

HB

4401

HOUSE COMMITTEE REPORT

(11)

Date referred: 2/10/88

FURTHER REFERRALS:

DATE: 5-3-88

The Finance Committee has considered HB 401

"An Act establishing rebates for motor fuel taxes for fuel used in watercraft outside the state; and limiting the authority of the attorney general and the Department of Revenue to recover refunds paid before the effective date of this Act; and providing for an effective date."

RECOMMENDS:

- replace with CS HB 401 (FIN) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: Finance letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Swack [Signature]

SIGNING OTHER RECOMMENDATIONS:

Adams Al Adams - No Rec

Punchot Pat Punchot - No Rec

Boyer Mark Boyer NO Rec.

Larson Ron Larson No Rec.

Rieger Jim Rieger Consider Original Bill

Wallis Way Wallis

Frank [Signature] No Rec

Davis Mike Davis Needs Amendment

Al Adams
Chairman's signature

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Establishing rebates for
use in watercraft outside the state.
Sponsor: Cato, Navarre, Swackhammer
Requestor: House Finance Committee

Agency Affected: Revenue
BRU: Income and Excise Audit
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Al Adams, Chair *APA*
Division: House Finance Committee

Phone: 465-3706
Date: 5/5/88

Approved by Commissioner: _____
Agency: _____

Date: _____

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

Committee on Finance

P.O. Box V
State Capitol
Juneau, Alaska 99811

HOUSE FINANCE COMMITTEE
LETTER OF INTENT
FOR
CS HB 401 (FINANCE)

It is the intent of the Legislature to promote and develop policies and programs which increase the economic benefits to Alaskans from the development of the bottomfish industry by encouraging on-shore processing, fuel bunkering, cold storage, provisioning, ship repair, and other related activities.

A program providing for the refund of marine fuel taxes paid on fuel purchased from Alaskan shore-based suppliers and consumed outside the state, similar to the program conducted by the Department of Revenue between 1985 and 1987, may tend to remove the competitive advantage enjoyed by high seas fuel suppliers and encourage on-shore economic development.

It is the intent of the Legislature that the Department of Revenue review the economic benefits derived from the refund program, and that the fisheries mini-cabinet, the Department of Commerce and Economic Development, the Alaska Center for International Trade, and the Department of Fish and Game be consulted as part of this review. The Department of Revenue shall report to the Alaska Legislature by January 31, 1989, with funding or policy recommendations for the refund program.

A handwritten signature in cursive script, reading "Al Adams".

Al Adams, Chair
House Finance Committee

Original sponsors: Cato, Navarre
and Swackhammer

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 401 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing rebates for motor fuel taxes for
7 fuel used in watercraft outside the state; and limit-
8 ing the authority of the attorney general and the
9 Department of Revenue to recover refunds paid before
10 the effective date of this Act; and providing for an
11 effective date."

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

13 * Section 1. AS 43.40 is amended by adding a new section to read:

14 Sec. 43.40.033. REFUND OF TAX PAID ON FUEL USED IN OR ON WATER-
15 CRAFT OUTSIDE THE STATE. (a) Subject to legislative appropriation
16 for the purpose, a purchaser of motor fuel sold and delivered in the
17 state on which the tax levied by AS 43.40.010(a)(2) has been paid may
18 claim a refund of the tax paid on all fuel used or consumed in the
19 operation of watercraft outside the state.

20 (b) If the appropriation available to pay refunds under this
21 section is insufficient to pay all claims for refunds in full, the
22 department shall distribute the amount appropriated pro rata among the
23 eligible claimants.

24 (c) The department shall adopt the necessary regulations to
25 implement this section and prescribe the appropriate forms for a
26 purchaser to use to ensure that the motor fuel was used or consumed in
27 the operation of watercraft outside the state.

28 * Sec. 2. AS 43.40.050(b) is amended to read:

29 (b) A person who requests a [CLAIM FOR] refund under

1 AS 43.40.030 - 43.40.035 shall file a claim for the refund [AS 43.40.-
2 030 OR 43.40.035 SHALL BE FILED] within one year from the date of the
3 purchase of the motor fuel as indicated on the invoice. Failure [,
4 AND FAILURE] to file within the one-year period is a waiver of the
5 right to the refund. A claim is considered to be filed when the claim
6 is mailed or personally presented to an office of the department.

7 * Sec. 3. APPLICABILITY. The provisions of AS 43.40.033, added by
8 sec. 1 of this Act, apply to motor fuel sold and delivered in the state and
9 used or consumed in the operation of watercraft outside the state after
10 June 30, 1988.

11 * Sec. 4. LIMITATION ON RECOVERY OF REFUNDS PAID. Notwithstanding
12 AS 37.10.090, the attorney general and the Department of Revenue may not
13 recover from the purchaser of motor fuel sold and delivered in the state a
14 refund of the motor fuel tax paid to the purchaser under AS 43.40.010(a)(2)
15 before July 1, 1988, for motor fuel that was used or consumed in the opera-
16 tion of watercraft outside the state.

17 * Sec. 5. This Act takes effect July 1, 1988.
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5-1710P
Chenoweth
5/3/88

Original sponsors: Cato, Navarre
and Swackhammer

1 IN THE HOUSE

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4 FIFTEENTH LEGISLATURE - SECOND SESSION

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CSHB 401 (Finance)

LETTER OF INTENT

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It is the intent of the Legislature that the Department of Revenue review the economic benefits derived from the refund program, and that the fisheries mini-cabinet, the Department of Commerce and Economic development, the Alaska Center for International Trade, and the Department of Fish and Game be consulted as part of this review. The Department of Revenue shall report to the Alaska Legislature by January 31, 1989 with funding or policy recommendations for the refund program.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HB 401
PUBLISH DATE: HOUSE 2/10/88

FISCAL NOTE

REQUEST:

Revision Date: February 5, 1988
Title: An Act establishing rebates for
use in watercraft outside the state.
Sponsor: Cato, Naverre & Swackhammer
Requestor: Transportation & Finance

Agency Affected: Revenue
BRU: Income and Excise Audit

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	34.0	34.0	34.0	34.0	34.0
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	2.0	2.0	2.0	2.0	2.0
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	2.5	-0-	-0-	-0-	-0-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	38.5	36.0	36.0	36.0	36.0
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	[2000.0]	[2000.0]	[2000.0]	[2000.0]	[2000.0]
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	[2000.0]	[2000.0]	[2000.0]	[2000.0]	[2000.0]

POSITIONS:

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

ANALYSIS:

Prepared By: Steven E. Kettel

Division: Income and Excise Audit

Phone: 465-2320

Date: February 5, 1988

Approved by Commissioner: *[Signature]*

Agency: _____

Date: *[Signature]*

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Prepared by Steven E. Kettel
Director, Income and Excise Audit
Department of Revenue
February 5, 1988

Analysis of HB 401

Prior to July, 1984, the Department of Revenue did not issue motor fuel tax refunds to in-state purchasers, such as fishermen and fish processors that used the fuel outside the state's 3-mile taxing jurisdiction. In July, 1984 the Department began issuing the refunds, and at the same time assessing the motor fuel tax against out-of-state fuel purchasers that imported untaxed fuel and used the fuel in state waters. Several recent U.S. Supreme Court decisions allowing a properly apportioned tax were the basis for the change in the Department's watercraft tax policy. This policy, which placed the incidence of the tax on the use of the fuel in-state was overturned by a Departmental Hearing Decision #87-07 dated March 20, 1987. This decision required the Department to amend its regulations prior to authorizing the assessment of tax against the importer/consumers of marine fuel. Later in September of 1987, the Attorney General's office advised this Department that additional statutory authority was necessary to support the tax refunds to those purchasing fuel inside but consuming it outside the 3-mile limit.

HB 401 would provide the necessary authority for the Department to issue refunds of tax to out-of-state consumers. The legislation, however, does not provide a mechanism for taxing fuel imported and consumed by a vessel in this state. Passage of this legislation without consideration of the importation issue is not advised.

Department's Position on HB 401

The Department does not support passage without amendment for the following reasons:

- 1) The legislation further narrows the state's tax base by approximately \$2 million per year.
- 2) The recipients of these refunds are, by an overwhelming majority, non-resident individuals and businesses. Based upon our 18 month refunding project, only 14% of the claimants listed in-state addresses.
- 3) Purchasers of out-of-state fuel do not pay the 5% tax and thus have a competitive advantage over their Alaska resident competitors.
- 4) We have not seen evidence showing that without the refund legislation, motor fuel purchasers will move off-shore to make their fuel purchases. It is not clear to us that fuel sold on the high seas is significantly cheaper than fuel sold on-shore.
- 5) The watercraft tax account in the general fund has historically been used as a benchmark for appropriations to harbor facilities around the state. A decrease in marine fuel tax may reduce funding for these essential services and facilities.

HB 401
MARINE FUEL TAX REBATE

TESTIMONY OF RAY BENISH
SENIOR MANAGER
ERNST & WHINNEY, ANCHORAGE

EXECUTIVE SUMMARY

THE BOTTOMFISH INDUSTRY OFF ALASKA'S COAST IS ONE OF THE WORLD'S PREMIER FISHERIES. OVER THE LAST TWO DECADES IT HAS YIELDED 2 MILLION METRIC TONS OF FISH EACH YEAR. THE ANNUAL ECONOMIC VALUE OF THE INDUSTRY IS ABOUT \$2 BILLION DOLLARS. DESPITE THE RICHNESS OF THE RESOURCE, ALASKAN BASED BUSINESSES EARN ONLY ABOUT 5% OF THE TOTAL VALUE.

THE KEY REASON THAT ALASKA DERIVES SO LITTLE ECONOMIC BENEFIT FROM THE BOTTOMFISH INDUSTRY IS THAT MORE THAN 90 PERCENT OF THE INDUSTRY ACTIVITY TAKES PLACE AT-SEA. ALASKAN ON SHORE OPERATORS ARE IN HEAD-TO-HEAD COMPETITION WITH AT SEA OPERATORS FOR PROCESSING, COLD STORAGE, CARGO TRANSPORTATION, FUELING AND REPROVISIONING.

ON SHORE ALASKAN OPERATORS ARE COMPETITIVELY DISADVANTAGED BY HIGHER COSTS AND UNDERDEVELOPED INFRASTRUCTURE. HIGHER FUEL COSTS ARISE FROM HAVING A STATE MARINE FUEL TAX LEVIED ON ALL FUEL SOLD IN PORT. FUEL IS AN IMPORTANT ELEMENT OF A VESSEL'S OPERATING COST. WHEN LARGE FACTORY TRAWLERS CAN PURCHASE FUEL AT SEA WITHOUT LEAVING THE FISHING GROUNDS AT A LESSER COST THAN IN PORT, THEY WILL QUITE NATURALLY PREFER AT SEA DELIVERY.

THE AVAILABILITY OF COMPETITIVELY PRICED FUEL IS AN IMPORTANT INDUCEMENT FOR VESSELS TO MAKE PORT CALLS. ONCE IN PORT VESSELS TYPICALLY PURCHASE PROVISIONS, MAKE REPAIRS, OFF LOAD CARGO AND TAKE CREW R&R.

THE U.S. FACTORY TRAWLER FLEET NOW NUMBERS 41 VESSELS AND IS EXPECTED TO GROW TO MORE THAN 70 WITHIN FIVE YEARS. IT THEREFORE BECOMES OF PARAMOUNT IMPORTANCE TO PROVIDE THIS EMERGING FLEET WITH COMPETITIVELY PRICED FUEL. PASSAGE OF HB 401 WILL REMOVE AN IMPORTANT PRICING HANDICAP NOW FACED BY ON SHORE FUEL OPERATORS AND RESULT IN MORE FREQUENT PORT CALLS BY THE BOTTOMFISH FLEET.

ALASKA NEEDS TO MOUNT A CREDIBLE PROGRAM TO INCREASE THE VALUE-ADDED BASE OF THE INDUSTRY IN OUR STATE. ONE PART OF THIS PROGRAM SHOULD BE TO ENSURE THAT OUR ON SHORE OPERATORS ARE NOT COMPETITIVELY DISADVANTAGED BY STATE TAX POLICY. IF THE MAJOR PART OF THE ECONOMIC ACTIVITY TAKES PLACE AT SEA, ALASKA WILL REALIZE LITTLE ECONOMIC GAIN FROM THE INDUSTRY.

Ernst & Whinney

Suite 601
301 W. Northern Lights Boulevard
Anchorage, Alaska 99503

907/279-1411

Testimony of Raymond J. Benish

Ernst & Whinney

House Bill 401

House Finance Committee

My name is Ray Benish. I am a senior manager with Ernst & Whinney in Anchorage and work as a management consultant.

The issue that I am addressing today is HB 401. Passage of HB 401 is important because of its potential to encourage further development of an "Alaskan-based" bottomfish industry. Historically and as of today, bottomfish resources off Alaska's coast represent a rich resource from which Alaska has derived and continues to derive only minimal economic benefits. The challenge confronting the people of this state and the Fifteenth Legislature is to "Alaskanize" the bottomfish industry so that increased value is earned by the state and its people.

The Anchorage office of Ernst & Whinney has had a sustained commitment to the Alaskan bottomfish industry over the last three years. I have performed a number of consulting engagements for both private and public sector clients in the industry and have observed first hand the remarkable transformation the industry is currently experiencing.

The most recent work performed by Ernst & Whinney involved documentation for the first time of the volume of at-sea transshipments by foreign flag tramps from the U.S. Bering Sea bottomfishery. Our study, using radio message logs received by the National Marine Fishery Service Enforcement Division indicated that more than 1.2 million

metric tons of Alaska-harvested bottomfish products were transshipped at-sea from the waters north of the City of Unalaska without benefiting any Alaskan communities. Working closely with the Mayor of Unalaska, Paul Fuhs, we wrote the "Support Services Priority" request recently put before the North Pacific Fishery Management Council and currently in House Joint Resolution No. 45.

Before addressing HB 401, I need to briefly outline some facts about the bottomfish industry and its future importance to the state. The industry is large: its annual economic value is in excess of \$2 billion dollars. Of this, Alaskan-based businesses earn less than \$100 million annually. The lion's share of the economic return flows to foreign and Seattle-based enterprises. Clearly, we are deriving minimal returns from this industry. What must we do to improve the situation?

To improve our economic returns, we must invest in the industry. Our failure to invest in our collective resources leaves us without a means to add value. We must improve the competitive position of Alaskan-based businesses that participate in this industry. HB 401 should be viewed as an investment that will contribute to the competitive ability of Alaskan firms to serve the industry. As Alaskan-based firms improve their competitive position within the industry, they will earn superior economic returns thereby generating increased investment in plant, facilities, and human resources. It is this investment that will increase our capacity to add value to the industry and improve our economic returns.

First, a thumbnail sketch of the industry and its radical transformation.

The Bering Sea bottomfish fishery is enormous. Yields in excess of two million metric tons have been sustained over the last two decades. Species are varied and include: pollock, pacific cod, yellowfin sole, atka mackerel, and other flounders. Products include surimi, roe, fillets, headed and gutted and meal and oil.

The industry is characterized by being capital intensive with large vertically integrated firms holding a dominate position. The players were up until 1980, almost entirely foreign with the largest being Japan. Today major foreign countries involved in the fishery include: Japan, Korea, USSR, Poland, and China. Since 1980, the U.S. has begun to play an increasingly important role through the process known as "Americanization." U.S. participation initially came through the harvest sector in the form of "joint ventures." Now 100 percent of the harvest is taken by U.S. trawlers. More recently, U.S. factory-trawlers have aggressively moved into the industry and will account for nearly 50 percent of the total harvest in 1988. Industry forecasts are predicting that "joint ventures" and the U.S. trawler fleet that supports them will be phased out by 1995 by the growing U.S. factory-trawler fleet.

The industry's key players continue to be foreign processing vessels and Seattle-based joint venture trawlers and factory-trawlers. Alaskan-owned (based) vessels have been for the most part trawlers and have never comprised more than 20 percent of the total trawler fleet.

"Americanization" of the harvest and processing fleets has held out hope to some that further "Alaskanization" of the fishery would occur as the foreign fleets were replaced by U.S. fleets. To a modest degree this has occurred and Alaska has earned improved returns as a result of Americanization. However, the substitution of foreign-based fleets with Seattle-based fleets does not materially increase economic returns earned from the fishery by Alaskan-based businesses because the bottomfish fishery remains a distant water fishery now increasingly being supported by Seattle firms rather than foreign-based firms. In short, the displacement of the foreign flag processing fleets by the newly emerging U.S. factory-trawler fleet has generated little new economic benefits for Alaskans. U.S. factory-trawlers are supported from their Seattle base: they purchase only minimal amounts of services from Alaskan communities.

Following harvest, the bottomfish are processed and transshipped at-sea on foreign flag tramps. Little of the product flows to shore for transshipment, processing, or cold storage. As long as most of the economic activity takes place at-sea, Alaska will realize little economic gain from the fishery.

Fueling At-Sea Versus at Shore

Vessel activity in the Bering Sea is intense. There are a number of fleets engaged in harvesting, processing, and fleet support activities. These are: foreign flag fleets targeting bottomfish, the U.S. joint-venture trawler fleet, the U.S. factory trawler fleet (now numbering 40-plus vessels), U.S. crabbers, and U.S. longliners.

Foreign Flag Fleets

The foreign flag fleet numbers more than 500 vessels. Vessel operating days totalled more than 36,000 days for 1985, 34,000 for 1986, and 21,000 for 1987. The decline in operational days is attributable to the increase in U.S. vessels rather than to a decline in harvest levels. Foreign vessels are engaged in processing and support services including transportation, fueling, and reprovisioning. Foreign vessels make only occasional use of U.S. port facilities. Fuel consumption for the foreign flag fleet for 1985 was estimated to total 132 million gallons. Fuel consumption for 1987 based on National Marine Fisheries Service (NMFS) "vessel operational days" is estimated at 105 million gallons.

Table I
Foreign Vessel Fuel Consumption 1987

<u>Country</u>	<u>Operational Days</u>	<u>Fuel Consumed</u>	<u>% Total</u>
Japan	10,223	49,800,000	47
Korea	5,834	29,400,000	28
USSR	3,441	17,400,000	17
Poland	1,141	5,800,000	6
China	<u>467</u>	<u>2,360,000</u>	<u>2</u>
Total	21,106	104,760,000	100

The U.S. factory-trawler fleet vessel days reported by IMFS totaled slightly more than 7,000 days with an estimated 22 to 26 million gallons of fuel consumed. The U.S. joint-venture trawler fleet spent an estimated 17,000 vessel days operating during 1987 with approximately 14 to 16 million gallons consumed. The total fuel consumed by the combined bottomfish fleets for 1987 is presented in Table II.

Table II
Total Fuel Consumed By The Bering Sea
 Bottomfish Fleets For 1987

Foreign Fleets	105 million gals
U.S. Factory-Trawlers	24
U.S. Trawlers	<u>15</u>
Total	<u>144</u>

Of the total 144 million gallons consumed, Alaskan shore operators are estimated to have provided only 20% or 29 million gallons of which nearly all was to travel and factory trawl vessels.

Competitive Disadvantages For Alaskan Shore Operators

Alaskan-based firms face substantial disadvantages when compared to their foreign and Seattle-based competitors. The bottomfish industry differs from our more traditional crab and salmon fisheries in the tremendous volumes of fish harvested and the end products that much of the fish is manufactured into such as surimi and kamaboku (fish cakes). It is highly competitive in product pricing. A few cents per pound can spell the difference between profit and loss. As such, Alaska's tax policy should not penalize on-shore businesses. Rather, our tax policies need to recognize that Alaskan-based firms face stiff international competition.

As stated earlier in my testimony, the key reason that Alaska derives so little economic benefit from the bottomfish industry is that more than 90 percent of the industry activity takes place at-sea. Therefore, we need a strategy that addresses measures to counter the at-sea activity and encourages more on-shore activity.

It is a foregone conclusion that despite Americanization, a major portion of the processing will continue to be conducted by factory-trawlers. This does not in any way mean that we cannot provide an increased level of service at shore for these vessels. At shore fuel is a key service that attracts vessels into port. Once in port, vessels utilize a number of shoreside services in addition to fuel. They may offload cargo, take on provisions, perform maintenance and repair and enjoy crew R&R opportunities. Therefore, if at-shore fuel is competitively priced, the economic benefits accruing to a port community can be very large.

Passage of HB 401 will remove an existing competitive handicap to all Alaskan firms providing at-shore service. In the competitive arena, large foreign and domestic fishing vessels incur considerable cost in making a port call. First, they lose fishing time during transit to

and from the fishing area. Second, they may incur pilot fees, tug assistance, longshore costs for line handling, dockage fees and customs fees. In addition to these costs, a state fuel tax burden is placed on the fuel that would not be incurred if fueling were to take place at-sea.

Economic Spin Offs

We should recognize that Alaskan businesses will not be direct players in the factory-trawler game. We do not have the required ante of \$18 to \$30 million per vessel and our in-state banks would not be likely to finance the entry cost. If we cannot be factory-trawler owners, what can we realistically expect to derive from the at-sea activity? We can service the vessels at shore; we can crew the vessels; and we can enter the secondary processing, cold storage, and transportation fields. But in order to play this support service role, we need to be economically competitive with the at-sea support service industry.

The current factory-trawler fleet stands at 41 vessels and is expected to grow to nearly eighty vessels by 1992. The total fuel consumed by the combined bottomfish fleets was about 144 million gallons for 1987. Alaskan shore side fueling facilities provided about 15% of this amount or approximately 21 million gallons. Passage of HB 401 will serve to level the playing field between at-shore provided fuel and at-sea fuel. Therefore, we can expect that as the foreign processing and support service fleets are phased out, competitive fuel prices will allow Alaska-based businesses to meet the growing demand from U.S. factory-trawlers. This will amount to an additional 70 million gallons a year for at-shore fueling plants. This increase amounts to the total volume now being supplied by Alaska-based businesses at Unalaska. In short, fuel sales should increase by nearly 100% over the next five years.

Fuel is an important operating cost for any fishing vessel. It makes up about 30% of the total vessel operating cost. If the fuel is not competitively priced at-shore, vessels have the option of refueling at-sea and will refrain from fueling even when a port call may be necessary for other operational reasons such as cargo offloading, crew change outs, and reprovisioning. Conversely, competitively priced fuel is an added attraction that will induce more frequent port calls and allow other shore-side firms opportunities to sell services to vessels.

The Department of Revenue views HB 401 as a fiscal measure that will result in a revenue loss to the State. I maintain that if Alaska mounts a credible program aimed at increasing the value-added base of the industry in our state, we should be able to realize an overall economic gain of between \$50 and \$100 million dollars a year over the next three to five years for a total cumulative gain of between \$150 to \$300 million. If this sounds too pie-in-the-sky, let's put it in perspective of an annual gain of about \$100 million which equates to an annual increase of 5% of the total industry.

Therefore, passage of HB 401 relates to more than the taxation of marine fuel: it may hold the key to unlocking the monopoly that foreign- and Seattle-based firms now hold on the industry. "Fuel prices are a major factor in the homeporting of fishing vessels." System Strategy For California, Oregon, and Washington Fishing Industry and Public Ports Infrastructure Needs Assessment Page S-6.

Alaska has two directions it can take with regard to the bottomfish industry: we can remain passive players deriving little economic gain from our resources and continue to let Seattle call the shots and make the profits or we can begin collectively to better our position to earn decent and sustained economic value from our rich resources. Passage of HB 401 will be a signal to the industry that we intend to be serious players and that we intend to position Alaskan shore-based firms to

become competitive in the industry. Most importantly, passage of HB 401 would reaffirm our resolve to invest in our in-state industry so that we can add value to the industry and improve our economic returns from our rich natural resources.

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX S
JUNEAU, ALASKA 99811-0400
PHONE: (907) 465-2300

March 8, 1988

The Honorable Al Adams, Chairman
House Finance Committee
Alaska State Legislature
Capitol, Room 507
Juneau, AK 99811

Dear Representative Adams:

House Bill 401 (An Act establishing rebates for motor fuel taxes for fuel used in watercraft outside the state...) would provide the necessary authority for the department to issue refunds of taxes to out-of-state consumers. This legislation, however, does not provide a mechanism for taxing fuel imported and consumed by a vessel in this state. Passage of this legislation without consideration of the importation issue is not advised.

The Department of Revenue is submitting language (see enclosure) that would restructure the watercraft fuel tax; a tax on consumption rather than place of sale. We strongly encourage the House Finance Committee to adopt this proposed language.

In short, the department recommends that if public policy dictates that a refund be given to fishermen and others (mostly nonresidents) purchasing fuel locally for consumption on the high seas, that in order that fairness prevail and that state revenues remain at current levels, that the incidence of tax be placed on the fuel's use and not upon the location of its sale.

Sincerely,



Hugh Malone
Commissioner

HM:RBW:smc

enclosure

88-62

Proposed Amendments
by
Department of Revenue

March 9, 1988

House Bill 401/Senate Bill 366

For an Act entitled: An Act repealing the motor fuel tax on sales and establishing a motor fuel tax on fuel consumed in the state; and providing for an effective date.

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

*Section 1. AS 43.40.010(a), (b), (c) and (k) is amended to read:

(a) There is levied a tax of eight cents a gallon on all motor fuel consumed (SOLD OR OTHERWISE TRANSFERRED) within the state, except that

- (1) the tax on aviation gasoline is four cents a gallon,
- (2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and
- (3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(b) REPEALED. (THERE IS LEVIED A TAX OF EIGHT CENTS A GALLON ON ALL MOTOR FUEL CONSUMED BY A USER, EXCEPT THAT

- (1) THE TAX ON AVIATION GASOLINE CONSUMED IS FOUR CENTS A GALLON,
- (2) THE TAX ON MOTOR FUEL USED IN AND ON WATERCRAFT OF ALL DESCRIPTIONS IS FIVE CENTS A GALLON, AND
- (3) THE TAX ON ALL AVIATION FUEL OTHER THAN GASOLINE IS TWO AND ONE-HALF CENTS A GALLON.)

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax on all motor fuel sold or transferred at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. If the monthly return is timely filed, one percent of the total monthly tax due, limited to a maximum of \$100, can be deducted and retained to cover the expense of accounting and filing the monthly tax return. At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all motor fuel which he has distributed or used during the month.

(k) The tax on the (TRANSFER OR) consumption of motor fuel provided for in this section does not apply to liquified petroleum gas.

*Section 2. AS 43.40.030 is amended to read:

(a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to operate an internal combustion engine in the state is entitled to a refund of six cents a gallon if

- (1) the tax on the motor fuel has been paid;
- (2) the motor fuel is not aviation fuel, or motor fuel used in or on watercraft; and
- (3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

(b) REPEALED. (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 PAID WHEN THE FUEL IS SOLD AND DELIVERED IN THE STATE FOR NON-HIGHWAY USE IN A FOREIGN COUNTRY.)

(c) REPEALED. (THE DEPARTMENT SHALL ESTABLISH THE NECESSARY REGULATIONS AND PRESCRIBE THE APPROPRIATE FORMS TO PROVE THAT THE MOTOR FUEL IS TAKEN TO AND USED IN FOREIGN COUNTRIES.)

(e) The tax collected by a dealer under AS 43.40.010(c) shall be refunded to the purchaser upon application on a form provided by the department for that part of the motor fuel used outside the taxing jurisdiction of the state.

*Section 3. AS 43.40 is amended by adding a new section to read:

Sec. 43.40.045. RECORDS REQUIRED FOR FUEL CONSUMED INSIDE AND OUTSIDE THE STATE. A person consuming motor fuel both inside and outside the state shall maintain such records as required by the department to determine the portion of the usage that occurs within the taxing jurisdiction of the state.

*Section 4. AS 43.40.085 is amended to read:

A person (DEALERS AND USERS) shall preserve for three years all books and records pertaining to sales, transfers, purchases and uses of motor fuel which are taxed under this chapter.

*Section 5. AS 43.40.100 is amended to read:

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(M) fuel purchased out of the state on which a state foreign country fuel tax has been paid in the state or foreign country of the purchase and placed at the time of purchase in the fuel tank of a non-commercial licensed vehicle of an individual, for the propulsion of the vehicle in the state.

(3) "qualified dealer" means a dealer (PERSON) who (A)refines, (B)imports, (C)manufactures, (D)produces, (E)compounds, or (F)wholesales motor fuel, who satisfies criteria for qualified dealers established by the department by regulation and who obtains a qualified dealer's license from the department.

(4) "user" means a person consuming or using motor fuel in the state, who either

(A) purchases, ~~makers~~, manufactures, or otherwise receives the fuel out of the state (AND SHIPS IT INTO THE STATE FOR PERSONAL USE IN THE STATE);

(B) manufactures the fuel in the state; or

(C) purchases or receives fuel in the state that is not taxed at the time of purchase or receipt or is taxed at a rate that is less than the rate prescribed by AS 43.40.010.

(5) "consumed" means to use up or expend motor fuel in any manner.

(6) the "taxing jurisdiction" of the state extends outward to all lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographic miles distant from the coast line of the state.

*Section 6. This Act takes effect July 1, 1988.

RECEIVED
ALASKA DEPARTMENT OF REVENUE

FEB 02 1988

OFFICE OF THE COMMISSIONER

REVENUE ALTERNATIVES

Excise Taxes
Fisheries Taxes
Licenses and Permits
January 1988

Prepared by

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Research Section
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Department of Revenue

February 2, 1988

465-2173

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Alternative Means of
Increasing Revenues -
Selective Sales Taxes,
Fisheries Taxes, and
Licenses and Permits

Selective Sales Taxes

Excise taxes are a common form of consumption tax levied on the sale of particular commodities or groups of commodities. Two main types of tax predominate: benefit taxes such as those levied on purchases of motor fuel and sumptuary taxes such as the excises on tobacco and alcohol.

Benefit taxes are rationalized as payments for services which yield measurable benefits to individuals. While it is usually not feasible to charge a motorist a user fee for each mile driven he can be indirectly charged through a tax on the amount of gasoline consumed.

Sumptuary taxes penalize consumption with the hope that this will diminish the use of products such as liquor or cigarettes. However, if such products have low demand elasticities (i.e. consumption responds relatively little when compared to price changes) there is a real question as to whether the sumptuary objective is attained.

Because these taxes have similar characteristics it is helpful to analyze the general features before the review of specific taxes.

Efficiency

Consumption taxes are never levied at a uniform rate on all goods and services and can significantly alter consumer choices and resource allocation. Excise taxes raise the price of the taxed commodity causing consumers to purchase less of the item. The economic effects of the tax depend largely on the demand and supply elasticities of the taxed item.

The burden of these taxes is borne in part by consumers and in part by distributors and producers. Most of the burden will fall on consumers where demand is relatively inelastic (consumption is reduced little relative to an increase in price). The burden will tend to fall on producers if they cannot reduce production as price declines. That is to say supply is inelastic.

Most excise tax revenues are raised from taxes on products for which demand is inelastic - tobacco, alcohol and gasoline. Supply in these industries is relatively elastic so most of the burden falls on

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consumers. Because consumption of these goods is not reduced much by the price increase the consumer has to reduce consumption of other commodities as well as those which are taxed. Because a wide range of other commodities are involved and because there is little incentive for resources to move out of the taxed industry, resource allocation is not altered significantly by taxes on these goods. This is in sharp contrast to the case of taxes on commodities which are sensitive to price as such levies can substantially alter the pattern of production and consumption. [See Joseph Pechman, Federal Tax Policy, Ch. 6)

Selective excise taxes such as those levied on motor fuel contribute to efficiency in that they collect payments from individuals who benefit from particular public services. When public programs such as the provision and maintenance of highways, airports or docks lower the cost of an activity, that activity is artificially stimulated. This causes more resources to flow into the activity than would occur in the absence of the public program. An excise tax, or some other means of charging for the service, is needed to maintain economic efficiency.

Taxes on items considered socially undesirable are sumptuary taxes and are rationalized on the grounds that their consumption creates additional costs to society which are not reflected in the price of the goods. For instance alcohol consumption leads to lost work time, family problems and accidents while the health hazards of tobacco products are well documented. The argument is made that the excise tax raises prices on these items to more accurately reflect these social costs.

Equity

Excise taxes can be criticized on equity grounds. Burdens are not distributed in accord with established principles of equity such as ability-to-pay. Rather the distribution depends on the proportion of income allocated to taxed items by various income groups. For instance, studies have found excises on beer and cigarettes to be very regressive.

Excise taxes are also criticized for their effects on people with similar incomes (Horizontal equity). Those who prefer the taxed commodities are taxed more than those who prefer other items. This argument is less critical in cases where there are valid social reasons for discouraging consumption or where user charges are impractical.

Finally excise taxes imposed on businesses may be passed onto consumers. Because lower income families spend a larger proportion of their income than do higher income families, this pass through is likely regressive. In summary, equity is frequently the major issue in evaluations of excise taxes.

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Elasticity

Excise taxes are not very elastic in that they respond no more than in proportion to changes in income. However the yield of such taxes is relatively stable which makes these taxes popular among state and local governments.

One problem with the taxes as levied in Alaska is that tax rates are expressed as a charge per unit of consumption. When rates are expressed in nominal terms the real tax rate can decline dramatically in periods with significant inflation. Two alternatives to this problem would be the periodic adjustment of rates to reflect inflation or the imposition of the tax as a percentage of sales value. For instance, 11 states employ ad valorem taxes on alcohol. The City of Juneau adds 3% to its 4% sales tax rate for purchases of alcohol.

Administration and Compliance

Probably the main attraction of excise and other consumption taxes is their relative ease of administration. In most cases there are relatively few firms or individuals who need to be monitored by tax authorities. Most difficulties arise in determining if a particular transaction or activity creates a tax liability. In some states problems occur because lower tax rates in bordering states lead to a loss of business and smuggling. Such interstate problems would be minimal in Alaska.

Political Considerations

Private and public concerns about health and problems caused by alcohol consumption generate some support for the sumptuary taxes. Because fuel prices have declined somewhat over the past several years there is probably less resistance to tax increases on fuels than would have been the case when fuel prices were at their peak. Problems could arise if a number of excise taxes were raised simultaneously with other taxes as this could be burdensome particularly for low income groups.

Cigarette Tax

The present cigarette tax is 8 mills per cigarette with 5.5 mills (68.75% of revenues) going to the general fund and 2.5 mills (31.25% of revenues) going to the school fund.

The September 1987 revenue forecast used these estimates of cigarette consumption:

Taxable Cigarettes
 (Millions of Cigarettes)

<u>FY 88</u>	<u>FY 89</u>	<u>FY 90</u>
1,145.5	1,109.1	1,090.9

General Fund revenues for 1988 should be approximately \$6.3 million dollars with School Fund revenues of \$2.9 million. For a package of 20 cigarettes the 8 mill rate translates to \$.16 per pack. The highest rate among other states is Washington with a tax of \$.31 per pack. That rate would, in the absence of adjustments for higher, tax-induced declines in consumption, raise about \$17.8 million in Alaska.

It is useful to examine the elasticity issue for the cigarette tax. The general points made about efficiency, equity and administrative costs pretty well cover the issues usually raised in analyses of cigarette taxes.

Concerns with the health hazards of smoking have tended to decrease cigarette use over time. Figures for 1982 showed that the number of adult smokers nationally had declined by 27 percent since 1965. In Alaska per capita sales peaked at 165 packs per year in 1976, fell during the post pipeline period and rose again to 148 packs in 1982. Since that time consumption has fallen to 113 packs, a decline of 24 percent in 5 years.

Given the economic outlook, it is unlikely that population will increase significantly and the yield of this tax could easily decrease.

Alcoholic Beverage Excise Tax

The September 1987 revenue forecast was based on these estimates of future sales for the three main beverage types:

Gallons of Alcoholic Beverages

	<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>	<u>FY 90</u>	<u>Current Rate/Gal.</u>
Liquor	1,180,760	1,151,708	1,116,689	1,109,093	\$5.60
Wine	1,566,417	1,542,921	1,527,492	1,512,217	.85
Beer	13,369,525	12,968,439	12,709,070	12,581,980	.35
Estimated Present Tax	\$12,600,000	\$12,300,000	\$12,000,000	\$11,900,000	

One approach taken by other states is to equalize the tax on a per ounce of alcohol basis. Consider these figures based on average alcohol content by beverage type (1 gallon = 128 ounces):

	<u>Absolute Alcohol %</u>	<u>Ounces of Alcohol/gal.</u>	<u>Present Tax per ounce of Alcohol</u>	<u>Rate to Equalize Tax per ounce</u>
Liquor	43.0	55.0	\$.1018	\$5.60
Wine	14.0	17.9	.0475	1.82
Beer	4.5	5.76	.0607	.58

On this ounce of alcohol basis the present liquor tax is over twice as high as the tax on wine and is 1.67 times the tax on beer. It is hard to justify the present structure if the goal of tax policy is to reduce alcohol consumption.

Application of the "equalized" rates to FY 88 gallonages would produce revenues of \$16.8 million, an increase of about \$4.5 million. Keep in mind that actual revenues would be somewhat lower because of a decrease in consumption caused by higher prices for wine and beer.

The general arguments made on sumptuary taxes regarding efficiency, equity and administrative costs apply to the alcohol tax. The elasticity issue warrants separate analysis because of the effect of changing lifestyles on liquor consumption.

In FY 1987, under the present rate structure, over half of alcohol tax revenues came from the tax on liquor. The national trend has seen per capita consumption of liquor decline by 10 percent over the 5 year period beginning in 1980. This tendency, plus the stagnant outlook for Alaska's population suggests little if any growth in this source of revenue over the near future.

It is also worthwhile to consider the political and social concerns associated with taxes on alcohol. Taxes on alcohol have appeal for several reasons. The tax is widely used and has been used over long periods of time. The first excise tax on liquor in Alaska was a 1933 levy of 5 cents a gallon on beer and wine. Second, alcoholism is a severe problem in Alaska and there is some evidence that high taxes can discourage drinking by particular groups such as young people. Finally, there are obvious externalities associated with alcohol consumption - broken homes, child abuse, and drunk driving. Public policy aimed at reducing consumption would seem to have a strong justification.

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Motor Fuel Taxes

Taxes in Alaska are levied on aviation fuel (4¢ on gas, 2.5¢ on jet) on marine fuel (5¢ on gas and diesel) and on highway fuel (8¢ on gas and diesel, 2¢ for off-highway uses).

Under the Alaska fuel tax system a number of fuel uses are exempt from tax. Sales to government agencies and sales of home heating oil are two examples. Most such exemptions are made outright. However, some fuel is initially taxed but because it is ultimately consumed in an exempt use the tax is fully refunded. In addition, fuel may initially be taxed at one rate but a refund or credit subsequently granted because the fuel is consumed in a use which carries a lower tax. Highway gas, for instance, can be used in an outboard motor. In this case the user can apply for a 3 cent per gallon refund, the difference between the highway and marine rates. It is important to understand the refund aspect of the fuel tax system as it has a great influence on the revenue productivity of that system. Consider these figures by fuel category for FY 87:

The accompanying table makes a comparison between the nominal revenues for those distributions initially treated as taxable, the levels of refunds and credits for each fuel type and finally shows the net tax collected. For instance the figures for other diesel can be read as follows:

1. Out of 898,801,150 gallons distributed, 248,005,143 gallons were originally put into the taxable category. The remainder went to uses exempt from the tax.
2. Subsequently an additional 11,635,603 gallons were exempted causing \$930,848 to be refunded while 9,194,323 gallons were exempted yielding credits on other fuel taxes owed of \$735,546.
3. Substantial gallonage was consumed in uses carrying lower tax rates than the nominal 8¢ per gallon figure for this category of fuel. Refunds of \$1,780,831 and credits of \$9,426,656 were created through this use conversion.
4. Out of \$19,840,411 in revenues that would have accrued if all taxable distributions were subject to the 8¢ rate, \$6,966,530 was the ultimate tax.

The purpose of this illustration is not to pass judgment on the credit/refund system. To the extent that fuel taxes for some uses (e.g. highway gas) are viewed as indirect payments for the use of publicly constructed facilities (e.g. streets and highways) then it is reasonable

JUNE CUMULATIVE 61/67

	AVIATION GAS		AVIATION JET		MARINE GAS		MARINE DIESEL		OTHER GAS		OTHER DIESEL		TOTAL DOLLARS	PERCENT OF TOTAL DISTRIBUTION
	GALLONS	DOLLARS	GALLONS	DOLLARS	GALLONS	DOLLARS	GALLONS	DOLLARS	GALLONS	DOLLARS	GALLONS	DOLLARS		
REFUND RATE			0.04		0.025		0.05		0.05		0.08		0.08	
USE CONVERSION RATE(S):	(TO OFFHMY)		0.02 (TO OFFHMY)		0.005 (TO OFFHMY)		0.03 (TO OFFHMY)		0.03 (TO OFFHMY)	(TO MARINE)	0.06 (TO OFFHMY)		0.06	
										(TO MARINE)	0.03 (TO MARINE)		0.03	
											(TO JET)		0.055	
TOTAL DISTRIBUTION	18,173,818	\$726,953	613,737,125	\$15,343,428	11,573,293	\$578,665	173,573,759	\$8,678,688	227,001,693	\$18,160,135	878,801,150	\$71,904,092	\$115,391,961	100.00%
EXEMPT DISTRIBUTIONS	708,135	\$28,325	292,306,132	\$7,307,653	251,391	\$12,570	79,926,742	\$3,996,337	19,669,211	\$1,573,539	650,796,007	\$52,063,681	\$64,982,105	56.31%
TAXABLE DISTRIBUTIONS	17,465,683	\$698,627	321,430,993	\$8,035,775	11,321,902	\$566,095	93,647,017	\$4,682,351	207,332,482	\$16,586,596	248,005,143	\$19,840,411	\$50,409,856	43.69%
SUBSEQUENT EXEMPTIONS														
REFUNDS	183,340	\$7,334	109,739,971	\$2,743,499	3,791	\$190	19,678,698	\$983,935	741,323	\$59,306	11,635,603	\$930,848	\$4,725,111	4.09%
CREDITS	85,001	\$3,400	0	\$0	112	\$6	4,654	\$233	5,735	\$459	9,194,323	\$735,516	\$739,643	0.64%
ADJUSTED TAXABLE	17,197,342	\$687,893	211,691,022	\$5,292,276	11,317,999	\$565,900	73,963,665	\$3,698,183	206,585,394	\$16,526,832	227,175,217	\$18,174,017	\$44,945,101	38.95%
USE CONVERSION														
REFUNDS	50	\$1	0	\$0	36,259	\$1,088	2,293,619	\$68,809	2,190,751	\$127,636	30,347,749	\$1,780,831	\$1,978,365	1.71%
CREDITS	0	\$0	0	\$0	0	\$0	0	\$0	2,247,190	\$129,837	157,110,930	\$9,426,856	\$9,556,493	8.28%
NET REVENUE		\$687,893		\$5,292,276		\$564,812		\$3,629,375		\$16,269,358		\$6,966,530	\$33,410,244	28.95%
NOTE: REFUNDS + CREDITS		\$10,735		\$2,743,499		\$1,283		\$1,052,976		\$317,238		\$12,873,881	\$16,999,612	14.73%
CHECK TOTAL		\$687,893		\$5,292,276		\$564,812		\$3,629,375		\$16,269,358		\$6,966,530	\$33,410,244	

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that a consumer not pay for this benefit when the fuel use is unrelated (e.g. running a chain saw). The illustration does, however, show how important refunds and credits are to the total fuel tax system. For instance, if total distributions of all fuel types (1,942,860,838 gallons) were the tax base, a tax rate of about 1.7 cents per gallon would raise revenues equivalent to the \$32,200,000 raised in FY 87.

To summarize, discussions on ways to increase fuel tax revenues need to be based on more than a simple adjustment of nominal rates. The system of refunds and credits also needs to be considered.

Efficiency and Equity

Fuel taxes are somewhat defensible on efficiency grounds when viewed as indirect user charges paid to cover construction and maintenance of publicly built highways, airports and harbors. Generally these taxes are criticized on equity grounds.

How the burden of motor fuel taxes is distributed depends on what proportion of income is allocated to consumption of motor fuels at various income levels. Consequently, if fuel taxes represent a larger portion of income for low income groups than for high income individuals the tax would be regressive. Phares in his book Who Pays State and Local Taxes finds the motor fuel tax to be quite regressive with average effective tax rates of 2.25% for the under \$3,000 income class falling to .45% for those classes with incomes over \$35,000.

To the extent that the fuel tax is in accord with benefits received the regressive nature of the tax is of less concern. However if the connection to benefits is unclear then the regressive impact is important particularly given the necessity of the journey to work for low income families.

Elasticity

A number of factors in addition to income will influence how revenues from fuel taxes will respond to future changes in personal income. This is true nationally as well as in Alaska where the problem is complicated by uncertain economic conditions.

It is important to keep in mind that Alaska's motor fuel taxes are expressed in tax per unit terms rather than ad valorem or percentage of value terms. The real tax per gallon is, as a consequence, declining over time. The present 8¢ per gallon tax on highway gasoline (other gas) was first levied in 1970. At that time the Anchorage Consumer Price Index (CPI) was at 109.6. For 1986 the same index had increased to 280.3. Expressed in 1970 dollars the real tax rate on gasoline in 1986

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was slightly over 3¢ per gallon. In fairness it needs to be pointed out that the refund for off-highway use was set that same year at \$.06 per gallon. It too has declined dramatically in real terms. At present the lowest tax for gasoline among the 50 states is \$.07 (Missouri) while the highest is \$.182 (Nebraska).

FISHERIES TAXES

Fisheries Business Tax (AS 43.75)

The fisheries business tax is based upon value to the fisherman by the types of processing operations and the types of fish processed. The tax was substantially increased for all processing types in 1979 with developing commercial fish operations assessed a lower rate to spur development in those species, and floating processors assessed the highest rate in hopes of encouraging permanent shorebased facilities and local employment. In 1986 a shorebased fisheries business tax credit (Ch. 79, SLA 1986) on capital expenditures was enacted to provide an incentive for modernizing facilities and purchasing equipment for development of new fisheries and fishery products. Unfortunately tax credits usually do not generate the economic benefits as initially intended, benefitting the most would be those firms which are financially healthy and in full production. Those firms which are financially distraught and producing little or not at all would receive little or no benefit from tax credits. Furthermore, the credits were not specific in terms of what types of capital expenditures would be allowable as a credit nor was there any provision in the bill which would provide developing species any tax incentive over other species. The present tax credit will be in effect through tax year 1991 and has currently compiled over \$50 million in approved credits. It should be noted that municipalities will not be affected by the loss in shared revenue since revenue sharing will be calculated on total collections prior to credits. However, if municipalities want to further encourage local development/capital expenditures the municipality may adopt an ordinance directing the Department of Revenue to forego the municipality's shared fisheries business tax refund and thus increase the amount of the credit.

Another related topic concerning the fisheries business tax regards the exporting of fishery resources outside of the State's taxing jurisdiction and not filing an Alaska Fisheries Business Tax return. Although some traditional leakages have been closed during the past few years, there still exists a portion of the resources illegally avoiding the tax incidence. The Legislature stated in the FY 1988 operating appropriations bill that the fisheries business tax should be audited in a more "aggressive manner." Consequently, the Department has initiated a compliance program for fish processors. There are no means possible to accurately predict the amount of leakage; however, past instances which have been documented or have come to light indicate amounts are being

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illegally shipped out of state. Based on these past events, it is estimated that the following additional revenues could be generated by reducing this leakage:

	<u>FY 89</u>	<u>FY 90</u>	<u>FY 91</u>
Reducing Leakage of Fisheries Business Tax (Millions of Dollars)	1.0	1.0	1.0

Alaska Seafood Marketing Assessment (AS 16.51)

The Alaska Seafood Marketing Assessment is levied upon eligible seafood processors at a current elected rate of 0.3% of value. Although the assessment is collected as a gross receipts tax, it is essentially a charge for a governmental service, in this case, the marketing of Alaskan seafood products. Recently the rate was increased by 1 mill when seafood processors elected to hike the assessment, retroactive to January 1, 1987. This election was prompted when the Legislature (Ch. 129, SLA 1986 and Ch. 95, SLA 1987) made a portion (\$600,000) of the Alaska Seafood Marketing Institute's (ASMI) FY 88 general fund budget conditioned upon passage of the assessment increase. The Legislative intent was, to "increase program receipts in order to offset declines in available general funds for FY88." The market assessment funds slightly over one-half of ASMI's FY 88 revised budget (\$3.7 million), thus necessitating a General Fund subsidy to cover the difference. If this subsidy was not appropriated each year, the State would realize approximately \$1.6 million annually in General Fund revenues. Although by eliminating this source of funding, the industry would have to elect to either keep the current assessment rate with a lowered budget or vote to increase the assessment to a statutory maximum rate of 0.4% (as provided in AS 16.51.120(E)) in order to offset approximately \$600,000 of the subsidy. On the other hand if the current ASMI budget level is desired, the maximum rate will need to be legislatively amended. Accordingly, it would be market forces and industry monitoring which would determine the most efficient funding level for ASMI rather than the political budget process.

	<u>FY 89</u>	<u>FY 90</u>	<u>FY 91</u>
Eliminating the Seafood Marketing Subsidy (Millions of Dollars)	1.6	1.6	1.6

Salmon Enhancement Tax (AS 43.76)

Limited entry holders within qualified regional aquaculture associations elect a levied tax rate of either 2% or 3% of value of salmon. Essentially the State performs collection and regulatory functions for the current four non-profit qualified associations and retains none of the tax receipts for these services. However, the State does collect penalty and interest on the tax returns which offset the current administrative costs. Therefore, there are no current reasonable means to generate additional revenues to the State from this tax source.

In summary, the total additional estimated revenue generated by reducing the leakage, and eliminating the subsidy would amount to the following:

	<u>FY 89</u>	<u>FY 90</u>	<u>FY 91</u>
Total Fish Taxes (Millions of Dollars)	2.6	2.6	2.6

The fisheries business tax is currently inequitable since the assessed tax rates differ due to the method of processing (canned, shorebased, and floating) and the types of species (developing versus traditional). As a result, there is no horizontal equity or neutrality due to this rate differentiation. It should be noted that tax structuring by the type of processing is unique to Alaska. The fisheries business tax is levied on a commodity which to a high degree is exported outside the state thus passing part of the tax incidence onto the eventual consumer. On the other hand, both the enhancement and marketing tax are elected assessments by those taxpayers who directly benefit from the services provided, and are thus fairly equitable in scope. It should be noted that although sport fishermen will benefit from the stock enhancement and conservation program, they will not be assessed the tax.

Since the fisheries taxes directly depend upon the fisheries resources, there will likely be periods, due to fluctuating market prices and/or catch production, of revenue uncertainty. This can create considerable problems for not only the State but for local municipalities which may depend heavily upon the shared revenues, as well as, play havoc with the budgets of ASMI and the regional aquaculture associations. However, this responsiveness of tax changes to market conditions, or elasticity, can work both ways, being undesirable during poor market conditions but being advantageous during good market conditions and during periods of inflation when the State would be able to receive the same real purchasing power from fish revenues without having to increase rates. Therefore, the fisheries taxes are somewhat unreliable due to their inconsistent revenue flow.

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In terms of administrative efficiency, the fisheries tax changes would be minimal. There would be no cost involved administratively in eliminating the subsidy to ASMI since all regulatory and compliance areas are already operational. The subsidy elimination would involve no cost except omission from the appropriations bill. Although there may be a slight increase in governmental costs due to additional compliance requirements, in terms of reducing the leakage, total State administrative costs would be minimal especially given the expected yield.

Politically, the feasibility of enacting the above changes to the fisheries taxes would appear justifiable based on the current financial condition of the state. By eliminating ASMI's subsidy, seafood processors would initially lose some product marketing, however, this could be overcome if the industry deemed it necessary. Finally, by reducing the leakage, it would require that all taxpayers would each pay their fair share of the tax burden.

Licenses and Permits

Licenses and permits, including corporation/occupational licensing fees (AS 02.05, AS 08.01.99, AS 10.05.35, AS 21.06.90), motor vehicle fees and permits (AS 05.30, AS 28.10.15, AS 42.10), alcoholic beverage licenses (AS 04.10), amusement and gaming fees (AS 43.35) and fishing and hunting licenses (AS 16.05 and AS 16.43), could be increased. If all the licenses and permits were allowed to increase with inflation, the following additional General Fund and Fish and Game Fund amounts would be realized:

	<u>FY 89</u>	<u>FY 90</u>	<u>FY 91</u>
Licenses & Permits (Millions of Dollars)	1.8	3.9	6.1

Regulatory licenses and permits are not generally included in a tax study since they are not imposed for the purpose of raising revenue due to being insufficient revenue generators. On the other hand, license and permit charges by the State should be sufficient to recover the direct costs of administrating and policing the regulatory activities. Further, all costs should be considered, not merely those directly incurred by government in the production of the service. Regulatory charges partially defray those indirect costs to society such as, in the case of motor vehicle licenses, the costs of highway construction and maintenance and, in the case of alcoholic beverage licenses, the costs arising out of excessive use of alcohol.

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In terms of equity, license and permit charges are not mandatory use taxes, but are dictated by the principle that persons pay for what they get. Thus, a person can be excluded from the benefits of the service if he does not wish to pay for it. Although license and permit charges by the state do not usually result in inequities to lower income groups, equity standards require that these lower income groups be assured of obtaining and affording these services .

The use of charges where possible instead of financing by taxation is regarded as justifiable when demand for the services has some elasticity, thus an increase in the number of hunting and fishing fees aids resource allocation and lessens waste. However, even if services have an inelastic demand, charges may be warranted by the fact that persons or businesses subject to the provisions generally receive benefits from the State of comparable value.

The use of regulatory charges appears to have less adverse effect upon behavior than taxes (which are mandatory in nature) and therefore may appear more palatable politically. Many licenses and permits for Alaska are either already under review or have been recently increased. In an attempt to equalize the operating budget with revenue, the occupational licensing fee structure was revised (Ch. 26 & 37, SLA 1985) to provide the additional required revenue. Both alcoholic beverage licenses and amusement and gaming fees could be slightly increased to be more in line with other states. The current motor vehicle fees are more than comparable with other states with the enactment of Ch. 60, SLA 1986 which increased driver licensing fees and vehicle registration fees effective September 1, 1986. Non-resident fishing and hunting licenses were increased during the past three years, however, resident fees have not increased since 1977. Finally, Ch. 89, SLA 1987 recently provided the levying of fees for the use of state park facilities and for related concession contracts. If additional revenue must be generated by substituting regulatory charges for taxes, then the administrative and regulatory costs should be balanced against the charges to determine the desirability of imposing them.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 22, 1988

SUBJECT: Sectional analysis, W.O. 5-1622B;
Rebates of motor fuel taxes for fuel used in
certain watercraft

TO: Senator Fred Zharoff

FROM: Jack Chenoweth
Legislative Counsel

This bill proposes to authorize rebates or refunds of motor fuel taxes when the fuel is used or consumed in the operation of watercraft outside the state.

Bill section 1 adds a new section, AS 43.40.033, authorizing the refund of watercraft motor fuel taxes, and directing the Department of Revenue to adopt necessary regulations and to prescribe forms to assure proper operation of the refund program.

Bill section 2 amends an existing section, AS 43.40.050(b), limiting to one year the filing period for refund claims for watercraft motor fuel taxes; the one year limitation is currently applicable to the department's other refund and credit programs.

Section 5 gives the Act a July 1, 1988 effective date. By section 3, the watercraft motor fuel rebate program, established by this Act, is made applicable to motor fuel sold and delivered in the state, and used and consumed in watercraft outside the state after June 30, 1988.

As I understand, between 1985 and March, 1987, the Department of Revenue made refunds of watercraft motor fuels (within the limits of and in a manner substantially similar to what is being proposed in this bill). The department stopped that program apparently after it was advised by the Department of Law that there was no legal basis for the refund program.

Senator Fred Zharoff
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Bill section 4, in a sense, "ratifies" those payments that were apparently made in error by declaring that the attorney general and the Department of Revenue may not recover these refunds. The provision is drafted in a manner that recognizes the payments that have already been made; it does not authorize any additional refunds to persons who might have applied under that defunct program.

JBC:bb
WKB1/087

DEC 15 1987

DRAFT POSITION PAPER

RE: State of Alaska Marine Fuel Tax Rebates

OFFICE OF THE COMMISSIONER

I. HISTORICAL BACKGROUND

In 1985 the Alaska Department of Revenue (DOR) instituted a rebate program for taxes paid on marine fuel purchased from shoreside fuel facilities in Alaska but consumed in waters beyond the State of Alaska three-mile territorial limit. By filing appropriate documents with DOR a consumer would receive a pro-rated rebate of the \$0.05 (five cent) per gallon tax. In other words the consumer paid the tax at the time of purchase but the tax was later refunded on that portion of the fuel estimated to be consumed beyond State of Alaska jurisdiction. In establishing the rebate procedure the state adopted the position that where the fuel was consumed took precedence over where the fuel was purchased.

Another pertinent provision of Alaska law provides an exemption from the marine fuel tax at the time of purchase. This exemption applies to marine fuel sold in Alaska and transported as "cargo out of the state into international waters if the fuel is sold or otherwise transferred to watercraft which operate exclusively in international waters and which do not enter state territorial waters, ports or facilities". This exemption allows high seas bunkering suppliers, which primarily are foreign flag tankers, to purchase marine fuel tax-free and refuel the fishing and processing fleet as long as the consuming vessels do not enter state waters.

Functioning together, the rebate procedure and the tax exemption for high seas bunkering activities created a tax structure whereby American based fisherman and fuel suppliers were treated on the same basis as high seas bunkering operators.

In April 1987 an internal assessment by DOR resulted in first a temporary suspension which in September 1987 became permanent after the Attorney

General reviewed the legality of the rebate program. In essence the Attorney General confirmed DOR lacked the statutory authority to rebate marine fuel taxes. Without the rebate program significant economic inequities resurfaced which penalized the shore-based fuel supplier and American flag vessels either operating in or re-entering state waters.

II. THE PROBLEM

Fundamentally, Alaska now has a marine fuel tax structure which tends to discourage the high-seas fleet from entering Alaska waters and simultaneously increases the operating expenses of the Alaskan based fishing operators to a level above their foreign competitors. Additionally, there is substantial basis for asserting that the tax generates an economic disincentive to establish shore-based fishing operations in Alaska. In essence this particular tax discourages the high seas fleet operators from calling on Alaska ports as they then lose the tax exempt status on fuel purchased beyond the three-mile limit. The net effect is that Alaskan ports and the Alaskan economy lose the benefits generated through the harvestation of our fish resources. These benefits include food purchases, crew changes, port berthing fees, tug assists, pilotage, repairs, maintenance supplies, personal purchases and in general all of the expenses vessels incur when calling on one of our coastal communities.

III. DISCUSSION

While Alaska continues to be in the throes of a devastating recession there is a bright light on our economic horizon. The shining star is the most traditional of Alaska's basic resources, commercial fishing, and specifically the bottom and intermediate trawl fishery. There is a consensus among those knowledgeable of the industry that if this resource is properly managed and regulated to the best interests of Americans this fishery will become the very mainstay of the seafood industry.

The Cowper Administration is undertaking an enormous effort to Alaskanize the bottom fish industry. The Governor has appointed a fisheries minicabinet to draft a fisheries policy which consists of goals and strategies for developing Alaska's seafood industry. One of the specific charges to this group is to examine and identify tax impediments to attracting shore-side processing. Unquestionably, the suspension of the rebate program has created an impediment and accordingly appears to be inconsistent with the Cowper Administrations commitment to the industry.

The North Pacific Fisheries Management Council is gradually phasing in a larger percentage of their recommended guide line harvest allocations to American fishing and processing firms. Organized groups such as the Southwest Municipal Conference are working diligently to encourage more shore based participation so Alaska can share in the economic benefits derived from the fish resources within our 200-mile Exclusive Economic Zone (EEZ).

The domestic fishing industry has been, historically, under capitalized and, of consequence, the additional fuel cost generated by the marine fuel tax may be a determining factor in decisions such as shore based plants vs floater and whether or not to base, re-supply and even repair vessels in Alaska. For example, the total amount of fuel consumed in U.S. waters by foreign flag vessels is estimated to be 160 million gallons annually. Purchases of fuel by these vessels operating within our waters from shore side fuel suppliers is estimated to be less than 10% or 16 million gallons. At sea refueling is a common practice not only for foreign flag vessels but also for American joint venture trawlers.

IV. POSSIBLE SOLUTIONS

There are two obvious solutions to the problem.

One is to repeal the exemption on fuel purchased in Alaska and consumed exclusively in international waters. This policy would subject all

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purchases of fuel in Alaska to the fuel tax and place the domestic based fishing vessels and the high seas bunkering operator on equal terms. Under the aforementioned situation we are assuming the high seas foreign flag refueler purchased fuel from an Alaskan based supplier rather than importing the fuel from a foreign country or transporting the fuel from another state. In reality, this approach would accomplish very little in terms of encouraging either the domestic or foreign consumer to utilize shoreside fuel suppliers.

The second option is to simply reinstate the rebate program. This procedure requires the legislature to enact a statute specifically authorizing DOR to implement a rebate system. Based on reasonable assumptions this approach would result in approximately 1.5 to 2 million dollars less revenue to the state treasury. The potential loss in revenue is a bonafide concern, however, this loss may well be more than offset by increased economic benefits associated with attracting the fishing industry shoreside.

The latter approach is consistent with the efforts of the Cowper Administration, North Pacific Fisheries Management Council, Southwest Municipal Conference and Alaska businesses all of who are attempting to create a positive business environment in Alaska.



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WHY THE REBATE PROGRAM MAKES SENSE
IS GOOD PUBLIC POLICY AND SHOULD BE REINSTATED.

- I. THE REBATE PROGRAM REMOVES A SIGNIFICANT COMPETITIVE DISADVANTAGE EXPERIENCED BY ALASKA FISHERMEN AND FISHERMEN DOING BUSINESS WITH ALASKA SHORE-SIDE SUPPLIERS.
 - A. HIGH SEAS FUEL SUPPLIERS ARE NOT SUBJECT TO THE TAX...ONLY ALASKA-BASED FISHERMEN AND USERS OF ALASKA SUPPLIERS PAY THE TAX, WHICH TENDS TO INCREASE THEIR EXPENSES COMPARED TO EXCLUSIVELY HIGH SEAS FISHING ENTERPRISES.
- II. BECAUSE THE REBATE PROGRAM TENDS TO EQUALIZE THE COSTS OF AT SEA FUEL WITH SHORE-SIDE FUEL, IT REMOVES A DISINCENTIVE FOR DOING BUSINESS WITH ALASKA SHORE-SIDE SUPPLIERS OF FUEL, SHIP REPAIRS, PROCESSING, TRANSPORTATION, AND COLD STORAGE (SEE SJR 51).
 - A. LOWER SHORE-SIDE FUEL COSTS RESULTING FROM REBATES MAY CREATE GREATER OPPORTUNITIES FOR ALASKA BUSINESSES, EMPLOYMENT, IMPROVED INFRASTRUCTURE AND COMMUNITY TAX REVENUES.
- III. PASSAGE OF SB366 AND HB401 SHOULD NOT BE CONSIDERED AS "SPECIAL INTEREST LEGISLATION". ALL END-USE CONSUMERS AND SHORESIDE FUEL DISTRIBUTORS WILL BENEFIT ALONG WITH THE STATE BY VIRTUE OF ATTRACTING SIGNIFICANTLY MORE FISH PROCESSING AND RAW FISH LANDING ACTIVITY TO SHORE WHICH, IN TURN, WILL ENHANCE SERVICE AND SUPPLY BUSINESSES. IF A REVENUE LOSS SITUATION DID NOT EXIST THE REBATE PROGRAM BILL WOULD ESSENTIALLY BE NON-ISSUE LEGISLATION.
- IV. THE REBATE PROGRAM MAY HELP MAKE ALASKA PROCESSED FISH PRODUCTS MORE COMPETITIVE BY REMOVING AN EXPENSE WHICH HIGH SEAS OPERATORS DO NOT NECESSARILY INCUR.
- V. THE REBATE PROGRAM SHOULD HELP ENCOURAGE DEVELOPMENT OF AN ALASKA-BASED CATCHER-PROCESSOR FLEET AND CAPTURE A LARGER PORTION OF THE OFF-SHORE RESOURCE.
 - A. BRINGING THE ON-SHORE FUEL COSTS INTO A BETTER COMPETITIVE POSITION WITH HIGH SEAS COSTS WILL HELP



ALASKA COMMUNITIES SECURE HOME-PORTING OF CATCH-PROCESSORS. (FOR EXAMPLE, THE CITY OF HOMER'S EFFORTS TO SECURE HOME-PORTING OF "OCEAN TRAWL" VESSELS.)

VI. THE REBATE PROGRAM IS CONSISTENT WITH THE GOALS OF THE COWPER ADMINISTRATION, THE ALASKA LEGISLATURE, THE FISHING INDUSTRY, THE ALASKA BUSINESS COMMUNITY, AND MUNICIPAL GOVERNMENTS.

A. GOVERNOR COWPER HAS APPOINTED A FISHERIES MINI-CABINET TO FORMULATE A FISHERIES DEVELOPMENT POLICY± DESIGNED TO MAXIMIZE ALASKA OWNERSHIP AND EMPLOYMENT IN THE SEAFOOD INDUSTRY AND TO PROMOTE SUPPORT SERVICE DEVELOPMENT IN ALASKA COMMUNITIES. IMPORTANT ASPECTS OF THIS UNDERTAKING INCLUDE IDENTIFICATION OF CONSTRAINTS TO SHORE-SIDE INFRASTRUCTURE DEVELOPMENT AND POTENTIAL METHODS TO MITIGATE THE NEGATIVE ASPECTS OF STATE AND LOCAL TAX POLICY. THE REBATE PROGRAM IS CONSISTENT WITH THESE OBJECTIVES.

B. THE LEGISLATURE'S STATED POLICY IS SIMILAR IF NOT IDENTICAL TO THE EXECUTIVE BRANCH. IN 1987, THE LEGISLATURE PASSED A FISHERIES BUSINESS TAX CREDIT PROGRAM DESIGNED TO FACILITATE GREATER ON-SHORE PROCESSING CAPACITY. CURRENTLY PENDING BEFORE THE LEGISLATURE ARE SJR 51 AND HJR 45, WHICH ARE IMPORTANT POLICY STATEMENTS RELATIVE TO INCREASING ALASKA'S PARTICIPATION IN THE ECONOMIC BENEFITS OF OFF-SHORE FISHING ACTIVITIES.

C. THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL IS REVIEWING A RECENT PROPOSAL, SPONSORED BY THE SOUTHWEST MUNICIPAL CONFERENCE, TO REQUIRE USE OF SHORE-SIDE FUEL SUPPLIERS, PROCESSORS, TRANSPORTATION COMPANIES AND THE LIKE.

D. THE REBATE PROGRAM COMPLIMENTS ALL OF THESE EFFORTS AND SHOULD BE REINSTATED IN LAW.

FOOTNOTES;

1. IN 1986, 500 FOREIGN FLAG VESSELS SPENT 34,000 VESSEL DAYS IN U.S. EEZ, BUT USED ONLY MARGINAL AMOUNTS OF U.S. SHIPPING CAPACITY AND OTHER SUPPORT SERVICES (SJR 51 AND HJR 45.)

2. THE AMOUNT OF BULK FUEL CONSUMED IN U.S. EEZ BY FOREIGN FLEETS IS ESTIMATED TO EXCEED 160 MILLION GALLONS ANNUALLY. PURCHASES OF FUEL BY FOREIGN VESSELS FROM U.S. FIRMS IS ESTIMATED TO BE LESS THAN 10 PERCENT OF THE FUEL CONSUMED. AT-SEA REFUELING IS A COMMON PRACTICE NOT ONLY FOR FOREIGN OPERATORS BUT FOR U.S. JOINT VENTURE TRAWLERS (SOUTHWEST



3

MUNICIPAL CONFERENCE PROPOSAL TO NPFMC).

3. THE ALASKA DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT, DIVISION OF BUSINESS DEVELOPMENT, RECENTLY PUBLISHED A STUDY OF BERING SEA SUPPORT SERVICES FOR 1985. IT REACHED THE FOLLOWING CONCLUSIONS.

A. "THE MOST IMPORTANT REASONS FOR CHOICE OF PORT ARE, IN ORDER, FUEL, VESSEL MAINTENANCE AND REPAIR FACILITIES."

B. "PORTS INTERESTED IN ATTRACTING THESE SHIPS MUST HAVE SUBSTANTIAL FUEL AVAILABLE AND REPAIR FACILITIES, AS WELL."

C. "OWNERS TEND TO COMPARE AT-SEA FUEL PRICES WITH THOSE IN DUTCH HARBOR."

1 IN THE HOUSE

BY CATO, NAVARRE
AND SWACKHAMMER

2

HOUSE BILL NO. 401

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act establishing rebates for motor fuel taxes for
7 fuel used in watercraft outside the state; and limit-
8 ing the authority of the attorney general and the
9 Department of Revenue to recover refunds paid before
10 the effective date of this Act; and providing for an
11 effective date."

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

13 * Section 1. AS 43.40 is amended by adding a new section to read:

14 Sec. 43.40.033. REFUND OF TAX PAID ON FUEL USED IN OR ON WATER-
15 CRAFT OUTSIDE THE STATE. (a) A purchaser of motor fuel sold and
16 delivered in the state on which the tax levied by AS 43.40.010(a)(2)
17 has been paid is entitled to a refund of the tax paid on all fuel used
18 or consumed in the operation of watercraft outside the state.

19 (b) The department shall adopt the necessary regulations to
20 implement this section and prescribe the appropriate forms for a
21 purchaser to use to ensure that the motor fuel was used or consumed in
22 the operation of watercraft outside the state.

23 * Sec. 2. AS 43.40.050(b) is amended to read:

24 (b) A person entitled to a [CLAIM FOR] refund under AS 43.40.-
25 030 - 43.40.035 must file a claim for the refund [AS 43.40.030 OR
26 43.40.035 SHALL BE FILED] within one year from the date of the pur-
27 chase of the motor fuel as indicated on the invoice, and failure to
28 file within the one-year period is a waiver of the right to the re-
29 fund. A claim is considered to be filed when the claim is mailed or

1 personally presented to an office of the department.

2 * Sec. 3. The provisions of AS 43.40.033, added by sec. 1 of this Act,
3 apply to motor fuel sold and delivered in the state and used or consumed in
4 the operation of watercraft outside the state after June 30, 1988.

5 * Sec. 4. Notwithstanding AS 37.10.090, the attorney general and the
6 Department of Revenue may not recover from the purchaser of motor fuel sold
7 and delivered in the state a refund of the motor fuel tax paid to the
8 purchaser under AS 43.40.010(a)(2) before July 1, 1988, for motor fuel that
9 was used or consumed in the operation of watercraft outside the state.

10 * Sec. 5. This Act takes effect July 1, 1988.