

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8503 SENATE TRANSPORTATION

768

**SB**

**227**

## VOLPE, BOSKEY AND LYONS

WORLD CENTER BUILDING  
218 16TH STREET N.W.  
WASHINGTON D.C. 20005

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ELLIS LYONS  
EDWARD A. GROOBERT  
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EDWIN E. MIDDLESON III  
EVA F. SHERMAN  
MORRIS KLEIN

(202) 737-6580  
FAX (202) 737-8988

September 9, 1993

Alaska State Senator Jay Kertula  
P.O. Box 1009  
Palmer, Alaska 99645

Attention: Bill Kelder, Esquire

Re: TRAC vehicle leasing in Alaska

Dear Senator Kertula:

Our firm represents both the American Automotive Leasing Association (AALA) and the Equipment Leasing Association of America (ELA). I am writing on behalf of both AALA and ELA to ask your help in enacting Alaska state legislation to safeguard our member companies' wide-spread practice of leasing fleets of motor vehicles to commercial business lessees under lease agreements with terminal rental adjustment clauses (TRACs).

What we are seeking is a separate stand-alone bill on TRAC vehicle leasing, adding the following new section 28.10.-375 to the Alaska Statutes, Title 28 ("Motor Vehicles"), Chapter 10 ("Vehicle Registration and Title"), Article 4 ("Filing Documents Evidencing Liens or Encumbrances"):

Sec. 28.10.375. TERMINAL RENTAL ADJUSTMENT CLAUSES:  
VEHICLE LEASES THAT ARE NOT SALES OR SECURITY INTERESTS

In the case of motor vehicles or trailers, notwithstanding any other provision of law, a transaction does not create a sale or security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

The origin, purposes and effect of this provision are explained in detail in the enclosures. See New Developments: Article 2A Leases of Goods, 1993 Commercial Law Annual at pp.124-130 (enclosed). This is non-controversial, public interest legislation that, if enacted, will enhance both interstate commerce and commerce within the State of Alaska.

Twenty (20) jurisdictions have now adopted our model TRAC/state law or its functional equivalent: Alabama, District of Columbia, Florida, Illinois, Louisiana, Michigan, Minnesota, Missouri, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, Texas, Vermont, Virginia, Washington, and Wisconsin. We sincerely hope Alaska will follow suit.

Our specific request is this: If you agree with us that this is meritorious legislation, would you pre-file a TRAC/-state law bill in 1993 for consideration by the Alaska legislature at the earliest possible time in 1994?

Thank you for considering our views on this important public interest measure.

Yours very truly,



Edwin E. Huddleson, III

Enclosures

cc: (w. enclosures)

Chairman Bill Hudson  
Alaska House Labor and Commerce Committee

Mr. James L. Cloud  
Vice President  
National Bank of Alaska      Tel: (907) 265-2816  
P.O. Box 100600  
Anchorage, Alaska 99503

Arthur H. Peterson, Esquire  
One Sealaska Plaza (Suite #202)  
Juneau, Alaska 99801

# National Bank of Alaska



Corporate Headquarters P.O. Box 100500 Anchorage, Alaska 99510-0600 (907) 276-1132

301 W. Northern Lights Blvd., Anchorage, AK 99503.

Mr. C.B. Toh  
Vice President  
Direct: (907) 265-2078  
Fax: (907) 265-2141

October 21, 1993

Alaska State Senator Jay Kerttula  
P.O. Box 1009  
Palmer, AK 99645

Attention: Bill Kelder, Esquire

Re: TRAC Vehicle Leasing in Alaska

Dear Senator Kerttula:

I am writing you on behalf of National Bank of Alaska. Earlier this year, the Alaska Legislature enacted a set of amendments to UCC 1-201(37), sharpening the state law distinction between a "lease" and a "security interest" in transactions involving equipment and motor vehicles. While this new law is helpful in many situations, it is silent about our long-standing business practice of leasing fleets of motor vehicles to commercial business lessees under agreements with terminal rental adjustment clauses (TRACs). We seek your help in enacting legislation that would clarify the status of TRAC motor vehicle leases as true leases under Alaska state law.

Two national trade associations -- the American Automotive Leasing Association (AALA) and the Equipment Leasing Association (ELA) -- wrote you earlier about the need for TRAC/state legislation in Alaska. We agree with AALA and ELA.

What AALA, ELA and National Bank of Alaska are seeking is the enactment of legislation adding the following new section 28.10.375 to the Alaska Statutes:

Sec. 28.10.375. TERMINAL RENTAL ADJUSTMENT CLAUSES: VEHICLE LEASES THAT ARE NOT SALES OR SECURITY INTERESTS.

In the case of motor vehicles or trailers, notwithstanding any other provision of law, a transaction does not create a sale or security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

This is non-controversial, public interest legislation that will help put TRAC vehicle leases on a level playing field with other kinds of leases for state law and bankruptcy law purposes. If enacted in Alaska, this legislation will treat TRAC vehicle leases like all other leases, with the result that TRAC vehicle lessors' risks and costs will be lowered, lessees' rental rates will be reduced, and both interstate commerce and commerce within the state of Alaska will be facilitated.

— LETTERS OF SUPPORT —

Senator Jay Kerttula  
October 21, 1993  
Page 2

Thank you very much for your consideration. I look forward to your earliest favorable response.

Sincerely,  
NATIONAL BANK OF ALASKA



C.B. Toh  
Vice President

**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

January 20, 1994

**SUBJECT:** Sectional Summary of SB 227 (Work Order No. 8-LS1332\A)

**TO:** Senator Jalmar Kerttula  
Attn: Carol

**FROM:** *TLB*  
Theresa L. Bannister  
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.

Section 1. Prevents certain motor vehicle and trailer transactions from being considered sales or security interests just because they provide that the rental price is permitted or required to be adjusted by reference to the amount realized from the sale or other disposition of the motor vehicle or trailer.

Section 2. States that sec. 1 doesn't apply to transactions that are entered into before the effective date of the Act.

TLB:gc  
94-043.glc

**- SECTIONAL SUMMARY -**

SPONSOR STATEMENT S.B. 227  
TERMINAL RENTAL ADJUSTMENT CLAUSES  
FOR MOTOR VEHICLES AND TRAILERS

SENATOR JAY KERTTULA

S. B. 227 would clarify in law the status of leases when they include a terminal rental adjustment clause. A terminal rental adjustment clause (TRAC) is frequently included in commercial leases of a fleet of cars. It provides for an increase or decrease in the cost of the lease depending on the value of the vehicles at the end of the lease. If the vehicle has been well maintained then the cost to the lessee will be less. If the vehicle has had more than reasonable wear and tear, the lessee will pay more. The TRAC is in the lease not only to protect the value of the assets but to reduce the cost to the lessee based on the condition of the vehicle.

This new section in the motor vehicle laws would make explicit that a TRAC does not in and of itself affect the nature of a lease. The leases can still be true leases.

This is important especially in bankruptcy cases where the lessor of a true lease is able to recover the vehicles or payment from the lessee without fear of the court tying-up the assets.

If there was a question as to whether the lessee had a proprietary interest in the asset, then the court could prevent the lessor from recovering the vehicles immediately or could sell the vehicles to pay other debts.

Consequently, inclusion in law of this section would make clear the impact of a TRAC on a lease and simplify proceedings as to TRACs in bankruptcy court.

SENATE COMMITTEE REPORT

DATE: 3/14/94

FURTHER:

DATE TURNED INTO OFFICE: 4-5-94

Transportation Committee considered SENATE BILL NO. 227

"An Act relating to terminal rental adjustment clauses for motor vehicles and trailers."

and recommends:

- replace with \_\_\_\_\_ CS \_\_\_\_\_ ( )
- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( )
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

- adopts \_\_\_\_\_ Letter of Intent
- further referral to the \_\_\_\_\_

- do pass
- do not pass
- no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DEPT PUB SAFETY	2/22/94	X	
SEN. STATE			
AFFAIRS CMTE	2/16/94	X	

Appropriation No Fiscal Note

DO PASS: Tim Kelly

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature] Do Pass

Chair: Signature and Recommendation

FEB 27 1994

FISCAL NOTE

Revision Date: Department Affected: DOT&PF  
Title: Vehicle Lease Terminal Rental Adjusment BRU: STW Administrative Services

Sponsor: Kertula Component: State Equipment Fleet  
Requestor: Component Serial Number: #539

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	0	0	0	0	0	0

POSITIONS

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

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

ANALYSIS: (Attach a separate page if necessary)

No financial impact to the state's equipment fleet is anticipated as a result of this legislation.

Prepared by: Ken Langel, Manager

Phone: 266-2461

Division: State Equipment Fleet

Date: February 16, 1993

Approved by Commissioner:   
B.A. Campbell

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: February 17, 1994

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# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO: SB 227

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: An Act relating to terminal rental BRU: Motor Vehicles  
adjustment clauses for motor vehicles and trailers. Component: Administration  
 Sponsor: Senator Kerttula  
 Requestor: Sen. L&C COMPONENT SERIAL NO. 501

**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						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
CHANGE IN REVENUES ( )						
REVENUE CODE						

**FUNDING: (THOUSANDS OF DOLLARS)**

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF						
1005 GF/PROGRAM RECEIPTS						
1006 GF/MP/TIA						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

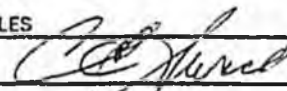
ESTIMATE OF CURRENT YEAR (FY 94) IMPACT: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY.)

FISCAL IMPACT IS NOT ANTICIPATED WITH THIS BILL.

PREPARED BY: JUANITA M. HENSLEY PHONE: 465-2650  
 DIVISION: MOTOR VEHICLES DATE: 2/18/94  
 APPROVED BY COMMISSIONER:  DATE: 2/22/94  
 AGENCY: RICHARD L. BURTON, DEPT. OF PUBLIC SAFETY

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**SB**

**256**

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES**

OFFICE OF THE COMMISSIONER

3132 CHANNEL DRIVE  
JUNEAU, AK 99801-7898  
PHONE: (907) 465-3900  
FAX: (907) 586-8365  
TEXT: (907) 465-3652

December 13, 1993

Senator Bert M. Sharp  
119 N. Cushman Street, Suite 201  
Fairbanks, AK 99701-2879

Representative Richard Foster  
P.O. Box 1630  
Nome, AK 99762-1630

Dear Senator Sharp and Representative Foster:

Enclosed are three proposed pieces of legislation which I would appreciate being introduced through the Transportation Committees in the next session:

AS 43.40.010

The increase in aviation fuel tax in the amount of \$.007/gallon is the result of the Legislative request to not assess landing fees on rural airports.

See the Legislative intent language contained in the DOT&PF-FY'94 operating budget.

AS 38.05.030

This amendment simply makes airport property disposal consistent with highway property disposal. This is a housekeeping measure which should have been handled when DOT&PF was created -- it wasn't.

All property and right-of-ways are handled in one DOT&PF section and this housekeeping measure makes the operations consistent.

AS 19.05.040

This minor addition to the statutes allows DOT&PF to enter property to determine if hazardous substances exist. This change is needed because DOT&PF has purchased property for right-of-way purposes only to find out that it is contaminated and the cost of cleanup exceeded the cost of moving the facility to avoid the contaminated area had that fact been known.

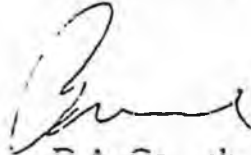
LETTER TO COMMITTEE  
COMMISSIONER BRUCE CAMPBELL

DOT&PF with this change would be able to know, in advance of purchase, if property is contaminated.

There are two or three more items that are in the mill that will be transmitted later.

Please let me know if you have any questions or I can provide more data.

Sincerely,



B.A. Campbell  
Commissioner

Enclosures

**DIVISION OF LEGAL SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

RECEIVED

JAN 2 1994

Ans'd... 730 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

(907) 465-3867 or 465-2450  
FAX (907) 5-2029  
Mail Stop 3101

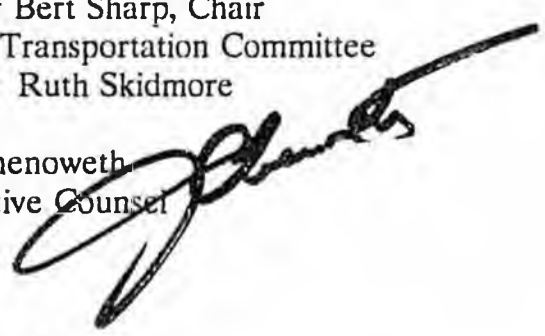
MEMORANDUM

January 26, 1994

**SUBJECT:** Draft CSSB 256 ( ) (Work Order No. 8-LS1509\E)

**TO:** Senator Bert Sharp, Chair  
Senate Transportation Committee  
ATTN: Ruth Skidmore

**FROM:** Jack Chenoweth  
Legislative Counsel



In the enclosed draft committee substitute:


Bill section 1, uncodified, sets out a capsule summary of the reason for this Act;

Bill section 2 increases the aviation gasoline tax imposed by AS 43.40.010(a)(1) and (a)(3)--gasoline sales--by seven-tenths cent per gallon.

Bill section 3 reduces that increase to current rates.

Bill section 4 increases the aviation gasoline tax imposed by AS 43.40.010(b)(1) and (b)(3)--gasoline consumed--by seven-tenths cent per gallon.

Bill section 5 reduces that increase to current rates.

 Bill section 6 makes the reductions of the respective tax levies made by bill sections 3 and 5 effective only if the commissioner of transportation and facilities increases rural airport landing fees over the amount that they were on January 1, 1994. Because I don't know when that increase may occur--it may not occur until long a'ter you and I are gone from the legislative arena--I thought to set a termination date on when that contingency could occur, and selected December 31, 1999. If, before the end of 1999, the legislature would want to continue this rate reduction contingency for another period of time, it would have to amend this provision to do so. Otherwise, on or after January 1, 2000, the commissioner will be

Senator Bert Sharp, Chair  
January 26, 1994  
Page 2

free to increase rural airport landing fees and the tax rate would not automatically revert to the lower rate.

Without this termination date on the contingency, the possibility of an "automatic" rate reduction would carry on indefinitely. No one here concerned with maintaining the Alaska Statutes thought that was a good idea.

Section 7 provides an effective date for secs. 3 and 5 if the condition in sec. 6 occurs. I gave the rate change a 30 day delay so that the commissioner of transportation and public facilities could raise the landing fee rate, tell the commissioner of revenue, and the commissioner of revenue (who collects the tax) could advise persons liable for payment of the tax of the pending rate reduction and the date of that reduction. Without the delay, purchasers and consumers of aviation gas would pay at the higher rate when they ought to be paying at the reduced rate because the sellers of that gas had not received notification of the rate reduction.

JBC:pl:gc  
94-074.plm

Enclosure

**SENATE COMMITTEE REPORT**  
FIRST COMMITTEE OF REFERRAL

DATE: 1/19/94

FURTHER: JUDICIARY  
FINANCE

Date of 5-Day Notice: 1/19/94  
(in accordance with Uniform Rule 23)

DATE TURNED  
INTO OFFICE: 1-28-94

TRANSPORTATION Committee considered SB 256

"An Act increasing the tax on transfers and consumption of aviation fuel."

and recommends:

replace with CS SB 256 (TRA)

attaches amendment(s)

adopts \_\_\_\_\_ Letter of intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

same title  
 new title  
 technical  
title change  
(HB only)

FISCAL NOTE INFORMATION

SB & CS

Department	Date	Zero	Fiscal
REVENUE	1/20/94		1,725.7

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

\_\_\_\_\_  
A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OTHER RECOMMENDATIONS:

\_\_\_\_\_  
Tim Kelly - No Recommendation  
\_\_\_\_\_  
Karl & Kellys Do Not Pass  
\_\_\_\_\_  
J. Kelly - No Rec  
\_\_\_\_\_  
\_\_\_\_\_

Bob M. ...  
Chair: Signature and Recommendation

8-LS1509E  
Chenoweth  
1/26/94

CS FOR SENATE BILL NO. 256(TRA)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATE TRANSPORTATION COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the tax on transfers and consumption of aviation fuel; and  
2 providing for an effective date."

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

4 \* Section 1. PURPOSE. The purpose of this Act is to increase the tax on aviation gasoline  
5 in an amount substantially comparable to the amount that would be derived from the  
6 Department of Transportation and Public Facilities' reimposition of landing fees at rural state-  
7 operated airports, and to leave this increased tax in place only so long as the commissioner  
8 of transportation and public facilities does not, before January 1, 2000, impose landing fees  
9 at those airports at a higher rate than was in effect on January 1, 1994.

10 \* Sec. 2. AS 43.40.010(a) is amended to read:

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

13 (1) the tax on aviation gasoline is four and seven-tenths [FOUR] cents  
14 a gallon; [.]

1 (2) the tax on motor fuel used in and on watercraft of all descriptions  
2 is five cents a gallon; [,] and

3 (3) the tax on all aviation fuel other than gasoline is three and two-  
4 tenths [TWO AND ONE-HALF] cents a gallon.

5 \* Sec. 3. AS 43.40.010( ) is repealed and reenacted to read:

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

8 (1) the tax on aviation gasoline is four cents a gallon;

9 (2) the tax on motor fuel used in and on watercraft of all descriptions  
10 is five cents a gallon; and

11 (3) the tax on all aviation fuel other than gasoline is two and one-half  
12 cents a gallon.

13 \* Sec. 4. AS 43.40.010(b) is amended to read:

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

16 (1) the tax on aviation gasoline consumed is four and seven-tenths  
17 [FOUR] cents a gallon; [,]

18 (2) the tax on motor fuel used in and on watercraft of all descriptions  
19 is five cents a gallon; [,] and

20 (3) the tax on all aviation fuel other than gasoline is three and two-  
21 tenths [TWO AND ONE-HALF] cents a gallon.

22 \* Sec. 5. AS 43.40.010(b) is repealed and reenacted to read:

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

25 (1) the tax on aviation gasoline consumed is four cents a gallon;

26 (2) the tax on motor fuel used in and on watercraft of all descriptions  
27 is five cents a gallon; and

28 (3) the tax on all aviation fuel other than gasoline is two and one-half  
29 cents a gallon.

30 \* Sec. 6. Sections 3 and 5 of this Act take effect only if the Department of Transportation  
31 and Public Facilities, before January 1, 2000, increases the fee it charges under

1 AS 02.15.090(a) for the privilege of landing aircraft at rural airports, as that term is defined  
2 in 17 AAC 40.795(2), above the amount of the fee in effect on January 1, 1994.

3 \* Sec. 7. If secs. 3 and 5 of this Act take effect under sec. 6 of this Act, they take effect  
4 30 days after the effective date of the landing fee increase described in sec. 6 of this Act. The  
5 commissioner of transportation and public facilities shall promptly notify the commissioner  
6 of revenue, the lieutenant governor, and the revisor of statutes of a landing fee increase  
7 described in sec. 6 of this Act.

COMPONENT DETAIL - OPERATING BUDGET

nt: Interior District - Highways and Aviation  
 Interior District Maintenance and Operations

Agency: Department of Transportation/Public Facilities

itions - Line Items Type Total Pers Svc Travel Contract Supplies Equip Land/Bld Grant Misc PFI PPT Imp

\*\*\*\*\* Changes from FY94 Gov Amd to Conference Committee \*\*\*\*\*

irport electric contract Dec -20.0 0.0 0.0 -20.0 0.0 0.0 0.0 0.0 0.0 0 0 0

ive Intent: It is the intent of the legislature that Department of Transportation and Public Facilities should continue to provide adequate winter  
 nce of the Denali Highway between Cantwell and the Valdez Creek Mine access road, with at least 50 percent of the expected service to be paid by industry or  
 contributions.

Legislative Intent: It is the intent of the legislature that the Department of Transportation and Public Facilities not reinstate the landing fees at the rural  
 airports and that the department submit for legislative consideration a supplemental appropriation next session to fund the resulting shortfall in program receipts.

ocation to the Department of Transportation and Public Facilities for Highways and Aviation shall lapse into the general fund on August 31, 1994.

\*\*\*\*\* Changes from FY94 Gov Amd to Senate \*\*\*\*\*

sted reduction Dec -39.1 -39.1 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0 0 0  
 irport electric contract Dec -20.0 0.0 0.0 -20.0 0.0 0.0 0.0 0.0 0.0 0.0 0 0 0  
 riums PFI to PPT Dec -31.3 -31.3 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 -1 1 0

itions - Funding Sources Type Total 1002 1004 1005 1007 1061

\*\*\*\*\* Changes from FY94 Gov Amd to Conference Committee \*\*\*\*\*

irport electric contract Dec -20.0 -20.0

\*\*\*\*\* Changes from FY94 Gov Amd to Senate \*\*\*\*\*

sted reduction Dec -39.1 -39.1  
 irport electric contract Dec -20.0 -20.0  
 riums PFI to PPT Dec -31.3 -31.3

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. SB 256

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Increase aviation fuel tax BRU: Revenue Operations/Shared Taxes  
 Component: Income and Excise Audit/Aviation Fuel  
 Sponsor: Senate Transportation  
 Requestor: Senate Transportation COMPONENT SERIAL NO. 113/104

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	20.4	20.4	20.4	20.4	20.4	20.4
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>20.4</b>	<b>20.4</b>	<b>20.4</b>	<b>20.4</b>	<b>20.4</b>	<b>20.4</b>

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

REVENUE FUND SOURCE: General	1,725.7	1,725.7	1,725.7	1,725.7	1,725.7	1,725.7
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	20.4	20.4	20.4	20.4	20.4	20.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>20.4</b>	<b>20.4</b>	<b>20.4</b>	<b>20.4</b>	<b>20.4</b>	<b>20.4</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.)

(See Attached)

Prepared by: Larry E. Meyers Phone: 465-2320  
 Division: Income and Excise Audit Date: January 20, 1994  
 Approved by Commissioner: Darrel J. Rexwinkel Date: January 20, 1994  
 Agency: Department of Revenue

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SB 256

Increase aviation fuel tax

Page 2 of 2

This bill increases motor fuel tax rates on aviation fuel by .7¢ per gallon as follows.

	<i>Current Tax Rate</i>	<i>Draft Bill Tax Rate</i>	<i>% Increase</i>
Aviation Gasoline	4¢ per gallon	4.7¢ per gallon	17.5%
Aviation (Jet) Fuel	2.5¢ per gallon	3.2¢ per gallon	28.0%

In determining the amount of additional revenues generated from this bill, the Department of Revenue used aviation fuel consumption data available from FY 93. The amounts below do not reflect impacts on consumption, if any, due to increased tax rates and other factors.

Under AS 43.40.010(e), 60% of aviation gasoline tax revenues derived from fuel sales at municipally owned airports are shared with those municipalities. The Department shared \$116,800 of aviation gasoline tax revenues to municipalities in FY 93. Under this bill, that amount will increase by 17.5% (% increase identified above) or \$20,400.

The additional revenue generated from this bill is estimated to be \$1,705,300 calculated as follows.

	<i>FY93 Consumption</i>	<i>FY 93 Revenue</i>	<i>Draft Bill Revenue</i>	<i>Additional Revenue</i>
Aviation Gasoline	18,076,200 gallons	\$ 723,000	\$ 849,600	\$ 126,600
Aviation (Jet) Fuel	228,436,300 gallons	5,710,900	7,310,000	1,599,100
Total	246,512,500 gallons	6,433,900	8,159,600	1,725,700
Amount Shared		(116,800)	(137,200)	(20,400)
Total		\$6,317,100	\$8,022,400	\$1,705,300

**SB**

**260**

**FISCAL NOTE**

Revision Date:  
Title: Naming Petersburg Airport

Department Affected: DOT&PF  
BRU: None

Sponsor:  
Requestor:

Component:  
Component Serial Number:

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

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING:</b>	0	0	0	0	0	0

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

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

**FUNDING: (Thousands of Dollars)**

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL FUNDING:</b>	0	0	0	0	0	0

**POSITIONS**

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

Estimate of current year (FY94) impact: \$0

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

Prepared by: Andy Hughes, Transportation Planner

Phone: 465-1776

Division: Southeast Region Planning

Date: January 26, 1994

Approved by Commissioner: *B.A. Campbell*

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: January 26, 1994

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## SPONSOR STATEMENT

### SPONSOR SUBSTITUTE FOR SENATE BILL 260

This legislation would name in statute the state airport at Petersburg the "Petersburg James A. Johnson Airport." Jim has been Alaska's ambassador at Alaska Airlines since assuming his Seattle position.

Jim went to work for Alaska Coastal Airlines in Petersburg during his high school years. Jim rose through the ranks when Coastal combined with Ellis Airlines to become the general sales manager in Juneau in 1962. When Coastal Ellis merged with Alaska Airlines in 1968 he was promoted to the position of vice-president of sales and general sales manager and moved to the company's headquarters in Seattle.

Except for the first year of his life, Jim spent his formative years in Alaska. Growing up in Petersburg gave him the perspective of rural Alaskan life and it was this immersion that gave Jim the Alaskan mind set that never left him. He was raised in a community with a strong work ethic.

It was this upbringing that allowed Jim to continue to identify with Alaskans and their sometimes unique problems while working in Seattle. This experience was a benefit to Alaskans and Alaska Airlines -- having someone knowledgeable of Alaska and who cared about Alaska was a win-win benefit to all who traveled by air.

Jim was selected as Alaskan of the year in 1992 by the state Chamber of Commerce. He has been honored by the Petersburg and Sitka Chambers. Juneau has honored Jim by declaring June 3 to be "Jim Johnson Day."

A fitting tribute to Jim and to the town that shaped him would be to honor both by naming the state airport at Petersburg the "Petersburg James A. Johnson Airport." The City Council of Petersburg has passed a unanimous resolution in favor of naming the airport in Jim's honor.

I urge you to look favorably upon this legislation -- so that we can honor the Alaskan who spent so many years promoting and benefiting Alaska because of his work at Alaska Airlines.

District A:

Hyder • Ketchikan • Kupreanof • Mevers Chuck • Petersburg • Saxman • Sitka • Wrangell



CITY OF PETERSBURG

P.O. BOX 329 - PETERSBURG, ALASKA 99833

TELEPHONE (907) 772-4511

TELECOPIER (907) 772-3759

Resolution No. 1342-R

A RESOLUTION HONORING JIM JOHNSON AND REQUESTING THE STATE OF ALASKA RENAME THE PETERSBURG STATE AIRPORT THE JAMES A. JOHNSON AIRPORT.

Whereas, Jim Johnson spent his formative years in Petersburg, Alaska; and

Whereas, Jim Johnson's first job in the airline industry for Alaska Coastal Airlines was in Petersburg, Alaska; and

Whereas, that job led to a long and distinguished career with Alaska Airlines; and

Whereas, Jim Johnson used his position at Alaska Airlines to promote not only the growth and strengthening of Alaska Airlines, but the State of Alaska and its' citizens; and

Whereas, his tireless efforts on behalf of the State of Alaska have enriched the people of the State and they have acknowledged that by honoring him as Alaskan of the Year in 1992.

Now Therefore Be It Resolved by the City Council of the City of Petersburg, Alaska to request the State of Alaska to further honor Jim Johnson by naming the Petersburg airport the James A. Johnson airport.

Passed and Approved by the City Council of the City of Petersburg, Alaska this 1st day of November, 1993.

*Don R. Coon*

Mayor

ATTEST:

*Leticia H. Curtis*



# Johnson retires from Alaska Airlines after 42 years service

A former Petersburgian who pulled himself up by his own bootstraps is retiring from Alaska Airlines on June 30.

The company is heaping praise upon James A. "Jim" Johnson, now of Seattle, a 42-year veteran with the line.

He rose from a temporary and part-time summer luggage-loader on float planes in the Petersburg Boat Harbor, to the position of senior vice president of public affairs for Alaska's largest commercial air carrier.

Johnson has long been called "Mr. Alaska" by airline officials for his efforts to help people beyond the call of normal duty, particularly as liaison between the line and the Alaska state government.

In 1992 he was named "Alaskan of the Year" by the state Chamber of Commerce because of the help he has given to Alaska businessmen seeking to do business outside the state.

He has also been honored by the local Chambers of Commerce in Sitka and Petersburg, who extended to him honorary lifetime memberships last year.

And the mayor of Juneau recently declared June 3 to be "Jim Johnson Day." The Fairbanks mayor also named a day after him last year.

Although it has often been rumored that Johnson was born in Petersburg, he said that isn't true.

He was born in Cheyenne, Wyo., and moved here with his parents when he was one.

He was still in school when he went to work part-time for Eldor Lee, station manager of Alaska Coastal Airlines, in 1949.

After graduating from Petersburg High School in 1951, he went to work full-time for Coastal as an "agent," selling tickets, loading planes, and doing an assortment of other tasks.

There was no airport here then, and float planes landed and took off in the boat harbor



still lives here. So does his brother, John Johnson, head of the Petersburg Job Service.

His sister, Lois Rhodes, is a school teacher in Sitka.

Johnson said he plans to come here this summer to visit his family.

As for retirement--he plans to put his new boat to use with some sport fishing in Puget Sound, also starting this summer.

He said he plans to continue maintaining his home in Seattle during the summers, and spend winters in Mesa, Ariz.

John Johnson compared Jim with a Horatio Alger-type of hero--hard-working, intelligent, and making it on his own.

Alger, an American novelist, wrote mainly about such self-made men.

Margie Johnson, a Cordova innkeeper and immediate past president of the Alaska State Chamber of Commerce, said Jim Johnson "is the epitome of a small-town boy who made good. And he never forgot his roots. He exemplifies the caring spirit of rural Alaska, where you can depend on people."

and committees, from community colleges to Junior Achievement.

"His people skills are illustrated by the millions of dollars he raised for Seattle's Woodland Park Zoo," said Raymond Vecchi, chairman and chief executive officer of Alaska Airlines.

His mother, Cora Johnson,

① In 1956, he married Doris Hollingsworth, and they moved to Juneau to continue his work with Coastal. He and Doris have two children.

In 1959 he was on Annette Island, and in 1960 to 1962 in Sitka.

He returned to Juneau in 1962 when Coastal merged with Ellis Airlines, and he became general sales manager.

When the merger with Alaska Airlines occurred in 1968, he was promoted to vice president of sales and general sales manager, and moved to the company's main headquarters in Seattle.

He has remained there for the past 25 years, and completed his 42nd year of total service with the line on May 15.

He has served on 21 boards

Petersburg Pilot  
June 1993

②

# Jim Johnson: "Mr. Alaska"

**J**im Johnson is an American original. Storyteller. Philanthropist. Tireless worker. Supreme optimist. He's one of an increasingly rare breed who has thrived and risen to the top in his field by doing the work and learning as he progressed. Though Jim never earned a college degree, his efforts and expertise have earned him the respect of his peers throughout the airline industry. His brother likens him to Horatio Alger, a hard-working, intelligent guy who made it on his own.

For 42 years, Jim has helped define Alaska Airlines. He retires next month as senior vice president—a long way from his first job loading bags on floatplanes in his Southeast Alaska home of Petersburg, a community close to his heart.

"He's the epitome of a small-town boy who made good," says longtime friend Margie Johnson of Cordova, Alaska. "And he never forgot his roots. He exemplifies the caring spirit of rural Alaska, where you can depend on people."

She knows. When she broke her back in a car accident in California, the first phone call she received at the hospital was not from a family member, but Jim Johnson.

He has headed up our public affairs efforts for the last 19 years, helping shape airline and business-related public policy and providing a link between the company and the communities we serve. But his accomplishments go beyond his formal corporate position. Jim's knowledge of the airline industry, along with his big heart, quick smile, willingness to listen, timely humor and strong sense of business responsibility have touched thousands over the years.

Nicholas Nathan, a toddler from Boise, is a good example. When weather precluded a non-profit group's plane from flying him to San Francisco for treatment related to his battle with eye cancer, Jim made sure Nicholas and his mother got a round-trip ride on Alaska Airlines. Similar stories abound and have earned Jim the title, "Mr. Alaska."

Jim's use of company resources to help people only tells part of the story. He generously gives his own time and energy to worthwhile causes. He's served on 21 boards or committees, from community colleges to Junior Achievement. His people skills are illustrated by the millions of dollars he raised for Seattle's Woodland Park Zoo.

In addition, he's been an unofficial ambassador for the state of Alaska, tirelessly promoting

it as a tourist destination and serving as an insightful, passionate advocate of the state's needs and desires in the corporate arena. For years, Alaskans looking to do business outside the state enlisted his guidance and introductions. That's one reason why Jim was named "Alaskan of the Year" for 1992, an honor that's particularly notable because he hasn't lived in the state for 25 years.

"He really should have been a politician. No one wins friends and influences people like Jim," says Ralph Munro, Washington's Secretary of State. From powerful lawmakers to oil field workers, relating to people of all walks is one of Jim's enduring qualities. He possesses a remarkable ability to make each person he deals with feel special, because Jim is so genuine in his interest and concern.

Jim was sales manager for Alaska Airlines when that Southeastern Airlines was merged with Alaska Airlines. Charlie Willis, then president of Alaska Airlines, quipped that the price of the acquisition was worth every penny just to get Jim.

He was right. Jim has played a part in many of our greatest achievements: charter service to the Soviet Union at the height of the Cold War, expansion southward with the dawn of airline industry deregulation, and the launch of scheduled service to the Russian Far East.

Jim played a key role in transitioning the airline from one management team to another in 1972. Two former chairmen of Alaska Airlines, Bruce Kennedy and Ron Cosgrave, credit Jim with giving credibility to the new regime at a time when creditors and customers were ready to give up.

With his genuine concern for people, Jim is the personification of what makes Alaska Airlines special. While his counsel will be just a phone call away, his day-to-day contributions will be missed immensely. We express our gratitude to Jim for his dedication and service over 42 years, and wish him and his wife, Doris, the best as they begin a new chapter in their lives.

—RAYMOND J. VECCHI  
Chairman, President and Chief Executive Officer



James A. Johnson,  
senior Vice  
President, Alaska  
Airlines & Alaska  
Air Group

# JUNEAU EMPIRE

149

'The Voice of Alaska's Capital City'

6/25/93

JUNEAU, ALASKA

MN

The News



of Kurds are threat- fish rebels acks were riskish insti- This man low before in a Turk- sumich on is worried up inside Page 10

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Kenel ogist says River red suffer in ne of low h heading the expert flab that r in years mated the Page 7

nd bats eams will th annual th softball is tonight. s the over the team 30- game. Summary of games



Jim Johnson of Alaska Airlines: 'I loaded the airplanes. I was the janitor. You name it, I did a little bit of everything.'

## He's coming in for a landing

By JAMES MacPHERSON  
THE JUNEAU EMPIRE

### JUNEAU COLOR

**W**atch Jim Johnson walk around an Alaska Airlines terminal, and you'll see that he knows no strangers.

"Hey, Jim," shouts a baggage handler over the whine of a jet engine. Johnson acknowledges with a warm smile and asks how the man and his family are doing - and if the firm are hitting.

Others, from ticket agents to pilots receive the same smile and small talk.

After 42 years with Alaska Airlines, Johnson has made countless friends, many of whom refer to him as "Mr. Alaska." He is retiring Wednesday as the airline's senior vice president - a far cry from Petersburg, where he began his career as a baggage handler.

Retirement ceremonies honoring Johnson have already been held in Sitka, Petersburg and Juneau, communities where he worked with the airline over the years. Other retirement functions are planned next week in Seattle, his home for the past 25 years.

It's not hard to get Johnson talking about

the airline or its employees, both of which he is very proud. He has seen the airline go from seaplanes to jets, and grow from 300 employees to 6,000.

Johnson is also proud of Alaska, the state. Even though he hasn't lived here since 1950, he has actively promoted the state as a tourist destination and a place to do business. For those efforts, Johnson was named the "Alaskan of the Year" last year by the state chamber of commerce.

James Arthur Johnson was born 60 years ago in Cheyenne, Wyo. When he was 1 year old, his parents moved to Southeast Alaska, where the family ran a fox farm halfway be-

tween Petersburg and Wrangell. At 5 years old, his parents moved to Petersburg and continued with the fur farming business.

While still attending classes at Petersburg High School, Johnson took a job with Alaska Coastal Airlines of Juneau, which later merged with Ketchikan-based Ellis Air Line and, in 1968, was purchased by Alaska Airlines.

Some believe the price Alaska paid for Ellis and Alaska Coastal was worth it just to get Johnson.

"I was jack-of-all-trades, very similar to what these air taxi operators are doing today," Johnson said of his beginnings with the airline. "I did everything. I ticketed the passengers. I loaded the airplanes. I helped out with the limousines taking passengers back and forth from the airport. I was the janitor. You name it, I did a little bit of everything."

Juneau resident Shell Simmons, a former Alaska Coastal pilot and later president of the airline, hired Johnson.

"He started out very busy as a baggage handler. He was a good worker and never stopped working. The airline valued him."

Please see Color Page 10

Jim Johnson

# x on viers

## Color...

Continued from Page 1

cordingly and he made it to the top of the heap," Simmons said.

Johnson was a ticket agent, station manager and sales manager in Sitka, Ketchikan, Petersburg and Juneau before moving to Seattle in 1968 to take over public affairs for the airline as a liaison between Alaska Airlines and its employees, the public and government and business leaders.

It proved to be a perfect position for the airline and Johnson.

"He did everything right," Simmons said. "He had personality, the most outstanding in the world. He had the will and ability to make friends and always wanted to help people. He was an ideal person for the airline.

"You can't say too much about him, it's all pretty much been said. He's as close to perfect as you can get."

Simmons had even more praise. "When we had a trouble spot, we'd shove him in there to calm down and smooth out the situation. If they were grumpy, they left laughing, happy and satisfied. And they were happy with the airline.

"Ask anyone who worked with him, and they'll give you a story about him."

Jacque Witherrite, a customer service agent in Seattle, has one of those stories published in Alaskaline, the airline's in-house newsletter.

"When I first began working in reservations in the summer of 1972, I received scores of calls from people claiming to be Jim's best friend," Witherrite wrote. "I became convinced that Petersburg had to have a population of at least several hundred thousand and that

it will be as much as year - will be split between state and the coastal re trawlers transfer

0,000 will go to Alaska cting Institute for do- keting of surimi and sh products.

signed; ill 126, which changes overning prevailing ublic construction pro- ge set when the bid is ill remain in effect for years of the contract, of the prevailing wage n changes during that

ill 211, which allows s to exempt from lo- taxes those goods be- shipment out of state. ned at helping Alaska e international distri- s.

in abyss, he said. actually "only a nap. ter an old cedar tree. ep. He rolled his eyes ted to dream just like

ugust recess. tion hews closely to recovery recipe Clin- i during last year's mpaign.

t billion in tax in- he next five years, 78 be borne by people than \$200,000 a year, isan Congressional said.

e class would be y a 4.3-cent-per-gal- gasoline tax - cost- rage \$40,000-a-year tra annually. Some Social Security re- also pay higher lev-

re omitted one key tion had long since cuts for the middle- the president ad- sult-laden govern- not afford. That Republican after an- ngly wave copies of npaln manifesto, e First," at the tele- s covering the de-

ite Clinton had run mic plan, he would lent Clinton," said es, R-Okla.

every one of them was intimately acquainted with this man. Jim, it seemed, really got around.

"From a head of state to a new hire on the ramp, Jim treats each person with genuine interest, dignity and respect. He does it so well, so consistently, and has done it for so long that we are convinced it can't be an act."

With no formal education beyond high school, Johnson learned by doing.

"I didn't have a college education but I learned from the bottom up, which is just impossible to replicate in today's environment.

"Alaska Airlines was a great opportunity. Having worked from the ground floor up really gave me a good understanding of how the airline operates."

Though Johnson's retirement is just a few days away, he carefully avoided mentioning the word "retirement" around him.

"You don't understand, I'm not retiring. There are lots of things to be done on the house, and there's travel and sportfishing. Maybe golf."

Johnson says he and his wife, Doris, who was born and raised in Petersburg, plan to spend winters in their new home in Arizona and summers at their home in Seattle. They plan on traveling by automobile around the county, "until we feel like we've seen it," Johnson said.

Johnson still considers himself an Alaskan, even though he hasn't lived here for 25 years. Or more specifically, a Southeastern Alaskan.

"There's a big part of my life here in Southeast. We spent 35 years in Alaska before moving to Seattle.

"Of course, I have family in

Alaska; my mother lives in Petersburg and my brother is also there and my sister is in Sitka, so I intend to spend a fair amount of time up here in the summer months fishing and visiting."

Although an avid Alaska angler, Johnson wants to try some bass fishing down south. He also wants to ride on a Mississippi stern-wheeler.

Johnson said his wife has some mixed emotions on his retirement. "She's not ready for a full-time husband and a part-time salary. It's going to take an adjustment."

Johnson said his civic involvement over the years has been the most rewarding part of his career. He has served on chambers of commerce in Alaska and Washington as well as boards and committees for everything from the American Cancer Society to Seattle's Woodland Park Zoo, which he has helped raise millions of dollars for over the years.

Johnson said he wants to take a break from membership drives and fund-raising for a while and concentrate on relaxing. But it won't be easy.

"No matter how much you try to cut the cord, when you have 42 years of friendship and contacts you just don't shut that off overnight and you don't want to."

Many have urged Johnson to run for political office, a natural transition. It would seem, for someone with his personality.

"Politics? Everyone has said I should. But all my life I worked with politicians and raised funds for them. Frankly, there is a great difference being in private enterprise and going into the public sector, I could do it, but I hope after 42 years, I've earned my retirement and that's what I intend to do."

## Road...

Continued from Page 1

the Canadian side of the border. Building such a road could make Juneau the equipment- and ore- shipping hub for such a mine, officials said.

Mapping consultants - using a helicopter-mounted, foliage-penetrating laser tied into a global positioning satellite system - began surveying possible routes about two weeks ago, said project manager Ira Rosen. It never surveyed on the Canadian side of the border, he said.

The letter from Charbonneau means surveying will be done only on routes up Lynn Canal. The study is also looking at high-speed ferry runs to Haines and Skagway, which have road connections to the Alaska Highway.

The study is expected to cost up to \$750,000 and be completed by early next year. Options that remain will then be the subjects of a

two-year, \$1.8 million environmental impact study aimed at recommending a preferred route in 1995.

Elimination of the Taku route was no surprise, said Juneau Sen. Jim Duncan, a Democrat who helped get federal money for the environmental study in next year's state budget.

The Canadians have never expressed any enthusiasm for the route, Duncan said. "Their position hasn't changed, it's just hardened."

Mayor Jamie Parsons said he was not upset by the British Columbia decision because the Taku route made less sense than the Lynn Canal routes.

Charbonneau's letter is the second action to shut down a potential development project by British Columbia officials this week.

Citing environmental concerns, Premier Mike Harcourt on Tuesday designated the Talsheashini watershed in northwestern British Columbia as a wilderness park,

killing the proposed Windy Craggy copper mine northwest of Haines.

The mine's developers projected it would have created about 200 jobs in Haines, which could have become the mine's shipping center. Environmental groups opposed to the mine said the numbers would have been significantly less.

Empire reporter Ed Schoenfeld contributed to this story.

**HAVING A  
GARAGE SALE?  
CALL EARLY TO  
PLACE  
YOUR AD  
DEADLINE FOR  
NEXT DAY'S EDITION  
4:00 P.M. THE DAY  
BEFORE  
586-3740**

**SB**

**261**

Revision Date: \_\_\_\_\_ Dept. Affected: Community & Regional Affairs  
 Title: \*An Act relating to municipal sales and use taxes involving air carriers: . . .\* BRU: \_\_\_\_\_  
 Sponsor: Senator Sharp Component: \_\_\_\_\_  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current (FY94) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Kimond Henderson Director Phone: 465-4708  
 Division: Administrative Services Date: 1/31/94  
 Approved by Commissioner: [Signature] Deputy Commissioner Date: 1/31/94  
 Agency: Community & Regional Affairs

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# BOGLE & GATES

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January 21, 1994

Mr. Edgar R. Locke  
Beaty, Draeger & Locke, P.C.  
3900 Arctic Boulevard, Suite 101  
Anchorage, Alaska 99503

Re: City of St. Mary's Sales Tax

Dear Mr. Locke:

We represent Northern Air Cargo and Alaska Airlines. Each of them recently received a letter from the City demanding that they provide the City with a "full account of tax reserves subject to the [City's] tax" and payment of all tax asserted to be due by a stated deadline. I called you earlier last week on behalf of Northern Air Cargo in response to that letter. You courteously agreed that the time for response to the letter could be extended to today.

As the City is aware, the air carriers have serious doubts as to the validity of the City's ordinance. These doubts were expressed in Mr. Hallford's letter to the City Manager dated June 11, 1993. There are several independent reasons why the City's attempt to tax the carriers' operations in this manner is illegal. These are summarized briefly in the following paragraphs of this letter.

1. The tax is preempted by 49 U.S.C. App. § 1305(a). This broad preemption provision was enacted as a part of the 1978 Airline Deregulation Act, which extensively amended the original 1958 Federal Aviation Act, as amended. It prohibits any state or local law "relating to rates, routes or services of any air carrier having authority [under the Act] to provide air transportation." In Morales v. Trans World Airlines, 112 S. Ct. 2031, 119 L.Ed. 2d 157 (1992), the U.S. Supreme Court confirmed that this preemption provision was intended by Congress to have a very broad effect. It prohibits all local laws "having a connection with or reference to" rates, routes or services. This

R. Locka

May 11, 1994

Page 2

broad preemption statute leaves the states and their political subdivisions with very little authority. Local laws having only a "tenuous, remote or peripheral" effect upon the airlines' rates, routes and services are still allowed; but all other local laws are flatly preempted.

Even local laws which have a lesser effect upon air carriers than the City's tax ordinance have been held to be preempted by the federal statute. See, e.g., Morales v. Trans World Airlines; Mattox v. Trans World Airlines, 897 F.2d 772 (5th Cir. 1990). These cases involved attempts to regulate advertising practices. On the continuum ranging from substantial and direct effects upon "rates, routes and services" to effects that are only "tenuous, remote or peripheral," the local laws rejected in Morales and Mattox clearly exerted a more tenuous or peripheral effect upon rates than the tax levied directly upon the sale of transportation and the customer that the City is attempting to impose, yet they were ruled to be preempted.

2. The limited savings provision found in the Anti-Head Tax statute, 49 U.S.C. App. § 1511, does not authorize this tax. The savings provision allows certain forms of taxation of the sale of services other than air transportation itself. The cases of Wardair Canada v. Florida Dept. of Revenue, 477 U.S. 1 (1986), and Air Jamaica, Ltd. v. State Dept. of Revenue, 374 So.2d 575 (Fla. App. 1974), are of no help to the City. They upheld the imposition of a local sales tax on jet fuel and on pre-packaged meals. In each instance, the object of the local tax was not the provision of air transportation, but was the provision of goods and services supplied in connection with, or incidental to, airline operations.

3. Superior Court Judge Link's recent decision in the Homer Air case is inapposite. Homer Air is a non-certificated air taxi operator. Hence, the preemption provision (49 U.S.C. App. § 1305(a)) does not under § 1305(b) apply to Homer Air because it is not a federally-certificated carrier. Northern Air Cargo and Alaska Airlines both hold certificates of public convenience and necessity issued by the U.S. Department of Transportation under Section 401 of the Federal Aviation Act. State and local laws relating to their rates, routes and services are prohibited by federal law.

4. A carrier operating pursuant to a certificate of public convenience and necessity, carrying U.S. Mail (by definition "air transportation") and carrying freight in interstate commerce, is not subject to state regulation or state taxation with respect to any of the traffic carried, regardless of whether the origin and destination of the journey are entirely within the same state. See, Federal Express Corp. v. California

BOGLE & GATES

Mr. Edgar R. Locke  
 January 21, 1994  
 Page 3

Public Utilities Commission, 716 F.Supp. 1299 (N.D. California, 1989), and Pioneer v. City of Kearney, 256 N.W.2d 324 (Nebraska 1977). Northern Air Cargo and Alaska Airlines are in this exempt category.

5. Even if federal statutes left states and political subdivisions free to tax carriage of goods that travel strictly in intrastate commerce, we believe that most if not all of the air carriage activities of Northern Air Cargo and Alaska Airlines are nontaxable because they constitute interstate or foreign commerce. In determining whether transportation between two points in a state is intrastate or interstate in nature, the crucial consideration is the shipper's intent at the time of shipment. Robarta v. Levine, 921 F.2d 804, 812 (8th Cir. 1990). It would be impractical and unworkable for the City to force the air carriers to guess about each of its shipper's intentions with respect to each shipment.

Northern Air Cargo and Alaska Airlines both received form letters ("Dear Business Owner") from the City Manager requesting that they complete a "Consumer's Sales Tax" report form. The payments made by their shippers in respect of aircraft operations originating or terminating in the City of St. Mary's are exempt from taxation, for the reasons discussed earlier in this letter. Therefore, we believe that there is no legal justification or practical reason for the City to require them to file a "Consumer's Sales Tax" report form. If the City disagrees with this view, please notify us. In that event, we would be interested in knowing the City's position about which provision of the ordinance requires the filing of this form and what consequences might ensue in the event of a failure to file.

As is probably clear from the tone of this letter, Northern Air Cargo and Alaska Airlines are confident of their legal position in this matter and are strongly committed to defending their rights to be free of local government taxation efforts that Congress has seen fit to prohibit. Northern Air Cargo has consulted on this matter with its lawyer in Washington, D.C. with whom it has worked for many years on regulatory matters. The lawyer, Mr. Theodore Seamon, has concentrated his practice in federal airline regulation matters for more than forty years and has been actively representing Northern Air Cargo and other Alaska clients on these matters since before statehood. Mr. Seamon and I are available to confer with you at your convenience regarding this matter and to provide a more detailed discussion of the legal principles mentioned in this letter should you desire. In fact, we would encourage such a meeting.

Northern Air Cargo and Alaska Airlines have always honored their legal obligations, and they certainly intend to do

BOGLE & GATES

Mr. Edgar R. Locke  
January 21, 1994  
Page 4

so in this instance. At the same time, the City cannot expect them to penalize their customers by collecting and remitting to the City a tax that is clearly prohibited by federal law.

Very truly yours,

BOGLE & GATES

James N. Reeves

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[§ 1572] STATE TAXATION OF AIR  
COMMERCE

Sec. 1113 [49 App. U. S. Code 1513] (a) No State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) shall levy or collect a tax, fee, head charge, or other charge, directly or indirectly, on persons traveling in air commerce or on the carriage of persons traveling in air commerce or on the sale of air transportation or on the gross receipts derived therefrom; except as provided in subsection (e) except that any State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) which levied a tax, fee, head charge, or other charge, directly or indirectly, on persons traveling in air commerce or on the carriage of persons traveling in air commerce or on the sale of air transportation or on the gross receipts derived therefrom prior to May 21, 1970, shall be exempt from the provisions of this subsection until December 31, 1973.

(b) Except as provided in subsection (d) of this section, nothing in this section shall prohibit a State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) from the levy or collection of taxes other than those enumerated in subsection (a) of this section, including property taxes, net income taxes, franchise taxes, and sale or use taxes on the sale of goods or services; and nothing in this section shall prohibit a State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) owning or operating an airport from levying or collecting reasonable rental charges, landing fees, or other service charges from aircraft operators for the use of airport facilities.

(c) In the case of any airport operating authority which—

(1) has an outstanding obligation to repay a loan or loans of amounts borrowed and expended for airport improvements;

(2) is collecting without air carrier assistance, a head tax on passengers in air transportation for the use of its facilities; and

(3) has no authority to collect any other type of tax to repay such loan or loans, the provisions of subsection (a) shall not apply to such authority until December 31, 1973.

(d)(1) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(A) assess air carrier transportation property at a value that has a higher ratio to the true market value of the air carrier transportation property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property;

(B) levy or collect a tax on an assessment that may not be made under subparagraph (A) of this paragraph; or

(C) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(2) In this subsection—

(A) "assessment" means valuation for a property tax levied by a taxing district;

(B) "assessment jurisdiction" means a geographical area in a state used in determining the assessed value of property for ad valorem taxation;

(C) "air carrier transportation property" means property, as defined by the Civil Aeronautics Board, owned or used by an air carrier providing air transportation;

(D) "commercial and industrial property" means property, other than transportation property and land used primarily for agricultural purposes or timber

↓ [The rest is not relevant]

# Alaska State Legislature

SENATOR  
**BERT SHARP**

DISTRICT #

CHAIRMAN  
TRANSPORTATION COMMITTEE

MEMBER  
FINANCE COMMITTEE  
LEGISLATIVE BUDGET & AUDIT COMMITTEE  
HEALTH & SOCIAL SERVICES

FAIRBANKS

OFFICE BUILDING  
W. CUSHMAN, SUITE 501  
FAIRBANKS, ALASKA 99701  
(907) 482-7885 / 7886

SESSION ADDRESS

STATE CAPITOL, ROOM 514  
SITKA, ALASKA 99801-1182  
(907) 485-3004 / 3921

Senate

## SPONSOR STATEMENT

### **SB 261 - "An Act relating to municipal sales and use taxes involving air carriers; and providing for an effective date."**

SB 261 reinforces the Federal Preemption Provision of the Federal Aviation Act of 1958 which reserves to the federal government the power to regulate and tax air carriers engaged in air transportation or air commerce. The law explicitly states that no state or political subdivision may enact laws that affect the rates, routes or services of an air carrier engaged in air transportation. Despite the provision, several communities in Alaska have proposed sales and use taxes of this sort. Allowing such provincial taxing authority could soon strangle even the most effective transportation networks. Substantial case law demonstrates that this practice violates the Act, but communities, believing they have found yet another loophole in the law, periodically test the waters with a new tax. This has resulted in confrontation and costly litigation between the aviation community and the municipalities. SB 261 eliminates the illusions on which past efforts have been based and restates federal intent in the preemption provision.



REPRESENTING  
GOLDEN HEART  
OF ALASKA

**FISCAL NOTE**

Revision Date:  
Title: No Municipal Sales Taxes on Air Carriers

Department Affected: DOT&PF  
BRU:

Sponsor: Sharp  
Requestor:

Component:  
Component Serial Number:

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

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING:</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE FUND SOURCE</b>	0	0	0	0	0	0

**FUNDING: (Thousands of Dollars)**

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL FUNDING:</b>	0	0	0	0	0	0

**POSITIONS**

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

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

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

This bill will not directly affect any state programs; however, it will result in transportation cost savings in that an additional potential tax would be clearly prohibited.

Prepared by: Jonathan A. Widdis, Director

Phone: 266-1460

Division: Statewide Aviation

Date: February 3, 1994

Approved by Commissioner:  B.A. Campbell

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: February 8, 1994

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**SB**

**275**

**DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES**

OFFICE OF THE COMMISSIONER

3132 CHANNEL DRIVE  
JUNEAU, AK 99801-7898  
PHONE: (907) 465-3900  
FAX: (907) 586-8365  
TEXT: (907) 465-3652

December 13, 1993

Senator Bert M. Sharp  
119 N. Cushman Street, Suite 201  
Fairbanks, AK 99701-2879

Representative Richard Foster  
P.O. Box 1630  
Nome, AK 99762-1630

Dear Senator Sharp and Representative Foster:

Enclosed are three proposed pieces of legislation which I would appreciate being introduced through the Transportation Committees in the next session:

AS 43.40.010

The increase in aviation fuel tax in the amount of \$.007/gallon is the result of the Legislative request to not assess landing fees on rural airports.

See the Legislative intent language contained in the DOT&PF FY'94 operating budget.

AS 38.05.030

This amendment simply makes airport property disposal consistent with highway property disposal. This is a housekeeping measure which should have been handled when DOT&PF was created -- it wasn't.

All property and right-of-ways are handled in one DOT&PF section and this housekeeping measure makes the operations consistent.

AS 19.05.040

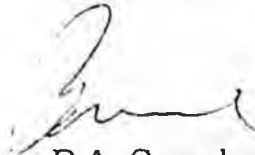
This minor addition to the statutes allows DOT&PF to enter property to determine if hazardous substances exist. This change is needed because DOT&PF has purchased property for right-of-way purposes only to find out that it is contaminated and the cost of cleanup exceeded the cost of moving the facility to avoid the contaminated area had that fact been known.

DOT&PF with this change would be able to know, in advance of purchase, if property is contaminated.

There are two or three more items that are in the mill that will be transmitted later.

Please let me know if you have any questions or I can provide more data.

Sincerely,

A handwritten signature in dark ink, appearing to read 'B.A. Campbell', written in a cursive style.

B.A. Campbell  
Commissioner

Enclosures

specific "agency" that decision, not the more ncy. Union Oil Co. v. tural Resources, 526 1974).

Administrative code ion as "reconsider- ough the administra- refer to the commis- etition for reconsider- irector, division of n application for dis- ation, as "reconsider- rocess is that of the y paragraph (b)(3). ate Dept of Natural 1357 (Alaska 1974). "reconsideration" "review" and "recon- d sense refer to a re- or a course of proceed- y used in the context djudication. "review" ion of a case by one y which initially de- sideration" implies a possibly a different the entity which ini- ion Oil Co. v. State rces, 526 P.2d 1357

able as to review. m Corp. v. Shell Oil Alaska 1969), estab- f seeking judicial re- lands decision with- ner remedies within Natural Resources. bit the pursuit of fur- n the department, s exist pursuant to d promulgated reg- section and former on Oil Co. v. State rces, 526 P.2d 1357

s in which one may es of either seeking y from a decision of r seeking review by then invoking judi- Co. v. State Dep't of 6 P.2d 1357 (Alaska

**Sec. 38.05.025. Continuing regulations, agreements, etc.** All rules, regulations, procedures, funds, contracts and agreements established or entered into by the Department of Lands before May 2, 1959, under the authority of ch. 126, SLA 1953, as amended, and ch. 184, SLA 1957, are continued, and are subject to amendment by the commissioner except where inconsistent with this chapter. (§ 2 art XIII ch 169 SLA 1959)

**Sec. 38.05.027. Cooperative resource management or development agreements.** (a) Consistent with the authority of the commissioner under law, the commissioner, after determining that the agreement is in the best interests of the public and the state, may enter into cooperative resource management or development agreements with the federal government, a state agency, a village or municipality, or a person. Specific guidelines to protect the state and public interest shall be established, if necessary, by the commissioner before entering into an agreement under this section.

(b) A summary of agreements entered into under this section shall be submitted to the legislature within 30 days of the beginning of each regular session. (§ 2 ch 143 SLA 1976)

**Cross references.** — For legislative intent, see § 1, ch. 143, SLA 1976 in the Temporary and Special Acts."

**Sec. 38.05.030. Exceptions.** (a) [Repealed, § 88 ch 152 SLA 1984.]

(b) The provisions of this chapter do not apply to any power, duty or authority now or in the future granted to the Department of Transportation and Public Facilities in the name of the state, to acquire, use, lease, dispose of, or exchange real property, or any interest in real property. Land assigned by the division of lands to the Department of Transportation and Public Facilities shall be returned to the management of the division of lands when it is no longer needed for the purposes assigned.

(c) In addition to the requirements specified in AS 38.50.090, the agencies referred to in (b) of this section and other state agencies with authority to acquire or dispose of land shall give written notification of the fact of acquisition, lease, disposal, or exchange to the commissioner within three months after the date that they make the acquisition, lease, disposal, or exchange.

(d) Real property acquired by and under the management of the agencies referred to in (b) of this section that is no longer needed for its intended use shall be transferred to the commissioner, except that the Department of Transportation and Public Facilities may dispose of real property acquired by it under AS 19.05.040(2) and 19.05.080 — 19.05.120.

**Sec. 02.15.060. Establishment, operation and maintenance.** The department may plan, establish, construct, enlarge, improve, maintain, equip, operate, regulate, protect, and police airports and air navigation facilities within the state. (§ 5 A ch 123 SLA 1949; am § 2 ch 68 SLA 1955)

#### NOTES TO DECISIONS

Applied in *Clark v. State*, Ct. App. Op. No. 716 (File No. A-1840), 738 P.2d 765 (1987).

**Collateral references.** — 8 Am. Jur. 2d, Aviation, §§ 17-19, 55 et seq.  
2A C.J.S., Aeronautics and Aerospace, § 57 et seq.  
Power to establish or maintain public airport, or to create separate airport au-  
thority. 161 ALR 733.  
Airport operations or flight of aircraft as nuisance. 79 ALR3d 253.  
Airport operations liability insurance. 92 ALR3d 1267.

**Sec. 02.15.070. Acquisition and disposal of property.** (a) For the purposes specified in AS 02.15.060 the department may, by purchase, gift, devise, lease, condemnation, or otherwise, acquire real or personal property, or any interest in the property including easements in airport hazards or land outside the boundaries of an airport or airport site, necessary to permit the removal, elimination, obstruction-marking, or obstruction-lighting of airport hazards, or to prevent the establishment of airport hazards. The department may acquire existing airports and air navigation facilities in the same manner except it may not acquire or take over an airport or air navigation facility owned or controlled by a municipality or person without the consent of the municipality or person.

(b) The department may, by sale, lease, or otherwise, dispose of all, a portion of, or an interest in a property, airport, or air navigation facility described in (a) of this section. The proceeds of any disposition shall be used for the purposes set out in this chapter. (§ 5 A, B ch 123 SLA 1949; am § 2 ch 68 SLA 1955)

**Collateral references.** — 8 Am. Jur. 2d, Aviation, §§ 9-19, 62, 67.  
2A C.J.S., Aeronautics and Aerospace, §§ 61, 65-67.  
Exercise of eminent domain for purposes of airport. 135 ALR 755.  
Plotting or planning in anticipation of improvement as taking or damaging of property affected. 37 ALR3d 127.  
Zoning regulations limiting use of prop-  
erty near airport as taking of property. 18 ALR4th 542.  
Operations or flight of aircraft as constituting taking or damaging of property. 22 ALR4th 863.  
Damages resulting from temporary conditions incident to public improvements or repairs as compensable taking. 23 ALR4th 674.

State v. Abbott, Sup. Ct. Op. No. 804 (File Nos. 1463, 1467), 498 P.2d 712 (1972).

The duty to maintain a highway safe for travel includes not only a duty to maintain the surface of the highway in a condition reasonably safe for travel, but also a duty of warning the travelling public of any other condition which endangers travel, whether caused by a force of nature, such as snow or ice, or by the act of third persons, such as a ditch dug in the sidewalk or roadway or an obstruction placed upon it. State v. Abbott, Sup. Ct. Op. No. 804 (File Nos. 1463, 1467), 498 P.2d 712 (1972).

**Liability of state for negligent winter highway maintenance.** — See State v. Abbott, Sup. Ct. Op. No. 804 (File Nos. 1463, 1467), 498 P.2d 712 (1972).

Once the basic decision to maintain the highway in a safe condition throughout the winter is reached, the state should not be given discretion to do so negligently. State v. Abbott, Sup. Ct. Op. No. 804 (File Nos. 1463, 1467), 498 P.2d 712 (1972).

In some circumstances the state will be held liable for dangerous highway conditions caused by ice and snow accumulation. State v. Abbott, Sup. Ct. Op. No. 804

(File Nos. 1463, 1467), 498 P.2d 712 (1972).

To impose a lesser standard of care upon the state for highway maintenance would substantially diminish the risk-spreading effects of AS 09.50.250 and seriously undermine the sound policy consideration upon which it is based. State v. Abbott, Sup. Ct. Op. No. 804 (File Nos. 1463, 1467), 498 P.2d 712 (1972).

In making a determination of negligence by the state in maintaining highways, all of the following factors would be relevant: Whether the state had notice of the dangerous condition, the length of time the ice and snow had been on the highway, the availability of men and equipment, and the amount of traffic on the highway. State v. Abbott, Sup. Ct. Op. No. 804 (File Nos. 1463, 1467), 498 P.2d 712 (1972).

To impose liability on the state for its negligent failure to maintain Alaska highways through the winter would not place an "impossible burden" on the state. State v. Abbott, Sup. Ct. Op. No. 804 (File Nos. 1463, 1467), 498 P.2d 712 (1972).

Cited in State v. Alyeska Pipeline Serv. Co., Sup. Ct. Op. No. 3092 (File No. S-986), 723 P.2d 76 (1986).

**Sec. 19.05.040. Powers of department.** The department may

- (1) acquire property;
- (2) exercise the power of eminent domain;
- (3) take immediate possession of real property, or any interest in it under a declaration of taking or by other lawful means;
- (4) acquire rights-of-way for present or future use;
- (5) control access to highways;
- (6) regulate roadside development;
- (7) preserve and maintain the scenic beauty along state highways;
- (8) dispose of property acquired for highway purposes;
- (9) accept and dispose of federal funds or property available for highway construction, maintenance, or equipment;
- (10) enter into contracts or agreements relating to highways with the federal government, municipalities, a political subdivision, or with a foreign government, if the contract is approved by the federal government;
- (11) establish, levy, and collect tolls, fees, charges, and rentals for the use of state roads, highways, bridges, tunnels, crossings, and causeways; and
- (12) exercise any other power necessary to carry out the purpose of AS 19.05 — AS 19.25. (§ 2 art III title I ch 152 SLA 1957; am § 3 ch 35 SLA 1971; am § 2 ch 162 SLA 1984; am § 1 ch 165 SLA 1988)

§ 19.05.070

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§ 19.05.080

HIGHWAYS AND FERRIES

§ 19.05.080

**Sec. 19.05.080. Acquisition of land, rights-of-way, and materials by purchase or eminent domain.** The department on behalf of the state and as part of the cost of constructing or maintaining a highway may purchase in the open market, acquire, take over, or condemn under the right and power of eminent domain land in fee simple or easements that it considers necessary for present public use, either temporary or permanent, or that it considers necessary and reasonable for the public use. By the same means, the department may obtain material, including clay, gravel, sand, or rock, or the land necessary to obtain material, including access to it. The department may acquire the land or materials notwithstanding the fact that title to it is vested in the state or a department, agency, commission, or institution of the state. Acquisition of materials by purchase in the open market under this section is governed by AS 36.30 (State Procurement Code). (§ 1 art I title IV ch 152 SLA 1957; am § 11 ch 106 SLA 1986)

**Cross references.** — For general provisions concerning eminent domain, see AS 09.55.240 — 09.55.460. For power of department of transportation and public facilities to exercise power of eminent domain, see AS 44.42.020(b).

**Effect of amendments.** — The 1986 amendment inserted "in the open market" near the middle of the first sentence and added the last sentence.

NOTES TO DECISIONS

**Department may acquire real property for highway through eminent domain.** — The Department of Highways [now Department of Transportation and Public Facilities] may acquire real property for the purpose of constructing a highway through the exercise of eminent domain power, under the authority of AS 19.05.040, this section through AS 19.05.120, and AS 19.20.040. *Babinec v. State*, Sup. Ct. Op. No. 908 (File No. 1539), 512 P.2d 563 (1973), rev'd on other grounds, Sup. Ct. Op. No. 1766 (File Nos. 3108, 3109), 586 P.2d 966 (1978).

**Construction of state lease reserving right to grant right-of-way.** — Provision in a lease issued by the State of Alaska, division of lands, expressly reserving the right to grant an easement or right-of-way across the leased property was construed to include an interagency transfer of a right-of-way to the Department of Highways [now Department of Transportation and Public Facilities]. *Wessells v. State, Dep't of Hwys.*, Sup. Ct. Op. No. 1402 (File No. 2834), 562 P.2d 1042 (1977).

**Collateral references.** — 27 Am. Jur. 2d, Eminent Domain §§ 325-332 39 Am. Jur. 2d, Highways, Streets and Bridges, §§ 32-40.

39A C.J.S., Highways, §§ 2, 25-36.  
Constitutionality of statutory provisions as to political corporations or divisions which shall bear cost of establishing or maintaining highway. 2 ALR 746; 123 ALR 1462.

Classification as regards counties or other political subdivisions permissible in

statute imposing cost of construction or maintenance of highways upon property specially benefited. 77 ALR 1285.

Jurisdiction and power in respect of street or road which is part of or touching upon state or federal highway. 144 ALR 307.

Electric light or power line in street or highway as additional servitude. 58 ALR2d 525.

Inclusion or exclusion of first and last days in computing time for giving notice

of hearing for location of public highway, which notice must be given a certain number of days before a known future date. 98 ALR2d 1397.

Extent and reasonableness of use of private way in exercise of easement granted in general terms. 3 ALR3d 1256.

Validity of "freezing" ordinances or statutes preventing prospective condemnee from improving, or otherwise changing, the condition of his property. 36 ALR3d 751.

Plotting or planning in anticipation of improvement as taking or damaging of property affected. 37 ALR3d 127.

Measure of damages for condemnation of cemetery lands. 42 ALR3d 1314.

Traffic noise and vibration from highway as element of damages in eminent domain. 51 ALR3d 860.

Right to condemn property owned or used by private educational, charitable, or religious organization. 80 ALR3d 833.

Recovery of value of improvements made with knowledge of impending condemnation. 98 ALR3d 504.

Assemblage or plottage as factor affect-

ing value in eminent domain proceedings. 8 ALR4th 1202.

Measure and elements of lessee's compensation for condemnor's taking or damaging of leasehold. 17 ALR4th 337.

Sufficiency of condemnor's negotiations required as preliminary to taking in eminent domain. 21 ALR4th 765.

Damages resulting from temporary conditions incident to public improvements or repairs as compensable taking. 23 ALR4th 674.

Compensability of loss of view from owner's property — state cases. 25 ALR4th 671.

Statute of limitations applicable to inverse condemnation or similar proceedings to obtain compensation for direct appropriation of land without institution or conclusion of formal proceedings against specific owner. 26 ALR4th 68.

Private improvement of land dedicated but not used as street as estopping public rights. 36 ALR4th 625.

Unity or contiguity of separate properties sufficient to allow damages for diminished value of parcel remaining after taking of other parcel. 59 ALR4th 308.

**Sec. 19.05.090. Declaration of taking.** A declaration of taking in the form of an order signed by the commissioner, or by a designee of the commissioner within the department, declaring that the real property, or interest in it, or an easement, is necessary for the public use of the state vests title in the state. However, a declaration of taking is not effective until eminent domain proceedings have been instituted in the proper court, and a copy of the declaration of taking has been recorded in the office of the recorder in the district where the land is located. The department shall pay from the appropriate fund into court the amount it considers represents a reasonable valuation for the land, easement or materials taken. (§ 1 art I title IV ch 152 SLA 1957; am § 1 ch 88 SLA 1967)

**Revisor's notes.** — Minor word changes related to the recording of documents were made in this section in 1988 because of the enactment of ch. 161, SLA 1988.

**Cross references.** — For general pro-

visions concerning eminent domain, see AS 09.55.240 — 09.55.460; for power of Department of Transportation and Public Facilities to exercise power of eminent domain, including declaration of taking, see AS 44.42.020(b).

#### NOTES TO DECISIONS

**Access.** — Although the language granting access was erroneously included in the declaration of taking of property for a controlled access facility, a party who purchased the remainder of the adjoining

parcel for his insurance business acted reasonably in believing that he would have direct access and was entitled to compensation because he did not receive direct access. State v. 18,018 square feet,

more or less, Sup. Ct. Op. No. 2232 (File No. 4637), 621 P.2d 887 (1980).

**Sec. 19.05.100. Acquisition of excess land.** When a part of a parcel of land is taken and the remainder is in a shape or condition that is of little value to its owner, or give rise to claims or litigation concerning severance or other damage, the department may acquire the whole parcel and may sell the remainder or exchange it for other property needed for state highway rights-of-way. (§ 2(1) art I title IV ch 152 SLA 1957; added by § 3 ch 122 SLA 1960)

**Sec. 19.05.110. Authority to condemn or acquire publicly owned property for the purpose of exchange.** When property that is devoted to or held for another public use for which the power of eminent domain may be exercised is taken for highway purposes, the department may, with the consent of the person or agency in charge of the other public use, condemn the real property to be exchanged for the real property so taken. This section does not limit the authorization of the department to acquire, other than by condemnation, property for that purpose in any other manner. (§ 2(2) art I title IV ch 152 SLA 1957; added by § 3 ch 122 SLA 1960)

**Sec. 19.05.120. Authority to purchase property for the purpose of exchange.** When the commissioner formally declares that it is in the best public interest of the state to do so, the department may acquire by purchase or otherwise privately or publicly owned land or an interest in it for the purpose of exchanging it for privately or publicly owned land which the department is authorized by law to acquire. (§ 2(3) art I title IV ch 152 SLA 1957; added by § 3 ch 122 SLA 1960)

**Sec. 19.05.122. Utility corridor for extension of the Alaska Railroad.** (a) Not later than April 1, 1982, the interior division of the department shall delineate a proposed utility corridor for the extension of the Alaska Railroad to the Canadian border. The proposed utility corridor shall include a complete legal description of the proposed railroad right-of-way.

(b) Within 90 days after receiving a report transmitting the work of the interior division of the department under (a) of this section, the commissioner shall, in conformity with the Administrative Procedure Act (AS 44.62), if necessary, adopt a regulation approving, modifying, or rejecting the proposed utility corridor and railroad right-of-way.

(c) If the commissioner approves or modifies the proposed utility corridor and railroad right-of-way.

DATE: 2/2/94

FURTHER: Judiciary

Date of 5-Day Notice: 2/2/94  
(in accordance with Uniform Rule 23)

DATE TURNED  
INTO OFFICE: \_\_\_\_\_

Transportation Committee considered SB 275

"An Act relating to the disposal of real property by the Department of Transportation and Public Facilities."

and recommends:

replace with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

same title  
 new title  
 technical  
title change  
(HB only)

attaches amendment(s)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
DOT-PE	2/7/94	X	
DNR	2/9/94	X	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

*Tom Kelly*

OTHER RECOMMENDATIONS:

*NR*

*Robert E. Kelly*

*Bob Kelly*  
Chair: Signature and Recommendation

**FISCAL NOTE**

Revision Date:  
Title: Disposal of Real Property by DOT&PF

Department Affected: DOT&PF  
BRU:

Sponsor: Senate Transportation  
Requestor:

Component:  
Component Serial Number:

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

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING:</b>	0	0	0	0	0	0

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

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

**FUNDING: (Thousands of Dollars)**

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL FUNDING:</b>	0	0	0	0	0	0

**POSITIONS**

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

Estimate of current year (FY94) impact: \$0

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

Prepared by: Jonathan A. Widdis, Director

Phone: 266-1460

Division: Statewide Aviation

Date: February 7, 1994

Approved by Commissioner: 

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: February 7, 1994

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A M E N D M E N T # 1

OFFERED IN THE SENATE

BY

TO: SB 275

Page 1, line 11:

Delete "[AS 19.05.040(2)] and"

Insert "[AS 19.05.040(2) AND]"

Page 1, line 11, following "19.05.080 - 19.05.120":

Insert "AS 35.05.040(1) and (2), and AS 35.20.010 - 35.20.050"

A M E N D M E N T # 2

OFFERED IN THE SENATE

BY

TO: SB 275

Page 1, line 11, following the period:

Insert "Land conveyed under this section to a municipality shall be credited against the municipality's entitlement under AS 29.65, unless the land is conveyed in consideration for other land required for state purposes."

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. SB275

Revision Date: Original Dept Affected: Natural Resources  
 Title: "An Act relating to the disposal of real property BRU: Resource Development  
by the Department of Transportation and Public Facilities." Component: Land Development  
 Sponsor: Senate Transportation Committee  
 Requestor: Senate Transportation Committee Component Serial No. 431

(Thousands of Dollars)

Expenditures/Revenues	FY95	FY96	FY97	FY98	FY99	FY00
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0

(Thousands of Dollars)

FUND SOURCE	FY95	FY96	FY97	FY98	FY99	FY00
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ None

**POSITIONS**

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

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

The Department of Natural Resources supports this bill. We suggest an amendment that if land is conveyed to a municipality that has an acreage entitlement under AS 29.65, that the land conveyed would be charged against that entitlement.

Prepared by: Ron Swanson, Director Phone: 762-2692  
 Division: Land Date: 9-Feb-94  
 Approved by Commissioner: [Signature] Date: 9-Feb-94  
 Agency: Natural Resources

**SB**

**327**



February 18, 1994  
L94057aa

VIA FAX: 907-561-6500

Petro Marine Services  
Attn: James S. Burns  
Anchorage, Alaska

Dear Mr. Burns:

We operate the MS CROWN DYNASTY whose summer itinerary has her sailing from Vancouver throughout Alaska.

While researching available bunkering ports, we understand the Alaska Marine Tax of five-cents per gallon is currently in effect. We understand Petro Marine Services is leading the way to have the tax reduced from 5 cents to 1 cent; we would like to lend our support to this effort and advise that such a reduction would play a key role in our decision to bunker in Alaska rather than relying solely on Vancouver as the primary bunker station.

Thank you for including our formal letter of support in this reduction effort's dossier.

Sincerely,

Captain Jorg Walczak  
Director, Marine Operations

JW:aa

cc: P. Grant, Sr. VP Operations



**Holland America Line  
Westours Inc.**

**Mr. James S. BURNS**  
**Petro Marine Services**  
**3111 'C' Street Suite 500**  
**Anchorage AK, 99503**

To fax : (907) 561-6500

*Seattle February 16 1994*

Dear Mr. Burns

It was a pleasure meeting you Wednesday for what turned out to be a very interesting discussion. You informed me that you are currently working with others in the Marine Industry to have legislation introduced that would reduce the current tax on marine fuel in Alaska from 5 cents per gallon to 1 cent. If successful, this would immediately reduce the price for Intermediate Bunker fuel with approximately \$ 10.00 per Metric Ton and this would allow Seward and other Alaskan ports to offer shipowners an additional or alternative bunker choice on the U.S. West Coast and British Columbia.

*It is with this possibility in mind, that I express my appreciation and support for your continued efforts in this matter, which in my opinion will greatly benefit not only the Marine Industry but increasingly so, the people and the state of Alaska.*

Very truly yours

Captain Willem A. KOOPMAN  
Director Marine Operations WSC  
HOLLAND-AMERICA LINE-WESTOURS Inc.

c.c. D. Grusz

PRINCESS CRUISES 

*FSI*

*FINAK*  
*cc Kurt Dawson*  
*for I*

1000  
Santa Monica  
Boulevard  
Los Angeles,  
California  
90017-1490  
Corporate  
310-541-1776  
Telex  
PRC 184572  
Telefax  
310-477-5175

February 28, 1994  
Ref: SAN/cjt #1612

Mr. Jim Burns  
Petro Marine  
3111 C Suite 500  
Anchorage, Alaska 99503

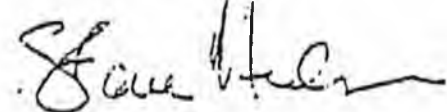
Dear Jim,

Princess Cruises operates 6 cruise vessels in the Alaska cruise trade from June through September each year. Five of these vessels are based in Vancouver and one in San Francisco. Of the 5 Vancouver based vessels, 3 operate 7 day cruises across the Gulf of Alaska between Vancouver and Seward and 2 operate 7 day cruises round trip from Vancouver through the inside passage of Alaska. That San Francisco based vessel operates 10 day round trip cruises to the inside passage of Alaska. Alaska ports of call include Ketchikan, Juneau, Skagway, Sitka and Seward.

We purchase the fuel oil for our ships based upon quality and price. Fuel oil purchased in Vancouver is essentially the same quality as that available in San Francisco, Seattle and Seward. The price differential, due to the Alaska state motor fuel tax is, however significant. The tax of \$0.05 per gallon, which is approximately equal to \$13.65 per ton, makes it prohibitive to purchase more than the minimum required in Seward to return to Vancouver. Our total requirements for the 1994 Alaska cruises season will be approximately 37,855 tons (15,680,000 gallons) for the 6 vessels. Of this amount we anticipate purchasing approximately 9,450 tons (2,561,000 gallons) in Seward.

We strongly support the proposal to reduce the Alaska state motor fuel tax to \$0.01 per gallon. This would make the cost of fuel oil in Alaska competitive with that in Vancouver. This would encourage greater purchase of fuel oil in Alaska.

Very truly yours,



Stephen A. Nielson

07 MAR 01 '94 01:27PM

MARINE ANCH

REGENCY CRUISE

P. 171001/001



March 1, 1994

Mr. James S. Burns  
PETRO MARINE SERVICES  
3111 "C" Street  
Suite 500  
Anchorage, AK 99503

Dear Mr. Burns:

As I indicated during our meeting last month, Regency will deploy two vessels in Alaska during the summer of 94 and I am please to tell you we will add a third ship in 1995.

While at present, bunkering takes place in Vancouver every two weeks, we are very much interested in your proposal to bunker in Seward.

However we must tell you that in order to stay competitive with Vancouver's price, serious consideration must be given to reduce the current "motor fuel tax" to a more realistic figure.

To give you an indication of our bunkering needs, on an average the Regent Sea bunkers 450 M/T of IFO 180 and 150 M/T of MDO, the Regent Star 450 M/T of IFO 100 and 130 M/T of MDO every two weeks.

We look forward to doing business with you hopefully in the very near future.

Sincerely,  
REGENCY CRUISES

Andrew K. Horton  
Manager - Port Operations

AKH/GG

**STATE COMMITTEE REPORT**  
**FIRST COMMITTEE OF REFERRAL**

DATE: 2/14/94

FURTHER: Judiciary  
 Finance

Date of 5-Day Notice: 3-3-94  
 (in accordance with Uniform Rule 23)

DATE TURNED  
 INTO OFFICE: 4-5-94

Transportation Committee considered SB 327

"An Act amending the motor fuel tax to establish a different tax levy on residual fuel oil used in and on watercraft; and providing for an effective date."

and recommends:

replace with \_\_\_\_\_ CS SB 327 (TRA)

attaches amendment(s)

same title  
 new title  
 technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations ?

**FISCAL NOTE INFORMATION**

Department	Date	Zero	Fiscal
REVENUE	3/9/94	X	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

Tim Kelly  
~~\_\_\_\_\_~~  
J. Dutton  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

OTHER RECOMMENDATIONS:

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

Bob Sharp No Pass  
 Chair: Signature and Recommendation



# City and Borough of Sitka

304 LAKE STREET . SITKA, ALASKA . 99835

March 9, 1994

The Honorable Bert M. Sharp, Chair  
Senate Transportation Committee  
Juneau, AK 99801-1182  
FAX No. 465-2070

Re: SENATE BILL NO. 327

Dear Senator Sharp,

Senate Bill No. 327 is a very important issue to the City and Borough of Sitka. If it passes we have a commitment from Pacific Northern Oil to refuel cruise ships in Sitka. This will create important jobs for our community and in the long term will give us significant opportunities as a change port.

We strongly urge your support of this legislation.

Sincerely,

Gary L. Paxton  
Administrator  
City and Borough of Sitka

cc. Senator Robin Taylor  
Representative Ben Grussendorf  
Paul Fuhs - Alaska Dept. of Commerce  
and Economic Development  
Eric Lind - Pacific Northern Oil



## SENATOR SUZANNE LITTLE

ALASKA STATE LEGISLATURE

### Memorandum

TO: Senator Bert Sharp, Chairman  
Senate Transportation Committee

FROM: Senator Suzanne Little *SP*

DATE: March 9, 1994

RE: SB 327

SB 327 will amend the motor fuel tax to establish a different tax levy on residual fuel oil currently produced by Tesoro Alaska north of Kenai. Currently, the tax on this fuel, used mostly by cruise ships and other large vessels, is five cents per gallon. This bill will change the tax rate for residual fuel oil from the current rate of five cents per gallon to one cent per gallon. An economic incentive for cruise ships to purchase fuel in Seward would be created by this reduction. We anticipate that 10-20 jobs would be created on the peninsula by passage of this bill. Additionally, because of increased sales of bunker fuel, the state will break even or will have increased revenues to the treasury.

Residual fuel oil is the heavy refined hydrocarbon that is the residue from crude oil after refined petroleum products have been extracted by the refining process. Residual fuel may only be used when sufficient heat is provided to the oil to reduce its viscosity and to give it fluid properties sufficient for pumping and combustion. These residual fuels are excellent for use in the large cruise ships that travel to Alaska.

Because the current tax on the residual fuel is at five cents per gallon, companies such as Tesoro Alaska are forced to sell their residual fuel at a loss since there is no market for the fuel. By reducing the tax, a market is created with the cruise ships; more than 90 cruise ships will be coming into Seward this summer. The cruise ships that serve Seward now purchase fuel in Vancouver, British Columbia. According to the final report of the Governor's Task Force on Regulatory Reform, if the price for residual fuel can be competitive with prices in Canada, the initial potential is for annual sales of \$7,000,000 and increased employment for Alaskan residents.

I urge the Senate Transportation Committee to support SB 327.

March 9, 1994

ALASKA TRUCKING ASSOCIATION POSITION PAPER

TO: Representative Gary Davis  
and  
Members of the Legislature

FROM: Frank J. Dillon, Executive Director Alaska Trucking  
Association, Inc.

RE: SUPPORT OF H.B. 453 AND S.B. 327

On behalf of the 300-member companies of Alaska Trucking Association, Inc. I ask your support for the passage of House Bill 453 and corresponding Senate Bill 327.

H.B. 453 entitled "An Act Amending Motor Fuel Tax To Establish A Different Levee on the Residual Fuel Oil Used In and On Water Craft and Providing For An Effective Date." What this bill basically does is reduce the tax on heavy bunker fuel from 5-cents a gallon to 1-cent a gallon.

The reason this legislation is needed is to bring the bunker fuel price down so that we can compete in selling fuel to cruise ships which visit Alaska ports. Currently, virtually all the fuel burned in Alaska's waters is purchased in British Columbia. Refiners, who as part of the refining process are left with the heavy bunker fuel currently have little or no market in Alaska for that fuel.

ATA feels that this is exactly the sort of business risk and economic endeavor the state of Alaska should be involved in. We recognize there are risks involved in the worse case scenario the state could lose revenue if fuel sales do not increase to offset the reduction in the tax rate. We believe this is a legitimate and reasonable business risk for the state of Alaska to take in order to expand Alaska's job base and economic activity.

In the trucking area alone we believe that the increased sales activity will result in 15-25 new and good paying jobs in Alaska's trucking industry.

Please move this bill. Please support this bill. It's a good piece of legislation.



# KENT DAWSON COMPANY

---

P.O. Box 20790  
Juneau, Alaska 99802  
Phone: (907) 463-2533  
FAX: (907) 463-3922

March 10, 1994

The Honorable Bert Sharp  
Chair, Senate Transportation  
State Capitol  
Juneau, Alaska 99801-1182

Dear Mr. Chairman:

On behalf of Princess Cruises and Princess Tours I have been asked to convey the following--quoting from a February 28, 1994, letter to Mr. Jim Burns of Petro Marine, and signed by Stephen A. Nielsen of Princess Cruises, which I have attached:

"Princess Cruises operates 6 cruise vessels in the Alaska cruise trade from June through September each year. Five of these vessels are based in Vancouver and one in San Francisco. Of the 5 Vancouver based vessels, 3 operate 7 day cruises across the Gulf of Alaska between Vancouver and Seward and 2 operate 7 day cruises round trip from Vancouver through the inside passage of Alaska. Alaska ports of call include Ketchikan, Juneau, Skagway, Sitka and Seward.

"We purchase the fuel oil for our ships based upon quality and price. Fuel oil purchased in Vancouver is essentially the same quality as that available in San Francisco, Seattle and Seward. The price differential, due to the Alaska state motor fuel tax is, however significant. The tax of \$0.05 per gallon, which is approximately equal to \$13.65 per ton, makes it prohibitive to purchase more than the minimum required in Seward to return to Vancouver. Our total requirements for the 1994 Alaska cruises season will be approximately 57,855 tons (15,680,000 gallons) for the 6 vessels. Of this amount we anticipate purchasing approximately 9,450 tons (2,561,000 gallons) in Seward.

"We strongly support the proposal to reduce the Alaska state motor fuel tax to \$0.01 per gallon. This would make the cost of fuel oil in Alaska competitive with that in Vancouver. This would encourage greater purchase of fuel oil in Alaska."

In addition, I have been authorized to say that Princess will

The Honorable Bert Sharp

- 2 -

March 10, 1994

purchase at least one third (1/3) of our fuel requirements for the ships calling at Seward if the price and quality are competitive with Vancouver, B.C. We can only say this for the Seward ships as Seward is the only Alaska port with bunkering facilities.

Sincerely,



W. Kent Dawson

Attachment

# PRINCESS CRUISES

*Princess*  
*Santa Monica*  
*Honolulu*  
*Los Angeles*  
*California*  
*since 1960*  
*Corporate*  
*100 551 1770*  
*Telex*  
*100 128 372*  
*Telefax*  
*510 477 6675*

February 28, 1994  
Ref: SAN/cjt #1612

Mr. Jim Burne  
Petro Marine  
3111 C Suite 500  
Anchorage, Alaska 99503

Dear Jim,

Princess Cruises operates 6 cruise vessels in the Alaska cruise trade from June through September each year. Five of these vessels are based in Vancouver and one in San Francisco. Of the 5 Vancouver based vessels, 3 operate 7 day cruises across the Gulf of Alaska between Vancouver and Seward and 2 operate 7 day cruises round trip from Vancouver through the inside passage of Alaska. That San Francisco based vessel operates 10 day round trip cruises to the inside passage of Alaska. Alaska ports of call include Ketchikan, Juneau, Skagway, Sitka and Seward.

We purchase the fuel oil for our ships based upon quality and price. Fuel oil purchased in Vancouver is essentially the same quality as that available in San Francisco, Seattle and Seward. The price differential, due to the Alaska state motor fuel tax is, however significant. The tax of \$0.05 per gallon, which is approximately equal to \$13.65 per ton, makes it prohibitive to purchase more than the minimum required in Seward to return to Vancouver. Our total requirements for the 1994 Alaska cruises season will be approximately 57,855 tons (15,680,000 gallons) for the 6 vessels. Of this amount we anticipate purchasing approximately 9,450 tons (2,561,000 gallons) in Seward.

We strongly support the proposal to reduce the Alaska state motor fuel tax to \$0.01 per gallon. This would make the cost of fuel oil in Alaska competitive with that in Vancouver. This would encourage greater purchase of fuel oil in Alaska.

Very truly yours,



Stephen A. Nielsen

**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


March 14, 1994

**SUBJECT:** Draft CSSB 327 ( ) (Work Order No. 8-LS1730J)

**TO:** Senator Suzanne Little  
ATTN: Leslie

**FROM:** Jack Chenoweth  
Legislative Counsel

25 APR 1994  
7:00 PM



AS 43.40.030 notwithstanding, I am just not convinced that a taxpayer is entitled to a refund unless the statute clearly establishes the right to one. AS 43.40.030 is not a good precedent for, it seems to me, it provides for a gratuitous refund of money that, arguably, constitutionally, ought to be in the state general fund. If it is already in the state general fund, then, arguably, there is no basis for the refund adjustment under AS 43.40.030.

I've drafted to try to avoid the constitutional implication that I see inherent in the suggested language you provided.

In summary, in subsection (a) of bill section 1, the rate of the watercraft tax reduces from five cents to one cent after the state has recovered the first \$205,000 from all passenger watercraft fuel seller/taxpayers; the period in which the amount of that recovery is gauged is set at October 1 to the next following September 30. In subsection (b), if the seller does not reduce the tax rate to the buyer, each taxpayer--that is, the passenger watercraft fuel seller or user--is entitled to the refund of the difference in the rate--not 80 percent of the putative difference, as had been suggested in the model provided, but the full amount. But, of course, under this approach, it is the passenger watercraft fuel seller or user--not the buyer--who winds up pocketing the amount refunded.

How the Department of Revenue chooses to perform that calculation and implement return of the overage is best left to their own devices.

JBC:lmb  
94-082.lmb

Enclosure



# City and Borough of Sitka

304 LAKE STREET . SITKA, ALASKA . 99835

March 21, 1994

The Honorable Bert M. Sharp, Chair  
Senate Transportation Committee  
Alaska State Senate  
Room 514 State Capitol Building  
Juneau, AK 99801-1182

RE: Senate Bill 327 C.S.

Dear Senator Sharp and Transportation Committee:

The City and Borough of Sitka strongly supports the passage of Senate Bill 327 to reduce the 5 cent per gallon State tax on marine bunker fuel. While the State receives very limited revenues from this tax, it has made bunker fuel uncompetitive for fueling of cruise ships, which are currently being fueled by vendors in Vancouver, British Columbia. If this tax were reduced to one cent per gallon, more bunker fuel could be sold, and Sitka and Seward would be able to provide cruise ship refueling services which would provide much-needed economic diversification for Sitka.

In response to concerns which have been expressed about Sitka asking for further capital funds to develop a fueling facility, this would not be the case. Alaska Pulp Corporation already has the necessary fuel storage tanks on site, and Pacific Northern Oil is interested in providing the services but is unwilling to proceed if the marine bunker fuel tax is not eliminated or substantially reduced.

If the Sitka fueling facility is developed, potable water and solid waste collection services would also be provided. In the long term, these services may result in longer cruise ship stays. The community may also become a change port with cruise ship passengers flying into Sitka for cruise ship connections, which would have major long-term economic impacts with increased airline service and passenger visits.

Your support for Senate Bill 327 is greatly needed to permit this project to proceed. Sitka can commit to not requesting any capital funding for the fueling facility if the legislation is approved. Please contact me at 747-3294 if you have any additional questions.

Sincerely,

  
Gary L. Paxton, Administrator

cc: Commissioner Paul Fuhs; Economic Development Director Chris Gates,  
Alaska Dept. of Commerce and Economic Development

MAR 03 '94 09:23AM PETRO MARINE ANCH

A PROPOSAL  
TO DEVELOP AN ALASKAN MARKET  
FOR BUNKER FUEL

PREPARED MAY 1993

This is an economic development proposal which could result in the following benefits to the State of Alaska:

1. Creation of approximately eleven full-time jobs in Seward (eight seasonal drivers May through September, two dock watch operators, and one operations supervisor), plus three jobs in Kenai,
2. Increased commercial trucking activity at 60,000 metric tons or approximately 17,000,000 gallons equal 18 to 20 loads daily from May 15 until September 15,
3. Capital investment totalling \$1.2 million at Seward, \$50,000 at Kenai, plus \$800,000 Weaver Brothers tank truck and trailers,
4. Development of an in-state market for Tesoro residual bunker fuel from the Kenai refinery. This will improve the economics over Tesoro's current Japanese export sales, and will assist consumers by stabilizing Tesoro refined products' cost. (This results from Tesoro being able to market residual oil domestically in place of exporting to foreign customers at a price significantly less than crude cost),
5. Provide the incentive for the cruise industry to fuel in Alaska as opposed to foreign ports, primarily Vancouver, B.C.

#### I. BACKGROUND

Cruise ships visiting Alaska utilize a very low grade of fuel oil for propulsion. This fuel is referred to as "bunker fuel," which can be handled most efficiently in the Alaskan climate during the summer months.

Currently, the Kenai Tesoro refinery exports its residual bunker fuel overseas to markets in Japan. There is currently no in-state market or use for bunker fuels.

The cruise industry has historically met its demands for bunker fuel by purchasing in Vancouver, B.C., and Seattle. Their prices are established off Seattle postings regardless of where they take physical delivery.

With the increase in cruise traffic to Southeast and South Central Alaska, Petro marine Services has undertaken a determined effort to develop a market in Alaska with the cruise industry utilizing the Tesoro bunker fuel, which otherwise would be shipped overseas.

This effort has resulted in serious negotiations with Princess Cruise Lines and other carriers.

#### **PETRO MARINE SERVICES**

-2-

## II. ECONOMIC BENEFITS

If Princess or other cruise lines agree to purchase the bunker fuel in Alaska, this would result in capital development and construction investment amounting to about \$2.1 million. (In Seward, it would mean \$1.2 million and three jobs. In Kenai, it would mean \$500,000 in capital improvements.

The product would be loaded on tanker trucks in Kenai and transported to Seward.

The volume for all vessels calling in Seward is in excess of 50,000 metric tons or approximately 17,000,000 gallons annually. This volume is expected to increase in future years and the trend is toward larger vessels carrying more people.

## III. PROBLEM

The current Alaska state motor fuel tax of \$0.05/gallon is a significant impediment to gaining the full potential of residual fuel oil volume available at Seward.

We feel that the bulk of the tour boat fuel business calling in Seward could be served from an Alaskan source if we can get our pricing within a competitive range versus Vancouver, B.C.

Current history is show in Exhibit 1. As you can see, on average, Seward is \$0.0897/gallon out of line with the Vancouver alternate. Five cents per gallon of that difference is the Alaska State tax. Discussions with potential buyers have indicated that if we can get close to the Vancouver pricing, we will get the fuel business. Exhibit 2 graphs the fluctuations in that price differential.

Relief of the tax could bring in more than five times the volume as the Seward price is made competitive with Vancouver.

The vastly increased volume will mean economics of scale in:

- o product cost
- o freight
- o amortization of investment

This means the supplier can look at sharing those economies with the customer and get very close to Vancouver economies. We can sell the remaining difference with superior service and product quality. (See attached Exhibits 1, 2 and 3.)

**PETRO MARINE SERVICES**

Petroleum Marketing to the Marine Industry

"BUNKER FUEL" IS DISTINCT IN CHARACTER AND USAGE FROM MOTOR FUEL.

-3-

Bunker fuels are known in the refining industry as residual fuel oil. They are, just as the name implies, the residue of the refining process. When all of the desirable and profitable fuels, i.e., gasolines, jet fuel, diesel, and heating oil have been removed, that is what is left.

Crude oils vary in chemical make-up and the yield and quality of residual fuel may differ greatly from one to another. We have an excellent example right here in Alaska;

Cook Inlet crude, of which there is very limited supply, will yield approximately 28.5% residual fuel oil with a sulphur content of 0.3%. It is a very desirable crude for this reason, but there is simply not enough available supply.

North Slope crude, which is still available in great abundance, will yield 48% residual fuel oil with a sulphur content of 2.5%. Unfortunately, to have almost half of every barrel you refine end up as a low quality fuel for which there traditionally has been no local market, is a tremendous economic detriment for any company to bear. Certainly Tesoro's earnings have reflected these economic realities since the mid 1980's when it switched to Alaska North Slope crude as its primary feed stock.

The question might be asked: Why is there no local market for this product? It is because the fuel is normally used in large scale applications which can afford to invest in the equipment to handle this viscous and "difficult to burn" material. Pumping and handling of bunker fuel will require the maintenance of tank and pipeline temperatures of at least 120 degrees F. Atomization for proper combustion will require approximately 200 degrees F.

Typically, the fuel is used in utilities for the production of steam to turn turbines and produce electricity. Other large applications are paper mills, steel mills, and chemical plants. We have little manufacturing base in the state and most of those that do exist are well served by convenient natural gas supplies.

THE ECONOMIC OPPORTUNITY

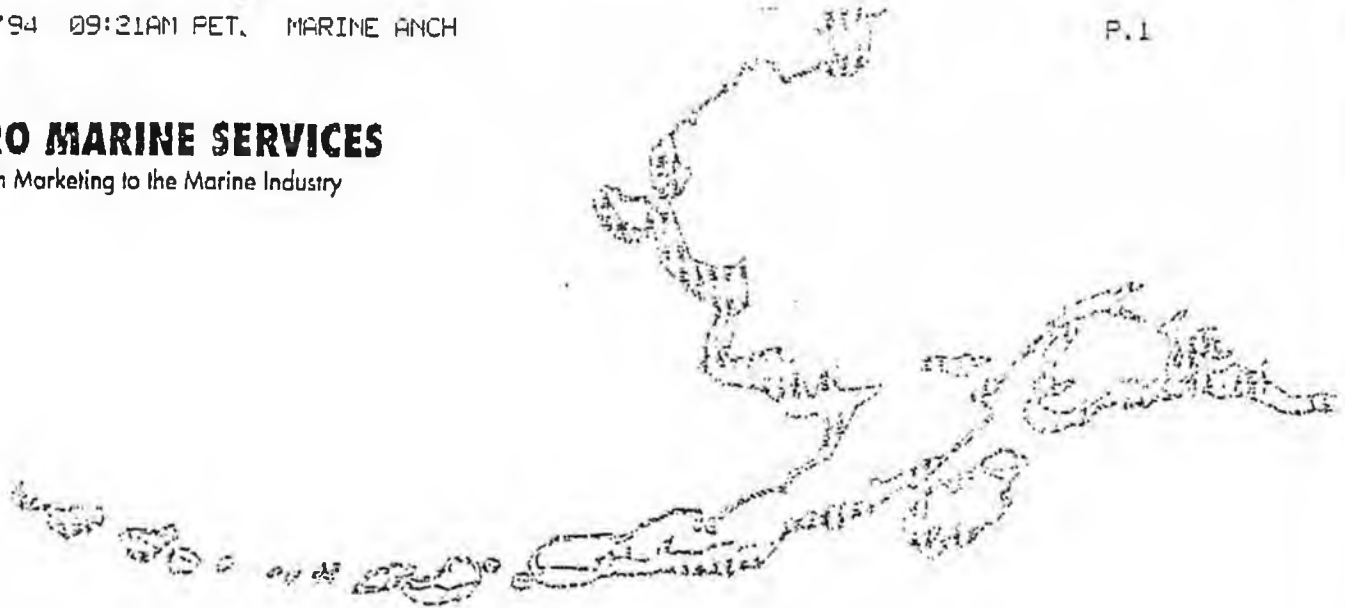
We have before us now a rare opportunity to develop a market for a product which is, currently, an economic liability to one of two major in-state refiners. While the volume is no quantum leap solution, it is a beginning to a market that clearly has the potential to expand.

If we are able to achieve price competitiveness, there is no reason that we cannot fuel the coal ships calling in Seward or the LNG and crude vessels at Kenai. This potential new business opportunity need not be limited to cruise vessels.

To summarize, bunker or residual fuel oil is not a motor fuel by industry definition. ASTM designation and "The Manual of Oil and Gas Terms" both define this product as heavy, high viscosity oil used primarily in industry, in large commercial buildings, and for the generation of electricity.

## **PETRO MARINE SERVICES**

Petroleum Marketing to the Marine Industry



**THIS PACKET IS INFORMATION THAT SUPPORTS  
HOUSE BILL 453  
AND  
SENATE BILL 327**

**THE NEW LEVY WILL REDUCE THE TAX RATE  
ON BUNKER FUEL AND HELP MAKE THE PRICE OF  
BUNKER FUEL IN SEWARD COMPETITIVE WITH CANADA**

PORT OF SEWARD MARKET

THE SEWARD PROGRAM: IN THE SPRING OF 1993 PETRO MARINE INVESTED \$509,500 IN A PUMPING/INLINE BLEND SYSTEM TO SELL SHIPS BUNKERS IN SEWARD. PETRO MARINE ESTABLISHED THIS FIRST OF ITS KIND FACILITY IN ALASKA AFTER PRINCESS CRUISE SIGNED A THREE YEAR CONTRACT TO BUY A SPECIFIED MINIMUM VOLUME. PRINCESS NEEDED BUNKERS FOR VESSEL STABILITY AND PETRO MARINE NEEDED A MINIMUM QUANTITY FOR ITS RETURN ON INVESTMENT DURING THE 1993 SUMMER SEASON PETRO MARINE SOLD 4,106,876 GALLONS OF BUNKERS AND PAID \$205,343.80 MARINE TAX.

THE 1994 SEASON: THE FOUR MAJOR CRUISE LINES HAVE THE FOLLOWING REQUIREMNET EACH SUMMER SEASON. ( ABOUT ONE HALF OF THE PRINCESS AND HOLLAND FLEET GO TO GLACIER BAY AND THEN RETURN SOUTH)

CRUISE LINE	SUMMER BUNKER CONSUMPTION	
	TONS	GALLONS
PRINCESS CRUISE	55,855	15,680,000 (PER LETTER)
HOLLAND AMERICA	55,000	15,070,000 (PER MEETING)
CROWN	6,030	1,680,000 (PER MEETING)
REGENCY	9,720	2,680,000 (PER LETTER)
	-----	-----
	126,605	35,110,000
	=====	=====

SEWARD POTENTIAL VOLUME: OF THE 94 SAILINGS INTO SEWARD, 64 ARE BY THE ABOVE FOUR LINES. IF THE MOTOR FUEL TAX WAS REDUCED FROM 5 CENT PER GALLON TO 1.5 CENT PER GALLON, PETRO MARINE REALISTICALLY EXPECTS TO SELL IN EXCESS OF 12,000,000 GALLONS OF SHIPS BUNKER IN SEWARD DURING A SUMMER CRUISE SEASON. ( NOTE: THE REDUCED TAX WOULD ONLY BE ON THE RESIDUAL PORTION (92%) OF THE BUNKER FUEL AND THE FULL 5 CENTS PER GALLON ON THE DIESEL. COMBINED TAX RATE WOULD BE 1.78 CENTS PER GALLON)

CRUISE LINE	IFO 380 GALLONS	
	TONS	
PRINCESS CRUISE	37,800	10,357,200 (CONTRACT MAXIMUM)
HOLLAND AMERICA	4,095	1,122,000 (ONE SHIP IN SEWARD)
CROWN	2,700	740,000 (ONE SHIP)
REGENCY	4,050	1,110,000 (TWO SHIPS)
	-----	-----
	48,645	13,329,200
	=====	=====

PETRO MARINE WOULD PAY APPROXIMATELY \$ 237,000.00 MARINE TAX TO THE STATE OF ALASKA IN 1994. (\$31,657.20 OVER 1993)

PETRO MARINE SERVICES

SEWARD TOTAL VOLUME: WHEN THE SEWARD BUNKER PRICE IS ESTABLISHED AS A COMPETITIVE PRICE, YOU CAN BUILD A CASE THAT PETRO MARINE MAY BE ABLE TO ATTRACT ADDITIONAL VOLUME FROM THE FOUR MAJOR LINES AND OTHERS ( IN OTHER WORDS BUNKER FOR THE ROUND TRIP). ONCE THE CRUISE INDUSTRY SEES SEWARD AS THEIR BUNKER PORT, THEN PETRO MARINE ALSO HAS AN OPPORTUNITY TO SELL STRAIGHT MARINE DIESEL AT THE FULL 5 CENT PER GALLON TAX ( CURRENTLY PURCHASED IN CANADA) . THE FULL POTENTIAL OF THE SEWARD SAILINGS (94) IS IN THE TABLE BELOW:

CRUISE LINE	IFO 380 TONS	MARINE DIESEL	GALLONS
PRINCESS CRUISE	37,800	NONE	10,357,200 (CONTRACT MAXIMUM)
HOLLAND AMERICA	16,380	1,260	4,875,000 (TWO SHIPS)
CROWN	5,400	630	1,673,000 (ONE SHIP)
REGENCY	8,100	1,620	2,717,000 (TWO SHIPS)
OTHER	7,000	3,520	3,000,000 (THREE SHIPS)
	74,600	7,030	22,622,200
	=====	=====	=====

PETRO MARINE WOULD PAY APPROXIMATLEY \$472,600 MARINE TAX TO THE STATE OF ALASKA. (\$267,252.20 OVER 1993)

UPDATE TO MAY 1993 "PROPOSAL TO DEVELOP AN ALASKAN MARKET FOR BUNKER FUEL":

- TESORO INVESTED \$75,000 IN A TRUCK RACK LOADING SYSTEM FOR NO6 FUEL OIL
- PETRO MARINE INVESTED \$509,500 ON A NEW PUMPING/INLINE BLENDING SYSTEM TO THE ALASKA RAILROAD DOCK.
- PETRO MARINE EMPLOYEED 2 DOCK WATCH OPERATORS.
- WEAVER BROTHERS TRUCKING PURCHASED TWO TRUCKS AND EMPLOYEED 4 DRIVERS
- TCTAL SALES FOR 1993 WAS 4,106,876 GALLONS, 356 TRUCK LOADS
- THE AVERAGE PRICE DIFFERENCE BETWEEN SEWARD AND VANCOUVER FOR SHIP BUNKERS IN 1993 WAS 6.08 CENTS PER GALLON

IF PETRO MARINE SETS A 1994 SALES OBJECTIVE OF 13,000,000 GALLONS:

- PETRO MARINE WILL HIRE 4 DOCK WATCH OPERATORS AND A OPERATIONS SUPERVISOR
- TESORO WILL UPGRADE THE TRUCK LOADING RATE AT THE REFINERY RACK
- WEAVER WILL BUY 5 ADDITIONAL TRUCKS AND EMPLOYEE 10 ADDITIONAL DRIVERS

**PETRO MARINE SERVICES**

## WHAT IS SHIPS BUNKERS?

**BUNKER OIL:** FUEL FOR TANKER, CARGO OR CRUISE SHIPS DERIVED FROM THE BLEND OF RESIDUAL FUEL OIL AND DISTILLATE OILS. THE RESULTING BLEND IS DESCRIBED BY ITS VISCOSITY. ON BOARD A SHIP, THE BLEND MUST BE PRE-HEATED AT THE BURNER TO REDUCE THE VISCOSITY FURTHER FOR PROPER ATOMIZATION.

**RESIDUAL FUEL OIL:** GENERALLY A BLACK, THICK, VISCOUS, SEMIFLUID MATERIAL. IT IS THE RESIDUE FROM CRUDE OIL AFTER THE LIGHT OILS, GASOLINE, NAPHTHA, KEROSENE, AND MID-DISTILLATES ARE EXTRACTED IN THE REFINING PROCESS. IT IS ALSO CALLED REDUCED CRUDE AND NO6 FUEL OIL. RESIDUAL FUEL OIL IS LIMITED TO HEAVY COMMERCIAL AND INDUSTRIAL USE WHERE SUFFICIENT HEAT IS AVAILABLE TO FLUIDIZE FOR PUMPING AND COMBUSTION.

**VISCOSITY:** THE VISCOUS CONDITION OF RESIDUAL FUEL OIL IS BROKEN DOWN BY USING MID-DISTILLATES ( NO2 DIESEL ) OR OTHER VISCOSITY BREAKERS. THE BLEND IS MEASURED BY A SPECIFIC STANDARD THAT THE REFINING AND SHIPPING INDUSTRY HAS FOUND TO BE THE OPTIMUM FOR EFFICIENT COMBUSTION AND OPERATION. THE COMMON MARINE BLENDS ARE INTERMEDIATE FUEL OIL (IFO) 180 AND IFO 380. THE NUMBERS REFER TO THE SECONDS IT TAKES THE BLEND TO PASS THROUGH A MEASURING DEVICE.

**ALASKA:** TESORO IS THE ONLY ALASKA REFINER THAT MUST MARKET RESIDUAL FUEL OIL SINCE ALL OTHERS RE-INJECT RESIDUE BACK INTO THE ALYESKA PIPELINE. THE ONLY APPLICATIONS FOR RESIDUAL FUEL OIL IN ALASKA ARE ASPHALT AND SHIPS BUNKERS. OUTSIDE ALASKA IT CAN BE USED FOR REFINERY FEED STOCK ( COKING ) BOILER FEED FOR ELECTRIC GENERATION AND INDUSTRIAL HEATING.

**TAX ON BUNKER FUEL:** THE SALE OF THIS TYPE OF MARINE FUEL CAN EASILY BE EFFECTED BY TAXATION. THE STATE OF CALIFORNIA WAS A MAJOR SUPPLIER OF SHIPS BUNKERS UNTIL THE STATE IMPOSED A 8.25% TAX. THE STATE HAS GONE FROM 3rd IN THE WORLD TO 22nd. BECAUSE OF THE CURRENT ALASKA TAX OF 5 CENTS PER GALLON, THIS FUEL IS ONLY SOLD IN ALASKA UNDER UNIQUE SITUATIONS. SEE THE ATTACHED ARTICLES

### REASONS FOR BUYING BUNKERS IN ALASKA:

- VESSEL CHARTERED BY AN ALASKA COMPANY
- VESSEL REQUIRES BUNKER FOR RETURN VOYAGE ( STABILITY )
- AN EMERGENCY
- ERROR AT DEPARTURE PORT

## EXAMPLE OF TAX POLICY ON SHIPS BUNKER SALES

WESTCOAST: RESIDUAL FUEL OIL AND ANY BLENDED VARIETY SOLD AS SHIPS BUNKERS IS NOT SUBJECT TO ANY EXCISE TAX OUTSIDE OF ALASKA. CALIFORNIA IMPOSED A SALES TAX ON SHIPS BUNKERS AND THE MARKET "DRIED UP". THE STORY IS AN OUTSTANDING EXAMPLE OF HOW TAXING POLICY CAN IMPACT A MARKET.

SOURCE: OIL PRICE INFORMATION SERVICE (OPIS)

4 92-07-23 14:45:07 EDT

\*\*\*MARINE FUEL BUSINESS 'DRYING UP' IN CALIFORNIA: JOC REPORTS

Today's Journal of Commerce, in a lead article, says that the marine fuel business in California is drying up.

In less than a year, sales of marine fuel in California have sunk from 4 million bbls monthly to 1 million bbls. The reason for the decline: the state sales tax on [bunker]-fuel purchases.

The 8.25 pct tax went into effect last July as a mechanism to help the state raise money to close a budget deficit. Instead, the tax has driven business away from California and is costing the state more than \$3 million in lost payroll taxes and other fees, according to a study commissioned by the Pacific Merchant Shipping Association.

Los Angeles once ranked with Rotterdam and Singapore as one of the world's biggest marine fuel ports, reports the JOC. It wouldn't make the top 20 today.

5 92-09-28 14:43:57 EDT

\*\*\*CALIFORNIA REPEALS [BUNKER] FUEL TAX

California Gov. Pete Wilson approved the repeal of a marine fuel sales tax that nearly devastated Southern California's [bunker] market by driving away business, the Journal of Commerce reports in today's issue.

The tax "placed California businesses at a competitive disadvantage with businesses in other states," the governor said in a statement announcing the repeal.

The repeal will take effect January 1, 1993. The 8.25tax on [bunker] fuel was imposed a little more than a year ago, as part of an effort to raise money to close a huge state budget deficit.

This particular tax ended up costing California [bunker] fuel business, as ships bunkered in areas with no taxes. Los Angeles sunk from being one of the top three [bunker] markets in the country to not even being in the top 30, the Journal of Commerce reports.

THE CALIFORNIA 8.25% DROVE BUSINESS AWAY. WITH THE ALASKA RATE OF 13%, BUNKER SALES IN-STATE ARE SPECIAL CIRCUMSTANCES ONLY. (I.E WEATHER EMERGENCIES, BALLAST NEEDS, IN-HOUSE REQUIREMENT) THERE IS NO "MARKET" PRESENTLY BUT THERE COULD BE IF THE ALASKA MARINE TAX ON HEAVY SHIPS BUNKERS WERE REDUCE TO 1 CENT PER GALLON. IN FACT THERE IS A GOOD "CASE" FOR TAX REVENUE GOING UP IF THE TAX WERE REDUCED.

FINAL REPORT  
OF THE  
GOVERNOR'S TASK FORCE  
ON  
REGULATORY REFORM

MARCH 19, 1993

## OIL

SI 9. Propose a statutory or regulatory change to make marketing of heavy fuels (heavy bunker oil) more economically competitive by eliminating or reducing the taxes. Statutory reference AS 43.40.1 - May be possible to do by regulation.

*Due to the excessive tax on heavy fuels if used instate (\$2.10), heavy fuels have no instate sales/useage. In 1970-72, heavy bunker fuel was sold, to a small market, for use instate, by such firms as Sealand. In 1972, the present tax was placed on this fuel. All sales then ceased, and have remained non-existent since that date. Currently, there is the potential for a market of these fuels in Alaska, if the price of the fuel can be competitive with prices in Canada (current fuel source). The initial potential is for annual sales of \$7,000,000, and employment for 7-10 Alaskans. Refineries instate do produce the heavy bunker fuel, and then it sell as an exported product.*

## MINING

SI 10. Change the valid timeframe of an Exploration and Reclamation permit from one year to five years (DNR). 11 AAC 97.300

*Currently permits are only good for one year, and require considerable effort and expense in preparation. Exploration and reclamation themselves are likely to span several years. Requiring firms to file anew each year is an unnecessary additional expense both for the business enterprise and the State, which does not contribute to either the applicant or ADNR.*

*If ADNR is seeking updated information on changes, then alter the regulations to require notification of any changes when and if changes occur from those in the original approved permit.*

SI 11. Add a phrase to 18 AAC 80.020 so that it reads: "Toxic and Other Deleterious Organic and Inorganic Substances -Substances shall not exceed Alaska Drinking Water Standards (18 AAC 80) or EPA Quality Criteria for Water as applicable to substances and use. i.e. if the water is not used as a public water svstem. 18 AAC 80.020 Source Protection is not the applicable use."

*This is recommended in order to get away from effective treated water at the source. As a result, "raw water" prior to treatment would not have to meet the same standards as water taken and treated for public consumption.*

TESORO BUNKER FUEL SALES  
FIVE YEARS (1989 - 1993)

◆ ◆ GALLONS ◆ ◆

YEAR	TESORO SHIPS	OTHER SALES	TOTAL
1989	2,909,928	0	2,909,928
1990	1,054,410	0	1,054,410
1991	7,167,048	0	7,167,048
1992	5,273,814	0	5,273,814
1993	8,566,782	4,219,404	12,786,186

FIVE YEAR AVERAGE:

5,838,277 TOTAL GALLONS/YEAR (\$291,913 TAX/YEAR)  
84,388 GALLONS/YEAR TO NON-TESORO AFFILIATED  
CUSTOMERS

AVERAGE BUNKER FUEL CUSTOMERS  
FIVE YEARS - TESORO ALASKA



GREATER SOLDOTNA CHAMBER OF COMMERCE  
RESOLUTION NO. 94-3

A RESOLUTION SUPPORTING THE ADOPTION OF SENATE BILL NO. 327  
"AN ACT AMENDING THE MOTOR FUEL TAX TO ESTABLISH A DIFFERENT TAX  
LEVY ON RESIDUAL FUEL OIL USED IN AND ON WATERCRAFTS; AND  
PROVIDING FOR AN EFFECTIVE DATE."

---

WHEREAS, in 1970-72 heavy bunker fuel was sold, to a small market, for use instate; and

WHEREAS, in 1972, the present tax was placed on this fuel and all sales then ceased, and have remained non-existent since that date; and

WHEREAS, due to the excessive tax on heavy fuels if used instate, heavy fuels have no instate sales/useage; and

WHEREAS, there is currently the potential for a market of these fuels in Alaska, if the price of the fuel can be competitive with prices in Canada; and

WHEREAS, Cruiselines have indicated a willingness to purchase Bunker fuel in Alaska if the marine fuel tax rate is lowered; and

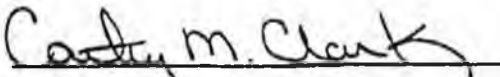
WHEREAS, the purchase of Bunker fuel by Cruiselines would have a positive economic impact to the State of Alaska and the Kenai Peninsula Borough,

NOW THEREFORE BE IT RESOLVED THAT THE GREATER SOLDOTNA CHAMBER OF COMMERCE urges the Alaska Legislature to adopt Senate Bill No. 327.

ADOPTED this 8th day of March, 1994 at Soldotna, Alaska.

  
\_\_\_\_\_  
Kurt Eriksson, Vice President

ATTEST:

  
\_\_\_\_\_  
Cathy M. Clark, Executive Director