

COMMITTEE REPORT

HOUSE

(11)

FURTHER:

1/23/85

Date: _____

The Committee on FINANCE has had HB 106

"An Act making technical amendments relating to state taxation; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

0225 h

Introduced: 1/23/35
Referred: Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 106

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making technical amendments relating to state
7 taxation; and providing for an effective date."

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

9 * Section 1. AS 43.05.220(a) is amended to read:

10 (a) Five percent must [SHALL] be added to a tax for each 30-day
11 period or fraction of the period during which the taxpayer fails to
12 file at the time or times required by law or regulation a return or
13 report, [OR PAY THE FULL AMOUNT OF THE TAX, OR A PORTION OR A DEFICI-
14 CIENCY OF THE TAX, AS FINALLY DETERMINED BY THE DEPARTMENT AND
15 REQUIRED BY THIS TITLE,] unless it is shown that the failure is due to
16 a reasonable cause and not to wilful neglect. If a taxpayer fails to
17 pay the full amount of the tax, or a portion of a deficiency of the
18 tax, as finally determined by the department and required by this ti-
19 tle, the provisions of 26 U.S.C. sec. 6651(a)(2) (Internal Revenue
20 Code) apply, except that the rate is one percent for each 30-day peri-
21 od during which the taxpayer fails to pay the required amount. The
22 total failure-to-file penalty may not exceed 25 percent of the amount
23 due; the total failure-to-pay penalty may exceed 25 percent of the
24 amount due. However, the total of all penalties under this section
25 may [THE PENALTY SHALL] not exceed 50 [25] percent in the aggregate.
26 The penalty is computed only on the unpaid balance of the tax liabil-
27 ity as determined by the department. The department shall prescribe
28 by regulation circumstances that [WHICH] constitute reasonable cause
29 for purposes of this section.

1 * Sec. 2. AS 43.05.220(e) is amended to read:

2 (e) A penalty imposed by this section must [SHALL] be collected
3 at the same time, in the same manner, and as a part of the original
4 tax. However, if the original tax is paid before neglect or fraud is
5 discovered, the penalty must [SHALL] be collected in the same manner
6 as the original tax. Except on penalties assessed under (d) of this
7 section, interest [INTEREST] may not be collected on a penalty imposed
8 by this section.

9 * Sec. 3. AS 43.20.030(a) is amended to read:

10 (a) If a corporation, or a partnership which has a corporation
11 as a partner, [OR A CORPORATION] is required to make a return under
12 the provisions of the Internal Revenue Code, it shall, within 30 days
13 after the federal return is due, [AT THE SAME TIME] file with the de-
14 partment a return setting out

15 (1) the amount of tax due under this chapter, less credits
16 claimed against the tax; and

17 (2) other information for the purpose of carrying out the
18 provisions of this chapter which the department requires.

19 * Sec. 4. AS 43.31.310 is amended to read:

20 Sec. 43.31.310. PRIMA FACIE LIABILITY FOR TAX. The estate of
21 each decedent whose property is subject to the laws of the state is
22 [CONSIDERED] prima facie liable for estate taxes under this chapter,
23 and is subject to a lien for estate taxes under this chapter [THEM] in
24 an amount that [WHICH] may be later determined to be due [AND PAYABLE]
25 on the estate as provided in this chapter. The presumption of liabil-
26 ity begins on the date of the death of the decedent and continues un-
27 til the full settlement of all taxes that [WHICH] may be found to be
28 due under this chapter, the settlement to be shown by receipts [FOR
29 ALL TAXES DUE TO BE] issued by the department for all taxes due as

1 provided for in this chapter. If [WHENEVER] it appears to the depart-
2 ment that an estate is not subject to a tax under this chapter the de-
3 partment shall issue to the executor, administrator, curator or other
4 personal representative, or to the heirs, devisees, or legatees of the
5 decedent, a certificate in writing to that effect, showing nonliabil-
6 ity for [TO] tax. A [, WHICH] certificate of nonliability has the
7 same effect as a receipt showing payment. A [THE] certificate of non-
8 liability may be recorded [IS SUBJECT TO RECORD] and is admissible in
9 evidence in like manner as receipts showing payment of taxes. [THERE
10 SHALL BE PAID TO THE DEPARTMENT A FEE OF \$2.50 FOR EACH CERTIFICATE SO
11 ISSUED.]

12 * Sec. 5 AS 43.50.060 is amended to read:

13 Sec. 43.50.060. REFUNDS. The department may not refund the li-
14 cense fee upon the surrender or revocation of a license. The depart-
15 ment may refund a license fee that is paid or collected in error. If
16 a license is lost, destroyed, or defaced, the department may issue a
17 duplicate license [UPON PAYMENT OF A FEE OF 50 CENTS].

18 * Sec. 6. AS 43.75.055 is amended to read:

19 Sec. 43.75.055. SECURITY FOR COLLECTION OF TAXES. Each appli-
20 cant for a license under this chapter shall, in or with the applica-
21 tion, state under oath the amount of each of the products that [WHICH]
22 the applicant expects to produce during the license year. The appli-
23 cant shall further state the extent of lienable real property owned by
24 the applicant in the state against which the tax may be collected and
25 other information regarding the [WITH RESPECT TO] description, loca-
26 tion and value of the property that [WHICH] the department prescribes.
27 If the lienable value of the property is not equal to three times the
28 amount of the tax for which the applicant will probably be liable un-
29 der this section, the department may not issue the license until the

1 applicant files with the department a surety bond approved by the at-
2 torney general in a penal sum equal to twice the probable amount of
3 the tax for which the applicant will be liable, conditioned upon pay-
4 ment of the tax in full when due, with interest if not paid before de-
5 linquency. [HOWEVER, IF THE APPLICANT PURCHASES SALMON FOR EXPORT
6 FROM ALASKA IN THE ROUND, THE AMOUNT OF THE BOND IS \$50,000 UNLESS THE
7 APPLICANT IS THE OWNER OF LIENABLE REAL PROPERTY IN THE STATE OF A
8 VALUE OF AT LEAST \$50,000, AND THE BOND MUST BE CONDITIONED UPON PAY-
9 MENT TO THE FISHERMAN OF THE FULL PURCHASE PRICE FOR THE SALMON AND
10 THE PAYMENT OF THE TAX IN FULL WHEN DUE.] The department may waive
11 the bond requirement if the applicant posts other security in the form
12 of collateral acceptable to the department or prepays the estimated
13 tax.

14 * Sec. 7. AS 43.56.160 is repealed.

15 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
16 10.070(c).



NB106

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 23, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to make a number of technical amendments to Title 43, the Revenue and Taxation Code.

A section-by-section analysis, explaining the bill in more detail, follows.

SECTION-BY-SECTION ANALYSIS

Section 1:

Section 1 reduces the late payment penalty to one percent for each 30-day period. The penalty is currently five percent. It also increases the total late payment and late filing penalty to 50 percent in the aggregate from 25 percent in the aggregate.

This amendment is needed to bring the penalties assessed by the state more in line with those assessed by the Internal Revenue Service (IRS). By reducing the payment penalty rate, taxpayers with financial problems are given a break. However, ultimate payment incentives are increased by the increased penalty maximums.

Section 2:

Section 2 reinstates interest accruals on trust fund penalty assessments, specifically withholding, salmon enhancement, and motor fuel taxes, against the responsible individuals. The federal court in Matter of Sotelo, 551 F.2d 1090 (7th Cir. 1977), has determined that this is not a penalty per se but represents the actual tax evaded or defeated. As a tax, it would bear interest. Under IRC sec. 6672, the IRS

charges interest, but not accruing-type penalties, on these assessments. The state was able to charge interest under the old statutory authority of AS 43.20.335(g) and (j) before all penalty statutes were consolidated by ch. 113, SLA 1980. The current provisions eliminate any incentive the taxpayer may have for prompt payment. The amendment will restore that incentive.

Section 3:

Section 3 amends AS 43.20.030(a) to allow corporations 30 days after the federal due date to file their Alaska income tax returns.

Since Alaska taxable income is closely tied to federal taxable income, it is important that the federal taxable income be finally determined before the Alaska return is prepared. This additional 30 days will give tax preparers the time necessary to complete the Alaska return after they complete the federal return. This change will not affect the due dates for tax payments.

Section 4:

Section 4 amends AS 43.31.310. Currently a \$2.50 fee is charged for each certificate issued by the department declaring that an estate is not subject to tax under AS 43.31. The \$2.50 fee is a nuisance and its elimination would result in only a negligible loss of revenue. Section 4 also makes several minor style amendments in AS 43.31.310.

Section 5:

Section 5 amends AS 43.50.060. If a cigarette business license is lost, the department may issue a duplicate license only upon payment of a fee of \$.50. The handling of the \$.50 fee is also a nuisance. The amendment to AS 43.50.060 eliminates the \$.50 fee requirement.

Section 6:

Section 6 would reestablish bonding equity for fisheries business entities.

Under the current provisions, the small processor is required to file a \$50,000 bond, which may greatly exceed any potential liability. Accordingly, this is an undue burden on the small operator.

Current provisions also contain a "loophole" for large operators. Some operators do a small amount of salmon in-the-round business in order to qualify for the \$50,000 bonding requirement. This requirement is often substantially less than the amount of the bond which would have to be posted under the general provisions. The general provisions require a bond of three times the probable tax liability.

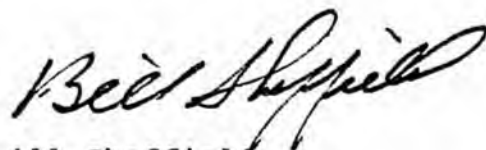
By amending this section, the general provisions would apply in all cases.

Section 7:

Section 7 repeals AS 43.56.160. This action would make the interest and penalty provisions for oil and gas exploration, production and pipeline transportation property taxes consistent with interest and penalties charged for other taxes under AS 43.05.220. The repeal of AS 43.56.160 would mean that AS 43.05 provisions for penalty and interest would also apply to AS 43.56 taxes.

Penalty maximums would increase, and the interest would increase to 12 percent from 8 percent. This would result in a minimal increase in revenues since there are very few property tax delinquencies. However, in those few cases, the incentives for payment would increase.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 12/5/84

REQUEST

Bill/Resolution No: HB 106
Title: An Act making technical amendments related to state taxation
Sponsor: _____
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Revenue
Program Category Affected: General Government
BRU, Program or Subprogram(s) Affected: Enforcement, Audit, Public Services, Petroleum Revenue

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-0-	-0-	-	-	-	-
CAPITAL	-0-	-0-	-	-	-	-
REVENUE	-0-	-0-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-0-	-0-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis.

Prepared By: Thomas C. Williams, Director
Division: Enforcement Division

Phone: 465-2366
Date: December 5, 1984

Approved by Commissioner: _____
Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Department of Revenue
Analysis of Technical Amendments Bill

December 5, 1984

HB 106 - 292

This bill amends and repeals miscellaneous revenue statutes (AS 43) relating to penalties, interest, filing deadlines, fees charged, and bonding requirements. The various sections of this legislation effect four operating divisions within the Department; Enforcement (sections 1 and 2), Audit (sections 1, 2, and 3), Public Services (sections 4, 5, and 6), and Petroleum Revenue (section 7). Please refer to the Governor's transmittal letter for a section by section analysis.

Program Summary

No new positions are created by any of the sections. No additional funding or expenditures are required. Computer capability already exists for all updating of proposed penalty and interest changes, with only minor in-house adjustment needed.

The changes in revenue are indeterminable, but relatively insignificant.

Economic Impact

This legislation has no impact on the State's economy.

Impact on Local Governments

This legislation has no impact on local government.

ALASKA STATE LEGISLATURE

14th ... Legislature **FIRST** ... Session

BILL
HOUSE NO. ...106..

By **THE RULES COMMITTEE BY...**
REQUEST OF THE GOVERNOR

"An Act making technical amendments relating to state taxation; and providing for an effective date."

Amend. State Taxation

Introduced in the House ...1/23..., 19.85.

HISTORY IN THE HOUSE

19	85	Read first time and referred to Committee on
Jan.	23	FINANCE
		Reported back with recommendation that
		Read second time and
		Read third time and
		PASS Effective Date
		Yeas Yeas
		Nays Nays
		Absent Absent
		Excused Excused
		Reconsideration
		PASS Effective Date
		Yeas Yeas
		Nays Nays
		Absent Absent
		Excused Excused
		Reported correctly engrossed
		Signed by Speaker
		Sent to Senate
CHIEF CLERK OF THE HOUSE		

HISTORY IN THE SENATE

19		Read first time and referred to Committee on
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		Read second time and
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		Reported correctly engrossed
		Signed by President
		Returned to House
SECRETARY OF THE SENATE		

HISTORY IN THE HOUSE

19		Received from Senate
		Concurred in Senate amendment thus adopting: VOTE
		Failed to concur in Senate amendment; asked Senate to recede VOTE
		Senate receded from amendment VOTE
		Senate failed to recede from amendment VOTE
		CC appointed by House
		CC appointed by Senate
		CC adopted by House VOTE
		CC adopted by Senate VOTE
		To enrolling Reported correctly enrolled Sent to Governor by Governor
		Filed with Lt. Governor
		Chapter No.

Introduced: 1/23/85
Referred: Finance

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19 tle, the provisions of 26 U.S.C. sec. 6651(a)(2) (Internal Revenue
20 Code) apply, except that the rate is one percent for each 30-day peri-
21 od during which the taxpayer fails to pay the required amount. The
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26 ity begins on the date of the death of the decedent and continues un-
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29 ALL TAXES DUE TO BE] issued by the department for all taxes due as

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