an exaggerated form of reverse progressivity. Repeal of the credit simplifies the tax system and is more transparent and consistent with other regimes.

Secondly, to adjust for the repeal of the per barrel credits, the tax rate is lowered to 25% of net profits. This applies to both GVR and non-GVR oil.

Lastly, the bill adds three supplemental tax brackets, with 5% increases each, at production tax values (PTV) of \$40, \$50 and \$60 to reach 40% for the portion of PTV over \$60 (PTV = the price minus expenses). At \$100 per barrel Alaska North Slope (ANS) the production tax value (PTV) is approximately \$60. This stepped increase approximates the same revenue of the current tax structure at high revenue oil prices. This calculation automatically recognizes different cost structures of various fields.

[5:11:09 PM](#)

Co-Chair Seaton moved to Slide 2:

Consultant Daniel Johnston on Average Worldwide Government Take:

"...the world average government take even right now is probably 67 or 70 depending upon how you calculate it. Wood Mackenzie aggregates their statistics a little bit differently too [inaudible] but in the Wood Mackenzie world Average government take statistics from their study was I think 71%"

Joint House Resources/House Finance Committee March 26, 2006

Co-Chair Seaton continued to Slide 3, which presented a line graph that reflected the estimated total government share at various West Coast ANS price levels under the Senate Finance Committee, committee substitute (CS) for SB

2001; the Senate Judiciary Committee CS for SB 2001; for House bill 2001; the Petroleum Production Tax (PPT) Expected; SB 2001 (root version); and PPT.

[5:12:25 PM](#)

Co-Chair Seaton turned to Slide 4, which contained the cover page to a presentation, "Senate TAPS Throughput Committee, Alaska Hydrocarbons Fiscal Systems, January 31, 2013, PFC Energy." Slide 5 was from that presentation and showed a bar graph that illustrated the average government take a \$60/bbl for global fiscal regimes. He noted that in 2013, most fell within the 60 percent to 66 percent range.

Co-Chair Seaton moved to Slide 6, which addressed Slides 7 and 8, and poked to the ConocoPhillips slides that had been presented on HB 111 in Senate Finance Committee:

- Looking at the Conoco Phillips presentation slides, the change in the producer share from ANS West Coast 2017 at \$65 per barrel to 2018 at \$65per barrel is 11% of the total value shifted to the producers.
- These slides also show that between 2017 and 2018 at \$65 per barrel 4%was transferred from the State's share to the producer.
- In 2017 the Conoco Phillips slides stated that the State always has the largest share at any prices.
- By 2018 this is no longer true for all prices between \$55 and \$95 per barrel(ANS WC).
- These slides also do not show the amount of tax credits subtracted from the State's portion and added to the producers share, for credits purchased or from prior years.

[5:14:14 PM](#)

Co-Chair Seaton continued to discuss Slides 7 and 8. He turned to Slide 9, which offered an illustration of production tax calculation. He noted that the slide reflected the taxable costs at the market price of \$63 per taxable barrel, which totaled \$10.7 billion. He pointed out to the committee that the bottom far right column revealed that the gross value was \$9.2 billion after transportation costs, lease expenditures were high at \$4,550 billion resulting in a production tax value of \$4.7 billion. He relayed that the tax, at 35 percent, would have been \$1,650

billion but the per barrel credit ate \$1,350 billion of that total. He turned to Slide 10, which provided a brief history on Alaska's oil production tax. The tax rate had dropped from 11.8 percent in 1995, to 6.7 percent in 2006. Though taxes were much higher in the era of high prices, since 2015 the production tax has been almost entirely based in the 4 percent gross tax.

[5:18:24 PM](#)

Co-Chair Seaton continued to Slide 11, which reiterated the intent of the legislation:

HB 411 does the following:

- Repeals Per Barrel Credits
AS 43.55.024(i) and AS 43.55.024(j)
- Lowers Production Tax Rate from 35% to 25%
- Establishes additional 5% tax brackets at
\$40 PTV (Production Tax Value)
\$50 PTV
\$60 PTV
The additional tax only applies to the PTV amounts above each value

Co-Chair Seaton turned to Slide 12, which showed a line graph generated by the Department of Revenue that presented a high-level aggregate model allowing the comparison of status quo production tax structure to an alternate configuration for a typical non-Gross Value Reduction (GVR) oil field. He highlighted that all the numbers varied by field size.

[5:22:31 PM](#)

Co-Chair Seaton moved to Slide 13, which offered the same information for GVR oil. He noted that one of the things that the industry had not liked about Alaska's Clear and Equitable Share (ACES) was that when the tax rate changed, it changed for all the profits earned from the first barrel up, the bill would apply progressivity brackets.

[5:23:33 PM](#)

Co-Chair Seaton concluded on Slide 14 by reading a quote from the state's constitution:

The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the state, including land and water, for the maximum benefit of its people.

Co-Chair Seaton asserted that the state's current fiscal crisis was the result of a tax system that no longer worked within the oil price range and was as it had been constructed for a much higher price range.

[5:24:38 PM](#)

Co-Chair Foster directed committee attention to the presentation from DOR.

[5:25:35 PM](#)

AT EASE

[5:26:59 PM](#)

RECONVENED

KEN ALPER, DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, provided a PowerPoint presentation titled "Analysis of HB 411: Oil and Gas Production Tax" dated April 10, 2018 (copy on file). He began on Slide 3, which offered detail on the four major oil and gas revenue sources for the state:

Property Tax

Pipeline, Equipment, Facilities. About 80% of property tax collections are credited back to local governments

Royalty

Landowner's share, usually 12.5%. Most North Slope production is on State land. At least ¼ of royalties go to the Permanent Fund

Production Tax

Based on net profits; most of the conflict in recent years is over this tax. North Slope tax is 35% less a variable "per-taxable-barrel" credit, with a gross minimum tax "floor"

Corp. Income Tax Taxes the remaining profit after production tax, based on global asset apportionment. Rate is 9.4%, but effectively closer to 7%

[5:29:33 PM](#)

Mr. Alper moved to Slide 4, which reflected oil and gas revenue, fiscal years 2012 through 2018; the combined tax

revenues had declined from approximately \$10 billion to \$1 billion over the past 6 years. He shared that the decline had been driven by the change in the price of oil and by the 2014 change in the oil tax: SB 21. He noted that royalty had gone down by half, whereas the production tax had decreased by 90 percent. He said this was due in part to the profit-based nature of the tax. He shared that higher oil prices were good for the state's economy, but Alaskan residents suffered by having to pay high fuel costs. He noted that "restricted revenue," in the context of oil and gas, meant the 25 percent of royalties that went directly into the permanent fund corpus under the state constitution.

[5:31:16 PM](#)

Mr. Alper advanced to Slide 5 and addressed recent oil and gas tax credit reform:

HB 247 Passed June, 2016

- Phased out Cook Inlet and reduced Middle Earth credits
- Extended Cook Inlet gas tax cap, added \$1 / bbl oil tax cap
- Added sunset / "graduation" provisions to Gross Value Reduction for new North Slope oil production
- Annual cap on per-company, per-year cash credit payments
- Resident hire priority for cash credit payments
- Limited transparency with annual report of who receives cash for credits
- Increase interest rate on delinquent production taxes for first three years, then reduced to zero
- Technical cleanup and repeal of obsolete language
- Regulation package proposed and adopted, effective 1/1/17

[5:33:51 PM](#)

Mr. Alper continued to address oil and gas reform in recent years (Slides 6 and 7):

HB 111 Passed July, 2017

- Most credits no longer eligible for state repurchase after 7/1/17, other than refinery / LNG storage
- NOL credit under former AS 43.55.023(b) repealed 1/1/18

- New system of carried-forward lease expenditures beginning 1/1/18
- Process for how carried-forward lease expenditures are used in a future year once the producer has taxable value
 - "Ringfence," preventing use until the property for which losses were incurred commences regular production
 - Taxpayer flexibility on use, limited by minimum tax
 - If unused, lease expenditures begin to lose value after 10 years in most cases
- Align interest rate changes among all tax types and eliminate three-year interest limitation
- Credits can be carried-back and used against a prior year tax liability including interest and penalties for which an audit assessment has not been issued
- Conditional exploration credits granted at time of application, to ensure place in queue
- Seismic work in Middle Earth no longer eligible for exploration credits after 2017
- Exploration credits in Middle Earth can be used to offset the explorer's corporate income tax
- Delayed repeal of tax credit fund after all are purchased
- Established Legislative working group

[5:38:18 PM](#)

Mr. Alper addressed HB 411 on Slide 9, "What Does HB 411 Do?":

The two recently passed oil bills were multi-part and complex

Although they had some, mostly indirect, tax impacts, they primarily dealt with tax credits with a focus on cashable credits.

The major tax components set by SB21 in 2013 were left unchanged:

- 35% tax on Production Tax Value (PTV, a measure of Profit)
 - \$0 to \$8 per barrel "sliding scale" tax reduction (non-cashable credit)

- Gross Value Reduction for production meeting "new oil" criteria, excluding 20% of gross value from any tax
 - Fixed \$5 per barrel tax reduction on GVR-eligible oil
- Minimum Tax "floor" of 4% of Gross (wellhead) Value
 - Tax due is "higher of" (35% x Net - \$8), or (4% x Gross) for legacy oil

[5:40:07 PM](#)

Mr. Alper advanced to Slide 10, "What Does HB 411 Do?":

HB411 is a much simpler bill, but it changes several key components of the production tax itself:

- Reduces the 35% tax on PTV to 25%
- Three additional tax "brackets" of a tax surcharge:
 - 5% of portion of PTV greater than \$40 plus
 - 5% of portion of PTV greater than \$50 plus
 - 5% of portion of PTV greater than \$60
- Eliminates the \$0 to \$8 per barrel tax credit (legacy production)
- Eliminates the \$5 per barrel tax credit (new oil production)

Other components are not changed:

- No change to GVR qualifications or rates
- No change to Minimum Tax rate

[5:41:12 PM](#)

Mr. Alper turned to Slide 11, "Initial Observations":

- Very similar to "House" passed version of HB111
 - Slight differences in supplemental tax brackets
 - Also eliminates the \$5 per barrel credit for GVR oil
- As with House HB111, revenue impact concentrated at \$50-90 oil price
 - Reduces the impact of the minimum tax due to lower "crossover point"
 - Tax impact for GVR oil at low prices due to "hardening floor"
- Tax brackets are materially different from former ACES "progressivity"

- o ACES applied highest tax calculation to all of oil profits, resulting in very high marginal (last dollar earned) tax rates
- o HB411 brackets only charge higher rate on the portion of profits above the rate cutoff. Much lower marginal rate impacts. Similar brackets in HB110 (2011)
- Brackets tied to BTU-equivalent value, which would be diluted by NS gas production
- Bill length is deceptive
 - o 21 of the 25 pages are conforming language related to monthly estimated tax payment and calculation of production tax value

[5:46:16 PM](#)

Mr. Alper turned to a table on the fiscal note on Slide 12. Lines 1 through 4 attempted to break the bill into component parts, examining the fiscal impact of each of the subsections of the bill over the next ten years, at the estimated forecast price from the Department of Revenue. He related that both negatives and positives were reflected in the numbers. The total revenue impact differed from model to model. The yellow highlighted love indicated the total fiscal impact, or revenue change, and did not include potential changes in investment. New information that that put a value to the carry forward losses would be incorporated into a forthcoming fiscal note and was found on the bottom three lines of the table. He said that the losses would be worth the amount carried forward, multiplied by the tax rate, since the tax rate was being reduced the value of the losses was reduced. He noted that the bar graph at the bottom of the page reflected the total revenue change at different prices.

[5:50:17 PM](#)

Mr. Alper included another revenue impact comparison on Slide 13. The slide offered the production tax calculation at different prices per one barrel of taxable North Slope non-GVR oil; FY 19 costs per the Spring Revenue Source Book. He said that the chart assumed fixed prices as costs rose, which was misleading; if the price of oil increased then the cost increased as well. He said that the production tax value (PTV) was multiplied by the 35 percent tax and the per barrel credit. The per barrel credit started at zero for \$160/bbl and added \$1 every time the

price of oil dropped \$10. He said that the current credit was \$8/bbl. He discussed the difference between the proposed calculation and the existing calculation as detailed on the slide.

5:52:58 PM

Mr. Alper moved to the graph on Slide 14, which offered the same information on Slide 13, but in graphical form.

5:54:04 PM

Mr. Alper advance to Slide 15, "Effective Tax Rate is Also a Function of Price." The slide examined the same information from the two previous slides, but with an emphasis on effective tax rate on non-GVR oil.

5:55:02 PM

Mr. Alper moved to Slide 16 which showed the same information on the previous slide as it pertained to GVR oil. He noted that the biggest difference between slides 15 and 16 was in the status quo. With the GVR the revenue tended to be lower at all price points but went to zero at low oil. he said this was because the tax code allowed the \$5 credit to not be tied to the floor. He said if the per barrel credit were eliminated as proposed by HB 411, the minimum tax would kick in and the effective tax rate would increase to nearly 30 percent.

5:56:06 PM

Mr. Alper continued to Slide 18, "Bill in Context of Ongoing Activities":

HB111 created a working group to look at outstanding issues

- The group has not had substantive meetings yet, and has not offered suggestions

LB&A has hired three consultants to analyze our system

- Only one of the three has presented general information to the legislature, no public discussions as of yet

The Administration introduced HB331 / SB176, to deal with remaining balance of cashable tax credits

The Department of Revenue has identified several other issues that could be addressed by the committee and consultants

5:58:03 PM

Mr. Alper turned to Slide 19. "Potential Issues for Ongoing Discussion"[Secretary note: The issues are color coded in blue and green in the original presentation. For the purpose of posting to BASIS - the bills each issue is tied to has been indicated in parenthesis after each bullet point]:

- Outstanding tax credits due to state no longer making open-ended purchases (\$807 million through 2017 plus ~\$150 million pending) (HB 331/SB 176)
- Equity between major producers and new explorers as we phase out cash credits (HB 331/SB 176)
- Ongoing debate on "fair share" at different price points (HB 411)
- Imbalance between 35% offset for spending and losses and a lower effective tax rate on profits (HB 411)
- Large future tax offsets if major recent discoveries are developed (HB 411)
- Limited "upside" to the state during price spikes
- Long-term viability of Cook Inlet tax "caps"
- High volatility and complex administration of a net profits tax system

6:01:00 PM

Mr. Alper turned to Slide 20, "Issues for Consideration - Industry Profitability":

Oil profitability estimates are up dramatically since 18 months ago, whereas production tax forecasted revenues are not

Fall 2016 forecast for FY2019

- \$60 oil price with 442,100 bbl / day ANS production
- PTV (profit on taxable barrels) forecast \$1.8 billion*
- Production tax forecast \$248 million (13.9%)
- Statutory credit calculation \$54 million

Spring 2018 forecast for FY2019

- \$63 oil price with 526,600 bbl / day ANS production

- PTV (profit on taxable barrels) forecast \$4.7 billion
- Production tax forecast \$410 million (8.7%, +\$162 million)

[6:03:24 PM](#)

Mr. Alper returned to the graph on Slide 15. He pointed to the left-hand side of the graph, which reflected high effective tax rates at lower prices because the minimum tax was dominate. He noted that, working closer to the crossover point, there was a lower effective tax rate, which was reflected in the latest forecast.

[6:03:42 PM](#)

Mr. Alper concluded Slide 20:

- Statutory credit calculation \$184 million (+\$130 million)

* PTV calculation is after paying royalty and property tax, but before production tax, and state and federal income taxes

Mr. Alper noted that the committee strongly disagreed with the administration's interpretation of the statutory credit. He admitted that there were imbalances because of where the state fell of the profit curve.

[6:04:17 PM](#)

Mr. Alper moved to Slide 21, "Issues for Consideration - Historic Gross Tax." He stressed that the state was taxing at lower rates than in the past. He explained that the Economic Limit Factor (ELF) rate was an unusual formula, tied to per well productivity:

Before the switch to a net profits tax in 2006, Alaska's oil production tax, the "ELF" (economic limit factor), was a gross tax that varied from field to field.

The average tax rate was:

- 1995: 11.8%
- 1998: 10.5%
- 2001: 8.3%

- 2004: 6.4%
- 2006: 6.7%

Although taxes were much higher in the era of high prices, since 2015 the production tax has been almost entirely based on the 4% gross tax

Under HB411 most companies would pay above the 4% minimum tax at prices above about \$40

Mr. Alper moved to Slide 22, "Issues for Consideration - Tax Stability," and discussed the lack of tax regime stability in the state over the past 13 years:

Alaska has developed a reputation for an unstable tax regime, with seven changes in the past 13 years:

1. 2005: Gov. Murkowski aggregates Prudhoe Bay satellite fields for ELF calculation
2. 2006: Petroleum Production Tax "PPT" changed from taxing gross revenue to net profits
3. 2007: Alaska's Clear and Equitable Share "ACES" corrects revenue shortfalls due to bad cost estimates in PPT
4. 2010: Cook Inlet Recovery Act "CIRA" provided additional credits outside the North Slope targeted at southcentral gas supply issues
5. 2013: SB21 was a tax cut primarily impacting higher prices and providing "new oil" benefits via the "gross value reduction"
6. 2016: HB247 began tax credit reform, phasing out Cook Inlet credits and limiting "new oil" benefits
7. 2017: HB111 completed tax credit reform, eliminating cashable credits and providing for carried-forward losses

Mr. Alper addressed Slide 23, "Issues for Consideration - New Fields":

The tax change could have unusual impacts on the economics of future projects

- HB111 eliminated cashable credits for operating losses, and replaced them with carry-forward lease expenditures
- These can be used to reduce future taxable profits, once the underlying leases are in production

- Carry-forwards can only be used to reduce taxes to the minimum tax and not below
- During the 3 to 7 years a field earns the GVR, the per-taxable barrel credit can further reduce taxes to zero
- Once the GVR is sunset, the per-barrel credit cannot be used below the minimum tax

[6:07:06 PM](#)

Mr. Alper turned to Slide 24, "Issues for Consideration - New Fields":

The tax change could have unusual impacts on the economics of future projects (continued)

- The current system assumes that the minimum tax will be the actual tax paid, even at higher prices, until a company is able to "use up" (recover) all of their development costs as carry-forward lease expenditures
- For new producers, current law allows the tax to go to zero but in HB411, with no \$5 per barrel credit, the minimum tax would be paid in those years resulting in a 4% tax obligation
- After the GVR sunsets, the 4% tax would be paid under both status quo and HB411 until lease expenditures are exhausted
- The reduced base rate also means carry forwards effectively have less value
- Depending on the price in the year oil is produced, it may take more carry-forwards to reduce taxes to that minimum tax level
- This could mean it would take fewer years before the regular tax based on profits would kick in

Mr. Alper elaborated on the slide.

[6:08:55 PM](#)

Mr. Alper advanced to Slide 25, "Issues for Consideration - New Fields," and reviewed a table showing the life cycle analysis for a hypothetical new field (large field model; 750 million barrels, 120,000 bbl/day peak production). He shared that the actual production tax paid by companies would be \$1.9 billion higher, based on projected oil prices. He said that at the forecast price, the producer internal rate of return (IRR) would drop by half a

percentage point, from 7.9 percent to 7.4 percent. He concluded that the break even price per barrel of oil under the legislation would be \$75.

[6:11:54 PM](#)

SHELDON FISHER, COMMISSIONER, DEPARTMENT OF REVENUE, offered the administrations perspective on the legislation. He addressed a slide taken from a prior presentation by Mike Navarre, Commissioner, Department of Commerce, Community, and Economic Development. He turned a second slide from Commissioner Navarre's past presentation on Slide 27, which reflected a chart that measured in millions the gross domestic product (GDP) of all other non-petroleum private industries from 1997 to 2015

Commissioner Fisher addressed conclusions on Slide 28. The orange line reflected approximately 20 years of production and GDP of Oil and Gas, the blue line showed the total unrestricted general fund revenue, and the grey line represented the unrestricted petroleum revenue. He assessed that overtime the bulk of the state's unrestricted revenue came from petroleum revenue. He said that in the 1970s and 1980s, when petroleum was the bulk of the state GDP, it may have been appropriate to forgo seeking diversification in state revenue.

Commissioner Fisher turned to Slide 29, "Final Observations":

- The legislature appears to be reaching consensus on a partial fiscal plan relying on a structured use of Permanent Fund earnings
- The apparent remaining budget gap will likely be in the \$500 to \$700 million range
- The most appropriate mechanism to fill this gap is via a broad based tax tied to the overall state economy
- Oil and gas taxation should be based on fair share and related economic development issues, not budgetary need in any specific year
- Major oil and gas tax changes should be backed by substantial analysis and review looking at both unique local factors as well as global comparables

- Last year the legislature set in motion a process to revisit these fair share issues with the intention to use this to inform the next major tax rewrite
- Until the completion of the process set in motion last year, it may be premature to address a substantial tax revision at this time

He believed that the state would be better off having the conversation about refining the oil tax regime in an environment where oil was not the only industry being looked to for funding state needs. He thought that the state was on the verge of a partial fiscal plan that consisted of using permanent fund earnings, in a structured way, to close part of the gap. He related that the administration believed that the most appropriate first step to take would be to implement a broad-based tax that would address other industries in the state that currently contribute a modest amount of tax dollars to the state.

[6:17:07 PM](#)

Co-Chair Foster listed individuals available for questions.

Representative Grenn relayed appreciation for the presentation. He noted Slide 29 and the viewpoint that it may be premature to address a substantial tax revision at present. He spoke of the unstable tax environment that the state had created with 7 regime changes in the past 13 years. He wondered how substantial the change proposed by the legislation would be on the current tax regime, on a scale of 1 to 10.

Mr. Alper replied he would rate it a six.

Commissioner Fisher pointed out that at prices in the \$60 range, there was a substantial difference on Slide 15 between the blue and green line. He believed that it reflected a substantial change.

Representative Grenn wondered what it would signal to industry if the legislature passed both HB 411 and HB 331.

Commissioner Fisher reiterated that the administration valued using permanent fund earnings in a structured way, and implementing a broad-based tax, before adjusting the

oil tax regime. He believed that the conversation on altering the regime should be had, one that was structured and well informed.

6:22:58 PM

Mr. Alper interjected that HB 331 was about addressing an immediate need. He said that companies that had discovered an oil resource, that wanted to develop but were facing financial obstacles due to tax credits, would be able to clear their balance sheets and begin investing again. He shared that that would lead to the decision to move forward and develop their fields in the state. He did not believe that for companies to think that the current tax regime would be in place for the next 20 years was realistic. He thought that concerns about the current tax structure that would be addressed once the state had the attention to bear on the issue would lead to a discussion about a sustainable way forward.

Representative Grenn asked about the ongoing activities discussed on Slide 18. He wondered about the contributions from the working group and hired consultants.

Mr. Alper replied that the working group was intended to be created after the last legislative session, but the work had been hindered for various reasons. He said that early attempts to gather a working group together in Houston, Texas with consultants had been cancelled due to a hurricane. Legislative special sessions had interfered with the work as well. He related that he could not speak to when the focus would return to bringing the working group and consultants together but that it needed to happen eventually.

6:26:08 PM

Vice-Chair Gara referenced Slide 22, He argued that the tax timeline on the slide did not reflect real changes in the tax regime. He offered his perspective on bullet points 4 through 7. He argued that changes made in the regime over the past 10 years had been in the industry's favor - or had nothing to do with taxes.

Commissioner Fisher replied with a saying that "where you stand depends on where you sit." He echoed Mr. Alper's testimony that the next time there was a change to oil tax

there should be a conversation about developing a regime that could be sustained for decades to come. He believed that the best way to do that was in an environment where the budgetary pressures had been lessened and with a carefully studied approach.

Vice-Chair Gara asserted that there had not been a single tax increase in the past ten years that the oil industry had not wanted.

[6:29:08 PM](#)

Vice-Chair Gara references Slide 16 showing the effective tax rate as a function of price. He offered a hypothetical using ANWAR in the equation and expressed concern with the current oil tax system.

Commissioner Fisher understood that there were concerns about the current tax system. He believed that now was not the time to try to resolve the oil tax regime, that it should be done in a different framework that established a sustainable and long-term regime.

Vice-Chair Gara stated that the current system applied no production taxes for new oil for the first 7 years, at any oil price below \$60/bbl, and only 8 percent at \$70/bbl, which was one of the lowest rates in the world. He argued that highly profitable fields, such as Prudhoe Bay, were charged approximately 8 percent on profits.

Commissioner Fisher thought that all taxes should be examined and compared to other jurisdictions. He reiterated that the conversation should be held for a time when the fiscal climate of the state was less volatile.

[6:32:22 PM](#)

Mr. Alper pointed to a \$5 line on Slide 15. He shared that a decision had been made late in the 2013 legislative session during the progress of HB 21, which changed a key portion of SB 21; the gamble had been on higher oil prices, which was not the reality that materialized.

Vice-Chair Gara felt that the bill could help the state bring in more revenue and in a fair way. He agreed that a well-informed debate should be had in the future but that a 25 percent tax on profits was fairly modest.

Commissioner Fisher was not prepared to respond whether a 25 percent was appropriate and how it compared internationally. He pointed out that it was almost triple the current tax.

Vice-Chair Gara thought that the tax increase was fair to the industry.

[6:36:44 PM](#)

Representative Pruitt asked whether the department would categorize the bill as a substantial change to the current tax system.

Mr. Alper replied in the affirmative.

Representative Pruitt asked whether the administration supported the bill.

Commissioner Fisher relayed that the administration did not support the bill or addressing the oil tax regime at the current time.

Representative Pruitt asked whether the passage of legislation or continued introduction of legislation, year after year, made the industry feel the tax regime in Alaska was instable.

[6:39:31 PM](#)

Mr. Alper replied that the introduction of legislation did not necessarily reflect instability but could indicate instability. He noted that a steady tax, that went lower and lower, without legislative changes was another form of instability. He thought that dramatic changes from year to year could signify instability. He believed that the current conversation was identifying the issues that should be addressed when the tax regime was up for debate.

Representative Pruitt spoke from the perspective of a company that was in the first stages of permitting. He asked whether the producer was looking at a possible cost increases addressed by the legislature and whether they would be cautious about possible cash outlay.

Commissioner Fisher replied that the higher degree of uncertainty, the harder it was to decide. He thought that

more stability would result in better outcomes. He thought that Alaska was currently perceived by the oil industry, broadly, as having risk of change in the tax regime. He believed that uncertainty would have an impact on investment decisions.

Mr. Alper offered a hypothetical where the state implemented a substantial tax increase and eliminate the minimum tax. He said from the perspective of the person investing billions of dollars and doing a cashflow analysis of an oil field for the next 30 years, that could be a net positive. He said the system currently being debated was likely to be a negative on an investment decision, but the same exact bill with a lower minimum tax could improve that same investment decision. He contended that this was why a holistic conversation about the overall tax system, with informed debate, expert analysis, and global comparable with all sides represented would preferable.

[6:44:32 PM](#)

Representative Pruitt asked whether the administration viewed the bill as bringing investment and jobs to Alaskans.

Commissioner Fisher replied that the return would decline modestly and would make investments more difficult. He thought a bigger issue was that the passage of the bill would not end the debate about oil taxes. He did not think that the bill was a comprehensive solution but was a Band-Aid that would require further discussion and debate.

Representative Pruitt stated that it was the 85th day of the legislative session and that the working group had only met once. He surmised that the administration did not support the legislation.

Representative Pruitt MOVED to TABLE HB 411.

[6:46:46 PM](#)

AT EASE

[6:47:17 PM](#)

RECONVENED

Co-Chair Seaton OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR: Wilson, Grenn, Pruitt, Thompson, Tilton

OPPOSED: Gara, Guttenberg, Kawasaki, Ortiz, Foster, Seaton

The MOTION to table HB 411 FAILED (5/6).

[6:48:07 PM](#)

Representative Wilson lamented that she did not want to hear oil taxes again. She asked whether the working group would be more productive throughout the interim.

Commissioner Fisher answered that he hoped they would be more productive.

Representative Wilson wondered whether the department had received feedback from industry about how changes in the tax regime affected business planning.

Commissioner Fisher understood that industry was seeking certainty in terms of the tax regime. He admitted that they also wanted the lowest taxes possible and had a self-interest associated with the issue. He repeated that the conversation should occur when there was enough time to allow all interested parties to feel like the issue had been settled for the foreseeable future.

Representative Wilson wondered whether a tax increase like the one proposed in the legislation, if applied to another industry, would change how business was done.

Commissioner Fisher replied in the affirmative. He stressed that the regimes that were created should be sustainable and competitive.

Representative Wilson felt that the current bill hearing and discussion on oil taxes was a futile effort and a waste of the committee's time.

[6:53:07 PM](#)

Co-Chair Foster asked whether it was the will of the committee to take a vote on the legislation.

Co-Chair Seaton shared that one of the consultants would be testifying the following evening. He shared that he wanted

to hear from the consultants and thought it would be beneficial to hear from industry. He expressed frustration that the working group felt like a delay group, more than a working group. He did not believe the legislative work would continue through campaign season. He believed that the legislature was looking at a long delay before any substantive work would be out forward by the working group. He was surprised to hear that the group would produce something in the coming year. He noted that HB 11 had stayed in the Senate for a year, with no action. He believed that the passage of SB 26 was conditional on examining oil taxes and that progress would only be made by including oil taxes in discussion about Alaska's fiscal crisis.

[6:58:44 PM](#)

Representative Wilson asserted that future presentations would not change the minds of committee members. She agreed that hearing from the working group would be beneficial but expressed concern that time was being wasted in revisiting issues that had already been recently debated.

Representative Grenn agreed with Co-Chair Seaton that the committee should hear from the consultants and from industry.

Representative Pruitt asked whether the bill was under discussion now because the working group was a delay tactic. He noted that a member currently sitting on the committee was part of the working group and could speak to the merits of the group's work. He wondered whether the committee should discuss disbanding the working group.

[7:00:29 PM](#)

Representative Guttenberg interjected that there were people waiting to testify on the bill before the committee. He felt that the committee should press on with the work at hand.

Co-Chair Foster believed that the committee should continue the work and noted that consultants and members of industry would be testifying the following day. He said that he would be directed by the will of the committee.

[7:01:42 PM](#)

Representative Ortiz turned to Slide 4. He asked whether the ongoing discussion about the state's fiscal situation revolved around the 90 percent reduction in production taxes.

Mr. Alper agree. He said that the massive reduction in the production tax was the most obvious indicator as to why the state went from an era of structural budget surpluses to large budget deficits year after year.

Representative Ortiz asked whether the legislature had worked since 2015 to reduce undesignated general fund spending by 44 percent during the same time that the production taxes were being reduced.

Mr. Alper answered yes. He asserted that the state had cut the capital and agency budget dramatically over the last 4 years.

Representative Ortiz moved to Slide 29. He referenced bullet point three:

- The most appropriate mechanism to fill this gap is via a broad based tax tied to the overall state economy

Representative Ortiz asked whether the House had attempted to put forward a broad-based tax.

Mr. Alper replied that the House had passed an income tax bill in the previous legislative session that had a \$700 million fiscal note; had the legislation become law it would have brought in \$700 million in 2018.

Representative Ortiz thought that the conversation about oil taxes should be taking place during the current fiscal climate. He believed that waiting to address the issue was irresponsible. He pointed out that while the state had cut the budget by 44 percent, \$14 billion in savings had been spent.

Mr. Alper answered that the total was approximately \$15 billion.

Representative Ortiz stated that the remaining savings would not allow for the state to maintain the status quo.

Mr. Alper answered that the non-permanent fund savings would be \$2.5 billion at the end of the fiscal year. He said that the expectation was that the legislature would be forced to use permanent fund earnings for the FY 19 budget because there was not enough other money to fill the void.

Representative Ortiz how the legislature and the administration could responsibly address the state's fiscal issues without talking about a change to the oil tax regime.

Representative Wilson felt that trying to change the minds of members of the committee was a futile effort. She thought that the bill should be moved out of committee and to the House floor for debate. She believed that the information in the presentation was redundant and that committee members already knew how they would vote on the bill. She felt that the committee was wasting time debating the bill in committee.

[7:07:54 PM](#)

Co-Chair Foster requested that committee members refrain from becoming temperamental.

[7:08:22 PM](#)

Representative Ortiz could appreciate that the administration's position to address the issue of oil taxes when the fiscal climate was more stable. He wondered how the administration expected the legislature to proceed with discussion on the tax regime, broad-based taxes, use of the permanent fund, and other ways of righting the state's current fiscal crisis.

Commissioner Fisher relayed that the administration had supported a broad-based tax and a full fiscal plan. The administration was more interested in having discussions on a set of solutions that would be amenable to both bodies. The administration believed the POMV was a priority.

[7:10:13 PM](#)

Representative Guttenberg asserted that he did not plan to close the fiscal gap on the back of the oil industry. He believed that it was appropriate to examine oil tax policy. He felt that the state had a vested interest in knowing how

its resources were being developed and how the wealth from those resources was being allocated. He relayed that there had been an ongoing dialog about stability and the affects of tax regime changes on development for many years. He thought the legislature had an obligation to explore a policy that worked for the people of Alaska and the industry but that the discussion was pointless without legislation to support it.

[7:14:47 PM](#)

Vice-Chair Gara queried whether the Liberty field was an offshore field.

Mr. Alper replied in the affirmative. He relayed that the Liberty field would not be subject to the production tax being offshore. He believed the field was mostly federal and would not be taxable. He relayed that he was not sure how much of the field was state versus federal land. He related that the corporations that operated the field would not be able to use cost from the field to off-set their taxes from their Alaska production. He said that the state did not get a share of the federal royalties from off-shore water, which was an issue being worked on at the federal level.

[7:17:18 PM](#)

Vice-Chair Gara referred to Slide 16. He believed that none of the production taxes applied to Liberty.

Mr. Alper responded that Liberty was not an ideal example. He expected that when the ALASKA NATIONAL WILDLIFE REFUGE (ANWR) was developed some of the large producers currently operating in Alaska would bid on the leases and would not be able to combine credits to go below the floor, only new producers would be able to pay the zero. He thought that the point was an important one, one that had not been adequately expressed in testimony.

Vice-Chair Gara thought that going into the earnings reserve was regressive but inevitable. He believed that the state should get a fair share for its oil, the wealthy should contribute to the economy through an income tax, and the permanent fund should be the last option because it affected poor people disproportionately. He felt that a

fair share for oil should balance the use of the permanent fund.

Mr. Alper responded that the \$700 million figure had been bandied about with regularity. He believed that the bill was another illustration of how to reach \$700 million. He recalled that in 2017 the House passed an income tax bill that would have raised \$700 million; increasing the production tax on oil to 25 percent would raise \$700 million at \$65/bbl; \$1000 from every eligible Alaskan that received a permanent fund dividend would raise \$700 million. He said that the use of permanent fund earning was not the same a cutting dividend but was a structured use of wealth; the second decision was how were fund split between the what was distributed in a dividend and how much was used for government. He believed that the bill was useful for having the conversation on how to reach the goal of raising \$700 million.

[7:23:03 PM](#)

Representative Pruitt thought that the discussion about the Liberty field applied to other oil fields. He felt that a substantial amount of production would be at risk and that the administration was not considering the whole picture.

[7:23:45 PM](#)

Co-Chair Seaton expressed appreciation for the discussion about slide 16. He wondered whether there were any other contingencies that relied on the per barrel credit. He anticipated the amendment process over the following bill hearings. He noted that there were three sets of legislative consultants that had yet to present models of the tax system. He expected that the administration had consultants that would offer recommendations as well. He rejected the philosophy that changes to the oil tax system would be made only when the state faced a fiscal crisis. He noted changes that had been made in the system during times of fiscal stability. He believed that a balanced structure could be crafted by the legislature and that waiting for administration strategists to weigh in before tackling the issue would be negligent.

[7:28:54 PM](#)

Co-Chair Foster discussed housekeeping.

#

ADJOURNMENT

7:29:38 PM

The meeting was adjourned at 7:29 p.m.