

**SB**

**161**

WALTER J. HICKEL  
GOVERNOR



P. O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 463-3500

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 12, 1993

161

*The Honorable Rick Halford  
President of the Senate  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182*

*Dear Mr. President:*

*Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to statutory interest rates. This bill would change the rate of prejudgment interest and interest paid on judgments and decrees, issued by Alaska courts, from 10.5 percent to the market rate for certain investments. The bill would also lower the rate of interest payable by the state on overpayments of taxes under AS 43 and royalty and net profit shares under AS 38. Both changes should have substantial cost savings for the state.*

*As to interest on court judgments and decrees, AS 09.30.070 presently requires that the rate of interest is 10.5 percent a year, unless a different lawful rate was established by written contract between the parties. Additionally, prejudgment interest is also paid at the 10.5 percent rate. Currently, these statutory rates substantially exceed the present market rate for investments. The result is a bonanza for individuals who receive a favorable judgment. Also, with the statutory interest rate being fixed, the rate does not automatically respond to market rate increases during periods of high inflation, exceeding the 10.5 percentage rate. The result is that the individual who prevails suffers an additional loss when a judgment or decree is not timely paid or is paid in installments.*

*Section 1 of the bill remedies these problems by requiring that interest rates on judgments and prejudgment interest be set at the market rate for the sale of federal*

LETTER FROM GOVERNOR

*The Honorable Rick Halford  
Page 2*

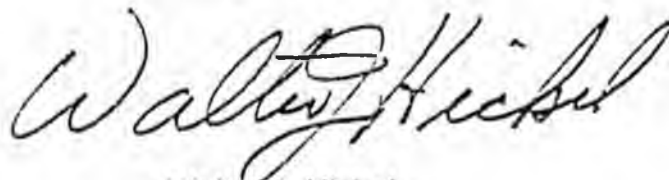
*treasury bills. The bill would continue to allow individuals to establish a different interest rate on judgment by agreement, so long as the rate is not usurious, under state law. Section 1 of the bill also makes changes relating to the calculation of interest.*

*Section 2 of the bill changes the interest rate payable by the state on refunds of overpaid taxes under AS 43 and natural resources royalties and net profit shares under AS 38. The bill amends AS 38.05.135(e) and AS 43.05.280(a) by reducing the interest rate payable by the state on refunds of these overpaid taxes, royalties, and net profit shares from five points to two points over the quarterly Federal Reserve discount rate. The present five percentage points over the Federal Reserve discount rate for both underpayment and overpayment was designed as an across-the-board interest rate increase to discourage underpayment of these sums by those obligated to make those payments. While having that intended effect, it is also establishing the state as a favorable depository of investment funds yielding a much higher rate of interest than any other savings in banking institutions. The payment of those high yields is coming directly out of the state treasury and is not a prudent use of state resources in these years of declining available state revenue.*

*This bill would leave in place the provisions that discourage underpayment to the state, while removing the incentive to achieve high yields by overpaying. Also, the bill protects taxpayers in that if the overpayment was made in response to a correction made by the applicable department, the state would pay a higher interest rate, as already provided in statute.*

*I urge your prompt consideration and passage of this bill.*

*Sincerely,*

A handwritten signature in black ink, reading "Walter J. Hickel". The signature is written in a cursive, flowing style with a large initial "W".

*Walter J. Hickel  
Governor*

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 18, 1993

Hon. Loren Leman  
Alaska State Senate  
State Capitol, Room 113  
Juneau, Alaska 99811

Dear Senator Leman:

We understand that SB 161, relating to interest rates, is before your committee for consideration.

Attached is a sectional analysis for the bill. The bill was proposed by the Department of Law and the Department of Revenue. The bill makes important improvements in Alaska law on interest rates as explained in the sectional analysis.

The Department of Law would appreciate scheduling of a hearing at your committee's earliest convenience.

Sincerely yours,

CHARLES E. COLE  
ATTORNEY GENERAL

By: *Deborah E. Behr*  
Deborah E. Behr  
Assistant Attorney General

DEB:cl

cc: Charles E. Cole  
Attorney General

Bruce M. Boteiho  
Deputy Attorney General

Rod Mourant, Legislative Contact  
Department of Revenue

WALTER J. HICKEL, GOVERNOR

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JUNEAU, ALASKA 99811-0300  
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465-6735

SECTIONAL ANALYSIS OF  
SB 161 OR HB 226

Prepared by Joseph Geldhof  
Assistant Attorney General  
Department of Law

INTRODUCTION

SB 161 and HB 226 were introduced at the request of the Governor. The proposed legislation contains two measures relating to interest rates.

SECTIONAL ANALYSIS

Section 1. This section repeals and reenacts the general statutory interest provisions. The proposed version basically adopts a market rate scheme for postjudgment interest based on the formula used by federal courts. In addition, this measure extends market rates for prejudgment interest in addition to past-judgment interest. Consistent with existing law, interest rates set out in contracts are not altered.

Section 2. This section alters the interest rate for "royalty oil" or "net profit share" overpayments. Basically, interest on overpayments is tied closely to market interest rates in order to reduce overpayment incentives for persons required to make royalty oil or net profit share payments under current law.

Section 3. This section makes a similar amendment to the one described in Section 2 for overpayments of state

taxes. However, a different (higher) interest rate is assessed when the overpayment results from a corrected tax assessment made by the Department of Revenue.

Section 4. This section provides for an effective date for the postjudgment interest provision discussed in Section 1. Basically, postjudgment interest on judgment or decrees entered before the effective date of this measure, if enacted, would remain unaffected.

Section 5. This section provides for an effective date for the prejudgment interest provision discussed in Section 1. Basically, prejudgment interest on judgments or decrees entered before the effective date of this measure, if enacted, would remain unaffected.

Section 6. This section provides for an immediate effective date for the provisions relating to interest payments made on overpayments of royalties, net profit share payments and taxes.

Section 7. This section provides for this entire proposal to take effect immediately.

JWG:JLB:kh

SENATE STA COMMITTEE HEARING - April 2, 1993

SB 161, Interest Rates, Refunds, Royalties, Net Profit Shares

---

1. Attorney General Charles Cole
2. James Baldwin, AG's Office
- ✓3. Joe Geldof, AG's Office *Will James*
4. Chris Christensen, Court System
5. Ellen <sup>Brandon</sup> or Jerry Anderson, MOA\* (in Anchorage on  
Teleconference to explain MOA Amendment in CS)

*Jeff Mason INTERP*

**DEPARTMENT OF REVENUE  
INTEREST RATES ON OVERPAYMENTS/CORRECTIONS/EARNINGS  
CURRENT LAW AND PROPOSED SB 161  
EXAMPLES**

**EXAMPLE 1**

**Facts: Taxpayer overpays income tax liability by \$1,000,000 on 10/1/91. Refund of interest to 3/31/93 is shown under current law and proposed HB 226 as well as the net cost to the state.**

	<u>Current Law</u>	<sup>SB161</sup> <u>HB 226</u>
Interest from 10/1/91 to 3/31/93 on \$1,000,000	\$176,783	\$82,621
Less: State Short Term Investment Earning Rate on \$1,000,000 from 10/1/91 to 3/31/93	<u>\$ 55,308</u>	<u>\$55,308</u>
 <b><u>Cost To State</u></b>	 <b><u>\$121,475</u></b>	 <b><u>\$27,313</u></b>

**EXAMPLE 2**

**Facts: Taxpayer pays income tax assessment of \$10,000,000 on 10/1/91. Department corrects assessment on 3/31/93 resulting in a \$1,000,000 overpayment. Refund of interest is shown under current law, proposed HB 226 if simply treated as an overpayment, and compared to the interest payable under HB 226 where the overpayment is a correction in an assessment.**

	<u>Current Law</u>	<sup>SB161</sup> <u>HB-226- Overpayment</u>	<sup>SB161</sup> <u>HB-226- Correction</u>
Interest from 10/1/91 to 3/31/93 on \$1,000,000	\$176,783	\$82,621	\$176,783
Less: State Short Term Investment Earning Rate on \$1,000,000 from 10/1/91 to 3/31/93	<u>\$ 55,308</u>	<u>\$55,308</u>	<u>\$ 55,308</u>
 <b><u>Cost To State</u></b>	 <b><u>\$121,475</u></b>	 <b><u>\$27,313</u></b>	 <b><u>\$121,475</u></b>

*Handwritten notes:*  
This amount  
is not included  
in the  
cost to state

**DEPARTMENT OF REVENUE  
INTEREST RATES ON OVERPAYMENTS/CORRECTIONS/EARNINGS  
CURRENT LAW AND PROPOSED SB 161**

**CURRENT LAW:**

<u>Period</u>	<u>Discount Rate</u>	<u>Statutory Addition</u>		<u>Overpayment Rate- Greater Of</u>
10/1/91	5%	5%	=	10% or 11%
01/1/92	3.5%	5%	=	8.5% or 11%
04/1/92	3.5%	5%	=	8.5% or 11%
07/1/92	3.5%	5%	=	8.5% or 11%
10/1/92	3.0%	5%	=	8.0% or 11%
01/1/93	3.0%	5%	=	8.0% or 11%

**HB 226 (SECTION 3):**

<u>Period</u>	<u>Discount Rate</u>	<u>Statutory Addition</u>		<u>Overpayment Rates</u>	
				<u>Normal</u>	<u>Correction</u>
10/1/91	5%	2%	=	7.0%	or 11%
01/1/92	3.5%	2%	=	5.5%	or 11%
04/1/92	3.5%	2%	=	5.5%	or 11%
07/1/92	3.5%	2%	=	5.5%	or 11%
10/1/92	3.0%	2%	=	5.0%	or 11%
01/1/93	3.0%	2%	=	5.0%	or 11%

**STATE INVESTMENT EARNING  
RATE-SHORT TERM-EQUALS  
DISCOUNT RATE - APPROX.:**

<u>Period</u>	<u>Discount Rate</u>
10/1/91	5%
01/1/92	3.5%
04/1/92	3.5%
07/1/92	3.5%
10/1/92	3.0%
01/1/93	3.0%

QUESTIONS AND ANSWERS

Re: SB - 161

Q: What was the reason for proposing this bill?

A: There were two basic reasons. The portion of the bill (Sec. 1, 3, & 5), related to interest on pre and post judgment interest is proposed because the current rate fixed by statute is 10.5% annual interest. This amount is arbitrary and is not related to financial market interest rates. The other provisions (Sec. 2 and 3), are proposals to close loopholes that allow certain taxpayers to overpay taxes and then receive a refund plus interest above market rates.

Q: How will the pre and post judgment interest provisions work?

A: The bill would allow prejudgment interest from the time a lawsuit is filed until the court enters judgment. Prejudgment interest would be based on the sale of federal Treasury Bills (T-Bills) in the week prior to filing a lawsuit. After judgment a different interest rate would apply based on the sale of T-Bills the week before the court enters judgment.

Q: Isn't this rather complicated?

A: No. The interest rate provisions were taken in large part from existing interest rate provisions in federal law. The provisions were designed to be simple and easy to use.

Q: O.K., if you say so, but how will it work?

A: Let's say a business owner ships \$1000 worth of merchandise to an individual who refuses to pay. A lawsuit commences on January 1, 199X. The week before January 1, 199X, the interest rate for T-Bills is 5%. The lawsuit goes on for two years until January 1, 199Y, when the court enters judgment in favor of the business owner for \$1000 plus costs, fees, and interest. The business owner will receive prejudgment interest for two years at 5% simple interest on the \$1000 in addition to costs and fees (which are determined separately).

Q: That's prejudgment interest, but what about interest after a judgment?

- A. Well, lets continue with the situation above. Assume that the T-Bill interest rate the week before the judgment was entered was 6%. The business owner would be entitled to post judgment interest on the entire sum owing (\$1000 + interest @ 5% + costs and fees) at the rate of 6% annually, until satisfied.
- Q. Is this going to be difficult for the average person?
- A. Not really. The current system is a bit easier because only one interest calculation is required. But, under the new system the methodology is still the same, the only factor that will change is the interest rates.
- Q. So, the methodology's the same, the calculations are just done twice with a market interest rate?
- A. Exactly.
- Q. Where do you get the interest rate?
- A. The bill proposes that the Alaska Court System shall periodically distribute notice of the interest rate. One person from the court system can call the federal treasury department to get the interest rate. It's easy, in fact the federal government has a toll free number where you can obtain the rate of interest. The court system can then distribute the interest rate information to each clerks office. It's possible that the court system can fax out the rate each week. If the court system uses a programmed, late-night broadcast fax to sent out the rate, it shouldn't cost much either. In any event, every court clerk's office will have a clipboard or posting of the weekly interest rates available for the public, judges and lawyers.
- Q. Is this proposal different from the current system in any other way?
- A. Yes, in several respects. Besides changing the interest rate, the bill clearly requires payment of both pre and post judgment interest. The bill also provides that a prevailing party receives prejudgment interest from the time when a lawsuit is filed and a summons is served on the other side. This is different than the current case where prejudgment interest can be awarded from the time a demand for compensation is made.
- Q: I'm not sure I follow that -- demand for what?
- A: Well, lets say you own a car dealership. Someone walks in to check out the new "BELCHFIRE 400." They slip on

your walkway and write a letter demanding millions. Two years later (the day before the statute of limitation runs,) they sue. A year later you're served with a summons. Three years later they obtain a judgment for \$10,000 against you. Under current law, they can probably receive interest at 10.5% annually for six years. The bill would provide payment of prejudgment interest based on market rates for three years.

Q: So who benefits from this bill?

A: Everyone, at least in theory. An artificial interest rate set arbitrarily by the legislature ill serves the public. Financial resources are systematically transferred via lawyers and judges to people who obtain judgments without regard to market rates. In practice, state agencies that are required to pay judgments will certainly save money so long as T-Bill interest rates stay below 10.5%. If the republic experiences a protracted period of inflation like the 1970's, it is conceivable that agencies would pay more than 10.5% annually interest.

Q. Whoa! You mean the state might have to pay more than 10.5% annual interest on judgments?

A: Sure. If the interest rate for T-Bill sales goes up, up, up, and eventually exceeds 10.5%. Remember, this is a market rate bill without a floor or ceiling. But that's acceptable--what's good sauce for a recessionary goose is also acceptable for the inflationary gander.

Q. One final question about the pre and post interest rate proposal. A lot of contracts have interest rates built into the deal. Does this bill change that?

A. No. Anyone can lawfully contract for a specific interest rate or no interest rate at all. The only thing people can't do is contract for a rate in excess of the maximum rate allowed by law.

Q: Now, about the proposal in section 2 -- the stuff about "royalty oil" and "net profit" -- does this impact the average business?

A: No, only business' required to make royalty oil, net profit share payments.

Q: This won't affect someone running a gas station in Spenard?

A: No.

- Q: So, Section 2 has a narrow application designed to close unintended investment opportunity loopholes in the current law?
- A: That's correct
- Q: What about Section 3?
- A: Application of this section is broader than Section 2. Persons and organizations that owe taxes to the state are prevented from depositing taxes as an "investment" with the state in a fashion similar to Section 2. However, if the state requires payment based on an assessment that turns out to be too high, the taxpayer receives a refund with interest calculated at a higher rate.
- Q. So, if the State's assessment is wrong and someone pays the tax assessment, they may get a higher interest rate on the refunded portion of their tax bill.
- A. That's my understanding.

FISCAL NOTE

Revision Date: 03/04/93  
Title: Interest Rates on Judgements

Department Affected: DOT&PF  
BRU:

Sponsor: Governor  
Requestor:

Component:  
Component Serial Number:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
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
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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 (FY93) impact: \$ \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Jeffrey C. Ottesen

Phone: 465-2951

Division: Engineering & Operations Standards

Date: March 4, 1993

Approved by Commissioner: *Frank G. Tulin*  
Frank G. Tulin

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: March 4, 1993

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# FISCAL NOTE

No. 3

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

B. Bill Version: SB161

(S) Publish Date: 3-12-93

Revision Date:  
Title: Rates of Interest on Judgements and Tax Overpayments

Dept. Affected: Revenue  
BRU: Revenue Operations  
Component: Oil & Gas Audit & Income & Excise

Sponsor: Governor  
Requestor: Governor

COMPONENT SERIAL NO. 115 & 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

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

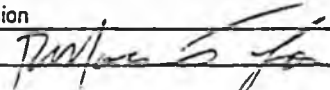
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)  
SEE ATTACHED

Prepared by: Chuck Logsdon Phone: 276-1363 ext. 265  
 Division: Oil & Gas Audit Division Date: 3/2/93  
 Approved by Commissioner: Darrel J. Rexwinkel  Date: 3/2/93  
 Agency: Revenue

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## ANALYSIS OF REDUCED INTEREST FOR OVERPAYMENTS OF TAXES, ROYALTIES AND NET PROFIT SHARES

This legislation would reduce the interest rate paid by the State for voluntary overpayment of taxes, royalty or net profit shares. The interest rate currently paid is 5 percentage points above the federal reserve discount rate to member banks. This legislation would reduce that to 2 percentage points above the federal reserve rate.

The revenue impact of this legislation would be determined by the savings that will result from the difference which would be paid under the current low interest rates rather than previously prescribed minimum interest rate. The current minimum interest paid could be considered an attractive investment in today's economy. The savings in interest payments on a \$1 million voluntary overpayment for a single fiscal year could range from \$32.2 to \$129.3 depending upon the interest rates at the time.

FISCAL NOTE

No. 2

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill Version: SB 161

(S) Publish Date: 3-12-93

Revision Date: \_\_\_\_\_

Title: 'An act relating to interest rates.'

Sponsor: \_\_\_\_\_

Requestor: Governor

Department Affected: Administration

BRU: Risk Management

Component: Risk Management

COMPONENT SERIAL NO. 71

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

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	0	0	0	0	0	0

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 (FY93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

See Attached

Prepared by: Donald Hitchcock, Director  
Division: Risk Management

Phone: 465-2180  
Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usher  
Agency: Administration

Date: 3/21/93

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. \_\_\_\_\_

ANALYSIS: (continued)

While it is not possible to accurately project future fiscal impacts on such subjective figures as anticipated claims settlement payments on claims outstanding for more than one year, the State could realize fiscal savings with the passage of this legislation. Of course, if Treasury Bill yield rates were to increase due to inflationary or other pressures, the State rate would react accordingly. Since all Division of Risk Management funding is computed and collected by allocation formula and through Reimbursable Service Agreements (RSAs), any savings in costs would be reflected in 'cost of risk' billings to the agencies affected.

FISCAL NOTE

No. 1

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill Version: SB 161

(S) Publish Date: 3-12-93

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to interest rates and calculation of interest under certain judgments and decrees and on ref..." BRU: Finance  
 Component: Finance  
 Sponsor: Rules Committee  
 Requestor: Governor COMPONENT SERIAL NO. 59

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

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/MHIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	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 (FY93) impact: \$ None

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Don Wanie, Director Phone: 465-2240  
 Division: Finance Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usher Date: 3/12/93  
 Agency: Department of Administration

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8-GS1024E  
Luckhaupt  
3/29/93

CS FOR SENATE BILL NO. 161(STA)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to interest rates and calculation of interest under certain  
2 judgments and decrees and on refunds of certain taxes, royalties, or net profit  
3 shares; and providing for an effective date."

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

5 \* Section 1. AS 09.30.070 is repealed and reenacted to read:

6 Sec. 09.30.070. INTEREST. (a) Interest shall accrue on a money judgment  
7 in a civil case. Interest shall be calculated from the date of entry of the judgment, at  
8 a rate equal to the coupon issue yield equivalent, as determined by the secretary of the  
9 United States Treasury, of the average accepted auction price for the last auction of  
10 52-week United States Treasury bills settled immediately before the date of the  
11 judgment, except that a judgment or decree founded on a contract in writing, providing  
12 for an interest rate not exceeding the legal rate of interest for that type of contract,  
13 bears interest at the rate specified in the contract if the interest rate is set out in the  
14 judgment or decree.

*Handwritten notes on the right margin:*  
1. This is a bill to  
change the way interest is  
calculated on judgments.

*Handwritten initials:* ML

1 (b) Except when the court finds that the parties have agreed otherwise,  
2 prejudgment interest shall be awarded on a money judgment in a civil case.  
3 Prejudgment interest accrues from the date process is served on the defendant or a  
4 counterclaim or cross-claim is served on the opposing party if no summons is issued,  
5 until the entry of judgment. Prejudgment interest shall be calculated at a rate equal  
6 to the coupon issue yield equivalent, as determined by the secretary of the United  
7 States Treasury, of the average accepted auction price for the last auction of 52-week  
8 United States Treasury bills settled immediately before the issuance of the summons  
9 or filing of the counterclaim or cross-claim.

10 (c) Interest shall be computed daily to the date of payment and may not be  
11 compounded.

12 (d) The Alaska Court System shall periodically distribute notice of the interest  
13 rate under this section and any changes in it.

14 \* Sec. 2. AS 29.45.500(b) is amended to read:

15 (b) If, in payment of taxes legally imposed, a remittance by a taxpayer through  
16 error or otherwise exceeds the amount due, and the municipality, on audit of the  
17 account in question, is satisfied that this is the case, the municipality shall refund the  
18 excess to the taxpayer. The refund of the excess must include payment of [ WITH]  
19 interest on the excess tax payment computed from the date the municipality  
20 received the excess tax payment to the date the municipality paid the refund at  
21 a rate equal to the average percent of the return on all investments of the  
22 municipality during the three-month period ending on the date the refund is made  
23 [AT EIGHT PERCENT FROM THE DATE OF PAYMENT]. A claim for refund filed  
24 one year after the due date of the tax is forever barred.

25 \* Sec. 3. AS 38.05.135(e) is repealed and reenacted to read:

26 (e) If a royalty or net profit share payment to which the state is entitled under  
27 AS 38.05.135 - 38.05.181 is overpaid, the amount overpaid bears interest in a calendar  
28 quarter at the rate of two percentage points above the annual rate charged member  
29 banks for advances by the 12th Federal Reserve District as of the first day of that  
30 calendar quarter, compounded quarterly as of the last day of that quarter. However,  
31 if the overpayment is the result of a correction made by the department, the amount

1 overpaid bears interest at the rate and in the manner provided in (d) of this section.

2 \* Sec. 4. AS 43.05.280(a) is repealed and reenacted to read:

3 (a) If a tax levied under this title is overpaid, the amount overpaid bears  
4 interest in a calendar quarter at the rate of two percentage points above the annual rate  
5 charged member banks for advances by the 12th Federal Reserve District as of the first  
6 day of that calendar quarter, compounded quarterly as of the last day of that quarter.  
7 However, if the overpayment is the result of the correction of an assessment or return  
8 made by the department, the amount overpaid bears interest at the rate and in the  
9 manner provided in AS 43.05.225(1).

10 \* Sec. 5. Beginning on the effective date of this Act, postjudgment interest accrues under  
11 judgments or decrees in civil cases entered on or after the effective date of this Act, at the rate  
12 and in the manner specified in AS 09.30.070 as repealed and reenacted by sec. 1 of this Act.  
13 Postjudgment interest accrues under judgments or decrees in civil cases entered before the  
14 effective date of this Act at the rate and in the manner specified under law in effect at the  
15 time that judgment or decree was entered.

16 \* Sec. 6. For claims or causes of action in civil cases for which judgment has not been  
17 entered before the effective date of this Act, prejudgment interest accrues before the effective  
18 date of this Act at the rate and in the manner specified under law in effect at the time that  
19 claim or cause of action accrued. After the effective date of this Act, prejudgment interest  
20 accrues on that claim or cause of action at the rate and in the manner specified in  
21 AS 09.30.070 as repealed and reenacted by sec. 1 of this Act.

22 \* Sec. 7. Beginning on the effective date of this Act, interest accrues on overpayments of  
23 royalties, net profit share payments, taxes, and on interest accrued on them before the effective  
24 date of this Act, at the rates and in the manner specified in AS 29.45.500(b), as amended by  
25 sec. 2 of this Act, in AS 38.05.135(e), as repealed and reenacted by sec. 3 of this Act, and  
26 in AS 43.05.280(a), as repealed and reenacted by sec. 4 of this Act.

27 \* Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

MUNICIPALITY OF ANCHORAGE  
1993 LEGISLATIVE PROGRAM

LEGISLATIVE ISSUES

**TITLE: A.S.29.45.500(b) Paying Interest on Tax Remittance Refunds**

*To reduce expenditures by eliminating the requirement to pay interest on certain overpayments made by taxpayers.*

*Amend A.S.29.45.500(b): "If, in payment of taxes legally imposed, a remittance by a taxpayer through error or otherwise exceeds the amount due, and the municipality, on audit of the account in question, is satisfied that this is the case, the municipality shall refund the excess to the taxpayer with interest from the date of payment at a rate equal to the average percent of return on the municipality's investments during the three months prior to the date the refund is made. [AT EIGHT PERCENT FROM THE DATE OF PAYMENT]."*

*As of November 18, 1992, the Municipality paid in excess of \$37,000 in interest on tax overpayments. We estimate that 30% of this amount was through taxpayer errors, i.e. duplicate remittances by different parties, e.g., lending institutions and individuals. We feel that the Municipality should not be required to pay interest on what is essentially a voluntary overpayment by the taxpayer.*

*At current rates of interest, this requirement technically allows taxpayers to "bank" funds with the Municipality and receive a higher than market rate of return.*

**Contact: Jerry Anderson, Chief Fiscal Officer**  
**Phone: 343-8610**

(33)

8-GS1024V ✓  
Luckhaupt  
4/6/93

CS FOR SENATE BILL NO. 161(STA)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to interest rates and calculation of interest under certain  
2 judgments and decrees and on refunds of certain taxes, royalties, or net profit  
3 shares; and providing for an effective date."

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

5 \* Section 1. AS 09.30.070 is repealed and reenacted to read:

6 Sec. 09.30.070. INTEREST ON JUDGMENTS; PREJUDGMENT INTEREST.

7 (a) Interest shall accrue on judgments and decrees for the payment of money. Interest  
8 shall be calculated from the date of entry of the judgment or decree, at the rate  
9 determined by the commissioner of revenue under (b) of this section, except that a  
10 judgment or decree founded on a contract in writing, providing for an interest rate not  
11 exceeding the legal rate of interest for that type of contract, bears interest at the rate  
12 specified in the contract if the interest rate is set out in the judgment or decree.

13 (b) Not later than December 15 of each year the commissioner of revenue shall  
14 determine the interest rate to be applied to judgments and decrees for the payment of

1 money for the following calendar year. The rate shall be set at an amount equal to the  
2 average coupon issue yield equivalent, as determined by the secretary of the United  
3 States Treasury, of the average accepted auction price for auctions of 52-week United  
4 States' Treasury bills settled during the immediate December through November before  
5 the determination. The commissioner of revenue shall communicate this rate to the  
6 administrative director of the Alaska court system and to the revisor of statutes. The  
7 Alaska court system shall distribute notice of the interest rate.

8 (c) Except when the court finds that the parties have agreed otherwise,  
9 prejudgment interest shall be awarded on a money judgment in a civil case.  
10 Prejudgment interest accrues from the date process is served on the defendant or a  
11 counterclaim or cross-claim is served on the opposing party if no summons is issued,  
12 until the entry of judgment. Prejudgment interest shall be calculated at the rate  
13 determined by the commissioner of revenue under (b) of this section for the calendar  
14 year when the summons was issued or the counter claim or cross-claim was filed.

15 (d) Interest shall be computed daily to the date of payment and may not be  
16 compounded.

17 \* Sec. 2. AS 29.45.500(b) is amended to read.

18 (b) If, in payment of taxes legally imposed, a remittance by a taxpayer through  
19 error or otherwise exceeds the amount due, and the municipality, on audit of the  
20 account in question, is satisfied that this is the case, the municipality shall refund the  
21 excess to the taxpayer. The refund of the excess shall include payment of [ WITH]  
22 interest on the excess tax payment computed from the date the municipality  
23 received the excess tax payment to the date the municipality paid the refund at  
24 a rate equal to the average percent of the return on all investments of the  
25 municipality during the three-month period ending on the date the refund is made  
26 [AT EIGHT PERCENT FROM THE DATE OF PAYMENT]. A claim for refund filed  
27 one year after the due date of the tax is forever barred.

28 \* Sec. 3. AS 38.05.135(e) is repealed and reenacted to read:

29 (e) If a royalty or net profit share payment to which the state is entitled under  
30 AS 38.05.135 - 38.05.181 is overpaid, the amount overpaid bears interest in a calendar  
31 quarter at the rate of two percentage points above the annual rate charged member

1 banks for advances by the 12th Federal Reserve District as of the first day of that  
2 calendar quarter, compounded quarterly as of the last day of that quarter. However,  
3 if the overpayment is the result of a correction made by the department, the amount  
4 overpaid bears interest at the rate and in the manner provided in (d) of this section.

5 \* Sec. 4. AS 43.05.280(a) is repealed and reenacted to read:

6 (a) If a tax levied under this title is overpaid, the amount overpaid bears  
7 interest in a calendar quarter at the rate of two percentage points above the annual rate  
8 charged member banks for advances by the 12th Federal Reserve District as of the first  
9 day of that calendar quarter, compounded quarterly as of the last day of that quarter.  
10 However, if the overpayment is the result of the correction of an assessment or return  
11 made by the department, the amount overpaid bears interest at the rate and in the  
12 manner provided in AS 43.05.225(1).

13 \* Sec. 5. AS 45.45.010(a) is amended to read:

14 (a) The rate of interest in the state is the rate determined annually by the  
15 commissioner of revenue under AS 09.30.070 [10.5 PERCENT A YEAR] and no  
16 more on money after it is due except as provided in (b) of this section.

17 \* Sec. 6. Beginning on January 1, 1994, postjudgment interest accrues under judgments or  
18 decrees in civil cases entered on or after January 1, 1994, at the rate and in the manner  
19 specified in AS 09.30.070 as repealed and reenacted by sec. 1 of this Act. Postjudgment  
20 interest accrues under judgments or decrees in civil cases entered before January 1, 1994, at  
21 the rate and in the manner specified under law in effect at the time that judgment or decree  
22 was entered.

23 \* Sec. 7. For claims or causes of action in civil cases for which judgment has not been  
24 entered before January 1, 1994, prejudgment interest accrues before January 1, 1994, at the  
25 rate and in the manner specified under law in effect at the time that claim or cause of action  
26 accrued. On or after January 1, 1994, prejudgment interest accrues on that claim or cause of  
27 action at the rate and in the manner specified in AS 09.30.070 as repealed and reenacted by  
28 sec. 1 of this Act.

29 \* Sec. 8. Beginning on the effective date of this section, interest accrues on overpayments  
30 of royalties, net profit share payments, taxes, and on interest accrued on them before the  
31 effective date of this Act, at the rates and in the manner specified in AS 29.45.500(b), as

1 amended by sec. 2 of this Act, in AS 38.05.135(e), as repealed and reenacted by sec. 3 of this  
2 Act, and in AS 43.05.280(a), as repealed and reenacted by sec. 4 of this Act.

3 \* Sec. 9. Notwithstanding AS 09.30.070, the commissioner of revenue, by December 15,  
4 1993, shall determine the interest rate to be applied on judgments and decrees by the method  
5 provided in AS 09.30.070, as amended by sec. 1 of this Act, for calendar year 1994, and shall  
6 communicate that determination to the administrative director of the Alaska court system and  
7 the revisor of statutes.

8 \* Sec. 10. Except for secs. 1, 6, and 7 of this Act, this Act takes effect immediately under  
9 AS 01.10.070(c).

10 \* Sec. 11. Sections 1, 6, and 7 of this Act take effect January 1, 1994.

*Wickham*  
4-7-93  
8-GS1024J

**CS FOR SENATE BILL NO. 161(STA)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**EIGHTEENTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE STATE AFFAIRS COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to interest rates and calculation of interest under certain  
2 judgments and decrees and on refunds of certain taxes, royalties, or net profit  
3 shares; and providing for an effective date."

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

5 \* Section 1. AS 09.30.070 is repealed and reenacted to read:

6 **Sec. 09.30.070. INTEREST ON JUDGMENTS; PREJUDGMENT INTEREST.**

7 (a) Interest shall accrue on judgments and decrees for the payment of money. Interest  
8 shall be calculated from the date of entry of the judgment or decree, at the rate  
9 determined by the commissioner of revenue under (b) of this section, except that a  
10 judgment or decree founded on a contract in writing, providing for an interest rate not  
11 exceeding the legal rate of interest for that type of contract, bears interest at the rate  
12 specified in the contract if the interest rate is set out in the judgment or decree.

13 (b) Not later than December 15 of each year the commissioner of revenue shall  
14 determine the interest rate to be applied to judgments and decrees for the payment of

1 money for the following calendar year. The rate shall be set at an amount equal to the  
2 average coupon issue yield equivalent, as determined by the secretary of the United  
3 States Treasury, of the average accepted auction price for auctions of 52-week United  
4 States' Treasury bills settled during the immediate December through November before  
5 the determination, rounded to the nearest 1/100 percent. The commissioner of revenue  
6 shall communicate this rate to the administrative director of the Alaska court system  
7 and to the revisor of statutes. The Alaska court system shall distribute notice of the  
8 interest rate.

9 (c) Except when the court finds that the parties have agreed otherwise,  
10 prejudgment interest shall be awarded on a money judgment. Prejudgment interest  
11 accrues from the date of injury or harm. Prejudgment interest shall be calculated at  
12 the rate determined by the commissioner of revenue under (b) of this section for the  
13 calendar year when the initial summons was issued or the initial counter claim or  
14 cross-claim was filed.

15 (d) Interest shall be computed daily to the date of payment and may not be  
16 compounded.

17 \* Sec. 2. AS 29.45.500(b) is amended to read:

18 (b) If, in payment of taxes legally imposed, a remittance by a taxpayer through  
19 error or otherwise exceeds the amount due, and the municipality, on audit of the  
20 account in question, is satisfied that this is the case, the municipality shall refund the  
21 excess to the taxpayer. The refund of the excess shall include payment of [ WITH]  
22 interest on the excess tax payment computed from the date the municipality  
23 received the excess tax payment to the date the municipality paid the refund at  
24 a rate equal to the average percent of the return on all investments of the  
25 municipality during the three-month period ending on the date the refund is made  
26 [AT EIGHT PERCENT FROM THE DATE OF PAYMENT]. A claim for refund filed  
27 one year after the due date of the tax is forever barred.

28 \* Sec. 3. AS 38.05.135(e) is repealed and reenacted to read:

29 (e) If a royalty or net profit share payment to which the state is entitled under  
30 AS 38.05.135 - 38.05.181 is overpaid, the amount overpaid bears interest in a calendar  
31 quarter at the rate of two percentage points above the annual rate charged member

1 banks for advances by the 12th Federal Reserve District as of the first day of that  
 2 calendar quarter, compounded quarterly as of the last day of that quarter. However,  
 3 if the overpayment is the result of a correction made by the department, the amount  
 4 overpaid bears interest at the rate and in the manner provided in (d) of this section.

5 \* Sec. 4. AS 43.05.280(a) is repealed and reenacted to read:

6 (a) If a tax levied under this title is overpaid, the amount overpaid bears  
 7 interest in a calendar quarter at the rate of two percentage points above the annual rate  
 8 charged member banks for advances by the 12th Federal Reserve District as of the first  
 9 day of that calendar quarter, compounded quarterly as of the last day of that quarter.  
 10 However, if the overpayment is the result of the correction of an assessment or return  
 11 made by the department, the amount overpaid bears interest at the rate and in the  
 12 manner provided in AS 43.05.225(1).

13 \* Sec. 5. AS 45.45.010(a) is amended to read:

14 (a) The rate of interest in the state is the rate determined annually by the  
 15 commissioner of revenue under AS 09.30.070 [10.5 PERCENT A YEAR] and no  
 16 more on money after it is due except as provided in (b) of this section.

17 \* Sec. 6. Beginning on January 1, 1994, postjudgment interest accrues under judgments or  
 18 decrees entered on or after January 1, 1994, at the rate and in the manner specified in  
 19 AS 09.30.070 as repealed and reenacted by sec. 1 of this Act. Postjudgment interest accrues  
 20 under judgments or decrees entered before January 1, 1994, at the rate and in the manner  
 21 specified under law in effect at the time that judgment or decree was entered.

22 \* Sec. 7. For claims or causes of action for which judgment has not been entered before  
 23 January 1, 1994, prejudgment interest accrues before January 1, 1994, at the rate and in the  
 24 manner specified under law in effect at the time that claim or cause of action accrued. On  
 25 or after January 1, 1994, prejudgment interest accrues on that claim or cause of action at the  
 26 rate and in the manner specified in AS 09.30.070 as repealed and reenacted by sec. 1 of this  
 27 Act.

28 \* Sec. 8. Beginning on the effective date of this section, interest accrues on overpayments  
 29 of royalties, net profit share payments, taxes, and on interest accrued on them before the  
 30 effective date of this Act, at the rates and in the manner specified in AS 29.45.500(b), as  
 31 amended by sec. 2 of this Act, in AS 38.05.135(e), as repealed and reenacted by sec. 3 of this

1 Act, and in AS 43.05.280(a), as repealed and reenacted by sec. 4 of this Act.

2 \* Sec. 9. Notwithstanding AS 09.30.070, the commissioner of revenue, by December 15,  
3 1993, shall determine the interest rate to be applied on judgments and decrees by the method  
4 provided in AS 09.30.070, as amended by sec. 1 of this Act, for calendar year 1994, and shall  
5 communicate that determination to the administrative director of the Alaska court system and  
6 the revisor of statutes.

7 \* Sec. 10. Except for secs. 1, 6, and 7 of this Act, this Act takes effect immediately under  
8 AS 01.10.070(c).

9 \* Sec. 11. Sections 1, 6, and 7 of this Act take effect January 1, 1994.

*#1 adopted*

*amend #2 adopted*

*amend #3*

8-GS1024J  
Luckhaupt  
4/6/93

CS FOR SENATE BILL NO. 161(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

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6 Sec. 09.30.070. INTEREST ON JUDGMENTS; PREJUDGMENT INTEREST.

7 (a) Interest shall accrue on judgments and decrees for the payment of money. Interest  
8 shall be calculated from the date of entry of the judgment or decree, at the rate  
9 determined by the commissioner of revenue under (b) of this section, except that a  
10 judgment or decree founded on a contract in writing, providing for an interest rate not  
11 exceeding the legal rate of interest for that type of contract, bears interest at the rate  
12 specified in the contract if the interest rate is set out in the judgment or decree.

13 (b) Not later than December 15 of each year the commissioner of revenue shall  
14 determine the interest rate to be applied to judgments and decrees for the payment of

#2 adopted to the nearest 100th percent.

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money for the following calendar year. The rate shall be set at an amount equal to the average coupon issue yield equivalent, as determined by the secretary of the United States Treasury, of the average accepted auction price for auctions of 52-week United States' Treasury bills settled during the immediate December through November before the determination. The commissioner of revenue shall communicate this rate to the administrative director of the Alaska court system and to the revisor of statutes. The Alaska court system shall distribute notice of the interest rate.

(c) Except when the court finds that the parties have agreed otherwise, prejudgment interest shall be awarded on a money judgment, ~~in a civil case.~~ Prejudgment interest ~~accrues from the date process is served on the defendant or a counterclaim or cross claim is served on the opposing party if no summons is issued until the entry of judgment.~~ at injury or harm. Prejudgment interest shall be calculated at the rate determined by the commissioner of revenue under (b) of this section for the calendar year when the initial summons was issued or the initial counter claim or cross-claim was filed.

(d) interest shall be computed daily to the date of payment and may not be compounded.

\* Sec. 2. AS 29.45.500(b) is amended to read:

(b) If, in payment of taxes legally imposed, a remittance by a taxpayer through error or otherwise exceeds the amount due, and the municipality, on audit of the account in question, is satisfied that this is the case, the municipality shall refund the excess to the taxpayer. The refund of the excess shall include payment of [ WITH] interest on the excess tax payment computed from the date the municipality received the excess tax payment to the date the municipality paid the refund at a rate equal to the average percent of the return on all investments of the municipality during the three-month period ending on the date the refund is made [AT EIGHT PERCENT FROM THE DATE OF PAYMENT]. A claim for refund filed one year after the due date of the tax is forever barred.

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(e) If a royalty or net profit share payment to which the state is entitled under AS 38.05.135 - 38.05.181 is overpaid, the amount overpaid bears interest in a calendar quarter at the rate of two percentage points above the annual rate charged member

#3 REMOVE

delete  
OK  
not needed  
criminal judgment

same

1 banks for advances by the 12th Federal Reserve District as of the first day of that  
 2 calendar quarter, compounded quarterly as of the last day of that quarter. However,  
 3 if the overpayment is the result of a correction made by the department, the amount  
 4 overpaid bears interest at the rate and in the manner provided in (d) of this section.

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 16 more on money after it is due except as provided in (b) of this section.

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 18 decrees in civil cases entered on or after January 1, 1994, at the rate and in the manner  
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 27 action at the rate and in the manner specified in AS 09.30.070 as repealed and reenacted by  
 28 sec. 1 of this Act.

29 \* Sec. 8. Beginning on the effective date of this section, interest accrues on overpayments  
 30 of royalties, net profit share payments, taxes, and on interest accrued on them before the  
 31 effective date of this Act, at the rates and in the manner specified in AS 29.45.500(b), as

*New Sec.*  
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 delete

*delete #1*

1 amended by sec. 2 of this Act, in AS 38.05.135(e), as repealed and reenacted by sec. 3 of this  
2 Act, and in AS 43.05.280(a), as repealed and reenacted by sec. 4 of this Act.

3 \* Sec. 9. Notwithstanding AS 09.30.070, the commissioner of revenue, by December 15,  
4 1993, shall determine the interest rate to be applied on judgments and decrees by the method  
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7 the revisor of statutes.

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9 AS 01.10.070(c).

10 \* Sec. 11. Sections 1, 6, and 7 of this Act take effect January 1, 1994.

8-GS1024V  
Luckhaupt  
4/6/93

CS FOR SENATE BILL NO. 161(STA)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:  
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10 judgment or decree founded on a contract in writing, providing for an interest rate not  
11 exceeding the legal rate of interest for that type of contract, bears interest at the rate  
12 specified in the contract if the interest rate is set out in the judgment or decree.

13 (b) Not later than December 15 of each year the commissioner of revenue shall  
14 determine the interest rate to be applied to judgments and decrees for the payment of

OK  
SPLAW

*rounded to the nearest one hundredth percent.  
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money for the following calendar year. The rate shall be set at an amount equal to the average coupon issue yield equivalent, as determined by the secretary of the United States Treasury, of the average accepted auction price for auctions of 52-week United States' Treasury bills settled during the immediate December through November before the determination. The commissioner of revenue shall communicate this rate to the administrative director of the Alaska court system and to the revisor of statutes. The Alaska court system shall distribute notice of the interest rate.

(c) Except when the court finds that the parties have agreed otherwise, prejudgment interest shall be awarded on a money judgment in a civil case. Prejudgment interest accrues from the date ~~process is served on the defendant or a counterclaim or cross-claim is served on the opposing party if no summons is issued,~~ <sup>the initial summons is served</sup> ~~until~~ <sup>of</sup> the entry of judgment. Prejudgment interest shall be calculated at the rate determined by the commissioner of revenue under (b) of this section for the calendar year when the <sup>initial</sup> summons was issued or the counter claim or cross-claim was filed.

(d) Interest shall be computed daily to the date of payment and may not be compounded.

\* Sec. 2. AS 29.45.500(b) is amended to read:

(b) If, in payment of taxes legally imposed, a remittance by a taxpayer through error or otherwise exceeds the amount due, and the municipality, on audit of the account in question, is satisfied that this is the case, the municipality shall refund the excess to the taxpayer. The refund of the excess shall include payment of [ WITH] interest on the excess tax payment computed from the date the municipality received the excess tax payment to the date the municipality paid the refund at a rate equal to the average percent of the return on all investments of the municipality during the three-month period ending on the date the refund is made [AT EIGHT PERCENT FROM THE DATE OF PAYMENT]. A claim for refund filed one year after the due date of the tax is forever barred.

\* Sec. 3. AS 38.05.135(e) is repealed and reenacted to read:

(e) If a royalty or net profit share payment to which the state is entitled under AS 38.05.135 - 38.05.181 is overpaid, the amount overpaid bears interest in a calendar quarter at the rate of two percentage points above the annual rate charged member

1 banks for advances by the 12th Federal Reserve District as of the first day of that  
2 calendar quarter, compounded quarterly as of the last day of that quarter. However,  
3 if the overpayment is the result of a correction made by the department, the amount  
4 overpaid bears interest at the rate and in the manner provided in (d) of this section.

5 \* Sec. 4. AS 43.05.280(a) is repealed and reenacted to read:

6 (a) If a tax levied under this title is overpaid, the amount overpaid bears  
7 interest in a calendar quarter at the rate of two percentage points above the annual rate  
8 charged member banks for advances by the 12th Federal Reserve District as of the first  
9 day of that calendar quarter, compounded quarterly as of the last day of that quarter.  
10 However, if the overpayment is the result of the correction of an assessment or return  
11 made by the department, the amount overpaid bears interest at the rate and in the  
12 manner provided in AS 43.05.225(1).

13 \* Sec. 5. AS 45.45.010(a) is amended to read:

14 (a) The rate of interest in the state is the rate determined annually by the  
15 commissioner of revenue under AS 09.30.070 [10.5 PERCENT A YEAR] and no  
16 more on money after it is due except as provided in (b) of this section.

17 \* Sec. 6. Beginning on January 1, 1994, postjudgment interest accrues under judgments or  
18 decrees in civil cases entered on or after January 1, 1994, at the rate and in the manner  
19 specified in AS 09.30.070 as repealed and reenacted by sec. 1 of this Act. Postjudgment  
20 interest accrues under judgments or decrees in civil cases entered before January 1, 1994, at  
21 the rate and in the manner specified under law in effect at the time that judgment or decree  
22 was entered.

23 \* Sec. 7. For claims or causes of action in civil cases for which judgment has not been  
24 entered before January 1, 1994, prejudgment interest accrues before January 1, 1994, at the  
25 rate and in the manner specified under law in effect at the time that claim or cause of action  
26 accrued. On or after January 1, 1994, prejudgment interest accrues on that claim or cause of  
27 action at the rate and in the manner specified in AS 09.30.070 as repealed and reenacted by  
28 sec. 1 of this Act.

29 \* Sec. 8. Beginning on the effective date of this section, interest accrues on overpayments  
30 of royalties, net profit share payments, taxes, and on interest accrued on them before the  
31 effective date of this Act, at the rates and in the manner specified in AS 29.45.500(b), as

1 amended by sec. 2 of this Act, in AS 38.05.135(e), as repealed and reenacted by sec. 3 of this  
2 Act, and in AS 43.05.280(a), as repealed and reenacted by sec. 4 of this Act.

3 \* Sec. 9. Notwithstanding AS 09.30.070, the commissioner of revenue, by December 15,  
4 1993, shall determine the interest rate to be applied on judgments and decrees by the method  
5 provided in AS 09.30.070, as amended by sec. 1 of this Act, for calendar year 1994, and shall  
6 communicate that determination to the administrative director of the Alaska court system and  
7 the revisor of statutes.

8 \* Sec. 10. Except for secs. 1, 6, and 7 of this Act, this Act takes effect immediately under  
9 AS 01.10.070(c).

10 \* Sec. 11. Sections 1, 6, and 7 of this Act take effect January 1, 1994.

John

Instead of  
putting money  
in savings at  
3% or less - or pay  
your property taxes  
and you get 10.5  
for the period held  
by the City.

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Forget it Buddy —

you're an

Engineer —

albeit a range 10!



Senate Committee On  
State Affairs

Does AG's  
office have a  
problem with the  
1<sup>st</sup> concern of the  
Court system —  
Page 1, line 7 ?



Senate Committee On  
State Affairs

What about having  
interest set annually?

or semi-annually  
quarterly

