

**CS FOR HOUSE BILL NO. 411 (RESOURCES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION**

BY THE HOUSE RESOURCES COMMITTEE

Offered: 3/20/92

Referred: Finance

Funding Information:	General Fund	\$	-0-
	Other Funds		<u>49,785,000</u>
			<u>\$49,785,000</u>

Sponsor(s): REPRESENTATIVES DAVIDSON, Navarre, Gruenberg, Finkelstein, Ellis

A BILL

FOR AN ACT ENTITLED

**1 "An Act making appropriations for restoration projects relating to the Exxon Valdez oil
2 spill; and providing for an effective date."**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. FINDINGS. The Seventeenth Alaska State Legislature finds that

**5 (1) Under the recently approved criminal plea agreement between the United States and
6 Exxon Shipping Company and Exxon Corporation (United States of America v. Exxon Corporation and
7 Exxon Shipping Company, United States District Court, District of Alaska, case No. A90-015 CR.), the
8 State of Alaska received \$50,000,000 as "remedial and compensatory payments." The payments received
9 by the state "are to be used by the State of Alaska . . . exclusively for restoration projects, within the
10 State of Alaska, relating to the 'Exxon Valdez' oil spill. Restoration includes restoration, replacement
11 and enhancement of affected resources, acquisition of equivalent resources and services, and long-term
12 environmental monitoring and research programs directed to the prevention, containment, cleanup and
13 amelioration of oil spills."**

14 (2) The expeditious appropriation of remedial and compensatory payments for the

1 acquisition and protection of high value resources and services and action on appropriations for
2 additional restoration, replacement, and enhancement activities will provide interim protection needed
3 to allow the Exxon Valdez Trustee Council time to develop a systematic restoration plan. The
4 appropriations made by this Act complement the process being established by the Exxon Valdez Trustee
5 Council.

6 (3) As stated by the United States Department of Justice in recommending that the United
7 States District Court accept the criminal plea agreement, "[t]his oil spill was a catastrophe, and it was
8 also an environmental crime. The criminal remedy should, likewise, in substantial part, be environmental
9 in nature; . . . The environment, as a victim, must be aided quickly through efforts funded by
10 restitutionary payments."

11 (4) The health of damaged coastal and near-shore habitats is substantially related to
12 activities on adjacent uplands. Economically important fish species, including herring and halibut, utilize
13 near-shore areas, and anadromous species, including five species of salmon, rely on continued access
14 to both clean streams and unpolluted estuaries for spawning and rearing.

15 (5) Sea otter pups are particularly dependent on pristine water quality, a productive near-
16 shore and shallow subtidal ecosystem, and a disturbance free environment.

17 (6) Populations of aquatic birds, including the tree-nesting marbled murrelet and bald
18 eagle and the fresh water nesting species such as harlequin ducks, were severely damaged by the Exxon
19 Valdez oil spill.

20 (7) Recreational, aesthetic, and subsistence services provided by the prespill environment
21 were severely damaged. Residents who relied upon these services desire to have these damaged services
22 replaced through the acquisition and retention of comparable threatened resources.

23 (8) The quality of fresh water entering the estuarine environment is critical to satisfactory
24 restoration and recovery of the physical and biotic environment in the region affected by the Exxon
25 Valdez oil spill.

26 (9) Recovery of the coastal estuaries affected by the Exxon Valdez oil spill is placed at
27 risk by further environmental stress resulting from timber harvesting and other industrial activities that
28 involve substantial environmental disturbance. In order to minimize the potential for further
29 environmental stress and to encourage and enhance the natural recovery and restoration of the affected
30 region, acquisition of coastal related uplands in the affected region, including Prince William Sound, the
31 Kenai Peninsula, the Kodiak Archipelago, and adjacent biologically related areas, is an important use

1 of "remedial and compensatory payments" received by the state under the criminal plea agreement.

2 (10) Continued citizen involvement and education of residents and nonresidents are
3 essential to the expeditious and effective restoration of the areas affected by the Exxon Valdez oil spill,
4 and to the prevention of future oil spills and the restoration of public confidence in the ability of the
5 state to protect the environment.

6 * Sec. 2. In order to achieve the purposes of the remedial and compensatory payments, the sum of
7 \$4,350,000 is appropriated from the remedial and compensatory payments to the Department of Natural
8 Resources for the acquisition of land, development rights in land, including timber rights, or moratoria
9 on timber harvesting from willing sellers in the areas of Eyak Lake, Nelson Bay, Simpson Bay, and
10 Sheep Bay in Township 15 South, Range 2 West; Township 15 South, Range 3 West; Township 14
11 South, Range 3 West; and Township 14 South, Range 4 West, Copper River Meridian.

12 * Sec. 3. In order to achieve the purposes of the remedial and compensatory payments, the sum of
13 \$2,175,000 is appropriated from the remedial and compensatory payments to the Department of Natural
14 Resources for the acquisition of land, development rights in land, including timber rights, or moratoria
15 on timber harvesting from willing sellers in the areas of Port Fidalgo and Bligh Island in Township 12
16 South, Range 6 West; Township 12 South, Range 7 West; and Township 12 South, Range 9 West,
17 Copper River Meridian.

18 * Sec. 4. In order to achieve the purposes of the remedial and compensatory payments, the sum of
19 \$2,175,000 is appropriated from the remedial and compensatory payments to the Department of Natural
20 Resources for the acquisition of land, development rights in land, including timber rights, or moratoria
21 on timber harvesting from willing sellers in the areas of Eshamy Bay, Paddy Bay, Ewan Bay, Jackpot
22 Bay, Chenega Island, Evans Island, and southern Knight Island in Township 1 South, Range 9 East;
23 Township 1 North, Range 9 East; Township 1 South, Range 8 East; Township 1 North, Range 8 East;
24 Township 1 North, Range 10 East; Township 2 North, Range 8 East; Township 3 North, Range 7 East;
25 Township 3 North, Range 8 East; Township 4 North, Range 7 East; Township 4 North, Range 8 East;
26 Township 4 North, Range 9 East; Seward Meridian.

27 * Sec. 5. (a) In order to achieve the purposes of the remedial and compensatory payments, the sum
28 of \$9,000,000 is appropriated from the remedial and compensatory payments to the endowment trust
29 fund established under AS 14.40.400 upon the completion of an agreement before January 1, 1993,
30 between the Department of Natural Resources and the Board of Regents of the University of Alaska for
31 (1) the transfer of timber rights on land between Seal River and Cape Suckling (as

1 conveyed under ADL 223456 and known as the Cape Suckling parcel) to the Department of Natural
2 Resources; and

3 (2) a moratorium on the sale, harvesting, or other development by the University of
4 Alaska or its agents or contractors of the land described in (1) of this subsection that is subject to timber
5 rights held by the University of Alaska until December 31, 2002.

6 (b) It is the intent of the legislature that the agreement between the Department of Natural
7 Resources and the Board of Regents of the University of Alaska described in (a) of this section must
8 provide that

9 (1) the value of the timber rights on the Cape Suckling parcel is established as the fair
10 market value of those rights on July 1, 1992; a mutually acceptable arbitrator shall determine the value
11 of the timber rights by selecting the more reasonable of the appraisals submitted by the Board of Regents
12 or the Department of Natural Resources;

13 (2) if the fair market value of the timber rights exceeds \$9,000,000, the Department of
14 Natural Resources shall seek additional appropriations or provide additional assets necessary to complete
15 the acquisition of the timber rights; if the University of Alaska has received more than two-thirds of the
16 total value of the timber rights before December 31, 1997, then the moratorium described in (a)(2) of
17 this section shall be extended to December 31, 2007; interest shall accrue on the unpaid balance owing
18 the endowment trust fund at the rate prescribed by AS 09.30.070 and shall be included in the total
19 purchase price for the timber rights;

20 (3) if timber rights remain to be purchased at the conclusion of the moratorium, the
21 Department of Natural Resources and the Department of Fish and Game shall select timber rights for
22 those areas of the Cape Suckling parcel that are most valuable for fish and wildlife habitat and most
23 desirable for inclusion in the Yakataga State Game Refuge, up to the value of funds already paid to the
24 endowment trust fund plus an amount for imputed interest equal at the rate prescribed by AS 09.30.070
25 from the date of payment; all timber rights selected by either department shall be valued at the fair
26 market value on July 1, 1992, plus an adjustment for interest at a rate prescribed in AS 09.30.070; in
27 making their selections, the departments shall assure that the University of Alaska retains reasonably
28 accessible and harvestable areas in which to harvest its remaining timber;

29 (4) in the event that the title of the University of Alaska to timber on the Cape Suckling
30 parcel is determined to be invalid before the end of the moratorium, the terms of this subsection shall
31 no longer apply and each party to the agreement shall retain the timber rights or funds it possesses on

1 the date of the determination.

2 * Sec. 6. In order to achieve the purposes of the remedial and compensatory payments, the sum of
3 \$11,000,000 is appropriated from the remedial and compensatory payments to the Department of Natural
4 Resources for the purchase of the inholdings of the Seldovia Native Association and of the Timber
5 Trading Company, within the Kachemak Bay State Park as identified in the Preliminary Exchange
6 Agreement dated June 30, 1989, as amended as of the effective date of this Act, between the state, the
7 Seldovia Native Association, and the Timber Trading Company; and for the purchase of the inholdings
8 of the Cook Inlet Region, Inc., within Kachemak Bay State Park.

9 * Sec. 7. In order to achieve the purposes of the remedial and compensatory payments, the sum of
10 \$2,800,000 is appropriated from the remedial and compensatory payments to the Department of Natural
11 Resources for the acquisition of development rights or conservation easements in aquatic, wetland, and
12 riparian areas important to the maintenance of important commercial and sport fish populations within
13 the Kenai River watershed.

14 * Sec. 8. In order to achieve the purposes of the remedial and compensatory payments, the sum of
15 \$2,750,000 is appropriated from the remedial and compensatory payments to the Department of Natural
16 Resources for the acquisition of land or development rights in land from willing sellers in the Rocky
17 River watershed on the outer coast of the Kenai Peninsula.

18 * Sec. 9. In order to achieve the purposes of the remedial and compensatory payments, the sum of
19 \$75,000 is appropriated from the remedial and compensatory payments to the Department of Natural
20 Resources for payment as a grant under AS 37.05.316 to the Cook Inlet Aquaculture Association for
21 acquisition of 33 acres of land (Kenai Peninsula Borough tax number 125-010-32; North 1/2 of the
22 Northeast 1/4 of Section 13, Township 1 North, Range 1 West, Seward Meridian) adjacent to the Cook
23 Inlet Aquaculture Association Bear Creek weir site.

24 * Sec. 10. (a) In order to achieve the purposes of the remedial and compensatory payments, the sum
25 of \$7,000,000 is appropriated from the remedial and compensatory payments to the Department of
26 Natural Resources for the acquisition from willing sellers of land surrounding Pauls Lake and Malina
27 Lake on Afognak Island. Not more than one-half of this appropriation shall be used to acquire land in
28 Township 20 South, Range 18 West; Township 20 South, Range 19 West; and Township 21 South,
29 Range 19 West, Seward Meridian; the balance of this appropriation shall be used to acquire land on
30 Afognak Island in watersheds draining into Muskomee Bay and into Malka Bay and land westward of
31 the watersheds draining into Muskomee Bay and into Malka Bay in Township 23 South, Range 23 West;

1 Township 23 South, Range 24 West; Township 24 South, Range 23 West; and Township 24 South,
2 Range 24 West, Seward Meridian.

3 (b) It is the intent of the legislature that the land acquired under this section be comprised of not
4 more than two reasonably compact parcels.

5 * Sec. 11. In order to achieve the purposes of the remedial and compensatory payments, the sum of
6 \$1,300,000 is appropriated from the remedial and compensatory payments to the Department of Natural
7 Resources for the acquisition of land or development rights from willing sellers on eastern Afognak
8 Island in Township 21 South, Range 18 West, Seward Meridian.

9 * Sec. 12. In order to achieve the purposes of the remedial and compensatory payments, the sum of
10 \$350,000 is appropriated from the remedial and compensatory payments to the Department of Fish and
11 Game for the acquisition from willing sellers of land, leases, or development rights in land at weir sites
12 important to anadromous fisheries in the Kodiak Archipelago.

13 * Sec. 13. In order to achieve the purposes of the remedial and compensatory payments, the sum of
14 \$1,400,000 is appropriated from the remedial and compensatory payments to the Department of Fish and
15 Game for fishery resource restoration and enhancement projects in Prince William Sound.

16 * Sec. 14. In order to achieve the purposes of the remedial and compensatory payments, the sum of
17 \$560,000 is appropriated from the remedial and compensatory payments to the Department of Fish and
18 Game for a four-fold increase in test fishing at the boundary of the Cook Inlet Central District to
19 improve estimates of sockeye salmon run timing in the district.

20 * Sec. 15. In order to achieve the purposes of the remedial and compensatory payments, the sum of
21 \$100,000 is appropriated from the remedial and compensatory payments to the Department of Fish and
22 Game to provide "in season" estimates of the contributions of Kenai River, Susitna River, and Kasilof
23 River sockeye salmon stocks to the total sockeye salmon run at the boundary of the Cook Inlet Central
24 District by using stock identification techniques.

25 * Sec. 16. In order to achieve the purposes of the remedial and compensatory payments, the sum of
26 \$30,000 is appropriated from the remedial and compensatory payments to the Department of Fish and
27 Game for a study to verify the forecast for 1993 and 1994 five year old Kenai River sockeye salmon
28 through analysis of the 1992 and 1993 returns of four year old sockeye salmon.

29 * Sec. 17. In order to achieve the purposes of the remedial and compensatory payments, the sum of
30 \$300,000 is appropriated from the remedial and compensatory payments to the Department of Fish and
31 Game for a study to provide a total return estimate of the Kenai River sockeye salmon runs in 1993 and

1 1994 by considering genetic stock identification estimates for the East Side set net fishery.

2 * Sec. 18. In order to achieve the purposes of the remedial and compensatory payments, the sum of
3 \$250,000 is appropriated from the remedial and compensatory payments to the Department of Fish and
4 Game for an accelerated growth sockeye salmon smolt program in Thumb Cove in Resurrection Bay.

5 * Sec. 19. In order to achieve the purposes of the remedial and compensatory payments, the sum of
6 \$10,000 is appropriated from the remedial and compensatory payments to the Department of
7 Administration, Alaska Public Broadcasting Commission, for payment as a grant under AS 37.05.316
8 to KCHU Radio for the acquisition of a satellite receiver for the village of Chenega Bay.

9 * Sec. 20. In order to achieve the purposes of the remedial and compensatory payments, the sum of
10 \$60,000 is appropriated from the remedial and compensatory payments to the Department of Fish and
11 Game for a contract to continue long-term research and monitoring of killer whales in Prince William
12 Sound.

13 * Sec. 21. In order to restore, replace, and enhance subsistence resources and services in southwestern
14 Prince William Sound, particularly areas in or around Chenega Bay including Eshamy Bay, Granite Bay,
15 Chenega Island, Evans Island, Elrington Island, Bainbridge Island, Latouche Island, and Knight Island,
16 the sum of \$200,000 is appropriated from the remedial and compensatory payments to the Department
17 of Environmental Conservation for payment as a grant under AS 37.05.316 to the Chenega Bay Local
18 Response Program for restoration of subsistence resources and services, including removal of oiled
19 sediment, oil, and oil debris and revegetation of beach rye grass.

20 * Sec. 22. (a) In order to achieve the purposes of the remedial and compensatory payments, the sum
21 of \$800,000 is appropriated from the remedial and compensatory payments to the Department of Natural
22 Resources for contracts to assess, inventory, and map the archeological resources of the area affected
23 by the Exxon Valdez oil spill.

24 (b) It is the intent of the legislature that contractors employed under (a) of this section agree to
25 comply with federal and state laws, including the Archeological Resources Protection Act of 1979 (16
26 U.S.C. 470aa - 470ll) and AS 41.35.010 - 41.35.240, and the terms and conditions of the consent decree
27 entered by the United States District Court in Native Village of Chenega Bay v. United States and State
28 of Alaska, United States District Court, District of Alaska, case No. A91-454 Civ.

29 * Sec. 23. In order to achieve the purposes of the remedial and compensatory payments, the sum of
30 \$3,000,000 is appropriated from the remedial and compensatory payments to the Alaska Science and
31 Technology Foundation as an endowment to fund grants for educational, public affairs, and tourism

1 purposes related to the Exxon Valdez oil spill, for environmental monitoring, and for related marine
2 pollution and coastal habitat education. The appropriation made by this section is contingent upon the
3 passage by the Seventeenth Alaska State Legislature and enactment into law of a bill creating an
4 endowment in the Alaska Science and Technology Foundation to fund grants for educational, public
5 affairs, and tourism purposes related to the Exxon Valdez oil spill, for environmental monitoring, and
6 for related marine pollution and coastal habitat education.

7 * Sec. 24. In order to achieve the purposes of the remedial and compensatory payments, the sum of
8 \$100,000 is appropriated from the remedial and compensatory payments to the University of Alaska,
9 Fairbanks, Fishery Industrial Technology Center for design and planning of a fishery technology and
10 research facility.

11 * Sec. 25. In this Act, "remedial and compensatory payments" means the remedial and compensatory
12 payments received by the state under the criminal plea agreement between the United States and Exxon
13 Shipping Company and Exxon Corporation in United States of America v. Exxon Corporation and Exxon
14 Shipping Company, United States District Court, District of Alaska, case No. A90-015 CR.

15 * Sec. 26. The appropriations made by secs. 2 - 12 and 21 of this Act replace resources and services
16 injured by the Exxon Valdez oil spill with equivalent resources and services.

17 * Sec. 27. The appropriations made by secs. 2 - 4, 6 - 12, 22, and 24 of this Act are for capital
18 projects and lapse under AS 37.25.020.

19 * Sec. 28. The appropriation made by sec. 18 of this Act lapses into the fund from which it was
20 appropriated June 30, 1995.

21 * Sec. 29. The unexpended and unobligated balances of the appropriations made by secs. 13 - 17,
22 20, and 21 of this Act lapse into the fund from which they were appropriated December 31, 1994.

23 * Sec. 30. The unexpended and unobligated balances of the appropriations made by secs. 5 and 19
24 of this Act lapse into the fund from which they were appropriated June 30, 1993.

25 * Sec. 31. The appropriation made by sec. 23 of this Act is for the capitalization of an endowment
26 fund and does not lapse.

27 * Sec. 32. This Act takes effect immediately under AS 01.10.070(c).