

SR

366

SENATE COMMITTEE REPORT

FURTHER

DATE TURNED INTO OFFICE \_\_\_\_\_

2/3/88

Mr. President:

Finance

Committee considered

SB 366

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; efd and recommended

[ ] replace with \_\_\_\_\_ CS \_\_\_\_\_ ) [ ] same title  
[ ] or adopt \_\_\_\_\_ CS \_\_\_\_\_ ) [ ] new title

[ ] attached amendment(s) and

[ ] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to \_\_\_\_\_

[ ] letter of intent adopted \_\_\_\_\_

Committee [ ] attached or [ ] adopted fiscal note(s)

[ ] new [ ] updated or [ ] previous  
[ ] zero [ ] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

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\_\_\_\_\_  
Chairman signature and recommendation

[ ] Committee Backup attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: Finance

\*\*FISCAL NOTE(S) ATTACHED  \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

1/25/88  
Mr. President:

DATE TURNED INTO OFFICE \_\_\_\_\_

Resources \_\_\_\_\_ Committee considered SB 366

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; efd and recommended:

replace with CS \_\_\_\_\_  same title  
 new title

attached amendment(s) and

*majority*  
 do pass

do not pass

no recommendation

~~individual~~ individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted and attached

\*\* Committee  attached or  adopted fiscal note(s)  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*Kevin Finnerty*  
*Carliss Jurgens*  
*Paul Frisell*

*McKeasick needs amending*  
*Jim Duncan - No Rec*

*John Blumenthal*  
Chairman signature and recommendation

Committee Backup Attached

Introduced: 1/25/88  
Referred: Resources and  
Finance

5-1622B

1 IN THE SENATE

BY ZHAROFF

2 SENATE BILL NO. 366

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  
S

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.  
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STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: SB 366  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: February 1, 1988 Agency Affected: Revenue  
 Title: An Act establishing rebates for fuel used in watercraft outside the state. BRU: Income and Excise Audit  
 Sponsor: Zharoff Components: \_\_\_\_\_  
 Requestor: Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING         | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 |
|-------------------|-------|-------|-------|-------|-------|-------|
| 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     |
| LAND & STRUCTURES |       |       |       |       |       |       |
| GRANTS, CLAIMS    |       |       |       |       |       |       |
| M'SCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING   |       | 38.5  | 36.0  | 36.0  | 36.0  | 36.0  |

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| CAPITAL |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

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|---------|--|--|--|--|--|--|
| 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 : (Attach a separate page if necessary)

See attached.

Prepared by: Steven E. Kettel *Steven E. Kettel* Phone: 465-2320  
 Division: Income and Excise Audit Date: 2/1/88

Approved by Commissioner: J. Malone Date: 2/1/88  
 Agency: REVENUE

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

Prepared by Steven E. Kettel  
Director, Income & Excise Audit  
Department of Revenue  
February 1, 1988

### Analysis of SB 366

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 was based on the lack of a specific regulation, as well as some underlying lack of clarity in the law. 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.

SB 366 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 strongly opposed.

### Department's Position on SB 366

The Department opposes this legislation 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. We have no evidence 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.
- 6) A preliminary indication from the Department of Transportation & Public Facilities is that:
  - A) there are deferred maintenance costs on the order of three or four times the annual income from this source;
  - B) debt service costs alone for watercraft facilities exceed \$1,000,000 per year, without allowing for any new construction;
  - C) these refunds come directly from the highway fuel tax account and the Administration has legislation pending to increase these revenues.

**ALASKA STATE LEGISLATURE**

15th . . . Legislature 2nd . . . Session

SENATE . . . . . BILL . . . . . NO. 366 .

By . . . ZHAROFF . . . . .

"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."

Introduced in the Senate . . . 1/25 . . . . ., 19 88 . . . . .

**HISTORY IN THE SENATE**

19 88

Read first time and referred to Committee on

1 25

Resources, Finance

Reported back with recommendation that

2 2

*Res: 30 days, 1 month  
1 month amend  
FN - To Finance*

Read second time and

Read third time and

|         |                |
|---------|----------------|
| PASSED  | Effective Date |
| Yeas    | Yeas           |
| Nays    | Nays           |
| Excused | Excused        |
| Absent  | Absent         |

Reconsideration  
Reconsideration not taken up

|         |                |
|---------|----------------|
| PASSED  | Effective Date |
| Yeas    | Yeas           |
| Nays    | Nays           |
| Excused | Excused        |
| Absent  | Absent         |

Reported correctly engrossed  
Signed by President  
Sent to House

SECRETARY OF THE SENATE

**HISTORY IN THE HOUSE**

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

|         |                |
|---------|----------------|
| PASSED  | Effective Date |
| Yeas    | Yeas           |
| Nays    | Nays           |
| Excused | Excused        |
| Absent  | Absent         |

Reconsideration  
Reconsideration not taken up

|         |                |
|---------|----------------|
| PASSED  | Effective Date |
| Yeas    | Yeas           |
| Nays    | Nays           |
| Excused | Excused        |
| Absent  | Absent         |

Reported correctly engrossed  
Signed by Speaker  
Returned to Senate

CHIEF CLERK OF THE HOUSE

**HISTORY IN THE SENATE**

19

Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

..... by Governor

Chapter No. ....

Filed with Lt. Governor

**FISCAL NOTE**

**REQUEST:**

Revision Date: February 5, 1988 Agency Affected: Commerce & Econ. Dev.  
 Title: Establishing rebates for motor BRU: Division of Business Development  
fuel taxes  
 Sponsor: Cato Components: \_\_\_\_\_  
 Requester: \_\_\_\_\_

**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-   |       |       |       |

|         |     |     |     |  |  |  |
|---------|-----|-----|-----|--|--|--|
| CAPITAL | -0- | -0- | -0- |  |  |  |
|---------|-----|-----|-----|--|--|--|

|         |     |     |     |  |  |  |
|---------|-----|-----|-----|--|--|--|
| REVENUE | -0- | -0- | -0- |  |  |  |
|---------|-----|-----|-----|--|--|--|

**FUNDING: (Thousands of dollars)**

|               |     |     |     |  |  |  |
|---------------|-----|-----|-----|--|--|--|
| GENERAL FUND  |     |     |     |  |  |  |
| FEDERAL FUNDS |     |     |     |  |  |  |
| OTHER         |     |     |     |  |  |  |
| TOTAL         | -0- | -0- | -0- |  |  |  |

**POSITIONS:**

|           |     |     |     |  |  |  |
|-----------|-----|-----|-----|--|--|--|
| FULL-TIME | -0- | -0- | -0- |  |  |  |
| PART-TIME | -0- | -0- | -0- |  |  |  |
| TEMPORARY | -0- | -0- | -0- |  |  |  |

**ANALYSIS: (Attach a separate page if necessary.)**

No fiscal impact on this department

Prepared by: Paul Peyton, Project Manager  
 Division: Business Development

Phone: 465-2162  
 Date: February 5, 1988

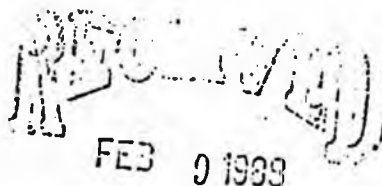
Approved by Commissioner: J. Anthony Smith  
 Agency: Department of Commerce and Economic Development

Date: 2/8/1988

**Distribution (by preparer):**

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

07850-2/020588a



HB 366