

Introduced: 4/28/81
Referred: Resources and
Finance

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 SENATE BILL NO. 524

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to an investment tax credit allowed
7 against the state corporate income tax; and providing
8 for an effective date.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 43.20.036(b) is amended to read:

11 (b) For purposes of calculating the income tax payable under this
12 chapter, the taxpayer may apply as a credit against his tax liability
13 the [JOB DEVELOPMENT] investment credit allowed as to federal taxes
14 under Internal Revenue Code sec. 38 (26 U.S.C. 38) [50] upon only the
15 first \$20,000,000 [\$500,000] of qualified investment put into use for
16 each taxable year [(26 U.S.C. SEC. 50)]. This limitation does not apply
17 to the amounts invested in equipment which meets the definition of a
18 certified pollution control facility as defined under Internal Revenue
19 Code sec. 169 (26 U.S.C. sec. 169) as in effect on June 19, 1975 [THE
20 EFFECTIVE DATE OF THIS ACT] except that the date specified in Internal
21 Revenue Code [THAT] section 169(d) as a condition of qualifying a cer-
22 tified pollution control facility for a deduction does not apply.

23 * Sec. 2. This Act is retroactive to July 1, 1980, and applies to
24 expenditures which qualify for the investment credit which are made on or
25 after that date.

26 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-
27 070(c).

SB 524 (Act relating to an investment tax credit allowed
against the state corporate income tax)

Testimony
of
Commissioner of Department of Revenue
Thomas K. Williams
5/8/81

WILLIAMS - Thank you, Mr. Chairman. For the record my name is Tom Williams, and I'm the Commissioner of Revenue. SB 524 would amend the corporate (the regular corporate) income tax to increase the amount of eligible investment for which investment tax credit may be calculated. That's its primary program effect. It increases that from \$500,000 of qualified investment to \$20 million of qualified investment. And the way this credit works is that under the Internal Revenue Code (the Federal Law), 10% of the qualified investment is allowed as a dollar for dollar reduction in the net tax liability. It's not a deduction in figuring what your taxable income is--this comes off the bottom line. What your tax is, that you owe, you can reduce that amount dollar for dollar by 10% of the qualified investment. Under our statutes we allow, dollar for dollar, a reduction in the corporate tax liability at a rate of 18% of the Federal tax credit. In other words, if they got \$1 of Federal tax credit, they would get an 18¢ tax credit against their Alaska tax liability. By increasing the amount of qualified investment for which this credit may be

calculated from \$500,000 to \$20 million, that \$19,500,000 increase represents a potential increase in tax credit available to an individual corporation of \$351,000. That is \$351,000 he can take off his tax bill. We have estimated that if this bill were to pass, the revenue effects would be on the order of \$6 million a year, rising gradually by 1984-85 to over \$7 million a year in reduction in the corporate income tax receipts (again, the regular corporate income tax).

DANKWORTH - Rising to where? Six million to where?

WILLIAMS - Six million to \$7-1/2 million per year. I think that this bill as it's drafted now . . . it's really not good policy. I think that . . . well, for one thing, the investment can occur anywhere. And predominantly the taxpayers who have regular corporate tax liability large enough to avail themselves of the benefits of this increase conduct most of their investments outside. For instance, the oil companies themselves--those parts of the oil business that are, say, a refinery outside or a tanker outside, or something like that that is not taxed under the Special Oil Corporate Tax, those investments that they make for that investment would in fact be a source of a credit for them. So if ARCO has a subsidiary owning its oil and gas interests up here, as an example, and they build some new supertanker, they could take the investment tax credit for that supertanker up to \$20 million bucks. Now I don't know in fact whether ARCO has such a supertanker, and I'm not, of course, attempting to represent that they

have a separate company up here from the parent. My point was by way of illustration. There are companies up here that are very large and not all of their enterprise, even the oil companies, not all of their enterprise is in fact taxed under 43.21. In addition we have companies like Sears and Penneys, a number of other large mercantile companies that may be able to take advantage of this. We have a lot of what objectively are very large companies but nevertheless are small in comparison to the principal oil companies themselves, such as drilling companies who have very large capital investments in semi-submersible rigs, some of which may never come up here but which nevertheless would be a source of qualified investment under the Federal Internal Revenue Code, and by this amendment, therefore, would be adapted into the Alaska Tax Code, and thus they would be allowed to shelter income that we would otherwise tax with these outside investments. I don't think that's a terribly prudent approach to our tax. I think it's a step away from where we want to be rather than a step towards where we may be going.

BENNETT - With the exception of that one area, Commissioner, does the administration support this concept, or this policy?

WILLIAMS - I don't think so. I don't. My recommendation to the Governor would not, is not, in favor of going to \$20 million because I don't think the benefits that we get from allowing that sort of credit will offset the negative revenue effects and costs that we will see flowing. There will be increased demands on the services of the government and at the same time this is acting

to diminish the revenues that are available to sustain (inaudible).

BENNETT - Any questions to the Commissioner? Senator Stimson.

STIMSON - Mr. Chairman, a question for the Commissioner. Is there a figure that you would be comfortable with--that you could support if you can't support the \$20 million?

WILLIAMS - \$500,000.

STIMSON - So you don't support increasing that?

WILLIAMS - I don't see a need to increase it at this time.

We're seeing a lot of upturn in the economy. Perhaps a couple of years ago when we were in the throes of the post-pipeline depression and the nation itself was going through a recession, some sort of stimulus for investment instate would be desirable, and obviously I assume that any such credit that we allow would be only from investments that are instate. That would have been a very desirable thing, but the economy has come around. We're seeing considerable revitalization in Anchorage and in Fairbanks and elsewhere through the state, and I don't think it's necessary to provide further stimulus because we may end up overheating the engine more than we want--the economic engine.

BENNETT - Any further questions?

DANKWORTH - Mr. Chairman, are we going to have some other witnesses?

BENNETT - Yes. No further questions? Thank you, Commissioner.

WILLIAMS - Thank you, Mr. Chairman.

STIMSON - Mr. Chairman, I'd just like to ask if the Commissioner is going to stay, because I may have more questions after we

listen to other witnesses.

WILLIAMS - Mr. Chairman, the Permanent Fund Corporation of which I am a trustee is meeting at the same time right now, and so I've absented myself from that meeting. If you do need to ask me questions if you could send someone down to the Governor's conference room on the third floor, I could break away and return.

BENNETT - Thank you Commissioner

SENATE FINANCE COMMITTEE

May 8, 1981 - 1:40 p.m.

SB 524 - ACT RELATING TO AN INVESTMENT TAX CREDIT ALLOWED
AGAINST THE STATE CORPORATE INCOME TAX

Individuals testifying concerning the legislation:

Thomas K. Williams
Commissioner of Revenue

Frank Danner
Peat, Marwick, Mitchell & Co.

Bob (Last name sounds like Ghee)
Alaska International Industries

Tulinda Deegan
Alaska Air Carriers Association

Bill Waguman
Fairbanks Miners Association

Jeannie Kline
Alaska Chapter
Associated General Contractors of America

Don Dickey
Alaska State Chamber of Commerce

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811

May 4, 1981

The Honorable Bettye Fahrenkamp
Chairperson
Senate Resources Committee
Room 112 - Capitol Building
Juneau, Alaska

Dear Senator Fahrenkamp:

Re: Senate Bill No. 524

Senate Bill No. 524, an Act relating to an investment tax credit allowed against the state corporate income tax, was introduced in the Senate on April 28, 1981 and was referred to the Senate Resources and Finance Committees.

For the consideration of the Senate Resources Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Gary L. Jenkins, Director, Audit Division, Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

RDS/rdh

cc: The Honorable Don Bennett
The Honorable M. E. Dankworth
Co-Chairmen
Senate Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Gary L. Jenkins, Director
Audit Division
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 524

Title An Act relating to the investment tax credit.

Requested by Senate Resources Committee

Date April 29, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection and Management

BRU, Program, or Subprogram(s) Affected Audit Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars) NONE

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE April 29, 1981

PREPARED BY Gary L. Jenkins

AGENCY Audit Division

PHONE 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

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100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars)

GENERAL FUND		[6,000.0]	[6,500.0]	[7,000.0]	[7,500.0]
FEDERAL FUNDS					
OTHER (Specify Fund Source)					

POSITIONS

NONE

FULL TIME					
PART TIME					
TEMPORARY					

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill will primarily benefit multistate and multinational corporations. The estimated revenue loss would be approximately 5 to 7 million dollars of corporate income tax.

IV. DATE April 29, 1981 PREPARED BY Gary I. Jenkins
 AGENCY Audit Division
 Original: Legislative Finance PHONE 465-2320
 cc: Budget and Management
Prime Sponsor (First Legislator Named)

APR 27 1981

STATE OF ALASKA
THE LEGISLATURE

HOUSE OF REPRESENTATIVES
LEGISLATIVE COUNSEL
SERVICES

LEGISLATIVE AFFAIRS AGENCY


MEMORANDUM

April 27, 1981

SUBJECT: An investment tax credit allowed as against
the state's corporate income tax (Work Order
Number 12-1561)

TO: Senator Don Bennett

FROM: John B. Chenoweth
Legislative Counsel



In response to your first request with respect to an increase of tax credit presently permitted for certain corporate investments, I noted that 26 U.S.C. 50, presently referred to AS 43.20.036(b), was, in fact, repealed, effective November, 1978.

The present bill, previously provided to you, corrects the reference to the investment credit by removing reference to a "job development" purpose and by citing the correct cross-reference in the United States Internal Revenue Code (26 U.S.C. 38). The additional operative provision, the key element of your first request, is to authorize an increase in the amount of a qualified investment for which the credit may be claimed from \$500,000 to 20 million dollars. 1/

1/ Where, generally, the cost of acquiring income producing property or interest is a capital expenditure, not deductible as an ordinary and necessary expense of trade or business in the year in which the expenditure is made, 26 U.S.C. 38 allows a tax credit for investment, generally, in depreciable machinery and equipment (in addition to the depreciation otherwise allowable) to encourage capital investment.

AGO 798065 +

Senator Don Bennett

Page 2

April 27, 1981

Additionally, in this bill, I am taking the opportunity to substitute for a reference "the effective date of this act" the actual effective date of AS 43.20.036(b) when originally enacted, and have substituted for the rather vague reference to "that section" (with respect to full credit for investments for qualifying pollution control facilities) the actual section and subsection reference for qualifying pollution control facilities found in the Internal Revenue Code.

Finally, the effective date clause is set to July 1, 1980, a date during the last calendar year which would fall within one year of the presumed effective date of this amendment, but permitting a taxpayer to claim a credit for a qualifying investment made on or after July 1, 1980, without regard to the taxpayer's own tax year, for the reasons which I more fully noted to you in the memo accompanying the original of the bill.

JBC:ljb

APR 27 1981

LEGISLATIVE AFFAIRS AGENCY


MEMORANDUM

April 27, 1981

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AGO 798052

SB 524

Senator Don Bennett
Page 2
April 27, 1981

Additionally, in this bill, I am taking the opportunity to substitute for a reference "the effective date of this act" the actual effective date of AS 43.20.036(b) when originally enacted, and have substituted for the rather vague reference to "that section" (with respect to full credit for investments for qualifying pollution control facilities) the actual section and subsection reference for qualifying pollution control facilities found in the Internal Revenue Code.

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JBC:ljb

STATE OF ALASKA

THE LEGISLATURE

MEMORANDUM

BUDGET AND AUDIT COMMITTEE

JUNEAU 99801

AUDIT DIVISION
POUGH W — ALASKA OFFICE BUILDING

FINANCE DIVISION
POUGH WF — STATE CAPITOL

DATE: January 27, 1982

TO: Honorable Al Adams
Chairman
House Finance Committee

FROM: Milt Barker, ^{MB} Fiscal Analyst
Legislative Finance Division

SUBJ: Fiscal Impact of Ch. 116, SLA 1981

Impact

Last session changes were made in the petroleum income tax and severance tax in SB 524 (ch. 116, SLA 1981).

Table I projects FY 84 petroleum income taxes and severance taxes as if the old law were still in place. If that were the case, FY 84 revenues from these two taxes would total \$2,773.4 million, using the Department of Revenue's current assumptions about prices, productions, etc.

Under the new law now in place and using the same assumptions, the Department of Revenue projects FY 84 revenue from these two taxes at \$2,573.4 million (see January 1982 "Revenue Sources").

This is a reduction in FY 84 revenue as a result of Ch. 116 of \$200.0 million. Using amounts contained in Commissioner Williams' memo of January 13, 1982, the combined loss for FY 82-84 is \$411.1 million.

Revision in Department's Assessment of Fiscal Horsepower of Apportionment

This represents a deterioration from the anticipated reduction at the time of enactment of Ch. 116.

At that time, estimates of the reduction in the petroleum corporate income tax were based on proprietary data submitted to the Department of Revenue by ARCO, Exxon, and Sohio. On the basis of this data, factors were developed for converting total income tax liability under the old law, AS 43.21, to the new law, Ch. 116. The ratios for FY 83 and FY 84 were .311 and .353 for income taxes calculated on an accrual basis. On a cash basis, the FY 84 ratio of new law revenues to old law revenues could have reasonably been estimated at .34 because of the one quarter year lag in payment of income tax liabilities.

January 26, 1982

Under the old law, petroleum income taxes are now estimated at \$1208.3 million for FY 84 on a cash basis (from Table I) while under the new law they are estimated at \$360.0 million (from "Revenue Sources"). The implied factor is now .298.

A more general rule of thumb used last year to convert old law income taxes to new was to take 50% of the old law liability after allowing a deduction for windfall profits taxes. This percentage was based on a March 3, 1981 memo from Wilson Condon. Table IV shows that the proprietary data implied that this was a nearly perfect rule of thumb for the period under consideration.

Table III indicates that the proper percentage implied by current revenue estimates would be 39%.

The current revenue estimates thus imply a 13% to 22% downward revision in the Department of Revenue's assessment of the ability of the new income tax to raise revenue.

Methodology of Current Estimates

This downgrading of the fiscal horsepower of the new apportionment income tax results from new estimates by the Department of Revenue. These estimates attempt to calculate the tax as it would actually be calculated by the companies using their adjusted federal taxable income and specific apportionment factors defined in Ch. 116.

However, the Department's methodology does not take into consideration proposed regulation 15 AAC 19.191(g), which would include in the property apportionment factor lease bonuses and the capitalized value of royalties (8 times the annual royalty). Presumably, this regulation would have a positive effect on income tax revenue.

It should be pointed out that no tax payments have yet been received under the apportionment method. At this point there is still no real world experience on which to calibrate estimates of the fiscal horsepower of apportionment.

attachments

cc: House Democrats

MB:bf

TABLE I
 FY 83-84 Petroleum Revenues Under Prior Statutes
 Using Current Department of Revenue Assumptions
 (\$ Millions)

	(1)	(2)	(3)	(4)	(5)	(6)
	<u>Sadlerochit</u>	<u>Kuparuk</u>	<u>Cook Inlet</u>	<u>TAPS</u>	<u>Total (Accrual Basis)</u>	<u>Total (Cash Basis)</u>
<u>FY 83</u>						
Royalty	1572.8	89.0	104.6	--	1766.4	
Severance	1211.6	68.7	31.8	--	1312.1	
Petroleum Income Tax	814.9	40.6	51.7	179.6	1086.8	
<u>FY 84</u>						
Royalty	1922.1	137.5	107.0	--	2166.6	2166.6
Severance	1426.6	102.2	36.3	--	1565.1	1565.1
Petroleum Income Tax	992.8	66.9	52.7	136.4	1248.8	1208.3

NOTES:

- Royalty = production for FY 83 and FY 84 at 1.504 and 1.496 million BPD X (prices of \$23.62 and 28.92 from "Petroleum Production Revenue Forecast", Alaska Department of Revenue, December 1981 less field costs of 70¢ and 76¢) X .125; field costs are Legislative Finance estimates; production rates supplied by Department of Revenue.

Severance = production X prices X .875 working interest X .1225 tax rate X ELF factors of .8718 and .8428 from Col. 6, Table 5 of "Fiscal Analysis of the Proposed Backstop Tax Legislation", Gregg Erickson, May 1981.

Income Tax = (production X prices less royalty and severance and Cols. 3 through 9, Table 9, "Erickson") X .094 tax rate.
- Royalty = production for FY 83 and FY 84 at .089 and .111 million BPD X (Sadlerochit prices less field costs less \$1.00 additional transport cost) X .125; production rates supplied by Department of Revenue.

Severance = production X (Sadlerochit prices less \$1.00) X .875 working interest X .1225 tax rate X Sadlerochit ELF factors.

Income Tax = [production X (Sadlerochit prices less \$1.00) less royalty and severance and cols. 6 through 8, Table 10 "Erickson"] X .094 tax rate.
- Royalty = oil production for FY 83 and FY 84 at .064 and .0595 million BPD X prices of \$32.80 and \$35.64 X .125 plus gas royalties; from "Petroleum Production Revenue Forecast", Table 2.

Severance = oil production X prices X .875 working interest X .1225 tax rate X ELF

(continued)

factors of .27 and .32 derived from Table 2 of "Petroleum Production Revenue Forecast" plus gas severance taxes from "Petroleum Production Revenue Forecast", Table 2.
Income Tax = (oil production X prices plus gas royalties from "Petroleum Production Revenue Forecast" divided by .125 less royalty and severance and Cols. 8 through 10, "Erickson") X .094 tax rate.

4. Income Tax = [FY 83 and FY 84 tariffs of \$5.62 and \$4.74 X (Sadlerochit plus Kuparuk production) less Cols. 4 through 8, Table 11, "Erickson"] X .094 rate; tariffs from "Petroleum Production Revenue Forecast".
5. Sum of Cols. 1 through 4.
6. Same as Col. 5 except FY 84 income tax = .75 FY 84 accrual basis income tax plus .25 FY 83 accrual basis income tax.

TABLE II
WINDFALL PROFITS TAXES
UNDER CURRENT DEPARTMENT OF REVENUE ASSUMPTIONS
AND PRIOR LAW

	(1) Sadlerochit Production Subject to Tax <u>(Millions of Barrels)</u>	(2) Base Price <u>(\$/ Barrel)</u>	(3) Windfall <u>(\$ Millions)</u>	(4) Severance Deduction <u>(\$ Millions)</u>	(5) Net Windfall <u>(\$ Millions)</u>	(6) Sadlerochit Windfall Profits Tax <u>(\$ Millions)</u>	(7) Cook Inlet Windfall Profits Taxes <u>(\$ Millions)</u>
FY 83	480.3	16.65	3347.7	357.5	2990.2	2093.1	361.2
FY 84	477.8	19.23	4629.9	478.0	4151.9	2906.3	365.7

NOTES:

1. FY 83 and 84 production at 1.504 and 1.496 million BPD X .875 working interest; production provided by Department of Revenue.
2. Col. 3, Table 7 "Fiscal Analysis of Proposed Backstop Tax Legislation", Gregg Erickson, May 1981.
3. (FY 83 and 84 prices of \$23.62 and \$28.92 from "Petroleum Production Revenue Forecast", Department of Revenue, December 1981 less Col. 2) X Col. 1.
4. Severance taxes from Table I, Col. 1 X (prices - base prices)/prices
5. Col. 3 - Col. 4
6. Col. 5 X .7 tax rate.
7. Derived from line 5, Table 17, "Erickson".

TABLE III
 PETROLEUM INCOME TAXES UNDER CURRENT LAW
 VS. PRIOR LAW WITH WINDFALL PROFITS TAX DEDUCTION
 USING CURRENT DEPARTMENT OF REVENUE ESTIMATES
 (\$ Millions)

	(1)	(2)	(3)	(4)	(5)	(6)
	Petroleum Income Taxes Prior Law <u>(Accrual Basis)</u>	Value of Windfall Tax <u>Deductions</u>	Prior Law Taxes with Windfall <u>Deductions</u>	Prior Law Taxes with Windfall Deduction <u>(Cash Basis)</u>	Current Law Petroleum Income Tax <u>(Cash Basis)</u>	Current Law as a Percent of Prior Law with Windfall <u>Deduction</u>
FY 83	1086.8	230.7	856.1			
FY 84	1248.8	307.6	941.2	919.9	360.0	39%

NOTES:

1. Col. 5, Table I
2. (Col. 6 + Col. 7, Table II) X .094 tax rate
3. Col. 1 - Col. 2
4. .25 FY 83 amount + .75 FY 84 amount from Col. 3
5. "Revenue Sources", Department of Revenue, January 1982
6. Col. 5 ÷ Col. 4

Table IV
 Comparison of Proprietary Factors v.s. 50% Rule of Thumb for Estimating Ch. 116 Income Taxes
 (\$ Millions)

	(1)	(2)	(3)	(4)	(5)	(6)
FY	<u>AS 43.21 (Accrual)</u>	<u>Proprietary Factor</u>	<u>Ch. 116 Income Tax (Accrual)</u>	<u>Windfall Profits Deductions</u>	<u>AS 43.21 Less Windfall Deduction</u>	<u>Ratio of Ch. 116 To AS 43.21 Less Windfall Deduction</u>
83	1402.6	31.1%	436.2	426.7	975.9	44.7%
84	1535.1	35.3%	541.9	483.6	1051.5	51.5%
85	1649.6	36.2%	597.2	536.3	1113.3	53.6%
					Average	49.9%

1. Table 17, "Erickson"
2. See text of this memo.
3. Col. 1 x Col. 2
4. Table 17, "Erickson"
5. Col. 1 - Col. 4
6. Col. 3 ÷ Col. 5

This analysis is based on Table 17 of "Fiscal Analysis of the Proposed Backstop Tax Legislation", Gregg Erickson, May 1981 and uses price assumptions then current.

Prepared by: Legislative Finance
 Milt Barker
 1/27/82

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W — ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF — STATE CAPITOL

JUNEAU 99801

MEMORANDUM

DATE: March 13, 1982

TO: Honorable Al Adams, Chairman
House Finance Committee

FROM: Milt Barker, ^{MB}Fiscal Analyst
Legislative Finance Division

SUBJ: FY 83 Fiscal Impact of Ch. 116, SLA 1981

At your request, I have estimated the FY 83 fiscal impact of changes made last session in the petroleum corporate income tax and severance tax in SB 524 (Ch. 116, SLA 1981). The impact is estimated using the medium price estimates from my February 24, 1982 memo.

Table I (attached) shows that the liquid general funds available for FY 82 are \$266.6 million less as a result of that legislation. This ignores the potential liability the state would have under the previous statutes.

Table I also shows that if the former statutes were still in place, except that income tax deductions were allowed for windfall profits taxes and "warts", the amount available for FY 83 would be \$163.9 million less than under current statutes. This occurs principally because of retroactive deductions claimed in FY 82. The revenue for FY 83 would be greater under previous statutes even with windfall and "warts" deductions by approximately \$90 million.

The amount available under previous statutes as shown in Table I would not necessarily be the result of a repeal of Ch. 116, depending on the effective date of the repeal. Since July 1981, severance taxes generally have accrued at the higher 15% rate, undiminished by any ELF factor. The corporate income taxes also have accrued at a higher 11% tax rate for calendar 1981.

NOTE: The amounts available for appropriation are net of the \$1.8 billion appropriated to the permanent fund and \$209.2 million appropriated for FY 83 last session. These two items have already been appropriated. They do not represent an amount available for appropriation unless they are first repealed by law.

MB:bf

cc: Representative Halford

FY 83 Available for Appropriation		Revenue	
	FY 82	FY 82	FY 83
Current Statutes	\$1855.9	\$3722.9	\$3362.5
Previous Statutes	2122.5	3831.0	3521.0
Previous Statutes with Deductions	1692.0	3469.3	3452.2

(\$ Millions)

If oil prices do reach, and in real dollars stay at, the levels used in this memo, the value to oil companies of a windfall profits tax deduction will be minimal after FY 82. (See Table III.)

March 13, 1982

Honorable Al Adams, Chairman

TABLE I
GENERAL FUNDS AVAILABLE FOR APPROPRIATION
MEDIUM PRICE ESTIMATE
(\$ Millions)

	Current Statutes		Previous Statutes		Previous Statutes With Windfall & Warts Deductions	
	Liquid General Funds	Total General Funds	Liquid General Funds	Total General Funds	Liquid General Funds	Total General Funds
General Fund Balance 6/30/81 ¹	490.8	891.6	490.8	891.6	490.8	891.6
<u>FY 82</u>						
Revenue ²						
Royalty (Net of Permanent Fund)	1108.0	1108.0	1108.0	1108.0	1108.0	1108.0
Severance	1519.2	1519.2	1127.1	1127.1	1127.1	1127.1
Petroleum Corporate Income Tax	434.7	434.7	934.9	934.9	573.2	573.2
Property Tax	155.0	155.0	155.0	155.0	155.0	155.0
Other	506.0	506.0	506.0	506.0	506.0	506.0
Total Revenue	3722.9	3722.9	3831.0	3831.0	3469.3	3469.3
Lapse and Loan Repayments ¹	74.0	50.0	74.0	50.0	74.0	50.0
Appropriations ³	<u>(5609.1)</u>	<u>(5609.1)</u>	<u>(5609.1)</u>	<u>(5609.1)</u>	<u>(5609.1)</u>	<u>(5609.1)</u>
General Fund Balance 6/30/82	(1321.4)	(944.6)	(1213.3)	(836.5)	(1575.0)	(1198.2)
<u>FY 83</u>						
Revenue ²						
Royalty (Net of Permanent Fund)	983.9	983.9	983.9	983.9	983.9	983.9
Severance	1320.5	1320.5	975.4	975.4	975.4	975.4
Petroleum Corporate Income Tax	372.6	372.6	876.2	876.2	807.4	807.4
Property Tax	157.7	157.7	157.7	157.7	157.7	157.7
Other	527.8	527.8	527.8	527.8	527.8	527.8
Total Revenue	3362.5	3362.5	3521.0	3521.0	3452.2	3452.2
Loan Repayments ¹	24.0	--	24.0	--	24.0	--
Appropriations ⁴	<u>(209.2)</u>	<u>(209.2)</u>	<u>(209.2)</u>	<u>(209.2)</u>	<u>(209.2)</u>	<u>(209.2)</u>
General Funds Available for Appropriation	1857.9	2208.7	2122.5	2475.3	1692.0	2044.8

NOTES TO TABLE I:

1. "Executive Budget, FY 83", Budget & Management, Office of the Governor.
2. From Table II of this Memo and Table III of February 24, 1982 Memo of Milt Barker.
3. This is the figure in "Executive Budget, FY 83" increased by \$400 million in Permanent Fund appropriations that had to be deleted and reduced by \$50 million that had been included for supplementals.
4. \$100 million for energy and \$101.2 million for municipal aid in Ch. 92, SLA 81 and \$8.0 for senior citizen housing in Ch. 76, SLA 81.

TABLE II
PROJECTED PETROLEUM REVENUES
PREVIOUS STATUTES
(\$ Millions)

	(1) <u>Sadlerochit</u>	(2) <u>Kuparuk</u>	(3) <u>Cook Inlet</u>	(4) <u>TAPS</u>	(5) <u>Total (Accrual Basis)</u>	(6) <u>Retro "Warts" & Windfall Deductions</u>	(7) <u>Total (Cash Basis)</u>
<u>Previous Statutes</u>							
<u>FY 82</u>							
Severance	1072.2	26.4	28.5	--	1127.1	--	1127.1
Petroleum Corporate Income Tax	703.8	15.9	56.1	191.7	967.5	--	934.9
<u>FY 83</u>							
Severance	895.5	51.8	28.1	--	975.4	--	975.4
Petroleum Corporate Income Tax	566.3	27.4	45.9	206.2	845.8	--	876.2
<u>Previous Statutes with Windfall Profits Tax and Warts Deductions</u>							
<u>FY 82</u>							
Severance	1072.2	26.4	28.5	--	1127.1	--	1127.1
Petroleum Corporate Income Tax	578.3	15.9	24.7	191.7	810.6	(244.0)	573.2
<u>FY 83</u>							
Severance	895.5	51.8	28.1	--	975.4	--	975.4
Petroleum Corporate Income Tax	562.1	27.4	10.6	206.2	806.3	--	807.4

PREPARED BY:

Legislative Finance Div.
March 11, 1982

NOTES TO TABLE II

1. Severance = production x (in-value price + field costs) from Table VI of February 24, 1982 memo from Milt Barker x .875 working interest x .1225 tax x ELF from Col. 6, Table 5, "Fiscal Analysis of the Proposed Backstop Tax Legislation", Gregg Erickson, May 1981.
Income tax = (production x (in-value price + field cost) less royalty from Table III of Barker memo less severance from above less other deductions from "Erickson" Table 9) x .094.
2. Severance = production x (in-value price + field costs) from Table VII of Barker memo x .875 working interest x .1225 tax rate x Sadlerochit ELF factors from Col. 6, Table 5 "Erickson".
Income Tax = (production x (in-value price + field costs) less royalty from Table III of Barker memo less severance from above less other deductions from "Erickson" Table 10) x .094.
3. Severance = oil production from Col. 2, Table 12 "Erickson" x (Sadlerochit in-value price + \$10 per barrel for FY 82 and FY 83) x .875 working interest x .1225 tax rate x ELF factors of .23, and .27 for FY 82-83 derived from data in December 1981 "Petroleum Production Revenue Forecast" plus gas severance taxes from "Petroleum Production Revenue Forecast."
Income Tax = (oil production x price plus gas production x price from Table 12 "Erickson" less royalty from Table III from Barker memo, less severance from above less additional deductions from Table 12 "Erickson") x .094.
4. Income Tax = net income from Col. 8, Table II "Erickson" except FY 83 estimate which uses \$2,193.7 million net income based on a tariff of \$6.08 to account for Exxon's reduced tariff x .094.
5. Sum of columns 1 through 4.
6. Windfall profits tax of \$2.016.2 million for FY 81 at a tax rate of .094 = \$189.5 FY 81 tax benefit for this deduction. This is lagged one quarter of a year to put the benefit on a collections basis using \$18.9 million from "Erickson" Table 17, Note 2 as the value of windfall deductions for the last quarter of FY 80. "Warts" deductions for FY 81 and prior years have a value of \$83 million according to the Department of Revenue fiscal note for FCCS SB 524.
7. FY 82 and FY 83 severance = Col. 5.
FY 82 and FY 83 income tax = Col. 5 income tax lagged one quarter plus Col. 6.
8. Previous Statutes with Windfall Profit Tax and Warts Deductions
In this second set of estimates, the Sadlerochit income tax figure allows deduction of windfall profits taxes shown in Table III and the Cook Inlet income tax figures allow deductions of windfall profit taxes derived from Line 5, Table 17, "Erickson".

TABLE III
SADLEROCUIT WINDFALL PROFIT TAX ESTIMATES

	(1)	(2)	(3)	(4)	(5)
	<u>WORKING INTEREST PRODUCTION (Millions of Barrels)</u>	<u>WELLHEAD PRICE PER BARREL</u>	<u>WINDFALL BASE PRICE</u>	<u>NET WINDFALL (\$ MILLIONS)</u>	<u>WINDFALL PROFITS TAX (\$ MILLIONS)</u>
FY 82	479.2	19.42	14.92	1907.9	1335.6
FY 83	479.2	16.80	16.65	63.9	44.7

NOTES:

1. Assumes production of 1.5 million BPD less 1/8 royalty exempt from windfall profits tax.
2. From Table VI of February 24, 1982 memo from Milt Barker.
3. Table 7, Col. 3, "Fiscal Analysis of the Proposed Backstop Tax Legislation," Gregg Erickson, May 1981.
4. (Col. 1 x (Col. 2 - Col. 3)) - (Severance taxes from Table II) (Col. 2 - Col. 3)/Col. 2.
5. Col. 4 x .7.

COMMITTEE REPORT

HOUSE

FURTHER:

Date: _____

Mr. Speaker:

The Committee on _____ has had _____

The Committee on _____ has had _____

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

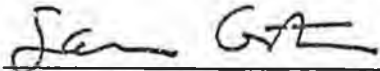
MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

Letter of Intent

HOUSE FINANCE COMMITTEE SUBSTITUTE
FOR SB 524(Fin)

HCSSB 524(Fin) provides an increase in the investment tax credit allowed for in state investments for corporations doing business in Alaska. In addition, the House Finance Committee substitute includes the revisions to tax chapters AS 43.20, AS 43.21, 43.55, and AS 43.58 introduced by the Governor in Sponsor Substitute for HB 200, and the record and report of the Special Gas Pipeline Committee on SSHB 200 is incorporated as part of the House Finance Committee record and report on HCS SB 524.



Rep. Sam Cotten, Chairman
House Finance Committee

Original sponsor: Finance Committee

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 524 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to taxes; and providing for an effective date."
7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 43.20.011(e) is amended to read:

10 (e) There is imposed for each taxable year upon the entire taxable
11 income of every corporation derived from sources within the state
12 a tax consisting of a normal tax equal to 5.4 percent of taxable income,
13 and a surtax which is equal to 4.0 percent of taxable income, except
14 that the tax on a corporation doing business in the state which
15 derives income from [ENGAGED IN] the production or pipeline transportation
16 of crude oil or natural gas in the state shall be determined and
17 paid in accordance with AS 43.21. Income from sharing in a regional
18 Native corporation's revenue that is required to be divided under
19 sec. 7(i) and sec. 7(j) of the Alaska Native Claims Settlement Act
20 (P.L. 92-203) is taxable income of the recipient under this chapter,
21 except that a recipient who is subject to AS 43.21 shall treat the
22 income as taxable under AS 43.21.040. For tax years beginning after
23 December 31, 1979, the surtax exemption is \$50,000. For controlled
24 corporations described in secs. 1561 - 1563 of the Internal Revenue
25 Code only one surtax exemption may be allowed for the controlled group.

26 * Sec. 2. AS 43.20.036(b) is amended to read:

27 (b) For purposes of calculating the income tax payable under this
28 chapter, the taxpayer may apply as a credit against his tax liability
29 the [JOB DEVELOPMENT] investment credit allowed as to federal taxes

1 under Internal Revenue Code sec. 38 (26 U.S.C. 38) [50] upon only the
2 first \$20,000,000 [\$500,000] of qualified investment put into use in
3 the state for each taxable year [(26 U.S.C. SEC. 50)]. This limitation
4 does not apply to the amounts invested in equipment which meets the
5 definition of a certified pollution control facility as defined under
6 Internal Revenue Code sec. 169 (26 U.S.C. sec. 169) as in effect on
7 June 19, 1975 [THE EFFECTIVE DATE OF THIS ACT] except that the date
8 specified in Internal Revenue Code [THAT] section 169(d) as a condition
9 of qualifying a certified pollution control facility for a deduction
10 does not apply.

11 * Sec. 3. AS 43.21.010 is amended to read:

12 Sec. 43.21.010. APPLICATION. This chapter applies to every cor-
13 poration doing business in the state which derives income from the pro-
14 duction of oil or gas from a lease or property in the state [,] or from
15 the pipeline transportation of oil or gas in the state. The tax calcu-
16 lated under this chapter is measured by the total taxable income of the
17 corporation during the tax period as determined under [DEFINED IN]
18 AS 43.21.020 - 43.21.040 and is calculated [DETERMINED] at the rates
19 established under AS 43.20.011(e).

20 * Sec. 4. AS 43.21.020(c) is amended to read:

21 (c) Net income from oil and gas production shall be determined by
22 the department by deducting from gross income the following:

23 (1) royalties paid in kind or in value;

24 (2) taxes imposed under AS 43.55 and AS 43.57 which are ac-
25 tually paid or incurred by the corporation on the production from a
26 lease or property in the state;

27 (3) taxes imposed under AS 43.56 and AS 29.53 which are ac-
28 tually paid or incurred by the corporation on property used directly in
29 the production of oil or gas from a lease or property in the state, in-

1 cluding property used in production, gathering, treatment, or prepara-
2 tion of the oil or gas for pipeline transportation, but only if those
3 property tax payments were due and payable only after the date of com-
4 mercial production from the lease or property with which the property
5 was associated;

6 (4) the direct costs incurred by or for the corporation in
7 operating the lease or property, including the direct costs of produc-
8 ing, gathering, treating, or preparing the oil or gas for pipeline
9 transportation, but not of any payments received for those activities
10 and not including any indirect cost or overhead expense;

11 (5) depreciation (using the unit of production method or
12 such other reasonable methods as the department may by regulation es-
13 tablish on property used directly in the production, gathering, treat-
14 ment, or preparation of the oil or gas for pipeline transportation in-
15 cluding amortization of capitalized interest for investments in this
16 property at a rate not to exceed the average cost of borrowed capital
17 to the taxpayer during the year in which it is capitalized;

18 (6) the amortization of lease acquisition payments and taxes
19 paid or incurred under AS 43.56 and AS 29.53 (including capitalized in-
20 terest on both) for or on producing properties before the commencement
21 of commercial production from the lease or property for which the prop-
22 erty is being used;

23 (7) interest expense of the corporation, not capitalized
24 during construction, that was paid or incurred in connection with prop-
25 erty in Alaska; however, unless (f) of this section applies, the inter-
26 est expense may [TO THE EXTENT THAT IT DOES] not exceed that portion of
27 the total interest paid by the consolidated business of which the cor-
28 poration is a part, determined by multiplying the total interest [(RE-
29 DUCED BY INTERCOMPANY TRANSACTIONS WITHIN THE CONSOLIDATED BUSINESS)]

1 by a fraction, the numerator of which is the value of the corporation's
2 real and tangible personal property used directly in the production of
3 oil or gas from a lease or property in the state and the denominator of
4 which is the value of all real and tangible personal property of the
5 consolidated business; in this subsection, "total interest paid by
6 the consolidated business" does not include interest expense arising
7 from intercompany obligations within the consolidated business except
8 to the extent that the interest expense reflects a pass-through of in-
9 terest on a third-party borrowing by the parent or other member of the
10 consolidated business with the purpose, expressed at the time of the
11 third-party borrowing, of financing Alaska business activity of the
12 taxpayer corporation;

13 (8) expenses incurred by the corporation after December 31,
14 1977, of unsuccessful exploration of oil or gas in the state including
15 the acquisition costs of abandoned properties, dry hole costs, and the
16 costs of geologic and geophysical exploration related to those aban-
17 doned properties;

18 (9) general overhead or administrative expense incurred by
19 the corporation attributable to deriving income from the production of
20 oil or gas from a lease or property in the state to the extent, except
21 as provided in (f) of this section, that it does not exceed [THE LESSER
22 OF:

23 (A)] that portion of the total general overhead or ad-
24 ministrative expense incurred by the consolidated business of
25 which the corporation is a part, determined by multiplying the
26 total general overhead or administrative expense by a fraction,
27 the numerator of which is the value of the corporation's real and
28 tangible personal property used directly in the production of oil
29 or gas from a lease or property in the state and the denominator

1 of which is the value of all real and tangible personal property
2 of the consolidated business;

3 (10) the amount of income from the production of oil and gas
4 from a lease or property that is divided among the regional Native
5 corporations under sec. 7(i) of the Alaska Native Claims Settlement
6 Act (P.L. 92-203);

7 (11) the amount by which the total tax paid or incurred by
8 the taxpayer under AS 43.58 for leases or properties in the state ex-
9 ceeds the amount of credit allowed to the taxpayer under AS 43.58.041;

10 (12) the tax imposed by sec. 4986 of the Internal Revenue
11 Code that is paid or incurred by the taxpayer for oil production from
12 leases or properties in the state [, OR

13 (B) THE SUM OF \$0.12 FOR EACH BARREL OF OIL AND \$0.02
14 FOR EACH THOUSAND CUBIC FEET OF GAS PRODUCED FROM A LEASE OR PROP-
15 ERTY IN THE STATE].

16 * Sec. 5. AS 43.21.020 is amended by adding a new subsection to read:

17 (f) If a corporation demonstrates to the satisfaction of the de-
18 partment that it paid or incurred actual expenses for interest or for
19 general overhead or administration attributable to deriving income from
20 the production of oil or gas from a lease or property in the state in
21 an amount greater than the amount determined under (c)(7) or (c)(9) of
22 this section, the department may allow the corporation to deduct the
23 greater amount.

24 * Sec. 6. AS 43.21.040(b) is repealed and reenacted to read:

25 (b) The total taxable income of the consolidated business is its
26 entire income less the portion of that entire income attributable to
27 worldwide production and pipeline transportation of oil and gas. In
28 this section,

29 (1) for a member of a consolidated business who is required

1 to file under the Internal Revenue Code, "entire income" means taxable
2 income under Subtitle F and chapter 1 of Subtitle A of the Internal
3 Revenue Code of 1954, as amended, except that those provisions adopted
4 after December 31, 1975, that change or modify exemptions from tax are
5 not adopted by reference as a part of this section until the second
6 January 1 following the effective date of the federal law;

7 (2) for a member of a consolidated business who is not
8 required to file under the Internal Revenue Code, "entire income" means
9 book income, except that a taxpayer may elect to report his income as
10 the income would be determined under (1) of this subsection.

11 * Sec. 7. AS 43.21 is amended by adding a new section to read:

12 Sec. 43.21.045. CREDITS. For purposes of calculating the tax
13 payable under this chapter, the taxpayer may apply as a credit against
14 his tax liability the investment credit allowed under AS 43.20.036(b)
15 and AS 43.20.021(d).

16 * Sec. 8. AS 43.21.050 is amended by adding a new subsection to read:

17 (d) If the methods of allocation and apportionment provided in
18 this chapter do not fairly represent the extent of a corporation's
19 business activity in the state, the corporation may petition for or the
20 department may require, in respect to all or any part of the corpora-
21 tion's business activity, if reasonable, the employment of any method
22 authorized under art. IV, sec. 18, of the multistate tax compact
23 (AS 43.19.010) to effectuate an equitable allocation and apportionment
24 of the corporation's income. The commissioner shall include in his
25 annual report required in AS 43.21.110 a report on all relief granted
26 under this subsection, including for each case a statement of the
27 changes in tax liability resulting from the granting of relief, the tax
28 years involved, and a description of the method of determining taxable
29 income that was substituted for those provided in this chapter.

1 * Sec. 9. AS 43.21.070 is amended to read:

2 Sec. 43.21.070. PAYMENT OF TAX. The tax levied under this chap-
3 ter is payable to the department on or before September 30 of each year
4 or in installments, including prepayments of estimated tax, at the
5 times and under the conditions the department may by regulation re-
6 quire. This tax is payable on the due date set out in this section
7 even though the assessment is under appeal or the validity, enforce-
8 ability or application of this chapter or any provision of this chapter
9 is challenged before the department or in the courts.

10 * Sec. 10. AS 43.58 is amended by adding new sections to read:

11 Sec. 43.58.011. FINDINGS AND PURPOSES. (a) The legislature
12 finds that

13 (1) since statehood the level of public services and public
14 facilities provided by the state government to its citizens has been
15 much below the level provided by other states to their citizens, and
16 this inadequacy has been the result of insufficient state revenues;

17 (2) there exists in Alaska today a level of public services
18 and public facilities far below that which Alaskans are reasonably
19 entitled to expect, and these unmet needs include inadequate public
20 transportation facilities, inadequate public health care facilities and
21 programs, inadequate communications facilities, inadequate public
22 education facilities, inadequate levels of police protection, over-
23 burdened justice facilities, and inadequate energy facilities, and an
24 economy overly dependent on nonrenewable resource development;

25 (3) with the increased revenues that have resulted from
26 increased development of oil resources in Alaska, this legislature,
27 acting on behalf of all the people of Alaska, has embarked upon a leg-
28 islative program intended to begin fulfilling some of the unmet public
29 needs described in (2) of this subsection, and it will take many years

1 of expenditures at current or increased levels to meet these needs;

2 (4) a part of this program includes preparing for the time
3 when the revenues derived from Alaska's nonrenewable resources begin to
4 decline and this preparation includes funding of the Alaska permanent
5 fund, encouraging development of renewable resources, and encouraging
6 economic diversification efforts;

7 (5) there is presently pending in the courts litigation
8 brought by certain taxpayers challenging the constitutionality of the
9 Oil and Gas Corporate Income Tax (AS 43.21), and if the taxpayers in
10 that litigation are successful, the future revenues available to meet
11 the important public needs described in (2) of this subsection will be
12 significantly diminished;

13 (6) it is in the public interest to provide an alternative
14 means of generating revenues sufficient to meet the state's present and
15 future needs if the constitutional challenge to AS 43.21 is successful;

16 (7) imposing additional or alternative state taxes upon
17 small businesses and newly developing industries in Alaska would have a
18 significantly adverse impact upon those businesses and would be coun-
19 terproductive to efforts to encourage economic diversification;

20 (8) the level of taxation currently imposed by the state on
21 the oil industry does not impose an undue burden on that industry and
22 has not discouraged exploration and development of oil resources in
23 Alaska;

24 (9) development of natural gas resources in Alaska has
25 lagged behind oil development in the state and additional or alterna-
26 tive taxes on the natural gas industry may discourage future natural
27 gas development;

28 (10) the imposition of a property tax on oil reserves with a
29 credit for income taxes paid will best provide sufficient alternative

1 revenues without discouraging economic diversification and without
2 discouraging present or future exploration and development of oil
3 resources;

4 (11) it appears that the Congress of the United States has
5 affirmatively granted the authority to tax developed and leased property
6 received under the Alaska Native Claims Settlement Act only to local
7 governments, for a 20-year period, and that a state tax on developed or
8 leased property received under the Alaska Native Claims Settlement Act
9 would be in conflict with the intent and purpose of that Act.

10 (b) The purposes of this Act are to

11 (1) enact a tax that will generate sufficient revenues to

12 (A) meet any judgment that might be rendered against
13 the state in the litigation concerning the Oil and Gas Corporate
14 Income Tax; and

15 (B) provide revenue comparable to the present and
16 projected future revenues derived from AS 43.21 if the Oil and Gas
17 Corporate Income Tax is found to be unconstitutional;

18 (2) avoid imposing cumulative tax liability on taxpayers
19 subject to the Oil and Gas Corporate Income Tax (AS 43.21) by granting
20 a credit of taxes paid under AS 43.21 for those persons subject to the
21 oil reserves property tax;

22 (3) avoid discouraging future exploration and development of
23 oil resources by imposing the tax only on property having commercial
24 production;

25 (4) avoid discouraging the development of economic diver-
26 sification and the development of natural gas production in the state;

27 (5) avoid creating a conflict with federal law by exempting
28 from this tax property received under the Alaska Native Claims Set-
29 tlement Act.

1 Sec. 43.58.021. AD VALOREM TAX. (a) Beginning July 1, 1981, an
2 annual tax is levied each tax year on the full and true value of tax-
3 able property under this chapter.

4 (b) The rate of levy is 25 mills, unless a different rate is en-
5 acted for a tax year no later than the last day of February in that tax
6 year.

7 Sec. 43.58.031. EXEMPTIONS. (a) The following property that
8 would otherwise be taxable property is exempt from taxation under this
9 chapter:

10 (1) property of the United States or the state;

11 (2) property exempt from state taxation under the laws of
12 the United States including the exemption of property, whether or not
13 developed or leased to third-parties, under sec. 21(d) of the Alaska
14 Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C.
15 1601, et. seq.);

16 (3) that portion of the full and true value of taxable prop-
17 erty attributable to gas reserves.

18 (b) Notwithstanding the exemptions from taxation authorized by
19 (a) of this section, a leasehold or similar interest held by a third
20 party in property described in (a)(1) or (a)(2) of this section is
21 taxable under this chapter to the extent of the interest.

22 Sec. 43.58.041. CREDITS. (a) The amount of tax under AS 43.21
23 paid during a tax year under this chapter by a taxpayer or the tax-
24 payer's consolidated business for tax periods under AS 43.21 beginning
25 after December 31, 1980, is allowed as a credit against the tax levied
26 under this chapter in the tax year for the taxpayer's taxable property.
27 The credit may not exceed the total amount of tax due for the tax year
28 under this chapter for all of the taxpayer's taxable properties.

29 (b) In addition to the credit allowed under (a) of this section,

1 the amount of tax paid under AS 43.21 by a taxpayer or the taxpayer's
2 consolidated business before July 1, 1981, is allowed as a credit
3 against the tax levied under this chapter for the taxpayer's taxable
4 properties.

5 (c) In applying the credits under (a) and (b) of this section,
6 the credit allowed under (a) of this section shall be applied before
7 applying any credit under (b) of this section. Credit under (b) of
8 this section shall be applied only to the extent that the combined
9 amount of applied credit under (a) and (b) of this section does not ex-
10 ceed three-quarters of the total amount of tax levied under this chap-
11 ter for all of the taxpayer's taxable properties. If the amount of the
12 credit under (b) of this section exceeds the amount that may be applied
13 for a tax year against the tax levied under this chapter, the excess
14 credit under (b) of this section may be carried forward and applied in
15 subsequent tax years until it has been exhausted.

16 (d) For purposes of determining and applying credits under (a)
17 and (b) of this section, tax paid by a taxpayer under AS 43.20 shall be
18 treated the same as if it had been paid under AS 43.21, but only if the
19 taxpayer would have been subject to AS 43.21 had the taxpayer been a
20 corporation.

21 Sec. 43.58.051. REDETERMINATION OF LIABILITY. If the income tax
22 liability of a taxpayer or the taxpayer's consolidated business under
23 AS 43.20 or AS 43.21 for a tax period is redetermined and adjusted
24 after the credit for that tax period has been applied under AS 43.58.-
25 041, or if the income tax liability of the taxpayer or the taxpayer's
26 consolidated business is redetermined under AS 43.20 and adjusted after
27 the credit for that tax period has been applied under AS 43.58.041,
28 then the taxpayer's tax liability under this chapter for the tax year
29 in which the credit was applied shall be redetermined, taking into

1 account the adjustment to the taxpayer's income tax liability.

2 Sec. 43.58.061. ASSESSMENT. (a) The department shall assess
3 taxable property under this chapter to the owner of it at its full and
4 true value as of July 1 of each tax year.

5 (b) The full and true value of taxable property under this chap-
6 ter is the estimated price that the property would bring for its proven
7 reserves in an open market and under the then prevailing market con-
8 ditions in a sale between a willing seller and a willing buyer both
9 conversant with the property and with prevailing values. In determin-
10 ing this value, the department shall consider all factors that may be
11 known by the department to affect the value of taxable property, in-
12 cluding but not limited to the discounted present value of the expected
13 future net income from the proven reserves of the taxable property.

14 (c) In assessing taxable property under this chapter, the depart-
15 ment may not include the assessed value of property subject to tax un-
16 der AS 43.56.

17 (d) In discounting the expected future net income from the tax-
18 able property to its present value under (b) of this section, the de-
19 partment shall presume that the appropriate discount rate is 11.6 per-
20 centage points above the rate of inflation implicit in the GNP deflator
21 over the five calendar years immediately preceding the assessment date.
22 A taxpayer may rebut this presumption only by proving to the department
23 by clear and convincing evidence that the use of the presumed discount
24 rate in the valuation of the property would result in constructive
25 fraud. In this subsection, "GNP deflator" means the deflator for the
26 gross national product published by the United States Department of
27 Commerce.

28 Sec. 43.58.071. ASSESSMENT ROLL. The department shall prepare
29 annually the assessment roll for taxation under this chapter. The roll

1 shall contain:

- 2 (1) a description of all taxable property;
- 3 (2) the assessed value of all taxable property; and
- 4 (3) the names and addresses of persons owning or otherwise
- 5 holding an interest in taxable property.

6 Sec. 43.58.081. ASSESSMENT NOTICE. On or before October 15 of

7 each tax year, the department shall send to every owner of taxable

8 property named in the assessment roll a notice of assessment showing

9 the assessed value of the property. The notice of assessment is effec-

10 tive on the date of its mailing.

11 Sec. 43.58.091. APPEAL. (a) A person aggrieved by the action of

12 the department in making an assessment may appeal that action and ob-

13 tain a formal hearing upon its validity before the department by filing

14 written objections to the assessment not later than 20 days after the

15 effective date of the assessment notice.

16 (b) The procedures for conduct of the formal hearing shall be in

17 accordance with AS 43.05.240. At the hearing the appellant bears the

18 burden of proof. In the absence of this proof the assessment is to be

19 upheld by the department. If the department, after hearing, determines

20 that a correction of the assessment is warranted, the department shall

21 correct the assessment and the assessment roll.

22 (c) Within 30 days after the decision by the department following

23 the hearing, a person aggrieved by that decision may appeal to the su-

24 perior court.

25 Sec. 43.58.101. CERTIFICATION. On or before February 1 of the

26 tax year, the department shall certify the final assessment roll. The

27 department shall mail to the owner, operator, or other person filing a

28 return and paying tax on the taxable property a statement of the amount

29 of tax due no later than March 15 of the tax year.

1 Sec. 43.58.111. SUPPLEMENTAL ASSESSMENT ROLLS. The department
2 shall, using the procedures set out in this chapter for the original
3 roll, prepare a supplemental assessment roll to include property omitted
4 from the original roll and property from which commercial production
5 commences after the beginning of the tax year. If property is included
6 on the supplemental assessment roll because commercial production from
7 it commences after the beginning of the tax year, the assessed value of
8 the property shall be reduced pro rata in proportion to the portion of
9 the tax year preceding the commencement of commercial production from
10 the property.

11 Sec. 43.58.121. INVESTIGATION. (a) The department may make an
12 investigation of property on which a return has been filed or on prop-
13 erty for which no return has been filed. In either case, the depart-
14 ment shall make its own valuation of the taxable property, which is
15 prima facie evidence of full and true value.

16 (b) An employee or agent of the department may enter any premises
17 necessary for the investigation during reasonable hours and may examine
18 property and other appropriate records. The owner of taxable property,
19 upon request, shall furnish to the employee or agent of the department
20 reasonable assistance required for the investigation. If an employee
21 or agent of the department seeking to enter any premises necessary for
22 an investigation under this section or to obtain reasonable assistance
23 required for an investigation under this section is refused entry or
24 assistance, the superior court may, after reasonable notice to and
25 hearing of the owner, order the owner to allow the entry or to furnish
26 the assistance.

27 (c) For the purpose of the investigation, the owner, operator, or
28 other person filing a return and paying the tax on the taxable property
29 or his representative may be required to present himself for examina-

1 tion under oath by the department.

2 Sec. 43.58.131. LIMITATIONS ON ASSESSMENT, COLLECTION, AND REFUND
3 OF TAXES. The limitations on assessment, collection, and refund of
4 taxes under AS 43.05.260, 43.05.270, and 43.05.275 apply to the tax
5 levied under this chapter except that a redetermination of tax under
6 AS 43.58.041(d) is not subject to these limitations.

7 Sec. 43.58.141. RETURNS AND PAYMENT OF TAX. (a) A return of
8 taxable property shall be submitted no later than August 1 on the form
9 prescribed by the department based on property values existing on
10 July 1 of each tax year

- 11 (1) by a person who is the owner of the property, or who
12 controls that property as agent, or on account of any other person;
- 13 (2) by a guardian or other person who has charge of taxable
14 property belonging to a minor or other person;
- 15 (3) by the trustee of a trust estate holding taxable proper-
16 ty in trust for the benefit of another person;
- 17 (4) by the executor or administrator of a deceased person's
18 estate which includes taxable property;
- 19 (5) by the receiver of a corporation having taxable property.

20 (b) The person required to submit the return specified under (a)
21 of this section is primarily liable for payment of the tax levied by
22 this chapter. The persons or estates specified in (a)(2) - (5) of this
23 section in whose behalf the tax levied by this chapter is to be paid
24 are secondarily liable for payment of the tax. With the written ap-
25 proval of the department, an operator or nonoperator of the lease or
26 property may submit returns or make payment of the tax levied under
27 this chapter on behalf of himself and such other persons as the depart-
28 ment may approve.

29 (c) The tax levied under this chapter is payable to the depart-

1 ment on or before June 30 of each tax year or in installments, includ-
2 ing prepayments, at the times and under the conditions the department
3 may by regulation require. This tax is payable on the due date set out
4 in this subsection or at the times required by the department under its
5 regulations even though the assessment is under appeal or the validity,
6 enforceability, or application of this chapter or any provision of this
7 chapter is challenged before the department or in the courts.

8 (d) With the prior written approval of the department, a person
9 submitting returns or making payments as required under this chapter
10 for more than one taxable property may regard those properties as a
11 single taxable property for purposes of submitting those reports or
12 making those payments.

13 (e) A person making payment of the tax levied under this chapter
14 on behalf of one or more other persons owning or otherwise holding an
15 interest in a taxable property may withhold a proportionate share of
16 the payment from any proceeds or other benefits from the taxable prop-
17 erty owed to a person on whose behalf the payment is made. Unless
18 otherwise specifically provided by written contract or agreement, the
19 person so withholding a proportionate share of the tax levied under
20 this chapter incurs no liability to those from whom it is withheld by
21 virtue of having made the withholding.

22 (f) By written notice the department may require a person filing
23 a return to submit additional information to the department within 30
24 days.

25 Sec. 43.58.151. REGULATIONS. The department may adopt regula-
26 tions in accordance with the Administrative Procedure Act (AS 44.62) as
27 appropriate to administer and enforce this chapter.

28 Sec. 43.58.161. DEFINITIONS. In this chapter

29 (1) "commercial production" means the production of oil or

1 gas for purposes of sale or other beneficial use, except when the sale
2 or beneficial use is incidental to the testing of an unproven well or
3 unproved completion interval;

4 (2) "department" means the Department of Revenue;

5 (3) "gas" means all hydrocarbon substances not defined as
6 oil in this chapter;

7 (4) "oil" means crude petroleum and other hydrocarbons re-
8 gardless of gravity that, when recovered, are recovered at the wellhead
9 in liquid form, and the liquid hydrocarbons known as distillate or
10 condensate that are recovered by separation from gas other than at a
11 gas processing plant;

12 (5) "operator" means the person conducting the exploration,
13 development, or production operation for a property;

14 (6) "property" means any right, title, or interest in or the
15 right to produce or recover oil or gas including:

16 (A) a mineral interest;

17 (B) a leasehold interest;

18 (C) a working interest, royalty interest, overriding
19 royalty interest, production payment, net profit interest, or any
20 other interest in a lease, concession, joint venture, or other
21 agreement for oil and gas exploration, development, or production;

22 (D) a working interest, royalty interest, overriding
23 royalty interest, production payment, net profit interest, or any
24 other interest in an agreement for unitization or pooling under
25 the provision of sec. 614(b)(3) of the Internal Revenue Code of
26 1954 as defined on the effective date of this paragraph;

27 (7) "proven reserves" means the volumes of oil and gas in a
28 known deposit which geological and engineering information indicate to
29 be recoverable in the future under prevailing economic conditions and

1 technology;

2 (8) "tax year" means a calendar period beginning on July 1
3 of one calendar year and ending on June 30 of the following calendar
4 year;

5 (9) "taxable property" means a property having commercial
6 production.

7 * Sec. 11. AS 43.58.041 has been included in sec. 10 of this Act so that
8 persons subject to the tax under AS 43.21 will not bear the cumulative bur-
9 den of both the tax under AS 43.21 and AS 43.58. It is the intent of the
10 legislature that the inclusion of this section granting tax credits does not
11 in any manner change the intent, validity, or enforceability of the basic ad
12 valorem tax imposed by this Act. If the inclusion of AS 43.58.041, or any
13 portion of it, results in a judicial decision that the ad valorem tax im-
14 posed by this Act is invalid, then AS 43.58.041, or that portion of it that
15 causes the invalidity, is void and of no effect, and AS 43.58, enacted in
16 sec. 10 of this Act, shall be read as if that section or that portion of it
17 had never been included.

18 * Sec. 12. If an exemption under AS 43.58.031(1), (2), or (3) is held
19 invalid by a final judgment of a court from which an appeal is not taken,
20 then that exemption is void, and AS 43.58, enacted in sec. 10 of this Act,
21 shall be read as if that exemption had never been included.

22 * Sec. 13. If the method of determining taxable income under either
23 AS 43.21.020 or 43.21.030 is held invalid by a final judgment of a court
24 from which an appeal is not taken, and if as a result of that judgment a
25 corporation, whether or not a party named in that judgment, receives a re-
26 fund of taxes or estimated taxes paid under AS 43.21, then the provisions of
27 AS 43.20 apply to that corporation for the entire period for which it re-
28 ceives the refund.

29 * Sec. 14. (a) Notwithstanding the provisions of AS 43.58.021(b), en-

1 acted in sec. 10 of this Act, the rate of levy under AS 43.58 for the tax
2 year beginning July 1, 1981, is 30 mills.

3 (b) Notwithstanding the provisions of AS 43.58.041(c), enacted in
4 sec. 10 of this Act, for the tax year beginning July 1, 1981, credit under
5 AS 43.58.041(b) shall be applied only to the extent that the combined amount
6 of applied credit under AS 43.58.041(a) and (b) does not exceed two-thirds
7 of the total amount of tax levied under AS 43.58 for all of the taxpayer's
8 taxable properties.

9 * Sec. 15. TRANSITION. During the first year of the annual tax levied
10 under AS 43.58.021, the value of taxable property shall be assessed as of
11 the effective date of sec. 10 of this Act. During the first year of the tax
12 levied under AS 43.58.021, the return required under AS 43.58.141 shall be
13 submitted no later than 30 days after the effective date of sec. 10 of this
14 Act, and the Department of Revenue shall send the notice of assessment
15 required under AS 43.58.081 no later than 60 days after the effective date
16 of sec. 10 of this Act.

17 * Sec. 16. AS 43.21.040(d) and (e) are repealed.

18 * Sec. 17. AS 43.55.011(d), 43.55.012(a), 43.55.018; AS 43.58.010,
19 43.58.020, 43.58.030, 43.58.040, 43.58.050, 43.58.060, 43.58.070, 43.58.080,
20 43.58.090, 43.58.100, 43.58.110, 43.58.150, 43.58.160, 43.58.170, 43.58.180,
21 43.58.190, and 43.58.200 are repealed.

22 * Sec. 18. Sections 1, 3 - 6, 8, 9, 13, and 16 of this Act are retro-
23 active to January 1, 1978, and apply to tax years beginning after
24 December 31, 1977.

25 * Sec. 19. Sections 11, 12, and 18 of this Act take effect immediately
26 in accordance with AS 01.10.070(c).

27 * Sec. 20. Sections 2 and 7 of this Act take effect September 1, 1981,
28 and apply to expenditures that qualify for the investment credit that are
29 made on or after that date.

AMENDMENT #1 to CSHB 200 (GP)

Add a new section 15, renumber following sections accordingly:

^N Section 15 Transitional Section.

During the first year of the annual tax levied under 43.58.021, the value of taxable property shall be assessed as of the effective date of this Act. During the first year of the tax levied under AS 43.58.021 the return required under AS 43.58.141 shall be submitted no later than 30 days after the effective date of this Act, and the Department shall send the notice of assessment required under AS 43.58.081. no later than sixty days after the effective date of this Act. "

Delete Section ~~16.~~

17

Malone

AMENDMENT #2 to HCSSSHB 200(GP)

Add a new section to read: p. 6, Line 10-11, new Sec. 7

Sec. 43.21.045. CREDITS. For purposes of calculating the income tax payable under this chapter, the taxpayer may apply as a credit against his tax liability the investment credit allowed under AS 43.20.021(d) and 43.20.036(b).

Introduced: 4/28/81
Referred: Resources and
Finance

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 SENATE BILL NO. 524

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to an investment tax credit allowed
7 against the state corporate income tax; and providing
8 for an effective date.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 43.20.036(b) is amended to read:

11 (b) For purposes of calculating the income tax payable under this
12 chapter, the taxpayer may apply as a credit against his tax liability
13 the [JOB DEVELOPMENT] investment credit allowed as to federal taxes
14 under Internal Revenue Code sec. 38 (26 U.S.C. 38) [50] upon only the
15 first \$20,000,000 [\$500,000] of qualified investment put into use for
16 each taxable year [(26 U.S.C. SEC. 50)]. This limitation does not apply
17 to the amounts invested in equipment which meets the definition of a
18 certified pollution control facility as defined under Internal Revenue
19 Code sec. 169 (26 U.S.C. sec. 169) as in effect on June 19, 1975 [THE
20 EFFECTIVE DATE OF THIS ACT] except that the date specified in Internal
21 Revenue Code [THAT] section 169(d) as a condition of qualifying a cer-
22 tified pollution control facility for a deduction does not apply.

23 * Sec. 2. This Act is retroactive to July 1, 1980, and applies to
24 expenditures which qualify for the investment credit which are made on or
25 after that date.

26 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-
27 070(c).

28
29

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 524
 Title An Act relating to an investment tax credit
 Requested by Senate Resources Committee Date April 29, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected Revenue Collection and Management
 BRU, Program, or Subprogram(s) Affected Audit Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		[6,000.0]	[6,500.0]	[7,000.0]	[7,500.0]	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill will primarily benefit multistate and multinational corporations. The estimated revenue loss would be approximately 5 to 7 million dollars of corporate income tax.

IV. DATE April 29, 1981 PREPARED BY Gary L. Jenkins
 AGENCY Audit Division
 PHONE 465-2320
 Original: Legislative Finance
 cc: Budget and Management
Prime Sponsor (First Legislator Named)