

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3187

69

**FY 2007 Statistics**

Property Taxes Billed	\$312,801,256
Constitutional Budget Reserve Fund	50,640
Less Municipal Tax Credit	<u>(247,159,729)</u>
Net Tax Due to State	<u>\$ 65,692,167</u>
Number of Returns	735
Number of Taxpayers	116
Program Cost	\$515,610
Staffing (full time equivalent)	2.0

*The Alaska legislature enacted the RCC program in 1992 to fund the cost of regulating utilities.*

**Regulatory Cost Charges  
Utilities AS 42.05.254(e)  
Pipeline AS 42.06.286(c)**

**Description**

Alaska levies regulatory cost charges (RCC) on regulated utilities. The charges fund the Regulatory Commission of Alaska (RCA) that regulates utilities and pipeline carriers in Alaska. Regulated utilities collect charges from consumers, and remit the collections to the Tax Division.

**Rate**

**Electric Utilities** – \$ .000364/kWh

**Telephone Utilities\*** **Rate**

Local Exchange	1.730%
Inter Exchange	1.269%
Pipeline Carriers	0.786%
Natural Gas Utilities	0.449%
Refuse Utilities	0.408%
Water and Wastewater Utilities	0.874%
Cable Utilities	2.038%
District Heat Utilities	0.043%

\* Based on a percentage of total revenues

**Returns**

Quarterly returns and payment of RCCs are due on the 30th day following the calendar quarter. Utilities and carriers are required to file a copy of the return with RCA.

**Exemptions**

Utilities not regulated by RCA are exempt from the RCC program.

**Disposition of Revenue**

The division deposits all revenue derived from the RCC program into the General Fund. The legislature may make appropriations from the General Fund to fund RCA based on regulatory cost charges collected.

**History**

**1992** – The Alaska legislature enacted the RCC program to fund RCA's costs of regulating utilities. The RCC legislation provided for a sunset date of December 1994. Rates went into effect through regulations, which became effective November 1992.

**1994** – In the fall of 1994, RCA promulgated regulations which established RCC rates for FY 1995 on an annualized basis. The regulations took effect December 1994.

**1995** – The legislature reauthorized the RCC program that became effective June 1995. In October 1995, RCA adopted regulations to reestablish quarterly payments.

**1999** – The legislature authorized separate RCC rates for each regulated utility and changed the methodology for calculating rates.

**FY 2007 Statistics**

Total RCC Collections	\$7,885,161
<i>Electric, Telephone, Pipeline Carriers and Other Utilities</i>	
Number of Returns	546
Number of Taxpayers	114
Program Cost	\$5,078
Staffing (full time equivalent)	0.1

**Salmon Enhancement Tax  
AS 43.76**

**Description**

The salmon enhancement tax is an elective tax levied on salmon sold in or exported from established aquaculture regions in Alaska.

Fishermen pay salmon enhancement taxes to licensed buyers at the time of sale, or to the division for salmon sold to unlicensed buyers who are exporting from the region. Buyers remit taxes collected from fishermen to the division.

**Rate**

Commercial fishermen elected tax rates for the following regional aquaculture associations:

Region	Rate	Effective
Southern Southeast	3%	1981
Northern Southeast	3%	1981
Cook Inlet	2%	1981
Prince William Sound	2%	1985
Kodiak	2%	1988
Chignik	2%	1991

**Returns**

Buyers file returns and pay tax monthly. The due date is the last day of the month following the month of purchase.

Buyers file returns for bonus payments made to fishermen after the close of the fishing season. Returns for these payments are due with additional taxes by the last day of the month following the payment.

Fishermen selling to unlicensed buyers or exporting from the region file returns and pay taxes annually. The due date is March 31 following the year of sale or export.

**Exemptions**

Salmon harvested under a special harvest area permit (typically, salmon harvested by salmon hatcheries) is exempt from the salmon enhancement tax.

**Disposition of Revenue**

The division deposits all salmon enhancement tax revenue into the General Fund.

Under AS 43.76.025(c), the legislature may appropriate salmon enhancement tax revenue to provide financing for qualified regional aquaculture associations.

**History**

The legislature adopted the Salmon Enhancement Act in 1980. The Act authorized a 2 percent or 3 percent tax, upon election by commercial fishermen within established aquaculture regions, on salmon transferred to buyers in Alaska. Commercial fishermen in Southern and Northern Southeast aquaculture regions elected a 3 percent tax and Cook Inlet region elected a 2 percent tax.

**1981** – The legislature amended the Act to subject salmon exported from Alaska to the tax.

**1985** – Commercial fishermen in the Prince William Sound aquaculture region elected a 2 percent tax.

**1988** – Commercial fishermen in the Kodiak aquaculture region elected a 2 percent tax.

**1989** – The legislature amended statutes to allow for a 1 percent tax

**1991** – Commercial fishermen in the Chignik aquaculture region elected a 2 percent tax.

*The salmon enhancement tax is an elective tax levied on salmon sold in or exported from established aquaculture regions.*

2004 – The legislature authorized additional salmon enhancement tax rates, subject to permit holder elections held by qualified regional associations. In addition to the current 1 percent, 2 percent or 3 percent options, 10 additional options were made available,

ranging from 4 percent to 30 percent. This legislation clarified who must pay the Salmon Enhancement Tax. When a buyer does not withhold the tax, fishermen must pay the tax with an annual return. The legislation took effect January 1, 2005.

**FY 2007 Statistics**

Tax Collections	\$4,356,969
<i>Including interest and penalties</i>	
Number of Returns	830
Number of Taxpayers	197
Program Cost	\$82,999
Staffing (full time equivalent)	1.0

**Salmon Marketing Tax  
AS 43.76**

salmon harvested by salmon hatcheries) were exempt from the salmon marketing tax.

*The salmon marketing tax was repealed effective January 1, 2005. Information is provided below because the division collected residual salmon marketing taxes in FY 2007.*

**Disposition of Revenue**  
The division deposits the salmon marketing tax into the General Fund.

AS 43.76.120(d), the legislature may appropriate salmon marketing tax revenue to the Alaska Seafood Marketing Institute (ASMI) for the purpose of supporting its salmon marketing program.

*The salmon marketing tax was repealed effective January 1, 2005.*

**Description**

Alaska levied a salmon marketing tax on all salmon sold in or exported from Alaska. Commercial fishermen paid salmon marketing taxes to buyers based on value of the salmon at the time of sale or fair market value when there was no arms length transaction. Taxpayers paid tax directly to the Tax Division for salmon exported from the state. Buyers remitted taxes collected from fishermen to the division.

**History**

**1993** - The legislature enacted a 1 percent salmon marketing tax to fund salmon marketing administered by ASMI, with a sunset date of June 30, 1998.

**1998** - The legislature extended the sunset date to June 30, 2003.

**Rate**

The salmon marketing tax rate was 1 percent of the value of salmon.

**2002** - The legislature extended the sunset date to June 30, 2008.

**Returns**

Taxpayers filed returns and paid taxes monthly. The due date was the last day of the month following the month of purchase or export.

**2004** - Legislation prescribed an election to determine the rates and retention of marketing assessments. The election was held in the Fall of 2004 resulting in an increase to the Seafood Marketing Assessment rate to 0.5 percent and eliminating the Salmon Marketing Tax effective January 1, 2005.

**Exemptions**

Salmon harvested under a special harvest area permit (typically,

**FY 2007 Statistics**

Tax Collections	\$20,981
<i>Including interest and penalties</i>	
Number of Returns	1
Number of Taxpayers	1
Program Cost	\$4,156
Staffing (full time equivalent)	0.1

**Seafood Development Tax  
AS 43.76.350**

Alaska file returns and pay taxes annually. The due date is March 31 following the year of sale or export.

**Description**

The seafood development tax is an elective tax levied on certain fishery resources using specific gear types sold in or exported from designated seafood development regions. Fishermen pay seafood development taxes to licensed buyers at the time of sale or to the division for resources sold to unlicensed buyers or exported from Alaska. Buyers remit taxes collected from fishermen to the division.

**Exemptions**

Resources harvested under special harvest area permit (typically, salmon harvested on behalf of salmon hatcheries) is exempt from the seafood development tax.

**Disposition of Revenue**

The Division deposits all seafood development tax revenue into the General Fund. Under AS 43.76.380(d), the legislature may appropriate seafood development tax revenue to provide financing for qualified regional seafood development associations.

**Rate**

Commercial fishermen harvesting salmon by drift gillnet elected tax rates for the following development regions:

Region	Rate	Effective
Prince William Sound	1%	2005
Bristol Bay	1%	2006

**History**

**2004** – The legislature adopted the Seafood Development Tax Act. The Act authorized a tax of between ½ and 2 percent, upon election by commercial fishermen harvesting within designated regions, on fishery resources transferred to buyers in or exported from Alaska.

**2005** – Commercial salmon drift gillnet fishermen in the Prince William Sound seafood development region elected a 1% tax.

**2006** - Commercial salmon drift gillnet fishermen in the Bristol Bay seafood development region elected a 1% tax.

**Returns**

Buyers file returns and pay tax monthly. The due date is the last day of the month following the month of purchase. Buyers file returns for bonus payments made to fishermen after the close of the fishing season. Returns for these payments are due with additional taxes by the last day of the month following the bonus payment. Fishermen selling to unlicensed buyers or exporting from

*The seafood development tax is an elective tax levied on certain fishery resources using specific gear types.*

**FY 2007 Statistics**

Tax Collections	\$1,266,333
<i>Including interest and penalties</i>	
Number of Returns	198
Number of Taxpayers	56
Program Cost	\$4,156
Staffing (full time equivalent)	0.1

**Seafood Marketing Assessment  
AS 16.51.120**

**Description**

Alaska levies a seafood marketing assessment on seafood processed or first landed in Alaska. The state also levies the assessment on unprocessed fisheries products exported from Alaska. The Tax division collects the assessment from fisheries processors and fishermen who export fish out of Alaska.

**Rate**

The seafood marketing assessment is 0.5 percent of the value of seafood products exported from, processed or first landed in Alaska.

**Returns**

Taxpayers file calendar year returns with payment by April 1 of the following year. Taxpayers file monthly returns for postseason (bonus) payments made to fishermen after the filing of the calendar year return. Returns for these payments are due with additional assessments by the last day of the month following the bonus payments.

**Exemptions**

Processors and fishermen who produce less than \$50,000 of seafood products during a calendar year are exempt from the assessment.

**Disposition of Revenue**

The division deposits all seafood marketing assessments into the General Fund. The legislature may appropriate funds to the Alaska Seafood Marketing Institute.

**History**

**1981** - The legislature enacted an elective seafood marketing assessment of 0.1 percent, 0.2 percent or 0.3 percent (elected by large processors in Alaska). In 1981, processors elected a 0.3 percent assessment to take effect in calendar year 1982.

**1996** - The legislature amended seafood marketing assessment statutes to include fishery resources landed in Alaska. The legislation was retroactive to January 1994. Prior to FY 96, revenue collected from the 0.3 percent portion of the original 3.3 percent landing tax rate was accounted for in a separate account designated as (landing tax) seafood marketing assessments.

**2004** - The legislation directed ASMI to hold elections and determine whether to retain the assessment and a second election to determine whether to increase the assessment from 0.3 percent to 0.5 percent. Elections were held as prescribed by law. The vote retained the Seafood Marketing assessment, increased the Seafood Marketing rate to 0.5 percent and eliminated the Salmon Marketing Tax effective January 1, 2005.

*The seafood marketing assessment is levied on seafood processed or first landed in Alaska. Assessments fund the Alaska Seafood Marketing Institute.*

**FY 2007 Statistics**

Assessment Collections	\$7,680,949
Number of Returns	301
Number of Taxpayers	259
Program Cost	\$0
Staffing (full time equivalent)	0

*Telephone cooperatives pay the telephone cooperative tax in lieu of corporate net income tax.*

**Telephone Cooperative Tax  
AS 10.25.550**

Cooperatives pay the telephone cooperative tax in lieu of corporate net income tax.

**Description**

Alaska levies a telephone cooperative tax on gross revenue of qualified telephone cooperatives under AS 10.25. The Tax Division collects taxes from cooperatives.

**Disposition of Revenue**

The division deposits revenue from the telephone cooperative tax into the General Fund.

**Rate**

The telephone cooperative tax rate is based on revenue and the length of time in which the cooperative has furnished telephone service to consumers as follows:

Telephone cooperative taxes sourced from within municipalities are shared 100 percent to respective municipalities less the amount expended by the state for collection of taxes.

The state retains telephone cooperative taxes sourced from outside of municipalities.

Length	Percent of Revenue
Less than 5 years	1%
5 years or longer	2%

**History**

**1959** – The legislature enacted the telephone cooperative tax as part of the "Electric and Telephone Cooperative Act" to promote cooperatives around the state. The due date for filing telephone cooperative tax returns was April 1 of the following year.

**Returns**

Telephone cooperatives file calendar year returns that are due with payment before March 1 of the following year.

**1960** – The legislature changed the due date for filing returns to March 1.

**Exemptions**

All qualified telephone cooperatives are subject to the cooperative tax.

**FY 2007 Statistics**

Tax Collections	\$2,062,277
Number of Returns	7
Number of Taxpayers	7
Program Cost	\$4,156
Staffing (full time equivalent)	0.1

Note: Program Costs reflect the cost of the program. The amount retained by the state after sharing (Table 2) represents these costs and unshared tax collected outside an organized borough or incorporated city

**Tire Fee**  
**AS 43.98.025**

**Description**

Alaska imposes a tire fee on all new tires sold in Alaska. An additional tire fee is imposed on the sale of tires with metal studs weighing more than 1.1 grams each (heavy studs). The additional tire fee also applies to the installation of heavy studs in new or used tires. The division collects tire fees primarily from tire dealerships.

**Rate**

A \$2.50 tire fee applies to each new tire. An additional \$5 fee applies to each studded tire (\$7.50 total tire fee for new studded tires).

**Returns**

Taxpayers are required to file returns and remit fees quarterly. Returns and payment are due 30 days following the calendar quarter in which the new tires were sold or studs were installed.

Taxpayers may retain 5 percent of the amount collected, limited to a maximum of \$900 per quarter, to cover expenses associated with collecting and remitting fees.

**Exemptions**

The following tires and services are exempt if the purchaser provides the tire seller with a certificate of use:

- Tires and services sold to federal, state or local government agencies for official use.
- Tires for resale.

The \$2.50 tire fee does not apply to used tires and certain replacements of defective tires.

**Disposition of Revenue**

The division deposits all revenue from the tire fee into the General Fund.

**History**

2003 - The legislature enacted the tire fee, effective 9/26/2003.

*Alaska imposes a tire fee on all new tires sold in Alaska.*

**FY 2007 Statistics**

Fee collections on new tires	\$1,075,505
Fee collections on studded tires and stud installations	409,979
Penalties & Interest	<u>26,433</u>
<b>Total Fee Collections</b>	<b><u>\$1,511,917</u></b>
Number of Returns	364
Number of Taxpayers	98
Program Cost	\$41,802
Staffing (full-time equivalent)	0.5

**FY 2007 Statistics (Continued)****New Tires\***

New tires sold	492,631
Less tax exempt tires	<u>(56,601)</u>
<b>Taxable New Tires Sold</b>	<b><u>436,030</u></b>

**Studded Tires\***

Studded tires sold	81,658
Stud installations performed	7,246
Less tax exempt studded tires and stud installations	<u>(6,012)</u>
<b>Taxable studded tires sold and stud installations performed</b>	<b><u>82,892</u></b>

\* Amounts represent tires sold in FY 2007 (as recorded on tax returns), whereas fee collections reflect money received within FY 2007 and may include payments or refunds from a previous tax period.

**Tobacco Tax  
AS 43.50**

**Description**

Alaska levies a tax on cigarettes and other tobacco products. The cigarette tax is levied on cigarettes imported into the state for sale or personal consumption. The tobacco products tax is levied on other tobacco products (other than cigarettes) imported into the state for sale. The division collects tobacco taxes primarily from licensed wholesalers, distributors and retailers.

**Rates**

**Cigarettes** – See rates table below. The cigarette tax must be paid through purchase of cigarette tax stamps. A stamp must be affixed to the bottom of every pack of cigarettes imported into the state for sale or personal consumption.

**Nonparticipating Manufacturer Equity Tax** – An additional tax of 12.5 mills (25 cents per pack of 20 cigarettes) is levied on each cigarette imported or acquired from a manufacturer that did not sign the tobacco Master Settlement Agreement. All revenue collected from this tax is deposited in the General Fund.

**Other Tobacco Products** – The tax rate on Other Tobacco Products, which includes tobacco products

other than cigarettes such as cigars and chewing tobacco, is 75 percent of the wholesale price. The wholesale price is the established price at which a manufacturer sells tobacco products to a distributor. The division may adjust the wholesale price upon which tax was calculated if the wholesale price was not established in an arms-length transaction.

Legislation passed during a special legislative session in June 2004 increased the cigarette tax rate to 90 mills (9 cents) per cigarette on July 1, 2006 and 100 mills (10 cents) per cigarette on July 1, 2007. In addition, as of January 1, 2005, there is an additional tax of \$.25 per pack of 20 cigarettes on cigarette brands that are manufactured by manufacturers that did not sign the tobacco Master Settlement Agreement (NPM cigarettes). There was no increase in the other tobacco products tax rate.

**Returns**

Taxpayers must pay the cigarette tax by purchasing cigarette tax stamps. The other tobacco products tax is paid at the time a tax return is filed. Tax returns are required to be filed on a monthly basis and are due the last day of the month following the month that cigarette tax stamps were purchased or other tobacco products were imported into the state for sale.

*Tobacco tax revenues have increased significantly due to recent rate increases.*

**Cigarette Tax Rates**

	Per cigarette	Per 20
<b>July 1, 2006 - June 30, 2007</b>		
Base Rate (School Fund)	38 mills \$0.038	\$0.76
Additional Tax (General Fund)	52 mills 0.052	1.04
<b>Total</b>	<b>90 mills \$0.09</b>	<b>\$1.80</b>
<b>July 1, 2007</b>		
Base Rate (School Fund)	38 mills \$0.038	\$0.76
Additional Tax (General Fund)	62 mills 0.062	1.24
<b>Total</b>	<b>100 mills \$0.10</b>	<b>\$2.00</b>

*8.9% of tax revenues from cigarettes are deposited into a Tobacco Use Education and Cessation Fund.*

Taxpayers that purchase cigarette tax stamps are entitled to a stamp discount of 3 percent on the first \$1,000,000 and 2 percent on the second \$1,000,000 of cigarette tax stamps purchased in a calendar year. The total stamp discount in each calendar year may not exceed \$50,000. Taxpayers who import other tobacco products for sale may deduct 0.4 percent of the other tobacco products tax due to cover expenses of accounting and filing returns. There is no limit on this deduction.

**Exemptions**

Sales to authorized military personnel by a military exchange, commissary, or ship store; and sales by an Indian reservation business located within an Indian reservation to members of the reservation are not subject to the tax.

**Disposition of Revenue**

**Cigarette Taxes** – Revenue from the base rate is deposited in the School Fund. Revenue from the additional tax is initially deposited into the General Fund. Of the amount deposited in the General Fund, 8.9 percent of revenue is deposited into the Tobacco Use Education and Cessation Fund, a subfund of the General Fund.

The division deposits all cigarette and tobacco products license fees into the School Fund, to be used for the rehabilitation, construction, repair and associated insurance costs of state school facilities.

**History**

The tobacco tax dates to 1949 when the legislature enacted a tax of 3 cents per pack on cigarettes and 2 cents per ounce on tobacco. There were no exemptions provided in the tax legislation.

**1951** – The legislature increased the cigarette tax to 5 cents per pack.

**1955** – The legislature eliminated the tobacco products tax and, although the cigarette tax rate remained at 5 cents, the legislature converted the rate to a mill rate per cigarette (2.5 mills per cigarette). The legislature enacted a 1 percent deduction provision to cover accounting expenses. The legislature also created the School Fund and directed all proceeds from the cigarette tax be deposited in this fund.

**1961** – The legislature increased the cigarette tax to 4 mills per cigarette (8 cents per pack). The legislature dedicated revenue from the additional 3 cents to the General Fund.

**1977** – The legislature exempted military sales from the cigarette tax.

**1983** – The Department of Revenue adopted regulations exempting sales of cigarettes by Indian Reservation businesses to members of the reservation.

**1985** – The legislature increased the cigarette tax to 8 mills per cigarette (16 cents per pack).

**1988** – The legislature enacted the tobacco products tax imposing a tax of 25 percent of the product wholesale price. The legislature authorized taxpayers to deduct 1 percent of the tax to cover accounting expenses.

**1989** – The legislature increased the cigarette tax rate to 14.5 mills (29 cents per pack of 20).

**1997** – Effective October 1, 1997, the legislature increased the cigarette tax rate to 50 mills or \$1

per pack of 20; and the tobacco products tax rate was increased to 75 percent of wholesale price. The legislature reduced the deduction percentage to cover accounting expenses from 1 percent to 0.4 percent.

**1999** – Effective June 3, 1999, Alaska became a signatory to the nationwide tobacco Master Settlement Agreement (MSA). The MSA is an agreement between 46 states, including the State of Alaska, and certain cigarette manufacturers which have voluntarily agreed to reimburse states for costs associated with cigarette smoking. The Agreement applies only to “participating manufacturers” (those manufacturers who have agreed to participate in the settlement).

The Agreement includes language to prevent “nonparticipating manufacturers” (those manufacturers who have not agreed to participate in the settlement) from deriving short-term profits and from becoming judgment-proof before liability arises. This language requires every nonparticipating manufacturer to place funds in an escrow account for each cigarette sold in the state. Per the agreement, the state is responsible to obtain data to determine the amount required to be placed in an escrow account by each nonparticipating manufacturer.

**2001** – Effective July 1, 2001, the Department of Revenue gained new tools to enforce the nationwide Master Settlement Agreement signed by the major cigarette producers and states. It allows the department to share information with other states and entities that may aid in the enforcement of the agreement. It also prohibits tobacco products licensees from importing and selling cigarettes in Alaska made by nonparticipating manufacturers that fail to comply with the agreement.

**2003** – The legislature required all cigarette manufacturers to certify to the division that they are either a signatory to the tobacco Master Settlement Agreement (MSA) or in compliance with Alaska Statute 45.53. The division is required to post on its website a list of the compliant cigarette manufacturers and their brands. Only those brands of cigarettes included in the list may be sold in Alaska.

**2004** – Effective January 1, 2004, the cigarette tax must be paid through the use of cigarette tax stamps. An Alaska cigarette tax stamp must be affixed to each cigarette pack prior to sale, distribution or consumption. Cigarettes found in the state that do not bear a cigarette tax stamp are contraband and subject to immediate seizure by the Department of Revenue or any other law enforcement agency in the state. Additionally, the sale of cigarettes at less than cost is prohibited.

During a special session in June 2004, the legislature passed legislation that:

- Increased the cigarette tax by 30 mills to 8 cents per cigarette or \$1.60 per pack of 20 cigarettes, effective January 1, 2005.
- Levied an additional tax of 12.5 mills or 25 cents per pack of 20 cigarettes on cigarettes imported into the state for sale or personal consumption if the cigarettes were manufactured by a nonparticipating manufacturer (NPM). A nonparticipating manufacturer is a manufacturer that did not sign the tobacco Master Settlement Agreement. Revenue from the entire cigarette tax increase and the additional tax on NPM product is deposited in the General Fund.
- Required 8.9 percent of cigarette tax revenue deposited in the General Fund to be deposited into the Tobacco Use Education and

*In the last of a series of tax increase enacted in 2004, the tax rate on cigarettes increased from \$1.80 to \$2.00 effective July 1, 2007.*

- Cessation Fund, effective January 1, 2005. Amounts deposited in the fund may be appropriated by the legislature for tobacco use education and cessation programs.
- Increased the cigarette tax by 10 mills to 9 cents per cigarette or \$1.80 per pack of 20 cigarettes, effective July 1, 2006. The revenue from this increase will be deposited in the General Fund.
  - Increased the cigarette tax by 10 mills to 10 cents per cigarette or \$2.00 per pack of 20 cigarettes, effective July 1, 2007. The revenue from this increase will be deposited in the General Fund.

### FY 2007 Statistics

#### Tax Collections

General Fund	\$42,419,172
School Fund	26,972,936
Tobacco Use Education and Cessation Fund	<u>3,282,925</u>
<b>Total Tax Collections All Funds</b>	<b><u>\$72,675,033</u></b>

#### Tax Collections by Product

Cigarettes	\$64,235,755
Other Tobacco Products	<u>8,506,365</u>
Subtotal	72,742,120
License Fee Collections	\$6,200
Penalties & Interest	334,989
Accounting Expense & Tax Stamp Deduction	<u>(408,276)</u>
<b>Total Collections by Product</b>	<b><u>\$72,675,033</u></b>

#### Cigarettes sold or imported into the state – (individual cigarettes) as reported on returns\*

Total Cigarettes	761,900,078
Military and Indian Exempt Sales	(32,305,768)
Credits for Returns	<u>(20,151,908)</u>
<b>Taxable Cigarettes</b>	<b><u>709,442,402</u></b>

\*Does not include cigarettes for which tax stamps were purchased, but were not yet sold or imported into the state

#### Other Tobacco Products (value) as reported on returns

Total products	\$11,791,820
Military and Indian Exempt Sales	(133,663)
Credits for Returns	<u>(336,747)</u>
<b>Taxable Other Tobacco Products</b>	<b><u>\$11,321,410</u></b>

Number of Returns	4,621
Number of Taxpayers	833
Program Cost	\$796,370
Staffing (full time equivalent)	9.6

**Unclaimed Property  
AS 34.45**

**Description**

Property is considered unclaimed when a holder has no record of an owner or knows the name of an owner but does not have a correct address. Unclaimed property statutes apply only to intangible and personal property.

Unclaimed property is considered abandoned after it remains unclaimed for a period of time (dormancy period). Following the dormancy period, holders are required to report and remit unclaimed property to the state. Dormancy periods vary by type of property as prescribed by statutes.

Before reporting property to the Tax Division, holders are required to make reasonable efforts in locating owners.

Unclaimed property is held in trust by the state until the property is claimed by its rightful owner.

Most unclaimed property is in the form of cash (checking and savings accounts), stocks and bonds (including dividends) and safe-deposit contents. Other property includes uncashed utility deposits, traveler checks and wages.

Each year, Unclaimed Property receives reports of thousands of names of persons who cannot be located by holders. The state lists owner names on a searchable database at [www.missingmoney.com](http://www.missingmoney.com). If an owner finds their name a claim form is completed and upon verification, property is promptly returned to its rightful owner.

Unclaimed Property maintains an inventory of safe-deposit contents and other personal property

submitted by holders under this program.

Following are abandonment periods for property commonly reported under the unclaimed property program.

Type of Property	Years
Safe deposit box contents	1
Utility deposits	1
Wages	1
Life insurance proceeds	2
Customer overpayments	3
Savings & checking accounts	5
Stocks and bonds	5
Travelers' checks	15

**Reports**

Holders are required to report and remit unclaimed property by November 1 each year. The reports include property that is deemed unclaimed as of June 30 each year.

**Exemptions**

The following properties are exempt from the unclaimed property program:

- Unused airline tickets
- Unemployment compensation overpayments
- Permanent Fund dividends after March 1990
- ANCSA (Native) corporation stocks

**Disposition of Funds**

All funds received through the unclaimed property program are deposited into the Unclaimed Property Trust account in the General Fund.

Because not all unclaimed property owners are located, amounts received from holders exceed refunds to owners. The Tax Division maintains a balance in the trust

*Since 1986, Unclaimed Property has transferred \$55 million to the General Fund.*

account and periodically transfers excess funds to the General Fund. Since the program's inception, the division has transferred approximately \$54.6 million to the General Fund.

**History**

**1986** – the Alaska legislature adopted the Uniform Unclaimed Property Act which went into effect September 7, 1986. Stocks issued by corporations organized under ANCSA were exempted from unclaimed property statutes.

**1988** – unused airline tickets were exempted retroactive to September 7, 1986.

**1989** – overpaid contributions by employers to the unemployment compensation fund were exempted retroactive to September 7, 1986.

**1992** – as part of the 1992 Budget Act (Ch 405 SLA 92), IEAD was ordered to privatize the unclaimed property program effective July 1, 1992. The program was not privatized because vendor proposals to a Request for Proposal issued by the Division exceeded the state's budgeted costs for administering the program. Also in 1992, permanent fund dividends were exempted effective April 1, 1992.

**1996** – provisions for simultaneous report and remit were enacted and the aggregate reporting amount was increased to \$100. Insurance companies were put on the same reporting cycle as all other holders. Maximum percentages were established for fee finders: 20% for property less than \$500; and 10% for property \$500 or more.

**1997** – Unclaimed Property became part of the information superhighway. Information may be obtained via the internet at [www.unclaimedproperty.alaska.gov](http://www.unclaimedproperty.alaska.gov) or the National Association of Unclaimed Property Administrators (NAUPA) website at [www.unclaimed.org](http://www.unclaimed.org).

**2001** – Purchased an unclaimed property software program (UPMS).

**2004** – Dormancy periods shortened based on 1995 version of the Uniform Unclaimed Property Act and added insurance demutualization language to AS 34.45.110 – 780.

**2005** – Upgraded the unclaimed property software system to allow reports to be uploaded and claims to be imported from a website (UPS2K).

**2006** – Unclaimed Property Program moved from Treasury to Tax Division on July 1.

*The Unclaimed Property program was transferred to the Tax Division July 1, 2006.*

**FY 2007 Statistics**

Reports Received	2,539
Owner Names Reported	56,262
Claims Sent	8,725
Claims Refunded	2,368
Properties Refunded	5,111
Amount Refunded	\$2,243,136
Program Cost	\$305,472
Staffing (full-time equivalent)	5.9
Trust Account Balance, 6/30/2007	\$11,324,748

*The legislature may appropriate the balance in the vehicle rental tax account for tourism development and marketing.*

**Vehicle Rental Tax  
AS 43.52**

**Description**

Alaska levies an excise tax on fees and costs charged for the lease or rental of a passenger or recreational vehicle. The tax is levied on individuals renting vehicles and is collected by the rental/lease agency.

vehicles provided to customers by automobile dealers as replacement transportation during warranty, recall or service contract repairs.

**Disposition of Revenue**

The division deposits all revenue from the vehicle rental tax into a special vehicle rental account in the General Fund. The legislature may appropriate the balance in the vehicle rental tax account for tourism development and marketing.

**Rate**

Vehicle Type	Rate (fees & costs)
Passenger	10%
Recreational	3%

**History**

**2003** – The legislature enacted the vehicle rental tax on August 20, 2003. The tax became effective January 1, 2004.

**Returns**

Vehicle rental/lease agencies file tax returns and remit taxes quarterly. The returns and payments are due the last day of the month following the end of the calendar quarter in which the rental/lease agencies collected the tax.

**2004** – The legislature exempted the rental of taxicabs by taxicab drivers from the vehicle rental tax. Effective May 8, 2004 and retroactive to January 1, 2004, the division refunded any tax collected or remitted for taxi cab rentals between January 1 and May 8, 2004.

**Exemptions**

Vehicle rental tax does not apply to:

- rentals or leases to federal, state, or local government agencies or employees on official business
- a lease or rental that contains a term exceeding 90 consecutive days or to the rental of taxicabs by taxicab drivers
- trucks rented by individuals for moving personal property and for

**2006** – The legislature exempted trucks rented by individuals for moving personal property and for vehicles provided to customers by automobile dealers as replacement transportation during warranty, recall or service contract repairs, effective January 27, 2006.

**FY 2007 Statistics**

Passenger vehicle rental	\$7,635,227
Recreational vehicle rental	360,289
Penalties & interest	23,093
Total Tax Collections	<u>\$8,018,609</u>
Number of Returns	431
Number of Taxpayers	117
Program Cost	\$42,644
Staffing (full time equivalent)	0.5

**Investigation Function**

**Description**

The Investigations Group consists of four field investigators and a supervisor. The Investigations Group primarily focuses on gaming and tobacco tax investigations, conducting field inspections of gaming locations and potential charitable gaming violations, as well as cigarette distributors and retailers, and potential cigarette and tobacco violations.

**Cigarette Tax Stamp Investigations**

The Investigations Group ensures that all cigarettes sold in Alaska are affixed with cigarette tax stamps in accordance with AS 43.50. The investigators seize unstamped or improperly stamped cigarettes and any other tobacco products otherwise designated as contraband within the provisions of Alaska Statutes. The investigators make recommendations to suspend or revoke a cigarette excise tax license or tobacco endorsement for violations of cigarette tax stamp laws. At the time of investigation, investigators determine potential violations of cigarette minimum pricing and cigarette shipping statutes.

Investigations are initiated by complaints from citizens, requests from revenue auditors, and/or routine field inspections of premises where cigarettes are sold. During investigations, the investigators are responsible for the education of cigarette and tobacco products licensees and cigarette retailers in the area of cigarette and tobacco products excise taxes, minimum pricing and shipping restrictions.

**Gaming Investigations**

The Investigations Group investigates potential gaming permit or license violations and illegal gambling. Investigations are initiated by routine inspections of premises where charitable gaming activities are located, complaints from citizens of suspected gaming violations, and requests from revenue auditors. During investigations, investigators educate permittees, licensees and the public about gaming laws and regulations.

**Other Investigations**

The Investigations Group provides investigative support to all groups within the Tax Division and may be called upon to investigate potential violations of any of the tax types administered by the division, including tax evasion or tax fraud.

*The Investigations Group may be called upon to investigate potential violations of any of the tax types administered by the division.*

**FY 2007 Statistics**

	Gaming	Tobacco	Motor Fuel	Mining	Total
Inspections	159	761	3	8	931
Other Action	110	151	5	8	274
<b>Total</b>	<b>269</b>	<b>912</b>	<b>8</b>	<b>16</b>	<b>1,205</b>

Note: The investigations group seized 2,825 packs of tobacco in FY 2007.

## Appeals Function

### Description

The Appeals Group consists of two appeals officers and a supervisor. The appeals officers and supervisor conduct informal conferences and issue informal conference decisions in taxpayer appeals of assessments for all tax types administered by the Department of Revenue along with charitable gaming appeals. Appeals officers work with Department of Law attorneys to resolve issues related to audit and compliance actions. Appeals officers also participate with Department of Law attorneys as a team to represent the Department of Revenue in formal hearings before the Office of Administrative Hearings and in settlement negotiations. Appeals officers also work with the Department of Law attorneys in drafting statutes and regulations for the tax types administered by the Department of Revenue. For example, an appeals officer spent

considerable time this year working with Department of Law attorneys drafting the PPT statutes and regulations. Appeals officers also advise audit staff regarding issues involved in active or past litigation.

Oil and gas production tax cases and corporate income tax cases are a priority due to the complexity of the issues and the amount of tax revenue involved. These cases require more resources to complete than the other tax types administered by the Department of Revenue. Fishery business appeals increased this year due to increased audit activity in the salmon product development tax credit area.

Two additional appeals officers were hired in late 2007 to help with the back log of appeal cases and to cover for retirement(s) expected in the near future. Due to the new hires, the Appeals Group currently has four appeals officers and a supervisor.

*Appeals conducts informal conferences and issues decisions in taxpayer appeals of assessments for all tax types*

### FY 2007 Statistics

	Tax Periods*	Taxpayer Count
Beginning Inventory	304	109
Plus New Cases	167	151
Less Closed Cases	<u>312</u>	<u>173</u>
Ending Inventory	159	87

\* Tax periods correspond to periodic tax return filing requirements of taxpayers. One taxpayer may have several tax periods in appeals at the same time.

**Audit Function**

The income audit group is responsible for auditing corporate income taxes, including oil and gas corporate income tax returns.

The production audit group is responsible for auditing oil and gas production and property tax returns.

The excise audit group is responsible for auditing excise tax returns including alcoholic beverages, commercial passenger vessel, large passenger vessel,

mining license, motor fuel, vehicle rental and tobacco taxes, and tire fees.

The gaming audit group is responsible for financial compliance of permittees, operators and distributors.

The fish audit group is responsible for auditing fisheries-related tax returns including fisheries business, fishery resource landing, salmon enhancement, salmon marketing and seafood development taxes, and seafood marketing assessments.

**FY 2007 Statistics**

	Audit Collections	Total Tax Collections
<b>Income Audit (Corporate Net Income)</b>		
Oil and Gas Corporations	\$83,518,505	\$676,111,422
Other Corporations	<u>8,575,523</u>	<u>177,011,212</u>
<b>Total Income Audit</b>	<b>\$92,094,028</b>	<b>\$853,122,634</b>
<b>Production Audit (Corporate Net Income)</b>		
Oil and Gas Production	\$17,510,672	\$2,288,986,515
Oil and Gas Property	50,640	65,692,167
Conservation Surcharge	<u>0</u>	<u>10,103,767</u>
<b>Total Production Audit</b>	<b>\$17,561,312</b>	<b>\$2,364,782,449</b>
Fish Audit	\$478,594	\$60,352,523
Other Tax Types	<u>\$57,176</u>	<u>\$267,608,295</u>
<b>Total</b>	<b><u>\$110,191,110*</u></b>	<b><u>\$3,545,865,901</u></b>

*The audit group includes income audit, production audit, excise audit, gaming audit and fish audit.*

\* Does not include receipts or refunds resulting from litigation

## Appendix A Historical Overview of Tax Programs

Tax Type	Legal Reference	First Enacted	Original Tax	Current Tax Structure	Latest Change
Alcoholic Beverages	AS 43.60	1933	Wine 5¢/gallon Beer 5¢/gallon	Per Gallon Liquor \$12.80 Wine \$2.50 Beer (Malt Beverage) and Cider \$1.07 Beer (Small Breweries) \$0.35	Effective 10/1/2002, tax rates increased for alcoholic beverages as referenced under current tax structure.
Commercial Passenger Vessel	AS 43.52	2006	\$46/passenger	\$46/passenger	2006 - voter initiative passed authorizing \$46 tax
Conservation Surcharge on Oil	AS 43.55	1989	5¢/bbl	1¢/bbl increasing to 4¢/bbl when fund balance drops below \$50m	2006 - rates changed to 1¢/bbl and 4¢/bbl.
Corporate Income	AS 43.20	1949	10% of federal income tax liability	1% to 9.4% of net income	2006 - cruise ship operators subject to corporate income tax
Dive Fishery Management Assessment	AS 43.76.150	1997	Voluntary tax of 1, 3, 5, or 7% of value	SE AK Mgmt Area A Geoduck = 7% Sea Cucumber = 5% Sea Urchin = 7%	2005 - The legislature authorized an annual filing due date of March 31 for dive fishermen who export or sell to unlicensed buyers, effective January 1, 2005.
Electric Cooperative	AS 10.25.555	1959	1% of gross revenue if operating < 5 years  2% of gross revenue if operating ≥ 5 years	1/4 mill (\$0.0025) per kWh if < 5 years; 1/2 mill (\$0.005) per kWh if ≥ 5 years	1980 - tax base on kWh rather than gross revenue
Estate	AS 43.31	1919	(Inheritance Tax) Based on value of property	State tax credit on federal estate tax return	1991 - interest on delinquent tax subject to compound interest under AS 43.05.225. Beginning FY 2003, the state estate tax will phase out as a consequence of changes in federal law
Fisheries Business	AS 43.75	1913	7¢ per case of canned salmon, Other -- dollar amount based on revenue	Floating 5% <sup>1</sup> and 3% <sup>2</sup> of value Shore-based 3% <sup>1</sup> and 1% <sup>2</sup> of value Cannery 4.5% of value Direct Market 3% <sup>1</sup> and 1% <sup>2</sup> of value	2006 - The legislature extended the Salmon Product Development Credit for expenditures made through December 31, 2008. The Salmon Utilization Credit was not extended.

<sup>1</sup> Established species    <sup>2</sup> Developing species

Appendix A (Continued)

Tax Type	Legal Reference	First Enacted	Original Tax	Current Tax Structure	Latest Change
Fishery Resource Landing	AS 43.77	1993	3.3% of unprocessed value	3% of value <sup>1</sup> 1% of value <sup>2</sup>	2002 – The legislature authorized credits of up to 50 percent for contributions of not more than \$100,000 and 75 percent of the next \$100,000 in contributions made to the Alaska Veterans' Memorial Endowment Fund. The tax credit expired July 1, 2003.
Gaming	AS 05.15	1960	<p><sup>1</sup> Established species    <sup>2</sup> Developing species</p>	<p>\$20 annual permit fee for new and renewal permittees. \$50 renewal permit fee for permittees with \$20,000 to \$100,000 in gross receipts. \$100 renewal permit fee for permittees with over \$100,000 in gross receipts. \$500 annual operator license fee. \$1,000 annual distributor fee. \$2,500 annual manufacturer license fee. 3% tax of an amount equal to the gross receipts less prizes awarded on each series of pull tabs distributed.</p>	2005 - Calcutta Pools and Crane Classics authorized
Large Passenger Vessel Gambling	AS 05.16	2006	33% of adjusted gross income from gambling activities	33% of adjusted gross income from gambling activities	2006 - voter initiative passed authorizing gambling tax
Mining License	AS 43.65	1913	5% tax on mining net income of more than \$5,000	On net income <\$40,000 - 5% tax >\$40,001 - \$1,200 plus 3% >\$50,001 - \$1,500 plus 5% >\$100,000 - \$4,000 plus 7%	2002 – The legislature authorized credits of up to 50 percent for contributions of not more than \$100,000 and 75 percent of the next \$100,000 in contributions made to the Alaska Veterans' Memorial Endowment Fund. The tax credit expired July 1, 2003
Motor Fuel	AS 43.49	1945	1¢ per gallon on all fuels	Highway - 5¢/gallon Marine - 5¢/gallon Aviation Gas - 4.7¢/gallon Jet Fuel - 3.2¢/gallon	2004 – The provision that exempted gasohol blended with at least 10 percent alcohol derived from wood or seafood waste from the motor fuel tax expired on June 30, 2004. Currently all gasohol is taxed at the rate of 8 cents per gallon

Appendix A (Continued)

Tax Type	Legal Reference	First Enacted	Original Tax	Current Tax Structure	Latest Change
Oil & Gas Property	AS 43.56	1973	20 mills on full and true value	20 mills on full and true value	1996 - oil and gas property education tax credit was enacted.
Oil & Gas Production	AS 43.55	1955	1% of production value	12.25% of production value during first five years of production, 15% thereafter	2006 - PPT legislation enacted in special session.
Regulatory Cost Charge	AS 42.05.253 (Utilities) AS 42.06.285 (Pipelines)	1992	Electric Utilities: \$.000626/kWh  Other Utilities: .653% gross revenue Pipelines: .653% gross revenue	Electric Utilities: \$.000364/kWh Other Utilities: .786% gross revenue Pipelines: .786% gross revenue	2006 - rates increased by regulation.
Salmon Enhancement	AS 43.76	1980	Voluntary tax of 1%, 2% or 3% of value as elected by fishermen in an aquaculture region	Southern Southeast 3% Northern Southeast 3% Cook Inlet 2% Pr. William Sound 2% Kodiak - 2% Chignik - 2%	2004 - SB 286 clarified the incidence of the tax; when selling to a buyer who does not withhold the tax, fishermen must now pay the tax on an annual return. Ten additional rates ranging from 4 to 30%
Seafood Development	AS 43.76.350	2005	0.5%-2%	Pr. William Sound 1% Bristol Bay 1%	2006 - Commercial salmon drift gillnet fishermen in the Bristol Bay seafood development region elected a 1% tax
Seafood Marketing	AS 16.51.120	1981	Voluntary assessment of .1%, .2% or .3% of value as elected by processors	Rate set at 0.5% effective January 1, 2005	2004 - SB 273 directed a member election of the Alaska Seafood Marketing Institute (ASMI). Fall election determined retention of Seafood Marketing Assessment and increased the rate to 0.5%
Telephone Cooperative	AS 10.25.550	1959	1% of gross revenue if operating < 5 years; 2% of gross revenue if operating ≥ 5 years or longer	1% of gross revenue if operating < 5 years; 2% of gross revenue if operating ≥ 5 years or longer	1960 - The legislature changed the due date for filing returns to March 1
Tire Fee	AS 43.98	2003	\$2.50 per new tire for highway-use motor vehicles. Additional \$5 per tire with studs over 1.1 grams	\$2.50 per new tire for highway-use motor vehicles. Additional \$5 per tire with studs over 1.1 grams	No changes since tire fee enacted in 2003.

## Appendix A (Continued)

Tax Type	Legal Reference	First Enacted	Original Tax	Current Tax Structure	Latest Change
Tobacco	AS 43.50	1949	Cigarettes - 3¢ per pack of 20; Tobacco - 2¢ per ounce	90 mills/cigarette (\$1.80 per pack of 20) 75% of wholesale price	2004 - SB 1001 increases the tax to \$1.60 per pack on Jan. 1, 2005, to \$1.80 per pack on July 1, 2006, and to \$2.00 on July 1, 2007. An additional tax of \$.25 per pack is imposed on manufacturers that did not sign the Master Settlement Agreement.
Vehicle Rental	AS 43.52	2004	10% on passenger vehicle rentals of 90 days or less 3% on recreational vehicle rentals of 90 days or less	10% on passenger vehicle rentals of 90 days or less 3% on recreational vehicle rentals of 90 days or less	2006 - exemptions for trucks for moving personal property and vehicles as replacement transportation.

## Repealed Tax Programs

Business License	AS 43.70	1949	\$25 license fee plus .5% of gross receipts > \$20,000 plus .25% of gross receipts > \$50,000	Repealed	Tax repealed effective January 1, 1979. License program transferred to DCCED by Executive Order effective July 1, 1988.
Oil & Gas Conservation	AS 43.57	1955	5 mills per barrel of oil or 70,000 cubic feet of natural gas	Repealed	Tax repealed effective July 1, 1999
Coin-operated Devices	AS 43.35	1941	12.5% of gross receipts on coin-operated machines	Repealed	Tax repealed effective January 1, 1999
Individual Income	AS 43.20	1949	10% of federal income tax liability	Repealed	Tax repealed retroactive to 1979
Salmon Marketing	AS 43.76	1993	1% of value of salmon	1% of value of salmon	Repealed effective January 1, 2005.
School	AS 43.45	1919	\$5 tax on each male person	Repealed	Tax repealed retroactive to 1980

**Appendix B**  
**Comparison of Alcohol Tax Rates – Liquor**  
**January 2007**

Alaska's total tax on liquor is not actually the highest among the states because many states charge a sales tax as well as an alcohol tax.

State	Rate (\$ per gallon)	Rank*	State	Rate (\$ per gallon)	Rank*
Alabama	Footnote <sup>1</sup>	N/A	Montana <sup>2</sup>	Footnote <sup>1</sup>	N/A
<b>Alaska</b>	<b>12.80</b>	<b>1</b>	Nebraska	3.75	16
Arizona	3.00	21	Nevada	3.60	18
Arkansas	2.50	24	New Hampshire	Footnote <sup>1</sup>	N/A
California	3.30	19	New Jersey	4.40	11
Colorado	2.28	29	New Mexico	6.06	4
Connecticut	4.50	9	New York	6.44	3
Delaware	5.46	7	North Carolina	Footnote <sup>1</sup>	N/A
Florida	6.50	2	North Dakota	2.50	24
Georgia	3.79	15	Ohio	Footnote <sup>1</sup>	N/A
Hawaii	5.98	5	Oklahoma	5.56	6
Idaho	Footnote <sup>1</sup>	N/A	Oregon	Footnote <sup>1</sup>	N/A
Illinois	4.50	9	Pennsylvania	Footnote <sup>1</sup>	N/A
Indiana	2.68	23	Rhode Island	3.75	16
Iowa	Footnote <sup>1</sup>	N/A	South Carolina	2.72	22
Kansas	2.50	24	South Dakota	3.93	14
Kentucky	1.92	31	Tennessee	4.40	11
Louisiana	2.50	24	Texas	2.40	28
Maine	Footnote <sup>1</sup>	N/A	Utah	Footnote <sup>1</sup>	N/A
Maryland	1.50	32	Vermont	Footnote <sup>1</sup>	N/A
Massachusetts	4.05	13	Virginia	Footnote <sup>1</sup>	N/A
Michigan	Footnote <sup>1</sup>	N/A	Washington	Footnote <sup>1</sup>	N/A
Minnesota	5.03	8	West Virginia	Footnote <sup>1</sup>	N/A
Mississippi	Footnote <sup>1</sup>	N/A	Wisconsin	3.25	20
Missouri	2.00	30	Wyoming	Footnote <sup>1</sup>	N/A

<sup>1</sup> Sales are through state stores. Revenue is generated from various taxes, fees and net profits.

\* Out of 32 states which levy a per gallon tax, highest to lowest.

N/A - Not Applicable

Source: Federation of Tax Administrators

## Appendix B

### Comparison of Alcohol Tax Rates – Wine

#### January 2007

Alaska's total tax on wine is not actually the highest among the states because many states charge a sales tax as well as an alcohol tax.

State	Rate (\$ per gallon)	Rank*	State	Rate (\$ per gallon)	Rank*
Alabama	1.70	4	Montana	1.06	10
<b>Alaska</b>	<b>2.50</b>	<b>1</b>	Nebraska	.95	13
Arizona	.84	17	Nevada	.70	22
Arkansas	.75	19	New Hampshire	Footnote <sup>1</sup>	N/A
California	.20	43	New Jersey	.70	22
Colorado	.32	37	New Mexico	1.70	4
Connecticut	.60	25	New York	.19	45
Delaware	.97	12	North Carolina	.79	18
Florida	2.25	2	North Dakota	.50	31
Georgia	1.51	6	Ohio	.30	38
Hawaii	1.38	8	Oklahoma	.72	21
Idaho	.45	34	Oregon	.67	24
Illinois	.73	20	Pennsylvania	Footnote <sup>1</sup>	N/A
Indiana	.47	33	Rhode Island	.60	25
Iowa	1.75	3	South Carolina	.90	15
Kansas	.30	38	South Dakota	.93	14
Kentucky	.50	31	Tennessee	1.21	9
Louisiana	.11	46	Texas	.20	43
Maine	.60	25	Utah	Footnote <sup>1</sup>	N/A
Maryland	.40	35	Vermont	.55	28
Massachusetts	.55	28	Virginia	1.51	6
Michigan	.51	30	Washington	.87	16
Minnesota	.30	38	West Virginia	1.00	11
Mississippi	.35	36	Wisconsin	.25	42
Missouri	.30	38	Wyoming	Footnote <sup>1</sup>	N/A

<sup>1</sup> Sales are through state stores. Revenue is generated from various taxes, fees and net profits

\* Out of 46 states which impose a per gallon tax, highest to lowest.

N/A - Not Applicable

Source: Federation of Tax Administrators

## Appendix B

### Comparison of Alcohol Tax Rates – Beer

#### January 2007

Alaska's total tax on beer is not actually the highest among the states because many states charge a sales tax as well as an alcohol tax.

State	Rate (\$ per gallon)	Rank	State	Rate (\$ per gallon)	Rank
Alabama	.53	4	Montana	.14	36
<b>Alaska</b>	<b>1.07</b>	<b>1</b>	Nebraska	.31	14
Arizona	.16	30	Nevada	.16	30
Arkansas	.23	20	New Hampshire	.30	15
California	.20	21	New Jersey	.12	38
Colorado	.08	44	New Mexico	.41	9
Connecticut	.19	23	New York	.11	40
Delaware	.16	30	North Carolina	.53	4
Florida	.48	6	North Dakota	.16	30
Georgia	.48	6	Ohio	.18	27
Hawaii	.93	2	Oklahoma	.40	11
Idaho	.15	34	Oregon	.08	44
Illinois	.185	26	Pennsylvania	.08	44
Indiana	.115	39	Rhode Island	.10	42
Iowa	.19	23	South Carolina	.77	3
Kansas	.18	27	South Dakota	.28	16
Kentucky	.08	44	Tennessee	.14	36
Louisiana	.32	13	Texas	.19	23
Maine	.35	12	Utah	.41	9
Maryland	.09	43	Vermont	.265	17
Massachusetts	.11	40	Virginia	.26	19
Michigan	.20	21	Washington	.261	18
Minnesota	.15	34	West Virginia	.18	27
Mississippi	.43	8	Wisconsin	.06	48
Missouri	.06	48	Wyoming	.02	50

Source: Federation of Tax Administrators

**Appendix B**  
**Comparison of Highway Gasoline Tax Rates**  
**January 2007**

State	Rate (\$ per gallon)	Other Tax <sup>1</sup> (\$ per gallon)	Total (\$ per gallon)	Rank	State	Rate (\$ per gallon)	Other Tax <sup>1</sup> (\$ per gallon)	Total (\$ per gallon)	Rank
Alabama	16	2	18	38	Montana	27	0	27	9
<b>Alaska</b>	<b>8</b>	<b>0</b>	<b>8</b>	<b>51</b>	Nebraska	27.1	0.9	28	7
Arizona	18	0	18	38	Nevada	24	0.805	24.805	13
Arkansas	21.5	0	21.5	23	New Hampshire	18	1.625	19.625	34
California	18	0	18	38	New Jersey	10.5	4	14.5	49
Colorado	22	0	22	21	New Mexico	17	1.875	18.875	36
Connecticut	25	0	25	11	New York	8	16.6	24.6	14
Delaware	23	0	23	19	North Carolina	29.9	0.25	30.15	6
Dist of Columbia	20	0	20	28	North Dakota	23	0	23	19
Florida	4	11.3	15.3	47	Ohio	28	0	28	7
Georgia	7.5	7.7	15.2	48	Oklahoma	16	1	17	44
Hawaii	16	0	16	45	Oregon	24	0	24	16
Idaho	25	0	25	11	Pennsylvania	12	19.2	31.2	4
Illinois	19	1.1	20.1	27	Rhode Island	30	1	31	5
Indiana	18	0	18	38	South Carolina	16	0	16	45
Iowa	21	0	21	25	South Dakota	22	0	22	21
Kansas	24	0	24	16	Tennessee	20	1.4	21.4	24
Kentucky	18.3	1.4	19.7	33	Texas	20	0	20	28
Louisiana	20	0	20	28	Utah	24.5	0	24.5	15
Maine	26.8	0	26.8	10	Vermont	19	1	20	28
Maryland	23.5	0	23.5	18	Virginia	17.5	0	17.5	43
Massachusetts	21	0	21	25	Washington	34	0	34	1
Michigan	19	0	19	35	West Virginia	20.5	11	31.5	3
Minnesota	20	0	20	28	Wisconsin	29.9	3	32.9	2
Mississippi	18	0.4	18.4	37	Wyoming	13	1	14	50
Missouri	17	0.55	17.55	42					

<sup>1</sup> Includes state sales tax, gross receipts tax and underground storage tank taxes.

Source: Federation of Tax Administrators

## Appendix B Comparison of Aviation Fuel Tax Rates January 2007

State	Jet Fuel (¢ per gallon)	Rank <sup>1</sup>	Aviation Gas (¢ per gallon)	Rank <sup>2</sup>	State	Jet Fuel (¢ per gallon)	Rank <sup>1</sup>	Aviation Gas (¢ per gallon)	Rank <sup>2</sup>
Alabama	0.8	33	2.4	36	Montana	4.0	17	4.0	33
<b>Alaska</b>	<b>3.2</b>	<b>21</b>	<b>4.7</b>	<b>31</b>	Nebraska	3.0	23	5.0	25
Arizona	3.05	22	5.0	25	Nevada	2.0	26	1.0	38
Arkansas	Sales Tax	N/A	Sales Tax	N/A	New Hampshire	2.0	26	4.0	33
California	2.0	26	18.0	6	New Jersey	12.5	1	12.5	10
Colorado	4.0	17	6.0	21	New Mexico	Sales Tax	N/A	17.0	8
Connecticut	None	N/A	None	N/A	New York	8.0	5	8.0	15
Delaware	None	N/A	23.0	1	North Carolina	Sales Tax	N/A	Sales Tax	N/A
Florida	6.9	8	6.9	19	North Dakota	8.0	5	8.0	15
Georgia	Sales Tax	N/A	1.0	38	Ohio	Sales Tax	N/A	Sales Tax	N/A
Hawaii	1.0	31	1.0	38	Oklahoma	0.08	35	0.08	41
Idaho	4.5	16	5.5	24	Oregon	1.0	31	9.0	13
Illinois	11.0	2	11.0	11	Pennsylvania	2.0	26	4.3	32
Indiana	0.8	33	18.0	6	Rhode Island	None	N/A	None	N/A
Iowa	3.0	23	8.0	15	South Carolina	Sales Tax	N/A	Sales Tax	N/A
Kansas	Sales Tax	N/A	Sales Tax	N/A	South Dakota	4.0	17	3.0	21
Kentucky	Sales Tax	N/A	18.3	5	Tennessee	1.4	30	1.4	37
Louisiana	Sales Tax	N/A	20.0	3	Texas	None	N/A	None	N/A
Maine	3.4	20	22.0	2	Utah	9.0	4	9.0	13
Maryland	7.0	7	7.0	18	Vermont	None	N/A	20.0	3
Massachusetts	6.2	9	14.7	9	Virginia	5.0	12	5.0	25
Michigan	3.0	23	3.0	35	Washington	11.0	2	11.0	11
Minnesota	5.0	12	5.0	25	West Virginia	4.85	15	4.85	30
Mississippi	5.25	11	6.4	20	Wisconsin	6.0	10	6.0	21
Missouri	Sales Tax	N/A	Sales Tax	N/A	Wyoming	5.0	12	5.0	25

<sup>1</sup>Out of 35 states with tax rates

<sup>2</sup>Out of 41 states with tax rates

Source: National Business Aircraft Association, Inc. 2007 State Aviation Tax Report

**Appendix B**  
**Comparison of Cigarette Tax Rates**  
**January 2007**

State	Rate (\$ per pack)	Rank	State	Rate (\$ per pack)	Rank
Alabama	0.425	39	Montana	1.70	9
<b>Alaska</b>	<b>1.80</b>	<b>7</b>	Nebraska	0.64	30
Arizona	2.00	4	Nevada	0.80	25
Arkansas	0.59	32	New Hampshire	0.80	25
California	0.87	23	New Jersey	2.575	1
Colorado	0.84	24	New Mexico	0.91	22
Connecticut	1.51	11	New York	1.50	13
Delaware	0.55	35	North Carolina	0.30	44
Florida	0.339	43	North Dakota	0.44	38
Georgia	0.37	40	Ohio	1.25	16
Hawaii	1.60	10	Oklahoma	1.03	19
Idaho	0.57	33	Oregon	1.18	18
Illinois	0.98	21	Pennsylvania	1.35	15
Indiana	0.555	34	Rhode Island	2.46	2
Iowa	0.36	41	South Carolina	0.07	50
Kansas	0.79	27	South Dakota	0.53	37
Kentucky	0.30	44	Tennessee	0.20	47
Louisiana	0.36	41	Texas	1.41	14
Maine	2.00	4	Utah	0.695	29
Maryland	1.00	20	Vermont	1.79	8
Massachusetts	1.51	11	Virginia	0.30	44
Michigan	2.00	4	Washington	2.025	3
Minnesota	1.23	17	West Virginia	0.55	35
Mississippi	0.18	48	Wisconsin	0.77	28
Missouri	0.17	49	Wyoming	0.60	31

Source: Federation of Tax Administrators

## Appendix B

### Comparison of Tobacco Products Tax Rates

#### January 2007

State	Rate	State	Rate
Alabama	.6¢ - 5.25¢/ounce	Montana	50% Wholesale Price
<b>Alaska</b>	<b>75% Wholesale Price</b>	Nebraska	20% Wholesale Price
Arizona	% 23.8¢/ounce	Nevada	30% Wholesale Price
Arkansas	32% Manufacturer Price	New Hampshire	19% Wholesale Price
California	46.76% Wholesale Price	New Jersey	30% Wholesale Price
Colorado	40% Manufacturer Price	New Mexico	25% Product Value
Connecticut	20% Wholesale Price	New York	37% Wholesale Price
Delaware	15% Wholesale Price	North Carolina	3% Wholesale Price
Florida	25% Wholesale Price	North Dakota	28% Wholesale Price
Georgia	10% Wholesale Price	Ohio	17% Wholesale Price
Hawaii	40% Wholesale Price	Oklahoma	60% - 80% Factory List Price
Idaho	40% Wholesale Price	Oregon	65% Wholesale Price
Illinois	18% Wholesale Price	Pennsylvania	N/A
Indiana	18% Wholesale Price	Rhode Island	40% Wholesale Price
Iowa	22% Wholesale Price	South Carolina	5% Manufacturer Price
Kansas	10% Wholesale Price	South Dakota	10% Wholesale Price
Kentucky	7.5% Wholesale Price	Tennessee	6.6% Wholesale Price
Louisiana	33% Manufacturer Price	Texas	35.213% Manufacturer Price
Maine	78% Wholesale Price	Utah	35% Manufacturer Price
Maryland	15% Wholesale Price	Vermont	41% Manufacturer Price
Massachusetts	90% Wholesale Price	Virginia	10% Wholesale Price
Michigan	32% Wholesale Price	Washington	75% Wholesale Price
Minnesota	70% Wholesale Price	West Virginia	7% Wholesale Price
Mississippi	15% Manufacturer Price	Wisconsin	25% Manufacturer Price
Missouri	10% Manufacturer Price	Wyoming	20% Wholesale Price

*Tobacco products include chewing tobacco and snuff.*

*N/A - Not Applicable*

*Source: Federation of Tax Administrators*

**Appendix B**  
**Comparison of Corporate Income Tax Rates**  
**January 2007**

State	Rate (%)	Tax Brackets		Number of Brackets
		Lowest	Highest	
Alabama	6.5		Flat Rate	1
<b>Alaska</b>	<b>1.0 - 9.4</b>	<b>\$10,000</b>	<b>\$90,000</b>	<b>10</b>
Arizona	6.968		Flat Rate	1
Arkansas	1.0 - 6.5	\$3,000	\$100,000	6
California	8.84		Flat Rate	1
Colorado	4.63		Flat Rate	1
Connecticut	7.5		Flat Rate	1
Delaware	8.7		Flat Rate	1
Florida	5.5		Flat Rate	1
Georgia	6.0		Flat Rate	1
Hawaii	4.4 - 6.4	\$25,000	\$100,000	3
Idaho	7.6		Flat Rate	1
Illinois	7.3		Flat Rate	1
Indiana	8.5		Flat Rate	1
Iowa	6.0 - 12.0	\$25,000	\$250,000	4
Kansas	4.0		Flat Rate	1
Kentucky	4.0 - 7.0	\$50,000	\$100,000	3
Louisiana	4.0 - 8.0	\$25,000	\$200,000	5
Maine	3.5 - 8.93	\$25,000	\$250,000	4
Maryland	7.0		Flat Rate	1
Massachusetts	9.5		Flat Rate	1
Michigan	Tax Based on Federal Taxable Income			N/A
Minnesota	9.8		Flat Rate	1
Mississippi	3.0 - 5.0	\$5,000	\$10,000	3
Missouri	6.25		Flat Rate	1

**Appendix B**  
**Comparison of Corporate Income Tax Rates**  
**January 2007**  
**(Continued)**

State	Rate (%)	Tax Brackets		Number of Brackets
		Lowest	Highest	
Montana	6.75		Flat Rate	1
Nebraska	5.58 - 7.81	\$50,000		2
Nevada	No Corporation Income Tax			N/A
New Hampshire	8.5		Flat Rate	1
New Jersey	9.0		Flat Rate	1
New Mexico	4.8 - 7.6	\$500,000	\$1,000,000	3
New York	7.5		Flat Rate	1
North Carolina	6.9		Flat Rate	1
North Dakota	2.6 - 7.0	\$3,000	\$30,000	5
Ohio	5.1 - 8.5	\$50,000		2
Oklahoma	6.0		Flat Rate	1
Oregon	6.6		Flat Rate	1
Pennsylvania	9.99		Flat Rate	1
Rhode Island	9.0		Flat Rate	1
South Carolina	5.0		Flat Rate	1
South Dakota	No Corporation Income Tax			N/A
Tennessee	6.5		Flat Rate	1
Texas	Tax Based on Capital and Surplus			N/A
Utah	5.0		Flat Rate	1
Vermont	6.0 - 8.5	\$10,000	\$250,000	3
Virginia	6.0		Flat Rate	1
Washington	No Corporation Income Tax			N/A
West Virginia	8.75		Flat Rate	1
Wisconsin	7.9		Flat Rate	1
Wyoming	No Corporation Income Tax			N/A
Federal	15.0 - 35.0	\$22,100	\$10,000,000	4

Source: Federation of Tax Administrators

**Appendix B**  
**Comparison of Individual Income Tax Rates\***  
**January 2007**

State	Rate (%)	Tax Brackets		Number of Brackets
		Lowest	Highest	
Alabama	2.0 - 5.0	\$500	\$3,000	3
<b>Alaska</b>	<b>No State Income Tax</b>			<b>N/A</b>
Arizona	2.59 - 4.54	\$10,000	\$150,000	5
Arkansas	1.0 - 7.0	\$3,599	\$30,100	6
California	1.0 - 9.3	\$6,622	\$43,468	6
Colorado	4.63	Flat Rate		1
Connecticut	3.0 - 5.0	\$10,000	\$10,000	2
Delaware	2.2 - 5.95	\$5,000	\$60,000	6
Florida	No State Income Tax			N/A
Georgia	1.0 - 6.0	\$750	\$7,000	6
Hawaii	1.4 - 8.25	\$2,400	\$48,000	9
Idaho	1.6 - 7.8	\$1,198	\$23,964	8
Illinois	3.0	Flat Rate		1
Indiana	3.4	Flat Rate		1
Iowa	.36 - 8.98	\$1,343	\$60,436	9
Kansas	3.5 - 6.45	\$15,000	\$30,000	3
Kentucky	2.0 - 6.0	\$3,000	\$75,000	6
Louisiana	2.0 - 6.0	\$12,500	\$25,000	3
Maine	2.0 - 8.5	\$4,550	\$18,250	4
Maryland	2.0 - 4.75	\$1,000	\$3,000	4
Massachusetts	5.3	Flat Rate		1
Michigan	3.9	Flat Rate		1
Minnesota	5.35 - 7.85	\$21,310	\$69,991	3
Mississippi	3.0 - 5.0	\$5,000	\$10,000	3
Missouri	1.5 - 6.0	\$1,000	\$9,000	10

**Appendix B**  
**Comparison of Individual Income Tax Rates\***  
**January 2007**  
**(Continued)**

State	Rate (%)	Tax Brackets		Number of Brackets
		Lowest	Highest	
Montana	1.0 - 6.9	\$2,300	\$14,500	7
Nebraska	2.56 - 6.84	\$2,400	\$27,001	4
Nevada	No State Income Tax			N/A
New Hampshire	Tax Limited to Dividends and Interest			N/A
New Jersey	1.4 - 8.97	\$20,000	\$500,000	6
New Mexico	1.7 - 5.3	\$5,500	\$16,000	4
New York	4.0 - 6.85	\$8,000	\$20,000	5
North Carolina	6.0 - 8.0	\$12,750	\$120,000	4
North Dakota	2.1 - 5.54	\$30,650	\$336,550	5
Ohio	0.649 - 6.555	\$5,000	\$200,000	9
Oklahoma	0.5 - 5.65	\$1,000	\$10,000	7
Oregon	5.0 - 9.0	\$2,750	\$6,851	3
Pennsylvania	3.07	Flat Rate		1
Rhode Island	25% Federal Tax Liability			N/A
South Carolina	2.5 - 7.0	\$2,570	\$12,850	6
South Dakota	No State Income Tax			N/A
Tennessee	Tax Limited to Dividends and Interest			N/A
Texas	No State Income Tax			N/A
Utah	2.3 - 6.98	\$1,000	\$5,501	6
Vermont	3.6 - 9.5	\$30,650	\$336,551	5
Virginia	2.0 - 5.75	3,000	17,000	4
Washington	No State Income Tax			N/A
West Virginia	3.0 - 6.5	\$10,000	\$60,000	5
Wisconsin	4.6 - 6.75	\$9,160	\$137,411	4
Wyoming	No State Income Tax			N/A

\* Rates apply to unmarried individuals

Source: Federation of Tax Administrators

**Appendix B**  
**Comparison of Sales Tax Rates**  
**January 2007**

<b>State</b>	<b>Rate (%)</b>	<b>State</b>	<b>Rate (%)</b>
Alabama	4.0	Montana	No State Sales Tax
<b>Alaska</b>	<b>No State Sales Tax</b>	Nebraska	5.5
Arizona	5.6	Nevada	6.5
Arkansas	6.0	New Hampshire	No State Sales Tax
California	7.25	New Jersey	7.0
Colorado	2.9	New Mexico	5.0
Connecticut	6.0	New York	4.0
Delaware	No State Sales Tax	North Carolina	4.25
Florida	6.0	North Dakota	5.0
Georgia	4.0	Ohio	5.5
Hawaii	4.0	Oklahoma	4.5
Idaho	6.0	Oregon	No State Sales Tax
Illinois	6.25	Pennsylvania	6.0
Indiana	6.0	Rhode Island	7.0
Iowa	5.0	South Carolina	5.0
Kansas	5.3	South Dakota	4.0
Kentucky	6.0	Tennessee	7.0
Louisiana	4.0	Texas	6.25
Maine	5.0	Utah	4.75
Maryland	5.0	Vermont	6.0
Massachusetts	5.0	Virginia	5.0
Michigan	6.0	Washington	6.5
Minnesota	6.5	West Virginia	6.0
Mississippi	7.0	Wisconsin	5.0
Missouri	4.225	Wyoming	4.0

Source: Federation of Tax Administrators



**HB**

**107**

**HFIN**

**FILE**

# STATE OF ALASKA

SAKAH PALIN, GOVERNOR

## OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET

P.O. BOX 110020  
JUNEAU, ALASKA 99811-0020  
TELEPHONE: (907) 465-4660  
FAX: (907) 465-3008

February 16, 2007

The Honorable Lyman Hoffman  
The Honorable Bert Stedman  
The Honorable Mike Chenault  
The Honorable Kevin Meyers  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801

Dear Finance Committee Co-Chairs:

Please make the following amendments to the Early supplemental bill, SB 61 / HB 107:

Amend the fund sources in sec. 2 for the retirement system investigation and litigation costs to reflect a 72% - 28% funding split in accordance with the Division of Retirement and Benefits' cost allocation plan:

Sec. 2(a) change the PERS amount from \$8,271,000 to \$8,640,000

Sec. 2(b) change the TRS amount from \$3,729,000 to \$3,360,000

This will match the retirement system investigation PERS/TRS fund source adjustment contained in the Regular supplemental bill, SB 83 / HB 139.

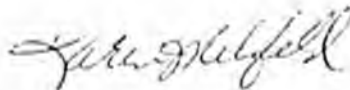
Amend sec. 6 to read:

Sec. 6. The appropriations made by sec. 2 of this Act take effect October 1, 2006[FEBRUARY 16, 2007].

Although I stated during my testimony to the House Finance Committee on February 13, that November 1, 2006 was the needed effective date the change to October 1 will allow the Department of Law to pay outstanding investigation invoices for work performed in October 2006 that was invoiced in November.

An updated spreadsheet is attached. If you have any questions, please call me at 465-4660 or Joan Brown at 465-4681. Thank you.

Sincerely,



Karen J. Rehfeld  
Director

Attachments

cc: David Teal, Legislative Finance

FY2007 EARLY SUPPLEMENTAL REQUESTS

Sec. No.	Amd. Date	Amd. No.	Department	RDU or Component or Capital	Supplemental Need	General Funds	Federal Funds	Other Funds	Fund Source	Total Funds
1			Commerce	Office of Economic Development	Regional Seafood Development Tax pass-through to the Copper River/Prince William Sound Marketing Association. This appropriation was inadvertently omitted from the FY07 budget bills. The 1% tax assessment generated \$152,464 during calendar year 2005 which was to be appropriated to the association as of July 1, 2006.	0.0				0.0
2(a)-(b)			Law	Civil Division, Labor and State Affairs	Funding for the investigation and proposed litigation related to actuarial services received by the State of Alaska. The investigation would be completed during FY07, and the proposed litigation is contemplated to begin before the end of FY07. The amount of the appropriations is the estimated cost to complete the investigation and take the case from inception through trial.			12,000.0	8,271.0 PERS 3,729.0 TRS	12,000.0
3			Governor	Elections	Funding for the costs associated with the April 3, 2007, special advisory election required by ch. 1, FSSLA 2006, on the subject of employment benefits for same-sex partners of public employees and retirees.	1,156.3				1,156.3
4				Lapse Provisions						
5				Retroactivity						
6-7				Effective Date						
<b>Early Supplemental Bill Total</b>						<b>1,156.3</b>	<b>0.0</b>	<b>12,000.0</b>		<b>13,156.3</b>
<b>Amendments:</b>										
2(a)-(b)	2/16/07	ES Law A	Law	Civil Division, Labor and State Affairs	Revise the funding split in sec. 2 to be in accordance with the Division of Retirement and Benefits' cost allocation plan and thus reflect: 72% PERS, an increase of \$369.0 from \$8,271.0 to \$8,640.0, and 28% TRS, a decrease of \$369.0 from \$3,729.0 to \$3,360.0.				369.0 PERS -369.0 TRS	0.0
6	2/16/07	ES Law B	Law	Civil Division, Labor and State Affairs	Change the effective date in sec. 6 from February 1, 2007 to October 1, 2006 in order that Law may pay outstanding investigation invoices for services rendered in October 2006.					0.0
<b>Amended Early Supplemental Bill Total</b>						<b>1,156.3</b>	<b>0.0</b>	<b>12,000.0</b>		<b>13,156.3</b>

Department of Law

Scenario: FY2007 Supplemental - Early (5922)  
 Component: Labor and State Affairs (2718)  
 RDU: Civil Division (35)

Decision: None  
 Category: None  
 Subcategory: None

New GF Revenue:  
 New Other Revenue:  
 Short Title:

Title: Correct fund source split to reflect the Division of Retirement and Benefits' cost allocation plan

Brief Description:

	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants & Benefits	Misc./Debt Service	Positions		
										PFT	PPT	NP
	Suppl	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
1029 P/E Retire	369.0											
1034 Teach Ret	-369.0											
PERS funding is changed to from \$8,271.0 to \$8,640.0 and TRS funding is changed from \$3,729.0 to \$3,360.0 to reflect the Division of Retirement and Benefits' cost allocation plan split of 72% PERS and 28% TRS.												
The effective date is changed from February 1, 2007 to October 1, 2006 in order that the department may pay outstanding invoices for services rendered in October 2006.												
	Totals	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0

State of Alaska  
ALASKA RETIREMENT MANAGEMENT BOARD  
Relating to Actuary Litigation

Resolution 2007-06

WHEREAS, the Alaska Retirement Management Board ("Board") was established by law to serve as fiduciary to the funds of the State of Alaska's retirement systems, including the Public Employees' Retirement System ("PERS") and the Teachers Retirement System ("TRS"), (collectively, the "Systems");

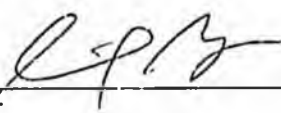
WHEREAS, Mercer Human Resource Consulting, Inc. ("Mercer") was retained until December 31, 2005, by the Department of Administration and for the benefit of the Department and the Systems, as well as the predecessors to the Board, including the boards of the PERS, TRS, and the Alaska State Pension Investment Board, to provide competent and professional actuarial services and advice;

WHEREAS, on behalf of the Systems, the State of Alaska Department of Law has investigated the performance by Mercer during the period of its retention, and the results of such investigations yield strong indicators of professional negligence and significant damage to the Systems;

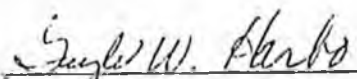
NOW THEREFORE BE IT RESOLVED BY THE ALASKA RETIREMENT MANAGEMENT BOARD that:

1. The Board concludes that it is prudent to expend funds necessary to pursue claims, including potential litigation, against Mercer based upon the investigation undertaken by and for the Department of Law;
2. The Board urges through this resolution that appropriations be approved, in amounts recommended by the Department of Law to fund the potential litigation, and that such funds as necessary may be appropriated from the funds of the Systems as fair and reasonable costs necessary for the proper and prudent administration of those funds;
3. The Board ratifies and affirms the retention of the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP by the Department of Law as outside counsel for the Board and the Systems in connection with the investigation of Mercer's performance and any potential litigation arising out of that investigation; and
4. The actions contemplated hereby are a reasonable effort to protect and preserve the assets of the Systems.

DATED at Anchorage, Alaska this 9<sup>th</sup> day of February, 2007.

  
\_\_\_\_\_  
Chair

ATTEST:

  
\_\_\_\_\_  
Secretary

**FY2007 SUPPLEMENTAL REQUESTS**

Sec. No.	Department	RDU or Component or Capital	Supplemental Need	General Funds	Federal Funds	Other Funds	Fund Source	Total Funds
1	Commerce	Office of Economic Development	Regional Seafood Development Tax pass-through to the Copper River/Prince William Sound Marketing Association. This appropriation was inadvertently omitted from the FY07 budget bills. The 1% tax assessment generated \$152,464 during calendar year 2005 which was to be appropriated to the association as of July 1, 2006.	0.0				0.0
2(a)-(b)	Law	Civil Division, Labor and State Affairs	Funding for the investigation and proposed litigation related to actuarial services received by the State of Alaska. The investigation would be completed during FY07, and the proposed litigation is contemplated to begin before the end of FY07. The amount of the appropriations is the estimated cost to complete the investigation and take the case from inception through trial.			12,000.0	8,271.0 PERS 3,729.0 TRS	12,000.0
3	Governor	Elections	Funding for the costs associated with the April 3, 2007, special advisory election required by ch. 1, FSSLA 2006, on the subject of employment benefits for same-sex partners of public employees and retirees.	1,156.3				1,156.3
4	Lapse Provisions							
5	Retroactivity							
6-7	Effective Date							
<b>Early Supplemental Bill Total</b>				<b>1,156.3</b>	<b>0.0</b>	<b>12,000.0</b>		<b>13,156.3</b>

**Dept of Commerce, Community, & Economic Development**

Scenario: FY2007 Supplemental - Governor (5770)  
 Component: Office of Economic Development (2743)  
 RDU: Community Assistance & Economic Development (405)  
 Title: Regional Seafood Development Associations

Decision: None  
 Category: None  
 Subcategory: None

New GF Revenue:  
 New Other Revenue:  
 Short Title:

**Brief Description:**

Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants & Benefits	Misc./Debt Service	Positions		
									PFT	PPT	NP
Suppl	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0

In accordance with AS 43.76.350 - 43.76.399, seafood development taxes collected may be appropriated, per AS 43.76.380(d), to qualifying regional seafood development associations. In calendar year 2005 the drift/gillnet fleet in the Copper River/Prince William Sound region assessed themselves a 1% regional seafood development tax. Processors collected the tax and remitted the funds to the Department of Revenue.

The Copper River/Prince William Sound Marketing Association (CR/PWSMA) expected an FY07 revenue pass-through appropriation of \$152,465, the amount of the collected tax. Though intended, the appropriation was accidentally not inserted into any of the appropriation bills. Consequently, the CR/PWSMA did not receive its funding on July 1, 2006. This supplemental would provide CR/PWSMA the funding it is entitled to under the above referenced statutes.

A point of clarification, since the CR/PWSMA did not receive an appropriation and desperately needed the monies, the Department provided the CR/PWSMA with "temporary" funding from another Departmental program with the understanding that when CR/PWSMA did receive an appropriation, CR/PWSMA would only receive the balance of what it is entitled to under the above referenced statutes. The total amount previously expensed from the other Departmental program would be reimbursed from the CR/PWSMA's supplemental appropriation.

The appropriation for FY08 is included in the Governor's operating budget as section 10(c).

Totals	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
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Department of Law

Scenario: FY2007 Supplemental - Governor (5770)  
 Component: Labor and State Affairs (2718)  
 RDU: Civil Division (35)  
 Title: Retirement System Litigation

Decision: None  
 Category: None  
 Subcategory: None

New GF Revenue:  
 New Other Revenue:  
 Short Title:

Brief Description:

	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants & Benefits	Misc./Debt Service	Positions		
										PFT	PPT	NP
	Suppl	12,000.0	0.0	0.0	12,000.0	0.0	0.0	0.0	0.0	0	0	0
1029 P/E Retire	8,271.0											
1034 Teach Ret	3,729.0											
Funding for the investigation and proposed litigation related to actuarial services received by the State of Alaska. The investigation would be completed during FY07, and the proposed litigation is contemplated to begin before the end of FY07. The amount of the appropriations is the estimated cost to complete the investigation and take the case from inception through trial.												
	Totals	12,000.0	0.0	0.0	12,000.0	0.0	0.0	0.0	0.0	0	0	0

Office of the Governor

Scenario: FY2007 Supplemental - Governor (5770)

Decision: None

Component: Elections (21)

Category: None

RDU: Elections (433)

Subcategory: None

New GF Revenue:

Title: Funding for April 3, 2007 Special Election authorized by ch.1, FSSLA 2006, HB 4002

New Other Revenue:

Short Title:

Brief Description:

	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants & Benefits	Misc./Debt Service	Positions		
										PFT	PPT	NP
1004 Gen Fund	Suppl	1,156.3	285.6	61.0	756.4	53.3	0.0	0.0	0.0	0	0	0
1004 Gen Fund		1,156.3										
Funding required to conduct the statewide special election on April 3, 2007. Requested funding is based on the cost of the 2006 primary election. Personal services reflects the cost of additional hours for the on-election-year temporary staff required to conduct a statewide election. Contractual services includes: ballot printing, election boards, advertising, shipping and postage, polling place rental and set-up, forms printing microfilming, printing and mailing of informational pamphlet.												
	Totals	1,156.3	285.6	61.0	756.4	53.3	0.0	0.0	0.0	0	0	0

**HB**

**108**

**HFIN**

**FILE**

**HOUSE COMMITTEE REPORT**

(11)

Date Referred to Committee: February 15, 2007

FURTHER REFERRALS:

Date of Committee Action: 2/21/07

The FINANCE Committee considered:

HB 108

HOUSE BILL NO. 108

BOARD OF MARINE PILOTS

"An Act extending the termination date for the Board of Marine Pilots; and providing for an effective date."

Recommends it be replaced with  HCS or  CS for HB 108 (L+C)  
 For Senate Bills with new title:  Technical Title  New Title: HCR \_\_\_\_\_  Same Title  New Title

- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

List of Abbrev for Depts.:  
 ADM  
 CED  
 COR  
 CRT  
 EED  
 DEC  
 DFG  
 GOV  
 HSS  
 LEG  
 LAW  
 LWF  
 MVA  
 DNR  
 DPS  
 REV  
 DOT  
 UA

HFC

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
CED		✓		

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>[Signature]</i>	Garca	✓			
<i>[Signature]</i>	CRAWFORD	✓			
<i>[Signature]</i>	Hawker	*			
<i>[Signature]</i>	Joule	X			
<i>[Signature]</i>	Thomas	X			
<i>[Signature]</i>	NELSON	✓			
<i>[Signature]</i>	STOLTZ	X			
Chair: <i>[Signature]</i>	Phillips	X			
Chair: <i>[Signature]</i>	Chenault	X			

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CS HB 108 (L&C)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correctic \_\_\_\_\_ Dept. Affected: Commerce  
 Title Extending Marine Pilot Board RDU Corp. Bus & Prof Licensing (117)  
 Component Corp. Bus & Prof Licensing  
 Sponsor House Labor and Commerce Committee  
 Requester House Finance Committee Component No. 2360

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services		75.1	75.1	75.1	75.1	75.1
Travel		17.7	17.7	17.7	17.7	17.7
Contractual		50.6	50.6	50.6	50.6	50.6
Supplies		0.6	0.6	0.6	0.6	0.6
Equipment		0.0	0.0	0.0	0.0	0.0
Land & Structures		0.0	0.0	0.0	0.0	0.0
Grants & Claims		0.0	0.0	0.0	0.0	0.0
Miscellaneous		0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>144.0</b>	<b>144.0</b>	<b>144.0</b>	<b>144.0</b>	<b>144.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services		144.0	144.0	144.0	144.0	144.0
<b>TOTAL</b>	<b>0.0</b>	<b>144.0</b>	<b>144.0</b>	<b>144.0</b>	<b>144.0</b>	<b>144.0</b>

Estimate of any current year (FY2007) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The revised fiscal note for CS HB 108 (L&C) reflects the change made in the Labor and Commerce version of HB 108. The termination date was amended from June 30, 2011 to June 30, 2013.

This legislation extends the Board of Marine Pilots to June 30, 2013. In accordance with AS 08 03 020, funding is extended one year following the termination date allowing the Board to conclude its affairs. FY 2008 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct costs included in the FY 2008 budget. FY 2014 would be the one year extended funding in accordance with AS 08 03 020 which is not included on the fiscal note.

Prepared by: House Finance Committee Phone 465-4945  
 Division \_\_\_\_\_ Date/Time 2/21/07 12:00 AM  
 Approved by: Representative Kevin Meyer Date \_\_\_\_\_  
 Agency: Representative Mike Chenault

FISCAL NOTE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

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

ANALYSIS CONTINUATION

The program is required to cover its costs with licensing fees under AS 08.01.065, and revenue generated by board fees are anticipated to cover its full operating costs. New funds are not required to implement this bill.

replaced

# FISCAL NOTE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 108(L&C)  
(H) Publish Date: 2/15/07

Revision Date/Time (Note if correction):  
Title Extending Marine Pilots Board  
Sponsor House Labor and Commerce  
Requester House Labor and Commerce

Dept. Affected: Commerce  
RDU Corp, Bus & Prof Licensing (117)  
Component Corp, Bus & Prof Licensing  
Component No. 2360

### Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services		75.1	75.1	75.1	75.1	
Travel		17.7	17.7	17.7	17.7	
Contractual		50.6	50.6	50.6	50.6	
Supplies		0.6	0.6	0.6	0.6	
Equipment		0.0	0.0	0.0	0.0	
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>144.0</b>	<b>144.0</b>	<b>144.0</b>	<b>144.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

### FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156-Receipt Supported Services		144.0	144.0	144.0	144.0	
<b>TOTAL</b>	<b>0.0</b>	<b>144.0</b>	<b>144.0</b>	<b>144.0</b>	<b>144.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 144.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

### POSITIONS

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation extends the Board of Marine Pilots to June 30, 2011. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Board to conclude its affairs. FY 2008 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct costs included in the FY 2008 budget. FY 2012 is the one year extended funding in accordance with AS 08.03.020.

The program is required to cover its costs with licensing fees under AS 08.01.065, and revenue generated by board fees are anticipated to cover its full operating costs. New funds are not required to implement this bill.

Prepared by: Chris Wyatt, Administrative Manager Phone (907) 465-2572  
 Division: Corporations, Business, and Professional Licensing Date/Time 2/9/07 6:16 PM  
 Approved by: Emil Notti, Commissioner Date 2/9/2007  
 Agency: Commerce, Community, and Economic Development



# ALASKA STATE LEGISLATURE HOUSE LABOR & COMMERCE COMMITTEE

REP. KURT OLSON

Chairman  
State Capitol, Room 17  
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Rep Mark Neuman, V-Chair    Rep. Carl Gatto  
Rep. Jay Ramras                Rep. Berta Gardner  
Rep. Gabrielle LeDoux        Rep. Bob Buch

## CS HB 108 Board of Marine Pilots

CS HB 108 extends the sunset date for the Board of Marine Pilots to 2013, the six year extension recommended by Legislative Audit.

The Board serves a vital public purpose in regulating and licensing qualified individuals who pilot passenger and cargo ships in Alaskan waters.

Since its inception, the Board of Marine Pilots has helped to insure the safe transit of large foreign flagged vessels in Alaskan waters.

Virtually everything we purchase, from food to automobiles, medicines and clothing come to us via cargo vessels. The source of most of our State's revenue travels on tankers with marine pilots on board. Huge cruise ships, with thousands of passengers aboard, enter Alaskan ports each summer.

These vessels transit the pristine bays and inlets of Alaska. Future generations of Alaskan's depend on us to help protect these waters and their beaches from the inadvertent actions of ships captains unfamiliar with Alaskan waters.

The oversight provided by this Board is critical to the continued safe passage of these vessels.

I would appreciate your support of HB 108.

ALASKA STATE LEGISLATURE  
LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300  
Juneau, AK 9811-3300  
(907) 465-3830  
FAX (907) 465-2347  
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November 2, 2006

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, COMMUNITY, AND ECONOMIC DEVELOPMENT  
DIVISION OF CORPORATIONS, BUSINESS, AND PROFESSIONAL LICENSING  
BOARD OF MARINE PILOTS  
SUNSET REVIEW

October 13, 2006

Audit Control Number

08-20045-06

The audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(a) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently, AS 08.03.010(e)(10) states that the board will terminate on June 30, 2007, and will have one year from that date to conclude its administrative operations.

In our opinion, the termination date for the Board of Marine Pilots should be extended. The licensing of qualified marine pilots benefits the public's safety and welfare. We recommend the legislature extend the termination date of the Board of Marine Pilots to June 30, 2013.

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

A handwritten signature in black ink that reads "Pat Davidson".

Pat Davidson, CPA  
Legislative Auditor

# TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology .....	1
Organization and Function .....	5
Background Information.....	5
Report Conclusions.....	9
Findings and Recommendations.....	11
Auditor Comments.....	19
Analysis of Public Need .....	21
Appendices:	
Appendix A - Summary of Responses from Marine Pilots and Industry Members.....	31
Appendix B - Summary of Responses from Marine Pilots.....	37
Appendix C - Summary of Responses from Industry Members .....	43
Agency Response	
Department of Commerce, Community, and Economic Development.....	47

## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Board of Marine Pilots (BMP or the board) to determine if there is a demonstrated public need for its continued existence and if it has been operating in an efficient and effective manner. Currently, AS 08.03.010(c)(10) states that the board will terminate on June 30, 2007 and will have one year from that date to conclude its administrative operations.

### Objectives

There are three central, interrelated objectives of our report. They are:

1. To determine if the termination date of the board should be extended;
2. To determine if the board is operating in the public interest; and
3. To determine if the board has exercised appropriate regulatory oversight of licensed marine pilots.

### Scope

Our audit reviews the operation and activities of the Board of Marine Pilots for the period July 1, 2002 through June 30, 2006. The assessment of the board is based on criteria set out in AS 44.66.060(c).

### Methodology

To accomplish the audit objectives, the following documents were reviewed:

- Applicable sections of federal regulations and state statutes and regulations;
- Minutes of board meetings and annual reports related to, or issued by, the board;
- Licensing files for marine pilots;
- Files maintained by pilot associations and contractors related to drug testing of pilots;
- Marine pilot coordinator's correspondence files;
- Board revenues and expenditures from FY 03 through FY 06;
- Legal information from the Department of Law and the courts; and
- Various reports submitted, as required, by the pilot associations.

We interviewed the following individuals and groups:

- Staff of the Division of Corporations, Business, and Professional Licensing (DCBPL), Department of Commerce, Community, and Economic Development (DCCED);
- Pilot associations' officials, board members, pilots, and shipping agents regarding various concerns and issues involving marine pilotage in Alaska. The topics covered included the activities of BMP, the impact of the mandatory retirement revisions made to marine pilot statutes in 2003, and subsequent impact on the rate setting process on board operations and pilotage in Alaska;
- U.S. Coast Guard licensing and enforcement officers;
- Chief investigator for DCBPL, DCCED;
- Attorney at the Department of Law familiar with Board of Marine Pilot statute and regulations;
- Administrative assistants for pilot boards in the States of Washington and Oregon;
- Staff of the drug testing contractors for the Pilot associations;
- The maritime department head of the Alaska Vocational Center in Seward;
- A private sector contractor specializing in maritime training and evaluation of pilot skills; and
- Executive director and legal counsel of the American Pilot Association.

Additionally, we conducted a survey of licensed marine pilots, some trainees and apprentices, and registered agents and organizations that use piloting services. In addition, we contacted each pilot association and registered agent seeking additional individuals or organization contacts that they believed might be interested in participating in the survey. As a result, we identified and issued surveys to seven additional industry<sup>1</sup> members. Our survey sought responses related to various policy issues, such as:

- Board member objectivity and service;
- Rate setting process;
- Adequacy of drug testing;
- Licensing requirements and pilot disciplinary practices; and
- Simulator training, performance evaluations, and continuing professional education.

---

<sup>1</sup> Industry is defined as vessel agents who must register with BMP, shipping and cruise businesses, and vessel owners.

## ORGANIZATION AND FUNCTION

The Board of Marine Pilots (BMP or the board) was created by Chapter 106, SLA 1970, which became effective May 7, 1970. The statutes were significantly changed with the passage of the Marine Pilot Act of 1991. At that time the legislature gave BMP broad statutory authority which included establishing pilotage regions, maximum tariffs, and criteria for the training and licensing of marine pilots. The policy, findings, and intent of the Marine Pilot Act stated:

*"It is the policy of the state to prevent the loss of lives and property, and to protect the marine environment of the state by requiring compulsory pilotage on the inland and coastal water of and adjacent to the state."*

In 1995 the legislature extensively revised the statutes and overall structure of BMP. The most significant change involved the role in establishing rates for piloting services. This is significant, since pilot associations have control over providing pilot services to foreign-flagged vessels and domestic oil tankers of 50,000 dead weight tons or greater.

### Membership on the Board

BMP is composed of seven members. Membership consists of two licensed pilots who are actively engaged in that profession, two agents or managers of vessels subject to the statutes, two public members, and the commissioner of the Department of Commerce, Community, and Economic Development (DCCED) or a designee. All members must be residents of Alaska.

By statute, not more than one pilot member and one agent may be from any one pilotage region established by the board. Additionally, not more than one registered agent may be employed by, be a contractor for, or hold a financial interest in the same marine industry business entity, including commonly owned, affiliated, or subsidiary business entities.

The public members cannot be engaged in the piloting profession, have a legal contract with a pilot, or have a direct financial interest in the piloting profession.

#### **Exhibit 1**

#### **Members of the Board of Marine Pilots At October 1, 2006**

Albert H. Clough, DCCED  
Deputy Commissioner, Chair

#### Pilot Members

Dale O. Collins, Southeast Region  
Anthony J. Joslyn, Southwest Region

#### Agent Members

Robert J. Arts, Southwest Region  
Les Cronk, Southeast Region

#### Public Members

Jack G. Poulson, Esq. Public Member  
Robert Schasteen, Public Member

### Duties of BMP

1. Maintaining an efficient and competent pilotage service on the inland and coastal waters to ensure the protection of shipping, safety of human life and property, and protection of the marine environment.
2. Adopting regulations establishing qualifications of, and required training for, pilots and providing for examination of pilots.
3. Maintaining a register on licensed pilots, licensed deputy pilots, and agents.
4. Adopting regulations establishing pilotage regions, professional fees, and criteria to recognize pilot organizations.
5. Reviewing and approving training programs conducted by pilot organizations.
6. Reviewing and approving the articles, bylaws, and rules of pilot organizations.
7. Audit a pilot organization or an individual pilot as necessary to implement and enforce this chapter.
8. Establishing and publishing the dates of future license examinations.
9. Approve or disapprove rates for pilotage services in a manner provided for in the marine pilot statutes.

### DCCED, Division of Corporations, Business, and Professional Licensing (DCBPL)

DCBPL provides administrative assistance to BMP. Administrative assistance includes budgetary services and functions such as: collecting fees, maintaining files, receiving and issuing application forms, and publishing notice of examinations and meetings. On its own initiative, DCBPL may conduct an investigation if it appears an individual has engaged – or is about to engage – in a practice over which DCBPL has authority. DCBPL can issue an order that the individual stop the practice, bring an action in Superior Court to enjoin the act, examine the books and records of a license holder and/or association, and issue subpoenas for the attendance of witnesses and records.

### Marine Pilot Coordinator

DCCED employs a marine pilot coordinator to assist the board in fulfilling its statutory duties. The duties of this position, whose hiring is subject to approval by BMP, are set out at AS 08.62.050. The marine pilot coordinator cannot work as a pilot, be an active member of a pilot association, or have a financial interest in a pilot association or the equipment that it uses. The coordinator position is funded from fees generated by BMP.

### Organization of Pilot Associations

All Alaska marine pilots are required to belong to an association. Pilots have formed an association in each of the three regions of Alaska to provide services to the maritime industry. The association exists to facilitate joint activities such as billing and collecting for pilot services and to administer the rotation, dispatch, pilot boat and training operations.

## BACKGROUND INFORMATION

Piloting involves directing a sea-going vessel into and out of waters where navigation has been determined to be dangerous or difficult. The difficulties can include: (1) restricted waterways, such as channels, ports or harbors; (2) tides, currents and water depths; and, (3) type and nature of traffic. A pilot can either be a member of the ship's crew or independent of the crew and brought onto the ship solely for the purpose of guiding the vessel through designated pilotage waters. The pilot's knowledge of the local geography and waterways they are piloting makes them invaluable to the vessel. The pilot is responsible for the safety of those aboard the vessel and the protection of the marine environment.

Pilotage of international trade vessels in the United States is regulated by the individual states, each of which maintains a pilotage system that is suited to the particular needs and circumstances of its own water. In 1789, the first Congress of the United States enacted a law giving the states the right to regulate pilotage in their waters. That created the state pilotage system, which remains in effect today. Every foreign-flag vessel and every U.S.-flag vessel engaged in international trade, moving in the waters of a state, is required to use the services of a state licensed pilot.

### History of pilotage in Alaska

Enacted in 1970, Alaska's original piloting law created the Board of Marine Pilots (BMP or the board) to license pilots. The statute did not specify qualifications and licensing standards for pilots, leaving the establishment of such standards to the discretion of BMP.

In 1990, the legislature drafted and passed a bill, known as the Marine Pilot Act of 1991, making significant changes to Alaska's pilotage statute. The act included a policy, findings, and intent section which emphasized safety by requiring compulsory pilotage on the inland and coastal waters of the State to prevent the loss of lives and property, and to protect the marine environment. The legislature gave BMP broad statutory authority, including identifying pilotage regions, setting maximum tariffs and establishing criteria for the training and licensing of marine pilots.

In 1995, in conjunction with the sunset extension of BMP, the legislature again amended the marine pilot statutes. One of the more significant changes the legislature made involved the role BMP has in establishing rates charged for piloting services. Under the revised statute, local pilot associations set rates either through negotiation with shippers or by providing due notice to all enterprises utilizing pilot services. Upon due notice of a change in rates, affected parties can appeal the change in proposed rates to BMP.

### Rate Setting Process

Prior to 1995, the rates for marine pilot services were established as a maximum tariff set by BMP. This tariff served as a basis for customer charges. Typically, users of marine pilot services paid an amount which included a negotiated discount from the established tariff.

The 1995 amendments to the marine pilot statutes made rate setting the responsibility of the local association through provision of published rates to customers (utilizing pilot services), or negotiation of rates with shipping industry customers.

Upon due notice of a proposed rate change, affected parties can appeal the newly proposed rates to BMP. If the parties fail to reach an agreement, the board can solicit information from the association about the proposed rate change. BMP can then evaluate the information presented, and determine if the proposed change in rates is reasonable. The board acts as the final binding arbiter where the published rates are disputed.

Rate setting was further complicated with the addition of 12 AAC 56.310(e) and (f), effective February 12, 2005, which included the retirement surcharge in the rate setting. This regulation provides that a pilot organization is to provide a retirement plan or program for eligible members. Also, the pilot organization may assess a separate charge at a rate necessary to provide the benefits to be paid out under a retirement program. The charge for the retirement plan or program is to be listed separately in the published rate.

### Requirements for federal licensing

The U.S. Coast Guard (USCG) enforces federal pilotage laws and issues federal licenses to individuals who meet its requirements. In most states, including Alaska, an applicant must have a USCG pilot license in order to obtain a state license. The USCG license is usually referred to as a "minimum standard of competence" license. USCG licensing requires a minimum amount of qualifying sea service in addition to passing a written examination.

A federal license is valid for a period of five years. For renewal of the license, a pilot has to submit evidence of one year of sea service within the previous five years. Pilotage endorsements on the license do not expire, but every five years the pilot must make one familiarization round-trip over the route for which they have an endorsement. For long or extended routes, the pilot does not have to physically make the familiarization trip; the pilot can be certified based on his review of publications and charts.

### Requirements for state licensing

Since knowledge of local geography and waterways is an essential aspect of the pilotage profession, individuals licensed as marine pilots are required to have extensive navigational experience. Established by state law, these requirements involve up to ten years experience in navigating vessels of various sizes. Due to these requirements, most applicants for marine pilot

licensing have extensive experience either with the USCG, Alaska Marine Highway System, or commercial shipping.

Pilot trainee programs provide on-the-job training in the region where licensure is sought. Entry into an apprenticeship program typically requires less experience than entry as a trainee. Candidates in trainee/apprentice programs progress from either trainee or apprentice to a deputy marine pilot (license issued by BMP) and, finally to a marine pilot. It takes from one to four years to attain licensure as a deputy marine pilot. All training programs require the candidate to ride a ship with a fully licensed training pilot, observing their handling of the ship. Over time, the trainee or apprentice begins to handle the ship under the training pilot's guidance. Statute requires a minimum of four years apprenticeship training to become a deputy marine pilot. A deputy marine pilot, in addition to other requirements set out in statute, must have three years experience as a licensed deputy marine pilot to obtain a marine pilot license.

Alaska has a biennial license renewal. BMP has incorporated the continuing proficiency requirements for license renewal in regulations: (1) a marine pilot with Very Large Crude Carrier (VLCC) endorsement for license renewal after January 1, 2001, must have satisfactorily completed a manned model course within six years preceding the license period for which renewal is sought; (2) a deputy pilot and marine pilot must receive a pilot performance monitoring with at least a satisfactory rating each calendar year in which the pilot is engaged in piloting vessels for 30 days or more; and (3) a marine pilot or deputy marine pilot applying for license renewal effective on or after January 1, 2003, must document satisfactory completion of a board-approved, simulator-based training and pilot performance evaluation within six years preceding the license period for which renewal is sought.

#### Vessels subject to Alaska marine pilotage regulations

A pilot is required to be employed for vessels navigating inland and coastal waters of, or adjacent to, the State (as defined by the board). This includes any oil tanker of 50,000 dead weight tons or greater, navigating in state water beyond Alaska pilot stations. Vessels exempt from this regulation include vessels subject to federal pilot requirements, U.S. or Canadian fishing vessels, many U.S. and Canadian registered vessels and foreign-flagged yachts 65 feet or less in overall length.

#### Pilot discipline

All 24 maritime states have procedures for disciplining pilots when incidents occur while the pilot is operating under their state license. In Alaska, reports are investigated by the marine pilot coordinator (MPC), who serves as primary staff to BMP. BMP has the authority to suspend or revoke a pilot's license. BMP also has the statutory power to suspend or revoke a pilot's state license if their USCG license has been conditioned, suspended, or revoked.

The USCG investigates shipping accidents and other navigational incidents involving marine pilots operating under its federal license. The USCG has the authority to issue a letter of warning or reprimand, levy a fine, or seek criminal prosecution. The USCG may suspend or

revoke a pilot's federal license if the pilot violated maritime law or regulation, or was negligent or inattentive to their pilotage duties. However, marine pilots operating within state waterways are not directly under the purview of the USCG.<sup>2</sup>

#### Drug and Alcohol Testing Program

Under AS 08.62.040(b)(2), BMP has the discretionary authority to establish responsibility for a mandatory random drug and alcohol testing program. BMP has delegated the responsibility for the administration of alcohol and drug testing to the local pilot associations. The board requires each pilot association establish a mandatory random drug testing program. Alcohol testing is also performed, but only after a maritime incident or for reasonable cause.

Board regulations specify that a pilot must participate in a random drug testing program conducted according to the requirements of federal regulations (46 CFR 16 and 49 CFR 40). Additionally, pilots are required to report to the marine pilot coordinator that they have participated in a random drug testing program during the previous year.

#### License Fees

Alaska Statutes 08.01.065(a) and (c) require the Department of Commerce, Community, and Economic Development to adopt regulations that establish the amount and manner of payment of an occupation's applicable fees, and that the fee collected for an occupation approximately equals the actual regulatory costs for the occupation. Licensing fees have been as follows:

2001//2002:	\$2,000
2003/2004:	2,600
2005/2006:	2,000

Exhibit 4 on page 23 shows revenues and expenditures for the Board for FY 03 through FY 06.

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<sup>2</sup> Although not under the jurisdiction of the USCG, a marine pilot could be assessed a civil penalty for violations of USCG rules.

## REPORT CONCLUSIONS

Under AS 08.03.010(10), the Board of Marine Pilots (BMP or board) will terminate on June 30, 2007. If the legislature does not take action to extend the board's termination date, then AS 08.03.020 provides the board one year in which to conclude its administrative operations.

The regulation and licensing of qualified marine pilots benefit the public's safety and welfare, as well as protection of the environment. The board provides reasonable assurance that the individuals licensed to pilot passenger and cargo ships in Alaskan waters are qualified to do so. The board has successfully worked with the pilot associations in resolving many of the problems identified in prior sunset audits and has contributed to improving marine safety in Alaskan waters. However, over the past four years the board has been hindered in effectively executing its statutory requirement to arbitrate over the rate setting process.

As discussed in the Findings and Recommendations section, BMP's administration of the mandatory drug and alcohol testing is not consistent with established regulatory standards and needs improvement. Further, BMP should establish procedures to ensure adequate coverage of the marine pilot coordinator's critical investigation functions during a vacancy or extended periods of absence. The board should also consider changes to continuing professional education. Additionally, the legislature should consider statutory changes to direct the usage of pleasure craft exemption fees. See Recommendation Nos. 1 through 6 for further discussion.

In our opinion, BMP serves an important public purpose. It should be continued in statute and its termination date extended for six years until June 30, 2013.

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## FINDINGS AND RECOMMENDATIONS

Four recommendations were made in the prior Board of Marine Pilots (BMP or the board) sunset audit report.<sup>3</sup> One recommendation has been satisfactorily addressed; however, the remaining three are reiterated as Recommendation Nos. 1 through 3 below. Recommendation Nos. 4 through 6 are new recommendations.

### Recommendation No. 1

BMP should establish more informative and comprehensive reporting requirements so the marine pilot coordinator (MPC) can confirm that an appropriate number of licensed pilots are consistently being subjected to random testing.

### Prior Finding

Current state regulation 12 AAC 56.940(h) requires each pilot to submit a report to the MPC by January 31<sup>st</sup> of each year stating that the pilot has participated in a random drug testing program during the previous year. The respective pilot association provides this annual report on behalf of their pilot members. The report is essentially a list of the association's membership – since presumably all members are subject to, but not necessarily selected for, random testing for alcohol and drugs. Nowhere in the report did it indicate if a pilot was actually selected for, and submitted to, a drug test.

### Legislative Audit's Current Position

The prior finding has not been resolved. Of the three associations, two provided the MPC with an incomplete listing of pilots participating in drug testing. Specifically, some pilots identified as working and included in the testing pool were not listed on the report to the MPC. The third association failed to list any of the pilots participating in a drug testing program for both 2004 and 2005.

Incomplete and inaccurate reporting is due in part to the associations not fully understanding state regulation and failure to verify the information listed prior to submitting to the MPC. This information provided to the MPC does not support the actual testing activity conducted and, therefore, is not in compliance with state regulation.

We recommend that BMP revise regulations relating to drug test reporting to ensure the MPC has complete and accurate information with which to identify the extent and results of

<sup>3</sup> Division of Legislative Audit's *Department of Community and Economic Development, Board of Marine Pilots, November 1, 2002, Audit Control No. 08-20015-02.*

testing conducted. We further suggest the board develop or amend current regulation to provide for more specificity about what constitutes participation in a drug testing program, as well as what process should occur in the event of a positive<sup>4</sup> test result. See Recommendation No. 2 for further discussion.

We recommend the MPC take a more active role in monitoring the associations' testing programs throughout the year.

### Recommendation No. 2

BMP should take action to ensure regional pilot associations administer mandatory alcohol and drug testing programs in a manner consistent with established regulatory standards.

### Prior Finding

Under AS 08.62.040(b)(2), the board is authorized to develop a mandatory drug and alcohol testing program for licensed pilots. The board adopted regulations that delegated the responsibility for administering a mandatory alcohol and drug testing program to the local pilot associations. Further, BMP regulations required that local associations administer their programs in accordance with requirements set out in Titles 46 and 49 of the Code of Federal Regulations.

### Legislative Audit's Current Position

The prior finding has not been resolved; however, some improvements have been made. We reviewed detailed records for calendar years 2004 and 2005 – related to the mandatory alcohol and drug testing programs – at all three pilot associations, as well as their drug contractors in the State. These records show continuing problems with the completeness of testing programs and inconsistencies with federal regulatory requirements. Issues noted were:

1. Testing follow-through was incomplete. During 2005 two pilots, from one association selected for random testing, failed to report for analysis. No further follow-up effort was made by the association to ensure that the selected individuals were tested. In addition, one pilot that was selected took over two months to report for testing. Failure to report for testing is considered a *positive* result according to federal regulation. If a pilot is determined to have a positive result –

*“before they may return to work aboard a vessel, the medical review officer shall determine that the individual is drug-free and the risk of subsequent use of dangerous drugs by that person is sufficiently low to justify his or her return to work. In addition,*

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<sup>4</sup> Positive results equate to drugs or alcohol found in urine during drug testing analysis.

*the individual shall agree to be subject to increased, unannounced testing for a period as determined by the medical review office of up to 60 months.*<sup>5</sup>

BMP has no follow-up process in place.

2. Selection for testing was inconsistent between associations. All associations contract for drug testing services. The contractor may include a number of organizations within a consortium to establish a single testing pool. Two of the three pilot associations have established their entire membership as a single testing pool.

In contrast, the membership of one association has directed the contractor to include within their testing pool employees of another entity within their organization<sup>6</sup> creating two subgroups. The addition of the subgroups of nonpilots represents approximately one-third of the association's testing pool. Although, in 2005, 50 percent of the pilots were tested in-compliance with federal regulation, the addition of the group of nonpilots effectively dilutes the testing pool. While including both groups is technically consistent with federal regulation, the association has no mechanism that ensures the subgroup of marine pilots will consistently meet the 50 percent requirement.

Further, this same association did not have any signed agreement with their contractor. If testing problems do occur, responsibilities of either party are unclear, due to lack of agreed upon procedures to resolve them.

3. All pilots were not enrolled in a drug testing program. On a regular basis the associations provide a current listing of active pilots for inclusion in the quarterly, random selection process performed by the contractor. However, one association was unable to provide adequate support for which pilots were actually working during two different quarters in 2005.

Further, three pilots from two different associations were not enrolled by these associations in their mandatory drug testing program. Accordingly, even though these individuals should have been subject to random testing, they were never "eligible" for selection in the quarters reviewed, because their names were not provided to the contractor. One of these pilots claimed he participated in another drug testing program; however, the pilot association did not keep sufficient evidence to support his participation.

The reason for these oversights and inconsistencies were due to either the pilot associations' lack of understanding of testing program requirements set out in the relevant federal regulations, or miscommunication between the associations and their contractors.

<sup>5</sup> Federal regulation 46 CFR 16.370, Medical review officer.

<sup>6</sup> This other group included pilots that ferried the marine pilots to/from pickup and drop-off points, as well as maintenance workers and cooks.

We recommend that the board take a more active role in administering the drug testing program. Procedures and processes should be established through enhanced regulations to clarify the role of the pilot associations in meeting compliance requirements. Additionally, the board, through the MPC should actively monitor the pilot associations. Specific areas which should be addressed include, but are not limited to:

- Identify the number of days, following pilot notification, to report for testing that constitutes a failure to report.
- Immediate reporting to the MPC of positive test results or failure to report.
- Require each pilot association to set out in their by-laws, or operating rules, assurances that they will test 50 percent of their marine pilots.
- Require associations to have a current signed agreement with their testing contractors, as well as providing a copy to the MPC.
- Establish a mechanism or process where the MPC can verify that all pilots are enrolled in their association's program or supply adequate documentation that they are actively participating in another random drug testing program.

### Recommendation No. 3

The legislature should consider amending current statutes in order to extend mandatory drug and alcohol testing to pilot organization trainees and apprentices.

### Prior Finding

At the time of the prior review, no statutory or regulatory provision existed which required trainees or apprentices to be subject to random drug testing. Pilot associations reported that most trainees and apprentices worked for other employers involved in maritime activities. As such they were likely to be included under other employer testing programs according to federal regulations.

### Legislative Audit's Current Position

The prior finding has been partially resolved. The legislature gave the board, through statute, the authority in 2003 to adopt regulations requiring trainees and apprentices seeking a license to participate in a mandatory drug and alcohol testing program through a change to AS 08.62.040(b)(2). The board, however, has yet to propose any mandatory random drug testing regulations over those trainees and apprentices seeking a deputy marine pilot's license. At the present time those seeking a deputy marine pilot's license, under the purview of BMP, are not held to the same standards as a licensed deputy or marine pilot for drug testing. Associations were attempting to manage this requirement informally, but each association had trainees and apprentices who were not fully participating in the program.

Apprentices and trainees should participate in random testing with the pilot associations. This ensures all individuals who board and train on vessels. Under the State's marine pilotage requirements, are subject to random testing. It would also ensure that their participation is reported to the board.

Accordingly, we recommend BMP develop regulations requiring the inclusion of trainees and apprentices to participate in the random drug testing programs administered by the pilot associations. Additionally, they should be included within the reporting requirements as identified in Recommendation No. 1.

#### Recommendation No. 4

The legislature should consider clarifying current statutes specifying the use of pleasure craft exemption fees.

Currently, pleasure craft exemption fees (yacht fees) received by BMP are combined with pilot licensing and other marine pilot occupational fees. A four-year average of yacht fees, from 2003 through 2006, represents approximately 28 percent of the annual revenues of the board. These additional revenues became part of the Division of Corporations, Business, and Professional Licensing's (DCBPL's) computation in determining the amount to assess pilots and pilot candidates for covering the subsequent year's anticipated operation and regulatory costs of the board.

Alaska Statute 08.01.065(c) states:

*"... the department shall establish fee levels under (a) of this section so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation."* [Emphasis added]

Because statutes refer to the amount of fees collected "for an occupation", any fee not related directly to operations or regulation of that profession or trade, such as yacht fees, should presumably not be combined with that occupation's licensing fees. Under current procedures combining yacht fees, not directly related to the piloting profession, results in a reduction of licensing fees due from pilots to support the operations of the board. Further, AS 08.62.180 states:

*"... An exemption issued under this subsection may be revoked by the board if the vessel is not operated in a manner that is appropriate to protect human life, property, and the marine environment or if the vessel does not comply with all applicable local, state, and federal laws."* [Emphasis added]

The State – through BMP – has identified certain pleasure craft as exempt from regulatory oversight, based on a determination they are not a substantial threat to public safety or the environment, as long as the owner or master follows the terms and conditions of the

exemption granted. Therefore, the State has taken on the risk associated with potential harm to the public and the environment. Although the board incurs some costs associated with the administration of yacht fees, they are negligible at less than one percent of total costs of the board in FY 2006.

In our view, regulatory guidance is unclear as to whether the yacht fees paid by owners or their agents should be included with marine pilot licensing revenues. Exclusion of yacht fees provides that, similar to other regulated occupations, the board's operations are only supported by pilots' occupational fees. Accordingly, we recommend the legislature consider revision of current statutes to clarify the use of the yacht fee revenues received by BMP.

#### Recommendation No. 5

The director of the DCBPL should ensure coverage of the marine pilot coordinator's investigative functions occur during extended absences or vacancy.

A violation of vessel movement was reported in Western Alaska during the summer of 2004. Information supplied to the MPC, as required under AS 08.62.157(b),<sup>7</sup> was not investigated within a reasonable amount of time. The case was not assigned for investigation until January 2005, a full six months after the reported violation. At that time, the attorney general's office determined too much time had elapsed to ensure an adequate investigation of the events.

The MPC position was vacant during the last half of 2004, and a divisional staff member performed only cursory functions as acting-MPC. Reliance is placed on the MPC as the primary investigator of marine pilot violations reported to DCBPL. When staffing issues, such as vacancies or extended periods of absence occurs, adequate coverage over this position's investigative functions should be a priority. Without timely investigations performed "*the protection of shipping, the safety of human life and property, and the protection of the marine environment...*" are placed at risk.<sup>8</sup>

We recommend the DCBPL ensure appropriate coverage of critical investigative functions when the MPC's position is vacant for an extended period of time. The Division's Office of Investigation should take over the functions during extended absences of the MPC.

<sup>7</sup> AS 08.62.157(b) Duties of licensed pilots: "*A person licensed under this chapter shall report to the appropriate authority all violations of a federal or state pilotage law.*"

<sup>8</sup> AS 08.62.040(a)(1) Powers, duties, and limitations. "*The board shall provide for the maintenance of efficient and competent pilotage service on the inland and coastal water of and adjacent to the state to assure the protection of shipping, the safety of human life and property, and the protection of the marine environment.*"

Recommendation No. 6

BMP should consider changes to regulations requiring other types of continuing professional education (CPE) of its licensees, instead of the mandatory annual peer review.

To meet CPE requirements,<sup>9</sup> marine pilots and deputy marine pilots receive annual performance monitoring, also known as a "peer review." Peer review is normally a more effective mechanism to ensure continued competency. Although peer reviews are being conducted by the associations, the board is not monitoring associations to ensure satisfactory annual completion by each pilot as required. Additionally, interviews and results of our survey of marine pilots, identified that generally pilots do not consider peer reviews either useful or objective.

If pilots do not consider peer reviews a useful requirement for ensuring competency of performance, the board should – at a minimum – review and reconsider changes to the current process. Further, other alternatives that may be more effective on an annual basis should be given consideration by the board. Continuing education should provide reasonable assurance that the professional is at least keeping abreast with new developments and maintains an awareness of the changes occurring in their profession.

BMP needs to be responsive to the public need for continued competency of licensed pilots. We recommend the board consider developing a CPE program or find an effective peer review process which provides an objective, useful measure of licensed pilot performance.

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<sup>9</sup> 12 AAC 56.083(e) Continuing education requirements: "A deputy marine pilot or marine pilot must receive a pilot performance monitoring with at least a satisfactory rating each calendar year in which the pilot engages in piloting vessels for 30 days or more."

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## AUDITOR'S COMMENTS

As discussed in the Analysis of Public Need section on page 21, rate setting has hindered the efficiency of board operations and has increased legal costs incurred by the State on behalf of the board.

BMP and the Department need to consider alternatives available to remedy difficulties the board has encountered with rate setting.

Over the past four years the board's requirement to hear disputed rate proposals has increasingly become hampered by difficulties of conflicting public policy in statute. BMP is a seven-member board consisting of: two marine pilots, two industry<sup>10</sup> members, two public members, and the commissioner's designee. Inherent in this makeup is a balance of licensed pilots with an equal number of industry members. On rate setting matters it is presumed the four members would cancel each other's vote out, leaving the deciding vote on an issue with the two public members and the chair. Ostensibly on rate setting matters, the board becomes a three-member board – the two public members and the commissioner's designee.

In addition to balancing pilot and industry members on the board, the legislature also specifically exempted the board from the Administrative Procedures Act (AS 44.62). This means the responsibility of hearing rate setting issues is retained by the board and not automatically assigned to an administrative law judge when there is a dispute.

However, the application of Alaska's Executive Branch Ethics Act (AS 39.52) has caused a disruption of the voting balance on rate setting matters. Under Alaska's Executive Branch Ethics Act, members of a board or commission are considered a public officer. AS 39.52.120 defines what is considered a misuse of an official position. The act specifies,

*"A public officer may not... take or withhold official action in order to affect a matter in which the public officer has a personal or financial interest."*

The impact of the Ethics Act is that nonpublic members of the board may have to recuse themselves from voting on rate setting issues. When the board is voting on whether or not to increase pilotage fees in a specific pilotage region, the pilot on the board from that region has a clear financial conflict.

However what is less clear, is when the industry member has a conflict. Under AS 08.62.10, an industry member must be "...registered agents or managers of vessels subject to this chapter who are actively engaged in the procurement of pilotage services.... Not more than one registered agent or manager may be employed by, be a contractor for, or hold a

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<sup>10</sup> Industry members are comprised of vessel agents, shipping and cruise line firms, and vessel owners.

*financial interest in the same marine industry business entity, including commonly owned, affiliated, or subsidiary business entities.*

Currently, there are neither board policies requiring disclosure of all the business affiliations for its industry board members nor guidelines provided when an industry member has a conflict under the State's Ethics Act.

The effect of recusing one nonpublic member of the board during rate setting is to create an imbalance in vote counts between pilots and industry board members. When one of the two pilot members is recused, industry needs only two of the three votes of the public members and chair to defeat a rate matter. Whereas the remaining pilot would need all three votes to pass a rate matter.

Rate setting is absent from the purview of most professional occupational boards in Alaska with the exception of the Board of Marine Pilots.<sup>11</sup> Further, rate setting is part of the objectives of other states' marine piloting boards – such as Washington's State Board of Pilotage Commissioners and the Oregon Board of Maritime Pilots. Both of these states have recognized that their boards, created in statutes, have an inherent financial conflict of interest when voting on pilotage rate issues. Despite this conflict, no member need recuse themselves from voting on board issues in which they have a direct financial interest because it would create an imbalance.

The Department and BMP should consider the options available to them which would alleviate the rate setting difficulties currently hampering their effectiveness. Some options to be considered might include:

- A narrowly defined exemption within the Ethics Act, specific to rate setting. Although this is in opposition of public policy, the unique nature of board functions could support this action while still generally recognizing all other Ethics Act requirements that are applicable to protect public interest.
- The board can establish policies requiring employment disclosures from the industry members that identify all business relationships. The board can then establish a policy identifying those circumstances when an industry member has a conflict and should be recused from voting.
- Removal of the board's exemption from the Administrative Procedures Act, effectively removes the board from the rate-setting process and forwards the sole responsibility for rate decisions to an administrative law judge.

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<sup>11</sup> In addition, the Board of Realtors sets specific rates, but it is done based on advise of the Department and not presented to board members.

## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analyses of the Board of Marine Pilots' (BMP or the board) activities relate to the public-need factors defined in the sunset law, AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas covered within the scope of our review.

As part of the review, a survey was conducted of the primary stakeholders of the board's functions and actions including pilots licensed and regulated by the board and industry<sup>12</sup> who utilize the services of pilots. Seventy-seven pilots<sup>13</sup> were provided the survey and 50 responded. Twenty-three industry members were provided the survey and 13 responded. Survey results are presented in the Appendices of this report.

*Determine the extent to which the board, commission, or program has operated in the public interest.*

The regulation and licensing of qualified marine pilots benefits the public's safety and welfare. The quantity of tourist passenger ships traveling in Alaskan waters, coupled with shipping, has continued to make BMP's role important. During the period covered by this review (July 1, 2002 to June 30, 2006) BMP has licensed six deputy marine pilots and five marine pilots.

The board provides reasonable assurance that the individuals licensed to pilot passenger and cargo ships in Alaskan waters are qualified to do so.

BMP has continued to update their exam database questions and answers for content, applicability, and accuracy. The pilot associations' designated training chairs, actively solicit all pilot members for questions to present to the board for input into the testing database. The board also focused on improvements to address training and continuing education of Alaska marine pilots as follows:

- The board has increased both docking requirements and supervised transits within particularly sensitive environmental or hazardous waterways.
- The board has a proposal into the Department of Law for changing regulations from a board-approved simulator to an industry-standard Class A facility.<sup>14</sup>

<sup>12</sup> Industry represents vessel agents, shipping and cruise firms, and vessel owners.

<sup>13</sup> Includes some trainees.

<sup>14</sup> Det Norske is a rating system which identifies simulators meeting an industry-determined standard, Class A being the most rigorous.

- The board has created new requirements for a marine pilot wishing to transfer from one region to another. Specifically, the pilot must have successfully completed the board-approved training program for the requested region prior to approving the license move.

Survey responses showed mixed results on the overall satisfaction of the board's performance. Pilots responded with 52 percent "above average" for overall satisfaction whereas, 54 percent of industry members rated the board's performance "below average" (See page 31). Similarly, 44 percent of the pilots gave the board a rating of "above average" on addressing important issues while 62 percent of industry representatives gave the board a "below average" rating on the same factor (See page 32).

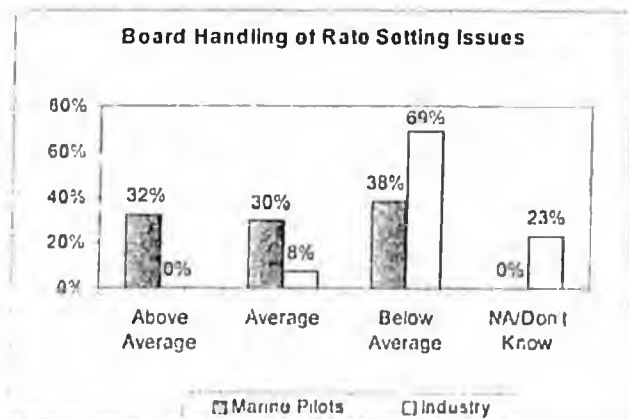
*Determine the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.*

### Rate Setting

The board's rate setting process has been significantly impeded by the role of board members which has been determined to be in conflict with the Executive Branch Ethics Act. Specifically, over the past four years, the necessity for some pilot members to recuse themselves from voting on rate issues has created an imbalance on the board. The board structure, established by the legislature, created a situation where the two licensed pilots and two industry members would, most likely, have an inherent conflict due to a personal or financial interest when rate decisions came before the board. See Auditor Comments for further discussion.

As shown in Exhibits 2 and 3, 69 percent of industry respondents rate the board's handling of rate issues as below average. However, both pilots and industry oppose removing the rate setting process from the board.

**Exhibit 2**



**Exhibit 3**

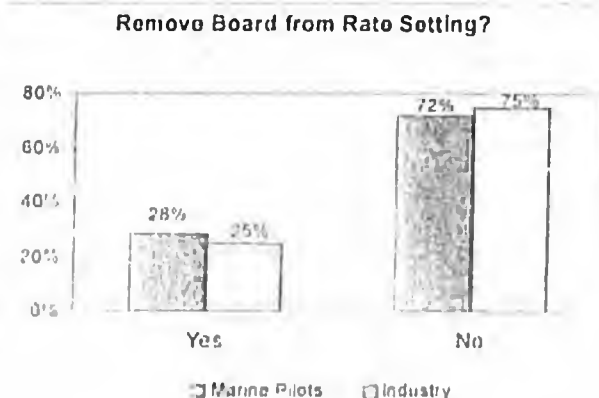


Exhibit 4

**Schedule of Board of Marine Pilots  
Revenues, Expenditures, and Cumulative Roll Forward  
For the period FY 03 through FY 06  
(unaudited)**

	FY06	FY05	FY04	FY03
<b>Board Revenues:</b>				
Yacht Fees	\$ 37,050	\$ 43,064	\$ 51,500	\$ 26,800
Licensing and Occupational Revenues	29,967	162,380	11,430	198,602
<b>Total Revenues:</b>	<b>67,017</b>	<b>205,444</b>	<b>62,930</b>	<b>225,402</b>
<b>Board/Occupation Direct Expenditures:</b>				
Personal Services	82,039	63,116	98,937	82,230
Travel	19,152	16,211	17,084	12,757
Contractual	60,685	37,979	24,622	15,945
Supplies	3	727	580	388
Equipment	-	-	-	-
<b>Total Board/Occupation Direct Expenditures:</b>	<b>162,044</b>	<b>118,033</b>	<b>141,223</b>	<b>111,320</b>
<b>Total Administrative Indirect Expenditures:</b>	<b>3,693</b>	<b>4,445</b>	<b>4,382</b>	<b>4,409</b>
<b>Total Direct and Indirect Expenditures:</b>	<b>165,737</b>	<b>122,478</b>	<b>145,605</b>	<b>115,729</b>
<b>Revenues - Expenditures</b>	<b>(98,720)</b>	<b>82,966</b>	<b>(82,675)</b>	<b>109,673</b>
<b>Cumulative Roll Forward Surplus</b>	<b>\$ 72,014</b>	<b>\$ 170,764</b>	<b>\$ 87,798</b>	<b>\$ 170,475</b>

Board Finances

The schedule above presents the Board revenues and expenditures used to calculate the board's licensing fees.<sup>15</sup> At the end of FY 06, the board shows a surplus of over \$72,000. Given the current litigation regarding rate setting, contractual costs in FY 06 are higher than

<sup>15</sup> Any fines collected by the board are not reflected in this schedule because they are not used in calculating the licensing fees.

prior years and probably will be higher again in FY 07. Therefore, the current surplus is necessary to avoid increasing licensing fees in the future to cover the cost of the litigation.

As discussed in Recommendation No. 4, the crediting of yacht fees to the board should be reexamined. If a change is made to exclude yacht fees from the calculation of required license fees, then licensing fees would likely increase. Licensing fees have been lowered in recent years as a result of the inclusion of yacht fees in the overall fee determination calculation.

#### Drug Testing

Passive enforcement of the drug testing program, through delegation to the pilot associations, did not significantly improve from the prior audit period. Current procedures and practices by the board are insufficient to ensure the adequacy of the drug testing program. Those practices impeded the board's ability to operate effectively. See Recommendation Nos. 1 through 3.

*Determine the extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.*

During the past four years the board has supported three statutory changes. The first was enhancing the drug testing to include trainees and apprentices seeking a license. The second change modified the exemptions for pleasure craft from requiring pilotage. The final change was to modify the degrees and minutes of the northern latitude where compulsory pilotage is required.

*Determine the extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.*

BMP has published notices of all examinations, meetings, and prospective regulation changes. Public notice of meetings, examinations, and changes in published rates are made in newspapers of general circulation and also in the State of Alaska's Online Public Notice website. Additionally, a period of time for public comment was available at each BMP meeting.

The Division of Corporations, Business, and Professional Licensing (DCBPL) maintains a list of individuals or organizations who are interested in the regulations of that occupation. DCBPL sends a *Notice of Proposed Regulations* automatically to the parties on the occupation listing, each time there is a proposed change in the occupation's regulations.

*Determine the extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.*

As noted previously, each board meeting's agenda allots time for public comment. The public has been encouraged to use these public comment periods to express concerns, obtain information from the board, and participate in the regulatory process. When the agenda time allotments could not be followed based on topics covered, the board still adhered to the specified public comment period.

*Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.*

Complaints and concerns regarding decisions and activities of the board, as well as complaints about the performance of licensed marine pilots, were generally handled and resolved in an appropriate manner consistent with its priority and the limitations of the DCBPL's staff. However, during a period of approximately six months, the MPC position was vacant and critical investigation functions were not timely handled. (See Recommendation No. 5.)

No complaints were filed with the Office of the Ombudsman or the Office of Victims Rights in recent years regarding the operations of the board specifically, or marine pilots in general. BMP has revoked two marine pilot licenses - one each in FY 04 and FY 06. These revocations were due to an accident occurring as a result of the pilot's actions and due to medical reasons, respectively.

Survey respondents expressed opinions about complaints, investigations, and disciplinary actions as follows:

- Forty-two percent of industry respondents said the board should be more proactive during the course of an investigation into an accident which causes damage or harm to people, property, or the environment. In contrast, 72 percent of pilots believed the board did not need to be more proactive. (See page 36)
- Industry representatives were evenly split on how the board handled incidents involving pilots, 38 percent rated the board above average, 38 percent rated the board below average and 24 percent rated the board as average. (See page 45)