

HVB

406

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 15, 1994

FURTHER REFERRALS:

Date of Committee Action: 3/4/94

The FINANCE Committee considered:

HB 406

HOUSE BILL NO. 406

NO MUNICIPAL SALES TAXES ON AIR CARRIERS

"An Act relating to municipal sales and use taxes involving air carriers; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CSHB 406 (Fin) 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 municipal by CPA

fiscal note(s) 1 - DOR, 2/15/94

zero fiscal note DOT

zero fiscal note(s) (2) 1 - CRA, 2/15/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	X	EP Muehler		✓	
<i>[Signature]</i>	X	Mark Hanley		X	
<i>[Signature]</i>		Leslie Martin		✓	
<i>[Signature]</i>		Robert Parnell		X	
		Mike Navarre		✓	
		Lay Brown		✓	
		Tom Theriault		X	

Ronald J. [Signature]
CHAIRMAN'S SIGNATURE

CS FOR HOUSE BILL NO. 406(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE FOSTER

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to municipal taxes and fees on the air transportation of
2 individuals or goods by federally certificated air carriers; and providing for an
3 effective date."

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

5 * Section 1. AS 29.10.200 is amended by adding a new paragraph to read:

6 (53) AS 29.47.470 (air carriers).

7 * Sec. 2. AS 29.47 is amended by adding a new section to read:

8 Sec. 29.47.470. TAXES OR FEES ON TRANSPORTATION BY CERTAIN
9 AIR CARRIERS PROHIBITED. Notwithstanding other provisions of law, a
10 municipality may not levy or collect a tax or fee on the air transportation of
11 individuals or goods by a federally certificated air carrier other than a fee authorized
12 under 49 U.S.C. App 1513(b) or (e). This section applies to home rule and general
13 law municipalities.

14 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

Revision Date:
Title: No Municipal Sales Taxes on Air Carriers

Department Affected: DOT&PF
BRU:

Sponsor: Foster
Requestor:

Component:
Component Serial Number:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	0	0	0	0	0	0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY94) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary)

This bill will not directly affect any state programs; however, it will result in transportation cost savings in that an additional potential tax would be clearly prohibited.

Prepared by: Jonathan A. Widdis, Director

Phone: 266-1460

Division: Statewide Aviation

Date: February 3, 1994

Approved by Commissioner: 

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: February 8, 1994

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Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: *An Act relating to municipal sales and use taxes involving air carriers; . . .* BRU: _____
 Sponsor: Representative Foster Component: _____
 Requestor: _____ COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current (FY94) Impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Remond Henderson Director Phone: 465-4708
 Division: Administrative Services Date: 1/31/94
 Approved by Commissioner: [Signature] Deputy Commissioner: Date: 1/31/94
 Agency: Community & Regional Affairs

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FISCAL NOTE

No. 1
 Bill Version: HB 406
 (H) Publish Date: 2/15/94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

BILL NO.

Revision Date: _____ Dept. Affected: Revenue
 Title: No municipal sales taxes on air carriers BRU: Revenue Operations
 Component: Income and Excise Audit
 Sponsor: Representative Foster
 Requestor: (H) STA COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) Impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.)

This bill will have no impact on state tax revenues or operations.

Prepared by: Larry E. Meyers *Larry E. Meyers* Phone: 465-2320
 Division: Income and Excise Audit Division Date: February 2, 1994
 Approved by Commissioner: Darrel J. Rexwinkel *Darrel J. Rexwinkel* Date: February 2, 1994
 Agency: Department of Revenue

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COMMITTEE COPY

Municipal Fiscal Impact Note
(AS 24.08.035(e))

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 406
Version:

Revision Date: 2/23/94
Title: An Act relating to municipal sales and use taxes involving air carriers
Sponsor: Representative Foster

Municipalities Affected: All
Requested By: _____

Municipal Costs: (Thousands of Dollars)

Operating	FY95	FY96	FY97	FY98	FY99	FY2000
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
Total Operating						
Capital						

Funding (Thousands of Dollars)

Funding	(potential	significant	loss —see	narrative	below)
Property Taxes					
Sales Taxes					
User Fees					
Federal Receipts					
State Receipts					
Other					
Total					

Positions

Positions					
Full-Time					
Part-Time					

Analysis:

HB 406 would exempt all air carrier from sales tax for activities involving carrying of passengers or freight. There are currently 98 municipal governments which levy a sales tax. Of these, four currently levy taxes against freight, one levies against air charters and one levies against passengers.

A phone survey of municipalities by the Office of the State Assessor indicated these municipalities currently receive little revenue from these types of activities under the current reading of the law. This is partially due to the fact that the federal government levies a tax against passenger service precluding any local taxation. At the present time, the Kenai Peninsula Borough is in court on this specific issue. Many municipalities appear to be waiting for resolution of this court case before making a decision on introducing similar taxation approaches. Once a court decision is rendered, there could be significant numbers of municipalities which choose to levy some form of sales tax on air charter or "flight-seeing."

Continues on attached page.

Prepared by: Michael Cushing, Research Analyst
Division: Municipal and Regional Assistance Division
Approved by: _____
Commissioner: _____
Agency: Department of Community and Regional Affairs

Phone: 465-4751
Date: 2/23/94
Date: _____

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BILL NO. HB 406

Under the current circumstances, this bill would have little fiscal impact on local governments. However, depending on the outcome of the Kenai court case, the picture could change dramatically. If the court decides in favor of the Kenai Peninsula Borough, other municipalities are likely to follow suit and introduce similar local taxes. The City & Borough of Juneau estimates a revenue loss of about \$300,000 per year were these taxes to be permitted (by federal law) but exempted by state statutes. In this case, the revenues lost to municipalities statewide could amount to several millions of dollars per year.

Alaska House of Representatives

Richard Foster
P.O. Box 1630
Nome, Alaska 99762-1630
907-443-5036
Fax 907-443-2162



During Session
State Capitol
Juneau, Alaska 99801-1182
907-465-3789
Fax 907-465-3242

MEMORANDUM

To: Members of the House Finance Committee

From: Rep. Richard Foster

RE: Draft CS for HB 406

In response to concern over the prohibition of "use taxes" in HB 406, I am submitting the attached draft CS for consideration by the committee. The municipalities fear that "use tax" is so vague that it may interfere with the collection of landing fees, fuel flowage fees, etc. The new language contained in the attached draft eliminates "use taxes" altogether, and clearly prohibits taxation only of the transportation of individuals or goods. The air carriers support this language, and the attorney for the City of Juneau agrees that it alleviates municipal concern regarding the vagueness of "use taxes"

I am still concerned with the issue of goods which are being shipped through the various air hubs of the state being taxed at the expense of residents who reside in the smaller communities which must rely on air transportation. The Federal Government already taxes both passenger service and air transportation. Those taxes collected flow back to the states to assist with airport maintenance and construction.

In regard to narrowly defining "federally certificated air carrier", I stand opposed. The Federal Preemption Provision applies to all air carriers regulated by the FAA. Since it is the intent of this legislation to restate federal law, it would be unwise to include only those air carriers certified under Section 401 of the Federal Aviation Act as the municipalities have suggested. Doing so would merely leave open a window of opportunity for future, fruitless litigation.

8-LS1599E ✓
Cook
3/3/94

CS FOR HOUSE BILL NO. 406()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE FOSTER

A BILL

FOR AN ACT ENTITLED^{air}

1 "An Act relating to municipal taxes and fees on the transportation of individuals
2 or goods by federally certificated air carriers; and providing for an effective
3 date."

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

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8 Sec. 29.47.470. TAXES OR FEES ON TRANSPORTATION BY CERTAIN
9 AIR CARRIERS PROHIBITED. Notwithstanding other provisions of law, a
10 municipality may not levy or collect a tax or fee on the^{AIR} transportation of individuals
11 or goods by a federally certificated air carrier other than a fee authorized under 49
12 U.S.C. App 1513(b) or (e). This section applies to home rule and general law
13 municipalities.

14 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

Good Morning:

RE: CS SB 261 (TRA)

My name is Robert Jacobsen. I represent Wings of Alaska. Additionally, I received calls from some fellow air carriers who asked me to appear here this morning and give you some relevant facts.

When I first learned of this Legislation's introduction and moving through committees, I was surprised that someone felt it necessary for the State to prohibit Boroughs from levying sales taxes on the air transportation of goods and passengers because Federal law prohibits states or political subdivisions thereof from doing such a thing.

And then I recalled how many times in the last ten years that Wings has had to educate and re-educate City and Borough administrators in the jurisdictions we operate from with respect to federally-imposed uniform excise taxes on air transportation and the federal prohibition against communities implementing sales taxes.

49 USC Section 1513 reads in pertinent part: "(a) No state (or political subdivision thereof...) shall levy or collect a tax, fee, head charge, or other charge, directly or indirectly, on persons traveling in air commerce or on the carriage of persons traveling in air commerce or on the sale of air transportation or on the gross receipts derived therefrom

(b) Nothing in this section shall prohibit a state (or political subdivision thereof) from the levy or collection of taxes other than those enumerated in subsection (a) of this section, including property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services.." (emphasis added).

Thus, if Wings of Alaska were to engage in the sale of goods or services distinct from its sales of air transportation, the sales tax could be lawfully assessed. In other words, when Wings sells tee shirts, sweatshirts and coffee mugs, the sale of those goods are distinct from air transportation, therefore we must collect and remit sales tax on the sale of those goods. Additionally, when Wings purchases goods or services directly supporting our air transportation business, (i.e. fuel and maintenance) we pay appropriate sales taxes.

In considering the Airport Development Acceleration Act of 1973, the Senate Commerce Committee was concerned with primarily two issues: 1) the impact of state and local taxes, and 2) the urgent need for federal involvement to encourage local governments to construct new and improved airport facilities. More specifically, in the purposes section of Senate report No 93-12, the Committee stated:

The legislation to provide increased Federal participation in airport development grants is required because of the serious financial difficulties being experienced by many local government agencies who bear the responsibility to build, operate and maintain the nation's system of publicly-owned airports. The funds required to increase the Federal share of airport development grants will come from the Airport and Airway Trust Fund established by the Airport and Airway Revenue Act of 1970. The fund is funded from revenues from user taxes on aviation-system users and contains and will contain adequate revenues to cover the cost of the increased Federal assistance. No new taxation and no expenditure of general US funds will be required as a result of the legislation.

The bill prohibits any government agency other than the United States from establishing or levying a passenger head tax or use tax. This prohibition will ensure that passengers and air carriers will be taxed at a uniform rate - by the United States - and that local 'head' taxes will not be permitted to inhibit the flow of interstate commerce and the growth and development of air transportation.

In conclusion of Senate Report No. 93-12, the Committee stated that the bill provides that the cost of this increased Federal participation will be borne by the users of the system, not the general taxpayer. The airlines, airline passengers, and shippers, and aircraft owners and operators all contribute to the development of the system by paying user taxes established in 1970. S. 38 provides that a greater share of the revenues from these taxes will filter down to local governments - airport sponsors - to meet local and national needs.

In accepting a greater Federal role and responsibility in airport development the Committee has also acted to prohibit local taxation on passengers or on the carriage of passengers. We believe such taxation to be inimical to the development of a national system funded in large part by uniform Federal taxes.

The Committee views S. 38 as an aviation development package - the components of which cannot be separated.

Therefore, by prohibiting state taxation on passengers or on air transportation the Committee has accepted greater responsibility for U.S. assistance, believing that the two actions must be viewed together and that neither should stand alone without the other.

I am not sure which portion of this law some City administrators do not understand; it seems quite clear. Finally, a Florida Circuit Court has most recently held that Section 1113 of the Federal Aviation Act prohibits States from the taxing of air cargo and struck down the Florida provisions assessing a 5 percent tax on intrastate air freight and a 2.5 percent tax on intrastate shipments. Enclosed is a copy of the December 17, 1987, report of this case from Aviation Daily.

If I had my druthers, we would prefer to pay the Citys and Boroughs a sales tax if we did not have to pay the 10 percent Federal Excise Tax on passengers and the 1/4 percent Federal Excise Tax on cargo to the U.S. Government. However, that is not possible. The air carriers are not attempting to prohibit the local boroughs throughout our state from any of the traditional fees and taxes that we are already paying, such as landing fees and property taxes. We do believe, however, that it would be good public policy on your part to help the Boroughs interpret the Federal law so that we air carriers can quit spending time and money and further save the Boroughs' money in the legal process.

Additionally, our State is extremely dependent on air transportation. Allowing Boroughs to implement another layer of taxes on intrastate commerce would be counter-productive to the economic development of our State.

Thank you for your interest in this legislation.

DOUGLAS TO INTENSIFY MARKETING OF TWIN PROPFAN

Douglas Aircraft early next year will "intensify" its marketing efforts with airlines for a propfan derivative of its MD-80 series, despite a Boeing decision this week to delay indefinitely its 7J7 propfan project (DAILY, Dec. 16). Boeing said it is consolidating its product development activities, including studies of the 7J7, into a new Advanced Programs Organization.

A Douglas spokesman said that the company is "moving ahead" with its propfan flight tests on testbed aircraft and has completed 110 flight tests. "We will be out heavily after the start of the new year talking to airlines. We are trying to get enough interest to launch. We have encountered a lot of interest." Douglas will be trying to determine the size of aircraft to offer, which is one reason why Boeing backed off a 1993 introduction of the 7J7. Boeing said airlines wanted the 7J7 in sizes of 130 to 180 seats. "The 7J7 was visualized initially as 150 seats," a Boeing spokesman said. Douglas could offer the 130-seat MD-91, the MD-87 equivalent, or the larger MD-92, which is based on an aircraft the size of the MD-80.

The Boeing decision could put the proposed 7J7 into a mid-1990s timeframe, which is when Airbus Industrie had predicted propfan technology would become feasible for use on transport aircraft. Airbus said it believes its A320 "in any event" will be a competitive aircraft to either U.S. offering. "We do not think technologically it will be superseded for the foreseeable future."

Alan Mulally, former director of engineering for the 7J7, was named general manager of the new Advanced Programs Organization, which Boeing said will have responsibility for development of its advanced technology and design and new airplane programs. Reporting to Mulally will be Ardell Anderson, director of new product development; Robert Mathis, director of finance; Murray Booth, director of 7J7 engineering, and Roy Phillips, manager of the 7J7 joint venture management.

Concerning Japanese participation on the 7J7 program, Michio Daibo of Japan Aircraft Development Corp. will coordinate with Mulally, and similar relationships will exist between Akira Ikeda and Murray Booth and Norio Yamanouchi and Roy Phillips. Boeing said that because of the major air traffic growth expected by the year 2000, the new organization structure "will ensure a synergistic approach to development and implementation of technical advances in all new and derivative products, including the high-speed commercial transport under study."

It said the reorganization resulted from a decision earlier this year to delay program timing of the 7J7 until a "more defined requirement of airplane and engine size can be obtained from key customers."

NEW MEXICAN CARRIER ORDERS AIRBUS A300-600

Latur, a new Mexican charter carrier venture started by the Mexican pilots association through its pension fund and Promotora Mexicana de Hoteles, has ordered an A300-600, making it the first Mexican customer for an Airbus product. Engine selection is yet to be made for the aircraft, which is to be delivered in July 1989 and used on routes between the U.S. East Coast and Mexican resorts.

FAA EXTENDS DEADLINE FOR SPECIAL FLIGHT AUTHORIZATIONS

FAA has extended until Dec. 31, 1989, a special authorization for non-revenue flights of Stage 1 aircraft if permission is submitted five days before the flight, but the agency says it does not intend to extend the authorization beyond that date (DAILY, Dec. 16). Current rule authorizing such flights expires Dec. 31, 1987. FAA began allowing the flights following the Jan. 1, 1985 deadline, which prohibits the operation of aircraft that do not comply with Stage 2 or 3 noise levels. Agency said that extension of the rule is not necessary beyond Dec. 31, 1989, because "most non-complying Stage 1 aircraft will either have been modified to meet Stage 2 noise standards or be out of service."

FLORIDA COURT STRIKES DOWN SERVICE TAX ON AIR FREIGHT

Circuit Court for Leon County, Fla., has struck down Florida's tax on services as it applies to air freight, the Air Transport Association said. Judge Charles Mier, who wrote the opinion for the court, said Section 1113 of the Federal Aviation Act which prohibits states from taxing air transportation also applies to cargo. Since the tax went into effect July 1 Florida has assessed a 5% tax on intrastate air freight and a 2.5% tax on intrastate shipments. The ruling was in response to a suit filed Aug. 18 against the state by ATA and DHL Airways. The Florida Department of Revenue had tried to get the suit dismissed on grounds the federal act prohibits states from establishing head taxes but did not apply to taxes on property moved by air.

JOHN R. CORSO
ATTORNEY

JOHN A. LEQUE
BARBARA R. CRAVER
JOHN W. HARTLE
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March 2, 1994

The Honorable Representative Richard Foster
Chair, House Finance Subcommittee on HB 406
Capitol Building, Room 410
Juneau, Alaska 99811

Re: House Bill 406

Dear Representative Foster:

Thank you for the opportunity to comment on this legislation.

The City and Borough of Juneau continues to oppose the bill. The municipality opposes both the federal legislation limiting the tax base of local government, and state attempts to fill the gaps in federal law. HB 406 goes beyond what we believe the federal law to be.

I understand that the subcommittee intends to adopt a proposed committee substitute identical to CSSB 261(C&RA). CBJ appreciates this change; the bill is considerably improved in the committee substitute.

Nevertheless, CBJ opposes the legislation. The city sees this as an unfunded mandate: Municipalities must provide services -- police, fire, schools, roads, hospitals -- to the air carrier industry, but will be precluded by state law from levying a tax. While it is true that the carriers pay into a federal fund of which Juneau International Airport gets a fair share, the carriers get for those taxes a facility dedicated to their use, the airport. CBJ seeks to levy a sales tax to fund the general municipal services of police, fire, etc. CBJ is considering levying a sales tax on flightseeing tours which remain entirely within the borough: the flights take off from the Juneau harbor, tour the icefield, and return. The tax would fall on tourship-based tourists visiting Juneau, and would be collected by the flightseeing industry. The bill would prohibit this.

As a matter of policy, CBJ believes that whether or not to levy such a tax should be a local political issue, not a matter for decision by the state or federal government.

On page 1, line 12, after "municipalities" and before the period, please add: "except that

it does not apply to flights conducted entirely within the boundaries of a taxing municipality."

Another amendment which would significantly clarify the legislation -- to be sure not to jeopardize landing fees and similar fees -- is one which would except from the bill those taxes allowed under the federal statute, 49 USC App 1513(b).

On page 1, line 12, after "1513(e)," add: "or other taxes or fees allowed under 49 U.S.C. App 1513(b)."

This amendment would make the bill more accurately reflect federal law. The federal statute has a prohibition clause limiting taxation, (subsection 1513(a)), and a savings clause permitting certain taxes, landing fees and the like, (subsection 1513(b)). This amendment would make the bill resemble the federal law. The purpose of the amendment is to make clear the legislative intent not to jeopardize landing fees, taxes on meals, fuel flowage fees, and so forth. (The sponsors have made this intent clear in the legislative history, but an amendment would make it clear in the statute itself.)

Finally, we would like to point out that HB 406 as it now stands goes beyond the federal law limiting local governments. Even under the interpretation of the General Counsel for the U.S. Department of Transportation, which seems to bend over backwards to prohibit local taxation -- and whose opinion differs from that of Judge Link of the Alaska Superior Court -- taxation of intrastate air cargo is permitted by federal law. The present version of HB 406 would go beyond the federal limitation and prohibit taxation of intrastate air cargo.

Again, our preference is no bill; but we appreciate efforts to clarify the legislation. With municipal assistance and revenue sharing being reduced, the municipality opposes efforts to reduce the local government tax base by statute.

Thanks again for the opportunity to comment.

Sincerely,



for David R. Palmer
Deputy City Manager

DRP/JWH/mjm

cc: Subcommittee Members



217 Second Street, Suite 200 • Juneau, Alaska 99801 • Tel (907) 586-1325, Fax (907) 463-5480

AML Position Paper

HB 406 - Exempting air carriers from municipal sales and use tax

The Alaska Municipal League opposes **HB 406 - Exempting air carriers from municipal sales and use taxes** for a number of reasons.

First, the bill is yet another attempt to limit the ability of municipalities to raise local revenues, revenues that are badly needed in light of cutbacks in state aid and the increasing number of unfunded mandates imposed by the state and local governments.

Second, according to its sponsors, the bill is intended to restate federal law, law that they say is clear already. If the federal law is clear, there is no reason to restate it in state statutes. In fact, HB 406 does not restate federal law, it goes far beyond it by prohibiting municipalities from levying sales taxes on the carriage of intrastate freight. In addition, the bill includes, in Section 3, a prohibition on "sales or use tax on an activity that directly involves the carriage of individuals or goods for hire by a federally certificated air carrier." This broad and ambiguous language could have far-reaching implications by prohibiting landing fees, fuel taxes, and taxes on bus or other forms of transportation sold by air carriers as part of a packaged tour, among others.

Opinions rendered by Alaska Superior Court Judge Jonathan M. Link in the *Homer Air v. Kenai Peninsula Borough et al.* case and by the Deputy General Counsel of the federal Department of Transportation confirm AML's position that taxation of intrastate freight by municipalities is allowable. Judge Link, in a May 1993 ruling on a motion for partial summary judgment in the case mentioned above, said:

Finally, it is appropriate to note that the court's analysis in this decision is limited solely to the carriage of persons. Homer Air has not asked the court to address the question of freight. The court notes in passing that the doctrine of preemption is one that is generally limited by specific legislation. Section 1513 as enacted relates only to the carriage of "persons" and, accordingly, does not prohibit sales taxes on the transportation of freight.

Third, with regard to the issue of taxation of passengers. It is my understanding that at the present time the issue of taxing passengers in certain types of circumstances, e.g., local flightseeing, is still in dispute and is, in fact, the focus of the *Homer Air* case, which is yet to be decided in the court. AML asks that the legislature wait for the courts to decide what federal law means, not superimpose state law. Municipalities understand the federal prohibition on the taxation of passengers "in air commerce," but they oppose broad state statutes that would extend the intent of the federal statute to cover such things as flightseeing.

AML opposes HB 406 as unnecessary and as unnecessarily restrictive on the power of municipalities to raise locally generated revenues. At a minimum, the bill should be amended to limit the prohibition on municipal taxation to "a sales tax on the carriage of passengers from a point of origin to a different point of destination." This would clearly restate the intent of the federal law without placing undue restrictions on municipalities.

HB 406 Position Paper
page 2

The existing language in Section 3, including the phrase "and use" is too broad. What does "an activity that directly involves the carriage of individuals or goods for hire by a federally certificated air carrier" mean? Does it include carriage of individuals on land as part of a package deal put together by an air carrier?

In addition, the bill should be amended to change the effective date to January 1, 1995, to give any municipalities that do collect taxes of this type to plan for reduced revenues in their budget cycle.

In conclusion, the Alaska Municipal League opposes HB 406 as an unnecessary piece of legislation and one that will place unfair restrictions on the ability of municipalities to raise local revenues.

February 23, 1994

LEGIS94:poshb406.223

SPONSOR'S STATEMENT

HB 406 "An Act relating to municipal sales and use taxes involving air carriers; and providing for an effective date."

The bill amends AS 29.45.650 by adding a new subsection (i) which prohibits a borough and a home rule or general law municipality from levying or collecting a sales or use tax on an activity that directly involves the carriage of individuals or goods for hire by an air carrier.

This exclusion would be consistent with the Federal Aviation Act of 1958 (as amended) which establishes most of the ground rules for aviation. Section 105 (a) is referred to as the Federal Pre-emption Provision. In summary, it provides that the federal government reserves for itself the power to regulate and tax air carriers engaged in "air transportation or "air commerce". It goes further by stating that no state, or political subdivision thereof, may enact any laws that affect the "rates, routes or services" of an air carrier engaged in air transportation.

Over the last several year, there have been several attempts by various communities to attempt to exploit an 'apparent' inconsistency in the language of the Act by enacting local ordinances imposing sales taxes on air transportation. There is substantial body of case law demonstrating that this is an untenable position but periodically, someone decides to make another attempt to establish such a tax. Part of the rationale behind the pre-emption clause is that the overall benefit to the nation overwhelmingly supersedes the value to states and communities themselves. Some sort of sales or use tax has been proposed in Nome, Kotzebue, Cordova, Barrow, St. Mary's and several other communities.

The Act is quite specific in its application to the transportation of persons, property or mail, by federally certificated air carriers. Each community that has raised the issue has failed or withdrawn for one reason or another. The problem for carriers is that despite a substantial body of case law establishing the applicability of the pre-emption provision, community after community discovers what they think is a potential source of new revenue. This results in a virtually unending series of confrontations and litigation between the aviation industry and various cities and municipalities.

This bill would clarify in a final manner those areas where certificated air carriers are not subject to locally imposed taxes.

BOGLE & GATES

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Yakima

January 21, 1994

Mr. Edgar R. Locke
Beaty, Draeger & Locke, P.C.
3900 Arctic Boulevard, Suite 101
Anchorage, Alaska 99503

Re: City of St. Mary's Sales Tax

Dear Mr. Locke:

We represent Northern Air Cargo and Alaska Airlines. Both of them recently received a letter from the City demanding that they provide the City with a "full account of tax reserves subject to the [City's] tax" and payment of all tax asserted to be due by a stated deadline. I called you earlier last week on behalf of Northern Air Cargo in response to that letter. You courteously agreed that the time for response to the letter could be extended to today.

As the City is aware, the air carriers have serious doubts as to the validity of the City's ordinance. These doubts were expressed in Mr. Hallford's letter to the City Manager dated June 11, 1993. There are several independent reasons why the City's attempt to tax the carriers' operations in this manner is illegal. These are summarized briefly in the following paragraphs of this letter.

1. The tax is preempted by 49 U.S.C. App. § 1305(a). This broad preemption provision was enacted as a part of the 1978 Airline Deregulation Act, which extensively amended the earlier Federal Aviation Act of 1958, as amended. It prohibits any state or local law "relating to rates, routes or services of any air carrier having authority [under the Act] to provide air transportation." In Morales v. Trans World Airlines, 112 S. Ct. 2031, 119 L.Ed. 2d 157 (1992), the U.S. Supreme Court confirmed that this preemption provision was intended by Congress to have a very broad effect. It prohibits all local laws "having a connection with or reference to" rates, routes or services. This

broad preemption statute leaves the states and their political subdivisions with very little authority. Local laws having only a "tenuous, remote or peripheral" effect upon the airlines' rates, routes and services are still allowed; but all other local laws are flatly preempted.

Even local laws which effect air carriers less than the City's tax ordinance have been held to be preempted by the federal statute. See, e.g., Morales v. Trans World Airlines; Mattox v. Trans World Airlines, 897 F.2d 773 (5th Cir. 1990). These cases involved attempts to regulate advertising practices. On the continuum ranging from substantial and direct effects upon "rates, routes and services" to effects that are only "tenuous, remote or peripheral," the local laws rejected in Morales and Mattox clearly exerted a more tenuous or peripheral effect upon rates than the tax levied directly upon the sale of transportation and the customer that the City is attempting to impose, yet they were ruled to be preempted.

2. The limited savings provision found in the Anti-Head Tax statute, 49 U.S.C. App. § 1513, does not authorize this tax. The savings provision allows certain forms of taxation of the sale of services other than air transportation itself. The cases of Wardair Canada v. Florida Dept. of Revenue, 477 U.S. 1 (1986), and Air Jamaica, Ltd. v. State Dept. of Revenue, 374 So.2d 575 (Fla. App. 1974), are of no help to the City. They upheld the imposition of a local sales tax on jet fuel and on pre-packaged meals. In each instance, the object of the local tax was not the provision of air transportation, but was the provision of goods and services supplied in connection with, or incidental to, airline operations.

3. Superior Court Judge Link's recent decision in the Homer Air case is inapposite. Homer Air is a non-certificated air taxi operator. Hence, the preemption provision (49 U.S.C. App. § 1305(a)) does not under 49 U.S.C. App. § 1305(b) apply to Homer Air because it is not a federally-certificated carrier. Northern Air Cargo and Alaska Airlines both hold certificates of public convenience and necessity issued by the U.S. Department of Transportation under Section 401 of the Federal Aviation Act. State and local laws relating to their rates, routes and services are prohibited by federal law.

4. A carrier operating pursuant to a certificate of public convenience and necessity, carrying U.S. Mail (by definition "air transportation") and carrying freight in interstate commerce, is not subject to state regulation or state taxation with respect to any of the traffic carried, regardless of whether the origin and destination of the journey are entirely within the same state. See, Federal Express Corp. v. California

Mr. Edgar R. Locke
January 21, 1994
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Public Utilities Commission, 716 F.Supp. 1299 (N.D. California, 1989), and Pioneer v. City of Kearney, 256 N.W.2d 324 (Nebraska 1977). Northern Air Cargo and Alaska Airlines are in this exempt category.

5. Even if federal statutes left states and political subdivisions free to tax carriage of goods that travel strictly in intrastate commerce, we believe that most if not all of the air carriage activities of Northern Air Cargo and Alaska Airlines are nontaxable because they constitute interstate or foreign commerce. In determining whether transportation between two points in a state is intrastate or interstate in nature, the crucial consideration is the shipper's intent at the time of shipment. Roberts v. Levine, 921 F.2d 804, 812 (8th Cir. 1990). It would be impractical and unworkable for the City to force the air carriers to guess about each of its shipper's intentions with respect to each shipment.

Northern Air Cargo and Alaska Airlines both received form letters ("Dear Business Owner") from the City Manager requesting that they complete a "Consumer's Sales Tax" report form. The payments made by their shippers in respect of aircraft operations originating or terminating in the City of St. Mary's are exempt from taxation, for the reasons discussed earlier in this letter. Therefore, we believe that there is no legal justification or practical reason for the City to require them to file a "Consumer's Sales Tax" report form. If the City disagrees with this view, please notify us. In that event, we would be interested in knowing the City's position about which provision of the ordinance requires the filing of this form and what consequences might ensue in the event of a failure to file.

As is probably clear from the tone of this letter, Northern Air Cargo and Alaska Airlines are confident of their legal position in this matter and are strongly committed to defending their rights to be free of local government taxation efforts that Congress has seen fit to prohibit. Northern Air Cargo has consulted on this matter with its lawyer in Washington, D.C. with whom it has worked for many years on regulatory matters. The lawyer, Mr. Theodore Seamon, has concentrated his practice in federal airline regulation matters for more than forty years and has been actively representing Northern Air Cargo and other Alaska clients on these matters since before statehood. Mr. Seamon and I are available to confer with you at your convenience regarding this matter and to provide a more detailed discussion of the legal principles mentioned in this letter should you desire. In fact, we would encourage such a meeting.

Northern Air Cargo and Alaska Airlines have always honored their legal obligations, and they certainly intend to do

BOGLE & GATES

Mr. Edgar R. Locke
January 21, 1994
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so in this instance. At the same time, the City cannot expect them to penalize their customers by collecting and remitting to the City a tax that is clearly prohibited by federal law.

Very truly yours,

BOGLE & GATES

A handwritten signature in dark ink, appearing to read "J. N. Reeves", written over a horizontal line.

James N. Reeves

BOGLE & GATES

[¶ 1572] STATE TAXATION OF AIR
COMMERCE

Sec. 1113 [49 App. U. S. Code 1513] (a) No State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) shall levy or collect a tax, fee, head charge, or other charge, directly or indirectly, on persons traveling in air commerce or on the carriage of persons traveling in air commerce or on the sale of air transportation or on the gross receipts derived therefrom; except as provided in subsection (e) except that any State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) which levied a tax, fee, head charge, or other charge, directly or indirectly, on persons traveling in air commerce or on the carriage of persons traveling in air commerce or on the sale of air transportation or on the gross receipts derived therefrom prior to May 21, 1970, shall be exempt from the provisions of this subsection until December 31, 1973.

(b) Except as provided in subsection (d) of this section, nothing in this section shall prohibit a State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) from the levy or collection of taxes other than those enumerated in subsection (a) of this section, including property taxes, net income taxes, franchise taxes, and sale or use taxes on the sale of goods or services; and nothing in this section shall prohibit a State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) owning or operating an airport from levying or collecting reasonable rental charges, landing fees, or other service charges from aircraft operators for the use of airport facilities.

(c) In the case of any airport operating authority which—

(1) has an outstanding obligation to repay a loan or loans of amounts borrowed and expended for airport improvements;

(2) is collecting without air carrier assistance, a head tax on passengers in air transportation for the use of its facilities; and

(3) has no authority to collect any other type of tax to repay such loan or loans, the provisions of subsection (a) shall not apply to such authority until December 31, 1973.

(d)(1) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(A) assess air carrier transportation property at a value that has a higher ratio to the true market value of the air carrier transportation property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property;

(B) levy or collect a tax on an assessment that may not be made under subparagraph (A) of this paragraph; or

(C) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(2) In this subsection—

(A) "assessment" means valuation for a property tax levied by a taxing district;

(B) "assessment jurisdiction" means a geographical area in a state used in determining the assessed value of property for ad valorem taxation;

(C) "air carrier transportation property" means property, as defined by the Civil Aeronautics Board, owned or used by an air carrier providing air transportation;

(D) "commercial and industrial property" means property, other than transportation property and land used primarily for agricultural purposes or timber

[The rest is not relevant]

Alaska Statutes

Title 29. Municipal Government.

Chapter

- 10. Home Rule Municipalities (§ 29.10.200)
- 20. Municipal Officers and Employees (§ 29.20.090)
- 35. Municipal Powers and Duties (§§ 29.35.055, 29.35.131 — 29.35.137, 29.35.200, 29.35.210, 29.35.625)
- 45. Municipal Taxation (§ 29.45.050)
- 55. Municipal Programs (§ 29.55.020)
- 60. State Programs (§§ 29.60.450, 29.60.600, 29.60.650)

Chapter 10. Home Rule Municipalities.

Article

- 2. Home Rule Limitations (§ 29.10.200)

Article 2. Home Rule Limitations.

Section

- 200. Limitation of home rule powers

Sec. 29.10.200. Limitation of home rule powers. Only the following provisions of this title apply to home rule municipalities as prohibitions on acting otherwise than as provided. These provisions supersede existing and prohibit future home rule enactments that provide otherwise:

- (1) AS 29.05.140 (transition);
- (2) AS 29.06.010 (change of municipal name);
- (3) AS 29.06.040 — 29.06.060 (annexation and detachment);
- (4) AS 29.06.090 — 29.06.170 (merger and consolidation);
- (5) AS 29.06.190 — 29.06.420 (unification of municipalities);
- (6) AS 29.06.450 — 29.06.530 (dissolution);
- (7) AS 29.10.100 (charter amendment);
- (8) AS 29.20.010 (conflict of interest);
- (9) AS 29.20.020 (meetings public);
- (10) AS 29.20.050 (legislative power);
- (11) AS 29.20.060 — 29.20.120 (assembly composition and apportionment);
- (12) AS 29.20.140 (qualifications of members of governing bodies);
- (13) AS 29.20.150 (term of office);
- (14) AS 29.20.220 (executive power);
- (15) AS 29.20.270(e) (ordinance veto by mayor);
- (16) AS 29.20.630 (prohibited discrimination);

- (17) AS 29.20.640 (reports);
- (18) AS 29.25.010(a)(10) (municipal exemption on contractor bond requirements);
- (19) AS 29.25.050 (codification);
- (20) AS 29.25.060 (resolutions);
- (21) AS 29.26.030 (notice of elections);
- (22) AS 29.26.050 (voter qualification);
- (23) AS 29.26.250 — 29.26.360 (recall);
- (24) AS 29.35.020 (extraterritorial jurisdiction);
- (25) AS 29.35.030 (eminent domain);
- (26) AS 29.35.050 (garbage and solid waste services);
- (27) AS 29.35.055 (local air quality control program);
- (28) AS 29.35.060 (franchises and permits);
- (29) AS 29.35.070 (public utilities);
- (30) AS 29.35.080 (alcoholic beverages);
- (31) AS 29.35.120 (post audit);
- (32) AS 29.35.131 (enhanced 911 system);
- (33) AS 29.35.145 (regulation of firearms);
- (34) AS 29.35.160 (education);
- (35) AS 29.35.170(b) (assessment and collection of taxes);
- (36) AS 29.35.180(b) (land use regulation);
- (37) AS 29.35.250 (cities inside boroughs);
- (38) AS 29.35.260 (cities outside boroughs);
- (39) AS 29.35.340 (acquisition of areawide power);
- (40) AS 29.35.500 — 29.35.570 (hazardous materials and wastes);
- (41) AS 29.40.160(a) — (c) (relate to vacated areas);
- (42) AS 29.40.200 (subdivisions of state land);
- (43) AS 29.45.010 — 29.45.570 (property taxes);
- (44) AS 29.45.650(c), (d), (e), and (f) (sales and use tax);
- (45) AS 29.45.700(d) (sales and use tax);
- (46) AS 29.47.200(b) (security for bonds);
- (47) AS 29.47.260 (construction);
- (48) AS 29.60.050(a) (limitation on computation and use of payment);
- (49) AS 29.60.120(a) and (c) (state aid for health facilities and hospitals);
- (50) AS 29.65 (general grant land);
- (51) AS 29.71.040 (procurement preference for state agricultural and fisheries products);
- (52) AS 29.71.050 (procurement preference for recycled Alaska products). (§ 6 ch 74 SLA 1985; am §§ 1, 2 ch 38 SLA 1986; am § 6 ch 70 SLA 1986; am § 12 ch 80 SLA 1986; am § 3 ch 108 SLA 1986; am § 49 ch 14 SLA 1987; am § 1 ch 30 SLA 1988; am § 2 ch 63 SLA 1988; am § 1 ch 64 SLA 1988; am § 3 ch 57 SLA 1993; am § 5 ch 74 SLA 1993)

sales tax paid and the amount of the use tax levied by the borough. This subsection applies to a sales tax levied in any taxing jurisdiction whether inside or outside the state.

(d) If the assembly charges interest on sales taxes not paid when due, the rate of interest may not exceed 15 percent a year on the delinquent taxes and shall be charged from the due date until paid in full. This subsection applies to home rule and general law municipalities.

(e) A borough may provide for the creation, recording, and notice of a lien on real or personal property to secure the payment of a sales and use tax, and the interest, penalties, and administration costs in the event of delinquency. When recorded, the sales tax lien has priority over all other liens except (1) liens for property taxes and special assessments; (2) liens that were perfected before the recording of the sales tax lien for amounts actually advanced before the recording of the sales tax lien; (3) mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the sales tax lien. This subsection applies to home rule and general law municipalities.

(f) A borough may not levy and collect a sales tax on a purchase made with (1) food coupons, food stamps, or other type of certificate issued under 7 U.S.C. 2011 — 2025 (Food Stamp Act); or (2) food instruments, food vouchers, or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and Children). This subsection applies to home rule and general law municipalities.

(g) *[Repealed, § 2 ch 159 SLA 1990.]*

(h) A borough may not levy or collect a sales tax on sales, rents, and services, or a use tax on the storage, use, or consumption of personal property on the following activities:

(1) the sale, lease, rental, storage, consumption, or distribution in this state of or the provision of services relating to an orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind possessing space flight capacity, including the components of them;

(2) the sale, lease, rental, storage, consumption, or use of tangible personal property placed on or used aboard an orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind, regardless of whether the tangible personal property is returned to this state for subsequent use, storage, or consumption; an exemption under this paragraph is not affected by the failure of a launch to occur, or the destruction of a launch vehicle or a component of a launch vehicle. (§ 12 ch 74 SLA 1985; am §§ 3, 4 ch 38 SLA 1986; am § 1 ch 20 SLA 1987; am § 2 ch 30 SLA 1988; am §§ 1, 2 ch 96 SLA 1989; am §§ 1, 2 ch 159 SLA 1990; am §§ 4, 5 ch 88 SLA 1991)

NOTES TO DECISIONS

City's imposition of higher property tax mill rate on oil and gas invalid. — City's imposition of a higher property tax mill rate on oil and gas property than on other property in the city, for the purpose of paying the cost of providing oil spill prevention and response services, was in-

valid, because the tax violated AS 43.56.010(b), which specifically prohibits a municipal tax rate higher than that which applies to "other property taxable by the municipality." City of Valdez v. State, Dep't of Community & Regional Affairs, 793 P.2d 532 (Alaska 1990).

Sec. 29.45.590. Limited property taxing power for second class cities. A second class city may by referendum levy property taxes as provided for first class cities. However, levy by a second class city may not exceed one-half of one percent of the assessed value of the property taxed, except that the limit does not apply to a levy necessary to avoid a default upon payment of principal and interest of bonded or other indebtedness that is secured by a pledge to levy ad valorem or other taxes without limit to meet debt payments. (§ 12 ch 74 SLA 1985)

Sec. 29.45.600. Combining property tax with incorporation of a second class city. A petition for second class city incorporation may request that a property tax proposal be placed on the same ballot. The petition must state the proposed tax rate. The petition may request that incorporation be dependent on the passage of the property tax proposition. If so, the incorporation proposition fails if the property tax fails. (§ 12 ch 74 SLA 1985)

Article 4. Borough Sales and Use Tax.

Section
 650. Sales and use tax
 660. Notice of sales and use tax
 670. Referendum, adoption, and modification

Section
 680. Combining sales and use tax with incorporation of a borough

Sec. 29.45.650. Sales and use tax. (a) Except as provided in AS 04.21.010(c) and in (f) and (h) of this section, a borough may levy and collect a sales tax on sales, rents, and on services provided in the borough. The sales tax may apply to any or all of these sources. Exemptions may be granted by ordinance.

(b) A borough levying a sales tax may also by ordinance levy a use tax on the storage, use, or consumption of tangible personal property in the borough. The use tax rate must equal the sales tax rate and the use tax shall be levied only on buyers.

(c) A person who furnishes proof, in the form required by the borough tax collector, that the person has paid a sales tax on the source on which a use tax is levied by the borough is required to pay the use tax only to the extent of the difference between the amount of the

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 27, 1994

FURTHER REFERRALS:

Finance

Date of Committee Action: 2-15-94

The STATE AFFAIRS Committee considered:

HB 406

HOUSE BILL NO. 406

NO MUNICIPAL SALES TAXES ON AIR CARRIERS

"An Act relating to municipal sales and use taxes involving air carriers; and providing for an effective date."

- RECOMMENDATIONS: the same title
 be replaced with _____ 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) _____
 zero fiscal note REV. CURA zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	X	<i>Harley Olberg</i>		✓	
<i>Pete Hottel</i>	✓				
<i>Jim Gardner</i>	✓				
<i>Larry L. Davis</i>	✓				

[Signature]
 CHAIRMAN'S SIGNATURE