

ALASKA LEGAL COUNSEL / SUBJECT FILES
1500 COMM JNT SPEC. TAX POLICY 1986-1987

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HCS CSSSSB 25(Fin)amH continued

And so, HCS CSSSSB 25(Fin)amH passed the House on reconsideration of the vote.

Representative Meekins moved for adoption of the effective clause.

Representative Hayes objected.

The question being: "Shall the effective date clause be adopted?" The roll was taken with the following result:

HCS CSSSSB 25(FIN)AMH EFD

Yeas:	25	Adams, Brown, Buchholdt, Carney, Cato, Chuckwuk, Clocksin, Cotten, Duncan, Freeman, Fuller, Gardiner, Grussendorf, Haugen, Malone, Meekins, Miller, Moss, O'Connell, Randolph, Rogers, Smith, Sutcliffe, Vaska, Zharoff
Nays:	13	Aboud, Barnes, Beirne, Bettisworth, Bylsma, Cuddy, Fanning, Halford, Hayes, Martin, Metcalfe, Montgomery, Phillips
Not Voting:	2	Anderson, Hurlbert

And so, lacking the necessary 27 votes, the effective date clause was not adopted.

HCS CSSSSB 25(Fin)amH was referred to the Chief Clerk for engrossment.

HCSB 524(Fin)amH

Representative Meekins moved and asked unanimous consent that HCSB 524(Fin)amH (relating to taxes; effective date) be moved to the top of today's calendar.

The Speaker placed a call of the House.

The Speaker stated the call was satisfied.

HCS 53 524(Fin)amH continued

Representative Chuckwik placed a call of the House on the calendar.

Representative Meekins rose to a point of order.

The Speaker stated that his point was well taken, that a call will have to be placed on each item of the calendar.

Representative Meekins withdrew his motion and moved and asked unanimous consent that HCSSB 524(Fin)amH be taken up as a special order of business at this time. There being no objection the House moved to

SPECIAL ORDERSTHIRD READING OF HOUSE BILLSHCSSB 524(Fin)amH

HCSSB 524(Fin)am H was in third reading and was read the third time.

The question being: "Shall HCSSB 524(Fin)amH pass the House?"
The roll was taken with the following result:

HCSSB 524(FIN)AMH

Yeas:	22	Adams, Brown, Buchholdt, Carney, Cato, Chuckwik, Clocksin, Cotten, Duncan, Freeman, Fuller, Gardiner, Grussendorf, Malone, Meekins, Miller, Moss, Rogers, Smith, Sutcliffe, Vaska, Zharoff
Nays:	16	Aboud, Barnes, Beirne, Bettisworth, Bylsma, Cuddy, Fanning, Halford, Haugen, Hayes, Martin, Metcalfe, Montgomery, O'Connell, Phillips, Randolph

HCSSB 524(Fin)amH continued

Not

Voting: 2 Anderson, Hurlbert

Representative Moss changed his vote from "nay" to "yea."

And so, HCSSB 524(Fin)amH passed the House.

Representative Meekins moved for adoption of the effective date clause.

Representative Hayes objected.

The question being: "Shall the effective date clause be adopted?" The roll was taken with the following result:

HCSSB 524(FIN)AMH EFD

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

Nays: 16 Abood, Barnes, Beirne, Bettisworth,
Bylsma, Cuddy, Fanning, Halford,
Haugen, Hayes, Martin, Metcalfe,
Montgomery, O'Connell, Phillips,
Randolph

Not

Voting: 2 Anderson, Hurlbert

And so, lacking the necessary 27 votes, the effective date clause was not adopted.

Representative Meekins gave notice of reconsideration of his vote on HCSSB 524(Fin)amH.

HCSSB 524(Fin)amH continued

Representative Meekins moved and asked unanimous consent the reconsideration of his vote on HCSSB 524(Fin)amH be taken up at this time. There being no objection, it was so ordered.

THIRD READING OF SENATE BILLS

HCSSB 524(Fin)amH was automatically in third reading and read the third time.

The question to be reconsidered: "Shall HCSSB 524(Fin)amH pass the House?" The roll was taken with the following result:

HCSSB 524(FIN)AMH RECON

Yeas:	22	Adams, Brown, Buchholdt, Carney, Cato, Chuckwuk, Clocksin, Cotten, Duncan, Freeman, Fuller, Gardiner, Grussendorf, Malone, Meekins, Miller, Moss, Rogers, Smith, Sutcliffe, Vaska, Zharoff
Nays:	16	Abood, Barnes, Beirne, Bettisworth, Bylsma, Cuddy, Fanning, Halford, Haugen, Hayes, Martin, Metcalfe, Montgomery, O'Connell, Phillips, Randolph
Not Voting:	2	Anderson, Hurlbert

Representative Moss changed his vote from "nay" to "yes."

And so, HCSSB 524(Fin)amH passed the House on reconsideration of the vote.

Representative Meekins moved for adoption of the effective date clause.

Representative Hayes objected.

The question to be reconsidered being: "Shall the effective date clause be adopted?" The roll was taken with the following result:

HCSSB 524(FIN)AMH EFD

Yeas:	22	Adams, Brown, Buchholdt, Carney, Cato, Chuckwuk, Clocksin, Cotten, Duncan, Freeman, Fuller, Gardiner, Grussendorf, Malone, Meekins, Miller, Moss, Rogers, Smith, Sutcliffe, Vaska, Zharoff
Nays:	16	Abood, Barnes, Beirne, Bettisworth, Bylsma, Cuddy, Fanning, Malford, Haugen, Hayes, Martin, Metcalfe, Montgomery, O'Connell, Phillips, Randolph
Not Voting:	2	Anderson, Hurlbert

And so, lacking the necessary 27 votes, the effective date clause was not adopted on reconsideration of the vote.

HCSSB 524(Fin)amh was referred to the Chief Clerk for engrossment.

MESSAGES FROM THE GOVERNOR

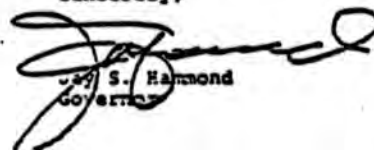
The following message dated June 8, 1981 was received:

Dear Mr. Speaker:

On the 8th day of June, 1981, I declared a disaster emergency. The City of Angoon suffered catastrophic failure of their submerged water main. This water system failure has prevented the city from providing water, sewer, and fire fighting services to the 131 homes and 530 citizens of Angoon. Enclosed is a copy of the Declaration of Disaster Emergency for your information.

If you have any questions regarding this disaster, please do not hesitate to contact me.

Sincerely,


Jay S. Hammond
Governor

Enclosure

1 IN THE SENATE

BY THE FINANCE COMMITTEE

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

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."

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

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

9 (e) There is imposed for each taxable year upon the entire tax-
10 able income of every corporation derived from sources within the state
11 a tax consisting of a normal tax equal to 5.4 percent of taxable in-
12 come, and a surtax which is equal to 4.0 percent of taxable income, ex-
13 cept that the tax on a corporation doing business in the state which
14 derives income from [ENGAGED IN] the production or pipeline transporta-
15 tion of crude oil or natural gas in the state shall be determined and
16 paid in accordance with AS 43.21.010. Income from sharing in a regional
17 Native corporation's revenue that is required to be divided under
18 sec. 7(i) and sec. 7(j) of the Alaska Native Claims Settlement Act
19 (P.L. 92-203) is taxable income of the recipient under this chapter,
20 except that a recipient who is subject to AS 43.21 shall treat the
21 income as taxable under AS 43.21.040. For tax years beginning after
22 December 31, 1979, the surtax exemption is \$50,000. For controlled
23 corporations described in secs. 1561 - 1563 of the Internal Revenue
24 Code only one surtax exemption may be allowed for the controlled group.

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

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

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

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

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

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

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

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

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

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

1 property at a rate not to exceed the average cost of borrowed capital
2 to the taxpayer during the year in which it is capitalized;

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

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

27 (8) expenses incurred by the corporation after December 31,
28 1977, of unsuccessful exploration of oil or gas in the state including
29 the acquisition costs of abandoned properties, dry hole costs, and the

1 costs of geologic and geophysical exploration related to those aban-
2 doned properties;

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

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

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

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

24 (12) the tax imposed by sec. 4986 of the Internal Revenue
25 Code that is paid or incurred by the taxpayer for oil production from
26 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].

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

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

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

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

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

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

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

26 (d) If the methods of allocation and apportionment provided in
27 this chapter do not fairly represent the extent of a corporation's
28 business activity in the state, the corporation may petition for or the
29 department may require, in respect to all or any part of the corpora-

tion'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.

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

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

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

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

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

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

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

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

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

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

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

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

29 (8) the level of taxation currently imposed by the state on

1 the oil industry does not impose an undue burden on that industry and
2 has not discouraged exploration and development of oil resources in
3 Alaska;

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

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

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

20 (b) The purposes of this Act are to

21 (1) enact a tax that 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
27 Corporate Income Tax is found to be unconstitutional;

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

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 (a)
27 and (b) of this section, tax paid by a taxpayer under AS 43.20 shall be
28 treated the same as if it had been paid under AS 43.21, but only if the
29 taxpayer would have been subject to AS 43.21 had the taxpayer been a

1 corporation.

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

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

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

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

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

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

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

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

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

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

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

1 that a correction of the assessment is warranted, the department shall
2 correct the assessment and the assessment roll.

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (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 department on or before June 30 of each tax year or in installments, including prepayments, at the times and under the conditions the department may by regulation require. This tax is payable on the due date set out in this subsection or at the times required by the department under its regulations even though the assessment is under appeal or the validity, enforceability, or application of this chapter or any provision of this chapter is challenged before the department or in the courts.

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

(e) A person making payment of the tax levied under this chapter on behalf of one or more other persons owning or otherwise holding an interest in a taxable property may withhold a proportionate share of the payment from any proceeds or other benefits from the taxable property owed to a person on whose behalf the payment is made. Unless otherwise specifically provided by written contract or agreement, the

1 person so withholding a proportionate share of the tax levied under
2 this chapter incurs no liability to those from whom it is withheld by
3 virtue of having made the withholding.

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

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

10 Sec. 43.58.161. DEFINITIONS. In this chapter

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

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

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

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

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

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

27 (A) a mineral interest;

28 (B) a leasehold interest;

29 (C) a working interest, royalty interest, overriding

1 royalty interest, production payment, net profit interest, or any
2 other interest in a lease, concession, joint venture, or other
3 agreement for oil and gas exploration, development, or production;

4 (D) a working interest, royalty interest, overriding
5 royalty interest, production payment, net profit interest, or any
6 other interest in an agreement for unitization or pooling under
7 the provision of sec. 614(b)(3) of the Internal Revenue Code of
8 1954 as defined on the effective date of this paragraph;

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

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

16 (9) "taxable property" means a property having commercial
17 production.

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

29 * Sec. 10. If an exemption under AS 43.58.031(1), (2), or (3) is held

1 invalid by a final judgment of a court from which an appeal is not taken,
2 then that exemption is void, and AS 43.58, enacted in sec. 8 of this Act,
3 shall be read as if that exemption had never been included.

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

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

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

20 * Sec. 13. TRANSITION. During the first year of the annual tax levied
21 under AS 43.58.021, the value of taxable property shall be assessed as of
22 the effective date of sec. 8 of this Act. During the first year of the tax
23 levied under AS 43.58.021, the return required under AS 43.58.141 shall be
24 submitted no later than 30 days after the effective date of sec. 8 of this
25 Act, and the Department of Revenue shall send the notice of assessment
26 required under AS 43.58.081 no later than 60 days after the effective date
27 of sec. 8 of this Act.

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

29 * Sec. 15. AS 43.55.011(d), 43.55.012(a), 43.55.018; AS 43.58.010,

1 43.58.020, 43.58.030, 43.58.040, 43.58.050, 43.58.060, 43.58.070, 43.58.080,
2 43.58.090, 43.58.100, 43.58.110, 43.58.150, 43.58.160, 43.58.170, 43.58.180,
3 43.58.190, and 43.58.200 are repealed.

4 * Sec. 16. Sections 1 - 7, 11, and 14 of this Act are retroactive to
5 January 1, 1978, and apply to tax years beginning after December 31, 1977.

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LEGISLATIVE CITATIONS

Representative Miller moved and asked unanimous consent that the House approve the following citations:

Honoring - Richard N. Siangco

Honoring - Miss Laura Trollan

Honoring - Mitch Rose and Jim Grijalva

There being no objection, the House approved the above citations and they were referred to the Chief Clerk for transmittal to the Senate.

Representative Beirne moved and asked unanimous consent that the citation Congratulating - Kenai Peninsula Borough be approved by the House.

Representative Vaska objected.

The question being: "Shall the citation Congratulating - Kenai Peninsula Borough be approved by the House?" On voice vote, the citation was approved and was referred to the Chief Clerk for transmittal to the Senate.

Representative Meekins moved and asked unanimous consent that the House return to Messages from the Senate. There being no objection, the House reverted to

MESSAGES FROM THE SENATEHCSSB 524(Fin)amH

A message dated June 10, 1981 was read stating the Senate has failed to concur in the House amendment to SENATE BILL NO. 524 (relating to an investment tax credit allowed against the state corporate income tax; effective date), namely:

June 10, 1981

HOUSE JOURNAL

HCSSB 524(Fin)amR continued

HOUSE COMMITTEE SUBSTITUTE FOR SENATE
BILL NO. 524 (Finance) amended House
(relating to taxes)

and respectfully requests the House to re-
amendment.

The above message will be taken up under Unfinished

UNFINISHED BUSINESS

HCS CSSB 236(Rls)amR

The Free Conference Committee report on COMMITTEE SUBSTITUTE
FOR SENATE BILL NO. 236 (Rules) amended (assistance
municipalities; effective date) and HOUSE COMMITTEE SUBSTITUTE
FOR COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 236 (1)
amended House (assistance to municipalities) (page 20 of
the journal) was before the House.

Representative Meekins moved that the House adopt the Free
Conference Committee report.

The question being: "Shall the Free Conference Committee
report be adopted?" The roll was taken with the following
result:

HCS CSSB 148(Fin) continued

Representative Fanning objected.

The question being: "Shall the letter of intent be adopted?"
The roll was taken with the following result:

HCS CSSB 148(FIN) INTENT

Yeas: 35 Aboud, Adams, Barnes, Beirne,
Bertisworth, Brown, Buchholdt,
Bylsma, Carney, Cato, Chuckwuk,
Clocksin, Cotten, Duncan, Freeman,
Fuller, Gardiner, Grussendorf,
Halford, Haugen, Hayes, Malone,
Martin, Meekins, Metcalfe, Miller,
Montgomery, Moss, O'Connell,
Phillips, Rogers, Smith, Sutcliffe,
Vaska, Zharoff

Nays: 3 Cuddy, Fanning, Randolph

Not
Voting: 2 Anderson, Hurlbert

And so, the letter of intent was adopted.

The Chief Clerk was instructed to so notify the Senate.

HB 226

Representative Rogers asked that his name be removed as a co-sponsor on HOUSE BILL NO. 226 (legalizing the use of marijuana by cancer patients). There being no objection, it was so ordered.

HCSB 524(Fin)amR

The Senate message on SB 524 and HCSB 524(Fin)amR (page 2080 of the journal) was before the House.

HCSSB 524(Fin)amH continued

Representative Meekins moved that the House recede from its amendment to SB 524, namely, HCSSB 524(Fin)amH, and asked that the members vote no.

The question being: "Shall the House recede from its amendment to SB 524?" The roll was taken with the following result:

HCSSB 524(FIN)AMH RECEDE

Yeas:	14	Abood, Barnes, Bettisworth, Bylma, Cuddy, Fanning, Halford, Haugen, Hayes, Metcalfe, Montgomery, O'Connell, Phillips, Randolph
Nays:	22	Adams, Beirne, Brown, Buchholdt, Carney, Chuckwuk, Clocksin, Cotten, Duncan, Freeman, Fuller, Gardiner, Grussendorf, Malone, Meekins, Miller, Moss, Rogers, Smith, Sutcliffe, Vaska, Zharoff
Not Voting:	4	Anderson, Cato, Hurlbert, Martin

Representative O'Connell changed his vote from "nay" to "yes."

And so, the House failed to recede from its amendment to SB 524, namely HCSSB 524(Fin)amH.

The Speaker has appointed the following members to a FREE CONFERENCE COMMITTEE to meet with a like committee from the Senate to consider the above bills:

Representative Gardiner, Chairman
Representative Vaska
Representative O'Connell

CSSB 141(Fin)

A message dated June 10, 1981 was received stating the Senate has failed to concur in the House amendment to COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 141 (Finance)(making a special appropriation to the Department of Revenue for loan guarantees for commercial fish purchasers; effective date), namely, HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 141 (Finance)(efd failed)(making a special appropriation to the Department of Revenue for loan guarantees for commercial fish purchasers), and respectfully requests the House to recede from its amendment.

In the event the House fails to recede, the President appointed the following members to a FREE CONFERENCE COMMITTEE to meet with a like committee from the House to consider the bills:

Senator Eliason, Chairman
Senator Mulcahy
Senator Fahrenkamp

The above message will be taken up under Unfinished Business.

FCCSSB 236

A message dated June 10, 1981 was received stating the Senate has adopted the FREE CONFERENCE COMMITTEE Report on COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 236 (Rules) amended, and HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 236 (Rules) amended House, thus:

FREE CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 236
(An Act relating to assistance to municipalities.)

passed the Senate.

The House adopted the above report June 10, 1981 (page 2082 of the journal).

SB 524

A message dated June 10, 1981 was received stating the President has appointed the following members to a FREE CONFERENCE COMMITTEE to meet with a like committee from the House to consider SENATE BILL NO. 524 (investment tax credit allowed against the state corporate income tax; effective date) and HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 524 (Finance) amended House (relating to taxes; effective date):

Senator Ray, Chairman
Senator Dankworth
Senator Bennett

The House members on the above committee are:

Representative Gardiner, Chairman
Representative Vaska
Representative O'Connell

RECEIVED

ALASKA DEPARTMENT OF REVENUE

PR 7 152

ALASKA STATE LEGISLATURE, TWELFTH LEGISLATURE
FREE CONFERENCE COMMITTEE ON SENATE BILL 524

TRANSCRIPT OF PROCEEDINGS

JUNE 11, 1981

*Contains
June 11-24, 1981*

COMMITTEE PRESENT:

Representative Bill Ray, Chairman
Senator Ed Dankworth
Senator Don Bennett
Representative Terry Gardiner
Representative Anthony Vaska
Representative Patrick O'Connell

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JUDY JONES

P R O C E E D I N G S

6/11/81

1
2
3 MR. RAY:

4 ... this is the Free Conference on House Committee
5 Substitute for Senate Bill 524 Finance amended in the
6 House. Members of the Committee from the Senate side:
7 Senator Dankworth, Senator Bennett, Senator Ray. On the
8 House side Representative Gardiner, Representative Vaska
9 and Representative O'Connell. Sir?

10 MR. GARDINER:

11 I'd like to move and ask unanimous consent that Senator Ray serve
12 as the Chairman of the Free Conference Committee.

13 MR. RAY:

14 Is there an objection? So ordered. The first order of
15 business -- I've taken the privilege of asking Commissioner
16 Williams, please, to come and identify yourself, sir, and
17 give us more or less a sectional analysis of the House
18 Committee Substitute for Senate Bill 524.

19 COMMISSIONER WILLIAMS:

20 For the record, my name is Tom Williams. I'm the
21 Commissioner of Revenue. I'm here to testify on H.C.S.S.B.
22 524...

23 MR. RAY:

24 Commissioner, I might as well stop you right now. It is
25 my feeling, as a Chairman, that I am going to allow any

1 member of the Committee to interrupt any witness at any
2 time if they have a valid question pertaining to the
3 information. Go ahead, sir.

4 COMMISSIONER WILLIAMS:

5 I think that is fine. I'd like to talk to you briefly
6 about the context that this bill is in, namely, the
7 litigation, and what the stakes are; describe in very
8 brief form what the options seem to be; and then to go
9 through with you how this bill works. At issue, of course,
10 is the large majority of money that we are collecting
11 under the oil and gas corporate income tax, which is
12 Chapter 21 of Title 43. I'll often refer to it as
13 Chapter 21. The risks are, that since this law was enacted
14 in 1978, the United States Supreme Court has decided two
15 cases: one is Exxon versus Wisconsin, and the other is
16 Mobil Oil Corporation versus Vermont - which leave a
17 question about the constitutional validity over the method
18 of separate accounting, which is incorporated in Chapter 21.
19 While we believe we will win the case, the stakes present
20 in the case are very, very, high. Using our low case
21 numbers, we find that they will be over \$5.1 billion through
22 1985, which is the time period when we would expect to have
23 the litigation finally adjudicated. In addition to that
24 would be over \$1.3 billion worth of interest, at 10%...

25 MR. RAY:

What was that figure, sir?

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1 COMMISSIONER WILLIAMS:

2 \$1.3 billion. So in a sense, this is a \$6.4 billion
3 question. The risks are that if we lose the case, we'll
4 have to refund almost all that money. If I may,
5 Mr. Chairman, I'd like to from time to time go up to the
6 charts and flip them over and -- at this time I'd like to ...

7 MR. RAY:

8 As long as you stay pertinent to the subject, sir.

9 COMMISSIONER WILLIAMS:

10 Thank you. At this time I would like to briefly run through
11 the basic types of options that we have available at this
12 time. There are four basic approaches, as you can see
13 there.

14 MR. RAY:

15 Excuse me, Senator Bennett?

16 MR. BENNETT:

17 Commissioner, before you proceed -- two questions if I
18 might, real quick. You say that we would have to refund
19 most of that money. What is most? And could you elaborate
20 upon why it is just most instead of all that's involved?

21
22 COMMISSIONER WILLIAMS:

23 Well, it is conceivable that if the worst came about we'd
24 have to refund everything. If the court ruled that Chapter
25 20 applied if 21 was struck down, then we'd have to refund

1 probably 85% of it.

2 MR. BENNETT:

3 My final question is, does this figure include the cost
4 of litigation?

5 COMMISSIONER WILLIAMS:

6 No, it does not.

7 MR. BENNETT:

8 What would the cost of litigation be
9 if it took the course that litigation takes?

10
11 COMMISSIONER WILLIAMS:

12 Well, compared to the billions of dollars, it would be
13 small. In absolute terms, it would run several million
14 dollars, I would expect.

15 MR. BENNETT:

16 Thank you.

17 MR. RAY:

18 Proceed, sir.

19 COMMISSIONER WILLIAMS;

20 Thank you. So we have four basic options, then, about
21 types of action that can be taken at this time. First, is
22 a backstop tax - the basic idea of a backstop tax would be
23 to have some other tax that does not have the question that
24 has been raised by the Mobil and Exxon cases decided by
25 the Supreme Court. This tax would, instead, be a tax that

1 has secure legal precedent and would be much, much safer
2 from the legal challenge. The second option would be a
3 settlement package - legislation that would allow the
4 companies to settle the case, walk away from it. And, of
5 course, that would provide security, then, for not only
6 the revenues that the companies have paid in, but would
7 provide security for the revenues that they would
8 continue to pay in in the future.

9 MR. RAY:

10 I know, sir, that you are not a practicing attorney - you're
11 the Commissioner of Revenue. If there was a settlement,
12 would it take 100% of the people on the Slope, or could
13 a minority position come in and sue and then if they won the case
14 it would obligate us to pay everybody at the same time?

15 COMMISSIONER WILLIAMS:

16 I think that while you cannot prevent the people who are
17 not parties in the litigation from suing at a future time,
18 I think you can bind the present parties to the litigation
19 so that they would not get a refund regardless of what the
20 outcome was of that lawsuit. Now, of course, if there
21 was a fundamental change in federal law - they preempt,
22 really, passed legislation affecting our structure, well,
23 that's the supreme law of the land under the federal
24 constitution. There's nothing we can do about that.
25 But we can bind the parties to the present lawsuit so that
their amount, which represents over 90% of what's being

1 paid ...

2 MR. RAY:

3 What do they call that? Would they call that agreeing
4 without prejudice? Is that ...

5 COMMISSIONER WILLIAMS:

6 They would be dismissing it with prejudice...

7 MR. RAY:

8 ... with prejudice.

9 COMMISSIONER WILLIAMS:

10 ... so that they could not raise the constitutional issues
11 again.

12 MR. RAY:

13 You'll have to excuse -- I'm not an attorney, and so
14 there are some of these things that I'm not too familiar
15 with.

16 COMMISSIONER WILLIAMS:

17 I shouldn't profess to be one either. I haven't practiced
18 in a long enough period of time. I'm familiar with the
19 idea.

20 MR. RAY:

21 Continue, sir.

22 COMMISSIONER WILLIAMS:

23 Thank you. The third option would be to set the money
24 aside. Obviously, if we don't set the money aside, we
25 don't have a backstop tax, and we don't have a settlement,

1 then we have a real risk of having to come up with billions
2 and billions of dollars around 1985 in the event that we
3 lose. The important thing to remember - it doesn't matter
4 what our odds are of winning or losing. We only get one
5 shot. So if we lose, we lost. We can't come back
6 multiple times on this issue and get to the expected value.
7 If I think that we've got an 80% chance of winning, or
8 someone else thinks it's a 60% chance of winning, it doesn't
9 matter. If we've lost, we lost. And we have to come up
10 with the money. To set the money aside over the interim
11 and not spend it is one way to be able to afford to cover
12 ourselves in the event that we should lose. Then we would
13 be able to make the payments back that would be required
14 by the court. Obviously, then, we would continue to
15 litigate the present law. And there are certain
16 strategic or technical amendments to -- some of which
17 alleviate inadvertent inconsistencies in the law. Others
18 would eliminate certain issues that are really peripheral
19 issues in the case, and it's better just to clean them
20 up and have the case go on its basic merits which is can
21 you have separate accounting or can't you.

22 MR. DANKWORTH:

23 Commissioner Williams, you've said that regardless of what
24 our chances are in court - whether they are good or bad -
25 it's still a risk, that if we lose, if it's 80 to 20 and we

1 lose, we still have to pay it back. You get one shot. You
2 still have to return this \$6 billion.

3 COMMISSIONER WILLIAMS:

4 That's correct.

5 MR. DANKWORTH:

6 Then if we put in the backstop -- oh, for goodness sakes.
7 I hope that jackhammer doesn't start right now. If the
8 backstop tax is in place, now, are you absolutely sure
9 that that statement is still true that we have 100% chance --
10 we know that there will be a suit filed against the
11 backstop. Now, are you satisfied that we'll have 100%
12 chance of winning that? Or will number 3 still be
13 necessary to protect the fiscal integrity of the State by
14 having some money in escrow in case we lose that one?
15 Or do you think we should take that 20% chance that we
16 might win?

17 COMMISSIONER WILLIAMS:

18 I don't think any lawsuit is 100% in any party's favor.
19 So even with the backstop tax, there would be some risk.
20 The basic risk is, is the 30% share that Alaska is taking
21 too much under the federal constitution. That risk would
22 remain regardless of what tax structure you have. If you
23 had a lawsuit that risk would be present. The backstop
24 tax, though, I think, does eliminate additional risk that
25 has been introduced in the income tax area as a result of

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27-2469
1-86-1948

1 the Exxon and Mobil cases. So to that extent, it cuts down
2 significantly - at least in half, I would say - our chances
3 of losing and having to make this massive refund. But
4 there still would be the outside chance.

5 MR. DANKWORTH:

6 Well, that's the point that, I think, Commissioner, I wanted
7 to make, is that -- to get your opinion on. If the backstop
8 goes in, it may lessen our losses to some regard in the
9 first case. But, I guess, the question is, is even with
10 the backstop, now we would have two lawsuits instead of
11 one, most likely. And I think I can reasonably predict
12 that that probably will happen. But now we have two
13 lawsuits. One probably makes us more comfortable with
14 the first, the second does. But from a purely fiscal
15 point of view, in looking after the State treasury, are
16 we so sure, and are the odds so good, and would we
17 normally in a good fiscal approach to things put the
18 State in a position where we would continue to spend the
19 money even though there is 5%, 10%, 20% chance of losing
20 in that case? I guess I'm back to my question, when
21 we are at risk is number 3 -- do you still see a need
22 to put some of this in escrow, or are you satisfied the
23 State would be in a sound fiscal position to continue on
24 without any backup money?

25 COMMISSIONER WILLIAMS:

Well, the backstop tax is like having a pair of suspenders

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1 instead of only one suspender. If you wanted to escrow
2 as well as have a pair of suspenders that would be wearing
3 suspenders and a belt. You could do it. I don't know
4 that I would recommend that it's necessary to put the
5 belt on when you have a pair of suspenders.

6 MR. RAY:

7 Commissioner, perhaps if we are faced with a loss of
8 6.4, maybe we should increase the tax and put that money
9 into escrow to accommodate our 6.4 loss in case that we
10 would lose it.

11 COMMISSIONER WILLIAMS:

12 Well, that's a possibility. In effect, as we'll see, that's
13 in effect what the backstop tax does, except it doesn't make
14 the companies cough up the money twice on a current
15 basis.

16 MR. RAY:

17 And then they could sue us in 1985, and we could figure
18 out something by 1990 when they come back again. Thank
19 you, sir.

20 COMMISSIONER WILLIAMS:

21 The fourth option is to do nothing. Which is an option.
22 Inaction is itself a choice. However, as you can see,
23 I've put an X through it on the chart. That is the one
24 clearly, absolutely, unacceptable option for us to take.
25 That's the worst that we can do. That's going to a crap

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1 shoot with over \$6 billion of the public's money and
2 rolling the dice. And I don't think that we can responsibly
3 do that. Certainly we are absolutely opposed to a course
4 of inaction at this time. I think that the other 3 are
5 options that are viable. Doing nothing is the one option
6 that we cannot take. Turning, then, to the basic idea
7 of the present legislation ...

8 MR. RAY:

9 Just one question, sir. When you say the settlement -- the
10 settlement you are referring to is the settlement only
11 on this specific case and not on the royalty case and all
12 the rest of them. You would just get the settlement of
13 the one that they are -- in the particular area, and then it
14 leaves the rest of them viable cases - right?

15 COMMISSIONER WILLIAMS:

16 That's correct.

17 MR. RAY:

18 Thank you.

19 COMMISSIONER WILLIAMS:

20 So now to the basic concept of this bill, again -- once
21 again I'll have to flip the chart. I hope this picks me
22 up. This tries to illustrate what the basic idea is in
23 the backstop approach. This red area here, including the
24 dotted lines, represents the income stream that we
25 receive in any given year under Chapter 21, which is the

1 subject of the lawsuit, and is what we might have to
2 refund if we lost. Among the changes that we propose in
3 the bill is to allow a deduction for the windfall profit
4 tax, and to make certain strategic or technical changes to
5 remove what I called warts on the bill, that right now
6 really raise extraneous issues, ancillary issues.
7 And so to leave the lawsuit clean, in terms of can you
8 have separate accounting or not. There's no point in
9 having the case be decided on some finnarky issue off
10 on the side and not on the basic merits of can you have
11 separate accounting. So these two things would represent
12 a change from the present level of tax down to some
13 lower level that would be paid under Chapter 21. The
14 backstop tax is a property tax on oil and gas reserves.
15 It also produces, in gross, represents as much revenue
16 as Chapter 21 would have represented before we took
17 the warts off and before allowing the windfall profit
18 tax. The payment under Chapter 21 gives rise dollar-
19 for-dollar for a credit against the reserves tax. The
20 excess of the reserves tax over the credit is a payment
21 to the State. The combination is that you have this
22 much being paid under Chapter 58, the reserves tax; this
23 much being paid under Chapter 21, the income tax; and
between the two, it adds up to the same size as what
would be collected under Chapter 21, as it reads right now.

1 That's the basic concept of the reserves tax backstop.
2 Now, if there's a change in the amount that is paid, either
3 as a result of judicial decision or an audit or whatever -
4 this goes up or down in the amount that is paid on the
5 income tax. There's provision in the bill dollar-for-
6 dollar for a change in the credit. So if this goes up,
7 the credit goes up, and they owe less up here under the
8 reserves tax. Similarly, if this goes way down, the
9 credit goes way down, and the remaining reserves tax
10 liability that has to be paid goes up. That's basically
11 how the credit mechanism works. Now, we've done a
12 fiscal note -- the bottom line, we've done two cases -
13 a low price case and a high price case which are not
14 particularly revenue forecasts in and of themselves.
15 They are to illustrate whether the reserves tax works
16 as a backstop for the income tax. Does it have the
17 revenue generating potential to completely backstop over
18 \$1 billion a year of income tax payments? The answer is,
19 yes. If we start at 30 mills for the first tax year,
20 then go to 25 mills, which is the default rate right now -
21 if the legislature fails to set the millage at a different
22 level, it will be at 25. So if we are at 25 mills through
23 these two years and then drop down to 20 mills in 1985,
24 you'll see that we have all gained in the next fiscal
25 year over Chapter 21 under the reserves tax. The reserves

1 tax would come out \$7 million over. There would be small
2 reductions in each of the next years which can be
3 eliminated by fine tuning the millage rate. But if the
4 millages stay at 25, 25 and then goes down to 20, you'll
5 see that over the period we are looking at, while the
6 lawsuit is pending, it would be a net failure to cover
7 of only \$164 million out of the \$6.4 billion. So essentially
8 over 95% of the revenue is backstopped under the low
9 price.

10 MR. RAY:

11 Your figures are in millions then?

12 COMMISSIONER WILLIAMS:

13 Those figures are in millions, yes. Now looking at the
14 high price case. This is more optimistic in terms of the
15 assumptions about how oil prices will increase. You can
16 see that, here, this time, it ends up being plus
17 \$483 million. Again, the same assumptions about millages -
18 30 mills in the first year, 25 the next two, and then
19 dropping to 20 in 1985. That produces overall an
20 increase in the tax liability of \$483 million. These are
21 the figures that are in the fiscal note. And I'd just
22 like to show in the low price case some of the backup about how
23 these are developed. This is what we project in the low
24 price case would be collected under the present income tax.
25 No warts, no windfall profit tax - just what we have on the

1 books now. \$1,142 million in fiscal year '82. With the
2 warts and the windfall profit tax, that would drop to
3 \$787 million in fiscal year '82. The new reserves tax
4 would generate \$601 million in that payment part - that
5 top box that I showed in the first draft, \$601 million.
6 There'd be retroactive provision for the warts and for
7 the past windfall profit taxes to clean those up - and
8 the net change is \$11.149 billion. The difference is a
9 \$7 million increase - that's the \$7 million that I showed
10 you earlier on the low price case.

11 MR. RAY:

12 Wait a minute. What was that first figure you just said?
13 No, the bottom, the total figure. The next one up.

14 COMMISSIONER WILLIAMS:

15 This one is the new cash flow. That's the 787 plus the 601
16 minus 83 minus 156 - adds up to 1149. This is the
17 revenue that we would see as the cash coming in under the
18 low price case with this bill in this fiscal year. In
19 this year, in 1983, this is the income stream you would
20 see. There would be no more retroactivity because that
21 has all been taken care of in the first year. So all you
22 have now is the ongoing effects of the reserves tax and
23 the ongoing effects of the amended version of Chapter 21.
24 So here you have a total of \$1.289 billion being collected.
25 That's short of the \$1.356 billion that would be collected

1 under the present tax, and is short by \$67 million. Same
2 thing here - it comes up short by \$49 million. And over
3 here it comes up short by \$55 million. It does not
4 necessarily, though, have to come up short. And I'd like
5 to show you one graph here illustrating that point.
6 Thank you. This is break even millage rates. One of
7 the provisions is that the legislature may adjust the
8 millage each year. If it fails to do it, it's 25 mills.
9 But if it does do it, it can fine tune this tax so that
10 the revenue effect is zero. In 1982 these are the
11 assessed values that come up from the low price case for
12 the reserves at Prudhoe Bay. These are all in millions
13 of dollars. So this is \$60.1 billion - would be the
14 approximate assessed value based on the research and analysis
15 we did. If you apply the millage, 29.65 mills, that's
16 2.965% of this assessed value - the gross reserves tax is
17 \$1.782 billion. The credit for income tax payments, for
18 past income tax payments and for current income tax
19 payments, comes to \$1.138 billion - that's the sum of
20 those two. So you subtract that from this, and you have
21 the net reserves tax payment of \$594 million. At present,
22 Chapter 21 produces \$1.142 billion. Taking the warts
23 off would reduce that by 13. Taking the windfall profit
24 tax deduction off, we would reduce it by another 308.
25 And deduction for this reserves tax, since this will now

1 be an expense charged against their income - that reduces
2 the reserves tax amount payment in the fiscal year by
3 \$14 million. So the new income tax that would be paid
4 under Chapter 21 is \$787 million. The combined revenue
5 787 plus 594 - right up here, the reserves tax and the
6 income tax - comes to \$1.381 billion. Applying - I don't
7 know if you can see this - but applying the retroactive
8 warts and the retroactive windfall profit tax credits
9 that would be allowed, that knocks it down to \$1.142 billion.
10 That's exactly what we're trying to match - \$1.142 billion.
11 This is the income stream under the present law. So this
12 is the net income stream we get under the new law if
13 you apply this millage. And the revenue change is zero.
14 The same calculations that are worked out for these
15 (indisc.)—you can see that 29.65, 29.04, 23, and 20.72
16 work out to have no revenue effects given these assessed
17 values. It neither raises nor lowers the tax. Now, the
18 assessed values, of course, may vary as time goes by
19 from year to year. They may well not come out at these
20 particular levels. The point is to show that it need not
21 result in either an increase or a decrease in the tax
22 liability of the oil industry. But can, in fact, be
23 fine tuned to eliminate any change in their liability.

24 MR. RAY:

25 Any questions from any members of the Committee? Senator?

1 MR. DANKWORTH:

2 Commissioner, when setting the mill rate on the assessed
3 value of your reserve, 29.65, what do you use to -- how
4 would you know whether to raise or lower that? Does that
5 have anything to do with the rising or falling cost
6 of oil Or the price of oil in the nation?

7 COMMISSIONER WILLIAMS:

8 No. The assessed value has a relationship with the
9 expected price of oil in the future because one of the
10 ways that you'll look at, in evaluating one of a kind
11 properties like reserves, is to say what's the income
12 stream that this is likely to produce in the future?
13 That income stream, of course, is going to depend on
14 what the price of oil is. So it's this top line that
15 depends on the price of oil. This one can be solved
16 mathematically so that the numbers work out to zero
17 at the bottom. And that's simply what was done. I
18 went through this from front to back - if you were
19 solving for this you would essentially, sort of, work
20 through backwards and find out what millage it was you
21 needed.

22 MR. DANKWORTH:

23 Does this take the risk out of the State being in the
24 oil business at all? I mean, can we just use that each
25 year to make sure that we get that amount which we want?

1 COMMISSIONER WILLIAMS:

2 You can use it to make sure you get the amount that you
3 want. You can use it to make sure that you are covering
4 what would have been collected under Chapter 21. It still,
5 of course, leaves that residual risk about the 30% share -
6 it's open to legal challenge. If there's a lawsuit,
7 there's still is that chance in the lawsuit of losing.
8 I'm not sure which risk you were ...

9 MR. RAY:

10 Are you finished, Senator?

11 MR. DANKWORTH:

12 Thank you.

13 MR. MALONE:

14 Thank you, Mr. Chairman. On these different presentations,
15 Tom, you've been using high case, low case - which one
16 is probably more likely?

17 COMMISSIONER WILLIAMS:

18 At the present time the low price case is much closer
19 to where we are in our revenue forecast than the high
20 price case. The high price case is the one that, on the
21 pro forma fiscal note, ends up almost \$500 million tax
22 increase. That's less likely, considerably, than the low price case.
23 although you can come up with reasonable situations where
24 either one can come about.

25 MR. MALONE:

Thank you, Mr. Chairman.

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1 MR. DANKWORTH:

2 Just to clarify that, Commissioner. If it's perceived
3 that under 21 now that our income should be about 31
4 something, close to 32% - is that what it is presently,
5 compared to those?

6 COMMISSIONER WILLIAMS:

7 Through the period to '85, it is about 31.8, I think.

8 MR. DANKWORTH:

9 All right, if it's 31.8% - to maintain that 31.8% of the
10 revenue, we could annually, the legislature, could play
11 with this millage rate to hold that 31.8%. Is that
12 correct?

13 COMMISSIONER WILLIAMS:

14 That's correct. You do so by making these numbers down
15 here at the bottom all equal to zero.

16 MR. RAY:

17 Just so long as your requirement doesn't exceed 30 mills
18 though, right?

19 COMMISSIONER WILLIAMS:

20 You could set the millage at any level you wished. 30 mills
21 is the limit that municipalities have on them.

22 MR. RAY:

23 I see.

24 COMMISSIONER WILLIAMS:

25 But this indicates you wouldn't have to go over 30 mills,

1 unless these assessed values were significantly lower.

2 MR. RAY:

3 Please continue.

4 COMMISSIONER WILLIAMS:

5 Thank you. I think I'd better sit back down. So having
6 basically described that the fundamental idea of the
7 backstop tax, having gone through the fiscal note that has
8 been prepared for the tax, and showing how it can be
9 tailored so that there is neither an increase nor a
10 decrease in the percentage share, I'd now like to run
11 through briefly, section by section, the provisions in
12 the bill. And the first one involves, once again,
13 getting to a chart. Section 1 -- the most confusing part
14 about section 1 is the treatment of income that is
15 required to be shared under the Native Claims Settlement
16 Act. This chart illustrates what Congress created under
17 the Native Claims Settlement Act. Now, for a moment
18 let's talk about non-oil and gas so that we understand
19 how it works for corporations that are under Chapter 20,
20 and under the Internal Revenue Code which Chapter 20
21 follows. So let's say instead of oil and gas wells -
22 now if you will imagine those are trees, and some one is
23 cutting them down, there are trees that are granted
24 to the regional corporation under the Native Claims
25 Settlement Act. Under section 7(i) of that Act, the

1 revenue that comes in to the regional corporation owning
2 that forest from those trees - 70% of the revenue must be
3 shared under section 7(i). The regional corporation
4 keeps 30%. 70% is shared under section 7(i), and it
5 goes to all the regions in proportion to their shareholders.
6 I've not drawn 12 regions here, but you can see there are
7 3 of them as well as the region that owns the timber.
8 Under section 7(j) of the Act, each region in turn is
9 required to distribute 50% of what it receives to its
10 village corporations and/or its shareholders. But it has
11 to break the second distribution out. So you see
12 village corporations getting income from this region,
13 these village corporations getting income from their region,
14 and so on back -- including the original region. It has
15 to turn back 50% of what it gets under 7(i) - has to
16 go back to the villages. Now, under the Internal Revenue
17 Code, and a letter ruling dated February 2, 1977 by the
18 Internal Revenue Service - it's an informal letter
19 ruling - the IRS took the position that the income is
20 taxable to the recipient of it. So if 70% comes here,
21 and 10% of that goes to this region, and then 5% goes
22 to the villages. The villages are taxed on the 5% they
23 received; this region is taxed on the 5% it keeps; this
24 region is taxed on the 30% it kept originally, plus whatever
25 it gets back; and these villages are taxed on what they

1 receive, and so on. Each one of these -- the recipient
2 is taxed on the income. Neither this region nor its
3 villages, nor any of the other regions and their villages,
4 has an interest in the land for purposes of depreciation
5 or depletion or anything else. They don't have an
6 economic interest in the land under the Internal Revenue
7 Code. So under Chapter 21, if this were a forest, the
8 villages would be taxed on their income; this region
9 would be taxed on what it nets; this region would be
10 taxed on its net; and these villages would be taxed on
11 their net. Now, what happens when it becomes Chapter 21
12 type income - these are oil wells now. Once again, they
13 go in to section 7(i), 70% of the income. It's shared
14 among the regions and in turn reshared among the villages.
15 Some of it comes back to the original region, and half
16 of that is shared with its village corporations. How
17 should all of these corporations be taxed? If we follow
18 the example of the Internal Revenue Code, you say that since
19 none of these has an economic interest in the oil and
20 gas, that it stays income under Chapter 20 for the
21 non-owner region. This region is subject to Chapter 21
22 because it is getting income from oil and gas. So it is
23 subject to 21. The income it gets back and keeps under
24 revenue sharing would be subject to Chapter 21. But the
25 income it shares out to its villages, since that is a

1 deduction from its income, and for the villages, since
2 they don't have an economic interest in this land under
3 the Internal Revenue Service, that's Chapter 20 income.
4 Which makes sense - that it is exactly the same treatment.
5 Everybody's getting the same tax rate, and the same
6 parallel treatment under Chapter 21 as what they are
7 getting under Chapter 20. That's what the underlying
8 language in section 1, on page 1, at lines 16 to 21, does.
9 It's a long explanation but it's probably simpler to
10 go through the explanation and say what it does than to
11 try to work with the language. So that's why I've
12 prepared this. I'd be glad to answer any questions
13 you have.

14 MR. RAY:

15 I think it is very well understood, and I'd like to
16 thank you for the explanation.

17 COMMISSIONER WILLIAMS:

18 Thank you, Mr. Chairman. Continuing on, then, section by
19 section -- the rest of them go much more quickly now.
20 The second section just simply makes some technical
21 changes. It does not change the substance, really. It
22 just makes the language tidier. Section 3 relates to
23 deductions from production income under Chapter 21. The
24 addition of the language on line 10, "or incurred," allows
25 for taxpayers who are using the accrual base of accounting

1 rather than cash base of accounting, to use accruals.
2 They don't have to gin up a special set of books for our
3 tax. In fact, we don't want specially ginned up books -
4 we'll take the real books. So we'll look at their
5 business the same way they look at their business themselves.
6 So this allows accrual taxpayers to stay on the accrual
7 basis. So the same thing is true on line 13 and
8 again on page 3, line 4. The section on page 3 between
9 lines 8 and 26 relates to the interest expense. Right
10 now there is an absolute limit on the allowable interest
11 that may be deducted. This limits the interest that may
12 be deducted to interest incurred with respect to
13 Alaskan investment instead of investment anywhere, and
14 it allows the limitation -- there's a presumption about
15 a limitation, but it allows it to be rebutted where the
16 taxpayer can show that it's actually got more interest.
17 It also allows the taxpayer to include interest expense
18 where the parent, where the taxpayer is a subsidiary and
19 where the parent actually did the borrowing on behalf of
20 the subsidiary instead of the subsidiary doing it itself.
21 It's a rather technical point. Again, on page 4, section
22 9 which starts on line 3 - it's a similar sort of item
23 there. There's a limitation in the present law on general
24 overhead or administrative expense that may be deducted.
25 This replaces that absolute limitation with a presumption -

1 the presumption is provided for in new subsection (f)
2 which comes in a few pages. The new deduction number 10
3 is for the deduction of the income that is shared under
4 section 7(i), revenue sharing. That is to say, this
5 70% is a deduction from this gross income of this region
6 which, of course, is consistent with the notion that this
7 70% is going to be taxable income to the recipient.
8 That's all that number 10 does. Number 11 allows for a
9 deduction for the actual reserves tax that is paid -
10 reserves tax over and above the amount of the credit that
11 is allowed against it. So actual payment of reserves tax
12 is a cost and it is allowed as a deduction. Section 12
13 would allow the windfall profit tax.

14 MR. MALONE:

15 Mr. Chairman, on the windfall profits tax question, now
16 that's incorporated in the bill but the legality of
17 allowing or not allowing a federal excise tax, or whatever
18 you call the windfall profits tax, is that a serious
19 issue?

20 COMMISSIONER WILLIAMS:

21 I think it's a serious issue when the court looks to the
22 equities of the tax.

23 MR. MALONE:

24 Mr. Chairman, if the information I have is correct, at least one
25 state this year, one state legislature in Minnesota, in fact,

1 moved to eliminate that deduction from their tax code --
2 passed a bill on it.

3 COMMISSIONER WILLIAMS:

4 Mr. Chairman, I understand that to be correct. The point
5 is, though, that Minnesota does not have a separate
6 accounting tax. And our concern is, in looking at
7 separate accounting, that the court may see this as a
8 particularly unfair feature that separate accounting causes.
9 And, once again, I think the important thing is to
10 establish the precedent on the principle of separate
11 accounting rather than lose that principle because there
12 was a windfall profit tax associated with it. As I
13 pointed out, the backstop has the capability to offset the
14 revenue that's foregone under Chapter 21 - in effect, it
15 gets shifted over to Chapter 58 because of the credit
16 mechanism. It's not as though we suffer a diminution in
17 cash flow by allowing this deduction, but it does
18 definitely, I think, allow the issue of separate accounting
19 to be presented on its own merits and not to be decided
20 possibly on the extraneous issue of the windfall profit
21 tax.

22 MR. MALONE:

23 Thank you, Mr. Chairman.

24 MR. DANKWORTH:

25 Then it's just semantics in the sense that we haven't given

1 them credit in anything - we changed the wording but we
2 are still collecting. We've just found a new mechanism
3 to collect the same amount of money.

4 COMMISSIONER WILLIAMS:

5 That's right. It preserves the revenue share. That's the
6 purpose of the backstop -- is to protect the level of
7 revenues that the State desires to continue to receive.

8 MR. DANKWORTH:

9 Thank you.

10 COMMISSIONER WILLIAMS:

11 Section 4 of the bill, which is at the top of page 5,
12 allows for the taxpayer to rebut the presumptions as to
13 allowable interest to be deducted or allowable
14 administrative overhead -- general overhead or administrative
15 expense that may be deducted. As I said earlier, those
16 are specifically limited but it's a presumption. This
17 provides how that presumption is to be rebutted by the
18 taxpayer.

19 MR. DANKWORTH:

20 Before we get too far off my last question, if you don't
21 mind, I'd like to return -- Commissioner, do you know
22 offhand, or do you have the material with you -- if
23 we gave the windfall profit tax, if we decided that was
24 an unfair tax and we wanted not to charge that, do you know
25 about what amount that would amount to between now and
1985?

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1 COMMISSIONER WILLIAMS:

2 I can quickly hunt it up here.

3 MR. DANKWORTH:

4 Just kind of roughly, Tom. If you could kind of give me
5 an idea of what -- if we thought that was unfair and we
6 didn't intend to do it in the first place, and we wanted
7 not to charge that, how much would we lose in revenue
8 between now and 1985?

9 COMMISSIONER WILLIAMS:

10 Through that period, the industry would pay approximately
11 \$18.75 billion of windfall profit tax. So that would
12 be a deduction in that amount. It would reduce their
13 income by that amount and our tax rate at 9.4% of that.
14 So it would be about, I'd say \$1.8 billion - plus or
15 minus \$20 or \$30 million. But I'd say \$1.8 billion is
16 close.

17 MR. DANKWORTH:

18 If we had decided that that was an unfair tax and wasn't
19 intended, and we didn't charge it, then we would, by
20 setting that straight, we would have to give up about
21 \$1.8 billion.

22 COMMISSIONER WILLIAMS:

23 That's what you would reduce it by.

24 MR. DANKWORTH:

25 ... if we continued to have Chapter 21.

1 COMMISSIONER WILLIAMS:

2 That's correct.

3 MR. DANKWORTH:

4 Thank you, Mr. Chairman.

5 MR. RAY:

6 However, couldn't we increase, or put another tax in to
7 keep the same level of taxation? If we made an error
8 in one place, we can correct it by doing the right thing
9 in another place and collecting the same tax.

10 COMMISSIONER WILLIAMS:

11 If you didn't want to forego the \$1.8 billion. In fact,
12 that's what the backstop tax would recover.

13 MR. RAY:

14 Go ahead, sir.

15 COMMISSIONER WILLIAMS:

16 Thank you. Section 5 of the bill which starts on line 9
17 on page 5 allows for the non-production and non-pipeline
18 income of a Chapter 21 taxpayer to be taxed on the basis
19 of the federal taxable income. It's the same treatment
20 as we give taxpayers now under Chapter 20. It refers to
21 foreign subsidiaries and domestic subsidiaries, and it
22 reflects the present practice of the Department - that
23 where you have a domestic subsidiary that files or reports
24 federal taxable income, that we use that federal taxable
25 income in looking at the worldwide pie to be apportioned

1 to Alaska. Where there is a foreign subsidiary involved,
2 we look at their book income usually. Ordinarily the
3 taxpayer says, hey, it ought to be federal taxable income but
4 then when it looks at the cost of redoing the books on
5 the basis of federal taxable income they say it's close
6 enough. So on lines 21 through 24 the option is there
7 for the taxpayer to use book income if it's easier for
8 it. But otherwise, if they can readily convert it over
9 to federal taxable income, that's just as soon as what
10 we'd have them do. Section 6 allows for administrative
11 relief by the Department. This does not change what
12 we believe the law to be at this time. Alaska is a
13 member of the Multistate Tax Compact. It's enacted and
14 codified as Chapter 19 of Title 43 of the Alaska
15 Statutes. And under the Act, the Commissioner already
16 may provide for modifications in the formula or in the
17 separate accounting provisions where those are resulting
18 in an inappropriate measure of the extent of the
19 taxpayer's business in the State. Nevertheless, in the
20 lawsuit, it is alleged and contended by the plaintiffs
21 that the authority for our regulation does not exist,
22 the regulation affording tax relief. This would make it
23 clear that the authority does exist, that the Multistate
24 Tax Compact is intended to apply to Chapter 21 just as it
25 applies already to Chapter 20. On page 6 section 7 of the

1 bill allows for prepayments of the tax. Again, by
2 regulation we have interpreted the present statute to
3 allow for either payments on installments after the tax
4 is due or for prepayments of estimated tax before the
5 tax is due. The regulations require prepayments. The
6 regulations are being challenged as lacking statutory
7 authority. Once again, we don't believe that to be the
8 case, but in an excess of caution and to simplify the
9 lawsuit, this change would make it absolutely clear that the
10 regulations do have that authority. Then comes section 8
11 which is the reserves tax - it enacts the reserves tax.
12 One of the things that happens here is instead of using
13 the existing provisions of AS 43.58, we are renumbering
14 slightly off the original sequence. And the purpose of
15 that is that the original Title 40 Chapter 58 had a
16 provision saying that the tax expired. There's been some
17 question raised about whether that expiration language
18 means the tax was repealed. Rather than to have any
19 question about whether the tax was repealed or not, we
20 are repealing those sections and enacting new ones. The
21 first one is Findings and Purposes which provide a
22 statement of the intention of the reserves tax to be a backstop
23 tax, a statement of the circumstances about why it is
24 appropriate for the legislature to do so. The real
25 substance of the tax starts on page 9. Page 9, first of all

1 on line 11 is the new 43.58.021 which imposes the
2 reserves tax. It sets the rate at 25 mills each year
3 unless a different rate is set for that tax year. The
4 reason a deadline is imposed for changing the rate at the
5 end of February, is because we send the tax bills out on
6 March 15, and we need the two weeks in order to prepare
7 the bills and we have to know what the millage rate is by
8 that time. But the legislature would be free any time
9 before the end of February to fine tune the rate if it wished
10 to make the revenue consequence of the tax zero, as I illustrated b
11 Section 31 provides for exemptions. First one is fairly
12 obvious. Property of the United States or the State is
13 exempt from the tax - that's fairly clear. Property that
14 we are preempted from taxing under the federal laws is
15 also exempt - that's number 2. Under section 21(d) of the
16 Native Claims Settlement Act, it seems quite clear that the inten
17 there is that developed and undeveloped lands conveyed
18 under the settlement act are exempt from State taxation,
19 although they may be subject to municipal taxation once
20 they are developed. But they are not subject to State
21 taxation and consequently it's specifically referred to
22 as being exempt here. The third exemption is for gas
23 reserves. The major areas where gas reserves are found in
24 Alaska are in the Cook Inlet area, and on the North Slope.
25 The major developmental projects that are planned for both

1 areas are a gas liquification plant in Cook Inlet, and, of
2 course, the gas pipeline on the North Slope. Both of those
3 have marginal economic possibilities. And how many times
4 we've been warned that the tax structure of Alaska can
5 have a chilling effect on the decisions to develop or not
6 develop. Consequently, since all gas in Alaska seems to be
7 close to the margin of major development, it is appropriate
8 at this time to exempt them from the reserves tax. And
9 so the third exemption is in there. Gas reserves are
10 exempted. If, however, you have exempt property of the
11 United States or the State which is leased to a third party
12 who is not tax exempt, that leasehold interest of that
13 third party is taxable and that's provided for in
14 subsection (b) starting at line 28 on page 9 and continuing
15 on to the next page. Now, the next section .041 is the
16 credits. This is one of two sections that form the
17 heart of the reserves tax and the backstop concept. This
18 allows for the credits for the income taxes that are paid.
19 Subsection (a) is a credit for income taxes that are paid
20 before July 1, 1981. Those credits may be carried forward
21 from year to year. They are not exhausted just because
22 there's not enough reserves tax to use them all up. They
23 may be carried forward from one year's reserves tax to the
24 next. Subsection (b) is for the current year's income tax
25 payments. That is to say, income taxes paid starting

1 July 1, 1981. Those do not carry forward. That's why
2 they are set out in a separate subsection. They are
3 applied first against the reserves tax to make sure, in fact,
4 they are all used up. They are taken first but they do
5 not carry forward into subsequent years. That's the
6 difference between the subsection (a) credits and the
7 subsection (b) credits. Subsection (c) makes it clear
8 the sequence that you use in applying the credits. You
9 take the subsection (b) credits first, then you take the
10 subsection (a) credits. And it provides a limitation --
11 subsection (d) provides for payment under Chapter 20 to
12 give rise to a credit against the reserves tax where you
13 have a taxpayer that's not a corporation, but is
14 otherwise engaged in oil and gas. This is to give equal
15 treatment for various interests in the State right now
16 who will be subject to the reserves tax but who are not
17 subject to Chapter 21 because they are not corporations -
18 they're trusts, or individuals, and therefore exempt from
19 income tax. Section .051 is the other critical part of the
20 backstop concept. This says that where there's an
21 adjustment in the income tax liability under Chapter 21
22 there's a dollar for dollar adjustment in the credit that
23 is allowed against the reserves tax. In effect, this
24 allows the reserves tax to serve as the escrow pool, as if
25 we were collecting the tax under Chapter 43.58 - collecting it

1 and setting it aside in escrow. The credit mechanism
2 accomplishes the same result but without making the
3 companies pay twice as much on a current basis. Section .061
4 provides for the assessment of the reserves. Reserves
5 are assessed in their full and true value as of the
6 beginning of each tax year, and the tax date is July 1
7 of each tax year. It's the standard full and true value
8 that you get in the open market. Fortunately you don't
9 have lots of market sales of these types of properties.
10 So one of the things that is specifically authorized,
11 and, in fact, required that the Department look at is the
12 discounted present value of the future income stream that
13 we would expect reasonably to be generated from those
14 reserves. Subsection (c) says you can't count property
15 that's already taxed under Chapter 56. You can't double
16 count it by hitting it again under 58 - well, that makes
17 sense. Subsection (d) says what the discount rate shall
18 be presumed to be. Discount rate is a very sensitive
19 factor, and I think that it is better to create a
20 presumption by law than to leave it to the individual
21 assessor's judgment from year to year. This is one of the
22 areas where, when I was director of the petroleum
23 revenue and responsible for administering the first reserves
24 tax, is one of the areas where we saw the biggest amount
25 of problems with undue influence on the assessor's judgment.

1 And, rather than have that critical variable be subject
2 to the assessor's judgment, we think it is best to create
3 a presumption and the taxpayers can rebut it on an
4 adequate showing that the presumption is inappropriate.
5 Section .071 says we send out an assessment roll listing the
6 properties - what its assessed value is and who the
7 taxpayers are who own it. Section .081 provides that we
8 mail the tax bill out -- a notice, rather, of what the
9 assessed value is by October 15 of each year. Section .091
10 on page 12 gives the taxpayer 20 days after he gets the
11 notice to make an appeal if he objects to the assessment.
12 If he does object to the assessment, he has a formal
13 hearing in conformance with the standard formal hearing
14 procedures specified by law for the Department for other
15 taxes. If he is still dissatisfied once the Department
16 makes its decision, he has 30 days in which to appeal to
17 the superior court. By February 1 we certify what the
18 assessed values are. At that point -- actually we should
19 have a pretty good idea of what the assessed values are
20 before February 1 -- but by that point you'll have a clear
21 handle what the assessed values will be and it will then
22 be a straightforward matter to ascertain what the millage
23 should be, if it should be changed at all. So that does
24 give, I think, adequate lead time. Ordinarily, we would
25 expect to beat that February deadline, but this is the

1 latest that it possibly can be. Section .111 on page 13
2 provides for picking up property that for one reason or
3 another is not included on the original assessment roll -
4 either it wasn't reported and we didn't know about it at
5 the time, or it's new property coming into production
6 after that time. If it's new property coming into
7 production this section, in response to a comment made
8 during the public hearings by the Joint Gas Pipeline
9 Committees, it allows for prorating of the tax over the
10 year - otherwise people would be hit for a double tax,
11 once on the supplemental roll and then again the next
12 July 1, and that's not really appropriate. That will
13 tend to delay when people will start their properties
14 up. So this prorating avoids that problem. Section .121
15 is the same language as was originally in the original
16 reserves tax, saying that the Department can go out and,
17 on its own, try to find taxable property so that we make
18 sure, in fact, that people are -- everybody who has
19 taxable property is reporting taxable property. It gives
20 us the authority to conduct the investigation and find
21 out where there's production. Section .131 talks about the
22 statute of limitations and the time for when you make
23 refunds of taxes. And it incorporates the standard
24 provisions that are applicable to all taxes under Title 43.
25 Section .141 requires the taxpayer to file a return reporting

1 what his taxable property is each year by the 1st of
2 August. It also provides for who shall pay it and who is
3 liable for the tax. Subsection (c) of that section says
4 that we can require installment payments or authorize
5 installment payments if it becomes appropriate to do so.
6 Subsection (d) allows leases that have been unitized to be
7 treated as a single property or other properties that are
8 distinct can be combined if the Department authorizes it.
9 Subsection (e) again is the standard provision from the
10 other tax relating to payments and authorizes the person
11 who makes the return to withhold the tax from anybody on whose
12 behalf he is filing the report. And subsection (f)
13 authorizes us to require additional information upon
14 written notice. We can adopt regulations under section .151.
15 And then .161 is just the list of definitions. And that's
16 essentially the reserves tax in its basic form. Section 9
17 of the bill which appears on 17 makes it clear that the
18 credit mechanism is essentially a subject of legislative
19 grace. It's legislative grace in that we are not doubling
20 up the amount of tax that has to be paid by the oil
21 industry at this time. Credit mechanism allows them to
22 pay the present amount of income that the State is
23 receiving and provides for the backstop rather than doubling
24 the amount that is collected and setting half of it
25 aside in an escrow account. However, if that mechanism is

1 invalid then the credit is provided for to be struck down.
2 And then it is doubled up. Section 10 is the severability
3 feature for any of the exemptions from the reserves tax
4 that were set out in the event that any of those should
5 be declared to be invalid. Once again, it's out of an excess
6 of caution - we don't expect that any of them will be
7 struck down. Section 11 makes it clear that if separate
8 accounting is declared to be unconstitutional, then it is
9 at least intended that the taxpayers will be subject to
10 Chapter 20. That's not a great deal of -- you know, we
11 take a big fall from 21 back to 20, 85% of the revenue
12 that under 21 would be shifted and only 15% of the
13 amount of revenue would correspond to Chapter 21.
14 Nevertheless, it's clear that that 15% is to be paid under
15 Chapter 20 which is the approximate proportion it is
16 (indisc.-cough) 15%. So if they are not under Chapter 21,
17 they are not free from income tax - they are under
18 Chapter 20. That's what Section 11 of the bill does.
19 Section 12 provides for the special millage of 30 mills
20 for the first year of the tax. Section 12(b) limits the
21 amount of combined credits that may be taken against the
22 reserves tax. But again there's a provision for the
23 unused prior tax credits to be carried forward into subsequent
24 years. So it really doesn't - it's just a question of the
25 timing when those credits are recognized. It's a mechanism

1 there designed to preserve the cash flow so that we don't
2 shift income from next year into 1984 and '85. It keeps
3 it spread through the 4 years more or less evenly. And
4 that's what section 12(b) does. Section 13 provides
5 for a transition rule that 30 days after the effective
6 date of the reserves tax the initial returns on the
7 property reporting the taxable property are due. And that
8 60 days after the effective date of the reserves tax the
9 Department's assessment notices are due to be issued.
10 The rest of the schedule, or the rest of the timetable set
11 out in the reserves tax we should be able to meet - the
12 February 1 deadline for certifying the roll, the March 15
13 deadline for sending out the bills -- that we should be
14 able to meet those without any problem. Section 14
15 repeals 2 sections in the Chapter 21 income tax. It's
16 a technical change. It removes the warts, and it's to
17 be consistent with changes that are made elsewhere in this
18 law. And then Section 15 provides for repeal of certain
19 provisions on the severance tax, and for the repeal
20 of the existing sections of the reserves tax that are on
21 the books. And that's it. Section 16 is for retroactive
22 dates on certain sections.

23 MR. RAY:

24 Commissioner, it would appear - and you may correct me -
25 it would appear that in this proposed legislation that the

1 State has the mechanism to protect its people or itself
2 from a loss of revenue no matter what the court case says
3 or does -- it has the mechanism either to make it up or
4 to stabilize it so that there is a minimal loss of
5 revenue. Is it safe to say, or is it a fair thing to say,
6 that any change, any substantial reduction or increase
7 in the revenues from the oil industry at this particular
8 time would be a policy question and not one of strict
9 need or desire - it would be a policy question because
10 we do have the mechanism to protect ourselves?

11 COMMISSIONER WILLIAMS:

12 That's correct. It's a policy question. The present
13 level of the State's revenue from the oil industry is a
14 policy question.

15 MR. RAY:

16 Thank you.

17 MR. DANKWORTH:

18 I'd like to -- you're through testifying on the bill, aren't
19 you?

20 COMMISSIONER WILLIAMS:

21 I'm through testifying on this bill, yes.

22 MR. DANKWORTH:

23 I'd like to just touch on a couple of things that still
24 bother me. And again we're back to policy questions, Tom,
25 and that's, how much security do the people of Alaska have

1 in passing this bill -- if this bill were to pass --
2 certainly we have the ability to put in another bill to
3 get the same amount of money, as Senator Ray just asked?
4 We could even raise the taxes if we wanted to. There's
5 no question about that's a policy decision. But the point
6 is would you anticipate that we will have a lawsuit on
7 this particular tax when we put it in?

8 COMMISSIONER WILLIAMS:

9 I'd be surprised if there was not a lawsuit.

10 MR. DANKWORTH:

11 Okay. I would to, and I've been told by a number of
12 people there would be. But I guess I get back to worrying
13 about, not so much how we got to 30% and stuff -- I'm one
14 that believes that Alaska should have got her 30% and
15 I don't mind seeing that we stay at 30%, and I'm going
16 to insist on that even though we may now be talking at, in
17 the tax we are in court on, I understand, at 31.8. But
18 I just want to know for sure that if we try to hold on to
19 the same thing we get in court on two cases, we should
20 make a fiscal policy here as to whether we want to
21 continue to spend this money on the statement that I
22 think we'll win both cases. \$6.5 billion is at stake,
23 and I don't care if your chances, let's say they're 90% in
24 favor of the State, and I don't know anybody that would
25 go up on any case before any court and say you have a 90%

1 chance of winning. No lawyer would do that, I don't think,
2 because of the way courts go. I'm concerned
3 that if we take that 10% risk between now and 1985, that
4 would almost bankrupt the State if we lose. That's the
5 question that I'm asking sometimes; and I'm going to later
6 on in these discussions, at least discuss the possibility
7 of a settlement, and how it relates to that question.
8 So I guess I'm not asking you a question so much as I am
9 making a statement, Mr. Chairman, that concerns me.
10 Well, that's permissible isn't it?

11 MR. RAY:

12 It's all right with me.

13 MR. DANKWORTH:

14 Thank you.

15 MR. RAY:

16 But I haven't heard from the rest of the Committee,
17 though, there might be some ...

18 MR. DANKWORTH:

19 Well, ask them. Maybe they won't allow a statement.

20 MR. RAY:

21 Well, every action should have a reaction so I'll play
22 your devil's advocate for you, if that's what you are
23 desiring, sir.

24 MR. DANKWORTH:

25 I was reacting to yours, sir.

1 MR. RAY:

2 Oh. Well, I'll double the act to you then. If --
3 I don't think there is anybody here, except possibly
4 the representatives of the oil companies, that can tell
5 you whether the oil companies are going to -- when and
6 at what point and at what issue that they are going to
7 attack the State with a lawsuit. And I would imagine
8 that they are well enough equipped and have the expertise,
9 having been through it in many countries throughout the
10 world, to continue a series of lawsuits on everything
11 from taxes up through land or anything else. So I really --
12 that isn't a concern that I have of their threats or what
13 they are going to do, and I don't think that they really
14 mean that as a threat. I think that if what they -- when
15 somebody sues me I think it's a promise from them that
16 they are going to do what they want to do, and when they
17 come around to make a settlement then it would seem to me
18 that suddenly I've become very, very likeable in their
19 eyes, and for some unknown reason. And I don't quite
20 know what that reason is except perhaps through friendship
21 or the respect for the State and the love of all of the
22 people here. But I doubt that very much. I think that
23 when they come around to make a settlement they have a
24 reason. And as soon as we can uncover what the reason is
25 that they want to make the settlement, and we can evaluate

1 what their answers are, then we'll know exactly where
2 we're standing. As far as lawsuits, they are going to be
3 suing us as long as there is oil coming out of the
4 ground -- they're going to have a suit against the State.
5 And the fear of a suit, or one down the road, or one
6 tomorrow or the next day or the next day, it doesn't
7 bother me that much. That's the end of the statement, sir.

8 MR. DANKWORTH:

9 You and I didn't come here to debate. But you did bring
10 some good questions. And I don't mean my comments in the
11 sense of debate. But I would like to say one thing -
12 that I certainly view our duty here as legislators, and
13 as responsible people here, not to use our powers to
14 tax as any kind of a threat or to be unfair, or to bring
15 people to their knees so that they can come and beg
16 for mercy, you might say. That's not the purpose of that.
17 And nor would we want -- I know in some of our consumer
18 protection areas and other things, I see they get
19 merchants down where they can hardly move and then sure
20 they'll allow you to go ahead and do what you want to do.
21 I just want to make the point that I think the question here
22 is the sense of fairness, and I don't know which side
23 it should fall on. And I'm not taking anyone's particular
24 side even though I may appear to be. But, at least, I
25 think our taxing policies should be based on a sense of

1 fairness and not trying to push somebody to the wall to the
2 extent that they have to give in that which is not fair.
3 So that's what I'm looking for.

4 MR. RAY:

5 Well, Senator, I, for one, will stand with you and I will
6 guarantee that no action that I take here will ever push
7 the oil companies to the wall.

8 MR. GARDINER:

9 Mr. Chairman, a question. Commissioner, what risk does the
10 State have in a settlement?

11 COMMISSIONER WILLIAMS:

12 Risks in a settlement?

13 MR. GARDINER:

14 Yes. Is the settlement risk free?

15 COMMISSIONER WILLIAMS:

16 Not 100%. But it does reduce the risk, I think. There
17 are very few things that are totally risk free. We can make
18 a settlement and the federal government next year can pass
19 a law that none of us see or contemplate, and because it
20 is the supreme law of the land it completely frustrates
21 the intent of the parties in the settlement and the
22 settlement is undone. So there is that sort of risk.
23 For instance, if we settled with a severance tax increase
24 and then Congress passed a law saying you can't have
25 severance taxes that high and it's ultimately upheld

1 that Congress has the power to pass such a law. Obviously,
2 the intent of the parties in the settlement agreement
3 has been materially affected and frustrated by such a
4 Congressional act. So you don't completely escape that
5 sort of risk. In addition, the entire oil industry is
6 not party to this lawsuit. You do have over 90% of the
7 money being paid by the parties who are in this lawsuit.
8 With respect to them, you have -- if you had a settlement,
9 you would have security for past revenues and you would
10 have security for future revenues subject to some sort of
11 preemptive legislation by the federal government, or what
12 have you. But they, for that 90 plus percent of the
13 income, you could gain more stability even than you would
14 have under a backstop tax.

15 MR. GARDINER:

16 But one of the things here is we are only talking about
17 right now, that 90% of our income comes -- that most of
18 our oil income comes from Prudhoe Bay and these three
19 companies represent 90% of the income there, or whatever
20 it is. But, you know, 10 years from now, it's going to be
21 different. We're going to have other oil being produced
22 by other companies -- these same companies may produce
23 some of the oil but we don't know who will find what in upper
24 Cook Inlet or other regions, or the Beaufort or other
25 North Slope regions - so even though we can say it's 90%

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1 today, it wouldn't necessarily be 90% in the future, would
2 it?

3 COMMISSIONER WILLIAMS:

4 Well, it's hard to tell. I mean, that's pure speculation,
5 ultimately, about who will find what and where. These
6 particular three companies - ARCO, Exxon and SOHIO - did
7 a good job in getting prime prospects for themselves in the
8 Beaufort Sea lease sale. And one of them is going to be
9 paying us almost 80% net profits in addition to a 20%
10 royalty if they get production from block 76. But it's
11 possible that block 76 may not come into production - it
12 may not have commercial reserves. And so you never know
13 until it is actually developed. But they -- it is true
14 that as basins are explored elsewhere you have no assurance
15 that these companies will always be the ones who are
16 successful in acquiring the developmental rights to that
17 acreage.

18 MR. DANKWORTH:

19 Commissioner, on the -- aside from that we do know that --
20 and we'll get to that later in this hearing about
21 settlements and what their relationships are in answer
22 to Representative Gardiner. Certainly we will always be
23 open to suits- you and I are, and everybody is, and there
24 is no security that anybody can offer on that -- but at least,
25 we -- I believe you testified we pretty well admit that if

1 we pass the bill, Senate Bill 524, we are sure going to
2 get sued. I mean, there's not the risk of that -- it's
3 pretty obvious. You've said so yourself. But aside from
4 that, I'd like to get to the question of, just out of my,
5 own curiosity, how many states presently do allow a
6 deduction for windfall profits tax? Do you know?
7 I know Minnesota and California have recently followed
8 Alaska's lead, somewhat, or perhaps they didn't, maybe
9 they weren't following our lead - but I believe now that
10 they've said that they would not allow the deduction.
11 Do you know if there is any other states that ...?

12 COMMISSIONER WILLIAMS:

13 I'm not sure whether California has actually passed it,
14 or whether it has passed only one house there.

15 MR. DANKWORTH:

16 I don't know either, but -- is that all it's done is
17 passed one house?

18 COMMISSIONER WILLIAMS:

19 In any event, the states that use apportionment, which is
20 the other approach rather than separate accounting, and they
21 start with federal taxable income that's -- the windfall
22 profit tax is already going to be taken out of the pie that
23 they then use the apportionment formula to figure the size
24 of the slice they take out. And because the windfall profit
25 tax is specifically allowed under the Internal Revenue Code

1 as a deduction in figuring federal taxable income. So if
2 they start with federal taxable income, they are starting
3 with the windfall profits tax having been allowed and it
4 would take affirmative action on their part to add it back
5 into the pie and then take their slice. As far as I
6 know, it's only Minnesota and California who are doing it
7 or are in the process of doing it.

8 MR. DANKWORTH:

9 All other states do allow that deduction, is that what
10 you are saying?

11 COMMISSIONER WILLIAMS:

12 To my knowledge at this time.

13 MR. DANKWORTH:

14 Thank you.

15 MR. RAY:

16 That's hardly a fair assumption, though, because Alaska
17 is unique in itself, and I don't think that there's another
18 state that's producing oil in the same quantities and
19 in the same manner as Alaska is. They welcome the oil
20 companies to -- they've been with them for a long time
21 and we welcome them and we hope we'll be with you for a
22 long time too.

23 MR. DANKWORTH:

24 Well, Mr. Chairman, maybe you should clarify why we are
25 unique in the sense of the windfall profits tax. The law

1 came along. We didn't intend to pass it. That just came
2 about.. I question whether we are unique in why we would
3 charge and someone else wouldn't. We did, I agree, sort
4 of get trapped into it in the sense that when that
5 windfall profits tax hit we didn't have the provisions
6 to allow the deduction. But we've never corrected it
7 either. I don't believe that makes us necessarily unique.
8 We just haven't done it.

9 MR. RAY:

10 Well, uniqueness is like beauty in the eye of the beholder.

11 MR. DANKWORTH:

12 All right.

13 MR. GARDINER:

14 Mr. Chairman, one thing on this, you know, over the
15 windfall profits tax or anything, the basic question is
16 still what share should the State be getting? That's
17 why we passed the income tax bill in the first place.
18 Everybody had expectations of what percentage it would
19 bring in. And the passage of the windfall profits tax
20 affected both the companies and the State adversely
21 because what it did in that sense is raise the federal share
22 of the pie. And at the time when we passed the income tax
23 nobody thought they were going to pass it one way or the
24 other -- I mean, I guess we could have guessed that they
25 would do something if they ever deregulated -- but if they had

1 never passed the whole thing in the first place, then
2 we might have had a higher percentage because they wouldn't
3 have been taking that much of the total. Right now they
4 are getting more than -- almost as much as the companies
5 and the State put together.

6 MR. RAY:

7 Well, it seems to me I remember when we were first
8 considering oil taxation and there were a lot of us at
9 that time that wanted just to take the simplest procedure
10 possible and eliminate all the transportation costs,
11 and figuring this and figuring that, and just say every
12 barrel of oil that popped out of the ground -- Alaska
13 got so much and the oil companies could do with it what
14 they wanted with the rest of it. But that wasn't
15 satisfactory with the oil companies because they had a
16 different way of going at it. And they won that by a
17 very slim margin. And I just want to tell them, see if
18 you had went with us on that we would have never been in
19 this mess now. So really you have only yourselves to
20 blame for being in this spot. I think that it's about
21 4:30. Truthfully, fellas, a lot of us have been here and
22 have other ideas and other things that we have to work on,
23 and I'm certainly -- want to give the oil representatives
24 the complete time but in order -- but to start you
25 out now, I wouldn't be fair to you. So if it is agreeable

1 with the Committee, I'll adjourn for today. And we'll
2 meet again at 2:00 tomorrow? 2:00 p. m. tomorrow --
3 that'll give us plenty of time because we have some --
4 we want to hear your testimony, and we want to be
5 fresher than we are at this time in order to evaluate it.
6 I hope you will understand what I'm saying.

7
8 (meeting adjourned 4:30 p.m. June 11, 1981)
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I, JUDITH R. JONES, a Notary Public, duly commissioned and qualified in and for the State of Alaska, do hereby certify that the foregoing June 11, 1981 meeting of the Free Conference Committee on Senate Bill 524 was recorded by me and thereafter transcribed by me or someone under my direction.

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

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

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ANDY JONES

STATE OF ALASKA

PR7-231

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

June 12, 1981

RECEIVED
ALASKA DEPARTMENT OF REVENUE

JUN 15 1981

MEMORANDUM

TO: Honorable Hugh Malone
House Finance Committee

FROM: Milt Barker, Fiscal Analyst
Legislative Finance Division

SUBJECT: Oil Tax Settlement Fiscal Analysis

OFFICE OF THE COMMISSIONER

MB

Gyr
\$4B

Table I, attached, shows the net revenue loss to the State on Sadlerochit oil production through FY 90 from the proposed oil tax settlement. Table I also shows in the last four columns some possible net increases in State revenue above the level proposed in the settlement.

The revenue loss to the State does not include losses from the proposed investment tax credit. The attached memo from Mark Wittow makes a rough estimate of this.

Tables I - III consist basically of the producers' analysis (attached) through FY 85 and further analysis consistent with Gregg Erickson's analysis in "Fiscal Analysis of the Proposed Backstop Tax Legislation", May 1981, (which is the basis for the producers' analysis) through FY 90.

Changes in tax statutes are assumed to be effective January 1, 1982.

The nominal rate on the severance tax could be raised to 16.5% without resulting in an effective rate over 15% because the ELF factor is .90 in FY 82 and declining thereafter.

Attachments

Lynda:
Sent to Tom Williams
JH

TABLE I
STATE REVENUES FROM SADLEROCHIT
(\$ Millions)

FY	1. Current Statutes		3. Total	4. Proposed Settlement		6. Total	7. Reduction in State Revenues Under Proposed Settlement	8. No. ELF	9. Possible Increases		10. Incr
	Income Tax	Severance		Income Tax	Severance				12% Income Tax	11.5%	
1982	945	1396	2341	622	1553	2175	(166)	94	41		
1983	1091	1570	2661	339	1922	2261	(400)	282	94		
1984	1192	1677	2869	421	2053	2474	(395)	383	116		
1985	1296	1842	3138	469	2256	2725	(413)	435	130		1
1986	1434	2031	3465	519	2486	3005	(460)	485	144		1
1987	1587	2240	3827	574	2742	3316	(511)	541	159		1
1988	1762	2471	4233	638	3026	3664	(569)	603	176		1
1989	1788	2489	4722	647	3048	3695	(582)	642	179		1
1990	1793	2459	4252	649	3011	3660	(592)	681	180		1
Total	12888	18175	31063	4878	22097	26975	(4088)	4146	1219		9
Total FY82-85	4524	6485	11009	1851	7764	9635	1374	1194	381		3

Sources:

1. Table II, Col. 12
2. "Fiscal Analysis of the Proposed Backstop Tax Legislation", Gregg Erickson & Associates, May,
3. Col. 1 + Col. 2
4. Based on percentage of AS 43.21 revenues that would be collected under modified apportionment
Commissioner Tom Williams from proprietary data of Arco, Exxon, and SOHIO through FY 85:

FY 82 = 1/2 year at 100% and 1/2 year at 31.6%
FY 83 = 31.1%
FY 84 = 35.3%
FY 85 = 36.2%
5. FY 86 to FY 90 assumed to be 36.2% lacking further data.
6. Col. 2 x 15.0 + 12.25 except 1/2 of FY 82 which remains at current statutes.
7. Col. 4 + Col. 5.
8. Col. 6 - Col. 3.
9. (Col. 5 + Erickson Table 5, Col. 6) - Col. 5 except 1/2 of FY 82 remains at current statutes
10. (Col. 4 x .12 + .094) - Col. 4 except 1/2 of FY 82 remains at current statutes.
11. (Col. 4 x .115 + .094) - Col. 4 except 1/2 of FY 82 remains at current statutes.
12. (Col. 5 x .165 + 15.0) - Col. 5 except 1/2 of FY 82 remains at current statutes.

TABLE I
STATE REVENUES FROM SADLEROCHIT
(\$ Millions)

2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
at Statutes		Proposed Settlement			Reduction in		Possible Increases in State Revenue		
Severance	Total	Income Tax	Severance	Total	State Revenues Under Proposed Settlement	No. ELF	12% Income Tax	11.5% Income Tax	16.5% Nominal Severance
1.5	2341	622	1553	2175	(166)	94	41	33	85
4.0	2661	339	1922	2261	(400)	282	94	75	192
5.77	2869	421	2053	2474	(395)	383	116	94	205
1842	3138	469	2256	2725	(413)	435	130	105	226
2031	3465	519	2486	3005	(460)	485	144	116	249
2240	3827	574	2742	3316	(511)	541	159	128	274
2471	4233	638	3026	3664	(569)	603	176	142	303
2489	4722	647	3048	3695	(582)	642	179	144	305
2459	4252	649	3011	3660	(592)	681	180	145	301
18175	31063	4878	22097	26975	(4088)	4146	1219	982	2140
6485	11009	1851	7784	9635	1374	1194	381	307	708

Co 12
analysis of the Proposed Backstop Tax Legislation", Gregg Erickson & Associates, May, 1981; Table 5, Col. 2

percentage of AS 43.21 revenues that would be collected under modified apportionment as estimated by
ner Tom Williams from proprietary data of Arco, Exxon, and SOHIO through FY 85:

FY 82 = 1/2 year at 100% and 1/2 year at 31.6%

FY 83 = 31.1%

FY 84 = 35.3%

FY 85 = 36.2%

FY 90 assumed to be 36.2% lacking further data.

15.0 + 12.25 except 1/2 of FY 82 which remains at current statutes.

Col. 5.

Col. 3.

Erickson Table 5, Col. 6) - Col. 5 except 1/2 of FY 82 remains at current statutes.

.12 + .094) - Col. 4 except 1/2 of FY 82 remains at current statutes.

.115 + .0) - Col. 4 except 1/2 of FY 82 remains at current statutes.

.165 + 0) - Col. 5 except 1/2 of FY 82 remains at current statutes.

Prepared by:

Legislative Fin
6-12-81

Without objection, the House advanced to

REPORTS OF SPECIAL COMMITTEES

CSHB 1(Fin)

The Free Conference Committee which has had COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1 (Finance) and SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1 (Finance) under consideration, recommends that

FREE CONFERENCE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1

"An Act making a special appropriation to the Alaska permanent fund, and making appropriations to the Department of Administration and the Department of Community and Regional Affairs for aid to municipalities and unincorporated communities; and providing for an effective date."

be adopted.

The report was signed by Senator Dankworth, Chairman, and Senators Ray and Parr; Representative Freeman, Chairman, and Representatives Meekins and O'Connell.

A copy of the above report was placed on each member's desk and will be taken up later under Unfinished Business.

Without objection, the House advanced to

UNFINISHED BUSINESS

HCSSB 524(Fin)amH

Speaker Hayes changed the membership on the FREE CONFERENCE COMMITTEE on HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 524(Finance) amended House (investment tax credit) from:

Representative Gardiner, Chairman
Representative Vaska
Representative O'Connell

HCSSB 524(Fin)amH continued

to:

Representative Halford, Chairman
Representative O'Connell
Representative Gardiner

The Senate members on the above FCC are:

Senator Ray, Chairman
Senator Dankworth
Senator Bennett

The Chief Clerk was instructed to so notify the Senate.

HB 485

Speaker Hayes changed the membership on the CONFERENCE COMMITTEE on HOUSE BILL NO. 485 (continuing the existence of the Alcoholic Beverage Control Board; effective date) from:

Representative Cato, Chairman
Representative Martin
Representative Grussendorf

to:

Representative Cato, Chairman
Representative Martin
Representative Clocksin

The Senate members on the above committee are:

Senator Parr, Chairman
Senator Ray
Senator Mulcahy

The Chief Clerk was instructed to so notify the Senate.

ENGROSSMENT AND ENROLLMENT

The following was engrossed, signed by the Speaker and the Chief Clerk and transmitted to the Senate for consideration:

HCS CSSB 576(Fin)