

HB

118

FILE

3

Alaska State Legislature

SENATOR JIM DUNCAN

P. O. Box V JUNEAU, ALASKA 99811-3100

(907) 465-4766

COMMITTEES:
FINANCE
VICE CHAIR—
HEALTH EDUCATION
& SOCIAL SERVICES
BUDGET & AUDIT
BANKING &
ECONOMIC
DEVELOPMENT

MEMORANDUM

April 28, 1989

TO: Senator Bettye Fahrenkamp, Chairman
Senate Resources Committee

FROM: Jim Duncan
Senator

SUBJECT: Proposed Amendment to Elf Legislation to help finance
oil spill prevention and clean-up

I recently sent a memo to Senator Pearce regarding the importance of realizing the direct connection between oil industry profits and the risks that have been inappropriately placed on the shoulders of Alaska citizens. For that reason I propose an amendment to the ELF legislation HB 118 that you have before your committee.

The Prince William Sound oil spill dramatically illustrates the need for clearly identified and readily available funds for the prevention and clean-up of future spills.

The state's Oil and Hazardous Wastes Release Response Fund only had a balance of approximately \$1.5 million before the spill occurred. We all now realize the costs of cleaning up the spill will be far higher than that, as the Governor and the Senate recognized in our approval of the \$20 million special appropriation. I believe it is painfully apparent that the full costs to the state of the clean-up and restoration will far exceed that \$20 million figure.

The spill also points out the need for the state to increase its efforts at prevention of such disasters. We have seen that clean-up work after a spill is a particularly poor substitute to keeping the spill from happening in the first place and that too will cost money.

Senator Bettye Fahrenkamp
April 28, 1989
Page 2

I propose that the legislature address these needs by passing legislation to revise the Economic Limit Factor (ELF). This legislation made sense before. It makes more sense now.

We now know that there is clearly a connection between the industry; their activity, and the financial and environmental risk to Alaskans. The margin of profits to the Oil Industry can be a direct liability to us as we have seen this past week as the costs of doing business (risks) has been wrongfully placed on our shoulders.

The attached amendment was developed to apply to the Senate Judiciary CS and would make the bill apply to all the oil produced this calendar year from Prudhoe Bay and Kuparuk. The amendment provides the following:

- 1.) An additional \$104 million more than the version reported out of the Senate Judiciary committee.
- 2.) Provide an immediate \$32 million dollars for the Oil and Hazardous Substance Release Response fund to deal with our immediate disaster. This also allows some immediate funding for prevention as well as clean-up and restoration as authorized in SB 261 which I introduced this morning.
- 3.) Provides that the Legislature will appropriate annually to the state's spill prevention and clean-up fund \$30 million or four percent of the severance tax revenues, whichever is greater.

As you are aware, Exxon has committed to paying for the costs of the clean-up, but the state needs to insure that the money is both adequate and timely. The state should spend the money as needed, and obtain reimbursement later through the courts if necessary. In the meantime we need to insure that adequate funding is available.

In addition to addressing the immediate need created by the Exxon Valdez spill, I believe if we are to see major production in the future, such as ANWR, it is necessary to demonstrate to the citizens of Alaska, and Congress that we will be prepared to prevent and respond quickly to future problems. I believe the building of a "super fund", such as this amendment provides for, would go a long way in providing those assurances.

I urge an early hearing of House Bill 118 and favorable consideration of both the legislation and my amendment.

A M E N D M E N T

OFFERED IN THE SENATE

BY DUNCAN

TO: SCS CSHB 118 (Judiciary)

Page 1, following line 24:

Insert a new bill section to read:

"* Sec. 3. AS 43.55.080 is amended by adding new subsections to read:

(b) The commissioner of administration shall separately account for all proceeds of the tax deposited into the general fund under (a) of this section.

(c) The legislature shall annually appropriate to the oil and hazardous substance release response fund established in AS 46.08.010 the greater of:

(1) \$30,000,000; or

(2) four percent of the amount estimated to be received from the tax levied and collected under this chapter during the fiscal year."

Renumber the following bill section accordingly.

Page 1, following line 25:

Insert new bill sections to read:

"* Sec. 5. Sections 1, 2, and 4 of this Act are retroactive to January 1, 1989, and apply to oil produced after December 31, 1988.

* Sec. 6. AUTHORIZATION FOR APPROPRIATION OF TAX REVENUE RECEIVED DURING FY 1989. The legislature shall appropriate to the oil and hazardous

substance release response fund 50 percent of the difference between the taxpayer's tax liability on oil production under AS 43.55 for the period between the retroactive application date of this Act and May 31, 1989, as determined under AS 43.55.013

(1) as that statute existed before the amendments to it made by secs. 1, 2, and 4 of this Act; and

(2) as amended by secs. 1, 2, and 4 of this Act.

* Sec. 7. PAYMENT OF TAX DUE. The oil production tax payable as a result of the retroactive application of this Act is due on the 20th day of the calendar month following the effective date of this Act. If the tax due and payable is not paid by the date specified in this section, the tax becomes delinquent and subject to payment of interest and the provisions of AS 43.10 relating to enforcement and collection of delinquent taxes.

* Sec. 8. OVERPAYMENT OF TAX UNDER REVISED FORMULA. The tax liability of a party that is reduced by the retroactive application of this Act shall be credited against the taxpayer's future tax liability. The provisions of AS 43.05.280(a) and 43.05.280(b)(1) do not apply to, and interest is not allowed on, the overpayment."

6-0652B
Chenoweth
5/1/89

Original sponsor: Finance Committee

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 118 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas properties pro-
7 duction tax; and providing for an effective date."

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

9 * Section 1 AS 43.55.013(b) is repealed and reenacted to read:

10 (b) The economic limit factor for oil production of a lease or
11 property shall be computed according to the following formula:

12 $(1 - \{PEL/TP\}) \exp \{[150,000 / (TP/Days)] \exp \{(460 \times WD) / PEL\}$

13 where: PEL = the monthly production rate at the economic limit;

14 TP = the total production during the month for which the
15 tax is to be paid;

16 WD = the total number of well days in the month for which
17 the tax is to be paid;

18 Days = the number of days in the month for which the tax is
19 to be paid; and

20 exp = exponent.

21 * Sec. 2. AS 43.55.080 is amended by adding new subsections to read:

22 (b) The commissioner of administration shall separately account
23 for all proceeds of the tax deposited into the general fund under (a)
24 of this section.

25 (c) The legislature may annually appropriate to the oil and
26 hazardous substance release response fund established in AS 46.08.010
27 the greater of:

28 (1) \$30,000,000; or

29 (2) four percent of the amount estimated to be received

1 from the tax levied and collected under this chapter during the fiscal
2 year.

3 * Sec. 3. Section 1 of this Act is retroactive to January 1, 1989, and
4 applies to oil produced after December 31, 1988.

5 * Sec. 4. AUTHORIZATION FOR APPROPRIATION OF TAX REVENUE RECEIVED
6 DURING FY 1989. The legislature may appropriate to the oil and hazardous
7 substance release response fund 50 percent of the difference between the
8 taxpayer's tax liability on oil production under AS 43.55 for the period
9 between the retroactive application date of this Act and May 31, 1989, as
10 determined under AS 43.55.013

11 (1) as that statute existed before the amendments to it made by
12 sec. 1 of this Act; and

13 (2) as amended by sec. 1 of this Act.

14 * Sec. 5. PAYMENT OF TAX DUE. The oil production tax payable as a
15 result of the retroactive application of this Act is due on the 20th day of
16 the calendar month following the effective date of this Act. If the tax
17 due and payable is not paid by the date specified in this section, the tax
18 becomes delinquent and subject to payment of interest and the provisions of
19 AS 43.10 relating to enforcement and collection of delinquent taxes.

20 * Sec. 6. OVERPAYMENT OF TAX UNDER REVISED FORMULA. The tax liability
21 of a party that is reduced by the retroactive application of this Act shall
22 be credited against the taxpayer's future tax liability. The provisions of
23 AS 43.05.280(a) and 43.05.280(b)(1) do not apply to, and interest is not
24 allowed on, the overpayment.

25 * Sec. 7. Section 2 of this Act takes effect July 1, 1989.

26 * Sec. 8. Except for sec. 2 of this Act, this Act takes effect
27 immediately under AS 01.10.070(c).
28
29

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HB 118

Sen. Resources

4/28/89

Dang - Thanks again



Introduced by: Mayor Nordale
Date: April 10, 1989

RESOLUTION NO. 3071

A RESOLUTION ADDRESSING THE STATE OF ALASKA ECONOMIC
LIMIT FACTOR (ELF).

WHEREAS, the Economic Limit Factor enacted by the legislature in 1977 was intended to promote marginal oil field development; and

WHEREAS, the fields currently producing oil in Alaska differ from one another with regard to production costs and profitability; and

WHEREAS, it is good public policy to encourage commercial production in marginal fields and avoid premature shut-downs in production; and

WHEREAS, a fair and equitable form of oil taxation is beneficial to the residents of the State and the industry; and

WHEREAS, the existing statute dealing with the Economic Limit Factor is faulty in a number of technical aspects and does not fulfill its intended purpose.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF FAIRBANKS, ALASKA

- 1) urges the Governor and the Legislature to revise the Economic Limit Factor to ensure that tax relief is given only when it is deserved and the State of Alaska is assured of a proper return on the disposal of its oil resources;
- 2) instructs the City Clerk to forward a copy of this resolution to the Governor and the Legislature.

PASSED and APPROVED this 10th day of April, 1989.

J. D. Nordale

J. D. NORDALE, Mayor

ATTEST:

Carma Roberson

CARMA ROBERSON, City Clerk

Introduced by: City Manager
Date: April 10, 1989

RESOLUTION NO. 3062

A RESOLUTION IN SUPPORT OF THE INTERIOR
REGION MEDICAL SERVICES COUNCIL, INC.

WHEREAS, the Interior Region Emergency Medical Services performs a vital role in the provision of emergency medical training and support to other public safety services in the interior of Alaska, and;

WHEREAS, the Interior Region Emergency Medical Services Council continually provides training for emergency medical service providers and the general public in an efficient manner, and;

WHEREAS, the Interior Region Emergency Medical Services Council acts as liaison between municipal Emergency Medical Services and the State of Alaska, and;

WHEREAS, the Interior Region Emergency Medical Services Council maintains high standards of training and emergency medical service care in the interior of Alaska, and;

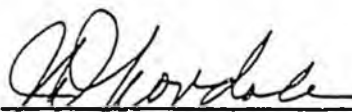
WHEREAS, the Interior Region Emergency Medical Services Council assists with funding and obtaining local grant funding for local emergency medical services needs and manages that funding for the greatest regional good, and;

Resolution No. 3062
Page two
April 10, 1989

WHEREAS, the Interior Region Emergency Medical Services Council provides a means of communication of common goals among the many emergency medical service organizations in the Interior of Alaska.

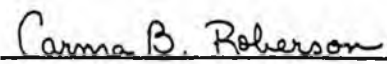
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, that the City of Fairbanks express its thanks and continued support to the Interior Region Emergency Medical Services Council for its assistance to the City of Fairbanks to improve the emergency medical services it provides to the community.

PASSED AND APPROVED THIS 10th DAY OF APRIL, 1989



J.D. NORDALE, Mayor

ATTEST:



CARMA B. ROBERSON, City Clerk



Introduced by: Council Member Hayes
Date: April 10, 1989

RESOLUTION NO. 3065

A RESOLUTION URGING THE LEGISLATURE TO SUPPORT AN APPROPRIATION OF NINETY MILLION DOLLARS (\$90M) FROM THE RAILBELT ENERGY FUND TO SUPPORT CONSTRUCTION OF A NEW ENERGY TRANSMISSION LINE AND THE HEALY COGENERATION PROJECT.

WHEREAS, the Railbelt Energy Fund (REF) was originally appropriated to be used exclusively to meet the energy needs of Alaskans in the railbelt region; and

WHEREAS, the REF currently has approximately \$235 million dollars of funds available for energy related projects; and

WHEREAS, the REF is in danger of being diverted almost entirely to uses other than its original purpose unless it is appropriated for Railbelt energy project this legislative session; and

WHEREAS, the Fairbanks City Council, and the Public Utilities Board have previously endorsed by Resolution, use of a portion of the REF to upgrade the Fairbanks-Anchorage electrical intertie; and

WHEREAS, a newly constructed 138KV electrical transmission line between Fairbanks and Healy will enable the Healy Cogeneration Project (HCP) to deliver its full electrical energy output to the Fairbanks electrical distribution network; and

WHEREAS, the HCP is an economic development project of great benefit to the Interior, creating at least 130 direct long-term jobs in addition to the development of a coal-drying technology useful in producing large volumes of premium low-sulfur fuel having significant potential in the international export market; and

WHEREAS, the opportunity to obtain Federal clean coal demonstration funding could approximate \$55 million dollars of Federal funding for the Alaska HCP project, and said funding feasibility will be greatly enhanced by the demonstration of strong State financial support for HCP.

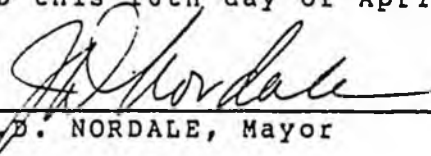
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, that

SECTION 1: The Governor and the 16th Alaska State Legislature are hereby urged to support an appropriation of \$60 million dollars from the Railbelt Energy Fund for the construction of a new 138KV electrical transmission line between Healy and Fairbanks and the addition of voltage compensation components on the existing Fairbanks-Anchorage transmission system.

SECTION 2: The Governor and the 16th Alaska State Legislature are hereby urged to support an appropriation of \$30 million dollars from the Railbelt Energy Fund to enhance the opportunity of securing Federal clean coal demonstration grant funds for the Healy Cogeneration Project.

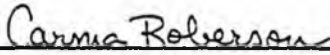
SECTION 3: A copy of this Resolution be forwarded to Governor Steve Cowper and members of the 16th Alaska State Legislature.

PASSED and APPROVED this 10th day of April, 1989.



J.D. NORDALE, Mayor

ATTEST:



CARMA ROBERSON, City Clerk



Introduced by: City Manager
Date: April 10, 1989

RESOLUTION NO. 3064

A RESOLUTION IN SUPPORT OF THE STATE OF
ALASKA PROVIDING ADDITIONAL FUNDING TO
DENALI CENTER, FAIRBANKS, ALASKA.

WHEREAS, Denali Center is the only Licensed Skilled Nursing Facility certified by Medicare and Medicaid serving Fairbanks, Alaska, the Fairbanks North Star Borough, and Interior Alaska; and

WHEREAS, Denali Center provides a much needed service in the delivery of Health Care in Fairbanks, Alaska and the City of Fairbanks; and

WHEREAS, Denali Center works cooperatively with other health care providers, including Fairbanks Memorial Hospital, in providing health care services in the most appropriate and economical setting; and

WHEREAS, Denali Center provides Long Term Health Care at the second lowest cost in the State of Alaska; and

WHEREAS, Access to Long Term Health Care would be restricted if Denali Center were forced to close; and

WHEREAS, Denali Center employs approximately 135 employees; and

Resolution No. 3064
Page two
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WHEREAS, Denali Center contributes approximately \$2.8 million dollars in payroll into the economy of Fairbanks; and

WHEREAS, Residents needing Long Term Care services in Fairbanks, would be forced to transfer to other higher cost Long Term Care facilities in the State at an increase in cost to both residents and the State of Alaska; and

WHEREAS, The City of Fairbanks has no means of increasing revenue to provide funding to Denali Center at this time; and

WHEREAS, Fairbanks, Alaska needs the skilled nursing care available as provided by Denali Center.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF FAIRBANKS, ALASKA, that the City Council of Fairbanks requests that the State of Alaska provide additional funding to Denali Center as agreed upon Denali Center and the State of Alaska in order to allow Denali Center to continue operation so that Fairbanks residents have skilled nursing services available at a reasonable cost.

PASSED AND APPROVED this 10th day of April, 1989.



J.D. NORDALE, Mayor

ATTEST:



Introduced by: City Manager
Date: April 10, 1989

RESOLUTION NO. 3070

A RESOLUTION URGING THE GOVERNOR AND THE 16TH ALASKA STATE LEGISLATURE TO PROVIDE FOR STATUS QUO FUNDING OF MUNICIPAL ASSISTANCE AND REVENUE SHARING.

WHEREAS, State and local service programs are delivered to Alaskans at the local level and State aid to municipalities is NOT expendable because of difficult circumstances; and

WHEREAS, the revenues are collected by the State and should be redistributed back to Alaskans where essential public services are provided, which is mainly in municipalities; and

WHEREAS, the State has already severely cut municipal aid to municipalities by at least 30 percent to as much as a 57 percent reduction already in the case of the City of Fairbanks, and now the State has proposed to further make disproportionately excessive cuts to municipal aid programs; and

WHEREAS, cutting funds to local government would result in the layoffs of hundreds of Alaskan municipal employees, cutting essential services, i.e., fire, police, roads, refuse collection, schools, paramedic services, telephone, sewer, water, health, and other services necessary to Alaskan's general health, safety, and welfare; and

WHEREAS, formula programs, which make up approximately 43% of the State operating budget are incorrectly equated solely with aid to local governments. Municipal assistance and revenue sharing represent only 4.5% of the total State budget.

WHEREAS, oil resources and the revenues derived from those resources belong to all the people of Alaska, and the State has a responsibility to share at least the FY 89 funding levels with municipalities in FY 90, and for subsequent budgetary years.

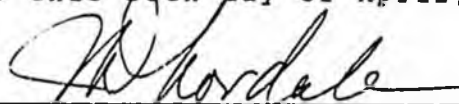
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, THAT:

SECTION 1: the Governor and the 16th Alaska State Legislature should provide adequate funding for FY 90 for municipal entitlement programs, to include appropriations for:

- (a) the Municipal Assistance Program (AS 29.60.350) at not less than the FY 89 level of \$56,084,400.
- (b) the State Revenue Sharing Program (AS 29.60.010) at not less than the FY 89 level of \$40,773,400.

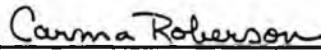
SECTION 2: That a copy of this Resolution be forwarded to Governor Cowper and members of the 16th Alaska State Legislature.

PASSED and APPROVED this 10th day of April, 1989.



J.D. NORDALE, Mayor

ATTEST:



CARMA ROBERSON, City Clerk



Introduced by: City Manager
Date: April 10, 1989

RESOLUTION NO. 3067

A RESOLUTION ENCOURAGING THE LEGISLATURE TO INCREASE THE HEALTH AND SOCIAL SERVICE COMMISSION GRANT FUND FROM \$437,500 AWARDED IN 1988 TO \$700,000 FOR THE YEAR 1989

WHEREAS, the Fairbanks Health and Social Services Commission each year accepts proposals from various agencies in the community who are in need of funding; and

WHEREAS, with the current economical climate of the City of Fairbanks, there has been demonstrated an increased need for human services; and

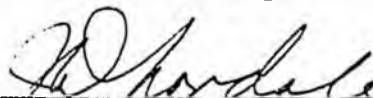
WHEREAS, in 1988, because of this increased need for health and social services and the limited money available for funding such services; six of our local agencies who submitted meritorious proposals were unable to be funded; and

WHEREAS, the City of Fairbanks and the Health and Social Services Commission are appreciative of the past support and funding provided by our Legislatures; and

WHEREAS, by this Resolution the City of Fairbanks encourages our Legislature to increase the funding for health and social services to ensure that quality and essential services are continued for those in need.

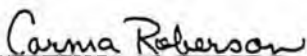
NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, urges and encourages the representatives of the people of the City of Fairbanks to increase funding for the Health and Social Services Grant to SEVEN HUNDRED THOUSAND DOLLARS (\$700,000).

PASSED and APPROVED this 10th day of April, 1989.



J.D. NORDALE, Mayor

ATTEST:



CARMA ROBERSON, City Clerk

Introduced by: City Manager
Date: April 10, 1989

RESOLUTION NO. 3062

A RESOLUTION IN SUPPORT OF THE INTERIOR
REGION MEDICAL SERVICES COUNCIL, INC.

WHEREAS, the Interior Region Emergency Medical Services performs a vital role in the provision of emergency medical training and support to other public safety services in the interior of Alaska, and;

WHEREAS, the Interior Region Emergency Medical Services Council continually provides training for emergency medical service providers and the general public in an efficient manner, and;

WHEREAS, the Interior Region Emergency Medical Services Council acts as liaison between municipal Emergency Medical Services and the State of Alaska, and;

WHEREAS, the Interior Region Emergency Medical Services Council maintains high standards of training and emergency medical service care in the interior of Alaska, and;

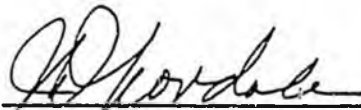
WHEREAS, the Interior Region Emergency Medical Services Council assists with funding and obtaining local grant funding for local emergency medical services needs and manages that funding for the greatest regional good, and;

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Page two
April 10, 1989

WHEREAS, the Interior Region Emergency Medical Services Council provides a means of communication of common goals among the many emergency medical service organizations in the Interior of Alaska.

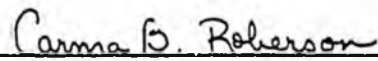
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, that the City of Fairbanks express its thanks and continued support to the Interior Region Emergency Medical Services Council for its assistance to the City of Fairbanks to improve the emergency medical services it provides to the community.

PASSED AND APPROVED THIS 10th DAY OF APRIL, 1989



A.D. NORDALE, Mayor

ATTEST:



CARMA B. ROBERSON, City Clerk

J-ELF
MAR 08 1978

GREATER JUNEAU DEMOCRATIC PRECINCT COMMITTEE

RESOLUTION

WHEREAS, Alaskan oil belongs to all the people of Alaska, and

WHEREAS, the Economic Limit Factor (ELF) was created by the Alaska Legislature in 1977 to encourage oil companies to develop marginal oil fields and to extend the life of producing fields when production at those fields become marginal, and

WHEREAS, the current ELF formula does not currently give Alaska an attractive enough tax climate to encourage development of marginal oil fields, and

WHEREAS the current ELF formula provides an unintentional and unnecessary massive tax break to the highly profitable Prudhoe Bay and Kuparuk oil fields, and

WHEREAS, the Prudhoe Bay and Kuparuk oil fields are not marginal oil fields, and

WHEREAS, Alaska is currently suffering from revenue shortfalls due in part to the current ELF formula, and

WHEREAS, HB 118 would create a more attractive tax climate for the development of truly marginal old fields, reducing or eliminating altogether taxes on every oil field in Alaska except Prudhoe Bay and Kuparuk, and

WHEREAS, HB 118 would eliminate unintended tax breaks for the two highly profitable oil fields in Alaska (Prudhoe Bay and Kuparuk), and

WHEREAS, the net result of the enactment of HB 118 in its present form would increase revenues to the State of Alaska by an estimated \$848 million over the next five years, and

WHEREAS, the increased revenue generated by the enactment of HB 118 would greatly assist Alaska in providing necessary services that would otherwise have to be drastically reduced, and

WHEREAS, the enactment of HB 118 would otherwise create jobs, raise other revenue, promote economic development and protect the interests of the people of Alaska,


NOW, THEREFORE, by unanimous vote (one abstention) on February 7, 1989, by the Greater Juneau Democratic Precinct Committee, be it hereby

RESOLVED: that the Greater Juneau Democratic Precinct Committee urges expeditious enactment into law of HB 118 in its present form.

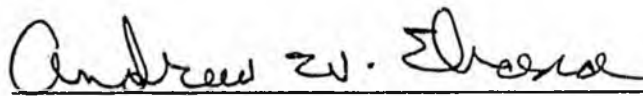
BE IT FURTHER RESOLVED that a copy of this resolution be provided to each member of the Alaska State Legislature and the Governor of Alaska.

DATED this 7th day of February, 1989.

GREATER JUNEAU DEMOCRATIC PRECINCT COMMITTEE


Brenda Knapp, Chair

ATTEST:


Andrew W. Ebona, Secretary

file: cf.

Resources

Faulkner
Barfield

Joan Glatton - 586-2210
need copy of bill file #B118

rel

FRANK H. MURKOWSKI
ALASKA

COMMITTEES:
VETERANS' AFFAIRS (RANKING MEMBER)
ENERGY AND NATURAL RESOURCES
FOREIGN RELATIONS
INDIAN AFFAIRS
INTELLIGENCE

United States Senate

WASHINGTON, DC 20510
(202) 224-6065

April 21, 1989

J. ANWR

ANCHORAGE
U.S. FEDERAL BUILDING
701 C STREET, BOX 1, 99513
(907) 271-3735

FAIRBANKS
U.S. FEDERAL BUILDING
101 12TH AVENUE, BOX 7, 99701
(907) 466-0233

JUNEAU
U.S. FEDERAL BUILDING
BOX 1647, 99802
(907) 686-7400

Honorable Bettye M. Fahrenkamp
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

MAY 1 1989

Dear Bettye:

Thank you for expressing your views regarding legislation to authorize oil and gas leasing in the Arctic National Wildlife Refuge (ANWR).

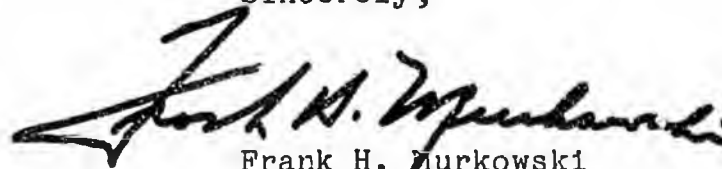
I support a balanced national energy policy. We must diversify our energy mix to include a whole range of sources, but we must make realistic choices now in order to provide for our economic well-being and our national security. Our country made history this past December when oil imports exceeded 50% of the amount of oil consumed in the U.S. As petroleum products will continue to be an important part of our energy mix for the foreseeable future, I believe it is responsible public policy to enact legislation that will make available to us this area of great potential.

The Senate Energy and Natural Resources Committee recently approved legislation to authorize leasing on the coastal plain of ANWR by a vote of 12-7. I am now working closely with Senator Johnston, Chairman of the Energy Committee, and Majority Leader George Mitchell to forge an agreement for full Senate consideration.

Thanks again for contacting me. I appreciate your support and hope that you will continue to be actively involved in the ANWR debate.

Best regards,

Sincerely,



Frank H. Murkowski
United States Senator

A M E N D M E N T

OFFERED IN THE SENATE

BY THE RESOURCES COMMITTEE

TO: SCS CSHB 118 (Oil & Gas)

Page 1, following line 20:

Insert a new bill section to read:

"* Sec. 2. AS 43.55.080 is amended by adding new subsections to read:

(b) The commissioner of administration shall separately account for all proceeds of the tax deposited into the general fund under (a) of this section.

(c) The legislature may annually appropriate to the principal of the Alaska permanent fund established in AS 37.13.010 the greater of:

(1) \$30,000,000; or

(2) four percent of the amount estimated to be received from the tax levied and collected under this chapter during the fiscal year."

Renumber the following bill section accordingly.

FINDINGS AND PURPOSE. The legislature recognizes that tax statutes may be made retroactive as long as the nature and duration of its application are reasonable. The purpose of applying the provisions of HB 118 retrospectively to December 30, 1988 is to generate the additional funds necessary to meet the costs of operating state government programs.

SCS ~~ESH~~ 118 (OIL AND GAS)

LEGISLATION REVISING THE ECONOMIC LIMIT FACTOR (ELF)

Presented to the
Resources Committee
by the
Department of Revenue

April 28, 1989

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QUESTIONS AND ANSWERS ON

SCS CSHB 118 (OIL & GAS)

Why should the Legislature modify the ELF?

This legislation promotes economic development, creates jobs, raises revenue, and protects the interests of the people of Alaska in their resources.

What tax does the Economic Limit Factor formula affect?

The Economic Limit Factor (ELF) formula affects the severance tax on oil. The severance tax — also called the production tax — is a tax on oil removed from the ground. The tax compensates for the depletion of the state's non-renewable resources. The severance tax has provided more than a third of the state's unrestricted General Fund revenue in the past decade.

What is the Economic Limit Factor?

The ELF is a formula which reduces the severance tax actually paid on oil. The ELF formula produces a fraction which reduces severance taxes as the productivity of a well declines. This reduced severance tax rate is the "effective" severance tax rate — that is, it is the rate the producer actually pays. The effective severance tax rate is the "nominal" severance tax rate (the one set out, or "named" in statute, which is normally 15 percent for mature fields) multiplied by the ELF. Here's an example which shows the tax rate on Prudhoe Bay now:

15% nominal tax rate

multiplied times ELF of 0.824

equals an effective severance tax
rate of 12.36%

The higher the ELF, the higher the actual tax paid. The lower the ELF, the lower the actual tax paid. A low ELF provides a large tax break.

Why do we have the ELF?

The ELF was originally created in 1977 to encourage oil companies to develop marginal oil fields, and to extend the life of producing fields when production at those fields became marginal.

How did we get to where we are today?

In 1981, the Legislature sharply reduced the state's corporate income tax on oil and gas producers by abandoning separate accounting. (The changes were made because the separate accounting law had been challenged in court, but the state later won the lawsuit.) In an attempt to compensate for the expected loss of revenues from the changes made in the corporate income tax, the Legislature raised the severance tax rate from 12.25% to 15%. Because the ELF formula would have cut into this needed revenue, the Legislature -- as a stopgap measure -- suspended the ELF at Prudhoe Bay until 1987.

Even at the outset, this attempt to compensate failed. The 1981 changes in the income tax and severance tax had the net effect of costing the state more than \$1 billion in lost revenues between fiscal years 1982 and 1987.

In 1987, the impact of the 1981 tax changes became even more negative for the state. When the stopgap provision ended in 1987, this additional tax break caused the effective severance tax rate at Prudhoe Bay to drop sharply. (Graphic #1 shows this sharp drop for Prudhoe Bay.) This sharp drop immediately cut Alaska's total revenue by \$135,000,000 in FY 88, and has cost the state more than \$70 million more for FY 89 by the middle of March of 1989.

Why do people want to change the ELF now?

The current ELF is not giving Alaska an attractive enough tax climate to encourage development of marginal oil fields. Instead of helping marginal fields, the ELF formula now mostly provides a massive and unnecessary tax break to two fields which are not marginal at all -- Prudhoe Bay and Kuparuk. These are the largest oil fields in the United States, and two of the most profitable as well.

House Bill 118 would target tax breaks toward marginal fields and away from these two large, high-profit fields. The bill would give tax breaks to currently producing marginal fields such as Encicott and Lisburne and to prospective marginal fields at Niakuk, Point Thomson, Milne Point, and Seal Island. It would leave taxes at zero at West Sak and all the Cook Inlet fields. (See Graphic #2.)

In fact, HB 118 would cut -- or leave at zero -- the taxes on every oil field in Alaska except Prudhoe Bay and Kuparuk.

HB 118 would reduce the tax breaks given to Prudhoe Bay and Kuparuk. The current ELF gives a 20 percent tax break to Prudhoe Bay, and more than a 40 percent tax break to Kuparuk. HB 118 would reduce -- but not eliminate -- the tax breaks given to these two large fields.

Graphic #3 shows the tax savings provided by HB 118 for producers at all other fields except Prudhoe Bay and Kuparuk. Graphic #4 shows the increased revenues generated from Prudhoe Bay and Kuparuk by HB 118. The legislation on balance raises substantial revenues.

How much revenue would HB 118 raise?

HB 118 does not provide for an effective date, nor does it specify when it begins to apply. Assuming that the bill went into effect July 1, 1989 and applied to oil produced after June 30, 1989 -- and assuming the mid-case scenario projections of the Fall, 1988 Department of Revenue forecast -- the bill will raise \$158 million in Fiscal Year 1990.

The legislation would raise much more money if it were retroactive. If the bill applied to oil produced after December 31, 1988, it would generate \$235 million for FY 89 and FY 90.

The long-term fiscal impact is substantial as well. For the FY 91 - FY 95 period, the legislation would raise \$981 million.



Matanuska-Susitna Borough

P.O. BOX 1608, PALMER, ALASKA 99645-1608 • PHONE 745-9682

BOROUGH MAYOR

April 6, 1989

APR 13 1989

Dear Senator:

At the April 4, 1989 regular meeting of the Assembly of the Matanuska-Susitna Borough, the enclosed Resolution No. 89-063 was passed and approved. This resolution is in support of the Economic Limit Factor (ELF) and House Bill No. 118. We enclose a copy for your information and offer our support to you in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Dorothy A. Jones".

Dorothy A. Jones
Borough Mayor

th

Enclosure

MATANUSKA-SUSITNA BOROUGH

Resolution Serial No. 89- 063

A RESOLUTION OF THE ASSEMBLY OF THE MATANUSKA-SUSITNA BOROUGH, SUPPORTING SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE HOUSE BILL NO. 118, AN ACT RELATING TO THE OIL AND GAS PROPERTIES PRODUCTION TAX.

WHEREAS, in 1981 the Legislature, fearing it could lose an oil industry lawsuit challenging the state's taxing structure, shifted oil taxes (adjusting the severance and income taxes) which resulted in a net tax reduction to the industry; and

WHEREAS, the 1981 tax break has cost the state more than \$1 billion in lost revenues between 1982 and 1987; and

WHEREAS, the Alaska Constitution requires that the legislature provide that all state-owned resources be used for the maximum benefit of all the people of Alaska; and

WHEREAS, Senate committee substitute for Committee Substitute House Bill No. 118 modifies the Economic Limit Factor (ELF); and

WHEREAS, Senate CS for CSHB No. 118 has passed the house; and

WHEREAS, the bill has been referred to the Senate for consideration; and

WHEREAS, a special Senate committee on oil and gas is reviewing the bill, however no date for a hearing on the bill has been scheduled; and

WHEREAS, the intention of the ELF is to reduce the amount of taxes on oil fields as production dwindles and it becomes increasingly expensive to get the oil out of the ground, the ELF is an incentive to keep marginal fields producing; and

WHEREAS, Senate CS for CSHB No. 118 would provide for greater tax breaks for truly marginal fields and adjust--not eliminate--tax incentive for the two huge fields, Prudhoe Bay and Kuparuk; and

WHEREAS, the dollar amounts of tax collected per barrel of oil in Alaska are lower than in many states; and

WHEREAS, the modification to the Economic Limit Factor will provide increased incentive for marginal field development, which is more labor intensive and should provide additional employment in the State of Alaska; and

WHEREAS, the modification of the Economic Limit Factor as proposed in Senate CS for CSHB Bill No. 118 is estimated to generate approximately \$170 million for the next fiscal year according to the most recent oil forecast.

NOW THEREFORE, BE IT RESOLVED that the Assembly of the Matanuska-Susitna Borough supports the modification of the Economic Limit Factor as set forth in Senate CS for CSHB No. 118, however, the bill should become effective as soon as possible;

BE IT FURTHER RESOLVED that copies of this Resolution be forwarded to Senators Kerttula, Szymanski, Adams and Pearce, the special Senate committee on oil and gas, the House Resources

Committee, Representatives Larson, Menard, and Swackhammer, and Governor Cowper.

PASSED AND APPROVED by the Assembly of the Matanuska-Susitna Borough this 4 day of April, 1989.

Dorothy A. Jones
Dorothy A. Jones, Mayor

ATTEST:

Linda Dahl
Linda Dahl, Borough Clerk

(SEAL)

(R/040389-3)

BSN# 569

ALASKA SENATE
CSHB 118 FIN EFD FLD

5/ 8/89 1:37 PM

2ND SESSION 15TH LEG

11 YEAS

9 NAYS 0 EXC 0 ABS

Y ADAMS
Y BINKLEY
N COGHILL
Y DURCAN
Y ELIASON
Y FAHRENKAMP
N FAIKS

N FISCHER
Y FRANK
N HALFORD
Y JONES
N KELLY
Y KERTTULA
N PEARCE

Y POURCHOT
N RODEY
N STURGULEWSKI
Y SZYMANSKI
N UEHLING
Y ZHAROFF

+ VOTED FOR

* CHANGED VOTE

BSN# 566

ALASKA SENATE
CSHB 118 RES ED FLD 3RD

2ND SESSION 15TH LEG

5/ 7/89 11:45 PM

		9 YEAS	11 NAYS	0 EXC	0 ABS		
Y	ADAMS		N	FISCHER		Y	FOURCHOT
N	BINKLEY		Y	FRANK		N	RODEY
N	COGHILL		N	HALFORD		N	STURGULEWSKI
Y	DUNCAN		Y	JONES		N	SZYMANSKI
Y	ELIASON		N	KELLY		N	UEHLING .
Y	FAHRENKAMP		Y	KERTTULA		Y	ZHAROFF
N	FAIKS		N	PEARCE			

+ VOTED FOR
* CHANGED VOTE

SENATE COMMITTEE REPORT

FURTHER

FIN

DATE TURNED INTO OFFICE _____

4/27/89

Mr. President:

Resources _____

Committee considered _____

CSHB 118 (RES) efd fld

oil and gas properties production tax

and recommended

- replace with S CS CSHB 118 (Resources)) same title
- or adopt _____ CS _____) new title
- attached amendment(s) and technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

- FISCAL NOTE(S)** zero fiscal impact appropriation no FN
 new updated previous
 same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]

[Signature] No Rec -
[Signature] No Rec
[Signature] unless
 Do not pass am.
[Signature] DO NOT PASS
[Signature] No Rec

Chair / signature and recommendation

Committee Backup attached

SENATE COMMITTEE REPORT

2
6-06524

FURTHER

RES
FIN

3/31/89

DATE TURNED INTO OFFICE _____

Mr. President:

OIL & GAS

Committee considered CSHB 118 (RES)(efd fld)

oil and gas properties production tax

and recommended

- replace with S CS HB 118 (Oil & Gas) same title
- or adopt _____ CS _____ new title
- attached amendment(s) and *reports at own previous:* technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

- FISCAL NOTE(S) zero fiscal impact appropriation no FN
- new updated previous
- same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

2. All Adams - NEEDS Amendment

- _____ / Paul Frick (Do Not Pass)
- _____ / Rick Halford (Do Not Pass)
- _____ / Tim Kelly (Do Not Pass)

Irue Pearce - Do not pass
Chairman signature and recommendation

Committee Backup attached

SENATE COMMITTEE REPORT

(d)
6-0652T

FURTHER

O&G
RES
FIN

3/23/89

DATE TURNED INTO OFFICE _____

Mr. President:

JUDICIARY Committee considered CSHB 118 (RES) (efd fld)

oil and gas properties production tax

and recommended

replace with S CS CSHB 118 (J-2)) same title
 or adopt _____) new title
 attached amendment(s) and _____) technical
 _____ letter of intent adopted _____ (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) zero fiscal impact appropriation no FN
 new updated previous
 same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

_____ *1. Mike Summerville Do not pass*
_____ *1. sue [unclear] do not pass*
_____ *2. [unclear] NO REC*
_____ *2. Rick Halford NO REC*

[Signature]
Chairman signature and recommendation

Committee Backup attached

FISCAL NOTE

REQUEST:

Revision Date: May 1, 1989
Title: Oil & gas properties production tax - ELF
Sponsor: House Finance Committee
Requestor: Senate Resources

Agency Affected: Department of Revenue
BRU: Oil & Gas Audit Division
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	64,000	171,000	181,000	192,000	207,000	207,000

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: See attached page for analysis.

Prepared By: Roger Marks
Division: Dept. of Revenue, Oil & Gas Audit Division

Phone: 277-5627
Date: May 2, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: 5/2/89

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Fiscal Analysis of HB 118

This bill modifies the economic limit factor (ELF) formula used in computing the production (severance) tax on oil.

The bill (1) introduces the rate of field production into the exponent of the current ELF formula; (2) repeals the so-called "rounding rule," the provision of current law which states that for any month during the first 10 years of commercial oil production for which the computed ELF of a lease or property exceeds 0.7 the ELF shall be considered to be one; (3) authorizes the appropriation to the oil and hazardous substance release response fund of 50 percent of the revenues for the period between January 1, 1989 and May 31, 1989; and (4) authorizes the annual appropriation in future years of \$30 million or 4 percent of the severance tax revenues, whichever is greater.

This fiscal note was calculated using the oil price and production assumptions of the Department of Revenue's Spring 1989 Petroleum Production Revenue Forecast mid-case scenario. That forecast was predicated on Alaska North Slope crude prices at the U.S. Gulf of \$14.29 a barrel in FY 89 and \$16.41 a barrel in FY 90.

Additional revenues for future years in millions of dollars are as follows:

1995	194
1996	180
1997	165
1998	157
1999	148
2000	139
2001	129
2002	110
2003	86
2004	69
2005	45
2006	21
2007	4
2008	(3)
2009	0
2010	0

A price - revenue matrix is included. It is based on an application date of December 31, 1988.

→ 2007 = 2.23 billion
\$150 million = 7%

Price/Revenue Increase for HB 118
(Millions of \$)

Saudi Light (\$/bbl)	ANS @ US Gulf (\$/bbl)	Fiscal Year						
		1989	1990	1991	1992	1993	1994	1995
10	11	35	85	88	98	104	104	99
12	13	48	115	116	129	146	148	139
14	15	63	151	153	161	174	175	164
16	17	78	187	189	198	213	214	200
18	20	92	223	226	235	253	253	236
20	22	107	259	262	272	283	277	258

FISCAL NOTE

REQUEST:

Revision Date: April 4, 1989
Title: Oil & gas properties production tax - ELF
Sponsor: House Finance Committee
Requestor: Senate Judiciary

Agency Affected: Department of Revenue
BRU: Oil & Gas Audit Division

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	VARIABLE - SEE ESTIMATE ATTACHED		181,000	192,000	207,000	207,000

FUNDING: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: See attached page for analysis.

Prepared By: Roger Marks
Division: Dept. of Revenue, Oil & Gas Audit Division

Phone: 277-5627
Date: April 4, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: 4/4/89

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Fiscal Analysis of HB 118

This bill modifies the economic limit factor (ELF) formula used in computing the production (severance) tax on oil.

The bill (1) introduces the rate of field production into the exponent of the current ELF formula; (2) repeals the so-called "rounding rule," the provision of current law which states that for any month during the first 10 years of commercial oil production for which the computed ELF or a lease or property exceeds 0.7 the ELF shall be considered to be one; and (3) fixes the production at the economic limit (PEL) at 300 barrels times the number of well days in the month.

This bill does not explicitly state the date on which it first begins applying to oil production. That date will determine how much revenue is raised for FY 89 and FY 90. The following table shows the revenue raised for each date.

If the bill applies to oil produced after this date	Revenues Raised for FY 89	Revenues Raised for FY 90
12/31/88	64	171
01/31/89	50	171
02/28/89	37	171
03/31/89	24	171
04/30/89	12	171
05/31/89	0	171
06/30/89	0	158
07/31/89	0	145
08/31/89	0	132

The severance tax is paid monthly for the prior month. For example, the tax for production in April is due in May.

This fiscal note was calculated using the oil price and production assumptions of the Department of Revenue's Spring 1989 Petroleum Production Revenue Forecast mid-case scenario. That forecast was predicated on Alaska North Slope crude prices at the U.S. Gulf of \$14.29 a barrel in FY 89 and \$16.41 a barrel in FY 90.

Additional revenues for future years in millions of dollars are as follows:

1995	194
1996	180
1997	165
1998	157
1999	148
2000	139
2001	129
2002	110

2003	86
2004	69
2005	45
2006	21
2007	4
2008	(3)
2009	0
2010	0

A price - revenue matrix is included. It is based on an application date of December 31, 1988.

Price/Revenue Increase for HB 118
(Millions of \$)

Saudi Light (\$/bbl)	ANS @ US Gulf (\$/bbl)	Fiscal Year						
		1989	1990	1991	1992	1993	1994	1995
10	11	35	85	88	98	104	104	99
12	13	48	115	116	129	146	148	139
14	15	63	151	153	161	174	175	164
16	17	78	187	189	198	213	214	200
18	20	92	223	226	235	253	253	236
20	22	107	259	262	272	283	277	258

J ELF

BSN: 164

ALASKA HOUSE OF REPRESENTATIVES

CSHB 118(RES) REC

ELF

1ST SESSION 16TH LEG

3/22/89 12:47 PM

		21	YEAS	19	NAYS	0	EXC	0	ABS		
N	BARNES	Y					Y		JACKO	N	PHILLIPS
N	BOUCHER	Y					Y		KOPONEN	N	RIEGER
Y	BOYER	N	*				N		LARSON	Y	SHARP
Y	BROWN	N					N		LEMAN	N	SHULTZ
Y	CATO	Y					N		MACLEAN	Y	SPOHNHOLZ
N	COLLINS	Y					N		MARTIN	Y	SWACKHAMMER
Y	COTTEN	Y					N		MENARD	N	TAYLOR
Y	DAVIDSON	N					Y		MILLER	Y	ULMER
N	DAVIS. C.	Y					Y		NAVARRE	Y	WALLIS
Y	DAVIS. M.	N					N		PETTYJOHN	N	ZAWACKI

+ VOTED FOR

* CHANGED VOTE

J. ELF

RSN# 165

ALASKA HOUSE OF REPRESENTATIVES

CSHB 118(RES) EFD IMMEDIATE

1ST SESSION 16TH LEG

3/22/89 12:47 PM

		26	YEAS	14	NAYS	0	EXC	0	ABS		
N	BARNES	Y								N	PHILLIPS
Y	BOUCHER	Y								N	RIEGER
Y	BOYER	Y								N	SHARP
Y	BROWN	N								N	SHULTZ
Y	CATO	Y								Y	SPOHNHOLZ
N	COLLINS	Y								Y	SWACKHAMMER
Y	COTTEN	Y								N	TAYLOR
Y	DAVIDSON	N								Y	ULMER
N	DAVIS, C.	Y								Y	WALLIS
Y	DAVIS, M.	Y								N	ZAWACKI

Needed 27. He
was last to
punch the button.
IT'LL COST THE
STATE ABOUT
\$80 MILLION.

+ VOTED FOR
* CHANGED VOTE

United Brotherhood of Carpenters and Joiners of America

LOCAL UNION NO. 1243



Farthest North Local in the World

ELF
MAR 14 1989

DON K. SWARNER
Business Representative
Financial Secretary-Treasurer

807 482-8308
807 482-3862

313 FIFTH AVENUE
P.O. BOX 347
FAIRBANKS, ALASKA
99707

A RESOLUTION URGING THE ALASKA STATE LEGISLATURE TO
REVIEW AND ADOPT HB 118 AN ACT
RELATING TO THE OIL AND GAS PROPERTIES PRODUCTION TAX

WHEREAS, the Economic Limit Factor (ELF) as enacted by the Alaska State Legislature in 1981 was intended to promote continued development of marginal oil fields; and

WHEREAS, unbeknownst to legislators in 1981, both the Prudhoe Bay and Kuparuk Oil Fields are in no sense of the word marginal fields; and

WHEREAS, the application of the Economic Limit Factor (ELF) actually discourages oil production at a truly marginal field such as Milne Point; and

WHEREAS, the people of the State of Alaska own the oil resources of the State and should be fairly & equitably compensated for their extraction; and

WHEREAS, the economic conditions in Alaska do not warrant a tax break for the oil companies; and

Whereas, the Alaskan work force is not receiving its fair share of employment in the development of their oil and gas resources;

THEREFORE, be it resolved that Local Union 1243 of the United Brotherhood of Carpenters and Joiners of America urges the Alaska State Legislature to complete its review of HB 118 and to bring this bill to the floor and furthermore, we urge its adoption.

UNANIMOUSLY passed this 28th day of February, 1989 by the General Membership.

Murray L. Baldwin
Murray Baldwin
President

Don K. Swarner
Don Swarner
Business Representative
Financial Secretary/Treasurer



Tom Painter
Division Manager

Conoco Inc.
3201 C Street
Suite 200
Anchorage, AK 99503

May 1, 1989

The Honorable Bettye Fahrenkamp
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

I appreciate the request by Senate Resource's Staff to provide your Committee Conoco's position regarding HB 118. Our position favoring a modification of the ELF to make the production tax structure a progressive tax based on field size as well as well productivity remains unchanged from our prior testimony in the hearings on CSHB-164 in 1987. We continue to believe such change would offer a positive first step in encouraging the development of Alaska's small, marginal fields.

Oil field development in remote areas of Alaska, such as the North Slope, offshore, or interior, requires high fixed cost components of investment and operation. All fields, regardless of size, must possess living quarters, roads, pipelines, and personnel transportation infrastructure in addition to the normal production handling facilities. In Alaska's high cost environment, these factors result in significant diseconomies of scale for smaller fields. For smaller fields to be economically developed, we believe some adjustments must be made in the tax or royalty structure.

Conoco remains desirous on becoming a more active participant in the Alaskan economy. For Milne Point, the North Slope's smallest field, a change in the production tax structure would help. The economics of continuing development at Milne Point would be more enhanced by a change in our royalty rate, which, at 20%, is the largest fixed royalty for any field in the state. HB-128, which has recently been approved by the House of Representatives, has the potential to provide royalty relief. For Milne Point to be a success, a sufficient differential between crude price and costs, including taxes and royalty, must exist to generate a profit. While oil price continues to be the controlling factor, any incremental improvement in taxes and royalty would have the same effect as an increase in price.

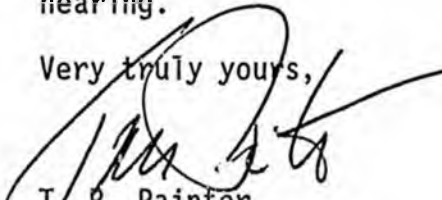
We must caution that our position on modifying the ELF to provide an incentive for small field development should not be misconstrued as support for increasing taxes on any currently producing field in Alaska. Alaska's sustainable economic growth has and will continue to come from private sector investment to develop Alaska's natural resources. From our observations, the tax reductions initiated

at Prudhoe Bay are benefitting both the State and the Prudhoe Bay owners as additional production and reserves are being developed, investments are being made, and new jobs are being added to the Alaska economy.

It is possible to provide both an incentive for small field development and to maintain continued investment in the state's larger fields by adopting the modified ELF proposed in HB-118 and simultaneously reducing the production tax rate, resulting in a "tax neutral" position.

I hope this information will suffice to adequately define Conoco's position on HB-118. If you so choose, you may submit this letter as testimony at the hearing.

Very truly yours,



T. R. Painter
Division Manager

AEH(jah)

TESTIMONY OF
GERALD SERENA

FOR
EXXON COMPANY, U.S.A.

BEFORE THE
SENATE RESOURCES COMMITTEE

SCS CSHB No. 118

APRIL 28, 1989

MY NAME IS GERALD SERENA AND I AM A TAX LAWYER FOR EXXON COMPANY, U.S.A. WE APPRECIATE THE OPPORTUNITY TO COMMENT ONCE AGAIN ON LEGISLATION PROPOSED TO MODIFY THE ECONOMIC LIMIT FACTOR. IN PREVIOUS HEARINGS BEFORE COMMITTEES OF THE HOUSE AND SENATE, EXXON HAS MADE CLEAR ITS OPPOSITION TO ANY PROPOSALS THAT WOULD EFFECTIVELY ELIMINATE THE BENEFIT OF ELF FOR THE PRUDHOE BAY AND KUPARUK FIELDS. OUR MESSAGE HAS NOT CHANGED.

THIS BILL WOULD SIGNIFICANTLY INCREASE PRODUCTION TAX ON 90% OF ALASKA'S OIL PRODUCTION. THIS INCREASED COST OF PRODUCTION WOULD ADVERSELY AFFECT INVESTMENT IN FUTURE PRUDHOE BAY DEVELOPMENT PROJECTS. THESE PROJECTS ARE ECONOMICALLY MARGINAL IN THE SAME SENSE THAT THE START-UP OF SOME SMALLER FIELDS ON THE NORTH SLOPE MIGHT BE MARGINAL. SUCH PROJECTS ARE NECESSARY TO OPTIMIZE PRODUCTION FROM PRUDHOE BAY, WHICH IS CRUCIAL TO ALASKA'S ECONOMIC FUTURE.

ALASKA'S PRODUCTION TAX LAW IS COMPREHENSIVE, WELL-REASONED, AND EFFECTIVE. IT COMBINES TWO ESSENTIAL ELEMENTS -- THE HIGHEST NOMINAL TAX RATE IN THE UNITED STATES, AND AN ECONOMIC LIMIT FACTOR WHICH REDUCES THIS RATE ON A FIELD-BY-FIELD BASIS AS MEASURED BY PRODUCTION RATE PER WELL IN THE FIELD.

IT HAS WORKED UP TO NOW AND IT WILL CONTINUE TO WORK AS DESIGNED AS PRUDHOE BAY PRODUCTION DECLINES.

THE PRODUCTION TAX ON OIL FROM PRUDHOE BAY IS HIGH ENOUGH BY ANY STANDARDS. WHEN COMBINED WITH THE OTHER STATE TAXES ON NORTH SLOPE PRODUCTION OPERATIONS, IT IS CLEAR THAT OUR INDUSTRY IS CONTRIBUTING ITS FAIR SHARE OF STATE TAX COLLECTIONS. WHEN YOU COMBINE TAXES AND ROYALTIES, OUR INDUSTRY ACCOUNTS FOR ABOUT 85% OF STATE REVENUES. FURTHERMORE, ROYALTIES AND OTHER LEASE PAYMENTS HAVE ESTABLISHED THE \$10 BILLION ALASKA PERMANENT FUND.

IN 1988, AVERAGE DAILY OIL PRODUCTION AT PRUDHOE BAY DECLINED TO 1,450,000 BARRELS FROM THE 1,500,000 AVERAGE ACHIEVED IN PRIOR YEARS, AND WE ANTICIPATE THAT THIS DECLINE WILL CONTINUE. THIS WAS INEVITABLE. IT WAS DELAYED UNTIL NOW BY AN EFFICIENT AND OPTIMAL DEVELOPMENT PLAN THAT CONTINUES TO BE IMPLEMENTED. SINCE INITIAL DEVELOPMENT, EXXON HAS EVALUATED AND SUPPORTED SEVERAL PROJECTS TO INCREASE RECOVERY AT PRUDHOE BAY. THE COST PER BARREL FOR THESE PROJECTS TO INCREASE RECOVERY WAS TWICE THE COST OF THE INITIAL DEVELOPMENT.

AFTER CURRENT DEVELOPMENT IS COMPLETED, IT IS ESTIMATED THAT 10 BILLION BARRELS OF OIL WILL BE LEFT IN FORMATION AT PRUDHOE BAY. H.B. 118 WOULD INCREASE THE COST OF PRODUCING THOSE BARRELS AND THEREBY REDUCE THE INCENTIVE TO UNDERTAKE SUCH PROJECTS. FUTURE PROJECTS TO MAINTAIN PRODUCTION AND INCREASE RECOVERABLE RESERVES AT PRUDHOE BAY WILL COST MORE THAN FIVE TIMES AS MUCH AS THE INITIAL DEVELOPMENT. IT IS CONCEIVABLE THAT UNDEVELOPED MARGINAL RESERVES AT PRUDHOE BAY MIGHT EXCEED THE POTENTIAL RESERVES OF ALL THE SMALLER FIELD PROSPECTS ON THE NORTH SLOPE IDENTIFIED TO DATE.

H.B. 118 IS BASED ON THE ASSUMPTION THAT LARGER OIL FIELDS SHOULD CONTRIBUTE PRODUCTION TAXES AT A HIGHER RATE THAN SMALLER FIELDS. TAX POLICY MAKERS SHOULD NOT CONFUSE THE PRODUCTION RATE OF A FIELD WITH ITS PROFITABILITY. THE PRUDHOE BAY FIELD IN DECLINE IS A PERFECT EXAMPLE.

OUR RECOMMENDATION TODAY IS THE SAME AS IT HAS BEEN AT ALL THE PRIOR HEARINGS ON THIS LEGISLATION. WE URGE YOU NOT TO SUPPORT H.B. 118. IT WILL ADVERSELY AFFECT FUTURE DEVELOPMENT INVESTMENT AT PRUDHOE BAY. SUCH INVESTMENT IS NEEDED TO MAXIMIZE OIL PRODUCTION, THEREBY INCREASING THE STATE'S ROYALTY AND PRODUCTION TAX BASE.

TESTIMONY
OF
BP EXPLORATION (ALASKA) INC.
TO THE
SENATE SPECIAL OIL AND GAS COMMITTEE
REGARDING
SCS CSHB 118 (THE "ELF")

April 24, 1989

My name is Thomas K. Williams. I am Manager of Tax Planning at BP Exploration (Alaska). At the outset, I want to say that BP Exploration is saddened by the Exxon Valdez Incident. So is everyone I know at BP Exploration. We share in your desire to take steps to avoid further spills and to improve the ability to respond to any future spills, as already evidenced by actions announced to date.

However, my purpose in appearing before you today is to testify about the Economic Limit Factor, or ELF, and the legislation that proposes to change it, House Bill No. 118. My testimony today is in two parts. First, I have this prepared statement responding to certain testimony to the Committee last Thursday. Second, I have some comments about how the present ELF works and how it would be changed under HB 118.

Last Thursday there was a question about the nature and size of the return on investment which the owners of TAPS receive. Attached to my written statement are relevant pages from the Settlement Agreement between the State of Alaska and the pipeline owners. As Mr. Motley correctly stated on Thursday, the agreement provides for a 6.4% real rate of return from 1984 through 1989, and a return of 35 cents per barrel (adjusted for inflation) after that for the original investment. In signing the agreement, the State of Alaska endorsed this level of profitability for TAPS. Putting it another way, to increase the tax on production because of pipeline profits is counter to the intent and stated conclusion of the Agreement, which states on page 2 that "TAPS tariffs ... are both just and reasonable and non-discriminatory...." The tariff was structured in a way to increase capital recovery in earlier years so that there would be a lower tariff in later years. This in turn would mean that State revenues would be higher and new fields would have a lower transportation cost in those later years.

Also at Thursday's hearing, the Administration again showed a chart displaying the rate change in Prudhoe Bay in 1987. In explaining the chart, the Administration described how a change of this nature was not fully understood in 1981. The goal in 1981 was to ensure that the State continued to receive its fair share of not less than 30 percent. In fact, compared to 1981, the State's share has soared. BP's figures show that the State's share of production revenue went from 30% in 1981 to 49% in 1988.

	State Share of Production Revenue			
	1981	1986	1987	1988
BP	30%	72%	39%	49%

The same would be true for the other petroleum companies having production in Alaska given the substantial decline in crude oil prices that have occurred over this period. In short, over the last three years, the State of Alaska has received a share of the revenue "pie" far beyond what was contemplated in 1981. In our earlier testimony before this Committee regarding Senate Bill No. 97, BP emphasized that 1986 marked the beginning of an era of dramatically reduced profitability from oil production. As just shown, 1986 also marked the beginning of a period of a dramatically increased State's share of the net revenue from oil production.

We heard on Thursday that HB 118's ELF formula makes field size its dominant parameter because field size reflects how profitable a field is. Let us pass over the counter-example of the West Sak field -- a very large field that even the Administration concedes will be marginal at best. Instead, let me direct your attention to the case of Prudhoe Bay.

BP's figures show that the profitability of Prudhoe Bay has dropped by more than 65% from 1981 to 1988. House Bill No. 118 would match this 65% drop in profitability with a reduction in the tax rate from 15% to 14.9%. If all goes as the State predicts, the rate for Prudhoe will drop again in 1994 -- from 14.9% to 14.8 percent. So much for HB 118's sensitivity to profitability. The justification for setting the tax rate as high as Alaska does was and remains the fact that the ELF will scale the rate down as profitability drops. Under the formula in HB 118, this will no longer happen.

One last comment I have about last Thursday's hearing is not about something that was said, but about something that was not

said. At the beginning of this Session, the Administration's primary argument for amending the ELF was that the State needs the money to meet its budget needs. Since then, the change in the outlook for oil prices this year and next based on the State's Spring Forecast has increased State revenues by more than five times the amount that the ELF was supposed to bring in.

This concludes my prepared remarks. At this time, with your permission, I would like to distribute to the Committee a handout regarding the operation of the present ELF and the proposed one under HB 118.



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA 99669
PHONE (907) 262-4441

DON GILMAN
MAYOR

April 19, 1989

APR 24 1989

Alaska State Senate
P.O. Box V
Juneau, AK 99811

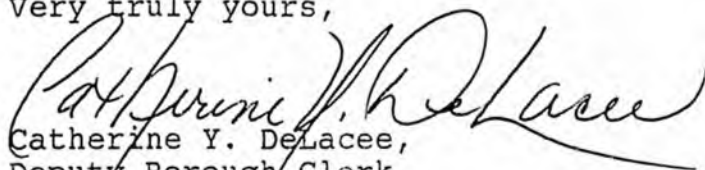
Dear Senator:

On April 18, 1989, the Kenai Peninsula Borough Assembly unanimously adopted Res. 89-33, "In Support of Modification of the Economic Limit Factor by the State of Alaska". The assembly and mayor requested the resolution be forwarded to you.

Your review would be greatly appreciated.

Thank you.

Very truly yours,


Catherine Y. DeLacee,
Deputy Borough Clerk

ENC: (1)

f- HB 118

Introduced by: Mullen, Skogstad
Date: April 4, 1989
Vote: 12 Yes, 2 No
Action: Adopted

KENAI PENINSULA BOROUGH

RESOLUTION 89-33

(Local Affairs Comm. Amended)

IN SUPPORT OF MODIFICATION OF THE ECONOMIC LIMIT FACTOR BY THE STATE OF ALASKA

WHEREAS, the Alaska legislature is considering modifications to the Economic Limit Factor (ELF), and

WHEREAS, revenues available to local municipalities including the Kenai Peninsula Borough in the form of funding for education and municipal assistance and revenue sharing will be directly impacted by action the legislature takes regarding the ELF, and

WHEREAS, if the ELF were modified as proposed in HB 118, additional revenues would be available to offset the budget deficit, thereby decreasing the likelihood of dramatic cuts to municipalities;

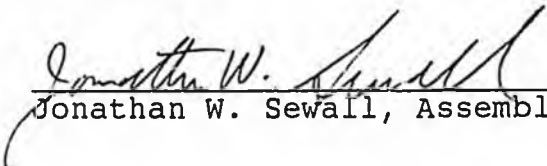
NOW THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That the Kenai Peninsula Borough Assembly supports HB 118.

Section 2. That the Kenai Peninsula Borough Assembly urges a Senate floor vote on the ELF prior to May 9, 1989.

Section 3. That copies of this resolution shall be sent to all members of the legislature.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 18th DAY OF April, 1989.


Jonathan W. Sewall, Assembly President

ATTEST:


Borough Clerk



Alaska Public
Employees Association **APEA**

State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

APR 14 1989

April 11, 1989

Senator Bettye Fahrenkamp
P.O. Box V
Juneau, AK 99811

Dear Senator Fahrenkamp:

Attached is a resolution passed by our Board of Director's urging the passage of HB 118 (ELF) with the amendments proposed by Senator Duncan. The resolution speaks for itself.

We would appreciate your support on this matter. Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Bruce I. Ludwig".

Bruce I. Ludwig
Business Manager

Enclosure

BIL/kr

Fairbanks Field Office
825 College Road
Fairbanks, AK 99701
Telephone: (907) 456-5412

Anchorage Field Office
833 Gambell Street, Suite A
Anchorage, AK 99501
Telephone: (907) 274-1688

Juneau Field Office
227 4th Street
Juneau, AK 99801
Telephone: (907) 586-6305

ALASKA PUBLIC EMPLOYEES ASSOCIATION

RESOLUTION

A resolution supporting legislation that removes applying the Economic Limit Factor (ELF Tax Break) to Prudhoe Bay and Kuparek Fields.

WHEREAS, the State of Alaska will lose approximately 200 million dollars in FY90 as a result of the ELF tax loophole; and

WHEREAS, the State faces a potential FY90 shortfall of approximately 250 million dollars according to recent projections; and

WHEREAS, the State is considering drastic cuts to balance the budget; and

WHEREAS, these cuts would decimate employment and ultimately the well being of families from throughout the State; and

WHEREAS, the Institute of Social and Economic Research report recently predicted a dramatic impact on the entire economy resulting from such budget cuts; and

WHEREAS, cuts of such magnitude would cause another serious recession in local communities; and

WHEREAS, the economy is just now beginning to recover; and

WHEREAS, APEA has recently negotiated a no increase, good faith State Employee contract to demonstrate its willingness to share in responsibility for a fair budget; and

WHEREAS, the ELF was originally intended to apply to marginal fields, not provide tax breaks to the largest producing fields in North America; and

WHEREAS, Senator Duncan has developed an amendment that would provide fair and reasonable incentives to the industry for spill prevention and clean up, now and in the future.

NOW THEREFORE BE IT RESOLVED; for the sake of Alaskan families, APEA urges the Legislature to enact HB 118 with Senator Duncan's amendments immediately.

Be it known that I, Harry A. Sturrock, certify that the above is true of correct copy of a resolution approved by the Board of Directors of the Alaska Public Employees Association on April 3, 1989.

Signed: _____

Date: _____

Harry A. Sturrock

4/7/89

Testimony, ELF

Juneau, AK

Good afternoon. My name is Ben Odom. I am Senior Vice President of Operations of ARCO Alaska, Inc. I appreciate the opportunity to offer testimony today concerning yet another proposed modification to the Economic Limit Factor of the Alaska Oil and Gas Properties Production Tax.

I feel certain that it will come as no surprise to you that ARCO Alaska opposes any changes to the Economic Limit Factor (ELF) which would have the effect of increasing the oil and gas industry's tax burden. We certainly identify with your problems concerning the potential budget deficit generated by the drop in crude oil prices. We have had to make a number of difficult decisions because of lower crude prices, including organizational restructuring and substantial reductions in costs, because our revenues, like yours, were and are, tied to the price of crude oil.

Our economics for making investment decisions contain two principal components. Estimated prices and estimated costs. We know we can't control prices, and we have learned we don't have the ability to predict them very well either. That leaves only cost. Other than the actual costs of transporting the crude oil, the largest single cost we have in Alaska is not the result of the remoteness of the fields or even the cold. The largest single item of cost we face in Alaska is taxes. Higher costs or lower prices result in exactly the same thing -- more oil left in the ground -- more oil that could be recovered becomes

uneconomic to recover. That oil which is left in the ground because it is uneconomic will not return any royalties to the State, and it's from these royalties that the contributions are made to the Permanent Fund. It will not result in the payment of any production tax nor generate any income tax. Oil left in the ground will not create jobs. It will not utilize the facilities already available for its production, therefore, those facilities will generate less ad valorem tax revenues. The ELF helps to reduce the regressive effect of a gross production tax and prevent the premature cessation of oil production. Short-term fixes resulting in higher costs today have the result of removing jobs today and revenue from the future.

High crude prices have meant more tax and more royalty for the state. Those high prices have also equated to more crude oil reserves and more jobs to produce those reserves. However, reserves are not the equivalent of the total amount of crude oil in a reservoir. There is also an economic consideration. Reserves are instead only equal to the amount of crude oil that can be economically produced. Added crude reserves come when prices have been high enough to provide the economic incentive to pay for the technology specific to each reservoir and to pay for workers and equipment to implement that technology in each reservoir. Low prices mean reduced crude reserves; high costs likewise mean reduced crude reserves.

I want to show you this afternoon some information about the Kuparuk River Unit which should give you cause to move carefully in considering changes to the ELF. It is my understanding that the administration has prepared the 1990 budget based on a \$14 Gulf Coast North Slope crude price. I would like to call your attention to Exhibit I, which indicates the impact on the Kuparuk River Unit

of a \$14.01 crude oil price. Kuparuk is the second largest oil field in North America with a current daily production rate of around 300,000 barrels. Our studies indicate nearly a billion barrels of oil can be produced with the existing wells and facilities. Half as much again is recoverable with additional capital spending. One might suppose that this field is an extremely profitable investment. But contrary to what you read in the papers or see on television, at \$14 a barrel, Kuparuk is anything but profitable. As the exhibit so clearly shows, the State already, with the current ELF, receives more than 100% of the available net revenue on each incremental barrel of crude.

Even at its current peak production rate, only the State of Alaska, not the Kuparuk investors, receives a profit. These numbers paint a rather bleak picture at \$14 a barrel. How can increasing the production tax burden by more than 100% over the next ten years, as HB-118 would do, be justified when you look at the economics? The State would certainly appear to be receiving a great deal more than a fair share of the available revenue.

The producer's return on each incremental barrel of oil will determine whether additional investments are made to produce more oil. Kuparuk has no natural gas cap to force the oil from the ground. From the day the first barrel was lifted, pressure has been decreasing, and production on a per-well basis would decline without extensive additional investment in enhanced recovery projects. These new investments are very costly and can only provide for a slower decline in production than would otherwise occur. The loss per barrel that you see is the amount that must support the economic decision of whether we continue to create additional crude oil reserves in the Kuparuk River Unit. Do we operate a drilling rig to do well workovers to produce more barrels when we

lose \$.14 on each barrel? Does it look better to double the production tax and increase the loss to \$.32? There is not a multiplier or an exponent which will convert this loss to an economic incentive to spend more money, to generate more barrels at a loss. What is at issue is the one half billion barrels in the ground that require additional wells and investment to produce.

We are currently looking at a long-range plan for Kuparuk involving what we hope to be a continuing development package. As attached Exhibit II shows, there are many development projects left to be done at Kuparuk, and they would require additional capital of almost \$1.6 billion and would create additional Alaskan jobs amounting to nearly 4000 man years of construction. Many of those projects will stay on the drawing board unless we have higher crude oil prices or lower costs -- or both. We can't do it without your help. The industry can't live with low prices and higher taxes. Among these projects, for example, is a drill site on the periphery of the Kuparuk field. Our plans call for a project consisting of 12 wells to be drilled on the site, providing an additional 12 million barrels of new oil reserves. Under the State's price forecasts and the present tax laws, this project is only marginally economic. If HB-118 is enacted, this project won't happen. Twelve million barrels of oil and effectively \$35 million in State revenue will be left in the ground. Of the \$35 million, \$7 million would go into the Permanent Fund.

The importance of tax burden in a project evaluation cannot be overstated. The ELF plays a pivotal role in mitigating the regressive nature of the Alaska production tax by taking into account the economic realities of oil field operations. Those realities are that it doesn't matter how large or small the field is, what does matter is that each new project must stand on its own by showing

a positive net present worth. Although prices are still very low, the current ELF provides a small but measurable incentive to help reduce some of the costs associated with producing more oil.

When I initially came to Alaska in 1968, the severance tax rate was 1%. A step production tax was introduced in 1974 to help mitigate the production tax burden on wells whose production was at certain low levels. This step methodology was modified in 1977 with the introduction of the ELF, and the maximum statutory rate was increased to 12.25%. Again in 1981 the statutory rate was increased to 15%, the highest production or severance tax rate in the nation. In addition, the application of the ELF was limited during the first ten years of production. As the curves in Exhibit III indicate for the Kuparuk Field, the burden on the production tax has not only changed by calculation method, but it has continually increased. Kuparuk would clearly be paying less production tax under prior laws than it would be paying under HB-118. As the top line of the graph plainly shows, HB-118 does not provide a slowly declining tax rate, or even a step decline, as production drops off. HB-118 is more on the nature of a cliff, where the production of the wells in the field must be so low before any reduction in tax is realized that under North Slope economic realities, the wells could not be operated at these production levels. This can be restated by saying that the Kuparuk Field will shut down before the ELF in HB-118 mitigates anything but an insignificant amount of the production tax.

An increase in taxes also has the direct effect of reducing the amount of capital available for exploration and production in the state. The modification of the ELF embodied in HB-118 is an increase in taxes. This bill provides only a short term revenue boost to cover excessive current government spending. It will not

solve the fiscal difficulties the state now faces, and if it is enacted, it will be at the expense of long-term stability and growth. Too much of the oil industry's resources are being drained out of resource development and into government. It is time for the Legislature to set the pace for Alaska by putting into place policies that attract new investment and provide incentives to increase current investments. The current ELF formula does help to provide incentives to increase production, while HB-118 severely limits those incentives and effectively reinstates the regressive inequities of the gross production tax.

In closing, I would like to state that ARCO Alaska believes that HB-118 will not be advantageous to the economy or the citizens of Alaska. Its enactment would place an onerous additional tax burden on the oil industry that would remove to other states or countries funds that could otherwise be spent on additional investment in Alaska. HB-118 would create a disincentive to future Alaska exploration and development and will not maximize the recovery of Alaska's oil resources. ARCO Alaska strongly opposes House Bill 118.

**ANS Net Revenue
Kuparuk River Field**

	<u>Current Law</u> \$/bbl	<u>HB-118</u> \$/bbl
Assumed Crude Price	14.01	14.01
Tanker Freight	2.70	2.70
Quality Differential	0.40	0.40
TAPS Tariff	3.11	3.11
Kuparuk Pipeline	0.70	0.70
Pipeline Loss -	0.10	0.10
Wellhead Price	<u>7.00</u>	<u>7.00</u>
Production Cost and Capital Recovery	<u>5.43</u>	<u>5.43</u>
Total Net Revenue	1.58	1.58
State Royalty	0.82	0.82
Severance Tax	0.54	0.82
Property Tax	0.44	0.44
State Income Tax	-0.01	-0.02
Total State	<u>1.79</u>	<u>2.06</u>
Federal Income Tax	<u>-0.07</u>	<u>-0.17</u>
Producer Profit	-0.14	-0.32

Source:

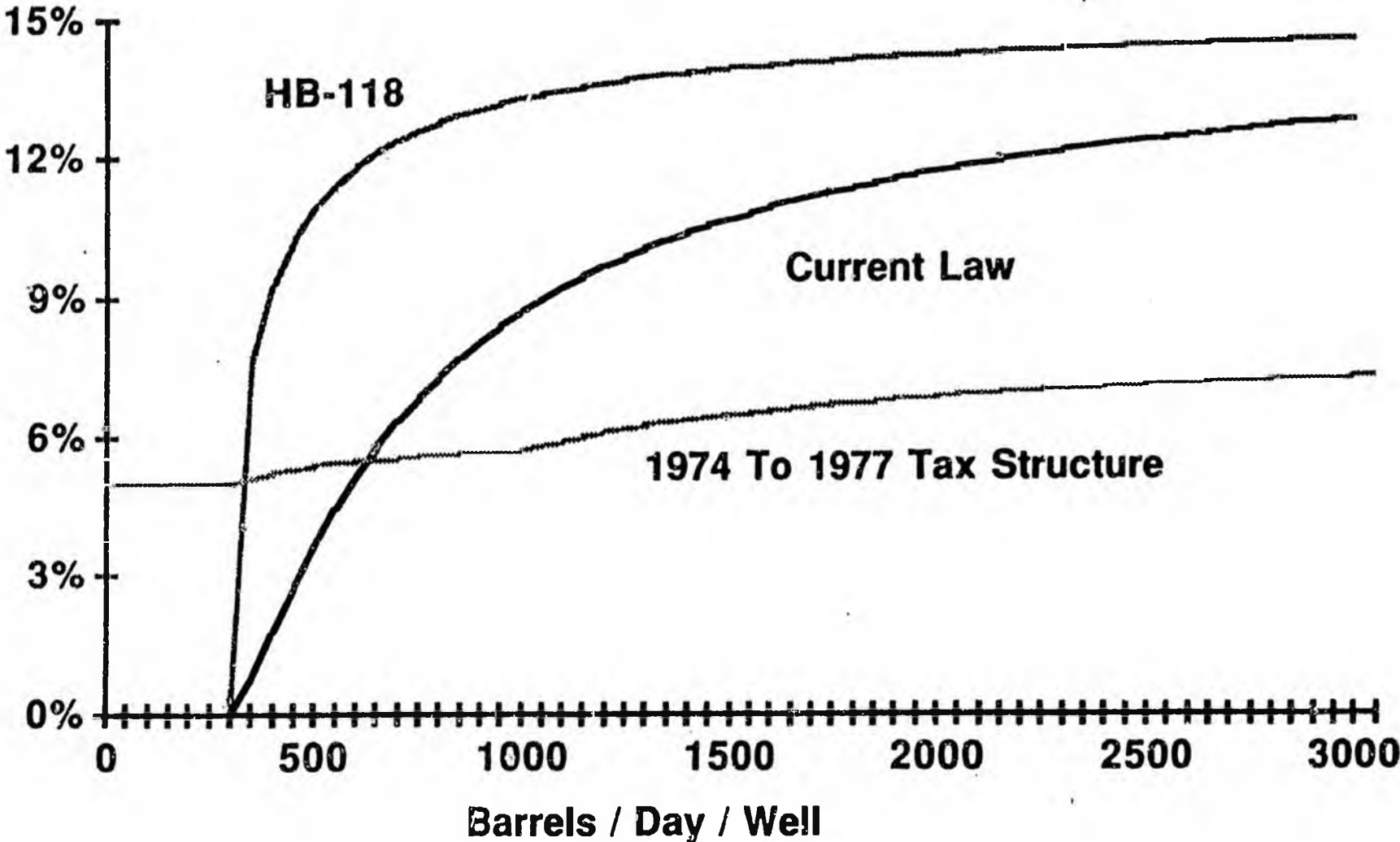
Barclays de Zoete Wedd, September 1988
Alaska Department of Revenue October 1988
State of Alaska Royalty and Severance Methodology

PROJECT PORTFOLIO

KUPARUK

<u>Project</u>	<u>Description</u>	<u>Timing</u>
Drilling		
• Peripheral Drillsite 2K	Selective peripheral DS development on 160 acre spacing. Total of 98 additional wells	1989 SU
• Peripheral Drillsite 3R		1989 SU
• Peripheral Drillsite 2M		1990 SU
• Peripheral Drillsite 2L		1990 SU
• Peripheral Drillsite 3G		1990 SU
• Rem. Peripheral Dev.	14 drillsite expansions, 6 new drillsites, 180 additional wells 1 rig 1989, 2 rigs thereafter	1990===>
Waterflood/EOR		
• LIP-3 Expansion	Additional water handling capacity @ CPF-3 22 new wells. Improve EOR efficiency 16 wells. Seed for Phase I infill 160 + 80 acre accelerate reserves 19 drillsites staged over 4 years	1990 SL
• Infill Drill @ DS 1Y/2Z		1989===>
• Infill Drill @ DS 1A		1989 SU
• Phase I Infill Drilling		1991 SU
• Fullfield EOR		1991 SU

Effective Severance Tax Rates For Kuparuk



ARCO Alaska, Inc.

ARCO Alaska, Inc.	1988	1987	1986	Total
Earnings - millions of dollars	\$ 382	\$ 487	\$ 124	\$ 993
Total assets - millions of dollars	\$3,977	\$4,221	\$4,615	
Additions to fixed assets - millions of dollars	\$ 214	\$ 136	\$ 506	\$ 856
Liquids production - thousand barrels/day - net	487.3	470.4	429.9	
Natural gas sales - million cubic feet/day - net	30	28	35	
Average crude price - dollars/barrel	\$ 5.51	\$10.95	\$ 6.43	
Average natural gas price - dollars/thousand cubic feet	\$ 1.36	\$ 1.14	\$ 1.16	
State taxes - millions of dollars*	\$ 474	\$ 328	\$ 483	\$1,285
Exploration expense - millions of dollars	\$ 56	\$ 45	\$ 44	\$ 145
Net exploratory wells completed	2	0	1	3
Proved liquids reserves - million barrels	2,064	2,136	2,046	
Proved natural gas reserves - billion cubic feet	2,484	2,207	1,985	

* Includes production, property and income taxes paid in the State of Alaska, as well as lump sum settlement payments made to the state in 1988 and 1986 for income and production taxes. Does not include the state's approximately 12.5 percent share of production.

ARCO Alaska Earnings - \$/BOE (Excluding debt service and overhead)	\$ 2.12	\$ 2.81	\$ 0.78	\$ 1.94
State Earnings - \$/BOE (Excluding Lump Sum Settlements)	\$ 2.49	\$ 3.25	\$ 2.26	\$ 2.68

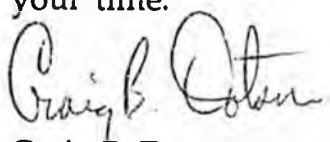
ARCO Share	26%
State Share	59%
Federal Share	15%

Dany
Noyne
FEB 20 1989

To: Senator Bettye Fahrenkamp
From Craig B. Dotson

PUBLIC TESTIMONY GIVEN ON HB-118 FEBURUARY 13, 1989

My name is Craig Dotson I am an Engineer in the oil industry and yes my livelyhood depends on a strong Alaskan oil industry just like every state employee. Let's not forget at last estimate 84 percent of the state revenue is provided by the oil industry not to mention the amount of money generated in the private sector. I strongly oppose HB-118. I have listened to people across this State for the last 2 hours give their testimony on the ELF. Most elected officials say repeal the ELF because they need the money for their budgets. The people in business say leave it alone because of the impacts on the privite sector. I tend to believe also growth in the private sector is more productive for this State then growth in government. The repeal of ELF is an attempt to cover up a much bigger problem and that is the current level of State spending. The budget shortfall will only get worse as we move into the 1990's and Prudhoe Bay oil production declines. Mr Cowper is not in the mainstream of Alaska, his budget and proposed taxes are out of line. But back to the ELF as I mentioned before Prudhoe Bay is on decline the rate of decline will depend on the field development. More wells will need to be drilled between existing wells, as oil production decreases, gas and water production increases therefore more surface facilities and people are needed to produce less oil, it happens to every oilfield thats a fact. Alaskans are the oil industry I have worked at Prudhoe Bay for 4 1/2 years the people up there are Alaskans who live and spend their money in Alaska. I have also seen friends, Alaskans in the oil industry laid off, wages cut at the same time government spending and number of employees, who have some of the best benefits in the country, increase. We in the private sector have given enough its time to reduce state spending. The state should look at revenue enhancement outside of creating a larger State government, get Conoco's Milne Point back on line help BP Exporation bring Niakuk on line these create Alaskan jobs and enhance state income. President Bush in his talk to the House and Senate recommended sound environmental development of ANWR. Let's send a delegation to Washington to show strong Alaskan support not like the last time we sent a delegation and when they left the people in DC had no idea if Alaska was for or against the opening of ANWR. Leave our, as Mr Cowper called himself, Governor of the Caribou at home. Thank you for your time.



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The "ELF" and North Slope Oil Production

Information of Importance on CSHB-164

Major points Alaska policymakers should know:

- If CSHB-164 were enacted, Alaska would continue to have the highest effective severance tax rate in the nation.
- A Department of Revenue projection of "lost oil production" underestimates the likely impact of CSHB-164.
- CSHB-164 is a change in the structure of the ELF formula that goes far beyond its revenue effect on Prudhoe Bay. It should be looked at with caution.
- Investment funds for Endicott and Lisburne, new fields on the North Slope, have been largely generated by Prudhoe Bay. A tax "break" on marginal fields, cited by advocates for CSHB-164, would be offset by a larger tax bite on Prudhoe, which produces the investment funds for "marginal fields".

On April 21, 1987 the Office of Management and Budget issued a collection of material on the ELF, the Economic Limit Factor in Alaska's oil and gas severance tax. Many points made by OMB are misleading. Space limits limit our response to just a few.

OMB implies that if CSHB-164 were enacted, Alaska would still be within the range of severance taxes in other states. In fact, Alaska would continue to have the highest effective severance tax rate.

OMB uses only the Kuparuk field as an example, which accounts for only one seventh of Alaska's oil output, and cites an effective tax rate of 10.7%. However, under CSHB-164 the average tax on all Alaska production would be 13.4%. What accounts for the difference, of course, is the higher tax (almost 15%) that would apply to Prudhoe Bay, which provides most of Alaska's oil production.

CSHB 164 ANALYSIS: Including all Alaska oil production (FY 88)

<u>STATE</u>	<u>CSHB 164 TAX AS PERCENT OF VALUE</u>
Alaska (proposed)	13.4%
Louisiana	12.5%
Alaska (existing)	11.6%
Oklahoma	7.0%
Texas	4.9%
California	0%

OMB ANALYSIS: Looking only at Kuparuk (FY 88)

<u>STATE</u>	<u>KUPARUK TAX AS A PERCENT OF VALUE</u>
Louisiana	12.5%
Alaska (proposed)	10.7%
New Mexico	8.0%
Alaska (existing)	7.6%
Oklahoma	7.0%
Wyoming	6.0%
Texas	4.9%

The average severance tax rate of the four other top oil producing states is 6.1%. The effective severance tax rate for Alaskan production under current law is almost twice the average of the other top oil producing states. The new ELF would increase the effective rate another 1.8%, putting Alaska far above any other state.

But still, isn't OMB's point that CSHB-164 would keep taxes low on smaller fields other than Prudhoe, and actually decrease taxes on some small "marginal fields"?

What is obscured is that there are "marginal projects" within the Prudhoe Bay field itself, development programs that could apply more intensive development drilling or enhanced oil recovery to the reservoir. These projects could recover huge amounts of oil - the equivalent of several fields like Endicott or Lisburne, two new "marginal fields" now under development. In all likelihood, outside of ANWR the biggest prospect for major new recoverable oil reserves is right in the Prudhoe Bay field itself.

But still, isn't there a tax decrease on Endicott and Lisburne?

We believe OMB's figures overstate it. Our estimates of its effect are different, and that it does not amount to a significant savings. It should also be pointed out that the 33% tax increase on Kuparuk (by OMB's figures) will have a serious adverse effect on further development in that field. It is worth noting that the vast bulk of the investment funds for Lisburne and Endicott are coming from the Prudhoe Bay field, since Prudhoe owners are also involved in development of these smaller fields. The same is true for Kuparuk. Higher taxes on Prudhoe drains off capital that could be invested in new projects.

What about Milne Point? OMB cites that case. Doesn't it illustrate the "quirks" in the current ELF?

If there are problems in how the ELF applies to particularly marginal fields, the current statute provides a mechanism to solve them - the right to challenge the "economic limit" in the formula itself. A reasonable interpretation of the statute would protect truly marginal fields. CSHB-164 actually provides relief for small fields - marginal or not - and imposes a greater burden on larger fields, even those marginally economic. DOR could, by regulation, solve the "problems" cited by advocates for CSHB-164. They do not justify a change in the statute.

In recent House testimony, Standard said that with lower oil prices the state's overall "share" of oil production revenues have increased sharply. OMB says this is "false". Is it?

No. And OMB cites no data in making that claim. In fact, Standard's analysis is based on Department of Revenue data.

Standard testified that at \$15 oil prices (\$9 wellhead), the state share of net production income based on a Department of Revenue study, would be 96% for FY 1988-1992. The DOR study referenced is: "Sensitivity Analysis of Projected Revenue Collections", by John Larson et al. (December 1986). The purpose of the study was to provide the economic effect of Alaska's oil taxes at various wellhead prices. Following is page 93 of the study which addresses \$15 oil prices (\$9 wellhead). Page 93 is captioned, "Percentage Share Comparison - Calculation of State Petroleum Production Revenue as a Percentage of Petroleum Production Net Income."

TABLE 11-9-1
 PERCENTAGE SHARE COMPARISON
 CALCULATION OF STATE PETROLEUM PRODUCTION REVENUES
 AS A PERCENTAGE OF
 PETROLEUM PRODUCTION NET INCOME
 11-118811 SENSITIVITY ANALYSIS 1978-1997

FISCAL YEAR	TOTAL			CURRENT		HISTORICAL	
	STATE REVENUE PRODN	TOTAL PETRO PRODN	NET INCOME	STATE REVENUE PRODN	VS NET INCOME %	STATE REVENUE PRODN	VS NET INCOME %
1986	6187.82	3304.18	21.8.83	1867.26	67.20	1817.31	63.40
1987	5209.78	3671.83	2537.87	1881.76	77.65	1729.39	68.14
1988	3983.57	3454.71	2176.73	1688.29	79.38	1524.93	71.70
1989	3915.67	4101.18	1814.49	1663.12	91.66	1483.11	81.74
1990	3640.64	4021.98	1638.68	1543.60	96.67	1377.89	85.34
1991	3279.85	3431.62	1478.83	1468.74	103.37	1286.30	90.39
1992	4864.69	3786.83	1843.77	1351.61	128.99	1184.04	108.04
1993	4348.73	3405.49	766.74	1288.72	167.47	1126.53	147.31
1994	4340.88	3643.78	677.10	1292.43	172.49	1071.87	153.76
1995	4156.91	3343.68	613.23	1132.04	139.21	1030.62	176.73
1996	3726.82	3037.23	732.79	1014.65	138.66	936.24	127.49
1997	3442.69	2784.54	658.16	917.69	139.65	852.61	129.55
1998	3125.57	2456.58	648.98	829.96	124.64	778.01	118.58
1999	2894.87	2324.96	575.98	762.64	132.72	719.39	126.92
2000	2685.26	2182.13	543.13	698.01	138.73	667.77	131.73
2001	2474.88	2062.85	511.99	637.63	134.77	647.58	147.48
2002	2328.39	1959.97	480.42	581.07	139.89	565.37	153.66
2003	1928.78	1535.17	345.11	497.23	128.93	481.50	126.07
2004	1788.97	1418.76	308.16	458.12	148.67	447.62	143.26
2005	1691.51	1350.58	246.62	425.81	173.64	418.28	176.02

27,704 19,630 8,084 7,750

It is clear (and no one has contended otherwise) that the data is from the December DOR study. What is also difficult to dispute is:

- \$7,758MM (current law state petroleum production revenue) divided by \$8,084MM (total petroleum production net income) times 100 (to convert to a %) is 96%, and
- the schedule on page 93 is intended specifically to address the state share issue.

In conversations with Standard, Department of Revenue analysts agreed the information was not being misinterpreted.

The point Standard was making in its testimony is that low oil prices have dramatically reduced producers' net return on production revenues, and that state royalties and taxes, because they are levied on gross field revenues rather than net, become much larger as a percentage of the overall. By increasing taxes, CSHB-164 would essentially reduce industry's share of net production income (as defined by Department of Revenue) to zero. This is hardly an incentive for further development activity.

But don't pipeline profits offset that?

Although believing that transportation income is irrelevant in determining tax policy for production taxes, Standard testified that inclusion of the transportation income still resulted in a state share of 59% over the same period and at the same price.

OMB has numbers which indicate industry's "share" at much different levels. How is that?

OMB looks at 1982 through 1985, years with high oil prices, in their claim of a high industry "share". They also include pipeline income in the calculation. Our analysis looks five years into the future, using lower prices and assuming that low to moderate prices will continue for some time into the future. Governor Cowper, and many oil companies, have said that it is reasonable to assume \$15 oil prices as a long-term "planning" figure, although prices have shown some recent short-term improvement. Additionally, we think there are also serious errors in the assumptions used in the OBM "share of the pie" analysis, particularly assumptions of federal tax liability.

The OMB report relying on a Department of Revenue analysis states that the cumulative loss of production from the new ELF is 21 million barrels. Do you agree?

No. Any sense of security associated with a loss of 21 million barrels is a false sense of security. Arco has estimated the "production lost" at a much higher figure - 200 million barrels just in Prudhoe Bay.

The likelihood that the 21 million barrel "lost production" is substantially understated is apparent from looking only at proposed additional development at Prudhoe over the next few years. We see the potential of the Prudhoe Bay reservoir, with current technology, at about ten billion barrels recoverable. Five billion barrels have been produced already. With facilities and wells now in place, four billion - for a total of nine - can be produced. Recovering the additional one billion barrels will require additional capital investment in facilities and drilling. Many of these future investment decisions are only marginally economic. This future development and some of the expected production from the current wells and facilities is jeopardized by proposed changes in the ELF.

CSHB-164 is no mere "technical correction" of state oil tax laws, or even just halting a scheduled reduction of the 15% severance tax on Prudhoe Bay. It is a restructuring of the ELF formula that eliminates its effectiveness as an incentive for further development drilling. Because of this, it should be looked at very cautiously.

How is Alaska's tax structure viewed by others?

In a two-year study of state economic policies published in March, 1987, "Making the Grade: The Development Report Card for the States" by the Washington-D.C.-based Corporation for Enterprise Development, Alaska was rated 49th (tied with Tennessee) in the state policies toward economic development index. A prime component in this index is an effective and equitable tax code. Alaska's low rating in the index is tied to Alaska's heavy dependence on oil revenues.

STANDARD ALASKA PRODUCTION COMPANY

TESTIMONY

ON

House Bill 164

March 19, 1987

MY NAME IS BOB VAN HOOK. I AM TAX COUNSEL AT STANDARD ALASKA PRODUCTION COMPANY. WITH ME IS JIM PALMER, MANAGER OF GOVERNMENTAL AFFAIRS.

I'D LIKE TO START WITH A COMMENT ABOUT SEVERAL SUCCESSES IN ALASKA'S OIL INDUSTRY. THESE SUCCESSES HAVE BEEN GIVEN LITTLE NOTICE IN THIS PERIOD OF FALLING PRICES, BUT BY WORLD STANDARDS ARE REMARKABLE. THREE MAJOR PROJECTS WILL COMMENCE PRODUCTION BETWEEN DECEMBER 1986 AND DECEMBER 1987. THE PROJECTS ARE LISBURNE, ENDICOTT, AND THE CENTRAL GAS FACILITY AT PRUDHOE. THE CENTRAL GAS FACILITY ACTUALLY COMPRISES TWO PROJECTS. THE FIRST EXTRACTS NATURAL GAS LIQUIDS FROM A GAS STREAM AND COMBINES THE NATURAL GAS LIQUIDS WITH BLACK OIL SHIPPED DOWN TAPS. THE SECOND MANUFACTURES AND INJECTS MISCIBLE FLUID INTO THE RESERVOIR TO INCREASE RECOVERY. COLLECTIVELY, ADDITIONAL RECOVERY FROM THESE PROJECTS IS ESTIMATED TO BE 1.4 BILLION BARRELS. THE COST OF THE PROJECTS IS ESTIMATED AT \$3.5 BILLION.

THESE PROJECTS DEMONSTRATE THAT THE OIL INDUSTRY HAS REINVESTED LARGE SUMS IN ALASKA AND HAS SIGNIFICANTLY INCREASED RECOVERY.

MOVING NOW TO H.B. 164: THIS BILL ESSENTIALLY LEAVES THE ECONOMIC LIMIT FACTOR OR ELF IN PLACE AT ALL FIELDS EXCEPT PRUDHOE. THIS SEEMS TO REFLECT THE THEORY THAT THE ELF IS GENERALLY A GOOD THING BUT IS UNNEEDED AT PRUDHOE. SAPC BELIEVES THAT THE ELF IS IMPORTANT FOR PRUDHOE AS WELL AS OTHER FIELDS. THIS BILL IS

ESPECIALLY IMPORTANT TO SAPC BECAUSE OF THE GREATER THAN 50% INTEREST THAT STANDARD HAS IN PRUDHOE.

ALASKA'S NOMINAL PRODUCTION (OR SEVERANCE) TAX RATE OF 15% IS THE HIGHEST IN THE NATION. LOUISIANA IS SECOND AT 12.5%. OKLAHOMA HAS A 7% RATE; TEXAS HAS A 4.6% RATE AND CALIFORNIA DOES NOT HAVE A PRODUCTION TAX. PRODUCTION TAX IS AN INCREASINGLY BURDENSOME TAX IN HIGH COST AREAS. THIS IS BECAUSE THE TAX IS BASED ON WELLHEAD VALUE WITHOUT ANY REDUCTION FOR OPERATING COSTS OR CAPITAL COSTS. THE ELF HAS THE EFFECT OF REDUCING THE PRODUCTION TAX RATE AS THE FIELD MATURES. DURING THIS PERIOD OF DECLINING PRODUCTION, OPERATING COSTS PER BARREL INCREASE AND CAPITAL COSTS RELATING TO ADDITIONAL RECOVERY INCREASE.

THE ELF ACTUALLY ENCOURAGES FULL FIELD DEVELOPMENT. ONE EXAMPLE IS THE DRILLING OF WELLS. THE ADDITION OF WELLS CONSISTENT WITH SOUND ECONOMIC AND RESERVOIR MANAGEMENT WILL GENERALLY INCREASE ULTIMATE RECOVERY WITHIN A FIELD BUT DECREASE SLIGHTLY THE AVERAGE PRODUCTION PER WELL WITHIN THE FIELD. THE ELF WILL DECREASE SLIGHTLY AS THE PRODUCTION PER WELL DECREASES. OVERALL THEN THE STATE WILL COLLECT TAXES ON MORE BARRELS.

THE HIGH SEVERANCE TAX RATE OF 15% WITHOUT ELF RELIEF CAN BE A SUBSTANTIAL LIMITATION ON MARGINAL PROJECTS OTHER THAN WELL DRILLING. FUTURE ENHANCED OIL RECOVERY PROJECTS ARE VERY EXPENSIVE YET MAY RESULT IN SIGNIFICANT ADDED RECOVERY, MORE RECOVERY IN SOME INSTANCES THAN ENTIRE FIELDS WHICH THE STATE IS APPARENTLY TRYING TO ENCOURAGE. INCREASING THE EFFECTIVE SEVERANCE TAX RATE ON THE FIELD CAN RESULT IN THESE MAJOR PROJECTS NOT BEING PURSUED.

H.B. 164 CHANGES THE EXISTING TAX STRUCTURE. THIS CHANGE WILL MAKE JUSTIFICATION OF FUTURE INVESTMENTS EXTREMELY DIFFICULT. THE TAX RATE WILL BE SUBSTANTIALLY HIGHER FOR 5 YEARS WITH A SEEMINGLY HIGH POTENTIAL FOR ANOTHER INCREASE WHEN THAT 5 YEARS IS UP. BETWEEN \$460 MILLION AND \$610 MILLION WILL BE TAKEN FROM PRUDHOE OWNERS AND WILL NOT BE AVAILABLE FOR REINVESTMENT. THIS TAX INCREASE COMES AT THE TIME PRUDHOE FACES DECLINE AND LOW PRICES, AND AT THE TIME NEW, VERY EXPENSIVE TECHNOLOGIES ARE BEING DEVELOPED WHICH COULD HAVE APPLICATION TO THE 12 BILLION BARRELS CURRENTLY CONSIDERED UNRECOVERABLE AT PRUDHOE.

GREAT RELIANCE IS BEING PLACED ON THE LOST PRODUCTION FIGURES GENERATED BY THE DEPARTMENT OF REVENUE. PRUDHOE HAS 12 BILLION BARRELS WHICH ARE CURRENTLY CONSIDERED UNRECOVERABLE. TECHNOLOGIES ARE BEING DEVELOPED WHICH MAY BE ECONOMIC AT PRUDHOE. STANDARD SERIOUSLY DOUBTS THAT THE DEPARTMENT OF REVENUE MODEL CAN FAIRLY PREDICT THIS TECHNOLOGICAL PROGRESS. MAJOR PROJECTS COULD BE FOREDONE.

IN ANALYZING A PROJECT, THERE ARE TWO MAJOR CONSIDERATIONS:

1. IS THE PROJECT ECONOMIC?

2. ARE OTHER PROJECTS MORE ECONOMIC IN USING THE FUNDS AVAILABLE?

THE DEPARTMENT OF REVENUE MODEL DOES NOT CONSIDER ALTERNATIVE PROJECTS AND DOES NOT CONSIDER WHETHER FUNDS ARE AVAILABLE. OVERALL, STANDARD BELIEVES THAT AN ACCURATE MODEL PREDICTING LOST PRODUCTIONS CANNOT BE DEVELOPED AND THAT THE SENSE OF SECURITY GENERATED BY THE DEPARTMENT OF REVENUE FIGURES IS A FALSE SENSE OF SECURITY.

THIS BILL WOULD ALSO ELIMINATE THE PEL CHALLENGE. SAPC OPPOSES THIS CHANGE AND BELIEVES THAT FIELD LIFE WILL BE SHORTENED AND TOTAL PRODUCTION REDUCED IF THE PEL CHALLENGE IS ELIMINATED.

IN CONCLUSION SAPC WOULD LIKE TO EMPHASIZE TWO POINTS.

1. THE OIL INDUSTRY HAS CONTINUED TO MAKE MAJOR CAPITAL INVESTMENTS IN ALASKA WITH SUBSTANTIAL ADDITIONAL RECOVERY RESULTING.

2. REMOVAL OF THE ELF AT PRUDHOE COULD SUBSTANTIALLY DECREASE ULTIMATE RECOVERY FROM THAT FIELD AND WILL CHANGE THE EXISTING TAX STRUCTURE MAKING JUSTIFICATION OF FUTURE INVESTMENTS EXTREMELY DIFFICULT.

LAW OFFICES
PRESTON, THORGRIMSON, ELLIS & HOLMAN
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RECEIVED
Department of Law

MAY - 1 1986

MEMORANDUM

AM 9 10 11 12 1 2 3 4 5 6 PM

TO: Deborah Vogt
FROM: Joseph K. Donohue
DATE: April 28, 1986
RE: Retroactive Amendments to ELF Factor

You have requested an opinion concerning the constitutionality of enacting a bill which would retroactively either repeal, or amend the methodology for calculating, the economic limit factor under AS 43.55.013. Specifically, you have asked whether a bill enacted in February 1987 and made retroactive to January 1, 1987 would present any due process problem under the Fifth Amendment to the United States Constitution or under Article I, Section 7 of the Alaska Constitution.

The gross production tax on oil or gas is payable monthly. The tax is due on the 20th day of each month for oil or gas production which occurred during the preceding month. The tax is delinquent if not paid before the end of the month following the month of production. AS 43.55.020(a). Thus, the tax on January production is due on February 20 and is delinquent if not paid on or before February 28.

The economic limit factor is defined in AS 43.55.013 and the Department of Revenue has promulgated a number of regulations which interpret and implement of the provision. See 15 AAC 55.010-.040 and .090. The economic limit factor (ELF) is a concept which is designed to reduce the effective rate of taxation on a producing field as production from that field becomes increasingly marginal. The ELF is multiplied by the percentage-of-value amount set forth in AS 43.55.011(b) or the cents-per-barrel amount calculated under (c) to determine the tax due. AS 43.55.013(b) (2) and (3) provide that during the first 10 years of commercial production from a lease or property, an economic limit factor which is greater than .7 is deemed to be one for purposes of the calculation of tax liability. For example, for the period since 1981 when the .7 threshold was enacted as part of Ch. 116 SLA 1981, the ELF at Prudhoe Bay has been greater than .7 and, therefore, one. This, in turn, means that the ELF does not have any operative effect unless it is found to be less than .7 during the initial 10-year period. For Prudhoe Bay, the 10-year period expires in June 1987.

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Deborah Vogt
April 28, 1986

The ELF is derived by the use of a rather complicated mathematical formula which in turn is based on certain simplifying assumptions. For oil, the monthly production rate at the economic limit is presumed to be 300 barrels times the number of well days for the lease or property during the month for which the tax is to be paid. AS 43.55.013(d).

The taxpayer may rebut this presumption at a formal hearing by providing clear and convincing evidence of a different monthly production rate. The determination of the monthly production rate at the economic limit is made by dividing the value at the point of production under AS 43.55.013(f) into the average monthly direct operating costs calculated under subsection (e). The hearing must be held before February 15 of a year or within 6 months after commencement of oil production from a lease or property. The results of the hearing "shall be used for all oil production during that calendar year from the lease or property." AS 43.55.013(d). Therefore, the statute expressly calls for an annual determination with some retroactive effect on the monthly tax period preceding the hearing on the appropriate monthly production rate. This procedural approach makes administrative sense since it is more efficient to have this potentially difficult issue decided on an annual basis rather than on a monthly basis.

Perhaps the leading case on the question of whether a tax statute can apply retroactively to previous tax periods is Welch v. Henry, 305 U.S. 134 (1938). There, the United States Supreme Court upheld a corporate income tax amendment enacted by Wisconsin in March 1935 which was applicable to receipt of corporate dividends in 1933. The court held that, except for a narrow category of gift taxation cases, the legislature had broad authority to adjust or amend tax liability retrospectively.

The exception to this rule mentioned by the court pertained primarily to instances where voluntary irrevocable actions of taxpayers (e.g., making a bequest) were impacted by the retroactive imposition of a tax. The Supreme Court stated that the critical part of the constitutional test was whether "the nature or amount of the tax could not reasonably have been anticipated by the taxpayer at the time of the particular voluntary act which the statute later made the taxable event." 305 U.S. at 147. The cases cited by the court, e.g. Nichols v. Coollidge, 274 U.S. 531 (1927), and Untermeyer v. Anderson, 276 U.S. 440 (1928), were instances where the donor might well not have acted as he did had he anticipated the tax. The court said that the facts of each case and the nature of the tax would have to be examined to determine if retroactivity gives rise to such harsh and oppressive results that it offends the Constitution. The court stated "there are other forms of taxation whose retroactive imposition cannot be said to be similarly offensive, because their incidence

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is not on the voluntary act of the taxpayer." 305 U.S. at 147. The court specifically listed property taxes, income taxes and benefit assessments. 305 U.S. at 147-148. The Supreme Court also noted that it was historically the practice of Congress and the Wisconsin Legislature to enact revenue or tax legislation in a given year and to give it effect to the entire calendar year.

The United States Supreme Court more recently upheld the retroactive increase in the minimum tax on preferences in United States v. Darusmont, 449 U.S. 292 (1981). There, an amendment to the Internal Revenue Code enacted in October 1976 was applied to the entire 1976 tax year. In addition to relying on Welch v. Henry, *supra*, the Supreme Court cited its earlier decision in Cooper v. United States, 280 U.S. 409, 411 (1930), which upheld the taxation of gains from "prior but recent transactions." The Supreme Court also relied on the analysis of Judge Learned Hand in Cohan v. Commissioners, 39 F.2d 540, 545 (2d Cir. 1930). Judge Hand, in resolving a similar issue involving retroactivity of a tax, held that nobody had a vested right in the rate of taxation. In responding to the question of whether the tax law change was foreseeable, Judge Hand stated that once a system of taxation is already in place, a taxpayer "must be prepared for such possibilities" 39 F.2d at 545.

Other decisions which uphold tax law changes with arguably retroactive impacts in the face of due process challenges include Buttke v. Commissioner, 625 F.2d 262 (8th Cir. 1980) (involving the same minimum tax amendments subsequently upheld by the U.S. Supreme Court in United States v. Darusmont, *supra*) and Neild v. District of Columbia, 110 F.2d 146, 153 (D.C. Cir. 1940) (involving the constitutionality of the application of a new gross receipts tax measured by the prior year's receipts).

Sometimes retroactive tax laws are challenged under state constitutional provisions barring retrospective laws per se or interference with vested rights. The analytical approach taken by the courts is substantially similar. Under the first line of cases, tax bills which are applied to the entire calendar year in which they are enacted are generally found not to be retrospective in operation. See, e.g., Martin v. Board of Assessment Appeals, 707 P.2d 348 (Colo. 1985). In the Martin case, a law changing the factors to be considered in appraising condominiums which took effect in May 1982 and which was used to assess property values as of January 1, 1982 was upheld. The court held that to find an unconstitutional retrospective effect required a showing of an impairment of a vested right. The court concluded:

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... [P]roperty owners have no vested right to have their taxable property assessed by particular methods employed in prior years. ... Since the statute only alters the factors which may be considered in determining actual value, it does not impair the taxpayers' vested rights, and therefore is not unconstitutionally retrospective in its operation. 707 P.2d at 352.

A "vested rights" challenge in the context of a severance tax increase led to an identical conclusion. In Belco Petroleum v. State Board of Equalization, 587 P.2d 204 (Wyo. 1978), a 1975 amendment to the state severance tax increased the amount of tax due for the previous year. Under the Wyoming severance tax, a taxpayer paid his 1974 tax in July 1975 computed on the value of gross production for previous year. In upholding the application of the 1975 increase to the July assessment, the court ruled that such an increase was not retrospective but merely called for a tax measured by or computed on the basis of antecedent facts or transactions. The court also found that there was no vested right in a specific tax rate.

On the basis of the foregoing state and federal cases, one can conclude that there is no vested right in a particular tax rate or in a particular method of determining a tax liability. The U.S. Supreme Court cases focus on whether the transaction was taxable during the period of retroactive coverage and whether said period is reasonable, whether the transactions were "prior but recent" in time with respect to the tax law change, whether the change was reasonably foreseeable and whether or not the taxpayer might have voluntarily acted as he did had he but known of the change.

The question before us involves the proposed repeal or modification of the ELF factor in February 1987, effective January 1, 1987. The retroactive period is at most two months. It would adjust a factor which is determined on an annualized calendar basis under present law. The affected taxpayers are those whose decision to invest and produce oil or gas has already been made and whose production is already subject to taxation. In the State of Alaska, amendments to the oil and gas production tax must certainly be viewed as foreseeable. In fact, the Legislature has discussed and debated changes to the ELF factor during the 1986 legislative session. Under these circumstances, I conclude that neither state nor federal due process limitations would be abrogated by the repeal or amendment of the ELF factor under consideration here. Furthermore, under the analyses set forth in Martin and Belco Petroleum above, a change in the tax rate or ELF methodology prior to February 20, 1987 might not even be viewed as having "retrospective" operation.

FEB 18 64

MR. CHAIRMAN. MEMBERS OF THE FINANCE COMMITTEE. I AM BRIAN DAVIES, VICE PRESIDENT, PRUDHOE BAY PROGRAMS FOR SOHIO ALASKA PETROLEUM COMPANY. MY RESPONSIBILITIES INCLUDE PLANNING AND EVALUATION OF RECOVERY PROJECTS THAT WILL INCREASE PRODUCTION FROM THE PRUDHOE BAY FIELD.

WITH ME IS BOB VAN HOOK, TAX COUNSEL FOR SOHIO ALASKA PETROLEUM COMPANY.

SOHIO APPRECIATES THE OPPORTUNITY TO TESTIFY BEFORE YOU ON HOUSE BILL 545. ADDITIONALLY, WE WILL SUBMIT WRITTEN COMMENTS ON H.B. 502 AND PROPOSALS FOR PREPAYMENT.

WE ARE OPPOSED TO THE REVISION TO THE ECONOMIC LIMITATION FACTOR (ELF) CONTAINED IN H.B. 545 FOR SEVERAL REASONS. FIRST, WE VIEW THE CHANGE AS A TAX INCREASE. THERE IS SUBSTANTIAL ADDITIONAL TAX COST VS. EXISTING LAW. OUR INVESTMENT DECISIONS UNDERSTANDABLY HAVE BEEN BASED ON EXISTING LAW.

SECOND, JUST LIKE THE STATE, WE ARE SUFFERING FROM DECLINING OIL PRICES. AS A RESULT, SOHIO HAS GONE THROUGH A PAINFUL BELT TIGHTENING IN THE LAST SEVEN MONTHS. IN THAT PERIOD, BUSINESSES HAVE BEEN SOLD, PERSONNEL HAVE BEEN SUBSTANTIALLY REDUCED, AND THE EXPLORATION BUDGET HAS BEEN SUBSTANTIALLY CUT FOR 1986. INCREASING TAXES WOULD FURTHER LIMIT SOHIO'S ABILITY TO EXPLORE FOR AND PRODUCE OIL IN ALASKA.

THIRD, A RESULT OF MODIFYING THE ELF IN A MANNER THAT TAXES LARGER FIELDS SUCH AS PRUDHOE AND KUPARUK MORE HEAVILY IS THAT THERE WILL BE AN EARLIER DECLINE AND LOWER ULTIMATE RECOVERY FROM THESE FIELDS.

ADDITIONALLY, THIS BILL'S STATED GOAL OF ENCOURAGING THE DEVELOPMENT OF MARGINAL FIELDS IS NOT MET WITH REGARD TO SMALLER FIELDS LIKE ENDICOTT. CONTRARY TO OMB'S ANALYSIS, OUR OWN REVIEW SHOWS NO SIGNIFICANT REDUCTION IN SEVERANCE TAXES FOR THE ENDICOTT FIELD UNDER THIS PROPOSAL.

THE PROPOSAL FOR INCREASING TAXES ON LARGER, MATURE FIELDS, SUCH AS PRUDHOE BAY AND KUPARUK, FAILS TO RECOGNIZE THAT WITHIN SUCH FIELDS OPPORTUNITIES ARE AVAILABLE TO INCREASE THE OVERALL RECOVERY. THESE OPPORTUNITIES ARE GENERALLY MARGINALLY ECONOMIC AND THEY REQUIRE GREATER EXPENDITURES FOR EACH INCREMENTAL BARREL. THE ULTIMATE DEVELOPMENT OF EVERY FIELD IS GOVERNED BY THESE DECISIONS.

FOR EXAMPLE, ENHANCED OIL RECOVERY PROJECTS DESIGNED TO RECOVER BARRELS OF OIL THAT WOULD BE LEFT IN THE GROUND BY TRADITIONAL METHODS ARE VERY EXPENSIVE. INCREASING THE EFFECTIVE SEVERANCE TAX RATE ON A FIELD WILL DISCOURAGE THE ONGOING RESEARCH THAT THE COMPANIES ARE CONDUCTING RELEVANT TO DEVELOPING NEW ENHANCED OIL RECOVERY METHODS. IT IS NOT PRUDENT TO DISCOURAGE SUCH EFFORTS INASMUCH AS THE STATE WILL BE A MAJOR BENEFICIARY OF SUCH ENHANCED RECOVERY PROJECTS.

ON A LESS TECHNICAL BASIS, MORE WELLS IN THESE LARGER FIELDS WILL RESULT IN MAINTAINING MAXIMUM PRODUCTION LONGER AND WILL INCREASE THE ULTIMATE RECOVERY OF OIL. AGAIN, BOTH THE RISK TAKERS AND THE STATE GAIN FROM THESE ACTIONS.

THE PROPOSED LEGISLATION DISCOURAGES THE DRILLING OF ADDITIONAL WELLS FOR TWO REASONS. FIRST, ALL PRODUCTION WILL BE TAXED AT A HIGHER ABSOLUTE RATE. SECOND, THE INCENTIVE TO DRILL NEW WELLS WHICH IS CONTAINED IN EXISTING STATUTES IS SUBSTANTIALLY DECREASED.

THE DECISION TO DRILL ADDITIONAL WELLS INVOLVES A NUMBER OF FACTORS - ASSUMPTIONS ON THE PRICE OF OIL, TAX STABILITY, RESERVOIR PERFORMANCE AND GEOLOGICAL PREDICTIONS AS WELL AS COST ESTIMATES. THE RESULTS ARE TESTED AGAINST ALTERNATIVE USES OF FUNDS. BECAUSE THE DECISION IS BASED ON A COMPOSITE OF FACTORS, IT IS IMPOSSIBLE TO ASSESS THE EXACT EXTENT OF REDUCED FIELD DEVELOPMENT RESULTING FROM IMPLEMENTATION OF THIS PROPOSAL. I CAN SAY THAT THIS CHANGE WILL CURTAIL FIELD DEVELOPMENT.

EVEN WHERE A PARTICULAR OIL AND GAS FIELD HAS A LONG LIFE SUCH AS PRUDHOE BAY, INDIVIDUAL WELLS IN A FIELD BECOME MARGINAL OR REACH THEIR ECONOMIC LIMIT BEFORE THE LIFE OF OTHER WELLS IN THE FIELD. INCREASING THE ELF BASED ON PRODUCTION LEVELS FROM THE TOTAL FIELD WILL RESULT IN PREMATURE SHUT-IN OF SUCH WELLS AND WILL DISCOURAGE THE EXTENSIVE WELL WORKOVER ACTIVITIES THAT WILL BE REQUIRED TO MAXIMIZE RECOVERY FROM THE FIELD.

WE FEEL THAT THE PROPOSAL BEFORE YOU TO CHANGE THE SEVERANCE TAX ECONOMIC LIMIT FACTOR IS NOT IN THE INTEREST OF THE STATE. BEFORE ANY DECISION IS MADE, HOWEVER, THE SHORT AND LONG TERM IMPACTS FROM SUCH CHANGE SHOULD BE THOROUGHLY STUDIED TO MAKE SURE THAT THE POTENTIAL IMPACTS ON FUTURE INVESTMENT DECISIONS IN THE STATE ARE FULLY UNDERSTOOD. WE FEEL THAT A THOROUGH STUDY OF LONG-RANGE TAX POLICY SHOULD BE CONDUCTED BEFORE MAKING ANY MAJOR CHANGES TO THE EXISTING TAX STRUCTURE. SUCH APPROACH SHOULD ASSIST IN IDENTIFYING FOR THE STATE THE TAX STRUCTURE WHICH MAXIMIZES THE STATE'S REVENUES IN SUCH A WAY AS TO CONTINUE FOSTERING ECONOMIC GROWTH IN THE STATE.

IN SUMMARY, WE ARE OPPOSED TO H.B. 545 FOR THESE REASONS.

1. H.B.545 IS A TAX INCREASE AT A TIME WHEN THE OIL INDUSTRY IS BEING NEGATIVELY IMPACTED BY LOW PRICES.
2. IN CONTRAST WITH THE EXISTING ELF, H.B. 545 DISCOURAGES THE FULL DEVELOPMENT OF LARGE FIELDS BY REDUCING OR ELIMINATING THE MARGINAL ECONOMICS OF ENHANCED OIL RECOVERY; BY INCREASING THE COST OF NEW WELLS; AND BY REDUCING INCENTIVES TO MAINTAIN EXISTING PRODUCTION THROUGH WELL WORKOVERS.
3. AS OUR ANALYSIS OF THE IMPACT ON ENDICOTT SHOWS, H.B. 545 FAILS IN ITS STATED PURPOSE OF GIVING SEVERANCE TAX RELIEF TO ALL MARGINAL FIELDS.

PRUDHOE BAY CONTAINS 13 BILLION BARRELS OF OIL WHICH WILL NOT BE RECOVERED UNDER CURRENT DEVELOPMENT PLANS. SIMILARLY, KUPARUK CONTAINS 3.5 BILLION BARRELS THAT WILL BE LEFT. THESE BARRELS REPRESENT LARGE RESOURCES WHICH ARE MARGINAL. H.B. 545 IS A DISINCENTIVE TO ATTEMPT RECOVERY OF ANY OF THOSE ADDITIONAL BARRELS.

THANK YOU FOR YOUR ATTENTION.

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MY NAME IS BOB VAN HOOK. I AM TAX COUNSEL AT STANDARD ALASKA PRODUCTION COMPANY.

THE TESTIMONY FOLLOWING IS INTENDED TO SUPPLEMENT, NOT REPEAT, STANDARD'S TESTIMONY LAST WEEK BEFORE THE JOINT SESSION OF THE HOUSE RESOURCE AND THE HOUSE FINANCE COMMITTEES. THE TWO POINTS I WOULD LIKE TO ADDRESS ARE THE PRODUCTION DISINCENTIVES IN THE COMMITTEE SUBSTITUTE FOR H.B. 164 AND A REVIEW OF THE STATE'S SHARE UNDER CURRENT LAW AND PRICE PROJECTIONS.

THE ADDITION OF WELLS CONSISTENT WITH SOUND ECONOMIC AND RESERVOIR MANAGEMENT AT PRUDHOE AND KUPARUK WILL RESULT IN MAINTAINING MAXIMUM PRODUCTION LONGER AND WILL INCREASE THE ULTIMATE RECOVERY OF OIL. SAPC BELIEVES THAT A REASONABLE DEVELOPMENT PLAN AT PRUDHOE WOULD INCLUDE THE ADDITION OF OVER 300 WELLS IN THE NEXT FIVE YEARS.

THE PROPOSED LEGISLATION WILL RESULT IN FEWER WELLS BEING DRILLED FOR THREE REASONS. FIRST, ALL PRODUCTION WILL BE TAXED AT A HIGHER ABSOLUTE RATE. LESS MONEY WILL BE AVAILABLE FOR INVESTMENT. SECOND, THE INCENTIVE WHICH IS CONTAINED IN EXISTING STATUTES TO DRILL NEW WELLS IS SUBSTANTIALLY DECREASED. THIS INCENTIVE RESULTS FROM THE FACT THAT IN MANY CASES, THE ADDITION OF A WELL WILL DECREASE SLIGHTLY THE AVERAGE PRODUCTION PER WELL IN THE FIELD WHICH IN TURN SLIGHTLY DECREASES THE ELF. THIRD, THE ELF PROVIDES AN INCENTIVE FOR THE EXTENSIVE WELL WORKOVER ACTIVITIES REQUIRED TO KEEP EXISTING WELLS PRODUCING.

TURNING NOW TO THE STATE'S SHARE UNDER CURRENT LAW AND PRICE PROJECTIONS. THE DEPARTMENT OF REVENUE IN DECEMBER RELEASED A STUDY WHICH CONTAINS AN ANALYSIS OF THE STATE'S SHARE AT A VARIETY OF WELLHEAD PRICES. STANDARD BELIEVES THAT THE FIGURES SHOW ANY INDUSTRY TAX INCREASE IN PROJECTED PRICE RANGES IS UNWARRANTED.

IN FACT, IN THE \$14 TO \$16 PRICE RANGE, WHICH THE GOVERNOR HAS REFERENCED AS A PLANNING BENCHMARK, THE STATE WILL BE COLLECTING 96% OF NET PRODUCTION INCOME OVER THE NEXT FIVE YEARS. NET PRODUCTION INCOME IS INCOME AFTER OPERATING COSTS AND OTHER EXPENSES BUT BEFORE ROYALTY AND STATE AND FEDERAL TAXES. ADOPTION OF THE COMMITTEE SUBSTITUTE WILL TAKE THE STATE'S SHARE OVER 100%. THE CHART YOU ARE LOOKING SUMMARIZES THE DOR ANALYSIS.

THESE FIGURES ARE TOTALS FOR FY 1988-1992.
 \$9 WELLHEAD (APPROXIMATELY \$15 SALES PRICE)
 DEPARTMENT OF REVENUE FIGURES 12/19/86

	- \$MILLIONS IN CONSTANT \$86 -	
	<u>CURRENT LAW</u>	<u>PROPOSED CS HB 164</u>
Total Petroleum Production Gross Income	27704	27704
Total Operating Costs and Other Expenses	<u><19620></u>	<u><19620></u>
Total Petroleum Production Net Income	8084	8084
Allocation to State:		
royalty share	3330	3330
production tax	2509	3009 + 500
property tax	1274	1274
income tax	<u>645</u>	<u>645</u>
Total to State	7758	8258
% to State	96%	102%

(*This is a conservative estimate for the \$15 sales price case.)

EVEN MORE STRIKING, PERHAPS, IS THAT UNDER THE PRICE ASSUMPTIONS IN THE MARCH REVENUE FORECAST THE STATE SHARE UNDER CURRENT LAW OVER FY 1987, 1988 AND 1989 WILL BE 155% OF NET INCOME FROM PRODUCTION.

THE VIEW HAS BEEN EXPRESSED THAT LOOKING AT THE STATE SHARE ON PRODUCTION INCOME IS MISLEADING UNLESS TRANSPORTATION INCOME IS INCLUDED. THERE ARE SEVERAL REASONS WHY TRANSPORTATION SHOULD NOT BE INCLUDED.

1. TAPS INCOME IS REGULATED. THE RATE OF RETURN CALCULATED RELIED ON TAX LAWS WHICH APPLY TO TRANSPORTATION INCOME NOT PRODUCTION INCOME. THE STATE HAS AGREED WITH THE TAPS TARIFF.
2. THE OWNERSHIP INTEREST IN NORTH SLOPE PRODUCTION AND TAPS IS NOT IDENTICAL. PRODUCERS WITH A SMALLER INTEREST IN TAPS THAN IN PRODUCTION ARE GETTING NO BENEFIT FROM TRANSPORTATION INCOME TO THE EXTENT OF THE LESSER INTEREST.
3. GENERALLY, IT IS INAPPROPRIATE TO JUSTIFY A TAX ON PRODUCTION BECAUSE OF ASSUMED PROFITS IN TRANSPORTATION.

EVEN INCLUDING PIPELINE INCOME, THE STATE SHARE IS ENORMOUS. AT THE \$15 SALES PRICE, THE STATE SHARE OVER THE NEXT FIVE YEARS IS 59% OF PRODUCTION PLUS TRANSPORTATION NET INCOME.

THE EXTREME DIFFICULTIES FACING THE INDUSTRY UNDER CURRENT LAW AND PROJECTED PRICES ARE APPARENT FROM THE PERCENTAGES DISCUSSED ABOVE. THESE FIGURES ARE OF A WHOLLY DIFFERENT MAGNITUDE FROM THE TRADITIONAL 29% TO 31% FAIR SHARE ASSERTION BY THE STATE. STANDARD URGES THE COMMITTEE TO CONSIDER THE OVERWHELMING TAX AND ROYALTY BURDEN ON THE INDUSTRY UNDER EXISTING LAW AND NOT TO ENACT H.B. 164.

THESE FIGURES ARE TOTALS FOR FY 1988 - 1992
 \$9 WELLHEAD (APPROXIMATELY \$15 SALES PRICE)
 DEPARTMENT OF REVENUE FIGURES - 12/19/86

	-\$MILLIONS IN CONSTANT \$86-		-REFERENCE-	
	<u>CURRENT LAW</u>	<u>PROPOSED HB 164</u>	<u>PAGE</u>	<u>COLUMN</u>
Gross Receipts (NS)*	25094	25094	A-1	4
Gross Receipts (CI)**	2610	2610	A-2	8
<less>: operating costs (NS)	<5633>	<5633>	A-1	8
depreciation expense (NS)	<9240>	<9240>	A-1	9
amortization expense (NS)	<380>	<380>	A-1	10
uncap interest expense (NS)	<525>	<525>	A-1	11
admin. & overhead expense (NS)	<1200>	<1200>	A-1	12
unsuccess explor. (NS)	<720>	<720>	A-1	13
operating costs (CI)	<1208>	<1208>	A-2	15
other deductions (CI)	<u><714></u>	<u><714></u>	A-2	16
Net Income	8084	8084	A-4	4
Allocation to State:				
royalty share (NS)	3004	3004	A-1	5
production tax (NS)	2399 (+500)	2899	A-1	21
property tax (NS)	1216	1216	A-1	7
income tax	645	645	A-3	12
oil royalty (CI)	71	71	A-2	9
gas royalty (CI)	255	255	A-2	10
oil production tax (CI)	0	0	A-2	11
gas production tax (CI)	110	110	A-2	13
property tax (CI)	<u>58</u>	<u>58</u>	A-2	14
Total to State	7758	8258	A-4	5
% to State	96%	102%		
Allocation to Industry & Federal Government:				
Net Income	8084	8084		
<less>: Allocation to State	<7758>	<8258>		
Total to Industry & Federal				
Government	326	<174>		
% to Industry and Federal				
Government	4%	<2%>		

*North Slope

**Cook Inlet

ATTACHMENT TO STANDARD ALASKA PRODUCTION COMPANY
TESTIMONY ON CS FOR H.B. 164

NOTE: IN THE BODY OF THE SAPC TESTIMONY, REFERENCE WAS MADE TO A DECEMBER DEPARTMENT OF REVENUE STUDY WHICH CONTAINED CURRENT LAW INCOME PROJECTIONS. THE FOLLOWING SCHEDULES DETAIL THOSE PROJECTIONS IN TOTAL FOR THE FIVE YEAR PERIOD FY 1988-1992.

THE PRODUCING FIELDS-SEPARATE ACCT THROUGH INCOME TAX ESTE
SENSITIVITY ANALYSIS 10/8 MM

YR	TOTAL	TOTAL	PRODN	UNCAP	ADMIN	EXPLORE	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL		
1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993		
NET	PROFIT	PROFIT	PROFIT	PROFIT	PROFIT	PROFIT	PROFIT	PROFIT	PROFIT	PROFIT	PROFIT	PROFIT	PROFIT	PROFIT	PROFIT	PROFIT	PROFIT		
1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000		
01150	651.00	3150.50	492.00	707.00	210.00	1137.00	1307.00	0.50	105.00	210.00	100.00	4133.50	1100.00	103.00	0.00	0033.31	2000.00	103.00	707.00
01160	660.00	3400.10	480.00	650.00	210.00	1127.10	1277.00	20.00	105.00	250.00	100.00	4031.70	937.00	00.00	0.00	0031.70	257.00	00.00	650.00
01170	670.00	3550.00	470.00	600.00	210.00	1122.00	1227.00	00.00	105.00	210.00	100.00	3930.00	710.00	00.00	0.00	0030.00	210.00	00.00	600.00
01180	680.00	3600.00	460.00	550.00	210.00	1110.00	1170.00	00.00	105.00	210.00	100.00	3820.00	480.00	00.00	0.00	0020.00	160.00	00.00	550.00
01190	690.00	3650.00	450.00	500.00	210.00	1100.00	1120.00	00.00	105.00	210.00	100.00	3710.00	250.00	00.00	0.00	0010.00	110.00	00.00	500.00
01200	700.00	3700.00	440.00	450.00	210.00	1090.00	1070.00	00.00	105.00	210.00	100.00	3600.00	20.00	00.00	0.00	0000.00	60.00	00.00	450.00
01210	710.00	3750.00	430.00	400.00	210.00	1080.00	1020.00	00.00	105.00	210.00	100.00	3490.00	-200.00	-20.00	0.00	0000.00	-200.00	-20.00	400.00
01220	720.00	3800.00	420.00	350.00	210.00	1070.00	970.00	00.00	105.00	210.00	100.00	3380.00	-430.00	-40.00	0.00	0000.00	-430.00	-40.00	350.00
01230	730.00	3850.00	410.00	300.00	210.00	1060.00	920.00	00.00	105.00	210.00	100.00	3270.00	-660.00	-60.00	0.00	0000.00	-660.00	-60.00	300.00
01240	740.00	3900.00	400.00	250.00	210.00	1050.00	870.00	00.00	105.00	210.00	100.00	3160.00	-890.00	-80.00	0.00	0000.00	-890.00	-80.00	250.00
01250	750.00	3950.00	390.00	200.00	210.00	1040.00	820.00	00.00	105.00	210.00	100.00	3050.00	-1120.00	-100.00	0.00	0000.00	-1120.00	-100.00	200.00
01260	760.00	4000.00	380.00	150.00	210.00	1030.00	770.00	00.00	105.00	210.00	100.00	2940.00	-1350.00	-120.00	0.00	0000.00	-1350.00	-120.00	150.00
01270	770.00	4050.00	370.00	100.00	210.00	1020.00	720.00	00.00	105.00	210.00	100.00	2830.00	-1580.00	-140.00	0.00	0000.00	-1580.00	-140.00	100.00
01280	780.00	4100.00	360.00	50.00	210.00	1010.00	670.00	00.00	105.00	210.00	100.00	2720.00	-1810.00	-160.00	0.00	0000.00	-1810.00	-160.00	50.00
01290	790.00	4150.00	350.00	0.00	210.00	1000.00	620.00	00.00	105.00	210.00	100.00	2610.00	-2040.00	-180.00	0.00	0000.00	-2040.00	-180.00	0.00
01300	800.00	4200.00	340.00	-50.00	210.00	990.00	570.00	00.00	105.00	210.00	100.00	2500.00	-2270.00	-200.00	0.00	0000.00	-2270.00	-200.00	-50.00
01310	810.00	4250.00	330.00	-100.00	210.00	980.00	520.00	00.00	105.00	210.00	100.00	2390.00	-2500.00	-220.00	0.00	0000.00	-2500.00	-220.00	-100.00
01320	820.00	4300.00	320.00	-150.00	210.00	970.00	470.00	00.00	105.00	210.00	100.00	2280.00	-2730.00	-240.00	0.00	0000.00	-2730.00	-240.00	-150.00
01330	830.00	4350.00	310.00	-200.00	210.00	960.00	420.00	00.00	105.00	210.00	100.00	2170.00	-2960.00	-260.00	0.00	0000.00	-2960.00	-260.00	-200.00
01340	840.00	4400.00	300.00	-250.00	210.00	950.00	370.00	00.00	105.00	210.00	100.00	2060.00	-3190.00	-280.00	0.00	0000.00	-3190.00	-280.00	-250.00
01350	850.00	4450.00	290.00	-300.00	210.00	940.00	320.00	00.00	105.00	210.00	100.00	1950.00	-3420.00	-300.00	0.00	0000.00	-3420.00	-300.00	-300.00
01360	860.00	4500.00	280.00	-350.00	210.00	930.00	270.00	00.00	105.00	210.00	100.00	1840.00	-3650.00	-320.00	0.00	0000.00	-3650.00	-320.00	-350.00
01370	870.00	4550.00	270.00	-400.00	210.00	920.00	220.00	00.00	105.00	210.00	100.00	1730.00	-3880.00	-340.00	0.00	0000.00	-3880.00	-340.00	-400.00
01380	880.00	4600.00	260.00	-450.00	210.00	910.00	170.00	00.00	105.00	210.00	100.00	1620.00	-4110.00	-360.00	0.00	0000.00	-4110.00	-360.00	-450.00
01390	890.00	4650.00	250.00	-500.00	210.00	900.00	120.00	00.00	105.00	210.00	100.00	1510.00	-4340.00	-380.00	0.00	0000.00	-4340.00	-380.00	-500.00
01400	900.00	4700.00	240.00	-550.00	210.00	890.00	70.00	00.00	105.00	210.00	100.00	1400.00	-4570.00	-400.00	0.00	0000.00	-4570.00	-400.00	-550.00
01410	910.00	4750.00	230.00	-600.00	210.00	880.00	20.00	00.00	105.00	210.00	100.00	1290.00	-4800.00	-420.00	0.00	0000.00	-4800.00	-420.00	-600.00
01420	920.00	4800.00	220.00	-650.00	210.00	870.00	-30.00	00.00	105.00	210.00	100.00	1180.00	-5030.00	-440.00	0.00	0000.00	-5030.00	-440.00	-650.00
01430	930.00	4850.00	210.00	-700.00	210.00	860.00	-80.00	00.00	105.00	210.00	100.00	1070.00	-5260.00	-460.00	0.00	0000.00	-5260.00	-460.00	-700.00
01440	940.00	4900.00	200.00	-750.00	210.00	850.00	-130.00	00.00	105.00	210.00	100.00	960.00	-5490.00	-480.00	0.00	0000.00	-5490.00	-480.00	-750.00
01450	950.00	4950.00	190.00	-800.00	210.00	840.00	-180.00	00.00	105.00	210.00	100.00	850.00	-5720.00	-500.00	0.00	0000.00	-5720.00	-500.00	-800.00
01460	960.00	5000.00	180.00	-850.00	210.00	830.00	-230.00	00.00	105.00	210.00	100.00	740.00	-5950.00	-520.00	0.00	0000.00	-5950.00	-520.00	-850.00
01470	970.00	5050.00	170.00	-900.00	210.00	820.00	-280.00	00.00	105.00	210.00	100.00	630.00	-6180.00	-540.00	0.00	0000.00	-6180.00	-540.00	-900.00
01480	980.00	5100.00	160.00	-950.00	210.00	810.00	-330.00	00.00	105.00	210.00	100.00	520.00	-6410.00	-560.00	0.00	0000.00	-6410.00	-560.00	-950.00
01490	990.00	5150.00	150.00	-1000.00	210.00	800.00	-380.00	00.00	105.00	210.00	100.00	410.00	-6640.00	-580.00	0.00	0000.00	-6640.00	-580.00	-1000.00
01500	1000.00	5200.00	140.00	-1050.00	210.00	790.00	-430.00	00.00	105.00	210.00	100.00	300.00	-6870.00	-600.00	0.00	0000.00	-6870.00	-600.00	-1050.00
01510	1010.00	5250.00	130.00	-1100.00	210.00	780.00	-480.00	00.00	105.00	210.00	100.00	190.00	-7100.00	-620.00	0.00	0000.00	-7100.00	-620.00	-1100.00
01520	1020.00	5300.00	120.00	-1150.00	210.00	770.00	-530.00	00.00	105.00	210.00	100.00	80.00	-7330.00	-640.00	0.00	0000.00	-7330.00	-640.00	-1150.00
01530	1030.00	5350.00	110.00	-1200.00	210.00	760.00	-580.00	00.00	105.00	210.00	100.00	-30.00	-7560.00	-660.00	0.00	0000.00	-7560.00	-660.00	-1200.00
01540	1040.00	5400.00	100.00	-1250.00	210.00	750.00	-630.00	00.00	105.00	210.00	100.00	-140.00	-7790.00	-680.00	0.00	0000.00	-7790.00	-680.00	-1250.00
01550	1050.00	5450.00	90.00	-1300.00	210.00	740.00	-680.00	00.00	105.00	210.00	100.00	-280.00	-8020.00	-700.00	0.00	0000.00	-8020.00	-700.00	-1300.00
01560	1060.00	5500.00	80.00	-1350.00	210.00	730.00	-730.00	00.00	105.00	210.00	100.00	-420.00	-8250.00	-720.00	0.00	0000.00	-8250.00	-720.00	-1350.00
01570	1070.00	5550.00	70.00	-1400.00	210.00	720.00	-780.00	00.00	105.00	210.00	100.00	-560.00	-8480.00	-740.00	0.00	0000.00	-8480.00	-740.00	-1400.00
01580	1080.00	5600.00	60.00	-1450.00	210.00	710.00	-830.00	00.00	105.00	210.00	100.00	-700.00	-8710.00	-760.00	0.00	0000.00	-8710.00	-760.00	-1450.00
01590	1090.00	5650.00	50.00	-1500.00	210.00	700.00	-880.00	00.00	105.00	210.00	100.00	-840.00	-8940.00	-780.00	0.00	0000.00	-8940.00	-780.00	-1500.00
01600	1100.00	5700.00	40.00	-1550.00	210.00	690.00	-930.00	00.00	105.00	210.00	100.00	-980.00	-9170.00	-800.00	0.00	0000.00	-9170.00	-800.00	-1550.00
01610	1110.00	5750.00	30.00	-1600.00	210.00	680.00	-980.00	00.00	105.00	210.00	100.00	-1120.00	-9400.00	-820.00	0.00	0000.00	-9400.00</		

(page 91, 12/19/116 OUR Study)

TABLE II-9-6
CURRENT LAW-MODIFIED APPOINTMENT (ASST) INCOME TAX ESTS
10-198611

SENSITIVITY ANALYSIS 1978 MW

FISCAL YEAR					CALENDAR YEAR					FISCAL YEAR	
FISCAL YEAR	TOTAL	CME	APPOINT	NET	TOP 3 COMPANIES					FISCAL YEAR	TOTAL
	AC	TOTAL			AC	AC	AC	AC	AC		AC
	OIL	OIL			NET	TOTAL	TAX	TAX	TAX		TAX
	% GAS	% GAS	FACTOR	PROFIT	PROFIT	INCOME	LIAB	LIAB	LIAB		COLLECT
	MW/Y	PROGN	CME	APPOINT	MW/Y	MW/Y	MW/Y	MW/Y	MW/Y		MW/Y
	EQUITY	%	FACTOR	FACTOR							
1984	494.47	0.0000	0.0000	0.2787	1009.50	1344.11	124.00	140.00	1984	183.32	
1987	706.00	1.3376	1.0007	0.2783	1009.50	1338.54	123.82	139.81	1987	139.93	
1990	443.48	-3.1613	0.9793	0.2679	1009.50	1297.74	122.01	135.54	1990	137.34	
1989	442.89	-0.1153	0.9793	0.2678	1009.50	1294.00	120.70	134.11	1989	134.84	
1990	450.34	-4.7663	0.9690	0.2541	1009.50	1231.78	115.79	128.43	1990	131.31	
1991	573.53	-0.4281	0.9432	0.2377	1009.50	1152.44	100.33	120.39	1991	124.40	
1992	511.74	-0.8330	0.9413	0.2233	1009.50	1074.13	100.77	112.19	1992	116.16	
1993	502.70	-7.1512	0.9333	0.2100	1009.50	1013.74	93.31	105.70	1993	100.75	
1994	453.23	-9.4701	0.9384	0.1959	1009.50	942.01	80.55	98.39	1994	102.83	
1995	410.00	-9.9591	0.9353	0.1811	1009.50	872.22	84.79	91.10	1995	94.43	
1996	363.40	-11.3460	0.9283	0.1663	1009.50	799.01	75.10	83.54	1996	87.20	
1997	323.05	-11.8122	0.9204	0.1529	1009.50	733.14	69.10	76.78	1997	80.25	
1998	281.42	-12.9964	0.9153	0.1385	1009.50	666.31	62.83	69.39	1998	73.07	
1999	254.82	-0.7305	0.9132	0.1294	1009.50	622.17	58.08	64.70	1999	67.22	
2000	233.70	-0.9722	0.9117	0.1206	1009.50	580.83	54.52	60.50	2000	62.72	
2001	212.66	-9.8365	0.9113	0.1124	1009.50	540.50	50.81	56.75	2001	58.45	
2002	193.13	-0.2333	0.9065	0.1053	1009.50	504.44	47.44	52.90	2002	54.62	
2003	149.22	-23.5324	0.8470	0.0883	1009.50	474.20	39.72	44.34	2003	50.00	
2004	137.13	-0.0904	0.8470	0.0820	1009.50	390.34	37.14	41.40	2004	47.91	
2005	126.23	-7.7277	0.8490	0.0779	1009.50	374.23	35.21	39.12	2005	40.33	

645

1 2 3 4 5 6 7 8 9 10 11 12

COLUMN #

1- SEPARATE ACCT (MONEY) INCOME TAX BASIS
 SENSITIVITY ANALYSIS 1978 MW

OIL GROSS WELLHEAD VALUE 1/2	OIL GROSS PROGRAM VOL BARREL	GAS GROSS WELLHEAD VALUE 1/2	GAS GROSS PROGRAM VOL MCF	GAS GROSS REVENUE MILLION	GAS GROSS REVENUE MILLION	TOTAL GROSS REVENUE MILLION	OIL ROYALTY SHARE MILLION	GAS ROYALTY SHARE MILLION	OIL & GAS CURRENT TAX MILLION	OIL & GAS DEFERRED TAX MILLION	GES PROGRAM TAX MILLION	PIV TAX MILLION	OPER COSTS MILLION	OTHER DEBIT MILLION	TOTAL TAXABLE INCOME MILLION	TOTAL TAX LIAS MILLION	WINDFALL TAX MILLION	TOTAL TAXABLE INCOME MILLION	TOTAL TAX LIAS MILLION
15.00	18.01	270.03	0.70	147.13	152.83	428.28	20.01	19.10	0.21	0.21	9.09	11.00	273.34	132.71	-11.31	-1.06	0.00	-11.31	-1.06
15.00	13.17	140.03	0.03	271.55	210.46	400.31	22.74	21.31	0.22	0.22	12.13	11.00	241.65	140.20	-55.57	-3.72	0.00	-55.57	-3.72
15.00	16.18	152.70	0.06	252.50	270.03	421.51	19.00	18.05	0.15	0.15	13.17	12.57	241.65	142.62	-41.29	-3.04	0.00	-41.29	-3.04
15.00	0.07	133.05	0.14	259.13	293.03	470.60	16.63	16.03	0.11	0.10	16.31	11.91	241.65	142.62	-37.91	-3.57	0.00	-37.91	-3.57
15.00	7.13	107.23	0.32	200.13	200.17	407.07	11.01	17.50	0.00	0.07	20.31	11.55	241.65	142.62	9.61	0.11	0.00	9.61	0.11
15.00	0.21	93.13	0.63	219.23	311.01	403.04	11.04	13.00	0.01	0.01	26.00	11.17	241.65	142.62	107.11	10.03	0.00	107.11	10.03
15.00	5.13	70.03	0.04	221.03	241.71	441.60	9.77	22.00	0.01	0.01	20.10	10.70	241.65	142.62	156.33	16.70	0.00	156.33	16.70
15.00	1.00	50.10	0.46	221.03	291.11	430.23	0.00	00.12	.00	.00	23.09	10.10	241.65	142.62	192.11	10.10	0.00	192.11	10.10
15.00	3.01	46.03	0.07	220.50	1000.50	1021.31	3.74	121.01	.00	.00	21.71	9.43	223.31	142.62	310.01	29.52	0.00	310.01	29.52
15.00	3.01	43.43	0.07	212.13	1919.70	1643.13	5.60	127.66	.00	.00	21.31	9.24	200.41	142.62	490.22	11.00	0.00	490.22	11.00
15.00	2.00	43.70	0.07	219.43	1012.11	1004.21	3.23	120.24	.00	.00	27.43	0.04	200.41	142.62	511.54	40.31	0.00	511.54	40.31
15.00	2.01	43.70	0.07	216.73	1041.32	1107.72	3.60	133.07	.00	.00	20.61	0.47	200.41	142.62	540.12	31.62	0.00	540.12	31.62
15.00	2.01	42.13	0.07	223.00	1034.01	1071.64	3.27	131.66	.00	.00	20.99	0.09	200.41	142.62	539.10	50.70	0.00	539.10	50.70
15.00	2.77	41.53	0.07	221.20	955.00	1037.63	3.27	120.04	.00	.00	27.73	7.70	193.22	142.62	517.55	50.21	0.00	517.55	50.21
15.00	2.71	41.10	0.07	221.03	977.20	1030.20	3.19	123.26	.00	.00	26.54	7.32	177.21	142.62	517.17	40.66	0.00	517.17	40.66
15.00	1.04	27.00	0.07	217.53	921.00	1002.70	3.49	121.04	.00	.00	21.10	6.93	177.21	142.62	527.72	49.61	0.00	527.72	49.61
15.00	1.01	27.43	0.07	210.33	922.07	939.92	3.43	119.06	.00	.00	22.03	4.52	177.21	142.62	499.07	41.91	0.00	499.07	41.91
15.00	1.23	26.72	0.07	200.60	911.24	912.51	3.20	117.66	.00	.00	20.24	4.16	177.21	142.62	480.60	45.14	0.00	480.60	45.14
					2610	71	255	0	0	110	58	1208	714						

2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21
 COLUMN #

TABLE 11-9-8
 PERCENTAGE SHARE COMPARISON
 CALCULATION OF STATE PETROLEUM PRODUCTION REVENUES
 AS A PERCENTAGE OF
 PETROLEUM PRODUCTION NET INCOME
 11-178411 SENSITIVITY ANALYSIS 1978-1994

FISCAL YEAR	TOTAL PETRO PRODU			CURRENT LAW STATE REVENUE VS PETRO PRODU REVENUE NET INCOME		1985 STATE REVENUE VS PETRO PRODU REVENUE NET INCOME	
	GROSS INCOME AMT/Y	NET TAX DEDUCTS AMT/Y	TOTAL PETRO PRODU INCOME AMT/Y	STATE REVENUE AMT/Y	NET INCOME %	STATE REVENUE AMT/Y	NET INCOME %
1986	1162.72	3381.18	2778.63	1867.26	67.20	1817.31	65.10
1987	1209.70	3671.83	2537.87	1843.76	72.65	1729.39	68.14
1988	3983.52	5856.79	2126.73	1648.29	79.38	1524.93	71.70
1989	5915.67	4101.18	1814.19	1643.12	91.16	1483.11	81.74
1990	5440.04	4021.98	1638.06	1583.68	96.67	1377.89	85.36
1991	5279.83	3859.02	1620.33	1468.74	103.37	1284.30	90.39
1992	4864.68	3788.83	1043.77	1351.61	129.99	1186.16	109.61
1993	1548.23	3003.19	766.74	1270.73	167.07	8126.53	147.31
1994	4340.80	3603.78	697.10	1292.15	172.19	1071.67	153.76
1995	4156.91	3383.68	813.23	1137.08	139.21	1036.62	126.73
1996	3770.82	3037.23	732.79	1014.63	138.16	934.21	127.19
1997	3442.19	2784.54	658.16	917.85	139.43	852.61	129.53
1998	3123.52	2456.54	668.98	829.76	124.06	778.84	116.38
1999	2900.87	2324.96	571.90	762.16	132.32	719.39	124.92
2000	2683.26	2182.13	501.13	698.81	138.73	662.77	131.73
2001	2476.83	2062.83	411.99	637.65	154.77	617.58	147.68
2002	2328.39	1932.97	341.62	589.97	159.89	563.37	153.66
2003	1928.78	1531.17	385.61	497.23	128.93	482.58	129.87
2004	1798.92	1496.76	308.16	458.12	148.67	447.62	145.23
2005	1875.34	1458.50	246.82	421.81	173.88	418.28	170.82
	27704	19620	8084	7758			

1 2 3 4 5 6 7 8

COLUMN #

NEWS RELEASE

STATE OF ALASKA

OFFICE OF THE GOVERNOR
P.O. BOX A
JUNEAU, ALASKA 99811

STEVE COWPER,
GOVERNOR



FOR INFORMATION CONTACT:

DAVID RAMSEUR
PRESS SECRETARY

TERENCE O'MALLEY
DEPUTY PRESS SECRETARY

(907) 465-3500

MAY 3 1989

FOR IMMEDIATE RELEASE
May 1, 1989
No. 89-79

COWPER COMMENTS ON SENATE COMMITTEE ELF VOTE

JUNEAU--Gov. Steve Cowper issued the following statement about today's Senate Resources Committee vote approving a bill modifying the Economic Limit Factor tax break for the oil industry. The bill (HB118) passed after it was amended to appropriate a portion of the receipts to the Oil and Hazardous Substance Release Response Fund.

"The Senate Resources Committee acted courageously and responsibly by passing this bill. The committee change, to dedicate a portion of the receipts for an oil spill clean-up fund, makes it more important than ever that this bill pass the Legislature.

"Congratulations are due to the committee chairperson, Sen. Bettye Fahrenkamp, and to Sen. Jim Duncan, who proposed the amendment. Both are owed a debt of gratitude by Alaskans for standing up to oil industry pressure.

"The next step for Elf is a hearing in the Senate Finance Committee. I'm hopeful committee co-chairman Sen. Rick Uehling will give the bill prompt and serious consideration. All Alaskans deserve for this bill to be voted up or down on the Senate floor and not held in the shadows of a committee.

-MORE-

2-2-2-2

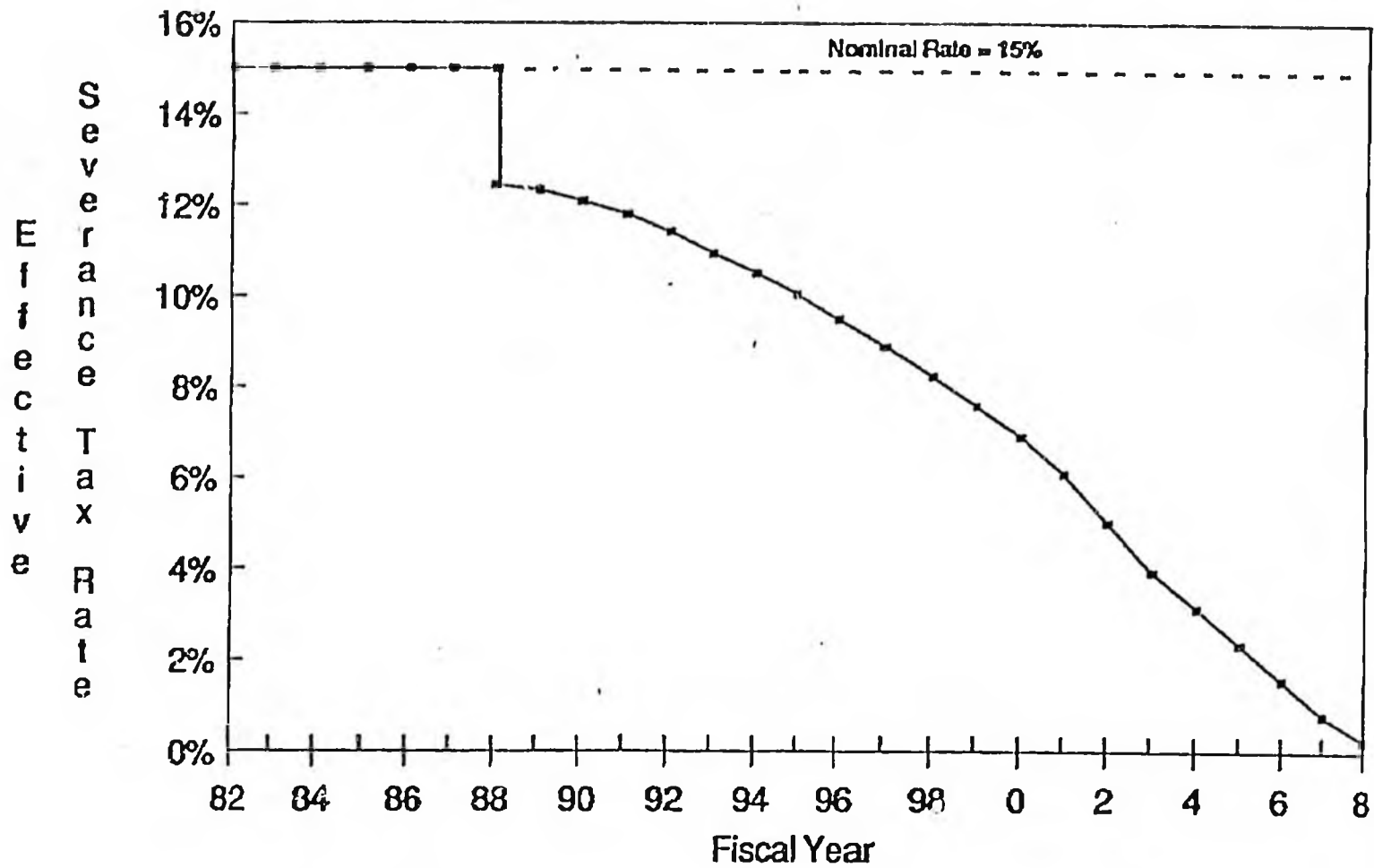
No. 89-79

May 1, 1989

"The House bill reduces taxes or leaves them at zero for every oil field in Alaska except two, where it eliminates a huge tax break on the two most productive and profitable fields in the U.S. and Canada. It's a responsible bill that encourages development and creates jobs for Alaskans."

-30-

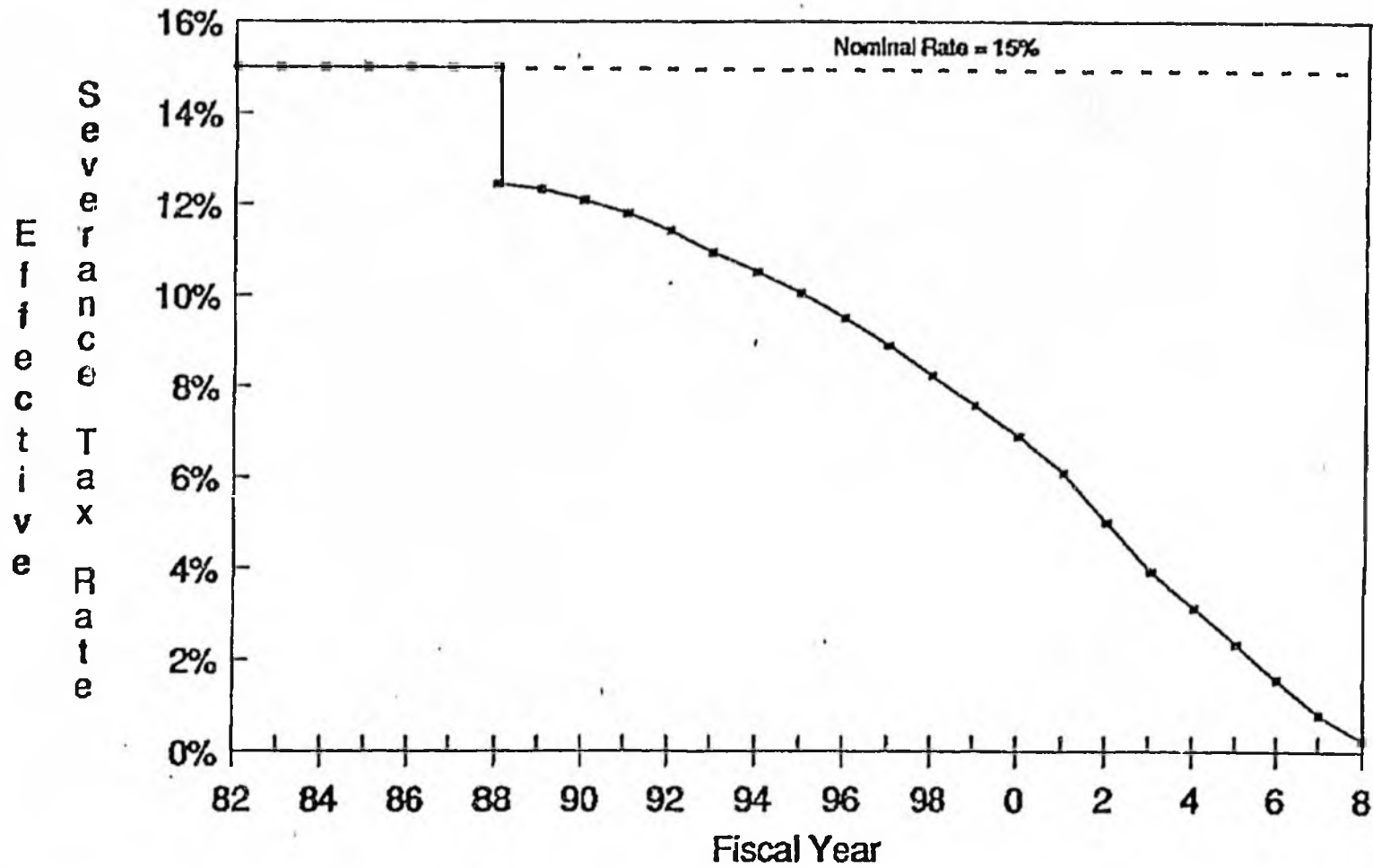
The Tax Rate at Prudhoe Bay Collapsed on July 1, 1987



Source: Alaska Dept. of Revenue Spring 89 Forecast

Date: April 21, 1989

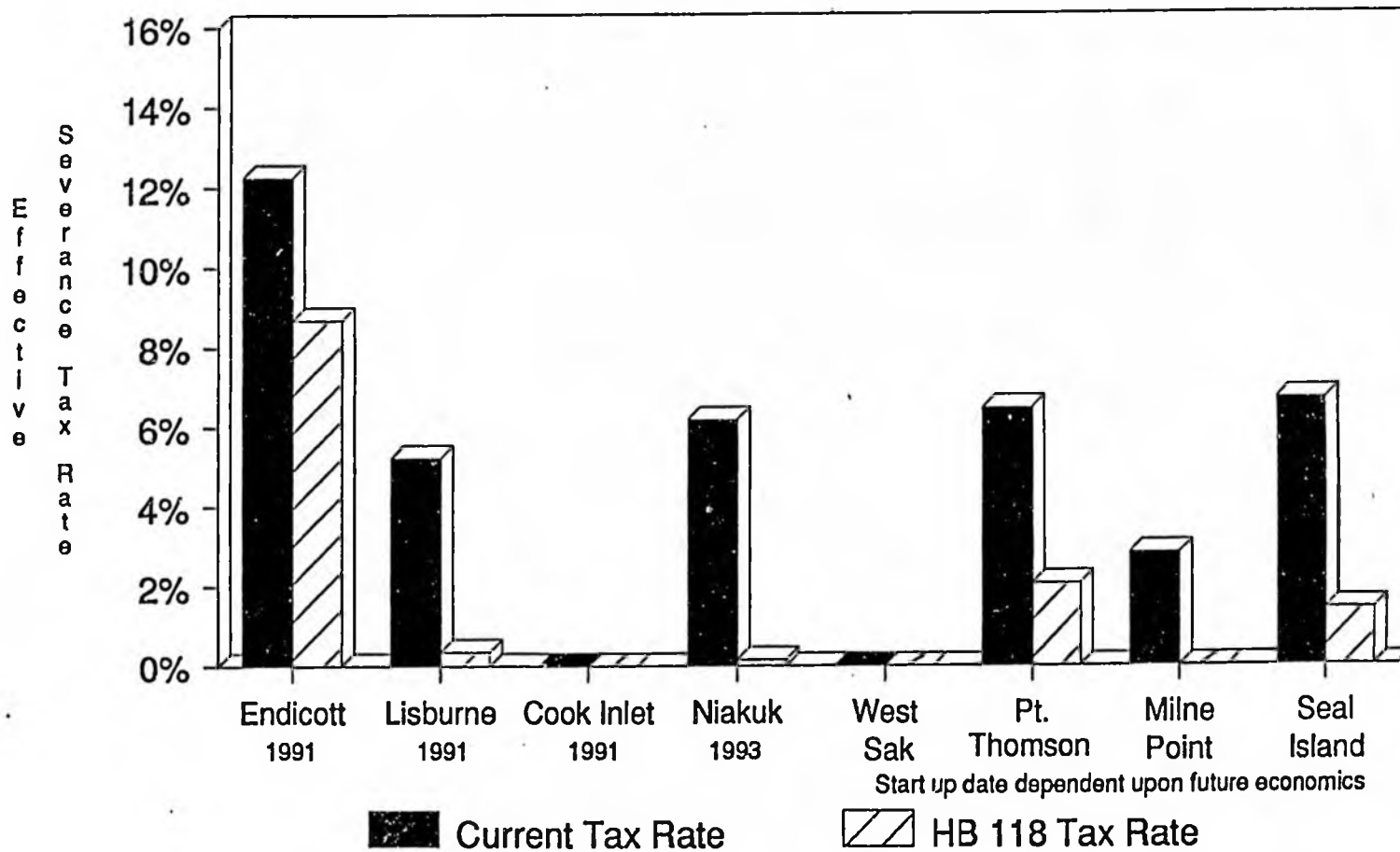
The Tax Rate at Prudhoe Bay Collapsed on July 1, 1987



Source: Alaska Dept. of Revenue Spring 89 Forecast

Date: April 21, 1989

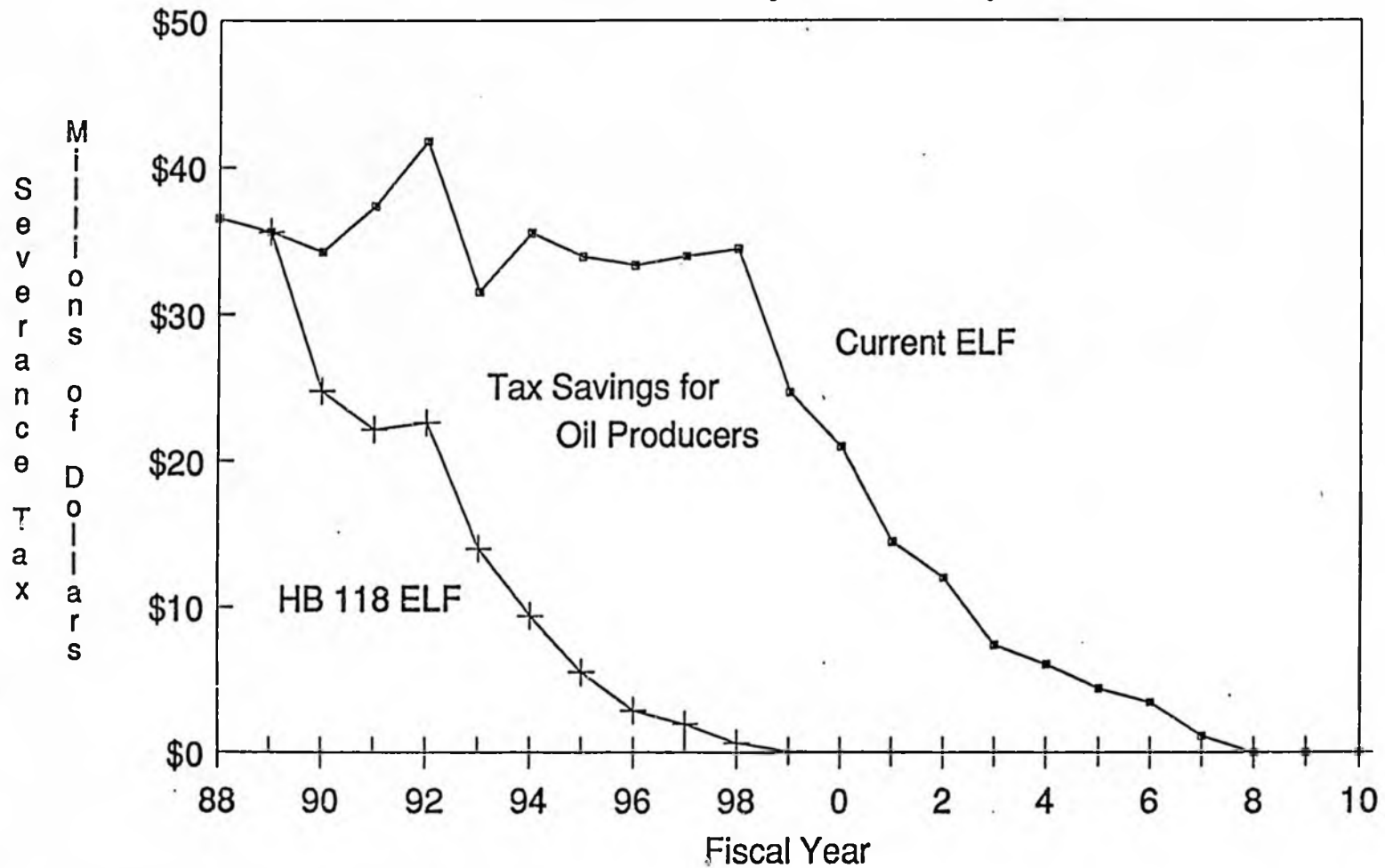
Fields Where Taxes Would Decrease Under HB 118 (For Representative Years)



Source: Department of Revenue

Date: February 7, 1989

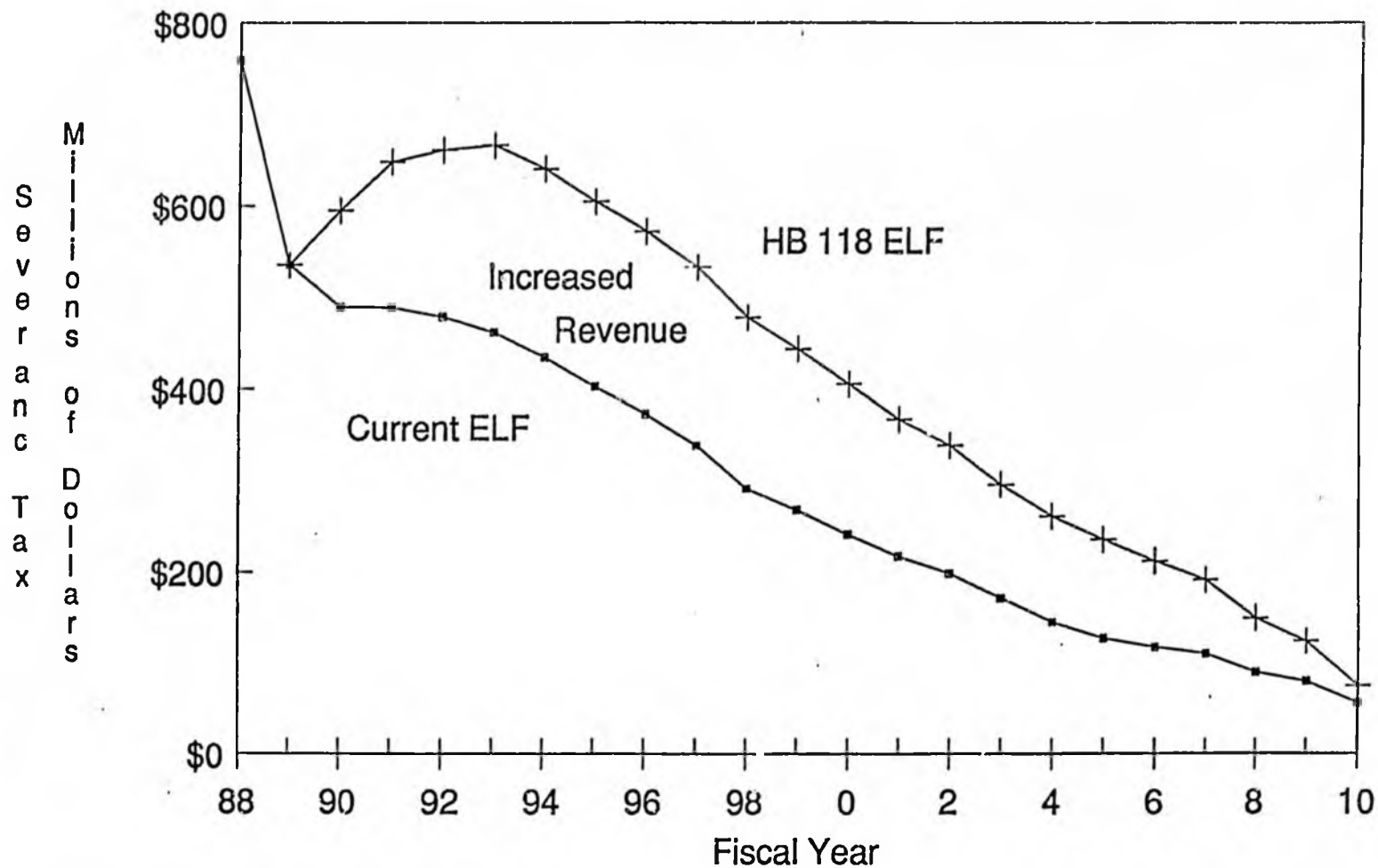
HB 118 Gives a Tax Savings for Producers at Oil Fields Other than Prudhoe Bay and Kuparuk



Note: Revenues are from severance taxes on fields other than Prudhoe Bay and Kuparuk

Date: February 15, 1989

HB 118 Raises More Severance Tax Revenue from Prudhoe Bay and Kuparuk



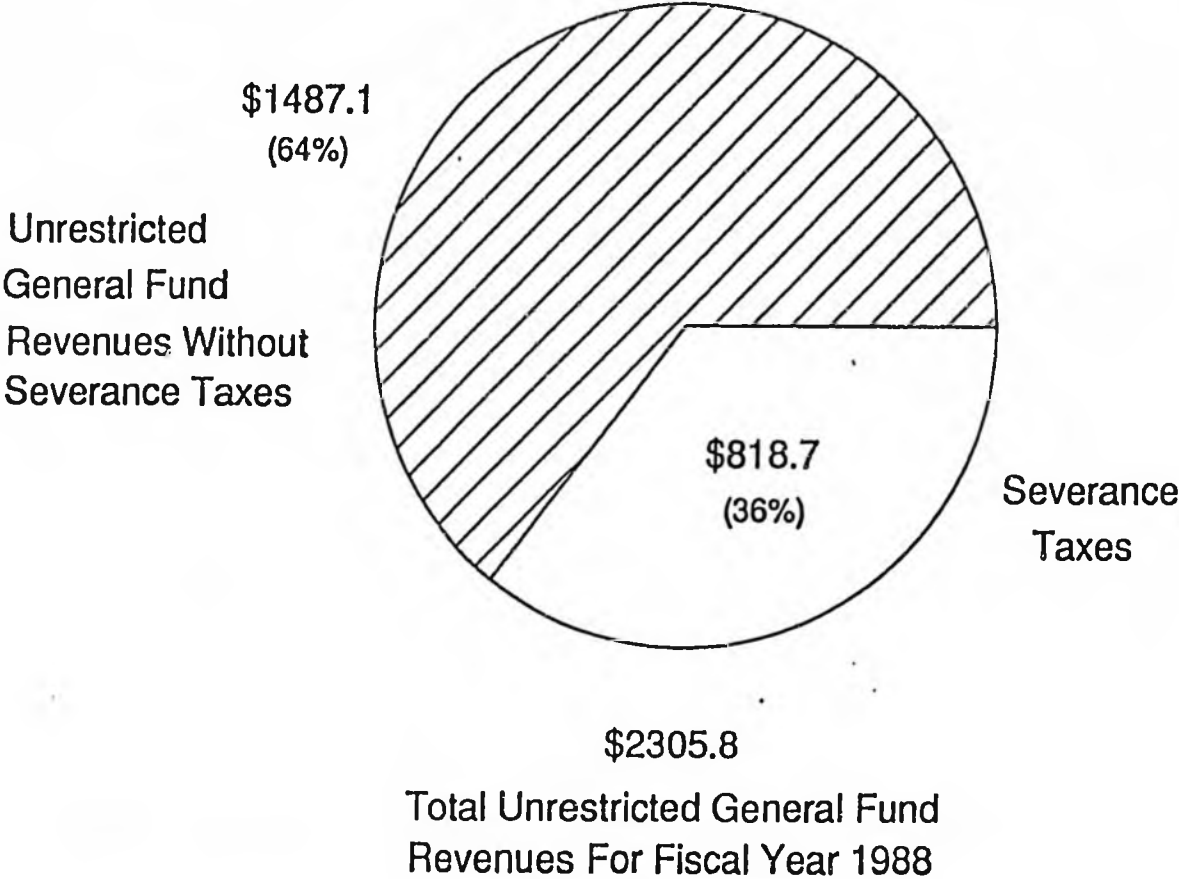
Note: Revenues are from severance taxes on Prudhoe Bay and Kuparuk

Date: February 15, 1989

SEVERANCE TAX, also called production tax, is a tax on oil removed from the ground. The tax compensates for the depletion of the state's non-renewable resources.

Date: February 7, 1989

Severance Taxes are an Important Part of Alaska's Revenues



Date: February 7, 1989

The Economic Limit Factor or ELF is a fraction which reduces severance taxes as well productivity declines.

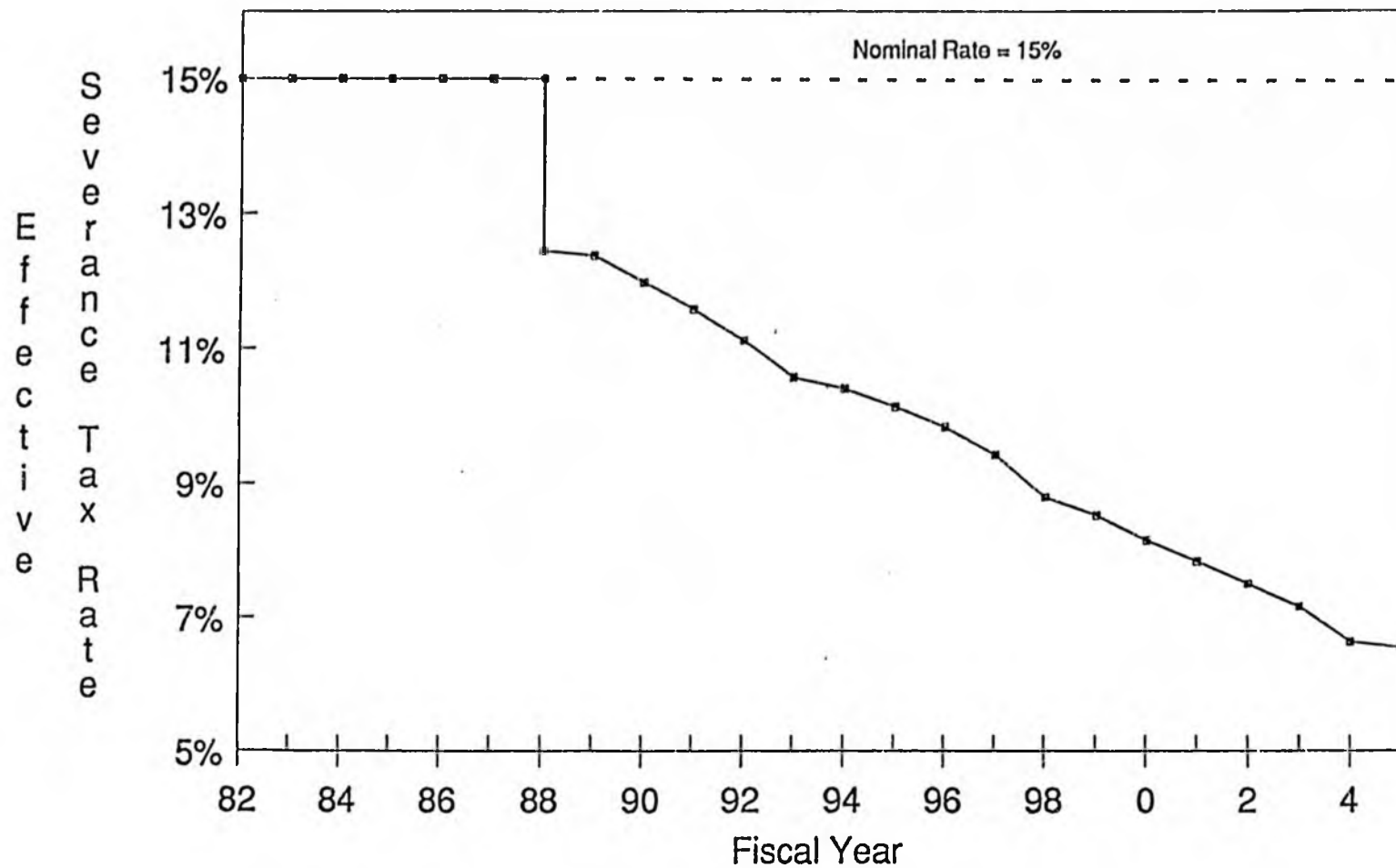
Date: February 7, 1989

EFFECTIVE SEVERANCE TAX RATE
equals nominal severance tax rate times ELF.

For example, 15.00% times 0.824 equals
an effective severance tax rate of 12.36 %

Date: March 3, 1989

The Tax Rate at Prudhoe Bay Collapsed on July 1, 1987



HOW REVENUE NEUTRAL WERE THE 1981 CHANGES?

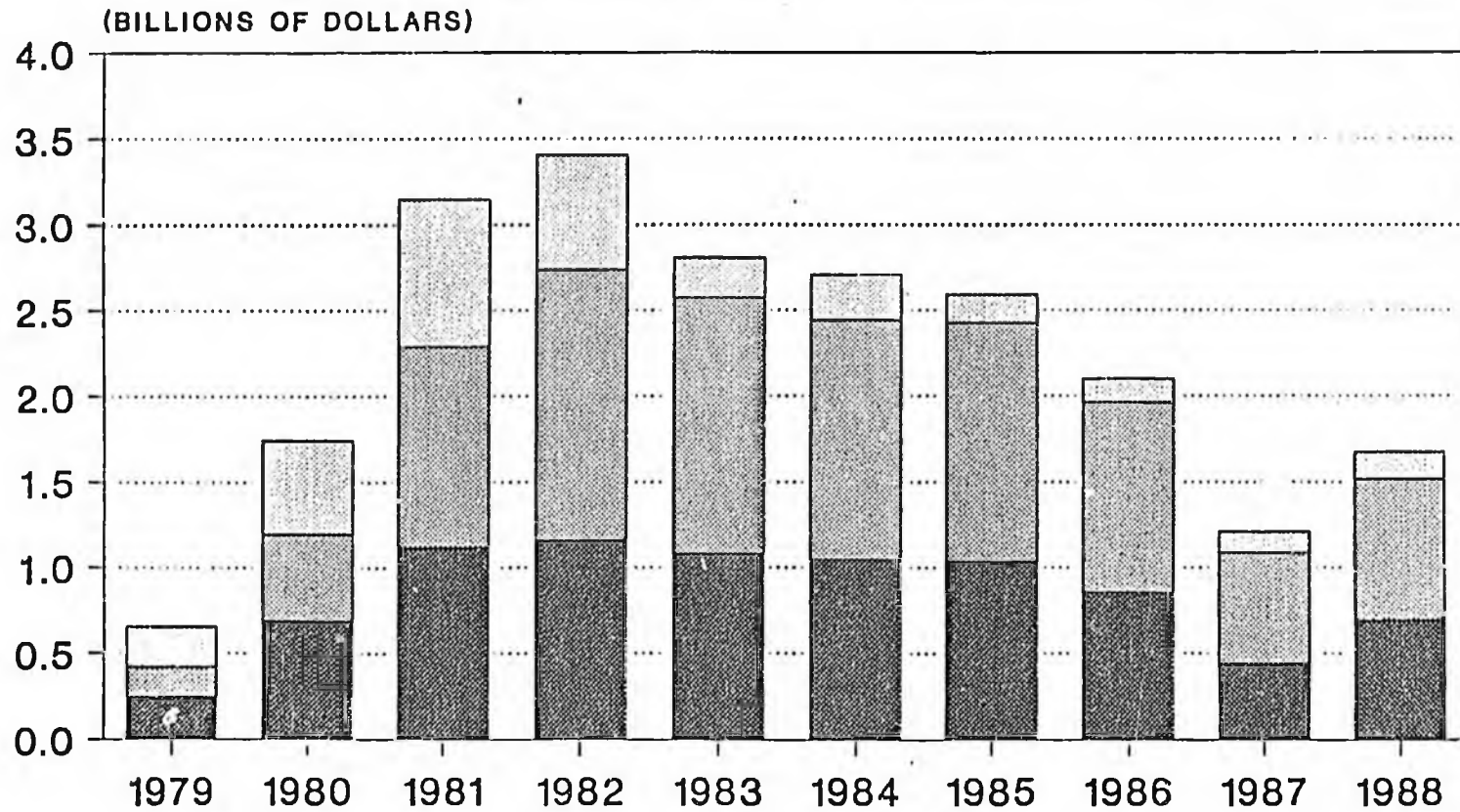
(\$mm)

	<u>What collections would have been under pre 1962 Law</u>			<u>Actual Collections</u>			<u>Loss from change in Law:</u>
	<u>Petro. Corp. Income Tax</u>	<u>Sev. Tax</u>	<u>Total</u>	<u>Petro. Corp. Income Tax</u>	<u>Sev. Tax</u>	<u>Total</u>	
1982	980	1219	2199	669	1582	2251	52
1983	915	1099	2014	236	1494	1730	(284)
1984	836	1033	1869	265	1393	1658	(211)
1985	812	1014	1826	169	1389	1558	(268)
1986	658	805	1463	134	1108	1242	(221)
1987	<u>375</u>	<u>464</u>	<u>839</u>	<u>120</u>	<u>649</u>	<u>769</u>	<u>(70)</u>
Total	4576	5634	10210	1593	7615	9208	(1002)*

*Had the Legislature authorized deduction of the Federal Windfall Profits Tax the total loss over the period would have been \$670 mm

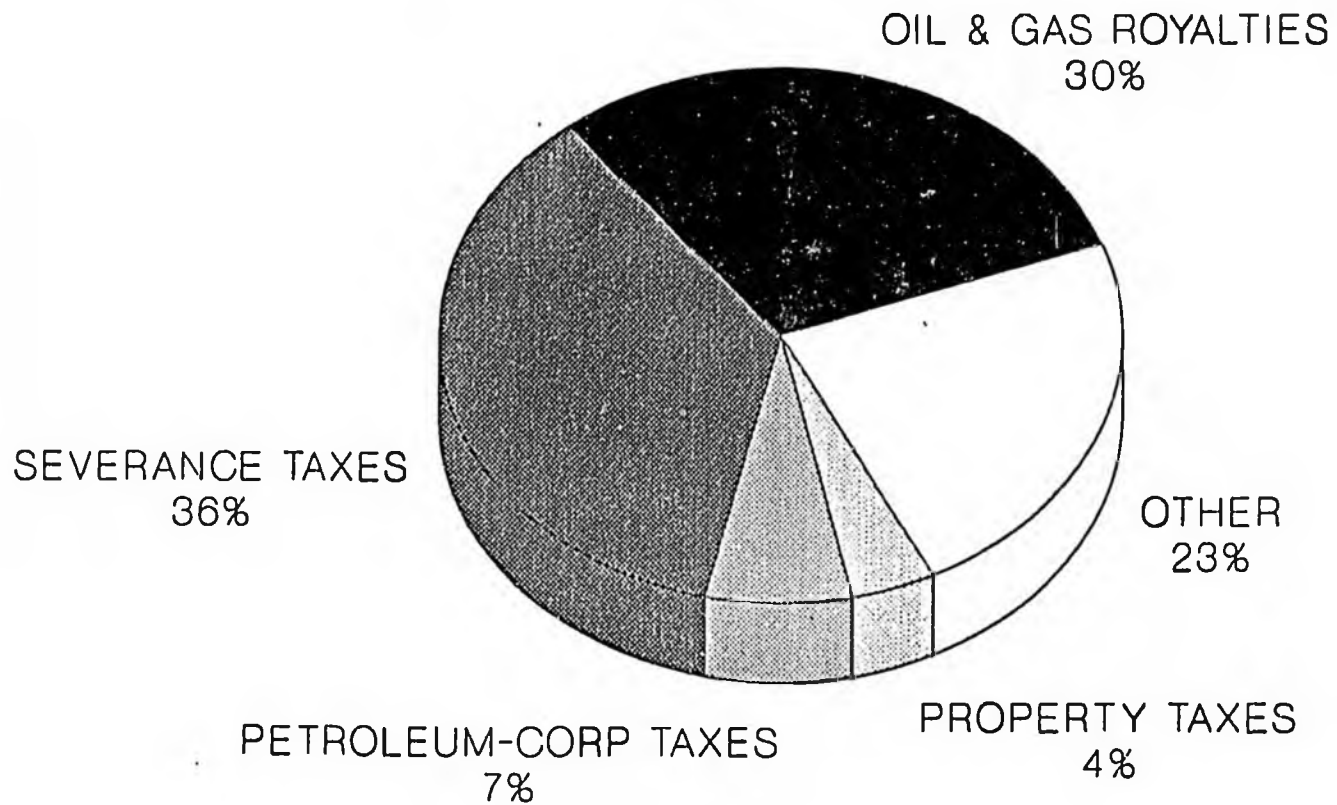
SELECTED PETROLEUM REVENUES (FY 1979 - 1988)

ROYALTIES SEVERANCE PETROLEUM-CORP



(Alaska Department of Revenue-Research)

GENERAL FUND UNRESTRICTED REVENUES (FY 1988)



(Alaska Department of Revenue-Research)

Severance Tax Receipts as Percentage of Gross Wellhead Value -
Prudhoe Bay

<u>Year</u>	<u>Wellhead Price (\$/bbl)</u>	<u>Volume (mmbbl)</u>	<u>Gross Value (\$mm)</u>	<u>Sev Tax (\$mm)</u>	<u>Sev Tax as % of Gross Value</u>	<u>Loss from ELF (\$mm)</u>	
1982	24.45	557	13619	1787	13.1%	NA	
1983	20.27	560	11351	1499	13.1%	NA	
1984	19.73	562	11088	1455	13.1%	NA	
1985	18.48	564	10423	1368	13.1%	NA	
1986	12.74	563	7173	941	13.1%	NA	
1987	8.08	567	4581	601	13.1%	NA	
		(Suspension of ELF on Prudhoe Bay ends)					
1988	10.68	565	6034	657	10.9%	135	
1989	7.36	540	3974	430	10.8%	92	
1990	7.00	502	3514	368	10.5%	93	
1991	7.56	466	3523	357	10.1%	105	

Original sponsor: Finance Committee

1 IN THE HOUSE

BY THE SENATE SPECIAL
COMMITTEE ON OIL AND GAS

2 SENATE CS FOR CS FOR HOUSE BILL NO. 118 (Oil & Gas)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the oil and gas properties pro-
7 duction tax; and providing for an effective date."

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

9 * Section 1. AS 43.55.013(b) is repealed and reenacted to read:

10 (b) The economic limit factor for oil production of a lease or
11 property shall be computed according to the following formula:

12 $(1 - [PEL/TP]) \exp ([150,000/(TP/Days)] \exp [(460 \times WD)/PEL])$

13 where: PEL = the monthly production rate at the economic limit;

14 TP = the total production during the month for which the
15 tax is to be paid;

16 WD = the total number of well days in the month for which
17 the tax is to be paid;

18 Days = the number of days in the month for which the tax is
19 to be paid; and

20 exp = exponent.

21 * Sec. 2. This Act takes effect July 1, 1989.

FISCAL NOTE

REQUEST:

Revision Date: April 4, 1989
Title: Oil & gas properties production tax - ELF
Sponsor: House Finance Committee
Requestor: Senate Oil & Gas

Agency Affected: Department of Revenue
BRU: Oil & Gas Audit Division
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	Varies		181,000	192,000	207,000	207,000
	See estimate attached					

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: See attached page for analysis.

Prepared By: Roger Marks Phone: 277-5627
Division: Dept. of Revenue, Oil & Gas Audit Division Date: April 27, 1989

Approved by Commissioner: Hugh Malone Date: 4/27/89
Agency: Department of Revenue

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Fiscal Analysis of HB 118

This bill modifies the economic limit factor (ELF) formula used in computing the production (severance) tax on oil.

The bill (1) introduces the rate of field production into the exponent of the current ELF formula and (2) repeals the so-called "rounding rule," the provision of current law which states that for any month during the first 10 years of commercial oil production for which the computed ELF of a lease or property exceeds 0.7 the ELF shall be considered to be one.

The bill carries an effective date of July 1, 1989, but does not explicitly state the date on which it first begins applying to oil production. That date will determine how much revenue is raised for FY 89 and FY 90. The following table shows the revenue raised for each date.

If the bill applies to oil produced after this date	Revenues Raised for FY 89	Revenues Raised for FY 90
12/31/88	64	171
01/31/89	50	171
02/28/89	37	171
03/31/89	24	171
04/30/89	12	171
05/31/89	0	171
06/30/89	0	158
07/31/89	0	145
08/31/89	0	132

The severance tax is paid monthly for the prior month. For example, the tax for production in April is due in May.

This fiscal note was calculated using the oil price and production assumptions of the Department of Revenue's Spring 1989 Petroleum Production Revenue Forecast mid-case scenario. That forecast was predicated on Alaska North Slope crude prices at the U.S. Gulf of \$14.29 a barrel in FY 89 and \$16.41 a barrel in FY 90.

Additional revenues for future years in millions of dollars are as follows:

1995	194
1996	180
1997	165
1998	157
1999	148
2000	139
2001	129
2002	110

2003	86
2004	69
2005	45
2006	21
2007	4
2008	(3)
2009	0
2010	0

A price - revenue matrix is included. It is based on an application date of December 31, 1988.

Price/Revenue Increase for HB 118
(Millions of \$)

Saudi Light (\$/bbl)	ANS @ US Gulf (\$/bbl)	Fiscal Year						
		1989	1990	1991	1992	1993	1994	1995
10	11	35	85	88	98	104	104	99
12	13	48	115	116	129	146	148	139
14	15	63	151	153	161	174	175	164
16	17	78	187	189	198	213	214	200
18	20	92	223	226	235	253	253	236
20	22	107	259	262	272	283	277	258

Department of Revenue
April 28, 1989

Price/Revenue Increase for SCS CSHB 118 (OIL AND GAS)'
(Millions of \$)

ANS @ US Gulf (\$/bbl)	Fiscal year					
	1990*	1991	1992	1993	1994	1995
11	85	88	98	104	104	99
13	115	116	129	146	148	139
15	151	153	161	174	175	164
17	187	189	198	213	214	200
20	223	226	235	253	253	236
22	259	262	272	283	277	258

*Assumes 5/31/89 application date

Size of Field Where Taxes Will Increase or Decrease Under HB 118

HB 118 modifies the ELF statute in two ways which affect the relationship of field size to the tax rate for the field: (1) by modifying the formula; and (2) by repealing the "rounding rule." (Under current law, if a field has an ELF of greater than 0.7 for the first ten years of the field, the ELF is elevated to 1.0. This is called the "rounding rule.") The combined effect of these two changes will increase the severance tax on fields producing an average of more than approximately 150,000 barrels per day, and will reduce the severance tax on fields producing an average of less than approximately 150,000 barrels per day. An analysis of these two changes and the underlying assumptions follows.

The change in the formula would raise taxes on fields which produce more than approximately 115,000 barrels per day and for which the rounding rule does not apply. (Only Prudhoe Bay and Kuparuk fit this description. The rounding rule does not apply to them now because Prudhoe Bay is older than ten years and Kuparuk's current ELF is less than 0.7.) The Bill would cut taxes -- or leave them at zero -- for any field producing less than approximately 115,000 barrels per day. If a field produces an average of less than 300 barrels per well per day, their taxes are zero under current law and the new Bill.

The Bill also initially decreases the ELF for new higher productivity (where average well productivity is greater than 1500 barrels per day) large fields (over the 115,000 barrel per day level). Under current law, fields producing more than an average of 1500 barrels per well per day will have an ELF of greater than 0.7, and would have an initial effective ELF of 1.0 because of the rounding rule. Since the first ten years of the field is when the greatest proportion of oil is produced (upwards of 75 percent), these large fields could have reduced weighted average severance taxes over the entire life of the field under the Bill since it eliminates the rounding rule.

The repeal of the rounding rule will only benefit fields whose ELF's would be greater than 0.7 for the first ten years of the field, and will only benefit such fields initially, the first ten years at most. (If the ELF for such a field dropped to 0.65 in year 4, for example, the proposed ELF only helps it out for the first three years.) Depending on the dynamics of the field, specifically its per well productivity and its decline profile as well as the discount rate used to evaluate the time value of money, the repeal of the rounding rule may or may not help such fields over the entire life of the field as measured by the weighted average severance tax rate over the life of the field. For instance, if a field has a reduced ELF for the first ten years, but an increased ELF for the next 20 years, its average severance tax rate over the 30 year period may or may not be lower under HB 118 than under current law.

The exact size of field that will benefit over the entire life of the field will depend on its well productivity, decline profile, and the discount rate. We estimate that a field with the same well productivity and decline characteristics as Endicott, for example, (which produces 100,000 barrels per day and produces 2500 barrels per well per day average), but with peak production of 280,000 barrels per day, would have the same discounted (8%) weighted average effective ELF over the life of the field under the Bill as it would under current law. Fields producing less than that amount would have a lower ELF than under current law.

The question was what size field would benefit from HB 118 and there were two answers. The first answer stems from the change in the formula itself and that was approximately 115,000 barrels per day. The second answer stems from the repeal of the rounding rule and that was estimated at 280,000 barrels per day. The final step necessary to get a single answer is to weight these two effects.

The two effects were weighted as follows. First, if a field produced less than 115,000 barrels per day, it would benefit from the formula. Second, it was assumed that if a field were to benefit from repeal of the rounding rule, it would be a field that produced 280,000 barrels per day. Finally, it was necessary to estimate the probability that a field would benefit from repeal of the rounding rule.

A field would benefit from repeal of the rounding rule if its ELF would be greater than 0.7 and it produced more than 115,000 barrels per day. To have an ELF of greater than 0.7, its average per well productivity must be approximately 1450 barrels per day or more. Thus, we need to see what is the probability of a field having average per well productivity of 1450 barrels per day and total production of greater than 115,000 barrels per day.

To gauge this probability, we looked at the characteristics of the fields actually producing in Alaska. There were five fields considered: Prudhoe Bay, Kuparuk, Milne Point, Lisburne, and Endicott. The prospective fields were not considered since their characteristics are not really known. The Cook Inlet fields were not considered since any field that will benefit from the proposed ELF is probably on the North Slope.

Of the five fields, only one, Prudhoe Bay, had production of greater than 115,000 barrels per day and average well productivity of greater than 1450 barrels per day. Thus, there is a one in five chance (0.2) that a field would have these characteristics. The two effects were weighted as follows:

$$\begin{array}{r} .2 \times 280,000 = 56,000 \\ + .8 \times 115,000 = \underline{92,000} \\ \hline 148,000 \end{array}$$

That is how the 150,000 barrel figure was derived.

SECTIONAL ANALYSIS OF SCS CSHB 118 (OIL AND GAS): LEGISLATION REVISING
THE ECONOMIC LIMIT FACTOR

Section 1. This section modifies the severance tax's Economic Limit Factor (ELF) as it relates to oil production.

Under current law and under this section, the ELF statute reduces the effective severance tax rate on oil production by applying a formula which considers productivity. The ELF formula always produces a fraction between zero and one. That fraction is multiplied with the nominal tax rate to get the effective tax rate. This means that the higher the ELF, the higher the actual tax paid; the lower the ELF, the lower the actual tax paid. This also means that if the ELF is zero, the severance tax rate is zero.

This section changes the ELF statute in two ways.

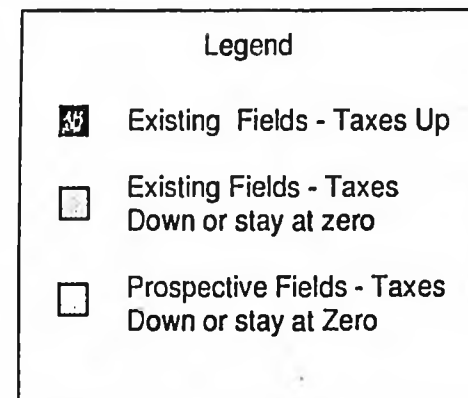
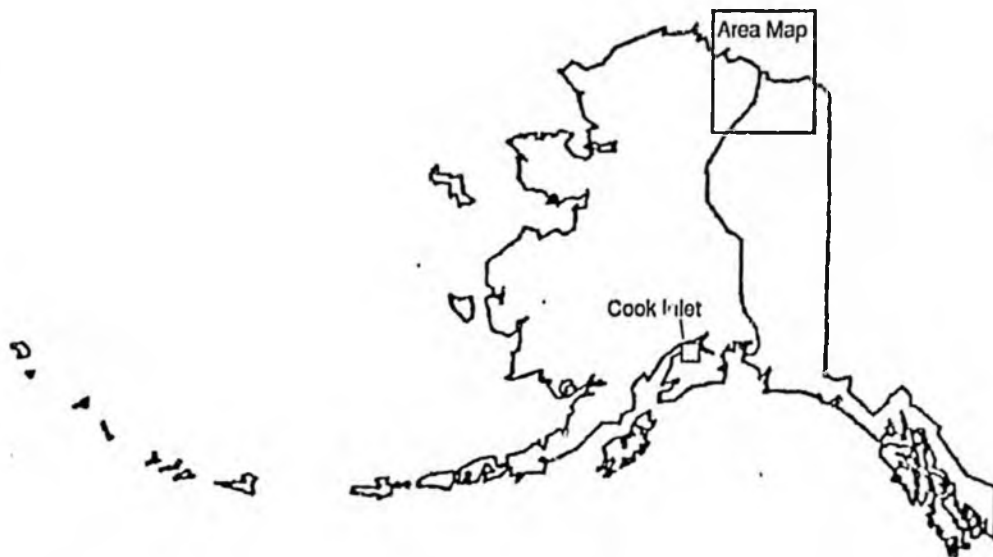
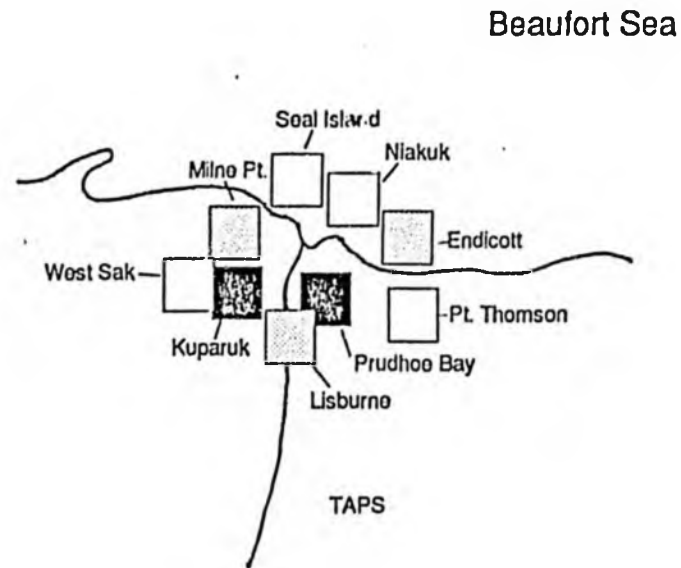
First, this section modifies the formula for calculating the "economic limit" of oil production. The current law considers only average per-well productivity of the field. The formula here adds consideration of total field productivity to the current ELF formula. Second, this section repeals the provision of current law which states

that for any month during the first 10 years of commercial oil production for which a lease or property's computed ELF exceeds 0.7, the ELF shall be considered to be one. This section's repeal of this "rounding" rule of current law would result in initial lower taxes for any field in this situation.

Compared to current law, these two changes raise taxes on fields producing on average more than 300,000 barrels a day and reduce taxes on fields producing on average less than 300,000 barrels a day.

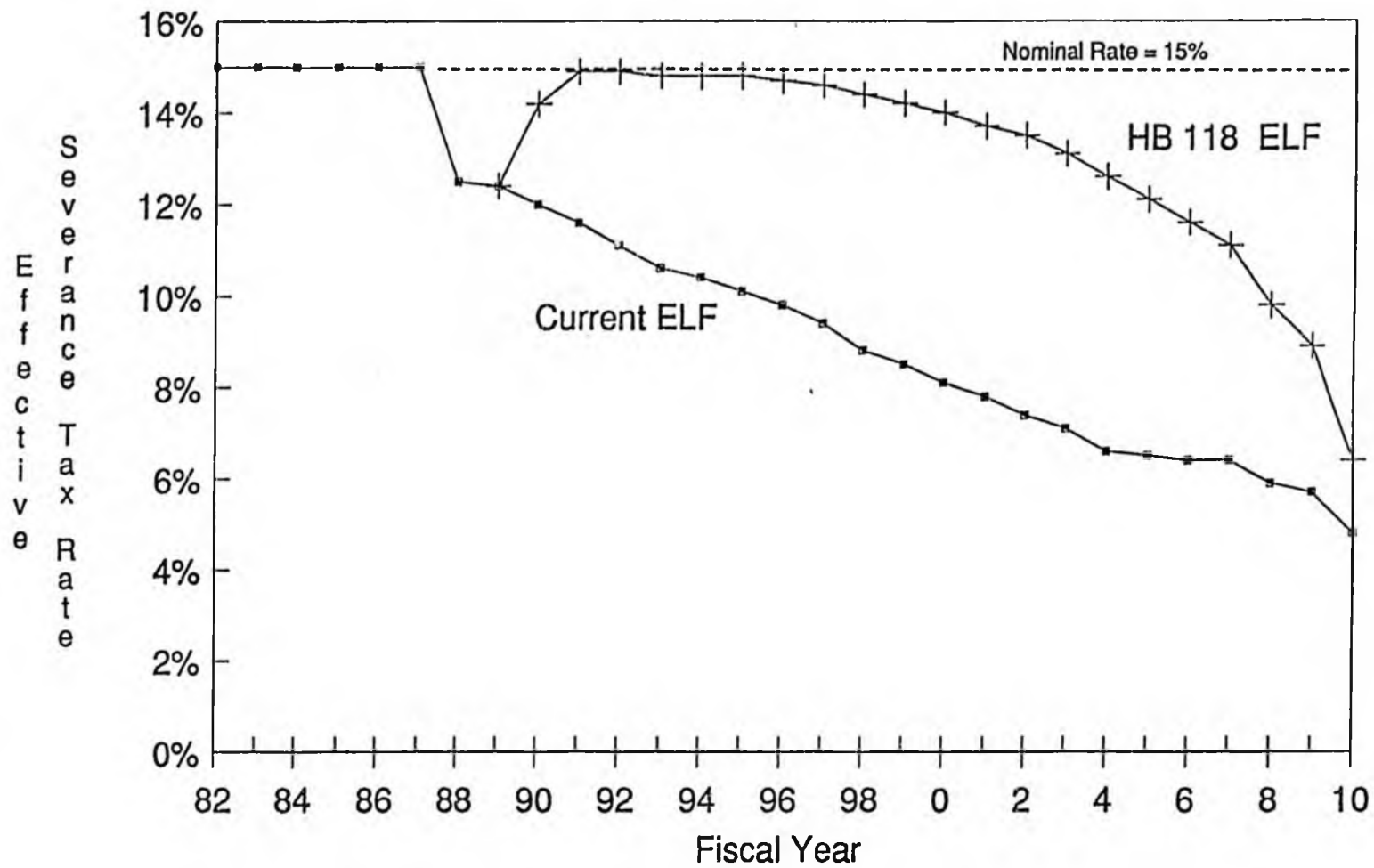
Section 2. This section sets an effective date of July 1, 1989.

State of Alaska
 Approximate Field Locations
 (Current and Prospective Fields)



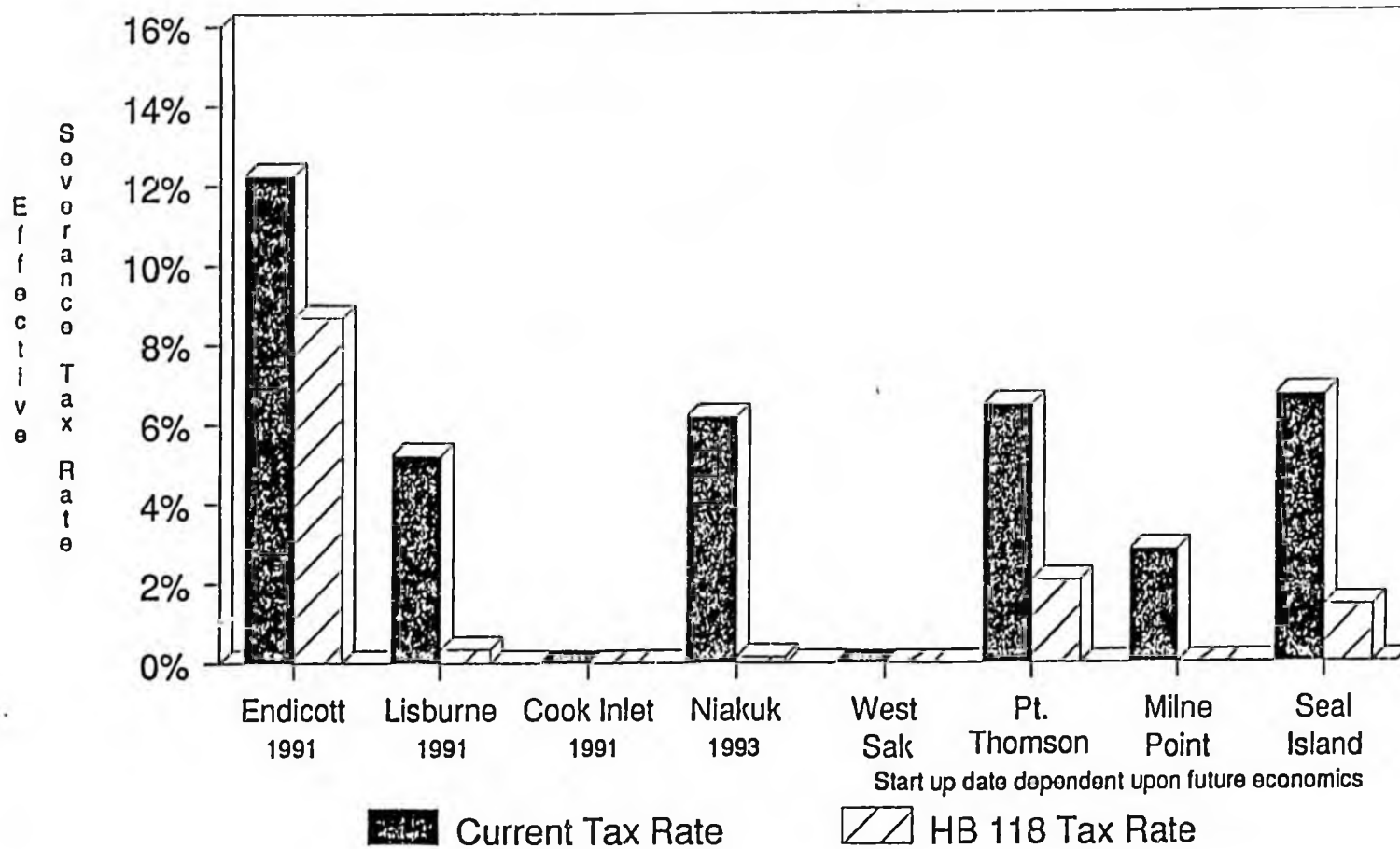
Date: April 20, 1989

The Tax Rate on Prudhoe Bay Has Dropped Sharply



Date: February 16, 1989

Fields Where Taxes Would Decrease Under HB 118 (For Representative Years)



Source: Department of Revenue

Date: February 7, 1989

Fields Where Taxes Would Increase Under HB 118

<u>Field</u>	<u>Current Tax Rate¹</u>	<u>HB 118 Tax Rate¹</u>
Prudhoe Bay	11.59	14.91
Kuparuk	8.36	13.18

¹ Estimated effective severance tax rate for 1991.

Date: February 7, 1989

Effective Severance Tax Rates Under Different ELF Formulas

<u>Field</u>	<u>Volume</u> <u>(mmbbl/day)</u>	<u>Wells</u>	<u>Current</u> <u>Law</u>	<u>SB</u> <u>97</u>	<u>HB</u> <u>118</u>
Prudhoe	1.452	634	12.1%	14.7%	14.9%
Kuparuk	.279	342	7.4%	11.1%	12.6%
Milne ('91)	.031	39	5.9%	0.8%	0.1%
Endicott	.106	44	12.3%	9.8%	9.8%
Lisburne	.044	60	5.4%	1.3%	0.4%
Niakuk ('93)	.021	12	12.3%	2.4%	0.3%

Based on the mid-case scenario of the Department of Revenue's Spring 1989 forecast for FY 1990, unless otherwise indicated. Nominal rates are 15% for Prudhoe Bay and Kuparuk and 12.25% for the other fields. Well numbers are adjusted for well days.

Synopsis of Alaska Fields

<u>Field</u>	<u>Volume (bbls/day)</u>	<u>Wells</u>	<u>Daily Volume p/well</u>
<u>Current Fields</u>			
<u>North Slope</u>			
Prudhoe Bay	1,471,701	709	2076
Kuparuk	312,319	331	944
Lisburne	36,441	55	663
Endicott	98,774	39	2533
<u>Cook Inlet</u>			
Beaver Creek	322	2	161
Granite Point	7,351	29	253
McArthur River	18,872	75	252
Middle Ground Shoals	7,494	41	183
Swanson River	5,162	27	191
Trading Bay	3,638	40	91
<u>Prospective Fields</u>			
Milne Point	30,000	40	750
West Sak	150,000	4000	38
Point Thomson	50,000	50	1000
Seal Island	100,000	100	1000
Niakuk	20,000	12	1667

For current fields, actual February 1989 data. For prospective fields, the expected values at peak production.

Top Ten Lower 48 Fields

	<u>Volume (bbls/day)</u>	<u>Wells</u>	<u>Daily Volume p/well</u>	<u>*Effctv Sev Tax Rate - Alaska Law</u>
1. Belridge South (CA)	165,981	6000	28	0.00%
2. Midway-Sunset (CA)	157,526	9180	17	0.00%
3. Kern River (CA)	128,490	6709	19	0.00%
4. East Texas (TX)	111,225	9363	12	0.00%
5. Elk Hills (CA)	107,244	1099	98	0.00%
6. Yates (TX)	91,890	1146	80	0.00%
7. Wilmington (CA)	81,975	2050	40	0.00%
8. Wasson (TX)	78,510	2152	36	0.00%
9. Spraberry Trend (TX)	60,585	7321	8	0.00%
10. Slaughter (TX)	55,792	3001	19	0.00%

*Either Current Alaska Law or HB118.

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U.S. fields with reserves exceeding 100 million bbl

State	Field	Disc. date	1988 prod.	Cum. prod. 1-1-89 1,000 bbl	Est. rem. reserves	Est. No. wells
ALABAMA						
	Civonelle, 1923.....		1,827	147,861	7,000	435
ALASKA						
	Zandicott, 1978.....		36,098	43,099	324,992	37
	Granite Point, 1955.....		2,787	109,533	16,213	29
	Kuparuk River, 1969....		112,025	503,337	994,945	328
	Lisburne, 1957.....		14,800	35,600	175,689	49
	McArthur River, 1965....		7,040	529,040	34,950	76
	Middle Ground Sndal, 1962.....		2,737	155,889	5,263	42
	Prudhoe Bay, 1967.....		576,335*	6,053,018*	3,533,665	691
	Swanson River, 1957....		2,154	209,450	8,846	29
*Includes about 30.66 million bbl of condensate. †Includes about 138.66 million bbl of condensate.						
ARKANSAS						
	Smackover, 1922.....		2,654	556,307	9,097	2,100
CALIFORNIA						
San Joaquin Valley						
	Bainbridge South, 1911		60,593	677,063	435,286	6,000
	Buena Vista, 1909.....		1,574	647,274	39,271	895
	Coalinga, 1890.....		10,212	753,345	161,198	2,172
	Coalinga Nose, 1923..		1,285	458,665	17,370	78
	Coles Ledge North, 1938.....		442	160,432	2,748	85
	Cuyama South, 1949..		469	218,191	6,938	105
	Cymric, 1909.....		8,479	199,303	40,000	1,013
	Edison, 1929.....		1,470	134,391	25,570	674
	Elk Hills, 1911.....		39,144	693,374	579,776	1,099
	Fruitvale, 1923.....		577	115,553	13,709	274
	Greeley, 1926.....		237	112,547	1,763	27
	Kern Front, 1912.....		1,530	173,056	55,230	930
	Kern River, 1925.....		46,639	1,204,479	743,000	6,709
	Kettleman North Dome, 1923.....		172	456,648	1,299	44
	Lost Hills, 1910.....		5,627	173,293	61,303	1,634
	McKinney, 1926.....		2,551	266,922	90,919	931
	Midway-Sunstar, 1934		57,497	1,673,347	373,953	9,180
	Mount Paso, 1925.....		5,620	263,230	79,230	411
	Rio Bravo, 1937.....		151	115,051	1,319	15
	Yowumne, 1974.....		6,570	81,363	27,015	65
Coastal Area						
	Carpenters, 1955.....		2,690	88,101	29,299	114
	Cal Canyon E. & W., 1908.....		2,735	298,275	46,930	512
	Des Cuadras, 1959....		4,371	212,304	54,140	140
	Elwood, 1923.....		317	105,705	2,283	7
	Honco, 1959.....		9,952	89,621	112,223	20
	Orcutt, 1901.....		906	165,674	10,235	136
	Point Pescadores, 1982.....		6,515	11,715	331,544	10
	Rincon, 1927.....		1,118	148,759	14,832	240
	San Arco, 1947.....		4,641	408,351	122,903	600
	Santa Maria valley, 1934.....		1,751	198,131	40,408	172
	South Mountain, 1915		727	145,524	12,035	352
	Ventura, 1919.....		7,072	894,742	97,026	570
Los Angeles Basin						
	Beta, 1976.....		6,013	40,423	173,825	60
	Beverly Hills, 1900....		2,034	122,615	42,356	116
	Brea Clinda, 1980.....		2,143	383,594	54,787	720
	Coyote East, 1959.....		584	193,553	13,212	103
	Coyote West, 1909....		808	249,559	7,481	113
	Dominguez, 1923.....		607	269,256	7,448	113
	Huntington Beach, 1920.....		5,816	1,066,358	72,044	990
	Inglewood, 1924.....		2,790	345,453	54,149	356
	Long Beach, 1921....		2,466	909,757	17,216	410
	Montebello, 1917.....		525	192,357	10,267	155
	Richfield, 1919.....		1,494	189,165	27,412	203
	Santa Fe Springs, 1919.....		987	613,077	9,035	151
	Seal Beach, 1924.....		876	203,118	14,119	168
	Torrance, 1922.....		1,693	212,023	35,247	365
	Wilmington, 1932.....		29,921	2,292,229	495,633	2,050
COLORADO						
	Rangely, 1933.....		12,492	739,418	35,000	488
FLORIDA						
	Jay, 1970.....		4,676	360,612	55,944	121
ILLINOIS						
	Clay City, 1938.....		2,449	393,950	6,000	2,600
	Lawrence, 1906.....		2,919	394,521	5,300	2,700
	Louisa, 1936.....		1,345	388,237	3,555	1,340
	Main, 1906.....		2,066	233,273	5,000	3,356
	New Harmony, 1939.....		1,072	153,545	4,000	1,140
	Salem, 1938.....		2,167	386,983	4,500	1,325
KANSAS						
	Earns-Shetts, 1928.....		1,169	244,247	4,405	973
	Chase-Silica, 1930....		1,019	301,003	4,499	1,103
	El Corado, 1915.....		839	296,734	2,615	822
	Hall-Gurney, 1931....		1,032	145,677	4,051	1,130
	Trapp, 1929.....		1,200	225,958	4,643	1,000
LOUISIANA						
Offshore						
	Bay Marchand Bk. 2, 1949.....		5,547	596,972	53,759	120
	Eugene Island Bk. 330, 1920.....		7,359	269,090	53,920	169
	Grande Isle Bk. 16, 1943.....		1,659	263,729	95,645	44
	Grande Isle Bk. 43, 1955.....		6,312	272,255	85,628	126
	Mississippi Canyon Bk. 194, 1920.....		4,929	116,958	76,311	44
	Main Pass Bk. 41, 1957		2,985	237,554	23,334	112
	Main Pass Bk. 326, 1969.....		1,776	201,869	78,335	94
	South Pass Bk. 27, 1954.....		1,659	125,317	73,198	118
	South Pass Bk. 61, 1968.....		9,140	152,151	45,000	156
	South Pass Bk. 62, 1965.....		3,331	106,364	91,594	73
	South Pass Bk. 55, 1969.....		4,032	100,875	89,252	61
	Ship Shoal Bk. 204, 1968.....		1,591	66,070	38,930	40
	Ship Shoal Bk. 207, 1967.....		1,023	87,818	38,000	25
	Ship Shoal Bk. 208, 1962.....		4,117	160,169	65,274	67
	South Timbalier Bk. 21, 1939.....		1,324	216,239	47,133	45
	South Timbalier Bk. 135, 1956.....		1,390	139,337	25,663	37
	West Delta Bk. 30, 1949		6,754	446,083	47,375	153
	West Delta Bk. 73, 1962		4,469	188,700	86,291	73
Onshore South						
	Bay de Chene, 1941....		390	96,382	17,952	24
	Bay St. Etienne, 1928....		321	164,508	25,292	18
	Bayou Sole, 1941.....		769	161,369	3,417	20
	Black Bay West, 1953...		1,971	144,799	10,432	94
	Callicou Island, 1930....		2,308	602,231	74,020	136
	Cote Blanche Bay West, 1940.....		741	181,594	46,374	86
	Delta Farms, 1944.....		293	115,351	7,019	13
	Garden Island Bay, 1934		1,406	221,261	31,954	144
	Golden Meadow, 1938..		894	135,439	4,290	176
	Grand Bay, 1938.....		454	170,514	3,760	41
	Hackberry, East, 1927..		777	109,087	7,603	60
	Hackberry, West, 1928..		1,771	141,995	6,492	107
	Iowa, 1931.....		134	99,303	697	25
	Jennings, 1901.....		315	116,409	700	181
	Lafitte, 1935.....		1,665	255,304	9,550	111
	Lake Barre, 1929.....		941	204,023	20,051	31
	Lake Pelto, 1929.....		477	117,000	17,415	23
	Lake Washington, 1931		2,353	242,390	16,376	93
	Leeville, 1931.....		447	141,646	7,221	27
	Paradise, 1959.....		725	126,650	8,600	31

11 5 10
15 15 3 1 0 3 1
9 41 54
31 11 17 10 4 20 12 24 0 0
47 57 35 5 47 0 2
9 0 0 0 31
84
64 212 459 259 771 551 131 436 701 879 278 313 466 747 664

State	Field	Disc. date	1988 prod.	Cum. prod. 1-1-89 1,000 bbl	Est. rem. reserves	Est. No. wells
	Quarantine Bay, 1937...		761	172,672	1,654	71
	Timcalier Bay, 1938					
	Venice, 1937.....		858	181,878	7,590	59
	Vinton, 1910.....		287	161,031	900	96
	Weeks Island, 1945.....		816	225,939	21,355	33
	West Bay, 1940.....		1,349	228,246	16,355	79
North						
	Caddo-Pine Island 1905		3,310	360,899	12,889	10,689
	Delhi, 1944.....		673	211,707	34,651	58
	Haynesville, 1921.....		761	168,237	2,373	166
	Homer, 1919.....		434	98,375	1,908	199
	Rodessa, 1935.....		331	106,627	1,506	67

MISSISSIPPI

	Baxterville, 1944.....		2,609	239,154	10,391	316
	Heiderberg, 1944.....		2,823	174,809	12,171	316
	Tinsley, 1939.....		834	29,677	3,197	173

MONTANA

	Bell Creek, 1957.....		958	129,836	22,984	91
	Cut Bank, 1925.....		994	162,453	37,169	575
	Pine, 1951.....		1,302	105,145	5,657	96

NEW MEXICO

	Denton, 1949.....		652	139,693	3,000	179
	Empire-Aco, 1957.....		1,424	219,333	50,017	405
	Eunice-Monument, 1929		2,500	125,414	10,834	879
	Hobbs, 1928.....		8,480	297,432	20,000	613
	Maljamar, 1925.....		1,655	144,961	5,070	851
	Vacuum, 1923.....		12,359	432,242	40,000	1,556

NORTH DAKOTA

	Beaver Lodge, 1951.....		1,704	111,574	16,684	132
	Billings Mesa, 1978.....		2,550	61,659	51,744	152
	Little Anne, 1977.....		3,392	51,437	57,324	131
	Monsak, 1976.....		439	13,165	82,837	56

OKLAHOMA

	Burbank, 1920.....		1,135	536,746	8,377	1,105
	Eala-Roberson, 1920.....		746	103,124	8,210	603
	Fitts, 1934.....		2,563	199,894	12,000	589
	Glenn Pool, 1935.....		1,170	327,865	5,000	714
	Golden Trend, 1945.....		4,333	474,100	22,000	1,396
	Heaton, 1913.....		1,933	334,645	9,553	1,000
	Hewitt, 1919.....		3,152	266,371	13,615	923
	Oklahoma City, 1928.....		902	816,170	5,956	174
	Postle, 1955.....		1,215	106,393	14,921	226
	Sho-vel-Turn, 1905.....		18,338	1,167,379	60,000	7,616
	Sooner Trend, 1945.....		4,147	255,544	20,000	4,746

TEXAS

District 2						
	Greta, 1923.....		746	147,570	12,530	100
	Lake Pasture, 1953.....		2,184	87,784	12,644	143
	Tom O'Connor, 1934.....		10,330	747,849	55,000	646
	West Ranch, 1938.....		2,640	350,034	8,504	307
District 3						
	Arenas, 1935.....		1,068	284,835	15,112	106
	Carroll, 1931.....		3,864	727,215	35,728	278
	Giddings, 1971.....		8,656	278,570	148,032	2,281
	Hart, 1934.....		3,094	697,237	72,764	206
	Magnet Withers, 1936.....		1,234	110,960	5,000	150
	Oyster Bayou, 1941.....		864	160,204	18,036	39
	Thompson, 1931.....		3,972	472,540	27,350	262
	Tomcat, 1932.....		400	121,055	9,858	85
	Webster, 1937.....		5,304	573,192	20,000	243
District 4						
	Agua Dulce-Stratton, 1928.....		360	146,623	24,751	94
	Bonazos, 1943.....		192	114,021	20,185	40
	Kelley, 1958.....		200	114,359	36,247	60

State	Field	Disc. date	1988 prod.	Cum. prod. 1-1-89 1,000 bbl	Est. rem. reserves	Est. No. wells
	Plymouth, 1925.....		400	122,823	3,300	60
	Seeigson, 1925.....		156	271,483	55,544	42
	TCB, 1944.....		456	112,700	52,358	30
	White Point E, 1938.....		60	104,034	6,340	21

District 5						
	Alabama Ferry, 1993....		3,600	14,600	86,400	253
	Van, 1928.....		3,096	521,960	15,000	366

District 6						
	East Texas, 1930.....		40,597	5,009,747	988,759	9,363
	Fairway, 1950.....		2,424	192,591	17,777	100
	Hawkins, 1940.....		8,244	821,644	42,372	442
	Neches, 1953.....		1,416	103,980	6,036	163
	Quitman, 1948.....		1,680	121,346	8,440	208

District 8						
	Anacost, 1946.....		1,500	181,888	6,500	28
	Block 31, 1945.....		3,556	220,068	12,000	325
	Cowden, N., 1930.....		13,596	488,032	40,000	1,210
	Cowden, S. Foster, Johnson, 1932.....		9,696	500,796	40,000	1,593
	Dallam, 1945.....		2,568	153,780	11,448	202
	Dune, 1938.....		2,928	183,000	18,704	771
	Fullerton, 1942.....		7,452	348,200	22,000	870
	Goldsmith, 1934.....		7,246	755,516	33,732	2,026
	Howard Glasscock, 1925		5,844	404,508	26,000	2,209
	Jatan, E., 1925.....		3,372	142,955	12,000	1,304
	Jordan, 1937.....		480	129,975	2,520	135
	Keystone, 1920.....		1,872	313,050	9,374	812
	McElroy, 1926.....		7,894	465,549	56,800	1,600
	Means, 1934.....		7,020	228,598	20,000	713
	Midland Farms, 1944....		4,603	241,990	18,615	415
	Sand Hills, 1931.....		2,760	248,207	21,500	1,312
	TXL, 1944.....		2,004	263,515	6,500	600
	Wadwell, 1927.....		708	100,712	3,792	158
	Ward Estes, N., 1929....		3,408	364,177	76,435	1,552
	Westbrook, 1923.....		2,000	89,000	16,000	718
	Yates, 1925.....		33,540	1,171,820	782,695	1,146

District 8-A						
	Anton-Irwin, 1944.....		3,554	175,910	24,190	239
	Cogdell Area, 1949.....		1,556	252,219	41,204	103
	Diamond M., 1948.....		1,903	239,415	16,053	474
	Kelly-Snyder, 1948.....		11,552	1,234,942	115,038	805
	Levelland, 1938.....		17,329	464,144	50,000	3,012
	Frentice, 1951.....		6,216	161,036	20,000	437
	Salt Creek, 1950.....		10,404	247,340	12,552	173
	Seminole, 1935.....		17,004	524,755	35,000	624
	Slaughter, 1935.....		20,354	1,029,800	50,000	3,001
	Strawberry Trend, 1951..		22,212	653,338	50,000	7,321
	Wasson, 1936.....		28,656	1,711,998	60,000	2,152
	Welch, 1942.....		3,324	144,228	14,000	651

District 10						
	Pannardie, 1921.....		7,812	1,423,286	41,240	11,643

UTAH

	Altamont, 1955.....		3,047	89,493	231,216	227
	Aneth, 1955.....		5,340	354,004	30,000	461
	East Anschutz Ranch, 1979.....		12,755	80,255	727,799	28
	Red Wash, 1951.....		1,075	77,511	13,377	146

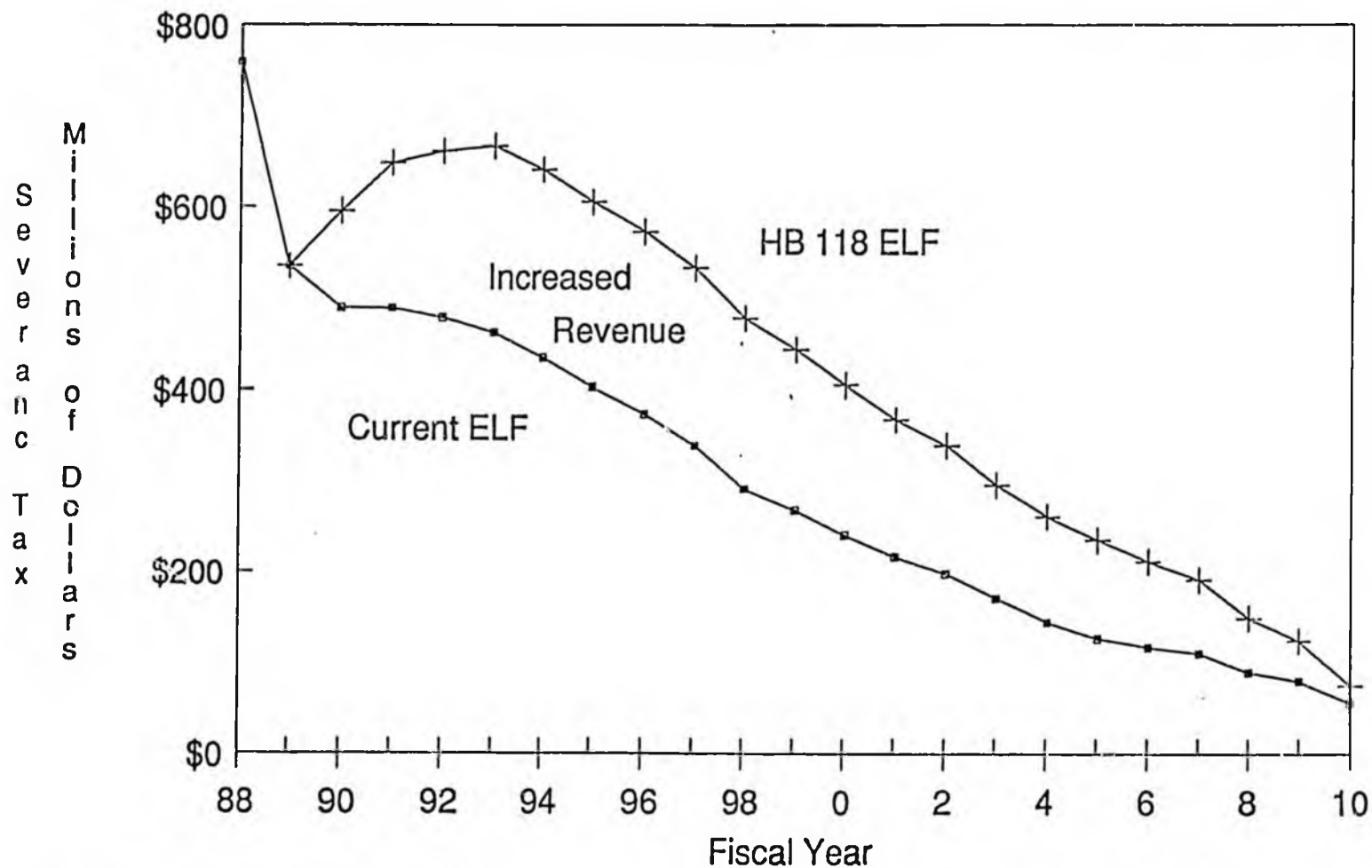
WYOMING

	Brady, 1950.....		2,438	54,537	49,251	22
	Byron, 1918.....		1,119	120,623	7,656	67
	Elk Basin, 1915.....		2,968	446,695	25,750	170
	Frannie, 1929.....		1,122	116,020	5,000	63
	Garland, 1906.....		2,625	154,885	6,000	225
	Grass Creek, 1914.....		2,414	185,120	9,000	288
	Hamilton Dome, 1918....		2,853	268,109	6,000	239
	Hartzog Draw, 1976.....		6,647	66,722	283,739	157
	Hille, 1929.....		541	75,416	55,885	93
	Jance Creek, 1918.....		163	107,805	400	24
	Little Buffalo Basin, 1914.....		2,666	118,653	9,389	154
	Lost Soldier, 1916.....		2,308	192,073	5,000	71
	Oregon Basin, 1912.....		8,669	388,180	30,000	500
	Painter Reservoir, 1979		1,739	31,674	80,674	31
	Salt Creek, 1906.....		5,210	629,689	25,000	1,217
	Wertz, 1920.....		3,500	99,695	15,000	65
	Whitney Canyon, 1980..		1,652	10,379	105,485	29

Department of Revenue
April 20, 1989

There is no statutory or precise legal definition of the term "marginal field." The proposed ELF modifications benefit "marginal fields" in the same way that a graduated personal income tax benefits poorer people; the law need not contain a precise definition of the term. Generally, the term "marginal field" refers to a field whose relatively low total daily production and/or relatively low average per well productivity adversely affect the economics of its operation.

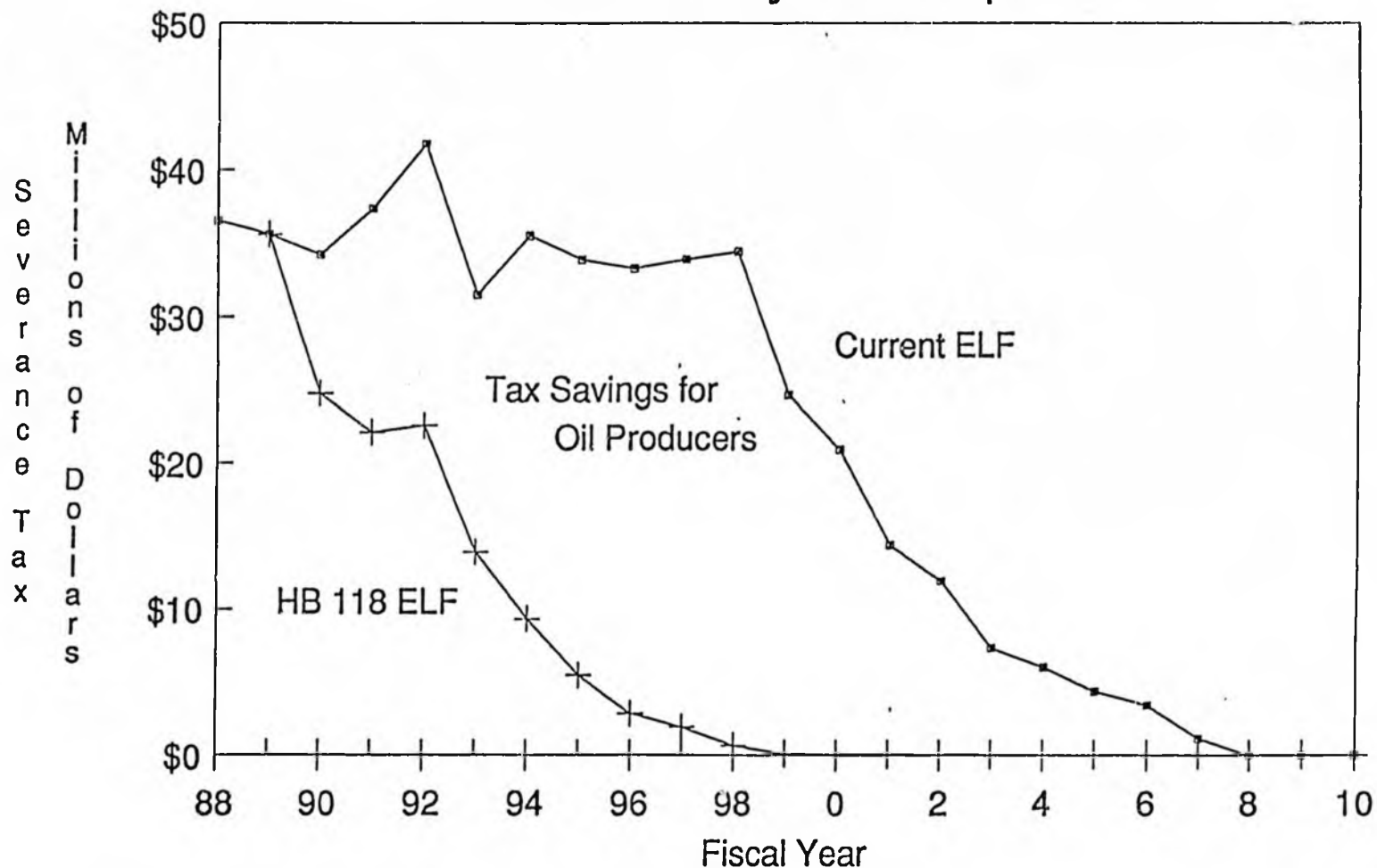
HB 118 Raises More Severance Tax Revenue from Prudhoe Bay and Kuparuk



Note: Revenues are from severance taxes on Prudhoe Bay and Kuparuk

Date: February 15, 1989

HB 118 Gives a Tax Savings for Producers at Oil Fields Other than Prudhoe Bay and Kuparuk



Note: Revenues are from severance taxes on fields other than Prudhoe Bay and Kuparuk

Date: February 15, 1989

Attachment 3

Comparative Severance Tax Payments
 1987 Production and Collections
 10 Top Oil Producing States

	Production ¹ (1000's of bbls)	Severance Tax ² (1000's of \$)	\$/Bbl	Severance Tax Rank
Texas	760,145	1,178,052	1.55	6
ALASKA	715,855	648,500	0.91	8
California	364,572	14,600	0.04	10
Louisiana	173,409	439,237	2.53	4
Oklahoma	132,970	372,883	2.80	2
Wyoming	112,597	138,915	1.23	7
New Mexico	71,533	262,290	3.67	1
Kansas	59,120	159,952	2.71	3
North Dakota	41,351	90,665	2.19	5
Utah	35,477	22,781	0.64	9

¹ Source: Department of Energy

² Source: Petroleum Independent, September 1988

MEMORANDUM

State of Alaska
Office of the Governor
Division of Policy

TO: The Hon. Alyce Hanley DATE: April 20, 1989

FROM: Gregg Erickson

SUBJECT: Corporate Profits Earned Alaska

During the March hearings on the ELF legislation in the House you requested information on the net income earned by the fishing industry.

Based on tax data from the Department of Revenue, we estimate that 1987 taxable corporate net income in Alaska totaled \$2.010 billion. Of this, \$24 million (1.2 percent) was earned by corporations in fishing or fishing related fields.

Based on Dept. of Revenue data, we estimate taxable oil company income at \$1.681 billion, or 84 percent of the total.

Taxable income may differ substantially from the income shown on a company's books of account. This is especially true under the special taxation arrangements adopted for the oil industry by Alaska in 1981. The recent study by Professor Deakin found that 1987 oil industry net income totaled \$3.182 billion. Based on the Deakin analysis, it is likely that the oil industry accounts for more than 90 percent of total book income attributable to Alaska. The figure cannot be determined precisely, however, because comparable figures for non-petroleum book income are not available for the state.

cc: Senate Special Oil and Gas Committee

SENT BY: DIV OIL GAS

4-19-89 3:33PM ;

25344

9075862754; H 1

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL AND GAS
ROYALTY ACCOUNTING SECTION

PARTICIPATING PERCENTAGES -
KUPARUK RIVER UNIT

WORKING
INTEREST
OWNER

OWNER'S AREA
PARTICIPATION PERCENTAGE

ARCO	56.30096
BP	38.75643
UNOCAL	4.24961
MOBIL	.36600
EXXON	.21800
CHEVRON	.10900

100.00000

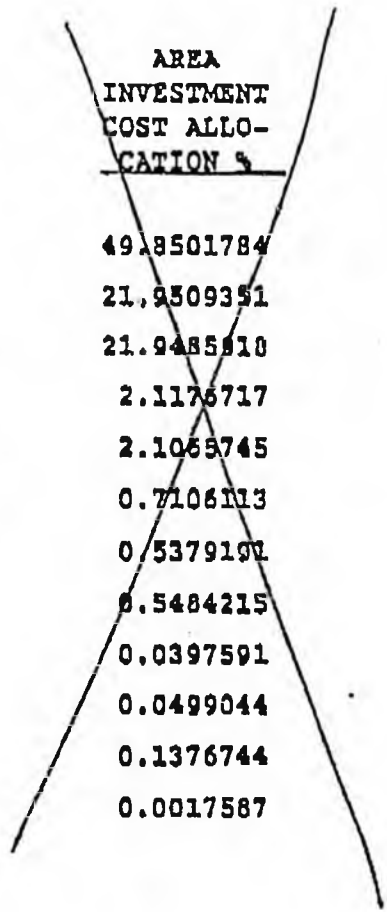
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KUPARUK

ADJUSTED FOR RSA AND SECTION 37.110 - PHUOA

EXHIBIT 26A
AREA VALUES
OIL RIM AND GAS CAP PARTICIPATING AREAS

WORKING INTEREST OWNER	OWNER'S AREA PARTICIPATION PERCENTAGE		AREA INVESTMENT COST ALLOCATION %
	OIL RIM	GAS CAP	
SAPC	50.6830966	13.8397816	49.8501784
ARCO	21.7799635	42.5649413	21.9309351
EXXON	21.7776490	42.5647901	21.9485810
MOBIL	1.8915771	0.2843666	2.1175717
PHILLIPS	1.8805235	0.2629370	2.1055745
CHEVRON	0.6717745	0.4830700	0.7106113
AMERADA HESS	0.5379191	-	0.5379191
TEXACO	0.5484215	-	0.5484215
LL&E	0.0397591	-	0.0397591
MARATHON	0.0499044	-	0.0499044
SHELL	0.1376744	-	0.1376744
BP&E	0.0017373	0.0001134	0.0017587



*LEGEND:

- Amerada Hess --Amerada Hess Corporation
- Arco --Arco Alaska, Inc.
- BP&E --BP Alaska Exploration Inc.
- Chevron --Chevron U.S.A., Inc.
- Exxon --Exxon Corporation
- Texaco --Texaco Producing Inc.
- LL&E --The Louisiana Land and Exploration Company
- Marathon --Marathon Oil Company
- Mobil --Mobil Oil Corporation
- Shell --Shell Western E & F Inc.
- Phillips --Phillips Petroleum Company
- SAPC --Standard Alaska Production Company

PRUDHOE
BAY

Participating Percentages
Lisburne Participating Area
Prudhoe Bay Unit

Working Interest Owner

Owner's Area
Participating Percentage

ARCO Alaska, Inc.

40.00

Exxon Corporation

40.00

BP Exploration

20.00

LISBURN E

Participating Percentages
Kuparuk Participating Area
Milne Point Unit

<u>Working Interest Owner</u>	<u>Owner's Area Participating Percentage</u>
Conoco	72.14933
Chevron	17.37352
OXY	10.47715

3648A

MILNE POINT

EXHIBIT L

Area Participations and Acreage Participations
for the
Endicott Participating Area
(Revised April 1985)

<u>Working Interest Owner</u>	<u>Area Participation (%)</u>	<u>Acreage Participation (%)</u>
Amoco Production Company	.10.4940	12.0142
ARCO Alaska, Inc.	0.0234	0.0586
Cook Inlet Region, Inc.	0.6456	0.4919
Doyon, Limited	0.1291	0.0984
Exxon Corporation	21.0206	24.1098
NANA Regional Corporation, Inc.	0.3874	0.2952
Sohio Alaska Petroleum Company	56.7825	50.8591
Union Oil Company of California	<u>10.5174</u>	<u>12.0728</u>
	100.0000	100.0000

ENDICOTT

Figure 3
HYPOTHETICAL SEVERANCE TAX RATES RESULTING WHEN PER-WELL PRODUCTIVITY IS
HELD CONSTANT AND AVERAGE DAILY PRODUCTION PER FIELD IS
VARIED--UNDER EXISTING LAW, SB 97, AND HB 118
 (Approximate FY 90 averages shown in highlighting.)

Average Daily Production for the Field	PRUDHOE 2,290 barrels per well per day			KUPARUK 817 barrels per well per day			LISBURNE 730 barrels per well per day		
	Existing Law	SB-97	HB-118	Existing Law	SB-97	HB-118	Existing Law	SB-97	HB-118
	10,000	12.1%	1.1%	0.0%	7.4%	0.0%	0.0%	5.4%	0.0%
20,000	12.1%	4.1%	0.7%	7.4%	0.2%	0.0%	5.4%	0.1%	0.0%
30,000	12.1%	6.4%	2.9%	7.4%	0.9%	0.1%	5.4%	0.5%	0.0%
40,000	12.1%	7.9%	5.2%	7.4%	1.8%	0.5%	5.4%	1.1%	0.2%
50,000	12.1%	9.0%	7.0%	7.4%	2.8%	1.3%	5.4%	1.8%	0.7%
60,000	12.1%	9.8%	8.5%	7.4%	3.7%	2.3%	5.4%	2.4%	1.4%
70,000	12.1%	10.4%	9.5%	7.4%	4.5%	3.4%	5.4%	3.1%	2.2%
80,000	12.1%	10.9%	10.4%	7.4%	5.3%	4.5%	5.4%	3.6%	3.1%
90,000	12.1%	11.3%	11.0%	7.4%	5.9%	5.5%	5.4%	4.2%	3.8%
100,000	12.1%	11.6%	11.5%	7.4%	6.5%	6.4%	5.4%	4.6%	4.6%
200,000	12.1%	13.2%	13.7%	7.4%	9.9%	11.2%	5.4%	7.5%	8.7%
300,000	12.1%	13.8%	14.3%	7.4%	11.3%	12.8%	5.4%	8.9%	10.2%
400,000	12.1%	14.1%	14.5%	7.4%	12.2%	13.5%	5.4%	9.6%	10.9%
500,000	12.1%	14.2%	14.7%	7.4%	12.7%	14.0%	5.4%	10.1%	11.3%
600,000	12.1%	14.4%	14.8%	7.4%	13.0%	14.2%	5.4%	10.4%	11.5%
700,000	12.1%	14.5%	14.8%	7.4%	13.3%	14.4%	5.4%	10.7%	11.7%
800,000	12.1%	14.5%	14.8%	7.4%	13.5%	14.5%	5.4%	10.9%	11.8%
900,000	12.1%	14.6%	14.9%	7.4%	13.7%	14.6%	5.4%	11.0%	11.8%
1,000,000	12.1%	14.6%	14.9%	7.4%	13.8%	14.6%	5.4%	11.1%	11.9%
1,100,000	12.1%	14.7%	14.9%	7.4%	13.9%	14.7%	5.4%	11.2%	11.9%
1,200,000	12.1%	14.7%	14.9%	7.4%	14.0%	14.7%	5.4%	11.3%	12.0%
1,300,000	12.1%	14.7%	14.9%	7.4%	14.1%	14.8%	5.4%	11.4%	12.0%
1,400,000	12.1%	14.7%	14.9%	7.4%	14.1%	14.8%	5.4%	11.4%	12.0%
1,500,000	12.1%	14.7%	14.9%	7.4%	14.2%	14.8%	5.4%	11.5%	12.1%
1,600,000	12.1%	14.8%	14.9%	7.4%	14.2%	14.8%	5.4%	11.5%	12.1%

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99801
907 465 3800

LEGISLATIVE AFFAIRS AGENCY


MEMORANDUM

February 6, 1989

SUBJECT: Retrospective application of the economic
limit factor tax amendments, CSHB 118 ()

TO: Representative Cliff Davidson, Co-Chair
House Resources Committee

FROM: Jack Chenoweth
Legislative Counsel



The amendments requested are enclosed. The drafts differ only as to the date of retrospective application of each. The draft identified as 6-0652E applies the economic limit factor (ELF) retrospectively to oil produced after June 30, 1987; the draft identified as 6-0652H applies the economic limit factor retrospectively to oil produced after December 31, 1988. (A subsequent memo from your office specified different alternative dates. Mechanically changing a date in any of these drafts is not a significant drafting problem.)

It is my understanding that these provisions limit the applicability of the ELF to the state's major producing fields and that, as a consequence, the tax liability of some taxpayers subject to the severance tax, AS 43.55, would be increased, while the liability of others may decrease. 1/

1/ Under AS 43.55.020(a):

The gross production tax on oil or gas shall be paid monthly. The tax is due on the 20th day of each calendar month on oil or gas produced from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

Thus, tax liability is incurred and remitted on a monthly, not an annual basis. For oil production during December, 1988, the tax became due and payable January 20, 1989, and tax liability for oil production during January, 1989, becomes due and payable February 20, 1989.

A retroactive tax adjustment will apply if there is a valid public purpose served by giving retrospective effect to that adjustment. Here, the committee's deliberations may be critical. As a committee substitute for HB 118 is considered, it would, in my judgment, be important to develop a record on which a court, if called upon to consider an argument, would conclude that there was a public purpose served by giving the adjustment a retrospective effect.

A reasonable retrospective application will be sustained. The farther back the retroactive provision is given effect, the less likely a court would be to sustain the provision without a clear showing of public purpose. (To foreclose a claim altogether, this office has discouraged retrospective application of severance tax adjustments beyond the narrow period recognized under AS 43.55.020(a), that is, a change amending the economic limit factor to be made retroactive only to the beginning of the month in which the bill is to take effect. That approach should not create any problems of retrospective applications since the tax liability would not have become due on that date.)

I

RETROSPECTIVE APPLICATION OF THE AMENDMENTS:

Tax statutes may be made retroactive. 2/ The threshold

2/ This office has also recently considered proposed retrospective application of severance tax adjustments, specifically relying on the federal and state constitutional prohibitions against passage of ex post facto laws. There are two ex post facto law prohibitions of the federal constitution. Article I, section 9, clause 3 is a limitation on the federal government, while article I, section 10, clause 1 imposes a similar limitation on the states. Alaska's constitution also contains a limitation in section 15 of article I.

Our previous conclusion that federal and state constitutional prohibitions against enactment of ex post facto laws would support a challenge to the amendment's retrospective application was surely in error. Federal court decisions have limited the application of the limitations to criminal or penal consideration is that the retrospective application of the measure must not impair an obligation of contract.

The impairment of contract consideration appears to be inapplicable in this instance. Retrospective application of a newly-enacted statute may, in some instances, impair obligations of contract, in violation of article I, section 10 of the United States Constitution and article I, section 15 of the State Constitution. However, the Alaska Supreme Court appears to have cut off an impairment of contract argument applicable to retrospective application of a tax amendment in Atlantic Richfield Co. v. State, 705 P.2d 418 (Alaska, 1985). To the argument that the oil and gas corporate income tax then in litigation impaired the obligation of the state's underlying lease contracts, the court concluded that "[the] argument [was] without merit":

. . . No lease provision has been impaired. In entering into the leases the state could not, and did not, contract away its power as a sovereign to tax income earned in the state. Merrion v. Jicarilla Apache Tribe, 455 U.S. 130, 102 S.Ct. 894, 71 L.Ed.2d 21 (1982) disposes of this issue:

Contractual arrangements remain subject to subsequent legislation by the presiding sovereign. Even where the contract at issue requires payment of a royalty for a license or franchise issued by the government entity, the government's power to tax remains unless it "has been specifically surrendered in terms which admit of no other reasonable interpretation." St. Louis v. United R. Co., 210 U.S. 266, 280, 28 S.Ct. 630, 634, 52 L.Ed. 1054 (1908).

455 U.S. at 148, 102 S.Ct. at 907, 71 L.Ed.2d at 36 (citations omitted); see also Exxon v. Eagerton, 462

statutes, concluding that retrospective tax legislation is not prohibited by the ex post facto clause. Personal Finance Co. v. United States, 86 F. Supp. 779 (D.Del., 1949). See 16A Am. Jur. 2d secs. 636, 677. Decisions in other state courts have similarly concluded. Parlato v. McCarthy, 69 A.2d 648 (Ct., 1949), Walker v. Commonwealth, 130 S.W.2d 27 (Ky., 1939). The Alaska Supreme Court has not extended application of the state constitutional ex post facto prohibition beyond penal or criminal matters. Danks v. State, 619 P.2d 720 (Alaska, 1980); Creekpaum v. State, 753 P.2d 1139 (Alaska, 1988).

U.S. at-187-94, 103 S.Ct. at 2304 - 2307, 76 L.Ed.2d at 508-12.

705 P.2d 418, at 438.

*

If legislation acts retrospectively, the nature and duration of its retrospective application should be reasonable. The arguments favoring a reasonable retrospective operation arise out of the equal protection and due process clauses of the state and federal constitutions.

Federal equal protection considerations:

State legislation retroactively imposing a tax is not necessarily and certainly invalid under the equal protection clause of the Fourteenth Amendment to the federal constitution. The inquiry to be made is one of whether the retroactivity impairs substantial, vested rights, and is reasonable in the circumstances. As to retroactively imposed new taxes, the courts have been reluctant to find a violation because of the impairment of a vested right. Welch v. Henry, 305 U.S. 134, 83 L.Ed. 87, 59 S.Ct. 121 (1938), rehearing denied 305 U.S. 675, 83 L.Ed. 437, 59 S.Ct. 250 (1938). 3/ Several state courts have agreed. See Garrett

3/ In Welch, the United States Supreme Court concluded that a Wisconsin state statute, enacted in 1935 and operating retrospectively to tax corporate dividends earned in 1933 which, when received, were deductible from gross income, did not violate the equal protection clause. The tax rates applied to the dividends differed from the rates applicable to other types of taxable income. As to the retrospective application of the new tax to dividends that were, when earned, exempt from tax, the court noted that:

The equal protection clause does not preclude the legislature from changing its mind in making an otherwise permissible choice of subjects of taxation. The very fact that the dividends were relieved of tax [in 1933], when the need was less, is basis for the legislative judgment that they should bear some of the added burden when the need is greater.

Freight Lines v. State Tax Commission, 135 P.2d 523, at 526, 527 (Utah, 1943); Colonial Pipeline Co. v. Commonwealth, 145 S.E.2d 227 (Va., 1965), reh. den. (1966), app. dismissed, 384 U.S. 268, 16 L.Ed.2d 523, 86 S.Ct. 1476 (1966). 4/

Numerous retroactive revisions of the federal and Wisconsin revenue laws . . . have imposed taxes on subjects previously untaxed and shifted the burden of old taxes by changes in rates, exemptions, and deductions. It has never been thought that such changes involve a denial of equal protection if the new taxes could have been included in the earlier act when adopted. If some retroactive alteration in the scheme of a tax act is permissible, as is conceded, it seems plain that validity, so far as equal protection is concerned, must be determined, as in the case of any other tax, by ascertaining whether the thing taxed falls within a distinct class which may rationally be treated differently from other classes. If such changes are forbidden in the name of equal protection, legislatures in laying new taxes would be left powerless to rectify to any extent a previous distribution of tax burdens which experience had shown to be inequitable, even though constitutional.

83 L.Ed. 87, at 92.

4/ In Garrett Freight Lines v. State Tax Commission, 135 P.2d 523 (Utah, 1943), the Utah Supreme Court, called upon to determine whether an excise tax levied on the use of diesel motor fuel that was used prior to the date the legislative act became law, found no equal protection violation:

It is well settled that a tax does not necessarily violate the Federal Constitution merely because it contains retroactive features. Milliken v. United States, 283 U.S. 15, 21, 51 S.Ct. 324, 75 L.Ed. 809 [(U.S., 1931)]; Billings v. United States, 232 U.S. 261, 34 S.Ct. 421, 58 L.Ed. 596 [(U.S., 1914)]; Welch v. Henry, 305 U.S. 134, 59 S.Ct. 121, 125, 83 L.Ed. 87 [(U.S., 1938)]

Neither the Federal Constitution nor the Utah

Federal due process considerations:

Retroactive imposition of a tax is not necessarily a violation of the due process clause of the Fourteenth Amendment to the federal constitution. The leading case is Welch, cited earlier, in which the United States Supreme Court determined:

The objection chiefly urged to the taxing statute is that it is a denial of due process of law because in 1935 it imposed a tax on income received in 1933. But a tax is not necessarily unconstitutional because retroactive. Milliken v. United States, 283 U.S. 15, 21, 75 L.Ed. 809, 814, 51 S.Ct. 324 [(1931)], and cases cited. Taxation is neither a penalty imposed on the taxpayer nor a liability which he assumes by contract. It is but a way of apportioning the cost of government among those who in some measure are privileged to enjoy its benefits and must bear its burdens. Since no citizen enjoys immunity from that burden, its retroactive imposition does not necessarily infringe due process, and to challenge the present tax it is not enough to point out that the taxable event, the receipt of income, antedated the statute.

83 L.Ed. 87, at 93. But the assertion that due process is not violated is not absolute and, the court has said that

In each case it is necessary to consider the nature of the tax and the circumstances in which it is laid before it can be said that its retroactive application is so harsh and oppressive as to transgress the constitutional limitation.

Id.

Similarly, in Garrett Freight Lines, earlier cited, the Utah Supreme Court determined that the due process clause is not

Constitution has any provision in terms prohibiting retroactive legislation -- excepting that which forbids the enactment of ex post facto laws. [Citations omitted.] That clause relates to criminal and penal matters and does not affect legislation such as the statute here involved. Calder v. Bull, 3 Dall. 386, 390, 1 L.Ed. 648, 1 Kent Commentaries 409; 3 Story on Constitution 212; 18 C.J.S. Constitutional Law, sec. 435, p. 886.

a limitation on the state's ability to retrospectively impose a tax:

Although basing its case upon the due process clause, appellant does not show wherein the tax constitutes any arbitrary and oppressive discrimination except to assert that a tax based upon a transaction consummated prior to passage of the act amounts to a taking of property without due process. It has many times been questioned whether the due process clause constitutes any limitation upon the taxing power. In this connection we quote from Mr. Justice Sutherland of the United States Supreme Court in an opinion upholding the validity of a statute of the State of Washington levying a tax upon the sale of oleomargarine:

Except in rare and special instances, the due process of law clause contained in the Fifth Amendment is not a limitation upon the taxing power conferred upon Congress by the Constitution. * * * And no reason exists for applying a different rule against a state in the case of the Fourteenth Amendment. * * * That clause is applicable to a taxing statute such as the one here assailed only if the act be so arbitrary as to compel the conclusion that it does not involve an exertion of the taxing power, but constitutes, in substance and effect, the direct exertion of a different and forbidden power, as, for example, the confiscation of property. * * * Collateral purposes or motives of a Legislature in levying a tax of a kind within the reach of its lawful powers are matters beyond the scope of judicial inquiry. * * * Nor may a tax within the lawful power of a state be judicially stricken down under the due process clause simply because its enforcement may or will result in restricting or even destroying particular occupations or businesses, * * * unless, indeed, as already indicated, its necessary interpretation and effect be such as plainly to demonstrate that the form of taxation was adopted as a mere disguise, under which there was exercised, in reality, another and different power denied by the Federal Constitution to the state.

A. Magnano Co. v. Hamilton, 292 U.S. 40, 54 S.Ct. 599, 601, 78 L.Ed. 1109.

Garrett Freight Lines, 135 P.2d 523, at 527.

Courts have, however, considered retrospective tax legislation unconstitutional as a violation of the due process clause when, as Welch concludes, in light of "the nature of the tax and the circumstances in which it is laid," the legislation is "so harsh and oppressive as to transgress [that] constitutional limitation." Welch v. Henry, 305 U.S. 134, 59 S.Ct. 121, 83 L.Ed. 87, at 93. The question is typically one of the degree of harshness, based upon consideration of factors such as (1) the effect of the retroactive application of legislation amending a tax on a taxpayer's voluntary act that was influenced by the taxpayer's understanding of tax incidence or consequence at the time of that act, especially if the tax to be imposed or amended is "novel," (2) the sufficient certainty of the taxpayer's expectation of money that is jeopardized by the retroactive legislation, (3) the length of the period of the legislation's retrospective application, and (4) the importance of the public purpose to be served by the action. The first three elements are, to some degree, based on the taxpayer's expectations, while the fourth involves a determination of a public interest that necessitated the actual enactment.

Computation and payment of the severance tax is not greatly determinative of taxpayers' taxable activities that generate the tax liability, nor does this proposed legislation seem to strike at activities of a taxpayer that reasonably relied on the current severance tax rates before this bill proposed amendment of that tax. It is the length of the period of the legislation's retrospective application and the importance of the public purpose to be served that need be most carefully considered.

The state's strongest case would be one that suggests that the purpose of the retroactive provision was remedial and that its impact was limited to the shortest period practicable. One benchmark date that might serve that purpose is July 1, 1988 (start of the current fiscal year, if, indeed, the principal purpose of the retroactive application is to meet revenue shortfalls in this fiscal year); a number of cases would sustain the argument that the legislation may be retrospective over the calendar or fiscal period of its enactment. An alternative--riskier because of the length of the period over which that retroactivity would reach back, but perhaps stronger from the point of view of public policy considerations--would be that date in 1987 when the ten-year exemption from the ELF's operation expired

and the economic limit factor became applicable to the state's major producing fields. But this would probably be justified only if the state could demonstrate that the conditions that suggested in 1981 that adoption of the ELF would benefit production are now shown to have been inaccurate or incorrect.

State due process and equal protection considerations:

Nothing in my quick research suggested that an analysis under the state's "due process" clause, article I, section 7, would reach a conclusion at variance with the decisions based on the comparable federal provision discussed above.

State "equal protection" analysis differs, though the conclusion reached under that analysis is consistent with the conclusions reached under the analysis applicable to the federal provisions. In State v. Erickson, 574 P.2d 1 (Alaska, 1976), the court established a "single test" approach for state-constitution based equal protection analysis, essentially requiring that the court (1) ascertain the purposes of the legislation to determine whether they are legitimate; (2) determine whether the means chosen to accomplish the objectives actually do so; and (3) balance the importance of the state's interest against the constitutional right involved. The state has plenary authority to tax. Assuming an adequate record--and the April, 1988, "ELF Policy Perspective" document may be sufficient--the ELF adjustments now proposed, adding to tax liability on the major producing fields that are most profitable but continuing or reducing rates on marginally producing fields, seems to bear a strong correlation to the state's efforts to impose a tax burden on an oil field's production that is consistent with the field's economics. By that analysis, if the retrospective application of the change is reasonable, the court should reject any state constitutional equal protection-based claim.

II

IS THERE A NEED FOR A SEVERABILITY CLAUSE?

A severability clause is not needed, and one has not been included in either draft. In the absence of a severability clause, you may rely on AS 01.10.030.

III

TO THE EXTENT THAT THE BILL MAKES A RETROACTIVE TAX REDUCTION, MAY THE LEGISLATURE PROVIDE FOR THAT TAX

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REDUCTION BY A CREDIT AGAINST THE TAXPAYER'S FUTURE TAX LIABILITY, OR IS THE PAYMENT OF AN IMMEDIATE [CASH] REFUND REQUIRED?

If retrospective application of the ELF adjustment reduces the tax liability of any taxpayer, the revenue having been received and deposited into the general fund, the state would not be able to refund amounts that have been previously paid by the taxpayer to that taxpayer without an appropriation. However, article IX, section 6 of the state constitution provides that appropriations of public money may be made only for a public purpose. In states operating with a constitutional provision comparable to Alaska's in which there has been a proposed payment of a retroactive refund of a validly enacted tax, the appropriation has been held to violate those constitutional provisions. Japan Line, Ltd. v. MacCaffree, 558 P.2d 211 (Wash., 1977); City of Yakima v. Huza, 407 P.2d 815 (Wash., 1965); In re Estate of Skinner, 303 P.2d 745 (Cal., 1956); San Bernardino County v. Way, 117 P.2d 354 (Cal., 1941). These considerations then would favor the use of a credit due the taxpayer against the taxpayer's future tax liability, for the use of this approach would necessarily avoid a "public purpose" challenge under article IX, section 6.

IV

TO THE EXTENT THAT THE BILL MAKES A RETROACTIVE TAX REDUCTION, IS INTEREST PAYABLE ON THAT REDUCTION? IF SO, FROM WHAT DATE WOULD INTEREST ACCRUE?

Assuming the draft makes a retroactive tax reduction, I would treat the reduction as the equivalent of a refund of taxes legally collected. In a refund situation, the legislature may shape the conditions and limitations of that refund. While interest is generally recoverable on the amount of the refund, the few Alaska precedents suggest that payment of interest is discretionary and depends principally on whether or not the legislature, by statute, has authorized its payment.

By statute, interest is allowed on an overpayment of a tax levied and collected under AS 43. See AS 43.05.280. That statute is, of course, more generally applicable to instances involving tax payments made in regular fashion, and not to adjustments made by retrospective application of a change of the tax law. But it would seem to have applicability to the changes suggested under AS 43.55. Apart from the statute, I know of nothing that mandates

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payment of interest on a tax refund due for a tax that, at the time of levy, was legally collectable, and suggest that the state may act with respect to interest on the tax refunds as it sees fit.

The committee should determine what it wants to do and give instructions, and the draft will be prepared accordingly.

V

TO THE EXTENT THAT THE BILL INCREASES A TAXPAYER'S LIABILITY, IS THE TAXPAYER OBLIGATED TO PAY INTEREST ON THE INCREASED LIABILITY? IF SO, FROM WHAT DATE WOULD INTEREST ACCRUE?

Assuming the committee substitute serves to establish a greater liability on the part of certain taxpayers for one or more "past due" months, that liability arises not under AS 43.55.020(a), but by operation of this law. The legislature has authority to determine whether interest should be paid, and from what date it should be paid.

The bill should not leave taxpayers subject to the assertion that they failed to remit taxes by the deadlines established in AS 43.55.020(a). In each measure, I have incorporated an additional provision that sets a date certain for reporting and paying the retroactive tax liability. Thereafter, if the amount due has not been timely remitted, provisions governing delinquency should apply.

*

Your January 30 memo asks other questions concerning retroactive application of the proposed ELF changes. Let me briefly respond.

As should be clear from the decision in Atlantic Richfield v. State, there is sound benefit in adhering to the requirements outlined in the Agency's drafting manual. The current manual, at pp. 27, 28, instructs that

The language providing for retroactive application of a bill or part of a bill should be set out in a separate section immediately preceding the effective date section. The retroactive section and the sections in the bill that are to be retroactive should have immediate effective date clauses.

I am bound to follow the drafting manual, and any draft version of legislation prepared for the committee's

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consideration that contained a retroactive provision would necessarily include an immediate effective date. All the drafts I would provide for the committee's consideration would contain the effective date clause. However, if, in a mark-up, the committee directs (on the record) deletion of the clause with the immediate effective date, I would provide the bill with that section omitted. But, before departing from the directive of the manual, I would want to have committee instruction, for I think it is important that the record show why there has been a departure from standard drafting procedure.

If one house or both houses fail to adopt an immediate effective date for legislation having a retroactive provision, the bill would still take effect. The effective date would be delayed 90 days, however, but the retroactive elements of the legislation would not be impaired by that delay.

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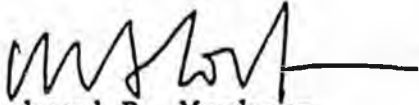
Enclosure

MEMORANDUM

State of Alaska
Department of Law

TO: Mary Halloran
Director
Division of Policy
Office of Management and Budget
Office of the Governor

DATE: March 31, 1988
FILE NO: 663-88-0432
TEL. NO: 465-3600
SUBJECT: Retroactivity of HB 164


FROM: Richard D. Monkman
Assistant Attorney General

You requested our opinion as to whether CSHB 164(Fin) am ("HB 164"), which would retroactively apply changes to the economic limit factor in the Oil and Gas Properties Production Tax (AS 43.55), would be likely to be held constitutionally permissible. If not, you ask our advice on "the maximum degree of retroactive application that would likely be held permissible."

The short answer is that the sections which would make HB 164 retroactive to June 1, 1987, would likely be held constitutional. If the law was retroactive to January 1, 1988, it would certainly be held constitutional.

1. Article II. The first step in analysis is the Alaska Constitution, article II, section 18:

Laws passed by the legislature become effective ninety days after enactment. The legislature may, by concurrence of two-thirds of the membership of each house, provide for another effective date.

This section was designed to give the public three months notice of a new law before it is applied to them - unless the legislature, by a two-thirds vote, provides otherwise. State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980). In line with this provision, the general state policy is against retroactive statutes, based on the philosophy that people "should be able to rely on existing laws with reasonable certainty." Norton v. State, ABC Board, 695 P.2d 1090, 1093 (Alaska 1985). Retroactive application of new laws requires an express statement in the statute itself:

No statute is retrospective unless expressly declared therein.

AS 01.10.090.

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The leading case on point is Atlantic Richfield v. State, 705 P.2d 418, 438 (Alaska 1985). In this challenge to Alaska's former "separate accounting" oil tax statute, the Supreme Court upheld retroactive application of the statute back from the date of enactment to the beginning of the calendar year. The bill in question was signed into law on July 8, 1978. It provided:

* Sec. 4. This Act applies to taxable income earned or received after December 31, 1977.

* Sec. 5. The Act takes effect immediately in accordance with AS 01.10.070(c).

Ch. 110 SLA 1978.

Retroactive application was challenged by the oil companies. The Supreme Court held that the statute was "properly retroactive to January 1, 1978," because (1) the statute expressly stated it was to be retroactive, in accord with AS 01.10.090 and (2) the two-thirds vote requirement on the immediate effective date clause was met. The Court rejected oil company arguments that a separate two-thirds vote was required for retroactivity:

AS 01.10.090 states that "[n]o statute is retrospective unless expressly declared therein." A two-thirds vote requirement does not appear in that section, or elsewhere in Alaska law. The legislature, however, has recognized that where retroactive application of a portion or all of a bill is desired, an immediate effective date, which does require a two-thirds vote under article II, sec. 18 and AS 01.10.070(a), should be used in conjunction with the retroactivity section.

705 P.2d at 438, citing Legislative Affairs Agency, Manual of Legislative Drafting II (1977 ed.) and Uniform Rules of the Alaska State Legislature, Rule 10 (May 3, 1977); accord, Legislative Affairs Agency, Manual of Legislative Drafting 28-29 (1987 ed.).

The language of sections 3 and 4 of HB 164 is similar to the language approved by the Supreme Court in Atlantic Richfield. Ch. 110 SLA 1978. If passed by the legislature with the requisite two-thirds vote on the effective date clause, the bill is certain to pass this first constitutional hurdle. Without passage of the effective date clause by a two-thirds vote, the retroactive application section will be void, and the bill will operate prospectively only.

2. Due Process. The next constitutional question is whether the bill would offend guarantees of due process of law. Generally speaking, there is no vested right in any particular rate of taxation. Cohan v. Commissioner, 39 F.2d 540, 545 (2d Cir. 1930) (Learned Hand, J.). Both Congress and state legislatures can change tax statutes and apply the changes retroactively:

Taxation is neither a penalty imposed on the taxpayer nor a liability which he assumes by contract. It is but a way of apportioning the cost of government among those who in some measure are privileged to enjoy its benefits and must bear its burdens. Since no citizen enjoys immunity from that burden, its retroactive imposition does not necessarily infringe due process, and to challenge the present tax it is not enough to point out that the taxable event, the receipt of income, antedated the statute.

Welch v. Henry, 305 U.S. 134, 146-147 (1935).

The federal rule on retroactivity is that "the application of an income tax statute to the entire calendar year in which enactment took place does not per se violate the Due Process Clause of the Fifth Amendment." United States v. Darusmont, 449 U.S. 292, 297 (1980). A tax rate "may be retroactively changed at the will of Congress at least for periods of less than twelve months; Congress has done so from the outset..." Cohan, 39 F.2d at 545, quoted in Darusmont, 449 U.S. at 298. The rule is based in large part on Congressional history:

For more than seventy-five years it has been the familiar legislative practice of Congress in the enactment of revenue laws to tax retroactively income or profits received during the year of the session in which the taxing statute is enacted, and in some instances during the year of the preceding session.

Welch, 305 U.S. at 148.

Welch upheld a Wisconsin tax on dividends passed in 1935, and made retroactive to tax years 1933 and 1934. The Court noted that the Wisconsin legislature meets every other year, and thus the 1935 session was "the first opportunity after the tax year in which the income was received" at which the tax could be changed. Reaching back twelve months (1933 taxes were due in

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1934) did not "exceed" the "limit of permissible retroactivity."
Welch, 305 U.S. at 151.

The federal rule is based largely on questions of "fair notice", whether "the nature or amount of the tax could not have reasonably been anticipated by the taxpayer at the time of the particular voluntary act which the statute later made the taxable event." Welch, 305 U.S. at 147. Changes to tax rates are presumed to be foreseeable. In Darusmont, for example, the Court flatly rejected a taxpayer's argument that retroactivity of an income tax change was barred by due process concerns. The Court stated that the proposed rate increase had been under public discussion in the form of bills before Congress for about a year, and therefore, the taxpayer "had ample advance notice of the increase." 449 U.S. at 299. -/

State courts generally follow the federal rule, noting that "[t]ax provisions, as key components in a system designed to fairly apportion the costs of government, seldom remain static. Rather, we expect them to change in response to changing conditions." Martin v. Board of Assessment Appeals, 707 P.2d 348, 354 (Colo. 1985). The Alaska Supreme Court, as noted above, approved retroactive application of the Oil Tax Act to the full year in which it was enacted. Atlantic Richfield. In another case, the Alaska court had "no doubt" that a license fee increase could have been retroactive to the start of the year of enactment, if the legislature had followed AS 01.10.090 and "stated expressly that it intended the revised fee schedule to be retroactive." State, ABC Board v. Odom, 671 P.2d 375, 377 (Alaska 1983), quoting United States v. Hudson, 299 U.S. 498, 500 (1937) ("it has been the practice of Congress to make [income tax statutes] retroactive for relatively short periods ... and repeated

* The Court also rejected the taxpayer's argument, based on gift tax cases, that he "could have altered his behavior to avoid the tax if it could have been anticipated by him at the time the transaction was effected." Darusmont, 449 U.S. at 299. Gift taxes seem to be the only tax area where the Court has been receptive to arguments against retroactivity. The Court has refused to consider income in the same light as the "one time transaction" of a gift. "[A] tax on the receipt of income is not comparable to a gift tax. We cannot assume that stockholders would refuse to receive corporate dividends even if they knew that their receipt would later be subjected to a new tax or an increase of an old one." Welch v. Henry, 305 U.S. at 148-149.

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decisions of this court have recognized the practice and sustained it as consistent with the due process clause of the Constitution.").

Because HB 164, as written, goes back beyond the start of the calendar year in which it will be passed, we cannot absolutely assure you that the retroactivity section will be held constitutional. By contrast, there is "no doubt" that the bill could be retroactive to January 1, 1988. Odom, Atlantic Richfield. However, going back further is not an insurmountable problem by any means. The proposed effective date of May 31, 1987 is less than twelve months prior to the presumed date HB 164 will be enacted. Twelve months is a "short period," approved by the United States Supreme Court in Welch and again, albeit implicitly, in Darusmont. The bill proposes to change tax rates, an area which is presumed to be subject to legislative change on a regular basis. In this particular case, the taxpayers have been on actual notice that the tax rate might be changed since HB 164 was introduced in January, 1987. Thus, it can be argued that the May 31, 1987 effective date does not violate due process. We believe these arguments to be very strong, although, given the widespread adherence to the "calendar year" approach by the courts, not absolutely certain of success.

RDM:nb

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RECEIVED
Department of Law

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MEMORANDUM

AM 7:39 (9) (1) (2) (3) (4) (5) (6) PM

TO: Deborah Vogt
FROM: Joseph K. Donohue
DATE: April 28, 1986
RE: Retroactive Amendments to ELF Factor

You have requested an opinion concerning the constitutionality of enacting a bill which would retroactively either repeal, or amend the methodology for calculating, the economic limit factor under AS 43.55.013. Specifically, you have asked whether a bill enacted in February 1987 and made retroactive to January 1, 1987 would present any due process problem under the Fifth Amendment to the United States Constitution or under Article I, Section 7 of the Alaska Constitution.

The gross production tax on oil or gas is payable monthly. The tax is due on the 20th day of each month for oil or gas production which occurred during the preceding month. The tax is delinquent if not paid before the end of the month following the month of production. AS 43.55.020(a). Thus, the tax on January production is due on February 20 and is delinquent if not paid on or before February 28.

The economic limit factor is defined in AS 43.55.013 and the Department of Revenue has promulgated a number of regulations which interpret and implement of the provision. See 15 AAC 55.010-.040 and .090. The economic limit factor (ELF) is a concept which is designed to reduce the effective rate of taxation on a producing field as production from that field becomes increasingly marginal. The ELF is multiplied by the percentage-of-value amount set forth in AS 43.55.011(b) or the cents-per-barrel amount calculated under (c) to determine the tax due. AS 43.55.013(b) (2) and (3) provide that during the first 10 years of commercial production from a lease or property, an economic limit factor which is greater than .7 is deemed to be one for purposes of the calculation of tax liability. For example, for the period since 1981 when the .7 threshold was enacted as part of Ch. 116 SLA 1981, the ELF at Prudhoe Bay has been greater than .7 and, therefore, one. This, in turn, means that the ELF does not have any operative effect unless it is found to be less than .7 during the initial 10-year period. For Prudhoe Bay, the 10-year period expires in June 1987.

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The ELF is derived by the use of a rather complicated mathematical formula which in turn is based on certain simplifying assumptions. For oil, the monthly production rate at the economic limit is presumed to be 300 barrels times the number of well days for the lease or property during the month for which the tax is to be paid. AS 43.55.013(d).

The taxpayer may rebut this presumption at a formal hearing by providing clear and convincing evidence of a different monthly production rate. The determination of the monthly production rate at the economic limit is made by dividing the value at the point of production under AS 43.55.013(f) into the average monthly direct operating costs calculated under subsection (e). The hearing must be held before February 15 of a year or within 6 months after commencement of oil production from a lease or property. The results of the hearing "shall be used for all oil production during that calendar year from the lease or property." AS 43.55.013(d). Therefore, the statute expressly calls for an annual determination with some retroactive effect on the monthly tax period preceding the hearing on the appropriate monthly production rate. This procedural approach makes administrative sense since it is more efficient to have this potentially difficult issue decided on an annual basis rather than on a monthly basis.

Perhaps the leading case on the question of whether a tax statute can apply retroactively to previous tax periods is Welch v. Henry, 305 U.S. 134 (1938). There, the United States Supreme Court upheld a corporate income tax amendment enacted by Wisconsin in March 1935 which was applicable to receipt of corporate dividends in 1933. The court held that, except for a narrow category of gift taxation cases, the legislature had broad authority to adjust or amend tax liability retrospectively.

The exception to this rule mentioned by the court pertained primarily to instances where voluntary irrevocable actions of taxpayers (e.g., making a bequest) were impacted by the retroactive imposition of a tax. The Supreme Court stated that the critical part of the constitutional test was whether "the nature or amount of the tax could not reasonably have been anticipated by the taxpayer at the time of the particular voluntary act which the statute later made the taxable event." 305 U.S. at 147. The cases cited by the court, e.g. Nichols v. Coolidge, 274 U.S. 531 (1927), and Untermeyer v. Anderson, 276 U.S. 440 (1928), were instances where the donor might well not have acted as he did had he anticipated the tax. The court said that the facts of each case and the nature of the tax would have to be examined to determine if retroactivity gives rise to such harsh and oppressive results that it offends the Constitution. The court stated "there are other forms of taxation whose retroactive imposition cannot be said to be similarly offensive, because their incidence

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is not on the voluntary act of the taxpayer." 305 U.S. at 147. The court specifically listed property taxes, income taxes and benefit assessments. 305 U.S. at 147-148. The Supreme Court also noted that it was historically the practice of Congress and the Wisconsin Legislature to enact revenue or tax legislation in a given year and to give it effect to the entire calendar year.

The United States Supreme Court more recently upheld the retroactive increase in the minimum tax on preferences in United States v. Darusmont, 449 U.S. 292 (1981). There, an amendment to the Internal Revenue Code enacted in October 1976 was applied to the entire 1976 tax year. In addition to relying on Welch v. Henry, *supra*, the Supreme Court cited its earlier decision in Cooper v. United States, 280 U.S. 409, 411 (1930), which upheld the taxation of gains from "prior but recent transactions." The Supreme Court also relied on the analysis of Judge Learned Hand in Cohan v. Commissioners, 39 F.2d 540, 545 (2d Cir. 1930). Judge Hand, in resolving a similar issue involving retroactivity of a tax, held that nobody had a vested right in the rate of taxation. In responding to the question of whether the tax law change was foreseeable, Judge Hand stated that once a system of taxation is already in place, a taxpayer "must be prepared for such possibilities" 39 F.2d at 545.

Other decisions which uphold tax law changes with arguably retroactive impacts in the face of due process challenges include Buttke v. Commissioner, 625 F.2d 262 (8th Cir. 1980) (involving the same minimum tax amendments subsequently upheld by the U.S. Supreme Court in United States v. Darusmont, *supra*) and Neild v. District of Columbia, 110 F.2d 146, 153 (D.C. Cir. 1940) (involving the constitutionality of the application of a new gross receipts tax measured by the prior year's receipts).

Sometimes retroactive tax laws are challenged under state constitutional provisions barring retrospective laws per se or interference with vested rights. The analytical approach taken by the courts is substantially similar. Under the first line of cases, tax bills which are applied to the entire calendar year in which they are enacted are generally found not to be retrospective in operation. See, e.g., Martin v. Board of Assessment Appeals, 707 P.2d 348 (Colo. 1985). In the Martin case, a law changing the factors to be considered in appraising condominiums which took effect in May 1982 and which was used to assess property values as of January 1, 1982 was upheld. The court held that to find an unconstitutional retrospective effect required a showing of an impairment of a vested right. The court concluded:

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... [P]roperty owners have no vested right to have their taxable property assessed by particular methods employed in prior years. ... Since the statute only alters the factors which may be considered in determining actual value, it does not impair the taxpayers' vested rights, and therefore is not unconstitutionally retrospective in its operation. 707 P.2d at 352.

A "vested rights" challenge in the context of a severance tax increase led to an identical conclusion. In Belco Petroleum v. State Board of Equalization, 587 P.2d 204 (Wyo. 1978), a 1975 amendment to the state severance tax increased the amount of tax due for the previous year. Under the Wyoming severance tax, a taxpayer paid his 1974 tax in July 1975 computed on the value of gross production for previous year. In upholding the application of the 1975 increase to the July assessment, the court ruled that such an increase was not retrospective but merely called for a tax measured by or computed on the basis of antecedent facts or transactions. The court also found that there was no vested right in a specific tax rate.

On the basis of the foregoing state and federal cases, one can conclude that there is no vested right in a particular tax rate or in a particular method of determining a tax liability. The U.S. Supreme Court cases focus on whether the transaction was taxable during the period of retroactive coverage and whether said period is reasonable, whether the transactions were "prior but recent" in time with respect to the tax law change, whether the change was reasonably foreseeable and whether or not the taxpayer might have voluntarily acted as he did had he but known of the change.

The question before us involves the proposed repeal or modification of the ELF factor in February 1987, effective January 1, 1987. The retroactive period is at most two months. It would adjust a factor which is determined on an annualized calendar basis under present law. The affected taxpayers are those whose decision to invest and produce oil or gas has already been made and whose production is already subject to taxation. In the State of Alaska, amendments to the oil and gas production tax must certainly be viewed as foreseeable. In fact, the Legislature has discussed and debated changes to the ELF factor during the 1986 legislative session. Under these circumstances, I conclude that neither state nor federal due process limitations would be abrogated by the repeal or amendment of the ELF factor under consideration here. Furthermore, under the analyses set forth in Martin and Belco Petroleum above, a change in the tax rate or ELF methodology prior to February 20, 1987 might not even be viewed as having "retrospective" operation.

ELF

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Energy

Oil companies balk at Alaskan tax plan

Firms may cut investments in state

By ANNE PEARSON
Houston Chronicle

Big oil companies that operate Alaska's two most bountiful oil fields are threatening to put a squeeze on the billions of dollars they plan to invest there in the next few years if the cash-strapped Alaskan government raises oil taxes.

Faced with an \$800 million to \$900 million budget shortfall in 1990, the Alaskan Legislature is considering a bill that would reduce tax breaks oil companies get on oil from the Prudhoe Bay and Kuparuk fields on Alaska's North Slope. Those tax increases would raise an additional \$100 million to \$200 million a year, said Gregg Erickson, senior economist with the governor's office.

Oil is the economic lifeblood of Alaska, providing 85 percent of state revenues, and the oil price slump has devastated government finances.

Proposed changes in Alaska's "economic limit factor," or ELF, would increase the tax on a barrel of oil produced at Prudhoe Bay from 11 percent to 16.9 percent and at Kuparuk from 6 percent to 13.1 percent next year. In Texas, the rate is 4.6 percent.

The ELF was designed in 1977 as a way to reduce the tax burden on Alaskan fields as they mature and become less productive.

But the oil companies have been complaining for the last two weeks in hearings before a House committee that Alaska already charges the highest oil taxes in the country and that the oil industry is being asked to bear an unfair share of the tax burden.

BP America Executive Vice President E. John P. Browne was quoted by Platt's Oilgram News recently as saying that if Alaska persists in this line of fund raising, his company "will have no choice but to cut back

(its) planned developments." BP, the biggest player in Alaska and the operator of the western half of Prudhoe Bay, plans to spend at least \$400 million there this year and \$2.5 billion over five years.

While they have not been as blunt as Browne, officials with Exxon and Atlantic Richfield, which also have big stakes in the North Slope, have hinted in testimony before the Legislature that their planned investments also may shrink under a heavier tax burden.

That will mean less taxes to government coffers, fewer jobs and less money flowing through the Alaskan economy, they stress.

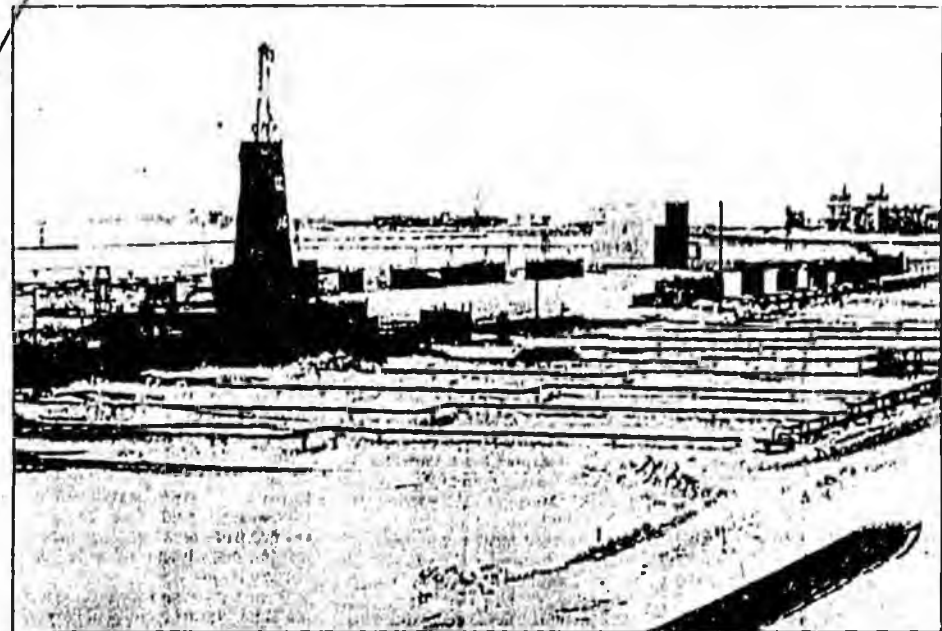
"Oil companies, like all other commercial enterprises, are in business to make a profit. When taxes are increased so as to cut too deeply into that profit, investment activity will inevitably be trimmed back," Exxon tax attorney Gerald Serena recently told a House committee.

"Other than the actual costs of transporting the crude oil, the largest single cost we have in Alaska is not the result of the remoteness of the fields or even the cold," Arco Alaska's senior vice president of operations, Ben Odum, told the same committee. "The largest single item of cost we face in Alaska is taxes."

"Higher costs or lower (oil) prices result in exactly the same thing — more oil left in the ground — more oil that could be recovered becomes uneconomical to recover."

Arco, the second-biggest player in Alaska, plans to spend \$375 million there this year. Exxon declined to reveal its spending plans.

The higher taxes would apply only to Alaska's two largest and most productive fields. The government has tried to neutralize the oil industry's complaint that tax changes would make low-producing fields uneconomical by offering deeper tax breaks on such fields. The govern-



Although drilling rigs must be modified for Arctic conditions at Alaska's Prudhoe Bay, oilmen say state taxes cost their companies more than both the oil field's cold and its remoteness.

ment estimates those breaks will save operators about \$25 million a year.

If the big oil companies do make good on their threat to cut their budgets, that would be bad news for the United States, said energy analyst Bernard J. Picchi with Salomon Bros. in New York.

"Alaska is really the only hope for maintaining the current level of oil production in this country," Picchi said.

Already the United States imports 42 percent of the oil it consumes.

Whether these oil companies actually do take their business elsewhere will have a lot to do with what oil prices do in the next five years, Picchi said.

If the U.S. benchmark crude price stays above \$18 to \$19 a barrel, the companies probably won't pull back from Alaska much, because they can still make money in Alaska at those prices, the analyst said.

But if oil prices collapse or stagnate in the \$12 to \$16 a barrel range,

there are plenty of places overseas where it's cheaper to produce, and the impact on Alaska would be serious, Picchi said.

BP is entrenched in the North Sea and well poised to enter other foreign ventures, Picchi said. Arco also has said recently that it's looking for ways to expand internationally, he added.

While Alaska's need for cash is very real, Picchi said, low oil prices are not the only culprit. Alaska badly mismanaged an oil revenue geyser during the salad days of high prices.

"Alaska had giveaway programs that were almost scandalous in their excess," Picchi said. "They built roads and Taj Mahal schools in rural areas," he said.

Still, the Alaskan government believes it is right in turning to oil companies to keep the government afloat.

Alaska's attitude is that since the oil companies earn a lot of money in Alaska and plow a relatively small amount back in, they should pay a lot

of taxes, according to Erickson.

Out of total cash flow of about \$6.40 a barrel, Erickson said, only \$1 is reinvested in new projects there. "The rest leaves Alaska and we never see it."

But the oil companies still believe the government is getting more than its share.

Alaska already collects more than half of the potential profit from oil production, according to BP. State and local governments take 54 percent of the average operating margin, and after the Internal Revenue Service takes about 16 percent, the industry gets only about 30 percent, the company calculated.

Erickson countered that the oil companies are leaving out lucrative pipeline fees for carrying oil from the North Slope to a port on the Sea of Alaska. When you factor those in, he said, the government ends up with an average of \$2.67 a barrel, while the oil companies that own and operate the pipeline collect an average profit of \$3.46 a barrel.

"They are already too big, they can threaten you? Alaska - come on, come on, who would love to come to Alaska"

Arco tells their stockholders - Alaska provides 80% of their oil - you think they'll leave - -

Do Alaskans really think the oil Co. are going to pray to Alaska about how good they're doing? Come on now

Alaska is doing the right thing, liberation is Alaska's future. the oil Co. want you to look stupid by helping them, like this -

Alaska - it's your oil! Remember the Indians in Oklahoma - the same oil Co. are still laughing "one dollar"

Arco spending hike bucks industry trend

Reuters News Service

LOS ANGELES - Atlantic Richfield Co.'s plan to sharply increase its capital budget by 30 percent this year runs contrary to an industry-wide trend of flat to moderately higher spending among U.S. oil companies, energy analysts say.

Arco said Monday it planned to increase its capital spending to \$2.6 billion from \$2 billion in 1988, with the largest increase earmarked for worldwide exploration and production.

"Arco is in a unique position I don't think you'll see that kind of increase in other companies," said Rosario Ilacqua, an analyst with Nikko Securities Co. "The trend seems to be basically 'flat' in the U.S., with a very hefty increase in overseas expenditures."

Among other U.S. oil companies, Chevron Corp. plans a 15 percent increase, Exxon Corp. is keeping its spending even with last year, Amoco Corp. projects an 18.5 percent spending cut and Shell Oil Co., a unit of Royal Dutch/Shell Group, a 21 percent cut.

A strong cash flow and the recent initial public offering of part of its Lyondell Petrochemical Co. unit enable Arco to make the big increase in capital spending. Arco's gross proceeds from the sale of Lyondell's shares totaled more than \$1.7 billion, including a \$500 million dividend paid by Lyondell to Arco.

Chairman Lodewijk Cook said in a recent interview that the company was looking to expand its international oil and gas operations following the lead it took with the \$330 million acquisition in 1988 of Tricentral Plc, a major North Sea natural gas producer.

In the United States, Arco plans to increase its exploration and production spending by about 38 percent to \$1.15 billion from \$830 million. Arco spokesman Albert Greenstein said.

Cook said Arco would not rule out additional acquisitions, although it is not actively seeking any currently. He added that the company is looking to expand overseas operations in oil, which can be more easily transported than natural gas.

"The boost in overseas spending could take the form of additional North Sea oil reserves," said Eugene Nowak, an analyst with Dean Witter Reynolds.

Same good ole boy who tells a different story to his people - when the oil is gone, then so he it with the "good ole boy"

Brion
file
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Oil field found near Prudhoe Bay

ANCHORAGE, Alaska (UPI) — A new oil field has been discovered in northern Alaska, a stone's throw from America's biggest oil field, and oil companies are drilling wells to gauge how big the reservoir might be. ARCO Alaska and Exxon USA announced Tuesday.

"It's not another Prudhoe Bay, but it is a discovery," said Susan Andrews, ARCO spokeswoman.

The discovery well was drilled a mere two miles from Prudhoe Bay, the largest oil field in North America, and appears to be a distinct oil reservoir located at a different level below the surface than Prudhoe Bay, Andrews said.

A test well produced 2,500 barrels of oil per day. That is well below Prudhoe Bay discovery wells that produced 10,000 barrels per day, but Prudhoe Bay is an exceptionally large oil accumulation, and the test well oil flow "is certainly significant," Andrews said.

"Now we're trying to find out the size of the accumulation," she said.

The discovery was made at Point McIntyre, two miles north of the Prudhoe Bay producing area, an onshore complex on the arctic coast of Alaska.

The search for new oil has scattered companies out to sea off Alaska's coast and to remote locations far from any existing pipeline or other means of trans-

portation for any new oil discovered.

A discovery so close to Prudhoe Bay and the start of the 800-mile trans-Alaska oil pipeline has excited the oil industry, and Andrews said ARCO, Exxon and BP Exploration will spend \$11 million drilling two new wells in March and April to define the size of the discovery.

More than 2 million barrels of oil daily travel from Prudhoe Bay and other nearby northern Alaska oil fields down the pipeline to the southern Alaska oil port of Valdez, where tankers pick up the crude for delivery to refineries on the West and Gulf coasts.

Drilling at Point McIntyre began last March and continued this year. Oil was found at 8,500 feet. Prudhoe Bay oil is 9,000 feet below the surface. Every indication is that the two accumulations are separate, Andrews said.

At least some of the Point McIntyre reservoir appears to lie offshore in the Beaufort Sea, but Andrews said the companies are employing directional drilling from onshore sites.

The oil companies involved in the project leased some of the discovery tracts as long ago as 1965, Andrews said. Other tracts in the Point McIntyre area were obtained in 1980.

Alaska accounts for one-fourth of American crude oil production.

Did all the news papers and
radio in Alaska bring this
to your attention - or was it just
to pump up the stock market down
here? "in the lower 48" Alaska
showed a rise on both sides of the
sea - from your news media -



ATLANTIC RICHFIELD

Lodwrick Monroe Cook

Los Angeles, Calif. 213-486-3511

Sales: \$16.3 bil. Profits: \$1.2 bil.

Market value: \$14.53 bil.

► Born 6/17/28, Castor, La.; BS (math), 1950; BS (petro. eng.), 1955, La. State; MBA, SMU, 1965. Career path—engineering/technical, merchandising/marketing; tenure—33 years, CEO 3 years. Compensation: 1987 salary & bonus, \$1,450,000; ownership, 55,000 shares. ► Anything-but-stuffy good ol' boy who concentrates on keeping Arco No. 1 in its all-important Western retail markets. With a cushion of big Alaskan reserves, he runs very profitable company. In January, he snapped up small British oil company with North Sea holdings.

A Few Unknown Facts

- FACT: Alaskans should know that people in the lower 48 states get at least 1/8 of the gross monies derived from oil produced on their land.
- FACT: Alaskans get 1/8 of the net. This means Alaska gets whatever is left after all the expenses the oil company takes out.
- FACT: In most cases today, landowners in the lower 48 receive at least 3/16 to 1/4 gross.
- FACT: Alaskans only need to know the number of barrels of oil produced daily taken times the current price of oil to realize how much they should be getting.
- FACT: Every major oil producing state in the lower 48 has a state sales tax which applies to the oil industry. This revenue generates hundreds of millions yearly for those states. Some states charge sales tax for materials and labor. Only Alaska lets the oil companies get away with paying zero.
- FACT: Alaska has ^{no severance tax?} no severance tax? Alaska has ^{no severance tax!} no severance tax! All the rest of the lower 48 does, and it adds up to like 12% on every barrel of oil.
- FACT: Oil companies like ARCO sell or trade off refined products to foreign buyers, then say its America's security that depends on ANWR.
- FACT: The Japanese even own the ARCO building in California.
- FACT: Standard Oil belongs to British Petroleum.
- FACT: () pays millions more for leases in the lower 48 that has a fraction of Alaska's oil reserves.
- FACT: Its to the oil companies best interest to hire outside of Alaska people. They believe they work for less and are better educated in the oil business.
- FACT: Its time to wake up Alaska.

ELF: Let there be a Senate vote

The Exxon Valdez oil spill threatens to obscure one of the most important money issues facing the state legislature. With so much public attention directed toward the environmental catastrophe, state senators may find it easier to hide from the multimillion-dollar oil industry tax giveaway known as ELF, the Economic Limit Factor.

Proposals to kill this \$150 million a year tax break are stalled in Anchorage Sen. Drue Pearce's Oil and Gas Committee. Legislative wags are wondering if her committee will become the gas chamber for ELF reform.

The ELF issue is a chance to see if Alaskans have learned their lesson from the oil spill. That lesson is simple: We simply cannot take the oil industry at its word. Alaskans have to look through the veil of self-interested industry rhetoric and decide what's best for us and our state.

Every day the ELF remains unchanged Alaska suffers another fiscal hemorrhage. Every day, nearly half a million dollars heads south with the tankers full of Alaska's oil. Every day, the money lost to the ELF is gone for good.

Alaska is not so prosperous that it can afford to sign away \$150 million a year. But the oil industry can afford to pay more for the privilege of extracting our oil. Oil firms are reporting healthy profits, even though the days of \$30-a-barrel oil are gone. The trans-Alaska pipeline is a guaranteed money-maker even if its owners don't make a dime selling and refining the oil.

Alaskans have to remember that almost all the oil produced in Alaska belonged to us in the first place. We're entitled to a fair share of the money from our oil.

Most Republicans in Sen. Tim Kelly's majority organization probably hope ELF reform never comes to a vote. If it does, they will have to choose between a discredited oil industry and the folks back home. These senators would rather see ELF reform die a quiet death, buried somewhere in committee.

Alaskans are entitled to have the ELF come before the entire Senate. They're entitled to know where their senators stand.

Do they stand with oil company stockholders in Dallas and Houston, London and New York? Or do they stand with Alaskans?

Do they stand with special interests who hand out large campaign contributions? Or do they stand with the Alaskans they're supposed to represent?

Do they buy the industry's "trust-us," trickle-down promises of more jobs and more oil drilling? Do they honestly believe today's ELF brings Alaskans benefits worth \$150 million a year?

Will our senators tell us what will happen if they don't insist on our fair share of oil money? Will they replace the money from permanent fund earnings? Will they stick ordinary Alaskans with higher tax bills? Will they slash school funding, local government aid, the longevity bonus, environmental protection, public safety, aid to the poor, student loans?

Sen. Pearce knows she's under pressure on the ELF. She has promised to hold hearings, but she hasn't promised to move a bill. There are only 29 days left in the session. Every day Sen. Pearce and her colleagues delay costs the state another \$400,000. Alaskans are waiting to see where our senators stand.

erty in the first five years after the start of commercial oil production and equals 15 percent of the gross value at the point of production of taxable oil produced thereafter from the lease or property.

(c) The cents-per-barrel amount equals \$0.60 per barrel of taxable old crude oil produced from the lease or property, and \$0.80 per barrel for all other taxable oil produced from the lease or property, both as adjusted by AS 43.55.012.

(d) *[Repealed, § 18 ch 116 SLA 1981.]* (§ 1 ch 136 SLA 1977; am §§ 12, 18 ch 116 SLA 1981)

Cross references. — For oil and gas leasing provisions, see AS 38.05.180.

Effect of amendments. — The 1981 amendment added "on or before June 30, 1981" following "taxable oil produced" and added the language beginning "and 15

percent of the gross value" and ending "from the lease or property" in subsection (b). The amendment also repealed subsection (d) which provided for certain payments to the Alaska Native Fund in certain circumstances.

Sec. 43.55.012. Adjustment in tax rates. (a) *[Repealed, § 18 ch 116 SLA 1981.]*

(b) The cents-per-barrel amount set out in AS 43.55.011(c) as adjusted by (a) of this section applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees the cents-per-barrel amount shall be reduced by \$.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount shall be increased by \$.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment under this subsection, fractional degrees of API gravity shall be disregarded. (§ 1 ch 136 SLA 1977; am § 18 ch 116 SLA 1981)

Effect of amendments. — The 1981 amendment repealed the former subsection (a) which provided for a review of the prices received for crude oil or gas pro-

duced in Alaska and a report by the department to the governor concerning proposed changes.

Sec. 43.55.013. Economic limit factor. (a) *[Repealed, § 18 ch 116 SLA 1981.]*

(b)(1) The economic limit factor for oil production of a lease or property shall be computed according to the following formula:

$$(1 - [PEL/TP]) \exp [(460 \times WD)/PEL]$$

where: PEL = the monthly production rate at the economic limit;
TP = the total production during the month for which the tax is to be paid;

WD = the total number of well days in the month for which the tax is to be paid; and

Where "exp" indicates that the expression following it is an exponent.

(2) If, for any month during the first 10 years following the commencement of commercial oil production of a lease or property, the

economic limit factor for oil production of that lease or property computed under (1) of this subsection is 0.7 or less, then that factor shall be applied.

(3) If, for any month during the first 10 years following the commencement of commercial oil production of a lease or property, the economic limit factor for oil production of that lease or property computed under (1) of this subsection is greater than 0.7, then the economic limit factor is one.

(4) The economic limit factor for oil production of a lease or property after the first 10 years following the commencement of commercial oil production shall be computed and applied under (1) of this subsection.

(c) The economic limit factor for gas production of a lease or property equals one minus the ratio of the monthly production rate at the economic limit to the production during the month for which the tax is to be paid.

(d) The monthly production rate at the economic limit for a lease or property is presumed to be 300 barrels times the number of well days for the lease or property during the month for which the tax is to be paid. The taxpayer may rebut this presumption at a formal hearing under AS 43.05.240 by providing clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The hearing shall be held before February 15 of the year or within six months after commencement of oil production for a lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (f) of this section into the average monthly direct operating cost determined under (e) of this section and shall be used for purposes of this section for all oil production during that calendar year from the lease or property.

(e) The average monthly direct operating cost for oil production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include only royalty, production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the production operations. Additional direct operating costs not listed in this section may be included only after their inclusion in a regulation adopted by the department. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the oil production operations of the lease or property, or any other cost not directly related to the oil production operations of the lease or property.

(f) For the purpose of calculating the economic limit, the value at the point of production of oil produced from the lease or property shall be determined on the basis of the acquisition cost C.I.F. at West Coast refineries for imported oil of like quality, minus the reasonable cost of transportation between the point of production of the oil from the lease or property and those West Coast refineries.

(g) The monthly production at the economic limit for a lease or property is presumed to be 3,000 Mcf times the number of well days for the lease or property during that month for which the tax is to be paid. The taxpayer may rebut this presumption at a formal hearing under AS 43.05.240 by providing clear and convincing evidence of a different monthly production rate at the economic limit for the lease or property. The hearing shall be held before February 15 of the year or within six months after commencement of gas production for a lease or property. The monthly production rate at the economic limit for the lease or property based upon the clear and convincing evidence of the taxpayer shall be calculated by dividing the value determined under (i) of this section into the average monthly direct operating cost determined under (h) of this section.

(h) The average monthly direct operating cost for gas production operations of the lease or property shall be determined based on a period of not less than four consecutive months. The direct operating costs include only royalty actually and currently paid, production supplies, purchased fuel, routine maintenance, and wages and benefits of employees working on the production operations. Additional direct operating costs not listed in this section may be included only after their inclusion in a regulation adopted by the department. The direct operating costs do not include capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for replacement or repairs (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, money paid or set aside (or booked as being paid or set aside) to cover the cost of terminating the gas production operations of the lease or property, or any other cost not directly related to the gas production operations of the lease or property.

(i) For the purpose of calculating the economic limit, the value at the point of production of gas produced from the lease or property shall be determined on the basis of the volume weighted average price paid for gas of like quality and pressure in the same field.

(j) The department may aggregate two or more leases or properties (or portions of them), for purposes of determining economic limit factors under this section and applying them to AS 43.55.011 or AS 43.55.016, when economically interdependent oil or gas production operations are not confined to a single lease or property. The department may also segregate a lease or property into two or more parts, for purposes of determining economic limit factors under this section and

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