

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 26, 2010

3:26 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Mark Neuman, Vice Chair
Representative Mike Chenault
Representative Bob Lynn
Representative Tammie Wilson
Representative Robert L. "Bob" Buch

MEMBERS ABSENT

Representative Lindsey Holmes

COMMITTEE CALENDAR

HOUSE BILL NO. 245

"An Act relating to licensure as an optometrist; establishing a retired status optometrist license; and providing for an effective date."

- MOVED HB 245 OUT OF COMMITTEE

HOUSE BILL NO. 340

"An Act relating to municipal sales or use taxes on motor fuels; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 245

SHORT TITLE: LICENSING FOR OPTOMETRY

SPONSOR(S): REPRESENTATIVE(S) THOMAS

04/18/09	(H)	READ THE FIRST TIME - REFERRALS
04/18/09	(H)	L&C, FIN
02/26/10	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 340

SHORT TITLE: MUNICIPAL SALES OR USE TAX ON MOTOR FUEL

SPONSOR(S): REPRESENTATIVE(S) OLSON

02/10/10 (H) READ THE FIRST TIME - REFERRALS
02/10/10 (H) L&C, FIN
02/26/10 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

KACI SCHROEDER HOTCH, Staff
Representative Bill Thomas, Jr.
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 245 on behalf of the prime sponsor, Representative Bill Thomas, Jr.

JILL GEERING, Optometrist; Chair
Board of Examiners in Optometry
Department of Commerce, Community, & Economic Development
(DCCED)
Juneau, Alaska

POSITION STATEMENT: During the discussion of HB 245, answered questions.

KONRAD JACKSON, Staff
Representative Kurt Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 340 on behalf of the prime sponsor, Representative Kurt Olson, and answered questions during the discussion of HB 340.

DOUG ISSACSSON, Mayor
City of North Pole
Office of the Mayor
North Pole, Alaska

POSITION STATEMENT: Testified during the discussion of HB 340.

KATHIE WASSERMAN, Executive Director
Alaska Municipal League (AML)
Juneau, Alaska

POSITION STATEMENT: Testified during the discussion on HB 340.

ACTION NARRATIVE

[3:26:34 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee to order at 3:26 p.m. Representatives Buch, Lynn, T.

Wilson, and Olson were present at the call to order. Representatives Chenault and Neuman arrived as the meeting was in progress. Representative Herron was also in attendance.

HB 245-LICENSING FOR OPTOMETRY

[3:27:08 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 245, "An Act relating to licensure as an optometrist; establishing a retired status optometrist license; and providing for an effective date."

[3:27:20 PM](#)

KACI SCHROEDER HOTCH, Staff, Representative Bill Thomas, Jr., Alaska State Legislature, on behalf of the prime sponsor, Representative Bill Thomas, paraphrased the sponsor statement, which read [original punctuation provided]:

HB 245 makes some necessary changes to the licensure criteria for optometrists in this state.

Currently, Alaska has three levels of licensure for optometrists:

- 1.) Basic License (no pharmaceuticals)
- 2.) License with Pharmaceutical Endorsement (in-office eye drops)
- 3.) License with Pharmaceutical Prescription and Use Endorsement (prescribing authority).

The Board of Optometry would like to have a standard level of care that everyone receives from optometrists. Therefore, some adjustments need to be made in statute to require the highest level of care.

HB 245 brings Alaska statutes in line with current educational levels. Students graduating from optometry schools within the last five years have already received the level of education necessary to obtain a license at the highest level currently provided in Alaska. Further, most licensed optometrists in Alaska have already obtained the level of education necessary for the highest level of licensure. There are only a handful of people who have not received that education and most of these optometrists are nearing retirement age. These optometrists would be issued a restricted

license which would allow them to continue to practice but still not allow them to provide services that go beyond their level of education.

The level of education required in HB 245 has been standard in most optometrist schools across the country and older optometrists have already obtained this level of education on their own. Many states are currently working on or have already passed similar legislation. Our citizens deserve the most current and highest level of care possible; allowing the licensure of optometrists with less than the standard education levels puts our citizens at risk. HB 245 remedies this problem by standardizing the licensure requirements for optometrists in Alaska.

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MS. SCHROEDER HOTCH presented a section-by-section analysis of HB 245. Section 1 outlines the education requirements required for licensure, including that the applicant must pass written exam, and complete course work on ocular diseases, pharmaceutical agent injections, or other course work outlined by the board. Section 2 would allow an applicant to retake the exam if he/she previously failed the exam. Section 3 would require applicants for licensure by credential to possess a license from a state that has licensure requirement equivalent to Alaska, to pass the Alaska state exam, as well as the National Board of Examiners of Optometry's exam.

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MS. SCHROEDER HOTCH explained that Section 4 relates to renewal of licenses, including that licensees must meet the minimum number of continuing education, consisting of 8 hours related to prescription of pharmaceutical agents and 7 hours related to injection of non-topical therapeutic pharmaceutical agents, and meet other requirements outlined by the board through regulations. Section 5 would establish the status of retired license, which does not need to be renewed, and can be reactivated upon application and upon meeting continuing education requirements.

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MS. SCHROEDER HOTCH explained that Section 6 and 7 would remove references to certain classes of licenses that are being

eliminated. Section 8 would provide transition for a person who is not currently licensed at the highest level of optometry licensure to continue to practice until he/she has met the additional education requirements. Section 10 would establish an immediate effective date.

[3:30:34 PM](#)

REPRESENTATIVE BUCH referred to Section 3, and inquired as to whether this would require applicants to pass a national exam.

MS. SCHROEDER HOTCH answered yes.

REPRESENTATIVE BUCH asked whether the board referred to in the bill is the state board.

MS. SCHROEDER HOTCH answered yes. The board referred to in HB 245 is the State Board of Examiners in Optometry.

[3:31:25 PM](#)

REPRESENTATIVE BUCH referred to Section 8, to the grandfather clause and asked for clarification.

MS. SCHROEDER HOTCH referred to page 5 of the bill. She explained that an optometrist who did not wish to upgrade his/her license could opt for a restricted license.

[3:32:17 PM](#)

CHAIR OLSON asked for an estimate of the number of optometrists who would be grandfathered in and would not choose to upgrade their licenses.

MS. SCHROEDER HOTCH anticipated that 25 people would be affected by this section of the bill.

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REPRESENTATIVE LYNN asked for clarification on the term "injectables." He recalled his own personal eye surgery and an injection he received.

MS. SCHROEDER HOTCH deferred to Ms. Geering to discuss injections.

[3:33:10 PM](#)

REPRESENTATIVE T. WILSON referred to page 2, line 23 of HB 245, noting that an applicant could retake a portion of test, but that the bill would require applicants to retake the entire examination.

MS. SCHROEDER HOTCH deferred to Ms. Geering to answer the question.

JILL GEERING, Optometrist; Chair, Board of Examiners in Optometry, explained that injections, such as the one Representative Lynn described, would rarely be used. She remarked that the reason to leave the language in the bill is to allow for expansion of the technology and techniques, emphasizing that the current use of injections is limited.

[3:35:00 PM](#)

REPRESENTATIVE LYNN asked about injections performed for routine cataract and laser surgeries.

DR. GEERING advised that those types of procedures would be performed by an ophthalmologist. The optometrists are not asking to expand their practice to include surgery or other procedures.

[3:35:36 PM](#)

REPRESENTATIVE NEUMAN asked for the definitions of optometrist and ophthalmologist.

DR. GEERING explained that an ophthalmologist attends medical school and completes a residency in ophthalmology and is also a medical doctor (MD). An optometrist attends a four-year optometrist's program in an Optometry school, with an optional one year of residency, resulting in a Doctor of Optometry, or OD designation. The primary difference between an ophthalmologist and an optometrist in Alaska is that only an ophthalmologist can perform surgery. The differences vary from state to state since optometrists are licensed by each state. In Alaska, optometrists are allowed to prescribe topical drops, oral medications, treat glaucoma, and perform superficial injections.

[3:36:57 PM](#)

REPRESENTATIVE NEUMAN related his understanding that HB 245 would affect an optometrist, but not an ophthalmologist.

DR. GEERING agreed.

REPRESENTATIVE NEUMAN referred to page 2, line 31, of HB 245, and asked which schools are recognized by board.

DR. GEERING related that the Alaska Board of Examiners for Optometry currently places a list of approved schools into its regulations. She clarified that the board recognizes 13 or 14 Optometry schools in the U.S. and Canada. The Alaska Board of Examiners in Optometry does not recognize programs from other countries since the programs are not accredited for optometric education in the U.S.

3:38:40 PM

REPRESENTATIVE NEUMAN asked whether the board has ever denied anyone licensure.

DR. GEERING did not recall anyone ever being denied in the six years that she has served on the board. In further response to Representative Neuman, she recalled that all of the applications she has reviewed have been for candidates who graduated from a U.S. school, which possess more stringent programs than the programs in most foreign countries.

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REPRESENTATIVE T. WILSON asked for the reason that applicants retaking the exam would have to take the entire text instead of a portion of the exam.

DR. GEERING explained that previously the Board of Examiners in Optometry administered its own test, but now the board accepts the national examination so this technically cleans up the language to reflect that applicants take the national exam.

3:40:30 PM

REPRESENTATIVE BUCH referred to the zero fiscal note attached to the bill. He asked whether board members would be compensated for attending board meetings.

DR. GEERING responded that the Board of Examiners in Optometry (BEO) is comprised of four optometrists and one public member. The BEO meets two times a year, once face-to-face, and once by teleconference. She said the BEO may actually result in a negative fiscal note since under HB 245 the level of licenses

changes. Currently, applicants can apply for one of three levels of licensing, with each level having different requirements for licensure. She remarked that this can be confusing to applicants. Thus, the DCCED's staff must spend considerable time with applicants and in issuing the endorsements for each level of license. However, the number of times the board will meet will not change.

[3:43:24 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 245.

[3:43:28 PM](#)

REPRESENTATIVE NEUMAN moved to report HB 245 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 245 was reported from the House Labor and Commerce Standing Committee.

[3:43:58 PM](#)

The committee took an at-ease from 3:43 p.m. to 3:46 p.m.

HB 340-MUNICIPAL SALES OR USE TAX ON MOTOR FUEL

[3:46:56 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 340, "An Act relating to municipal sales or use taxes on motor fuels; and providing for an effective date."

KONRAD JACKSON, Staff, Representative Kurt Olson, Alaska State Legislature, paraphrased the sponsor's statement, which read [original punctuation provided]:

House Bill 340 would limit the sales tax charged by municipalities on gasoline and diesel, when used as motor fuel on Alaska's highways, to \$0.08 per gallon.

As the price of gasoline increases, consumers suffer with an ever increasing sales tax liability. When the price of gasoline in my community was at its highest, nearly \$4.70 per gallon, my constituents were paying nearly \$0.30 per gallon in sales tax.

This flat sales tax on a gallon of fuel will provide a small savings at lower price points. If prices increase in the future, consumers will see even greater savings.

In cities within a borough, both the city and the borough would be able to charge the flat tax. This would mean a maximum sales tax of \$0.16 per gallon.

While this cap will lower many municipalities' tax revenue at high fuel prices, at low prices it will mean higher revenue.

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CHAIR OLSON clarified that this bill refers to a flat tax.

MR. JACKSON explained that this bill would not cap the tax on home heating fuel, but is specific to motor fuel, gasoline or diesel fuel, which is used on the roadway. This would provide relief to consumers at the pump when prices are high. When prices are low, municipalities could collect additional sales tax than collected under the current tax mechanism. He related a scenario in which the current gas price in the Mendenhall Valley cost approximately \$3.00 per gallon, of which about \$.14 per gallon represents the sales tax. With the passage of this bill, the consumer would save \$.06 per gallon on sales tax. The current sales tax collected is in addition to the \$.26 per gallon in state and federal taxes.

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REPRESENTATIVE NEUMAN asked how HB 340 would affect home heating oil and whether this proposal would be limited to transportation fuel taxes.

MR. JACKSON explained that HB 340 is specific to motor fuel. He referred to page 2, line 4, of HB 340 which read: "...gasoline or diesel fuel of the type used in cars, trucks, and other motor vehicles that are driven on roads ..." Thus, the targeted fuel is the fuel from the pump at the local gas station, not the fuel delivered to homes for heating purposes.

REPRESENTATIVE NEUMAN asked whether municipalities currently have the ability to tax non-transportation fuels.

MR. JACKSON responded that the municipalities which collect a sales tax collect the tax on all commodities sold. He noted that some municipalities also specifically charge a transfer tax on fuels. For example, Adak collects a \$.02 per gallon fuel transfer tax. He related that the fuel transfer taxes are collected in three communities, although he acknowledged he may have missed some.

REPRESENTATIVE NEUMAN asked whether a statewide list of municipal taxes is available for motor fuel taxes.

MR. JACKSON explained he obtained information from the Legislative Research Services titled, "Table 1: 2008 Municipal Sales Tax, Special Tax and Revenues." He offered his belief that the taxes listed include home heating fuel, groceries, and gasoline.

REPRESENTATIVE NEUMAN asked whether the intent of the proposed bill is not to place a tax on home heating or transportation fuels.

MR. JACKSON answered no. He explained that the intent of HB 340 is to cap the taxes on motor fuel used on highways at \$.08 per gallon. The bill would not apply to home heating or fuel used in boats, he stated.

REPRESENTATIVE NEUMAN asked whether some communities charge more than \$.08 per gallon tax for a combined sales tax and fuel tax.

MR. JACKSON answered yes.

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CHAIR OLSON offered to provide members with the chart being referred to by Mr. Jackson. He recalled that under HB 340, in the past five and a half of seven years that the municipalities would have gained income. He explained that the past two years would only have had a slight impact on municipalities. He offered his belief that the windfall of high prices was not built into the municipal budgets. He stated that his constituents have complained their motor fuel costs are much higher than in Anchorage, which is largely due to the sales tax. Secondly, his constituents have also complained that Soldotna's costs are higher than elsewhere.

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REPRESENTATIVE NEUMAN recalled many constituents commented on when the state temporarily repealed the \$.08 motor fuel tax.

CHAIR OLSON pointed out that should consumers fill up their boat fuel tanks at the gas pump, that the taxes on recreational gas would also be capped at \$.08 per gallon.

REPRESENTATIVE NEUMAN commented that the bill would not affect "colored" fuel sold.

CHAIR OLSON stated his intent is not to move HB 340 today to allow for further testimony.

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REPRESENTATIVE T. WILSON remarked that the City of North Pole currently charges a 4 percent sales tax. She asked for the impact this bill would have on smaller communities. She expressed concern that a cap could adversely affect the smaller communities like North Pole, with a population of approximately 2,000 people.

MR. JACKSON stated that he received a letter from the City of North Pole. He agreed that many communities have not yet weighed in on the bill. He thought many communities currently have a cap on sales tax, such as the Kenai Peninsula Borough. He offered that this bill would lower the cap.

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REPRESENTATIVE T. WILSON asked for the highest tax on fuel in the state.

MR. JACKSON answered that Wrangell has a 7 percent sales tax.

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CHAIR OLSON added that some taxes are assessed "in the Bush" by non-governmental organizations, such as a tribal council or a village council. He remarked that the fees assessed could be significant, up to several dollars per gallon. However, this bill would not affect those charges since they are not taxes.

REPRESENTATIVE T. WILSON related that the organizations do not call the additional amount a sales tax.

CHAIR OLSON explained that the attorney general's office is reviewing the additional costs assessed. He stated that he was not able to find a way to incorporate those additional charges into the bill. He remarked that the fuel distributors would prefer to have the RCA regulate them since they have been blamed for the higher price of fuel. The prices can vary from village to village, he stated. He also anticipated a report would be forthcoming from the attorney general's office.

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REPRESENTATIVE T. WILSON inquired as to whether the amount would stay at \$.08 per gallon until someone changed the bill, or if a mechanism is built into the bill.

MR. JACKSON agreed that the tax cap would remain at \$.08 per gallon since the bill does not have a sunset clause.

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REPRESENTATIVE CHENAULT advised that the Kenai Peninsula Borough currently charges a three percent sales tax on fuel. He surmised that the majority of the cities charge about the same. He related that under the current system, a person who purchases fuel in the City of Kenai would pay about \$.21 per gallon under the proposed tax system. He asked whether the City of Kenai would only be able to collect \$.08 cents per gallon, and the KPB would only collect \$.08 per gallon for a total of \$.16 per gallon sales tax on motor fuel.

MR. JACKSON agreed.

4:01:49 PM

REPRESENTATIVE CHENAULT remarked that the bill would not drop the tax back down to zero. He agreed that the KPB may estimate the cost of the fuel when preparing its budget. He recalled gasoline costs rose to \$4.75 per gallon. He stated the fuel taxes were never intended to provide a windfall for municipalities, noting that this bill would also help consumers.

4:02:50 PM

REPRESENTATIVE LYNN asked whether municipalities would ask the legislature for additional revenue sharing and if this bill would just shift the cost to the state.

CHAIR OLSON surmised that since the fuel increases were not anticipated, that the amount is not built into municipal budgets. He recalled that fuel costs briefly were as high as \$4.99 per gallon. He related that communities lost the potential of receiving extra sales tax, but since their budgets were not based on the increased tax revenue, that they would only lose the opportunity to collect the additional sales tax. He recalled observing people drive the Seward Highway with up to sixty gallons of fuel in five gallon cans which he presumed had been filled in Anchorage to avoid paying extra fuel tax.

[4:04:33 PM](#)

REPRESENTATIVE NEUMAN recalled the legislature received requests for reimbursement of up to the \$150,000 in exemptions for senior housing.

REPRESENTATIVE BUCH related that the consumer does not have an adequate mechanism to control the pass through costs to consumers. He recalled when the motor fuel tax was temporarily repealed that when the tax was reduced to \$.03 per gallon, the costs quickly increased by \$.04 per gallon. He restated that the state does not have mechanism to control pass through costs to consumers. He appreciates the bill sponsor's efforts, but stated that he would like long-term solutions to fuel costs as well as for "the intent of motor fuel tax reductions" to be offered at the pump.

[4:06:21 PM](#)

DOUG ISSACSSON, Mayor, City of North Pole, Office of the Mayor, stated that his office was just informed of this bill. He applauded the sponsor for exploring ways to reduce the cost of living for residents throughout Alaska. He paraphrased from his written comments, as follows [original punctuation provided]:

3. However, I question the efficacy of this action for at least two reasons:
 - a. First, if you, as the Legislature, are seeking to lower cost at the pump for consumers, why not start by lowering the fees charged by the State to the refineries.
 - i. I understand this is a complex issue that, owing to market factors and the laws of

supply and demand, ultimately may not achieve the discount you are seeking.

b. Second, although you have the right to limit a tax imposed by a local community, should you exercise it and thus usurp the local voters' ability to regulate commerce within their community?

i. It is my belief that the sales tax is one of the few taxes most municipalities have to generate revenues and therefore should be regulated at the local municipal level where the voters have the ability to debate the merits of the tax face to face with their representatives.

ii. To set an arbitrary limit on municipalities is, in my estimation, a slippery slope. Factual data, the presence of repressive taxation or abuse, or other compelling factors should be used as the basis for the State government's intervention or overruling a municipality's control.

1. I have not received calls from legislative staffers requesting information on the impact of this bill, except this morning by District 11 Representative Tammie Wilson;

2. I have not heard that the gas station operators have complained to the legislature;

3. I have not heard of numerous complaints by residents--if gas prices are too high in North Pole, they vote by going to Fairbanks to fill up. If too many people vote in this manner, the tree gas stations in North Pole would respond either by lowering their prices or complaining to City Hall about a repressive taxation regime that limits their competitiveness.

5. So what is the effect to North Pole, or to consumers in North Pole?

- a. North Pole charges a 4% retail sales tax, four cents on the dollar capped at \$8.00 (eight dollars) a transaction.
- b. North Pole has a manual tax reporting that relies on the veracity of the company reporting. We are a minimally staffed municipality and do not perform frequent audits.

4:11:04 PM

- c. The three gas stations are owned by two entities: Petro Star operates two facilities, one with a convenience store attached; Tesoro operates the third, also with a convenience store attached.
 - i. There is no distinction, at this time, in reporting sales from gasoline or diesel, or bubble gum and pop.
 - ii. There is a distinction, due to the separate category, in taxing alcohol.
- d. Because there is no reporting break-out, and owing to the lack of time to adequately compile the numbers, we do not know how significant the impact will be to the City of North Pole.
- e. However, a corollary may be that from September 2008 to September 2009 the City Council authorized a sales tax suspension on heating oil.
 - i. Remember, retail sales tax is capped at \$8 per transaction equal to a \$200 purchase.
 - ii. A typical fill-up might be 100-200 gallons, which due to price fluctuations could exceed the \$200/\$8 cap, whereas most purchases for fuel might be closer to the 10-20 gallon range and be considerably lower than the cap.
 - iii. We gauged that by suspending the tax on heating oil deliveries, a monthly fuel

delivery with an \$8 tax would save a consumer \$96 per year (\$8 per month).

- iv. Overall, the City lost approximately \$25,000 in revenue during that period.
- v. There was no public demand to keep the suspension, even with two council meetings where it was considered (a thirty day period) and the tax was re-instated.

5. I would ask the sponsors, and this committee, to not pass this out of committee until factual data from the affected municipalities can be collected and the real impact/savings can be determined.

4:16:03 PM

CHAIR OLSON clarified that the valley gas prices referred to earlier are the Mendenhall Valley gas prices.

REPRESENTATIVE NEUMAN related that Representative T. Wilson provided information and is doing a good job for her constituents.

4:16:56 PM

KATHIE WASSERMAN, Executive Director, Alaska Municipal League (AML), referred to the tables in the materials provided from the Legislative Research Services, noting that the lists contain municipalities. She clarified that none of the ones listed as are communities, but are actually municipalities. She recalled living in Pelican, with fuel sold by the tribal entity, and while the entity did not have the ability to tax, it could raise the price on products.

CHAIR OLSON agreed, relating that the costs were sometimes excessive.

4:18:21 PM

MS. WASSERMAN stated that she called many communities for input on HB 340. She related that while she did not find any community in full support of the bill, some members of an assembly wanted to consider this approach as an option. Many remote municipalities were opposed to the concept of a tax cap

on motor fuel since fuel prices are very high in rural communities. Since the rural communities do not have any method to reduce fuel costs, the municipalities would lose potential sales taxes when tax caps would be imposed. This bill would have a large impact on a community, yet it would not save individual members very much. She did not have a unanimous viewpoint on behalf of communities, but suggested that AML believes that communities should have an option to choose whether to implement a tax cap.

MS. WASSERMAN said that she favored local control, which has been AML's "top message" for the legislature. She also commented on the ease of working with the sponsor's staff on this issue even though the AML was somewhat in opposition to the bill.

[4:21:01 PM](#)

CHAIR OLSON commented that it was important to hold a hearing on HB 340 in order to have the issues discussed. He pointed out that the state has significant problems with high prices on motor fuel taxes, especially on fees attached to commodities that are not taxes, but represent a type of surcharge.

[4:22:12 PM](#)

CHAIR OLSON announced that HB 340 would be held over.

[4:22:40 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:22 p.m.