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1 * Sec. 9. AS 43.20.011(d) is repealed and re-enacted to read:

2 (d) The department shall compute and publish Alaska income tax
3 liability tables for taxpayers.

4 * Sec. 10. AS 43.20.011(e) is repealed and re-enacted to read:

5 (e) There is imposed for each taxable year upon the entire taxable
6 income of every corporation derived from sources within the state a tax
7 consisting of a normal tax equal to 5.4 percent of taxable income, and a
8 surtax which is equal to 4.0 percent of taxable income, except that the
9 tax on a corporation engaged in the production or transportation of
10 crude oil or natural gas shall be determined and paid in accordance with
11 AS 43.21. For tax years beginning after December 31, 1979, each
12 corporation is exempt from paying the first \$50,000 of the surtax levied
13 in this subsection. For a controlled corporation described in secs.
14 1561 - 1563 of the Internal Revenue Code only one surtax exemption may
15 be allowed for the controlled group.

16 * Sec. 11. AS 43.20.021(d) is amended to read:

17 (d) Where a credit allowed under the Internal Revenue Code is also
18 allowed in computing Alaska income tax, it is limited to 16 percent [OF
19 THE AMOUNT OF THE CREDIT DETERMINED FOR FEDERAL INCOME TAX PURPOSES] for
20 individuals and fiduciaries and 18 percent for corporations of the
21 amount of credit determined for federal income tax purposes which is
22 attributable to the state.

23 * Sec. 12. AS 43.20.021 is amended by adding a new subsection to read:

24 (g) For purposes of calculating the accumulated earnings tax as
25 provided in the Internal Revenue Code, sec. 531, the rate is 4.95 per-
26 cent of the first \$100,000 of accumulated taxable income and 6.93 per-
27 cent of accumulated taxable income in excess of \$100,000.

28 * Sec. 13. AS 43.20.031(a)(3) is amended to read:

29 (3) the benefits of nonrecognition of gain on the sale, [OR]

1 exchange, or other disposition of certain property under secs. 1031,
2 1033, and 1034 of the Internal Revenue Code (26 U.S.C. secs. 1031, 1033
3 and 1034) are allowed only to taxpayers who purchase or exchange the
4 property within the state, except that the benefits of sec. 1034 shall
5 be allowed regardless of the location of the property for taxpayers who
6 have attained the age of 65 on or before the time of the purchase or
7 exchange; for purposes of this paragraph,

8 (A) the gain that results is subject to the benefits of
9 secs. 1201, 1202, 1221, and 1231 of the Internal Revenue Code as
10 if the gain had been recognized for federal tax purposes; and

11 (B) the basis of the acquired property shall be adjusted
12 as provided in sec. 1016 of the Internal Revenue Code as if the
13 gain had been recognized for federal tax purposes;

14 * Sec. 14. AS 43.20.031(e) is amended to read:

15 (e) An affiliated group of corporations may make or the commis-
16 sioner may require them to make a consolidated [OR COMBINED] return for
17 the taxable year in place of separate returns. For purposes of calcu-
18 lating the amount of tax payable by the group under a consolidated
19 filing, Internal Revenue Code secs. 1501 - 1552, as amended, apply.

20 * Sec. 15. AS 43.20.031(h) is amended to read:

21 (h) A taxpayer who purchases an entry permit under AS 16.43 in
22 carrying on a trade or business is entitled to a deduction of the amount
23 of the price paid during the tax year as if it were allowable under sec.
24 162 of the Internal Revenue Code (26 U.S.C. sec. 162). The basis of
25 the entry permit shall be reduced by the amount of the deduction which
26 the taxpayer is entitled to claim under this subsection.

27 * Sec. 16. AS 43.20.031 is amended by adding a new subsection to read:

28 (i) A corporation which is a member of a group of unitary cor-
29 porations which collectively has income from business activity taxable

1 both inside and outside the state, or income from other sources both
2 inside and outside the state, shall determine its income from sources in
3 this state by use of the combined method of accounting.

4 * Sec. 17. AS 43.20 is amended by adding a new section to read:

5 Sec. 43.20.033. TAXABLE INCOME OF FIDUCIARY. The taxable income
6 of a fiduciary is its taxable income as determined under AS 43.20.031
7 when attributable to sources in the state as provided in AS 43.20.040.

8 * Sec. 18. AS 43.20.035(a) is amended to read:

9 (a) The taxable income of nonresidents or part-year residents of
10 this state is taxable income as determined under AS 43.20.031 when
11 attributable to sources in the state as provided in AS 43.20.040 with
12 the following modifications:

13 (1) a nonresident or part-year resident of this state shall
14 be allowed a deduction, in place of the deductions [WHO HAS NO EXCESS
15 ALASKA ITEMIZED DEDUCTIONS AS DEFINED IN (4) OF THIS SUBSECTION IS
16 ALLOWED THE MINIMUM DEDUCTION] provided by AS 43.20.031(a)(4) and excess
17 itemized deductions provided under the Internal Revenue Code, in the
18 amount of the minimum deduction and excess itemized deductions in the
19 proportion provided in (b) of this section;

20 (2) a nonresident or part-year resident is allowed a deduc-
21 tion equal to the personal exemption deduction as defined in sec. 151 of
22 the Internal Revenue Code in the proportion provided in (b) of this
23 section[;

24 (3) A NONRESIDENT OR PART-YEAR RESIDENT WHO HAS EXCESS ALASKA
25 ITEMIZED DEDUCTIONS IS ALLOWED HIS ENTIRE ALASKA ITEMIZED DEDUCTIONS;

26 (4) "ALASKA ITEMIZED DEDUCTIONS" AS USED IN THIS SECTION ARE
27 THOSE ITEMIZED DEDUCTIONS ALLOWED UNDER THE INTERNAL REVENUE CODE WHICH
28 ARISE FROM SOURCES IN THE STATE EXCEPT THOSE ITEMS DESCRIBED IN AS 43.-
29 20.031(c); "EXCESS ALASKA ITEMIZED DEDUCTIONS" MEANS THE EXCESS (IF ANY)

1 OF:

2 (A) ALASKA ITEMIZED DEDUCTIONS, OVER

3 (B) THE MINIMUM DEDUCTION AS DEFINED IN AS 43.20.031-

4 (a)(4)].

5 * Sec. 19. AS 43.20.038(a) is amended to read:

6 (a) An individual is allowed as a credit against the tax due under
7 this chapter five percent of his residential fuel expenses paid during
8 the year, but not less than a minimum credit of \$10. For married tax-
9 payers filing separate returns, the minimum credit is \$5 for each re-
10 turn. Part-year resident and nonresident individual taxpayers shall
11 prorate the credit allowed in this section as provided by AS 43.20.-
12 035(b) [ACCORDING TO THE NUMBER OF MONTHS RESIDED IN THE STATE].

13 * Sec. 20. AS 43.20.039(c) is amended to read:

14 (c, Part-year resident and nonresident individuals shall prorate
15 the credits provided in this section as provided by AS 43.20.035(b)
16 [ACCORDING TO THE NUMBER OF MONTHS DURING WHICH THE TAXPAYER RESIDED IN
17 THE STATE].

18 * Sec. 21. AS 43.20 is amended by adding a new section to read:

19 Sec. 43.20.045. PRORATION OF PART-YEAR RESIDENT AND NONRESIDENT
20 INDIVIDUAL CREDITS. Unless otherwise provided by AS 43.20.035 -
21 43.20.039, a credit allowable to a part-year resident and nonresident
22 individual is limited to the amount of the credit computed according to
23 AS 43.20.021(d), if that section applies, and the credit shall be
24 prorated as provided by AS 43.20.035(b).

25 * Sec. 22. AS 43.20.065 is amended to read:

26 Sec. 43.20.065. ALLOCATION AND APPORTIONMENT. A taxpayer who has
27 income from business activity which is taxable both inside and outside
28 the state or income from other sources both inside and outside the state
29 shall allocate and apportion his net income as provided in [ART. IV OF]

1 the Multistate Tax Compact (AS 43.19 [43.19.010]), or [AND] as provided
2 by this chapter [IN AS 43.20.071 FOR WATER TRANSPORTATION CARRIERS].

3 * Sec. 23. AS 43.20.071 is repealed and re-enacted to read:

4 Sec. 43.20.071. TRANSPORTATION CARRIERS. (a) All business income
5 of water transportation carriers shall be apportioned to this state in
6 accordance with the Multistate Tax Compact (AS 43.19) as modified by the
7 following:

8 (1) the numerator of the property factor is the sum of the
9 value for property in a fixed location, including buildings and land
10 used in the business, and intrastate equipment and personal property
11 determined according to the Multistate Tax Compact (AS 43.19), and the
12 value of interstate mobile property determined on a days-spent-in-ports
13 basis as provided in (4) of this subsection; the denominator of the
14 property factor is determined according to the Multistate Tax Compact
15 (AS 43.19);

16 (2) the numerator of the payroll factor is the sum of the
17 wages and salaries of employees assigned to fixed locations determined
18 according to the Multistate Tax Compact (AS 43.19) and the wages and
19 salaries of employees assigned to interstate mobile property determined
20 on a days-spent-in-ports basis as provided in (4) of this subsection;
21 the denominator of the payroll factor is determined in accordance with
22 the Multistate Tax Compact (AS 43.19);

23 (3) the numerator of the sales factor is the sum of all
24 revenues from intrastate activities and revenues from interstate activi-
25 ties determined on a days-spent-in-ports basis as provided in (4) of
26 this subsection; the denominator is determined in accordance with the
27 Multistate Tax Compact (AS 43.19);

28 (4) the portions of the numerator of the property, payroll,
29 and sales factors which are directly related to interstate mobile pro-

1 perty operations are determined by a ratio which the number of days
2 spent in ports inside the state bears to the total number of days spent
3 in ports inside and outside the state; the term "days spent in ports"
4 does not include periods when ships are tied up because of strikes or
5 withheld from Alaska service for repairs, or because of seasonal re-
6 duction of service; days in port are computed by dividing the total
7 number of hours in all ports by 24.

8 (b) The department shall, by regulation, adopt formulas to ensure
9 that the total income subject to apportionment under this section has
10 been apportioned only to those states having jurisdiction to the income
11 tax. Transportation carriers other than water carriers shall apportion
12 their income to the state by means of the formulas adopted by the
13 department.

14 * Sec. 24. AS 43.20.170(b) is amended to read:

15 (b) The rules with respect to withholding of tax set out in sec.
16 [SECS.] 3402(a) - (e), (f)(1)(A) - (E) and (G), (f)(2) - (7), (g) -
17 (1), and (o) - (r) [(i)]; sec. 3502(b); and sec. 6414 of the Internal
18 Revenue Code of 1954, as amended, apply with respect to this section as
19 though fully set out in this section. Remittance of taxes withheld
20 shall be accompanied by returns on forms prescribed by the department.

21 * Sec. 25. AS 43.20.200(a) is amended to read:

22 (a) As soon as practicable after a return is filed, the department
23 may [SHALL] examine it and determine the correct amount of the tax. If
24 an error is disclosed by the examination, the department shall so notify
25 the taxpayer by first-class mail. The taxpayer may petition for re-
26 determination of deficiency as provided in AS 43.05.240 [AS 43.20.280].

27 * Sec. 26. AS 43.20.270(f) is amended to read:

28 (f) The property distrained shall be restored to the owner or
29 possessor if, before the sale, payment of the amount due is made to the

1 deputy or agent charged with the collection, together with the fees and
2 other charges; but in case of nonpayment, the [SAID] deputy or agent
3 shall proceed to sell the property at public auction. The owner of real
4 property sold under this section, his heir, executor, or administrator,
5 or a person in his behalf may redeem the property sold or a particular
6 tract of the property at any time within 120 days [TWO YEARS] after the
7 sale of the property or tract [THEREOF]. The property or tract may be
8 redeemed upon payment to the purchaser or, if he cannot be found in the
9 state, then to the commissioner of revenue for the use of the purchaser,
10 his heirs, or assigns, the amount paid by the purchaser and interest on
11 it at the rate of 12 [SIX] percent a year. If land sold is redeemed
12 under this subsection, the commissioner shall cause entry of the fact to
13 be made upon the record mentioned in (g)(6) of this section and the
14 entry shall be evidence of such redemption.

15 * Sec. 27. AS 43.31.141 is amended to read:

16 Sec. 43.31.141. WHEN TAX DUE, EXTENSION AND INTEREST. The tax
17 imposed by this chapter is due and payable 15 months after the dece-
18 dent's death, and shall be paid by the executor to the department. If
19 the department finds that the payment on the due date of tax or any part
20 of the tax would impose undue hardship upon the estate, the department
21 may extend the time for payment of any part, but no extension may be for
22 more than one year and the aggregate of extensions with respect to an
23 estate may not exceed five years from the due date. In that case the
24 amount in respect of which the extension is granted shall be paid on or
25 before the date of the expiration of the period of the extension unless
26 a further extension is granted. If the time for the payment is extended
27 there shall be collected, as part of this amount, interest on the tax at
28 the rate provided in AS 43.05.225 [OF SEVEN PERCENT A YEAR] from the due
29 date of the tax to the date the tax is paid.

1 * Sec. 28. AS 43.40.030(b) is amended to read:

2 (b) The entire tax levied by this chapter [AS 43.40.010 - 43.40.-
3 100] shall be refunded to the purchaser on that part of the motor fuel
4 used in a foreign country on which duty is paid when the fuel is sold
5 and delivered in the state for nonhighway use in a foreign country.

6 * Sec. 29. AS 43.40.030 is amended by adding a new subsection to read:

7 (d) If a person obtains motor fuel on which the tax levied by this
8 chapter has been paid and the motor fuel is exempt from the tax, the
9 person is entitled to a refund of the tax paid.

10 * Sec. 30. AS 43.40.050(a) is amended to read:

11 (a) A person who claims a refund as provided in this chapter
12 [AS 43.40.010 - 43.40.100] shall present his claim to the commissioner
13 of revenue by affidavit upon a form provided by the commissioner. The
14 form shall contain the name, address and occupation of the applicant,
15 the nature of the business of the applicant, and a description suffi
16 cient to identify the machinery or equipment in which the motor fuel
17 (for which the refund is claimed) was used [WITH THE INFORMATION THE
18 COMMISSIONER REQUIRES]. The claim shall be accompanied by each invoice
19 issued to the claimant at the time the motor fuel was [IS] purchased.
20 The commissioner may require any additional information which he con-
21 siders necessary for the administration of this chapter [AS 43.40.010 -
22 43.40.100].

23 * Sec. 31. AS 43.50.010 is amended by adding a new subsection to read:

24 (e) A license issued under this chapter shall include
25 (1) the name and address of the licensee;
26 (2) the type of business to be conducted; and
27 (3) the year for which the license is issued.

28 * Sec. 32. AS 43.50.150 is amended to read:

29 Sec. 43.50.150. ADMINISTRATION. (a) The department shall (1)

1 administer this chapter [AS 43.50.010 - 43.50.180], and (2) collect,
2 supervise, and enforce the collection of taxes [AND PENALTIES] due under
3 this chapter and penalties as provided in AS 43.05 [AS 43.50.010 - 43.-
4 50.180].

5 (b) The department may adopt [PUBLISH] regulations necessary for
6 the administration of this chapter [AS 43.50.010 - 43.50.180], [(1) TO
7 ENFORCE AS 43.50.010 - 43.50.180, AND (2) TO COLLECT THE TAXES, FEES,
8 AND PENALTIES IMPOSED BY AS 43.50.010 - 43.50.180].

9 * Sec. 33. AS 43.50.190(b) is amended to read:

10 (b) The tax levied by this section is in addition to the tax
11 levied by AS 43.50.010 - 43.50.180. The tax shall be administered and
12 collected in the same manner as the tax levied by AS 43.50.010 - 43.50.-
13 180, except that receipts from the tax shall be deposited in the general
14 fund. The penalties provided in AS 43.05 [ESTABLISHED IN AS 43.50.010 -
15 43.50.180] apply to the tax levied in this section.

16 * Sec. 34. AS 43.60.040 is amended by adding a new subsection to read:

17 (h) A license issued under this section shall include
18 (1) the name and address of the licensee;
19 (2) the nature or type of liquor business to be conducted;
20 and
21 (3) the year for which the license is issued.

22 * Sec. 35. AS 43.65.010 is amended by adding a new subsection to read:

23 (i) A license issued under this section shall include
24 (1) the name and address of the licensee;
25 (2) the nature or type of mining activity to be conducted;
26 and
27 (3) the year for which the license is issued.

28 * Sec. 36. AS 43.70.020(a) is amended to read:

29 (a) For the privilege of engaging in a business in the state, a

1 person shall first apply, upon forms prescribed by the commissioner, and
2 obtain a license [SO TO DO], and pay the license fee provided for in
3 AS 43.70.030. A license issued to a firm for a particular line of
4 business covers all its operations in the state in the line of business
5 regardless of the number of its establishments. A license issued under
6 this subsection shall include

7 (1) the name and address of the licensee;

8 (2) the line of business to be conducted; and

9 (3) the year for which the license is issued.

10 * Sec. 37. AS 43.75.020 is amended by adding a new subsection to read:

11 (c) A license issued under this chapter shall include

12 (1) the name and address of the licensee;

13 (2) the line of business to be conducted;

14 (3) the year for which the license is issued; and

15 (4) any other information which the department prescribes.

16 * Sec. 38. The following laws are repealed: AS 43.05.100(a); AS 43.10.-
17 040, 43.10.050; AS 43.20.150, 43.20.160(b), 43.20.220, 43.20.240, 43.20.260;
18 AS 43.31.171; AS 43.40.040; AS 43.50.100(a), (c), and (e); AS 43.58.120,
19 43.58.130; AS 43.65.050(b) and (c); AS 43.70.060; AS 43.75.050(c), 43.75.-
20 140(8); and AS 43.80.030.

21 * Sec. 39. The following laws are repealed: AS 43.20.335; AS 43.26.060;
22 AS 43.31.360; AS 43.31.370, 43.31.380, 43.31.390; AS 43.35.080; AS 43.40.020,
23 43.40.080(b), 43.40.090; AS 43.45.060; AS 43.50.160; AS 43.55.120, 43.55.130;
24 AS 43.56.190; AS 43.60.040(d), (e), and (f); AS 43.65.050(d), (e), and (f);
25 AS 43.70.100; AS 43.75.050(d), (e), and (f), 43.75.120; and AS 43.80.020.

26 * Sec. 40. Section 15 of this Act is retroactive to January 1, 1977 and
27 applies to tax years beginning after December 31, 1976.

28 * Sec. 41. Sections 1 - 4, 6 - 14, 16 - 30, 32, 33 and 38 of this Act are
29 retroactive to January 1, 1980, and apply to tax years beginning after

1 December 31, 1979.

2 * Sec. 42. Sections 1 - 30, 32, 33, 38, 39, and 40 of this Act take
3 effect immediately in accordance with AS 01.10.070(c). Sections 31, and 34 -
4 37 of this Act take effect January 1, 1981.

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HB

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STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING

POUCH SA - JUNEAU 99811

April 6, 1979

The Honorable Charles H. Parr
House of Representatives
Chairman, House Judiciary Committee
Pouch V
Juneau, AK 99811

Dear Mr. Parr:

I am writing to expand upon my testimony on HB 354 before the House Judiciary Committee on March 30, 1979. At that time you questioned why the enforcement sections of Title 43 have not been updated and if there is any logic to a more restricted list of exempt property for tax collection purposes than that for the execution of a judgment.

AS 43.20.270 is the section which allows the Department of Revenue to collect taxes, with interest, penalties and other additional amounts permitted by law, by the distraint and sale of the taxpayer's property. AS 43.10.030 extends the distraint remedy to all State Revenue Statutes.

Collection by Distraint on Personal Property was permitted under Sec. 12 D ch 132 SLA 1951. Prior to that act the remedy for non-payment of tax was a lien foreclosure or court proceeding in the same manner as any other debt in like amount. Sec. 12 ch 115 SLA 1949. The 1951 act allowed for the distraint of personal property and levy and set out the exempt property as it is in the statute today. The remedy of distraint was extended to real property in 1962. Sec. 1 ch 115 SLA 1962.

1962 was the last time AS 43.20.270 was amended. In the 17 years since then, even considering the limited amount of exempt property, neither the legislature nor the department have sought and been successful in obtaining amendments to this section. Why?

AS 43.20.270 (a): "The department may collect taxes... by distraint and sale..." The key word is "may." "May" gives the department some discretion in the methods it uses to collect the taxes due the State. The department has worked to take a reasonable approach to tax collection. Realizing that the mail from one point in Alaska to another may take longer than ten days and therefore a seizure after the ten days authorized by statute would be unreasonable, the department will usually give a longer period for the taxpayer to pay before enforcing collection action. There will be cases in which the department may wish to use every statutory remedy available, such

as the case where the taxpayer has caused the collection of the tax to be put in jeopardy, but the department can exercise its discretion on a case by case basis. Naturally the statutes have to be written for the extreme case but the selection and use of the available remedies is left to departmental discretion.

There can be no doubt that the taxpayer who is left with only his exempt property under AS 43.20.270 (b) would be in real trouble. Again the discretion of the department has been used to not distraint to this extent. The primary function of the enforcement division is to promote voluntary compliance with State Revenue Laws and judgment calls must be made to determine whether a course of action will reach this goal or cause such resentment that the fires of tax protest might be fueled. An example of a seizure which seemed to cause more harm than good was here in Juneau where the IRS seized a boat belonging to a tax protester. There was quite a bit of unfavorable publicity surrounding that seizure and the subsequent tax protestor meetings were attended by a broad spectrum of Juneau citizenry. We cannot be so narrow as to collect the tax at all costs to the taxpayer, or the department; we are seeking voluntary compliance with the State tax laws, not the strict punishment of delinquent taxpayers.

Regarding the second issue, why have a stricter limit to exempt property for tax collection than those exemptions from execution under AS 09.35.080? Perhaps it is grounded in the sentiment put into words by the US Supreme Court:

"Indeed one may readily acknowledge that the existence of the levy power is an essential part of our self-assessment tax system and that it enhances voluntary compliance in the collection of taxes that this Court has described as the life blood of Government; and their prompt and certain availability an imperious need."
G M Leasing Corp. v US 429 US 338 at 350, 50 L Ed 2d 530 at 542.

The court was writing of two things, 1) voluntary compliance with the collection of taxes and 2) their prompt and certain availability. The remedy of distraint reaches both goals. It can be a quick and efficient way of securing revenue as well as a warning against others who may be considering not filing returns or paying taxes. Title 9 provides for the execution of judgments out of ordinary civil causes of action, but taxes are "the life blood of government." Taxes are more integrally connected with the functions of our democratic system than those judgments under Title 9, therefore the delinquent taxpayer should only receive minimum consideration from a system he is hindering by not paying. How much consideration the delinquent taxpayer will get is determined by the legislature which must strike the balance between what is "fair" to the taxpayer and the prompt and certain availability of Revenue to the government.

The Honorable Charles H. Parr

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April 6, 1979

Quite frankly the limited list of exempt property is an inducement to voluntarily comply with tax laws. True, the department rarely, if ever, would leave a delinquent taxpayer with only his exempt property, but what taxpayer would see how close he might come.

It can certainly be argued that the list be updated to today's values. However, since the department is planning to introduce next session a revised enforcement section to Title 43, it would seem that that would be the appropriate time to address the issue.

If you have further questions on this matter, please contact me.

Sincerely,



Michael S. McCormick
Director
Enforcement Division

Introduced: 3/7/79
Referred: Judiciary and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 354

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making miscellaneous amendments to the revenue
7 statutes; and providing for an effective date."

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

9 * Section 1. AS 43.05.220 is amended to read:

10 Sec. 43.05.220. CIVIL PENALTIES [PENALTY]. (a) Five per cent
11 shall be added to a tax for each 30-day period or fraction of the
12 period during which the taxpayer fails to file at the time or times
13 required by law or regulation a return or report, or pay the full
14 amount of the tax, or a portion or a deficiency of the tax, as finally
15 determined by the department and required by this title, unless it is
16 shown that the failure is due to a reasonable cause and not to wilful
17 neglect. The penalty shall not exceed 25 per cent in the aggregate.
18 [THE PENALTY SHALL BE COLLECTED AT THE SAME TIME, IN THE SAME MANNER
19 AND AS A PART OF THE ORIGINAL TAX; BUT IF THE ORIGINAL TAX IS PAID
20 BEFORE THE NEGLECT IS DISCOVERED, THE PENALTY SHALL BE COLLECTED IN
21 THE SAME MANNER AS THE ORIGINAL TAX.] The department shall prescribe
22 by regulation circumstances which constitute reasonable cause for
23 purposes of this section.

24 (b) If any part of a deficiency due under this title is due to
25 negligence or intentional disregard of law or regulations, but without
26 intent to defraud, five per cent of the total amount of the deficiency,
27 in addition to the deficiency, shall be assessed, collected, and paid
28 in the same manner as if it were a deficiency.

29 (c) If any part of a deficiency due under this title is due to

1 fraud, there shall be added to the tax a civil fraud penalty in an
2 amount equal to 50 per cent of the tax due and in no event less than
3 \$500. This penalty is in addition to any amount determined under (a)
4 or (b) of this section.

5 (d) A penalty imposed by this section shall be collected at the
6 same time, in the same manner and as a part of the original tax; but
7 if the original tax is paid before the neglect or fraud is discovered,
8 the penalty shall be collected in the same manner as the original tax.
9 No interest may be collected upon the amount of a penalty imposed by
10 this section.

11 * Sec. 2. AS 43.05.230(a) is amended to read:

12 (a) Except in connection with official investigations or proceed-
13 ings of the department, whether judicial or administrative, involving
14 taxes due under this title, ~~and~~ except in connection with official investi-
15 gations or proceedings of the child support enforcement agency, whether
16 judicial or administrative, involving child support obligations imposed
17 or imposable under AS 25 or AS 47, ~~and~~ and except as otherwise provided in
18 this section, it is unlawful for a current or former [AN] officer,
19 employee or agent of the state to divulge the amount of income or the
20 particulars set out or disclosed in a report or return made under this
21 title.

22 * Sec. 3. AS 43.05.230 is amended by adding a new subsection to read:

23 (g) The information contained in any license issued in accordance
24 with AS 43.50, 43.60, 43.65, 43.70, and 43.75 by the commissioner of
25 revenue is public information. The licenses issued under these chapters
26 must contain (1) the name and address of the licensee; (2) the type of
27 business to be conducted; (3) the year of the license; and (4) any
28 other information specifically required by statute.

29 * Sec. 4. AS 43.05 is amended by adding new sections to read:

Notice requirements?
Re-write
Beggy
McCormick

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Sec. 43.05.245. ASSESSMENT OF TAX, PENALTIES AND INTEREST. If a taxpayer fails to file a return or report required by this title in the time required by law or by regulation adopted under authority of law, or makes an erroneous or fraudulent return, the department shall proceed to assess the license fees, tax, penalties, or interest and make a return from information which it obtains. A return made and subscribed by the department is prima facie good and sufficient for all legal purposes. The assessment of license fees, tax, penalties, or interest occurs at the time the department issues a notice and demand for payment of the license fees, tax, penalties, or interest. The notice and demand for payment are issued when the notice is delivered in person to the taxpayer or placed in the United States mail, addressed to his last known address. Penalties and interest assessed under this title must be collected in the same manner and using the same procedures as provided in this title for the collection of tax or license fees.

Sec. 43.05.275. LIMITATION ON PROCESSING REFUND CLAIMS. (a) Except as provided in AS 43.20.021, a claim for credit or refund of any tax in this title, for which the taxpayer is required to file a return, may be filed by the taxpayer within three years from the time the return was filed . . . or years from the time the tax was paid whichever of those periods expires later, or if no return was filed, within two years from the time the tax was paid.

(b) Where the department and the taxpayer have consented to extend the period for assessment of tax as provided in AS 43.05.260(c)-(3), the tax may be refunded at any time before the expiration of the period agreed upon.

Sec. 43.05.290. PENALTIES. (a) A person who wilfully attempts to evade the tax imposed by this title is, in addition to other penal-

1 ties provided by this title, guilty of a felony and, upon conviction,
2 shall be fined not more than \$50,000, or imprisoned for not more than
3 five years, or both.

4 (b) A person required under this title to collect, account for,
5 and pay over the tax imposed by this title who wilfully fails to
6 collect or truthfully account for and pay over the tax at the time or
7 times required by law or regulation is, in addition to other penalties
8 provided by this title, guilty of a felony and, upon conviction, shall
9 be fined not more than \$50,000, or imprisoned for not more than five
10 years, or both.

11 (c) A person required under this title to pay a tax, make a
12 return, keep records, or supply information, who wilfully fails to pay
13 the tax or estimated tax, make the return, keep the records, or supply
14 the information at the time or times required by law or regulation is,
15 in addition to other penalties provided by this title, guilty of a
16 misdemeanor and, upon conviction, shall be fined not more than \$5,000,
17 or imprisoned for not more than one year, or both.

18 (d) A person who wilfully makes and subscribes a return, state-
19 ment, or other document required under this title which contains or is
20 verified by a written declaration that it is made under the penalties
21 of perjury which he does not believe to be true and correct as to
22 every material matter is, in addition to other penalties provided by
23 this title, guilty of a felony and, upon conviction, shall be fined
24 not more than \$25,000, or imprisoned for not more than three years, or
25 both.

26 (e) A person who wilfully and knowingly aids or assists in, or
27 procures, or counsels the preparation or presentation in connection
28 with any matter arising under this title of a return, affidavit,
29 claim, or other document, which is fraudulent or is false as to any

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1 material matter is guilty of a felony whether or not the falsity or
2 fraud is with the knowledge or consent of the person required to
3 present the return, affidavit, claim, or document, and, upon conviction,
4 shall be fined not more than \$25,000, or imprisoned for not more than
5 three years, or both.

6 (f) A person who wilfully delivers or discloses to the commis-
7 sioner or the department under this title any list, return, account,
8 statement, or other document, known by him to be fraudulent or to be
9 false as to any material matter is guilty of a misdemeanor and, upon
10 conviction, shall be fined not more than \$5,000, or imprisoned for not
11 more than one year, or both.

12 (g) A person required to collect or truthfully account for a tax
13 imposed by this title who wilfully fails to collect the tax or to
14 truthfully account for and pay over the tax, or wilfully attempts in
15 any manner to evade the tax or the payment of it is, in addition to
16 other penalties provided by law, liable for a civil penalty equal to
17 the total amount of the tax evaded, not collected, not accounted for,
18 or not paid over. This penalty is in place of the tax not otherwise
19 paid to the state. The civil penalty shall be paid upon demand by the
20 commissioner or his designee, and shall be assessed and collected in
21 the same manner as taxes are assessed and collected under this title.
22 Any reference in (a) - (f) of this section to "tax" imposed refers
23 also to the civil penalty provided under this subsection.

24 ~~(h) The penalties and liabilities provided in (g) of this section~~
25 ~~shall be paid upon notice and demand by the commissioner of revenue or~~
26 ~~his designee or agent and shall be assessed and collected in the same~~
27 ~~manner as taxes. A reference to "tax" imposed also refers to the~~
28 ~~penalties and liabilities provided by this section.~~

29 (h) (1) A person required to supply information to his employer under

1 this title who wilfully supplies false information or who wilfully
2 fails to supply information under that section which would require an
3 increase in the tax to be withheld under that section is, in addition
4 to other penalties specified in this chapter, guilty of a misdemeanor
5 and, upon conviction, is punishable by a fine of not more than \$5,000,
6 or imprisonment for not more than one year, or both.

7
8 (j) A person engaging in or carrying on or attempting to engage
9 in or carry on a business, trade, profession or occupation for which
10 a license is required as a condition precedent, ^{who wilfully fails to obtain} without obtaining the
11 license, is guilty of a misdemeanor, and, upon conviction, is punish-
12 able by a fine of not more than \$2,000, or by imprisonment for not
13 more than six months, or both.

14 (k) In this section "person" includes, but is not limited to, an
15 officer or employee of a corporation or a member or employee of a
16 partnership, who, as officer, employee, or member, is under a duty to
17 perform the act in respect to which the violation occurs.

18 * Sec. 5. AS 43.10 is amended by adding a new section to read:

19 Sec. 43.10.031. ENFORCEMENT. A tax due and unpaid under this
20 title, the interest, penalty, additional amount, or addition to the
21 tax, and the tax (or interest, penalty, additional amount, or addition
22 to the tax) which has been erroneously refunded is a debt to the state
23 and may be collected by lien foreclosure or sued for and recovered in
24 an action by the state. *Cross ref to 43.05.260.*

25 * Sec. 6. AS 43.10.040 is repealed and re-enacted to read:

26 Sec. 43.10.040. RECORDING LIEN AND CERTIFICATE OF DISCHARGE.

27 (a) The lien is not valid as against a mortgagee or other lien holder,
28 pledgee, purchaser, or judgment creditor until notice of it is filed
29 in the office of the recorder of the recording district where the
property subject to the lien is situated; except that a lien arising

1 out of a tax due under AS 43.56 and 43.75 and the penalties and interest
2 on the tax are a lien prior, paramount, and superior to all other
3 liens, mortgages, hypothecations, conveyances, and assignments, upon
4 all the real and personal property of the person liable for the tax,
5 and upon all the real and personal property used with the permission
6 of the owner to carry on the business, regardless of the date the
7 liens are recorded.

8 (b) When a notice of the lien is filed, the recorder shall
9 immediately enter the notice in an alphabetical state tax lien index,
10 showing on one line the name and residence of the taxpayer named in
11 the notice, the department's serial number of the notice, the date and
12 hour of filing, and the amount of tax, including interest, penalty,
13 additional amount, or addition to the tax, and costs. The recorder
14 shall file and keep all original notices so filed in numerical order
15 in a file or files, designated state tax lien notices.

16 (c) When a certificate of discharge of a tax lien issued by the
17 department is filed in the office of the recorder, where the original
18 notice of lien is filed, the recorder shall enter the certificate with
19 the date of filing in the state tax lien index on the line where
20 notice of the lien so discharged is entered, and permanently attach
21 the original certificate of discharge to the original notice of lien.

22 (d) The state tax lien index and file for state tax lien notices
23 shall be furnished to the recorder in this state in the manner provided
24 by law for the furnishing of books in which deeds are recorded.

25 * Sec. 7. AS 43.10 is amended by adding a new section to read:

26 Sec. 43.10.045. SUSPENSION OF LICENSES. In addition to the
27 other penalties imposed in this title, the license of a person who is
28 authorized to conduct a business by a license issued under the laws of
29 the state, whether he is a resident or not, is, if he fails to pay the

1 tax levied under this title, suspended until the tax imposed by this
2 chapter, together with interest and penalties, is paid in full.

3 * Sec. 8. AS 43.10.160(b) is amended to read:

4 (b) If the value of the taxpayer's interest in the real estate
5 is not equal to twice the amount of the estimated tax and license fees
6 for which the taxpayer will be liable to the state, the taxpayer shall
7 file with the Department of Revenue a bond or other security approved
8 by the commissioner [ATTORNEY GENERAL] in a sum equal to twice the
9 estimated amount of the taxes and license fees, but in no event less
10 than \$1,000. However, the bond requirement may be waived, in whole or
11 in part, if the taxpayer shows in writing to the satisfaction of the
12 commissioner [ATTORNEY GENERAL] that there is good cause for such a
13 waiver [THE AMOUNT OF THE BOND WOULD BE AN UNDUE HARDSHIP]. The
14 Department of Revenue shall adopt regulations defining good cause for
15 the purposes of this section.

16 * Sec. 9. AS 43.20.011(c) is amended to read:

17 (c) There is imposed for each taxable year upon the taxable
18 income of every resident, nonresident and part-year resident head of
19 a household (as defined in section 2(b) of the Internal Revenue Code),
20 taxes computed according to the following table.

21 If the taxable income is:	Then the tax is:
22 Not over \$2,000	3 per cent of the taxable 23 income
24 Over \$2,000 but not over \$4,000	\$60 plus 3.5 per cent of 25 excess over \$2,000
26 Over \$4,000 but not over \$6,000	\$130 plus 4.0 per cent of 27 excess over \$4,000
28 Over \$6,000 but not over \$8,000	\$210 plus <u>4.0</u> [4.5] per cent 29 of excess over \$6,000

1	Over \$8,000 but not over \$10,000	<u>\$290</u> [\$300] plus 5.0 per cent
2		of excess over \$8,000
3	Over \$10,000 but not over \$12,000	<u>\$390</u> [\$400] plus <u>5.0</u> [5.5] per
4		cent of excess over \$10,000
5	Over \$12,000 but not over \$14,000	<u>\$490</u> [\$510] plus 6.0 per cent
6		of excess over \$12,000
7	Over \$14,000 but not over \$16,000	<u>\$610</u> [\$630] plus <u>6.0</u> [6.5] per
8		cent of excess over \$14,000
9	Over \$16,000 but not over \$18,000	<u>\$730</u> [\$760] plus <u>6.5</u> [7.0] per
10		cent of excess over \$16,000
11	Over \$18,000 but not over \$20,000	<u>\$860</u> [\$900] plus 7.0 per cent
12		of excess over \$18,000
13	Over \$20,000 but not over \$22,000	<u>\$1,000</u> [\$1,040] plus 7.5 per
14		cent of excess over \$20,000
15	Over \$22,000 but not over \$24,000	<u>\$1,150</u> [\$1,190] plus 8.0 per
16		cent of excess over \$22,000
17	Over \$24,000 but not over \$28,000	<u>\$1,310</u> [\$1,350] plus 8.5 per
18		cent of excess over \$24,000
19	Over \$28,000 but not over \$32,000	<u>\$1,650</u> [\$1,690] plus <u>8.5</u> [9.0]
20		per cent of excess over \$28,000
21	Over \$32,000 but not over \$38,000	<u>\$1,990</u> [\$2,050] plus <u>9.0</u> [9.5]
22		per cent of excess over \$32,000
23	Over \$38,000 but not over \$44,000	<u>\$2,530</u> [\$2,430] plus 10.0 per
24		cent of excess over \$38,000
25	Over \$44,000 but not over \$50,000	<u>\$3,130</u> [\$3,030] plus 10.5 per
26		cent of excess over \$44,000
27	Over \$50,000 but not over \$60,000	<u>\$3,760</u> [\$3,660] plus 11.0 per
28		cent of excess over \$50,000
29	Over \$60,000 but not over \$70,000	<u>\$4,860</u> [\$4,760] plus 11.5 per

	cent of excess over \$60,000
1	
2	Over \$70,000 but not over \$80,000 <u>\$6,010</u> [\$5,910] plus <u>11.5</u> [12.0]
3	per cent of excess over \$70,000
4	Over \$80,000 but not over \$90,000 <u>\$7,160</u> [\$7,110] plus <u>12.0</u> [12.5]
5	per cent of excess over \$80,000
6	Over \$90,000 but not over \$100,000 \$8,360 plus 13.0 per cent of
7	excess over \$90,000
8	Over \$100,000 but not over \$150,000 \$9,660 plus <u>13.0</u> [13.5] per
9	cent of excess over \$100,000
10	Over \$150,000 but not over \$200,000 <u>\$16,160</u> [\$16,410] plus 14.0 per
11	cent of excess over \$150,000
12	Over \$200,000 but not over \$300,000 <u>\$23,160</u> [\$23,410] plus 14.5 per
13	cent of excess over \$200,000
14	Over \$300,000 <u>\$37,660</u> [\$37,910] plus 14.5 per
15	cent of excess over \$300,000

* Sec. 10. AS 43.20.011(d) is repealed and re-enacted to read:

(d) The department shall compute and publish Alaska income tax liability tables for taxpayers.

* Sec. 11. AS 43.20.021(d) is amended to read:

(d) Where a credit allowed under the Internal Revenue Code is also allowed in computing Alaska income tax, it is limited to 16 per cent [OF THE AMOUNT OF THE CREDIT DETERMINED FOR FEDERAL INCOME TAX PURPOSES] for individuals and fiduciaries and 18 per cent for corporations of the amount of credit determined for federal income tax purposes, which is attributable to Alaska.

* Sec. 12. AS 43.20.021 is amended by adding a new subsection to read:

(g) For purposes of calculating the accumulated earnings tax as provided for in the Internal Revenue Code, sec. 531, the rate is 4.95 per cent of the first \$100,000 of accumulated taxable income and 6.93

1 per cent of accumulated taxable income in excess of \$100,000.

2 * Sec. 13. AS 43.20.031(a)(3) is amended to read:

3 (3) the benefits of nonrecognition of gain on the sale,
4 [OR] exchange, or other disposition of certain property under secs.
5 1031, 1033, and 1034 of the Internal Revenue Code (26 U.S.C. secs. 1031,
6 1033, and 1034) are allowed only to taxpayers who purchase or exchange
7 the property within the state, except that the benefits of sec. 1034
8 shall be allowed regardless of the location of the property for
9 taxpayers who have attained the age of 65 on or before the time of the
10 purchase or exchange; for purposes of this paragraph, the gain that
11 results is subject to the benefits of the Internal Revenue Code, secs.
12 1201, 1202, 1221, and 1231 as if the gain had been recognized for
13 federal tax purposes; in addition, the basis of the acquired property
14 shall be adjusted as provided in the Internal Revenue Code, sec. 1016
15 as if the gain had been recognized for federal tax purposes;

16 * Sec. 14. AS 43.20.031(e) is amended to read:

17 (e) An affiliated group of corporations may make or the commis-
18 sioner may require them to make a consolidated [OR COMBINED] return
19 for the taxable year in place of separate returns. For purposes of
20 calculating the amount of tax payable by the group under a consolidated
21 filing, Internal Revenue Code secs. 1501 - 1552, as amended, apply.

22 * Sec. 15. AS 43.20.031(h) is amended to read:

23 (h) A taxpayer who purchases an entry permit under AS 16.43 in
24 carrying on a trade or business is entitled to a deduction of the
25 amount of the price paid during the tax year as if it were allowable
26 under sec. 162 of the Internal Revenue Code (26 U.S.C. sec. 162). The
27 basis of the entry permit shall be reduced by the amount of the deduc-
28 tion which the taxpayer is entitled to claim under this subsection.

29 * Sec. 16. AS 43.20.031 is amended by adding a new subsection to read:

1 (i) A corporation which is a member of a group of unitary cor-
2 porations which collectively has income from business activity which
3 is taxable both inside and outside the state or income from other
4 sources both inside and outside the state shall determine its income
5 from sources in this state by use of the combined method of accounting.

6 * Sec. 17. AS 43.20.035(a) is amended to read:

7 (a) The taxable income of nonresidents or part-year residents of
8 this state is taxable income as determined under AS 43.20.031 [SEC.
9 31 OF THIS CHAPTER] when attributable to sources in the state as
10 provided in AS 43.20.040 [SEC. 40 OF THIS CHAPTER] with the following
11 modifications:

12 (1) a nonresident or part-year resident of this state shall
13 be allowed a deduction, in place of the deductions [WHO HAS NO EXCESS
14 ALASKA ITEMIZED DEDUCTIONS AS DEFINED IN (4) OF THIS SUBSECTION IS
15 ALLOWED THE MINIMUM DEDUCTION] provided by AS 43.20.031(a)(4) and
16 excess itemized deductions provided under the Internal Revenue Code,
17 in the amount of the minimum deduction and excess itemized deductions
18 [SEC. 31(a)(4) OF THIS CHAPTER] in the proportion provided in (b) of
19 this section;

20 (2) a nonresident or part-year resident is allowed a deduc-
21 tion equal to the personal exemption deduction as defined in sec. 151
22 of the Internal Revenue Code in the proportion provided in (b) of this
23 section. [;]

24 [(3) A NONRESIDENT OR PART-YEAR RESIDENT WHO HAS EXCESS
25 ALASKA ITEMIZED DEDUCTIONS IS ALLOWED HIS ENTIRE ALASKA ITEMIZED
26 DEDUCTIONS;

27 (4) "ALASKA ITEMIZED DEDUCTIONS" AS USED IN THIS SECTION
28 ARE THOSE ITEMIZED DEDUCTIONS ALLOWED UNDER THE INTERNAL REVENUE CODE
29 WHICH ARISE FROM SOURCES IN THE STATE EXCEPT THOSE ITEMS DESCRIBED IN

1 SEC. 31(c) OF THIS CHAPTER; "EXCESS ALASKA ITEMIZED DEDUCTIONS" MEANS
2 THE EXCESS (IF ANY) OF:

3 (A) ALASKA ITEMIZED DEDUCTIONS, OVER

4 (B) THE MINIMUM DEDUCTION AS DEFINED IN SEC. 31(a)(4)
5 OF THIS CHAPTER.]

6 * Sec. 18. AS 43.20 is amended by adding a new section to read:

7 Sec. 43.20.037. TAXABLE INCOME OF FIDUCIARY. The taxable income
8 of a fiduciary is its taxable income as determined under AS 43.20.031
9 when attributable to sources in the state as provided in AS 43.20.040.

10 * Sec. 19. AS 43.20.038(a) is amended to read:

11 (a) An individual is allowed as a credit against the tax due
12 under this chapter five per cent of his residential fuel expenses paid
13 during the year, but not less than a minimum credit of \$10. For
14 married taxpayers filing separate returns, the minimum credit is \$5
15 for each return. Part-year resident and nonresident individual tax-
16 payers shall prorate the credit allowed in this section as provided by
17 AS 43.20.035(b) [ACCORDING TO THE NUMBER OF MONTHS RESIDED IN THE
18 STATE].

19 * Sec. 20. AS 43.20.039(c) is amended to read:

20 (c) Part-year resident and nonresident individuals shall prorate
21 the credits provided in this section as provided by AS 43.20.035(b)
22 [ACCORDING TO THE NUMBER OF MONTHS DURING WHICH THE TAXPAYER RESIDED
23 IN THE STATE].

24 * Sec. 21. AS 43.20 is amended by adding a new section to read:

25 Sec. 43.20.045. PRORATION OF PART-YEAR RESIDENT AND NONRESIDENT
26 INDIVIDUAL CREDITS. Unless otherwise provided, credits allowable to a
27 part-year resident and nonresident individuals are limited to the
28 amount of the credit computed according to AS 43.20.021(d), if appli-
29 cable, and prorated as provided by AS 43.20.035(b).

1 * Sec. 22. AS 43.20.065 is amended to read:

2 Sec. 43.20.065. ALLOCATION AND APPORTIONMENT. A taxpayer who
3 has income from business activity which is taxable both inside and
4 outside the state or income from other sources both inside and outside
5 the state shall allocate and apportion his net income as provided in
6 [ART. IV OF] the Multistate Tax Compact (AS 43.19[.010]), and as pro-
7 vided in AS 43.20.071 [SEC. 71 OF THIS CHAPTER FOR WATER TRANSPORTA-
8 TION CARRIERS].

9 * Sec. 23. AS 43.20.071 is repealed and re-enacted to read:

10 Sec. 43.20.071. TRANSPORTATION CARRIERS. (a) All business
11 income of water transportation carriers shall be apportioned to this
12 state in accordance with the Multistate Tax Compact (AS 43.19) as
13 modified by the following:

14 (1) the numerator of the property factor shall be the sum
15 of the value for property in a fixed location such as buildings and
16 land used in the business and intrastate equipment and personal
17 property determined according to the Multistate Tax Compact (AS 43.19)
18 and the value of interstate mobile property be determined on a days-
19 spent-in-ports basis as provided in (4) of this subsection; the
20 denominator of the property factor shall be determined according to
21 the Multistate Tax Compact;

22 (2) the numerator of the payroll factor shall be the sum of
23 the wages and salaries of employees assigned to fixed locations deter-
24 mined according to the Multistate Tax Compact (AS 43.19) and the wages
25 and salaries of employees assigned to interstate mobile property
26 determined on a days-spent-in-ports basis as provided in (4) of this
27 subsection; the denominator of the payroll factor shall be determined
28 in accordance with the Multistate Tax Compact;

29 (3) the numerator of the sales factor shall be the sum of

1 all revenues from intrastate activities and revenues from interstate
2 activities determined on a days-spent-in-ports basis as provided in
3 (4) of this subsection; the denominator shall be determined in accord-
4 ance with the Multistate Tax Compact;

5 (4) the portions of the numerator of the property, payroll,
6 and sales factors which are directly related to interstate mobile
7 property operations shall be determined by a ratio which the number of
8 days spent in ports inside the state bears to the total number of days
9 spent in ports inside and outside the state; the term "days spent in
10 ports" does not include periods when ships are tied up because of
11 strikes or withheld from Alaska service for repairs, or because of
12 seasonal reduction of service; days in port are computed by dividing
13 the total number of hours in all ports by 24.

14 (b) Transportation carriers other than water carriers shall
15 apportion their income to this state by means of formulas prescribed
16 by regulations of the Department which are to ensure that the total
17 income subject to apportionment has been apportioned only to those
18 states having jurisdiction to tax.

19 * Sec. 24. AS 43.20.170(b) is amended to read:

20 (b) The rules with respect to withholding of tax set out in
21 secs. 3402 (except that Internal Revenue Code subsecs. 3402(f)(1)(F),
22 3402(m) and 3402(n) are not incorporated and do not apply for Alaska
23 tax purposes); 3502(b); 6414 of the Internal Revenue Code of 1954
24 as amended, apply with respect to this section as though fully set out
25 in this section. Remittance of taxes withheld shall be accompanied by
26 returns on forms prescribed by the department.

27 * Sec. 25. AS 43.20.200(a) is amended to read:

28 (a) As soon as practicable after a return is filed, the depart-
29 ment may [SHALL] examine it and determine the correct amount of the

See
43.20.270
change (?)

1 tax. If an error is disclosed by the examination, the department
2 shall so notify the taxpayer by first-class mail. The taxpayer may
3 petition for redetermination of deficiency as provided in AS 43.05.240
4 [SEC. 280 OF THIS CHAPTER].

5 * Sec. 26. AS 43.20.270(f) is amended to read:

6 (f) The property distrained shall be restored to the owner or
7 possessor if, before the sale, payment of the amount due is made to
8 the deputy or agent charged with the collection, together with the
9 fees and other charges; but in case of nonpayment, the said deputy or
10 agent shall proceed to sell the property at public auction. The owner
11 of real property sold under this section, his heir, executor, or
12 administrator, or a person in his behalf may redeem the property sold
13 or a particular tract of the property at any time within 120 days [TWO
14 YEARS] after the sale thereof. The property or tract may be redeemed
15 upon payment to the purchaser or, if he cannot be found in the state,
16 then to the commissioner of revenue for the use of the purchaser, his
17 heirs, or assigns, the amount paid by the purchaser and interest on it
18 at the rate of 12 [SIX] per cent a year. If land sold is redeemed
19 under this subsection, the commissioner shall cause entry of the fact
20 to be made upon the record mentioned in (g)(6) of this section and the
21 entry shall be evidence of such redemption.

22 * Sec. 27. AS 43.31.141 is amended to read:

23 Sec. 43.31.141. WHEN TAX DUE, EXTENSION AND INTEREST. The tax
24 imposed by this chapter is due and payable 15 months after the dece-
25 dent's death, and shall be paid by the executor to the department. If
26 the department finds that the payment on the due date of tax or any
27 part of the tax would impose undue hardship upon the estate, the
28 department may extend the time for payment of any part, but no extension
29 may be for more than one year and the aggregate of extensions with

1 respect to an estate may not exceed five years from the due date. In
2 that case the amount in respect of which the extension is granted
3 shall be paid on or before the date of the expiration of the period of
4 the extension unless a further extension is granted. If the time for
5 the payment is extended there shall be collected, as part of this
6 amount, interest on the tax at the rate provided in AS 43.05.225 [OF
7 SEVEN PER CENT A YEAR] from the due date of the tax to the date the
8 tax is paid.

9 * Sec. 28. AS 43.50.150 is amended to read:

10 Sec. 43.50.150. ADMINISTRATION. (a) The department shall (1)
11 administer [SECS. 10 - 180 OF] this chapter, and (2) collect, super-
12 vise, and enforce the collection of taxes [AND PENALTIES] due under
13 [SECS. 10 - 180 OF] this chapter and penalties as provided in AS 43.05.

14 (b) The department may adopt [PUBLISH] ~~publish~~ regulations
15 necessary for the administration of [SECS. 10 - 180 OF] this chapter
16 [(1) TO ENFORCE SECS. 10 - 180 OF THIS CHAPTER, AND (2) TO COLLECT THE
17 TAXES, FEES, AND PENALTIES IMPOSED BY SECS. 10 - 180 OF THIS CHAPTER].

18 * Sec. 29. AS 43.50.190(b) is amended to read:

19 (b) The tax levied by this section is in addition to the tax
20 levied by AS 43.50.010 - 43.50.180 [SECS. 10 - 180 OF THIS CHAPTER].
21 The tax shall be administered and collected in the same manner as the
22 tax levied by AS 43.50.010 - 43.50.180 [SECS. 10 - 180 OF THIS CHAPTER],
23 except that receipts from the tax shall be deposited in the general
24 fund. The penalties provided in AS 43.05 [ESTABLISHED IN SECS. 10 -
25 180 OF THIS CHAPTER] apply to the tax levied in this section.

26 * Sec. 30. AS 43.75.100 is amended to read:

27 Sec. 43.75.100. TAX IMPOSED ON TAKING OF FISHERIES PRODUCTS. A
28 person taking, purchasing, or otherwise acquiring fisheries products
29 which have not been subject to the tax imposed by AS 43.75.010 - 43.75.-

1 090, [THE FISHERIES PRODUCTS ENUMERATED IN SECS. 10 - 50 OR 60 - 90 OF
2 THIS CHAPTER] who sells the products [TO FREEZERSHIPS, FLOATING COLD
3 STORAGES OR FLOATING CANNERIES] outside the taxing jurisdiction of the
4 state, is subject to the tax set out in AS 43.75 [SECS. 10 - 50 OF
5 THIS CHAPTER] for the fisheries products thus sold [ENUMERATED IN
6 SECS. 10 - 50 OF THIS CHAPTER, AND IS SUBJECT TO THE TAX SET OUT IN
7 SECS. 60 - 90 OF THIS CHAPTER FOR THE FISHERIES PRODUCTS ENUMERATED IN
8 SECS. 60 - 90 OF THIS CHAPTER].

9 * Sec. 31. AS 43.75.110 is amended to read:

10 Sec. 43.75.110. DUTY OF TAXPAYER AND PAYMENT OF TAX. A person
11 subject to taxes under AS 43.75.100 - 43.75.120 [SECS. 100 - 120 OF
12 THIS CHAPTER] shall make a return stating the value of raw fisheries
13 products taken, purchased or otherwise acquired during the license
14 year for sale [TO FREEZER SHIPS, FLOATING COLD STORAGES, OR FLOATING
15 CANNERIES] outside of the taxing jurisdiction of the state [COMPUTED
16 AS REQUIRED BY SECS. 100 - 120 OF THIS CHAPTER, AND OTHER INFORMATION
17 TO CARRY OUT THE PROVISIONS OF SECS. 100 - 200 OF THIS CHAPTER AS MAY
18 BE PRESCRIBED BY THE DEPARTMENT]. The value of the fisheries products
19 taxed under AS 43.75.100 is the taxpayer's selling price of the products
20 including indirect considerations such as fuel or supplies furnished
21 by the purchaser or offsets to the cash value for gear furnished. The
22 return shall contain the license number of, and shall be signed by,
23 the taxpayer or his authorized agent, under penalty of perjury. If a
24 receiver, trustee, or assign is operating the property or business, he
25 shall make the return for the person. A tax due on the basis of such
26 return shall be collected in the same manner as if collected from the
27 person of whose business he has custody and control. The requirements
28 for time and place of payment of tax, and the obligation to keep
29 records and make the records available to the commissioner of revenue

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are the same as those prescribed in the business license tax law for salmon canneries.

* Sec. 32. The following laws are repealed: AS 43.05.100(a); 43.10.050; 43.20.150; 43.20.160(b); 43.20.220; 43.20.240; 43.20.260; 43.20.335; 43.26.060; 43.31.171; 43.31.360; 43.31.370; 43.31.380; 43.31.390; 43.35.080; 43.40.020; 43.40.080(b); 43.40.090; 43.45.060; 43.50.100(a), (c), and (e); 43.50.160; 43.55.120; 43.55.130; 43.56.190; 43.58.120; 43.58.130; 43.60.040(d), (e), and (f); 43.65.050; 43.70.060; 43.70.100; 43.75.050; 43.75.090; 43.75.120; 43.80.020; and 43.80.030.

* Sec. 33. This Act is retroactive to January 1, 1979.

* Sec. 34. This Act takes effect immediately in accordance with AS 01.10.070(c).

*redundant
Chap 19*
43.05.245
43.10.050
43.10.045

penalties
penalties
7% interest

35-4

April 5, 1979

The Honorable Charles H. Parr
Chairman, Judiciary Committee
House of Representatives
Alaska State Legislature
Juneau, Alaska 99811

Re: House Bill No. 354

Dear Mr. Parr:

With regard to Section 30 of the referenced bill on which your committee held a hearing last Friday, March 30, the question arose as to how much fish was flown out of the State of Alaska in a fresh condition, thus not being subject to the Alaska fish processors tax. As I mentioned in the meeting, the Commercial Fisheries Division of the Department of Fish and Game does not maintain this specific information. In discussing this with some of the staff members of Fish and Game, however, it was their estimate that as high as 4.8 million pounds of salmon may have been flown out of the State in a fresh condition during 1978. At an approximate value of \$.93 per pound and assuming a tax rate of 1 percent of value, this would mean that \$44,640 of revenue was lost because we could not tax the transaction.

This procedure of flying fish out of the State in a fresh condition escalated substantially during 1978 and the trend is expected to continue.

If there is any further information I can provide you regarding this bill, please feel free to contact me.

Very truly yours,

Gary L. Jenkins
Director
Audit Division

GLJ:mh

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811

April 9, 1979

The Honorable Charles Parr
Chairman
House Judiciary Committee
Room 124, Capitol Building
Juneau, AK 99811

Re: HB 354
Miscellaneous Amendments
to Revenue Statutes
Our File: J-66-602-79

Dear Representative Parr:

You have requested an opinion concerning whether § 15 of HB 354 relating to tax treatment of limited entry permit purchase-sale transactions can be made retroactive generally, and specifically whether it could be made retroactive to either January 1, 1976, or January 1, 1977. In our opinion, the proposed amendment can be made retroactive to January 1, 1977.

AS 43.20.031(a) presently reads:

"A taxpayer who purchases an entry permit under AS 16.43 in carrying on a trade or business is entitled to a deduction of the amount of the price paid during the tax year as if it were allowable under § 162 of the Internal Revenue Code (26 USC § 162)."

Section 15 of the proposed legislation adds the following sentence to subsection (h):

The basis of the entry permit shall be reduced by the amount of the deduction which the taxpayer is entitled to claim under this subsection.

Subsection (h) was originally added to the state income tax code by § 8, Ch. 73, SLA 1977. Although its effective date was May 29, 1977, it was made retroactive to December 31, 1976. As of that date, purchasers of limited entry permits would be entitled to deduct the purchase price of the said permit. No corresponding change was made for purposes of the determination of the capital gains upon resale of the permit. Thus, a fisherman who purchased the permit in 1977 for \$20,000.00 would be able to take a \$20,000.00 deduction for that tax year, and assuming he resold it in 1978 for \$30,000.00, he would be liable for capital gains only on the \$10,000.00 increment. The suggested amendment would require that fisherman to pay capital gains on the entire \$30,000.00 resale price.

The retroactive imposition of this change of tax treatment would give rise to due process questions under the state and federal constitutions. The leading case in this area is the decision of the U. S. Supreme Court in Welch v. Henry, 305 U.S. 134 (1938). That case involved a Wisconsin statute, enacted on March 27, 1935, which imposed a tax on corporate dividends received by taxpayers in 1933 at rates different from those applicable in that year to other types of income tax and without deductions which were allowed in

computing the tax on other income. The Supreme Court rejected both equal protection and due process challenges to this Wisconsin tax law which involved a retroactive period of some 2-1/4 years.

In discussing the due process challenge, the Supreme Court noted retroactivity does not per se give rise to any constitutional problems. The court indicated that taxation is neither a penalty imposed on a taxpayer nor a contractual liability. It is instead the apportioned cost of the taxpayer's enjoyment of the privileges and benefits conferred by the taxing authority.

Since no citizen enjoys immunity from that burden, its retroactive imposition does not necessarily infringe due process, and to challenge the present tax it is not enough to point out that the taxable event, the receipt of income, antedated the statute. 305 U.S. at 147, 83 L.Ed. at 93.

Rather, the analysis was said to focus on the voluntariness of the transaction and on whether the retroactive clause was arbitrary or unduly oppressive in its operation. The court distinguished earlier decisions dealing with gift and inheritance taxes which, when retroactively imposed, unfairly operated to alter the effects of a transaction voluntarily concluded and essentially irrevocable.

The court observed that it was the established legislative practice of Congress to tax retroactively income and profits received the year of the session and sometimes the year preceding the session. It should be noted that

this is also the practice of the Alaska State Legislature, both with regard to tax laws and other amendments.

We cannot say that the due process which the Constitution exacts denies . . . that opportunity [to retroactively reapportion the tax burden] to legislatures; that it withholds from them, more than in the case of a prospective tax, authority to distribute the increased tax burden in the light of experience and in conformity with accepted notions of equal protection; or that in view of well established legislative practice, both state and national, taxpayers can justly assert surprise or complain of arbitrary apportionment of tax burdens to income at the first opportunity after knowledge of the nature and the amount of the income is available. 305 U.S. at 149-150, 83 L.Ed. at 94-95.

The court went on to extend the "recent transactions" rule discussed in Cooper v. United States, 280 U.S. 409, 74 L.Ed. 516 (1930) to cover the facts of the Wisconsin case.

The holding in Welch v. Henry was followed by the California Supreme Court in Holmes v. McColgan, 110 P.2d 428 (Cal. 1941), which commented that the "constitutional validity of such retroactive provisions is now too well established to be questioned". 110 P.2d at 431. Therefore, the general rule is that retroactive application of tax laws will be upheld as long as they do not disturb vested rights or impair obligations of contracts. Accord, Matter of Cartridge Television, Inc., 535 F.2d 1388 (2nd Cir. 1976); Shanahan v. United States, 447 F.2d 1082 (10th Cir. 1974); Philadelphia Life Insurance Co. v. Commonwealth of Penn.,

309 A.2d 811 (Pa. 1973); Wisconsin Dept. of Revenue v. Dziubek, 173 N.W.2d 642 (Wis. 1970); Colonial Pipeline Co. v. Commonwealth of Virginia, 145 S.E.2d 227 (Va. 1965); and Mecham v. State Tax Commission, 410 P.2d 1008 (Utah 1966).

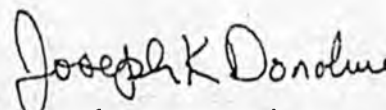
In our view, the holding in Welch v. Henry, supra, is controlling and would permit the retroactive amendment of AS 43.20.031 as proposed in the § 15 of HB 354. That section should be made retroactive to December 31, 1976, (rather than January 1, 1977) to make it more exactly coincide with the retroactive application of the present AS 43.20.031(h).

You further requested whether or not it would be permissible to make this section apply retroactively to January 1, 1976. Since subsection (h) was not in effect, nor was it made retroactively applicable to the 1976 tax year, such a retroactive application would be unnecessary.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By:


Joseph K. Donohue
Assistant Attorney General

JKD/lm

21-354

March 7, 1979

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill which makes several miscellaneous amendments to the taxation statutes in AS 43.

Most of these amendments are of a very technical nature and are for the most part, self-explanatory. Perhaps the most significant aspect of this bill is the establishment of uniform criminal penalties for all tax violations. This is accomplished in sec. 4 of the bill which transfers the criminal penalties from the income tax provisions in AS 43.20 and adapts them to the broader range of tax and licensing violations encompassed by the entire title.

Another important part of this amendment is the substantial increase in the criminal fines which can be imposed on defendants found guilty of wilful violations of the revenue statutes. These fines have been increased from \$5,000 to either \$25,000 or \$50,000 in the case of felonies. The fines for the misdemeanor violations are increased to \$2,000 or \$5,000 to reflect the department's judgment as to the relative seriousness of each type of offense.

The increase in the criminal fines is thought to have a greater deterrent value than an increase in the potential term of imprisonment. It is felt that superior court judges would be more likely to impose a heavy criminal fine for tax fraud than they would be to impose substantial terms of imprisonment. Unfortunately, this latter reluctance is typical of trial court judges throughout the nation involved in sentencing defendants for tax fraud for white collar crimes in general.

The bill would also make two significant additions to the provision which requires strict confidentiality of tax returns and reports filed under AS 43. AS 43.05.230(a) would be amended to expressly make it unlawful for former officers, employees, or agents of the state to divulge any of the particulars set out on tax returns or reports. In addition, a new subsection (g) would be added, which would clarify the application of the provision to information found on the face of licenses issued by the department, such as business licenses, and fish processing licenses. Since this information is also found on reports and returns, this subsection would make it clear that that information is in fact public information and can be released by the Department of Revenue to any interested party who might inquire as to the proper licensure of a particular business or firm.

Section 6 of the bill would incorporate provisions formerly contained in AS 43.20 to make it expressly applicable to the liens recordation and filing procedures under AS 43 as a whole.

Section 8 of the bill would transfer the review of bonding and bond waiver applications to the Department of Revenue from the Department of Law. In addition, AS 43.10.160(b) would be amended to allow waiver of the bonding requirement when there is "good cause" rather than "undue hardship." Good cause is a more appropriate standard since it would more clearly authorize waiver in the cases of dutiful and good faith taxpayers who have a history of compliance with the state tax and revenue laws. These taxpayers frequently could not meet the undue hardship standard if literally and strictly construed. The Department of Revenue is required to adopt regulations defining good cause for the purposes of the bond waiver applications.

Section 9 of the bill would amend the tax tables contained in AS 43.20.011(c). This change would correct a series of translation errors (from the federal tables) reflected in the previous version. It would have the indirect effect of decreasing tax liability in the lower income tax brackets and increasing tax liability of those in the higher income tax brackets and subject to that provision as head of household.

The bill would also amend AS 43.20.031(h) which presently allows fishermen a deduction for the purchase price of a limited entry permit. That section would be changed to make it clear that the taxpayer would not be given the double benefit of both a deduction and an increase in the basis of that asset.

AS 43.20.071 would be amended by sec. 23, to clarify the apportionment rules pertaining to water transportation carriers, and expand the application of that section to transportation carriers other than water transportation carriers. These latter were previously treated under the standard three-factor apportionment formula.

AS 43.20.170(b) would be modified to reflect that the State of Alaska incorporates sec. 3402 of the Internal Revenue Code of 1954 in its entirety with the exceptions of subsecs. m and n and other sections referring to those sections. Those sections provide that taxpayers may, under certain circumstances, file excess exemptions on the basis of itemized deductions. The Department of Revenue has concluded that this device has been abused by taxpayers who wish to wilfully or fraudulently evade the tax. This was especially true during the pipeline construction years when high-income taxpayers would claim an inordinate number of exemptions in order to maximize their paycheck, while at the same time intending to leave the state in the near future and to avoid paying proper Alaska state income taxes.

Finally, another change which is of some note is the reduction in the redemption period for real property distrained by the Department of Revenue pursuant to AS 43.20.270(f). That redemption period has been reduced from two years to 120 days.

Sincerely,

S/JSH

Jay S. Hammond
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 354
 Title an Act making miscellaneous amendments to the Revenue Statutes
 Requested by _____ Date 2/27/79

II. FISCAL DETAIL

Agency Affected _____ Revenue _____
 Program Category Affected _____ Fiscal Services _____
 BRU, Program, or Subprogram(s) Affected _____ Audit Division _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) None

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 2/27/79

PREPARED BY
 AGENCY Department of Revenue, Audit Division
 PHONE 465-2320

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

HB

364

PKB 364

still in H.

Resources $\frac{2}{1}$
 $\frac{80}{80}$

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH 5 - JUNEAU 99811

January 30, 1980

The Honorable Alvin Osterback
Chairman
House Resources Committee
Room 116, Capitol Building
Juneau, Alaska 99811

Dear Mr. Osterback:

Re: House Bill No. ~~346~~ 364

House Bill No. 364, an Act relating to state energy policy, was introduced in the House on March 8, 1979 and was referred to the House Resources and Judiciary Committees.

On January 28, 1980 a Fiscal Note prepared by Gary Jenkins, Director, Audit Division, Department of Revenue disclosing costs of administration was transmitted to the Resources Committee.

Enclosed is a further Fiscal Note prepared by Barbara Sorensen, Research Section, Department of Revenue concerning revenue losses from the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

cc: The Honorable Charles H. Parr
Chairman
Judiciary Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Gary Jenkins, Director
Audit Division
Department of Revenue

Vincent D. Wright
Research Section
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 364
 Title Act Relating to State Energy Policy
 Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected _____
 Program Category Affected _____
 BRU, Program, or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars)

GENERAL FUND	-\$425,000	-\$525,000	-\$550,000	-\$580,000	-\$600,000	-\$640,000
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The bill proposes to adopt immediately by reference the Federal Residential Energy Credit (Sect. 44C JRC.) It makes the credit applicable to tax years beginning after December 31, 1978.

The bill also proposes to repeal the State residential fuel conservation credit.

The above estimates are based on information obtained from the 1977 and 1978 State personal income tax returns, and are likely to be high. The existing State credit appears to cover essentially the same types of expenditures but fails to differentiate for credit purposes between

IV. DATE 1/29/80 PREPARED BY Barbara Stevens
 AGENCY Revenue
 Original: Legislative Finance PHONE #2174
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Mrs. Louise Homstad
Box 37
Haines, Aka. 99827

2/23/80

Representative Bill Parker
Pouch V
Juneau, Aka. 99811

Dear Representative, Bill Parker,

Haines is the one really peaceful place, where life is not a hassell. I believe, being a 3rd. class borough has a lot to do with this.

I really hope we won't be forced to cope with the problems & pressures of a 2nd. class borough.

We really need to preserve more of our fertile soil for agriculture. Much has already been burried under blacktopping, housing & shopping centers. Our nation will indeed starve, if we don't put a damper on this. What good are houses & markets, if there is not food to support life. Crazy, isn't it?

We now realize, a nation is only as strong as it's ability to produce & utilize it's food resources.

We are responsible for our actions & our Gvt. policies, which in turn effect the entire world. We are in a big enough mess, so let us not make matters worse by forcing our community to become a 2nd. class, instead of the present 3rd. class borough?

Please vote NO on house Bill #534.

Sincerely,

Louise Homstad

Mrs. Grace Steeves
Gen. Del.
Haines, Aka. 99327

Feb. 23, 1930

Rep. Bill Parker
Pouch V
Juneau, Aka. 99811

Dear Rep. Bill Parker,

We feel that if House Bill 534 passes, this would be a detriment to our life here in Haines. We do not find any benefits to being a second class Borough. We treasure our way of life here, as a third class Borough.

It is heartbreaking to see how much of our country is black-topped. When you fly low in a small plane, you see what is happening to our beautiful country. I hate it with a purple-passion!

Please vote No on House Bill 534.

Yours Sincerely,

Grace Steeves

*35 year resident of
and upon 2001, 60*

ANALYSIS (Continued)

energy conservation expenditures and renewable energy source expenditures as does the Federal credit. Because we lack detailed information as to the types of expenditures for which the State credits were claimed, we assumed that 10 percent of those expenditures for which the maximum credit would be claimed under the existing State credit represent expenditures for renewable energy sources as indicated by Federal law.

This bill is in
(H) Resources

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S - JUNEAU 99811

January 28, 1980

The Honorable Alvin Osterback
Chairman
House Resources Committee
Room 116, Capitol Building
Juneau, Alaska 99811

Dear Mr. Osterback:

Re: House Bill No. 364

House Bill No. 364, an Act relating to state energy policy, was introduced in the House on March 8, 1979 and was referred to the House Resources and Judiciary Committees.

For the consideration of the House Resources Committee, I am enclosing a copy of a Fiscal Note prepared by Gary Jenkins, Director, Audit Division, Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

cc: The Honorable Charles H. Parr
Chairman
House Judiciary Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Gary Jenkins, Director
Audit Division
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 364
 Title An Act relating to State energy policy.
 Requested by House Resources & Judiciary Comm. Date 1/18/80

II. FISCAL DETAIL

Agency Affected Revenue
 Program Category Affected Fiscal Services
 BRU, Program, or Subprogram(s) Affected Audit Division
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		22.2				
200 TRAVEL						
300 CONTRACTUAL		3.2				
400 COMMODITIES		.4				
500 EQUIPMENT		1.2				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		27.0				

FUNDING (Thousands of Dollars)

<u>GENERAL FUND</u>		27.0				
<u>FEDERAL FUNDS</u>						
<u>OTHER (Specify Fund Source)</u>						

POSITIONS

<u>FULL TIME</u>		1				
<u>PART TIME</u>						
<u>TEMPORARY</u>						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

1	POSITION TITLE Tax Examiner I			RANGE/STEP 10 A	BARG. UNIT. G	LOCATION	GOV.	APPROV	DISAPP.				
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.						
3	TYPE OF EXPENDITURE			AMOUNT									
	1			2		3							
4	PERSONAL SERVICES: SALARY			17,004		JUSTIFICATION: This position will be required to process the several thousand amended returns which we would receive if House Bill 364 continues to be retroactive to tax years beginning after December 31, 1978.							
5	BENEFITS			2,528									
6	FICA			1,131									
7	HEALTH INS.			1,524									
8	TOTAL PERSONAL SERVICES			22,187									
9	TRAVEL												
10	CONTRACTUAL			3,160									
11	COMMODITIES			450									
12	EQUIPMENT			1,200									
13	OTHER												
14	TOTAL COST			26,997									
15	CODE	FUNDING SOURCE											
16		FED RCPTS.											
17		GF MATCH.											
18		GEN. FUND		26,997									
19		I-A RCPTS.											
20		PGM RCPTS											
21		OTHER											
21	CONTINUATION												
22	ADDITION		X		FOR B&M USE ONLY								
4A KEY NUMBER _____				COLUMN NO. _____									

AGENCY Department of Revenue PROGRAM AREA Revenue Collection and Management

BRU Audit Division

FY 81

13 REQUEST FOR NEW POSITION.

COMPONENT _____

Page _____ of _____

REVISED DATE _____

MEMORANDUM

TO: R. D. Stevenson
Special Assistant
Department of Revenue

DATE: January 18, 1980

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT: House Bill No. 364

In addition to making some changes in the law pertaining to the State energy policy, this bill would change the credit provided in Title 43, ch. 20 for energy conservation expenditures. The bill specifically proposes to repeal the Alaska residential fuel conservation credit and allow a taxpayer to take the credit provided by Internal Revenue Code Sec. 44C(a)(1). Since changes of this nature tend to confuse the average taxpayer, it would seem more logical for the bill merely to increase the amount of credit available to taxpayers under our current law than it would be to repeal our statute and substitute the federal statute. The Legislature originally made the policy decision that they did not want to follow the federal provision but that they wanted to establish their own body of law relating to the establishment of this credit and what the amount of the credit should be.

In Section 5 of the bill, it also provides for this change in the credit to be retroactive to tax years beginning after December 31, 1978. If the retroactive provision is retained in the bill, I strongly urge that it be modified to December 31, 1979. If it is not modified there will be substantial administrative costs because of all the amended returns that would have to be filed for tax year 1979. The attached Fiscal Note reflects those administrative costs.

Attachment

HB

370

COMMITTEE REPORT

HOUSE

4/8

FURTHER: JUDICIARY

March 10, 1979

Date: 7 APR 80

Mr. Speaker:

The Committee on COMMERCE has had HB 370

"An Act regulating layaway sales."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

do pass [] do not pass

[] do pass with attached amendments(s)

replace with CS for HB 370 same title
[] new title

and recommends it do pass

[] AND attaches a "Letter of Intent" [] New Fiscal Note

[] reports it back without recommendation

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

John Simpson
William Carter
Rich Hall
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Richard [Signature] No Recs

[Signature]
CHAIRMAN

HB

375

COMMITTEE REPORT

HOUSE

FURTHER:

April 24, 1979

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 375

"An Act relating to costs of attorney services provided to indigents charged with violations of municipal ordinances."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY

March 12, 1979

Date: 23 April 79

Mr. Speaker:

The Committee on C&RA has had HB 375

"An Act relating to costs of attorney services provided to indigents charged with violations of municipal ordinances."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- and recommends _____ new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without ^{individual} recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Charles H. Pan

Ray Stoeff

Bill Paul

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Go Rec. Margaret Brown

John Murray (No Rec)

Patrick O'Connell - Do Not Pass

Paul Paul Stoeff (No Rec)

Bill Paul

CHAIRMAN

HB 325

March 12, 1979

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill transferring to municipalities the cost of providing defense counsel to indigents charged with violation of municipal ordinances.

In the past, the cost of judicial services, including the cost of defending indigent defendants, was borne by the municipality which filed the charges against the person under municipal ordinance. Because it was difficult, if not impossible, for the court system to precisely apportion the cost of judicial services, legislation was passed in 1976 amending AS 22.15.270 to have the state bear those costs. However, the transfer of responsibility for providing defense counsel for indigents charged with violations of municipal ordinances has imposed a substantial burden on the Public Defender Agency. These defense costs, unlike normal court operating costs, are easily identifiable. This bill would transfer back to the municipality bringing the charge against the indigent the responsibility for paying those costs, and thus more fairly allocate the costs to the user of the services.

Sincerely,

S/JS

Jay S. Hammond
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. pending HOUSE BILL NO. 375
 Title An act relating to costs of attorney services provided to indigents
 Requested by Office of the Governor Date March 5, 1979

II. FISCAL DETAIL
 Agency Affected Office of the Governor
 Program Category Affected Administration of Justice
 BRU, Program, or Subprogram(s) Affected Public Defender Agency
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		-0-				
200 TRAVEL		-0-				
300 CONTRACTUAL		-0-				
400 COMMODITIES		-0-				
500 EQUIPMENT		-0-				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-				

FUNDING (Thousands of Dollars)

GENERAL FUND		-0-				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		-0-				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Since July 1, 1976 the Public Defender Agency has been charged with the defense of indigents charged with violations of municipal ordinances. Out of necessity, the agency has assumed this obligation using existing personnel and resources. For FY 79 two additional positions were authorized in HB 909; one Attorney III for 6 months and one Legal Secretary for 7 months.

Transferring the responsibility for indigent defense to the municipalities is not expected to reduce the case load of the Public Defender Agency, as it is assumed the municipalities would continue to contract with this agency for such services. Any such receipts would be deposited in the general fund.

IV. DATE March 5, 1979 PREPARED BY Janet Green
 AGENCY Office of the Governor
 Original: Legislative Finance PHONE 465-3545
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

ALASKA STATE LEGISLATURE

ELEVENTH Legislature . FIRST Session

HOUSE BILL NO. ...375..

By THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

"An Act relating to costs of attorney services provided to indigents charged with violations of municipal ordinances."

Costs of attorney services

Introduced in the House 3-12 19... 79

HISTORY IN THE HOUSE

19 79	Read first time and referred to Committee on												
Mar. 12	CS&RA and Judiciary												
	Reported back with recommendation that												
	Read second time and												
	Read third time and												
	<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused		
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Absent	Absent												
Excused	Excused												
	Reported correctly engrossed												
	Signed by Speaker												
	Sent to Senate												
	CHIEF CLERK OF THE HOUSE												

HISTORY IN THE SENATE

19	Read first time and referred to Committee on												
	Reported back with recommendation that												
	Read second time and												
	Read third time and												
	<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused		
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PASS	Effective Date												
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Nays	Nays												
Absent	Absent												
Excused	Excused												
	Reported correctly engrossed												
	Signed by President												
	Returned to House												
	SECRETARY OF THE SENATE												

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling Reported correctly enrolled Sent to Governor by Governor
	Filed with Lt. Governor
	Chapter No.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

get new figures (528)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 375
 Title An Act relating to costs of attorney services provided to indigents
 Requested by Governor Date 3/12/79
 Title (cont'd): charged with violations of municipal ordinances.

II. FISCAL DETAIL

Agency Affected Dept. of Administration
 Program Category Affected Administration of Justice
 Budget Request Unit(s) Affected Public Defender Agency

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES	33.1	63.7	(63.7)			
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	33.1	63.7	(63.7)			

FUNDING (Thousands of Dollars)

GENERAL FUND	33.1	63.7	(63.7)			
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME	2	2	(2)			
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Since July 1, 1976, the Public Defender Agency has been charged with the defense of indigents charged with violations of municipal ordinances. Out of necessity, the Agency has assumed this obligation using existing personnel and resources. In FY 79 two additional positions were authorized in HB 909, an Attorney III and a Legal Secretary I. If this bill, returning the financial obligation for indigent defense back to the municipalities, should pass these two positions would be eliminated by a Budget Amendment at a savings of \$63,715.

IV. DATE Jan. 29, 1980 PREPARED BY Brian Shortell, Public Defender
 AGENCY Public Defender Agency
 Original: Legislative Finance PHONE 279-7541
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

14B 31

March 12, 1979

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill transferring to municipalities the cost of providing defense counsel to indigents charged with violation of municipal ordinances.

In the past, the cost of judicial services, including the cost of defending indigent defendants, was borne by the municipality which filed the charges against the person under municipal ordinance. Because it was difficult, if not impossible, for the court system to precisely apportion the cost of judicial services, legislation was passed in 1976 amending AS 22.15.270 to have the state bear those costs. However, the transfer of responsibility for providing defense counsel for indigents charged with violations of municipal ordinances has imposed a substantial burden on the Public Defender Agency. These defense costs, unlike normal court operating costs, are easily identifiable. This bill would transfer back to the municipality bringing the charge against the indigent the responsibility for paying those costs, and thus more fairly allocate the costs to the user of the services.

Sincerely,

S/JSH

Jay S. Hammond
Governor

Introduced: 3/12/79
Referred: Community & Regional
Affairs and Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO. 375

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to costs of attorney services pro-

7

vided to indigents charged with violations of municipi-

8

pal ordinances."

9

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

10

* Section 1. AS 18.85.100 is amended by adding a new subsection to

11

read:

12

(c) The attorney services provided under this chapter to an

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indigent person charged with violation of a municipal ordinance must

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be provided at the expense of the municipality.

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*letter - gov intent -
journal
C & RA*

H B

389

(9)

COMMITTEE REPORT

HOUSE

4/1/80

FURTHER:

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 389

"An Act relating to state regulation of fireworks; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

ROBERT E. LINDEN - Do Pass

Terry Martin

Bass

Patrick M. O'Connell

Charles R. ...

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

J. Malone No Rec

Charles R. ...

CHAIRMAN

fiscal note
coming -

called Mike Clemens
at 9:45 am Mon

S.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB 389
 Title An Act relating to state regulation of fireworks
 Requested by _____ Date 4-14-80

II. FISCAL DETAIL
 Agency Affected Public Safety
 Program Category Affected Public Protection
 BRU, Program, or Subprogram(s) Affected Fire Safety
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		(2.0)	(2.0)	(2.0)		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

No significant impact as far as our program. The average yearly license fees (wholesalers) collected would be reduced from \$2500. to \$500.

IV. DATE 4-14-80

PREPARED BY Gary R. Crouse, Deputy Director
 AGENCY Division of Fire Prevention, Department of Public Safety
 PHONE 465-4331

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)



PHONES WA 2-8716 OR WA 2-8717

DISTRIBUTING CO., Inc.

P. O. BOX 258 ■ TACOMA, WASHINGTON 98401

DISTRIBUTORS OF
RED DEVIL
FIREWORKS.

Office located 1/4 mile north of Puyallup River Bridge on Old Seattle-Tacoma Highway

September 30, 1969

Mr. Jim Norene
717 Erwin Street
Anchorage, Alaska

Dear Jim:

I appreciated the time you gave me when I was in your area several weeks ago. When I arrived in Juneau, I discussed the fireworks bill with Mr. Andre Schalk, the Assistant State Fire Marshal. He was quite disturbed about this fireworks law and is looking forward to a change in the law to make it easier for his department to operate.

The attorney we spoke of in Seattle, is Mr. De Witt Williams, Attorney-at-Law, Washington Building, Seattle, Washington. We are checking on the insurance possibilities for you to see what expenses will be incurred.

Thanks again, Jim. I really enjoyed my visit to Alaska.

Best regards,

ZEBRA DISTRIBUTING COMPANY, INC.

Bernard L. Crowell,
Vice-President

BLC/pm



Alaska State Legislature

House of Representatives

Committee on State Affairs

Official Business

May 9, 1978

Pouch V
State Capitol
Juneau, Alaska 99811

Mr. James E. Norene
717 Irwin Street
Anchorage, Alaska 99504

Dear Jim:

Enclosed please find a memorandum I have sent to Senator "Brad" Bradley, Chairman of the Senate Commerce Committee where HB-546 now resides. You will also find a copy of the bill analysis and the Letter of Intent.

So far it looks good, but I will keep you informed as to the progress of the bill.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bob Bradley".

REP. BOB BRADLEY
Chairman
House State Affairs Committee

Thanks again for your efforts in the past!

BB/ch

Enclosure(s)

PATRICK RODEY
SPENARD

601 W. 5TH AVE. SUITE 820
ANCHORAGE, ALASKA 99501

Alaska State Senate

JUNEAU, ALASKA 99811

DURING SESSION

POUCH V
JUNEAU, ALASKA 99811

May 8, 1978

Mr. James Noreen
717 Irwin
Anchorage, Alaska

Dear Jim:

Just wanted to drop you a note to let you know that I enjoyed talking with you.

In view of your interest, I wanted to enclose a copy of Committee Substitute for House Bill 546, which has been referred to the Senate Commerce Committee for further consideration.

I'll speak with Chairman Bradley about the bill, and am glad to have the benefit of your views on the legislation.

If there are any other legislative proposals of concern to you, Jim, please feel free to let me know.

Kindest regards,



Patrick Rodey

PR/ks

*Jim, I'll speak with Bradley so
we'll as Zigler to keep this
bill moving.*

LAW OFFICES

BOYKO AND WALTON

330 "L" STREET
ANCHORAGE, ALASKA 98501

TELEPHONE
277-2671

EDGAR PAUL BOYKO
PETER B. WALTON
JAMES H. LACK
STEPHEN C. COWPER
ROBERT H. WAGSTAFF

May 13, 1970

Honorable Brad Phillips
President, Alaska State Senate
Pouch V
Juneau, Alaska 99801

Dear Brad:

I have your secretary's note of April 21, 1970 requesting my comments on the memo from Greg Machyowsky of the legislative affairs agency with respect to the fireworks insurance requirements of AS18.72.020(a)(1).

I agree with what he says, but feel that the matter has to be resolved by the legislature, since the final outcome of the litigation is still in doubt and in any event will not be ascertained prior to the 1970 fireworks season.

Accordingly, I have prepared a proposed amendment to the statute which would be acceptable to the local industry. I note, that the Governor's office is reported to be interested in considering introduction of an appropriate measure. Perhaps you could sell this to them, bearing in mind that our friend Hank Pratt has a conflict of interest as does our other good friend Senator Joe Josephson (who is the attorney of record for the outside fireworks company which was named as a defendant in the pending law suit).

For your convenience I am also enclosing a copy of Machyowsky's memorandum, so that you won't have to hunt for it.

Your response to the foregoing will be sincerely appreciated.

Cordially,

Edgar Paul Boyko

EPB:ss

CC: Mr. James Norene
Mr. Joseph Bagwill

encl



Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

M E M O R A N D U M

May 5, 1978

SUBJECT: CSMB 546

TO: Senator W. E. "Brad" Bradley, Chairman
Senate Commerce Committee

FROM: Representative Bob Bradley, Chairman
House State Affairs Committee

A handwritten signature in cursive script, appearing to read "B. Bradley".

I would appreciate it if you would schedule this bill as soon as possible. It is an innocuous bill that benefits two people, one in Sitka and a constituent of yours and mine - Jim Norene.

In reading the bill analysis (attached) you will find that it is simply correcting a "wrong." There is no controversy here. The person in the Administration who is familiar with the subject is Dick Block, Director, Division of Insurance, Department of Commerce & Economic Development.



Official Business

for files 4/17/78
Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

BILL ANALYSIS

HR 546

The main thrust of the bill amounts to the following changes:

- A. Elimination of the requirement that the state and all governmental subdivisions of the state be named as insured parties on the person's insurance policy.
- B. Deletion as a prerequisite to selling salable fireworks the acquisition of product liability insurance.

Through research and testimony from the Administration, the Committee came to the following conclusions:

1. That these insurance requirements do in fact discriminate in favor of large out of state fireworks companies. The little instate guys cannot get insurance even from Lloyd's of London because of the statutory requirements. (Exhibit A)
2. No clearly justified benefits -- either to the state or a possible injured party -- exist with the inclusion of these provisions.
3. These items were enacted into the statutes back in 68 or 69, allegedly in response to lobbying by a large fireworks outfit. No evidence arose to the contrary.

The secondary changes in the bill are:

- A. Reduction of the permit fee from \$500 to \$100.
- * B. Reduction of required public liability insurance for bodily injury from \$300,000 to \$200,000 (committee substitute). The draft of the original bill dropped it to \$100,000.
- C. Reduction of required public liability insurance for property damage from \$100,000 to \$50,000.
- * This is the only difference between the original bill and the CS.

NOTE: The Administration testified that there have (so far) been no damages or injuries in this state due to fireworks.



Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

LETTER OF INTENT

April 13, 1978

The Honorable Hugh Malone
Speaker of the House

RE: CS for HB 546

Dear Mr. Speaker,

The Committee on State Affairs has had HB 546 under consideration and recommends that it be replaced with CS for HB 546.

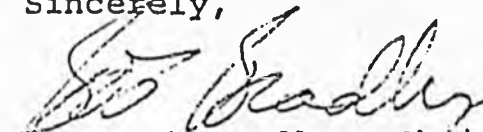
The major thrust of the bill amounts to the following changes in the fireworks laws:

- A. Elimination of the requirement that the state and all governmental subdivisions of the state be named as insured parties on the person's insurance policy.
- B. Deletion as a prerequisite to selling salable fireworks the acquisition of product liability insurance.

Through research and testimony from the Administration, the Committee came to the following conclusions:

1. That such insurance requirements do in fact discriminate in favor of large out of state fireworks companies. The little instate guys cannot get insurance even from Lloyd's of London because of the statutory requirements.
2. No clearly justified benefits -- either to the state or a possible injured party -- exist with the inclusion of these provisions.

Sincerely,


Rep. Bob Bradley, Chairman
House State Affairs Committee

BB:jn

file copy
James E. Norene
717 Irwin St.
Anchorage, Ak. 99504

Mr. Randy Phillips
House of Representatives
Pouch Y
Juneau, Alaska 99801

Dear Mr. Phillips:

As you know, I have handled firework sales for over thirty years in Alaska, and am still supplementing my pension with firework sales.

In 1969, a bill was passed in the legislature (S.B. 302 am, Chapter 116 amended to add a new Chapter 72, State regulation of fireworks). The bill was introduced by Ace Fireworks Co. of Seattle, to gain a monopoly in the State of Alaska, as the insurance requirements were such that it was impossible to obtain the policy even through Lloyds of London. Even Ace Fireworks Company's insurance company refused me a policy. The case was taken to court, I was able to get an injunction through the courts, including the State Supreme Court, which eliminated the insurance clause, and I was able to stay in business.

Now, I have just learned that in 1972, I was supposed to appear in court within 60 days to substitute the State of Alaska as party defendant in place of the individual defendants originally named, and failing to do so the case would be dismissed. I was never notified nor issued a subpoena and only learned of the action as of yesterday through the State Fire Marshal's office in Anchorage. Once again, I am denied a State fireworks license while the large companies in Seattle, Tacoma, and Denver can monopolize the State of Alaska because the State law prohibits the small companies in Alaska from obtaining insurance as called for in the Act.

I know that it is almost sine die, in legislature, but with your cooperation and other members of both houses I feel sure that the amendment that I am submitting can be pushed through before adjournment. I am not trying to eliminate other firework companies, only amend the Act so Alaska businessmen can stay in business and not be subjected to monopolies. I am including a copy of a bill and memorandum from the Legislative Affairs Agency which was sent to Brad Phillips in 1970 and never introduced or passed, which would have eliminated the problem. I would appreciate your consideration and help, as the present Act is discriminatory to Alaskans.

I'm sorry that I am sending this request at such a late date, but as I mentioned before, it only came to my attention yesterday.

It is imperative that action be taken. Our orders were placed in January, and it will create an economic disaster if not corrected before July 1st.

Sincerely yours,

James E. Norene
James E. Norene
Former Legislator