

ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE

February 18, 2016

1:23 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Shelley Hughes, Co-Chair
Representative Charisse Millett
Representative Louise Stutes
Representative Matt Claman
Representative Dan Ortiz

MEMBERS ABSENT

Representative Benjamin Nageak

COMMITTEE CALENDAR

HOUSE BILL NO. 249

"An Act requiring the electronic submission of a tax return or report with the Department of Revenue; relating to the motor fuel tax; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 249

SHORT TITLE: ELECTRONIC TAX RETURNS & MOTOR FUEL TAX

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/16	(H)	READ THE FIRST TIME - REFERRALS
01/19/16	(H)	TRA, FIN
01/28/16	(H)	TRA AT 2:00 PM CAPITOL 17
01/28/16	(H)	Heard & Held
01/28/16	(H)	MINUTE(TRA)
02/04/16	(H)	TRA AT 1:00 PM CAPITOL 17
02/04/16	(H)	Heard & Held
02/04/16	(H)	MINUTE(TRA)
02/06/16	(H)	TRA AT 1:00 PM CAPITOL 17
02/06/16	(H)	-- Continued from 2/4/16 --
02/16/16	(H)	TRA AT 1:00 PM CAPITOL 17
02/16/16	(H)	-- MEETING CANCELED --
02/18/16	(H)	TRA AT 1:00 PM CAPITOL 17

WITNESS REGISTER

STUART KRUEGER, Staff
Representative Shelley Hughes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented a sectional analysis of the proposed committee substitute (CS) for HB 249, Version E.

MARC LUIKEN, Commissioner,
Department of Transportation & Public Facilities (DOTPF),
Anchorage, Alaska

POSITION STATEMENT: Responded to questions during the discussion of HB 249, sponsored by the House Rules Standing Committee by request of the governor.

KEN ALPER, Deputy Director
Tax Division
Department of Revenue (DOR)
Juneau, Alaska

POSITION STATEMENT: Responded to questions during the discussion of HB 249, sponsored by the House Rules Standing Committee by request of the governor.

ACTION NARRATIVE

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CO-CHAIR NEAL FOSTER called the House Transportation Standing Committee meeting to order at 1:23 p.m. Representatives Claman, Ortiz, Millet, Hughes, and Foster were present at the call to order. Representative Stutes arrived as the meeting was in progress.

HB 249-ELECTRONIC TAX RETURNS & MOTOR FUEL TAX

[Contains discussion of SB 132.]

[1:23:42 PM](#)

CO-CHAIR FOSTER announced that the only order of business would be HOUSE BILL NO. 249 "An Act requiring the electronic submission of a tax return or report with the Department of Revenue; relating to the motor fuel tax; and providing for an effective date."

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CO-CHAIR HUGHES moved to adopt the proposed committee substitute (CS) for HB 249, Version 29-GH2912\E, Nauman, 2/17/16, as the working document.

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CO-CHAIR FOSTER objected for purposes of discussion.

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CO-CHAIR HUGHES stated that she has had reservations regarding HB 249 since it was proposed. Specifically, she questioned whether the tax increases would remain in place in the event of recovering oil prices, and she echoed the sentiments of several individuals who provided public testimony, by emphasizing the importance of directing the revenue from the proposed tax increase toward maintenance and operation of infrastructure. She stated that the Senate Transportation Standing Committee adopted a committee substitute (CS) to SB 132, the Senate's companion bill to HB 249, which addresses several of these concerns. She expressed her agreement with the changes outlined in the CS to SB 132, and noted Version E, of HB 249, proposes one more change regarding how the revenue would be utilized.

CO-CHAIR HUGHES outlined changes proposed under Version E as the addition of an oil price per barrel trigger, inclusion of a sunset date in three years, and clarification regarding the account where the revenue would be deposited. She noted that the word "account" would be replaced with "fund" throughout the applicable statutes, and language would be added stipulating that the funds could only be used for maintenance and operating costs, not for administration. She offered to provide a sectional analysis at the request of the chair.

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STUART KRUEGER, Staff, Representative Shelley Hughes, Alaska State Legislature, on behalf of Representative Hughes, began a presentation of the sectional analysis of CS HB 249, Version E. He stated that the first change would be the removal of Section 1 and Section 2, which required the electronic submission of the tax return and report with the Department of Revenue (DOR). He noted that this would be included to mirror the change being proposed in the CS to SB 132. He explained that in the new Section 1, page 1, line 8, the word "account" would be changed to "fund", and would be replaced, in kind, throughout the remainder of HB 249 whenever addressing specific fuel tax funds.

He explained that the purpose of the change would be to provide more structure as to where those funds can be directed.

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MR. KRUEGER explained that Section 2, on page 2, would add an oil price trigger, such that, if the average price per barrel in the previous calendar year were to exceed \$85, then the highway fuel tax would return to its previous rate of \$0.08 per gallon for dealers. He related that Section 3, on page 3, would provide a sunset clause for Section 2; and Section 4, beginning on page 4, line 15 would enact the same fuel trigger described in Section 2, but applied to the consumers. Section 5, on page 5, would provide a sunset of Section 4. He stated that Sections 6 through 10 would replace the word "account" with "fund", and add the language "direct capital, operating, or maintenance costs," and specify "infrastructure" for airport, marine, and highway. He related that inclusion of the word "direct" would eliminate the possibility of the funds being utilized for administrative purposes.

MR. KRUEGER noted that Sections 11 through 13 add exemptions for emergency vehicles, as defined in AS 11.56.825, and for student transportation services, where the school or district receives funding under AS 14.09.010. He explained that Section 14, on page 10, would provide the refund rate for "off-road use", as proposed by the bill sponsor; Section 15, on page 10, beginning on line 10, would provide a sunset of Section 14. He stated that in Section 16, on page 10, there would also be replacements of the word "account" with "fund". He explained that Section 17, on page 10, would move the exemptions from the motor fuel tax out of the definition of "motor fuel", in AS 43.10.100(2), and into the body of the motor fuel tax law. He pointed out that the 2015 Manual of Legislative Drafting states "substantive provisions of law must not be hidden in definitions," and he offered that the current motor fuel tax exemptions are in direct violation of that rule. He said Section 18, on page 12, would describe the applicability; Section 19, on page 12, would provide transitional language allowing for regulations to implement the changes. He explained that Section 20, on page 12, would set an immediate effective date for Section 19; Section 21 would set an effective date of July 1, 2018, for Sections 3, 5, and 16; Section 22 would set an effective date of July 1, 2016, for the remainder of the changes.

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CO-CHAIR FOSTER requested clarification that the trigger figure described in Section 2 and Section 4, which would reduce the tax to its current rates in the instance that oil prices increased to \$85 per barrel, would apply not only to the highway fuel tax rates, but also the marine and aviation fuel tax rates.

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MR. KRUEGER clarified that the tax rates for all categories of motor fuel would revert back to their current rate, as outlined in Section 4.

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MARC LUIKEN, Commissioner, Department of Transportation & Public Facilities (DOTPF), Anchorage, Alaska, drew members' attention to Section 4, on page 4, and pointed out that the current rates for all categories of motor fuel are listed below the language describing the fuel trigger and would be reverted to those rates if the trigger came into effect.

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MR. KRUEGER noted that the change is clear in the statute and that a clerical error in the sectional analysis was the cause of the confusion.

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CO-CHAIR HUGHES further explained the cause of the confusion in the sectional analysis and thanked the committee members for their understanding. She mentioned that the Alaska Aviation Advisory Board had requested that a fuel trigger be included in the bill, and she discussed her general apprehension with increasing taxes without first reducing the state budget, restating her concern regarding the families that would be negatively impacted by increases. She acknowledged that as the tax proposals go through the legislative process, there is the possibility that they make it to the floor and pass, and accordingly she wanted to ensure that the changes listed in the sectional analysis were included in the proposed CS.

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REPRESENTATIVE ORTIZ inquired how the trigger point of \$85 per barrel was determined.

MR. KRUEGER stated his belief that it was designed to mirror changes made in the other body. He deferred to Ken Alper, for a detailed explanation.

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KEN ALPER, Deputy Director, Tax Division, Department of Revenue (DOR), stated that Mr. Krueger's analysis was correct and that the \$85 trigger was designed to mirror changes introduced in SB 132. He stated his understanding that the reason the chair of the Senate Transportation Standing Committee, Senator Micciche, set the trigger at \$85 dollars was because it roughly reflects the point at which the "minimum tax" falls away on oil and gas, and Alaska begins to increase the amount of money made off of oil at a greater rate. It is the threshold at which the tax system of Senate Bill 21 [signed into law on 6/24/13] would come into effect. He stated that Alaska's revenue problems begin to diminish more rapidly as the price per barrel exceeds \$85. He stated that there is a reasonable conversation to be had regarding the value of the trigger point, but that \$85 is the figure that the Senate Finance Committee ultimately settled on and Co-Chair Hughes wishes to parallel the changes made in the Senate.

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REPRESENTATIVE ORTIZ asked whether \$85 per barrel is the price point where the State of Alaska would be able to balance its budget or if there would still be a significant deficit at current spending levels.

MR. ALPER responded no. He expounded that in Fiscal Year 2016 (FY 16) [DOR] estimated that the budget would balance if the price of oil were \$109 per barrel. He stated that although that number currently sounds unreasonable, two years ago it was considered to be a normal and rational number. He explained that if the price of oil were \$85, the state would still have a deficit of approximately \$2 billion under the current conditions and budgetary realities.

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REPRESENTATIVE CLAMAN requested clarification that as the proposed statute is written, this \$85 trigger would come into effect, whether that occurred in 2017 or 2037.

MR. ALPER replied that there are two different triggers written into the proposed CS for the tax increase to fall away: the \$85 dollar per barrel fuel trigger and the 2018 sunset clause. He stated his understanding that the intent is to bring the issue before the legislature in two years to determine whether the legislature wants to continue the increased tax regime.

REPRESENTATIVE CLAMAN requested clarification that the sunset provision is designed to eliminate the tax in two years.

MR. ALPER responded that the tax increases would disappear in two years, but stated his understanding that the exemptions for school busses and emergency vehicles would remain in permanent statute.

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CO-CHAIR HUGHES commented that when considering the various tax proposals, some are more regressive than others, and she suggested that this might be the most regressive. She stated, in reference to commuters who live in her community, that people with low wages are more likely to drive older vehicles that are not fuel efficient. She held that an individual who makes a higher salary is more likely to drive a newer, more fuel-efficient vehicle. She offered that if the price of fuel goes up, the motor fuel tax is one of the first that would need to be reconsidered, and she explained that this is the intention of the sunset and the oil price trigger. She stated that she does not want to punish workers in her area and throughout the state who are trying to make ends meet. She reemphasized her belief that this is a regressive tax, at least in terms of the highway fuel increase.

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REPRESENTATIVE ORTIZ stated that all legislators share in the concern regarding the regressive nature of any tax proposal. He questioned the statement that HB 249 is the most regressive tax proposal and asked Co-Chair Hughes whether she would consider changes to the permanent fund as more regressive.

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CO-CHAIR HUGHES replied yes, in a sense, primarily because of the different types of vehicles that people drive. She acknowledged that an equal amount would be taken from the permanent fund dividend, but offered that in terms of fuel a

lower income person is actually paying more for a 100-mile trip than a wealthier person with a better car.

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REPRESENTATIVE CLAMAN commented that determining which taxes are fair versus regressive or more versus less equitable is a very complicated discussion. He stated that he appreciates Co-Chair Hughes' perspective, but would like to note that he does not agree.

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CO-CHAIR FOSTER removed his objection to the motion to adopt the proposed CS for HB 249, Version 29-GH2912\E, Nauman, 2/17/16 as the working document. There being no objection Version E was adopted as the working document.

[HB 249 was held over.]

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ADJOURNMENT

There being no further business before the committee, the House Transportation Committee meeting adjourned at 1:44 p.m.