

LEG. FINANCE - BILLS 1977 - 1978 950

SB 393 cont. thru SB 389

<u>Object Code</u>	<u>Cost</u>
100	23.8
200	1.0
300	6.0
400	5.0
500	1.0
<u>TOTAL</u>	<u>36.8</u>

- g. Additionally, a minimum of one additional lawyer will be required to the Attorney General's staff.

One lawyer on A.G.'s staff

<u>Object Code</u>	<u>Cost</u>
100	46.3
200	6.0
300	6.0
400	1.0
500	1.0
<u>TOTAL</u>	<u>60.3</u>

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. _____
 Title Assumption of NPDES Permi tem _____
 Requested by Governor _____ Date 12/8/77

II. FISCAL DETAIL

Agency Affected Environmental Conservation, Law
 Program Category Affected NRM & EC, Justice
 Budget Request Unit(s) Affected Water Programs, Program Coordination, Field, Law

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES			327.4	304.6	322.0	342.2
200 TRAVEL			40.5	38.7	41.0	43.4
300 CONTRACTUAL			62.0	62.5	66.2	70.2
400 COMMODITIES			15.0	15.3	16.2	17.3
500 EQUIPMENT			11.0	11.1	11.8	12.5
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL			455.9	432.2	458.1	485.6

FUNDING (Thousands of Dollars)

GENERAL FUND			-0-	-0-	-0-	-0-
FEDERAL FUNDS			455.9	432.2	458.1	485.6
OTHER (Specify)						

POSITIONS

FULL TIME			9	8	8	8
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached detailed analysis.

Inflation taken at 6%

IV. DATE 12/8/77 PREPARED BY [Signature]
 AGENCY Environmental Conservation
 PHONE 465-2604
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

ALASKA STATE LEGISLATURE

TENTH Legislature SECOND Session

SENATE BILL NO. 393

By THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

An Act relating to state assumption of the national pollutant discharge elimination system; and providing for an effective date.

pollutant discharge elimination system

Introduced in the Senate 1/10/78

HISTORY IN THE SENATE

19 78	1	10	Read first time and referred to Committee on Resources and Finance												
	5	10	Reported back with recommendation that <i>Resources w/ an, I don't pass unless am. TO Finance</i>												
			Read second time and												
			Read third time and												
			<table border="0"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused		
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Yeas	Yeas														
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Absent	Absent														
Excused	Excused														
			<table border="0"> <tr><td>Reconsideration</td><td></td></tr> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	Reconsideration		PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
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Nays	Nays														
Absent	Absent														
Excused	Excused														
			Reported correctly engrossed Signed by President Sent to House												

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

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		Reported correctly engrossed Signed by Speaker Returned to Senate												

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19		Received from House
		Reported correctly enrolled
		Sent to Governor
	 By Governor
		Filed with Lt. Governor
		Chapter No.

Proposed
This work draft contains suggested
amendment by Resources.

Original sponsor: Rules Committee by
request of the Governor

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 393

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state assumption of the national
7 pollutant discharge elimination system; and providing
8 for an effective date."

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

10 * Section 1. AS 46.03.010 is amended by adding a new subsection to read:

11 (c) It is the policy of the state that the prevention, control,
12 and abatement of water pollution is principally a state responsibility,
13 and the legislature intends by this chapter to confer upon the depart-
14 ment all power and authority necessary to implement those programs which
15 can be delegated to a state under the Federal Water Pollution Control
16 Act.

17 * Sec. 2. AS 46.03.020(10)(D) is amended to read:

18 (D) collection and disposal of wastewater [SEWAGE AND
19 INDUSTRIAL WASTE];

20 * Sec. 3. AS 46.03.020(10) is amended by adding a new subparagraph to
21 read:

22 (I) implementation of the provisions of the Federal
23 Water Pollution Control Act.

24 * Sec. 4. AS 46.03 is amended by adding a new section to read:

25 Sec. 46.03.095. EFFLUENT LIMITATIONS. (a) The department may, by
26 regulation, adopt effluent limitations promulgated by the administrator
27 under secs. 301, 302, 306, 307, or 403 of the Federal Water Pollution
28 Control Act. The adoption by the department of effluent
29 limitations promulgated by the administrator is subject to AS 44.62.-

1 300 only to the extent of determining whether the adoption complies with
2 the procedural requirements of AS 44.62.040 - 44.62.210.

3 (b) Alternatively, and to the extent permissible under the Federal
4 Water Pollution Control Act, the department, if it determines that
5 effluent limitations promulgated by the administrator do not reflect the
6 appropriate standard of the Federal Water Pollution Control Act in this
7 state, may adopt effluent limitations which in its judgment do reflect
8 the appropriate standard in this state.

9 (c) If the administrator has not adopted effluent limitations for
10 a category or source, the department may, in consultation with the
11 administrator, establish effluent limitations on a case-by-case basis,
12 applying the applicable standard of the Federal Water Pollution Control
13 Act.

14 * Sec. 5. AS 46.03.100 is repealed and re-enacted to read:

15 Sec. 46.03.100. WATER POLLUTION CONTROL PERMIT. (a) A person who
16 conducts an operation which results in the entry of a pollutant to the
17 water of the state must obtain a permit from the department.

18 (b) If, on the effective date of this Act, an entry of a pollutant
19 is permitted under sec. 402(a)(1) or 404(a) of the Federal Water Pollu-
20 tion Control Act, and the department has certified that permit under
21 sec. 401(a)(1) of the Federal Water Pollution Control Act, the person
22 need not obtain a permit under (a) of this section until the expiration
23 of the federally issued permit. The person shall apply for a permit
24 under (a) of this section no later than 180 days before the expiration
25 of the federally issued permit. A violation of a term or condition of a
26 federally issued permit adopted under this subsection is considered a
27 violation of a permit issued by the department under the authority of
28 this chapter.

29 (c) For operations commencing after the effective date of this

1 Act, application must be made at least 180 days before commencement of
2 this operation.

3 (d) For operations which commenced before the effective date of
4 this Act, and which do not fall within the exemption of (b) of this
5 section, application must be made within 60 days after the effective
6 date of this Act.

7 (e) The department may issue general permits under this section
8 for classes or categories of operations which, individually or cumu-
9 latively, do not significantly affect water quality.

10 * Sec. 6. AS 46.03 is amended by adding new sections to read:

11 Sec. 46.03.105. PERMIT REVIEW CRITERIA; TERMS AND CONDITIONS. (a)
12 The department shall issue a permit under sec. 100 of this chapter if
13 the applicant demonstrates that the operation will comply with

14 (1) water quality standards adopted under secs. 70 and 80 of
15 this chapter, and maximum daily load requirements which may be adopted
16 to implement water quality standards under sec. 303(d) of the Federal
17 Water Pollution Control Act;

18 (2) applicable effluent limitations established under sec. 95
19 of this chapter;

20 (3) the applicable areawide waste treatment management plan
21 approved under sec. 208 of the Federal Water Pollution Control Act; and

22 (4) standards adopted by the department which are in sub-
23 stantial conformity with guidelines and standards promulgated under sec.
24 404 of the Federal Water Pollution Control Act.

25 (b) No permit may be issued for

26 (1) the discharge of any radiological, chemical, or biologi-
27 cal warfare agent or high-level radioactive waste;

28 (2) any discharge which the Secretary of the Army, acting
29 through the Chief of Engineers, finds would substantially impair anchor-

1 age and navigation of any water of the United States; or

2 (3) any discharge to which the administrator has objected
3 under any right provided to the administrator under the Federal Water
4 Pollution Control Act.

5 (c) The department may impose as conditions in permits for the
6 discharge of pollutants from publicly owned treatment works requirements
7 for information to be provided by the permittee concerning new introduc-
8 tions of pollutants or substantial changes in the volume or character of
9 pollutants being introduced into the treatment works.

10 (d) The department may impose as conditions in permits for the
11 discharge of pollutants from publicly owned treatment works appropriate
12 measures to establish and insure compliance by industrial users with a
13 system of user charges.

14 (e) No permit may be issued for a period greater than five years.

15 (f) The department may attach to a permit the terms and conditions,
16 including schedules of compliance, it finds necessary to ensure compli-
17 ance with any applicable standard.

18 Sec. 46.03.107. MONITORING AND INSPECTION. (a) The department
19 may require any owner or operator of any source of a pollutant to

20 (1) establish and maintain records;

21 (2) make reports;

22 (3) install, calibrate, use and maintain monitoring equipment
23 or methods (including, where appropriate, biological monitoring methods);

24 (4) sample discharges in accordance with methods the de-
25 partment may prescribe; and

26 (5) provide other information relating to the entry of a
27 pollutant into water of the state or to introduction of a pollutant into
28 publicly owned treatment works as the department may reasonably require.

29 (b) The department, upon presentation of credentials,

1 (1) has a right of entry to, upon, or through any premises in
2 which any pollutant source is located or in which any records are re-
3 quired to be maintained;

4 (2) may at reasonable times have access to and copy any
5 records required to be maintained;

6 (3) may inspect any monitoring equipment or method which is
7 required; and

8 (4) may have access to and sample any entry of a pollutant to
9 the water of the state or to publicly owned treatment works resulting
10 from activities or operations of the owner or operator of the premises
11 in which the source of a pollutant is located.

12 (c) For the purpose of this section, "source of a pollutant" in-
13 cludes any permittee under sec. 100 of this chapter (other than a general
14 permittee), and any source of introduction of a pollutant into publicly
15 owned treatment works by an industrial user.

16 * Sec. 7. AS 46.03.110 is repealed and re-enacted to read:

17 Sec. 46.03.110. PERMIT PROCEDURES. (a) The department shall
18 adopt regulations establishing procedures for review of permit appli-
19 cations, including provisions for public notice and public hearing, in
20 accordance with applicable provisions of the Federal Water Pollution
21 Control Act.

22 (b) When the department receives an application, the commissioner
23 shall immediately send copies of the application to the commissioner of
24 fish and game, the commissioner of natural resources, the commissioner
25 of commerce and economic development, the commissioner of health and
26 social services, and the commissioner of transportation and public
27 facilities.

28 * Sec. 8. AS 46.03.120 is repealed and re-enacted to read:

29 Sec. 46.03.120. TERMINATION OR MODIFICATION OF WASTE DISPOSAL

1 PERMIT. The department may terminate or modify a permit issued under
2 sec. 100 of this chapter if the department finds that

3 (1) the permit was procured by misrepresentation of a mate-
4 rial fact or by failure of the applicant to disclose fully the facts
5 relating to its issuance;

6 (2) there has been a violation of a condition of the permit;
7 or

8 (3) there has been a change in any condition that requires
9 either a temporary or permanent reduction or elimination of the entry of
10 pollutants.

11 * Sec. 9. AS 46.03.160(b) is amended to read:

12 (b) Within 60 [30] days of receipt of the plans and information
13 for a proposed undertaking, the department shall either approve the
14 undertaking and issue a permit, or if the department determines that the
15 proposed undertaking will not meet the requirements of secs. 140 - 150
16 of this chapter and applicable regulations, it shall issue a prohibition
17 order against the undertaking.

18 * Sec. 10. AS 46.03 is amended by adding a new section to read:

19 Sec. 46.03.715. SOLID WASTE PERMIT. (a) No person may establish,
20 expand, or operate a solid waste disposal facility without obtaining a
21 permit from the department.

22 (b) Upon receipt of a proper application for a permit under this
23 section the department shall publish notice of the application in two
24 separate publications of a newspaper of general circulation within the
25 general, affected area. The notice may also be published in other
26 appropriate information media. The notice shall include a statement
27 that a person who wants to present his views to the department in regard
28 to the application may do so in writing to the department within 30 days
29 after the second publication of the notice. The written response

1 entitles the writer to a copy of the application.

2 (c) When the department receives an application, the commissioner
3 shall immediately send copies of the application to the commissioner of
4 fish and game, the commissioner of natural resources, the commissioner
5 of commerce and economic development, the commissioner of health and
6 social services, and the commissioner of transportation and public
7 facilities.

8 (d) The department may attach terms and conditions to a permit to
9 ensure compliance with appropriate standards. No permit may be effec-
10 tive for a period of more than five years from the date of issuance.

11 (e) As used in this section, "solid waste disposal facility" means
12 an intermediate disposal facility, transfer station, landfill, incinera-
13 tor, composting plant, recycling or reclamation facility, or any site
14 used for the reduction, consolidation, conversion, processing, or dispo-
15 sal of solid waste, except

16 (1) a single-family or duplex residence in which solid waste
17 is generated and disposed of on-premises;

18 (2) a farm on which solid waste generated from the operation
19 of that farm is disposed of; and

20 (3) incinerator facilities having a total capacity of less
21 than 200 pounds of solid waste per hour.

22 * Sec. 11. AS 46.03.760(c) is amended to read:

23 (c) The court [, UPON MOTION OF THE DEPARTMENT OR UPON ITS OWN
24 MOTION,] may defer assessment of [ALL OR PART OF] that portion of the
25 sum imposed upon a person under (a)(3) of this section which represents
26 the economic savings which the person will realize by continued noncom-
27 pliance, conditioned upon the person complying, within the shortest
28 feasible time, with the requirement for which a violation is shown.

29 * Sec. 12. AS 46.03 is amended by adding a new section to read:

1 Sec. 46.03.865. CONFIDENTIALITY. Upon a satisfactory showing to
2 the commissioner that any information obtained under any permit require-
3 ment of this chapter would, if made public, divulge methods or processes
4 entitled to protection as trade secrets of the person, the commissioner
5 shall protect the information as confidential. However, information
6 accorded confidential treatment may be disclosed or transmitted, for a
7 specific purpose stated in writing by the potential recipient, to other
8 offices, employees, or authorized representatives of this state or of
9 the United States concerned with carrying out any program related to the
10 prevention, abatement, or control of water, air, or land pollution.
11 Confidential information so disclosed or transmitted retains its confi-
12 dential status and may not be further disclosed or transmitted by the
13 recipient.

14 * Sec. 13. AS 46.03.900 is repealed and re-enacted to read:

15 Sec. 46.03.900. DEFINITIONS. In this chapter

16 (1) "administrator" means the administrator of the United
17 States Environmental Protection Agency, or his designee;

18 (2) "air contaminant" means dust, fumes, mist, smoke, other
19 particulate matter, vapor, gas, odorous substances, or a combination of
20 these;

21 (3) "air pollution" means the presence in the outdoor atmos-
22 phere of one or more air contaminants in quantities and duration which
23 tend to be injurious to human health or welfare, animal or plant life,
24 or property or which would unreasonably interfere with the enjoyment of
25 life or property;

26 (4) "atomic radiation" means all ionizing radiation;

27 (5) "broadcast chemicals" means chemical substances which are
28 released into the air or onto land or water for the purpose of prevent-
29 ing, destroying, repelling, stimulating or retarding plant or animal

1 life, or chemical substances released for meteorological control, oil
2 spill control, or fire control;

3 (6) "commissioner" means the commissioner of environmental
4 conservation;

5 (7) "department" means the Department of Environmental Con-
6 servation;

7 (8) "effluent limitation" means any limitation, standard of
8 performance, guideline, prohibition, pretreatment standard, or other
9 standard which implements secs. 301, 302, 306, 307, or 403 of the
10 Federal Water Pollution Control Act;

11 (9) "electronic product" means a manufactured product which

12 (A) when in operation contains or acts as part of an
13 electronic circuit and emits, or in the absence of effective
14 shielding or other controls would emit, electronic product radia-
15 tion; or

16 (B) is intended for use as a component, part, or acces-
17 sory of a product described in (A) of this paragraph and which when
18 in operation emits, or in the absence of effective shielding or
19 other controls would emit, electronic product radiation;

20 (10) "electronic product radiation" means an atomic radia-
21 tion, X-ray, or other hard radiation which is emitted from an electronic
22 product as the result of the operation of an electronic circuit in the
23 product;

24 (11) "entry of a pollutant to the water of the state" means
25 the addition of a pollutant to the water of the state by any means,
26 except

27 (A) approved aquaculture projects;

28 (B) any discharge of any pollutant when the discharge
29 conforms with the national contingency plan for removal of oil and

1 hazardous substances, published under sec. 311(c)(2) of the Federal
2 Water Pollution Control Act, and any applicable state plan or
3 requirement;

4 (C) water, gas, or other material which is injected into
5 a well to facilitate production of oil or gas;

6 (D) additions of wastewater into publicly owned treat-
7 ment works; this exclusion applies only to the actual addition of
8 materials into the publicly owned treatment works; plans or agree-
9 ments to make additions in the future do not relieve dischargers of
10 the obligation to apply for and receive a permit until the entry of
11 any pollutants to water of the state is actually eliminated; this
12 exclusion does not relieve the person causing the addition from
13 complying with the pretreatment standards adopted under sec. 95 of
14 this chapter; and

15 (E) runoff from activities occurring solely outside the
16 water of the state, until activities creating a significant water
17 quality problem due to runoff are identified as requiring a permit
18 under sec. 100 of this chapter in an applicable areawide waste
19 treatment management plan approved under sec. 208 of the Federal
20 Water Pollution Control Act; this exclusion applies only to the
21 permit requirement of sec. 100 of this chapter; it does not exempt
22 activities creating runoff from any other standard or requirement
23 of this chapter;

24 (12) "facility" means any offshore or onshore structure,
25 improvement, vessel, vehicle, land, enterprise, or endeavor;

26 (13) "Federal Water Pollution Control Act" means the Federal
27 Water Pollution Control Act Amendments of 1972, 33 U.S.C. sec. 1251, et
28 seq., and all Acts amending or supplementing it which are reasonably
29 within the scope and purpose of the 1972 Act;

1 (14) "industrial use" means those industries identified in
2 the Standard Industrial Classification Manual, Bureau of the Budget,
3 1967, as amended and supplemented, under the category Division D -
4 Manufacturing, and other classes of significant waste producers as, by
5 regulation, the administrator or department considers appropriate;

6 (15) "motor vehicle" has the same meaning as in AS 28.20.630;

7 (16) "municipality" means an organized borough or an incor-
8 porated city outside an organized borough, and includes all classes of
9 boroughs and cities whether home rule or otherwise;

10 (17) "person" means any individual, public or private cor-
11 poration, political subdivision, government agency, municipality, indus-
12 try, co-partnership, association, firm, trust, estate, or any other
13 entity;

14 (18) "pesticide" means any chemical or biological agent
15 intended for preventing, destroying, repelling, or mitigating plant or
16 animal life and any substance intended for use as a plant regulator,
17 defoliant or desiccant, including but not limited to insecticides,
18 fungicides, rodenticides, herbicides, nematocides, and biocides;

19 (19) "pollutant" means anything which alters the chemical,
20 physical, biological or radiological integrity, including heat from
21 cooling or other operations, and is either man-made or man-induced;

22 (20) "pollution" means the contamination or altering of
23 water, land, or subsurface land of the state in a manner which creates a
24 nuisance or makes the water, land, or subsurface land unclean, noxious,
25 impure, or unfit so that it is actually or potentially harmful, detri-
26 mental or injurious to public health, safety or welfare, to domestic,
27 commercial, industrial, or recreational use, or to livestock, wild
28 animals, birds, fish, or other aquatic life;

29 (21) "radiation" means all atomic and electronic product

1 radiation;

2 (22) "radiation source" means any substance, machine, or
3 electronic product which emits radiation;

4 (23) "schedule of compliance" means a schedule of remedial
5 measures including an enforceable sequence of actions or operations
6 leading to compliance with an effluent limitation, other limitation,
7 prohibition, or standard;

8 (24) "sewage" means the water-carried human or animal wastes
9 from residences, buildings, industrial establishments, or other places,
10 together with ground water infiltration and surface water as may be
11 present; the admixture with sewage of industrial wastes or other wastes
12 is "sewage";

13 (25) "sewer system" or "sewerage system" means pipelines or
14 conduits, pumping stations, and force mains, and all other appurtenant
15 constructions, devices, and appliances used for conducting wastewater to
16 a point of ultimate disposal;

17 (26) "solid waste" means all unwanted, abandoned, or dis-
18 carded solid or semi-solid material whether putrescible or non-put-
19 rescible, originating from any source, including but not limited to
20 garbage, paper, wood, metal, glass, plastic, rubber, cloth, ashes,
21 litter and street sweepings, dewatered sewage sludge, dead animals,
22 offal, junked vehicles and equipment, material and debris resulting from
23 construction or demolition projects or logging operations, abandoned and
24 decaying structures, hazardous wastes, mine wastes, gravel pit, quarry
25 and dredge spoils, and overburden except that originating from the
26 construction of single buildings;

27 (27) "treatment works" means a plant, disposal field, lagoon,
28 pumping station, constructed drainage ditch or surface water intercepting
29 ditch, incinerator or other works installed or used for the purpose of

1 treating, neutralizing, stabilizing or disposing of wastewater;

2 (28) "wastewater" means sewage, waterborne industrial waste,
3 laundry liquid effluent, shower or sink water, or other wastes which are
4 waterborne or in a liquid state;

5 (29) "water quality standard" means the measure of purity or
6 quality of water, the maintenance of which is necessary to assure the
7 water's integrity for its reasonable and appropriate use as established
8 by the department;

9 (30) "water" includes lakes, bays, sounds, ponds, impounding
10 reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes,
11 inlets, straits, passages, canals, the Pacific Ocean, Gulf of Alaska,
12 Bering Sea and Arctic Ocean, in the territorial limits of the state, and
13 all other bodies of surface or underground water, natural or artificial,
14 public or private, inland or coastal, fresh or salt, which are wholly or
15 partially in or bordering the state or under the jurisdiction of the
16 state; the term includes all water subject to federal jurisdiction under
17 the Federal Water Pollution Control Act.

18 * Sec. 14. AS 46.03.180 is repealed.

19 * Sec. 15. This Act takes effect upon approval of the state's National
20 Pollutant Discharge Elimination System program by the administrator of the
21 United States Environmental Protection Agency, or his designee, under sec.
22 402 of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat.
23 816).

Introduced: 1/10/78
Referred: Resources and
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 393

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE -- SECOND SESSION

5 A BILL

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1 limitations promulgated by the administrator is subject to AS 44.62.-
2 300 only to the extent of determining whether the adoption complies
3 with the procedural requirements of AS 44.62.040 - 44.62.210.

4 (b) Alternatively, and to the extent permissible under the
5 Federal Water Pollution Control Act, the department, if it determines
6 that effluent limitations promulgated by the administrator do not
7 reflect the appropriate standard of the Federal Water Pollution Control
8 Act in this state, may adopt effluent limitations which in its judg-
9 ment do reflect the appropriate standard in this state.

10 (c) If the administrator has not adopted effluent limitations
11 for a category or source the department may, in consultation with the
12 administrator, establish effluent limitations on a case-by-case basis,
13 applying the applicable standard of the Federal Water Pollution
14 Control Act.

15 * Sec. 5. AS 46.03.100 is repealed and re-enacted to read:

16 Sec. 46.03.100. WATER POLLUTION CONTROL PERMIT. (a) A person
17 who conducts an operation which results in the entry of a pollutant to
18 the water of the state must obtain a permit from the department.

19 (b) If, on the effective date of this Act, an entry of a pollu-
20 tant is permitted under secs. 402(a)(1) or 404(a) of the Federal Water
21 Pollution Control Act, and the department has certified that permit
22 under sec. 401(a)(1) of the Federal Water Pollution Control Act, the
23 person need not obtain a permit under (a) of this section until the
24 expiration of the federally issued permit. The person shall apply for
25 a permit under (a) of this section no later than 180 days before the
26 expiration of the federally issued permit. A violation of a term or
27 condition of a federally issued permit adopted under this subsection
28 is considered a violation of a permit issued by the department under
29 the authority of this chapter.

1 (c) For operations commencing after the effective date of this
2 Act, application must be made at least 180 days before commencement of
3 this operation.

4 (d) For operations which commenced before the effective date of
5 this Act, and which do not fall within the exemption of (b) of this
6 section, application must be made within 60 days after the effective
7 date of this Act.

8 (e) The department may issue general permits under this section
9 for classes or categories of operations which, individually or cumu-
10 latively, do not significantly affect water quality.

11 * Sec. 6. AS 46.03 is amended by adding new sections to read:

12 Sec. 46.03.105. PERMIT REVIEW CRITERIA; TERMS AND CONDITIONS.

13 (a) The department shall issue a permit under sec. 100 of this chapter
14 if the applicant demonstrates that the operation will comply with:

15 (1) water quality standards adopted under secs. 70 and 80
16 of this chapter, and maximum daily load requirements which may be
17 adopted to implement water quality standards under sec. 303(d) of the
18 Federal Water Pollution Control Act;

19 (2) applicable effluent limitations established under sec.
20 95 of this chapter;

21 (3) the applicable areawide waste treatment management plan
22 approved under sec. 208 of the Federal Water Pollution Control Act;
23 and

24 (4) standards adopted by the department which are in
25 substantial conformity with guidelines and standards promulgated under
26 sec. 404 of the Federal Water Pollution Control Act.

27 (b) No permit may be issued for:

28 (1) the discharge of any radiological, chemical, or biologi-
29 cal warfare agent or high-level radioactive waste;

1 (2) any discharge which the Secretary of the Army, acting
2 through the Chief of Engineers, finds would substantially impair
3 anchorage and navigation of any water of the United States; or

4 (3) any discharge to which the administrator has objected
5 pursuant to any right provided to the administrator under the Federal
6 Water Pollution Control Act.

7 (c) The department may impose as conditions in permits for the
8 discharge of pollutants from publicly-owned treatment works require-
9 ments for information to be provided by the permittee concerning new
10 introductions of pollutants or substantial changes in the volume or
11 character of pollutants being introduced into the treatment works.

12 (d) The department may impose as conditions in permits for the
13 discharge of pollutants from publicly-owned treatment works appropriate
14 measures to establish and insure compliance by industrial users with a
15 system of user charges.

16 (e) No permit may be issued for a period greater than five
17 years.

18 (f) The department may attach to a permit the terms and con-
19 ditions, including schedules of compliance, it finds necessary to
20 ensure compliance with any applicable standard.

21 Sec. 46.03.107. MONITORING AND INSPECTION. (a) The department
22 may require any owner or operator of any source of a pollutant to:

23 (1) establish and maintain records;
24 (2) make reports;
25 (3) install, calibrate, use and maintain monitoring equip-
26 ment or methods (including, where appropriate, biological monitoring
27 methods);

28 (4) sample discharges in accordance with methods the de-
29 partment may prescribe; and

1 (5) provide other information relating to the entry of a
2 pollutant into water of the state or to introduction of a pollutant
3 into publicly owned treatment works as the department may reasonably
4 require.

5 (b) The department, upon presentation of credentials,

6 (1) has a right of entry to, upon, or through any premises
7 in which any pollutant source is located or in which any records are
8 required to be maintained;

9 (2) may at reasonable times have access to and copy any
10 records required to be maintained;

11 (3) may inspect any monitoring equipment or method which is
12 required; and

13 (4) may have access to and sample any entry of a pollutant
14 to the water of the state or to publicly owned treatment works result-
15 ing from activities or operations of the owner or operator of the
16 premises in which the source of a pollutant is located.

17 (c) For the purpose of this section, "source of a pollutant" in-
18 cludes any permittee under sec. 100 of this chapter (other than a
19 general permittee), and any source of introduction of a pollutant into
20 publicly owned treatment works by an industrial user.

21 * Sec. 7. AS 46.03.110 is repealed and re-enacted to read:

22 Sec. 46.03.110. PERMIT PROCEDURES. (a) The department shall
23 adopt regulations establishing procedures for review of permit appli-
24 cations, including provisions for public notice and public hearing, in
25 accordance with applicable provisions of the Federal Water Pollution
26 Control Act.

27 (b) When the department receives an application, the commis-
28 sioner shall immediately send copies of the application to the com-
29 missioner of fish and game, the commissioner of natural resources,

1 the commissioner of commerce and economic development, the commissioner
2 of health and social services, and the commissioner of transportation
3 and public facilities.

4 * Sec. 8. AS 46.03.120 is repealed and re-enacted to read:

5 Sec. 46.03.120. TERMINATION OR MODIFICATION OF WASTE DISPOSAL
6 PERMIT. The department may terminate or modify a permit issued under
7 sec. 100 of this chapter if the department finds that:

8 (1) the permit was procured by misrepresentation of a mate-
9 rial fact or by failure of the applicant to disclose fully the facts
10 relating to its issuance;

11 (2) there has been a violation of a condition of the per-
12 mit; or

13 (3) there has been a change in any condition that requires
14 either a temporary or permanent reduction or elimination of the entry
15 of pollutants.

16 * Sec. 9. AS 46.03.160(b) is amended to read:

17 (b) Within 60 [30] days of receipt of the plans and information
18 for a proposed undertaking, the department shall either approve the
19 undertaking and issue a permit, or if the department determines that
20 the proposed undertaking will not meet the requirements of secs. 140 -
21 150 of this chapter and applicable regulations, it shall issue a
22 prohibition order against the undertaking.

23 * Sec. 10. AS 46.03 is amended by adding a new section to read:

24 Sec. 46.03.715. SOLID WASTE PERMIT. (a) No person may estab-
25 lish, expand, or operate a solid waste disposal facility without
26 obtaining a permit from the department.

27 (b) Upon receipt of a proper application for a permit under this
28 section the department shall publish notice of the application in two
29 separate publications of a newspaper of general circulation within the

1 general, affected area. The notice may also be published in other
2 appropriate information media. The notice must include a statement
3 that a person who wants to present his views to the department in
4 regard to the application may do so in writing to the department
5 within 30 days after the second publication of the notice. The written
6 response entitles the writer to a copy of the application.

7 (c) When the department receives an application, the commis-
8 sioner shall immediately send copies of the application to the com-
9 missioner of fish and game, the commissioner of natural resources, the
10 commissioner of commerce and economic development, the commissioner of
11 health and social services, and the commissioner of transportation and
12 public facilities.

13 (d) The department may attach terms and conditions to a permit
14 to ensure compliance with appropriate standards. No permit may be
15 effective for a period of more than five years from the date of issu-
16 ance.

17 (e) As used in this section, "solid waste disposal facility"
18 means an intermediate disposal facility, transfer station, landfill,
19 incinerator, composting plant, recycling or reclamation facility, or
20 any site used for the reduction, consolidation, conversion, processing,
21 or disposal of solid waste, except:

22 (1) a single-family or duplex residence in which solid
23 waste is generated and disposed of on-premises;

24 (2) a farm on which solid waste generated from the opera-
25 tion of that farm is disposed of; and

26 (3) incinerator facilities having a total capacity of less
27 than 200 pounds of solid waste per hour.

28 * Sec. 11. AS 46.03.760(c) is amended to read:

29 (c) The court [, UPON MOTION OF THE DEPARTMENT OR UPON ITS OWN

1 MOTION,] may defer assessment of [ALL OR PART OF] that portion of the
2 sum imposed upon a person under (a)(3) of this section which repre-
3 sents the economic savings which the person will realize by continued
4 non-compliance, conditioned upon the person complying, within the
5 shortest feasible time, with the requirement for which a violation is
6 shown.

7 * Sec. 12. AS 46.03 is amended by adding a new section to read:

8 Sec. 46.03.865. CONFIDENTIALITY. Upon a satisfactory showing to
9 the commissioner that any information obtained pursuant to any permit
10 requirement of this chapter would, if made public, divulge methods or
11 processes entitled to protection as trade secrets of the person, the
12 commissioner shall protect the information as confidential. However,
13 information accorded confidential treatment may be disclosed or trans-
14 mitted, for a specific purpose stated in writing by the potential
15 recipient, to other offices, employees, or authorized representatives
16 of this state or of the United States concerned with carrying out any
17 program related to the prevention, abatement, or control of water,
18 air, or land pollution. Confidential information so disclosed or
19 transmitted retains its confidential status and may not be further
20 disclosed or transmitted by the recipient.

21 * Sec. 13. AS 46.03.900 is repealed and re-enacted to read:

22 Sec. 46.03.900. DEFINITIONS. In this chapter

23 (1) "administrator" means the administrator of the United
24 States Environmental Protection Agency, or his designee;

25 (2) "air contaminant" means dust, fumes, mist, smoke, other
26 particulate matter, vapor, gas, odorous substances, or a combination
27 of these;

28 (3) "air pollution" means the presence in the outdoor
29 atmosphere of one or more air contaminants in quantities and duration

1 which tend to be injurious to human health or welfare, animal or plant
2 life, or property or which would unreasonably interfere with the
3 enjoyment of life or property;

4 (4) "atomic radiation" means all ionizing radiation;

5 (5) "broadcast chemicals" means chemical substances which
6 are released into the air or onto land or water for the purpose of
7 preventing, destroying, repelling, stimulating or retarding plant or
8 animal life, or chemical substances released for meteorological con-
9 trol, oil spill control, or fire control;

10 (6) "commissioner" means the commissioner of environmental
11 conservation;

12 (7) "department" means the Department of Environmental
13 Conservation;

14 (8) "effluent limitation" means any limitation, standard of
15 performance, guideline, prohibition, pretreatment standard, or other
16 standard which implements secs. 301, 302, 306, 307, or 403 of the
17 Federal Water Pollution Control Act;

18 (9) "electronic product" means a manufactured product which

19 (A) when in operation, contains or acts as part of an
20 electronic circuit and emits, or in the absence of effective
21 shielding or other controls would emit, electronic product
22 radiation; or

23 (B) is intended for use as a component, part, or
24 accessory of a product described in (A) of this paragraph and
25 which when in operation emits, or in the absence of effective
26 shielding or other controls would emit, electronic product
27 radiation;

28 (10) "electronic product radiation" means an atomic radia-
29 tion or nonionizing, electro-magnetic or particulate radiation, or a

1 sonic, infrasonic, or ultrasonic wave which is emitted from an elec-
2 tronic product as the result of the operation of an electronic circuit
3 in the product;

4 (11) "entry of a pollutant to the water of the state" means
5 the addition of a pollutant to the water of the state by any means,
6 except:

7 (A) approved aquaculture projects;

8 (B) any discharge of any pollutant when the discharge
9 conforms with the national contingency plan for removal of oil
10 and hazardous substances, published under sec. 311(c)(2) of the
11 Federal Water Pollution Control Act, and any applicable state
12 plan or requirement;

13 (C) water, gas, or other material which is injected
14 into a well to facilitate production of oil or gas;

15 (D) additions of wastewater into publicly owned treat-
16 ment works; this exclusion applies only to the actual addition of
17 materials into the publicly owned treatment works; plans or
18 agreements to make additions in the future do not relieve dis-
19 chargers of the obligation to apply for and receive a permit
20 until the entry of any pollutant's to water of the state is
21 actually eliminated; this exclusion does not relieve the person
22 causing the addition from complying with the pretreatment stan-
23 dards adopted under sec. 95 of this chapter; and

24 (E) runoff from activities occurring solely outside
25 the water of the state, until activities creating a significant
26 water quality problem due to runoff are identified as requiring a
27 permit under sec. 100 of this chapter in an applicable areawide
28 waste treatment management plan approved under sec. 208 of the
29 Federal Water Pollution Control Act; this exclusion applies only

1 to the permit requirement of sec. 100 of this chapter; it does
2 not exempt activities creating runoff from any other standard or
3 requirement of this chapter;

4 (12) "facility" means any offshore or onshore structure,
5 improvement, vessel, vehicle, land, enterprise, or endeavor;

6 (13) "Federal Water Pollution Control Act" means the
7 Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. sec.
8 1251, et seq., and all Acts amending or supplementing it which are
9 reasonably within the scope and purpose of the 1972 Act;

10 (14) "industrial use" means those industries identified in
11 the Standard Industrial Classification Manual, Bureau of the Budget,
12 1967, as amended and supplemented, under the category "Division D -
13 Manufacturing, and other classes of significant waste producers as, by
14 regulation, the administrator or department considers appropriate;

15 (15) "motor vehicle" has the same meaning as in AS 28 20.-
16 630;

17 (16) "municipality" means an organized borough or an
18 incorporated city outside an organized borough, and includes all
19 classes of boroughs and cities whether home rule or otherwise;

20 (17) "person" means any individual, public or private
21 corporation, political subdivision, government agency, municipality,
22 industry, co-partnership, association, firm, trust, estate, or any
23 other entity whatsoever;

24 (18) "pesticide" means any chemical or biological agent
25 intended for preventing, destroying, repelling, or mitigating plant or
26 animal life and any substance intended for use as a plant regulator,
27 defoliant or desiccant, including but not limited to insecticides,
28 fungicides, rodenticides, herbicides, nematocides, and biocides;

29 (19) "pollutant" means anything which alters the chemical,

1 physical, biological or radiological integrity, including heat from
2 cooling or other operations, and is either man-made or man-induced;

3 (20) "pollution" means the contamination or altering of
4 water, land, or subsurface land of the state in a manner which creates
5 a nuisance or makes the water, land, or subsurface land unclean,
6 noxious, impure, or unfit so that it is actually or potentially harm-
7 ful, detrimental or injurious to public health, safety or welfare, to
8 domestic, commercial, industrial, or recreational use, or to live-
9 stock, wild animals, birds, fish, or other aquatic life;

10 (21) "radiation" means all atomic and electronic product
11 radiation;

12 (22) "radiation source" means any substance, machine, or
13 electronic product which emits radiation;

14 (23) "schedule of compliance" means a schedule of remedial
15 measures including an enforceable sequence of actions or operations
16 leading to compliance with an effluent limitation, other limitation,
17 prohibition, or standard;

18 (24) "sewage" means the water-carried human or animal
19 wastes from residences, buildings, industrial establishments, or other
20 places, together with ground water infiltration and surface water as
21 may be present; the admixture with sewage of industrial wastes or
22 other wastes is "sewage";

23 (25) "sewer system" or "sewerage system" means pipelines or
24 conduits, pumping stations, and force mains, and all other appurtenant
25 constructions, devices, and appliances used for conducting wastewater
26 to a point of ultimate disposal;

27 (26) "solid waste" means all unwanted, abandoned, or dis-
28 carded solid or semi-solid material whether putrescible or non-put-
29 rescible, originating from any source, including but not limited to

1 garbage, paper, wood, metal, glass, plastic, rubber, cloth, ashes,
2 litter and street sweepings, dewatered sewage sludge, dead animals,
3 offal, junked vehicles and equipment, material and debris resulting
4 from construction or demolition projects or logging operations,
5 abandoned and decaying structures, hazardous wastes, mine wastes,
6 gravel pit, quarry and dredge spoils, and overburden except that
7 originating from the construction of single buildings;

8 (27) "treatment works" means a plant, disposal field,
9 lagoon, pumping station, constructed drainage ditch or surface water
10 intercepting ditch, incinerator or other works installed or used for
11 the purpose of treating, neutralizing, stabilizing or disposing of
12 wastewater;

13 (28) "wastewater" means sewage, waterborne industrial
14 waste, laundry liquid effluent, shower or sink water, or other wastes
15 which are waterborne or in a liquid state;

16 (29) "water quality standard" means the measure of purity
17 or quality of water, the maintenance of which is necessary to assure
18 the water's integrity for its reasonable and appropriate use as estab-
19 lished by the department;

20 (30) "water" includes lakes, bays, sounds, ponds, impound-
21 ing reservoirs, springs, wells, rivers, streams, creeks, estuaries,
22 marshes, inlets, straits, passages, canals, the Pacific Ocean, Gulf of
23 Alaska, Bering Sea and Arctic Ocean, in the territorial limits of the
24 state, and all other bodies of surface or underground water, natural
25 or artificial, public or private, inland or coastal, fresh or salt,
26 which are wholly or partially in or bordering the state or under the
27 jurisdiction of the state; the term includes all water subject to
28 federal jurisdiction under the Federal Water Pollution Control Act.

29 * Sec. 14. AS 46.03.180 is repealed.

1 * Sec. 15. This Act takes effect upon approval of the state's National
2 Pollutant Discharge Elimination System program by the administrator of the
3 United States Environmental Protection Agency, or his designee, under sec.
4 402 of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat.
5 816).

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COMMITTEE REPORT

SENATE

FURTHER: FINANCE

1/10/78

Date: ~~1/10/78~~ 5/8/78

Mr. President:

The Committee on RESOURCES has had SB 393 relating to state assumption of the national pollutant discharge elimination system

under consideration and (a majority of the committee) (the committee reports it back as follows)

- () recommends it do pass () recommends it do not pass
- () recommends it do pass with attached amendment(s)
- () recommends it be replaced with CS for _____

and _____ () new title () same title

- () AND attaches a Letter of Intent () New Fiscal Note
- () reports it back without recommendation as amended
- () and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

John Anthony "No Rec"
John Meland "No Rec"
DO NOT PASS UNLESS AMENDED
C. Tillion "No Rec"

R. Island

 Chairman
No Rec

AMENDMENT

OFFERED IN THE SENATE:

By: Resources

To: _____ SENATE BILL No. 393

HOUSE BILL No. _____

PAGE: 9
10

LINE: 29
1

Delete [or nonionizing, electromagnetic or
particulate radiation, or a sonic,
infrasonic, or ultrasonic wave]

and Substitute the following language in
its place [, x-ray, or other hard
radiation]

Proposed
This "work draft" contains suggested
amendment by Resources.

Original sponsor: Rules Committee by
request of the Governor

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

CS FOR SENATE BILL NO. 393

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to state assumption of the national
7 pollutant discharge elimination system; and providing
8 for an effective date."

9

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

10

* Section 1. AS 46.03.010 is amended by adding a new subsection to read:

11

(c) It is the policy of the state that the prevention, control,
12 and abatement of water pollution is principally a state responsibility,
13 and the legislature intends by this chapter to confer upon the depart-
14 ment all power and authority necessary to implement those programs which
15 can be delegated to a state under the Federal Water Pollution Control
16 Act.

17

* Sec. 2. AS 46.03.020(10)(D) is amended to read:

18

(D) collection and disposal of wastewater [SEWAGE AND
19 INDUSTRIAL WASTE];

20

* Sec. 3. AS 46.03.020(10) is amended by adding a new subparagraph to

21

read:

22

(I) implementation of the provisions of the Federal
23 Water Pollution Control Act.

24

* Sec. 4. AS 46.03 is amended by adding a new section to read:

25

Sec. 46.03.095. EFFLUENT LIMITATIONS. (a) The department may, by
26 regulation, adopt effluent limitations promulgated by the administrator
27 under secs. 301, 302, 306, 307, or 403 of the Federal Water Pollution
28 Control Act. The adoption by the department of effluent
29 limitations promulgated by the administrator is subject to AS 44.62.-

LA-L 20

1 300 only to the extent of determining whether the adoption complies with
2 the procedural requirements of AS 44.62.040 - 44.62.210.

3 (b) Alternatively, and to the extent permissible under the Federal
4 Water Pollution Control Act, the department, if it determines that
5 effluent limitations promulgated by the administrator do not reflect the
6 appropriate standard of the Federal Water Pollution Control Act in this
7 state, may adopt effluent limitations which in its judgment do reflect
8 the appropriate standard in this state.

9 (c) If the administrator has not adopted effluent limitations for
10 a category or source, the department may, in consultation with the
11 administrator, establish effluent limitations on a case-by-case basis,
12 applying the applicable standard of the Federal Water Pollution Control
13 Act.

14 * Sec. 5. AS 46.03.100 is repealed and re-enacted to read:

15 Sec. 46.03.100. WATER POLLUTION CONTROL PERMIT. (a) A person who
16 conducts an operation which results in the entry of a pollutant to the
17 water of the state must obtain a permit from the department.

18 (b) If, on the effective date of this Act, an entry of a pollutant
19 is permitted under sec. 402(a)(1) or 404(a) of the Federal Water Pollu-
20 tion Control Act, and the department has certified that permit under
21 sec. 401(a)(1) of the Federal Water Pollution Control Act, the person
22 need not obtain a permit under (a) of this section until the expiration
23 of the federally issued permit. The person shall apply for a permit
24 under (a) of this section no later than 180 days before the expiration
25 of the federally issued permit. A violation of a term or condition of a
26 federally issued permit adopted under this subsection is considered a
27 violation of a permit issued by the department under the authority of
28 this chapter.

29 (c) For operations commencing after the effective date of this

1 Act, application must be made at least 180 days before commencement of
2 this operation.

3 (d) For operations which commenced before the effective date of
4 this Act, and which do not fall within the exemption of (b) of this
5 section, application must be made within 60 days after the effective
6 date of this Act.

7 (e) The department may issue general permits under this section
8 for classes or categories of operations which, individually or cumu-
9 latively, do not significantly affect water quality.

10 * Sec. 6. AS 46.03 is amended by adding new sections to read:

11 Sec. 46.03.105. PERMIT REVIEW CRITERIA; TERMS AND CONDITIONS. (a)
12 The department shall issue a permit under sec. 100 of this chapter if
13 the applicant demonstrates that the operation will comply with

14 (1) water quality standards adopted under secs. 70 and 80 of
15 this chapter, and maximum daily load requirements which may be adopted
16 to implement water quality standards under sec. 303(d) of the Federal
17 Water Pollution Control Act;

18 (2) applicable effluent limitations established under sec. 95
19 of this chapter;

20 (3) the applicable areawide waste treatment management plan
21 approved under sec. 208 of the Federal Water Pollution Control Act; and

22 (4) standards adopted by the department which are in sub-
23 stantial conformity with guidelines and standards promulgated under sec.
24 404 of the Federal Water Pollution Control Act.

25 (b) No permit may be issued for

26 (1) the discharge of any radiological, chemical, or biological
27 warfare agent or high-level radioactive waste;

28 (2) any discharge which the Secretary of the Army, acting
29 through the Chief of Engineers, finds would substantially impair anchor-

1 age and navigation of any water of the United States; or

2 (3) any discharge to which the administrator has objected
3 under any right provided to the administrator under the Federal Water
4 Pollution Control Act.

5 (c) The department may impose as conditions in permits for the
6 discharge of pollutants from publicly owned treatment works requirements
7 for information to be provided by the permittee concerning new introduc-
8 tions of pollutants or substantial changes in the volume or character of
9 pollutants being introduced into the treatment works.

10 (d) The department may impose as conditions in permits for the
11 discharge of pollutants from publicly owned treatment works appropriate
12 measures to establish and insure compliance by industrial users with a
13 system of user charges.

14 (e) No permit may be issued for a period greater than five years.

15 (f) The department may attach to a permit the terms and conditions
16 including schedules of compliance, it finds necessary to ensure compli-
17 ance with any applicable standard.

18 Sec. 46.03.107. MONITORING AND INSPECTION. (a) The department
19 may require any owner or operator of any source of a pollutant to

20 (1) establish and maintain records;

21 (2) make reports;

22 (3) install, calibrate, use and maintain monitoring equipment
23 or methods (including, where appropriate, biological monitoring methods)

24 (4) sample discharges in accordance with methods the de-
25 partment may prescribe; and

26 (5) provide other information relating to the entry of a
27 pollutant into water of the state or to introduction of a pollutant into
28 publicly owned treatment works as the department may reasonably require.

29 (b) The department, upon presentation of credentials,

1 (1) has a right of entry to, upon, or through any premises in
2 which any pollutant source is located or in which any records are re-
3 quired to be maintained;

4 (2) may at reasonable times have access to and copy any
5 records required to be maintained;

6 (3) may inspect any monitoring equipment or method which is
7 required; and

8 (4) may have access to and sample any entry of a pollutant to
9 the water of the state or to publicly owned treatment works resulting
10 from activities or operations of the owner or operator of the premises
11 in which the source of a pollutant is located.

12 (c) For the purpose of this section, "source of a pollutant" in-
13 cludes any permittee under sec. 100 of this chapter (other than a genera
14 permittee), and any source of introduction of a pollutant into publicly
15 owned treatment works by an industrial user.

16 * Sec. 7. AS 46.03.110 is repealed and re-enacted to read:

17 Sec. 46.03.110. PERMIT PROCEDURES. (a) The department shall
18 adopt regulations establishing procedures for review of permit appli-
19 cations, including provisions for public notice and public hearing, in
20 accordance with applicable provisions of the Federal Water Pollution
21 Control Act.

22 (b) When the department receives an application, the commissioner
23 shall immediately send copies of the application to the commissioner of
24 fish and game, the commissioner of natural resources, the commissioner
25 of commerce and economic development, the commissioner of health and
26 social services, and the commissioner of transportation and public
27 facilities.

28 * Sec. 8. AS 46.03.120 is repealed and re-enacted to read:

29 Sec. 46.03.120. TERMINATION OR MODIFICATION OF WASTE DISPOSAL

1 PERMIT. The department may terminate or modify a permit issued under
2 sec. 100 of this chapter if the department finds that

3 (1) the permit was procured by misrepresentation of a mate-
4 rial fact or by failure of the applicant to disclose fully the facts
5 relating to its issuance;

6 (2) there has been a violation of a condition of the permit;

7 or

8 (3) there has been a change in any condition that requires
9 either a temporary or permanent reduction or elimination of the entry of
10 pollutants.

11 * Sec. 9. AS 46.03.160(b) is amended to read:

12 (b) Within 60 [30] days of receipt of the plans and information
13 for a proposed undertaking, the department shall either approve the
14 undertaking and issue a permit, or if the department determines that the
15 proposed undertaking will not meet the requirements of secs. 140 - 150
16 of this chapter and applicable regulations, it shall issue a prohibition
17 order against the undertaking.

18 * Sec. 10. AS 46.03 is amended by adding a new section to read:

19 Sec. 46.03.715. SOLID WASTE PERMIT. (a) No person may establish
20 expand, or operate a solid waste disposal facility without obtaining a
21 permit from the department.

22 (b) Upon receipt of a proper application for a permit under this
23 section the department shall publish notice of the application in two
24 separate publications of a newspaper of general circulation within the
25 general, affected area. The notice may also be published in other
26 appropriate information media. The notice shall include a statement
27 that a person who wants to present his views to the department in regard
28 to the application may do so in writing to the department within 30 days
29 after the second publication of the notice. The written response

1 entitles the writer to a copy of the application.

2 (c) When the department receives an application, the commissioner
3 shall immediately send copies of the application to the commissioner of
4 fish and game, the commissioner of natural resources, the commissioner
5 of commerce and economic development, the commissioner of health and
6 social services, and the commissioner of transportation and public
7 facilities.

8 (d) The department may attach terms and conditions to a permit to
9 ensure compliance with appropriate standards. No permit may be effec-
10 tive for a period of more than five years from the date of issuance.

11 (e) As used in this section, "solid waste disposal facility" means
12 an intermediate disposal facility, transfer station, landfill, incinera-
13 tor, composting plant, recycling or reclamation facility, or any site
14 used for the reduction, consolidation, conversion, processing, or dispo-
15 sal of solid waste, except

16 (1) a single-family or duplex residence in which solid waste
17 is generated and disposed of on-premises;

18 (2) a farm on which solid waste generated from the operation
19 of that farm is disposed of; and

20 (3) incinerator facilities having a total capacity of less
21 than 200 pounds of solid waste per hour.

22 * Sec. 11. AS 46.03.760(c) is amended to read:

23 (c) The court [, UPON MOTION OF THE DEPARTMENT OR UPON ITS OWN
24 MOTION,] may defer assessment of [ALL OR PART OF] that portion of the
25 sum imposed upon a person under (a)(3) of this section which represents
26 the economic savings which the person will realize by continued noncom-
27 pliance, conditioned upon the person complying, within the shortest
28 feasible time, with the requirement for which a violation is shown.

29 * Sec. 12. AS 46.03 is amended by adding a new section to read:

1 Sec. 46.03.865. CONFIDENTIALITY. Upon a satisfactory showing to
2 the commissioner that any information obtained under any permit require-
3 ment of this chapter would, if made public, divulge methods or processes
4 entitled to protection as trade secrets of the person, the commissioner
5 shall protect the information as confidential. However, information
6 accorded confidential treatment may be disclosed or transmitted, for a
7 specific purpose stated in writing by the potential recipient, to other
8 offices, employees, or authorized representatives of this state or of
9 the United States concerned with carrying out any program related to the
10 prevention, abatement, or control of water, air, or land pollution.
11 Confidential information so disclosed or transmitted retains its confi-
12 dential status and may not be further disclosed or transmitted by the
13 recipient.

14 * Sec. 13. AS 46.03.900 is repealed and re-enacted to read:

15 Sec. 46.03.900. DEFINITIONS. In this chapter

16 (1) "administrator" means the administrator of the United
17 States Environmental Protection Agency, or his designee;

18 (2) "air contaminant" means dust, fumes, mist, smoke, other
19 particulate matter, vapor, gas, odorous substances, or a combination of
20 these;

21 (3) "air pollution" means the presence in the outdoor atmos-
22 phere of one or more air contaminants in quantities and duration which
23 tend to be injurious to human health or welfare, animal or plant life,
24 or property or which would unreasonably interfere with the enjoyment of
25 life or property;

26 (4) "atomic radiation" means all ionizing radiation;

27 (5) "broadcast chemicals" means chemical substances which are
28 released into the air or onto land or water for the purpose of prevent-
29 ing, destroying, repelling, stimulating or retarding plant or animal

1 life, or chemical substances released for meteorological control, oil
2 spill control, or fire control;

3 (6) "commissioner" means the commissioner of environmental
4 conservation;

5 (7) "department" means the Department of Environmental Con-
6 servation;

7 (8) "effluent limitation" means any limitation, standard of
8 performance, guideline, prohibition, pretreatment standard, or other
9 standard which implements secs. 301, 302, 306, 307, or 403 of the
10 Federal Water Pollution Control Act;

11 (9) "electronic product" means a manufactured product which

12 (A) when in operation contains or acts as part of an
13 electronic circuit and emits, or in the absence of effective
14 shielding or other controls would emit, electronic product radia-
15 tion; or

16 (B) is intended for use as a component, part, or acces-
17 sory of a product described in (A) of this paragraph and which when
18 in operation emits, or in the absence of effective shielding or
19 other controls would emit, electronic product radiation;

20 (10) "electronic product radiation" means an atomic radia-
21 tion, X-ray, or other hard radiation which is emitted from an electronic
22 product as the result of the operation of an electronic circuit in the
23 product;

24 (11) "entry of a pollutant to the water of the state" means
25 the addition of a pollutant to the water of the state by any means,
26 except

27 (A) approved aquaculture projects;

28 (B) any discharge of any pollutant when the discharge
29 conforms with the national contingency plan for removal of oil and

1 hazardous substances, published under sec. 311(c)(2) of the Federal
2 Water Pollution Control Act, and any applicable state plan or
3 requirement;

4 (C) water, gas, or other material which is injected into
5 a well to facilitate production of oil or gas;

6 (D) additions of wastewater into publicly owned treat-
7 ment works; this exclusion applies only to the actual addition of
8 materials into the publicly owned treatment works; plans or agree-
9 ments to make additions in the future do not relieve dischargers of
10 the obligation to apply for and receive a permit until the entry of
11 any pollutants to water of the state is actually eliminated; this
12 exclusion does not relieve the person causing the addition from
13 complying with the pretreatment standards adopted under sec. 95 of
14 this chapter; and

15 (E) runoff from activities occurring solely outside the
16 water of the state, until activities creating a significant water
17 quality problem due to runoff are identified as requiring a permit
18 under sec. 100 of this chapter in an applicable areawide waste
19 treatment management plan approved under sec. 208 of the Federal
20 Water Pollution Control Act; this exclusion applies only to the
21 permit requirement of sec. 100 of this chapter; it does not exempt
22 activities creating runoff from any other standard or requirement
23 of this chapter;

24 (12) "facility" means any offshore or onshore structure,
25 improvement, vessel, vehicle, land, enterprise, or endeavor;

26 (13) "Federal Water Pollution Control Act" means the Federal
27 Water Pollution Control Act Amendments of 1972, 33 U.S.C. sec. 1251, et
28 seq., and all Acts amending or supplementing it which are reasonably
29 within the scope and purpose of the 1972 Act;

1 (14) "industrial use" means those industries identified in
2 the Standard Industrial Classification Manual, Bureau of the Budget,
3 1967, as amended and supplemented, under the category Division D -
4 Manufacturing, and other classes of significant waste producers as, by
5 regulation, the administrator or department considers appropriate;

6 (15) "motor vehicle" has the same meaning as in AS 28.20.630;

7 (16) "municipality" means an organized borough or an incor-
8 porated city outside an organized borough, and includes all classes of
9 boroughs and cities whether home rule or otherwise;

10 (17) "person" means any individual, public or private cor-
11 poration, political subdivision, government agency, municipality, indus-
12 try, co-partnership, association, firm, trust, estate, or any other
13 entity;

14 (18) "pesticide" means any chemical or biological agent
15 intended for preventing, destroying, repelling, or mitigating plant or
16 animal life and any substance intended for use as a plant regulator,
17 defoliant or desiccant, including but not limited to insecticides,
18 fungicides, rodenticides, herbicides, nematocides, and biocides;

19 (19) "pollutant" means anything which alters the chemical,
20 physical, biological or radiological integrity, including heat from
21 cooling or other operations, and is either man-made or man-induced;

22 (20) "pollution" means the contamination or altering of
23 water, land, or subsurface land of the state in a manner which creates a
24 nuisance or makes the water, land, or subsurface land unclean, noxious,
25 impure, or unfit so that it is actually or potentially harmful, detri-
26 mental or injurious to public health, safety or welfare, to domestic,
27 commercial, industrial, or recreational use, or to livestock, wild
28 animals, birds, fish, or other aquatic life;

29 (21) "radiation" means all atomic and electronic product

1 radiation;

2 (22) "radiation source" means any substance, machine, or
3 electronic product which emits radiation;

4 (23) "schedule of compliance" means a schedule of remedial
5 measures including an enforceable sequence of actions or operations
6 leading to compliance with an effluent limitation, other limitation,
7 prohibition, or standard;

8 (24) "sewage" means the water-carried human or animal wastes
9 from residences, buildings, industrial establishments, or other places,
10 together with ground water infiltration and surface water as may be
11 present; the admixture with sewage of industrial wastes or other wastes
12 is "sewage";

13 (25) "sewer system" or "sewerage system" means pipelines or
14 conduits, pumping stations, and force mains, and all other appurtenant
15 constructions, devices, and appliances used for conducting wastewater to
16 a point of ultimate disposal;

17 (26) "solid waste" means all unwanted, abandoned, or dis-
18 carded solid or semi-solid material whether putrescible or non-put-
19 rescible, originating from any source, including but not limited to
20 garbage, paper, wood, metal, glass, plastic, rubber, cloth, ashes,
21 litter and street sweepings, dewatered sewage sludge, dead animals,
22 offal, junked vehicles and equipment, material and debris resulting from
23 construction or demolition projects or logging operations, abandoned and
24 decaying structures, hazardous wastes, mine wastes, gravel pit, quarry
25 and dredge spoils, and overburden except that originating from the
26 construction of single buildings;

27 (27) "treatment works" means a plant, disposal field, lagoon,
28 pumping station, constructed drainage ditch or surface water intercepting
29 ditch, incinerator or other works installed or used for the purpose of

1 treating, neutralizing, stabilizing or disposing of wastewater;

2 (28) "wastewater" means sewage, waterborne industrial waste,
3 laundry liquid effluent, shower or sink water, or other wastes which ar-
4 waterborne or in a liquid state;

5 (29) "water quality standard" means the measure of purity or
6 quality of water, the maintenance of which is necessary to assure the
7 water's integrity for its reasonable and appropriate use as established
8 by the department;

9 (30) "water" includes lakes, bays, sounds, ponds, impounding
10 reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes,
11 inlets, straits, passages, canals, the Pacific Ocean, Gulf of Alaska,
12 Bering Sea and Arctic Ocean, in the territorial limits of the state, and
13 all other bodies of surface or underground water, natural or artificial,
14 public or private, inland or coastal, fresh or salt, which are wholly or
15 partially in or bordering the state or under the jurisdiction of the
16 state; the term includes all water subject to federal jurisdiction under
17 the Federal Water Pollution Control Act.

18 * Sec. 14. AS 46.03.180 is repealed.

19 * Sec. 15. This Act takes effect upon approval of the state's National
20 Pollutant Discharge Elimination System program by the administrator of the
21 United States Environmental Protection Agency, or his designee, under sec.
22 402 of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat.
23 816).

January 10, 1978

The Honorable John L. Rader
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill to provide the Department of Environmental Conservation with sufficient statutory authority to assume responsibility for implementing the National Pollutant Discharge Elimination System ("NPDES") within Alaska.

The NPDES is established under sec. 402 of the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.). It requires that any person discharging a pollutant into water obtain a permit from the United States Environmental Protection Agency ("EPA"). The section also provides, however, that state environmental departments with sufficient authority may implement the NPDES program within their jurisdictions. So far, twenty-seven states and the Virgin Islands have assumed the program.

In 1976, the legislature urged me to direct the Department of Environmental Conservation to assume the NPDES program "as quickly as possible." HCR 122, 9th Leg., 2nd Sess. I share the legislature's belief that water pollution control is a state responsibility, and that our citizens should be able to deal with their own state officials, rather than distant federal bureaucrats, in obtaining water pollution control permits. The primary constraint, until now, has been a lack of funding to properly administer the program. However, under amendments to the federal Act now in Congressional Conference Committee, it is likely that sufficient

federal funds will be available to remove this fiscal stumbling block. Given the probable availability of sufficient federal program grants, the time is ripe for equipping the department with the statutory tools necessary to obtain EPA approval.

The bill will not take effect until EPA has actually delegated the NPDES program to the state, and the department will petition for delegation only when sufficient program funds are secured. By meeting statutory deficiencies in advance, I am confident that the department will be able to assume the program at a far earlier date than if legislation were deferred pending sufficient funding.

The transmitted bill borrows heavily from the model state NPDES bill prepared by the Council of State Governments in 1973. The bill confers upon the department the authority to establish discharge standards according to the criteria established in the federal Act, and provides for permit procedures, and the imposition of permit terms consistent with federal requirements. The bill was also drafted to provide for delegation to the department of the federal dredge and fill permit program contained in sec. 404 of the federal Act. Under pending amendments to the federal Act, this program, as well as the NPDES program, can be delegated to the states, and, certainly, the same considerations warranting a delegation of the NPDES program apply to delegation of the dredge and fill program as well. The bill also allows the department to issue general permits for minor discharges, obviating the need for small operations to become enmeshed in regulatory details when their activities pose no real environmental consequences.

Passage of this legislation will not bring with it a weakening of water pollution control efforts. Under the federal Act, standards established by the department must be as stringent as federal requirements. The bill will, however, make the drafting and monitoring of permits a state function, and will provide for state establishment of standards for those operations for which no federal standard has been adopted.

The bill does pose a legal uncertainty. To gain EPA approval, state programs must provide that permittees consent to inspections of the discharging facilities. 40 C.F.R. § 124.45(c). In Woods and Rhode, Inc. v. Department of Labor (No. 1433, June 2, 1977), the Alaska Supreme Court ruled that the

Occupational Safety and Health Administration could not constitutionally conduct routine warrantless searches of regulated premises. The same reasoning may or may not limit the breadth of inspection authority in the water pollution control field. The bill meets the current federal requirement. If it is subsequently determined that the department cannot impose such an inspection requirement in permits, I am confident that EPA will not revoke its delegation simply on the basis of unavoidable constitutional constraints.

Sincerely,

S/ JSH.

Jay S. Hammond
Governor

FISCAL ANALYSIS

ASSUMPTION OF NPDES PERMITS

The subject bill modifies existing statutes to allow the State's adoption of the Federal National Pollution Discharge Elimination System (NPDES) Permit Program. There are about 800 Federal NPDES permits issued in Alaska. The U. S. Environmental Protection Agency (EPA) currently has about four employees assigned to operate this program in Alaska.

The difficulty in preparing a fiscal analysis of this bill stems from the unspecified level of service which this program requires and the amount of man hours that EPA devotes to its operation which aren't charged directly to the NPDES Program. Currently, the Federal government appears to be devoting a minimum amount of effort to this program with uncertain benefit to the environment of the State.

This Fiscal Note assumes a level of service above that currently maintained by the Federal government but much less than maximum/optimum effort. It is anticipated that a short term contract will be developed in the near future to better define costs involved. This contract and eventual funding to support this program is to come from the Federal government. Without full Federal funding, Alaska should probably not adopt the program.

- 1. AS 46.03.095 permits the department to adopt by regulation effluent limitations previously promulgated by EPA, modify effluent limitations and/or adopt new limitations. This may require up to one year of effort to develop a complete set of Alaskan modifications. However, the initial preliminary adoption could be achieved almost immediately.

. One Environmental Engineer First Year only:

<u>Object Code</u>	<u>Cost</u>
100	32.0
200	4.0
300	3.0
400	.5
500	.5
<u>TOTAL</u>	<u>40.0</u>

- 2. AS 46.03.100 adopts Federal permits as State permits, specifies Federal violations as State violations, establishes application schedules and allows general permits. No specific costs are incurred by this section.
- 3. AS 46.03.105 establishes guidelines by which to issue or deny permits. No costs are incurred through the provisions of this section.
- 4. AS 46.03.110 permits the Department to adopt permit regulations. Because the Department is already adopting similar regulations, no additional costs are incurred by its provisions.

5. AS 46.03.120 provides guidelines for permit termination, specifies permit conditions and additionally requires a departmental response to permit applications within 60 days. Other than the staffing level necessary to attain this level of service (addressed later) no specific costs are incurred by the provisions of this section.
6. AS 46.03.107 defines monitoring and inspection requirements. This section may be construed to generate a cost to the permittee. However, in that the Federal government requires self monitoring now, no additional cost to the permittee is foreseen.
7. AS 46.03.715 discusses Solid Waste permits. However because the substance of this section has already been adopted into law, this section has no effect.

AS 46.03.865 discusses confidentiality of industrial processes and generates no costs to the State.

AS 46.03.900 establishes definitions.

8. Should the Department adopt the NPDES program. We would be required to service between 800 to 1,000 permits. Most of the permits expire every five years. Additionally, general permits may be issued. For the major permittees (50) annual inspections are required. For the remainder, inspections would probably be scheduled every three to five years. Additionally, general permits may be issued. For the major permittees (50) annual inspections are required. For the remainder, inspections would probably be scheduled every three to five years. Work load which this entails includes:

- a. Receive and route about 200-250 permit applications per year through the permit function in Program Coordination.

One Administrative Assistant:

<u>Object Code</u>	<u>Cost</u>
100	22.2
200	1.0
300	4.0
400	1.0
500	1.0
<u>TOTAL</u>	<u>29.2</u>

- b. Review and approve or reject about 200-250 permits/year in Water Programs Division.

One Engineer/Ecologist:

<u>Object Code</u>	<u>Cost</u>
100	32.0
200	4.0
300	3.0
400	.5
500	.5
<u>TOTAL</u>	<u>40.0</u>

- c. Mail responses, handle inquiries, perform logging, tracking and filing activities, mail permits to applicants and Regional Offices;

One Clerk Typist III

<u>Object Code</u>	<u>Cost</u>
100	15.1
200	.5
300	4.0
400	1.0
500	1.0
<u>TOTAL</u>	<u>21.6</u>

- d. Perform about 50 inspections per year at major facilities assuming each inspection requires 3 days + office, travel, and onsite inspection time.

About 1/2 Environmental Field Officer (Fairbanks schedule)

<u>Object Code</u>	<u>Cost</u>
100	16.0
200	4.0
300	6.0
400	1.0
500	1.0
<u>TOTAL</u>	<u>28.0</u>

- e. Perform about 750 to 950 field inspections each 5-year period. Annual rate becomes 150-200 + inspections per year. Assume each inspection requires about 3 days office travel and on-site inspection time. Each man year results in about 250 man days available. Therefore, 200 inspections X 3 days + 250 = 2 1/2 man days per year.

2 1/2 Environmental Field Officers

<u>Object Code</u>	<u>Cost</u>
100	140.0
200	20.0
300	30.0
400	5.0
500	5.0
<u>TOTAL</u>	<u>200.0</u>

- f. Laboratory Analysis of an estimated three to five parameters/sample 100 X 4 parameters average = 4,000 analyses.

Chemist/Biologist

<u>Object Code</u>	<u>Cost</u>
100	23.8
200	1.0
300	6.0
400	5.0
<u>500</u>	<u>1.0</u>
TOTAL	36.8

- g. Additionally, a minimum of one additional lawyer will be required to the Attorney General's staff.

One lawyer on A.G.'s staff

<u>Object Code</u>	<u>Cost</u>
100	46.3
200	6.0
300	6.0
400	1.0
<u>500</u>	<u>1.0</u>
TOTAL	60.3

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. _____
Title Assumption of NPDES Permit System
Requested by Governor Date 12/8/77

II. FISCAL DETAIL

Agency Affected Environmental Conservation, Law
Program Category Affected SRM & EC, Justice
Budget Request Unit(s) Affected Water Programs, Program Coordination, Field, Law

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES			327.4	304.6	322.9	342.2
200 TRAVEL			40.5	38.7	41.0	43.4
300 CONTRACTUAL			62.0	62.5	66.2	70.2
400 COMMODITIES			15.0	15.3	16.2	17.3
500 EQUIPMENT			11.0	11.1	11.8	12.5
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL			455.9	432.2	458.1	485.6

FUNDING (Thousands of Dollars)

GENERAL FUND			-0-	-0-	-0-	-0-
FEDERAL FUNDS			455.9	432.2	458.1	485.6
OTHER (Specify)						

POSITIONS

FULL TIME			9	8	8	8
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached detailed analysis.

Inflation taken at 6%

IV. DATE 12/8/77

PREPARED BY [Signature]
AGENCY Environmental Conservation
PHONE 465-2604

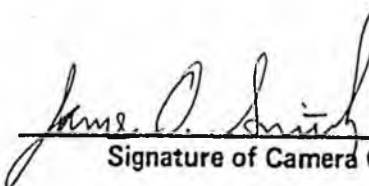
Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)



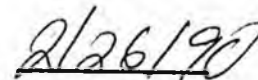
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Signature of Camera Operator



Date

SB 397

Making FY 78 appropriation adjustments, Education, Foundation Program

Referred to Senate Secretary
4/2/78 per Senator Nelson's
request for Judicial Reform
Dues to Finance.

In 1-19-78

Introduced: 1/11/78
Referred: Health, Education &
Social Services and Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 397

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE -- SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making FY 78 appropriation adjustments,
7 Education, Foundation Program; and providing for an
8 effective date."

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

10 * Section 1. Section 9, ch. 153 SLA 1977, page 4, line 24 (Education,
11 Foundation Program), is amended to read:

	Appropriation	Appropriation	Fund Source
	Item	General	
14 Foundation Program -			
15 Regular	<u>137,835,300</u> [138,748,800]	<u>137,835,300</u>	[138,748,800]

16 * Sec. 2. Section 9, ch. 153 SLA 1977, page 5, line 8 (Education, Foun-
17 dation Program), is amended to read:

	Appropriation	Appropriation	Fund Source
	Item	General	Other
20 Foundation Program - REAA			
21	<u>42,570,400</u> [41,656,900]	<u>26,070,400</u>	[25,156,900] 16,500,000

22 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
23 10.070(c) and is retroactive to July 1, 1977.

Introduced: 1/11/78
Referred: Health, Education &
Social Services and Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 397

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4 TENTH LEGISLATURE -- SECOND SESSION

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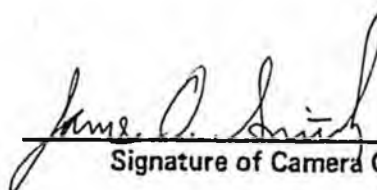
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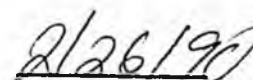
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Signature of Camera Operator



Date

COMMITTEE REPORT
SENATE

1/11/78

FURTHER: NONE

Date: _____

Mr. President:

The Committee on FINANCE has had SB 398
supplemental appropriation to Office of the Governor, Public Defender

under consideration and (a majority of the committee) (the committee reports it back as follows)

- recommends it do pass recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for _____

and _____ new title same title

- AND attaches a Letter of Intent New Fiscal Note
- reports it back without recommendation
- and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Chairman

398

Introduced: 1/11/78
Referred: Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 398

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE -- SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a supplemental appropriation to the
7 Office of the Governor, Public Defender; and providing
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12 * Sec. 2. This Act is retroactive to January 1, 1978.

13 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
14 10.070(c).

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398 ..

January 11, 1978

The Honorable John L. Rader
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

Under authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill to make a supplemental appropriation to the Office of the Governor, Public Defender.

This appropriation would allow the Public Defender Agency to employ an additional attorney beginning January 1, 1978, to defend persons charged by the Municipality of Anchorage with municipal offenses.

Sincerely,

S/SSH

Jay S. Hammond
Governor

MEMORANDUM

State of Alaska

328

TO: Dan Dawson
Budget Analyst
Office of the Governor

DATE: December 16, 1977

FILE NO.

TELEPHONE NO.

FROM: George Laurito
Administrative Officer
Public Defender Agency

SUBJECT: Request for Supplemental
Appropriation

This request for supplemental funds is in two parts.

I. The Nome office (Second Judicial District) requires an additional \$8,900. Part of this was recognized several months ago and was noted in my memo and JV of August 12. In the past, these minor adjustments had been taken care of by transferring authorizations from other agency funds. Since this can no longer be done by Journal Voucher through Legislative Budget and Audit, the supplemental process is necessary.

In addition, costs vary greatly from case to case, making accurate predictions difficult. As an example, one recent felony trial cost in excess of \$2,800 for medical and witness fees and expenses. This one case required over 70% of the funds authorized for such expenses in Nome.

Our request therefore is for \$8,900. Since we propose transferring this amount from the Third Judicial District authorization as follows, there will be no increase in the BRU.

	Existing Authorization		Change		Requested Authorization	
	2nd Dist.	3rd Dist.	2nd Dist.	3rd Dist.	2nd Dist.	3rd Dist.
100	-	727.3			-	727.3
200	2.5	41.2	5.9		8.4	41.2
300	96.7	197.9	3.0	[8.9]	99.7	194.9
400	-	10.6			-	10.6
500	-	2.5			-	2.5
600	-	8.6			-	8.6
Total	99.2	988.1	8.9	[8.9]	108.1	985.1

Dan Dawson
December 16, 1977
Page Two

II. The Anchorage office (Third Judicial District) requests an additional appropriation of \$20,179 for salary and benefits for one Attorney III for six months beginning January 1.

The Public Defender Agency has been forced to assume the responsibility for defending charges brought by the Municipality of Anchorage. This has resulted in 428 new misdemeanor cases in less than five months, a yearly rate in excess of 1,000.

Also, the Anchorage voters authorized \$2,900,000 to increase police staffing from the present 165 to a minimum of 222 officers and patrolpersons. Of the minimum 57 new positions, 34 will be filled by January 1. (This information has been obtained from the Anchorage Municipality Budget Officer. Staffing figures do not include support personnel. The Anchorage Police Department intends to have 68 new officers and patrol persons on duty this fiscal year.) This 35 to 40% staffing increase will have a significant effect on our caseload.

In addition, the appeals caseload increased 60% in FY 77 and is expected to increase another 30% in FY 78.

This understaffing has been addressed in our FY 79 budget request and will be largely eliminated upon approval of the Governor's budget. Approval of this supplemental request would merely change the starting date of one attorney from July 1, 1978 to January 1, 1978.

Costs of this request are as follows:

Attorney III, 6 mos. at \$2,661		\$15,966
Benefits at 17.25%	2,754	
Health Ins., 6 mos. at 82.18	493	
FICA at .0605%	<u>966</u>	
Total Salary & Benefits		<u>4,213</u> \$20,179

The FY 78 Supplemental Request Analysis forms for the Second and Third Judicial Districts are attached. Please note that the total increase requested is \$20,179. Please call me if you have any questions or need further information.

GL:jd

Attachments

FY 73 SUPPLEMENTAL REQUEST ANALYSIS

THIRD JUDICIAL DISTRICT

	FY 76 ACTUAL	FY 77 FINAL AUTH.	FY 77 ACTUAL	FY 78 GOV. BUDGET	FY 78 INITIAL AUTH.	FY 78 CURRENT AUTH.	EXPENDITURES + ENCUMBRANCES 7/1 - 10/31	OTHER OBLIGATION 7/1 - 12/31	PROJECTED EXPENDITURES + ENCUMBRANCES 11/1 - 6/30	FY 78 (DEFICIT) OR EXCESS	FY 79 MAINTENANCE REQUEST
PERSONAL SERVICES	623.0	706.1	706.1	765.5	727.3	727.3	215.7	-	531.8	[20.2]	1,007.6
TRAVEL	40.8	30.0	29.3	41.2	41.2	41.2	10.3		30.9	-0-	40.0
CONTRACTUAL SERVICES	99.4	153.0	148.2	197.9	197.9	197.9	66.0		123.0	-0-	324.5
COMMODITIES	10.8	12.0	11.3	10.6	10.6	10.6	2.5		8.1	-0-	14.0
EQUIPMENT	3.6	9.3	8.9	2.9	2.5	2.5	-		2.5	-0-	8.4
LAWS, BLISS, ...		10.1	9.2	8.6	8.6	8.6	8.6		-0-	-0-	8.6
GRANTS, CLAIMS, ...											
MISCELLANEOUS											
TOTAL	777.6	920.5	913.0	1,026.7	988.1	988.1	303.1		696.3	[20.2]	1,407.1
FEDERAL RECEIPTS											
REQUIRED OF MATCHING											
OTHER GENERAL FUND	777.6	920.5	913.0		988.1	988.1	303.1		696.3	[20.2]	1,407.1
INTER-AGENCY RECEIPTS											

*After transfer of 8.9 to Second Judicial District

ALASKA STATE LEGISLATURE

TENTH Legislature SECOND Session

SENATE BILL NO. 398

By THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

"An Act making a supplemental appropriation to the Office of the Governor, Public Defender; and providing for an effective date."

supp. approp./Office of Gov.

Introduced in the Senate 1/11 78

HISTORY IN THE SENATE

19 78	1	11	Read first time and referred to Committee on Finance												
			Reported back with recommendation that												
			Read second time and												
			Read third time and												
			<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused		
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			Reported correctly engrossed												
			Signed by President												
			Sent to House												
SECRETARY OF THE SENATE															

HISTORY IN THE HOUSE

19			Read first time and referred to Committee on												
			Reported back with recommendation that												
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			Reported correctly engrossed												
			Signed by Speaker												
			Returned to Senate												
CHIEF CLERK OF THE HOUSE															

HISTORY IN THE SENATE

19		Received from House
		Reported correctly enrolled
		Sent to Governor
	 By Governor
		Filed with Lt. Governor
		Chapter No.

Introduced: 1/11/78
Referred: Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 398

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE -- SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a supplemental appropriation to the
7 Office of the Governor, Public Defender; and providing
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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. The sum of \$20,200 is appropriated from the general fund
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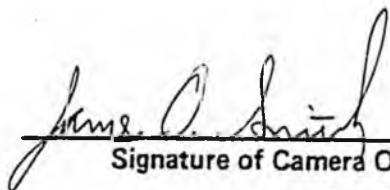
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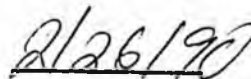


RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

COMMITTEE REPORT
SENATE

4/5/78

FURTHER: _____

Date: May 8, 1978

Mr. President:

The Committee on FINANCE has had SB 389 requiring prisoners to be compensated for work performed in prison facilities

under consideration and (a majority of the committee) (the committee reports it back as follows)

- recommends it do pass () recommends it do not pass
- () recommends it do pass with attached amendment(s)
- () recommends it be replaced with CS for _____
- and _____ () new title () same title
- () AND attaches a Letter of Intent () New Fiscal Note
- reports it back without recommendation
- () and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

[Signature]
[Signature]

[Signature]
[Signature]
[Signature]

[Signature]
Chairman

Original sponsors: Ray, Sackett,
Butrovich and Kerttula

Offered: 4/5/78
Referred: Finance

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 389

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to gratuities to prisoners for work
7 performed in prison facilities."

8

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

9

* Section 1. AS 33.30 is amended by adding a new section to read:

10

Sec. 33.30.085. GRATUITY FOR INSTITUTIONAL WORK. A prisoner not

11

on furlough may not be required to perform work other than personal

12

housekeeping while detained or confined in a prison facility. A pri-

13

soner who participates in institutional work programs is eligible for a

14

gratuity payment. The amount of gratuity shall vary among the different

15

types of work performed in the institution in proportion to the dif-

16

ferences in pay received for the same work performed outside the insti-

17

tution; however, the amount of the gratuity may not exceed \$3 a day and

18

must be the same among all state prison facilities for the performance

19

of similar work.

20

* Sec. 2. AS 23.10.055(5) is amended to read:

21

(5) an individual employed by the United States or by the

22

state or political subdivision of the state including prisoners not on

23

furlough detained or confined in prison facilities;

24

* Sec. 3. No position in the classified service existing on the effective

25

date of this Act may be abolished in favor of employing a prisoner to carry

26

out the responsibilities of the position.

27

28

29

#

\$1.00 day
meritorious good time

3 days 1st yr.
5 days per mo.

①. \$300 a day.

②. Some work outside institution
- i. administrative nightmare. -
Skills & amount of work.

6-9 pay scales

One person: 4 different jobs.

Painting, grounds, windows, cleaning,
cooks, laundry,
1/3 do not.
2/3 do.

At least 5-6 years old on \$1.00 per day.

INTRODUCED: 1/10/78
REFERRED: Health, Education &
Social Services and Finance

1 IN THE SENATE

BY RAY, SACKETT, BUTROVICH
and KERTTULA

2 SENATE BILL NO. 389

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring prisoners to be compensated for work
7 performed in prison facilities."

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

9 * Section 1. AS 33.30 is amended by adding a new section to read:

10 Sec. 33.30.085. COMPENSATION FOR INSTITUTIONAL WORK. A prisoner
11 not on furlough may not be required to perform work other than personal
12 housekeeping while detained or confined in a prison facility unless
13 compensated. The department shall establish rates of compensation
14 varying according to the type of work performed, the differences in pay
15 received for similar types of work performed outside the facility, and
16 hours worked.

17 * Sec. 2. AS 23.10.055(5) is amended to read:

18 (5) an individual employed by the United States or by the
19 state or political subdivision of the state including prisoners not on
20 furlough detained or confined in prison facilities;

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. CS For Senate Bill No. 389
 Title An Act relating to gratuities for work performed in prison facilities
 Requested by HESS Committee Date 4-3-78

II. FISCAL DETAIL
 Agency Affected Health & Social Services
 Program Category Affected Administration of Justice
 Budget Request Unit(s) Affected Adult Confinement

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		270.0	*40.0	*44.0	*48.0	*52.0
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		270.0	*40.0	*44.0	*48.0	*52.0
FEDERAL FUNDS						
OTHER (Specify)						

*only increase over prior year level shown

POSITIONS

FULL TIME		Ø	Ø	Ø	Ø	Ø
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The limitation of gratuities may not exceed \$3 a day per inmate for all State facilities permits the flexibility for the Department to establish relative schedules for gratuity payments in accordance with skill levels, and allows for some inflation factors.

The present \$1 per day rate has been in existence for several years and has not kept pace with inflation. Also it may be noted that total inmate gratuity budgets have not allowed for the increase of inmate population.

FY 77 gratuities totaled \$120,000 at the \$1 per day rate. Given the \$3 per day funding level and allowing for a 10% population growth factor the cost of gratuities for FY 79 would approximate \$400,000. An increase of \$270,000 over the FY 78 level of \$130,000 then 10% increase thereafter. Total cost for FY 79 - \$400.0, FY 80 - \$440.0, FY 82 - \$484.0, FY 83 - \$532.0

IV. DATE 4/4/78 PREPARED BY *Teland T. Dalby* Assistant
 AGENCY Health & Social Services - Corrections
 PHONE 465-3376
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)