

ALASKA LEGISLATURE

1321

HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996

65

Subsection (h) makes clear that former employees are entitled to the same treatment as current employees.

Sec. 39.55.020 requires the employee to notify the employer of the claim against the employee and make a good faith effort to cooperate in the defense and resolution of the claim or action. If the employer is providing or has been asked to provide a legal defense, subsection (b) prohibits the employee from settling the claim unless the employer approves. Subsection (c) permits the public employer to settle claims or actions without the employee's consent so long as the settlement resolves all the outstanding claims against the employee.

Sec. 39.55.030 sets out the employee's rights when the employer refuses to provide a legal defense. Under subsection (b), the employee may file an action for declaratory relief to secure legal defense from the employer. Subsection (c) addresses what happens if the employee settles the claim. Subsection (d) gives the employee one year after prevailing in a declaratory relief action against the employer or the entry of final judgment or dismissal in the underlying action to secure indemnification.

Sec. 39.55.040 addresses how the employer may provide a legal defense for an employee without promising to indemnify the employee if a judgment is entered against the employee.

Sec. 39.55.100 defines terms used in the chapter, including "employee," "employer," and "settlement."

Section 2 provides that the Act does not modify existing collective bargaining agreements.

Section 3 limits the Act to claims arising on or after the date on which it takes effect.

TC:klb

95-038.klb

Representative Brian S. Porter



CHAIRMAN
HOUSE JUDICIARY COMMITTEE

MEMBER
HOUSE LABOR & COMMERCE COMMITTEE
SELECT COMMITTEE ON LEGISLATIVE ETHICS

MEMBER
FINANCE SUBCOMMITTEES
DEPARTMENT OF LAW
DEPARTMENT OF PUBLIC SAFETY
COURTS

SESSION:
STATE CAPITOL ROOM 118
JUNEAU, ALASKA 99801-1182
PHONE: (907) 555-4930
FAX: (907) 465-3834

INTERIM:
710 W. 4TH AVE., SUITE 640
ANCHORAGE, AK 99501-2133
PHONE: (907) 258-8197
FAX: (907) 258-5610

DISTRICT 20

Sponsor Statement

HB 120 Indemnification of Public Employees

House Bill 120 *Indemnification of Public Employees*, amends Alaska Statute Title 39 *Public Officers and Employees* by adding a new chapter. This chapter would require public employers, including municipalities, to provide legal defense and reimburse employees' losses for actions that occurred during the scope of their employment.

However, public employers would not be required to compensate an employees' actions that involve gross negligence, intentional or wilful misconduct. In addition, the employer would also be excused from defending or indemnifying when the case involves a disciplinary, administrative or a criminal matter brought against the employee.

The implementation of this legislation is already common practice and most municipalities now indemnify their employees for actions or omissions taken during the course and scope of their employment. Such indemnification is included within most, if not all, collective bargaining agreements. In fact, the Attorney General for the State of Alaska, Municipality of Anchorage, Association of Chiefs of Police and Anchorage Municipal League support this legislation.

In brief, House Bill 120 *Indemnification of Public Employees* provides the following:

- o codifies existing common practice
- o reasonable protection for employers
- o requires the employee to keep the employer informed and to cooperate in the legal defense
- o equal treatment of all types of employees

Employees of the University of Alaska, municipal school districts and REAA's are now provided this protection (AS 14.12.090).



217 Second Street, Suite 200 • Juneau, Alaska 99801 • Tel (907) 586-1325, Fax (907) 463-5481

To: Representative Brian Porter

From: *Kevin* Kevin Ritchie, Executive Director

Date: February 8, 1995

Re: HB 120

The Alaska Municipal League supported HB 277 which is substantially the same as HB 120.

HB 120 clearly defines the standard approach to handling defense and indemnification of employees by outlining the rights and responsibilities of both employers and employees. The benefit of this proposed statute is adding clarity for both parties, especially when such situations occur infrequently.

The AML supports the passage of HB 120

AMENDMENT

1 Adopt

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HB 120

- 1 Page 5, line 5, after "state,":
- 2 Insert "including the executive, legislative, and judicial branches of state government,"

STATE

ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 6, 1995

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE (907) 269-5100
FAX (907) 276-3607

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846

P.O. BOX 110300-DIMOND COURTHOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3800
FAX: (907) 465-6735

The Honorable Brian Porter
Alaska House of Representatives
State Capitol, Room 118
Juneau, AK 99801

Re: HB 120 - Defense and
Indemnification of Public Employees

Dear Representative Porter:

This letter is in response to your staff's verbal request for a legal review of HB 120, a bill relating to defense and indemnification of current and former public employees by public employers. This bill is identical to last year's CSHB 277 (Jvd), with the exception of the effective date provisions in sections 2 and 3 of HB 120.

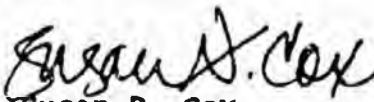
The Department of Law finds no legal problems with the bill. We believe the bill will establish a workable, codified defense and indemnification policy for public employees who are not otherwise covered by legal defense and indemnification provisions in a collective bargaining agreement.

If you have any questions about specific aspects of the bill, please do not hesitate to contact me or Brad Thompson, the state's director of risk management.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Susan D. Cox
Assistant Attorney General

SDC:pch

cc: Brad Thompson

Municipality
of
Anchorage



P.O. Box 196650
Anchorage, Alaska 99519-0650
Telephone: (907) 343-4545

Rick Mystrom, Mayor

OFFICE OF THE MUNICIPAL ATTORNEY

January 25, 1995

Representative Brian Porter
Alaska State Legislature
State Capitol, Room 118
Juneau, Alaska 99801-1182

Re: HB 120 Regarding Defense and Indemnification of
Public Employees and Former Public Employees with Respect
to Claims Arising Out of Conduct Within the Course and Scope
of Employment

Dear Representative Porter:

Last legislative session the Municipal Attorney's Office endorsed HB 277 relating to defense and indemnification of public employees for claims arising from actions taken in the course and scope of their duties. HB 277 from last session, like HB 120 in the first session of the 19th Legislature, would provide clarity regarding the relationship between the employer and the employee when actions of a public employee in the discharge of their duties result in litigation.

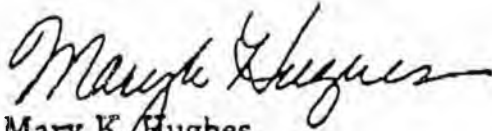
The Bill does not propose procedures which are different in nature to those which the Municipality of Anchorage currently pursues. The Bill does, however, provide the benefit of a clear statement of rights and responsibilities of both the employer and the employee in those circumstances where the discharge of duties by a public employee result in litigation. The Municipal Attorney's Office supports this concept.

The Municipal Attorney's Office has requested, and Mayor Mystrom has included, a legislative position statement asking for changes such as those set forth in HB 120 to be included in the Municipality of Anchorage's official legislative requests. I anticipate that the Anchorage Assembly will concur and the official municipal

Representative Porter
January 25, 1995
Page 2 of 2

endorsement will follow. For the present, on behalf of the Anchorage Municipal Attorney's office I urge passage of HB 120.

Sincerely,



Mary K. Hughes
Municipal Attorney

cc: Tim Rogers

cc: gramat\city\porter.sbe\1212

HB

120

SFIN

FILE

FISCAL NOTE

waived 5-7-95
3/7/96 PLE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 120

Revision Date: _____
Title: "An Act relating to public employers defending and indemnifying public employees."
Sponsor: Porter
Requestor: Sen. Rules

Department Affected: Administration
BRU: Risk Management
Component: Risk Management

COMPONENT SERIAL NO. 0071

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE:

(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	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$None

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

The Division of Risk Management, as a matter of policy, already practices the defense and indemnity provisions now being committed to statute.

Prepared by: J. Brad Thompson, Director
Division: Risk Management

Phone: 465-5723
Date: _____

Approved by Commissioner: Mark Bover
Agency: Department of Administration

Date: 3/7/96

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FISCAL NOTE

wained 5-7-95

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 120

Revision Date: _____
Title: "Public employers defending and indemnifying public employees...within scope of employment..."
Sponsor: Porter
Requestor: _____

Department Affected: Administration
BRU: Personnel
Component: Personnel
COMPONENT SERIAL NO. 56

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY 96) cost: \$ 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

ANALYSIS: (Attach a separate page if necessary.)
This bill has no fiscal impact to the Division of Personnel.

Prepared by: Beverly Reaume *Beverly Reaume*
Division: Division of Personnel

Phone: 465-4429
Date: _____

Approved by Commissioner: Mark Boyer *M. Boyer*
Agency: Department of Administration

Date: 3/7/96

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waived
5-7-95

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHB 120 (FIN)

Revision Date: 3/1/96 Dept. Affected: Department of Law
 Title: "An Act relating to public employers defending and indemnifying public employees..." BRU: Civil Division
 Component: General Legal Services
 Sponsor: Representative Porter
 Requester: Senate Rules Committee COMPONENT SERIAL NO. 2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (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

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
SEASONARY						

NOTES: (Attach a separate page if necessary)

This bill clarifies existing practice concerning the defense and indemnification of public employees involving civil claims against those employees arising out of conduct that is within the scope of employment. Because the bill spells out these existing practices in statute, there will be no fiscal impact.

Prepared by: Richard I. Peques, Director
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: 3/1/96
 Date: 3/1/96

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CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

waived
5-7-95

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHB 120 (FIN)

Revision Date: 3/1/96 Dept. Affected: Department of Law
 Title: "An Act relating to public employers defending and indemnifying public employees..." BRU: Civil Division
 Component: General Legal Services
 Sponsor: Representative Porter
 Requester: Senate Rules Committee COMPONENT SERIAL NO. 208?

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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 EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (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

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ATTACHMENTS: (Attach a separate page if necessary)

This bill clarifies existing practice concerning the defense and indemnification of public employees involving civil claims against those employees arising out of conduct that is within the scope of employment. Because the bill spells out these existing practices in statute, there will be no fiscal impact.

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 3/1/96
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 3/1/96
 Agency: Department of Law

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FISCAL NOTE

No. 3

Version: CS HB 120 (FIN)

(H) Publish Date: 2/23/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: *An Act relating to public employers defending and BRU: Legal Services
indemnifying public employees... Component: Operations
 Sponsor: Representative Porter
 Requester: Representative Porter COMPONENT SERIAL NO. 0093

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (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

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill clarifies existing practice concerning the defense and indemnification of public employees involving civil claims against these employees arising out of conduct that is within the scope of employment. Because the bill spells out these existing practices in statute, there will not be a fiscal impact.

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/7/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/7/95
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 2
Bill Version: HB 120
(H) Publish Date: 2/10/95

Revision Date: _____
Title: "An Act relating to public employers defending and indemnifying public employees"
Sponsor: Porter
Requestor: _____

Department Affected: Administration
BRU: Risk Management
Component: Risk Management

COMPONENT SERIAL NO. 0071

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE:

(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	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$None

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

The Division of Risk Management, as a matter of policy, already practices the defense and indemnity provisions now being committed to statute.

Prepared by: J. Brad Thompson, Director
Division: Risk Management

Phone: 465-5723
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 1/27/95

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COMMITTEE COPY

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 1
Bill Version: HB 120
(H) Publish Date: 2/10/95

Revision Date: _____
Title: Public employers defending and indemnifying
public employees within scope of employment.
Sponsor: Porter
Requestor: _____

Department Affected: Administration
BRU: Personnel/OEEO
Component: Personnel/OEEO
COMPONENT SERIAL NO. 56

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES	0	0	0	0	0	0
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FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY 95) cost: \$ 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

ANALYSIS: (Attach a separate page if necessary.)

This bill has no fiscal impact to the Division of Personnel.

Prepared by: Dianne Corso, Labor Relations Manager
Division: Personnel/OEEO

Phone: 465-4403
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 1/27/95

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SENATE COMMITTEE REPORT

DATE: 3/7/95

FURTHER: Finance

DATE TURNED INTO OFFICE: 5-5-95

Judiciary Committee considered CS FOR HOUSE BILL NO. 120(FIN)

Public employers defending and indemnifying public employees and former public employees with respect to claims arising out of conduct that is within the scope of employment.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical change
- new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
Mike Miller	✓	Al Linder		✓	
Lyde Brown	✓				
CHAIR: L		Adrian Taylor		✓	

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
Dept. of Law	2/7/95	✓	✓
Administration - <small>EXC MEM</small>	1/27/95	✓	✓
Administration - Personnel	1/27/95	✓	✓

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

HB

122

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 20, 1995

FURTHER REFERRALS:

Date of Committee Action: 4/28/95

The FINANCE Committee considered:

HB 122

HOUSE BILL NO. 122

MARINE MOTOR FUEL TAX

"An Act authorizing payment of a portion of the motor fuel tax on boats and watercraft as refunds to municipalities; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 122 (Fin) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) Rev fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Richard J. Foley</u> Foster	X			
<u>Mark Hanley</u> Hanley			X	
<u>Mark Mulder</u> Mulder		X		
<u>Ann Parnell</u> Parnell			X	
<u>Vic Kohring</u> Kohring			X	
<u>Ben Grussendorf</u> Grussendorf	X			
<u>Mike Navarre</u> Navarre		X		
<u>Larry Brown</u> Brown				✓
<u>Chris Theriault</u> Theriault			X	
<u>Mike Kelly</u> Kelly			X	

CHAIR'S SIGNATURE Richard J. Foley

Revision Date: _____ Dept. Affected: Revenue
 Title: Marine Motor Fuel Tax PRU: Audit Operations/Shared Taxes
 Component: Income and Excise Audit
 Sponsor: Rep. Moses, Grussendorf, Mackie
 Requestor: (H) FIN COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	40.6	42.0	43.5	45.0	46.6	48.2
TRAVEL						
CONTRACTUAL	4.0	3.0	3.0	3.0	3.0	3.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	5.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS	4,924.6	4,929.2	4,927.7	4,926.2	4,924.6	4,923.0
MISCELLANEOUS						
TOTAL OPERATING	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2

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

REVENUE FUND SOURCE: GF	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2
-------------------------	---------	---------	---------	---------	---------	---------

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF March						
1004 GF	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of current (FY95) impact \$ 0.0

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Robert N. Bartholomew, Deputy Director *[Signature]* Phone: 465-2320
 Division: Income and Excise Audit Date: 4/28/95
 Approved by Commissioner: *[Signature]* Date: 4/28/95
 Agency: Department of Revenue

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DEPARTMENT OF REVENUE

CSHB 122 (FIN)
9-LS0515\M
April 28, 1995
Page 2 of 3

Bill Analysis

Sections 1 and 2 of this bill would amend motor fuel tax statutes (AS 43.40) by effectively increasing the motor fuel tax rate on marine fuel by 3¢ per gallon (from 5¢ to 8¢ per gallon) through repeal of subsections which authorize a separate tax rate for marine motor fuel at the lesser rate.

Section 3 would provide for sharing the 3¢ per gallon tax increase to municipalities. Under this section, Department of Revenue would share 37.5% (3¢ divided by 8¢) of marine fuel tax revenue with municipalities subject to appropriation by the legislature. The balance of marine fuel tax revenue not shared (5¢ portion) may be appropriated for water and harbor facilities.

Section 4 would require that revenue from the 3¢ portion of the tax less the amount required to be expended for collection of the tax be shared to municipalities in which marine fuel taxes were collected. Taxes would be shared with municipalities in which the final sale or transfer occurred. This section provides for a phase-in of shared amounts for boroughs which incorporate after the effective date of the bill. This section requires that marine fuel resellers report sales or transfers of marine fuel which is sold in or transferred to a location other than where the fuel was purchased or stored.

Section 5 provides for an effective date of July 1, 1995 for this bill.

Operating Costs

This bill would add new reporting requirements for motor fuel taxpayers (qualified dealers) by requiring them to report marine fuel sales by location. Qualified dealers report each month their motor fuel activity on a statewide basis and do not report the locations of their motor fuel sales. Location information would be required for the Department to share taxes to municipalities.

This bill may cause new reporting requirements by persons other than qualified dealers, such as fuel resellers, if they resell fuel in a location different from where they purchased it. Resellers do not currently report to the Department because motor fuel taxes attributable to their fuel purchases are covered under their qualified dealer's motor fuel return.

This bill would require that the Department data capture the additional information reported on monthly returns filed by qualified dealers and resellers. Reports from resellers will cause additional workload because the Department will have to track movement of fuel to different locations and make accounting adjustments to records of each of the affected municipalities.

DEPARTMENT OF REVENUE

CSHB 122 (FIN)
9-LS0515\M
April 28, 1995
Page 3 of 3

This bill would require an additional position, Accounting Technician I, Range 12 located in Juneau, to process returns and account for marine fuel tax information by municipality. The position would be responsible for verifying that the tax was collected, compiling tax data by municipality, reconciling tax revenue and issuing warrants to municipalities at the end of each fiscal year. Since this would be a new filing requirement for distributors and resellers, additional funds would be needed in FY 96 to inform them and print forms. There would be a one-time cost in FY 96 for computer equipment and furniture for the new position.

The Department would share revenue collected from the 3¢ tax rate increase less the amount required to be expended for collection of the tax. This amount is reflected as an operating cost under "Grants, Claims".

Revenue

Based on FY 94 consumption data, the 3¢ per gallon marine fuel tax increase under this bill would generate \$4,975.2, calculated as follows.

FY 94 Taxable Gallons	CSHB 122 () (8¢ per Gallon)	Current Rate (5¢ per Gallon)	Revenue Increase
165,840,000	\$13,267,200	\$8,292,000	\$4,975,200

Under this bill, the revenue increase less amounts required to be expended for collection of the tax would be shared to municipalities. The amount to be shared to municipalities is reflected as an operating cost under "Grants, Claims" in this fiscal note.

Alaska State Legislature

Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

VICE-CHAIRMAN
HOUSE SPECIAL COMMITTEE ON FISHERIES

MEMBER
HOUSE SPECIAL COMMITTEE ON
ECONOMIC DEVELOPMENT

COMMITTEE ON COMMITTEES

FINANCE SUBCOMMITTEES
TRANSPORTATION AND PUBLIC FACILITIES
FISH & GAME



SESSION:
STATE CAPITOL BUILDING #204
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716 W. 4TH AVE. #630
ANCHORAGE, ALASKA 99501-2133
PHONE: (907) 258-8167
FAX: (907) 258-3468

SPONSOR STATEMENT

Committee Substitute House Bill 122

An Act authorizing payment of a portion of the motor fuel tax on boats and watercraft as refunds to municipalities.

Committee Substitute for House Bill 122 accomplishes the following:

1. Increases the marine fuel tax from \$.05 to \$.08 per gallon.
2. Shares \$.03 back to the municipalities where the marine fuel is sold.
3. Keeps the revenue generated from the \$.05 tax in the general fund.
4. Has a fiscal note of @ \$40,000 to add an Accounting Technician in Revenue.

The intent of Committee Substitute House Bill 122 is to increase the marine fuel tax and provide a distribution mechanism for \$.03 of the tax to be shared back to the communities where marine fuels are sold. This money is designated for "water and harbor facilities".

CSHB 122 would provide some assistance to local governments for additional development of docks and harbors and for the maintenance and development of existing public facilities.

Table 28

**Historical General Fund Unrestricted Revenues
-Tax Portion-**

(\$ millions)	<u>FY 79</u>	<u>FY 80</u>	<u>FY 81</u>	<u>FY 82</u>	<u>FY 83</u>	<u>FY 84</u>	<u>FY 85</u>	<u>FY 86</u>	<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>	<u>FY 90</u>	<u>FY 91</u>	<u>FY 92</u>	<u>FY 93</u>
Corporate - General	24.8	17.9	34.8	34.8	30.3	39.5	36.0	11.2	20.5	23.4	38.0	45.3	37.9	33.7	37.6
Corporate - Petroleum	232.6	547.5	860.1	668.9	236.0	265.1	168.6	133.9	120.4	158.0	166.0	117.2	185.1	165.5	834.7
Fiduciary	0.1	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Individual	<u>117.2</u>	<u>100.5</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total Income	374.7	666.0	894.9	703.7	266.3	304.6	204.6	145.1	140.9	181.4	204.0	162.5	223.0	199.2	872.3
Alaska Business License	28.2	4.2	5.4	5.5	6.9	19.9	38.8	2.1	1.5	1.4	1.0	0.1	0.0	0.0	0.1
Fish	11.9	14.6	20.7	22.8	20.5	19.0	18.7	21.1	26.5	22.5	26.7	25.1	31.1	30.1	42.2
Salmon Enhancement	0.0	0.0	0.0	2.4	2.6	2.2	2.6	4.3	4.4	5.8	9.5	6.5	6.2	4.2	6.8
Seafood Marketing	0.0	0.0	0.0	0.0	0.9	1.1	1.0	1.1	1.4	2.7	3.3	3.3	3.3	2.8	3.6
Insurance Companies	10.8	10.4	10.6	12.5	13.8	16.2	17.5	21.1	23.7	23.7	19.4	22.7	24.4	25.5	26.3
Other	<u>1.9</u>	<u>2.1</u>	<u>1.2</u>	<u>1.4</u>	<u>1.6</u>	<u>2.0</u>	<u>2.1</u>	<u>2.2</u>	<u>2.3</u>	<u>2.4</u>	<u>3.2</u>	<u>4.6</u>	<u>4.1</u>	<u>4.1</u>	<u>4.0</u>
Total Gross Receipts	52.8	31.3	37.9	44.6	46.3	60.4	80.7	51.9	59.8	58.5	62.1	62.3	69.1	66.7	83.0
Gravel, Timber, etc.	1.7	1.6	2.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Oil & Gas Production	173.6	506.2	1169.9	1381.1	1493.0	1392.4	1388.7	1107.4	647.3	816.4	696.4	972.3	1253.8	1022.2	989.4
Oil & Hazardous Release	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	26.9	28.0	28.7	26.1
Oil & Gas Conservation	<u>0.2</u>	<u>0.3</u>	<u>0.3</u>	<u>0.6</u>	<u>0.7</u>	<u>0.7</u>	<u>0.7</u>	<u>0.5</u>	<u>1.2</u>	<u>1.3</u>	<u>2.4</u>	<u>2.4</u>	<u>2.3</u>	<u>2.3</u>	<u>2.1</u>
Total Severance	175.5	508.1	1172.9	1581.7	1493.7	1393.1	1389.4	1107.9	648.5	817.7	698.8	1001.6	1284.1	1053.2	1017.6
Oil & Gas Property	163.4	168.9	143.0	142.7	152.6	131.0	128.4	113.5	102.5	96.2	89.7	89.8	85.0	69.0	66.9
Vehicle Registration	<u>0.2</u>	<u>0.1</u>	<u>0.2</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total Property	163.6	169.0	143.2	142.7	152.6	131.0	128.4	113.5	102.5	96.2	89.7	89.8	85.0	69.0	66.9
Alcoholic Beverages	7.4	7.4	8.3	9.0	10.4	13.0	13.9	13.3	12.6	12.1	11.8	12.0	12.2	12.0	11.9
Fuel Taxes - Aviation	3.4	4.0	4.1	6.3	8.7	8.1	8.0	8.1	8.5	9.0	10.1	9.4	10.7	10.7	6.4
Fuel Taxes - Highway	16.3	18.9	15.6	20.3	23.7	20.2	23.7	22.7	18.3	19.3	20.0	22.9	19.1	23.2	25.6
Fuel Taxes - Marine	<u>2.6</u>	<u>3.2</u>	<u>3.5</u>	<u>3.7</u>	<u>4.3</u>	<u>3.9</u>	<u>4.3</u>	<u>5.3</u>	<u>5.4</u>	<u>5.3</u>	<u>7.2</u>	<u>9.2</u>	<u>10.0</u>	<u>7.4</u>	<u>8.8</u>
Tobacco Products	<u>1.7</u>	<u>1.6</u>	<u>1.7</u>	<u>1.9</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>4.9</u>	<u>6.6</u>	<u>6.1</u>	<u>6.4</u>	<u>11.0</u>	<u>14.0</u>	<u>14.3</u>	<u>14.0</u>
Total Sale/Use	31.4	35.1	33.2	41.2	49.1	47.2	51.9	54.3	51.4	51.8	55.5	64.5	66.0	69.6	66.7
Esate	0.1	0.2	0.5	0.3	0.7	0.7	0.5	0.7	1.1	0.3	0.7	1.1	3.3	1.0	0.9
School	<u>2.5</u>	<u>2.6</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total Other	2.6	2.8	0.5	0.3	0.7	0.7	0.5	0.7	1.1	0.3	0.7	1.1	3.3	1.0	0.9
Total Taxes	890.6	1412.3	2282.6	2514.2	2006.7	1937.0	1855.5	1473.4	1004.2	1206.9	1111.8	1381.8	1730.5	1458.7	2107.4



MAR 17 1995

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

March 16, 1995

TO: Representative Carl Moses

FROM: Kevin C. Ritchie
Executive Director

RE: House Bill 122 - Payment of a portion of the motor fuel tax on boats and watercraft as refunds to municipalities

The Alaska Municipal League is writing in support of HB 122, which would provide a portion of the motor fuel taxes collected by the state to be refunded to municipalities.

The statute now requires a substantial part of the state-collected aviation fuel taxes be refunded to any municipality operating an airport where the fuel taxes were collected. Similarly, the tax proceeds from marine fuels should be refunded to each municipality which bears the burden.

Under the Transportation Section of the Alaska Municipal League's 1995 Policy Statement, this issue is addressed as follows:

"The League supports amendment of the statute on marine fuel taxes (AS 43.40) so that marine fuel taxes collected in any municipality which the state has required to take over responsibility for harbor and dock expenses, or where the municipality holds existing responsibilities for these expenses, must be refunded to that municipality."

If you have any questions, please feel free to call me at 586-1325.



MAR 2 1995

March 17, 1995

Representative Carl E. Moses
State Capital Building
Juneau, Alaska 99801-1182

Attn: Cheryl Sutton

Sent via FAX: 465-3445
Original Letter Mailed

RE: SUPPORT FOR HB 122

Dear Representative Moses:

Thank you for sponsoring HB 122, "An Act authorizing payment of a portion of the motor fuel tax on boats and watercraft as refunds to municipalities". The City of Valdez heartily supports passage of this legislation and wishes to work to see it enacted this year. Please insure that these comments are made part of the record for a hearing on this bill scheduled for March 18 before the State Affairs Committee.

As you mention in your "Sponsor Statement", harbor and port facilities represent vital infrastructure for Alaska's coastal communities. As the State of Alaska seeks to diversify and stabilize its economy the development, operation, and maintenance of harbor and port facilities will become even more important.

Most, if not all, of the State of Alaska harbors operated by municipalities are in disrepair due to lack of maintenance and the inability to generate enough revenues to stay on top of maintenance demands. I do not believe this maintenance deficit is for lack of trying. Most harbors do generate considerable income from slip rental fees and associated harbor services. But the costs of maintaining harbor facilities is enormous, particularly in Alaska. The brutal weather (wind and snow), the corrosive effects of a salt water environment, and the wear from larger boats and inexperienced boat handlers (increased sport boating/fishing) make Alaska's harbors voracious consumers of maintenance dollars. As a city manager seeking to meet too many needs with not enough money, I always shutter when I sit down with my Harbormaster to talk about harbor construction or maintenance projects. My "rule of thumb" has become to figure what I think a project should cost and then triple it. Even then, I am sometimes on the low side. Maintenance problems also open a municipality up for liability claims from falls and other accidental injury at the harbor.

Representative Carl Moses
March 17, 1995
page 2

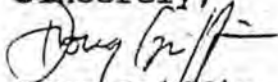
Ports and docks also suffer from the maintenance dilemma. These facilities provide jobs and support the fishing, tourism, and transportation industries. But damage due to weather, wear, accident, and age also presents a maintenance challenge for tight municipal budgets. Valdez has two docks and each has sustained accident damage this winter. The City Has recovered some reimbursement from one of the accidents. Damage cannot always be attributed to a particular vessel and recovery of full reimbursement for repairs is far from certain. It often comes down to a cost of doing business.

The reduction of State Revenue Sharing and Municipal Assistance by about 55% over the last ten years has taken its toll. The sharp decline in State spending on maintenance for harbors has been felt and can be seen all along the coast of Alaska. Ports and harbors are local government concerns that help build and sustain a large part of Alaska's economy, yet the funding for providing this important service is restricted. The only positive development in meeting port and harbor maintenance needs has been the Capital Matching Grant program.

HB 122 seeks to direct money to local governments so it can have another source of funding for the maintenance and operation of vital marine facilities. It is not clear to me that these shared taxes would need to be directed to harbor and port maintenance, however, it would be my intent to recommend to my City Council the commitment of these dollars for that purpose even if it is not required. I believe those that pay these taxes are a lot more understanding and supportive of paying if the taxes are directed back to develop or maintain critical marine infrastructure.

Thank you again for sponsoring this bill. I hope it is favorably considered and enacted. I will be happy to answer any questions you may have.

Sincerely,


Doug Griffin
City Manager

cc: Valdez Mayor John Harris
Valdez City Council Members
Senator Georgianna Lincoln
Representative Gene Kubina
Representative Jeannette James, Chair of House State Affairs
Pat Pourchot, Legislative Liaison, Governor's Office
Kevin Ritchie, Executive Director, Alaska Municipal League
Tim Lopez, Valdez Harbormaster/Port Director

HB

122

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 5/7/95

FURTHER:

DATE TURNED INTO OFFICE: 5/13/95

The Finance Committee considered CS FOR HOUSE BILL NO. 122(FIN)

Imposing a reporting requirement on certain sal
fuel, efd. tion or uses of motor

*CS forth-
coming*

and recommends:

- be replaced with S CS CS HB 122 (FIN)
- adopt previous CS
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:
- same title
 - new title
- House Bill:
- same title
 - technical change
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Steve Rios</i>	✓	<i>PAUL CELL</i>		✓	
<i>Bob W...</i>		<i>Walter D...</i>	✓		
		<i>Paul H. Gl...</i>	✓	✓	
Co-Chair:		Co-Chair: <i>[Signature]</i>	✓		
Co-Chair:		Co-Chair: <i>Rich Halford</i>	✓		

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

DOR	5/10/95		50.6

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Revision Date: _____ Dept. Affected: Revenue
 Title: Marine Motor Fuel Tax BRU: Audit Operations/Shared Taxes
 Component: Income and Excise Audit
 Sponsor: Rep. Moses, Grussendorf, Mackie
 Requestor: (H) FIN COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	40.6	42.0	43.5	45.0	46.6	48.2
TRAVEL						
CONTRACTUAL	4.0	3.0	3.0	3.0	3.0	3.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	5.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0	4,929.2	4,927.7	4,926.2	4,924.6	4,923.0
MISCELLANEOUS						
TOTAL OPERATING	50.6	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2

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

REVENUE FUND SOURCE: GF	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	50.6	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	50.6	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of current (FY95) impact \$ 0.0

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Robert N. Bartholomew, Deputy Director *Robert N. Bartholomew* Phone: 465-2320
 Division: Income and Excise Audit Date: 5/10/95
 Approved by Commissioner: *[Signature]* Date: 5/10/95
 Agency: Department of Revenue *[Signature]*

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DEPARTMENT OF REVENUE

CSHB 122 (FIN)
9-LS0515\O
May 10, 1995
Page 2 of 3

Bill Analysis

Sections 1 and 2 of this bill would amend motor fuel tax statutes (AS 43.40) by effectively increasing the motor fuel tax rate on marine fuel by 3¢ per gallon (from 5¢ to 8¢ per gallon) through repeal of subsections which authorize a separate tax rate for marine motor fuel at the lesser rate.

Section 3 would provide for passing through the 3¢ per gallon tax increase to municipalities. Under this section, Department of Revenue would share 37.5% (3¢ divided by 8¢) of marine fuel tax revenue with municipalities subject to appropriation by the legislature. The balance of marine fuel tax revenue not passed through (5¢ portion) may be appropriated for water and harbor facilities.

Section 4 would require that revenue from the 3¢ portion of the tax less the amount required to be expended for collection of the tax be shared to municipalities in which marine fuel taxes were collected. Taxes would be passed to with municipalities in which the final sale or transfer occurred. This section provides for a phase-in of passed through amounts for boroughs which incorporate after the effective date of the bill. This section requires that marine fuel resellers report sales or transfers of marine fuel which is sold in or transferred to a location other than where the fuel was purchased or stored.

Section 5 provides for an effective date of July 1, 1995 for this bill.

Operating Costs

This bill would add new reporting requirements for motor fuel taxpayers (qualified dealers) by requiring them to report marine fuel sales by location. Qualified dealers report each month their motor fuel activity on a statewide basis and do not report the locations of their motor fuel sales. Location information would be required for the Department to share taxes with municipalities.

This bill may cause new reporting requirements by persons other than qualified dealers, such as fuel resellers, if they resell fuel in a location different from where they purchased it. Resellers do not currently report to the Department because motor fuel taxes attributable to their fuel purchases are covered under their qualified dealer's motor fuel return.

This bill would require that the Department data capture the additional information reported on monthly returns filed by qualified dealers and resellers. Reports from resellers will cause additional workload because the Department will have to track movement of fuel to different locations and make accounting adjustments to records of each of the affected municipalities.

DEPARTMENT OF REVENUE

CSHB 122 (FIN)
9-LS0515\O
April 28, 1995
Page 3 of 3

This bill would require an additional position, Accounting Technician I, Range 12 located in Juneau, to process returns and account for marine fuel tax information by municipality. The position would be responsible for verifying that the tax was collected, compiling tax data by municipality, reconciling tax revenue and issuing warrants to municipalities at the end of each fiscal year. Since this would be a new filing requirement for distributors and resellers, additional funds would be needed in FY 96 to inform them and print forms. There would be a one-time cost in FY 96 for computer equipment and furniture for the new position.

The Department would share revenue collected from the 3¢ tax rate increase less the amount required to be expended for collection of the tax. This amount is reflected as an operating cost under "Grants, Claims". The initial sharing would take place in FY97 for revenues collected in FY96.

Revenue

Based on FY 94 consumption data, the 3¢ per gallon marine fuel tax increase under this bill would generate \$4,975.2, calculated as follows.

FY 94 Taxable Gallons	CSHB 122 (FIN) (\$ per Gallon)	Current Rate (\$ per Gallon)	Revenue Increase
165,840,000	\$13,267,200	\$8,292,000	\$4,975,200

Under this bill, the revenue increase less amounts required to be expended for collection of the tax would be shared to municipalities. The amount to be shared to municipalities is reflected as an operating cost under "Grants, Claims" in this fiscal note.

SENATE FINANCE
COMMITTEE
Amendment Number: 1 Replacement 2
Bill Number: CSHB 122(FIN)
Sponsor: Sharp Date: 5/13/95
Logged In By: JJR

Adopted
9-L.S0515X.3
Chenoweth
5/12/95
5/13/95

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR SHARP

TO: CSHB 122(FIN)

1 Page 2, line 30:

2 Delete "for water and harbor facilities"

3 Insert "for

4 (A) water and harbor facilities that are

5 (i) municipally owned and operated; or

6 (ii) state facilities, other than facilities of the Alaska

7 marine highway system, and that become municipally owned and

8 operated water and harbor facilities by transfer from the state;

9 appropriations may be made for the purpose of paying these

10 refunds to a municipality only after transfer of all state water and

11 harbor facilities in the municipality from the state to the

12 municipality; or

13 (B) new or expanded water and harbor facilities to be

14 constructed by a municipality, but only if the municipality has presented

15 to the commissioner of transportation and public facilities a plan for the

16 construction of new or expanded facilities in the municipality, and the

17 commissioner of transportation and public facilities finds, and certifies to

18 the commissioner of revenue, that the making of the refund payment

19 under this subparagraph will materially assist the municipality in

20 planning, designing, constructing, and operating the new or expanded

21 water and harbor facilities;"

Post-It™ brand fax transmittal memo 7671 # of pages ▶ 1

To <u>Chenoweth</u>	From <u>Obama</u>
Co <u>Legal</u>	Co.
Dept. <u></u>	Phone # <u>465-4935</u>
Fax #	Fax # <u>22187</u>

R.O. 01
Amendment

9-LS0515\O

CS FOR HOUSE BILL NO. 122(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/28/95

Referred: Rules

Sponsor(s): REPRESENTATIVES MOSES, Grussendorf, Mackie

A BILL

FOR AN ACT ENTITLED

1 "An Act imposing a reporting requirement on certain sales, transfers, and
2 consumption or uses of motor fuel, increasing the motor fuel tax on motor fuel
3 used in and on watercraft, and authorizing payment of a portion of that tax as
4 refunds to municipalities; and providing for an effective date."

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

6 * Section 1. AS 43.40.010(a) is amended to read:

7 (a) There is levied a tax of eight cents a gallon on all motor fuel sold or
8 otherwise transferred within the state, except that

9 (1) the tax on aviation gasoline is four and seven-tenths cents a gallon;

10 and

11 (2) [THE TAX ON MOTOR FUEL USED IN AND ON
12 WATERCRAFT OF ALL DESCRIPTIONS IS FIVE CENTS A GALLON; AND

13 (3)] the tax on all aviation fuel other than gasoline is three and two-
14 tenths cents a gallon.

1 * Sec. 2. AS 43.40.010(b) is amended to read:

2 (b) There is levied a tax of eight cents a gallon on all motor fuel consumed
3 by a user, except that

4 (1) the tax on aviation gasoline consumed is four and seven-tenths cents
5 a gallon; and

6 (2) [THE TAX ON MOTOR FUEL USED IN AND ON
7 WATERCRAFT OF ALL DESCRIPTIONS IS FIVE CENTS A GALLON; AND

8 (3)] the tax on all aviation fuel other than gasoline is three and two-
9 tenths cents a gallon.

10 * Sec. 3. AS 43.40.010(c) is amended to read:

11 (c) Every dealer who sells or otherwise transfers motor fuel in the state shall
12 collect the tax at the time of sale, and remit the total tax collected, together with the
13 tax return required by AS 43.40.075, during each calendar month of each year to the
14 department by the last day of each succeeding month. Every user shall likewise remit
15 the tax accrued on motor fuel actually used by the user during each month, together
16 with the tax return required by AS 43.40.075. If the monthly tax remittance and
17 return are [IS] timely filed, one percent of the total monthly tax due, limited to a
18 maximum of \$100, may be deducted and retained to cover the expense of accounting
19 and filing the monthly tax remittance and return. [AT THE TIME THE
20 REMITTANCE IS MADE, EACH DEALER OR USER SHALL SUBMIT A
21 STATEMENT TO THE DEPARTMENT SHOWING ALL FUEL WHICH THE
22 DEALER OR USER HAS DISTRIBUTED OR USED DURING THE MONTH.]

23 * Sec. 4. AS 43.40.010(f) is amended to read:

24 (f) The proceeds from the revenue from the tax on motor fuel used in or on
25 [BOATS AND] watercraft of all descriptions shall be deposited in a special watercraft
26 fuel tax account in the general fund. The legislature may appropriate from this
27 account as follows:

28 (1) an amount equal to 37.5 percent of the proceeds from the
29 revenue from the tax may be appropriated for the purpose of paying refunds to
30 municipalities under AS 43.40.150 for water and harbor facilities; and

31 (2) the balance of the proceeds from the revenue from the tax may

1 be appropriated for water and harbor facilities.

2 * **Sec. 5.** AS 43.40 is amended by adding a new section to read:

3 Sec. 43.40.075. TAX RETURN FILING REQUIREMENTS. (a) A person
4 subject to the motor fuel tax shall file a return, made under penalty of unsworn
5 falsification, on a form prescribed by the department, reporting

6 (1) motor fuel sold, transferred, and used in the state by category
7 defined by the department; and

8 (2) sales, transfers, and uses of motor fuel that are exempt from
9 taxation under this chapter.

10 (b) The motor fuel tax return must show the type of motor fuel sold,
11 transferred, or used, the nature of any exemption, to whom exempt fuel was sold or
12 transferred, and other information required on the form.

13 (c) The return, including all required schedules, documentation, and reports,
14 shall be filed with the tax remitted by the deadline for remittance of the motor fuel tax
15 established in AS 43.40.010(c).

16 * **Sec. 6.** AS 43.40 is amended by adding a new section to read:

17 **ARTICLE 2. WATERCRAFT FUEL TAX REFUNDS TO MUNICIPALITIES.**

18 Sec. 43.40.150. REFUNDS TO MUNICIPALITIES. (a) Except as provided
19 in (b) of this section, the commissioner shall pay from appropriations under
20 AS 43.40.010(f)(1)

21 (1) to each unified municipality and to each city located in the
22 unorganized borough the tax revenue collected in the municipality from taxes levied
23 on motor fuel used in and on watercraft of all descriptions under this chapter that is
24 deposited in the special watercraft fuel tax account and is allocable under
25 AS 43.40.010(f)(1);

26 (2) to each city located within a borough 50 percent of the amount of
27 tax revenue collected in the city from taxes levied on motor fuel used in and on
28 watercraft of all descriptions under this chapter that is deposited in the special
29 watercraft fuel tax account and is allocable under AS 43.40.010(f)(1); and

30 (3) to each borough

31 (A) the tax revenue collected in the area of the borough outside

1 cities from taxes levied on motor fuel used in and on watercraft of all
2 descriptions under this chapter that is deposited in the special watercraft fuel
3 tax account and is allocable under AS 43.40.010(f)(1); and

4 (B) 50 percent of the amount of tax revenue collected in cities
5 located within the borough from taxes levied on motor fuel used in and on
6 watercraft of all descriptions under this chapter that is deposited in the special
7 watercraft fuel tax account and is allocable under AS 43.40.010(f)(1).

8 (b) Notwithstanding the provisions of (a)(2) and (a)(3)(B) of this section, the
9 commissioner shall pay

10 (1) to each city that is located in a borough incorporated after the
11 effective date of this Act the following percentages of the tax revenue collected in the
12 city from taxes levied on motor fuel used in and on watercraft of all descriptions under
13 this chapter that is deposited in the special watercraft fuel tax account and is allocable
14 under AS 43.40.010(f)(1):

15 (A) 90 percent of the taxes collected during the calendar year
16 in which the borough is incorporated;

17 (B) 80 percent of the taxes collected during the first calendar
18 year after the calendar year in which the borough is incorporated;

19 (C) 70 percent of the taxes collected during the second calendar
20 year after the calendar year in which the borough is incorporated; and

21 (D) 60 percent of the taxes collected during the third calendar
22 year after the calendar year in which the borough is incorporated; and

23 (2) to each borough that is incorporated after the effective date of this
24 Act the following percentages of the tax revenue collected in the cities located within
25 the borough from taxes levied on motor fuel used in and on watercraft of all
26 descriptions under this chapter that is deposited in the special watercraft fuel tax
27 account and is allocable under AS 43.40.010(f)(1):

28 (A) 10 percent of the taxes collected during the calendar year
29 in which the borough is incorporated;

30 (B) 20 percent of the taxes collected during the first calendar
31 year after the calendar year in which the borough is incorporated;

1 (C) 30 percent of the taxes collected during the second calendar
2 year after the calendar year in which the borough is incorporated; and

3 (D) 40 percent of the taxes collected during the third calendar
4 year after the calendar year in which the borough is incorporated.

5 (c) Notwithstanding the provisions of (b) of this section, a city may adopt an
6 ordinance to transfer a portion of the funds received under (b)(1) of this section to the
7 borough in which the city is located.

8 (d) If a person sells or transfers motor fuel used in or on a watercraft of any
9 description, in addition to the information required on the tax return filed under
10 AS 43.40.075,

11 (1) the person must report the location in which the motor fuel was first
12 sold or transferred; and

13 (2) if the sale or transfer occurred within a municipality other than the
14 municipality in which the motor fuel was purchased or stored, the person shall submit
15 to the department a statement disclosing the motor fuel sales or transfers that the
16 person made during the preceding calendar month outside the municipality in which
17 the motor fuel was purchased or stored.

18 (e) In this section, "tax revenue collected," as used with reference to a
19 municipality, means the revenue derived from the tax levied on motor fuel used in and
20 on watercraft of all descriptions under this chapter that is collected in the municipality
21 in which the final sale or transfer occurred.

22 * Sec. 7. This Act takes effect July 1, 1995.

SENATE FINANCE
COMMITTEE

Amendment Number: 1 Replacement 2 9-LS05150.3
Bill Number: CSHB 122(FIN) Chenoweth
Sponsor: Sharp Date: 5/13/95 5/12/95
Logged In By: JMM

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR SHARP

TO: CSHB 122(FIN)

1 Page 2, line 30:

2 Delete "for water and harbor facilities"

3 Insert "for

4 (A) water and harbor facilities that are

5 (i) municipally owned and operated; or

6 (ii) state facilities, other than facilities of the Alaska

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8 operated water and harbor facilities by transfer from the state;

9 appropriations may be made for the purpose of paving these

10 refunds to a municipality only after transfer of all state water and

11 harbor facilities in the municipality from the state to the

12 municipality; or

13 (B) new or expanded water and harbor facilities to be

14 constructed by a municipality, but only if the municipality has presented

15 to the commissioner of transportation and public facilities a plan for the

16 construction of new or expanded facilities in the municipality, and the

17 commissioner of transportation and public facilities finds, and certifies to

18 the commissioner of revenue, that the making of the refund payment

19 under this subparagraph will materially assist the municipality in

20 planning, designing, constructing, and operating the new or expanded

21 water and harbor facilities;"

STATE OF ALASKA

DEPARTMENT OF REVENUE

TONY KNOWLES, GOVERNOR

INCOME AND EXCISE AUDIT
P. O. BOX 110420
JUNEAU, AK 99811-0420
FAX: (907) 465-2375

May 11, 1995

Representative Carl Moses
Attn: Cheryl Sutton
State Capitol #204
Juneau, Alaska 99801

Dear Representative Moses;

The following information is provided in regards to your questions on maine fuel tax and HB 122.

1) Should the Department of Revenue (DOR) be required to conduct annual audits on each municipality to assure that marine fuel proceeds, shared with them, are spent on boat harbors and related activities?

DOR does not currently perform audits of municipal expenditures nor do we have staff available. The state currently has numerous programs that share funds back to local governments. Most are not the responsibility of DOR. It may be more effective for the state auditors, Legislative Audit, to perform this function.

2) Should all "heavy fuels" be taxed at \$.01 to \$.015 per gallon versus the current tax of \$.05 per gallon up to state collections of \$205,000 then revert to a net tax rate of \$.01 per gallon?

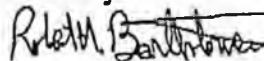
DOR does not have sufficient data to assess the impact of such a change. To date very little "residual fuel oil" sales have been reported. Currently HB 122 does not increase the net tax liability on residual fuel oil. More tax may be required to be paid up front and thus larger refunds once the \$205,000 threshold is exceeded. This response is based on the assumption that the term "heavy fuels" is the same as the term "residual fuel oil" used in HB 453, passed last year?

3) Why do qualified fuel dealers have to pay tax for fuel sales even when they were unable to collect the tax from the consumer?

Current statute and regulations have placed the tax liability on a fuel dealer. This is an effective and efficient method of tax collection. It is true that the risk of uncollectible debts rests with the dealers, but they may be in the best position to make decisions on customers eligible for credit sales.

Please call if you have additional questions.

Sincerely



Robert N. Bartholomew



PETRO MARINE SERVICES

A HARBOR ENTERPRISES COMPANY

P.O. Box 389 • Seward, Alaska 99664 • (907) 224-3180

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Nikiski
(907) 778-8000

Kodiak
(907) 488-3421

Dutch Harbor
(907) 581-1350

Seattle
(206) 283-0075

Alaska Oil Sales
(907) 252-2250

FROM: SEWARD TELEFAX NO. 907-224-3937 DATE: May 11, 1995

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: SENATOR RICK HALFORD

FIRM: SENATE/FINANCE CO-CHAIR

CITY: JUNEAU, AK

FAX #: (907) 465-4928

RE: HB-122

TOTAL NUMBER OF PAGES INCLUDING THIS PAGE: 03

COMMENTS: I UNDERSTAND HB-122 IS CURRENTLY IN THE SENATE FINANCE COMMITTEE. IN THAT I HAVE JUST RECENTLY BECOME AWARE OF THIS BILL, I RESPECTFULLY REQUEST THAT THIS PIECE OF LEGISLATION BE HELD OVER, THUS AFFORDING ALL INTERESTED AND AFFECTED PARTIES AN OPPORTUNITY TO PROVIDE FURTHER INPUT ON HB-122. MY CONCERNS AS A PETROLEUM MARKETER HEREWITH FOLLOWS. I APPRECIATE YOUR CONSIDERATION.

SIGNED: [Signature]
HARBOR ENTERPRISES, INC.
BY: D. R. LINDSEY

PLEASE NOTIFY US IMMEDIATELY IF YOU DO NOT RECEIVE ALL PAGES

OPERATOR: TAMMY at 907-224-3180

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SEATTLE	206-283-0075	HOMER	907-235-5539
SOLDOTNA	907-262-7180		

PETRO MARINE SERVICES

Petroleum Marketing to the Marine Industry

DATE: May 11, 1995
TO: Ray Gillespie
FROM: D.K. Lindsey
SUBJECT: Proposed HB 122

My concerns with HB-122 are as follows:

1. Thusfar there has been NO quantifiable proof that increasing the Marine Fuel Tax from \$0.05 to \$0.08 per gallon is necessary.

2. Has any thought been given to the State sharing the current \$0.05 per gallon Marine Fuel Tax with the various municipalities?

3. In the event the increase is passed by the legislature I feel the State Department of Revenue/Audit Division should conduct an annual audit on each municipality for the specific purpose of verifying that every dollar collected and disbursed is spent on marine related projects, i.e. boat harbors, floats, docks etc. and not used as a means for curing their budget shortfalls.

4. Thought needs to be given to the fact that there is NO Marine Fuel Tax in the State of Washington; thus the price disparity in Alaska will increase by \$0.03 per gallon to approximately \$0.16 per gallon on average.

5. Irrespective of the \$205,000 cap on bunker/residual fuel, the fact is this increase in tax further exacerbates the problem by increasing the tax on a low value fuel. Accordingly, there should be a tax of \$0.01 to \$0.015 per gallon on all heavy fuels and drop the cap. This should be made a part of the Bill.

6. In many instances this tax increase provides municipal owned docks a competitive advantage over private owned docks some of which are in direct competition with public owned facilities. In essence, marine fuel dealers will be charged with collecting a tax that will subsidize and compete with their own docks and fuel floats.

7. Under existing statute fuel distributors are required to remit the appropriate tax on ALL sales even those with whom we have been unable to collect from. Thus by increasing the tax by \$0.03 all fuel dealers will have their liability on uncollectible sales increased accordingly. This is patently unfair!

8. All vessels which use public owned and operated facilities already pay for berthing, wharfage, fuel thruput fees, freight tonnage tariffs, etc. all of which are in addition to the \$0.05 per gallon marine fuel tax. If marine fuel tax is defined as a "user tax" it appears to me that that the tax as a whole represents double taxation.

I have thusfar held back on organizing opposition to HB 122. Given time I believe I could effectively "kill" this Bill in its present form. Out of respect for you and Carl I will not do anything until I hear from you both on my aforementioned concerns.

P.S. What is the status of this bill as of today?

PETRO MARINE SERVICES

Petroleum Marketing to the Marine Industry

FISCAL NOTE

Revision Date: _____ Dept. Affected: Revenue
 Title: Marine Motor Fuel Tax BRU: Audit Operations/Shared Taxes
 Component: Income and Excise Audit
 Sponsor: Rep. Moses, Grussendorf, Mackie
 Requestor: (H) FIN COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	40.6	42.0	43.5	45.0	46.6	48.2
TRAVEL						
CONTRACTUAL	4.0	3.0	3.0	3.0	3.0	3.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	5.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS	4,924.6	4,929.2	4,927.7	4,926.2	4,924.6	4,923.0
MISCELLANEOUS						
TOTAL OPERATING	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2

CAPITAL						
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REVENUE FUND SOURCE: GF	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of current (FY95) impact \$ 0.0

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Robert N. Bartholomew, Deputy Director Phone: 465-2320
 Division: Income and Excise Audit Date: 4/28/95
 Approved by Commissioner: [Signature] Date: 4/28/95
 Agency: Department of Revenue

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DEPARTMENT OF REVENUE

CSHB 122 (FIN)
9-LS0515M
April 28, 1995
Page 2 of 3

Bill Analysis

Sections 1 and 2 of this bill would amend motor fuel tax statutes (AS 43.40) by effectively increasing the motor fuel tax rate on marine fuel by 3¢ per gallon (from 5¢ to 8¢ per gallon) through repeal of subsections which authorize a separate tax rate for marine motor fuel at the lesser rate.

Section 3 would provide for sharing the 3¢ per gallon tax increase to municipalities. Under this section, Department of Revenue would share 37.5% (3¢ divided by 8¢) of marine fuel tax revenue with municipalities subject to appropriation by the legislature. The balance of marine fuel tax revenue not shared (5¢ portion) may be appropriated for water and harbor facilities.

Section 4 would require that revenue from the 3¢ portion of the tax less the amount required to be expended for collection of the tax be shared to municipalities in which marine fuel taxes were collected. Taxes would be shared with municipalities in which the final sale or transfer occurred. This section provides for a phase-in of shared amounts for boroughs which incorporate after the effective date of the bill. This section requires that marine fuel resellers report sales or transfers of marine fuel which is sold in or transferred to a location other than where the fuel was purchased or stored.

Section 5 provides for an effective date of July 1, 1995 for this bill.

Operating Costs

This bill would add new reporting requirements for motor fuel taxpayers (qualified dealers) by requiring them to report marine fuel sales by location. Qualified dealers report each month their motor fuel activity on a statewide basis and do not report the locations of their motor fuel sales. Location information would be required for the Department to share taxes to municipalities.

This bill may cause new reporting requirements by persons other than qualified dealers, such as fuel resellers, if they resell fuel in a location different from where they purchased it. Resellers do not currently report to the Department because motor fuel taxes attributable to their fuel purchases are covered under their qualified dealer's motor fuel return.

This bill would require that the Department data capture the additional information reported on monthly returns filed by qualified dealers and resellers. Reports from resellers will cause additional workload because the Department will have to track movement of fuel to different locations and make accounting adjustments to records of each of the affected municipalities.

DEPARTMENT OF REVENUE

CSHB 122 (FIN)
9-LS0515M
April 28, 1995
Page 3 of 3

This bill would require an additional position, Accounting Technician I, Range 12 located in Juneau, to process returns and account for marine fuel tax information by municipality. The position would be responsible for verifying that the tax was collected, compiling tax data by municipality, reconciling tax revenue and issuing warrants to municipalities at the end of each fiscal year. Since this would be a new filing requirement for distributors and resellers, additional funds would be needed in FY 96 to inform them and print forms. There would be a one-time cost in FY 96 for computer equipment and furniture for the new position.

The Department would share revenue collected from the 3¢ tax rate increase less the amount required to be expended for collection of the tax. This amount is reflected as an operating cost under "Grants, Claims".

Revenue

Based on FY 94 consumption data, the 3¢ per gallon marine fuel tax increase under this bill would generate \$4,975.2, calculated as follows.

FY 94 Taxable Gallons	CSHB 122 (3¢ per Gallon)	Current Rate (5¢ per Gallon)	Revenue Increase
165,840,000	\$13,267,200	\$8,292,000	\$4,975,200

Under this bill, the revenue increase less amounts required to be expended for collection of the tax would be shared to municipalities. The amount to be shared to municipalities is reflected as an operating cost under "Grants, Claims" in this fiscal note.

Revision Date: 4/26/95 Dept. Affected: Revenue
 Title: Marine Motor Fuel Tax BRU: Audit Operations/Shared Taxes
 Component: Income and Excise Audit
 Sponsor: Rep. Moses, Grussendorf, Mackie
 Requestor: (H) FIN COMPONENT SERIAL NO. 113

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EQUIPMENT	5.0	0.0	0.0	0.0	0.0	0.0
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MISCELLANEOUS						
TOTAL OPERATING	5,025.8	5,021.2	5,022.7	5,024.2	5,025.8	5,027.4

CAPITAL						
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REVENUE FUND SOURCE: GF	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2
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TEMPORARY						

Estimate of current (FY95) impact \$ 0.0

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Robert N. Bartholomew, Deputy Director *Robert N. Bartholomew* Phone: 465-2320
 Division: Income and Excise Audit Date: 4/26/95
 Approved by Commissioner: *[Signature]* Date: 4/26/95
 Agency: Department of Revenue

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Section 4 would require that revenue from the 3¢ portion of the tax be shared to municipalities in which marine fuel taxes were collected. Taxes would be shared with municipalities in which the final sale or transfer occurred. This section provides for a phase-in of shared amounts for boroughs which incorporate after the effective date of the bill. This section requires that marine fuel resellers report sales or transfers of marine fuel which is sold in or transferred to a location other than where the fuel was purchased or stored.

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The Department would share revenue collected from the 3¢ tax rate increase as calculated below. Accordingly, \$4,975.2 would be shared to municipalities under this bill. This amount is reflected as an operating cost under "Grants, Claims".

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165,840,000	\$13,267,200	\$8,292,000	\$4,975,200

Under this bill, the revenue increase above would be shared to municipalities. The amount to be shared to municipalities is reflected as an operating cost under "Grants, Claims" in this fiscal note.

Revision Date: _____ Dept. Affected: Revenue
 Title: Marine Motor Fuel Tax BRU: Audit Operations/Shared Taxes
 Component: Income and Excise Audit
 Sponsor: Rep. Moses, Grussendorf, Mackie
 Requestor: (H) FIN COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	40.6	42.0	43.5	45.0	46.6	48.2
TRAVEL						
CONTRACTUAL	4.0	3.0	3.0	3.0	3.0	3.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	5.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS	4,924.6	4,929.2	4,927.7	4,926.2	4,924.6	4,923.0
MISCELLANEOUS						
TOTAL OPERATING	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2
CAPITAL						
REVENUE FUND SOURCE: GF	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2	4,975.2

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of current (FY95) impact \$ 0.0

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Robert N. Bartholomew, Deputy Director *Robert N. Bartholomew* Phone: 465-2320
 Division: Income and Excise Audit Date: 4/28/95
 Approved by Commissioner: *[Signature]* Date: 4/28/95
 Agency: Department of Revenue

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DEPARTMENT OF REVENUE

CSHB 122 (FIN)

9-LS0515\M

April 28, 1995

Page 2 of 3

Bill Analysis

Sections 1 and 2 of this bill would amend motor fuel tax statutes (AS 43.40) by effectively increasing the motor fuel tax rate on marine fuel by 3¢ per gallon (from 5¢ to 8¢ per gallon) through repeal of subsections which authorize a separate tax rate for marine motor fuel at the lesser rate.

Section 3 would provide for sharing the 3¢ per gallon tax increase to municipalities. Under this section, Department of Revenue would share 37.5% (3¢ divided by 8¢) of marine fuel tax revenue with municipalities subject to appropriation by the legislature. The balance of marine fuel tax revenue not shared (5¢ portion) may be appropriated for water and harbor facilities.

Section 4 would require that revenue from the 3¢ portion of the tax less the amount required to be expended for collection of the tax be shared to municipalities in which marine fuel taxes were collected. Taxes would be shared with municipalities in which the final sale or transfer occurred. This section provides for a phase-in of shared amounts for boroughs which incorporate after the effective date of the bill. This section requires that marine fuel resellers report sales or transfers of marine fuel which is sold in or transferred to a location other than where the fuel was purchased or stored.

Section 5 provides for an effective date of July 1, 1995 for this bill.

Operating Costs

This bill would add new reporting requirements for motor fuel taxpayers (qualified dealers) by requiring them to report marine fuel sales by location. Qualified dealers report each month their motor fuel activity on a statewide basis and do not report the locations of their motor fuel sales. Location information would be required for the Department to share taxes to municipalities.

This bill may cause new reporting requirements by persons other than qualified dealers, such as fuel resellers, if they resell fuel in a location different from where they purchased it. Resellers do not currently report to the Department because motor fuel taxes attributable to their fuel purchases are covered under their qualified dealer's motor fuel return.

This bill would require that the Department data capture the additional information reported on monthly returns filed by qualified dealers and resellers. Reports from resellers will cause additional workload because the Department will have to track movement of fuel to different locations and make accounting adjustments to records of each of the affected municipalities.

DEPARTMENT OF REVENUE

CSHB 122 (FIN)
9-LS0515M
April 28, 1995
Page 3 of 3

This bill would require an additional position, Accounting Technician I, Range 12 located in Juneau, to process returns and account for marine fuel tax information by municipality. The position would be responsible for verifying that the tax was collected, compiling tax data by municipality, reconciling tax revenue and issuing warrants to municipalities at the end of each fiscal year. Since this would be a new filing requirement for distributors and resellers, additional funds would be needed in FY 96 to inform them and print forms. There would be a one-time cost in FY 96 for computer equipment and furniture for the new position.

The Department would share revenue collected from the 3¢ tax rate increase less the amount required to be expended for collection of the tax. This amount is reflected as an operating cost under "Grants, Claims".

Revenue

Based on FY 94 consumption data, the 3¢ per gallon marine fuel tax increase under this bill would generate \$4,975.2, calculated as follows.

FY 94 Taxable Gallons	CSHB 122 () (8¢ per Gallon)	Current Rate (5¢ per Gallon)	Revenue Increase
165,840,000	\$13,267,200	\$8,292,000	\$4,975,200

Under this bill, the revenue increase less amounts required to be expended for collection of the tax would be shared to municipalities. The amount to be shared to municipalities is reflected as an operating cost under "Grants, Claims" in this fiscal note.

Alaska State Legislature
Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

VICE-CHAIRMAN
HOUSE SPECIAL COMMITTEE ON FISHERIES

MEMBER
HOUSE SPECIAL COMMITTEE ON
ECONOMIC DEVELOPMENT

COMMITTEE ON COMMITTEES

FINANCE SUBCOMMITTEES
TRANSPORTATION AND PUBLIC FACILITIES
FISH & GAME



SESSION:
STATE CAPITOL BUILDING #204
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FAX: (907) 465-3446

INTERIM:
716 W 4TH AVE #630
ANCHORAGE, ALASKA 99501-2133
PHONE: (907) 258-2167
FAX: (907) 258-3468

MEMORANDUM

RECEIVED

MAY 8 REC'D

TO: Senator Rick Halford, Co-Chair
Senate Finance Committee

FROM: Representative Carl E. Moses, Chairman *CEM*
House Rules Committee

DATE: May 7, 1995

RE: Scheduling of House Bill 122

I would respectfully request the scheduling of House Bill 122 for a hearing. HB 122 raises the marine fuel tax by \$.03 and shares this amount back to municipalities where the fuel is sold. This money is to be spent for water and harbor facilities.

The personal services costs for Revenue will be taken from the increased tax before it is shared to municipalities and, therefore, does not decrease the current general fund contribution from the marine fuel tax.

Thank you for considering my request.

Alaska State Legislature

Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

VICE-CHAIRMAN
HOUSE SPECIAL COMMITTEE ON FISHERIES

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FAX: (907) 258-3468

SPONSOR STATEMENT

Committee Substitute House Bill 122

An Act authorizing payment of a portion of the motor fuel tax on boats and watercraft as refunds to municipalities.

Committee Substitute for House Bill 122 accomplishes the following:

1. Increases the marine fuel tax from \$.05 to \$.08 per gallon.
2. Shares \$.03 back to the municipalities where the marine fuel is sold.
3. Keeps the revenue generated from the \$.05 tax in the general fund.
4. Has a fiscal note of @ \$40,000 to add an Accounting Technician in Revenue.

The intent of Committee Substitute House Bill 122 is to increase the marine fuel tax and provide a distribution mechanism for \$.03 of the tax to be shared back to the communities where marine fuels are sold. This money is designated for "water and harbor facilities".

CSHB 122 would provide some assistance to local governments for additional development of docks and harbors and for the maintenance and development of existing public facilities.



MAR 17 1995

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

March 16, 1995

TO: Representative Carl Moses

FROM: Kevin C. Ritchie
Executive Director

RE: House Bill 122 - Payment of a portion of the motor fuel tax on boats and watercraft as refunds to municipalities

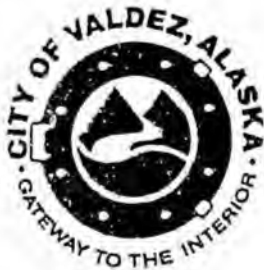
The Alaska Municipal League is writing in support of HB 122, which would provide a portion of the motor fuel taxes collected by the state to be refunded to municipalities.

The statute now requires a substantial part of the state-collected aviation fuel taxes be refunded to any municipality operating an airport where the fuel taxes were collected. Similarly, the tax proceeds from marine fuels should be refunded to each municipality which bears the burden.

Under the Transportation Section of the Alaska Municipal League's 1995 Policy Statement, this issue is addressed as follows:

"The League supports amendment of the statute on marine fuel taxes (AS 43.40) so that marine fuel taxes collected in any municipality which the state has required to take over responsibility for harbor and dock expenses, or where the municipality holds existing responsibilities for these expenses, must be refunded to that municipality."

If you have any questions, please feel free to call me at 586-1325.



MAR 21 1995

March 17, 1995

Representative Carl E. Moses
State Capital Building
Juneau, Alaska 99801-1182

Attn: Cheryl Sutton

Sent via FAX: 465-3445
Original Letter Mailed

RE: SUPPORT FOR HB 122

Dear Representative Moses:

Thank you for sponsoring HB 122, "An Act authorizing payment of a portion of the motor fuel tax on boats and watercraft as refunds to municipalities". The City of Valdez heartily supports passage of this legislation and wishes to work to see it enacted this year. Please insure that these comments are made part of the record for a hearing on this bill scheduled for March 18 before the State Affairs Committee.

As you mention in your "Sponsor Statement", harbor and port facilities represent vital infrastructure for Alaska's coastal communities. As the State of Alaska seeks to diversify and stabilize its economy the development, operation, and maintenance of harbor and port facilities will become even more important.

Most, if not all, of the State of Alaska harbors operated by municipalities are in disrepair due to lack of maintenance and the inability to generate enough revenues to stay on top of maintenance demands. I do not believe this maintenance deficit is for lack of trying. Most harbors do generate considerable income from slip rental fees and associated harbor services. But the costs of maintaining harbor facilities is enormous, particularly in Alaska. The brutal weather (wind and snow), the corrosive effects of a salt water environment, and the wear from larger boats and inexperienced boat handlers (increased sport boating/fishing) make Alaska's harbors voracious consumers of maintenance dollars. As a city manager seeking to meet too many needs with not enough money, I always shutter when I sit down with my Harbormaster to talk about harbor construction or maintenance projects. My "rule of thumb" has become to figure what I think a project should cost and then triple it. Even then, I am sometimes on the low side. Maintenance problems also open a municipality up for liability claims from falls and other accidental injury at the harbor.

Representative Carl Moses
March 17, 1995
page 2

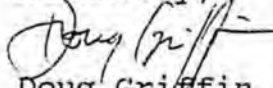
Ports and docks also suffer from the maintenance dilemma. These facilities provide jobs and support the fishing, tourism, and transportation industries. But damage due to weather, wear, accident, and age also presents a maintenance challenge for tight municipal budgets. Valdez has two docks and each has sustained accident damage this winter. The City Has recovered some reimbursement from one of the accidents. Damage cannot always be attributed to a particular vessel and recovery of full reimbursement for repairs is far from certain. It often comes down to a cost of doing business.

The reduction of State Revenue Sharing and Municipal Assistance by about 55% over the last ten years has taken its toll. The sharp decline in State spending on maintenance for harbors has been felt and can be seen all along the coast of Alaska. Ports and harbors are local government concerns that help build and sustain a large part of Alaska's economy, yet the funding for providing this important service is restricted. The only positive development in meeting port and harbor maintenance needs has been the Capital Matching Grant program.

HB 122 seeks to direct money to local governments so it can have another source of funding for the maintenance and operation of vital marine facilities. It is not clear to me that these shared taxes would need to be directed to harbor and port maintenance, however, it would be my intent to recommend to my City Council the commitment of these dollars for that purpose even if it is not required. I believe those that pay these taxes are a lot more understanding and supportive of paying if the taxes are directed back to develop or maintain critical marine infrastructure.

Thank you again for sponsoring this bill. I hope it is favorably considered and enacted. I will be happy to answer any questions you may have.

Sincerely,


Doug Griffin
City Manager

cc: Valdez Mayor John Harris
Valdez City Council Members
Senator Georgianna Lincoln
Representative Gene Kubina
Representative Jeannette James, Chair of House State Affairs
Pat Pourchot, Legislative Liaison, Governor's Office
Kevin Ritchie, Executive Director, Alaska Municipal League
Tim Lopez, Valdez Harbormaster/Port Director

CONCEPTUAL AMENDMENT #1 Replacement

OFFERED IN THE SENATE
TO: CSHB 122 (FIN)

BY FRANCIS SHARP
SENATE FINANCE
COMMITTEE
Amendment Number: #1 Replacement
Bill Number: HB 122
Sponsor: Sharp Date: 5/9/95
Logged In By: *[Signature]*

Page 2, line 30, after "AS 43.40.150":

Insert "that own, operate, maintain under lease or have a plan approved by the state"

CONCEPTUAL AMENDMENT

OFFERED IN THE SENATE
TO: CSHB 122 (FIN)

BY SENATOR SHARP

SENATE FINANCE
COMMITTEE

Amendment Number: 1
Bill Number: HB 122
Sponsor: Sharp Date: 5/9/95
Logged In By: JFR

Page 2, line 30:

Delete "for"

Page 2, line 30, after "AS 43.40.150":

Insert "that own, operate, or maintain under lease"

HB

124

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 6, 1995

FURTHER REFERRALS:

Date of Committee Action: 3/2/95

The FINANCE Committee considered:

HB 124

HOUSE BILL NO. 124

BOARD OF NURSING HOME ADMINISTRATORS

"An Act extending the termination date of the Board of Nursing Home Administrators; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 124 (Fin) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) LED 6
~~LED 6~~ 3/1/95

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Mark Hanley</i>	Hanley	X			
<i>Bob Mulder</i>	Mulder	X			
<i>Terry Martin</i>	Martin	X			
<i>Paul Parnell</i>	Parnell	X			
<i>Vic Kohring</i>	Kohring	X			
<i>Ben Grussendorf</i>	Grussendorf			X	
<i>Mike Navarre</i>	Navarre			X	
<i>Tom Brown</i>	Brown			X	
<i>Pat Kelly</i>	Kelly	X			
<i>Paul Theriault</i>	Theriault			X	
<i>Michael Foster</i>	Foster	X			

CO CHAIR'S SIGNATURE *Mark Hanley* *Richard Foster*
 Hanley Foster

FISCAL NOTE

No. 1

Bill Version: CSHB 124

(H) Publish Date: 3/6/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: February 22, 1995 Department: Commerce and Economic Development
 Title: Extending the termination date of the BRU: Occupational Licensing
 Board of Nursing Home Administrators:.... Component: Operations
 Sponsor: Representative Toohy
 Requestor: Representative Toohy COMPONENT SERIAL #: 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	5.7	5.7	5.7	5.7	5.7	5.7
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	2.5	2.5	2.5	2.5	2.5	2.5
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	8.2	8.2	8.2	8.2	8.2	8.2

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES	1.9	14.5	1.9	14.5	1.9	14.5
--------------------	-----	------	-----	------	-----	------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts	8.2	8.2	8.2	8.2	8.2	8.2
1006 GF/MHTIA						
Other						
TOTAL	8.2	8.2	8.2	8.2	8.2	8.2

Estimate of any current year (FY 95) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

CSHB 124 proposes to eliminate the Board of Nursing Home Administrators and continue licensing by the department. Travel funds which allowed the board to meet have been eliminated. Licenses are presently due to expire on December 31, 1996; therefore, the revenue identified in the fiscal note assume that fees will be adjusted in FY 97 to equal costs.

Prepared by: Jennifer Strickler, Admin. Officer Phone: 465-2144
 Division: Occupational Licensing Date: 2/22/95
 Approved by Commissioner: William L. Hensley Date: 3/3/95
 Agency: Commerce and Economic Development

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COMMITTEE COPY

Adopted

AMENDMENT 1

OFFERED IN THE HOUSE

TO: CSHB 124(HES)

- 1 Page 1, line 3, after " ; ":
- 2 Insert "clarifying the conditions under which a nursing home administrator license
- 3 may be denied;"
- 4 Page 4, after line 5:
- 5 Insert a new bill section to read:
- 6 ** Sec. 5. AS 08.70.110 is amended by adding a new subsection to read:
- 7 (c) Notwithstanding other provisions of this chapter, the department may
- 8 refuse to issue a license to a person
- 9 (1) who attempts to secure the license through deceit, fraud, or
- 10 intentional misrepresentation; or
- 11 (2) for a reason for which it may impose disciplinary sanctions under
- 12 AS 08.70.155."
- 13 Renumber the following bill sections accordingly.



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA TOOHEY

State Capitol
Juneau, AK 99801-1182

DISTRICT 13

MEMORANDUM.

TO: Representative Toohey
FROM: Benjamin Brown, ^{LEG.} Legislative Aide
IN RE: sectional analysis of CSHB 124 (HESS)
DATE: 1 March 1995

A summary, by section, of the proposed HESS Committee Substitute for House Bill 124 follows. It ought to be noted that a sectional summary of a bill is not to be considered generally as an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 adds nursing home administrators to the list of professions to whom Chapter 1 of Title 8 of Alaska Statutes ('Centralized Licensing') applies.

Section 2 is a technical amendment that recognizes that the Board of Nursing Home Administrators is no longer involved in licensing and regulation.

Section 3 transfers the duties and powers of the Board of Nursing Home Administrators to the Department of Commerce, and changes references to the Board in Section 050 of Chapter 70 of Title 8 so they refer instead to the Department.

Section 4 transfers the legal licensing authority of the Board of Nursing Home Administrators to the Department of Commerce, and changes references to the Board in Section 110 of Chapter 70 of Title 8 so they refer instead to the Department.

*MEMORANDUM IN RE: sectional analysis of HB 124
1 March '95, page two*

Section 5 transfers legal authority to give examinations to applicants for license as nursing home administrators from the Board of Nursing Home Administrators to the Department of Commerce, and changes references to the Board in Section 120 of Chapter 70 of Title 8 so they refer instead to the Department.

Section 6 transfers legal authority to issue provisional licenses to nursing home administrators from the Board of Nursing Home Administrators to the Department of Commerce, and changes references to the Board in Section 130 of Chapter 70 of Title 8 so they refer instead to the Department.

Section 7 transfers legal authority to impose disciplinary sanctions on certain nursing home administrators from the Board of Nursing Home Administrators to the Department of Commerce, and changes references to the Board in Section 155 of Chapter 70 of Title 8 so they refer instead to the Department.

Sections 8 and 9 change references to the Board of Nursing Home Administrators in the definitions of "license" and "licensee," respectively, in Section 180 of Chapter 70 of Title 8 so they refer instead to the Department of Commerce.

Section 10 substitutes the Department of Commerce's activity in licensing and regulating nursing home administrators, for the entity of the Board of Nursing Home Administrators, in the list of boards, commission, and officers to whom the administrative adjudication provisions of the Administrative Procedures Act (AS 44.62.330 - 44.62.630) apply.

Section 11 repeals sections or subsections of Title 8 that establish, govern, apply to, or otherwise refer to the Board of Nursing Home Administrators, effectively eliminating the Board.

Section 12 continues in effect all regulations of the Board of Nursing Home Administrators and allows regulatory references to the Board to be considered as references to the Department of Commerce instead; allows continuance of litigation, hearings, investigations, licenses, contract, rights, liabilities, and obligations existing under laws amended or repealed by the bill; and, transfers the records, equipment, and other property of the Board to the Department.

Section 13 provides for an immediate effective date.

ALASKA STATE

HOSPITAL & NURSING HOME

ASSOCIATION

March 8, 1995

Representative Mark Hanley, Co-Chair
Representative Richard Foster, Co-Chair
Finance Committee
House of Representative
Alaska State Legislature
Juneau, AK 99801

Re: Support, CSHB 124
Nursing Home Administrator Board

Dear Representative Hanley & Representative Foster:

ASHNHA, representing community hospitals and nursing homes from across Alaska support CSHB 124, allowing the sunseting of the Nursing Home Administrator Licensing Board and transferring the administrator licensing responsibilities to the Division of Occupational Licensing.

The state must license nursing home administrators to remain eligible to participate in the Medicaid program. The Division of Occupational Licensing may administer that function along with the handling of disciplinary proceedings.

Having a board is an option. Nursing home administrators met here in Juneau last month and agreed the board really wasn't necessary to provide the license exam and/or safeguard the public.

There are national exams utilized for licensure and the DHSS Division on Licensing and Certification and the Senior Services Ombudsman monitor closely the quality of care in Alaska's long term care facilities.

Sincerely,



Harlan R. Knudson
President/CEO

eligibility determination for Medicaid) or immediately thereafter (e.g., at the time of notice of eligibility).

(2) The agency, no less frequently than annually, must also provide written notice of the availability of WIC benefits, including the location and telephone number of the local WIC agency or instructions for obtaining further information about the WIC program, to all Medicaid recipients (including those found to be presumptively eligible) who are under age 5 or who are women who might be pregnant, postpartum, or breastfeeding as described in paragraphs (c)(2) (i) through (iv) of this section.

(3) The agency must effectively inform those individuals who are blind or deaf or who cannot read or understand the English language.

(57 FR 23103, June 24, 1992)

Subpart N—State Programs for Licensing Nursing Home Administrators

§ 431.700 Basis and purpose.

This subpart implements sections 1903(a)(29) and 1908 of the Act which require that the State plan include a State program for licensing nursing home administrators.

§ 431.701 Definitions.

Unless otherwise indicated, the following definitions apply for purposes of this subpart:

Agency means the State agency responsible for licensing individual practitioners under the State's healing arts licensing act.

Board means an appointed State board established to carry out a State program for licensing administrators of nursing homes, in a State that does not have a healing arts licensing act or an agency as defined in this section.

Licensed means certified by a State agency or board as meeting all of the requirements for a licensed nursing home administrator specified in this subpart.

Nursing home means any institution, facility, or distinct part of a hospital that is licensed or formally recognized as meeting nursing home standards established under State law, or that is

determined under § 431.704 to be included under the requirements of this subpart. The term does not include—

(a) A Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Mass.; or

(b) A distinct part of a hospital, if the hospital meets the definition in § 440.10 or § 440.140 of this subchapter, and the distinct part is not licensed separately or formally approved as a nursing home by the State even though it is designated or certified as a skilled nursing facility.

Nursing home administrator means any person who is in charge of the general administration of a nursing home whether or not the person—

(a) Has an ownership interest in the home; or

(b) Shares his functions and duties with one or more other persons.

§ 431.702 State plan requirement.

A State plan must provide that the State has a program for licensing administrators of nursing homes that meets the requirements of §§ 431.703 through 431.723 of this subpart.

§ 431.703 Licensing requirement.

The State licensing program must provide that only nursing homes supervised by an administrator licensed in accordance with the requirements of this subpart may operate in the State.

§ 431.704 Nursing homes designated by other terms.

If a State licensing law does not use the term "nursing home," the HCFA Administrator will determine the term or terms equivalent to "nursing home" for purposes of applying the requirements of this subpart. To obtain this determination, the Medicaid agency must submit to the Regional Medicaid Director copies of current State laws that define institutional health care facilities for licensing purposes.

§ 431.706 Licensing authority.

(a) The State licensing program must provide for licensing of nursing home administrators by—

(1) The agency designated under the healing arts act of the State; or

(2) A State licensing board.

b) The State agency or board must perform the functions and duties specified in §§ 431.707 through 431.713 and the board must meet the membership requirements specified in § 431.706 of this subpart.

§ 431.706 Composition of licensing board.

(a) The board must be composed of persons representing professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients. However—

(1) A majority of the board members may not be representative of a single profession or category of institution; and

(2) Members not representative of institutions may not have a direct financial interest in any nursing home.

(b) For purposes of this section, nursing home administrators are considered representatives of institutions.

§ 431.707 Standards.

(a) The agency or board must develop, impose, and enforce standards that must be met by individuals in order to be licensed as a nursing home administrator.

(b) The standards must be designed to insure that nursing home administrators are—

- (1) Of good character;
- (2) Otherwise suitable; and
- (3) Qualified to serve because of training or experience in institutional administration.

§ 431.708 Procedures for applying standards.

The agency or board must develop and apply appropriate procedures and techniques, including examinations and investigations, for determining if a person meets the licensing standards.

§ 431.709 Issuance and revocation of license.

Except as provided in § 431.714 of this subpart, the agency or board must—

(a) Issue licenses to persons who meet the agency's or board's standards; and

(b) Revoke or suspend a license if the agency or board determines that the person holding the license substantially fails to meet the standards.

§ 431.710 Provisional licenses.

To fill a position of nursing home administrator that unexpectedly becomes vacant, the agency or board may issue one provisional license, for a single period not to exceed 6 months. The license may be issued to a person who does not meet all of the licensing requirements established under § 431.707 but who—

(a) Is of good character and otherwise suitable; and

(b) Meets any other standards established for provisional licensure by the agency or board.

§ 431.711 Compliance with standards.

The agency or board must establish and carry out procedures to insure that licensed administrators comply with the standards in this subpart when they serve as nursing home administrators.

§ 431.712 Failure to comply with standards.

The agency or board must investigate and act on all complaints it receives of violations of standards.

§ 431.713 Continuing study and investigation.

The agency or board must conduct a continuing study of nursing homes and administrators within the State to improve—

- (a) Licensing standards; and
- (b) The procedures and methods for enforcing the standards.

§ 431.714 Waivers.

The agency or board may waive any standards developed under § 431.707 of this subpart for any person who has served in the capacity of a nursing home administrator during all of the 3 calendar years immediately preceding the calendar year in which the State first meets the requirements in this subpart.

§ 431.715 Federal financial participation.

No FFP is available in expenditures by the licensing board for establishing and maintaining standards for the licensing of nursing home administrators.

Audit Report

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
BOARD OF NURSING HOME
ADMINISTRATORS

September 30, 1993



Audit Control Number:

08-1417-94

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
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September 30, 1993

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT BOARD OF NURSING HOME ADMINISTRATORS


September 30, 1993

Audit Control Number

08-1417-94

The objective of the audit was to determine whether the Board of Nursing Home Administrators should continue its existence. Alaska Statute 08.03.010(18) has scheduled the board for termination on June 30, 1994. If no action is taken by the legislature, the board has one year in which to conclude its affairs and will be dissolved at June 30, 1995. We recommend that the legislature allow the board to terminate and assign the Division of Occupational Licensing with sole responsibility for licensing nursing home administrators.

The audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section of this report.


Randy S. Welker, CPA
Legislative Auditor

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

Audit Report

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ECONOMIC DEVELOPMENT
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LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Anchorage or Juneau.

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ALASKA STATE LEGISLATURE

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September 30, 1993

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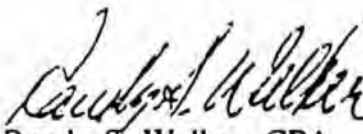

Randy S. Welker, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Nursing Home Administrators (BNHA) to determine whether it should continue in existence.

As required by statute, the legislative committee of reference is to consider this report as part of the legislative oversight process in determining whether this board should be reestablished. The law currently specifies that the board will terminate on June 30, 1994 and will have one year from that date to conclude its affairs.

During the course of our examination, we reviewed and evaluated the following:

1. Applicable sections of state and federal statutes and regulations.
2. Interviews with Department of Commerce and Economic Development, Division of Occupational Licensing (OL) personnel.
3. Interviews with U.S. Department of Health and Human Services, Health Care Financing Administration personnel.
4. Interviews with Alaska Department of Health and Social Services personnel.
5. Minutes of board meetings.
6. The director of OL's correspondence files.
7. The BNHA licensing examiner's correspondence files.
8. The BNHA licensing files.
9. Investigation and litigation files.
10. Office of the Ombudsman closed case file.
11. Prior year audit work papers and audit reports.
12. Other documents as deemed pertinent.