

COMMITTEE REPORT

4/16/76

HOUSE

Mr. Speaker:

Date May 6 1976

The Committee on FINANCE has had S B 511

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT
CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____
COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

| | | |
|--------------------|--------------------|-------|
| <u>[Signature]</u> | <u>[Signature]</u> | _____ |
| _____ | _____ | _____ |
| <u>[Signature]</u> | _____ | _____ |
| <u>[Signature]</u> | _____ | _____ |

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

Introduced: 1/15/76
Referred: Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 511

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the administration and enforcement
7 of state revenue laws; and providing for an effective
8 date."

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

10 * Section 1. AS 43.05 is amended by adding new sections to read:

11 Sec. 43.05.260. LIMITATION ON ASSESSMENT. (a) Except as pro-
12 vided in AS 43.20.200(b), the amount of a tax imposed by this title
13 must be assessed within three years after the return was filed,
14 whether or not a return was filed on or after the date prescribed by
15 law. If the tax is not assessed before the expiration of the three-
16 year period, no proceedings may be instituted in court for the collec-
17 tion of the tax.

18 (b) For purposes of this section, a return filed before the last
19 day prescribed by law or regulation is considered as filed on the last
20 day.

21 (c) The following exceptions apply to the limitation period
22 under (a) of this section:

23 (1) in the case of a false or fraudulent return with the
24 intent to evade tax, the tax may be assessed, or a proceeding in court
25 for collection of the tax may be begun without assessment, at any
26 time;

27 (2) in the case of a failure to file a return, the tax may
28 be assessed, or a proceeding in court for the collection of the tax
29 may be begun without assessment, at any time;

1 (3) if, before the expiration of the time prescribed in
2 this section for the assessment of a tax imposed by this title,
3 both the department and the taxpayer have consented in writing to the
4 assessment after the expiration of the time, the tax may be assessed
5 at any time before the expiration of the period agreed upon; however,
6 the period agreed upon may be extended by a subsequent agreement in
7 writing made before the expiration of the period previously agreed
8 upon.

9 Sec. 43.05.270. COLLECTION AFTER ASSESSMENT. (a) When the
10 assessment of a tax imposed by this title has been made within the
11 period of limitation under sec. 260 of this chapter, the tax may be
12 collected by levy or by a proceeding in court, but only if the levy is
13 made or the proceeding is begun:

14 (1) within six years after the assessment of the tax; or

15 (2) before the expiration of any period for collection
16 agreed upon in writing by the department and the taxpayer before the
17 expiration of the six-year period; any period agreed upon may be
18 extended by subsequent agreements in writing made before the expiration
19 of the period previously agreed upon; the period provided by this
20 paragraph during which a tax may be collected by levy may not be
21 extended or curtailed because of a judgment against the taxpayer.

22 (b) The date on which a levy on property or right to property is
23 made is the date on which the notice of seizure is given.

24 Sec. 43.05.280. INTEREST ON OVERPAYMENTS. (a) Interest shall
25 be allowed and paid on any overpayment of a tax under this title at
26 the rate of eight per cent a year.

27 (b) Interest shall be allowed and paid as follows:

28 (1) in the case of a credit, from the date of the over-
29 payment to the due date of the amount against which the credit is

1 taken;

2 (2) in the case of a refund, from the date of the over-
3 payment to a date, as determined by the department, preceding the date
4 of the refund check by not more than 30 days, whether or not the
5 refund check is accepted by the taxpayer after tender of the check to
6 the taxpayer; the acceptance of the refund check does not affect the
7 right of the taxpayer to claim any additional overpayment and interest
8 on the overpayment.

9 (c) If any overpayment of a tax imposed by this title is refunded
10 within 90 days after the last date prescribed for filing the return of
11 the tax, determined without regard to any extension of time for
12 filing the return, or if the return is filed after the last filing
13 date and the overpayment is refunded within 90 days after the date the
14 return is filed, no interest may be allowed under (a) of this section
15 on that overpayment.

16 * Sec. 2. AS 43.10.030 is amended to read:

17 Sec. 43.10.030. DISTRAINT ON [PERSONAL] PROPERTY EXTENDED TO ALL
18 STATE REVENUE STATUTES. The remedy of distraint on [PERSONAL] pro-
19 perty, set out in AS 43.20.270, applies to all state revenue statutes
20 existing or hereafter enacted for the collection of taxes and license
21 fees.

22 * Sec. 3. AS 43.10 is amended by adding a new section to read:

23 Sec. 43.10.035. LIEN. (a) If any person who is liable to pay a
24 tax or license fee under this title neglects or refuses to pay the tax
25 or license fee after demand, the amount, including interest, additional
26 amount, or assessable penalty, together with costs, is a lien in favor
27 of the state upon all property and right to property, real or personal,
28 belonging to that person.

29 (b) Unless specifically provided otherwise by law, the lien

1 imposed by this section arises at the time the assessment is made and
2 continues until the amount assessed is paid or a judgment against the
3 taxpayer arising out of the liability is satisfied.

4 * Sec. 4. AS 43.20.230, 43.31.211, 43.31.270, 43.50.120, 43.55.070,
5 43.56.170, 43.58.140, 43.65.040, 43.65.050(e), 43.70.070(a), and 43.75.050(e)
6 are repealed.

7 * Sec. 5. This Act is retroactive to January 1, 1976.

8 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
9 10.070(c).

SB 511

The Honorable Chancy Croft
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

In accordance with AS 24.30.061(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill which provides uniform administrative and enforcement provisions for all of the State's tax statutes.

Presently, there are no uniform provisions regarding the assessment and collection of taxes, the imposition of liens, and interest on overpayments. In some cases there are no provisions and in other cases the provisions conflict depending upon the type of tax involved.

The bill sets a uniform limitation period for assessment and collection of tax. The bill provides generally that in the absence of fraud the State would have to make an assessment of tax within 3 years after a tax return is filed and make collection of the tax within 6 years after assessment or the action would be barred. With the exception of the income tax, estate tax, and motor fuel tax statutes, there are presently no limitation periods on assessment or collection of taxes. This change in the statutes would help to achieve uniform tax administration and assure timely assessment and collection of taxes.

The bill also provides that the State would pay interest of 8 per cent on overpayments if they are not refunded within 90 days after the overpayment arose. Presently, the State only pays interest on overpayments of income tax. This change would set a fair and uniform system for all taxes.

Provision is also made for a uniform lien statute. Presently, the lien provisions conflict among the tax statutes and in some cases there are no lien provisions at all.

In addition, the bill repeals several sections in AS 43 which would conflict with the uniform administrative provisions set out in the bill.

Sincerely,

Jay S. Hammond
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE
Second Session - Ninth Legislature

I. REQUEST
 Bill No. Senate Bill No. 511
 Title: Administration and Enforcement of State Revenue Laws
 Requested by: Senate Finance Committee Date: 1/26/76
 Return Date Requested: 1/21/76
 Agency: Revenue Program: Enforcement

II. FISCAL DETAIL
 Budget Request Unit(s) Affected: _____
 A. EXPENDITURES: (Thousands of dollars)

| OBJECT | FY 76 | FY 77 | FY 78 | FY 79 | FY 80 | FY 81 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | None | None | None | None | None | None |

B. FUNDING: (Thousands of dollars)

| | | | | | | |
|---------------|--|--|--|--|--|--|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |

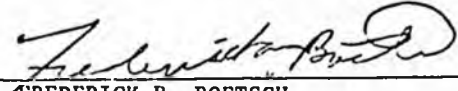
C. POSITIONS:

| | | | | | | |
|---------------------|---|---|---|---|---|---|
| PERMANENT/TEMPORARY | / | / | / | / | / | / |
| MAN MONTHS (P./T.) | / | / | / | / | / | / |

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. ATTACHMENTS

See memorandum dated January 8, 1976 from Frederick P. Boetsch, Deputy Commissioner to Sterling Gallagher, Commissioner of Revenue.

V. DATE: 1/26/76 PREPARED BY: 
 FREDERICK P. BOETSCH
 Deputy Commissioner

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

MEMORANDUM

State of Alaska

TO: Sterling Gallagher
 Commissioner
 Department of Revenue

DATE: January 12, 1976

FILE NO:

TELEPHONE NO:

FROM: Frederick P. Boetsch
 Deputy Commissioner, Taxation
 Department of Revenue

SUBJECT: Governor's Bill for Administrative Uniformity in the Tax Laws

This bill continues the move that we started with HB 211 in last year's session to provide for Administrative Uniformity of all the State's tax laws. In this measure, the subjects of assessment and collection procedures are covered. The purpose of the bill is to eliminate the multiplicity of procedures that are followed presently by having separate and different procedures for each of the different tax types that we administer. This bill will repeal those common sections of the various tax laws and place one consistent and uniform set of rules under the Administrative Chapter of Title 43. There is no budgetary or treasury effect of this measure that can be measured directly although easier compliance by taxpayers and smoother administration should result from this uniformity.

cc: Ralph Kimlinger, Director
 Enforcement Division

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| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | | | | | |
| TOTAL | None | None | None | None | None | None |

B. FUNDING: (Thousands of dollars)

| | | | | | | |
|---------------|--|--|--|--|--|--|
| GENERAL FUND | | | | | | |
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| OTHER | | | | | | |

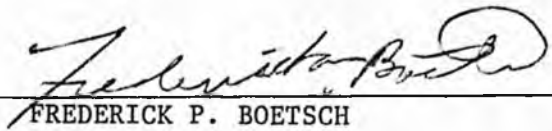
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| | | | | | | |
|---------------------|---|---|---|---|---|---|
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Original: Legislative Finance
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Department of Revenue

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cc: Ralph Kimlinger, Director
Enforcement Division

Introduced: 1/15/76
Referred: Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

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4 NINTH LEGISLATURE - SECOND SESSION

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15 law. If the tax is not assessed before the expiration of the three-
16 year period, no proceedings may be instituted in court for the collec-
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19 day prescribed by law or regulation is considered as filed on the last
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2 this section for the assessment of a tax imposed by this title,
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7 * Sec. 5. This Act is retroactive to January 1, 1976.

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9 10.070(c).

COMMITTEE REPORT

SENATE

Referred: 1/15/76

Mr. President:

Date 1/27/76

The Committee on Finance has had SE 511
(admin and enforcement of state revenue laws)
under consideration. A Majority of the members of the Committee

- recommends it DO PASS
- recommends it DO NOT PASS
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- recommends it BE REPLACED WITH CS FOR _____ AND THAT
CS FOR _____ DO PASS
- "and" recommends it BE REFERRED TO THE _____
COMMITTEE
- reports it back WITHOUT RECOMMENDATION
- "other"

Members signing the Majority report:

| | | |
|-------|-------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

JAN 15 1976

SB 511

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11 Sec. 43.05.260. LIMITATION ON ASSESSMENT. (a) Except as pro-
12 vided in AS 43.20.200(b), the amount of a tax imposed by this title
13 must be assessed within three years after the return was filed,
14 whether or not a return was filed on or after the date prescribed by
15 law. If the tax is not assessed before the expiration of the three-
16 year period, no proceedings may be instituted in court for the collec-
17 tion of the tax.

18 (b) For purposes of this section, a return filed before the last
19 day prescribed by law or regulation is considered as filed on the last
20 day.

21 (c) The following exceptions apply to the limitation period
22 under (a) of this section:

23 (1) in the case of a false or fraudulent return with the
24 intent to evade tax, the tax may be assessed, or a proceeding in court
25 for collection of the tax may be begun without assessment, at any
26 time;

27 (2) in the case of a failure to file a return, the tax may
28 be assessed, or a proceeding in court for the collection of the tax
29 may be begun without assessment, at any time;

1 (3) if, before the expiration of the time prescribed in
2 this section for the assessment of a tax imposed by this title,
3 both the department and the taxpayer have consented in writing to the
4 assessment after the expiration of the time, the tax may be assessed
5 at any time before the expiration of the period agreed upon; however,
6 the period agreed upon may be extended by a subsequent agreement in
7 writing made before the expiration of the period previously agreed
8 upon.

9 Sec. 43.05.270. COLLECTION AFTER ASSESSMENT. (a) When the
10 assessment of a tax imposed by this title has been made within the
11 period of limitation under sec. 260 of this chapter, the tax may be
12 collected by levy or by a proceeding in court, but only if the levy is
13 made or the proceeding is begun:

14 (1) within six years after the assessment of the tax; or

15 (2) before the expiration of any period for collection
16 agreed upon in writing by the department and the taxpayer before the
17 expiration of the six-year period; any period agreed upon may be
18 extended by subsequent agreements in writing made before the expiration
19 of the period previously agreed upon; the period provided by this
20 paragraph during which a tax may be collected by levy may not be
21 extended or curtailed because of a judgment against the taxpayer.

22 (b) The date on which a levy on property or right to property is
23 made is the date on which the notice of seizure is given.

24 Sec. 43.05.280. INTEREST ON OVERPAYMENTS. (a) Interest shall
25 be allowed and paid on any overpayment of a tax under this title at
26 the rate of eight per cent a year.

27 (b) Interest shall be allowed and paid as follows:

28 (1) in the case of a credit, from the date of the over-
29 payment to the due date of the amount against which the credit is

1 taken;

2 (2) in the case of a refund, from the date of the over-
3 payment to a date, as determined by the department, preceding the date
4 of the refund check by not more than 30 days, whether or not the
5 refund check is accepted by the taxpayer after tender of the check to
6 the taxpayer; the acceptance of the refund check does not affect the
7 right of the taxpayer to claim any additional overpayment and interest
8 on the overpayment.

9 (c) If any overpayment of a tax imposed by this title is refunded
10 within 90 days after the last date prescribed for filing the return of
11 the tax, determined without regard to any extension of time for
12 filing the return, or if the return is filed after the last filing
13 date and the overpayment is refunded within 90 days after the date the
14 return is filed, no interest may be allowed under (a) of this section
15 on that overpayment.

16 * Sec. 2. AS 43.10.030 is amended to read:

17 Sec. 43.10.030. DISTRAINT ON [PERSONAL] PROPERTY EXTENDED TO ALL
18 STATE REVENUE STATUTES. The remedy of distraint on [PERSONAL] pro-
19 perty, set out in AS 43.20.270, applies to all state revenue statutes
20 existing or hereafter enacted for the collection of taxes and license
21 fees.

22 * Sec. 3. AS 43.10 is amended by adding a new section to read:

23 Sec. 43.10.035. LIEN. (a) If any person who is liable to pay a
24 tax or license fee under this title neglects or refuses to pay the tax
25 or license fee after demand, the amount, including interest, additional
26 amount, or assessable penalty, together with costs, is a lien in favor
27 of the state upon all property and right to property, real or personal,
28 belonging to that person.

29 (b) Unless specifically provided otherwise by law, the lien

1 imposed by this section arises at the time the assessment is made and
2 continues until the amount assessed is paid or a judgment against the
3 taxpayer arising out of the liability is satisfied.

4 * Sec. 4. AS 43.20.230, 43.31.211, 43.31.270, 43.50.120, 43.55.070,
5 43.56.170, 43.58.140, 43.65.040, 43.65.050(e), 43.70.070(a), and 43.75.050(e)
6 are repealed.

7 * Sec. 5. This Act is retroactive to January 1, 1976.

8 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
9 10.070(c).