to tax. Sen. Butrovich added the only difference is in a person's basic philosophy as to what to tax; however, he didn't think the resources committee had approved the right to tax oil or gas in place.

Sen. Groh questioned section (c), line 8, to which Mr. Burrell replied it was a slight change from the existing law. The theory behind the change was that the state would impose a tax when oil was produced and it would not be taxed along the line, or one tax on the oil.

"Investment" was changed to "interest" in section (5) to clarify the language, continued Mr. Burrell.

Sen. Lewis asked if the law suit would be stopped if this bill passed, to which Sen. Groh said it would. Sen. Sackett asked which sections of the bill are part of the agreement between the oil companies and the state and which sections are in litigation. Mr. Burrell replied the entire bill was part of the agreement, although some of the changes were an attempt to improve the language. He added the six exemptions were important.

Sen. Palmer said the legislature could allow local communities to tax and set a ceiling on the amount. Mr. Burrell stated the oil companies position was they wanted some limit, and wanted uniformity of assessment practices.

Sen. Groh referred to page 3, line 21, and questioned elimination of the royalty credit. Mr. Burrell said the percentage figure governs unless it falls below the cents per barrel figure and cents per barrel is the floor.

Sub-paragraph (e) established a floor of 5¢ per barrel, continued Mr. Burrell, above and beyond the claims of the Alaska Native Claims Settlement Act. He added he did not believe this was necessary from an economic standpoint due to the price of oil; however, if the wellhead value decreases below $2.50 the figure reverts to 5¢ per barrel.

Sen. Palmer asked how the 35¢ royalty figure was arrived at, to which Mr. Burrell said he did not have the forecasts and the committee could check with the Dept. of Revenue.

Recess: The meeting recessed at 2:45 P.M. to call the Dept. of Revenue.

AFTER RECESS
2:50 P. M.

PRESENT: All members. Homer Burrell, Director, Division of Oil & Gas; Lawrence C. Eppenbach, Deputy Commissioner of Treasury; members of the press.

SB 4 Sen. Groh called the meeting to order and explained the committee had SENATE BILL NO. 4 (An Act relating to the oil and gas properties production tax) under consideration.

Sen. Palmer asked what assumptions were used to determine the 35¢ per barrel royalty figure. Mr. Eppenbach distributed Oil Revenue Projections to the committee and referred to page 5, Values of Key Variables Used in Estimating North Slope Oil Revenue. (See page 38 for copy.) He believed these were reasonable assumptions, although possibly conservative. The committee reviewed the figures and discussed same.

Sen. Palmer distributed copies of a new definition for "lease or property" worked out in the House Finance Committee with the Attorney General, and moved this definition be inserted in the bill under the definition section. There was no objection, so ordered.

Sen. Ray moved the Senate Finance Committee Substitute be reported from committee with individual recommendations. Sen. Sackett objected, and asked what version would be the Senate Finance Committee Substitute. Sen. Groh said he understood Sen. Ray's motion was for the Governor's committee substitute with the new amendment proposed by Sen. Palmer which had just been accepted by the committee.

Sen. Sackett objected, saying he wanted to insert "on each of" on four lines of page 3, covering the production levels. Sen. Ray said he would have no objection to this language. Sen. Sackett also said he wished to eliminate section (6) on page 2, and moved this be deleted. Sen. Palmer asked that only the words "and development expense" be deleted from section (6). Sen. Ray asked Mr. Burrell what effect these deletions would have, to which Mr. Burrell replied he assumed the intangible costs of completing successful wells would be subject to taxation. He said he had no objection to taxing the costs of completing a well and production equipment. Sen. Sackett noted a change would be required in the definition of "intangible drilling and development expenses" on page 4, line 5, and the committee questioned whether this would

comply with the United States Internal Revenue Code, sec. 263 (c), definition as written in the bill.

Discussing intangible drilling and development expenses, Sen. Palmer said this was deleted as an exemption by the resources committee due to the $1,000 limitation which would negate taxation. Sen. Groh said the question of whether local entities could tax should not depend on whether SB 1 passed or not.

Sen. Groh returned to the motion, and asked who was in favor of deleting "and development expenses" from sec. (6). Five in favor, two opposed, and the words were deleted.

Discussing the definition, Mr. Burrell said intangible drilling and development expenses were defined together under the U. S. Internal Revenue Code. Sen. Palmer moved to delete the words "and development" from the definition and there was no objection, so ordered.

Sen. Palmer asked if a committee report could be prepared to spell out the intent of the committee. Sen. Groh said he would prepare a committee report and asked who was in favor of the previous motion to report Senate Finance Committee Substitute for Senate Bill 4 from committee with individual recommendations. Motion carried.

Sen. Lewis asked the committee to rescind their action and report Senate Finance Committee Substitute for Senate Bill 4 from committee with a "do pass" recommendation, and so moved. The motion was approved by a vote of four to three.

Adjourned: The meeting adjourned at 3:40 P.M.

COMMON PURCHASER (7)

Section	Governor's Bill	House Bill(CSHB 7)	Senate Finance Version
.010 (Hearings)	Commissioner of Natural Resources is supervisory agent	Commissioner of Natural Resources is supervisory agent	Alaska Pipeline Commission is supervisory agency NOTE: Change stands throughout bill
.010 (Hearings)	Reserves option to hold, or not to hold, hearings upon complaint	Reserves option to hold, or not to hold, hearings upon complaint	Becomes imperative for A.P.C. to hold hearings upon complaint but reserves right for A.P.C. to initiate hearings
.030 (Responsibility of C.P.)	-	Adds subsection (c) which requires a C.P. to make extensions to lines to prevent discrimination	
.040 (Penalty)	$100-1000 per day	$100-1000 per day	$1000-10,000 per day
.050 (Defns.)	Commissioner is Natural Resources Commissioner	Commissioner is Natural Resources Commissioner	Commission is the Alaska Pipeline Commission
44.62.330(a)	Refers to Department of Natural Resources	Refers to Department of Natural Resources	Refers to Alaska Pipeline Commission

Values of Key Variables
Used in Estimating North Slope Oil Revenue

10/30/73

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
North Slope Oil Thruput (Thousands of barrels per day)	860	1,600	1,750	1,850	1,950	2,000
			Per Barrel Values			
Forecasted Pipeline Tariffs:						
4.0 billion value pipeline:						
Current legislation	$1.34	$1.54	$1.41	$1.33	$1.26	$1.23
Proposed legislation	1.45	1.55	1.42	1.33	1.26	1.22
4.5 billion value pipeline:						
Current legislation	$1.53	$1.77	$1.62	$1.52	$1.44	$1.40
Proposed legislation	1.64	1.78	1.62	1.52	1.44	1.39
Forecasted Tanker Charges	$ .45	$ .46	$ .48	$ .49	$ .51	$ .52
Refinery Price Assumptions:						
15¢ annual increase	$4.39	$4.54	$4.69	$4.84	$4.99	$5.14
25¢ annual increase	4.79	5.04	5.29	5.54	5.79	6.04
35¢ annual increase	5.19	5.54	5.89	6.24	6.59	6.94
Resultant Wellhead Oil Prices:						
Current Legislation:						
High Revenue Case	$3.40	$3.54	$4.00	$4.42	$4.82	$5.19
Most Likely Case	3.00	3.04	3.40	3.72	4.02	4.29
Low Revenue Case	2.41	2.31	2.59	2.83	3.04	3.22
Proposed Legislation:						
High Revenue Case	$3.29	$3.53	$3.99	$4.42	$4.82	$5.20
Most Likely Case	2.89	3.03	3.39	3.72	4.02	4.30
Low Revenue Case	2.30	2.30	2.59	2.83	3.04	3.23

SENATE FINANCE COMMITTEE
October 31, 1973
2:55 P. M.

PRESENT: All members with the exception of Senator Ray.
Joe LaRocca, Steve Weiner, reporters.

CSHB 8 am Sen. Groh called the meeting to order for the purpose of discussing CS FOR HOUSE BILL NO. 8 am (An Act relating to the lease of state land for pipeline purposes). Three different versions of the bill were distributed to committee members; HB 8, CSHB 8, and CSHB 8 am. The finance committee had previously considered SB 8 and it had been reported out of committee with individual recommendations.

Sen. Palmer stated he was opposed to SB 8 because land would not be sold on a negotiated basis, and he thought the state's interest would be better protected on a lease basis. Sen. Butrovich and Sen. Sackett agreed. Sen. Groh noted the House bill called for a lease of 55 years, plus a 55 year extension, which is as equal to fee simple as can be; adding it was a myth that the state would be more protected under a 110 year lease than a fee simple. Sen. Butrovich argued stipulations could be written into a lease which would not be applicable in a sale. Sen. Groh replied the lease stipulations would be left to the discretion of the administration, and there was very little likelihood that the lease provisions would be any different than a sale. Leases are complicated to prepare and the legislature could sit for six months and not adequately cover all stipulations which should go into a lease. Sen. Butrovich said his position was the state could protect the land under a lease; whereas owners of the land could turn others away. He added Roscoe Bell had said this problem was taken care of in federal law, and asked that Roscoe Bell be called to the meeting.

Sen. Ray joined the meeting at 3:10 P.M.

The committee continued discussion of lease versus sale and Sen. Groh explained the land in question would be used for an 802 acre terminal site, plus a couple of hundred more acres for storage tanks, etc. The land, if sold, would go for $10 million or the appraised value. If $10 million were divided into a 55 year lease, the annual revenue would be small for a state fairly short of money. Sen. Groh said it seemed sensible to take the money.

Roscoe Bell, lobbyist and consultant for British Petroleum, joined the meeting at 3:15 P.M.

Replying to a question from Sen. Butrovich, Mr. Bell said they had previously discussed the question of whether a gas line could be put on the same land as an oil line. Certain reservations apply to land, including rights of way for gas and power lines, under which the state could not be prohibited from granting the right to cross land, if necessary. Sen. Groh noted this was true whether the land was leased or sold, and asked the size of the harbor at Valdez. Mr. Bell said it was somewhere between 10 to 30 miles. The lands are unstable at the old townsite and would not be suitable for storage of oil, but the site for the TAPS terminal is elevated and on solid rock.

Sen. Sackett left the meeting at 3:25 P.M.

Sen. Groh referred to a map of Valdez and the harbor, which was 12 miles long and 2-1/2 miles wide, which also showed the proposed storage tanks. Sen. Butrovich said a natural gas pipeline, if built from the North Slope to Valdez, would be equally as important as the crude oil line, and the state should be cautious about selling or leasing the harbor.

Charles F. Herbert, Commissioner, Department of Natural Resources, joined the meeting at 3:30 P.M.

Sen. Groh noted there were some 800 acres involved, and asked if that would be in excess of requirements. Mr. Herbert said it did not look like excess acreage in view of the plans for ultimate expansion.

Sen. Ray asked if the proposed legislation could say the Commissioner "may" sell this land with the approval of the legislature. Mr. Herbert replied he would not object, as the sale could be arranged and the actual terms brought to the legislature for approval. Sen. Groh objected, however, saying this was the responsibility of the Commissioner of Natural Resources. Sen. Ray noted this would be a compromise on the problem of a sale without public auction. Mr. Herbert added he did not think this situation would occur at any other time; in fact, the only reason this bill was put in was that the administration believed more money would be received than by any other procedure.

Sen. Ray brought up the consideration of eminent domain and the fact that the oil companies could use this power. Federal government could state the oil was needed and the facilities were needed, and the land would be sold for fair market value. Mr. Herbert explained an oil pipeline could not dondemn state land, but a gas line could.

Sen. Butrovich asked what the land situation was in Valdez as far as terminal facilities. Mr. Herbert said the original site for a terminal was changed for fear of earthquake hazards, and the present location was a choice spot.

Sen. Palmer questioned docking facilities and who could tie up, to which Mr. Herbert replied docking facilities would require a tidelands lease. Under no circumstances would tidelands be sold.

Sen. Lewis moved a Senate Finance Committee Substitute for CSHB 8 am be reported out of committee with individual recommendations, the original SB 8 to be used as the Senate Finance Committee Substitute. Motion carried, 4 in favor, 2 opposed.

The meeting adjourned at 3:45 P.M.

SENATE FINANCE COMMITTEE
November 1, 1973
11:00 A.M.

PRESENT: All members.
Joe LaRocca, Elaine Mitchell, reporters.

SB 6 Sen. Groh called the meeting to order for the purpose of discussing SENATE BILL NO. 6 (An Act relating to oil and gas pipelines and the Alaska Pipeline Commission). Copies of six different versions of the subject matter pertaining to SB 6 were distributed to the members, numbered as follows:

No. 1. Present law;
2. Original SB 6, as introduced by the Governor;
3. Original version of Commerce Committee Substitute for SB 6;
4. Commerce Committee Substitute for SB 6 as reported from committee;
5. Draft of a Finance Committee Substitute for SB 6, prepared by Sen. Groh;
6. Draft of a Finance Committee Substitute for SB 6, prepared by Sen. Ray.

Sen. Groh referred to the present law and explained the state endeavored in 1972 to regulate the TAPS line, if not pre-empted by federal law. The state attempted to regulate to the maximum extent possible, but would have neither the power nor ability if pre-empted by federal law. The argument made in the current litigation was this placed undue burden on interstate commerce, and all drafts submitted in the special session attempt to resolve that issue in a variety of ways. Sen. Groh concluded by saying a tremendous misunderstanding exists as to what power the state has to regulate interstate carriers.

Sen. Palmer moved and asked unanimous consent to keep the current legislation. Sen. Ray objected. Sen. Lewis noted there was a lot of sentiment to keep the law as is.

The committee discussed the various drafts of committee substitute for SB 6, and requested a recess to consider the various proposals.

Recess: The meeting recessed at 11:30 A.M., to resume at 1:30 P.M.

AFTER RECESS
1:30 P.M.

PRESENT: All members. Sen. Terry Miller; John E. Havelock, Attorney General; Steve Weiner, Elaine Mitchell, reporters.

SB 6 Sen. Groh called the meeting to order for further discussion on SENATE BILL NO. 6 (An Act relating to oil and gas pipelines and the Alaska Pipeline Commission).

Sen. Palmer referred to the version of SB 6 numbered No. 6, the draft of a Finance Committee Substitute prepared by Sen. Ray. He said he believed this language would solve the problem both for the state and the oil industry, and was prepared to discuss this version at length and take action. In previous testimony, Mr. Lipton had advised the state not to add to it and not to take away from it, and Sen. Palmer thought this version accomplished the objective. Mr. Havelock said Mr. Lipton advised to change as little as possible, but by all means settle the litigation.

Sen. Groh asked the committee members which version should be considered and which versions could be eliminated from further discussion. Sen. Lewis moved to work from version No. 4, Commerce Committee Substitute for SB 6, to which Sen. Ray objected. The committee discussed which version should be considered.

Sen. Rettig joined the meeting at 1:50 P.M.

Sen. Ray referred to the draft of a committee substitute, No. 6, and stated new language should be inserted in Section 1 upon advice of the Attorney General. The new language "or had applied for a permit under state and federal law for" should be inserted after the word "pipeline", line 2, subsection (b).

Sen. Groh asked if the intention of No. 6 was to require certificates from anyone not grandfathered in under this right. If so, he said this was illogical as the state does not have any ability to require certification of interstate carriers. Sen. Palmer said this would be helpful in the litigation, to which Sen. Groh replied illegal laws should not be written. Committee discussion followed. Mr. Havelock said a new section had been drafted to cover this problem, AS 42.06.245, and he distributed copies to the committee members. Interstate carriers intending to engage solely in interstate commerce would not have to apply for a certificate or permit; however, as

soon as they attempt to engage in intrastate commerce, a permit would be required. Mr. Havelock added this section would fit into any version of the bill.

Sen. Ray moved to work from version No. 4 and insert language from version No. 6 where applicable. Sen. Lewis objected, and there was a short recess.

Sen. Ray restated his motion, moving only that the committee work from version No. 4. Upon vote, motion was approved 4 to 3.

Sen. Miller and Sen. Rettig left the meeting at 2:15 P.M.

Referring to version No. 4, Sen. Lewis moved the (9) on page 1, line 16, be removed as it appeared to be a typographical error. Sen. Butrovich asked why the word "may" appeared, to which Sen. Groh read the other sections where "may" and "shall" both were used. The committee questioned the words "as provided in sec. 430 of this chapter" in Sec. 1, and Sen. Ray asked that these words be deleted. He noted this could eliminate any other section dealing with accounts, and thereby do harm. Sen. Palmer moved to eliminate the entire section, to which Sen. Lewis objected. Sen. Lewis explained the accounts must be as provided in sec. 430; however, Sen. Sackett said this could also refer to sec. 210 and 220, and may have some bearing on other sections.

Sen. Ray moved to delete Section 1, which motion was approved by a vote of 5 to 2.

Section 2, line 16, was again referred to, and Sen. Ray moved and asked unanimous consent to delete the (9) previously discussed as being a typographical error. No objection, so ordered. The committee discussed also removing the word "secs." for uniformity, and Sen. Palmer asked if Section 2 was necessary. Sen.Lewis replied it was necessary to solve the question of the certificate. Sen. Ray moved for the adoption of Sec. 42.06.150 as amended, explaining that the Attorney General had advised this would clarify existing language and make it definitive. Sen. Palmer noted the specific references to sections could be deleted, starting the section with the words "This chapter ... " Mr. Havelock agreed, and said all section references could be deleted. Sen. Palmer so moved and asked unanimous consent, no objection, so ordered. Sen. Groh referred to the present law, which could be left as is, and asked why Section 2 could not be deleted in its entirety.

Sen. Ray moved to delete Section 2 and asked unanimous consent. No objection, so ordered.

Referring to Section 3, Sen. Ray asked why 1973 was changed to 1974. Sen. Lewis said this would include present carriers under the grandfather act. Sen. Groh asked Mr. Havelock if the inclusion of the

date accomplished anything, to which Mr. Havelock replied it did not mean much in light of impending changes in AS 42.06.240 (b). Sen. Groh stated that if 245 resolved issues for interstate carriers, there was no necessity to grandfather an interstate carrier (assuming 245 was adopted). Sen. Palmer asked if there was any necessity for 245 if Sen. Ray's amendment for 240 (b) were adopted, to which Mr. Havelock replied 245 would cover other carriers that came along.

Sen. Sackett moved the adoption of Section 3 in version No. 4, retaining the change in date from 1973 to 1974. No objection, so ordered.

Sen. Ray referred to Section 1 from version No. 6 and stated the language originally suggested to be added, "or had applied for a permit under state and federal law for", could be deleted. Sen. Ray moved and asked unanimous consent to insert Section 1 from version No. 6 in place of Section 4 of version No. 4. No objection, so ordered.

Section 5: Sen. Ray moved insertion of the Attorney General's amendment, to which Sen. Palmer objected, saying it had no bearing on the present problem. Mr. Havelock agreed it was not necessary to this project, but it applied to other interstate carriers. Sen. Groh noted if this was not included the law would be confused, and there was no reason to leave the law incomplete.

Sen. Ray moved insertion of the Attorney General's amendment and the motion was approved by a vote of 4 to 3.

Sen. Ray moved and asked unanimous consent to retain Section 5, Insurance and Security, from version No. 4. No objection, so ordered.

Sen. Ray moved and asked unanimous consent to retain Section 6 from version No. 4, to which Sen. Groh objected for an explanation. Mr. Havelock said there was no substantial difference between the two versions, and the oil companies will not be requested to keep an entirely new set of books. Sen. Groh removed his objection, and the motion passed.

Sen. Ray moved and asked unanimous consent to insert Sec. 4 from version No. 6 in place of Sec. 7 of the Commerce Committee Substitute. Sen. Lewis objected for an explanation. Mr. Havelock said the oil industry objected to keeping a duplicate set of accounts which was why the word "accounts" had been deleted in the Governor's bill. The committee discussed and, upon a vote, Sen. Ray's motion was approved by a vote of 5 to 2.

Sen. Lewis moved to adopt Section 8 from the Commerce Committee Substitute, version No. 4, to which Sen. Ray objected. Upon vote, Section 8 was deleted by a vote of 5 to 2.

Sen. Groh moved to adopt Section 9 from the original bill, version No. 2, which motion was defeated by a vote of 6 to 1.

Sen. Ray moved for deletion of Section 9 from version No. 4, which motion carried by a vote of 4 to 3.

Sen. Ray moved adoption of Sec. 10 and 11 of version No. 4, which motion was approved.

Sen. Ray moved and asked unanimous consent to adopt the Finance Committee Substitute and report it from committee with individual recommendations. No objection, so ordered.

The meeting adjourned at 3:30 P.M.

SENATE FINANCE COMMITTEE
November 2, 1973
2:00 P.M.

PRESENT: All members with the exception of Sen. Butrovich. Sen. Lowell Thomas, Jr.; Steve Weiner, Allen Frank, reporters; Mr. Singletary, ARRCO; and interested members of the oil industry.

CSSB 3 Sen. Groh called the meeting to order for the purpose of discussing CS FOR SENATE BILL NO. 3 (An Act relating to leases of rights-of-way over state land for the transportation of oil, products or natural gas).

Sen. Groh asked Sen. Sackett for an explanation of the Resources Committee Substitute. Sen. Sackett said Will Condon of the Attorney General's office had attended the Resources Committee meetings and advised which areas of SB 3 were in litigation; the Resources Committee attempted to take care of all areas in litigation. It was Sen. Palmer's opinion that the Resources Committee changed too much in the bill, as only the oil provision, terms under which the 20% option would be exercised, and certification requirement had to be changed. Sen. Sackett stated areas changed in the bill were not objected to by Will Condon, except for two words in a section referred to as "public interest" which the administration had changed to "public welfare."

Sen. Butrovich and Art Peterson, Attorney General's office, joined the meeting at 2:20 P.M.

Sen. Sackett explained the Committee Substitute for SB 3 by the Resources Committee in detail (see page 51 for analysis).

Referring to Sec. 38.35.030, abandonment, reduction or impairment of service, Sen. Palmer said he couldn't conceive of a situation where this would apply; however, it had been a concern in Texas and the Resources Committee thought the section was important to retain. Sen. Groh asked the opinion of the oil industry, and Mr. Singletary said he had not given it thorough study but his first observation was the two sections (.030 and .040) could be regulated by the Pipeline Commission. It appeared unnecessary to include similar provisions in a lease agreement. Continuing, Mr. Singletary said there may be occasions during the operation of the line when feeder lines, auxiliary lines, etc., become uneconomic and create operational problems for the pipeline proper, in which case operators of the line would like the freedom to act.

John E. Havelock, Attorney General, joined the meeting at 2:30 P.M.

Sen. Groh asked Mr. Havelock his opinion, to which Mr. Havelock replied Sections .030 and .040 refer to each other and a loss of meaning has occurred. Sec. .030 was not a litigable item and Sec. .040 was permissive, with no requirement for the commissioner to act in the present. However, in discussions with industry, Mr. Havelock said they believed this type of matter should be covered in the regulatory act and not the right-of-way act. Sen. Palmer quoted from Mr. Lipton's testimony to the effect that these sections deal with the authority that the state claims for itself and buttresses that authority by being a provision of the lease. He thought, in the spirit of compromise, that this language should be retained. Sen. Groh argued the attempt should be to resolve litigation in order that the pipeline not be delayed. Mr. Havelock said .030 had a small possibility of affecting litigation. To make his position clear, he stated the reason the amendment was done was because of a loss of meaning in the two sections, containing misleading references. If people believed that the commissioner had the authority to tell an interstate pipeline carrier that they couldn't abandon a line, then the public was being misled. Mr. Havelock added there was no way the state could stop an interstate carrier from abandoning service. Mr. Peterson suggested the reference appear only in one section and the reference to .040 in Sec. .030 could be deleted.

Sen. Sackett continued reading the analysis of the Resources Committee Substitute for SB 3. Sen. Ray asked how the state could buy an interest in the pipeline and if the Governor would sit on the Board of Directors. Mr. Havelock replied he could not sit on the Board of any pipeline company as the pipeline would be held under undivided interest as seven different pipes. If the state exercised their option, one section of the pipe would belong to the state. Alaska could set a tariff, subject to ICC regulation, but would not have any jurisdiction over other sections of the pipe. Mr. Havelock's concern with this section was its description of valuation for the exercisers of the option, which was something other than fair market value at the time the option would be exercised. He questioned whether the oil companies would sign such a lease, as he understood the provision was something the oil companies entered into to exercise now, not something that would operate 10 or 15 years from now. Sen. Groh noted the original owner should be paid for the risk taken, as it was unfair to buy a 20% interest after the risk was over. The committee discussed whether or not this was unfair, and Mr. Havelock said the 20% was part of the litigation because of the financing.

Sen. Palmer read Mr. Lipton's testimony on the subject, stating the option to buy 20% was an important factor. Sen. Sackett said this was done in other areas; namely Alberta, Canada. Sen. Groh stated he was unaware of any other state having such a right and thought it unfair to create an option without putting up any money.

Sen. Sackett continued reading the Resources Committee analysis. Under Sec. 30.35.120 (a) (7), Sen. Groh questioned "economic feasibility", and Sen. Palmer read from the Texas law which included this provision. Sen. Palmer said it provided them protection and would provide protection to Alaska. Mr. Havelock stated there would be no objection to (7) or (8) if put into regulatory law. However, the lease would be asking the lessee to agree and the state would try to assume regulatory authority which it did not have. In Texas the law did not apply to interstate carriers and the administration was opposed to it, continued Mr. Havelock. If the subject was not sufficiently covered in the Commission Act, Mr. Havelock suggested changing the Commission Act. The committee discussed the provision.

Joe LaRocca joined the meeting at 3:25 P.M.

Sen. Lewis noted there was no justification to include this provision in the bill if the only reason was because it applied in Texas. Sen. Groh said the test applied here was unfair, to which Sen. Palmer replied a monopoly would be created. Sen. Groh said this was not the argument, as the argument was what the tests would be and how to force people to comply. This provision applied to a regulatory agreement, not a lease, added Sen. Groh, and it was unfair to apply it as a condition of a lease. Replying to a question from Sen. Ray, Mr. Havelock said the ICC has no specific statutory regulation on this subject, but the requirement would place a burden on interstate commerce.

Joe LaRocca left the meeting at 3:30 P.M.

Sen. Groh referred to Sec. 38.35.120 (b) (9) and asked why this was deleted. Sen. Palmer said the discussion at the time was the state could be limiting themselves to less protection and decided to say nothing about "standard of care". Mr. Havelock's opinion was the deletion was a good opportunity for personal injury lawyers to have "fun and games" as it attempts to establish something other than the degree of care established under law.

The committee recessed at 3:35 P.M.

AFTER RECESS
4:10 P.M.

PRESENT: All members with the exception of Sen. Ray and Sen. Butrovich. John Havelock, Attorney General; Steve Weiner, reporter; interested members of the oil industry.

CSSB 3 Sen. Groh called the meeting to order for further discussion of CS FOR SENATE BILL NO. 3 (An Act relating to leases of rights-of-way over state land for the transportation of oil, products or natural gas).

Sen. Sackett continued reading the Resources Committee analysis of CSSB 3.

Sec. 38.35.120 (a) (10) was left in the committee substitute, although deleted by the administration, and Sen. Groh asked why. Mr. Havelock explained the administration had deleted the section as it was a litigable item referring to "public interest ..." Mr. Havelock said he would prefer to leave it deleted as there was some risk in leaving it in the bill.

Sen. Ray joined the meeting at 4:15 P.M.

Referring to Sec. 38.35.120 (a) (16), Mr. Havelock said this section would probably be more complete if "state or" was added on line 19. Sen. Groh asked if the committee was in favor of this addition and the vote was 3 to 3.

Sen. Groh noted Sec. 38.35.130 was unworkable and unmanageable due to condemnation power reserved to the state, and gave examples of problems which would occur. Mr. Havelock agreed the state would need further authority to bring condemnation actions and an appropriation to the Dept. of Law to conduct cases.

Sen. Sackett concluded reading the Senate Resources Committee analysis.

The meeting adjourned at 4:35 P.M.

Gregg Erickson
11/1 p.m.

Staff Analysis of Senate Resources Committee

Substitute for Senate Bill 3

Sec. 38.35.010

No change from existing law. Agrees with Administration proposal.

Sec. 38.35.020(a)

This language provides, as do both the 1972 Act and the Governor's bill, that the builder or operator of a pipeline in whole or in part on state land must have a right-of-way lease from the state. It also specifies, however, that all construction or operation of such a pipeline, by whomsoever, must be in conformity with the terms of the lease. This provision clearly imposes the conditions of the lease (which include the information and plans in the lease application) on any successor to the original applicant.

Administration language would have exempted any pipeline authorized by a unit agreement approved by the state. Since gathering lines on producing oil and gas leases are already exempt from provisions of the Right-Of-Way Act by virtue of the oil and gas lease contract; since under the proposed sub-paragraph (b), below, the commissioner may by regulation exempt any other gathering line from Right-Of-Way Act requirements there is no need for the over broad exemption of the Administration bill. Conceivably the Trans Alaska Pipeline itself could be mentioned in a unit agreement and thus exempted.

Sec. 38.35.020(b)

The proposed subsection recognizes that some so-called gathering lines may already be provided for in the terms of oil and gas leases, that others might best be exempt from the terms required for pipelines under this chapter (e.g., to be common carriers) in order to maximize wellhead prices, while others might best be brought under its terms.

Sec. 38.35.030

This language applies to abandonment, reduction or impairment of service the same standard applied in section 020 --- that any such action be carried out only in conformity with the terms of the right-of-way lease. Because of the way this section has been re-written Sec. 38.35.060 is no longer necessary.

Sec. 38.35.040

Repealed by Administration proposal. Left essentially unchanged here except for addition of reference to Sec. 30 (which now covers subject matter of old Sec. 80) and deletion of word "carrier." Subject matter not covered elsewhere in Administration proposal.

Sec. 38.35.050 (a), (b), (c) and (d)

Subsection (a) is substantially the same as the Governor's proposal. Subsection (b) requires the filing of relevant information demanded by the commissioner. Subsection (c) incorporates into the lease itself the lease application and any statement of intention therein (even where they concern actions to be taken off the state-issued right-of-way). These statements of intention then become contractual obligations of the lease and of continuing to hold it. Under (d) any substantial modification of conditions based upon the application must be processed like a new application.

Sec. 38.35.050(e)

Essentially the same as paragraph (b) of Sec. 050 in existing law. No similar provision is contained in the Administration proposal.

Sec. 38.35.060

The Resources Committee Substitute repeals this section. The intention of Sec. 060 is carried out by the language of Sec. 030, which prohibits abandonment, etc., "except in accordance with the terms of the lease."

Sec. 38.35.070 and Sec. 38.35.080

Secs. 070 and 080 are taken from the existing law, with minor changes to insure that every application will be analysed and given a hearing within a "time certain." This language

(and existing law) requires a public hearing, while the Administration proposal would make it optional.

Sec. 38.35.090

Repealed by the Administration proposal but left unchanged here except for deletion of the provision in existing law which gives the commissioner the discretionary authority to extend the 30 day period.

Sec. 38.35.100

This language is taken from paragraph (a) of this Sec. in existing law, with references to "certificates" and "convenience and necessity" removed. Paragraph (b) in existing law has been deleted since its subject matter is covered by new Sec. 030. Paragraphs (c) and (d) in the original bill are covered here by Sec. 120(b) and are thus also deleted.

Sec. 38.35.110

No change from existing law except 25 year maximum term has been changed to 30 years. This was not a part of the lawsuit but TAPS partners say they need a 27 year lease. Actually, with the 10 year renewal provision, which is a part of both this bill and existing law TAPS will be able to keep its right-of-way forever as long at it continues to use it for the purpose for which it was originally applied.

Sec. 38.35.120(a)(1)

The first clause of covenant (1) is taken directly from the 1972 Act, except that a requirement that the pipeline accept oil and gas "without discrimination" replaces the existing requirement that it accept "all" oil or gas offered to it (in some cases on physical impossibility).

Natural gas pipelines, whether regulated by the Federal Power Commission or the states, are usually buyers and sellers of gas, not sellers of transportation services. For this reason most natural gas pipelines are not and cannot be common carriers --- they are regulated with respect to the prices they charge for gas rather than their transportation tariffs.

The second clause of the covenant replaces confusing language in the 1972 Act with a clear exemption of such pipelines from common carrier requirements but only to the extent they are otherwise regulated. The third clause expands upon the common carrier requirement, and is unchanged from the 1972 Act, except that the authority to apportion among shippers is transferred from the commissioner to the Alaska Pipeline Commission.

Sec. 38.35.120(a)(2)

Unchanged from 120(6) in existing law. Not included in Administration bill.

Sec. 38.35.120(a)(3)

Option to purchase. Terms and conditions of purchase are taken from the Trans Alaska Pipeline System Agreement, p. 11; language concerning first refusal right is from p. 16 of the same agreement.

Sec. 38.35.120(a)(4)

A new provision inserted at the suggestion of Mr. Lipton. It should be noted that pipeline owners and their bankers could, by the addition of excessively high penalty charges for pre-payment to their bond agreements, raise the acquistion price to the state to unacceptably high levels.

Sec. 38.35.120(a)(5)

Administration language (120(a)(8) in SB 3). It deletes reference to "papers and correspondence."

Sec. 38.35.120(a)(6)

Identical with 120(a)(9) in existing law. Administration proposal would have allowed access only by Alaska Public Service Commission (under AS 42.05.440). This is probably ✓ just a drafting error on the Administration's part.

Sec. 38.35.120(a)(7)

Similar to 120(a)(10) in Administration bill. The Committee Substitute: 1) Redefines more specifically the meaning of economic feasibility; 2) Allows for "delivery or exchange" as well as "purchase" as justification for making connections, the purpose being to insure that the state could take its own oil at a connection.

Sec. 38.35.120(a)(8)

A new provision added on the basis of Lipton's advice and a memo from Art Peterson to the House Judiciary Committee indicating that the state has the power to require such extensions, etc. The language is adapted from Texas law.

Sec. 38.35.120(a)(9)

Sub-paragraph (A) is the same as existing law (120(11)) and was not proposed for change by the Administration. Sub-paragraph (B) in existing law is deleted on the belief that it is best to say nothing about the "standard of care" unless we are going all the way with absolute liability. Sub-paragraph (C) in existing law is now (B) in the Committee Substitute. It has been modified, in accordance with the Administration proposal, to eliminate the necessity for the pipeline to be re-built if some catastrophic disaster such as a huge earthquake were to occur. According to Will Condon this was a significant concern of the TAPS owners. The new (C) is adapted from the old (D) by the Administration for the same reason.

Sec. 38.35.120(a)(10)

Similar to 120(12) in existing law. Deleted by Administration.

Sec. 38.35.120(a)(11)

Administration language adopted here. Purpose of change is to simplify service requirements. 120(13) in existing law.

Sec. 38.35.120(a)(12)

No change. 120(14) in existing law.

Sec. 38.35.120(a)(13)

A new provision taken almost word for word from Federal Law (Title 43, Sec. 2801.1-6(1)). Allows use of the right-of-way for other non-interfering uses, with the thought of other pipelines specifically in mind. The federal provision reads as follows: "(1) That the allowance of the right-of-way shall be subject to the express condition that the exercise thereof will not unduly interfere with the management, administration, or disposal by the United States of the lands affected thereby, and that he agrees and consents to the occupancy and use by the United States, its grantees, permittees, or lessees of any part of the right-of-way not actually occupied or required by the project, or the full and safe utilization thereof, for necessary operations incident to such management, administration, or disposal."

Sec. 38.35.120(a)(14) and (15)

All new language taken from Administration proposal (their sub-paragraphs (15) and (16)).

Sec. 38.35.120(a)(16)

This covenant incorporates as a condition of the lease itself submission to the state's regulatory jurisdiction ("police power" and/or "economic"), whatever the limits of that jurisdiction may be. The companies are not required as a condition of a lease to stipulate to some condition that may be prohibited by federal law, and thereby to waive the right to challenge that condition. At the same time, in contrast to the Governor's bills, the state reserves the right to challenge federal actions that might invade the state's lawful regulatory jurisdiction.

Sec. 38.35.120(b) and (c)

Formerly contained in paragraphs (c) and (d) of Sec. 100, existing law. Not covered in Administration proposal.

Sec. 38.35.130

Under existing law the state reserves the right to acquire federal right-of-way and reserves all condemnation powers to itself. The new provision here restricts itself to reservation of condemnation power to the state.

Sec. 38.35.140

Administration language concerning determination of rental payments and other costs.

Sec. 38.35.150(a)

Existing language except for deletion of "convenience and necessity."

Sec. 38.35.150(b)

Language proposed by the Administration as part of 120(b), shifted here as a more logical place for it. Paragraphs (b) and (c) of existing Sec. 150 covered liability insurance, etc. This is now covered by sub-paragraphs (14) and (15) of Sec. 120(a).

Sec. 38.35.160

Unchanged from existing law except for deletion of references to "carrier," "certificates" and "convenience and necessity," and addition of language which would exempt transfers of ownership within the consortium from the requirement of state approval. Note that the state would still be appraised of proposed intra-consortium transfers under 120(a)(3) and would have acquisition rights with respect to them. It could not block such a transfer, however, except by purchase. The Administration proposal would simply require notification of changes in ownership.

Sec. 38.35.170

Administration language; it requires a substantial violation of lease terms to justify forfeiture and places the burden on the state to prove that the terms have been violated.

Sec. 38.35.180

This is existing law except for deletion of a reference to a "certificate."

Sec. 38.35.190(a)

Existing law and Administration proposal agree. No change.

Sec. 38.35.190(b)

Paragraph (b) gives the commissioner the important subpoena power. It has been suggested by the Administration that this section would allow third parties to use subpoenas to unreasonably delay proceedings, but the rules of civil procedure which apply specify standards of relevance, standing, etc., and would make this unlikely.

Sec. 38.35.190(c) and (d)

Relates to Administrative Procedure Act. Deleted here and by Administration.

Sec. 38.35.200

Sec. 200 is repealed. Because Sec. 170 requires court action for forfeiture of a lease, a separate section regarding

appeals is not necessary. New 200 here contains the first half of the Administrations proposed 225. The second half, according to Prof. Witherspoon, made it almost impossible to challenge any action of the commissioner by sharply restricting grounds for judicial review.

Sec. 38.35.210

Existing law not amended. We have deleted reference to certificate.

SENATE FINANCE COMMITTEE
November 3, 1973
10:15 A.M.

PRESENT: All members. Jack Roderick, Mayor, Greater Anchorage Area Borough; Bob Sharp, City Manager, Anchorage; Charles Cranston, Attorney, North Slope Borough; Ben Delahy, Attorney, Kenai Peninsula Borough; Joe LaRocca, Steve Weiner, reporters. Also in attendance were interested members of the Senate, House of Representatives, oil industry, administration and local governments.

CSHB 1 Sen. Groh called the meeting to order for consideration of COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1 (An Act providing for taxes on property used in the exploration for, production of, or pipeline transportation of gas or unrefined oil). Sen. Groh explained the committee would consider this bill because Messrs. Roderick and Sharp were in Juneau and available to testify. Sen. Groh reviewed the history of the bill and asked that testimony be directed to the Senate Committee Substitute as offered by the Community & Regional Affairs Committee.

Mr. Jack Roderick, Mayor, Greater Anchorage Area Borough, stated this was a complex matter but he had provided a statement which indicated the sentiments of the Greater Anchorage Area Borough (see page 65 for a copy of Mr. Roderick's statement).

Mr. Bob Sharp, City Manager, Anchorage, said he wished to associate the City of Anchorage with Mr. Roderick's statement. The city recognized that the state needed revenue to provide assistance to all impact areas, not only those located along the pipeline, and the state was the only vehicle which could do so. The House, in HB 2, appropriated $5 million, which was a step in the right direction; however, Mr. Sharp said it could be more. It would be almost impossible to come up with a formula to divide appropriately; however, Mr. Sharp thought the legislature and the Budget & Audit Committee could distribute the funds fairly. The next session could look at inflationary problems.

Sen. Ray asked the effect if three or four more additional boroughs would incorporate embracing the pipeline. Mr. Roderick said some local governments might spring up but he didn't envision a large number of people, and local governments were limited to $1,000 per capita. Replying to a question from Sen. Groh, Mr. Roderick said he preferred the $1,000 figure, and believed the House version of the bill more reasonable. Mr. Sharp agreed that politically the House version was more practical. Rep. Ferguson returned to the question of forming new boroughs along the line, and asked if it wouldn't be better to annex to the North Slope Borough. Mr. Roderick replied that under the existing law it would be preferable to annex to the North Slope borough if geographic continuity were there.

Sen. Ray asked if the legislature, meeting in special session, could appropriate $5 to $10 million for impact money and address the problem again in January, after further research. Mr. Roderick stated they were under the gun, time-wise, but this seemed the best alternative to date. He had been told the ad valorem tax must pass in the special session. Mr. Sharp agreed that to defer an ad valorem tax would result in a full year loss of revenue, creating financial problems for the state, but the legislature will be amending the ad valorem tax bill because of problems not apparent at the moment.

Sen. Thomas said the definition of taxable property in CSHB 1 needed to be amended to take out office buildings, etc., and asked for a view about helicopter operations. Mr. Roderick said the definition section must be tightened to make it workable.

Sen. Sackett asked the amount of the bill the state would receive from the City of Anchorage. Mr. Sharp said the forecast for 1974 for operations and maintenance was over $2 million. The capital program would be about $25 million in 1974, but they don't expect to get this from the state. Mr. Roderick noted Fairbanks and Valdez would have greater impact than Anchorage, and thus were entitled to more money. Sen. Groh suggested a formula could be prepared for the degree of impact, and Mr. Roderick agreed this should be considered. Mr. Sharp said the Interior Department's environmental statement estimated 24,000 additional people at the end of the second year of construction. Mr. Roderick suggested a percentage figure for the formula regarding impact, as Alyeska did a study showing the various percentage increases in employment; for example, 15% in Anchorage, 25% for Fairbanks, etc. Sen. Butrovich said a certain amount of impact could almost be classified as normal growth, but Fairbanks would receive the worst kind of impact and the city would never be the same.

Charles Cranston, Attorney, North Slope Borough, asked to comment briefly on the matter before the committee, required because of observations made by Messrs. Roderick and Sharp. He said Sen. Ray's observation that ad valorem tax is a complex question and required much time was correct. All manner of problems could arise, and it would be appropriate to consider in detail SCS for CSHB 1. The Senate Committee Substitute met both Sen. Ray's problem of dealing with a complex issue and Mr. Sharp's observation that property taxes must be simply classified, continued Mr. Cranston. It defined property subject to tax as essentially the pipeline, contrary to the House Committee Substitute of property used or intended to be used by the oil industry. It was the definition under the House Committee Substitute that brought problems before the Senate Committee on Community & Regional Affairs, added Mr. Cranston. Sen. Rader and his committee concluded that it probably was some kind of relief act for lawyers because of the problems which would arise, causing endless litigation. Under the House Committee

Substitute, a particular piece of personal property (helicopter or bull dozer) could be taxed at one rate by the borough and, if not used for the oil industry, taxed at another rate by the state. When a taxpayer found himself taxed at different rates, a suit could be filed for inequitable tax rates. The Senate Committee Substitute definition was in clearly identifiable terms and seemed to be the preferable route, continued Mr. Cranston.

The second problem alluded to by Messrs. Roderick and Sharp was impact, stated Mr. Cranston, and he believed the Senate Committee Substitute solved the problem. The Senate Committee Substitute imposed a 30 mill levy state-wide on the pipeline, and it would be incalculable to know the amount of funds raised. If the funds raised would prove insufficient, the Senate Committee Substitute provided an out, and very sensibly reserved the question of whether the state would impose a tax on oil or gas reservces. Mr. Cranston referred to page 1, line 20, which, in effect, permitted the state the right to tax on a state-wide basis the oil and gas reserves. Line 23 prohibited local communities from imposing such a tax; thus if the impact became so severe the Senate Committee Substitute simply permitted taxation of oil and gas reserves, and reserved for future legislators the decision to levy a tax.

Mr. Cranston urged consideration of the Senate Committee Substitute and said it provided a vehicle for dealing with the problems raised earlier in the meeting.

The third issue which concerned the North Slope borough the most was raising the permissible tax base from $1,000 to $2,000 per capita, continued Mr. Cranston. Apparently Mr. Roderick felt $2,000 was inequitable and would draw money from what would be available for impact funds and place it under the jurisdiction of the North Slope borough. The argument raised on this is invalid on two grounds: first, the reservation on the right to tax oil and gas reserves permits impact funds when necessary; and secondly, the Senate Committee felt, given the present status of the North Slope borough and its need to plan for services, $1,000 was inadequate. Relative to other borough in the state such as Anchorage, Juneau, the North Slope borough was behind the times as far as local services and needed additional funds to catch up, said Mr. Cranston. The North Slope was the only borough where children must be taken miles from home to attend schools and school construction was an impetus for formation of the borough. The same applied for sewer and water facilities, transportation and communication. Mr. Cranston felt the committee was familiar with the problems, and concluded by saying the Senate Community & Regional Affairs felt $2,000 was more adequate.

Sen. Ray asked if the Senate Committee Substitute eliminated Fairbanks from their just realization of funds, to which Mr. Cranston replied this was not completely accurate, although it depended on how the problem was approached. Fairbanks does not presently have a personal property tax and much of their impact problems could be solved through that vehicle. If the impact problem became so severe in Fairbanks, the state could solve the problem by levying a tax on that class of property available, oil and gas reserves. Sen. Ray said it was an inequity for Fairbanks and possibly Anchorage, and perhaps the state could allow municipalities to go ahead and then the state could provide additional impact funds. Sen. Palmer agreed the problem with the Senate concept would be inequity to Fairbanks and asked if a direct rebate to the North Star Borough would resolve the problem.

Sen. Groh referred to charts prepared by the Department of Revenue, page 6, Estimated Net State Revenues from 20 Mill Tax with Credit for Local Levy Limited to $1,000 per capita. FY 75 showed revenue to the state of $14.4 million, reduced to $4.0 million after credit allowable to borough was deducted. Mr. Cranston said the Senate Committee Substitute provided a vehicle for dealing with the problem in that a tax could be levied on oil and gas reserves.

Sen. Groh referred to page 8, showing the same revenue and a $2,000 limitation. From gross state revenue of $14.3 million, the North Slope borough would receive $7.1 million and the state would receive $900,000.

Sen. Groh asked if the litigation pending on the North Slope between oil companies and the slope was the question of ability to tax oil and gas in place. Mr. Cranston said it was, and that the North Slope borough was attempting to recover a tax levied on those reserves at 6.6 mills, or about $3 to $4 million. The Senate Committee Substitute explicitly stated that it was not intended to affect the right of any political subdivision to levy a tax prior to the effective date of the act, and would leave the litigation pending.

Sen. Groh said the Senate Committee Substitute drew a distinction by definition of property so the bulk of property on the Slope, other than the pipeline itself, could be taxed by the North Slope borough. Mr. Cranston said yes, personal property and real property represented by leasehold interests would be reserved to the state for future taxation. The North Slope borough and Kenai would have the right to tax that equipment, subject to the limitation.

The meeting recessed at 11:25 A.M.

AFTER RECESS
11:35 A.M.

PRESENT: All members. Interested members of the Senate, House of Representatives, oil industry, local government and the administration. Steve Weiner, reporter.

CSHB 1 Sen. Groh called the meeting to order for further testimony on COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1 (An Act providing for taxes on property used in the exploration for, production of, or pipeline transportation of gas or unrefined oil).

Ben Delahy, Attorney, Kenai Peninsula Borough, introduced himself to the committee and explained his background and experience. He was perturbed about the Constitutional questions inherent in the language of the bill. Sen. Rader recognized these Constitutional questions and abandoned the approach of the House, and Mr. Delahy said the Senate Committee Substitute had none of the Constitutional problems and was clear to lawyers. There would be no question of differentiating between different classes of property. Under the House Committee Substitute, a provision existed that all oil related property is subject to assessment, which leaves the local communities to assess non-oil related property. Two assessors assess two different types of property and each assessor could reach a different judgment. The mill levy must be the same for everyone and there would be a problem if assessment were at a different level. Mr. Delahy gave examples of a construction company paying 20 mills to the state and another construction company paying nothing to the state. The state would need a man in court all the time, but Mr. Delahy said the Kenai borough could not afford this as he was the only attorney. Mr. Rader's solution did not contain these problems, said Mr. Delahy, and he commended the Senate Community & Regional Affairs Committee Substitute.

Mr. Delahy continued by saying one problem with the Senate Committee Substitute was that Fairbanks did not get anything, but he did not think this problem insoluble. Impact could be judged by the legislature and a direct grant could be made to Fairbanks or any other community impacted by the line. Another alternative could be to allow communities along the line to tax at different rates, with a ceiling set by the state. Mr. Delahy said he had not worked out a formula, but one could be set so that any borough, if it needed support, could get it by taxing themselves as well as the pipeline.

Mr. Delahy said he differed with Sen. Rader on the concern of borough forming along the line. The Constitution and law was to encourage local government; local government has always been formed

from a growth basis and a property base before they could form as a community. Any ceiling could be placed by the legislature in order to stop local governments from becoming overly rich; however, communities will face serious problems due to environmental issues of sewerage and solid waste disposal and will need help. Mr. Delahy concluded by saying the Kenai Peninsula Borough stated they thoroughly back up the position that municipalities should be independent and the only way was to allow them their own tax base.

The meeting recessed at 11:50 A.M.

PRESENTATION BY MAYOR RODERICK
GREATER ANCHORAGE AREA BOROUGH
BEFORE SENATE FINANCE COMMITTEE
November 3, 1973

First I urge you to pass a bill that embodies the concepts of House Committee Substitute for House Bill 1.

We ask that you preempt taxation of the Trans-Alaska pipeline, its gathering lines, the pump stations, the oil wells and so on, and put the money in the general fund. We do not think there should be any exemptions - none for oil tank farms, none for oil wells, none for stored pipe etc.

Ideally we would ask that no local government be permitted to levy a tax on any pipeline properties. However, we recognize that the House has allowed local governments along the line to tax up to a limit of $1,000 per capita. Although we regard the $1,000 per capita to be excessive, being more than four times the State average and almost four times the Anchorage area average, we recognize the political realities of the situation. For this reason we urge that you go along with the House and authorize local taxation along the pipeline of $1,000 per capita.

The State average is $240.20 per capita - this is acheived by a mill rate averaging 15.265. With the exception of the North Slope Borough, which assesses at $759.54, the highest per capita levy is in Anchorage which assesses at $280.21 per capita. Anchorage has no sales tax or other significant sources of revenues so this is the level of taxation required to support the highest level of local government services in Alaska outside of the North Slope.

For cities, the highest level of taxation is Skagway, which has a mill levy of 15 mills and taxes at $314.28 per capita. This is because the White Pass-Yukon Railroad runs through Skagway. The next highest levy is Unalaska at 19 mills and $196.53 per capita. The average levy for Alaskan cities is $135.41 per capita.

The average levy for all local governments in Alaska is $234.68.

So the North Slope Borough has taxed higher than all other Alaskan governments.

To protect the rights of the North Slope Borough to continue to tax excessively, we would propose that you accept the House Committee Substitute for House Bill 1, which would allow the North Slope Borough to tax at $1,000 per capita, or approximately $3,300,000 in tax revenues for its approximate 3,300 inhabitants.

This recommendation is frankly a political recommendation. If you had time - and we would recommend that you look at this at a later date - we would suggest you consider a proposal of the State Department of Community Development and Regional Affairs that the ceiling for the taxation of oil properties by a local government be 200% of the statewide per capita assessed valuation of real and personal property. This would bring down the amount the North Slope would be allowed to assess, would permit Fairbanks and Valdez to assess as much as it needs and would protect the position of the Kenai Peninsula to collect as much on the oil industry as it is now collecting. However, as you probably know, the Kenai legislators oppose this approach and to get the job done, we propose that this Committee not consider this approach at this time.

The $1,000 per capita limitation has several advantages.

It gives the North Slope Borough about $800,000 more than it is getting now. The North Slope Borough now taxes approximately three times as heavily as any local government in Alaska. The $1,000 per capita limitation would give the North Slope Borough more money than they presently receive.

The Fairbanks area would never be bothered by the $1,000 per capita limitation. It would tax the pipeline at perhaps its existing 13.423 mill levy or perhaps a higher level, but since the Fairbanks area is now at a $141.56 per capita level, it would have a long way to go in taxing its homes, businesses and pipelines before it ever got to the $1,000 per capita level.

Fairbanks would not be allowed to tax any part of its pipeline under the proposed Senate Local Government Committee Substitute for House Bill 1.

Valdez now taxes at 13.58 mills or $170.11 per capita. It would have a long way to go before it reaches $1,000 per capita. Incidentally, if Valdez, which now has a population of 1,000, should reach a population of 3,000, it would be able to achieve revenues of $3,000,000 a year, which is far in excess of existing revenues of $188,147 per year.

Kenai would have no problem. It currently assesses at 7,87.9 mills for $241.05. Obviously it would have a long way to go before it reached $1,000 per capita.

The Greater Anchorage Area Borough has no position on taxation of leasehold interests, or to put it in other words, oil and gas in place, except that its taxation definately should be preempted by the State. For the time being, we ask that you defer the question of taxing this resource until a later date,

perhaps the next regular session of the Legislature. At the least this area of taxation should be preempted to the State so that if the State should later see fit to tax oil and gas in place it could do so.

We do not see any significant advantages or disadvantages in taxing oil and gas in place since, with an adjustment of the mill levy, you can raise whatever taxes you see fit. If you combine taxation of the pipeline and other oil properties with oil and gas in place, you can obviously raise the same amount of revenues with a lower millage rate.

But we do ask that you defer consideration of taxation of oil and gas in place until the next session of the Legislature since we believe that you can adequately meet existing requirements for revenues from ad valorem taxation of the pipeline and associated facilities alone.

In this connection, we note that the oil industry has challenged the right of the North Slope Borough to tax oil and gas in place. Although we believe that, as a matter of policy, the North Slope Borough should not be allowed to tax oil and gas in place - this being a State resource which should be taxed by the State alone - we do regard the oil industry's position in the matter to be totally without merit. Certainly the State, and if taxation of the resource is not preempted by the State, the North Slope Borough, may tax oil and gas in place. There is sufficient precedent in other states to answer that question.

So we do not regard any action the Legislature may take this session as deciding the position of the State on taxation of oil and gas in the ground. In our opinion, if the Senate passes an act similar to House Committee Substitute for House Bill 1, it will have clearly reserved to itself the question whether it will or will not tax oil and gas in the ground. And this will be a question of policy to be decided in the next Legislature - and subsequent legislatures - and not a question of law to be decided by the courts.

We have heard that House Committee Substitute for House Bill 1 will complicate bonding of public improvements for the North Slope Borough and the City of Valdez. We do not believe this is so.

First, businesses, home and service industries will spring up in those local governments which will, in themselves, create a tax base which will support bond issues.

Secondly, if bond companies should be apprehensive regarding the continuing population level and economic condition of the North

Slope Borough and Valdez, the State can easily insure the marketability of the bonds of both communities without incurring any appreciable economic burden for itself. You should remember that we are talking about a very small population when we talk about the North Slope Borough and Valdez - initially 3,300 persons in the case of the former and 1,005 in the case of the latter - a little more than 1% of the population of the State.

Eric Wohlforth, former Commissioner of Revenue, has proposed that the State set up a municipal bond authority or bank so that local governments may sell their bonds to it and so the State in turn may sell its bonds at current market rates pledging the State's full faith and credit. We see no practical, economic or legal obstacles to the State doing this, or in guaranteeing local bonds of the North Slope Borough and Valdez. There is no question in my mind that once oil begins to flow through the pipeline, the State's bond credit rating will be the highest possible. The State, also, could simply loan the money to these communities at a low interest rate.

We see no particular problems with House Committee Substitute for House Bill 1.

As you can see, the Greater Anchorage Area Borough wants as much money paid into the general fund as possible. We do not want to see any part of the oil industry undertaxed or any oil properties exempted from state taxation because for every $1.00 the oil industry escapes taxation the Greater Anchorage Area Borough loses up to 38¢ in possible revenue sharing monies. On general principles, we do not want to see money left on the table that would otherwise be available for revenue sharing.

We do not question the Legislature's ability and willingness to appropriate a substantial portion of the monies raised by ad valorem tax to local governments for pipeline impact and revenue sharing purposes. Frankly, we expect you to appropriate at least $5,000,000 and more reasonably monies in the $12,000,000 to $15,000,000 range for this purpose in FY 74.

We wish you could arrive at a formula for pipeline impact and revenue sharing this session but recognize that this is probably impractical.

However, so that you are prepared for the next session, we urge that you report out House Committee Substitute for House Bill 1 and that you, at the same time, request the State Department of Community Development and Regional Development and the Legislative Affairs Agency to prepare legislation for the next session of the Legislature for pipeline impact and revenue sharing.

We also ask that these agencies address themselves to the actual need for monies for local governmental services with and without pipeline impact and to steer shy of any arbitrary formulas based on geography, location of resources, etc.

AFTER RECESS
2:15 P.M.

PRESENT: All members. Sen. John Rader. Byron I. Mallott, Commissioner, Community & Regional Affairs. Also present were interested members of the Senate, House of Representatives, oil industry, local government and the administration. Steve Weiner, reporter.

CSHB 1 Sen. Groh called the meeting to order for further testimony on COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1 (An Act providing for taxes on property used in the exploration for, production of, or pipeline transportation of gas or unrefined oil).

Sen. Rader distributed copies of the Senate Committee on Community & Regional Affairs Report on Senate CS for CS for House Bill No. 1, and explained the figures could be somewhat different since the Dept. of Revenue figures were not available when the report was written. Sen. Rader read the report to the committee (see page 73 for a copy of the report).

Sen. Groh thanked Sen. Rader for his presentation and asked if there were questions from the committee. Replying to a question from Sen. Lewis, Sen. Rader said the North Slope Borough could be entitled to three times the tax base as Anchorage; however, his committee did not have time to check on comparable educational facilities. Sen. Rader said it may be necessary to work on this prior to the regular session in January.

Sen. Ray questioned taxing reserves in place, to which Sen. Rader replied the administration was opposed to this, and it was his intent to prohibit taxation of oil or gas in place by local governments. To change tax laws, usually "grandfathered" in rights, would not affect taxes already levied as, whatever law was in effect at that time, would entitle collection of taxes. In the future, this was an area of taxation which would be imposed by the state. Sen. Groh asked if this would not be a break for the North Slope borough, providing they won the litigation. Sen. Rader said yes, but they saw a valid opportunity under existing laws and taxed lawfully. The state can't go back and say they couldn't levy at the time.

Sen. Ray questioned the mill levy in the North Slope borough, and Sen. Rader said the committee heard testimony on this subject but could not act as the court. As a matter of principle, they were within their rights.

Sen. Palmer asked if the impact would still be the same under a $1,000 or $2,000 limitation. Sen. Rader said the limitation would be the controlling figure, but the right to tax reserves

would not be "grandfathered."

Sen. Groh noted the administration bill attempted to deal with construction commencement date, to which Sen. Rader said the Senate CS left this to local governments. If construction is 10% completed after January 1, the tax will be levied accordingly. Airplanes, construction equipment, etc., if located in Anchorage will be taxed by Anchorage, Fairbanks by Fairbanks, etc. Sen. Groh noted it would be possible to include additional lines to the definition of "taxable property." Sen. Rader agreed , and said the CS contained the easiest definition to avoid conflict with local governments.

Joe LaRocca joined the meeting at 3:15 P.M.

Byron Mallott, Commissioner, Community & Regional Affairs, stated Senate CS essentially retained the status quo with respect to taxing authority of local governments. Mr. Mallott said he had submitted a paper to the committee explaining the proposed legislation, and containing comments with respect to the $1,000 per capita revenue base, which would still apply whether at $2,000 or $3,000.

Sen. Lewis asked if Mr. Mallott opposed the Senate CS to which Mr. Mallott replied he had problems with it. It just retained the status quo on very real problems with respect to doing more than just permitting a tax base.

Sen. Groh asked how much money would be received by both ends of the line. Sen. Rader stated there would be either a $1,000 or $2,000 limitation on the North Slope. Valdez has a $14 million tax base. Phase 1 and 2 of production will yield about $100 million; apply 10 mills to $100 million for $1 million. Sen. Rader said this was more than generous. Sen. Groh said next year's budget was unknown, but it would be some place in the vicinity of $400 million. There are $220 million in recurring revenues, leaving a deficit of $180 million. The original concept of the ad valorem tax was a substitute for the revenue producing aspect of the right-of-way leasing bill. Taking Senate Committee Substitute, the General Fund addition would be rather minute. There remains $600 million from the North Slope account, but it would only take three or four years of deficit spending to go broke. Mr. Mallott said a real effort was made to stay within the dollars otherwise generated by the administration's bill. One of the problems with the entire approach was that local governments do not like to see funds going to the state. Sen. Groh said the state funds all go back to the communities; 2/3 of the budget going to education.

Sen. Palmer asked it it would be better to proceed with a tax base of 200% average. Mr. Mallott said he was not sure because of lack of time and lack of knowledge about providing services to Anchorage and the North Slope borough. A reasonable framework was needed for sufficient revenue to meet government needs. 200% might not be the final percentage, but Mr. Mallott thought that type of formula did create more equity than any other formula. Sen. Groh said the needs of the General Fund must be considered an accommodation made in that regard, as the General Fund distributed money back to the local communities. The committee discussed how much should go to the local governments and how much to the state treasury.

Sen. Groh asked if people from Fairbanks wanted to testify on this legislation and if it should be scheduled again. Sen. Butrovich said he had not communicated with people in Fairbanks as he had expected to work on SB 3 as originally scheduled. Sen. Groh consulted with the committee for a schedule, and the next meeting was set for 9:00 A.M. Monday, November 5, on CSSB 1.

The meeting adjourned at 3:40 P.M.

Alaska State Legislature

Senate

JUNEAU, ALASKA

SENATE COMMITTEE ON COMMUNITY & REGIONAL AFFAIRS
SENATE CS FOR CS FOR HOUSE BILL NO. 1

COMMITTEE REPORT

CONTENTS

I. THEORY OF THE BILL

The bill reported by this committee is based on the premise that the Trans-Alaska Pipeline, defined in the bill as an Interborough Common Carrier, is a State asset insofar as taxation is concerned. It is basic to this premise that the State be the sole taxing authority and that the tax revenues derived should go into the general fund of the State to be equitably divided by some revenue-sharing device so that all the people of the State benefit. The bill is based on a further premise that taxation of the oil and gas industry, exploration, development and production as it has historically developed on the Kenai Peninsula, is a proper source of revenue for the local government in which the taxable property is located. Therefore, the North Slope Borough, in principle, would continue to tax in the future as the Kenai Peninsula Borough has taxed in the past.

II. EXPECTED REVENUES TO BE DERIVED BY THE CS.

The committee substitute will raise approximately the same total amount of money during the next five years as the Administration proposal. However, we believe that the committee substitute will return a larger amount of the money to the State Treasury than either the Administration bill or the House substitute due to the fact that new and irrational "pipeline boroughs" will probably not be created should our committee bill become law. As hereafter noted, if the three "pipeline boroughs" are created, they will cut the amount of tax revenue to be derived by the State from interborough pipeline taxation.

III. FIVE MAJOR POLICY CONSIDERATIONS.

A) TAPS PIPELINE IS A STATE ASSET.

The Interborough Common Carrier Pipeline (TAPS) is a State asset and should be taxed by the State to the exclusion of local governments. The <u>construction</u> of the pipeline will have a very severe impact on all of the communities along its route. However, the <u>operation</u> of the pipeline after it is constructed will have very little impact on any community along its route. For example, the major impact anticipated in Fairbanks is due to the location of Fairbanks in relation to the North Slope. It is the closest modern community available as a jumping-off place or as a staging area. It also is the closest community of any substantial size to provide modern living conditions, services and opportunities. If the pipeline were rerouted so that no part of it went through the Fairbanks North Star

Borough, the impact of the construction phase and the operation phase of the pipeline in Fairbanks would be unchanged. In other words, it is not the location of the pipeline in the Fairbanks Borough which causes substantial impact either temporarily during construction or permanently during operation. This, of course, would be true of other communities along the pipeline route. Therefore, a long-range tax policy should be substantially different then and not be confused with the short-term impact needs of the communities near the pipeline route.

B) IMPACT.

The bill recognizes, however, that there is a continuous impact on both the North Slope Borough and the Valdez terminal not only during construction but as a permanent matter. We can take as an example the Kenai Peninsula Borough. The The development of the petroleum industry in that area brought many workers to the area and finally resulted in additional schools, roads, and other local services. The development of the Valdez port will likewise bring residents who will have a permanent impact on the schools, roads, and public services.

We believe that the representatives of the North Slope Borough are correct to anticipate the ultimate formation of a community in or near Prudhoe Bay which will serve as a permanent residence for many of the Alaskans who will be employed in the North Slope over the 20 to 30 years during which we expect Prudhoe Bay and the Arctic area to be engaged in a vigorous

petroleum exploration, development, and production effort. It may be that many would not wish to locate their families in the Arctic, but it is equally clear that particularly as to Native Alaskans, many would prefer to have their families located where they are working (in a possible city called "Deadhorse") than to commute to Barrow, Fairbanks, Anchorage or Bethel. Therefore, there will be a permanent impact on the North Slope Borough because the oil fields are within its geographical boundaries.

However, even on the North Slope, the actual operation of the Interborough Common Carrier Pipeline would have little impact on the borough and should not be taxed by it. Additionally there will be communities which will have a substantial impact during construction which are not located along the pipeline corridor. Anchorage is a good example of such a community. Because the permanent impact of the operation of the pipeline is so different from the temporary impact due to construction of the pipeline, it is the belief of this committee that we should not confuse the temporary impact of construction with the permanent impact of operation so as to create a permanent tax policy which will be unfair to the great majority of the citizens of the State. Fairbanks and Valdez pose particularly difficult and sensitive problems. Both need large amounts of funds immediately to prepare for the impact. If this was a general legislative session, we could and should reassure these communities with a generous impact policy of State shared revenues. Our inability to so respond creates a political

problem both with Fairbanks and Valdez representatives and others who want to be fair during the construction impact period but who are unwilling to establish an erroneous State tax policy to haunt future generations with rich pipeline boroughs and poor villages down stream.

C) DISPROPORTIONATE TAX BASE.

Even though the North Slope Borough will have both temporary and permanent impact, still the tax base avilable to them (using the same standards of definition as previously applied on the Kenai Peninsula) would be so disproportionate to the rest of the State as to produce a shocking inequity. For example, upon completion of the pipeline, the North Slope Borough would have as a minimum approximately a 3/4 billion dollar tax base (exclusive of the taxation of the current value of reserves for oil and gas in place and the interborough pipeline). With a population of 4,000 persons, the borough would have a tax base of $187,500 per capita. The State average tax base is$12,000 per capita. Anchorage, for example, is $17,500 per capita. Both the House and the Senate bills adopted the same mechanism and limited the per capita revenues. In the House it was limited to $1,000 per persona and in the Senate $2,000 per person. The committee was divided on the dollar amount.

The figures suggested by either the House or the Senate provided per capita revenues (per mill of tax levied) greatly in excess of those received by any other community in the State. Anchorage, for example, has total tax revenues of approximately

$350 per person. The higher $1,000 (or possibly $2,000) figure can be justified for the North Slope Borough because of the higher living costs in the North Slope Borough, the excessive construction costs for such things as sewers, schools, etc. and also because the North Slope Borough covers the gigantic Artic North Slope plain extending from Canada on the east to the Chukchi Sea on the west.

Although the $1,000 or perhaps even the $2,000 may be rational as a per capita limit on the North Slope, neither of these figures is rational as a per capita limitation in Valdez. This inequity is avoided in the bill reported by this committee because the Interborough Common Carrier Pipeline taxation is preempted by the State and Valdez given a reasonable tax base. We do this by specifically exempting from the definition of Interborough Common Carrier "storage tanks" which will be located in Valdez. This will give Valdez a 57 million dollar tax base during construction Phase I, a total of 115 million during Phase II, and possibly an additional $53 million during Phase III, (values from Tippetts-Abbeit-McCarthy-Stratton Summary of Estimated Construction Costs).

Of course, should natural gas liquification plants or petrochemical complexes develop in Valdez, such industrial property would be taxable by Valdez in the future as it has been by Kenai in the past.

D) TAXATION OF PRESENT VALUE OF OIL AND GAS IN PLACE.

The bill reserves to the State the exclusive authority to impose at some future time a tax on oil and gas in place, or stated differently, tax on the current value of non-producing oil and gas leases, said value being based on the reserves which are provable to the satisfaction of reasonable men (or ultimately a court). The North Slope Borough is attempting at this time to levy an ad valorem property tax on these values. Our bill does not attempt to resolve the questions in that lawsuit; we expressly provided that the bill will have no effect on taxes levied before its effective date. Therefore, the litigation presently undertaken by the North Slope will continue based upon the law as it existed at the time of their levy. However, we have made it clear that in the future reserves will be taxed, if at all, only by the State. (See V, ALTERNATIVES, in which we discuss a current tax proposal to do this).

E) PIPELINE BOROUGHS.

We believe that if the Interborough Common Carrier Pipeline is subject to taxation by all communities along its route, then additional boroughs and cities will surely be formed so that every inch of the pipeline is taxed by a borough and some portion taxed twice; the second time by newly created "pipeline cities". The testimony received by our committee would indicate that if a borough or city can each levy seven mills on that portion of the pipeline within its geographical

boundaries (or $1,000 to $2,000 per capita annually), then probably three new boroughs will be created. For convenience we will call them the Ft. Yukon Borough which would embrace that portion of the pipeline north of Fairbanks and south of the North Slope Borough with a population of probably 1,500 people. We will call the second borough which will probably be created the Tok Junction-Big Delta Borough. It would be immediately south of Fairbanks and perhaps extend half way to Valdez. This borough would have an expected population of 4,500 people. South of the Tok Junction-Big Delta Borough and immediately north of Valdez a third borough would be created with a probable population of 2,000. We will for convenience call this the Glennallen-Copper River Borough. If our assumptions are correct, then each one of the three new boroughs would have available for taxation some 165 miles of pipeline within its boundaries. A rough estimate of pipeline value per mile is $3,500,000. Each of these communities would encompass a tax base of approximately $500,000,000.

Under the Administration proposal, each community can tax at 7 mills, i.e. $3,500,000 per year from this one source. The annual Ft. Yukon per capita tax revenue would be approximately $3,000. We believe that this incentive would cause the immediate formation for example of the Ft. Yukon Borough and would result in a fabulously rich Ft. Yukon. Ruby, Koyukuk, Kaltag, only a few miles down the Yukon River,would remain fabulously poor.

Neither the Administration's projected income figures submitted to our committe nor the revenue figures reported by the House Finance Committee took into consideration the formation of "pipeline boroughs".

Perhaps, the most basic and important consideration in this bill is whether as a State we wish to encourage the formation of these boroughs.

It has long been State policy to encourage boroughs as being rational, governmental, administrative units to exist between a city and the State. The prime consideration in the encouragement of formation of boroughs is, however, the word "rational". The formation of boroughs in the unorganized area of the State for the sole purpose of harvesting a tax base to which they are unrelated and provide no services is unrealistic and unfair.

Inherent in the argument is the fact that if the State permits a local government to obtain per capita revenues of $3,000 annually (or $1,000 under the House bill) from an asset which should be taxed by the State, it is the same as the State actually taxing that resource and then appropriating $3,000 per capita for boroughs purposes. The question must be asked, "Would the State Legislature vote a per capita State grant of $3,000 to the community of Ft. Yukon and at the same time vote a State revenue per capita sharing of $25 dollars, for example, to Koyakuk, a community even more poverty stricken?" If the State would not appropriate funds for this purpose, it

should not permit that community to tax a State asset to that extent. From the point of view of the State (and all of the communities seeking shared revenues), the result is the same - unfair and unconscionable.

IV. ADMINISTRATIVE DIFFICULTIES WITH THE ADMINISTRATION AND HOUSE PROPOSALS.

The administrative difficulties of the House and Administration proposals arise basically because of: (a) an inadequate and unworkable definition of the taxable property; and (b) the overlapping nature of the tax, i.e. the tax assessed by the local government is a credit against State imposed taxation on the same property.

Going first to (a), let us observe that the Administration and House proposals defined one class of property as that which is used or intended to be used in this State primarily for the erection, construction, installation, operation, or maintenance of facilities for pipeline transportation of gas or unrefined oil . . .". We believe the ad valorem taxing of property based on the state of mind of the owner or person in possession is not a rational classification which can be efficiently administered by either state or local assessors. For the statute to work fairly, the administration would have to be uniform throughout the State. In other words, all the assessors in every taxing jurisdiction in which there is property intended to be used for construction, etc. of the pipeline, would have to reach the same conclusions as to how to determine an undisclosed state of mind, i.e. "intended".

Language has been suggested which would alleviate this problem to some extent by substituting for "intended" the words "committed by contract".

We still believe, however, that the language is unworkable and the concept administratively unsound. There is no point in belaboring administrative problems involved due to the inability to define the property which is taxable under the Administration and House proposals.

Consideration (b): The overlapping nature of the State and local taxes would result,for example, in an analogous situation which will develop in the Kenia Peninsula where we have two farmers with identical pick-up trucks. Farmer A has a contract to cut the weeds along the oil gathering lines for a certain area and uses his pick-up truck primarily for this purpose. Farmer B lives in the Kenai Borough adjacent to Farmer A but has no immediate contract or business relationships with the oil industry. In this situation, Farmer A would pay 20 mills total tax on his pick-up truck and Farmer B would pay 7 mills on his identical truck. The difference is not based on the inherent nature of the property but merely on its use. Not only that, but Farmer A would have to send his Kenai Borough tax receipt of 7 mills to the State so that he could prove he owed the State only the remaining 13 mills in order to assure that he was not being taxed 27 mills.

If local taxes are to be a credit against State taxes, then there has to be an auditing and uniformity not only within

the borough but between the boroughs and cities levying similar taxes throughout the State. This would force changes in taxing procedures and complicate inextricably the already tedious and difficult process of local equalization of ad valorem property taxation.

We have the problem, for example, of how to handle the Hercules airplanes located at the Anchorage International Airport. These airplanes are primarily to serve the oil industry. How do we handle the hangers that house these aircraft in the Anchorage assessment process and how do we handle the pick-up trucks used, intended, or contracted to be used in the servicing and maintenance of the aircraft primarily used by the petroleum industry?

Perhaps a lengthy regulation can be devised to handle each of the questions posed. Suffice it to say we know of no such answers at this time, and have not received adequate answers to the questions we have raised in this regard. But even assuming we could amend the law to handle the inefficiencies and inequities which readily occur to us in several days of a special session, we do not think that we can draft a law which will handle these questions reasonably so long as we persist in using the tax base suggested by the House bill and the Administration proposal together with the superimposed taxing authority.

By limiting State taxation to the Interborough Common Carrier Pipeline, we immediately eliminate 90 per cent of the problems.

It has been said that our proposals "leave money on the table

in favor of the oil industry". We do not believe this to be the case. Our proposal will raise the same amount of money as the proposals of the House or Administration. All we need to do is to adjust the mill levy upward and we can raise what the Legislature desires.

Because ad valorem taxes imposed on the Interborough Common Carrier Pipeline will be a part of the rate charged by that carrier to producers for the transportation of their oil, the ultimate burden of the tax falls on the oil industry in exact proportion to production. The State taxing of pick-up trucks and Hercules airplanes would arrive at approximately the same result. The tax would ultimately be borne by the producers of the oil and gas resource. We, therefore, have left no money on the table because we raise the same revenue and we contend that we have simplified immeasurably the process of levy, assessment and collection of the tax and devised a more efficient method of performing this government function. We recognize still that our method is possibly not as efficient as would be the taxing of the current value of oil and gas reserves in place. We refrain from making that judgment at this time because we would like the opportunity to examine it further.

V. ALTERNATIVES.

Some members of our committee see a possible alternative to the bill we have reported out. Instead of taxing the Interborough Common Carrier Pipeline, the State could tax the current value of leaseholds (reserves) or oil and gas in place.

This could very easily be done by the substitution of the following section for the similarly numbered section in the bill we have reported to you:

> Sec. 43.56.010. LEVY OF TAX. (a) An annual tax of 10 mills is levied each year beginning January 1, 1974, on the full and true value of taxable property taxable under this chapter. When the taxable property taxable under this chapter is in production, and subject to the oil and gas properties production tax (ch. 55 of this title), the owner shall pay either the tax levied under this section or the tax levied under ch. 55 of this title, whichever is the greater.
> (b) Each lease shall be considered separately in determining whether the owner shall pay the tax levied under (a) of this section or under ch. 55 of this title.
>
> And,
>
> Sec. 43.56.190. DEFINITIONS. In this chapter
> .
> .
> .
> (4) "taxable property" means the ownership of, or possessory rights and privileges in, non-producing oil and gas properties or leasehold interests.

Our committee received testimony that approximately 30 per cent of the oil and gas produced in the United States is subject to such a tax on reserves. In many instances, however, this is in lieu of a severence tax. As to the feasibility of taxing reserves, we heard testimony from a well-qualified California official explaining the method California uses to tax reserves. The California cost of administration of the tax which includes assessment, levy, and collection was 6/10ths of 1 per cent. The tax is highly efficient in terms of the small bureaucracy required to collect it.

The tax has the advantage in the current situation in Alaska for it would produce income in advance of the construction of the Trans-Alaska Pipeline rather than after it is partially constructed. It has the further advantage that it would make income available to the State even if the Trans-Alaska Pipeline is delayed for a year or so due to litigation, absence of permits, or otherwise.

The testimony before our committee by State officials was in unanimous opposition to this tax. Likewise, the response of the oil representatives who did express themselves to the committee was negative. We feel that if this were a regular session and we had adequate time to explore further this method of taxation, it is possible that we would have reported out a bill to that effect. We do not discount the possibility that even in this session, if impasses are encountered, such a bill may not become law. We can surely predict that if at the time of the regular session in January, 1974, the construction of the pipeline is stalled for whatever reason, we will be forced to consider the ad valorem taxation of reserves.

VI. CONSIDERATION OF THE AD VALOREM TAX AS A PART OF THE "PACKAGE".

We do not consider the passage of an ad valorem tax bill to be an essential part of the negotiated package. This is because we consider the bill to be the exercise of State sovereignty which cannot be limited by agreement. Particularly do we deem important the fact that we have not and are not agreeing to a specific level of taxation - such as 30 mills or that we will not impose a different type of tax - such as a tax on oil

and gas reserves, non-producing lease values, etc. at any future time.

We also believe that failure to enact any ad valorem tax bill will in no way influence the litigation with the TAPS consortium or in any manner delay the construction of the line.

There is no doubt also that we could produce a better bill if we had more time to hear witnesses, obtain expert testimony, and explore fully the ramifications of the policy inherent in the legislation. Even the representations of money amounts, etc. contained in this committee report are viewed with caution by the committee and should be taken as reasonable estimates or informed guesses subject to correction without embarrassment. The press of time prevents us from verifying representation made to the committee.

If no law is passed, then we can expect the formation of pipeline boroughs and cities under existing law. Under existing law the Ft. Yukon Borough for example could tax up to 30 mills on an approximate 1/2 billion dollar pipeline tax base which would yield for that borough in excess of 15 million dollars per annum, or an annual revenue of $10,000 for each man, woman, or child in the estimated 1,500 population. Surely there would be some common law court imposing limitation far short of this. But, at this stage, there is no legislative limitation.

Although it would take many months, perhaps a year to complete formation of these boroughs, once the opportunity is grasped

by those along the pipeline, it will become increasingly difficult to legislate because of a growing reliance by those people on this ultimate harvest.

Such will be the price of delay.

Respectfully submitted,

Senator John Rader
Chairman
Senate Committee for Community
and Regional Affairs

Senator Lowell Thomas, Jr.
Member

DATED THIS 3rd DAY OF NOVEMBER, 1973, JUNEAU, ALASKA.

SENATE FINANCE COMMITTEE
November 5, 1973
9:00 A.M.

PRESENT: All members with the exception of Senators Poland and Ray. Jack Carlson, Mayor, Fairbanks North Star Borough; Jim Nordale, Attorney, Fairbanks North Star Borough; Steve Weiner, Elaine Mitchell, reporters; interested members of the Senate, House of Representatives, oil industry, local governments and administration.

CSHB 1 Sen. Groh called the meeting to order for the purpose of hearing testimony on COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1 (An Act providing for taxes on property used in the exploration for, production of, or pipeline transportation of gas or unrefined oil).

Jack Carlson, Mayor, Fairbanks North Star Borough, stated the Senate CS for CSHB 1 would have an adverse effect on the North Star Borough and the 30 mill limitation would take 1/3 of the revenue from the borough. Fairbanks, being in the middle of the pipeline, would have a minimum of petrochemical development; only service facilities and warehouses at a low assessed valuation. The borough will be a bedroom community to the North Slope, with residential development and the impact of families, and the assessed valuation will remain low. The result will be a high demand of public services such as police and firemen, putting an impact on the communities, and the only way to meet this impact will be through funds from the state. The borough should be able to look for the ability to levy a local tax on the fair value of any taxable property within the borough to maintain a mill rate acceptable to citizens, and the only way of funding will be the ad valorem tax and the sales tax. Concluding, Mr. Carlson said the House bill would be more acceptable to the Fairbanks North Star Borough because of the tax base available to them through assessment of property.

Sen. Ray and Poland joined the meeting at 9:10 A.M. Joe LaRocca also joined the meeting.

Jim Nordale, Attorney, Fairbanks North Star Borough, said their concern was the Senate CS for CSHB 1 which singled out the Fairbanks borough and deprived it of a property tax, making this borough unique within the State of Alaska. Other boroughs would at least have the ability to tax to some degree all of the property within their borough, although some limitation would be imposed. In HB 1 some additional work was needed on the definition of taxable property as it was too broad, continued Mr. Nordale, and placed a burden on the state in terms of definition of property. Their prime concern was the consideration that local government be

strengthened by the state.

Mr. Nordale continued: All of the people in the state have an interest in the state's resources, but to deprive Fairbanks of their major taxable property which will accrue to the borough because of increased development and offset the expansion is totally inconsistent with the strong local government concept. If adequate funding is to be provided to the state treasury, the tax base should be expanded to which the state applies; namely, leasehold interests and reserves in the ground. The resource itself is the property of all the people in the state and that is the property to which the state should address itself for increased funds.

In conclusion, Mr. Nordale said the Fairbanks borough has one of the lowest assessed valuations. Everyone recognizes there will be an increase in population, and it will be a step back to remove the most significant capital item from the tax rolls. When speaking of per capita taxation, Fairbanks North Star borough does not tax personal property, a value of approximately $100 million. Even if they were taxing personal property, the loss of the pipeline to their assessment role would be a substantial impact.

Sen. Groh questioned the impact of the pipeline after construction as relatively minimal. Mr. Carlson said Fairbanks will probably realize an 8,000 population increase, not counting construction workers who will come down from the North Slope for R & R. Mr. Nordale said all of the population projections indicate that the population of Fairbanks was expected to grow to 50,000 and then level off for a number of years. That represents an estimated increase in excess of 25%, and the impact will come when the people come. Demands for services, however, will continue over a long period of time. The need for a tax base, either for bonding services or simply to derive the revenue, will be needed to accommodate community services.

Sen. Groh asked what services the North Star borough would provide after the line goes into operation, to which Mr. Nordale said the borough would provide services to people who are there because of the pipeline. Mr. Nordale asked why Fairbanks would be uniquely unable to tax as opposed to other communities. Sen. Groh said the pipeline was a monstrous project which would upset the tax base in the state. It must be accommodated somehow, and Sen. Groh asked if Mr. Nordale agreed there was a philosophical problem to various levels of taxation throughout the state. Mr. Nordale

said he could appreciate the problem; however, both state and local government could live and grow through some approach such as contained in CSHB 1 and not the Senate Committee Substitute. Mr. Nordale said he agreed basically with the concept of CSHB 1, although the definition of taxable property was too broad.

Returning to the question of services provided after the pipeline was built, Sen. Groh stated there wouldn't be that many people needing services in the North Star Borough after the pipeline was completed. Mr. Carlson argued the families would be in Fairbanks while the workers were on the slope. The committee discussed the problem, and Sen. Palmer said many people stay after construction is complete, although they originally may have come for the construction phase.

Sen. Rader questioned if the impact problem should be treated in the tax bill or someplace else. His committee had decided impact was not related to the ad valorem tax bill; although a problem exists in the bill regarding Fairbanks. Sen. Ray agreed that the problem was in dealing with two problems, and asked if one bill could deal with the tax problem and another bill with an appropriation for impact.

Sen. Lewis continued to question the impact on Fairbanks. Mr. Carlson said Fairbanks is 46 classrooms short today, with students on a double-shift. Twenty years of bond issues will be demanded for water and sewer projects with the influx of people; although police and fire protection will fluctuate with the need.

Sen. Groh said the legislature was trying to find an accommodation here which would work for the entire state. He assured the representatives from Fairbanks that whether they got money as a direct result of taxation or from the state on a formula basis, they would get funds. Sen. Rader suggested an impact formula similar to federal school funds, and permanent impact could be measured through the number of school children. He added the Senate Community & Regional Affairs committee did not pursue this as they understood the special session was called to consider tax problems rather than impact problems.

SB 2 Sen. Ray moved to refer SENATE BILL NO. 2 (An Act making a special appropriation to the Department of Revenue to administer taxes on property used in the exploration for, production of, or pipeline transportation of gas or unrefined oil) to Sen. Rader's committee on Community & Regional Affairs for study of the impact problem. SB 2 could then be again referred to Finance.

Sen. Groh noted the committee would recess and should consider reconvening in the Senate Chambers for further testimony.

The meeting recessed at 10:00 A.M.

SENATE FINANCE COMMITTEE
November 5, 1973
10:30 a.m.

A public hearing was held in the Seante Chambers. Sen. Groh called the meeting to order. The following is a near verbatim transcript.

It was stated that what seems to be developing is that instead of allowing the Fairbanks North Star Borough to tax the pipeline that an appropriation could be made in some other form to the borough probably each year. What problems do you see in something of this sort?

Mr. Carlson: Every year coming down and "fighting for our appropriations." Would you foresee a written in that would automatically be appropraited? Otherwise I would see us down here with our legislators competing with the other ones for this type of appropriation.

The question was asked what type of concept would you want to see written in; a guarantee?

Mr. Carlson: In my own opinion, I don't see how the legislators could write in a guarantee to one borough, without considering the other boroughs in the area. I think we are apt to go back to the concept of the property that is remaining in the borough that these properties could be taxed by the ad valorem tax and then the funds on some type of a ratio be available to local governments on the impact to the area. It is going to be hard to come down and say you get a certain percent of an "x" amount of dollars to the Fairbanks North Star Borough without considering the other boroughs and the other cities in the State.

Sen. Hohman: Do you have anything to give the Legislature in terms of the kind of impact and the amount of impact that you had anticipated at this time?

Mr. Carlson: I don't have it with me. We are working on it, projecting a five year revenues anticipation in way of sales tax, the ad valorem tax, without the impact and with it. We'll have these available, in fact they're working on them right in my office today. Our largest impact dollar-wise is going to be for education, for school rooms and to meet the education needs. The city will be looking at the fire, police protection, sewers and this area which I have to get from the city and I believe that we have the Senate Committee coming up on the occasion in the afternoon who are going to be meeting with us on the figures.

Sen. Hohman: Would you be better prepared by January?

Mr. Carlson: Oh yes.

Sen. Palmer: Mr. Carlson, other states where oil revenues are important to the local municipality and that also have a severance tax which is in lue of a local taxing authority on the reserves or the production facilities, etc., have adopted a plan wherein revenues are rebated back to that county in the aportion that they would have been received had a severance tax not been in lue of or local taxing authority. Now this is an approach that we could take in this thing and we could recognize that, I'm not saying we should I'm saying we could, accomplish both objectives that some people have. By saying that this applies only to those boroughs it being of January 1, 1973 or something to that affect recognizing that as they were there already in effect in being and they are going to have this impact and that they were not just formed in order to take advantage of a taxing that now becomes available. This would not then require each years appropriation of impact funds by the Legislature. It would recognize that there are laws on the books that there is automatic rebate; on the same basis, perhaps, that we do this with the foundation program for schools, for education, etc. Is this an approach that might be acceptable to Fairbanks Borough and solve your problems?

Mr. Carlson: It's certainly worth lookng at. I hesitate to say if it would be the ultimate formula, but it is one way to look at it. I foresee this legislation before you is probably a means right now to get these funds through this thing so at some future date to come into this formula as it is needed. Any formula would have to be studied out.

Sen. Palmer: You wouldn't automatically reject it.

Mr. Carlson: No.

The question was asked of the bills that are presently before us, that is the original Governor's Senate Bill 1, and the House Finance Committee or the House Bill that actually passed the House, or the Senate Community and Regional Affairs Bill, do you have an opinion as to which of those the North Star Borough could not necessarily embrace but atleast live with?

Mr. Carlson: The one that passed the House. I believe in earlier testimony we favored this one with some wording being cleared up as to the assessment, whether it being assessable property.

Sam Kito: Mr. Chairman, members of the Finance Committee, my name is Sam Kito and I am Executive Vice-President of Doyon Limited. I am here today to testify on the Senate Committee Substitute for Committee Substitute to House Bill 1 reported out to the Community and Regional Affairs Committee last week. We have reviewed both the ad valorem bill passed by the House and the Seante version passed by the Community and Regional Affairs Committee. We have found many deficiencies in both bills. However, before I address these deficiencies I would request that the Special Session of the Legislature defer any action on any ad valorem tax bill until the regular convened session in January. The reason for this request is essentially that we do not believe that the ad valorem tax is an essential part of the negotiated package between the State of Alaska and the oil companies.

Further, when you discuss and deliberate on any ad valorem tax you are essentially talking about impact. How does one consider taxing taxing limits without discussing impact. It is stated in the report from the Community and Regional Affairs Committee that there will be no impact in the Fairbanks North Star Borough or in areas north and south of the North Star Borough. Just the presence of the pipeline routing through an area is going to impact the area. Not only will the area be impacted but development will be initiated for additional oil and gas reserves in the interior of Alaska.

The Legislature in the past has spurred the development of local government entities so that local governments can control their own destiny. With this concept of local control, local governments have struck out on a course of development that will benefit the local population. In order to accomplish this, local governments must have the authority to tax properties that will have a profound effect on the development within the boundaries of their local government.

The impact of the pipeline on interior Alaska is more than meets the eye. At first blush one might not think that this is the case. However, I would like to take a few minutes and try to outline for you what the picture might be in the interior of Alaska within the next few years, as it relates to the impact of the pipeline.

Doyon Limited has for the past one and ahalf years been working on land selections for the regional and village corporations. During this time we have attempted to develop the resource information necessary to make some of our selections based on economic potential of the land with drawn force selection.

First, I would like to discuss what has happened with oil and gas prospects on these lands. In April of this year we held a meeting in Fairbanks with oil and gas companies to outline for these companies our interests in oil and gas. It was our intent to request from these companies proposals for oil and gas exploration in the Kandick and Yukon flats.

The meeting was attended by 22 major oil and gas companies that have an active interest in lands to be selected by Doyon Limited. This interest has continued not only on regional lands and village lands but on State selected and Federal lands as well. We feel if there is to be expanded oil and gas exploration in these areas now is the time for planning and orderly development process. There has already been seismic exploration accomplished in the above named areas and there is sure to be more.

It is incumbent upon local governments to develop service centers that will be conducive to the development process that is sure to happen in the future. Who is to say what the cost will be to local governments to prepare for exploration that will happen in the next few years. Is it right and proper to divide up the pie now without looking to the future? I think not. I realize that there is going to be impact initially from the construction of the pipeline. These costs should be met now. But should this be at the expense of presently functioning local governments or for that matter local governments that may exist in the future? Again I think not.

Additionally, it is my understanding that the ad valorem tax that is being prepared is essentially for the most part an advance on royalties that will eventually be deducted from the well head value. If this is truely the case why should we set ourselves in concrete and commit ourselves to one course of action when we can have the choice of an array of opportunities by waiting.

If it is the desire of the majority of the Legislators to act now then it is our recommendation that local governments presently in existence and future local governments be given the opportunity to tax unilaterally both the existing pipeline and pipelines that may develop in the future. For it is local governments that are closer to the people and they can better determine the needs of the population. For these reasons I believe that it is essential that all ramifications be studied and considered before any action is taken on the ad valorem tax.

I have dwelt on oil and gas exploration thus far. Now, I would like to address hard rock mineral development that will take place on lands to be selected by Doyon Limited. We presently have withdrawn for selection 2,750,000 acres specifically for hard rock mineral exploration. The reason I mention this is to

put into perspective the development that will take place on regional land some time in the near future. At the present time we have 1,000 townships or 20,000,000 acres of land withdrawn, of which we will select 12,000,000 acres. All this land will be selected in the interior of Alaska.

With this in mind, should not local governments have the opportunity to determine future impact of oil and gas and hard rock mineral development. I think so. In closing, we recommend that consideration of any ad valorem tax be delayed until more information is available on present and future impact as it relates to the development of our natural resources.

Sen. Palmer: Mr. Kito, one of the questions that I found most difficult to answer is one raised before the other committees about the formation of new boroughs and very large tax bases established for them and very sizable $1,000 per person taxes that derived from this. Yet a neighboring village just outside of the borough limits and needing the money just as much having none available. And I don't know how to answer that. I'm wondering how you would answer that. How do we justify it for one village included in the borough and five miles away the poverty stricken borough that is not included goes on in its poverty.

Mr. Kito: I think perhaps a compromise would indicate somewhat of a concern for this type of a situation. However, in rural Alaska we have a concerted effort at the present time by some local governments to incorporate as a first class municipality under the present laws of the State of Alaska. Now, they haven't gone as far as forming any boroughs but I can sight as an example Galena, which has incorporated as a first class community so that they can basically run their own educational system rather than fall under SOS. Local governments that may exist, if they are going to be formed, should have the opportunity to develop the land and to be able to concern themselves with the area that the borough is going to represent.

Sen. Palmer: Say a Fort Yukon Borough is formed. And they have the ability to tax the pipeline up to $1,000 per capita per year. They don't really have that amount of expense from the impact. There is going to be some. Yet we go to the west and we come to Kotzebue or any of the villages that are obviously not going to be on the pipeline route and would not have the pipeline or portions of it as part of their taxing base. So are we able to say we are willing to come here and appropriate $1,000 per capita per year to equalize this thing. I think the answer is no for atleast one reason. I don't think we are going to have that amount of money in the State coffers. And yet that's the problem. How do we treat the areas equitably that really do not have that much financial impact.

Mr. Kito: I think what is essential to consider is the move consistently by the State Government and by the Legislature to spur local development, local government, communities or entities within the State of Alaska. They should have this opportunity to tax whatever is within their boundaries so that they can plan an orderly development. Wouldn't it be better to spur local development if the Fort Yukon Borough was able to start it and initiate with the pipeline as a tax base, and move from there into the future development that is going to take place within the interior of Alaska.

Sen. Lewis: What would you see as local development if you were able to tax these people. You're going to start local development. What specifically and expressly do you mean?

Mr. Kito: We're projecting within our corporation involvement within the oil and gas and hard rock mineral development within the interior of Alaska. If this is going to happen there is not only going to be a service center in Fairbanks, it's going to have a continuing impact. The impact is going to effect the areas north and south of Fairbanks. Obviously it's got a protection maybe that these local governments should form if there is going to be development in these areas. We shouldn't set ourselves in concrete as to the taxing authority of these future existing areas that will be developed.

Sen. Lewis: What would you do to spur development?

Mr. Kito: One of the things we would do is to enter into oil and gas contracts with the company for oil and gas exploration.

Sen. Lewis: You would take tax money and enter into this?

Mr. Kito: We as a corporation are going to do this.

Sen. Lewis: How does the formation of the borough help this?

Mr. Kito: Let's say that we start the development processes as a part of the corporation in the interior of Alaska. Then within the area that this development is going to take place, we should have local government entity that could protect themselves from the development process that is going to be ongoing by the corporations.

The question was asked if Mr. Kito could advise the Senate whether Doyon is considering the formation of additional boroughs.

Mr. Kito: At the present time we are not.

The question was asked how much of the pipeline would run between Doyon land.

Mr. Kito: Approximately 300 miles.

Harold Pomeroy: I am testifying on my own behalf as a citizen. I am not here additionally representing anyone else nor on anyones payroll or receiving any per diem for this. I come here in the hope that some of the experiences encountered on the Kenai Peninsula beginning the boom and through the boom or post-boom period may be useful. I don't know if I can say anything that will contribute but I'll try and this comes from having been chairman of the Kenai Peninsula Borough for the first three years of its operation.

Having been the chairman and since then of having had the privilege of making some studies from time to time of the economic trends and developments of the peninsula in other work that I have been doing; it seems to me that at base, beyond the matter of the shear question of how much money we get and how, that the problem was stated very clearly by Senator Rader in his committe before which I testified last Saturday, in which he said the question is you tax where the property is to be taxed and you spend it where the people are. That was touched upon earlier this morning when questions were asked of the Fairbanks representatives as to what the impact was going to be.

It seems to me that just a little bit of background using the Kenai Peninsula as an example may be useful. The Kenai Peninsula had an oil discovery in 1957. The population of the peninsula was about 9,500 in 1960. In 1961 or '62, oil was discovered in the inlet and the big boom was then on the way. We reached a population of something over 20,000 at the height of the boom. The population in 1970 was 15,800 and I made a projection in March of this year and found that it had gone down just a little bit more to about 15,250. We've leveled off and are now quite stable.

It is significant that while we had a lot of hallabaloo and a lot of inconvenience and some difficulties during the period of the boom, we did meet our school needs without anything critical. I think it was only for a short period if at all that we had double shifting. We did purchase a number of relocatable classrooms and used them. I think quite critical in this situation in the anatomy of a boom in Alaska is that a very large part of the impact is away from the area of operations. It was so on the Kenai Peninsula even though we had quite a developed area. That is, a good many of the people who worked in the oil industry in the inlet lived in Anchorage and commuted back and forth weekly. There was much interval employment - a week on and a week off. And when the boom was tapering off in the Kenai Peninsula and it was reaching up toward a peak in Prudhoe Bay, we had 100 to 300 workers commuting from their homes on the Kenai Peninsula to the North Slope and working there.

Mayor Carlson referred to what would be encountered after the boom is over and there is just operations. I have just finished a three day intensive review of the Alyeska report on pipeline impact so as to bring some of things fresh in my memory. A figure that I need to check further, but I believe is the correct one, is that the operation period will be only 300 people in all of Alaska. Maybe 60 or 70 of those will be administrative top people located either in Fairbanks or in Anchorage and the rest of them will be located in various places along the route.

However, Mayor Carlson is correct when he says that there will be an impact felt among people who are employed in remote area. We have the expectation of a continuation of concentration of activity in Prudhoe Bay and we don't know how much it is going to be extended. After the temporary period of exploration and production drilling, you come down to operations. But you will still have a very large majority of the workers who will be employed there without their families and whose families will be living in Fairbanks or other locations. We found on the peninsula that people lived all over according to their choice if they were under interval employment.

So it can be said that the continuing impact of the oil industry, additional exploration on the North Slope or where ever it might be, is going to have an impact all over. I would like to observe here that it is not in Fairbanks or Anchorage where you have an economy of size and when you get bigger the governmental services cost less, the governmental services tend to cost more per person because the people are simply crowded together more. So there is a problem of an impact and a continuing impact.

I do not agree that the way to meet that impact is to say "no" we must not have the State enter this area of taxation. We have such an abnormality here in size and in irregular distribution concentrated often in remote areas where there is no one. I digress again just to say that on the Kenai Peninsula, we have a Cook Inlet pipeline coming in that goes down the west side of the inlet to the facilities. While there is 20 to 40 million of assessed value, there was no impact at all. There was no one employed there who lived on the Kenai Peninsula as it was just as easy for them to commute from Anchorage.

There is going to be a continuing impact. We do have the inequitable distribution of the property and you are all aquainted with that and what that amounts to. It seems to me that the situation here is one in which we need to think beyond just how the property is going to be taxed and just what property is going to be taxed.

We need to have a consideration of the principle of the distribution of a substantial percentage of this revenue among the cities and boroughs of the State on an equitable basis, services performed and requirements. In a little village where they have no roads and no snow removal the requirements per capita per revenue are quite different from some other place, but they have an awful lot to do to try and begin to develop government and consideration needs to be given to that.

But suffice to say, I would be quite personally disappointed if the Legislature did not find some basis for some declaration concerning the distribution of substantial percentage of the revenue to be secured from the property tax back to cities and boroughs. I would hope there might atleast be a statement that it is the declared principle that there should be a distribution.

I am concerned about that because of the situation in our own wealthy Kenai Peninsula Borough. We've done very well in the borough. We've had a very low tax rate and we have congratulated ourselves on how fine it has been. But about half the people live in the cities and they're under a heavy burden of taxation. The city of Seward has the nice little 5 mill tax for the borough; the city has a 20 mill tax and the borough levies a 3% heavy sales tax not eliminating anything. That is equivilent to 5 mills more and so they're paying about 30 mills of tax rate. All of the consideration expressed by my collegues or by my neighbors on the Kenai Peninsula for our say in what we have just simply fails to address itself to that problem. I would certainly be seeking your concern for some declaration of principle on this matter; even though I accept that maybe utterly impossible to write in something specific enough.

Concerning money and distribution of money, I testified before Senator Rader's Committee and repeat that I believe we must be careful not to mix up the two things. This major step in taxation with the matter of immediate temporary impact at various places by reason of the boom; because there will be some impacts and those impacts will be more severe than those we had on the Kenai Peninsula. Although Alyeska Pipeline talks about keeping its 65 men 95% in camps. It would appear they are going to be out of there only their two week vacation a year. I don't think that's sensible. I don't think it will work. I don't think they will do it. If they were to do it, they would have to hire only single people and then you couldn't keep them there. I think there is going to be a very real problem.

Now, as to the bills themselves, I favor the CSHB 1 and for a very pragmatic reason. I believe, as long as we have the Grandfather rights protective on the Kenai Peninsula and the North Slope in some equitable manner, we want to have the State occupy as much as it can this area of taxation of the basic oil industry, the exploration, the production, the storage and the transportation at the very least.

I am a taxpayer on the Kenai Peninsula but ever since I was setting up the tax program in the first instance as borough chairman I was concerned about our abnormal afluence beyond the point that we were utilizing; that is our potential afluence if we raised the tax rate. I noted before Senator Rader's Committee that if the tax that is being proposed here including the property that last year was additionally authorized to be taxed, production property, if that had been taxed in the Kenai Peninsula Borough for a ten year period to the 20 mill rate, we would have had somewhere around $50,000,000 of additional revenue. What would the local government have done with that?

It would not be unreasonable to say that this property, if you can say that it is reasonably subject to taxation, should have been half, but it could not have been utilized effectively by the local government. We would have had our own shared revenue and we would have been wealthy beyond anybody else and in the states too. So there is no way out to meet this situation and to meet this situation Senator Palmer refers to about the little village outside the borough that may be organized. We're not going to have one big unorganized borough organize into a borough apparently. That problem can only be met by the course that you are on now.

Highly as I regard the Senate Committee's report on the Senate Bill, I can agree with much that is said in there and most of it as to the need as to have equity, equalization, to get away from the problem that we have, I cannot see a justification for making an arbitrary distinction between the pipeline that crosses a borough boundary line and other property. I certainly do not think that the mere problem of identifying the property and defining it is a justification for losing an exceedingly large amount of money that can be secured from other property, that could be treated the same way without detracting at all from the well being of the Kenai Peninsula now from its $30,000 of assessed value. I simply cannot find a justification for it.

I mentioned the Cook Inlet Pipeline Company and its operation and all the rest of the pipelines. I can't understand why the the gas pipeline going from the Kenai Peninsula to the middle of Turnagen Arm where our boundary is should be excluded.

There may be some sound philosophical reason, but I simply can't see it. I think that it should be as broad as possible. I could be asked what do you propose, what kind of wording. I believe it is possible to make some definitions that will clear up quite substantially the admittedly large area of uncertainty in the wording that exists now. Without taking time here, I would be very pleased to hand some wording on this to the Committee if that's desired.

Sen. Groh: We'd certainly appreciate that, Mr. Pomeroy. As I've indicated before, I think we can use all the help we can get. And we'll certainly give it every consideration.

The question was asked of Mr. Pomeroy, you indicated two bills which are now before the bodies who favor HB 1. You are aware from talking to you that HB 1 does not exact itself in favor of what you express.

Mr. Pomeroy: I am aware of that. That's why I spoke as specifically as I did on that.

The question was asked, would you then feel that perhaps a melding of the two bills would be an expression of the intent you spoke of.

Mr. Pomeroy: I certainly wouldn't rule out that as being a reasonable thing to do so long as we don't cut the heart out of the possibility of productivity by having the taxable property limited as much as it is in SB 1.

The statement was made, there should be a taxation on the properties with the possibility of an addition.

Mr. Pomeroy: Yes. I do not want to see my Kenai Peninsula Borough have to receed from the situation it finds itself in now; its happy situation of revenue and having developed its pattern of living that way. I note that either the $1,000 limitation which is a very arbit ary thing or the new paper presented by Mr. Mallott of twice the assessed value merit very close consideration. If it's doubled, the Kenai Peninsula Borough would be left just about where it is now. If it was 2 1/4 or 2 1/2 times it would be somewhat better than that. I would think that 2 1/2 times would be the absolute limit without getting into the equities Mr. Mallott addressed himself to.

Sen. Thomas: Mr. Pomeroy, did you say that the gas pipeline now that runs from our borough in Anchorage is being taxed by the Kenai Borough?

Mr. Pomeroy: Yes, it is.

Sen. Thomas: Would it make a difference to you if that were Grandfathered out?

Mr. Pomeroy: We have to come together some how on some livable basis. I wouldn't consider that critical. But I would think that there should be a very logical reason for it. It couldn't just be applied to another amount of property or more of another. The question might be raised, the Cook Inlet Pipeline Company's pipeline down the west side of Cook Inlet ought to be Grandfathered out, too. One wouldn't be critical but how far are you going to go and are you going to have a logical stopping point.

Sen. Thomas: Wouldn't a logical stopping point be everything prior to the Trans-Alaska Pipeline because that's really a very unique creature, nothing in the world like in size, cost, etc., could all be Grandfathered out.

Mr. Pomeroy: I wouldn't, for the simple reason that the net result is as on the Kenai Peninsula we have an abnormally low property tax the oil companies are enjoying and subnormal property by reason of that situation and we can't reach it, we can't equalize it. But the State is able to equalize by its tax up to the 20 mill.

Sen. Groh: I don't understand why you say you can't equalize it. You want to raise the tax you just go ahead and do it.

Mr. Pomeroy: Yes, we can. But if we raised it to 20 or 25 mills we would be getting from $12,500,000 to $15,000,000 a year and I don't know what we would do with the money effectively and properly. Unless the Legislature is going to give us the right to share all of that with the cities and make them wealthier in tax revenue than any other city in the State. That Senator Groh is the problem. If the borough were to raise its tax rate to 20 mills, and it has no authority to distribute to cities now, little Seward would have a 40 mill tax rate, its 20 and our 20.

Sen. Groh: The Kenai Peninsula Borough probably has the highest percapita valuation of any place in the State except the North Slope, who has just started to tax. If that's the case, why doesn't the borough want to raise its tax base. What is it now?

Mr. Pomeroy: Its tax base is 5 mills, except for one fire area in North Kenai that's 1.4 mills and the hospital service area at Homer that's 2 or 3 mills. The question is what would the Kenai Peninsula Borough do with the money. We have an unusual situation of three first class cities and two charter cities having about half the population of the Borough. It would be very difficult for the Borough to take over area-wide many of the powers of cities

because of the distances apart. It would be difficult to undertake to have a central municipal administration with an area 14,500 sq. miles and cities 90 miles apart. So there has been a tendency to just simply resist the borough taking over. The result is, there is nothing effective to do with the money if you did tax that high. Unless we had the authority to have a special tax on industrial property and distribute that to the cities under a revenue sharing program within the borough.

Sen. Groh: You've indicated that you think the $1,000 per capita is very arbitrary a figure. Do you have another figure based on some determination and study that you've done that you can provide for the Legislature.

Mr. Pomeroy: No, I don't. I should have said it's kind of a bumpy figure in what it means because of the irregular distribution of assessed value that can readily be tapped. You have seen all the figures on how easily it would be for one borough with a great assessed value to get its $1,000 with only a 2 or 3 mill tax rate while another one takes a great deal more, and that does occur. The best answer I can give you is that I believe that Mr. Mallott's suggestion of double the average assessed value would be more equitable and more effective. But it becomes a pragmatic decision. Are you going to bow to one place or another that asks for its rights.

Sen. Rader: You wanted to know why Anchorage Natural Gas was not taxed because of the new borough pipeline. The reason is because it's a public utility and is regulated by the Public Utility Commission of the State. Any tax imposed on that pipeline would come directly out of the consumer's pockets in the Anchorage area. We didn't think that the State was trying to look for a source of revenue that would come completely from the consumers inside the State. We looked at this as trying to be a tax upon the industry not upon the consumers using natural gas in Anchorage. That is the reason it was left as it is.

The second thing you wanted to know is why we couldn't Grandfather clause out certain areas, and we tried that. We would have had a much simpler solution to this part of the problem had we not had the historical development of the Kenai situation. We considered redefining the Kenai base and asking for direct appropriation for the Legislature on an annual basis for perhaps twenty years, in order to bring them under a conforming state-wide method of taxation. After working with that problem we were advised by the Attorney General's office that we could not follow this simple expedient of merely saying that all the pipeline gathering lines taxed by boroughs before January 1, 1974 shall continue to be taxed by boroughs and all those afterwards should not as being an unreasonable discrimination between for example, the Kenai Peninsula and the North Slope Borough.

The Grandfather clause would not be workable. If we considered even a Grandfather clause which would preserve the tax base of the North Slope Borough for perhaps five years to readjust their base into a state-wide pattern, I think it would be less legally objectionable. But it is certainly equally objectionable so far as the Kenai Peninsula is concerned as they would like to keep the base they have. It was suggested that the base be substituted for additional industrial development by way of liquification plants of 200,000,000 going into break ground very soon. But as that became a taxable item within the borough, the borough would relinquish taxation on certain areas of production lines, etc. That's a possibility.

But when we got all through with these possibilities, we finally decided that the most reasonable thing to do is to raise the severance tax. That is the only production in the State. And we can do it immediately. The oil industry doesn't escape anything in Kenai because some parts of the physical plant are not taxed. There are several ways to tax John Rader. One is to tax his income, one is to tax his automobile, one is to have him pay a school tax, one is to tax his house. You can do all those if you want to. If you get all of them out of one of these taxes, like an income tax, why not tax the income and increase it by 5% and forget about the other chasing around to pick up trucks. And that's what we finally came to as to Mr. Pomeroy's suggestion that we extend the base. We know we can extend the base and we know you can chase pickup trucks. But why do it on the North Slope if you can get the same amount of money be taxing the pipeline itself as an inter-borough common carrier.

We do think that there is a difference between an inter-borough common carrier and the other pipelines in the State. One of them is worth $3,000,000,000 or $4,000,000,000 and the other is worth a couple hundred thousand. We think that that difference in size is what creates the disapportioned tax base that we have to address ourselves to. I'll admit that a pipeline is a pipeline. But when one has the effect of being the major taxable assest in the State more than all the rest of the taxable property in the State put together, then the question is should that taxable assest belong only to those people who happen to be astride it, who are unrelated to it in terms of services or impact in a long term operation. As these points come up in the hearing, I suspect that you will cover the ground that we covered. You might reach a different opinion but it is not necessarily so.

The meeting recessed at 11:45 a.m.

AFTER RECESS
1:30 P. M.

PRESENT: All members with the exception of Senators Ray and Butrovich. Interested members of the Senate, House of Representatives, oil industry, local government and administration. Steve Weiner, reporter.

CSHB 1 Sen. Groh called the meeting to order for the purpose of hearing testimony on COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1 (An Act providing for taxes on property used in the exploration for, production of, or pipeline transportation of gas or unrefined oil).

Representative Frank Ferguson said CSHB 1 was not doing the job as envisioned by the Governor, and Rep. Ferguson didn't believe the state wanted 20 mills with 7 mills returned to boroughs, nor did local governments. By 1977 the state will be in the red and the House bill was to put money in state coffers, which Rep. Ferguson didn't believe would happen under the bill or any of the committee substitutes. He believed the state would lose probably $50 million next year by not taxing oil in place, and introduced House Bill No. 9 to deal with this problem.

Joe LaRocca joined the meeting at 1:40 P.M.

Rep. Ferguson continued by saying he also believed the state lost $29 million by not having a sales or use tax, amounting to about $150 million in a five-year period. Another problem was the $1,000 per capita limitation, and Rep. Ferguson said the Fairbanks borough would be notified by their bond counsel that there was a problem with this limitation.

Exemptions under CSHB 1 far exceed what should be exempted, continued Rep. Ferguson. He was unable to determine what exemptions 7 and 8 meant by providing exemptions to air or ground equipment providing service to the oil industry, yet taxing some type of equipment providing services to other than the oil industry. Property tax should be determined by local jurisdiction, as local governments should have the option to tax same.

The State Assessment Review Board in CSHB 1 would allow for all members to come from out of state. Rep. Ferguson said this should be amended on line 20, page 3, to "one member is not required to be a member of the state."

Sen. Butrovich joined the meeting at 1:45 P.M.

Rep. Ferguson distributed a report listing exemptions throughout the state and noted the $841,000 exempted by the North Slope borough had just become law; therefore, no other local community had been able to put this into the works. He added other communities could provide exemptions for single-family, owner-occupied homes. The repeal of this provision in the House Finance Committee was because the North Slope borough was taking an exemption that no other community in Alaska authorized, and Rep. Ferguson believed there was a misunderstanding about the provision.

He continued by saying CSHB 1 was not a realistic bill and he didn't believe it should be brought down to the floor. His recommendation was to hold over this legislation until the regular session, when more information could be provided, as the package legislated during the special session could not be opened for 25 years.

Replying to questions from the committee, Rep. Ferguson said Northwest Alaska has not set out to create any boroughs, but if CSHB 1 were passed, the first thing to do would be to annex to the North Slope borough. Sen. Groh noted that, on a theoretical basis, the North Slope borough could be expanded to cover all of Alaska.

The committee recessed at 2:00 P.M.

AFTER RECESS
2:05 P. M.

PRESENT: All members. Interested members of the Senate, House of Representatives, oil industry, local government and administration. Steve Weiner, Joe LaRocca, reporters.

Sen. Groh called the meeting to order.

SB 3 Sen. Butrovich moved to take up the right-of-way leasing bill, SENATE BILL NO. 3 (An Act relating to leases of rights-of-way over state land for the transportation of oil, products or natural gas), and stay with it until reported out of committee.

Sen. Groh asked if the committee wished to hear any more public testimony on the ad valorem tax bill, to which Sen. Butrovich said there would be no more delegates from Fairbanks to testify. Sen. Groh thought the committee should address itself to the question of the ad valorem tax. Sen. Palmer noted this would be necessary to clear up the litigation, and was of primary importance. Committee discussion followed.

The meeting adjourned at 2:15 P.M.

SENATE FINANCE COMMITTEE
November 6, 1973
9:15 A. M.

PRESENT: All members. John E. Havelock, Attorney General; Wilson L. Condon, Assistant Attorney General. Interested members of the Senate, House of Representatives, oil industry, local government and administration. Steve Weiner, reporter.

Sen. Groh called the meeting to order.

Sen. Butrovich withdrew his motion of the previous day. Sen. Groh said the ad valorem tax was essentially part of the Governor's program, and without passage of the ad valorem bill the whole program would be seriously jeopardized. The committee was prepared to take both bills promptly, possibly reporting them from committee on this day. Some of the committee members felt strongly to finish SB 3 before going on to SB 1; therefore, Sen. Groh said the

CSSB 3 committee would address CS for SENATE BILL NO. 3 (An Act relating to leases of rights-of-way over state land for the transportation of oil, products or natural gas).

Sen. Groh said the committee should consider the philosophy of the provisions in SB 3 as to what the state could control. If the provisions were not in the regulatory power of the state, they should not be put into provisions of the lease.

Sen. Ray said the state wants to have as much control over the right-of-way lease as possible, and he suggested an addition to the declaration of policy to be added as a second paragraph. Copies of the addition were distributed to committee members, who discussed the wording. Sen. Groh moved to amend the addition to read "The State of Alaska reserves unto intself all rights, powers, privileges and immunities. . . ." No objection, so ordered. Mr. Condon said there would be no legal problem with the addition, and he didn't believe the declaration of policy to be unconstitutional. Sen. Ray moved and asked unanimous consent to add this as a second paragraph to the declaration of policy, as amended. No objection, so ordered.

Referring to the Senate Resources Committee Substitute, Section 1, Mr. Condon said the language proposed in the CS was very much of an improvement over the administration's original proposal. Sen. Ray moved the adoption of the Resources CS, Section 1, and asked unanimous consent. No objection, so ordered.

Sen. Palmer moved to adopt Section 2 of the Resources CS, to which Sen. Lewis objected. Mr. Condon said Sec. 2 and Sec. 3 go together, and if they are read as exercises of regulatory power with discretion granted to the commissioner rather than as covenants of the lease, they are acceptable. He would object to the manner in which they were presented in the draft if written as covenants in the lease. Both sections do appear, in some form, in the regulatory act, Mr. Condon added. Sen. Palmer said the sections strengthen the position of the state and should remain, with the deletion of "30 and" on page 2, line 22. Mr. Havelock said there was a possibility that the sections could remain by the addition of a caveat such as in the House Committee Substitute. Sen. Palmer noted the impact of the caveat would mean the sections would not apply in this bill, but apply only in the regulatory act. Sen. Lewis moved to adopt the caveat as suggested by Mr. Havelock, which motion failed by a vote of 5 to 2. Sen. Palmer moved to adopt the Senate Resources CS, Sections 2 and 3, with the amendment to delete "30 and" on page 2, line 22. Motion passed by a vote of 5 to 2.

Sen. Groh referred to Sec. 4 of the Senate Resources CS, to which Mr. Havelock said there was no objection. Sen. Groh questioned sub-section (e), line 16, as placing an undue requirement on who will be employed to operate the pipeline. Sen. Palmer said this sub-section would apply to people who can be determined at the time of the lease. Mr. Condon said the provision did not accomplish anything and would impose administrative problems on the Commissioner of Natural Resources which would be unnecessary. Sen. Palmer stated it could be of value to the state in the future. Mr. Havelock said his concern was not with the litigation between the owner/operator and the state, but with third parties as this sub-section created a base for them to argue the lease was illegal.

The meeting recessed at 9:55 A.M.

AFTER RECESS
10:30 A.M.

PRESENT: All members. John E. Havelock, Attorney General; Wilson L. Condon, Assistant Attorney General. Interested members of the Senate, House of Representatives, oil industry, local government and administration. Steve Weiner, Joe LaRocca, Elaine Mitchell, reporters.

CSSB 3

Sen. Groh called the meeting to order for further discussion of CS for SENATE BILL NO. 3 (An Act relating to leases of rights-of-way over state land for the transportation of oil, products or natural gas).

Sen. Croft was present to testify on Sec. 4, sub-section (e), which was written in 1972. Sen. Croft said they didn't know at the time who would apply for the lease. Alyeska, as owner/operator, would keep accounts on the line, but Exxon, Mobil, etc., should apply. The provision applied to those people who actually had a decision over the way the pipeline was operated, and the state was sure by retain control by covering everyone. Sen. Groh noted the difficulty was with the words "planning to own" and "to be employed", and asked who that would be five years from now. Mr. Havelock said he was confident all the owner companies were on the lease, but the question was if operator companies should be on the lease. He suggested references be deleted to "owning or planning to own" and suggested new language. Sen. Lewis moved to strike "or planning to own" and add the new language suggested by the Attorney General. Sen. Ray asked for division of the question. Sen. Groh asked those in favor of striking "or planning to own." Motion failed by a vote of 4 to 3. Sen. Groh asked those in favor of the addition of the Attorney General's language. Motion carried by a vote of 5 to 2.

Section 5 was accepted by the committee.

Section 6 was referred to by Sen. Groh, and Mr. Condon suggested a change in sub-section (1)."..the daily newspaper of general circulation published nearest the location . . ." to ". . . a daily newspaper of general circulation published in the vicinity. ." Sen. Ray moved the adoption of this amendment and there was no objection. Sen. Palmer moved the adoption of Section 6, as amended. No objection, so ordered.

Sen. Groh referred to Section 7. Mr. Condon said there was no objection. Section 7 was approved.

Sen. Palmer moved the adoption of Section 8 and asked unanimous consent. Sen. Groh objected and suggested Section 8 be struck

from the bill, and existing law be preserved. Sen. Groh moved and asked unanimous consent to delete the Senate Resources CS Section 8 from the bill. No objection, so ordered.

The committee referred to Section 9. Mr. Condon urged the adoption of language from the original bill, since the section concerned decision on applications and the original bill spelled out to the commissioner exactly what to do. Sen. Groh compared the Senate Resources CS to the original bill. Sen. Sackett explained the philosophy of the Resources Committee was to accept the 1972 language, since their main interest was in changing the areas involved in litigation. Sen. Palmer said, in working with Mr. Condon, the Resources Committee eliminated "certificate" due to its mention in litigation. Mr. Condon said he had stated to the Resources Committee his objection to the words "public interest" and asked at that time to adopt the original administration version of SB 3. Sen. Palmer noted the Resource Committee felt strongly that the words "public interest" should remain. Sen. Palmer moved to adopt Sec. 9 from the Resources CS. Committee discussion followed. Sen. Palmer suggested holding this section for later discussion.

Section 10, closely related to Section 9, was held over for discussion later in the day also.

Section 11: Sen. Ray moved and asked unanimous consent for the adoption of Resources CS Section 11. No objection, so ordered.

Section 12: Mr. Condon stated the only problem was on page 6, lines 18 through 25, which language applied to common purchasers and not common carriers. To attempt avoiding legal problems, sub-section (16) was a disclaimer, but not drafted adequately, added Mr. Condon. Sen. Ray asked if these lines could be grounds for litigation, to which Mr. Condon said yes. Mr. Condon said the lines could be deleted or he could submit new language. Sen. Palmer asked that this section be held for later discussion.

Mr. Condon said that sub-section (2) under Section 12 was taken from Texas law, where it applied when a number of pipelines came together. It was not included in the administration bill as there was no need for it. Sen. Lewis moved to delete the language. Motion failed by a vote of 2 in favor, 5 opposed. Sen. Groh asked if the section was desirable, to which Mr. Havelock replied it was non-operative as there was no way to exchange oil.

Referring to sub-section (3), Mr. Havelock said the option to compel a preferred purchase price for the state was subject to litigation. Mr. Havelock suggested the section pertaining to