

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672
1499 SCOMM 55: JNT. SPEC. COMM. ON STATE TAX POLICY, 1986-1987 / 299

is state owned, is exempted under sec. 21(d) of the Alaska Native Claims Settlement Act, or is otherwise exempted from state taxation under federal law.

Amendment 6: On page 9, line 26, replace "(as defined in AS 43.58.151(9))" with "under this chapter".

The amended text would read:

". . . paid during a tax year under this chapter by a taxpayer. . . ."

Explanation of Amendment 6. This technical change makes it clearer that income tax payments under AS 43.21 do not give rise to credits under AS 43.58.041(a) unless they are made during a tax year under AS 43.58. Since AS 43.58 will not take effect until July 1, 1981, income tax payments under AS 43.21 made before that time will not accrue "section 41(a) credits." (Note, however, that AS 43.58.041(b) provides for the accrual of credits for income tax payments made before July 1, 1981 -- in other words, no payment under AS 43.21 fails to accrue a credit against the reserves tax.)

Amendment 7: On page 10, line 24, replace "(e)" with "Sec. 43.58.051. REDETERMINATION OF LIABILITY." and renumber the remaining new sections in AS 43.58 by adding 10 to their present section numbers (e.g., present Sec. 43.58.051 becomes Sec. 43.58.061).
On page 10, line 27 and page 11, line 1: Replace "this section" with "AS 43.58.041".

The amended text would read:

"Sec. 43.58.051. REDETERMINATION OF LIABILITY. If the income tax liability of a taxpayer or the taxpayer's consolidated business under AS 43.20 or AS 43.21 for a tax period is redetermined and adjusted after the credit for that tax period has been applied under AS 43.58.041, or if the income tax liability of the taxpayer or the taxpayer's consolidated business is redetermined under AS 43.20 and adjusted after the credit for that tax period has been applied under AS 43.58.041, then the taxpayer's tax liability under this chapter for the tax year in which the credit was applied shall be redetermined, taking into account the adjustment to the taxpayer's income tax liability."

Explanation of Amendment 7. This technical amendment takes AS 43.58.041(e) -- which contains the heart of the revenue "safety net" in the bill -- and elevates it to the status of a separate section. Since it is no longer part of AS 43.58.041, references to "this section" must be changed to refer to that section. This change also removes these "safety net" provisions from any possible application of section 9 of the Act (at page 17, lines 4-14), which obviously is not intended to apply to them.

- Amendment 8. On page 11, line 23: Insert "implicit" between "inflation" and "in the".
On line 23: Delete "implicit" between "in the" and "GNP deflator".
On line 23: Before "GNP deflator", delete "implicit".

The amended text would read:

"... above the rate of inflation implicit in the GNP deflator over the five calendar years immediately preceding the assessment date. A taxpayer may rebut this presumption only by proving to the department by clear and convincing evidence that the use of the presumed discount rate in the valuation of the property would result in constructive fraud. In this subsection, "GNP deflator" means the deflator for the gross national product published by the United States Department of Commerce."

Explanation of Amendment 8. This amendment makes technical changes to allow a more accurate reference to the GNP deflator, which is the most broadly based indicator of U.S. inflation currently available. The statistics published by the U.S. Department of Commerce are actually entitled "Implicit Price Deflators for Gross National Product". These are a series of index numbers, with 1972 currently used as the base year (1972=100). The Commerce Department periodically revises these figures, at 45 days and again at 75 days after the initial estimate. We would expect to use the 75-day revision (or its closest counterpart if the revision intervals are changed) in determining the rate of inflation, since the later revision may reasonably be expected to be more accurate than both the initial estimate and the 45-day revision.

Your committee staff have asked exactly how we propose to calculate the rate of inflation implicit in the GNP deflator. The best way is to use the continuous compound rate of inflation between the index number for the fifth calendar year preceding the assessment date and the index number for the calendar year immediately preceding the assessment date. The mathematical formula for determining this continuous compound rate is

$$\text{rate} = [\ln(\text{GNP}_1/\text{GNP}_5)]/4$$

where GNP_5 is the index figure for the fifth preceding calendar year, GNP_1 is the index figure for the first preceding calendar year, and $\ln$ means the natural logarithm.

Using this formula, the rate of inflation that we would use for the July 1, 1981 assessment date would be:

$$\begin{aligned} [\ln(\text{GNP}_1/\text{GNP}_5)]/4 &= [\ln(180.1/133.8)]/4 \\ &= [\ln(1.346)]/4 \\ &= [0.297]/4 \\ &= 0.074 \end{aligned}$$

Thus the presumed discount rate for determining present values of future net

income will be this 7.4 percent rate of inflation, plus the number of percentage points prescribed in AS 43.58.061 (as renumbered by Amendment 7).

Amendment 9: On page 13, lines 5-6, delete "include property omitted from the assessment roll on a supplemental roll".
On line 7, between "original roll" and ".", insert the following:

" , prepare a supplemental roll to include property omitted from the original roll and to include property from which commercial production commences after the beginning of the tax year. The assessed value of property included on the supplemental roll because commercial production from it commences after the beginning of the tax year shall be reduced pro rata in proportion to the portion of the tax year preceding the commencement of commercial production from it"

The amended text (as renumbered by Amendment 7) would read:

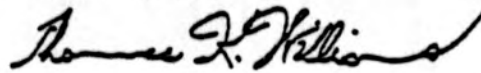
"Sec. 43.58.111. SUPPLEMENTAL ASSESSMENT ROLLS. The department shall, using the procedures set out in this chapter for the original roll, prepare a supplemental roll to include property omitted from the original roll and to include property from which commercial production commences after the beginning of the tax year. The assessed value of property included on the supplemental roll because commercial production commences after the beginning of the tax year shall be pro-rated on the basis of the time remaining in the tax year after the day commercial production commences.

Explanation of Amendment 9. This is a substantive amendment proposed in response to testimony to your committee by the representative of Atlantic Richfield Company. The witness testified that there would be an incentive to delay the timing for bringing new production on stream until after the start of a new tax year under AS 43.58, in order to avoid having reserves tax liability for two tax years. Without this proposed amendment, the witness would be correct: the property coming on stream would be placed on a supplemental assessment roll for the tax year in which production commenced; the following tax year the property would be placed on the regular assessment roll. To prevent this, the amendment would require that the assessment (and hence the reserves tax liability) be pro-rated on the basis of the time remaining in the tax year when production commenced. The following year, when the property is placed on the regular assessment roll, the assessment ratio will be 100 percent.

non. Terry Belmont
May 29, 1981
Page 9

I hope these suggestions will be adopted by the Committee. I will be available to answer any questions you or the committee may have about them.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Thomas K. Williams".

Thomas K. Williams
Commissioner of Revenue

TKW:tw

The following
Chief of

HOUSE JOURNAL

June 2, 1981

CSSB 134(SA)

The Finance Committee has had COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 134 (State Affairs) (special appropriation to the Department of Military Affairs for construction of a memorial to Alaskan veterans; effective date) under consideration and recommends it do pass with the following amendment:

Amendment No. 1 by the Finance Committee:

Page 1, lines 13 - 14

Delete "memorial to Alaskan veterans in Denali State Park"

Insert "memorial in Denali State Park to Alaskan veterans"

Concurring: Freeman (Vice Chairman), Meekins, Moss, Adams, Carney and Haugen.

CSSB 134(SA) was referred to the Rules Committee for placement on the calendar.

REPORTS OF SPECIAL COMMITTEESHCR 37

The Special Gas Pipeline Committee has had HOUSE CONCURRENT RESOLUTION NO. 37 (endorsing stipulations proposed as requirements for construction and operation of the Alaska Highway gas pipeline) under consideration and recommends it do pass. Concurring: Gardiner (Chairman), Rogers, Malone and Vaska. Not concurring: Halford and Hayes have no recommendation; Randolph recommends do not pass unless amended.

HCR 37 was referred to the Resources Committee.

SSHB 200

The Special Gas Pipeline Committee has had SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 200 (oil and gas taxes; effective date) under consideration and recommends it be replaced with COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 200 (GP)(same title), that it do pass and attaches a letter of intent. Concurring: Gardiner (Chairman), Malone, Vaska and Rogers. Not concurring: Halford has no recommendation; Hayes and Randolph recommend do not pass.

SPECIAL COMMITTEE
SUBSISTENCE
setting Postage
will be reached

LARY

SSHB 200 continued

SSHB 200 was referred to the Finance Committee.

The letter of intent follows:

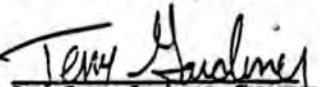
HOUSE SPECIAL GAS PIPELINE COMMITTEE
Letter of Intent for CSSHB 200 (GP)

As stated in the legislation, the purpose of the Committee Substitute for SSHB 200 is to protect and stabilize Alaska's oil revenues. Both the technical amendments to the oil & gas corporate income tax (AS 43.21) and the proposed tax on reserves contained in SSHB 200 accomplish this purpose. An ad valorem tax on producing oil reserves is an especially appropriate backstop for AS 43.21 because of its basis in the net present value of a field, paralleling the stream of income from that field.

The Committee has received extensive legal and fiscal analyses of the proposed legislation. The legal analysis was prepared for the Committee by Preston, Thorgrimson, Ellis & Holman and is entitled A Sound Strategy for Protecting Alaska's Oil & Gas Revenues: An Analysis of the Proposed Backstop Legislation. The Department of Revenue has submitted a report to the Committee entitled Fiscal Analysis of the Proposed Backstop Legislation. Both reports are hereby formally submitted as part of this Committee report on CS SSHB 200.

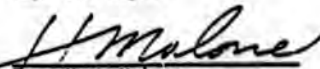
Alaska's tax burden on oil & gas is progressive and equitable. The State's major taxes on oil & gas - the production tax (AS 43.55), the oil & gas corporate income tax (AS 43.21), and the proposed ad valorem tax on producing reserves - are all designed to tax only profitable production income and not marginal properties. In recognition of this emphasis, CS SSHB 200 grants an exemption for natural gas from the proposed ad valorem tax. The tenuous nature of two major natural gas projects of national importance based on Alaskan gas reserves - the Pacific LNG project in Cook Inlet and the Alaska Natural Gas Transportation System - were of special concern to the Committee, and the exemption was supported in the testimony taken by the Committee.

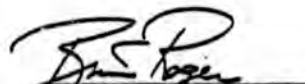
CS SSHB 200 will provide legal and fiscal stability for the State's petroleum tax policy, a policy that places Alaska in a very attractive position for oil and gas development. In a memorandum to the legislature, dated May 1981, an international petroleum economist summarized the comparative nature of Alaska's tax climate by stating, "In comparing the profitability of Alaskan oil with that elsewhere in the world, it is quite clear that it is probably the most profitable investment area in the world."

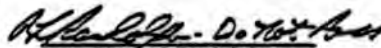

Rep. Terry Gardiner, Chairman

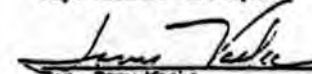

Rep. Richard Halford


Rep. Joe Hayes


Rep. Hugh Malone


Rep. Brian Rogers


Rep. Richard Randolph


Rep. Tonyaska

Original sponsor: Rules/Governor

Offered: 6/3/81
Referred: Finance

BY THE SPECIAL GAS
PIPELINE COMMITTEE

1 IN THE HOUSE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 200 (Gas Pipeline)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

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

26 * Sec. 2. AS 43.21.010 is amended to read:

27 Sec. 43.21.010. APPLICATION. This chapter applies to every cor-
28 poration doing business in the state which derives income from the pro-
29 duction of oil or gas from a lease or property in the state [,] or from

1 the pipeline transportation of oil or gas in the state. The tax calcu-
2 lated under this chapter is measured by the total taxable income of the
3 corporation during the tax period as determined under [DEFINED IN]
4 AS 43.21.020 - 43.21.040 and is calculated [DETERMINED] at the rates
5 established under AS 43.20.011(e).

6 * Sec. 3. AS 43.21.020(c) is amended to read:

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

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

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

13 (3) taxes imposed under AS 43.56 and AS 29.53 which are ac-
14 tually paid or incurred by the corporation on property used directly in
15 the production of oil or gas from a lease or property in the state, in-
16 cluding property used in production, gathering, treatment, or prepara-
17 tion of the oil or gas for pipeline transportation, but only if those
18 property tax payments were due and payable only after the date of com-
19 mercial production from the lease or property with which the property
20 was associated;

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

26 (5) depreciation (using the unit of production method or
27 such other reasonable methods as the department may by regulation es-
28 tablish) on property used directly in the production, gathering, treat-
29 ment, or preparation of the oil or gas for pipeline transportation in-

1 cluding amortization of capitalized interest for investments in this
2 property at a rate not to exceed the average cost of borrowed capital
3 to the taxpayer during the year in which it is capitalized;

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

9 (7) interest expense of the corporation, not capitalized
10 during construction, that was paid or incurred in connection with prop-
11 erty in Alaska; however, unless (f) of this section applies, the inter-
12 est expense may [TO THE EXTENT THAT IT DOES] not exceed that portion of
13 the total interest paid by the consolidated business of which the cor-
14 poration is a part, determined by multiplying the total interest [(RE-
15 DUCE BY INTERCOMPANY TRANSACTIONS WITHIN THE CONSOLIDATED BUSINESS)]
16 by a fraction, the numerator of which is the value of the corpora-
17 tion's real and tangible personal property used directly in the produc-
18 tion of oil or gas from a lease or property in the state and the denom-
19 inator of which is the value of all real and tangible personal property
20 of the consolidated business; in this subsection, "total interest paid
21 by the consolidated business" does not include interest expense arising
22 from intercompany obligations within the consolidated business except
23 to the extent that the interest expense reflects a pass-through of in-
24 terest on a third-party borrowing by the parent or other member of the
25 consolidated business with the purpose, expressed at the time of the
26 third-party borrowing, of financing Alaska business activity of the
27 taxpayer corporation;

28 (8) expenses incurred by the corporation after December 31,
29 1977, of unsuccessful exploration of oil or gas in the state including

1 ERTY IN THE STATE].

2 * Sec. 4. AS 43.21.020 is amended by adding a new subsection to read:

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

10 * Sec. 5. AS 43.21.040(b) is repealed and reenacted to read:

11 (b) The total taxable income of the consolidated business is its
12 entire income less the portion of that entire income attributable to
13 worldwide production and pipeline transportation of oil and gas. In
14 this section,

15 (1) for a member of a consolidated business who is required
16 to file under the Internal Revenue Code, "entire income" means taxable
17 income under Subtitle F and chapter 1 of Subtitle A of the Internal
18 Revenue Code of 1954, as amended, except that those provisions adopted
19 after December 31, 1975, which change or modify exemptions from tax are
20 not adopted by reference as a part of this section until the second
21 January 1 following the effective date of the federal law;

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

26 * Sec. 6. AS- 43.21.050 is amended by adding a new subsection to read:

27 (d) If the methods of allocation and apportionment provided in
28 this chapter do not fairly represent the extent of a corporation's
29 business activity in the state, the corporation may petition for or the

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

1 cluding amortization of capitalized interest for investments in this
2 property at a rate not to exceed the average cost of borrowed capital
3 to the taxpayer during the year in which it is capitalized;

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

9 (7) interest expense of the corporation, not capitalized
10 during construction, that was paid or incurred in connection with prop-
11 erty in Alaska; however, unless (f) of this section applies, the inter-
12 est expense may [TO THE EXTENT THAT IT DOES] not exceed that portion of
13 the total interest paid by the consolidated business of which the cor-
14 poration is a part, determined by multiplying the total interest [(RE-
15 DUCE
16 BY INTERCOMPANY TRANSACTIONS WITHIN THE CONSOLIDATED BUSINESS)]
17 by a fraction, the numerator of which is the value of the corpora-
18 tion's real and tangible personal property used directly in the produc-
19 tion of oil or gas from a lease or property in the state and the denom-
20 inator of which is the value of all real and tangible personal property
21 of the consolidated business; in this subsection, "total interest paid
22 by the consolidated business" does not include interest expense arising
23 from intercompany obligations within the consolidated business except
24 to the extent that the interest expense reflects a pass-through of in-
25 terest on a third-party borrowing by the parent or other member of the
26 consolidated business with the purpose, expressed at the time of the
27 third-party borrowing, of financing Alaska business activity of the
28 taxpayer corporation;

29 (8) expenses incurred by the corporation after December 31,
1977, of unsuccessful exploration of oil or gas in the state including

1 the acquisition costs of abandoned properties, dry hole costs, and the
2 costs of geologic and geophysical exploration related to those aban-
3 doned properties;

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

9 (A)] that portion of the total general overhead or ad-
10 ministrative expense incurred by the consolidated business of
11 which the corporation is a part, determined by multiplying the
12 total general overhead or administrative expense by a fraction,
13 the numerator of which is the value of the corporation's real and
14 tangible personal property used directly in the production of oil
15 or gas from a lease or property in the state and the denominator
16 of which is the value of all real and tangible personal property
17 of the consolidated business;

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

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

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

27 (B) THE SUM OF \$0.12 FOR EACH BARREL OF OIL AND \$0.02
28 FOR EACH THOUSAND CUBIC FEET OF GAS PRODUCED FROM A LEASE OR PROP-
29

ERTY IN THE STATE].

* Sec. 4. AS 43.21.020 is amended by adding a new subsection to read:

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

* Sec. 5. AS 43.21.040(b) is repealed and reenacted to read:

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

(1) for a member of a consolidated business who is required to file under the Internal Revenue Code, "entire income" means taxable income under Subtitle F and chapter 1 of Subtitle A of the Internal Revenue Code of 1954, as amended, except that those provisions adopted after December 31, 1975, which change or modify exemptions from tax are not adopted by reference as a part of this section until the second January 1 following the effective date of the federal law;

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

* Sec. 6. AS- 43.21.050 is amended by adding a new subsection to read:

(d) If the methods of allocation and apportionment provided in this chapter do not fairly represent the extent of a corporation's business activity in the state, the corporation may petition for or the

1 department may require, in respect to all or any part of the corpora-
2 tion's business activity, if reasonable, the employment of any method
3 authorized under art. IV, sec. 18, of the multistate tax compact
4 (AS 43.19.010) to effectuate an equitable allocation and apportionment
5 of the corporation's income. The commissioner shall include in his
6 annual report required in AS 43.21.110 a report on all relief granted
7 under this subsection, including for each case a statement of the
8 changes in tax liability resulting from the granting of relief, the tax
9 years involved, and a description of the method of determining taxable
10 income that was substituted for those provided in this chapter.

11 * Sec. 7. AS 43.21.070 is amended to read:

12 Sec. 43.21.070. PAYMENT OF TAX. The tax levied under this chap-
13 ter is payable to the department on or before September 30 of each year
14 or in installments, including prepayments of estimated tax, at the
15 times and under the conditions the department may by regulation re-
16 quire. This tax is payable on the due date set out in this section
17 even though the assessment is under appeal or the validity, enforce-
18 ability or application of this chapter or any provision of this chapter
19 is challenged before the department or in the courts.

20 * Sec. 8. AS 43.58 is amended by adding new sections to read:

21 Sec. 43.58.011. FINDINGS AND PURPOSES. (a) The legislature
22 finds that

23 (1) since Statehood the level of public services and public
24 facilities provided by the state government to its citizens has been
25 much below the level provided by other states to their citizens, and
26 this inadequacy has been the result of insufficient state revenues;

27 (2) there exists in Alaska today a level of public services
28 and public facilities far below that which Alaskans are reasonably
29 entitled to expect, and these unmet needs include inadequate public

1 transportation facilities, inadequate public health care facilities and
2 programs, inadequate communications facilities, inadequate public
3 education facilities, inadequate levels of police protection, over-
4 burdened justice facilities, and inadequate energy facilities, and an
5 economy overly dependent on nonrenewable resource development;

6 (3) with the increased revenues that have resulted from
7 increased development of oil resources in Alaska, this legislature,
8 acting on behalf of all the people of Alaska, has embarked upon a leg-
9 islative program intended to begin fulfilling some of the unmet public
10 needs described in (2) of this subsection, and it will take many years
11 of expenditures at current or increased levels to meet these needs;

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

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

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

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

1 (8) the level of taxation currently imposed by the state on
2 the oil industry does not impose an undue burden on that industry and
3 has not discouraged exploration and development of oil resources in
4 Alaska;

5 (9) development of natural gas resources in Alaska has
6 lagged behind oil development in the state and additional or alterna-
7 tive taxes on the natural gas industry may discourage future natural
8 gas development;

9 (10) the imposition of a property tax on oil reserves with a
10 credit for income taxes paid will best provide sufficient alternative
11 revenues without discouraging economic diversification and without
12 discouraging present or future exploration and development of oil
13 resources;

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

20 (b) The purposes of this Act are to

21 (1) enact a tax which will generate sufficient revenues to

22 (A) meet any judgment that might be rendered against
23 the state in the litigation concerning the Oil and Gas Corporate
24 Income Tax; and

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

27 (2) avoid imposing cumulative tax liability on taxpayers
28 subject to the Oil and Gas Corporate Income Tax (AS 43.21) by granting
29

1 a credit of taxes paid under AS 43.21 for those persons subject to the
2 oil reserves property tax;

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

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

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

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

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

17 Sec. 43.58.031. EXEMPTIONS. (a) The following property that
18 would otherwise be taxable property is exempt from taxation under this
19 chapter:

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

21 (2) property exempt from state taxation under the laws of
22 the United States including the exemption of property, whether or not
23 developed or leased to third-parties, under sec. 21(d) of the Alaska
24 Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C.
25 1601, et. seq.);

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

28 (b) Notwithstanding the exemptions from taxation authorized by
29 (a) of this section, a leasehold or similar interest held by a third

1 party in property described in (a)(1) or (a)(2) of this section is
2 taxable under this chapter to the extent of the interest.

3 Sec. 43.58.041. CREDITS. (a) The amount of tax under AS 43.21
4 paid during a tax year under this chapter by a taxpayer or the tax-
5 payer's consolidated business for tax periods under AS 43.21 beginning
6 after December 31, 1980, is allowed as a credit against the tax levied
7 under this chapter in the tax year for the taxpayer's taxable property.
8 The credit may not exceed the total amount of tax due for the tax year
9 under this chapter for all of the taxpayer's taxable properties.

10 (b) In addition to the credit allowed under (a) of this section,
11 the amount of tax paid under AS 43.21 by a taxpayer or the taxpayer's
12 consolidated business before July 1, 1981, is allowed as a credit
13 against the tax levied under this chapter for the taxpayer's taxable
14 properties.

15 (c) In applying the credits under (a) and (b) of this section,
16 the credit allowed under (a) of this section shall be applied before
17 applying any credit under (b) of this section. Credit under (b) of
18 this section shall be applied only to the extent that the combined
19 amount of applied credit under (a) and (b) of this section does not ex-
20 ceed three-quarters of the total amount of tax levied under this chap-
21 ter for all of the taxpayer's taxable properties. If the amount of the
22 credit under (b) of this section exceeds the amount that may be applied
23 for a tax year against the tax levied under this chapter, the excess
24 credit under (b) of this section may be carried forward and applied in
25 subsequent tax years until it has been exhausted.

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

1 Sec. 43.58.051. REDETERMINATION OF LIABILITY. If the income tax
2 liability of a taxpayer or the taxpayer's consolidated business under
3 AS 43.20 or AS 43.21 for a tax period is redetermined and adjusted
4 after the credit for that tax period has been applied under AS 43.58.-
5 041, or if the income tax liability of the taxpayer or the taxpayer's
6 consolidated business is redetermined under AS 43.20 and adjusted after
7 the credit for that tax period has been applied under AS 43.58.041,
8 then the taxpayer's tax liability under this chapter for the tax year
9 in which the credit was applied shall be redetermined, taking into
10 account the adjustment to the taxpayer's income tax liability.

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

14 (b) The full and true value of taxable property under this chap-
15 ter is the estimated price which the property would bring for its prov-
16 en reserves in an open market and under the then prevailing market con-
17 ditions in a sale between a willing seller and a willing buyer both
18 conversant with the property and with prevailing values. In determin-
19 ing this value, the department shall consider all factors which may be
20 known by the department to affect the value of taxable property, in-
21 cluding but not limited to the discounted present value of the expected
22 future net income from the proven reserves of the taxable property.

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

26 (d) In discounting the expected future net income from the tax-
27 able property to its present value under (b) of this section, the de-
28 partment shall presume that the appropriate discount rate is 11.6 per-
29 centage points above the rate of inflation implicit in the GNP deflator

1 over the five calendar years immediately preceding the assessment date.
2 A taxpayer may rebut this presumption only by proving to the department
3 by clear and convincing evidence that the use of the presumed discount
4 rate in the valuation of the property would result in constructive
5 fraud. In this subsection, "GNP deflator" means the deflator for the
6 gross national product published by the United States Department of
7 Commerce.

8 Sec. 43.58.071. ASSESSMENT ROLL. The department shall prepare
9 annually the assessment roll for taxation under this chapter. The roll
10 shall contain:

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

15 Sec. 43.58.081. ASSESSMENT NOTICE. On or before October 15 of
16 each tax year, the department shall send to every owner of taxable
17 property named in the assessment roll a notice of assessment showing
18 the assessed value of the property. The notice of assessment is effec-
19 tive on the date of its mailing.

20 Sec. 43.58.091. APPEAL. (a) A person aggrieved by the action of
21 the department in making an assessment may appeal that action and ob-
22 tain a formal hearing upon its validity before the department by filing
23 written objections to the assessment not later than 20 days after the
24 effective date of the assessment notice.

25 (b) The procedures for conduct of the formal hearing shall be in
26 accordance with AS 43.05.240. At the hearing the appellant bears the
7 burden of proof. In the absence of this proof the assessment is to be
28 upheld by the department. If the department, after hearing, determines
29 that a correction of the assessment is warranted, the department shall

1 correct the assessment and the assessment roll.

2 (c) Within 30 days after the decision by the department following
3 the hearing, a person aggrieved by that decision may appeal to the su-
4 perior court.

5 Sec. 43.58.101. CERTIFICATION. On or before February 1 of the
6 tax year, the department shall certify the final assessment roll. The
7 department shall mail to the owner, operator, or other person filing a
8 return and paying tax on the taxable property a statement of the amount
9 of tax due no later than March 15 of the tax year.

10 Sec. 43.58.111. SUPPLEMENTAL ASSESSMENT ROLLS. The department
11 shall, using the procedures set out in this chapter for the original
12 roll, prepare a supplemental assessment roll to include property
13 omitted from the original roll and property from which commercial
14 production commences after the beginning of the tax year. If property
15 is included on the supplemental assessment roll because commercial
16 production from it commences after the beginning of the tax year, the
17 assessed value of the property shall be reduced pro rata in proportion
18 to the portion of the tax year preceding the commencement of commercial
19 production from the property.

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

25 (b) An employee or agent of the department may enter any premises
26 necessary for the investigation during reasonable hours and may examine
27 property and other appropriate records. The owner of taxable property,
28 upon request, shall furnish to the employee or agent of the department
29 reasonable assistance required for the investigation. If an employee

1 or agent of the department seeking to enter any premises necessary for
2 an investigation under this section or to obtain reasonable assistance
3 required for an investigation under this section is refused entry or
4 assistance, the superior court may, after reasonable notice to and
5 hearing of the owner, order the owner to allow the entry or to furnish
6 the assistance.

7 (c) For the purpose of the investigation, the owner, operator, or
8 other person filing a return and paying the tax on the taxable property
9 or his representative may be required to present himself for examina-
10 tion under oath by the department.

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

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

20 (1) by a person who is the owner of the property, or who
21 controls that property as agent, or on account of any other person;

22 (2) by a guardian or other person who has charge of taxable
23 property belonging to a minor or other person;

24 (3) by the trustee of a trust estate holding taxable proper-
25 ty in trust for the benefit of another person;

26 (4) by the executor or administrator of a deceased person's
27 estate which includes taxable property;

28 (5) by the receiver of a corporation having taxable property.

29 (b) The person required to submit the return specified under (a)

1 of this section is primarily liable for payment of the tax levied by
2 this chapter. The persons or estates specified in (a)(2) - (5) of this
3 section in whose behalf the tax levied by this chapter is to be paid
4 are secondarily liable for payment of the tax. With the written ap-
5 proval of the department, an operator or nonoperator of the lease or
6 property may submit returns or make payment of the tax levied under
7 this chapter on behalf of himself and such other persons as the depart-
8 ment may approve.

9 (c) The tax levied under this chapter is payable to the depart-
10 ment on or before June 30 of each tax year or in installments, includ-
11 ing prepayments, at the times and under the conditions the department
12 may by regulation require. This tax is payable on the due date set out
13 in this subsection or at the times required by the department under its
14 regulations even though the assessment is under appeal or the validity,
15 enforceability, or application of this chapter or any provision of this
16 chapter is challenged before the department or in the courts.

17 (d) With the prior written approval of the department, a person
18 submitting returns or making payments as required under this chapter
19 for more than one taxable property may regard those properties as a
20 single taxable property for purposes of submitting those reports or
21 making those payments.

22 (e) A person making payment of the tax levied under this chapter
23 on behalf of one or more other persons owning or otherwise holding an
24 interest in a taxable property may withhold a proportionate share of
25 the payment from any proceeds or other benefits from the taxable prop-
26 erty owed to a person on whose behalf the payment is made. Unless
27 otherwise specifically provided by written contract or agreement, the
28 person so withholding a proportionate share of the tax levied under
29 this chapter incurs no liability to those from whom it is withheld by

1 virtue of having made the withholding.

2 (f) By written notice the department may require a person filing
3 a return to submit additional information to the department within 30
4 days.

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

8 Sec. 43.58.161. DEFINITIONS. In this chapter

9 (1) "commercial production" means the production of oil or
10 gas for purposes of sale or other beneficial use, except when the sale
11 or beneficial use is incidental to the testing of an unproven well or
12 unproved completion interval;

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

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

16 (4) "oil" means crude petroleum and other hydrocarbons re-
17 gardless of gravity which, when recovered, are recovered at the well-
18 head in liquid form, and the liquid hydrocarbons known as distillate or
19 condensate that are recovered by separation from gas other than at a
20 gas processing plant;

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

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

25 (A) a mineral interest;

26 (B) a leasehold interest;

27 (C) a working interest, royalty interest, overriding
28 royalty interest, production payment, net profit interest, or any
29 other interest in a lease, concession, joint venture, or other

1 agreement for oil and gas exploration, development, or production;

2 (D) a working interest, royalty interest, overriding
3 royalty interest, production payment, net profit interest, or any
4 other interest in an agreement for unitization or pooling under
5 the provision of sec. 614(b)(3) of the Internal Revenue Code of
6 1954 as defined on the effective date of this paragraph;

7 (7) "proven reserves" means the volumes of oil and gas in a
8 known deposit which geological and engineering information indicate to
9 be recoverable in the future under prevailing economic conditions and
10 technology;

11 (8) "tax year" means a calendar period beginning on July 1
12 of one calendar year and ending on June 30 of the following calendar
13 year;

14 (9) "taxable property" means a property having commercial
15 production.

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

27 * Sec. 10. If an exemption under AS 43.58.031(1), (2), or (3) is held
28 invalid by a final judgment of a court from which an appeal is not taken,
29 then that exemption is void, and AS 43.58, enacted in sec. 8 of this Act,

1 shall be read as if that exemption had never been included.

2 * Sec. 11. If the method of determining taxable income under either
3 AS 43.21.020 or 43.21.030 is held invalid by a final judgment of a court
4 from which an appeal is not taken, and if as a result of that judgment a
5 corporation, whether or not a party named in that judgment, receives a re-
6 fund of taxes or estimated taxes paid under AS 43.21, then the provisions of
7 AS 43.20 apply to that corporation for the entire period for which it re-
8 ceives the refund.

9 * Sec. 12. (a) Notwithstanding the provisions of AS 43.58.021(b), en-
10 acted in sec. 8 of this Act, the rate of levy under AS 43.58 for the tax
11 year beginning July 1, 1981, is 30 mills.

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

18 * Sec. 13. AS 43.21.040(d) and (e) are repealed.

19 * Sec. 14. AS 43.55.011(d), 43.55.012(a), 43.55.018; AS 43.58.010,
20 43.58.020, 43.58.030, 43.58.040, 43.58.050, 43.58.060, 43.58.070, 43.58.080,
21 43.58.090, 43.58.100, 43.58.110, 43.58.150, 43.58.160, 43.58.170, 43.58.180,
22 43.58.190, and 43.58.200 are repealed.

23 * Sec. 15. Sections 1 - 7, 11, and 13 of this Act are retroactive to
24 January 1, 1978, and apply to tax years beginning after December 31, 1977.

25 * Sec. 16. Sections 8, 12, and 14 of this Act take effect July 1, 1981.

26 * Sec. 17. Sections 9, 10, and 15 of this Act take effect immediately in
27 accordance with AS 01.10.070(c).
28
29

HOUSE FINANCE COMMITTEE

June 4, 1981

4:40 p.m.

(Tape HFC 81-107, side 2 #274)

PRESENT

All Members of the Committee were present except Representatives Malone and Buchholdt. (Representatives Freeman and Meekins arrived later in the meeting.) Present to testify were: Representative Gardiner; and Commissioner Tom Williams, Department of Revenue.

HR 200

Chairman Cotten called the meeting to order and brought HR 200 up for consideration.

SSHR 200 -- "An Act relating to oil and gas taxes; and providing for an effective date."

REPRESENTATIVE GARDINER explained his testimony will lead up to the Bill, and the Commissioner will cover what is actually in the bill. He explained the oil and gas corporate income tax was passed in 1978 after three years of extensive study in a cooperative fashion between the House, Senate and Administration. He said they had been advised for at least the preceding ten years that someday the State was going to have to address the income tax question because its existing corporate income tax didn't deal with situations like the multi-national corporations and the way they do their books and account for the profits.

Representative Gardiner said they then passed the oil and gas income tax, setting the same rate, but better defining what the actual profits from oil and gas production in Alaska were. He said with the passage of that bill, many felt the process the State had gone through in developing a modern oil/gas taxation and leasing policy and statute was over, and the State could go on to something else. At that point, Representative Gardiner said, they were looking at a figure of 30% of the profits from the oil and gas development state that would go to the State. He said he thinks that can be considered a fair portion from the development of those resources coming from State land.

Representative Gardiner said the bill passed, and after awhile the companies decided to file suit against it, stating it is unconstitutional and on other basis. He said, by some estimates, what is at stake is approximately \$5 or \$9 billion from the inception of the tax to 1985.

Representative Gardiner said he is confident the State will win the suit. He said the State has never lost any major oil tax

cases, and just because someone files suit isn't a sign the state should "role over and play dead". He said he thinks the State has written good laws and he doesn't see that they are going to lose this case. Representative Gardiner said there is still some risk, and that is the reason for this bill -- the so called "back-stop bill".

Representative Gardiner said by 1995 \$3 billion or \$2 billion of State revenue under 43.21 will be at risk if the State were to lose the case. He said he doesn't think they can afford that in terms of State planning and what the people want done regarding development of the State.

Since the companies have filed suit, Representative Gardiner said, there have been negotiations going on with the companies. He said he thinks the bottom line of the negotiations is if the State were to accept any of the settlement offers, it would mean losses of several billions of dollars. He said there is no reason to do that, unless one is scared, and he doesn't see that they should be. He said there was consideration this year on whether or not they should settle, and the leadership in both houses and the Governor issued a statement saying the bottom-line from the State of Alaska's point of view was the State should not give up its existing levels of revenues; that the 30% share they receive from the oil and gas development is fair and should continue. On the other hand, the statement said, the figure should not increase.

Representative Gardiner said they then sat down with various consultants, and staffs of the legislature and administration, to look at the options. He advised that former commissioner of Revenue John Messenger, with the assistance of others, did a study to look at all the options that would maintain what was laid out in the joint statement -- continuing revenues at the existing level and reducing the liability and risk the State presently has. Representative Gardiner said they came up with a recommended report, and the joint committee recommended that a bill be introduced -- and that is SSHB 200.

(Representative Freeman arrived at this time.)

COMMISSIONER WILLIAMS, Department of Revenue, said the basic idea of the back stop legislation both in the sponsor substitute and in the CS, which is an improved version of the SS, is to revive the reserves tax. He said the reserves tax is among the safest forms of tax one can have. He said that tax will be revived and used as a revenue source, and provide a back stop against the income tax by allowing the income tax that is actually paid to be a credit, dollar for dollar, against the reserve tax liability. He said the purpose of the credit is to keep from doubling up. He explained the companies are paying "x-dollars" under the income tax and it is not their intent to make them pay two times "x-dollars" by passing the legislation. He said that is why the credit only means they still come up with the "x-dollars".

Commissioner Williams said the back-stop works because if there is an adjustment in the tax liability under the income tax (if it is thrown back under Chapter 20, or there is an audit and it is adjusted, or whatever it may be), the adjustment changes the credit directly dollar for dollar. He explained if there was a refund of the income tax, it lowers the credit dollar for dollar by the same amount; thus, there is an increase in the exposure to the reserves tax dollar for dollar.

Commissioner Williams explained the bill is so long primarily because it also incorporates a number of technical changes that they believe are advisable to make in the income tax itself. He said there are some consequences in the present income tax law which they think are unintentional, some of which are issues which probably should not be addressed at this time. Consequently, he said, the first several sections of the bill reflect changes in the present law that will help improve the litigation and, at the same time, assure more equitable administration of the tax laws, as was originally intended. He advised these changes eliminate some of the glitches that have come up.

Commissioner Williams said "the guts of the back-stop part" begins on page 9 of the bill -- the imposition of the ad valorem tax. He said this is the reserves tax. He advised certain exemptions of property are made -- the state's own property is exempt; the property of the United States is exempt; property the State is pre-empted under federal law from taxing, such as the Native Land, is exempt; and gas reserves are exempt. He said the reason the gas reserves are exempt is because there are projects "on the drawing board" both for North Slope and Cook Inlet gas that have a very shaky future. He said there are definitely marginal prospects -- which always get dangled out as a threat that they don't want the marginal prospects to be pushed off the edge by the taxation policy. He said these are truly marginal prospects, both in Cook Inlet and Prudhoe Bay, the State's two primary areas where they have gas. He said since they are marginal it is not appropriate to tax them at this time.

(Representative Meekins arrived at this time.)

Commissioner Williams said third party interests in the exempt properties -- if the United States leases to an oil company, or if the State leases to an oil company, or a native corporation leases its exempt land to an oil company -- that interest to the oil company is taxable. He said the exemptions would follow if any other exemptions are someday enacted by federal law, the state would follow along with those.

On page 10 of the bill, Commissioner Williams said, are the credits. He said this is the essential back-stop part of the bill. He explained it allows for the income tax that has already been paid to give rise to a credit against a reserves tax in the future. He said it also allows for future income tax payments to give rise to credits against the reserves tax in the future.

Commissioner Williams said on page 11 is the redetermination of liability. He said this is the section where if there is an adjustment of the income tax liability, then there is a corresponding reduction or adjustment in the amount of credit that is allowed against the reserves tax, and a redetermination of the reserves tax liability on the basis of whatever the adjustment is in the income tax.

Commissioner Williams said these two sections together are the real heart of the back stop legislation. He said the other sections are essentially borrowed from the old reserves tax statute; it has been reenacted for the purpose of eliminating any question about what the effect was in the old reserves tax that said the act expired on December 31, 1977.

Representative Rogers said the fiscal note dated May 12 is for the Sponsor Substitute. He asked if the Gas Pipeline Committee Substitute had any impact on the dollars in the fiscal note, and what the impact of the new revenue projections on the fiscal note was. Commissioner Williams said, given the underlying assumptions in the fiscal note, the Committee Substitute makes the fiscal note more correct because the fiscal note calculated the reserves tax using an assumed rate of discount of 10%. He commented further on the fiscal note. He said the purpose of this legislation is not to effect a tax increase but to establish approximate parity overall, and back up and provide a "safety net" for the level of income the State has now.

(Tape change, HFC 81-108, side 1.)

There was brief discussion on the bill and fiscal note.

ADJOURNMENT

The meeting adjourned at 5:15 p.m.

Tape HFC 81-107, side 2 #274 to end
HFC 81-108, side 1 #001 to end

HOUSE FINANCE COMMITTEE

June 7, 1981

10:10 a.m.

(Tape HFC 81-107, side 2 #001.)

PRESENT

All Members of the Committee were present except Representative Weekins. (Representative Montgomery arrived later in the meeting.) Present to testify were: David Gottstein; Bob Speed and John Sund, Aides to Representative Gardiner, Resources Committee; Rodger Painter, United Fishermen of Alaska; and Tom Williams, Commissioner, Department of Revenue.

SB 25, SB 26

Vice Chairman Freeman called the meeting to order and brought SB 25 and SB 26 up for consideration.

CSSSSB 25 (Fin) am -- "An Act establishing a power project development fund in the Alaska Power Authority and amending the Alaska Power Authority Act; and providing for an effective date."

CSSB 26 (Fin) -- "An Act making special appropriations to the Alaska Power Authority for energy projects and for the power production cost assistance program; and providing for an effective date."

Vice Chairman Freeman presented proposed House Finance CS's for SB 25 and SB 26. He said he and his staff worked with the Resources Committee staff and come up with an approach that could get 21 votes on the House Floor. He said he thinks these versions would do that. He said the bills are clean and pristine and ready to go if the Committee can live with them. He said there are whole stacks of amendments to the bill; his concern is if they start going through amendments they will "end up with another HB 487", and he would rather not do that.

Vice Chairman Freeman commented the Committee has heard between 70 and 80 witnesses. He said there is one more person who wished to testify and has not yet had an opportunity to do so. He invited Mr. Gottstein to testify at this time.

MR. DAVID GOTTSTEIN presented his testimony. (See attachment #1.)

RECESS

Chairman Cotten called for a recess at 10:25 a.m. Vice Chairman Freeman recalled the meeting to order at 10:35 a.m.

Representative Rogers MOVED on page 1, line 12 to delete "(sec. 2(c), ch. 32, SLA 1980)". There being NO OBJECTION, it was so ordered.

Representative Rogers MOVED that this amendment be incorporated into a House Finance CS and that HCS CSSB 141 (Fin) be reported out. There being NO OBJECTION, it was so ordered. The bill was reported out with a "do pass" recommendation.

SB 524

The next bill to be considered was SB 524.

SB 524 -- "An Act relating to an investment tax credit allowed against the state corporate income tax; and providing for an effective date."

Chairman Cotten said his proposal is to incorporate the language of CSSSHB 200 (GP) ("An Act relating to oil and gas taxes; and providing for an effective date.") into SB 524. He said the contents of SB 524 will be altered to the extent there will be no retroactive effective date on the contents originally provided for in the bill. In addition, Chairman Cotten said, there will be some amendments to be considered to the Finance CS being proposed.

COMMISSIONER TOM WILLIAMS, Department of Revenue, said in the original version passed by the Senate the limit would be raised on qualified investments from \$500,000 to \$20 million. He said there is no limit on that being an investment in the State of Alaska. He further explained, and suggested amending the bill on page 1, line 15 after "use" to add "in the state".

Representative Malone MOVED to adopt a House Finance CS for SB 524 incorporating the text of CSSSHB 200 (GP). There being NO OBJECTION, it was so ordered.

Representative Malone said there is no credit provision under statute 43.21 at present, and he would recommend adding a credit section for investment in the State as follows:

"Add a new section to read:

Sec. 43.21.045. CREDITS. For purposes of calculating the income tax payable under this chapter, the taxpayer may apply as a credit against his tax liability the investment credit allowed under AS 43.20.021 (d) and 43.20.026 (b)."

Commissioner Williams said he thinks this amendment makes good sense.

Chairman Cotten MOVED that the amendment be adopted. There being NO OBJECTION, it was so ordered.

Chairman Cotten MOVED on page 2, line 2 between "use" and "for" to add "in the state". There was brief discussion. There being NO OBJECTION, it was so ordered.

There was discussion on the effective date of the tax credit.

(Tape change, HFC 81-110, side 1.)

Representative Malone MOVED AND ASKED UNANIMOUS CONSENT that the following amendment be adopted:

New Section 15 to CSSSHB 200 (GP):

"Sec. 15. TRANSITIONAL SECTION. During the first year of the annual tax levied under AS 43.58.021, the value of taxable property shall be assessed as of the effective date of this Act. During the first year of the tax levied under AS 43.58.021 the return required under AS 43.58.141 shall be submitted no later than 30 days after the effective date of this Act, and the Department shall send the notice of assessment required under AS 43.58.081 no later than sixty days after the effective date of this Act."

Delete Section 16.

Representative Rogers OBJECTED. He MOVED TO AMEND the motion to delete "section 16" and insert "section 17". Representative Malone agreed to the correction. There being NO OBJECTION, it was so ordered.

There being NO OBJECTION to the main motion as amended, it was ADOPTED.

Representative Malone proposed the following as a letter of intent for HCS CSSB 524:

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

Chairman Cotten MOVED AND ASKED UNANIMOUS CONSENT that the Letter of Intent be adopted. There being NO OBJECTION, it was so ordered.

RECESS

Chairman Cotton called for a recess at 12:30 p.m. and recalled the meeting to order at 12:40 p.m.

2000年12月



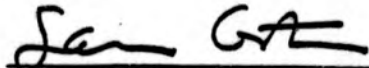
3

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Letter of Intent

HOUSE FINANCE COMMITTEE SUBSTITUTE
FOR SB 524(Fin)

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



Rep. Sam Cotten, Chairman
House Finance Committee

draft

Letter of Intent

HOUSE FINANCE COMMITTEE SUBSTITUTE FOR CSSB 524(Fin)

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

Rep. Sam Cotten, Chairman
House Finance Committee

AMENDMENT #1 to CSHB 200 (GP)

Add a new section 15, renumber following sections accordingly:

^N Section 15 Transitional Section.

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

Delete Section ~~16~~.

17

Malone

AMENDMENT #2 to HCSSSHB 200(GP)

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

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

PR7-237

Chapter 21 Lawsuit Analysis

Basis of Possible Settlement and Comparison
With Established Criteria

Basis of Settlement

1. Income of oil and gas companies taxed under modified apportionment as of January 1, 1982 in lieu of Chapter 21.
2. Compensating increase in severance tax rate on oil as of January 1, 1982 from 12-1/4% to 14-1/4%, 14-1/2%, 14-3/4% or 15%.
3. 10% tax credit for investment in Alaska
 - o Effective January 1, 1982 as to oil and gas development, except no credit allowed for investment before July 1, 1985 in Sadlerochit oil development.
 - o Effective when act becomes law as to other investment

Settlement Criteria

Results At Various
Severance Tax Rates

	14-1/4	14-1/2	14-3/4	15
1. State receives 28-31% of net income from Prudhoe Bay				
Resulting State share:				
on accrual basis	29.5	29.6	29.8	29.9
on cash flow basis	29.7	29.8	30.0	30.1
2. State share exceeds industry share				
Resulting State share:	29.5	29.6	29.8	29.9
Resulting industry share:	24.6	24.6	24.6	24.5
Excess	4.9	5.0	5.2	5.4

Chapter 21 Lawsuit Analysis
Basis of Possible Settlement and Comparison
with Established Criteria (Cont'd. from Page 1)

3. State should have same or more funds available for FY 82 appropriation through settlement.

<u>Result</u>	<u>Severance Tax Rate</u>			
	<u>14-1/4</u>	<u>14-1/2</u>	<u>14-3/4</u>	<u>15</u>
Rainy Day Account now available	350	350	350	350
Projected shortfall on accrual basis	(209)	(195)	(180)	(166)
Projected shortfall on cash flow basis	(52)	(40)	(28)	(17)
Additional funds available on accrual basis	141	155	170	184
Additional funds available on cash flow basis	298	310	322	333

4. State should experience revenue increase each year

<u>Result</u>	<u>Fiscal Year</u>	<u>Severance Tax Rate</u>			
		<u>14-1/4</u>	<u>14-1/2</u>	<u>14-3/4</u>	<u>15</u>
State Revenues	81	3,170	3,170	3,170	3,170
	82	3,999	4,013	4,127	4,042
	83	4,364	4,396	4,428	4,460
	84	4,839	4,873	4,907	4,941
	85	5,360	5,397	5,435	5,473

5. State should recover more than 50% of amount at risk in lawsuit

<u>Result</u>	<u>Severance Tax Rate</u>			
	<u>14-1/4</u>	<u>14-1/2</u>	<u>14-3/4</u>	<u>15</u>
Amount at risk recovered by State	66.1	68.5	70.8	73.1
Amount of Chapter 21 recovered by State	71.2	73.2	75.1	77.1

6. Settlement should be acceptable to ARCo, Exxon and SOHIO, with indication of stable tax policy in future

Result: Management acceptance uncertain at this time.
 Acceptance ~~also~~ ~~must~~ be conditioned on inclusion of terms set out above.

Chapter 21 Levult Analysis
State's Revenue and Recovery From Settlement
 (Accrual Basis)

<u>Description</u>	<u>FY</u> <u>79</u>	<u>FY</u> <u>80</u>	<u>FY</u> <u>81</u>	<u>FY</u> <u>82</u>	<u>FY</u> <u>83</u>	<u>FY</u> <u>84</u>	<u>FY</u> <u>85</u>	<u>To</u>
<u>State's Revenue</u>								
Chapter 21 Taxes	233 ⁽¹⁾	348 ⁽¹⁾	699	943	1,091	1,192	1,296	6.
Modified Apportionment - X of 21	100% ⁽²⁾	100% ⁽²⁾	100% ⁽²⁾	65.8% ^(2/3)	31.1% ⁽³⁾	33.3% ⁽³⁾	36.2% ⁽³⁾	5.
Modified Apportionment - 1985	233	348	699	622 ⁽⁴⁾	339 ⁽⁴⁾	421 ⁽⁴⁾	469 ⁽⁴⁾	3.
12-1/4% Severance Tax	174	307	1,077	1,396	1,370	1,677	1,842	8.
15% Severance Tax from 1/1/82 ⁽⁵⁾	174	307	1,077	1,553	1,922	2,053	2,256	9.
Royalty Income	332	917	1,319	1,761	2,048	2,264	2,302	11.
Property Tax	73	74	75	106	151	203	246	
Total State Revenue:								
Present Law	812	2,046	3,170	4,208	4,860	5,336	5,886	26.
New Law	812	2,046	3,170	4,062	4,460	4,961	5,473	24.
Revenue Loss - 1985	0	0	0	166	400	395	413	1.
Revenue Loss - X	0	0	0	3.9%	8.2%	7.4%	7.0%	
<u>Received By State Under Settlement:</u>								
Modified Appor. Income Tax	233	348	699	622	339	421	469	3.
Additional Severance Tax @ 15%	0	0	0	157	352	376	414	1.
Total Received - 1985	233	348	699	779	691	797	883	4.
Amount that would be received under Ch 20 if State lost suit ⁽⁶⁾	35	82	105	142	164	179	194	
Additional amount received from settlement:	198	466	594	637	527	618	689	3.
Amount at risk to State ⁽⁷⁾	198	466	594	803	927	1,013	1,102	5.
X received by State:								
- of amount at risk	100%	100%	100%	79.3%	56.8%	61.0%	62.5%	7
- of present Chapter 21	100%	100%	100%	82.4%	63.3%	66.8%	68.1%	7

State Taxes:					
Income tax under old - approx. after 1/1/82					
699	622	339	421	469	2,350
1,077	1,533	1,922	2,033	2,236	8,861
1,319	1,761	2,048	2,264	2,502	9,894
75	106	151	203	266	781
3,170	4,042	4,460	4,941	5,473	22,086
32,002	30,432	29,002	29,432	29,802	29,992
Total State Taxes					
1 of Total New Income					
Industry Taxes:					
Gross Revenues					
10,819	14,405	16,742	18,500	20,436	80,904
(3,170)	(4,042)	(4,460)	(4,941)	(5,473)	(22,086)
(915)	(1,093)	(1,362)	(1,677)	(2,066)	(7,113)
(1,807)	(3,402)	(4,179)	(4,383)	(4,976)	(18,745)
0	53	139	134	152	46
4,927	5,921	6,870	7,633	8,077	33,428
(2,266)	(3,724)	(3,160)	(3,311)	(3,715)	(15,272)
2,661	3,197	3,710	4,122	4,382	18,051
26,902	24,002	24,12	24,52	23,75	24,52
1 of Total New Income					
Federal Taxes:					
NET under new law (9)					
1,807	3,349	4,030	4,349	4,822	18,277
3,266	3,724	3,160	3,311	3,715	15,272
4,073	6,073	7,210	7,760	8,527	33,654
41,12	45,62	46,92	46,22	46,52	45,62
9,904	13,312	15,380	16,823	18,272	73,791
TOTAL NET INCOME					
1 of Total New Income					
Local Federal share					
FIT					
1 of Total New Income					

CHAPTER 21 Income Analysis
 Distribution of Net Income After Settlement
 (Actual Basis)

Chapter 21 Lawsuit Analysis

Footnotes Explaining Calculations on Pages 3 and 4

Footnotes:

- (1) Actual amount paid under Chapter 21. Calendar year 1978 liability was paid in FY 1979.
- (2) Cut-in date for modified apportionment is January 1, 1982. Therefore, FY 79, FY 80, FY 81 and first half of FY 82 revenues remain unchanged.
- (3) Average percentage of Chapter 21 revenues that will be recovered under modified apportionment, based on Tom Williams' analysis of proprietary data received individually from ARCo, Exxon and SOHIO. FY 1982 percentage based on 50% of year at 100% + 50% of year @ 31.6% = 65.8%.
- (4) Annual calculation based on modified apportionment with no ITC from Sadlerochit Reservoir oil development until after July 1, 1985.

$$\begin{aligned} \text{FY82} &= (945 \times 65.8\%) = 622 \\ \text{FY83} &= (1,091 \times 31.1\%) = 339 \\ \text{FY84} &= (1,192 \times 35.3\%) = 421 \\ \text{FY85} &= (1,296 \times 36.2\%) = 469 \end{aligned}$$

- (5) Assumes severance tax increase on oil to nominal rate of 15% (a 2-3/4% increase) effective January 1, 1982.

$$\begin{aligned} \text{FY82} &= (1,396 \times .50) + (1,396 \times .50 \times 15.0 \div 12.25) = 698 + 855 = 1,553 \\ \text{FY83} &= 1,570 \times 15.0 \div 12.25 = 1,922 \\ \text{FY84} &= 1,677 \times 15.0 \div 12.25 = 2,053 \\ \text{FY85} &= 1,842 \times 15.0 \div 12.25 = 2,256 \end{aligned}$$

- (6) 15% of Chapter 21 taxes (Chapter 20 under conventional apportionment)
- (7) Chapter 21 less Chapter 20
- (8) WPT reduction due to severance tax increases = windfall x 2-3/4% x 70%:

$$\begin{aligned} \text{FY82} &= (5,463 \times .50) \times .0275 \times .70 = 53 \\ \text{FY83} &= 6,683 \times .0275 \times .70 = 129 \\ \text{FY84} &= 6,983 \times .0275 \times .70 = 134 \\ \text{FY85} &= 7,918 \times .0275 \times .70 = 152 \end{aligned}$$
- (9) WPT under new law = WPT under present law less reduction due to severance tax increase

Chapter 21 Lawsuit AnalysisAdjustments to Totals for Various Severance Tax Rates

(Accrual Basis)

	<u>14-1/4%</u>	<u>14-1/2%</u>	<u>14-3/4%</u>	<u>15%</u>
Additional severance tax	944	1,063	1,181	1,299
WPT reduction due to severance tax inc	340	383	426	468
Revenue Loss from settlement compared to present law - MRS	1,729	1,610	1,492	1,374
- %	6.6%	6.1%	5.7%	5.2%
X received by State:				
of amount at risk -	66.1%	68.5%	70.8%	73.1%
of present Chapter 21 -	71.2%	73.2%	75.1%	77.1%
State share:				
Total State revenues - FY 81	3,170	3,170	3,170	3,170
- FY 82	3,999	4,013	4,027	4,042
- FY 83	4,364	4,396	4,428	4,460
- FY 84	4,839	4,873	4,907	4,941
- FY 85	<u>5,360</u>	<u>5,397</u>	<u>5,435</u>	<u>5,473</u>
TOTAL	21,732	21,849	21,967	22,086
X of total net inc - FY 81	32.0%	32.0%	32.0%	32.0%
- FY 82	30.0%	30.1%	30.3%	30.4%
- FY 83	28.4%	28.6%	28.8%	29.0%
- FY 84	28.8%	29.0%	29.2%	29.4%
- FY 85	29.2%	29.4%	29.6%	29.8%
TOTAL	29.5%	29.6%	29.8%	29.9%

~~William Lloyd~~
$$1 - \frac{1}{\sqrt{1 + \frac{2\sigma^2}{\lambda^2}}}$$
$$\frac{1}{1} \div \frac{1}{1} = 1$$

(1277)
(1407)
(1407)
(1407)

54	54	54
57	57	57
77	77	77

$$\begin{array}{r} 179 \\ 282 \\ 583 \\ \hline 1044 \end{array}$$
$$\begin{array}{r} 158 \\ 180 \\ 114 \\ \hline 123 \end{array}$$
$$\begin{array}{r} 127 \\ 65 \\ 92 \\ \hline 100 \end{array}$$

1524

150

1770

475

63.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Reduction in St. L.
Pay in week
Settlement Proposed

Per Mile 7m
No 111
Tax Credit

(272)	51	170	158	127	
(400)	50	282	80	65	
(402)	37	283	114	72	
(425)	22	435	123	100	
1604	160	1270	975	584	

Reduction in State
 From a single
 to the unit proposed

Per the 7th
 At Washington No 111
 to Credit

(217)	51	170	158	127	
(400)	50	282	80	65	
(403)	37	383	114	92	
(405)	22	435	173	100	
1504	160	1270	475	254	

(217)
(70)
(902)
(422)

1984

51	170	158	127
50	282	80	65
37	383	114	92
<u>22</u>	<u>435</u>	<u>173</u>	<u>160</u>
160	1270	475	284

PROPOSED AMENDMENTS

HOUSE CS FOR SENATE BILL NO. 524 (Finance) am H

PR7 183

For an Act entitled: "An Act relating to the taxation of petroleum production and income."

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

* Section 1. LEGISLATIVE FINDINGS AND INTENT. (a) The legislature reconfirms its findings in sec. 1, ch. 110, SLA 1978 and finds and declares that the method of apportioning income for tax purposes under the "Uniform Division of Income for Tax Purposes" formula embodied in the Multistate Tax Compact (AS 43.19) and AS 43.20 does not fairly represent the extent of the business activities in this state of multistate corporations engaged in the production or pipeline transportation of crude oil or natural gas in this state.

(b) The legislature reconfirms its intent, expressed in sec. 1, ch. 110, SLA 1978, that the assessment of income tax against a multistate corporation engaged in the production or pipeline transportation of crude oil or natural gas in this state be commensurate with the tax that would be assessed against a corporation owning and operating only those assets of the multistate corporation which are in this state.

(c) The legislature finds that since the enactment of ch. 110, SLA 1978, litigation has been brought and is pending before the Superior Court of the State of Alaska challenging the constitutionality of AS 43.21, and finds further that since the enactment of ch. 110, SLA 1978, the Supreme Court of the United States has decided Mobil Oil Corp. v. Commissioner of Taxes of Vermont, 445 U.S. 425 (1980), and Exxon Corp. v. Wisconsin Department of Revenue, 100 S. Ct. 2109 (1980), which leave unanswered the question

of constitutionality under the United States Constitution of methods like the one in AS 43.21.010 - 43.21.030 to represent for tax purposes the extent of the business activities in this state of multistate corporations engaged in the production or pipeline transportation of crude oil or natural gas in this state.

(d) The legislature finds and declares that it is in the best interest of the State of Alaska to adopt for tax periods beginning after December 31, 1981, the alternative method provided in sec. 6 of this Act in place of AS 43.21 as the method for representing for tax purposes the extent of the business activities in this state of multistate corporations engaged in the production or pipeline transportation of crude oil or natural gas in this state.

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

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

" Sec. 3. AS 43.20.011 is amended by adding a new section to read:

(f) Notwithstanding the provisions of AS 43.20.011(e) and AS 43.20.010, the taxable income of a corporation engaged in the production or pipeline transportation of oil or gas from a lease or property in this state shall be determined under AS 43.20.072, and AS 43.21 shall not apply, for tax years beginning after December 31, 1981 if the consolidated cases captioned Atlantic Richfield Company, et al. v. State of Alaska, et al. and Exxon Corporation, et al. v. State of Alaska, et al. filed in the Superior Court, State of Alaska, 3rd Judicial District under case numbers 3AN-79-1703 CIV and 3AN-80-1542 CIV are dismissed with prejudice by stipulation or order before December 31, 1981.

* Sec. 4. AS 43.20.021(d) is amended to read:

(d) Except for the investment credit allowed under AS 43.20.036(b), where [WHERE] a credit allowed under the Internal Revenue Code is also allowed in computing Alaska income tax, it is limited to 18 percent for corporations of the amount of credit determined for federal income tax purposes which is attributable to Alaska.

* Sec. 5. AS 43.20.036(b) is repealed and reenacted to read:

(b) For purposes of calculating the income tax payable under this chapter, the taxpayer may apply as a credit against his tax liability the amount of regular investment credit allowed as to federal taxes under Internal Revenue Code sec. 38 (26 U.S.C. 38) upon qualified investment placed in service in the State of Alaska for each taxable year, provided that no credit shall be allowed for qualified investment in facilities relating to the continued or enhanced production of oil from the Sadlerochit Reservoir which are placed in service before July 1, 1985.

* Sec. 6. AS 43.20 is amended by adding a new section to read:

Sec. 43.20.072. OIL AND GAS PRODUCERS AND PIPELINES. (a) All

business income of a taxpayer engaged in the production of oil or gas from a lease or property in this state or engaged in the transportation of oil or gas by pipeline in this state shall be apportioned to this state in accordance with the Multistate Tax Compact (AS 43.19) as modified by this section.

(b) A taxpayer's business income to be apportioned under this section to the state shall be the federal taxable income of the taxpayer's consolidated business for the tax period, except that

(1) taxes based on or measured by net income that are deducted in the determination of the federal taxable income shall be added back;

(2) intangible drilling and development costs that are deducted as expenses under sec. 263(c) of the Internal Revenue Code in the determination of the federal taxable income shall be recomputed and deducted as if the option to treat them as expenses under sec. 263(c) of the Internal Revenue Code had not been exercised; and

(3) depletion deducted on the percentage depletion basis under sec. 613 of the Internal Revenue Code in the determination of the federal taxable income shall be recomputed and deducted on the cost depletion basis under sec. 612 of the Internal Revenue Code.

(c) A taxpayer's business income shall be apportioned to this state by multiplying the taxpayer's income determined under (b) of this section by the apportionment factor applicable to the taxpayer among the following factors:

(1) the apportionment factor of a taxpayer subject to this section but not engaged in the production of oil and gas from a lease or property in this state during the tax period is a fraction, the numerator of which is the sum of the property factor under the Multistate Tax Compact (AS 43.19) and the sales factor under (d) of this section

for the taxpayer for that tax period, and the denominator of which is two:

(2) the apportionment factor of a taxpayer subject to this section but not engaged in the pipeline transportation of oil or gas in this state during the tax period is a fraction, the numerator of which is the sum of the property factor under (e) of this section and the extraction factor under (f) of this section for the taxpayer for the tax period, and the denominator of which is two;

(3) the apportionment factor of a taxpayer engaged both in the production of oil or gas from a lease or property in this state and in the pipeline transportation of oil or gas in this state during the tax period is a fraction, the numerator of which is the sum of the sales factor under (d) of this section, the property factor under (e) of this section, and the extraction factor under (f) of this section for the taxpayer for the tax period, and the denominator of which is three.

(d) The sales factor of a taxpayer subject to this section is a fraction,

(1) the numerator of which is the sum of the following for the tax period:

(A) the tariffs allowed and received by or for the taxpayer for transporting oil or gas by pipeline in this state, regardless of whether the tariffs are paid by third parties or by entities within the taxpayer's consolidated business; and

(B) the total sales of the taxpayer in this state, determined in accordance with the Multistate Tax Compact (AS 43.19), but excluding those sales already included in the tariffs described in (A) of this paragraph; and

(2) the denominator of which is the sum of the following for

the tax period:

(A) the tariffs allowed and received by or for the taxpayer's consolidated business for transporting oil or gas by pipeline everywhere, regardless of whether the tariffs are paid by third parties or by entities within the taxpayer's consolidated business; and

(B) the total sales of the taxpayer's consolidated business everywhere, determined in accordance with the Multistate Tax Compact (AS 43.19), but excluding those sales already included in the tariffs described in (A) of this paragraph.

(c) The property factor of a taxpayer subject to this section is a fraction,

(1) the numerator of which is the sum of the following for the tax period:

(A) the average value, determined under the Multistate Tax Compact (AS 43.19), of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period; and

(B) the cumulative intangible drilling and development costs capitalized or expensed for federal income tax purposes under sec. 263(c) of the Internal Revenue Code, for the taxpayer's producing oil and gas wells in this state; and

(2) the denominator of which is the sum of the following for the tax period:

(A) the average value, determined under the Multistate Tax Compact (AS 43.19), of the real and tangible personal property everywhere owned or rented and used by the taxpayer's consolidated business during the tax period; and

(B) the cumulative intangible drilling and development

costs capitalized or expensed for federal income tax purposes under sec. 263(c) of the Internal Revenue Code, for the producing oil and gas wells everywhere of the taxpayer's consolidated business.

(f) The extraction factor of a taxpayer subject to this section is a fraction,

(1) the numerator of which is the sum of the following for the tax period:

(A) the number of barrels of the taxpayer's oil (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer in this state; and

(B) one-sixth of the number of Mcf of the taxpayer's gas (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer in this state, excluding reinjected gas; and

(2) the denominator of which is the sum of the following for the tax period:

(A) the number of barrels of oil of the taxpayer's consolidated business (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer's consolidated business everywhere; and

(B) one-sixth of the number of Mcf of gas of the taxpayer's consolidated business (net of royalty to an unrelated party) produced from or allocated to leases or properties of the taxpayer's consolidated business everywhere, excluding reinjected gas.

(g) In this section,

(1) "barrel" means the quantity of oil contained in 42 United States gallons of 231 cubic inches each, measured at a temperature of 60 degrees Fahrenheit and an absolute pressure of 14.65 pounds

per square inch;

(2) "consolidated business" means a corporation or group of corporations having more than 50 percent common ownership, direct or indirect, or a group of corporations in which there is common control, either direct or indirect, as evidenced by any arrangement, contract, or agreement;

(3) "federal taxable income" means taxable income as the term is used in AS 43.20.011 - 43.20.065;

(4) "gas" means all hydrocarbons produced that are not defined as oil, including all liquid hydrocarbons extracted at a gas processing plant;

(5) "lease or property" has the same meaning as in AS 43.-55.140(8);

(6) "Mcf" means the quantity of gas contained in 1,000 cubic feet of space, measured at a temperature of 60 degrees Fahrenheit and an absolute pressure of 14.65 pounds per square inch; and

(7) "oil" means crude petroleum oil and other hydrocarbons, regardless of API gravity, which are produced in liquid form, including the liquid hydrocarbons sometimes known as distillate or condensate which are recovered by separation from gas other than at a gas processing plant.

* Sec. 7. AS 43.21.010 is amended to read:

Sec. 43.21.010. APPLICATION. This chapter applies to every corporation doing business in the state which derives income from the production of oil or gas from a lease or property in the state [,] or from the pipeline transportation of oil or gas in the state. The tax calculated under this chapter is measured by the total taxable income of the corporation during the tax period as determined under [DEFINED IN] AS 43.21.020 - 43.21.040 and is calculated [DETERMINED] at the rates

established under AS 43.20.011(e).

Sec. 9. AS 43.21.011(c) is amended to read:

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

- (1) royalties paid in kind or in value;
- (2) taxes imposed under AS 43.55 and AS 43.57 which are actually paid or incurred by the corporation on the production from a lease or property in the state;
- (3) taxes imposed under AS 43.56 and AS 29.53 which are actually paid or incurred by the corporation on property used directly in the production of oil or gas from a lease or property in the state, including property used in production, gathering, treatment, or preparation of the oil or gas for pipeline transportation, but only if those property tax payments were due and payable only after the date of commercial production from the lease or property with which the property was associated;
- (4) the direct costs incurred by or for the corporation in operating the lease or property, including the direct costs of producing, gathering, treating, or preparing the oil or gas for pipeline transportation, but not of any payments received for those activities and not including any indirect cost or overhead expense;
- (5) depreciation (using the unit of production method or such other reasonable methods as the department may by regulation establish) on property used directly in the production, gathering, treatment, or preparation of the oil or gas for pipeline transportation including amortization of capitalized interest for investments in this property at a rate not to exceed the average cost of borrowed capital to the taxpayer during the year in which it is capitalized;
- (6) the amortization of lease acquisition payments and taxes

paid or incurred under AS 43.56 and AS 29.53 (including capitalized interest on both) for or on producing properties before the commencement of commercial production from the lease or property for which the property is being used;

(7) interest expense of the corporation, not capitalized during construction, that was paid or incurred in connection with property in Alaska; however, unless (f) of this section applies, the interest expense may [TO THE EXTENT THAT IT DOES] not exceed that portion of the total interest paid by the consolidated business of which the corporation is a part, determined by multiplying the total interest [(REDUCED BY INTERCOMPANY TRANSACTIONS WITHIN THE CONSOLIDATED BUSINESS)] by a fraction, the numerator of which is the value of the corporation's real and tangible personal property used directly in the production of oil or gas from a lease or property in the state and the denominator of which is the value of all real and tangible personal property of the consolidated business; in this subsection, "total interest paid by the consolidated business" does not include interest expense arising from intercompany obligations within the consolidated business except to the extent that the interest expense reflects a pass-through of interest on a third-party borrowing by the parent or other member of the consolidated business with the purpose, expressed at the time of the third-party borrowing, of financing Alaska business activity of the taxpayer corporation;

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

(9) general overhead or administrative expense incurred by

the corporation attributable to deriving income from the production of oil or gas from a lease or property in the state to the extent, except as provided in (f) of this section, that it does not exceed [THE LESSER OF:

(A)] that portion of the total general overhead or administrative expense incurred by the consolidated business of which the corporation is a part, determined by multiplying the total general overhead or administrative expense by a fraction, the numerator of which is the value of the corporation's real and tangible personal property used directly in the production of oil or gas from a lease or property in the state and the denominator of which is the value of all real and tangible personal property of the consolidated business;

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

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

* Sec. 9. AS 43.21.020 is amended by adding a new subsection to read:

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

* Sec. 10. AS 43.21.040(b) is repealed and reenacted to read:

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

(1) for a member of a consolidated business who is required to file under the Internal Revenue Code, "entire income" means taxable income under Subtitle F and chapter 1 of Subtitle A of the Internal Revenue Code of 1954, as amended, except that those provisions adopted after December 31, 1975, which change or modify exemptions from tax are not adopted by reference as a part of this section until the second January 1 following the effective date of the federal law;

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

* Sec. 11. AS 43.21.050 is amended by adding a new subsection to read:

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

1 * Sec. 12. AS 43.21.070 is amended to read:

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

10 * Sec. 13. AS 43.55.011(b) is amended to read:

1 (b) The percentage-of-value amount equals 12.25 percent of the
2 gross value at the point of production of taxable oil produced from the
3 lease or property. Notwithstanding the preceding sentence, the per-
4 centage-of-value amount equals 15.0 percent of the gross value at the
5 point of production of taxable oil produced from the lease or property
6 after December 31, 1981 if the consolidated cases captioned Atlantic
7 Richfield Company, et al. v. State of Alaska, et al. and Exxon Corpora-
8 tion, et al. v. State of Alaska, et al. filed in the Superior Court,
9 State of Alaska, 3rd Judicial District, under case numbers 3AN-79-1903
10 CIV and 3AN-80-1542 CIV are dismissed with prejudice by stipulation or
1 order before December 31, 1981.

2 * Sec. 14. AS 43.21.040(d) and (e) are repealed.

3 * Sec. 15. AS 43.55.011(d) and 43.55.012(a) are repealed.

4 * Sec. 16. Sections 2, 7 - 12, and 14 of this Act are retroactive to
5 January 1, 1978, and apply to tax years beginning after December 31, 1977.

6 * Sec. 17. This Act takes effect immediately in accordance with AS 01.-
7 10.070(c).

SB 392am

The Judiciary Committee has had SENATE BILL NO. 392 amended (continuing the existence of the Board of Governors of the Alaska Bar Association and amending the statutes relating to the practice of law in the state; effective date) under consideration and recommends it be replaced with HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 392 (Judiciary):

"An Act continuing the existence of the Board of Governors of the Alaska Bar Association and amending the statutes relating to the practice of law in the state; amending Alaska State Supreme Court Bar Rule 2; repealing section 3 of Alaska State Supreme Court Bar Rule 2 and Section 7 of Alaska State Supreme Court Bar Rule 3; and providing for an effective date."

and that it do pass. Concurring: Clocksin, Chuckvuk, Miller, Phillips and Anderson. Not concurring: Brown (Chairman) and O'Connell have no recommendation.

SB 392am was referred to the Rules Committee for placement on the calendar.

SB 422

The Finance Committee has had SENATE BILL NO. 422 (amending grant limits for certain programs of the Department of Community and Regional Affairs; effective date) under consideration and recommends it do pass. Concurring: Freeman (Vice Chairman), Cotten, Buchholdt, Moss, Adams, Carney, Haugen and Rogers. Not concurring: Montgomery has no recommendation.

SB 422 was referred to the Rules Committee for placement on the calendar.

SB 524

The Finance Committee has had SENATE BILL NO. 524 (relating to an investment tax credit allowed against the state corporate income tax; effective date) under consideration and recommends it be replaced with HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 524 (Finance):

"An Act relating to taxes; and providing for an effective date."

SB 524

that it do pass and attaches a letter of intent. Concurring: Cotten (Chairman), Freeman, Rogers, Carney, Malone and Buchholdt. Not concurring: Moss has no recommendation unless amended; Adams, Montgomery and Haugen have no recommendation.

SB 524 appears on today's calendar.

The letter of intent appears as follows:

Letter of IntentHOUSE FINANCE COMMITTEE SUBSTITUTE
FOR SB 524

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


Rep. Sam Cotten, Chairman
House Finance Committee

INTRODUCTION, FIRST READING AND REFERENCEOF HOUSE RESOLUTIONSHR 6

HOUSE RESOLUTION NO. 6 by Rogers:

Endorsing stipulations proposed as requirements for construction and operation of the Alaska Highway gas pipeline.

was read the first time and referred to the Rules Committee for placement on the calendar.

Original sponsor: Finance Committee

Offered: 6/5/81
For Today's Calendar

PR 7 132

1 IN THE SENATE

BY THE FINANCE COMMITTEE

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

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

- 23 (1) royalties paid in kind or in value;
- 24 (2) taxes imposed under AS 43.55 and AS 43.57 which are ac-
25 tually paid or incurred by the corporation on the production from a
26 lease or property in the state;
- 27 (3) taxes imposed under AS 43.56 and AS 29.53 which are ac-
28 tually paid or incurred by the corporation on property used directly in
29 the production of oil or gas from a lease or property in the state, in-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (b) The purposes of this Act are to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 shall contain:

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

6 Sec. 43.58.081. ASSESSMENT NOTICE. On or before October 15 of
7 each tax year, the department shall send to every owner of taxable
8 property named in the assessment roll a notice of assessment showing
9 the assessed value of the property. The notice of assessment is effec-
10 tive on the date of its mailing.

11 Sec. 43.58.091. APPEAL. (a) A person aggrieved by the action of
12 the department in making an assessment may appeal that action and ob-
13 tain a formal hearing upon its validity before the department by filing
14 written objections to the assessment not later than 20 days after the
15 effective date of the assessment notice.

16 (b) The procedures for conduct of the formal hearing shall be in
17 accordance with AS 43.05.240. At the hearing the appellant bears the
18 burden of proof. In the absence of this proof the assessment is to be
19 upheld by the department. If the department, after hearing, determines
20 that a correction of the assessment is warranted, the department shall
21 correct the assessment and the assessment roll.

22 (c) Within 30 days after the decision by the department following
23 the hearing, a person aggrieved by that decision may appeal to the su-
24 perior court.

25 Sec. 43.58.101. CERTIFICATION. On or before February 1 of the
26 tax year, the department shall certify the final assessment roll. The
27 department shall mail to the owner, operator, or other person filing a
28 return and paying tax on the taxable property a statement of the amount
29 of tax due no later than March 15 of the tax year.

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

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

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

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

tion under oath by the department.

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

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

(1) by a person who is the owner of the property, or who controls that property as agent, or on account of any other person;

(2) by a guardian or other person who has charge of taxable property belonging to a minor or other person;

(3) by the trustee of a trust estate holding taxable property in trust for the benefit of another person;

(4) by the executor or administrator of a deceased person's estate which includes taxable property;

(5) by the receiver of a corporation having taxable property.

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

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

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

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

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

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

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

28 Sec. 43.58.161. DEFINITIONS. In this chapter

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

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

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

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

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

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

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

16 (A) a mineral interest;

17 (B) a leasehold interest;

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

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

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

1 technology;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HCS CSSB 26(Fin) continued

Nays: 13 Abood, Anderson, Barnes, Beirne,
Bettisworth, Bylama, Cuddy, Halford,
Hayes, Martin, Metcalfe, Montgomery,
Phillips

Not
Voting: 1 Hurlbert

And so, lacking the necessary 27 votes, the effective date clause in * Section 59 was not adopted.

HCS CSSB 26(Fin)(efd failed)

HCS CSSB 26(Fin)(efd failed) was referred to the Chief Clerk for engrossment.

SB 524

SENATE BILL NO. 524 (relating to an investment tax credit allowed against the state corporate income tax; effective date) was read the second time with the Finance Committee report (page 2008 of the journal).

Representative Meekins moved and asked unanimous consent that HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 524 (Finance) (relating to taxes; effective date) be adopted in lieu of the original bill.

Representative Hayes objected.

Representative Rogers placed a call of the House.

The Speaker stated that the call had been satisfied.

SB 524 continued

The question being: "Shall HCS SB 524(Fin) be adopted in lieu of SB 524?" The roll was taken with the following result:

SB 524 MOTION

Yeas:	23	Adams, Brown, Buchholdt, Carney, Cato, Chuckvuk, Clocksin, Cotten, Duncan, Freeman, Fuller, Gardiner, Grussendorf, Haugen, Malone, Meekins, Miller, Moss, Rogers, Smith, Sutcliffe, Vaska, Zharoff
Nays:	16	Abood, Anderson, Barnes, Beirne, Bettisworth, Bylsma, Cuddy, Fanning, Halford, Hayes, Martin, Metcalfe, Montgomery, O'Connell, Phillips, Randolph
Not Voting:	1	Hurlbert

And so, HCS SB 524(Fin) was adopted.

HCS SB 524(Fin)Amendment No. 1 by Gardiner:

Page 1, line 26 through page 2, line 10

Delete Section 2 of the bill, renumber following sections accordingly.

Page 6, lines 11-15:

Delete Section 7 of the bill, renumber following sections accordingly.

Page 19, lines 27-29

Delete Section 20 of the bill.

Representative Gardiner moved for the adoption of Amendment No. 1.

HCSSB 524(Fin) continued

Representative Barnes objected.

The question being: "Shall Amendment No. 1 be adopted?"
The roll was taken with the following result:

HCSSB 524(FIN) AM1

Yeas: 22 Adams, Brown, Buchholdt, Carney,
Cato, Chuckwak, Clocksin, Cotten,
Duncan, Freeman, Fuller, Gardiner,
Grussendorf, Malone, Meekins, Miller,
Moss, Rogers, Smith, Sutcliffe,
Vaska, Zharoff

Nays: 17 Abood, Anderson, Barnes, Beirne,
Bettisworth, Bylsma, Cuddy, Fanning,
Halford, Haugen, Hayes, Martin,
Metcalfe, Montgomery, O'Connell,
Phillips, Randolph

Not
Voting: 1 Hurlbert

And so, Amendment No. 1 was adopted.

HCSSB 524(Fin)amH

Representative Meekins moved and asked unanimous consent that
HCSSB 524(Fin)amH be considered engrossed, advanced to third
reading and placed on final passage.

Representative Hayes objected.

Representative Rogers rose to a point of order.

The Speaker ruled that the point was well taken. The motion
before the House is advancement of HCSSB 524(Fin) and asked
members to keep debate to the advancement motion.

HCSSB 524(Fin)amH continued

The question being: "Shall HCSSB 524(Fin)amH be advanced to third reading?" The roll was taken with the following result:

HCSSB 524(FIN)AMH ADVANCE

Yeas: 22 Adams, Brown, Buchholdt, Carney,
Cato, Chuckwak, Clocksin, Cotten,
Duncan, Freeman, Fuller, Gardiner,
Grussendorf, Haugen, Malone, Miller,
Moss, Rogers, Smith, Sutcliffe,
Vaska, Zharoff

Nays: 17 Aboud, Anderson, Barnes, Beirne,
Bettisworth, Byisma, Cuddy, Fanning,
Halford, Hayes, Martin, Meekins,
Metcalfe, Montgomery, O'Connell,
Phillips, Randolph

Not
Voting: 1 Hurlbert

And so, lacking the necessary 30 votes, the motion failed and HCSSB 524(Fin)amH will appear in third reading on tomorrow's calendar.

LEGISLATIVE CITATIONS

Representative Meekins moved that the House approve the citations on the calendar. There being no objection, the House approved the following citations:

Honoring - Carolyn Doggett

Honoring - Arden Steves

The above citations were referred to the Chief Clerk for transmittal to the Senate.