

SB240

SENATE FINANCE COMMITTEE REPORT

DATE: 5/8/91

FURTHER:

DATE TURNED INTO OFFICE: 5-19-91

The Finance Committee considered SENATE BILL NO. 240

"An Act making an appropriation to the Department of Revenue for the fisheries tax refund program for payments based on the harvest of fish; and providing for an effective date."

and recommended:

- replace with _____ CS
 - or adopt _____ CS SB 240 (C&RA)
 - attached amendment(s)
 - _____ letter of intent adopted
- same title
 - new title
 - technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

John Duncan No Rec
Al Adams No Rec
Dick Stutz No Rec
Rich Gels (No Rec)

1. *Bob ...* *Keith ...* No Rec
 Co-Chairs: Signatures and Recommendations

CS FOR SENATE BILL NO. 240 (CRA)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:	5/8/91	
Referred:	Finance	
Funding Information:	General Fund	\$3,500,000
	Other Funds	<u>-0-</u>
		\$3,500,000

Sponsor(s): SENATOR ZHAROFF

A BILL

FOR AN ACT ENTITLED

1 "An Act making an appropriation to the Department of Revenue for the fisheries tax
 2 refund program for payments based on the harvest of fish; and providing for an effective
 3 date."

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

5 * Section 1. PURPOSE. To hold harmless municipalities whose tax receipts were affected by
 6 reduction of payments of the fisheries business tax, it is the purpose of this Act to provide additional
 7 refunds payable to municipalities so that the municipalities are compensated for the decrease in the
 8 proceeds of the fisheries business tax during fiscal year 1990 caused by the Exxon Valdez oil discharge
 9 disaster.

10 * Sec. 2. The sum of \$3,500,000 is appropriated from the general fund to the Department of Revenue
 11 to be allocated and paid to municipalities that suffered the loss of fish tax revenue (AS 43.75.130)
 12 because of the Exxon Valdez oil spill and have entered into an agreement with the Department of
 13 Revenue to reimburse the state for up to the amount of the allocation if, and to the extent that, the
 14 municipality receives a recovery from another person or entity as compensation for lost fish tax revenues

1 for fiscal year 1990.

2 * Sec. 3. The unexpended and unobligated balance of the appropriation made by this Act lapses into
3 the general fund December 31, 1991.

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



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:


P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Pat Pourchot, Co-Chairman
Senate Finance Committee

FROM: Senator Fred F. Zharoff 

DATE: May 9, 1991

SUBJ: Hearing Request for CS SB 240 (C&RA)

The purpose of this memo is to request scheduling of CS SB 240 (C&RA), "An Act making an appropriation to the Department of Revenue for the fisheries tax refund program based on the harvest of fish; and providing for an effective date."

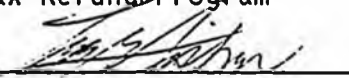
The intent of this bill is to reimburse communities for lost fish tax revenue as a result of the Exxon Valdez oil spill. The bill as currently structured would appropriate \$3.5 million to the Department of Revenue to allocate to municipalities that suffered loss of fish tax revenue due to the spill. In addition, the bill would require the municipalities to reimburse the state should the municipality recover fish tax revenue as a result of litigation with Exxon.

A similar version of this bill was before the Senate last session (SB 461), and was in Senate Finance when the legislature adjourned.

Thank you for your consideration of this request

Attachments

DEPARTMENT OF REVENUE
BILL NO: HB 276
TITLE: Appropriation for the Fisheries
Tax Refund Program

APPROVED: 
DATE: April 24, 1991

POSITION PAPER

The Department of Revenue has reviewed HB 276 and the Senate companion SB 240 and with minor amendment supports the legislation.

As a result of the Exxon Valdez oil spill of March 25, 1989 many Prince William Sound and Gulf of Alaska communities suffered a substantial loss of fish tax revenues. These bills intend to use the state's general fund to assist those communities who can demonstrate actual financial losses as a direct result of the spill. We estimate these losses to total approximately 3.5 million dollars. The department will carefully review claims from individual communities including detailed back-up to substantiate the claims and to determine the amount to be paid from this bill. The municipalities will continue to pursue their claims with Exxon, and before receiving proceeds from this legislation will agree to reimburse the State up to the amount paid from this bill if they prevail in court or through settlement. The State will cooperate with the municipalities in pursuit of their claims to Exxon.

There appears to be no question that the communities lost these revenues as a result of the spill. Last year it appeared that a settlement with the municipalities would be paid by Exxon; the largest questions were entitlements which have now been documented. It is our understanding that Exxon has been seeking a broader settlement with the municipalities, and refuses to pay the fish tax claims separately. For many communities the fish tax revenue is a major part of their operating revenues (20-50%). The municipalities have all the data necessary, including estimated potential catch and actual prices necessary to prepare and submit detailed claims for reimbursement of lost revenues.

Since the State of Alaska collects the fish tax and pays 50% to the municipalities, there is some question as to the strength of the municipalities legal position to collect the raw fish tax loss from Exxon since the municipalities are beneficiaries but not legal collectors of raw fish tax. In addition, the spill settlement by the State places the municipalities at a further disadvantage in pursuit of their claims. For these reasons, we support payment of these claims by the State of Alaska to make the municipalities whole from the Oil Spill. The municipalities have suffered large loss and should not be expected to absorb the loss of the raw fish tax revenue as well. Because of receiving these funds the municipalities will be better able to afford the pursuit of their claims against Exxon for fish tax and other major impacts. The amendment we suggest at this time is a reduction of the amount in section #2 from \$4.5 million to \$3.5 million.

This Position Paper supplements the fiscal note analysis prepared on April 19, 1991. The comments in that document relate, properly, to the mechanical functions in DOR relative to this legislation. This Position Paper addresses the philosophical position of whether it is right or wrong for the State to make this appropriation.



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325. Fax (907) 463-5480

April 18, 1991

In Support of SB 240 - Making an appropriation to the Department of Revenue for the fisheries tax refund program

The Alaska Municipal League supports SB 240, which will allow for the allocation of funds to municipalities that lost revenue from the fisheries business tax as a result of the *Exxon Valdez* oil spill. The League urges rapid consideration and passage of this legislation.

Fisheries business tax revenue is critical to the financial stability of many Alaskan communities. Providing these funds now, with the stipulation that municipalities must agree to reimburse the state for up to the amount of the allocation if, and to the extent that, the municipality receives compensation for these lost revenues from another source, will enable affected municipalities to provide basic services to their citizens without further interruption as a result of the oil spill.

From ADPFF

OILSPILL IMPACTS

This report lists commercial and subsistence fisheries impacted through August 22, 1990.

While thought to be comprehensive, it is not intended to represent a complete or final listing of all adjustments to commercial fisheries to date.

There have been several closures, cancellations, and postponements to commercial and subsistence fisheries in Alaska as a result of oil spilled from the "Exxon Valdez" on March 24, 1989. These include:

COMMERCIAL

Prince William Sound

Herring. The gillnet and purse seine sac roe and pound and wild roe-on-kelp fisheries were canceled April 3, 1989 prior to opening. The food and bait fishery began November 1, 1989 in the General Herring District. The harvest quota for this fishery was revised to conform with the 1990 spawning biomass estimate and was set at 1,760 short tons. However, because of existing market conditions, only 646.1 tons were harvested and the fishery was closed on November 12, 1989.

Pot Shrimp. This fishery was closed while in progress because of the high potential for direct contact of gear and catch with oil on noon, April 3, 1989. This closure was anticipated to run until the fishery was scheduled to reopen by regulation, August 15, 1989. However, aerial surveys from August 3 through 8 indicated the presence of oil in waters of the Traditional Harvest Area. The fishery remained closed until March 15, 1990 when the season opened by regulation. However, a small portion of the Traditional Harvest Area was closed on March 15 because of the presence of oil. The area includes waters near Knight, Eleanor, and Smith Islands.

Trawl Shrimp. Closed 12:00 noon, April 9, 1989. This fishery was scheduled to reopen August 15, but aerial surveys indicated the presence of oil in the areas where the fishery was scheduled to occur. The Port Wells area reopened March 1, 1990 and the remainder of the Sound will probably remain closed until weather improves in the spring and aerial surveys are possible.

Sablefish (black cod). Did not open as scheduled April 1, 1989 because of the oil spill. This fishery reopened in inside waters

only, in conjunction with the halibut opening at noon on June 12. This fishery closed on December 31, 1989. Sablefish was not reopened during the remainder of 1989 in outside waters because the Gulf of Alaska sablefish quota had been filled. The 1990 season did open as scheduled April 1.

Northern Area Dungeness crab. Was closed April 30, 12:00 noon. It reopened on January 1, 1990.

King crab

The entire Prince William Sound Registration Area was closed to the commercial harvest of all species of king crab during the 1989-1990 fishing season on October 1, 1989. Aerial surveys located oil in Knight Island Passage and adjacent bays. Knight Island Passage is the primary harvest area for brown king crab in the Sound. The brown king crab fishery, like other crab fisheries, depends upon the capture by pots and subsequent live holding of legal size males before they are sold to processors. The live holding of male crabs requires a fresh supply of sea water to be supplied to the crabs until the fishing vessel reaches port. Due to the fact that winter storms can move oil into the fishing areas, monitoring the area on a timely basis is impractical. Due to oil, which persists in the area of known fishing for brown king crab, there is an appreciable likelihood that the adulteration of crab or fouling of gear and vessels will occur. The red and blue king crab fisheries will not occur due to low abundance.

Groundfish. This fishery was closed at noon on April 30, 1989. It reopened with the June 12 halibut opener. Incidental catches indicated no contamination, and this fishery remains open (except for bottom trawl gear) at this time.

Miscellaneous shellfish. On April 24, 1989, it was announced that no miscellaneous shellfish permits would be issued to harvest these species in Prince William Sound until the danger of oil contamination had passed. To date no requests have been received for permits to harvest miscellaneous shellfish in the Sound, and none are expected to be issued prior to mid-April 1990.

Salmon

Eshamy District commercial drift and set net salmon fishery (100,000 chum surplus to hatchery needs, plus harvests of other species) did not open for the 1989 season, as was announced May 19, 1989. This District did not open for the 1989 season.

Most waters of the Northern District surrounding Naked and Perry Islands remained closed due to beach oiling.

Most waters of the Culross Island Subdistrict (224-30 & 40) remained closed to salmon fishing during the 1989 season because of exposure to frequent oil sheen.

The Southwestern District did not open for the 1989 season due to oil.

The Montague District (227) remained closed for the 1989 season. This area includes the inside shoreline of the Montague District, 227-10 and 227-20.

All of the commercial salmon fisheries in the Prince William Sound Management Area closed at noon, September 30, 1989.

In 1990, it was announced that two small beaches in the Eshamy District would remain closed because of the presence of oil. After re-evaluation on July 5, the two areas were determined not to pose an appreciable likelihood of fouling commercial fishing gear or adulterating product. They were therefore re-opened July 9, and remained open during regular fishing periods in the Crafton Island Subdistrict. These areas were:

1) Eshamy Bay: approximately 700 yards at the southern entrance into the bay between shore markers located at approximately $60^{\circ}27.85'$ N. lat., $147^{\circ}57.80'$ W. long. and $60^{\circ}27.90'$ N. lat., $147^{\circ}57.40'$ W. long. and extending 300 yards seaward.

2) Foul Bay: the shoreline surrounding the rock island in the middle portion of the Bay located at approximately $60^{\circ}34.95'$ N. lat., $148^{\circ}03.60'$ W. long. and extending 300 yards seaward.

On July 27 it was announced that several areas would be closed to commercial fishing because of the appreciable likelihood of fouling fishing gear or adulterating product. Those areas closed effective at 8:00 a.m. Monday, July 30 until further notice were:

1) Latouche Island: approximately 3.5 miles of the northern shoreline between markers located at approx. $60^{\circ}03.83'$ N. Lat., $147^{\circ}53.08'$ W. long. on the west shore and $60^{\circ}03.05'$ N. lat., $147^{\circ}48.93'$ W. long. on the east shore and extending 300 yards seaward;

2) Eleanor, Ingot, and Knight Island: all waters extending 300 yards seaward of the Eleanor, Ingot and Knight Island coastlines north of $60^{\circ}25.0'$ N. lat.

Upper Cook Inlet

Salmon

With the exception of a very minor opening of a small portion of the Central District, the commercial drift gillnet season was canceled because of oil. In addition, the Department closed

setnets in that portion of the Upper Subdistrict south of the Kasilof River for the 12-hour regular fishing period on Friday July 7, 1989, because of presence of oil on the beaches. All other setnet fisheries and fishing periods were managed according to run strength.

The commercial salmon fisheries in Upper Cook Inlet closed in early September 1989.

Lower Cook Inlet

Pot shrimp (Outer District). This fishery was closed at noon April 30 because of the presence of oil. It reopened at noon on July 7, 1989.

Miscellaneous shellfish. On April 24, 1989, it was announced that no miscellaneous shellfish permits would be issued to harvest these species in the Outer and Eastern Districts until the danger of oil contamination had passed. To date no requests have been received for permits to harvest miscellaneous shellfish from these two districts. All shellfish fisheries in the remaining districts of Cook Inlet are managed according to abundance, effort, and existing regulations.

Groundfish (Outer and Eastern Districts). This fishery was closed at noon on April 30, 1989 because of oil. It reopened to all species except sablefish, June 12 in conjunction with the 24-hour halibut period. Sablefish was not reopened in 1989 because the Gulf of Alaska sablefish quota had been filled.

Smelt Smelt was closed along with groundfish in the Outer and Eastern Districts at noon on April 30, 1989. When groundfish reopened, smelt fishing remained closed.

Herring Sac Roe (Outer and Eastern Districts). These fisheries did not open for the 1989 season because of the presence of oil. This was announced April 15, 1989, prior to the anticipated opening date of April 20.

Salmon. Kamishak District commercial salmon fishery. This seine fishery opened by regulation June 1, 1989 and was closed by emergency order on June 9 because of oil. Portions of the Kamishak District north of Contact Point were opened after July 20 based on run strength. The Tutka Bay Subdistrict north of the HEA powerlines was closed to seining at 6 a.m., July 10. It was reopened at noon the same day after further assessment showed the commercial fishery would not be impacted. The commercial salmon season in Lower Cook Inlet closed August 26, 1989.

Kodiak

Herring Sac Roe. . Approximately 34 of 56 management units closed

during the duration of the fishing season, because of oil impacts. The 1989 Kodiak sac roe GHJ was approximately 2,415 short tons.

Salmon. The commercial season was scheduled to get underway June 9, 1989. The fisheries were postponed until June 19, when only the setnet fishery in the Alitak District opened; there were approximately 114 days fished in this setnet fishery by 87 fishermen. The only other commercial opening to occur during the 1989 salmon season was a two day seine opening in Karluk Lagoon, on the westside of Kodiak Island, in mid-September. About five seiners took part in that fishery, netting fewer than 5,000 salmon. The entire Kodiak Management Area closed to commercial salmon fishing at the conclusion of the Lagoon fishery.

Chignik

Salmon The Chignik fishery opened on Monday June 12, 1989 at 11:00 a.m. However, portions of the Eastern District were closed due to the presence or close proximity of oil in the Kilokak Rocks area, and in Imuya and Wide Bays. The Department announced a 24-hour fishing period beginning at 9:00 a.m. June 26 for a portion of the Chignik Bay District. The area was limited to a small portion of this district due to the presence of oil in surrounding areas. The documented presence of mousse and sheen in Chignik Bay near Anguik Island, coupled with a minimal monitoring effort, justified the closure of the commercial salmon fishery effective 10:00 p.m., Monday, June 26 for the remainder of the announced period. Because of the presence of oil contaminants within Chignik Lagoon in sufficient quantities to pose a risk of contaminating gear and/or product, the commercial salmon fishing periods scheduled for Thursday, July 27 and Sunday, August 5 were canceled. Commercial fishing opportunities remained restricted to Chignik Lagoon of the Chignik Bay District. Fisheries were held when sockeye escapements into the system justified them.

SUBSISTENCE/PERSONAL USE

Prince William Sound

Much of the Southwestern District and the western shoreline of Green Island was closed to subsistence fishing June 6, 1989. The only areas remaining open to subsistence fishing for those residents domiciled in the Southwest District are Eshamy Lagoon, Jackpot Bay, and inside Sawmill and Crab Bays.

Cook Inlet, Kodiak, and Chignik

There have been no closures to subsistence fisheries because of oil. Subsistence fishermen have been cautioned to select fishing areas that show no signs of oil impact.

RECEIVED APR 22 1991

FINAL REPORT

**Economic, Social, and Psychological
Impact Assessment of the
Exxon Valdez Oil Spill**

Prepared for:

**Oiled Mayors Subcommittee
Alaska Conference of Mayors**

Prepared by:

Impact Assessment, Inc.

2160 Avenida de la Playa, Suite A
La Jolla, California 92037

911 West 8th Avenue, Suite 402
Anchorage, Alaska 99501

November 15, 1990

Excerpt from Oil Spill Impact Assessment: A- File
1990

Revenue Impacts

Fiscal impacts were differentially distributed among the communities according to variations in preexisting revenues and expenditure patterns.

The importance of this finding is that the unique circumstances of each community's pattern of revenues and expenditures must be understood to assess total impacts from this event. For example, within the four revenue sources cited above, there were several types of losses communities experienced, according to the prominence of these sources for specific communities, including:

- Sales Tax losses varied among the communities according to whether or not the community had a sales tax, the rate of taxation, damage to local industries that were affected by the spill, and other such factors. Sales tax losses were reported for the following reasons:
 - Loss due to fishery closures.
 - Retail business losses.
 - Boat rentals.
 - Exxon's failure to pay on rentals.

It is important to note that payments to individuals in communities, even in excess of typical earnings, do not necessarily translate into equivalent levels of sales and use tax revenues prior to the spill.

- Transient Occupancy Tax losses are attributable to the spill through shifts in types of persons residing in communities. In one instance spill workers became semipermanent residents in transient quarters, and local ordinances exempted these individuals from this tax, thus resulting in a net loss of revenue to the city.

- Raw Fish Tax revenues are a significant source of intergovernmental revenues to 15 cities and three boroughs in the affected region. Fish tax is calculated on the basis of the value of fish processed, with the normal method of allocation being 50% to the state and 50% local (with 25% to the borough and 25% to the city within a borough in those instances). Data for FY 1990 indicate that in each of these jurisdictions, with the exception of Valdez, there were decreases in fish taxes resulting from a combination of closed fisheries

and decreased fish prices, which were affected by the oil spill. (It should be noted that while raw fish tax revenues provide an important springboard for the discussion of impacts and general recommendations, there has been no fine-grained workup to date of raw fish tax levels for close analysis.)

- Harbor Revenues impacts occurred in most coastal communities. The principal cause of depressed revenues was from boats giving up berths while working for Exxon. (It should also be noted that in some communities that saw heavy harbor utilization for the cleanup process, revenues did not increase significantly, as harbor facilities are typically used to capacity during the summer. But they experienced substantial increases in operations and maintenance costs through increased volume demands. Harbor use trends were highly variable from community to community.)
- Rents and Leases were generally sources of income for communities, but the smaller Group B and Village communities received reimbursements from Exxon or VECO for services rendered, whereas larger communities generally did not experience these same problems. Similarly, these smaller communities often agreed "on a hand shake" to certain rates for reimbursements only to have the billings at these rates reduced. As noted elsewhere, a common tactic employed by Exxon or VECO was the use of verbal contracts and agreements with community representatives for many kinds of services. When, after a period of days, weeks, or months that industry contact person would be "reassigned," the basis for, conditions of, or express understandings achieved in that relationship would, effectively, be dissolved. This was particularly problematic in the smaller communities where such violations of personal trust left a residue of unreimbursed expenses and a lingering sense of betrayal.

While these types of issues address fiscal impacts from the event, preparation for any future disaster needs to assess community-specific revenues and expenditures and plans need to be developed that address how impacts can be mitigated or prevented.

Expenditure and Cost Impacts (Unreimbursed)

Local governments were not reimbursed for many costs associated with the Exxon Valdez oil spill and cleanup.

Interviews with department heads and key administrative staff in communities indicated that expenditure and revenue data from the fiscal templates completed by the communities do