

HOUSE FINANCE COMMITTEE
July 28, 2008
9:18 A.M.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [9:18:26 AM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair
Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Richard Foster
Representative Mike Hawker
Representative Mike Kelly
Representative Mary Nelson

MEMBERS ABSENT

Representative Harry Crawford
Representative Les Gara
Representative Reggie Joule
Representative Bill Thomas Jr.

ALSO PRESENT

Representative John Coghill; Representative Bryce Edgemon;
Representative Kyle Johansen; Randall Ruaro, Special
Assistant, Office of the Governor

PRESENT VIA TELECONFERENCE

Johanna Bales, Deputy Director, Tax Division, Department of
Revenue; Clyde (Ed) Sniffen Jr., Assistant Attorney General,
Civil Division, Department of Law

SUMMARY

HB 4004 An Act suspending the motor fuel tax; and
providing for an effective date.

HB 4004 was HEARD & HELD in Committee for further
consideration.

#HB4004
HOUSE BILL NO. 4004

An Act suspending the motor fuel tax; and providing for
an effective date.

[9:19:15 AM](#)

RANDALL RUARO, SPECIAL ASSISTANT, OFFICE OF THE GOVERNOR, explained that the proposed legislation would suspend the motor fuel tax for one year, helping a broad range of Alaskans. He stated that this help would not create a new bureaucracy, and would benefit nearly every Alaskan, as most consumer goods are shipped by plane, boat, barge, or truck. The tax suspension applies to the fuel necessary to ship goods.

Mr. Ruaro explained that the fuel tax suspension benefits three major industries: the fishing industry (commercial and charter,) the aviation industry, and the transportation industry. He added that the bill is one of several efforts to assist fishermen at state and federal levels. The State Division of Investments is also offering low-interest loans to fishermen to install fuel-efficient engines. He felt the bill would provide a significant benefit to coastal communities. He stated that airports would also benefit from the suspension. Regionally, there are a number of rural communities that can only be reached by air. He added that the trucking industry and barge lines would also benefit.

Mr. Ruaro acknowledged that the bill is not perfect, but predicted that with the competitive market moving to mass transit, the tax suspension would be passed onto consumers. He hoped that there could be additional language allowing consumers to benefit from the suspension.

[9:24:24 AM](#)

Representative Hawker pointed out the lack of assurance that the reduction would be passed on to the consumers. He argued that the competitive market place would not pass it on. He wanted assurance that the relief would be passed on to the consumers.

Mr. Ruaro referenced a study from the Massachusetts Institute of Technology (MIT), stating that in the year 2000, a six month fuel tax suspension by Indiana and Illinois provided 60% - 80% savings for the consumers. He recounted a conversation with one large Anchorage retailer who believes that the savings will absolutely be passed on to the consumers. He recommended working with the Department of Law to determine ways to pass on the suspended tax. He stated that there were a range of options, which could include consumer protection and civil fines.

[9:27:09 AM](#)

Representative Hawker countered that the state could see 20% - 40% inefficiency or waste factor if the MIT study was correct. Mr. Ruaro acknowledged that the MIT study did indicate a potential waste.

Representative Hawker stated that the original bill was a twelve month suspension. He observed that CSHB 4004 (L&C) only discusses 12 consecutive calendar months immediately following the month of the effective date. He wanted to see a definitive calendar end. Mr. Ruaro agreed that the language change in the House Labor and Commerce committee substitute made sense, because it allows flexibility as to when the tax suspension will actually start. Mr. Ruaro stated that the administration was generally comfortable with the H(L&C) language.

[9:29:09 AM](#)

Representative Hawker asked if the bill were effective immediately, was there enough time for vendors to accommodate the change. Mr. Ruaro did not know for sure. He understood that vendors would have until the end of the month to make the change. Representative Hawker worried about the date. He informed that his experience as an accountant working with fuel excise accounting, taught him that "government had caused problems for fuel vendors with the unintended consequences of otherwise well meaning actions."

Mr. Ruaro offered to coordinate with the speaker on the transmittal timing of the bill, if it passes, so that the coordination is most useful to the vendors. Representative Hawker observed that coordination Mr. Ruaro spoke of would place the responsibility onto the legislature.

[9:30:48 AM](#)

Representative Hawker asked why all motor fuel sales invoices in the state were necessary.

JOHANNA BALES, DEPUTY DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE testified via teleconference. She stated that the reason for the required sales invoices deals with the tax division's reporting requirements for the Federal Highway Administration. She informed that she is required to report the amount of fuel used on the highway in order to maintain the funds that the federal government provides to the state of Alaska. As part of the motor fuel program, there are sales of motor fuel and there are claims for refunds. The Department of Revenue would need to know who the gasoline was sold to in order to determine how much fuel was actually used on the highway. The sales invoices provide the ability to make an estimate.

[9:32:43 AM](#)

Representative Hawker pointed out that, historically, the vendor submits sales invoices only on "use conversion and

tax exempt sales." Ms. Bales responded that vendors place all the information together in a report for the purpose of claiming a refund. She continued that a claim for refund requires all documentation including all original invoices. The invoices will now come from the distributors, since there won't be a need to file a refund claim if there is no motor fuel tax.

Representative Hawker clarified that the statute requires every person in the fiscal year that precedes the suspension to submit a monthly report showing all sales or transfers of gasoline, diesel, and aviation fuel. He thought that the gathering of this information would be difficult for the small independent retailer. Ms. Bales responded that retailers are not required to provide the information because they are not qualified dealers; only at the distributor level, are invoices necessary. She agreed that it does appear onerous; however, the information would satisfy the federal highway requirement.

Representative Hawker understood, but pointed out the ambiguity of the term "qualified dealer" within statute. Ms. Bales clarified that the provision states that the person subject to AS 43.40.10(c) is only the qualified dealer meaning that a retail establishment was not subject to that statute. Representative Hawker felt that there must be a better way to accomplish the goal.

[9:37:47 AM](#)

Co-Chair Chenault asked for clarification on who collects the tax. Ms. Bales explained that the tax is collected by the distributor from the retailer.

Co-Chair Chenault expressed concerns about the legal ramification of dropping the tax and the effect on federal highway funds. Ms. Bales informed that the change would have no effect on the federal highway funds, if the state provides the estimated amount of fuel used on the highway.

Co-Chair Chenault asked if distributors and wholesalers are required to provide the state information on fuel sales that were not required in the past. Ms. Bales replied that yes, they would have to attach their invoices to the returns, which would be a change for the distributors.

Co-Chair Chenault warned about the increased labor costs to wholesalers and distributors. Ms. Bales acknowledged the change for distributors, but stressed that claimants would no longer have the same reporting requirement in order to get the tax back from the state.

Co-Chair Chenault asked about potential political ramifications, on the federal level, concerning the

viewpoint of Alaska's decision. Mr. Ruaro answered that while the potential for judgment exists, the legislation might also be viewed as Alaska helping itself, as opposed to seeking federal relief from the high fuel taxes.

[9:43:02 AM](#)

Co-Chair Meyer asked if other states were reducing the amount of fuel tax collected. Mr. Ruaro affirmed, thirteen other states have suspended the motor fuel tax.

[9:43:58 AM](#)

Vice-Chair Stoltze mentioned the proposed amendment to prohibit local governments from adding on to the fuel costs during the time of the proposed fuel tax suspension. He hoped to also add language for the home heating fuel legislation.

Mr. Ruaro commented that the concept of state taxes set at a certain rate versus a percent tax that grows as the price grows was something that he had run across in his research. He agreed that the percent tax could have a larger impact. Vice-Chair Stoltze thought it could be an extra 15-30 gallons on a bulk fuel purchase. He stated that the issue is serious. He asked if there an increase would be passed to the consumer with the eight cent tax. Ms. Bales explained that distributors have stated that the mark up included the tax. She expected that without the tax, but with a particular percent markup by the retailer, the amount passed through to the consumer should be more than eight cents per gallon.

[9:49:59 AM](#)

Co-Chair Meyer asked how the eight cents would be passed on to the consumer. He understood that the intent of the legislation with the motor fuel tax suspension was that the benefit would be communicated to the consumer.

CLYDE (ED) SNIFFEN JR., ASSISTANT ATTORNEY GENERAL, CIVIL DIVISION, DEPARTMENT OF LAW testified via teleconference. He pointed out one idea, which required retailers to put a sticker on the pump notifying consumers about the eight cent fuel tax suspension. He continued that a failure to post the sticker would be a violation of the state's unfair trade practice act, which would result in a \$5,000 fine. Illinois adopted this requirement, and as referenced by the MIT study, 60% -80% of the savings was passed on. He thought that the solution was to put pressure on the retail gasoline station owners to pass the savings on, and if they don't they could have potential class action lawsuits. He supposed it could be difficult to verify that the savings is passed on to the consumer, without a very expensive investigation

and audit. He recommended spot checking the retailer's records, but noted potential problems. Another idea was to provide positive media publishing of those retailers who made a pledge to pass on the savings, encouraging them from a marketing standpoint.

[9:55:07 AM](#)

Co-Chair Meyer asked if these potential requirements/incentives should be included in the bill itself, or would it be done by regulation. Mr. Sniffen pointed out that regulations always take time and that inclusion would be the best way. He noted that amendments have been drafted that incorporate the ideas.

Representative Hawker did not agree that a sticker on a pump would work to control the price. Vice-Chair Stoltz expressed belief that it would work.

Co-Chair Meyer stated that in the more competitive markets, like Anchorage, it could happen. However, he questioned the effectiveness of the sticker in the rural areas. Mr. Ruaro agreed.

Co-Chair Meyer commented that the urban areas are where the bulk of people in the state live. Vice-Chair Stoltze pointed out that there are vendors who will absolutely pass the savings on because of their own social consciousness. He thought that market forces will drive the costs.

[9:59:03 AM](#)

Representative Kelly stated that the reduction of tax is one of the easiest things that the state can offer. He did not agree, however, with requiring the display of a sticker communicating the tax suspension. He concurred that the books will not be audited, due to cost and time. He felt that there are many retailers that are sensitive to the increased fuel costs.

Co-Chair Meyer was concerned with taxing when the funds are not needed by the state. He wondered about the effect on rural Alaska. He asked if the tax is currently paid when the fuel was purchased. Ms. Bales clarified that the retailer pays the tax when they make purchases from the wholesaler. Ms. Bales pointed out that the largest fuel use in rural Alaska is for home heating, which is exempt from tax. Rural communities have other issues with the high cost of fuels. The tax suspension is focused on the large urban communities.

[10:04:45 AM](#)

Co-Chair Meyer referenced the difficulty of auditing for the sake of ensuring that the tax savings is passed on. Ms. Bales agreed that it would be difficult because when the retailers purchase the fuel, they receive an invoice with the total cost of the fuel in addition to the tax add-on. She continued that whatever mark up they used would indicate whether or not they passed the savings on. She argued that the retailers could in fact have some other costs associated with the mark up. The Tax Division would have to make assumptions as to why the savings was not passed on to the consumer. She stated that at the retail level, the tax is not an additional mark on; as it is with sales tax where the consumer is always aware of the tax add on.

Mr. Ruaro commented on the benefits to rural Alaska in the form of reduced marine fuel costs for fishermen as well as airline services.

[10:07:28 AM](#)

Co-Chair Meyer asked about the mark up on motor fuel at the retail level. Mr. Ruaro had "read some articles indicating that the margin is pretty slim" and that they work off a volume basis.

Co-Chair Chenault asked if there had been calculations on the actual savings to an individual consumer. Ms. Bales responded that the savings would be around \$100 dollars per year for her personally.

Co-Chair Meyer thought it would help the trucking companies who purchase a lot of fuel, by lowering the price for shipping goods and services statewide.

Vice-Chair Stoltze referenced the transportation costs and thought that the consumers had not yet absorbed those increased costs, due to long term government contracts. Mr. Ruaro agreed, pointing out that there are a number of independent truckers that will see the benefits from tax suspension right away.

Vice-Chair Stoltze asked Mr. Ruaro, regarding the marine fuel, if his interest was prompted by the petition from fishing groups. Mr. Ruaro stated he had been researching the potential benefits to the fishing industry and charter fisherman before the petition.

Vice-Chair Stoltze requested a response to his fishing petitions. He stated that the petitions were not seeking money, but instead sought fair treatment.

[10:12:24 AM](#)

Co-Chair Chenault acknowledged that heating fuel in rural Alaska was not taxed and asked if fuel for electric generation was taxed. Ms. Bales said it was not taxed.

Representative Hawker stated concern that the state will be sacrificing "good policy for bad politics".

HB 4004 was HEARD & HELD in Committee for further consideration.

ADJOURNMENT

The meeting was adjourned at 10:15 AM