

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5595 STRA HJR 46 - HJR 68

HJR

46

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: CSHJR 46 (TRSP)  
PUBLISH DATE: HOUSE 1/29/88

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: \_\_\_\_\_  
 Title: Exempt aircraft from regulations on BRU: \_\_\_\_\_  
size of registration numbers  
 Sponsor: Rep. Frank Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

[Empty box for analysis]

Prepared by: Rep. Bette Cato, Chairman Phone: 465-4858  
 Division: House Transportation Committee Date: 1/27/88

Approved by Commissioner: Rep. Bette Cato, Chairman *BC* Date: 1/27/88  
 Agency: House Transportation Committee

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

ST COMMITTEE OF REFERRAL

Date of 2-18-88 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: Rules

\*\*FISCAL NOTE(S) ATTACHED X \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

2/1/88 DATE TURNED INTO OFFICE 2-26-88  
Mr. President:

Transportation Committee considered <sup>not</sup> CSHJR 46 (TRSP) am

Requesting the Federal Aviation Administration to exempt aircraft in Alaska from regulations on the size of aircraft registration numbers and on supplemental identification plates.

*majority* and recommended: *it be approved with*

[X] replace with SCS For CS HJR 46 (TRSP)  same title  
[ ] attached amendment(s) <sup>and majority do pass</sup>  new title

[X] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to \_\_\_\_\_

[ ] letter of intent adopted and attached

*DF*

\*\* Committee  attached or [ ] adopted fiscal note(s)  
 zero  fiscal impact

MEMBERS SIGNING DO PASS  
[Signature]  
[Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OTHER RECOMMENDATIONS  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
Chairman signature and recommendation

[ ] Committee Backup Attached

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Public Safety  
 Title: Requesting the Federal Aviation Administration to exempt aircraft in Alaska from req. BRU: Fish & Wildlife Protection  
 Sponsor: Frank, Adams, Miller, Boyer, et al Components: Enforcement  
 Requestor: Senate Transportation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact is anticipated.

KCS  
JWR  
2/10/88

Prepared by: Captain Conrad G. Seibel Phone: 269-5509  
 Division: Fish & Wildlife Protection Date: 2/27/88  
 Approved by Commissioner: Donna Hovde Date: 2-24-88  
 Agency: Department of Public Safety

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FISCAL NOTE

REQUEST

Revision Date: \_\_\_\_\_  
 Title: ". . regulations on the size of  
 aircraft registration numbers . ."  
 Sponsor: Transportation Committee  
 Requestor: Senate Transportation

Agency Affected: Public Safety  
 BRU: Alaska State Troopers  
 Components: Criminal Investigation  
 Bureau

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY88	FY89	FY90	FY91	FY92	FY93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUNDS						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Francis C. Allan *F.C.A.*  
 Division: Alaska State Troopers

Phone: 269-5691  
 Date: 2/22/88

Approved by Commissioner: *Donna Horvath*  
 Agency: Public Safety  
 Distribution: (by preparer):

Date: 2-24-88

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 24, 1988

SUBJECT: Draft Senate CS CSHJR 46 (Trsp)

TO: Senator Lloyd Jones  
Chair  
Senate Transportation Committee

FROM: George Utermohle *GU*  
Legislative Counsel

Enclosed is the Senate Committee Substitute for HJR 46, as requested by Ray Matiashowski of your staff.

The Senate Transportation Committee substitute contains the Whereas clauses and Resolve clauses that were requested; however, the title of the resolution has not been changed. Uniform Rule 49(a)(5) requires that a joint resolution be treated in all respects as a bill and under Uniform Rules 24, 35, 41, and 42, the title of a bill may not be changed in the second house. Thus the title of a joint resolution may not be changed in the second house, but that does not mean that the content of a joint resolution cannot be changed.

The constitutional requirement (Art. 2, sec. 13, Alaska State Constitution) that the title of a bill express the subject of the bill does not apply to resolutions, so the title of a resolution need not reflect the content of the resolution. (However AS 24.08.200 does require that resolutions which propose amendments to the constitution be treated as bills and thus would be subject to the constitutional and statutory conditions attached to the introduction, amendment, and passage of bills.)

The interests of the legislature in being informed of the content of a resolution by the title of the resolution is protected by the requirement of Uniform Rule 35 which requires an amendment to a bill or resolution be germane to the subject of the bill or resolution. HJR 46, as amended by the Senate Transportation Committee substitute, satisfies

Senator Lloyd Jones  
Page 2  
February 24, 1988

the germaneness requirement because the amendments relating to the redefinition of the Alaska Air Defense Identification Zone by the North American Aerospace Defense Command are relevant to the subject of the resolution.

In summation, the enclosed Senate Committee Substitute for CSHB 46 contains relevant amendments to the resolution as passed by the House, but the content of the amendments is not fully expressed in the title of the resolution. Despite the shortcomings of the resolution's title, the Senate Committee Substitute does not violate constitutional, statutory, or uniform rules provisions relating to the title or content of resolutions.

Enclosure

GU:bb  
wkb3/031

# Alaska State Legislature

**STEVE FRANK**

DISTRICT 20A  
Finance Committee

1125 Sunset Drive  
Fairbanks, Alaska 99701



White in Juneau  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-3709

## House of Representatives

TO: Senate Transportation Committee members

FROM: Rep. Steve Frank

RE: Senate CS for CSHJR 46 - "size of aircraft registration numbers"

DATE: February 25, 1988

---

Senate CS for CS House Joint Resolution 46 requests that the FAA grant an exemption from their new regulations requiring an increase in aircraft registration number size from 3" to 12" for planes flying within Alaska.

The Federal Aviation Administration (FAA) has implemented new regulations requiring planes that penetrate an Air Defense Identification Zone (ADIZ) or a Distant Early Warning Identification Zone (DEWIZ) to display larger registration numbers and exterior identification plates. Currently the majority of Alaska is surrounded by an ADIZ with the exception of Southeastern and some parts of Western Alaska.

Recently the North American Aerospace Command (NORAD) announced its plans to revise the ADIZ which will solve the problem in most of Alaska. However, the proposed ADIZ will encompass significant parts of Western Alaska such as St. Mary's, Nome, Pt. Hope, and Icy Cape. As a consequence, aircraft flying from anywhere in Alaska to these places would still have to comply with the 12 inch lettering requirement.

For that reason we are requesting that the FAA grant an exemption for Alaskan planes flying intrastate. In addition, since the proposed ADIZ will not become effective until May, we are requesting a waiver from the new regulations until the new ADIZ is implemented.

I would appreciate your support of this resolution.

BILL NO: CSHJR 46 (TRSP) AM

DATE: 2/24/88

TITLE: Act requesting exemption  
of Alaskan aircraft from  
FAA regulations on aircraft  
number size...

CONTACT: Lt. Valentine  
789-2161

DEPARTMENT OF PUBLIC SAFETY

Federal Aviation Administration (FAA) regulations will come into effect March 7, 1988 which will require all United States aircraft operating in the Air Defense Identification Zone (ADIZ) and the Distant Early Warning Identification Zone (DEWIZ), to have twelve inch high identification numbers. The purpose was to meet both military and customs concerns, as well as air safety violator identification. This resolution is an attempt to influence the FAA to exempt Alaskan aircraft from the regulations.

The Department of Public Safety has experienced enforcement problems in the past when trying to identify aircraft suspected of being involved in:

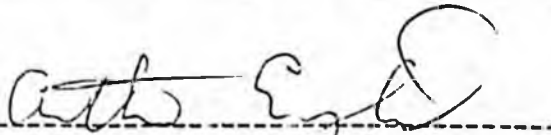
- 1) Fish and game violations -- individuals involved in big game violations such as the taking of big game the same day airborne, and illegal big game guiding operations.
- 2) Illegal distribution of alcoholic beverage and controlled substances often accomplished by small aircraft.

Suspect aircraft with only 3 inch registration numbers are difficult, often times impossible, to identify as compared to those aircraft with the larger, more visible 12-inch lettering.

While the Department recognizes problems with the existing FAA regulations, such as outlined in Lines 21-25 (page 1 of the resolution), it is the Department's position that more, not less, aircraft should be identified with the 12-inch lettering.

It should be noted that the FAA has included lengthy compliance wording allowing temporary numbering to save owner costs, the change of Alaska's Defense zones, and other aircraft owner considerations in order to be as least disruptive and costly as possible.

The Department of Public Safety does not support this resolution.

  
Arthur English, Commissioner

5-1596N  
Utermohle  
2/24/88

Original sponsors: Frank, Adams,  
Miller, et al.

1 IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

2 SENATE CS FOR CS FOR HOUSE JOINT RESOLUTION NO. 46 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 Requesting the Federal Aviation Adminis-  
6 tration to exempt aircraft in Alaska  
7 from regulations on the size of aircraft  
8 registration numbers and on supplemental  
9 identification plates.

10 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 WHEREAS the Federal Aviation Administration has adopted regulations  
12 that require 12-inch registration numbers on aircraft penetrating an Air  
13 Defense Identification Zone (ADIZ) or a Distant Early Warning Identifica-  
14 tion Zone (DEWIZ) and a supplemental identification plate on the exterior  
15 of aircraft; and

16 WHEREAS these regulations were adopted to assist the U.S. Customs  
17 Service in identifying aircraft suspected of carrying illegal drugs across  
18 these zones; and

19 WHEREAS there has been no documented case in Alaska involving a small  
20 aircraft entering an ADIZ or DEWIZ transporting illegal drugs; and

21 WHEREAS these regulations will have a negative effect on the number of  
22 visitors coming to the state by private aircraft for business and tourism  
23 purposes, for example, the International Cessna 170 Association convention  
24 in Fairbanks; and

25 WHEREAS the North American Aerospace Defense Command (NORAD) is plan-  
26 ning to redefine the Alaska ADIZ;

27 BE IT RESOLVED that the Alaska State Legislature respectfully requests  
28 the Federal Aviation Administration to authorize the Alaska Region of the  
29 Federal Aviation Administration to grant temporary relief from the

1 regulation requiring 12-inch registration numbers to those pilots who  
2 penetrate the current Alaska Air Defense Identification Zone until the new  
3 description of the Alaska Air Defense Identification Zone is adopted; and  
4 be it

5 FURTHER RESOLVED that the Alaska State Legislature respectfully re-  
6 quests the Federal Aviation Administration to exempt aircraft flying be-  
7 tween points in Alaska from <sup>the regulation requiring 12 in registration #s</sup> these regulations when the boundaries of the  
8 Alaska Air Defense Identification Zone are redefined; and be it

9 FURTHER RESOLVED that the Alaska State Legislature respectfully re-  
10 quests the North American Aerospace Defense Command to proceed in the most  
11 expeditious manner with the redescription of the Alaska Air Defense Identi-  
12 fication Zone and other Air Defense Identification Zones north of the  
13 contiguous 48 states of the United States in order to eliminate the re-  
14 quirement that aircraft flying in Alaska and between Alaska and the other  
15 states penetrate these zones.

16 COPIES of this resolution shall be sent to the Honorable James H.  
17 Burnley IV, Secretary of Transportation; the Honorable Frank C. Carlucci,  
18 Secretary of Defense; the Honorable T. Allan McArtor, Administrator of the  
19 Federal Aviation Administration; General John Piotrowski, Commander, North  
20 American Aerospace Defense Command; and to the Honorable Ted Stevens and  
21 the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young,  
22 U.S. Representative, members of the Alaska delegation in Congress.

# Alaska State Legislature

**STEVE FRANK**

DISTRICT 20A  
Finance Committee

1125 Sunset Drive  
Fairbanks, Alaska 99701



While in Juneau  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-3709

## House of Representatives

TO: Senate Transportation Committee members

FROM: Rep. Steve Frank

RE: Senate CS for CSHJR 46 - "size of aircraft registration numbers"

DATE: February 25, 1988

---

Senate CS for CS House Joint Resolution 46 requests that the FAA grant an exemption from their new regulations requiring an increase in aircraft registration number size from 3" to 12" for planes flying within Alaska.

The Federal Aviation Administration (FAA) has implemented new regulations requiring planes that penetrate an Air Defense Identification Zone (ADIZ) or a Distant Early Warning Identification Zone (DEWIZ) to display larger registration numbers and exterior identification plates. Currently the majority of Alaska is surrounded by an ADIZ with the exception of Southeastern and some parts of Western Alaska.

Recently the North American Aerospace Command (NORAD) announced its plans to revise the ADIZ which will solve the problem in most of Alaska. However, the proposed ADIZ will encompass significant parts of Western Alaska such as St. Mary's, Nome, Pt. Hope, and Icy Cape. As a consequence, aircraft flying from anywhere in Alaska to these places would still have to comply with the 12 inch lettering requirement.

For that reason we are requesting that the FAA grant an exemption for Alaskan planes flying intrastate. In addition, since the proposed ADIZ will not become effective until May, we are requesting a waiver from the new regulations until the new ADIZ is implemented.

I would appreciate your support of this resolution.

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

# Alaska State Legislature

**STEVE FRANK**

DISTRICT 20A  
Finance Committee

1125 Sunset Drive  
Fairbanks, Alaska 99701



While in Juneau  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-3709

## House of Representatives

TO: Senate Transportation Committee members

FROM: Rep. Steve Frank

RE: Senate CS for CSHJR 46 - "size of aircraft registration numbers"

DATE: February 25, 1988

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Senate CS for CS House Joint Resolution 46 requests that the FAA grant an exemption from their new regulations requiring an increase in aircraft registration number size from 3" to 12" for planes flying within Alaska.

The Federal Aviation Administration (FAA) has implemented new regulations requiring planes that penetrate an Air Defense Identification Zone (ADIZ) or a Distant Early Warning Identification Zone (DEWIZ) to display larger registration numbers and exterior identification plates. Currently the majority of Alaska is surrounded by an ADIZ with the exception of Southeastern and some parts of Western Alaska.

Recently the North American Aerospace Command (NORAD) announced its plans to revise the ADIZ which will solve the problem in most of Alaska. However, the proposed ADIZ will encompass significant parts of Western Alaska such as St. Mary's, Nome, Pt. Hope, and Icy Cape. As a consequence, aircraft flying from anywhere in Alaska to these places would still have to comply with the 12 inch lettering requirement.

For that reason we are requesting that the FAA grant an exemption for Alaskan planes flying intrastate. In addition, since the proposed ADIZ will not become effective until May, we are requesting a waiver from the new regulations until the new ADIZ is implemented.

I would appreciate your support of this resolution.

# Alaska State Legislature

**STEVE FRANK**

DISTRICT 20A  
Finance Committee

1125 Sunset Drive  
Fairbanks, Alaska 99701



While in Juneau  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-3709

## House of Representatives

TO: All House Members

FROM: Rep. Steve Frank

RE: HJR 46 - regarding the size of aircraft  
registration numbers

DATE: January 29, 1988

---

House Joint Resolution 46 requests that the FAA grant an exemption for Alaska from their new regulations requiring an increase in aircraft registration number size from 3" to 12" and requiring an exterior identification plate.

The Federal Aviation Administration (FAA) has implemented new regulations requiring planes that penetrate an Air Defense Identification Zone (ADIZ) or a Distant Early Warning Identification Zone (DEWIZ) to display larger registration numbers and exterior identification plates. Currently the majority of Alaska is surrounded by an ADIZ with the exception of Southeastern and some parts of Western Alaska.

Recently the North American Aerospace Command (NORAD) announced its plans to revise the ADIZ which will solve the problem in most of Alaska. However, the proposed ADIZ will encompass significant parts of Western Alaska such as St. Mary's, Nome, Pt. Hope, and Icy Cape. As a consequence, aircraft flying from anywhere in Alaska to these places would still have to comply with the 12 inch lettering requirement.

For that reason we are requesting that the FAA grant an exemption for Alaskan planes flying intrastate. In addition, since the proposed ADIZ will not become effective until May, we are requesting a waiver from the new regulations until the new ADIZ is implemented.

Thank you for your consideration.

*Sponsors letter*

PROPOS. ALASKAN ADIZ ALIGNMENT



*Proposed ADIZ Alignment*

BRIEFING ITEM FOR AVIATION FORUM

SUBJECT: AIR DEFENSE IDENTIFICATION ZONE (ADIZ) REALIGNMENT

Proposed effective date: May 5, 1988.

BACKGROUND

The military has decided that the ADIZ realignment is necessitated by the various North American Aerospace Defense Modernization initiatives and HQ NORAD direction to simplify identification zones for North America.

CHANGES

The terms "Coastal ADIZ," "Domestic ADIZ," and "Distant Early Warning Identification Zone (DEWIZ)" will be eliminated. Henceforth, "ADIZ" will be the only term used regarding identification zones.

Significant Alaskan NORAD Region changes.

1. The Alaskan ADIZ will include all of the Aleutian Islands (current DEWIZ does not).
2. Off the Alaska north coast, the ADIZ line will extend northward an additional 120 nautical miles.
3. A portion of the existing ADIZ line between Alaska and Canada will be eliminated (see marking on proposed realignment chart).
4. Establish ADIZ along southeast coast of Alaska to cover gap which presently exists between the Canadian Coastal ADIZ and the Alaskan DEWIZ.

Other changes.

1. Institute a new ADIZ off both the Canadian and U.S. coastal areas to provide for integral perimeter coverage for the continent.
2. The ADIZ across central Canada is no longer required due to the closure of the Pinetree line radars.

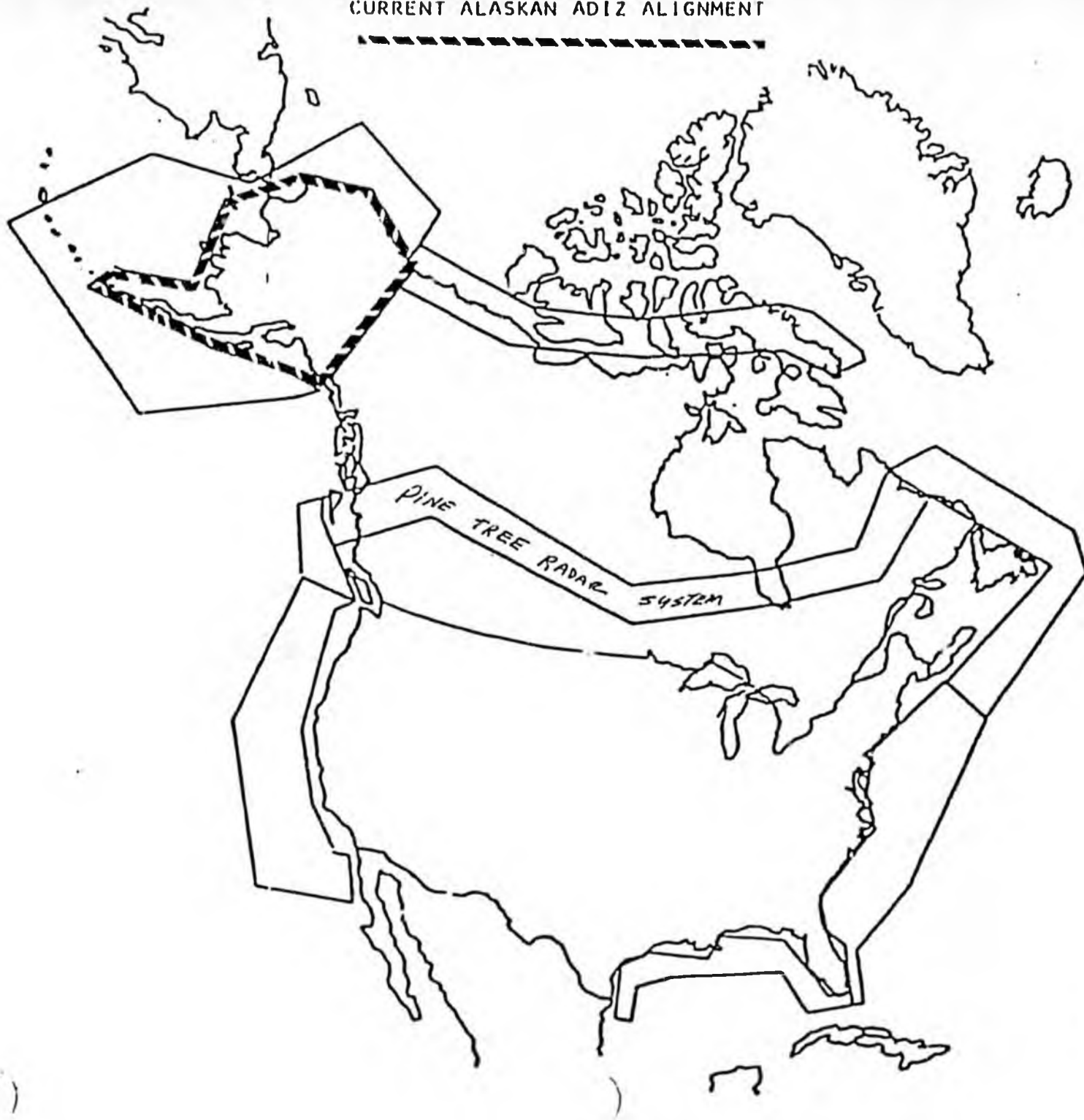
Attached is depiction of current alignment and the proposed realignment. FAA Washington Headquarters is preparing a notice of proposed change to FAR 99, "Security Control of Air Traffic," for publication in the Federal Register.

AAL-500 *H2*  
12/1/87

2 Attachments

*Proposed New ADIZ alignment (effective 5/5/88)*

CURRENT ALASKAN ADIZ ALIGNMENT



*Current ADIZ alignment*

WARWICK & SCHIKORA  
a professional corporation  
CERTIFIED PUBLIC ACCOUNTANTS

1919 LATHROP  
DRAWER 17  
FAIRBANKS, ALASKA 99701

(907) 456-1566  
ANDREW S. WARWICK  
RICK J. SCHIKORA

December 10, 1987

State House Representative Steve Frank  
1125 Sunset Drive  
Fairbanks, AK 99701

Dear Representative:

Please note the attached article from Air Alaska, November 1987 issue. I understand the date for implementation has been moved to March 7, 1988. I don't believe the provisions for 12" numbers or for an outside data plate are necessary for Alaska. The requirement for the form 337 to be aboard the aircraft for fuel tanks installed according to FAA regulations is a matter of paperwork and not of significant concern. The main purpose of the first two provisions is to make it easier for Customs to identify aircraft suspected of running drugs across the Air Defense Identification Zones. The pertinent FAA regulations are FAR 45.29(h) for the 12" numbers, FAR 45.11(d) for the data plate information, and FAR 91.27(c) for the fuel tank requirements.

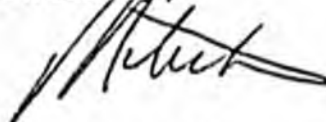
I am concerned because my wife and I invited the International Cessna 170 Association to convention in Alaska for a week during July 1988. We expect close to 100 airplanes to come to Fairbanks. Many of the aircraft have small numbers. All Cessna 170's are between 32 and 40 years old. The amount of money that we expect to be spent by the occupants of each Cessna 170 is substantial, and will be spread throughout the communities of Alaska. Gas sales, hotel rooms, meals, sightseeing, and tourist purchases will result in a boost to the businesses in the area, while taxes or direct fees will generate revenue for the local governments and the State of Alaska. We don't want to miss the opportunity for the revenue.

More importantly, however, is the fact that we do not want to have the inconvenience for our visitors and fellow Alaskans. Whenever one of us flies across the border to visit our neighbors in Canada, we will have to comply with the new law. Contrary to what the FAA says in their comments on the regulations, my maps show that flights conducted entirely within Alaska can be subject to the rules. Look at the fact that Tin City, Wales Point Hope, Icy Cape, Wainwright and Point Barrow Dew Station are outside the Alaskan ADIZ. Anytime the ADIZ or DEWIZ is penetrated, the law comes into effect.

The regulations mentioned above were designed for the coastal areas of the lower 48, where drug running is a real problem. Here, over-regulation, by virtue of including Alaska in regulations that do not fit the situation is a problem. This happens in more instances than just this one. Please provide your support by getting Congress to make an exception for Alaska.

I would be happy to discuss this with you further. I certainly appreciate your help.

Sincerely,



Rick Schikora

Constituent letter - Support of ...

builder's serial number must be legible to a person on the ground and must be located either adjacent to and aft of the rear-most entrance door or on the fuselage near the tail surfaces. The model designation and builder's serial number must be displayed in such a manner that they are not likely to be defaced or removed during normal service.

5. Section 45.21 is amended by revising paragraph (d)(3) to read as follows:

§ 45.21 General.

(d) . . .

(3) It is marked temporarily to meet the requirements of § 45.22(c)(1) or § 45.29(h) of this part, or both.

6. Section 45.29 is amended by revising the introductory text of paragraph (b) and adding a new paragraph (h) to read as follows:

§ 45.29 Size of Marks.

(b) *Height.* Except as provided in paragraph (h) of this part, the nationality and registration marks must be of equal height and on—

(h) After December 8, 1987, each operator of an aircraft penetrating an ADIZ or DEWIZ shall display on that aircraft temporary or permanent nationality and registration marks at least 12 inches high.

**PART 91—GENERAL OPERATING AND FLIGHT RULES**

7. The authority citation for Part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 S.A. 1180); 42 U.S.C. 4321 *et seq.*; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

8. Section 91.27 is amended by adding a new paragraph (c) to read as follows:

§ 91.27 Civil aircraft: Certifications required.

(c) No person may operate an aircraft with a fuel tank installed within the passenger compartment or a baggage compartment unless the installation was accomplished pursuant to Part 43 of this chapter, and a copy of FAA Form 337 authorizing that installation is on board the aircraft.

9. Section 91.173 is amended by revising paragraph (c) and adding a new paragraph (d) to read as follows:

§ 91.173 Maintenance records.

(c) The owner or operator shall make all maintenance records required to be kept by this section available for inspection by the Administrator or any authorized representative of the National Transportation Safety Board (NTSB). In addition, the owner or operator shall present the Form 337 described in paragraph (d) of this section for inspection upon request of any law enforcement officer.

(d) When a fuel tank is installed within the passenger compartment or a baggage compartment pursuant to Part 43, a copy of the FAA Form 337 shall be kept on board the modified aircraft by the owner or operator.

Issued in Washington, D.C., on September 1, 1987.

T. Allan McArdor,  
Administrator.

[FR Doc. 87-20606 Filed 9-8-87; 8:45 am]  
BILLING CODE 4910-13-M

Changes FAA regs 9/9/87 effective 2/8/87

I.D. plate affixed in an easily accessible area, legible to an observer on the ground, facilitates verification of aircraft identification by FAA inspectors, Customs investigators, and other law enforcement officials. The amendment provides for ready access to the I.D. plate data without having to enter the aircraft. It makes the I.D. plate information and N-number available simultaneously to provide a cross reference to help determine whether the aircraft may have been stolen or to determine if the registration number has been falsified. It also facilitates FAA inspectors' identification of aircraft for verification of maintenance, modification, and other airworthiness requirements to assure safe aircraft operation.

This amendment is not retroactive since this could result in a major change which would pose an undue burden on many aircraft owners. For example, if the I.D. plates currently affixed to aircraft, as required, were to be removed (i.e., repositioned) from the existing locations, this could result in damage to the aircraft and I.D. plate, and might require burdensome engineering and manufacturing changes such as structural, interior or exterior repair, or repainting.

As a cost-saving alternative for aircraft manufactured prior to 90 days after the effective date of this amendment, this final rule allows the display of just the model designation and builder's serial number on the fuselage exterior, adjacent to and aft of the rear-most entrance. This may be done if the identification plate is secured at an accessible exterior or interior location near an entrance. The model designation and serial number are required to be affixed in such a manner that they are not likely to be defaced or removed during normal service. Unlike the required fireproof I.D. plate, this "supplemental" identification does not have to be affixed in a manner such that it is not likely to be lost or destroyed in an accident. Thus, the data may be affixed in a relatively low-cost manner such as by painting or decal.

**C. Illegal Fuel Tank Installation—Part 43, Appendix B(a) and (d); § 91.27(c); and § 91.173(a) and (d)**

This amendment requires that all affected aircraft modified with additional fuel tanks in the passenger or a baggage compartment, under Part 43 of the FAR, physically have on board the aircraft a copy of the required FAA Form 337. This includes aircraft previously not required to have an FAA Form 337 for fuel tank installations

when operating with a special flight permit for the purpose of delivery or export. This amendment also requires that the owner or operator of an aircraft with such fuel tanks present the FAA Form 337 for inspection by any law enforcement officer.

This amendment provides one means for FAA, Customs, and other investigators to quickly obtain evidence as to whether the additional tanks in the aircraft are authorized or possibly illegally installed. Enforcement action can then be taken by the FAA and the appropriate agency against persons operating such aircraft. Action can also be taken to prevent the aircraft from being flown. This rule makes it possible for Customs to concentrate interdiction efforts on those aircraft modified with unauthorized fuel tank installations and which are possibly being used for illegal drug trafficking. By limiting this rule to aircraft modified with fuel tanks in the passenger or baggage compartments, which requires an FAA Form 337 under Part 43, operators of aircraft with FAA-approved extended-range fuel tanks located elsewhere in the aircraft (e.g., wing tip tanks) would not be required to keep that authorization on board the aircraft.

#### Discussion of Comments

##### General

Eighty commenters, representing the views of the aviation community, participated in this rulemaking. Comments were submitted by individual pilots and owners and operators of aircraft including representatives of some aviation and aircraft manufacturers associations. Generally, the commenters support Customs' objective to stop the flow of illegal drugs into the United States by air. However, most commenters disagree as to what amendments should be adopted and who should comply with them. Some commenters disagree with all the amendments or recommend proposals which are outside the scope of the NPRM. The majority of the commenters address the proposed amendments separately and give reasons which oppose a particular issue and either concur in or withhold comments on the other issues.

The comments from aviation association representatives on the amendments also range from full support as noted by the Airline Pilots Association (ALPA) to "no merit" as the Aircraft Owners and Pilots Association (AOPA) contends. Many commenters contend that the FAA action will not stop drug trafficking and question the value of these amendments. They

contend that there are more effective ways to stop drug smugglers such as direct legislation against smugglers. The commenters, however, fail to recognize or acknowledge that the FAA action proposed in Notice No. 88-9 is only a part of the total U.S. Government on-going effort to actively suppress drug smuggling, which includes law enforcement agencies efforts of other Departments such as the Treasury, Justice, and Defense. These initiatives carry out the mandates of Congress, such as the Anti-Drug Abuse Act (Pub. L. 99-570, October 27, 1986).

The pertinent comments and commenters' recommendations concerning each amendment are discussed in the following paragraphs. In addition, comments concerning the time and cost of compliance are discussed separately.

##### Registration Numbers

The majority of commenters object to the requirement for displaying 12-inch N-numbers on certain aircraft that penetrate an ADIZ or DEWIZ. The commenters contend that the amendment imposes unnecessary costs on owners and operators of aircraft allowed to display smaller N-numbers under § 45.29(b), with no benefit to legitimate operators who must pay for an ineffective law which drug smugglers can easily circumvent with temporary and false markings. Also, operators of some aircraft such as experimental amateur-built, rotorcraft, gliders, airships, and balloons feel that this amendment should be limited to twin-engine, fixed-wing aircraft.

The FAA disagrees because, as stated in the notice, there is an urgent need for positive identification of *all aircraft* that penetrate the defense zones, regardless of size and configuration. However, it should be noted that this amendment only affects those aircraft that display the ineffective small N-numbers and penetrate the ADIZ or DEWIZ. Additionally, to avoid unnecessary costs to operators of the affected aircraft, a 90-day time period is provided for compliance. This provides for sufficient time in which the temporary or permanent 12-inch N-numbers can be affixed to aircraft affected.

A few commenters questioned why all aircraft operating in Alaska must display 12-inch marks since Alaska lies entirely within an ADIZ while aircraft in the contiguous United States may display small N-numbers. However, the rule applies to those aircraft that *penetrate* the ADIZ or DEWIZ. Accordingly, aircraft allowed to display small N-numbers in accordance with

Concerns expressed to FAA - 9/9/87

regulations, whether in the United States or elsewhere, must affix 12-inch N-numbers only if they are going to penetrate an ADIZ or DEWIZ. Thus, aircraft operating solely within the State of Alaska will not be required to display 12 inch N-numbers unless they depart on and reenter the ADIZ.

Some commenters contend that the amendment penalizes legitimate aircraft operators while drug smugglers can easily circumvent or violate the regulation. The FAA disagrees because most aircraft operators are required to display 12-inch N-numbers under Part 45. Further, the FAA, in conjunction with other law enforcement agencies, aggressively investigates and takes appropriate action on incidents involving violations of the FAR. Furthermore, under the new Anti-Drug Abuse Act, increased civil and criminal penalties may be imposed on aircraft operators involved in drug smuggling. These penalties range up to \$250,000 and 20 years in prison and include the seizure and forfeiture of the aircraft. The amendments to §§ 45.21 and 45.29 have been adopted as proposed.

#### *Identification Data Plates*

With regard to the exterior location of I.D. plates and/or data, most commenters contend generally that this amendment is ineffective, impractical, or redundant. A majority of the commenters contend that the amendments would be ineffective because the rule can be easily circumvented by falsifying the data on the exterior surface of the aircraft. The FAA does not agree since the FAA penalties and the more recent legislation, cited previously, are expected to deter such violations.

Some commenters maintain that the rule is impractical because repositioning the existing I.D. plates or affixing a second I.D. plate could damage the aircraft, especially those covered with fabric. The FAA does not agree since the rule does not require repositioning of the original I.D. plates, which conceivably could result in damage to the aircraft. Also, both old and new aircraft can have I.D. plates affixed on the exterior surface, as required, without damaging even fabric-covered aircraft.

Some commenters claim that I.D. plates affixed to the exterior surface of large aircraft would be too high to read by an observer on the ground. Others argue that there is no need to change the I.D. plate location on some rotorcraft, open cockpit aircraft, and balloons where the required I.D. plate can be viewed by an observer outside the aircraft.

However, although I.D. plates can be viewed from the outside of some aircraft, the FAA has determined that I.D. plates in a *standard* location on the exterior surface adjacent to and aft of the most entrance door of an aircraft provides for quick access to the I.D. information, in addition to precluding the need to gain access to the inside of an aircraft.

With regard to the redundant data, commenters contend that there is no need to affix the same data in two places on the same aircraft, therefore, the status quo should be maintained or the NPRM withdrawn.

The FAA disagrees because the I.D. information which is secured inside an aircraft cannot be obtained readily, as some contend, without gaining access to the aircraft. The FAA has determined that the standard exterior location is the most effective location for I.D. plates and/or data. A standard location provides quick access to the identification data with the least impact on the aviation community since most aircraft owners and operators already comply with that requirement, while others can mark their aircraft inexpensively as discussed in Notice No. 86-9.

#### *Additional Fuel Tank Installations*

The majority of commenters responding to this amendment agreed with the requirement to have the completed FAA Form 337 aboard an aircraft modified in accordance with Part 43 with fuel tanks in the passenger or baggage compartments. Those opposed contend that the amendment imposes an unnecessary burden on operators of aircraft that may be modified with fuel tanks in accordance with regulations which do not require the use of an FAA Form 337 for documenting major alternations. Accordingly, they maintain that the rule should exempt operators under Parts 121, 127, or 135, as applicable.

The FAA considered the regulations governing aircraft modified under other applicable provisions. However, approved documentation under a continuous airworthiness maintenance program may not be as suitable for carriage on an aircraft as the FAA Form 337. For that reason, the proposed amendment applied only to aircraft modified pursuant to part 43 with fuel tanks installed in the passenger or baggage compartments. This amendment adopts that proposal. The new rule does not require documentation for aircraft modified under other provisions of the FAR.

Some commenters state that the FAA Form 337 can be easily falsified or that

an approved installation could be used by a smuggler and that, either way, the amendment has little value. The FAA does not agree since violations of the applicable regulations, such as unapproved equipment installations, are vigorously pursued and enforced by the FAA to maintain safety in air operations. In addition, Customs considers this amendment to be a significant step toward curbing the use of aircraft for drug smuggling.

#### *Time for Compliance*

Some commenters object that the proposal does not provide sufficient time for compliance and that this creates an undue burden on owners and operators because of the requirements for ferrying and downtime. The FAA agrees with these commenters. It was planned to allow a period of 90 days after the effective date for compliance with the requirements for the display of 12-inch N-numbers and for the affixing of I.D. plate and/or data. In the NPRM, however, the "October 8, 1986" date was published in error apparently by using the published date of July 10, 1986, as the start of the 90-day period. A correction is made to allow sufficient time for compliance.

To preclude an undue burden on aircraft owners and operators, the 90-day period provides time for appropriate N-numbers and the I.D. plate and/or data to be affixed. The delayed compliance time only applies to the requirements for the display of 12-inch N-numbers and the I.D. plate and/or data. The display of temporary 12-inch markings is permitted for N-numbers, as appropriate, and the method for affixing data plate information on the exterior surface of an aircraft is purposely undefined to allow for economic alternatives, such as painting or decals.

#### *Cost of Compliance*

The majority of commenters object to the cost that would be imposed by the proposed 12-inch N-numbers and I.D. plate amendments. They contend that the cost of compliance estimates are too low. In addition, the commenters indicate that the FAA cost estimates do not reflect a loss of revenue caused by ferrying and downtime.

The FAA disagrees with the commenters that its cost estimates are too low. The FAA believes its cost estimates to be a good indicator of what aircraft operators/owners impacted would, on the average, incur. Moreover, after careful examination of the comments received on NPRM No. 86-9, it has become apparent to the FAA that the majority of the commenters

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## 14 CFR Ch. I (1-1-87 Edition)

## Federal Aviation Administration, DOT

§ 45.29

due to the configuration of an aircraft it is impossible for a person to be in accordance with §§ 45.21 through 45.33, he may apply to the Administrator for a different procedure.

8093, Amdt. 45-8, 33 FR 450, Jan. 15, 1964, as amended by Amdt. 45-13, 46 FR 15, 1981

## Display of marks; general.

Each operator of an aircraft shall display on that aircraft marks consisting of the Roman capital letter "N" (United States registration) followed by the registration number of the aircraft. Each suffix letter used in the marks displayed must also be a Roman capital letter.

When marks that include only the Roman capital letter "N" and the registration number are displayed on aircraft of the restricted category, experimental or provisionally certificated aircraft, the operator shall also display on that aircraft near each entrance to the cabin or cockpit, in letters not less than 2 inches nor more than 4 inches in height, the words "restricted," "experimental," or "provisional airworthiness," as applicable.

8093, Amdt. 45-6, 33 FR 450, Jan. 15, 1964, as amended by Amdt. 45-9, 42 FR 15, 1977

## Location of marks on fixed-wing aircraft.

Each operator of a fixed-wing aircraft shall display the required marks on the vertical tail surfaces or on the fuselage, except as provided in § 45.29(f).

The marks required by paragraph (f) of this section shall be displayed as follows:

(1) *Displayed on the vertical tail.* The marks shall be displayed horizontally on both surfaces of the vertical tail or on the outer surface of a multivertical tail. However, on aircraft on which marks at least 12 inches high may be displayed in accordance with § 45.29(b)(1), the marks shall be displayed vertically on the vertical surfaces.

(2) *Displayed on the fuselage surfaces.* The marks shall be displayed horizontally on both sides of the

fuselage between the trailing edge of the wing and the leading edge of the horizontal stabilizer. However, if engine pods or other appurtenances are located in this area and are an integral part of the fuselage side surfaces, the operator may place the marks on those pods or appurtenances.

(Amdt. 45-9, 42 FR 41102, Aug. 18, 1977)

## § 45.27 Location of marks; nonfixed-wing aircraft.

(a) *Rotorcraft.* Each operator of a rotorcraft shall display on that rotorcraft horizontally on both surfaces of the cabin, fuselage, boom, or tail the marks required by § 45.23.

(b) *Airships.* Each operator of an airship shall display on that airship the marks required by § 45.23, horizontally on—

(1) The upper surface of the right horizontal stabilizer and on the under surface of the left horizontal stabilizer with the top of the marks toward the leading edge of each stabilizer; and

(2) Each side of the bottom half of the vertical stabilizer.

(c) *Spherical balloons.* Each operator of a spherical balloon shall display the marks required by § 45.23 in two places diametrically opposite and near the maximum horizontal circumference of that balloon.

(d) *Nonspherical balloons.* Each operator of a nonspherical balloon shall display the marks required by § 45.23 on each side of the balloon near its maximum cross section and immediately above either the rigging band or the points of attachment of the basket or cabin suspension cables.

(Docket No. 2047, 39 FR 3223, Mar. 11, 1964, as amended by Amdt. 45-15, 48 FR 11392, Mar. 17, 1983)

## § 45.29 Size of marks.

(a) Except as provided in paragraph (f) of this section each operator of an aircraft shall display marks on the aircraft meeting the size requirements of this section.

(b) *Height.* The character marks must be of equal height and on—

(1) Fixed-wing aircraft, must be at least 12 inches high, except that:

(i) An aircraft displaying marks at least 2 inches high before November 1, 1981 and an aircraft manufactured after November 2, 1981, but before January 1, 1983, may display those marks until the aircraft is repainted or the marks are repainted, restored, or changed;

(ii) Marks at least 3 inches high may be displayed on a glider;

(iii) Marks at least 3 inches high may be displayed on an aircraft for which an experimental certificate has been issued under § 21.191(d) or 21.191(g) for operating as an exhibition aircraft or as an amateur-built aircraft when the maximum cruising speed of the aircraft does not exceed 180 knots CAS; and

(iv) Marks may be displayed on an exhibition, antique, or other aircraft in accordance with § 45.22.

(2) Airships, spherical balloons, and nonspherical balloons, must be at least 3 inches high; and

(3) Rotorcraft, must be at least 12 inches high, except that rotorcraft displaying before April 18, 1983, marks required by § 45.29(b)(3) in effect on April 17, 1983, and rotorcraft manufactured on or after April 18, 1983, but before December 31, 1983, may display those marks until the aircraft is repainted or the marks are repainted, restored, or changed.

(c) *Width.* Characters must be two-thirds as wide as they are high, except the number "1", which must be one-sixth as wide as it is high, and the letters "M" and "W" which may be as wide as they are high.

(d) *Thickness.* Characters must be formed by solid lines one-sixth as thick as the character is high.

(e) *Spacing.* The space between each character may not be less than one-fourth of the character width.

(f) If either one of the surfaces authorized for displaying required marks under § 45.25 is large enough for display of marks meeting the size requirements of this section and the other is not, full-size marks shall be placed on the larger surface. If neither surface is large enough for full-size marks, marks as large as practicable shall be displayed on the larger of the two surfaces. If any surface authorized to be marked by § 45.27 is not large

## § 45.31

enough for full-size marks, marks as large as practicable shall be placed on the largest of the authorized surfaces.

(g) *Uniformity.* The marks required by this part for fixed-wing aircraft must have the same height, width, thickness, and spacing on both sides of the aircraft.

[Doc. No. 2047, 29 FR 3223, Mar. 11, 1964, as amended by Amdt. 46-2, 31 FR 9663, July 21, 1966; Amdt. 45-9, 42 FR 41102, Aug. 16, 1977; Amdt. 45-13, 48 FR 48604, Oct. 1, 1983; Amdt. 45-15, 48 FR 11392, Mar. 17, 1983]

## § 45.31 Marking of export aircraft.

A person who manufactures an aircraft in the United States for delivery outside thereof may display on that aircraft any marks required by the State of registry of the aircraft. However, no person may operate an aircraft so marked within the United States, except for test and demonstration flights for a limited period of time, or while in necessary transit to the purchaser.

## § 45.33 Sale of aircraft; removal of marks.

When an aircraft that is registered in the United States is sold, the holder of the Certificate of Aircraft Registration shall remove, before its delivery to the purchaser, all United States marks from the aircraft, unless the purchaser is—

(a) A citizen of the United States;

(b) An individual citizen of a foreign country who is lawfully admitted for permanent residence in the United States; or

(c) When the aircraft is to be based and primarily used in the United States, a corporation (other than a corporation which is a citizen of the United States) lawfully organized and doing business under the laws of the United States or any State thereof.

(Amdt. 45-11, 44 FR 61936, Oct. 29, 1979)

## PART 47—AIRCRAFT REGISTRATION

## Subpart A—General

## Sec.

- 47.1 Applicability.
- 47.2 Definitions.
- 47.3 Registration required.
- 47.5 Applicants.

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## Sec.

- 47.7 United States citizens and resident aliens.
- 47.8 Voting trusts.
- 47.9 Corporations not U.S. citizens.
- 47.11 Evidence of ownership.
- 47.13 Signatures and instruments made by representatives.
- 47.15 Identification number.
- 47.16 Temporary registration numbers.
- 47.17 Fees.
- 47.19 FAA Aircraft Registry.

## Subpart B—Certificates of Aircraft Registration

- 47.31 Application.
- 47.33 Aircraft not previously registered anywhere.
- 47.35 Aircraft last previously registered in the United States.
- 47.37 Aircraft last previously registered in a foreign country.
- 47.39 Effective date of registration.
- 47.41 Duration and return of Certificate.
- 47.43 Invalid registration.
- 47.45 Change of address.
- 47.47 Cancellation of Certificate for export purpose.
- 47.49 Replacement of Certificate.
- 47.51 Triennial aircraft registration report.

## Subpart C—Dealer's Aircraft Registration Certificate

- 47.61 Dealers' Aircraft Registration Certificate.
- 47.63 Application.
- 47.65 Eligibility.
- 47.67 Evidence of ownership.
- 47.69 Limitations.
- 47.71 Duration of Certificate; change of status.

**AUTHORITY:** Secs. 307, 313, 501, 503, 505, 508, and 1102, 72 Stat. 749, 752, 771, 772, 774, 797; 49 U.S.C. 1348, 1354, 1401, 1403, 1405, 1406, and 1502, and the Convention of the International Recognition of Rights in Aircraft; 4 U.S.C. 1830.

**SOURCE:** Docket No. 7190, 31 FR 4495, Mar. 17, 1966, unless otherwise noted.

## Subpart A—General

## § 47.1 Applicability.

This part prescribes the requirements for registering aircraft under section 501 of the Federal Aviation Act of 1958 (49 U.S.C. 1401). Subpart B applies to each applicant for, and holder of, a Certificate of Aircraft Registration. Subpart C applies to each applicant for, and holder of, a



Greater Fairbanks

**Chamber**

of Commerce

First National Center

100 Cushman Street

(907) 452-1105

P.O. Box 74446

Fairbanks, Alaska 99707

RESOLUTION 1 - 0188

WHEREAS, the Greater Fairbanks Chamber of Commerce is concerned about the economy in Fairbanks, and

WHEREAS, the federal government frequently institutes regulations and laws which have detrimental effects on the economy, and

WHEREAS, the International Cessna 170 Association has chosen to convention in Fairbanks during July 1988, with an expected attendance of 100 airplanes most of which will be Cessna 170s ranging in age from 32 to 40 years old, and

WHEREAS, the Federal Aviation Administration has recently instituted a regulation requiring 12 inch registration numbers on aircraft penetrating the Alaska Domestic Air Defense Identification Zone or the Distant Early Warning Identification Zone, and

WHEREAS, the reason for requiring 12 inch numbers is to assist Customs in identifying aircraft suspected of running drugs across ADIZs or DEWIZs, and

WHEREAS, these regulations will likely have a negative impact on the number of tourists coming to Alaska by aircraft, for the Cessna 170 Convention and other purposes,

THEREFORE BE IT RESOLVED, that the Greater Fairbanks Chamber of Commerce supports the repeal of regulation FAR 45.21 (h) requiring 12 inch numbers for Alaska, and its companion regulation FAR 45.11 (a) and (d), and

BE IT FURTHER RESOLVED, that if the regulations cannot be repealed for Alaska then a special blanket exemption be granted for the International Cessna 170 conventioners.

DATED THIS

4th

DAY OF

January

1988.

BY

Mike Kelly, Chairman

BY

W.R. Cox, President & C.E.O.

*Fairbanks Chamber resolution support of exemption*

Introduced by: City Council Members  
Date: January 11, 1988

RESOLUTION NO. 2921

A RESOLUTION IN SUPPORT OF THE REPEAL OF  
FEDERAL AVIATION REGULATION (FAR) 45.21  
(h) AND 45.11 (a) and (d).

WHEREAS, the Greater Fairbanks Chamber of Commerce is concerned about the economy in Fairbanks, and

WHEREAS, the federal government frequently institutes regulations and laws which have detrimental effects on the economy, and

WHEREAS, the International Cessna 170 Association has chosen to convention in Fairbanks during July 1988, with an expected attendance of 100 airplanes most of which will be Cessna 170s ranging in age from 32 to 40 years old, and

WHEREAS, the Federal Aviation Administration has recently instituted a regulation requiring 12 inch registration numbers on aircraft penetrating the Alaska Domestic Air Defense Identification Zone or the Distant Early Warning Identification Zone, and

WHEREAS, the reason for requiring 12 inch numbers is to assist Customs in identifying aircraft suspected of running drugs across ADIZs or DEWIZs, and

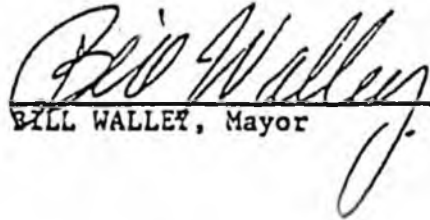
WHEREAS, these regulations will likely have a negative impact on the number of tourists coming to Alaska by aircraft, for the Cessna 170 Convention and other purposes,

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA supports the repeal of regulation FAR 45.21 (h) requiring 12 inch numbers for Alaska, and its companion regulation FAR 45.11 (a) and (d), and


*Fairbanks city council resolution - support of exemption*

BE IT FURTHER RESOLVED, that if the regulations cannot be repealed for Alaska then a special blanket exemption be granted for the International Cessna 170 conventioners.

PASSED and APPROVED this 11th day of January, 1988.

  
BILL WALLEY, Mayor

ATTEST:

  
NORMA J. MARKS, Acting City Clerk

MIS:RESO 2921:njm



U.S. Department  
of Transportation  
Federal Aviation  
Administration

# News:

Office of Public Affairs  
Alaskan Region  
701 C Street, Box 14  
Anchorage, Alaska 99513  
(907) 271-5296

FOR IMMEDIATE RELEASE  
September 30, 1987  
#87-35

contact: Paul Steucke

## LARGER AIRCRAFT NUMBERS REQUIRED

Effective December 8, 1987, all aircraft entering into the Alaskan ADIZ or DEWIZ (Alaskan Air Defense Identification Zones) north of Yakutat, will be required to have 12 inch high identifying registration numbers and letters on the outside of the aircraft (map attached). Previous regulations required the letters and numbers to be at least 3 inches high. The major purpose of the larger numbers is to allow law enforcement officers patrolling coastal areas to identify suspect aircraft which might be carrying drugs into the country. For example, aircraft flying to Anchorage from Juneau will require the larger numbers because they are penetrating the zones. This also includes flights from Canada into central and northern Alaska.

Secretary of Transportation Elizabeth Dole announced the new rule which contains three major provisions, on September 17, 1987.

The first new requirement is that all aircraft flying through off-shore air defense identification zones display 12 inch high nationality and registration marks ("N numbers"). The second requires aircraft to have an externally mounted identification plates. The third requires that aircraft modified with supplemental fuel tanks, which were installed in compliance with FAA regulations, carry authorization for the modification aboard the aircraft.

Dole said, "The larger markings will make it easier for law enforcement officers to identify suspect aircraft, and the external identification plates will help authorities to identify aircraft that have been stolen and possibly used to smuggle drugs into the U.S."

more...

FAA - news release re: larger numbers

Current FAA regulations allow some aircraft to display N-numbers only three inches high, which makes them difficult to read at a distance. Although the FAA rules were changed in Nov. 1981 to require the display of at least 12 inch high marks, the smaller markings were allowed to continue until the airplane was repainted or the numbers changed.

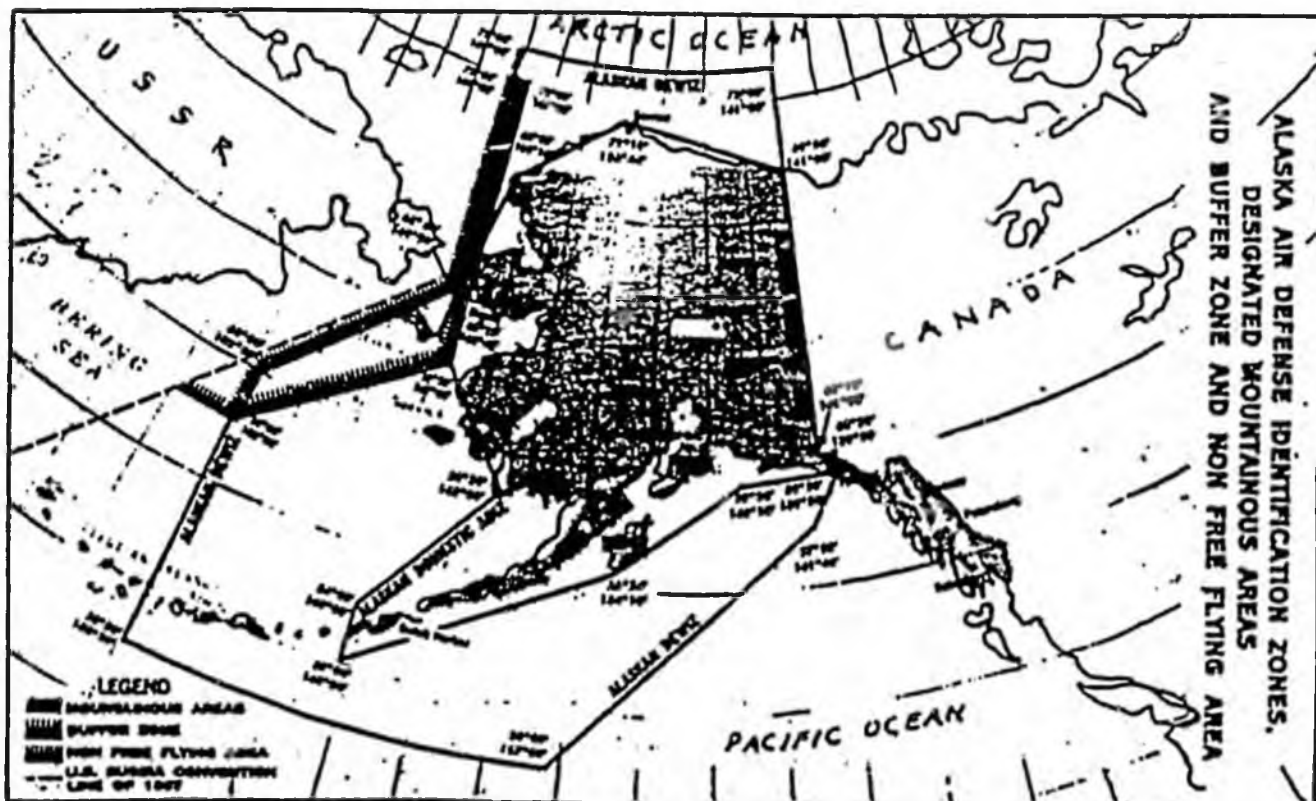
The new rule overrides this past exception and requires display of the 12 inch numbers when an aircraft is penetrating an Air Defense Identification Zone or Defense Early Warning Identification Zone, where U.S. Customs agents, the Coast Guard or other law enforcement aircraft are most likely to attempt air-to-air identification. These zones cover all of Alaska north of Yakutat, including the Alaska-Canada border.

Maps of these zones are in the Alaska Airmen Supplement. Pilots seeking additional information should contact their local FAA Flight Standards District Office.

The identification data plates must be readable to a person standing outside the aircraft when it is on the ground. This will allow law enforcement officers to cross check the serial number of an aircraft with FAA records to determine if the N numbers had been changed in order to conceal the ownership of the aircraft or hide the fact that it had been stolen. This now can be done only by gaining access to the interior of some aircraft.

The new requirement that aircraft operators carry documentation covering the installation of extra fuel tanks also will help identify suspect aircraft used in smuggling operations.

0 0 0



HJR

50

1 IN THE HOUSE

2 HOUSE JOINT RESOLUTION NO. 50

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 Requesting the Congress to remove the  
6 Highway Trust Fund and the Airport and  
7 Airway Trust Fund from the Unified  
8 Federal Budget.

9 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 WHEREAS the Alaska Legislature believes it is inappropriate that the  
11 dedicated trust funds for highways and airports are subject to the Unified  
12 Federal Budget process; and

13 WHEREAS the highway and airport trust funds are funded by user fees  
14 collected in advance of expenditure and are dedicated to highway and air-  
15 port improvement programs; and

16 WHEREAS, at the national level, the Highway Trust Fund can support an  
17 annual spending level of over \$15,000,000,000 and the Airport and Airway  
18 Trust Fund can support an annual spending level of \$5,000,000,000; and

19 WHEREAS inclusion in the Unified Federal Budget has limited appro-  
20 priations from the Highway Trust Fund to less than \$13,000,000,000 a year  
21 and appropriations from the Airport and Airway Trust Fund to approximately  
22 \$3,500,000,000 a year; and

23 WHEREAS the inclusion of appropriations from the highway and airport  
24 trust funds in the Unified Federal Budget prevents Alaska from receiving  
25 \$20,000,000 each year in highway funds and \$6,000,000 each year in airport  
26 funds to which the state is entitled; and

27 WHEREAS reductions in highway and airport transportation trust fund  
28 appropriations hamper Alaska's, as well as the other states', ability to  
29 address identified, critical transportation needs; and

1 WHEREAS the money in the highway and airport trust funds cannot be  
2 transferred to other programs included in the Unified Federal Budget; and

3 WHEREAS Limitations on highway and airport trust fund expenditures  
4 reduce only the total federal budget but do not result in a real reduction  
5 in the Federal deficit;

6 BE IT RESOLVED that the Alaska State Legislature respectfully requests  
7 the Congress to remove the Highway Trust Fund and the Airport and Airway  
8 Trust Fund from the Unified Federal Budget.

9 COPIES of this resolution shall be sent to the Honorable Ronald  
10 Reagan, President of the United States; to the Honorable George Bush,  
11 Vice-President of the United States and President of the U.S. Senate; the  
12 Honorable James H. Buzley IV, Secretary of Transportation; the Honorable  
13 Jim Wright, Speaker of the U.S. House of Representatives; and to the  
14 Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and  
15 the Honorable Don Young, U.S. Representative, members of the Alaska  
16 delegation in Congress.  
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FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Remove Highway Trust Fund  
from Unified Federal Budget  
Sponsor: Davis  
Requestor: Caro

Agency Affected: DOT/PF  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The Department supports the concept of removing the Highway Trust Fund and the Airway Trust from the Unified Federal Budget. There is no fiscal impact to the Department of Transportation and Public Facilities.

Prepared by: Ron Lind, Director  
Division: Plans, Programs and Budget

Phone: 465-2171  
Date: 2-5-88

Approved by Commissioner: Mark S. Hickey  
Agency: DOT&PF

Date: 2/8/88

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Rep Davis  
February 18, 1988

QUESTIONS AND ANSWERS ON HJR 50  
HIGHWAY AND AIRPORT/AIRWAY TRUST FUNDS

1. What types of user fees generate the revenue for the funds?

The highway fund comes primarily from gasoline and diesel fuel taxes, and miscellaneous truck purchase and use taxes. The airport fund comes from aviation fuel, and passenger ticket and departure taxes.

2. How are the states' shares determined?

There are complex formulas for each fund. The formulas are based on factors such as the population and the size of the highway or airway system of each state. They are not based on states residents' payments into the trust funds.

3. How is the fund money used in Alaska?

The highway and airport/airway funds are the primary sources of federal receipts in the D.O.T. budget. For example, the highway fund provides the 90-10 matching funds for new roads.

4. How much money is at stake for Alaska?

Over \$20 million in highway funds and \$6 million in airport funds. If Congress appropriated the full amount the Highway Trust Fund could support in 1987, Alaska would have received \$153 million instead of \$128.8 million. The Airport and Airway Trust Fund can support an annual spending level of \$5 billion, but the Unified Federal Budget has limited appropriations to approximately \$3.5 billion, costing Alaska \$6 million.

5. Is the federal limitation on expenditures from the funds a new problem this year?

No. Congress has denied expenditure of the full, available funds for several years.

6. Why does Congress restrict use of the funds?

Possibly because keeping money in the funds reduces the federal deficit on paper. However, since these are dedicated monies, they cannot be transferred to pay for other programs.

7. How will this resolution affect attempts by more populous, developed states to change the distribution formulas?

Separating the trust funds from the Unified Federal Budget may reduce the impetus to change the formulas, since all states would benefit from an increase in funding.

Separation will not increase the risk to the formulas. The Northeast/Midwest Coalition tries to change the distribution formulas when the trust funds come up for reauthorization every five years. The formulas are not dealt with in the annual budget process. Therefore, an attempt to change the appropriation mechanism by removing the trust funds from the Unified Federal Budget should not subject the formulas to change. In the opinion of John Katz, special counsel to the Governor in Washington, D.C., separating the funds will not put the distribution formulas in greater jeopardy.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Remove Highway Trust Fund  
from Unified Federal Budget  
Sponsor: Davis  
Requestor: Cato

Agency Affected: DOT/PF  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The Department supports the concept of removing the Highway Trust Fund and the Airway Trust from the Unified Federal Budget. There is no fiscal impact to the Department of Transportation and Public Facilities.

Prepared by: Ron Lind, Director Phone: 465-2171  
Division: Plans, Programs and Budget Date: 2-5-88

Approved by Commissioner: Mark S. Hickey Date: 2/8/88  
Agency: DOT&PF

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



# Alaska State Legislature

Representative Mike Davis

District 19

P.O. Box V  
Juneau, Alaska 99811  
(907) 456-4930/4941

Interim Office:  
P.O. Box 81435  
Fairbanks, Alaska 99708  
(907) 456-8161

TO: Sen. Lloyd Jones  
Chairman, Senate Transportation Committee

FROM: Rep. Mike Davis

DATE: February 22, 1988

RE: HJR 50

HJR 50, has been referred to the Senate Transportation Committee. This legislation asks Congress to remove the Highway Trust Fund and the Airport & Airway Trust Fund from the Unified Federal Budget. Attached is a packet on the resolution for your committee files.

The Senate Transportation Committee heard SJR 59, the Senate companion to HJR 50, on February 18. I would appreciate your scheduling HJR 50 at your earliest convenience so its message can be sent to Congress during the federal budget deliberations.



# Alaska State Legislature

Representative Mike Davis

District 19

P.O. Box V  
Juneau, Alaska 99811  
(907) 456-4930/4941

Interim Office:  
P.O. Box 81435  
Fairbanks, Alaska 99708  
(907) 456-8161

TO: Senate Transportation Committee  
FROM: Rep. Mike Davis  
DATE: February 24, 1988  
RE: HJR 50

HJR 50 asks the Congress to remove the Highway Trust Fund and the Airport and Airway Trust Fund from the Unified Federal Budget.

The highway and airport trust funds receive their revenue from user fees and are dedicated to highway and airport improvement programs. The funds are the source of most federal matching money in the Alaska Department of Transportation budget.

Inclusion of these two funds in the Unified Federal Budget has subjected them to federal budget reduction acts. However, monies in the trust funds cannot be spent on other areas of the budget because they are dedicated. Therefore, the highway and airport/airway funds accumulate a surplus while the critical transportation needs of the states may go unfulfilled.

I introduced HJR 50 at the suggestion of the Alaska Department of Transportation. Passage of this legislation will encourage Congress to separate the trust funds from the Unified Budget and allow the states' formula to be fully funded.



*Rec. 2/21/86*

# Highway Bulletin

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THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA  
1957 E Street, N.W. Washington, D.C. 20006 (202) 393-2040

Highway Bulletin-86-6  
February 21, 1986

TO: Highway Members of the Board of Directors  
Highway Chapter Presidents and Vice Presidents  
AASHTO-AGC-ARTBA Joint Committee  
Asphalt Pavement Committee  
Federal Highway Administration Committee  
Highway Bridge Committee  
Transportation Policy Committee  
Chapter Managers

SUBJECT: AGC Testimony on Administration's Highway Bill

Attached, for your information, is the testimony presented on February 19 before the House Surface Transportation Subcommittee in which Highway Division Chairman James W. Supica presented AGC's views on the Administration's proposed legislation extending authorizations for the Federal-aid highway program.

Among other things, Mr. Supica's testimony expressed AGC's opposition to the Administration's suggested highway program funding levels and its proposals to cap the minimum allocation program and to allow Federal-aid Secondary, Urban and non-Primary Bridge funds to be used for transit purposes.

Mr. Supica expressed AGC's support for removing the current tax exemption for gasohol and for relaxing federal toll policy, as advocated by the Administration. He renewed AGC's call for removing the Highway Trust Fund from the federal unified budget.

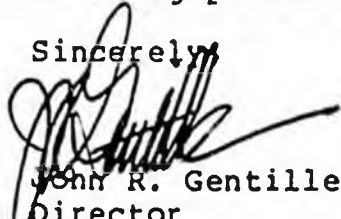
Chairman Supica also commended the Administration for submitting authorizing legislation to Congress, which at this point does not recommend a continuation of Section 105(f), the ten percent Disadvantaged Business Enterprise requirement of the 1982 Surface Transportation Assistance Act. He expressed AGC's continuing and strong opposition to this "unworkable and discriminatory requirement."

Comparison of Apportionments Under Current Law and Administration's Proposals

Also attached, for your information are two apportionment tables. The first table shows how Federal-aid funds were apportioned among the states this year, FY 1986, based upon current law (i.e., \$15.3 billion in authorizations and no cap on the 85 percent minimum allocation program). The second table indicates how each state would fare in FY 1987 under the Administration's proposed highway legislation, which contains highway program authorizations of \$12.8 billion and a \$250 million cap on the minimum allocation program. (Note: The tables do not include authorizations for Federal Lands programs, Emergency Relief or discretionary funds.

As can be seen, under the Administration's bill every state's apportionment would be reduced from this year's level, with the 85 percent states' apportionments being particularly affected.

Sincerely,



John R. Gentile  
Director  
Highway Division

cc: James W. Supica, Chairman, Highway Division  
David A. McCosker, Vice Chairman, Highway Division

Attachments

AGC 50

the budget are simply more significant to a healthy economy in the long-term than others. An important case in point is investment in the nation's transportation infrastructure. The long-range impact on the nation's economy of failing to go forward with vital transportation infrastructure projects cannot be ignored.

The loss to the economy of allowing continued deterioration of our transportation infrastructure has already been clearly demonstrated. Those losses are measured by lost economic output, fewer jobs and lower consumer spending for each household.

These negative effects, enormous as they are, are only part of the costs which would be inflicted on the economy. Every infrastructure repair delay adds to the eventual cost of that repair. AGC believes that judicious pruning of federal spending should be undertaken where the maximum savings can be achieved while sacrificing the least in terms of the country's future economic potential. Unfortunately, the Administration's legislative proposals fail to recognize this.

Sacrificing proven and much-needed transportation infrastructure investments for supposed short-term deficit reduction gains will only serve to saddle future generations with a low-growth economy and create a transportation system burdened with much greater repair and replacement costs. Those future generations will be penalized, as they will at some point be forced to foot the much greater transportation infrastructure repair bill they will inherit as a result of this generation's fiscal shortsightedness.

Mr. Chairman, I would like to take this opportunity, on behalf of AGC's entire membership, to commend this Subcommittee, and its parent Committee, for the leadership they have shown, especially over the last several years, in preserving and enhancing this nation's highway transportation system. That leadership was convincingly displayed in 1982 with passage of the Surface Transportation Assistance Act, truly a landmark piece of legislation. Leadership was again shown, in the first session of this Congress, through your efforts to remove the transportation trust funds off-budget. AGC strongly believes this to be the only real long-term solution to the continuing problem faced by these funds, and the vital infrastructure improvement programs they support, which is that they are used either for the purpose of understating the size of the federal deficit, or for the purpose of increasing spending for other general funded programs.

*the Federal Highway Trust Funds*

Mr. Chairman, to remove these funds from the unified budget is, quite simply, to be fair to the American people who pay the user fees which support them. Three years ago the American people supported an increase in those user fees -- not to help balance the federal budget; rather, they supported the increase based upon the promise of this Administration that those additional revenues would be dedicated to much-needed transportation

# **CORRECTION**

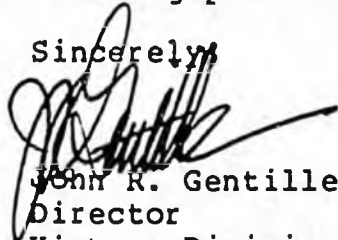
**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

Comparison of Apportionments Under Current Law and Administration's Proposals

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As can be seen, under the Administration's bill every state's apportionment would be reduced from this year's level, with the 85 percent states' apportionments being particularly affected.

Sincerely,



John R. Gentile  
Director  
Highway Division

cc: James W. Supica, Chairman, Highway Division  
David A. McCosker, Vice Chairman, Highway Division

Attachments

I am James W. Supica, a highway contractor from Lenexa, Kansas. I am here today in my capacity as Chairman of the Highway Division of the Associated General Contractors of America. I am accompanied by Highway Division Staff Director John Gentile.

The Associated General Contractors of America and its 110 chapters nationwide represents more than 32,000 firms, including 8,400 of America's leading general contracting companies which are responsible for the employment of more than 3,400,000 individuals. These member contractors perform more than 80 percent of America's contract construction of highways, airports, commercial buildings, industrial and municipal-utilities facilities.

Mr. Chairman, I welcome this opportunity to present AGC's views on the impact of the Administration's budget and legislative proposals on the Federal-aid highway program. I believe, Mr. Chairman, the overall impact was succinctly and correctly summarized by you when you recently stated on the Floor of the House that the Administration's transportation budget "would devastate the nation's highway program which is of such critical importance to a healthy economy."

It accomplishes this most undesirable result through proposed legislation containing highway program funding levels which are significantly below current law, which are inadequate to meet the capital needs of the Federal-aid system and which do not adequately reflect the fiscal ability of the Highway Trust Fund to support the highway program.

In submitting the Administration's draft legislation to the Congress, Transportation Secretary Dole stated that the bill's spending levels "are in response to the decision by the President and the Congress to take steps that are necessary to reduce the Federal deficit."

Mr. Chairman, AGC respectfully disagrees. By not allowing the expenditure of Highway Trust Fund dollars, the Administration will not reduce the type of government spending which is contributing to the federal deficit. It will merely delay the expenditure of dedicated user fee revenues which have already been collected, are sitting in the Highway Trust Fund and which, by law, can ultimately only be spent for highway improvements.

Spending on our nation's highway system has never contributed a penny to the deficit. It cannot. User fees are collected from the nation's highway users, placed in the Highway Trust Fund and dedicated by law to be spent on the nation's highway system. The Highway Trust Fund is in reality a very simple and efficient balanced budget account.

Moreover, it must also be understood that some items in

AGC 50

the budget are simply more significant to a healthy economy in the long-term than others. An important case in point is investment in the nation's transportation infrastructure. The long-range impact on the nation's economy of failing to go forward with vital transportation infrastructure projects cannot be ignored.

The loss to the economy of allowing continued deterioration of our transportation infrastructure has already been clearly demonstrated. Those losses are measured by lost economic output, fewer jobs and lower consumer spending for each household.

These negative effects, enormous as they are, are only part of the costs which would be inflicted on the economy. Every infrastructure repair delay adds to the eventual cost of that repair. AGC believes that judicious pruning of federal spending should be undertaken where the maximum savings can be achieved while sacrificing the least in terms of the country's future economic potential. Unfortunately, the Administration's legislative proposals fail to recognize this.

Sacrificing proven and much-needed transportation infrastructure investments for supposed short-term deficit reduction gains will only serve to saddle future generations with a low-growth economy and create a transportation system burdened with much greater repair and replacement costs. Those future generations will be penalized, as they will at some point be forced to foot the much greater transportation infrastructure repair bill they will inherit as a result of this generation's fiscal shortsightedness.

Mr. Chairman, I would like to take this opportunity, on behalf of AGC's entire membership, to commend this Subcommittee, and its parent Committee, for the leadership they have shown, especially over the last several years, in preserving and enhancing this nation's highway transportation system. That leadership was convincingly displayed in 1982 with passage of the Surface Transportation Assistance Act, truly a landmark piece of legislation. Leadership was again shown, in the first session of this Congress, through your efforts to remove the transportation trust funds off-budget. AGC strongly believes this to be the only real long-term solution to the continuing problem faced by these funds, and the vital infrastructure improvement programs they support, which is that they are used either for the purpose of understating the size of the federal deficit, or for the purpose of increasing spending for other general funded programs.

*the Federal Highway Trust Funds*

Mr. Chairman, to remove these funds from the unified budget is, quite simply, to be fair to the American people who pay the user fees which support them. <sup>5</sup> Three years ago the American people supported an increase in those user fees -- not to help balance the federal budget; rather, they supported the increase based upon the promise of this Administration that those additional revenues would be dedicated to much-needed transportation

infrastructure improvements. AGC believes the Administration's draft legislation breaks that promise by proposing highway program authorization levels which are inadequate and which will result in the current \$10 billion Highway Trust Fund balance growing to \$17 to \$18 billion by 1990.

AGC has repeatedly testified that the balance in the Highway Trust Fund ought to be reduced to the minimum level necessary for cash flow purposes. The Administration's draft legislation goes in the opposite, and wrong direction. In preparing the 1986 highway legislation AGC urges this Subcommittee to reject the highway program obligation and authorization levels being advanced by the Administration. Clearly, Highway Trust Fund revenues can support obligations in excess of \$12.4 billion in 1986, and the Trust Fund will support highway program authorizations which are greater than \$12.8 billion in the immediate years ahead.

Mr. Chairman, at this point I would like to make AGC's position clear on the issue of funding levels. If it came down to a choice between a four-year bill containing the inadequate authorizations proposed by the Administration and a simple, one-year extension of the current program, at 1986 funding levels, AGC would opt for the latter. AGC naturally supports multi-year program authorizations. The states' ability to intelligently plan depends on the program certainties provided by such legislation. However, AGC's support for long-term legislation diminishes considerably when the legislation proposes funding levels which are inadequate to meet the capital needs which must be met, which will not go away if left unmet, but will only grow in scope and eventual cost to repair.

At this point, Mr. Chairman, I would like to briefly turn to AGC's views on some of the specific provisions contained in the Administration's draft legislation -- and one specific provision which is not contained in the Administration's bill.

#### Combined Interstate Construction/4R/Primary Program

Merging the Interstate construction, Interstate 4R and Primary programs into a single program to provide the states with increased flexibility to address critical program needs and complete high-priority work makes a great deal of sense. AGC believes, however, that any benefits to be derived from such a program restructuring will be more than offset by the fact that the Administration's legislation proposes to reduce the funding for these categories by 20 percent, from \$9.7 billion to \$7.8 billion per year. Moreover, the Administration's bill proposes to end the 1/2 percent minimum guarantee for Interstate construction funds. AGC supports retaining this provision.

### Minimum Allocation

AGC supports continuation of the minimum allocation guarantee, on a permanent basis, at at least the 85 percent level, with obligations under the program remaining outside the obligation ceiling. AGC strongly opposes capping the minimum allocation, as proposed by the Administration. This program is based in equity and fairness, and capping it undermines those principles.

### Highway and Transit Block Grant

With regard to the Administration's proposed highway and transit block grant, to provide states and localities with increased flexibility to address transportation needs is one thing. But to further open the Highway Trust Fund door to diversion to transit on a grand scale is quite another. Not only would the Administration's block grant proposal allow states and localities to spend \$2.2 billion in highway and bridge funds on transit each year, it would require those obligations to be deducted from the states' available highway program obligational authority. Such a double diversion would further devastate the highway program and AGC strongly opposes this proposal.

### Interstate Substitutes

AGC also opposes the Administration's proposal to significantly reduce authorizations for the Interstate substitute highway program, while at the same time funding Interstate substitute transit projects out of the Highway Trust Fund. If substitute transit projects have to be funded from the Trust Fund, let them be funded out of the Fund's mass transit account. They ought not to be funded at the expense of much-needed highway and bridge improvements.

### Motor Carrier Safety Assistance Program

With regard to the Motor Carrier Safety Assistance Program, AGC believes that funding this program annually at \$50 million out of the Highway Trust Fund is yet another serious diversion of Trust Fund resources. This program, regardless of its funding level, ought to be general funded.

### Bridge Repair and Rehabilitation Program

To highlight the nation's growing bridge needs, AGC believes a separate, adequately-funded Federal Bridge Repair and Rehabilitation Program should be continued and adequately funded in future highway legislation. The Administration's bill may propose to continue the Bridge Program, but it certainly doesn't recommend adequate funding levels. It proposes to cut funding by close to 40 percent, from \$2.05 billion to \$1.25 billion per year, and to limit the availability of the funds to bridges on the Primary system. The remaining funds would be placed in the proposed block grant where they could be used for either transit

or non-bridge related highway purposes.

#### Repeal of Tax Exemptions

AGC strongly supports the Administration's call for an end to the current tax exemptions for gasohol, methanol and ethanol. AGC strongly believes that subsidizing the gasohol industry at the expense of the nation's highways and bridges is not sound public policy. It violates the user fee principle of the highway program, and the Highway Trust Fund simply cannot afford it. If the gasohol industry must continue to be subsidized, the subsidy should come from general revenues. A vehicle powered by gasohol contributes to the wear and tear of our highways and bridges the same as a vehicle powered by gasoline or diesel fuel. Both vehicles should pay their fair share of highway user fees. These exemptions should be repealed.

#### Revisions to Federal Toll Policy

AGC supports a revision to current Federal toll policies, as proposed by the Administration, to provide the states the discretion of using Federal-aid funds to construct new toll highways.

#### Extension of Section 105(f) of the 1982 STAA

With regard to the extension of Section 105(f), the ten percent Disadvantaged Business Enterprise requirement of the 1982 Act, AGC commends the Administration for submitting to the Congress draft legislation, which at this point does not recommend a continuation of this unworkable and discriminatory requirement. I am sure it is no surprise to this Subcommittee that AGC is unalterably opposed to an extension of Section 105(f), which most unfortunately the House Public Works and Transportation Committee has proposed to do in its reauthorizing legislation.

At AGC we believe that it is constitutionally and morally improper for the government to grant special preferences to individuals just because they happen to be members of a certain specially designated racial group, and DBE quota and set-aside programs do just that. Moreover, as currently administered these programs grant special preferences in a manner which fails to provide the recipients with the requisite skills and knowledge that will enable them to obtain a permanent and meaningful place within the construction industry. The government would do better to direct its energies toward establishing long-term, meaningful educational and training programs for disadvantaged individuals, rather than creating quick-fix, counterproductive giveaway programs such as Section 105(f).

Mr. Chairman, let me conclude my remarks by unequivocally stating AGC's position with regard to the extension of Section 105(f) of the 1982 Act. AGC will recommend a veto of any bill which extends Section 105(f).

FY 1986 Apportionments (Current Law)  
(No Cap on Minimum Allocation)

(Dollars in Thousands)

STATE	INTERSTATE CONSTRUCTION	I-4R	PRIMARY	SECONDARY	URBAN	BRIDGE	HAZARD ELIMINATION	RR HWY XINGS	INT HWY TRANSF.	TOTAL APPORT	85% MIN ALLOCATION	GRAND TOTAL
Alabama	94,151	54,787	44,522	13,463	10,200	36,347	3,531	3,786	0	260,787	0	260,787
Alaska	18,201	26,475	79,517	35,300	3,940	4,574	990	2,922	0	171,919	0	171,919
Arizona	60,072	64,818	32,688	10,464	10,179	4,574	2,656	1,833	355	187,639	0	187,639
Arkansas	18,201	33,189	30,142	11,487	4,811	30,081	2,394	2,866	0	133,171	8,462	141,633
California	328,248	299,505	177,981	25,506	99,786	59,752	17,044	11,862	2,385	1,022,069	119,413	1,141,482
Colorado	62,768	62,252	35,511	11,574	10,561	20,470	2,763	2,553	10,583	219,035	0	219,035
Connecticut	79,574	39,314	26,885	4,011	11,308	42,049	2,197	1,209	95,486	302,033	0	302,033
Delaware	18,201	15,515	12,067	3,201	3,940	4,574	990	589	0	59,077	0	59,077
Dist. of Col.	21,433	15,515	12,067	0	3,940	6,540	990	261	14,922	77,668	0	77,668
Florida	285,815	110,379	80,148	15,688	37,593	31,825	7,284	5,814	0	574,546	0	574,546
Georgia	109,394	107,473	58,860	17,171	14,993	41,555	4,738	5,303	11,100	370,587	0	370,587
Hawaii	90,990	15,515	12,067	3,201	3,940	4,574	990	473	0	131,750	0	131,750
Idaho	29,487	29,008	19,710	8,011	3,940	5,125	1,443	1,749	0	98,473	0	98,473
Illinois	18,201	111,265	95,594	18,442	43,243	61,346	8,857	9,673	86,830	453,450	24,765	478,215
Indiana	18,201	70,382	55,957	14,945	15,661	35,167	4,591	6,589	5,448	226,942	64,102	291,044
Iowa	18,201	42,687	38,279	14,230	7,168	45,227	3,226	4,602	30,350	203,969	0	203,969
Kansas	18,201	45,421	35,432	13,145	6,700	48,745	3,128	5,604	0	176,376	0	176,376
Kentucky	82,902	58,075	42,070	13,390	8,014	25,797	3,160	3,151	0	236,559	0	236,559
Louisiana	192,995	54,908	41,337	10,948	12,779	43,519	3,363	3,724	0	363,572	0	363,572
Maine	18,201	15,515	15,391	5,598	3,940	6,651	990	1,116	0	67,402	0	67,402
Maryland	90,923	46,831	36,172	6,001	15,503	33,194	2,991	1,802	92,448	315,865	0	315,865
Massachusetts	145,237	38,138	47,484	6,390	21,972	51,709	4,027	2,332	11,138	328,428	0	328,428
Michigan	75,680	98,383	87,948	19,416	29,713	30,524	7,283	6,956	0	355,903	0	355,903
Minnesota	94,917	57,724	47,088	16,217	11,915	29,459	4,132	4,946	5,012	271,411	0	271,411
Mississippi	18,201	39,729	33,848	11,621	5,025	32,865	2,467	2,814	0	146,569	0	146,569
Missouri	18,201	86,522	55,057	17,124	14,749	83,698	4,565	4,899	0	284,815	0	284,815
Montana	18,201	49,310	28,395	12,052	3,940	10,265	1,382	2,024	0	125,570	0	125,570
Nebraska	18,201	27,246	27,290	10,467	4,337	31,122	2,127	3,330	2,282	126,403	0	126,403
Nevada	18,201	27,386	20,129	7,778	3,940	4,574	1,047	966	0	84,022	0	84,022
New Hampshire	18,201	15,515	12,067	3,201	3,940	12,164	990	771	0	66,849	0	66,849
New Jersey	131,026	36,383	56,920	5,606	30,267	98,505	5,052	3,231	37,429	404,418	0	404,418
New Mexico	18,201	52,142	27,194	10,504	4,144	6,891	1,491	1,378	0	121,946	0	121,946
New York	323,123	107,515	143,466	19,400	68,194	182,950	12,405	7,507	12,053	876,613	0	876,613
North Carolina	51,985	54,342	68,902	19,990	12,209	47,981	4,846	4,712	0	264,967	62,462	327,429
North Dakota	18,201	25,754	19,018	7,958	3,940	9,234	1,476	3,321	0	88,902	0	88,902
Ohio	30,552	134,611	99,885	19,632	35,988	62,352	8,194	8,083	15,600	414,888	85,847	500,735
Oklahoma	18,737	45,477	36,968	12,975	8,769	46,033	3,268	3,892	0	176,118	42,202	218,321
Oregon	26,824	47,512	31,666	10,979	7,836	17,006	3,314	2,592	13,792	161,521	0	161,521
Pennsylvania	174,391	83,687	114,770	24,893	36,980	123,623	8,896	7,015	12,634	586,889	0	586,889
Rhode Island	18,201	15,515	12,067	3,201	3,940	6,658	990	531	63,117	124,220	0	124,220
South Carolina	46,859	47,226	35,085	10,140	7,238	17,057	2,749	3,156	0	169,510	9,000	178,510
South Dakota	18,201	31,913	20,357	8,620	3,940	9,901	1,345	2,085	0	96,161	0	96,161
Tennessee	18,201	77,875	50,127	14,811	12,318	76,409	3,927	3,749	22,641	280,058	0	280,058
Texas	187,870	248,509	141,140	40,034	50,897	75,218	12,369	12,675	0	768,712	198,243	966,956
Utah	68,192	46,948	21,020	7,147	5,540	4,574	1,491	1,464	0	156,375	0	156,375
Vermont	18,201	15,839	12,067	3,201	3,940	9,121	990	743	0	64,102	0	64,102
Virginia	154,156	82,792	53,910	14,798	15,966	26,720	4,170	3,240	2,708	358,460	0	358,460
Washington	163,275	68,745	41,745	10,923	13,651	39,164	3,662	3,508	0	344,673	0	344,673
West Virginia	18,201	23,307	25,241	8,278	3,940	38,302	1,656	1,969	0	120,893	0	120,893
Wisconsin	18,201	41,240	51,606	15,003	13,269	42,587	4,302	4,730	0	190,938	35,139	226,077
Wyoming	18,201	41,280	18,618	7,838	3,940	4,574	990	1,095	0	96,536	0	96,536
Puerto Rico	0	15,515	31,906	4,304	9,462	4,574	2,110	907	0	68,778	0	68,778
Total	1,640,199	1,102,990	745,177	640,277	788,040	1,829,511	146,070	188,102	538,313	13,378,737	649,636	14,028,174

Estimated Apportionments for FY 1987 - Administration's Legislative Proposal  
(Minimum Allocation Capped at \$250 Million)

(Dollars in Thousands)

STATE	INTERSTATE & PRIMARY	BRIDGE PRIMARY	HAZARD ELIM.	RAILROAD XINGS	H & T TRANSF.	REHABILIT BLOCK GRANT	TOTAL APPORT	CAPPED REDUCTION ALLOCATION	GRAND TOTAL
Alabama	155,342	21,184	3,093	3,812	0	40,826	225,253	0	225,253
Alaska	116,089	2,461	864	2,918	0	42,656	164,388	0	164,388
Arizona	134,403	2,461	2,514	1,840	71	22,609	163,689	0	163,689
Arkansas	67,576	19,210	2,057	2,547	0	27,199	118,931	2,636	121,561
California	660,232	53,072	14,651	11,920	5,347	156,351	897,902	66,174	964,073
Colorado	136,311	5,379	2,407	2,386	2,643	33,428	182,754	0	182,754
Connecticut	112,159	17,062	1,912	1,292	45,320	24,623	200,293	0	200,293
Delaware	50,023	2,461	364	591	0	9,052	62,991	0	62,991
Dist. of Col.	43,475	11,261	964	231	6,236	5,760	67,857	0	67,857
Florida	353,654	39,436	6,415	3,922	0	66,567	456,967	0	456,967
Georgia	237,686	23,745	4,136	5,345	4,440	44,738	332,096	0	332,096
Hawaii	69,466	3,849	664	472	0	9,052	104,725	0	104,725
Idaho	67,246	2,461	1,255	1,737	0	14,863	87,562	0	87,562
Illinois	246,334	30,334	7,723	9,634	51,956	84,153	432,238	0	432,238
Indiana	156,905	11,360	3,365	6,236	2,092	49,912	224,450	26,217	244,647
Iowa	66,402	26,762	2,813	4,573	12,567	44,162	171,087	0	171,087
Kansas	92,961	16,336	2,725	5,639	0	46,147	163,813	0	163,813
Kentucky	150,642	16,853	2,738	3,145	0	34,844	201,672	0	201,672
Louisiana	263,969	23,725	2,936	3,743	0	43,468	277,801	0	277,801
Maine	34,879	4,827	664	1,112	0	12,454	54,146	0	54,146
Maryland	149,156	24,660	2,610	1,796	43,591	36,596	252,416	0	252,416
Massachusetts	135,725	15,911	3,514	2,336	6,334	45,962	268,002	0	268,002
Michigan	235,913	8,635	6,354	6,843	0	63,633	323,075	0	323,075
Minnesota	191,694	14,245	3,633	4,926	1,625	41,157	227,286	0	227,286
Mississippi	81,565	16,243	2,153	2,670	0	33,124	137,778	0	137,778
Missouri	151,757	22,691	3,963	4,991	0	76,941	271,254	0	271,254
Montana	85,333	6,245	1,264	1,773	0	26,518	115,267	0	115,267
Nebraska	56,333	6,974	1,854	3,507	912	34,132	105,538	0	105,538
Nevada	52,367	2,461	912	971	0	13,758	70,489	0	70,489
New Hampshire	30,616	4,894	864	776	0	12,991	50,135	0	50,135
New Jersey	185,643	61,633	4,469	3,190	14,460	63,147	336,463	0	336,463
New Mexico	62,677	4,736	1,266	1,396	0	17,143	108,274	0	108,274
New York	273,676	95,441	10,825	7,530	116,826	163,221	670,513	0	670,513
North Carolina	159,970	14,217	4,233	4,740	0	59,849	243,026	29,765	272,791
North Dakota	47,623	2,461	1,287	3,327	0	17,584	72,282	0	72,282
Ohio	281,212	26,212	7,145	7,756	6,290	85,126	417,343	11,621	428,965
Oklahoma	107,653	21,963	2,251	3,636	0	44,116	181,423	5,467	186,890
Oregon	98,015	14,619	2,900	2,609	5,308	24,992	148,443	0	148,443
Pennsylvania	334,333	66,586	7,764	7,105	4,617	111,786	532,218	0	532,218
Rhode Island	50,023	2,461	864	531	29,395	9,052	72,326	0	72,326
South Carolina	112,264	16,846	2,398	3,195	0	22,354	156,977	0	156,977
South Dakota	53,377	3,362	1,171	2,098	0	18,148	80,176	0	80,176
Tennessee	141,794	45,666	3,425	3,731	11,824	52,834	263,419	0	263,419
Texas	516,154	39,620	10,820	12,602	0	123,414	696,619	103,541	800,160
Utah	107,402	2,461	1,324	1,488	0	14,668	127,343	0	127,343
Vermont	30,623	3,761	864	748	0	12,087	47,483	0	47,483
Virginia	227,619	13,564	3,641	3,266	639	42,599	292,748	0	292,748
Washington	262,286	38,664	3,140	3,531	0	32,939	380,502	0	380,502
West Virginia	61,971	15,568	1,448	1,977	0	29,032	109,996	0	109,996
Wisconsin	96,796	28,294	3,733	4,772	0	44,015	181,233	10,385	191,818
Wyoming	63,036	2,461	864	1,094	0	14,408	81,863	0	81,863
Puerto Rico	52,796	2,461	1,861	904	0	15,568	73,590	0	73,590
TOTAL	7,636,150	984,465	271,063	187,627	370,321	2,194,500	11,566,088	250,000	11,816,088

HJR

52

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: DOT/PE  
 Title: Opposing reductions in the BRU: \_\_\_\_\_  
budget of the United States Coast Guard  
 Sponsor: Rep. Davidson Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

There will be no fiscal impact to the state of Alaska as a result of this resolution.

Prepared by: Rep. Bette Cato, Chairman Phone: 465-4858  
 Division: House Transportation Committee Date: 02/15/88

Approved by Commissioner: Bette Cato Date: 02/15/88  
 Agency: Chairman, House Transportation Committee

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



# STATE OF ALASKA

HOUSE OF REPRESENTATIVES

Box V, Juneau, Alaska 99811

(907) 465-2487 • 465-2498

REPRESENTATIVE CLIFF DAVIDSON

District 27

Box 746, Kodiak, Alaska 99615

TO: Senate Transportation Committee  
FROM: Representative Cliff Davidson  
DATE: March 3, 1988  
RE: HJR 52

---

The Coast Guard throughout the nation is suffering severe budget cuts as a result of the Gramm, Rudman, Hollings Act. Consequently the Coast Guard in Alaska is having to trim an already bear bones budget.

The people in coastal Alaska rely heavily on the Coast Guard for navigational aids, monitoring radio distress calls, safety training, and most importantly, search and rescue missions, as well as fisheries enforcement patrols.

HJR 52 sends a message to the budget decision makers in Washington, D. C. that these proposed cuts are totally unacceptable. I ask for your positive and expeditious consideration to this matter so vital to all Alaskans.

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**



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# Factory ships caught with nets down in Bering Sea

SEATTLE (AP) - Tough penalties and increased Coast Guard surveillance are being sought after seven Japanese factory ships reportedly were seen fishing illegally in U.S. waters.

Ted Evans, director of the Alaska Factory Trawlers Association, and Sam Hjelle, president of Glacier Fish Co., said they made videotapes of the ships they saw Wednesday from a privately chartered jet about 38 miles inside the 200-mile fishery zone and northwest of Adak in the Aleutian Islands.

"This simply confirms what we have suspected all along," Evans said, "that there is massive, calculated foreign fishing within the U.S. zone."

Hjelle, whose Seattle company operates a factory trawler,

said overall Japanese fleet sizes in the area and shipments of processed seafood lead him to believe as much as five million metric tons of unreported fish worth as much as \$2 billion may have been caught in the north Pacific Ocean last year - more than twice what U.S. scientists say would be a biologically acceptable harvest.

The Seattle-based trawlers group will report the findings at a meeting of the North Pacific Fisheries Management Council this week in Anchorage, Alaska, along with requests for tough penalties and increased Coast Guard surveillance, Evans said.

A State Department official in Washington D.C. told The Seattle Times that Japanese diplomats were asked for an explanation Friday, with further

action unlikely until the unofficial report is confirmed.

Last year Japanese, Korean and other foreign fishing representatives reported catching more than a million metric tons, or 2.2 billion pounds, of bottomfish in the "doughnut hole," an expanse of international waters covering 4,500 square miles in the Bering Sea where the water is more than two miles deep.

"No way they're catching all that fish in the doughnut hole," Hjelle said. "Fish don't like the deep water. They school up on the edge (of the continental shelf, inside the zone) where there's lots of upwelling."

He and others say it is far more likely those fish were taken by boats that slipped inside the fishery zone under cover

of darkness or low clouds.

A Coast Guard official in Washington D.C. said the agency has similar suspicions and has often heard unconfirmed reports of illegal fishing, but despite air and sea patrols the foreign fleets have never been caught with their nets down.

Last year the Coast Guard report spotted as many as 200 foreign fishing vessels in the Bering Sea.

Evans said he, Hjelle and the charter pilots had been flying for several hours when they saw some radar blips and dipped beneath the 200-foot cloud cover in an area the plane's Loran gear indicated was 38 miles inside the zone.

In three passes they said they videotaped seven factory trawlers, each more than 200

feet long, fishing on Ulm's Plateau, an area of shallow water known as a productive fishing area. Moments later, just outside the U.S. zone, they spotted about 20 scattered Japanese vessels that appeared to have just pulled in their nets and seemed to be processing, Evans said.

The Times described the tapes as grainy in quality but clearly showing nets in the water. Evans said he recorded the identification numbers of at least three ships, but the hull numbers of two others were covered by canvas tarpaulins.

Hjelle said the size of the boats indicated they were fishing for halibut, turbot or black cod, also known as sablefish, rather than pollock or other less lucrative fish.

Occasional snow tonight with northwest winds at 20 mph and a low near 30. Snow showers tomorrow with a high near 34. Record high for this date is 46, set in 1962; record low is -1, set in 1947. Sunset tonight at 5:04; sunrise tomorrow at 9:36. Daylight: 7 hours, 26 minutes.

the  
**Kodiak**  
daily mirror

VOL. 48 NO. 011 MONDAY, JANUARY 18, 1988 KODIAK, ALASKA 12 PAGES 35 CENTS

## Admiral says fish patrol cuts likely

By KAREN DURR  
Staff Writer

Depending on decisions being made in Washington D.C. soon, the Coast Guard is facing some drastic changes. Nationwide the service may sustain a \$100 million cut - about 10 percent of last year's total - in this year's budget, and that cut must be worked into a fiscal year that's already more than a quarter past.

In Alaska's 17th Coast Guard District those changes could be felt immediately: a 30 percent cut in cutter operations, 10-15 percent cuts in flight time, moving the buoy tender Sweetbriar from its homeport in Cordova to Ketchikan and decommissioning another buoy tender, the Planetree.

The Commander of the 17th Coast Guard District, Rear Adm. Edward Nelson Jr., discussed some of those impending changes during an interview with *The Kodiak Daily Mirror*.

**Mirror:** We understand you were given some direction on cuts to be made to the Coast Guard in Alaska.

**Nelson:** That's something that was imposed last week, to make up the shortfall between what we need and what we don't have.

**Mirror:** But we also understand the Coast Guard has been authorized \$100 million to come from the Department of Defense. Won't that offset this year's cut?

**Nelson:** We always do get some support from the Navy--what we would need in the event of a mobilization. But all I know is that additional DOD \$100 million is in kind, not in dollars. Two examples would be C-130 parts or fuel. Specifically what kind other kinds of support I could not tell you. We're still in the process of working out what kind of support that could be.

If it wasn't for that \$100 million, it would be a \$200 million deficit.

**Mirror:** What restrictions would be placed on that DOD funding?

**Nelson:** It would be restricted in the same sense as using coupons in a company store. You can get fuel or parts, but it isn't dollars coming across the counter.

**Mirror:** It seems that every year the Coast Guard goes through a similar process of being cut drastically and at the last minute things work out.

**Nelson:** It's different this year with the Gramm-Rudman cuts. I don't know where the help is going to come from since it's gotten past the Congressional stage here. But you're right, every year we spend a lot of time finding relief and we have had some help before. It's very frustrating to face this every year. But we belong to Department of Transportation. If they take something out of the Department's budget that is high priority, like mass transit, it had to come out of that same piece of pie and we have a small piece.

**Mirror:** So what losses does Alaska face?

**Nelson:** We were asked what we were going to do to deal with this kind of reduction. We knew we're going to lose a buoy tender for some time. The Planetree hasn't gone through the extensive rehabilitation the others have. The need hasn't changed, but we were asked where would you make that up.

Another target might have been the Furebush. You can't get into personalities, but operations only. We feel like we can cover the needs of Aids to Navigation with the Homer-based Sedge or the Furebush out of Kodiak. If we have to take a loss somewhere it'll have to be the Sweetbriar.

We're basing this decision on operational needs, not on the way it's received in the community or who has what facilities.

**Mirror:** How are you going to handle other cuts?

**Nelson:** We'll probably close the MSDs (Marine Safety Detachments) in Kodiak and Sitka - that's two men in Kodiak, one in Sitka - and phase down the one in Valdez. We might make that a MSD and not a MISO (Marine Safety Office).

Kenai and Ketchikan both have a much heavier load. It would be

(See "Admiral," Page 12)

## 6 men overboard off crabber

By KAREN DURR  
Staff Writer

Six crewmen abandoned the sinking FV Wayward Wind early this morning as a Coast Guard Cutter, aircraft, and commercial fishing vessels raced to the rescue.

Two survivors and four bodies have been picked up and returned to Kodiak. Officials were not releasing any identities at press time.

The men were reportedly in 10-foot seas south of Tugidak Island.

The Coast Guard received the Wayward Wind's mayday call at

1:15 a.m. Monday, according to a Kodiak Air Station spokesman. She was taking on water and the crew were putting on survival suits.

The Coast Guard launched a C-130 which pinpointed the vessel's Emergency Locator Transmitter signal and guided an H-3 helicopter to the area, 10 miles south of Tugidak off Kodiak's southernmost tip.

Two other fishing vessels were on scene this morning and others were on the way. The Coast Guard Cutter Boutwell also was to join the search.

The steel-hulled 86-foot

Wayward Wind is homeported in Kodiak and is owned by Irish Lady Inc. of Port Williams on Shuyak Island. Her operator, is William "Red" Nietupski, according to City Harbormaster records. A multi-use vessel, she was geared for Tanner crabbing.

The search was being conducted in 25 knot winds and 10-foot seas with blowing snow, the AirSta spokesman said.

In an unrelated case, the Coast Guard also medevaced a crewman off the FV Yardarm Knot Friday afternoon.

Craig Davies, 19, was taken off the vessel.

## Boat hull, 2 bodies found from FV Cape Karluk

By NELL WAAGE  
Staff Writer

Two bodies from the FV Cape Karluk and the wrecked hull of the boat were found by searchers over the weekend.

Authorities have discontinued the search for a third crewman said to be aboard when the boat disappeared between Jan. 12 and 13.

The body of Merle P. Ashouwak, 24, was spotted by the Coast Guard search helicopter Saturday in Geese Channel and later recovered by crewmen aboard the Alaska Fish and Wildlife Patrol Vessel Vigilant. Ashouwak's body was clad in a Mustang "skiff suit" or "deck suit," according to Lt. Tom Schwantes of the FWP. Later in the day the body of Jerry D. Christiansen, 30, was located and recovered. Schwantes said

that to his knowledge Christiansen was not wearing a survival or deck suit.

Still missing is Eugene Naumoff, 34.

The Coast Guard initially located the wreckage of the 32-foot Cape Karluk Friday in Geese Channel and was able to relocate it Saturday and direct the Vigilant to it. The entire cabin and wheel house were gone, Lt. Schwantes said, and the port side from the fish hold forward was torn away, making it possible to verify that no bodies were in the wreckage.

The search was discontinued late Saturday.

Jeff Peterson, Village Public Safety Officer of Old Harbor, said the men, all Old Harbor residents, had set off from the village for Moser Bay to pick up some crab pots. The boat left Moser Bay around noon on Jan.

12, according to information furnished to the FWP. Tuesday evening those aboard the boat radioed Old Harbor they were seeking shelter from severe weather in Russian Harbor at the southernmost tip of Kodiak Island and expected to reach the village the next morning. The MISO reported the Cape Karluk overdue at around noon the next day.

The Vigilant happened to be in Geese Channel at 1 p.m. that day when they heard the missing boat report and began searching. Schwantes said, continuing on into Alitak and Moser Bay. The Coast Guard also began a search. Seas were rough in the area, Schwantes said. A steady wind had buffeted the area at 40 miles per hour with gusts to 60 the two previous days.

Christiansen was owner of the Cape Karluk.

News reports

## Admiral discusses cuts

(Continued from Page 1)

more expensive to cover them with transportation costs than, say, Kodiak or Sitka.

**Mirror:** How about the reported 10-15 percent reduction in aircraft operations?

**Nelson:** We knew we were going to have some reduction. Kodiak was supposed to be getting another C-130, but there was no place to hangar it so it's just as well we won't now.

Other than that, augmentation of airframe support on patrols is to be reduced. Already a bunch of the folks out of the (fishing) associations in Seattle — the larger catcher processors, the factory trawlers — have written Sen. Stevens and the North Pacific Fishery Management Council because they've been concerned we don't have enough information on fishing in the doughnut hole.

We weren't doing enough before and we'll be doing even less with less flight time. Beyond that, we didn't get any mandated cuts.

**Mirror:** What vessel operations may be affected by these 30 percent cuts?

**Nelson:** High-endurance cutters out of Seattle, Hawaii or San Francisco and enforcement of laws and treaties, readiness exercises, fisheries patrols, the Alaska Patrol, special operations, refresher training with the Navy.

**Mirror:** Specifically the Alaska Fisheries Patrol?

**Nelson:** We like to have two (patrol vessels) on the (fishing) grounds all the time. We'll flat not be able to do that. We'll have to compensate with the Storis out of Kodiak when we don't have the high-endurance cutters up here. The Storis does a fine job, but it isn't a high-endurance cutter.

We usually try to get the Boutwell on the grounds for 60 days, but with search and rescue cases and so on, they'll have less time on patrol.

**Mirror:** And your other training cutbacks?

**Nelson:** We canceled the Sedge out of Homer going on spring refresher training. But we rescheduled her for the fall and that turned out better anyway with the extensive turnover of officers due this summer. It'll be better in the fall with the new command.

Two other training exercises are coming up and the plan is to send them. It's pretty important. It's not just fighting war, but damage control training—how to handle a hole in the side. It's pretty important for the survival of a ship.

Training supposedly sticks, but with new people coming along all the time it has to be a constant thing.

We're looking across all expenses, down to the cost of having a phone sitting on a desk in someone's office and to a large part we can stall off some things we can do without. But in the last few years, we've learned we can't do without training too long or it's going to turn around and bite you. So we're doing the best we can to maintain that training.

**Mirror:** What's the next step in the decision making process?

**Nelson:** The Department of Transportation is trying to work with the White House and we're getting pretty good support from the Department.

**Mirror:** When's the final decision due?

**Nelson:** Last week we thought Friday would have the answer. But we still haven't heard the word.



## Weekend sport

By The Associated Press

### PRO FOOTBALL

**NEW YORK** — The Denver Broncos will face the Washington Redskins in Super Bowl XXII on Jan. 31 in San Diego as both teams won Conference Championships Sunday. Denver stopped Cleveland, 38-33, in the AFC title game for the second straight season as quarterback John Elway threw three touchdown passes. Washington ended the impressive playoff run of the Minnesota Vikings, 17-10, behind two touchdown passes by quarterback Doug Williams.

**NEW YORK** — Jimmy "The Greek" Snyder, a self-styled oddsmaker and expert on sports, was fired as a CBS Sports commentator Saturday, a day after making controversial remarks about blacks.

Snyder, 70, who had been with CBS for 12 years, said in a television interview that black athletes were superior to whites because during the Civil War "the slave owner would breed his big black with his big woman so that

he would have a big kid. That's where started."

### GOLF

**CARLSBAD, Calif.** — Steve Pate was declared winner of golf's Tour of Champions Sunday series of rain squalls out the fourth round reduced play to 54 holes.

Dave Hill, who through three rounds seniors' competition event that brings only the winners of PGA Tour titles, announced the winner of the 50 section of the tour.

Play had been delayed times, once by hail. Mike Shea of the PGA Allard Roen, tournament chairman for host, canceled the final round.

Only 12 men in a field of 50 had completed when the round was out. All Sunday scores erased.

### SKIING

**DOBBIACO, Italy** — Swedish team won women's 20-kilometer Cup cross-country Saturday.

The team of Karin Stedt, Annalena Magdalena Wallin and Elena Westin had a time of 53 minutes and 53 seconds.

An East German second in 53:42.7. Norwegian squad took 54:05.5.

### SKATING

**PRAGUE, Czechoslovakia** — Katarina emerged from the

## Basketball

### EASTERN CONFERENCE

#### Atlantic Division

	W	L	Pct	GB
Boston	25	10	.714	
Philadelphia	18	17	.514	7
Washington	12	20	.375	11 1/2
New York	12	23	.343	13
New Jersey	7	27	.206	17 1/2

#### Central Division

	W	L	Pct	GB
Atlanta	26	9	.743	
Detroit	20	11	.645	4
Chicago	20	14	.588	5 1/2
Milwaukee	19	14	.576	6
Indiana	17	17	.500	8 1/2
Cleveland	17	19	.472	9 1/2

### WESTERN CONFERENCE

#### Midwest Division

	W	L	Pct	GB
Dallas	21	11	.656	
Houston	20	14	.588	2

## Top 20 col

How the Assoc teams fared this week

1. Arizona (16 70-54.
2. North Carolina 87-62.

strictly confidential

ALASKA CONFERENCE OF MAYORS

RESOLUTION NO. 88-15

WHEREAS, the United States Coast Guard is suffering severe budget cuts; and

WHEREAS, adequate Coast Guard service levels are potentially jeopardized; and

WHEREAS, the United States Coast Guard is an important contribution to the safety, security and economy of Alaskan communities.

NOW THEREFORE, BE IT RESOLVED that the Alaska Conference of Mayors expresses its support for adequate Coast Guard budget funding, to provide the levels of Coast Guard service necessary to perform their assigned duties.

AND FURTHER BE IT RESOLVED, the Alaska Conference of Mayors endorses the House Joint Resolution opposing reduction in the budget of the United States Coast Guard.

Adopted this 10th day of February 1988.



Erling T. Johansen, President  
Alaska Conference of Mayors

ATTEST:



Scott A. Burgess, Executive Director  
Alaska Municipal League

*Resolution in Support*

HJR

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NATIONAL FISHERIES INSTITUTE, INC.

2010 M STREET, N.W., STE. 580 ■ WASHINGTON, D.C. 20038 ■ (202) 296-

February 12, 1988

TAX ALERT

ACTION REQUESTED

NFI VESSEL OPERATORS

Vessel operators should be aware that as of April 1, 1988:

- o The up-front exemption from federal excise taxes will be repealed for diesel fuel purchased by fishery vessels.
- o Diesel fuel used for vessels will continue to be nontaxable, but operators will be required to pay a 15.1 cents per gallon tax when purchasing fuel, then apply to the Treasury Department on a quarterly basis for a refund.

NFI is asking Congress to restore the up-front exemption for our industry. You are urged to contact your Senators and Representatives and urge them to sponsor legislation to permit tax-free sales of diesel fuel for fishery vessels.

BACKGROUND

A provision in the 1987 Budget Reconciliation Act passed in December requires federal excise taxes on diesel fuel to be collected at the wholesale level and repeals exempt sales beyond the wholesale level, except in four circumstances:

- o diesel fuel sold for use as a fuel in a diesel-powered train;
- o commercial aviation fuel;
- o taxable fuel sold for industrial use other than as a motor fuel; and
- o taxable fuel sold for use by a state or a political subdivision of a state.

These exemptions are not across-the-board; rather, they will have to be obtained on a case-by-case basis by each company.

All other current exemptions from the diesel fuels tax, including those for farmers, fishermen and other off-highway business use, have been eliminated. Instead, non-taxable uses will be taxed at time of purchase and refunds made pursuant to applications filed to document the non-taxable use. Although the regulations implementing this change have not been finalized, the Treasury Department indicates that they expect to use a quarterly refund process for amounts in excess of \$1,000 which is similar to the existing refund process for non-taxable gasoline and diesel fuel uses. All refunds less than \$1,000 per quarter will be handled annually.

The changes that were enacted had the objective of deterring tax-evasion schemes which are estimated to cost the Highway Trust Fund several hundred million dollars in lost revenues annually. However, the repeal of the exemption will place a heavy cash-flow burden on the seafood industry, which has legitimate tax exempt uses.

#### IMPACT

This law becomes effective April 1. The impact on fishery companies includes:

- o added cost for fuel;
- o additional recordkeeping and paperwork to enable recovery of funds through a yet-to-be established refund procedure; and
- o loss of the time value of the funds paid for fuel tax (which may be substantial as federal officials are swamped in an avalanche of refund requests).

#### LEGISLATIVE ACTIVITY

Several bills have been introduced. Four would restore the exemption for farmers only. These are:

- o H.R. 3850 sponsored by Congressman Jontz (D-IN)
- o H.R. 3844 sponsored by Congressman Daub (R-NE)
- o H.R. 3881 sponsored by Congresswoman Smith (R-NE)
- o S. 2003 sponsored by Senator Gramm (R-TX)

Two bills would restore exemptions for all off-highway uses including vessel operations. These are:

- o H.R. 3865 sponsored by Congressman Combest (R-TX)
- o H.R. 3866 sponsored by Congressman De la Garza (D-TX)

The key committees which will consider this matter are:

#### SENATE FINANCE COMMITTEE

Lloyd Bentsen, Tex., Chairman	Bob Packwood, Ore., Ranking Minority Member
Spark M. Matsunaga, HI	Robert Dole, Kan.
Daniel P. Moynihan, N.Y.	William V. Roth, Jr. Del.
Max Baucus, Mont.	John C. Danforth, Mo.
David L. Boren, Okla.	John H. Chafee, R.I.
Bill Bradley, N.J.	John Heinz, Pa.
George J. Mitchell, ME	Malcolm Wallop, Wyo.
David Pryor, Ark.	David Durenberger, Minn.
Donald W. Riegle, Jr., Mich.	William L. Armstrong, Colo.
John D. Rockefeller IV, W.Va.	
Thomas A. Daschle, S.D.	

#### HOUSE WAYS AND MEANS COMMITTEE

##### MAJORITY MEMBERS

Dan Rostenkowski, Ill. Chairman	Marty Russo, Ill.
Sam M. Gibbons, Fla.	Donald J. Pease, Ohio
J.J. Pickle, TX	Robert T. Matsui, CA.
Charles B. Rangel, NY	Beryl F. Anthony, Jr. Ark.
Fortney H. (Pete) Stark, CA	Ronnie G. Flipppo, Ala.
Andrew Jacobs, Jr., Ind.	Byron L. Dorgan, N.D.
Harold E. Ford, Tenn.	Barbara B. Kennelly, CT.
Ed Jenkins, Ga.	Brian Donnelly, Mass.
Richard A. Gephardt, Mo.	William J. Coyne, Pa.
Thomas J. Downey, N.Y.	Michael A. Andrews, TX.
Frank J. Guarini, N.J.	Sander M. Levin, Mich.
	Jim Moody, Wis.

##### MINORITY MEMBERS

John J. Duncan, Tenn,  
Ranking Minority Member

Bill Archer, Tex.  
Guy Vander Jagt, Mich  
Philip M. Crane, Il.  
Bill Frenzel, Minn.  
Richard T. Schulze, Pa.  
Willis D. Gradison, Jr. Ohio  
William M. Thomas, Calif.  
Raymond J. McGrath, N.Y.  
Hal Daub, Neb.  
Judd Gregg, N.H.  
Hank Brown, Colo.  
Rod Chandler, Wash.

SENATE COMMITTEE REPORT

FURTHER

FINANCE

3/14/88

DATE TURNED INTO OFFICE 3/31/88

Mr. President:

Transportation Committee considered CSHJR 68 (TRSP)

Urging Congress to restore the exemption from the federal excise tax on taxable fuels for certain diesel fuel users

and recommended

[ ] replace with \_\_\_\_\_ CS \_\_\_\_\_ ) [ ] same title  
[ ] or adopt \_\_\_\_\_ CS \_\_\_\_\_ ) [ ] new title

[ ] attached amendment(s) and

[ ] do pass

[ ] do not pass

[ ] no recommendation

individual recommendations

[ ] further referral to \_\_\_\_\_

[ ] letter of intent adopted \_\_\_\_\_

Committee  attached or [ ] adopted fiscal note(s)

[ ] new [ ] updated or  previous

[ ] zero [ ] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*[Handwritten signatures]*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[Handwritten signature]*  
Chairman signature and recommendation

[ ] Committee Backup attached



# STATE OF ALASKA

HOUSE OF REPRESENTATIVES

Box V, Juneau, Alaska 99811

(907) 465-2487 • 465-2498

REPRESENTATIVE CLIFF DAVIDSON

District 27

Box 746, Kodiak, Alaska 99615

## M E M O R A N D U M

TO: Senator Lloyd Jones  
Chairman, Senate Transportation Committee

FROM: Representative Cliff Davidson

DATE: March 14, 1988

SUBJECT: House Joint Resolution 68

Today in the Senate, House Joint Resolution 68 was assigned the Transportation and Finance Committees.

This resolution requests Congress to preserve the diesel fuel tax-exemption for "off-road" vehicles and fishing vessels. Under legislation passed last December, Congress mandated an across-the-board tax collection.

This requirement would hurt Alaskan fishermen, miners, farmers or any person in Alaska who relies on the tax-free sale of diesel fuel to operate.

Starting next month, these tax-exempt categories must pay the tax upfront. Refunds would not be available until the end of the year.

Because this requirement becomes effective April 1, it is urgent this resolution be considered at your earliest possible convenience.

Thank you.

# Alaska State Legislature

## House of Representatives

### Committee on Transportation

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858



Rep. Bette Cato, Chairman

March 9, 1988

\*\*\*\*\*

#### COMMITTEE CALENDAR:

HB 448: "An Act relating to outdoor political advertising."

HJR 68: Urging Congress to restore the exemption from the federal excise tax on taxable fuels for certain diesel fuel users.

An Overview by the Commonwealth North Railroad Committee

FOR THIS MEETING, YOU HAVE BEEN GIVEN:

a folder on HB 448 that includes:

- item #1: HB 448
- #2: a statement from Rep. Frank
- #3: a sectional analysis
- #4: a proposed amendment
- #5: information re political signs
- #6: required form for filing candidacy
- #7: statutes
- #8: position paper - Division of Elections
- #9: fiscal note & position paper - DOT/PF

a folder on HJR 68 that includes:

- item #1: HJR 68
- #2: fiscal note - Depart. of Comm. & Economic Dev.
- #3: statement from Rep. Davidson
- #4: tax alert from National Fisheries Institute
- #5: Omnibus Reconciliation Act - an excerpt
- #6: House Congressional Record - an excerpt
- #7: letters of support
- #8: newspaper articles
- #9: press release from Rep. Don Young



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REPRESENTATIVE CLIFF DAVIDSON

District 27

Box 746, Kodiak, Alaska 99615

## M E M O R A N D U M

TO: Representative <sup>Bette</sup> Bette Cato, Chair  
House Transportation Committee

FROM: Representative Cliff Davidson <sup>Davidson</sup>

DATE: March 2, 1988 <sup>Davidson</sup>

SUBJECT: House Joint Resolution 68 by the Resources Committee

Enclosed is a copy of House Joint Resolution 68, which was introduced today and assigned the Resources and Transportation Committees.

It will be heard on Wednesday, March 9 in the Resources Committee. May I request a hearing on this piece of legislation as soon as possible pending referral? There is a rush on getting HJR 68 to Congress before April 1, 1988.

This resolution requests Congress to preserve the way they collect the fifteen cent per gallon federal excise tax on diesel fuel.

Under legislation passed last December, tax-exempt categories must first pay the tax and then apply for a refund later. Under current practice, these tax exempt categories do not pay the tax at all.

While still technically exempt, the way the federal government will collect this tax unnecessarily raises the cost of doing business for many Alaskans. It will restrict their cash flow, increase paperwork and is essentially an interest free loan to the government.

This resolution asks Congress to reinstate the current practice and repeal the proposed changes, which take effect April 1, 1988.

Thank you for your support.

MOEN

100TH CONGRESS  
1st Session

HOUSE OF REPRESENTATIVES

REPORT  
100-495

*FUEL TAX Report Language.*

OMNIBUS BUDGET RECONCILIATION ACT  
OF 1987

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CONFERENCE REPORT

TO ACCOMPANY

H.R. 3545



DECEMBER 21, 1987.—Ordered to be printed

maximum reduction in estate taxes to \$750,000, (5) imposes holding period requirements for the decedent and the ESOP, (6) prohibits the deduction in the case of securities acquired with assets transferred from another plan of the employer, and (7) imposes certain excise taxes on an ESOP or worker-owned cooperative for a failure to satisfy the allocation and holding period requirements.

The confirmation of the IRS Notice is effective as if included in the Tax Reform Act of 1986. The other provisions are effective with respect to sales of securities to ESOPs after February 26, 1987, except that the ESOP holding period requirement generally applies to dispositions of securities by the ESOP after February 26, 1987. Securities subject to the ESOP holding period requirement are qualified employer securities, which for this purpose includes employer securities sold before February 27, 1987, for which a deduction was allowed.

#### *Senate amendment*

The Senate amendment is the same as the House bill, except that the provisions (other than the confirmation of the IRS Notice) are effective with respect to sales of securities to ESOPs after February 27, 1987, and that the ESOP holding period requirement generally applies to dispositions of securities by the ESOP after February 27, 1987. Securities subject to the ESOP holding period requirement are qualified employer securities, which for this purpose includes employer securities sold before February 27, 1987, for which a deduction was allowed.

#### *Conference agreement*

The conference agreement follows the House bill.

### V. EXCISE TAXES; USER FEES

#### A. EXCISE TAXES

##### 1. Telephone excise tax: 3-year extension

#### *Present law*

A 3-percent excise tax is imposed on amounts paid for local telephone service, toll (long-distance) telephone service, and teletype-writer exchange service. This tax is scheduled to expire after December 31, 1987.

#### *House bill*

The House bill extends the present 3-percent telephone excise tax for 3 years, through December 31, 1990.

#### *Senate amendment*

The Senate amendment is the same as the House bill.

#### *Conference agreement*

The conference agreement follows the House bill and the Senate amendment.

##### 2. Collection of diesel fuel and c sales to

#### *Present law*

The excise taxes on diesel fuel, line aviation fuel generally are fuel by a retail dealer to the u (4041). Under an exception, retail sale distributors collect and pay sold to the retailer.

#### *House bill*

The excise tax on taxable fuel, taxable special fuels, and nongasoline taxed on sale of the fuels to any

Taxable special fuels include: (line or diesel fuel) that are sold to a motorboat. Nongasoline: which tax would be imposed if commercial aviation.

Collection of the excise tax by wholesale dealers is made mandatory under present law permitting tax-exemptions are repealed.

Any taxable fuel that is held for sale is subject to a floor stock tax in addition to that fuel.

The provision is effective on 1

#### *Senate amendment*

The Senate amendment generally follows the House bill with the following differences.

The Treasury Department is required to provide information for purposes of making refunds on line fuels excise taxes. In addition, the Treasury Department must acquire information reporting on the distribution chain of these fuels to prevent evasion of the tax.

The Senate amendment also requires that revenues raised by the floor stock tax be deposited in the Highway Trust Fund or the L (LCST) Trust Fund.

The provision is effective on 1

#### *Conference agreement*

The conference agreement follows the Senate amendment, but it exempts the tax on special motor fuels from the floor stock tax. In the case of the tax on special motor fuels, tax technically is imposed on a taxable fuel by the producer, but the conference agreement is amended, however, to include wholesale and immediate persons in the chain of distribution who are producers of 1

axes to \$750,000, (5) imposes holding period requirements on the ESOP, (6) prohibits securities acquired with assets transferred from employer, and (7) imposes certain requirements on a failure period requirement.

Notice is effective as if included in the other provisions are effective with respect to ESOPs after February 26, 1987, the holding period requirement generally applies to the ESOP after February 26, 1987. The holding period requirement which for this purpose includes employment before February 27, 1987, for which a deduction

is the same as the House bill, except for the confirmation of the IRS Notice) of securities to ESOPs after February 26, 1987, the holding period requirement generally applies to the ESOP after February 26, 1987, for which a deduction

follows the House bill.

#### TAXES; USER FEES

##### EXCISE TAXES

Excise tax: 3-year extension

Excise tax imposed on amounts paid for local telephone service, and teletype service, and teletype tax is scheduled to expire after December 31, 1990.

Excise tax: present 3-percent telephone excise tax expires December 31, 1990.

Excise tax: same as the House bill.

Excise tax: follows the House bill and the Senate



## 2. Collection of diesel fuel and certain other motor fuels taxes on sales to retailers

### *Present law*

The excise taxes on diesel fuel, special motor fuels, and nongasoline aviation fuel generally are imposed on the sale of the taxable fuel by a retail dealer to the ultimate consumer of the fuel (sec. 4041). Under an exception, retail dealers may elect to have wholesale distributors collect and pay the diesel fuel tax when the fuel is sold to the retailer.

### *House bill*

The excise tax on taxable fuels, which are defined as diesel fuel, taxable special fuels, and nongasoline aviation fuels, is to be imposed on sale of the fuels to any taxable fuel retailer.

Taxable special fuels include special motor fuels (other than gasoline or diesel fuel) that are sold for use as a fuel in a motor vehicle or motorboat. Nongasoline aviation fuels means any liquid on which tax would be imposed if sold for use in an aircraft in non-commercial aviation.

Collection of the excise tax on the sale of any taxable fuel by wholesale dealers is made mandatory for all sales. The provisions of present law permitting tax-free sales for certain exempt purposes are repealed.

Any taxable fuel that is held on January 1, 1988, by a dealer for sale is subject to a floor stocks tax at the rate applicable under this section to that fuel.

The provision is effective on January 1, 1988.

### *Senate amendment*

The Senate amendment generally is the same as the House bill, with the following differences.

The Treasury Department is authorized to prescribe regulations for purposes of making refunds or allowing credits of the non-gasoline fuels excise taxes. In addition, Treasury is authorized to require information reporting and registration from such persons in the distribution chain of these fuels as is deemed necessary to prevent evasion of the tax.

The Senate amendment also requires that amounts equivalent to revenues raised by the floor stocks taxes be transferred to the Highway Trust Fund or the Leaking Underground Storage Tank (LUST) Trust Fund.

The provision is effective on January 1, 1988.

### *Conference agreement*

The conference agreement generally follows the House bill and the Senate amendment, but includes several modifications. First, the tax on special motor fuels continues to be imposed at the retail level. In the case of the taxes on diesel fuel and nongasoline aviation fuels, tax technically is imposed on the sale (or earlier use) of a taxable fuel by the producer thereof. The term producer is defined, however, to include wholesale distributors and other intermediate persons in the chain of distribution of the taxable fuel. All persons who are producers of a taxable fuel must register with the

Treasury Department and satisfy such bonding requirements as Treasury may prescribe. Therefore, a wholesale distributor may buy fuels without payment of tax only upon satisfaction of these requirements.

In general, like the House bill and Senate amendment, all provisions permitting exempt sales beyond the wholesale level are repealed. Treasury is, however, given discretionary authority to exempt from tax certain sales where the purchaser demonstrates to the satisfaction of Treasury that the fuel will be used in a non-taxable use and also registers and posts such bond as Treasury may require. This authority is to be exercised on a case-by-case basis. Sales that may be exempted include (1) diesel fuel sold for use as a fuel in a diesel-powered train, (2) aviation fuel sold for use as a fuel in an aircraft in commercial aviation, (3) taxable fuels sold for industrial use other than as a motor fuel, and (4) taxable fuel sold for exclusive use of any State, a political subdivision of a State, or the District of Columbia.<sup>3</sup> As under the House bill and the Senate amendment, sales of fuel that Treasury determines is destined for use as heating oil may be made without payment of tax. All other exemptions from these taxes must be realized through refund procedures following purchase of the fuels tax-paid.

The conference agreement grants Treasury broad authority to ensure compliance generally with the provisions of the agreement. Specifically, Treasury may, in its discretion, require information reporting by and registration of any person in the distribution chain of any taxable fuel (including, e.g., any distributor of fuel destined for use as heating oil).

These provisions of the conference agreement are effective on and after April 1, 1988, with a floor stocks tax being imposed as was provided under the House bill and the Senate amendment on all persons holding non-tax-paid fuels on April 1, 1988.

### 3. Extension of termination date for coal excise tax rate

#### *Present law*

A manufacturer's excise tax is imposed on the sale or use of domestically mined coal by the producer (sec. 4121). Effective April 1, 1986, the tax rate was increased (by 10 percent) to \$1.10 per ton of coal from underground mines, and 55 cents per ton of coal from surface mines, but not to exceed 4.4 percent of the sales price.

Under present law, the tax rate is scheduled to revert to the pre-1982 rate of 50 cents per ton on underground coal and 25 cents per ton on surface coal (but not to exceed two percent of price) on the earlier of January 1, 1996 or the first January 1 as of which there is (1) no balance of repayable advances from the general fund to

<sup>3</sup> States and local governmental units eligible to apply to the Treasury for approval to buy fuels without payment of tax generally include those governmental units that are permitted to buy tax-free under present law (sec. 422(a)(4)). The conferees are aware that repeal of automatic tax-free sales of these fuels to States and local governments may, in certain cases, result in a temporary additional cost on certain of these entities, but determined that general concerns about compliance with these taxes outweigh that possibility. The discretionary exemption included in the agreement reconciles these compliance concerns with any potential burden on States and local governments. The conferees intend that in determining which governmental units may purchase taxable fuels without payment of tax under the agreement, the Treasury Department is to attempt to minimize any such costs to the extent consistent with the increased compliance objectives of the conference agreement.

the Black Lung Disability Trust I on such advances.

Amounts equal to the revenues are appropriated automatically to authorize repayable advances from Fund. The Trust Fund pays certain cases where no coal mine operator for the individual miner's disease.

#### *House bill*

No provision.

#### *Senate amendment*

The Senate amendment extends present-law coal excise tax rate from (1) January 1, 2014 or (2) the date of termination of the trust fund (as defined under the present law) (whichever is later). The extension of the termination date of the coal excise tax rate is effective from January 1, 2014, subject to earlier termination as described above.

#### *Conference agreement*

The conference agreement follows:

#### 4. Highway excise tax exemption

##### *Present law*

Receipts from excise taxes on motor fuels in the Highway Trust Fund. Receipts from excise taxes on motor fuels are used to finance expenditures which are authorized from the Trust Fund. Exemptions from the excise taxes on motor fuels, including buses and certain private school buses and certain 501(c)(3) organizations.

Private bus operators are exempt from the excise tax on motor fuels. Intercity common carrier buses are exempt from the 9-cents-per-gallon special motor fuels. Qualified local government buses receive a 12-cents-per-gallon highway diesel fuel tax exemption. Local government buses engaged in transportation along regular routes, unless the bus is used by at least 20 adults (not including the driver).

##### *House bill*

The House bill repeals the motor fuel tax exemptions for buses, including bus operators. This repeal does not affect tax-exempt privately owned and operated mass transit buses. This provision is effective on January 1, 1988.

used to acquire employer securities from transferred assets (within the meaning of section 2057(c)(2)(B)).

"(d) ORDERING RULES.—For purposes of this section and section 4978, any disposition of employer securities shall be treated as having been made in the following order:

"(1) First, from qualified employer securities acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(2) Second, from qualified employer securities acquired before such 3-year period unless such securities (or the proceeds from such disposition) have been allocated to accounts of participants or their beneficiaries.

"(3) Third, from qualified securities (within the meaning of section 4978(c)(2)) to which section 1042 applied acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(4) Finally, from any other employer securities. In the case of a disposition to which section 4978(d) or subsection (e) applies, the disposition of employer securities shall be treated as having been made in the opposite order of the preceding sentence."

"(e) SECTION NOT TO APPLY TO CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—This section shall not apply to any disposition described in paragraph (1) or (3) of section 4978(d).

"(2) CERTAIN REORGANIZATIONS.—For purposes of this section, any exchange of qualified employer securities for employer securities of another corporation in any reorganization described in section 368(a)(1) shall not be treated as a disposition, but the employer securities which were received shall be treated—

"(A) as qualified employer securities of the plan or cooperative, and

"(B) as having been held by the plan or cooperative during the period the qualified employer securities were held.

"(3) DISPOSITION TO MEET DIVERSIFICATION REQUIREMENTS.—Any disposition which is made to meet the requirements of section 401(a)(28) shall not be treated as a disposition.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) TERMS USED IN SECTION 2057.—Any term used in this section which is used in section 2057 shall have the meaning given such term by section 2057.

"(2) QUALIFIED EMPLOYER SECURITIES.—The term 'qualified employer securities' has the meaning given such term by section 2057, except that such term shall include employer securities sold before February 27, 1987, for which a deduction was allowed under section 2057.

"(3) DISPOSITION.—The term 'disposition' includes any distribution.

"(4) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this section shall be paid by—

"(A) the employer, or

"(B) the eligible worker-owned cooperative,

which made the written statement described in section 2057(e)."

(b) CONFORMING AMENDMENTS.—

(1) Section 4978(b)(2) is amended by striking out the parenthetical and inserting in lieu thereof "(determined as if such securities were disposed of in the order described in section 4978(e))".

(2) The table of sections for chapter 43 is amended by inserting after the item relating to section 4978 the following new item:

"Sec. 4978A. Tax on certain dispositions of employer securities to which section 2057 applied."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable events (within the meaning of section 4978A(c) of the Internal Revenue Code of 1986) occurring after February 28, 1987.

Subtitle E.—Provisions Relating to Excise Taxes and User Fees

#### PART I—EXCISE TAXES

##### SEC. 4091. EXTENSION OF TELEPHONE EXCISE TAX.

Paragraph (2) of section 4251(b) (relating to applicable percentage) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means 3 percent; except that, with respect to amounts paid pursuant to bills first rendered after 1990, the applicable percentage shall be zero."

##### SEC. 4092. DIESEL FUEL AND AVIATION FUEL TAXES IMPOSED AT WHOLESALE LEVEL.

(a) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by inserting after subpart A the following new subpart:

###### "Subpart B—Diesel Fuel and Aviation Fuel

"Sec. 4091. Imposition of tax.

"Sec. 4092. Definitions.

"Sec. 4093. Exemptions; special rule.

###### "SEC. 4091. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed a tax on the sale of any taxable fuel by the producer or the importer thereof or by any producer of a taxable fuel.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by subsection (a) shall be the sum of—

"(A)(i) the Highway Trust Fund financing rate in the case of diesel fuel, and

"(ii) the Airport and Airway Trust Fund financing rate in the case of aviation fuel, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate in the case of any taxable fuel.

"(2) HIGHWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), except as provided in subsection (c), the Highway Trust Fund financing rate is 15 cents per gallon.

"(3) AIRPORT AND AIRWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Airport and Airway Trust Fund financing rate is 14 cents per gallon.

"(4) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon.

"(5) TERMINATION OF RATES.—

"(A) The Highway Trust Fund financing rate shall not apply on and after October 1, 1993.

"(B) The Airport and Airway Trust Fund financing rate shall not apply on and after January 1, 1988.

"(C) The Leaking Underground Storage Tank Trust Fund financing rate shall not apply during any period during which the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 does not apply.

"(c) REDUCED RATE OF TAX FOR DIESEL FUEL IN ALCOHOL MIXTURE, ETC.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—The Highway Trust Fund financing rate shall be—

"(A) 9 cents per gallon in the case of the sale of any mixture of diesel fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the diesel fuel in such mixture was not taxed under subparagraph (B), and

"(B) 10 cents per gallon in the case of the sale of diesel fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

"(2) LATER SEPARATION.—If any person separates the diesel fuel from a mixture of the diesel fuel and alcohol on which tax was imposed under subsection (a) at a Highway Trust Fund financing rate equivalent to 9 cents a gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such diesel fuel. The amount of tax imposed on any sale of such diesel fuel by such person shall be 5 cents per gallon.

"(3) TERMINATION.—Paragraph (1) shall not apply to any sale after September 30, 1993.

"(d) EXEMPTION FROM TAX FOR AVIATION FUEL IN ALCOHOL MIXTURE, ETC.—

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall not apply to the sale of—

"(A) any mixture of aviation fuel at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), or

"(B) any aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which the Airport and Airway Trust Fund financing rate did not apply by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(2)), such person shall be treated as the producer of such aviation fuel.

"(3) TERMINATION.—Paragraph (1) shall not apply to any sale after September 30, 1993.

##### "SEC. 4092. DEFINITIONS.

"(a) TAXABLE FUEL.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'taxable fuel' means—

"(A) diesel fuel, and

"(B) aviation fuel.

"(2) DIESEL FUEL.—The term 'diesel fuel' means any liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in a diesel-powered highway vehicle or a diesel-powered train.

"(3) AVIATION FUEL.—The term 'aviation fuel' means any liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in an aircraft.

"(b) PRODUCER.—For purposes of this subpart—

"(1) CERTAIN PERSONS TREATED AS PRODUCERS.—

"(A) IN GENERAL.—The term 'producer' includes any person described in subparagraph (B) who elects to register under section 4101 with respect to the tax imposed by section 4091.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

"(i) a refiner, compounder, blender, or wholesale distributor of a taxable fuel, or

"(ii) a dealer selling any taxable fuel exclusively to producers of such taxable fuel.

"(C) TAX-FREE PURCHASERS TREATED AS PRODUCERS.—Any person to whom any taxable fuel is sold tax-free under this subpart shall be treated as the producer of such fuel.

"(2) WHOLESALE DISTRIBUTOR.—For purposes of paragraph (1), the term 'wholesale distributor' includes any person who sells a taxable fuel to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks. Such term does not include any person who (excluding

\*\*\* Indentation wrong in copy on this sentence.

the term 'wholesale distributor' from paragraph (1) is a producer or importer.

**(b)(1) EXEMPTIONS: SPECIAL RULE.**

"(a) HEATING OIL.—The tax imposed by section 4091 shall not apply in the case of sales of any taxable fuel which the Secretary determines is destined for use as heating oil.

"(b) SALES TO PRODUCER.—Under regulations prescribed by the Secretary, the tax imposed by section 4091 shall not apply in the case of sales of a taxable fuel to a producer of such fuel.

"(c) AUTHORITY TO EXEMPT CERTAIN OTHER USES.—Subject to such terms and conditions as the Secretary may provide (including the application of section 4101), the Secretary may by regulation provide that—

"(1) the Highway Trust Fund financing rate under section 4091 shall not apply to diesel fuel sold for use by any purchaser as a fuel in a diesel-powered train,

"(2) the Airport and Airway Trust Fund financing rate under section 4091 shall not apply to aviation fuel sold for use by any purchaser as a fuel in an aircraft not in non-commercial aviation (as defined in section 4041(c)(4)),

"(3) the tax imposed by section 4091 shall not apply to taxable fuel sold for use by any purchaser other than as a motor fuel, and

"(4) the tax imposed by section 4091 shall not apply to taxable fuel sold for the exclusive use of any State, any political subdivision of a State, or the District of Columbia.

"(d) SPECIAL ADMINISTRATIVE RULES.—The Secretary may require—

"(1) information reporting by each remitter of the tax imposed by section 4091, and

"(2) information reporting by, and registration of, such other persons as the Secretary deems necessary to carry out this subpart.

**(e) CROSS REFERENCES.—**

"(1) For imposition of tax where certain uses of diesel fuel or aviation fuel occur before imposition of tax by section 4091, see subsections (a)(1) and (c)(1) of section 4041.

"(2) For provisions allowing a credit or refund for fuel not used for certain taxable purposes, see section 6427."

**(b) RETAIL DIESEL FUEL AND AVIATION FUEL TAXES TO BE RESIDUAL TAXES.—**

"(1) Paragraph (1) of section 4041(a) is amended—

(A) by striking out "DIESEL FUEL" in the heading and inserting in lieu thereof "TAX ON DIESEL FUEL WHERE NO TAX IMPOSED ON FUEL UNDER SECTION 4091"; and

(B) by adding at the end thereof the following new sentence:

"No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

"(2) Paragraph (1) of section 4041(c) is amended—

(A) by striking out "IN GENERAL" in the heading and inserting in lieu thereof "TAX ON NONGASOLINE FUELS WHERE NO TAX IMPOSED ON FUEL UNDER SECTION 4091"; and

(B) by adding at the end thereof the following new sentence:

"No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

"(3) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) TAX ON SALES AND USES SUBJECT TO TAX UNDER SUBSECTION (a).—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.1 cent a gallon on the sale or use of any liquid (other than li-

quid petroleum gas) if tax is imposed by subsection (a) on such sale or use.

"(2) TAX ON DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent a gallon on any liquid (other than a product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such liquid under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091.

"(3) LIQUIDS USED IN AVIATION.—In addition to the taxes imposed by subsection (c), there is hereby imposed a tax of 0.1 cent a gallon on any liquid (other than any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft, or

"(B) used by any person as a fuel in an aircraft unless there was a taxable sale of such liquid under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

"(4) Subsection (n) of section 4041 is hereby repealed.

**(c) AMENDMENTS RELATING TO CREDITS AND REFUNDS.—**

"(1) Section 6427 is amended by redesignating subsections (l) through (p) as subsections (m) through (q), respectively, and by inserting after subsection (k) the following new subsection:

"(1) NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL TAXED UNDER SECTION 4091.—

"(1) IN GENERAL.—Except as provided in subsection (k) and in paragraph (3) of this subsection, if any fuel on which tax has been imposed by section 4091 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4091.

"(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means, with respect to any fuel, any use of such fuel if such use is exempt from the taxes imposed by subsections (a)(1) and (c)(1) of section 4041 (other than by reason of the imposition of tax on any sale thereof).

"(3) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING TAX.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section in the case of—

"(A) fuel used in a diesel-powered train, and

"(B) fuel used in any aircraft."

"(2) Paragraph (1) of section 6427(b) is amended—

(A) by striking out "subsection (a) of section 4041" the first place it appears and inserting in lieu thereof "section 4041(a) or 4091"; and

(B) by striking out "subsection (a) of section 4041" the second place it appears and inserting in lieu thereof "section 4041(a) or 4091, as the case may be".

"(3) Subparagraph (B) of section 6427(c)(1) is amended by inserting "or 4091" after "section 4041".

"(4) Subsection (f) of section 6427 is amended to read as follows:

"(f) GASOLINE, DIESEL FUEL AND AVIATION FUEL USED TO<sup>14</sup> Produce Certain Alcohol Fuels.—Except as provided in subsection (k)—

**"(1) GASOLINE AND DIESEL FUELS.—**

"(A) IN GENERAL.—If any gasoline or diesel fuel on which tax was imposed by section 4081 or 4091 at the regular Highway Trust Fund financing rate is used by any person in producing a mixture described in section 4081(c) or in section 4091(c)(1)(A) (as the case may be) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular Highway Trust Fund financing rate over the incentive Highway Trust Fund financing rate with respect to such fuel.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(1) REGULAR HIGHWAY TRUST FUND FINANCING RATE.—The term 'regular Highway Trust Fund financing rate' means—

"(I) 9 cents per gallon in the case of gasoline, and

"(II) 15 cents per gallon in the case of diesel fuel.

"(2) INCENTIVE HIGHWAY TRUST FUND FINANCING RATE.—The term 'incentive Highway Trust Fund financing rate' means—

"(I) 3½ cents per gallon in the case of gasoline, and

"(II) 10 cents per gallon in the case of diesel fuel.

"(C) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under subparagraph (A) with respect to any gasoline or diesel fuel with respect to which an amount is payable under subsection (d), (e), or (f) of this section or under section 6420 or 6421.

"(2) AVIATION FUEL.—If any aviation fuel on which tax was imposed by section 4091 is used by any person in producing a mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of tax (attributable to the Airport and Airway Trust Fund financing rate) imposed on such fuel under section 4091.

"(3) TERMINATION.—Paragraphs (1) and (2) shall not apply with respect to any mixture sold or used after September 30, 1993."

"(5)(A) Paragraph (1) of section 6427(l) is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (i)".

"(B) Clause (1) of section 6427(h)(2)(A) is amended by striking out "and (h)" and inserting in lieu thereof "(h), and (i)".

"(6) Subsection (o) of section 6427 (as redesignated by paragraph (1)) is amended to read as follows:

"(o) TERMINATION OF CERTAIN PROVISIONS.—Except with respect to taxes imposed by section 4041(d) and sections 4081 and 4091 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections (a), (b), (c), (d), (g), (h), and (i) shall only apply with respect to fuels purchased before October 1, 1993."

**(d) OTHER CONFORMING AMENDMENTS.—**

"(1) Subsection (c) of section 40 is amended by striking out "or section 4081(c)" and inserting in lieu thereof "section 4081(c), or section 4091(c)".

"(2) Subparagraph (B) of section 4081(e)(2), as amended by section 1703 of the Tax Reform Act of 1986, is amended by striking out "net revenues" and all that follows and inserting in lieu thereof the following: "net revenues are at least \$500,000.00 from taxes imposed by section 4041(d) and

taxes attributable to Leaking Underground Storage Tank Trust Fund financing rate imposed under this section and sections 4042 and 4091."

(3) Subsection (a) of section 4101, as amended by section 1703 of the Tax Reform Act of 1986, is amended by inserting "or 4091 after "section 4081".

(4) Subsection (a) of section 4221 is amended by striking out "(other than" and all that follows through "sale by the manufacturer" and inserting in lieu thereof "(other than under section 4121, 4081, or 4091) on the sale by the manufacturer".

(5) Section 6208 is amended by striking out "or 4041" and inserting in lieu thereof "or 4041 or 4091".

(6) Paragraph (2) of section 6416(b) is amended—

(A) by striking out "'other than coal taxable under section 4121)", and

(B) by adding at the end thereof the following new sentence: "This paragraph shall not apply in the case of any tax paid under section 4091 or 4121."

(7) Subparagraph (A) of section 6416(b)(3) is amended by inserting "and other than any fuel taxable under section 4091" after "section 4081".

(8) Subparagraph (B) of section 6416(b)(3) is amended by striking out ", such gasoline" and inserting in lieu thereof "or any fuel taxable under section 4091, such gasoline or fuel".

(9) Subparagraph (C) of section 6421(e)(2) is hereby repealed.

(10) The subsection (j) of section 6421 relating to cross references is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4), as paragraphs (1), (2), and (3), respectively.

(11) Section 6652 is amended by striking out the subsection (j) added by section 1702(b) of the Tax Reform Act of 1986 and by redesignating subsections (l) and (m) as subsections (k) and (l), respectively.

(12) Subsection (b) of section 9502 is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) amounts determined by the Secretary to be equivalent to the taxes received in the Treasury before January 1, 1988, under section 4091 (to the extent attributable to the Airport and Airway Trust Fund financing rate), and"

(13) Paragraph (1) of section 9503(b) is amended by striking out subparagraph (F) and inserting in lieu thereof the following:

"(F) section 4091 (relating to tax on diesel fuel), and"

(14) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2)—

"(A) there shall not be taken into account the taxes imposed by sections 4041(c), and

"(B) there shall be taken into account the taxes imposed by sections 4081 and 4091 only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(15) Paragraph (2) of section 9503(e) is amended—

(A) by striking out "sections 4041 and 4081" and inserting in lieu thereof "sections 4041, 4081, and 4091", and

(B) by striking out "section 4041 or 4081" and inserting in lieu thereof "section 4041, 4081, or 4091".

(16) Subsection (b) of section 9508 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) taxes received in the Treasury under section 4091 (relating to tax on diesel fuel and aviation fuel) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section,".

(17) Subparagraph (A) of section 9508(c)(2) is amended by striking out clause (ii) and all that follows and inserting in lieu thereof the following:

"(ii) credits allowed under section 34, with respect to the taxes imposed by section 4041(d) or by sections 4081 and 4091 (to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such sections)."

(18) The table of subparts for part III of subchapter A of chapter 32 is amended by inserting after the item relating to subpart A the following new item:

"Subpart B. Diesel fuel and aviation fuel."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after March 31, 1988.

(f) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—On any taxable fuel which on April 1, 1988, is held by a taxable person, there is hereby imposed a floor stocks tax at the rate of tax which would be imposed if such fuel were sold on such date in a sale subject to tax under section 4091 of the Internal Revenue Code of 1986 (as added by this section).

(2) OVERPAYMENT OF FLOOR STOCKS TAXES, ETC.—Sections 6416 and 6427 of such Code shall apply in respect of the floor stocks taxes imposed by this subsection so as to entitle, subject to all provisions of such sections, any person paying such floor stocks taxes to a credit or refund thereof for any reason specified in such sections. All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code (as so added) shall apply to the floor stocks taxes imposed by this subsection.

(3) DUE DATE OF TAX.—The taxes imposed by this subsection shall be paid before June 16, 1988.

(4) DEFINITIONS.—For purposes of this subsection—

(A) TAXABLE FUEL.—

(i) IN GENERAL.—The term "taxable fuel" means any taxable fuel (as defined in section 4092 of such Code, as added by this section) on which no tax has been imposed under section 4041 of such Code.

(ii) EXCEPTION FOR FUEL HELD FOR NONTAXABLE USES.—The term "taxable fuel"<sup>133</sup> shall not include fuel held exclusively for any use which is a nontaxable use (as defined in section 6427(l) of such Code, as added by this section).

(B) TAXABLE PERSON.—The term "taxable person" means any person other than a producer (as defined in section 4092 of such Code, as so added) or importer of taxable fuel.

(C) HELD BY A TAXABLE PERSON.—An article shall be treated as held by a person if title thereto has passed to such person (whether or not delivery to such person has been made).

(5) SPECIAL RULE FOR FUEL HELD FOR USE IN TRAINS AND COMMERCIAL AIRCRAFT.—Only the Leaking Underground Storage Tank Trust Fund financing rate under section 4091 of such Code shall apply for purposes of this subsection with respect to—

(A) diesel fuel held exclusively for use as a fuel in a diesel-powered train, and

(B) aviation fuel held exclusively for use as a fuel in an aircraft not in noncommercial aviation (as defined in section 4041(c)(4) of such Code).

(8) TRANSFER OF FLOOR STOCK REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4091 of such Code (as so added).

(g) COORDINATION WITH AIRPORT AND AIRWAY SAFETY AND CAPACITY EXPANSION ACT OF 1987.—If the Airport and Airway Safety and Capacity Expansion Act of 1987 is enacted, effective on December 31, 1987, sections 4091(b)(5)(B) and 9502(b)(3) of such Code (as added by this section) are each amended by striking out "January 1, 1988" and inserting in lieu thereof "January 1, 1991".<sup>134</sup>

SEC. 1050L. EXTENSION OF TEMPORARY INCREASE IN AMOUNT OF TAX IMPOSED ON COAL PRODUCERS.

Subparagraph (A) of section 4121(e)(2) (relating to temporary increase termination date) is amended by striking out "January 1, 1996" and inserting in lieu thereof "January 1, 2014".

#### PART II—TAX-RELATED USER FEES

SEC. 1051I. FEES FOR REQUESTS FOR RULING, DETERMINATION, AND SIMILAR LETTERS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate (hereinafter in this section referred to as the "Secretary") shall establish a program requiring the payment of user fees for requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters and for similar requests.

(b) PROGRAM CRITERIA.—

(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

(A) shall vary according to categories (or subcategories) established by the Secretary.

(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

(C) shall be payable in advance.

(2) EXEMPTIONS, ETC.—The Secretary shall provide for such exemptions (and reduced fees) under such program as he determines to be appropriate.

(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

Category	Average Fee
Employee plan ruling and opinion.....	\$250
Exempt organization ruling.....	\$350
Employee plan determination.....	\$300
Exempt organization determination.....	\$275
Chief counsel ruling.....	\$200.

(c) APPLICATION OF SECTION.—Subsection (a) shall apply with respect to requests made on or after the 1st day of the second calendar month beginning after the date of the enactment of this Act and before September 30, 1990.

SEC. 1051J. OCCUPATIONAL TAXES RELATING TO ALCOHOL, TOBACCO, AND FIREARMS.

(a) OCCUPATIONAL TAXES ON DISTILLED SPIRITS PLANTS, BONDED WINE CELLARS, BREWERIES, ETC.—

(1) DISTILLED SPIRITS PLANTS, BONDED WINE CELLARS, ETC.—

(A) IN GENERAL.—Part II of subchapter A of chapter 51 (relating to distilled spirits, wines, and beer) is amended by inserting before subpart B the following new subpart:

<sup>133</sup> Copy read "taxable fuel".

<sup>134</sup> Copy read "1991, and".



# PETRO MARINE SERVICES

A HARBOR ENTERPRISES COMPANY

P.O. Box 389 • Seward, Alaska 99664 • (907) 224-3190

February 04, 1988

Senator Frank H. Murkowski  
United States Senate  
709 Hart Building  
Washington, D.C.

Dear Senator Frank:

It has come to my attention that Congress passed a Mid-Distillates Fuel Tax Bill in the chaotic and waning hours of December 22, 1987 as a part of the overall U.S. Tax Reduction Act. A close examination of the provisions of the Act have raised serious concerns and accordingly I wish to bring them to your attention.

The Act states that a diesel fuel tax of \$.151 per gallon is to be levied on "any liquid suitable for use as a fuel in a diesel highway vehicle or a diesel powered train (does not apply to fuel for home heating use)". The key word here is "suitable"--whether the product is used as such or not. The collection of the excise tax on the sale of any taxable fuel by wholesale dealers is made mandatory on all sales. All tax free sales for certain exempt sales purposes are repealed. Wholesalers can buy diesel fuel for resale provided they are registered and have posted bonds as required by the Treasury.

Petro Marine Services is a marine-oriented fuel distributorship with a majority of our customers being fishing industry related. A recent review of our sales volumes reflect that less than one-percent of our total diesel fuel gallons are taxable highway and off-highway use fuel. Fronting this tax to the Treasury will significantly increase the cost of doing business for our customers by adversely affecting their cash flow and, of consequence, we dealers will be affected likewise. End-use consumers will not be able to apply for a refund of these taxes unless the amount of the tax withheld is over \$1,000 in a quarter. Furthermore, consumers must wait until year end and apply the overpayment to their income tax return as stipulated in the Bill. The Treasury is not obligated to pay interest on the refunds; thus, the collected amounts are, in essence, interest-free loans to the government from marine fuel consumers, many of whom are struggling to derive a living from an uncertain and undercapitalized fishing industry.

Anchorage  
(907) 278-7586

Nikiski  
(907) 776-8000

Kedlak  
(907) 486-3421

Dutch Harbor  
(907) 581-1350

*Letter*



Page 2

In addition this tax will have a negative impact on domestic marine fuel suppliers as opposed to foreign bunkerers and processors many of whom import their fuel and sell to U.S. flag vessels on the high-seas and within our Exclusive Economic Zone (EEZ). With the \$.151 per gallon Federal Excise Tax plus the \$.05 per gallon State of Alaska Marine Fuel Tax, it will be economically impossible to compete against foreign flag operators. I am certain this was not the intent of Congress.

One of the provisions in the law states that "the Treasury has been given discretionary authority to exempt certain sales from tax where the purchaser satisfactorily demonstrates to the Treasury that the fuel will be consumed for use deemed non-taxable in nature, that these parties must also register and post bonds as required by the Treasury". Let me assure you bonding requirements will only impose a further financial hardship on fuel distributorships some of whom are already faced with problems securing basic insurance needs. If indeed, the end-user is included in this Clause, we alone have several hundred customers who would be required to register and post bond with the Treasury in order to be deemed tax-exempt. This stipulation will be very cumbersome and difficult for all affected to comply with. The law further reads that the Treasury is expected to exercise their authority on a "case by case" basis. Inasmuch as our taxable highway use diesel fuel customer base is miniscule as compared to our predominate marine base, it seems reasonable to assume that an overwhelming amount of time and effort will be consumed by the Treasury in rendering these assessments. Under the aforementioned circumstances it would seem that a blanket waiver would be a viable alternative for marine oriented fuel distributors such as ourselves.

Without question the Mid-Distillate Fuel Tax Bill in its present form represents ill-conceived legislation. As a company, Petro Marine Services has consistently supported reasonable regulation at all levels of government; however, this particular Bill serves only to finance and broaden Federal bureaucracy at the expense of fuel dealers and end-use consumers. In view of this fact I respectfully urge that immediate consideration be given to amending those provisions in the Bill which are not applicable to highway diesel fuel use.

Sincerely,

  
Dale R. Lindsey, President  
HARBOR ENTERPRISES, INC.

DRL:tc

# Omnibus Budget Reconciliation Act

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## 2. Collection of diesel fuel and certain other motor fuels taxes on sales to retailers

### Present law

The excise taxes on diesel fuel, special motor fuels, and nongasoline aviation fuel generally are imposed on the sale of the taxable fuel by a retail dealer to the ultimate consumer of the fuel (sec. 4041). Under an exception, retail dealers may elect to have wholesale distributors collect and pay the diesel fuel tax when the fuel is sold to the retailer.

### House bill

The excise tax on taxable fuels, which are defined as diesel fuel, taxable special fuels, and nongasoline aviation fuels, is to be imposed on sale of the fuels to any taxable fuel retailer.

Taxable special fuels include special motor fuels (other than gasoline or diesel fuel) that are sold for use as a fuel in a motor vehicle or motorboat. Nongasoline aviation fuels means any liquid on which tax would be imposed if sold for use in an aircraft in non-commercial aviation.

Collection of the excise tax on the sale of any taxable fuel by wholesale dealers is made mandatory for all sales. The provisions of present law permitting tax-free sales for certain exempt purposes are repealed.

Any taxable fuel that is held on January 1, 1988, by a dealer for sale is subject to a floor stocks tax at the rate applicable under this section to that fuel.

The provision is effective on January 1, 1988.

### Senate amendment

The Senate amendment generally is the same as the House bill, with the following differences.

The Treasury Department is authorized to prescribe regulations for purposes of making refunds or allowing credits of the non-gasoline fuels excise taxes. In addition, Treasury is authorized to require information reporting and registration from such persons in the distribution chain of these fuels as is deemed necessary to prevent evasion of the tax.

The Senate amendment also requires that amounts equivalent to revenues raised by the floor stocks taxes be transferred to the Highway Trust Fund or the Leaking Underground Storage Tank (LUST) Trust Fund.

The provision is effective on January 1, 1988.

### Conference agreement

The conference agreement generally follows the House bill and the Senate amendment, but includes several modifications. First, the tax on special motor fuels continues to be imposed at the retail level. In the case of the taxes on diesel fuel and nongasoline aviation fuels, tax technically is imposed on the sale (or earlier use) of a taxable fuel by the producer thereof. The term producer is defined, however, to include wholesale distributors and other intermediate persons in the chain of distribution of the taxable fuel. All persons who are producers of a taxable fuel must register with the

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## Omnibus Reconciliation Act

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Treasury Department and satisfy such bonding requirements as Treasury may prescribe. Therefore, a wholesale distributor may buy fuels without payment of tax only upon satisfaction of these requirements.

In general, like the House bill and Senate amendment, all provisions permitting exempt sales beyond the wholesale level are repealed. Treasury is, however, given discretionary authority to exempt from tax certain sales where the purchaser demonstrates to the satisfaction of Treasury that the fuel will be used in a non-taxable use and also registers and posts such bond as Treasury may require. This authority is to be exercised on a case-by-case basis. Sales that may be exempted include (1) diesel fuel sold for use as a fuel in a diesel-powered train, (2) aviation fuel sold for use as a fuel in an aircraft in commercial aviation, (3) taxable fuels sold for industrial use other than as a motor fuel, and (4) taxable fuel sold for exclusive use of any State, a political subdivision of a State, or the District of Columbia.<sup>1</sup> As under the House bill and the Senate amendment, sales of fuel that Treasury determines is destined for use as heating oil may be made without payment of tax. All other exemptions from these taxes must be realized through refund procedures following purchase of the fuels tax-paid.

The conference agreement grants Treasury broad authority to ensure compliance generally with the provisions of the agreement. Specifically, Treasury may, in its discretion, require information reporting by and registration of any person in the distribution chain of any taxable fuel (including, e.g., any distributor of fuel destined for use as heating oil).

These provisions of the conference agreement are effective on and after April 1, 1988, with a floor stocks tax being imposed, as was provided under the House bill and the Senate amendment on all persons holding non-tax-paid fuels on April 1, 1988.

## 8. Extension of termination date for coal excise tax rate

*Present law*

A manufacturer's excise tax is imposed on the sale or use of domestically mined coal by the producer (sec. 4121). Effective April 1, 1986, the tax rate was increased (by 10 percent) to \$1.10 per ton of coal from underground mines, and 55 cents per ton of coal from surface mines, but not to exceed 4.4 percent of the sales price.

Under present law, the tax rate is scheduled to revert to the pre-1982 rate of 50 cents per ton on underground coal and 25 cents per ton on surface coal (but not to exceed two percent of price) on the earlier of January 1, 1996 or the first January 1 as of which there is (1) no balance of repayable advances from the general fund to

<sup>1</sup> States and local governmental units eligible to apply to the Treasury for approval to buy fuels without payment of tax generally include those governmental units that are permitted to buy fuel for use under present law (sec. 431(a)(4)). The members are aware of a repeal of automatic tax-free sales of these fuels to States and local governments only, in certain cases, result in a temporary additional cost on certain of these entities, but determined that general approval about compliance with these taxes outweigh that possibility. The discretionary exemption included in the agreement recognizes these compliance concerns with any potential burden on States and local governments. The members intend that in determining which governmental units may purchase taxable fuels without payment of tax under the agreement, the Treasury Department is to attempt to minimize any such costs to the extent consistent with the increased compliance objectives of the conference agreement.



ALASKA FACTORY TRAWLER ASSOCIATION

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TELEFAX 206-285-1841  
TELEX 6106012608, ALASKA TRAWL SEA

The Honorable John Warner  
United States Senator  
421 Senate Russell Office Building  
Washington, D.C. 20510

February 22, 1988

Dear Senator Warner:

The Alaska Factory Trawler Association (AFTA), the trade association which represents the factory trawler fleet operating in the North Pacific groundfish fishery, seeks your assistance in a matter of significant economic importance to us and to other segments of the fishing industry - establishing an up-front exemption for fishing vessels from the 15.1 cent per gallon federal highway excise tax on diesel fuels.

This federal excise tax, passed December 22, 1987, was designed to tax highway users. However, current exemptions from diesel fuel taxes for off-highway users, including fishing vessels, has been eliminated. Loss of this up-front exemption means that fishermen will be required to pay the tax up front, then apply for a refund on a quarterly basis. This needlessly increases the recordkeeping and paperwork for both the fishermen and the government, and costs the fishermen significantly due to the loss of the time value of the money deposited with the government.

While this is a problem for all fishermen, the problem becomes particularly acute for the factory trawler operators. These large American owned and operated vessels participate in high volume, low margin fisheries and must compete in the world market against foreign producers who enjoy lower operating costs. As illustrated in the attached fact sheet, factory trawler operators can expect to have between \$22,500 and \$67,950 awaiting rebate at any time. This amount increases if rebates aren't made in a prompt manner.

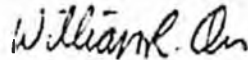
At a time when prices for our products have declined and other operating costs have increased, many operators cannot afford this additional drain to their cash flow.

One of the objectives of doing away with the exemption was to deter tax-evasion schemes, in which fuel which is ostensibly purchased for off-highway use is diverted to use in a highway vehicle. Such a scheme is only a remote possibility for an operator of a vessel fishing in the Gulf of Alaska or the Bering Sea, and a burden of the magnitude imposed by this law is unjustified. If deterring such schemes is the goal of Congress, a provision applying the exemption only to fuel pumped directly into the fishing vessel would be appropriate.

You can help with this issue by supporting a bill, such as the one enclosed, which amends the Internal Revenue Code by providing fishing vessels, fish processing vessels, and tender vessels an up-front exemption from this highway tax.

The members of AFTA would like to thank you for the assistance you have given us in the past, and hope that you will work with us to resolve the problem we are facing today.

Sincerely,



William R. Orr  
Director, Government Affairs



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2/88

### FACTORY TRAWLER FUEL CONSUMPTION

An informal survey was conducted among factory trawler operators to determine fuel consumption patterns. The results, which are rough averages, are categorized into three categories: vessels less than 200 feet, vessels 200 - 250 feet, and vessels greater than 250 feet. The number of vessels include vessels which will enter the fishery this year.

#### Factory Trawlers less than 200 feet

Number of vessels:	16
Fuel carrying capacity:	75,000 - 100,000 gallons
Daily fuel consumption:	2000 gallons/day
Quarterly fuel consumption:	150,000 gallons
Quarterly tax @ \$.151/gal :	\$22,500

#### Factory Trawlers between 200 and 250 feet

Number of vessels:	14
Fuel carrying capacity:	150,000 gallons
Daily fuel consumption:	2600 gallons/day
Quarterly fuel consumption:	200,000 gallons
Quarterly tax @ \$.151/gal :	\$30,200

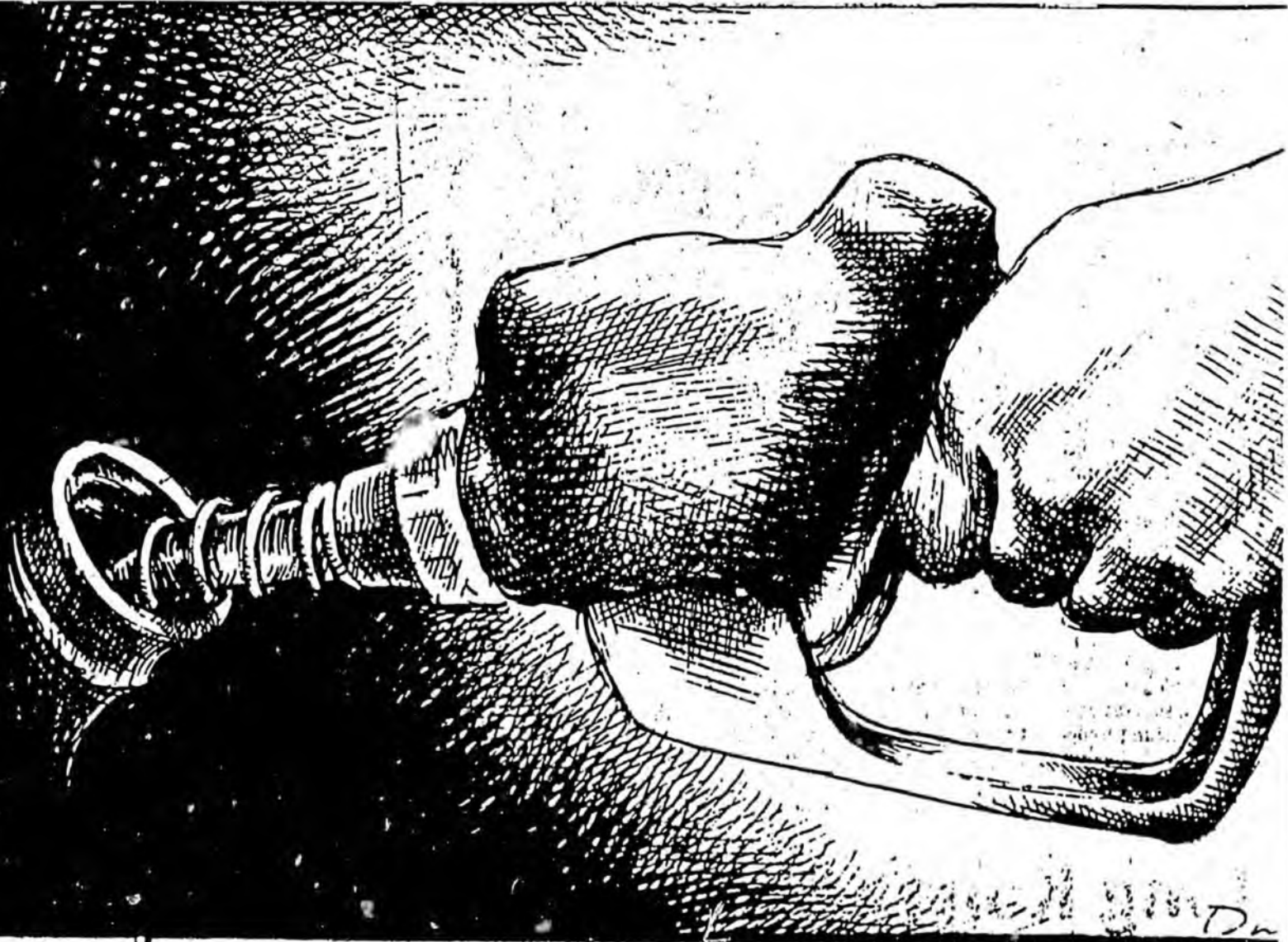
#### Factory Trawlers larger than 250 feet

Number of vessels:	10
Fuel carrying capacity:	200,000 to 325,000 gallons
Daily fuel consumption:	6000 gallons/day
Quarterly fuel consumption:	450,000 gallons
Quarterly tax @ \$.151/gal :	\$67,950

Nearly all of the fuel is taken at Alaskan ports. The average price of fuel (#2 diesel) purchased in Alaska is \$.75/gallon. (A quarter is figured as 75 days of operation.)

# Business

Current IRS regulations require fishermen to maintain complete fuel purchase records, and both buyers and sellers of diesel fuel predict a nightmare of paperwork under the new regulations.



# Diesel fuel users sputter over tax changes

By Daniel R. Sandler  
Times Business Writer

Changes in 1988 federal tax law will force users of tax-exempt diesel fuel to wait up to a year for refunds of federal excise taxes, a delay some fishermen say will eat into already-thin operating margins.

Under the change, brought on by the Budget Reconciliation Act of 1987, fishermen, farmers, state and local governments and other tax-exempt users will no longer be able to buy their diesel fuel tax-free at the pump as of April 1.

Instead, they must pay a 15.1 cents-per-gallon excise tax on diesel fuel, then apply for tax credits or refunds. Tax-exempt users of gasoline already began paying a 9.1-cents-per-gallon tax

at the pump Jan. 1.

"Coastal Alaska, not to mention the whole state, runs on diesel fuel, and much of it is tax-free," said Jim Ramaglia, vice president of Kodiak Oil Sales.

"It doesn't take a lot of imagination to see what this expense is going to do to farmers, fishermen, loggers, miners, and ranchers," Ramaglia said.

Under current tax law, these users do not currently pay the 15.1-cent federal excise tax, which raises the cost of a gallon of diesel to about \$1 per gallon. They can either register to buy tax-free fuel at a dealer registered to sell it, or must display an exemption certificate at other dealers.

If fishermen do buy tax-paid fuel, they may claim credit on

their tax returns for the tax paid, or file for refunds, according to IRS Publication 378, "Fuel Tax Credits."

The refund or credit process is similar for off-road users of fuels, such as farmers, loggers, state and local governments and schools. Those paying less than \$1,000 in tax per quarter may file for annual refunds, while those who paid more can seek quarterly refunds.

The need to tie up an extra 15 percent of annual fuel bills could force the commercial fishermen who are his customers to cut back on maintenance, pay, or safety equipment, said Ramaglia.

"Long-lining for cod is a high-volume, low-margin operation, and a lot of these guys are

operating on trip-to-trip basis," Ramaglia said.

"Every fisherman goes through a point either in his career or annually, when every penny counts, and the government adding this expense is going to put a real hardship on them," he said.

IRS officials in Anchorage and Washington said shifting the burden of tax payment from wholesalers to retailers will make it easier to track payment of fuel taxes.

"Before, we had hundreds of thousands, maybe millions of taxpayers," said Don Fidlow, an IRS attorney in Washington, D.C. "But by moving the tax to wholesalers we are limiting it to a handful of taxpayers. In effect it's saving a lot of paperwork and headaches for both taxpayers and the service."

But fishermen say the changes will add paperwork and headaches, and quietly speculate the tax office hopes paperwork will discourage fishermen from filing for refunds.

Sonja Corazza, president of the North Pacific Fisheries Association, operates a 40-foot fishing boat in the Bering Sea with her husband six months a year.

"We try to plan ahead in our year, and usually we know how much a trip will cost us," she said. "And if we have to add that extra cost for fuel, it may have an impact on other equipment."

"A dollar is a dollar, you can only stretch it so far," she said.

Al Burch, director of the Alaska Druggers Association and owner of two Bering Sea druggers, agrees.

"Fishing is a real marginal business, and a fisherman in slow times needs every penny he can get," he said. "There may be only a very short time when he may be making money, but he has to stretch the short good times over bad months."

"The price of fuel will go up



and we'll pay it, we have no choice," he said.

Ramaglia said he expects the tax law change will force him to charge an extra cent or two per gallon of fuel to cover his paperwork and interest costs. He also anticipates being forced, along with other dealers, into giving the government free use of his money while waiting to collect the taxes from customers.

"The fuel companies are required to pay that 15.1 cents (per gallon) to the feds within two weeks of the sale, whether they have collected the tax or

not," he said. "But we usually only collect bills every 30 or 60 days, so we'll be serving as banker for the government."

Current IRS regulations require fishermen to maintain complete fuel purchase records in case of IRS inquiry or audit, and both buyers and sellers of diesel fuel predict a nightmare of paperwork under the new regulations.

"It is going to work a real hardship on small businesses of

See Fuel, page D-5

## Tips for property owners

Once you've stopped worrying about the 1987 tax return due April 15, you can start worrying about how to get through 1988 so you won't have so much to worry about at this time next year.

Changes in the law are bringing twists to some familiar features of your federal income tax return.

- Home mortgages. Just when you thought this year's home mortgage rules were complicated enough, Congress came along just before Christmas and changed the rules, retroactive to Oct. 13, 1987. It could affect your deductions on your 1988 return.

- Under the new law, you can still get a tax break when you borrow up to \$1 million to buy and/or improve a first and second home. And you can still take out a home equity loan and still get a mortgage deduction.

- But under the 1988 regulations, the interest on any equity borrowings over \$100,000 will be treated as consumer interest unless it is clearly earmarked for the home.

- Property sales. If you plan to sell property this year, weigh the benefits of taking the total payment in cash up front, versus an installment sale, in which you are paid over a period of years.

Alan Weiner, of Holtz Rubenstein, notes that

if you sell a piece of property at \$1 million, a good chunk of the price, maybe \$200,000, will go to the IRS, but you will still have \$800,000 to invest. Using the installment plan may cut your taxes, but your return on the investment may be less.

- Individual Retirement Account. If you're no longer eligible to make a tax-reducing contribution to an IRA, don't make one, suggests Michael Borsuk, of accounting firm Coopers & Lybrand. Although some investment experts might disagree, he figures making the extra contributions will complicate your life when it comes to making withdrawals and filing tax returns at that time.

- Capital gains. Since there is no longer a separate tax on capital gains, you might want to wait until October or November to sell a stock or other security that has risen in price. By then, you'll be able to make a projection of your income and tax situation for the rest of the year.

- Rental income. If you rent your vacation home for less than 15 days a year, you don't have to report the income, according to the H&R Block Tax Guide. There is a catch, however: You can't claim any upkeep expenses or depreciation. Mortgage interest and property taxes remain deductible.