

SENATE CS FOR HOUSE JOINT RESOLUTION NO. 9(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/4/06
Referred: Rules

Sponsor(s): REPRESENTATIVES LEDOUX, Gara, Gruenberg, Thomas, Guttenberg, Kerttula, Elkins,
Gardner

SENATORS Elton, Ellis, Kookesh, Wagoner, Dyson, Gary Stevens

A RESOLUTION

1 **Urging the United States Congress to honor the process and judgment of the federal**
2 **courts in the case of the Exxon Valdez disaster and to refrain from enacting legislation**
3 **that would affect the outcome of the courts' resolution of the case; urging the United**
4 **States Department of Justice and the Alaska Department of Law to identify all natural**
5 **resource damages from the Exxon Valdez oil spill that were unanticipated at the time of**
6 **the 1991 settlement, to develop plans to remedy the damages, and to present the**
7 **ExxonMobil Corporation with a request for the full \$100,000,000 that is available**
8 **through the "Reopener for Unknown Injury" clause of the 1991 civil settlement to carry**
9 **out these plans.**

10 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

11 **WHEREAS**, on March 24, 1989, the Exxon Valdez ran aground on Bligh Reef in
12 Prince William Sound, Alaska, spilling more than 11,000,000 gallons of crude oil and
13 becoming what President George H. W. Bush called "the worst marine environmental disaster

1 this nation has ever experienced"; and

2 **WHEREAS** the grounding and spill released oil across more than 10,000 square miles
3 of Alaska's coastal oceans and 1,300 miles of shoreline, including five state parks, four state
4 critical habitat areas, one state game sanctuary, and many Alaska Native ancestral lands; the
5 spilled oil killed hundreds of thousands of birds, marine mammals, fish, and invertebrates;
6 and the grounding and spill seriously disrupted the economy, culture, and livelihoods of
7 coastal residents; and

8 **WHEREAS**, on October 9, 1991, the United States District Court for Alaska in
9 Anchorage approved a settlement (Civil Actions No. A91-082 and A91-083) between Exxon
10 Corporation, the United States of America, and the State of Alaska for damages to natural
11 resources, including publicly owned wildlife and wild lands, from the Exxon Valdez oil spill;
12 and

13 **WHEREAS** this settlement includes a clause that provides for a "Reopener for
14 Unknown Injury," which states that the governments may, between September 1, 2002, and
15 September 1, 2006, request that the ExxonMobil Corporation pay additional sums as needed,
16 up to \$100,000,000, to restore oil-damaged populations, habitats, or species in the spill zone if
17 the injury could not reasonably have been known nor anticipated at the time of the settlement;
18 and

19 **WHEREAS** this provision was a key factor in addressing the uncertainty of the
20 public, the Alaska State Legislature, the United States Congress, the State of Alaska, and the
21 United States District Court regarding the potential for future damages and, therefore, in
22 winning approval of this settlement; and

23 **WHEREAS**, in September 1994, a unanimous jury of Alaskans found Exxon
24 Corporation liable for the Exxon Valdez oil spill and awarded damages of \$4.5 billion to
25 those injured by the spill, including punitive damages in the amount of \$5 billion; and

26 **WHEREAS**, 17 years after the disaster, and nearly 12 years after the original jury
27 verdict, the victims are still awaiting resolution of the litigation; and

28 **WHEREAS** the Ninth Circuit Court of Appeals is currently reviewing the latest
29 appeal of the damages order by Exxon Mobil Corporation and is expected to issue its decision
30 sometime later this year; and

31 **WHEREAS**, during consideration by the United States Congress of the Oil Pollution

1 Act of 1990, Exxon Mobil Corporation sought an amendment that would have substantially
2 reduced the punitive damages that it would have to pay for the Exxon Valdez oil spill;

3 **WHEREAS** scientists funded through the Exxon Valdez Oil Spill Trustee Council
4 and by federal and state agencies, universities, and private foundations have clearly and
5 conclusively demonstrated substantial long-term harm from the Exxon Valdez oil spill; their
6 findings include evidence of direct and indirect harm to native species, coastlines, and the
7 peoples of the spill zone; and

8 **WHEREAS** all of these long-term damages from oil were unanticipated at the time of
9 the 1991 settlement because of the complexity of the intertidal spill zone environment, the
10 unexpected persistence of subsurface oil, species decline that did not become manifest until
11 after the settlement, and increased modern scientific recognition of the toxicity of oil to
12 wildlife; and

13 **WHEREAS** there exist many cost-effective restoration opportunities to mitigate these
14 unanticipated injuries; and

15 **WHEREAS** the governments are required to submit detailed plans for use of reopener
16 funds 90 days before a formal request to ExxonMobil Corporation, and the last day on which
17 the governments may make those requests is September 1, 2006; and

18 **WHEREAS** it is clearly in the interest of the citizens of Alaska that the governments
19 assert this claim for full payment for the additional damages from the Exxon Valdez oil spill;

20 **BE IT RESOLVED** that the Alaska State Legislature respectfully urges that the
21 United States Congress respect the judicial process and refrain from enacting any legislation
22 that would reduce or delay payment of the punitive damages awarded to more than 32,000
23 plaintiffs as a result of the 1989 Exxon Valdez oil spill as finally determined by the federal
24 courts; and be it

25 **FURTHER RESOLVED** that the Alaska State Legislature urges the United States
26 Department of Justice and the Alaska Department of Law to identify all natural resource
27 damages from the Exxon Valdez oil spill that were unanticipated at the time of the settlement,
28 to develop plans to remedy the damages, and to present the ExxonMobil Corporation with a
29 request for the full \$100,000,000 available under the reopener clause to enact these plans; and
30 be it

31 **FURTHER RESOLVED** that the Attorney General of the State of Alaska or the

1 Attorney General of the United States report to the Alaska State Legislature on or before
2 June 2, 2006, on the status of the governments' claim for reopener damages.

3 **COPIES** of this resolution shall be sent to the Honorable George W. Bush, President
4 of the United States; the Honorable Richard B. Cheney, Vice-President of the United States
5 and President of the U.S. Senate; the Honorable Bill Frist, Majority Leader of the U.S. Senate;
6 the Honorable Harry Reid, Minority Leader of the U.S. Senate; the Honorable J. Dennis
7 Hastert, Speaker of the U.S. House of Representatives; the Honorable John Boehner, Majority
8 Leader of the U.S. House of Representatives; the Honorable Nancy Pelosi, Minority Leader of
9 the U.S. House of Representatives; the Honorable Alberto Gonzales, Attorney General of the
10 United States; the Honorable David W. Marquez, Alaska Attorney General; and the
11 Honorable Ted Stevens and the Honorable Lisa Murkowski, U.S. Senators, and the Honorable
12 Don Young, U.S. Representative, members of the Alaska delegation in Congress.