

ALASKA LEGISLATURE

1054

HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994

128

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION

**ANALYSIS OF HB 400**

As of March 10, 1994

Attachments: **Projected Revenues Resulting From HB 400**  
**Projected Inventory Resulting Form HB 400**  
**FY91 - FY94 Appeals Statistics**  
**Appeal Status Summary Report**  
**Age of Unresolved Appeals**

ALASKA DEPARTMENT OF REVENUE  
 PERMANENT FUND DIVIDEND DIVISION  
**PROJECTED REVENUES RESULTING FROM HB 400**

As of March 10, 1994

	<u>FY 94</u>		<u>FY95</u>	<u>FY96</u>	<u>FY97</u>	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>
	<u>7 Mos</u>	<u>Annualized</u>						
<b><u>Informal Conference Appeals</u></b>								
Beginning Appeal Inventory	7,974	7,974						
Appeals Received without a fee	6,339	9,339	8,500	8,000	8,000	8,000	8,000	8,000
Decisions Issued	4,545	7,791						
Ending Appeal Inventory	9,768	9,522						
Bright Line Issue Appeals Received without a fee (55%)	3,486	5,136	4,675	4,400	4,400	4,400	4,400	4,400
Non-Bright Line Issue Appeals Received (45%)	2,853	4,203	3,825	3,600	3,600	3,600	3,600	3,600
Bright Line Issue Appeals with Fee (50% of those without a fee)			2,338	2,200	2,200	2,200	2,200	2,200
Non-Bright Line Issue Appeals with Fee (85% of those without a fee)			3,251	3,060	3,060	3,060	3,060	3,060
Total Appeals with Fee			5,589	5,260	5,260	5,260	5,260	5,260
Amount Collected			\$139,725	\$131,500	\$131,500	\$131,500	\$131,500	\$131,500
Projected Overturn Rate	35%	30%	20%	15%	10%	10%	10%	10%
Amount Refunded			\$27,950	\$19,725	\$13,150	\$13,150	\$13,150	\$13,150
Amount Retained at Informal before Formal Overturns			<u>\$111,775</u>	<u>\$111,775</u>	<u>\$118,350</u>	<u>\$118,350</u>	<u>\$118,350</u>	<u>\$118,350</u>
<b><u>Formal Hearing Appeals</u></b>								
Projected Appeal Rate with fee		16%	10%	10%	10%	10%	10%	10%
Beginning Appeal Inventory	978	978						
Appeals Received	749	1,284	447	447	473	473	473	473
Decisions Issued	698	1,197						
Ending Appeal Inventory	1,029	1,065						
Amount Collected			\$11,175	\$11,175	\$11,825	\$11,825	\$11,825	\$11,825
Projected Overturn Rate	11%	8%	5%	5%	5%	5%	5%	5%
Amount of Formal Hearing Fee Refunded			\$550	\$550	\$600	\$600	\$600	\$600
Amount of Related Informal Conference Fee Refunded			\$550	\$550	\$600	\$600	\$600	\$600
Amount Retained at Formal			<u>\$10,625</u>	<u>\$10,625</u>	<u>\$11,225</u>	<u>\$11,225</u>	<u>\$11,225</u>	<u>\$11,225</u>
<b><u>Net Retained</u></b>			<u>\$121,850</u>	<u>\$121,850</u>	<u>\$128,975</u>	<u>\$128,975</u>	<u>\$128,975</u>	<u>\$128,975</u>

ALASKA DEPARTMENT OF REVENUE  
 PERMANENT FUND DIVIDEND DIVISION  
**PROJECTED INVENTORY RESULTING FROM HB 400**  
 As of March 10, 1994

	<u>FY94(A)</u>	<u>FY95</u>	<u>FY96</u>	<u>FY97</u>	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>
<u><b>Informal Conference Appeals</b></u>							
Beginning Appeal Inventory	9,768	9,522	7,111	3,371	631	891	1,151
Total New Appeals	3,000	5,589	5,260	5,260	5,260	5,260	5,260
Total Resolutions	<u>(3,246)</u>	<u>(8,000)</u>	<u>(9,000)</u>	<u>(8,000)</u>	<u>(5,000)</u>	<u>(5,000)</u>	<u>(5,000)</u>
Ending Inventory	<u>9,522</u>	<u>7,111</u>	<u>3,371</u>	<u>631</u>	<u>891</u>	<u>1,151</u>	<u>1,411</u>
<u><b>Formal Hearing Appeals</b></u>							
Beginning Appeal Inventory	978	1,014	261	108	0	0	0
Total New Appeals	535	447	447	473	473	473	473
Total Resolutions	<u>(499)</u>	<u>(1,200)</u>	<u>(600)</u>	<u>(581)</u>	<u>(473)</u>	<u>(473)</u>	<u>(473)</u>
Ending Inventory	<u>1,014</u>	<u>261</u>	<u>108</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u><b>Staffing Levels</b></u>							
Permanent Fund Dividend Division							
Informal Conference Staff	6	6	7	6	3	3	3
Formal Hearing Staff	2	2	1	1	1	1	1
Total Permanent Fund Dividend Division Staff	8	8	8	7	4	4	4
Commissioner's Office Formal Hearing Staff funded by PFD Division	2	2	1	1	1	1	1

(A) Beginning Inventory for FY94 is as of February 1, 1994

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION  
FY91 - FY94 APPEAL STATISTICS

Through February 1, 1994

	<u>FY 94</u>	<u>FY 93</u>	<u>FY 92</u>	<u>FY 91</u>
<u>Informal Conference Appeals</u>				
Decisions Issued	4,545	9,337	4,912	4,625
Denials Overturned	1,598	2,309	1,859	1,378
Overturn Rate	35%	25%	38%	30%
Ending Appeal Inventory	9,768	7,974	7,679	5,167
Age of Oldest Appeal in Inventory in Months	29	20	19	15
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Decisions Issued	698	1,031	712	433
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Overturn Rate	11%	5%	18%	14%
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Age of Oldest Appeal in Inventory in Months	15	7	12	8

Notes

The relatively high informal conference overturn rate for the first seven months of FY94 is the result of:

1. applicants incorrectly answering questions on the revised 1993 Adult Supplemental Schedule, such as those pertaining to motor vehicle exemptions and out-of-state employment;
2. a question on the revised 1993 Adult Supplemental Schedule regarding fish and game licenses which needed to be more specific (this has been corrected on the 1994 Adult Supplemental Schedule);
3. a refinement of the working out-of-state policy which allowed a number of previously issued denials to be overturned; and
4. the PFD Division's efforts to resolve obvious errors as quickly as possible, artificially inflating the overturn rate during the first half of the fiscal year.

The 15 month old formal hearing appeal in FY94 relates to an appeal placed on hold pending the decision of the Superior Court in a related case.

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND PROGRAM  
APPEAL STATUS SUMMARY  
(A-1) RPFEN250

## APPLICATION YEAR

APPEAL STATUS	TOTAL	1993	1992	1991	1990	1989	1988	1987	1986	1985	1984	1983	1982
1 INFORMAL	9,768	5,590	3,185	560	250	105	43	22	3	1	0	0	0
P PENDING AT INFORMAL	0	0	0	0	0	0	0	0	0	0	0	0	0
4 FORMAL	312	29	56	109	51	36	15	10	3	1	1	0	1
11 FORMAL HEARING HELD	495	7	102	191	104	43	17	13	9	2	2	2	3
11 MOTION TO DISMISS	219	16	50	54	36	28	8	6	5	4	4	4	4
11 RECONSIDERATION	0	0	0	0	0	0	0	0	0	0	0	0	0
7 SUPERIOR COURT	94	0	5	12	19	22	10	7	7	6	3	1	2
S SUPREME COURT	1	0	0	0	0	0	0	1	0	0	0	0	0
TOTAL UNRESOLVED	10,889	5,642	3,398	935	460	234	93	59	27	14	10	7	10

2 INFORMAL	11,893	734	1,120	1,059	405	213	140	349	530	318	2,863	1,991	2,171
W DEPARTMENT FORMAL WITHDRAWAL	549	3	89	127	54	33	18	26	56	17	56	35	35
5 FORMAL	298	0	16	35	46	41	15	23	10	4	43	21	44
11 SUPERIOR COURT	8	0	0	0	3	4	0	0	0	0	0	0	1
11 SUPREME COURT	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL RESOLVED WITH DENIAL OVERTURNED	12,748	737	1,225	1,221	508	291	173	398	596	339	2,962	2,047	2,251

0 LATE APPEAL	624	0	0	0	0	0	0	0	0	105	239	132	148
3 INFORMAL	20,480	560	1,495	2,986	3,334	2,055	2,065	1,048	2,553	1,296	1,740	594	754
6 FORMAL	4,326	5	313	431	636	586	669	414	440	251	225	165	191
11 SUPERIOR COURT	143	0	0	1	6	14	36	26	20	12	11	10	7
11 SUPREME COURT	5	0	0	0	0	0	0	0	0	2	0	0	3
TOTAL RESOLVED WITH DENIAL UPHELD	25,578	565	1,808	3,418	3,976	2,655	2,770	1,488	3,013	1,666	2,215	901	1,103

TOTAL APPEAL	49,215	6,944	6,431	5,574	4,944	3,180	3,036	1,945	3,636	2,019	5,187	2,955	3,364
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INVALID APPEAL CODES	0	0	0	0	0	0	0	0	0	0	0	0	0
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TOTAL RECORDS WITH APPEAL STATUS	49,215	6,944	6,431	5,574	4,944	3,180	3,036	1,945	3,636	2,019	5,187	2,955	3,364
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ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND PROGRAM  
AGE OF UNRESOLVED APPEALS  
(A-84) RPFEN200

## AGE OF UNRESOLVED INFORMAL CONFERENCE APPEALS

## INFORMAL CONFERENCE APPEALS

AGE OF APPEAL	TOTAL	1993	1992	1991	1990	1982-89
OVER 12 MONTHS	2,636	0	2,220	305	52	59
9 TO 12 MONTHS	1,109	0	737	165	136	71
6 TO 9 MONTHS	1,144	879	128	70	37	30
3 TO 6 MONTHS	1,903	1,866	20	7	3	7
LESS THAN 3 MONTHS	2,975	2,844	80	22	22	7
<b>TOTAL UNRESOLVED INFORMAL CONFERENCE APPEALS</b>	<b>9,767</b>	<b>5,589</b>	<b>3,185</b>	<b>569</b>	<b>250</b>	<b>174</b>

## AGE OF UNRESOLVED FORMAL HEARING AND COURT APPEALS

## FORMAL HEARING AND COURT APPEALS

AGE OF APPEAL	TOTAL	1993	1992	1991	1990	1982-89
OVER 12 MONTHS	19	0	5	4	4	6
9 TO 12 MONTHS	12	0	1	1	1	9
6 TO 9 MONTHS	56	0	11	11	13	21
3 TO 6 MONTHS	328	6	83	122	58	59
LESS THAN 3 MONTHS	611	46	108	216	115	126
<b>TOTAL UNRESOLVED FORMAL HEARING AND COURT APPEALS</b>	<b>1,026</b>	<b>52</b>	<b>208</b>	<b>354</b>	<b>191</b>	<b>221</b>

RECORDS WITH INVALID APPEAL DATES 1

## HOUSE BILL NO. 400

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE GREEN

Introduced: 1/26/94

Referred: State Affairs, Finance

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to administrative proceedings involving a determination of  
 2 eligibility for a permanent fund dividend or authority to claim a dividend on  
 3 behalf of another."

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

5 \* Section 1. AS 43.23.015(g) is amended to read:

6 (g) If an individual is aggrieved by a decision of the department determining  
 7 the individual's eligibility for a permanent fund dividend or the individual's authority  
 8 to claim a permanent fund dividend on behalf of another, the individual may, upon  
 9 payment of a \$25 review fee, request the department to review its decision. If the  
 10 individual is aggrieved by the decision of the department after the administrative  
 11 review proceeding, the individual may appeal that decision to the superior court in  
 12 accordance with AS 44.62.560. An appeal under this section does not entitle the  
 13 aggrieved individual to a trial de novo. The appeal shall be based on the record of the  
 14 administrative proceeding from which appeal is taken and the scope of appeal is

1  
2  
3

limited to matters contained in the record of the administrative proceeding. If, as a result of the administrative proceeding or the appeal, the individual prevails, the \$25 review fee shall be returned to the individual by the department.

Alaska State Legislature

WHILE IN SESSION  
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(907) 258-8171 FAX

DISTRICT 10



CHAIR, OIL & GAS COMMITTEE  
VICE CHAIR, LABOR & COMMERCE  
COMMITTEE  
JUDICIARY COMMITTEE  
RESOURCES COMMITTEE  
INTERNATIONAL TRADE & TOURISM  
COMMITTEE  
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ECONOMIC TASK FORCE

Representative Joe Green  
SPONSOR STATEMENT HB 400

This bill addresses a serious problem with the number of appeals filed after a person is denied a Permanent Fund Dividend, and the length of time that it takes to process those appeals. As of January 1, 1994 there were 9,579 appeals pending, the highest number since the PFD program's inception. One District 10 resident is still waiting to be heard 18 months after filing, and there is some indication that there may be people who have waited even longer for their appeals to be processed and resolved.

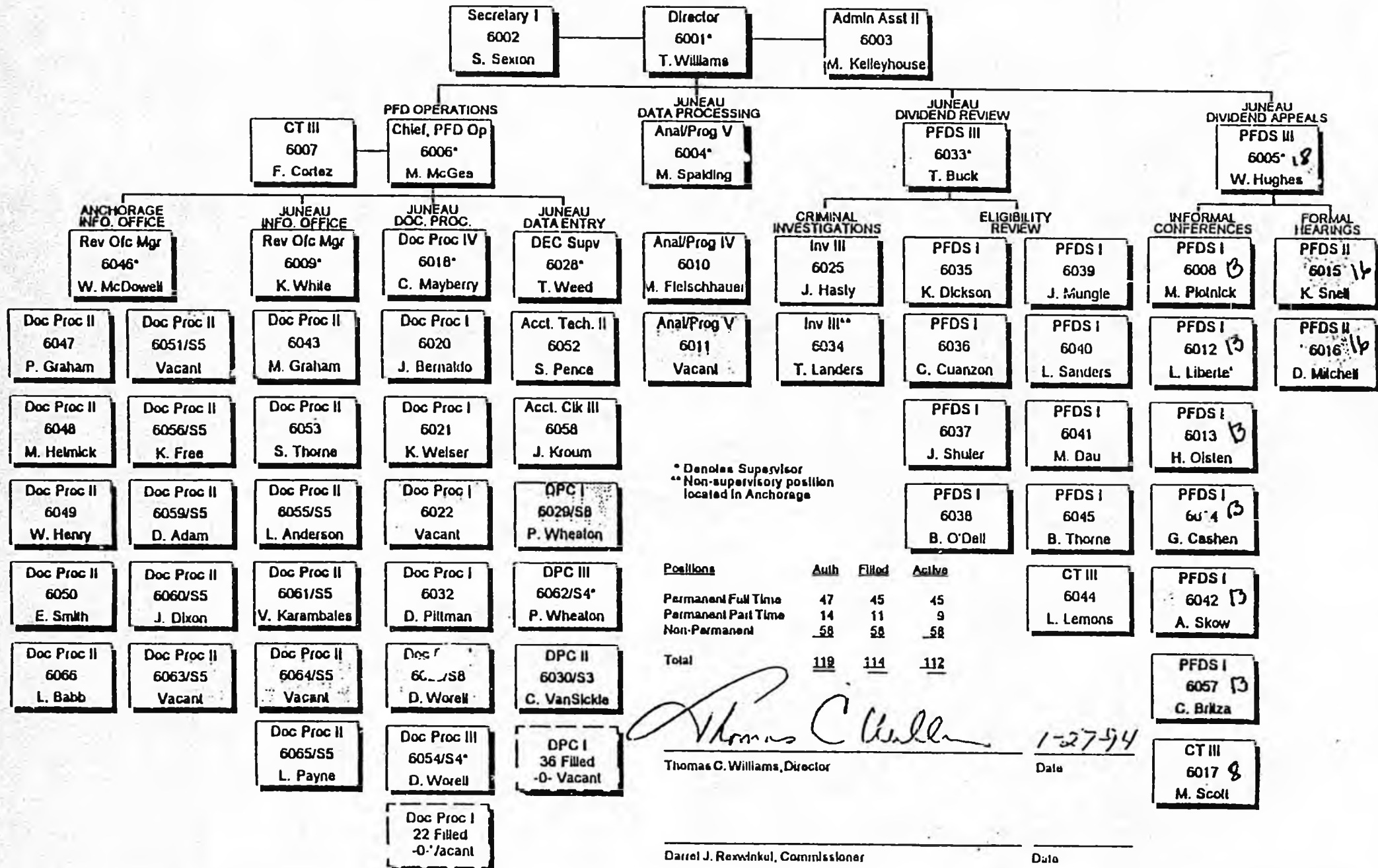
Processing such a large number of appeals is very costly, and the time delays are unfair to those people who have a legitimate claim. Currently there are 10 permanent, full time employees in The Permanent Fund Division and three appeals officers in the commissioners office working on processing the appeals, yet there are still almost 10,000 appeals pending, with no end in sight. Part of the problem is that it only costs a 29 cent stamp to file an appeal. Many people who are clearly unqualified protest their denial simply because they have the opportunity to do so at no cost or risk to themselves. This year's denial rate is 64% and in previous years the percentage rate of denials has been significantly higher.

HB 400 would implement a \$25 filing fee for individuals protesting the denial of their PFD application. This would be refundable if their appeal is successful, and non-refundable if the denial is not overturned. It is anticipated that implementation of a filing fee would discourage clearly unqualified individuals from appealing, thereby reducing costs which are deducted from the amount of the dividend, and making the appeal process shorter for legitimate claims.

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION

**ORGANIZATION CHART**

January 18, 1994



\* Denotes Supervisor  
\*\* Non-supervisory position located in Anchorage

Positions	Auth	Filled	Active
Permanent Full Time	47	45	45
Permanent Part Time	14	11	9
Non-Permanent	58	58	58
<b>Total</b>	<b>119</b>	<b>114</b>	<b>112</b>

*Thomas C. Williams*

Thomas C. Williams, Director

1-27-94

Date

Darrel J. Rexwinkel, Commissioner

Date

3-4-94

Finance

(7)

Date Referred: January 26, 1994

FURTHER REFERRALS:

Date of Committee Action: 3/3/94

The STATE AFFAIRS Committee considered:

HB 400

HOUSE BILL NO. 400

PFD ADMINISTRATIVE PROCEEDINGS

"An Act relating to administrative proceedings involving a determination of eligibility for a permanent fund dividend or authority to claim a dividend on behalf of another."

RECOMMENDATIONS: [ ] the same title  
be replaced with [ ] a new title

[ ] have attached amendments(s)

[ ] do pass

[ ] do not pass

[x] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[x] fiscal impact <sup>Dept of</sup> Revenue

[ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note \_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Al Vezey</i> (VEZEY)	✓	<i>Frank Davis</i> (FRANK DAVIS)		✓	
<i>Ken Kott</i> (KOTT)	x	<i>Harvey Olberg</i> (OLBERG)		✓	
	(2)			(2)	
<i>Al Vezey</i>	✓	<i>Frank Davis</i>		✓	
<i>Ken Kott</i>	✓	<i>Harvey Olberg</i>		✓	
		<i>Frank Davis</i>		x	

*Al Vezey* Vezey  
CHAIRMAN'S SIGNATURE

ALASKA DEPARTMENT OF REVENUE  
 PERMANENT FUND DIVIDEND DIVISION  
**PROJECTED REVENUES RESULTING FROM HB 400**

As of March 10, 1994

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II FORMAL HEARING HELD	495	7	102	191	104	43	17	13	9	2	2	2	3
II MOTION TO DISMISS	219	16	50	54	36	28	8	6	5	4	4	4	4
II RECONSIDERATION	0	0	0	0	0	0	0	0	0	0	0	0	0
7 SUPERIOR COURT	94	0	5	12	19	22	10	7	7	6	3	1	2
8 SUPREME COURT	1	0	0	0	0	0	0	1	0	0	0	0	0
TOTAL UNRESOLVED	10,889	5,642	3,398	935	460	234	93	59	27	14	10	7	10
2 INFORMAL	11,893	734	1,120	1,059	405	213	140	349	530	318	2,863	1,991	2,171
W DEPARTMENT FORMAL WITHDRAWAL	549	3	89	127	54	33	18	26	56	17	56	35	35
5 FORMAL	298	0	16	35	46	41	15	23	10	4	43	21	44
W SUPERIOR COURT	8	0	0	0	3	4	0	0	0	0	0	0	1
0 SUPREME COURT	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL RESOLVED WITH DENIAL OVERTURNED	12,748	737	1,225	1,221	508	291	173	398	596	339	2,962	2,047	2,251
0 LATE APPEAL	624	0	0	0	0	0	0	0	0	105	239	132	148
3 INFORMAL	20,480	560	1,495	2,986	3,334	2,055	2,065	1,048	2,553	1,296	1,740	594	754
6 FORMAL	4,326	5	313	431	636	586	669	414	440	251	225	165	191
9 SUPERIOR COURT	143	0	0	1	6	14	34	26	20	12	11	10	7
0 SUPREME COURT	5	0	0	0	0	0	0	0	0	2	0	0	3
TOTAL RESOLVED WITH DENIAL UPHELD	25,578	565	1,808	3,418	3,976	2,655	2,770	1,488	3,013	1,666	2,215	901	1,103
TOTAL APPEAL	49,215	6,944	6,431	5,574	4,944	3,180	3,036	1,945	3,636	2,019	5,187	2,955	3,364
INVALID APPEAL CODES	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL RECORDS WITH APPEAL STATUS	49,215	6,944	6,431	5,574	4,944	3,180	3,036	1,945	3,636	2,019	5,187	2,955	3,364

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND PROGRAM  
AGE OF UNRESOLVED APPEALS  
(A-84) RPFEN200

AGE OF UNRESOLVED INFORMAL CONFERENCE APPEALS

INFORMAL CONFERENCE APPEALS

AGE OF APPEAL	TOTAL	1993	1992	1991	1990	1982-89
OVER 12 MONTHS	2,636	0	2,220	305	52	59
9 TO 12 MONTHS	1,109	0	737	165	136	71
6 TO 9 MONTHS	1,144	879	124	70	37	30
3 TO 6 MONTHS	1,903	1,866	20	7	3	7
LESS THAN 3 MONTHS	2,975	2,844	80	22	22	7
TOTAL UNRESOLVED INFORMAL CONFERENCE APPEALS	9,767	5,589	3,185	569	250	174

AGE OF UNRESOLVED FORMAL HEARING AND COURT APPEALS

FORMAL HEARING AND COURT APPEALS

AGE OF APPEAL	TOTAL	1993	1992	1991	1990	1982-89
OVER 12 MONTHS	19	0	5	4	4	6
9 TO 12 MONTHS	12	0	1	1	1	9
6 TO 9 MONTHS	56	0	11	11	13	21
3 TO 6 MONTHS	328	6	83	122	58	59
LESS THAN 3 MONTHS	611	46	108	216	115	126
TOTAL UNRESOLVED FORMAL HEARING AND COURT APPEALS	1,026	52	208	354	191	221

RECORDS WITH INVALID APPEAL DATES 1

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. HB 400

Revision Date: 03-04-94  
Title: PFD Administrative Proceedings  
Sponsor: Rep. GREEN  
Requestor: House State Affairs Committee

old

affected: Revenue  
Permanent Fund Dividend  
Permanent Fund Dividend  
INMENT SERIAL NO. 081

**Expenditures/Revenues:**

(Thousands of Dollars)

	FY95	FY96	FY97	FY98	FY99	FY00
<b>OPERATING</b>						
PERSONAL SERVICES	-0-	(7.9)	(52.7)	(187.1)	(187.1)	(187.1)
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	7.5	(86.6)	(86.6)	(86.6)	(86.6)	(86.6)
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>7.5</b>	<b>(94.5)</b>	<b>(139.3)</b>	<b>(273.7)</b>	<b>(273.7)</b>	<b>(273.7)</b>
<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>REVENUE FUND SOURCE: 1050</b>	<b>117.3</b>	<b>119.6</b>	<b>127.2</b>	<b>129.0</b>	<b>129.0</b>	<b>129.0</b>

**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (Dividend Fund 1050)	7.5	(94.5)	(139.3)	(273.7)	(273.7)	(273.7)
<b>TOTAL</b>	<b>7.5</b>	<b>(94.5)</b>	<b>(139.3)</b>	<b>(273.7)</b>	<b>(273.7)</b>	<b>(273.7)</b>

**POSITIONS:**

FULL-TIME			(1)	(4)	(4)	(4)
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ -0-

**ANALYSIS:**

See Pages 2 through 4, as well as the attachments.

Prepared by: Thomas C. Williams *Thomas C. Williams* Phone: 465-2323  
 Division: Permanent Fund Dividend Date: 03-04-94  
 Approved by Commissioner: *David...* Date: 3/4/94  
 Agency: Department of Revenue

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ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION

**ANALYSIS OF HB 400**

As of March 4, 1994

**Assumptions**

- A. This Legislation would be effective in FY95.
- B. 55% of all appeals received involve bright line issues and 45% of all appeals received involve non-bright line issues. Bright line issues are those that are clearly definable by objective criteria, such as whether an individual was physically present in state during the two previous calendar years or met an application deadline. Non-bright line issues are those that involve issues that are more subjective, such as whether an individual demonstrated an intent to return to Alaska.
- C. The addition of a fee will mean some of those individuals whose denial involved a bright line issue as well as some of those individuals whose denial involved a non-bright line issue will not appeal.
- D. The Department would adopt regulations to:
  - 1. allow an indigent individual to be exempt from the fee and outline the specific requirements for qualifying for such an exemption;
  - 2. require payment of the fee by checks or money orders only (no cash payments);
  - 3. consider any appeal to be invalid if
    - a. the appeal was not accompanied by the fee;
    - b. an insufficient amount was submitted;
    - c. accompanied by a cash payment; or
    - d. which the check was returned for non-sufficient funds; and
  - 4. make it clear that the Department would not issue receipts over the counter;
- E. The PFD Division would continue to receive the vast majority of appeals and the associated fees in the mail. The Anchorage and Juneau Dividend Information Offices would receive and accept a relatively small number of appeals and the associated fees across the counter. The Information Offices would forward all appeals and fees to the Dividend Appeals unit for processing;
- F. The PFD Masterfile Computer System would be modified:
  - 1. adding a field to indicate whether the applicant was exempt from the fee as the result of indigence or if not exempt whether the fee actually accompanied the appeal;

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION

**ANALYSIS OF HB 400**

As of March 4, 1994

2. to send a redesigned computer generated appeal receipt letter not only advising the applicant that their appeal has been received, but whether a required fee in the appropriate amount was included. If the fee was not included or the amount was less than the required fee, the receipt letter would advise an applicant that the appeal would not be valid unless the Department received the additional amount within 30 days of the date of the notice. It would also advise the applicant that if they did not send in the additional amount or request in writing a return of the insufficient amount within 30 days of the date of the notice that the fee would be forfeited. If an appellant's check was returned for non-sufficient funds, the Department would send the appellant a notice advising an applicant that the appeal would be invalidated unless the Department received the additional amount within 30 days of the date of the notice.
  3. automatically refund fees when an appeal decision overturned the original denial; and
  4. produce a daily reconciliation report for fee receipts.
- G. Necessary data processing programming updates to the PFD System Masterfile would require approximately 3 weeks work at a contractual services cost estimated to not exceed \$7,500 in FY95.
- H. Additional data entry and fee processing could be accomplished by current staff, since with the adoption of the appeal fee requirement the total number of appeals received is expected to decline.
- I. See the attachments for the assumptions regarding the number of appeals to be received and the required staffing levels. If these assumptions are correct then:
1. In FY96 one PFDS II could be reallocated to a PFDS I resulting in a savings of \$7.9. In FY97 a PFDS I position could be eliminated for an additional savings of \$44.8. Starting in FY98 three more PFDS I positions could be eliminated for an additional savings of \$134.4.
  2. Starting in FY96 funding for one Formal Hearing Officer in the Commissioner's Office could be eliminated.
- J. To the extent that the number of appeals does not decline as projected, staffing levels could not be reduced as reflected. Similarly, to the extent that the number of appeals declines more than projected, staffing levels might be able to be reduced more than the amount reflected.

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION  
**ANALYSIS OF HB 400**  
As of March 4, 1994

Attachments: **Projected Revenues Resulting From HB 400**  
**Projected Inventory Resulting Form HB 400**  
**FY91 - FY94 Appeals Statistics**  
**Appeal Status Summary Report**  
**Age of Unresolved Appeals**

ALASKA DEPARTMENT OF REVENUE  
 PERMANENT FUND DIVIDEND DIVISION  
**PROJECTED REVENUES RESULTING FROM HB 400**

As of March 4, 1994

	<u>FY 94</u>		<u>FY95</u>	<u>FY96</u>	<u>FY97</u>	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>
	<u>7 Mos</u>	<u>Annualized</u>						
<b><u>Informal Conference Appeals</u></b>								
Beginning Appeal Inventory	7,974	7,974						
Appeals Received without a fee	6,339	9,339	8,500	8,000	8,000	8,000	8,000	8,000
Decisions Issued	4,545	7,791						
Ending Appeal Inventory	9,768	9,522						
Bright Line Issue Appeals Received (55%)	3,486	5,136	4,675	4,400	4,400	4,400	4,400	4,400
Non-Bright Line Issue Appeals Received (45%)	2,853	4,203	3,825	3,600	3,600	3,600	3,600	3,600
Number of Bright Line Appeals with Fee			2,338	2,200	2,200	2,200	2,200	2,200
Number of Non-Bright Line Appeals with Fee			3,251	3,060	3,060	3,060	3,060	3,060
Total Appeals with Fee			5,589	5,260	5,260	5,260	5,260	5,260
Amount Collected			\$139,725	\$131,500	\$131,500	\$131,500	\$131,500	\$131,500
Projected Overturn Rate	35%	30%	20%	15%	10%	10%	10%	10%
Amount Refunded			\$27,950	\$17,275	\$9,875	\$8,225	\$8,225	\$8,225
Amount Retained			\$111,775	\$114,225	\$121,625	\$123,275	\$123,275	\$123,275
<b><u>Formal Hearing Appeals</u></b>								
Projected Appeal Rate		16%	10%	10%	10%	10%	10%	10%
Beginning Appeal Inventory	978	978						
Appeals Received	749	1,284	447	421	421	421	421	421
Decisions Issued	698	1,197						
Ending Appeal Inventory	1,029	1,065						
Non-Bright Line Issue Appeals Received (45%)	337	578	201	189	189	189	189	189
Bright Line Issue Appeals Received (55%)	412	706	246	231	231	231	231	231
Number of Non-Bright Line Appeals with Fee			171	161	161	161	161	161
Number of Bright Line Appeals with Fee			123	116	116	116	116	116
Total Appeals with Fee			294	277	277	277	277	277
Amount Collected			\$7,350	\$6,925	\$6,925	\$6,925	\$6,925	\$6,925
Projected Overturn Rate	11%	8%	5%	5%	5%	5%	5%	5%
Amount Refunded (10% for FY95)			\$900	\$800	\$675	\$575	\$575	\$575
Amount of Related Informal Conference Fee Refunded			\$900	\$800	\$675	\$575	\$575	\$575
Amount Retained at Formal			\$6,450	\$6,125	\$6,250	\$6,350	\$6,350	\$6,350
<b>Net Retained</b>			\$117,325	\$119,550	\$127,200	\$129,050	\$129,050	\$129,050

ALASKA DEPARTMENT OF REVENUE  
 PERMANENT FUND DIVIDEND DIVISION  
**PROJECTED INVENTORY RESULTING FROM HB 400**

As of March 4, 1994

	<u>FY94(A)</u>	<u>FY95</u>	<u>FY96</u>	<u>FY97</u>	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>
<b><u>Informal Conference Appeals</u></b>							
Beginning Appeal Inventory	9,768	9,522	7,111	3,371	631	891	1,151
Total New Appeals	3,000	5,589	5,260	5,260	5,260	5,260	5,260
Total Resolutions	<u>(3,246)</u>	<u>(8,000)</u>	<u>(9,000)</u>	<u>(8,000)</u>	<u>(5,000)</u>	<u>(5,000)</u>	<u>(5,000)</u>
Ending Inventory	<u>9,522</u>	<u>7,111</u>	<u>3,371</u>	<u>631</u>	<u>891</u>	<u>1,151</u>	<u>1,411</u>
<b><u>Formal Hearing Appeals</u></b>							
Beginning Appeal Inventory	978	1,014	261	82	0	0	0
Total New Appeals	535	447	421	421	421	421	421
Total Resolutions	<u>(499)</u>	<u>(1,200)</u>	<u>(600)</u>	<u>(503)</u>	<u>(421)</u>	<u>(421)</u>	<u>(421)</u>
Ending Inventory	<u>1,014</u>	<u>261</u>	<u>82</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b><u>Staffing Levels</u></b>							
Permanent Fund Dividend Division							
Informal Conference Staff	6	6	7	6	3	3	3
Formal Hearing Staff	2	2	1	1	1	1	1
Total Permanent Fund Dividend Division Staff	8	8	8	7	4	4	4
Commissioner's Office Formal Hearing Staff funded by PFD Division	2	2	1	1	1	1	1

(A) Beginning Inventory for FY94 is as of February 1, 1994

ALASKA DEPARTMENT OF REVENUE  
 PERMANENT FUND DIVIDEND DIVISION  
**FY91 - FY94 APPEAL STATISTICS**  
 Through February 1, 1994

	<u>FY 94</u>	<u>FY 93</u>	<u>FY 92</u>	<u>FY 91</u>
<u><b>Informal Conference Appeals</b></u>				
Decisions Issued	4,545	9,337	4,912	4,625
Denials Overturned	1,598	2,309	1,859	1,378
Overturn Rate	35%	25%	38%	30%
Ending Appeal Inventory	9,768	7,974	7,679	5,167
Age of Oldest Appeal in Inventory in Months	29	20	19	15
<u><b>Formal Hearing Appeals</b></u>				
Decisions Issued	698	1,031	712	433
Denials Overturned	74	51	128	61
Overturn Rate	11%	5%	18%	14%
Ending Appeal Inventory	1,029	978	334	610
Age of Oldest Appeal in Inventory in Months	15	7	12	8

**Notes**

The relatively high informal conference overturn rate for the first seven months of FY94 is the result of:

1. applicants incorrectly answering questions on the revised 1993 Adult Supplemental Schedule, such as those pertaining to motor vehicle exemptions and out-of-state employment;
2. a question on the revised 1993 Adult Supplemental Schedule regarding fish and game licenses which needed to be more specific (this has been corrected on the 1994 Adult Supplemental Schedule);
3. a refinement of the working out-of-state policy which allowed a number of previously issued denials to be overturned; and
4. the PFD Division's efforts to resolve obvious errors as quickly as possible, artificially inflating the overturn rate during the first half of the fiscal year.

The 15 month old formal hearing appeal in FY94 relates to an appeal placed on hold pending the decision of the Superior Court in a related case.

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND PROGRAM  
APPEAL STATUS SUMMARY  
(A-1) RPFEN250

## APPLICATION YEAR

APPEAL STATUS	TOTAL	1993	1992	1991	1990	1989	1988	1987	1986	1985	1984	1983	1982
I INFORMAL	9,768	5,590	3,185	569	250	105	43	22	3	1	0	0	0
P PENDING AT INFORMAL	0	0	0	0	0	0	6	0	0	0	0	0	0
4 FORMAL	312	29	56	109	51	36	15	10	3	1	1	0	1
H FORMAL HEARING HELD	495	7	102	191	104	43	17	13	9	2	2	2	3
H MOTION TO DISMISS	219	16	50	54	36	28	8	6	5	4	4	4	4
R RECONSIDERATION	0	0	0	0	0	0	0	0	0	0	0	0	0
7 SUPERIOR COURT	94	0	5	12	19	22	10	7	7	6	3	1	2
S SUPREME COURT	1	0	0	0	0	0	0	1	0	0	0	0	0
<b>TOTAL UNRESOLVED</b>	<b>10,889</b>	<b>5,642</b>	<b>3,398</b>	<b>935</b>	<b>460</b>	<b>234</b>	<b>93</b>	<b>59</b>	<b>27</b>	<b>14</b>	<b>10</b>	<b>7</b>	<b>10</b>
2 INFORMAL	11,893	734	1,120	1,059	405	213	140	349	530	318	2,863	1,991	2,171
W DEPARTMENT FORMAL WITHDRAWAL	549	3	89	127	54	33	18	24	56	17	56	35	35
5 FORMAL	298	0	16	35	46	41	15	23	10	4	43	21	44
8 SUPERIOR COURT	8	0	0	0	3	4	0	0	0	0	0	0	1
0 SUPREME COURT	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL RESOLVED WITH DENIAL OVERTURNED</b>	<b>12,748</b>	<b>737</b>	<b>1,225</b>	<b>1,221</b>	<b>508</b>	<b>291</b>	<b>173</b>	<b>398</b>	<b>596</b>	<b>339</b>	<b>2,962</b>	<b>2,047</b>	<b>2,251</b>
0 LATE APPEAL	624	0	0	0	0	0	0	0	0	105	239	132	148
3 INFORMAL	20,480	560	1,495	2,986	3,334	2,055	2,065	1,048	2,553	1,296	1,740	594	754
6 FORMAL	4,326	5	313	431	636	586	669	414	440	251	225	165	191
9 SUPERIOR COURT	143	0	0	1	6	14	36	26	20	12	11	10	7
U SUPREME COURT	5	0	0	0	0	0	0	0	0	2	0	0	3
<b>TOTAL RESOLVED WITH DENIAL UPHELD</b>	<b>25,578</b>	<b>565</b>	<b>1,808</b>	<b>3,418</b>	<b>3,976</b>	<b>2,655</b>	<b>2,770</b>	<b>1,488</b>	<b>3,013</b>	<b>1,666</b>	<b>2,215</b>	<b>901</b>	<b>1,103</b>
<b>TOTAL APPEAL</b>	<b>49,215</b>	<b>6,944</b>	<b>6,431</b>	<b>5,574</b>	<b>4,944</b>	<b>3,180</b>	<b>3,036</b>	<b>1,945</b>	<b>3,636</b>	<b>2,019</b>	<b>5,187</b>	<b>2,955</b>	<b>3,364</b>
<b>INVALID APPEAL CODES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL RECORDS WITH APPEAL STATUS</b>	<b>49,215</b>	<b>6,944</b>	<b>6,431</b>	<b>5,574</b>	<b>4,944</b>	<b>3,180</b>	<b>3,036</b>	<b>1,945</b>	<b>3,636</b>	<b>2,019</b>	<b>5,187</b>	<b>2,955</b>	<b>3,364</b>

ALASKA DEPARTMENT OF REVENUE  
 PERMANENT FUND DIVIDEND PROGRAM  
 AGE OF UNRESOLVED APPEALS  
 (A-84) RPFEN200

## AGE OF UNRESOLVED INFORMAL CONFERENCE APPEALS

## INFORMAL CONFERENCE APPEALS

AGE OF APPEAL	TOTAL	1993	1992	1991	1990	1982-89
OVER 12 MONTHS	2,636	0	2,220	305	52	59
9 TO 12 MONTHS	1,109	0	737	165	136	71
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## AGE OF UNRESOLVED FORMAL HEARING AND COURT APPEALS

## FORMAL HEARING AND COURT APPEALS

AGE OF APPEAL	TOTAL	1993	1992	1991	1990	1982-89
OVER 12 MONTHS	19	0	5	4	4	6
9 TO 12 MONTHS	12	0	1	1	1	9
6 TO 9 MONTHS	56	0	11	11	13	21
3 TO 6 MONTHS	328	6	83	122	58	59
LESS THAN 3 MONTHS	611	46	108	216	115	126
TOTAL UNRESOLVED FORMAL HEARING AND COURT APPEALS	1,026	52	208	354	191	221

RECORDS WITH INVALID APPEAL DATES 1

**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 CEA

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
<del>Ronald J. Lamon</del>	X	EP Muehler		✓	
<del>Richard J. Foster</del>	X	Mark Hanley		X	
		Leslie Martin		✓	
		Robert Parnell		X	
		Mike Navarre		✓	
		Lay Brown		✓	
		Tom Theriault		X	

*Ronald J. Lamon*  
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
<b>TOTAL OPERATING:</b>	0	0	0	0	0	0

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

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

**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>	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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

FUNDING: (Thousands of Dollars)

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

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						
<b>TOTAL OPERATING</b>	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						
<b>TOTAL</b>						

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						
<b>Total Operating</b>						
<b>Capital</b>						

**Funding (Thousands of Dollars)**

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

**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<sup>air</sup>

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:

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<sup>AIR</sup> 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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155 SOUTH SEWARD STREET, JUNEAU, ALASKA 99801  
907-586-5242 VOICE 907-586-1147 FAX 907-586-5340 DATA

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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LAW OFFICES

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Seattle  
Bellevue  
Portland  
Tacoma  
Vancouver, B.C.  
Washington, D.C.  
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  
Page 3

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  
Page 4

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 Sanders</i>	✓				
<i>Larry L. Davis</i>	✓				

*[Signature]*  
 CHAIRMAN'S SIGNATURE

**HB**

**407**

**HFIN**

**FILE**

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 11, 1994

FURTHER REFERRALS:

Date of Committee Action: 3/16/94

The FINANCE Committee considered:

HB 407

HOUSE BILL NO. 407

COMMEMORATIVE GOLD RUSH LICENSE PLATES

"An Act relating to issuance of commemorative gold rush motor vehicle license plates."

RECOMMENDATIONS: [ ] the same title  
 be replaced with \_\_\_\_\_ [ ] a new title  
 [ ] have attached amendments(s)  
 [X] 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)

[X] fiscal impact DP

[ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note \_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Maclean</i>					
<i>Eileen P. Muehlen</i>					
<i>Ronald J. Larson</i>	<input checked="" type="checkbox"/>				
<i>Larry Martin</i>	<input checked="" type="checkbox"/>	<i>Mark Hanley</i>		<input checked="" type="checkbox"/>	
<i>John Hoffman</i>	<input checked="" type="checkbox"/>	<i>Jean Paul G. Gannell</i>		<input checked="" type="checkbox"/>	
<i>Tom Brown</i>	<input checked="" type="checkbox"/>	<i>Ben Gussendorf</i>		<input checked="" type="checkbox"/>	
<i>Richard J. Foster</i>	<input checked="" type="checkbox"/>	<i>Mike Navarre</i>		<input checked="" type="checkbox"/>	
		<i>Therriault</i>		<input checked="" type="checkbox"/>	

*Ronald J. Larson E.P. Muehlen*  
 CHAIRMAN'S SIGNATURE

**HOUSE BILL NO. 407**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**EIGHTEENTH LEGISLATURE - SECOND SESSION**

**BY REPRESENTATIVE FOSTER**

**Introduced: 1/27/94**

**Referred: State Affairs, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to issuance of commemorative gold rush motor vehicle license  
2 plates."

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

4 \* **Section 1.** AS 28.10.181 is amended by adding a new subsection to read:

5 (s) Special request gold rush commemorative plates. The department shall  
6 issue registration plates commemorating the gold rush period in the state upon  
7 application by the owner of a passenger vehicle, noncommercial van or pick-up truck,  
8 or motor home. The commissioner shall determine the design and color of gold rush  
9 commemorative plates.

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO: CSHB 407(FIN)

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: An Act relating to issuance of commemorative BRU: Motor Vehicles  
gold rush....vehicle license plates. Component: Field Services  
 Sponsor: Rep. Foster  
 Requestor: H. FIN COMPONENT SERIAL NO. 502

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	5.4	0	0	0	0	0
TRAVEL						
CONTRACTUAL	10.0	0	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>15.4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (1005) REVENUE CODE	30.0	0	0	0	0	0

FUNDING: (THOUSANDS OF DOLLARS)

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF						
1005 GF/PROGRAM RECEIPTS	15.4	0	0	0	0	0
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	<b>15.4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

ESTIMATE OF CURRENT YEAR (FY 94) IMPACT: \$ \_\_\_\_\_

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY.)

PERSONAL SERVICES COSTS ARE ASSOCIATED WITH 200 HOURS OF OVERTIME FOR DMV REPRESENTATIVES.  
 CONTRACTUAL COSTS ARE ASSOCIATED WITH THE DESIGN, ORDERING AND PURCHASE OF 1000 SPECIAL REQUEST LICENSE PLATES.

PREPARED BY: JUANITA M. HENSLEY PHONE: 465-2650  
 DIVISION: MOTOR VEHICLES DATE: 03/15/94  
 APPROVED BY COMMISSIONER: [Signature] DATE: 03/15/94  
 AGENCY: RICHARD L. BURTON, DEPT. OF PUBLIC SAFETY

*Handwritten:*  
3/15/94

# 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: Rep. Ron Larson, Co-Chair  
Rep. Eileen MacLean, Co-Chair  
House Finance Committee

FROM: Rep. Richard Foster *RF*

RE: Scheduling CSHB 407

DATE: March 10, 1994

I would appreciate it if the House Finance Committee could schedule CSHB 407 for a hearing.

This bill would provide for the issuance of a commemorative gold rush motor vehicle license plate as a part of the Gold Rush Centennial celebration.

I am including a fiscal note and the sponsor's statement. If you have any questions, please contact my office.

Thank you for considering this request.

## SPONSOR'S STATEMENT

CSHB 407 would provide for the issuance of a special gold rush commemorative motor vehicle license plate. The Gold Rush Centennial Celebration and Commemoration Committee in Nome originally suggested that they would be interested in having a special commemorative license plate for the centennial. They contacted the Department of Motor Vehicles and were informed that the license plate design is in statute and that legislation would be necessary before a commemorative plate could be authorized. Since the introduction of HB 407 others have expressed an interest in the legislation.

I know that there is often opposition to changing the design of motor vehicle license plates. However specially designed Centennial license plates have proved to be quite popular in other states. The gold rush is a significant bench mark in Alaskan history. It marks the beginning of development in the interior of Alaska and it brought the territory to the attention of the United States and the rest of the world.

# FISCAL NOTE

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO: CSHB 407(STA)**

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: An Act relating to issuance of commemorative BRU: Motor Vehicles  
gold rush....vehicle license plates... Component: Field Services  
 Sponsor: Representative Foster  
 Requestor: H.STA. COMPONENT SERIAL NO. 502

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES		6.0	12.1	6.0	6.0	6.0
TRAVEL						
CONTRACTUAL		39.0	78.0	39.0	39.0	39.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>45.0</b>	<b>90.1</b>	<b>45.0</b>	<b>45.0</b>	<b>45.0</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES (1005)</b> <small>Revenue Code</small>		<b>67.5</b>	<b>135.0</b>	<b>67.5</b>	<b>67.5</b>	<b>67.5</b>

**FUNDING: (Thousands of Dollars)**

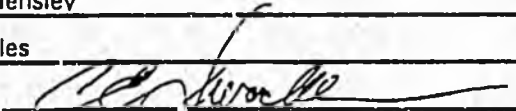
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts		45.0	90.1	45.0	45.0	45.0
1006 GF/MHTIA						
Other						
<b>TOTAL</b>		<b>45.0</b>	<b>90.1</b>	<b>45.0</b>	<b>45.0</b>	<b>45.0</b>

Estimate of current year (FY 94) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared By: Juanita M. Hensley Phone: 465-2650  
 Division: Motor Vehicles Date: 3/7/94  
 Approved by Commissioner:  Date: \_\_\_\_\_  
 Agency: Richard L. Burton, Dept. of Public Safety

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*Photo*  
 3/7/94

Fiscal Note Analysis  
CSHB 407(STA)  
Page 2 of 2

This bill amends current law by allowing the Department of Public Safety design a new license plate depicting the commemoration of the gold rush era of Alaska's history. This new design of the license plate will replace the existing general issue plate of blue and gold.

Effective January 1, 1996, the department will start issuing this plate but only after current supply of the blue and gold plates have been depleted.

It is anticipated 25% of the present vehicle owners will want to replace their current plates. The resulting fiscal impact will be in purchasing 25% more license plates. Personal services costs are for over-time so the division would be able to handle those individual's who wish to replace their current plates.

This bill has an effective date of January 1, 1996.

Currently replacement plate costs run approximately, \$312.3 a year, 25% of that costs is \$78.0.

The first years cost is for a 6 month period from January 1, 1996. 12.5% or \$39.0 increase in replacement plates are anticipated the first year. The second year costs is for a full year and results in an increase of 25% or \$78.0 in replacement plate costs. Over-time costs is for 6 months for the first year for 225 hours @\$27.00 an hour and the second year 450 hours @\$27.00 an hour. It is anticipated after the first and second years of replacing individual's plates with the new design plate the request for replacement plates costs will taper off to 12.5% a year. Over-time costs will be the same as FY96.



# CITY OF NOME

*Incorporated April 9, 1901*

Nome '98 Committee  
P.O. Box 281  
Nome, Alaska 99762  
Telephone (907) 443-5242  
Fax (907) 443-5549

November 2, 1993

Representative Richard Foster  
Alaska State Legislature  
State Capitol Building  
Juneau, Alaska 99801-1182

Hi Richard:

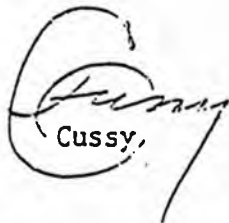
As part of the Gold Rush Centennial celebration and commemoration I had written to Jay Dulaney, Director of Motor Vehicles Division regarding the issuance of a license plate for the years including 1998 which would be special in design as the enclosed letter indicates.

He called me mid-October to inform me license plates took legislative action and authority and advised I should contact you and/or Al to make our wishes known and to seek your assistance in accomplishing this task.

I personally like the gold seeker in gold, on a dark blue State of Alaska background with a white (or light blue) plate. The DMV could offer the "plain-Jane" plates as we now know them (blue and gold numbers and letters) and additionally could offer these commemorative license plates at a higher fee, thus raising additional monies to be either transferred to the Centennial Task Force or to be used by the DMV.

Let me know what you think, and thanks for your help.

Your friend,

  
Cussy.



# CITY OF NOME

Incorporated April 9, 1901

September 10, 1993

P.O. Box 281

Nome, Alaska 99762

Telephone (907) 443-5242

Fax (907) 443-5349

State of Alaska  
Department of Motor Vehicles  
5700 E. Tudor Road  
Anchorage, Alaska 99507

Attn: Mr. Jay Dulany  
Director of Motor Vehicles

Dear Sir:

Perhaps you have heard of the Gold Rush Centennial Task Force which has been organizing in various communities and on a state wide level in an effort to celebrate and commemorate the discovery of gold in Alaska.

The Nome contingent of the Centennial Task Force would like to suggest the DMV design a license plate for Alaskans for these coming years of either the gold seeker, perhaps a gold pan crossed with a pick and shovel, perhaps the seal of the City of Nome as you see on our letterhead, or even the Pioneers of Alaska great insignia of the crossed snowshoes!

Some communities gold rush activities are planned earlier than 1998 to coincide with their gold discoveries, so the sooner you hand our suggestions to your plate designer or artist the better!

I can be reached during the day at 443-5242 to offer help or suggestions.

Remember.... NOME!,... the place to be in '98!

Sincerely,

  
Cussy Reardon

enc Seeker design  
Pioneers of Alaska design



HOUSE COMMITTEE REPORT

(7)

Date Referred: January 27, 1994

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-10-94

The STATE AFFAIRS Committee considered:

HB 407

HOUSE BILL NO. 407

COMMEMORATIVE GOLD RUSH LICENSE PLATES

"An Act relating to issuance of commemorative gold rush motor vehicle license plates."

RECOMMENDATIONS:  the same title

be replaced with CS HB 407 (STA)  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 Public Safety

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	X	<i>[Signature]</i>		✓	
<i>[Signature]</i>	X	<i>[Signature]</i>		✓	
<i>[Signature]</i>	✓	<i>[Signature]</i>		✓	

*[Signature]*  
CHAIRMAN'S SIGNATURE

**HB**

**409**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred: March 4, 1994

FURTHER REFERRALS:

Date of Committee Action: 3/25/94

The FINANCE Committee considered:

HB 409

HOUSE BILL NO. 409

AFDC DEMO PROJECT AND DECREASE

"An Act relating to the maximum amount of assistance that may be granted under the adult public assistance program and the program of aid to families with dependent children; proposing a special demonstration project within the program of aid to families with dependent children and directing the Department of Health and Social Services to seek waivers from the federal government to implement the project; and providing for an effective date."

**RECOMMENDATIONS:**

be replaced with CS HB 409 (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)

DPA 7, DPA 8  
DPA 9

fiscal impact: DHSS

fiscal note(s) (3) DHSS, 3/4/94

zero fiscal note \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Ronald J. Larsen</u>	X	<u>Eileen P. McKeen</u>		✓	
<u>Mark Hanley</u>	X	<u>Sean P. Powell</u>		✓	
<u>Terry Martin</u>	X	<u>Benjamin Grussendorf</u>	X		
<u>Greg Therman</u>	X	<u>Jim Hoffmann</u>		X	
		<u>Tony Brown</u>		✓	
		<u>Richard Foster</u>		X	

Ronald J. Larsen E P McKeen  
CHAIRMAN'S SIGNATURE

**COST/SAVINGS ANALYSIS  
CSHB 409 (FIN)**

Prepared by the Department of Health and Social Services  
Division of Public Assistance  
March 23, 1994

	FY95	FY96	FY97	FY98	FY99	TOTAL
<b>OPERATING EXPENDITURES</b>						
AFDC Payments - Project	0.0	(200.5)	(1,915.8)	(2,523.7)	(3,105.4)	(7,745.4)
Eligibility Determination	0.0	757.6	693.7	693.7	690.1	2,635.1
PA Administration	200.1	291.4	408.7	408.7	306.4	1,615.3
PA Data Processing	631.4	549.1	228.9	228.9	228.9	1,867.2
Alaska Work Programs	0.0	250.6	307.0	307.0	163.3	1,027.9
Child Care Benefits	0.0	578.3	1,360.8	1,360.8	680.4	3,980.3
Medical Assistance	0.0	(17.5)	(332.2)	(559.6)	(509.9)	(1,419.2)
<b>Gross Project Cost</b>	<b>831.5</b>	<b>2,209.0</b>	<b>751.1</b>	<b>(84.2)</b>	<b>(1,546.2)</b>	<b>2,161.2</b>
Less Federal Receipts for Project Costs	(322.3)	(346.5)	(124.4)	(124.4)	(139.4)	(1,057.0)
<b>Net Project Cost</b>	<b>509.2</b>	<b>1,862.5</b>	<b>626.7</b>	<b>(208.6)</b>	<b>(1,685.6)</b>	<b>1,104.2</b>
Less Ratable Reduction GF/GF Match Savings	(829.5)	(1,742.2)	(1,829.4)	(1,920.8)	(2,016.7)	(8,338.6)
<b>Net GF Budget Impact</b>	<b>(320.3)</b>	<b>120.3</b>	<b>(1,202.7)</b>	<b>(2,129.4)</b>	<b>(3,702.3)</b>	<b>(7,234.4)</b>

<b>RATABLE REDUCTION SAVINGS</b>						
AFDC - GF Match	(526.7)	(1,106.4)	(1,161.8)	(1,219.9)	(1,280.7)	(5,295.5)
APA - GF	(302.8)	(635.8)	(667.6)	(700.9)	(736.0)	(3,043.1)
<b>Total GF</b>	<b>(829.5)</b>	<b>(1,742.2)</b>	<b>(1,829.4)</b>	<b>(1,920.8)</b>	<b>(2,016.7)</b>	<b>(8,338.6)</b>
AFDC - Federal Receipts	(526.6)	(1,106.4)	(1,161.8)	(1,219.9)	(1,280.7)	(5,295.4)
AFDC/APA - I/A Receipts (PFD Hold Harmless)	(125.3)	(263.3)	(276.5)	(290.4)	(304.8)	(1,260.3)

FISCAL NOTE

DPA #1

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CS HB409 (PIN)

Revision Date: 3/23/94 Dept. Affected: Health and Social Services  
 Title: An Act proposing a special demonstration project within the AFDC program - project costs BRU: Assistance Payments  
 Sponsor: Hanley Component: AFDC  
 Requestor: House Finance COMPONENT SERIAL NO. 0220

Expenditures/Revenues:		(Thousands of Dollars)				
OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	(200.5)	(1,915.8)	(2,523.7)	(3,105.4)	(2,955.4)
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>(200.5)</b>	<b>(1,915.8)</b>	<b>(2,523.7)</b>	<b>(3,105.4)</b>	<b>(2,955.4)</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGES IN REVENUES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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FUND SOURCE		(Thousands of Dollars)				
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
1007 I/A Rcpts.	0.0	(200.5)	(1,915.8)	(2,523.7)	(3,105.4)	(2,955.4)
<b>TOTAL</b>	<b>0.0</b>	<b>(200.5)</b>	<b>(1,915.8)</b>	<b>(2,523.7)</b>	<b>(3,105.4)</b>	<b>(2,955.4)</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 (FY94) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

This legislation impacts the AFDC program in several ways. The bill makes certain changes in AFDC eligibility provisions for purposes of operating a demonstration project. The demonstration project includes an increase in the AFDC earned income disregard from the current time-limited disregard of \$30 and one third of the remainder to \$200 plus one third of the remainder for 24 months.

Prepared by: Jan L. Hansen, Director  
 Division: Division of Public Assistance  
 Approved by Commissioner: Margaret R. Lowe  
 Agency: Department of Health & Social Services

Phone: 465-2680  
 Date: 3/24/94  
 Date: 3/24/94

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**ANALYSIS (cont.):**

The demonstration also includes a waiver of the AFDC Unemployed Parent "100-hour rule" and increases the total amount of equity in vehicles a family may own. These modified requirements apply only to AFDC families living in the project area defined in the bill.

The bill also establishes requirements for AFDC recipients in the demonstration project to participate in workfare activities for 21 hours per week. Individuals who are required to participate in workfare are subject to fiscal sanction if they do not comply with the requirement.

**Assumptions:**

**Basis of project:**

Federal approval is secured to operate an AFDC demonstration project under the authority of section 1115 (a) of the Social Security Act, including all of the provisions of this bill.

Project is operational from January 1, 1996 through December 31, 1998.

The project area includes the Municipality of Anchorage, the Matanuska Susitna Borough, the Fairbanks North Star Borough, and the North Slope Borough. 65% of AFDC families in Anchorage, Mat-Su, and Fairbanks are included in project experimental group, 35% in control group. Control group members participate under normal AFDC rules. 100% of recipients in the North Slope Borough project site are included in the experimental group.

Federal financial participation is available only for total project costs which do not exceed baseline costs of operating the AFDC program without the demonstration project.

**Cost and Savings:**

**Savings Assumptions:**

The increased earned income disregards, waiver of the 100-hour rule, and the workfare requirement will cause the number of AFDC recipients who are working to increase over the course of the project. We project that the following numbers of recipients will become employed as a result of the demonstration provisions: 488 in FY 96, 347 more in FY 97, and 56 more in FY 98. At the end of the three-year demonstration, a total of 891 recipients who would not otherwise be employed are expected to be receiving regular earnings.

## ANALYSIS (cont.):

The average monthly earnings of AFDC recipient families in the project area as of September 1993 are as follows:

	AFDC-Basic	AFDC-UP
Anchorage	\$547.49	\$541.03
Mat-Su Borough	\$450.21	\$431.92
Fairbanks North Star Borough	\$474.67	\$484.92
North Slope Borough	\$281.17	\$551.66

We assume that the earnings of recipients in the project area will be at these levels, adjusted by 2.5 percent per year to account for inflation.

The benefit costs for these newly working recipients will decrease because their earnings will reduce their AFDC grant amounts. The total savings because of such benefit reductions is projected at about \$8.6 million over the three-year term of the demonstration.

These program modifications are also expected to cause some families which would otherwise remain on AFDC to leave the rolls each year during the project: 26 in FY 96, 62 in FY 97, 51 in FY 98, and 31 more in FY 99. This reduction in the caseload is expected to generate a total savings of about \$3.5 million over the term of the demonstration.

Sanction penalties for failure to participate in workfare will also generate savings. We assume that 3 percent of the total number of families subject to workfare would be subject to sanction each month. Most cases required to participate would be AFDC Unemployed Parent cases where both parents would be required to participate. The average sanction per case is projected at \$350.00 per month.

After the demonstration project ends, we project a reduction in the number of recipients who are working as a result of the demonstration. The decrease in the earned income disregards will cause some individuals to leave work. Other individuals will leave work to avoid becoming ineligible because of the reimposition of the unemployed parent 100-hour rule. In the last 6 months of FY 99, we project that the average monthly number of working recipients will decrease by 359.

## ANALYSIS (cont.):

## Savings Calculations:

	AFDC BENEFIT SAVINGS					
	FY95	FY96	FY97	FY98	FY99	FY00
\$200 + 1/3 Earned Income Disregard & 100- Hour Rule	0	( 769.0)	(2582.2)	(2825.6)	(2447.0)	(1482.9)
Clients off AFDC (# persons)	0	(119.5) 26	(724.7) 88	(1212.5) 139	(1472.5) 170	(1472.5) 170
Workfare Sanction Penalties	0	(44.2)	(176.4)	(176.4)	( 88.2)	0
<b>Total Gross Savings</b>	<b>0</b>	<b>( 932.7)</b>	<b>(3483.3)</b>	<b>(4214.5)</b>	<b>(4007.7)</b>	<b>(2955.4)</b>

## Cost Assumptions:

AFDC recipients who are already working will receive increased benefits because the amount of the existing earned income disregard increases from 4 months at \$30 + 1/3 of the remainder and 8 months at \$30 to 2 years at \$200 + 1/3 of the remainder.

AFDC benefits to recipients who go to work as a result of the increased disregards will cost more than they would under the existing rules. These increased costs are partially offset by the savings generated through grant reductions and terminations. Those savings are accounted for above.

Approximately 1104 families in the project area have at least one member who is working now. We project that the same proportion of the caseload, or 1267 families, will have a working member at the beginning of the project in January 1996. We expect that the proportion of working families would remain constant in the absence of the waiver provisions, with the baseline number of working families increasing as the caseload increases.

We project that an additional 488 recipients will go to work in FY 96 as a result of the policy waivers, that an additional 347 will go to work in FY 97, and an additional 56 in FY 98.

**ANALYSIS (cont.):**

On average, cases receiving normal \$30 and one third of remainder disregard receive 2 months per year of 1/3 of remainder disregard and 6 months per year of \$30 disregard.

On average, cases receiving extended \$200 and one third of remainder disregard under demonstration waiver receive the full disregard for 8 months of each year.

**Cost Calculations:**

AFDC BENEFIT COSTS						
\$200 + 1/3 EARNINGS DISREGARD						
	FY95	FY96	FY97	FY98	FY99	FY00
Recipients Already Working	1200	1267	1348	1434	1520	1605
Additional Working Recipients	0	488	335	891	445	0
Total Working Recipients in project area	1200	1755	2183	2324	1965	1605
Total AFDC Benefit Costs	0	732.2	1567.5	1690.8	902.3	0

**Automobile value allowance increase:**

Federal law currently allows exclusion of the first \$1500 of the equity of one vehicle. Remaining equity is applied toward the \$1000 maximum asset limit. This bill provides for application of a federal waiver in the project area to increase the vehicle equity exclusion to \$5000 and allow it to be applied to any number of vehicles necessary for specific purposes.

We project that the vehicle provision will result in an average of 15 additional families per month being eligible for AFDC benefits over the period of the demonstration. An equal number of families is expected, as a result of their improved transportation resources, to earn enough to leave the AFDC rolls each month during the course of the demonstration.

The benefit costs are expected to be offset by benefit savings. No net change in program costs is anticipated as a result of the vehicle value provision.

## ANALYSIS (cont.):

Net AFDC Savings produced by HB 409:

TOTAL AFDC BENEFIT COSTS AND SAVINGS						
	FY95	FY96	FY97	FY98	FY99	FY00
Gross Savings	0.0	(932.7)	(3483.3)	(4214.5)	(4007.7)	(2955.4)
Gross Costs	0	732.2	1567.5	1690.8	902.3	0
Net Benefit Savings	0.0	(200.5)	(1915.8)	(2523.7)	(3105.4)	(2955.4)