

COMMITTEE REPORT
SENATE

9/13/82

FURTHER: none

Date: 9/13/82

Mr. President:

The Committee on FINANCE has had CSHB 101 (2nd File)
1982 Local Tax (AS 43.40)

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends 2425
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

CHAIRMAN

Asper .
4/29/82

Original sponsors: Zharoff, Grussendorf
and Bettisworth

Indexed

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 101 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state taxation; and providing for
7 an effective date."

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

9 * Section 1. AS 16.05.050(12) is amended to read:

10 (12) not later than January [MARCH] 31 of each year, provide
11 to the commissioner of revenue the names of those fish and shellfish
12 species which he designates as developing commercial fish species for
13 that calendar year [THE FOLLOWING FISCAL YEAR OF THE STATE]; a fish or
14 shellfish species is a developing commercial fish species if, within a
15 specified geographical region,

16 (A) the optimum yield from the harvest of the species
17 has not been reached;

18 (B) a substantial portion of the allowable harvest of
19 the species has been allocated to fishing vessels of a foreign
20 nation; or

21 (C) a commercial harvest of the fish species has
22 recently developed.

23 * Sec. 2. AS 43.05.225 is amended to read:

24 Sec. 43.05.225. INTEREST ON TAXES. Unless otherwise provided,
25 when a tax levied in this title becomes delinquent it bears interest at
26 the rate of 12 [EIGHT] percent a year.

27 * Sec. 3. AS 43.05.280(a) is amended to read:

28 (a) Interest shall be allowed and paid on any overpayment of a tax
29 under this title at the rate prescribed in AS 43.05.225 [OF EIGHT PER-

1 CENT A YEAR].

2 * Sec. 4. AS 43.40.010 is amended by adding a new subsection to read:

3 (1) If a dealer has a reasonable belief at the time of sale
4 or transfer that fuel that is sold or transferred is not to be used as
5 motor fuel, the dealer need not collect the motor fuel tax. If the tax
6 is not collected, the dealer shall obtain a certificate of use from the
7 buyer or transferee stating that the fuel that has been or will be pur-
8 chased or received is not intended for use as motor fuel. The Depart-
9 ment of Revenue may not collect the motor fuel tax from a dealer for
10 fuel for which a certificate of use has been properly obtained under
11 this subsection. The dealer shall retain a copy of each certificate of
12 use obtained under this subsection for examination or audit on request
13 by the Department of Revenue. The form of a certificate of use may be
14 prescribed by regulation adopted by the Department of Revenue.

15 * Sec. 5. AS 43.40.030(b) is amended to read:

16 (b) The entire tax levied by this chapter shall be refunded to the
17 purchaser on that part of the motor fuel used in a foreign country on
18 which the tax has been [DUTY IS] paid when the fuel is sold and delivered
19 in the state for non-highway use in a foreign country.

20 * Sec. 6. AS 43.40 is amended by adding a new section to read:

21 Sec. 43.40.035. REFUNDS AND CREDITS FOR OTHER USES OF MOTOR FUEL.

22 (a) A person who resells fuel on which the tax under AS 43.40.010(a) or
23 (b) has previously been paid is entitled to a full or partial credit or
24 refund of the tax paid if the fuel that is resold is not motor fuel and
25 if a certificate is acquired under AS 43.40.010(1). The amount of the
26 credit or refund is equal to the amount of tax prescribed by AS 43.40.-
27 010(a) or (b) subtracted from the amount of tax previously paid on the
28 fuel that is resold.

29 (b) A reseller may elect, with the express written consent of the

1 supplier of the reseller, to receive the credit or refund under this
2 section directly from the supplier rather than by filing a claim for the
3 credit or refund with the Department of Revenue. When an election is
4 properly made under this subsection, the supplier may claim the credit
5 or refund from the Department of Revenue. To be effective an election
6 under this subsection must be signed in quadruplicate by the reseller
7 and by the supplier. The reseller and the supplier shall each file one
8 copy of the election, with original signatures, with the Department of
9 Revenue. The reseller and supplier shall each retain a copy of the
10 election with original signatures for audit review by the Department of
11 Revenue. If an election is made under this subsection, it may not be
12 revoked without the express written consent of the supplier.

13 * Sec. 7. AS 43.40.050(a) is amended to read:

14 (a) A person who claims a refund under AS 43.40.030 [AS PROVIDED
15 IN AS 43.40.010 - 43.40.100] shall present his claim to the commissioner
16 of revenue by affidavit upon a form provided by the commissioner. The
17 claim shall include the name, address and occupation of the applicant,
18 the nature of the business of the applicant, and a description sufficient
19 to identify the machinery or equipment in which the motor fuel for which
20 the refund is claimed was used. The claim shall be accompanied by each
21 invoice issued to the claimant at the time the motor fuel was purchased.
22 The commissioner may require any additional information which he con-
23 siders necessary for the administration of this subsection [AS 43.40.-
24 010 - 43.40.100].

25 * Sec. 8. AS 43.40.050(b) is amended to read:

26 (b) A claim for refund under AS 43.40.030 or 43.40.035 shall be
27 filed within one year from the date of the purchase of the motor fuel as
28 indicated on the invoice, and failure to file within the one year period
29 is a waiver of the right to the refund. A claim is considered to be

1 filed when the claim is mailed or personally presented to an office of
2 the Department of Revenue.

3 * Sec. 9. AS 43.40.050 is amended by adding a new subsection to read:

4 (c) A reseller who claims a refund or credit under AS 43.40.035
5 shall present the refund claim to the Department of Revenue or to the
6 supplier of that reseller by affidavit on a form provided by the Depart-
7 ment of Revenue. The claim shall include the name, address, and occupa-
8 tion of the applicant, the nature of the business of the applicant, and
9 a description sufficient to identify the reason for the refund or credit.
10 The claim shall be supported by documentation required by the Department
11 of Revenue.

12 * Sec. 10. AS 43.40.100(2) is amended by adding new subparagraphs to
13 read:

14 (G) fuel sold or transferred between qualified dealers;

15 (H) fuel sold to federal, state, and local government
16 agencies for official use;

17 (I) fuel used in stationary power plants that generate
18 electrical energy for private residential consumption;

19 (J) fuel used to heat private or commercial buildings or
20 facilities;

21 (K) fuel used for other nontaxable purposes as prescribed
22 by regulations adopted by the Department of Revenue;

23 * Sec. 11. AS 43.40.100(3) is amended to read:

24 (3) "user" means a person consuming or using motor fuel, who
25 either

26 (A) purchases the fuel out of the state and ships it
27 into the state for his own use within the state;

28 (B) [OR] manufactures the fuel in the state; or

29 (C) purchases or receives fuel in the state that is not

1 taxed at the time of purchase or receipt.

2 * Sec. 12. AS 43.40.100 is amended by adding a new paragraph to read:

3 (4) "qualified dealer" means a person who (A) refines, (B)
4 imports, (C) manufactures, (D) produces, (E) compounds, or (F) whole-
5 sales motor fuel, who satisfies criteria for qualified dealers estab-
6 lished by the Department of Revenue by regulation and who obtains a
7 qualified dealer's license from the Department of Revenue.

8 * Sec. 13. AS 43.55.060 is amended to read:

9 Sec. 43.55.060. DELINQUENCY. When the tax provided for in this
10 chapter becomes delinquent, it bears interest at the rate prescribed in
11 AS 43.05.225 [OF SIX PERCENT A YEAR]. If any person fails to make a
12 report required by this chapter, within the time prescribed by law for
13 the report, the department shall examine the books, records and files of
14 the person to determine the amount and value of the production to compute
15 the tax, and the department shall add to the tax the cost of the examina-
16 tion, together with any penalties accrued.

17 * Sec. 14. The designation of developing commercial fish species required
18 to be made not later than January 31, 1983, under AS 16.05.050(12), as amended
19 in sec. 1 of this Act, supersedes the designation of developing commercial
20 fish species for the fiscal year ending June 30, 1983.

21 * Sec. 15. Those changes to the investment tax credit provisions of
22 sec. 38 of the Internal Revenue Code (26 U.S.C. sec. 38) enacted by the
23 Economic Recovery Tax Act of 1981 (P.L. 93-34) are effective at the time
24 prescribed by federal law, notwithstanding the fact that the provisions will
25 be made retroactive to the effective dates in the federal law and notwith-
26 standing the delayed incorporation provisions of AS 43.20.021(a). Nothing in
27 this section modifies the limitations and conditions on the Alaska investment
28 tax credit set out in AS 43.20.036(b).

29 * Sec. 16. The Department of Revenue may not collect the motor fuel tax

1 from a dealer, as defined in AS 43.40.100(1), on a sale or transfer of motor
2 fuel that occurs before the effective date of this Act if the dealer did not
3 collect the tax from a purchaser or transferee because of a reasonable belief
4 that the fuel was not to be used as motor fuel, as that term is defined in
5 AS 43.40.100(2), or if the dealer relied upon the purchaser's representation
6 that the fuel would not be used as motor fuel. This section is intended to
7 clarify ambiguities in the existing language of AS 43.40 concerning the party
8 responsible for collecting the tax and to resolve an administrative dispute
9 between certain fuel dealers and the Department of Revenue. For this reason,
10 this section serves the general public interest in the fair and equitable
11 administration of AS 43.40.

12 * Sec. 17. AS 43.20.172 and AS 44.62.330(a)(20) are repealed.

13 * Sec. 18. Sections 2, 3, and 13 of this Act take effect July 1, 1982.

14 * Sec. 19. Sections 1 and 14 of this Act take effect January 1, 1983.

15 * Sec. 20. Sections 4 - 12 and 15 - 17 of this Act take effect immediately
16 in accordance with AS 01.10.070(c).

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4/28/82

HB 101

~~New fn to come
from Donohue~~

ferg made motion to
delete all lg. in CSHB101
(2d fin) and insert new
proposed CS (fin)

from the Administration

IN THE HOUSE

BY THE RULES COMMITTEE

SCS FOR HOUSE BILL NO. ^{101 (Finance)} ~~101 (Rules)~~

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making ~~technical~~ amendments related to state taxation and providing for an effective date."

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

*Section 1. AS 16.05.050(12) is amended to read:

(12) not later than January [March] 31 of each year, provide to the commissioner of revenue the names of those fish and shellfish species which he designates as developing commercial fish species for that calendar year [THE FOLLOWING FISCAL YEAR OF THE STATE]; a fish or shell-fish species is a developing commercial fish species if, within a specified geographical region,

(A) the optimum yield from the harvest of the species has not been reached;

(B) a substantial portion of the allowable harvest of the species has been allocated to fishing vessels of a foreign nation; or

(C) a commercial harvest of the fish species has recently developed.

*Sec. 2. AS 43.05.225 is amended to read:

Sec. 43.05.225. INTEREST ON TAXES. Unless otherwise provided, when a tax levied in this title becomes delinquent it bears interest at the rate of 12 [EIGHT] percent a year.

*Sec. 3. AS 43.05.280(a) is amended to read:

(a) Interest shall be allowed and paid on any over-payment of a tax under this title at the rate prescribed in AS 43.05.225 [OF EIGHT PERCENT A YEAR].

*Sec. 4. AS 43.40.030(b) is amended to read:

(b) The entire tax levied by this chapter shall be refunded to the purchaser on that part of the motor fuel used in a foreign country on which the tax has been [DUTY IS] paid when the fuel is sold and delivered in the state for non-highway use in a foreign country.

*Sec. 5 AS 43.55.060 is amended to read:

Sec. 43.55.060. DELINQUENCY. When the tax provided for this chapter becomes delinquent, it bears interest at the rate prescribed in AS 43.05.225 [OF SIX PERCENT A YEAR]. If any person fails to make a report required by this chapter, within the time prescribed by law for the report, the department shall examine the books, records and files of the person to determine the amount and value of the production to compute the tax, and the department shall add to the tax the cost of the examination, together with any penalties accrued.

Sec. 6 AS 43.20.172 and AS 44.62.330(a) (20) are repealed.

Sec. 7. The designation of developing commercial fish species required to be made not later than January 31, 1983, under AS 16.05.050(12), as amended in sec. 1 of this Act, supersedes the designation of developing commercial fish for the fiscal year ending June 30, 1983.

Sec. 8. Those changes to the investment tax credit provisions of sec. 38 of the Internal Revenue Code (26 U.S.C. sec. 38) enacted by the Economic Recovery Tax Act of 1981 (P.L. 93-94) are effective at the time prescribed by federal law, notwithstanding the fact that the provisions will be made retroactive to the effective dates in the federal law and notwithstanding the delayed incorporation provisions of AS 43.20.021(a). Nothing in this section modifies the limitations and conditions on the Alaska investment tax credit set out in AS 43.20.036(b).

*Sec. 9 AS 43.40.010 is amended by adding new subsection after subsection (k) to read:

"(1) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferor stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The Department of Revenue may not collect the motor fuel tax from a dealer for fuel for which a certificate of use has been properly obtained under this subsection. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the Department of Revenue. The form of a certificate of use may be prescribed by regulation adopted by the Department of Revenue."

*Sec. 10 A new section as follows is added immediately following AS 43.40.030:

Sec. 43.40.035. OTHER REFUNDS AND CREDITS FOR CERTAIN USES OF MOTOR FUEL.

(a) A person who resells fuel upon which the tax prescribed by Sec. 43.40.010(a) or Sec. 43.40.010(b) has previously been paid shall be entitled to a full or partial credit or refund of the tax previously paid if the fuel resold is exempt from tax under AS 43.40.100(2) and if a certificate is acquired under AS 43.40.010(1). The amount of the credit or refund shall be equal to the amount of tax prescribed for in Sec. 43.40.010(a) or Sec. 43.40.010(b) subtracted from the amount of tax previously paid on the fuel being resold. A reseller may elect, with the express written consent of his supplier, to receive the credit or refund directly from the supplier rather than filing a claim for refund with the Department of Revenue. When such election is properly made, the supplier may then claim the credit or refund directly from the Department of Revenue. In order to be effective, such election is to be signed in quadruplicate by both the reseller and the supplier. The reseller and the supplier shall each file one copy of the election, containing original signatures, with the Department of Revenue. The reseller and supplier shall each retain a copy of the election containing original signatures, for subsequent review upon audit by the Department of Revenue. Such election once made cannot be revoked without the express written consent of the supplier.

*Sec. 11. AS 43.40.050 is amended by adding the following new subsection (c) immediately following subsection (b):

(c) A reseller who claims a refund as provided in Sec. 43.40.035(a) in this chapter shall present his claim to the Commissioner of Revenue or to the supplier by affidavit upon a form provided by the Commissioner. The claim shall include the name, address and occupation of the applicant, the nature of the business of the applicant and a description sufficient to identify the reason for refund. The claim shall be supported by whatever documentation as required by the Commissioner of Revenue.

Sec. 12 AS 43.40.100(2) is further amended by adding the following new paragraphs immediately following paragraph (F):

(G) Fuel sold or transferred between qualified dealers

(H) Fuel sold to Federal, state and local government agencies for official use.

(I) Fuel used in stationary power plants that generate electrical energy for private residential consumption.

(J) Fuel used to heat private or commercial buildings or facilities."

Sec. 13 AS 43.40.100(3) is amended to read:

"(3) "user" means a person consuming or using motor fuel, who either:

(A) purchases the fuel out of state and ships it into the state for his own use within the state;

(B) [OR] manufacturers the fuel in the state; or

(C) purchases or receives the fuel within the state that is not taxed at the time of purchase or receipt."

Sec. 14 The Department of Revenue may not collect the motor fuel tax from a dealer, as defined in AS 43.40.100(1), on a sale or transfer of fuel that occurred before the effective date of this Act if the dealer did not collect the tax from a purchaser or transferee because of a reasonable belief that the fuel was to be used as heating fuel and not as motor fuel. ^{not not} ^{as that term is defined in AS 43.40.100(2) or} ^{in good faith} The dealer's belief is reasonable if the dealer relied upon the purchaser's representation that the fuel would not be used as motor fuel. This section is

intended to clarify an ambiguity in the existing language of AS 43.40 concerning the party responsible for collecting the tax and to resolve an administrative dispute between certain fuel dealers and the Department of Revenue. For this reason, section 14 serves the general public interest in the fair and equitable administration of AS 43.40.

*Sec. 15 AS 43.40.100 is further amended by adding the following new subsection immediately following subsection (3):

"(4) Qualified dealer means a person who:

- (A) refines,
- (B) imports,
- (C) manufacturers,
- (D) produces,
- (E) compounds, or
- (F) wholesales

motor fuel and who otherwise satisfies the criteria established by the Department by regulation and who obtains a license from the Department certifying that the person is a qualified dealer.

*Sec. 16 Section 8 of this Act is retroactive to the effective dates of sec. 211 of the Economic Recovery Tax Act of 1981 (P.L. 93-34).

*Sec. 17 Sections 2 - 5 of this Act are retroactive to January 1, 1982.

*Sec. 18 Sections 1 and 7 of this Act take effect January 1, 1982.

*Sec. 19 Sections 2 - 6, 8, 9 and 14 of this Act take effect immediately in accordance with AS 01.10.070(c).

*Sec. 20 This Act takes effect immediately in accordance with AS 01.10.070(c)

IN THE HOUSE

BY THE RULES COMMITTEE

SCS FOR HOUSE BILL NO. ~~22 (201)~~ 101 (Finance)

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TWELFTH LEGISLATURE - SECOND SESSION

A BILL

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(D) The entire tax levied by this chapter shall be refunded to the purchaser on that part of the motor fuel used in a foreign country on which the tax has been [DUTY IS] paid when the fuel is sold and delivered in the state for non-highway use in a foreign country.

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new subsection (c) immediately following subsection (b):

(c) A reseller who claims a refund as provided in Sec. 43.40.035(a) in this chapter shall present his claim to the Commissioner of Revenue or to the supplier by affidavit upon a form provided by the Commissioner. The claim shall include the name, address and occupation of the applicant, the nature of the business of the applicant and a description sufficient to identify the reason for refund. The claim shall be supported by whatever documentation as required by the Commissioner of Revenue.

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(A) purchases the fuel out of state and ships it into the state for his own use within the state;

(B) [OR] manufactures the fuel in the state; or

(C) purchases or receives the fuel within the state that is not taxed at the time of purchase or receipt."

Sec. 14 The Department of Revenue may not collect the motor fuel tax from a dealer, as defined in AS 43.40.100(1), on a sale or transfer of fuel that occurred before the effective date of this Act if the dealer did not collect the tax from a purchaser or transferee because of a reasonable belief that the fuel was to be used as heating fuel and not as motor fuel. ^{not} The dealer's belief is reasonable if the dealer relied ^{in good faith} upon the purchaser's representation that the fuel would not be used as motor fuel. This section is

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43.40 concerning the party responsible for collecting the tax and to resolve an administrative dispute between certain fuel dealers and the Department of Revenue. For this reason, section 14 serves the general public interest in the fair and equitable administration of AS 43.40.

*Sec. 15 AS 43.40.100 is further amended by adding the following new subsection immediately following subsection (3):

"(4) Qualified dealer means a person who:

- (A) refines,
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motor fuel and who otherwise satisfies the criteria established by the Department by regulation and who obtains a license from the Department certifying that the person is a qualified dealer.

*Sec. 16 Section 8 of this Act is retroactive to the effective dates of sec. 211 of the Economic Recovery Tax Act of 1981 (P.L. 93-34).

*Sec. 17 Sections 2 - 5 of this Act are retroactive to January 1, 1982.

*Sec. 18 Sections 1 and 7 of this Act take effect January 1, 1982.

*Sec. 19 Sections 2 - 6, 8, 9 and 14 of this Act take effect immediately in accordance with AS 01.10.070(c).

*Sec. 20 This Act takes effect immediately in accordance with AS 01.10.070(c)

from Larry Vavra
Union Oil Co. of Calif.

POSSIBLE
2-11-1961

* Section . AS 433.40.030(b) is amended by deleting everything following the phrase "...on that part of the motor fuel..." and inserting in lieu thereof the following new language:

"...exported to an out of state destination, not contained in the tank of a motor vehicle, when such motor fuel was previously taxed by this chapter."

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

(b) The entire tax levied by this chapter shall be refunded to the purchaser on that part of the motor fuel ^{when not contained in the tank of a motor vehicle,} exported to an out of state destination, when such motor fuel was previously taxed by this chapter [USED IN A FOREIGN COUNTRY ON WHICH DUTY IS PAID WHEN THE FUEL IS SOLD AND DELIVERED IN THE STATE FOR NONHIGHWAY USE IN A FOREIGN COUNTRY].

* Sec. . AS 43.40.030(c) is amended by deleting everything following the phrase "...to prove that the motor fuel..." and inserting in lieu thereof the following new language:

"...has been exported to an out of state destination as prescribed in subsection (b) of this section."

* Sec. . AS 43.40.100(2)(A) is amended by deleting the phrase "foreign countries," and inserting the following new language in lieu thereof:

"...an out of state destination as prescribed in Section 43.40.030(b)."

Original sponsors: Zharoff, Grussendorf
and Bettisworth

Offered: 4/16/82
For Calendar, Saturday
4/17/82

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 101 (2d Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the motor fuel tax (AS 43.40); and
7 providing for an effective date."

8

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

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* Section 1. AS 43.40.010 is amended by adding a new subsection to read:

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(1) If a dealer has a reasonable belief at the time of sale or

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transfer that fuel that is sold or transferred is not to be used as

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of Revenue may not collect the motor fuel tax from a dealer for fuel for

17

which a certificate of use has been properly obtained under this sub-

18

section. The dealer shall retain a copy of each certificate of use

19

obtained under this subsection for examination or audit on request by

20

the Department of Revenue. The form of a certificate of use may be

21

prescribed by regulation adopted by the Department of Revenue.

22

* Sec. 2. AS 43.40.100(2) is amended by adding a new subparagraph to

23

read:

24

(G) fuel used in stationary power plants that generate

25

electrical energy for private residential consumption;

26

* Sec. 3 AS 43.40.100(3) is amended to read:

27

(3) "user" means a person consuming or using motor fuel, who

28

[EITHER]

29

(A) purchases the fuel out of the state and ships it

1 into the state for his own use within the state;

2 (B) [OR] manufactures the fuel in the state; or

3 (C) purchases or receives the fuel in the state without
4 paying the tax under this chapter at the time of purchase or re-
5 ceipt.

6 * Sec. 4. The Department of Revenue may not collect the motor fuel tax
7 from a dealer, as defined in AS 43.40.100(1), on a sale or transfer of motor
8 fuel that occurs before the effective date of this Act if the dealer did not
9 collect the tax from a purchaser or transferee because of a reasonable doubt
10 that the fuel was to be used as motor fuel, as that term is defined in
11 AS 43.40.100(2).

12 * Sec. 5. AS 43.40 is amended by adding a new section to read:

13 Sec. AS 43.40.015. SURTAX ON AVIATION FUEL. (a) There is levied
14 a surtax on aviation fuel, in addition to the tax imposed in AS 43.40.-
15 010, in the following amounts:

16 (1) one-half cent a gallon on all aviation gasoline sold or
17 otherwise transferred in the state or consumed by a user; and

18 (2) one-fourth cent a gallon on all aviation fuel other than
19 gasoline sold or otherwise transferred in the state or consumed by a
20 user.

21 (b) The surtax levied under this section shall be deposited in the
22 general fund. The legislature may annually appropriate an amount equal
23 to the proceeds of the surtax levied in this section for aviation safety
24 training programs.

25 * Sec. 6. AS 43.40.015 added by sec. 5 of this Act is repealed on July 1,
26 1985.

27 * Sec. 7. This Act takes effect immediately in accordance with AS 01.10.-
28 070(c).

29

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

11837

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB37 / CSHB 101 (Rules)
 Title An Act relating to the motor fuel tax
 Requested by Randolph, Beirne, Bettisworth Date 3-8-82

II. FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected Revenue Collections and Management
 BRU, Program, Or Subprogram(s) Affected Audit Division
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		22.0	23.5	25.0	27.0	29.5
200 TRAVEL		1.6	1.8	2.0	2.2	2.4
300 CONTRACTUAL						
400 COMMODITIES		.5				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		24.1	25.3	27.0	29.2	31.9

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		24.1	25.3	27.0	29.2	31.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

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

See attached memo to R. D. Stevenson dated 3-9-82.

Robert R. Kessel

IV. DATE March 9, 1982 PREPARED BY Robert R. Kessel
 AGENCY Audit Division
 Original: Legislative Finance PHONE 465-2320
 cc: Budget and Management
Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 37 / CSHB 101 (Rules)
 Title An Act relating to the motor fuel tax
 Requested by Randolph, Beirne, Bettisworth Date 3-9-82

II. FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected Revenue Collection and Management
 BRU, Program, Or Subprogram(s) Affected Audit Division
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) None

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		(1.4)	(1.4)			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

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

See attached copy of memo to R. D. Stevenson dated March 9, 1982.

IV. DATE March 9, 1982 PREPARED BY Robert R. Kessel
 AGENCY Audit Division
 Original: Legislative Finance PHONE 465-2320
 cc: Budget and Management
Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

MEMORANDUM

State of Alaska

Department of Revenue

TO: R. D. Stevenson
Special Assistant

DATE: March 9, 1982

FILE NO:

TELEPHONE NO:

FROM: Robert R. Kessel ^{RR}
Director, Audit Division

SUBJECT: Work Draft -
CSHB 37/CSHB 101 (Rules)

The work draft would allow motor fuel dealers (distributors/jobbers) to buy a portion of their fuel tax free from the manufacturer/ supplier and would allow the distributor to sell that same portion to consumers tax free in those instances when such consumption is for exempt use. Exempt use includes a) fuel used for heating purposes and b) fuel used by exempt organizations such as the Federal Government, State agencies, charitable organizations, etc.

The distributors/jobbers must provide the manufacturer/supplier with a certificate of use for ex-tax purchases. The distributors/jobbers must obtain a certificate of use from every person purchasing fuel not intended for use as a motor fuel. The distributors/jobbers must retain the certificates for examination by the Department of Revenue.

The bill expands the term "user" (taxpayer) to include a person consuming or using diesel fuel who purchases or receives the fuel within the State that was not taxed at the time of purchase or receipt because it was sold as heating fuel.

Section 3 of the work draft provides, in essence, that all audit assessments against dealers for failure to collect the tax from a purchaser or transferee could not be collected by the Department of Revenue nor could further audits be conducted nor assessments made. This section is arguably unconstitutional. In addition, the State would lose about \$2.8 million because of abatement of current audit assessments and forfeiture of other audit efforts for prior years.

The work draft as written would apparently continue to require dealers and users to file motor fuel tax returns. The sponsors of this bill might not be aware of this requirement.

There would literally be thousands of certificates of use issued. The effort to audit under the certificate concept would require an additional revenue auditor.

Section 3 essentially punishes those 50% of the dealers who have conformed to the law and properly collected tax. The State of Alaska has a substantial amount of dollars impacted by the dealers' failure to collect when required.

RRK/gb

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: SB 884 / CSHB 101 (Rules)
 Title: An Act imposing a surtax on aviation fuel relating to motor fuel tax
 Requested by: Senate Finance Committee Date: April 12, 1982

II. FISCAL DETAIL

Agency Affected: Department of Revenue
 Program Category Affected: Revenue Collection and Management
 BRU, Program, or Subprogram(s) Affected: Audit Division
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-	-	-	-	-	-
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

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

See attached memo to R. D. Stevenson dated April 12, 1982.

IV. DATE: April 12, 1982

PREPARED BY: Robert R. Kessel
 AGENCY: Audit Division
 PHONE: 465-2320

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

Robert R. Kessel

M E M O R A N D U M

TO: R. D. Stevenson
Special Assistant

FROM: Robert R. Kessel
Director, Audit Division *my*

DATE: April 12, 1982

RE: SB 884 "An Act imposing a surtax on aviation fuel" /
CSHB 101 (Rules)

Section 43.40.010 currently levies a tax of four cents a gallon on aviation gasoline and a tax of two and one-half cents a gallon on all aviation fuel other than gasoline.

SB 884 would impose a surtax of one-half cent a gallon on all aviation gas and one-fourth cent a gallon on all aviation fuel other than gasoline. The effective tax rate per gallon would then become

- a) four and one-half cents a gallon on all aviation gasoline and
- b) two and three-fourths cents a gallon on all aviation fuel other than gasoline.

The surtax would necessitate a minor redesign of the motor fuel form and would not create a noticeable increase in workload for the Audit Division. Collections would have to be separately accounted for to accomplish Sec. 1(b) of the bill.

There appears to be no noticeable problems with the bill as written.

RRK/gb

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: SB 884 / CSHB 101 (Rules)

Title: Imposing a surtax on aviation fuel.

Requested by: Senate Finance Committee Date: 04/06/82

II. FISCAL DETAIL

Agency Affected:

Program Category Affected:

BRU, Program, or Subprogram(s) Affected:

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Thousands of Dollars)

GENERAL FUND	-	470	490	510	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

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

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

The figures represent the additional aviation fuel surtax paid into the General Fund, if the rates are levied per SB 884. It was assumed the bill would become effective July 1, 1982.

IV. DATE: 04/06/82

PREPARED BY: Robert W. Elliott

AGENCY: Revenue

PHONE: 465-2173

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)



Senator Bill Ray
Chairman

Alaska State Legislature

Senate

Committee on Transportation

Official Business
Pouch V
State Capitol
Juneau, Alaska 99811

TO: Senator Don Bennett, Co-Chairman
Senator Ed Dankworth, Co-Chairman
Committee on Finance

FROM: Senator Bill Ray, Chairman
Committee on Transportation *BR*

DATE: April 22, 1982

RE: CSHB 101(2d Fin)

The Transportation Committee requests the Finance Committee to take note that Section 4 of CSHB 101 (2d Finance) does not have an identifying statute.

Department of Revenue
April 28, 1982

Analysis - SCS for HB 101 (Finance)

Section 1 of SCS for HB 101 provides that the Commissioner of Fish and Game must submit to the Commissioner of Revenue the names of developing commercial fish species not later than January 31 of each year rather than March 31. The bill also changes the period for which the lower tax rate applies from a fiscal year to a calendar year. The reporting period therefore is made to coincide with the tax year. Section 7 makes a date change to conform to Section 1 (from June 30, 1983, to January 31, 1983).

Section 2 of the bill changes the interest rate on delinquent taxes from eight percent to twelve percent a year. There has not been a change in interest rates since 1976 and this section brings the interest into closer conformity with the real world of interest rates. For example, CD's now go for 13% and IRS charges 20% for delinquent taxes.

The Department believes that taxpayers entitled to refunds should be entitled to an interest rate equivalent to that charged delinquent taxpayers.

Section 3 of the bill provides that equity by applying the interest rate of 12% to overpayments of tax.

Section 4 of the bill contains clarifying language to the motor fuel tax law. If a purchaser of motor fuel uses motor fuel for non-highway use in a foreign country, the purchaser is entitled to a refund on that fuel which tax has been paid. The word DUTY is out of place since the purchaser must have paid the motor fuel tax and not a DUTY.

Section 5 relates the interest rate for delinquent oil and gas property production to the rate charged for other taxes. The current rate is 6%. Legislative Audit recommended in SB 856 an increase in this interest rate.

Note: Sections 2, 3 and 5 have passed the Senate in CS for SB 856 using the 12% rate.

Section 6 repeals Section 43.20.172. That section requires that fish processors furnish the Department with names of persons from whom newly harvested fish were purchased. The names of these persons were then cross-checked against the income tax filers list. Since the individual income tax has been repealed there is no need for Section 43.20.172. Section 6 also repeals AS 44.62.330(a)(20). The Revenue Department has its own taxpayer remedy provisions in 43.05.240. Tobacco Tax is currently the only tax appealed under the Administrative

Procedures Act. Section 6 would bring Tobacco Tax appeals under 43.05.240 and would provide for consistency in tax administration.

Section 8 of the bill relates to the Investment Tax Credit. There have been substantial changes in the investment tax credit for federal purposes as a result of the Economic Recovery Tax Act (ERTA) of 1981. The full 10% investment tax credit applies much more frequently than under previous federal law. Section 43.20.021 of the Alaska Statute provides that Internal Revenue provisions are not adopted for state purposes until the second January 1 following the effective date of the federal law. Section 9 of HB 93 speeds up that transition and essentially allows for the more liberal investment tax credits sooner than would the current provisions of 43.20.021. Phil Payne of the Alaska Society of CPA's on behalf of their Tax Committee has requested this.

Section 8 of the bill creates a fiscal impact of \$700,000 per year. However, additional revenue resulting from the increased interest rate for delinquent taxpayers creates a wash situation. The Department believes that the additional revenues from interest will cancel out the \$700,000.

Sections 9-14 relate to motor fuel tax. Section 9 provides that a dealer can sell or transfer motor fuel if he has a reasonable belief that the fuel is not to be used as motor fuel. If the tax is not collected, the dealer needs to obtain a certificate of use from the purchaser. The Department of Revenue must pursue collection of tax from the user if the ultimate consumption of fuel is for taxable use.

Section 10 allows for a refund of motor fuel tax if a person resells fuel to an exempt user (Federal Government, etc.) or for exempt use and if tax had been previously paid by that person reselling such fuel. The Section further allows that the reseller can claim a credit or refund directly from the supplier in lieu of claiming such refund from the Department of Revenue.

Section 11 merely deals with the contents of the claim form when claiming a refund for those instances covered in Section 10.

Section 12 modifies the definition of motor fuel by clarifying various exemptions.

Section 13 expands the definition of "user" and would allow the Department of Revenue to collect motor fuel tax from a fuel user in those instances when a dealer sells ex tax to a user under the premise of an exempt use and wherein the user actually uses the fuel for a taxable purpose.

Section 14 deals with the administrative problem occurring as a result of the recent audits performed by the Department of Revenue on motor fuel distributors. Where there is a reasonable belief based upon the purchaser's representation or other evidentiary matter, the Department will reduce its audit assessments accordingly.

Section 15 defines the term qualified dealer and allows the Department to effectively monitor bulk transfer exemption in the new AS 43.40.100(2)(6).

Sections 16-20 deal with effective dates.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: SCS for HB 101 (Finance)

Title: An Act making technical amendments related to state taxation and relating to the motor fuel tax.

Requested by: Rules/Governor

Date: April 28, 1982

II. FISCAL DETAIL

Agency Affected: Department of Revenue

Program Category Affected: Revenue Collection and Management

BRU, Program, or Subprogram(s) Affected: Audit Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-	22.0	23.5	25.0	27.0	29.5
200 TRAVEL	-	1.6	1.8	2.0	2.2	2.4
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	.5	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	24.1	25.3	27.0	29.2	31.9

FUNDING (Thousands of Dollars)

GENERAL FUND	-	24.1	25.3	27.0	29.2	31.9
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

FULL TIME	-	1	1	1	1	1
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

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

See analysis of bill attached.

IV. DATE: April 28, 1982

PREPARED BY: Robert R. Kessel

AGENCY: Audit Division

PHONE: 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

11B-57

I. REQUEST
Bill/Resolution No. CSHB37 / CSHB 101 (Rules)
Title An Act relating to the motor fuel tax
Requested by Randolph, Beirne, Betrisworth Date 3-8-82

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collections and Management
BRU, Program, Or Subprogram(s) Affected Audit Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		22.0	23.5	25.0	27.0	29.5
200 TRAVEL		1.6	1.8	2.0	2.2	2.4
300 CONTRACTUAL						
400 COMMODITIES		.5				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		24.1	25.3	27.0	29.2	31.9

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		24.1	25.3	27.0	29.2	31.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

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

See attached memo to R. D. Stevenson dated 3-9-82.

Robert R. Kessel

IV. DATE March 9, 1982 PREPARED BY Robert R. Kessel
AGENCY Audit Division
Original: Legislative Finance PHONE 465-2320
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 37 / CSHB 101 (Rules)
Title An Act relating to the motor fuel tax
Requested by Randolph, Beirne, Bettisworth Date 3-9-82

II. FISCAL DETAIL

Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
BRU, Program, Or Subprogram(s) Affected Audit Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) None

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		(1.4)	(1.4)			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

None

FULL TIME						
PART TIME						
TEMPORARY						

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

See attached copy of memo to R. D. Stevenson dated March 9, 1982.

IV. DATE March 9, 1982 PREPARED BY Robert R. Kessel
AGENCY Audit Division
Original: Legislative Finance PHONE 465-2320

cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

MEMORANDUM

State of Alaska

Department of Revenue

TO: R. D. Stevenson
Special Assistant

DATE: March 9, 1982

FILE NO:

TELEPHONE NO:

FROM: Robert R. Kessel ^{RR}
Director, Audit Division

SUBJECT: Work Draft -
CSHB 37/CS-1B101 (Rules)

The work draft would allow motor fuel dealers (distributors/jobbers) to buy a portion of their fuel tax free from the manufacturer/ supplier and would allow the distributor to sell that same portion to consumers tax free in those instances when such consumption is for exempt use. Exempt use includes a) fuel used for heating purposes and b) fuel used by exempt organizations such as the Federal Government, State agencies, charitable organizations, etc.

The distributors/jobbers must provide the manufacturer/supplier with a certificate of use for ex-tax purchases. The distributors/jobbers must obtain a certificate of use from every person purchasing fuel not intended for use as a motor fuel. The distributors/jobbers must retain the certificates for examination by the Department of Revenue.

The bill expands the term "user" (taxpayer) to include a person consuming or using diesel fuel who purchases or receives the fuel within the State that was not taxed at the time of purchase or receipt because it was sold as heating fuel.

Section 3 of the work draft provides, in essence, that all audit assessments against dealers for failure to collect the tax from a purchaser or transferee could not be collected by the Department of Revenue nor could further audits be conducted nor assessments made. This section is arguably unconstitutional. In addition, the State would lose about \$2.8 million because of abatement of current audit assessments and forfeiture of other audit efforts for prior years.

The work draft as written would apparently continue to require dealers and users to file motor fuel tax returns. The sponsors of this bill might not be aware of this requirement.

There would literally be thousands of certificates of use issued. The effort to audit under the certificate concept would require an additional revenue auditor.

Section 3 essentially punishes those 50% of the dealers who have conformed to the law and properly collected tax. The State of Alaska has a substantial amount of dollars impacted by the dealers' failure to collect when required.

RRK/gb

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: SB 884 / CSHB 101 (Rules)
 Title: An Act imposing a surtax on aviation fuel relating to motor fuel tax
 Requested by: Senate Finance Committee Date: April 12, 1982

II. FISCAL DETAIL

Agency Affected: Department of Revenue
 Program Category Affected: Revenue Collection and Management
 BRU, Program, or Subprogram(s) Affected: Audit Division
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-	-	-	-	-	-
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

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

See attached memo to R. D. Stevenson dated April 12, 1982.

IV. DATE: April 12, 1982

PREPARED BY: Robert R. Kessel
 AGENCY: Audit Division
 PHONE: 465-2320

Original: Legislative Finance
 cc: Budget and Management
Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

M E M O R A N D U M

TO: R. D. Stevenson
Special Assistant

FROM: Robert R. Kessel
Director, Audit Division *RM*

DATE: April 12, 1982

RE: SB 884 "An Act imposing a surtax on aviation fuel" /
CSHB 101 (Rules)

Section 43.40.010 currently levies a tax of four cents a gallon on aviation gasoline and a tax of two and one-half cents a gallon on all aviation fuel other than gasoline.

SB 884 would impose a surtax of one-half cent a gallon on all aviation gas and one-fourth cent a gallon on all aviation fuel other than gasoline. The effective tax rate per gallon would then become

- a) four and one-half cents a gallon on all aviation gasoline and
- b) two and three-fourths cents a gallon on all aviation fuel other than gasoline.

The surtax would necessitate a minor redesign of the motor fuel form and would not create a noticeable increase in workload for the Audit Division. Collections would have to be separately accounted for to accomplish Sec. 1(b) of the bill.

There appears to be no noticeable problems with the bill as written.

RRK/gb

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: SB 884 / CSHB 101 (Rules)
 Title: Imposing a surtax on aviation fuel.
 Requested by: Senate Finance Committee Date: 04/06/82

II. FISCAL DETAIL

Agency Affected:
 Program Category Affected:
 BRU, Program, or Subprogram(s) Affected:
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-	470	490	510	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-	-	-	-	-	-
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

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

The figures represent the additional aviation fuel surtax paid into the General Fund, if the rates are levied per SB 884. It was assumed the bill would become effective July 1, 1982.

IV. DATE: 04/06/82

PREPARED BY: Robert W. Elliott
 AGENCY: Revenue
 PHONE: 465-2173

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

HOUSE JOURNAL

HOUSE FINANCE COMMITTEE

Letter of Intent

for

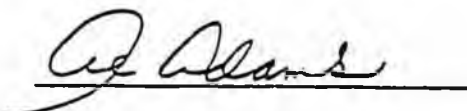
CSHB 101 (Finance)(2nd)

It is the intent of the Finance Committee that the "certificate of use" provision in *Section 1 of CSHB 101 (Finance) be interpreted in accordance with the following:

Section 1 of CSHB 101 (Finance) states that a motor fuel dealer need not collect the motor fuel tax if the dealer has a reasonable belief that the fuel that is sold or transferred is not to be used as "motor fuel" within the meaning of AS 43.40.100 (2). In addition the dealer must obtain a certificate of use from the recipient of the fuel if the tax is not collected. The certificate is a statement by the recipient that the fuel has not been and will not be used in a manner that would make it "motor fuel", subject to the motor fuel tax. The Department of Revenue is to prescribe the form of the certificate of use by regulation.

It is the intent of the Finance Committee that a certificate of use may be a short statement printed on a fuel delivery invoice to be signed by the recipient of fuel at the time of delivery. To avoid unnecessary recordkeeping and duplication of forms the certificate of use should be printed on the delivery invoice or the fuel billing form whenever possible. The regulations adopted by the Department of Revenue to implement this section of the Act should allow the certificate of use to be printed on forms used by fuel dealers except in cases where a separate certificate of use is absolutely necessary.

Sincerely,



Al Adams, Chairman
House Finance Committee

Original sponsors: Zharoff, Grussendorf
and Bettisworth

Offered: 4/16/82
For Calendar, Saturday
4/17/82

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 101 (2d Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the motor fuel tax (AS 43.40); and
7 providing for an effective date."

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

9 * Section 1. AS 43.40.010 is amended by adding a new subsection to read:

10 (1) If a dealer has a reasonable belief at the time of sale or
11 transfer that fuel that is sold or transferred is not to be used as
12 motor fuel, the dealer need not collect the motor fuel tax. If the tax
13 is not collected, the dealer shall obtain a certificate of use from the
14 buyer or transferee stating that the fuel that has been or will be pur-
15 chased or received is not intended for use as motor fuel. The Department
16 of Revenue may not collect the motor fuel tax from a dealer for fuel for
17 which a certificate of use has been properly obtained under this sub-
18 section. The dealer shall retain a copy of each certificate of use
19 obtained under this subsection for examination or audit on request by
20 the Department of Revenue. The form of a certificate of use may be
21 prescribed by regulation adopted by the Department of Revenue.

22 * Sec. 2. AS 43.40.100(2) is amended by adding a new subparagraph to
23 read:

24 (G) fuel used in stationary power plants that generate
25 electrical energy for private residential consumption;

26 * Sec. 3. AS 43.40.100(3) is amended to read:

27 (3) "user" means a person consuming or using motor fuel, who
28 [EITHER]

29 (A) purchases the fuel out of the state and ships it

1 into the state for his own use within the state;

2 (B) [OR] manufactures the fuel in the state; or

3 (C) purchases or receives the fuel in the state without
4 paying the tax under this chapter at the time of purchase or re-
5 ceipt.

6 * Sec. 4. The Department of Revenue may not collect the motor fuel tax
7 from a dealer, as defined in AS 43.40.100(1), on a sale or transfer of motor
8 fuel that occurs before the effective date of this Act if the dealer did not
9 collect the tax from a purchaser or transferee because of a reasonable doubt
10 that the fuel was to be used as motor fuel, as that term is defined in
11 AS 43.40.100(2).

12 * Sec. 5. AS 43.40 is amended by adding a new section to read:

13 Sec. AS 43.40.015. SURTAX ON AVIATION FUEL. (a) There is levied
14 a surtax on aviation fuel, in addition to the tax imposed in AS 43.40.-
15 010, in the following amounts:

16 (1) one-half cent a gallon on all aviation gasoline sold or
17 otherwise transferred in the state or consumed by a user; and

18 (2) one-fourth cent a gallon on all aviation fuel other than
19 gasoline sold or otherwise transferred in the state or consumed by a
20 user.

21 (b) The surtax levied under this section shall be deposited in the
22 general fund. The legislature may annually appropriate an amount equal
23 to the proceeds of the surtax levied in this section for aviation safety
24 training programs.

25 * Sec. 6. AS 43.40.015 added by sec. 5 of this Act is repealed on July 1,
26 1985.

27 * Sec. 7. This Act takes effect immediately in accordance with AS 01.10.-
28 070(c).

29

Original sponsors: Zharoff, Grussendorf
and Bettisworth

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HCUSE BILL NO. 101 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state taxation; and providing for
7 an effective date."

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

9 * Section 1. AS 16.05.050(12) is amended to read:

10 (12) not later than January [MARCH] 31 of each year, provide
11 to the commissioner of revenue the names of those fish and shellfish
12 species which the commissioner of fish and game [HE] designates as
13 developing commercial fish species for that calendar year [THE FOLLOWING
14 FISCAL YEAR OF THE STATE]; a fish or shellfish species is a developing
15 commercial fish species if, within a specified geographical region,

16 (A) the optimum yield from the harvest of the species
17 has not been reached;

18 (B) a substantial portion of the allowable harvest of
19 the species has been allocated to fishing vessels of a foreign
20 nation; or

21 (C) a commercial harvest of the fish species has
22 recently developed.

23 * Sec. 2. AS 43.05.225 is amended to read:

24 Sec. 43.05.225. INTEREST ON TAXES. Unless otherwise provided,
25 when a tax levied in this title becomes delinquent it bears interest at
26 the rate of 12 [EIGHT] percent a year.

27 * Sec. 3. AS 43.05.280(a) is amended to read:

28 (a) Interest shall be allowed and paid on any overpayment of a tax
29 under this title at the rate prescribed in AS 43.05.225 [OF EIGHT PER-

1 CENT A YEAR].

2 * Sec. 4. AS 43.40.010 is amended by adding a new subsection to read:

3 (1) If a dealer has a reasonable belief at the time of sale or
4 transfer that fuel that is sold or transferred is not to be used as
5 motor fuel, the dealer need not collect the motor fuel tax. If the tax
6 is not collected, the dealer shall obtain a certificate of use from the
7 buyer or transferee stating that the fuel that has been or will be pur-
8 chased or received is not intended for use as motor fuel. The Depart-
9 ment of Revenue may not collect the motor fuel tax from a dealer for
10 fuel for which a certificate of use has been properly obtained under
11 this subsection. The dealer shall retain a copy of each certificate of
12 use obtained under this subsection for examination or audit on request
13 by the Department of Revenue. The form of a certificate of use may be
14 prescribed by regulation adopted by the Department of Revenue.

15 * Sec. 5. AS 43.40.030(b) is amended to read:

16 (b) The entire tax levied by this chapter shall be refunded to the
17 purchaser on that part of the motor fuel used in a foreign country on
18 which the tax has been [DUTY IS] paid when the fuel is sold and delivered
19 in the state for non-highway use in a foreign country.

20 * Sec. 6. AS 43.40 is amended by adding a new section to read:

21 Sec. 43.40.035. REFUNDS AND CREDITS FOR OTHER USES OF MOTOR FUEL.

22 (a) A person who resells fuel on which the tax under AS 43.40.010(a) or
23 (b) has previously been paid is entitled to a full or partial credit or
24 refund of the tax paid if the fuel that is resold is not motor fuel and
25 if a certificate is acquired under AS 43.40.010(1). The amount of the
26 credit or refund is equal to the amount of tax prescribed by AS 43.40.-
27 010(a) or (b) subtracted from the amount of tax previously paid on the
28 fuel that is resold.

29 (b) A reseller may elect, with the express written consent of the

1 supplier of the reseller, to receive the credit or refund under this
2 section directly from the supplier rather than by filing a claim for the
3 credit or refund with the Department of Revenue. When an election is
4 properly made under this subsection, the supplier may claim the credit
5 or refund from the Department of Revenue. To be effective an election
6 under this subsection must be signed in quadruplicate by the reseller
7 and by the supplier. The reseller and the supplier shall each file one
8 copy of the election, with original signatures, with the Department of
9 Revenue. The reseller and supplier shall each retain a copy of the
10 election with original signatures for audit review by the Department of
11 Revenue. If an election is made under this subsection, it may not be
12 revoked without the express written consent of the supplier.

13 * Sec. 7. AS 43.40.050(a) is amended to read:

14 (a) A person who claims a refund under AS 43.40.030 [AS PROVIDED
15 IN AS 43.40.010 - 43.40.100] shall present the [HIS] claim for the refund
16 to the commissioner of revenue by affidavit upon a form provided by the
17 commissioner. The claim shall include the name, address and occupation
18 of the applicant, the nature of the business of the applicant, and a
19 description sufficient to identify the machinery or equipment in which
20 the motor fuel for which the refund is claimed was used. The claim
21 shall be accompanied by each invoice issued to the claimant at the time
22 the motor fuel was purchased. The commissioner may require any addi-
23 tional information which the commissioner [HE] considers necessary for
24 the administration of this subsection [AS 43.40.010 - 43.40.100].

25 * Sec. 8. AS 43.40.050(b) is amended to read:

26 (b) A claim for refund under AS 43.40.030 or 43.40.035 shall be
27 filed within one year from the date of the purchase of the motor fuel as
28 indicated on the invoice, and failure to file within the one year period
29 is a waiver of the right to the refund. A claim is considered to be

1 filed when the claim is mailed or personally presented to an office of
2 the Department of Revenue.

3 * Sec. 9. AS 43.40.050 is amended by adding a new subsection to read:

4 (c) A reseller who claims a refund or credit under AS 43.40.035
5 shall present the refund claim to the Department of Revenue or to the
6 supplier of that reseller by affidavit on a form provided by the Depart-
7 ment of Revenue. The claim shall include the name, address, and occupa-
8 tion of the applicant, the nature of the business of the applicant, and
9 a description sufficient to identify the reason for the refund or credit.
10 The claim shall be supported by documentation required by the Department
11 of Revenue.

12 * Sec. 10. AS 43.40.100(2) is amended by adding new subparagraphs to
13 read:

14 (G) fuel sold or transferred between qualified dealers;

15 (H) fuel sold to federal, state, and local government
16 agencies for official use;

17 (I) fuel used in stationary power plants that generate
18 electrical energy for private residential consumption;

19 (J) fuel used to heat private or commercial buildings or
20 facilities;

21 (K) fuel used for other nontaxable purposes as prescribed
22 by regulations adopted by the Department of Revenue;

23 * Sec. 11. AS 43.40.100(3) is amended to read:

24 (3) "user" means a person consuming or using motor fuel, who
25 either

26 (A) purchases the fuel out of the state and ships it
27 into the state for personal [HIS OWN] use within the state;

28 (B) [OR] manufactures the fuel in the state; or

29 (C) purchases or receives fuel in the state that is not

1 taxed at the time of purchase or receipt.

2 * Sec. 12. AS 43.40.100 is amended by adding a new paragraph to read:

3 (4) "qualified dealer" means a person who (A) refines, (B)
4 imports, (C) manufactures, (D) produces, (E) compounds, or (F) whole-
5 sales motor fuel, who satisfies criteria for qualified dealers estab-
6 lished by the Department of Revenue by regulation and who obtains a
7 qualified dealer's license from the Department of Revenue.

8 * Sec. 13. AS 43.55.060 is amended to read:

9 Sec. 43.55.060. DELINQUENCY. When the tax provided for in this
10 chapter becomes delinquent, it bears interest at the rate prescribed in
11 AS 43.05.225 [OF SIX PERCENT A YEAR]. If any person fails to make a
12 report required by this chapter, within the time prescribed by law for
13 the report, the department shall examine the books, records and files of
14 the person to determine the amount and value of the production to compute
15 the tax, and the department shall add to the tax the cost of the examina-
16 tion, together with any penalties accrued.

17 * Sec. 14. The designation of developing commercial fish species required
18 to be made not later than January 31, 1983, under AS 16.05.050(12), as amended
19 in sec. 1 of this Act, supersedes the designation of developing commercial
20 fish species for the fiscal year ending June 30, 1983.

21 * Sec. 15. Those changes to the investment tax credit provisions of
22 sec. 38 of the Internal Revenue Code (26 U.S.C. sec. 38) enacted by the
23 Economic Recovery Tax Act of 1981 (P.L. 93-34) are effective at the time
24 prescribed by federal law, notwithstanding the fact that the provisions will
25 be made retroactive to the effective dates in the federal law and notwith-
26 standing the delayed incorporation provisions of AS 43.20.021(a). Nothing in
27 this section modifies the limitations and conditions on the Alaska investment
28 tax credit set out in AS 43.20.036(b).

29 * Sec. 16. The Department of Revenue may not collect the motor fuel tax

1 from a dealer, as defined in AS 43.40.100(1), on a sale or transfer of motor
2 fuel that occurs before the effective date of this Act if the dealer did not
3 collect the tax from a purchaser or transferee because of a reasonable belief
4 that the fuel was not to be used as motor fuel, as that term is defined in
5 AS 43.40.100(2), or if the dealer relied upon the purchaser's representation
6 that the fuel would not be used as motor fuel. This section is intended to
7 clarify ambiguities in the existing language of AS 43.40 concerning the party
8 responsible for collecting the tax and to resolve an administrative dispute
9 between certain fuel dealers and the Department of Revenue. For this reason,
10 this section serves the general public interest in the fair and equitable
11 administration of AS 43.40.

12 * Sec. 17. AS 43.20.172 and AS 44.62.330(a)(20) are repealed.

13 * Sec. 18. Sections 2, 3, and 13 of this Act take effect July 1, 1982.

14 * Sec. 19. Sections 1 and 14 of this Act take effect January 1, 1983.

15 * Sec. 20. Sections 4 - 12 and 15 - 17 of this Act take effect immediately
16 in accordance with AS 01.10.070(c).

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STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 30, 1982

SUBJECT: Weekend duty officers

TO: Senator Jalmar M. Kerttula
President of the Senate

FROM: Billy G. Berrier
Director
Division of Legal Services

The following attorneys are on duty for the Division of
Legal Services this weekend:

Saturday, May 1st

Dick Bradley
Room 605, Court Building
465-2450

Sunday, May 2nd

Linn Asper
Room 608, Court Building
465-2450

ljb

<u>Funding Information</u>	
General Fund	\$470,000
Other Funds	-0-
	<u>\$470,000</u>

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 101 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Department
7 of Commerce and Economic Development for a contract for
8 an aviation safety training program; and providing for
9 an effective date."

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

11 * Section 1. The sum of \$470,000 is appropriated from the general fund to
12 the Department of Commerce and Economic Development for a contract for an
13 aviation safety training program.

14 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
15 070(c).

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