

ALASKA LEGISLATURE COMMITTEE FILES 2000 - 2008 HIRA 12413

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California Legislature Approves Container Tax

The California state legislature recently approved a bill (S.B. 927) that would impose a user fee on the owners of container cargo moving through the ports of Los Angeles or Long Beach. The fee, which would take effect 1 January 2008, would be set at US\$30 per twenty-foot equivalent unit, or US\$60 for the standard 40-foot container. One-third of the proceeds generated by this legislation would be used by ports to improve their security and fund the administrative costs for implementing this programme. The remaining two-thirds would be allocated in equal amounts to the state's yet-to-be-established Port Congestion Relief Trust Fund and Port Mitigation Relief Trust Fund.

Reportedly, several sources believe that California Governor Arnold Schwarzenegger is likely to veto the legislation, although he has not made any indication to this effect. Some legal experts have claimed that the bill is unconstitutional because it impedes interstate commerce, an argument that may play a role in the governor's decision. He has until 30 September to sign or veto the bill.

Several industry associations, including the Waterfront Coalition, the National Retail Federation and the American Apparel and Footwear Association, have expressed strong opposition to the measure. In a letter sent to Gov. Schwarzenegger on 6 September, AAFA argued that the container fee will place California's seaports at a competitive disadvantage vis-a-vis other West Coast ports and planned facilities in Mexico and Canada. AAFA believes that the fee, coupled with the congestion problems that are prevalent in Southern California, will persuade shippers to move freight through alternative ports.

While some container cargo may gradually be diverted to other ports if a container fee is ultimately approved, the total number of containers going through the ports of L.A. and Long Beach is unlikely to change dramatically in the foreseeable future. According to a recent report by the Congressional Budget Office, approximately 28% or US\$118.7 billion of the total value of container cargo imported into the U.S. in 2004 arrived at the port of L.A. while an additional 15% or US\$63.5 billion arrived at the port of Long Beach, making these two ports the first and second-largest handlers of containerised cargo in the U.S. The port of Seattle is the next largest port on the West Coast (and fifth in the U.S.) with 5% or US\$21 billion, followed by Tacoma, Washington (4.6% or US\$19.6 billion), Oakland (4.2% or US\$17.7 billion) and Portland (0.4% or US\$1.8 billion). At first glance, and judging from recent

growth trends, the ports of Seattle, Tacoma and Oakland appear well-positioned to capture any container trade that may be diverted from L.A. and/or Long Beach.

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California bill would tax container cargo.(The Titan and the Teuton)(Brief article)

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After failing in 2005 to have a measure enacted that would place a tax on ocean containers, California Senator Alan Lowenthal (www.senate.ca.gov/lowenthal) is back. Lowenthal's amendment to the State Senate Bill 927 would assess a fee of \$30 per twenty-foot-equivalent unit (TEU) for cargo moving through the Ports...

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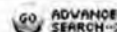
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Schwarzenegger Vetos Container Tax Bill

ISRI recently wrote to California Gov. Arnold Schwarzenegger, urging him to veto a container tax bill that would have imposed a \$30 container tax on imports and exports through the ports of Los Angeles and Long Beach. Schwarzenegger has vetoed the bill.

Schwarzenegger's veto language said that the aims of SB 927 were laudible, but that the bill was "flawed in its construction, application, lack of accountability and failure to coordinate with other public and private financing sources ignoring opportunities to leverage additional funding." He said any attempt to raise funds should better coordinate the public and private sectors and should be more comprehensive than just to include two California ports.

ISRI's letter had argued the bill was redundant and may be unconstitutional and against international trade law.

The letter noted:

- ISRI is generally supportive of efforts to secure ports, mitigate pollution, and reduce congestion, but container taxes are likely unconstitutional and may, in fact, violate international trade law.
- ISRI is a national trade organization, one that believes in free and fair trade, whose West Coast members have provided jobs and pioneered the environmental movement for decades.
- California scrap exporters already pay \$100 per container fee through via PierPASS, a private sector program.
- It makes no sense to sign a bill that would undermine Proposition 1B, a port issues bond of \$4.5 billion, just weeks before the November election.

The container tax is the wrong approach at the wrong time, the letter concluded.

For more information about this issue, please contact Eric Harris, 202/662-8514, ericharris@isri.org.

- [ISRI's Letter to Gov. Schwarzenegger](#)
- [Veto Language](#)

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[Letter to Schwarzenegger About Container Tax \(Adobe PDF File\)](#)
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Voice of the Recycling Industry

Institute of
Scrap Recycling
Industries, Inc.

September 20, 2006

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol
Sacramento, CA 95814

Re: SB 927 (Lowenthal) -- VETO

Dear Governor Schwarzenegger:

The Institute of Scrap Recycling Industries (ISRI) has serious concerns over the direction California is taking to address port security, pollution mitigation and transportation infrastructure issues. Although ISRI is supportive of the Legislators efforts to address these timely issues, SB 927 (Lowenthal), a bill that would impose a \$30 container tax on imports and exports moving through the Ports of Los Angeles and Long Beach, is the wrong solution. Container taxes are likely unconstitutional and may, in fact, violate international trade law. We strongly urge you to **VETO SB 927**.

With 21 chapters nationwide and headquarters in Washington, D.C., ISRI is a trade association that represents over 1,400 companies nationwide, 100 of which are located in California. Our members competitively process, broker, and consume scrap commodities in the global market. ISRI firmly believes in free *and* fair trade. Last year scrap recyclers handled more than 140 million tons of recyclables. Our West Coast Chapter members have been providing good paying jobs in your state and pioneering California's environmental movement for decades.

Trade, more specifically global trade, is vital to the scrap recycling industry and to the U.S. balance of trade, contributing nearly \$9 billion last year. Markets like China and India have become essential to those in the scrap trading business in recent years and will continue to be, especially for California companies.

SB 927 negatively impacts scrap exports. Privately imposed fees from PierPASS, a non-profit created by marine terminal operators to reduce congestion in the ports, already charges scrap exporters \$100 dollars per container fee. Added with the requirements of SB 927, scrap exporters will be asked to pay \$130 per container. Our members will be significantly injured by this additional tax.

Largely due to a very competitive market and an increased number of global participants, scrap exporters operate on extremely low profit margins. A significant contribution to California recyclers' ability to remain



Voice of the Recycling Industry

Institute of
Scrap Recycling
Industries, Inc.

competitive in the global market has been your state's ability to keep export costs low for bulk commodities. This market advantage is now in jeopardy and could cost California good paying jobs.

SB 927 is not the right answer. You and the Legislature have asked the Secretary of State to include SB 1266 in the November 7th election. It makes no sense to undermine Proposition 1B by passing SB 927 just weeks before the people of California have had a chance to voice their opinion.

As a national association, ISRI understands the challenges of being all things to everyone. But, we strongly believe that SB 927 is the wrong approach at the wrong time.

We respectfully urge you to **VETO SB927** (Lowenthal).

Sincerely,

Eric Harris
Director of Governmental and International Affairs

cc: The Honorable Fred Aguiar, Cabinet Secretary
Dennis Albiani, Deputy Legislative Secretary
Sunne Wright McPeak, Secretary
Business, Transportation, & Housing Agency





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For Immediate Release
Contact: J. Craig Shearman (202) 626-8134
shearman@nrf.com

Retailers Oppose California Container Tax

WASHINGTON, D.C., September 7, 2006 – The National Retail Federation this week urged California Governor Arnold Schwarzenegger to veto legislation that would impose a \$60 fee on containers moving through two of the nation's largest ports, saying the measure would force retailers to bring imported goods into the country through ports in other states.

"Container fees of the sort contemplated in the Lowenthal bill would violate the Commerce Clause of the U.S. Constitution, international law and U.S. treaty obligations, and would expose the state of California to court challenge were it to become law," NRF President and CEO Tracy Mullin said in letter sent to Schwarzenegger on Wednesday. "In addition, the fee would substantially increase the cost of moving goods through LA/Long Beach and adversely impact these ports' competitiveness and workforce as retailers and other shippers are forced to look for alternative ports outside the state of California to enter their goods."

SB 927, sponsored by state Senator Alan Lowenthal, D-Long Beach, passed the state Senate 22-16 August 31, one day after being approved 42-35 in the state Assembly, and is now awaiting action by Schwarzenegger. The measure, which would cost retailers and other shippers an estimated \$500 million a year, would impose a \$60 tax on each 40-foot container (or the equivalent number of other size containers) moving through the ports of Los Angeles and Long Beach.

Supporters say the bill would raise funds for improving port security, cleaning up pollution and building port infrastructure, but the measure is written in a way that would allow it to be used for non-transportation projects and initiatives as well.

LA and Long Beach are the two largest container ports used by retailers to import merchandise from Asia that is then distributed to stores across the nation. The two ports handled a combined 3.6 million 40-foot-equivalent containers last year, according to the Port Tracker report prepared each month by NRF and the economic research, forecasting and analysis firm Global Insight.

The National Retail Federation is the world's largest retail trade association, with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet, independent stores, chain restaurants, drug stores and grocery stores as well as the industry's key trading partners of retail goods and services. NRF represents an industry with more than 1.4 million U.S. retail establishments, more than 23 million employees - about one in five American workers - and 2005 sales of \$4.4 trillion. As the industry umbrella group, NRF also represents more than 100 state, national and international retail associations. www.nrf.com.

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Howard Jarvis Taxpayers Association

DEDICATED TO PROTECTING PROPOSITION 13 AND PROMOTING TAXPAYERS' RIGHTS.

CALIFORNIA COMMENTARY

The "Container Tax:" Just Another Proposition 13 Avoidance Scheme

By Jon Coupal

Week of September 18, 2006

Now that football season has begun, optimistic fans dream of winning the big game and a world championship. Coaches devise game plans that will keep the opposing team off balance and maximize their chances of victory. For the unlucky teams who don't have the best talent, deception and misdirection plays are the only chance they have to succeed.

The same is true in the California Legislature. The beginning of games on the gridiron also signals the end of games under the Capitol dome, where politicians seek to gain advantage with creative scheming and an assortment of trick plays. The legislative "end run" is one of the most popular tactics in the political playbook. One egregious example is the recent passage of a half-billion dollar container tax. The bill, which would amount to a massive new consumer tax, now sits on Governor Arnold Schwarzenegger's desk, awaiting a swift veto by a leader who has rightly stood firm against all new taxes.

Senate Bill 927, authored by State Senator Alan Lowenthal attempts an end run around the people of California, Proposition 13 and the Constitution. How so? The purpose of this bill is to impose a "fee" on every shipping container off-loaded in the Los Angeles and Long Beach Ports. Revenue from the fund would, ostensibly, be used to improve the rail system, enhance port security and mitigate the environmental pollution which results from the transport of these containers.

But is this new levy really a "fee" with a close connection between the fee payer and the regulatory program sought to be financed? Of course not. This is just another transparent attempt by government to collect more revenue just because it can.

The real clue that this proposed "fee" is a tax is clear from the language of the bill itself. In order to qualify as a true fee, we have to know, with some specificity, what it is that the fee will be paying for. General categories of expenditure are not sufficient and strongly suggest that the money will disappear into the various black holes of government bureaucracies. In this case, it is even worse. Various agencies are tasked to come up with lists of projects that should be funded. This is backwards. In order to qualify as a true fee, the projects should be known in advance. That way, the legitimacy of the fee can be tested against the actual government programs or improvements sought to be financed. Excuse us if we don't trust government, but when it comes to legitimate "fees" government has a horrible track record.

Supporters of the new tax return to the argument that more revenue is needed to increase safety at ports and build new infrastructure to keep goods moving. If that is true, then why not simply follow the law which requires that new taxes be voted on by the people? Tax increases have been approved by voters throughout California including conservative Orange County to liberal San Francisco. The people of California are smart and have demonstrated their willingness to invest when there is a need. Container tax proponents should have a greater trust in the people and a willingness to make the case that their proposal is needed and appropriate.

Unfortunately, a straightforward approach is no longer the way state and local politicians play the game. Over the past five years, the California Legislature and local government have tried to raise more than \$7 billion in new taxes using creative strategies like the legislative end run.

The good news is that the Governor has already affirmed his opposition to new taxes and underscored his commitment to protecting jobs and the economy. He has zealously promoted California agriculture to the world. If this measure becomes law, California's economic competitiveness would be damaged as other ports in competing states and countries would immediately capitalize on the increased transportation costs of doing business with California. Meanwhile, the precedent established by passing an illegal tax would open the door to new taxes of all kinds, passed without a vote of the people. Indeed new supposed "fees" have already been proposed on just about everything imaginable -- on phone bills, electric bills, beer, bottled water, wine, soda, diapers, prescription drugs, health care facilities, bicycles and groceries (even on grocery bags themselves)!

The Legislature has failed to call a tax a tax. Senate Bill 927's "user fee" is a tax -- and not an insignificant one either. It should be spiked by Governor Schwarzenegger before it can harm California families who deserve better.

Jon Coupal is president of the Howard Jarvis Taxpayers Association -- California's largest taxpayer organization -- which is dedicated to the protection of Proposition 13 and promoting taxpayers' rights.

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RILA Urges Governor Schwarzenegger to Veto Anti-Business Container Tax

ARLINGTON, Va., Sept. 8 /PRNewswire/ -- RILA President Sandy Kennedy strongly urged California Governor Arnold Schwarzenegger today to veto legislation that would impose new fees on maritime cargo containers arriving at the ports of Los Angeles and Long Beach. The legislation, SB 927, by Senator Alan Lowenthal would impose a \$30 fee on every 20-foot cargo container arriving and departing from these ports.

In a letter to Governor Schwarzenegger sent earlier this week urging a veto of the legislation, Kennedy wrote that "additional cargo fees will burden companies that already pay billions in maritime related costs, will make California less attractive for shippers and may violate the U.S. commerce clause."

"Mandating additional cargo fees could have unintended consequences of directing cargo to other West Coast ports or even outside of the U.S. altogether," wrote Kennedy. "The local economies surrounding L.A./Long Beach depend on the jobs and tax revenue that the ports generate and the addition of cargo fees could make the ports unattractive and jeopardize future contracts with the region."

Kennedy also warned that container taxes are unconstitutional. "It is questionable whether California can legally impose fees on international commerce to fund state programs," she wrote. "Previous fees related to international cargo and transportation have been struck down as unconstitutional as they impede interstate commerce. Because many of the containers moving through California ports are moving on to other states, California would have a very difficult time making a container fee stand up in court."

Kennedy also reminded the Governor that industry already pays more than its fair share in container fees, and that these fees are rarely used for their intended purposes. "According to a 2002 General Accounting Office (GAO) study from 1999-2001 'customs duties levied on commodities imported through the maritime transportation system averaged approximately \$15.2 billion each year.' In addition to monies collected from user fees levied on the maritime transportation system, since September 11 the U.S. Congress has authorized nearly \$3.4 billion in federal grants solely for the state of California that have helped to subsidize the port security needs of the state," wrote Kennedy.

"Before considering additional levies or fees, California should examine how to better direct existing resources in support of public programs and the economic consequences of any new fees," concluded Kennedy.

The Retail Industry Leaders Association (RILA) is a trade association of the largest and fastest growing companies in the retail industry. Its members include retailers, product manufacturers, and service suppliers, which together account for more than \$1.5 trillion in annual sales. RILA members operate more than 100,000 stores, manufacturing facilities and distribution centers, have facilities in all 50 states, and provide millions of jobs domestically and worldwide.

SOURCE Retail Industry Leaders Association

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Gov. Vetoes LA, LB Container User Fee Legislation

Schwarzenegger sinks Senate bill opposed by transportation, retail, and industry groups



SACRAMENTO - 09/23/06 - California Governor Arnold Schwarzenegger has vetoed a controversial State Senate bill that would have levied a user fee on every container cargo discharged at the ports of Los Angeles and Long Beach.

The wording of the legislation stipulated that revenues generated by the bill would have been used only "to fund rail system improvements, pollution mitigation measures, and port security enhancements."

The bill - SB 927 - was originally authored by Democratic State Senator Alan Lowenthal, whose 27th Senate District encompasses the Port of Long Beach and several adjacent communities.

The Los Angeles Area Chamber of Commerce (LAACOC) strongly opposed the bill, saying in a statement following the Governor's veto that "SB 927, which applied only to our region's two ports, was an unfair tax. It would have placed Southern California at a significant economic disadvantage and potentially cost hundreds of jobs."

Joining the LAACOC in campaigning against the legislation was a litany of trade and industry groups including the National Retail Federation, the Retail Industry Leaders Association, the California Manufacturers and Technology Association, the Waterfront Coalition, the Wine Institute, the California Chamber of Commerce, the California Farm Bureau, the California Trade Coalition, and the Pacific Merchant Shipping Association (PMSA).

According to the San Francisco-based PMSA, the legislation "would have caused anti-competitive and unfair impacts across the California goods movement industry."

The group represents US and foreign-flag ocean carriers and marine terminal operators responsible for handling 90% of the international cargo that moves through West Coast ports.

"The container tax proposal was a terribly flawed, unconstitutional and discriminatory approach," said PMSA President John McLaurin, who praised the governor's action.

"The shipping and goods movement industry strongly supports efforts to address environmental and infrastructure issues around the ports and we are committed to real public-private partnerships to address these challenges," he said

California's ports, said McLaurin, "are already financed by user fee revenues which raise

approximately \$800 million a year for port operations, rail facilities, security projects and environmental programs, including the most ambitious and aggressive air quality control programs in the world."

The cargo tax proposal - which the Industry group called "illegal" - "raised serious legal questions as it was not a traditional fee for service."

The imposition of such fees "is contrary to the United States Constitution and would violate US obligations under international treaties," said McLaurin.

In addition, he said, "SB 927 would have had other anti-competitive impacts on exporters and importers and would - if it were legal - actually result in increased diversion of cargo from the ports of Los Angeles and Long Beach to other, lower-cost ports."

According to the official language of the bill, the legislation was "intended to address the enormous growth that is occurring at the ports of Los Angeles and Long Beach and the effects of that growth and the ports' operations on the surrounding communities and region."

In an earlier statement, Lowenthal's office said that "the ports are the single largest source of pollution in the South Coast Air Basin, and the existing port-related infrastructure is already strained and ill-equipped to handle the growth in cargo shipments that is occurring and will continue to occur."

SB927 would have established two funds within the State Treasury for the deposit of revenues generated by the container fee of \$30 on every 20-foot equivalent unit (TEU) container discharged at either port.

It called for each port to create a fee notification and collection process fee to go into effect January 1, 2007 and notify, no later than June 1, 2007, cargo owners that a "maximum" and "modest" \$30 per TEU user fee would be assessed beginning September 1, 2008 and collected at least twice per year.

The ports of Los Angeles and Long Beach rank, respectively, as the first and second busiest container ports in the US. Combined, they form one of the most active "load center" port complexes in the world.

Last year, the Port of Los Angeles handled some 7.5 million TEUs, while the adjacent Port of Long Beach saw 6.7 million TEUs' move through its terminal facilities.

Several telephone calls from the *CalTrade Report* to Sen. Lowenthal's office seeking comment on the veto were not immediately answered.



Alliance of the Ports of Canada, the Caribbean,
Latin America and the United States

Repeal the Harbor Maintenance Tax Now!

The Harbor Maintenance Tax (HMT) Is Broken. After fully funding maintenance dredging of federal navigation channels for more than 100 years, Congress instituted a so-called "user fee" in 1986 – the HMT. Originally, the HMT was levied as an ad valorem fee on cargoes and passengers using U.S. ports. Following a 1998 U.S. Supreme Court decision finding that the HMT was a tax, not a user fee, and collecting it on exports was unconstitutional, the HMT is currently levied only on imports, passengers, and domestic cargoes. In addition, U.S. trading partners have alleged that the HMT is an unfair trade practice.

No Other User Fee System Can Work. While other transportation systems in the U.S. rely on a user fee, a user fee system is not workable for dredging. First, there are numerous and varied users, including the U.S. military. Second, many bulk U.S. exports, like agricultural products, have very slim profit margins and additional transportation taxes could price them out of the international market. Third, not all high volume ports require significant maintenance dredging.

Maritime Commerce Already Pays Significant Federal Taxes and Fees. A September 1999 General Accounting Office report on the Commercial Maritime Industry's Federal assessments found that the industry pays significant taxes and fees into the Federal Treasury – 124 assessments totaling \$22 billion a year.

The HMT Has Driven U.S. Cargo and Jobs to Canada. Cargo can enter this country through U.S. ports (and pay the HMT) or come through Canadian ports and enter by land (and avoid paying the HMT). The HMT puts ports near the Canadian border at a huge

disadvantage and has resulted in a loss of jobs in U.S. ports, which are some of the highest paid union jobs in the United States.

The HMT Inhibits U.S. Coastwise Trade. The collection of the HMT on domestic commerce is also a significant disincentive to coastwise waterborne trade, which could help alleviate surface transportation congestion in the future. Currently, international cargo entering a U.S. port and then transshipped by water would be assessed the HMT not once but twice. With trade projected to double by 2020, elimination of the HMT would make coastwise water transportation more price-competitive.

The Federal Role in Navigation Must be Maintained. Well-maintained harbors are critical to our national and economic security. The U.S. military depends on well-maintained navigation channels since they use U.S. ports as bases of operations. Ports also are a vital part of our transportation infrastructure, handling 99 percent of our nation's international trade. The maintenance of navigation channels is an appropriate Federal government function that provides benefits to American businesses and consumers in all 50 states.

As such, it should be funded from general treasury revenues.

The undersigned organizations ask for your support is repealing the Harbor Maintenance Tax in 2001.

Repeal the Harbor Maintenance Tax Now!

- American Association of Port Authorities
- American Great Lakes Ports
- American Maritime Congress
- Americans for Tax Reform
- American Waterways Operators
- Association of American Railroads
- Association of International Automobile Manufacturers

- Chamber of Shipping of America
- Detroit/Wayne County Port Authority
- Electronic Industries Alliance
- Georgia Ports Authority
- Great Lakes Maritime Task Force
- Hampton Roads Maritime Association
- International Council of Cruise Lines
- International Longshore and Warehouse Union
- International Longshoremen's Association
- K Associates, Ltd.
- Lake Carriers' Association
- Management and Transportation Associates, Inc.
- Maritime Institute
- National Grain and Feed Association
- North Carolina State Ports Authority
- Port of Everett
- Port of Greater Baton Rouge
- Port of Miami
- Port of Oswego Authority
- Port of Richmond, VA
- Port of Shreveport-Bossier
- Seaworthy Systems. Inc.

- Shipbuilders Council of America
- South Carolina State Ports Authority
- Tampa Port Authority
- The Port Authority of NY & NJ
- Toledo-Lucas County Port Authority
- Transportation Institute
- U.S. Great Lakes Shipping Association
- Washington Council on International Trade
- World Shipping Council

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Industry Profile	National Defense Role	Passenger/Cruise Industry	Promotional Programs	Pending Legislative Matters	Pending Regulatory Matters	Federal Agency Overview	Related Sites
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Industry Profile



Present Status

The United States continues to depend primarily on oceanborne shipments for its international trade. As the world's largest trading nation, the United States exports and imports about one-fourth of global merchandise trade in value annually (over \$2 trillion in 2000). The largest part of this merchandise trade - over 1.2 billion metric tons of cargo - is moved by water. Another billion tons of cargo, 24 percent of the Nation's total, is carried in domestic waterborne movements, which serve over 90 percent of the U.S. population. Based on current projections, by the year 2020 U.S. foreign trade in goods may grow to four times today's value and almost double its current tonnage, and inland waterways traffic will increase by one-third.

The United States once relied on a huge fleet of relatively small ships to provide the commercial and sealift shipping capacity appropriate for its trade. Since the end of World War II, the U.S.-flag merchant marine has been in a continual state of decline. The United States now ranks 19th in number of oceangoing vessels, having fallen from a top-ten ranking just a few years ago. The U.S.-flag merchant fleet ranks 12th on a deadweight tonnage basis. Today, the U.S. fleet's share of oceanborne commercial foreign trade, by weight, continues to be less than five percent. Other traditional maritime powers have experienced similar declines.

While the number of vessels in the U.S. fleet has shrunk, at the same time many nations have built an international maritime presence as a means of projecting visibility and earning hard currency. These registries may not require the same level of protection for seafarer health, welfare and safety as on U.S.-flag vessels. Often, foreign-flag vessel owners do not pay any corporate income taxes on revenues earned in U.S. foreign commerce, and the crews frequently do not pay income taxes to any country. By comparison, vessels operating under the U.S. flag are subject to all the taxes and regulatory laws applicable in the United States.

Changes in maritime technology and reductions in crew sizes have contributed to a contraction of the industry's supply of vessels and manpower. The average capacity of liner vessels in the U.S.-flag fleet is nearly 28,000 DWT, compared to 12,000 DWT in 1970. Even though the size of the U.S.-flag fleet has declined in recent years, the productivity of the fleet has improved substantially. Today, the U.S.-flag foreign trade liner fleet carries over 42 percent more cargo than in 1970, but in fewer, larger vessels. Today's fleet includes ships and barges, and also containers, chassis, computer-based data systems, rail and truck interchanges, warehouses, piers, cranes, terminals, and highly skilled people ashore and at sea. Technological advances have greatly improved the flow of cargo, resulting in virtually seamless movement of goods from origin to destination anywhere in the world. These advances have also been applied to the movement of military shipments.

The maritime issues and challenges facing the nation are significant and complex. The present and future ability of the U.S.-flag fleet to serve as a contributor to economic sovereignty and national security remains a challenge. Changes in world political trends and economies occur constantly. The 104th Congress understood the precarious situation the Nation faced when it overwhelmingly adopted the Maritime Security Act of 1996. This measure established the Maritime Security Program to support a fleet of militarily useful U.S.-flag commercial vessels and American-citizen crews necessary for the military and economic security of the Nation. Funding for the Maritime Security Program permits 47 oceangoing vessels to participate in the program.

Types of Merchant Ships

The U.S.-flag merchant marine is made up of a variety of vessel configurations for specialized and general cargo purposes. The following is an overall synopsis of the privately owned commercial self-propelled and non-self-propelled U.S.-flag fleet as of July 1, 2002, in terms of number of active and inactive vessels engaged in core areas of operation -- deep-sea foreign, deep-sea domestic, Great Lakes, and inland rivers.

	Vessels Over 1,000 gross tons	Vessels Under 1,000 gross tons
Tankers	87	77
Dry Bulk Carriers	69	4
Containerships	85	0
Tank Barges	2,082	2,137
Dry Cargo Barges	690	23,006
Other Freighters *	50	303
Other Barges	602	6,698
Passenger **	1,333	N/A
Towboats	5,445	N/A
Workboats ***	1,631	N/A
Dredging	570	N/A

TOTAL: 44,869 Vessels

- * Includes general cargo ships, roll on/roll off ships, multi-purpose ships, and LASH vessels. Excludes offshore supply vessels.
- ** Includes ferries, cruise vessels, day excursion vessels, vehicular and railroad car ferries, etc.
- *** Includes crewboats, supply and utility vessels.

Sources: Maritime Administration
World Dredging Mining and Construction

Manpower Pool

The pool of skilled labor actively employed on U.S.-flag vessels is considered a national security asset, able to meet surge-shipping requirements during times of emergency. According to the U.S. Department of Labor, as of year-end 1998 an estimated 56,000 people were employed in the waterborne transportation industry. Approximately 30 percent of these employees worked onboard, merchant and civilian-manned military sealift vessels on the oceans and Great Lakes, 47 percent were engaged in the inland, dredging and piloting sectors, and the remaining personnel worked in the passenger, gaming, sightseeing and excursion vessel trades.

Cargo Carrying Capacity

As of July 1, 2002, the carrying capacity of the privately owned active and inactive commercial self-propelled and non self-propelled U.S.-flag fleet was estimated to be (in metric tons):

	Vessels Over 1,000 gross tons	Vessels Under 1,000 gross tons
Tankers	5,349,000 metric tons	797,000 metric tons
Dry Bulk Carriers	2,600,000 metric tons	2,000 metric tons
Containerships	2,812,000 metric tons	0
Tank Barges	9,484,000 metric tons	3,168,000 metric tons

Dry Cargo Barges	3,289,000 metric tons	36,436,000 metric tons
Other Freighters *	898,000 metric tons	149,000 metric tons
Other Barges	2,598,000 metric tons	5,827,000 metric tons

TOTAL: 73,409,000 metric tons

Passenger **	906,167 capacity
Towboats	9,939,549 horsepower
Workboats ***	578,603 metric ton capacity

* Includes general cargo ships, roll on/roll off ships, multi-purpose ships, and LASH vessels. Excludes offshore supply vessels.

** Includes ferries, cruise vessels, day excursion vessels, vehicular and railroad car ferries, etc.

*** Includes crewboats, supply and utility vessels.

Source: Maritime Administration

Taxes Paid by the Maritime Industry

In addition to federal and state corporate and personal income taxes, the commercial maritime industry pays a number of other federal taxes yearly in order to operate both domestically and internationally. According to a study updated by the U.S. General Accounting Office in September 1999, the commercial maritime industry was assessed \$22 billion in fiscal year 1998, nearly double the assessment calculated in the agency's original study just seven years earlier. Eleven federal agencies were identified as levying a total of 124 diverse assessments, 85 of which are specific to and paid only by the maritime industry. Such taxes include the Harbor Maintenance Tax, vessel entry processing fees, vessel tonnage tax, and an inland waterways fuel tax. In 1998, the U.S. Supreme Court ruled that the export-related portion of the Harbor Maintenance Fee violated the constitutional provision of taxes imposed on exports.

The 10 agencies for which taxes are collected include:

- Animal and Plant Health Inspection Service
- Centers for Disease Control and Prevention
- Coast Guard
- Customs Service
- Federal Communications Commission
- Federal Maritime Commission
- Grain Inspection Administration
- Internal Revenue Service
- Maritime Administration
- National Oceanic and Atmospheric Administration

The 105th and the 106th Congresses rejected an effort of the Office of Management and Budget to tax only commercial vessel operators for navigational assistance services, such as buoy placement and maintenance, vessel traffic services, and radio and satellite navigation systems.

Marine Insurance

The general principles of marine insurance are the same as with other types of insurance in that there are two parties: the assured and assurer (or carrier). The complex circumstances involved in sea and inland voyages require very specific arrangements for the provision of marine insurance. Generally, the marine policy may cover the risks of a single voyage or may insure for a certain period of time. Cargo is almost always insured by voyage. Vessels are usually insured for a certain duration of time, usually year by year. Cargo policies may be on a single lot or may be open to cover cargo as shipped by the insured. Hull insurance or vessel insurance may cover a ship or a whole fleet.

Hull and Machinery (H&M) Insurance

An H&M policy covers physical damage to the vessel, its machinery and equipment. In addition, the policy normally covers general average, salvage, sue and labor and collision liability. Coverage for a vessel under an H&M policy is written with a vessel value, which has been agreed upon between the owner and the underwriters of the policy. Most H&M policies include a deductible for partial losses. Often a shipowner may elect to cover a portion of the value of a vessel for total loss only. This is done using an increased value policy, which usually costs significantly less than a full form H&M policy. There are several factors taken into account when determining the rate being charged for an H&M policy. They include the type of vessel, the value, the owner/operators experience, the loss record, the size of the deductible and the intended trade. H&M policies can be written to cover a single vessel or an entire fleet.

There are several different types of H&M policies a vessel owner can purchase to insure his vessel.

- **Navigation Policy** -- provides coverage when vessels are used in maritime operations.
- **Port Risk Policy** -- used when a vessel is expected to be laid up or non-operational for an extended period of time.
- **Builder's Risk Policy** -- used to cover a ship being built from the time its keel is laid until the ship is completed and accepted by the owner including sea trials.
- **War Risk Policy** -- covers damage to the vessel for war and other risks excluded from the H&M policy by the War, Strikes and Related Exclusions clause. This policy also covers damages caused by strikes, lockouts, labor disturbance, riots and civil commotions, which may be important in a port environment.

Protection and Indemnity Insurance

A Protection and Indemnity (P&I) policy is purchased in conjunction with a hull insurance policy to provide liability protection not found in the hull policy. This type of coverage is usually placed either through a mutual P&I Club or with individual stock insurance companies.

The P&I policy provides coverage should an insured vessel cause damage to piers, wharves, bridges, cable or other fixed or removable objects. Also covered are the cost of raising, destroying or removing a wreck which is sunk and which constitutes a hazard to navigation, bodily injury, loss of life, and sickness of seamen, passengers, ship visitors, stevedores, etc. coverage for the repatriation expenses of seamen who become ill and/or injured during a voyage, and collision risks not fully covered under a hull policy.

Further, the P&I policy provides coverage for damage to cargo caused by the insured vessel should the damage arise from the negligence of the vessel operator and for pollution risks. Operators often use this coverage to meet the requirements of the Coast Guard to obtain Certificates of Financial Responsibility. Domestically, many operators purchase pollution protection coverage through the Water Quality Insurance Syndicate (WQIS).

For those shipowners who are not members of a mutual P&I club, the amount of insurance provided in a P&I policy is usually equivalent to the amount of insurance on the hull of the vessel. This amount of insurance is usually adequate where the ship owner may limit his

personal liability to the value of the hull. However, where the owner of the ship has privity or knowledge of the events or conditions that caused a loss, this limitation on the shipowner's liability may no longer be applicable. In those circumstances, an owner may purchase an Excess P&I policy.

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Ocean Shipping

Companies

In 1996, the Congress enacted the Maritime Security Act establishing a 10-year promotional program for the U.S.-flag fleet, the Maritime Security Program (MSP). It replaced the operating-differential subsidy (ODS) a program authorized by the Merchant Marine Act of 1936 that sought to equalize the disparity in operating costs between American-flag ships and foreign competitors with respect to wages, insurance, and maintenance and repairs. MSP reduced by more than 50 percent the federal operating assistance payments for militarily useful U.S.-flag ships -- from a \$225 million annual payment under the ODS program to \$100 million under MSP. Payments to vessel operators are no longer based on collective-bargaining costs and the difference between the cost of operating a foreign-flag and an American-flag ship.

The 108th Congress, through the enactment of the Maritime Security Act of 2003, expanded the fleet from 47 to a total of 60 vessels. The legislation also called for additional funding for the program subject to annual appropriations.

MSP funding provides for the soon-to-be 60 U.S.-flag vessels to participate in the program. Companies presently awarded MSP operating agreements are: American President Lines, American Car Carriers, Central Gulf Lines, Farrell Lines, Intermarine Inc., Liberty Maritime, Lykes Lines, Maersk Line, OSG Car Carriers, and Waterman Steamship.

The 1936 Act also authorized the construction-differential subsidy (CDS) program, which was designed to assist U.S.-flag vessel operators by helping to fund the difference in costs between having a ship built in a foreign shipyard and having the same ship constructed in a U.S. shipyard. The CDS program, while still authorized, has not been funded since 1981.

July 2002 Self-Propelled U.S.-Flag Deep-Sea Foreign Trades Vessel Fleet

VESSEL TYPE	NUMBER	CARGO TONNAGE
Containership	61	2,510,000 metric tons
Dry Bulk Vessel	12	579,000 metric tons
Liquid Bulk Vessel	17	771,000 metric tons
Other*	37	748,000 metric tons

* Includes general cargo ships, roll on/roll off ships, multi-purpose ships, and LASH vessels. Excludes offshore supply vessels.

Source: Maritime Administration

Liner Trades

Liner or berth service is defined as a scheduled operation by a common carrier whose ships operate on a predetermined and fixed itinerary over a given route, at relatively regular intervals, and are advertised considerably before sailing in order to solicit cargo from the public. These common carriers provide

transportation on fixed schedules and at rates (tariffs) made electronically available to the public. The liner fleet includes full containerships, partial containerships, lighter aboard ships (LASH), roll on/roll off (Ro/Ros), and barge-carrying vessels. Vessels in the liner trades carry high-value cargo as to its worth and multi-faceted cargo as to its physical description, including packaged goods and refrigerated fruit and vegetables. The U.S.-flag commercial fleet is a worldwide leader in innovative technologies in ocean shipping. Innovations include double-stack trains, seamless cargo tracking and identification technologies.

As of July 1, 2002, there were 127 private vessels (containerships, roll-on/roll-off, general cargo, multi-purpose, LASH vessels, and deck barges) in the active oceangoing U.S.-flag fleet serving the foreign trades. In addition, this trade was served by 136 non-self-propelled vessels in excess of 1,000 gross registered tons and 109 non-self-propelled vessels of less than 1,000 gross registered tons.

Shipping Conferences

One very important aspect inherent in the liner shipping industry is the conference system. Conferences, first formed in 1875 by the steamship lines to prevent predatory rate wars, are defined as associations of water common carriers which meet at stated intervals to discuss matters of interest and to set tariffs, or rates and rate structures. Members of the conference agree to abide by the rules of the conference with regard to the rates that will be charged. There are two types of conferences -- open and closed. A conference is closed if one can enter only by the consent of existing members of the conference. It is open if anyone can enter by meeting certain technical and financial standards. By statute, U.S.-flag shipping companies are required to join only open conferences.

Tramp Service

Non-liner service is comprised of tramp and other types of non-scheduled service, which do not conform to the criteria for a common carrier in liner service. A tramp ship, in traditional terms, is one that operates on an irregular or non-scheduled basis from one port of lading to one port of discharge, lifting one dry cargo commodity, usually of low value, without mark or count, and from one shipper to one consignee. Some vessels in irregular service, however, may carry mixed cargoes of bulk and packaged goods. The tramp operator does not usually hold himself out as a common carrier and his ship is free to operate anywhere on any terms, not infrequently being chartered out on time terms. Rates vary from day to day depending upon supply and demand.

Bulk Trades

The bulk shipping industry's economic environment is much different from the liner industry. Bulk shipping is much less structured and not organized along schedules but it is, in its own way, very disciplined. The bulk trades, mainly oil, chemicals, and dry raw materials, are structured to follow the cargoes. This means that an operator does not have a fixed schedule of sailings for his vessel and will employ it where and when he can get a cargo. Bulk service is generally not provided on a regularly scheduled basis, but rather as needed, on specialized ships transporting a specific commodity. Cargoes are shipped unpackaged either dry, such as grain and ore, or liquid, such as petroleum products.

The rate structure is not set in deliberations by a group of operators as they are in a liner conference framework. Rather, the rates are set by dictates of market forces of supply/demand for the commodity and for tonnage. Brokers are the key to making contracts and many contracts are executed over the telephone and by telegraph strictly on the verbal agreement of businessmen. In the bulk trades, bulk operators are contract carriers, either time or voyage chartered by the shipper.

Bulk carriers can be divided primarily into two principal types of ownership. The first is the proprietary owner, whose costs may be calculated as part of the corporation's operating expenses. To minimize those costs the proprietary owner may try to offer his ship for charter on the ballast leg of a voyage. The other type is the privately owned company, which sells its transportation service as the market dictates. Both types are not common carriers but contract carriers which charter ships on a long-term or short-term voyage or other basis.

Bulk operations in foreign trade include both dry cargo vessels (grain and coal carriers) and tankers (chemical or petroleum products).

Dry Bulk Fleet

As of July 1, 2002, there were 12 dry cargo vessels in the privately owned oceangoing active U.S.-flag fleet serving the foreign trades. These ships are specifically designed to transport vast amounts of cargoes such as sugar, grain, ore, coal, etc. Examples of dry bulk vessels include colliers and OBOs. In addition, there were 101 non-self-propelled vessels of 1,000 net or greater and 106 non-self-propelled vessels of less than 1,000 gross registered tons serving the international trades.

Liquid Bulk Fleet

As of July 1, 2002, there were 17 liquid bulk vessels (tankers) in the privately owned oceangoing active U.S.-flag fleet serving the foreign trades, operated by the vessel-operating subsidiaries of major oil or other companies, or by independently operated companies. These ships are specifically designed to transport oil and other liquid cargoes. At times, tankers also carry grain. Examples of liquid bulk vessels include tankers, liquid natural gas (LNG), and liquid petroleum gas (LPG) carriers. In addition, there were 39 non-self-propelled vessels of 1,000 gross registered tons or greater and 3 non-self-propelled vessels of less than 1,000 gross registered tons serving the international trades.

Flags of Convenience

(FOC) All ships must be registered to one of the nations of the world in order that responsibility for violations of international law and convention may be assigned. These ships then fall under the jurisdiction of their nation of registry. Shipping concerns adopted the practice of shopping around for nations that would give them the best deal on taxes, wages, and legal restrictions. They "conveniently" register their ships with these countries, which include Liberia -- which has the world's largest shipping fleet -- Panama, Honduras, the Bahamas, Vanuatu, and the Marshall Islands.

International Maritime Organization

The International Maritime Organization (IMO), a specialized agency of the United Nations whose primary focus is maritime affairs, is responsible for measures to improve the safety of international shipping and prevent marine pollution from ships. It is also involved in legal matters, including liability and compensation issues and the facilitation of international maritime traffic. Established under a 1948 United Nations Convention that entered into force on March 17, 1958, IMO is open to membership by all states that are members of the United Nations and to other states in accordance with the admission procedures of the IMO Convention.

IMO consists of an Assembly, a Council, and five Committees: Maritime Safety Committee (MSC) - the senior technical body responsible for all matters affecting maritime safety; the Marine Environment Protection Committee (MEPC) - responsible for the prevention and control of pollution from ships; the Legal Committee; the Facilitation Committee; and, the Technical Cooperation Committee. The organization, which is based in London, England, currently has 162 member states and two associate members. The Secretary-General, William O'Neil of Canada, who is appointed by the Council and approved by the Assembly, heads the IMO Secretariat.

United States' Role

The U.S. Coast Guard, by appointment of the Department of State, leads U.S. delegations to IMO meetings while the Department of State leads the U.S. delegations to the Council and the Technical Cooperation Committee. In addition to the Coast Guard, U.S. delegations often include representatives from other U.S. agencies, such as the Maritime Administration, the Department of Defense, the National Oceanic and Atmospheric Administration, and the Environmental Protection Agency. Private sector representatives also serve on the U.S. delegation, including representatives of the Transportation Institute.

Since the late 1970s, the United States has taken the initiative to improve international standards for maritime safety and protection of the marine environment so as to provide a significant degree of protection for its waters, waterways, environmental resources, population, and property. Largely as a result of U.S. efforts, the international maritime community has become more uniformly regulated by increasingly comprehensive and stringent international standards. Over the past three decades, most of the vessel design, equipment, and operational standards adopted in IMO instruments have evolved to the point of substantial parity with U.S. requirements. And in 2002, the United States was instrumental in persuading the IMO to adopt a comprehensive regime to strengthen maritime security and prevent and suppress acts of terrorism against shipping.

IMO conventions are not automatically binding upon governments, since IMO only recommends the decisions to member governments for adoption. An IMO convention is not binding to the United States and industry until certain criteria are met. These include: official recommendation of the convention to the President by the State Department; ratification of the convention by the President upon the advice and consent of the Senate; domestic implementing legislation, if required; and promulgation of regulations by the Coast Guard, if required.

IMO Conventions and Protocols

Currently, IMO has adopted 40 conventions and protocols that are mandatory instruments for those countries that have become party to them. The majority of conventions adopted under the auspices of IMO or for which the organization is otherwise responsible falls into three main categories - maritime safety, the prevention of marine pollution; and, liability and compensation, especially in relation to damage caused by pollution. Outside of these major groupings are a number of other conventions dealing with facilitation, tonnage measurement, unlawful acts against shipping and salvage, etc. Some of the more important conventions of interest and importance to vessel operators and to which the United States is a signatory include:

- **International Convention for Safety of Life at Sea (SOLAS)** - regarded as the most important of all international treaties concerning the safety of merchant ships and which specifies minimum standards for the construction, equipment and operation of vessels.
- **International Convention for the Prevention of Marine Pollution from Ships (MARPOL)** - which places restraints on the contamination of the sea, land and air by ships.
- **International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended in 1995** - establishes internationally acceptable minimum standards and requirements on training, certification and watchkeeping for seafarers.

The IMO has also developed 26 separate codes of safe practice, some of which are mandated through a specific convention and others of which are only recommendations, for example:

- **International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code)** - establishes safety management objectives and emphasizes the role of sound management in safety and pollution prevention. Compliance with the ISM Code is mandated by the SOLAS Convention, Chapter IX.
- **International Ship and Port Facility Security Code (ISPS Code)** -- details security-related requirements for governments, port authorities and shipping companies in a mandatory section (Part A), together with a series of guidelines about how to meet these requirements in a second non-mandatory section (Part B). The ISPS Code will come into force in July 2004.

In addition, IMO has approved or adopted hundreds of recommendations and guidelines in the form of resolutions, circulars, and manuals that further supplement or assist in the implementation of the conventions.

protocols, and codes to improve maritime safety and the protection of the marine environment.

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Jones Act / Domestic Shipping

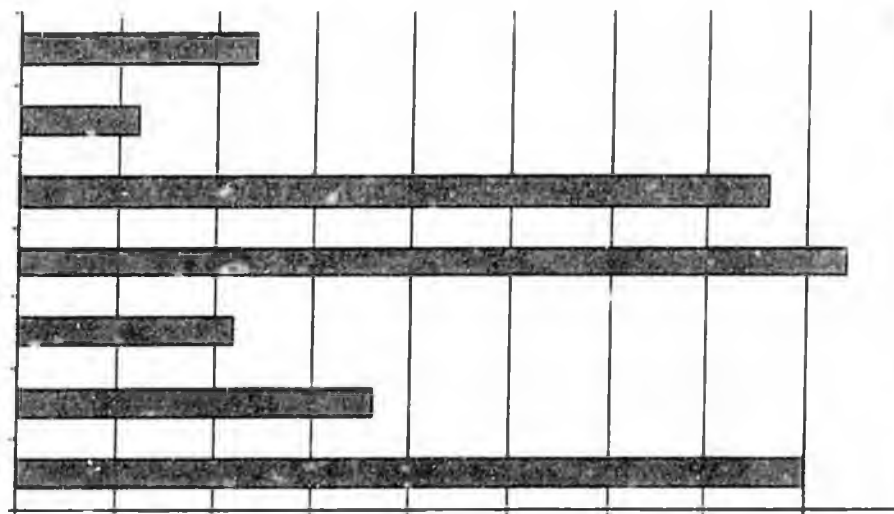
The Jones Act

America's dependence on the seas has been integral to its economic health and survival as a nation. Similarly, because of the vastness of the nation, the expansive network of rivers, lakes, and canals is critical to the efficient transportation of natural resources, food, and manufactured goods from state to state and ultimately to market. Because of the importance of the merchant marine and the critical role that coastwise and inland waterway transportation plays in its economy, America has always made sound decisions about protecting the integrity of this system along with the vitality of our waterways.

Thus, the Jones Act, titled after its sponsor Senator Wesley R. Jones, a Republican from Washington State, was passed as part of the Merchant Marine Act of 1920. This federal legislation specifies that domestic waterborne commerce between two points within the United States and subject to coastwise laws must be transported in vessels built in the United States, documented under the laws of the United States, and owned by the citizens of the United States.

Provisions such as these are not unique in the world, nor are they new to the United States. A recent survey conducted by the Maritime Administration -- an agency of the Department of Transportation -- found that 47 nations have laws restricting foreign access to domestic trade. These similar cabotage laws -- from the French word *caboter* which means to sail coastwise or by the capes -- reserve a country's domestic maritime transportation for its own citizens. Cabotage principles are designed to guarantee the participation of a country's citizens in its own domestic trade. These laws foster the development of a merchant marine and give preference to local labor and industry. More importantly, they support national security and protect the domestic economy. Cabotage laws have been the norm since the early days of our nation. In 1789, the first Congress of the United States restricted registration for coastal trades and fisheries to U.S.-built and U.S.-owned vessels and gave these vessels preferential treatment with respect to tonnage taxes and cargo import duties. Additional cabotage laws were enacted during the intervening years between that first cabotage law and the enactment of the Jones Act over a century later. Variations of these cabotage laws exist today in the U.S. transportation, utility, and communication industries. Federal laws reserve other kinds of U.S. maritime activity to Americans -- including passenger ships fishing in U.S. territorial waters, towing in U.S. harbors or between two points in the United States, salvage operations in the U.S., dredging in U.S. waters, and the exploitation of minerals and other energy resources within the 200 mile economic zone.

Maritime Administration
Survey of fifty Three Maritime Nations



Source: U.S. Department of Transportation

The Jones Act fleet includes over 42,000 commercial vessels and annually transports approximately one billion tons of cargo. Based on the principle that cargo carried between U.S. ports is vital to the American economy, the Jones Act protects the nation's waterways from being turned over to foreign ships, owners, or crews.

Important Benefits of the Jones Act

- The Jones Act assures that the U. S. mainland and its offshore communities continue to have reliable domestic water transportation service subject to national control in times of emergency.
- Jones Act vessel construction and repair in U.S. shipyards assures the availability of the skilled professionals and the modern facilities needed in time of war or national emergency
- Freight revenues earned by domestic carriers, shipyards, and repair yards are subject to taxes. Foreign owned carriers and shipyards are not!
- Because of these requirements for the U. S.-manned vessels, the American merchant mariner is kept employed and trained, while at the same time maintaining readiness to man essential vessels in times of war or national emergency

Jones Act vessels support a wide range of American industries. For ocean shipping, the coastwise and intercoastal fleet primarily employs crude oil and product tankers while the domestic offshore fleet mainly employs container vessels. For Great Lakes shipping, the Jones Act fleet carries iron ore, coal and limestone. Inland waterways shipping carries more domestic cargo than ocean shipping and Great Lakes shipping combined, transporting farm products, petroleum products, coal and non-metallic minerals, and chemical and allied products in bulk by barge.

Every State Benefits From Jones Act Trade

Jones Act cargo movement includes crude oil in coastal tankers from Alaska to California, grain via inland river barge from the Midwest to the Gulf Coast, metallic ores from Minnesota and Michigan in massive self-unloading Great Lakes vessels to Indiana and Ohio, inter-plant movement of chemicals and fertilizers along the Texas Gulf Coast, coal by barge from Appalachia to the Midwest, and merchandise to and from Alaska, Hawaii, and Puerto Rico.

On a value-of-cargo basis, 19 state-to-state flows account for 40 percent -- over \$200 billion -- of Jones Act cargoes.

Domestic Jones Act Tonnage by State 2001

(Thousand metric tons)

STATE	SHIPPING	RECEIVING	INTRASTATE
Alabama	9,486	15,443	11,774
Alaska	47,491	2,323	3,561
Arkansas	3,977	4,355	2,225
California	5,065	27,176	8,109
Connecticut	791	10,569	1,186
Delaware	12,452	1,839	1,824

District of Columbia	-	601	-
Florida	8,106	51,727	3,807
Georgia	733	1,577	168
Guam	42	293	-
Hawaii	698	5,107	7,960
Idaho	911	8	292
Illinois	81,502	18,085	9,338
Indiana	12,827	45,117	3,746
Iowa	8,729	3,732	551
Kansas	178	1,658	286
Kentucky	48,394	30,165	13,140
Louisiana	95,322	115,649	36,684
Maine	89	2,425	142
Maryland	6,282	10,516	4,265
Massachusetts	862	8622	1,757
Michigan	22,797	18,861	14,885
Minnesota	25,706	5,750	2,011
Mississippi	12,497	9,818	795
Missouri	16,022	7,730	7,725
Nebraska	93	69	-
New Hampshire	15	504	-
New Jersey	26,731	18,476	4,407
New York	15,025	19,071	15,061
North Carolina	140	2,383	1,660
Ohio	17,007	56,519	11,422
Oklahoma	1,776	1,966	6
Oregon	3,116	9,103	3,518
Other	4,838	7,340	11

Pacific Islands	2	22	-
Pennsylvania	16,823	32,945	20,341
Puerto Rico	1,161	6,577	2,010
Rhode Island	299	4,930	33
South Carolina	392	3,291	1,901
Tennessee	7,253	30,785	4,351
Texas	39,709	18,760	51,584
Trans-shipment*	254	65	-
Vermont	-	-	-
Virgin Islands	16,894	-	438
Virginia	11,946	5,344	5,869
Washington	13,473	27,315	12,104
West Virginia	48,230	14,411	9,420
Wisconsin	19,439	6,759	119

* Indicates ports and offshore anchorages where cargo is moved from one vessel to another.

Source: U.S. Army Corps of Engineers

A Major Source of Employment

An estimated 124,000 U.S. citizens are engaged in a variety of Jones Act-related jobs including the crewing of vessels, the building and repair of those vessels, and the shore-side management and support of trade. On all American coasts, throughout the inland waterway system, and across the Great Lakes, Jones Act employment impacts the economic vitality of much of the United States.

The Jones Act Employs Approximately 124,000 Persons on a Full-Time Equivalent Basis

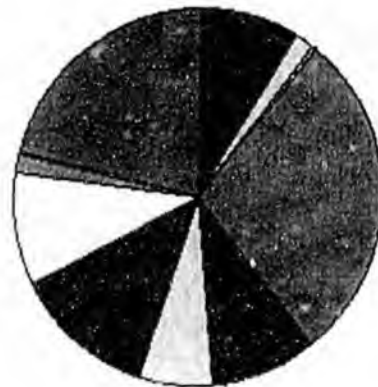
Number of Jobs	Jobs Employment Category
80,170	Crews of Jones Act vessels
14,000	Maintenance of Jones Act vessels
9,139	Shoreside management of vessels and core marine business
17,247	Construction and repairs of Jones Act vessels at shipyards
2,397	Supply of stores, supplies, and equipment
416	Providing insurance coverage to the fleet
619	Financing the Jones Act fleet
123,988	Total

Source: Mercer Management Consulting, Inc.

A Large Contributor to the American Economy

The total direct economic activity associated with the Jones Act fleet is estimated at \$15 billion each year. This includes \$8 billion in other goods and services, excluding fuel, which are largely produced by American manufacturers and financial institutions. The Jones Act fleet transports about 1.1 billion tons of cargo worth approximately \$222 billion at a cost of about \$12 billion – less than 6 percent of the value of the cargo. Approximately \$1 billion of transportation and other services to meet the needs of offshore oil and gas operations is generated and \$1 billion in other marine activities including dredging, patrols, and environmental services is generated by the Jones Act fleet.

The Jones Act is a Major Contributor to the U.S. Economy
(millions of dollars)



Jones Act Fleet: 41,419 Vessels
124,000 Jobs

Total: \$14,874

Source: Mercer Management Consulting, Inc.

The 124,000 employees that are involved in Jones Act activities annually pay \$1.1 billion in federal income taxes and \$272 million in state taxes. In addition, the operators of Jones Act vessels and the shipbuilders and repairers that support them contribute about \$300 million and \$55 million in federal and state taxes, respectively, on their corporate profits. The reality is that a significant portion of this revenue would not enter the U.S. economy if the Jones Act did not exist and if foreign shipyards, crews, owners, and suppliers were operating within U.S. waters while purchasing goods and services outside of the U.S. The simplistic view of income taxes paid on Jones Act fleet operating profits underestimates the full effect of the Jones Act. Suppliers create jobs and earn profits on the goods and services they provide to Jones Act operators, resulting in even more tax revenue generated as a result of the Jones Act.

An American Tradition Worthy of Protection

Some have criticized the Jones Act, saying that it protects a more expensive mode of transportation that costs America more dollars. The reality is that the difference between U.S. and foreign costs for shipping can be explained entirely by the difference in costs related to taxation, regulation and labor costs, and working conditions.

Americans have a higher national standard of living, compensation, and working conditions. American workers

and American companies have to meet national safety regulations. American employers have to adhere to strict U.S. laws. American companies, their employees, their vendors, and suppliers all have to pay American taxes. All of these costs directly impact shipping costs, and thus American shippers. No matter how streamlined and cost-effective their operations are, they will always be at a disadvantage when compared to foreign operators who do not have to play by comparable rules.

If the Jones Act was repealed, the U.S. would experience a devastating loss of maritime jobs – a loss to the U.S. that is estimated at \$15 billion in direct economic value. In addition to the economic damage that would result from the thousands of lost jobs, shipyards would stop investing in cost-efficient operations. Long-term shipping contracts would cease, thus the economy of scale built into those contracts would disappear. The current Jones Act fleet would begin to erode and defaults on federally-guaranteed mortgages would escalate dramatically, costing the federal government millions of dollars. Total exposure of the federal government and the owners of the vessels has been estimated to be over \$1 billion, thus the government has a compelling financial incentive in seeing that the Jones Act fleet is not undermined and wiped out by foreign competition.

By Necessity ... A Competitive and Innovative Industry

Jones Act marine transportation is fiercely competitive, with carriers competing for spot business and long term contracts. As a result, rates are naturally constrained. Interestingly enough, while general inflation has doubled and insurance and other costs of doing business have skyrocketed during the past ten years, Jones Act rates for petroleum products have remained fixed. In some markets, such as the inland grain trade on the greater Mississippi River system, a futures market exists to forward fix, speculate, and hedge grain barging commitments.

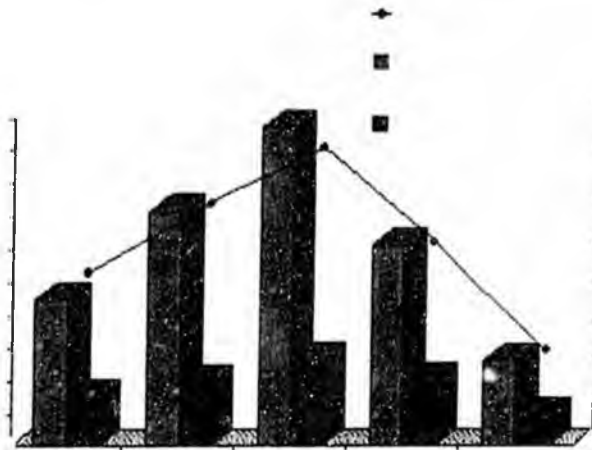
Jones Act marine transportation rates are also naturally limited by competition from other modes of transportation. In virtually every market, rising maritime shipping rates trigger customers to shift cargoes to other modes of transportation. On the flip side of the coin, Jones Act trade must remain competitive and keep its costs low in order to capture cargo from competing modes of transportation, such as oil product pipelines connecting the U.S. Gulf to the Mid-Atlantic states and western coal delivered to the southeast by rail. Foreign sourcing and transportation also imposes powerful rate ceilings on many cargo movements, such as the shipping of petroleum products on the Atlantic Seaboard.

At the same time, innovative production techniques have resulted in lower construction costs. For example, barge prices are lower today than they were a decade ago. Innovative technologies and economies of scale have been developed in order to meet vigorous competition. And all of this has occurred naturally within the industry, thus there is no requirement for the manipulation of outside forces in order to increase competition or innovation. It is already happening – with very positive results for America and American taxpayers.

Buy American

The size and average 30-year life of the fleet used in Jones Act trade dictates that about 2,000 replacement vessels are required each year to maintain the fleet at its current capacity. With these 2,000+ Jones Act vessels being replaced each year, approximately 20,000 shipyard workers are employed through new vessel construction. In addition, 14,000 American jobs are created as a result of the maintenance and repair of existing vessels used in Jones Act trade. The "rule of thumb" for the Jones Act fleet is that new construction creates 10 shipyard jobs per "average" vessel.

Potential Jones Act Vessel Construction Schedule and Shipyard Employment (annual averages in five year increments)



Source: Mercer Management Consulting, Inc.

If foreign-flag ships were permitted to transport merchandise between two points in the United States, the foreign-flag operators would be able to avoid paying U.S. taxes! They would employ foreign citizens, not Americans. They would be subject to foreign construction and safety rules, not stringent American guidelines. Amending the Jones Act would result in the removal of a portion of the U.S. gross national product, adversely affecting the U.S. balance of payments.

The ripple effect on the U.S. economy would extend far beyond the waterfront. Shipyards, their suppliers, their insurers, their employees, and the employees of their suppliers would suffer. Land transportation systems that now efficiently connect and coordinate with water transportation systems would encounter more complex problems in maintaining the smooth flow of domestic cargoes, which would, in turn, increase shipping costs. Terminating the Jones Act amounts to a shortsighted and "penny wise, pound foolish" decision if it comes to pass.

Foreign trade ministers oppose the Jones Act for very obvious economic reasons. They want to build ships in their own subsidized shipyards that would be used to transport the domestic commerce of the United States. Meanwhile, they do not "graciously" offer to terminate their own cabotage laws in exchange. And even if they did, the deal would not be equitable since America's domestic trade is far greater in size than the domestic markets of our foreign competitors.

Our Nation's Security Depends on the Jones Act

An undeniably vital aspect of the Jones Act is the range of national security benefits it affords the United States. First, the Jones Act fleet plays a vital role in maintaining the nation's economic security by ensuring that the United States controls its essential transportation assets and the related infrastructure in both peacetime and wartime. American-owned and American-manned ships ensure the safe transport of grain down the Mississippi, ore across the Great Lakes, coal from America's heartland, and more. Without the Jones Act, America's internal network of waterways would be vulnerable to foreign shippers who don't play by the same set of safety rules or adhere to important environmental standards. America's economy relies on an efficient system of shipping, thus with foreign vessel operators playing a role, our natural resources and goods, and citizens are subject to the whims of ship operators who have a lot less at stake.

Because of the Jones Act trade, American shipyards and repair yards efficiently operate during times of peace. As a result, when war places demands on these resources, they can be mobilized to repair, convert, and construct vessels for military use -- quickly and efficiently. At the same time, with the Jones Act in place, equipment manufacturers that supply the military are in business and ready to serve the nation when they are called upon to use their expertise to produce vital equipment for military needs.

In addition, the actual Jones Act vessels and Jones Act crews form a ready team of professionals who play a central role in meeting U.S. defense needs when they emerge -- sometimes at a moment's notice. Without this ready fleet of ships and people, the U.S. taxpayer would bear the burden of building these ships and maintaining these highly technical capabilities over many years. It has been estimated that the Department of Defense would have to spend \$800 million annually to maintain these resources. With the military budget

under continued assault to streamline staffing and ship requirements, it is easy to see the importance of keeping the current cost-effective manning and shipping system intact through the Jones Act. The Jones Act fleet serves as an important adjunct to government-owned defense resources, without any burden of cost to the government and the American taxpayer. And real world demonstrations such as the Vietnam conflict and the Gulf War confirm the importance of Jones Act vessels in the mobilization of U.S. allies and in meeting logistics requirements.

"The Gulf War was a staggering logistical accomplishment... We moved more than 95 percent of all the equipment, supplies, and fuel by sea. And U.S.-flagged ships carried 80 percent of the ocean going cargo. We did it in record time and with a near-perfect safety record. We tapped the U.S. maritime industry and thousands of merchant mariners to help augment the government's strategic sealift forces."

VADN Francis R. Donovan
USN Commander, Military Sealift Command, August 1992

Critical To Our Environment And To Our Safety

The regulations issued and enforced by the U.S. Coast Guard are the most effective in the world. Employing U.S. citizens and resident crews while navigating the coasts and rivers of America involves the reliance on people whose orientation is to obey the law, work hard, and have a personal stake in the environmental and economic well-being of the United States. Thus, communities from sea to shining sea are safer for having U.S. operators and U.S. merchant mariners serve the nation's maritime transportation needs. Thus, the Jones Act is vital to the environmental security of our nation.

The U.S. Merchant Marine must meet the stringent requirements of federal, state, and local laws that protect America's precious waterways and tidal areas. The U.S. Merchant Marine is required to meet stringent oversight inspections that have the highest standards in the world. Plus, because Jones Act carriers are liable for failures in performance by law, through insurance premiums, and through the pressure of demanding charterers, U.S. operators cannot cut corners or run a slipshod operation using untrained mariners. The introduction of foreign-flag ship operators into the American system invites disaster. Some foreign ships do not have the burden of following national guidelines that guarantee a well-maintained vessel that is constructed for superior safety. Foreign crews are often paid extremely low wages, receive few benefits, and work inhumane schedules. Many do not have the superior level of training or professionalism that characterizes the U.S. Merchant Marine. Thus, if the Jones Act is repealed, America's waterways will be heavily traveled by vessels and crews that do not perform to American standards -- nor will they have the incentive to do so.

If the Jones Act were to be terminated, the number of foreign-flag vessels carrying hazardous cargoes along our environmentally sensitive coastlines and within the harbors and waterways would increase beyond the already unacceptable level. Our nation's precious environment would be even more vulnerable to those whose operating systems are not up to our standards or within our control.

Vital To America's Future

The Jones Act has been integral to the economic and national security of our nation since it began. Today, the Jones Act offers a clear way to preserve the millions of dollars of tax income gained from Jones Act trade and fleets. The Jones Act employs thousands of Americans through shipping and shipping support activities across the nation. The Jones Act fleet is a competitive and innovative industry that continues to provide America with high quality and cost-effective services from coast to coast. The Jones Act ensures a ship building and ship repair resource that can be mobilized quickly in times of war. The Jones Act guarantees a professional and ready force of merchant mariners who are vital to America's ability to supply our military forces -- bringing food, equipment, and ammunition needed to sustain a conflict in distant lands. The Jones Act ensures that our nation's waterways are traveled by well-built ships that meet American safety and environmental standards. The Jones Act facilitates America's complex and streamlined system of transportation of goods that is invaluable to a strong economy.

America cannot afford to lose control of the movement of crude oil in coastal tankers from Alaska to California ... grain via inland river barge from the midwest to the Gulf Coast ... metallic ores from Minnesota and Michigan on Great Lakes vessels to Ohio ... coal by barge from Appalachia ... and goods to and from Alaska, Hawaii, and Puerto Rico. American citizens residing across the vast reaches of this nation expect and deserve the broad-reaching benefits of our nation's current high standard of shipping and professionalism that is guaranteed by the Jones Act.

The Jones Act is an American tradition founded on common sense; an American tradition that protects economic superiority and national security through quality shipping and unparalleled professionalism. Cabotage laws have enabled America to become the economic force of the world while securing the safety of our vast national network of inland waterways and coastwise trade. The Jones Act has served America well during the better part of this century, fostering a superior and streamlined system of transportation that is so critical to our nation's economic health and fostering the professionalism of a team of merchant mariners second to none. The Jones Act has had a dramatic impact on America's past. It has brought us to a position of strength today. It will continue to serve America well in its future.

For further information about the Jones Act, please visit the Maritime Cabotage Task Force

Domestic Shipping

This segment of the American merchant marine that operates on the Great Lakes, the inland waterways, and in the coastwise, intercoastal, and domestic offshore trades carries a combined total of over one billion short tons of cargo each year. The major products moving in the domestic trade are crude petroleum, raw materials, coal, chemicals, and farm products. Traditional liner cargoes and manufactured products move between the contiguous 48 states and Alaska, Hawaii and Puerto Rico. In order to maintain market share, the domestic fleet must compete successfully with alternative modes of inland transportation, including railroads, trucking, and occasionally airfreight. It is a vital component of the overall transportation network that serves our country.

In 2002, the Jones Act fleet comprises more than 41,000 vessels and associated equipment, including approximately 1,000 tugs and 30,000 barges, needed to carry this cargo and 80 million passengers annually. These vessels range from the largest of containerships to small, dry cargo barges including tankers, dredging vessels, and passenger ships. To move these commodities and passengers, the fleet has doubled in size since 1965 based on the number of large vessels in the fleet. During the same timeframe, productivity has more than tripled, increasing at an annual rate 2-4 times greater than America business on the whole.

The U.S. domestic fleet plays a vital role in sustaining the national maritime infrastructure that supports U.S. maritime and naval power. For example, 87 percent of all U.S.-flagged shipboard employment opportunities are found in the U.S. privately owned, domestic fleet; that fleet provides over 70 percent of the new construction opportunity for U.S. shipbuilders; and 97 percent of all cargo moving on U.S.-flag vessels moves on vessels operating under the coastwise laws.

Domestic waterborne services offer the Nation a number of benefits:

- Relatively low transportation costs, especially for low-value/dth commodities that are often in close proximity to the domestic waters
- Historically determined location of major industrial centers close to or along domestic waters
- Relief of congestion at land- and air-based facilities during national emergencies

Domestic Deep-Sea Trades (Coastwise and Non-Contiguous)

The major segments of the domestic deep-sea trade are the contiguous and non-contiguous trades. The major non-contiguous trades are between the mainland and Alaska, Hawaii, Puerto Rico, Guam, and the islands of Wake and Midway. The contiguous routes consist of the coastwise traffic along the Atlantic, Gulf and Pacific Coasts.

Cargo in the domestic deep-sea trade is predominantly industrial, principally petroleum and dry bulk products. In 2000, more than 226 million metric tons of cargo was transported via the domestic deep-sea trade. Petroleum products accounted for 50 percent, crude petroleum for 21 percent, chemicals for 6 percent and coal for 6 percent. Manufactured products that move primarily in non-contiguous trades and food products accounted for the remainder. As of July 1, 2002, the self-propelled and non self-propelled commercial deep-sea domestic fleet was comprised of:

TYPE	NUMBER	CARGO CARRYING CAPACITY
Tankers	139	5,354,000 metric tons

Dry Bulk Carrier	2	71,000 metric tons
Containerships	24	302,000 metric tons
Tank Barges	669	4,398,000 metric tons
Dry Cargo Barges	353	2,075,000 metric tons
Other Freighters*	196	238,000 metric tons
Other Barges	3,285	3,472,000 metric tons
Tugs/Towboats	1,875	N/A

* Includes general cargo ships, roll on/roll off ships, multi-purpose ships, and LASH vessels

Source: Maritime Administration

Inland Trade

America's inland network consists of 12,000 miles of waterways. In 2000, more than 691 million metric tons of freight was moved on the inland waterways, handling 60 percent of the Nation's grain exports, 25 percent of the chemical and petroleum exports, and over 20 percent of the domestic coal shipments. Like the Great Lakes, the northern-most inland waters are subject to prohibitive freezing conditions in the winter.

As of July 2002, the industry serving this trade was composed of:

TYPE	NUMBER	CARGO CARRYING CAPACITY
Tugs/Towboats	3,429	N/A
Tank Barges	3,501	8,050,000 metric tons
Dry Cargo Barges	22,438	36,054,000 metric tons
Other Freighters*	107	27,000 metric tons
Other Barges	3,839	4,716,000 metric tons
Tanker	2	N/A

* Includes general cargo ships, roll on/roll off ships, multi-purpose ships, and LASH vessels

Source: Maritime Administration

Great Lakes Trade

Great Lakes domestic cargoes primarily include iron ore, coal, and limestone. The Saint Lawrence Seaway provides Atlantic Ocean access to the Great Lakes. In 2000, 126 million metric tons of cargo moved through the Great Lakes. Winter freezing conditions typically render the Great Lakes fleet inactive for months at a time.

As of July 1, 2002, the domestic Great Lakes fleet was made up of

TYPE	NUMBER	CARGO CARRYING CAPACITY
Dry Bulk Carriers	59	1,952,000 metric tons
Tankers	6	21,000 metric tons
Other Freighters	13	54,000 metric tons

* Includes general cargo ships, roll on/roll off ships, multi-purpose ships, and LASH vessels

Source: Maritime Administration

In addition, the Great Lakes are home to a considerable tug/barge and shipdocking industry. As of July 1,

2002, this industry was comprised of:

TYPE	NUMBER	CARGO CARRYING CAPACITY
Dry Cargo Barges	122	270,000 metric tons
Tank Barges	10	28,000 metric tons
Other Barges	176	218,000 metric tons
Tugs/Tows	141	N/A

Source: Maritime Administration

Dredging Trade

The marine construction and dredging industry is a specialty construction trade characterized by equipment that is housed on floating platforms. The demand for dredging stems from four primary factors:

- To provide unimpeded navigation through an existing channel (maintenance dredging);
- To improve navigation channels to provide access to larger vessels (new work dredging);
- To provide shore protection through beach nourishment;
- To provide environmental restoration of dredged waters or wetlands.

The largest purchaser of marine dredging services is the federal government through the U.S. Army Corps of Engineers. The maintenance-dredging budget ranges from \$220-260 million per year. The new work-dredging budget varies greatly from \$50 million-180 million annually. Since the 1990s, shore protection has grown enormously from about \$25 million to approximately \$90 million annually. Environmental cleanup and wetlands restoration is a slowly growing dredging trade.

As of March 2006, the privately and state-owned U.S.-flag dredging fleet totaled 499 dredges, and was comprised of the following:

- 285 pipeline dredges in which the dredge navigates through a channel on stilts-like spuds. The dredged material is pumped via a slurry pipeline to a designated placement site near the channel.
- 149 mechanical dredges in which material is lifted from the channel bottom via a hydraulic clamshell and placed in a barge that is towed to the ultimate disposal site.
- 29 hopper dredges, which are self-propelled. Coast Guard inspected oceangoing vessels that pump spoils through a "dragarm" while the vessel is sailing. When the hopper is full, the dredge sails to a designated site for disposal.

Source: World Dredging & Mining Construction Annual Report

In addition to the aforementioned, the U.S. Army Corps of Engineers maintains a 12 dredge fleet consisting of 7 pipeline dredges and 5 hopper dredges.

Passenger Vessel Trade

Oceangoing passenger vessels can easily lend themselves to conversion as command and communication facilities, troop carriers, hospital ships, and rest and recreation facilities during military engagements and can provide qualified crews for military sealift. As of July 2002:

- Nine vessels of the Alaska Marine Highway System provide passenger and auto ferry service between Alaskan ports. The newest passenger/vehicle ferry was added to the fleet in 1998. Capable of carrying 550 overnight passengers, it is equipped with high-tech features which can provide emergency response capability in the event of a natural disaster.
- Delta Queen Steamship Co. operates three paddlewheel steamboats on the Mississippi and Ohio Rivers.

- Additional U.S.-flag overnight passenger vessels provide coastwise services on the Atlantic, Pacific and Alaska Coasts; St. Lawrence Seaway; the Great Lakes; the Caribbean; Erie Canal, and the Hudson, Saguenay, and Columbia Rivers. Altogether they number some 30 vessels.
- Twenty gaming/excursion vessels (riverboats) are operating in Indiana and Iowa.
- Approximately 26 U.S.-flag cruise-to-nowhere gaming vessels operate from U.S. ports, primarily in Florida.
- In addition, there are an estimated 5,000 U.S.-flag day passenger vessels (non-cruising) of all types, including excursion vessels, private commuter ferries, and publicly operated ferry systems.

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- ### Project News & Updates
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 - Construction to begin on Prince Rupert Container Terminal
 - Will West Coast Ports Miss the Boat?
 - \$41m Civil Construction Contract Awarded to BA Blacktop/Pennecon
 - Port Implementing Public Safety and Security Measures - April 24 2006
 - Port Implements Security Measures
 - Summer 2006
 - Federal Courts Dismiss First Nations Court Action
 - Going West
 - Federal Announcement Opens New Opportunities for Prince Rupert Port
 - Macleans Magazine: Trying to unclog Canada's gateway to riches
 - Prince Rupert Port Updates Container Terminal Project
 - Prince Rupert's Fairview Terminal Conversion

Prince Rupert Container Terminal Development

Opening a New World of Opportunity

Changes in shipping preferences created the need for transformation at the Port of Prince Rupert. The Prince Rupert Port Authority is investing in the future of Prince Rupert and the entire region by developing new capabilities to meet the changing needs of shippers and producers from across the Asia Pacific region. Building upon the inherent advantages of the Port of Prince Rupert's deep harbour, strategic location, and superior transportation connections, Prince Rupert is poised to open a new trade corridor in the Asia Pacific theatre with this first phase of container terminal development.

The Prince Rupert Port Authority is building North America's newest container port on the West Coast of North America in partnership with Maher Terminals of Canada Corporation, CN Rail, the Government of Canada, and the Province of British Columbia. The new \$160 million terminal will be located on shortest land-sea link to Asia providing direct and efficient links to Chicago, Toronto, and Memphis. The new facility will have an annual capacity of 500,000 TEU's and be capable of handling the large post panamax container ships of tomorrow. Future plans feature the expansion of the terminal to reach an annual capacity of 2 million TEU's.

The Prince Rupert container terminal project is expected to significantly alleviate congestion at existing West Coast ports and create significant economic opportunities for Canadian importers and exporters with the development of improved transportation connections to the Asia Pacific markets. The project is a key component to the Government of Canada's Pacific Gateway Strategy. The project will also be a catalyst for economic development and expansion across the northwest transportation corridor. Once complete in 2007, the container terminal will create over 400 new full time jobs through the two phases of the project.

Environmental stewardship and responsibility is an integral part of the mission of the Prince Rupert Port Authority and the construction at Prince Rupert's Fairview Terminal will be subject to a strict environmental review and work to minimize impacts. Preliminary review of the project indicates the project may have a net positive impact to the marine environment.

This project has had tremendous support throughout the community. It will create new jobs for existing companies, new businesses in containerization, and new opportunities for entrepreneurs in the exporting sector. An outpouring of enthusiasm from community members ensures that the project will move ahead successfully.

Takes Environmental Responsibility Seriously
Project Postings
Environmental Documentation
Pre-qualified Contractor List

Prince Rupert Container Terminal Development - Phase 1

The new Fairview Container Terminal will move 500,000 TEUs (Twenty Foot Equivalent Units) per year. It is uniquely designed to efficiently handle the largest concentration of intermodal rail business. As such, the new container terminal will be North America's purest marine to rail intermodal transfer facility. The 18 meter (60 foot) extension of the wharf will allow for a berth depth of 16.75 meters (55 feet), enabling the wharf to easily accommodate the largest container ships now on the drawing board. Those ships hold up to 12,500 TEUs, making them up to 22 containers across. The container yard will hold more than 7,000 TEUs and have space for almost 3,000 in temporary storage. It will also have outlets for refrigerated containers. Significant support from CN will result in the upgrade and expansion of the intermodal yard to seven working tracks and six storage tracks, enough to hold more than 17,000 feet of train. CN will provide full double-stack clearance along the route and invest in additional rolling stock. Maher Terminals of Canada Corp. will provide three Super Post Panamax cranes to efficiently handle the world's largest container vessels.

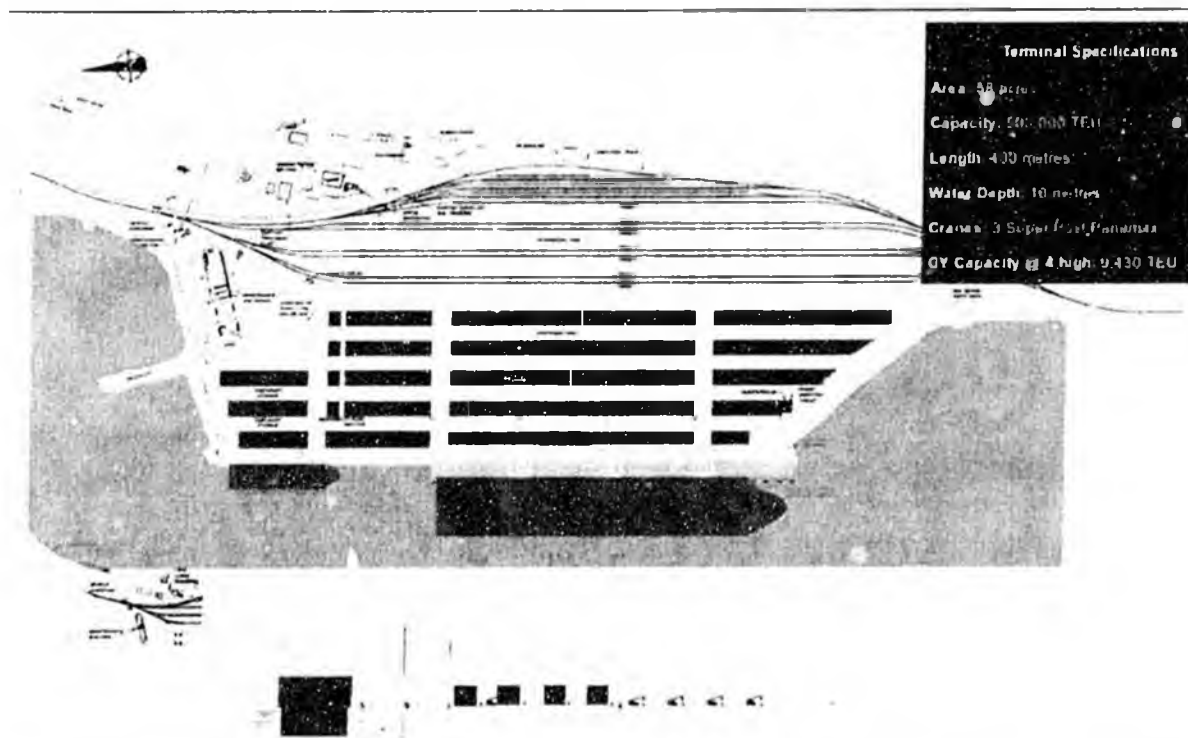
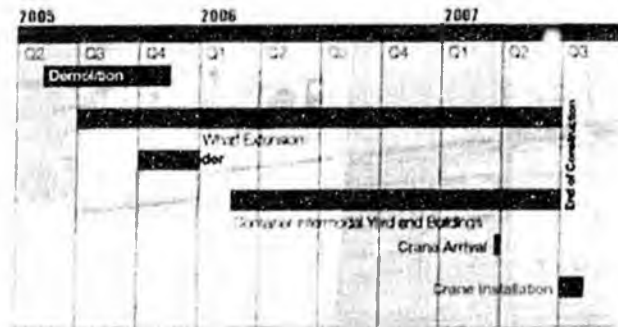
Project Partners



Western Economic
Diversification Canada



Project Timeline

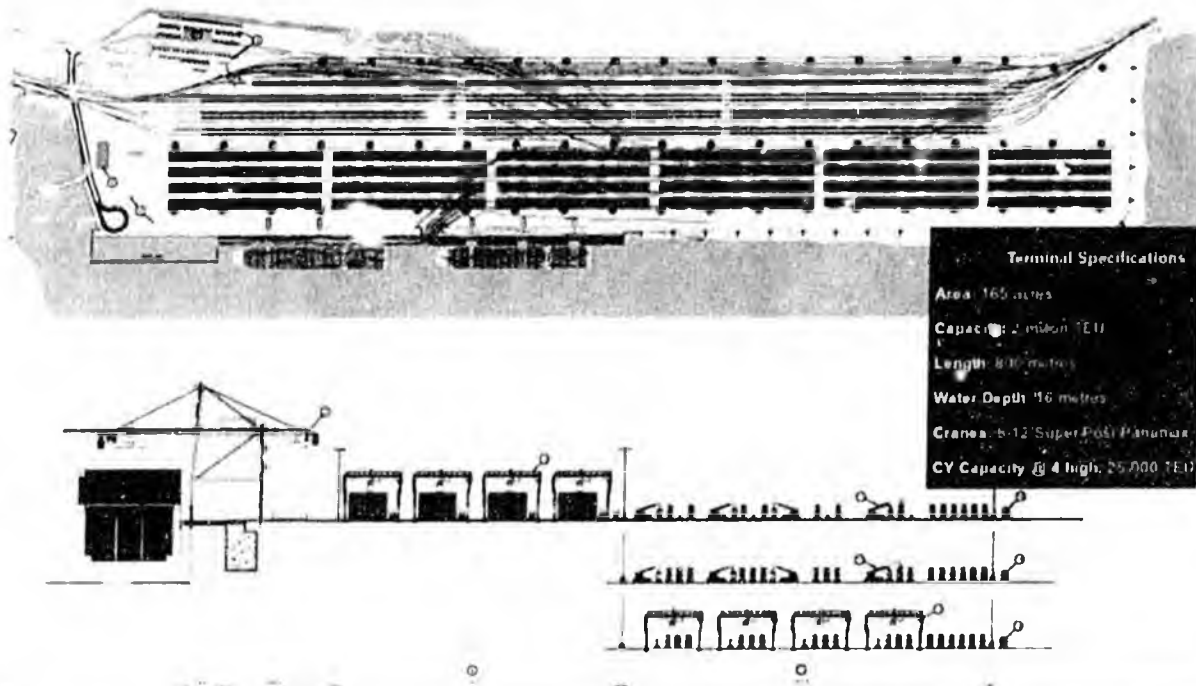


Prince Rupert Container Terminal Development - Phase 2

The vision for the future is the expansion of the terminal to nearly triple the size of the facility to accommodate an annual capacity of 2 million TEU's to meet the demands of continued growth in Asia

Pacific traffic trade. The project would feature an extension of the wharf to 800 meters maintaining a 17 meter minimum water depth, increasing the dock area to 165 acres, and doubling the number of super post-panamax cranes. The expanded facility would have an on-site storage capacity of 25,000 TEUs and accommodate the continued growth in regional export traffic anticipated to develop over the next decade.

Planning and engineering for both Phase 1 and Phase 2 has been completed through the development planning process to ensure the project planning integrates this eventual expansion. It is anticipated that work will commence on Phase 2 shortly after the completion of Phase 1, and construction of the expanded terminal would be complete for 2010.



Terminal Specifications	
Area	165 acres
Capacity	2 million TEU
Length	800 metres
Water Depth	16 metres
Crane	6-12 Super Post Panamax
CY Capacity @ 4 high	25,000 TEU

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Tiny British Columbia Port Aims To Be New Venue for China Trade

Tuesday, August 08, 2006

By Daniel Machalaba, The Wall Street Journal

PRINCE RUPERT, British Columbia --This mist-shrouded port boasts scenic beauty and an abundance of wildlife but a human population of a mere 13,000.

Now, thanks to soaring U.S.-China trade, Prince Rupert may have a very different future: as an important link in the transport chain that supplies DVD players, toys, clothes and other goods to the U.S. heartland.

Large container-ship ports in Los Angeles and Long Beach, Calif., have seen surging volumes as the Asian trade has boomed. This has meant chronic congestion and pushed some cargo to smaller West Coast ports such as Vancouver, British Columbia. Now tiny Prince Rupert 500 miles to the remote north of Vancouver is making a play for a piece of that international trade. And the entry of a well-established U.S. port operator has given the project credibility.

He is M. Brian Maher, whose family-owned company operates the largest container terminal in the port of New York and New Jersey. By October of next year, Mr. Maher expects his giant cranes to be moving Asian goods onto trains at an upgraded Prince Rupert terminal for a 2,600-mile rail ride to the Midwest. He is gambling that big-box retailers and large global shipping companies, frustrated by backups at Southern California ports, will flock to his alternative route.

The project faces plenty of obstacles. A tribal group has filed a lawsuit contending the container-terminal plan violates aboriginal land rights. The city's small population means there will be almost no local demand for the arriving goods, nor local products to put on the ships for their return voyage to Asia. Workers are having to adapt their schedules to environmental concerns, such as holding off blasting when whales, sea otters or porpoises are sighted. And there is no guarantee that either the shipping companies or the big retailers will want goods sent via Prince Rupert.

Situating a container-ship operation at such an out-of-the way spot turns conventional wisdom about port-building on its head. The usual plan is to build ports next to major cities that generate great demand for cargo, and then to compete for freight bound for elsewhere as well. But more than 98 percent of goods imported through Prince Rupert will leave the area immediately on long train rides.

The Prince Rupert project is part of a wave of port development that attempts an end run around the most historically important Asian gateways farther south. Los Angeles and Long Beach handled more than 60 percent of containers that passed through West Coast ports in the U.S. and Canada last year. They are a magnet for cargo because they have a huge local market and abundant rail lines. Manufacturers and retailers have fed the growth by building vast distribution centers about 40 miles east of Los Angeles.

But traffic has been seriously snarled three times in the past decade, including a 10-day shutdown in 2002

PRINCE RUPERT ECONOMIC DEVELOPMENT CORPORATION

A partnership of Port Edward & Prince Rupert

resulting from a stalemate in labor negotiations. The Southern California ports recently expanded capacity by keeping truck gates open at night and on weekends, and by adding more tracks, terminals and dockworkers. But "shippers have already been burned, and they know they can't just rely on established West Coast ports," Mr. Maher maintains. "They have to find alternative gateways."

Prince Rupert has lots of competition in the bid to provide alternatives. Voters in Panama will decide this fall whether to back a \$5.5 billion widening of the Panama Canal to handle bigger ships carrying Asian goods to the U.S. East Coast and Gulf of Mexico ports. Houston is building a container terminal to serve Wal-Mart Stores Inc. and Home Depot Inc. distribution centers. The largest container-ship company in the world, A.P. Moller-Maersk Group of Copenhagen, is building a new terminal in Norfolk, Va. New facilities are under way or planned in smaller ports in Mobile, Ala., Wilmington, N.C., and Jacksonville, Fla.

Kansas City Southern is pushing a Mexican port as the answer. The railroad has spent 10 years assembling a rail line linking the Pacific port of Lazaro Cardenas with Kansas City, and recently launched direct cargo trains over part of the 2,200-mile route. Giant terminal operator Hutchinson Whampoa Ltd. of Hong Kong plans to build a new container terminal in Lazaro Cardenas by the end of next year.

Describing the Prince Rupert project, Kansas City Southern Chairman and Chief Executive Michael Haverty says: "I mean no disrespect, but it's isolated, there's nothing there and you have to go a long way to get there."

As for the shippers and retailers who will decide how much use to make of Prince Rupert, they express interest but aren't ready for commitments. "We need options to the existing West Coast ports and Panama Canal," says Peter Keller, an executive vice president of NYK Line (North America) Inc., a container-ship company. He says Prince Rupert has the water and the rail capacity, but will have to show it can compete on rates and service.

With a deep natural harbor, Prince Rupert has long been a port but not one that could handle container ships. Local authorities such as Don Krusel, president of the Prince Rupert Port Authority, sought to add container capacity and finally won provincial and Canadian national aid for the project. But skepticism remained strong until the port signed up a major terminal operator, Maher Terminals Inc. A terminal operator leases port facilities and provides the cranes that transfer containers from ships for transport over land by truck and train.

The idea of exploiting this isolated natural harbor for major movement of cargo dates all the way back to 1906, when railroad builder Charles Melville Hays had a vision of making it part of a shortcut from Asia to Europe. He proposed to load trains at Prince Rupert with silk arriving from China, speed the freight to Montreal by rail and load it back on ships that would traverse the St. Lawrence River and the Atlantic. But six years later Mr. Hays died on the Titanic.

Prince Rupert developed modestly as a small hub for exporting bulky goods that weren't being put in standard metal containers. The Fairview Terminal at the mouth of the inner harbor loaded lumber into ships bound for Asia, while other docks handled grain and coal. But coal volume suffered as some mines closed. The port's cargo dwindled to under five million tons last year from about 14 million in 1994.

PRINCE RUPERT ECONOMIC DEVELOPMENT CORPORATION

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Nestled among the coastal mountains and islands of northern British Columbia and drenched by about 10 feet of precipitation annually, Prince Rupert stays lush and green. Its harbor at the end of a narrow inlet extends to an unusual depth of more than 100 feet. Lining the waterfront are old wooden piers, a rail yard, ferry terminals, fish-processing plants, and a few seafood restaurants.

Mr. Maher got interested in the area a few years ago at the suggestion of one of his executives. Mr. Maher, 59 years old, is the son of a onetime longshoreman who got into terminal operation in New Jersey after World War II. The area boomed as trade grew and cargo began moving in containers instead of cartons and other loose items. Maher Terminals, owned by Mr. Maher and his brother Basil, 54, now operates a 450-acre terminal in Elizabeth, N.J., next to the New Jersey Turnpike and Newark airport. Home to 26 container-ship lines, the huge facility handles 5,000 trucks a day.

Convinced the flood of Asian cargo would bring new cargo growth to the Pacific Coast, Mr. Maher looked for ways to expand but missed out on a chance to operate a container terminal in Tacoma, Wash. When one of his executives brought up the idea of developing Prince Rupert, Mr. Maher liked the idea, partly because the deep harbor could accommodate the biggest ships without dredging.

The British Columbia port also appeared to offer the shortest, fastest route from China to the U.S. Midwest, and it had an upgraded rail line with capacity to spare. To move a 40-foot container from Shanghai to Chicago via the Los Angeles or Long Beach docks takes about 22 days and costs about \$3,500. Prince Rupert is 1,100 miles closer to Shanghai than Southern California, equal to about two days of travel time.

In addition, in contrast to rail freight from Southern California, once a container is loaded on a train in Prince Rupert, there are few local stops to slow it during its 2,600-mile trek over mountains and prairies to Chicago. While that route is longer than the land route from Los Angeles to Chicago, the rail-transit time might be about the same. "The only thing trains have to worry about is hitting a moose," says Mr. Krusel of the local port authority. He calculates that Asian freight passing through Prince Rupert should arrive in Chicago nearly two days sooner than if it had gone through the Southern California ports.

When Prince Rupert authorities who were pushing the container-ship project solicited proposals from terminal operators, Mr. Maher jumped in. Maher Terminals won a 30-year lease with an option to develop a larger operation later.

While the losing bidders meant to use Prince Rupert just for overflow, Mr. Maher believed the port could become a major cargo gateway for North America despite its remoteness. He agreed to spend \$60 million initially on new cranes and equipment as part of transforming the old docks into a container terminal. Port officials now are drawing up plans for a massive second phase that would expand the terminal far more.

That project could cost hundreds of millions of dollars, meaning that Maher Terminals' investment could ultimately run as high as \$500 million. Mr. Maher argues that continuing rapid growth in cargo from the Far East to the U.S. rising about 10 percent a year means that ship lines will flock to Prince Rupert and other new terminals elsewhere.

While most port terminals have sprawling lanes for thousands of trucks, Prince Rupert because so little cargo will be used locally will have only one truck gate. The vast majority of containers will be loaded onto

PRINCE RUPERT ECONOMIC DEVELOPMENT CORPORATION

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rail cars waiting in a big rail yard. Prince Rupert's deep, funnel-shaped harbor has tides that rise and fall 25 feet every 12 hours, so it will need cranes especially designed to adjust to the huge tidal swings.

To help fill containers for the return trip to Asia, Canadian National Railway Co., which runs the rail lines leaving Prince Rupert, plans to build new depots along a route from Memphis, Tenn., that will collect soybeans, cotton, paper and other exports.

Workers now are demolishing the old Fairview Terminal in the shadow of towering Mount Hays to make way for the first phase of the new port. Steel pilings 120 feet long will extend the pier into deeper water. Workers are laying the foundation for the huge cranes, scheduled to arrive next spring. They, too, are coming from China.

Mr. Maher still must overcome opposition from the Coast Tsimshian First Nations tribal group, whose members have longstanding land-title issues in the region and say they weren't sufficiently consulted about the project. "They are determined that this port won't operate until their issues are resolved," says Greg McDade, lawyer for the tribe. Port officials are confident the project won't be slowed or derailed.

Although the dock will have union labor, some officials of the International Longshore and Warehouse Union express skepticism about port projects such as Prince Rupert, concerned that they may lessen the union's leverage when the current contracts expire in 2008. Current dockworkers in Prince Rupert, who belong to the Canadian chapter of the ILWU, continued to work during the 2002 labor battle.

As far as competition is concerned, the Prince Rupert project has a big jump on the Panama Canal expansion plan, which some say could take 10 years if approved. The Lazaro Cardenas project in Mexico has suffered from labor strife, such as the fatal shooting by police in April of two strikers at a nearby steel mill. Parts of the railroad connecting the Mexican port to the U.S. are circuitous and slow, using mostly a single set of tracks that forces trains to pull into sidings and wait for other trains to pass on heavily trafficked portions of the route. Meanwhile, the giant established ports in Southern California face the possibility of work stoppages when dockworkers' contracts expire.

Among the obstacles to be faced in Prince Rupert are the reluctance of some shipping lines to add new ports because of extra costs such as for piloting the ships. But after years in the New Jersey docks, wrestling with the complexities of operating a terminal amid congestion, union wrangling and local politics, Mr. Maher figures he is ready for just about anything at Prince Rupert.

PRINCE RUPERT ECONOMIC DEVELOPMENT CORPORATION

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Rupert container port may need to be even bigger

By Leanne Ritchie

The Daily News

Friday June 2, 2006

The province's minister of economic development says B.C. has not even begun to contemplate enough port developments to meet the rising tide of container traffic expected from Asia.

Colin Hansen, Minister of Economic Development, has been in Asia for the past two weeks visiting the cities of Beijing, Guangzhou, Hong Kong, Tokyo, and Dhanghai, where they're building a container port with seven times the capacity of what's being planned for the Pacific Coast.

"I've spent a lot of time at port developments. The message I have to bring back to Canada is that Asia is building tremendous capacity for container traffic in China and Hong Kong. We are not even starting to meet the demand that will be there."

Hansen is in Asia to promote B.C.'s natural location, investment and business opportunities.

He said there is a great desire to do business with Canada.

"They feels there are much better opportunities than expanding in the U.S.," he said.

"People are very interested in the development in Prince Rupert but they are wondering if we are thinking big enough with the development there."

Currently, plans for the Fairview Terminal Conversion Project include phase 1, which will be able to handle 500,000 containers annually. Funding of \$170 million is in place for Phase 1.

Phase 2 is expected to expand the port's capacity to handle up to two million containers per year.

Although only in its pre-feasibility phase, the port is also looking at land for a potential third phase, which would double the capacity to four million containers per year.

Yet even with all that, Prince Rupert's plans have been called 'wimpy' by George Stalk, a senior executive with the Boston Consulting Group, who fears Canada's not thinking big enough when it comes to developing Prince Rupert's port.

Premier Gordon Campbell echoed those worries last week during interviews in Vancouver — that the rest of the country is not fully behind the Pacific Gateway project.

"Our biggest problem on the Pacific Coast right now, in Canaaa, is that we don't think big enough," said the premier.

"Is there going to be an embracing of a nationalism agenda to open that Pacific door?"

That's the real question."

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The new Conservative national government matched its Liberal predecessor's commitment of \$590 million to the Gateway project to expand B.C. ports and capture incoming trade.

However, they chose to roll the money out over eight years, as opposed to the previous five-year roll-out.
With files from Canwest News Services



Texas Property Tax Code
2004 Edition

Title 1. Property Tax Code
Subtitle C. Taxable Property and Exemptions

Chapter 11. Taxable Property and Exemptions

Subchapter A. Taxable Property

Sec. 11.01. Real and Tangible Personal Property.

Sec. 11.02. Intangible Personal Property.

[Sections 11.03 to 11.10 reserved for expansion]

Sec. 11.01. Real and Tangible Personal Property.

- (a) All real and tangible personal property that this state has jurisdiction to tax is taxable unless exempt by law.
- (b) This state has jurisdiction to tax real property if located in this state.
- (c) This state has jurisdiction to tax tangible personal property if the property is:
 - (1) located in this state for longer than a temporary period;
 - (2) temporarily located outside this state and the owner resides in this state; or
 - (3) used continually, whether regularly or irregularly, in this state.
- (d) Tangible personal property that is operated or located exclusively outside this state during the year preceding the tax year and on January 1 of the tax year is not taxable in this state.

Amended by 1983 Tex. Laws, p. 1908, ch. 353, Sec. 1; amended by 1989 Tex. Laws, p. 1751, ch. 534, Sec. 2.

Cross References:

Situs of property, see Secs. 21.01, 21.02, 21.03, 21.04, 21.06, 21.07 & 21.08.
Constitutional requirement to tax property, see art. VIII, Secs. 1 & 11, Tex. Const.

Notes:

Foreign trade zones constitute foreign and, hence, interstate commerce, so they are in the purview of U. S. Congress. Imposing local property taxes on the property in foreign trade zones would affect interstate and foreign commerce, and forbidding such taxes would provide uniform treatment of foreign trade zones throughout the country. The exemption from local property taxes does not violate the Tenth Amendment nor the Guarantee Clause of the U. S. Constitution. *Deer Park Independent School District et al. v. Harris County Appraisal District et al.*, 132 F.3d 1095 (U.S. 5th Cir. 1998, petition denied).

An exporter that detains goods in a warehouse while awaiting overseas export is entitled to a property tax exemption under the Commerce Clause and the Equal Protection Clause of the United States Constitution. Taxation would prevent the federal government from speaking with one voice in its regulation of commercial relations with foreign governments. *Vinmar, Inc. v. Harris County Appraisal District*, 947 S.W.2d 554 (Tex. 1997).

The import-export clause of the U. S. Constitution and its related legal test of stream of export exempts goods from taxation once exportation has commenced as a part of transportation in a continuous route or journey. Seaboard states are prohibited from taxing goods merely flowing through their ports from other states. Goods are placed into the stream of export when they were shipped from the vendors to the export shipper for a pre-determined foreign destination. The inspection of the goods, approval for import, and packing the goods were necessary for the safe and efficient movement of these goods and merely facilitated their export. Taxing the goods violated the United States import-export clause. *Virginia Indonesia Company v. Harris County Appraisal District*, 910 S.W.2d 905 (Tex. 1995).

Property is taxable in Texas if and to the extent the federal constitution permits Texas to tax it. *Greyhound Lines v. Board of Equalization*, 419 S.W.2d 345 (Tex. 1967).

The ad valorem tax did not violate the subsidiary's substantive due process rights because taxing property with no direct benefits to the property does not amount to a palpable and arbitrary abuse of power unless its initial inclusion in the district was itself a palpable and arbitrary abuse of power. The constitutional requirement of equality and uniformity is met when taxation is uniformly assessed on an ad valorem basis on all taxable property without regard to benefits received. *Southwest Property Trust, Inc. v. Dallas County Flood Control District No. 1*, No. 05-97-00399-CV (Tex. App.-Dallas [5th Dist.] 2002, rehearing

overruled).

Computer application software consisting of imperceivable binary pulses that need not be packaged in a tangible form met the definition of intangible personal property. Such computer software is intangible personal property and not taxable for property tax purposes. The Legislature in Tax Code Section 11.01 allowed for only certain classes of intangible property to be taxed and defined intangible personal property in Tax Code Section 1.04(6). *Dallas Central Appraisal District v. Tech Data Corporation*, 930 S.W.2d 119 (Tex. App.-Dallas 1996, writ denied).

Taxation of leased shipping containers owned by United States-domiciled taxpayers and located within appraisal districts January 1 did not provide a commercial advantage to local business and did not violate the United States Constitution. No multiple taxation was shown and taxpayer was required to pay for governmental services. *Harris County Appraisal District v. Transamerica Container Leasing, Inc.*, 920 S.W.2d 678 (Tex. App.-Houston [1st District] 1995, writ sought).

Property mistakenly granted an exemption from taxation under Sec. 11.01(d) could be back-assessed as omitted property under provisions of Sec. 25.25. *Friedrich Air Conditioning and Refrigeration Company v. Bexar Appraisal District*, 762 S.W.2d 763 (Tex. App.-San Antonio 1988, no writ).

Goods are located in the state for more than a temporary period only if, under federal law, they are in interstate transit. If the owner of the goods interrupts the continuity of transit for any business purposes or profit and not to accommodate to the means of transportation, the goods are no longer in interstate transit and are taxable in the state. *Dallas County Appraisal District v. L. D. Brinkman and Company*, 701 S.W.2d 20 (Tex. App.-Dallas 1985, writ ref'd n.r.e.).

Article 7150f [repealed, now see Sec. 11.01(d)], prohibits taxation of goods owned by a Texas taxpayer, that are physically present in the state for sufficient time to acquire tax situs at common law, and not exempted by federal law as being in interstate commerce. Under these circumstances, Texas courts would hold that the statute goes beyond reasonable legislative action and uses tax situs as a vehicle for granting a property tax exemption. *Op. Tex. Att'y Gen. No. H-1308* (1978).

Sec. 11.02. Intangible Personal Property.

(a) Except as provided by Subsection (b) of this section, intangible personal property is not taxable.

(b) Intangible property governed by Article 4.01, Insurance Code, or by Section 89.003, Finance Code, is taxable as provided by law, unless exempt by law, if this state has jurisdiction to tax those intangibles.

(c) This state has jurisdiction to tax intangible personal property if the property is:

- (1) owned by a resident of this state; or
- (2) located in this state for business purposes.

(d) Repealed in 1984.

Amended by 1984 Tex. Laws (2nd C.S.), p. 212, ch. 31, art. 3, part A, Sec. 1;
Amended by 1999 Tex. Laws, p. 303, ch. 62, Sec. 7.88.

Cross References:

Intangible personal property defined, see Sec. 1.04.

Transportation intangibles, see ch. 24.

Situs of intangible property, see Sec. 21.06.

Situs of transportation intangibles, see Sec. 21.07.

Situs of savings and loan, insurance company intangibles, see Sec. 21.08.

Note:

Computer application software consisting of imperceivable binary pulses that need not be packaged in a tangible form met the definition of intangible personal property. Such computer software is intangible personal property and not taxable for property tax purposes. The Legislature in Tax Code Section 11.01 allowed for only certain classes of intangible property to be taxed and defined intangible personal property in Tax Code Section 1.04(6). *Dallas Central Appraisal District v. Tech Data Corporation*, 930 S.W.2d 119 (Tex. App.-Dallas 1996, writ denied).

[Sections 11.03 to 11.10 reserved for expansion]

Susan Combs
Texas Comptroller of Public Accounts

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Home



Schwarzenegger Vetoes Container Tax, Following NCA Effort
California Governor Arnold Schwarzenegger vetoed legislation calling for a new tax on shipping containers. The bill carried a price tag for shippers of more than \$500 million a year, and the NCA appealed to the governor to nix the bill. NCA also spearheaded a grassroots campaign for California companies to make similar appeals to demonstrate broad industry opposition. The bill, SB 927, would have imposed a \$60 tax on all containers moving through the ports of Los Angeles and Long Beach. Its aim was to raise funds for undefined purposes related to port security, clean air and transportation projects throughout the state.

Unconstitutional Tax

In its letter to Gov. Schwarzenegger, NCA made a strong legal and economic case against the legislation. Citing precedent, NCA emphasized that container taxes constitute an unconstitutional tax on foreign and interstate commerce and have previously been struck down. NCA also spelled out the potential harm to the California economy. On top of other infrastructure fees, the increased costs would make the ports non-competitive, forcing shippers to look to other states. Moreover, legislative goals are already served by privately financed programs. Terminal operators pay rent and fees to the state's ports that include infrastructure support costs. Also, terminal operators invest money in infrastructure and pass their costs to shippers as part of existing freight contracts with ocean carriers.

Government Affairs

NCA's government affairs capabilities allow quick response to legislative developments on the federal, state and local levels. When news arrived that the California bill was on the governor's desk, the NCA sprung into action. It submitted its letter within hours and tapped its existing database of about 500 California companies to deliver information and model correspondence to facilitate a broad industry response.

Return

All About Coffee

- The History of Coffee
- Ten Steps to Coffee
- How to Store Coffee
- How to Brew Coffee
- World of Coffee
- More...



HEADLINES

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Two recent studies confirm coffee fights bacteria in the body (more)

US Normalizes Trade with Vietnam

New US trade status coincides with Vietnam's WTO membership (more)

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Members receive full, monthly "Coffee Reporter" via e-mail, and can access all stories and statistics at link on homepage (left menu bar). The newsletter is published quarterly in hard copy.

JOE
DUFFALO

Multiple Agency Fiscal Note Summary

Bill Number: 5207 SB	Title: Freight congestion relief
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Estimated Cash Receipts

Agency Name	2007-09		2009-11		2011-13	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of State Treasurer	Non-zero but indeterminate cost. Please see discussion."					
Department of Revenue	478,000	287,280,000	720,000	433,199,000	779,000	467,865,000
Total \$	478,000	287,280,000	720,000	433,199,000	779,000	467,865,000

Local Gov. Courts *						
Local Gov. Other **						
Local Gov. Total						

Estimated Expenditures

Agency Name	2007-09			2009-11			2011-13		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of State Treasurer	0	0	0	0	0	0	0	0	0
Department of Revenue	3	46,600	46,600	1	13,400	13,400	1	13,400	13,400
Department of Transportation	0	0	0	0	0	0	0	0	0
Total	0.3	\$46,600	\$46,600	0.1	\$13,400	\$13,400	0.1	\$13,400	\$13,400

Local Gov. Courts *						
Local Gov. Other **						
Local Gov. Total						

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Prepared by: Doug Jenkins, OFM	Phone: 360-902-0563	Date Published: Final 1/20/2007
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- * See Office of the Administrator for the Courts judicial fiscal note
- ** See local government fiscal note
FNPID: 14732

Individual State Agency Fiscal Note

Bill Number: 5207 SB	Title: Freight congestion relief	Agency: 090-Office of State Treasurer
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

Estimated Expenditures from:

	FY 2008	FY 2009	2007-09	2009-11	2011-13
Fund					
Total \$					

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: David Ward	Phone: 3607867341	Date: 01/15/2007
Agency Preparation: Dan Mason	Phone: 360-902-9090	Date: 01/16/2007
Agency Approval: Dan Mason	Phone: 360-902-9090	Date: 01/16/2007
OFM Review: Deborah Feinstein	Phone: 360-902-0614	Date: 01/16/2007

National Coffee Association of U.S.A., Inc.

Contact Us



National Coffee Association of U.S.A., Inc.

15 Maiden Lane, Suite 1405

New York, NY 10038

Telephone: 212 766-4007

Fax: 212 766-5815

For General Information or to Contact a Staff Member: info@ncausa.org

Robert F. Nelson - President & CEO

Donna Pacheco - Director of Administration & Assistant to the President

Steven M. Wolfe - Director, Membership Development and Marketing

Gerri Buchanan - Manager, Marketing & Member Services

Joseph F. DeRupo - Director, Communications & Public Relations

Jeff Kendrick - Administrative Assistant



Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

SB 5207 creates the freight congestion relief account and allows the account to retain its earnings from investments.

Earnings from investments:

The amount of earnings by an account is a function of the average daily balance of the account and the earnings rate of the investment portfolio. The average daily balance is a function of the beginning balance in the account and the timing & amount of receipts, disbursements, & transfers during the time period in question. Accordingly, even with a beginning balance of zero, two accounts with the same overall level of receipts, disbursements, and transfers can have different average balances, and hence different earnings.

There will be an impact to the earnings; however, the actual earnings will be determined more by the impact to the average daily balance than the amount of increases or decreases in receipts, disbursements, and transfers. Currently, estimated earnings are indeterminable. Without projected monthly estimates of receipts, disbursements, and transfers, OST is unable to estimate the changes to the average balance of the account and the impact to earnings.

Based on the November 2006 Revenue Forecast, the net rate for estimating earnings for FY 08 is 4.18% and FY 09 is 4.21%. Approximately \$41,800 in FY 08 and \$42,100 in FY 09 in net earnings and \$5,000 in OST management fees would be gained or lost annually for every \$1 million increase or decrease in average daily balance.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

SB 5207 creates the freight congestion relief account and allows the account to retain its earnings from investments.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2008	FY 2009	2007-09	2009-11	2011-13
FTE Staff Years					
Total:					

Part IV: Capital Budget Impact

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Department of Revenue Fiscal Note

Bill Number: 5207 SB	Title: Freight congestion relief	Agency: 140-Department of Revenue
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

FUND	FY 2008	FY 2009	2007-09	2009-11	2011-13
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax	139,000	339,000	478,000	720,000	779,000
NEW-State 00 - 00 -	83,150,000	203,652,000	286,802,000	432,479,000	467,086,000
Total \$	83,289,000	203,991,000	287,280,000	433,199,000	467,865,000

Estimated Expenditures from:

	FY 2008	FY 2009	2007-09	2009-11	2011-13
FTE Staff Years	0.5	0.1	0.3	0.1	0.1
Fund					
GF-STATE-State 001-1	39,900	6,700	46,600	13,400	13,400
Total \$	39,900	6,700	46,600	13,400	13,400

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: David Ward	Phone: 3607867341	Date: 01/15/2007
Agency Preparation: Valerie Torres	Phone: 360-5706084	Date: 01/18/2007
Agency Approval: Kim Davis	Phone: 360-570-6087	Date: 01/18/2007
OFM Review: Doug Jenkins	Phone: 360-902-0563	Date: 01/18/2007

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This bill imposes a \$50 fee per 20-foot equivalent unit of shipping container at marine ports. The marine terminal operator keeps 10 percent of the fees collected for costs associated with the proper collection and reporting of the containers. The rest of the money is remitted to the Department of Revenue (the Department) and deposited in a new account where the money is to be used to provide congestion relief through improvements of freight rail systems and state highways that act as freight corridors.

This bill also reenacts the laws related to the earnings of investments of surplus balances being deposited in the treasury income account and adds the new "freight congestion relief account" to the list of accounts that receive a share of the earnings from the treasury income account.

Sections 1 through 5 and 7 are new sections.

Section 1 declares the intent of the container fee.

Section 2 contains definitions.

Section 3 imposes the \$50 fee per 20-foot equivalent unit and allows the marine terminal operator to keep 10 percent. The portion kept must be reported as gross income under the service and other activities tax classification on the excise tax return. The Department must incorporate the fee into the regular audit cycles. The marine terminal operator must include the information specified on the excise tax return forms. The fee is to take effect no sooner than 75 days after the Department receives notice and is only to take effect on the first day of January, April, July, or October unless the Department waives the notice requirement.

Section 4 creates the new account in the state treasury and specifies that the money can only be spent after appropriation and may only be used to provide congestion relief through improvements of freight rail systems and state highways that function as freight corridors.

Section 5 makes it a gross misdemeanor if the marine terminal operator does not remit the fee to the Department, except for the portion that they are allowed to keep. The marine terminal operator is also personally liable if they fail to collect the fee or if they collect the fee and fail to remit it.

Section 6 reenacts the laws related to the earnings of investments of surplus balances being deposited in the treasury income account. The new "freight congestion relief account" is added to the list of accounts that receive their full share of the earnings from the treasury income account less any fees.

Section 7 makes sections 1 through 5 into a new chapter in Title 47 RCW.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

ASSUMPTIONS/DATA SOURCES

This bill does not specify an effective date, therefore, the effective date of the bill is assumed to be 90 days after the session ends. Adding to that the 75 days between when the Department is notified and the fee is imposed and then finding the first of January, April, July, or October after that, the fee is assumed to be imposed effective January 1, 2008.

Growth rates for 20-foot equivalent unit cargo containers (containers) were found in the Washington Port Association's marine cargo forecast for 2004. The number of containers and growth rates forecasted was compared to the container statistics found on the Port of Seattle and Port of Tacoma websites.

It is assumed that both empty and full cargo containers would be taxed and that containers would be taxed being loaded on and loaded off of vessels.

It is assumed that the 10 percent the marine terminal owners keep is subject to business and occupation tax at the services and other rate of 1.5 percent.

REVENUE ESTIMATES

It is estimated that in calendar year 2008 there will be approximately 4.2 million 20-foot equivalent unit cargo containers that would be charged the \$50 fee. This would result in approximately \$221 million in fees in calendar year 2008. The marine terminal owners would keep 10 percent of this amount, and business and occupation tax would apply to what they keep. The rest of the money would be deposited in the freight congestion relief account.

For calendar years 2008 through 2010 the growth rate of the number of processed containers would be 4.1 percent, dropping to 3.9 percent for 2011 through 2013.

The calendar year totals were then broken apart into fiscal year totals.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000): Freight Congestion Relief Account

FY 2008 -	\$ 83,150
FY 2009 -	\$ 203,652
FY 2010 -	\$ 212,002
FY 2011 -	\$ 220,447
FY 2012 -	\$ 229,076
FY 2013 -	\$ 238,010

State Government (cash basis, \$000): Business & Occupation Tax

FY 2008 -	\$ 139
FY 2009 -	\$ 339
FY 2010 -	\$ 353
FY 2011 -	\$ 367
FY 2012 -	\$ 382
FY 2013 -	\$ 419

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumption, and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

To implement this legislation, the Department of Revenue will incur costs of approximately \$39,900 during Fiscal Year 2008. These are programming costs to set up, test, and verify the system to handle the collection of the fee and additional audit time spent to verify reported amounts. Time and effort would equate to 0.5 FTE.

Fiscal Year 2009 costs are approximately \$6,700. These costs are ongoing and include 0.1 FTE to handle the extra audit work required.

The Department of Revenue will incur estimated costs of \$13,400 in the 2009-2011 and the 2011-2013 Biennia. These are ongoing costs to handle the extra audit work required.

Without an appropriation to cover the expenditure impact, the Department of Revenue may not be fully able to implement the legislation.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2008	FY 2009	2007-09	2009-11	2011-13
FTE Staff Years	0.5	0.1	0.3	0.1	0.1
A-	26,400	4,600	31,000	9,200	9,200
B-	6,600	1,100	7,700	2,200	2,200
E-	3,400	700	4,100	1,400	1,400
G-	300	300	600	600	600
J-	320		3,200		
Total S	\$39,900	\$6,700	\$46,600	\$13,400	\$13,400

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2008	FY 2009	2007-09	2009-11	2011-13
IT SPEC 4	54,372	0.4		0.2		
REVENUE AUDITOR 3	45,756	0.1	0.1	0.1	0.1	0.1
Total FTE's		0.5	0.1	0.3	0.1	0.1

Part IV: Capital Budget Impact

NONE.

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

No rule-making required.

Individual State Agency Fiscal Note

Bill Number: 5207 SB	Title: Freight congestion relief	Agency: 405-Department of Transportation
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Part I: Estimates

No Fiscal Impact

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: David Ward	Phone: 3607867341	Date: 01/15/2007
Agency Preparation: Andrew Wood	Phone: 360-705-7938	Date: 01/17/2007
Agency Approval: Paula Hammond	Phone: 360-705-7027	Date: 01/18/2007
OFM Review: Geri Beardsley	Phone: 360-902-9822	Date: 01/19/2007

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

The legislative proposal imposes a fee on the processing of shipping containers through Washington state ports. Revenue from the fee is deposited in the Freight Rail Congestion Relief Account established by the bill. Any expenditures to provide congestion relief through improvement of freight rail systems and state highways that function as freight corridors would be authorized through an appropriation from the legislature

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules

SENATE BILL REPORT

SB 5207

As of January 25, 2007

Title: An act relating to creating the freight congestion relief account to improve freight corridors with funding from the imposition of a fee on the processing of shipping containers.

Brief Description: Creating and funding the freight congestion relief account for the purpose of improving freight rail systems and state highways used as freight corridors through imposing a fee on the processing of shipping containers.

Sponsors: Senators Haugen, Murray and Spanel.

Brief History:

Committee Activity: Transportation: 1/24/07.

SENATE COMMITTEE ON TRANSPORTATION

Staff: David Ward (786-7341)

Background: The state has identified various and significant transportation projects that support enhanced freight mobility and capacity. Although the state has provided some funding for these projects, the level of funding is insufficient to provide the level of investment necessary to alleviate congestion levels that impact freight mobility and capacity.

Summary of Bill: A fee is imposed on the processing of shipping containers in the ports of Washington State. The fee must be imposed at the rate of \$50 per twenty-foot equivalent unit (TEU) and is payable by the marine terminal operator processing the container. Marine terminal operators may retain 10 percent of the fee to offset costs associated with the proper reporting of the number of TEUs processed. The remainder of the fee must be remitted to the Department of Revenue (DOR).

The Freight Congestion Relief Account is created in the State Treasury. All receipts received by DOR from the imposition of TEU processing fees must be deposited in the account. The account is subject to appropriation, retains 100 percent of the interest income generated by the account, and may only be used to provide freight-related congestion relief through the improvement of freight rail infrastructure and state highways that function as freight corridors.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There should be a user fee to fund these critical investments and the return on investment should offset the costs. The system that comprises our state's freight infrastructure needs additional investment and, if possible, should include a component that would allow funding for projects adjacent to the state system that can demonstrably show significant ways to improve, link to, or offload pressure on state freight corridors.

CON: Seventy percent of containerized freight moving through Washington's ports is discretionary. Imposition of a fee on the processing of shipping containers will therefore divert container freight movement away from the state's marine ports. Critical family wage jobs will also be lost and a negative ripple effect will be felt throughout the state economy. Such a fee would also impair state export trade and Washington is a highly trade-dependent state. There are additional concerns that the fee is instead a tax and may well be unconstitutional in that it impedes interstate commerce, import/export activity and the movement of containerized cargo as governed by federal law and international treaty.

Persons Testifying: PRO: Larry Pursley, Washington Trucking Association; Doug Levy, Cities of Everett, Kent, Federal Way, Renton and Puyallup.

CON: Mark Johnson, Washington Retail Association; Rich Berkowitz, Transportation Institute; Randy Ray, Pacific Seafood Processors; Jim Wilcox, Wilcox Farms/Washington Food Industry; Pat Jones, Washington Public Ports Association; Tim Farrell, Port of Tacoma; Terry Finn, Port of Seattle; Gordon Baxter, Masters, Mates and Pilots and Inland Boatmen's Union; Larry McKillip, United Transportation Union; Mike Elliot, Brotherhood of Locomotive Engineers; Karol Kingery, Marine Engineers Beneficial Association; Bill Stauffacher, Burlington Northern Santa Fe Railroad; Tom Parker, Union Pacific Railroad; Scott Hazelgrove, Pacific Merchant Shipping Association; Rick Wickman, Columbia River Steamship Operators.

From: Bob Sivertsen
To: Karl Amylon
Date: 1/18/2007 12:06:24 PM
Subject: Garbage containers

Karl, the State of Washington has a Senate Bill 5207 that proposes a fee for cantainers. The proposed fee is fifty dollars per twenty foot equivalent unit one way. That would mean that we could be charged two hundred dollars round trip for one of our forty foot garbage containers. I am not sure how this works out in our garbage contract but to us that could be a \$70,000 expence per year. This would also increase the cost of any containerized cargo shipped to Ketchikan. The City may want to contact the govenor and have the state address this issue on higher level. FYI thanks bobs



Stories In The News
Ketchikan, Alaska www.sitnews.us

Viewpoints

Proposed container fee legislation will increase cost of groceries

By Bill Tatsuda

January 17, 2007
Wednesday PM

Dear Sitnews,

I received the message below from Super Valu, my grocery wholesaler in Tacoma, WA. If this legislation passes the cost of groceries and most other goods will increase significantly in Ketchikan and Alaska.

Yours truly,

Bill Tatsuda
Tatsuda's IGA
Ketchikan, AK

To all Alaska Retailers,

The State of Washington is considering a container fee for all containers coming in and going out of the State of Washington. The fee is \$50 per 20 foot equivalent container. Most of the containers our customers use are 40 footers so the fee would be \$100 per container. The fee would be for both inbound and outbound and therefore would be \$200 per container for a round trip. Your shipping companies would have to pass these fees on to you.

I would urge you to contact your new governor, Sarah Palin. Urge Governor Palin to contact Washington Governor, Christine Gregoire, and let her know the impact it will have on your

bottom lines and cost of goods to your consumers. We will be contacting our state representatives as well to try to defeat this bill.

Greg Miller
Super Valu
Tacoma, WA

Received January 17, 2007 - Published January 17, 2007

Contact:

E-mail Alaska Governor Sarah Palin
<http://gov.state.ak.us/govmailSP.php>

Note: Comments published on Viewpoints are the opinions of the writer and do not necessarily reflect the opinions of Sitnews.

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E-mail the Editor at editor@sitnews.us

Sitnews
Stories In The News
Ketchikan, Alaska

SENATE BILL 5207

State of Washington

60th Legislature

2007 Regular Session

By Senators Haugen, Murray and Spanel

Read first time 01/12/2007. Referred to Committee on Transportation.

1 AN ACT Relating to creating the freight congestion relief account
2 to improve freight corridors with funding from the imposition of a fee
3 on the processing of shipping containers; reenacting and amending RCW
4 43.84.092; adding a new chapter to Title 47 RCW; and prescribing
5 penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds and declares there is
8 a need to mitigate the enormous burden imposed on the state
9 transportation system by the overland movement of cargo shipped to and
10 from Washington state ports. Accordingly, it is the intent of the
11 legislature to alleviate this burden by imposing a fee on the
12 processing of shipping containers through those ports and use the funds
13 derived therefrom to provide congestion relief through the improvement
14 of freight rail systems and state highways that function as freight
15 corridors.

16 NEW SECTION. **Sec. 2.** The definitions in this section apply
17 throughout this chapter unless the context clearly requires otherwise.

18 (1) "Department" means the department of revenue.

1 (2) "Marine terminal operator" means a person engaged in the state
2 of Washington in the business of furnishing use of a wharf, dock,
3 warehouse, or other terminal services and facilities including, but not
4 limited to, all activities of a labor, service, or transportation
5 nature where cargo is documented, handled, moved, or loaded/unloaded
6 from vessels involved in waterborne commerce.

7 (3) "Twenty-foot equivalent unit" means a measure of containerized
8 cargo capacity equal to one standard twenty foot (length) by eight foot
9 (width) by eight foot and six inches (height) container.

10 NEW SECTION. **Sec. 3.** (1) A fee is imposed on the processing of
11 shipping containers in the ports of Washington state.

12 (2) The fee must be imposed at the rate of fifty dollars per
13 twenty-foot equivalent unit and is payable by the marine terminal
14 operator processing the container. Every marine terminal operator
15 engaged in processing twenty-foot equivalent units may retain ten
16 percent of the fifty-dollar fee collected. The moneys retained may be
17 used for costs associated with the proper collection and reporting of
18 twenty-foot equivalent units processed. The retained amount must be
19 reported as gross income under the service and other activities tax
20 classification on the excise tax return.

21 (3) The twenty-foot equivalent unit fee collected by marine
22 terminal operators, less the ten percent amount retained by the marine
23 terminal operator as provided in subsection (2) of this section, must
24 be paid to the department in accordance with RCW 82.32.045.

25 (4) The department must incorporate into the agency's regular audit
26 cycle a reconciliation of the number of twenty-foot equivalent units
27 processed and the amount of revenue collected by the marine terminal
28 operators processing twenty-foot equivalent units. The department must
29 collect from marine terminal operators processing twenty-foot
30 equivalent units the following information, which shall be required to
31 be reported on the appropriate business excise tax return form, as
32 determined by the department:

33 (a) All fees required to be collected under this section during the
34 previous month;

35 (b) A list of all freight containers processed by the marine
36 terminal operator during the previous month; and

1 (c) Satisfactory proof, as determined by the department, that the
2 fee was imposed on each twenty-foot equivalent unit processed.

3 (5) All other applicable provisions of chapter 82.32 RCW apply with
4 respect to the fee imposed under this section. The department shall
5 administer this section.

6 (6) A fee imposed under this section is to take effect no sooner
7 than seventy-five days after the department receives notice, and is to
8 take effect only on the first day of January, April, July, or October.
9 Unless waived by the department, notice includes providing the
10 appropriate department with digital mapping and legal descriptions of
11 areas in which the fee will be collected.

12 NEW SECTION. **Sec. 4.** The freight congestion relief account is
13 created in the state treasury. All receipts from twenty-foot
14 equivalent unit fees imposed under section 3 of this act must be
15 deposited in the account. Moneys in the account may be spent only
16 after appropriation. Expenditures from the account may only be used to
17 provide congestion relief through the improvement of freight rail
18 systems and state highways that function as freight corridors.

19 NEW SECTION. **Sec. 5.** (1) The fee required by this chapter, to be
20 collected by the marine terminal operator, must be deemed to be held in
21 trust by the marine terminal operator until paid to the department, and
22 any marine terminal operator who appropriates or converts the fee
23 collected to his or her own use or to any use other than the payment of
24 the fee to the extent that the money required to be collected is not
25 available for payment on the due date as prescribed in this chapter is
26 guilty of a gross misdemeanor, as provided in RCW 9A.20.021.

27 (2) If a marine terminal operator fails to collect the fee imposed
28 in this chapter or, having collected the fee, fails to pay it to the
29 department in the manner prescribed by this chapter, whether such
30 failure is the result of his or her own acts or the result of acts or
31 conditions beyond his or her control, he or she shall, nevertheless, be
32 personally liable to the state for the amount of the fee.

33 **Sec. 6.** RCW 43.84.092 and 2006 c 337 s 11, 2006 c 311 s 23, 2006
34 c 171 s 10, 2006 c 56 s 10, and 2006 c 6 s 8 are each reenacted and
35 amended to read as follows:

1 (1) All earnings of investments of surplus balances in the state
2 treasury shall be deposited to the treasury income account, which
3 account is hereby established in the state treasury.

4 (2) The treasury income account shall be utilized to pay or receive
5 funds associated with federal programs as required by the federal cash
6 management improvement act of 1990. The treasury income account is
7 subject in all respects to chapter 43.88 RCW, but no appropriation is
8 required for refunds or allocations of interest earnings required by
9 the cash management improvement act. Refunds of interest to the
10 federal treasury required under the cash management improvement act
11 fall under RCW 43.88.180 and shall not require appropriation. The
12 office of financial management shall determine the amounts due to or
13 from the federal government pursuant to the cash management improvement
14 act. The office of financial management may direct transfers of funds
15 between accounts as deemed necessary to implement the provisions of the
16 cash management improvement act, and this subsection. Refunds or
17 allocations shall occur prior to the distributions of earnings set
18 forth in subsection (4) of this section.

19 (3) Except for the provisions of RCW 43.84.160, the treasury income
20 account may be utilized for the payment of purchased banking services
21 on behalf of treasury funds including, but not limited to, depository,
22 safekeeping, and disbursement functions for the state treasury and
23 affected state agencies. The treasury income account is subject in all
24 respects to chapter 43.88 RCW, but no appropriation is required for
25 payments to financial institutions. Payments shall occur prior to
26 distribution of earnings set forth in subsection (4) of this section.

27 (4) Monthly, the state treasurer shall distribute the earnings
28 credited to the treasury income account. The state treasurer shall
29 credit the general fund with all the earnings credited to the treasury
30 income account except:

31 (a) The following accounts and funds shall receive their
32 proportionate share of earnings based upon each account's and fund's
33 average daily balance for the period: The capitol building
34 construction account, the Cedar River channel construction and
35 operation account, the Central Washington University capital projects
36 account, the charitable, educational, penal and reformatory
37 institutions account, the Columbia river basin water supply development
38 account, the common school construction fund, the county criminal

1 justice assistance account, the county sales and use tax equalization
2 account, the data processing building construction account, the
3 deferred compensation administrative account, the deferred compensation
4 principal account, the department of retirement systems expense
5 account, the developmental disabilities community trust account, the
6 drinking water assistance account, the drinking water assistance
7 administrative account, the drinking water assistance repayment
8 account, the Eastern Washington University capital projects account,
9 the education construction fund, the education legacy trust account,
10 the election account, the emergency reserve fund, the energy freedom
11 account, The Evergreen State College capital projects account, the
12 federal forest revolving account, the freight congestion relief
13 account, the freight mobility investment account, the freight mobility
14 multimodal account, the health services account, the public health
15 services account, the health system capacity account, the personal
16 health services account, the state higher education construction
17 account, the higher education construction account, the highway
18 infrastructure account, the high-occupancy toll lanes operations
19 account, the industrial insurance premium refund account, the judges'
20 retirement account, the judicial retirement administrative account, the
21 judicial retirement principal account, the local leasehold excise tax
22 account, the local real estate excise tax account, the local sales and
23 use tax account, the medical aid account, the mobile home park
24 relocation fund, the multimodal transportation account, the municipal
25 criminal justice assistance account, the municipal sales and use tax
26 equalization account, the natural resources deposit account, the oyster
27 reserve land account, the pension funding stabilization account, the
28 perpetual surveillance and maintenance account, the public employees'
29 retirement system plan 1 account, the public employees' retirement
30 system combined plan 2 and plan 3 account, the public facilities
31 construction loan revolving account beginning July 1, 2004, the public
32 health supplemental account, the public works assistance account, the
33 Puyallup tribal settlement account, the real estate appraiser
34 commission account, the regional mobility grant program account, the
35 resource management cost account, the rural Washington loan fund, the
36 site closure account, the small city pavement and sidewalk account, the
37 special wildlife account, the state employees' insurance account, the
38 state employees' insurance reserve account, the state investment board

1 expense account, the state investment board commingled trust fund
2 accounts, the supplemental pension account, the Tacoma Narrows toll
3 bridge account, the teachers' retirement system plan 1 account, the
4 teachers' retirement system combined plan 2 and plan 3 account, the
5 tobacco prevention and control account, the tobacco settlement account,
6 the transportation infrastructure account, the transportation
7 partnership account, the tuition recovery trust fund, the University of
8 Washington bond retirement fund, the University of Washington building
9 account, the volunteer fire fighters' and reserve officers' relief and
10 pension principal fund, the volunteer fire fighters' and reserve
11 officers' administrative fund, the Washington fruit express account,
12 the Washington judicial retirement system account, the Washington law
13 enforcement officers' and fire fighters' system plan 1 retirement
14 account, the Washington law enforcement officers' and fire fighters'
15 system plan 2 retirement account, the Washington public safety
16 employees' plan 2 retirement account, the Washington school employees'
17 retirement system combined plan 2 and 3 account, the Washington state
18 health insurance pool account, the Washington state patrol retirement
19 account, the Washington State University building account, the
20 Washington State University bond retirement fund, the water pollution
21 control revolving fund, and the Western Washington University capital
22 projects account. Earnings derived from investing balances of the
23 agricultural permanent fund, the normal school permanent fund, the
24 permanent common school fund, the scientific permanent fund, and the
25 state university permanent fund shall be allocated to their respective
26 beneficiary accounts. All earnings to be distributed under this
27 subsection (4)(a) shall first be reduced by the allocation to the state
28 treasurer's service fund pursuant to RCW 43.08.190.

29 (b) The following accounts and funds shall receive eighty percent
30 of their proportionate share of earnings based upon each account's or
31 fund's average daily balance for the period: The aeronautics account,
32 the aircraft search and rescue account, the county arterial
33 preservation account, the department of licensing services account, the
34 essential rail assistance account, the ferry bond retirement fund, the
35 grade crossing protective fund, the high capacity transportation
36 account, the highway bond retirement fund, the highway safety account,
37 the motor vehicle fund, the motorcycle safety education account, the
38 pilotage account, the public transportation systems account, the Puget

1 Sound capital construction account, the Puget Sound ferry operations
2 account, the recreational vehicle account, the rural arterial trust
3 account, the safety and education account, the special category C
4 account, the state patrol highway account, the transportation 2003
5 account (nickel account), the transportation equipment fund, the
6 transportation fund, the transportation improvement account, the
7 transportation improvement board bond retirement account, and the urban
8 arterial trust account.

9 (5) In conformance with Article II, section 37 of the state
10 Constitution, no treasury accounts or funds shall be allocated earnings
11 without the specific affirmative directive of this section.

12 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act constitute
13 a new chapter in Title 47 RCW.

--- END ---

Department of Revenue Fiscal Note

Bill Number: 5207 SB	Title: Freight congestion relief	Agency: 140-Department of Revenue
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

FUND	FY 2008	FY 2009	2007-09	2009-11	2011-13
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax	139,000	339,000	478,000	720,000	779,000
NEW-State 00 - 00 -	83,150,000	203,652,000	286,802,000	432,479,000	467,086,000
Total \$	83,289,000	203,991,000	287,280,000	433,199,000	467,865,000

Estimated Expenditures from:

	FY 2008	FY 2009	2007-09	2009-11	2011-13
FTE Staff Years	0.5	0.1	0.3	0.1	0.1
Fund					
GF-STATE-State 001-1	39,900	6,700	46,600	13,400	13,400
Total \$	39,900	6,700	46,600	13,400	13,400

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions.

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: David Ward	Phone: 3607867341	Date: 01/15/2007
Agency Preparation: Valerie Torres	Phone: 360-5706084	Date: 01/18/2007
Agency Approval: Kim Davis	Phone: 360-570-6087	Date: 01/18/2007
OFM Review: Doug Jenkins	Phone: 360-902-0563	Date: 01/18/2007

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This bill imposes a \$50 fee per 20-foot equivalent unit of shipping container at marine ports. The marine terminal operator keeps 10 percent of the fees collected for costs associated with the proper collection and reporting of the containers. The rest of the money is remitted to the Department of Revenue (the Department) and deposited in a new account where the money is to be used to provide congestion relief through improvements of freight rail systems and state highways that act as freight corridors.

This bill also reenacts the laws related to the earnings of investments of surplus balances being deposited in the treasury income account and adds the new "freight congestion relief account" to the list of accounts that receive a share of the earnings from the treasury income account.

Sections 1 through 5 and 7 are new sections.

Section 1 declares the intent of the container fee.

Section 2 contains definitions.

Section 3 imposes the \$50 fee per 20-foot equivalent unit and allows the marine terminal operator to keep 10 percent. The portion kept must be reported as gross income under the service and other activities tax classification on the excise tax return. The Department must incorporate the fee into the regular audit cycles. The marine terminal operator must include the information specified on the excise tax return forms. The fee is to take effect no sooner than 75 days after the Department receives notice and is only to take effect on the first day of January, April, July, or October unless the Department waives the notice requirement.

Section 4 creates the new account in the state treasury and specifies that the money can only be spent after appropriation and may only be used to provide congestion relief through improvements of freight rail systems and state highways that function as freight corridors.

Section 5 makes it a gross misdemeanor if the marine terminal operator does not remit the fee to the Department, except for the portion that they are allowed to keep. The marine terminal operator is also personally liable if they fail to collect the fee or if they collect the fee and fail to remit it.

Section 6 reenacts the laws related to the earnings of investments of surplus balances being deposited in the treasury income account. The new "freight congestion relief account" is added to the list of accounts that receive their full share of the earnings from the treasury income account less any fees.

Section 7 makes sections 1 through 5 into a new chapter in Title 47 RCW.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate, the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

ASSUMPTIONS/DATA SOURCES

This bill does not specify an effective date, therefore, the effective date of the bill is assumed to be 90 days after the session ends. Adding to that the 75 days between when the Department is notified and the fee is imposed and then finding the first of January, April, July, or October after that, the fee is assumed to be imposed effective January 1, 2008.

Request # 5207-1-1
Bill # 5207 SB

MEMO

Dated: January 23, 2007

To: Tamara Cook
Director, Legislative Legal and Research Services

From: Representative Kyle Johansen

Re: Proposed Washington State Shipping Container Tax

Dear Ms. Cook:

Enclosed for your review is the most recent draft of a bill introduced in the Washington State legislature that proposes a shipping container tax. The fiscal note accompanying the bill is also enclosed.

I am concerned that this tax would result in increased costs to Alaskan consumers and companies. I also have concerns about the legality of such a tax. Please prepare an opinion that discusses:

1. Whether such a tax is illegal under any provision of the United States Constitution, federal statutes, or judicial construction of the United States Constitution such as the "dormant commerce clause doctrine";
2. Whether such a tax is preempted by federal law, including, but not limited to, laws establishing tariffs, or laws imposing homeland security requirements and fees on shipping containers
3. Whether such a tax is preempted by federal laws related to specific products, such as municipal solid waste or fish products; and
4. Whether there are any other legal theories that would invalidate such a tax

Cc: Karl Amylon

SENATE BILL 5207

State of Washington 60th Legislature 2007 Regular Session

By Senators Haugen, Murray and Spanel

Read first time 01/12/2007. Referred to Committee on Transportation.

1 AN ACT Relating to creating the freight congestion relief account
2 to improve freight corridors with funding from the imposition of a fee
3 on the processing of shipping containers; reenacting and amending RCW
4 43.84.092; adding a new chapter to Title 47 RCW; and prescribing
5 penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds and declares there is
8 a need to mitigate the enormous burden imposed on the state
9 transportation system by the overland movement of cargo shipped to and
10 from Washington state ports. Accordingly, it is the intent of the
11 legislature to alleviate this burden by imposing a fee on the
12 processing of shipping containers through those ports and use the funds
13 derived therefrom to provide congestion relief through the improvement
14 of freight rail systems and state highways that function as freight
15 corridors.

16 NEW SECTION. **Sec. 2.** The definitions in this section apply
17 throughout this chapter unless the context clearly requires otherwise.

18 (1) "Department" means the department of revenue.

1 (2) "Marine terminal operator" means a person engaged in the state
2 of Washington in the business of furnishing use of a wharf, dock,
3 warehouse, or other terminal services and facilities including, but not
4 limited to, all activities of a labor, service, or transportation
5 nature where cargo is documented, handled, moved, or loaded/unloaded
6 from vessels involved in waterborne commerce.

7 (3) "Twenty-foot equivalent unit" means a measure of containerized
8 cargo capacity equal to one standard twenty foot (length) by eight foot
9 (width) by eight foot and six inches (height) container.

10 NEW SECTION. **Sec. 3.** (1) A fee is imposed on the processing of
11 shipping containers in the ports of Washington state.

12 (2) The fee must be imposed at the rate of fifty dollars per
13 twenty-foot equivalent unit and is payable by the marine terminal
14 operator processing the container. Every marine terminal operator
15 engaged in processing twenty-foot equivalent units may retain ten
16 percent of the fifty-dollar fee collected. The moneys retained may be
17 used for costs associated with the proper collection and reporting of
18 twenty-foot equivalent units processed. The retained amount must be
19 reported as gross income under the service and other activities tax
20 classification on the excise tax return.

21 (3) The twenty-foot equivalent unit fee collected by marine
22 terminal operators, less the ten percent amount retained by the marine
23 terminal operator as provided in subsection (2) of this section, must
24 be paid to the department in accordance with RCW 82.32.045.

25 (4) The department must incorporate into the agency's regular audit
26 cycle a reconciliation of the number of twenty-foot equivalent units
27 processed and the amount of revenue collected by the marine terminal
28 operators processing twenty-foot equivalent units. The department must
29 collect from marine terminal operators processing twenty-foot
30 equivalent units the following information, which shall be required to
31 be reported on the appropriate business excise tax return form, as
32 determined by the department:

33 (a) All fees required to be collected under this section during the
34 previous month;

35 (b) A list of all freight containers processed by the marine
36 terminal operator during the previous month; and

1 (c) Satisfactory proof, as determined by the department, that the
2 fee was imposed on each twenty-foot equivalent unit processed.

3 (5) All other applicable provisions of chapter 82.32 RCW apply with
4 respect to the fee imposed under this section. The department shall
5 administer this section.

6 (6) A fee imposed under this section is to take effect no sooner
7 than seventy-five days after the department receives notice, and is to
8 take effect only on the first day of January, April, July, or October.
9 Unless waived by the department, notice includes providing the
10 appropriate department with digital mapping and legal descriptions of
11 areas in which the fee will be collected.

12 NEW SECTION. **Sec. 4.** The freight congestion relief account is
13 created in the state treasury. All receipts from twenty-foot
14 equivalent unit fees imposed under section 3 of this act must be
15 deposited in the account. Moneys in the account may be spent only
16 after appropriation. Expenditures from the account may only be used to
17 provide congestion relief through the improvement of freight rail
18 systems and state highways that function as freight corridors.

19 NEW SECTION. **Sec. 5.** (1) The fee required by this chapter, to be
20 collected by the marine terminal operator, must be deemed to be held in
21 trust by the marine terminal operator until paid to the department, and
22 any marine terminal operator who appropriates or converts the fee
23 collected to his or her own use or to any use other than the payment of
24 the fee to the extent that the money required to be collected is not
25 available for payment on the due date as prescribed in this chapter is
26 guilty of a gross misdemeanor, as provided in RCW 9A.20.021.

27 (2) If a marine terminal operator fails to collect the fee imposed
28 in this chapter or, having collected the fee, fails to pay it to the
29 department in the manner prescribed by this chapter, whether such
30 failure is the result of his or her own acts or the result of acts or
31 conditions beyond his or her control, he or she shall, nevertheless, be
32 personally liable to the state for the amount of the fee.

33 **Sec. 6.** RCW 43.84.092 and 2006 c 337 s 11, 2006 c 311 s 23, 2006
34 c 171 s 10, 2006 c 56 s 10, and 2006 c 6 s 8 are each reenacted and
35 amended to read as follows:

1 (1) All earnings of investments of surplus balances in the state
2 treasury shall be deposited to the treasury income account, which
3 account is hereby established in the state treasury.

4 (2) The treasury income account shall be utilized to pay or receive
5 funds associated with federal programs as required by the federal cash
6 management improvement act of 1990. The treasury income account is
7 subject in all respects to chapter 43.88 RCW, but no appropriation is
8 required for refunds or allocations of interest earnings required by
9 the cash management improvement act. Refunds of interest to the
10 federal treasury required under the cash management improvement act
11 fall under RCW 43.88.180 and shall not require appropriation. The
12 office of financial management shall determine the amounts due to or
13 from the federal government pursuant to the cash management improvement
14 act. The office of financial management may direct transfers of funds
15 between accounts as deemed necessary to implement the provisions of the
16 cash management improvement act, and this subsection. Refunds or
17 allocations shall occur prior to the distributions of earnings set
18 forth in subsection (4) of this section.

19 (3) Except for the provisions of RCW 43.84.160, the treasury income
20 account may be utilized for the payment of purchased banking services
21 on behalf of treasury funds including, but not limited to, depository,
22 safekeeping, and disbursement functions for the state treasury and
23 affected state agencies. The treasury income account is subject in all
24 respects to chapter 43.88 RCW, but no appropriation is required for
25 payments to financial institutions. Payments shall occur prior to
26 distribution of earnings set forth in subsection (4) of this section.

27 (4) Monthly, the state treasurer shall distribute the earnings
28 credited to the treasury income account. The state treasurer shall
29 credit the general fund with all the earnings credited to the treasury
30 income account except:

31 (a) The following accounts and funds shall receive their
32 proportionate share of earnings based upon each account's and fund's
33 average daily balance for the period: The capitol building
34 construction account, the Cedar River channel construction and
35 operation account, the Central Washington University capital projects
36 account, the charitable, educational, penal and reformatory
37 institutions account, the Columbia river basin water supply development
38 account, the common school construction fund, the county criminal

1 justice assistance account, the county sales and use tax equalization
2 account, the data processing building construction account, the
3 deferred compensation administrative account, the deferred compensation
4 principal account, the department of retirement systems expense
5 account, the developmental disabilities community trust account, the
6 drinking water assistance account, the drinking water assistance
7 administrative account, the drinking water assistance repayment
8 account, the Eastern Washington University capital projects account,
9 the education construction fund, the education legacy trust account,
10 the election account, the emergency reserve fund, the energy freedom
11 account, The Evergreen State College capital projects account, the
12 federal forest revolving account, the freight congestion relief
13 account, the freight mobility investment account, the freight mobility
14 multimodal account, the health services account, the public health
15 services account, the health system capacity account, the personal
16 health services account, the state higher education construction
17 account, the higher education construction account, the highway
18 infrastructure account, the high-occupancy toll lanes operations
19 account, the industrial insurance premium refund account, the judges'
20 retirement account, the judicial retirement administrative account, the
21 judicial retirement principal account, the local leasehold excise tax
22 account, the local real estate excise tax account, the local sales and
23 use tax account, the medical aid account, the mobile home park
24 relocation fund, the multimodal transportation account, the municipal
25 criminal justice assistance account, the municipal sales and use tax
26 equalization account, the natural resources deposit account, the oyster
27 reserve land account, the pension funding stabilization account, the
28 perpetual surveillance and maintenance account, the public employees'
29 retirement system plan 1 account, the public employees' retirement
30 system combined plan 2 and plan 3 account, the public facilities
31 construction loan revolving account beginning July 1, 2004, the public
32 health supplemental account, the public works assistance account, the
33 Puyallup tribal settlement account, the real estate appraiser
34 commission account, the regional mobility grant program account, the
35 resource management cost account, the rural Washington loan fund, the
36 site closure account, the small city pavement and sidewalk account, the
37 special wildlife account, the state employees' insurance account, the
38 state employees' insurance reserve account, the state investment board