

HB

156

STATE OF ALASKA
THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House Transportation:

3-20-87

Alaska State Legislature



House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

March 20, 1987

FOR TODAY'S MEETING YOU HAVE:

A FOLDER ON HB 156 THAT INCLUDES:

- * a copy of HB 156
- * a copy of the statutes impacted by HB 156
- * fiscal note from the Dept. of Revenue
- * a memorandum from the Dept. of Transportation & Public Facilities
- * House Transportation Committee staff question and answer sheet
- * a comparison of state motor fuel tax rates

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: Draft #2

Publish Date: 2/5/87

REQUEST _____

Revision Date: 2/10/87

Title: Increasing motor fuel tax

Agency Affected: Revenue

BRU: Audit

Sponsor: Governor

Requestor: Rules Committee

Components: Audit

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	7.5	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	7.5	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	7.5	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: See attached page.

Prepared By: Steven E. Kettel
Division: Audit

Phone: 465-2343

Date: 2/10/87

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: 2/18/87

Distribution (by Agency preparing fiscal note):

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

Fiscal Note

Contractual

- A. Passage of the draft will require this BRU to revise and reprint all tax forms related to motor fuel tax.
These forms include the Motor Fuel Tax Return, Motor Fuel Reseller Claim for Refund, Motor Fuel Adjustment Report and the Statute and Regulations Pamphlet. Costs to revise and print these forms is approximately \$5.0.

- B. The Department will be required to write regulations providing rules for the transition period. It is likely that without regulations large quantities of fuel may be taxed at the lower rate of eight cents. Public notice of the regulations and holding hearings will approximate \$2.5.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST _____
Revision Date: _____
Title: An Act Increasing the Motor Fuel Tax
Sponsor: Rules/Governor
Requestor: Rules

Bill Version: _____
Publish Date: _____
Agency Affected: Revenue
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	0	33586.7	32579.1	32253.4	31930.2	31930.8

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

See attached analysis.

Prepared By: Dave Tonkovich ^{DT} Phone: 465-2173
Division: Research Date: 2/10/87
Approved by Commissioner: Hugh Malone Date: 2/10/87
Agency: Department of Revenue

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

Continuation for Fiscal Note Analysis

Bill: _____

Analysis:

This legislation raises the tax on motor fuel (gasoline and diesel) from \$.08/gallon to \$.16/gallon. Taxes on marine and aviation fuel uses remain unchanged. The refund for off-highway use (43.40.030) remains at \$.06/gallon which raises the rate for this use from \$.02 to \$.10/gallon. This analysis assumes an effective date of July 1, 1987 (FY88).

FY 86 is used as a starting point for this analysis as this is the last full year for which data on fuel distributions, refunds and credits is available. These assumptions are made:

1. The overall level of economic activity in Alaska will probably decline over the next several years. This note assumes these declines in fuel gallonage (taxable distributions) from the FY86 base year: FY87 (-2%), FY88 (-3%), FY89 (-3%), FY90 (-1%), FY91 (-1%) and FY92 (-0%).
2. Although fuel prices have fallen since the FY86 base period the recent increases in crude oil prices, if maintained, will increase future prices for gasoline and diesel. This analysis uses a price before additional tax of \$1.20/gallon for diesel and \$1.15/gallon for gasoline to estimate the effects of the tax-induced price increase. Price elasticities from national studies indicate that the price increase due to the additional tax will decrease the quantity of fuel consumed between 4 and 5 percent. This study uses the 5 percent figure to adjust gallonages under the proposed legislation.

**FUEL TAXES IN CENTS-PER-GALLON
GASOLINE
DIESEL
LPG
LETTERS: EXCEPTIONS**



Federal diesel fuel tax of 15c a gallon remained unchanged in 1985. Twelve states' gasoline taxes were increased by: Ark., 4.5c; Ariz., 4c; Ia., 3c; Ind., 2.9c; Neb., 2.3c; Tenn. and Wash., 2c; Conn., Nev., Okla. and Ore., 1c; Wisc., .5c. Wyo. enacted an 8c tax on diesel fuel. And diesel fuel taxes in 13 other states were increased by: Ariz., 4c; Ind., 3.9c; Ark., 3.5c; Ia. and N.J., 3c; Neb., 2.3c; Wash., 2c; Conn., Ill., Nev., Okla. and Ore., 1c; Wisc., .5c. Wyo. also established an 8c LPG tax. In 11 states, LPG fuel taxes were increased by: Ark., 4.5c; Ariz. and Ia., 4c; Ind., 3.9c; Neb., 2.3c; Conn., Ill., Nev., Okla. and Ore., 1c; Wisc., .5c. No federal fuel tax increases in 1986 are anticipated. However, according to Highway Users Federation, 26 states are expected to raise motor fuel taxes in 1986.

In the Key to Exceptions listed on this

page, note that variable taxes (R) are recomputed at least annually, based on an indicator such as the consumer price index or a percentage of the wholesale

price of fuel.

Since the taxes noted are subject to revision, contact the appropriate state office for the most current information.

Key To Exceptions

- A - city/county taxes additional
- B - reporting form required if fuel not purchased in state
- C - sales tax additional
- D - diesel fuel sales tax additional
- E - except for 100+ passenger, regularly scheduled, in-state route buses
- F - surtax on any vehicle with 3 or more axles (2% in Ky., 2c per gallon in Va.)
- G - LPG fueled vehicles may pay an annual flat rate
- H - some refunds for taxicabs and buses
- I - city transit buses refunded 11c per gallon
- J - annual license fee based on vehicle tonnage imposed in lieu of LPG tax

- K - vehicles (except gasoline) subject to mileage tax are exempt from fuel tax
- L - decal fee if under 18,000-lb GVW for Missouri-based vehicles
- M - 2% excise tax on distributors of motor fuels
- N - non-diesel fuel license
- O - gross receipts tax
- P - decal fee
- R - variable tax
- S - \$10 per vehicle with 3 axles or more
- T - diesel fuel sales tax additional 6% of total selling price
- X - decal fee covers local option and motor fuel tax

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: _____
Publish Dates: _____

REQUEST _____

Revision Date: _____
Title: An Act Increasing the Motor Fuel Tax
Sponsor: Governor Cowper
Requestor: Governor Cowper

Agency Affected: DOT&PF
BRU: All
Components: _____

EXPENDITURES/REVENUE (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (IARF)						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: The bill increasing the motor fuel tax will not necessarily have an impact on DOT&PF. The revenue will be collected by the Department of Revenue and the appropriation of the proceeds of the revenue is a separate issue. We believe that the proceeds should be used to improve the maintenance and operations of the highways, roads and streets in Alaska.

Prepared by: Ron B. Lind, Director *RL* Phone: 465-4070
Division: Plans, Programs, and Budget Date: 2/26/87
Approved by Commissioner: *Mark D. Hill* *Acting Commissioner* Date: 3/1/87
Agency: DOT&PF

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

STATE MOTOR FUEL TAX RATES

(cents per gallon)

STATE	GASOLINE	DIESEL	GASOHL	ADDED TAX (%)	LOCAL OPTION	STATE	GASOLINE	DIESEL	GASOHL	ADDED TAX (%)	LOCAL OPTION
ALABAMA	13	14	10		L	MONTANA	17	17	17		
ALASKA	8	8	0			*/NEBRASKA	18.2	18.2	15.1		
ARIZONA	16	16	16			NEVADA	13	13	12		L
ARKANSAS	13.5	12.5	13.5			NEW HAMPSHIRE	14	14	14		
CALIFORNIA	9	9	9	6	L	NEW JERSEY	8	11	0		
COLORADO	18	20.5	18			NEW MEXICO	11	11	0		L
CONNECTICUT	17	17	16	2		NEW YORK	8	10	8	6.75	L
DELAWARE	13	13	13			*NORTH CAROLINA	15.75	15.75	15.75		
D.C.	15.5	15.5	15.5			NORTH DAKOTA	13	13	5		
*FLORIDA	9.7	9.7	7.7		L	OHIO	12	12	12		
GEORGIA	7.5	7.5	7.5	3		OKLAHOMA	10	10	10		
HAWAII	11	11	11	4	L	/OREGON	12	12	12		L
IDAHO	14.5	14.5	10.5			PENNSYLVANIA	12	12	12	6	
ILLINOIS	13	15.5	13	6	L	*RHODE ISLAND	15	15	15		
INDIANA	14	15	14	5		SOUTH CAROLINA	13	13	7		
/IOWA	16	18.5	15			SOUTH DAKOTA	13	13	11		L
*KANSAS	11	13	8			TENNESSEE	17	15	13		L
*KENTUCKY	15	12	15			/TEXAS	15	15	11		
LOUISIANA	16	16	16	1		UTAH	14	14	14		
/MAINE	14	14	11			VERMONT	13	14	13		
*MARYLAND	13.5	13.5	19.5			/VIRGINIA	17.5	16	17.5		L
*MASSACHUSETTS	11	11	11			WASHINGTON	18	18	16.2		
*MICHIGAN	15	15	15	4		*WEST VIRGINIA	15.35	15.35	15.35		
MINNESOTA	17	17	14.5			*WISCONSIN	17.5	17.5	17.5		
MISSISSIPPI	9	10	9	6	L	WYOMING	8	8	8		
MISSOURI	7	7	7								

* Variable tax expressed in cents per gallon.
See notes on reverse side for additional information.

/Updated since last chart
Highway Users Federation
January 1, 1987 rev.

Technical Memorandum #HY-86-3
Plans, Programs, and Budget

POTENTIAL APPROACHES TO A FUEL TAX INCREASE

Introduction

Alaska has not increased its tax on motor fuels used for highway purposes since 1961. Still taxed at 8¢ per gallon, this rate has gone from being among the highest in the nation to being one of the five lowest. There are many reasons for increasing what is generally considered to be a highway user fee; perhaps the most important being to increase the amount of revenues available to support DOT&PF expenditures on operations, maintenance and capital improvements for the state highway system.

Need

Although Alaska does not dedicate revenues from transportation user fees to transportation-related expenditures, it is still possible to compare revenues to these expenditures. The following figures (taken from Alaskan entries in a federal publication entitled Highway Statistics, 1985) tend to understate all potential uses of highway-related revenues, but they clearly point out the large shortfall between existing revenues and expenditures.

(Dollars in millions)

<u>Revenues</u>	
Motor Fuel Tax	22.6 ^A
Registration Fees/Driver Licenses	15.1
Subtotal Revenues	37.7
<u>Collection Costs</u>	
Motor Fuel Tax	0 ^B
Registration Fees/Driver Licenses	5.5
TOTAL REVENUES MINUS COLLECTION COSTS	32.2
<u>Highway Related Expenditures - DOT&PF</u>	
Maintenance & Operations	59.3 ^C
Physical Maintenance	(24.6) ^C
Snow removal and sanding	(31.1) ^C
Traffic Control (signals)	(3.6) ^C
Obligation of Federal-Aid Apportionments	16.4 ^D
State-funded capital projects	1.0 ^E
Subtotal Expenditures- DOT&PF	75.7

Bond interest	13.4
Bond principal repayment	25.9
Traffic Law Enforcement (Troopers)	3.8
Weigh Station Operation	1.2
Municipal Revenue Sharing (\$2375 per mile)	8.8
ROUGH TOTAL - 1985 HIGHWAY-RELATED EXPENDITURES	128.8
NET REVENUES (For comparison purposes)	32.2

- Notes: A The slowdown in Alaska's economy has reduced both fuel consumption and fuel tax revenues- revenues are now at the \$20 million level.
- B \$34,000 rounds to zero.
- C Inflated by 30 percent to reflect overhead, administrative and materials costs not allocated to these categories.
- D FY 88 Capital Budget
- E Capital appropriations will occasionally be required to meet emergency and maintenance needs not qualifying for federal funding.

THE TOTAL EXPENDITURE FIGURE FOR 1985 IS FOUR TIMES THE AMOUNT OF REVENUES COLLECTED! Furthermore, the expenditure figure does not include any of the following:

- (1) Other highway-related general fund expenditures of DOT&PF;
- (2) General fund expenditures by other state agencies (for example, Division of Motor Vehicles estimates that state lease and data processing costs would add an additional \$1.5 million to their budget);
- (3) Increases in revenue sharing costs as municipalities proceed to maintain more miles of local roads.

Justification

One of the simplest methods of justifying a motor fuel tax increase is to compare Alaska's tax rate to that of other states. The following distribution of state gasoline tax rates indicates that an increase of 66% would be required to put Alaska on par with the average of tax rates in the other 49 states. A doubling of the current rate would put Alaska in the top twelve currently, although some states have already legislated increases that are yet to go into effect.

Lowest	7 ¢	Missouri
	7.5 - 9 ¢	Seven states (including Alaska, New Jersey, New York and Wyoming @ 8 ¢)
	9.7 - 12 ¢	Nine states
	13 - 13.5 ¢	Ten states

14 - 15.75 ¢	Eleven states and the District of Columbia
16 ¢	Arizona, Iowa and Louisiana
17 ¢	Connecticut, Minnesota, Montana and Tennessee
17.5 ¢	Virginia and Wisconsin
18 ¢	Colorado and Washington
Highest 18.2 ¢	Nebraska

Sample of 50 states and the District of Columbia

Mean	-	13.3 ¢
Median	-	13.5 ¢
Mode	-	13 ¢ (8 states)
Range	-	11.2 ¢

Alternative Approaches to Raising the State Motor Fuel Tax

- (A) Justify the increase based on the shortfall between revenues and expenditures. Increase the fuel tax to raise enough revenue to meet a politically identified level of funding support.
- (B) Increase the fuel tax based on any of a number of objective considerations, such as increase in the Consumer Price Index, parity with other states, etc.
- (C) Work with other agencies which could potentially spend highway-related revenues (Department of Public Safety, Department of Commerce and Economic Development, etc.) to develop a statewide plan for matching highway-related revenues with expenditures.
- (D) Research and develop an Alaskan methodology for allocating highway costs to an Alaskan structure of existing and potential highway user fees.
- (E) Pursue a fuel tax increase as part of a broader revenue-raising effort. Consider increases in the aviation and marine motor fuel taxes at the same time.

Additional Information

Two-page summaries of successful efforts to raise the gas tax in Oregon and Washington are attached. More backup information is available upon request.

3/13/87

COWPER ADMINISTRATION - DOT&PF
FY'88 OPERATING BUDGET PROPOSAL

- A. Contingent upon passage of the increased motor fuel tax proposal and implementation of the user fee proposal for the Dalton Highway, an increment of \$20 million and another \$3.5 to \$4 million in general fund transfer will be made available for the general FY'88 operating budget for the Department of Transportation and Public Facilities. These funds will be allocated as follows: (1) \$18.5 to \$19 million for highways and aviation maintenance and operations (M&O) and (2) \$5 million for the Alaska Marine Highway System (AMHS).
- B. Of this total, a fiscal note for \$20 million will be proposed to accompany the motor fuel tax increase of 8 cents. This amount is equivalent to the estimated revenue that will be generated from the fuel tax increase for highway use. The use of a fiscal note is proposed instead of a budget amendment to clarify the relationship between the increased spending authorization and the increased revenue generated by the tax.
- C. Another \$3.5 to \$4 million in general funds will be made available as a result of proceeding with funding FY'88 Dalton Highway maintenance through user fees. Approximately three months of the FY'88 costs will still be covered with general funds dollars to allow sufficient time to seek funding agreements with affected oil companies, or if unsuccessful, to implement direct user fees through regulations. Budget amendments will be submitted which allocate the "released" general funds to the M&O consistent with the numbers outlined in "A" above.
- D. The additional \$18.5 to \$19 million in funds for the highways and aviation M&O components will allow the continued maintenance of Category II and III roads during FY'88, and allow an improvement in services for all of these activities in FY'88 as compared to the current year. The increased funding will bring the total general funds for the highways and aviation M&O components to an amount nearer the FY'87 Authorized levels.

- E. The Administration still wishes to pursue a program for phased transfer of road responsibilities, and will continue working to prepare a proposal during the interim. As part of this effort, we anticipate receiving input and assistance on program development from the Senate and House Transportation Committees and an Advisory Group or Task Force of affected local officials. We will probably recommend a small amount of funding be used from the \$20 million in fuel tax increase to cover costs to develop this program. An additional element will be ensuring the department has authority to pursue transfer agreements during FY'88 if local communities so desire.
- F. The \$5 million in funding for the AMHS will restore 50% of the FY'88 operations decrement, and could provide for the normal operation of the MV Bartlett and Aurora, as well as fund approximately three additional months (for a total of 7) for the MV Taku. Alternative operating plans are still being analyzed to determine the optimum plan for maximizing service to Alaskans. Other savings to restore even more service may still be possible through revenue generation and/or cost reductions. Additional user fee authority may be requested to cover this possibility.

3/13/87

COWPER ADMINISTRATION - DOT&PF
FY'88 OPERATING BUDGET PROPOSAL

- A. Contingent upon passage of the increased motor fuel tax proposal and implementation of the user fee proposal for the Dalton Highway, an increment of \$20 million and another \$3.5 to \$4 million in general fund transfer will be made available for the general FY'88 operating budget for the Department of Transportation and Public Facilities. These funds will be allocated as follows: (1) \$18.5 to \$19 million for highways and aviation maintenance and operations (M&O) and (2) \$5 million for the Alaska Marine Highway System (AMHS).
- B. Of this total, a fiscal note for \$20 million will be proposed to accompany the motor fuel tax increase of 8 cents. This amount is equivalent to the estimated revenue that will be generated from the fuel tax increase for highway use. The use of a fiscal note is proposed instead of a budget amendment to clarify the relationship between the increased spending authorization and the increased revenue generated by the tax.
- C. Another \$3.5 to \$4 million in general funds will be made available as a result of proceeding with funding FY'88 Dalton Highway maintenance through user fees. Approximately three months of the FY'88 costs will still be covered with general funds dollars to allow sufficient time to seek funding agreements with affected oil companies, or if unsuccessful, to implement direct user fees through regulations. Budget amendments will be submitted which allocate the "released" general funds to the M&O consistent with the numbers outlined in "A" above.
- D. The additional \$18.5 to \$19 million in funds for the highways and aviation M&O components will allow the continued maintenance of Category II and III roads during FY'88, and allow an improvement in services for all of these activities in FY'88 as compared to the current year. The increased funding will bring the total general funds for the highways and aviation M&O components to an amount nearer the FY'87 Authorized levels.

- E. The Administration still wishes to pursue a program for phased transfer of road responsibilities, and will continue working to prepare a proposal during the interim. As part of this effort, we anticipate receiving input and assistance on program development from the Senate and House Transportation Committees and an Advisory Group or Task Force of affected local officials. We will probably recommend a small amount of funding be used from the \$20 million in fuel tax increase to cover costs to develop this program. An additional element will be ensuring the department has authority to pursue transfer agreements during FY'88 if local communities so desire.
- F. The \$5 million in funding for the AMHS will restore 50% of the FY'88 operations decrement, and could provide for the normal operation of the MV Bartlett and Aurora, as well as fund approximately three additional months (for a total of 7) for the MV Taku. Alternative operating plans are still being analyzed to determine the optimum plan for maximizing service to Alaskans. Other savings to restore even more service may still be possible through revenue generation and/or cost reductions. Additional user fee authority may be requested to cover this possibility.

CITY OF PALMER



231 W EVERGREEN AVE
PALMER, ALASKA 99645



Phone (907) 745-3271

A HOME RULE CITY

March 23, 1987

MAR 28 1987

The Honorable Jalmar Kerttula
Senator
State of Alaska
Box V
Juneau, Alaska 99811

RE: HB 156, An Act Increasing the Motor Fuel Tax

Dear Senator Kerttula,

I have reviewed the proposed legislation in HB 156, An Act Increasing the Motor Fuel Tax.

The City of Palmer is unalterably opposed to this piece of legislation since all the funds generated by the increased motor fuel tax will be earmarked for the State of Alaska's General Fund as outlined in 43.40.010 of the Alaska State Statutes.

With the present Department of Transportation and Public Facilities proposal to have all municipalities and boroughs maintain state highways within their jurisdiction, there is no indication of any of the newly generated funds being allocated to the municipalities.

In the past, local political entities received Local Service Roads and Trails funds to assist in street and trails improvements. Since 1985, these funds have been curtailed.

There has been no justification as to why the motor fuel tax has to be increased. The need for upgrading as well as maintenance of the road system is needed, we will agree. However, the allocation of the funds to a single department for overall spending on a variety of functions rather than the intended use of highway construction and maintenance leaves a lot to be desired. The Department of Transportation and Public Facilities functions are not limited to only highways, but also various public works projects, such as buildings, which also causes concern for the expenditure of motor fuel tax funds.

We ask that this hastily drafted bill be tabled until further accountability of the Department of Transportation and Public Facilities is available with regard to the expenditures of funds, namely the Motor Fuel Tax monies.

The Honorable Jalmar Kerttula
March 23, 1987
Page 2

Further, we feel that a permanent equitable entitlement be made to the political subdivisions who have road powers and exercise them, if this legislation is to be enacted.

Should you have any questions, please contact me.

Yours truly,

David L. Soulak
City Manager
City of Palmer

DLS/cac

cc: Scott Burgess, AMI.
Mayor Carte'

House Transportation Committee: Bette Cato, Chair
Heinrich Springer, Vice Chair
H.A. "Red" Boucher
Mike Miller
Bill Hudson
Ben Grussendorf
Drue Pearce
House Finance Committee: Albert Adams, Chair
Pat Pourchot, Vice Chair
Ron Larson
Mike Davis
Peter Goll
Kay Wallis
C.E. Swackhammer
Kay Brown
Mark Boyer
Steve Frank
Steven Rieger

HOUSE COMMITTEE REPORT

(7)

Date referred: 3/2/87

FURTHER REFERRALS:

Finance

DATE: March 20, 1987

The Transportation Committee has considered HB 156

"An Act increasing the motor fuel tax."

RECOMMENDS:

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

ADOPTS: _____ 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:

Bill Anderson

Bette Cato

SIGNING OTHER RECOMMENDATIONS:

Use finance - no rec
Heinrich foreign No rec

Bette Cato

 Chairman's signature

ALASKA DEPARTMENT OF REVENUE

AUDIT DIVISION

ALASKA STATUTES AND REGULATIONS
GOVERNING

MOTOR FUEL TAX



November 1984

(b) Bulk sales of fuel to a person who uses a common storage tank servicing both taxable and nontaxable uses, except bulk sales of jet fuel to a person who flies directly from the state to a foreign country, are subject to the motor fuel tax under AS 43.40.010 - 43.40.100, but the portion actually used for nontaxable purposes is eligible for a tax refund upon application to the department. A dealer who makes bulk sales of motor fuel shall collect and remit the tax in accordance with this chapter, except that if the sales is a sale of jet fuel to a person who flies directly from the state to a foreign country, the tax may not be collected. However, if a portion of that jet fuel is used on a foreign flight which includes a stop or stops in this state or in another state, the user shall file a return as required by 15 AAC 40.010 and remit the amount of tax due for the jet fuel actually consumed over Alaska.

ARTICLE 8.

(Reserved)

ARTICLE 9

GENERAL PROVISIONS

Section
900. Definition

15 AAC 40.900. Definitions. In this chapter

(1) "charitable institution" means an organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code;

(2) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by AS 43.40 have not been paid;

(3) "department" means the Department of Revenue;

(4) "fuel reseller" means a person who sells or otherwise transfers in this state fuel upon which the taxes imposed by AS 43.40 have been paid;

(5) "shrinkage" means loss of volume as a result of temperature changes;

(6) "user" means a person consuming or using motor fuel who purchases the fuel out of state or ships it into the state for personal use in the state, who manufactures the fuel in the state, or who purchases or receives in the state fuel 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;

(7) "timely filed" means received by the department or postmarked on or before the last day of the month following the month motor fuel is sold, transferred, or used;

(8) "watercraft" means a ship, boat, vessel, or other structure that is capable of being moved in or on water either under its own propulsion or propelled by another, craft, including a floating fish-processor, a transportation barge, a drilling ship, and a semi-submersible drilling rig;

(9) "commercial buildings and facilities" means all buildings and facilities other than single and multiple unit private dwellings and mobile homes but does not include watercraft;

(10) "person" means an individual, firm, partnership, joint venture, government or military agency, association, corporation, estate trust, business trust, receiver, or any group or combination acting as a unit. (Eff. 4/8/82, Reg. 82; am 8/1/82, Reg. 83; am 7/19/82, Reg. 83; am 11/14/82, Reg. 84; am 8/12/84, Reg. 91)

AS 43.05.080 AS 43.40.060
AS 43.40.010 AS 43.40.080
AS 43.40.030 AS 43.40.085
AS 43.40.035 AS 43.40.100
AS 43.40.050 AS 43.40.240

Chapter 40. Motor Fuel Tax.

Section

10. Tax on transfers or consumption of motor fuel and expenditure of proceeds
30. Refund for nonhighway use
35. Other refunds and credits
50. Refund claim by affidavit
60. Separate invoices

Section

70. Refund warrants
80. Examination of books and records
85. Preservation of books and records
100. Definitions

Collateral references. — Am. Jur. 2d, State and Local Taxation, §§ 616 — 634; 53 Am. Jur. 2d, Licenses, §§ 30, 46 — 58.

State tax on or in respect of goods shipped in interstate commerce to consignee for sale on consignor's account without previous sale or order for purchase, 4 ALR2d 244.

Loading or unloading interstate freight in performance of obligation resting upon one other than interstate carrier as interstate com-

merce as regards local taxation, 10 ALR2d 651.

State taxation of motor carriers as affected by commerce clause, 17 ALR2d 421.

Power of legislature to remit, release, or compromise tax claim, 28 ALR2d 1425.

Financial hardship or inability to pay taxes as rendering inapplicable statutes denying remedy by injunction against assessment or collection of tax, 65, ALR2d 550.

Sec. 43.40.010. Tax on transfers or consumption of motor fuel and expenditure of proceeds. (a) There is levied a tax of eight cents a gallon on all motor fuel 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) 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 at the time of sale, and remit the total tax collected during each calendar month of each year to the department by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by the user during each month. If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of \$100, may 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 showing all fuel which the dealer or user has distributed or used during the month.

(d) [Repealed, § 3 ch 166 SLA 1975.]

(e) Sixty per cent of the proceeds of the revenue from

the taxes on aviation fuel, excluding the amount determined to have been spent by the state in its collection, shall be refunded to a municipality owning and operating or leasing and operating an airport in the proportion that the revenue was collected at the municipal airport. All other proceeds of the taxes on aviation fuel shall be paid into a special aviation fuel tax account in the state general fund. The legislature may appropriate funds from this account for aviation facilities.

(f) The proceeds from the revenue from the tax on motor fuel used in boats and watercraft of all descriptions shall be deposited in a special watercraft fuel tax account in the general fund. The legislature may appropriate from this account for water and harbor facilities.

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e), (f) and (j) of this section, shall be deposited in a special highway fuel tax account in the state general fund. The legislature may appropriate funds from it for expenditure by the Department of Transportation and Public Facilities directly or as matched with available federal-aid highway money for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend funds collected from taxes imposed by this chapter shall perform when feasible, all construction or reconstruction projects by contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of transportation and public facilities may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

(h) All motor fuel tax receipts shall be paid into the general fund and distributed to the proper accounts in the general fund. Valid motor fuel tax refund claims shall be paid from the highway fuel tax account in the general fund.

(i) Within 30 days after the legislature convenes the Department of Transportation and Public Facilities shall submit an annual budget covering anticipated revenues and their expenditure, for the consideration and approval by the legislature. The budget shall cover all money collected or anticipated to be collected under this chapter for the year following the adjournment of each regular session of the legislature.

(j) The proceeds from the tax on motor fuel used in snow vehicles and, unless a tax refund is applied for under AS 43.40.040, other internal combustion engines not used in or in conjunction with a motor vehicle licensed to

15 AAC 40.220. Recovery of Erroneous Refunds. The department will, in its discretion, recover any refund or portion of any refund which is erroneously made and any credit or portion of any credit which is erroneously allowed. (Eff. 7/19/82, Reg. 83).

Authority: AS 43.05.080
AS 43.10.032
AS 43.40.080

15 AAC 40.230. Records. (a) A person filing a claim for a motor fuel tax refund must keep a complete record in gallons showing

(1) all motor fuel inventories on hand at the beginning and closing of the claim period;

(2) all motor fuel purchased or received, showing the name of the seller and the date of each purchase,

(3) all motor fuel transferred into the fuel supply tanks of an internal combustion engine that is used in or in conjunction with a motor vehicle licensed to be operated on public ways;

(4) all motor fuel transferred into the fuel supply tanks of an internal combustion engine that is not used in or in conjunction with a motor vehicle licensed to be operated on public ways, showing the purpose for which it is used; and

(5) all motor fuel used for exempt purposes under 15 AAC 40.020(b) with documentation of the specific purpose for which the fuel is used.

(b) A person claiming a motor fuel tax refund must preserve for three years from the date of filing a claim, books and records pertaining to all acquisitions and uses of motor fuel.

(c) Failure to maintain records required by (a) and (b) of this section for a period necessary to substantiate any claim filed for that period may be cause for denial of a refund or for recovery of a refund paid on a claim. (Eff. 7/19/82, Reg. 83; am 11/14/82, Reg. 84)

Authority: AS 43.05.080
AS 43.40.050
AS 43.40.080
AS 43.40.085

ARTICLE 4.
(Reserved)

ARTICLE 5.
(Reserved)

ARTICLE 6.
(Reserved)

ARTICLE 7.
(Reserved)

43.40.010 for the manner in which the motor fuel is used, that person is entitled to a refund equal to the amount of tax paid, less the amount of tax prescribed by AS 43.40.010.

(d) If a person purchases motor fuel upon which marine fuel tax or aviation fuel tax has been paid and uses the fuel in a land-based internal combustion engine that is not used in or in conjunction with a licensed vehicle, that person is entitled to a refund equal to the amount of tax paid, less the amount of two cents per gallon. (Eff. 7/19/82, Reg. 83; am 11/14/82, Reg. 84)

Authority: AS 43.05.080 AS 43.40.050
AS 43.40.010 AS 43.40.100
AS 43.40.030

15 AAC 40.210. Requirements for Filing Claims for Refund of Motor Fuel Tax. (a) A claim for refund of motor fuel tax under 15 AAC 40.200 must include the following information for the period covered by the claim:

(1) a schedule indicating by type of fuel (e.g. gasoline, diesel, etc.), the following:

(A) total gallons of motor fuel purchased during the period;

(B) total gallons of motor fuel used during the period;

(C) total gallons of fuel used for tax exempt purposes, as described in 15 AAC 40.020(b); and

(D) total gallons of motor fuel used that are eligible for refund, as described in 15 AAC 40.200;

(2) if fuel was used for tax-exempt purposes, a clear complete explanation of that use, including the category of exempt use under 15 AAC 40.020(b); and

(3) a schedule indicating by type of equipment, the gallons used that are eligible for refund.

(b) The first claim filed during each calendar year must include a list of the final user's equipment, including license and serial numbers.

(c) The original invoices issued to the final user at the time the motor fuel was purchased must be submitted to substantiate any claim for refund. Corrected invoices will be accepted only if the original incorrect invoice is also submitted. The department will, in its discretion, accept copies of original invoices if the refund applicant

(1) explains in writing why original invoices are not being submitted;

(2) obtains a statement from the vendor indicating that the copies are true copies showing invoice numbers, dates and amounts; and

(3) signs an affidavit on a form prescribed by the department certifying that no other refund has or will be claimed on the same motor fuel. (Eff. 7/19/82, Reg. 83; am 8/12/84, Reg. 91)

Authority: AS 43.05.080
AS 43.40.030
AS 43.40.050
As 43.40.060

be operated on public ways shall be deposited in a special nonpublic highway use account in the general fund. The legislature may appropriate from this account to the Department of Transportation and Public Facilities for trail staking and shelter construction and maintenance.

(k) The tax on the transfer or consumption of motor fuel provided for in this section does not apply to liquefied petroleum gas.

(l) 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 transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The department 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. A certificate of use is not required for fuel for any domestic purpose in a single or multiple unit private dwelling, including motor homes, or for fuel which is at least 10 percent alcohol by volume. An annual certificate of use is required for all other exemptions listed under AS 43.40.100(2), except certificate of use needs under AS 43.40.100(2)(K) will be determined by the department. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the department. The form of a certificate of use may be prescribed by regulation adopted by the department. (§ 48-5-2 ACLA 1949; am § 1 ch 80 SLA 1951; am § ch 47 SLA 1955; am §§ 1, 2 ch 27 SLA 1957; am § 1 ch 134 SLA 1957; am § 1 art VI title II ch 152 SLA 1957; am § 2 art V title III ch 152 SLA 1957; am § 2 ch 124 SLA 1959; am §§ 1, 2 ch 20 SLA 1960; am § 1 ch 150 SLA 1960; am § 1 ch 110 SLA 1961; am § 1 ch 136 SLA 1961; am §§ 1 — 3 ch 131 SLA 1962; am § 1 ch 130 SLA 1968; am § 10 ch 143 SLA 1968; am §§ 1, 2 ch 216 SLA 1968; am §§ 1 — 3 ch 158 SLA 1970; am § 3 ch 58 SLA 1971; am §§ 1, 2 ch 124 SLA 1971; am §§ 2, 3, ch 125 SLA 1971; am §§ 1 — 3 ch 153 SLA 1972; am § 3 ch 166 SLA 1976; am §§ 1, 2 ch 116 SLA 1977; am § 4 ch 82 SLA 1982; am §§ 1, 2 ch 87 SLA 1983)

Cross references. — For civil penalty imposed for failure to file a return or report, or pay the full amount of a tax, or a portion or a deficiency of the tax, see AS 43.05.220.

Effect of amendments. — The 1982 amendment added subsection (l).

The 1983 amendment, in subsection (c), added the present third sentence and deleted "motor" preceding "fuel" in the last sentence, and in subsection (l), added the present fourth and fifth sentences.

OPINIONS OF ATTORNEY GENERAL

The purpose of the dedication of the taxes on motor fuels contained in subsection (g) of this section is public highways. 1959 Op. Att'y Gen., No. 9.

A proposed alteration going to the geographical area of expenditure rather than to the special purpose of a dedication, does not contravene the constitution. 1959 Op. Att'y Gen., No. 9.

The Civil Air Patrol is exempt from taxation under the Alaska Motor Fuel Oil Tax Act because it is an instrumentality of the federal government, but volunteer members of Civil Air Patrol are not exempt. 1961 Op. Att'y Gen., No. 26.

Sec. 43.40.020. Penalty for violation. [Repealed, § 46 ch 113 SLA 1980. For criminal penalties, see AS 43.05.290.]

Sec. 43.40.030. Refund for nonhighway use. (a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to operate an internal combustion engine 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) 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) 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.

(d) If a person obtains motor fuel on which the tax levied by this chapter has been paid and the motor fuel is exempt from the tax, the person is entitled to a refund of the tax paid. (§ 2 ch 47 SLA 1955; am § 3 ch 27 SLA 1957; am § 2 ch 136 SLA 1961; am § 4 ch 158 SLA 1970; am § 3 ch 124 SLA 1971; am § 4 ch 125 SLA 1971; am § 4 ch 116 SLA 1977; am §§ 35, 36 ch 113 SLA 1980; am § 5 ch 82 SLA 1982)

Effect of amendments. — The 1980 amendment substituted a reference to this chapter in subsection (b), and added subsection (d).

The 1982 amendment substituted "the tax has been" for "duty is" in subsection (b).

Sec. 43.40.035. Other refunds and credits. (a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements of AS 43.40.010(l) have been fulfilled; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

(b) A reseller may elect, with the express written consent of the supplier of the reseller, to receive the credit or refund under this section directly from the supplier rather than by filing a claim for the credit or refund with

signed in quadruplicate by the fuel reseller and by the supplier. The fuel reseller and the supplier must each file one copy of the election, with original signatures, with the department. The fuel reseller and the supplier must each retain a copy of the election, with original signatures, for audit review by the department. If an election is made under this section, it may not be revoked without the express written consent of the supplier.

(d) A claim for refund or credit must be filed within one year after the date of the sale as shown on the invoice issued by the claimant. Failure to file within the one-year period waives the right to a refund or credit. The claim must include the name, address, and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the basis for the refund or credit. A claim for refund must be supported by copies of the original invoices issued to the claimant and copies of certificates of use obtained under 15 AAC 40.030. A claimant qualifying as a charitable institution under 15 AAC 40.900(1) must submit with its initial claim for refund a copy of its Internal Revenue Service Determination Letter. A claimant that has had its tax-exempt status denied by the Internal Revenue Service is not eligible for a motor fuel tax refund as a charitable institution. (Eff. 4/8/82, Reg. 82; am 8/1/82, Reg. 83; am 7/19/82, Reg. 83; am 11/14/82, Reg. 84; am 8/12/84, Reg. 91)

AS 43.05.080 AS 43.40.035
AS 43.40.010 AS 43.40.050
AS 43.40.030 AS 43.40.060

15 AAC 40.110. Additional Tax Due for Sales of Diesel Fuel Not Used for Heating Purposes. Repealed 11/14/82.

ARTICLE 3. TAX REFUNDS AND CREDITS FOR FINAL USER

Section	Section
200. Refunds on certain uses of motor fuel	220. Recovery of erroneous refunds
210. Requirements for filing claims for refund of motor fuel tax	230. Records

15 AAC 40.200. Refunds on Certain Uses of Motor Fuel. (a) If a person uses motor fuel in an internal combustion engine and the motor fuel tax of eight cents a gallon has been paid but that fuel is not used in, or in conjunction with, a licensed motor vehicle, as aviation fuel, or in or on watercraft, that person is entitled to a refund of six cents a gallon.

(b) If a person purchases fuel upon which the motor fuel tax has been paid and uses the fuel for tax-exempt purposes as described in 15 AAC 40.020(c), that person is entitled to a refund of the full amount of tax paid if that person has not signed a certificate of use stating that the fuel that was purchased was not intended for use as motor fuel.

(c) If a person purchases motor fuel upon which the amount of tax paid exceeds the tax imposed by S

(4) all motor fuel sold, transferred or used during each month, the date of sale, transfer, or use, and the names of all purchasers and transferees;

(5) all nontaxable fuel sales or transfers made during each month; and

(6) all motor fuel inventories on hand at the end of each month.

(b) Each dealer, fuel reseller and user must keep a complete record showing all amounts received from a supplier or the department for exempt sales or transfers and for credits or refunds for taxes paid.

(c) Each dealer, fuel reseller and user must preserve for three years from the due date, or the date the return was filed, whichever is later, all books and records required under this section. (Eff. 7/19/82, Reg. 83; am 11/14/82, Reg. 84)

Authority: AS 43.05.080 AS 43.40.050
AS 43.40.010 AS 43.40.085
AS 43.40.030 AS 43.40.100

ARTICLE 2. TAX REFUNDS AND CREDITS FOR FUEL RESELLERS

Section

100. Refunds and credits on certain sales or transfers of motor fuel

110. (Repealed)

15 AAC 40.100. Refunds and Credits on Certain Sales or Transfers of Motor Fuel. (a) If a fuel reseller makes a sale or transfer of motor fuel that is exempt under 15 AAC 40.020(b) and upon which motor fuel tax has been previously paid, the fuel reseller is entitled to a refund equal to the amount of tax previously paid on the resold fuel from the department. To receive a refund the fuel reseller must have on file a certificate of use from the buyer if a certificate of use is required by 15 AAC 40.030.

(b) If a fuel reseller makes a sale or transfer of motor fuel upon which the motor fuel tax has been previously paid and the tax paid exceeds the tax due on resale, the fuel reseller is entitled to a refund equal to the amount of tax previously paid less the amount of tax prescribed by AS 43.40.010.

(c) Instead of claiming a refund directly from the department, a fuel reseller who sells or transfers fuel that is exempt or is subject to a lesser tax on resale than that previously paid may elect with the express written consent of the supplier, to receive the refund or credit directly from the supplier. A claim for refund or credit must be supported by copies of the original invoices issued by the reseller and copies of certificates of use obtained under 15 AAC 40.030. When an election is made under this section, the supplier may claim the credit or refund from the department by adjusting the motor fuel tax return accordingly. To be effective, an election under this section must be submitted on a form prescribed by the department and

the department. When an election is properly made under this subsection, the supplier may claim the credit or refund from the department. To be effective an election under this subsection must be signed in quadruplicate by the reseller and by the supplier. The reseller and the supplier shall each file one copy of the election, with original signatures, with the department. The reseller and supplier shall each retain a copy of the election with original signatures for audit review by the department. If an election is made under this subsection, it may not be revoked without the express written consent of the supplier. (§ 6 ch 82 SLA 1982; am § 3 ch 87 SLA 1983)

Effect of amendments. — The 1983 amendment substituted "the requirements of AS 43.40.010(l) have been fulfilled" for "a certi

ficate of use is acquired under AS 43.40.010(l)" in the first sentence of subsection (a).

Sec. 43.40.040. Applications and permits for refund. [Repealed, § 45 ch 113 SLA 1980. For current law, see AS 43.40.050(a).]

Sec. 43.40.050. Refund claim by affidavit. (a) A person who claims a refund under AS 43.40.030 shall present the claim for the refund to the commissioner of revenue 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 machinery or equipment in which the motor fuel for which the refund is claimed was used. The claim shall be accompanied by each invoice issued to the claimant at the time the motor fuel was purchased. The commissioner may require any additional information which the commissioner considers necessary for the administration of this subsection.

(b) A claim for refund under AS 43.40.030 or 43.40.035 shall be filed within one year from the date of the purchase of the motor fuel as indicated on the invoice, and failure to file within the one-year period is a waiver of the right to the refund. A claim is considered to be filed when the claim is mailed or personally presented to an office of the department.

(c) A reseller who claims a refund or credit under AS 43.40.035 shall present the refund claim to the department or to the supplier of that reseller by affidavit on a form provided by the department. 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 the refund or credit. The claim shall be supported by documentation required by the department. (§ 4 ch 47 SLA 1955; am § 1 ch 139 SLA 1960; am § 37 ch 113 SLA 1980; am §§ 7 — 9 ch 82 SLA 1982)

Effect of amendments. — The 1980 amendment in subsection (a), changed a reference to this chapter at the beginning and at the end of the subsection, substituted the pre-

sent second sentence for the former material, which read: "with the information the commissioner requires"; and substituted "was" for "is" preceding "purchase" at the

end of the present third sentence.

The 1982 amendment substituted "under AS 43.40.030" for "as provided in AS 43.40.010 — 43.40.100" and "the claim for the refund" for "his claim" in the first sentence of subsection (a), substituted "the commissioner" for "he"

and "this subsection" for "AS 43.40.010 — 43.40.100" in the last sentence of subsection (a), inserted "under AS 43.40.030 or 43.40.035" in the first sentence of subsection (b), and added subsection (c).

Collateral references. — 53 C.J.S., Licenses, § 62.

Sec. 43.40.060. Separate invoices. The department may require the issuance of separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim. (§ 6 ch 47 SLA 1955)

Sec. 43.40.070. Refund warrants. Upon approval of a refund claim by the department, a warrant shall be drawn on the highway fuel tax account in the general fund in favor of the applicant in the amount of the claim. (§ 7 ch 47 SLA 1955; am § 5 ch 131 SLA 1962)

Sec. 43.40.080. Examination of books and records. (a) To determine the validity of a claim for refund, the department may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The department may cancel the refund permit of the claimant relying upon a fraudulent invoice for a period of not more than one year.

(b) [Repealed, § 46 ch 113 SLA 1980.] (§ 5 ch 47 SLA 1955; am § 46 ch 113 SLA 1980)

Effect of amendments. — The 1980 amendment repealed subsection (b).

Sec. 43.40.085. Preservation of books and records. Dealers and users shall preserve for three years all books and records pertaining to sales, transfers, and uses of motor fuel which are taxed under this chapter. (§ 5 ch 158 SLA 1970)

Sec. 43.40.090. Criminal violation. [Repealed, § 46 ch 113 SLA 1980.]

Sec. 43.40.100. Definitions. In this chapter

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by this chapter have not been paid;

(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

(A) fuel consigned to foreign countries;

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries;

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public;

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale;

15 AAC 40.050. Bonding Requirement for Qualified Dealer License. (a) An applicant for a qualified dealer license must file with the department a bond made payable to the department in an amount equal to twice the average monthly motor fuel tax remittance or in the amount of \$5,000, whichever is greater. The department will, in its discretion, accept a cash deposit or a bank letter of credit in the appropriate amount in lieu of a bond.

(b) In lieu of the requirements of (a) of this section, an applicant for a qualified dealer license may file a sworn statement in affidavit form stating that the applicant owns real property in the state equal in value to at least twice the average monthly motor fuel tax remittance, on which the motor fuel tax may become a first lien, and describing the property and the fair market value of the applicant's interest in the property. (Eff. 7/19/82, Reg. 83)

Authority: AS 43.05.080
AS 43.40.100

15 AAC 40.060. Revocation of Qualified Dealer License. (a) The department will, in its discretion, revoke a license issued under 15 AAC 40.040 if a licensee fails to comply with the requirements of AS 43.40.010 — 43.40.100 or this chapter.

(b) If the department determines a license should be revoked for failure to comply with the requirements of AS 43.40.010 — 43.40.100 or this chapter it will give the licensee 30 days' notice of a proposed revocation. If the basis for revocation still exists on the 30th day, the department will, upon notice of revocation to the licensee, revoke the license, unless an appeal under (d) of this section has been timely filed by the licensee.

(c) When a license is revoked under this section, the licensee may not apply for a new license until 60 days after the date of revocation. The date of revocation is the date on which the notice of revocation is issued.

(d) A person may appeal a notice of proposed revocation to the department. The appeal must be submitted to the department in person or by mail within 10 days of the date of issuance of the notice of proposed revocation. The department will hold a formal hearing on the appeal as prescribed by 15 AAC 05.030. The hearing officer will issue a written decision, and, if appropriate, a notice of revocation will be issued by the department. (Eff. 7/19/82, Reg. 83; am 11/14/82, Reg. 84)

Authority: AS 43.05.080
AS 43.40.100
AS 43.40.240

15 AAC 40.070. Records. (a) Each dealer, fuel reseller and user must keep a complete record by gallons showing

(1) all motor fuel inventories on hand at the first of each month;

(2) all motor fuel refined during each month;

(3) all motor fuel purchased, received or produced during each month, showing the name of the seller and the date of each purchase or receipt;

15 AAC 40.030. Certificate Requirements for Certain Sales. (a) Except as provided by (b) of this section, a dealer or fuel reseller who sells or transfers fuel that is exempt under 15 AAC 40.020(b) shall obtain an annual certificate of use from the buyer or transferee at the time of the first sale in each calendar year stating that the fuel that is purchased or received is not intended for use as motor fuel subject to tax under AS 43.40.010. A dealer or fuel reseller may use a certificate-of-use form prescribed or approved by the department.

(b) A certificate of use under (a) of this section is not required in support of an exemption under 15 AAC 40.020(b)(4), (6), (13) (15), and (16).

(c) In support of an exemption under 15 AAC 40.020(b)(5), the annual certificate of use must itemize and show the location of each tank or other facility which stores fuel used exclusively for heating commercial buildings and facilities.

(d) If a purchaser certifies in writing on a certificate of use that the use of the fuel purchased is for an exempt use and the purchaser subsequently uses the fuel for taxable purposes, that purchaser is liable for payment of the motor fuel tax.

(e) A certificate of use under this section must be signed by the purchaser or his or her representative. The certificate remains in effect unless revoked by the department or in writing by the purchaser, dealer, or fuel reseller. The dealer, fuel reseller, or user must retain a copy of each certificate of use required under this section for three years. (Eff. 7/19/82, Reg. 83; am 11/14/82, Reg. 84; am 8/12/84, Reg. 91)

Authority: AS 43.05.080 AS 43.40.050
AS 43.40.010 AS 43.40.085
AS 43.40.035

15 AAC 40.040. Qualified Dealer License. (a) In order to purchase or sell tax-exempt fuel as a qualified dealer under 15 AAC 40.020(b)(15), a person must apply for and obtain a qualified dealer license from the department.

(b) A person is eligible for a qualified dealer license if that person

(1) refines, imports, manufactures, produces, or blends motor fuel; or

(2) sells fuel at least 20 percent of which is for resale or for residential heating purposes or for a combination of these purposes.

(c) A license issued under (a) of this section is in addition to any other license required by law.

(d) The department will not issue a license to a person described in (a) of this section if there is reasonable cause to believe that the applicant has willfully withheld information necessary to determine eligibility for a license or if there is reasonable cause to believe that information submitted in the application is false or misleading. (Eff. 7/19/82, Reg. 83; am 11/14/82, Reg. 84; am 8/12/84, Reg. 91)

Authority: AS 43.05.080 AS 43.40.100

- (E) fuel used by charitable institutions;
- (F) fuel which is at least 10 percent alcohol by volume;
- (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;
- (K) fuel used for other nontaxable purposes as prescribed by regulations adopted by the department; or
- (L) fuel used in stationary power plants of 100 kw or less that generate electrical power for commercial enterprises not for resale;

(3) "qualified dealer" means a 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, who either

(A) purchases 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. (§ 48-5-1 ACLA 1949; am § 1 ch 56 SLA 1949; am § 9 ch 47 SLA 1955; am § 26 ch 70 SLA 1964; am §§ 6, 7 ch 158 SLA 1970; am § 1 ch 74 SLA 1972; am § 5 ch 116 SLA 1977; am § 10 ch 83 SLA 1980; am §§ 10 — 12 ch 82 SLA 1982; am § 4 ch 87 SLA 1983)

Revisor's notes. — Paragraphs (3) and (4) were renumbered in 1983 to achieve alphabetical order.

Effect of amendments. — The 1980 amendment added subparagraph (F) in paragraph (2).

The 1982 amendment, in paragraph (2), added subparagraphs (G)-(K); in paragraph (3) added the subparagraphs (A) and (B) designations, substituted "personal use" for "his own use" and deleted "or" from the end, in subparagraph (A), added "or" to the end of subparagraph (B), and added subparagraph (C); and added paragraph (4).

The 1983 amendment added paragraph (2)(L).

Secs. 43.40.110 — 43.40.120. Additional tax levy on transfers or consumption of motor fuel. [Repealed, § 8 ch 158 SLA 1970.]

Chapter 40. Motor Fuel Tax.

Article

1. Application of Tax
(15 AAC 40.010 — 15 AAC 40.070)
2. Tax Refunds and Credits for Fuel Resellers
(15 AAC 40.100)
3. Tax Refunds and Credits for Final User
(15 AAC 40.200 — 15 AAC 40.230)
4. (Reserved)
5. (Reserved)

- 6. (Reserved)
- 7. (Reserved)
- 8. (Reserved)
- 9. General Provisions (15 AAC 40.900)

ARTICLE 1. APPLICATION OF TAX

Section	Section
10. Tax return filing requirements	40. Qualified dealer license
20. Fuel subject to tax and exemptions	50. Bonding requirement for qualified dealer license
30. Certificate requirements for certain sales	60. Revocation of qualified dealer license
	70. Records

15 AAC 40.010. Tax Return Filing Requirements. Each dealer and each user must submit monthly to the department a return showing all motor fuel sold or transferred by the dealer or consumed by the user in the state, including all tax-exempt sales, transfers and uses. The return must be signed by the dealer or user under penalty of perjury and must show to whom fuel was sold or transferred and the reasons for any tax exemption. The return, supporting documentation, and the tax collected or accrued must be remitted by the last day of the month following the month the motor fuel was sold, transferred or used. One percent of the total monthly tax due and remitted, up to \$100, may be deducted and retained if the return is timely filed. (Eff. 7/19/82, Reg. 83; am 8/12/84, Reg. 91)

Authority: AS 43.05.080
AS 40.40.010

15 AAC 40.020. Fuel Subject to Tax and Exemptions.

(a) All motor fuel sold or transferred in the state or consumed by a user in the state is subject to the motor fuel tax under AS 43.40.010 — 43.40.100, unless exempted under (b) of this section. For purposes of AS 43.40.010 — 43.40.100 and this chapter, "motor fuel" is 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, including bulk or other transfers of fuel between producing, refining, importing or exporting companies and gasoline separated from a mixture of gasoline and alcohol that was not taxed in its combined state. All bulk sales of fuel to a person who uses a common storage tank servicing both taxable and nontaxable uses, except bulk sales of jet fuel to a person who exclusively flies directly from the state to a foreign country, are subject to the motor fuel tax under AS 43.40.010 — 43.40.100, but the portion actually used for nontaxable purposes is eligible for a tax refund upon application to the department.

(c) ~~(a)~~ Fuel meeting the following requirements is exempt from the motor fuel tax under AS 43.40.010 — 43.40.100:

(1) fuel sold to, transferred to, or used by United States, Alaska, or local government agencies for official use, except motor fuel sold to a contractor who purchases motor fuel either for its own account or as the agent of a government agency for use in the performance of a contract with that agency;

(2) fuel sold to, transferred to, or used by auxiliary military units for official use, not including fuel purchased by a volunteer member of an auxiliary unit for use in a private vehicle;

(3) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public;

(4) fuel used exclusively for a domestic purpose in single or multiple unit private dwellings including mobile homes, but not including watercraft;

(5) fuel sold exclusively for use for heating commercial buildings or facilities;

(6) fuel used in stationary power plants that generate electrical energy exclusively for private residential consumption;

(7) fuel used in stationary commercial power plants of 100 kw or less;

(8) fuel used by nonprofit power associations or corporations for generating electrical energy for resale;

(9) fuel used by charitable institutions;

(10) refined fuel 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;

(11) refined fuel transported as cargo out of the state on a vessel from a port in this state to a port outside this state, unless the fuel is purchased for use within state territorial waters;

(12) fuel consigned to foreign countries;

(13) fuel sold to, transferred to, or used on jet propulsion aircraft operating flights from the state to a foreign country, except flights to a foreign country, with intermediate stops within the United States;

(14) fuel which is at least 10 percent alcohol by volume;

(15) fuel sold to or transferred between licensed qualified dealers;

(16) actual losses of volume which occur during handling, transporting or storing motor fuel, including shrinkage and losses from fire and other accidents;

(17) additives that are used for improving existing characteristics of fuel, not including blended fuels; and

(18) fuel used for any other purpose which the department determines is not motor fuel as defined by AS 43.40.100(2) if the purpose is fully disclosed on the monthly motor fuel tax return.

(c) For purposes of (b)(1) and (2) of this section, "official use" does not include sales of fuel. (Eff. 7/19/82, Reg. 83; am 11/14/84, Reg. 84; am 8/12/84, Reg. 91)

Authority: AS 43.05.080
AS 43.40.010
AS 43.40.100

SEE BACK OF BOOKLET