

HOUSE FINANCE COMMITTEE

April 12, 2018

5:09 p.m.

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CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 5:09 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

Bill Corbus, Keep Alaska Competitive, Juneau; Chris Gerondale, Self, Juneau; Barbara Huff-Tuckness, Director of Governmental and Legislative Affairs, Teamsters Local 959, Juneau; Jeremy Price, Americans for Prosperity, Juneau; Elizabeth Diamant, Staff, Representative Paul Seaton; Ken Alper, Director, Tax Division, Department of Revenue.

PRESENT VIA TELECONFERENCE

Earl Lackey, Self, Mat-Su; Garvan Bucaria, Self, Mat-Su; Ben Mulligan, Vice-President, Alaska Chamber, Anchorage; Carl Portman, Self, Anchorage; Mike Satre, Alaska Miners Association, Juneau; Marleanna Hall, Executive Director, Resource Development Council, Anchorage; Sarah Erkmann Ward, Self, Anchorage; Gail Phillips, Self, Anchorage; Keith Silver, Self, Anchorage; Aves Thompson, Executive

Director, Alaska Trucking Association, Anchorage; Ross Bieling, Self, Anchorage; Loren Means, Self, Wasilla; Kevin Durling, Self, Anchorage; Pete Flux, Self, Anchorage.

SUMMARY

HB 411 OIL & GAS PRODUCTION TAX;PAYMENTS;CREDITS

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

Co-Chair Foster reviewed the meeting agenda. He relayed that public testimony would be resumed at the Friday 1:30 p.m. meeting if necessary. He set an amendment deadline of Saturday, April 14 at 5:00 p.m.

#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."

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^PUBLIC TESTIMONY

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EARL LACKEY, SELF, MAT-SU (via teleconference), spoke in opposition to the bill. He explained that the current tax structure had encouraged increased growth in production on the North Slope. Presently, he did not believe it made sense to change the tax system. He thought it could make sense in the future. He did not support a change and wanted to maintain a stable environment for oil producers and for further research and exploration. He asked for a no vote on the legislation.

Representative Thompson asked if Mr. Lackey believed HB 411 was a job killing bill. Mr. Lackey answered in the affirmative. He stated that every time the oil companies started making money the state changed the tax policy again.

Representative Tilton thanked Mr. Lackey for testifying.

Mr. Lackey thanked Representative Tilton for her work in the legislature.

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GARVAN BUCARIA, SELF, MAT-SU (via teleconference), spoke against the bill. He thought the bill penalized the oil industry; the state's largest revenue source. He discussed the downturn in the economy and the budget deficit. He stressed the need for stability and predictability in the state's tax policy. He believed that the benefits of SB 21 had rejuvenated exploration and production on the North Slope. He asked the legislature to let private enterprise enjoy the benefits of reduced federal taxes that incentivized future investment and increased long-term production. The state had changed the tax regime many times. He stressed that the state should be maximizing production. He felt that the bill would have a negative impact on the industry and ultimately state revenue. He underscored that policy was controlled by the legislature and he did not think it was the time to increase taxes on the oil industry. He stated it was not time to kill the goose that laid the golden egg.

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BEN MULLIGAN, VICE-PRESIDENT, ALASKA CHAMBER, ANCHORAGE (via teleconference), testified against the bill that would bring the eighth change in tax policy in the last 13 years. He felt that the changing tax landscape discouraged investors. He advocated for a stable tax policy that encouraged investments. He discussed that there were some significant projects on the horizon and felt the bill jeopardized their progress. The chamber believed the state should be encouraging production and creation of new jobs.

Vice-Chair Gara stated that the bill proposed a 25 percent tax on profits. He indicated that currently most fields "were under the new oil tax rate" which could be taxed as low as zero percent. Many of the larger fields were at the 4 percent minimum tax rate. He asked if only individual citizens should contribute to fill the budget deficit or whether the industry should chip in. Mr. Mulligan answered that he could send the legislature the list of chamber priorities. He stated that the chamber had gone on record testifying for a \$4.5 billion budget through reduced state spending. The chamber would like to see a decrease in the

budget and drawing from the Earnings Reserve Account (ERA) before broad based taxes were implemented. Vice-Chair Gara stated that the committee had heard that the bill represented a large tax increase. He stated that when the tax was almost nothing anything would be a big increase. He commented that chamber members had lobbied him for further state spending decreases but did not identify areas to cut. He noted the \$3.5 billion of spending cuts in the last six years and miniscule capital budget and inquired in what areas the chamber would advocate spending cuts. Mr. Mulligan answered that efficiencies would also lower the budget. He exemplified consolidating health care plans that he maintained would save hundreds of millions of dollars over the next 6 or 7 years.

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Co-Chair Seaton asked Mr. Mulligan to repeat of his comment. Mr. Mulligan stated he recommended the consolidation of health care plans.

Representative Wilson asked about the impact the bill would have on the current investment on the North Slope. Mr. Mulligan replied that at first state revenue would increase but subsequently the oil companies would be making decisions that would lead to decreased production and fewer jobs. Representative Wilson asked how a slowdown on the North Slope would impact chamber businesses. Mr. Mulligan answered that a slowdown would impact businesses greatly. He mentioned the multiplier effect from oil industry jobs. He elaborated that small businesses felt the "crunch" the most in economic downturns. He used an example of restaurants that had seen a real decrease in business during the recent job losses. Representative Wilson asked if the bill would shorten or lengthen the current recession. Mr. Mulligan answered that HB 411 would prolong the current recession.

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Representative Pruitt wanted to correct statements "that were not true." He commented that only GVR (Gross Value Reduction) eligible and new [fields] were taxes at 6 percent. He remarked that he heard the word "most" referring to new fields and that statements were made that mischaracterized what was taking place. He highlighted that most fields were not at the 4 percent minimum tax due to

the current price of oil. He reported that \$410 million in production tax was forecast, which was not "nothing." He felt that it was inappropriate to try to "make a point" through questioning testifiers, especially if the point was false.

Co-Chair Foster asked the committee to refrain from debate during public testimony.

Vice-Chair Gara countered that Representative Pruitt had misstated almost everything that he had said. Representative Pruitt disputed the statement.

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CARL PORTMAN, SELF, ANCHORAGE (via teleconference), testified against the bill. He was very concerned about the state's economy. He believed the best way to improve the state's economy was to increase oil production. The state needed to create an investment environment to compete against lower cost projects elsewhere. He stated the bill would weaken Alaska's competitive position. He believed it would bring in more revenue initially, but in the long-term it would reduce revenue. He stated Alaska could be on the cusp of an oil renaissance on the North Slope. He advocated for incentivizing new industry investment. He noted a column in the Anchorage Daily News that stated it took \$13 billion in new investment to increase production by 400,000 barrels of oil per day. He quoted the following from the article: "Alaskans were known to shoot themselves in the foot sometimes - raising oil taxes on the industry."

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MIKE SATRE, ALASKA MINERS ASSOCIATION, JUNEAU (via teleconference), testified against the bill. He provided details about the miner's association that was comprised of a diverse membership that included prospectors, geologists, engineers, small and major mining companies. He indicated that many oil and gas service companies that also serviced the mining industry were members. The association advocated for an equitable and stable tax and royalty structure for state owned resources and to support measures that would increase investment and production. He believed the bill moved the state in the wrong direction and would reduce Alaska's competitiveness. He urged the committee to reject the bill.

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MARLEANNA HALL, EXECUTIVE DIRECTOR, RESOURCE DEVELOPMENT COUNCIL, ANCHORAGE (via teleconference), testified in opposition to the legislation. She provided details about the council and its membership that included oil and gas mining, forest products, fisheries, and tourism industries and the 12 native corporations. The council believed the best way forward for the state's economy was to produce more oil, attract more tourist, mine more minerals, and harvest more fish and timber. The new tax proposal would increase taxes resulting in increased industry costs and lost revenue for the state. The bill would result in a decline in Alaska's competitiveness. She felt that HB 411 would bring the state less revenue than the existing system that would encourage more production. She stressed the importance of considering the state's competitiveness pertaining to future production. She stated that the bill would make oil projects more expensive and less attractive to industry. She noted that SB 21 - Oil and Gas Production Tax, which passed in 2013 had increased jobs, investment, and production.

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SARAH ERKMANN WARD, SELF, ANCHORAGE (via teleconference), spoke against the bill from the perspective of a new small business owner. She thought proposing to change the tax policy for the eighth time in 13 years at the end of the legislative session was bad public policy and should not happen annually. She did not understand why some members of the legislature did not know how harmful it was to continue to try to change the tax system. She felt the policy hurt Alaskan citizens. She urged the committee to "give oil tax policy a rest."

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GAIL PHILLIPS, SELF, ANCHORAGE (via teleconference), testified against the bill and noted that she was a former member of the legislature. She stated that HB 411 was another last minute attempt to change the state's oil tax regime. She thought the bill should have been thoroughly vetted and referred to other committees such as, the House Resources Committee. She wondered why the committee would want to go through all the hurdles to get the bill passed when it was unlikely to get a hearing in the Senate. She

urged the committee to put the bill aside and focus on other legislation and a productive end of the legislative session.

Representative Wilson asked why Ms. Phillips suggested referring the bill to other committees. Ms. Phillips answered that a bill of the magnitude of an oil tax bill should be considered and vetted by as many people and hold as much opportunity for public testimony as possible. Representative Wilson agreed.

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KEITH SILVER, SELF, ANCHORAGE (via teleconference), spoke in opposition to the bill. He concurred with all the previous testimony. He shared that he was a "victim" of the Alaska's Clear and Equitable Share (ACES) tax policy, which caused him to lose his oil industry job and "reinvent" himself. He stated there would be numerous other victims through the passage of the bill and increased taxes. He suggested that everyone in favor of the 25 percent tax should pay 25 percent more in federal taxes.

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AVES THOMPSON, EXECUTIVE DIRECTOR, ALASKA TRUCKING ASSOCIATION, ANCHORAGE (via teleconference), spoke against the bill. He related information about the association. He did not support a bill proposing another tax increase on the oil industry in the waning days of session. Over the past few years the oil industry had adjusted to a dramatic decrease in oil prices by creating efficiencies and adjusting business plans while continuing to pay state taxes. He felt that was not the time to further penalize the industry. Oil tax reform had made Alaska more competitive and a more attractive place to invest; oil production had increased and stabilized. He stated that the bill would hinder new production. The bill represented the 8th major tax change in 13 years. He opined that the bill would reduce Alaska's competitiveness and would increase costs for the industry. He supported giving the industry more time to continue its rebound.

Representative Wilson asked what impacts the bill would have on the trucking industry aside from no new jobs. Mr. Thompson answered that there would be no freight to haul. Fuel usage was down, and thousands of gallons of ultra-low

sulfur diesel was trucked to the North Slope each year. Further downturn impacted the size of companies and caused employee layoffs. Representative Wilson thanked Mr. Thompson for his work.

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ROSS BIELING, SELF, ANCHORAGE (via teleconference), was opposed to the bill. He did not believe the problem was the need for higher taxes. He stated that HB 411 was a way to regain revenue lost from the tax credits. He used Armstrong as a successful example of newly discovered oil located 80 miles from Prudhoe Bay. He suggested building a pipeline and road. [audio very difficult to hear]. He recommended reducing royalties until the tax credits were paid in full. He believed the bill stymied production when incentivizing production was the answer.

Co-Chair Foster asked Mr. Bieling to submit his testimony in writing.

Representative Wilson asked if Mr. Bieling was supporting or opposing the bill. Mr. Bieling was opposed to the bill because it would take away from production. He emphasized his support for Armstrong's Pikka Unit oil field to go into production. He believed that the "key" was to increase oil production.

Co-Chair Foster provided the committee email address for written testimony.

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LOREN MEANS, SELF, WASILLA (via teleconference), testified against the bill. He did not believe HB 411 was well thought out. He did not recall hearing anything positive about the bill during testimony the previous day. He supported the current tax structure and believed that oil companies were prospering, and production had improved. He thought that the state had a spending problem. He referenced testimony by Alaska Oil and Gas Association (AOGA) and felt that the association was upset its input had not been considered. He supported killing the bill. He thought it was important to focus on other necessary legislation. He advocated for less state spending. He opined that legislation such as HB 411 made industry and

Alaskans nervous. He implored the committee to oppose the bill.

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BILL CORBUS KEEP ALASKA COMPETITIVE, JUNEAU, opposed the bill. He relayed that the organization was comprised of individuals and businesses that supported the current tax regime and did not have oil industry membership or support. The organization supported a stable oil tax regime. He continued that the bill made fundamental changes to a provision enacted in SB 21. After the passage of SB 21 the oil industry had continued to invest in the state even when it was losing money. The industry had slightly increased production during a time it had been expected to decline. The removal of per barrel credits and increased taxes would likely add \$750 million in new taxes on the oil industry. The state should continue to support the industry instead of continued attempts to raise taxes on an industry that was still unprofitable in certain areas and modestly profitable in other areas. Raising taxes on the industry did not make sense. He wanted to maintain the "reasonable revenue split between the state and the oil industry" that was instituted through SB 21. He opined that HB 411 would tip the balance in the wrong direction and jeopardized future investment, revenue, and jobs.

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CHRIS GERONDALE, SELF, JUNEAU, testified against the bill. He shared that he worked for Construction Machinery Industrial that operated in Fairbanks, Anchorage, Juneau, and Ketchikan. He had experienced how taxes impacted his business. He stated that the increase in oil taxes in 2008 impacted the Ketchikan business which indirectly lead to its temporary closure. He stated that currently the Juneau and Ketchikan branches were profitable and growing but he worried over how another "round of reduced revenue" would impact his company.

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BARBARA HUFF-TUCKNESS, DIRECTOR OF GOVERNMENTAL AND LEGISLATIVE AFFAIRS, TEAMSTERS LOCAL 959, JUNEAU, spoke against the bill. She noted the organization's membership of 7000 members throughout the state. The organization

believed that HB 411 would be detrimental to the long-term economic stability of the state.

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JEREMY PRICE, AMERICANS FOR PROSPERITY, JUNEAU, spoke against the bill. He shared that the organization advocated for decreased regulations and creating better opportunities for small business. He stated that it did not matter what profession the organization advocated for, it supported jobs and providing a level of certainty for Alaskans and the private sector. He shared that he had three children and hoped for a positive future for them. He believed that the bill did not provide a better future. He stated that according to the Bureau of Labor Statistics, Alaska's unemployment rate was 7.3 percent in February 2018 and the state lost 3,600 jobs according to the Department of Labor and Workforce Development (DOL). He asked if the bill created jobs. He believed the answer was no.

Co-Chair Foster left public testimony open.

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ELIZABETH DIAMENT, STAFF, REPRESENTATIVE PAUL SEATON, reviewed the sectional analysis of the new committee substitute (CS):

Section 1. Amends AS 43.55.011(e) Tax Rate
Changes production tax rate from 35% to 25% as of July 1, 2018, plus any supplemental rates added by Section 2. Retains change to gas rate after 2022.

Section 2. Amends AS 43.55.011(g) Supplemental Tax
Establishes a supplemental 5% tax bracket at a production tax value (PTV) of \$40 per barrel, an additional supplemental 5% tax bracket at \$50 PTV per barrel, and a third supplemental tax bracket at \$60 PTV per barrel. The supplemental tax rates only apply to the amount above each price trigger value. \$60 PTV per barrel is equal to approximately \$100 Alaska North Slope (ANS) price per barrel.

Section 3. Amends AS 43.55.014(b) Gas Tax Rate after 2022
Conforming amendment to new tax rates in AS 43.55.011(e) and (g).

Section 4. Amends AS 43.55.020(a) Monthly Installment Tax Payments
Conforming amendment to new tax rates in AS 43.55.011(e) and (g).

Section 5. Amends AS 43.55.020(g) Interest on Underpayment of Monthly Installments
Conforming amendment to new tax rates in AS 43.55.011(e) and (g).

Section 6. Amends AS 43.55.020(h) Interest on Overpayment of Monthly Installments
Conforming amendment to new tax rates in AS 43.55.011(e) and (g).

Section 7. Amends AS 43.55.020(k) Tax Payments by Private Property Owners
Conforming amendment to new tax rates in AS 43.55.011(e) and (g).

Section 8. Amends AS 43.55.020(l) Tax Payments by Private Property Owners
Conforming amendment to new tax rates in AS 43.55.011(e) and (g).

Section 9. Amends AS 43.55.160(a) Determination of Production Tax Value
Conforming amendment to new tax rates in AS 43.55.011(e) and (g).

Section 10. Amends AS 43.55.160(e) Determination of Carry Forward Annual Loss after 2022
Conforming amendment to incorporate changes in Section 12.

Section 11. Amends AS 43.55.160(f) Determination of Gross Value Reduction (GVR)
Conforming amendment to new tax rates in AS 43.55.011(e) and (g)

Section 12. Amends AS 43.55.160(h) Determination of Production Tax Value for Oil after 2022.
Adds references to incorporate the new supplemental tax brackets in AS 43.55.011(g) which takes effect in 2022.

Section 13. Repeals AS 43.55.024(i) and AS 43.55.024(j) Per Barrel Credits
Repeals the per barrel credit for GVR and NON-GVR oil.

Section 14. Transition Language
Gives the Department of Revenue authority to continue to apply the old tax criteria for purpose of monthly collection of installment payments.

Section 15. Transition Language
Gives retroactive regulatory authority to the Department of Revenue to adopt necessary regulations to implement the measures of the bill.

Section 16. Effective Date
Provides for an immediate effective date for Section 15

Section 17. Effective Date
Provides for an effective date of July 1, 2018 for all other sections.

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Representative Pruitt wanted to understand how the monthly installment tax changed and how it correlated to the proposed tax structure.

KEN ALPER, DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, responded that he had mentioned in an earlier hearing that 21 out of 25 pages of the legislation contained conforming language. He explained that much of the conforming language dealt with AS 43.55.020 related to the monthly installment payments. The monthly installment payments were a calculation of how much was owed that month based on the percentage of production tax value and the method of remitting the payment. The tax statute would add more subparagraphs and subsections. He exemplified that in AS 43.55.011 there were two new subparagraphs. The new CS revived some ACES provisions due to the supplemental tax brackets and the new statute made references to other statutes for purposes of calculations. He further explained that within the bill there were long conforming sections over several pages that did not include an amendment. The other provisions in the CS dealt with AS 43.55.160 that related to the calculation of production tax value and defined the net profits that were subject to the tax. He

explained that with a progressive tax a monthly value was necessary therefore, a separate calculation was needed. The progressivity section was complex. Therefore, a new large section, section (h) (3) was created. He delineated that AS 43.55.160 (a) defined the current "normal" production tax value. The (h) section replaced (a) in 2022. In 2022, gas reverted to a 13 percent gross tax related to a provision that would allow the state to receive gas-in-kind. The change required many statutory revisions to the production tax value. Specifically, AS 43.55.160(h) spelled out that the costs associated with oil and gas were being deducted from the value of oil only. However, the statute was written after SB 21 when the progressivity provisions were eliminated. Therefore, AS 43.55.160(h)(2) was added to include the progressivity built into the formula.

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Representative Pruitt thanked Mr. Alper for his explanation. He asked whether that related to interest on overpayment and if the CS was only conforming to statute and not changing it. Mr. Alper replied in the affirmative. He specified that the over and under payment sections in the CS were not related to delinquent taxes. The provisions concerned the monthly payment estimates and the interest calculation based on over and underpayments. The transition sections at the end of the bill related to the early effective date. The provisions allowed for older forms to be used for the estimated payments until new tax forms were developed. He noted that the department would waive any interest that was due if it was related to using the old forms.

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Vice-Chair Gara asked Mr. Alper to review what the actual tax payments were at various prices. He recalled that currently the new GVR fields not owned by the legacy producers paid no production taxes until the price of oil was \$70 per barrel. He asked whether he was correct. Mr. Alper answered in the affirmative. He explained that the gross value adjusted by the gross value reduction resulted in the net value taxed at 35 percent. The sliding scale per barrel credit could not go below the tax floor for legacy producers. The \$5 new oil credit could decrease the tax below the tax floor; the \$5 credit was equal to or more than the tax calculation up to the \$65/bbl. to \$70/bbl.

range; effectively GVR production would pay zero. Vice-Chair Gara asked whether the legacy fields paid the minimum 4 percent tax until the price of oil was \$74/bbl. Mr. Alper indicated that the 4 percent tax rate related to the percentage of a gross tax that was paid until a "crossover point" was reached. He detailed that the crossover point was the point where the 35 percent tax less the \$8 credit was greater than the gross value times 4 percent. Everything below the crossover point was taxed at 4 percent of the gross value, which at low prices was a "very high effective tax rate on net until prices dipped below the company's breakeven point." He furthered that as the net profits tax went into effect the effective tax rate gradually increased with the stair stepped per barrel credit and the 35 percent tax rate reached \$160/bbl. Vice-Chair Gara stated that the department had estimated that the cost structure on the slope was lower than the prior year. He asked about legacy oil and wondered when companies started paying more than the 4 percent gross minimum tax. He deduced that the point was roughly at \$65/bbl.

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Mr. Alper replied in the affirmative. He confirmed that in FY 19 \$65/bbl. was the crossover point. Vice-Chair Gara commented that the definition of new oil included legacy oil. He deduced that non-legacy producers paid zero percent production for new oil up to \$60/bbl. He asked if his statement was accurate. Mr. Alper responded in the affirmative and added that the crossover point was roughly at \$60/bbl. to \$70/bbl. Vice-Chair Gara inquired whether the state would receive any income from production taxes for 7 years from a new Alaska National Wildlife Refuge (ANWR) field if the price of oil was \$60/bbl. to \$65/bbl. Mr. Alper answered that there was a considerable number of variables with ANWR. He stated that the production costs would be higher because a pipeline to Prudhoe Bay was necessary and would add \$2/bbl. in costs. However, setting aside the variable issues, he agreed that for the first 3 to 7 years until the GVR expired, the producers would pay a very low tax. Subsequently, until the rest of their costs were recaptured the producers would pay a minimum tax. Vice-Chair Gara asked up to what prices a new producer would pay zero taxes for new oil in ANWR, assuming the same cost structure for Prudhoe Bay. Mr. Alper answered that the answer was the same at \$65/bbl. to \$70/bbl. He cautioned against using the term zero percent tax rate. He clarified

that the tax rate was 35 percent minus a credit and the GVR making the effective tax rate zero percent. He advised that effective tax rate was the proper terminology.

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Co-Chair Foster returned to public testimony.

KEVIN DURLING, SELF, ANCHORAGE (via teleconference), spoke against the bill. The oil and gas tax system had changed seven times in the past 13 years. He read a statement he attributed to a Department of Revenue (DOR) [not specifically cited] from a few days prior "After the legislature set in motion a process to revisit fair share issues with the intention to use this to inform the major next tax rewrite until the completion of the process set in motion last year it may be premature to consider a change to the tax system at present." He asked why the legislature was considering a bill that DOR did not agree with. He recommended that the current system should be allowed more time to work, which has already increased oil production. He opined that production could increase by 400 thousand more barrels at an estimated investment of \$13 billion. He worried that the new tax proposal could jeopardize investment. He wondered if the state was trying to be the least attractive tax regime.

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PETE FLUX, SELF, ANCHORAGE (via teleconference), spoke against the bill. He noted that he worked for a large oil company. He stated that he experienced excitement in the working environment over the "rejuvenated efforts" towards resource development. He reported a collective "heartfelt desire" to stabilize the tax structure. He believed that repeated changes made it almost impossible for companies to invest in multi-billion dollar projects. He spoke to the risk factor already contained in making large investment decisions and felt a changing tax structure "closed the door" on large projects.

Co-Chair Foster CLOSED public testimony.

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

Co-Chair Foster reviewed the schedule for the following day. He restated the amendment deadline.

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