

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE
SENATE FINANCE TRANSPORTATION AND PUBLIC FACILITIES SUBCOMMITTEE

January 26, 2016

1:02 p.m.

MEMBERS PRESENT

Senator Peter Micciche, Chair
Senator Click Bishop, Vice Chair
Senator Mike Dunleavy
Senator Bert Stedman
Senator Dennis Egan

MEMBERS ABSENT

All members present

SENATE FINANCE TRANSPORTATION AND PUBLIC FACILITIES SUBCOMMITTEE

MEMBERS PRESENT

Senator Peter Micciche
Senator Click Bishop
Senator Dennis Egan

MEMBERS ABSENT

Senator Kevin Meyer
Senator Pete Kelly

COMMITTEE CALENDAR

SENATE BILL NO. 132

"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: SB 132

SHORT TITLE: ELECTRONIC TAX RETURNS & MOTOR FUEL TAX

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/16 (S) READ THE FIRST TIME - REFERRALS
01/19/16 (S) TRA, FIN
01/26/16 (S) TRA AT 1:00 PM BUTROVICH 205

WITNESS REGISTER

RANDY HOFFBECK, Commissioner
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Explained the components of SB 132.

JERRY BURNETT, Deputy Commissioner
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Explained how the fuel tax in SB 132 would work.

STEVE HATTER, Deputy Commissioner
Department of Transportation and Public Facilities (DOTPF)
Juneau, Alaska

POSITION STATEMENT: Commented on SB 132.

ACTION NARRATIVE

[1:02:34 PM](#)

CHAIR PETER MICCICHE called the Senate Transportation Standing Committee meeting to order at 1:02 p.m. Present at the call to order were Senators Dunleavy, Stedman, Bishop, Egan and Chair Micciche.

SB 132-ELECTRONIC TAX RETURNS & MOTOR FUEL TAX

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CHAIR MICCICHE announced consideration of SB 132.

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RANDY HOFFBECK, Commissioner, Department of Revenue (DOR), Anchorage, Alaska, explained that SB 132 is one of three components of the new Sustainable Alaska Plan. One of the components is the Alaska Permanent Fund Protection Act that creates the model of using investment earnings of the Permanent Fund as well as repurposing the royalty revenues and production tax in order to create a sustainable draw for funding government. That draw along with existing taxes leaves the state about \$1 billion short of a balanced budget. So, the governor proposed a series of cuts in the budget document and a series of bills on new revenues of which SB 132 is one.

COMMISSIONER HOFFBECK said SB 132 is just standard tax policy and contains no restructuring. It is simply an adjustment in the rate on an existing tax.

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SENATOR DUNLEAVY asked what they are protecting the Permanent Fund from.

COMMISSIONER HOFFBECK answered the issue is if nothing is done within four years the state's savings will be depleted and it will essentially be in a position of employing either very draconian cuts to the government services or considering a constitutional amendment to spend from the corpus of the Permanent Fund. The idea here is to make changes now instead of later in order to preserve the Permanent Fund and its dividend program.

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JERRY BURNETT, Deputy Commissioner, Department of Revenue (DOR), Juneau, Alaska, explained that motor fuel taxes in Alaska began in 1945. Tax rates have increased over time, but the structure has remained unchanged. The last increase for highway taxes was in 1970, marine taxes in 1977, and aviation fuel taxes in 1994. That means the motor fuel tax has been 8 cents per gallon since 1970. In 1970 he bought gas for 30 cents a gallon and the minimum wage was \$1.60/hr.

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He related that the motor fuel tax was suspended from September 1, 2008 to August 31, 2009 when the state brought in more money from oil in one month than it is bringing in this entire year, and in 2015, HB 158 added a .95 cent surcharge on motor fuels and other refined fuels for the Spill Prevention and Response Fund.

He said that this proposal increases all tax rates.

CHAIR MICCICHE interrupted him to remember the struggle in adding less than a penny to the tax.

MR. BURNETT said he remembered. He went on to explain that the highway fuel tax will be increased from 8 cents to 16 cents a gallon, the marine tax from 5 cents to 10 cents a gallon, jet fuel from 3.2 cents to 10 cents a gallon, and aviation gas from 4.7 cents to 10 cents per gallon; the off-road use credit is changed from 6 cents to 12 cents.

CHAIR MICCICHE pointed out that the off-road tax rate going from 2 cents to 4 cents is still being doubled.

MR. BURNETT said that was correct. He explained that the bill requires the taxpayer to file electronically and provides for an exemption process in certain cases.

SENATOR BISHOP asked the penalty for not filing timely electronically.

MR. BURNETT answered that he would get that information. He added that Alaska's fuel taxes are among the lowest in the U.S. Highway fuel is the lowest; jet fuel is the 35th lowest; and aviation gas 24th. Under this bill Alaska taxes would still be below the national average for highway taxes (20.17 cents) and slightly above the national average for jet and aviation fuels. He didn't have comprehensive data for other states' marine fuel taxes, but most don't have a marine fuel tax.

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One of the impacts of this measure is that gas prices will go up a little bit, because the increase will be passed on to the consumer. The aviation taxes will be available to fund certificated urban and rural airports. An increase in aviation fuel taxes was requested by the Aviation Advisory Committee as preferable to landing fee increases at state owned airports.

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SENATOR BISHOP asked who the Advisory Committee members are.

MR. BURNETT said Deputy Commissioner Hatter from the Department of Transportation and Public Facilities (DOTPF) could answer that question.

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STEVE HATTER, Deputy Commissioner, Department of Transportation and Public Facilities (DOTPF), answered that the Airport Advisory Board has a cross section of aviation stakeholders - a certain carrier representation, rural representation, urban representation - who are all appointed by the governor.

CHAIR MICCICHE asked if a sales tax in the future would be stacked or would fuel be exempted.

MR. BURNETT answered that the administration hadn't proposed having a statewide sales tax. It would be a policy decision. He

thought some cities exempted motor fuel tax from sales taxes, although Juneau doesn't.

CHAIR MICCICHE said it is not exempted in the Kenai Peninsula where he is from. He said the motor fuel tax is on the quantity, but the sales tax is on the value. So, the sales tax fluctuates with the price of refined products and a fuel tax is stationary.

SENATOR DUNLEAVY asked if dedication of funds to aviation has any constitutional issues.

MR. BURNETT answered that the Constitution provides that no tax or license can be dedicated to a specific purpose unless it was prior to statehood or required for participation in a federal program. The Federal Aviation Authority (FAA) regulations for other grant monies the state receives require that all income received on airports gets spent on airports. So, it is not subject to the dedication clause. The tax on aviation gas, while it goes into the General Fund, an amount equal to that has to be spent at airports. Airports that are municipally owned - Juneau, Kenai, Wasilla/Palmer - have shared tax back from the state in the budget bill every year. This year it's about \$160,000. This would increase it to about \$200,000.

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SENATOR DUNLEAVY asked the estimated overall cost to administer this tax.

MR. BURNETT answered that raising the fuel tax rates would require no additional ongoing operating cost, but it would cost \$50,000 - 100,000 to reset the system. He emphasized again that no structures to the tax system are being changed by this measure.

CHAIR MICCICHE asked if distributors would fill out a similar form to what they do now.

MR. BURNETT said the forms would have to be changed, but nothing beyond that upfront cost. He said that increasing the tax rate would more than double tax collections by \$49 million per year (based on fall 2015 revenue forecast) with about \$200,000 being shared back to municipally owned airports. The rest goes to the General Fund and is allocated in special accounts for road, water, transport and aviation facilities.

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The estimate does not account for possible changes in fuel demand or stock piling, but it is thought that the increase is small enough to not have much effect. Personally, he related that he typically drives 20,000 miles a year and at 20 miles per gallon he uses 1,000 gallons of fuel, so this would account for another \$80 more in tax.

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SENATOR BISHOP asked if overseas flights have some type of exemption.

MR. BURNETT answered yes. All jet fuel sold for international commerce is tax exempt. It is the largest amount of jet fuel sold.

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He said implementation of the tax would require changing the tax revenue management online system that is already set up for electronic returns; the forms would have to be changed for a cost of about \$50,000. There are no additional administrative costs afterwards.

CHAIR MICCICHE commented that this is a user fee; if you don't purchase the product you don't pay the fee. It will impact businesses more than individuals. But in tax philosophy, individuals support taxes that are sort of returned back to the systems that use them. There is no guarantee in this case; it's just a General Fund (GF) deposit other than the minor portion that goes to airports. He asked what returns would be seen other than in GF expenditures?

MR. BURNETT answered that most states dedicate their motor fuel taxes to highway maintenance. Historically, Alaska spends more on highway maintenance; currently it is spending a great deal more than people are paying in user fees. So, people can be assured that the effect of this is that there may be enough money to offset what would otherwise be reductions in highway maintenance. While this tax is not dedicated, it is identified in the system and can be compared to how much is being spent on highways.

CHAIR MICCICHE remarked that clearly the best value Alaska gets from the feds is the highway match of 90/10. So, this increase might make more GF dollars available for federal match to keep its highways in better condition.

SENATOR BISHOP said if this passes, Alaskans would capture some traveling public (60,000 motor homes and fifth wheel campers) from Outside and some marine craft that come up.

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MR. BURNETT responded that clearly anyone who uses the highways and buys fuel in Alaska will be contributing to the state's budget.

CHAIR MICCICHE said that a Tax Foundation Publication compares the tax burden - broad based and specific taxes - in each state. He remembered that Alaska pays \$500 per year, essentially in broad based state taxes, which he assumed includes motor fuel taxes.

MR. BURNETT answered that it does.

SENATOR MICCICHE wondered how that shakes out if this were the only tax to pass this year. Would this add \$80 to the \$500 of tax burden? Is this a small chunk of the gap?

MR. BURNETT said Alaskans would still be 25 percent of the average. The only state that competes with Alaska is New Hampshire.

SENATOR STEDMAN related that unlike all other states, Alaska is the only one to own the subsurface rights, so comparing our fuel tax, income tax or any other mechanisms for state revenues gets distorted. One needs to recognize that the citizens of the state own a very valuable asset, and that needs to be factored in in walking through these tax calculations. Each individual can draw their own conclusions on how they want to add that in. Alaska is very different, because it was structured that way at statehood.

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MR. BURNETT provided a sectional analysis of the bill.

Sec. 1 adds \$25 or a 1 percent tax penalty for failure to file electronically unless an exemption is received.

Sec. 2 requires electronic submission of tax returns, license applications, and other documents submitted to the DOR. It changes AS 43.05 and will apply to all tax types administered by the department. It provides a process to request an exemption if the taxpayer doesn't have the technology or capability to do so.

Sec. 3 changes the per gallon tax rates for dealers for all categories of motor fuel: gasohol is changed from 8 cents to 16 cents, marine fuel from 5 cents to 10 cents, aviation gasoline from 4.7 cents to 10 cents and jet fuel from 3.2 cents to 10 cents.

Sec. 4 changes per gallon tax rates for users of all categories of motor fuel to the same numbers.

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Sec. 5 changes the motor fuel refund rate for off-road use when the tax has been paid from 6 cents to 12 cents.

Sec. 6 is conforming applicability language clarifying that the tax increases apply to motor fuels sold after the effective date. The electronic filing requirement applies to returns submitted after the effective date.

Sec. 7 is transitional language allowing for regulations to implement the changes.

Sec. 8 is an immediate effective date for the transitional regulatory language, and

Sec. 9 is an effective date of July 1, 2016, for the rest of the bill including the tax rate changes.

CHAIR MICCICHE said the vast majority of refined product tax is doubled, but he wanted to know the rationale behind doubling the aviation tax and adding 6 cents.

MR. BURNETT said all revenues from aviation fuels have to be paid to the airport and this is an alternative to landing fees at airports that the users preferred. He said this is slightly more than tripling the rate.

CHAIR MICCICHE asked for the value of the last 3.2 cents per gallon.

MR. BURNETT said that would amount to \$13 million from jet fuel and \$1 million from aviation gas. He said the cost to the airports is going to be the same one way or the other. The board preferred paying taxes rather than increasing landing fees.

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MR. HATTER added that FAA certificated airports, referred to as jet service airports, in general are quite expensive to run, the

reason being high FAA standards and regular inspections. Offsetting that with landing fees is a huge challenge, and aviation industry stakeholders through the Aviation Advisory Board asked to raise taxes instead.

CHAIR MICCICHE said the fiscal gap is a new reality for Alaska and he would be looking for users of state services to reduce or eliminate their subsidies. He asked if this comes close to filling the airport subsidy gap.

MR. HATTER answered that the gap would still be substantial, but this is a step in the right direction.

SENATOR EGAN said he thought a lot of rural airports had no landing fee.

MR. HATTER answered that Anchorage and Fairbanks are international airports, which are set up under a different statute. The rest of the airports are owned by the Alaska Department of Transportation and Public Facilities (DOTPF) and have landing fees.

CHAIR MICCICHE said one their interests last year was to try and reduce that amount of subsidy through landing fees, but it met with significant resistance.

SENATOR EGAN said Juneau charges a landing fee, so that would be more than doubled by paying the jet fuel increase, although Juneau, Kenai and Merrill Field would get that money.

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SENATOR STEDMAN teamed up with Senator Egan's questions and asked about the Sitka and Ketchikan airport structures relative to Juneau, for general background.

CHAIR MICCICHE responded that the rural carriers were the most resistant. He wanted to know if these increases would cover enough of the gap. In polling he had seen support for a broad based effect that doesn't focus on individual user groups.

SENATOR STEDMAN said he was not interested in bidding up tax bills to raise any more revenue than were already presented to the legislature. He threw in Wrangell and Petersburg airports with his previous comments.

CHAIR MICCICHE said it's clear that no one is excited about any tax bills.

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SENATOR BISHOP said he likes building roads and flying in airplanes and he also likes keeping people working in his local rural communities, and if this bill gets any traction he already had an amendment ready. Construction dollars have a way to spin off six times to a community and build more wealth. So, he kind of likes the bill.

CHAIR MICCICHE said he spent his career reducing taxes where ever possible, but Alaska has a new reality. Fairness and balance in the distribution of the burden is the best that can be done if the current fiscal gap continues.

SENATOR BISHOP added that cars get more miles per gallon today versus 30 years ago and the federal government is setting new CAFÉ standards for mileage by 2025. That asphalt doesn't know the difference whether that car is getting 10 mpg or 45 mpg. The asphalt wears out at the same rate, and at some point this is a user fee and worthy of a good look.

CHAIR MICCICHE kept public testimony on SB 132 open and held it for further work.

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ADJOURNMENT

CHAIR MICCICHE adjourned the Senate Transportation Committee meeting at 1:46 p.m.