

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672
1496 SCOMM 55: JNT. SPEC. COMM. ON STATE TAX POLICY, 1986-1987 1296

1 MR. ROGERS:

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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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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

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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?

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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 1973.
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 3
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 13, 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?

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

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

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

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

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

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

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.

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CORRECTION

**THIS DOCUMENT
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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

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.

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 42.01 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

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. Mr.
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 Cro

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

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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 is 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

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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

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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

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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~~ ~~historically~~
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

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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

9

10 (meeting adjourned)

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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 Randolph
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

1 all the traffic will bear as far as pricing and profits
2 are concerned. Senator Stevens raised an interesting
3 question some years back during D-2, and I don't know
4 what the answer is, I've never gone out to search it, but --
5 Stevens told other members of Congress during the hearings
6 that Alaska retained ownership of all the oil produced from
7 State leases, and I never did find out at what point he
8 determined that he thought the oil changed hands - it would
9 be interesting to find out that question. It might open
10 Pandora's box - maybe we own the oil until such time
11 as it is refined. The most onerous tax is the windfall
12 profits tax we have of all taxes, and the strange part of
13 it is that the oil companies asked Congress for that tax.
14 Congress did not make an allowance, and I see little reason
15 why Alaska should correct that situation after being kicked
16 in the head by the oil industry. I don't think the
17 legislature should necessarily be all that kind and easy
18 and willing to respond. Now the gas producers want
19 windfall profits and deregulations that was so eminently
20 successful for enormous profits for the oil industry.
21 I wonder what percent of profits were available to Alaska
22 when the oil was \$3 a barrel. No doubt it was a much
23 higher percentage than it is today. In treating the oil
24 companies fairly, in which -- somehow Alaska has treated
25 the oil companies unfairly, I didn't know that the oil

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1 companies dealt in fairness. I thought they dealt in
2 corporate self-interest, legally or illegally. I see little
3 reason for Alaska to treat the oil companies any
4 different than they treat one another. Exxon was embarrassed
5 by its high profits in 1975. What were Exxon's profits
6 this last year? I would guess that they are 3, 4, 5 times
7 as high as they were in 1975. Exxon said 25% share, and it
8 attributed that to the State, actually I think — gave another share...
9 I notice that Exxon did not say they were getting that
10 little. What their real share is might be interesting
11 to find out. Taxation is one of the tools that the
12 federal government provided the State to protect the
13 State's corporate interest. Alaska has used it very lightly.
14 Alaska has not yet brought the total federal Alaska
15 share in line with world practice. The Anchorage Chamber
16 of Commerce's allegation about the effects of taxes --
17 well, I think the last lease sale, where we have royalty
18 bids that exceed our current take from Prudhoe Bay on a
19 percentage basis, royalties of 30%, 40%, 50%, 60% were
20 bid. And that's not very large in respect to the
21 Prudhoe Bay leases were last held. Very high royalties
22 were bid there. Oil has been discovered in the North
23 Slope on an 80% royalty lease. Stability in prices -
24 well, I agree with the oil companies. Maybe you should give
25 them stability in prices, stability in the marketplace.

1 I believe that they were probably making as little as --
2 smaller than this, but let's suppose that they were making
3 in \$3 oil, they were making \$.50 to \$1 at the outside.
4 Maybe the State of Alaska should take everything but that --
5 that way they would have their stability. Of course, if the
6 that legislature felt magnanimous, they might increase it for
7 state inflation. That way it would probably be at \$1, \$2.50,
8 and then take everything above that. That would give them
9 in stability. That's another way to look at stability.
10 After all, it was sufficient profit in those days, provided
11 for inflation. There's a attributive -- about coal taxes
12 and how the coal industry will have to fight the same
13 thing. I hope so, I don't see any way that the legislature
14 can possibly set a tax which will be equitable today and
15 still remain equitable 20 years from now when coal
16 begins to come into its own. The legislature in those
17 days will have to battle, just as the legislature is
18 today, and just as the legislature did 30 years ago -- the
19 canned salmon industry. It's the same thing, just the
20 names and the people and the industry has changed.
21 There's a man here by the name of Coffee from the
22 Anchorage Chamber of Commerce. He was talking about his
23 father being a member of that legislature in the early
24 days. My father served in the legislature from 1930 or 31
25 up about 1945 at the time of his death. It was the

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1 longest undefeated record of continuous service in the
2 legislature at that time. I think Bill Egan eclipsed it
3 later on and then Butrovitch. As I remember it, Coffee
4 said that -- how they fought for the canned
5 salmon industry. As a matter of fact, Coffee's father
6 was on the other side in a very critical vote in those
7 days. I notice that he now claims that he was on the
8 finally prevailing side. The United Kingdom increased
9 its taxation from 87% to 90% in the North Sea. I would
10 like to point out that was the seventh tax increase in
11 the last 18 months. Further I would like to point out
12 that it was done by the Conservative government led by
13 ~~Conservatives -- in short, we see the way a genuine~~
14 conservative functions to protect the assets of his or
15 her company, in this case the assets of the United
16 Kingdom. The tools that were used were the basic tools
17 of government - taxation and appropriation. Appropriation
18 which the State of Alaska has not used. The Oil and
19 Gas Journal and others predicted all kinds of dire things
20 in banner headlines. Now we find buried deeply in the
21 Oil and Gas Journal the statement that despite the new
22 round of tax increases, the demand for offshore rigs will
23 continue to be tight even though there will be a number of
24 new additional rigs added to the supply during the next
25 year. Bringing England's taxation a little closer to home,

1 the Queen of England owns a majority interest, a major
2 interest I should say, in British Petroleum to the Bank
3 of England which in turn controls a majority interest in
4 SOHIO who owns more oil in Prudhoe Bay in Alaska than all the
5 rest of the Alaska combined -- Alaska producers combined.
6 Prudhoe Bay is the most profitable oil field in the history
7 of the world. There are bigger oil fields which produce
8 more oil more cheaply, but those are owned by countries
9 which have long since prevented the rape of their national
10 interest. Only in the United States has this rape still
11 permitted, and only in Alaska is it so great. For the
12 above reasons, I would like to suggest that Alaska
13 undertake a tax equalization program to bring the total
14 tax on Prudhoe Bay into line with the United Kingdom's
15 tax on North Sea production. I'd like to suggest
16 that the legislature take more than just a safety net
17 for Lipton's income tax. I will speculate that Alaska's
18 severance tax will have to be tripled or quadrupled overall,
19 to bring the overall Alaska, federal tax rate, royalty, etcetera,
20 up to the English total take in the North Sea oil.
21 Further, I suggest the Committee undertake an educational
22 program to make, not only Alaska public aware of royalty,
23 taxes and ownerships required by other nations, but also
24 export the oil tax informational programs to every other
25 oil producing state so the citizens can see the relationship

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JUDY JONES
199-1840

1 between other countries, what other countries are doing,
2 and what is done in the United States. Alaska should
3 not continue to approach oil taxation with the Viet Nam
4 war type philosophy. If the oil companies are going to
5 continue to beat the legislature over the head then the
6 legislature should respond. The legislature should
7 fight back not only with informational program --
8 with a very severe risk to the oil companies if they
9 lose the struggle over Alaska obtaining its fair share
10 of the oil barrel, they should suffer the penalty.
11 If this group gives up, the legislature gives up, one
12 dime to the oil companies, you will encourage them to
13 ~~come back next year with even~~ a more determined, harder
14 program. Thank you for the opportunity to appear.

15 MR. GARDINER:

16 Thank you. Questions from the Committee members?
17 Representative Randolph.

18 MR. RANDOLPH:

19 Mr. McCutcheon, you mentioned something about Senator
20 Stevens -- I don't think you were too clear on your
21 numbers. Maybe Alaska still owned oil until it's
22 refined - would you expand on that to the extent you
23 can? If there's any possibility that being a viable
24 suggestion, what do the oil companies, in fact, get for
25 the \$900 million back in '68?

1 MR. MCCUTCHEON: I didn't hear the last part of your question. I'll repeat
2 I didn't hear the last part of your question. I'll repeat
3 what I know about the Stevens. It was during the
4 D-2 hearings on the land claims. Stevens was explaining
5 to the members of the committee that Alaska was unique
6 because of its constitution, and it retained ownership of
7 the oil. That puzzled me. I never understood what it
8 was and I've never really pursued it, but it might be an
9 interesting thing for someone to pursue.

10 MR. RANDOLPH: The United States has this case.
11 One other question, Mr. Chairman. Mr. McCutcheon, if
12 you owned a such as people's table over the United States -
13 a piece of an oil field, personally, what type of tax
14 structure would you suggest the State impose upon you.

15 MR. MCCUTCHEON: I'd like to suggest
16 the same one that oil companies would. Same one, same
17 kind, same way the oil companies would.

18 MR. RANDOLPH: I have to be drilled or quadrupled over.
19 The oil companies can't impose taxes, royalty.

20 MR. MCCUTCHEON: I'd like to take in the North Sea oil.
21 I know it would take all the traffic would bear, same way
22 as they do, not only Alaska public aware of royalty.

23 MR. RANDOLPH: As required by other nations, but all
24 Thank you for informational programs to every other
25 producing state so the citizens can see the picture.

1 MR. GARDINER:

2 Questions from other Committee members? Thank you, Jerry. Okay,
3 that brings us to Commissioner Williams who we -- the first day
4 we said we would bring back for Committee members to
5 have further opportunity to ask the Commissioner
6 questions. I know some members specifically did have questions; they may
7 have forgotten them in the time span here. I understand the Commissioner
8 does have some comments. I'll let him go ahead with
9 that first.

10 COMMISSIONER WILLIAMS:

11 As soon as I get all my goodies sorted out here,
12 Mr. Chairman. Well, Mr. Chairman, there have been a
13 ~~number of comments~~ that have been made by speakers who
14 have followed me that may well have led to a number of
15 questions by the Committee. My comments mostly are in
16 anticipation of those questions that may have been
17 provoked. Perhaps it might be shorter for me to make
18 my responses or answer the questions that I believe
19 were, in fact, raised by a number of the points by
20 other witnesses, and then answer the questions --
21 although if you would rather, I could answer the
22 questions that the Committee has.

23 MR. GARDINER:

24 Go ahead, and if members have questions at the time
25 the Commissioner is discussing them, we can break in at

1 that point, and take anything additional.

2 COMMISSIONER WILLIAMS:-- If your question is --

3 One of the first ones was with respect to the testimony

4 of Carl Bauman relating to the interest deduction for

5 the Amerasia Hess. That was a situation where a parent loaned

6 money to the subsidiary and, under our regulations --

7 he said that was unfair, that they should be entitled to

8 get a deduction because other companies, whose parents

9 went to the market and borrowed money from third parties

10 and are paying interest to third parties, are entitled to

11 a deduction. The statute that, Section 30, AS 43.21.030,

12 speaks, when you are talking about pipeline income, in

13 terms that the taxable income attributable to the

14 transportation of oil in a pipeline engaged in interstate

15 commerce in Alaska shall be determined by the Department

16 and shall be the amount reported, or that would be

17 required to be reported, to the Federal Energy

18 Regulatory Commission, or its successors, as net

19 operating income. In the legislative history of the bill

20 there was some discussion about what net operating income

21 meant because it is also used for gas pipelines, and, in

22 fact, the so-called bottom line which is what's used for

23 the tariff calculation, doesn't actually use the term

24 net operating income either for pipeline

25 companies, oil pipeline companies, nor for gas pipeline

1 companies. It refers, instead, in one case, I think, to
2 net carrier income and, in the other case, to net
3 operator income. There's a whole series of accounts
4 and schedules for gas pipelines and oil pipelines that
5 Federal Energy Regulatory Commission and its predecessors,
6 the Interstate Commerce Commission which had oil pipelines,
7 and the Federal Power Commission which had gas pipelines --
8 they had this big elaborate schedule of different
9 accounts, it's a system of accounts. It's uniformly
10 applied. That is what this was referring to. We start
11 with that net operating income, and it says here - less
12 those portions of interest -- this is the statute now
13 ~~continuing on --~~ taxable income is: net operating income
14 less those portions of interest and general administrative
15 expense attributable to the pipeline transportation
16 of oil in the State, except that the taxable income shall
17 also include taxes on, or measured by, income. By
18 analogy in the production area, the interest expense for
19 a producer, a company that only produced oil, was
20 deductible -- it's limited, however, in a way so that you
21 exclude intercorporate transactions. In other words, if
22 I, as the XYZ Oil Company, had enough working capital,
23 cash, available in my corporate treasury that I could
24 lend to my producing subsidiary, the interest expense
25 would not be counted. If I went, instead, to the marketplace

1 and borrowed and so I, as the overall corporate enterprise,
2 am paying to a third party, that interest expense is
3 deductible. It's just a question, then, of how much
4 wealth you had in your treasury. We apply the same
5 principle in the case of these pipelines which I think is
6 consistent, in fact, with what the legislative intent was.
7 If there are any questions on that, I'll pause for them here -
8 otherwise I will continue on companies, whose parents

9 MR. COLLETTA: and borrowed money from a third party.
10 Commissioner, but isn't that making an assumption -- not
11 really an assumption but what you are doing is clarifying
12 or classifying who you can borrow money from? Borrowed
13 money should be borrowed money. But as to the

14 COMMISSIONER WILLIAMS: a pipeline approved in 1962.
15 When the IRS looks at consolidated returns they have the
16 provision that they too can exclude income that is -- or
17 interest expense that is between affiliates. It is
18 nothing new. It exists in Chapter 20 for regular taxpayers.

19 MR. GARDINER: In the legislative history of the bill
20 In the case of Amerada Hess, did they -- they borrowed it
21 from their parent company -- was that? Did the parent
22 company go borrow it from somebody else? Was that a
23 pass-through?

24 COMMISSIONER WILLIAMS: whether for pipeline
25 No. It wasn't a pass-through, nor for gas pipeline.

1 MR. GARDINER:

2 Was there actual borrowing on internal capital?

3 COMMISSIONER WILLIAMS:

4 That's my understanding.

5 MR. GARDINER:

6 Further questions on that? Go ahead, continue.

7 COMMISSIONER WILLIAMS:

8 The 50:50 odds was just a thing that got mentioned a
9 couple of times. I just would like to say that for my part
10 I don't necessarily view them as being 50:50. I think
11 the odds run in our favor. The concern that I have,
12 however, is that we cannot deny the fact that there is

13 ~~a significant chance that we could lose the litigation.~~

14 I don't know -- in my opinion it doesn't rise to the level
15 of 50%. But the point is that the consequences are so
16 severe if we do lose, we do have to make the refund,
17 that we should not take the gamble. I would like to
18 reemphasize that. But I would like to disavow, or
19 disassociate myself, with any sort of implicit endorsement
20 of a 50:50 assessment of the case.

21 MS. FAHRENKAMP:

22 Commissioner Williams, there's one part of this that
23 really bothers me. We had 3 recommendations of what
24 could be done in case it was, whether it was 50:50,
25 51:49, 60:40, whatever the odds are, but I notice there

1 was never anywhere mentioned that any of the reports that
2 we have of a fourth alternative - of sitting down at
3 the negotiating table and see what could be done.
4 What is your opinion on this?

5 COMMISSIONER WILLIAMS:

6 The problem -- well, obviously if you can control the
7 consistent, in fact, with what the legislative intent was,
8 situation through a settlement so that you eliminate
9 there are any questions of that I'll cause for them here -
10 the risk of litigation altogether, that is preferable,
11 otherwise I will continue on.

12 probably, to any other alternative simply because then
13 you have reduced your risk of loss essentially to zero
14 by agreement.

15 MS. FAHRENKAMP:

16 Well, Mr. Chairman, then my question is, if that is
17 money should be borrowed money.
18 preferable, or could be preferable, I don't understand

19 COMMISSIONER WILLIAMS:

20 why there has not been any saying let's sit down and talk.
21 When the IRS looks at consolidated returns they have the
22 This is what's bothering me. I see a strong possibility
23 that this could be done, and I see no action on the
24 part of the administration in any way to encourage it.

25 COMMISSIONER WILLIAMS:

26 Mr. Chairman, well, I will certainly apologize to you
27 if you haven't seen it because there have, in fact, been
28 efforts. The problem is that there's not a great deal
29 of sentiment, as reflected in the joint statement, to
30 cut back in the amount of dollars from the 30% share, or
31 thereabouts, that the State is taking. There are

1 constraints, then, imposed that -- we ran an idea by,
2 for instance, the Governor did, and I think that this is
3 general knowledge, certainly it is from the people I
4 know, that within a few hours of when that idea was
5 floated by some legislative leadership there was a list
6 signing up a majority of the members in the respective
7 house where this list was circulated, opposed to the
8 idea of cutting revenues in exchange for settlement.
9 If that only took a couple of hours to gather up
10 signitures to a pledge like that, that's a very fruitless -
11 looking alley in which to pursue very much further, it
12 seemed to us. Now, if you are telling-- if there's been
13 ~~a reversal of that position there, I'm certain that we~~
14 can talk. But ...

15 MS. FAHRENKAMP:

16 Mr. Chairman, I think I'll run my own list. Just see if (indisc. cough)

17 MR. RANDOLPH:

18 Yes, Commissioner, along the same lines, I think the
19 representative from Exxon indicated to this Committee
20 that they were somewhere in the ballpark of a 50:50
21 split from what the tax is to what it used to be,
22 they would be willing to sit down and talk about that.
23 To follow up on Senator Farenkamp's question, what's
24 the administration's position, not taking into consideration
25 the legislative input you think you might have. After

1 answering that, if the administration's position is that
2 you articulated a moment ago, if I understood it
3 the negotiating table and see what could be done
4 correctly, the need is to keep the amount of revenue
5 that is presently getting. You also said it was about --

6 COMMISSIONER WILLIAMS:
7 that there had been efforts made to negotiate this
8 The problem -- well, obviously if you can negotiate the
9 what is there to negotiate if that is, in fact, the
10 situation through a settlement so that you eliminate
11 administration's and the legislature's, position?

12 the risk of litigation altogether, that is preferable,
13 COMMISSIONER WILLIAMS:
14 probably, to any other alternative simply because that
15 Dollars and cents, I suppose. It would be a question
16 you have reduced your risk of some essential part
17 of how far back people are willing to draw from
18 by agreement
19 \$5.9 billion.

20 MR. RANDOLPH:
21 well, Mr. Chairman, that is what I am asking is, if I
22 My question is, what is the administration's position?

23 preferable, or would be preferable. I don't understand
24 COMMISSIONER WILLIAMS:

25 why there has not been any saving let's sit down and do
26 The administration's position is that there are four
27 This is what's bothering me. I see a strong possibility
28 acceptable types of solution. One is to escrow the
29 that could be done, and I see no harm in the
30 entire amount at stake which would be a total of
31 part of the administration in any way to negotiate
32 \$2.5 billion by this time next year, and proceed to

33 litigate - that's a responsible course of action
34 Mr. Chairman, well, I will certainly apologize to you
35 because at least that way we will have the money
36 if we haven't seen it because there have, to date, been
37 available that if we lose we can pay it. The second is
38 efforts. The problem is that there's not a great deal
39 that we adopt some sort of backstop which reduces the
40 risk overall because there is some additional risk
41 introduced by the amount of dollars from the state
42 introduced by the type of tax that we have with the
43 throughout, that the State is to pay. There is
44 corporate income tax over and above the basic risk

1 inherent in -- are we overreaching ourselves in this
2 level of revenue that we are taking from this industry?
3 So that's a second possibility. Third possibility
4 would be a settlement which presumably requires greater
5 compromise in terms of the dollars and cents. The
6 second one may not require any compromise in dollars
7 and cents, and in fact, this Sponsor Substitute
8 reflects that second approach. It's not necessary,
9 in fact, to sacrifice any dollars and cents.
10 Despite what the fiscal note says, and despite the
11 testimony against the opportunity for the legislature
12 to adjust the millage, it is very possible for the
13 legislature, ~~in fact, to adjust the millage so that~~
14 everything is restored to the status quo, and, in fact,
15 there is not an increase or a decrease in the revenues
16 that are being generated or protected. The third is
17 a settlement. The fourth approach, which I guess
18 I, in introducing this, I said they were acceptable --
19 the fourth one is not an acceptable. That's to do
20 nothing. That's to allow an impasse. And that is
21 irresponsible. It's the worst possible thing that
22 could happen.

23 MR. RANDOLPH:

24 My question was that the representative of Exxon told
25 us that they would be willing to sit down if somebody on

1 the Committee asked them at what point would you think
2 negotiations could take place or would result in something
3 that that negotiation would settle. They said somewhere
4 between, halfway between where we are and where we
5 are. Is the administration's position -- is there any
6 what is room in the administration's position to negotiate?
7 I mean, if the administration's position is that
8 there is no room to compromise what we are getting from
9 the current situation, then my question is how can
10 you arrive at a settlement at all? That concludes
11 that option, doesn't it?

12 COMMISSIONER WILLIAMS:

13 The question can be turned around, too, and ask is
14 the legislature willing to settle because it cannot
15 be done without legislation. If that legislation is
16 not forthcoming -- the answer to your question
17 is neither branch, I think, can proceed unilaterally
18 without the other. If there is a willingness on the
19 part of the legislature in both houses, a majority,
20 to proceed, that's evidence to the Governor, I would
21 suspect, that we would get instructions to proceed together.
22 If that's not forthcoming or if the cost of settlement
23 appears to be unsatisfactorily high, then we have got
24 a vehicle that represents, from my point of view
25 probably, the next best alternative.