

HB

194

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 194

Revision Date/Time (Note if correction) _____ Dept. Affected Environmental Conservation
 Title An Act correcting a reference to the former oil and BRU Spill Prevention and Response
hazardous substance release response fund Component Prevention and Emergency Response
 Sponsor Rep. Whitaker
 Requester House Oil & Gas Component Serial No. 2064

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

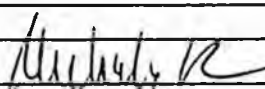
Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

This bill will have no fiscal impacts.

Prepared by Larry Dietrick, Director Phone 465-5255
 Division Spill Prevention and Response Date/Time 4/20/99 8:44 AM
 Approved by Commissioner Michele Brown  Date 4/20/99
 Agency Department of Environmental Conservation

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB194

Revision Date: _____ Dept Affected: Military & Veterans Affairs
 Title: An Act correcting, in the Alaska Disaster Act, BRU: Disaster Planning & Control
a reference to the former oil and hazardous substance... Component: Disaster Planning & Control
 Sponsor: Rep. Whitaker
 Requestor: (H)O&G Component Serial No. #1808

Expenditures/Revenues (inflation not included unless otherwise noted below) (Thousands of Dollars)

OPERATING EXPENDITURES	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: \$ none

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill corrects language that references the former oil and hazardous substance release response fund, and describes it correctly as the oil and hazardous substance release prevention and response fund.

There is no fiscal impact to the Division of Emergency Services as a result of implementation of this legislation.

Prepared by: Carol Carroll, Director Phone: 465-4730
 Division: Administrative Services Date: 19-Apr-99
 Approved by Commissioner: [Signature] Date: 4-19-99
 Agency: Military & Veterans Affairs

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Alaska State Legislature

Representative Jim Whitaker

House Special Committee on Oil and Gas, Chairman
House Resources Committee
House Health, Education, and Social Services
Committee
House State Affairs Committee
House Special Committee on Fisheries



House of Representatives
District 31

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Sponsor Statement

House Bill 194 – Disaster Assistance

House Bill 194 makes a technical statutory change as suggested by Legislative Legal Services. The Oil and Hazardous Substance Release Response Fund, under the administration of the Department of Environmental Conservation, was established to provide relief in the event of oil or hazardous substance discharges. In 1994, the name of this fund was changed to the Oil and Hazardous Substance Release *Prevention and* Response Fund, in order to establish an account intended to pay the expenses of making preparations for the possibility of a threatened release of oil or hazardous substances. All statutory references relating to the fund were amended to reflect the new name with the exception of AS 26.23.050(b). House Bill 194 corrects this oversight and brings the section into conformity with AS 46.08.010(a).

LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY
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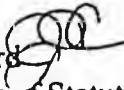
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 24, 1999

SUBJECT: Apparent Error in AS 26.23.050

TO: Representative Jim Whitaker, Chair
Oil & Gas Committee

FROM: James P. Crawford 
Assistant Revisor of Statutes

I wanted to point out what appears to be an error in AS 26.23.050(b). This section relates to financing efforts to cope with "disaster emergencies." In subsection (b), there is a reference to the "oil and hazardous substance release response fund":

Whenever, and to the extent that, money is needed to cope with a disaster, the first recourse shall be to money regularly appropriated to state and local agencies. The second recourse shall be to money available in the disaster relief fund or, for oil or hazardous substances discharges, the oil and hazardous substance release response fund, as the governor determines appropriate. If money available from these sources is insufficient, and if the governor finds that other sources of money to cope with the disaster are not available or are insufficient, the governor may, notwithstanding the limitations imposed by AS 37.07.080(e),

- (1) transfer and spend money appropriated for other purposes; or
- (2) borrow money for a term not to exceed two years.

However, that fund was renamed in 1994 as the "oil and hazardous substance release prevention and response fund." Section 21, ch. 128, SLA 1994. Consequently, the reference in AS 26.23.050(b) appears to be obsolete.

Ordinarily, this is the sort of problem that could easily be remedied in a revisor's bill, and I initially thought to include such a correction in this year's bill. However, in this case, when the fund was renamed, two different accounts within the fund were created: (1) the oil and hazardous substance release prevention account; and (2) the oil and hazardous substance release response account. Although the titles of the accounts might provide some clue, there is no definitive way to tell whether the 1994 legislature wanted recourse under AS 26.23.050(b) limited only to one particular account or, alternately, whether recourse could be had with respect to both accounts, at least under some circumstances.

Representative Jim Whitaker

March 24, 1999

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Because of this uncertainty, I do not think the correction should be made in a revisor's bill. However, given that it involves oil spills, at least in part, I did want to bring the issue to your attention in case you wanted to address the issue in a substantive bill sponsored by the Oil & Gas Committee.

JPC:pl

99-040.plm

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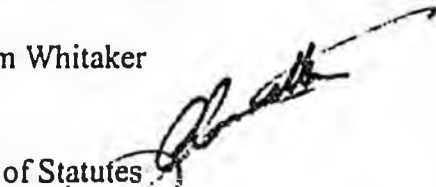
MEMORANDUM

April 9, 1999

SUBJECT: Correcting a reference to the former oil and hazardous substance release response fund in the Alaska Disaster Act (Work Order No. 1-LS0839A)

TO: Representative Jim Whitaker

FROM: Jack Chenoweth
Assistant Revisor of Statutes



This memo accompanies a bill draft.

The oil and hazardous substance release prevention and response fund is composed of two accounts. One of the accounts, the response account, is intended to provide money "readily available to the commissioner [of environmental conservation] for the payment of the expenses incurred by the Department of Environmental Conservation during a response to a release or threatened release of oil or hazardous substances when authorized by AS 46.08.045 and for related purposes intended to address those releases." AS 46.08.005(1). The balance of the second account, the prevention account, is available for the state to use "during a response to a release of oil or a hazardous substance, other than one described in [AS 46.08.005(1)], and to a threatened release of oil or a hazardous substance, to pay the expenses of making preparations for the possibility of a release or threatened release of oil or hazardous substances, to reduce the amount, degree, or intensity of a release or threatened release, and for other related purposes identified in law." AS 46.08.005(2).

Though the bill, as drafted, does not limit the source of disaster relief by reference to a specific account, another statute, AS 26.23.020(g)(11), indicates which account is to serve as the source:

(g) In addition to any other powers conferred upon the governor by law, the governor may, under AS 26.23.010 - 26.23.220,

....
(11) use money from: the oil and hazardous substance release *response* account in the oil and hazardous substance release prevention and response fund, established by AS 46.08.010, to respond to a declared disaster emergency related to an oil or hazardous substance discharge.

JBC:lmb
99-053.lmb
Enclosure

Sec. 46.08.010. Fund established.

(a) There is established in the state general fund the oil and hazardous substance release prevention and response fund. The fund shall be administered by the commissioner. The fund is composed of two accounts,

(1) the oil and hazardous substance release prevention account;

(2) the oil and hazardous substance release response account.

(b) Money from an appropriation made to an account in the fund remaining in that account at the end of a fiscal year does not lapse and remains available for expenditure in successive fiscal years.

(c) The fund shall be used for actual expenses incurred under AS 46.08.040. Except as provided in AS 46.08.040(a)(2)(D) for the acquisition, repair, or improvement of assets as preparedness measures, the fund may not be used for capital improvements.

History -

(Sec. 1 ch 59 SLA 1986; am Sec. 3 ch 48 SLA 1991; am Sec. 21 - 23 ch 128 SLA 1994)

Amendment Notes -

The 1991 amendment, effective September 13, 1991, in subsection (c), added "Except as provided in AS 46.08.040(d)(2), the" to the beginning of the second sentence.

The 1994 amendment, effective October 2, 1994, in subsection (a), in the introductory language, inserted "prevention and" in the first sentence and added "The fund is composed of two accounts," at the end and added paragraphs (1) and (2); in subsection (b), inserted "an account in," substituted "that account" for "the fund," and inserted "does not lapse and"; and, in subsection (c), substituted "in AS 46.08.040(a)(2)(D) for the acquisition, repair, or improvement of assets as preparedness measures" for "in AS 46.08.040(d)(2)."

Decisions -

Funds validly appropriated. - Because the legislature has made the entire balance of the oil and hazardous substance release response fund available for expenditure, the amounts deposited into the fund are already validly appropriated and therefore no longer available for appropriation. *Hickel v. Cowper*, 874 P.2d 922 (Alaska 1994).

Sec. 26.23.050. Financing.

(a) It is the intent of the legislature, and declared to be the policy of the state, that funds to meet disaster emergencies will always be available.

(b) Whenever, and to the extent that, money is needed to cope with a disaster, the first recourse shall be to money regularly appropriated to state and local agencies. The second recourse shall be to money available in the disaster relief fund or, for oil or hazardous substances discharges, the oil and hazardous substance release response fund, as the governor determines appropriate. If money available from these sources is insufficient, and if the governor finds that other sources of money to cope with the disaster are not available or are insufficient, the governor may, notwithstanding the limitations imposed by AS 37.07.080(e),

(1) transfer and spend money appropriated for other purposes; or

(2) borrow money for a term not to exceed two years.

(c) Nothing in this section limits the governor's authority to apply for, receive, administer, and spend grants, gifts, or payments from any source, to aid in disaster prevention, preparedness, response, or recovery.

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 3 ch 59 SLA 1986; am Sec. 5 ch 178 SLA 1990; am Sec. 2 ch 190 SLA 1990)

Amendment Notes -

The first 1990 amendment, in subsection (b), substituted "money" for "funds" in the first and second sentences and substituted the language beginning "the limitations imposed" for "any limitation imposed by AS 37.07.080(e), transfer and spend money appropriated for other purposes or, in situations involving natural disasters, borrow from the United States government or other public or private sources for a term not to exceed two years" at the end of the third sentence.

The second 1990 amendment, in the second sentence of subsection (b), inserted ", for oil or hazardous substances discharges," and "the governor determines".