

HOUSE FINANCE COMMITTEE
March 29, 2018
1:34 p.m.

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CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 1:34 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Les Gara, Vice-Chair
Representative Jason Grenn
Representative David Guttenberg
Representative Scott Kawasaki
Representative Dan Ortiz
Representative Lance Pruitt
Representative Cathy Tilton
Representative Tammie Wilson

MEMBERS ABSENT

Representative Steve Thompson

ALSO PRESENT

Kristin Ryan, Director, Division of Spill Prevention and Response, Department of Environmental Conservation; Andy Josephson, Sponsor; Tom Atkinson, Staff, Representative Andy Josephson; Doug Mertz, Prince William Sound Regional Citizens' Advisory Council; Eric Cordero-Giorgana, Staff, Representative Chuck Kopp.

PRESENT VIA TELECONFERENCE

Andy Rauwolf, Self, Ketchikan; Patti Saunders, Alaska Community Action On Toxics, Anchorage; Kara Moriarty, President and CEO, Alaska Oil and Gas Association.

SUMMARY

HB 216 TRANSFERS FROM DIVIDEND FUND; CRIMES

HB 216 was HEARD and HELD in committee for further consideration.

HB 322 OIL SPILLS/POLLUTION: PENALTIES; PREVENTION

HB 322 was HEARD and HELD in committee for further consideration.

SB 158 OIL/HAZARDOUS SUB.: CLEANUP/REIMBURSEMENT

SB 158 was HEARD and HELD in committee for further consideration.

Co-Chair Foster reviewed the agenda for the day.

#sb158

SENATE BILL NO. 158

"An Act relating to oil and hazardous substances and waiver of cost recovery for containment and cleanup of certain releases; and providing for an effective date."

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Co-Chair Foster invited testifiers to the table.

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KRISTIN RYAN, DIRECTOR, DIVISION OF SPILL PREVENTION AND RESPONSE, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, explained that there were 2 versions of the same bill: SB 158 and HB 322 (which had been slightly amended in the House Resources Committee). The governor had proposed the legislation because of problematic heating oil spills at homes.

Ms. Ryan explained that spills of heating oil at home had negative impacts on the homeowner and the environment, and were costly to clean up. The Department of Environmental Conservation (DEC) came into the home to provide assistance with addressing a spill. It was a benefit to the homeowner. The problem was when the homeowner received a bill. Current law required DEC to recover all costs for responding to a fuel spill. The bill was automatically generated by the Division of Spill Prevention and Response (SPAR) accounting system several weeks after the spill.

Ms. Ryan continued describing the process of assisting home owners with heating oil spills. Once the bill was given to the homeowner, the homeowner often became unwilling to communicate further (to avoid further charges) which then would inhibit the ability of the division to help clean up the contamination. The division wanted to provide technical assistance without sending homeowners a bill. The legislation would allow for free technical assistance (with limitations) for homeowners or small apartment buildings with four or fewer units.

Co-Chair Foster reviewed the available testifiers online.

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Representative Wilson referred to page 2, lines 25-26, which referred to retroactivity. She asked why the retroactive date was only back until January 1, 2018.

Ms. Ryan explained that the retroactive clause would allow for the department to cease billing current homeowners that were being assisted. She furthered that there were approximately 150 homeowners being assisted with active spills. The department was not interested in going further back and reimbursing homeowners that had been billed in previous years.

Representative Wilson asked if the 150 actively engaged homeowners would be billed if the bill were to pass.

Ms. Ryan replied that the division has placed a pause on billing of the 150 active cases.

Representative Wilson asked about when billing would stop.

Ms. Ryan responded that billing would cease when the bill went into law.

Representative Kawasaki asked about the liability of a homeowner. He wondered if home owner's insurance covered spills.

Ms. Ryan responded that there was typically an exclusion clause for the cost from home heating oil spills.

Representative Kawasaki asked why the bill would be limited to homes or small apartment buildings.

Ms. Ryan was not sure why 4 units was chosen as a limit for apartment buildings. She pondered that a facility with more units would be more commercial and have more resources available. She stated that many of the spills the department encountered were on the smaller end of the spectrum. It had seemed a reasonable place to draw a line.

Representative Kawasaki asked if the concept was only for residential properties.

Ms. Ryan responded in the affirmative.

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Representative Ortiz relayed that under the current status DEC was forced to bill homeowners when the department took up their case. It was also his understanding that if time was spent over the phone, home owners would be billed as well.

Ms. Ryan replied that any activity related to the case would be billed to the homeowner.

Ms. Ryan answered in the affirmative and elaborated that activities such as transferring the case file and writing a letter would engender charges.

Representative Ortiz asked how long the department had been forced to bill homeowners.

Ms. Ryan recalled that the enacting statute was put in place in the early 1990s. She stated that most of the division's statutes were enacted after the Exxon-Valdez Oil Spill. She predicted that the impetus for the statute was wanting large corporations like ExxonMobil to recover costs associated with a large corporation spilling oil.

Representative Tilton asked who had the burden of proof to get a waiver.

Ms. Ryan would be reliant on her staff to make a determination in the field as to whether an incident was a home heating oil spill or not. She thought in most cases it would be obvious. The decision would be made by the

department and would be appealable. She stated that the division had an informal and well-defined appeals process.

Representative Tilton indicated that the fiscal note stated regulation would be adopted in 2020. She thought the timeframe was lengthy.

Ms. Ryan assumed the time period would be much shorter. She reiterated that the division was eager to implement the bill.

Co-Chair Foster noted that Representative Pruitt had joined the meeting.

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Representative Guttenberg considered a letter from Al-Chem Engineering (copy on file). He mentioned that more aggressive clean-up activities created more harmful situations through exposing the soil and had the potential to be expensive. He wondered if there were any less aggressive measures that could be used. He provided a hypothetical scenario. He wondered about containment versus clean-up.

Ms. Ryan replied that every clean-up was different. It was very common to leave contamination in place. She referenced a bill pertaining to contamination. The decision to leave the contamination required consideration of many factors. The author of the letter disagreed with the division on many cases, and actively participated in the regulatory drafting process where clean-up standards were established. She could not provide a definitive answer. For example, if there was contamination around the foundation of a building, often it would be left so as to not de-stabilize the building. The first goal of the division was clean-up. There was active monitoring to determine if in-place contamination was not causing more problems.

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Representative Guttenberg asked how different the new regulations might be.

Ms. Ryan responded that she did not anticipate the bill changing how the division processed clean-ups. She thought the bill would only impact billing. It would not impact the

advice the division provided to homeowners and commercial operators.

Representative Guttenberg did not think it seemed like the department would be doing more extensive remediation. He was concerned about lack of opportunity for cost recovery affecting the final solutions for homeowners.

Ms. Ryan understood his question. She did not see the bill change how the division conducted cleanup. The money did not go into the operating budget. The billing funds went into the spill prevention account, which was used by the legislature to fund the work of the division.

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Representative Kawasaki asked about the cost recovery issue. He recognized that some individual homeowners could not afford to do spill cleanup. He wondered about the percentage of spill response for homeowners. He mentioned the Spill Prevention and Response Fund, and wanted to make sure that the state engaged in cost recovery when it could.

Ms. Ryan wondered if he was asking for the cost a homeowner would experience for a cleanup.

Representative Kawasaki wanted to know about how many of the homeowners that could not pay after a spill. He asked how DEC would spread the message that the state was no longer billing for spill response.

Ms. Ryan stated that there were two costs associated with a spill: the cost for cleanup (which could run as much as \$60,000), and the cost to the state to monitor the cleanup of the spill. She would provide him a letter to inform which homeowners were not reimbursing the state for costs.

Ms. Ryan continued to address Representative Kawasaki's question. The department tried to participate in home shows and reached out to builders and handy-people. She relayed that most homeowners were unaware that DEC would bill them for their service until after it had occurred. Most often homeowners stopped communicating when the process was already underway.

Representative Kawasaki referenced insurance liability and wondered if the division worked with a homeowner when there was insurance to cover the incident.

Ms. Ryan relayed that it was a major point of frustration for the division that insurance companies were not required to provide the rider for individuals to purchase the insurance for spills.

Co-Chair Foster OPENED Public Testimony.

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ANDY RAUWOLF, SELF, KETCHIKAN (via teleconference), spoke in support of the legislation. He was a retired contractor. He had a rental where an oil spill had occurred while he was out of town. At the time, he was not familiar with the subject, and he did not realize the extent of the problem. He had hired an environmental consultant and had worked with DEC. The department was very helpful and responsive. He received a letter from DEC that mentioned there would be associated charges. Since the issue arose, he had no oil heating available. He discussed the onerous process of testing the site. He had not been able to rent or to sell the property. He had spent \$12,000 thus far and still had contaminated soil.

Mr. Rauwolf continued his testimony. He still had all of the containment in the ground. He reported that some of the samples he had sent to anchorage showed excessive contamination. He was not sure how long the process would take but thought it would cost \$35,000 to \$40,000. He had been directly impacted and was shocked to receive a bill from DEC for phone calls for just under \$500. He was unsure how DEC came up with the amount to charge. He did not want to talk to here anymore. He thought homeowners should be given information on the potential for spills.

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Representative Ortiz thanked Mr. Rauwof for taking the time to call in.

Co-Chair Foster CLOSED public testimony.

Representative Wilson asked about DEC putting a covenant on a property that had been contaminated and not cleaned up.

Ms. Ryan responded that she had been referencing SB 64, a piece of legislation that would give the department the authority to put a covenant on a property if contamination remained above clean-up levels. The authority did not currently exist.

Representative Wilson asked if the department had the authority to place a lien on the property if the homeowner could not pay.

Ms. Ryan answered in the affirmative. She stated that the cost-recovery authority had other mechanisms. There was an "inability-to-pay" and the bar was extremely low. The department had the ability to place liens on properties to recover costs.

Co-Chair Foster conveyed that amendments were due the following Monday at 5:00pm.

SB 158 was HEARD and HELD in committee for further consideration.

#hb322

HOUSE BILL NO. 322

"An Act relating to penalties for discharges of oil and other pollution violations; relating to oil discharge prevention and contingency plans for commercial motor vehicles transporting crude oil; and providing for an effective date."

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ANDY JOSEPHSON, SPONSOR, explained that HB 322 was an update of spill penalties and fee assessments. The genesis of the bill stemmed from the previous year, when there were natural gas spills following pipeline ruptures in Cook Inlet. At the time he had asked Ms. Ryan if there was any authority she needed and did not have. The spill penalty statutes had not changed much since the 1970s and 1980s, and inflation had undercut the value of the penalties. The bill was there to provide tools for SPAR. Spills had continued, but the state's ability to penalize responsible parties had diminished significantly.

Representative Josephson reviewed the sponsor statement (copy on file):

Because oil spills harm Alaska's economy and environment, our statutes have for decades authorized penalties for discharges. But inflation has severely undercut those penalties since they were enacted. Spills have continued—the Department of Environmental Conservation responded to 20 in FY17—but the State's ability to penalize responsible parties has diminished very significantly.

CSHB 322 adjusts penalties per inflation, gives the department authority to levy administrative penalties, and requires trucks transporting crude to submit their federal spill response plans to DEC.

This bill mostly adjusts penalties to 2018 dollar values, but more sharply increases penalties for continuing violations. It ratchets up the maximum penalty a court may impose, and also doubles the minimum penalty a court must impose when a party is proven responsible for a spill. If DEC levies an administrative penalty, the court must subtract that from any civil penalty it hands down. Penalties would rise with inflation annually.

Representative Josephson referenced a bill he carried on the House floor relating to failure to purchase worker's compensation insurance, which had illustrated a similar authority that the Department of Labor and Workforce Development was seeking.

Representative Josephson continued to discuss the sponsor statement:

We now see trucks transporting crude oil via Alaska's highways, and that may increase, so this bill requires crude oil trucks to provide their federal response plans to DEC.

Water mixed with spilled oil (refined or crude) would count as oil for purposes of calculating penalties.

Holding parties responsible for spills is an integral part of the responsible development Alaska is known

for. The House Resources Committee welcomes your support of this legislation.

Representative Josephson indicated that in the House Resources Committee there had been a lot of complicated testimony and dialogue about what was required relative to the production of contingency plans. Often the plans were prepared under federal regulation, but DEC had not been privy to the plans directly. The bill proposed that DEC would be cognizant of the plans. The bill also calculated water mixed with oil as oil for the purposes of calculating penalties. He discussed the toxicity of water mixed with oil, which was known as "produced water."

Representative Josephson stated that the bill was not a revenue measure but was rather a preventative measure which would generate about \$75,000 more in revenue. In the event of a serious spill, the legislation provided "teeth." He reflected on the need to update to statutes relating to spills. He asserted that holding parties responsible for spills was an integral part of the responsible development Alaska was known for. He referenced interesting testimony from the oil industry that indicated it was not typically the responsible party.

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Representative Kawasaki asked if DEC had brought the bill forward to the House Resources Committee, or if the committee had formulated the idea for the legislation.

Representative Josephson responded that when he had asked Ms. Ryan what she needed, she had responded that the statutes needed updating. The bill proposal had been a collaborative effort with work by the Legislative Legal Division, an assistant attorney general, and others. The committee had obtained the authorization to draft and file the bill.

Representative Guttenberg referred to page 4, line 19, which added the need for enhanced civil penalties to deter future non-compliance. He asked if the intent was to turn the matter over to the department or elsewhere to do a regulatory regime on spills.

Representative Josephson deferred to his staff. He indicated that the section being referred to was Section 6,

and in Section 7 the language existed in current law and was designed to be one of many elements that would go into consideration of a proper and equitable fine.

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TOM ATKINSON, STAFF, REPRESENTATIVE ANDY JOSEPHSON, pointed to page 2, Section 2 of the bill. He noted that previous legislatures had authorized the department through regulation to set a schedule of fixed penalties for the court to follow in civil processes. He imagined that the same process would be used by fixing the penalties in regulation promulgated by the department. He invited Ms. Ryan to respond.

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KRISTIN RYAN, DIRECTOR, DIVISION OF SPILL PREVENTION AND RESPONSE, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, responded that the legislation would add the ability of deterrence for the department when calculating penalties.

Representative Guttenberg pointed out that Section 1 of the bill was legislative findings. He asked if Ms. Ryan could speak about what was in place.

Ms. Ryan responded that the bill would change existing law in terms of considering deterrents when calculating penalties. She referenced page 2, line 15 of the bill. She thought it was a significant consideration for the House Resources Committee to allow the department to consider punitive or deterrent considerations when calculating a penalty.

Representative Guttenberg asked if the punitive damages were considered inside of the department or in the courts.

Ms. Ryan responded that only oil spill penalties had the punitive aspect removed by existing law. Violations of other environmental law (air and water), the punitive aspect was allowed to be considered by existing law. As the department obtained primacy for certain programs from the Environmental Protection Agency (EPA), it required the state to consider punitive aspects when it considered deterrents. Spill prevention response did not have an equivalent federal paradigm, and the state did not have primacy for the EPA to do oil spill response. When the

state developed the laws in the 1970s, punitive considerations were not part of an oil spill response.

Vice-Chair Gara recalled that in 1989 when the state litigated the case of the Exxon-Valdez oil spill, there had been two forms of damages: the actual damages that could be proved, and the per-barrel oil spill penalty. He asked about the per-barrel penalty and whether it had been changed.

Mr. Atkinson replied that the information would be provided in the upcoming presentation.

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Ms. Ryan clarified that the penalties were enacted after the Exxon-Valdez oil spill in the early 1990s.

Ms. Ryan introduced the PowerPoint presentation: "Division of Spill Prevention and Response: Spill Penalties Overview."

Ms. Ryan began with slide 2: "The Division's Mission":

Preventing spills of oil and hazardous substances, preparing for when a spill occurs, and responding rapidly to protect human health and the environment.

Ms. Ryan reviewed slide 3: "2017 Spill Statistics."

- 2,046 substance releases
- 271,809 gallons spilled:
- 1,665 gal crude oil
- 188,379 gal non crude oil
- 62,527 gal hazardous substances
- 18,980 gal process water
- Large spills accounted for over 80% of the total volume released

Ms. Ryan indicated that refined fuel spills was what the department typically responded to. She thought that historically crude oil was probably the larger percentage of spills by volume. She stated that producers, exporters and transporters were heavily regulated; and made the case that prevention had worked and that the division's oversight had added value. There were more spills in areas that were not regulated, and much of refined fuel

transportation was in the category via trucks and boats. She discussed the difference between processed water (related to mining and used to remove ore) and produced water (which came up with oil during oil exploration).

Ms. Ryan discussed the graph on slide 4: "Total Volume Released by Fiscal Year." The number of spills had declined and had stayed level.

Ms. Ryan pointed to the spill locations on the map on slide 6: "Spill Locations Across Alaska." She commented that spills happened everywhere.

Ms. Ryan reviewed the oil spill behaviors on slide 7: "How Do Oil Spills Behave in the Environment?":

Marine Oil Spills

- Oil tends to accumulate at the surface and float on the water and move with the current; oil sheens can last a very long time

Land Oil Spills

- Oil can penetrate underground and move downward, potentially reaching groundwater
- May also move laterally along less permeable layers (including surface pavements) or with groundwater and surface waters

Underground Oil Spills

- Spills from pipelines or leaking underground storage tanks
- High potential to affect the groundwater since the vertical traveling distance is reduced

Ms. Ryan indicated that water was a significant driving factor in how quickly a spill needed to be addressed. She mentioned the complexity of underground spills from tanks or underground pipes.

Ms. Ryan looked at slide 8, which showed a picture of a SPAR employee looking for a spill.

Ms. Ryan reported the health impacts of oil spills on slide 9: "Examples of Spill Impacts: Health":

Direct contact with the skin

- Oil can irritate the skin and penetrate the body via skin absorption

Inhalation

- Many components in oil are volatile and may easily evaporate; while breathing, these components can enter our bodies
- Less volatile compounds may adsorb on airborne particulates and can enter the body through inhalation

Ingestion

- Both short and long term health problems can occur by consuming contaminated water, particles, or consuming contaminated food
- Oil components can bioaccumulate in organisms and can become highly concentrated

Ms. Ryan explained that DEC did its work because it did not want people to be harmed by spills.

Ms. Ryan turned to the picture on slide 10, which showed an oil spill in a small body of water.

Ms. Ryan conveyed the environmental impacts of spills on slide 11: "Examples of Spill Impacts: Environment":

- Oil spills can result in the loss of animals and fish habitat
- Heavy oils may affect several organism functions like reproduction and development, respiration, feeding, and thermo-regulation
- The entire ecosystem can change due to the toxicity of the chemical components and elements of the spilled oil
- Oil can pollute and damage groundwater resources, then residual oil can remain in the subsurface and continue to pollute groundwater

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Ms. Ryan looked at the picture on slide 12, which showed a large truck on its side. She noted that there was regularly

quite a bit of media attention focused on truck roll-overs. The roll-overs happened somewhat regularly, however the amount of volume released from truck spills was not in the top ten recorded spills.

Ms. Ryan reviewed slide 13, "Examples of Spill Impacts: Socio-Economic":

- Mariculture/Agriculture
 - Valuable commercial fishing or farming areas may be closed due to risks of contaminants
 - Contaminants found in organisms can lead to bans on human consumption
 - Boats, gear, and equipment can be directly and indirectly damaged by spills
- Tourism/Recreation
 - Businesses operating or supporting recreational or professional activities in affected areas may suffer significant economic losses
- Industry
 - Facilities relying on stable resources (such as clean water) can be negatively affected by contamination in their piping systems
- Property
 - Property values can be adversely affected if adjacent to or within a polluted area
- Cleanup and Resource Costs
 - Costs to clean up contamination and the cost of lost fuel can be expensive

Ms. Ryan highlighted slide 14: "Cost of Spill Response to the State."

- If responsible parties are unable or unwilling to pay, the liability to the State can amount to millions of dollars
- The estimated financial liability at sites where the Division is leading investigation and cleanup efforts currently stands at over \$12 million

- The current fine and penalty structure addresses less than 5% of the average oil spill response and cleanup costs

Ms. Ryan detailed that there were costs to the state to respond to spills. Law required a spiller to address the spill, no matter the size. The current fine and penalty structure was in place to encourage companies to take the right steps to avoid spills.

Ms. Ryan reviewed slide 15, "Oil Trucking":

- One well at the Cosmopolitan oil and gas field in Cook Inlet restarted production in March 2016. There are currently two producing wells with a total production of 8,083 barrels per month (Alaska Oil & Gas Conservation Commission, 2017)
- The first tanker of crude oil from the Cosmopolitan field delivered to the Tesoro refinery in Kenai in April 2016. At that time, they expected to deliver two tankers per day to the refinery. (Alaska Business Magazine, 2017)
- The highest producing month was August 2017 at 10,653 barrels of crude.
- Current contingency plan indicates tanker trucks up to 250 barrel capacity would be used to haul oil. That would mean about 1 tanker per day to keep up with production.
- As the Cosmopolitan field increases production, tanker truck traffic will increase on the Kenai Peninsula. This will ultimately increase the risk of a crude spill.

Ms. Ryan provided examples of the effects of penalty changes on slide 16: "Examples of Penalty Change Effects":

For including produced water in penalty volume:

There were three large primarily produced water spills within two months during the winter of 2009 (DS 6 Well 11, L3 Common Line, and R Pad Produced Water Spill). Individually, none of them exceeded 18,000 gallons of

oil. Had we been able to consider the produced water, the L3 Common Line release would have totaled 46,000 gallons spilled, allowing the Department to assess fines for the damage caused. The other two would have remained under the 18,000 threshold even if the produced water was considered.

For lowering penalty volume threshold:

A 2008 spill from a facility released approximately 13,630 gallons of Jet-A into containment. A tear in the lining allowed 2,777 gallons to enter the surrounding soil. The release did not meet the penalty volume threshold. This case was eventually transferred to the Contaminated Sites Program.

Ms. Ryan discussed produced water, which DEC considered to be as damaging as the oil itself. She spoke of the difficulty of cleaning salt water from soil. The slide discussed volumes and thresholds. The legislation included an administrative penalty authority for spills smaller than 18,000 gallons. She felt the department's penalty authority could be improved to deter spills.

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Representative Kawasaki referred to slide 14 and asked about responsible persons or companies being subject to violation and assessed fines and penalties.

Ms. Ryan stated that there was currently a penalty structure in place; the proposed legislation would increase the amount of penalty the department could consider.

Representative Kawasaki mentioned the previous bill having to do with residential spills. He contrasted that one bill encouraged people to contact DEC, while HB 322 seemed to do the opposite.

Ms. Ryan clarified that the cost recovery was different than penalties. She asserted that penalties were only brought into play when there was a variety of factors that happened. An accidental release by a homeowner would not instigate a penalty - mainly due to volume.

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Representative Kawasaki had a question about slide 5 and the aggregated number of spills per fiscal year. He wondered if the number included all spills of all substances.

Ms. Ryan explained that the slide listed an aggregate of all spills. She noted that the division, by law, was required to publish a detailed annual report of all spills each year.

Representative Kawasaki mentioned the rate of inflation and raising fees. He thought it seemed like there were fewer spills and wondered about the logic behind raising the fees.

Representative Josephson thought that there was truth in what Representative Kawasaki stated. However, he thought it was important to have a penalty that reflected the actual costs for damages, as well as the inevitability of a large spill.

Representative Wilson referred to page 4. She thought normally penalties were added to change behavior. She commented that from 2011 it appeared folks were complying.

Representative Josephson indicated that a lot of the improvement was commendable but did not offset the need to increase the penalties. He reiterated that the penalties should have meaning and value in the current economic climate.

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Representative Wilson reiterated that penalties should incentivize behavior change. She imagined that the federal government also had penalties depending on the location of the spill. She wondered if the sponsor thought the spills were intentional.

Representative Josephson responded in the negative.

Representative Wilson thought it was commendable that spills were decreasing, but reiterated Representative Kawasaki's point about two groups being treated differently.

Representative Josephson thought cost containment was also part of the picture, and whether the department had to absorb some of the expenses.

Ms. Ryan reported that the question had come up when a spill had occurred in Cook Inlet the previous year, and DEC had not had the authority to penalize the company. She thought the oil industry had done a great job. When something went wrong and the environment had been negatively impacted, she thought the penalty should be commensurate with the damage caused.

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Representative Wilson thought she had heard that industry did not always have to pay the cost of what DEC did. She recalled that DEC was required to do cost recovery.

Ms. Ryan answered in the affirmative and replied that many times there were spills where there were no parties at fault.

Representative Wilson noted letters of concern from the Alaska Trucker's Association and the Alaska Oil and Gas Association (AOGA) (copy on file). She asked how the department had addressed the concerns.

Ms. Ryan indicated that she had had some conversations with the trucking association and learned that the members had contingency plans for the federal government. The division had no interest in duplicating response plans. She thought it was a positive result of bringing the legislation forward.

Representative Wilson suggested that although the state would not necessarily penalize, there's no guarantee that someone might pursue litigation for damages.

Ms. Ryan confirmed that the proposed legislation would not impact the ability to pursue a court case against a spiller.

Representative Guttenberg referenced slide 4 and thought there were unanswered questions. He could not tell the size and number of spills. He referenced a problem on the Glenn Highway. He asked Ms. Ryan if she had a sense of behavior and volume of spills in various industries. He wondered if

there was a profile of where remedial work needed to be done by contractors.

Ms. Ryan responded that the department had detailed information in the slide which went into further detail in the annual report. She offered to provide a link to the report.

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Representative Pruitt was very surprised that DEC had not known the federal government required contingency plans.

Ms. Ryan confirmed that the department had not known about the plans, and detailed that the federal Department of Transportation had not required the plans to be submitted. She continued that it was unknown that truckers had to submit contingency plans until the legislation was proposed.

Representative Pruitt asked if Ms. Ryan was suggesting the duplicative section be removed from the bill.

Ms. Ryan believed that the House Resources had addressed the issue by changing the bill to ensure the department would be given copies of the contingency plants.

Representative Pruitt was still uncomfortable with the fact that DEC had not spoken with the stakeholders regarding the contingency plans.

Representative Josephson referenced Representative Wilson's remarks. He thought that the subsequent presentation would show that the efforts would not be duplicative. Part of the issue had grown out of increased crude oil trucking on the Kenai River, which was a sensitive environment. He specified that he and his staff had conferred with BlueCrest Energy, Inc., on advance of any hearing of the bill; and he did not think the company was caught unawares. He thought there had been broad consensus that copying the contingency plans was not overly burdensome. He queried whether Mr. Atkinson had the same recollection.

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Mr. Atkinson responded that he had conversation with Benji Johnson from BlueCrest Energy, Inc. prior to the bill

having its first hearing in the House Resources Committee. He had also communicated with an individual from the trucking association, who had brought to his attention that truckers were required to submit response plans to the federal government.

Co-Chair Seaton discussed marine contingency plans for vessel spills that were submitted electronically and had taken legislative action to require. He thought it would be important that electronic submission would be required. He noted that contingency plans changed, and it was important to have all parties connected.

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Representative Pruitt wanted people to understand that instituting state penalties would not change the actions of a trucker. He did not believe Alaska's penalties would be an incentive. He thought the provision was a desire for access to information and was duplicative. He thought the provision was excessive regulation and would be an administrative burden for the user. He thought it was a burdensome bill.

Representative Josephson asked Ms. Ryan to respond. He had seen a rash of tractor-trailer roll-overs and wondered about DEC's response vis-à-vis the federal government. He thought the bill was not duplicative. He thought it was the committee's view that the state would want to know how the trucking industry intended to respond to spills on state land. He reminded that contingency plans were already required by the federal register, so the information could be shared. He stated that no one from the industry had suggested that the information was privileged.

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Representative Kawasaki agreed with the bill sponsor. It sounded like it was something the parties already had to submit, the state should have the information. He did not want things duplicated. He thought it was important to respond to spills promptly before it was a problem for the environment. He referred to Section 13 wondered if the bill only addressed crude oil transport. He asked why other fuels had not been discussed.

Mr. Atkinson answered that the committee had contemplated covering other items; however, the structure in law was much more complex with overlapping federal jurisdictions.

Representative Kawasaki argued that the state should have information to be able to respond to a crude oil spill. He wondered why a contingency plan requirement would not be extended to other items.

Representative Josephson deferred to Ms. Ryan.

Ms. Ryan answered that the department's largest concern was with crude oil spills. The department considered crude oil to be more damaging to the environment than refined fuel, which was why it was most interested in receiving contingency plans for its transport. Transport of crude oil was a rare occurrence, and there was a company that transported across sensitive habitat in Alaska. There were concerns that existing statutory authority did not contemplate crude oil being moved by truck. The fact that there were more refined-fuel truck rollovers was not a reflection of the industry, but rather, volume. Most but not all were transporting to the North Slope. There was much less of an impact with refined fuel spills. Since the department was aware that trucking companies moving refined fuel were required to have contingency plans, it was happy to participate in drills to execute response plans and would be working with federal partners.

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Co-Chair Seaton asked about page 9, lines 7-9 and whether to add the word "electronically."

Ms. Ryan did not anticipate having to add language - she anticipated that electronic copies of plans would be available.

Co-Chair Seaton thought availability of electronic contingency plans would aid in spill response.

Representative Guttenberg asked if the intent was to access the contingency plans through a trucker or through the government. He asked about the effects of the bill on those that did not spill fuel.

Ms. Ryan specified that the United States Department of Transportation office of Pipeline and Hazardous Materials Safety Administration (PHMSA) was the agency that required the contingency plans for the trucking of oil, refined fuel and hazardous substances. There was not a requirement for the plans to be submitted. She thought a requirement for the state to receive copies of the plans would add value as they would exist in a public arena. She did not foresee an additional burden on a company that did not spill. The bill did not impact the responsibilities of companies and did not change federal requirements. The bill would require those transporting oil to submit the contingency plan to the state. She reiterated that she was aware of only two companies engaged in hauling oil.

[3:08:50 PM](#)

Co-Chair Foster asked members to hold questions until the end of the meeting. He would announce an amendments deadline at the next meeting.

Mr. Atkinson reviewed the sectional analysis in the form of a slide show (copy on file):

Section 1-Findings

Acknowledges that a penalty may be punitive. Applies findings to non-judicial penalties.

Section 2-Civil penalties for discharges of oil

Increases penalties (in regulations) for non-crude oil spills over 18,000 gallons into aquatic environments and onto public land.

Mr. Atkinson explained that the bill added administrative penalties that did not exist in law. He pointed out that the bottom of page 2 showed more severe penalties for spills in anadromous environments and high value aquatic environments. Penalties were less severe for spills in intertidal or confined salt water environments; and even less severe for spills on land. He gave an example of the increase for a spill penalty in anadromous waters, and noted that the penalties had not been raised since 1977.

Representative Josephson informed members that the previous committee had considered a couple of amendments relating to

increasing the penalties to the full rate of inflation. The amendments had not passed.

[3:11:46 PM](#)

Mr. Atkinson continued to address the sectional analysis:

Section 3—Inflation proofing

Directs the Department of Environmental Conservation (DEC) to increase civil penalties annually for non-crude discharges into aquatic environments and onto public land.

Section 4—Civil penalties for discharges of crude oil

Updates penalties for crude oil spills over 18,000 gallons. Existing penalties adjusted for inflation roughly equal the proposed new penalties.

Mr. Atkinson pointed to the chart on the slide for Section 4. He noted that the existing civil penalties had not been updated since 1989.

Mr. Atkinson turned back to Section 2 to address a previous question from Vice-Chair Gara relating to penalties imposed following the Exxon-Valdez oil spill.

Vice-Chair Gara asked for clarification. He asked if spill penalties had been adjusted in 1989 or 1990.

Mr. Atkinson responded that the Section 2 of statute had not been updated.

[3:14:25 PM](#)

Mr. Atkinson continued to address the sectional analysis:

Section 5—Civil penalties for discharges of crude oil

Calculates penalty amounts by counting produced water mixed with crude oil as crude oil. Directs DEC to increase civil penalties annually for crude oil discharges.

Section 6—Civil action for pollution; damages

Doubles the minimum penalty, established in 1976, for illegal discharges under 18,000 gallons of oil and crude oil, and discharges of any amount of other hazardous substances (such as ballast water, pesticides and paints, and discharges from underground storage tanks, cruise ships and illegal drug sites). Doubles the maximum penalty, established in 1976, for an initial violation. The 1976 minimum and maximum penalties, adjusted for inflation, would equal twice the amount of the proposed new minimum and maximum. In other words, to keep pace with inflation, the minimum and maximum penalties would have to be quadrupled.

Quintuples the maximum penalty for a continuing violation.

Allows a court calculating a penalty to increase that penalty to deter future spills.

Mr. Atkinson explained that Section 6 was another section where the penalties were not proposed to be adjusted for inflation, but the amount had been doubled. In his conversations with DEC, he understood that when the penalty was low it considered (by spillers) to be just the price of doing business rather than acting as a deterrent.

Mr. Atkinson continued to address the sectional analysis:

Section 7—Civil action for pollution; damages

Allows a civil court to impose punitive penalties. Conforms to the repeal in Section 14.

Section 8—Civil action for pollution; damages

Doubles the minimum penalty for discharges of hazardous wastes. The proposed new \$1,000 minimum roughly equals the existing penalty adjusted for inflation.

Doubles the maximum penalty for an initial violation, which roughly equals the existing penalty adjusted for inflation.

Multiplies the maximum penalty for a continuing violation by a factor of 2.5, which roughly equals the existing penalty adjusted for inflation.

Mr. Atkinson highlighted that none of the penalties proposed to be raised in the bill had been raised since they were originally enacted.

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Mr. Atkinson continued to address the sectional analysis:

Section 9—Civil action for pollution; damages

Doubles the minimum penalty for discharges under 18,000 gallons from cruise ships. The proposed new \$10,000 minimum exceeds the existing penalty adjusted for inflation, which would be approximately \$6,000.

Doubles the maximum penalty for an initial violation. The proposed new \$200,000 maximum exceeds the existing penalty adjusted for inflation, which would be approximately \$112,000.

Multiplies the maximum penalty for a continuing violation by a factor of 2.5. The proposed new \$25,000 daily maximum exceeds the existing daily maximum adjusted for inflation, which would be approximately \$12,216.

Mr. Atkinson elaborated that the proposed new penalties were somewhat ahead of inflation.

Mr. Atkinson continued to address the sectional analysis:

Section 10—Civil action for pollution; damages

Describes the factors a court may consider when determining the economic benefit of non-compliance.

Section 11—Civil action for pollution; damages

Describes the factors a court may consider when determining the need for an enhanced civil penalty to deter future non-compliance.

Directs the Department of Environmental Conservation (DEC) to annually increase the daily civil penalty caps described in Sections 6, 8 and 9 of the bill.

Section 12—Administrative penalties for discharges of oil and crude oil

Authorizes DEC to assess new administrative penalties (in addition to civil penalties a court may levy) for serious or repeated illegal discharges. DEC could penalize the responsible party no less than \$500, no more than \$10,000 for each violation.

Describes the factors DEC must consider when assessing administrative penalties.

Allows DEC to sue a responsible party who doesn't pay an administrative penalty. The court could not adjust the administrative penalty, must award the prevailing party attorney fees and collection costs, and must subtract the administrative penalty from any eventual civil penalty.

Directs DEC to count produced water mixed with oil as oil when determining spill volume. Directs DEC to inflation proof administrative penalties by increasing them annually.

Defines "oil," in this section, to include crude, petroleum and any substance refined from oil.

Mr. Atkinson elaborated that DEC could impose an administrative penalty before going to court and to encourage the responsible party to address a spill.

Mr. Atkinson continued to address the sectional analysis:

Section 13—Oil spill response plans for commercial motor vehicles.

Requires a trucking company transporting crude oil to submit to DEC any spill response plan they're required to submit to a federal agency. Requires such a company to comply with their plan.

Section 14—Repealers

Repeals legislative disapproval of regulations regarding civil penalties for oil discharges. Repeals prohibition against punitive penalties for illegal discharges of ballast water, pesticides and paints,

and discharges from underground storage tanks, cruise ships and illegal drug sites. Conforms to Section 7.

Sections 15-17—Regulations and effective dates

Allows DEC time to adopt regulations before this bill, if enacted, takes effect January 1, 2019.

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Co-Chair Foster OPENED public testimony.

[3:23:11 PM](#)

DOUG MERTZ, PRINCE WILLIAM SOUND REGIONAL CITIZENS' ADVISORY COUNCIL, indicated that he fully supported the bill. He noted that the Prince William Sound Regional Citizens' Advisor Council (RCAC) was created by Congress after the Exxon-Valdez oil spill, and represented the interests of fisherman, business, tribes, governments, and the general population in the oil transport areas of the sound. The council thought it made sense that the effects of inflation were counteracted by raising the penalties, so they were effectively the same. He thought the penalties had become so small that businesses could find it cheaper to pay penalties as a regular matter rather than prevent and preparing for a spill. He stated he had experience working with spills since 1975. He had observed a continuing pattern of great public and government interest after a spill that wanted over the following months. He thought there needed to be an effective set of inducements to prevent spills over time. He supported an automatic inflation adjustment for penalties. He thought the federal government was being consciously less stringent in the way it enforced spill and transportation rules on land and at sea. He thought it was important for the state to keep constant pressure on the industry to do things right to prevent and minimize spills.

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Vice-Chair Gara thanked Mr. Mertz for his public service. He recalled a spill in Glacier Bay. He believed an adjustment to penalties was needed. He mentioned a damages provision for oil spills. He thought it would be more of a deterrent to not leave the penalties as they had been since 1977.

Mr. Mertz thought it was important to note that penalties were not automatically assessed in every instance regardless who was at fault. The largest spill ever from the pipeline occurred outside North Pole in 1978. The spill of 658,000 gallons was a result of an act of sabotage. Much oil had come out, but no penalties had occurred - there had been hardly any environmental damage. It was still possible and expected that DEC and DOL would apply some common sense when administering the laws.

[3:29:00 PM](#)

PATTI SAUNDERS, ALASKA COMMUNITY ACTION ON TOXICS, ANCHORAGE (via teleconference), testified in support of the bill. She shared that she was one of the original members of the Prince William Sound Regional Citizens' Advisory Committee. She had been a fisherman in Prince William Sound. She spoke about determining ways to ensure a spill like the Exxon-Valdez never happened again. The advisory committee had worked on improving the state's oil spill laws and ability to respond. She emphasized the need for a quick response in order to minimize damage to wildlife and environment. She thought the state had a good system in place. There had been a comprehensive review of the Alaska's oil spill system. She thought contingency plans were one of the best ways to prevent spills. She thought it would be no burden on the industry to provide the plans to the state. She discussed the revision of penalty amounts, and thought penalties acted as a deterrent. She discussed the importance of the amount of penalties being high enough. It was not surprising that industry would complain about increasing penalties. She was disappointed that elected officials were making the argument on the industry's behalf rather than protecting citizens.

Ms. Saunders thought Section 4 through Section 9 met the stated goal. She thought Section 2 and Section 6 did not meet the goal of accounting for inflation. She believed the sections should be amended to reflect inflation rates. She believed the bill was a step in the right direction.

Representative Wilson did not appreciate the testifier's implication that because the committee was asking questions they were not respecting the public or the environment.

[3:34:42 PM](#)

KARA MORIARTY, PRESIDENT AND CEO, ALASKA OIL AND GAS ASSOCIATION (via teleconference), read from a prepared statement:

Co-Chair Foster, Co-Chair Seaton, members of the Committee, thank you for the opportunity to testify on and share our concerns with HB 322. For the record, my name is Kara Moriarty and I am the President/CEO of the Alaska Oil & Gas Association, commonly referred to as "AOGA." AOGA is a private trade association that represents the majority of oil and gas producers, explorers, refiners, and transporters of Alaska's oil and gas. This testimony reflects the opinion of our membership.

First, thank you for allowing us additional time to analyze this legislation. Second, we welcome the opportunity to share with you and the public our commitment to safety and our diligence to prevent and prepare for the unfortunate incident of a spill, and to discuss our procedures and responsibilities if a spill occurs.

We all agree that the State of Alaska must be prudent and prepare for hazardous spills of all kinds. But I'm sure you all recognize that the oil and gas industry is already prepared with a robust response capability in the event an industry-related spill occurs. Companies that engage in or intend to undertake oil and gas exploration, development, production, or transport activities are required to by federal and state regulators to have current contingency plans in place, sufficient spill response equipment available at a moment's notice, and exercise both plan and equipment regularly. The annual cost for each operator to purchase and maintain equipment and carry out oil spill response drills ranges from \$1.8 to \$8 million annually.

Further, oil and gas companies belong to not-for-profit spill response cooperatives, such as Cook Inlet Spill Prevention and Response, Inc. (CISPRI) and Alaska Clean Seas (ACS). These are full-response organizations that provide the personnel, materials, equipment, and training to members for responding to an oil spill. Membership fees start at \$500,000 for

producers and \$100,000 for non-producers, with a \$20,000 - \$50,000 annual fee. Daily exercise or development fees range from \$1,250 - \$2,500.

More specifically, Alyeska Pipeline Service Company conducted over 200 total drills and exercises between the pipeline and their Ship Escort/Response Vessel System, commonly referred to as "SERVS." As you may know, SERVS exists for prevention and response in Prince William Sound and Alyeska spends more than \$100 million annually on prevention and response readiness. Drills and exercises along the 800-mile pipeline are additional investments.

In the event that the Department of Environment Conservation (DEC) Spill Prevention and Response Division (SPAR) responds to an oil spill, DEC almost always recovers the full cost of the response. The same cannot be said for non-oil industry facilities.

Before we discuss the legislation before us, I'd like to remind the committee of important statistical trends in the number and volume of oil spills in Alaska, especially as it related to oil and gas. According to most recent DEC SPAR Annual Report, you can see the 22-year average for the number of total spills and the volume of the spills across the state. You can see the trend is going in the right direction for both categories.

Then if you look at the spills specifically by facility type, you will see that oil and gas industry related facilities for the last three fiscal years averaged only about a quarter of the spills. I say roughly only because DEC reported facility types in a different manner for the last three years. However, if you look at the period from FY 10 - 14, you would find that oil and gas exploration and production accounted for 29% of the spill volume by facility.

Getting even more granular when thinking about the industry I represent, crude oil spills from FY 15 - FY17 accounted for under 2 percent of all spills in Alaska by volume. Of course, we would all prefer that figure to be zero, and we strive for zero spills every day.

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Section 5 of HB 322 would force DEC to include produced water in the calculations of a spill. There is often a very small amount of crude in the produced water, but again, the trend line is the same as before, the volume and number of produced water spills is also trending downward.

So, this begs the question, what is the purpose of this bill? If the purpose of the bill is to set higher fines and penalties to deter spills, I would argue, for the oil and gas industry, we do not need fines and penalties to encourage us to be diligent. Why do I say that?

We are Alaskans. We are environmentalists by choice and by regulation. We want to protect the beautiful lands and wildlife that many subsist from or recreate within. We are raising our families here and we care about our backyard. In addition to the intrinsic and environmental reasons, companies also have a direct economic incentive not to have a spill incident. Our companies strive for the safest, most efficient operations possible, and any spill is treated as a serious event that takes away time and resources from our main purpose- producing, refining, and transporting oil.

The cost of prevention, clean-up, and restoration is already a tremendous deterrent for our industry. It is not unreasonable to expect the costs for clean up to exceed what any fine or penalty that may be assessed. So, for the oil and gas industry it is hard to imagine a scenario when the fine is less than compliance, thereby requiring the need to double, or in some cases triple the fines and penalties that are proposed in HB 322.

If the intent of the bill is to incentivize better behavior by potential repeat offenders, it would be helpful to know what specific examples lead to the assertion that HB 322 will reduce the number and volume of spills. Ultimately, we believe that fewer spills is the goal of all Alaskans, but we struggle to understand how HB 322 will accomplish this goal without specific examples justifying its necessity.

There is also the potential for this bill to be perceived as a revenue generator for SPAR. As a brief reminder to the committee, the SPAR division was funded entirely by the oil and gas industry until the passage of a bill that assesses just under one penny per gallon of wholesale refined fuel products, with several products excluded.

As you know, the state has an Oil and Hazardous Substance Release Response Fund, commonly referred to as the "470 fund." The fund is the primary source of revenue for the SPAR division to ensure that Alaska is prepared and capable of responding to spills and other hazardous materials. This fund allows SPAR to conduct three main activities; prevention, initial response and contaminated site cleanup, which includes reviewing discharge prevention and contingency plans; conducting training, response drills, inspections, and tests; and verify an organization's proof of financial responsibility to clean up spills.

Despite the stated purpose of cleaning up and preventing spills, the fund has historically been appropriated to non-spill projects such as campgrounds, state airports, tank farm remediation, privately owned greenhouses, and new ferries. Fortunately, under the current leadership of DEC, these types of expenditures are no longer being made, but the corpus of the fund may have been unnecessarily reduced during years when these types of expenditures were authorized. Additionally, AOGA has identified efficiencies for SPAR to consider internally that to our knowledge have yet to be adopted. These efficiencies could potentially save the state more than the projected fiscal note. We also believe that if DEC is looking for additional revenue for SPAR, those revenues should be collected from all parties that utilize functions of the Division.

In addition to the questions we have already asked above, I'd like to highlight a few portions of the bill that cause us the most concern.

There has been an argument made that this bill is needed because penalties have not increased for some time and that there should be an adjustment tied to inflation. Again, we struggle with understanding why

increasing fines or making them subject to change based on inflation will change behavior, given that the cost of cleanup and remediation is already a powerful deterrent. And while it's certainly within your purview to instill an automatic tax increase every year, we hope you will fully consider the implications of such a policy.

At the very beginning of the bill, it states that based on information gathered this bill is necessary. We would ask the committee to identify what specific information drew them to this conclusion.

As previously mentioned, Section 5 expands the definition of oil spills to include produced water. Claims have been made that produced water is just as damaging to the environment as straight crude oil. While produced water typically does contain small amounts of crude - which the percentage of crude oil can be determined - produced water clearly does not cause the same level of damage as pure crude, and we do not agree they should be treated the same for the purposes of this bill.

Section 10 is also a concern as we see this as a subjective and ambiguous section that could lead to a series of issues, not the least of which is the intrusive nature as to how this could be implied, and the eventual request for confidential financial records to determine the economic benefit of noncompliance.

The new administrative penalties in Section 12 are extremely unclear and another subjective section which gives the department the potential for broad enforcement and penalty assessment discretion. This additional authority granted to DEC to issue new administrative penalties without clear parameters for how that is administered leaves us questioning how, when, or why these penalties would be assessed.

Sections 13 - 15 expand the need for commercial motor vehicles to obtain contingency plans approved by DEC if they are transporting crude oil. Because this bill expands the definition of oil to include processed water, such as drilling water or wastewater, this bill will apply to vehicles on the North Slope and Cook

Inlet as their tankage contents include small amounts of crude oil. These sections provide no additional protection, since companies who operate these types of vehicles already must comply with federal Department of Transportation regulations requiring response plans found in 49 CFR 130.31.

Further, the bill could increase the duties of SPAR division staff by requiring additional contingency plan reviews, which makes us concerned that the fiscal note does not include additional staff to accommodate the added workload. It has been the recent experience of some of my member companies that the current staff are struggling to meet the timelines for current levels of contingency plan renewals and applications for facilities and regular operations. Because contingency plans are already required by the federal DOT and this section would require duplicative plans to be filed and reviewed with the State, we respectfully ask that this section be removed from the bill. Finally, if this section were to remain in the bill, we would ask for clarifying language explicitly stating that if DEC does not approve the contingency plans for commercial vehicles on time, then transportation can continue under federal DOT mandates.

In closing, AOGA is opposed to this bill. We urge you to reconsider moving this bill forward and to work with the industry and DEC to find alternative ways to meaningfully incentivize compliance of environmental safety provisions in Alaska.

Thank you for the opportunity to testify and I welcome questions from the committee.

[3:45:26 PM](#)

Co-Chair Seaton indicated written testimony could be submitted to the committee.

Co-Chair Seaton CLOSED public testimony.

Co-Chair Seaton reported that there was not a deadline set for proposed amendments. He asked the department to respond to the committee with a definition for "produced water."

HB 322 was HEARD and HELD in committee for further consideration.

#hb216

HOUSE BILL NO. 216

"An Act relating to transfers from the dividend fund; creating the restorative justice account; relating to appropriations from the restorative justice account for payments for and services to crime victims, operating costs of the Violent Crimes Compensation Board, operation of domestic violence and sexual assault programs, mental health services and substance abuse treatment for offenders, and incarceration costs; and providing for an effective date."

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Co-Chair Seaton relayed that the bill sponsor was not feeling well. The committee would only be hearing the changes to the bill as shown in the committee substitute.

ERIC CORDERO-GIORGANA, STAFF, REPRESENTATIVE CHUCK KOPP, reviewed the changes in the committee substitute. In Section 6, the minimum range was lowered to total less than 100 percent of the full amount. The change was made to provide more discretionary opportunity for the legislature to appropriate funds. He directed attention to table that showed changes in percentage ranges. He expanded that there had been an ongoing conversation with the Office of Management and Budget, the Legislative Finance Division, and several other stakeholders to formulate a range that all the entities were comfortable with.

Co-Chair Seaton asked for a presentation of the bill.

Mr. Cordero-Giorgana reminded that HB 216 established the Restorative Justice Account. He continued that the second change would change the effective date from July 2018 to January 2019.

Co-Chair Seaton asked for more detail.

Mr. Cordero-Giorgana relayed that 30 years ago the legislature had established an account from Permanent Fund Dividends that no longer belonged to offenders. The fund was designed to help victims, but over time the funds had

been used for other things. The original recipient of the funds was the Violent Crimes Compensation Board. Most of the funds currently went to the Department of Corrections to pay for inmate healthcare. The intent of the bill was to set a priority list to put victims first.

Mr. Cordero-Giorgana continued that the entities that could potentially receive the funds was not changing. The change was a list of percentages and priorities, along with discretion for the legislature to appropriate those funds if they were available. Some of the entities were no longer being funded due to the volatility of the Permanent Fund. He discussed the gap in compensation and restitution. He spoke of the huge backlog in court-ordered restitution. The majority of victims were owed less than \$1000. The bill added the opportunity for the legislature to put some of the money toward restitution through the Office of Victim's Rights.

Co-Chair Seaton would have the bill presented by the sponsor at a later time.

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Representative Wilson wanted to understand Section 6 on page 5 and 6. She wondered if the percentages were added.

Mr. Cordero-Giorgana responded in the affirmative and noted that there had been changes to the ranges since the last committee presentation.

Representative Wilson MOVED to ADOPT proposed committee substitute for HB 216, Work Draft (30-LS0572\L).

There being NO OBJECTION, it was so ordered.

Co-Chair Seaton wanted to ensure the public was familiar with the version of the bill being considered.

Representative Kawasaki asked for information on a memorandum that discussed dedicated funds. He thought the percentages were added to address the matter, but he did not see the explanation.

Mr. Cordero-Giorgana would make sure to bring the information back to the committee.

Representative Wilson asked about the percentages. She thought the percentages offset the reason for the list of priorities in the bill.

Mr. Cordero-Giorgana referred to a memo from Legislative Legal Services (copy on file). It indicated that the legislature had the discretion to appropriate any amount regardless of the percentage or priority as proposed in the bill. He thought the language acted as a guideline.

Co-Chair Seaton noted that the percentages reflected historic use of the fund.

HB 216 was HEARD and HELD in committee for further consideration.

Co-Chair Seaton reviewed the agenda for the following day.

ADJOURNMENT

[3:56:33 PM](#)

The meeting was adjourned at 3:56 p.m.