

**SB**

**1988**

**DIVISION OF LEGAL SERVICES**  
**LEGISLATIVE AFFAIRS AGENCY**  
**STATE OF ALASKA**

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

**MEMORANDUM**

April 16, 1993

**SUBJECT:** Sectional Summary of SB 198.

**TO:** Senator Bert Sharp

**FROM:** Michael F. Ford *M.F.*  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Allows the commissioner of Transportation and Public Facilities to fix charges, fees, and rentals at international airports by order or by contract. Exempts the charges, fees, or rentals from the regulation provisions of the Administrative Procedure Act (AS 44.62). Requires the department to provide for public notice and comment before the commissioner fixes a fee, charge, or rental by order.

**Section 2.** Allows the commissioner to fix fees as provided in sec. 1, for purposes of international airport revenue bonds.

**Section 3.** Retroactive effective date for sections 1 and 2.

**Section 4.** Effective date.

MFF:pl  
93-307.plm

# Alaska Airlines

April 23, 1993

The Honorable Bert Sharp, Chairman  
Senate Transportation Committee  
State Capitol, Room 514  
Juneau, AK 99801

Via FAX (907) 465-2070

Dear Senator Sharp:

I want to convey to you the strong support of Alaska Airlines, Inc. for Senate Bill 198 in its current unamended version.

Since 1985, the rates and fees paid by the airlines serving Anchorage and Fairbanks Airports have been established and adjusted periodically in accordance with a lease and operating agreement negotiated between the carriers and the State DOTPF. The formulas contained in these agreements are consistent with and typical of the practice at major airports throughout the country.

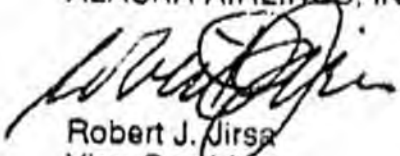
Exempting the international airports from the regulatory requirements of those mandated by recent court action for the rural airport fee schedules is very important to the orderly and efficient operation of both Anchorage and Fairbanks. The additional burden created by this process would not be in the best interest of the airports or the citizens of Alaska.

Additionally, there are serious legal questions about the conflict that failure to exempt international airports would create with the airline operating agreements at those airports. We have maintained an excellent working relationship with DOTPF and the management of Anchorage and Fairbanks Airports. We are opposed to introducing a cumbersome regulatory process into our rate setting mechanism.

Thank you for your consideration of our comments. If you have any questions, please call me at (206) 431-3805 or our Staff Vice President of Properties and Facilities, Clifford T. Argue, at (206) 433-3184. Mr. Argue is Chairman of the Anchorage/Fairbanks Airlines Airport Affairs Committees and is most knowledgeable of the finances and agreements at the two airports.

Sincerely,

ALASKA AIRLINES, INC.



Robert J. Jirsa  
Vice President  
Public Affairs

/pc



Alaska  
International  
Airport  
System

P.O. Box 190649  
Anchorage, Alaska  
USA 99519-0649  
(907) 268-2528  
FAX (907) 243-0663

April 19, 1993

The Honorable Bert Sharp  
Chairman, Senate Transportation Committee  
State Capitol, Room 514  
Juneau, Alaska 99801-1182

Dear Senator Sharp:

This letter is to clarify the Department of Transportation and Public Facilities' (DOT&PF) interest in SB 198. The statute change is needed so the Anchorage and Fairbanks International Airports can continue to adjust rates and fees in accordance with the Airline Operating Agreement. This has been the method used for a number of years.

DOT&PF is concerned that the recent court decision requiring rural airport landing fees to be set by regulation might be interpreted to apply to the International airports. Adjusting rates and fees through regulation would limit DOT&PF's ability to generate revenue for ongoing operation of the two International airports.

In addition to rates and fees specified in the Airline Operating Agreement, the International airports have a wide variety of other fees which generate revenue for the Fairbanks and Anchorage airports. These fees are for uses such as general aviation tie downs, concessions, vehicle parking, and land rent.

SB 198 applies only to the Anchorage and Fairbanks International Airports and will not affect the way DOT&PF sets fees for the rural airports. The rural airports are general funded; the Anchorage and Fairbanks International Airports are wholly supported by revenue they generate (AS 37.15).

If we can provide additional information, please contact either of us.

Sincerely,

Robert Bullock, FIA Manager

Marie Lindsey, AIA Director

cc: Katy McHugh, DOT&PF Legislative Liaison  
D. Randy Simmons, Deputy Commissioner  
John Ungar, AIA Controller

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
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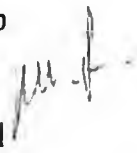
130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

### MEMORANDUM

April 21, 1993

**SUBJECT:** International airports - (SB 198)

**TO:** Senator Bert Sharp

**FROM:** Michael F. Ford   
Legislative Counsel

You have asked for an explanation of the term "international airport" as used in SB 198. The term is defined in AS 02.15.260 as follows:

"international airport" means an international airport owned and operated by the state;"

The term "airport" is also defined in that same section. You should also note that in sec. 2 of the bill the term "airports" is used. That term is defined in AS 37.15.550 as essentially the Anchorage and Fairbanks International Airports.

If you have further questions please contact me.

MFF:mi  
93-075.mai



April 21, 1993

**Jim Wheeler**  
Vice President  
Worldwide Customs Services

VIA FACSIMILE 907/465-2070

2600 Thousand Oaks  
Suite 3400  
Memphis, TN 38118  
901 360 2775  
U.S. Mail Box 727  
Memphis, TN 38194-0797  
FAX 901 360 2750

**Mr. Cam Toohey**  
Senate Transportation Committee  
State Capitol  
Juneau, AK 99801-1182

Dear Mr. Toohey:

On behalf of Federal Express Corporation, we wish to make known our support of SB198 in its current and unamended version. Federal Express is a major carrier and signatory to the Anchorage International Airport Operating Agreement.

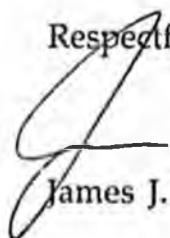
Failure to pass this legislation exempting the international airports from the regulatory requirements of the rural airport fee establishment (as recently ruled by the courts) would violate the operating agreement with the signatory carriers and likely create a chaotic round of further law suits.

Alaska international airports are self-sustaining from the revenues of the carriers, vendors, and other sources. We seriously doubt that the State of Alaska wants to have a potential situation arise where general funds would be required to support the international airports. We feel it is in the best interest of the State of Alaska and Federal Express to enact SB198 unamended.

If you would like more specific information, or have any questions, please do not hesitate contacting any of the following:

James J. Wheeler	901/360-2775
Donald J. Taddia	901/395-3650
James L. Sartin	907/249-3261

Respectfully,



James J. Wheeler

WALTER J. HICKEL  
GOVERNOR



P. O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

*June 8, 1993*

*The Honorable Bert Sharp  
Alaska State Senator  
Chair, Senate Transportation Committee  
119 North Cushman Street, Suite 201  
Fairbanks, AK 99701*

*Dear Bert,*

*I am pleased to inform you that the legislation sponsored by the Senate Transportation Committee, Senate Bill No. 198, relating to the exemption of certain activities of the Department of Transportation and Public Facilities from the regulation provisions of the Administrative Procedure Act, was signed into law on May 27, 1993. The chapter reference is Chapter 33, SLA 1993, and the effective date is May 28, 1993.*

*With best regards.*

*Sincerely,*

A handwritten signature in cursive script that reads "Wally".

*Walter J. Hickel  
Governor*

FISCAL NOTE

Revision Date: 04/16/93  
Title: Exempt DOT from APA Procedures

Department Affected: DOT&PF  
BRU: AIAS, AIA, FIA

Sponsor: Transportation  
Requestor:

Component: AIAS, AIA, FIA  
Component Serial Number: 1649, 613, 619

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
<b>TOTAL OPERATING:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

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
<b>TOTAL FUNDING:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

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: \$0

ANALYSIS: (Attach a separate page if necessary)

\*Indicates there will be a fiscal impact if SB 198 is not enacted. See attached Position Paper.

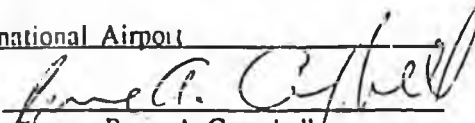
Prepared by: Gina Marie Lindsev, Director

Phone: 266-2525

Division: Anchorage International Airport

Date: April 16, 1993

Approved by Commissioner:

  
Bruce A. Campbell

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: April 16, 1993

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*Department of Transportation  
and Public Facilities*

# POSITION PAPER

BILL NO: SB 198

APPROVED: 

TITLE: Exempt DOT from APA  
Procedures

DATE: April 16, 1993

SB 198 will allow the international airports to continue to operate in a business-like manner and respond quickly to market conditions and airport revenue requirements.

Based on the court decision in the rural airport landing fee lawsuit, Anchorage (AIA) and Fairbanks (FIA) International Airports may be required to establish all fees and fee changes through the regulatory process defined in the Administrative Procedures Act.

AIA and FIA establish landing fees, terminal rent, and other airline fees through uniform Airline Operating Agreement formulas negotiated with the airlines serving the two airports. This type of negotiation is fundamental to airlines conducting business with airports and is representative of industry standard throughout the United States. These fees are numerous, varied, and subject to change because of requirements in the operating agreements and provisions of other specific leases and concession agreements. Airline landing fees are recalculated twice a year through a formula specified in the Airline Operating Agreement. Other types of new fees are sometimes implemented in response to unanticipated user needs and changes in market conditions. A required regulatory process would impose an estimated four to five month time delay on implementation of new fees as compared to the current six to eight weeks.

In addition to airline specific fees, AIA and FIA have a wide range of other fee types. These include tie down fees, vehicle parking fees, land rent, impound fees, conference room charges, and concession fees. The concession bid/proposal solicitation process may be compromised if minimum bids for

each concession must first be established through regulation. This seriously jeopardizes the ability of AIA and FIA to maximize concession revenue.

If SB 198 is not enacted, there will be substantial direct and indirect operating budget impacts to the international airports. Direct costs include an additional \$36,700 in annual personal services expenses for staff regulation work and an estimated \$50,000 in additional annual Department of Law costs to DOT&PF. Indirect costs include revenue loss due to time delays inherent in the regulatory process. In the absence of the statutory change, AIA and FIA may be unable to implement new fees or revise existing fees (including landing fees) until a regulatory process in which the airports have little timing control is complete. In this situation, the revenue impact is substantial but is not possible to quantify because timing is dependent on Department of Law priorities.

**Era Aviation, Inc.**  
**6160 South Airpark Drive**  
**Anchorage, Alaska 99502**  
**Telephone: (907) 248-4422**  
**Telecopier: (907) 266-8383**  
**April 22, 1993**

**VIA TELECOPIER**  
**Number: 465-2070**

**To: The Honorable Bert M. Sharp**  
**Alaska State Senate**  
**Juneau, Alaska**  
**cc: Cam Toohey**

**From: Jack Birmingham**

**Subject: SB 198; International Airport Rates & Fees**

**Pages: 3 (Including this page)**

Dear Senator Sharp:

We at Era are deeply concerned about the haste with which SB 198 is being rushed through this legislature. It seems fundamentally unfair -- and potentially dangerous -- to enact this bill without first giving notice and an opportunity to comment to all affected air carriers, concessionaires, contractors and vendors. Input from any selected few will not develop the facts and ideas necessary for wise legislation.

DOT&PF represents that SB 198 is both urgent and necessary to preserve the rates and fees setting mechanisms at the Anchorage and Fairbanks International Airports contemplated by the current Airline Operating Agreements. We are not persuaded, but we have not been given enough information or time to carefully evaluate the issues.

If you are persuaded that the DOT&PF is accurate on both the urgency issue and the necessity issue, we would suggest that SB 198 as written remains fundamentally flawed. In the spirit of cooperation, we have attached for your consideration changes which attempt to correct potential danger areas and still accomplish the DOT&PF's stated goals. These are offered only from our own perspective, as one

air carrier and as citizens. We still believe you would benefit from input from contractors, concessionaires, vendors and other air carriers.

We offer brief explanations for our suggested revisions below; the numbers correspond to the circled numbers next to the handwritten interlineations on the attached page 2 of SB 198.

1. We should specify Fairbanks and Anchorage. Otherwise, Nome or Cold Bay (or others) might later be interpreted to be "international airports".

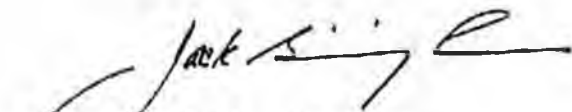
2. The words "by order of the commissioner or by" could be interpreted to mean that the commissioner could set rates and fees different from (or in spite of) those contemplated by the Airline Operating Agreements, or by any other "negotiated or competitively offered contract".

3. We understand that similar protective provisions for public notice and comment have been included in similar rates and fees legislation for both the Alaska Railroad Corporation and the Alaska Housing Finance Corporation.

4. Given the DOT&PF's stated goals, we do not see any reason for changing the words of these provisions, which were designed to protect equal treatment and equal access for all users of Alaska airports.

We hope you will find these comments helpful. We appreciate your efforts toward legislation designed to benefit all Alaskans.

With best regards,

  
Jack Birmingham  
Vice President

① Anchorage and Fairbanks

② consistent with any Airline Operating Agreement or other

1 fees for the privileges or services that are reasonable and uniform for the same class  
 2 of privilege or service. Charges, rentals, or fees authorized by this subsection may  
 3 be fixed for the international airports by order of the commissioner, or by  
 4 negotiated or competitively offered contract. Notwithstanding AS 37.10.050(b),  
 5 the fixing of charges, rentals, or fees as permitted under this subsection is not  
 6 subject to the adoption of regulation provisions of AS 44.62 (Administrative  
 7 Procedure Act). The terms, conditions, charges, rentals, and fees shall be established  
 8 with due regard to the property and improvements used and the expense of operation  
 9 to the state. However, use of state land and buildings by the Alaska Wing, Civil Air  
 10 Patrol and its squadrons shall be permitted without rental charges. The department  
 11 shall provide for public notice and an opportunity to comment before a charge,  
 12 rental, or fee is fixed by order of the commissioner as permitted under this  
 13 subsection. ~~The~~ [IN NO CASE MAY THE] public ~~may not~~ be deprived of its [leave the  
 14 rightful, equal, and uniform use of the airport, air navigation facility, or a portion of same as  
 15 them. before? ④

\* Sec. 2. AS 37.15.500 is amended to read:

② consistent with the provisions of

17 Sec. 37.15.500. AIRPORT CHARGES. ~~As provided in AS 02.15.050(a), the~~  
 18 [THE] commissioner of transportation and public facilities shall fix and collect the  
 19 [SUCH] fees, charges, and rentals derived by the state from the ownership, lease, use,  
 20 and operation of the airports and all of the facilities and improvements ~~that~~ [OF] [leave the  
 21 [set] THEM OR USED IN CONNECTION WITH THEM AS] will provide revenue same as  
 22 sufficient to comply with all of the covenants of the bond resolution before]

\* ~~Sec. 3. Sections 1 and 2 of this Act are retroactive to January 1, 1993. [why?]~~

\* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

③, substantially similar to those provided under AS 44.62 (Administrative Procedure Act),