

SENATE FINANCE COMMITTEE

April 3, 2015

9:35 a.m.

9:35:20 AM

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 9:35 a.m.

MEMBERS PRESENT

Senator Anna MacKinnon, Co-Chair  
Senator Pete Kelly, Co-Chair  
Senator Peter Micciche, Vice-Chair  
Senator Click Bishop  
Senator Mike Dunleavy  
Senator Lyman Hoffman  
Senator Donny Olson

MEMBERS ABSENT

None

ALSO PRESENT

Erin Shine, Staff, Senator Anna MacKinnon; Larry Semmens, Staff, Senator Peter Micciche; Douglas Mertz, Prince William Sound Regional Citizens Advisory Council; Vince O'Shea, Pacific Seafood Processors Association, Juneau; Kristin Ryan, Director, Division of Spill Prevention and Response, Department of Environmental Conservation.

PRESENT VIA TELECONFERENCE

Kara Moriarty, President and Chief Executive Officer, Alaska Oil and Gas Association; Ken Alper, Director, Tax Division, Department of Revenue.

SUMMARY

SB 86            REFINED FUEL SURCHARGE; MOTOR FUEL TAX

SB 86 was HEARD and HELD in committee for further consideration.

#sb86

SENATE BILL NO. 86

"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."

9:36:10 AM

Vice-Chair Micciche MOVED to ADOPT the committee substitute for SB 86, Work Draft 29-LS0675\F (Nauman, 4/1/15).

Co-Chair MacKinnon OBJECTED for discussion.

ERIN SHINE, STAFF, SENATOR ANNA MACKINNON, explained the three changes in the committee substitute. She looked at page 2, line 11, which removed 0.008 and was replaced with 0.0095. She looked at page 2, line 4, which had a new number 4 and read, "aviation fuel." She pointed to page 5, line 7, which removed "aviation facilities" and replaced with "capital or operating cost of airports."

Senator Olson asked for a restatement of the second change. Ms. Shine replied that page 2, line 4 had a new number 4 and read, "aviation fuel." The line previously stated, "fuel sold for use in jet propulsion aircraft operating in flights to a foreign country, or that continue from foreign countries."

Senator Olson addressed page 2, line 15, and wondered what affect that would have on the aviation community. Ms. Shine deferred to Vice-Chair Micciche.

Vice-Chair Micciche explained that it restated the existing tax, so the surcharge exempted aviation fuels, but limited the existing taxes.

Senator Olson wondered if anyone had spoken against the committee substitute. Vice-Chair Micciche replied that there was some difficulty with the Federal Aviation Administration (FAA) regulations, because all surcharges must return to the airport. He felt that there was adequate funding for aviation fuel related spills, so it was decided to not collect from the segment of refined fuels.

Senator Olson queried if there was anyone, outside of aviation, who had spoken in favor or against the proposed the committee substitute changes. Vice-Chair Micciche replied that the department had voiced comments. The department was concerned how to manage the funds with the inclusion of aviation fuels. He stated that the department was in favor of the changes in the committee substitute.

Senator Dunleavy wondered if there was a difference between "aviation fuel" and "aviation gasoline." Vice-Chair Micciche did not know the answer. He deferred to the Department of Environmental Conservation (DEC) and Department of Revenue (DOR).

Senator Olson explained that aviation fuel would include aviation gasoline.

Senator Dunleavy remarked that there may be two separate items: gasoline and fuel.

[9:41:08 AM](#)

Senator Hoffman looked at page 1, line 11, and wondered what was anticipated with the 0.008 scenario, and whether it was the \$7.5 million. He further queried what was anticipated under the new number of 0.0095. Vice-Chair Micciche stated that the amount was essentially the same. He explained that the increase was due to the aviation exemption.

Ms. Shine furthered that there were forthcoming fiscal notes that would update the numbers to reflect the 0.0095. She stated that there would be a slight adjustment, because of the aviation fuel exemption and increase in percentage.

Co-Chair MacKinnon REMOVED her OBJECTION. There being NO further OBJECTION, the proposed committee substitute was adopted.

[9:42:34 AM](#)

AT EASE

[9:43:20 AM](#)

RECONVENED

[9:43:30 AM](#)

Vice-Chair Micciche explained the legislation. The Oil and Hazardous Substance Release Prevention and Response Fund (Response Fund) was created to provide a reliable source of funding for the Department of Environmental Conservation's (DEC) activities related to oil spill response and prevention. The Response Fund has been financed with a five cent per-barrel surcharge on oil produced. Decreasing oil production has resulted in a decline of revenue available to pay for spill prevention and cleanup work. The prevention account which receives \$.04 cents per barrel, no longer has enough revenue to cover essential activities resulting in the need for an immediate solution that fixes the problem for future years as well. A variety of industries and individuals spill oil and hazardous substances, including private homeowners, mines, fuel shippers, boat owners, village tank farms and the aviation industry to name a few. The majority of spills the State responds to are refined fuels. For example, in fiscal year 2014, of the 2,028 spills reported, 1,525 were refined fuel spills. According to Kristin Ryan, the Director for the Division of Spill Prevention and Response, 75-80 percent of active contaminated sites in Alaska are also the result of refined fuel spills. This bill distributes prevention and response costs across all users of refined fuel that are causing these response and cleanup efforts. This bill proposes a surcharge of .8 cent per gallon on refined fuels distributed in the state. Fuel distributors already file and pay taxes on motor fuels each month. This bill anticipates that the surcharge will be collected from the same distributors and reported on the same forms, reducing implementation costs and maximizing efficiency for both the payers and the State. All funds collected will be deposited in the Response Fund's Prevention Account.

[9:51:45 AM](#)

LARRY SEMMENS, STAFF, SENATOR PETER MICCICHE, introduced himself.

Senator Hoffman noted that there were currently separate tax rates for different products. He recalled that there were reasons for the different levels of taxation. He wondered if the bill included heating fuel, and asked why there was a flat tax rather than a graduated tax structure. Vice-Chair Micciche replied that the intention was to simplify the system. He stated that the tax was essentially a user fee. The bill was intended to place the costs where

the spills occur. He furthered that DOR may be able to answer more detailed questions regarding aviation fuel. He stressed that there was an attempt to apply the surcharge to the individuals who were causing the spills.

Senator Hoffman queried equity in the new tax structure. Vice-Chair Micciche replied that there was a hope that the cost did not trickle down to the consumer. He stated that the average family would see an additional \$4 or \$5 per year in total. He felt that the state should not be required to cover the cost of the fuel spills in the current economic climate.

Senator Hoffman felt that charging the tax on a per gallon basis made more sense than a percentage of price basis.

Senator Bishop wondered if there were discussions with common carriers about increasing insurance premiums for tankers. Vice-Chair Micciche replied in the affirmative.

Senator Dunleavy asked if there would be a review of the fiscal note. Vice-Chair Micciche responded that the fiscal note discussion would occur when the bill moved from committee.

Senator Dunleavy wondered if he could ask a question about this fiscal note. Co-Chair MacKinnon replied in the negative.

Senator Olson commented that there seemed to be a push to move to natural gas rather than heating fuel.

[9:56:21 AM](#)

AT EASE

[9:57:13 AM](#)

RECONVENED

[9:58:03 AM](#)

KARA MORIARTY, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ALASKA OIL AND GAS ASSOCIATION (via teleconference), (AOGA) stated that AOGA represented the majority of oil and gas producers, explorers, refiners, transporters, and marketers. She stated that her testimony had the unanimous consent from all of the AOGA member companies. She shared that, in addition to the millions of dollars invested each

year by the industry in Alaska to prevent, prepare, and respond to the release of hazardous substances, AOGA had long supported a fair and equitable effort to ensure that Alaska was financial prepared to respond to a spill. She shared that the state had only collected a surcharge on the oil and gas industry to pay for the spill response fund since 1989. She stressed that the industry had contributed more than \$350 million through the surcharge for the fund.

Vice-Chair Micciche announced that he worked for ConocoPhillips. He clarified that the bill was not related ConocoPhillips, and explained that ConocoPhillips was not a member of AOGA.

[10:02:29 AM](#)

DOUGLAS MERTZ, PRINCE WILLIAM SOUND REGIONAL CITIZENS ADVISORY COUNCIL, testified in support of the legislation. He shared that there was a history of his council working to structure an oil spill prevention and response capacity. He shared that there was an acknowledgement that prevention was the most important factor in spill response. He stressed that only approximately 10 percent of the spills were cleaned, so there were ongoing costs for many people. He remarked that the response costs for a major spill was enormous. He stated that ExxonMobil spent over \$2.5 billion on the Exxon Valdez oil spill. He remarked that the state potentially faced enormous costs for each major spills, as well as the ongoing costs for dealing with the smaller spills.

[10:06:41 AM](#)

VINCE O'SHEA, PACIFIC SEAFOOD PROCESSORS ASSOCIATION, JUNEAU, remarked that he was in support of the legislation. He agreed with the value of prevention. He expressed concern with the 30 percent collection rate under Department of Environmental Conservation (DEC). He urged the committee to examine the transparency of DEC, and whether fund repayment was necessary.

Co-Chair MacKinnon CLOSED public testimony.

Co-Chair MacKinnon wondered if there was lack in transparency is collections accounting. She also queried the 30 percent collection rate reference that Mr. O'Shea referred.

10:11:01 AM

KRISTIN RYAN, DIRECTOR, DIVISION OF SPILL PREVENTION AND RESPONSE, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, stated that Mr. O'Shea was referring to a cost recovery percentage. In FY 14, the recovery rate was 30 percent of what was billed. She explained that many of the cost recovery efforts spanned many years. She stated that large contaminated sites had billed the Koch Industries \$4 million to recover some state costs associated with the cleanup of Flint Hills. She stressed that the issue was currently in court to attempt to reimburse some of those costs. She remarked that it was difficult, on an annual basis, to show an immediate recovery of costs.

Co-Chair MacKinnon wondered if the billing occurred annually. She queried the availability of the history of acting on behalf of the people of Alaska to recover the costs from the federal government and private companies. Ms. Ryan responded that there was work to improve the day to day cost recovery. She shared that there was a recent implementation of automated billing. She shared that there was a time tracking system in order to determine the timeliness of the billing of services.

Co-Chair MacKinnon announced that she wants further documentation of those efforts. She queried the checks and balances for the general public to have confidence that the department was managing outstanding debt appropriately. Ms. Ryan replied that the new time tracking system would ensure that there was a better sense of how individuals were tracking time. The time was charged to a specific code, so the management could see the occurrence of cost recovery. She remarked that approximately 30 to 40 percent of the work was prevention oriented, so those costs were unrecoverable.

10:16:28 AM

Co-Chair MacKinnon queried the date of the finalization of the cost recovery regulations for the public. Ms. Ryan replied that it was in draft form, so she could not guarantee a date. She hoped that it would be available in one year from the current date.

Co-Chair MacKinnon encouraged a conversation with the commissioner, and remarked that she would follow up via email.

Senator Hoffman looked at the effective date of July 1, and wondered if there would be adequate time to implement the tax. Ms. Ryan replied that the goal was to generate revenue for 2016.

Senator Hoffman wondered if it was more reasonable to have a January 1 effective date for implementation of the tax. Ms. Ryan deferred to DOR.

Senator Hoffman wondered how other states would be pay for this type of problem. Ms. Ryan replied that the other states used a variety of tactics. She hoped that there would be future legislation that may charge a fee for leaving contamination in the ground. She asserted that it depended on the type of industry in those states, and the types of occurring spills. She stressed that Alaska had a large oil industry.

Senator Hoffman wondered how Texas paid for their spill prevention and response. Ms. Ryan agreed to provide that information.

[10:19:57 AM](#)

KEN ALPER, DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE (via teleconference), (DOR) introduced himself. In response to a question from Senator Hoffman, he stated that the bill was attached to the existing motor fuel tax form.

Senator Bishop commented that diesel fuel was 60 percent of the issue, and would like to make the intent zero percent.

Senator Dunleavy wondered if the SPAR fund was used to clean up spills like batteries in a parking lot or septic system spills. Ms. Ryan replied that the fund restricted the use for cleanup of oil or hazardous substances. She furthered that batteries may fall into that category, but sewage did not fall into that category.

Co-Chair MacKinnon recalled that there was a question about gasoline, and Senator Olson was discussing the difference between that and aviation fuel. She wondered if there

should be a conversation about that differentiation, and how it affected the bill.

Senator Dunleavy explained that he was curious as to whether the bill sponsor saw any differentiation between gasoline and aviation fuel.

Senator Olson wanted the department to comment on the difference between aviation fuel and gasoline. Ms. Ryan deferred to Mr. Alper. She stated that aviation fuel included all fuel used at airports, but DOR would be able to speak to the motor fuels tax.

Co-Chair MacKinnon noted that the committee substitute had language which separated motor fuel and refined fuel in order to create clarity when collecting tax. She queried the difference between aviation fuel and gasoline. Mr. Alper replied that DOR was currently collecting tax on aviation fuel and jet fuel, and they were considered separate categories of taxable fuel within the existing motor fuel tax. The general aviation fuel was taxed at 4.7 cents per gallon, and the jet fuel was taxed at 3.2 cents per gallon. The exclusion that was added in the committee substitute would remove that set of fuel, which had a sum total of 150 million gallons of fuel per year. He stated that Section 5 amended existing language that related to how the state used the existing motor fuel tax for aviation, and the change was made to conform more closely to some FAA federal guidelines.

[10:26:23 AM](#)

Senator Olson surmised that jet fuel and aviation gasoline were exempted from the bill. Mr. Alper replied that the term "aviation fuel" may not be precisely defined in statute.

Vice-Chair Micciche discussed the fiscal notes.

Senator Hoffman recalled that there would be a new fiscal note to reflect the changes in the committee substitute. Co-Chair MacKinnon agreed, and stated that there was a pending fiscal note.

Senator Hoffman wondered if the revised fiscal note would have any changes from the current version. Co-Chair

MacKinnon replied that there would be changes, but the change was subject to change.

10:28:56 AM

AT EASE

10:29:16 AM

RECONVENED

10:29:25 AM

Co-Chair MacKinnon asked for clarification of the fiscal note. Mr. Alper explained that the pending fiscal note would reflect two changes: 1) the reduction in the tax base related to the restriction of aviation fuel; and 2) rate increased from 0.008 to 0.0095. It was expected that those two changes would balance each other out. He stated that the draft fiscal note showed \$7.6 million in the first year, which was a \$100,000 difference. He remarked that it was an estimate, because it was unknown how much fuel would arrive under the surcharge in the following year.

Senator Hoffman wanted to see the calculations by product. Mr. Alper replied that Section 3 was conforming language that described the existing motor fuel tax on various types of fuel, and which aviation and jet fuel were captured. He pointed to line 12, which added the surcharge.

Senator Dunleavy looked at a fiscal note that was prepared on 4/2/15, so he wondered if that fiscal note would be revised. Co-Chair MacKinnon indicated in the affirmative.

Senator Dunleavy wondered if the analysis about the arbitrary numbers in the fiscal note would carry to the new fiscal note. Co-Chair MacKinnon replied in the affirmative.

Senator Hoffman commented that he supports the legislation, and stated that he would be willing to get the information.

SB 86 was HEARD and HELD in committee for further consideration.

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ADJOURNMENT

10:35:21 AM

The meeting was adjourned at 10:35 a.m.