

**ALASKA STATE LEGISLATURE**  
**SENATE TRANSPORTATION STANDING COMMITTEE**

February 9, 2016

1:03 p.m.

**MEMBERS PRESENT**

Senator Peter Micciche, Chair  
Senator Mike Dunleavy  
Senator Bert Stedman  
Senator Dennis Egan

**MEMBERS ABSENT**

Senator Click Bishop, Vice Chair

**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
01/26/16	(S)	Heard & Held
01/26/16	(S)	MINUTE(TRA)
02/04/16	(S)	TRA AT 1:00 PM BUTROVICH 205
02/04/16	(S)	Heard & Held
02/04/16	(S)	MINUTE(TRA)
02/09/16	(S)	TRA AT 1:00 PM BUTROVICH 205

**WITNESS REGISTER**

LYNNE SMITH, staff to Senator Micciche and the Transportation Committee  
Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Provided a summary of CSSB 132(), version \H.

JERRY BURNETT, Deputy Commissioner

Department of Revenue (DOR)

Juneau, Alaska

**POSITION STATEMENT:** Commented on SB 132.

EMILY NAUMAN

Legislative Legal Services

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Commented on SB 132.

FRED STURMAN, representing himself

Kenai, Alaska

**POSITION STATEMENT:** Opposed SB 132.

NANCY HILLSTRAND, owner

Pioneer Alaskan Fisheries and Cold Point Seafoods

Kachemak Bay, Alaska

**POSITION STATEMENT:** Supported SB 132.

#### **ACTION NARRATIVE**

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**CHAIR PETER MICCICHE** called the Senate Transportation Standing Committee meeting to order at 1:03 p.m. Present at the call to order were Senators Egan, Stedman, Dunleavy, and Chair Micciche.

#### **SB 132-ELECTRONIC TAX RETURNS & MOTOR FUEL TAX**

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**CHAIR MICCICHE** announced consideration of SB 132 and said that public testimony will be taken and be left open. He noted that his office had received letters of both support and opposition that are posted on BASIS.

**SENATOR DUNLEAVY** moved to adopt CSSB 132( ), version 29-GS2912\H, as the working document.

**CHAIR MICCICHE** objected for purposes of explanation and discussion.

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LYNNE SMITH, staff to Senator Micciche and the Transportation Committee, Alaska State Legislature, Juneau, Alaska, provided a summary of CSSB 132(), version \H. She explained that the committee substitute (CS) removed the electronic submission of a tax return to the Department of Revenue (DOR) from the bill, because that issue should be looked at in another committee. It also has a trigger figure of \$85 for an average price for a barrel of oil during a previous calendar year when the taxes revert to current rates. There is an addition of two fuel tax exemptions; one is fuel that is used in an emergency vehicle and the other is fuel used for student transportation services for which a school district receives funding under AS 14.09.010.

She said Legislative Legal also made other statutory changes, which would be addressed next and that the new taxes will sunset on July 1, 2018.

CHAIR MICCICHE asked for a summary of the bill.

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MS. SMITH summarized SB 132 as follows:

**Sec. 1** states if the average price per barrel is more than \$85 during the previous calendar year, the taxes return to the current prices for the dealers. Subsec. 2 of this section also has the tax increase that was proposed in the governor's original bill.

SENATOR STEDMAN asked why \$85 was selected and what revenue is triggered then. What is the relationship between the tax increase and the revenue generation?

CHAIR MICCICHE answered that he, Senator Bishop, and Senator Dunleavy worked on this bill. It's important to explain to Alaskans that they aren't interested in getting into the tax business; they were interested in filling a fiscal gap with this bill. They will likely do other measures to fill the remainder of the gap, such as repurposing the state's existing financial assets until the \$85 trigger is reached. His thought is that once that level was attained for an entire fiscal year, the state would likely be whole as far as funding goes.

He explained the reason for the sunset is similar in that it will cause the legislature to revalidate the need for that revenue in two years after the 2018 session.

SENATOR STEDMAN wanted the Department of Revenue (DOR) to answer the question and provide expectations at \$85/barrel. He was

concerned with the credits overall implications to the treasury, because it's not as clear cut as it appears on the surface.

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JERRY BURNETT, Deputy Commissioner, Department of Revenue (DOR), Juneau, Alaska, said depending on a number of factors - what happens in this legislative session with the floor and credits - \$85 is above where the minimum tax is triggered. So, at a price somewhere in the \$80 range the state has rapidly increasing revenues. Whether this is the right price or another price can be discussed as the bill moves through the process.

SENATOR STEDMAN said he was concerned that \$450 million doesn't do much to run the State of Alaska, and that there is a big difference between being at the minimum tax of the state's severance tax and being in the range in which the severance is actually producing something meaningful to the treasury.

MR. BURNETT answered that he didn't choose the number, obviously, the chair did. But \$85 is where the state starts experiencing rapidly increasing revenues. But, it is certainly well below what is required to balance the budget in the current fiscal system.

CHAIR MICCICHE said his logic for that is that he continues to expect downward pressure on the budget where possible. These revenue measures are emergency management and not sustainable funding in the future. He felt that getting up to a price point for oil that is too high encourages getting back into an atmosphere of increasing costs significantly. It may not be a perfect balance point, but \$82 is the point where things shift to being very positive on production taxes. He allowed the distance between \$82 and \$85. It can always be revisited in the future if it's not the right break point.

MS. SMITH continued with the sectional analysis:

**Sec. 2** sunsets sec. 1 of the bill on July 1, 2018.

**Sec. 3** is the \$85 trigger point for fuel consumed, not by the fuel dealer. This section also has the governor's original language about the tax as proposed.

**Sec. 4** sunsets Sec. 3.

**Sec. 5** adds the two new fuel tax exemptions suggested by Senator Dunleavy.

SENATOR DUNLEAVY commented that he would have liked to exempt everyone from the tax, but this is an attempt to mitigate to some degree the issue especially for non-profits like a school

district and emergency services ambulance, fire, and that sort of thing.

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SENATOR STEDMAN asked if home heating oil is excluded.

CHAIR MICCICHE clarified that none of the other exemptions have changed except for the two mentioned by Senator Dunleavy.

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MS. SMITH continued the sectional analysis:

**Secs. 6 & 7** are language that relate to Sec. 5.

**Sec. 8** is the refund rate for the off-road use as proposed by the governor.

**Sec. 9** is the sunset of Sec. 8.

**Sec. 10** was put in by Legislative Legal for cleanup language. She asked Ms. Nauman with Legislative Legal to explain those changes.

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EMILY NAUMAN, Legislative Legal Services, Alaska State Legislature, Juneau, Alaska, explained that Sec. 10 deletes the current exemptions for motor fuels which appear in the definition of "motor fuel," which is in direct violation of the Legislative Drafting Manual. Under the Drafting Manual, a definition section can only contain just that: a definition. It cannot contain substantive law. So, in this bill the exemption for motor fuel language was moved into the body of the substantive law, which appears in Sec. 4. So, Sec. 4 is exactly what the law is now with the two exceptions explained by Senator Dunleavy.

CHAIR MICCICHE clarified that it changes nothing; it just moves language as a cleanup.

MS. NAUMAN agreed; it just moved some language to the correct location.

MS. SMITH continued the sectional analysis:

**Sec. 11** is the applicability.

**Sec. 12** is the transitional language allowing for regulations to implement the changes.

**Sec. 13** is the immediate effective date of Sec. 12.

**Sec. 14** is the effective date of July 1, 2018, for Secs. 2, 4, and 9.

**Sec. 15** is the effective date of July 1, 2016, for the rest of the bill.

CHAIR MICCICHE removed his objection and said that CSSB 132( ), version \H was before the committee.

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SENATOR STEDMAN asked how home heating fuel is handled in this bill.

MR. BURNETT explained that home heating fuel is not taxed as a motor fuel. The only tax he is aware of on home heating fuel is a surcharge of .95 cents per gallon for the Spill Prevention Response Fund.

SENATOR EGAN asked for an example of a charitable institution in Sec. 5.

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MR. BURNETT answered that is an existing exemption for charitable organizations that include churches and corporations that are under 501(c)3 designation in the Federal Tax Code. That would be certain types of educational entities.

SENATOR EGAN asked if Capital Community Broadcasting and KTOO would be exempt.

MR. BURNETT answered that it depends on what their exemption status is and he didn't know how they are organized.

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CHAIR MICCICHE opened public testimony. He stated the Transportation Committee's message so far has been that they are not in the revenue business, but he also recognizes the significant fiscal gap. The goal of the bill is to make it only as needed and not to get in the business of building fund balance if those funds are not needed to support the government. If this bill moves forward, he sees it somewhat more of a user fee than a tax.

FRED STURMAN, representing himself, Kenai, Alaska, opposed SB 132. But if it passes, he wants it sunsetted every year, not 2018. He said the rate needed to be lowered from \$85 a barrel, where it probably won't get to for the next 10 to 15 years to about \$55. He also didn't want any exemptions saying, "If you're going to pass a bill, all pay." This is a tax and not a user fee. He was very disappointed that they were considering a tax without cutting \$1 billion out of the budget first. All these taxes will take non-discretionary funds out of the communities

and it will do nothing but make it worse than the 1980s. One Soldotna lady told him she was closing her business in April, and six other people are having moving sales so they can leave the state.

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NANCY HILLSTRAND, owner, Pioneer Alaskan Fisheries and Cold Point Seafoods, Kachemak Bay, Alaska, supported SB 132. She agreed that the gap needs to be filled with any kind of revenue generator that "allows us to stand on our own feet." She didn't like the hope that everyone always holds out. This is a great way to fill the gap and she agreed that there should be no exemptions, because we survived the high cost of fuel and know that everyone can pitch in.

CHAIR MICCICHE said he would keep public testimony open on SB 132 for the Thursday meeting.

SENATOR STEDMAN said he was still concerned with a trigger price of \$85, because it is related to production, which at best is projected to be flat to declining into the immediate future. He wanted to see some DOR projections of \$70 to 90 a barrel, so they could get an idea of how much this quickly accelerating tax structure will recoup the treasury. He suspected that at \$85 to \$87 the issue goes away, and he wanted solid projections run that actually show that.

CHAIR MICCICHE said since they just received the CS today, he would hold it and keep public testimony open. [CSSB 132( ), version /H, was held in committee.]

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Finding no further business, CHAIR MICCICHE adjourned the Senate Transportation Standing Committee at 1:29 p.m.