

MINUTES
SENATE FINANCE COMMITTEE
May 8, 2007
9:12 a.m.

CALL TO ORDER

Co-Chair Bert Stedman convened the meeting at approximately [9:12:26 AM](#).

PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Charlie Huggins, Vice Chair
Senator Kim Elton
Senator Joe Thomas
Senator Fred Dyson
Senator Donny Olson

Also Attending: SENATOR TOM WAGONER; MARY JACKSON, Staff to Senator Wagoner; KEVIN BANKS, Acting Director, Division of Oil and Gas, Department of Natural Resources; TOM OBERMEYER, Staff to Senator Davis; JANET CLARKE, Assistant Commissioner, Finance and Management Services, Department of Health and Social Services; JESSE KIEHL, Staff to Senator Elton;

Attending via Teleconference: JOHN IVERSEN, Director, Tax Division, Department of Revenue.

SUMMARY INFORMATION

[9:12:32 AM](#)

SB 80-OIL & GAS PRODUCTION TAX: EXPENDITURES

The Committee heard from the sponsor, the Department of Natural Resources, and the Department of Revenue. One amendment was adopted and the bill was reported from Committee.

SB 27-MEDICAL ASSISTANCE ELIGIBILITY

The Committee heard from the sponsor. A committee substitute was adopted and the bill was reported from Committee.

SB 116-UNIFORM MONEY SERVICES ACT

The Committee heard from the sponsor. A committee substitute was adopted and the bill was reported from Committee.

#sb80

[9:13:07 AM](#)

CS FOR SENATE BILL NO. 80(RES)

"An Act relating to allowable lease expenditures for the purpose of determining the production tax value of oil and gas for the purposes of the oil and gas production tax; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

[9:13:27 AM](#)

Senator Thomas asked for an explanation of changes in the Senate Resources Committee substitute from the original version of the bill. He observed that subsection (C) of subparagraph (19) added to AS 43.55.165(e) by Section 1 of the bill did not appear in the current version, and asked if that was an amendment recommended by the sponsor.

[9:15:08 AM](#)

MARY JACKSON, Staff to Senator Tom Wagoner, informed that Senator Wagoner had opposed the majority of the amendments made to this bill, including the deletion of the former subsection (19)(B).

[9:16:04 AM](#)

Senator Thomas asked why Senator Wagoner had objected to the revisions.

Ms. Jackson qualified that subsections (19)(A), (B) and (C) were all amended by the Senate Resources Committee. She could not speak to the reasoning behind those modifications, but maintained Senator Wagoner's objection.

[9:16:41 AM](#)

Senator Huggins shared that he had proposed the amendment based on testimony from the Alaska Oil and Gas Conservation Commission (AOGCC) that the shut down of operations of a pipeline was a policy call. He referenced an analogy to airplane maintenance, in that cost-benefit and risk analysis would be assessed to determine whether to ground a plane to perform maintenance, thus losing revenues but increasing safety. Prohibiting a company from writing off costs associated with a shutdown to conduct maintenance would create a disincentive to perform that maintenance.

[9:17:49 AM](#)

Ms. Jackson affirmed the AOGCC's statement, adding that when the amendment was presented in the Senate Resources Committee the Department of Natural Resources and Department of Revenue were not consulted as to the Palin Administration's position on the amendment. Representatives from those departments were available to speak to the issue.

[9:18:42 AM](#)

KEVIN BANKS, Acting Director, Division of Oil and Gas, Department of Natural Resources characterized the airplane analogy as "apt". He opined that in the case of an emergency, a producer would first address the safety concern without regard to the tax ramifications. Speaking as an economist, he allowed that the impact tax incentives could have on behavior was difficult to detect. He reiterated his expectation that oil and gas producers would react swiftly to abate any problems that arose, and "worry about" the tax consequences later.

[9:21:14 AM](#)

Senator Thomas understood the intent of the amendment to allow tax deductions for corrosion control activities or corrosion-related shut-downs, expenses that were not deductible under the original version of the bill.

[9:22:04 AM](#)

Mr. Banks understood that the current version of the bill would disallow deductions both for costs to bring a facility "back online" if it was shut down for maintenance reasons, and for costs related to diminished production of a field due to maintenance or repair issues.

[9:23:10 AM](#)

Senator Elton asked if Mr. Banks would agree with the analysis provided by John Norman, commissioner and chairman of the AOGCC.

[9:23:36 AM](#)

Mr. Banks had not read the opinion submitted by Mr. Norman, but understood Mr. Norman to imply that the removal of subsection (B) created an incentive keep a facility operational in the event that a shut-down was necessary to repair a fault. Mr. Banks disagreed with that premise.

[9:24:02 AM](#)

Senator Huggins surmised that subsection (19)(A) of Section 1 of the bill would prohibit a company from taking a tax deduction for any expenses related to repairing improperly maintained equipment, regardless of whether the expense could be construed as an operating cost. He relayed that Mr. Norman warned against any provision that may act to discourage a company from performing maintenance, and that this provision appeared to have that effect.

[9:25:11 AM](#)

Senator Thomas assumed that subsection (19)(A) would prohibit the award of a tax credit for expenses related to corrosion control. If that understanding was shared by the entire Committee, he would be satisfied with the language of the bill.

[9:26:00 AM](#)

Senator Dyson asked that Mr. Iverson be allowed to testify.

[9:26:12 AM](#)

JOHN IVERSEN, Director, Tax Division, Department of Revenue, testified that Mr. Norman had stated in his letter: "denial of

operational capability maintenance costs could discourage operators from shutting down when in fact a complete shut-down is the most prudent course of action." Mr. Iverson aligned himself with Mr. Banks' position, and questioned whether the tax effect would impact an operator's decision to shut down. The immediate impacts in terms of safety concerns and equipment damage would be more important factors in the determination to shut a facility down than would the tax implications.

[9:27:37 AM](#)

Senator Dyson asked the practical impact of the amendment that was made to the bill in the Senate Resources Committee.

[9:28:01 AM](#)

Mr. Iverson replied that subsection (19)(A) was "very broad", while the former subsection (B) referred to the costs of "keeping a facility warm" while the facility was shut down due to improper maintenance. Under the original bill subsection (B) would have excluded those specific costs. This policy decision was left to the legislature to determine if the specific language was required, or if those costs would be included under subsection (A).

[9:29:38 AM](#)

Mr. Banks hypothesized a power failure due to improper maintenance. Under subsection (A), the costs of replacing the electrical equipment would not be deductible if the failure was determined to have been caused by improper maintenance. Under subsection (B), the cost of a generator that was procured to enable continued operations of the facility during the electrical repairs would likewise be ineligible for tax deductions.

[9:30:33 AM](#)

Senator Elton asked why the generator costs would not be addressed by subsection (A).

[9:31:17 AM](#)

Mr. Banks responded that the difference was due to the "proximity" of the expense to the issue.

[9:31:38 AM](#)

Senator Dyson shared that he had performed equipment maintenance for BP in Prudhoe Bay for ten years, during which time it was his job to ensure that operations did not cease due to mechanical malfunctions. During that time in the 1970s and early 1980s, tremendous profits were made by producers and it was "unthinkable" that operations would be interrupted due to equipment failure. He recommended rescinding the action taken by the Senate Resources Committee with regard to subsection (19) of the bill.

[9:33:56 AM](#)

Co-Chair Stedman suggested Senator Dyson offer an amendment.

[9:34:06 AM](#)

Senator Dyson and Co-Chair Stedman discussed the content of the amendment.

[9:35:55 AM](#)

Ms. Jackson informed that the sponsor supported all of the changes made by the Senate Resources Committee with the exception of the deletion of subsection (B). She suggested the reinsertion of that subsection.

[9:36:37 AM](#)

Amendment #1: This conceptual amendment inserts the language of AS 43.55.165(e)(19)(B) amended by Section 1 of SB 80 on page 3 lines 25 through 27 to the language of AS 43.55.165(e)(19) amended by Section 1 of CS SB 80(RES) on page 3 following line 26. The inserted language reads as follows.

(B) incurred to maintain the operational capability of facilities or equipment shut down because of improper maintenance of property or equipment; or

Senator Dyson moved for adoption.

[9:37:19 AM](#)

Senator Huggins objected, explaining that he had supported the amendment offered in the Senate Resources Committee, but now supported rescinding that action. He removed his objection.

[9:38:18 AM](#)

Senator Olson asked if a representative from the oil and gas industry was available for comment.

Co-Chair Stedman objected for the purpose of a comment by the industry.

Senator Olson stated that the oil and gas industry would be the affected party, and thus should be allowed to speak to the amendment.

[9:38:49 AM](#)

Ms. Jackson corrected that Senator Dyson read the amendment as "capacity" rather than "capability" as contained in SB 80.

Senator Dyson affirmed that the correct language was "capability".

[9:39:32 AM](#)

Co-Chair Stedman removed his objection, as no comment was forthcoming from the industry.

Without further objection the amendment was ADOPTED.

[9:39:50 AM](#)

Co-Chair Stedman commented that the legislature was concerned with the methodology used to evaluate improper maintenance and problems due to old infrastructure. He sought to ensure that producers would not employ "creative accounting" to abuse tax credits offered by the State. He asked that the Department of Natural Resources and the Department of Revenue review the oil basin infrastructure and report back to the Committee the following legislative session to determine if the 30 cent per barrel deduction was appropriate, or if adjustments were necessary.

[9:42:17 AM](#)

Co-Chair Hoffman offered a motion to report CS SB 80 (RES), as amended, from Committee with individual recommendations and new and accompanying fiscal notes.

There was no objection, and CS SB 80 (FIN) was MOVED from Committee with previous zero fiscal note #1 from the Department of Administration, zero fiscal note #2 from the Department of Environmental Conservation, fiscal note #3 in the amount of \$124,900 from the Tax Division of the Department of Revenue, and new zero fiscal note from the Oil Gas Division of the Department of Natural Resources dated 5/08/07.

#sb27

[9:43:02 AM](#)

CS FOR SENATE BILL NO. 27(HES)

"An Act relating to eligibility requirements for medical assistance for certain children, pregnant women, disabled persons, and persons in medical or intermediate care facilities; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

[9:43:17 AM](#)

Co-Chair Hoffman moved to adopt CSSB 27 25-LS0211\E, as a working document.

There was no objection, and Version "E" was ADOPTED as a working document.

TOM OBERMEYER, Staff to Senator Bettye Davis, informed that this version of the bill would change income eligibility requirements for individuals nineteen years of age and younger from 200 percent of the federal poverty level to 175 percent of that level. It would also revert the income eligibility requirements for the elderly to an income level not to exceed \$1,656 per month, rather than 300 percent of the supplemental security income benefit as called for in the original version of the bill. The fiscal impact of these changes was explained in the

new fiscal notes and summary accompanying the committee substitute. These changes in the bill resulted in the Denali Kid Care program being the only program listed as an impact in the bill summary, at a cost of \$2,691,500. He assumed that the federal contribution of \$1,907,400 represented a 70 percent share. The changes were designed to retain Denali Kid Care coverage for children who would otherwise not qualify for this program.

[9:46:46 AM](#)

JANET CLARKE, Assistant Commissioner, Finance and Management Services, Department of Health and Social Services informed that the three fiscal notes related to the bill were accompanied by a summary. The changes made in the current version of the bill caused a significant reduction in cost. The general fund expenditures in the original bill totaled \$4.6 million, and the current version had reduced that number to less than \$800,000. The total estimated cost of the legislation was \$2,691,500 with general fund expenditures of \$783,500. Two of the fiscal notes related to the Medicaid program, and a third was an administrative fiscal note.

[9:48:23 AM](#)

Senator Thomas observed that the fiscal note indicated that approximately one half of the number of children would receive services under this version of the bill as compared to the original version.

Ms. Clarke affirmed, explaining that the current eligibility level was approximately 154 percent of the federal poverty level, and the current version of the bill would increase that to 175 percent, adding an additional 1277 children to the program. If the eligibility was increased to 200 percent, as was originally proposed, the increase in children served would be double the current increase.

[9:49:16 AM](#)

Co-Chair Hoffman moved to report CS SB 27, 25-LS0211\E, from Committee with individual recommendations and new and accompanying fiscal notes.

Co-Chair Stedman objected for the purpose of discussion.

Senator Dyson thanked the Committee for assisting in the drafting of a bill he would support.

Co-Chair Stedman removed his objection.

There was no further objection and CS SB 27 (FIN) was MOVED from Committee with previous fiscal note #4 from the Department of Health and Social Services Senior and Disabilities Medicaid Services for \$5,130,100 and previous zero fiscal note #5 from the Department of Corrections Office of the Commissioner, as well as new fiscal notes from the Department of Health and Social Services for Medicaid Services in the amount of \$2,195,400 dated 5/08/07, Behavioral Health Medicaid Services for \$455,900 dated 5/08/07 and Public Assistance Field Services in the amount of \$40,200 dated 5/08/07.

#sb116

AT EASE [9:50:55 AM](#)/[9:51:09 AM](#)

CS FOR SENATE BILL NO. 116(L&C)

"An Act relating to the Uniform Money Services Act, to money transmission services, and to currency exchange services; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

[9:52:19 AM](#)

Senator Elton moved to adopt CS SB 27, 25-LS0508\N, as a working document.

There was no objection and Version "N" was ADOPTED.

Senator Elton informed that the new version of the bill contained minor definitional changes.

[9:53:03 AM](#)

JESSE KIEHL, Staff to Senator Kim Elton, testified that Section 06.55.103 added by Section 1 of the committee substitute clarified that an individual who received a money services

license and was licensed in another state with similar laws to Alaska had the right to appeal if the application in Alaska was denied. The second change appeared under Definitions Section 06.55.990 added by Section 1 of the committee substitute and would add a provision to the definition of "bank". Banks would be exempt from the requirements of this bill, as they were regulated elsewhere in statute. This modification would bring the State into compliance with the recent U.S. Supreme Court decision in *Watters v. Wachovia*.

[9:54:33 AM](#)

Co-Chair Hoffman moved to report CS SB 116, 25-LS0508\N, from Committee with individual recommendations and accompanying fiscal note.

There was no objection and CS SB 116 (FIN) was MOVED from Committee with previous \$80,000 fiscal note #1 from the Department of Commerce, Community and Economic Development Banking and Securities Division.

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ADJOURNMENT

Co-Chair Bert Stedman adjourned the meeting at [9:58:56 AM](#)