

SB 158

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 22, 1991

FURTHER REFERRALS:

Date of Committee Action: 5/6/91

The FINANCE Committee considered:

CSSB 158(FIN)(efd am)

CS FOR SENATE BILL NO. 158 (FINANCE)(efd am)

INTEREST RATE/DUE DATE: TAXES & ROYALTIES

"An Act relating to the interest rate on unpaid and overpaid taxes and to the due dates for and interest on unpaid and overpaid royalties and net profit share payments from state resources; and providing for an effective date."

RECOMMENDATIONS:

be replaced with #CS CSSB 158(FIN)(efd am) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) DU: Gas Audit 4/2/91

zero fiscal note _____

zero fiscal note(s) _____

SIGNING <u>DQ</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Mike Yavane</i> NAVARRE	<input checked="" type="checkbox"/>	<i>Eileen P. Maclean</i> Maclean		<input checked="" type="checkbox"/>	
<i>Jan Brown</i> BROWN	<input checked="" type="checkbox"/>	<i>Kamona Barnes</i> Barnes		<input checked="" type="checkbox"/>	
<i>Koponen</i> Koponen		<i>Red E. Phillips</i> Phillips		<input checked="" type="checkbox"/>	
<i>Jack J. Sharp</i> JACK	<input checked="" type="checkbox"/>	<i>Ben Sharp</i> Sharp		<input checked="" type="checkbox"/>	
<i>Wm. Hanson</i> Wm.	<input checked="" type="checkbox"/>				
<i>Ronald J. Lann</i> LANNON	<input checked="" type="checkbox"/>				

AGO 10050625

Mike Yavane NAVARRE
Eileen P. Maclean Maclean
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 2

Bill Version: CSSB 158(F.N)

(S) Publish Date: 4/2/91

**STATE OF ALASKA
1991 LEGISLATIVE SESSION**

Revision Date: March 28, 1991 Department Affected: Revenue
 Title: "An Act relating to the Interest BRU: _____
 Rate on Unpaid & Overpaid Taxes..." Component: _____
 Sponsor: Senate Rules/Governor
 Requestor: _____ COMPONENT SERIAL NO.

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Expenditures/Revenue: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	52,000	72,000	94,000	118,000	145,000	145,000
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)
 See attached.

Prepared By: Charles L. Logsdon Phone: 277-5627
 Division: Oil & Gas Audit Date: _____
 Approved by Commissioner: *[Signature]*
 Agency: _____ Date: 3-28-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Fiscal Note Analysis of Bill to Change Interest Rate Statute

This bill would make two fundamental changes in the interest rate on unpaid and overpaid taxes and royalties from state resources. First, instead of a fixed rate of 12 percent the interest rate would be set at 5 percentage points above the rate charged member banks for short term advances by the 12th Federal Reserve District effective the first day of the calendar quarter, or a fixed rate of 11 percent, whichever is greater. Second, instead of simple annual interest, interest will be computed on a quarterly compounded basis as of the effective date. Accrued interest on taxes and royalties due prior to the effective date of this bill would be subject to compounding.

The short term rate quoted by the 12th Federal Reserve District in effect on March 1, 1991 was 6.0%. This means that under this bill, if the current rate does not change on or before July 1, the applicable rate would be 11% for the third quarter of 1991, the first quarter effected by this bill.

Obviously the current floating rate is lower than the current law provides. However, the real impact of the proposed change contained in this bill is in the change from simple to compounded interest. Because the interest on outstanding taxes or royalties due and accrued interest prior to the effective date is charged interest quarterly, the amount of interest due builds at an accelerating rate over time.

The revenue impact outlined in this Fiscal Note assumes an interest rate of 11 percent, \$1000 million in overdue/overpaid taxes or state royalties and accrued interest of \$500 million. This is roughly 50% of current outstanding tax assessments plus interest, a conservative assumption to allow for partial resolution and payments. The following table shows the impact for other higher interest rates possible under this bill.

Analysis of CS SB158
 March 28, 1991
 Page 2

Compound Interest Example for Interest Statute
 (Millions \$)

Amount Overdue/Overpaid = 1000
 Prior Accrued Interest = 500

	CURRENT INTEREST DUE (12% SIMPLE)	PROPOSED INTEREST LAW DUE (FED DIS + 5% COMP QUART)					
		11% Dif	12% Dif	13% Dif	14% Dif	15% Dif	16% Dif
Year 1	120	172	52	188	68	205	85
2	120	192	72	212	92	233	113
3	120	214	94	238	118	264	144
4	120	238	118	268	148	300	180
5	120	268	145	303	183	341	221
Total	600	1081	481	1210	610	1344	744

As can be seen from the table, the use of compounding can be a powerful additional monetary incentive to speed the resolution of disputes over the correct amount of taxes.

HOUSE CS FOR CS FOR SENATE BILL NO. 158 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE RUL/S\GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the interest rate on unpaid and overpaid taxes and to the due dates
 2 for and interest on unpaid and overpaid royalties and net profit share payments from
 3 state resources; and providing for an effective date."

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

5 * Section 1. AS 38.05.135 is amended by adding new subsections to read:

6 (c) Payment of a royalty or a net profit share payment to the state under a lease issued
 7 under AS 38.05.135 - 38.05.181 becomes due on the date and in the manner specified in the lease
 8 or in a regulation adopted by the commissioner.

9 (d) If a royalty or net profit share payment to which the state is entitled under
 10 AS 38.05.135 - 38.05.181 is not paid when it becomes due under (c) of this section, the royalty
 11 or payment bears interest in a calendar quarter at the rate of five percentage points above the
 12 annual rate charged member banks for advances by the 12th Federal Reserve District as of the
 13 first day of that calendar quarter, or at the annual rate of 11 percent, whichever is greater,
 14 compounded quarterly as of the last day of that quarter.

1 (e) Interest at the rate and in the manner provided in (d) of this section shall be allowed
2 and paid on an overpayment of a royalty or net profit share payment made under AS 38.05.135 -
3 38.05.181.

4 * Sec. 2. AS 43.05.225 is amended to read:

5 Sec. 43.05.225. INTEREST [ON TAXES]. Unless otherwise provided,

6 (1) when a tax levied in this title becomes delinquent, it bears interest in a
7 calendar quarter at the rate of five percentage points above the annual rate charged member
8 banks for advances by the 12th Federal Reserve District as of the first day of that calendar
9 quarter, or at the annual rate of 11 percent, whichever is greater, compounded quarterly
10 as of the last day of that quarter;

11 (2) the interest rate is 12 percent a year for

12 (A) delinquent fees payable under AS 05.15.095(c);

13 (B) arrearages for child support as provided in AS 25.27.025 unless
14 a lesser rate authorized by that section applies; and

15 (C) unclaimed property that is not timely paid or delivered, as allowed
16 by AS 34.45.470(a).

17 * Sec. 3. AS 43.05.280(a) is amended to read:

18 (a) Interest shall be allowed and paid on an overpayment of a tax under this title at the
19 rate and in the manner provided [PRESCRIBED] in AS 43.05.225(1) [AS 43.05.225].

20 * Sec. 4. AS 43.31.141 is amended to read:

21 Sec. 43.31.141. WHEN TAX DUE, EXTENSION AND INTEREST. The tax imposed
22 by this chapter is due and payable 15 months after the decedent's death [,] and shall be paid by
23 the executor to the department. If the department finds that the payment on the due date of tax
24 or any part of the tax would impose undue hardship upon the estate, the department may extend
25 the time for payment of any part, but no extension may be for more than one year and the
26 aggregate of extensions with respect to an estate may not exceed five years from the due date.
27 In that case, the amount in respect of which the extension is granted shall be paid on or before
28 the date of the expiration of the period of the extension unless a further extension is granted.
29 If the time for the payment is extended, there shall be collected, as part of this amount, interest
30 on the tax as [AT THE RATE] provided in AS 43.05.225(1) [AS 43.05.225] from the due date
31 of the tax to the date the tax is paid.

1 * Sec. 5. AS 43.55.060 is amended to read:

2 Sec. 43.55.060. DELINQUENCY. When the tax provided for in this chapter becomes
3 delinquent, it bears interest as provided [AT THE RATE PRESCRIBED] in AS 43.05.225(1)
4 [AS 43.05.225]. If any person fails to make a report required by this chapter, within the time
5 prescribed by law for the report, the department shall examine the books, records, and files of
6 the person to determine the amount and value of the production to compute the tax, and the
7 department shall add to the tax the cost of the examination, together with any penalties accrued.

8 * Sec. 6. APPLICABILITY OF COMPOUNDED INTEREST. Beginning on the effective date of
9 this Act, interest accrues on underpayments and overpayment of royalties, net profit share payments, and
10 taxes, and on any interest accrued on them before the effective date of this Act, at the rates and in the
11 manner specified in AS 38.05.135(d), added by sec. 1 of this Act, and AS 43.05.225, as amended by sec.
12 2 of this Act.

13 * Sec. 7. This Act takes effect December 31, 1991.

AGO 10050628

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

May 7, 1991

SUBJECT: HCS CSSB 158 (Finance)

TO: Representative Eileen MacLean, Co-Chair
Representative Mike Navarre, Co-Chair
House Finance Committee

FROM: Jack Chenoweth
Legislative Counsel

This is a revenue bill. Changes made by revenue bills are generally geared to the first day of the state fiscal year or of a calendar year.

It may be no more than a matter of "dotting i's" and "crossing t's" but, to be accurate and to make the agencies' administration of the provisions of this measure a little less difficult, section 7 of this bill, the effective date provision, should be rewritten to read:

* Sec. 7. This Act takes effect January 1, 1992, and applies to tax years beginning after December 31, 1991.

JBC:lmb
91-161.lmb

Enclosure

AGO 10050632

Sectional Analysis

Section 1. Clarifies the date upon which royalties are due. Sets the rate of interest for unpaid royalty payments under AS 38.05.145 - 38.05.181 at five percentage points above the rate charged member banks by the 12th Federal Reserve District, or 11 percent, whichever is higher, compounded quarterly. Without the amendment, royalty interest is determined under AS 09.30.070 (Interest on Judgments), currently 10.5%, and does not compound. If an interest rate is set in a lease, the contract rate would be unaffected by this provision. Provides that interest on overpayments is the same as interest on underpayments.

Section 2. Sets the rate of interest for unpaid taxes under AS 43 at five percentage points above the rate charged member banks by the 12th Federal Reserve District, or 11 percent, whichever is higher, compounded quarterly. Without the amendment, the rate is 12% simple interest. This statutory section has historically applied to the charitable gaming program; to the unclaimed property program; and to the child support enforcement program. The amendment retains the old 12% simple interest provision for those programs.

Section 3. Conforming amendment to ensure that interest on overpayments remains the same as interest on underpayments.

Sections 4 and 5. Conforming amendments necessary to refer other sections of the tax laws to the tax portion of the section providing for interest.

Section 6. Applies the new floating interest rate and the compounding provision to the principal of royalties and taxes that were outstanding on the effective date of the act and to interest that has accrued on those royalties and taxes on that date.

Section 7. Provides for an October 31, 1991 effective date.

ATTACHMENT #3
5/6/91
SB 158

ALASKA LEGISLATURE

Committees
JUDICIARY
LABOR & COMMERCE
BUDGET SUBCOMMITTEE
ADMINISTRATION



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JUNEAU ALASKA 99811
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ANCHORAGE
BOX 10-1776
ANCHORAGE, ALASKA 99510
3071 562-1776

Kevin "Pat" Parnell
Representative
University-Midtown, Anchorage

May 6, 1991

TO: House Finance Committee

FM: Kevin "Pat" Parnell, Member

RE: SB 158

If there is to be a phase in time on this legislation to take affect in October or sometime fairly soon I respectfully suggest the following concept be added:

BOTH PARTIES TO THE NEGOTIATION SHALL SUBMIT TO LEGISLATIVE COUNCIL THEIR UPDATE AND UNDERSTANDING OF PROGRESS MADE TOWARD SETTLEMENT.

THIS APPROACH DOES NOT PRECLUDE THIS SAME INFORMATION BEING SUBMITTED TO THE EXECUTIVE BRANCH AT THE SAME TIME.

LEGISLATIVE COUNCIL SHALL REVIEW AND DETERMINE PROGRESS. IF NEEDED, INFORMATION MAY BE MADE PUBLIC BY LEGISLATIVE COUNCIL WHICH PERTAINS TO THE MECHANICS OF PROGRESS, BUT NOT TERMS OF THE PROPOSED NEGOTIATED SETTLEMENT.

In Anchorage, the Assembly uses this approach, although somewhat more complex in arriving at this point.

My feeling is, this will eliminate each sides arguement that the other party is stalling and dragging their heels.

AGO 10050638

AMENDMENT
5/6/91
SB 158

5/6/91

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE NAVARRE

TO: CSSB 158 (Finance) (efd am)

Page 3, Line 13, amend as follows:

* Sec. 7. This Act takes effect December 31 [OCTOBER 31], 1991.