HOUSE FINANCE COMMITTEE
April 1, 2015
2:07 p.m.

2:07:04 PM

CALL TO ORDER

Co-Chair Thompson called the House Finance Committee meeting to order at 2:07 p.m.

MEMBERS PRESENT

Representative Mark Neuman, Co-Chair
Representative Steve Thompson, Co-Chair
Representative Dan Saddler, Vice-Chair
Representative Bryce Edgmon
Representative Les Gara
Representative Lynn Gattis
Representative David Guttenberg
Representative Scott Kawasaki
Representative Cathy Munoz
Representative Lance Pruitt
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Representative Bob Lynn, Sponsor; Joanna Lewis, Staff, Representative Bob Lynn; Jane Pierson, Staff, Representative Steve Thompson; Crystal Koeneman, Staff, Representative Cathy Munoz; Kristin Ryan, Director, Division of Spill Prevention and Response, Department of Environmental Conservation; David Teal, Director, Legislative Finance Division; Kara Moriarty, President and Chief Executive Officer, Alaska Oil and Gas Association.

PRESENT VIA TELECONFERENCE

Gail Fenumiai, Director, Division of Elections, Office of the Lieutenant Governor; Ken Alper, Director, Tax Division, Department of Revenue.

SUMMARY

HB 13 ELECTION PAMPHLETS AND ABSENTEE BALLOTS

HB 13 was HEARD and HELD in committee for further consideration.

HB 41 SPORT FISHING SERVICES

HB 41 was SCHEDULED but not HEARD.

HB 158 REFINED FUEL SURCHARGE; MOTOR FUEL TAX

There being NO further OBJECTION, CSHB 158(FIN) was REPORTED out of committee with an "amend" recommendation and with one new zero fiscal noted from the Department of Environmental Conservation, one new fiscal impact note from the House Finance Committee for Fund Transfers, and one new forthcoming fiscal impact note from the Department of Revenue.

2:07:40 PM

Co-Chair Thompson discussed the meeting agenda.

#hb13
HOUSE BILL NO. 13

"An Act requiring notice of the postage required to mail an absentee ballot on the envelope provided by the division of elections for returning an absentee ballot; and repealing the authority to include certain material from a political party in the election pamphlet."

2:08:24 PM

REPRESENTATIVE BOB LYNN, SPONSOR, discussed that the bill related to the official election pamphlet. He highlighted that the pamphlet carried an air of authenticity because it was published by the government of the State of Alaska; therefore, voters tended to give far more credence to the words in the election pamphlet than they did to campaign mailers. He asserted that because candidates could afford to advertise in the pamphlet, it was a campaign equalizer. He stated that the pamphlet was basically a "vote for me"

publication for candidates, judges, and initiatives. He furthered that candidates could write almost anything they chose "however ridiculous it may be" without editing by the state, which he believed was fine. He continued that unfortunately there was a section in the pamphlet where any registered political party could make campaign statements, which could mean escalated attacks on candidates. He stressed that the pamphlet was supposed to be a neutral governmental publication about who and what the voters were voting on. He communicated that the bill would eliminate political party advertisements in the official election pamphlet. He urged members to pass the bill.

Representative Gattis wondered about the history. She had noticed the advertisements in the past election, but not prior to that. Representative Lynn asked for clarification. Representative Gattis asked how it had come to be that the state allowed political parties to advertise. She wondered if advertisement in the pamphlet was open to everyone. Representative Lynn deferred the question to the department.

GAIL FENUMIAI, DIRECTOR, DIVISION OF ELECTIONS, OFFICE OF THE LIEUTENANT GOVERNOR (via teleconference), answered that current state law only allowed for political parties to purchase space in the pamphlet (outside of any information that could be voluntarily provided by candidates running for office).

Representative Gattis asked about the history behind the law. Ms. Fenumiai replied that the advertisements had been allowed for at least the past twenty years.

Representative Gara expounded that the ability for political parties to advertise in the pamphlet had been around for a long-time. He detailed that historically parties had used two pages in the pamphlet to highlight their platform; however, in the past one of the parties had determined that personal advertisements were allowed. He believed the advertisements would only escalate in the future. He asked for verification that historically parties could use the space to highlight their platforms.

Ms. Fenumiai asked Representative Gara to repeat the question.

Representative Gara asked for confirmation that historically parties had used two pages in the pamphlet to highlight their platform. Ms. Fenumiai replied in the affirmative.

Representative Gara noted that it had only been in the past year that one of the political parties had figured out that the advertisement against another party was legal. He reasoned that the advertisements could target any state or federal candidate. He and Representative Lynn were both opposed to the state paying for negative ads.

Co-Chair Thompson asked about how much money was brought in through advertising. He observed that the fiscal note was zero. Ms. Fenumiai responded that political parties were allowed to pay for up to two pages at $600 per page. She believed there were a total of four political party pages in the 2014 pamphlet, which brought in about $2,400.

Co-Chair Thompson observed that there was a fiscal impact, but it was not large.

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Co-Chair Neuman asked whether there had been complaints about advertisements prior to the past year. Ms. Fenumiai replied that the past election was the first year she could recall receiving complaints.

Co-Chair Neuman asked about sideboards in the law that addressed what could be included in the advertisements and who could advertise. Ms. Fenumiai responded that there were no limitations; the division accepted what was provided by candidates and parties. She added that a disclaimer was provided at the bottom of the pages indicating which entity paid for the ad.

Co-Chair Neuman surmised that any political party within the State of Alaska that was recognized by the Division of Elections was allowed to place an advertisement. Ms. Fenumiai answered in the affirmative; any recognized political party could place an ad in the pamphlet.

Co-Chair Neuman asked if the division had looked at adopting sideboards that addressed what could or could not be included in an ad to prevent a negative impact. Ms. Fenumiai replied that the division had not considered the

issue. Co-Chair Neuman asserted that the division had probably thought about the idea, but did not want to discuss it.

Co-Chair Thompson noted that Representatives Pruitt and Wilson had joined the meeting.

Representative Kawasaki asked if any political party could advertise in the pamphlet even if they did not have a candidate in the race. Ms. Fenumiai responded that any recognized party could advertise even if they did not have a candidate.

Representative Kawasaki thought he had read that candidates were not allowed to make statements about another candidate. He thought the language had to be positive. Ms. Fenumiai replied that there were no provisions specifying what the subject matter of a candidate's statement could be. There were limits to the number of words a candidate's biography and statement could contain.

Representative Kawasaki thought he recalled the Division of Election's specifying that a candidate's statement could not be about another person.

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Vice-Chair Saddler asked for verification that there were no standards as to what candidates could put in the pamphlet. Ms. Fenumiai confirmed that there were no standards in place.

Vice-Chair Saddler asked if there could be any limits on political speech under the First Amendment [to the U.S. Constitution]. Ms. Fenumiai deferred the question.

Representative Lynn replied that according to Legislative Legal Services there were no First Amendment problems with the bill.

Vice-Chair Saddler countered that there were no First Amendment problems with removing advertisements; however, he believed limiting the content of advertisements would violate the First Amendment.

JOANNA LEWIS, STAFF, REPRESENTATIVE BOB LYNN, replied that she had learned from Legislative Legal Services that it was

legal to limit who was allowed to put information into the pamphlet, but the limit had to be applied equally across the board (i.e. the limit could not be applied to one party but not another).

Representative Lynn expounded that it had always been his understanding that it was not legal for a candidate to mention another candidate's name in their statement published in the pamphlet.

Vice-Chair Saddler asked how many parties were currently eligible to advertise in the pamphlet. He wondered if historically all eligible parties had tended to take advantage of the advertising opportunity. Ms. Fenumiai replied that all parties had the opportunity to provide information in the pamphlet; there were currently four parties recognized in Alaska.

Vice-Chair Saddler asked Ms. Fenumiai to identify the four parties. Ms. Fenumiai replied that the recognized parties were the Alaskan Republican, Democratic, Libertarian, and Independence parties. She relayed that the Alaskan Democratic, Libertarian, and Republican parties had purchased pages in the 2014 general election pamphlet.

Vice-Chair Saddler asked whether all parties tended to place ads in the pamphlet. Ms. Fenumiai answered that the two major parties had historically been the ones to provide ads to pamphlets.

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Representative Guttenberg asked how a political party became recognized and eligible to purchase a page in the pamphlet. Ms. Fenumiai answered that a party was required to submit a form and run a candidate for governor who had received at least 3 percent of the total vote in the preceding general election (if there was not a governor race, the U.S. senator or representative races were used). By the time the pamphlet was published the political parties were already set for the year.

Representative Guttenberg discussed that the next election cycle was presidential. He noted that many political parties would have presidential candidates on the ballot. He wondered if a political party from another state (with a presidential candidate) would be prevented from having a

page in the election book. Ms. Fenumiai did not believe it would qualify. She detailed that per Alaska statute a political party was defined as an organized group of voters that represents a political program and that ran a candidate (for governor, U.S. Senate, or Congress).

Representative Guttenberg addressed the term "sideboards" that he equated to political free speech. He wondered if the Division of Elections was capable of beating a challenge that could arise if it put any sideboards on something [e.g. the election pamphlet]. Ms. Fenumiai deferred the question to the Department of Law.

Representative Guttenberg wondered if a challenge had ever arisen in response to something published in the election pamphlet in the past. Ms. Fenumiai did not recall a challenge in the past.

Co-Chair Neuman asked for an explanation of the changes between the original legislation and the version passed by the House State Affairs Committee.

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Representative Lynn answered that a section related to postage had been deleted from the original bill version. He explained that originally the bill had specified that the Division of Elections would take care of absentee ballots that were mailed without adequate postage. The provision had been removed, which was reflected in the zero fiscal note. The remaining issue addressed by the legislation pertained to what political parties could include in the pamphlet.

Co-Chair Neuman wondered whether the sponsor asked the political parties that normally advertised in the pamphlet if they had recommendations to work out accommodations. Representative Lynn replied in the negative. He believed that most political parties would like to gain an advantage over their opponents. The legislation addressed his belief that it was inappropriate for candidates or political parties to publish "hit" pieces in the election pamphlet.

Co-Chair Neuman observed that the backup materials only included the political pamphlet from the preceding year. Representative Lynn answered that he only had the pamphlet from the prior election.

Vice-Chair Saddler asked about the basic economics of producing the election pamphlet. He wondered how much of the cost of producing advertisement and candidate pages was covered by a party or candidate and how much was paid for by the division. Ms. Fenumiai replied that it cost the division $256,000 to produce the election pamphlet. The party pages had brought in approximately $2,400 [in 2014]. She did not know the amount of revenue generated by the candidate pages off hand. She would follow up with the information.

Vice-Chair Saddler surmised that it was clear that the Division of Elections was paying for a substantial amount of the cost associated with the pamphlet.

Representative Pruitt wondered why the goal was to eliminate party advertising altogether. He wondered about an option of being allowed to put information in that was not negative. Representative Lynn answered that what may be viewed as negative to one person may not be negative to another. He reasoned that candidates, initiatives, and judges were all voted for on the ballot; however, political parties were not.

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Representative Pruitt stated that if negativity was in the eye of the beholder he had a problem with all of the ballot initiatives and did not believe they should be in the pamphlet because there were negatives on both sides. He believed the issue could be micromanaged to the extent that the pamphlet had to be done away with altogether. He advised addressing negativity if that was the concern. He remarked that some of the small parties, such as the Congress Party, may not have an advertising platform due to their size. He did not understand why parties should be penalized. He could identify other items in the pamphlet that he believed were negative.

Representative Lynn replied that residents voted for candidates, initiatives, and judges, but not for political party. He agreed that negativity was in the eye of the

beholder, but he wondered why the advertisements were included in the pamphlet to begin with.

Representative Pruitt countered that there were still people who voted by political party. He believed that to discount that reality would not address reality. He reasoned that if the concern was the negativity, the negativity should be addressed. He believed the bill would penalize all of the political parties by limiting their exposure.

Representative Lynn answered that people voting strictly along party lines could identify which party candidates represented.

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Representative Wilson asked why the Division of Elections was paying anything for the ads. She thought the division should just charge more. She thought paying $256,000 for the pamphlet was high. She stated that "if we don't like what they do, at least get more money out of them." She asked the division to determine how much it would have to charge parties and candidates so that the state was not subsidizing elections.

Representative Edgmon wondered if there was anywhere else within the election process that was essentially based on neutrality. He wondered if the pamphlet was the only part of the election process where a party could pay to publish a partisan statement.

Co-Chair Thompson noted that Ms. Fenumiai could follow up later. He relayed that the committee would hear the bill again in the future; members would have a chance to ask additional questions.

Representative Lynn summarized that the bill was not about money. He explained that it did not matter to him whether the statements by political parties were free or cost $1 million per page; it was not the point of the legislation. He stressed that political party advertisements did not belong in the election pamphlet. He believed the election pamphlet was a place for candidate and initiative statements; it should be kept as pure as possible.

HB 13 was HEARD and HELD in committee for further consideration.

#hb158
HOUSE BILL NO. 158

"An Act relating to a refined fuel surcharge; relating to the motor fuel tax; relating to a qualified dealer license; and providing for an effective date."

2:39:06 PM

Co-Chair Neuman MOVED to ADOPT the proposed committee substitute for HB 158, Work Draft 29-LS0608\I (Nauman, 4/1/15). There being NO OBJECTION, it was so ordered.

Co-Chair Thompson asked his staff to explain the changes between the bill versions.

JANE PIERSON, STAFF, REPRESENTATIVE STEVE THOMPSON, discussed the changes in the Committee Substitute (CS). The first change appeared on page 2, line 6 and exempted aviation fuel from the surcharge imposed under AS 43.40.055. The second change was on page 5, lines 1 through 9 and conformed to federal grant assurances and Federal Aviation Administration (FAA) guidance to use aviation fuel taxes for capital or operating costs for airports.

Co-Chair Thompson asked for a brief recap of the legislation.

CRYSTAL KOENEMAN, STAFF, REPRESENTATIVE CATHY MUNOZ, detailed that the bill would add a one cent surcharge on all refined fuels. She added that aviation fuel had been added to the list of exemptions.

Co-Chair Neuman addressed that the CS added an exemption for aviation fuel; however, page 6 of the legislation specified that aviation fuel taxes could be used for capital and operating costs for airports. He wondered why the bill would take tax away from airlines.

Ms. Koeneman replied that Section 5 of the bill (AS 43.40.010e) included existing statutory language. The bill would amend the statute by adding "motor fuel" to ensure there was no confusion about which taxes were collected;

currently motor fuel tax was the only tax collected into the fund, which would continue under the legislation.

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Co-Chair Neuman observed that the words "capital or operating costs of airports" had been added to existing statute and the words "aviation facilities" had been deleted on page 5, line 8. He surmised the change meant that the motor fuel tax (which had been for cleanup) would be used for capital and operating costs of airports.

Ms. Koeneman agreed that the language had previously read "aviation facilities." She explained that it had been expanded to capital and operating costs of airports. She furthered that the current statute had never been for the Spill Prevention and Response Section (SPAR) of the Department of Environmental Conservation (DEC). She deferred the question to the Department of Revenue (DOR) for further detail.

Co-Chair Neuman thought the bill was for the SPAR fund to clean up fuel that was spilled in various locations. He was confused about language that would allow money to be appropriated for capital and operating costs for airports. He stressed that the expenditures did not go towards cleaning up fuel.

Ms. Koeneman answered that some conforming language had been necessary in order to specify the difference between the motor fuel tax collected by the state and the new surcharge. There were numerous conforming statutes throughout the legislation that referenced the motor fuel component specifically in order to delineate between what was collected for DOR to administer.

Co-Chair Neuman remarked that he and Co-Chair Thompson would not take money from the fund to use for capital and operating expenses, but they could not guarantee what future legislatures would do. He thought that the issue should be considered further to prevent the situation from happening.

Representative Munoz noted that the fuel that was collected on aviation was required to go back to the airports. She explained that the clarifying language had been requested by the department and did not relate to SPAR.

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KEN ALPER, DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE (via teleconference), clarified that most of the bill included existing statutory language on motor fuels (different tax amounts were collected on different types of fuel such as highway fuel, marine fuel, and other). Existing language in Section 5 clarified that the money (roughly $5 million per year) must be spent on projects at airports in order to conform to new federal guidelines over how fuel tax was collected on aviation fuels. He stated that the issue was slightly outside the scope of the legislation, but it satisfied an existing need that would be addressed in budget documents as well; some money that was currently appropriated for airports would be specifically tied back to the aviation fuel coming in on an annual basis from motor fuel tax. The exclusion of aviation from the new surcharge was a separate issue that did not impact the change in Section 5; however, it did reduce the scope of fuel that would be subject to the new surcharge.

Co-Chair Neuman understood that the money collected for airports went back into airports. He discussed collecting a surcharge on the tax sold for aviation for use on capital and operating costs at airports. He asked for comment from DOR.

Mr. Alper replied that the existing tax was not impacted by the bill (3.2 cents per gallon on jet fuel and 4.7 cents per gallon on general aviation fuel). Under Section 5, fuel [funds] currently in a subaccount of the general fund would be specifically designated for capital projects at airports. He furthered that if aviation fuel had not been excluded from the new surcharge it would be necessary to find similar language to ensure the fuel [tax] was directed to aviation activity.

Co-Chair Neuman highlighted a scenario in which a jet spilled fuel at a remote airport. He added a side note that all airports within the state with the exception of municipal airports, Ted Stevens International Airport, and the Fairbanks International Airport fell under Department of Transportation and Public Facilities' expenses. He asked if the tax could be used for capital projects at the Deadhorse Airport if a jet spilled fuel.

Mr. Alper answered that the language about capital projects was related to existing (general fund) aviation motor fuel tax, which was similar to the 8 cent gasoline tax. He explained that a funding source would need to be identified in order for money to be spent on cleanup-type activities at airports because currently the purchases of aviation fuel would not pay into the SPAR surcharge.

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Co-Chair Neuman asked if SPAR funds could be used to clean up a spill at an airport. Mr. Alper deferred the question to DEC.

Co-Chair Neuman assumed that SPAR teams would respond with cleanup efforts if a boat delivering jet fuel to Ted Stevens International Airport spilled fuel. However, he asserted that airports would not be paying anything into the SPAR Fund.

Ms. Koeneman noted that DEC was present to address questions. She added that under the highlighted scenario DEC would initially respond with cleanup efforts, but it would work with the entity and responsible party to recoup costs; therefore, cost recovery would come from the entity that had spilled the fuel.

Co-Chair Neuman countered that the approach outlined by Ms. Koeneman was standard practice for every spill.

Co-Chair Thompson read from a statement [copy not on file], which he assumed had been the impetus for the new CS:

> Federal grant assurances 49 U.S.C. 47107(b) states that assurance 25 requires that any local taxes on aviation fuel will be expended by the airport for capital and operating costs of the airport. Using monies derived from the airport system for non-airport uses like cleaning up heating oil spills etcetera is likely clearly a grant assurance violation. In November 2014 the Federal Aviation Administration identified taxes on an aviation fuel as being required to be used for aviation purposes. The proposed refined fuel language in both SB 86 and HB 158 would seem to run directly contrary to that very recent FAA guideline. The FAA will be giving heightened security to aviation fuel tax issues not less scrutiny. If the

bills are not amended and in my role as an advising attorney for this legislation I would recommend a note that we are in likely violation of 49 U.S.C. 47107.

KRISTIN RYAN, DIRECTOR, DIVISION OF SPILL PREVENTION AND RESPONSE, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, agreed that everything said to date was accurate; SPAR would try to pursue cost recovery as it did currently with all parties. She elaborated that under federal law and restrictions on the use of revenue collected at airports, it would be difficult for SPAR to spend exactly that amount annually cleaning up or preventing spills. She concluded that the requirement restricted how the revenue could be used.

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Co-Chair Neuman referred to Ms. Ryan's testimony that it would be difficult to determine that the annual tax collected from aviation would equal the amount spent. He reasoned that the same could be said for every one of the taxes. He wondered if SPAR tried to determine how much would be spent on cleaning up industrial or oil pipeline fuel spills. He wondered if there was currently a delineation on how SPAR funds were spent. Ms. Ryan answered in the negative; however, the specific federal law would require it for aviation fuel, whereas, SPAR was not under the same obligation for the other funding streams.

Co-Chair Neuman asked for verification that SPAR would record how much fuel was used. He assumed the information was already available at DOR. [Nonverbal agreement was given.] He surmised that the calculation would not take significant work. He remarked on a more difficult process related to tire tax. He did not understand why SPAR funds would be spent on entities that did not pay into the fund. He found the issue troubling. He pointed to gasoline tax on drivers, heating fuel tax charged to homeowners, and taxes on oil companies. He did not believe it made sense to exempt one entity, while SPAR still had to use its funds for cleanup.

Ms. Ryan believed the point was well taken; the aviation fuel would be exempt, while everyone else would not. She could not answer whether it was the right thing to do or not. She added that as is, the bill would generate enough revenue to solve the SPAR shortfall.

Co-Chair Neuman reiterated that the bill would take money from commuters and homeowners purchasing heating fuel.

Representative Munoz communicated that she had been tasked with the DEC budget for the past three years. She had been specifically directed to find a solution to the SPAR Fund shortfall. She relayed that three-quarters of the spills in Alaska happened with refined fuels yet currently the program was primarily funded through a surcharge on crude oil. She explained that the bill represented an effort to recognize that there were multiple entities responsible for spilling in Alaska. The federal language limited how the revenue could be spent with aviation activity; the total revenue coming in from aviation activity would be around $1.3 million. Yet every year the state would be required to define the activity at $1.3 million to justify the activity. The federal requirement made implementation difficult, which is why aviation fuel had ultimately been exempted.

Co-Chair Neuman understood; however, state general fund dollars were still spent on spill prevention practice efforts by fire crews and other. He did not know why the exemption would be included.

Vice-Chair Saddler asked if the aviation fuel was specifically defined as jet fuel for jet transport. He wondered if it also included 100 low-lead fuel. Ms. Koeneman answered that it covered all aviation fuel.

Vice-Chair Saddler asked how the proposed exemption of aviation fuel would impact the projected revenue stream. Ms. Koeneman answered that it would reduce the revenue by approximately $1.4 [million]. She noted that DOR was working on providing a more precise figure.

Vice-Chair Saddler referenced the definition of motor fuel on page 5 of the legislation. He noted that there were currently motor fuel taxes that were paid by vehicles on the ground and in the air. He remarked that aviation taxes were used at the aviation facility per FAA grant requirements. He observed that the bill created a refined fuel surtax, which was not a motor fuel tax. He asked about the distinction.

Ms. Koeneman agreed. The bill would specifically delineate a motor fuel tax to prevent confusion. She noted that currently statute had used the word "taxes"; because the bill would bring more than one stream coming in, a clear distinction had been made.

Vice-Chair Saddler asked if there was any effectual distinction between the use of aviation funds for capital and operating costs of airports compared to aviation facilities.

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Ms. Koeneman replied that she was not certain. She knew there had been recent discussion about giving airports the ability to utilize monies more efficiently in order to reduce the level of general fund dollars going to airports. She added that the funds would offset.

Vice-Chair Saddler stated that the SPAR Fund was currently funded with money raised from a 4 cent to 5 cent per barrel tax on crude oil. He continued that crude oil was refined in the state and used to power jet aircrafts. He reasoned that in essence revenue was being raised to pay for spill response by the stream of fuel used to fuel aircrafts in the state.

Ms. Koeneman replied in the affirmative.

Representative Wilson referred to a document listing the top spills in Alaska [DEC letter addressed to Co-Chairs Thompson and Neuman from DEC "HB 158 Refined Fuel Surcharge Follow Up" dated March 31 (copy on file)]. She observed that the cost related to the Aniak airport was $6.8 million. She did not know why the state could not collect money from airports to use towards cleanup at airports. She wanted to better understand how the funds were currently utilized. She had been surprised to see Flint Hills on the list at $4.4 million and to learn that the money had been used for studies and public meetings, but not for cleanup. She wondered how to distinguish what was used for cleanup versus other services.

Ms. Ryan answered that there were a variety of costs that went into the figures, including toxicologists and the approval of an onsite cleanup plan (such as for the Flint Hills Refinery property). She relayed that the costs

depended on the site; many legal costs were usually included. She explained that all of the incidents in the document had gone to formal settlement; therefore, the Department of Law had been heavily involved in retrieving any payback from the spills. She offered to follow up with a per site explanation.

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Representative Wilson referred to a sulfolane contamination in North Pole. She had been told that the department was not doing a cleanup of the area because the party responsible for the contamination was known. She pointed to other examples provided to the committee and believed that the parties responsible for contamination were known there as well. She asked for an explanation of the process SPAR used when a spill occurred and how it decided to clean up the site and seek reparations or create a plan for another party to clean up the site.

Ms. Ryan answered that every site was different; contaminated sites tended to be the most expensive for SPAR. She relayed that SPAR was anticipating recovering costs from each of the listed sites; it was expecting a large settlement related to the Aniak spill cleanup (the funds were included in the SPAR budget as a stop gap measure). She noted that SPAR had settled with River Terrace Laundry; the document showed the balance and recovered costs. She shared that the agency frequently put liens on property; there were liens on many of the sites listed in the letter, which meant SPAR would recover additional costs when the properties were sold. She reiterated that the cost varied by site; SPAR first looked at risk and whether exposure may be dangerous to people. She elaborated that the level of risk drove how SPAR used its funds, which was designated in its statutory authority; if the risk was great, SPAR was supposed to use its funds to protect human health and the environment and then go after the responsible party. She added that in cases where the responsible party was known and the risk was mitigated, SPAR would take the slower route prior to stepping up and taking over.

Representative Wilson stated that the SPAR Fund used for spill response and cleanup had typically been funded with money from a barrel of oil versus charging residents for something they were not responsible for. She remarked that

if she spilled something SPAR would make her clean it up. She wondered why the state would not keep its current system instead of introducing a new tax.

Ms. Ryan replied that the administration had been asking for a solution; it was not advocating for one solution over another, but it did believe the bill included a solution that made sense based on the number of spills related to refined fuels (the tax would collect revenue from the spillers). She elaborated that spills came from many homes and entities that were not regulated, which made cost recovery difficult.

Representative Wilson did not believe the solution made sense. She questioned why the state should not just go after the industries that were most likely to spill. She asked for the percentage of individuals responsible for spills compared to trucking companies and other. She noted that mines already had a costly process related to spill regulation. She stressed that the bill would cost a mine in her region over $100,000 per year; she remarked that the likelihood of a spill at the mine was minute.

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Ms. Ryan referred to information provided by the department that showed spills by type ["HB 158 Supporting Documents Active Sites CSP" (copy on file)]. The document showed the sites spills were occurring by product type. She shared that spills varied by industries and some were not industries (i.e. boats, trucks, homeowners, and small facilities such as dry cleaners that were not regulated). She did not know of an efficient a way to regulate the group to recover costs upfront; SPAR tried to recover costs after cleanup, but sometimes it was not possible if an entity did not have the revenue, the responsible party was unknown, or the division was locked in long-term litigation to recover costs.

Representative Wilson thought the bill only represented an easier way to get the money. She was bothered that the bill would create another cost for residents, especially in Fairbanks where people already paid high heating costs. She was concerned that while it appeared that the SPAR fund was used to clean up property, much of the money actually went to other things such as studies, litigation, and other.

Co-Chair Thompson asked the Legislative Finance Division to address the aviation fuel exemption.

Co-Chair Neuman asked for a description of discrepancies between the motor fuel tax and the refined fuel surcharge. He requested further detail on why the aviation fuel had been exempted.

DAVID TEAL, DIRECTOR, LEGISLATIVE FINANCE DIVISION, referenced federal regulations related to capital or operating [expenses] that Co-Chair Thompson had referred to earlier. Current statute referred to aviation facilities; however, typically facilities were thought of as buildings or infrastructure. He explained that the bill replaced "aviation facilities" with "capital or operating costs" in order to comply with federal regulations. Federal grant requirements stated that aviation fuel taxes could be spent only for the capital or operating costs at airports. He explained that if the tax or surcharge proceeds were sent to DEC, it would have to do all of the accounting. The process would result in dedicated revenue inside the SPAR Fund, which was not a dedicated fund. He furthered that the state did not know how to classify a non-dedicated fund housing dedicated revenue; therefore, it had been determined it was best not to send the money to the SPAR Fund at all.

Mr. Teal communicated that the second problem was that there were three airport systems in Alaska (international, municipal, and rural airports) and each of the airports received a share of the funds, meaning that DEC would have to account for three different outflows by system. He noted that the international airports had onsite spill response capabilities, which meant that SPAR would not need to spend money responding to a spill. He addressed that the bulk of the fuel tax or surcharge was generated at international airports, where the big sales occurred. He explained that if the aviation surcharge was sent to SPAR it would be difficult to spend the money. One option was to levy a surcharge and house it in the special aviation account; however, he explained that someone had decided that the bill would only address SPAR and would not do a general overhaul of motor fuel taxes. The decision had also been made that if the surcharge did not go to SPAR, it should be dropped from the bill. He summarized that putting a dedicated surcharge in DEC would only create a problem.

3:14:11 PM

KARA MORIARTY, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ALASKA OIL AND GAS ASSOCIATION (AOGA), provided a prepared statement (copy on file):

Good Afternoon Co-Chairs Thompson and Neuman and members of the Committee. For the record, my name is Kara Moriarty and I am the President/CEO of the Alaska Oil and Gas Association, commonly referred to as "AOGA".

AOGA is a professional trade association whose mission is to foster the long-term viability of the oil and gas industry in Alaska for the benefit of all Alaskans. Thank you for the opportunity to testify today on House Bill 158, an act relating to a refined fuel surcharge; relating to the motor fuel tax; relating to a qualified dealer license; and providing for an effective date.

AOGA represents the majority of oil and gas producers, explorers, refiners, transporters and marketers in Alaska. Our current members include: Alyeska Pipeline Service Company, Apache Corporation, BP, Caelus Energy, Chevron, eni petroleum, ExxonMobil, Hilcorp, PetroStar, Repsol, Shell, Statoil, Tesoro, and XTO Energy. Because this legislation is a tax related matter, this testimony has the unanimous consent from all of these companies; producers and refiners alike.

As a bit of history, Alaska has had some sort of oil spill cleanup fund in place since 1976 when the state created the Coastal Protection Fund during the construction of the Trans-Alaska Pipeline System or TAPS. Over time, the fund morphed into the Oil Spill Mitigation Account, then the Oil Spill Reserve Account, then in 1986, into what it is today, the Oil and Hazardous Substance Prevention & Release Response Fund, or what it is commonly referred to as the "470 Fund", a reference to the bill number that created it. The revenue generated by HB 158 would be deposited into the prevention account of this fund.

In addition to the hundreds of millions of dollars invested each year by the industry in Alaska to prevent, prepare and respond to the release of

hazardous substances, AOGA has long supported fair and equitable efforts to ensure the State of Alaska is also financially prepared.

To date, the state has collected a surcharge only on the oil and gas industry to pay for the "470 fund". If an incident occurs, the oil and gas industry also repays costs associated with the response, as do some other industries. Still, the oil and gas industry is the only industry that has been assessed a specific surcharge/tax to pay for the purposes of this fund, even though the state utilizes the fund for a variety of other industries and individual Alaskans. To date, the oil and gas industry has contributed more than $350 million through this surcharge for the 470 Fund.

AOGA has been engaged in the policy decisions surrounding the 470 Fund since its inception. In 1994, AOGA supported the legislation that split the initial surcharge into two separate accounts, one for response and one for prevention. AOGA did not oppose the modification to the surcharge in 2006 because the total taxable amount remained at 5 cents per barrel.

Despite the stated purpose of cleaning up and preventing spills, previous Administrations and Legislatures allowed for the fund to be used for non-spill projects such as campgrounds, state airports, tank farm remediation, privately owned greenhouses and new ferries. DEC and the Legislature should be commended because it appears these types of expenditures are no longer being appropriated from the fund, but the corpus of the fund may have been unnecessarily reduced during years when these types of appropriations were authorized.

Although oil and gas production currently accounts for 100 percent of the surcharge for the fund, DEC annual reports show that, from Fiscal Year 2010 – FY 2014, oil production and exploration and natural gas production altogether amount to less than 29 percent of total spill volume.

It is important to note, as I've mentioned, the oil and gas industry invests hundreds of millions of dollars every year to have a robust response capabilities in the event an industry-related spill

occurs. We are required by federal and state regulations to have current contingency plans in place, have spill response equipment available and exercise both plan and equipment regularly. In addition, the companies belong to not-for-profit response cooperative, such as Cook Inlet Spill Prevention and Response and Alaska Clean Seas.

AOGA endorses the same position as the Oil and Gas Transition Team for the Walker/Mallott administration, which advocated for the State to utilize other revenue sources before increasing the surcharge on the oil and gas industry. House Bill 158 does broaden the contributing efforts of others that use the fund's services.

Additionally, AOGA advocates for DEC to continue to identify efficiencies internally. To that end, AOGA has identified suggestions for DEC's consideration and will work with the State to further identify cost reductions without diminishing the state's strong oversight and regulation of the industry.

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Ms. Moriarty continued to read a statement:

We also encourage the State to adopt other policies to assist the state in recovering costs from other users who are not currently reimbursing the State after a response. In FY 14, DEC billed more than $3 million to various industries and recovered one-third of that amount. To strengthen the State of Alaska's oil spill preparedness and response, there must be an effort to recover more than 30 percent of the state's spending.

In closing, AOGA is not opposed to House Bill 158. It does broaden the contributions of others that use the fund's services without having an overly adverse impact on our member companies.

Co-Chair Neuman referred to Ms. Moriarty's testimony that in the past the SPAR fund had been used for non-spill projects such as campgrounds and other. He did not intend to make changes to the bill at present, but he suggested working with the bill sponsor to define the sideboards (the proper usage of the funds). He had heard from other

entities with the same concerns. He thought the sideboards should be put in statute. He observed that the administration appeared to be cognizant of the proper use of the funds, but he thought the sideboards could be included in the legislation as it moved forward.

Representative Pruitt asked whether the legislation would impact AOGA member companies financially. Ms. Moriarty replied in the affirmative. She detailed that the bill would increase the cost of the fuels used in the companies' operations given that distributors would pass the costs on. The organization did not yet know what the financial impact would be, but it assessed that the impact would not be overly adverse. She acknowledged that all industries using refined products would have to pay a little more.

Representative Gara stated that over the years people had tried to implement 2 cent per barrel increases. He remarked that if the change had been made in 2008, the fund would currently be solvent. He noted that the oil industry had been opposed to the increase. He surmised that the oil industry was opposed to inflation proofing (the 5 cent tax had been implemented in 1989), but was not opposed to charging consumers.

Ms. Moriarty replied that AOGA's position had been that other industries utilizing the fund should also contribute in some way. She added that how the legislature chose to do it was completely up to the legislature. She elaborated that the oil and gas industry had been the only contributors to the fund, but not the only user.

Representative Gara appreciated that other industries were responsible. He referred to recent testimony that 2 percent of spill response was related to mines and 7 percent was related to marine vessels. He stated that a solution was needed and he did not intend to block it. However, he observed that the bill did not spread the responsibility to other industries; it would financially impact people who had nothing to do with spills. He acknowledged that 1 cent per gallon was not a huge amount of money, but the bill did not share the cost with other industries. He wondered if AOGA had a suggestion on how to share the costs.

Ms. Moriarty answered that it was not AOGA's position to try to determine how to share the costs with other

industries or individuals. She remarked that individuals were responsible for spills as well.

Representative Gara interjected that the individuals responsible for spills represented a "tiny" percentage of the total. Ms. Moriarty replied that DEC would be the appropriate party to comment on Representative Gara's statement. She reiterated that it had never been AOGA's position to get into who or how the state chose to broaden the fund; AOGA had only advocated that the fund should be broadened beyond the oil and gas industry.

Representative Wilson asked for verification that the oil and gas industry passed the tax off to someone else. She surmised that if the cost was increased to 10 cents per barrel that the industry would pass the cost on.

Ms. Moriarty replied that the oil and gas industry did not pass off its production, property, or any other tax. She stated that the industry was not passing the cost off on a distributor; it was not as clean as a pass through that a distributor may have at a gas station. She furthered that the industry could not pass all of its taxes on to a consumer.

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Co-Chair Thompson CLOSED public testimony.

Representative Gara was interested to know the largest cost drivers for the prevention fund (the 4 cent per gallon fund). He was looking for a rational way to address the issue through the legislation, but he did not know if it was possible. He referred to six types of spill prevention costs paid for with the SPAR Fund. He asked for verification that there were 50 crude oil related oil spill prevention or contingency plans.

Ms. Ryan replied in the affirmative.

Representative Gara asked if the crude oil prevention and contingency planning was the most expensive for the fund.

Ms. Ryan replied in the affirmative. She referred to a request for information from Representative Gara about prevention activity. She noted that prevention work was part of the cost paid for by the fund. She elaborated that

the primary prevention activity was related to contingency plans (plans that were statutorily required of certain operators including all oil and gas exploration and production activity). The contingency plan explained how an entity would prevent a spill from occurring (e.g. corrosion detection in pipelines) and what action the entity would take in the event of a spill. The agency had approved 50 contingency plans related to oil exploration and production; it had approximately 580 contingency plans related to refined fuel. Refined fuel primarily included vessels shipping the fuel around the state; it also included large tank farms (small tank farms were not regulated by DEC). Other prevention related work included drills and exercises where the industry was tested to ensure it could adequately respond; the drills were very expensive for SPAR and the industry. She noted that there were legal obligations on the industry to do test exercises, which were observed by SPAR. She detailed that the preceding year 21 drills had been conducted related to the oil and gas industry and 3 had been done related to refined fuel. She noted that more emphasis had been placed on the oil industry because there was more activity associated with cleaning up oil.

Ms. Ryan relayed that the third prevention was related to financial responsibility; SPAR verified that companies had the financial capacity to clean up a spill. She noted that the oversight was limited to the industries regulated by SPAR (it did not include smaller facilities or homes). The fourth prevention activity was inspections and verifying that people had prevention measures in place.

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Representative Gara addressed SPAR's prevention check related to financial responsibility. He asked for verification that SPAR had conducted 414 responsibility checks and 869 refined fuel responsibility checks. Ms. Ryan replied in the affirmative.

Representative Gara asked if ensuring that crude oil and refinery entities could satisfy their prevention plans represented the bulk of the cost for the spill prevention portion of the agency. Ms. Ryan replied in the affirmative.

Representative Kawasaki pointed to pie charts provided by DEC showing contaminated sites ["HB 158 Supporting

Documents Active Sites CSP" (copy on file)]. He noted that oil spills tended to be more expensive in terms of remediation and cleanup. He wondered if there was a chart that showed the largest cost drivers associated. He referenced the first page and pointed out that 4 percent of contaminated sites were explosives and munitions, which he believed would be easier to clean up than something like waste oil. He was interested in understanding the cost drivers in order to determine who should be the most responsible for the costs.

Ms. Ryan replied that she did not have the specific information. Based on her experience, oil spills were more expensive to clean up than refined fuel spills; however, DEC regulated the oil industry to ensure that the industry had the capacity to respond to the spills, which it did not do with all of the refined fuel carriers. Thus far, SPAR had recovered its cost from the oil industry. She explained that it was the smaller entities that SPAR was unable to recover costs from, which had caused the account to not be 100 percent sustainable through cost recovery.

Representative Kawasaki referred to a letter from DOR [addressed to Co-Chairs Neuman and Thompson, dated April 1, 2015] that described groups covered or exempt from the surcharge. He noted that highway-use gasoline, utilities and power plants, and other would not be exempted, while foreign flights and other would be exempted. He wondered if the groups listed in the letter were most appropriate to place the financial burden on.

Ms. Ryan replied that the letter did not reflect the CS, which now included the aviation exemption. She replied that the letter included DOR calculations based on fuel usage by industry. She could not correlate the information directly with spill data. She pointed to the DEC graph showing a breakdown of spills based on categories determined by SPAR.

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Representative Kawasaki referred to a couple of letters from DOR providing follow up answers to committee questions [dated March 31, 2015 and April 2, 2015]. He asked if the aviation fuel component was an issue of accounting. He surmised that the second letter stated that a surcharge could be collected. He wondered if it was a matter of sequestering the funds separately in the SPAR Fund.

Mr. Teal replied there were the accounting issues of handling a dedicated fund inside another fund (the aviation fuel tax fund would be dedicated due to the federal requirement limiting aviation fuel tax to airport spending). Additionally, there was a legal problem trying to spend the aviation tax proceeds on spill recovery. He furthered that if funds from aviation fuel tax were sent to DEC it would be necessary to separate the account for the three different airport systems. A number of problems were presented by the inclusion of aviation fuel. The issue was simplified by exempting aviation fuel from the bill because the state could not guarantee the funds would be spent the way the federal government mandated.

Representative Kawasaki noted that the large airports (i.e. Fairbanks and Anchorage airports) would pay the bulk of the surcharge if it was not exempted in the bill. He wondered if the money could be used for other airports outside of Fairbanks and Anchorage. Mr. Teal replied in the negative. He detailed that international airport money stayed where it was, likewise the municipal and rural airport systems each received their money.

Co-Chair Neuman asked how frequently the division had to respond to a fuel spill from a vehicle. Ms. Ryan referred page 2 of a pie chart ["HB 158 Supporting Documents Active Sites CSP" (copy on file)] and reported that spill response related to a vehicle accounted for 2 percent of the division's cleanup activity.

Co-Chair Neuman asked for clarification. He wondered if the percentage accounted for vehicle spills at gas stations. He noted the most gas stations were equipped with an emergency fuel shutoff. He added that gas stations were also required to have absorbents, holding tanks, and other cleanup/safety materials available. He wondered if SPAR had to cleanup fuel spills from an average passenger vehicle.

Ms. Ryan answered that truck rollovers stood out to her as a prominent example; the agency had seen an increasing need for response to the incidents and had responded to several in the current year. She offered to work on a further breakdown of the increment.

Co-Chair Neuman explained that his curiosity was based on the fact that passenger vehicles were responsible for a large portion of the tax under the legislation.

Representative Wilson asked when the SPAR Fund had last been audited. Ms. Ryan replied that the fund had been audited two or three times in the past 10 years. She believed the most recent audit had been completed in FY 12 or FY 13 (prior to her tenure). She would follow up with the information.

Vice-Chair Saddler pointed to charts provided by DEC and asked for a definition of active contaminated site.

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Ms. Ryan answered that an active contaminated site could be a site where DEC had agreed to leave the contamination in the ground to naturally dissipate or a site where active cleanup work was underway. She furthered that sites where contamination was left to dissipate were monitored to ensure that the spill was not migrating and was degrading; the site would be closed if levels dropped below the cleanup level standards and regulation. There were many sites where active remediation was occurring, which were above DEC's cleanup level, but were left to naturally dissipate. She added that active "pump and treats" could also be underway, which took years to slowly dissolve the contaminant.

Vice-Chair Saddler wondered how much responsibility it was fair to apportion to those paying the tax. He pointed to page 2 of the DEC document related to active sites and observed that diesel and gasoline accounted for 29 percent of (all products spilled) volume released by product (aviation fuel had been exempted in the bill). He looked at the pie charts related to refined products and observed that diesel and gasoline accounted for about 72 percent of volume released by product. He wondered if kerosene, engine lubricating oil, and hydraulic oil were considered refined fuel products and subject to the surcharge.

Ms. Ryan replied that she did not believe so, but deferred the question to DOR as to how it classified the oils.

Vice-Chair Saddler noted that the oils (kerosene, engine lubricating oil, and hydraulic oil) represented small

portions of the pie. He estimated that diesel and gasoline represented approximately one-third of all products spilled. He observed that diesel represented approximately 60 percent of the refined products spilled.

Co-Chair Thompson interjected that there would not be time to hear HB 41 during the meeting.

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Representative Gara discussed circumstances under which the state was reimbursed for its enforcements costs (e.g. antitrust consumer cases, and other). He wondered if SPAR received its full enforcement costs back after going after a responsible party. He commented that in most law suits a party only received 20 percent of its litigation fees.

Ms. Ryan responded that all situations were different. She detailed that the division initiated cost recovery by sending a letter to potentially responsible parties. She elaborated that SPAR referred the case to the Department of Law (DOL) for a formal cost recovery if the initial effort was unsuccessful. She explained that large [spill] sites tended to be settled out of court and it was rare that the division received full cost recovery; the amount recovered varied by site.

Representative Gara reiterated his prior statement that most litigants only received 20 percent of their legal costs back when they won a case. However, 100 percent of litigation costs were returned from responsible parties in some cases such as antitrust or consumer protection. He wondered which situation applied to SPAR's efforts.

Mr. Ryan answered that she would follow up on the question. She relayed that things had changed over the past few years, but SPAR did not receive 100 percent of its legal fees back.

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Representative Pruitt highlighted a site in Anchorage where a new Walmart was located at Muldoon and Debarr Roads. He discussed that before the Walmart had been built there had been a construction company that had contaminated the site with oil and other materials. He furthered that the oil had migrated and had seeped into the water in the area. Walmart

had purchased the property and had mitigated, but contamination persisted. He wondered who paid for the monitoring. He believed the state had to have a regulatory role in the situation in some capacity. He asked if the fund paid for the monitoring or if state was compensated for its efforts.

Ms. Ryan replied that she was familiar with the site, but did not have specific information. She relayed that it depended on the site and the risks exposed. She discussed that DEC had been very concerned about fumes that had been seeping into a neighboring church and other properties. The division had done some of the initial sampling to verify that the fumes were carcinogenic and needed to be addressed. She furthered that the division had a legal mandate to pursue the responsible party if it was known; however, in situations when the responsible party was not known, SPAR would use its funds to mitigate a health risk. Additionally, DOL searched for previous responsible parties that had left the state or other.

Representative Pruitt used the Walmart property as an example of the overall situation. He discussed that the property under discussion had been purchased by Walmart, but the contamination had migrated to neighboring properties. He wondered if it the new owner's responsibility to address the issue. He believed Walmart had understood that the contamination issue had existed. He asked if Walmart was now the responsible party as the new owner or if there was a statute of limitations that prevented the state from going after the new owner. He observed that new owners would not always be large commercial owners.

Ms. Ryan replied that the current owner was legally responsible for contaminated property even if they did not cause the contamination. She added that in most situations they turned around and went after the true responsible party that had caused the contamination.

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Representative Pruitt wondered at what point the state abandoned its efforts to seek financial reparations for contaminated site cleanup. He asked when the division decided the fund would pay. He spoke to historical concern about whether the SPAR Fund had been used correctly.

Ms. Ryan replied that DOL made the determination about whether there was a legal ability to recover any funds. She deferred to DOL for further detail. She relayed that the division was currently working on regulations to clarify what criteria would be considered for when cost recovery should be pursued. The division could provide more information to help people understand how and when DOL made the decisions.

Representative Pruitt asked if regulation was sufficient. He wondered if statute was needed to ensure that the state was not "held hostage" to some of the scenarios where it stepped in to take care of the problem. Ms. Ryan answered that she was not aware of any statutory help that was needed, but she would follow up.

Co-Chair Thompson shared that 15 years earlier he had been involved in the purchase of property that had been contaminated in the 1950s and 1960s. He elaborated that at the time insurance companies did not have clauses that they would not be responsible for environmental cleanups. He detailed that money had been collected from the old insurance companies to help pay for monitoring wells and other.

Representative Wilson referred to testimony from Ms. Moriarty that she had discussed other options with the division besides the one in the bill. Ms. Ryan believed that increasing the surcharge on oil had been the primary alternative discussed in the past.

Representative Wilson wondered what could be done to improve cost recovery from something like 30 percent to around 50 percent. She surmised that the revenue issue may be temporary while the division waited for cost recovery.

Ms. Ryan answered that looking at the regulations was a good first step to improving cost recovery efforts. She had done a variety of things within the division to improve cost recovery. She detailed that billing had been automated; bills also went out monthly instead of occasionally. She reasoned that people were more likely to pay a monthly bill than an occasional bill. Additionally, the division was connecting its time tracking data with cost recovery. For example, a spill responder may receive a phone call asking for advice about a potential spill. She

explained that it was not efficient to bill the caller for 15 minutes of technical assistance; it had been determined that a fee would be charged for an on-site visit or if more than 4 or 5 hours was spent on the phone. She believed the division would see the benefits from the efforts and efficiencies.

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Representative Wilson referenced a document indicating that $5 million would be recovered from a spill in Aniak (copy on file). She wondered what the actual shortfall would be in the next year after expected cost recovery took place.

Ms. Ryan replied that the [cost recovery] timing had been a problem and had resulted in insufficient funds in the SPAR account; SPAR had anticipated that the funding would be available in FY 16. She explained that under the accounting system, money was allocated to the fund and appropriated to the prevention account; therefore, there was a one-year lag before SPAR could access the money. The division estimated that the fund would be approximately $7 million short in FY 16 going forward. Once funds came in from the Aniak settlement the SPAR Fund's deficiency could decrease by $5 million in FY 17. Historically, when large settlements had come in they sat in the account and were available for appropriation by the legislature in the future. She explained that the $5 million could be appropriated to the SPAR fund or used by the legislature for something else.

Representative Wilson asked for clarification that some of the shortfall may have occurred because incoming settlement money was not necessarily appropriated to the SPAR fund.

Ms. Ryan answered in the negative. She explained that the money went into a special fund and SPAR drew its portion on an annual basis. She discussed that as production declined the surcharge was only generating about half of what the fund needed; therefore, SPAR had been living off of settlement money that built up in the fund. The settlement funds had all been used; because the Aniak settlement funds had not come in for FY 16 as anticipated, the SPAR fund was facing a crisis mode.

Representative Wilson asked why the bill would not include a sunset date in the event that the efficiencies took place

and the fund became solvent. Ms. Ryan replied that the decision was up to the legislature.

Representative Munoz MOVED to REPORT CSHB 158(FIN) out of committee with individual recommendations and the accompanying fiscal notes.

Co-Chair Thompson noted there was a new forthcoming fiscal note from DOR.

Representative Wilson OBJECTED. She was sensitive to the fund's shortfall, but she believed the money had not been spent on cleanup activities. She thought other solutions existed that the legislature had not considered; she did not believe the state was recouping the funds it should be. She stressed that the one cent tax put a tax on everyone who may be doing the right things (e.g. individuals, mining, and other industries). She did not think it was appropriate to make entities pay for things that had been done by others who were not as careful. She did not want to add to the cost her constituents were paying for heating oil. She reiterated that other options should be considered and noted that many questions on the bill had not been answered. She referred to $4 million that had been spent. She wondered where the funds had gone and did not believe the money had gone to cleanup. She stressed that the funds were supposed to be used for spills. She had heard the funds had been used for studies, public meetings, and other.

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Representative Gara recognized the difficulty facing the bill sponsor to determine a solution to make the fund solvent. He remarked that a number of legislators had tried to come up with a solution, but there had been opposition from the oil industry to increase the tax per barrel by 2 cents. He understood that the bill would most likely fail if the tax only targeted the oil industry. He sympathized with the difficulty of determining which industries were the most responsible for spills and how to charge them accordingly. However, he did not want to hold up the bill just because he had not been able to find the best solution. He relayed his intent to consider the bill before it was heard again on the House floor. He asked the sponsor to consider that the state should be recouping its

enforcement costs. He planned to look into the issue further.

Vice-Chair Saddler did not want to excessively impose additional fees on drivers in Alaska, but he believed it was clear that Alaskans valued effective and responsible oil spill response prevention. He spoke to the need for response to be effective and cost-efficient. He discussed efforts by the state to improve efficiency, spend less, and shed personnel positions. He observed that there was a need to maintain the capability that was not being met by the current financing structure. He stated that if the bill's solution was not chosen, the other option would be to spend general funds and consequently Constitutional Budget Reserve (CBR) money. He communicated his intent to vote for the bill in the absence of a better solution. He believed the sponsor had made a good effort to apportion costs of spill response to users. He did not believe it was appropriate to only put the responsibility on the oil industry. He acknowledged that the effort may be imperfect, but it was an effort in the right direction.

Co-Chair Neuman noted that Representative Munoz had done a good job trying to find a solution to the problem. However, he would not vote to move the bill out of committee because he did not support taxing Mat-Su commuters.

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Representative Pruitt discussed his reasoning for supporting to move the bill forward. He had been on the DEC budget subcommittee and knew that the challenge had been a long-time coming. The subcommittee had discussed per barrel surcharges, but an increase would only impact one industry, while it was clear that spills came from multiple sources (i.e. marine vessels, underground fuel storage, and other). He could not come up with another way to make the responsible party pay. He stressed that the state would have to pay for the service with general funds, the CBR, or other. He noted that the committee had held several meetings about going to constituents with one of several methods on paying for state government. He stated that the legislature could either perpetuate the use of general funds that it did not have or it could make the solution as fair as possible for residents. He stated that mines, marine vessels, and other users would participate in the tax. He stressed that the decision to go to the people to

pay for the service meant that the division should be scrutinized more than ever. He reiterated that he had not been able to find another way for users to pay for the service. He believed the option in the bill was the best solution thus far.

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Representative Kawasaki referenced that the legislature had discussed increasing user fees to ensure that people were helping to pay for the burden of state government; it had also spent much time discussing the SPAR Fund. He appreciated the sponsor's diligence, but he was troubled by some aspects of the bill. He detailed that identifying the cost drivers and how they would pay for the cost had not yet been determined. He noted that it was possible to look at volume of all products spilled and by facility type (e.g. mining operations accounted for 22 percent); however, vehicles and residences were at 2 to 3 percent. He stated that he "did not know if it was the cost driver necessarily, but volume is certainly an indicator of that." He discussed that the solution would tax people heating their homes with oil, drivers, and charitable institutions. Additionally, the tax would apply to utilities that would pass costs off onto consumers. He did not know if the method was fair; however, absent a better solution, he would support moving the bill forward.

Co-Chair Thompson believed the bill represented one way to reduce general fund spending in the upcoming year, which meant that more general funds would be available for other items such as education and public safety. He supported moving the bill forward. He remarked that the solution would spread the responsibility to everyone in the state. He reasoned that many legislators had no children in school, but they still paid for school property tax. He believed everyone had to pay their share. The solution in the bill represented a small way to make the SPAR Fund solvent without using additional general funds.

A roll call vote was taken on the motion to report the bill from committee.

IN FAVOR: Edgmon, Gara, Kawasaki, Munoz, Pruitt, Saddler, Thompson
OPPOSED: Gattis, Guttenberg, Wilson, Neuman

The MOTION PASSED (7/4).

There being NO further OBJECTION, CSHB 158(FIN) was REPORTED out of committee with an "amend" recommendation and with one new zero fiscal noted from the Department of Environmental Conservation, one new fiscal impact note from the House Finance Committee for Fund Transfers, and one new forthcoming fiscal impact note from the Department of Revenue.

Co-Chair Thompson discussed the schedule for the following day.

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ADJOURNMENT

4:16:14 PM

The meeting was adjourned at 4:16 p.m.