

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

April 3, 2003

1:35 p.m.

MEMBERS PRESENT

Senator John Cowdery, Chair
Senator Thomas Wagoner, Vice Chair
Senator Gene Therriault
Senator Georgianna Lincoln
Senator Donny Olson

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 112

"An Act increasing the motor fuel tax and repealing the special tax rates on blended fuels; and providing for an effective date."

HEARD AND HELD

PREVIOUS ACTION

SB 112 - No previous action to record.

WITNESS REGISTER

Commissioner Bill Corbus
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400

POSITION STATEMENT: Introduced SB 112 for the administration

Ms. Robin Wilson
Tax Division
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400

POSITION STATEMENT: Answered questions related to CSSB 112(TRA)

Mr. Richard Schmitz
Staff to Senator Cowdery
Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Answered questions about CSSB 112(TRA)

Mr. Pat Gamble
Chief Executive Officer
Alaska Railroad Corporation
PO Box 107500
Anchorage, AK 99510-7500

POSITION STATEMENT: Testified on SB 112

Mr. George Levasseuer
Department of Transportation &
Public Facilities
3132 Channel Dr.
Juneau, AK 99801-7898

POSITION STATEMENT: Supports SB 112

ACTION NARRATIVE

TAPE 03-12, SIDE A

CHAIR JOHN COWDERY called the Senate Transportation Standing Committee meeting to order at 1:35 p.m. Senators Therriault, Wagoner, Lincoln and Chair Cowdery were present. He announced the committee would take up SB 112 and that he asked Commissioner Corbus to testify first. He then announced that Senator Olson arrived.

SB 112-MOTOR FUEL TAX:GOVT AGENCY REFUNDS

SENATOR WAGONER moved to adopt a proposed committee substitute (CS) to SB 112, labeled version Q.

CHAIR COWDERY announced that without objection, the motion carried.

COMMISSIONER BILL CORBUS, Department of Revenue, told members that Robin Wilson, revenue auditor in the Tax Division, was also available to answer questions via teleconference. He commented:

Given the low tax rate on highway motor fuel in Alaska in comparison with other states, I urge you to agree that this legislation is a viable method of generating critically needed revenue in the short term until Alaskans are able to realize long-term revenues from resource development.

Why is this legislation necessary? SB 112 is a very necessary element of the Governor's overall budget and investment plan for fiscal year 2004. Governor Murkowski's primary mission is to build a robust growing economy and generate sufficient state revenues to fund programs and services that Alaskans need and expect. Passage of SB 112 will help ensure increased state revenues and may prevent the elimination or diminution of important programs and services.

What this legislation will accomplish - SB 112 will generate approximately 37.7 million in fiscal year '04. For the full fiscal year, this legislation will generate 41.1 million. This translates to over \$3 million to the state per month. It is time to increase the highway motor fuel tax rate. The current highway motor fuel tax rate in Alaska set 33 years ago in 1970 is 8 cents per gallon. Even at 20 cents per gallon with the passage of this legislation, Alaska will still be in the middle nationwide in excise tax rates on highway motor fuel. 22 other states have excise tax rates on highway motor fuel above 20 cents per gallon and many of those states add other taxes to highway motor fuel. In fact, 35 states have combined state and local motor fuel taxes higher than 20 cents per gallon, ranging from 21 cents per gallon to 38.7 cents per gallon.

To provide a perspective, according to the Federation of Tax Administrators of February 2002, the State of Washington highway motor fuel tax is approximately 23 cents per gallon and the national average of state and local gasoline tax is 22.9 cents per gallon.

This legislation will bring Alaska's highway motor fuel tax closer to the national average but still stay below the national average of nearly 23 cents per gallon. This will be the first increase in Alaska's highway motor fuel tax in 33 years. This is an essential component of the Governor's spending and investment plan for Alaska he recently submitted to you for your consideration. The Department of Revenue can and will efficiently administer the increased motor fuel tax as discussed in the department's fiscal note. I urge and appreciate your serious consideration of this legislation and ask you to pass it out of this

committee today with your support for its enactment this session.

COMMISSIONER CORBUS then said that Ms. Wilson could provide technical information pertaining to the administration of the motor fuel tax in general and about SB 112.

CHAIR COWDERY noted that Commissioner Corbus had a time constraint so he asked members to address questions to him at this time.

SENATOR OLSON said that Commissioner Corbus stated that this tax is necessary until revenues are realized from resource development and asked if this is a temporary tax until that time.

COMMISSIONER CORBUS said at this juncture there is no plan to reduce the tax that he is aware of. It is a permanent tax.

CHAIR COWDERY pointed out that the state did away with its income tax when it had extra revenue so hopefully the state will have enough revenue in the future to reduce this tax.

SENATOR LINCOLN said that the reasons given for the increase in the highway motor fuel tax are highway maintenance and new highway development. She asked how the commissioner is proposing to secure this tax for those purposes since funds cannot be dedicated.

COMMISSIONER CORBUS said there is no straightforward answer to that question: the tax revenues will be deposited into the general fund. The Governor has stated his intent that the tax revenue is to be used to help pay for maintenance of the road system.

SENATOR LINCOLN said she does not want the public to be deceived into believing that this tax will go into a dedicated fund. She then noted the committee substitute will remove the motor fuel tax exemption of the Alaska Railroad Corporation (ARRC) and asked the administration's position on doing that.

COMMISSIONER CORBUS said the administration has not taken a position on the proposal at this time.

SENATOR THERRIAULT asked how much revenue the existing 8 cent per gallon fuel tax generates.

COMMISSIONER CORBUS deferred to Ms. Wilson.

MS. ROBIN WILSON, Tax Division Auditor, Department of Revenue, replied that the total revenue generated from the motor fuel tax is approximately \$37 million at this time but that also includes aviation fuel and marine fuel. She offered to get members the exact number for highway vehicles after the meeting.

SENATOR THERRIAULT asked what the total revenues would be with the proposed increase.

COMMISSIONER CORBUS said for fiscal year '04 the amount will be \$37 million, but for a full year the increase should be \$41 million.

SENATOR THERRIAULT asked what the total current maintenance and operating costs are for the road system.

COMMISSIONER CORBUS said he would have to defer to the Department of Transportation and Public Facilities (DOTPF) for an answer.

SENATOR LINCOLN asked how, at eight cents per gallon, the revenues are \$37 million; yet increasing the tax by another 12 cents per gallon will bring it to \$41 million.

SENATOR THERRIAULT explained that the \$41 million is from the 12 cent per gallon increase so it is in addition to the \$37 million.

SENATOR LINCOLN pointed out that if at eight cents a gallon the revenue is \$37 million, an increase of 1.5 times would amount to about \$60 million.

SENATOR THERRIAULT explained that a portion of the \$37 million collected is for aviation and marine fuel, which will not have a 12-cent per gallon increase.

SENATOR LINCOLN asked how much the additional 12-cent tax would raise, if the \$37 million comes from highway, aviation and marine fuel taxes.

SENATOR THERRIAULT said that is the \$41 million. He stated the fuel tax rate increase would not apply to aviation or marine fuel.

COMMISSIONER CORBUS offered to get back to committee members with a detailed breakdown of the existing revenues received from all motor fuel taxes.

MS. WILSON interjected to say she located those numbers and stated:

Of the 37 million, approximately 27 million is used on the highway and then there's about six million marine fuel tax and another four or so on aviation. And so the numbers that Commissioner Corbus gave you would be the increase over and above that.

SENATOR THERRIAULT asked if once the tax is increased to 20 cents, the total revenue raised on a full year's worth of collections from motor fuel for highway vehicles will equal \$41 million plus \$27 million.

COMMISSIONER CORBUS said that is his understanding.

CHAIR COWDERY asked Mr. Schmitz to explain the changes made in the committee substitute.

MR. RICHARD SCHMITZ, staff to Senator Cowdery, told members the basic change between the original bill and version Q is that version Q requires Alaska Railroad Corporation (ARRC) to contribute funds into the fuel tax. After doing some research, he found out how much diesel fuel the railroad uses each year. The railroad has not paid tax on fuel in the past because it is a government agency. That issue is addressed on page 5, lines 15 and 16 and on page 4, lines 19 and 20. The language in those two places removes the railroad from the category of an agency that does not pay fuel tax. It also removes the exemption. Under the bill the new tax will be 20 cents per gallon with an 18 cents per gallon refund for certain situations, one example being for vehicles that are not used on the highway, such as backhoes. The bill exempts the railroad from the 18 cents per gallon refund.

CHAIR COWDERY added the railroad issue was raised by the trucking industry, which feels it is competing with the railroad. Recently Spenard Builders shipped a load of lumber from Seward to Anchorage and the railroad underbid the trucking industry on 200 loads. He believes it is a matter of fairness and introduced that provision. The revenue raised from the railroad will equal \$2 million. He asked Mr. Gamble to comment.

SENATOR LINCOLN noted that she asked Commissioner Corbus if the administration supports this bill because the Governor introduced it. Commissioner Corbus said the administration has not taken a position on it at this time. She asked Chair Cowdery if he worked with the administration.

CHAIR COWDERY said he notified the administration that he planned to include that provision in the bill.

MR. PAT GAMBLE, President and Chief Operating Officer of the Alaska Railroad Corporation (ARRC), said he would first speak to the diesel tax. ARRC believes this bill discriminates against the railroad in violation of the federal Railroad Revitalization and Regulatory Reform Act of 1976 because the bill will require the railroad to pay a substantially higher fuel tax than that paid by barges, ships and aircraft. Congress adopted that act for the express purpose of protecting the financial stability of the railroad industry by shielding railroads from discriminatory taxation. Several court case decisions from other jurisdictions have upheld that states may not impose a fuel tax on railroads that is greater than that imposed on other modes of transportation.

MR. GAMBLE said his second point is that ARRC believes it is an inappropriate application in that AS 43.40.010 pertains to tax collection for the construction and maintenance of airports, highways and port facilities. ARRC, a state agency, pays for all construction and maintenance costs of the rail bed. Therefore, ARRC would be at a direct competitive disadvantage because, unlike other transportation industries, ARRC would have to pay the tax to subsidize roads and pay to maintain its own tracks.

CHAIR COWDERY asked if the railroad crosses roads.

MR. GAMBLE said it does; roads have been built up and down the rail line long after the railroad was built. He said his third concern is that, as a state agency charged with making a profit, it is unusual for a state agency to tax another state agency. ARRC has looked at other states and found no other state that imposes a fuel or ticket tax on a state-owned railroad. By ARRC's count, of the 18 state-owned passenger railroads and 2 state owned freight railroads, none are taxed by their states. He said in terms of the financial impact, it is important to note that ARRC receives a considerable amount of federal funds, some directly appropriated from the FRA and others from FTA formula funds. ARRC leverages the FTA dollars considerably so that for every ARRC dollar, it receives \$9. Therefore a \$1.2

million tax, which would come off of ARRC's bottom line, would equate to a \$10 million loss in FTA funds. Those funds are authorized for every passenger-carrying railroad in the country.

CHAIR COWDERY asked, "On that point, Mr. Gamble, you mean to say that your expenses of operation of the railroad - whatever those expenses - denies you some federal funds?"

MR. GAMBLE explained if he did not have the capital dollars to provide for the match at the rate of 9 percent, he would be unable to pull in approximately \$10 million per year.

CHAIR COWDERY asked if ARRC made a profit of about \$8 to \$10 million last year.

MR. GAMBLE said it did, if the federal reimbursement figures are included. He noted if he includes the operating ratio of just the trains themselves and whether the train movements pay, ARRC's forecast for 2003 is about \$1.1 million from train operations. Therefore, a \$1.2 million tax would put ARRC in the red in terms of operating ratios for 2003. That will have two impacts. First, it will amount to \$10 million less in federal funds than ARRC can provide matching funds for. ARRC has a \$300 million capital improvement program. If ARRC's lenders see that ARRC is not making a profit on train operations, ARRC will have to explain itself to those lenders. ARRC has debt covenants that must be covered. He said for a multitude of reasons, ARRC would have to question the legality of the CS from the federal standpoint. In addition, the CS sends a mixed signal to the railroad in terms of what the state wants the railroad to do: does it want the railroad to be profitable on its own or does it want to tax off that profit as a disincentive? He pointed out that ARRC uses its profit to buy new equipment for employees, to offer competitive pay to employees, and to repair buildings.

SENATOR THERRIAULT asked Mr. Gamble to elaborate on the federal law that prevents a tax from being levied on a state owned railroad.

MR. GAMBLE said the common name of the act is the 4R Act or 49 U.S.C. 11501. It essentially says that this bill would discriminate against the railroad because it would require the railroad to pay a higher fuel tax at 20 cents per gallon than that paid by barges and ships and aircraft. He said Congress adopted this statute for the express purpose of protecting the financial stability of railroads by shielding them from

discriminatory taxation of this type. It would put them at a competitive disadvantage with other transportation modes.

SENATOR THERRIAULT pointed out the railroad pays no tax at this time while barges, ships and aircraft do. He asked if the railroad could be taxed at the same level as barges, ships and aircraft.

MR. GAMBLE said that it could, according to his understanding of the law. Barges and ships currently pay five cents per gallon while aircraft pay three cents per gallon.

SENATOR THERRIAULT asked, if the railroad was taxed, how ARRC would consider that in its rate setting methodology.

MR. GAMBLE said ARRC has not figured that out yet. He indicated that the last time ARRC tried to set rates on one of its passenger services it received quite a response from Talkeetna area residents. That service is a money-losing proposition that would lose even more money if the tax were imposed. Some of the railroad's break-even propositions would not be profitable and would add burden on to the railroad and take up line space. ARRC would have to do an analysis of all routes, including the export coal. ARRC is in negotiations right now to bring that service back on. ARRC's position has been to assume a rate that is virtually a break-even rate in order to get coal moving out of Alaska.

SENATOR THERRIAULT asked if ARRC calculated any numbers to determine the rates for the coal shipment.

MR. GAMBLE replied ARRC just began to do that when it saw more detail on the bill.

CHAIR COWDERY said he did not enter into this issue without some legal advice. He pointed out the railroad is a public corporation of the State of Alaska. It is a creature of state, not federal, law and is subject to the laws of the state. Under the Alaska Constitution, the real and personal property of the state and its political subdivisions is exempt from taxation except as provided by law. He noted that under that provision, the Legislature has the authority to determine whether and to what extent property of the state is subject to taxation. He said the federal Alaska Railroad Transfer Act does not appear to place any constraint on the ability of the state to impose taxes on ARRC. He stated that under the terms of that act, the revenues generated by the state-owned railroad should be

retained and managed by the state-owned railroad for railroad related purposes. He said, according to Senator Ted Stevens, that provision was intended to avoid the need for annual appropriations for the railroad from the state. He said, according to the legal opinion he received, he believes the state has the right to tax because the railroad is now a state entity. He pointed out the railroad is in competition with private industry, which must pay taxes. He said the railroad would have to raise its rates if it can't compete.

MR. GAMBLE commented that his legal advisors have told him that the state cannot preempt federal code so the outcome of this debate will most likely have to be determined in court. It would be ARRC's responsibility to carry that forward to get a determination.

CHAIR COWDERY agreed that is a likely outcome.

SENATOR WAGONER asked Mr. Gamble to restate his remark about the negotiations for the coal contract and the break-even rate.

MR. GAMBLE said he was using that as an example of a case whereby the railroad would take on an element of business with a very narrow operating margin. If ARRC had to include the cost of the tax, it could make the difference between a positive, neutral, or negative cash flow. Therefore, ARRC would have to do a segment analyses with the addition of the tax and determine, on a case-by-case basis, the cost for both passengers and freight. He was using that as an example of a segment where the operating ratio is very close to 1:1.

SENATOR WAGONER replied that is a major contract for such a close ratio because, in that case, the state is subsidizing the cost of transferring the coal so that a private entity can make a profit. He noted he has a problem with that.

SENATOR THERRIAULT referred to a document before committee members that shows the breakdown of the amount of fuels used by the railroad. He asked if the same 4R Act speaks to the taxation of fuels that the railroad uses in vehicles that drive on the road.

MR. GAMBLE said that ARRC has about 180 vehicles ranging from small pick-up trucks to large semi-tractor trailer trucks. ARRC has given an estimate of the approximate fuel purchase used for those vehicles and what the tax on them would amount to. He said the 4R Act does not apply to those vehicles. ARRC uses about

225,000 gallons for gas and diesel fuel each year for its 180 vehicles and has estimated a \$45,000 tax increase for them. He said ARRC has never tried to recover the taxes it has paid for fuel at the gas pump.

SENATOR THERRIAULT asked if ARRC is currently paying the \$45,000 in taxes.

MR. GAMBLE said that is correct.

SENATOR WAGONER asked if ARRC has published rates that it charges for most of the commodities that it transports or whether it negotiates each time it hauls an item.

MR. GAMBLE said that ARRC does both. It negotiates individually for small contracts but it might sign a contract that lasts a couple of years with a cruise ship company, for example.

SENATOR WAGONER asked if that would be for passenger travel.

MR. GAMBLE said that is correct. For freight, ARRC attempts to sign longer term contracts but many of them are very short. He indicated the Spenard Lumber shipment was a one-time opportunity and is an example of a short-term contract.

SENATOR WAGONER asked if ARRC has a published rate for shipping building materials but, in the example of Spenard when the amount is large, it negotiates an individual contract.

MR. GAMBLE was not sure what members meant by the term "published rate."

SENATOR WAGONER indicated that truck companies that transport freight have published rates.

MR. GAMBLE said he would have to check all of ARRC's rates and is reluctant to give an answer without doing so beforehand. He offered to get back to committee members with an answer. He said ARRC negotiates individual rates to a large degree but he cannot say there are no published rates.

CHAIR COWDERY informed Senator Wagoner that the Legislature has made attempts in the past to put the railroad under the Executive Budget Act to give the Legislature the ability to look at its records. He said one of those attempts came as close as one vote but, right now, the Legislature cannot look at the

books. He asked Mr. Gamble if the rates are proprietary information.

MR. GAMBLE said to his understanding, the Legislative Budget and Audit Committee can look at the books and reveal everything but proprietary information. He noted, "Of course, that is their interpretation so that's how I understand the audit process."

CHAIR COWDERY asked Mr. Gamble if he favors placing ARRC under the Executive Budget Act.

MR. GAMBLE said not under the current rules and directions that have been given to the railroad for its operations.

CHAIR COWDERY asked whether Mr. Gamble would determine whether to file a lawsuit if this legislation is enacted.

MR. GAMBLE said he is speaking to the committee without any direction from the ARRC Board of Directors or the third floor. He said he is trying to answer questions with no knowledge of the politics.

SENATOR WAGONER asked the cost, in fuel, to run a train round-trip between Anchorage and Seward empty one way.

MR. GAMBLE said he would have to get that information.

TAPE 03-12, SIDE B
2:21 p.m.

SENATOR THERRIault asked Mr. Gamble what effects a tax might have on the extension of the rail line through Canada and whether it would make the rail rates such that the railroad could not compete with barge traffic.

MR. GAMBLE said he believes the impact on the railroad is quite straightforward. That cost would simply come off of the bottom line. It is an expense that goes to the bottom line that is the function of a train-operating ratio that is close to 1:1. He said the state's charge to the railroad is to be profitable, as any private corporation. The state has equipped the railroad with tools to assist that profitability, including the fuel tax exemption. He said this legislation represents a change in attitude toward what the railroad was designed to be. He said a profitable railroad has been of great benefit to the state in more ways than just the \$1 million that would come from this tax. He repeated that it is quite important to understand the

leverage on each dollar that ARRC puts into its capital program is to the benefit of the State of Alaska. He said if ARRC gets \$10 million less as a result of the fuel tax that is \$10 million in terms of labor and supplies that will not go into the economy.

CHAIR COWDERY asked Mr. Gamble if he believes the State of Alaska would benefit if the trucking industry made a profit.

MR. GAMBLE said certainly. He said the railroad probably gets along with the trucking industry better now than during any other time, one reason being the truckers haul what the railroad can't and vice versa. He said the case of the Spenard Lumber is one where some overlap occurred but, in general, there is very little overlap.

CHAIR COWDERY pointed out that many of the truck companies have contracts with the marine companies to deliver vans but have no way to recover the cost of the fuel tax.

SENATOR LINCOLN referred to the on-road vehicles owned by ARRC, and said it gives her no heartburn to include those vehicles in the fuel tax but that amounts to only \$45,000. She noted Mr. Gamble said that ARRC has not sought reimbursement for those taxes and ARRC is working to eliminate fuel tanks in areas with retail fuel outlets. She asked if ARRC is an entity rather than a state agency.

MR. GAMBLE said that is correct; ARRC is an instrumentality of the state.

SENATOR LINCOLN referred to language on page 5, line 16, which reads:

...for the purposes of this subparagraph, the Alaska Railroad Corporation (under AS 42.40) is not a federal, state, or local government agency;

She said she is bewildered by why the legislation has to say ARRC is not an agency if that is already clarified in AS 42.40. She noted that Mr. Gamble pointed out, in ARRC's 2003 report to the Legislature, the Alaska Railroad is mandated to be a self-sustaining corporation required to conduct its business without operating subsidies from the state. She was unsure the exemption would be considered as a subsidy but expressed concern that the Legislature is considering giving the railroad a 500 foot right-of-way to extend to Canada. She said on one hand the Legislature

is pushing ARRC to do things while on the other it wants to take \$1.1 million of its operating budget.

CHAIR COWDERY interrupted to say that a committee member needed to leave and had a question of a Department of Transportation and Public Facilities (DOTPF) official.

MR. LEVASSEUER, State Maintenance Engineer, DOTPF, told members, in response to a previous question, that DOTPF spends about \$57 million of general fund dollars on state maintenance annually. DOTPF also spends another \$50 million from the general fund annually to match federal funds for the highway system.

SENATOR THERRIAULT calculated the state spends \$107 million per year but is raising \$27 million and said a dedicated fund is not necessary to steer all of that money into road maintenance because the state is already spending that much.

MR. LEVASSEUER said that is correct and there is a huge backlog of deferred maintenance projects on the highway system. He said the state's outlay is much greater than the anticipated revenue from the increased fuel tax. He then said DOTPF is getting further behind on the deferred maintenance projects each year. He pointed out the increase in the fuel tax is not intended to affect fuel for snow machine use, motor boats, or ATVs in the rural areas. He said the Department of Revenue plans to put into place a mechanism so that rural areas not connected to the road system will not pay that tax.

SENATOR THERRIAULT asked if the residents in those areas currently pay the 8 cents per gallon.

MR. LEVASSEUER said they do in most areas but they can get that money refunded.

SENATOR THERRIAULT asked if the refund is based on a signed affidavit saying the vehicle is used off road.

MS. WILSON gave an explanation of how the refund structure works. There are two different types of refunds. The first is for a situation in which the use is fully exempt, for example heating fuel. There are two refund mechanisms for that situation. The dealer that sells the fuel can choose to not charge the customer the tax and the dealer can file a claim for a refund. The other alternative is the dealer may charge the tax and the user then applies for a refund. There is no requirement that it be done one way or the other. That is not true with off-

road refunds, where the entire tax is not refunded; 6 of the 8 cents are. The dealer must collect the 8 cents and the user then applies for a refund of 6 cents. She said the refund must be claimed within the year of the purchase using a simple form.

CHAIR COWDERY announced his intention to hold SB 112 in committee today.

2:37 p.m.

SENATOR WAGONER asked in which areas of the state residents are eligible for the 6 cent off-road tax refund. He asked if that is for off-road vehicles statewide, so that a four-wheeler in Kenai would be eligible.

MS. WILSON explained the refund is available statewide for those types of vehicles. It also applies to any vehicle used on a highway that is not required to be licensed. Therefore, in a remote area, the state may not require vehicles to be licensed on local roads so a pick-up driven on that road would not pay the tax. The department does not have a list of the roads that are not considered to be public. Usually it is fairly apparent whether a road is connected to "public ways" or whether the road is for local use only. The department sometimes contacts the taxpayer or the locality for clarification.

SENATOR WAGONER said he questions why the state does that for 6 cents per gallon and whether it costs the state more to administer than the amount reimbursed.

MS. WILSON replied, "...I can't really speak to the thinking historically on that one. I know that probably the biggest off-road claimants are your construction companies, mining companies and so on that use a lot of what we consider to be off-road equipment."

SENATOR WAGONER said he was concerned about the four wheelers and the snow machines.

MS. WILSON said she does not know why the refund program was set up that way.

SENATOR OLSON asked for an estimate of how much of the tax collected is not refunded to eligible recipients every year.

MS. WILSON said the department does not have any way to measure the refunds that are not claimed.

SENATOR OLSON asked if a 100,000 gallon tank used each year in Hooper Bay would generate a \$6,000 refund.

MS. WILSON said that is correct.

MR. LEVASSEUER noted the current 8-cent tax was instituted in 1961. If it were adjusted for the CPI since that time, it would equal about 48 cents. At 8 cents, Alaska's fuel tax is the lowest in the nation. He said DOTPF and the administration strongly support passage of this bill.

CHAIR COWDERY said he recently saw prices of \$2.12 and \$2.19 cents per gallon in other states.

SENATOR WAGONER noted that Alaska is number two because Georgia's tax is 7.5 cents per gallon.

MR. LEVASSEUER pointed out that Georgia charges a sales tax on top of the 7.5 cents.

SENATOR LINCOLN reminded Chair Cowdery that her question to Mr. Gamble was not yet answered.

MR. GAMBLE said that Senator Lincoln touched a nerve and got right to the heart of the issue that ARRC is debating. ARRC is currently facing a number of initiatives set up by the Legislature, SB 112 being one, to change the original formulas that set up the railroad during the transfer. He said it is not his place to defend to the death against something the Legislature believes is for the betterment of the state. His job is to take the guidance within statute and make sure that ARRC upholds that guidance. However, ARRC gets caught between a rock and a hard place when some of the developmental and more risky undertakings that the railroad might participate in clash head-on with what is necessary for the railroad to maintain a healthy bottom line and the appropriate ratios that go with that. He said if ARRC is to do that, it is dependent on the elements of the original formula, such as not being taxed, being indemnified and being able to use its land for revenue. Those are the reasons the railroad has been successful. If the Legislature wants to change those elements, ARRC wants to look at the unintended consequences carefully because ARRC's current success means the original formula was a good one. He said if ARRC is penalized for its success by giving away its bottom line to the general fund as opposed to continually allow ARRC to put its

profits back into the railroad, he would caution the alternative plan is not as good as the original one.

MR. GAMBLE said the weight of a freight train directly relates to the maintenance of that line. ARRC puts its profits into maintaining its rail line - no one else pays for that. ARRC will do an analysis on maintenance to make sure ARRC can move the freight and passengers. He hopes if the rail line is extended, that formula would pertain as it has for the last 17 years. He said his best technical and business advice is that the existing formula is a good one and by:

...messing with it, we're going to pull a thread on this fabric that's going to start to unravel. I guarantee you that once the thread gets pulled, it's just simply human nature, back to the well and try it again and try it again in the future. I would just simply counsel that it would be a shame to see the railroad ultimately become more and more of a ward of the state when, in fact, for the most part, you don't have to worry about us right now in terms of our health and welfare...."

SENATOR WAGONER asked Mr. Gamble to include the annual number of passengers and the costs for those trips when he sends the fuel consumption information.

MR. GAMBLE agreed to do so.

SENATOR WAGONER asked how much ARRC's fuel costs increased in the last year and how it passes that cost on to its customers. He pointed out that he owned a home improvement center and had products of various weights hauled. He said if the truck company had a fuel cost increase, it automatically added a fuel surcharge to its rates. He asked if ARRC does the same thing.

MR. GAMBLE said it does partially. For example, it can apply a surcharge to its maritime traffic that arrives via barge. However, it cannot apply a surcharge to its passenger operations in which it has contracts with the cruise ship companies and it does not apply a surcharge when moving petroleum products from the refinery to Anchorage. ARRC's rates are set such that it cannot apply a surcharge in that case.

SENATOR WAGONER asked if ARRC is then eating increased fuel costs.

MR. GAMBLE said he would not say that, because ARRC has a very complicated contract with Williams [refinery] regarding fuel and fuel price increases or decreases that works for both parties. It is a hedge. ARRC buys futures with Williams for fuel as well. ARRC works that in an entirely different way than it does for barge traffic for which it simply applies a surcharge. He said ARRC does not apply a surcharge for passenger traffic.

CHAIR COWDERY noted that Mr. Gamble said ARRC would be unable to recover a 12 cent increase in the fuel tax. He asked, "But haven't fuel prices [gone] up at least that in the last year? And you absorbed that somehow and it probably will go back down, we hope."

MR. GAMBLE said ARRC did absorb some of that increase, just like it absorbs other cyclical expenses. He said a few times the cost of fuel increased and then decreased so quickly ARRC could not even apply a surcharge. However, to the degree ARRC can apply a surcharge to a portion of its railroad business, it will.

CHAIR COWDERY noted the trucking industry is faced with the same problem. It has contracts to deliver vans and if this tax is implemented, it cannot recover those costs until those contracts come up for renewal.

MR. GAMBLE agreed and said to the degree all of the fuel taxes are pooled and some of it comes back to ARRC to help maintain the rail line, ARRC could sit down and look at that. ARRC wears down the rail line with trains and ARRC pays for it. If none of the tax increase will go toward rail line maintenance, ARRC will have to "eat" that cost.

CHAIR COWDERY noted that ARRC made a profit last year while some of the trucking industry did not. He then announced he would hold the bill in committee for another hearing.

MR. GAMBLE thanked members for the opportunity to testify and agreed that ARRC made a profit last year, but if real estate revenue weren't included, the train operations would have been very marginal.

CHAIR COWDERY announced he was holding SB 112 in committee and then adjourned the meeting at 2:55 p.m.