

SENATE CS FOR CS FOR HOUSE BILL NO. 484 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/11/92
Referred: Rules

Sponsor(s): HOUSE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act recognizing the trust established under the Memorandum of Agreement and
2 Consent Decree entered into by the United States and the state in settlement of the
3 parties' claims to money received for injury, loss, or destruction to the natural resources
4 affected by the March 24, 1989, Exxon Valdez oil spill; relating to the requirement of an
5 appropriation before a state agency may expend money received from that trust; relating
6 to a budget and reports to be submitted by the trustees of that trust; relating to the
7 records of that trust; relating to meetings involving trustees of that trust; relating to the
8 definition of 'program receipts' in regard to money received by or from that trust;
9 relating to the circumstances under which the trustees of that trust may agree to an
10 expenditure from the trust to a person or entity other than a state or federal agency;
11 placing the state trustees of that trust and certain persons to whom trust duties are
12 delegated in the Alaska Executive Branch Ethics Act; relating to the requirements that

1 money received by the state as reimbursement for state expenses related to the Exxon
2 Valdez oil spill be deposited in the general fund; and providing for an effective date."

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

4 * Section 1. AS 37.14 is amended by adding new sections to read:

5 ARTICLE 5. EXXON VALDEZ OIL SPILL TRUST.

6 Sec. 37.14.400. TRUST RECOGNIZED. The trust established under the Memorandum
7 of Agreement and Consent Decree entered into by the United States and the state in settlement
8 of claims to money received for injury, loss, or destruction of the natural resources affected by
9 the March 24, 1989, Exxon Valdez oil spill, and approved by the United States District Court on
10 August 28, 1991, is recognized. It shall be managed as provided in the Memorandum of
11 Agreement and Consent Decree that established it.

12 Sec. 37.14.405. APPROPRIATIONS REQUIRED. (a) Notwithstanding any other
13 provision of law, a state agency may not expend money received from the trust unless the
14 expenditure is in accordance with an appropriation made by law.

15 (b) Appropriations made to satisfy the requirement of (a) of this section may be made
16 by general appropriations of program receipts conditioned on compliance with the program
17 review provisions of AS 37.07.080(h).

18 (c) The provisions of (b) of this section do not apply to amounts paid as reimbursements
19 to the state, as authorized by the Memorandum of Agreement and Consent Decree establishing
20 the trust, for expenses that are

- 21 (1) related to the Exxon Valdez oil spill; and
22 (2) incurred by the state on or before December 31, 1992.

23 Sec. 37.14.410. REIMBURSED EXPENDITURES. (a) Amounts received by the state
24 as reimbursement for expenses related to the Exxon Valdez oil spill incurred by the state on or
25 before December 31, 1992, shall be deposited in the general fund and, except as required under
26 (b) of this section, may not be credited to the oil and hazardous substance release mitigation
27 account under AS 46.04.010 or AS 46.08.020.

28 (b) A percentage of each payment deposited in the general fund under (a) of this section
29 shall be credited to the oil and hazardous substance release mitigation account under
30 AS 46.04.010 or AS 46.08.020. That percentage is determined by dividing

1 (1) the amount of the expenses for which the state may be reimbursed under (a)
2 of this section that were paid from the oil and hazardous substance release response fund
3 established under AS 46.08.010, by

4 (2) the total amount of expenses for which the state may be reimbursed under (a)
5 of this section.

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

7 (1) submit to the governor and the legislature by December 15 of each year a
8 report setting out, for each object or purpose of expenditure, the amounts approved for
9 expenditure from the trust during the preceding fiscal year and the amounts actually expended
10 during the preceding fiscal year;

11 (2) prepare and submit, under AS 37.07, a budget for the next fiscal year setting
12 out, for each object or purpose of expenditure, the trustees' estimate of the amounts that are,
13 during the next fiscal year, to be funded by the trust and expended by state agencies; and

14 (3) prepare and submit to the legislature at the same time the budget for state
15 agency expenditures is submitted under (2) of this section, a proposal setting out, for each object
16 or purpose of expenditure, the trustees' estimate of the amounts that are to be funded by the trust
17 in the next fiscal year and that are not included in the budget submitted under (2) of this section.

18 Sec. 37.14.420. PAYMENTS TO PERSONS OTHER THAN GOVERNMENTS. The
19 state trustees may not agree to an expenditure of money from the trust to a person or entity other
20 than an agency of the state or federal government unless the expenditure is for administrative
21 expenses of the trust and is consistent with the competitive principles of AS 36.30 (State
22 Procurement Code). This section does not prevent an agency receiving trust money from
23 expending the money in accordance with procurement or other law applicable to that agency.

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

26 Sec. 37.14.430. APPLICABILITY OF OPEN MEETINGS LAW. (a) The provisions
27 of AS 44.62.310 and 44.62.312 apply to a meeting related to the trust in which

28 (1) one or more of the state trustees and one or more of the federal trustees
29 participate, except to the extent that applicable federal law conflicts with AS 44.62.310 or
30 44.62.312, in which case the applicable federal law governs; or

31 (2) two or more of the state trustees, but none of the federal trustees, participate.

1 (b) Notwithstanding (a) of this section, the provisions of AS 44.62.310 and 44.62.312 do
2 not apply to a discussion between the trustees outside of a formal meeting about matters related
3 to the trust if, during the discussion, no decision is made and none of the trustees agrees to vote
4 in a particular way.

5 (c) The state trustees may discuss the establishment of an official common state position
6 regarding the trust in executive session under AS 44.62.310(b) and (c)(1).

7 (d) For the purposes of this section,

8 (1) a person to whom a state trustee has delegated any of the trustee's authority
9 related to the trust is considered a state trustee; and

10 (2) a person to whom a federal trustee has delegated any of the trustee's authority
11 related to the trust is considered a federal trustee.

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

13 (1) "federal trustee" means a person appointed by the President of the United
14 States to serve as a co-trustee of the trust;

15 (2) "state trustee" means a state officer designated by the governor to serve as a
16 co-trustee of the trust;

17 (3) "trust" means the trust established for natural resource damage recoveries
18 under the Memorandum of Agreement and Consent Decree entered into by the United States and
19 the state in settlement of claims to money received by the state and federal governments for
20 injury, loss, or destruction to the natural resources affected by the March 24, 1989, Exxon Valdez
21 oil spill, and approved by the court on August 28, 1991.

22 * Sec. 2. AS 24.20.206 is amended to read:

23 Sec. 24.20.206. DUTIES. The Legislative Budget and Audit Committee shall

24 (1) report to the legislature its recommendations relating to the confirmation of
25 appointees to the Board of Trustees of the Alaska Permanent Fund Corporation;

26 (2) annually review the long-range operating plans of all agencies of the state
27 which perform lending or investment functions;

28 (3) review periodic reports from all agencies of the state which perform lending
29 or investment functions;

30 (4) present a complete report of investment programs, plans, performance, and
31 policies of all agencies of the state which perform lending or investment functions to the

1 legislature within 30 days after the convening of each regular session;

2 (5) present to the legislature within 30 days after the convening of each regular
3 session a review of the report of the governor under AS 37.07.020(d) with recommendations for
4 needed legislation;

5 (6) in conjunction with the finance committee of each house recommend annually
6 to the legislature the investment policy for the general fund surplus and for the income from the
7 permanent fund;

8 (7) provide for an annual post audit and annual operational and performance
9 evaluation of the Alaska Permanent Fund Corporation investments and investment programs;

10 (8) provide for an annual operational and performance evaluation of the Alaska
11 Housing Finance Corporation and the Alaska Industrial Development and Export Authority; the
12 performance evaluation shall include, but is not limited to, a comparison of the effect on various
13 sectors of the economy by public and private lending, the effect on resident and nonresident
14 employment, the effect on real wages, and the effect on state and local operating and capital
15 budgets of the programs of the Alaska Housing Finance Corporation and the Alaska Industrial
16 Development and Export Authority;

17 (9) provide assistance to the trustees of the trust established in AS 37.14.400 -
18 37.14.450 in carrying out their duties under AS 37.14.415.

19 * Sec. 3. AS 37.05.146 is amended to read:

20 Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 - 37.05.146
21 and AS 37.07.080, "program receipts" means fees, charges, income earned on assets, and other
22 state money received by a state agency in connection with the performance of its functions; all
23 program receipts except the following are general fund program receipts:

24 (1) federal receipts;

25 (2) University of Alaska receipts (AS 14.40.491);

26 (3) individual, foundation, or corporation gifts, grants, or bequests that by their
27 terms are restricted to a specific purpose;

28 (4) receipts of the following funds:

29 (A) highway working capital fund (AS 44.68.210);

30 (B) correctional industries fund (AS 33.32.020);

31 (C) loan funds;

- 1 (D) international airports revenue fund (AS 37.15.430);
2 (E) funds managed by the Alaska Aerospace Development Corporation
3 (AS 14.40.821), the Alaska State Housing Authority (AS 18.55.020), the Alaska Housing
4 Finance Corporation (AS 18.56.020), the Alaska Railroad Corporation (AS 42.40.010),
5 the Municipal Bond Bank Authority (AS 44.85.020), or the Alaska Industrial
6 Development and Export Authority (AS 44.88.020);
7 (F) fish and game fund (AS 16.05.100);
8 (G) school fund (AS 43.50.140);
9 (H) training and building fund (AS 23.20.130);
10 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and
11 former AS 39.37);
12 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);
13 (K) public school trust fund (AS 37.14.110);
14 (L) second injury fund (AS 23.30.040);
15 (M) fishermen's fund (AS 23.35.060);
16 (N) FICA administration fund (AS 39.30.050);
17 (O) mental health trust fund (AS 37.14.031);
18 (S) receipts of or from the trust established by AS 37.14.400 - 37.14.450,
19 except reimbursements described in AS 37.14.410.

20 * Sec. 4. AS 39.52.960(21) is amended to read:

- 21 (21) "public officer" or "officer" means
22 (A) a public employee; [AND]
23 (B) a member of a board or commission; and
24 (C) a state officer designated by the governor to act as trustee of the
25 trust or a person to whom the trustee has delegated trust duties; in this paragraph,
26 "trust" has the meaning given in AS 37.14.450;

27 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).