

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

1025 SCOMM 28: JOINT GAS PIPELINE COMMITTEE. 1981-82 / 025

1 present search for revenues by the federal government and
2 most state governments in the lower 48. Last December,
3 the Governor's Growth Policy Council had an all-day
4 symposium on this subject in Anchorage, and I was pleased
5 to be a member of the panel. I'd judge that passing
6 S.S.H.B. 200 would be waiving a red flag in the faces of
7 the federal and many state governments. You can judge
8 that as well as I can, but I do think it deserves some very
9 careful consideration. In summary, S.S.H.B. 200 is not a
10 wise tax, but comes across as a matter of litigation
11 expediency, and a device that is not likely to solve
12 the State's problem in that dimension. You might ask,
13 what would you suggest? I've thought about that. One of
14 the things that came to mind was a marvelous line by
15 Abba Eban, the former ambassador from Israel. He was
16 supposedly to have said that men and governments behave
17 wisely, after exhausting all the other alternatives.
18 I think that the State and our industry have about
19 exhausted them, and that it would be wise for both of us
20 to find some middle ground - I'll borrow Monte's word -
21 on our present tax differences. I know that the nature of
22 government here in Alaska is such that it is absolutely
23 not politic for our industry to suggest a middle ground.
24 I know, however, that we are usually willing to listen
25 to a responsible proposal by government. Such a middle

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1 ground, if honored over time, can provide the legal,
2 fiscal, investment and political stability you say you
3 seek. In plain terms, and in my own words, some fairness
4 and some stability go hand in hand. After looking at
5 Alaska's projected revenues from all probable sources -
6 not pie in the sky, but probable sources - I'd judge that
7 Alaska can clearly afford to solve its stability problems
8 now, and can do so. Consider these three points, and
9 can do so: without reducing State services; can do so
10 without reducing the basic funds you project as necessary
11 for your operating and capital budgets during the next
12 few years; and can do so without affecting the tax relief
13 you have afforded other Alaskans and Alaskan companies.
14 You might say, why would I pick those three points? There is
15 a very special reason. The practical politics in any
16 setting says you look to see what the people think. Our
17 public opinion research here in Alaska says that if the
18 Alaska public understands those three things are covered,
19 then it's high time to be a little bit fair to your
20 principal industry. In looking at probable revenues, and
21 your potential, I don't see any absence of funds to do the
22 things you really need. I lay out on the table the pragmatic
23 consideration of where we see the people of Alaska are
24 all of them, or a substantial majority, the criteria that would
25 probably have to be met in some middle ground that we would

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1 both feel comfortable standing on. I think you can afford
2 it. But only you can afford to decide whether you can
3 afford not to. Thanks. If you have some questions I would
4 be happy to answer them.

5 MR. GARDINER:

6 I had one question. You made a lot of comments about the
7 undesirable natures of a property tax on reserves. What
8 is your view of the advisability of tax form, in terms of an
9 income tax or a reserves tax. Do you feel one is a better
10 taxing mechanism than another?

11 MR. DONALDSON:

12 I don't think a reserves tax is a very easy tax to
13 administer. It's just fraught with all the problems I
14 just tried to summarize. There are volumes on this
15 subject. It's something that I would stand away from.
16 I think an income tax is probably the basic fair tax of
17 all taxes because it, in effect, says you share the cost
18 of government based on your success. Therefore, I look
19 to that as a partial answer. One of the questions you
20 asked Monte Taylor was, what specifically would you do.
21 I think it is inpolitic to say, here is a package, here
22 is a draft bill. I think the middle ground idea that he
23 expressed makes a good deal of sense. We have studied it
24 independently and come basically to the same general
25 feeling. The mechanics of that have to do a couple of things

1 if you are interested in this as a State and as a
2 legislature. The resulting tax structure that you end up
3 with has to be basically free from legal challenge. It may
4 take a combination of several of your tax vehicles that
5 you now have on the books, adjusted to produce the middle
6 ground rate, but also to put them on a basis where you sort of
7 found the middle between your widely different points of
8 views. Maybe I am anticipating a question, but I thought
9 it was a very good question. This is my response to it.

10 MR. GARDINER:

11 I appreciate your answer very much.

12 MR. HAYES:

13 Thank you Mr. Chairman. You addressed the question that
14 I asked Monte Taylor about what security he felt, in his
15 opinion, that we had in the backstop tax as opposed to the
16 Chapter 21 that ... There has been some testimony by the
17 administration that we would be more legally secure if we
18 adopted the House Bill that is before us in lieu of the
19 present tax law which we are, to some extent, trying to amend or
20 change. I think that it is fairly clear, as I have heard
21 it, that you've indicated that we are not very secure.
22 In fact, we may be as insecure, if not more insecure,
23 with this proposed bill as we are, and have been, with
24 Chapter 21. Which brings to mind how we came around to
25 Title 21, which many of us here remember, occurred near

1 the end of the session in 1978. Much the same way that
2 this particular bill is being handled - it was dealt with
3 in a very short period of time and passed into law
4 resulting in the litigation that we are now trying to
5 resolve with another piece of litigation that precipitated
6 the question that I asked about how secure are we with
7 this new proposed law. It seems to me that, from where
8 I am sitting as a legislator, that perhaps we ought to
9 stop a minute and ask ourselves, are we moving too fast
10 on this piece of legislation, and are we moving towards
11 the piece of legislation that will ultimately be in the
12 best interest of the State. I've got some concerns,
13 because now I've conflicting opinion from those opinions
14 that I have heard from the administration. Which brings
15 up another question.

16 MR. DONALDSON:

17 Could I comment on your implied question, sir? In
18 preparing testimony today, I tried to state the essence
19 of a good deal of work we have been doing with inside
20 and outside counsel on this question. I thought that,
21 based on our past relationships, some candor on the realities
22 of that problem, as we see it, wouldn't be inappropriate
23 at all. I did not come to offend anybody. We can all
24 make serious mistakes, sometimes in good faith, but they can
25 still be very serious. I have asked our counsel to begin to

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1 prepare this case for trial. Whether it is Chapter 21
2 or Chapter 21 and whatever comes out as H.B. 200, if it
3 does - on the basis of the whole tax structure - I think
4 we have gone that far. I do not want to elaborate on the
5 detail of that. I have given you the tip of the iceberg
6 so that you see the structure. If you would like a copy
7 of my testimony which shows a good deal more of that
8 detail, I would be happy to give that to any of you.
9 At the same time, I don't hesitate to sit down with
10 this Committee or this legislature or the Alaskan
11 government, and say, you know we have been at each other
12 for 12 years. Isn't it time we hit a little peace treaty
13 that lets you do the things you basically want to do.
14 It takes a little bit of the burden off our back, creates
15 the kind of stability you have mentioned you want to find,
16 and puts you on a basis where you don't have to worry
17 day in and day out that we've dreamt up another lawsuit.
18 It's an honest question I am asking you. I can't suggest
19 an answer but simply underline triple again that we are
20 listening. We are happy to go either way, the courthouse
21 or caucus. This is really where we are.

22 MR. HAYES:

23 Mr. Chairman, just to follow up on my final question.
24 We have discussed in the legislature to a great extent,
25 inhouse and publicly, what Alaska's fair share for the oil

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1 ought to be. How, in your opinion, should we decide what
2 that share is - what is our fair share? We are talking now
3 the federal government gets so much, the oil industry gets
4 so much, the State gets so much. It looks like it's an
5 even cut. I've heard that type of rationale used. We talk
6 about the great profitability of the oil industry and
7 the windfall situation they found themselves in. How,
8 in your opinion, do we decide what the fair share is from
9 the State's point of view, or from anybody, or from our
10 collective point of view?

11 MR. DONALDSON:

12 Can I speak just for myself? This is not off the ceiling,
13 but I really speak for myself on this. You start first
14 from the fact that the federal government -- we have some
15 problems with their taxes and we are looking at that --
16 taking a share in the 40% range. They had no risk. Just
17 a revenue take. The State of Alaska takes a percentage
18 in the low 30's right now, and you have no risk. Our
19 share under present law is someplace in the 20's, and we
20 have all the risk. What Monte Taylor said struck me as
21 a reasonable note, although we had not discussed it.
22 Some kind of equilibrium, at least, between the State and
23 the industry. That is a beginning point I would at least
24 think about if I were trying to find an answer. Secondly,
25 many times the questions we throw at each other are so in

1 the extreme. When I'm in litigation - I've been in it for
2 20 years - I don't expect a 100% win all the time. I don't
3 expect a 100% loss. I think we make a mistake when we start
4 from either end of the extreme. It would be a rotten policy
5 by the State of Alaska to assume that its taxes were fair
6 as long as nobody packed up and left. You can't prove
7 business decisions not made. That's not the point of
8 departure either. Thirdly, Alaska has a great deal of
9 potential. I'm fascinated by it. In the oil area alone,
10 you probably have found only about 20 or 25% of the
11 potential that is conservatively estimated in your State, by
12 U.S.G.S., by National Petroleum Council, by the most able
13 and responsible studies that exist. I think, sometimes, as
14 you grapple for new tax you have forgotten your own
15 potential. Some of those fields are marginal on economics
16 today, technology tax and other things. But it is there,
17 it will be needed in our lifetimes. You do not want to
18 spoil that by trying to catch up your State, and it does
19 have needs, please do not misunderstand, by sending the
20 entire bill for the catch-up to one field, a few companies,
21 in a very short span. I think if you lay your answer
22 over a little bit longer perspective, it has a lot more
23 wisdom and the public will understand. Third thing, or
24 fourth thing, whatever the number is at this point -- I
25 don't know what the exact point of middle ground is. I think

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1 that if the State has some serious desire to find it, try us
2 out. If we think it's not quite right, and I don't mean
3 haggling now, I mean listening and responding promptly.
4 But try us out. There may be some people in this
5 legislature that begin to get their own ideas, we'll listen
6 to all of you. But you at least have to take that first
7 step. I think that is probably the best I can do for you
8 on these - but those are the principal considerations.
9 We just have a lot of high hopes for this place. It's
10 fantastic. Yet it's not fun to walk when you are hobbled.

11 MR. ROGERS:

12 I'd like to thank you for your testimony today. I think it
13 is a different attitude brought to the hearing than in
14 past years. I think it is important, though, to note that --
15 you talked about the federal search for revenue -- the major
16 change in the allocation of the profit pie from Prudhoe Bay
17 in the last three years has not been one that the industry
18 or the State has caused, but, in effect, semi-nationalization
19 of Alaskan and everybody else's oil resources. If you
20 look at the split of the profits now, outside of the
21 original ownership share, the original 12.5% the State has
22 retained, almost 50% of the remaining amount is being
23 taken by the federal government. That is what has caused
24 the most instability. I would like to point out a couple
25 of errors in your testimony ...

1 MR. DONALDSON:

2 Do you want me to comment on that, please?

3 MR. ROGERS:

4 If you wish, sure.

5 MR. DONALDSON:

6 There is a question there, at least implied again. We
7 understand that. We don't like that either. But just
8 because someone is wailing over here doesn't mean that
9 it is right to get spanked twice. We are trying to deal
10 with both and not just passing one off against the other.
11 One analogy that might be helpful to you -- one of our
12 lawyers observed a little bit wryly - he says, you know
13 it's almost like you bought a house for \$20,000 from the
14 State of Alaska 12 years ago, and now they decided it was
15 a bad deal and they want to sell it to you again by taking
16 most of the \$100,000 that it is now worth. If somebody
17 had that happen to their house they would feel outraged.
18 I said, I hear you, but we need to find some answer,
19 again, that is in the middle that we both have some comfort
20 in and both of us can go ahead.

21 MR. ROGERS:

22 A couple of errors, and I think they were probably inadvertent.
23 One was on the difficulty of setting a discount rate, in
24 terms of the reserves tax. That is set by law in the bill.
25 So that is not a difficult administrative decision, because

1 it is in the bill.

2 MR. DONALDSON:

3 On that point, suppose it is wrong. The change of 1%
4 in the discount rate is millions and millions and millions
5 of dollars.

6 MR. ROGERS:

7 But you said it is administratively difficult. I think
8 your point may be that it could be wrong, and I'll accept
9 that point. But not that it is administratively
10 difficult.

11 MR. DONALDSON:

12 I stand corrected.

13 MR. ROGERS:

14 The second one - you discussed the discouragement on
15 proven reserves. There is a fundamental difference
16 between the '75 tax and this one. Which is that this one
17 is on producing and not proven reserves, at least
18 as I read it. That is a substantial difference from the
19 '75 tax and, as I recall Mr. Lipton's comment about the
20 '75 tax, more primarily the difficulties of assessing it
21 on proven but unproducing reserves.

22 MR. DONALDSON:

23 When you've had some production it is a little easier to
24 estimate. My point, however, was, if we found something --
25 Beaufort Sea, western Alaska, what have you -- and we know

1 that we start producing commercially - suddenly the reserves
2 tax is laid on, that is a burden you can look at and worry
3 about before you ever start. It is that inhibition that
4 applies, whether it is '75 is a year, or '85 is a year, or
5 '90 is a year.

6 MR. ROGERS:

7 So on Beaufort where some of your best, what may be your
8 best tracts are net profits, the tax is not as important
9 in determining whether or not you produce. Is that
10 correct?

11 MR. DONALDSON:

12 Yes and no. You look at all the factors, Brian, and some
13 things you just can't talk about up here yet.

14 MR. ROGERS:

15 Right. There has been a lot of discussion about how
16 Alaska's oil tax has discouraged investment, not only in
17 the oil industry but in other industries. Do you think
18 it has discouraged investment in the copper industry in Alaska?

19 MR. DONALDSON:

20 I don't know enough about the copper industry yet. I will
21 maybe by this time next year.

22 MR. ROGERS:

23 There was an article in Business Week that quoted a high
24 ranking official at SOHIO, saying that SOHIO's making so
25 much money from Alaska oil that it can't begin to invest it

1 intelligently.

2 MR. DONALDSON:

3 Whoever he may be, I haven't met him. The answer to that
4 is an important point. We caught some flak about this
5 acquisition. It is a natural resources thing, though,
6 and an extension of a business that we understand. What
7 most of the working business press missed was the comment
8 by our Chairman, and indeed our press release, that this
9 is a major investment for us. It is a long term potential
10 that has base in many geographic areas that are attractive.
11 But it is only a small fraction of our potential. We
12 announced at the same time that, even though this was a
13 \$1.8 billion purchase, we would be spending and investing
14 about \$16.5 billion in energy development between now and
15 the end of 1985. Energy is still our business. We are
16 looking in lots of places, from the North Slope to the
17 Gulf coast and beyond, and we think it still has a great
18 deal of potential. But where we put that money depends
19 a lot on questions just like this, Brian.

20 MR. ROGERS:

21 ... getting into a couple of more details...

22 MR. DONALDSON:

23 I can stop any time.

24 MR. ROGERS:

25 Your comments have centered around section 8 of the Sponsor

1 Substitute, the reserves tax portion of the Sponsor
2 Substitute. Would you care to comment on other sections of
3 the bill, in terms of -- most of them address the issues
4 you have raised in the lawsuit. That's the purpose of those
5 sections. In fact, the other sections, by themselves,
6 when they were originally introduced in H.B. 200, would
7 represent a decrease in State revenues ...

8 MR. DONALDSON:

9 The technical amendments are what you are referring to are
10 things that would not surprise me to see the State pass in any
11 event this session. I would if I were you. It takes away
12 some legal arguments from us. That is the purpose of it.
13 It is house cleaning and it is important.

14 MR. ROGERS:

15 Do you support those?

16 MR. DONALDSON:

17 I think so on the whole. Because it tends to bring your
18 law more into a comparable position that Chapter 20 is.
19 It does not take away the main issues in the lawsuit,
20 but it clears the air a little bit. It certainly is a
21 step in the right direction.

22 MR. ROGERS:

23 One difference I see in this year's, is that the State
24 has said that a fair share is on the order of 30%.
25 In previous years, the State was saying a fair share is

1 more. And that is a pretty key difference with this year's
2 tax as with the previous. Perhaps for the first time, the
3 industry has said what, at least one member believes might
4 be a fair share - on the order of 27% or 28%. Did I hear
5 you say you would concur on that?

6 MR. DONALDSON:

7 I think that if you get in rough parity with the State,
8 and that is probably in the range where that happens, we
9 would have to think a long time as an industry, as a
10 company, before we said that is not a pretty fair piece
11 of middle ground.

12 MR. ROGERS:

13 One problem, of course, is that almost of all -- when we
14 look at taxation we look at Prudhoe Bay. But Prudhoe Bay
15 happens to be one that was originally State owned and the
16 State had received the royalty share. On a hypothetical
17 other field where someone else owned the royalty share, are
18 you saying the State's fair share is 27% or 28% minus the
19 royalty, or 15% would be the ...

20 MR. DONALDSON:

21 Those kinds of questions that you want to look at as you
22 sort things out. Let me point out, and again I don't want
23 to be argumentative, the State did not always own Prudhoe Bay.
24 They acquired it from the federal government, as a part
25 of a settlement - Statehood. The federal government assumed

1 that you would lease it and lease it properly. I think
2 the federal government might have been terribly surprised
3 if they knew back then what you have done since. Because
4 there is an element of trust of the total public of the
5 country, not just of Alaska. While your focus has to be
6 Alaska, and I think there is a broader scope that you might
7 sometimes want to consider. It's that kind of federal
8 interest that a federal government can seize on and come in
9 and help you run your own affairs. My suggestion for middle
10 ground is not intended to be a threat at all, but there
11 are other considerations that just have to be addressed by
12 the State. If I were running the State, and I am sure not,
13 they are things I would want to think about. Thank you
14 very much for letting me testify.

15 MR. GARDINER:

16 Thank you, and we will continue the hearings tomorrow.
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19 (meeting adjourned 3:00 p.m., May 21, 1981)
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I, JUDITH R. JONES, a Notary Public, duly commissioned and qualified in and for the State of Alaska, do hereby certify that the foregoing May 21, 1981 meeting of the Joint Gas Pipeline Financing Committee was recorded by me and thereafter transcribed by me or someone under my direction.

I further certify that the transcript, consisting of 97 pages, is a full, true and correct transcript of the proceedings.

I further certify that I am not a relative of any of the parties nor financially or in any other way interested in the outcome of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my notarial seal this 25th day of June, 1981.

Notary Public, State of Alaska
My Commission Expires: 11/30/84

1 ALASKA STATE LEGISLATURE, TWELFTH LEGISLATURE

2 JOINT GAS PIPELINE FINANCING COMMITTEE

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6 TRANSCRIPT OF PROCEEDINGS

7 MAY 22, 1981

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16 COMMITTEE PRESENT:

17 Representative Terry Gardiner, Chairman
18 Senator Michael Colletta
19 Senator Bettye Fahrenkamp
20 Senator Charles Parr
21 Senator John Sackett
22 Senator Jalmar Kerttula
23 Representative Hugh Malone
24 Representative Anthony Vaska
25 Representative Brian Rogers
Representative Richard Randolph
Representative Sam Cotten
Representative Richard Halford

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P R O C E E D I N G S

5/22/81

MR. GARDINER:

Call the meeting to order. Continuing testimony on House Bill 200, the first person to testify today is Paul Harding. Paul Harding?

MR. HARDING:

Good afternoon. My name is Paul Harding, from Anchorage, Alaska. I am here to testify on behalf of the Alaska Support Industry Alliance. The Alliance is made of more than 200 companies and corporations, most of them involved in the oil, mining and construction industries. Our group was organized in the summer of 1979 when the Beaufort Sea lease sale was threatened with cancellation. When one examines the list of Alliance members, it is surprising to discover the diversity of businesses which felt that the availability of exploration lands on the North Slope would pertain to their interests. Laundry companies, hardware stores and travel agencies joined with drilling companies and oil field caterers to organize support for the lease sale which did occur as scheduled. The support industry is a maze of businesses providing the hundreds of goods and services a primary industry, such as oil, requires. Investment decisions made by the primary industries have a critical effect on the economic health

1 of the support industry. Political policies affecting
2 those decisions inevitably affect us. So naturally they
3 demand our attention. One such policy is the oil and gas
4 corporate income tax. This tax on the earned income of
5 oil companies doing business in Alaska provides
6 approximately 19% of State revenues. It represents a
7 substantial increase in the cost of Alaskan oil operations,
8 thereby diminishing Alaska's competitive position with
9 other U.S. exploration areas. It denies the right of
10 substantial reward that high risk ventures must offer
11 if they are to be undertaken. Such denial can only be
12 perceived as indifference on the part of the State toward
13 continued exploration and development. That indifference
14 ignores our interests and condemns the future that many
15 of us are trying to build here in Alaska. Ironically,
16 it is our condition of affluence that helps foster this
17 indifference. The overzealous determination of some
18 legislators and officials of the administration to
19 maximize State interests in their dealings with the oil
20 industry blind them to the fact that the interest of the
21 citizens are not singularly aligned with the State.
22 There is a point at which maximizing State interests
23 diminishes opportunity in the private sector, thereby
24 infringing on the welfare of the citizenry and increasing
25 their dependence on the State. Chapter 21 is a case in point.

1 While a resolution of the problem now appears possible
2 with the negotiation of an affordable revenue reduction,
3 we instead find ourselves pursuing a course of non-
4 resolution that will undoubtedly lead to still more
5 legal entanglements. This course, marked by the assumption
6 that no relationship exists between tax policies and
7 investment decisions, ignores the interests of all other
8 private sector parties. According to World Book
9 Encyclopedia, the fundamental problem of a tax system is
10 to produce enough money to pay government expenses.
11 Obviously, we have succeeded in overcoming that fundamental
12 problem. Not only have we raised enough money to
13 provide for government services, we have established a
14 billion dollar savings account and enjoyed the assurance
15 of billion dollar surpluses throughout this century.
16 Given these fiscal conditions, it would seem that a
17 straightforward resolution of Chapter 21 through a
18 negotiated revenue reduction is affordable and advisable.
19 While the legislature and the administration have an
20 obligation to protect and promote the interests of the
21 State, they also have an obligation to protect and
22 promote the interests of the citizenry. The continued growth
23 of exploration activity in the State is within those
24 interests and can be assured by positive action on
25 Chapter 21 rather than the course you consider here today.

1 Evidence of public support for a resolution of this problem
2 is impressive. Organizations supporting a resolution
3 by reduction of revenues include the Alaska Support
4 Industry Alliance, PASIT (ph), the Alaska Black Caucus,
5 the Alaska State Chamber of Commerce, Cook Inlet Regional
6 Corporation, Chugach Regional Corporation, Bering Straits
7 Regional Corporation, and the Chambers of Commerce in
8 the following cities: Petersburg, Valdez, Homer, Kenai,
9 Palmer, Wasilla, Fairbanks, and Anchorage. Also in
10 support is the Kenai Borough Assembly, The Kachemak
11 Board of Realtors and the Resource Development Council.
12 That concludes my remarks. I'd be glad to answer any
13 questions.

14 MR. ROGERS:

15 Could you discuss the --what you felt was the positive
16 impact of repeal of AS 43.21 on drilling activity.
17 Isn't it true that exploration activity in Alaska hit a
18 new high last year, a record high, after -- this came
19 after passage of AS 43.21.

20 MR. HARDING:

21 There has been a moderate increase, but I don't think --
22 if you compare the drilling activity, the increase of
23 activity in the State of Alaska, with the increase that
24 has occurred in all other regions of the country, I
25 think that it is relatively unimpressive.

1 MR. ROGERS:

2 But the fact is that, over previous years, drilling
3 activity was substantially higher than previous years.
4 Now you say 43.21 was a disincentive - with a disincentive
5 I would think we would see a decrease in drilling
6 activity.

7 MR. HARDING:

8 I don't agree with you. I don't -- the industry is
9 obviously a long term planning -- a lot of long planning
10 is involved. Once you've made a certain commitment,
11 it's simply unfeasible to withdraw. Another thing, it
12 seems to me, that too many of us ignore the fact that
13 all conditions are not necessarily going to remain the
14 same. If there is a deterioration in other conditions
15 then the overall investment climate is going to
16 deteriorate. And the burden of this tax is going to
17 increase in proportion.

18 MR. ROGERS:

19 Has AS 43.21 been deteriorating the business climate in
20 Anchorage this year? Is it worse than it was in 1978
21 when the bill 43.21 was passed?

22 MR. HARDING:

23 I would say due to other factors, the Anchorage business
24 climate has improved over the last couple of years.

25 MR. ROGERS:

Thank you, Mr. Chairman.

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1 MR. PARR:

2 Mr. Harding, you seem to make a distinction between the
3 State and its citizens. I guess most of us down here
4 regard ourselves as representing the citizens. It's
5 what we were sent down here for; that's why they
6 pay us -- that's why they pay our salaries. What
7 distinction are you making between the State and its
8 citizens?

9 MR. HARDING:

10 I think that there is a very unfortunate distinction
11 between the State and the citizenry. I feel that the
12 State is becoming an entity of itself, and some of the
13 political decisions are self-serving in that regard.

14 MR. PARR:

15 You do agree that under the form of government we have
16 that we are sent down here to act for our constituents,
17 and that we act, in what we consider, to be best
18 interests of those constituents? Is that correct?

19 MR. HARDING:

20 Yes.

21 MR. PARR:

22 One more question, please, Mr. Chairman, if I might.
23 You said that there was a divergence between the interests
24 of the State and the interests of its citizenry. And then
25 you said that 43.21 is a case in point. Just how do you

1 determine where this divergence occurs? How is your
2 definition that this divergence exists between the
3 interests of the State and the interests of its citizenry?
4 What factors come into making that decision?

5 MR. HARDING:

6 Well, I see the legislature determined to continue
7 imposing a tax that I would consider unnecessary.

8 MR. PARR:

9 But we are talking about the interests of the citizenry,
10 Mr. Harding, not going into whether the tax is necessary
11 or not. You have said that the State and the interest
12 of the citizenry are not -- that there is a divergent
13 path here. And I want to know how you
14 determine when that divergence occurs? What does it take,
15 in your mind, to show that? The fact that we passed
16 43.21? Is that one?

17 MR. HARDING:

18 I feel that the imposition of an unnecessary tax draws
19 capital away from the private sector and does so without
20 any real necessity. I feel that government does not have
21 the capability of reallocating those dollars in as productive
22 a manner as they would be utilized in the private sector.
23 When that action occurs, it can't help but diminish the
24 opportunities that would exist and be forthcoming in the
25 private sector had those dollars been left with those who

1 were competent enough to earn them.

2 MR. PARR:

3 In other words, your definition of a citizenry, where
4 the interests have diverged, really amounts to a private
5 business sector in the oil business, essentially --
6 the oil business and its support businesses. That's your
7 definition of a citizenry apparently.

8 MR. HARDING:

9 No. My point is that the investment decisions that the
10 oil industry makes reverberate throughout the entire economy
11 And everyone involved in the private sector, and many
12 of those involved in the State sector, receive benefits
13 and have demands created as a result of those investment
14 decisions.

15 MR. PARR:

16 Thank you. Thank you, Mr. Chairman.

17 MR. GARDINER:

18 Questions from other Committee members? Anything further
19 Mr. Harding?

20 MR. HARDING:

21 No.

22 MR. GARDINER:

23 Thank you very much for your testimony today. Herb Pierson?

24 MR. PIERSON:

25 Good afternoon. My name is Herb Pierson and I am here today

1 in my capacity as the Executive Director of the Alaska
2 Public Interest Research Group. Today I wish to comment on
3 proposed alterations to the oil taxation issues before
4 this committee. Specifically, S.S.H.B. 200. I'd like
5 to limit my comments to the public policy matters,
6 and please refer to our March 4, 1981, memo for a more
7 technical approach. AkPIRG has a long history of involvement
8 with oil and gas issues, especially oil and gas taxation.
9 We were actively involved in the debate over the passage of
10 the special oil and gas corporate income tax in 1978.
11 We have helped publicize and question the oil industry's
12 request for a windfall profits tax deduction in the
13 1980 legislative session. AkPIRG would like to commend
14 the Governor, the legislative leadership, and this
15 Committee for addressing the need to protect the Alaskan
16 public's share of income from its oil and gas resources.
17 The bill now before this Committee represents an important
18 commitment which AkPIRG has consistently supported -- to
19 ensure that the current public share of revenues from its
20 oil and gas resources is preserved. As we stated in our
21 March 4, 1981, position paper on oil and gas taxation issues
22 facing the legislature, quote: we believe the existing
23 tax structure provides the Alaskan public a fair share of
24 income from its oil and gas resources. Any changes which
25 are made in the tax structure to address either the

1 challenge to the oil and gas income tax or the request for
2 a windfall profits tax deduction should be accompanied by
3 other changes which preserve the public's existing share
4 of income from its oil and gas resources. Currently,
5 Alaska is receiving oil revenues beyond our 1978 expectations.
6 But what is that money going to do for Alaskans? We've long
7 been lamenting the high costs of capital construction, labor
8 and related services in Alaska and now, with this revenue
9 source, our legislators are finding the means available to
10 pay for those long-awaited projects. If we develop a new
11 tax structure or if we build a backstop tax that fails to
12 provide for current and projected income levels, future
13 projects must be abandoned. While I cannot speak to the merits
14 of those pending projects, it is clear that without the oil
15 revenues we've been experiencing, the hydroelectric
16 proposals, agricultural proposals, roads, highways, airports,
17 cultural centers, human services improvements and other
18 similar projects will definitely be in jeopardy. Those who
19 profess to be supportive of certain large scale projects and
20 also support a tax reduction are talking from mutually
21 exclusive positions. Reducing the costs of transportation,
22 communication, municipal improvements and other major needs would
23 be without an income foundation if we allow the industry
24 requests for oil and gas taxation. The legislature has long
25 realized that the high costs of meeting the needs of

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1 Alaskans and now that the oil and other large-scale projects
2 attract more people and burden already marginal service
3 delivery systems, the legislature is asked to give up its
4 right and duty to protect a proper income base to pay
5 for those items. Now that a specific proposal is before
6 the legislature, it is appropriate to reiterate the major
7 points we had raised earlier in support of maintaining
8 the public's existing share of income from its oil and
9 gas resources. Oil on State-owned lands is the public's
10 resource. Most of the oil now produced in Alaska is from
11 State-owned lands. Much more state-owned land has high
12 oil potential. Under the Alaska Constitution, our oil
13 must be managed to the maximum benefit of all Alaskans.
14 According to the most recent estimates, the State's share
15 of revenues from Prudhoe Bay oil is less than either the
16 industry or the federal government. Alaska receives approximately 30%
17 the oil industry 34% and the federal government 36% over
18 the lifetime of the Prudhoe field. The question which
19 must be asked is: how do reductions in the public's
20 existing share of income from its oil benefit Alaskans?
21 The answer is not at all. The exclusive beneficiaries are the
22 multinational oil companies which do a very profitable part
23 of their worldwide business in Alaska. Will Alaska benefit
24 from increased oil exploration here as a result of tax
25 reductions? The argument is that the existing tax structure

1 discourages oil exploration and development in Alaska. But
2 oil companies have already great incentive to come to
3 Alaska. It's generally estimated that Alaska has 30%
4 and possibly as high as 50% of the country's remaining
5 oil reserves. Alaska is the last place in the U.S.
6 where the industry can hope to find a major new field.
7 Compared with other countries that have high oil potential,
8 the industry's share of the pie in Alaska is generous:
9 Nigeria allows 2%, Venezuela allows 2%, Canada allows
10 11%, Indonesia allows 12% and Alaska allows 34%. The oil
11 industry's continuing interest in Alaska is obvious. It is
12 currently exploring and developing over 2.33 billion barrels
13 of reserves on the North Slope outside of Prudhoe Bay.
14 The industry consistently urges faster leasing schedules for
15 State and federal land in Alaska. Under the existing tax
16 structure, the industry bid an average of 60% of the net
17 profits on Beaufort Sea leases which carried a 20% royalty
18 and \$90 million in fixed cash bonuses. The industry can
19 hardly claim it needs tax breaks to generate more capital
20 to look for oil in Alaska. The industry consistently piles
21 up record profits. Even if we gave the oil companies the
22 tax reductions they seek, how much money of that would be
23 spent in Alaska? Most of it will be sent to Houston and
24 New York for use in buying more coal companies, department
25 stores and exploring for oil all over the world, not just

1 Alaska. Nor will the State's tax policy unduly harm the
2 development of marginal or smaller fields. As legislative
3 analyst Milt Barker has said: marginal properties will
4 always be around. And they will eventually be produced.
5 Tax policy can affect the timing of development, and this
6 may be good for Alaska. With our short run revenues
7 situation on such strong ground, deferring income to the
8 future has significant benefits. Oil in the ground is the
9 world's best investment. Supporters of lower oil taxes
10 argue that the public will benefit from the favorable
11 business message that lower taxes will send to outside
12 investors. We are told that the current perception, based
13 upon our tax treatment of the oil companies, is that Alaska
14 is unfavorable to business. With Alaska's well-recognized
15 problems of high labor and transportation costs and distance
16 from markets, it is hard to believe that taxes on one
17 particular industry are to blame for any lack of business
18 interest in locating in Alaska. Further, it is those very
19 same taxes that the legislature is now applying towards
20 reducing those costs which will act as an investment
21 stimulus. We don't need lower oil taxes to stimulate
22 interest in investing in Alaska. The investment interests
23 of petrochemical, aluminum, and coal companies, to name but a
24 few, clearly shows investment climates here are not falling
25 off. Further indications are given by several speakers

1 one of whom is the President of the Alaska Pacific Bank.
2 On March 18, 1981, the Anchorage Times quoted him as saying, quote:
3 the decade of the '80s will make the decade of the '70s,
4 even with the pipeline boom, look like kid's play. Unquote.
5 Nor, as claimed, will the public get lower prices from
6 lower taxes on oil companies in Alaska. OPEC sets world
7 crude oil prices at levels that bear no relation to and far
8 exceed the cost of producing it. Because OPEC, not the
9 market, sets oil prices, changes in the costs of oil
10 production will not be passed through to consumers in the
11 prices of petroleum products. Any change in the costs of
12 oil production causes a change in the margin of profit
13 on oil production rather than a change in the price to
14 consumers. Reduced taxes benefit the oil companies and
15 their shareholders, not Alaskan consumers. In the final
16 analysis, the industry's claim that the public will benefit
17 from lower oil taxes is false. It is just a loud but hollow
18 attempt to fool the public into letting them profit at
19 our expense. If the legislature resists this call for
20 lower oil taxes, it will meet its duty to ensure that our
21 oil resources are managed to the maximum benefit of all
22 Alaskans. AkPIRG strongly supports the principles embodied
23 in this bill. H.B. 200 protects the public's fair share of
24 revenue from its oil resources against the oil companies'
25 challenge to the oil and corporate income tax. We

1 support the leadership's commitment to act on this issue
2 in this session. Thank you. I appreciate the opportunity.

3 MR. COLLETTA:

4 Mr. Chairman. A couple ... Sir, you referred to blanket
5 concurrence to the State's oil and gas policies. Gas
6 is excluded. And the backstop measure also. Again, also,
7 quote, unquote, this fair share -- would you, then, be
8 an advocate that all of the State's resources be taxed at
9 the same level?

10 MR. PIERSON:

11 Not at all, Senator. I think there's adequate documentation
12 to show that the oil companies sit in a rather unique
13 position.

14 MR. COLLETTA:

15 Thank you.

16 MS. FAHRENKAMP:

17 I think, Mr. Chairman, he answered what my question would
18 be. I am interested in peat, coal, strategic metals, etcetera,
19 and in some of the press releases I have noticed that
20 the comment was made that the State's fair share should
21 be -- all resources, in some of the press releases had
22 been -- should be 30%. And I was wondering if AkPIRG's
23 position was that all of our resources should be taxed at
24 30%. So I think my question has been answered.

25 MR. GARDINER:

Further questions?

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1 MR. COLLETTA:

2 Mr. Chairman. Just for clarification. I understood the
3 last part of your answer to my question, but I don't
4 believe I got the first part. Has your statement changed
5 then? Do you agree with the exclusion, or the exemption,
6 of the gas resource from this type of taxation?

7 MR. PIERSON:

8 I'm not sure as I understand exactly what you are asking,
9 Senator.

10 MR. COLLETTA:

11 Well, I think the first 2 or 3 sentences of your presentation
12 were that you advocate and support the Chapter 21 oil and
13 gas tax. The backstop measure before us excludes the gas
14 resource.

15 MR. PIERSON:

16 I was speaking more generically.

17 MR. COLLETTA:

18 So you are in concurrence that gas should not be taxed under
19 the same provisions?

20 MR. PIERSON:

21 I'm not making a position as to gas, per se. I haven't
22 researched that issue well enough to make a strong position
23 there.

24 MR. COLLETTA:

25 Mr. Chairman, if I could just follow up just for one --

1 based on Senator Fahrenkamp's question and your response.
2 Then, I guess what I'm interpreting you to say is that we
3 should address the taxing measures as conditions present
4 themselves. If by some chance you have a bumper year,
5 then you lay it to them. If next year is not a bumper
6 year, then you reduce it again.

7 MR. PIERSON:

8 No. That's not what I'm trying to suggest, Senator.

9 MR. COLLETTA:

10 Well, I don't follow the logic. If one resource should
11 have its fair share, shouldn't the other resource have
12 its fair share.

13 MR. PIERSON:

14 I think it is not a matter of applying which resource.
15 It's a matter of defining what is the fair share.

16 MR. COLLETTA:

17 Okay.

18 MR. PARR:

19 Mr. Pierson, the article a, section 2 of the State's
20 constitution says: the legislature shall provide for the
21 utilization, development and conservation of all natural
22 resources belonging to the State, including land and waters
23 for the maximum benefit of its people. How do you interpret
24 that?

25 MR. PIERSON:

Well, I think that that isn't up for me to interpret

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1 specifically, Senator. It's a legislative matter. It's --
2 the representatives of the people, the Governor and the
3 legislature, shall interpret that.

4 MS. FAHRENKAMP:

5 I just have one more question. Those bidders or owners of
6 oil leases within the State who are Alaskans and who
7 then are fortunate enough to become one of the producers,
8 if they are fortunate enough in their gamble, their
9 crap shoot, or whatever you want to call it -- do you feel
10 then, that this 30% tax that's in 200 should
11 apply to them also?

12 MR. PIERSON:

13 Well, again, I have to refer back to my statement earlier
14 that I haven't researched all the background material
15 that I should have for that question. I'd be happy
16 to get further documentation for that, though.

17 MS. FAHRENKAMP:

18 Thank you.

19 MR. GARDINER:

20 Further questions from the Committee? Thank you,
21 Mr. Pierson. I appreciate your testimony. Mr. Lee Fisher.

22 MR. FISHER:

23 My name is Lee Fisher, CPA, the managing partner of
24 Cooper and Lybrand. I'd like to spell my last name -
25 it's F-I-S-H-E-R. I'm not related to any politician that

1 serves in the Senate or has run for political office in
2 the Anchorage area. I do not have a "c" in my name.
3 You have the right to assume that by my title and my
4 profession that I'm appearing before you today armed with
5 a batch of boring statistics and reams of arithmetical
6 data. However, that's not the case. I'm going to don
7 several hats in the next few minutes - the first of which
8 is as President of PASIT. Two of our 4 consensus
9 points were accomplished last year - the repeal of the
10 individual income tax and the separation of the
11 Permanent Fund legislation from tax legislation. We
12 believe that the 2 remaining points are of equal
13 importance - the repeal of Alaska's statutes 43.21,
14 the corporate oil and gas tax law, and establishment of
15 a zero tax rate on the first \$150,000 of taxable income
16 on all corporations doing business in Alaska. This last
17 point should be quickly and easily disposed of as a matter
18 of equity. Our small Mom and Pop local businesses,
19 operating as corporations, are being discriminated against
20 in view of the repeal of the individual tax law. Most of
21 these businesses are closely held family-owned entities
22 operating as corporations for very valid business reasons.
23 But in truth they are proprietorships or partnerships.
24 We can't discriminate in favor of just these small
25 businesses. All corporations must be treated equally.

1 General Alaskan corporations presently taxed under
2 Chapter 20, banks taxed under their special laws, and oil
3 and gas corporations presently taxed and discriminated
4 against, in our opinion, under Chapter 21. This leads
5 me to the wearing of my most important hat, that of a
6 CPA with 32 years experience and my position as managing
7 partner of Coopers and Lybrand in Alaska. Forget all else
8 that I have said or am going to say, but remember this
9 one simple statement. No corporation or business entity
10 has ever paid any form of local, State or business taxes,
11 or federal taxes - only individuals, consumers, pay taxes.
12 The authority for this statement is logic and common
13 sense. And it was addressed by the President of the
14 United States in his message to this nation in February of
15 1981. Taxes, including income taxes, are costs no
16 different from salaries, rent, travel, or materials. Taxes
17 arise from various segments of the business operation - payroll
18 taxes on wages, property taxes on real property, sales
19 tax on gross receipts. Income tax has the same cost effect
20 on a business, only the measurement is on a line item on
21 a financial statement called net income before income
22 taxes. In the end you and I pay all of these taxes as
23 consumers of goods and services. Government leaders and
24 elements of our society have, in recent decades, created a
25 philosophy that has misled, fooled and, yes, lied to the

1 American public. It's been acceptable, even fashionable,
2 to demean the profit motive of the private sector, large
3 or small. Taxes have been imposed for alleged social
4 and economic reasons under the guise of government-
5 sponsored programs to assist the needy, and government-
6 regulatory programs to protect the people. This has
7 created two obvious results - more and bigger government
8 and rampant inflation. We, the consumers and ultimate
9 payers of all taxes, costs, have suffered too long under
10 these fraudulent programs and un-American philosophies.
11 The nationwide mandate of President Reagan is clear - we
12 want less government, less taxes and less regulatory
13 intervention. The vote in Alaska for Reagan, the polls
14 that had been furnished to you by PASIT, Common Sense
15 for Alaska, the Resource Development Council and
16 Chambers of Commerce, the input of the Black Caucus and
17 the Alaska Support Industry Alliance, and the Free
18 Committee, are consistent in their results and opinions.
19 We want a stable business economy, less taxes at all
20 levels, less bureaucracy, less government intervention on
21 our personal and business lives, and above all else, the
22 opportunity to succeed or fail in a free society. Experts
23 have testified before you on the subject of the Sponsor
24 Substitute for House Bill 200. I have read the bill.
25 It is, in my opinion, a farce that will not accomplish its

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1 announced purpose. I realize that you and your fellow
2 legislators are very dependent on the facts and opinions
3 offered by the Department of Revenue and the Attorney
4 General's Office in particular. If their track record is
5 any indicator then you have strong reasons to doubt their
6 input and analysis of this particular piece of proposed
7 legislation. Some brief examples arising from my
8 personal experiences include: last year they told you
9 the phased 3-year individual tax law repeal legislation
10 was sound. You had to have a special session in
11 September to correct their error. The CPAs and attorneys
12 advising legislators and the administration under the
13 banner of PASIT, didn't know the name Zobel. But we
14 knew the correct answer and freely gave the appropriate
15 advice. Last year the Attorney General advised that
16 Permanent Fund dividends based on tenure and residency
17 was legal. Today that question rests in the US Supreme
18 Court and could jeopardize old-timers benefits, land
19 sales programs and various other Alaskans-first concepts
20 that are a very proper part of our attempts to recognize
21 the hardships of residency in Alaska. The Chapter 21 oil
22 and gas tax law was born in secret without citizen input
23 or hearings, and had the blessings of the Department of
24 Revenue and the AG's office. It's now the subject of a
25 dangerous lawsuit which could cost \$9 billion. I view the

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1 introduction of S.S.H.B. 200 as the State's recognition
2 of their jeopardy and passage of the bill as a
3 continuation of expensive litigation only under a new name.
4 Historically, Alaska has followed the Internal Revenue
5 Code - what is commonly called a piggyback law. During
6 1969 Congress passed federal legislation that created a
7 minimum tax on certain forms of income and preferences,
8 and a maximum tax on personal service earned income.
9 In its wisdom and greed, the Department of Revenue chose
10 to enforce the minimum tax but refused to allow the use
11 of the max tax computation. One of my clients,
12 Dr. Sam W. Gibson agreed to be the representative taxpayer
13 to test this decision. We won at the Superior Court level,
14 lost on appeal in the State Supreme Court, and when we
15 threatened appeal to a higher court, the Department
16 caused legislation to be enacted that resulted in recognition
17 of the right to use the maximum tax law. And we used it
18 up through last year. These are your advisers. And until
19 their level of competency improves dramatically, you will
20 not have responsible data on which you can base your
21 decisions and votes. I therefore recommend that the
22 legislature retain the services of independent counsel
23 to review the projections and findings that have been
24 furnished to you with regard to Bill 200. Any person that
25 has been elected or hired by the State during the past 10

1 years should not be considered for this position. Briefly, in
2 my last two hats I am Secretary-Treasurer for the
3 Anchorage Chamber of Commerce. In yesterday's hearing
4 Dan Coffee was asked to give you his opinion's on the
5 question of priority of Chapter 21 tax reduction versus
6 capital projects in Anchorage. First, Dan is not a
7 member of the Board or the Executive Committee. He therefore
8 didn't have the authority to respond. Second, the question
9 assumes that we cannot afford both actions. I have the
10 official right to respond to this question. As a
11 regular participant in all Chamber decisions and planning,
12 it is apparent to me that our Board does not believe the
13 State's coffers will be harmed by repeal of AS 43.21.
14 And we have issued our resolution to that effect. Secondly,
15 we vigorously disagree with any legislator that takes the
16 position that unrestricted annual revenues of 3 or 4 or 6
17 or more billions of dollars are not sufficient to wisely
18 develop the entire State of Alaska. We further believe
19 substantial annual additions can be placed in the
20 Permanent Fund, social programs can be funded, and most
21 important of all, the primary place the legislature can and
22 should find funds is by reducing the per capita cost of
23 government. Not threatening to kill motherhood programs.
24 Now to my final hat as President of the United Way of
25 Anchorage. Our 1980 campaign raised \$1.5 million for our

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1 29 agencies serving youth, the aged, alcohol treatment
2 programs, and others in need of the community's helping
3 and loving hand. Over 50% of our funding came from
4 employees and companies in the oil and gas industry.
5 There is no group of people in Alaska that assume their
6 community responsibility better than oil and gas personnel
7 and companies. They have performed in the same manner
8 in the areas of culture and art. We appear to be thanking
9 them by singling them out for onerous tax treatment,
10 unstable taxing policies, and outright unfriendly attitudes.
11 This industry, and its expertise, should be in the
12 closest partnership relation with the legislature and the
13 administration of the State. The adversary position that
14 appears to have been adopted is ludicrous. I heard
15 testimony from oil company representatives that indicate
16 they're ready and willing to negotiate a settlement of the
17 Chapter 21 litigation. I have not heard a similar
18 statement from the legislature or the administration.
19 I urge the defeat of S.S.H.B. 200. I strongly recommend
20 the repeal of 43.21. The \$150,000 zero tax base should
21 be treated as priority legislation. Remember, you and I
22 are paying every one of the taxes imposed by the legislature
23 during the entire history of this State. We have the
24 opportunity to send a message to all Alaskans, and all
25 Americans - we believe in the basic tenets of free

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1 enterprise. We are not greedy. We are responsible stewards
2 of the resource riches of this great State. We do not
3 tax success in an irresponsible manner. We have a challenge
4 of plenty and are capable of charting a course that will
5 be to the highest quality of life. Thank you.

6 MR. GARDINER:

7 Questions from Committee members? Representative Rogers.

8 MR. ROGERS;

9 Yes, just a comment, I guess. As I recall on Chapter 21 --
10 I wasn't in the legislature at the time, but -- there was
11 a discussion about passed in secret and
12 no committee meetings, but as I recall -- I think in '77 -
13 fairly extensive hearings on one of the Chapter 21
14 proposals in the House Finance Committee. It is true, at
15 the time, there were no hearings. The following year in '78
16 when it was adopted -- it had been held in the Senate
17 Resources Committee. But I think it would be mistaken
18 to say there were no hearings.

19 MR. FISHER:

20 It was my understanding that it was hatched, if you wish
21 that word, in the 11th hour of the 99th day of the
22 legislature, and that effective notice of the usual manner
23 was not granted to the citizens of this State, or even to
24 the entities that were the subject of the taxation. That's
25 the information I had received.

1 MR. ROGERS:

2 Thank you, Mr. Chairman.

3 MR. PARR:

4 Mr. Fisher, I'm the one that raised the question
5 yesterday, I guess, about the Anchorage Chamber of Commerce's
6 position. You have made now, what I suppose, is an
7 official statement on behalf of the Chamber - that repeal
8 of Chapter 21 does not conflict with the need for the
9 various projects that the legislature has -- that has been
10 recommended by your community and other communities
11 around the State, and that the legislature is considering.
12 Is that your official position of the Chamber, is that
13 correct?

14 MR. FISHER:

15 That is my understanding -- certainly my personal position
16 and my understanding of every action we have taken at the
17 Chamber of Commerce in Anchorage.

18 MR. PARR:

19 ... you were authorized to speak, and Mr. Coffee, yesterday,
20 was not...

21 MR. FISHER:

22 That would be a fair assumption.

23 MR. PARR:

24 You are aware that we've had about \$37 billion in requests
25 from around the State.

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1 MR. FISHER:

2 I am aware that we are talking about tying dogs tails
3 to create windmill power type projects. I'm talking
4 about the viable, reasonable projects, meaning...

5 MR. PARR:

6 Mr. Fisher, I don't think that's responsive to my
7 question. I just want to know if you are aware that
8 the requests are in and come to about \$37 billion.

9 MR. FISHER:

10 I've heard that figure, yes, sir.

11 MR. PARR:

12 I don't know offhand how many of those are from the
13 Anchorage area. Would the Anchorage Chamber care, you
14 think, to take a position as to which of these would be
15 better either delayed or not done, if we were to
16 reduce the State's revenues by repealing Chapter 21?

17 MR. FISHER:

18 That makes the assumption that the State's revenues would
19 be severely reduced. I do not believe that is true, and
20 I believe that responsive, specifically to your question,
21 that priority of the various projects certainly --
22 Mayor Sullivan, the Chamber of Commerce and others have
23 indicated that. I'm sure they would be willing to go
24 forth and work with the legislature in prioritizing these.

25 MR. PARR:

I ask that -- you said you don't think that would have an

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1 effect necessarily. But you did mention, a few minutes
2 ago, \$9 billion I think. And \$9 billion is obviously a
3 lot of money. You can build an awful lot of projects with
4 \$9 billion. I'm sure a CPA would be aware of that. So,
5 I'm just wondering, you know - some are going to have to
6 be cut, you know. No one, to my knowledge, has come in
7 and said to us, we think you should repeal Chapter 21
8 and we are willing to do without this, this, and this.
9 We are willing to do without Susitna, or we are willing
10 to do with less money in the Permanent Fund. We are
11 willing to do without the sports arena, or we are
12 willing to do without these various things. Personally --
13 and maybe I'm wrong, but I have a certain inconsistency
14 there, that I see. Perhaps the Chamber doesn't. But I
15 see a little problem.

16 MR. GARDINER:

17 What is the Chamber's position on the -- you've only spoken
18 to 43.21 -- what's the Chamber's position on the other
19 oil tax revenue measures that we have, and also including
20 royalty, State's royalty share of oil and gas. Is the
21 Chamber supportive of those, or not?

22 MR. FISHER:

23 I'm unaware that the Chamber Board has had that question
24 posed to them. It has not come up, and I attended 90% of
25 the meetings. Not come up in my presence.

1 MR. ROGERS:

2 I wonder if, I realize you can't do it now, but it would
3 be, I think, valuable to us to get from you how you would
4 allocate the remaining money if 43.21 were repealed.

5 It's difficult to deal with issues one at a time because
6 at some point you have to say how much money is available
7 next year, and then, how will that be allocated. And just
8 looking at, perhaps, the major allocations here, the
9 Permanent Fund deposit, the State's operating budget, the
10 energy projects, how much would go to municipalities for
11 municipal projects, State loan programs, and then State
12 capital projects - transportation, schools and the like --
13 I wonder if you could, perhaps, at some later date provide
14 the members of this Committee with how you believe that
15 allocation should be made if we were to repeal AS 43.21.
16 And where you would squeeze. Particularly, if one of those
17 areas is the operating budget below, say, the level
18 passed by the House, perhaps some specifics there might
19 be helpful.

20 MR. FISHER:

21 I would be happy to take that recommendation, as an
22 officer of the Chamber, back. I would like to respond on
23 the \$9 billion figure, though, in this manner. That, as I
24 understand it, is the maximum amount of money, Senator Parr,
25 that would possibly be the subject of litigation by 1985.

1 It is not a sum of money that we have, or owe, or anything
2 of that nature, today. I sincerely, honestly, recommend
3 let's get this litigation behind us, and I think the
4 most logical way to do it is by compromise. I think the
5 offer is out on the table, and let's get on with it.

6 MR. COLLETTA:

7 I'll defer until he has finished his line of thought.

8 MR. ROGERS:

9 Just to end, Mr. Chairman. In order to use the numbers ...
10 The current revenue estimates we are working with, for
11 the coming fiscal year, 5.9 billion - 1.2 of that is,
12 as I understand it, 43.21. So if that were removed that
13 would leave 4.7 billion, so -- it's how that would be
14 allocated.

15 MR. FISHER:

16 What I heard yesterday in testimony, that the 5.9 billion
17 would be reduced by \$500 million.

18 MR. ROGERS:

19 That's if you split the difference. But PASIT is not
20 asking for split-the-difference. PASIT is asking for
21 complete repeal, is that correct?

22 MR. FISHER:

23 I believe the repeal of 43.21 would result in the \$500
24 million. That's my recollection.

25 MR. ROGERS:

Actually, I guess, it would be \$1 billion decrease if 43.20

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1 were placed on the oil companies in lieu of 43.21.

2 MR. COLLETTA:

3 Mr. Chairman. We've had a lot of discussion these past
4 two days on the impact of the shortfall that would occur.
5 And it's not a comment, Mr. Fisher, I mean a question to
6 you, but a comment on my part so I can, at least, straighten
7 my thinking out. But it is my understanding that with
8 the repeal of Chapter 1, if there were a negotiated
9 settlement, the shortfall occurs in monies that there may
10 be a liability on, not on the amount of revenue that the
11 State will continue to receive each year. The liability,
12 with the increase in production, the decrease of taxation
13 off of Chapter 1 virtually affects the status quo
14 situation. We would be in a shortfall position if we
15 encumber ourselves for \$1.5 billion talking about now and
16 forgetting about the future. But if some way that liability
17 were removed, with the increase in production, the
18 increase of crude, you'd find that you are looking at a
19 monetary reduction at best along the lines, that you've
20 suggested, of some \$500 million possibly.

21 MR. FISHER:

22 I think further than that, also, all of these assumption
23 that I have talked about and you have talked about, Senator,
24 envision absolutely no further development of any resource
25 wealth in this State. Nothing coming out of the Beaufort Sea;

1 nothing coming from other minerals. I find it difficult
2 to go along with any such line of reasoning.

3 MR. COLLETTA:

4 The point I wanted to make -- I think a lot of times we
5 just confuse ourselves thinking about \$8 or \$9 billion
6 that we are going maybe to have to pay back, and then
7 where would this come from? But that's not what we're talking
8 about.

9 MR. GARDINER:

10 Does the Senate have a session? Thank you, Mr. Fisher,
11 very much. Okay, we are going to take a few minutes
12 recess. I would like to have more of the Committee
13 members here and the Senate is going in session.
14 Mr. Robert Crosky is going to be next. But we'll
15 recess for just a few minutes while we round up some
16 of our other members and let the Senate go in and
17 adjourn and come back.

18 (RECESS)

19
20 MR. GARDINER:

21 Call the meeting back to order. The Senate's out of session now. Mr. Robert Crosky

22 MR. CROSKY:

23 My name is Robert Crosky and I reside in Anchorage. I am
24 Vice President and Manager of Alaska Affairs for ARCO
25 Alaska Inc., a subsidiary of Atlantic Richfield Company.

1 I want to thank you, Mr. Chairman, for the opportunity
2 to speak before this Committee today. I have copies of
3 my prepared statements for other members. We believe that the
4 dialogue between the petroleum industry and the Alaska
5 legislature is essential for the formulation of a sound
6 tax policy. That policy should recognize the great
7 potential for economic development in Alaska in years to
8 come and create a tax climate in which that economic
9 development can flourish and not just exist. Atlantic
10 Richfield Company is proud of its association with Alaska.
11 We are not outsiders temporarily camping out in Alaska,
12 nor are we transient tourists. We are a permanent resident
13 of Alaska and have been since the earlier 1950's. Of the
14 12 major petroleum discoveries in Alaska, Atlantic
15 Richfield Company has shared in the risk, the investments
16 and production in each, either as an operator or a
17 participant. We are part of an industry that is the
18 financial backbone of this State's economy and the economy
19 of its people. We and the State of Alaska came together
20 through some earlier lean years and, I think, we acted in
21 concert with the needs of the State. We invested heavily
22 in Alaska and finally our risk ventures yielded a Prudhoe
23 Bay which gave the State and its people and my employer and
24 other industry companies and we as individuals, the
25 opportunity to prosper and plan for the other costly ventures

1 here and elsewhere. We worked together to get the oil
2 pipeline built and Prudhoe Bay on production. Our common
3 problem at that time seemed to be the federal administration.
4 Prudhoe Bay also helped the realization of several
5 significant political settlements for the people of Alaska
6 and local governments. However, ARCO and the other working
7 interest owners in Prudhoe Bay watched our economic rent,
8 primarily in the form of taxes to the State, raise year
9 after year. We complained as any citizen would complain
10 on rising taxation, but we realized the increases were
11 needed to administer to the needs of the State and we
12 factored this into the overall economics of Prudhoe. The
13 State and the industry even cooperated on a temporary
14 reserve tax in 1975 at a time when the State was really in
15 need of more revenue. It's ironic that the administration
16 now suggests a reserve tax as the means of attempting to
17 protect revenue we feel wrongfully collected under Chapter 21
18 at a time when the State has substantial surplus revenues.
19 As an operating manager with 30 years experience in the
20 industry, more than half of which is in this northern area,
21 I can tell you that the proposed reserve tax would
22 discourage the exploration for the the production of oil and
23 gas in Alaska. It does not stop it completely, it is a
24 decelerator and manifests itself in many, many ways that
25 are not always perceptive to the general public. Under the

1 bill before this Committee an oil company would pay a
2 reserve tax on a new field from the time there is first
3 commercial production from that field. The reserves tax
4 would be greatest in those first early years of production
5 when the reserves are at the highest level. This is a
6 factor which oil companies, and my own company, would
7 consider when evaluating the economics of commencing
8 production from a new field. The administration even
9 concedes that the effect of the reserves tax will be to
10 discourage future development by its admission in the
11 Findings and Purposes clause of the proposed act that
12 natural gas should not be subject to the reserves tax
13 because, quote, additional or alternative taxes on the
14 natural gas industry may discourage future natural gas
15 development, end of quote. The proposed legislation is
16 really not a panacea which will cure the defects of the
17 unfair income tax currently imposed on the oil industry.
18 Rather it will further obstruct the goal of achieving a
19 sound and equitable tax policy and will likely result in
20 additional litigation. It is regrettable that the oil
21 industry and the State must resort to litigation to resolve
22 controversies such as the oil and gas corporate income tax.
23 It is very unpleasant for my company and for me to be in
24 litigation against its largest royalty owner. It is
25 especially unfortunate since we believe that through good
faith discussions and mutual compromise, a settlement could

1 be reached which would end the litigation and put us
2 back on a course of working together for Alaska's future.
3 The bill before this Committee is too much of a product
4 of an all or nothing attitude. ARCO Alaska, Inc., realizes
5 its ethical and financial obligations to the State of Alaska
6 and is committed to continue being a forthright and
7 responsible corporate citizen of the State. We are willing
8 and feel obligated to pay Alaska a just and equitable portion
9 of the petroleum revenues which are generated from
10 Alaskan activities. However, we firmly believe we are
11 financially injured by Chapter 21 and are seeking relief.
12 House Bill 200 is just an injury substitute and doesn't
13 address the issues - it disguises it. If the State
14 attempted to administer either Chapter 21 or House Bill 200
15 as a tax philosophy and policy on you and I as individuals
16 or other businesses, especially the Mom and Pop businesses
17 of the State, we would have a tax revolution on its hands,
18 and you and I would probably be leading that revolution.
19 I do applaud this Committee's efforts - from the earlier
20 sessions that I have listened to and this afternoon - in
21 your attempts to arrive at a standard by which to determine
22 a level of taxation which is fair and equitable.
23 Unfortunately, what is a fair share is not easily quantifiable.
24 Prior to 1978, at a time when there was no significant
25 production of oil in the State, the administration

1 determined that taxation under Chapter 20 fairly reflected
2 the income of the oil and gas industry in Alaska and
3 required the industry to apportion its income on that basis.
4 In 1978, however, the administration determined that the
5 income tax apportionment formula of Chapter 20 unfairly
6 reflected the income of oil and gas producers in Alaska
7 and Chapter 21 was enacted. We believe that the
8 excessive taxes resulting from this new method of taxation
9 are ample evidence that Chapter 21 does not fairly reflect
10 the income of oil and gas producers in Alaska. We also
11 believe, however, that through compromise we can arrive
12 at a taxation formula which will fairly reflect that income.
13 I wish to thank you for allowing me to express my
14 concerns as an operation entity of ARCO Alaska.

15 MR. HALFORD:

16 Thank you, Mr. Chairman. I wonder if you could comment
17 on the consistency of choosing a reserves tax when you
18 seem to have work commitments, unitization
19 regulations and other leasing performance requirements
20 that are designed to basically force you to develop
21 when you go out and get a lease. It seems like you are
22 saying that the reserves tax does just the opposite. I
23 wonder if you would expand on that a little bit.

24 MR. CROSKY:

25 Well, I believe it is inconsistent. And I'll give you an

1 example -- one that is coming up very soon with us and
2 is very important to the State, to our company, and to
3 the industry - and that's the Capard (ph) field.
4 Here we have been planning through what we felt were
5 consistent regulations for its early production to come
6 on gradually in the early 1982. Now, I'm about to
7 advise my management that as prudent holders of their
8 investors they had better reconsider some of that timing
9 under this proposal. What prudent operator would bring on
10 a field before the fiscal year started? It'd be subject
11 to the rest of the year's taxation for it. Why not wait
12 until you have your full capability of production, why
13 bring on just a token amount of oil when you're taxed
14 on the reserve base that recognizes all the reserves?
15 You can see it brings on, what I would consider,
16 inappropriate and really not prudent operation of a field
17 as I understand it. That's one inconsistency. We also
18 have tolls timing for our leases. We have various
19 unitization proposals that we have to abide by. So all of
20 these, I think, also yields some inconsistency. Each
21 operators are cross-assigning the interests that they have
22 within those leases. To operate under a sphere of
23 reserves tax, it impacts their own individual operations
24 accordingly. They are not all the same. Every operator
25 in the field is not consistently performing financially or

1 or any other means. Does that respond to ...?

2 MR. HALFORD:

3 Yes, I think it does. I think--but the question that I have, the
4 observation is, that if the pipeline capacity is down to
5 the point where we just take a very small portion of the
6 field, it would seem the reserves tax is going to say
7 don't bring on any of it until you have enough capacity to
8 basically develop and drain that field as rapidly as
9 possible. And therefore you don't have any real planning
10 and flow between producing areas versus other areas.
11 And it seems just the opposite of the unitization
12 requirements that we went around on in the last couple
13 of years which seemed to be saying that it is in the
14 State's interest to encourage you to develop a field from
15 the periphery out, to be able to meet the unitization
16 requirements. If you are developing and proving reserves
17 from the periphery out, of course, you're proving a lot
18 more reserves to be taxed on. Now, I think that would
19 have some effect on the decisions in the overall development
20 schedule there, too.

21 MR. CROSKY:

22 It certainly would.

23 MR. MALONE:

24 Thank you, Mr. Chairman. Mr. Crosky, in this backstop
25 tax proposal we have here, I think it's pretty clear why

1 we have this in the legislature. The dialogue that
2 you described that goes on between the State and the oil
3 companies is a dialogue where it's carried out by actions
4 through the courts. Not exactly a close-working
5 relationship. But in the -- and I take exception to some
6 of your remarks in that the cooperation in the earlier
7 reserves tax there, the way I viewed that situation is that
8 the legislature and the State enacted the law and you
9 paid the tax, and I think that was the cooperation that took place
10 there. Getting down to the backstop law and whether or
11 not we need to pass a backstop law. You mentioned that
12 you thought that some sort of agreement could be worked
13 out - do you have a proposal that you think would settle
14 the present issue which is, as I see it, that basically
15 we have a certain percentage of the value of the oil that
16 is being produced from Alaska, State lands in Alaska,
17 obtained by the State for the benefit of its residents.
18 And you have objection to the mechanisms which we are
19 using to collect that. Do you have suggestions for a
20 better mechanism than either 43.21 or the backstop --
21 43.21.

22 MR. CROSKY:

23 Well, maybe I can attempt to put some sideboards on it.
24 I don't think the legislature or the companies should get
25 enamored with a fixed percentage. I'm not going to go into

1 what is a fair assessment. It's a function of time. It's a
2 function of performance. It's a function of many things
3 on what's fair in a collection of what I call economic
4 rent. We feel that we are prepared to pay considering
5 the situations. The sideboards that I'd like to put on
6 in an offering would be this: we felt before the enactment
7 of Chapter 21 that we could go ahead and exist and, I think,
8 do well under the basis of Chapter 20. For our company,
9 we felt that was, sort of, a base that we had already
10 previously crank in some portion of that economic rent
11 into the factors and other parameters that go into
12 judging the merits of various projects. From that -- and I
13 think a good many of the legislators agreed with that --
14 some of them didn't even agree with Chapter 20. Then
15 came Chapter 21 as enacted legislation. Because a
16 good many of the lawmakers felt that Chapter 20 didn't
17 yield enough, it was not a fair base because of the
18 apportionment. A good many of the legislators agreed that
19 it was not a fair tax -- you know, it wasn't all that
20 popular. So the sideboard, I think, from what I see
21 the lawmakers are -- Chapter 21. We also had
22 to make some kind of dialogue on the already collected
23 taxes which I think we are going to -- currently in the
24 order of billion and a half dollars. So I think somewhere
25 in there lies -- those are the sideboards -- somewhere in

1 there lies -- and I don't know what that percentage is,
2 Representative Malone, I really don't, and I wouldn't want
3 to get married to a fixed percentage. I do know that our
4 current take as an operator, having purchased and paid
5 an up front bonus for the leases that are generating most of this
6 income, is too low. Our injury is not just because of
7 constitutionality under 21 - it's because of the gross
8 collection, the total of it. So with those sideboards,
9 I would suggest, then, somewhere in there lies that value
10 in total dollars. Once that value is established, then
11 I would call for repeal of 21 so that we would be
12 folded back with other industries under Chapter 20.
13 If you determine there's uniqueness in our industry,
14 which there are many uniquenesses, then I think you can
15 manage the apportionment formulas. And you have the
16 mechanism within the tax framework, within your
17 administration, to be able to achieve whatever that target
18 was.

19 MR. MALONE:

20 Mr. Crosky, you are saying that right now that, basically,
21 the State is taking too big a bite, and it is hurting
22 your company. Is that right?

23 MR. CROSKY:

24 Yes. It's hurting many projects -- well, when you said
25 is it hurting the company, yes, in its ultimate effect it

1 does hurt the company.

2 MR. MALONE:

3 I have in front of me a copy of a portion of a publication,
4 The Alaska Report, dated 5-13-81, quotes a company --
5 the President of Atlantic Richfield Company as saying that
6 to a great extent Alaska is the future of U.S. petroleum
7 with perhaps one of every two barrels of oil that remain
8 to be discovered in this country underlying its land
9 and offshore waters. Going on to say, quote: our
10 position and prospects there are excellent. That doesn't
11 reconcile with your observation that the State's take
12 as far as it affects the position of your
13 company at present is too high. Maybe these statements
14 are quoted out of context, or perhaps they're misquotes.
15 But I would like to submit that to you for future
16 answers.

17 MR. CROSKY:

18 No, they're in context. They are not inconsistent with
19 what I just said. You're talking about potential on one
20 hand and performance on another. You know, we're not
21 backing off from our statement that -- I firmly believe
22 that of every two barrels that are found domestically,
23 one of those will be found in Alaska's onshore or
24 the offshore waters. So the potential is there. That's
25 not an inconsistent statement. Now, how we are going to

1 perform under that under a tax structure is something
2 else. Our level of performance to date, I must
3 apologize for -- I apologize for my company and industry --
4 the appalling nature of our performance as far as
5 exploration in Alaska. But I don't think we need to get into
6 why the reasons are somewhat justified, not only from a
7 taxation base, but from other bases probably more
8 importantly and that is land availability and inventory.
9 How are we going to get to this potential? I don't think
10 it's an inconsistent statement at all, sir.

11 MR. MALONE:

12 Perhaps it is not an inconsistent statement since -- I
13 should give you this entire thing, it's probably not fair
14 to discuss something you don't have in front of you.
15 The President also said that, something that goes along
16 with what you do, that upward movement of oil company
17 earnings will no longer be automatic, but will be determined
18 more singularly by the quality of the organization,
19 the prudence and flexibility of investments and the
20 direction ability of our management. So I think that
21 that part, at least, is consistent. I'd like to give
22 you this so you have it in front of you -- have a
23 chance to rebut. In this bill that we have in front
24 of the Committee today, this bill is here, as far as I
25 know, for one particular reason - and that is, that the --

1 in spite of the fact that as far as I know, that adequate
2 returns were being made on investment in Alaska. That
3 the industry wants to change the allocation of the distribution,
4 the value of the oil produced in Alaska -- is attempting
5 to do that by convincing the judiciary that our taxes are
6 inconsistent with other public policy. I don't happen
7 to agree with their case, but I do agree that the resource
8 development of State land, and particularly oil, is something
9 that is going to have to finance a lot of things in
10 Alaska if we are going to have development in the
11 State. I think that we need to protect our revenues.
12 I don't think they are going to last forever. That's
13 my observation.

14 MR. CROSKY:

15 I think our revenues will last forever, in my concept
16 of forever. We're an energy company -- from the statement
17 I just made, we have a lot of oil yet to find in its
18 natural state. I think this State is going to have that
19 big opportunity. And by that time, we may be off into
20 unconventional types of energy, of which we also have
21 holdings here in Alaska. I guess from that standpoint,
22 to me forever is really -- those resources will be --
23 it should not be a tax policy of tax while the taxing is
24 good. It should be one that levels out. In time of need,
25 tax when you need. There are those that are performing -

1 they can knuckle under and help that performance. You
2 know, you say the level of return is adequate, but why
3 aren't we stumbling over ourselves? Why is that level
4 of performance in the past been -- what a pittance level.
5 We're now mandated by, I think, with the removal of
6 controls on oil, the rest of the United States seems to
7 be really going gung-ho. We haven't yet achieved that
8 pinnacle, and I'm anxious that we build an attitude or
9 an atmosphere that gives that encouragement. I'm with
10 ARCO Alaska competing for funds with our corporation.
11 They're not unlimited. We took funds from elsewhere to
12 put in billions of dollars in Alaska. So I want to
13 preserve as much as I can for here. We have to go to
14 lending institutions, and we can't hide the fact that we
15 are in litigation. We have to tell the facts. We're not
16 descrying, or asking you to reduce anything. We're just
17 asking you to remove something that we feel was
18 wrongfully started in this collection.

19 MR. HALFORD:

20 Thank you, Mr. Chairman. We've had a number of statements
21 from several of the companies with regard to what the
22 dollar amount of any eventual compromise might be --
23 with the range somewhere around the 50% range -- but just
24 assuming that a net figure was ever reached, the question
25 of how you arrive at that level of income to the State, seems

1 to be one of either a reserves tax or a severance tax
2 increase, assuming the repeal of Chapter 21? I wonder
3 if you would just expand on the differences on those
4 two approaches both in regard to the federal taxation and
5 also in regard to how they affect dollars up front at
6 the time of exploration or dollars in the future when
7 there's more revenue generated from production?

8 MR. CROSKY:

9 Well, Representative Halford, you are getting into
10 an area with myself that I'm not that cogently
11 conversant on - the tax mechanisms. To take a form of
12 economic rent in additional excise tax or severance type
13 tax has its set of consequences. It sort of then gets
14 a level of taxation up that really is cautionary, it
15 throws a signal out to the rest of the potential investors
16 here that, look, if you are going to take a working
17 interest portion you are going to be subject to that kind
18 of rent. So I think there are other mechanisms, perhaps --
19 that one may have to be examined. I'm not going to --
20 beg off from that one.

21 MR. HALFORD:

22 I guess the question is that if you arrive at a percentage
23 of return to the State and percentage for the companies,
24 would you say it is more beneficial that the percentage
25 to the State over Chapter 20 be arrived at through changing

1 of the formula, through a reserves tax, or through a
2 severance tax increase?

3 MR. CROSKY:

4 I don't know the answer to that specifically. It may have to be a
5 combination or modification of several of those. Outside
6 of the sphere of what I consider a singled-out,
7 discriminatory tax of 21. And I think we are prepared to
8 take some recognition of the uniqueness under the
9 apportionment. Now if that can be modified, modify it with
10 some kind of extractive modification. I don't know the
11 mechanisms for how that's accomplished. If the excise
12 tax needs to be reviewed to accomplish that target point,
13 that other doesn't yield that target then that may have
14 to be examined.

15 MR. HALFORD:

16 And, of course, the federal tax structure as well.
17

18 MR. CROSKY:

19 Right.

20 MR. HALFORD:

21 Thank you.

22 MR. VASKA:

23 Thank you, Mr. Chairman. Mr. Crosky, you were talking
24 about the potential in Alaska of offshore oil development.
25 How much will the State be able to tax on offshore oil

1 development?

2 MR. CROSKY:

3 I guess it depends, Representative Vaska, to its proximity to
4 the State's shore.

5 MR. VASKA:

6 Beyond three miles.

7 MR. CROSKY:

8 Again, I'm being called upon to maybe reveal where I think some
9 of these reserves lie. They won't be able to attach -- to
10 answer the question directly, that's under the federal juris-
11 diction, it's the federal.

12 MR. VASKA:

13 That same potential you are talking about has the potential for doing
14 serious damage not only to the environment, but to the villages along
15 the coastline. And yet, the State of Alaska will not reap any benefit
16 from that, if, in fact, there are offshore facilities that don't involve
17 the State of Alaska. I realize our main concern is onshore development,
18 but it seems to me that when your company talks about potential of oil
19 development in Alaska, it does include the potential of OCS development,
20 and yet the State of Alaska, with its taxing powers and jurisdiction, does
21 not have any input into that, save for what it can get in the EIS statements
22 that are required. At the same time, you are asking the State of Alaska
23 to reduce its income through lowering taxes by elimination of Chapter 21
24 of AS 43. It seems to me that the State is
25 assuming the risk of development in the OCS

1 development, and the industry is not looking in that
2 direction, at least, not in my view.

3 MR. CROSKY:

4 Well, sir, you are presuming that all the impact for the
5 development of the OCS beyond the 3 mile limit is negative
6 to the State. I guess I take issue with that. That
7 impact isn't negative from the standpoint it does help
8 build infrastructure; it does invite the opportunity
9 for additional exploration which will be found onshore;
10 it does get the support base of the economy going; it
11 does help other industries that support that. Nothing
12 would be better really, and environmentally safe, to
13 have a major find off the west coast of Alaska. Working
14 in harmony with those villages to support a viable
15 industry then is --in its throes of development, not
16 exploration - there's very little benefit in the
17 exploration phase because it's singularly well after
18 well. But in the development stage it gets to be
19 huge. I guess I see positive benefit to the State as a
20 resident.

21 MR. VASKA:

22 What taxes can the State, what benefits can the State
23 accrue from offshore development even with minimal onshore facilities.

24 MR. CROSKY:

25 Well, let's put -- transportation systems. It depends if

1 the oil companies are shore based, then you have
2 infrastructure that helps - you have all the support
3 industries that help an offshore -- I expect those, as
4 best as we can, to come from Alaska. And I work
5 very diligently toward that end. It's an infusion into
6 the economy, now. It's not direct, but it manifests
7 itself indirectly.

8 MR. VASKA:

9 I think I agree with you only to a certain extent then,
10 the extent that I agree with you is limited to the history
11 of the industry in this State, and where the employees
12 are coming from. The bulk of the work force does not
13 come from the State of Alaska.

14 MR. CROSKY:

15 I don't know which companies you are looking at now, sir.
16 During the early stages of construction and getting
17 things started at Prudhoe Bay, I was the operations
18 manager. We had to bring on board from other resources
19 the expertise we lacked here. That has turned around,
20 I guarantee you, 100%. And where we can we're voicing
21 the philosophy that we hire from within, that we train
22 within, that we use local contractors where they have
23 the expertise and capability. Now, let's be realists,
24 where we don't have that expertise we know that it has
25 to be imported.

1 MR. VASKA:

2 A corollary of that might be: is the industry
3 developing that expertise in the State of Alaska.

4 MR. CROSKY:

5 I believe we are.

6 MR. VASKA:

7 Can you point to something specific?

8 MR. CROSKY:

9 Well, Prudhoe Bay is the model. I think the TAPS pipeline
10 is another model, aside from the construction part of it.
11 The remaining operating force is predominantly native
12 Alaskans that are now developing their own trades and
13 expertise. We have a whole host of companies now that are
14 being engendered by that virtue -- and even in the
15 Native regional corporations they are now finding themselves
16 joint ventured with some of those same companies because
17 they have to start laying their base of financial performance.
18 I see it. It may not be the degree you'd like, sir. It's not
19 to the degree I like either. It's there.

20 MR. GARDINER:

21 You know, I appreciated your testimony and the testimony
22 from the two other major producers in the State.
23 I think it historically differs a great amount --
24 and, of course, I'm kind of curious as to why because,
25 I don't know if I'm quoting directly from what you said
when you first started out, but you said something to the

1 effect that you realize that tax increases were needed,
2 or something -- I don't think that's the direct words,
3 but I think you were referring to other tax increases that
4 were imposed since -- in the last 10 years, rather than
5 43.21 -- is that correct?

6 MR. CROSKY:

7 Yes.

8 MR. GARDINER:

9 I think the other spokesmen for the other major
10 producers made comments that, in a similar light, that
11 their attack was not on the other tax provisions of the
12 State. While I find that encouraging, of course, then I
13 have to think back over the 9 years that I've been
14 in the legislature, and the years previous to that, and
15 we hear a lot of harping about the 13 oil tax changes,
16 and now we hear people saying, well, actually those
17 weren't so bad in light of all the historical changes.
18 Maybe they were reasonable or acceptable or you can live
19 with them, right? Or encouraged them. But
20 all those changes, as I remember it, were vociferously
21 fought by the industry, and by everybody they could drag
22 in to testify in support of the industry's position.
23 So, you know, you get a little bit jaded about things
24 hearing all that year after year, and then, sort of, come
25 in and say, well, actually those things were okay even at

1 the time we were being called every name in the book for
2 doing them, and being told it was going to stop
3 development in the State year after year after year, not
4 just one of those increases, but all 13 of them, and
5 probably the ones that preceded that. So I do appreciate
6 the distinction of the testimony in the last two days
7 from the industry as a part over their historical
8 testimony -- I'm not sure why that is -- I'm rather
9 curious about that, and maybe you could explain to me
10 why the difference in attitude. You talk now about a
11 dialogue, about trying to get rid of an adversary
12 relationship - things that I consider important to talking
13 about the need to negotiate differences, and that
14 historically was not the position of the industry over
15 any tax increase. But now we seem to have a different
16 attitude. And I wonder why.

17 MR. CROSKY:

18 Well, I don't think it's a different attitude, Mr. Chairman.
19 It may be a way it's articulated. I think you would
20 naturally expect any taxpayer to voice a concern of any
21 increase in taxes. We were realists though. We didn't
22 expect our severance tax to be at 1% if we were successful;
23 Yet, if we were struggling, and we didn't need to have
24 an oppressive tax on us. The point of the reiteration by
25 others -- I didn't make any reference to those 13 -- how

1 many increases there were. We lump it all together
2 as economic rent. And where we have to, we'll knuckle
3 under. Where we have to carry our share, we carry our
4 share. I expect my company to pay taxes here - I'm a
5 resident of Alaska. And, of course, I expected myself to have
6 been continued to pay taxes, but I've been given some
7 relief. I'm not asking for a reduction in taxes because
8 I feel that 21 was not a proper tax. There's a misnomer,
9 there's -- maybe it's just semantics, but I'm not saying we're
10 reducing your share. So I think it's a matter of
11 total economic rent. The legislature has to recognize the
12 high cost of doing business in Alaska. And until we get
13 ourselves to where we can have some more upstream handling
14 of those facilities, we ought to be sure we get ourselves
15 on a sound position of being producers and operators,
16 and give the proper signals. Those other upstream
17 facilities will come. It just takes time. We just don't
18 have the near markets, and we don't have the capabilities
19 yet, but it just takes time.

20 MR. GARDINER:

21 One thing, specifically, I've been interested with your
22 company - I've heard about the advertisements -- I guess
23 it's been in the last year you've set up a separate ARCO Alaska
24 and there was some advertisements about this -- in fact,
25 lately, I noticed that ARCO is setting up an office in

1 in Ketchikan. I was interested to find out what
2 investments you plan to make down there.

3 MR. CROSKY:

4 Well, I haven't heard if we are going to have an office
5 in Ketchikan. It may be that the transportation type
6 people might. As far as identifying ourselves with
7 ARCO Alaska, Inc., we want the definite perception and
8 understanding by the people of the State, to reiterate
9 my comments, that we are permanent. We are the custodians
10 of those properties that were given to us here now.
11 We've gone even beyond some of our commitment - we
12 agonized since 1978 on construction of an office space
13 building. We're competing, we're diverting some funds by
14 getting that approval from other normal projects in the
15 lower 48 to put an office complex in Anchorage, Alaska.
16 And it's an expensive office complex. The agony came over
17 the imposition or the negative impact of perhaps some
18 other taxes. But fortunately we had some other offsetting
19 factors that -- for example, we have employees scattered
20 throughout 5 different facilities. That leads to
21 inefficiencies in being a resident operator. We are paying
22 enormous rents, so we felt it would be better to put up
23 our own complex, have 100% equity ownership in it. And
24 that's what we plan to do. Of course, our selection of
25 the 21 stories is, however, coincidental and doesn't honor

1 Chapter 21.

2 MR. GARDINER:

3 Well, I'd appreciate your putting an office building up
4 in Ketchikan. But I'm kind of curious as to what you
5 are establishing an office in Ketchikan for.

6 MR. CROSKY:

7 I need some help on that one. I -- Mr. Chairman, I'm not
8 aware of an office we are planning in Ketchikan. I will
9 find out, though. We do have an office in Barrow; we
10 have some more transportation people in Valdez and
11 others. The Ketchikan one has got me stumped.

12 MR. GARDINER:

13 Well, you have -- I know the gentleman you have hired
14 to work for you there. He's a fine gentleman I went to
15 high school with. I would be interested in finding
16 out from you as to what the purpose of that is, and what
17 investments you plan to make down there.

18 MR. CROSKY:

19 All right, sir.

20 MR. GARDINER:

21 I think our Chamber of Commerce would be very interested
22 seeing your company make investments down there. There
23 are other questions from Committee members? Thank you.
24 Next is General B.B. Talley.

25 MR. TALLEY:

Mr. Chairman. I thank you for the opportunity to make this

1 brief presentation on behalf of the Homer Chamber of
2 Commerce at the request of President Gale Phillips who,
3 hearing that I was here, asked me to make this presentation.
4 I am B.B. Talley, resident of Anchor Point of Alaska, which
5 is near Homer. I've been a resident of the State for
6 17 years and spent 2 years and 9 months in the State before
7 becoming a resident. The Homer Chamber of Commerce has
8 devoted substantial time and effort to researching the
9 oil and gas tax issue. We have heard opposing viewpoints.
10 Following is a resolution passed by the Chamber several
11 weeks ago, which they asked me to read before the
12 Committee. It's the State Tax Policy Position Homer
13 Chamber of Commerce. Whereas, the State of Alaska requires
14 a broadened economic base to allow a healthy growth of
15 Alaska's private sector; and whereas, a broadened economic
16 base shall be the product of increased and diversified
17 investment in Alaska; and whereas, the degree of
18 increased and diversified investment is partly determined
19 by the perceived stability of a State tax policy; and
20 whereas, current business income tax policy is largely the
21 product of an era when revenue shortages prevailed; and
22 whereas, recent and dramatic increases in world energy
23 prices have provided Alaska with more than ample ability
24 to satisfy the needs of its citizens while eliminating
25 discriminatory and excessive income taxes on larger

1 businesses and reducing income tax collections from
2 other businesses. Now, therefore, does the Homer Chamber
3 of Commerce hereby resolve that the State legislature
4 should endeavor to modify and stabilize State tax policy
5 with specific reference to corporate income taxes this
6 legislative session so that all businesses may develop
7 a new sense of confidence in Alaska as an investment
8 center; and be it further resolved that copies of this
9 resolution be sent to the Governor, the Lieutenant
10 Governor, Attorney General, Commissioner of Revenue,
11 the President of the Senate, and Speaker of the House.
12 Mr. Chairman, I do not come to the Committee today as an
13 expert witness. Nor am I even a member of the Homer
14 Chamber of Commerce. I attend their meetings frequently
15 when I am able to do so but I live some distance from
16 Homer. But I have participated in meetings on this
17 subject and verified the efforts devoted to it. I might
18 also observe that while I do not have copies of it
19 with me today, I believe that I can get them, other
20 peninsular organizations that have taken positions in
21 favor of repealing Chapter 21 including: the Kenai
22 Chamber of Commerce, the Kenai Borough Assembly, and the
23 Kachemak Board of Realtors. I thank you for this
24 opportunity to relay this information to you solely in
25 the capacity of a messenger.

1 MR. GARDINER:

2 Thank you. Questions from the Committee members?

3 MR. MALONE:

4 Mr. Chairman, I haven't received a copy of that resolution.

5 General Talley, if I could get a copy ...

6 MR. TALLEY:

7 I will give you my entire testimony if you would like
8 to have it. I have a copy here for you.

9 MR. MALONE:

10 Thank you.

11 MR. GARDINER:

12 Further questions? Okay, thank you, General Talley. The
13 House has to go into session now. We did have two other
14 people, Mr. Holdsworth from the Resource Development
15 Council, and Jerry McCutcheon, to testify. And also
16 some more time for questions from Commissioner Williams
17 and Monte Taylor. So we'll have to take that up on
18 Monday or Tuesday. The Senate is not in session Monday
19 so it may not be possible to schedule this until Tuesday.
20 So we will try to get a time that will work for everybody.
21 Bettye?

22 MS. FAHRENKAMP:

23 You might want to bear in mind, too, that at 1:30 there's
24 a Joint Resources Committee in courtroom A. Is that this
25 coming Tuesday?

1 MR. GARDINER:

2 No, it's a week from Tuesday.

3 MS. FAHRENKAMP:

4 Okay, great. I've got my days mixed up. Thank you.

5 MR. GARDINER:

6 We'll try to get as much announcement -- we'll try to
7 get an announcement out today.

8

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10 (meeting adjourned)

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I, CARLA B. SEIBEL, a Notary Public, duly commissioned and qualified in and for the State of Alaska, do hereby certify that the foregoing May 22, 1981 meeting of the Joint Gas Pipeline Financing Committee was recorded by me and thereafter transcribed by me or someone under my direction.

I further certify that I am not a relative of any of the parties nor financially or in any other way interested in the outcome of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my notarial seal this ____ day of July, 1981.

Notary Public, State of Alaska
My Commission Expires: 11/20/84

1 ALASKA STATE LEGISLATURE, TWELFTH LEGISLATURE

2 JOINT GAS PIPELINE FINANCING COMMITTEE

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6 TRANSCRIPT OF PROCEEDINGS

7 MAY 26, 1981

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16 COMMITTEE PRESENT:

17 Representative Terry Gardiner, Chairman
18 Senator Michael Colletta
19 Senator Bettye Fahrenkamp
20 Senator Charles Parr
21 Representative Hugh Malone
22 Representative Anthony Vaska
23 Representative Brian Rogers
24 Representative Richard Halford
25 Representative Richard Pandolph
Representative Sam Cotten

P R O C E E D I N G S

5/26/81

MR. GARDINER:

The subject of today's meeting is to continue the public testimony, and some question and answers from the previous people testifying on Sponsor Substitute House Bill 200.

The first person today is Phil Holdsworth.

MR. HOLDSWORTH:

Thank you, Mr. Chairman. For the record, my name is Phil Holdsworth and I am speaking for the Resource Development Council. A week ago today I received, by telecopy, a statement put together by the executive committee of the Resource Development Council. I will just read that statement. It's headed up Committee Substitute Bill 200 Backstop Tax Bill. Purpose: to protect the State's oil tax revenues in the event Chapter 21 oil and gas corporate income tax is declared unconstitutional. Method: establishes a reserves tax effective July 1, 1981, to which all past, present and future Chapter 21 revenues are credited so that if Chapter 21 is ruled unconstitutional the collected revenues are considered as reserves tax revenues and therefore unaffected by the ruling. Faults of the bill: 1) it does not solve the basic problem - the establishment of a fair, stable tax climate for Alaska. 2) The new bill will be subject to many of the same

1 legal challenges as the Chapter 21 law. The level of
2 taxation is wholly disproportionate to the services
3 provided by the State to the industry. The oil industry
4 is still subject to the discriminatory tax treatment.

5 3) This backstop tax will be the 12th tax change in
6 13 years on the oil industry. We believe that the citizens
7 of this State do not support still another tax change
8 on the State's most important and overtaxed industry.

9 4) The new bill institutionalizes instability in tax policy.
10 The provision allowing the legislature to establish new
11 tax rates each year, 7 months after the tax year has begun,
12 guarantees continual instability and controversy, neither
13 of which is to the benefit of the State or the industry.

14 5) We believe that the citizens of this State do not
15 support increased taxes on the industry. A reserves tax
16 rate that depends on future legislative amendment is likely
17 to increase taxes because each future legislature will
18 have a simple mechanism in place by which to increase taxes.

19 6) The new bill will be a clear indication that the
20 State is not interested in seeking a resolution of the
21 current problem. Conclusion: this new backstop tax is
22 not in the best interest of the State or its people. The
23 prime effort should be to resolve this tax controversy once
24 and for all, and to develop a harmonious working relationship
25 with the State's largest industry - a relationship which will

1 encourage further expansion of the State's resource
2 development while serving as encouragement for other
3 businesses to consider investments in Alaska and its
4 people. Mr. Chairman, this was sent down to me as one of
5 the members of the Board of Directors, the only one
6 available down here to present it. I would not be able
7 to answer any specific questions on it. I was not
8 involved in its development.

9 MR. GARDINER:

10 Thank you.

11 MR. HOLDSWORTH:

12 I will leave this copy for you.

13 MR. GARDINER:

14 We appreciate that. Are there any questions from the
15 Committee members? Thank you. Next is Jerry McCutcheon.

16 MR. MCCUTCHEON:

17 My name is Jerry McCutcheon and I represent myself as an
18 Alaskan. First I would like to address some of the
19 questions which were raised earlier by various members of
20 the oil industry. Lower taxes would result in lower prices.
21 Not a chance, not a penny's worth. The only reason we are
22 seeing a reduction right now is because of the Saudia
23 Arabia's action, and as soon as the Arabs get their
24 situation in OPEC sorted out, why, we will go back to a
25 controlled shortage of oil. At that time, why, it will be