

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

February 22, 2023

1:33 p.m.

MEMBERS PRESENT

Representative Tom McKay, Chair
Representative George Rauscher, Vice Chair
Representative Kevin McCabe
Representative Dan Saddler
Representative Jennie Armstrong
Representative Donna Mears
Representative Maxine Dibert

MEMBERS ABSENT

Representative Josiah Patkotak
Representative Stanley Wright

COMMITTEE CALENDAR

SENATE BILL NO. 10

"An Act providing for trapping licenses for active members of the Alaska National Guard and military reserves without charge; making sport fishing, hunting, and trapping permanent identification cards available to certain disabled veterans without charge; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 50

"An Act relating to the geologic storage of carbon dioxide; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 49

"An Act authorizing the Department of Natural Resources to lease land for carbon management purposes; establishing a carbon offset program for state land; authorizing the sale of carbon offset credits; and providing for an effective date."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: SB 10

SHORT TITLE: HUNTING/TRAPPING/FISHING: DISABLED VETS

SPONSOR(s): SENATOR(s) KIEHL

01/18/23 (S) PREFILE RELEASED 1/9/23
01/18/23 (S) READ THE FIRST TIME - REFERRALS
01/18/23 (S) RES
01/27/23 (S) RES AT 3:30 PM BUTROVICH 205
01/27/23 (S) Heard & Held
01/27/23 (S) MINUTE(RES)
02/10/23 (S) RES AT 3:30 PM BUTROVICH 205
02/10/23 (S) Moved SB 10 Out of Committee
02/10/23 (S) MINUTE(RES)
02/13/23 (S) RES RPT 6DP
02/13/23 (S) DP:BISHOP, GIESSEL, DUNBAR, KAUFMAN,
WIELECHOWSKI, CLAMAN
02/15/23 (S) TRANSMITTED TO (H)
02/15/23 (S) VERSION: SB 10
02/17/23 (H) READ THE FIRST TIME - REFERRALS
02/17/23 (H) RES
02/22/23 (H) RES AT 1:00 PM BARNES 124

BILL: HB 50

SHORT TITLE: CARBON STORAGE

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/27/23 (H) READ THE FIRST TIME - REFERRALS
01/27/23 (H) RES, FIN
02/10/23 (H) RES AT 1:00 PM BARNES 124
02/10/23 (H) Heard & Held
02/10/23 (H) MINUTE(RES)
02/15/23 (H) RES AT 1:00 PM BARNES 124
02/15/23 (H) Heard & Held
02/15/23 (H) MINUTE(RES)
02/17/23 (H) RES AT 1:00 PM BARNES 124
02/17/23 (H) Heard & Held
02/17/23 (H) MINUTE(RES)
02/20/23 (H) RES AT 1:00 PM BARNES 124
02/20/23 (H) Heard & Held
02/20/23 (H) MINUTE(RES)
02/22/23 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

SENATOR JESSE KIEHL
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As the prime sponsor, introduced SB 10.

CATHY SCHLINGHEYDE, Staff
Senator Jesse Kiehl
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Senator Kiehl, prime sponsor, answered questions during the hearing on SB 10.

ADAM CRUM, Commissioner Designee
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: On behalf of the prime sponsor, House Rules by request of the governor, answered questions on HB 50.

BRANDON SPANOS, Deputy Director
Tax Division
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: On behalf of the prime sponsor, House Rules by request of the governor, answered questions on HB 50.

JASON OLDS, Director
Division of Air Quality
Department of Environmental Conservation
Juneau, Alaska

POSITION STATEMENT: On behalf of the prime sponsor, House Rules by request of the governor, answered questions on HB 50.

BRETT HUBER, Commissioner
Alaska Oil and Gas Conservation Commission
Department of Administration
Juneau, Alaska

POSITION STATEMENT: On behalf of the prime sponsor, House Rules by request of the governor, answered questions on HB 50.

MARY GRAMLING, Assistant Attorney General
Oil and Gas Section
Department of Law
Anchorage, Alaska

POSITION STATEMENT: On behalf of the prime sponsor, House Rules by request of the governor, answered questions on HB 50.

AARON O'QUINN, Leasing Section Manager
Division of Oil and Gas
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: On behalf of the prime sponsor, House Rules by request of the governor, answered questions on HB 50.

ACTION NARRATIVE

[1:33:05 PM](#)

CHAIR TOM MCKAY called the House Resources Standing Committee meeting to order at 1:33 p.m. Representatives McCabe, Saddler, Mears, Dibert, and McKay were present at the call to order. Representatives Armstrong and Rauscher arrived as the meeting was in progress.

SB 10-HUNTING/TRAPPING/FISHING: DISABLED VETS

[1:34:37 PM](#)

CHAIR MCKAY announced that the first order of business would be SENATE BILL NO. 10, "An Act providing for trapping licenses for active members of the Alaska National Guard and military reserves without charge; making sport fishing, hunting, and trapping permanent identification cards available to certain disabled veterans without charge; and providing for an effective date."

[1:34:52 PM](#)

SENATOR JESSE KIEHL, Alaska State Legislature, as the prime sponsor, introduced SB 10. He stated that SB 10 would bring parity to disabled veterans in regard to hunting, trapping, and fishing [licenses]. He noted that Alaska residents are eligible to receive a lifetime [license] card upon reaching their sixtieth birthday, as well as service members with at least 50 percent disability. He noted that trapping is not on the list of eligible activities for veterans, and this reason is unknown. He stated that he has received letters of support for the proposed legislation from outdoor groups and veterans' organizations.

[1:38:38 PM](#)

REPRESENTATIVE SADDLER asked whether the proposed legislation would apply to uniformed service members who served the National Oceanic and Atmospheric Administration (NOAA).

[1:39:01 PM](#)

CATHY SCHLINGHEYDE, Staff, Senator Jesse Kiehl, Alaska State Legislature, on behalf of Senator Kiehl, prime sponsor, expressed the understanding that these individuals would not qualify. She added that the qualifications would be tied to the eligibility for veterans' mortgages.

[1:40:42 PM](#)

CHAIR MCKAY announced that SB 10 was held over.

[1:41:15 PM](#)

The committee took an at-ease from 1:41 p.m. to 1:44 p.m.

HB 50-CARBON STORAGE

[1:44:28 PM](#)

CHAIR MCKAY announced that the final order of business would be HOUSE BILL NO. 50, "An Act relating to the geologic storage of carbon dioxide; and providing for an effective date."

[1:45:36 PM](#)

ADAM CRUM, Commissioner Designee, Department of Revenue (DOR), on behalf of the prime sponsor, House Rules by request of the governor, addressed HB 50. He introduced Brandon Spanos, who would be discussing how the federal 45Q tax credits would affect state corporate tax.

[1:45:59 PM](#)

BRANDON SPANOS, Deputy Director, Tax Division, Department of Revenue, on behalf of the prime sponsor, House Rules by request of the governor, addressed corporate income tax in relation to HB 50. He began by explaining corporate income tax in the state. He stated that corporate income tax is applied in Alaska to C corporations, which are corporations independent of their owners in terms of applying the federal Internal Revenue Code (IRC). He stated that these corporations are considered "water's edge companies" and not oil and gas companies, which are taxed on income starting at the federal income level. He explained that with multi-state corporations, one state would not receive 100 percent of the income tax, but only a portion. To determine the percentage, he said that Alaska uses the Uniform Division of Income Tax Act (UDITA), which allows the use of an apportionment factor. This factor is created by using the

enumerator of the state and the denominator of the total of all the states the company does business in. These factors are property, payroll, and sales. He noted that oil and gas companies' tax is calculated differently, and an international apportionment factor is used, which is determined by the extraction of resources all over the world by the company. He moved to describe how the 45Q tax credits [which create an incentive for carbon capture, utilization, and storage (CCUS)] could be used. He stated that federal credits are a part of the federal IRC used in Alaska, but this credit is capped at 18 percent. He stated that this tax credit apportionment would be created the same way as the income apportionment.

[1:50:51 PM](#)

MR. SPANOS, in response to a request from Chair McKay to simplify the topic, pointed out that for an oil and gas company that earns income internationally, it would only be taxed in Alaska on the income apportioned to Alaska based on the company's property, extraction, and sales. In response to a follow-up question, he answered that the method described would not qualify as "separate accounting." In response to a follow-up question, he stated that the acronym "UDITA" stands for the Uniform Division of Income Tax Act.

[1:53:43 PM](#)

REPRESENTATIVE MCCABE asked whether carbon credit sales would qualify as variable income from sales under UDITA.

MR. SPANOS answered that Alaska's income would be based on the starting point for federal IRC.

[1:55:14 PM](#)

REPRESENTATIVE MEARS asked whether tax credits work the same way as other federal taxes.

MR. SPANOS clarified that the federal tax is not apportioned; however, the federal income is apportioned for water's edge companies. He stated that an oil and gas company's worldwide income would be apportioned. He explained that the 45Q tax credit, along with any other federal credit that has been adopted by the state, would be apportioned to Alaska, and then 18 percent of this could be used as a credit on the company's tax return. He provided an example for further explanation.

[1:58:20 PM](#)

REPRESENTATIVE SADDLER asked whether the apportionment factor would be what a company makes in the entire world divided by what it makes in Alaska.

MR. SPANOS answered that the Alaska apportionment factor for an oil and gas company would be a combination of three factors: its property in Alaska divided by its property everywhere, extraction in Alaska divided by its extraction everywhere, and sales in Alaska divided by its sales everywhere. In response to a follow-up question, he stated that the state of Alaska has a tax credit limit of 18 percent.

[2:01:21 PM](#)

REPRESENTATIVE ARMSTRONG, concerning the big picture, questioned the market size and how potential revenue would be affected. She expressed the concern that the proposed legislation should be positive and not negative for the state.

CHAIR MCKAY advised that this would be covered later in the meeting.

[2:03:05 PM](#)

REPRESENTATIVE MCCABE expressed the concern that carbon tax credits and 45Q credits seem similar to oil tax credits. He referenced the amount of money the state has paid in oil tax credits and expressed the opinion that this would be different. He sought reassurance that these tax credits would not cost the state money.

COMMISSIONER DESIGNEE CRUM answered that per the current law, with the 45Q tax credit, it would not create a negative credit for the state, but it would reduce the amount of corporate income tax coming into the state. In response to a question concerning whether carbon tax credits could be sold like oil tax credits, he expressed uncertainty.

[2:05:50 PM](#)

COMMISSIONER DESIGNEE CRUM continued to address whether carbon dioxide (CO₂) storage facilities would be subject to state property tax. He stated that DOR would determine whether the new facilities would be solely dedicated to the use of carbon

sequestration, and if so, they would not be taxable by the federal government, although they may be subject to local property taxes. To the extent that oil and gas property is used for this sole purpose, the property would not be taxed. He said that it would still need to be determined by DOR whether there would be an exception for dual-use facilities that are being used for both transport and carbon sequestration. He stated that this would depend on any legislation passed.

[2:07:24 PM](#)

REPRESENTATIVE MEARS asked how the proposed bill would affect oil and gas taxation.

COMMISSIONER DESIGNEE CRUM stated that facilities used only for carbon sequestration would be taxed as personal property. In response to a follow-up question, he said that the oil and gas tax structure would not be affected.

[2:08:24 PM](#)

REPRESENTATIVE SADDLER clarified that oil and gas taxes would not apply to the actual CO2 injected into a reservoir.

COMMISSIONER DESIGNEE CRUM responded in the affirmative. In response to a series of follow-up questions, he answered that the facilities used solely for carbon sequestration would not be taxed. He suggested that dual-use facilities would likely be subject to a percentage property taxation. In response, he stated that the actual pumps and wells would be taxed if not used for any sequestration.

[2:10:00 PM](#)

CHAIR MCKAY asked whether the state could lose revenue if a company that is sequestering carbon is not taxed enough by the state.

COMMISSIONER DESIGNEE CRUM answered yes.

REPRESENTATIVE MEARS questioned the operating scale of the carbon sequestration industry, and she quoted some estimates.

COMMISSIONER DESIGNEE CRUM, in reference to the scope, deferred to the Department of Natural Resources (DNR) and the Department of Environmental Conservation (DEC).

[2:12:26 PM](#)

REPRESENTATIVE ARMSTRONG, [concerning the amount of possible carbon sequestration], asked whether the current tax rate for oil and gas is enough to keep revenue generation positive if the proposed legislation is passed.

COMMISSIONER DESIGNEE CRUM answered that the enhanced oil recovery side is different from sequestering carbon. As far as the amount of CO2 that can be sequestered, he deferred to DEC. Concerning the overall funds available, he stated that DOR has worked on carbon offsets; however, this concerns a different piece of legislation.

CHAIR MCKAY added that it may take some time to find investors for carbon sequestration. He stated that currently the carbon produced on the North Slope is reinjected, and in this process, the carbon is called "stranded" [not sequestered]. He further explained the enhanced oil recovery side, which entails pumping CO2 to clear a field.

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JASON OLDS, Director, Division of Air Quality, Department of Environmental Conservation, per the indeterminate fiscal note, stated that the amount of the tonnage of the emissions that could be reinjected is unknown; therefore, the market is unknown. He suggested that the emissions would not exactly represent the amount of carbon. He continued that the proposed bill would open the opportunity for a market that would reduce CO2 emissions, and as the market develops, the impacts would then be learned. He expressed the opinion that this would not increase DEC's workload, and the department supports the legislation.

[2:18:15 PM](#)

REPRESENTATIVE SADDLER, concerning the zero fiscal note for DEC, asked whether the fiscal notes allow for the avoidance of certain fees.

MR. OLDS answered that payments would be based on the reports submitted.

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REPRESENTATIVE MCCABE questioned whether the framework provided by HB 50 would attract companies to conduct exploration on carbon storage.

COMMISSIONER DESIGNEE CRUM responded in the affirmative. He stated that the framework would be necessary in order to have the market realized. He advised that once there is statutory authority, companies will become interested.

[2:21:00 PM](#)

REPRESENTATIVE SADDLER questioned the potential risks for CO2 escapement.

MR. OLDS answered that the liabilities question has been discussed, and he deferred to the Department of Law (DOL). He stated that currently there are no regulations associated with carbon alone. The regulations for other emissions, such as methane, are guided by monitoring. He added that there could be some permitting and compliance regulations created.

CHAIR MCKAY added that if high amounts of CO2 escape into a low area, it could result in suffocation from lack of oxygen, but CO2 is already present in the atmosphere.

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REPRESENTATIVE MEARS expressed the opinion that CO2 should be kept in the ground and not in the atmosphere; however, she expressed the concern that this could result in spending more money than what would be saved. She suggested that the state needs to continue to find ways to use this for revenue generation. She stated that the potential amount of carbon being discussed is in DEC's fiscal note, of which, she added, this number is "not a real number."

CHAIR MCKAY responded that if there is no interest in CO2 sequestration, then there would be no resulting fiscal cost.

COMMISSIONER DESIGNEE CRUM responded in the affirmative. He added that there would be no cost if there is no program to administer.

CHAIR MCKAY reiterated the point that if "nobody comes to the table, then the program basically goes dormant."

COMMISSIONER DESIGNEE CRUM responded in the affirmative. He added that the proposed legislation would increase the economic viability of a potential gas line because of the rebated funds from the federal taxes. He advised that this would be providing a new energy source in Alaska for the long term.

REPRESENTATIVE MEARS argued that, without a solid figure for the potential of revenue generation, the \$1.5 million in the two fiscal notes would be spending money prematurely.

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REPRESENTATIVE ARMSTRONG expressed the understanding that because Alaska has some of the lowest emissions, the state would need to rely on other countries to barge in carbon for storage. She questioned why companies would choose to store CO2 in Alaska over other locations. She also questioned whether there have been any potential clients identified.

COMMISSIONER DESIGNEE CRUM expressed the opinion that the overall competitive aspect would help the potential for additional liquefied natural gas pipelines, and these companies would then be more interested in doing other projects. He mentioned several examples.

[2:29:14 PM](#)

JOHN CROWTHER, Deputy Commissioner, Department of Natural Resources, in addressing the potential scale of the CO2 sequestration in the state, answered that there are already existing sources of large-scale emissions, as up on the North Slope. He pointed out that the CO2 emissions already created by projects in Alaska could be sequestered in the state; thus, generating revenue in Alaska via injection fees and other fees. He reiterated that a large-scale natural gas project could move forward with a significant amount of emissions to sequester, and this could provide the potential to boost other natural resources. He added that imported CO2 would also create some amount of revenue. He continued that there is value in all these scenarios, and if there is no option of sequestration for companies, the value of oil and gas in the state could diminish. He argued that potentiating all the other developments is a very important aspect of the proposed legislation.

[2:31:53 PM](#)

REPRESENTATIVE ARMSTRONG clarified that the \$1.5 million in the fiscal notes would not be an up-front cost for the state. She questioned the timeline in which the state can expect a pipeline to be built.

MR. CROWTHER, in response to the first question, stated that per the DNR fiscal note, there would be some start-up cost, but potentially if there is no activity, positions would not be filled, and the funds would not be used. He stated the funds would be initially required; however, there would be a gauge to this and time to evaluate the market. If there is activity, he suggested that the oil and gas industry would expect some federal funds to offset the costs.

[2:34:35 PM](#)

CHAIR MCKAY questioned primacy and permitting on a Class VI well.

[2:35:14 PM](#)

BRETT HUBER, Commissioner, Alaska Oil and Gas Conservation Commission (AOGCC), Department of Administration, began by stating that the U.S. Environmental Protection Agency (EPA) defines a Class II well as a well used to inject fluids associated with oil and gas exploration and production, while a Class VI well is used to inject CO₂ for long-term storage for geological sequestration. He added that Class VI wells do not have an oil and gas exploration requirement. He continued that, concerning the fiscal note, it would provide for two new positions at AOGCC, and these positions purposely would take over the primacy application process from EPA, as well as other duties. He expressed the understanding that consultants would be needed for the transfer of these responsibilities. He noted that the additional staff would add expertise for other issues at AOGCC. He also noted that DNR has already mapped out the process of taking over duties concerning primacy from EPA. He covered the details of DNR's work in relation to this. He stated that several states have already adopted acceptable regulations for carbon storage and have transitioned from EPA; therefore, "there is a good road map to achieve this primacy." He suggested that the timeframes for other states have been around two years. For the primacy process, he stated that there is around \$2 million in the fiscal notes. He added that there are also opportunities for federal grants for this process. He discussed the possibility that the amount to put primacy in place would be recouped by the grants.

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CHAIR MCKAY questioned when AOGCC would hire personnel and pursue Class VI well primacy. He questioned whether AOGCC would wait until the state garnered interest in carbon storage before the funds were used.

COMMISSIONER HUBER reminded that the primacy process would take at least two years. He expressed the opinion that the proposed legislation would provide the benefit of primacy if the state were to pursue CCUS either now or in the future. He recommended that doing so immediately is in the interest of the state. He stated that other states that have sought primacy have seen an increased interest in carbon storage.

[2:40:41 PM](#)

REPRESENTATIVE SADDLER questioned whether the cost incurred in the first two years would be solely for seeking primacy.

COMMISSIONER HUBER responded in the affirmative. He added that AOGCC expects to make-up the money spent on primacy through federal grants. In response to a follow-up question, he said that money on the fiscal note for future years is not money that would absolutely be spent.

[2:43:36 PM](#)

MARY GRAMLING, Assistant Attorney General, Oil and Gas Section, Department of Law, stated the DOL has not submitted a fiscal note, as it does not see the bill causing significant litigation.

[2:44:35 PM](#)

CHAIR MCKAY questioned the court case, City of Kenai v. Cook Inlet Natural Gas Storage Alaska, 373 P.3d 473, 5/6/16.

MS. GRAMLING stated that in 2016, the Alaska Supreme Court issued a ruling in a dispute between the City of Kenai, Alaska, the State of Alaska, and Cook Inlet Natural Gas Storage Alaska (CINGSA). The argument centered around whether CINGSA fell under mineral usage; therefore, subject to the provisions of the Permanent Fund. In response to a follow-up question, she said that under the Constitution of the State of Alaska, leases must allow for other reasonable uses, such as the exploration of

other minerals. She stated that HB 50 would allow the issuance of leases for carbon storage.

CHAIR MCKAY asked how an oil and gas lease at 10,000 feet, with a different organization operating a storage facility on the surface, would be regulated.

COMMISSIONER HUBER answered that AOGCC would regulate it in the same way other leases and storage facilities would be regulated.

CHAIR MCKAY asked for a comparison between the fees provided in HB 50 and the fees in other jurisdictions.

[2:50:53 PM](#)

AARON O'QUINN, Leasing Section Manager, Division of Oil and Gas, Department of Natural Resources, answered that there is significant variation in fees and compensation in different jurisdictions. He stated that the states are not setting compensation levels through statute.

[2:52:53 PM](#)

CHAIR MCKAY noted that a future committee substitute would be offered to allow the commissioner of DNR to raise the price floor through regulation, if necessary.

REPRESENTATIVE MEARS asked why the bill would not tie potential revenue to the worldwide market.

MR. CROWTHER answered that there are many different variables in regard to leasing revenues.

[2:56:51 PM](#)

REPRESENTATIVE SADDLER asked whether the state would have the ability to assess a fee on the percentage of the deal rather than the land itself.

MR. CROWTHER expressed the belief that the fee could not be set in statute because of the possible variances in market conditions.

[2:59:50 PM](#)

REPRESENTATIVE MCCABE commented that the legislature would not want to spend a large amount of money on creating these programs

without having an idea of the potential revenue generation. He suggested that, in regard to this, other states need to be studied to determine the revenue they are generating.

MR. CROWTHER responded that DNR submitted fiscal notes that allow room to see how strong the investment will be in carbon storage.

[3:02:44 PM](#)

REPRESENTATIVE ARMSTRONG suggested that the committee should consider separating the primacy piece of the legislation in order to allow more time to work on the framework of the bill.

[3:04:15 PM](#)

CHAIR MCKAY announced that HB 50 was held over.

[3:04:25 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:04 p.m.