

SENATE FINANCE COMMITTEE
February 28, 2018
9:08 a.m.

9:08:43 AM

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 9:08 a.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Anna MacKinnon, Co-Chair
Senator Click Bishop, Vice-Chair
Senator Peter Micciche
Senator Donny Olson
Senator Gary Stevens
Senator Natasha von Imhof

MEMBERS ABSENT

None

ALSO PRESENT

John Ptacin, Chief Assistant Attorney General, Regulatory Affairs and Public Advocacy, Department of Law; Brittany Hartmann, Staff, Senator Anna MacKinnon; Lori Wing-Heier, Director, Division of Insurance, Department of Commerce, Community and Economic Development; Tim Lamkin, Staff, Senator Gary Stevens; Juli Lucky, Staff, Senator Anna MacKinnon.

SUMMARY

SB 15 E-CIGS: SALE TO AND POSSESSION BY MINOR

CSSB 15(FIN) was REPORTED out of committee with a "do pass" recommendation and with a new Statement of Zero Fiscal Impact by the Office of the Governor for the Department of Health and Social Services, the Department of Law, and Department of Public Safety; and a new fiscal impact note from Department of Commerce, Community and Economic Development.

SB 165 COMPREHENSIVE HEALTH INSURANCE FUND

SB 165 was REPORTED out of committee with a "do pass" recommendation and with two previously published zero fiscal notes: FN 1(ADM), FN 2(CED).

HB 120 DEPT OF LAW: ADVOCACY BEFORE FERC

HB 120 was REPORTED out of committee with a "do pass" recommendation and with one new zero fiscal note from the Department of Law.

#hb120

HOUSE BILL NO. 120

"An Act relating to the Department of Law public advocacy function to participate in matters that come before the Federal Energy Regulatory Commission."

9:09:27 AM

Co-Chair MacKinnon directed attention to HB 120, which had been heard in committee on Monday, February 26, 2018. She relayed that the public hearing had been opened and closed and there had been no testimony. Additionally, the fiscal note had been reviewed. She noted that Senator Micciche had indicated he believed the fiscal note should remain indeterminate. She invited the Department of Law (DOL) to the table.

Senator Stevens asked about the cost of outside counsel for the past several years.

JOHN PTACIN, CHIEF ASSISTANT ATTORNEY GENERAL, REGULATORY AFFAIRS AND PUBLIC ADVOCACY, DEPARTMENT OF LAW, replied that he had obtained the outside counsel fees on Federal Energy Regulatory Commission (FERC) matters for the past five years. The fees had been \$613,000 in 2013, \$1,050,000 in 2014 (the "SR" case had been heating up at the time), \$39,000 in 2015 (the SR case had ended), \$195,000 in 2016, and \$215,000 in 2017.

Vice-Chair Bishop asked for verification that "SR" meant strategic reconfiguration on Trans-Alaska Pipeline System (TAPS).

Mr. Ptacin replied in the affirmative. He detailed it had been a large case where DOL had looked at a large-scale project on the pipeline and sought to get the costs taken out of rates.

Vice-Chair Bishop MOVED to REPORT HB 120 out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HB 120 was REPORTED out of committee with a "do pass" recommendation and with one new zero fiscal note from the Department of Law.

[9:12:31 AM](#)

AT EASE

[9:16:07 AM](#)

RECONVENED

#sb165

SENATE BILL NO. 165

"An Act relating to the Alaska comprehensive health insurance fund; and providing for an effective date."

[9:16:07 AM](#)

Co-Chair MacKinnon directed attention to SB 165. The bill was heard the previous day; the public hearing had been opened and closed and there had been no testimony. Additionally, the fiscal note had been reviewed. She had a question on the fiscal note regarding a discussion on diverting \$60 million to the General Fund. She explained that the fiscal note did not reflect the information because if the bill was not passed, the insurance premiums would be redirected to the General Fund already. She had asked her staff where the \$322 million coming in from the federal government was. She would continue to work with the department to accurately reflect for the public why the action was taking place. She added there had been no indication of amendments.

BRITTANY HARTMANN, STAFF, SENATOR ANNA MACKINNON, reviewed the bill. She detailed the review would extend the sunset of the Alaska Comprehensive Health Insurance Fund for an additional six years from June 30, 2018 to June 30, 2024.

The extension was meant to continue to stabilize the individual healthcare market in Alaska and to comply with the federal award with the 1332 waiver.

LORI WING-HEIER, DIRECTOR, DIVISION OF INSURANCE, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, added her sincere thanks for the support the division had received from the legislature. She relayed the bill meant a great deal to many Alaskans. The division supported the effort. She understood the decision had not been easy in FY 16 and she hoped the waiver had provided the additional funding to continue the program.

Vice-Chair Bishop MOVED to REPORT SB 165 out of Committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

SB 165 was REPORTED out of committee with a "do pass" recommendation and with two previously published zero fiscal notes: FN1 (ADM), FN2 (CED).

[9:19:36 AM](#)

AT EASE

[9:22:07 AM](#)

RECONVENED

#sb15

SENATE BILL NO. 15

"An Act relating to possession of an electronic smoking product or a product containing nicotine by a minor and to selling or giving an electronic smoking product to a minor; relating to business license endorsements to sell cigarettes, cigars, tobacco, products containing tobacco, electronic smoking products, or products containing nicotine; and relating to citations for certain offenses concerning tobacco or nicotine products."

[9:22:07 AM](#)

Co-Chair MacKinnon reviewed the bill title and noted that Senator Stevens was the bill sponsor. She asked if he had comments for the committee.

SENATOR GARY STEVENS, SPONSOR stated that the bill was about protecting Alaska's youth from becoming addicted to nicotine and adopting unhealthy habits. He noted it was a concern nationwide and a major problem in Alaska. The bill was about restricting sales to and possession of the products by youth. Additionally, the bill would give state agencies the authority to enforce restrictions. He spoke to the importance of acting quickly to face the new industry and to help protect the state's children who were being targeted.

Co-Chair MacKinnon reviewed that the committee had heard the bill on February 16 and had heard public testimony. She announced she would reopen the public hearing.

Co-Chair MacKinnon OPENED and CLOSED public testimony.

Senator Stevens MOVED to ADOPT Amendment 1, 30-LS0170\N.3 (Bruce/Martin, 2/26/18) (copy on file):

Page 12, line 28:
Delete "11.76.109(a)(3)"
Insert "11.76.109(a)(4)"

Page 13, line 6:
Delete "AS 11.76.900"
Insert "AS 11.81.900(b)"

Co-Chair MacKinnon OBJECTED for discussion.

[9:24:22 AM](#)

TIM LAMKIN, STAFF, SENATOR GARY STEVENS, explained that Amendment 1 was a simple technical amendment. There had been several drafting errors in the bill that had been overlooked as it had gone through the committee substitute process (CS). He referenced the first part of the amendment and explained that AS 11.76.109(a)(3) and (a)(4) pointed to the wrong section. The amendment was conforming. Likewise, the statute in the second portion of the amendment did not exist. The amendment would insert the correct section of law that addressed the definition of e-cigarettes.

Co-Chair MacKinnon WITHDREW her OBJECTION. There being NO further OBJECTION, Amendment 1 was ADOPTED.

Senator Stevens MOVED to ADOPT Amendment 2, 30-LS0170\N.2
(Martin, 2/23/18) (copy on file):

Page 2, following line 20:

Insert a new bill section to read:

"* Sec. 3. AS 11.76.106(a) is amended to read:

(a) Except as provided under (b) of this section, a person may not sell cigarettes, cigars, tobacco, products [OR A PRODUCT] containing tobacco, electronic smoking products, or products containing nicotine unless the sale occurs in a manner that allows only the sales clerk to control access to the cigarettes, cigars, tobacco, products [OR PRODUCT] containing tobacco, electronic smoking products, or products containing nicotine.

Re-number the following bill sections accordingly.

Page 2, line 27:

Delete "or"

Insert "[OR]"

Page 2, line 31, following "older":

Insert "; or

{4} is of electronic smoking products over the Internet to a person 19 years of age or older"

Page 13, line 19, following "Act,":

Insert "AS 11.76.106(a), as amended by sec. 3 of this Act,"

Page 13, line 20:

Delete "sec. 3"

Insert "sec. 4"

Delete "sec. 4"

Insert "sec. 5"

Page 13, line 21:

Delete "sec. 5"

Insert "sec. 6"

Delete "sec. 6"

Insert "sec. 7" 13

Page 13, line 22:

Delete "sec. 7"

Insert "sec. 8" 17

Page 13, line 23:
Delete "sec. 8"
Insert "sec. 9"

Co-Chair MacKinnon OBJECTED for discussion.

Mr. Lamkin explained Amendment 2, which was more substantive than Amendment 1. He detailed that AS 11.76.106(a) was commonly known as the "behind the counter" law. He elaborated that tobacco and nicotine products were required to be placed behind the counter and sales of the products had to be under the direct supervision of a sales clerk. For example, Fred Meyer shoppers had to go to a specific counter to purchase cigarettes and tobacco related products and were required to present their identification. The law was originally targeted to prevent vendors from situating the products in locations that could be easily accessed and would attract the attention of youth. For example, products could be placed in the candy or snack aisle (or toy section). Additionally, the law served to prevent or eliminate the possibility of the products.

Mr. Lamkin relayed that in the Senate Judiciary Committee there had been concern the particular section of the law would prevent adult sales of the products over the internet because there was not a person immediately supervising the sale or transaction. He elaborated that due to confusion and misunderstanding, the sponsor had removed the section of the bill at that time. He explained that while removing the section clarified adult sales could be conducted over the internet, it would also allow stores to place e-cigarettes in aisles where they may not be appropriately located. The amendment would restore the prior language.

Mr. Lamkin detailed there were exceptions to the particular law. He cited a bar vending machine as an example where the transaction did not have to be under direct supervision or require a sales clerk. The bottom of the amendment made an exception for internet sales provided the buyer was over 19 years of age.

Co-Chair MacKinnon WITHDREW her OBJECTION. There being NO further OBJECTION, Amendment 2 was ADOPTED.

[9:28:18 AM](#)

Senator Micciche MOVED to ADOPT Amendment 3, 30-LS0170\N.1
(Martin, 2/16/18) (copy on file):

Page 7, line 10:
Delete "\$1,000"
Insert "\$500"

Page 7, line 25:
Delete "indefinitely [ONE YEAR]"
Insert "one year"

Co-Chair MacKinnon OBJECTED for discussion.

Senator Micciche stated that he had spoken to the sponsor about the amendment and believed Senator Stevens was supportive. He thought a penalty of \$1,000 for a first offense was too severe. He believed a \$500 penalty left room for a person to make a mistake. He noted the existing penalty was \$300. He explained that sometimes a new store employee could make the mistake of not getting adequate identification. He did not change the other numbers in the legislation.

Senator Micciche also believed the word "indefinitely" on page 7, line 25 would mean the end of a business, particularly a vape business. He reasoned that one year was likely very difficult [for a business] to survive from, but the amendment would mean the loss of a license for one year for a fourth and future offense. He stated that a fourth or fifth offense would constitute the loss of a license for another year. He believed a person could probably argue that vaping was better for someone's health than traditional tobacco simply because it did not involve burning plant matter. He furthered that vape shops were more likely to be closed indefinitely with a one-year closure. He believed one year was an adequate penalty.

Senator Stevens supported the amendment.

Co-Chair MacKinnon WITHDREW her OBJECTION. There being NO further OBJECTION, Amendment 3 was ADOPTED.

JULI LUCKY, STAFF, SENATOR ANNA MACKINNON, addressed the committee's first Statement of Zero Fiscal Impact. She had been working with the executive branch and the Legislative Finance Division (LFD) to develop a more efficient way to deal with zero fiscal notes. She explained that SB 15 had

been accompanied by four fiscal notes, three of which were zero notes and had been consolidated into the Statement of Zero Fiscal Impact. The hope was to make it easier for the public and committee members to easily see all of the departments impacted by a bill, but that did not incur any fiscal impact. She highlighted that the one piece of paper replaced six sheets of paper.

Ms. Lucky pointed out that the bill had one fiscal impact note from the Department of Commerce, Community and Economic Development for the Division of Corporations, Business and Professional Licensing. There was a fiscal impact of \$5,600 in FY 19. She directed attention to page 2 of the analysis and read:

This legislation requires changes to warning signage and the department must make available to a person who holds a business license endorsement. It also requires a change to the CBPL database warning signs, forms, online filing, websites, investigations, and a regulation change. The committee substitute changes the required notice from two separate signs to one combined sign and changes the required minimum dimensions of those signs. If the bill passes the following expenses will be incurred: services, \$3,000 in legal costs to amend regulations, printing, and postage in the first year; \$1,000 for IT services for the system change; and \$1,600 for printing and postage to mail new signage.

Ms. Lucky continued that the analysis included a note that legal and hearing service expenses would be incurred in outyears, but the costs were unknown. The costs would be covered by receipt supported services (undesignated general fund code 1005).

[9:33:44 AM](#)

Vice-Chair Bishop MOVED to report CSSB 15(FIN) out of Committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSSB 15(FIN) was REPORTED out of committee with a "do pass" recommendation and with a new Statement of Zero Fiscal Impact by the Office of the Governor for the Department of Health and Social Services, the Department of Law, and

Department of Public Safety; and a new fiscal impact note from Department of Commerce, Community and Economic Development.

9:34:38 AM

AT EASE

9:36:47 AM

RECONVENED

Co-Chair MacKinnon discussed the agenda for the following day. She noted that she would reopen the public hearing for SB 104 the following day in order for the public to have opportunity to comment on a forthcoming amendment from Senator von Imhof.

#

ADJOURNMENT

9:38:00 AM

The meeting was adjourned at 9:37 a.m.