

ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE

January 25, 2001

1:12 p.m.

MEMBERS PRESENT

Representative Vic Kohring, Chair
Representative Beverly Masek, Vice Chair
Representative Scott Ogan
Representative Peggy Wilson
Representative Mary Kapsner
Representative Albert Kookesh

MEMBERS ABSENT

Representative Drew Scalzi

OTHER LEGISLATORS PRESENT

Senator Drue Pearce

COMMITTEE CALENDAR

HOUSE BILL NO. 8

"An Act establishing the Legislative Road Development Task Force; and providing for an effective date."

- MOVED CSHB 8(TRA) OUT OF COMMITTEE

HOUSE BILL NO. 55

"An Act regarding oil discharge prevention and cleanup involving self-propelled nontank vessels exceeding 400 gross registered tonnage and railroad tank cars and related facilities and operations and requiring preparation and implementation of oil discharge contingency plans for those nontank vessels and railroad tank cars; amending the definition of 'response action' that relates to releases or threatened releases of oil and thereby amending the duties and liabilities of response action contractors; authorizing compliance verification for nontank vessels and for trains and related facilities and operations; and providing for an effective date."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HB 8

SHORT TITLE: LEGIS. PIONEER ROAD DEVELOPMENT TASK FORCE

SPONSOR(S): REPRESENTATIVE(S) ROKEBERG

Jrn-Date	Jrn-Page		Action
01/08/01	0025	(H)	PREFILE RELEASED 12/29/00
01/08/01	0025	(H)	READ THE FIRST TIME - REFERRALS
01/08/01	0026	(H)	TRA, FIN
01/25/01		(H)	TRA AT 1:00 PM CAPITOL 17

BILL: HB 55

SHORT TITLE: OIL DISCH PREVENTION: NONTANK VESSELS

SPONSOR(S): RLS BY REQUEST

Jrn-Date	Jrn-Page		Action
01/12/01	0070	(H)	READ THE FIRST TIME - REFERRALS
01/12/01	0071	(H)	TRA, RES, FIN
01/23/01		(H)	TRA AT 1:30 PM CAPITOL 17
01/23/01		(H)	Heard & Held
01/23/01		(H)	MINUTE(TRA)
01/25/01		(H)	TRA AT 1:00 PM CAPITOL 1

WITNESS REGISTER

REPRESENTATIVE NORMAN ROKEBERG

Alaska State Legislature
Capitol Building, Room 118
Juneau, Alaska 99801

POSITION STATEMENT: Testified as sponsor of HB 8.

AMY DAUGHERTY, Lobbyist
for Alaska Professional Design Council
327 West Eleventh Street, Number 2
Juneau, Alaska 99801

POSITION STATEMENT: Expressed the Alaska Professional Design Council's support of HB 8 contingent upon there being a civil engineer on the task force established by the legislation.

THOMAS B. BRIGHAM, Planning Director
Department of Transportation and Public Facilities
3132 Channel Drive
Juneau, Alaska 99801-7898

POSITION STATEMENT: Expressed the agency's willingness to work with a task force like that established by HB 8.

ROGER WEBER

(No address provided)

Beluga, Alaska

POSITION STATEMENT: Expressed interest in road building.

HAROLD NEWCOMB

P.O. Box 870237

Wasilla, Alaska 99687

POSITION STATEMENT: Testified in support of HB 8.

TOM RUETER

Northstar Maritime Agencies

790 Ocean Dock Road,

Anchorage, Alaska 99501

POSITION STATEMENT: Testified in support of HB 55.

STEPHANIE MADSEN, Vice President

Pacific Seafood Processors Association

213 Third Street

Juneau, Alaska, 99801

POSITION STATEMENT: Testified in support of HB 55.

JEFF THOMPSON, Alaska Maritime Agencies

4341 B Street, Number 101

Anchorage, Alaska 99502

POSITION STATEMENT: Testified in support of HB 55.

JOE LEBEAU

Alaska Center for the Environment

641 South Alaska, Suite 201

Palmer, Alaska

POSITION STATEMENT: Testified on HB 55.

BRECK TOSTEVIN, Assistant Attorney General

Environmental Section, Department of Law

Civil Division (Anchorage)

1031 West Fourth Avenue, Suite 200

Anchorage, Alaska 99501-1994

POSITION STATEMENT: Answered questions on HB 55 related to letter of intent and regulations.

BRIAN ROGERS

Information Insights, Inc.

751 Old Richardson Highway, Number 235

Fairbanks, Alaska 99701

POSITION STATEMENT: Testified on HB 55.

LARRY DIETRICH, Director
Division of Spill Prevention and Response
Department of Environmental Conservation
410 Willoughby Street
Juneau, Alaska 99801-1795
POSITION STATEMENT: Testified on HB 55.

PAUL FUHS, Marine Technical Consultant
Contractor
Task Force on Motorized Oil Transport
1635 Sitka, Number 301
Anchorage, Alaska 99501
POSITION STATEMENT: Testified on HB 55.

ACTION NARRATIVE

TAPE 01-5, SIDE A
Number 0001

CHAIRMAN VIC KOHRING called the House Transportation Standing Committee meeting to order at 1:12 pm. Members present at the call to order were Representatives Kohring, Ogan, Wilson, Masek, Kapsner, and Kookesh. Representative Scalzi was absent.

CHAIR KOHRING informed the committee that he was appointing Representative Masek to serve as Vice Chair of the House Transportation Standing Committee.

HB 8 - LEGISLATIVE ROAD DEVELOPMENT TASK FORCE

CHAIR KOHRING announced that the first order of business would be HOUSE BILL NO. 8, "An Act establishing the Legislative Road Development Task Force; and providing for an effective date."

Number 0112

REPRESENTATIVE NORMAN ROKEBERG, Alaska State Legislature, sponsor of HB 8, explained that he had introduced [similar] legislation at the end of the last session in order to highlight that the state has done little or no road building or development, particularly in the rural areas, in the past three decades. The amount of roads built during the past 30 years has been minimal. This came to his attention, he said, "when the Whittier tunnel was opened last year, [when the state] basically built a couple miles of road and paved underneath the tunnel system to open up that particular whole access to the Prince

William Sound area." In addition, he said, there was a five- or six-mile road built in Southeastern [Alaska] at Kasaan. Another project was the Skagway International Highway to Whitehorse, Yukon Territory, that was done in the late 1970s under international funding. Those add up to about 20 road miles (plus the Skagway road), and were the only truly new roads that have opened up territory in Alaska in the last 30 years, he said. The last major highway opening was the Parks Highway from Wasilla to Fairbanks in 1971.

Number 0284

REPRESENTATIVE ROKEBERG said he thinks that is a crime "because, clearly, our vast state with its huge storehouse of natural resources just begs to be made available for exploitation and exploration." He expressed his belief that development in the rural areas of Alaska cannot take place without adequate transportation systems. He said he believes that Alaska is truly a natural-resource-extraction type of state. "That is our fundamental grounds for economic development," he said. "To create a more prosperous state, to provide jobs -- and well-paying jobs -- we need to be able to open up and develop some of our lands."

REPRESENTATIVE ROKEBERG emphasized that the state has bountiful natural resources, and he said he finds it somewhat ironic "at the same time that the prior federal administration has closed down the Tongass National Forest and implemented their roadless policies here, that I'm coming to the legislature to try to reignite something that used to be done years ago. When I grew up in this state, we had the old Alaska Road Commission," he recalled. "We were punching trails and gravel roads all over the state trying to open up the land." But so little road building has been done in recent years that he is introducing the idea of a task force.

Number 0436

REPRESENTATIVE ROKEBERG said that for minimal cost, a \$9,000 fiscal note, he wants to bring together people from throughout the state and generate interest. He proposed that the task force look at existing plans that have been studied over the years by the Department of Transportation and Public Facilities (DOT&PF), but on which there has been no action. "It's time that we look at these projects that we know are basically needed and prioritize them," he said. He noted his intention is to elevate public attention to this situation so the legislature

can elevate the capital spending and allocation of funds to these areas. He said he thinks this is a propitious moment with Alaska's Congressman Don Young chairing the federal House Transportation Committee. "He's going to have significant access to additional funding," Representative Rokeberg said. "It's my understanding that federal highway dollars can be used for non-highway-type projects, in other words, for gravel roads that meet certain standards. I think we need to revisit that, and that is the intention of this particular task force."

REPRESENTATIVE ROKEBERG said he thinks the task force can and should work very closely with DOT&PF, but ultimately should come back with a report to the legislature with a prioritized list of roads and recommendations for some new road development.

Number 0571

REPRESENTATIVE ROKEBERG then referred to the list of roads in the bill. He said the first one is the Williamsport Road from Pile Bay to Iliamna Bay. A number of fishermen put their vessels on flatbed trucks and haul them on the Williamsport Road to Lake Iliamna, from which they can go down to the Bristol Bay commercial fisheries. The road is barely maintained by a private-sector group, he said. Modest amounts of money have been invested by the state in the past on this roadway, which needs to be upgraded so it isn't a safety hazard for these people to use. Also, he said, delivery of freight and other commodities into that area could be enhanced.

REPRESENTATIVE ROKEBERG informed the committee that the second road on the list is in the Pogo Mine area, where there is a "highly feasible mineral deposit" that needs a road. That is just the tip of the iceberg, he said, regarding the ways and places where roads can open up the rural areas of the state.

REPRESENTATIVE ROKEBERG then referred to a letter he had received from the Alaska Miners Association asking for the addition of a road from the Dalton Highway west to the Ambler copper district. This roadway would open up the entire northwest part of the state. He said he thinks there should be a catchall category in which to list any other road the task force thinks merits review, so that the list they are reviewing is not exclusionary.

REPRESENTATIVE ROKEBERG said there has been some confusion, on the part of the public, about his intent regarding the work of the task force. "I've always thought of it as a pioneer road

task force," he said. Then someone had asked him to add the proposed Lynn Canal road from Juneau to Skagway on the list. He said he is uncomfortable with that idea because that is a highly controversial, major highway.

Number 0828

REPRESENTATIVE ROKEBERG explained that he does not intend to "reinvent the wheel" and insert the legislature in the planning process of the DOT&PF on major highway projects. "What I want to do is have a task force get behind particular projects and get some motion going on things that presumably would be less controversial," except to the environmental community, he said.

REPRESENTATIVE ROKEBURG suggested that the committee insert the word "pioneer" between "Legislative" and "road" on the first page of the bill, so it would read, "the Legislative Pioneer Road Task Force." In its present iteration, the legislation is supported by Teamsters Local 959, the Alaska Miners Association, and the Association of General Contractors, he said.

Number 0914

REPRESENTATIVE OGAN suggested simply funding the House Transportation Standing Committee a \$9,000 budget, and said, "Let's do it." He said he has seen a lot of task forces come and go, and that for the most part, their studies sit on a shelf and gather dust. He expressed concern about being so far behind, unable to go from one side of the [Matanuska] Valley to the other in his district. "It's just almost an intolerable situation," he said. Fairbanks has four lanes and overpasses and bypasses [while] "we've been promised a four-lane through Wasilla for a decade... and we aren't even crack-sealing the roads we have." He said he is "all for what Representative Rokeberg is trying to do in the philosophy here, but it might be better directed to do it at a time when we have an administration that might be actually receptive to even looking at these things, because ... I think we all know what the Knowles Administration will do with this...."

Number 1046

REPRESENTATIVE ROKEBERG said although he appreciated Representative Ogan's frustration, the point of this particular bill is not to improve or maintain existing roads, but to develop new ones. The legislature has the power to appropriate, and he believes that the legislature is not exercising its

representation of the people by exercising the purse strings. "I think the legislature should have a greater amount of impact on the priority of what projects are done in this state," he said.

Number 1132

REPRESENTATIVE ROKEBERG said it is certainly up to the finance committees to make the decisions about what is done with the limited funds available. "However," he emphasized, "I truly believe that in the next six years, ... we're going to have additional road monies coming from the federal government. ... I think because of [Congressman] Young's position that we're going to have substantially more money, and I think it's past due time that we open up some country to create some jobs and some development in this state. This state's been in a big lockup, in my opinion."

REPRESENTATIVE ROKEBERG then addressed Representative Ogan's suggestion about giving the money to the House Transportation Standing Committee and having it do the work. He said that the intention of the task force, as is apparent from its suggested makeup, is to go out into the public and build a ... public constituency and raise the level of discussion about the issue throughout the state. He expressed the need to make a policy decision that "the rural areas of the state need to be developed and we need to punch some roads in there." There have been people out there for decades asking for funding, with very good arguments for projects, and they are not being heard, he concluded.

Number 1248

REPRESENTATIVE OGAN said he has the same concern about building new projects like these roads as he does with some of the "well-meaning but somewhat misdirected idea of eliminating the honey bucket." While acknowledging the need for good sanitation and clean water, he raised the question of who is going to pay for maintaining those new facilities in the future. He reiterated that the state is not maintaining existing roads by crack-sealing them.

Number 1302

REPRESENTATIVE ROKEBERG remarked, "You don't need to crack-seal a gravel road."

REPRESENTATIVE OGAN replied that one has to grade a gravel road, and it costs more to maintain a gravel road than it does a paved one.

Number 1324

REPRESENTATIVE ROKEBERG said his point was that people are asking for diversity in the economy, getting away from oil development. "If you want true economic development in this state," he said, "you have to open up the land, you have to people the land, you have to give title to the land. And there's plenty of private land in the rural areas of our state that needs to be developed and could be developed if we could get to it with a transportation system that is cost-effective." Although Representative Ogan might be right about the level of maintenance costs, he said, the way to pay for maintenance is to improve the economy. "You develop this state and you generate business and they pay taxes for those roads," he added.

Number 1393

REPRESENTATIVE KOOKESH reminded his "good friend from the Valley" that there have been some Republican governors since 1971, and no roads were built under those administrations, either. The legislature has been cutting budgets the last couple of years, he noted, and that may have something to do with why some roads are not being kept up. House Bill 8 brings attention where it needs to be brought, he concluded, "and ... maybe we'll get something happening." He said he is very supportive of that intent.

Number 1458

REPRESENTATIVE ROKEBERG thanked Representative Kookesh and affirmed that his intent is, indeed, to raise the level of discussion about this issue.

REPRESENTATIVE OGAN pointed out for the record that the last governor to try to upgrade a road was Governor Walter Hickel, who attempted to complete the road to Cordova.

REPRESENTATIVE ROKEBERG noted that the Cordova road is on the task force list, and said, "We can still keep trying."

Number 1581

AMY DAUGHERTY, Lobbyist for the Alaska Professional Design Council, came forward to testify. She noted that the organization's members include civil engineers and architects. She said the Alaska Professional Design Council supports HB 8 contingent upon there being a civil engineer on the task force.

Number 1622

THOMAS B. BRIGHAM, Planning Director, Department of Transportation and Public Facilities, noted that DOT&PF participated in committee meetings last year when the subject of HB 8 was being discussed and that the agency would be happy to participate in such a task force if it were set up. Some of the roads on the list are ones the agency has been studying in the context of regional plans, he said. Some of the projects are of questionable cost benefit, "which gets to Representative Ogan's point that the real issue becomes what's the most important thing to spend what money we have on," he acknowledged. He closed by reiterating that DOT&PF would be happy to work with such a task force.

Number 1654

REPRESENTATIVE OGAN asked how much influence a task force like this would have on decision-making processes in DOT&PF. "Where does the rubber hit the road on this thing?" he asked.

MR. BRIGHAM said he thinks the influence depends on "how it unfolds and the quality of the work that's done."

REPRESENTATIVE OGAN asked Mr. Brigham to identify which of the projects already are being considered by DOT&PF.

Number 1687

MR. BRIGHAM listed the following projects: the Williamsport Road from Iliamna to Pile Bay, a road to Cordova, the Donlin Creek Road, upgrading the Dalton Highway, a road from Rampart to Eureka, a road from Ruby to McGrath, a road from Ruby to Takotna, and a road from Takotna Flat to Crooked Creek.

REPRESENTATIVE OGAN asked about the location and length of the Donlin Creek road.

MR. BRIGHAM replied it would go from the Kuskokwim River to the mine, about 15-20 miles. He added that the Bureau of Indian Affairs "has taken the earmark that was provided by Congress for

that road and is in the process of doing project development on it."

REPRESENTATIVE OGAN asked Mr. Brigham whether he thought it would be helpful in getting funds for some of the projects if the task force provided a prioritized list and the legislature passed a resolution to Congressman Young's [House] Transportation Committee.

Number 1778

MR. BRIGHAM said he thought it would be very helpful. "Needless to say, we don't have a pot of money lying around unused," he said, "and in order to deal with the needs we have on the current roadway system and afford to build any of these new roads, which tend to be expensive, that is certainly one approach I think would be helpful."

REPRESENTATIVE OGAN asked if Mr. Brigham had any ideas about creative funding to help with maintenance, for example, some way in which "someone like the mine might enter into it."

MR. BRIGHAM agreed that was a possibility, and that DOT&PF "would be some of the most enthusiastic proponents," particularly of new approaches to maintaining pieces of road that are self-contained and off the road system. If the principal user is a mine, it would make a lot of sense to enter into a maintenance agreement with the mine before the road is actually constructed, he said.

Number 1855

REPRESENTATIVE OGAN asked if the sponsor of the bill might be interested in inserting language regarding the task force looking into creative ways of maintaining some of the roads that might be built.

Number 1925

REPRESENTATIVE MASEK asked if DOT&PF has feasibility studies that have been completed on the eight projects he had listed.

MR. BRIGHAM said virtually all of the projects are contained in one or another of the agency's area plans. Many of them are in the Northwest Transportation Plan. He mentioned the road from Ruby to McGrath as an example.

REPRESENTATIVE MASEK asked if he had a complete listing, if the studies were available, and if it would be feasible for the state to start these projects, acknowledging that "it all comes back to money."

MR. BRIGHAM replied, "Absolutely. It's a challenge." He said an example would be the road from Williamsport to Pile Bay, which the agency examined as part of the Southwest Transportation Plan. That project is recommended in the plan, he said. "We believe it's something that should be done, and for many of the same reasons that [Representative Rokeberg] indicated." The road performs a function, and its use could be expanded if it were improved. "Part of that road is literally carved out of a cliff side, and it's not very wide," he testified. Improving it would be expensive, and even with additional traffic, the use would be light. So the issue is whether the project is sufficiently important to commit to spending \$20-40 million. Because most of these [pioneer roads] are new roads or substantial upgrades, most of them come with a fairly steep price tag, he explained. The department [DOT&PF] is not opposed to road construction, "but its a real question [of] how to get the best service from the money we ... have."

Number 2049

REPRESENTATIVE MASEK expressed concern about access in the Matanuska Susitna area. She recalled that when the Miller's Reach fire spread out of control, the Parks Highway had to be closed, leaving many people on the north side unable to reach Wasilla. She also mentioned Hatcher Pass, which links the Willow side to Palmer, and said that road is closed except in cases of emergency. Although she acknowledged Representative Rokeberg's point, she expressed concern about the cost of maintaining both old and new roads.

Number 2161

ROGER WEBER testified by teleconference. He informed the committee that those in Beluga have their own road, which goes from Bird Mountain to Sleeping Lady. From Wasilla, there is a road going to the Little Susitna River and from there to the Beluga road system, a distance of 45 miles. Beluga is the location of the Chugach power plant, Phillips Petroleum and Unocal facilities, and they all have employees that fly in and out. Nine miles south of Beluga is the village of Tyonek, which has a population of 200. "All of our business is by airplane, and it seems like a short distance to open up this area," he

said. "It would be a tremendous help, and we do have a large population." He asked "their position" on a Wasilla-to-Tyonek road.

Number 2249

REPRESENTATIVE ROKEBERG said he knows the area Mr. Weber described. He said the intention of HB 8 is to get public discussion about projects like that one.

Number 2285

HAROLD NEWCOMB testified by teleconference. He said he is certainly in favor of such a bill [as HB 8]. Having watched Alaska for more than 50 years, he said, it is apparent to him that road development around the state is very important to development of a sustainable economy. In addition to the economy, there are emergency situations like fires and earthquakes in places that would really benefit if there were road access. Roads would make possible a little bit of economic diversification in remote villages like those now suffering from bad [fish returns]. He said it is important to plan these things properly and set priorities. He said when he drives the Parks Highway, he wonders "why in the world we spent \$80 million for a tunnel through [to] Whittier when we didn't do anything to speak of to get this traffic under control out here." He said he also sees that in Anchorage and in other areas, and thinks it is time to get serious about the development of roads around the state. "I think we should do it now and get those priorities set and get on with it!" he concluded.

Number 2367

CHAIR KOHRING concurred with the testimony that had been given, but said he somewhat shared Representative Ogan's concerns about setting up another task force and generating another report. He said he thinks HB 8 can serve to highlight the problem, and that there is [federal] money available through Senator Ted Stevens and Congressman Don Young.

Number 2492

REPRESENTATIVE WILSON offered a conceptual amendment [to Amendment 1, in committee packets] to add the Bradfield Canal road, at the southern end of Southeast Alaska. Amendment 1 read:

Page 1, lines 1, 6 and 7

Insert "Pioneer" between "Legislative" and "Road"

Page 3, after line 16, add two new sections as follows:

"(23) Road from Dalton Highway west to the Ambler copper district;

(24) and any other road the task force feels merits review"

TAPE 01-5, SIDE B

REPRESENTATIVE WILSON explained that the Bradfield Canal road has been discussed for about ten years, DOT&PF had done some workups on it, and she didn't want it to fall between the cracks. It would be a 25-mile road along the Bradfield Canal, going into British Columbia and connecting with the Cassiar Highway.

REPRESENTATIVE ROKEBERG said he had no objection to its being added to the list.

Number 2445

REPRESENTATIVE KOOKESH indicated he objected to adding a list of specific roads. He explained that he had thought the words [in Amendment 1] "and any other [road the task force feels merits review]" would cover this. He voiced his preference for having that language as a tool for the task force, rather than "making a Christmas tree" out of HB 8.

CHAIR KOHRING called for a vote on the amendment to Amendment 1 [to add the Bradfield Canal road].

REPRESENTATIVE KOOKESH explained that he was not objecting to including the Bradfield Canal road in particular, but to all the other roads the committee was starting to add, too. He specified that he didn't want to include the east Lynn Canal road, which would be a major highway, not a pioneer road.

REPRESENTATIVE ROKEBERG noted that he had prepared two amendments, but did not want to offer the one including the east Lynn Canal highway.

CHAIR KOHRING asked whether the objection was maintained.

REPRESENTATIVE KOOKESH said he had no objection.

CHAIR KOHRING announced that there being no objection, the amendment to Amendment 1 was adopted.

Number 2305

CHAIR KOHRING asked whether there was any objection to Amendment 1 [as amended]. There being no objection, Amendment 1 was adopted.

CHAIR KOHRING asked Representative Rokeberg to speak to the proposed letter of intent [in packets].

REPRESENTATIVE ROKEBERG said he would not offer it at this time. However, he suggested a conceptual amendment on page 2, line 21, after the words "those roads", to add something to the effect of "review alternative funding sources for ongoing maintenance".

REPRESENTATIVE MASEK made a motion to adopt that [as Amendment 2].

CHAIR KOHRING asked whether there was any objection. There being no objection, Amendment 2 was adopted.

CHAIR KOHRING noted that Amendment 2 was likely in response to Representative Ogan's concerns. He then said he appreciated the sponsor's efforts; he himself had shared Representative Ogan's concerns about duplicating the efforts of a previous task force and producing something that would collect dust on a shelf. In order to follow up on the task force's recommendations, he would like to see the task force findings brought back to the House Transportation Standing Committee in January [2002]. Although Chair Kohring said he was not sure of the need for doing some of the tasks that DOT&PF might already be doing, he recognized that the idea is to highlight the issue of expanding the road system in the state. He added, "If this is one way of doing it, even if we are duplicating some efforts, ... if it means more roads, then I think it's a worthwhile effort."

REPRESENTATIVE WILSON made a motion to move HB 8, as amended, out of committee [with the accompanying fiscal note]. There being no objection, CSHB 8(TRA) was moved out of the House Transportation Standing Committee.

CHAIR KOHRING announced a brief at-ease.

HB 55-OIL DISCH PREVENTION: NONTANK VESSELS/RR

Number 2182

CHAIR KOHRING announced that the next item before the House Transportation Committee would be HOUSE BILL NO. 55, "An Act regarding oil discharge prevention and cleanup involving self-propelled nontank vessels exceeding 400 gross registered tonnage and railroad tank cars and related facilities and operations and requiring preparation and implementation of oil discharge contingency plans for those nontank vessels and railroad tank cars; amending the definition of 'response action' that relates to releases or threatened releases of oil and thereby amending the duties and liabilities of response action contractors; authorizing compliance verification for nontank vessels and for trains and related facilities and operations; and providing for an effective date."

Number 2108

TOM RUETER, Northstar Maritime Agencies, came forward to testify. He said Northstar Maritime Agencies represents various foreign-flagged vessels operating in the state. He noted that SB 273, passed last session, had established a task force that worked over the summer. The shipping industry is diverse; with each of its different components having its own concerns, and the task force gave them a venue to air those concerns. "Hopefully," he said, "the final report that you see there is a consensus of that process." Some of the main concerns reflected [in the report] and voiced during the process were the need for simplicity, cost awareness, and expediency of plan review when HB 55 is finally adopted and the regulations following that are also adopted. He said the task force report is a consensus document, and he recommended, that "the intent of it be adopted in whole as legislative intent as this bill goes forward."

Number 2060

CHAIR KOHRING said, "I keep hearing ... that the private sector supports this bill and that you guys came to the table and actually asked for this bill." He asked Mr. Rueter if that is truly how he feels, and if there is any pressure or duress involved. As a small businessman himself, he finds it hard to understand why a group would ask for more regulation, he said.

MR. RUETER replied that SB 273 provided the requirement that a planning standard be established and adopted into statute. "This bill that's presented at this time is how that statute that's in force will be implemented," he said. He noted, "Through the task force process, many of the concerns of industry were aired, and, hopefully, addressed, and consensus reached, and that's reflected within the task force report."

Number 1939

STEPHANIE MADSEN, Vice President, Pacific Seafood Processors Association, came forward to testify. She said she had been a member of the task force and co-chair of the Contingency Plan Subcommittee. She explained that the Pacific Seafood Processors Association is a membership organization of shore-side processors, and its involvement in this bill involves some of the larger catcher vessels that operate primarily in the Bering Sea as well as some "floater" operations that travel around the state, usually anchor within state waters, and process a series of different seafoods. In addition, the organization represents three mother-ship operations, processors with a fleet of catcher vessels that are all in excess of 400 gross tons. She said in total, she represents about seven vessels that will be regulated under HB 55.

MS. MADSEN assured the committee that "industry, from our perspective, is supportive of the final result of the marine task force's recommendations." She said there had been concerns about the speed at which last year's legislation was moving, and about Pacific Seafood Processors being a round peg that might be forced to fit into a square hole. She said she thinks "we have now kind of softened those corners of the hole, and we can fit into the safety net."

Number 1862

MS. MADSEN explained that the vessels she represents also enter Washington's waters, and there are similar regulations in that state. "As seafood processors, we rely on clean water and a healthy resource, so it is important to us to make sure that we don't have a Galapagos [oil spill] in the Aleutians," she testified. She indicated that she supports all of the prior testimony as well as Brian Rogers' recommendation "that the task force report is the package in total, and that it is very critical to us to have that intent letter attached to legislation, which gives us the comfort level that was necessary for us to support the moving of this legislation; because we

understand what the details are, we understand what the rules are, and we were involved in helping formulate some of those to fit our unique operations."

Number 1820

CHAIR KOHRING said he couldn't help but wonder if "the effort and the intent ... is to minimize competition from the smaller operators out there, ... if it's easier for the larger organizations to be involved and to be able to afford dealing with this kind of legislation."

Number 1790

MS. MADSEN said her concern, as a task force member, was to make as many options as possible open to her members. She said there are primarily three ways in which one can comply with the regulations: join a co-op, join an umbrella organization called the Marine Exchange that would provide services, or do it oneself, an option that may be attractive to those who have a fleet. She did not recall competition coming into the discussion because the description indicates a certain size of vessel, which may lead to a certain size of operation. She said she thinks the task force was looking at making sure that there was not just one method of compliance, that there was an appropriate time schedule for compliance, and that there were reasonable expectations. She said she believes that the task force accomplished all those goals.

Number 1693

REPRESENTATIVE WILSON asked if there is an existing umbrella entity or if one would have to be developed.

MS. MADSEN informed the committee that one is being developed in the private sector right now. It is called the Marine Exchange, and several of the task force members (herself included) are currently on the board of directors of the new organization. She expressed her desire to ensure that it is an option for those vessels that would like to comply. She predicted that vessels that do not operate in the state of Alaska on a regular basis will need someone to call to have "some of this paperwork done" prior to their entering Alaska's waters; this umbrella organization would do that. "I also think that the current co-ops will provide spill response, but they don't provide your incident command services, so you would either need to provide those or contract out," she remarked. "I think this umbrella

organization that's being developed would have a list of menu items that you could sign up for, depending on your specific circumstances, and the goal would be ... [to] keep those costs low for the members."

Number 1626

REPRESENTATIVE WILSON asked about the cost of the services.

MS. MADSEN replied, "That's the chicken and the egg." She recalled that last year, costs had been a big concern, and that she has been asked why she is not concerned about costs this year. It is becoming apparent that there will be enough vessels involved to bring down the costs. She said she could not quote an exact cost, but it probably would be less than the current co-ops are now charging associate members.

Number 1565

JEFF THOMPSON, Alaska Maritime Agencies, said he also is a member of the Board of the Marine Exchange and was co-chair with Ms. Madsen of the task force's Contingency Plan Subcommittee. Although an industry is never enthusiastic about increased costs of operation, it was obvious to the industry that extension of oil-spill contingency planning to the nontank vessel community was inevitable. He echoed Ms. Madsen's recommendation that the task force report "be kept whole and intact as it wends its way through this legislative process." He emphasized that the report should not be excerpted or diluted, and said he thought any attempt at that "would go against the intent and the consensual spirit in which that document was produced."

Number 1468

CHAIR KOHRING expressed appreciation for the effort that went into the document and said the legislature wants to achieve the same goal, which is to assure safe operation. He asked if there was an alternative to setting up 37 pages of regulations or if it would be possible to put together something simpler, such as increasing fines so that operators have an incentive not to spill [oil].

Number 1327

MR. THOMPSON referred to the task force process and said:

A lot of us were educated as to the intricacies of international law when it comes to marine insurance and how that plays out when there is an oil spill. Along with the commercial and business implications, there is federal law with which the industry must remain consistent. At this point, I don't see how increasing fines or other possible punitive efforts might address that, because it stems from the liability of the responsible party, the owner of the vessel.

CHAIR KOHRING noted the presence of Senator Pearce, sponsor of SB 273 in the previous legislative session.

Number 1202

JOE LEBEAU, Alaska Center for the Environment, testified by teleconference. He thanked the members of the task force, saying that industry spent a tremendous amount of money coming together for the meetings and worked very hard to improve the capacity for spill response in Western Alaska. He noted that although he would like to see more regulation of the Alaska Railroad pertaining to hazardous substances, he is more than happy the railroad is going to be regulated for oil spill prevention and contingency planning.

Number 1115

REPRESENTATIVE OGAN asked if there was any force of law behind the legislature's letter of intent that would affect the administration's implementation of regulations.

BRECK TOSTEVIN, Assistant Attorney General, Environmental Section, Civil Division (Anchorage), Department of Law, testified by teleconference. He explained that a letter of intent expresses the intention of the legislature in adopting a statute. When an administrative agency adopts regulations, it must do so in keeping with the intent of the legislature and the wording of the statute. Yes, a letter of intent is an important consideration in determining whether a regulation is consistent with statute.

Number 1020

REPRESENTATIVE OGAN said his perspective, as a legislator, is that the administration often exceeds the legislative intent with regulations. He asked if there would be a way to put the

letter of intent in the statute or say that the department may only write regulations based upon the recommendations of the task force. Would that have a greater force of law?

MR. TOSTEVIN answered that he didn't know if it would have any greater force of law. When the Department of Law reviews an agency's regulations, one of the things the regulations attorney does is determine whether the regulations are consistent with the statutes as adopted by the legislature. Once the regulations are in place, there are provisions for people to challenge regulations as being inconsistent with statute.

CHAIR KOHRING informed the committee that the legislative intent to which Representative Ogan was referring was on page 38 of the Task Force on Motorized Oil Transport Final Report distributed at the past Tuesday's meeting.

Number 0843

REPRESENTATIVE OGAN respectfully disagreed with Mr. Tostevin in that letters of intent often aren't worth the paper they are written on. Acknowledging that there are conscientious people in the administration who do their best, he said he thinks they have a different philosophy than the legislature. Those who work for the administration are not held accountable by voters for their actions. He thinks those who work for the administrative agencies generally write regulations that are too extensive.

CHAIR KOHRING echoed Representative Ogan's concerns, saying it had been his experience on the House Finance Committee that letters of intent were often disregarded. He thought it might be better to put the intent in the legislation. He then noted that he had spoken in error earlier about the length of the bill. The task force report is 30-plus pages long; the legislation itself is just six pages.

Number 0715

BRIAN ROGERS, Information Insights, Inc., testifying by teleconference, identified himself as facilitator for the task force report. He explained some of the reasons the industry would seek this type of regulation. Sections 1 and 2 of the bill deal with liability limits and ensure that the same kind of references apply to both the tank and nontank vessels. The most important provision from a private-sector standpoint is probably Section 4, which limits the liability of any organization

providing incident management team services or response plan facilitator services. That is important to industry because last year's law already subjects industry to financial responsibility, and prior law provides for fines for spillers. It is to the industry's economic advantage to try to avoid those fines by not spilling oil. Limiting the liability [creates an incentive] for the industry to keep a spill from becoming worse.

MR. ROGERS continued, explaining that Section 5 of the bill means that the nontank community can rely on precedents that have already been set with the tank community. He also said that Section 6 makes it clear that vessels engaged in innocent passage through Alaska waters are not required to comply with the nontank legislation (because requiring that is prohibited under federal treaty). So, he concluded, there are some provisions that work to the advantage of the community that is subject to fines and financial responsibility.

Number 0462

LARRY DIETRICH, Director, Division of Spill Prevention and Response, Department of Environmental Conservation (DEC), came forward to testify. He said DEC can be put in a difficult position when laws are passed without the necessary research and analysis, resulting in language that is not precise and speaks in very broad terms that are hard to quantify in the rule making. How standards, levels, and thresholds are set is incredibly important.

MR. DIETRICH said he was skeptical last year when the legislature referred this subject to a task force, but it had proven to be very beneficial. He said he had not previously worked with such a diverse group and gotten to such a level of detail. "It takes the mystery out of the regulation promulgation when you can work with a group of people who have been given a clear mandate by the legislature and sit down and work out those details ahead of time," he said. The [task force] report is [DEC's] template, and what it says is what he intends to put into regulatory format. The department [DEC] participated in the [task force] process, which was a consensus process through which participants agreed how to define the implementation. He said this is precisely the kind of direction the agencies need in order to do the rule making. He expressed appreciation to the legislature for creating the task force and to the task force for providing the detail the agency needs.

MR. DIETRICH added that it could be helpful to have a "shepherd" through the rule-making process. He suggested that a subgroup of the task force oversee the rule making, which could reassure those who are concerned.

CHAIR KOHRING welcomed the suggestion. He also told Mr. Dietrich that DEC is the agency that those in the legislature "love to hate the most."

TAPE 01-6, SIDE A

Number 0029

REPRESENTATIVE OGAN said Mr. Dietrich had made a good point in that legislators must be careful that the language they put in a bill gives clear direction to the executive branch concerning legislative intent. Too often, especially late in the session when legislation is moving quickly, the language may not be as clear [as it should be], he acknowledged. "It's easy for us to beat up the executive branch when we may not be doing a good job of drafting," he added.

Number 0093

MR. DIETRICH acknowledged that there have been struggles over the years over the whole regulation process and the oversight. Bringing industry to the table prior to the drafting [of HB 55] has been very successful. Therefore, he related his belief that it is a good model for people to refer to in the future.

CHAIR KOHRING asked what is being done by other agencies and the federal government. He wondered if the Coast Guard has jurisdiction over ships transporting fuel products and requirements concerning spills. Chair Kohring explained that his question was drawn from his concern "that we're not doing something with this task force that is duplicating any other effort, or doing something that we shouldn't be doing."

MR. DIETRICH assured him that the task force had looked into that. The class of vessels affected is not currently regulated under the [federal] Oil Pollution Act contingency plan's cleanup and response-planning provisions. Although a bill was introduced at the last session of Congress to regulate nontank vessels, it has not yet been enacted. He said there is a dramatic difference between the proposed federal requirements and the package the task force has tried to tailor to Alaska's unique needs.

Number 0313

CHAIR KOHRING noted that there was a third-of-a-million-dollar annual expenditure involved, and he was glad it was not going to come from the general fund. This expenditure will be paid from the Oil Spill Contingency Fund, which is derived from a three-cent-per-barrel tax on oil that flows through the Trans-Alaska Pipeline. The money is used in a variety of programs dealing with oil spills and cleanup, including underground storage tank remediation. He wondered if passage of HB 55 might significantly hamper the funding of the other programs.

MR. DIETRICH called attention to information in the committee packets that included the official Department of Revenue forecasts for revenue production from that pipeline tax through the year 2010. He noted that a general decline in revenue is expected due to the continuing depletion of major oil deposits.

Number 0516

CHAIR KOHRING voiced concern that taking out a third of a million dollars a year would make it hard to engage in other cleanup activities in the state.

MR. DIETRICH said that had been taken into consideration in the fiscal note by keeping the cost pared down to \$141,000 per year.

Number 0565

CHAIR KOHRING asked the committee to keep in mind that if they pass this bill, the Oil Spill Contingency Fund is going to "take a hit" and result in monies being taken out of the other areas, not that it couldn't be made up, and perhaps that's an issue the House Finance Committee could address. He informed the committee that he has drafted a memo to the House Finance Committee to alert them that if HB 55 is passed from this committee, they will need to address that issue.

Number 0565

CHAIR KOHRING recalled reading that there will be approximately 700 ships affected by this program, and asked if that number is correct.

MR. DIETRICH said the best estimate is based on the number of applications received to meet the financial responsibility

portion of SB 273, which took effect in September. About 500 applications, which together account for about 900 vessels, have been received.

Number 0716

CHAIR KOHRING asked what HB 55 means in terms of giving DEC authority to promulgate regulations. He also asked how the legislature could be assured that [the resulting regulations] are not going to end up "spinning a bit out of control" and resulting in something more than the legislature thought it was bargaining for. He noted that Representative Ogan is working on an amendment to address that issue, and said [the draft amendment] will be shared with Mr. Dietrich and the committee before the next meeting. The amendment includes the intent in the legislation itself, rather than in a separate letter of intent.

Number 0777

REPRESENTATIVE KOOKESH expressed concern about the amount of time the chair is taking with HB 55, and said he would like to see any amendments shared with the task force in time for them to have input.

CHAIR KOHRING assured Representative Kookesh that the task force would receive any amendments and have a chance to review them. He explained that he had received the draft amendment just before the meeting and only glanced at it. He said his support is in concept only, and thus he expressed the need to read the amendment's wording and think it through.

CHAIR KOHRING noted that the committee is discussing a substantial piece of legislation that has been in preparation for a couple of years. "I don't think there's any need to rush this process," he said, noting that the committee first heard HB 55 two days ago. He pointed out that he did not want to impose something that is a detriment to the shipping industry, despite the fact that there seems to be consensus. "I have to ask myself, 'Why are we being pressured to move this thing so quick?' That in itself has raised a bit of a red flag in my mind," he remarked. He said as chair, he would prefer to take a rather slow approach and make certain that all are comfortable before passing HB 55 out of committee.

REPRESENTATIVE KOOKESH reminded him, "We are here because of legislation that was passed last session [SB 273]. ... It was

39 votes in favor of it in the House, and the Senate passed it overwhelmingly, and that's why we're here. We're following up on that legislation." He said he doesn't have "any dog in the fight," but just wants to see something [enacted] that the greater minds of Alaska sat down and put together. The time and effort they put into it is worth something, he emphasized.

CHAIR KOHRING said as a matter of respect to those who put so much into [the task force report], the committee should take time to look at HB 55 carefully and understand it fully before taking final action.

Number 0985

PAUL FUHS, Marine Technical Consultant to the task force, noted that discussion keeps returning to the issue of why industry is interested in expediting the passage of HB 55. He testified:

If your concern is about the heavy hand of regulation of government on business, you already did that last year, and you all voted for it [SB 273], every single one. So now ... the industry has come back and said, 'We need these tools, we need these limits on liability....' It is a cost factor. Without these [limits], the co-ops couldn't form to provide these services in a cost-effective way.

But beyond that, especially for the tramper vessels, the spot-charter vessels that come on a one-time basis to pick up iron ore, timber, or fish, they just physically couldn't operate with the bill you passed last year without these ... response plan facilitator services, incident management team services, ... unless a vessel agency or the Marine Exchange was holding a generic contingency plan that they could sign on to. They are not going to do that if some third party can come in and sue them for acting in good faith to react to an oil spill without these limitations of liability, and that's what this six-page bill is.

It's not the requirements of heavy regulation of industry. You already passed [that]. This is the way industry can do it cost-effectively. That's why you're seeing all the letters of support and all the testimony. So I hope that helps explain some of the

urgency of the industry ... for the protections
[provided by HB 55]....

CHAIR KOHRING announced that the next meeting would be a joint one with the Senate.

[HB 55 was held over.]

ADJOURNMENT

The meeting of the House Transportation Standing Committee meeting was adjourned at 3:04 p.m.