

**ALASKA STATE LEGISLATURE**  
**HOUSE TRANSPORTATION STANDING COMMITTEE**

February 6, 2001

1:35 p.m.

**MEMBERS PRESENT**

Representative Vic Kohring, Chair  
Representative Drew Scalzi  
Representative Peggy Wilson  
Representative Mary Kapsner  
Representative Albert Kookesh

**MEMBERS ABSENT**

Representative Beverly Masek, Vice Chair  
Representative Scott Ogan

**COMMITTEE CALENDAR**

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."

- MOVED CSHB 55(TRA) OUT OF COMMITTEE

HOUSE BILL NO. 39

"An Act relating to registration of motor vehicles, to operating a motor vehicle, aircraft, or watercraft while intoxicated, and to driving with a cancelled, suspended, or revoked driver's license; relating to duties of the division of alcoholism and drug abuse regarding driving-while-intoxicated offenses; and providing for an effective date."

- BILL HEARING POSTPONED

**PREVIOUS ACTION**

BILL: HB 55

SHORT TITLE: OIL DISCH PREVENTION: NONTANK VESSELS/RR

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 MINUTES(TRA)
01/25/01		(H)	TRA AT 1:00 PM CAPITOL 17
01/25/01		(H)	Heard & Held MINUTES(TRA)
02/01/01		(H)	TRA AT 1:00 PM CAPITOL 17
02/01/01		(H)	Heard & Held MINUTES(TRA)
02/06/01		(H)	TRA AT 1:30 PM CAPITOL 17

**WITNESS REGISTER**

LARRY DIETRICK, Director  
Division of Spill Prevention and Response  
Department of Environmental Conservation  
410 Willoughby Street, Suite 105  
Juneau, Alaska 99801-1795

POSITION STATEMENT: Provided information on potential fiscal impacts of HB 55 on the Spill Response Fund.

GEORGE CAPACCI, Captain and General Manager  
Marine Highway System  
Department of Transportation and Public Facilities (DOT&PF)  
3132 Channel Drive  
Juneau, Alaska 99801-7898

POSITION STATEMENT: Provided information on fiscal note from DOT&PF.

**ACTION NARRATIVE**

TAPE 01-11, SIDE A  
Number 0001

CHAIRMAN VIC KOHRING called the House Transportation Standing Committee meeting to order at 1:35 p.m.

HB 55-OIL DISCH PREVENTION: NONTANK VESSELS/RR

CHAIR KOHRING announced that the committee would continue discussion of 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."

CHAIR KOHRING recalled that at the end of the previous committee meeting, there had been concern that enactment of HB 55 might draw down the Spill Response Fund and divert funds from existing programs [including those] associated with tank replacement.

Number 0154

LARRY DIETRICK, Director, Division of Spill Prevention and Response, Department of Environmental Conservation (DEC), came forward. He provided a brief overview of the Spill Response Fund, established by the legislature in 1986. A significant amendment was made in 1990, following the [Exxon Valdez oil] spill, when the legislature imposed a nickel-a-barrel surcharge [on all crude oil produced in Alaska]. In 1994, the legislature split the nickel into a two-cent and a three-cent account. He referred to a graph of the two resulting funds.

MR. DIETRICK referred the left side of the graph, where the two-cent account was depicted. Revenue in that account is subject to appropriation by the legislature into what is called the Response Account. That account is intended [to deal with] a large, catastrophic oil spill. The account is allowed to accumulate up to a balance of \$50 million. When that amount has been reached, the tax shuts off. The \$50 million Response Account has been full since shortly after the nickel was split in 1994, and the tax has been shut off since that time. When the balance is drawn down below \$50 million, the tax automatically turns back on, as determined on a quarterly basis by the Department of Revenue. Use of this account is reserved for imminent and substantial events. The account is used very conservatively and very seldom. There are controls in the statutes that govern access to the account; for example, any time the DEC taps the account, that agency must advise both the

legislature and the governor's office in writing within 120 hours of how much is being withdrawn and for what purpose.

MR. DIETRICK then called attention to the right side of the graph, where the three-cent surcharge was depicted. The three-cent surcharge goes into the account that one hears about the most, the Prevention Account. That account is intended to be used for activities listed in a box lower on the page. This Prevention Account is used for the state's preparedness costs, including contingency plan reviews, response preparedness and training, restoration activities, the storage tank assistance fund, matching federal funds, and a host of other things. These are listed in the statute as the allowed uses of the Prevention Account, and it is the account that is tapped for operating budget requirements or capital improvement budget requirements.

Number 0517

REPRESENTATIVE WILSON sought clarification about the automatic shut-off of the two-cent surcharge when the Response Account reaches \$50 million, and the resumption of that surcharge when the balance falls below the cap.

Number 0538

MR. DIETRICK explained that the money in the \$50 million account is pooled with other money and invested to earn a certain rate of return. There is an investment policy that seeks to generate a rate of return that is sustainable and yet conservative. Mr. Dietrick said there recently had been meetings to discuss whether it would be possible to invest the money more aggressively without risking it. That did not appear to be possible because the principal may be needed on an emergency basis. The investment account is generating an average of about 5 percent through conservative, government-type instruments. The interest is appropriated into the Prevention Account on an annual basis.

CHAIR KOHRING called attention to a projection sheet in the packet. He asked Mr. Dietrick to go over it and give the committee an idea of what the Spill Response Fund is going to look like in future years.

MR. DIETRICK noted that the sheet, prepared by the Legislative Finance Division, shows fiscal years 2002, 2003, and 2004. The left column shows the balance in the two-cent, or \$50 million account, with a balance of \$51,276.500 projected through the

three years. Unless the state needs to use it, that amount should "continue to be parked there and generate interest," he said.

MR. DIETRICK explained that the next column shows the Prevention Account, broken down into the Prevention Mitigation Account and the Prevention Surcharge Account. He referred back to the graph as he explained that the Surcharge Account is the account in which the 3-cent surcharge is deposited and held. The Prevention Mitigation Account is a separate account where all penalties, cost recovery, program receipts, federal funds, and other revenues are kept. The projections show the amount that will be generated by each of these accounts, which are the sources of appropriations into the Prevention Mitigation Account. The \$5,379,000 [income] shown in that account is a three-year average for the fiscal years 1998, 1999, 2000 -- the average of the amount of money that has been cost-recovered and brought back into the Prevention Mitigation Account. The same number has been used to project that revenue stream in future years. The number on the right side, the Surcharge Account, the \$9,300,000 number, is the actual amount that is generated by the three-cent surcharge on the production of crude oil. For 2003, that number jumps up to \$9,800,000 and in 2004, to \$9,900,000.

MR. DIETRICK explained that those projections are based on the revenue forecasts that the committee had at the last meeting: Department of Revenue figures that project what the actual flow will be for those years. Adding those two together, and then adding in a carry-forward from the prior year, yields the estimated balance of \$27,726,000 for the beginning of 2002. He explained briefly how the balance is calculated: "You take the balance in the checkbook (of the Prevention Account) on June 30, the end of the fiscal year. Add to it the projected revenues for the next fiscal year, and then deduct from it the projected expenditures. That's all this sheet is doing." The resulting balance is \$4,744,000 on June 30, 2002.

Number 0907

REPRESENTATIVE WILSON asked where Mr. Dietrick was getting the \$27 million figure, which she did not see on the handouts.

MR. DIETRICK asked if the fiscal year 2002 sheets were in the committee packets, and committee staff said they were not; the information had not been provided.

MR. DIETRICK then answered Representative Wilson's question, saying the carry-forward balance from the prior fiscal year [which the Legislative Finance Division had calculated on another sheet] was \$27 million. That figure was brought forward onto this sheet.

REPRESENTATIVE WILSON asked, "So this number here is the beginning balance from fiscal year 2002, and that should be \$27 [million]...?"

MR. DIETRICK said that was correct. He remarked, "This is good because what we are engaged in here is long-term fiscal planning for the response fund."

Number 0977

MR. DIETRICK continued that the fiscal note reflects the "out" years and the impact the \$141,000 [cost of HB 55], will have on the fund's balance. The percentage of the [entire] Surcharge Account is relatively low, and, therefore, DEC thinks it is sustainable over time.

Number 1003

CHAIR KOHRING told Mr. Dietrick, "You're throwing a lot of numbers around here and I appreciate that," but asked if it could be put more simply for his benefit, perhaps roughly "guestimating" from a percentage perspective what the impact of the fiscal note on that fund would be.

MR. DIETRICK said using the \$141,000 and comparing that amount with the revenue stream from the Surcharge Account, the impact would be somewhere between 1 percent and 2 percent. If one adds in the Mitigation Account and the other interest streams, it would be reduced even further.

CHAIR KOHRING observed, "Nevertheless, it is a pretty good chunk of money .... We're talking as much as a third [of a million dollars] at its highest point in the evolution of this legislation [HB 55]." He said he was not recommending that HB 55 be changed before sending it out of committee, but that he would suggest to the full Finance Committee a reduction in DEC's overall budget to accommodate the additional monies being spent for HB 55. He said he would draft a recommendation from himself, would show it the members of the House Transportation Standing Committee, and that anyone who concurred would be welcome to sign on. He thinks it would be prudent to maintain a

no-increased-budget philosophy with any new legislation. He said, "Having had the DEC budget in the past, I feel that there are some areas in DEC that we can reduce to offset the increased expenditure of this legislation [HB 55], so I am going to ... make that recommendation" to the Finance Committee to consider.

Number 1123

REPRESENTATIVE KOOKESH said he wanted to make sure Chair Kohring emphasized that the recommendation was his own, not that of the House Transportation Standing Committee. Representative Kookesh did not agree with it. He said:

I think DEC has suffered enormously at the hands of the legislature, and there's a lot of areas in Alaska now that DEC can't even address because of the lack of funds. I appreciate your consideration and I appreciate seeing it [Chair Kohring's recommendation], but I'm not supportive of it. I think that this legislation [HB 55] is exactly what that fund was intended to address .... One percent is a very small amount of impact on that fund, and I think that we're doing the right thing and we ought to go forward.

CHAIR KOHRING promised to make it very clear that the memorandum was just from himself (and any other members who wished to sign the memo), and not from the [Transportation] committee.

Number 1172

REPRESENTATIVE SCALZI referred to the list of activities that are funded by the three-cent surcharge, including cost recovery, state and regional master plans, response, and others. Regarding the impact of the \$141,000 [cost of HB 55], out of all the things that are listed, which did Mr. Dietrick think would be "the most likely hit?"

MR. DIETRICK recalled that the legislature two years ago had passed SB 128, which dramatically changed the financial assistance program for the underground storage tank program, putting caps on the amount of grants and loans that would be made available by the state. He said DOT&PF has now completed the upgrade and closure portion of that -- a ten-year item to get the leaky underground storage tanks pulled out -- so the upgrade and closure work is essentially completed, and the cleanups remain to be done. He anticipated that the amount of

work is going to be reduced because the program has been scaled back by the legislature.

MR. DIETRICK also noted that the state has been paying \$1.6 million a year out of the Response Fund to the aboveground fuel storage tank problem in rural Alaska. When the problem first occurred and threatened to stop fuel deliveries, this expenditure was [intended as] seed money to get the rural aboveground fuel storage tank program fixed. Now, the TAPL [Trans-Alaska Pipeline Liability] Fund is injecting \$20 million a year into that program, so that is another area where potentially the Response Fund expenditure could be throttled back. Still another one is the Response Fund used for cleanup of contamination and leaky tanks at state-owned facilities, "and we like to think we're making progress on that and we'll get over that hump and we'll not have to spend so much money in the future on that. So those are some of the areas where as part of long-term fiscal planning, there could be some potential shifts or changes," Mr. Dietrick said.

REPRESENTATIVE SCALZI asked if the TAPL fund Mr. Dietrick had motioned is the Trans-Alaska Pipeline Fund.

Number 1331

MR. DIETRICK confirmed that the Trans-Alaska Pipeline Liability Fund is the one known as the TAPL Fund. That fund was basically done away with when the Oil Pollution Act of 1990 was passed at the federal level. At the time, there was a \$500 million liability fund for Prince William Sound, and they did away with that account; the money went into a new billion-dollar oil spill liability trust fund at the federal level. Some of the money that had been in the Prince William Sound account was originally the state's, and last year, it finally came back to the state, \$20 million of it through the Denali Commission to be used for bulk fuel upgrades and \$18 million through the Alaska Industrial Development Authority to be used for remediation at the same facilities. So those are two significant new revenues streams to work on that problem, he concluded.

CHAIR KOHRING noted that there is an additional fiscal note from the DOT&PF, reflecting the cost of compliance [with HB 55] for the vessels in the state's Marine Highway System.

Number 1421

GEORGE CAPACCI, Captain and General Manager, Marine Highway System, Department of Transportation and Public Facilities (DOT&PF), came forward to testify. He explained that DOT&PF already has a response system, an incident command system, and a statement of financial responsibility. What would have to be needed additionally under HB 55 would be contracting to have spill equipment available for use by all the state ferries. They would make use of the cooperative equipment that would be stationed throughout coastal Alaska where the ferries operate. The fiscal note is based on what it would cost if the Marine Highway System were to sign up at the present time. In the future, when there are expected to be more members in the cooperative, the cost to DOT&PF would be less, so the amount in the fiscal note is the maximum.

Number 1511

REPRESENTATIVE SCALZI asked if the contractual expenses would be for training.

CAPTAIN CAPACCI explained that the \$29,000 indicates first-year costs for complying with HB 55. The money is not for training, but primarily for contracting to have oil spill response equipment available on standby for the Marine Highway System's use.

REPRESENTATIVE SCALZI asked what the annual cost of \$23,500 would be used for.

CAPTAIN CAPACCI said the higher cost in the first year is to accommodate the initial, one-time membership or initiation fees to join the cooperative. The annual fees are lower in the ensuing years.

Number 1609

REPRESENTATIVE WILSON asked if the people providing the spill-response equipment also contract with vessels other than those in the Marine Highway System.

CAPTAIN CAPACCI said that is right, and again stated that the cost estimates are based on the current prices the response agencies charge to have that equipment available. If there are more [members], as is expected, there will be more [of them] to share those costs, and so the actual cost is expected to be lower than is indicated in the fiscal note. But there is no way to predict that rate right now.

Number 1654

CHAIR KOHRING said he was satisfied with the answers, even though he did not necessarily agree with them. He noted that the committee had identified three primary issues on which they sought information. Those issues were regulations, dealt with through Representative Ogan's amendment [adopted at the previous meeting]; the personnel increase issue, which he thinks was addressed satisfactorily; and the spill response fund and additional fiscal note. He asked the will of the committee.

REPRESENTATIVE KOOKESH moved to report HB 55 as amended out of committee with individual recommendations and the accompanying fiscal notes.

Number 1724

CHAIR KOHRING noted that he has continuing concerns although he does not want to be an obstructionist. He would prefer a more simplistic approach. However, he noted, his concerns had been addressed, and the industry seems to be in favor [of HB 55], as are many members of the legislature. There being no objection, CSHB 55(TRA) was passed out of the House Transportation Standing Committee by unanimous consent.

#### **ADJOURNMENT**

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 2:05 p.m.