3/27/75

COMMITTEE REPORT

SENATE

Mr. President: Date _____

The Committee on _____ has had _____
refunds for diesel fuel under the motor fuel oil tax
under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____

COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

A M E N D M E N T

Offered in the SENATE By _____

To: _____ SENATE BILL NO. _____

_____ HOUSE BILL NO. _____

AMENDMENT: Page _____ Line _____

STATE OF ALASKA

JAY S. HAMMOND, Governor

-FILE-

DEPARTMENT OF REVENUE

POUCH SA — JUNEAU 99301

February 26, 1975

Mr. William K. Parker, Chairman
House State Affairs Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska 99811

Dear Mr. Parker:

re Senate Bill No. 32 amended

Senate Bill No. 32 amended, an Act relating to refunds for disaster loss under the motor fuel oil tax, passed the Senate on February 24, 1975 and was read the first time in the House of Representatives on February 25, 1975 and was referred to the Committees on State Affairs and Finance.

The Department of Revenue on January 28, 1975 furnished a fiscal note on Senate Bill No. 32 to Jay Hogan, Director, Legislative Finance, along with memorandum detail under the dates of January 28, 1975. A copy of the fiscal note and memorandum is attached.

The second paragraph of the memorandum dated January 28, 1975 from Gary L. Jenkins, Director, Audit Division of the Department of Revenue states:

> "If this bill is enacted by the Legislature, it is recommended that the proposed Alaska Statute 43.30.030(b)(2) be modified to read:
>
> > 'lost or destroyed as the result of natural disaster unless the purchaser is otherwise indemnified <u>for</u> the tax' (UNDERLINING EMSIZED)"

This phraseology was taken from the Special Session Laws of 1967 covering disaster tax refunds at the time of Fairbanks Flood Disaster. In some cases taxpayers had been indemnified by insurance companies. The Senate Finance Committee considered the proposed modification by the Department of Revenue but the language of the amendment reads:

"lost or destroyed as the result of natural disaster unless otherwise indemnified by the tax." (UNDERLINING EMPHASIZED).

It is respectfully requested that your committee delete the word by on line 1 of Senate Bill No. 32 amended and insert the word for in its place. While there may be little possibility of those persons seeking a refund of the state motor fuel tax being indemnified by insurance claims for flood losses, the protection clause is necessary to avoid reimbursement by both insurance companies and the state.

Thanking you for your consideration in this matter, I remain,

Very respectfully yours,

R. D. Stevenson
Special Assistant

RDS:lw

Enclosure

cc Honorable Frank Ferguson
Sponsor, Senate Bill No. 32
Alaska State Legislature

Honorable Bill Ray
Chairman, Senate Finance Committee
Alaska State Legislature

Honorable Hugh Malone
Chairman, House Finance Committee
Alaska State Legislature

Jay Hogan, Director
Legislative Finance

Gary L. Jenkins, Director
Audit Division
Department of Revenue

Introduced: 1/20/75
Referred: State Affairs and Finance

IN THE SENATE BY FERGUSON

SENATE BILL NO. 32 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to refunds for disaster loss under the motor fuel oil tax; and providing for an effective date."

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

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

(b) The entire tax levied by secs. 10 - 100 of this chapter shall be refunded to the purchaser on that part of the motor fuel which is (1) used in a foreign country on which duty is paid when the fuel is sold and delivered in the state for non-highway use in a foreign country, or (2) lost or destroyed as the result of natural disaster unless the purchaser is otherwise indemnified by the tax.

* Sec. 2. This Act applies retroactively to losses accuring after September 1, 1974.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10-070(c).

MEMORANDUM

State of Alaska

DEPT. OF FINANCE
RECEIVED

TO: Jay Hogan
Legislative Finance

DATE: January 28, 1975

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT: Fiscal Note Senate Bill 32

The Motor Fuel Tax provided for in Alaska Statute, Title 43, Chapter 40 is $.08 per gallon on all motor fuel sold or used in the State with the exception of aviation gas, which is .04 a gallon; fuel used in watercrafts, which is .04 a gallon and fuel oil on which there is no tax. To ascertain the potential effect on the treasury of this bill, we have contacted the sponsor, as well as the Internal Revenue Service staff who were in the disaster office in Nome and Standard Oil of California, Marketing Department in Anchorage, who have the only distributorship in that area. At this point, the only known losses of fuel on which a tax was paid was approximately 3,000 gallons of gasoline. Assuming there could be a maximum fuel loss of 25,000 gallons and it was fuel on which .08 per gallon had been paid, there would be a maximum refund of $2,000. There is no possible way to forecast the future effect of this bill, however, major losses in certain areas could have a very high dollar impact on the refunding program.

If this bill is enacted by the Legislature, it is recommended that the proposed Alaska Statute 43.40.030(b)(2) be modified to read:

> "lost or destroyed as the result of natural disaster unless the purchaser is otherwise indemnified <u>for</u> the tax."

It is further recommended that strong consideration be given to a modification of Section 43.40.090 in which the current statute would be repealed in full and replaced by the following:

> Section 43.40.090. Criminal Violation. A person who uses motor fuel with knowledge that the tax has not been paid or who makes and subscribes a claim for tax refund authorized by this Act, and who willfully falsifies any material matter set out in a claim or return is guilty of a felony, and upon conviction is subject to the penalties prescribed for perjury under the laws of this State. In this section, "person" includes an officer, agent or employee of a corporation.

GLJ/bjm

The Legislature of the State of Alaska
FISCAL NOTE

First Session - Ninth Legislature

I. REQUEST

Bill No. Senate Bill 32 Title: "An Act relating to refunds for disaster loss
Title: under the motor fuel oil tax; & providing for an effective date."
Requested by: Legislative Finance Date: 1/28/75
Return Date Requested: January 29, 1975
Agency: Revenue Program: Audit

II. FISCAL DETAIL

Budget Request Unit(s) Affected:

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	-0-	Unknown	Unknown	Unknown	Unknown	Unknow

B. FUNDING: (Thousands of dollars)

GENERAL FUND	-0-	Unknown	Unknown	Unknown	Unknown	Unknow
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	-0- /	Unknown /	Unknown /	Unknown /	Unknown /	Unknow /
MAN MONTHS (P./T.)	/	/	/	/	/	/

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

See memorandum attached.

IV. ATTACHMENTS

V. DATE: January 28, 1975 PREPARED BY: Gary L. Jenkins, Director

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

02-001B (REV. 08-73)

MEMORANDUM State of Alaska

TO: Jay Hogan
Legislative Finance

DATE: January 28, 1975

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT: Fiscal Note Senate Bill 32
H.B. 108

The Motor Fuel Tax provided for in Alaska Statute, Title 43, Chapter 40 is $.08 per gallon on all motor fuel sold or used in the State with the exception of aviation gas, which is .04 a gallon; fuel used in watercrafts, which is .04 a gallon and fuel oil on which there is no tax. To ascertain the potential effect on the treasury of this bill, we have contacted the sponsor, as well as the Internal Revenue Service staff who were in the disaster office in Nome and Standard Oil of California, Marketing Department in Anchorage, who have the only distributorship in that area. At this point, the only known losses of fuel on which a tax was paid was approximately 3,000 gallons of gasoline. Assuming there could be a maximum fuel loss of 25,000 gallons and it was fuel on which .08 per gallon had been paid, there would be a maximum refund of $2,000. There is no possible way to forecast the future effect of this bill, however, major losses in certain areas could have a very high dollar impact on the refunding program.

If this bill is enacted by the Legislature, it is recommended that the proposed Alaska Statute 43.40.030(b)(2) be modified to read:

> "lost or destroyed as the result of natural disaster unless the purchaser is otherwise indemnified for the tax."

It is further recommended that strong consideration be given to a modification of Section 43.40.090 in which the current statute would be repealed in full and replaced by the following:

> ~~Section 43.40.090. Criminal Violation. A person who uses motor fuel with knowledge that the tax has not been paid or who makes and subscribes a claim for tax refund authorized by this Act, and who willfully falsifies any material matter set out in a claim or return is guilty of a felony, and upon conviction is subject to the penalties prescribed for perjury under the laws of this State. In this section, "person" includes an officer, agent or employee of a corporation.~~

[SEE ATTACHED MEMO OF JAN. 29, 1975]

GLJ/bjm

02-001B (REV. 08-73)

MEMORANDUM State of Alaska

TO: Jay Hogan
Legislative Finance

DATE: January 29, 1975

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT: Penalty Provisions of Chapter 40 of the Alaska Statutes

I've met with Mr. John Messenger of the Attorney General's office and discussed the penalty provisions provided for in the motor fuel statutes. It is his feeling, as it is mine, that the current penalty provisions are not clear. It is my recommendation that in lieu of the modification of Section 43.40.090 that I recommended in my earlier memo, that Section 43.40.020 and 43.40.090 be repealed in full and replaced by the following:

Section 43.20.090. "Penalties. (a) A person who wilfully attempts to evade the tax imposed by this chapter is, in addition to other penalties provided by this chapter, guilty of a felony and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than five years, or both.

(b) A person required under this chapter to pay a tax, make a return, keep records, or supply information, who wilfully fails to pay the tax, make the return, keep the records, or supply the information is, in addition to other penalties provided by this chapter, guilty of a misdemeanor and, upon conviction, shall be fined not more than $50,000, or imprisoned for not more than one year, or both.

(c) A person who wilfully makes and subscribes a return, statement, or other document required under this chapter which contains or is verified by a written declaration that it is made under the penalties of perjury which he does not believe to be true and correct as to every material matter is, in addition to other penalties provided by this chapter, guilty of a felony and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than three years, or by both.

(d) A person who wilfully and knowingly aids or assists in, or procures, or counsels the preparation or presentation in connection with any matter arising under this chapter of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter is guilty of a felony whether or not the falsity or fraud is with the knowledge or consent of the person required to present the return, affidavit, claim, or document, and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than three years, or both.

(e) A person who wilfully delivers or discloses to the commissioner or the department under this chapter any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter shall be fined not more than $1,000, or imprisoned for not more than one year, or both.

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

GLJ/bjm

cc: John Messenger
Attorney General's Office

The Legislature of the State of Alaska
FISCAL NOTE

First Session - Ninth Legislature

I. REQUEST

Bill No. Senate Bill 32 Title: "An Act relating to refunds for disaster loss under the motor fuel oil tax; & providing for an effective date."

Requested by: Legislative Finance Date: 1/28/75

Return Date Requested: January 29, 1975

Agency: Revenue Program: Audit

II. FISCAL DETAIL

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700	GRANTS, CLAIMS, ETC.						
	TOTAL	-0-	Unknown	Unknown	Unknown	Unknown	Unknown

B. FUNDING: (Thousands of dollars)

GENERAL FUND	-0-	Unknown	Unknown	Unknown	Unknown	Unknown
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	-0-	Unknown	Unknown	Unknown	Unknown	Unknown
MAN MONTHS (P./T.)	/	/	/	/	/	/

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

See memorandum attached.

IV. ATTACHMENTS

V. DATE: January 28, 1975 PREPARED BY: Gary L. Jenkins, Director

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

IN THE SENATE BY FERGUSON

SENATE BILL NO. 32

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

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

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(b) The entire tax levied by secs. 10 - 100 of this chapter shall be refunded to the purchaser on that part of the motor fuel which is (1) used in a foreign country on which duty is paid when the fuel is sold and delivered in the state for non-highway use in a foreign country, or (2) lost or destroyed as the result of natural disaster.

* Sec. 2. This Act applies retroactively to losses accuring after September 1, 1974.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).