

HOUSE FINANCE COMMITTEE
April 7, 2014
8:45 a.m.

8:45:05 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 8:45 a.m.

MEMBERS PRESENT

Representative Alan Austerman, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Bryce Edgmon
Representative Les Gara
Representative David Guttenberg
Representative Lindsey Holmes
Representative Cathy Munoz
Representative Steve Thompson
Representative Tammie Wilson

MEMBERS ABSENT

Representative Mark Neuman, Vice-Chair
Representative Mia Costello

ALSO PRESENT

Jane Pierson, Staff, Representative Thompson;
Representative Pete Higgins, Sponsor; Deb Erickson,
Executive Director, Alaska Health Care Commission; Kris
Curtis, Legislative Auditor, Alaska Division of Legislative
Audit; Dr. Ward Hurlburt, MD, Chief Medical Officer,
Department of Health and Social Services; Thomas Studler,
Staff, Representative Higgins.

PRESENT VIA TELECONFERENCE

Matt Fonder, Director, Tax Division, Department of Revenue.

SUMMARY

HB 314 PASSENGER VEHICLE RENTAL TAX

HB 314 was HEARD and HELD in committee for further consideration.

HB 376 EXTEND ALASKA HEALTH CARE COMMISSION

HB 376 was HEARD and HELD in committee for further consideration.

SB 119 BUDGET: CAPITAL

SB 119 was SCHEDULED but not HEARD.

SB 178 PASSENGER VEHICLE RENTAL TAX

SB 178 was SCHEDULED but not HEARD.

#hb314

HOUSE BILL NO. 314

"An Act relating to the application of the passenger vehicle rental tax; and providing for an effective date."

[8:46:01 AM](#)

REPRESENTATIVE THOMPSON, SPONSOR, introduced HB 314. He recounted that the legislature passed the rental vehicle tax in 2003 in order to help offset the costs for road repair and maintenance. Since passage of the legislation, the statute was amended three times due to the law's impact on Alaskans. He indicated that the bill clarified that the tax only applied to passenger recreational vehicles as defined in AS 43.52.010.

JANE PIERSON, STAFF, REPRESENTATIVE THOMPSON, provided a sectional analysis of the current transportation version of the bill:

(1) Section 1 Amends AS 43.52.010 and consolidates two existing sections, regarding the terms "recreational" and "passenger" into one section. Except for the tax rates, the factors are the same for both types of vehicles.

(2) Section 2 Amends AS 43.52.010 by reducing the term from 90 days to 28 days, for which a lease or rental is exempt from the rental vehicle tax. It also

clarifies that all renewals and extensions of a vehicle lease are included when determining if a lease is more than 28 days and, therefore, exempt from the rental vehicle tax, as long as no time has lapsed between the initial end date and the period of extension.

Ms. Pierson noted that the changes aligned with the current contracts used by rental companies and that most visitors rent cars for less than twenty-eight days.

(3) Section 3 Amends AS 43.52.020 to again consolidate the terms "recreational" and "passenger" to better organize the statute. This section clearly states that passenger vehicles are taxed at 10% and recreational vehicles are taxed at 3%.

(4) Section 4 Repeals AS 43.52.030 and AS 43.52.040 because they are no longer needed due to the changes made in Sections 1 and 3 together.

(5) Section 5 Provides for an immediate effective date.

Ms. Pierson furthered that two sections were removed from the current version. One section decreased the gross vehicle weight from 8,500 pounds to 6,500 pounds. The change increased the fiscal note because light weight pick-up trucks and some models of sport utility vehicles (SUV) fell into the weight class and were rented as passenger cars. She added that another change pertained to reducing the rental term from 90 days to 28 days. Some business vehicles were leased along with heavy equipment used on the North Slope or for mining and weren't driven on public roads. Decreasing the lease period excluded the vehicles involved in business to business leases. She noted that the provisions were supported in written testimony.

Representative Holmes recalled that last year the legislature dealt with the tax on leased motorcycles. She asked whether the bill affected leased motorcycles.

Ms. Pierson replied in the negative.

Representative Gara stated that he liked the legislation and understood the purpose of the bill. He supported addressing the problem for vehicle rentals between Alaska

business to Alaska business and the language regarding recreational and passenger vehicles. He cited page 1, line 12:

(1) the initial lease or rental contract is for a period of 28 days or more;

Representative Gara deemed that 28 days was not the appropriate alternative to solve the problem. He indicated that many Alaska visitors came for longer than 28 days and should pay the tax. He suggested crafting different language that applied an exemption if the rental was for the purposes of work with another Alaska business and not for recreational purposes.

Ms. Pierson replied that the twenty-eight day time period was chosen because it was the shortest amount of days in a month and the shortest term of a commercial lease. She stated that the bill had "gone through multiple iterations." She shared a brief summation of the issue. She cited a letter from British Petroleum (BP) (copy on file). She cautioned that a criminal investigation was underway around the issue which created ethical challenges during discussions of the legislation. The business rental vehicles were not driven on state maintained or public roads but were being taxed. The situation was problematic for the Department of Revenue (DOR) because they did not have a way to determine the end use of the lease. Industry was receiving tax notices for the rentals. She was unaware of companies that collected the tax, and did not submit the revenue to the state, but if the scenario happened criminal charges should ensue. She discerned that the situation was problematic for when taxes were not paid for vehicles destined for the North Slope due to the description of "highways" in statute. She noted that statutes contained three different definitions of highway. Two of the definitions included roads having public access and public maintenance. One other definition contained in AS 19.59.001 described highway as follows:

(8) "highway" includes a highway (whether included in primary or secondary systems), road, street, trail, walk, bridge, tunnel, drainage structure and other similar or related structure or facility, and right-of-way thereof, and further includes a ferry system, whether operated solely inside the state or to connect

with a Canadian highway, and any such related facility;

Ms. Pierson wondered whether the question of how to interpret what a public highway was would be best addressed by the Department of Revenue. She read the passenger vehicle tax statute:

The passenger vehicle is a motor vehicle as defined in AS 28.90.990 that is driven or moved on a highway or other public right-of-way of the state.

Ms. Pierson concluded that the issue was "hard to define."

[8:56:48 AM](#)

Representative Gara mentioned the zero fiscal note.

Ms. Pierson pointed out that the fiscal note; FN1 (REV) was indeterminate for changes in revenue. She related that the changes reflected in the legislation resulted in a minimal reduction in the vehicle rental tax collected. A costly fiscal note was associated with the previous version of the bill. The weight restriction provision alone lost approximately \$750 thousand in revenues for the state.

Representative Gara asked whether a business to business rental would pay the rental for the first 28 days.

Ms. Pierson replied in the affirmative. She added that a business vehicle rented for less than 28 days on the North Slope would also be taxed according to DOR.

Representative Gara referred to page 1, line 12. He deduced that if the rental was longer than twenty-eight days the leasee would qualify for a refund for the initial twenty-eight days. He wondered why the initial 28 days was exempted from the tax.

Ms. Pierson disagreed and stated the provisions in the bill specify the conditions of exemption for a lease over twenty-eight days. She read the conditions [page 1, line 12 through page 2, line 5]:

(1) the initial lease or rental contract is for a period of 28 days or more;

(2) the initial lease or rental contract is in writing; and

(3) the lease or rental contract is not terminated before the expiration 1 of 28 days.

(c) An extension of a lease or rental that is exempt under (b) of this section is exempt if the extension is agreed upon before the expiration of the initial 28-day lease or rental period and there is no break between the initial period and the period of the extension.

Ms. Pierson noted that some vehicles arrive at the North Slope and never leave.

Representative Gara requested clarification. He pointed to the conditions on [Section 2] page 1, lines 11 through 14 and page 2, lines 1 through 5 [listed above] and ascertained that the lessee was exempt from the initial 28 day period if the conditions were met. He recommended inserting a provision that the lessee was not exempt from the initial twenty-eight days of tax accrual.

Co-Chair Stoltze agreed with the need for clarity. He recollected the floor debate on the original bill and stated that there was not debate about the legislation affecting leased North Slope vehicles.

Co-Chair Austerman expressed hesitancy regarding the language. He requested clarity on Section 2.

MATT FONDER, DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE (via teleconference), relayed the departments interpretation that if the vehicle was initially rented for at least 28 days all of the tax, including the initial twenty-eight days was exempted. He understood that the total exemption was the intent of the bill.

Co-Chair Austerman asked whether a recreational vehicle (RV) that was rented for thirty days was exempted from the tax.

Mr. Fonder replied in the affirmative.

Representative Gara stated that many tourists rent vehicles for time periods of thirty days or more. He suggesting adding the following language to the provision on page 1,

line 11: "...starting on the 29th rental day." The tax for the initial twenty-eight day period would not be exempted.

Representative Thompson stated that the suggested language defeated the purpose of the legislation. He voiced that the bill was modeled after the bed tax collected in the state. The bed tax was waived if the visitor stayed over 30 days and was not collected for the first thirty days. He believed that the provision "would change the whole picture of the bill."

Representative Holmes asked why the ninety day period from the initial bill was shorted to twenty-eight days.

Co-Chair Stoltze interjected that the twenty-eight day period was chosen due to the fear of unintended consequences.

Ms. Pierson clarified that the twenty-eight day period attempted to address the Alaska businesses leasing vehicles to other Alaska businesses rental issue but capture the original intent of the bill aimed at tourism. She indicated that the Alaska business vehicle rentals were mostly long-term contracts and that the shortest business leases were 28 days long based on the shortest month of the year. The language in the bill was taken directly from DOR's regulations. She would welcome committee suggestions to find "a better way" to write the bill.

[9:08:11 AM](#)

Representative Holmes understood the issue and wasn't suggesting that the initial twenty-eight day period should be taxed, but she expressed concern that the twenty-eight day period was too short. She noted the statutes cited in Section 1: AS 43.52.010 and Section 2: AS 43.52.010 and reported the lack of subsection (a), which did not conform to the original statute. She asked for clarity.

Ms. Pierson deduced that the omission was probably a drafting error.

Representative Guttenberg relayed personal rental experience regarding taxation. He believed that "there wasn't any way around... the difference between extensions of a few days versus not having to pay any of the tax." He

wondered whether the intent of the bill could be met under any situation.

Ms. Pierson stated that she was open to suggestions for solutions.

Co-Chair Stoltze understood that a considerable amount of vetting occurred between the sponsor and DOR. He suggested that Commissioner Rodell testify on the issue. He wanted to avoid any further "unintended consequences" with any proposed solutions.

Representative Munoz asked what the amount of the business to business tax collected annually was.

Ms. Pierson replied that the total annual rental car tax collected was \$7 million. She remarked that DOR had no way to determine where the vehicles were located in the state, which made it difficult to bracket the tax. She believed that differences in the legislative intent affected implementation of the tax throughout the years. She hoped the original intent regarding passenger vehicle rental car use on Alaska's roads could be accomplished with the legislation.

Representative Munoz suggested deleting the word "passenger" and focus on recreational vehicles.

Ms. Pierson stated that deletion of "passenger" would exempt every single rental car. She referred to AS 43.52.099 that defined passenger vehicle and read:

(2) "passenger vehicle" means a motor vehicle as defined in AS 28.90.990 that is driven or moved on a highway or other public right-of-way in the state, but does not include...

Ms. Pierson stated that the sponsor could not find proper language for an additional exclusion.

Co-Chair Stoltze wanted the discussion to focus on the equity issue, intended purpose, and whether it was good policy.

Co-Chair Austerman expressed similar concern about the legislation opening a loophole in the law allowing a person renting RV's to avoid paying taxes. The leasee would merely

have to extend the contract before the twenty-eight day period expired.

Ms. Pierson suggested dividing the sections and keeping the recreational vehicles in a separate category. She would confer with DOR on the language.

Co-Chair Austerman understood the issue, but felt that the bill did not meet the intention of the legislation.

Representative Gara addressed the underlying purpose of the legislation. He commented that most of the real Alaskan businesses bought its own vehicles. If the legislation was focused on the oil industry, he did not believe the industry needed another tax break. The legislature spent a lot of time debating oil tax breaks last year. He voiced that the "state was in the red" and he was not comfortable with that aspect of the bill.

HB 314 was HEARD and HELD in committee for further consideration.

Co-Chair Stoltze commented that the leasing agencies were the "broader concern" of the legislation. Alaskan businesses were in a "precarious" state with the uncertainty of the law pertaining to lack of enforcement and collection.

#hb376

HOUSE BILL NO. 376

"An Act extending the termination date of the Alaska Health Care Commission; and providing for an effective date."

9:18:26 AM

REPRESENTATIVE PETE HIGGINS, SPONSOR, introduced the legislation. He discussed that health care costs in the state were high and noted the importance of the Alaska Healthcare Commission. The commission was established to address affordability and access to healthcare and to identify strategies for improving the health of all Alaskans. He stressed the importance of the commission in gathering information, which enabled the legislature to make more informed decisions on the issue and recommended the commission's extension.

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, stated that the sunset review of the commission was performed on May, 2013. The purpose of the audit was to determine whether the commission was serving the public's interest and whether the sunset date should be extended. Background information on the commission was included on page 5 of the report because the audit was the first sunset review of the commission. The commission was established by administrative order in 2008 and re-established in statute in 2010. The legislature intended that the commission accomplish reform by developing a statewide health plan. The original commission believed that it was not its responsibility to develop a statewide plan and instead focused on making specific policy recommendations. In 2010, the commission decided to continue the prior commissions work and collected information for various cost studies, developed high level policy recommendations, and established general priorities, which evolved into a strategic framework. The strategic framework was included in the audit report as "Appendix A." The audit concluded that the commission operated in the public interest but improvements in the development of a state health plan was necessary to justify its continued existence. She reiterated that the legislature proposed that the commission develop a comprehensive health care plan in conjunction with the Department of Health and Social Services (DHSS).

Ms. Curtis continued that although various policy recommendations were developed the commission failed to develop a statewide health plan and collaborate with DHSS. The audit recommended a three-year extension allowing adequate time to develop a comprehensive plan. The audit concluded that the commission was active, conducted several studies, and developed the foundation of a plan. The framework lacked components necessary for implementation: specific actions were not identified, no timeframe for completion, no entities responsible for action was identified, no definitions of successful outcomes were included, or plans for measuring progress. The audit further concluded that without a health plan the commission may not affectively change healthcare in the state. The audit recommended that the commission coordinate with the commissioner of DHSS to identify agencies roles and responsibilities in developing a plan and initiate development of the plan. She identified additional administrative recommendations to improve the noticing of

public meetings and to ensure that annual reports included all statutorily required elements.

Co-Chair Stoltze questioned the criticism that the commission was not coordinating with DHSS "when a top DHSS official was heading the commission."

Ms. Curtis stated that the department only partially concurred with the audit's findings. The department considered that the commission's progress was much closer to a comprehensive plan. She agreed that the commission was active and the foundation was complete but reiterated that what was developed did not meet the requirements of a plan and more coordination with the department was necessary to achieve the outcome.

Representative Wilson wondered why the audit recommended a three-year extension instead of a one year extension due to failure to develop the plan.

Ms. Curtis stated that the recommendation was a collaborative effort with the commission and the department, who concluded that three years was necessary to bring a plan forward. She explained that the issues were complex and that although much work was accomplished more was needed in order to establish a plan.

Co-Chair Austerman asked whether the original legislation included any timeframes for developing a plan.

Ms. Curtis answered that no time limit was designated.

Co-Chair Austerman asked whether the legislation only addressed the creation of a plan.

Ms. Curtis replied that the language in the original legislation required that the commission should coordinate with DHSS and "may" develop the plan. The legislative intent stipulated that DHSS and the commission work together to create a plan, but the language was "not strong in a definitive sense to require" development of a plan. However, the purpose of the commission's creation was to create a healthcare plan.

[9:28:26 AM](#)

DR. WARD HURLBURT, MD, CHIEF MEDICAL OFFICER, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, noted that he was the chair of the commission. He stated that the commission felt that the audit process was very constructive. He maintained that the health care commission did not interpret the legislation as mandating establishment of a plan. He opined that healthcare plans "become documents that sit on a shelf." The focus of the commission for the previous five years was to provide clear and specific recommendations regarding health care. The audit findings were taken seriously by the commission. The commission was working closely with the commissioner to develop a beneficial plan. He believed that the commission's work was valuable to the legislature.

Dr. Hurlburt related that the average increase in teacher's salaries in the Anchorage School District over the last 15 years increased 1 percent per year and the cost of medical care coverage for school district employee coverage increased 15 percent above inflation over the same time period. He pointed out that the reason the state was facing financial challenges was largely due to increases in medical care costs similar to the increases experienced by the school district. The federal government spent approximately 18 percent of the Gross Domestic Product (GDP) of the United States (US) on healthcare and the state spent 21 percent to 22 percent of its GDP on healthcare. Other industrialized countries spent between 9 percent to 12 percent of their GDP in comparable ratios. The US would have saved approximately \$15 trillion if the US expended as much on healthcare as Switzerland or Norway.

Dr. Hurlburt continued that the only state spending more than Alaska was Massachusetts which had an older population. He added that 97 percent of Massachusetts residents were insured due to its "Romney Care" program and the state had more physicians than any other state. Alaska was mid-range among the states in terms of number of physicians. He relayed that studies revealed the main reason Massachusetts had the most expensive healthcare costs was the rapid increase in pricing.

Dr. Hurlburt cited the Milliman study concluded that Alaska's high cost statistics were also due to pricing. He explained that the members of the Health Care Commission were comprised of representatives from physicians, hospitals, nursing homes, behavioral health, health insurers, tribal health, federal health care, community

clinics, the public, the legislature, and the administration. He voiced that the members had done a commendable job sharing their knowledge and working on behalf of all Alaskans. He communicated that British Columbia had a population of 4.8 million and spent approximately \$25 billion less than the US would have spent on the same number of people. The information illustrated that the US was forced to make choices on how to allocate all funding needs to accommodate the high costs of healthcare. The commission was searching for an American market-based solution. The commission gathered information and analysis and provided a set of recommendations each year in January in an annual report to the legislature and governor. He reported that the commission collaborated with other groups and human resource directors for larger employers to reach out to the business community. The commission identified regulations and statutes that "mitigated against a free marketplace in negotiations between providers and payers." He offered that the state purchased about \$2.6 billion in healthcare per year. There had historically been relatively little coordination between agencies, but recently collaboration had increased. The state had a "lot of potential leverage" as a purchaser of healthcare as opposed to a regulator of healthcare.

Dr. Hurlburt voiced that the state needed a "robust" healthcare system in light of the valuable service provided by committed healthcare professionals. He concluded that healthcare in Alaska was priced excessively and unsustainably high and correcting the problem would cause "tensions." Unique ethical and moral dimensions existed in the healthcare industry even though healthcare was a business. The commission believed that because of the ethical and moral dimensions the leadership needed for change would come from within the industry. The commission's efforts assisted in facilitating industry leadership.

Co-Chair Stoltze asked whether the commission's workload was proactive in defining efficiencies or "reactive to external policies from other political jurisdictions" and how the workload was apportioned in attaining the committee's goals.

Dr. Hurlburt responded that the commission as established by Governor Palin was smaller, and was expanded by the legislature. Much effort and time was expended in gathering

information and analysis and educating the commission's members and the public. He saw education as an ongoing responsibility of the commission. The commission would continue its efforts to reach out to identify different entities for collaboration. He saw the commission's role to serve as a "convener" of interested entities in healthcare issues. He conveyed that in prior years when the commission established specific findings and recommendations the commission was careful not to assign responsibilities because of the belief that was not the role of the commission. He stated that the commission worked closely with the DHSS commissioner. He emphasized that the commission "responded and embraced" the audit findings. He saw more work for the commission moving forward resolving the audits recommendations.

[9:40:25 AM](#)

Co-Chair Stoltze asked how the commission was actively dealing with the evolving federal healthcare policies or mandates. He wondered what challenges federal policies created for the commission and whether its response was reactive or proactive.

Dr. Hurlburt replied that the commission engaged with the military healthcare and tribal healthcare systems and with its commissioners from those sectors of healthcare. He informed the committee that each of the commissioners was constantly updated on the Affordable Care Act but that the commission had not taken a proactive role regarding the issues surrounding the law. The commission did not feel it was the best forum to formulate recommendations partly due to "political sensitivities."

Co-Chair Stoltze characterized the commission's actions towards the Affordable Care Act as a "cautious defensive posture."

Dr. Hurlburt replied in the affirmative.

Representative Guttenberg discussed the difference between recommendations and policy. He believed that both recommendations and policy were "shelved." He judged that proactively examining health care policy concentrating on increasing efficient health care delivery and higher quality care could not be accomplished without some confrontation and criticism. He expected that the

commission would take proactive stances and make definitive statements regarding road blocks to competition or creating efficiencies. He wanted the commission to identify what was impeding the delivery of quality affordable healthcare so lawmakers could act.

Dr. Hurlburt observed that he saw movement on the commission's recommendations. Changes would create tensions due to deeply held beliefs and the large amounts of money at stake. He mentioned the commission's recommendation for greater transparency which could be accomplished through an all payer claims database. The database required payers to report what they were paying for healthcare services. He delineated that a bill was recently introduced in Washington State to establish the data base. Premera and Regents insurance companies were the main opponents and killed the bill. The bill that was signed only required the state to report its healthcare costs. Conflicts of interest were problematic. He noted possible conflicts of interest between commission members and the industry they work for. He mentioned that Commissioner Jeff Davis was the Chief Executive Officer (CEO) of Premera in Alaska and a valuable commissioner working for the best interest of all Alaskans. He thought that a similar bill would place Commissioner Davis in a conflict of interest. The commission identified high profit margins for urban hospitals. The urban hospitals were run by outstanding individuals but would choose to continue to maintain the profitability. He indicated that some regulatory and legal restrictions existed i.e., workman's compensation required that payments were made at the 90th percentile of market pricing. The requirement enabled a medical specialty with relatively few providers to control the pricing. He referenced legislation by Rep. Olsen's that required that the state employ a cost-based methodology rather than provider pricing. He remarked that the issues created controversy. He stated that the issues noted were examples of concrete recommendations that came from the commission.

Representative Guttenberg related hearing complaints about inadequate Medicaid reimbursement rates. He wondered how accurate the claim was.

Dr. Hurlburt responded that Medicaid and Medicare utilized a cost based methodology for payments. Outside of Alaska, the Medicaid payments were much lower. Washington State was 40 percent lower than Alaska. He mentioned discussions with

a hospital administrator who expressed that Medicare was the larger problem. In Alaska, Medicaid payments were higher than Medicare payments. He stated that Medicaid and Medicare payments were significantly lower than insurance reimbursement in any state.

[9:51:05 AM](#)

Representative Guttenberg asked whether a study regarding the actual costs of delivering a service was compared to the actual Medicaid and Medicare reimbursement rates.

Dr. Hurlburt answered that the cost based methodology was exactly what Medicaid and Medicare took into account. The data employed was derived from the American Medical Association and came directly from the provider's side of the equation.

Representative Gara stated that annually Alaska had the highest healthcare cost increases in the country. He asked whether the statement was accurate and why it occurred.

Dr. Hurlburt stated that the costs were driven by a human tendency to charge what can be charged in any business. The competition in the state was limited and had a history of high cost. Premera reported more pressure from employers to send people to other states because of the high costs. He restated that Alaska should maintain a quality and robust health care sector and provide services within the state.

Co-Chair Stoltze noted that SB 13 was the companion bill and would be heard by the committee soon.

HB 376 was HEARD and HELD in committee for further consideration.

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ADJOURNMENT

[9:56:34 AM](#)

The meeting was adjourned at 9:56 a.m.