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SENATE COMMITTEE REPORT

FURTHER

4/21/89

DATE TURNED INTO OFFICE 4/28/89

Mr. President:

Finance Committee considered SB 264

establishing an oil and hazardous substance response office and corps;  
and authorizing the use of the oil and hazardous substance release  
response fund for certain expenses  
and recommended

- replace with CS SB 264 )  same title
- or adopt \_\_\_\_\_ )  new title
- attached amendment(s) and \_\_\_\_\_ )  technical title change (HB only)
- SFC letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to \_\_\_\_\_

FISCAL NOTE(S) [ ] zero <sup>DEC 3909.9 Other</sup>  fiscal impact [ ] appropriation no FN  
 new [ ] updated [ ] previous  
 same as previous fiscal note(s) published \_\_\_\_\_

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]  
[Signature]  
[Signature]  
[Signature]

[Signature]  
 Chairman signature and recommendation

Committee Backup attached

R/0 JFC 4-28-89

LETTER OF INTENT  
CSSB 264 (Finance)

Notwithstanding the provisions of AS 46.08.070 and similar laws, it is the intent of the legislature that the attorney general not seek to recover money expended by the Department of Environmental Conservation for the costs of establishing the oil and hazardous substance response office and oil and hazardous substance response depots even though that money is expended from the oil and hazardous substance release response fund.

R/O SFC 4-28-89

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: CSSR 264 (Fin)  
PUBLISH DATE: 4/27/89

FISCAL NOTE

REQUEST:

Revision Date: April 28, 1989  
Title: An Act establishing an oil and hazardous substance response office and corps, etc.  
Sponsor: Kelly Sturgelewski Eliason, etc.  
Requestor: \_\_\_\_\_  
Agency Affected: Environmental Conservation  
BRU: Environmental Quality Administrative Services  
Components: Environmental Quality Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		443.9	443.9	443.9	443.9	443.9
TRAVEL		40.0	40.0	40.0	40.0	40.0
CONTRACTUAL		2872.0	2872.0	1772.0	1772.0	1772.0
SUPPLIES		259.0	259.0	259.0	259.0	259.0
EQUIPMENT		295.0	295.0	295.0	295.0	295.0
LAND & STRUCT./RES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		3909.9	3909.9	2809.9	2809.9	2809.9

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		3909.9	3909.9	2809.9	2809.9	2809.9
TOTAL		3909.9	3909.9	2809.9	2809.9	2809.9

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Lynn Kent Phone: 465-2630  
Division: Environmental Quality Date: 4/28/89  
Approved by Commissioner: [Signature] Date: 4/28/89  
Agency: Alaska Department of Environmental Conservation

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

Telephone:  
(907) 465-2600

FISCAL ANALYSIS

CSSB 264 (Finance)

April 28, 1989

Contact: Lynn Kent

ESTABLISH DEPOTS AND RESPONSE STATIONS (\$2000.0)

The Department estimates that \$2000.0 will be required for each of the first two years to establish and stock depots and response stations at a minimum of two locations: Valdez and on the Kenai Peninsula. Once established, subsequent year costs are expected to decline to \$500.0 for contracted services to maintain inventories and response readiness.

100	\$ -0-
200	\$ -0-
300	\$1,500.0
400	\$ 250.0
500	\$ 250.0
Total	\$2,000.0*

\*includes \$1,500.0 in first and second year costs

ESTABLISH OIL AND HAZARDOUS SUBSTANCE RESPONSE OFFICE (\$1909.9)

The Response Office would consist of a full-time staff of nine agency personnel: a director, six response specialists, one clerk-typist and one administrative assistant. The contractual line includes \$100.0 for the first two years for establishment of an office; this money will not be necessary in subsequent years. Other costs include training contracts (\$200.0), contracts with local governments (500.0), wages and per diem for volunteer training (\$300.0), contracts with private response specialists (\$100.0), and contracts for oil spill response research (\$100.0).

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
1 Env. Cons. Mgr. (Range 22)	65.9	5.0	8.0	1.0	5.0	84.9
1 Ecologist III (Range 20)	57.7	5.0	8.0	1.0	5.0	76.7
3 Ecologist II (Range 18)	159.9	15.0	24.0	3.0	15.0	216.9
2 Ecologist I (Range 16)	87.4	10.0	16.0	2.0	10.0	125.4
1 Clk Typist III (Range 8)	29.3	0	8.0	1.0	5.0	43.3
1 Admin Asst. III (Range 16)	43.7	5.0	8.0	1.0	5.0	62.7
Totals	443.9	40.0	72.0	9.0	45.0	609.9

Position Costs	\$ 609.9
Contractual Costs	\$1,300.0
Total	\$1,909.9

This fiscal note shows "other" funds as the funding source because funding will come from the Oil and Hazardous Substance Release Fund. However, additional resources will need to be provided to the Response Fund, as there is not currently an adequate balance to support this effort.

Original sponsors: Kelly, Sturgulewski,  
Eliason, et al.

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 264 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an oil and hazardous substance  
7 response office, corps, and depots; authorizing use  
8 of money in the oil and hazardous substance release  
9 response fund for certain related expenses; and  
10 providing for an effective date."

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

12 \* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that the  
13 March 24, 1989, oil spill disaster in Prince William Sound demonstrates a  
14 need for the state to have an independent spill containment and clean-up  
15 capability in the event of future discharges of oil or a hazardous sub-  
16 stance.

17 (b) It is the purpose of this Act to provide assurance to the people  
18 of the state that their health, safety, and well-being will be protected  
19 from the adverse consequences of oil and hazardous substance releases of a  
20 magnitude that presents a grave and substantial threat to the economy and  
21 the environment of the state.

22 \* Sec. 2. AS 46.08.040 is amended to read:

23 Sec. 46.08.040. PURPOSES OF THE FUND. The commissioner may use  
24 money from the fund to

25 (1) contain, clean up, and take other necessary action,  
26 such as monitoring, assessing, investigating, and evaluating the  
27 release or threatened release of oil or a hazardous substance that  
28 poses an imminent and substantial threat to the public health or  
29 welfare, or to the environment;

1           (2) pay all costs incurred to establish and maintain the  
2 oil and hazardous substance response office and for the expenses of  
3 the oil and hazardous substance response corps and the oil and hazard-  
4 ous substance response depots established by that office;

5           (3) provide matching funds for participation in federal oil  
6 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-  
7 hensive Environmental Response, Compensation, and Liability Act of  
8 1980); and

9           (4) [(3)] recover the cost to the state or to a municipal-  
10 ity of a containment and cleanup resulting from the release or the  
11 threatened release of oil or a hazardous substance.

12 \* Sec. 3. AS 46.08 is amended by adding new sections to read:

13           ARTICLE 2. OIL AND HAZARDOUS SUBSTANCE RESPONSE OFFICE.

14           Sec. 46.08.100. OFFICE ESTABLISHED. There is established in the  
15 department the oil and hazardous substance response office. The  
16 office shall include a director and employees who are specially  
17 trained in programs and technologies related to the containment and  
18 cleanup of releases or threatened releases of oil and hazardous sub-  
19 stances.

20           Sec. 46.08.110. RESPONSE CORPS. (a) The office shall establish  
21 an oil and hazardous substance response corps.

22           (b) The corps consists of volunteers who register with the  
23 office and agree to be trained by the office in techniques for con-  
24 tainment and cleanup and to be available on short notice to assist the  
25 office in containment and cleanup.

26           (c) Members of the corps are entitled to per diem and expenses  
27 as determined by the commissioner for training and for days spent in  
28 service to the state in containment and cleanup actions.

29           Sec. 46.08.120. RESPONSE DEPOTS. The office shall maintain

1 emergency response depots in areas of the state determined by the  
2 director to be potential sites of releases or threatened releases of  
3 oil or hazardous substances. The depots shall be equipped and staffed  
4 in a manner that ensures prompt response when containment and cleanup  
5 actions are necessary.

6 Sec. 46.08.130. DUTIES OF THE OFFICE. (a) The office shall be  
7 prepared to respond promptly to a discharge of oil or a hazardous  
8 substance.

9 (b) The office may respond under (a) of this section to an oil  
10 or hazardous substance discharge only if:

11 (1) the oil discharge is a catastrophic oil discharge that  
12 constitutes an emergency under AS 46.04.080(a);

13 (2) the discharge of oil or a hazardous substance is de-  
14 clared to be an emergency under AS 46.03.865;

15 (3) the governor declares the discharge an emergency under  
16 AS 26.23;

17 (4) the commissioner reasonably believes that there has  
18 been a discharge of oil or a hazardous substance, or that there is a  
19 potential discharge of oil or a hazardous substance, and the discharge  
20 may qualify under (1) - (3) of this subsection; or

21 (5) the commissioner reasonably believes that the discharge  
22 or potential discharge poses an imminent and substantial threat to  
23 public health or welfare or to the environment.

24 Sec. 46.08.140. EMERGENCY POWERS. (a) When the office has  
25 reasonable grounds to believe that a release of oil or a hazardous  
26 substance has occurred or is threatened to occur which, in the judg-  
27 ment of its director, presents an imminent or present danger to the  
28 health or welfare of the people of the state or would result in or is  
29 likely to result in irreversible or irreparable damage to the natural

1 resources or environment, and it appears to be prejudicial to the  
2 interest of the people of the state to delay action until an oppor-  
3 tunity for a hearing can be provided, state employees or members of  
4 the corps may, with permission of the director and without prior  
5 hearing, enter private property for the purpose of containment or  
6 cleanup.

7 (b) The property owner affected by a response action taken under  
8 (a) of this section has the right to be heard as soon as practicable  
9 and to present proof to the office that the containment or cleanup  
10 action is unnecessary or that it is not necessary to enter the per-  
11 son's property for the containment or cleanup action.

12 Sec. 46.08.150. CONTRACTS. The office may enter into agreements  
13 with agencies of the state and federal government, political subdivi-  
14 sions, the University of Alaska, or private entities to

15 (1) establish and maintain regional oil and hazardous  
16 substances depots and to acquire the supplies and equipment necessary  
17 for response readiness;

18 (2) train members of response corps; and

19 (3) conduct research into oil and hazardous substances  
20 spill technology.

21 Sec. 46.08.160. LIMITATION OF LIABILITY. The state, an employee  
22 of the state, and a member of the corps are not liable for costs or  
23 damages as a result of actions taken under AS 46.08.100 - 46.08.190 in  
24 response to a release or threatened release unless the actions taken  
25 by the state, the employee, or the member of the corps constitute  
26 gross negligence or intentional misconduct.

27 Sec. 46.08.190. DEFINITIONS. In AS 46.08.100 - 46.08.190

28 (1) "corps" means the oil and hazardous substance response  
29 corps;

1 (2) "depots" means the oil and hazardous substance supply  
2 and equipment storage depots;

3 (3) "office" means the oil and hazardous substance response  
4 office.

5 \* Sec. 4. APPLICABILITY OF ACT. This Act does not relieve a person  
6 responsible for an oil terminal facility, offshore exploration or produc-  
7 tion facility, or a vessel that transports crude oil, or a person who has  
8 control of a hazardous substance from the responsibility for containing and  
9 cleaning up a discharge of oil or the hazardous substance as required by  
10 law.

11 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).  
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6-1182R -  
Lauterbach  
4/27/89

Original sponsors: Kelly, Sturgulewski,  
Eliason, et al.

4/28/89  
ADOPTED

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 264 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an oil and hazardous substance  
7 response office, corps, and depots; authorizing use  
8 of money in the oil and hazardous substance release  
9 response fund for certain related expenses; and  
10 providing for an effective date."

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

12 \* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that the  
13 March 24, 1989, oil spill disaster in Prince William Sound demonstrates a  
14 need for the state to have an independent spill containment and clean-up  
15 capability in the event of future discharges of oil or a hazardous sub-  
16 stance.

17 (b) It is the purpose of this Act to provide assurance to the people  
18 of the state that their health, safety, and well-being will be protected  
19 from the adverse consequences of oil and hazardous substance releases of a  
20 magnitude that presents a grave and substantial threat to the economy and  
21 the environment of the state.

22 \* Sec. 2. AS 46.08.040 is amended to read:

23 Sec. 46.08.040. PURPOSES OF THE FUND. The commissioner may use  
24 money from the fund to

25 (1) contain, clean up, and take other necessary action,  
26 such as monitoring, assessing, investigating, and evaluating the  
27 release or threatened release of oil or a hazardous substance that  
28 poses an imminent and substantial threat to the public health or  
29 welfare, or to the environment;

1 (2) pay all costs incurred to establish and maintain the  
2 oil and hazardous substance response office and for the expenses of  
3 the oil and hazardous substance response corps and the oil and hazard-  
4 ous substance response depots established by that office;

5 (3) provide matching funds for participation in federal oil  
6 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-  
7 hensive Environmental Response, Compensation, and Liability Act of  
8 1980); and

9 (4) [(3)] recover the cost to the state or to a municipal-  
10 ity of a containment and cleanup resulting from the release or the  
11 threatened release of oil or a hazardous substance.

12 [\* Sec. 3. AS 46.08.070(b) is amended to read:

13 (b) The attorney general, at the request of the commissioner,  
14 may seek to recover money expended by the department under this chap-  
15 ter or other law to contain and clean up oil or a hazardous substance  
16 that has been released or to control the threatened release of oil or  
17 a hazardous substance. The attorney general may not seek to recover  
18 money expended by the department under this chapter for the costs of  
19 establishing oil and hazardous substance response offices and depots. ]

20 \* Sec. 4. AS 46.08 is amended by adding new sections to read:

21 ARTICLE 2. OIL AND HAZARDOUS SUBSTANCE RESPONSE OFFICE.

22 Sec. 46.08.100. OFFICE ESTABLISHED. There is established in the  
23 department the oil and hazardous substance response office. The  
24 office shall include a director and employees who are specially  
25 trained in programs and technologies related to the containment and  
26 cleanup of releases or threatened releases of oil and hazardous sub-  
27 stances.

28 Sec. 46.08.110. RESPONSE CORPS. (a) The office shall establish  
29 an oil and hazardous substance response corps.

1 (b) The corps consists of volunteers who register with the  
2 office and agree to be trained by the office in techniques for con-  
3 tainment and cleanup and to be available on short notice to assist the  
4 office in containment and cleanup.

5 (c) Members of the corps are entitled to per diem and expenses  
6 as determined by the commissioner for training and for days spent in  
7 service to the state in containment and cleanup actions.

8 Sec. 46.08.120. RESPONSE DEPOTS. The office shall maintain  
9 emergency response depots in areas of the state determined by the  
10 director to be potential sites of releases or threatened releases of  
11 oil or hazardous substances. The depots shall be equipped and staffed  
12 in a manner that ensures prompt response when containment and cleanup  
13 actions are necessary.

14 Sec. 46.08.130. DUTIES OF THE OFFICE. (a) The office shall be  
15 prepared to respond promptly to a discharge of oil or a hazardous  
16 substance.

17 (b) The office may respond under (a) of this section to an oil  
18 or hazardous substance discharge only if:

19 (1) the oil discharge is a catastrophic oil discharge that  
20 constitutes an emergency under AS 46.04.080(a);

21 (2) the discharge of oil or a hazardous substance is de-  
22 clared to be an emergency under AS 46.03.865;

23 (3) the governor declares the discharge an emergency under  
24 AS 26.23;

25 (4) the commissioner reasonably believes that there has  
26 been a discharge of oil or a hazardous substance, or that there is a  
27 potential discharge of oil or a hazardous substance, and the discharge  
28 may qualify under (1) - (3) of this subsection; or

29 (5) the commissioner reasonably believes that the discharge

1 or potential discharge poses an imminent and substantial threat to  
2 public health or welfare or to the environment.

3 Sec. 46.08.140. EMERGENCY POWERS. (a) When the office has  
4 reasonable grounds to believe that a release of oil or a hazardous  
5 substance has occurred or is threatened to occur which, in the judg-  
6 ment of its director, presents an imminent or present danger to the  
7 health or welfare of the people of the state or would result in or is  
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10 interest of the people of the state to delay action until an oppor-  
11 tunity for a hearing can be provided, state employees or members of  
12 the corps may, with permission of the director and without prior  
13 hearing, enter private property for the purpose of containment or  
14 cleanup.

15 (b) The property owner affected by a response action taken under  
16 (a) of this section has the right to be heard as soon as practicable  
17 and to present proof to the office that the containment or cleanup  
18 action is unnecessary or that it is not necessary to enter the per-  
19 son's property for the containment or cleanup action.

20 Sec. 46.08.150. CONTRACTS. The office may enter into agreements  
21 with agencies of the state and federal government, political subdivi-  
22 sions, the University of Alaska, <sup>OR</sup> and private entities to

23 (1) establish and maintain regional oil and hazardous  
24 substances depots and to acquire the supplies and equipment necessary  
25 for response readiness;

26 (2) train members of response corps; and

27 (3) conduct research into oil and hazardous substances  
28 spill technology.

29 Sec. 46.08.160. LIMITATION OF LIABILITY. The state, an employee

1 of the state, and a member of the corps are not liable for costs or  
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7 (1) "corps" means the oil and hazardous substance response  
8 corps;

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15 tion facility, or a vessel that transports crude oil, or a person who has  
16 control of a hazardous substance from the responsibility for containing and  
17 cleaning up a discharge of oil or the hazardous substance as required by  
18 law.

19 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).  
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6-1182P  
Lauterbach  
4/27/89

Original sponsors: Kelly, Sturgulewski,  
Eliason, et al.

*See paper clips for  
Amendments  
4/27/89 pm*

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24 tainment and cleanup and to be available on short notice to assist the  
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17 (4) the commissioner reasonably believes that there has  
18 been a discharge of oil or a hazardous substance, or that there is a  
19 potential discharge of oil or a hazardous substance, and the discharge  
20 may qualify under (1) - (3) of this subsection; or

21 *Adopted 5/0*  
*the Commissioner reasonably believes that*  
22 (5) <sup>^</sup>the discharge or potential discharge poses an imminent  
23 and substantial threat to public health or welfare or to the environ-  
24 ment.

25 Sec. 46.08.140. EMERGENCY POWERS. (a) When the office has  
26 reasonable grounds to believe that a release of oil or a hazardous  
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2 interest of the people of the state to delay action until an oppor-  
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11 son's property for the containment or cleanup action.

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18 (2) train members of response corps; and

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20 spill technology.

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24 (2) "depots" means the oil and hazardous substance supply  
25 and equipment storage depots;

26 *Add* (3) "office" means the oil and hazardous substance response  
27 office.

28 \* Sec. 4. *Limitation of Liability* APPLICABILITY OF ACT. This Act does not relieve a person  
29 responsible for an oil terminal facility, offshore exploration or

1 production facility, or a vessel that transports crude oil, or a person who  
2 has control of a hazardous substance from the responsibility for containing  
3 and cleaning up a discharge of oil or the hazardous substance as required  
4 by law.

5 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).  
6

7 *Conceptual Amendment:*  
8 *Pearce - AS 46.03.070(b)*  
9 *Chenoweth -*

10 *The commissioner or attorney general*  
11 *may not seek to recover the cost*  
12 *of depots.*

Original sponsors: Kelly, Sturgulewski,  
Eliason, et al.

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 264 ( )

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an oil and hazardous substance  
7 response office, corps, and depots; authorizing use  
8 of money in the oil and hazardous substance release  
9 response fund for certain related expenses; and  
10 providing for an effective date."

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

12 \* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that the  
13 March 24, 1989, oil spill disaster in Prince William Sound demonstrates a  
14 need for the state to have an independent spill containment and clean-up  
15 capability in the event of future discharges of oil or a hazardous sub-  
16 stance.

17 (b) It is the purpose of this Act to provide assurance to the people  
18 of the state that their health, safety, and well-being will be protected  
19 from the adverse consequences of oil and hazardous substance releases of a  
20 magnitude that presents a grave and substantial threat to the economy and  
21 the environment of the state.

22 \* Sec. 2. AS 46.08.040 is amended to read:

23 Sec. 46.08.040. PURPOSES OF THE FUND. The commissioner may use  
24 money from the fund to

25 (1) contain, clean up, and take other necessary action,  
26 such as monitoring, assessing, investigating, and evaluating the  
27 release or threatened release of oil or a hazardous substance that  
28 poses an imminent and substantial threat to the public health or  
29 welfare, or to the environment;

1 (2) pay all costs incurred to establish and maintain the  
2 oil and hazardous substance response office and for the expenses of  
3 the oil and hazardous substance response corps and the oil and hazard-  
4 ous substance response depots established by that office;

5 (3) provide matching funds for participation in federal oil  
6 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-  
7 hensive Environmental Response, Compensation, and Liability Act of  
8 1980); and

9 (4) [(3)] recover the cost to the state or to a municipal-  
10 ity of a containment and cleanup resulting from the release or the  
11 threatened release of oil or a hazardous substance.

12 \* Sec. 3. AS 46.08 is amended by adding new sections to read:

13 ARTICLE 2. OIL AND HAZARDOUS SUBSTANCE RESPONSE OFFICE.

14 Sec. 46.08.100. OFFICE ESTABLISHED. (a) There is established  
15 in the department the oil and hazardous substance response office.  
16 The office shall include a director and employees who are specially  
17 trained in programs and technologies related to the containment and  
18 cleanup of releases or threatened releases of oil and hazardous sub-  
19 stances.

20 (b) The commissioner may establish and maintain the office by

21 (1) direct employment;

22 (2) contract with political subdivisions, the University of  
23 Alaska, transporters, and other private persons; or

24 (3) any combination of (1) and (2) of this subsection.

25 Sec. 46.08.110. RESPONSE CORPS. (a) The office shall establish  
26 an oil and hazardous substance response corps.

27 (b) The corps consists of volunteers who register with the  
28 office and agree to be trained by the office in techniques for con-  
29 tainment and cleanup and to be available on short notice to assist the

1 office in containment and cleanup.

2 (c) Members of the corps are entitled to wages, per diem, and  
3 expenses as determined by the commissioner for training and for days  
4 spent in service to the state in containment and cleanup actions.

5 Sec. 46.08.120. RESPONSE DEPOTS. The office shall maintain  
6 emergency response depots in areas of the state determined by the  
7 director to be potential sites of releases or threatened releases of  
8 oil or hazardous substances. The depots shall be equipped and staffed  
9 in a manner that ensures prompt response when containment and cleanup  
10 actions are necessary.

11 Sec. 46.08.130. DUTIES OF THE OFFICE. (a) The office shall be  
12 prepared to respond promptly to a discharge of oil or a hazardous  
13 substance.

14 (b) The office may respond under (a) of this section to an oil  
15 or hazardous substance discharge only if:

16 (1) the oil discharge is a catastrophic oil discharge that  
17 constitutes an emergency under AS 46.04.080(a);

18 (2) the discharge of oil or a hazardous substance is de-  
19 clared to be an emergency under AS 46.03.865;

20 (3) the governor declares the discharge an emergency under  
21 AS 26.23;

22 (4) the commissioner reasonably believes that there has  
23 been a discharge of oil or a hazardous substance, or that there is a  
24 potential discharge of oil or a hazardous substance, and the discharge  
25 may qualify under (1) - (3) of this subsection; or

26 (5) the discharge or potential discharge poses an imminent  
27 and substantial threat to public health or welfare or to the environ-  
28 ment.

29 Sec. 46.08.140. EMERGENCY POWERS. (a) When the office has

1 reasonable grounds to believe that a release of oil or a hazardous  
2 substance has occurred or is threatened to occur which, in the judg-  
3 ment of its director, presents an imminent or present danger to the  
4 health or welfare of the people of the state or would result in or is  
5 likely to result in irreversible or irreparable damage to the natural  
6 resources or environment, and it appears to be prejudicial to the  
7 interest of the people of the state to delay action until an oppor-  
8 tunity for a hearing can be provided, state employees or members of  
9 the corps may, with permission of the director and without prior  
10 hearing, enter private property for the purpose of containment or  
11 cleanup.

12 (b) The property owner affected by a response action taken under  
13 (a) of this section has the right to be heard as soon as practicable  
14 and to present proof to the office that the containment or cleanup  
15 action is unnecessary or that it is not necessary to enter the per-  
16 son's property for the containment or cleanup action.

17 Sec. 46.08.150. CONTRACTS. The office may enter into agreements  
18 with agencies of the state and federal government, political subdivi-  
19 sions, the University of Alaska, and private entities to

20 (1) establish and maintain regional oil and hazardous  
21 substances depots and to acquire the supplies and equipment necessary  
22 for response readiness;

23 (2) train members of response corps; and

24 (3) conduct research into oil and hazardous substances  
25 spill technology.

26 Sec. 46.08.190. DEFINITIONS. In AS 46.08.100 - 46.08.190

27 (1) "corps" means the oil and hazardous substance response  
28 corps;

29 (2) "depots" means the oil and hazardous substance supply

1 and equipment storage depots;

2 (3) "office" means the oil and hazardous substance response  
3 office.

4 \* Sec. 4. APPLICABILITY OF ACT. This Act does not relieve a person  
5 responsible for an oil terminal facility, offshore exploration or produc-  
6 tion facility, or a vessel that transports crude oil, or a person who has  
7 control of a hazardous substance from the responsibility for containing and  
8 cleaning up a discharge of oil or the hazardous substance as required by  
9 law.

10 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).  
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6-1182Ma ✓  
Lauterbach

4/27/89  
Pearce  
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A M E N D M E N T

OFFERED IN THE SENATE

BY PEARCE

TO: CSSB 264 ( )

Page 4, after line 25:

Insert a new section to read:

"Sec. 46.08.160. LIMITATION OF LIABILITY. The state, an employee of the state, and a member of the corps are not liable for costs or damages as a result of actions taken under AS 46.08.100 - 46.08.190 in response to a release or threatened release unless the actions taken by the state, the employee, or the member of the corps constitute gross negligence or intentional misconduct."

# MEMORANDUM

Date: April 27, 1989  
To: Sen. Kelly  
From: G. Michael Harmon  
Subj: CSSB264 Wage Provisions

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According to Jackie McClintock, director of the Division of Workers' Compensation, the question is whether corps volunteers will be state employees for the purposes of workers comp.

It is her opinion that they would be covered by the workers comp statutes even if we take out the term wages and substitute the phrase "per diem as determined by the commissioner." Per diem, for the purposes of workers comp, is considered pay for the purposes of workers comp, the department has ruled.

The director also says it is her opinion that the volunteers would be covered in any event because of AS 23.30.244. Civil defense and disaster relief forces as state employees. That provision, which was approved as part of last year's workers comp bill, provides that:

"A resident of Alaska temporarily engaged in a civil defense or disaster relief function in another state or country under AS 26.23.130 or as a volunteer in this state is considered an employee of the state for the purposes of this chapter."

Finally, Ms. McClintock says she cannot estimate the fiscal impact of this additional workers comp coverage.

# SB264 Cost Estimate

4/22/89  
Tim Kelley

Response Office \_\_\_\_\_ \$1,960,000

Salaries & Benefits

Office Expenses

Travel

Office Equipment

Response Corps Establishment & Training \_\_\_\_\_ \$5,000,000

Depots (11)

Booms, absorbants, pumps, etc. \$8,250,000

Speciality Equipment 3,000,000

Contractual Storage 550,000

Subtotal \_\_\_\_\_ \$11,800,000

Oil Spill Containmen & Clean-up Technology Research \_\_\_\_\_ \$1,000,000

**TOTAL** \$19,760,000

1/13

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act establishing an oil and hazardous substance response office and  
Sponsor: corps, etc.  
Requestor: Kelly, Sturgulewski, Eliason, etc.

Agency Affected: Environmental Conservation  
BRU: Environmental Quality  
Administrative Services  
Components: Environmental Quality  
Administrative Services

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

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		660.0	660.0	660.0	660.0	660.0
TRAVEL		60.0	60.0	60.0	60.0	60.0
CONTRACTUAL		2700.0	2620.0	1620.0	1620.0	1620.0
SUPPLIES		265.0	265.0	265.0	265.0	265.0
EQUIPMENT		345.0	325.0	325.0	325.0	325.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>4030.0</b>	<b>3930.0</b>	<b>2930.0</b>	<b>2930.0</b>	<b>2930.0</b>

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

GENERAL FUND						
FEDERAL FUNDS						
OTHER		4030.0	3930.0	2930.0	2930.0	2930.0
<b>TOTAL</b>		<b>4030.0</b>	<b>3930.0</b>	<b>2930.0</b>	<b>2930.0</b>	<b>2930.0</b>

**POSITIONS:**

FULL-TIME		9	9	9	9	9
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

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

Prepared by: Dan Easton Phone: 465-2640  
Division: Environmental Quality Date: April 21, 1989

Approved by Commissioner: *ADH/L* Date: 04/21/89  
Agency: Alaska Department of Environmental Conservation

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

THE FOLLOWING IS A VERY PRELIMINARY ANALYSIS BASED ON A BRIEF REVIEW OF THE PROPOSED LEGISLATION. THE ANALYSIS AND INCLUDED ESTIMATES WILL BE REFINED DURING THE COMMITTEE PROCESS.

ESTABLISH DEPOTS AND RESPONSE STATIONS (\$2000.0)

The Department estimates that \$2000.0 will be required for each of the first two years to establish and stock depots and response stations at a minimum of two locations: Valdez and on the Kenai Peninsula. Once established, subsequent year costs are expected to decline to \$500.0 for contracted services to maintain inventories and response readiness.

100	\$ -0-
200	\$ -0-
300	\$1,500.0
400	\$ 250.0
500	\$ 250.0
Total	<u>\$2,000.0*</u>

\*includes \$1,500.0 in first and second year costs

ESTABLISH OIL AND HAZARDOUS SUBSTANCE RESPONSE OFFICE (\$2,030.0)

The Response Office would consist of a full-time staff of nine agency personnel: a director, six response specialists, one clerk-typist and one administrative assistant. First-year costs to establish and staff the office are estimated at \$700.0. Subsequent year costs are estimated at \$600.0. Other costs include training contracts (\$200.0), contracts with local governments (\$500.0), wages and per diem for volunteer training (\$300.0), contracts with private response specialists (\$100.0), and contracts for oil spill response research (\$100.0).

100	\$ 660.0
200	\$ 60.0
300	\$1,200.0
400	\$ 15.0
500	\$ 95.0
Total	<u>\$2,030.0*</u>

\*includes \$100.0 in first year costs