

LEG. FINANCE - BILLS 1977 - 1978 896

SB 105 cont.

1 from a lease or property, the department shall determine the reasonable
2 costs of transportation from the point of sale to the point of produc-
3 tion of the oil or gas. Transportation costs set by a tariff properly
4 on file with the Alaska Pipeline Commission or other regulatory agency
5 shall be considered prima facie reasonable, but if a tariff properly on
6 file with a regulatory agency is subsequently amended, changed, or
7 overturned retroactively, the reasonable costs of transportation shall
8 be recomputed for that period using the newly determined tariff.

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

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

12 (2) taxes imposed under AS 43.55 and AS 43.57 which are
13 actually paid by the corporation on the production from a lease or
14 property in the state;

15 (3) taxes imposed under AS 43.56 and AS 29.53 which are
16 actually paid by the corporation on property used directly in the pro-
17 duction of oil or gas from a lease or property in the state, including
18 property used in production, gathering, treatment or preparation of the
19 oil or gas for pipeline transportation, but only if those property tax
20 payments were due and payable only after the date of commercial produc-
21 tion from the lease or property with which the property was associated;

22 (4) the direct costs incurred by or for the corporation in
23 operating the lease or property, including the direct costs of pro-
24 ducing, gathering, treating or preparing the oil or gas for pipeline
25 transportation, but net of any payments received for those activities
26 and not including any indirect cost or overhead expense;

27 (5) depreciation (using the unit of production method or such
28 other reasonable methods as the department may by regulation establish)
29 on property used directly in the production, gathering, treatment or

1 preparation of the oil or gas for pipeline transportation including
2 amortization of capitalized interest for investments in this property at
3 a rate not to exceed the average cost of borrowed capital to the tax-
4 payer during the year in which it is capitalized;

5 (6) the amortization of lease acquisition payments and taxes
6 paid under AS 43.56 and AS 29.53 (including capitalized interest on
7 both) for or on producing properties before the commencement of com-
8 mercial production from the lease or property for which the property is
9 being used;

10 (7) interest expense not capitalized of the corporation, to
11 the extent that it does not exceed that portion of the total interest
12 paid by the consolidated business of which the corporation is a part,
13 determined by multiplying the total interest (reduced by intercompany
14 transactions within the consolidated business) by a fraction, the numer-
15 ator of which is the value of the corporation's real and tangible per-
16 sonal property used directly in the production of oil or gas from a
17 lease or property in the state and the denominator of which is the value
18 of all real and tangible personal property of the consolidated business;

19 (8) expenses incurred by the corporation after December 31,
20 1977 of unsuccessful exploration of oil or gas in the state including
21 the acquisition costs of abandoned properties, dry hole costs and the
22 costs of geologic and geophysical exploration related to those abandoned
23 properties;

24 (9) general overhead or administrative expense incurred by
25 the corporation attributable to the production of oil or gas from a
26 lease or property in the state to the extent that it does not exceed the
27 lesser of:

28 (A) that portion of the total general overhead or admin-
29 istrative expense incurred by the consolidated business of which

1 the corporation is a part, determined by multiplying the total
2 general overhead or administrative expense by a fraction, the
3 numerator of which is the value of the corporation's real and
4 tangible personal property used directly in the production of oil
5 or gas from a lease or property in the state and the denominator of
6 which is the value of all real and tangible personal property of
7 the consolidated business, or

8 (B) the sum of \$0.12 for each barrel of oil and \$0.02
9 for each thousand cubic feet of gas produced from a lease or pro-
10 perty in the state.

11 (d) Deductions from gross income under this section shall not
12 include expenses previously deducted on a return filed under AS 43.20.

13 (e) Where a corporation subject to this chapter shares the pro-
14 duction or proceeds of the production from a lease or property through a
15 working interest, royalty interest, overriding royalty interest, pro-
16 duction payment, net profit interest, joint venture or other agreement,
17 the department shall allocate the deductions from gross income between
18 the corporation and the persons with whom it has such an agreement in
19 accordance with the terms of the agreement.

20 Sec. 43.21.030. DETERMINATION OF INCOME FROM OIL AND GAS PIPELINE
21 TRANSPORTATION. (a) Except as provided in (c) of this section, taxable
22 income attributable to the transportation of oil in a pipeline engaged
23 in interstate commerce in Alaska shall be determined by the department
24 and shall be the amount reported or that would be required to be re-
25 ported to the Federal Energy Regulatory Commission or its successors as
26 net operating income, less those portions of interest and general admin-
27 istrative expense attributable to the pipeline transportation of oil in
28 the state, except that taxable income shall also include taxes on or
29 measured by income. The department shall establish regulations govern-

1 ing the determination of interest and general administrative expense
2 attributable to pipeline transportation of oil in the state.

3 (b) Except as provided in (c) of this section, taxable income
4 attributable to the transportation of natural gas in a pipeline engaged
5 in interstate commerce in Alaska shall be determined by the department
6 and shall be the amount reported or that would be required to be re-
7 ported to the Federal Energy Regulatory Administration as net operating
8 income less that portion of interest and general administrative expense
9 attributable to pipeline transportation in the state, except that the
10 taxable income shall also include taxes on or measured by income. The
11 department shall establish regulations governing the determination of
12 interest and general administrative expense attributable to pipeline
13 transportation of natural gas in the state.

14 (c) Taxable income attributable to the transportation of oil or
15 natural gas in Alaska of any corporation not under the Federal Energy
16 Regulatory Commission jurisdiction, or of a corporation under the juris-
17 diction of the Federal Energy Regulatory Commission but not reporting
18 the operation of pipelines in Alaska separately from the operation of
19 pipelines elsewhere, shall be determined by the department and shall be
20 based upon an amount equal to that which would have been reported to the
21 Federal Energy Regulatory Commission under (a) of this section in the
22 case of oil pipelines, or (b) of this section in the case of natural gas
23 pipelines, had the corporation been, in fact, under Federal Energy
24 Regulatory Commission jurisdiction for the taxable year and required to
25 report on the operation of Alaska pipelines separately from the opera-
26 tion of pipelines elsewhere.

27 Sec. 43.21.040. DETERMINATION OF INCOME FROM ACTIVITIES OTHER THAN
28 OIL AND GAS PRODUCTION OR PIPELINE TRANSPORTATION. (a) Taxable income
29 of a corporation subject to this chapter from activities in this state

1 other than the production of oil or gas from a lease or property in the
2 state or the pipeline transportation of oil or gas in the state shall be
3 determined in accordance with the method established in art. IV of AS
4 43.19.010 and in AS 43.20.071, as modified by (b) - (e) of this section.

5 (b) The total taxable income of the consolidated business shall be
6 the net income determined and certified by an independent certified
7 public accountant for the purposes of a report to shareholders covering
8 its earnings and profits for the taxable year (calculated without regard
9 to any taxes on or measured by net income), less the taxable income of
10 the corporation as determined under secs. 20 and 30 of this chapter.

11 (c) The numerator and denominator of the property factor, of the
12 payroll factor and of the sales factor shall be calculated without
13 reference to that portion of property, payroll or sales directly related
14 to the production of oil or gas from a lease of property in the state or
15 the pipeline transportation of oil or gas in the state.

16 (d) Compensation earned by employees of the consolidated business
17 who are employed in the United States but not in any state shall be
18 included in the numerator of the payroll factor if the employees are
19 directly supplied from a base of operations maintained in this state.

20 (e) The value of oil or gas production facilities or other pro-
21 perties of the consolidated business which are located in the United
22 States but not in any state shall be included in the numerator of the
23 property factor if the property is serviced or supplied from a base of
24 operations maintained in the state or if that property relies on onshore
25 facilities in this state for storage of the oil or gas produced.

26 Sec. 43.21.050. ASSESSMENT OF INCOME AND TAX. (a) The department
27 shall assess taxable income and the amount of tax payable on that tax-
28 able income.

29 (b) On or before August 15 of each year the department shall send

1 to every corporation taxable under this chapter a notice of assessment
2 showing the amount of income taxable under this chapter for the previous
3 year and the amount of tax payable on that taxable income.

4 (c) For purposes of this chapter the department may combine tax-
5 able incomes of corporations subject to tax under this chapter who are
6 part of the same consolidated business.

7 Sec. 43.21.060. RETURNS. On or before April 15 of each year, a
8 corporation subject to tax under this chapter shall submit a return in a
9 form prescribed by the department setting out information required by
10 the department to determine taxable income. For purposes of this chap-
11 ter, the department may require corporations subject to tax under this
12 chapter who are part of the same consolidated business to file a single
13 return.

14 Sec. 43.21.070. PAYMENT OF TAX. The tax levied under this chapter
15 is payable to the department on or before September 30 of each year or
16 in installments at the times and under the conditions the department may
17 by regulation require. This tax is payable on the due date set out in
18 this section even though the assessment is under appeal or the validity,
19 enforceability or application of this chapter or any provision of this
20 chapter is challenged before the department or in the courts.

21 Sec. 43.21.080. TRANSITIONAL RULES. The department shall provide
22 by regulation transition rules for corporations subject to tax under AS
23 43.20 before the effective date of this Act to avoid double taxation of
24 the same income or double deduction of the same expense of those cor-
25 porations as a result of becoming subject to tax under this chapter.

26 Sec. 43.21.090. REGULATIONS. The department may adopt regulations
27 in accordance with the Administrative Procedure Act (AS 44.69) as appro-
28 priate to administer and enforce this chapter.

29 Sec. 43.21.100. PENALTIES. The penalties established in ch. 20 of

1 this title apply to this chapter.

2 Sec. 43.21.110. PUBLIC REPORTING. (a) The commissioner of reve-
3 nue shall compile and transmit to the legislature an annual consolidated
4 report of state revenues and taxation policies under this chapter. This
5 report shall include total aggregate income tax paid by corporations
6 covered under this chapter and aggregate income and deductions by cate-
7 gory, so classified as to prevent the identification of particular
8 returns or reports.

9 (b) The legislative auditor shall transmit to the legislature an
10 annual report reviewing the actions of the department in administering
11 this chapter.

12 Sec. 43.21.120. DEFINITIONS. Unless the context requires other-
13 wise the definitions contained in AS 43.55.140 are applicable to this
14 chapter. In addition, in this chapter

15 (1) "base of operations" means the closest point on land to
16 the offshore oil or gas production operations from which goods, services
17 and supplies flow to those offshore oil or gas production operations;

18 (2) "consolidated business" means a corporation or group of
19 corporations having at least 50 per cent common ownership, direct or
20 indirect, or a group of corporations in which there is common control
21 either direct or indirect as evidenced by any arrangement, contract or
22 agreement.

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

25 * Sec. 5. The Act takes effect immediately in accordance with AS 01.10.-
26 070(c).

Original sponsor: Rules Committee by request
of the Legislative Council (for the Subcommittee
on Oil and Gas Leasing and Taxing Policies)

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 105 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an oil and gas corporate income
7 tax; and providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and
10 declares that the method of apportioning income for tax purposes under the
11 "Uniform Division of Income for Tax Purposes" formula embodied in the Multi-
12 state Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the
13 extent of the business activities in this state of multistate corporations
14 engaged in the production and pipeline transportation of crude oil and
15 natural gas in Alaska. The legislature therefore intends that, in accordance
16 with the provisions of art. 18 of the Multistate Tax Compact (AS 43.19), the
17 income tax of all corporations engaged in the production or pipeline trans-
18 portation of oil or natural gas in or directly associated with this state
19 shall be assessed by the tax administrator under this Act. The legislature
20 further intends that the assessment of income tax against a multistate cor-
21 poration engaged in the production or pipeline transportation of oil or
22 natural gas shall be commensurate with the tax that would be assessed against
23 a corporation owning and operating only those assets of the multistate cor-
24 poration which are in or directly associated with this state.

25 * Sec. 2. AS 43.20.011(e) is amended to read:

26 (e) There is imposed for each taxable year upon the entire taxable
27 income of every corporation derived from sources within the state a tax
28 consisting of a normal tax equal to 5.4 per cent of taxable income, and
29 a surtax which is equal to 4.0 per cent of taxable income. For purposes

1 of this chapter the surtax exemption for a taxable year follows secs.
2 1561 and 1563 of the Internal Revenue Code. The tax of a corporation
3 engaged in the production or transportation of crude oil or natural gas
4 shall be determined and paid in accordance with ch. 21 of this title.

5 * Sec. 3. AS 43 is amended by adding a new chapter to read:

6 CHAPTER 21. OIL AND GAS CORPORATE

7 INCOME TAX.

8 Sec. 43.21.010. APPLICATION. This chapter applies to every cor-
9 poration doing business in the state which derives income from the
10 production of oil or gas from a lease or property in or directly asso-
11 ciated with the state, or from the pipeline transportation of oil or gas
12 in the state. The tax calculated under this chapter is measured by the
13 total taxable income of the corporation as defined in secs. 20 - 40 of
14 this chapter and is determined at the rates established under AS 43.20.-
15 011(e).

16 Sec. 43.21.020. DETERMINATION OF TAXABLE INCOME FROM OIL AND GAS
17 PRODUCTION. (a) The taxable income of a corporation from the produc-
18 tion of oil and gas from a lease or property in the state shall be the
19 corporation's net income as calculated by the department in accordance
20 with this section.

21 (b) Gross income of a corporation from oil and gas production
22 shall be the gross value at the point of production of oil or gas pro-
23 duced from a lease or property in the state. The department shall by
24 regulation determine a uniform method of establishing the gross value at
25 the point of production. In making its determination the department may
26 use the actual prices or values received for the oil or gas, the posted
27 prices for the oil or gas in the same field, or the prevailing prices or
28 values of oil or gas in the same field. In addition, in its determina-
29 tion of gross value at the point of production of oil or gas produced

1 from a lease or property, the department shall determine the reasonable
2 costs of transportation from the point of sale to the point of produc-
3 tion of the oil or gas. Transportation costs set by a tariff properly
4 on file with the Alaska Pipeline Commission or other regulatory agency
5 shall be considered prima facie reasonable, but if a tariff properly on
6 file with a regulatory agency is subsequently amended, changed, or
7 overturned retroactively, the reasonable costs of transportation shall
8 be recomputed for that period using the newly determined tariff.

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

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

12 (2) taxes imposed under AS 43.55 and AS 43.57 which are
13 actually paid by the corporation on the production from a lease or
14 property in the state;

15 (3) taxes imposed under AS 43.56 and AS 29.53 which are
16 actually paid by the corporation on property used directly in the pro-
17 duction of oil or gas from a lease or property in the state, including
18 property used in production, gathering, treatment or preparation of the
19 oil or gas for pipeline transportation, but only if those property tax
20 payments were due and payable only after the date of commercial produc-
21 tion from the lease or property with which the property was associated;

22 (4) the direct costs incurred by or for the corporation in
23 operating the lease or property, including the direct costs of pro-
24 ducing, gathering, treating or preparing the oil or gas for pipeline
25 transportation, but net of any payments received for those activities
26 and not including any indirect cost or overhead expense;

27 (5) depreciation (using the unit of production method or such
28 other reasonable methods as the department may by regulation establish)
29 on property used directly in the production, gathering, treatment or
30

1 preparation of the oil or gas for pipeline transportation including
2 amortization of capitalized interest for investments in this property at
3 a rate not to exceed the average cost of borrowed capital to the tax-
4 payer during the year in which it is capitalized;

5 (6) the amortization of lease acquisition payments and taxes
6 paid under AS 43.56 and AS 29.53 (including capitalized interest on
7 both) for or on producing properties before the commencement of com-
8 mercial production from the lease or property for which the property is
9 being used;

10 (7) interest expense not capitalized of the corporation, to
11 the extent that it does not exceed that portion of the total interest
12 paid by the consolidated business of which the corporation is a part,
13 determined by multiplying the total interest (reduced by intercompany
14 transactions within the consolidated business) by a fraction, the numer-
15 ator of which is the value of the corporation's real and tangible per-
16 sonal property used directly in the production of oil or gas from a
17 lease or property in the state and the denominator of which is the value
18 of all real and tangible personal property of the consolidated business;

19 (8) expenses incurred by the corporation after December 31,
20 1977 of unsuccessful exploration of oil or gas in the state including
21 the acquisition costs of abandoned properties, dry hole costs and the
22 costs of geologic and geophysical exploration related to those abandoned
23 properties;

24 (9) general overhead or administrative expense incurred by
25 the corporation attributable to the production of oil or gas from a
26 lease or property in the state to the extent that it does not exceed the
27 lesser of:

28 (A) that portion of the total general overhead or admin-
29 istrative expense incurred by the consolidated business of which

1 the corporation is a part, determined by multiplying the total
2 general overhead or administrative expense by a fraction, the
3 numerator of which is the value of the corporation's real and
4 tangible personal property used directly in the production of oil
5 or gas from a lease or property in the state and the denominator of
6 which is the value of all real and tangible personal property of
7 the consolidated business, or

8 (B) the sum of \$0.12 for each barrel of oil and \$0.02
9 for each thousand cubic feet of gas produced from a lease or pro-
10 perty in the state.

11 (d) Deductions from gross income under this section shall not
12 include expenses previously deducted on a return filed under AS 43.20.

13 (e) Where a corporation subject to this chapter shares the pro-
14 duction or proceeds of the production from a lease or property through a
15 working interest, royalty interest, overriding royalty interest, pro-
16 duction payment, net profit interest, joint venture or other agreement,
17 the department shall allocate the deductions from gross income between
18 the corporation and the persons with whom it has such an agreement in
19 accordance with the terms of the agreement.

20 Sec. 43.21.030. DETERMINATION OF INCOME FROM OIL AND GAS PIPELINE
21 TRANSPORTATION. (a) Except as provided in (c) of this section, taxable
22 income attributable to the transportation of oil in a pipeline engaged
23 in interstate commerce in Alaska shall be determined by the department
24 and shall be the amount reported or that would be required to be re-
25 ported to the Federal Energy Regulatory Commission or its successors as
26 net operating income, less those portions of interest and general admin-
27 istrative expense attributable to the pipeline transportation of oil in
28 the state, except that taxable income shall also include taxes on or
29 measured by income. The department shall establish regulations govern-

1 ing the determination of interest and general administrative expense
2 attributable to pipeline transportation of oil in the state.

3 (b) Except as provided in (c) of this section, taxable income
4 attributable to the transportation of natural gas in a pipeline engaged
5 in interstate commerce in Alaska shall be determined by the department
6 and shall be the amount reported or that would be required to be re-
7 ported to the Federal Energy Regulatory Administration as net operating
8 income less that portion of interest and general administrative expense
9 attributable to pipeline transportation in the state, except that the
10 taxable income shall also include taxes on or measured by income. The
11 department shall establish regulations governing the determination of
12 interest and general administrative expense attributable to pipeline
13 transportation of natural gas in the state.

14 (c) Taxable income attributable to the transportation of oil or
15 natural gas in Alaska of any corporation not under the Federal Energy
16 Regulatory Commission jurisdiction, or of a corporation under the juris-
17 diction of the Federal Energy Regulatory Commission but not reporting
18 the operation of pipelines in Alaska separately from the operation of
19 pipelines elsewhere, shall be determined by the department and shall be
20 based upon an amount equal to that which would have been reported to the
21 Federal Energy Regulatory Commission under (a) of this section in the
22 case of oil pipelines, or (b) of this section in the case of natural gas
23 pipelines, had the corporation been, in fact, under Federal Energy
24 Regulatory Commission jurisdiction for the taxable year and required to
25 report on the operation of Alaska pipelines separately from the opera-
26 tion of pipelines elsewhere.

27 Sec. 43.21.040. DETERMINATION OF INCOME FROM ACTIVITIES OTHER THAN
28 OIL AND GAS PRODUCTION OR PIPELINE TRANSPORTATION. (a) Taxable income
29 of a corporation subject to this chapter from activities in this state

1 other than the production of oil or gas from a lease or property in the
2 state or the pipeline transportation of oil or gas in the state shall be
3 determined in accordance with the method established in art. IV of AS
4 43.19.010 and in AS 43.20.071, as modified by (b) - (e) of this section.

5 (b) The total taxable income of the consolidated business shall be
6 the net income determined and certified by an independent certified
7 public accountant for the purposes of a report to shareholders covering
8 its earnings and profits for the taxable year (calculated without regard
9 to any taxes on or measured by net income), less the taxable income of
10 the corporation as determined under secs. 20 and 30 of this chapter.

11 (c) The numerator and denominator of the property factor, of the
12 payroll factor and of the sales factor shall be calculated without
13 reference to that portion of property, payroll or sales directly related
14 to the production of oil or gas from a lease of property in the state or
15 the pipeline transportation of oil or gas in the state.

16 (d) Compensation earned by employees of the consolidated business
17 who are employed in the United States but not in any state shall be
18 included in the numerator of the payroll factor if the employees are
19 directly supplied from a base of operations maintained in this state.

20 (e) The value of oil or gas production facilities or other pro-
21 perties of the consolidated business which are located in the United
22 States but not in any state shall be included in the numerator of the
23 property factor if the property is serviced or supplied from a base of
24 operations maintained in the state or if that property relies on onshore
25 facilities in this state for storage of the oil or gas produced.

26 Sec. 43.21.050. ASSESSMENT OF INCOME AND TAX. (a) The department
27 shall assess taxable income and the amount of tax payable on that tax-
28 able income.

29 (b) On or before August 15 of each year the department shall send

1 to every corporation taxable under this chapter a notice of assessment
2 showing the amount of income taxable under this chapter for the previous
3 year and the amount of tax payable on that taxable income.

4 (c) For purposes of this chapter the department may combine tax-
5 able incomes of corporations subject to tax under this chapter who are
6 part of the same consolidated business.

7 Sec. 43.21.060. RETURNS. On or before April 15 of each year, a
8 corporation subject to tax under this chapter shall submit a return in a
9 form prescribed by the department setting out information required by
10 the department to determine taxable income. For purposes of this chap-
11 ter, the department may require corporations subject to tax under this
12 chapter who are part of the same consolidated business to file a single
13 return.

14 Sec. 43.21.070. PAYMENT OF TAX. The tax levied under this chapter
15 is payable to the department on or before September 30 of each year or
16 in installments at the times and under the conditions the department may
17 by regulation require. This tax is payable on the due date set out in
18 this section even though the assessment is under appeal or the validity,
19 enforceability or application of this chapter or any provision of this
20 chapter is challenged before the department or in the courts.

21 Sec. 43.21.080. TRANSITIONAL RULES. The department shall provide
22 by regulation transition rules for corporations subject to tax under AS
23 43.20 before the effective date of this Act to avoid double taxation of
24 the same income or double deduction of the same expense of those cor-
25 porations as a result of becoming subject to tax under this chapter.

26 Sec. 43.21.090. REGULATIONS. The department may adopt regulations
27 in accordance with the Administrative Procedure Act (AS 44.69) as appro-
28 priate to administer and enforce this chapter.

29 Sec. 43.21.100. PENALTIES. The penalties established in ch. 20 of

1 this title apply to this chapter.

2 Sec. 43.21.110. PUBLIC REPORTING. (a) The commissioner of revenue shall compile and transmit to the legislature an annual consolidated
3 report of state revenues and taxation policies under this chapter. This
4 report shall include total aggregate income tax paid by corporations
5 covered under this chapter and aggregate income and deductions by category,
6 so classified as to prevent the identification of particular
7 returns or reports.
8

9 (b) The legislative auditor shall transmit to the legislature an
10 annual report reviewing the actions of the department in administering
11 this chapter.

12 Sec. 43.21.120. DEFINITIONS. Unless the context requires otherwise
13 the definitions contained in AS 43.55.140 are applicable to this
14 chapter. In addition, in this chapter

15 (1) "base of operations" means the closest point on land to
16 the offshore oil or gas production operations from which goods, services
17 and supplies flow to those offshore oil or gas production operations;

18 (2) "consolidated business" means a corporation or group of
19 corporations having at least 50 per cent common ownership, direct or
20 indirect, or a group of corporations in which there is common control
21 either direct or indirect as evidenced by any arrangement, contract or
22 agreement.

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

25 * Sec. 5. The Act takes effect immediately in accordance with AS 01.10.-
26 070(c).

Original sponsor: Rules Committee by request
of the Legislative Council (for the Subcommittee
on Oil and Gas Leasing and Taxing Policies)

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 105 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an oil and gas corporate income
7 tax; and providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and
10 declares that the method of apportioning income for tax purposes under the
11 "Uniform Division of Income for Tax Purposes" formula embodied in the Multi-
12 state Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the
13 extent of the business activities in this state of multistate corporations
14 engaged in the production and pipeline transportation of crude oil and
15 natural gas in Alaska. The legislature therefore intends that, in accordance
16 with the provisions of art. 18 of the Multistate Tax Compact (AS 43.19), the
17 income tax of all corporations engaged in the production or pipeline trans-
18 portation of oil or natural gas in or directly associated with this state
19 shall be assessed by the tax administrator under this Act. The legislature
20 further intends that the assessment of income tax against a multistate cor-
21 poration engaged in the production or pipeline transportation of oil or
22 natural gas shall be commensurate with the tax that would be assessed against
23 a corporation owning and operating only those assets of the multistate cor-
24 poration which are in or directly associated with this state.

25 * Sec. 2. AS 43.20.011(e) is amended to read:

26 (e) There is imposed for each taxable year upon the entire taxable
27 income of every corporation derived from sources within the state a tax
28 consisting of a normal tax equal to 5.4 per cent of taxable income, and
29 a surtax which is equal to 4.0 per cent of taxable income. For purposes

1 of this chapter the surtax exemption for a taxable year follows secs.
2 1561 and 1563 of the Internal Revenue Code. The tax of a corporation
3 engaged in the production or transportation of crude oil or natural gas
4 shall be determined and paid in accordance with ch. 21 of this title.

5 * Sec. 3. AS 43 is amended by adding a new chapter to read:

6 CHAPTER 21. OIL AND GAS CORPORATE

7 INCOME TAX.

8 Sec. 43.21.010. APPLICATION. This chapter applies to every cor-
9 poration doing business in the state which derives income from the
10 production of oil or gas from a lease or property in or directly asso-
11 ciated with the state, or from the pipeline transportation of oil or gas
12 in the state. The tax calculated under this chapter is measured by the
13 total taxable income of the corporation as defined in secs. 20 - 40 of
14 this chapter and is determined at the rates established under AS 43.20.-
15 011(e).

16 Sec. 43.21.020. DETERMINATION OF TAXABLE INCOME FROM OIL AND GAS
17 PRODUCTION. (a) The taxable income of a corporation from the produc-
18 tion of oil and gas from a lease or property in the state shall be the
19 corporation's net income as calculated by the department in accordance
20 with this section.

21 (b) Gross income of a corporation from oil and gas production
22 shall be the gross value at the point of production of oil or gas pro-
23 duced from a lease or property in the state. The department shall by
24 regulation determine a uniform method of establishing the gross value at
25 the point of production. In making its determination the department may
26 use the actual prices or values received for the oil or gas, the posted
27 prices for the oil or gas in the same field, or the prevailing prices or
28 values of oil or gas in the same field. In addition, in its determina-
29 tion of gross value at the point of production of oil or gas produced

1 from a lease or property, the department shall determine the reasonable
2 costs of transportation from the point of sale to the point of produc-
3 tion of the oil or gas. Transportation costs set by a tariff properly
4 on file with the Alaska Pipeline Commission or other regulatory agency
5 shall be considered prima facie reasonable, but if a tariff properly on
6 file with a regulatory agency is subsequently amended, changed, or
7 overturned retroactively, the reasonable costs of transportation shall
8 be recomputed for that period using the newly determined tariff.

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

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

12 (2) taxes imposed under AS 43.55 and AS 43.57 which are
13 actually paid by the corporation on the production from a lease or
14 property in the state;

15 (3) taxes imposed under AS 43.56 and AS 29.53 which are
16 actually paid by the corporation on property used directly in the pro-
17 duction of oil or gas from a lease or property in the state, including
18 property used in production, gathering, treatment or preparation of the
19 oil or gas for pipeline transportation, but only if those property tax
20 payments were due and payable only after the date of commercial produc-
21 tion from the lease or property with which the property was associated;

22 (4) the direct costs incurred by or for the corporation in
23 operating the lease or property, including the direct costs of pro-
24 ducing, gathering, treating or preparing the oil or gas for pipeline
25 transportation, but net of any payments received for those activities
26 and not including any indirect cost or overhead expense;

27 (5) depreciation (using the unit of production method or such
28 other reasonable methods as the department may by regulation establish)
29 on property used directly in the production, gathering, treatment or

1 preparation of the oil or gas for pipeline transportation including
2 amortization of capitalized interest for investments in this property at
3 a rate not to exceed the average cost of borrowed capital to the tax-
4 payer during the year in which it is capitalized;

5 (6) the amortization of lease acquisition payments and taxes
6 paid under AS 43.56 and AS 29.53 (including capitalized interest on
7 both) for or on producing properties before the commencement of com-
8 mercial production from the lease or property for which the property is
9 being used;

10 (7) interest expense not capitalized of the corporation, to
11 the extent that it does not exceed that portion of the total interest
12 paid by the consolidated business of which the corporation is a part,
13 determined by multiplying the total interest (reduced by intercompany
14 transactions within the consolidated business) by a fraction, the numer-
15 ator of which is the value of the corporation's real and tangible per-
16 sonal property used directly in the production of oil or gas from a
17 lease or property in the state and the denominator of which is the value
18 of all real and tangible personal property of the consolidated business;

19 (8) expenses incurred by the corporation after December 31,
20 1977 of unsuccessful exploration of oil or gas in the state including
21 the acquisition costs of abandoned properties, dry hole costs and the
22 costs of geologic and geophysical exploration related to those abandoned
23 properties;

24 (9) general overhead or administrative expense incurred by
25 the corporation attributable to the production of oil or gas from a
26 lease or property in the state to the extent that it does not exceed the
27 lesser of:

28 (A) that portion of the total general overhead or admin-
istrative expense incurred by the consolidated business of which

1 the corporation is a part, determined by multiplying the total
2 general overhead or administrative expense by a fraction, the
3 numerator of which is the value of the corporation's real and
4 tangible personal property used directly in the production of oil
5 or gas from a lease or property in the state and the denominator of
6 which is the value of all real and tangible personal property of
7 the consolidated business, or

8 (B) the sum of \$0.12 for each barrel of oil and \$0.02
9 for each thousand cubic feet of gas produced from a lease or pro-
10 perty in the state.

11 (d) Deductions from gross income under this section shall not
12 include expenses previously deducted on a return filed under AS 43.20.

13 (e) Where a corporation subject to this chapter shares the pro-
14 duction or proceeds of the production from a lease or property through a
15 working interest, royalty interest, overriding royalty interest, pro-
16 duction payment, net profit interest, joint venture or other agreement,
17 the department shall allocate the deductions from gross income between
18 the corporation and the persons with whom it has such an agreement in
19 accordance with the terms of the agreement.

20 Sec. 43.21.030. DETERMINATION OF INCOME FROM OIL AND GAS PIPELINE
21 TRANSPORTATION. (a) Except as provided in (c) of this section, taxable
22 income attributable to the transportation of oil in a pipeline engaged
23 in interstate commerce in Alaska shall be determined by the department
24 and shall be the amount reported or that would be required to be re-
25 ported to the Federal Energy Regulatory Commission or its successors as
26 net operating income, less those portions of interest and general admin-
27 istrative expense attributable to the pipeline transportation of oil in
28 the state, except that taxable income shall also include taxes on or
29 measured by income. The department shall establish regulations govern-

1 ing the determination of interest and general administrative expense
2 attributable to pipeline transportation of oil in the state.

3 (b) Except as provided in (c) of this section, taxable income
4 attributable to the transportation of natural gas in a pipeline engaged
5 in interstate commerce in Alaska shall be determined by the department
6 and shall be the amount reported or that would be required to be re-
7 ported to the Federal Energy Regulatory Administration as net operating
8 income less that portion of interest and general administrative expense
9 attributable to pipeline transportation in the state, except that the
10 taxable income shall also include taxes on or measured by income. The
11 department shall establish regulations governing the determination of
12 interest and general administrative expense attributable to pipeline
13 transportation of natural gas in the state.

14 (c) Taxable income attributable to the transportation of oil or
15 natural gas in Alaska of any corporation not under the Federal Energy
16 Regulatory Commission jurisdiction, or of a corporation under the juris-
17 diction of the Federal Energy Regulatory Commission but not reporting
18 the operation of pipelines in Alaska separately from the operation of
19 pipelines elsewhere, shall be determined by the department and shall be
20 based upon an amount equal to that which would have been reported to the
21 Federal Energy Regulatory Commission under (a) of this section in the
22 case of oil pipelines, or (b) of this section in the case of natural gas
23 pipelines, had the corporation been, in fact, under Federal Energy
24 Regulatory Commission jurisdiction for the taxable year and required to
25 report on the operation of Alaska pipelines separately from the opera-
26 tion of pipelines elsewhere.

27 Sec. 43.21.040. DETERMINATION OF INCOME FROM ACTIVITIES OTHER THAN
28 OIL AND GAS PRODUCTION OR PIPELINE TRANSPORTATION. (a) Taxable income
29 of a corporation subject to this chapter from activities in this state

1 other than the production of oil or gas from a lease or property in the
2 state or the pipeline transportation of oil or gas in the state shall be
3 determined in accordance with the method established in art. IV of AS
4 43.19.010 and in AS 43.20.071, as modified by (b) - (e) of this section.

5 (b) The total taxable income of the consolidated business shall be
6 the net income determined and certified by an independent certified
7 public accountant for the purposes of a report to shareholders covering
8 its earnings and profits for the taxable year (calculated without regard
9 to any taxes on or measured by net income), less the taxable income of
10 the corporation as determined under secs. 20 and 30 of this chapter.

11 (c) The numerator and denominator of the property factor, of the
12 payroll factor and of the sales factor shall be calculated without
13 reference to that portion of property, payroll or sales directly related
14 to the production of oil or gas from a lease of property in the state or
15 the pipeline transportation of oil or gas in the state.

16 (d) Compensation earned by employees of the consolidated business
17 who are employed in the United States but not in any state shall be
18 included in the numerator of the payroll factor if the employees are
19 directly supplied from a base of operations maintained in this state.

20 (e) The value of oil or gas production facilities or other pro-
21 perties of the consolidated business which are located in the United
22 States but not in any state shall be included in the numerator of the
23 property factor if the property is serviced or supplied from a base of
24 operations maintained in the state or if that property relies on onshore
25 facilities in this state for storage of the oil or gas produced.

26 Sec. 43.21.050. ASSESSMENT OF INCOME AND TAX. (a) The department
27 shall assess taxable income and the amount of tax payable on that tax-
28 able income.

29 (b) On or before August 15 of each year the department shall send

1 to every corporation taxable under this chapter a notice of assessment
2 showing the amount of income taxable under this chapter for the previous
3 year and the amount of tax payable on that taxable income.

4 (c) For purposes of this chapter the department may combine tax-
5 able incomes of corporations subject to tax under this chapter who are
6 part of the same consolidated business.

7 Sec. 43.21.060. RETURNS. On or before April 15 of each year, a
8 corporation subject to tax under this chapter shall submit a return in a
9 form prescribed by the department setting out information required by
10 the department to determine taxable income. For purposes of this chap-
11 ter, the department may require corporations subject to tax under this
12 chapter who are part of the same consolidated business to file a single
13 return.

14 Sec. 43.21.070. PAYMENT OF TAX. The tax levied under this chapter
15 is payable to the department on or before September 30 of each year or
16 in installments at the times and under the conditions the department may
17 by regulation require. This tax is payable on the due date set out in
18 this section even though the assessment is under appeal or the validity,
19 enforceability or application of this chapter or any provision of this
20 chapter is challenged before the department or in the courts.

21 Sec. 43.21.080. TRANSITIONAL RULES. The department shall provide
22 by regulation transition rules for corporations subject to tax under AS
23 43.20 before the effective date of this Act to avoid double taxation of
24 the same income or double deduction of the same expense of those cor-
25 porations as a result of becoming subject to tax under this chapter.

26 Sec. 43.21.090. REGULATIONS. The department may adopt regulations
27 in accordance with the Administrative Procedure Act (AS 44.69) as appro-
28 priate to administer and enforce this chapter.

29 Sec. 43.21.100. PENALTIES. The penalties established in ch. 20 of

1 this title apply to this chapter.

2 Sec. 43.21.110. PUBLIC REPORTING. (a) The commissioner of reve-
3 nue shall compile and transmit to the legislature an annual consolidated
4 report of state revenues and taxation policies under this chapter. This
5 report shall include total aggregate income tax paid by corporations
6 covered under this chapter and aggregate income and deductions by cate-
7 gory, so classified as to prevent the identification of particular
8 returns or reports.

9 (b) The legislative auditor shall transmit to the legislature an
10 annual report reviewing the actions of the department in administering
11 this chapter.

12 Sec. 43.21.120. DEFINITIONS. Unless the context requires other-
13 wise the definitions contained in AS 43.55.140 are applicable to this
14 chapter. In addition, in this chapter

15 (1) "base of operations" means the closest point on land to
16 the offshore oil or gas production operations from which goods, services
17 and supplies flow to those offshore oil or gas production operations;

18 (2) "consolidated business" means a corporation or group of
19 corporations having at least 50 per cent common ownership, direct or
20 indirect, or a group of corporations in which there is common control
21 either direct or indirect as evidenced by any arrangement, contract or
22 agreement.

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

25 * Sec. 5. The Act takes effect immediately in accordance with AS 01.10.-
26 070(c).

Original sponsor: Rules Committee by request
of the Legislative Council (for the Subcommittee
on Oil and Gas Leasing and Taxing Policies)

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 105 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an oil and gas corporate income
7 tax; and providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and
10 declares that the method of apportioning income for tax purposes under the
11 "Uniform Division of Income for Tax Purposes" formula embodied in the Multi-
12 state Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the
13 extent of the business activities in this state of multistate corporations
14 engaged in the production and pipeline transportation of crude oil and
15 natural gas in Alaska. The legislature therefore intends that, in accordance
16 with the provisions of art. 18 of the Multistate Tax Compact (AS 43.19), the
17 income tax of all corporations engaged in the production or pipeline trans-
18 portation of oil or natural gas in or directly associated with this state
19 shall be assessed by the tax administrator under this Act. The legislature
20 further intends that the assessment of income tax against a multistate cor-
21 poration engaged in the production or pipeline transportation of oil or
22 natural gas shall be commensurate with the tax that would be assessed against
23 a corporation owning and operating only those assets of the multistate cor-
24 poration which are in or directly associated with this state.

25 * Sec. 2. AS 43.20.011(e) is amended to read:

26 (e) There is imposed for each taxable year upon the entire taxable
27 income of every corporation derived from sources within the state a tax
28 consisting of a normal tax equal to 5.4 per cent of taxable income, and
29 a surtax which is equal to 4.0 per cent of taxable income. For purposes

1 of this chapter the surtax exemption for a taxable year follows secs.
2 1561 and 1563 of the Internal Revenue Code. The tax of a corporation
3 engaged in the production or transportation of crude oil or natural gas
4 shall be determined and paid in accordance with ch. 21 of this title.

5 * Sec. 3. AS 43 is amended by adding a new chapter to read:

6 CHAPTER 21. OIL AND GAS CORPORATE
7 INCOME TAX.

8 Sec. 43.21.010. APPLICATION. This chapter applies to every cor-
9 poration doing business in the state which derives income from the
10 production of oil or gas from a lease or property in or directly asso-
11 ciated with the state, or from the pipeline transportation of oil or gas
12 in the state. The tax calculated under this chapter is measured by the
13 total taxable income of the corporation as defined in secs. 20 - 40 of
14 this chapter and is determined at the rates established under AS 43.20.-
15 011(e).

16 Sec. 43.21.020. DETERMINATION OF TAXABLE INCOME FROM OIL AND GAS
17 PRODUCTION. (a) The taxable income of a corporation from the produc-
18 tion of oil and gas from a lease or property in the state shall be the
19 corporation's net income as calculated by the department in accordance
20 with this section.

21 (b) Gross income of a corporation from oil and gas production
22 shall be the gross value at the point of production of oil or gas pro-
23 duced from a lease or property in the state. The department shall by
24 regulation determine a uniform method of establishing the gross value at
25 the point of production. In making its determination the department may
26 use the actual prices or values received for the oil or gas, the posted
27 prices for the oil or gas in the same field, or the prevailing prices or
28 values of oil or gas in the same field. In addition, in its determina-
29 tion of gross value at the point of production of oil or gas produced

1 from a lease or property, the department shall determine the reasonable
2 costs of transportation from the point of sale to the point of produc-
3 tion of the oil or gas. Transportation costs set by a tariff properly
4 on file with the Alaska Pipeline Commission or other regulatory agency
5 shall be considered prima facie reasonable, but if a tariff properly on
6 file with a regulatory agency is subsequently amended, changed, or
7 overturned retroactively, the reasonable costs of transportation shall
8 be recomputed for that period using the newly determined tariff.

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

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

12 (2) taxes imposed under AS 43.55 and AS 43.57 which are
13 actually paid by the corporation on the production from a lease or
14 property in the state;

15 (3) taxes imposed under AS 43.56 and AS 29.53 which are
16 actually paid by the corporation on property used directly in the pro-
17 duction of oil or gas from a lease or property in the state, including
18 property used in production, gathering, treatment or preparation of the
19 oil or gas for pipeline transportation, but only if those property tax
20 payments were due and payable only after the date of commercial produc-
21 tion from the lease or property with which the property was associated;

22 (4) the direct costs incurred by or for the corporation in
23 operating the lease or property, including the direct costs of pro-
24 ducing, gathering, treating or preparing the oil or gas for pipeline
25 transportation, but net of any payments received for those activities
26 and not including any indirect cost or overhead expense;

27 (5) depreciation (using the unit of production method or such
28 other reasonable methods as the department may by regulation establish)
29 on property used directly in the production, gathering, treatment or

1 preparation of the oil or gas for pipeline transportation including
2 amortization of capitalized interest for investments in this property at
3 a rate not to exceed the average cost of borrowed capital to the tax-
4 payer during the year in which it is capitalized;

5 (6) the amortization of lease acquisition payments and taxes
6 paid under AS 43.56 and AS 29.53 (including capitalized interest on
7 both) for or on producing properties before the commencement of com-
8 mercial production from the lease or property for which the property is
9 being used;

10 (7) interest expense not capitalized of the corporation, to
11 the extent that it does not exceed that portion of the total interest
12 paid by the consolidated business of which the corporation is a part,
13 determined by multiplying the total interest (reduced by intercompany
14 transactions within the consolidated business) by a fraction, the numer-
15 ator of which is the value of the corporation's real and tangible per-
16 sonal property used directly in the production of oil or gas from a
17 lease or property in the state and the denominator of which is the value
18 of all real and tangible personal property of the consolidated business;

19 (8) expenses incurred by the corporation after December 31,
20 1977 of unsuccessful exploration of oil or gas in the state including
21 the acquisition costs of abandoned properties, dry hole costs and the
22 costs of geologic and geophysical exploration related to those abandoned
23 properties;

24 (9) general overhead or administrative expense incurred by
25 the corporation attributable to the production of oil or gas from a
26 lease or property in the state to the extent that it does not exceed the
27 lesser of:

28 (A) that portion of the total general overhead or admin-
29 istrative expense incurred by the consolidated business of which

1 the corporation is a part, determined by multiplying the total
2 general overhead or administrative expense by a fraction, the
3 numerator of which is the value of the corporation's real and
4 tangible personal property used directly in the production of oil
5 or gas from a lease or property in the state and the denominator of
6 which is the value of all real and tangible personal property of
7 the consolidated business, or

8 (B) the sum of \$0.12 for each barrel of oil and \$0.07
9 for each thousand cubic feet of gas produced from a lease or pro-
10 perty in the state.

11 (d) Deductions from gross income under this section shall not
12 include expenses previously deducted on a return filed under AS 43.20.

13 (e) Where a corporation subject to this chapter shares the pro-
14 duction or proceeds of the production from a lease or property through a
15 working interest, royalty interest, overriding royalty interest, pro-
16 duction payment, net profit interest, joint venture or other agreement,
17 the department shall allocate the deductions from gross income between
18 the corporation and the persons with whom it has such an agreement in
19 accordance with the terms of the agreement.

20 Sec. 43.21.030. DETERMINATION OF INCOME FROM OIL AND GAS PIPELINE
21 TRANSPORTATION. (a) Except as provided in (c) of this section, taxable
22 income attributable to the transportation of oil in a pipeline engaged
23 in interstate commerce in Alaska shall be determined by the department
24 and shall be the amount reported or that would be required to be re-
25 ported to the Federal Energy Regulatory Commission or its successors as
26 net operating income, less those portions of interest and general admin-
27 istrative expense attributable to the pipeline transportation of oil in
28 the state, except that taxable income shall also include taxes on or
29 measured by income. The department shall establish regulations govern-

1 ing the determination of interest and general administrative expense
2 attributable to pipeline transportation of oil in the state.

3 (b) Except as provided in (c) of this section, taxable income
4 attributable to the transportation of natural gas in a pipeline engaged
5 in interstate commerce in Alaska shall be determined by the department
6 and shall be the amount reported or that would be required to be re-
7 ported to the Federal Energy Regulatory Administration as net operating
8 income less that portion of interest and general administrative expense
9 attributable to pipeline transportation in the state, except that the
10 taxable income shall also include taxes on or measured by income. The
11 department shall establish regulations governing the determination of
12 interest and general administrative expense attributable to pipeline
13 transportation of natural gas in the state.

14 (c) Taxable income attributable to the transportation of oil or
15 natural gas in Alaska of any corporation not under the Federal Energy
16 Regulatory Commission jurisdiction, or of a corporation under the juris-
17 diction of the Federal Energy Regulatory Commission but not reporting
18 the operation of pipelines in Alaska separately from the operation of
19 pipelines elsewhere, shall be determined by the department and shall be
20 based upon an amount equal to that which would have been reported to the
21 Federal Energy Regulatory Commission under (a) of this section in the
22 case of oil pipelines, or (b) of this section in the case of natural gas
23 pipelines, had the corporation been, in fact, under Federal Energy
24 Regulatory Commission jurisdiction for the taxable year and required to
25 report on the operation of Alaska pipelines separately from the opera-
26 tion of pipelines elsewhere.

27 Sec. 43.21.040. DETERMINATION OF INCOME FROM ACTIVITIES OTHER THAN
28 OIL AND GAS PRODUCTION OR PIPELINE TRANSPORTATION. (a) Taxable income
29 of a corporation subject to this chapter from activities in this state

1 other than the production of oil or gas from a lease or property in the
2 state or the pipeline transportation of oil or gas in the state shall be
3 determined in accordance with the method established in art. IV of AS
4 43.19.010 and in AS 43.20.071, as modified by (b) - (e) of this section.

5 (b) The total taxable income of the consolidated business shall be
6 the net income determined and certified by an independent certified
7 public accountant for the purposes of a report to shareholders covering
8 its earnings and profits for the taxable year (calculated without regard
9 to any taxes on or measured by net income), less the taxable income of
10 the corporation as determined under secs. 20 and 30 of this chapter.

11 (c) The numerator and denominator of the property factor, of the
12 payroll factor and of the sales factor shall be calculated without
13 reference to that portion of property, payroll or sales directly related
14 to the production of oil or gas from a lease of property in the state or
15 the pipeline transportation of oil or gas in the state.

16 (d) Compensation earned by employees of the consolidated business
17 who are employed in the United States but not in any state shall be
18 included in the numerator of the payroll factor if the employees are
19 directly supplied from a base of operations maintained in this state.

20 (e) The value of oil or gas production facilities or other pro-
21 perties of the consolidated business which are located in the United
22 States but not in any state shall be included in the numerator of the
23 property factor if the property is serviced or supplied from a base of
24 operations maintained in the state or if that property relies on onshore
25 facilities in this state for storage of the oil or gas produced.

26 Sec. 43.21.050. ASSESSMENT OF INCOME AND TAX. (a) The department
27 shall assess taxable income and the amount of tax payable on that tax-
28 able income.

29 (b) On or before August 15 of each year the department shall send

1 to every corporation taxable under this chapter a notice of assessment
2 showing the amount of income taxable under this chapter for the previous
3 year and the amount of tax payable on that taxable income.

4 (c) For purposes of this chapter the department may combine tax-
5 able incomes of corporations subject to tax under this chapter who are
6 part of the same consolidated business.

7 Sec. 43.21.060. RETURNS. On or before April 15 of each year, a
8 corporation subject to tax under this chapter shall submit a return in a
9 form prescribed by the department setting out information required by
10 the department to determine taxable income. For purposes of this chap-
11 ter, the department may require corporations subject to tax under this
12 chapter who are part of the same consolidated business to file a single
13 return.

14 Sec. 43.21.070. PAYMENT OF TAX. The tax levied under this chapter
15 is payable to the department on or before September 30 of each year or
16 in installments at the times and under the conditions the department may
17 by regulation require. This tax is payable on the due date set out in
18 this section even though the assessment is under appeal or the validity,
19 enforceability or application of this chapter or any provision of this
20 chapter is challenged before the department or in the courts.

21 Sec. 43.21.080. TRANSITIONAL RULES. The department shall provide
22 by regulation transition rules for corporations subject to tax under AS
23 43.20 before the effective date of this Act to avoid double taxation of
24 the same income or double deduction of the same expense of those cor-
25 porations as a result of becoming subject to tax under this chapter.

26 Sec. 43.21.090. REGULATIONS. The department may adopt regulations
27 in accordance with the Administrative Procedure Act (AS 44.69) as appro-
28 priate to administer and enforce this chapter.

29 Sec. 43.21.100. PENALTIES. The penalties established in ch. 20 of

1 this title apply to this chapter.

2 Sec. 43.21.110. PUBLIC REPORTING. (a) The commissioner of reve-
3 nue shall compile and transmit to the legislature an annual consolidated
4 report of state revenues and taxation policies under this chapter. This
5 report shall include total aggregate income tax paid by corporations
6 covered under this chapter and aggregate income and deductions by cate-
7 gory, so classified as to prevent the identification of particular
8 returns or reports.

9 (b) The legislative auditor shall transmit to the legislature an
10 annual report reviewing the actions of the department in administering
11 this chapter.

12 Sec. 43.21.120. DEFINITIONS. Unless the context requires other-
13 wise the definitions contained in AS 43.55.140 are applicable to this
14 chapter. In addition, in this chapter

15 (1) "base of operations" means the closest point on land to
16 the offshore oil or gas production operations from which goods, services
17 and supplies flow to those offshore oil or gas production operations;

18 (2) "consolidated business" means a corporation or group of
19 corporations having at least 50 per cent common ownership, direct or
20 indirect, or a group of corporations in which there is common control
21 either direct or indirect as evidenced by any arrangement, contract or
22 agreement.

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

25 * Sec. 5. The Act takes effect immediately in accordance with AS 01.10.-
26 070(c).

COMMITTEE REPORT
SENATE

4/27/77

Date

Mr. President:

The Committee on FINANCE has had SB 105
Alaska net income tax
under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for _____ and that
CS for _____ do pass
- (and) recommends it be referred to the _____
committee
- reports it back without reauthorization
- AND attaches a report of its intent
- (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: _____

_____ recommends: _____

_____ recommends: _____

Chairman

COMMITTEE REPORT

SENATE

**Finance

1/31/77

4/25/77

Date

Mr. President:

The Committee on RESOURCES has had SB 105
Alaska net income tax under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for SB 105 and that
CS for SB 105 ~~be~~ Individual Recommendation
- (and) recommends it be referred to the _____
committee
- reports it back without recommendation
- and attached a report of its intent
- (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

William No Rec.
William No Pass
John No Pass

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

John recommends: No Rec.
Collita recommends: No Rec.
 _____ recommends: _____

K. Pollock
Chairman

No Rec

Original sponsor: Rules Committee
by request of the Legislative Council
(for the Subcommittee on Oil and Gas
Leasing and Taxing Policies)

Offered: 4/27/77
Referred: Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 105

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska net income tax; and
7 providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and
10 declares that the method of apportioning income for tax purposes under the
11 "Uniform Division of Income for Tax Purposes" formula embodied in the Multi-
12 State Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the
13 extent of the business activities in this state of multi-state corporations
14 engaged in the production and pipeline transportation of crude oil and
15 natural gas in Alaska. The legislature therefore intends that the provisions
16 of section 18 of article IV of the Multi-State Tax Compact (AS 43.19) which
17 allow separate accounting of income shall be adopted for the determination of
18 corporate income tax liability on income derived from the production and
19 pipeline transportation of oil and gas and related activities. The legisla-
20 ture further intends that separate accounting shall result in the assessment
21 of tax against multi-state corporations so that the tax paid by these cor-
22 porations will be commensurate with the tax that would be paid by corpora-
23 tions owning and operating only the Alaskan assets of these multi-state
24 corporations.

25 * Sec. 2. AS 43.20.011 is amended by adding a new subsection to read:

26 (2) For purposes of determining taxable income under (a) of this
27 section that part of income of any corporation derived in Alaska from
28 oil or natural gas production or the transportation of crude oil or
29 natural gas by pipeline, including income from royalties on oil and gas

30 COMMITTEE COPY

1 production, shall, notwithstanding sec. 65 of this chapter, be deter-
2 mined by separate accounting under the authority of section 18 of
3 article IV of the Multi-State Compact (AS 43.19.010) and in accordance
4 with secs. 67 - 69 of this chapter.

5 * Sec. 3. AS 43.20 is amended by adding new sections to read:

6 Sec. 43.20.067. DETERMINATION OF OIL AND NATURAL GAS PRODUCTION
7 INCOME. (a) The determination of taxable income attributable to oil
8 and natural gas production in Alaska, as required under sec. 11(f) of
9 this chapter, shall be calculated using gross income and deductions from
10 gross income as defined in this section.

11 (b) Gross income from oil and gas production in Alaska shall be
12 the value of oil and gas produced as established for purposes of the oil
13 and gas properties production tax, in accordance with the provisions of
14 ch. 55 of this title.

15 (c) Deductions from gross income for the purposes of determining
16 taxable production income shall include:

17 (1) royalties actually paid whether in kind or in value;

18 (2) severance taxes actually paid for which no prior deduc-
19 tion has been claimed for income tax purposes;

20 (3) property taxes actually paid by the corporation taxpayer
21 on producing property and facilities directly associated with producing
22 property, including facilities for the gathering, treating and preparing
23 of the oil or gas for shipment, provided the payments are made after the
24 date of initial production of the property with which they are associated;

25 (4) the direct costs incurred by the corporation taxpayer in
26 operating oil or gas fields, including the costs of gathering, treating
27 and preparing oil or gas for shipment, but net of any payments received
28 for those services and not including indirect costs and overhead except
29 as provided in (6) of this subsection;

1 (5) depreciation on investments which are associated with the
2 production, gathering, treating and preparing for shipment of the oil or
3 gas, and which are located in or adjacent to the site of production,
4 including depreciation on interest capitalized at a rate not to exceed
5 the average cost of borrowed capital to the corporation taxpayer during
6 the year in which it is capitalized and also including the amortization
7 of lease acquisition payments and property taxes paid for or on pro-
8 ducing properties before the commencement of production on the lease-
9 hold, facilities or investment associated with it;

10 (6) interest expense not capitalized, to the extent that it
11 does not exceed a portion of total interest paid by the corporation, its
12 subsidiaries and affiliates, determined by multiplying total interest
13 paid by a fraction, the numerator of which is the book value of the
14 corporation's fixed assets in and associated with the producing proper-
15 ties in Alaska and the denominator of which is the book value of all
16 fixed assets held by the corporation, its subsidiaries and affiliates;

17 (7) expenses incurred after December 31, 1976 of unsuccessful
18 exploration efforts for oil and gas in Alaska, including the acquisition
19 costs of properties abandoned, dry hole costs, and the costs of geologic
20 and geophysical exploration on or related to those properties.

21 (d) The department shall establish regulations covering the calcu-
22 lation of depreciation costs, the allocation of interest costs, the
23 definition of facilities associated with the production, gathering,
24 treating and preparing for shipment of oil and gas, and other matters
25 necessary to implement this section.

26 (e) Deductions from gross income under this section shall not
27 include expenses previously deducted on a return filed under this
28 chapter.

1 PIPELINE TRANSPORTATION INCOME. (a) Taxable income attributable to the
2 transportation of crude oil in interstate commerce in Alaska shall be
3 the sum of the amount reported to the Interstate Commerce Commission
4 under the category "net balance transferred from income" as specified as
5 of January 1, 1977 in 49 CFR 10 Part 1204, account 700 and of federal
6 income taxes paid as specified as of January 1, 1977 in 49 CFR 10 Part
7 1204, accounts 670 and 695, and of taxes actually paid under sec. 11(e)
8 of this chapter. A tax return reporting that income shall be accompanied
9 by a certification from the Alaska Pipeline Commission to the effect
10 that to the best of the commission's knowledge and belief the income
11 calculation has been made in accordance with the principles established
12 by the Interstate Commerce Commission, or, if in the opinion of the
13 commission, the income is not reported in accordance with the regulations
14 of the Interstate Commerce Commission, then a statement to that effect,
15 identifying the deficiencies of the report and, if possible, providing a
16 reporting of the true and correct income.

17 (b) Taxable income attributable to the transportation of natural
18 gas in interstate commerce in Alaska shall be the sum of the amount
19 reported to the Federal Power Commission under the category "balance
20 transferred from income" as specified in 18 CFR 1, Part 201, account
21 433 and of federal income taxes paid as specified as of January 1, 1977
22 in 18 CFR 1, Part 201, accounts 409, 409.1, 409.2 and 409.3, and of
23 taxes actually paid under sec. 11(e) of this chapter. A tax return
24 reporting that income shall be accompanied by a certification from the
25 Alaska Public Utilities Commission to the effect that to the best of the
26 commission's knowledge and belief the income calculation has been made
27 in accordance with the principles established by the Federal Power
28 Commission, or, if in the opinion of the commission, the income is not
29 reported in accordance with the regulations of the Federal Power

1 Commission, then a statement to that effect, identifying the deficiencies
2 of the report and, if possible, providing a reporting of the true and
3 correct income.

4 (c) Taxable income attributable to the transportation of crude oil
5 in Alaska of any corporation not under Interstate Commerce Commission
6 jurisdiction, or of a corporation under the Interstate Commerce Commis-
7 sion but not reporting the operation of pipelines in Alaska separately
8 from the operation of pipelines elsewhere, shall be an amount equal to
9 that which would have been reported to the Interstate Commerce Commission
10 under (a) of this section had the corporation been, in fact, under
11 Interstate Commerce Commission jurisdiction for the taxable year and
12 required to report on the operation of Alaska pipelines separately from
13 the operation of pipelines elsewhere. A tax return reporting that
14 income shall be accompanied by a certification from the Alaska Pipeline
15 Commission to the effect that to the best of the commission's knowledge
16 and belief the income calculation has been made in accordance with the
17 principles established by the Interstate Commerce Commission, or, if in
18 the opinion of the commission, the income is not reported in accordance
19 with the regulations of the Interstate Commerce Commission, then a
20 statement to that effect, identifying the deficiencies of the report
21 and, if possible, providing a reporting of the true and correct income.

22 (d) Taxable income attributable to the transportation of natural
23 gas in Alaska by any corporation not under the jurisdiction of the
24 Federal Power Commission, or of a corporation under Federal Power Commis-
25 sion jurisdiction but not reporting the operation of Alaska pipelines
26 separately from the operation of pipelines elsewhere, shall be an amount
27 equal to that which would have been reported to the Federal Power Commis-
28 sion under (b) of this section had the corporation been, in fact, under
29 Federal Power Commission jurisdiction for the taxable year and required

1 to report on the operation of Alaska pipelines separately from the opera-
2 tion of pipelines elsewhere. A tax return reporting that income shall
3 be accompanied by a certification from the Alaska Public Utility Commis-
4 sion to the effect that to the best of the commission's knowledge and
5 belief the income calculation has been made in accordance with the
6 principles established by the Federal Power Commission, or, if in the
7 opinion of the commission, the income is not reported in accordance with
8 the regulations of the Federal Power Commission, then a statement to
9 that effect, identifying the deficiencies of the report and, if possible,
10 providing a reporting of the true and correct income.

11 (e) The certifications of the Alaska Pipeline Commission and the
12 Alaska Public Utilities Commission submitted in accordance with this
13 section do not prejudice any future action by the respective commission
14 nor prevent the respective commission from submitting a revised certi-
15 fication within three years of the due date of the tax return in support
16 of which it was originally filed.

17 (f) Nothing in this section or in sec. 67 of this chapter limits a
18 corporate taxpayer's right to appeal or the taxpayer remedies provided
19 under ch. 5 of this title.

20 Sec. 43.20.069. DETERMINATION OF INCOME FROM OTHER ACTIVITIES OF
21 CORPORATIONS ENGAGED IN OIL OR NATURAL GAS PRODUCTION OR TRANSPORTATION.
22 Taxable income from activities other than oil or natural gas production
23 or pipeline transportation shall be determined by subtracting the income
24 as determined under secs. 67 and 68 of this chapter from the corpora-
25 tion's combined net income and applying the apportionment formula
26 required under the provisions of sec. 65 of this chapter, except that
27 both the numerator and the denominator of the property factor and the
28 payroll factor shall be calculated without reference to payroll or
29 property related to crude oil or natural gas production or pipeline

1 transportation activity in Alaska, and the sales factor shall not be
2 used in the calculation.

3 Sec. 43.20.070. PUBLIC REPORTING. Notwithstanding the provisions
4 of AS 43.05.230, the commissioner of revenue shall compile and transmit
5 to the legislature an annual consolidated report of state revenues and
6 taxation policies under this chapter. This report shall include total
7 Alaska income tax paid by firms and individuals covered under this
8 chapter and itemized deductions by category.

9 * Sec. 4. AS 43.20 is amended by adding a new section to read:

10 Sec. 43.20.075. BOOKS AND RECORDS. The department may provide by
11 regulation the manner in which books and records must be kept and main-
12 tained for purposes of determining gross income and deductions from
13 gross income under secs. 67 - 69 of this chapter.

14 * Sec. 5. AS 43.20.335 is amended by adding new subsections to read:

15 (k) Any person who improperly influences, or attempts to improper-
16 ly influence, by means of payment or offer of payment or other valuable
17 consideration, any state official in his determination of values and
18 apportionments under this chapter is guilty of bribery and punishable
19 under AS 11.30.040.

20 (l) Any person who knowingly and wilfully makes false statements
21 or representations, or who knowingly allows false statements or repre-
22 sentations to be made on his behalf in the case of corporations, with a
23 purpose of avoiding the corporate tax imposed under this chapter is
24 guilty of wilful tax avoidance and is punishable upon conviction by a
25 fine of three times the amount of the tax that would have been unpaid
26 had the false statement been undetected, and by imprisonment for not
27 less than 10 days nor more than one year.

28 * Sec. 6. AS 42.06.140 is amended by adding a new paragraph to read:

29 (ll) shall provide all reasonable assistance to the

1 Department of Revenue in determining the net income from oil pipeline
2 facilities.

3 * Sec. 7. AS 42.06 is amended by adding a new section to read:

4 Sec. 42.06.041. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE.

5 (a) Upon request of a pipeline carrier the commission shall review the
6 accounts of that carrier and provide a certification to the Department
7 of Revenue either stating that to the best of the commission's knowledge
8 and belief the report of net pipeline income submitted by the carrier
9 under AS 43.20.069 is in accordance with the commission's regulations
10 governing the accounting of income, or that it is not so in accordance,
11 in which case the commission shall identify the deficiencies in the
12 report and, if possible, provide a reporting of the true and correct in-
13 come.

14 (b) The commission shall provide the certification of compliance
15 or deficiency in reporting within 45 days of the date on which the pipe-
16 line carrier requests it, but all certifications remain subject to
17 amendment by the commission for a period of three years after the due
18 date of the tax return which they accompany.

19 (c) The commission may by regulation establish accounting pro-
20 cedures and definitions as may be necessary to define net income for tax
21 purposes, but net income so defined shall coincide as nearly as possible
22 with the net income definition used by the commission in establishing
23 rates and measuring rate of return, and shall be derived before any
24 deductions for income taxes accrued or paid.

25 * Sec. 8. AS 42.05.141 is amended to read:

26 Sec. 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. The
27 Alaska Public Utilities Commission [MAY]

28 (1) may regulate every public utility engaged or proposing to
29 engage in such a business inside the state, except to the extent

1 exempted by sec. 711 of this chapter and the powers of the commission
2 shall be liberally construed to accomplish its stated purposes;

3 (2) may investigate, upon complaint or upon its own motion,
4 the rates, classifications, rules, regulations, practices, services and
5 facilities of a public utility and hold hearings on them;

6 (3) may make or require just, fair and reasonable rates,
7 classifications, regulations, practices, services and facilities for a
8 public utility;

9 (4) may prescribe the system of accounts and regulate the
10 service and safety of operations of a public utility;

11 (5) may require a public utility to file reports and other
12 information and data;

13 (6) may appear personally or by counsel and represent the
14 interests and welfare of the state in all matters and proceedings in-
15 volving a public utility pending before an officer, department, board,
16 commission or court of the state or of another state or the United
17 States and to intervene in, protest, resist, or advocate the granting,
18 denial or modification of any petition, application, complaint or other
19 proceeding;

20 (7) may examine witnesses and offer evidence in any proceed-
21 ing affecting the state and initiate or participate in judicial pro-
22 ceedings to the extent necessary to protect and promote the interests of
23 the state;

24 (8) shall provide all reasonable assistance to the Department
25 of Revenue in determining the net income from natural gas pipeline
26 facilities.

27 * Sec. 9. AS 42.05 is amended by adding a new section to read:

28 Sec. 42.05.502. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE.

29 (a) Upon request of a pipeline carrier the commission shall review the

1 accounts of that carrier and provide a certification to the Department
2 of Revenue either stating that to the best of the commission's knowledge
3 and belief the report of net pipeline income submitted by the carrier
4 under AS 43.20.069 is in accordance with the commission's regulations
5 governing the accounting of income, or that it is not so in accordance,
6 in which case the commission shall identify the deficiencies in the
7 report and, if possible, provide a reporting of the true and correct
8 income.

9 (b) The commission shall provide the certification of compliance
10 or deficiency in reporting within 45 days of the date on which the pipe-
11 line carrier requests it, but all certifications remain subject to
12 amendment by the commission for a period of three years after the due
13 date of the tax return which they accompany.

14 (c) The commission may by regulation establish accounting proce-
15 dures and definitions as may be necessary to define net income for tax
16 purposes, but net income so defined shall coincide as nearly as possible
17 with the net income definition used by the commission in establishing
18 rates and measuring rate of return, and shall be derived before any
19 deductions for income taxes accrued or paid.

20 * Sec. 10. This Act relates only to income earned or received after
21 December 31, 1976.

22 * Sec. 11. This Act takes effect January 1, 1978.
23
24
25
26
27
28
29

105

Introduced: 1/31/77
Referred: Resources and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
COUNCIL (for the Subcommittee
on Oil and Gas Leasing and
Taxing Policies)

1 IN THE SENATE

2 SENATE BILL NO. 105

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska net income tax; and
7 providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and
10 declares that the method of apportioning income for tax purposes under the
11 "Uniform Division of Income for Tax Purposes" formula embodied in the Multi-
12 State Tax Compact (AS 43.19) and AS 43.20.065 does not fairly represent the
13 extent of the business activities in this state of multi-state corporations
14 engaged in the production and pipeline transportation of crude oil and
15 natural gas in Alaska. The legislature therefore intends that the provisions
16 of section 18 of article IV of the Multi-State Tax Compact (AS 43.19) which
17 allow separate accounting of income shall be adopted for the determination of
18 corporate income tax liability on income derived from the production and
19 pipeline transportation of oil and gas and related activities. The legisla-
20 ture further intends that separate accounting shall result in the assessment
21 of tax against multi-state corporations so that the tax paid by these cor-
22 porations will be commensurate with the tax that would be paid by corporation
23 owning and operating only the Alaskan assets of these multi-state corpora-
24 tions.

25 * Sec. 2. AS 43.20.011 is amended by adding a new subsection to read:

26 (f) For purposes of determining taxable income under (e) of this
27 section that part of income of any corporation derived in Alaska from
28 oil or natural gas production or the transportation of crude oil or
29 natural gas by pipeline, including income from royalties on oil and gas

1 production, shall, notwithstanding sec. 65 of this chapter, be deter-
2 mined by separate accounting in accordance with section 18 of article IV
3 of the Multi-State Compact (AS 43.19.010) and secs. 12 - 14 of this
4 chapter.

5 * Sec. 3. AS 43.20 is amended by adding new sections to read:

6 Sec. 43.20.012. DETERMINATION OF OIL AND NATURAL GAS PRODUCTION
7 INCOME. (a) The determination of taxable income attributable to oil
8 and natural gas production, as required under secs. 11(e) and (f) of
9 this chapter, shall be based on a separate accounting of costs and
10 revenues associated with the production.

11 (b) Gross revenue from oil and gas production shall be the well-
12 head value as established for purposes of the oil and gas properties
13 production tax, in accordance with the provisions of ch. 55 of this
14 title.

15 (c) Deductions from gross revenue for the purposes of determining
16 taxable production income shall include:

17 (1) royalties actually paid whether in kind or in value;

18 (2) severance taxes actually paid;

19 (3) property taxes actually paid by the corporation taxpayer
20 on the producing property and the facilities directly associated with
21 it, including facilities for the gathering, treating and preparing of
22 the oil or gas for shipment;

23 (4) the costs incurred by the corporation taxpayer in opera-
24 ting the oil or gas field, including the costs of gathering, treating
25 and preparing the oil or gas for shipment, but net of any payments
26 received for those services;

27 (5) depreciation on investments which are associated with the
28 production, gathering, treating and preparing for shipment of the oil or
29 gas, and which are located in or adjacent to the site of production, in-

1 cluding depreciation on capitalized interest, lease acquisition payments
2 and property taxes paid before the commencement of production on the
3 leasehold, facilities or investment associated with it;

4 (6) interest expense not capitalized and capitalizable, to
5 the extent that it does not exceed a portion of total interest paid by
6 the corporation, its subsidiaries and affiliates, determined by multi-
7 plying total interest paid by a fraction, the numerator of which is the
8 book value of the corporation's fixed assets in and associated with the
9 field, and the denominator of which is the book value of all fixed
10 assets held by the corporation, its subsidiaries and affiliates;

11 (7) expenses incurred after December 31, 1976 of unsuccessful
12 exploration efforts for oil and gas in Alaska, including the acquisition
13 costs of properties abandoned, dry hole costs, and the costs of geologic
14 and geophysical exploration on or related to those properties.

15 (d) The department shall establish regulations covering the calcu-
16 lation of depreciation costs, the allocation of interest costs, the
17 definition of facilities associated with the production, gathering,
18 treating and preparing for shipment of oil and gas, and other matters
19 necessary to implement this section.

20 Sec. 43.20.013. DETERMINATION OF CRUDE OIL AND NATURAL GAS PIPE-
21 LINE TRANSPORTATION INCOME. (a) Except as provided in (b) and (c) of
22 this section, annual taxable income from the pipeline transportation of
23 crude oil in Alaska in interstate commerce in facilities devoted wholly
24 to interstate commerce shall be eight per cent of the valuation of the
25 pipeline facility as determined by or in accordance with principles
26 established by the Interstate Commerce Commission (ICC).

27 (b) If no ICC valuation has been made of an interstate oil pipe-
28 line facility or if the oil pipeline facilities are engaged wholly or
29 partially in intrastate commerce, net income shall be determined in

1 accordance with regulations established by the Alaska Pipeline Commis-
2 sion under AS 42.06.041. A tax return reporting this income shall be
3 accompanied by a certification from the Alaska Pipeline Commission to
4 the effect that to the best of the commission's knowledge and belief the
5 income calculation has been made in accordance with the principles
6 established in regulations adopted by the commission, or, if the income
7 is not, in the opinion of the commission, reported in accordance with
8 its regulations, then a statement to that effect, identifying the
9 deficiencies in the report and, if possible, providing a reporting of
10 the true and correct income.

11 (c) A corporation operating an oil pipeline facility engaged
12 solely in interstate commerce may elect to have the taxable income from
13 that facility determined in accordance with (b) of this section, rather
14 than (a) of this section if it complies with all applicable regulations
15 and orders of the Alaska Pipeline Commission concerning accounting
16 methods and reports, and properly files all reports or other information
17 required by Alaska Pipeline Commission regulations.

18 (d) A corporation's taxable income from the transportation of
19 natural gas shall be determined for interstate natural gas pipelines in
20 conformance with the reporting procedures established by the Federal
21 Power Commission, and for intrastate pipelines in conformance with pro-
22 cedures established by the Alaska Public Utilities Commission. A tax
23 return reporting income from the intrastate transportation of natural
24 gas by pipeline shall be accompanied by a certification from the Alaska
25 Public Utilities Commission to the effect that to the best of the com-
26 mission's knowledge and belief the income calculation has been made in
27 accordance with the principles established in regulations adopted by the
28 commission, or, if the income is not, in the opinion of the commission,
29 reported in accordance with its regulations, then a statement to that

1 effect, identifying the deficiencies in the report and, if possible,
2 providing a reporting of the true and correct income.

3 (e) The certifications of the Alaska Pipeline Commission and the
4 Alaska Public Utilities Commission submitted in accordance with this
5 section shall not prejudice any future action by the respective commis-
6 sion nor shall it prevent the respective commission from submitting a
7 revised certification within three years of the due date of the tax
8 return in support of which it was originally filed.

9 (f) Nothing in this section or in sec. 12 of this chapter shall
10 limit a corporate taxpayer's right to appeal or the taxpayer remedies
11 provided under ch. 5 of this title.

12 Sec. 43.20.014. DETERMINATION OF INCOME FROM OTHER ACTIVITIES OF
13 CORPORATIONS ENGAGED IN OIL OR NATURAL GAS PRODUCTION OR TRANSPORTATION.
14 Taxable income from activities other than oil or natural gas production
15 or pipeline transportation shall be determined by subtracting the income
16 as determined under secs. 12 and 13 of this chapter from the corpora-
17 tion's consolidated net income and applying the allocation formula
18 required under the provisions of sec. 65 of this chapter, except that
19 the property factor and the payroll factor shall be calculated without
20 reference to payroll or property related to production or pipeline
21 transportation activity the income from which is taxable in accordance
22 with secs. 12 and 13 of this chapter.

23 Sec. 43.20.015. PUBLIC REPORTING. Notwithstanding the provisions
24 of AS 43.05.230, the commissioner of revenue shall compile and transmit
25 to the legislature an annual consolidated report of state revenues and
26 taxation policies under this chapter. This report shall include total
27 Alaska income tax paid by firms and individuals covered under this
28 chapter, itemized deductions by category and the tax cost of these de-
29 ductions. For purposes of this section, "tax cost" means the amount of

1 revenue which the state would have collected had not a specific deduc-
2 tion been allowed. Also included in the report shall be a summary of
3 each corporate tax return filed which shows income from the production
4 of oil or natural gas, showing the total amount of oil and gas produced
5 by or for each taxpayer, the taxable income of the corporation from
6 production as reported in accordance with sec. 12 of this chapter, from
7 pipeline transportation as reported in accordance with sec. 13 of this
8 chapter, from other income allocated to the state under sec. 14 of this
9 chapter, and the tax due.

10 * Sec. 4. AS 43.20.330 is amended by adding new subsections to read:

11 (f) Any person who improperly influences, or attempts to improper-
12 ly influence, by means of payment or offer of payment or other valuable
13 consideration, any state official in his determination of values and
14 apportionments under this chapter shall be guilty of bribery and punish-
15 able under AS 11.30.040.

16 (g) Any person who knowingly and wilfully makes false statements
17 or representations, or who knowingly allows false statements or repre-
18 sentations to be made on his behalf in the case of corporations, with a
19 purpose of avoiding the corporate tax imposed under this chapter is
20 guilty of wilful tax avoidance and is punishable upon conviction by a
21 fine of three times the amount of the tax that would have been unpaid
22 had the false statement been undetected, and by imprisonment for not
23 less than 10 days nor more than one year.

24 * Sec. 5. AS 42.06.140 is amended by adding a new paragraph to read:

25 (11) shall provide all reasonable assistance to the Depart-
26 ment of Revenue in determining the net income from oil pipeline facili-
27 ties.

28 * Sec. 6. AS 42.06 is amended by adding a new section to read:

29 Sec. 42.06.041. CERTIFICATION OF INCOME TO DEPARTMENT OF REVENUE.

1 (a) Upon request of a pipeline carrier the commission shall review the
2 accounts of that carrier and provide a certification to the Department
3 of Revenue either stating that to the best of the commission's knowledge
4 and belief the report of net pipeline income submitted by the carrier
5 under AS 43.20.013 is in accordance with the commission's regulations
6 governing the accounting of income, or that it is not so in accordance,
7 in which case the commission shall identify the deficiencies in the
8 report and, if possible, provide a reporting of the true and correct in-
9 come.

10 (b) The commission shall provide the certification of compliance
11 or deficiency in reporting within 45 days of the date on which the pipe-
12 line carrier requests it, but all certifications remain subject to
13 amendment by the commission for a period of three years after the due
14 date of the tax return which they accompany.

15 (c) The commission may by regulation establish accounting pro-
16 cedures and definitions as may be necessary to define net income for tax
17 purposes, but net income so defined shall coincide as nearly as possible
18 with the net income definition used by the commission in establishing
19 rates and measuring rate of return, and shall be derived before any
20 deductions for ~~income taxes~~ accrued or paid.

21 * Sec. 7. AS 42.05.141 is amended to read:

22 Sec. 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. The
23 Alaska Public Utilities Commission [MAY]

24 (1) may regulate every public utility engaged or proposing to
25 engage in such a business inside the state, except to the extent ex-
26 cepted by sec. 711 of this chapter and the powers of the commission
27 shall be liberally construed to accomplish its stated purposes;

28 (2) may investigate, upon complaint or upon its own motion,
29 the rates, classifications, rules, regulations, practices, services and
30

1 facilities of a public utility and hold hearings on them;

2 (3) may make or require just, fair and reasonable rates,
3 classifications, regulations, practices, services and facilities for a
4 public utility;

5 (4) may prescribe the system of accounts and regulate the
6 service and safety of operations of a public utility;

7 (5) may require a public utility to file reports and other
8 information and data;

9 (6) may appear personally or by counsel and represent the
10 interests and welfare of the state in all matters and proceedings in-
11 volving a public utility pending before an officer, department, board,
12 commission or court of the state or of another state or the United
13 States and to intervene in, protest, resist, or advocate the granting,
14 denial or modification of any petition, application, complaint or other
15 proceeding;

16 (7) may examine witnesses and offer evidence in any proceed-
17 ing affecting the state and initiate or participate in judicial pro-
18 ceedings to the extent necessary to protect and promote the interests of
19 the state;

20 (8) shall provide all reasonable assistance to the Department
21 of Revenue in determining the net income from natural gas pipeline
22 facilities.

23 * Sec. 8. AS 42.05 is amended by adding a new section to read:

24 Sec. AS 42.05.302. CERTIFICATION OF INCOME TO DEPARTMENT OF
25 REVENUE. (a) Upon request of a pipeline carrier the commission shall
26 review the accounts of that carrier and provide a certification to the
27 Department of Revenue either stating that to the best of the commission's
28 knowledge and belief the report of net pipeline income submitted by the
29 carrier under AS 43.20.013 is in accordance with the commission's regu-

1 lations governing the accounting of income, or that it is not so in
2 accordance, in which case the commission shall identify the deficiencies
3 in the report and, if possible, provide a reporting of the true and
4 correct income.

5 (b) The commission shall provide the certification of compliance
6 or deficiency in reporting within 45 days of the date on which the pipe-
7 line carrier requests it, but all certifications remain subject to
8 amendment by the commission for a period of three years after the due
9 date of the tax return which they accompany.

10 (c) The commission may by regulation establish accounting proce-
11 dures and definitions as may be necessary to define net income for tax
12 purposes, but net income so defined shall coincide as nearly as possible
13 with the net income definition used by the commission in establishing
14 rates and measuring rate of return, and shall be derived before any
15 deductions for income taxes accrued or paid.

16 * Sec. 9. This Act relates only to income earned or received after
17 December 31, 1976.

18 * Sec. 10. This Act takes effect January 1, 1978.
19
20
21
22
23
24
25
26
27
28
29

ALASKA STATE LEGISLATURE

TENTH Legislature FIRST Session

SENATE BILL NO. 105

By THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Subcommittee on Oil and Gas Leasing and Taxing Policies)

"An Act relating to the Alaska net income tax; and providing for an effective date."

Alaska net income tax

Introduced in the Senate 1/31/77

HISTORY IN THE SENATE

19 77
1 31 Read first time and referred to Committee on Resources and Finance

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by President
Sent to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19 Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by Speaker
Returned to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19 Received from House

Reported correctly enrolled

Sent to Governor

By Governor

Filed with U.S. Governor

Chapter No.

Make a sufficient
number of copies
for committee -
file all copies
in original bill
file,

John

STATE OF ALABAMA

JAY S. McMONAGH, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

FOLIO 4 JANUARY 1911

Summary of the Proposed Committee
Substitute for House Bill 322

This proposal contains provisions of both the original House Bill 322 as introduced by the Governor and the Senate Committee Substitute for House Bill 322. It represents a compromise between the two versions which retains in large part the concept of separate accounting approach to assessing oil and gas production and pipeline transportation income, but works to avoid the problems of corporate manipulations and profit shifting by providing the state greater control in the determination of that income. It also contains elements of the original House Bill 322 for purposes of determining that portion of the income earned by oil and gas corporations from activities other than production and pipeline transportation.

DETERMINATION OF INCOME:

1. Oil and Gas Production

Production income is determined under a separate accounting method. That is, instead of taking worldwide income and apportioning that income to the state based upon a formula, the income in the state is determined directly by looking only at the income and expenses of the production activity in the state. This is done as is in the bill adopted by the Senate Revenue Committee by taking the well head value of total production as gross income and deducting a specified list of expenses to arrive at net income. The same list of deductions is retained except an allowance for general administrative expense or overhead is made.

The major change to the approach however is that the state plays a major role in the determination of the income by assessing the net income and tax due. This direct role by the state in assessing income will hopefully avoid the possibilities for profit shifting and other income manipulations.

2. Pipeline Transportation

Income from pipeline transportation is also determined on a separate accounting basis. As in the Senate Resources Committee substitute, the income is determined according to amounts reported to the Federal Energy Regulatory Commission.

This income is also assessed by the department.

3. Income from Activities other than Pipeline Transportation and Production

Income from activities other than production and pipeline transportation is determined under a formula approach after subtracting out production and pipeline transportation income.

First the world wide book income of the corporation is determined. From this amount is subtracted the income determined separately for production and pipeline transportation activities. The remaining net income is then apportioned using the present uniform formula of property, payroll and sales. Since production and pipeline transportation income are determined separately that portion of property, payroll and sales attributable to these activities in Alaska are subtracted from the numerators and denominators of the apportionment formula. What remains in the formula is just the elements of property, payroll and sales attributable to other activities.

In addition the proposal would adjust the apportionment formula to take account of GCS activity.

PUBLIC REPORTING AND LEGISLATIVE OVERSIGHT

As in the Senate Resources Committee Substitute, annual reporting of aggregate income and expense statistics is provided for. In addition, the proposed substitute provides for an annual review of the department's assessment actions by the legislative auditor with an annual report to the legislature.

ASSESSMENT

This proposal differs from the Senate Resources Committee Substitute in that the department is provided more control in the determination of income. This is done to help avoid profit shifting and other manipulations of income. Thus the authority is given to the department to assess directly the income taxable under the proposed statute. The resulting income that would be assessed is then taxed at the standard corporate income tax rate of 24 percent.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
3700 WASHINGTON
NORTH SPOKANE

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 31, 1978

SUBJECT: FY 79 Revenue Impact of Proposed Income Tax Legislation
(CSHB 322, CSSB 105)

TO: The Honorable John Sackett

FROM: Gregg K. Erickson
Director of Research

Yesterday, we provided Judy Crondahl of your staff a copy of a March 31 memorandum to Senator Poland in which we indicated the revenue expected to be raised by the proposed oil and gas income tax legislation during FY 79 would be approximately \$227 million. We believe conditions that have developed since this memorandum was written, specifically the erosion of the West Coast oil price and the increased possibility of its collapse, requires revision of this estimate. FY 79 revenue under this bill now appears more likely to fall between \$150 million and \$200 million, with the most likely value in the neighborhood of \$185 million.

Of these monies, \$113 million would be raised by the corporate income tax on trans-Alaska pipeline income. This component is not subject to much uncertainty, since it is tied directly to figures submitted by the companies themselves to the Federal Energy Regulatory Commission (FERC), and the tax itself is keyed to these submissions. The tax revenue on pipeline income could be reduced if Alaska's position before FERC on pipeline tariffs were to be sustained, but this would result in more than offsetting increases in other revenues (most importantly, royalties).

The wellhead income figures, however, are much more uncertain. A collapse of the West Coast oil price could conceivably reduce the wellhead component of that income to as low as a dollar per barrel. In this event, companies would pay income taxes on their production operations of about \$43 million. Thus, the total income tax take under this legislation, assuming the collapse of the West Coast price, could be as low as \$150 million. A graph showing the recent erosion in the West Coast price is attached.

We do not believe that this is the most likely outcome, but believe it is important that the possibility of a West Coast price collapse be

Hon. John Sackett

-2-

May 31, 1978

considered. We have discussed these estimates with Deputy Commissioner of Revenue John Messenger, and understand that he has arrived independently at essentially the same estimates of FY 79 revenue under these bills.

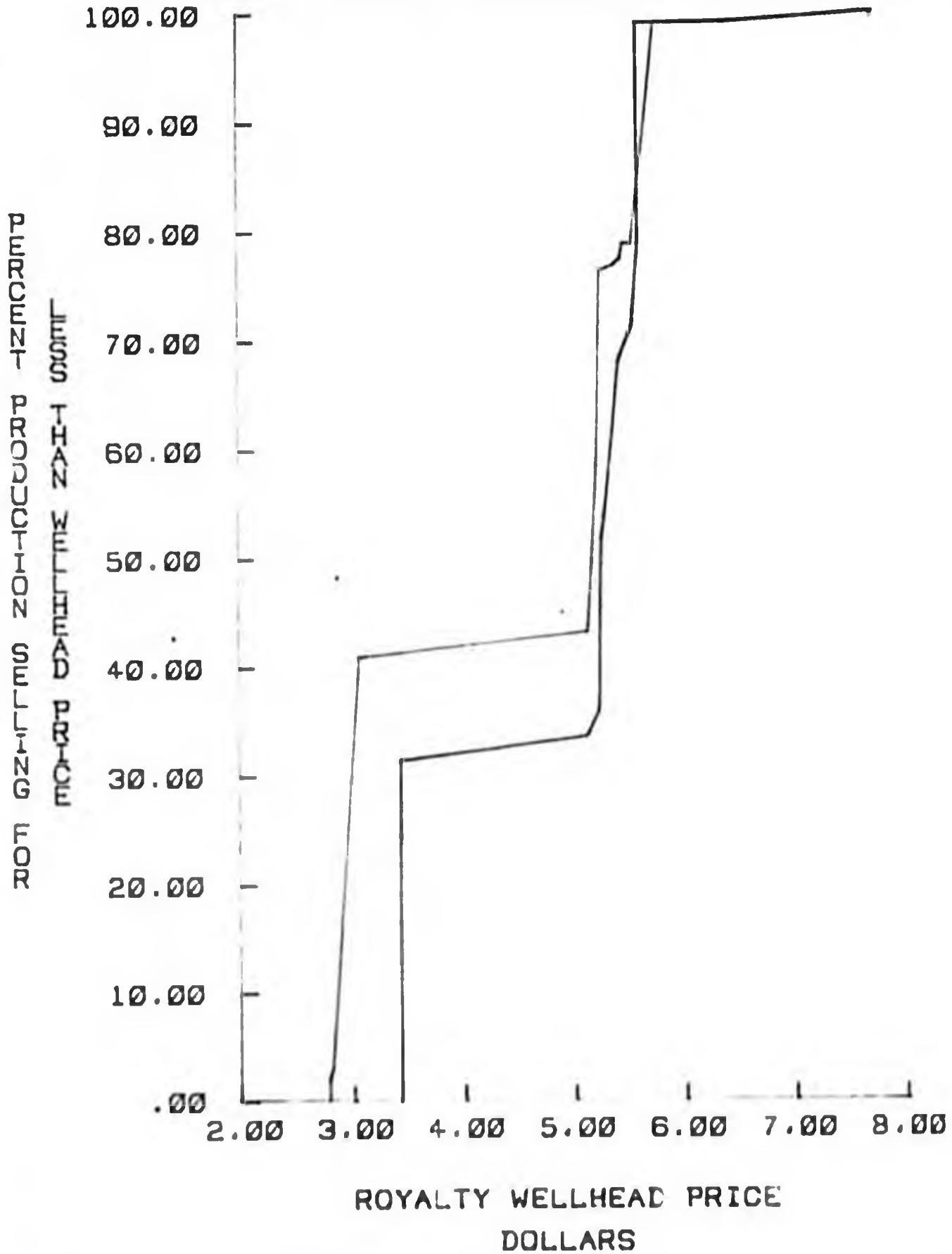
GKE:jm

Attachment

cc: The Honorable Chancy Croft
John Messenger

PRUDHOE BAY ANALYSIS

CUMULATIVE PERCENT PRODUCTION VS WELLHEAD PRICE




KEY: — MARCH — JANUARY

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

FOR THE SECRETARY
LEGISLATIVE AGENCY
330 S. STEWART

March 31, 1978

MEMORANDUM

SUBJECT: Impact of CS for CSIB 322 (Resources)
TO: The Honorable Kay Poland, Chairwoman
Senate Resources Committee
FROM: Richard G. Haggard 
Research Analyst

This memorandum is in response to your request that we prepare an analysis of the relative revenue impacts of CS for CSIB 322 (Resources) on the Prudhoe Bay producers, the State of Alaska and the federal government. Unless otherwise noted, estimates contained in this memorandum are based on figures contained in the Arthur Andersen & Co. report of January, 1978, entitled, "Prudhoe Bay Field and Trans-Alaska Pipeline System: Comparative State Tax Burden Study".

Table I attached shows the total division of Prudhoe Bay and pipeline income (after deduction of expenses) among the producers, the state and the federal government under both the existing state income tax law and under the proposed bill. Figures in Table I are for the period 1977-2001. The same information is presented graphically in Chart I attached.

Table II shows the relative impact of the proposed bill only in terms of producer revenues, and state and federal income taxes. Other state revenues from Prudhoe Bay and the pipeline are excluded. Again, this material is presented graphically in Chart II.

We estimate that adoption of the proposed changes in the income tax would generate approximately \$95.0 million in the remainder of FY 1978 (up from \$2.8 million estimated by the Department of Revenue under current law) and approximately \$227.0 million in FY 1979 (up from about \$22 million estimated by the Department for FY 1979).

RGH:dh
Attachments (4)

TABLE 1

Impact of Proposed CS for CS HB 322 (Resources)
On Relative Prudhoe Bay Net Revenue Shares
(\$ Millions)

	<u>Existing Statute</u>		<u>Proposed Substitute</u>		<u>Net Change</u>	
	<u>Net Revenues</u>	<u>Per Cent Share</u>	<u>Net Revenues</u>	<u>Per Cent Share</u>	<u>Change in Revenues</u>	<u>Per Cent Change in Revenues</u>
Companies	\$19,693	35.2%	\$17,570	33.2%	(\$2,023)	(10.2%)
State	\$17,088	32.3%	\$19,053	36.1%	+\$1,967	+11.5%
Federal Government	\$17,162	32.5%	\$16,218	30.7%	(\$944)	(5.5%)

Note: Based on Arthur Andersen & Co. report of January, 1978. State revenues include all royalties and taxes. Federal revenues are assumed to be 48% of pre-tax income after deduction of state income taxes. Net revenues to the companies is assumed to be pre-tax income less state and federal income taxes.

Figures in Table 1 are for the three largest oil producers in Prudhoe Bay (representing 83.7% of production) and for the four largest owners of the trans-Alaska pipeline system (representing about 80.1% of capacity).

Prepared by:

Legislative Affairs Agency
Research Division
31 March 1978

TABLE 11

Net Income Tax Liability in Prudhoe Bay Under Present
Tax Laws and Under Proposed CS for CS for HB 322 (Resources)
(\$ Thousands)

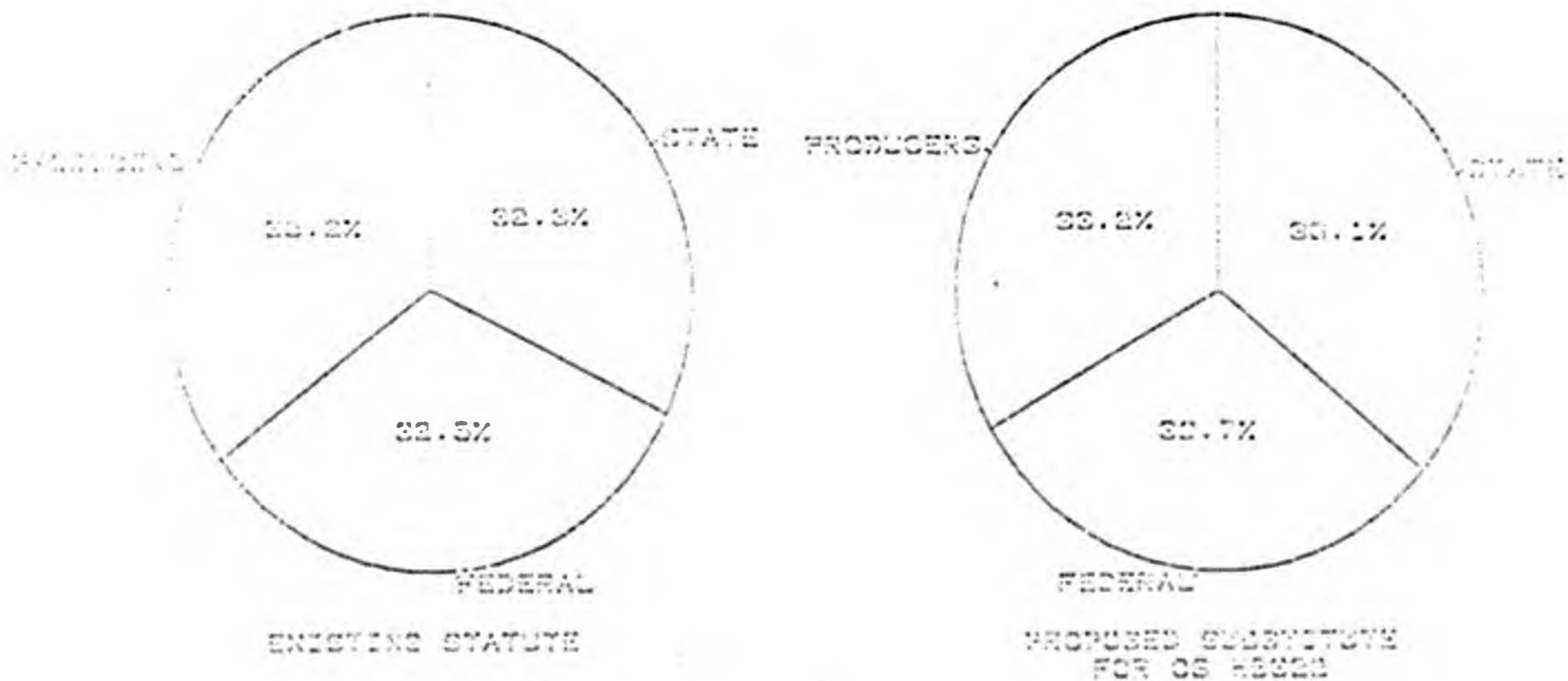
	<u>Pre-Tax Net</u>	<u>State Income Tax</u>	<u>Federal Income Tax</u>	<u>Total Income Tax</u>
Current State Income Tax ¹	\$37,294,000	\$1,539,000	\$17,162,000	\$18,701,000
Effective Rate on Pre-Tax	NA	4.1%	46%	50.1%
Income Tax Under Proposed Substitute ²	\$37,294,000	\$3,505,000	\$16,218,000	\$19,723,000
Effective Rate on Pre-Tax	NA	9.4%	43.5%	52.9%
Net Change in Liability ³	NA	+\$1,967,000	(\$944,000)	+\$1,023,000
Net Change in Rate	NA	+5.3%	(2.5%)	+1.8%

¹ Pre-tax net income and estimated state income taxes from Prudhoe Bay and the Trans-Alaska Pipeline system are taken from the Arthur Andersen & Co. report of January, 1978. Federal tax liability is assumed to be 46% of pre-tax after deduction of state income taxes. Total taxes are the sum of state and federal taxes.

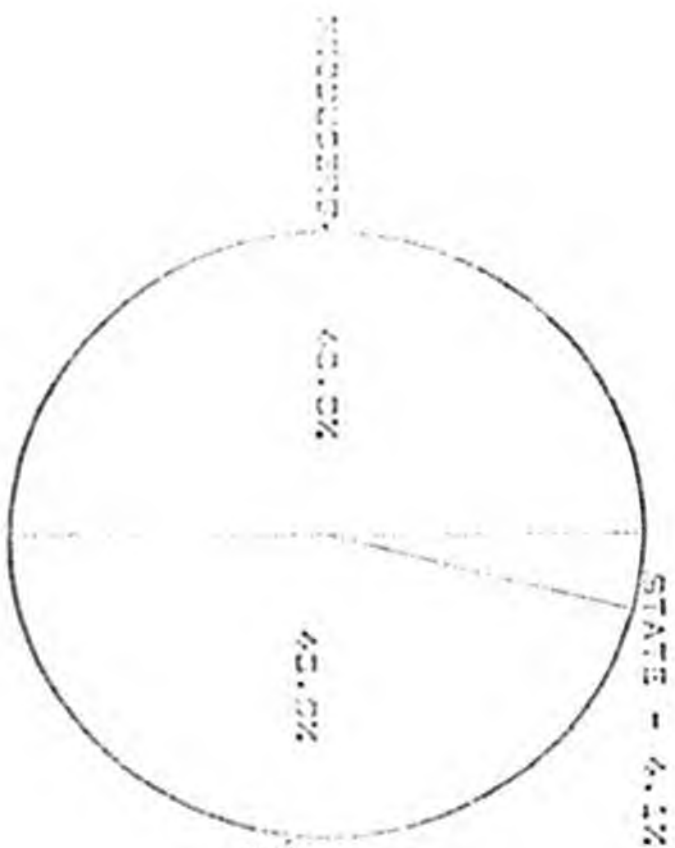
² Pre-tax net income is taken from the Arthur Andersen & Co. report of January, 1978. State income taxes were calculated as 9.4% of pre-tax net. Federal income taxes were assumed to be 43% of pre-tax after deduction of state income taxes. Total taxes are the sum of state and federal income taxes.

³ Net changes in tax liability represent the increase (or decrease) in tax liability for state, federal and total income taxes under the proposed substitute.

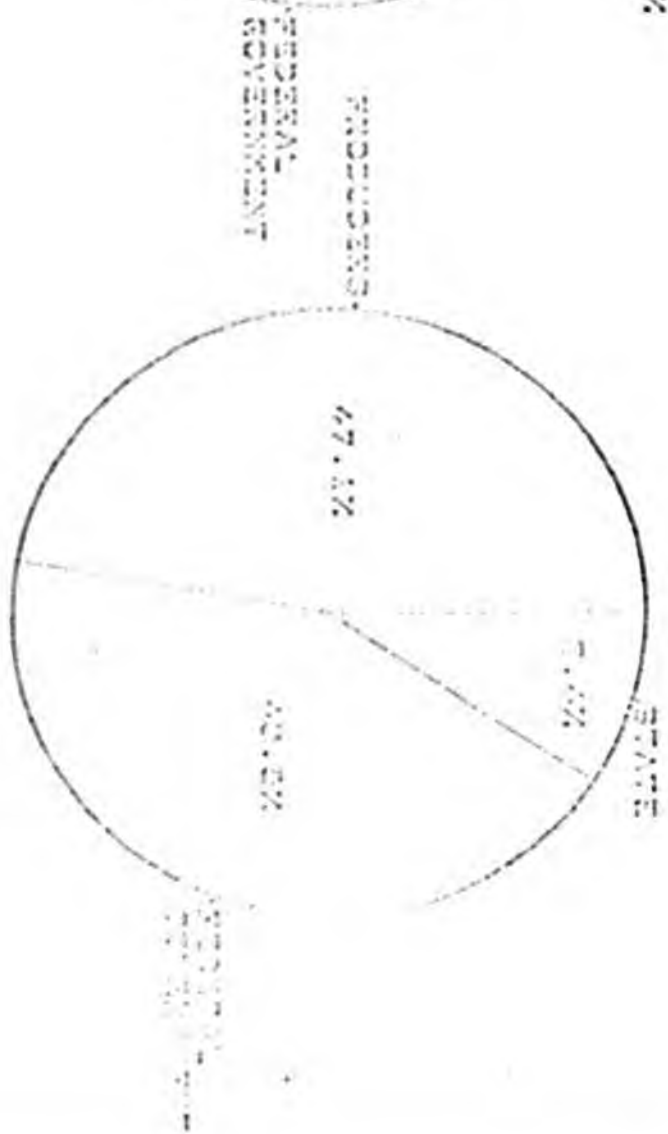
NET REVENUE SHARES



COMPARATIVE INCOME TAX BURDEN



EXISTING STATUTE



PROPOSED BURDEN FOR 1970

REGISTRATION FEE
REGISTRATION FEE
REGISTRATION FEE
REGISTRATION FEE
REGISTRATION FEE

OFFICE OF THE SECRETARY OF THE TREASURY
WASHINGTON, D. C.

DEPARTMENT OF THE TREASURY

Summary of the Proposed Committee
Substitute for House Bill 322

This proposal contains provisions of both the original House Bill 322 as introduced by the Governor and the Senate Committee Substitute for House Bill 322. It represents a compromise between the two versions which retains in large part the concept of separate accounting approach to assessing oil and gas production and pipeline transportation income, but works to avoid the problems of corporate manipulations and profit shifting by providing the state greater control in the determination of that income. It also contains elements of the original House Bill 322 for purposes of determining that portion of the income earned by oil and gas corporations from activities other than production and pipeline transportation.

DISTRIBUTION OF INCOME

1. Oil and Gas Production

Production income is determined with the separate accounting method. That is, instead of taking worldwide income and apportioning that income to the state based upon a formula, the income in the state is determined directly by looking only at the income and expenses of the particular activity in the state. This is done as is in the bill adopted by the Senate Finance Committee by taking the full book value of total production as gross income and deducting a specified list of expenses to arrive at net income. The same list of deductions is retained except an allowance for general administrative expenses is provided in the bill.

The major change to the approach makes is that the state plays a major role in the determination of the income by a separate list of income and expenses. This direct role by the state is considered a major step in fully exposing the production for profit shifting and other income manipulations.

2. Pipeline Transportation

Income from pipeline transportation is also determined on a separate accounting basis, as in the limited resources formula, substantially the same as a separate accounting, to be as reported to the Federal Energy Regulatory Commission.

This income is also assessed by the deposit act.

3. Income from Activities other than Pipeline Transportation and Production

Income from activities other than production and pipeline transportation is determined under a formula approach after subtracting out production and pipeline transportation income.

First the world wide book income of the corporation is determined. From this amount is subtracted the income determined separately for production and pipeline transportation activities. The remaining net income is then apportioned using the present uniform formula of property, payroll and sales. Since production and pipeline transportation income are determined separately that portion of property, payroll and sales attributable to these activities in Alaska are subtracted from the generation and development of the apportionment formula. What remains in the formula is just the element of property, payroll and sales attributable to other activities.

In addition the proposed should adjust the apportionment formula to take account of this activity.

PUBLIC BENEFIT AND DEBITABLE OVERSIGHT

As in the Senate Departmental Committee report, annual reporting of approximate income and expense data is provided for. In addition, the proposed includes provisions for an annual review of the deposit act's impact and actions by the legislative auditor with an annual report to the Legislature.

REMARKS

This proposal differs from the Senate Departmental Committee report in that the deposit act is provided more control in the determination of income. This is done to help avoid profit shifting and other manipulative actions. Thus the difficulty is given to the deposit act to provide directly the income formula under the proposed statute. The resulting income that would be assessed is based at the standard corporate income tax rate of 34 percent.

15-100

OFFICE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 31, 1978

SUBJECT: FY 79 Revenue Impact of Proposed Income Tax Legislation
(CSHB 322, CSSB 105)

TO: The Honorable John Sacrett

FROM: Gregg K. Erickson
Director of Research

Yesterday, we provided Judy Cronahl of your staff a copy of a March 31 memorandum to Senator Poland in which we indicated the revenue expected to be raised by the proposed oil and gas income tax legislation during FY 79 would be approximately \$227 million. We believe conditions that have developed since this memorandum was written, specifically the erosion of the West Coast oil price and the increased possibility of its collapse, requires revision of this estimate. FY 79 revenue under this bill now appears more likely to fall between \$150 million and \$200 million, with the most likely value in the neighborhood of \$185 million.

Of these monies, \$113 million would be raised by the corporate income tax on trans-Alaska pipeline income. This component is not subject to much uncertainty, since it is tied directly to figures submitted by the companies themselves to the Federal Energy Regulatory Commission (FERC), and the tax itself is levied to those companies. The tax revenue on pipeline income could be reduced if Alaska's position before FERC on pipeline tariffs were to be sustained, but this would result in more than offsetting increases in other revenues (most importantly, royalties).

The wild card in our figures, however, are such more uncertain. A collapse of the West Coast oil price could essentially reduce the contribution of that income to as low as a dollar per barrel. In this event, oil companies would pay lower taxes on their production operations of about \$30 million. Thus, the total income tax take under this legislation, assuming the collapse of the West Coast price, could be as low as \$150 million. A graph showing the current erosion in the West Coast price is attached.

We do not believe that this is the most likely outcome, but it is important that the possibility of a West Coast price collapse

considered. We have discussed these estimates with Eugene C. Dickinson
of Revenue John Messenger, and understand that he has arrived independently
at essentially the same estimates of FY 79 revenue under these bills.

GKF:jri

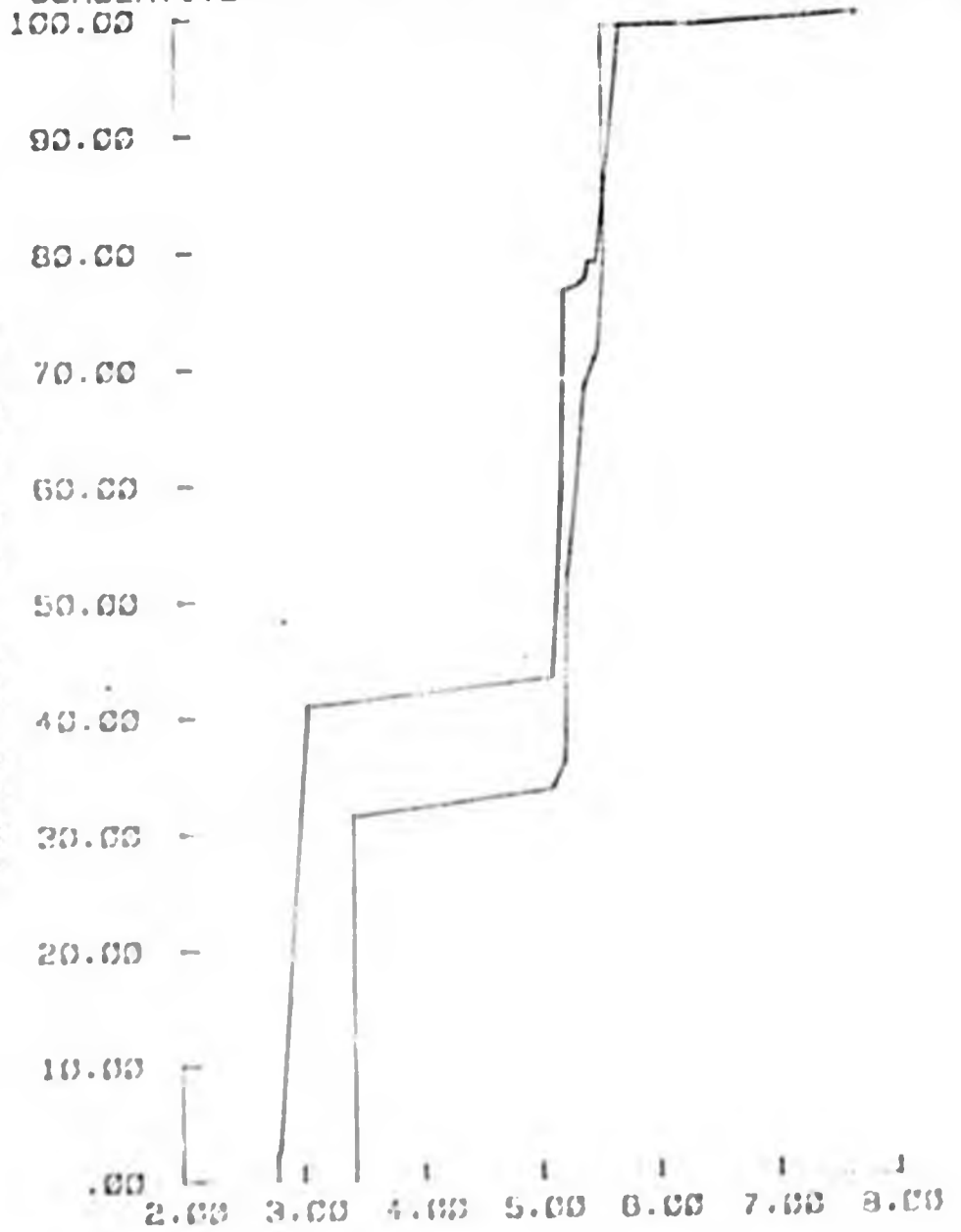
Attachment

cc: The Honorable Clancy Croft
John Messenger

PRUDHOE BAY ANALYSIS

CUMULATIVE PERCENT PRODUCTION VS WELLHEAD PRICE

PERCENT PRODUCTION FOR
WELLHEAD PRICES
LOWER THAN



ROYALTY WELLHEAD PRICE
DOLLARS

KEY: — MARCH - - - JANUARY

March 31, 1978

This report is in response to your request that we prepare an analysis of the relative effects of CS for CMA 322 (Resources) on the Prudhoe Bay producers, the State of Alaska and the Federal Government. Unless otherwise noted, estimates contained in this report are based on figures contained in the Arthur Andersen & Co. report of January, 1978, entitled, "Prudhoe Bay Field and Trans-Alaska Pipeline System: Comparative State Tax Burden Study".

Table 1 attached shows the total division of Prudhoe Bay and pipeline income (after deduction of expenses) among the producers, the state and the federal government and compares the existing state income tax and under the proposed bill. Figures in Table 1 are for the period 1977-2001. The same information is presented graphically in Chart 1 attached. Table 2 shows the relative effect of the proposed bill only in terms of producer revenues, and state and federal income taxes. Other state revenues, the Prudhoe Bay and the pipeline are excluded. Again, this material is presented graphically in Chart 2.

To estimate the effect of the proposed changes in state income tax would require a study of the effect in the state of 1978 (up from \$2.5 billion in 1977) and the effect in 1978 (up from about \$2.5 billion in 1977) by the state of 1978.

FROM: Richard G. Haggert, Research Analyst
TO: The Honorable Jay Byrd, Chairman, Senate Resources Committee
SUBJECT: Impact of CS for CMA 322 (Resources)

MEMORANDUM

March 31, 1978

LEGISLATIVE / FINANCE AGENCY

OFFICE OF THE CLERK
LEGISLATIVE / FINANCE AGENCY

TABLE I

Impact of Proposed CS for CS HB 322 (Resources)
On Relative Prudhoe Bay Net Revenue Shares
(\$ Millions)

	<u>Existing Statute</u>		<u>Proposed Substitute</u>		<u>Net Change</u>	
	<u>Net Revenues</u>	<u>Per Cent Share</u>	<u>Net Revenues</u>	<u>Per Cent Share</u>	<u>Change in Revenues</u>	<u>Per Cent Change in Revenues</u>
Companies	\$18,393	35.2%	\$17,570	33.2%	(\$823)	(4.5%)
State	\$17,036	32.3%	\$19,053	36.1%	+\$1,997	+11.7%
Federal Government	\$17,162	32.5%	\$16,218	30.7%	(\$944)	(5.5%)

Note: Based on Arthur Anderson & Co. report of January, 1978. State revenues include all royalties and taxes. Federal revenues are assumed to be 48% of pre-tax income after reduction of state income taxes. Net revenues to the companies is assumed to be pre-tax income less state and federal income taxes.

Figures in Table I are for the three largest oil producers in Prudhoe Bay (representing 33.7% of net revenues) and for the four largest owners of the trans-Alaska pipeline system (representing about 10.1% of net revenues).

Prepared by:

Legislative Affairs Branch
Research Division
31 March 1978

TABLE II

Pre-Tax Net Income Tax Liability in Prudhoe Bay Under Present
Tax Law and Under Proposed 10% for US for 1977 (Revisions)
(\$ Thousands)

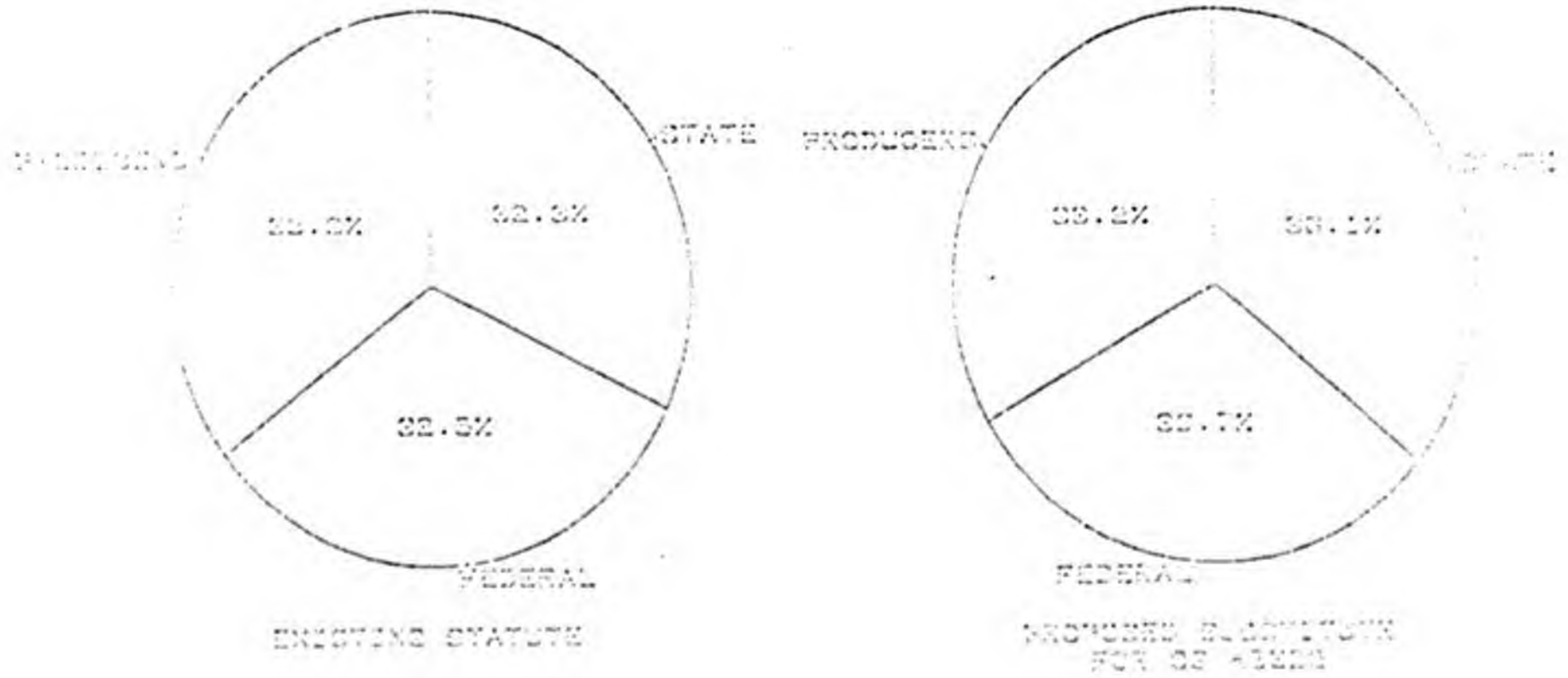
	Pre-Tax Net	State Income Tax	Federal Income Tax	Total Income Tax
Current State Income Tax ¹	\$37,294,000	\$1,539,000	\$17,162,000	\$18,701,000
Effective Rate on Pre-Tax	NA	4.1%	46%	50.1%
Income Tax Under Proposed Substitute ²	\$37,294,000	\$3,505,000	\$16,218,000	\$19,723,000
Effective Rate on Pre-Tax	NA	9.4%	43.5%	52.9%
Net Change in Liability ³	NA	+\$1,967,000	(\$944,000)	+\$1,023,000
Net Change in Rate	NA	15.3%	(2.5%)	4.8%

¹ Pre-tax net income and estimated state income taxes for Prudhoe Bay and the Trans-Alaska Pipeline system are taken from the Arthur Andersen & Co. report of January, 1976. Federal tax liability is assumed to be 46% of pre-tax after deduction of state income taxes. Total taxes are the sum of state and federal taxes.

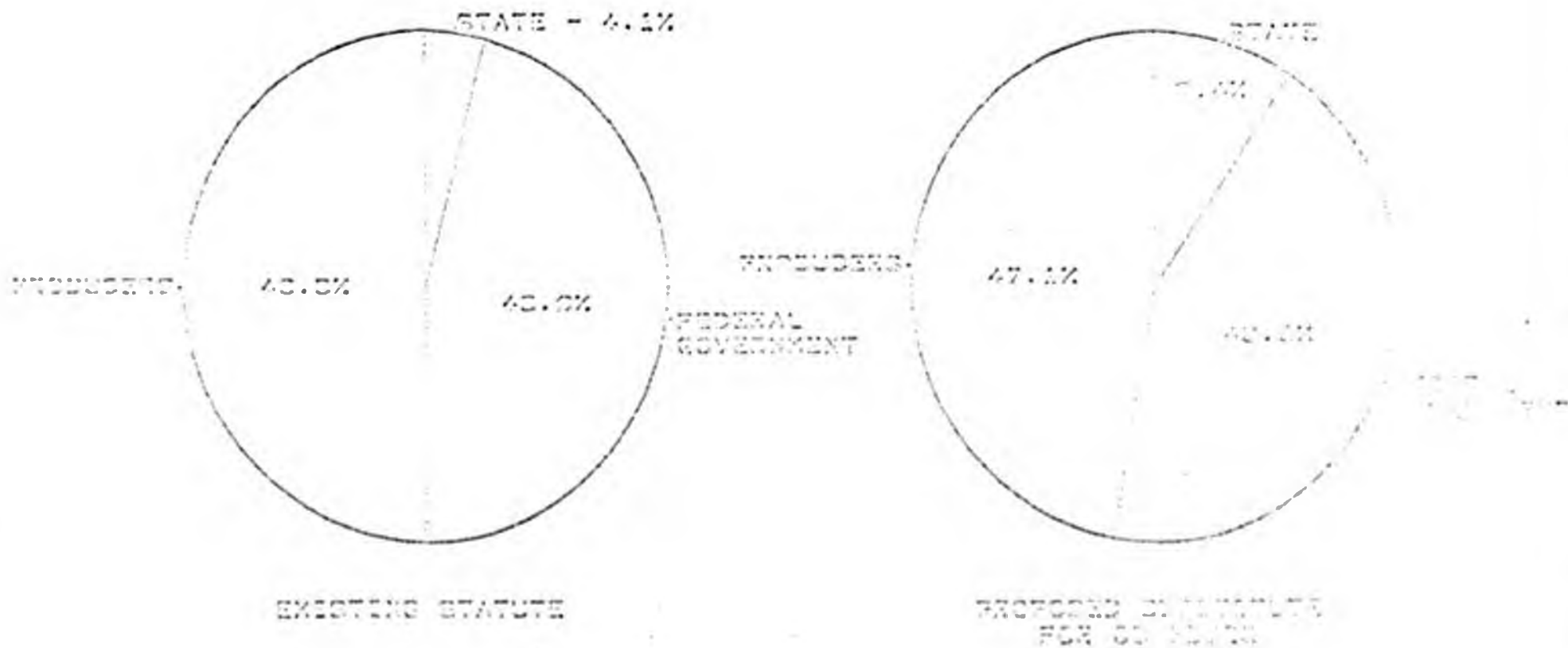
² Pre-tax net income is taken from the Arthur Andersen & Co. report of January, 1976. State income taxes were calculated at 9.4% of pre-tax net. Federal income taxes were assumed to be 43% of pre-tax after deduction of state income taxes. Total taxes are the sum of state and federal income taxes.

³ Net change in tax liability represents the increase (or decrease) in tax liability for state, federal and total income taxes under the proposed substitute.

NET REVENUE SHARES



COMPARATIVE INCOME TAX BURDEN



Prepared by the Bureau of Economic Warfare
Washington, D. C.
1954

STATE OF KANSAS

1957 LEGISLATIVE

DEPARTMENT OF REVENUE

COMMUNICATIONS SECTION

Summary of the Proposed Committee
Substitute for House Bill 322

This proposal contains provisions of both the original House Bill 322 as introduced by the Governor and the Senate Committee Substitute for House Bill 322. It represents a compromise between the two versions which retains in large part the concept of separate accounting approach to assessing oil and gas production and pipeline transportation income, but works to avoid the problems of corporate manipulations and profit shifting by providing the state greater control in the determination of that income. It also contains elements of the original House Bill 322 for purposes of determining that portion of the income earned by oil and gas corporations from activities other than production and pipeline transportation.

DETERMINATION OF INCOME

1. Oil and Gas Production

Production income is determined under a separate accounting method. That is, instead of taking worldwide income and apportioning that income to the state based upon a formula, the income in the state is determined directly by looking only at the income and expenses of the production activity in the state. This is done as is in the bill adopted by the Senate Revenue Committee by taking the well head value of total production as gross income and deducting a specified list of expenses to arrive at net income. The same list of deductions is retained except an allowance for general administrative expense or overhead is made.

The major change to the approach however is that the state plays a major role in the determination of the income by increasing the net income and tax due. This direct role by the state in assessing income will hopefully avoid the possibilities for profit shifting and other income manipulations.

2. Pipeline Transportation

Income from pipeline transportation is also determined on a separate accounting basis. As in the Senate Resources Committee substitute, the income is determined according to accounts reported to the Federal Energy Regulatory Commission.

This income is also assessed by the department.

3. Income from Activities other than Pipeline Transportation and Production

Income from activities other than production and pipeline transportation is determined under a formula approach after subtracting out production and pipeline transportation income.

First the world wide book income of the corporation is determined. From this amount is subtracted the income determined separately for production and pipeline transportation activities. The remaining net income is then apportioned using the present uniform formula of property, payroll and sales. Since production and pipeline transportation income are determined separately that portion of property, payroll and sales attributable to these activities in Alaska are subtracted from the numerators and denominators of the apportionment formula. What remains in the formula is just the elements of property, payroll and sales attributable to other activities.

In addition the proposal would adjust the apportionment formula to take account of OCS activity.

PUBLIC REPORTING AND LEGISLATIVE OVERSIGHT

As in the Senate Resources Committee substitute, annual reporting of aggregate income and expense statistics is provided for. In addition, the proposed substitute provides for an annual review of the department's management actions by the legislative auditor with an annual report to the legislature.

ASSESSMENT

This proposal differs from the Senate Resources Committee substitute in that the department is provided more control in the determination of income. This is done to help avoid profit shifting and other manipulations of income. Thus the authority is given to the department to assess directly the income taxable under the proposed statute. The resulting income that would be assessed is then taxed at the standard corporate income tax rate of 2.5 percent.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

11-10-78
11-10-78

MEMORANDUM

May 31, 1978

SUBJECT: FY 79 Revenue Impact of Proposed Income Tax Legislation
(CSSB 322, CSSB 105)

TO: The Honorable John Secliff

FROM: Gregg K. Erickson
Director of Research

PK

Yesterday, we provided Judy Crondahl of your staff a copy of a March 31 memorandum to Senator Poland in which we indicated the revenue expected to be raised by the proposed oil and gas income tax legislation during FY 79 would be approximately \$227 million. We believe conditions that have developed since this memorandum was written, specifically the erosion of the West Coast oil price and the increased possibility of its collapse, requires revision of this estimate. FY 79 revenue under this bill now appears more likely to fall between \$150 million and \$200 million, with the most likely value in the neighborhood of \$185 million.

Of these monies, \$113 million would be raised by the corporate income tax on trans-Alaska pipeline income. This component is not subject to much uncertainty, since it is tied directly to figures submitted by the companies themselves to the federal Energy Regulatory Commission (FERC), and the tax itself is keyed to these submissions. The tax revenue on pipeline income could be reduced if Alaska's position before FERC on pipeline tariffs were to be sustained, but this would result in more than offsetting increases in other revenues (most importantly, royalties).

The wellhead income figures, however, are much more uncertain. A collapse of the West Coast oil price could conceivably reduce the wellhead component of that income to as low as a dollar per barrel. In this event, companies would pay income taxes on their production operations of about \$63 million. Thus, the total income tax take under this legislation, assuming the collapse of the West Coast price, could be as low as \$180 million. A graph showing the recent erosion in the West Coast price is attached.

We do not believe that this is the most likely outcome, but believe it is important that the possibility of a West Coast price collapse be

considered. We have discussed these estimates with Deputy Commissioner of Revenue John Messenger, and understand that he has arrived independently at essentially the same estimates of FY 79 revenue under these bills.

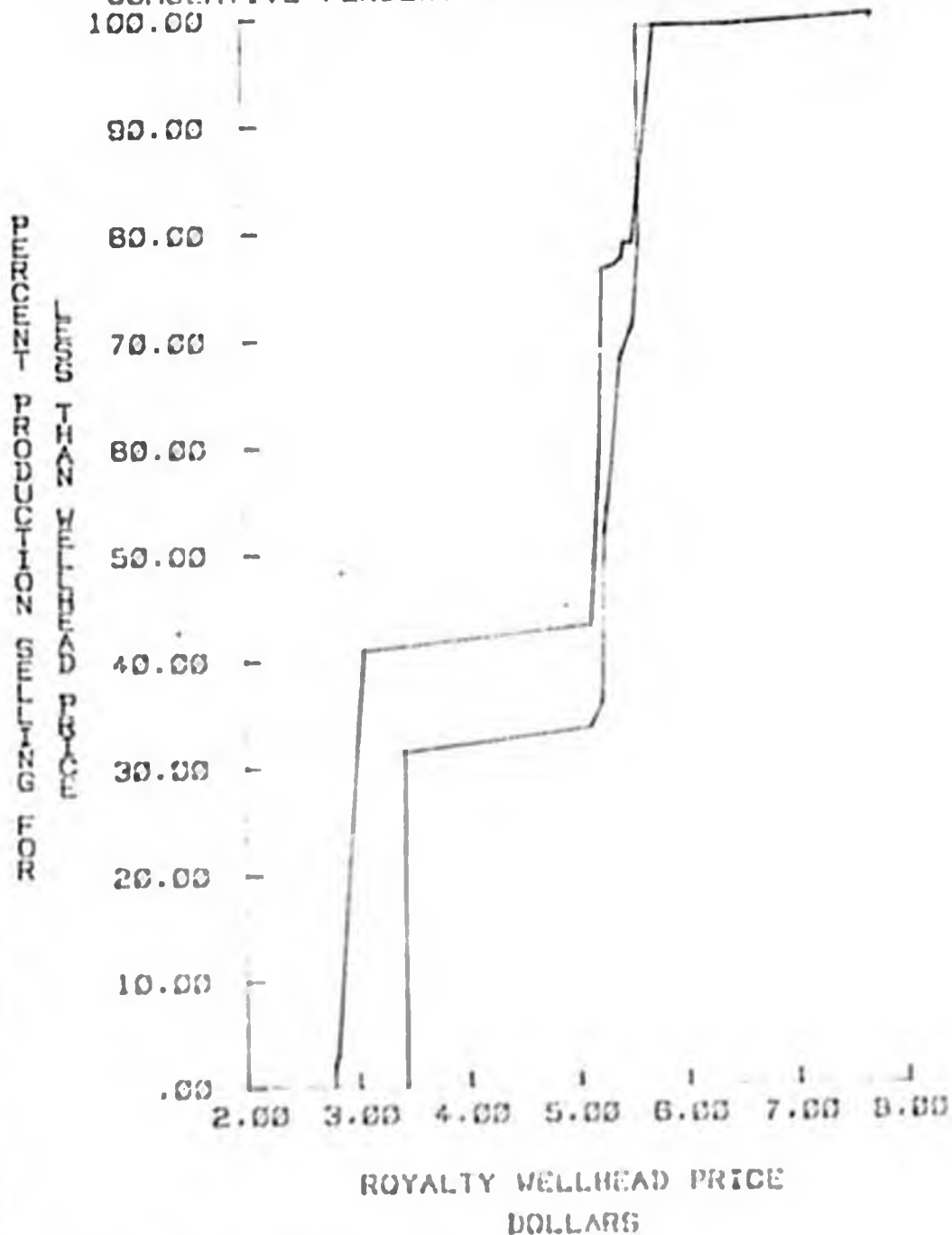
GKE:jm

Attachment

cc: The Honorable Chancy Croft
John Messenger

PRUDHOE BAY ANALYSIS

CUMULATIVE PERCENT PRODUCTION VS WELLHEAD PRICE



KEY: — MARCH - - - JANUARY

LEGISLATIVE AGENCIES AGENCY

LEGISLATIVE AGENCIES AGENCY

March 31, 1973

MEMORANDUM

SUBJECT: Impact of CS for CSB 322 (Resources)

TO: The Honorable Ray Polard, Chairman
Senate Resources Committee

FROM: Richard G. Page
Research Analyst

This memorandum is in response to your request that we prepare an analysis of the relative revenue impacts of CS for CSB 322 (resources) on the Prudhoe Bay producers, the State of Alaska and the federal government. Unless otherwise noted, estimates contained in this memorandum are based on figures contained in the Arthur Andersen & Co. report of January, 1973, entitled, "Prudhoe Bay Field and Trans-Alaska Pipeline System: Comparative State Tax Burden Study".

Table I attached shows the total division of Prudhoe Bay and pipeline income (after deduction of expenses) among the producers, the state and the federal government under both the existing state income tax law and under the proposed bill. Figures in table I are for the period 1977-2001. The same information is presented graphically in Chart I attached.

Table II shows the relative impact of the proposed bill only in terms of producer revenues, and state and federal income taxes. Other state revenues from Prudhoe Bay and the pipeline are excluded. Again, this material is presented graphically in Chart II.

We estimate that adoption of the proposed change in the income tax would generate approximately \$4.6 billion in the remainder of FY 1973 (up from \$2.6 billion estimated by the Department of Revenue under current law) and approximately \$2.9 billion in FY 1974 (up from about \$2 billion estimated by the Department of Revenue for FY 1974).

Enclosure
Attachment (4)