

HB486

SENATE FINANCE COMMITTEE REPORT

DATE: 5/10/92

FURTHER:

DATE TURNED INTO OFFICE: 5-12-92

The Finance Committee considered CS FOR HOUSE BILL NO. 486 (FINANCE)

"An Act making a contingent appropriation to the trust established for damages to natural resources affected by the March 24, 1989, Exxon Valdez oil spill; and providing for an effective date."

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

appropriation--no fiscal note

DO PASS:

Jim Duncan

1. *John Adams*

Co-Chair: Signature/Recommendation

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

OTHER RECOMMENDATIONS:

Al Adams, No Rec
John Adams
John Adams, No Rec
John Adams

2. _____

Co-Chair: Signature/Recommendation

CS FOR HOUSE BILL NO. 486 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/1/92
Referred: Rules

Sponsor(s): HOUSE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act making a contingent appropriation to the trust established for damages to natural
2 resources affected by the March 24, 1989, Exxon Valdez oil spill; and providing for an
3 effective date."

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

5 * Section 1. (a) Contingent upon (b) of this section, the interest of the State of Alaska in the money
6 paid during fiscal years 1992 and 1993 by Exxon Corporation, Exxon Shipping Company, or Exxon
7 Pipeline Company, under the Agreement and Consent Decree in United States v. Exxon et al., and State
8 of Alaska v. Exxon, et al., United States District Court, District of Alaska, cases No. A91-082 Civ. and
9 A91-083 Civ., and not paid to the state or federal governments as reimbursements for expenses related
10 to the Exxon Valdez oil spill and incurred by either government on or before December 31, 1992, is
11 appropriated to the trust.

12 (b) The appropriation made by (a) of this section is contingent upon the taking effect of a bill
13 or bills passed by the Seventeenth Alaska State Legislature that

14 (1) recognize the trust;

1 (2) prohibit state agencies from expending money received from the trust except in
2 accordance with an appropriation made by law;

3 (3) require state officers designated as trustees of the trust to comply with AS 39.52 and,
4 in certain circumstances, with AS 44.62.310 - 44.62.312; and

5 (4) require the state officers designated as trustees of the trust to agree to expenditures
6 from the trust only if they are paid to an agency of the state or federal government or are for
7 administrative expenses of the trust and are consistent with the competitive principles of AS 36.30.

8 (c) In this section, "trust" means the trust established for natural resource damage recoveries
9 under the Memorandum of Agreement and Consent Decree entered into by the United States and the
10 state in settlement of claims to money received by the state and federal governments for injury, loss, or
11 destruction to the natural resources affected by the March 24, 1989, Exxon Valdez oil spill, and approved
12 by the court on August 28, 1991, in United States v. Alaska, United States District Court, case No. A91-
13 081 Civ.

14 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

State of Alaska

House Majority Leader

COMMITTEES

HOUSE JUDICIARY
HOUSE RULES
HOUSE STATE AFFAIRS
SPECIAL COMMITTEE
MILITARY AND VET. AFFAIRS
LEGISLATIVE COUNCIL



Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

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M E M O R A N D U M

DATE: May 9, 1992

TO: Senator Pat Pourchot
Chair, Senate Finance Committee

FROM: Representative Max Gruenberg /MAX

RE: CSHB 486 (FIN), "The Exxon Valdez Oil Spill Trust
Contingent Appropriation Bill"

I would very much appreciate it if you would schedule HB 486 for a hearing as soon as it is possible.

HB 486 appropriates the states interest in the the Exxon Valdez oil spill settlement money paid by Exxon in FY '92 and FY '93 to the Exxon Valdez Oil Spill Trust.

This appropriation is contingent on the taking effect of legislation containing the major substantive provisions of CSHB 484 (FIN).

HB 486 was introduced at the request of the House Judiciary Committee Settlement Subcommittee.

The advice of legal counsel to the subcommittee was that in order to place the state in the best position to defend itself against a state constitutional challenge to the structure of the Exxon spill settlement, the legislature must appropriate the state's interest in the settlement money to the trust, when that money is paid by Exxon.

The Department of Law Supports CSHB 486 (FIN).

If you have any questions please call me or my legislative assistant, Mark Handley, at 465-4986.

Thank you.

HB486.TXT\MTH

State of Alaska

House Majority Leader
COMMITTEES
HOUSE JUDICIARY
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MEMORANDUM

May 5, 1992

To: Representative Max Gruenberg
Chair, Settlement Subcommittee

From: Mark Handley

Re: Sectional Analysis of HB 486 (FIN), "The Exxon Valdez Oil
Spill Trust Contingent Appropriation Bill"

Section 1

Appropriates the state's interest in the the Exxon Valdez oil spill settlement money paid by Exxon in FY '92 and FY '93 to the Exxon Valdez Oil Spill Trust. This appropriation is contingent on the taking effect of legislation (1) recognizing the Exxon Valdez Oil Spill Trust; (2) providing that state agencies may not expend trust money, except in accordance with an appropriation; (3) requiring that state trustees comply with the Alaska Executive Branch Ethics Act, and in certain circumstances, comply with the Alaska Open Meetings Act; and (4) requiring that all trust expenditures are spent through state or federal agencies, except for expenditures related to administration of the trust which are made in in a manner that is consistent with the competitive principles of our state procurement code.

Section 2

Provides for an immediate effective date.

HB486.SEC\MTH



U.S. Department of Justice

Environment and Natural Resources Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAY 8 1992

The Honorable Charles E. Cole
Attorney General
State of Alaska
P.O. Box 110300 - State Capitol
Juneau, Alaska 99811

Dear General Cole:

Thank you for seeking our views on House Bills 484 and 486, recently introduced in the Alaska State Legislature. We appreciate the opportunity to comment on what we believe is a matter of considerable importance to the federal trustees. We also appreciate your efforts to ensure that the spirit of the settlement terms and process are preserved. We have no objections, legal or otherwise, to the substitute legislation as written.

We did have concerns about the previous version of Bill No. 484, which provided, inter alia, that a state trustee could not authorize an expenditure of money from the trust unless the expenditure was in accordance with an appropriation by the state legislature, and which appeared to provide that, under certain circumstances, amounts paid as reimbursements to the United States were subject to the appropriations process. These provisions, in our view, were contrary to principles of comity, as well as to the intentions of the State and Federal governments when they entered both the Memorandum of Agreement and the Consent Decree with Exxon Corporation, and Exxon Shipping Company. We also believe that the state appropriations process required by the earlier bill could have produced results inconsistent with the provisions of the Consent Decree, as approved by a federal court, which clearly provides that all decisions regarding expenditure of funds are in the hands of the trustees.

It appears that all of these concerns have been met. Again, we appreciate your efforts to address them. Please do not hesitate to contact me to discuss this further.

Sincerely,

Barry M. Hartman
Acting Assistant Attorney General

STATE OF ALASKA
WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

May 6, 1992

Honorable Max Gruenberg
Alaska House of Representatives
State Capitol, Rm. 216
Juneau, AK 99801-1182

Re: HB 484 and 486

Dear Representative Gruenberg:

I wish to express my support for the passage of House Bill No. 484 and the accompanying appropriation bill, House Bill No. 486. The version of House Bill 484 offered by the House Finance Committee (CSHB 484(Fin)) would enact procedures for the expenditure of money received by the trust established under the Memorandum of Agreement and Consent Decree entered into by the United States and the state in settlement of the claims arising out of the Exxon Valdez oil spill.

The bill makes the existing program review procedures of the Executive Budget Act a part of the process for state agencies to receive and expend receipts of the trust. If this bill is enacted, the Legislative Budget and Audit Committee would become the monitor for appropriations of trust receipts to state agencies. I initially opposed this approach but, after consulting with Representative Larson and you, I now believe that the involvement of this committee of the legislature will enable the legislature to have the involvement which it views as necessary.

House Bill No. 486 makes technical appropriations of the money received under the Memorandum of Agreement and Consent Decree to the trust. These appropriations are conditioned upon the enactment of the spending procedures enacted in House Bill No. 484. I believe that these bills will foreclose legal challenges to the spending authority of the trustees by assuring that the money received by the trust and the expenditures from trust receipts are authorized in the manner required by the Alaska Constitution.

I am also authorized to say that the Department of Justice has no objections to these legislative proposals.

REPLY TO:

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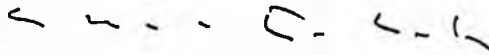
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Honorable Max Gruenberg
Alaska House of Representatives
Our file:

May 6, 1992
Page 2

I appreciate the cooperation and understanding shown by Representative Larson and you and your respective staffs for my concerns relating to these bills. I urge your favorable consideration of these bills.

Sincerely yours,



Charles E. Cole
Attorney General

CEC:JLB:tg