

**S B**

**256**

6-1163H  
Cook  
4/5/89

Original sponsors: Szymanski, Kerttula,  
Kelly, and Sturgulewski

1 IN THE SENATE

BY THE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 256 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to reimbursement for costs incurred  
7 and recovery of money expended as a result of a  
8 released hazardous substance; and providing for an  
9 effective date."

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

11 \* Section 1. AS 46.08.070(b) is amended to read:

12 (b) The attorney general, at the request of the commissioner,  
13 shall immediately [MAY] seek to recover money expended by the depart-  
14 ment under this chapter or other law to contain and clean up oil or a  
15 hazardous substance that has been released or to control the threat-  
16 ened release of oil or a hazardous substance.

17 \* Sec. 2. AS 46.08.070(c) is amended to read:

18 (c) The department may reimburse a municipality for actual  
19 expenses, other than normal operating expenses, incurred in the abate-  
20 ment of a release or threatened release of oil or a hazardous sub-  
21 stance if

22 (1) the municipality has entered into an agreement with the  
23 commissioner under AS 46.09.020(e) [BEFORE INCURRING THE EXPENSES FOR  
24 WHICH REIMBURSEMENT IS SOUGHT]; and

25 (2) the commissioner determines that the expenses were for  
26 a necessary emergency first response to a release or threatened re-  
27 lease that posed an imminent and substantial threat to the public  
28 health or welfare, or to the environment.

REMOVED OLD SECTION 2

29 \* Sec. 3. This Act is retroactive to March 24, 1989.

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\* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 3.31.89  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

FIN

\*\*FISCAL NOTE(S) MUST BE ATTACHED  
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 4.7.89

4/3/89  
Mr. President:

C&RA

Committee considered

SB 256

reimbursement to persons and municipalities for costs incurred as a result of released hazardous substance; efd

and recommended:

replace with CS C&RA  same title

attached amendment(s) and  new title

\_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

FISCAL NOTE FOR

C&RA CO

COMMING -

DEC

FISCAL NOTE(S) attached  zero

appropriation no FN attached

fiscal impact

Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Mr. [Signature]  
[Signature]  
[Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature] NO Rec  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
Chair: signature and recommendation

Committee backup attached

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: An Act relating to reimbursement to persons and municipalities for costs incurred as a result of a released hazardous substance  
 Sponsor: Senator Szymanski  
 Requestor: \_\_\_\_\_  
 Agency Affected: Environmental Conservation  
 BRU: FO  
 Components: \_\_\_\_\_

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

**POSITIONS:** None

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

Prepared by: Mark Thorson Phone: 765-2621  
 Division: Administrative Services Date: 4/5/89

Approved by Commissioner: Mark C. Thorson for DDK Date: 4/5/89  
 Agency: Environmental Conservation

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER  
PO BOX 0, JUNEAU, ALASKA 99811-1800

(907) 465-2600

April 4, 1989

Senator Mike Szymanski  
Alaska State Senate  
PO Box V  
Juneau, AK 99811

Dear Senator Szymanski:

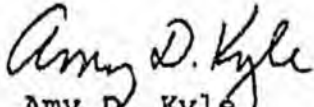
I am writing to state our support for the intent of SB 256. This bill would allow the Department to reimburse the City of Seward for legitimate expenditures for response to the oil spill in Prince William Sound.

At present, the oil and hazardous substance fund may be used for reimbursement to a municipality only if the Department has signed an agreement with the municipality before the expenditure is made. In this case, the City of Seward made expenditures to prepare to keep product away from sensitive areas before an agreement could be signed with the Department.

The Department believes that the City should not be precluded from reimbursement for these expenses simply because an agreement had not been signed. The expenditures will be reviewed by the Department according to procedures established for all municipalities participating in this response. Expenditures will be submitted for payment by EXXON before state funds are used.

Please let me know if there are any additional questions.

Sincerely,

  
Amy D. Kyle  
Deputy Commissioner

COMMUNITY AND REGIONAL AFFAIRS COMMITTEE  
APRIL 6

SB 256: RELATING TO REIMBURSEMENT FOR COSTS INCURRED AND RECOVERY OF MONEY EXPENDED AS A RESULT OF A RELEASED HAZARDOUS SUBSTANCE AND PROVIDING FOR AN EFFECTIVE DATE.

SPONSOR: SZYMANSKI

FISCAL: LAW/NONE

THE NEXT BILL BEFORE THE COMMITTEE IS SENATE BILL 256 RELATING TO REIMBURSEMENT FOR COSTS INCURRED AND RECOVERY OF MONEY EXPENDED AS A RESULT OF A RELEASED HAZARDOUS SUBSTANCE AND PROVIDING FOR AN EFFECTIVE DATE.

SENATOR SZYMANSKI HAS A COMMITTEE SUBSTITUTE THAT ELIMINATES SECTION TWO OF THE ORIGINAL VERSION.

SENATOR SZYMANSKI CAN SPEAK FURTHER ON HIS SUBSTITUTE.

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REPS FROM DEC WILL BE HERE

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: An Act relating to reimbursement to persons and municipalities for costs incurred as a result of a released hazardous substance  
 Sponsor: Senator Szymanski  
 Requestor: \_\_\_\_\_  
 Agency Affected: Environmental Conservation  
 BRJ: EO  
 Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:** None

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

Prepared by: Mark Thorson Phone: 765-2621  
 Division: Administrative Services Date: 4/5/89

Approved by Commissioner: Mark Thorson for DDK Date: 4/5/89  
 Agency: Environmental Conservation

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)



# Alaska State Legislature

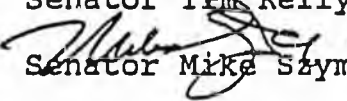
Senator Mike Szymanski

While in Session:  
P.O. Box V  
State Capitol, Room 11  
Juneau, Alaska 99811  
(907) 465-4978/4979  
FAX (907) 465-2652

During Interim:  
3111 C Street, Suite 510  
Anchorage, Alaska 99503  
(907) 561-7617

165 E. Parks Highway  
Legislative Information Office  
Wasilla, Alaska 99687  
(907) 376-MIKE

## M E M O R A N D U M

TO: Senator Tim Kelly, President of the Senate  
FROM:  Senator Mike Szymanski  
DATE: April 3, 1989  
SUBJ: Introduction of Legislation Related to Oil  
and Gas Hazardous Substance Releases Fund.

The purpose of this legislation is to clarify the Commissioner of the Department of Environmental Conservation's authority to enter into agreements with Municipalities to be reimbursed for costs from the date of the release of oil or hazardous substances.

Under current law, it appears that AS 46.08.070(c)(1) would require an agreement be in place before incurring expenses for reimbursement. The obvious problem here is that we have had several communities, i.e. Cordova and Valdez, who have incurred expenses from the moment of the Exxon/Valdez tanker accident. While it is important to have an agreement, it is equally important to allow the Commissioner the flexibility to have such agreements cover, when appropriate, expenses from the date of the tanker accident.

Senate District E

Mat-Su • So. Anchorage • Bird/Indian • Girdwood • Whittier • Nikiski • Cooper Landing • Hope • Seward • Cordova • Valdez

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Department of Law  
 Title: "An Act relating to reimbursement for costs...released hazardous substance..." BRU: Prosecution, Legal Services  
 Sponsor: Senate C&RA Components: All  
 Requestor: Senate C&RA

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

CAPITAL						
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REVENUE						
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**FUNDING:** (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

Please see the attached analysis.

*Richard I. Pegues*

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: April 6, 1989

Approved by Commissioner: Richard I. Pegues /FOR/  
Douglas B. Bailly, Attorney General Date: April 6, 1989  
 Agency: Department of Law

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

## Chapter 08. Oil and Hazardous Substance Releases.

Section	Section
05. Purpose	50. Records of the fund
10. Fund established	60. Report to the legislature
20. Financing of the fund	70. Reimbursement for containment and cleanup
30. Financing the abatement of oil or hazardous substance releases	80. Regulations
40. Purposes of the fund	900. Definitions

**Cross references.** — For other provisions related to oil pollution control, see AS 46.04. For other provisions related to hazardous substance release control, see

AS 46.09. For authority of municipalities to implement this chapter, see AS 46.09.060(b).

**Sec. 46.08.005. Purpose.** The legislature finds and declares that the release of oil or hazardous substances into the environment presents a real and substantial threat to the public health and welfare, to the environment, and to the economy of the state. The legislature therefore concludes that it is in the best interest of the state and its citizens to provide a readily available fund for the payment of the

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expenses incurred by the Department of Environmental Conservation in the protection of the environment of the state from the release of oil or hazardous substances. (§ 1 ch 59 SLA 1986)

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**Sec. 46.08.010. Fund established.** (a) There is established in the state general fund the oil and hazardous substance release response fund. The fund shall be administered by the commissioner.

(b) Money from an appropriation made to the fund remaining in the fund at the end of a fiscal year remains available for expenditure in successive fiscal years.

(c) The fund shall be used for actual expenses incurred under AS 46.08.040. The fund may not be used for capital improvements. (§ 1 ch 59 SLA 1986)

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**Sec. 46.08.020. Financing of the fund.** (a) The legislature may appropriate from the following sources to the fund;

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(1) money received from federal, state, or other sources or from a private donor;

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(2) money recovered or otherwise received from parties responsible for the containment and cleanup of oil or a hazardous substance at a specific site, but excluding funds from performance bonds and other forms of financial responsibility held in escrow pending satisfactory performance of a privately financed response action;

(3) fines, penalties, or damages recovered under this chapter or other law for costs incurred by the state as a result of the release or threatened release of oil or a hazardous substance.

at and

(b) Money received by the state under (a)(2) and (a)(3) of this section shall be deposited in the general fund and credited to the special account called the "oil and hazardous substance release mitigation account." The legislature may annually appropriate to the fund from this account a sum equal to the amount received under (a)(2) and (a)(3) of this section during the calendar year preceding the legislative session in which the appropriations are to be made. (§ 1 ch 59 SLA 1986)

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**Sec. 46.08.030. Financing the abatement of oil or hazardous substance releases.** It is the intent of the legislature and declared to be the public policy of the state that funds for the abatement of a release of oil or a hazardous substance will always be available. (§ 1 ch 59 SLA 1986)

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**Sec. 46.08.040. Purposes of the fund.** The commissioner may use money from the fund to

(1) contain, clean up, and take other necessary action, such as monitoring, assessing, investigating, and evaluating the release or threatened release of oil or a hazardous substance that poses an imminent

and substantial threat to the public health or welfare, or to the environment;

(2) provide matching funds for participation in federal oil discharge cleanup activities and under 42 U.S.C. 9601 — 9657 (Comprehensive Environmental Response, Compensation, and Liability Act of 1980); and

(3) recover the cost to the state or to a municipality of a containment and cleanup resulting from the release or the threatened release of oil or a hazardous substance. (§ 1 ch 59 SLA 1986)

**Sec. 46.08.050. Records of the fund.** (a) The department shall maintain accounting records showing the income and expenses of the fund.

(b) The department shall develop procedures governing the expenditure of, and accounting for, money expended from the fund, and may not delay implementation of this chapter pending the effective date of the procedures. (§ 1 ch 59 SLA 1986)

**Sec. 46.08.060. Report to the legislature.** (a) The commissioner shall submit a report to the legislature not later than the 10th day following the convening of each regular session of the legislature. The report may include information considered significant by the commissioner but must include:

(1) the amount of money expended under AS 46.08.040 during the preceding fiscal year;

(2) the amount and source of money received and money recovered during the preceding fiscal year as specified in AS 46.08.020;

(3) a summary of municipal participation in responses funded by the fund;

(4) a detailed summary of department activities in responses funded by the fund during the preceding fiscal year, including response and descriptions and statements outlining the nature of the threat; and

(5) the projected cost for the next fiscal year of monitoring, operating, and maintaining sites where response has been completed or is expected to be continued during the fiscal year.

(b) As part of the department's on-going identification efforts associated with oil spill or hazardous waste sites, the commissioner shall include in the report under this section

(1) a summary of the sites identified by the department;

(2) the immediate and long-term threats to the public health or welfare or to the environment posed by these sites; and

(3) the appropriate actions needed to abate these threats, and their estimated cost. (§ 1 ch 59 SLA 1986)

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**Sec. 46.08.070. Reimbursement for containment and cleanup.**

(a) The commissioner shall seek reimbursement promptly under this section, AS 46.03.760(e), or federal law for the cost incurred in the cleanup, or containment of oil or a hazardous substance that has been released.

(b) The attorney general, at the request of the commissioner, may seek to recover money expended by the department under this chapter or other law to contain and clean up oil or a hazardous substance that has been released or to control the threatened release of oil or a hazardous substance.

(c) The department may reimburse a municipality for actual expenses, other than normal operating expenses, incurred in the abatement of a release of threatened release of oil or a hazardous substance if

(1) the municipality has entered into an agreement with the commissioner under AS 46.09.020(e) before incurring the expenses for which reimbursement is sought; and

(2) the commissioner determines that the expenses were for a necessary emergency first response to a release or threatened release that posed an imminent and substantial threat to the public health or welfare, or to the environment. (§ 1 ch 59 SLA 1986)

**Cross references.** — For authority of cleanup of oil and hazardous substances, municipalities for containment and see AS 46.09.060(b).

**Sec. 46.08.080. Regulations.** The commissioner shall periodically review the minimum quantities of hazardous substances established under federal law and may adopt regulations establishing minimum quantities of substances for all or any portion of the substances to which this chapter otherwise applies. The commissioner may otherwise adopt only those regulations that are expressly required to implement the specific purposes of this chapter. (§ 1 ch 59 SLA 1986)

**Sec. 46.08.900. Definitions.** In this chapter

(1) "capital improvement" includes construction, renovation, repair of, and improvement to, a building, but does not include other improvements to real property, such as construction of a dike or retaining wall;

(2) "commissioner" means the commissioner of environmental conservation;

(3) "containment and cleanup" includes the direct and indirect efforts associated with the prevention, abatement, containment, or removal of oil or a hazardous substance, the restoration of the environment, and incidental administrative costs;

(4) "department" means the Department of Environmental Conservation;

(5) "fund" means the oil and hazardous substance release response fund;

(6) "hazardous substance" means

(A) an element or compound that, when it enters into or on the surface or subsurface land or water of the state, presents an imminent and substantial danger to the public health or welfare, or to fish, animals, vegetation, or any part of the natural habitat in which fish, animals, or wildlife may be found; or (B) a substance defined as a hazardous substance under 42 U.S.C. 9601 — 9657 (Comprehensive Environmental Response, Compensation, and Liability Act of 1980); "hazardous substance" does not include uncontaminated crude oil or uncontaminated refined oil in an amount of 10 gallons or less;

(7) "oil" means petroleum products of any kind and in any form, whether crude, refined, or a petroleum by-product, including petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oily refuse, oil mixed with other wastes, liquified natural gas, propane, butane, and other liquid hydrocarbons regardless of specific gravity;

(8) "permitted release" means a release occurring under the authority of a valid permit issued by the department or by the Environmental Protection Agency;

(9) "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, except that "release" does not include a permitted release or an act of nature;

(10) "threatened release" means an imminent danger that a release will occur. (§ 1 ch 59 SLA 1986)

### Chapter 09. Hazardous Substance Release Control.

Section	Section
10. Report of hazardous substance releases	40. Hazardous substances containment and cleanup
20. Containment and cleanup of a released hazardous substance	50. Compacts authorized
30. Disaster emergencies	60. Municipalities
	70. Regulations
	900. Definitions

#### Sec. 46.09.010. Report of hazardous substance releases.

(a) Except as provided in (b) of this section, a person in charge of a vehicle, vessel or container from which, or a place at which, a hazardous substance is released shall report the release to the department and appropriate public safety agencies promptly after learning of the release.

(b) The commissioner may enter into an agreement with a person for the periodic reporting of a controlled release of a hazardous substance if the release is not into water. (§ 2 ch 59 SLA 1986)

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§ 46.09.020

## Chapter 08. Oil and Hazardous Substance Releases.

### Section

46.08.080. Regulations

**Sec. 46.08.080. Regulations.** The commissioner shall periodically review the minimum quantities of hazardous substances established under federal law and may adopt regulations establishing minimum quantities of substances for all of any portion of the substances to which this chapter otherwise applies. The commissioner may otherwise adopt only those regulations that are expressly required to implement the specific purposes of this chapter. (§ 1 ch 59 SLA 1986)

**Editor's notes.** — This section is set out above to correct a typographical error in the main pamphlet.