

SENATE FINANCE COMMITTEE
April 11, 2022
9:04 a.m.

9:04:28 AM

CALL TO ORDER

Co-Chair Bishop called the Senate Finance Committee meeting to order at 9:04 a.m.

MEMBERS PRESENT

Senator Click Bishop, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Lyman Hoffman
Senator Donny Olson [via teleconference]
Senator Bill Wielechowski
Senator David Wilson

MEMBERS ABSENT

Senator Natasha von Imhof

ALSO PRESENT

Erin Shine, Staff, Senator Click Bishop; Senator Gary Stevens, Sponsor; Tim Lamkin, Staff, Senator Gary Stevens; Cody Grussendorf, Staff, Senator Click Bishop.

SUMMARY

SB 45 AGE FOR TOBACCO/NICOTINE/E-CIG; TAX E-CIG

SB 45 was HEARD and HELD in committee for further consideration.

SB 164 APPROP: CAP; REAPPROP; SUPP

SB 164 was HEARD and HELD in committee for further consideration.

#sb45

SENATE BILL NO. 45

"An Act raising the minimum age to purchase, sell, exchange, or possess tobacco, a product containing

nicotine, or an electronic smoking product; relating to transporting tobacco, a product containing nicotine, or an electronic smoking product; relating to the taxation of electronic smoking products; and providing for an effective date."

9:05:34 AM

Co-Chair Bishop relayed that it was the second hearing for SB 45. The committee had previously opened and closed public testimony. The committee intended to consider a Committee Substitute (CS) and one proposed amendment.

Co-Chair Stedman MOVED to ADOPT proposed committee substitute for SB 45, Work Draft 32-LS0311\D (Nauman, 4/5/22).

Co-Chair Bishop OBJECTED for discussion.

9:06:20 AM

ERIN SHINE, STAFF, SENATOR CLICK BISHOP, highlighted that the proposed CS removed the mandatory product manufacturer liability insurance policy requirement. It removed a prohibition on flavored electronic smoking products and bifurcated the excise tax rate between tobacco products. The tax rate would stay at 75 percent of wholesale and would include an electronic smoking product (which included close-systems electronic smoking products), which was now an excise tax rate of 45 percent.

Ms. Shine addressed an Explanation of Changes document (copy on file):

Updated Title

Section 3

Amends AS 11.76.105(c) to reduce the existing violation fine of \$500 to be not more than \$300 for possession of tobacco, an electronic smoking product or a product containing nicotine by a person under 21 years of age.

Section 4

Adds a new subsection, AS 11.76.105(d), that directs the court system to treat violations for possession of tobacco and ESP products similar to a traffic violation, with a maximum fine of \$300, and to waive

mandatory court appearance. This replaces Section 4 of version O, relating to prohibition of internet sales, as that is now addressed in Section 11 and 19 of version D, below, allowing internet sales but with 3rd party age verification.

Section 10

The section pertaining to mandatory product manufacturer liability insurance policy was struck from Version O, and instead replaced Section 10 by adding a new subsection in Version D, AS 11.81.900(b)(69), that provides a definition of "nicotine."

Section 14

Amends AS 43.50.300 by establishing an excise tax rate of 45% of the wholesale price of the Eliquid contained in an ESP.

Section 15

Amends AS 43.50.300 by adding a new subsection (c) that provides a definition of "closed system electronic smoking product"

Section 16

Amends AS 43.50.310(b) to exclude marijuana products from any provisions of the bill.

Section 18

Amends AS 43.50.320 to:

- delete the prohibition of flavored electronic smoking products; and
- adds a prohibition of marketing electronic smoking product, including a flavored products in a manner likely to promote the use of them by a person under 21 years of age.

[9:10:00 AM](#)

Ms. Shine continued to address the Explanation of Changes document:

Section 27

Amends AS 43.50.390 to provide a reference to the definition of "nicotine" established in Section 10.

Section 32

Amends AS 45.50.471(b)(58) with conforming changes made in Section 18, relating to unlawful marketing practices.

Section 35

Conforming changes to the applicability section as well as providing a grandfather clause for persons 19 years of age or older who are employed on the effective date of the act by a person with a business license endorsement to sell tobacco products.

Section 36

Amends the effective date from "January 1, 2022" to "July 1, 2023"

Ms. Shine noted that in Section 33 there was a section of existing law missing from the original bill draft, which had now been added on page 17. The language had been omitted via a drafting error in the previous version of the bill.

Co-Chair Bishop WITHDREW his OBJECTION. There being NO further OBJECTION, it was so ordered. The CS for SB 45 was ADOPTED.

[9:12:19 AM](#)

SENATOR GARY STEVENS, SPONSOR, explained that the bill was very simple and was about protecting children from becoming addicted to nicotine. He shared that he had been working on the legislation for seven years, during which time the products addressed in the bill continued to evade any meaningful public policy to restrict youth access. He suggested that the more time that passed, the greater number of young Alaskans would become addicted. He thought it was common knowledge that the products were unhealthy. He thought the state seemed to be giving tacit approval that the products were safe, and he strongly disagreed.

Co-Chair Bishop asked if the sponsor was comfortable with the proposed CS.

Senator Stevens stated he was fine with the CS.

[9:13:54 AM](#)

TIM LAMKIN, STAFF, SENATOR GARY STEVENS, had nothing to add but was available to answer questions.

Senator Wielechowski referenced the change to allow flavors and asked if the sponsor had any concerns.

Mr. Lamkin suggested that the CS contained what could be interpreted as a compromise, where it was recognized that there were legitimate instances of adults that had used the products to stop smoking cigarettes and may have a legitimate reason to prefer the flavored product. He continued that the compromise was struck that included provisions allowing that it was unlawful for marketing that would promote minor use of the products.

Senator Wielechowski asked if the CS would allow for the sale or marketing of flavors such as Fruit Loops or Lucky Charms.

Mr. Lamkin thought the matter would be called into question and the references could be cited as unlawful marketing.

Senator Wilson MOVED to ADOPT Amendment 1:

TO: CSSB45(FIN), Draft Version "D"

Page 7, line 3, following "is":

Insert "15 [AT THE RATE OF 75] percent of the wholesale price of"

Co-Chair Bishop OBJECTED for discussion.

Senator Wilson spoke to Amendment 1. He explained that the main point of the bill was to reduce underage usage, which would conform to the federal law. He thought the bill was being saddled with penalties. He cited that some of the products referenced were considered by the Food and Drug Administration to be appropriate for the protection of public health and were used for smoking cessation tools. Instead of raising the age to 21, he considered that a less harmful alternative should be encouraged. He clarified that he did not encourage smoking and did not personally use the products. He thought a less lethal alternative should be offered. He explained that the intent was to lower the vape tax to 15 percent instead of the proposed rate of 45 percent.

[9:17:36 AM](#)

AT EASE

[9:17:59 AM](#)

RECONVENED

Co-Chair Bishop asked if there was further discussion on the amendment.

Senator Wielechowski asked how the sponsor felt about the amendment offered by Senator Wilson.

Senator Stevens was opposed to the amendment.

Co-Chair Bishop MAINTAINED his OBJECTION. A roll call vote was taken on the motion.

IN FAVOR: Wilson

OPPOSED: Wielechowski, Hoffman, Olson, Bishop, Stedman

The MOTION FAILED (1/5).

[9:19:31 AM](#)

AT EASE

[9:20:48 AM](#)

RECONVENE

Co-Chair Bishop relayed that the committee would request updated fiscal notes and set the bill aside until the new fiscal notes were available.

SB 45 was HEARD and HELD in committee for further consideration.

[9:21:08 AM](#)

AT EASE

[9:24:17 AM](#)

RECONVENED

#sb164

SENATE BILL NO. 164

"An Act making appropriations, including capital appropriations, reappropriations, and other

appropriations; making supplemental appropriations;
and providing for an effective date."

[9:24:20 AM](#)

Co-Chair Bishop relayed that the committee would consider a CS for SB 164, set an amendment deadline, and set the bill aside.

Co-Chair Stedman MOVED to ADOPT proposed committee substitute for SB 164, Work Draft 32-GS2436\B (Dunmire, 4/9/22).

Co-Chair Bishop OBJECTED for discussion.

[9:25:02 AM](#)

CODY GRUSSENDORF, STAFF, SENATOR CLICK BISHOP, gave an overview of the information he would address, including a Summary of Changes document and three reports from the Legislative Finance Division (copy on file). He explained that Report A showed each project proposed by the governor and the structure of funding delineated by columns listing the governor's supplementally-funded projects, FY 23 projects, the Senate CS total, and a column with comparison of the totals. He explained that Report B had the same column structure and showed the agency spending by Unrestricted General Funds (UGF). Report C was the same but showed total fund sources.

[9:26:29 AM](#)

Mr. Grussnedorf commented that the CS (Version E) considered all projects proposed by the governor, including the two supplemental bills, and the objective of the CS was to find a baseline starting point for the committee's consideration during the budget process. He addressed the Summary of Changes document:

General Overview:

Version B incorporates capital requests by the Governor in SB 165 and SB 176 supplemental bills.

Finance CS ver. B does not:

- add any new legislative projects
- increase funding to any projects
- include any legislative reappropriations

- include any GO Bond proposed projects

Finance CS ver. B Removes all Mental Health budget capital items.

Finance CS ver. B Removes the following fund sources:

- Coronavirus Capital Project Funds (CCPF) projects (\$64M)
- Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) (\$72M)

Governor's budgets proposed \$90.7 million of FY 22 Supplemental projects funded with unrestricted general fund (UGF) dollars. Finance CS Ver. B moves all but \$3.1 million of those to FY 23. These projects are highlighted below.

Spend Summary:

Governor's budgets including supplementals proposed to spend a total of \$249.1 million UGF.

Finance CS Ver. B including supplementals proposes to spend \$197.4 million UGF, a difference of \$51.7 million. This is a 20.7% reduction.

Mr. Grussendorf thought it was notable that the total spend for the proposed CS did not include the \$14 million in mental health capital projects, nor did it include the \$75 million in proposed Infrastructure Investment and Jobs Act (IIJA) spending in SB 241 [the supplemental appropriations bill at the request of the governor]. The capital budget would potentially include the projects. He continued to address the Summary of Changes document:

Projects included in the FY 22 Supplemental section of Finance CS ver. B:

- DCCED, AEA Electric Vehicle Infrastructure Plan \$1,500,000 UGF
- DOC, Suicide Prevention Barriers \$750,000 UGF
- DOH, Office of Children's Services Lease Expansion or Relocation \$640,000 UGF \$360,000 Fed
- DNR, National Historic Preservation Fund \$200,000 UGF
- DCCED, Prince William Sound Science Center & Technology Institute Facilities Replacement and Associated Debt \$5,950,000 EVOS

- OOG, Elections Security under the Help America Vote Act \$1,250,000 Elect. Fund

CSLFRF projects in Finance CS that are changed to UGF fund source:

Page 3 Line 8 DCCED, Alaska Travel Industry Association

\$5,000,000 UGF

Page 5 Line 17 DOH, Division of Public Assistance E-Forms and Online Noticing

\$4,000,000 UGF matches \$4,000,000 Fed funds

Page 5 Line 19 DOH, Division of Public Assistance Eligibility System Replacement

\$4,700,000 UGF matches \$18,800,000 Fed funds

Page 7 Line 3 DNR, Statewide Park Sanitation Deferred Maintenance and Upgrades \$1,418,000 UGF

[9:31:07 AM](#)

Mr. Grussendorf continued to address the Summary of Changes document:

Funding requests decreased in Finance CS:

Page 2 Line 25 DCCED, AEA- Strategic Plan for Railbelt Assets decreased to \$1,500,000

UGF. Original request was for \$2,500,000 UGF

Page 7 Line 24 DPS, Mobile and Handheld Radio Replacement decreased to \$1,000,000

UGF. Original request was for \$3,728,000 UGF

Governor's projects removed in Finance CS and associated fund source:

- DOA, Azure Adoption to Cloud Migration \$23,116,000 UGF

- DCCED, Voice of the Arctic \$1,000,000 UGF

- DFG, Arctic Fisheries \$1,000,000 UGF

\$2,000,000 Fed

- DNR, Cook Inlet Petroleum Potential \$1,200,000 UGF

- DEED, William N. Miller K-12 Memorial School, Napakiak \$22,112,000 UGF \$32,784,000 REAA

- DOH, Information Technology Security Program Assessment \$1,900,000 UGF

- DOH, Health Record Infrastructure Improvements \$30,000,000 CCPF

- DNR, Eagle River Fire Crew Facility \$13,856,000 CCPF

- UA, Student Information Technology Systems \$20,000,000 CCPF
- DCCED, City of Palmer Wastewater Treatment Plant \$6,900,000 CSLFRF
- DCCED, Alaska Mariculture Alliance- Grant Program \$25,000,000 CSLFRF
- DNR, Food Security Agriculture Incentive Grant Program \$25,000,000 CSLFRF

Mr. Grussendorf detailed that that the Coronavirus Capital Project Fund (CCPF) projects that were removed were the result of discussions with the Office of Management and Budget (OMB) that indicated the Department of Treasury was unlikely to accept the grants for the projects. He cited ongoing discussions with OMB regarding how to put the state's plan forward and what projects to include. The Coronavirus State and Local Fiscal Recovery Fund (CSLFRF) projects were removed and not changed to UGF funding.

[9:33:27 AM](#)

Senator Hoffman asked for more explanation regarding the Napakiak school project.

Mr. Grussendorf understood that schools within the Regional Educational Attendance Area (REAA) were funded through the School Construction Grant list (via statute), which was how the committee intended to fund the Napakiak School.

Senator Hoffman asked if the item had been fully funded in the governor's request.

Mr. Grussendorf answered "yes."

Senator Wilson asked about the \$136 million being removed from CCPF and CSLRF funding. He asked about the intention of the funding and whether it was to be used at a later date.

Mr. Grussendorf explained that the \$64 million of CCPF funds had been authorized in the American Rescue Plan Act (ARPA) and was originally intended for broadband. Subsequently federal guidance was issued that opened up additional eligibility that was very stringent. There were currently no projects proposed to access the funds.

Senator Wilson asked about the deadline to request the funding and wondered if the plan was to utilize the amendment process to access the funds.

Co-Chair Bishop thought the deadline was September of 2022. He answered affirmatively that the amendment process would be utilized.

Senator Wilson asked if it was possible to get the criteria information in order to utilize the funds.

Co-Chair Bishop understood that the criteria was that the funding was for broadband projects.

Mr. Grussendorf stated that he had information on the guidance for the CCPF and agreed to forward the information. He cited the criteria for treasury to accept the grants:

1. The project must be designed to directly enable work, education, and health monitoring.
2. The project must address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency.
3. The project must address a critical need of the community to be served by it.

[9:36:34 AM](#)

Co-Chair Stedman commented that it was early in the budget process and the committee would be balancing fund sources throughout. He mentioned the concern of the Napakiak School and asserted that it was the committee's intent to get the school funded in the current year. He discussed bond debt reimbursement and REAA area funding that was linked to it. He mentioned a balanced approach and picking up some arrears. He expected discussions on the mechanics of getting the school fully funded. He did not want the public to conclude that the school was being removed from the budget process and asserted that the committee was considering fund sources.

Co-Chair Bishop stated the school would be funded through statute.

Senator Wilson thought the previous speaker had stated that the intent was to not have so many appropriation bills

"floating around." He asked if the intent was to combine supplemental capital projects and new infrastructure capital projects.

Co-Chair Bishop stated that the committee was following the path to have one capital budget. He answered "yes."

Senator Wilson asked if the committee's intent was to look for amendments that would cover all three sets of projects.

Co-Chair Bishop stated that there was currently one capital budget with a small supplemental in FY 22. He asked Co-Chair Stedman to comment.

Co-Chair Stedman reminded that it was just the beginning of establishing a budget baseline and the approach was not much different than how the committee was approaching the operating budget, which provided clarity for the public. He explained that generally speaking the legislature did not have multiple appropriation bills, and there was normally a consolidation of appropriation bills to minimize numbers. He explained that the columns on the backup reports were to provide clarity on the proposed projects.

Co-Chair Bishop WITHDREW his OBJECTION. There being NO further OBJECTION, it was so ordered. The CS for SB 164 was ADOPTED.

SB 164 was HEARD and HELD in committee for further consideration.

Co-Chair Bishop relayed an amendment deadline of Thursday, April 14 at 5 o'clock p.m.

[9:40:28 AM](#)

AT EASE

[9:40:38 AM](#)

RECONVENED

Co-Chair Bishop discussed the agenda for the afternoon.

#

ADJOURNMENT

[9:41:00 AM](#)

The meeting was adjourned at 9:41 a.m.