

SENATE FINANCE COMMITTEE
April 12, 2022
9:06 a.m.

9:06:09 AM

CALL TO ORDER

Co-Chair Bishop called the Senate Finance Committee meeting to order at 9:06 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

Senator Jesse Kiehl, Sponsor; Cathy Schlingheyde, Staff to Senator Jesse Kiehl; Jackie Boyer, Campaign and Policy Director, Native Peoples Action; Morgan Lim, Planned Parenthood Alliance Advocates, Juneau.

PRESENT VIA TELECONFERENCE

Chris Hladick, former Region 10 Environmental Protection Agency Administrator, Anchorage; Anna Godduhn, Self, Fairbanks; John Erickson, City and Borough Manager of Yakutat, Yakutat; Melanie Lesh, Self, Gustavus; Jeanne Olson, Self, Fairbanks.

SUMMARY

SB 121 PFAS USE & REMEDIATION; FIRE/WATER SAFETY

SB 121 was HEARD and HELD in committee for further consideration.

#sb121

SENATE BILL NO. 121

"An Act relating to pollutants; relating to perfluoroalkyl and polyfluoroalkyl substances; relating to the duties of the Department of Environmental Conservation; relating to firefighting substances; relating to thermal remediation of perfluoroalkyl and polyfluoroalkyl substance contamination; and providing for an effective date."

9:06:57 AM

Co-Chair Bishop relayed that it was the first hearing for SB 121. It was the committee's intention to hear a bill introduction and Sectional Analysis, take invited and public testimony, and set the bill aside.

9:07:31 AM

SENATOR JESSE KIEHL, SPONSOR, explained that SB 121 would get the state started in addressing the significant problem of a group of chemicals known as polyfluoroalkyl substances (PFAS). He expanded that PFAS were very bad for health and did not break down. The carbon fluorine bond was very durable and made the substances effective in fighting fires. When PFAS came into drinking water, there was a myriad of bad effects. The substances were closely linked to cancer, linked to low birth weight in babies, and caused liver and thyroid problems amongst other things.

Senator Kiehl cited that Alaska had PFAS in drinking water largely due to firefighting foams. He mentioned additional chemical information that was available at the request of members. He identified that the basic issue at hand was that the science was strong, and the chemicals were bad for people in extremely small amounts (parts per trillion).

Senator Kiehl described that the chemicals were present in drinking water as a result of firefighting or testing of the firefighting foams known as Aqueous Film-Forming Foams (AFFF), which were required at airports that could land a jet, oil and gas facilities, and a few other locations. He recalled that in 2018, scientists at the Department of Environmental Conservation (DEC) began the process of addressing PFAS in the state and had listed six chemicals in a proposed regulation that included both drinking water and cleanup standards. He reminded that under the state's

existing hazardous materials laws, there was very strict "spiller pays" laws. The department had been clear that listing the chemicals would not come at an additional cost to the state, but rather at the cost of the spiller. The scientists had been told to defer to federal agencies and take no action, which led to the first legislation on the topic. He emphasized that the state needed to act to protect Alaskan's health.

[9:11:01 AM](#)

Senator Kiehl explained that the bill referenced seven chemicals, and the standards were based on an extensive review of the science that was done in a number of states and led by the State of Michigan. The bill only dealt with drinking water and did not address site cleanup for a number of reasons. He emphasized that there was no way to get rid of the substances. He reiterated that almost every study suggested lower standards than proposed by DEC or in the bill. He stated he was extremely confident of the standards proposed in the bill and noted that the bill provided the opportunity for the department to set a more protective level as the science developed. He relayed that the bill kept all of the state's spiller pays laws, so there were no changes to liability for providing drinking water.

Senator Kiehl discussed a change made in the Senate Resources Committee that stipulated if a federal government agency required a state agency or private entity to spray PFAS, the federal agency would be jointly liable. He continued that the bill focused on ending additional spraying of PFAS chemicals in Alaska's environment. He asserted that the substance ran off runways and into the groundwater, and had been used and tested at pump stations, where it went into the groundwater. He noted that anywhere groundwater was accessed down-grade of PFAS use, one would find levels that exceeded safe drinking water.

Senator Kiehl emphasized that the goal of the bill was not to be absolutist. He expanded that there was currently no alternative substance that served the same purpose for the tanker terminal at Valdez, and at some of the state's largest tank farms. There was an exception for the oil and gas business that allowed that until an alternative substance was found, there would be a regulation process through which there would be a phase-in. The decision would

be left to the fire marshal. The also bill stopped spraying of PFAS chemicals at airports as soon as it was federally allowed. He recounted that Congress had told the Federal Aviation Administration (FAA) that it needed to stop requiring the spraying of PFAS at airports the previous October, and the FAA had missed its deadline. He thought the matter was concerning.

Senator Kiehl asserted that progress was happening and noted that there would be a military specification for alternate firefighting foams within a year, and he expected that the FAA would do its job as mandated by Congress and change its requirements. He recounted that in conversations with fire safety personal (including with fire chiefs at Anchorage International Airport and SEATAC Airport), there was great confidence that alternate foams without PFAS would be safe and effective at airports.

[9:14:56 AM](#)

Senator Kiehl highlighted provisions in the bill such as: required air quality permits for those engaging in thermal regulation, and a take-back provision requiring DEC to accept up to 25 gallons per year of PFAS concentrates. He qualified that the take-back provision would not help large entities. He mentioned firefighting in remote communities that had small amounts of AFFF. He noted a portion of the fiscal note would cover the cost.

Senator Kiehl explained that there would be costs associated with getting away from PFAS chemicals in people's water supply. He noted that the state was in litigation with PFAS manufacturers because the product was poisonous when used as directed. He highlighted that the federal infrastructure bill had millions of dollars per year for drinking water and wastewater infrastructure. He relayed that his staff was ready to give a detailed bill analysis and there was invited and public testimony available.

Co-Chair Stedman asked if the sponsor could summarize the bill in one paragraph.

Senator Kiehl summarized that the bill required clean drinking water when there was poison in the water.

Co-Chair Bishop asked about thermal remediation and air quality standards. He asked the sponsor to elaborate on the subject. He considered whether thermal remediation was a new type of remediation process to take PFAS out of the contaminated water and could be discharged into the atmosphere.

Senator Kiehl agreed with Co-Chair Bishop's explanation. He cited that there had been an experimental effort near Co-Chair Bishop's district that had some extensive filters to ensure that short-chain PFAS did not escape into the atmosphere.

Co-Chair Bishop had done some research and identified that there was emerging technologies, including one called the "PFAS annihilator" that operated under high-pressure and worked within a closed loop system to neutralize PFAS.

[9:19:18 AM](#)

Co-Chair Stedman referenced contamination issues in Gustavus. He asked if the bill would help prevent the use of PFAS in training scenarios. He wanted to identify which airports were using PFAS. He discussed the geographical features of Gustavus versus Sitka and proximity to bodies of water versus groundwater. He thought there were issues in the Interior. He asked for the bill sponsor to address how the industry was dealing with the issue.

Senator Kiehl relayed that the industry (by in large) and the airports had generally stopped spraying the substance for training purposes. The bill required that PFAS could only be used to put out a fire in an actual emergency, and to use an alternative when available. He thought the DEC Contaminated Sites website had relevant information. He emphasized that the bill was silent on cleanup because there was not currently a way to remediate the contamination.

Senator Wilson thought that there were commercial grade water filters near the airport in Fairbanks. He thought the filters used new technology and reverse osmosis to clean up the drinking water. He asked if the sponsor could comment.

Senator Kiehl cited that there were a number of remediation technologies available that were universally very expensive. He cited that a household-sized system of

filtration that could take out PFAS to a safe level would cost \$25,000 to install and \$6,000 to \$8,000 per year. He believed that there were some larger systems that had been put in place for commercial wells. He thought one area in the Interior had found it worthwhile to run more than 20 miles of additional municipal water lines to low density areas rather than buy that many filtration systems. He emphasized the expense of municipal water lines.

Senator Wilson discussed property purchase and disclosure of contaminants. He would support an amendment to the bill that required disclosure of PFAS contamination. He mentioned economic activity in communities near military bases and lack of new properties.

Senator Kiehl was not familiar with real estate law but agreed to look into the matter as to whether the topic was covered or could be added to the bill.

[9:24:41 AM](#)

CATHY SCHLINGHEYDE, STAFF TO SENATOR JESSE KIEHL, spoke to a Sectional Analysis document (copy on file):

Sec. 1 of the bill creates five new sections in AS 46.03:

Sec. 46.03.340: Standards for Clean Drinking Water

Sec. 46.03.340(a): Directs the Department of Environmental Conservation to make sure drinking water near PFAS spills is tested. Requires the department to make sure anyone with contaminated drinking water gets clean drinking water.

Sec. 46.03.340(b): Sets health-based maximum levels of contamination in drinking water for seven PFAS chemicals and maintains DEC's authority to set more protective thresholds.

Sec. 46.03.345: Who is responsible for providing drinking water?

Sec. 46.03.345(a): Clarifies the causer of a fire is liable for providing drinking water if PFAS-containing foam is used to fight the fire. Creates an exemption for residential fires and non-commercial motor vehicle fires.

Sec. 46.03.345(b): A government entity that required the release of PFAS containing foam is liable for drinking water testing and providing clean drinking water in the areas of the release.

Sec. 46.03.345(c): A fire department is not liable for providing drinking water or site clean-up if they used PFAS-containing foam to fight a fire. This section maintains existing liability for fire fighters if they use PFAS-containing foam for training or testing.

Sec. 46.03.345(d): Clarifies this bill doesn't change a responsible party's liability described elsewhere in DEC statutes.

Sec. 46.03.345(e): Defines "motor vehicle" and "residential building" for purposes of this section.

Sec. 46.03.350: Who can still use PFAS containing foams?

Sec. 46.03.350(a): The oil & gas industry may continue using PFAS containing foams until an alternative is approved through regulation.

Sec. 46.03.350(b): The fire marshal can determine there is a safe and effective PFAS-free foam for fighting large oil or gas fires only if the alternate foam is listed by an organization in OSHA's Nationally Recognized Testing Laboratory Program. The fire marshal must require the new foam by regulation, with a stated effective date.

Sec. 46.03.350(c): DEC must take up to 25 gallons per year of PFAS-containing firefighting foam from Alaskans for disposal.

Sec. 46.03.350(d): When federal law no longer requires firefighting foams with PFAS in them at airports, everyone outside the oil & gas industry must stop using PFAS-containing foams, unless federal law preempts Alaska law.

Sec. 46.03.355: Requires a facility treating PFAS through thermal remediation to get a Clean Air Act Title V permit.

Sec. 46.03.359: Lists the PFAS compounds covered by this bill and maintains DEC's authority to list more.

Sec. 2 of the bill adds an applicability provision:

Sec. 2: The requirements to test drinking water and provide clean drinking water apply to past and future PFAS contamination.

Secs. 3-6 of the bill add effective dates:

Sec. 3: DEC can adopt regulations before the effective date of the bill, so long as they do not go into effect before the bill.

Sec. 4: Immediate effective date for the applicability and transition language in Sec. 2 & 3.

Sec. 5: The rest of the bill takes effect Jan. 1, 2023.

[9:26:47 AM](#)

AT EASE

[9:27:14 AM](#)

RECONVENED

Senator Wielechowski referenced page 1, line 9 of the bill, and asked who the responsible party was.

Senator Kiehl relayed that the bill would weave in with existing hazardous spill response laws and did not propose to make changes. He continued that generally, the spiller paid, and property owner liability applied.

Senator Wielechowski asked which party would be responsible if a refiner, gas station, or oil and gas transporter caused PFAS to leak into the environment.

Ms. Schlingheyde responded that the person in the oil and gas industry would be liable. She cited that the bill proposed that parties would not have to transition to fluorine-free foams until the fire marshal said that there was a safe alternative, but the industry would maintain all liability for testing and providing drinking water.

[9:28:59 AM](#)

CHRIS HLADICK, FORMER REGION 10 ENVIRONMENTAL PROTECTION AGENCY ADMINISTRATOR, ANCHORAGE (via teleconference), testified in support of the bill. He cited that he was the former commissioner of the Department of Commerce, Community and Economic Development under the previous governor, but was testifying as a private citizen. He believed the bill was a strong first step in addressing the "forever chemical" family of PFAS. He highlighted that the materials were often used in firefighting foams and he had direct experience with the substance through a surplus foam truck from the airport that for use on boat fires. He cited that the substance was also in a multitude of household products. He thought the bill was an important first step for DEC and the development of regulations to address the health risks of PFAS. He noted that the bill spoke to thermoregulation, for which the EPA was developing effective testing protocols. He emphasized that burning must result in complete destruction of the chemical, as the biproducts were contaminants. He added that there were accepted methods of remediation still being improved.

Mr. Hladick knew the bill addressed drinking water and mentioned the cost of transporting contaminants out of the state, and contaminated soil. The contaminated soil needed to be put in 50-gallon drums and shipped to the closest hazardous waste facility in Oregon, which was costly. He noted that the EPA had developed an action plan which would develop a mean contaminate level for drinking water. He noted that protocols were in development for public drinking water facilities at the EPA, which had issued a health advisory on the substance. A team of scientists was working on 22 of the known 4,700 PFAS chemicals and hoped to be complete by 2024. He thought the bill was an important first step for the state.

[9:32:31 AM](#)

JACKIE BOYER, CAMPAIGN AND POLICY DIRECTOR, NATIVE PEOPLES ACTION, spoke in support of the bill. She explained that Native Peoples Action (NPA) was a statewide organization that strived to uplift its people's and traditional way of life, as well as to ensure that Alaska Natives were heard in all levels of policy-making. She discussed physical and spiritual wellness and disparities. She discussed health risks due to PFAS exposure and cited that Alaska Natives were at greater risk for certain cancers.

Ms. Boyer expressed concern over the number of contaminated sites in Alaska, which impacted people and animals. She considered the contamination through subsistent hunting and fishing. She thought the proposed bill provisions were reasonable.

[9:35:36 AM](#)

Co-Chair Bishop OPENED public testimony.

ANNA GODDUHN, SELF, FAIRBANKS (via teleconference), spoke in support of the bill. She emphasized that the PFAS concern was related to parts-per-trillion amounts. She cited that chemicals could accumulate in people's bodies. She noted that PFAS could interfere with hormone function. She thought the bill was a great first step in trying to eliminate the problem of PFAS contamination in drinking water and the environment. She asserted that PFAS was also an environmental problem in the food web.

[9:38:28 AM](#)

MORGAN LIM, PLANNED PARENTHOOD ALLIANCE ADVOCATES, JUNEAU, testified in support of the bill. He asserted that the bill would provide greater protections for communities by preventing and assessing PFAS contamination. He considered that PFAS contamination and the lack of access to clean safe water was an issue of reproductive oppression. He asserted that the contamination undermined an individual's reproductive health, limited the ability to have or not have children, and infringed on the right to have children in a healthy and safe environment.

Mr. Lim cited that thousands of people in the state faced the daily reality of exposure to contaminated water sources, including PFAS contamination that presented serious risk to people's reproductive and overall health. He noted that many water sources in the state contained PFAS, which he described as a man-made toxin that interfered with the bodies endocrine system, causing many adverse effects in humans. He discussed the use of PFAS. He asserted that the dispersive use of PFAS by military bases and airports had contaminated the drinking water in the North Slope to the Southeast with PFAS, already identified in over 100 individual sites and nearly 30 locations across

the states. He discussed the related reproductive health problems associated with PFAS contamination.

9:40:51 AM

JOHN ERICKSON, CITY AND BOROUGH MANAGER OF YAKUTAT, YAKUTAT (via teleconference), spoke in support of the bill. He explained that Yakutat had a problem with PFAS at the airport. He mentioned two wells that were adjacent to the airport and were contaminated with PFAS, and four additional wells that were contaminated less significantly. He mentioned new standards being implemented by the EPA. He mentioned discussing funding with the Village Safe Water Program and the United States Department of Agriculture, which would not fund anything unless there was a concentration of houses. He mentioned the businesses in the area of the airport that were using contaminated water.

Mr. Erickson relayed that the Department of Transportation and Public Facilities had sent bottled water in order for restaurants to operate. He noted that it was not advisable to shower in PFAS-contaminated water. He mentioned looking at a variety of cleaning systems. He described extending water lines 3.5 miles to circumvent the contamination and cited a \$6 million quote by the Department of Transportation and Public Facilities.

9:44:10 AM

MELANIE LESH, SELF, GUSTAVUS (via teleconference), spoke in support of the bill. She cited that she submitted written testimony the previous day (copy on file).

9:45:01 AM

JEANNE OLSON, SELF, FAIRBANKS (via teleconference), testified in support of the bill. She shared that she was a veterinarian and was familiar with the topic of the bill. She had worked as an industrial hygienist at Fort Wainwright and had worked on asbestos remediation. She discussed the evolving standards for asbestos as a parallel to PFAS standards. She thought the State of Maine had the most progressive PFAS statutes and reminded that Senator Lisa Murkowski and Representative Don young had been sponsors of PFAS bills at the federal level. She had tested her own water and found 69 parts per trillion in PFAS and emphasized that she did not live near an airport. She

discussed the expense of running water over long distances. She mentioned the documentary "The Devil We Know," which she thought provided good information about PFAS. She cited that Heathrow Airport in London, England no longer used PFAS. She encouraged the committee to consider more progressive amendments to the bill.

Co-Chair Bishop noted that there were testifiers available to answer member's questions.

[9:48:39 AM](#)

Co-Chair Bishop CLOSED public testimony.

SB 121 was HEARD and HELD in committee for further consideration.

Co-Chair Bishop discussed the agenda for the afternoon.

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ADJOURNMENT

[9:49:28 AM](#)

The meeting was adjourned at 9:49 a.m.