

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8188 HOUSE STATE AFFAIRS

453

1 constitutes a proposed ordinance of the municipality.

2 (e) AS 29.26.110 - 29.26.160 apply to a petition under (b) of this section in
3 a general law municipality except the

4 (1) number of required signatures is determined under (b) of this
5 section rather than under AS 29.26.130;

6 (2) application filed under AS 29.26.110 must at least contain language
7 substantially similar to the questions set out under AS 04.11.491 - 04.11.495 rather
8 than containing an ordinance or resolution;

9 (3) petition must at least contain language substantially similar to the
10 questions set out under AS 04.11.491 - 04.11.495 rather than material required under
11 AS 29.26.120(a)(1) and (2).

12 (f) Notwithstanding any other provisions of law, an election under (b) or (c)
13 of this section to remove a local option or to change to a less restrictive option than
14 the local option previously adopted under AS 04.11.491 may not be conducted during
15 the first 12 months after the local option was adopted or more than once in a 12-month
16 period.

17 Sec. 04.11.509. NOTICE OF THE RESULTS OF A LOCAL OPTION
18 ELECTION. (a) If a majority of the voters vote to prohibit, change, or remove a
19 local option under AS 04.11.491 - 04.11.495, the clerk of the municipality, or, if the
20 election is in an established village, the lieutenant governor shall notify the board of
21 the results of the election immediately after the results are certified. The board shall
22 immediately notify the Department of Law and the Department of Public Safety of the
23 results of the election.

24 (b) If a majority of the voters vote to prohibit the importation or possession
25 of alcoholic beverages under AS 04.11.491(a)(4) or (5) or (b)(3) or (4), the following
26 actions in addition to those prescribed in (a) of this section shall be taken before the
27 date the prohibition becomes effective:

28 (1) the board shall notify, by certified mail, all package store licensees
29 who sell alcoholic beverages in response to a written solicitation of the local option;
30 and

31 (2) the municipality or established village shall post public notice of

1 the prohibition in a central location in the municipality or village.

2 * Sec. 25. AS 04.11.540 is amended to read:

3 Sec. 04.11.540. LICENSE RENEWAL AND EXPIRATION. Notwithstanding
4 AS 04.11.680, an application for renewal of a license issued for the two calendar years
5 [YEAR] ending December 31 or of a seasonal license issued for parts of those
6 calendar years [A SIX-MONTH PERIOD ENDING IN THE PREVIOUS YEAR] may
7 be submitted up until the next February 28 [, BUT THE AUTHORITY GRANTED
8 UNDER THE LICENSE MAY NOT BE EXERCISED UNTIL THE LICENSE IS
9 RENEWED]. If a complete [THE] application for renewal has [AND APPLICABLE
10 AFFIDAVITS HAVE] not been filed by February 28 or the required fees and the
11 penalty fees have not been paid by that date, the license expires at 12:00 midnight
12 February 28. A new license may not be issued to the holder of an expired license for
13 the same premises except on proof satisfactory to the board of good cause for the
14 failure to file and pay.

15 * Sec. 26. AS 04.11.680(a) is amended to read:

16 (a) Upon application and payment of one-half [ONE-QUARTER] of the
17 biennial fee, the board may issue a seasonal license under this title that will be
18 effective for a continuous six-month period in each of the biennial calendar years.
19 Otherwise, all licenses issued under this title other than a retail stock sale license are
20 effective for the two calendar years ending December 31, unless a shorter period is
21 prescribed by the board or by law.

22 * Sec. 27. AS 04.16.110 is repealed and reenacted to read:

23 Sec. 04.16.110. SALE OF CERTAIN ALCOHOLIC BEVERAGES
24 PROHIBITED. A person may not sell an alcoholic beverage if it

25 (1) is not in liquid form; or

26 (2) contains more than 76 percent alcohol by volume.

27 * Sec. 28. AS 04.16.125(a) is amended to read:

28 (a) A person may not use a common carrier to transport alcoholic beverages
29 into an area that has restricted the sale of alcoholic beverages under
30 AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2) [AS 04.11.490, 04.11.492, OR
31 04.11.500] unless

1 (1) the shipping container holding the alcoholic beverages is clearly
2 labeled as containing alcoholic beverages with letters that contrast in color to the
3 shipping container and that are at least two inches in height; and

4 (2) an itemized invoice showing the quantity and purchase value of
5 distilled spirits, of wine, and of malt [THE ALCOHOLIC] beverages is attached to
6 the outside of the shipping container.

7 * Sec. 29. AS 04.16.125(b) is amended to read:

8 (b) This section does not apply to

9 (1) a person transporting not more than

10 (A) two liters of wine;

11 (B) one gallon of [OR] malt beverages; [,] or

12 (C) [NOT MORE THAN] one liter of distilled spirits; or

13 (2) the transportation of alcoholic beverages for use on premises
14 allowed under AS 04.11.491(a)(2) - (3) or (b)(2) or for use under a permit allowed
15 under AS 04.11.491(a)(2).

16 * Sec. 30. AS 04.16.200(b) is amended to read:

17 (b) A person who violates AS 04.11.010 in an area that has adopted
18 [WHERE THE RESULTS OF] a local option under AS 04.11.491 [ELECTION
19 HAVE, UNDER AS 04.11.490 - 04.11.500, PROHIBITED THE BOARD FROM
20 ISSUING, RENEWING, OR TRANSFERRING ONE OR MORE TYPES OF
21 LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA] is, upon conviction,
22 guilty of a class C felony.

23 * Sec. 31. AS 04.16.200(e) is amended to read:

24 (e) A person who sends, transports, or brings alcoholic beverages into a
25 municipality or established village in violation of AS 04.11.499 [AS 04.11.496] is,
26 upon conviction,

27 (1) guilty of a class A misdemeanor if the quantity imported is less
28 than 12 liters of distilled spirits, 24 liters of wine, or 12 gallons [45 LITERS] of malt
29 beverages; or

30 (2) guilty of a class C felony if the quantity imported is 12 liters or
31 more of distilled spirits, 24 liters or more of wine, or 12 gallons [45 LITERS] or more

1 of malt beverages.

2 * Sec. 32. AS 04.16.205(a) is amended to read:

3 (a) A person who possesses alcoholic beverages in a municipality or
4 established village in violation of AS 04.11.501 [AS 04.11.498] or an ordinance
5 adopted under AS 04.11.501 [AS 04.11.498] may, upon conviction, be punished by a
6 fine not to exceed \$1,000. When a peace officer stops or contacts a person concerning
7 a violation of AS 04.11.501 [AS 04.11.498] or an ordinance adopted [ENACTED]
8 under AS 04.11.501 [AS 04.11.498], the peace officer may [, IN THE OFFICER'S
9 DISCRETION,] issue a citation to the person as provided in AS 12.25.180.

10 * Sec. 33. AS 04.16.205(b) is amended to read:

11 (b) A person cited for a violation of AS 04.11.501 [AS 04.11.498] or an
12 ordinance adopted under AS 04.11.501 [AS 04.11.498] for which a bail amount has
13 been established under (c) of this section may, within 30 days after the date the
14 citation is issued.

15 (1) mail or personally deliver to the clerk of the court in which the
16 citation is filed by the peace officer the amount of bail indicated on the citation and
17 a copy of the citation indicating that the right to an appearance is waived, a plea of no
18 contest is entered and the bail and all alcoholic beverages seized are forfeited; or

19 (2) perform community work in lieu of payment of the fine or a portion
20 of the fine as provided in (d) of this section.

21 * Sec. 34. AS 04.16.205(c) is amended to read:

22 (c) The supreme court shall establish by rule or order a schedule of bail
23 amounts that may be forfeited without a court appearance for a violation of
24 AS 04.11.501 [AS 04.11.498] or an ordinance adopted under AS 04.11.501
25 [AS 04.11.498]. In establishing the bail schedule, the supreme court may consider the
26 quantity of alcoholic beverages possessed and the number of prior violations of the
27 person cited. Before establishing or amending the schedule of bail amounts required
28 by this subsection, the supreme court shall appoint and consult with an advisory
29 committee consisting of the following seven persons: one superior court judge, one
30 magistrate from each judicial district in the state, a representative of the Department
31 of Law, and a representative of the Public Defender Agency. The maximum bail

1 amount may not exceed \$1,000, and the issuing officer shall write on the citation the
2 amount of bail applicable to the violation.

3 * Sec. 35. AS 04.16.205(d) is amended to read:

4 (d) Community work shall be performed at the direction of the local governing
5 body of the municipality or the local governing body of the established village. In the
6 absence of a local governing body for an established village, community work
7 shall be performed at the direction of the body that has traditionally performed
8 public functions on behalf of the entire community. The value of community work
9 in lieu of a fine is \$5.00 per hour. When the community work is completed, the
10 person cited for the violation shall mail or personally deliver to the clerk of the court
11 in which the citation is filed by the peace officer

12 (1) a form, prescribed by the administrative director of the Alaska
13 Court System, indicating completion of the community work; and

14 (2) a copy of the citation, indicating that the right to an appearance is
15 waived, a plea of no contest is entered, and that the bail is forfeited or community
16 work has been performed and that all alcoholic beverages seized are forfeited.

17 * Sec. 36. AS 04.16.205(g) is amended to read:

18 (g) Notwithstanding other provisions of law, if a person cited for a violation
19 of AS 04.11.501 [AS 04.11.498] or an ordinance adopted under AS 04.11.501
20 [AS 04.11.498] for which a bail amount has been established under (c) of this section
21 appears in court and is found guilty, the penalty that is imposed for the offense may
22 not exceed the bail amount for that offense established under (c) of this section.

23 * Sec. 37. AS 04.16.205(h) is amended to read:

24 (h) A violation of AS 04.11.501 [AS 04.11.498] or an ordinance adopted under
25 AS 04.11.501 [AS 04.11.498] may not be considered a criminal offense and may not
26 result in imprisonment, nor is a fine imposed for a violation considered criminal
27 punishment. A person cited for a violation does not have a right to a jury trial or
28 court appointed counsel.

29 * Sec. 38. AS 04.16.220(a) is amended to read:

30 (a) The following are subject to forfeiture:

31 (1) alcoholic beverages manufactured, sold, offered for sale or

1 possessed for sale, bartered or exchanged for goods and services in this state in
2 violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or
3 otherwise stored in violation of AS 04.21.060; alcoholic beverages sold or offered for
4 sale in violation [IN AN AREA WHERE THE RESULTS] of a local option adopted
5 under AS 04.11.491 [ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500,
6 PROHIBITED THE POSSESSION OF ALCOHOLIC BEVERAGES OR
7 PROHIBITED THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING
8 ONE OR MORE LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA];
9 alcoholic beverages transported into the state and sold to persons not licensed under
10 this chapter in violation of AS 04.16.170(b);

11 (2) materials and equipment used in the manufacture, sale, offering for
12 sale, possession for sale, barter or exchange of alcoholic beverages for goods and
13 services in this state in violation of AS 04.11.010; materials and equipment used in the
14 stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060;
15 materials and equipment used in the sale or offering for sale of an alcoholic beverage
16 in an area in violation [WHERE THE RESULTS] of a local option under
17 AS 04.11.491 [ELECTION HAVE, UNDER AS 04.11.490 - 04.11.500, PROHIBITED
18 THE BOARD FROM ISSUING, RENEWING, OR TRANSFERRING ONE OR
19 MORE LICENSES OR PERMITS UNDER THIS TITLE IN THE AREA];

20 (3) aircraft, vehicles, or vessels used to transport, or facilitate the
21 transportation of

22 (A) alcoholic beverages manufactured, sold, offered for sale or
23 possessed for sale, bartered or exchanged for goods and services in this state
24 in violation of AS 04.11.010;

25 (B) property stocked, warehoused, or otherwise stored in
26 violation of AS 04.21.060;

27 (C) alcoholic beverages imported into a municipality or
28 established village in violation of AS 04.11.499 [AS 04.11.496];

29 (4) alcoholic beverages found on licensed premises that do not bear
30 federal excise stamps if excise stamps are required under federal law;

31 (5) alcoholic beverages, materials or equipment used in violation of

1 AS 04.16.175.

2 * Sec. 39. AS 04.16.220(b) is amended to read:

3 (b) Property subject to forfeiture under this section may be actually or
4 constructively seized under an order issued by the superior court upon a showing of
5 probable cause that the property is subject to forfeiture under this section. Constructive
6 seizure is effected upon posting a signed notice of seizure on the item to be forfeited,
7 stating the violation and the date and place of seizure. Seizure without a court order
8 may be made if

9 (1) the seizure is incident to a valid arrest or search;

10 (2) the property subject to seizure is the subject of a prior judgment in
11 favor of the state; or

12 (3) there is probable cause to believe that the property is subject to
13 forfeiture under (a) of this section; except for alcoholic beverages possessed on
14 violation of AS 04.11.501 [AS 04.11.498] or an ordinance adopted under AS 04.11.501
15 [AS 04.11.498], property seized under this paragraph may not be held over 48 hours
16 or until an order of forfeiture is issued by the court, whichever is earlier.

17 * Sec. 40. AS 04.16.220(d) is amended to read:

18 (d) Property subject to forfeiture under (a) of this section may be forfeited

19 (1) upon conviction of a person for a violation of [UNDER]
20 AS 04.11.010, 04.11.499, [04.11.496(b), OR] AS 04.21.060, or AS 04.11.501 [UPON
21 ENTRY OF JUDGMENT UNDER AS 04.11.498] or an ordinance adopted under
22 AS 04.11.501 [AS 04.11.498]; or

23 (2) upon judgment by the superior court in a proceeding in rem that the
24 property was used in a manner subjecting it to forfeiture under (a) of this section.

25 * Sec. 41. AS 04.16.220(g) is amended to read:

26 (g) It is no defense in an in rem forfeiture proceeding brought under (d)(2) of
27 this section that a criminal proceeding is pending or has resulted in conviction or
28 acquittal of a person charged with violating AS 04.11.010, 04.11.499 [04.11.496(b)],
29 or AS 04.21.060.

30 * Sec. 42. AS 04.21.010(a) is amended to read:

31 (a) A municipality may adopt ordinances governing the importation, barter,

1 sale, and consumption of alcoholic beverages within the municipality and may ban
2 possession of alcoholic beverages under AS 04.11.491(a)(5) [AS 04.11.498(d) OR (e)].
3 An ordinance adopted under this section may not be inconsistent with this title or
4 regulations adopted under this title. An ordinance that limits the monthly amounts
5 of alcoholic beverages a person may import into a municipality that has adopted
6 a local option under AS 04.11.491(a)(1), (2), or (3) is not inconsistent with this
7 title.

8 * Sec. 43. AS 04.21.010(b) is amended to read:

9 (b) After the adoption of a local option under AS 04.11.491(a), a [IF, AS A
10 RESULT OF AN ELECTION HELD IN ACCORDANCE WITH AS 04.11.502 IN A
11 MUNICIPALITY, THE BOARD IS PROHIBITED FROM ISSUING, RENEWING,
12 OR TRANSFERRING A LICENSE BETWEEN HOLDERS OR LOCATIONS OR IF
13 THE IMPORTATION OF ALCOHOLIC BEVERAGES IS PROHIBITED IN THE
14 MUNICIPALITY, THE] municipality may adopt an ordinance making the sale, [OR]
15 importation, or possession of alcoholic beverages a misdemeanor to the extent
16 prohibited under the local option. The ordinance may not be inconsistent with this
17 title or the regulations adopted under this title.

18 * Sec. 44. AS 04.21.015(b) is amended to read:

19 (b) This section does not apply to AS 04.16.050, 04.16.051, 04.16.080;
20 AS 04.21.010, 04.21.020; alcoholic beverages manufactured in a quantity that exceeds
21 the limit imposed on private manufacture under federal law; or an area that has
22 adopted a local option law under AS 04.11.491 [AS 04.11.490 - 04.11.500].

23 * Sec. 45. AS 04.21.025(a) is amended to read:

24 (a) As a condition of issuance or renewal of a license and selling alcoholic
25 beverages under a license, the board shall require a licensee who sells or serves
26 alcoholic beverages and a licensee's agents and employees who sell or serve alcoholic
27 beverages to complete an alcohol server education course approved by the board, if the
28 license is for a

- 29 (1) beverage dispensary;
30 (2) restaurant or eating place;
31 (3) club;

1 (4) package store;

2 (5) [COMMON CARRIER DISPENSARY;

3 (6)] recreational site;

4 (6) [(7)] community;

5 (7) [(8)] pub;

6 (8) [(9)] conditional contractor.

7 * Sec. 46. AS 04.21.025 is amended by adding a new subsection to read:

8 (e) A person licensed as a common carrier dispensary shall train agents and
9 employees who sell or serve alcoholic beverages on provisions of state law regarding
10 sale of alcoholic beverages, including AS 04.16.015, 04.16.020, 04.16.030, 04.16.051,
11 04.16.052, 04.16.120, 04.16.125, AS 04.21.030, and 04.21.050. The training must
12 include the subjects of the effects of alcohol consumption, identifying a drunken
13 person, determining valid identification, intervention to prevent unlawful alcohol
14 consumption, and penalties for unlawful acts by agents and employees of licensees.
15 A common carrier licensee shall, once every three years, provide the board with a
16 description of its training program including the subjects taught, teaching method, and
17 testing required.

18 * Sec. 47. AS 04.21.080(b)(1) is amended to read:

19 (1) "alcoholic beverage" means a spirituous, vinous, malt or other
20 fermented or distilled liquid, whatever the origin, that is intended for human
21 consumption as a beverage and that contains one-half of one percent or more of
22 alcohol by volume, whether produced commercially or privately; however, in an area
23 that has adopted a local option under AS 04.11.491 [LOCAL-OPTION
24 PROHIBITION UNDER AS 04.11.490 - 04.11.500], "alcoholic beverage" means a
25 spirituous, vinous, malt, or other fermented or distilled liquid, whatever the origin, that
26 is intended for human consumption as a beverage by the person who possesses or
27 attempts to possess it and that contains alcohol in any amount if the liquid is
28 produced privately, or that contains one-half of one percent or more of alcohol by
29 volume, if the liquid is produced commercially;

30 * Sec. 48. AS 04.21.080(b)(9) is amended to read:

31 (9) "established village" means an area not containing any part of

1 an incorporated city or another established village, and that is

2 (A) an unincorporated community that is in the unorganized
3 borough and that has 25 or more permanent residents; or

4 (B) an unincorporated community that is in an organized
5 borough, has 25 or more permanent residents, and

6 (i) is on a road system and is located more than 50
7 miles outside the boundary limits of a unified municipality, or

8 (ii) is not on a road system and is located more than 15
9 miles outside the boundary limits of a unified municipality;

10 * Sec. 49. AS 15.07.064(g) is amended to read:

11 (g) In this section, "established village" means an unincorporated
12 community that is in

13 (A) the unorganized borough and that has 25 or more
14 permanent residents; or

15 (B) an organized borough, has 25 or more permanent
16 residents, and

17 (i) is on a road system and is located more than 50
18 miles outside the boundary limits of a unified municipality, or

19 (ii) is not on a road system and is located more than
20 15 miles outside the boundary limits of a unified municipality

21 [HAS THE MEANING GIVEN IN AS 04.21.080].

22 * Sec. 50. AS 18.65.085(a) is amended to read:

23 (a) There is established in the Department of Public Safety, division of state
24 troopers, a narcotic drugs and alcohol enforcement unit for the purpose of investigating
25 and combating the illicit sale and distribution of narcotic drugs and alcoholic beverages
26 in the state. Enforcement of the alcoholic beverage control laws shall focus primarily
27 on the investigation, apprehension, and conviction of persons who violate
28 AS 04.11.010 by selling, importing, or possessing alcoholic beverages in violation of
29 a local option [AN ORDINANCE] adopted by a municipality or established village
30 under AS 04.11.491 [AS 04.11.490 - 04.11.500].

31 * Sec. 51. AS 18.65.085(c) is amended to read:

1 (c) The Department of Public Safety may establish and administer a reward
2 program, and provide grants to municipalities, established villages, and, at the request
3 of a municipality or established village, to a nonprofit association that administers a
4 village public safety officer program, for reward programs leading to the apprehension
5 and conviction of persons who violate AS 04.11.010 by selling, importing, or
6 possessing alcoholic beverages in violation of a local option [AN ORDINANCE]
7 adopted by a municipality or established village under AS 04.11.491 [AS 04.11.490
8 - 04.11.500].

9 * Sec. 52. AS 29.20.270(e) is amended to read:

10 (e) The veto does not extend to an ordinance adopted under AS 04.11.501
11 [AS 04.11.498]. This subsection applies to home rule and general law municipalities.

12 * Sec. 53. AS 29.25.020(d) is amended to read:

13 (d) This section does not apply to an ordinance proposed under
14 AS 04.11.507(d) [AS 04.11.502(c)].

15 * Sec. 54. AS 29.25.070(d) is amended to read:

16 (d) This section does not apply to an ordinance adopted under AS 04.11.501(c)
17 [AS 04.11.498(d) OR (e)].

18 * Sec. 55. AS 29.35.080(a) is amended to read:

19 (a) A municipality may regulate the possession, barter, sale, importation, and
20 consumption of alcoholic beverages under AS 04.11.480 - 04.11.509 [IN
21 ACCORDANCE WITH AS 04.11.480 - 04.11.506] and AS 04.21.010.

22 * Sec. 56. AS 47.37.045(e) is amended to read:

23 (e) In this section,

24 (1) "established village" means an unincorporated community that
25 is in

26 (A) the unorganized borough and that has 25 or more
27 permanent residents; or

28 (B) an organized borough, has 25 or more permanent
29 residents, and

30 (i) is on a road system and is located more than 50
31 miles outside the boundary limits of a unified municipality, or

1 (ii) is not on a road system and is located more than
2 15 miles outside the boundary limits of a unified municipality

3 [HAS THE MEANING GIVEN IN AS 04.21.080(b)];

4 (2) "local governing body" has the meaning given in AS 04.21.080(b);

5 (3) "nonprofit organization" means an organization that qualifies for
6 exemption from taxation under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue Code).

7 * Sec. 57. AS 04.11.190, 04.11.490, 04.11.492, 04.11.496, 04.11.498, 04.11.500, 04.11.502,
8 04.11.504, 04.11.506, and 04.11.510(d) are repealed.

9 * Sec. 58. TRANSITION: LOCAL OPTIONS EARLIER ADOPTED. Notwithstanding
10 the provisions of this Act, local options adopted by an area under AS 04.11.490, 04.11.492,
11 04.11.496, 04.11.498, or 04.11.500 or previous local option laws before the effective date of
12 this section shall continue in effect until changed under AS 04.11.493 or removed under
13 AS 04.11.495. References in this Act to local option elections conducted under AS 04.11.491,
14 04.11.493, 04.11.495, 04.11.497, 04.11.499, 04.11.501, 04.11.503, 04.11.505, and 04.11.507
15 are to be interpreted to include local option elections conducted under AS 04.11.490,
16 04.11.492, 04.11.496, 04.11.498, 04.11.500, or 04.11.502 or previous local option laws in
17 effect before the effective date of this section.

18 * Sec. 59. TRANSITION: COMMUNITY LIQUOR LICENSES. A community liquor
19 license issued under AS 04.11.190 before the effective date of this section to operate a
20 beverage dispensary shall continue as a beverage dispensary license under AS 04.11.090. A
21 community liquor license issued under AS 04.11.190 before the effective date of this section
22 to operate a package store shall continue as a package store license under AS 04.11.150.

23 * Sec. 60. TRANSITION. A person licensed under AS 04.11.160 on the effective date of
24 this section shall submit the information required under AS 04.11.160(f), added by sec. 6 of
25 this Act, by September 30, 1994.

26 * Sec. 61. PROHIBITION ON PURCHASE OF CERTAIN ALCOHOLIC BEVERAGES.
27 Beginning July 1, 1994, and ending June 30, 1995, a person licensed as a wholesaler under
28 AS 04.11.160 may not purchase an alcoholic beverage that contains more than 76 percent
29 alcohol by volume.

30 * Sec. 62. AS 04.16.110(2), enacted in sec. 27 of this Act, takes effect July 1, 1995.

31 * Sec. 63. Except as provided in sec. 62 of this Act, this Act takes effect July 1, 1994.

FISCAL NOTE

No. 3

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL N

Bill Version: CSSB 372 (JWD)

(S) Publish Date: 4-25-94

Revision Date: _____ Dept. Affected: Revenue
 Title: Alcoholic Beverages: Local Option ... BRU: Alcoholic Beverage Control Board
 Component: Alcoholic Beverage Control Board
 Sponsor: Senate Judiciary Committee
 Requestor: Senate Judiciary Committee COMPONENT SERIAL NO. 0100

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE FUND SOURCE: 1005	3.0	6.0	3.0	6.0	3.0	6.0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.) Revenue analysis attached.

Changes in CSSB 372 (FIN)
 have no fiscal impact. This
 fiscal note is appropriate.
5/5/94 _____
 date / Comite Aide (initial)

Prepared by: Patrick L. ...ock, Director Phone: 277-8638
 Division: Alcoholic Beverage Control Board Date: April 25, 1994
 Approved by Commissioner: Darrel J. Rexwinkel Date: April 25, 1994
 Agency: Revenue

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STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

BILL

No. 4

Bill Version: CSSB 372 (FIN)

(S) Publish Date: 5.5.94

Revision Date: _____ Dept. Affected: Public Safety
 Title: Alcoholic Beverages: Local Option & Misc. BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: (S) Judiciary by Request
 Requestor: (S) Finance COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)
 No fiscal impact on the Alaska State Troopers is anticipated.

Prepared By: Lee Ann Lucas Phone: 465-4322
 Division: Commissioner's Office Date: 04/14/94
 Approved by Commissioner: [Signature] Date: 04/14/94
 Agency: Richard L. Burton, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. 1

Bill Version: SB 372

(S) Publish Date: 4-12-94

Revision Date: _____

Department Affected: Office of the Governor

Title: AN ACT RELATING TO COMMUNITY LOCAL

OPTIONS FOR CONTROL OF ALCOHOLIC BEVERAGES.BRU: Division of Elections

Component: Elections

Sponsor: Judiciary by Request

Requestor: _____

COMPONENT SERIAL NO. 21

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	1.06	1.06	1.06	1.06	1.06	1.06
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND &	0	0	0	0	0	0
GRANTS,	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	1.06	1.06	1.06	1.06	1.06	1.06

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

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

FUNDING:

1002 Federal	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	1.06	1.06	1.06	1.06	1.06	1.06
1005 GF/Program	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	1.06	1.06	1.06	1.06	1.06	1.06

POSITIONS:

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

Estimate of current year (FY94) impact: 0

ANALYSIS: (Attach a separate page if necessary.) PLEASE DOCUMENTATION:

Changes in CS SB 372 (FIN) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.

5-5-94 date / JL Comte Aide (initial)

Prepared by: Joseph L. Swanson, Director

Phone: 465-4611

Division: Division of Elections

Date: APRIL 7, 1994

Approved by Commissioner: John B. Coghill, Lieutenant Governor

Agency: Office of the Governor

Date: APRIL 7, 1994

PREPARER TO PROVIDE ALL D
For further distribut

Changes in CS SB 372 (JW)'S LEGISLATIVE OFFICE reflect NO FISCAL CHANGE from the original legislative Office fiscal note. This fiscal note is appropriate. page 1 of 3

5-5-94 date / JL Comte Aide (initial)

FISCAL NOTE

Cost for by-mail elections

Ballots:

Ballots for all registered voters (Ballots ordered in pad of 25, 100 at \$.74 ea)	Total \$74.00
Ballots for each regional offices to act as absentee voting officials. 25 ballots for each election, which can be distributed, 5 to each area. (\$.74 x 25)	Total \$18.50
Sample ballots for all elections (Approx. 25 at \$1.00 ea)	Total \$25.00
Total cost for ballots:	<u>Total \$117.50</u>

Postage:

Postage for mailing Advance Flyer (mail first class, \$.29 x 100) or to number of registered voters at time sent	Total \$29.00
Mailing ballots to all registered voters, (based on 500 x \$.29) Mailed first class	Total \$29.00
Shipping charged for sending ballots and materials to the city. (Alaska Airlines Goldstreak) \$25.00 a box	Total \$ 25.00
Total Cost for Postage/shipping	<u>Total \$83.00</u>
Grand Total	\$1059.50 or \$1.06

COST FOR BY-MAIL ELECTIONS FOR SB372

The following is a cost estimate for a by-mail local option election in unincorporated areas. Cost estimates are based on 100 voters, as we order ballots in pads of 25 and allowing for additional registration.

Personnel:	Estimated Cost:
Absentee Voting Official available in the city 15 days before the election. (Flat fee of \$50.00 for each city)	Total \$50.00
1 hour for person to post 40/10 Posters (Total \$8.00 Per Hour)	Total \$40.00
District Absentee Review Board... 1 City	Total \$40.00
State Review Board (four board members) \$12.50 Per Hour	Total \$50.00
Total Cost for Personnel:	<u>Total \$180.00</u>

Outreach/Advertising:	Estimated Cost:
2 - 40/10 Posters per city (Approx. \$2.00 per poster)	Total \$ 4.00
Printing Advance Flyer (approx. 100 voters) (.15 a copy x 100)	Total \$15.00
Newspaper, radio or RATNET advertisement (Newspaper Display Ad is 4" x 4" at \$112.00 ea.)	Total \$560.00
General Instructions to voters to be included with the ballot. (Based on 100 card at \$1.00 ea.)	Total \$100.00
Total Cost for Advertising:	<u>Total \$679.00</u>

2 of 3

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

May 9, 1994

SUBJECT: Sectional Summary of CSSB 372(FIN) am

TO: Representative Al Vezey
Attn: Joe Ryan

FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Prohibits a person from soliciting or receiving orders for delivery of an alcoholic beverage in local option areas. Allows a package store licensee who is located outside of certain option areas to receive orders for sales. Allows a package store located in certain local option areas to solicit or receive sales orders.

Section 2. Provides that possession of 12 gallons or more of malt beverages in a local option area where sale is restricted or prohibited creates a presumption that the alcohol was possessed for sale.

Section 3. Repeals a provision requiring that military personnel be in uniform in order to purchase alcohol in certain clubs.

Section 4. Technical amendment.

Section 5. Authorizes a package store licensee to sell alcoholic beverages to a person present on the premises or a person known to the licensee who makes a written solicitation. Imposes restrictions on liquor shipments, requires certain notice to the board, and requires certain health information be included in liquor shipments.

Section 6. Restricts liquor shipments to certain local option areas.

Section 7. Requires wholesalers to provide information on the types of liquor brands sold, the brand manufacturer and to provide certification as a primary source of supply. Also imposes a filing fee.

Section 8. Prohibits a person licensed as a beverage dispensary, restaurant, club, or package store from selling or purchasing alcohol unless obtained from a wholesaler licensed as a primary source of supply or from an in-state brewery, winery, or distillery.

Section 9. Requires the director to give renewal notices to licensees whose licenses are expiring, requires the licensee to file a renewal application by January 1, and increases the penalty for late applications to \$500.

Section 10. Repeals provisions regarding denial of a new license in a municipality that has prohibited sale except by a municipal owned liquor store. Prohibits issuance of a new license or permit in certain cities or in an established village when certain local options are approved.

Section 11. Technical amendment.

Section 12. Repeals authority to deny relocation of a licensed premise when the relocation is to an area that has limited sales to community run licensees.

Section 13. Repeals authority to deny transfer of a licensed premise to another person when the relocation is to an area that has limited sales to community operated licensees.

Section 14. Amends the authority of the board to suspend or revoke a license or permit.

Section 15. Allows the board to impose conditions or restrictions on a license or permit.

Section 16. Amends provisions relating to population restrictions applicable to issuing or relocating a license.

Section 17. Authorizes local governments to impose restrictions on the sale, importation, or possession of alcoholic beverages through a local option election. Specifies the contents of the ballot question. Allows the municipality or established village to designate a delivery site for alcoholic beverages.

Section 18. Establishes a procedure for changing a local option.

Representative Al Vezey

May 9, 1994

Page 3

Section 19. Establishes a procedure for removing a local option. Provides a priority for certain licensees for reissuing a license not renewed because of a local option election.

Section 20. Establishes the effect of a vote to prohibit the sale of alcoholic beverages. Provides for elimination of existing licenses.

Section 21. Establishes the effect of a vote to prohibit the importation of alcoholic beverages.

Section 22. Establishes the effect of a vote to prohibit the possession of alcoholic beverages. Provides for elimination of existing licenses.

Section 23. Establishes the effect of a vote to restrict the sale of alcoholic beverages. Provides for elimination of existing licenses that do not meet the restriction.

Section 24. Establishes the effect of a vote to prohibit the sale of alcoholic beverages, except on premises operated by the municipality. Provides for elimination of existing licenses that are not operated by the municipality.

Section 25. Establishes a procedure for adopting, changing, or removing a local option. Requires that notice of the results of the local option election be given.

Section 26. Provides for renewal and for specific expiration of a liquor license.

Section 27. Provides for issuance of a seasonal license.

Section 28. Prohibits the sale of alcohol not in liquid form or that contains more than 76 percent alcohol by volume.

Section 29. Prohibits a person from using a common carrier to transport liquor in an area with certain local option restrictions. Requires the shipping invoice to reflect the quantity and purchase value of specific beverages.

Section 30. Allows a person to transport certain quantities of liquor by common carrier and allows certain licensees to use a common carrier for transporting liquor into a local option area.

Section 31. Provides that a violation of AS 04.11.010 in an area that has adopted a local option is a class C felony.

Section 32. Technical amendment.

Section 33. Technical amendment.

Section 34. Technical amendment.

Section 35. Technical amendment.

Section 36. Allows community work to be performed at the direction of the body that has traditionally performed public functions on behalf of the entire community, when a local governing body does not exist.

Section 37. Technical amendment.

Section 38. Technical amendment.

Section 39. Provides that liquor or material and equipment used in selling liquor, in an area that has adopted a local option is subject to forfeiture.

Section 40. Technical amendment.

Section 41. Technical amendment.

Section 42. Technical amendment.

Section 43. Provides that an ordinance that limits the monthly amount of liquor that a person can import into the municipality is not inconsistent with AS 04.

Section 44. Allows a municipality that adopts a local option to make sale or importation of alcoholic beverages a misdemeanor.

Section 45. Allows a municipality to impose a sales tax on alcohol, but the tax must be equal to or higher than the sales tax imposed on other sales in the municipality.

Section 46. Technical amendment.

Section 47. Repeals a provision regarding alcohol server education as applied to common carriers.

Section 48. Imposes an alcohol server education provision upon common carriers.

Section 49. Provides that in a local option area, "alcoholic beverage" means certain liquids intended for human consumption by the person who possesses or attempts to possess it.

Section 50. Amends the definition of "established village".

Section 51. Technical amendment.

Section 52. Technical amendment.

Section 53. Technical amendment.

Section 54. Technical amendment.

Section 55. Technical amendment.

Section 56. Technical amendment.

Section 57. Technical amendment.

Section 58. Technical amendment.

Section 59. Technical amendment.

Section 60. Repealers.

Section 61. Transition section for prior local options.

Section 62. Transition for community liquor licenses.

Section 63. Requires a wholesaler to submit certain brand information by September 30, 1994.

Section 64. Prohibits wholesalers from purchasing alcohol that contains more than 76 percent alcohol by volume, from July 1, 1994, till June 30, 1995.

Section 65. Delayed effective date for prohibition against sale of alcohol containing more than 76 percent alcohol by volume.

Section 66. Effective date.

Section 67. This section is a clerical error. It will be deleted on the next printed copy of the bill.

MFF:pl
94-380.plm

SB

376

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 21, 1994

SUBJECT: Section 8 of Enclosed Bill (CSSB 376(FIN))

TO: Senator Steve Frank, Co-Chair
Senate Finance Committee

FROM: David R. Dierdorff 
Revisor of Statutes

The committee adopted amendment number 3, affecting the last paragraph added to AS 44.46.025(a) in sec. 8 of CSSB 376(FIN). That amendment included language that merely restated existing law and, with the permission of David Skidmore of your staff, I deleted the language.

The language would have added the following:

The fees shall be adopted in accordance with the Administrative Procedure Act and limited to the actual cost of the specific program.

Under AS 44.46.025(a), page 4, lines 8 - 12 of the bill, DEC already is to limit the fees to cover applicable direct costs and is not allowed to include certain cost items. Under AS 37.10.050(a), all state agencies are prohibited from charging fees that exceed the estimated actual costs of the service or program, unless the statute authorizing the fee allows more than costs to be recovered. Regulations are adopted under the relevant provisions of the Administrative Procedure Act (AS 44.62.180 - 44.62.290) and those setting fees must comply specifically with AS 44.62.020 and 44.62.130. See AS 37.10.050(a).

If I may be of further assistance, please advise.

DRD:gc
94-277.glc
Enclosure

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESS. 4

BILL

No. 5

Bill Version: SB 376

(S) Publish Date: 4-21-94

Revision Date: _____ Dept. Affected: Public Safety

Title: State Agency Fees & Collections BRU: Motor Vehicles

Component: Driver Services

Sponsor: RLS by Request

Requestor: (S) Finance COMPONENT SERIAL NO. 500

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL	1.5	1.5	1.5	1.5	1.5	1.5
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1.5	1.5	1.5	1.5	1.5	1.5
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	1.5	1.5	1.5	1.5	1.5	1.5
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	1.5	1.5	1.5	1.5	1.5	1.5
1006 GF/MHTIA						
Other						
TOTAL	1.5	1.5	1.5	1.5	1.5	1.5

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

FULL-TIME			
PART-TIME			
TEMPORARY			

Changes in CS SB 376 (FIN)
reflect NO FISCAL CHANGE from the original
fiscal note. This fiscal note is appropriate.
4/21/94 [Signature]
date Comte Aide (initial)

ANALYSIS: (Attach a separate page if necessary.)

The Division of Motor Vehicles currently issues licenses for 13 commercial driving schools and 25 instructors permits. Setting the school license fee at \$100, and the instructor permits at \$25 would bring in approximately 1.5 in new general fund program receipts. The fiscal note reflects 1.5 for travel and per diem to conduct annual inspections of these schools and vehicles.

Prepared By: Juanita Hensley Phone: 465-4361
 Division: Motor Vehicles Date: 04/13/94
 Approved by Commissioner: [Signature] Date: 04/13/94
 Agency: Richard L. Burton, Dept. of Public Safety

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FISCAL NOTE

No. 4
 Bill Version: CSSB 376(FIN)
 (S) Publish Date: 4.21.94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

BILL NO:

Revision Date: 4/21/94 Dept. Affected: Public Safety
 Title: State Agency Fees & Collections BRU: Fire Prevention
 Component: Fire Prevention Operations
 Sponsor: RLS by Request
 Requestor: (S) Finance COMPONENT SERIAL NO. 494

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	*	45.6	84.2	84.2	84.2	84.2
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS:

* This change would allow the Division of Fire Prevention to charge a fee for the permits the Division issues. The fees proposed are based on the average charged by other states with similar permit programs. The increased revenue would go into the general fund in the form of program receipts that could be used to support the Division's programs. There will be little or no change in FY 95 because regulations will have to be changed to implement the fees.

Prepared By: Jack McGary Phone: 269-5491
 Division: Fire Prevention Date: 04/21/94
 Approved by Commissioner: Richard L. Burton Date: 04/13/94
 Agency: Richard L. Burton, Dept. of Public Safety

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Handwritten:
 4/21/94

FY 1996

Fire Extinguishers

Class I	150 @	\$ 75	\$11,250
Class II	70 @	150	10,500
Class III	33 @	225	7,425
			<u>\$29,175</u>

Fire Works

Pyrotechnic Operator Permit	10 @	350	3,500
Fire Works Display Permit	30 @	100	3,000
Fireworks Wholesale Permit	10 @	500	5,000
Fireworks Retail Permit	50 @	100	5,000
			<u>\$16,500</u>

TOTAL \$45,675

FY 97, FY 98, FY 99, FY 00

Fire Extinguishers

Class I	150 @	\$ 75	\$11,250
Class II	70 @	150	10,500
Class III	33 @	225	7,425
			<u>\$29,175</u>

Fire Works

Pyrotechnic Operator Permit	10 @	350	3,500
Fire Works Display Permit	30 @	100	3,000
Fireworks Wholesale Permit	10 @	500	5,000
Fireworks Retail Permit	50 @	100	5,000
			<u>\$16,500</u>

Fire Systems

Class IA	20 @	\$100	\$ 2,000
Class IB	50 @	150	7,500
Class IC	25 @	200	5,000
Class IIA	40 @	200	8,000
Class IIB	15 @	400	6,000
Class IIIA	20 @	200	4,000
Class IIIB	15 @	400	6,000
			<u>\$38,500</u>

TOTAL \$84,175

FISCAL NOTE

No. 3

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL Bill Version: SB 376
(S) Publish Date: 4-21-94

Revision Date: _____
Title: State Agency Fees and Collections
Sponsor: Rules Committee
Requestor: Senate Finance Committee

Department Affected: Environmental Conservation
BRU: Various
Component: Various (see attached)
COMPONENT SERIAL NO. Various (see attached)

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	67.5	133.4	133.4	133.4	133.4	133.4
TRAVEL						
CONTRACTUAL	49.3	27.0	27.0	27.0	27.0	27.0
SUPPLIES	1.2	1.8	1.8	1.8	1.8	1.8
EQUIPMENT	10.0	5.0				
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	128.0	167.2	162.2	162.2	162.2	162.2
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	670.2	820.2	820.2	820.2	820.2	820.2

FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF	128.0					
1005 GF/Program Receipts		167.2	162.2	162.2	162.2	162.2
1006 GF/MHTIA						
Other						
TOTAL						

Estimate of any current year (FY94) cost: \$ _____

POSITIONS:

FULL-TIME	2.0	3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Changes in CSB 376 (FIN)
reflect NO FISCAL CHANGE from the original
fiscal note. This fiscal note is appropriate.
4/21/94 _____
date Comte Aide (initial)

Prepared by: Bob Poe, Director
Division: Information & Administrative Services

Phone: 465-5010
Date: 4/13/94

Approved by Commissioner: _____
Agency: Department of Environmental Conservation

Date: 4/13/94

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3/10/94

		FY95 Request	
		Anticipated Revenues	Gen Fund Costs
Section 29. AS 44.46.025 is amended to read:			
(10) regulating pesticides and broadcast chemicals under AS 46.03.320			
Environmental Health BRU Palmer Lab Component (#651)			
Anticipated Revenues	(Begin collections FY96 = \$150.0)	0.0	
Anticipated Costs			
DLaw Reg Development			12.0
Forms/Printing			3.0
(FY96 = Add 1 PFT Enviro Specialist I = \$50.0PS, \$2.0 Contractual, \$.6 Supplies, \$5.0 Equip)			
(11) the on-site water and sewer system certification and audit program under AS 46.03.026			
Environmental Quality BRU, Wasterwater & Water Treatment Component (#1426)			
Anticipated Revenues		250.0	
Anticipated Costs			
DLaw Reg Development			20.0
Forms/Printing			6.0
(12) plans for sewage and industrial waste disposal or treatment under AS 46.03.090			
Environmental Quality BRU, Wasterwater & Water Treatment Component (#1426)			
Anticipated Revenues		75.0	
Anticipated Costs			
DLaw Reg Development			5.0
Forms/Printing			1.3
(13) analysis of public water system samples authorized for submission to the department for analysis			
Environmental Quality BRU, Monitoring & Lab Component (#643)			
Anticipated Revenues		20.2	
Anticipated Costs			0.0
(14) regulating motor vehicle fuels to control emissions under AS46.14.510			
Environmental Quality BRU, Air Quaiity Component (#1428)			
Anticipated Revenues		325.0	
Anticipated Costs			
General Regulation Support			
Administration BRU, Commissioner's Office Component			
1 PFT Regulations Specialist Position + related costs			46.1
Administration BRU, Information & Administrative Services Component			
1 PFT Accounting Clerk III Position + related costs			34.6
		670.2	128.0

Position Title Regulations Specialist II		No. of Positions 1	Range / Step 16B	Barg Unit GGU
Time Status PFT	Staff Months 9	Location Juneau		Election District
TYPE OF EXPENDITURE		Amount	Justification	
Salary	28.4		This position would assist all divisions in developing their needed regulations. The position will be working under the auspices of the Department's paralegal in the Commissioner's Office.	
Benefits	11.2			
Premium Pay				
Other				
Total Personal Services	39.5	39.5	Unless regulations are developed and adopted, the Department cannot exercise its program receipt authority and collect user fees.	
Travel				
Contractual		1.0		
Commodities		0.6		
Equipment		5.0	First year costs are for 9 months and are general funds	
Other				
Total Cost				
FUNDING SOURCE FOR TOTAL COST		46.1		
Federal Receipts	1002			
GF Match	1003			
General Fund	1004	46.1		
IA Receipts	1007			
CIP Receipts	1061			
Other	Program Receipts			

**REQUEST FOR
NEW POSITION**

AGENCY ENVIRONMENTAL CONSERVATION

FY 94

BRU ADMINISTRATION

COMPONENT COMMISSIONER'S OFFICE

Page 1 of 1
Revised Date

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CORRECTION

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

Position Title Regulations Specialist II		No. of Positions 1	Range / Step 16B	Barg. Unit GGU
Time Status PFT	Staff Months 9	Location Juneau		Election District
TYPE OF EXPENDITURE		Amount		
Salary	28.4	Justification This position would assist all divisions in developing their needed regulations. The position will be working under the auspices of the Department's paralegal in the Commissioner's Office. Unless regulations are developed and adopted, the Department cannot exercise its program receipt authority and collect user fees. First year costs are for 9 months and are general funds Future years' costs are for 12 months and will be funded by program receipts.		
Benefits	11.2			
Premium Pay				
Other				
Total Personal Services	39.5			
Travel				
Contractual	1.0			
Commodities	0.6			
Equipment	5.0			
Other				
Total Cost				
FUNDING SOURCE FOR TOTAL COST		46.1		
Federal Receipts	1002			
Gr Match	1003			
General Fund	1004	46.1		
IA Receipts	1007			
CIP Receipts	1061			
Other	Program Receipts			

REQUEST FOR
NEW POSITION

AGENCY ENVIRONMENTAL CONSERVATION

FY 94

BRU ADMINISTRATION

COMPONENT COMMISSIONER'S OFFICE

Page 1 of 1
Revised Date

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3-4

Position Title Accounting Clerk III		No. of Positions 1	Range / Step 10B	Barg Unit GGU
Time Status 1 PFT	Staff Months 9	Location Juneau		Election District
TYPE OF EXPENDITURE		Amount		
Salary	19.1	Justification An additional staff person is essential for receiving, recording, and depositing fees collected under the expanded user fee program. This position would also issue invoices, track receipts and reports on collections to program staff. During FY95, staff would aid in planning document flow procedures and record keeping system/database expansion. First year costs are for 9 months and are general funds Future years' costs are for 12 months and will be funded by program receipts.		
Benefits	8.9			
Premium Pay				
Other				
Total Personal Services	28.0			
Travel				
Contractual	1.0			
Commodities	0.6			
Equipment	5.0			
Other				
Total Cost				
FUNDING SOURCE FOR TOTAL COST		34.6		
Federal Receipts	1002			
GF Match	1003			
General Fund	1004	34.6		
IA Receipts	1007			
CIP Receipts	1061			
Other	Program Receipts			

**REQUEST FOR
NEW POSITION**

AGENCY ENVIRONMENTAL CONSERVATION

FY 94

BRU ADMINISTRATION

Page 1 of 1
Revised Date

COMPONENT INFORMATION & ADMINISTRATIVE SERVICES

4-4

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

No. 2

Version: SB 376

(S) Publish Date: 4-21-94

Revision Date: _____	Dept. Affected: _____	Corrections _____
Title: <u>Re. fees by state agencies</u>	BRU: _____	all _____
Sponsor: <u>S. Rules</u>	Component: _____	all _____
Requestor: <u>S. FIN</u>	Component Serial #: _____	694-1884 _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXP.	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXP	0.0	0.0	0.0	0.0	0.0	0.0
-------------	-----	-----	-----	-----	-----	-----

CHANGES IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
---------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

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

Estimate of any current year (FY94) cost \$ 0.0

POSITIONS

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

Changes in CS SB 376 (FIN) have no fiscal impact. This fiscal note is appropriate.

ANALYSIS:

4-21-94 date Sm Comte Aide (initial)

Prepared by: Diane Schenker, Special Assistant
 Division: Office of the Commissioner
 Approved by: J. Frank Prewitt, Jr., Commissioner
 Agency: Department of Corrections

Phone: 465-4643/786-2147
 Date: 4/14/94
 Date: 4/14/94
 Page 1 of 1

FISCAL NOTE

No. 1

STATE OF ALASKA
1994 LEGISLATIVE SESSION

B) Bill Version: SB 376

(S) Publish Date: 4-21-94

Revision Date _____
Title: Fees charged by state agencies

Dept. Affected: Revenue
BRU: Alcoholic Beverage Control Board
Component: _____

Sponsor: Senate Finance Committee
Requestor: Senate Finance Committee

COMPONENT SERIAL NO. 0100

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE FUND SOURCE: 1005	0.4	0.4	0.6	0.0	0.2	0.0

FUNDING:

(Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year (FY94) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

The Board estimates that a single alcohol servers course will seek certification in FY 95. It is anticipated that a second course will seek certification in FY 96. Certifications are valid for three years. The fee for initial certification is \$400 and the renewal fee is \$200.

) Changes in CS SB 376 (FIN) have no fiscal impact. This fiscal note is appropriate.

4-21-94 date DM Comte Aide (Initial)

Prepared by: Patrick L. Sharrock, Director
Division: Alcoholic Beverage Control Board
Approved by Commissioner: Darrel J. Rexwinkel
Agency: Department of Revenue

Phone: (907) 277-8638
Date: April 13, 1994
Date: April 13, 1994

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SENATE BILL 376(FIN) am - RELATING TO FEES CHARGED BY STATE AGENCIES - SECTIONAL

Section	Department	Brief Description	Revenues
1	Revenue	Allows the department to charge fees for approving alcohol server education courses	0.4
2	Public Safety	Allows the department to set and charge fees for permits issued to persons who service portable fire extinguishers and persons who design, install, or service fire alarm and fire suppression systems	Revenues expected in FY96
3	Public Safety	Allows the department to set and charge fees for permits issued to persons who use dangerous fireworks displays	Revenues expected in FY96
4	Public Safety	Allows the department to set in regulations the fee charged for retail fireworks permits	Revenues expected in FY96
5	Public Safety	Allows the department to set in regulations the fee charged for wholesale fireworks permits	Revenues expected in FY96
6	Public Safety	Increases the fees charged for driver training school and instructor licenses	1.5
7	Corrections	Allows the department to seek payment for medical care from third party payers	Unknown
8	Environmental Conservation	Allows the department to adopt regulations to charge for pesticide registration, charge fees for analyses of water systems, and for regulation motor vehicle fuels	345.2

SENATE BILL 376(FIN) am - RELATING TO FEES CHARGED BY STATE AGENCIES - SECTIONAL

Section	Department	Brief Description	Revenues
9		Allows departments to proceed to adopt necessary regulations to implement their respective sections in this bill	
10		Provides an immediate effective date for section 9	
11		Provides for a July 1, 1994 effective date for all other sections	

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 25, 1994

SUBJECT: Subjects Contained in CSSB 376(FIN) am (8-LS1887\J)

TO: Representative Ramona Barnes
Speaker of the House of Representatives
Attn: Melva Krogseng

FROM: David R. Dierdorff 
Revisor of Statutes

You have asked for a brief sectional of CSSB 376(FIN) am. At the outset, let me say that this bill does not contain any potential single subject issues. The bill deals with state agency fees, except for sec. 7, which deals with state reimbursement for prisoners' medical expenses. Thus, the single subject is "payment for state agency services."

Section 1 allows the Alcoholic Beverage Control Board to establish by regulation a fee for approval of alcohol server education courses.

Sections 2 - 5 all relate to fees charged for activities dealing with fire prevention and safety.

Section 6 increases the fees charged for drivers' training schools.

Section 7 authorizes the state to seek reimbursement from a variety of sources for medical care for prisoners.

Section 8 authorizes the establishment of certain fees by the Department of Environmental Conservation. The Senate floor amendment deleted former paragraphs (9) and (10) from CSSB 376(FIN).

Section 9 provides for agency implementation of necessary regulation adoption procedures before the rest of the Act takes effect.

Sections 10 and 11 are the effective date provisions.

Representative Ramona Barnes

April 25, 1994

Page 2

If I may be of further assistance, please advise.

DRD:gc
94-287.glc

SB

377

8-LS1888V
Chenoweth
5/14/94

HOUSE CS FOR CS FOR SENATE BILL NO. 377(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SPECIAL SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state agency fiscal procedures, including procedures related
2 to the assessment and collection of certain taxes; and providing for an effective
3 date."

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

5 * Section 1. AS 43.05.260(a) is amended to read:

6 (a) Except as provided in (c) of this section and AS 43.20.200(b), the amount
7 of a tax imposed by this title must be assessed

8 (1) for tax periods ending before January 1, 1994, within three years
9 after the return was filed, whether or not a return was filed on or after the date
10 prescribed by law; however, at any time during the administrative consideration
11 of a taxpayer grievance or of a claim for credit or refund, based upon a tax
12 imposed by former AS 43.21 or by AS 43.55, the department may increase or
13 decrease the amount of tax due by issuing or amending an assessment;

14 (2) for tax periods beginning after December 31, 1993, within five

1 years after the return was filed, whether or not a return was filed on or after the
2 date prescribed by law; the department may increase the amount of tax due by
3 issuing or amending an assessment within the five-year period; after that five-year
4 period, the department may not increase an assessment or issue an additional
5 assessment under this subsection; the department may decrease an assessment at
6 any time. [IF THE TAX IS NOT ASSESSED BEFORE THE EXPIRATION OF THE
7 THREE-YEAR PERIOD, PROCEEDINGS MAY NOT BE INSTITUTED IN COURT
8 FOR THE COLLECTION OF THE TAX.]

9 * Sec. 2. AS 43.05.270(a) is amended to read:

10 (a) When the assessment of a tax imposed by this title has been made within
11 the period of limitation under AS 43.05.260, the tax may be collected by levy or by
12 a proceeding in court [, BUT ONLY] if the levy is made or the proceeding is begun:

13 (1) within six years after the latest of any of the following:

14 (A) the assessment of the tax;

15 (B) the final administrative determination of the grievance,
16 if the taxpayer files a grievance from an assessment; or

17 (C) the final judicial resolution of an appeal, if the taxpayer
18 appeals from a final adjudicative determination of a grievance; or

19 (2) before the expiration of a period for collection agreed upon in
20 writing by the department and the taxpayer before the expiration of the six-year period;
21 a period agreed upon may be extended by subsequent agreements in writing made
22 before the expiration of the period previously agreed upon [; THE PERIOD
23 PROVIDED BY THIS PARAGRAPH DURING WHICH A TAX MAY BE
24 COLLECTED BY LEVY MAY NOT BE EXTENDED OR CURTAILED BECAUSE
25 OF A JUDGMENT AGAINST THE TAXPAYER].

26 * Sec. 3. AS 43.55 is amended by adding a new section to read:

27 Sec. 43.55.145. PREVAILING VALUE FOR OIL. (a) The department shall
28 adopt regulations to determine a methodology for calculating the prevailing value of
29 oil produced in each field or area of the state for each destination area to which the
30 oil is delivered. Before each October 30, the department shall annually review and
31 determine if any prospective adjustments are necessary to the methodology established

1 by regulation under this section.

2 (b) The regulations adopted by the department under (a) of this section shall
3 determine the prevailing value of oil using the

4 (1) current value or average of current values for oil of like kind,
5 character, and quality produced from each field or area in the state;

6 (2) current values or average of current values for two or more types
7 of domestic or foreign oil selected by the department that are not produced in the state;
8 or

9 (3) any combination of the methods set out in this subsection.

10 (c) The department shall assign percentage weights to the oils selected under
11 (b) of this section. The department shall adjust the amounts calculated under (b) of
12 this section to account for differences in oil types and destination areas.

13 (d) For purposes of this section, "current value" includes spot or other current
14 prices or market assessments publicly reported.

15 * Sec. 4. AS 43.55.900(7) is amended to read:

16 (7) "gross value at the point of production" means

17 (A) for oil, the value of the oil at the point where it is metered
18 or measured (by automatic custody transfer meter, tank gauge, or other method
19 approved by the commissioner) in a condition of pipeline quality on the
20 premises of the lease or property from which it is recovered; however, if the
21 oil is not of pipeline quality when it is removed from the premises of the lease
22 or property from which it is recovered, or if the oil recovered from a lease or
23 property is not metered or measured (by automatic custody transfer meter, tank
24 gauge, or other method approved by the commissioner) on the premises of the
25 lease or property from which it is recovered, then the gross value at the point
26 of production is the value of that oil at the off-premises location where the oil
27 is first metered or measured (by automatic custody transfer meter, tank gauge,
28 or other method approved by the commissioner) in a condition of pipeline
29 quality;

30 (B) for gas recovered from or in association with oil, the value
31 of the gas at the point where it is accurately metered or measured after

1 separation from the oil; for gas run through a gas processing plant, the gross
2 value at the point of production is the full consideration received by the
3 producer for the gas if sold in an arm's length transaction or, in the absence of
4 an arm's length transaction, is the sum of the value of the liquids extracted
5 from the gas at the plant and sold and the value of the residue gas sold, less
6 a reasonable allowance for processing the gas at the plant and for transporting
7 the gas to the plant from the premises upon which the oil production operation
8 is conducted; the reasonable allowance for processing and transporting the
9 gas may not exceed \$2 per barrel of plant liquid sold, adjusted annually
10 for inflation in accordance with the Consumer Price Index; and

11 (C) for gas not recovered from or in association with oil, the
12 value of the gas at the point where it is accurately metered or measured or the
13 value of the gas at the point of sale, if any, on the premises of the lease or
14 property from which the gas is recovered, whichever is the higher value; for
15 gas run through a gas processing plant, the gross value at the point of
16 production is the full consideration received by the producer for the gas if sold
17 in an arm's length transaction or, in the absence of an arm's length transaction,
18 is the sum of the value of the liquids extracted from the gas at the plant and
19 sold and the value of the residue gas sold, less a reasonable allowance for
20 processing the gas at the plant and for transporting the gas to the plant from
21 the point where it was accurately metered or measured; the reasonable
22 allowance for processing and transporting the gas may not exceed \$2 per
23 barrel of plant liquid sold, adjusted annually for inflation in accordance
24 with the Consumer Price Index;

25 * Sec. 5. AS 43.55.900(7), as amended by sec. 4 of this Act, is amended to read:

26 (7) "gross value at the point of production" means

27 (A) for oil, the value of the oil at the point where it is metered
28 or measured (by automatic custody transfer meter, tank gauge, or other method
29 approved by the commissioner) in a condition of pipeline quality on the
30 premises of the lease or property from which it is recovered; however, if the
31 oil is not of pipeline quality when it is removed from the premises of the lease

1 or property from which it is recovered, or if the oil recovered from a lease or
2 property is not metered or measured (by automatic custody transfer meter, tank
3 gauge, or other method approved by the commissioner) on the premises of the
4 lease or property from which it is recovered, then the gross value at the point
5 of production is the value of that oil at the off-premises location where the oil
6 is first metered or measured (by automatic custody transfer meter, tank gauge,
7 or other method approved by the commissioner) in a condition of pipeline
8 quality;

9 (B) for gas recovered from or in association with oil, the value
10 of the gas at the point where it is accurately metered or measured after
11 separation from the oil; for gas run through a gas processing plant, the gross
12 value at the point of production is the full consideration received by the
13 producer for the gas if sold in an arm's length transaction or, in the absence of
14 an arm's length transaction, is the sum of the value of the liquids extracted
15 from the gas at the plant and sold and the value of the residue gas sold, less
16 a reasonable allowance for processing the gas at the plant and for transporting
17 the gas to the plant from the premises upon which the oil production operation
18 is conducted; the reasonable allowance for processing and transporting the gas
19 may not exceed \$2 per barrel of plant liquid sold, adjusted annually for
20 inflation in accordance with the Consumer Price Index; [AND]

21 (C) for gas not recovered from or in association with oil, the
22 value of the gas at the point where it is accurately metered or measured or the
23 value of the gas at the point of sale, if any, on the premises of the lease or
24 property from which the gas is recovered, whichever is the higher value; for
25 gas run through a gas processing plant, the gross value at the point of
26 production is the full consideration received by the producer for the gas if sold
27 in an arm's length transaction or, in the absence of an arm's length transaction,
28 is the sum of the value of the liquids extracted from the gas at the plant and
29 sold and the value of the residue gas sold, less a reasonable allowance for
30 processing the gas at the plant and for transporting the gas to the plant from
31 the point where it was accurately metered or measured; the reasonable

1 allowance for processing and transporting the gas may not exceed \$2 per barrel
2 of plant liquid sold, adjusted annually for inflation in accordance with the
3 Consumer Price Index; and

4 (D) for taxable gas produced and used as a fuel or feedstock
5 in the production of urea or ammonia, notwithstanding (B) and (C) of this
6 paragraph and AS 43.55.020(f), the gross value at the point of production
7 for each lease or property is the amount per Mcf under a royalty
8 settlement agreement to which the state is a party and that was in effect
9 on January 1, 1994, for royalty gas from that lease or property; if taxable
10 gas is produced and exchanged for other gas on a volumetric basis, and the
11 gas received in that exchange transaction is used as a fuel or feedstock in
12 the production of urea or ammonia, the gross value at the point of
13 production for each lease or property is the amount per Mcf under a
14 royalty settlement agreement to which the state is a party and which was
15 in effect on January 1, 1994, for royalty gas from the lease or property
16 from which the producer's taxable gas was produced;

17 * Sec. 6. AS 43.55.900 is amended by adding new paragraphs to read:

18 (17) "condensate" means all hydrocarbons, including scrubber liquids,
19 recovered in liquid form from a gaseous stream by mechanical separation without
20 resort to extraneous refrigeration, adiabatic expansion through a Joule-Thompson valve
21 following artificial compression, turbo-expansion, aerial cooling below the temperature
22 at which hydrates or ice would form in the gas stream, osmosis, adsorption, or
23 absorption; if a gas stream moves to a gas processing plant without having passed
24 through a prudently operated mechanical separation unit, that portion of the liquid
25 hydrocarbons extracted at the gas plant that could have been extracted through a
26 mechanical separation unit by a prudent operator will be treated as condensate;

27 (18) "Consumer Price Index" means the Consumer Price Index for all
28 urban consumers for the Anchorage Metropolitan Area compiled by the Bureau of
29 Labor Statistics, United States Department of Labor;

30 (19) "distillate" has the meaning given the term "condensate" in this
31 section;

1 (20) "gas processing plant" means a facility, other than a liquified
2 natural gas plant, in which liquid hydrocarbons are extracted and separated from a
3 stream of gas by one or more of the following means: refrigeration, adiabatic
4 expansion through a Joule-Thompson valve following artificial compression, turbo-
5 expansion, osmosis, adsorption, or absorption.

6 * Sec. 7. AS 37.07 is amended by adding a new section to read:

7 Sec. 37.07.085. PRORATION OF PAYMENTS. (a) At the beginning of each
8 fiscal year, an agency that administers grants, reimbursement, revenue sharing, public
9 assistance, or other programs to distribute state money under a statute shall determine
10 whether appropriations for the fiscal year are sufficient to pay all anticipated claims
11 and entitlements under the statute. Except as provided in (d) of this section or as
12 otherwise provided by law prescribing agency action in response to insufficient
13 appropriations, if appropriations are not sufficient, the agency shall reduce the amount
14 to be paid to eligible recipients by prorating the shortfall among the eligible recipients.

15 (b) An agency that is paying reduced payments under (a) of this section shall
16 determine, on December 30 of the fiscal year, whether money available is sufficient
17 to fund the reduced payment level for the remainder of the fiscal year.

18 (c) An agency that has determined that appropriations are insufficient under
19 (a) or (b) of this section shall report to the governor, and the governor shall report to
20 the legislature by the 10th day of the next regular legislative session, the amount of
21 additional money needed for the remainder of that fiscal year to fund payments at the
22 reduced level and the amount of additional money needed to make full payments to
23 eligible recipients.

24 (d) An agency that has determined that appropriations are insufficient under
25 (a) of this section may not reduce payments if the reduction would violate the terms
26 of an agreement between the state and the federal government or would violate a
27 requirement for participation in a federal program in which the state is participating.
28 ~~As required by (c) of this section, the agency and the governor shall report regarding~~
29 the amount of money needed to make full payments to eligible recipients.

30 (e) The commissioner of administration may adopt regulations necessary to
31 implement this section.

1 * Sec. 8. The provisions of AS 43.05.260(a)(1), as amended by sec. 1 of this Act, and of
2 AS 43.05.270(a), as amended by sec. 2 of this Act, are declaratory of existing law as
3 originally enacted in AS 43.05.260 and 43.05.270 by sec. 1, ch. 94, SLA 1976.

4 * Sec. 9. Notwithstanding the provisions of AS 01.10.100(a), the provisions of
5 AS 43.05.260(a)(1), as amended by sec. 1 of this Act, and AS 43.05.270(a), as amended by
6 sec. 2 of this Act, apply to a grievance pending under AS 43.05.240 and to an action or appeal
7 pending before a court on the effective date of secs. 1 and 2 of this Act.

8 * Sec. 10. Section 4 of this Act is retroactive to January 1, 1985.

9 * Sec. 11. This Act takes effect immediately under AS 01.10.070(c).

May 7, 1994 (C)

SECTIONAL ANALYSIS

FOR PROPOSED HOUSE CS FOR SENATE BILL NO. 377(STA)

(Draft Offered by the Administration)

Section 1. This section contains proposed legislative findings setting forth the Department of Revenue's interpretation of AS 43.05.260 and of AS 43.05.270. The proposed legislative findings conclude that the department's interpretation is correct and that it is in the public interest that AS 43.05.260 and AS 43.05.270 be clarified to reflect the department's interpretation. This section also sets forth the purpose of sections 2 and 3 of this bill, which is to validate and affirm the department's longstanding administrative interpretation and to clarify existing law that resulted in the inconsistent decisions in the state Superior court. This section also explains the purpose of the addition of a definition of "gas processing plant."

Section 2. This section adds language to AS 43.05.260(a) to clarify that for tax periods ending before January 1, 1993, the Department of Revenue may increase or decrease the amount of a tax due by issuing or amending an assessment under former AS 43.21 or AS 43.55 at any time during the administrative consideration of a taxpayer grievance on an assessment or a claim for credit or refund of a tax. This section also adds AS 43.05.260(a)(2) which provides that for tax periods beginning after December 31, 1993, the Department of Revenue may increase or decrease the amount of a tax due by issuing or amending an assessment within five years after a return is filed. After expiration of the five-year period, the department may not increase an assessment.

Section 3. This section adds language to AS 43.05.270(a) to clarify the six-year limitation on collection of taxes after assessment. Under this section, the limitation period does not begin to run until the final administrative determination of a grievance if the taxpayer files a grievance from an assessment or the final judicial resolution of an appeal if the taxpayer appeals from a final adjudicative determination of a grievance.

Section 4. This section adds language to establish a statutory methodology for establishing prevailing value for oil production tax purposes. This section will provide a means by which a taxpayer will be able to determine a sales price for purposes of determining its tax liability under AS 43.55. This section adds a provision to establish methods for determining the prevailing value for gas for production tax purposes.

May 7, 1994 (C)

Section 5. This section amends the definition of "gross value at the point of production." The amendment places a limitation on a reasonable processing allowance not to exceed \$1 per barrel of plant liquid sold.

Section 6. This section adds definitions for "condensate," "distillate," and "gas processing plant." The addition of the definitions are intended to reduce litigation over these issues.

Section 7. This section makes AS 43.05.260(a)(1), enacted by sec. 2, and sec. 3, retroactive to January 1, 1976.

Section 8. This section makes definition sections at secs. 5 and 6 of the bill retroactive to January 1, 1985.

Section 9. This section makes new AS 43.55.146, prevailing value for gas, applicable to gas produced in the state after December 31, 1994.

Section 10. This section provides that provisions of the bill are not severable.

Section 11. This section provides that all provisions of the bill, but AS 43.55.145, enacted by sec. 4 of this Act, takes effect immediately under AS 01.10.070(c).

Section 12. This section provides that the provisions of sec. 4 establishing methods for determining the prevailing value of oil in AS 43.55.145 take effect only when taxpayers resolve all outstanding assessments pending under former AS 43.21 (separate accounting income tax), including interest.

IN THE SUPERIOR COURT OF THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT KENAI

EXXON CORPORATION AND
CERTAIN AFFILIATED COMPANIES,
Appellants,

v.

STATE OF ALASKA,
DEPARTMENT OF REVENUE,
Appellee.

RECEIVED
APR 09 1992
BOGLE & GATES

Case No. JAN-89-5215

Decision on Appeal

Background

This is an appeal from an Alaska Department of Revenue decision, adopted on May 26, 1989, which found that the three year statute of limitations provision of AS 43.05.260 did not bar the 1983, 1986, and 1988 tax assessments on Exxon's 1978 production and pipeline transportation income.

This Court has jurisdiction pursuant to AS 22.10.020(d), AS 43.05.240, and Appellate Rule 602(a) (2).

Statutory Background

The Alaska Oil and Gas Corporate Income Tax Act, also known as the "separate accounting" income tax statute, was in effect from 1976 through 1981.¹ Although several oil companies challenged the

¹ The statute was repealed by Chapter 116 SLA 1981.

constitutionality of "separate accounting," the scheme was upheld by the Courts. Atlantic Richfield Co. v. State, 705 P.2d 418 (Alaska 1985), app. dismissed, 474 U.S. 1043, reh. denied, 475 U.S. 1062 (1986) (hereinafter Atlantic Richfield).

Under the separate accounting statute, an oil company taxpayer was required to submit its return for the previous year by April 15. The Alaska Department of Revenue (DOR) was then required to send the taxpayer a "notice of assessment" by the following August 15.

This "desk assessment" of the amount of the taxpayer's taxable income, and the amount of tax payable, was based on the face of the taxpayer's return. After sending out the assessment, the DOR could audit the taxpayer's records and issue amended assessments. A taxpayer could appeal the assessment at either an informal conference or a formal hearing, and the DOR was permitted to correct the assessments at either level of appeal.

At the informal conference, the taxpayer was permitted to review and discuss the department's file on the taxpayer, to present additional evidence, and could also be required to submit additional information.

The informal conference could be followed by a more extensive formal hearing:

A formal hearing may encompass all issues pertaining to the protest, even if an issue is not presented by the taxpayer, and may result in a decision which affirms, rejects, or modifies any informal conference decision or departmental action. The decision will provide any appropriate relief, including but not limited to, the remand of issues to the appropriate division of the department for further audit or investigation. If the

department determines that the result of the division's decision is correct, the decision may be upheld on grounds other than those given by the division.

15 AAC 05.030.

Prior to 1976, the six year statute of limitations set forth in AS 09.10.120 applied to most tax collection actions. In 1976, Governor Jay Hammond introduced a bill, with the following transmittal letter:

The bill sets forth a uniform limitation period for assessment and collection of tax. The bill provides generally that in the absence of fraud the State would have to make an assessment or the action would be barred. With the exception of the income tax, estate tax, and motor fuel tax statutes, there are presently no limitation periods on assessment or collection of taxes. This change in the statutes would help to achieve uniform tax administration and assure timely assessment and collection of taxes.

1976 Senate Journal 45 (Jan. 16, 1976).

The bill was enacted without amendment, and was codified as AS 43.05.260:

Limitation on assessment. (a) Except as provided in (c) of this section and AS 43.20.200(b), the amount of a tax imposed by this title must be assessed within three years after the return was filed, whether or not a return was filed on or after the date prescribed by law. If the tax is not assessed before the expiration of the three-year period, proceedings may not be instituted in court for the collection of the tax.

(c) The following exceptions apply to the limitation period of (a) of this section:

(1) in the case of a false or fraudulent return with the intent to evade tax, the tax may be assessed, or a proceeding in court for collection of the tax may be begun without assessment, at any time;

(2) in the case of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of the tax may be begun without assessment, at any time;

(3) if, before the expiration of the time prescribed in this section for the assessment of a tax imposed by

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this title, both the department and the taxpayer have consented in writing to the assessment after the expiration of the time, the tax may be assessed at any time before the expiration of the period agreed upon; however, the period agreed upon may be extended by a subsequent agreement in writing made before the expiration of the period previously agreed upon. (§ 1 ch 94 SLA 1976; am § 113 ch 6 SLA 1984)

Under the authority conferred by AS 43.21.090, the DOR subsequently promulgated 15 AAC 21.810:

Statute of limitations. . . . [T]he department will, in its discretion

(1) amend an assessment under this chapter no later than three years from the date a return is due or filed under this chapter, whichever is later; . . .
(Eff. 2/22/79, Register 69; am 1/26/82, Register 81)

The three year limitation period for amended assessments is repeated in 15 AAC 21.700:

Returns and assessments. . . . (e) . . . Returns and assessments under this section are subject to amendment for three years from the date of the original notice of assessment. (Eff. 2/22/79, Register 69; am 5/21/81, Register 78)

Procedural Background

This case has a drawn out procedural background marked by numerous appeals accompanied by deferred consideration requests, and continuances.

Exxon filed its 1978 income tax return on June 15, 1979. On August 15, 1979, the DOR issued a Notice of Assessment, which Exxon appealed on October 12, 1979.

In this first appeal, Exxon requested a refund of over \$41 million, asserting that the separate accounting statute was unconstitutional, a claim then being litigated in Atlantic

Richfield, supra. Because of the ongoing litigation, Exxon suggested "that all consideration of the Department of Revenue[,] the enclosed protest, notice of grievance and claim for refund, including any administrative conferences or hearings, be deferred until after the Arco litigation is resolved." R. 2.

The DOR issued three amended notices of assessment on September 11, 1979 and on July 31, 1980. Exxon does not dispute the timeliness of these assessments.

On September 29, 1980, Exxon requested another appeal to supersede the one filed on October 12, 1979, and Exxon again asked for a stay of formal proceedings "including any administrative conferences or hearings" until after the resolution of State v. Exxon Corp., Case No. 3AN-80-1542. R. 3.

On April 10, 1981, the DOR issued an Informal Conference Decision on Exxon's initial grievance. Exxon appealed the decision and requested a formal hearing, on May 9, 1981.

On October 21, 1983, the DOR issued a "Notice of Amended Assessment and Notice of Demand for Payment." On December 20, 1983, Exxon appealed the Notice, stating that "all further administrative action was being held in abeyance" pending resolution of the Atlantic Richfield and State v. Exxon cases, and suggesting that all administrative conferences be deferred. Exxon also objected that the statute of limitations had run.

The DOR later determined that the underlying reasons for the Notice of Amended Assessment were erroneous, and withdrew the contention. However, the DOR reserved the option to support the

assessment amount on some other basis.

An Informal Conference Decision issued on July 10, 1984 concluded that the statute of limitations did not bar the October, 1983 assessment. On August 9, 1984, Exxon requested a formal hearing on this decision.

On October 2, 1986, a pre-hearing conference order was issued, setting out three issues to be addressed at the hearing, including the following: was the department barred by the applicable three-year statute of limitations from making an additional assessment for the year 1978.

Two additional issues were added to the hearing agenda, on December 1, 1986, and Exxon appealed the added issues on January 30, 1987.

On January 8, 1987, a formal hearing was ordered scheduled for late July or early August, 1987, and the issues were bifurcated in order to first consider the statute of limitations issue. On May 11, 1987, Exxon filed its opening brief. Then, on May 15, 1987, the Hearing Examiner suspended formal hearings until "at least" September, 1987.

On February 29, 1988, the Hearing Examiner directed the DOR to respond to Exxon's opening brief by May 1, 1988. This date was modified to May 9, 1988, in order to permit amicus briefs.

The hearing began on June 15, 1988 and was continued to October 20, 1988. On June 14, 1988, the DOR informed Exxon that Exxon's tax deficiency had been recalculated, and that the DOR would present new legal and factual arguments at the hearing in

support of the recalculation. Exxon objected that this new position violated the Hearing Examiner's order of October 2, 1986, as well as the statute of limitations.

On December 16, 1988, after the formal hearing, the DOR changed its position as to the recalculation. Exxon's motion to strike was denied. In December, 1988, a revised "Final DOR Position" was issued as to the taxable value of Exxon's 1978 crude oil.

On May 25, 1989, the Hearing Examiner issued his decision on the June 15 and October 20, 1988 hearings:

1. The statute of limitations is to be construed strictly in the favor of the State.

2. The Department made a timely assessment against the Taxpayer within three years following the date of filing a return for 1978 Oil and Gas Corporate Income Tax.

3. Where the Department has made an assessment and a taxpayer appeals, the assessment may be amended by the Department during the consideration of the Taxpayer's protest; the amendments relate back to the original assessment.

4. The appeal of an assessment by a Taxpayer suspends the statute of limitations for making assessments.

5. The Taxpayers claim for refund put the entire tax liability for 1978 into dispute.

6. The possibility of assessments being corrected during the course of a Taxpayer's appeal does not violate the Taxpayer's rights to Due Process and Equal Protection.

R. 23. Exxon's timely appeal was filed on June 19, 1989.

Standard of Review

This appeal presents no questions of fact. The questions of law involve analysis and interpretation of statutes and regulations, for which the Department of Revenue has no unique expertise, but for which the "courts are particularly well-suited." Union Oil Co. of California v. State of Alaska, 804 P.2d 62, 64 (Alaska 1990). Accordingly, the Court shall exercise the independent judgment standard of review.

Discussion

Exxon argues that the assessments of October 21, 1983, December 1, 1986, June 14, 1988, and December 16, 1988² were time-barred by the statute of limitations, AS 43.05.260(a).³ The statute requires that "the amount of a tax imposed by this title must be assessed within three years after the return was filed."

The Court finds that the initial Notice of Assessment was timely issued by the DOR on August 15, 1979, and that the subsequent notices of assessment were amendments of the initial assessment. The limitations period for amended assessments, found

² The Court notes that the four disputed assessments against Exxon total \$2,767,600. The Court also notes that this decision shall resolve similar disputes between the State Department of Revenue and several other oil companies which also received amended 1978 tax assessments more than three years after filing their 1978 tax returns.

³ Alternatively, Exxon argues that the DOR's interpretation of the statute of limitations violates the federal and state constitutional protections of equal protection, due process, and the right to petition for redress. The Court finds no merit in these constitutional arguments.

in 15 AAC 21.810, does not differ from that of the statute; in AS 43.05.260, amended assessments are not distinguished from initial assessments. Whether the assessments at issue are classified as additional assessments or amended assessments, the statute of limitations period is three years.

The Court also finds that, in the absence of an exception, the plain and unambiguous language of both the statute and the regulation clearly limits the DOR from issuing initial or amended tax assessments later than three years after the return has been filed by the taxpayer:

The statutory exceptions are clearly enumerated in AS 43.05.260(c): instances of taxpayer fraud, the taxpayer's failure to file a return, or where both the taxpayer and the DOR have signed a written waiver of the limitations period. None of these exceptions exist in the facts of this case.

Under the doctrine of expressio unius est exclusio alterius, no additional exceptions to a statute may be implied or inferred where specific exceptions are addressed by the statute. State Department of Revenue v. Alaska Pulp America, Inc., 674 P.2d 268, 275 (Alaska 1983).

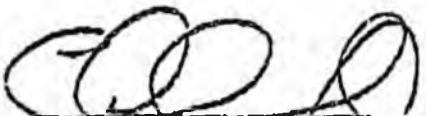
The DOR asserts that the statute of limitations does not apply in this case, for several possible reasons.⁴ The court does not

⁴ The DOR argues that
1) amended assessments relate back to the date of the original, timely assessment;
2) the statute of limitations is tolled by the taxpayer's administrative appeal;
3) AS 43.05.240 (taxpayer's remedies) authorized the DOR to make a subsequent correction, if it determined that a correction

find merit in any of these arguments. Although statutes of limitation are to be strictly construed in favor of the government, id. at 274, the plain meaning of the statute indicates that no additional, implied exceptions to the statute of limitations exist.

Accordingly, the Court finds that the four tax assessments issued in 1983, 1986, and 1988 were not exceptions to the statute of limitations, and were therefore untimely. The decision below is REVERSED and REMANDED for further proceedings consistent with this opinion.

Dated this 7 day of April, 1992 at Kenai, Alaska.


Charles K. Cranston
Superior Court Judge

CERTIFICATION OF DISTRIBUTION	
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- was warranted, at either the informal conference or at the formal hearing requested by the taxpayer;
- 4) the taxpayer's claim for refund placed its entire tax liability in dispute;
 - 5) neither AS 43.05.260 nor 15 AAC 21.8110 apply to amended assessments; and
 - 6) statutes of limitations are strictly construed in favor of the government.

TESTIMONY BEFORE HOUSE STATE AFFAIRS
ON SENATE BILL 377, MAY 13, 1994
PAUL E. SULLIVAN, GENERAL TAX COUNSEL
EXXON COMPANY, U.S.A.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS PAUL E. SULLIVAN. I AM GENERAL TAX COUNSEL FOR EXXON COMPANY, U.S.A. I WANT TO THANK THE COMMITTEE FOR ALLOWING THIS TIME TO HEAR OUR COMMENTS.

I AM HERE TODAY TO PRESENT THE REASONS WHY EXXON STRONGLY OPPOSES SB 377, A BILL, WHICH RETROACTIVE TO 1976, AMENDS THE TIME LIMITATIONS ON TAX ASSESSMENTS TO ALLOW NEW OR REVISED ASSESSMENTS AT ANY TIME WHILE AN ADMINISTRATIVE APPEAL OR REFUND CLAIM IS PENDING.

THERE ARE THREE THINGS I WANT TO ACCOMPLISH IN MY STATEMENT TODAY; FIRST, I AM GOING TO GIVE YOU SOME CONCRETE INFORMATION TO REFUTE THE SECTION OF THE BILL WHICH STATES THAT THIS BILL IS "DECLARATORY OF EXISTING LAW" SO THAT YOU CAN APPLY YOUR OWN JUDGMENT AND COMMON SENSE TO DECIDE WHETHER THIS IS TRUE. NEXT, I WILL TELL YOU WHAT HAS ACTUALLY HAPPENED , IN REAL CASES. FINALLY, I WILL TELL YOU ABOUT THE NEGATIVE EFFECTS THAT THIS PIECE OF

LEGISLATION COULD HAVE FOR THE STATE AND ITS TAXPAYERS.

LEGISLATIVE BILLS WITH RETROACTIVE APPLICATION AFFECTING TAX LIABILITIES ARE RARE. THEY SHOULD NOT BE ADOPTED UNLESS THERE ARE COMPELLING REASONS. THOSE COMPELLING REASONS DO NOT EXIST IN THIS CASE.

1. THIS BILL IS MERELY AN AFTER THE FACT REVISED INTERPRETATION OF THE CURRENT ASSESSMENT DEADLINE STATUTE. THE INTERPRETATION IS AN ISSUE THE DEPARTMENT OF REVENUE HAS FLIP-FLOPPED ON SINCE 1978.
2. THE DEPARTMENT OF REVENUE'S 1989 INTERPRETATION OF THE THREE-YEAR ASSESSMENT DEADLINE STATUTE ISSUED IN AN EXXON FORMAL CONFERENCE DECISION IS NOT CORRECT AND THE ALASKA SUPERIOR COURT HAS TOLD THE DEPARTMENT SO.
3. THE DEPARTMENT'S ABILITY TO AUDIT TAX RETURNS HAS NOT BEEN CONSTRAINED BY ITS AUDIT RESOURCES.

4. TAXPAYERS HAVE NOT CONTRIBUTED TO DELAYS IN THE PERIOD REQUIRED TO ISSUE TAX ASSESSMENTS.
5. ARGUMENTS THAT SUBSTANTIAL PUBLIC REVENUES ARE AT RISK IN PENDING LITIGATION CANNOT BE SUBSTANTIATED.
6. STATEMENTS BEING MADE BY THE ADMINISTRATION THAT THE DECISIONS REACHED BY THE SUPERIOR COURT IN THE EXXON AND TESORO PETROLEUM CASES ARE INCONSISTENT IS NOT SUPPORTABLE; IN FACT THE CASES ARE NOT EVEN RELATED.
7. THREE YEARS IS ENOUGH TIME TO ANALYZE A TAXPAYER'S RETURN AND DETERMINE THE TAXES DUE THE STATE. IN ADDITION, THE STATUTE OF LIMITATIONS ALLOWS FOR FURTHER WRITTEN EXTENSIONS IF NECESSARY. EXXON HAS ALWAYS GRANTED REQUESTS FOR EXTENSIONS.

LET ME DOCUMENT THESE POINTS.

FIRST, YOU ARE BEING TOLD TO FIND THAT THIS BILL IS MERELY A CLARIFICATION OF A LONG-STANDING ADMINISTRATIVE INTERPRETATION THAT UNDER THE

STATUTE FOR YEARS BACK TO 1976 THE OIL AND GAS AUDIT DIVISION OF THE DEPARTMENT OF REVENUE CAN ISSUE NEW ASSESSMENTS OR INCREASE EXISTING ASSESSMENTS AT ANY TIME WHILE AN ADMINISTRATIVE APPEAL IS UNDERWAY. WE BELIEVE THE DIVISION CANNOT DO THAT UNDER THE EXISTING STATUTE. WE ARE NOT ALONE IN OUR BELIEF. THE ALASKA SUPERIOR COURT ALSO DECIDED THAT THE DIVISION CANNOT DO THAT. THE STATE HAS APPEALED THAT DECISION TO THE ALASKA SUPREME COURT AND A FINAL DECISION OF THAT COURT IS EXPECTED IN THE NEXT SIX MONTHS.

IT IS NOT A CLARIFICATION OF THE LAW FOR YOU TO AFFIRM AN ADMINISTRATIVE INTERPRETATION THAT AN ALASKA COURT HAS ALREADY FOUND TO BE INCONSISTENT WITH THE EXISTING STATUTE. THE COURT HAS FOUND THAT THE STATUTE IS CLEAR ON ITS FACE AND DOES NOT REQUIRE CLARIFICATION.

FURTHERMORE, WHILE THE DEPARTMENT OF REVENUE SAYS THEIR POSITION IS A "LONG-STANDING INTERPRETATION" OF THE STATUTE, I SUBMIT THAT NO SUCH LONG-STANDING INTERPRETATION AND PRACTICE EVER EXISTED.

LETS LOOK FOR A MINUTE AT THE HISTORY SURROUNDING THE DEPARTMENT OF REVENUE'S STATEMENTS ON THIS STATUTE. IN THE DIVISION'S ORIGINAL 1978 ASSESSMENTS

AGAINST BOTH STANDARD OIL AND EXXON, BOTH DATED AUGUST 15, 1979, THE DIVISION'S STATED THAT THE ASSESSMENTS, QUOTE: "MAY CHANGE AS THE RESULT OF ANY AUDIT FINDINGS WITHIN THREE YEARS OF THE DATE OF THIS NOTICE OF ASSESSMENT", UNQUOTE. WHILE EXXON AND THE ALASKA SUPERIOR COURT DISAGREE WITH EVEN THAT STATEMENT . . . THAT THE THREE YEARS STARTS FROM THE ASSESSMENT DATE . . . YOU SHOULD NOTE THAT THOSE NOTICES DID NOT SAY THAT THE ASSESSMENTS MAY CHANGE AS THE RESULT OF ANY AUDIT FINDINGS AT ANY TIME DURING THE ADMINISTRATIVE CONSIDERATION OF A TAXPAYER GRIEVANCE. YET THAT IS WHAT IS PROPOSED IN SECTION 1 OF SB 377. THIS IS A FUNDAMENTAL ABROGATION OF DUE PROCESS AND IS NOT IN THE STATE'S BEST INTEREST.

THE NEXT STATEMENT I AM AWARE OF WAS MADE ON OCTOBER 16, 1984, WHEN THEN ATTORNEY GENERAL GORSUCH ISSUED A FORMAL OPINION ADDRESSING THE INTERPRETATION OF THE ASSESSMENT DEADLINE STATUTE. THE ATTORNEY GENERAL ADVISED THAT ONCE THE THREE-YEAR ASSESSMENT DEADLINE HAS EXPIRED, AN ASSESSMENT SHOULD NOT BE AMENDED UNLESS "THE AUDIT STAFF CAN SHOW GOOD CAUSE", INCLUDING AN EXPLANATION OF WHY THE ISSUE WAS NOT ADDRESSED BY THE AUDIT STAFF ON THE ORIGINAL ASSESSMENT. THE DEPARTMENT OF REVENUE NEVER ACCEPTED THAT OPINION

AS THE DEFINITIVE AND BINDING STATEMENT OF THE LAW;
AND IT SAID AS MUCH IN ALMOST THOSE VERY WORDS TO
THE ALASKA SUPREME COURT IN A 1989 CASE. THE
DEPARTMENT'S REFUSAL TO ACCEPT THE INTERPRETATION
OF THE ATTORNEY GENERAL'S OPINION IS ALSO SHOWN BY
THE FACT THAT THE INTERPRETATION THAT THE
DEPARTMENT NOW ADVOCATES IS AT VARIANCE WITH THE
1984 ATTORNEY GENERAL OPINION.

IN THE ALASKA SUPREME COURT CASE I JUST REFERRED TO,
STANDARD ALASKA PRODUCTION COMPANY SUED THE
DEPARTMENT OF REVENUE CHALLENGING THE
DEPARTMENT'S ATTEMPT TO ASSESS ADDITIONAL TAXES
AFTER THE THREE-YEAR PERIOD HAD EXPIRED. THE
DEPARTMENT OF REVENUE HAS ALSO DONE THE SAME WITH
EXXON AND OTHER TAXPAYERS. STANDARD ASKED THE
COURT TO DECLARE THAT THE DEPARTMENT'S
INTERPRETATION OF THE LAW AS ILLEGAL. THE
DEPARTMENT TOLD THE COURT, AND HERE I QUOTE FROM
THE OPINION, "NO OFFICIAL DEPARTMENT VIEW AS TO
STANDARD'S LIMITATIONS CLAIMS HAD YET BEEN
FORMULATED." DESPITE THE FACT THAT AN ATTORNEY
GENERAL'S OPINION HAD BEEN RENDERED ON THE MATTER
IN 1984, THE DEPARTMENT EMPHATICALLY ARGUED TO THE
SUPREME COURT IN THIS 1989 CASE THAT IT HAD NOT YET
MADE UP ITS MIND ABOUT THE CORRECT INTERPRETATION
OF THE STATUTE. THE COURT RELIED ON THE

DEPARTMENT'S EXPRESS DISCLAIMER OF ANY "LONG-STANDING INTERPRETATION" OF THE STATUTE AND SENT THE QUESTION BACK TO THE DEPARTMENT FOR ADMINISTRATIVE REVIEW.

NOW, LET'S LOOK AT WHAT HAPPENED IN EXXON'S 1978 INCOME TAX CASE. THE DEPARTMENT OF REVENUE WENT TO THE UNUSUAL EFFORT OF INVITING OTHER TAXPAYERS TO SUBMIT "FRIEND OF THE COURT" BRIEFS ON THE THREE-YEAR ASSESSMENT DEADLINE QUESTION, TO HELP THE DEPARTMENT FORMULATE ITS POSITION AS TO THE PROPER INTERPRETATION OF THE STATUTE. THAT REQUEST IS CONTAINED IN A LETTER SENT TO TAXPAYERS ON MARCH 25, 1988. THE LETTER STATES - AND I QUOTE - "YOUR PARTICIPATION IS INVITED IN ORDER TO ASSIST THE COMMISSIONER IN FOCUSING ON THE BROADER IMPLICATIONS OF VARIOUS POSSIBLE RULINGS ON THE STATUTE OF LIMITATIONS", UNQUOTE.

FINALLY, ON MAY 26, 1989, THE DEPARTMENT ISSUED ITS FORMAL HEARING DECISION IN EXXON'S 1978 CASE ADDRESSING THE ASSESSMENT DEADLINE QUESTION. THIS DECISION IN MAY OF 1989 IS THE DEPARTMENT'S FIRST SOLID EXPRESSION OF ITS CURRENT INTERPRETATION OF THE LAW, BRINGING TO A CLOSE THE UNCERTAINTY THAT IT HAD ITSELF MAINTAINED IN THE STANDARD OIL DECLARATORY JUDGMENT ACTION. IN SUMMARY, THE DEPARTMENT DID

NOT ARRIVE AT ITS "LONG-STANDING INTERPRETATION" OF THE LAW UNTIL MAY 26, 1989. ANY SUGGESTION THAT THE DEPARTMENT HAD SOME EARLIER LONG-STANDING INTERPRETATION SIMPLY CANNOT BE RECONCILED WITH THE ABOVE FACTS, AND THOSE FACTS ARE INDISPUTABLE.

THERE SHOULD BE NO DOUBT THAT THIS LEGISLATIVE PROPOSAL ATTEMPTS TO COMPLETELY CHANGE THE STATUTE UNDER WHICH TAXPAYERS HAVE CONDUCTED THEIR BUSINESS FOR THE LAST 17 YEARS! IF ANYONE HAS HAD A LONG STANDING INTERPRETATION AND PRACTICE WITH RESPECT TO THE EXISTING STATUTE, IT IS EXXON. THE DIFFERENCE BETWEEN OUR INTERPRETATION AND THE STATE'S IS THAT OURS HAS BEEN REVIEWED BY THE ALASKA SUPERIOR COURT AND ACCEPTED, WHILE THE STATE'S INTERPRETATION FIRST REVEALED IN MAY OF 1989 WAS REVIEWED AND HAS BEEN REJECTED. JUDGE CRANSTON STATED IN HIS OPINION, AND I QUOTE, "THE COURT ALSO FINDS THAT, IN THE ABSENCE OF AN EXCEPTION, THE PLAIN AND UNAMBIGUOUS, LANGUAGE OF BOTH THE STATUTE AND THE REGULATION CLEARLY LIMIT THE DIVISION FROM ISSUING INITIAL OR AMENDED TAX ASSESSMENTS LATER THAN THREE YEARS AFTER THE RETURN HAS BEEN FILED BY THE TAXPAYER", UNQUOTE.

THE STATUTORY EXCEPTIONS ARE CLEARLY ENUMERATED:
THEY ARE:

1. TAXPAYER FRAUD
2. TAXPAYER'S FAILURE TO FILE A RETURN, OR
3. WHERE BOTH THE TAXPAYER AND THE DEPARTMENT HAVE SIGNED A WRITTEN AGREEMENT EXTENDING THE TIME PERIOD TO ISSUE AN ASSESSMENT.

AS I HAVE ALREADY SAID, EXXON HAS GRANTED EXTENSIONS WHENEVER ASKED TO BY THE DEPARTMENT OF REVENUE AND IN SEVERAL AUDIT YEARS THE EXTENSIONS WERE FOR PERIODS UP TO AN ADDITIONAL FIVE YEARS WHICH THEN GAVE THE DEPARTMENT A TOTAL OF EIGHT YEARS TO COMPLETE THE AUDIT. ANY ASSESSMENTS ISSUED DURING THOSE MUTUALLY AGREED TO EXTENSIONS ARE VALID ASSESSMENTS AND ARE NOT IN CONTROVERSY.

AS JUDGE CRANSTON WENT ON TO STATE IN HIS OPINION, "NONE OF THESE EXCEPTIONS EXIST IN THE FACTS OF THIS CASE." THAT IS FACT.

NEXT, YOU ARE BEING TOLD THAT THE DIVISION'S ABILITY TO AUDIT RETURNS WAS CONSTRAINED BY AUDIT RESOURCES THROUGHOUT THE 1970'S AND 1980'S. THERE IS JUST NO EVIDENCE THAT THIS IS TRUE. IN FACT THE PUBLIC RECORD

SHOWS THAT IN EVERY SESSION OF THE LEGISLATURE SINCE NORTH SLOPE PRODUCTION BEGAN, THE OIL AND GAS AUDIT DIVISION (FORMERLY THE DIVISION OF PETROLEUM REVENUE) HAS RECEIVED VIRTUALLY EVERY DOLLAR REQUESTED IN THE GOVERNOR'S BUDGET REQUEST.

ADEQUACY OF STAFFING HAS NEVER BEEN AN ISSUE. WHAT ACCOUNTS FOR THE DIVISION'S UNTIMELY TAX ASSESSMENTS IS THE ZEAL OF ITS AUDIT STAFF TO "UP THE ANTE" ON TAXPAYERS WHO EXERCISE THEIR RIGHT TO APPEAL ASSESSMENTS. FORMER DIVISION DIRECTOR WILLIAM FLOERCHINGER ADMITTED IN A PUBLISHED INTERVIEW FOUR YEARS AGO THAT THE AUDIT DIVISION HAS MADE IT A PRACTICE TO ISSUE "HIGHBALL ASSESSMENTS." ONE OF THE DEPARTMENT'S OWN HEARING OFFICERS TOLD THE LEGISLATURE IN 1986 THAT THE COMMON PRACTICE OF THE AUDITORS IS TO MAKE ASSESSMENTS THAT ARE VERY HIGH AS COMPARED TO THE AMOUNTS ON WHICH THE DEPARTMENT LATER SETTLES WITH THE TAXPAYERS.

LETS FACE IT, THE DIVISION'S STANDARD OPERATING PROCEDURE IS TO ISSUE "AMENDED ASSESSMENTS" BASED ON NEW AND ULTIMATELY DISCREDITED LEGAL THEORIES TO GAIN LEVERAGE FOR NEGOTIATION. THE "INADEQUATE STAFFING LEVELS" ARGUMENT IS NOT VALID.

YOU ARE BEING TOLD THAT TAXPAYERS CONTRIBUTED TO THE DELAYS IN ISSUING TAX ASSESSMENTS BECAUSE THEY "REQUESTED SUSPENSION OF ACTION ON ASSESSMENTS." DURING THE LITIGATION BY ANOTHER TAXPAYER CHALLENGING THE SEPARATE ACCOUNTING INCOME TAX, EXXON DID SUGGEST DELAY WHILE THE COURTS DECIDED THE LEGALITY OF THAT STATUTE. TO ME, THAT MADE SENSE. AFTER ALL, WHY ADDRESS ISSUES THAT MIGHT BE NULL AND VOID IF THE UNDERLYING LAW WAS DECLARED UNCONSTITUTIONAL. BUT EVEN THAT DID NOT IMPACT THE DIVISION'S ABILITY TO CONDUCT AUDITS AND TO MAKE ASSESSMENTS IN OUR CASE.

PRIOR TO AND DURING THE TIME THAT THE CONSTITUTIONALITY OF THE SEPARATE ACCOUNTING INCOME TAX STATUTE WAS CONTESTED, THE DIVISION CONDUCTED AN EXTENSIVE AUDIT OF EXXON'S 1978 RECORDS. FOR THE 1979 - 81 SEPARATE ACCOUNTING INCOME TAX YEARS, THE DIVISION ALSO REQUESTED AND EXXON PROVIDED WRITTEN WAIVERS EXTENDING THE ASSESSMENT DEADLINE. THIS IS AN IMPORTANT POINT. THE DIVISION HAD MORE THAN SIX YEARS ON AVERAGE WITH EXXON TO DO THE AUDITS BECAUSE WE ALWAYS GAVE AN EXTENSION. AND FOR SOME YEARS THEY WERE FOR ADDITIONAL FIVE YEARS, GIVING THE DEPARTMENT A TOTAL OF EIGHT YEARS TO COMPLETE THE AUDIT. ADDITIONALLY, DURING THE PENDENCY OF THAT LAWSUIT ABOUT THE

CONSTITUTIONALITY OF THE SEPARATE ACCOUNTING METHOD, THE DIVISION ISSUED SEVERAL AMENDED ASSESSMENTS, CONDUCTED THE INFORMAL CONFERENCE WITH EXXON UNDER ITS APPEAL REGULATIONS AND ISSUED ITS INFORMAL CONFERENCE DECISION.

IN SHORT, THE CASE WAS VERY ACTIVE WHILE THE CONSTITUTIONAL LITIGATION WAS PENDING. IN THE 1978 INCOME TAX CASE, EXXON ALSO ASKED FOR ONE OTHER DELAY. THAT OCCURRED ON THE EVENING BEFORE A FORMAL CONFERENCE WAS SCHEDULED WHEN THE DEPARTMENT OF REVENUE HANDED EXXON ANOTHER REVISED ASSESSMENT AND OVER 200 PAGES OF SUPPORTING ARGUMENTS. EXXON ASKED FOR A DELAY IN THE HEARING THE NEXT MORNING IN ORDER TO HAVE ENOUGH TIME TO REVIEW THE MATERIAL, BUT THE DEPARTMENT REFUSED TO GRANT THE DELAY.

YOU ARE ALSO BEING TOLD TO FIND THAT THERE IS SUBSTANTIAL PUBLIC REVENUE AT RISK IN PENDING LITIGATION WHICH, IF THE STATE LOSES ITS APPEAL IN THE EXXON CASE, WOULD BE CONTRARY TO THE PUBLIC INTEREST SINCE SUCH REVENUES WOULD BE UNCOLLECTIBLE.

ANY ESTIMATES OF DIRE CONSEQUENCES TO THE ALASKA TREASURY IF YOU VOTE DOWN THIS BILL (AS I HOPE YOU WILL) ARE PURE SPECULATION.

FIRST OF ALL, BECAUSE OF THE CONFIDENTIAL NATURE OF THE INTERACTIONS WITH THE DEPARTMENT, I CANNOT SPEAK TO OTHER TAXPAYER ASSESSMENTS THAT MIGHT BE IMPACTED BY THIS BILL. IN FACT, THE DIVISION MIGHT TRY TO ISSUE ANOTHER HIGHBALL ASSESSMENT TO EXXON OR SOME OTHER TAXPAYER TODAY AND THEN TELL YOU TOMORROW THERE IS EVEN MORE MONEY AT STAKE. BUT NEITHER YOU NOR I CAN TELL IF THAT ASSESSMENT WOULD BE SUSTAINED ON THE MERITS, WITHOUT KNOWING THE MERITS OF THE STATE'S LATE ASSESSMENTS, NO ONE CAN KNOW OR EVEN ESTIMATE WHAT REVENUE, IF ANY, MIGHT BE LOST IF THE CURRENT LIMITATIONS STATUTE REMAINS UNCHANGED. ANY ESTIMATES ARE RANK SPECULATION.

NEXT, YOU ARE BEING TOLD THAT YOU NEED TO PASS SB 377 TO RESOLVE THE ALLEGED INCONSISTENCY BETWEEN DECISIONS REACHED BY THE SUPERIOR COURTS IN THE EXXON AND TESORO PETROLEUM CORPORATION CASES. TO SUGGEST THAT LEGISLATION IS NEEDED TO RESOLVE THE DECISIONS IN THESE TWO CASES IS CLEARLY WRONG AND VERY MISLEADING. THE TWO CASES INVOLVED TWO ENTIRELY DIFFERENT QUESTIONS UNDER TWO DIFFERENT STATUTES ADDRESSING TWO DIFFERENT SUBJECTS. ONE IS

THE THREE-YEAR ASSESSMENT STATUTE; THE OTHER IS THE SIX-YEAR COLLECTION STATUTE.

NEITHER THE ATTORNEY GENERAL NOR THE DEPARTMENT VIEW THE QUESTIONS ADDRESSED IN THESE TWO CASES AS RELATED, MUCH LESS IDENTICAL. THE BEST EVIDENCE OF THIS IS THAT ALTHOUGH THE STATE WON THE TESORO CASE IN THE SUPERIOR COURT, THEY DID NOT EVEN CITE IT IN THEIR BRIEFING OF THE EXXON CASE. IN FACT, WHY ARE WE ALL HERE? THE COURTS HAVE ALREADY SPOKEN ON BOTH OF THESE STATUTES. THE STATE PREVAILED ON ITS INTERPRETATION OF THE SIX-YEAR COLLECTION STATUTE AND EXXON PREVAILED ON ITS INTERPRETATION OF THE THREE-YEAR ASSESSMENT STATUTE.

THE ATTORNEY GENERAL HAS SAID THAT TWO OF EVERY THREE DOLLARS AT STAKE ON THIS ISSUE APPLY TO THE SIX-YEAR COLLECTION STATUTE. THOSE DOLLARS ARE NOT AT RISK. I GUESS THE REAL ISSUE IS THAT THE ATTORNEY GENERAL DOES NOT WANT TO LET EXXON HAVE ITS DAY IN COURT ON THE THREE-YEAR STATUTE. THE PROPER FORUM FOR THIS ISSUE TO BE DECIDED IS IN THE COURTS. THE ALASKA SUPREME COURT WILL BE HEARING THE EXXON CASE NEXT WEDNESDAY. LET THEM DO THEIR JOB; DON'T CHANGE THE LAW TO USURP THE POWER OF THE JUDICIARY. THIS CONTROVERSY OVER THE THREE-YEAR ASSESSMENT STATUTE HAS BEEN GOING ON FOR TEN YEARS; WE ARE

NOW ABOUT SIX MONTHS AWAY FROM A SUPREME COURT DECISION. YOU DO NOT NEED SB 377.

FINALLY, YOU ARE BEING TOLD THAT THREE YEARS IS NOT ENOUGH TIME TO ANALYZE A TAXPAYER'S RETURN AND DETERMINE THE TAXES DUE THE STATE.

THE PROPONENTS OF AMENDING THE ASSESSMENT DEADLINE STATUTE CLAIM THAT THREE YEARS IS NOT ENOUGH TIME GIVEN THE ALLEGEDLY OBSCURE AND COMPLEX ISSUES INVOLVED IN DETERMINING THE TRUE VALUE OF A TAXPAYER'S OIL. THAT ASSUMPTION IS NOT SUBSTANTIATED. IN FACT, IT IS CONTRADICTED BY THE DEPARTMENT OF REVENUE'S EXPERIENCE IN EXXON'S 1978 INCOME TAX CASE - WHICH IS, TO OUR KNOWLEDGE, ONE OF ONLY TWO CASES THAT THE DEPARTMENT HAS ACTUALLY ADJUDICATED TO A FINAL CONCLUSION ON THE ISSUE OF CRUDE VALUE. LET'S TALK A LITTLE ABOUT THAT CASE.

EXXON'S 1978 CASE HAS BEEN THE SUBJECT OF TWO FORMAL CONFERENCE DECISIONS ADDRESSING THE VALUE OF NORTH SLOPE OIL TRANSFERRED TO ITS REFINERIES. THE SECOND ONE, ISSUED OVER A YEAR AGO (APRIL 9, 1993), ESTABLISHES THAT IF THE AUDIT DIVISION COMPLIES WITH THE LAW IN DOING ITS JOB, THE DETERMINATION OF VALUE IS NOT THAT DIFFICULT. THE REASON THAT IT HAS TAKEN NEARLY FIFTEEN YEARS TO GET TO THE BOTTOM OF THIS IN

EXXON'S 1978 CASE IS QUITE SIMPLE. THE DIVISION TRIED TO IGNORE THE LAW AND EXXON PROPERLY (AND SUCCESSFULLY) OBJECTED. LET ME EXPLAIN:

FROM THE BEGINNING, EXXON HAS CONSISTENTLY TAKEN THE POSITION THAT THE BEST WAY TO VALUE THE OIL IT KEPT FOR ITS OWN REFINERIES WAS TO USE THE VALUES THAT WERE USED WHEN PRODUCERS SOLD OIL FOR CASH TO THIRD PARTIES. THE DIVISION REFUSED TO ACCEPT THIS APPROACH AND INSISTED UPON SUBSTITUTING HYPOTHETICAL VALUES FOR THE OIL BASED UPON ITS SO-CALLED "MARKET BASKET" OF IMPORTED OILS. MOST OF THE TIME-CONSUMING LEGAL SKIRMISHING IN EXXON'S 1978 INCOME TAX CASE INVOLVED THE COMPLICATED PROBLEMS ENCOUNTERED IN USING THAT APPROACH. NOW, AFTER ALL IS SAID AND DONE, COMMISSIONER REXWINKEL HAS SIGNED A FORMAL CONFERENCE DECISION SAYING THAT THE VALUES THAT EXXON USED WERE IN FACT A PROPER BASIS FOR VALUING THE OIL THAT EXXON KEPT FOR ITS REFINERIES.

WHAT IS MORE - AND THIS IS THE SUPREME IRONY OF THE FOURTEEN-YEAR LEGAL STRUGGLE IS THAT WHEN THE DEPARTMENT'S METHODOLOGY IS PROPERLY APPLIED AS THE COMMISSIONER RULED, EXXON ACTUALLY OVERVALUED ITS OIL. THAT'S RIGHT. WE PAID MORE TAXES ON THE CRUDE VALUE ISSUE WITH OUR 1978 RETURN AS ORIGINALLY

FILED THAN THE COMMISSIONER SAID WE SHOULD HAVE PAID.

COMMISSIONER REXWINKEL'S APRIL 9, 1993 DECISION IN EXXON'S TAX CASE FURTHER CONFIRMED THAT EXXON HAD A RIGHT TO RELY UPON THE DEPARTMENT'S PUBLISHED FORMAL HEARING DECISION IN THE 1983. . . THAT'S RIGHT, 1983 - - - AMERADA HESS CASE REGARDING THE USE OF NORTH SLOPE SALES DATA IN DETERMINING THE IMPUTED VALUE OF THE OIL THAT EXXON KEPT FOR ITS OWN REFINERIES. IN THE OPINION, THE COMMISSIONER CRITICIZED THE OIL AND GAS AUDIT DIVISION FOR REFUSING TO COMPLY WITH THAT DECISION. HE SAID THAT HE FOUND IT "DISCONCERTING" THAT THE DIVISION WOULD ATTEMPT TO IGNORE THE AMERADA HESS METHODOLOGY, WHICH EXXON DUTIFULLY USED. HE ALSO CRITICIZED THE DIVISION'S EXPERT WITNESS FOR REFUSING TO FOLLOW THE ANALYSIS OF THE ALASKA SUPREME COURT BY REPUDIATING THE MARKET VALUE CONCEPT THAT IS THE CORE PRINCIPLE OF THE TAX LAW.

IN SHORT, THERE IS ONE SIMPLE EXPLANATION FOR WHY THIS 1978 TAX CASE HAS TAKEN SO LONG TO RESOLVE: THE OIL AND GAS AUDIT DIVISION SIMPLY IGNORED THE LAW IN THE AMERADA HESS CASE. IF IT HAD DONE WHAT COMMISSIONER REXWINKEL SAID IT SHOULD HAVE DONE - FOLLOW ITS OWN REGULATIONS AS IT WAS INTERPRETED IN

THE 1983 AMERADA HESS CASE - THIS FOURTEEN YEAR LEGAL BATTLE WOULD NEVER HAVE OCCURRED. TAXPAYERS SHOULD NOT BE PUNISHED FOR THE DIVISION'S HAVING IGNORED THE RULINGS AND REGULATIONS OF ITS OWN COMMISSIONER. YET, TO THIS DAY, THAT FORMAL CONFERENCE DECISION WHICH WAS REMANDED TO THE OIL AND GAS AUDIT DIVISION FOR A FINAL TAX COMPUTATION "CONSISTENT WITH THE OPINION" HAS NOT BEEN SEEN OR HEARD FROM AGAIN. ASK THE COMMISSIONER WHERE IT IS? WHO IS DELAYING?

IN CLOSING LET ME SPEND A FEW MINUTES TALKING ABOUT SOME OF THE EFFECTS OF THIS BILL ON THE STATE AND ITS TAXPAYERS. EVEN IF EXXON DID NOT HAVE EXISTING TAX DISPUTES IN THE STATE OF ALASKA, I WOULD STILL BE SITTING HERE TO TELL YOU THAT PASSING THIS BILL WOULD BE BAD LAW FOR THE ADMINISTRATION OF THE TAX LAWS OF THE STATE OF ALASKA. IT WOULD BE BAD BECAUSE:

- (1) IT WILL LIKELY INCREASE AN ALREADY OVER BURDENSOME LITIGATION SITUATION ON TAX ISSUES HERE IN ALASKA SINCE TAXPAYERS WILL BE REQUIRED TO DEFEND AGAINST SOME ENTIRELY NEW AND PERHAPS MISDIRECTED INTERPRETATION EMBODIED IN AN ASSESSMENT THAT COULD BE ISSUED 15, 20, OR MORE YEARS AFTER THE FACT. THAT'S WRONG. WE URGE YOU

TO PASS LAWS THAT WILL SEEK TO RESOLVE TAX CONFLICTS FOR BOTH ALASKA AND TAXPAYERS.

- (2) SB 377 DOES WHAT NO OTHER STATE HAS EVER DONE: IT CHANGES THE RULES 18 YEARS AFTER THE FACT. THIS BILL CALLS FOR RETROACTIVE CHANGES TO 1976. THAT'S WRONG. THAT IS OFFENSIVE AND THAT IS INTERFERING WITH A DECISION OF AN ALASKAN COURT. THAT COURT SAID WHAT THE PLAIN LEGAL MEANING OF THE CURRENT LEGISLATIVE LANGUAGE IS. THAT DECISION DOES NOT SQUARE WITH WHAT THE DIVISION WOULD LIKE; SO NOW YOU HAVE THIS BILL TO UNDERMINE THAT DECISION. THAT'S WRONG, THAT'S INTERFERENCE WITH A VALID COURT DECISION APPLYING THE LAW AS ADOPTED IN PREVIOUS SESSIONS OF THE ALASKAN LEGISLATURE AND SIGNED BY THE THEN GOVERNOR. RETROACTIVE CHANGES TO A STATE'S LAWS SENDS A BAD SIGNAL TO ALL BUSINESS IN GENERAL ABOUT THE STABILITY AND CERTAINTY OF THE BUSINESS CLIMATE IN THE STATE. IT WILL IMPACT ON BUSINESS DECISIONS IN THE FUTURE.

A TAXPAYER IS ENTITLED TO A FINAL RESOLUTION OF HIS OR HER TAX LIABILITIES IN A REASONABLE PERIOD OF TIME.