

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES,

1993-1994

1201

278

CSSB 256(TRA) Fiscal Note Analysis

As stated in the purpose of the bill, the increased tax on aviation gasoline would result in an amount substantially comparable to the amount that would be derived from the reimposition of landing fees at rural state-operated airports. The Department of Revenue fiscal note for this bill estimates revenue of \$1,705,300 (after municipal revenue sharing is deducted).

Landing fees were halted in FY93 and the Department of Transportation and Public Facilities had included a request in the FY95 Governor's budget to decrease program receipts authorization for collection from landing fees and increase general funds to offset this amount (\$1,550,000). The FY95 operating budget as passed by the Senate deleted this \$1,550,000 in general funds from the contractua line of the highways and aviation maintenance budget. Passing CSSB 256(TRA) would allow that funding to be reinstated to the department's budget to provide for adequate maintenance and operations at the rural airports.

Alaska State Legislature

SENATOR
BERT SHARP
CHAIRMAN



Senate Transportation Committee

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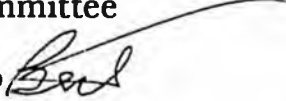
STATE CAPITOL, ROOM 514
JUNEAU, ALASKA 99801-1182
(907) 465-3004/4921

MEMORANDUM

DATE: May 3, 1994

TO: Representative Ron Larson, Co-Chair
House Finance Committee

Representative Eileen Maclean, Co-Chair
House Finance Committee

FROM: Senator Bert Sharp 

RE: **Request for hearing -- CS for SB 256**

I am requesting that CS for Senate Bill 256, "An Act relating to the tax on transfers and consumption of aviation fuel; and providing for an effective date," be heard before the House Finance Committee at your earliest convenience.

This bill was introduced by the Senate Transportation Committee at the request of the Department of Transportation and Public Facilities in response to legislative intent language in the FY 94 budget which discouraged the imposition of landing fees at rural airports. The \$.007 of an increase in the aviation fuel tax is an attempt to recover the revenue lost from this source. Language in the Senate Transportation Committee Substitute ties the increase in the fuel tax to the absence of rural airport landing fees. Therefore, if the administration decides to reinstate landing fees, the increase in the aviation fuel tax would be nullified.

Alaska State Legislature

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STATE CAPITOL, ROOM 514
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(907) 465-3004/4921

Senate Transportation Committee

CS FOR SENATE BILL 256 (TRA)

This bill was introduced by the Senate Transportation Committee at the request of the Department of Transportation and Public Facilities in response to legislative intent language in the FY 94 budget which discouraged the imposition of landing fees at rural airports. The \$.007 of an increase in the aviation fuel tax is an attempt to recover the revenue lost from this source. Language in the Senate Transportation Committee Substitute ties the increase in the fuel tax to the absence of rural airport landing fees. Therefore, if the administration decides to reinstate landing fees, the increase in the aviation fuel tax would be nullified.



Department of Transportation
and Public Facilities

POSITION PAPER

BILL NO: SB 256

APPROVED: 

TITLE: Increase Aviation Fuel Tax

DATE: January 24, 1994

The Department of Transportation and Public Facilities supports the increase in the aviation fuel tax by \$0.007 (0.7 cents) per gallon.

This level of increase will offset the loss in state revenue resulting from not reinstating aircraft landing fees at rural airports operated by the state.

Last session, air carriers were contacted and asked if they would prefer reinstatement of the landing fees or collection of an equivalent amount of revenue through another means. While no firm commitment was made, the general feeling expressed was that an increase in the aviation fuel tax to collect an equivalent amount of revenue would be preferable.

The increased tax will be collected by the Department of Revenue in conjunction with the current tax level.

DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

3132 CHANNEL DRIVE
JUNEAU, AK 99801-7898
PHONE: (907) 465-3900
FAX: (907) 586-8365
TEXT: (907) 465-3652

December 13, 1993

Senator Bert M. Sharp
119 N. Cushman Street, Suite 201
Fairbanks, AK 99701-2879

Representative Richard Foster
P.O. Box 1630
Nome, AK 99762-1630

Dear Senator Sharp and Representative Foster:

Enclosed are three proposed pieces of legislation which I would appreciate being introduced through the Transportation Committees in the next session:

AS 43.40.010

The increase in aviation fuel tax in the amount of \$.007/gallon is the result of the Legislative request to not assess landing fees on rural airports.

See the Legislative intent language contained in the DOT&PF-FY94 operating budget.

AS 38.05.030

This amendment simply makes airport property disposal consistent with highway property disposal. This is a housekeeping measure which should have been handled when DOT&PF was created -- it wasn't.

All property and right-of-ways are handled in one DOT&PF section and this housekeeping measure makes the operations consistent.

AS 19.05.040

This minor addition to the statutes allows DOT&PF to enter property to determine if hazardous substances exist. This change is needed because DOT&PF has purchased property for right-of-way purposes only to find out that it is contaminated and the cost of cleanup exceeded the cost of moving the facility to avoid the contaminated area had that fact been known.

COMPONENT DETAIL - OPERATING BUDGET

nt: Interior District - Highways and Aviation
 Interior District Maintenance and Operations

Agency: Department of Transportation/Public Facilities

ctions - Line Items Type Total Pers Svc Travel Contract Supplies Equip Land/Bld Grant Misc PFI PPI Imp

***** Changes from FY94 Gov Amd to Conference C mittee *****

import electric contract Dec -20.0 0.0 0.0 -20.0 0.0 0.0 0.0 0.0 0.0 0 0 0

utive Intent: It is the intent of the legislature that Department of Transportation and Public Facilities should continue to provide adequate winter
 nce of the Denali Highway between Cantwell and the Valdez Creek Mine access road, with at least 50 percent of the expected service to be paid by industry or
 contributions.

egislative Intent: It is the intent of the legislature that the Department of Transportation and Public Facilities not reinstate the landing fees at the rural
 airports and that the department submit for legislative consideration a supplemental appropriation next session to fund the resulting shortfall in program receipts.

ocation to the Department of Transportation and Public Facilities for Highways and Aviation shall lapse into the general fund on August 31, 1994.

***** Changes from FY94 Gov Amd to Senate *****

sted reduction Dec -39.1 -39.1 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0 0 0
 import electric contract Dec -20.0 0.0 0.0 -20.0 0.0 0.0 0.0 0.0 0.0 0.0 0 0 0
 trinnms PFI to PPI Dec -31.3 -31.3 0.0 0.0 0.0 0.0 0.0 0.0 0.0 -1 1 0

ctions - Funding Sources Type Total 1002 1004 1005 1007 1061

***** Changes from FY94 Gov Amd to Conference Committee *****

import electric contract Dec -20.0 -20.0

***** Changes from FY94 Gov Amd to Senate *****

sted reduction Dec -39.1 -39.1
 import electric contract Dec -20.0 -20.0
 trinnms PFI to PPI Dec -31.3 -31.3



Greater Fairbanks

Chamber of Commerce

709 Second Avenue

Fairbanks, Alaska 99701

(907) 452-1100

FAX (907) 456-6966

RESOLUTION 94-0502-1

**A RESOLUTION BY THE GREATER FAIRBANKS CHAMBER OF COMMERCE
SUPPORTING SENATE BILL 256, REGARDING TAX ON AVIATION FUEL TO
SUPPORT RURAL AIRPORTS**

WHEREAS, rural airports are a vital part of Alaska's highway system providing the only transportation quarter for many communities throughout Alaska, and

WHEREAS, rural airports in Alaska constitute an important feeder system to major carriers, and

WHEREAS, legislation to support rural airport maintenance with landing fees was opposed by large and small air carriers alike and was not reinstated, and

WHEREAS, the Alaska Air Carriers Association supports Senate Bill 256 as a means of providing for maintenance of rural airports, and

WHEREAS, the Alaska Department of Revenue Income and Excise Audit Division, Operations Annual Report, Table 5 concerning Statistic Motor Fuel Tax states that in fiscal year ending June 30, 1993, 744,157,849 gallons of jet fuel was sold. Of that, 387,915,859 gallons were tax exempt for government and foreign flight sales. In addition, there were full tax refund claims on 127, 805, 650 gallons used for heating fuel and foreign flight sales. Thus, the total taxable gallons amounted only to 228,436,340 gallons; less than 1/3 of the fuel actually sold is taxed, and

WHEREAS, the Greater Fairbanks Chamber of Commerce Transportation Committee understands the importance of rural airports to economic development in the State of Alaska and has been a long time supporter of maintaining our rural airports, and

WHEREAS, the Greater Fairbanks Chamber of Commerce Transportation Committee has duly considered the potential benefits and hardships to petroleum refiners in Alaska and the hardships and benefits to Alaska's economic future that the tax or lack of tax may bring.

NOW, THEREFORE, BE IT RESOLVED that the Greater Fairbanks Chamber of Commerce hereby supports the Senate Bill 256, providing the tax is used as intended in support of rural airport maintenance programs.

Dated this 2nd Day of May, 1994.

By Keith D. Burke

Keith D. Burke
Chairman of the Board

Senator Bert Sharp
April 18, 1994
page two

In our discussions with Senators in support of SB 256, if necessary to fund airports, we have encountered a general resistance to tax increases this session. AACA generally agrees with this position, but in this case, failure to either fund the airport budget or to pass SB 256, will most likely result in the reimposition of landing fees: a tax which is expensive to collect and difficult to allocate fairly among air carriers.

Time is getting short to solve this dilemma. We strongly urge you to take quick action on either of the two solutions which will prevent a significant impediment to statewide aviation.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Richard E. Harding". The signature is stylized with a large, looped initial "R" and "H".

Richard E. Harding
President

ALASKA AIR CARRIERS ASSOCIATION
1994 Board of Directors

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***Kim Daniels**, Executive Director
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*Denotes Executive Committee

**ALASKA AIR CARRIERS ASSOCIATION
ACTIVE MEMBERS - 4/18/94**

AIR EXCURSIONS
ALASKA AIR ADVENTURES
ALASKA AIRLINES
ALASKA CARGO SERVICE
ALASKA ISLAND AIR
ALASKA WILDERNESS AIR
ALPINE AVIATION
ARCTIC CIRCLE AIR
BARROW AIR
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HIGH ADVENTURE AIR CHARTER
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KACHEMAK AIR SERVICE
KETCHIKAN AIR SERVICE
KUSKO AVIATION
LAKE CLARK AIR
MARKAIR/MARKAIR EXPRESS
NELSON'S AIR SERVICE
NORTH STAR AIR CARGO
OLSON AIR SERVICE
PRO MECH AIR
RAM AVIATION
RIEMERS AIR
SAWMILL CREEK AIR
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TEMSCO HELICOPTERS
TRANS-PORTER ALASKA
ULTIMA THULE OUTFITTERS
VZ AIR
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4 W' AIR
GOLDEN PLOVER
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ILIAMNA AIR TAXI
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TUNDRA AIR
UYAK AIR SERVICE
WARD AIR
WINGS
WREN AIR
YUKON HELICOPTERS



May 2, 1994

The Honorable Bert Sharp
Alaska State Senate
State Capital (MS 3100)
Juneau, Alaska 99801-1182

subject: SB-256

Dear Senator Sharp:

The DOT/PF wishes to maintain rural airports at a level that will not reduce the air carriers ability to serve those airports. The DOT/PF's rural airport operation and maintenance budget has been reduced this year and unless that budget shortfall is replaced in some manner, it will result in reduced service levels at Alaska's rural airports.

The airports are the only transportation link between rural communities and the rest of the world. It would not be in anyone's best interest, especially that of rural Alaskan's, to have the operational capability of rural airports reduced. No one, including the DOT/PF, wants the rural airports availability for operation to be compromised. For that reason DOT/PF has stated that if the fuel tax increase falls, they will then reimpose landing fees at rural airports.

When rural airport landing fees were in effect they proved to be unfair and inefficient. The fees applied to only 10-12 Alaskan carriers and the cost of administering the program and collecting the fees used up most of the revenue taken in. In the case of fuel tax however, the increase in the cost of collection and administration would be zero since the only thing to change would be the size of the checks. The fuel tax would also be the most fair since it would apply to all users proportionally from the weekend pilot and one person air taxi operators to the large Alaskan carriers such as Markair and Northern Air Cargo and to the largest international carriers.

Those opposed to this tax increase believe that allowing the fuel tax increase to become law will force them to resort to using foreign source bonded fuel. Such a move would not forgive them their obligation to pay applicable state and local taxes. In the event that they are able to avoid state aviation fuel taxes by the use of foreign source fuel, then they will do so whether the tax increase is passed or not.

The Alaskan air carriers are willing to step up and chip in our fair share towards keeping rural airports operational. Please allow us to do so in the fairest, least painful and most efficient manner possible. I urge your support of SB-256 and ask that you urge your colleagues to do so also.

Sincerely,

A handwritten signature in black ink that reads "R. J. Hallford". The signature is written in a cursive style with a large, sweeping "R" and "H".

Robert J. Hallford
Vice President,
Northern Air Cargo.

SB

256

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/14/94

FURTHER:

DATE TURNED INTO OFFICE: 4-25-94

The Finance Committee considered **SENATE BILL NO. 256**

"An Act increasing the tax on transfers and consumption of aviation fuel."

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS SB 256 (TRA)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DOR	1/21/94		20.4 opt. 1,725.7 revenue

Appropriation No Fiscal Note

DO PASS:

Alvin R.

OTHER RECOMMENDATIONS:

~~no~~
J. K. ... No Rec.
... N. R.

1. _____
Co-Chair: Signature/Recommendation

2. ... No Rec
Co-Chair: Signature/Recommendation

FISCAL NOTE

Revision Date: 1/28/94 Department Affected: DOT&PF
 Title: An act relating to the tax on transfers and consumption of aviation fuel BRU: Statewide M&O
 Sponsor: Senate Transportation Committee Component: Highways & Aviation
 Requestor: Senate Transportation Component Serial Number: 1988

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	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0

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

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0

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: \$0

ANALYSIS: (Attach a separate page if necessary)

The FY95 Governor's budget directly used these revenues. The Senate version deleted this direct funding, necessitating the fiscal note to increase maintenance and operations funding if the revenue from the tax increase is to be used.

Prepared by: Ron B. Lind

Phone: 465-3911

Division: Administrative Services

Date: 4/27/94

Approved by Commissioner: B.A. Campbell

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date:

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CSSB 256(TRA) Fiscal Note Analysis

As stated in the purpose of the bill, the increased tax on aviation gasoline would result in an amount substantially comparable to the amount that would be derived from the reimposition of landing fees at rural state-operated airports. The Department of Revenue fiscal note for this bill estimates revenue of \$1,705,300 (after municipal revenue sharing is deducted).

Landing fees were halted in FY93 and the Department of Transportation and Public Facilities had included a request in the FY95 Governor's budget to decrease program receipts authorization for collection from landing fees and increase general funds to offset this amount (\$1,550,000). The FY95 operating budget as passed by the Senate deleted this \$1,550,000 in general funds from the contractual line of the highways and aviation maintenance budget. Passing CSSB 256(TRA) would allow that funding to be reinstated to the department's budget to provide for adequate maintenance and operations at the rural airports.

FISCAL NOTE

No. 1

Bill Version: SB 256

(S) Publish Date: 1-28-94

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL N

Revision Date: _____ Dept. Affected: Revenue
 Title: Increase aviation fuel tax BRU: Revenue Operations/Shared Taxes
 Component: Income and Excise Audit/Aviation Fuel
 Sponsor: Senate Transportation
 Requestor: Senate Transportation COMPONENT SERIAL NO. 113/104

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	20.4	20.4	20.4	20.4	20.4	20.4
MISCELLANEOUS						
TOTAL OPERATING	20.4	20.4	20.4	20.4	20.4	20.4

CAPITAL						
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REVENUE FUND SOURCE: General	1,725.7	1,725.7	1,725.7	1,725.7	1,725.7	1,725.7
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	20.4	20.4	20.4	20.4	20.4	20.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	20.4	20.4	20.4	20.4	20.4	20.4

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary.)

(See Attached)

Changes in CS SB 256 (TRA)
 reflect **NO FISCAL CHANGE** from the original
 fiscal note. This fiscal note is appropriate.

1/27/94 R.A.S.
 Date Comptroller

Prepared by: Larry E. Meyers Phone: 465-2320
 Division: Income and Excise Audit Date: January 20, 1994
 Approved by Commissioner: Darrel J. Rexwinkel Date: January 20, 1994
 Agency: Department of Revenue

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This bill increases motor fuel tax rates on aviation fuel by .7¢ per gallon as follows.

	Current Tax Rate	Draft Bill Tax Rate	% Increase
Aviation Gasoline	4¢ per gallon	4.7¢ per gallon	17.5%
Aviation (Jet) Fuel	2.5¢ per gallon	3.2¢ per gallon	28.0%

In determining the amount of additional revenues generated from this bill, the Department of Revenue used aviation fuel consumption data available from FY 93. The amounts below do not reflect impacts on consumption, if any, due to increased tax rates and other factors.

Under AS 43.40.010(e), 60% of aviation gasoline tax revenues derived from fuel sales at municipally owned airports are shared with those municipalities. The Department shared \$116,800 of aviation gasoline tax revenues to municipalities in FY 93. Under this bill, that amount will increase by 17.5% (% increase identified above) or \$20,400.

The additional revenue generated from this bill is estimated to be \$1,705,300 calculated as follows.

	FY93 Consumption	FY 93 Revenue	Draft Bill Revenue	Additional Revenue
Aviation Gasoline	18,076,200 gallons	\$ 723,000	\$ 849,600	\$ 126,600
Aviation (Jet) Fuel	228,436,300 gallons	5,710,900	7,310,000	1,599,100
Total	246,512,500 gallons	6,433,900	8,159,600	1,725,700
Amount Shared		(116,800)	(137,200)	(20,400)
Total		\$6,317,100	\$8,022,400	\$1,705,300

April 27, 1994

Billy -

Attached are two copies of a DOPTF fiscal note that was requested of the department by Cam Toohey. He said it reflects intended use of the increased fuel tax, and it has been sent to rules for inclusion within floor packets for CSSB 256 (TRA)--the version of the bill Senate Finance reported out. Cam said he cleared the note through Senator Frank's office to cover budgetary concerns. We have collected the note for the new legislation section of the budget. Wanted to be certain both you and Senator Pearce are aware of this and have copies for your files.

Kathy
2618

FISCAL NOTE

Revision Date: 1/28/94 Department Affected: DOT&PF
 Title: An act relating to the tax on transfers and consumption of aviation fuel BRU: Statewide M&O
 Sponsor: Senate Transportation Committee Component: Highways & Aviation
 Requestor: Senate Transportation Component Serial Number: 1988

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	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0
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	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0	1,550.0

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: \$0 _____

ANALYSIS: (Attach a separate page if necessary)

The FY95 Governor's budget directly used these revenues. The Senate version deleted this direct funding, necessitating the fiscal note to increase maintenance and operations funding if the revenue from the tax increase is to be used.

Prepared by: Ron B. Lind

Phone: 465-3911

Division: Administrative Services

Date: 4/27/94

Approved by Commissioner: [Signature]

Phone: 465-3901

B.A. Campbell

Agency: Department of Transportation and Public Facilities

Date:

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CSSB 256(TRA) Fiscal Note Analysis

As stated in the purpose of the bill, the increased tax on aviation gasoline would result in an amount substantially comparable to the amount that would be derived from the reimposition of landing fees at rural state-operated airports. The Department of Revenue fiscal note for this bill estimates revenue of \$1,705,300 (after municipal revenue sharing is deducted).

Landing fees were halted in FY93 and the Department of Transportation and Public Facilities had included a request in the FY95 Governor's budget to decrease program receipts authorization for collection from landing fees and increase general funds to offset this amount (\$1,550,000). The FY95 operating budget as passed by the Senate deleted this \$1,550,000 in general funds from the contractual line of the highways and aviation maintenance budget. Passing CSSB 256(TRA) would allow that funding to be reinstated to the department's budget to provide for adequate maintenance and operations at the rural airports.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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FAX (907) 465-2029
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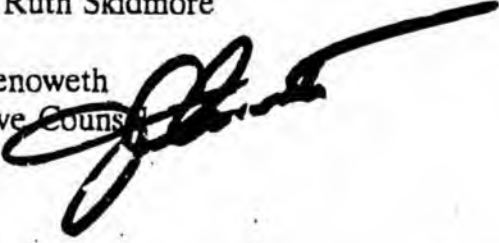
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 29, 1994

SUBJECT: Criticism of CSSB 256 (Transportation) (Work Order No. 8LS-150:AJ)

TO: Senator Bert Sharp, Chair
Senate Transportation Commission
ATTN: Ruth Skidmore

FROM: Jack Chenoweth
Legislative Counsel 

I have from your office a copy of the March 28 letter of Delta Air Lines in which the company objects to the proposed increase in the aviation fuel tax. The company's objection is grounded on its apparent understanding that the money is to pass into the state general fund in violation of "federal statutes that expressly prohibit the use of airport generated funds for non-aviation purposes." It extends the objection by asserting that "this tax, then, jeopardizes airport funding of federal Airport Improvement Program grants."

You have asked for my comments.

In one sentence, I think the company's criticism is wide of the mark.

First, while our state constitution requires that, with very few exceptions, state revenue may not be dedicated and requires that tax revenues be deposited into the general fund, upon deposit, under AS 43.40.010(e)--part of current law and not proposed to be changed by CSSB 256 (TRA)--the tax revenue collected on aviation fuel is to be credited to a specific account within the general fund:

(e) Sixty per cent of the proceeds of the revenue from the taxes on aviation fuel, excluding the amount determined to have been spent by the state in its collection, shall be refunded to a municipality owning and operating or leasing and operating an airport in the proportion that the revenue was collected at the municipal airport. All other proceeds of the taxes on aviation fuel shall be paid into a special

Senator Bert Sharp, Chair
March 29, 1994
Page 2

aviation fuel tax account in the state general fund. The legislature may appropriate funds from this account for aviation facilities.

While the legislature is free to use the balance of the special aviation fuel tax account as it may decide, at least nominally the revenue from the special aviation fuel tax is to be put back into aviation-related matters.

Second, taxes on sales of aviation fuel consumed or used in aircraft do not appear to be covered by an express prohibition against the use of airport generated funds for non-aviation purposes. 49 U.S.C. Appx. 1513 addresses state taxation of air commerce. Subsection (a) of the statute bars taxes, however denominated, "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." Subsection (b) permits state collection of other taxes, including "property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services." The aviation fuel tax is, in form, a variant of a sales or use tax and would seem to be explicitly permitted by the federal statute cited.

Third, the company's reference to an express prohibition against the use of airport generated funds for non-aviation purposes, combined with the assertion that the tax jeopardizes airport funding of federal Airport Improvement Program grants, led me to look at 49 U.S.C. Appx 1513(e), permitting imposition of an emplacement fee on departing passengers for financing eligible airport-related projects and at 49 U.S.C. 2201 et seq., the Airport and Airway Improvement Act of 1982 as amended. I did not read in the provisions cited anything that speaks to a requirement that revenue derived from the taxes on sales of fuel must be limited to airport-related matters.

My conclusion would seem to find support in the March 29, 1991, Opinion of the Attorney General responding to an inquiry as to whether or not the state could extend its motor fuel tax to aviation fuel sold for use in international flights.

If the company provides a more specific basis for its objection and you should so request, I will give further consideration to your question in light of the additional information received.

JBC:gc
94-227.glc

Enclosure

MEMORANDUM

State of Alaska
Department of Law

TO: Steve Pavish
Statewide Leasing Coordinator
Department of Transportation
and Public Facilities

DATE: March 29, 1991

FILE NO.: 661-91-0443

TEL NO.: 269-5163

SUBJECT: Fuel tax on aviation
fuel for international
flights

FROM: Virginia A. Rusch *JAR*
Assistant Attorney General
Transportation Section, Anchorage

You have asked whether the State of Alaska could extend its motor fuel tax to aviation fuel sold within the state for use in international flights.

AS 43.40.010 now imposes a tax on motor fuel sold within the state of Alaska. For aviation fuel, the tax is four cents a gallon for gasoline and two and one-half cents a gallon for aviation fuel other than gasoline. AS 43.40.010(a)(1) and (3). By definition, however, "motor fuel" does not include "fuel sold for use in jet propulsion aircraft operating in flights to foreign countries." AS 43.40.100(2)(B). In a regulation implementing the motor fuel tax, a list of exemptions to the tax includes "fuel sold to, transferred to, or used on jet propulsion aircraft operating flights from the state to a foreign country, except flights to a foreign country with intermediate stops within the United States." 15 AAC 40.20(c)(13).

The legality of a state tax on aviation fuel for use in international flights was considered by the United States Supreme Court in the case of Wardair Canada, Inc., v. Florida Dept. of Revenue, 477 U.S. 1, 106 S. Ct. 2369, 91 L. Ed. 2d 1 (1986). There the court upheld Florida's tax on all aviation fuel sold in the state, including fuel used on international flights. The court rejected Wardair's arguments:

-- that the Commerce Clause of the U. S. Constitution reserved taxation of fuel used in international flights to the U.S. Congress;

-- that in the Federal Aviation Act, 49 U.S.C. App. 1301ff., the Congress had enacted an exclusive air commerce regulatory scheme which "occupied the field" and preempted any state taxation; and

-- that the bilateral agreement with Canada expressed a federal policy to preclude states from imposing individual taxes.

LEGISLATIVE RESOURCE DIVISION

In rejecting these arguments, the Supreme Court found that there was no evidence of a federal policy against state taxation. On the contrary, the court found an expression of an intent not to preclude state taxation. The court based this view on bilateral agreement language prohibiting national, but not state, taxation of fuel; and on 49 U.S.C. app. § 1513. 1/ This statute prohibits certain kinds of taxes on aviation, but specifically states that it does not preclude states from imposing taxes on goods and services for aviation. 2/

Wardair is a decision of the highest court of the land, and is still good law. It has not been overturned by any subsequent judicial ruling. ~~Not~~ has there been any amendment to 49 U.S.C. app. § 1513 which might support the conclusion that Congress has subsequently moved to preempt or "occupy the field" of taxation of fuel for international flights. Finally, I made a very informal inquiry to Courtney Railey, an AOCI staff member in Washington, D.C., who works extensively on bilateral agreements. She replied

1/ In pertinent part, this statute provides:

Sec. 1513 State taxation of air commerce

(a) No State . . . shall levy or collect a tax, fee, head charge, or other charge, directly or indirectly on persons travelling 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) Except as provided in subsection (d) of this section, nothing in this section shall prohibit a State. . . . 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; and nothing in this section shall prohibit a State. . . owning or operating an airport from levying or collecting reasonable rental charges, landing fees, and other service charges from aircraft operators for the use of airport facilities.

49 U.S.C.A. app. § 1513 (1976, 1990).

2/ In discussing this statute, the majority held that it alone was not dispositive. 106 S. Ct. at 2372. In a concurring opinion, however, Justice Burger expressed the opinion that this statute alone unequivocally authorizes the states to impose taxes of the kind you are considering. 106 S. Ct. at 2376.

Steve Pavish
Our File 661-91-0443

March 29, 1991
Page 3

that she is not aware of any discussion of fuel taxation ever being raised in recent bilateral agreement negotiations.

VAR/vc



ALASKA AIR CARRIERS ASSOCIATION

1117 E. 35th Avenue, Suite 102
 Anchorage, Alaska 99508
 (907) 277-0071 Fax (907) 277-0072

April 18, 1994

Honorable Bert Sharp
 Alaska Senate
 State Capitol
 Juneau, Alaska 99801-1182

Re: SB 256 Aviation Fuel Tax

Dear Senator Sharp,

The proposed Senate operating budget contains a reduction in DOT/PF operations and maintenance for most of the state airports. In part, the reduction results from a failure to replace \$1.5 million which was expected to be collected from rural landing fees, but is not available because the landing fees were voided by the Courts in 1993. If the proposed budget cut goes into effect, either airport operations and maintenance will be reduced to a level which adversely effects both commercial and private aviation, or the department will try to reimpose landing fees. Neither is an acceptable alternative to the Alaska Air Carriers Association.

There are two ways to avoid these problems. One is to increase DOT/PF's funding by at least \$1.5 million to more adequately fund airport operations. We recognize that due to the projected budget shortfall, this is not an easy solution. Therefore, we have agreed with the Administration to support a small increase in the aviation fuel tax (7/10ths of one cent), to generate new revenue to replace the money previously expected from landing fees. Passage of SB 256 is necessary to increase the fuel tax.

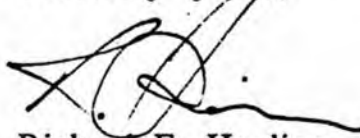
- ALASKA AIRLINES
- AIR EXPEDITIONS
- AIR SERVICE ALASKA
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- ALASKA AIR TAXI
- ALASKA AIR TOURS
- ALASKA AIR TRANSPORTATION
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- BUBB AIR
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- CAMM AIR
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- CLEARWATER AIR
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- DELTA AIR SERVICE
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- DELTA AIR MAIL
- DELTA AIR TAXI
- ERA AVIATION
- EVERGREEN HILL OF JIN
- EVY AIR SERVICE
- FIRE-HAWK AERO SERVICES
- FISHER AIR
- FEDERAL EXPRESS
- FRESH-WATER ADVENTURES
- FRONTIER FLYING
- GOLDEN PLOVER
- GULF AVIATION
- HAGLAND AVIATION SERVICE
- HARBOR AIR
- HIGH ADVENTURE AIR CHARTERS
- HOMER AIR
- HONOLULU AIR TAXI
- JAPAN AIRLINES
- JIM AIR
- KC AIR
- KACHEMAK AIR SERVICE
- KATMAI AIR
- KEHAI LAKE AIR SERVICE
- KETCHIKAN AIR SERVICE
- KETCHIKAN AIR SERVICE
- KNEEN AERO
- KODIAK AIR SERVICE
- KOYUKON AIRLINES
- KUSKO AVIATION
- LANAIE ALASKA AIR
- LANE & PENINSULA AIRLINES
- LAW CLARK AIR
- LARRY'S FLYING SERVICE
- LORDEN AVIATION
- MARSAUDAIRINC
- MARSHALL AIR EXPRESS
- METRO AIR TOURS
- MINE MOUNTAIN AIR
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- TADUQUAIR SERVICE
- TATCHOUK OUTFITTERS
- TEMSCO HELICOPTERS
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Senator Bert Sharp
April 18, 1994
page two

In our discussions with Senators in support of SB 256, if necessary to fund airports, we have encountered a general resistance to tax increases this session. AACA generally agrees with this position, but in this case, failure to either fund the airport budget or to pass SB 256, will most likely result in the reimposition of landing fees: a tax which is expensive to collect and difficult to allocate fairly among air carriers.

Time is getting short to solve this dilemma. We strongly urge you to take quick action on either of the two solutions which will prevent a significant impediment to statewide aviation.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Richard E. Harding". The signature is stylized with a large, sweeping initial "R" and "H".

Richard E. Harding
President

ALASKA AIR CARRIERS ASSOCIATION
1994 Board of Directors

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*Denotes Executive Committee

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TANANA AIR SERVICE
TEMSCO HELICOPTERS
TRANS-PORTER ALASKA
ULTIMA THULE OUTFITTERS
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WRIGHT AIR SERVICE
YUTANA AIRLINES

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TUNDRA AIR
UYAK AIR SERVICE
WARD AIR
WINGS
WREN AIR
YUKON HELICOPTERS



MAPCO ALASKA PETROLEUM, INC.

A. L. Bukl Wright, Jr.
VICE PRESIDENT - ALASKA
(907) 488-2741

April 6, 1994

Senator Bert Sharp
State Capitol (MS 3100)
Juneau, AK 99701-1182

Dear Senator Sharp:

I am writing to express MAPCO's opposition to the passage of SB 256, raising the tax on jet fuel in Alaska.

The stated purpose of the bill is "to increase the tax on aviation gasoline (emphasis added) in an amount substantially comparable" to the amount needed to maintain the state's rural airports. It is interesting that, according to the state's position on the bill, of the projected \$1.7 million additional tax revenue collected, only \$126,600, or 7%, would be collected from aviation gasoline users - those who use the rural airports, and nearly \$1.6 million, or 93% of the total, would be collected from major carriers, who use only the major urban airports.

This increase in tax would place an unfair burden on the airline industry, at a time when many carriers are showing huge losses already. The spin off effect of the increase, I'm afraid, would be for the airlines to reduce their activity in Alaska. This would have a direct negative impact on those who provide fuel to the airlines here. Ironically, raising the tax on jet fuel at this time could trigger a significant reduction in tax revenues collected instead of an increase.

This is where the use of "bonded" fuel could come in.

You had asked for a more complete definition of "bonded" fuel, and its possible impact on Anchorage and Fairbanks if SB 256 were implemented. Although I must admit that I am not an expert on the topic, I think I can give you a good enough idea of the impact to our company and other refiners.

Bonded fuel is fuel that is purchased in a foreign (non U.S.) country, that is brought into the United States under bond, and that technically, by federal law, does not actually enter the country. Since it doesn't enter the United States, it doesn't enter Alaska jurisdiction. The state could not impose tax on something that isn't in its jurisdiction. Therefore, if an airline were to decide to bring in bonded fuel, the state would jeopardize not only the increase in tax envisioned in SB 256, but the 2.5 cpg tax already on the books.

SB 256
April 6, 1994
Page two

Bert, the apparent intent of this legislation is to have the major airlines operating in Alaska subsidize the small users of Alaska's rural airports. Those users would continue to pay little to nothing for the maintenance and upkeep of those airports.

The proposed amount of increase may, to some, appear small. But, in the airline fuel business, seven tenths of a cent is a very large amount of money, when annual fuel consumption is considered.

I would hate to see the state "shoot itself in the foot", and lose the aviation fuel tax currently on the books (because of the introduction of bonded fuel). Further, it would be disappointing for Alaska to, again, send the message that we want someone else to "pay our way".

Maybe a more worthwhile effort, although admittedly more difficult, might be to restore the dedicated fund for transportation infrastructure, so all monies collected for the use of our airports, roads and harbors would be used for maintaining those transportation systems.

I apologize for my delay in getting this to you. Since we last talked, I haven't slept in the same bed two nights in a row. I will be in Juneau Monday and Tuesday of next week, so maybe we can talk about this at that time. In the meantime, my secretary can contact me in short order if you need anything.

Thank you for the opportunity to comment on this very important issue.

Sincerely,



A. L. Buki Wright, Jr.
Vice President
MAPCO ALASKA PETROLEUM Inc.

ALW/jw



MAPCO ALASKA PETROLEUM INC.

MAR-29-94 TUE 14:44

DOT/PP COMMISSIONER

FAX NO. 9075868365

MAR-29-94 FRI 16:09 AIR DIRECTOR'S OFFICE

P. 01



Alaska
International
Airport
System

P.O. Box 190649
Anchorage, Alaska
USA 99519-0649
(907) 266-2525
FAX (907) 243-0863

ALASKA INTERNATIONAL AIRPORT SYSTEM

FAX: (907) 243-0863

TEL: (907) 266-2525

TO: HELVI SANDVIK
ORGANIZATION: DOT + PP
FAX NUMBER: _____

FROM: JOHN UNGAR

DATE: _____

NUMBER OF PAGES OF TRANSMITTAL: 5
(Including fax page)

MESSAGE:

Attached is the memos I got from Steve Parish

Anchorage	posted	fuel	price	is	65.5¢	per	gallon
L. A	"	"	"	"	59.5¢	"	"
Gulf Coast	"	"	"	"	50.5¢	"	"
East Coast	"	"	"	"	57.0¢	"	"

These prices are approximates and change daily

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FUEL GENERATED REVENUES

ALABAMA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.038	100%*	\$121,867	Avgas	None	N/A	N/A
Jet A	\$0.017	100%*	\$731,201	Jet A	None	N/A	N/A
Mogas	None	N/A	N/A	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$853,068	

* Funds dedicated to aviation are capped at \$600,000.

ALASKA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.04	0%	\$787,504	Avgas	None	N/A	N/A
Jet A	\$0.023	0%	\$9,713,425	Jet A	None	N/A	N/A
Mogas	\$0.18	0%	\$20,129,944	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$30,630,873	

ARIZONA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.05	100%	Not specified	Avgas	None	N/A	N/A
Jet A	\$0.0305	0%	Not specified	Jet A	None	N/A	N/A
Mogas	\$0.05	100%	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$551,698*	

* Figure represents Excise tax on Avgas and Mogas only.

ARKANSAS

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	None	N/A	N/A	Avgas	4%	Yes	Not specified
Jet A	None	N/A	N/A	Jet A	4%	Yes	Not specified
Mogas	None	N/A	N/A	Mogas	4%	No	Not specified
TOTAL AVIATION FUEL TAX REVENUE						\$2,172,973.78	

CALIFORNIA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.16	100%	\$5,295,926	Avgas	None	N/A	N/A
Jet A	\$0.02	100%	\$1,302,999	Jet A	7.25%	No	\$100,000,000
Mogas	\$0.09	0%	Not specified	Mogas	7.25%	No	Not specified
TOTAL AVIATION FUEL TAX REVENUE						Not specified	

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FUEL GENERATED REVENUES

COLORADO

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.06	100%	Not specified	Avgas	None	N/A	N/A
Jet A	\$0.04	100%	Not specified	Jet A	3%	Yes	\$7,483,000
Mogas	\$0.06	100%	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$8,023,000	

CONNECTICUT

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	None	N/A	N/A	Avgas	2.5%	No	Not specified
Jet A	None	N/A	N/A	Jet A	2.5%	No	Not specified
Mogas	None	N/A	N/A	Mogas	2.5%	No	Not specified
TOTAL AVIATION FUEL TAX REVENUE						\$4,559,622	

DELAWARE

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.19	0%	Not specified	Avgas	None	N/A	N/A
Jet A	None	N/A	N/A	Jet A	None	N/A	N/A
Mogas	\$0.19	0%	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						Not specified	

FLORIDA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.069	100%	Not specified	Avgas	None	N/A	N/A
Jet A	\$0.069	100%	Not specified	Jet A	None	N/A	N/A
Mogas	\$0.076	0%	\$462,100,000	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$509,300,000	

GEORGIA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.01	0%	\$74,010	Avgas	4%	No	\$296,040
Jet A	None	N/A	N/A	Jet A	4%	No	Not specified
Mogas	Not specified	Not specified	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						Not specified	

FUEL GENERATED REVENUES

HAWAII

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.01	100%	Not specified	Avgas	None	N/A	N/A
Jet A	\$0.01	100%	Not specified	Jet A	None	N/A	N/A
Mogas	None	N/A	N/A	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE							\$7,236,016

IDAHO

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.055	100%	Not specified	Avgas	None	N/A	N/A
Jet A	\$0.045	100%	Not specified	Jet A	None	N/A	N/A
Mogas	\$0.035	100%	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE							\$768,100

ILLINOIS

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	None	N/A	N/A	Avgas	6.1%	No	Not specified
Jet A	None	N/A	N/A	Jet A	6.5%	No	Not specified
Mogas	None	N/A	N/A	Mogas	6.25%	No	Not specified
TOTAL AVIATION FUEL TAX REVENUE							\$94,288,500

INDIANA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.15	0%	Not specified	Avgas	5%	No	Not specified
Jet A	None	N/A	N/A	Jet A	5%	No	Not specified
Mogas	Not specified	Not specified	Not specified	Mogas	Not specified	Not specified	Not specified
TOTAL AVIATION FUEL TAX REVENUE							Not specified

IOWA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.08	0%	Not specified	Avgas	None	N/A	N/A
Jet A	\$0.03	0%	Not specified	Jet A	None	N/A	N/A
Mogas	\$0.20	0%	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE							Not specified

FUEL GENERATED REVENUES

KANSAS

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	None	N/A	N/A	Avgas	4.25%	0%	Not specified
Jet A	None	N/A	N/A	Jet A	4.25%	0%	Not specified
Mogas	None	N/A	N/A	Mogas	4.25%	0%	Not specified
TOTAL AVIATION FUEL TAX REVENUE:							Not specified

KENTUCKY

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.15	0%	Not specified	Avgas	None	N/A	N/A
Jet A	None	N/A	N/A	Jet A	6%	No	Not specified
Mogas	None	N/A	N/A	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE:							Not specified

LOUISIANA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	None	N/A	N/A	Avgas	3%	Yes	Not specified
Jet A	None	N/A	N/A	Jet A	4%	Yes	Not specified
Mogas	\$0.20	0%	\$374,096,547	Mogas	3%	Yes	Not specified
TOTAL AVIATION FUEL TAX REVENUE:							\$8,600,000

MAINE

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.19	0%	Not specified	Avgas	6%	No	Not specified
Jet A	\$0.034	0%	Not specified	Jet A	None	N/A	N/A
Mogas	\$0.19	0%	Not specified	Mogas	6%	No	Not specified
TOTAL AVIATION FUEL TAX REVENUE:							Not specified

MARYLAND

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.07	0%	Not specified	Avgas	None	N/A	N/A
Jet A	None	N/A	N/A	Jet A	None	N/A	N/A
Mogas	\$0.185	0%	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE:							\$505,627

FUEL GENERATED REVENUES

MASSACHUSETTS

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.10	80%	\$350,000	Avgas	None	N/A	N/A
Jet A	\$0.10	0%	Not specified	Jet A	None	N/A	N/A
Mogas	None	N/A	N/A	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE:							\$350,000

* Figure represents only Avgas tax.

MICHIGAN

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.03	100%	Not specified	Avgas	4%	No	Not specified
Jet A	\$0.03	100%	Not specified	Jet A	4%	No	Not specified
Mogas	None	N/A	N/A	Mogas	4%	No	Not specified
TOTAL AVIATION FUEL TAX REVENUE:							\$6,184,456

MINNESOTA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	*	100%	Not specified	Avgas	None	N/A	N/A
Jet A	*	100%	Not specified	Jet A	None	N/A	N/A
Mogas	*	100%	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE:							\$3,200,000

* Sliding tax rate:
 0 - 49,999 gallons is \$0.05
 50,000 - 149,999 gallons is \$0.02
 150,000 - 199,999 gallons is \$0.01
 Over 200,000 is \$0.005

MISSISSIPPI

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.064	100%	\$405,100	Avgas	None	N/A	N/A
Jet A	\$0.0525	100%	\$663,100	Jet A	None	N/A	N/A
Mogas	\$0.01	100%	\$6,500	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE:							\$1,074,700

MISSOURI

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.09	100%	\$304,135	Avgas	None	N/A	N/A
Jet A	None	N/A	N/A	Jet A	4.225%	No	\$12,000,000
Mogas	None	0%	\$290,646,333	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE:							\$302,950,468

FUEL GENERATED REVENUES

MONTANA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.01	100%	Not specified	Avgas	None	N/A	N/A
Jet A	\$0.01	100%	Not specified	Jet A	None	N/A	N/A
Mogas	\$0.0004	100%	\$35,366	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE:						\$35,366	

NEBRASKA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.05	100%	Not specified	Avgas	None	N/A	N/A
Jet A	\$0.03	100%	Not specified	Jet A	None	N/A	N/A
Mogas	Not specified	Not specified	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE:						\$1,200,000	

* Figure represents Excise tax on Avgas and Jet A.

NEVADA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.18	100%	\$858,668	Avgas	None	N/A	N/A
Jet A	\$0.01	0%	\$2,203,079	Jet A	None	N/A	N/A
Mogas	None	N/A	N/A	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE:						\$3,061,747	

NEW HAMPSHIRE

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.04	0%	\$52,546	Avgas	None	N/A	N/A
Jet A	*	0%	\$102,479	Jet A	None	N/A	N/A
Mogas	None	N/A	N/A	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE:						\$155,025	

* \$0.025 excise tax on part 121 Air carriers, \$0.02 excise tax on all others.

NEW JERSEY

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.125	100%	\$602,179	Avgas	None	N/A	N/A
Jet A	\$0.02	100%	\$462,970	Jet A	None	N/A	N/A
Mogas	None	N/A	N/A	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE:						\$1,064,980	

FUEL GENERATED REVENUES

NEW MEXICO

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.16	100%	\$335,915	Avgas	None	N/A	N/A
Jet A	None	N/A	N/A	Jet A	*	Yes	\$545,493
Mogas	None	N/A	N/A	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE							\$881,408

* Sliding tax rate from 4.75% to 5.75% depending on the county in which the fuel is purchased.

NEW YORK

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.08	0%	Not specified	Avgas	"	No	Not specified
Jet A	\$0.10	0%	Not specified	Jet A	"	No	Not specified
Mogas	\$0.08	0%	Not specified	Mogas	"	No	Not specified
TOTAL AVIATION FUEL TAX REVENUE							Unknown

* Sliding tax rate from 4% to 8.25% depending on the county in which the fuel is purchased.

NORTH CAROLINA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	None	N/A	N/A	Avgas	4%	Yes	Not specified
Jet A	None	N/A	N/A	Jet A	4%	Yes	Not specified
Mogas	None	N/A	N/A	Mogas	4%	Yes	Not specified
TOTAL AVIATION FUEL TAX REVENUE							\$8,400,000

NORTH DAKOTA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.08	100%	\$244,680	Avgas	None	N/A	N/A
Jet A	\$0.08	100%	\$329,419	Jet A	None	N/A	N/A
Mogas	Not specified	Not specified	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE							\$574,099

* Figure represents Excise tax on Avgas and Jet A only.

OHIO

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	None	N/A	N/A	Avgas	5%	No	Not specified
Jet A	None	N/A	N/A	Jet A	5%	No	Not specified
Mogas	None	N/A	N/A	Mogas	Not specified	Not specified	Not specified
TOTAL AVIATION FUEL TAX REVENUE							\$5,000,000*

* Figure represents Sales tax on Avgas and Jet A only.

FUEL GENERATED REVENUES

OKLAHOMA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.0008	0%	Not specified	Avgas	None	N/A	N/A
Jet A	\$0.0008	0%	Not specified	Jet A	None	N/A	N/A
Mogas	\$0.0008	0%	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$1,281,177	

OREGON

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.03	100%	\$153,589	Avgas	None	N/A	N/A
Jet A	\$0.005	100%	\$491,466	Jet A	None	N/A	N/A
Mogas	\$0.12	Not specified	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$645,155*	

* Figure represents the Excise tax on Avgas and Jet A only.

PENNSYLVANIA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.038	100%	\$249,000	Avgas	None	N/A	N/A
Jet A	\$0.02	100%	\$9,140,000	Jet A	None	N/A	N/A
Mogas	Not specified	0%	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$9,389,000*	

* Figure represents the Excise tax on Avgas and Jet A only.

RHODE ISLAND

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.26	0%	Not specified	Avgas	None	N/A	N/A
Jet A	\$0.26	0%	Not specified	Jet A	None	N/A	N/A
Mogas	\$0.25	0%	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						Not specified	

SOUTH CAROLINA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	None	N/A	N/A	Avgas	5%	No	\$675,000
Jet A	None	N/A	N/A	Jet A	None	N/A	N/A
Mogas	\$0.16	0%	\$364,000,000	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$675,000	

FUEL GENERATED REVENUES

SOUTH DAKOTA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.06	96%	\$150,000*	Avgas	None	N/A	N/A
Jet A	\$0.04	96%	\$360,000	Jet A	None	N/A	N/A
Mogas	\$0.06	96%	Above	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$510,000	

* Figure includes the \$0.06 per gallon tax on Mogas.

TENNESSEE

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.01	0%	Not specified	Avgas	4.5%	Yes	Not specified
Jet A	\$0.01	0%	Not specified	Jet A	4.5%	Yes	Not specified
Mogas	\$0.21	0%	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$9,318,400*	

* Figure represents only revenue acquired from Sales tax.

TEXAS

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	None	N/A	N/A	Avgas	None	N/A	N/A
Jet A	None	N/A	N/A	Jet A	None	N/A	N/A
Mogas	None	N/A	N/A	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$0	

UTAH

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.04	100%	Not specified	Avgas	None	N/A	N/A
Jet A	\$0.04	100%	Not specified	Jet A	None	N/A	N/A
Mogas	\$0.04	100%	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$6,900,000	

VERMONT

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.15	0%	\$96,275	Avgas	None	N/A	N/A
Jet A	None	N/A	N/A	Jet A	5%	No	\$142,126
Mogas	\$0.15	0%	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$238,401*	

* Figure represents Avgas and Jet A only.

FUEL GENERATED REVENUES

VIRGINIA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	*	0%	Not specified	Avgas	None	N/A	N/A
Jet A	*	0%	Not specified	Jet A	None	N/A	N/A
Mogas	None	N/A	N/A	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$2,190,070	

* Sliding tax rate: Under 100,000 gallons, \$0.05 per gallon tax with 80% dedicated to aviation.
Over 100,000 gallons, \$0.005 per gallon tax with 50% dedicated to aviation.

WASHINGTON

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.06	100%	Not specified	Avgas	6.5%	No	Not specified
Jet A	\$0.06	100%	Not specified	Jet A	6.5%	No	Not specified
Mogas	\$0.06	100%	\$137,322	Mogas	6.5%	No	Not specified
TOTAL AVIATION FUEL TAX REVENUE						\$1,517,779*	

* Figure represents only the Excise taxes.

WEST VIRGINIA

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	None	N/A	N/A	Avgas	5%	Yes	Not specified
Jet A	None	N/A	N/A	Jet A	5%	Yes	Not specified
Mogas	None	N/A	N/A	Mogas	5%	No	Not specified
TOTAL AVIATION FUEL TAX REVENUE						\$341,000	

WISCONSIN

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.055 or 3%*	0%	Not specified	Avgas	None	N/A	N/A
Jet A	\$0.055 or 3%*	0%	Not specified	Jet A	None	N/A	N/A
Mogas	None	N/A	N/A	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$845,058*	

* \$0.055 or 3% depending on which is higher.
** Figure represents only the excise tax figures.

WYOMING

State Fuel Excise Taxes				Applied State Sales Taxes			
Fuel	Tax (Cents per gallon)	% Dedicated to Aviation	Total Revenue Generated (\$)	Fuel	Tax Percentage	Dedicated to Aviation	Total Revenue Generated (\$)
Avgas	\$0.05	80%	Not specified	Avgas	None	N/A	N/A
Jet A	\$0.05	80%	Not specified	Jet A	None	N/A	N/A
Mogas	\$0.08	0%	Not specified	Mogas	None	N/A	N/A
TOTAL AVIATION FUEL TAX REVENUE						\$256,000	



AIR TRANSPORT ASSOCIATION
Government Affairs
8939 S. Sepulveda Boulevard - Suite 408
Los Angeles, California 90045-3690
310/670-5183

March 23, 1994

The Honorable Drue Pearce
Co-Chairman, Senate Finance Committee
Alaska State Senate

Dear Chairman Pearce:

On behalf of the following Air Transport Association (ATA) members, Continental, Delta, Federal Express, UPS, Evergreen, Northwest, Hawaiian, American Trans Air, and United, this letter is to voice our opposition to Senate Bill 256. As we understand, two of our member airlines, Alaska and Reeve Aleutian, do not share this same view. As you know, SB 256 would increase the State's tax on aviation jet fuel from 2.5 cents to 3.2 cents on a gallon.

SB 256 raises the tax on aviation fuel by 28% at a time when our industry has suffered from record losses of \$10 billion over the last three years. It is disturbing to see the Alaska legislature increasing the cost of doing business in the state while other states, like New Mexico, have reduced taxes on aviation fuel by as much as 40%.

The ATA urges you to vote NO on SB 256. A tax increase of this nature is no way to move us closer to the mutually beneficial goal of increasing the number of flights to Alaska. A no vote will allow air carriers doing business in the State of Alaska to continue to provide the levels of service that allow the State's industry and commerce to grow.

If you have any questions please do not hesitate to contact me at (310) 670-5183.

Sincerely,

John Ek
Director, State Government Affairs
Western Region

DELTA AIR LINES, INC.

GENERAL OFFICES
HARTSFIELD ATLANTA INTERNATIONAL AIRPORT
ATLANTA, GEORGIA 30320-6001 U S A

March 23, 1994

The Honorable Drue Pearce
Co-Chairman
Senate Finance Committee
State Capitol
Juneau, AK 99801-1182

Dear Chairman Pearce:

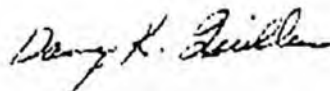
I would like to express Delta's concern with Senate Bill 256 and the detrimental potential it has to the economic development of Alaska.

SB 256 will increase the cost of fuel in Alaska by 28% at a time when interstate air carriers can least afford such a significantly increased expense. Over the last 3 years the airline industry has lost over \$10 billion. These losses have invoked serious cost cutting measures by Delta, and many states have supported our dilemma by decreasing fuel tax, as much as 40%, as incentives to help Delta maintain service to those states.

SB 256 will jeopardize the service that Delta provides to Alaska by forcing us to decrease our current service in order to maintain a cost effective operation. Also, the revenues generated by the "jct fuel" tax increase will go directly into the state's general funds and not provide the airlines with any type of guaranteed return on this investment. Because of this, Delta views this tax increase as a dissuasion for expanding any service in Alaska. This includes a route from Nagoya to New York via Anchorage which was suggested by Governor Hickel in a letter to Mr. Ron Allen, Chairman, President, and CEO of Delta, in August of 1993. Delta continues to monitor all markets for profitability; however, the passage of SB 256 will impede implementing any new service.

I urge you to vote against SB 256. Your help in this critical matter is greatly appreciated.

Sincerely,



Danny K. Quillen
Manager
Public Affairs

Alaska State Legislature

SENATOR
BERT SHARP
CHAIRMAN



FAIRBANKS
DENALI BANK BUILDING
119 N. CUSHMAN, SUITE 201
FAIRBANKS, ALASKA 99701
(907) 452-7885/7886

SESSION ADDRESS
STATE CAPITOL, ROOM 514
JUNEAU, ALASKA 99801-1182
(907) 485-3094/4921

Senate Transportation Committee

MEMORANDUM

DATE: March 21, 1994

TO: Senator Drue Pearce, Co-Chair
Senate Finance Committee

Senator Steve Frank, Co-Chair
Senate Finance Committee

FROM: Senator Bert Sharp *BMS*

RE: **Request for hearing -- CSSB 256**

I am requesting that CS for Senate Bill 256, "An Act relating to the tax on transfers and consumption of aviation fuel; and providing for an effective date," be heard before the Senate Finance Committee at your earliest convenience.

This bill was introduced by the Senate Transportation Committee at the request of the Department of Transportation and Public Facilities in response to legislative intent language in the FY 94 budget which discouraged the imposition of landing fees at rural airports. The \$.007 of an increase in the aviation fuel tax is an attempt to recover the revenue lost from this source. Language in the Senate Transportation Committee Substitute ties the increase in the fuel tax to the absence of rural airport landing fees. Therefore, if the administration decides to reinstate landing fees, the increase in the aviation fuel tax would be nullified.



*Department of Transportation
and Public Facilities*

POSITION PAPER

BILL NO: SB 256

APPROVED:

A handwritten signature in black ink, appearing to be "R. A. Bell", written over a horizontal line.

TITLE: Increase Aviation Fuel Tax

DATE: January 24, 1994

The Department of Transportation and Public Facilities supports the increase in the aviation fuel tax by \$0.007 (0.7 cents) per gallon.

This level of increase will offset the loss in state revenue resulting from not reinstating aircraft landing fees at rural airports operated by the state.

Last session, air carriers were contacted and asked if they would prefer reinstatement of the landing fees or collection of an equivalent amount of revenue through another means. While no firm commitment was made, the general feeling expressed was that an increase in the aviation fuel tax to collect an equivalent amount of revenue would be preferable.

The increased tax will be collected by the Department of Revenue in conjunction with the current tax level.

This bill increases motor fuel tax rates on aviation fuel by .7¢ per gallon as follows.

	<i>Current Tax Rate</i>	<i>Draft Bill Tax Rate</i>	<i>% Increase</i>
Aviation Gasoline	4¢ per gallon	4.7¢ per gallon	17.5%
Aviation (Jet) Fuel	2.5¢ per gallon	3.2¢ per gallon	28.0%

In determining the amount of additional revenues generated from this bill, the Department of Revenue used aviation fuel consumption data available from FY 93. The amounts below do not reflect impacts on consumption, if any, due to increased tax rates and other factors.

Under AS 43.40.010(e), 60% of aviation gasoline tax revenues derived from fuel sales at municipally owned airports are shared with those municipalities. The Department shared \$116,800 of aviation gasoline tax revenues to municipalities in FY 93. Under this bill, that amount will increase by 17.5% (% increase identified above) or \$20,400.

The additional revenue generated from this bill is estimated to be \$1,705,300 calculated as follows.

	<i>FY93 Consumption</i>	<i>FY 93 Revenue</i>	<i>Draft Bill Revenue</i>	<i>Additional Revenue</i>
Aviation Gasoline	18,076,200 gallons	\$ 723,000	\$ 849,600	\$ 126,600
Aviation (Jet) Fuel	228,436,300 gallons	5,710,900	7,310,000	1,599,100
Total	246,512,500 gallons	6,433,900	8,159,600	1,725,700
Amount Shared		(116,800)	(137,200)	(20,400)
Total		\$6,317,100	\$8,022,400	\$1,705,300

COMPONENT DETAIL - OPERATING BUDGET

nt: Interior District - Highways and Aviation
 Interior District Maintenance and Operations

Agency: Department of Transportation/Public Facilities

Line Items	Type	Total	Pers Svc	Travel	Contract	Supplies	Equip	Land/Bld	Grant	Misc	PFI	PPI	Imp
***** Changes from FY94 Gov Amd to Conference Committee *****													
airport electric contract	Dec	-20.0	0.0	0.0	-20.0	0.0	0.0	0.0	0.0	0.0	0	0	0

ive Intent: It is the intent of the legislature that Department of Transportation and Public Facilities should continue to provide adequate winter
 nce of the Denali Highway between Cantwell and the Valdez Creek Mine access road, with at least 50 percent of the expected service to be paid by industry or
 contributions.

*Legislative Intent: It is the intent of the legislature that the Department of Transportation and Public Facilities not reinstate the landing fees at the rural
 airports and that the department submit for legislative consideration a supplemental appropriation next session to fund the resulting shortfall in program receipts.*

ocation to the Department of Transportation and Public Facilities for Highways and Aviation shall lapse into the general fund on August 31, 1994.

***** Changes from FY94 Gov Amd to Senate *****													
sted reduction	Dec	-39.1	-39.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
airport electric contract	Dec	-20.0	0.0	0.0	-20.0	0.0	0.0	0.0	0.0	0.0	0	0	0
trims PFI to PPI	Dec	-31.3	-31.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-1	1	0

Line Items - Funding Sources Type Total 1002 1004 1005 1007 1061

***** Changes from FY94 Gov Amd to Conference Committee *****													
airport electric contract	Dec	-20.0		-20.0									

***** Changes from FY94 Gov Amd to Senate *****													
sted reduction	Dec	-39.1		-39.1									
airport electric contract	Dec	-20.0		-20.0									
trims PFI to PPI	Dec	-31.3		-31.3									

LEGISLATIVE INTENT LANGUAGE
 DOT&PF FY 94 OPERATING BUDGET

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES**

OFFICE OF THE COMMISSIONER

3132 CHANNEL DRIVE
JUNEAU, AK 99801-7898
PHONE: (907) 465-3900
FAX: (907) 586-3365
TEXT: (907) 465-3652

December 13, 1993

Senator Bert M. Sharp
119 N. Cushman Street, Suite 201
Fairbanks, AK 99701-2879

Representative Richard Foster
P.O. Box 1630
Nome, AK 99762-1630

Dear Senator Sharp and Representative Foster:

Enclosed are three proposed pieces of legislation which I would appreciate being introduced through the Transportation Committees in the next session:

AS 43.40.010

The increase in aviation fuel tax in the amount of \$.007/gallon is the result of the Legislative request to not assess landing fees on rural airports.

See the Legislative intent language contained in the DOT&PF-FY94 operating budget.

AS 38.05.030

This amendment simply makes airport property disposal consistent with highway property disposal. This is a housekeeping measure which should have been handled when DOT&PF was created -- it wasn't.

All property and right-of-ways are handled in one DOT&PF section and this housekeeping measure makes the operations consistent.

AS 19.05.040

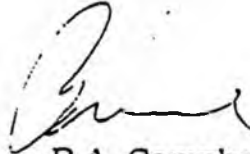
This minor addition to the statutes allows DOT&PF to enter property to determine if hazardous substances exist. This change is needed because DOT&PF has purchased property for right-of-way purposes only to find out that it is contaminated and the cost of cleanup exceeded the cost of moving the facility to avoid the contaminated area had that fact been known.

OT&PF with this change would be able to know, in advance of purchase, if property is contaminated.

There are two or three more items that are in the mill that will be transmitted later.

Please let me know if you have any questions or I can provide more data.

Sincerely,

A handwritten signature in cursive script, appearing to read 'B.A. Campbell', is written above the printed name.

B.A. Campbell
Commissioner

Enclosures

SENATE COMMITTEE REPORT

Handwritten initials

DATE: 1/28/94

FURTHER: Finance

DATE TURNED INTO OFFICE: 3/14/94

Judiciary Committee considered SENATE BILL NO. 256

~~"An Act increasing the tax on transfers and consumption of aviation fuel."~~

and recommends:

Handwritten note: & may be met w/ rpt. if H w/ no rec

- replace with _____ CS _____
- or adopt previous _____ CS SB 256 (TRA)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

- adopts _____ Letter of Intent
- further referral to the _____

- do pass
- do not pass
- no recommendation
- individual recommendations

Handwritten initials

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
Revenue	1/27/94		✓

Appropriation No Fiscal Note

DO PASS:

OTHER RECOMMENDATIONS:

_____ 2) Daniel Dowley (Do Not Pass)

_____ Sumner Hill (No Rec)

_____ Paul Smith (No Rec)

Adrian Taylor NO Rec

Chair: Signature and Recommendation

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

JMR
DATE: 1/19/94

FURTHER: JUDICIARY
FINANCE

Date of 5-Day Notice: 1/19/94
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 1-28-94

TRANSPORTATION Committee considered SB 256

"An Act increasing the tax on transfers and consumption of aviation fuel."

and recommends: **and recommends it be replaced with**

replace with _____ CS SB 256 (TRA)

attaches amendment(s) and report it back as follows

same title
 new title
 technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

FN

FISCAL NOTE INFORMATION

SB&CS

Department	Date	Zero	Fiscal
REVENUE	1/20/94		1,725.7

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

A ② Tim Kelly - No Recommendation
 ③ Roll & Kelly - Do Not Pass
 ② J. K... No Rec

① Bob Miller - No Pass
Chair: Signature and Recommendation

SB

261

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 2/28/94

FURTHER:

DATE TURNED INTO OFFICE: 3-12-94

The Finance Committee considered **SENATE BILL NO. 261**

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

and recommends:

replace with CS 5B 261 (FINANCE)
 or adopt previous CS ()
 attaches amendment(s)

same title
 new title
 technical title change (HB only)

adopts SFC Letter of Intent

further referral to the

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DCRA	1-31-94	0	
DOTPE	2-8-94	0	
DCRA-Municipal	2-2-94	minimal loss	

Appropriation No Fiscal Note

DO PASS:

Ben Murphy

1. Donna Kelly x10 Rec
 Co-Chair: Signature/Recommendation

OTHER RECOMMENDATIONS:

Donna Kelly NO REC
Tim Kelly - NO REC
J. Kirtland NO REC
Steve Page - No Recommendation

2. Steve Page NO REC
 Co-Chair: Signature/Recommendation

Municipal Fiscal Impact Note
(AS 24.08.035(e))

No. 3
 Bill Version: CSSB 261 (CRA)
 (S) Publish Date: 2-28-94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

BILL NO.
 Version:

Revision Date: 1/26/94 Municipalities Affected: All
 Title: Taxes involving Air Carriers
 Requested By: _____
 Sponsor: Senator Sharp

Municipal Costs: (Thousands of Dollars)

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

Capital						
---------	--	--	--	--	--	--

Funding (Thousands of Dollars)

	FY95	FY96	FY97	FY98	FY99	FY2000
Property Taxes						
Sales Taxes	(minimal loss)					
User Fees						
Federal Receipts						
State Receipts						
Other						
Total						

Positions

	FY95	FY96	FY97	FY98	FY99	FY2000
Full-Time						
Part-Time						

Analysis:

SE 261 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, 6 are boroughs or unified municipalities, including Haines Borough, City & Borough of Juneau, Kenai Peninsula Borough, Ketchikan Gateway Borough, City & Borough of Sitka, and the City & Borough of Yakutat.

A phone survey of municipalities on 1/28/94 by the Office of the State Assessor found that very few municipalities levy a sales tax against air carriers for this activity. 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.

Continues on attached page.

Prepared by: Michael Cushing, Research Analyst
 Division: Municipal and Regional Assistance Division
 Approved by: [Signature] DEPUTY COMMISSIONER
 Commissioner:
 Agency: Department of Community and Regional Affairs

Phone: 465-4751
 Date: 1/31/94
 Date: 2/2/94

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log2

BILL NO. SB 261

In addition to Kenai, Sitka and Cordova currently levy a tax on passenger service, however, with little revenue generated. The cities of Haines, Ketchikan and Nenana levy a sales tax on freight. The taxes received are also minimal. Dillingham, Juneau, Kodiak, Palmer, Petersburg and Yakutat do not levy any type of sales tax against air carriers, although they do levy a general sales tax.

Based on the survey by the State Assessor's Office, it appears that passage of this legislation will have minimal fiscal impact on municipalities, partially because federal law appears to exempt passenger service already.

In summary, this bill would probably have little fiscal impact on local governments. At the state level, passage of this bill would certainly address the legal question of whether or not local governments can impose a sales tax on air carrier passenger service. At any rate, parts of this question may be answered by the courts shortly.

FISCAL NOTE

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

Department Affected: DOT&PF
BRU:

Sponsor: Sharp
Requestor:

Component:
Component Serial Number:

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS

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

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

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Jonathan A. Widdis, Director

Phone: 266-1460

Division: Statewide Aviation

Date: February 3, 1994

Approved by Commissioner: 

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: February 8, 1994

No. 1

Bill Version: SB 261

(S) Publish Date: 2-2-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

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

Expenditures/Revenues: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current (FY94) Impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Changes in <u>CS SB 261 (CRA)</u> have no fiscal impact. This fiscal note is appropriate. <u>2/24/94</u> date <u>Shirley [initials]</u> Comte Aide (initial)	Changes in <u>CS SB 261 (TRA)</u> have no fiscal impact. This fiscal note is appropriate. <u>2/1/94</u> date <u>R.A.S</u> Comte Aide (initial)
---	---

Prepared by: Kimond 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

3-12-94
B5 3
Adopted

LETTER OF INTENT: SENATE BILL 261: SENATE FINANCE

It is the intent of the Legislature to define the powers of municipalities to tax commercial aviation activities in a manner consistent with federal aviation law.

Municipalities may not levy taxes, directly or indirectly, on passengers and air freight carried by commercial air service companies holding Federal Aviation Administration certificates.

Municipalities may levy other taxes, currently permitted under federal law, such as landing taxes, fuel flowage fees, property taxes, and taxes on the sale of goods and services which are incidental to air transportation such as food provided to airline passengers.

Federal taxes on passengers and air freight, paid by airport users, are returned to the States through the Airport and Airways Trust Fund for the construction of new airport facilities . This was one reason for federal limitation on the rights of states and municipalities to tax air transportation.

Sen. Sharp

3-12-94
BS

WORK DRAFT

WORK DRAFT

WORK DRAFT

8-LS1560R
Cook
3/11/94

Adopted
Called
12:40pm

CS FOR SENATE BILL NO. 261()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR SHARP

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 tax or fee
12 authorized under 49 U.S.C. App 1513(b) or (e). This section applies to home rule and
13 general law municipalities.

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



U.S. Department of
Transportation

General Counsel

400 Seventh St., S.W.
Washington, D.C. 20590

OCT - 3 1986

RECEIVED
OCT 06 1986

Ms. D. Elizabeth Cuadra
Robertson, Monagle, Eastaugh
Attorneys at Law
Post Office Box 1211
Juneau, Alaska 99802-1211

Robertson, Monagle & Eastaugh, P.C.
Juneau, Alaska

Re: Municipal Taxation of
Air Commerce

Dear Ms. Cuadra:

I appreciate the opportunity to respond to your questions to the Department concerning the legitimacy of municipal taxation on airline ticket sales. You state that your municipal clients assess or wish to assess sales taxes on the sale of transportation by air. It is my opinion that, to the extent these ordinances tax the sale of passenger transportation by air - whether intrastate, interstate, overseas, or foreign transportation - they are preempted by Section 1113 of the Federal Aviation Act of 1958, as amended (49 U.S.C. Section 1513). Sales taxes on the intrastate air carriage of property are permissible.

As the General Counsel explained in his December 18, 1985 letter to Riggs Air Service, these ordinances would largely fall within the plain prohibitions of Section 1113(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..."

By taxing the air fare at the point of sale to the consumer, the municipalities are, in effect, taxing "persons traveling in air commerce." Section 1113(a) clearly preempts such a tax.

Congress intended, by including this provision in the 1973 Airport Development Acceleration Act, to preclude not only head taxes but also to prevent states or municipalities from burdening interstate commerce by assessing various other taxes on air transportation. ^{1/}

^{1/} See especially 119 Cong. Rec. Part 3, p. 3349, (statement of Mr. Cannon, introducing S. 38); and 3350 (statement of Mr. Pearson.)

Ms. D. Elizabeth Cuadra

(2)

As you note, Congress, in Section 1113(b), excepted several types of taxes from the general prohibition, including as most relevant here "sales and use taxes on the sale of goods or services." However, given the language of Section 1113(a), this exception hardly can be read as allowing a "sales tax" which is imposed, directly or indirectly, upon "persons traveling in air commerce or on the carriage of persons traveling in air commerce or on the sale of air transportation...." Otherwise, the exception would wholly swallow the rule.^{2/} Rather, we believe Congress intended in (b) to permit States and municipalities to maintain taxes on the sale of goods and services which are incidental to air transportation, such as the sale to the airline of aviation fuel or of food to be provided to the airline passenger.

This view is in full accord both with Congressional intent and the results obtained in court cases. The inclusion of (b) was intended to allow States and localities to retain traditional sources of revenues, and they had historically imposed sales and use taxes on goods and services supplied in connection with airline operations.^{3/} This interpretation is also consistent with the results obtained in the two cases most relevant to the issue, Air Jamaica, Ltd. v. State Department of Revenue, 374 So. 2d 575 (Fla. App. 1979), cert. den. 392 So. 2d 1371 (Fla. 1980), which you cite, and Wardair Canada v. Florida Department of Revenue, 106 S. Ct. 2369, (1986), 1. Ed. 2d 1, 14-15 (Burger, C. J., concurring) (June 18, 1986). Air Jamaica found lawful a sales tax on packaged meals purchased by airlines and served to their passengers, while Wardair upheld a State sales tax on jet fuel. Both are taxes imposed on airlines for goods or services incidental to their provision of air transportation.

Accordingly, in response to the specific situations you raised in your letter of February 20th, local sales taxes would not be permissible with regard to (a) sightseeing tours by helicopter or light plane; (b) air taxi or charter fishing trips; (c) nonscheduled air taxi operators; (d) scheduled interstate commuter airline trips, regardless of the passenger's ultimate destination; and (e) airline tickets sold, regardless of the passenger's routing. This is because the preemption extends to all carriers regulated by the FAA (including helicopters, etc.) as well as to all passenger transportation involving air commerce.

^{2/} See also State v. Cochise Airlines, 626 P.2d. 596, 601 (Ariz. App., 1981), observing that the "sales taxes referred to in [§1113(b)] on the sales of goods and services cannot logically include sales of air transportation or sales directly connected with the carriage of persons in air commerce. If [§1113] were interpreted otherwise, it would be self-contradictory."

^{3/} See Hearings on H.R. 2337 et al. before the Subcommittee on Transportation and Aeronautics of the House Committee on Interstate and Foreign Commerce, 92d Cong. 2d Sess. at 91 (1972). Compare H.R. 2337, 92d Cong. 1st Sess. (1971) and S. 3611, 92d Cong. 2d Sess. (1972), which, without any exceptions, prohibited State or local taxes, fees, etc. on the carriage of persons in air transportation, with Pub. L. 93-44, 93d Cong. 1st Sess. §7 (1973) as ultimately enacted.

Ms. D. Elizabeth Cuadra

(3)

With regard to the transportation of property by air, however, I believe Section 1113 preempts state or local sales taxes on interstate air transportation only. The operative statutory provision precludes a "tax...on the sale of air transportation". This excludes taxes on the sale of intrastate air transport of property, cf. 49 U.S.C. § 1301(10). Accordingly, to the extent the municipal ordinances assess sales taxes on the intrastate transportation by air of property, they are not preempted by Section 1113. 4/

Sincerely,



Rosalind Knapp
Deputy General Counsel

4/ Accord, State v. Cochise Airlines, supra at 601.

FEB 17 1994 08:35 AM ALASKA AIR (907) 276-1287

F.1

BOGLE & GATES

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Washington, D.C.
Yakima

February 16, 1994

Mr. Robert J. Hallford
Vice President
Postal Operations and
External Affairs
Northern Air Cargo
1900 West International Airport Road
Anchorage, Alaska 99502

Re: City of St. Mary's Sales Tax

Dear Mr. Hallford:

We have been asked whether the City of St. Mary's is free to tax the sale of air transportation services by Northern Air Cargo.

By city ordinance, the City of St. Mary's purports to levy a sales tax "upon all sales, rents and services provided in the city." Code of Ordinances for the City of St. Mary's, title IV, ch. 45, sec. 1A. Among other things, the ordinance places "[t]he burden of [paying] the . . . tax . . . upon the buyer," and provides that "[t]he tax is to be collected by the seller." Ord., sec. 1B.

By letter dated December 23, 1993, attorneys representing the City of St. Mary's sent the follow demand to Northern Air Cargo:

The City of St. Mary's demands a full account of the reserves subject to the [city's sales] tax [on your operation] and payment by January 14, 1994. Failing such steps and indication that appropriate payment shall be forthcoming, we shall take such further action as the city Council may direct to enforce collection of the tax.

Mr. Robert J. Hallford
February 16, 1994
Page 2

The city's attorneys have been informed, by Jim Reeves of this office, that the tax is invalid, partly because federal law prohibits any state or local law "relating to [Northern Air Cargo's] rates, routes, or services." I concur in Mr. Reeves' analysis.

Section 1305 of the Airline Deregulation Act of 1978, 49 U.S.C.A. § 1301 et seq., provides, partly:

[N]o State or political subdivision thereof . . . shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to rates, routes, or services of any air carrier having authority under subchapter IV of this chapter to provide air transportation.

49 App. U.S.C.A. § 1305(a)(1) (emphasis added). The City of St. Mary's is a political subdivision of the State of Alaska, and Northern Air Cargo is an "air carrier" authorized under subchapter IV to provide air transportation. The key question is, therefore, whether the city's tax ordinance is a "law relating to [Northern Air Cargo's] rates, routes, or services." within the meaning of the federal preemption provision. Id.

Congress intended § 1305 to operate broadly. Morales v. Trans World Airlines, ___ U.S. ___, 112 S.Ct. 2031, 2040, 119 L.Ed.2d 157 (1992). Thus, state and local laws affecting airline rates, routes, and services will be tolerated only when it appears that their influence in these categories is so "tenuous, remote, or peripheral" that federal preemption is not indicated. Id., ___ U.S. at ___, 112 S. Ct. at 2040, 119 L.Ed.2d at ___; see, e.g., Bayne v. Adventure Tours USA, Inc., 1994 WL 9531 (N.D.Tex.)

In this case, it is quite obvious that the city's sales tax will directly and significantly affect Northern Air Cargo's rates and services. First, its customers will be required to pay an increased rate for air transportation. Second, the carrier will be required to collect, account for, and remit the amount collected for taxes to the city. The relationship between the tax and the carriers' rates and services is, therefore, anything but "tenuous, remote or peripheral." Quite the opposite, the tax is directly connected to rates and service, and its effect upon those rates and services will necessarily be substantial. The city's sales tax ordinance must, therefore, be viewed as a "law relating to [Northern Air Cargo's] rates . . . and services." 49 App. U.S.C.A. § 1305(a)(1).

BOGLE & GATES

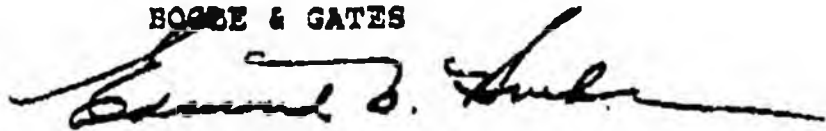
Mr. Robert J. Hallford
February 16, 1994
Page 3

The federal supremacy clause, U.S. Const. art VI, cl. 2, invalidates any exercise of state power that unduly frustrates or obstructs the objectives of a legitimate national policy. San Diego Unified Port District v. Gianturco, 61 F.2d 1306 (9th Cir. 1981). Even where federal preemption is not explicit, state authority may still be displaced, where Congress' intent to displace is implicit in the structure and purpose of the statute that it has enacted. *Id.* Here, there is no need to speculate: the intent of Congress is explicit, and preemption is clearly indicated.

For these reasons, I believe the federal preemption statute, 49 App. U.S.C.A. § 1305(a)(1), renders the city's sales tax ordinance invalid and unenforceable with regard to transportation services sold and provided by Northern Air Cargo and other air carriers similarly situated. Having reached this conclusion, I do not address any other legal argument that might be raised regarding the validity of the city's sales tax ordinance.

Very truly yours,

BOGGE & GATES



Edmond W. Burke

BOGGE & GATES

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 Miner, 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 axes on property moved by air.

¶ 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.

Aviation Law Reports

§ 1113(d) ¶ 1572

↓ [The rest is not relevant]

09-23-93 12:15 X

TO 99074803144

P003/009

Mr. Robert Petersen
Director, Operations
Gulf Air Taxi, Inc.
Box 367
Yakutat, Alaska 99689

FEB. 5 1993

Re: Aviation Sales Tax

Dear Mr. Peterson:

Thank you for your inquiry regarding the recent enactment by the City and Borough of Yakutat of sales tax ordinance No. 92-04, imposing a consumer sales tax at the rate of three percent of the gross sales price on businesses within the boundaries of the City and Borough. You asked whether the Yakutat tax may permissibly be levied on air charter service sales.

It is our opinion that the sale of intrastate, interstate or foreign passenger transportation by air, or interstate or foreign transportation by air of property are exempt from the Yakutat tax pursuant to section 6.40.030 G of the ordinance, due to the prohibition of State taxation of air commerce contained in the Federal Aviation Act. Section 1113(a) of the Federal Aviation Act, Title 49 U.S. Code Appendix, section 1513(a), states:

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...

A State tax, however, may be levied on the intrastate transportation by air of property.

I am enclosing opinion letters which our Office of General Counsel has previously issued regarding consumer sales taxes ordinances enacted by the cities of Craig and Skagway, and by the cities and boroughs of Juneau and Sitka. Each of these municipalities (with the exception of Skagway) had imposed consumer sales taxes of either three or four percent on the sale of transportation by air, which we found to be largely preempted by the Federal statute, and therefore invalid. (Municipalities are, however, not preempted from assessing and collecting sales taxes on the intrastate transportation by air of property). The letters dated October 3, 1986 from our Deputy General Counsel to counsel for Craig and Skagway and our letter dated December 18, 1985 from our former General Counsel to Riggs Air Service in Sitka fully explain our reasoning.

P-24-93 FRI 10:39 Melvin M. Steiner

-23-93 12:55PM

TO 95074863144

P004/009

These opinions remain valid today; the only change to the prohibition of State taxation of air commerce has been the 1990 passage of legislation allowing the passenger facility charge (PFC) program. (Section 1113(e) of the Federal Aviation Act, Title 49 U.S. Code Appendix, section 1513(3)). Passenger facility charges, in amounts of \$1, \$2, or \$3 per passenger, when imposed by a public agency controlling an airport to finance eligible airport-related projects are permissible upon approval by the Secretary of the Department of Transportation. Obviously, the Yakutat ordinance is not a PFC. Rather, it appears to be an impermissible tax on persons traveling in air commerce and on the sale of air transportation.

Please contact me should you have any further questions.

Sincerely,

Original Signed
By

Roberta Gabel
Assistant General Counsel for
Environmental, Civil Rights and
and General Law

Enclosures (2)

NKessler: C-10:69154:1-25-93
Head Tax, Yakutat: File: FAAct, Head Tax

Alaska State Legislature

SENATOR
BERT SHARP

DISTRICT P

CHAIRMAN
TRANSPORTATION COMMITTEE

MEMBER
FINANCE COMMITTEE
LEGISLATIVE BUDGET & AUDIT COMMITTEE
HEALTH & SOCIAL SERVICES



Senate

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SPONSOR STATEMENT

SB 261 - "An Act relating to municipal sales and use taxes involving air carriers; and providing for an effective date."

SB 261 reinforces the Federal Preemption Provision of the Federal Aviation Act of 1958 which reserves to the federal government the power to regulate and tax air carriers engaged in air transportation or air commerce. The law explicitly states that no state or political subdivision may enact laws that affect the rates, routes or services of an air carrier engaged in air transportation. Despite the provision, several communities in Alaska have proposed sales and use taxes of this sort. Allowing such provincial taxing authority could soon strangle even the most effective transportation networks. Substantial case law demonstrates that this practice violates the Act, but communities, believing they have found yet another loophole in the law, periodically test the waters with a new tax. This has resulted in confrontation and costly litigation between the aviation community and the municipalities. SB 261 eliminates the illusions on which past efforts have been based and restates federal intent in the preemption provision.



REPRESENTING
GOLDEN HEART
OF ALASKA



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

March 2, 1994

TO: Bill Miles, Aide to Senator Pearce
Senate Finance Committee

FROM: Chrystal Smith

RE: AML Opposition to SB 261

As we discussed late last week, the Alaska Municipal League opposes SB 261 (and its current version, CS SB 261 (CRA)), which was recently referred to the Senate Finance Committee.

I have enclosed AML's position paper on the bill for your reference. I can provide additional information, including the opinions of Judge Link and the Office of General Counsel, federal Department of Transportation, if you like. Please call me at 586-1325 if I can be of assistance.

You should know that the companion bill in the House (HB 406) is being considered by a House Finance subcommittee at the present time and is scheduled for action by the full committee on Friday. AML and concerned municipalities will continue to fight it in the House as well as the Senate.

Many thanks for your consideration -- I appreciate any help you can provide.

Enclosure

94LEGIS::miles.3-2



AML Position Paper

CS SB 261 (CRA) - Exempting air carriers from municipal sales and use tax

The Alaska Municipal League opposes **CS SB 261 (CRA) - Exempting air carriers from municipal sales and use taxes** for a number of reasons.

First, the bill is yet another restriction on 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, however, CS SB 261 (CRA) goes beyond federal law by prohibiting municipalities from levying sales taxes on the carriage of intrastate freight.

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 the League's 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 the issue, not preclude this local option by legislation. 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.

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 superceding the ability of the court to decide the issue and without placing undue restrictions on municipalities.

Finally, CS SB 261 (CRA) has a retroactive effective date, which should be deleted if the bill is passed from committee. If the legislature does decide to preclude municipalities from raising additional revenues locally through this means, the bill should be amended

CS SB 261 (CRA) Position Paper
page 2

to change the effective date to January 1, 1995, to give those municipalities that do collect taxes of this type to plan for reduced revenues in their budget cycle. It is unreasonable to prohibit a tax retroactively.

In conclusion, the Alaska Municipal League opposes CS SB 261 (CRA) as an unnecessary piece of legislation and one that will place unfair restrictions on the ability of municipalities to raise local revenues in a time when state-shared revenues are being cut and the impact of unfunded mandates and handed-down responsibilities is increasing.

March 2, 1994

LEGIS94:possb261.3-2



HAINES BOROUGH Box 1209, Haines, Alaska 99827 (907) 766-2711 FAX 766-2716

March 11, 1994

Senators Drue Pierce and
Steve Frank
Senate Finance Committee
Alaska State Legislature
Juneau, AK 99811

Dear Senators:

I understand there will be a Senate Finance Committee meeting tomorrow (March 12) and Senate Bill 261 will be discussed. I would like this letter to serve as comment on that bill.

You may not be aware that the City of Haines and the Haines Borough both receive sales tax from the intrastate movement of freight by our local airlines. We do so because we have a local sales tax and the Federal Aviation Act of 1958 does not prohibit municipalities from assessing this tax.

Considering that State revenue sharing and municipal assistance continues to decline, I would hope the Legislature would support municipalities in their attempts to generate local revenue. It seems as if this exemption would give airlines an unfair advantage over ways to ship freight.

I request that you consider carefully all the ramifications of this proposed bill.

Thank you,

Becky Palmer
Becky Palmer
Borough Clerk

Post-It™ brand fax transmittal memo 7571 # of pages >	
To <i>Bill Miles</i>	From <i>Becky Palmer</i>
Co.	Co.
Dept.	Phone # <i>766-2711</i>
Fax # <i>465-2872</i>	Fax # <i>766-2714</i>