

**HOUSE BILL NO. 484**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE BY REQUEST**

**Introduced: 2/18/92  
Referred: Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the Exxon Valdez Oil Spill Trust and to natural resource damage  
2 recoveries under the Memorandum of Agreement and Consent Decree entered into by the  
3 United States and the state in settlement of the parties' claims for damages for injury,  
4 loss, or destruction to the natural resources affected by the March 24, 1989, Exxon Valdez  
5 oil spill; to the approval of expenditures by the state officers acting as trustees of the  
6 trust established for natural resource damage recoveries under that Memorandum of  
7 Agreement and Consent Decree; and placing the state trustees of the Exxon Valdez  
8 settlement and certain persons to whom trust duties are delegated in the Alaska Executive  
9 Branch Ethics Act; and providing for an effective date."

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

11 \* **Section 1. LEGISLATIVE DISPOSITION AND FINDINGS.** The legislature  
12 (1) approves the administration's efforts to avoid protracted court battles and escalating

1 attorney costs through settlement of the Exxon Valdez Oil Spill litigation;

2 (2) disapproves the process by which the second settlement proposal was accepted;  
3 specifically, the legislature disapproves of the failure of the governor to abide by the governor's  
4 commitment to submit the proposal to the legislature for approval, and the refusal of the parties to allow  
5 for public comment before the public's claims were irrevocably compromised;

6 (3) approves the acceptance of the second criminal plea agreement that resulted in an  
7 additional \$50,000,000 in restitution for restoration of Prince William Sound;

8 (4) disapproves the governor's acceptance of the second civil settlement because, under  
9 the terms of the second settlement, there is delay in the payment schedule that reduced the value of that  
10 settlement; the second civil settlement is worth approximately \$7,300,000 less than the civil settlement  
11 rejected by the House of Representatives;

12 (5) finds that there is a need for statutory change to eliminate the causes of the failure  
13 of process that occurred in the final settlement of the Exxon Valdez oil spill litigation, to incorporate  
14 the spirit of the recommendations of the House Special Committee on the Exxon Valdez Oil Spill Claims  
15 Settlement that are encompassed in House Concurrent Resolution 29, and to cure the constitutional  
16 infirmities of this settlement.

17 \* Sec. 2. AS 37.14 is amended by adding new sections to read:

18 ARTICLE 5. EXXON VALDEZ OIL SPILL TRUST.

19 Sec. 37.14.400. TRUST ESTABLISHED. The Exxon Valdez Oil Spill Trust is  
20 established. Subject to law, the trust shall be managed under the Memorandum of Agreement  
21 and Consent Decree entered into by the United States and the state on August 27, 1991, in  
22 settlement of claims for damages for injury, loss, or destruction to the natural resources affected  
23 by the March 24, 1989, Exxon Valdez oil spill.

24 Sec. 37.14.405. APPROPRIATIONS REQUIRED. (a) The state trustee may not  
25 approve an expenditure from the trust unless

26 (1) trust money available for the proposed expenditure has been appropriated by  
27 the legislature to the trust; and

28 (2) the legislature has appropriated money from the trust for the proposed  
29 expenditure.

30 (b) The provisions of (a) of this section do not apply to amounts paid as reimbursements  
31 to the United States or the state as authorized by the Memorandum of Agreement and Consent

1 Decree for expenses that are

2 (1) related to the Exxon Valdez oil spill; and

3 (2) incurred by either government before September 30, 1991.

4 Sec. 37.14.410. REIMBURSED EXPENDITURES. Amounts received by the state as  
5 reimbursement for expenses related to the Exxon Valdez oil spill incurred by the state before  
6 September 30, 1991, shall be deposited in the general fund.

7 Sec. 37.14.415. BUDGET AND REPORTS. The state trustees shall

8 (1) submit to the governor and the legislature by February 1 each year a report that  
9 sets out, for each object or purpose of expenditure, the amounts approved for expenditure from  
10 the trust during the preceding fiscal year and the amounts actually expended during the preceding  
11 fiscal year; and

12 (2) prepare and submit, under AS 37.07, a budget for the next fiscal year setting  
13 out the trustees' determination of the amount required for that fiscal year for appropriation for

14 (A) the operating expenses of the trust; and

15 (B) the probable objects or purposes of expenditure and the anticipated  
16 amounts of expenditure of the trust as authorized by the Memorandum of Agreement and  
17 Consent Decree.

18 Sec. 37.14.420. PAYMENTS TO PERSONS OTHER THAN GOVERNMENTS. The  
19 state trustees may not approve the payment of an expenditure from the trust to a person other  
20 than the state or federal government unless the expenditure complies with the procurement  
21 procedures established by AS 36.30.

22 Sec. 37.14.425. PUBLIC RECORDS. For purposes of AS 09.25.120, records of the trust  
23 in the custody or subject to the control of state officers and agencies are public records.

24 Sec. 37.14.450. DEFINITIONS. In AS 37.14.400 - 37.14.450,

25 (1) "state trustee" means a state officer designated by the governor to serve as a  
26 co-trustee of the trust;

27 (2) "trust" means the trust established for natural resource damage recoveries  
28 under the Memorandum of Agreement and Consent Decree entered into by the United States and  
29 the state on August 27, 1991, in settlement of claims for damages for injury, loss, or destruction  
30 to the natural resources affected by the March 24, 1989, Exxon Valdez oil spill.

31 \* Sec. 3. AS 24.20.206 is amended to read:

- 1                   **Sec. 24.20.206. DUTIES. The Legislative Budget and Audit Committee shall**
- 2                   (1) report to the legislature its recommendations relating to the confirmation of
- 3 appointees to the Board of Trustees of the Alaska Permanent Fund Corporation;
- 4                   (2) annually review the long-range operating plans of all agencies of the state
- 5 which perform lending or investment functions;
- 6                   (3) review periodic reports from all agencies of the state which perform lending
- 7 or investment functions;
- 8                   (4) present a complete report of investment programs, plans, performance, and
- 9 policies of all agencies of the state which perform lending or investment functions to the
- 10 legislature within 30 days after the convening of each regular session;
- 11                   (5) present to the legislature within 30 days after the convening of each regular
- 12 session a review of the report of the governor under AS 37.07.020(d) with recommendations for
- 13 needed legislation;
- 14                   (6) in conjunction with the finance committee of each house recommend annually
- 15 to the legislature the investment policy for the general fund surplus and for the income from the
- 16 permanent fund;
- 17                   (7) provide for an annual post audit and annual operational and performance
- 18 evaluation of the Alaska Permanent Fund Corporation investments and investment programs;
- 19                   (8) provide for an annual operational and performance evaluation of the Alaska
- 20 Housing Finance Corporation and the Alaska Industrial Development and Export Authority; the
- 21 performance evaluation shall include, but is not limited to, a comparison of the effect on various
- 22 sectors of the economy by public and private lending, the effect on resident and nonresident
- 23 employment, the effect on real wages, and the effect on state and local operating and capital
- 24 budgets of the programs of the Alaska Housing Finance Corporation and the Alaska Industrial
- 25 Development and Export Authority;
- 26                   **(9) provide assistance to the trustees of the trust established in AS 37.14.400 -**
- 27 **37.14.450 in carrying out their duties under AS 37.14.415.**

28 \* **Sec. 4.** AS 37.05.146 is amended to read:

29                   **Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS.** In AS 37.05.142 - 37.05.146

30 and AS 37.07.080, "program receipts" means fees, charges, income earned on assets, and other

31 state money received by a state agency in connection with the performance of its functions; all

- 1 program receipts except the following are general fund program receipts:
- 2 (1) federal receipts;
- 3 (2) University of Alaska receipts (AS 14.40.491);
- 4 (3) individual, foundation, or corporation gifts, grants, or bequests that by their
- 5 terms are restricted to a specific purpose;
- 6 (4) receipts of the following funds:
- 7 (A) highway working capital fund (AS 44.68.210);
- 8 (B) correctional industries fund (AS 33.32.020);
- 9 (C) loan funds;
- 10 (D) international airports revenue fund (AS 37.15.430);
- 11 (E) funds managed by the Alaska Aerospace Development Corporation
- 12 (AS 14.40.821), the Alaska State Housing Authority (AS 18.55.020), the Alaska Housing
- 13 Finance Corporation (AS 18.56.020), the Alaska Railroad Corporation (AS 42.40.010),
- 14 the Municipal Bond Bank Authority (AS 44.85.020), or the Alaska Industrial
- 15 Development and Export Authority (AS 44.88.020);
- 16 (F) fish and game fund (AS 16.05.100);
- 17 (G) school fund (AS 43.50.140);
- 18 (H) training and building fund (AS 23.20.130);
- 19 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and
- 20 former AS 39.37);
- 21 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);
- 22 (K) public school trust fund (AS 37.14.110);
- 23 (L) second injury fund (AS 23.30.040);
- 24 (M) fishermen's fund (AS 23.35.060);
- 25 (N) FICA administration fund (AS 39.30.050);
- 26 (O) mental health trust fund (AS 37.14.031);
- 27 **(5) receipts of the trust established by AS 37.14.400 - 37.14.450.**

28 \* Sec. 5. AS 39.52.960(21) is amended to read:

- 29 (21) "public officer" or "officer" means
- 30 (A) a public employee; [AND]
- 31 (B) a member of a board or commission; **and**

1                                    (C) a state officer designated by the governor to act as trustee of the  
2                                    trust or a person to whom the trustee has delegated trust duties; in this paragraph,  
3                                    "trust" has the meaning given in AS 37.14.450;

4    \* Sec. 6. AS 44.62.310 is amended by adding a new subsection to read:

5                                    (g) Unless an exception is authorized by federal law, the provisions of this section and  
6                                    AS 44.62.312 apply to meetings of the state officers designated by the governor to act as trustees  
7                                    of the trust established by AS 37.14.400 - 37.14.450, and to meetings of persons to whom they  
8                                    have delegated any of their authority, if the meetings involve

9                                    (1) two or more of the state officers or persons for purposes of establishing a  
10                                    common state position for purposes of administration of the trust; or

11                                    (2) one or more of the state officers or persons and one or more of the individuals  
12                                    appointed as trustees by the President of the United States, or individuals to whom those trustees  
13                                    have delegated any of their authority, for purposes of exercising authority over the trust.

14    \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).