

LEG. FINANCE - BILLS - 1979 - 1980 - 1067

HB 205 cont. thru HB 208

would have to rely entirely on the federal government with regard to both oil spill prevention and cleanup. Congress never intended an exclusive federal role in these activities, and, given the unique demands which Alaska's hostile environment places upon oil spill cleanup technology, an active, cooperative state role in oil spill cleanup is imperative.

At the same time, I am sympathetic to the criticisms which industry has voiced regarding state oil spill funds. Most oil spill funds require setting aside massive amounts of money -- under Alaska's existing law, \$30 million -- in anticipation of a catastrophic oil discharge. While industry representatives recognize that a major spill may eventually occur, they also point out that, for many years, this money may lie dormant. Contributing to a large fund in every coastal state creates a very real and substantial burden.

The bill I am transmitting to you represents an attempt to respond to those concerns, while at the same time fulfilling the goals of any effective oil spill legislation. The bill does not provide for the establishment of any "fund" at all. Rather, it provides for the levying of an assessment on oil terminal facilities -- at a substantially lower rate than under existing law -- which will constitute program receipts for the department's oil pollution control program, and state-incurred oil spill cleanup costs. To keep the assessments within moderate levels, the potential of a catastrophic spill is not to be included in the department's projections of oil spill cleanup costs. Rather, if a catastrophic spill occurs, response will be handled under my office's existing emergency authority in AS 26.23.

Prompt consideration of this legislation is a matter of high priority. Unless these amendments are enacted, the state will lose its sole funding mechanism for its oil pollution control program, and will have no funds available to respond to oil spills.

Sincerely,



Jay S. Hammond  
Governor

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. HOUSE BILL NO. 205  
 Title An Act Relating to the Prevention and Control of Oil Pollution  
 Requested by Governor Date \_\_\_\_\_

II. FISCAL DETAIL  
 Agency Affected Department of Environmental Conservation  
 Program Category Affected NKM & EC  
 Budget Request Unit(s) Affected Oil Pollution Control

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
State Spill Cleanup Expenses		350.0				
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						
Program Receipts		350.0				

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Please see attached

IV. DATE February 7, 1979 PREPARED BY *E. Mullen* A. L. Eagle  
 AGENCY Department of Environmental Conservation  
 PHONE \_\_\_\_\_  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

### III. ANALYSIS

#### General Discussion

This bill, "An act relating to the prevention and control of oil pollution" is submitted in order to maintain an oil pollution control function for the State of Alaska. The existing laws which established this function, AS 30.20 and portions of AS 30.25, have been declared unconstitutional, therefore, continued collection of receipts under that law is unfeasible.

Under existing law the Coastal Protection Fund was established as a revolving fund of \$30,000,000. This was accrued over a five-year period by collection of risk charges from oil tankers and terminal operators. The collection also covered administrative costs for oil pollution control.

Section 30.25.020 of this bill authorizes the collection of a pollution control assessment from the operators of oil terminal facilities to fund administrative costs and anticipated State costs for oil spill cleanup. An estimated 20% of these costs can be recovered under Section 30.25.050.

Section 30.25.030 specifies that a budget request may be made from appropriations for

- (1) administrative expenses;
- (2) research and development;
- (3) estimated expenses to the State for oil spill cleanup;
- (4) oil spill cleanup and containment equipment and services.

For FY 80 the Department developed the following maintenance-level budget that does not include projected State costs for spill cleanup (350.0) or equipment and material.

Administrative costs	\$450.8
Research and development	-0-
State cleanup costs	-0-
Cleanup contracts and equipment	-0-
TOTAL	<u>\$450.8</u>

The industry has claimed that those portions of these funds associated with Alyeska pipeline and marine transportation of North Slope oil can be added to the tariff rate for the pipeline, thereby reducing the revenues from the State's one-eighth royalty oil. This position is being contested by the State. Should their tariff claim be upheld, the cost to the State from the existing statute would have been about \$800,000 per year

for the first five years or so of operation. Assuming no large expenditures from the fund, after five years the return to the oil companies of their contribution plus accrued interest would reduce the cost of the State to a negligible amount.

It should be noted, however, that the assessment under this bill would be partially offset by a reduction in royalty revenues. Since the assessment would presumably be viewed as a tax on the pipeline facility, it would be included as a part of the tariff or transportation cost for transporting the oil to market and would reduce the wellhead value of oil for purposes of calculating royalty payments to the State. As the State's royalty share is one-eighth of the value of oil produced, the State would absorb, in effect, one-eighth of the assessment. If the severance tax obligations should exceed the cents per barrel floor under the severance tax statute, then an additional amount of the assessment would be borne by the State.

The approximate reduction in revenue can be expressed as:

Budget year cost x 1/8 = potential loss of revenue per year.

The following simple analysis compares the loss of State revenue under the proposed bill and under the existing law:

FY	<u>Budget</u>		<u>Total Cost</u>	<u>Revenue Loss</u>	
	Admin.	<sup>1</sup> Cleanup	Less 20% cleanup cost recovery	Proposed bill	Existing Law--includes admin. plus \$6,000,000 cleanup fund
80	450.8	350.0	630.0	78.8	806.4
81	477.9	371.0	774.7	96.8	809.7
82	506.5	393.3	821.1	102.6	813.3
83	536.9	416.9	870.4	108.8	817.1
84	569.1	441.9	922.6	115.3	821.1
			TOTAL	502.3	4,067.6

<sup>1</sup>  
FY 81 through 84 reflect a level budget plus 6% inflation factor.

<sup>2</sup>  
Projected State cleanup cost and revenue loss could be further reduced by authorization to carry over unexpended funds under Section 30.25.030(b).

Section 30.25.040 establishes the method of assessment based upon the preceding fiscal year's oil throughout of each oil terminal. There is no appreciable costs resulting from this section.

Section 30.25.050 requires that the State spill cleanup costs be recouped from the spiller, from applicable federal cleanup funds or from a combination of the two. This procedure is designed to reimburse the State and thus hold overall cleanup costs to those few cases where the spiller cannot be identified. It is estimated that about 20% of cleanup costs can be recovered. Aside from administrative and legal costs which can be absorbed by existing budgets, no additional expenses are incurred by this section.

Section 30.25.055 requires that spiller undertake cleanup under the supervision and to the satisfaction of the Department. In the event that cleanup is not being done properly or for spills from unidentified sources, the Department would undertake cleanup. This would be accomplished through a contract with a commercial cleanup company. The estimated costs are difficult to project but presently run about \$15,000 per day.

Section 30.25.060 requires facility operators to develop oil spill contingency plans. Other than administrative costs, which can be absorbed at proposed budget levels, no additional costs to the State are imposed by this section.

Section 30.25.070 establishes proof of financial responsibility requirements. No additional costs to the State above the proposed budget level are required by this section.

Section 30.25.075 exempts certain small transfer facilities from the requirements for payment of an assessment, a spill contingency plan, and proof of financial responsibility. No direct costs are incurred by this section.

Section 30.25.080 permits the Department to inspect oil terminal facilities. No additional costs derive from this section.

Section 30.25.090 permits the Department to adopt tank vessel traffic and navigation regulations. No additional cost to the State above the proposed budget level are incurred by this section.

Section 35.25.100 empowers the Department to adopt certain regulations. The attendant administrative and legal costs are covered in the proposed budget.

Section 30.25.110 defines the Department's responsibilities in the event of a catastrophic oil discharge. No estimate of the increase in pollution control assessments and revenue loss to

the State resulting from a catastrophic oil spill can be reasonably made. The cost of cleaning up this type of oil spill to a minimum acceptable level have exceeded \$84,000,000 in the case of the AMOCO CADIZ. Costs associated with the ARGO MERCHANT amounted to about \$3,000,000 and no oil was recovered in that case.

Section 30.25.120 empowers the Department to contract or directly provide oil spill cleanup equipment, material and personnel at various locations in the State. This provision is "standby authority" and the Department does not contemplate exercising this prerogative unless spill experience demonstrates that it is absolutely necessary. Costs associated with this section are minimal and are reflected in our administrative budget proposal.

Sections 30.25.140, 150, 160, and 170 establish administrative and legal mechanisms necessary to or supportive of implementation of the bill. Administrative and legal costs are budgeted under the proposed administrative budget.

# STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

JAY S. HAMMOND, GOVERNOR

POUCH 0 - JUNEAU 99811

March 15, 1979

The Honorable Bill Miles  
Co-Chairman, House Resources Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Miles:

On February 13, Governor Hammond submitted a bill, House Bill 205, that would amend Alaska's oil pollution control laws. The bill would repeal portions of the existing statute that were found to be legally defective. The bill is vital to the maintenance of the State's program-- oil pollution prevention and spill cleanup activities. In fact, unless this bill is passed to assure funding of this program, the State oil pollution efforts will be eliminated on June 30, 1979.

Exploitation of Alaska's oil resources took a quantum jump when the Prudhoe Bay oil began flowing into tankers at Valdez. In 1979 more than one half billion barrels of oil will be carried through State waters by a fleet of 73 tankers making 823 port calls in Alaska. In light of the unstable world oil supply, one can reasonably expect greater pressure for increased exploration, production and transportation of Alaskan oil.

The proposed legislation will provide a mechanism by which Alaskans can be assured that this oil is handled in a responsible manner. Terminals that transfer oil will be required to plan for an oil spill and to demonstrate that they have the men, materials and equipment to contain and remove spilled oil and also to divert the spilled oil from sensitive environmental areas in the vicinity of the spill.

Operators of tankers and oil terminals would be required to prove their ability to compensate Alaskans for damage to their property, loss of income, or injury to their person or property. Action for compensation could be brought in State courts against the spiller or his insurer. These provisions are designed to insure a speedy remedy for the injured party and to hold costs for legal services to a minimum.

The bill provides authority to inspect tankers and oil terminals for compliance with the State's oil pollution abatement laws and regulations. This is similar to provisions in the existing law. The inspection program has been a very effective measure with over 250 tanker boardings in FY 78 in which 44 minor spills were detected and cleaned up. These inspections

March 15, 1979

have an inestimable preventative effect by informing the tanker personnel of the State's stringent requirements for oil spill prevention, reporting and cleanup and monitoring their transfer operations.

Terrestrial spills receive less public notice but are by far the major oil pollution problem in Alaska. In our Northern Region (Fairbanks), more than 1.1 million gallons of oil were spilled in 208 incidents during 1978.

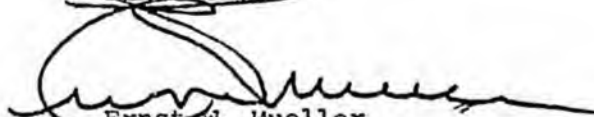
The proposed legislation will enable the State to deal with oil spill problems by placing certain legal requirements on tankers and terminals handling oil. A small staff of eight persons for administration and enforcement is presently required. In addition, funds for State cleanup costs are necessary to replace the invalid Coastal Protection Fund. This would be used principally for travel, surveillance, investigation, supplies and cleanup materials, and if needed, the services of commercial cleanup contractors, and would be available to any State agency with a necessary involvement in preserving our resources from the effects of an oil spill.

The bill provides that the program be funded by an assessment apportioned according to the oil throughput of a facility. In this way the cost is borne by those who pose the spill risk--those who transport, store, and transfer oil. Our maintenance level budget for FY 80 would be \$450,800 for administration expenses and an estimated \$350,000 for cleanup costs. If apportioned to the 438.0 million barrel throughput, this would result in a \$.0018 assessment on each barrel of oil throughput. This is an altogether reasonable cost for the risk involved. For example, containment and cleanup costs average \$84 per barrel for land spills and \$4,900 per barrel for water spills. The recent Glacier Queen spill in Seldovia Bay is atypical, but approached \$70,000 per barrel and illustrates the extraordinary costs that can occur in protecting our environment.

The Department has developed a viable oil pollution control program over the past two years that was based on statutes that have been eroded by the courts. We are now proposing remedial legislation that will allow Alaskans to maintain a certain degree of control over the quality of their unique environment and livelihood. By no longer maintaining a State fund of \$30 million and by providing for subrogation and carryover of program receipts, the financial burden to the oil industry is drastically reduced. The FY 80 program costs would reduce by a factor of 10 from \$6.450 million under existing statutes to \$630,000 under the proposed legislation.

I strongly encourage the House Resources Committee to grant priority to this vital piece of legislation. If my staff or I can provide any additional details or be of assistance, please feel free to call on us.

Sincerely,



Ernst W. Mueller

Commissioner

cc: Committee Members

Introduced: 2/14/79  
Referred: Resources and Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 205

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the prevention and control of oil  
7 pollution."

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

9 \* Section 1. AS 30.25.010 - 30.25.360 are repealed.

10 \* Sec. 2. AS 30.25 is amended by adding new sections to read:

11 Sec. 30.25.011. POLICY AND PURPOSE. (a) The legislature finds  
12 that:

13 (1) it is a matter of the highest urgency and priority to  
14 protect Alaska's coastal and inside water, estuaries, wetlands, beaches,  
15 and land from the damage which may be occasioned by the discharge of  
16 oil;

17 (2) the transfer, transportation, and offshore exploration  
18 for and production of oil within the jurisdiction of the state is a  
19 hazardous undertaking; oil discharges may cause both short- and long-  
20 term damage to the environment of the state, to owners and users of  
21 affected property, to public and private recreation, to residents of  
22 the state and other interests deriving livelihood from fishing, hunting,  
23 tourism and related activities, and to the beauty of the state; the  
24 intensity of oil exploration, production, transportation, and transfer  
25 operations in Alaska presents future threats of potentially catastrophic  
26 proportions, all of which are expressly declared to be inimical to the  
27 paramount interests of the state as set out in this section; these  
28 state interests outweigh any economic and liability burdens imposed by  
29 the legislature upon those engaged in oil exploration, production,

1 transportation, or transfer operations; and

2 (3) assuring sufficient capability, among industry, the  
3 state and the federal government, to contain and cleanup discharges of  
4 oil is of vital public interest; weather conditions, logistical con-  
5 straints and the relative paucity of manpower and equipment resources  
6 in the state increase the difficulty of oil discharge containment and  
7 cleanup in Alaska, making imperative an active state role; it is the  
8 policy of the state that, to the maximum extent practicable, prompt  
9 and adequate containment and cleanup of oil discharges is the respon-  
10 sibility of the discharger; it is therefore of the utmost importance  
11 to assure that those engaged in oil transfer, transportation, explora-  
12 tion, and production operations have sufficient resources and capa-  
13 bilities to respond to oil discharges, and to compensate third persons  
14 injured by those discharges.

15 (b) The legislature intends by the enactment of this legislation  
16 to:

17 (1) exercise the police power of the state through the  
18 Department of Environmental Conservation by conferring upon the depart-  
19 ment the authority and capability to deal with the hazards and threats  
20 posed by oil transfer, transportation, exploration and production  
21 operations and to encourage and ensure, in accordance with sec. 311 of  
22 the federal Clean Water Act, cooperation with the United States Coast  
23 Guard and other state and federal departments and agencies;

24 (2) require, through the maximum practicable use of private  
25 services and resources, the prompt containment and cleanup of oil  
26 discharges;

27 (3) provide assurance that persons suffering damage from  
28 these occurrences will be made whole promptly; and

29 (4) provide for the inspection and supervision of oil

1 transportation, transfer, oil storage, and offshore exploration and  
2 production activities, and guarantee the prompt cleanup of oil dis-  
3 charges and the payment of costs incurred.

4 Sec 30.25.021. POLLUTION CONTROL ASSESSMENT. (a) At the  
5 commencement of each fiscal year, the Department of Revenue shall  
6 collect from each operator of an oil terminal facility the pollution  
7 control assessment for that fiscal year. All money received under  
8 this section shall be deposited in the general fund.

9 (b) Unless the legislature otherwise directs, and subject to AS  
10 30.25.131(b), the total pollution control assessment for any fiscal  
11 year must equal the appropriation for the department's oil pollution  
12 control program for that fiscal year, less any amount collected under  
13 AS 30.25.051 for the preceding fiscal year. The Department of Revenue  
14 shall apportion the total assessment for the fiscal year in the manner  
15 provided in AS 30.25.041.

16 (c) The assessment is payable within 30 days after the operator  
17 receives billing under (a) of this section. No person may cause or  
18 permit the transfer of oil to or from an oil terminal facility and a  
19 vessel if the operator of the facility has not paid the assessment  
20 within that 30-day period, and the transfer of oil may not resume  
21 until the operator has paid the assessment, together with an additional  
22 amount which represents five per cent of the assessment for each  
23 month, or portion of a month, following expiration of the 30-day  
24 period in which the assessment is unpaid.

25 (d) If an operator believes that the assessment is improper,  
26 unlawful or unconstitutional, he shall, within 30 days after billing  
27 under (c) of this section, pay the assessment under protest, and  
28 request an adjudicatory hearing from the department. Failure to pay  
29 the assessment under protest and request a hearing within the 30-day

1 period constitutes a waiver of the operator's right to administrative  
2 or judicial review of the assessment.

3 (e) If the department determines that the operator is entitled  
4 to a refund, the Department of Administration shall promptly pay the  
5 refund to the operator, together with interest computed at the rate of  
6 eight per cent per year.

7 (f) The superior court has jurisdiction under AS 44.62.560 to  
8 review decisions of the department with respect to hearing requests  
9 under (d) of this section. The Department of Administration shall  
10 promptly pay any refund judgment.

11 Sec. 30.25.031. OIL POLLUTION CONTROL PROGRAM BUDGET. (a) The  
12 department shall submit annually to the legislature, through the  
13 Department of Administration and the governor, in accordance with the  
14 Executive Budget Act (AS 37.07), an appropriation request for the  
15 department's oil pollution control program. Appropriation items may  
16 include:

- 17 (1) administrative costs related to this chapter;  
18 (2) research and development;  
19 (3) the estimated state-incurred expenses in containing and  
20 cleaning up non-catastrophic oil discharges for the succeeding fiscal  
21 year; and  
22 (4) acquisition or contract costs for oil spill cleanup or  
23 containment equipment or services.

24 (b) Unless the legislature otherwise directs, any amounts appro-  
25 priated under (a)(3) of this section are not one-year appropriations  
26 under AS 37.25.010 and remain available to the department until spent.  
27 Commencing with the appropriation request for fiscal year 1981, the  
28 request under (a)(3) of this section shall be reduced by that amount  
29 previously appropriated for that purpose which the department projects

1 will remain unspent at the end of the fiscal year.

2 (c) Unless the legislature otherwise directs, the pollution  
3 control assessment for a fiscal year, and amounts collected under AS  
4 30.25.051 in the preceding fiscal year, constitute program receipts  
5 for the oil pollution control program. Penalties assessed for late  
6 payment under AS 30.25.021(c) do not constitute program receipts. If  
7 program receipts for a fiscal year fall short of the amount appropriated  
8 under this section, the appropriation shall be correspondingly reduced.  
9 The appropriation may be reduced either pro rata for each appropriation  
10 item, or by reducing the appropriation for one or more items.

11 (d) Nothing in this section or AS 30.25.021 or 30.25.121 binds  
12 any legislature to make an appropriation for a particular purpose or  
13 amount.

14 Sec. 30.25.041. APPORTIONMENT OF ASSESSMENT. (a) The pollution  
15 control assessment shall be apportioned according to the oil throughput  
16 of each facility for the fiscal year preceding the assessment.

17 (b) If an oil terminal facility was not engaged in normal opera-  
18 tions throughout the fiscal year preceding assessment, the department  
19 shall estimate the likely throughput of the facility for the fiscal  
20 year for which the assessment is made, and that estimate must be used  
21 for the purposes of this section.

22 Sec. 30.25.051. RECOUPMENT OF CLEANUP EXPENSES. The department  
23 shall promptly seek reimbursement of any oil discharge cleanup or con-  
24 tainment expenses either under AS 46.03.760(e) or by use of an appli-  
25 cable federal fund. If the department is able to obtain reimbursement  
26 for a portion of its expenses from a federal fund, the remainder of  
27 the expenses incurred may be recouped under AS 46.03.760(e). Funds  
28 reimbursed under this section must be deposited in the general fund.

29 Sec. 30.25.061. REMOVAL OF OIL DISCHARGES. (a) It is the

1 intent of the legislature that oil discharge containment or cleanup  
2 measures undertaken, directed, or authorized by the department supple-  
3 ment and support federal cleanup and containment actions under sec.  
4 311 of the Clean Water Act.

5 (b) Any person causing or permitting the discharge of oil shall  
6 immediately contain and cleanup the discharge. The department may  
7 waive this requirement if it determines, in consultation with the United  
8 States Coast Guard or United States Environmental Protection Agency,  
9 as appropriate, that containment or cleanup is technically infeasible,  
10 or if the cleanup or containment effort would result in greater environ-  
11 mental damage than the discharge itself.

12 (c) The containment and cleanup of discharged oil must be carried  
13 out in a manner approved by the department. The disposal of wastes  
14 generated as a result of containment or cleanup operations must be  
15 disposed of in a manner approved by the department. The requirement  
16 of this subsection for approval of containment and cleanup operations  
17 does not apply to the United States Coast Guard or United States En-  
18 vironmental Protection Agency acting under the authority of sec.  
19 311(c) or (d) of the Clean Water Act.

20 (d) If the department determines that containment or cleanup  
21 activities are not adequate, it may direct the person engaged in the  
22 operations to cease, undertake operations itself through contract or  
23 its own resources, or both. The department may not direct the cessation  
24 of containment or cleanup activities undertaken by the United States  
25 Coast Guard or United States Environmental Protection Agency under  
26 sec. 311 of the Clean Water Act; however, the department may undertake,  
27 direct, or authorize supplemental cleanup or containment efforts.

28 (e) The department shall insure that all oil discharges of  
29 unexplained origin are immediately contained and cleaned up.

1 (f) The department may enter into memoranda of understanding or  
2 cooperative agreements with the United States Coast Guard, the United  
3 States Environmental Protection Agency, and other persons in order to  
4 facilitate coordinated and effective oil discharge response in Alaska.

5 Sec. 30.25.071. OIL DISCHARGE CONTINGENCY PLANS. (a) No person  
6 may cause or permit the operation of an oil terminal facility in the  
7 state unless an oil discharge contingency plan for that facility has  
8 been approved by the department.

9 (b) After January 1, 1980, no person may operate an offshore  
10 exploration or production facility in the state unless an oil discharge  
11 contingency plan for that facility has been approved by the department.

12 (c) No person may cause or permit the transfer of oil to or from  
13 a tank vessel, or, after January 1, 1980, an oil barge larger than 500  
14 gross registered tons, unless an oil discharge contingency plan for  
15 that tank vessel or oil barge has been approved by the department.  
16 Except for prosecutions under AS 46.03.790(b), it is not a defense to  
17 an action brought for violation of this subsection that the person  
18 charged believed that a current oil discharge contingency plan for the  
19 tank vessel or oil barge had been approved by the department.

20 (d) Approval of an oil discharge contingency plan expires one  
21 year from its issuance, and may be renewed annually. If a person has  
22 obtained approval of an oil spill contingency plan under the pro-  
23 visions of AS 30.25 as it existed before the effective date of this  
24 Act for fiscal year 1979, that plan is considered an approved plan  
25 under this section, and may be submitted for renewal for fiscal year  
26 1980 and subsequent years.

27 (e) The department may attach terms and conditions to its  
28 approval of oil discharge contingency plans which it determines are  
29 necessary to insure that the applicant has access to sufficient re-

1 sources to contain, clean up, and mitigate potential oil discharges  
2 from the facility or vessel within the shortest feasible time, and suf-  
3 ficiently to protect environmentally sensitive areas. The plan must  
4 provide for the use of the best available technology for the size and  
5 location of the facility or size and route of the vessel. The depart-  
6 ment may require applicants to undertake discharge exercises.

7 (f) The department, after notice and opportunity for hearing,  
8 may modify its approval of an oil discharge contingency plan if it  
9 determines that a change has occurred in the operation of the facility  
10 or vessel necessitating an amended or supplemented plan, or the  
11 operator's discharge experience demonstrates a necessity for modifi-  
12 cation. The department, after notice and opportunity for hearing, may  
13 revoke its approval of a contingency plan if it determines that:

14 (1) approval was obtained by fraud or misrepresentation;

15 (2) the operator does not have access to the quality or  
16 quantity of resources identified in the plan; or

17 (3) a term or condition of approval has been violated.

18 Sec. 30.25.081. PROOF OF FINANCIAL RESPONSIBILITY. (a) No  
19 person may cause or permit the operation of an oil terminal facility  
20 in the state unless proof of financial responsibility for that facility  
21 has been accepted by the department. Financial responsibility must be  
22 in an amount not less than \$10, per incident, for each barrel of  
23 storage capacity at the facility, or \$1 million, whichever is greater,  
24 but need not exceed \$50 million.

25 (b) After January 1, 1980, no person may cause or permit the  
26 operation of an offshore exploration or production facility in the  
27 state unless proof of financial responsibility for that facility has  
28 been accepted by the department. Proof of financial responsibility  
29 must be not less than \$35 million per incident.

1 (c) No person may cause or permit the transfer of oil to or from  
2 a tank vessel, or, after January 1, 1980, an oil barge larger than 500  
3 gross registered tons, unless proof of financial responsibility for  
4 that tank vessel or barge has been accepted by the department.  
5 Financial responsibility must be in the following amounts:

6 (1) for a tank vessel or oil barge involved in the transpor-  
7 tation of Trans-Alaska Pipeline oil, the amount required by the  
8 Federal Maritime Commission under sec. 304(c)(3) of the Trans-Alaska  
9 Pipeline Authorization Act (43 U.S.C. sec. 1653(c)(3)); and

10 (2) for any other tank vessel or oil barge, the amount  
11 required by sec. 311 (p)(1) of the Clean Water Act, or \$1 million,  
12 whichever is greater, with respect to oil barges, or \$20 million, which-  
13 ever is greater, with respect to tank vessels.

14 (d) Except for prosecutions under AS 46.03.790(b), it is not a  
15 defense to an action brought for violation of (c) of this section that  
16 the person charged believed that the vessel operator possessed proof  
17 of financial responsibility accepted by the department.

18 (e) Financial responsibility may be demonstrated by self-insur-  
19 ance, insurance, surety, or guarantee, under terms the department may  
20 prescribe. Any action brought under either AS 46.03.758, 46.03.760(a)  
21 or (e), or 46.03.822 may be brought in the courts of the state directly  
22 against the insurer or any other person providing evidence of financial  
23 responsibility. The applicant, and any insurer, surety, or guarantor  
24 must appoint an agent for service of process in the state. Any insurer  
25 must be either authorized to sell insurance in the state by the Depart-  
26 ment of Commerce and Economic Development, or be an unauthorized  
27 insurer listed by the Department of Commerce and Economic Development  
28 as not disapproved for use in the state.

29 (f) Acceptance of proof of financial responsibility expires:

1 (1) one year from its issuance for self-insurance;

2 (2) upon the effective date of any change in the surety  
3 bond, guarantee, or insurance agreement; the department must be  
4 notified at least 30 days in advance of the effective date of any  
5 change; or

6 (3) upon the expiration or cancellation of the surety bond,  
7 guarantee, or insurance agreement; the department must be notified at  
8 least 30 days in advance of the effective date of any cancellation.

9 (g) Application for renewal of acceptance under this section  
10 must be filed at least 30 days before expiration under (f) of this  
11 section.

12 (h) If a person has obtained acceptance of proof of financial  
13 responsibility under the provisions of AS 30.25 as it existed before  
14 the effective date of this Act for fiscal year 1979, the person must  
15 comply with the provisions of this section before expiration of the  
16 acceptance under (f) of this section, or January 1, 1980, whichever  
17 first occurs.

18 (i) The department, after notice and hearing, may revoke accep-  
19 tance of proof of financial responsibility if it determines that:

20 (1) acceptance was procured by fraud or misrepresentation;  
21 or

22 (2) there has occurred a change of circumstances (other  
23 than a change specified in (f)(1)-(3) of this section) which would  
24 have warranted denial of the application.

25 (j) Financial responsibility under this section must extend to  
26 any loss compensible under AS 46.03.760(e) or 46.03.822 and any assess-  
27 ment under AS 46.03.758 or 46.03.760(a).

28 Sec. 30.25.091. EXEMPTIONS. (a) Because of the restricted  
29 nature of their operations and the minimal danger to the environment

1 posed by their activities, the following are exempt from the require-  
2 ments of AS 30.25.021, 30.25.071, and 30.25.081:

3 (1) a marina used or capable of being used to store less  
4 than 10,000 barrels of refined petroleum products or their by-products;

5 (2) an onshore limited capacity facility used or capable of  
6 being used to store less than 25,000 barrels of refined petroleum  
7 products or their by-products; and

8 (3) a seafood processing vessel or tender when, incidental  
9 to its seafood processing operations, it transfers refined petroleum  
10 products to a fishing boat.

11 (b) For the purposes of (a) of this section:

12 (1) "marina" means a person or facility engaged in the  
13 business, whether onshore or offshore, of servicing the fuel require-  
14 ments of aircraft, pleasure watercraft, fishing boats, and other  
15 commercial vessels, where the purchaser and the consumer are the same  
16 entity, and the fuel capacity of the servicing or serviced vessel is  
17 less than 10,000 barrels of refined petroleum products or their by-  
18 products, and is not covered by the definition of limited capacity  
19 facility in (2) of this subsection;

20 (2) "limited capacity facility" means a small tank farm,  
21 small bulk fuel storage facility, or other onshore facility storing  
22 refined petroleum products or their by-products, except asphalt, and  
23 which is engaged in the business of servicing the requirements of  
24 product transporters and vendors, or storing the fuel requirements for  
25 village domestic, school, or commercial use, including but not limited  
26 to fish processing, logging operations, construction projects, or  
27 electric power generation.

28 Sec. 30.25.101. INSPECTIONS. Oil terminal facilities, offshore  
29 exploration and production facilities, tank vessels, and oil barges

1 are subject to inspection by the department to ensure compliance with  
2 the provisions of this chapter.

3 Sec. 30.25.111. TANK VESSEL REGULATIONS. (a) The department  
4 may, to the extent permitted by the Port and Tanker Safety Act of 1978  
5 (P.L. 95-474), adopt traffic and navigation rules, including tug  
6 assistance requirements, for the operation of tank vessels in the  
7 various ports and waters of the state.

8 (b) In adopting these regulations, the department may prescribe  
9 the maximum and minimum speed for vessels subject to this chapter and  
10 the weather conditions under which the movement of these vessels may  
11 be prohibited.

12 (c) The department shall consult and cooperate with the United  
13 States Coast Guard in the establishment, adoption, maintenance,  
14 administration, and enforcement of the traffic and navigation regu-  
15 lations adopted under this chapter.

16 Sec. 30.25.121. SCOPE OF REGULATIONS. The department shall  
17 adopt regulations which are necessary to carry out the purposes of  
18 this chapter and which do not conflict with and are not pre-empted by  
19 federal law or regulations, including provisions on the following:

20 (1) operation, inspection, and abandonment requirements for  
21 oil terminal facilities, tank vessels, oil barges, and offshore explora-  
22 tion and production facilities;

23 (2) procedures and methods of reporting oil discharges and  
24 other occurrences prohibited or regulated by this chapter;

25 (3) procedures and methods for the transfer of oil between  
26 a tank vessel or oil barge and an oil terminal facility;

27 (4) procedures, methods, means, and equipment to be used in  
28 the abatement, containment, or removal of oil discharges;

29 (5) development and implementation of criteria and plans to

1 meet oil discharges, including regulation of the use of chemical or  
2 biological agents;

3 (6) requirements for the safety and operation of tank  
4 vessels, oil barges, motor vehicles, motorized equipment and other  
5 equipment relating to the use and operation of terminals and offshore  
6 exploration and production facilities;

7 (7) minimum personnel, equipment, and operations standards  
8 for oil discharge cleanup services; and

9 (8) other matters, as the department considers necessary to  
10 carry out the purposes of this chapter.

11 Sec. 30.25.131. CATASTROPHIC OIL DISCHARGES. (a) The actual or  
12 imminent occurrence of a catastrophic oil discharge constitutes a  
13 disaster emergency under AS 26.23. However, the department shall  
14 perform the duties of the Alaska division of emergency services under  
15 AS 26.23.040 as they apply to catastrophic oil discharges. The  
16 department shall consult and coordinate its duties under this section  
17 with the Alaska division of emergency services.

18 (b) The department shall promptly, under AS 30.25.051, seek  
19 reimbursement of any oil discharge cleanup or containment expenses  
20 incurred as a result of an actual or imminent catastrophic oil discharge  
21 under AS 26.23.050. Notwithstanding AS 30.25.021(b), and unless the  
22 legislature directs otherwise, the total pollution control assessment  
23 for the fiscal year following the expenditure must include those  
24 expenses for which reimbursement has not been received. Any expenses  
25 subsequently reimbursed must, unless the legislature directs otherwise,  
26 be subtracted in the computation of the succeeding fiscal year's  
27 assessment under AS 30.25.021(b).

28 Sec. 30.25.141. OIL DISCHARGE CLEANUP PERSONNEL, EQUIPMENT,  
29 EXPENSES. (a) The department may establish and maintain at ports,

1 harbors, or other locations in the state, the personnel, equipment,  
2 and supplies which, in its judgment, are necessary to carry out the  
3 provisions of this chapter. Whenever feasible, the department shall  
4 enter into contracts with persons or private organizations to provide  
5 the oil discharge containment and cleanup personnel, equipment, or  
6 other services or supplies which may be required to carry out the  
7 provisions of this chapter.

8 (b) Inspection and enforcement employees of the department desig-  
9 nated by the commissioner are peace officers under AS 01.10.060(6) in  
10 the performance of their duties under this chapter and AS 46.03.

11 Sec. 30.25.151. INTERSTATE COMPACTS AUTHORIZED. The governor  
12 may execute supplementary agreements, reciprocal arrangements, or  
13 compacts with any other state, subject to the approval, if required by  
14 the United States Constitution, of the Congress of the United States,  
15 for the purpose of implementing this chapter.

16 Sec. 30.25.161. MUNICIPAL ORDINANCES, REGULATIONS: POWERS  
17 LIMITED. If a conflict occurs between a provision of this chapter, or  
18 a regulation, order, decision, or other determination of the department  
19 and a charter, ordinance, permit, regulation, franchise, decision,  
20 or other determination of a municipality, the provisions of this  
21 chapter or the regulation, order, decision, or other determination of  
22 the department prevail. However, nothing in this chapter precludes  
23 a municipality, by ordinance or regulation, from exercising its police  
24 powers in the area regulated by this chapter.

25 Sec. 30.25.171. CONSTRUCTION. This chapter shall be liberally  
26 construed to effect the purposes set out in AS 30.25.010.

27 Sec. 30.25.181. DEFINITIONS. In this chapter, unless the  
28 context requires otherwise,

29 (1) "barrel" means 42 U.S. gallons at 60 degrees Fahrenheit;

1 (2) "catastrophic oil discharge" means any oil discharge in  
2 excess of 100,000 barrels, and any other discharge which the governor  
3 determines presents a grave and substantial threat to the economy or  
4 environment of the state;

5 (3) "Clean Water Act" means the Federal Water Pollution  
6 Control Act of 1972 (P.L. 92-500), as amended by the Clean Water Act  
7 of 1977 (P.L. 95-217);

8 (4) "commissioner" means the commissioner of environmental  
9 conservation;

10 (5) "containment and cleanup" includes all direct and  
11 indirect efforts associated with the prevention, abatement, contain-  
12 ment or removal of the pollutant, restoration of the environment to  
13 its former state, and all incidental administrative costs;

14 (6) "department" means the Department of Environmental  
15 Conservation;

16 (7) "discharge" means any spilling, leaking, pumping,  
17 pouring, emitting, emptying, or dumping;

18 (8) "offshore exploration or production facility" means any  
19 platform, vessel or other facility used to explore for or produce  
20 hydrocarbons at any point seaward of the line of marine vegetation; the  
21 term does not include vessels used for stratigraphic drilling or other  
22 operations which are not authorized or intended to drill to a producing  
23 formation;

24 (9) "oil" means oil of any kind and in any form, whether  
25 crude, refined, or a petroleum by-product, including but not limited  
26 to petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oil  
27 refuse, oil mixed with other wastes, crude oils, liquefied natural  
28 gas, propane, butane, or other liquid hydrocarbons regardless of  
29 specific gravity;

1 (10) "oil barge" means a non-self propelled vessel which is  
2 not self-propelled and which is constructed or converted to carry oil  
3 as cargo in bulk;

4 (11) "oil terminal facility" means an onshore or offshore  
5 facility of any kind, and related appurtenances, including but not  
6 limited to a deepwater port, located in, on, or under the surface of  
7 any land or water of the state, including tide and submerged land,  
8 which is used or capable of being used for the purpose of transfer-  
9 ring, processing, refining, or storing oil; a vessel is considered an  
10 oil terminal facility only in the event of a ship-to-ship transfer of  
11 oil, and only that vessel going to or coming from the place of transfer  
12 and the oil terminal facility; however, an oil terminal facility does  
13 not include a seafood processing vessel or tender when, incidental to  
14 its seafood processing operations, it transfers refined petroleum  
15 products to a fishing boat;

16 (12) "operator" and "operate" have the same meaning as in  
17 AS 46.03.758(7);

18 (13) "person" has the same meaning as in AS 46.C3.900(13);

19 (14) "self-propelled" means propelled either by machinery  
20 aboard the vessel, or by a tug or other vessel secured into the cargo-  
21 carrying vessel through special hull design;

22 (15) "tank vessel" means a self-propelled vessel that is  
23 constructed or converted to carry liquid bulk cargo in tanks and  
24 includes tankers, tankships, and combination carriers when carrying  
25 oil; the term does not include vessels carrying oil in drums, barrels,  
26 or other packages, or vessels carrying oil as fuel or stores for that  
27 vessel;

28 (16) "vessel" includes tank vessels and oil barges;

29 (17) "water of the state" has the same meaning as "waters"

1 in AS 46.03.900(22).

2 \* Sec. 3. AS 46.03.750 is repealed and re-enacted to read:

3 Sec. 46.03.750. BALLAST WATER DISCHARGE. No person may cause or  
4 permit the discharge of ballast water from a cargo tank of a tank  
5 vessel into the waters of the state. No tank vessel may take on  
6 petroleum or any petroleum product or by-product as cargo unless it  
7 arrives in ports in the state without having discharged ballast from  
8 cargo tanks into the waters of the state and the master of the vessel  
9 certifies that fact on forms provided by the department.

10 \* Sec. 4. AS 46.03.755(a) is amended to read:

11 (a) A person in charge of a facility, operation or vessel, as  
12 soon as he has knowledge of any discharge from the facility, operation  
13 or vessel in violation of secs. 740 or 750 of this chapter [OR AS  
14 30.25.020,] shall immediately notify the department of the discharge.

15 \* Sec. 5. AS 46.03.760(a) is amended to read:

16 (a) A person who violates or causes or permits to be violated a  
17 provision of this chapter or AS 30.25 [AS 30.25.020], or a regulation,  
18 a lawful order of the department, or a permit, approval, or acceptance  
19 [OR CERTIFICATE], or term or condition of a permit, approval, or accept-  
20 ance [OR CERTIFICATE] issued under this chapter or AS 30.25 is liable,  
21 in a civil action, to the state for a sum to be assessed by the court  
22 of not less than \$500 nor more than \$100,000 for the initial violation,  
23 nor more than \$5,000 for each day thereafter on which the violation  
24 continues, and which shall reflect, when applicable,

25 (1) reasonable compensation in the nature of liquidated  
26 damages for any adverse environmental effects caused by the violation,  
27 which shall be determined by the court according to the toxicity,  
28 degradability and dispersal characteristics of the substance dis-  
29 charged, the sensitivity of the receiving environment, and the degree

1 to which the discharge degrades existing environmental quality;

2 (2) reasonable costs incurred by the state in detection,  
3 investigation, and attempted correction of the violation [, EXCEPT  
4 DISBURSEMENTS FOR POLLUTION ABATEMENT COSTS UNDER AS 30.25.260(a)(2)];  
5 and

6 (3) the economic savings realized by the person in not  
7 complying with the requirement for which a violation is charged.

8 \* Sec. 6. AS 46.03.760(e) is amended to read:

9 (e) In addition to liability under (a) - (d) of this section, a  
10 person who violates or causes or permits to be violated a provision of  
11 secs. 740 - 750 of this chapter is liable to the state, in a civil  
12 action brought under sec. 822 of this chapter, for the full amount of  
13 actual damages caused to the state by the violation, including direct  
14 and indirect costs associated with the abatement, containment or  
15 removal of the pollutant, restoration of the environment to its former  
16 state, and all incidental administrative costs. [THAT PORTION OF THE  
17 DAMAGES RECOVERED BY THE STATE IN A CIVIL ACTION BROUGHT UNDER SEC.  
18 822 OF THIS CHAPTER ATTRIBUTABLE TO COSTS INCURRED BY THE DEPARTMENT  
19 IN THE ABATEMENT, CONTAINMENT OR REMOVAL OF THE POLLUTANT RESULTING  
20 FROM A DISCHARGE OF CRUDE OIL, REFINED PETROLEUM PRODUCTS OR THEIR BY-  
21 PRODUCTS SHALL BE DEPOSITED IN THE COASTAL PROTECTION FUND CREATED  
22 UNDER AS 30.25.220. EXCEPT FOR SPECIAL RISK CHARGES COLLECTED UNDER  
23 AS 30.25.270, A PERSON HOLDING A RISK AVOIDANCE CERTIFICATE MAY NOT BE  
24 HELD LIABLE FOR COSTS ASSOCIATED WITH THE ABATEMENT, CONTAINMENT OR  
25 REMOVAL OF THE POLLUTANT.]

26 \* Sec. 7. AS 46.03.765 is amended to read:

27 Sec. 46.03.765. INJUNCTIONS. The superior court has jurisdic-  
28 tion to enjoin a violation of this chapter or AS 30.25, or of a regu-  
29 lation, lawful order of the department, or permit, approval, or

1 acceptance [OR CERTIFICATE], or term or condition of a permit, approval,  
2 or acceptance [OR CERTIFICATE] issued under this chapter or AS 30.25.

3 In actions brought under this section, temporary or preliminary relief  
4 may be obtained upon a showing of an imminent threat of continued  
5 violation, and probable success on the merits, without the necessity  
6 of demonstrating physical irreparable harm. The balance of equities  
7 in actions under this section may affect the timing of compliance, but  
8 not the necessity of compliance within a reasonable period of time.

9 \* Sec. 8. AS 46.03.790(a) is amended to read:

10 (a) A person who violates or who causes or permits a violation  
11 of a provision of this chapter or AS 30.25, or of a regulation, lawful  
12 order of the department, or permit, approval, or acceptance [OR CERTI-  
13 FICATE], or term or condition of a permit, approval, or acceptance  
14 [OR CERTIFICATE] issued under this chapter or AS 30.25 is guilty of a  
15 misdemeanor and, upon conviction, is punishable by a fine of not more  
16 than \$25,000 and costs of prosecution.

17 \* Sec. 9. AS 46.03.790(b) is amended to read:

18 (b) A person who wilfully violates a provision of this chapter,  
19 or of a regulation, lawful order of the department, or permit, approval,  
20 or acceptance [OR CERTIFICATE], or term or condition of a permit,  
21 approval, or acceptance [OR CERTIFICATE] issued under this chapter or  
22 AS 30.25 is guilty of a misdemeanor and, upon conviction, is punish-  
23 able by a fine of not more than \$25,000 and costs of prosecution, or  
24 by imprisonment for not more than year, or by fine, costs, and impri-  
25 sonment.

26 \* Sec. 10. AS 30.20 is repealed.  
27  
28  
29

Original sponsor: Rules/Governor

Offered: 3/18/80  
Referred: Judiciary

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO 205

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the prevention and control of oil  
7 pollution; and providing for an effective date."

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

9 \* Section 1. FINDINGS AND INTENT. (a) The legislature finds that

10 (1) it is a matter of the highest urgency and priority to protect  
11 Alaska's coastal and inside water, estuaries, wetlands, beaches, and land  
12 from the damage which may be occasioned by the discharge of oil;

13 (2) the storage, transfer, transportation, and offshore explora-  
14 tion for and production of oil within the jurisdiction of the state are  
15 hazardous undertakings; oil discharges may cause both short-term and long-  
16 term damage to the environment and the beauty of the state, to owners and  
17 users of affected property, to public and private recreation, to residents of  
18 the state and other interests deriving livelihood from fishing, hunting,  
19 tourism and related activities; the intensity of oil storage, exploration,  
20 production, transportation, and transfer operations in Alaska presents future  
21 threats of potentially catastrophic proportions, all of which are expressly  
22 declared to be inimical to the paramount interests of the state as set out in  
23 this section;

24 (3) assuring sufficient capability, among industrial and commercial  
25 interests, and the state and federal governments, to contain and clean up  
26 discharges of oil is of vital public interest; weather conditions, logistic  
27 constraints and the relative paucity of labor and equipment resources in the  
28 state increase the difficulty of oil discharge containment and cleanup in  
29 Alaska, making imperative an active state role; it is the policy of the state

1 that, to the maximum extent practicable, prompt and adequate containment and  
2 cleanup of oil discharges is the responsibility of the discharger; it is  
3 therefore of the utmost importance to assure that those engaged in oil stor-  
4 age, transfer, transportation, exploration, and production operations have  
5 sufficient resources and capabilities to respond to oil discharges, and to  
6 provide for compensation of third persons injured by those discharges; and

7 (4) the state should continue its cooperative relationships with  
8 appropriate federal agencies, protecting its legitimate interests while  
9 working to remove any duplicative or potentially conflicting regulatory  
10 activities.

11 (b) The legislature intends by the enactment of this legislation

12 (1) to exercise the police power of the state through the Depart-  
13 ment of Environmental Conservation by conferring upon the department the  
14 authority and capability to deal with the hazards and threats posed by oil  
15 storage, transfer, transportation, exploration and production operations in a  
16 manner which is not inconsistent with the National Contingency Plan (33  
17 U.S.C. sec. 1321(c), as amended) and to encourage and ensure, in accordance  
18 with 33 U.S.C. sec. 1321, as amended, cooperation with the United States  
19 Coast Guard and other state and federal departments and agencies;

20 (2) to require, through the maximum practicable use of private  
21 services and resources, the prompt containment and cleanup of oil discharges;

22 (3) to provide assurance that persons suffering damage from oil  
23 discharges will be compensated promptly;

24 (4) to provide for the inspection and supervision of oil trans-  
25 portation, transfer, storage, and offshore exploration and production activi-  
26 ties, and to guarantee the prompt cleanup of oil discharges and the payment  
27 of costs incurred as a result of the oil discharges; and

28 (5) that oil discharge containment, cleanup or contingency measures  
29 which are undertaken, directed, or authorized by the Department of Environ-

1 mental Conservation should supplement and support federal cleanup and con-  
2 tainment actions under 33 U.S.C. sec. 1321, as amended.

3 \* Sec. 2. AS 46 is amended by adding a new chapter to read:

4 CHAPTER 04. OIL POLLUTION CONTROL.

5 Sec. 46.04.010. REIMBURSEMENT FOR CLEANUP EXPENSES. The depart-  
6 ment shall promptly seek reimbursement, either under AS 46.03.760(e) or  
7 from an applicable federal fund, for the expenses it incurs in cleaning  
8 up or containing a discharge of oil. If the department obtains reim-  
9 bursement for a portion of its expenses from a federal fund, the re-  
10 mainder of the expenses incurred may be recovered under AS 46.03.760(e).  
11 Money received by the department under this section shall be deposited  
12 in the general fund.

13 Sec. 46.04.020. REMOVAL OF OIL DISCHARGES. (a) A person causing  
14 or permitting the discharge of oil shall immediately contain and clean  
15 up the discharge. The department may waive this requirement

16 (1) if it determines, in consultation with the United States  
17 Coast Guard or the United States Environmental Protection Agency, as  
18 appropriate, that containment or cleanup is technically not feasible; or

19 (2) if the cleanup or containment activities would result in  
20 greater environmental damage than the discharge itself.

21 (b) The containment and cleanup of discharged oil must be carried  
22 out in a manner approved by the department. Wastes generated as a  
23 result of containment or cleanup activities shall be disposed of in a  
24 manner approved by the department. The requirement of this subsection  
25 for approval of containment and cleanup activities does not apply to the  
26 United States Coast Guard or United States Environmental Protector  
27 Agency acting under the authority of sec. 311(c) or (d) of the Clean  
28 Water Act.

29 (c) If the department determines that containment or cleanup

1 activities are not adequate, it may direct the person engaged in the  
2 activities to cease and may undertake the activities itself through  
3 contract or its own resources, or both. The department may not direct  
4 the cessation of containment or cleanup activities undertaken by the  
5 United States Coast Guard or United States Environmental Protection  
6 Agency under sec. 311 of the Clean Water Act. However, the department  
7 may undertake, direct, or authorize supplemental cleanup or containment  
8 efforts.

9 (d) The department shall provide for the immediate containment or  
10 cleanup of an oil discharge of unexplained origin unless

11 (1) the department determines, in consultation with the  
12 United States Coast Guard or the United States Environmental Protection  
13 Agency that containment or cleanup of the oil discharge is technically  
14 not feasible; or

15 (2) the containment or cleanup activities would result in  
16 greater environmental damage than the discharge itself.

17 (e) The department shall enter into negotiations for memoranda of  
18 understanding or cooperative agreements with the United States Coast  
19 Guard, the United States Environmental Protection Agency, and other  
20 persons in order to facilitate coordinated and effective oil discharge  
21 response in the state.

22 Sec. 46.04.025. CONFIDENTIAL INFORMATION. The department may  
23 maintain the confidentiality of a manufacturer's proprietary technical  
24 information relating to chemical and biological agents used to control  
25 or mitigate the effects of an oil discharge. The department may refuse  
26 to release the information unless the manufacturer authorizes its release  
27 or unless a court orders its release. The department may provide the  
28 information to the Department of Fish and Game and other state and  
29 federal agencies if the department or other agency requesting the infor-

1 mation agrees to maintain its confidentiality.

2 Sec. 46.04.030. OIL DISCHARGE CONTINGENCY PLANS. (a) A person  
3 may not cause or permit the operation of an oil terminal facility in the  
4 state unless an oil discharge contingency plan for the facility has been  
5 approved by the department.

6 (b) After January 1, 1981, a person may not cause or permit the  
7 operation of an offshore exploration or production facility in the state  
8 unless an oil discharge contingency plan for the facility has been  
9 approved by the department.

10 (c) A person may not cause or permit the transfer of oil to or  
11 from a tank vessel, or, after January 1, 1981, to or from an oil barge,  
12 unless an oil discharge contingency plan for the tank vessel or oil  
13 barge has been approved by the department. Except for prosecutions  
14 under AS 46.03.790(b), it is not a defense to an action brought for  
15 violation of this subsection that the person charged believed that a  
16 current oil discharge contingency plan for the tank vessel or oil barge  
17 had been approved by the department.

18 (d) An oil discharge contingency plan must be renewed at least  
19 every three years.

20 (e) The department may attach reasonable terms and conditions to  
21 its approval of an oil discharge contingency plan which it determines  
22 are necessary to insure that the applicant for an oil discharge con-  
23 tingency plan has access to sufficient resources to protect environ-  
24 mentally sensitive areas and to contain, clean up, and mitigate poten-  
25 tial oil discharges from the facility or vessel within the shortest  
26 feasible time. The plan must provide for the use of the best available  
27 technology by the applicant. The department may require an applicant to  
28 undertake discharge exercises.

29 (f) The department, after notice and opportunity for hearing, may

1 modify its approval of an oil discharge contingency plan if it deter-  
2 mines that a change has occurred in the operation of a facility, marina  
3 or vessel necessitating an amended or supplemented plan, or the opera-  
4 tor's discharge experience demonstrates a necessity for modification.  
5 The department, after notice and opportunity for hearing, may revoke its  
6 approval of a contingency plan if it determines that

7 (1) approval was obtained by fraud or misrepresentation;

8 (2) the operator does not have access to the quality or  
9 quantity of resources identified in the plan; or

10 (3) a term or condition of approval has been violated.

11 Sec. 46.04.040. PROOF OF FINANCIAL RESPONSIBILITY. (a) A person  
12 may not cause or permit the operation of an oil terminal facility in the  
13 state unless he has furnished proof of financial ability to respond in  
14 damages which has been accepted by the department. Ability to respond  
15 in damages need not exceed \$50,000,000 but must be in an amount (1) not  
16 less than \$10, per incident, for each barrel of storage capacity at the  
17 oil terminal facility; or (2) \$1,000,000, whichever is greater.

18 (b) After January 1, 1981, a person may not cause or permit the  
19 operation of an offshore exploration or production facility in the state  
20 unless proof of financial ability to respond in damages has been ac-  
21 cepted by the department. Proof of financial responsibility may not be  
22 less than \$35,000,000 per incident.

23 (c) A person may not cause or permit the transfer of oil to or  
24 from a tank vessel, or, after January 1, 1981, to or from an oil barge,  
25 unless proof of financial responsibility for the tank vessel or barge  
26 has been accepted by the department. Financial responsibility under  
27 this subsection shall be in the following amounts:

28 (1) for a tank vessel or oil barge involved in the transpor-  
29 tation of trans-Alaska pipeline oil, the amount required by the Federal

1 Maritime Commission under sec. 304(c)(3) of the Trans-Alaska Pipeline  
2 Authorization Act (43 U.S.C. sec. 1653(c)(3)), as amended; and

3 (2) for any other oil barge, the amount required by sec.  
4 311(b)(1) of the Clean Water Act, or \$1,000,000, whichever is greater;

5 (3) for any other tank vessels, the amount required by sec.  
6 311(b)(1) of the Clean Water Act, or \$20,000,000, whichever is greater.

7 (d) Except for prosecutions under AS 46.03.790(b), it is not a  
8 defense to an action brought for violation of (c) of this section that  
9 the person charged believed in good faith that the vessel operator  
10 possessed proof of financial responsibility accepted by the department.

11 (e) Financial responsibility may be demonstrated by self-insur-  
12 ance, insurance, surety, or guarantee, under terms the department may  
13 prescribe. An action brought under AS 46.03.758, 46.03.760(a) or (e),  
14 or 46.03.822 may be brought in a state court directly against the in-  
15 surer or another person providing evidence of financial responsibility.  
16 The applicant, and an insurer, surety, or guarantor shall appoint an  
17 agent for service of process in the state. An insurer must either be  
18 authorized by the Department of Commerce and Economic Development to  
19 sell insurance in the state or be an unauthorized insurer listed by the  
20 Department of Commerce and Economic Development as not disapproved for  
21 use in the state.

22 (f) Acceptance of proof of financial responsibility expires

23 (1) one year from its issuance for self-insurance;

24 (2) on the effective date of a change in the surety bond,  
25 guarantee, or insurance agreement; or

26 (3) on the expiration or cancellation of the surety bond,  
27 guarantee, or insurance agreement.

28 (g) The person whose proof of financial responsibility is accepted  
29 by the department under this section shall notify the department at

1 least 30 days before the effective date of a change, expiration or  
2 cancellation in the surety bond, guarantee, or insurance agreement.  
3 Application for renewal of acceptance of proof of financial responsi-  
4 bility under this section must be filed at least 30 days before the date  
5 of expiration.

6 (h) The department, after notice and hearing, may revoke accep-  
7 tance of proof of financial responsibility if it determines that

- 8 (1) acceptance was procured by fraud or misrepresentation; or  
9 (2) a change of circumstance has occurred other than a change  
10 specified in (f)(1) - (3) of this section, which would have warranted  
11 denial of the application.

12 (j) Financial responsibility under this section extends to a loss  
13 compensable under AS 46.03.760(e) or 46.03.822 and an assessment under  
14 AS 46.03.758 or 46.03.760(a).

15 Sec. 46.04.050. EXEMPTIONS. Because of the restricted nature of  
16 these operations and the minimal danger to the environment posed by  
17 their activities, AS 46.04.030, 46.04.040 and 46.04.060 do not apply to  
18 an oil terminal facility that has an effective storage capacity of less  
19 than 10,000 barrels of oil.

20 Sec. 46.04.060. INSPECTIONS. Oil terminal facilities, offshore  
21 exploration and production facilities, tank vessels, and oil barges are  
22 subject to inspection by the department to ensure compliance with the  
23 provisions of this chapter.

24 Sec. 46.04.070. SCOPE OF REGULATIONS. The department shall adopt  
25 regulations which are necessary to carry out the purposes of this chap-  
26 ter and which do not conflict with and are not preempted by federal law  
27 or regulations, including provisions concerning the following:

- 28 (1) operation, inspection, and abandonment requirements for  
29 oil terminal facilities, tank vessels, oil barges, and offshore explora-

1 tion and production facilities;

2 (2) procedures and methods of reporting oil discharges and  
3 other occurrences prohibited or regulated by this chapter;

4 (3) procedures and methods for the transfer of oil between a  
5 tank vessel or oil barge and an oil terminal facility;

6 (4) procedures, methods, means, and equipment to be used in  
7 the abatement, containment, or removal of oil discharges;

8 (5) development and implementation of criteria and plans to  
9 meet oil discharges, including regulation of the use of chemical or  
10 biological agents;

11 (6) requirements for the safety and operation of tank ves-  
12 sels, oil barges, motor vehicles, motorized equipment and other equip-  
13 ment relating to the use and operation of terminals and offshore ex-  
14 ploration and production facilities;

15 (7) minimum personnel, equipment, and operations standards  
16 for oil discharge cleanup services; and

17 (8) other matters the department considers necessary to carry  
18 out the purposes of this chapter.

19 Sec. 46.04.080. CATASTROPHIC OIL DISCHARGES. (a) The actual or  
20 imminent occurrence of a catastrophic oil discharge constitutes a  
21 disaster emergency under AS 26.23. However, the department shall per-  
22 form the duties of the Alaska division of emergency services under  
23 AS 26.23.040 as they apply to catastrophic oil discharges. The de-  
24 partment shall consult and coordinate its duties under this section with  
25 the Alaska division of emergency services.

26 (b) The department shall promptly, under AS 46.04.010, seek reim-  
27 bursement of oil discharge cleanup or containment expenses incurred as a  
28 result of an actual or imminent catastrophic oil discharge under AS 26.-  
29 23.050.

1           Sec. 46.04.090. OIL DISCHARGE CLEANUP PERSONNEL, EQUIPMENT, EX-  
2 PENSES. (a) The department may establish and maintain at ports, har-  
3 bors, or other locations in the state, the personnel, equipment, and  
4 supplies which, in its judgment, are necessary to carry out this chap-  
5 ter. When feasible, the department shall enter into contracts with  
6 persons or private organizations to provide the personnel, equipment, or  
7 other services or supplies which may be required to carry out this  
8 chapter.

9           (b) Inspection and enforcement employees of the department desig-  
10 nated by the commissioner are peace officers in the performance of their  
11 duties under this chapter and AS 46.03.

12           Sec. 46.04.100. COMPACTS AUTHORIZED. The governor may execute  
13 supplementary agreements, reciprocal arrangements, or compacts with any  
14 other state or country, subject to the approval, if required by the  
15 United States Constitution, of the Congress of the United States, for  
16 the purpose of implementing this chapter.

17           Sec. 46.04.110. MUNICIPAL POWERS LIMITED. If a conflict occurs  
18 between a provision of this chapter, or a regulation, order, decision,  
19 or other determination of the department under this chapter, and a  
20 charter, ordinance, permit, regulation, franchise, decision, or other  
21 determination of a municipality, the provisions of this chapter or the  
22 regulation, order, decision, or other determination of the department  
23 prevail. However, nothing in this chapter precludes a municipality, by  
24 ordinance or regulation, from exercising its police powers in the area  
25 regulated by this chapter.

26           Sec. 46.04.120. DEFINITIONS. In this chapter, unless the context  
27 requires otherwise,

28           (1) "barrel" is a measure of capacity equal to the space  
29 occupied by 42 U.S. gallons at 60 degrees Fahrenheit;

1           (2) "catastrophic oil discharge" means an oil discharge in  
2 excess of 100,000 barrels, or any other discharge which the governor  
3 determines presents a grave and substantial threat to the economy or  
4 environment of the state;

5           (3) "Clean Water Act" means the Federal Water Pollution  
6 Control Act of 1972 (P.L. 92-500), as amended by the Clean Water Act of  
7 1977 (P.L. 95-217), as amended;

8           (4) "commissioner" means the commissioner of environmental  
9 conservation;

10           (5) "containment and cleanup" includes all direct and in-  
11 direct efforts associated with the prevention, abatement, containment or  
12 removal of a pollutant, the restoration of the environment to its former  
13 state, and all incidental administrative costs;

14           (6) "department" means the Department of Environmental Con-  
15 servation;

16           (7) "discharge" means spilling, leaking, pumping, pouring,  
17 emitting, emptying, or dumping;

18           (8) "limited capacity facility" means a small tank farm,  
19 small bulk fuel storage facility, or other onshore facility which is  
20 used to store refined petroleum products or their by-products, except  
21 asphalt, and which is used in the business of servicing the requirements  
22 of transporters and vendors of refined petroleum products or their  
23 by-products, or of storing the fuel requirements for village domestic,  
24 school, or commercial use, including but not limited to fish processing,  
25 logging operations, construction projects, or electric power generation;

26           (9) "marina" means a facility used in the business, whether  
27 onshore or offshore, of servicing the fuel requirements of aircraft,  
28 pleasure watercraft, fishing boats, and other commercial vessels, when  
29 the purchaser and the consumer are the same entity, and the fuel capa-

1 city of the servicing vessel and of the serviced vessel is less than  
2 10,000 barrels of refined petroleum products or their by-products, and  
3 is not covered by the definition of limited capacity facility in (8) of  
4 this section;

5 (10) "offshore exploration or production facility" means a  
6 platform, vessel or other facility used to explore for or produce hydro-  
7 carbons in the waters of the state; the term does not include vessels  
8 used for stratigraphic drilling or other operations which are not autho-  
9 rized or intended to drill to a producing formation;

10 (11) "oil" means oil of any kind and in any form, whether  
11 crude, refined, or a petroleum by-product, including but not limited to  
12 petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oil re-  
13 fuse, oil mixed with other wastes, crude oils, liquefied natural gas,  
14 propane, butane, or other liquid hydrocarbons regardless of specific  
15 gravity;

16 (12) "oil barge" means a vessel which is not self-propelled  
17 and which is constructed or converted to carry oil as cargo in bulk;

18 (1?) "oil terminal facility" means an onshore or offshore  
19 facility of any kind, and related appurtenances, including but not  
20 limited to a deepwater port, bulk storage facility or marina, located  
21 in, on, or under the surface of the land or waters of the state, in-  
22 cluding tide and submerged land, which is used for the purpose of trans-  
23 ferring, processing, refining, or storing oil; a vessel is considered an  
24 oil terminal facility only when it is used to make a ship-to-ship trans-  
25 fer of oil, and when it is traveling between the place of the ship-to-  
26 ship transfer of oil and an oil terminal facility;

27 (14) "operator" means a person who, through contract, lease,  
28 sublease or otherwise, exerts general supervision and control of activi-  
29 ties at the facility; the term includes, by way of example and not

1 limitation, prime or general contractors, the master of a vessel and his  
2 employer, or any other person who, through himself, his agents, or  
3 contractors, undertakes the general functioning of the facility;

4 (15) "person" means an individual, public or private corpora-  
5 tion, political subdivision, government agency, municipality, industry,  
6 partnership, association, firm, trust, estate, or any other entity;

7 (16) "self-propelled" means propelled either by machinery  
8 aboard the vessel, or by a tug or other vessel secured into the cargo-  
9 carrying vessel through special hull design;

10 (17) "tank vessel" means a self-propelled vessel that is  
11 constructed or converted to carry liquid bulk cargo in tanks and in-  
12 cludes tankers, tankships, and combination carriers when carrying oil;  
13 the term does not include vessels carrying oil in drums, barrels, or  
14 other packages, or vessels carrying oil as fuel or stores for that  
15 vessel;

16 (18) "vessel" includes tank vessels and oil barges;

17 (19) "waters of the state" includes lakes, bays, sounds,  
18 ponds, impounding reservoirs, springs, wells, rivers, streams, creeks,  
19 estuaries, marshes, inlets, straits, passages, canals, the Pacific  
20 Ocean, Gulf of Alaska, Bering Sea and Arctic Ocean, in the territorial  
21 limits of the state, and all other bodies of surface or underground  
22 water, natural or artificial, public or private, inland or coastal,  
23 fresh or salt, which are wholly or partially in or bordering the state  
24 or under the jurisdiction of the state.

25 \* Sec. 3. AS 46.03.750 is repealed and re-enacted to read:

26 Sec. 46.03.750. BALLAST WATER DISCHARGE. (a) Except as provided  
27 in (b) of this section, a person may not cause or permit the discharge  
28 of ballast water from a cargo tank of a tank vessel into the waters of  
29 the state. A tank vessel may not take on petroleum or a petroleum

1 product or by-product as cargo unless it arrives in ports in the state  
2 without having discharged ballast from cargo tanks into the waters of  
3 the state and the master of the vessel certifies that fact on forms  
4 provided by the department.

5 (b) The master of a tank vessel may discharge ballast water from a  
6 cargo tank of his tank vessel if it is necessary for the safety of the  
7 tank vessel and no alternative action is feasible to assure the safety  
8 of the tank vessel.

9 \* Sec. 4. AS 46.03.755(a) is amended to read:

10 (a) A person in charge of a facility, operation or vessel, as soon  
11 as he has knowledge of any discharge from the facility, operation or  
12 vessel in violation of AS 46.03.740 or 46.03.750 [OR AS 30.25.020,]  
13 shall immediately notify the department of the discharge.

14 \* Sec. 5. AS 46.03.760(a) is amended to read:

15 (a) A person who violates or causes or permits to be violated a  
16 provision of this chapter or AS 46.04 [AS 30.25.020], or a regulation, a  
17 lawful order of the department, or a permit, approval, or acceptance [OR  
18 CERTIFICATE], or term or condition of a permit, approval, or acceptance  
19 [OR CERTIFICATE] issued under this chapter or AS 46.04 [AS 30.25] is  
20 liable, in a civil action, to the state for a sum to be assessed by the  
21 court of not less than \$500 nor more than \$100,000 for the initial  
22 violation, nor more than \$5,000 for each day thereafter on which the  
23 violation continues, and which shall reflect, when applicable,

24 (1) reasonable compensation in the nature of liquidated  
25 damages for any adverse environmental effects caused by the violation,  
26 which shall be determined by the court according to the toxicity, de-  
27 gradability and dispersal characteristics of the substance discharged,  
28 the sensitivity of the receiving environment, and the degree to which  
29 the discharge degrades existing environmental quality;

1 [AS 30.25]. In actions brought under this section, temporary or pre-  
2 liminary relief may be obtained upon a showing of an imminent threat of  
3 continued violation, and probable success on the merits, without the  
4 necessity of demonstrating physical irreparable harm. The balance of  
5 equities in actions under this section may affect the timing of com-  
6 pliance, but not the necessity of compliance within a reasonable period  
7 of time.

8 \* Sec. 8. AS 46.03.790(a) is amended to read:

9 (a) A person who violates or who causes or permits a violation of  
10 a provision of this chapter or AS 46.04 [AS 30.25], or of a regulation,  
11 lawful order of the department, or permit, approval, or acceptance [OR  
12 CERTIFICATE], or term or condition of a permit, approval, or acceptance  
13 [OR CERTIFICATE] issued under this chapter or AS 46.04 [AS 30.25] is  
14 guilty of a violation [MISDEMEANOR AND, UPON CONVICTION, IS PUNISHABLE  
15 BY A FINE OF NOT MORE THAN \$25,000 AND COSTS OF PROSECUTION].

16 \* Sec. 9. AS 46.03.790(b) is amended to read:

17 (b) A person who wilfully violates a provision of this chapter, or  
18 of a regulation, lawful order of the department, or permit, approval, or  
19 acceptance [OR CERTIFICATE], or term or condition of a permit, approval,  
20 or acceptance [OR CERTIFICATE] issued under this chapter or AS 46.04  
21 [AS 30.25] is guilty of a misdemeanor [AND, UPON CONVICTION, IS PUNISH-  
22 ABLE BY A FINE OF NOT MORE THAN \$25,000 AND COSTS OF PROSECUTION, OR BY  
23 IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY FINE, COSTS, AND IMPRI-  
24 SONMENT].

25 \* Sec. 10. AS 44.19.171(b)(2) is amended to read:

26 (2) to alleviate the effects of a disaster as defined in  
27 AS 44.19.175 occurring after October 11, 1967, by making loans or grants  
28 to persons or municipalities on terms the governor considers appropriate  
29 or by other means the governor considers appropriate.

1 (2) reasonable costs incurred by the state in detection,  
2 investigation, and attempted correction of the violation [, EXCEPT  
3 DISBURSEMENTS FOR POLLUTION ABATEMENT COSTS UNDER AS 30.25.260(a)(2)];  
4 and

5 (3) the economic savings realized by the person in not com-  
6 plying with the requirement for which a violation is charged.

7 \* Sec. 6. AS 46.03.760(e) is amended to read:

8 (e) In addition to liability under (a) - (d) of this section, a  
9 person who violates or causes or permits to be violated a provision of  
10 AS 46.03.740 - 46.03.750 is liable to the state, in a civil action  
11 brought under AS 46.03.822, for the full amount of actual damages caused  
12 to the state by the violation, including direct and indirect costs  
13 associated with the abatement, containment or removal of the pollutant,  
14 restoration of the environment to its former state, and all incidental  
15 administrative costs. [THAT PORTION OF THE DAMAGES RECOVERED BY THE  
16 STATE IN A CIVIL ACTION BROUGHT UNDER AS 46.03.822 ATTRIBUTABLE TO COSTS  
17 INCURRED BY THE DEPARTMENT IN THE ABATEMENT, CONTAINMENT OR REMOVAL OF  
18 THE POLLUTANT RESULTING FROM A DISCHARGE OF CRUDE OIL, REFINED PETROLEUM  
19 PRODUCTS OR THEIR BY-PRODUCTS SHALL BE DEPOSITED IN THE COASTAL PROTEC-  
20 TION FUND CREATED UNDER AS 30.25.220. EXCEPT FOR SPECIAL RISK CHARGES  
21 COLLECTED UNDER AS 30.25.270, A PERSON HOLDING A RISK AVOIDANCE CERTIFI-  
22 CATE MAY NOT BE HELD LIABLE FOR COSTS ASSOCIATED WITH THE ABATEMENT,  
23 CONTAINMENT OR REMOVAL OF THE POLLUTANT.]

24 \* Sec. 7. AS 46.03.765 is amended to read:

25 Sec. 46.03.765. INJUNCTIONS. The superior court has jurisdiction  
26 to enjoin a violation of this chapter or AS 46.04 [AS 30.25], or of a  
27 regulation, lawful order of the department, or permit, approval, or ac-  
28 ceptance [OR CERTIFICATE], or term or condition of a permit, approval,  
29 or acceptance [OR CERTIFICATE] issued under this chapter or AS 46.04

1 \* Sec. 11. AS 30.20 and AS 30.25 are repealed.

2 \* Sec. 12. The Department of Environmental Conservation shall prepare a  
3 report describing the status of the negotiations required by AS 46.04.020(e)  
4 and shall submit the report to the legislature no later than the 60th day of  
5 the First Session of the Twelfth Legislature.

6 \* Sec. 13. (a) An oil spill contingency plan approved between July 1,  
7 1979, and June 30, 1980, under AS 30.25, as it existed before the effective  
8 date of this Act, is an approved plan for the purposes of AS 46.04.030, and  
9 may be renewed in accordance with AS 46.04.030(d).

10 (b) A proof of financial responsibility accepted under AS 30.25 may be  
11 used to satisfy the requirements of AS 46.04.040 if the acceptance has not  
12 expired before July 1, 1980; however, the acceptance expires in accordance  
13 with AS 46.04.040(f) or on January 1, 1981, whichever occurs first.

14 \* Sec. 14. This Act takes effect July 1, 1980.

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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.

James O Smith  
Signature of Camera Operator

3/20/90  
Date

HB 207

SENATE FINANCE COMMITTEE  
BILL CHECKLIST

1. Committee Copy-Current Bill
2. History Cover Form
3. Printed Copies:
  - Original Bill
  - Committee Substitutes or Amendments
4. SFC Committee Report Form

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5. Fiscal Information:
  - Note in File
  - Note Requested  Date \_\_\_\_\_
  - Other Financial Backup (See Below)
6. Backup:
  - Handouts
  - Letter from Governor
  - Letter from Sponsor
  - Completed Committee Reports
  - Committee State Affairs
  - Other

COMMITTEE REPORT  
SENATE

3/29/79

FURTHER:

Date: 5-14-80

Mr. President:

The Committee on FINANCE has had HB 207  
transportation of employees

under consideration and (a majority of the committee) (the committee)  
reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with <sup>Senator</sup>CS for HB 207 (fin. Comm.)  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back <sup>reduced cost</sup> without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[Signature]  
CHAIRMAN

5:13:80✓

Delivered to  
legis atty.

4:30 pm

5-14-80

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR HOUSE BILL NO. 207

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state responsibility for the high-  
7 way between the Yukon River and the Arctic Ocean, and  
8 to state management and control of resources affected  
9 by the highway between the Yukon River and the Arctic  
10 Ocean; and providing for an effective date."

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

12 \* Section 1. The purpose of sec. 2 of this Act is to protect wildlife  
13 which, as a result of wildlife migrations, congregates in large numbers near  
14 the highway between the Yukon River and the Arctic Ocean.

15 \* Sec. 2. AS 16.05 is amended by adding a new section to read:

16 Sec. 16.05.785. PROHIBITION ON HUNTING ADJACENT TO HIGHWAY BETWEEN  
17 YUKON RIVER AND ARCTIC OCEAN. (a) Hunting with firearms is prohibited  
18 north of the Yukon River in the area within five miles on either side of  
19 the highway between the Yukon River and the Arctic Ocean.

20 (b) A person who violates this section is guilty of a class A  
21 misdemeanor.

22 \* Sec. 3. AS 19.40 is amended by adding new sections to read:

23 ARTICLE 2. USE OF THE HIGHWAY.

24 Sec. 19.40.100. USE OF THE HIGHWAY BY COMMERCIAL TRAFFIC. (a)  
25 The department shall maintain the highway and keep it open to commercial  
26 traffic throughout the year.

27 (b) For purposes of this section, "commercial traffic" means motor  
28 carriers engaged in commerce which are common carriers or contract  
29 carriers regulated by the Alaska Transportation Commission under

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AS 42.10.

Sec. 19.40.110. CLOSURE OF THE HIGHWAY TO TRAFFIC. The provisions of AS 19.10.100 apply to the closure of the highway by the department.

\* Sec. 4. AS 19.40 is amended by adding a new section to read:

Sec. 19.40.120. PUBLIC USE OF A PORTION OF THE HIGHWAY. The department shall maintain the section of the highway between the Yukon River and Dietrich Camp and shall keep that section of the highway open to use by the public between June 1 and September 1 each year.

\* Sec. 5. AS 19.40 is amended by adding a new section to read:

ARTICLE 3. LANDS ADJACENT TO THE HIGHWAY.

Sec. 19.40.200. PROHIBITIONS ON DISPOSAL AND USE OF LAND WITHIN FIVE MILES OF THE HIGHWAY. (a) The state may not dispose of state land under AS 38 which is within five miles of the right-of-way of the highway.

(b) Off-road vehicles are prohibited on land within five miles of the right-of-way of the highway. However, this prohibition does not apply to a person who holds a mining claim in the vicinity of the highway and who must use land within five miles of the right-of-way of the highway to gain access to his mining claim.

\* Sec. 6. Section 4 of this Act takes effect June 1, 1983.

5:13:80✓

Delivered to  
legis aff.

4:30 pm

5-14-80

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR HOUSE BILL NO. 207

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state responsibility for the high-  
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26 traffic throughout the year.

27 (b) For purposes of this section, "commercial traffic" means motor  
28 carriers engaged in commerce which are common carriers or contract  
29 carriers regulated by the Alaska Transportation Commission under



From The  
**SENATE  
FINANCE COMMITTEE**

---

See attached letter from  
A. G. This law has  
been applied to the  
U of A. If possible  
it could be extended to  
all state agencies

*[Handwritten signature]*

STATE  
of ALASKA

# MEMORANDUM

HB 207

TO:  Garrey Peska  
Administrative Aide to Senator  
Sackett  
Budget and Audit Committee

DATE: March 12, 1979

FILE NO:

TELEPHONE NO:

FROM: AVRUM M. GROSS  
ATTORNEY GENERAL

SUBJECT:

By: *BMB*  
Bruce M. Botelho  
Assistant Attorney General

I have reviewed the communications you have forwarded to me from the University of Alaska as well as the memorandum of February 22, 1974 from Assistant Attorney General Douglas to the Department of Administration respecting AS 23.10.375-400.

While Mr. Douglas' analysis of sovereign exemption is essentially correct, the Alaska Supreme Court in the intervening years has substantially eroded this doctrine.

Given that fact, and the likelihood that the University of Alaska has provided transportation to employees on a continuing basis (by express contract or by some form of mutual understanding), it is highly likely that were this matter litigated, the Alaska court would find the University of Alaska to be subject to the legislative policies expressed in AS 23.10.375-400.

Should you have any further questions in this regard, please do not hesitate to contact me.

BMB:vr

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. J-77-137-79 HOUSE BILL NO. 207  
 Title "An Act Relating to Transportation of Employees"  
 Requested by Office of the Governor Date February 7, 1979

II. FISCAL DETAIL  
 Agency Affected Labor  
 Program Category Affected Public Protection  
 BRU, Program, or Subprogram(s) Affected Ware and Hour Administration  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)  
EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

No Fiscal Impact. Purpose and effect of this bill is to clarify the act and broaden its coverage.

IV. DATE 2/7/79 PREPARED BY [Signature]  
 AGENCY LABOR  
 PHONE 465-2720  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

hb 207

February 13, 1979

The Honorable Terry Gardiner  
Speaker of the House  
Alaska State Legislature  
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill relating to transportation of employees.

The bill would amend AS 23.10.380 which deals with an employer's obligation to make certain provisions for the return transportation of employees to whom the employer provided (i.e., furnished or paid for or advanced funds to pay for) transportation from the place of hire to the place of work. The Department of Law recently interpreted AS 23.10.380 as requiring only that an employer provide the same kind of assistance for the return trip as he provided on the initial trip (e.g., if the employer advanced or loaned funds to the employee to pay for the trip to the job, the employer must also advance or loan the employee the necessary funds to return to the point of hire.)

The Department of Labor believes that the statute as it currently reads does not provide adequate protection for employees who may be enticed to travel long distances to Alaska to work for little more than the minimum wage in the mistaken belief that, if the job does not work out, they will not have to bear the expense of returning to their homes. Apparently many employees from the Lower 48, especially in the fish processing industry, have been stranded or "dumped" in Alaska upon termination of their employment without adequate funds to pay for the return trip.

To address this problem the bill would require that, in any situation that the employer provides any assistance to the employee in getting to the place of work, the employer must actually furnish or pay for the employee's return transportation. The obligation is placed squarely

on the employer to see to it that the employee gets home and is not left stranded in Alaska.

Additionally, the bill would make clear what return transportation or costs of return transportation must be borne by the employer. Under the bill, these would include, in addition to the costs of transporting just the employee, the costs of moving household goods and the costs of transporting members of the employee's family, if the employer assisted the employee in transporting them to the place of work, unless the employer and employee have agreed, in writing, at the time of hire that the employer would not be responsible for either or both of these elements.

Finally, the bill would also clarify that an employee who is entitled to return transportation by the employer is also entitled to receive subsistence for up to 10 days while waiting for available transportation. The subsistence could be either room and board or compensation in an amount equal to state per diem rates for the area in which the employee worked.

Sincerely,



Jay S. Hammond  
Governor



THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 207  
 Title An act relating to transportation of employees  
 Requested by Senator Sumner (Joshua Wright) Date 1-28-80

II. FISCAL DETAIL

Agency Affected State of Alaska Department of Transportation & Public Facilities  
 Program Category Affected \_\_\_\_\_  
 BRU, Program, or Subprogram(s) Affected \_\_\_\_\_  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-					

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND	-0-					
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME	-0-					
PART TIME	-0-					
TEMPORARY	-0-					

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

This analysis is based on the assumption that the changes made to AS 23.10.380 by HB 207 are merely for clarification of the present law and do not expand the rights of State employees. Classified State employees transported for State employment execute a reimbursable travel expense agreement which requires at least partial repayment of travel expense if employment is terminated prior to two years of service for the State. If this provision is not legally sufficient notice that return transportation is not provided, an additional paragraph to that effect can be added to all future Department of Transportation and Public Facilities travel expense agreements.

IV. DATE January 28, 1980 PREPARED BY Donna Page, Director  
 AGENCY DOT/PF - Administrative Support Services  
 PHONE 465-4055  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

CSHB 208

FISCAL NOTE (REVISED)

I. REQUEST

Bill/Resolution No. COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 208  
Title An Act relating to the investment of state retirement and pension funds  
Requested by \_\_\_\_\_ Date 4-17-80

II. FISCAL DETAIL

Agency Affected Department of Revenue  
Program Category Affected Revenue Collection & Management  
BRU, Program, or Subprogram(s) Affected Treasury Management  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		170.0	192.0	216.0	238.0	260.0
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	170.0	192.0	216.0	238.0	260.0

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Public Employees Retirement	-0-	85.0	96.0	108.0	119.0	130.0
Teachers Retirement	-0-	85.0	96.0	108.0	119.0	130.0

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

Expenses included are for management, custody and safekeeping of precious metals and foreign securities. This fiscal note represents a lower level of commitment to such investments. The above allows for \$30 million in 1981 with a yearly 15% increase in assets. Fees are .56% of asset balance in 1981. This compares to present .50% service fee required by State Division of Veterans Loans on loans placed with them.

*Anselm C. Staack*

IV. DATE May 13, 1980 PREPARED BY Anselm C. Staack, Treasury Comptroller  
AGENCY Department of Revenue/Treasury Division  
PHONE 465-2351  
Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

CSHB 208

I. REQUEST

Bill/Resolution No. COMMITTEE SUBSTITUTE FOR HOUSE BILL 208  
Title An Act relating to the investment of state retirement and pension funds  
Requested by \_\_\_\_\_ Date 4-17-80

II. FISCAL DETAIL

Agency Affected Department of Revenue  
Program Category Affected Revenue Collection & Management  
BRU, Program, or Subprogram(s) Affected Treasury Management  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		546.0	609.0	681.6	764.9	860.7
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>-0-</b>	<b>546.0</b>	<b>609.0</b>	<b>681.6</b>	<b>764.9</b>	<b>860.7</b>

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Public Employees Retirement	-0-	273.0	304.5	340.8	382.5	430.4
Teachers Retirement	-0-	273.0	304.5	340.8	382.4	430.3

POSITIONS

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

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

Expenses included are for management, custody and safekeeping of precious metals, foreign securities and real estate equity. Contractual services: \$420.0 for costs related to initial \$60 million invested in precious metals and foreign securities; (the costs are at the same rate whether in precious metals or foreign securities); \$126.0 for costs related to initial \$10 million invested in real estate equity. Yearly increase of 15% addition to assets.

*Anselm C. Staack*

IV. DATE April 28, 1980 PREPARED BY Anselm C. Staack, Treasury Comptroller  
AGENCY Department of Revenue/Treasury Division  
PHONE 465-2351

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

## Section-by-Section Analysis of CSHB 208

### Pension Fund Investments

Section 1. Amendments to the investment list of Teachers' Retirement System. This section requires the commissioner of revenue to obtain market rates of return and restricts the collateral which he can accept on loans purchased for the fund to buildings. Bank participations on commercial loans must be held to maturity.

#### Additions:

1. Commercial paper
2. Foreign securities other than Canada (15% limit)
3. Eurodollar investments
4. Gold bullion (15% limit)
5. Foreign currency time deposits (25% limit)

#### Deletions:

1. Tax-exempt municipal bonds
2. FHA loans
3. State veterans loans
4. Boat loans
5. State agriculture loans

Much language was adopted from the permanent fund bill. Corporate debt securities have been limited to those rated at least "A" by a nationally recognized rating organization, and preferred and common stock could be purchased only if the issuing corporation had paid dividends for the preceding three years. Commercial paper has been limited the highest possible rating and gold bullion must be of the best purity to be eligible for purchase.

Section 2. Adoption of the Prudent-Man Rule used by the Alaska Permanent Fund which emphasizes the safety of capital over the generation of income for Teachers' Retirement System.

Section 3. Technical amendment with regard to the registration of investments for Teachers' Retirement System.

Section 4. Limitation on the purchase of mortgage loans to new loans only. Mortgages cannot be purchased from bank inventory for Teachers' Retirement System.

Section 5. Adoption of hedging language used by the Alaska Permanent Fund. Use of real estate equity funds for Teachers' Retirement System.

Section 6. Amendments to the investment list of Public Employees Retirement System. This section requires the commissioner of revenue to obtain market rates of return and restricts the collateral which he can accept on loans purchased for the fund to buildings. Bank participations on commercial loans must be held to maturity.

Additions:

1. Commercial paper
2. Foreign securities other than Canada (15% limit)
3. Eurodollar investments
4. Gold bullion (15% limit)
5. Foreign currency time deposits (25% limit)

Deletions:

1. Tax-exempt municipal bonds
2. FHA loans
3. State veterans loans
4. Boat loans

5. State agriculture loans
6. Mutual funds

Much language was adopted from the permanent fund bill. Corporate debt securities have been limited to those rated at least "A" by a nationally recognized rating organization, and preferred and common stock could be purchased only if the issuing corporation had paid dividends for the preceding three years. Commercial paper has been limited to the highest possible rating and gold bullion must be of the best purity to be eligible for purchase.

Section 7. Adoption of the Prudent-Man Rule used by the Alaska Permanent Fund which emphasizes the safety of capital over the generation of income for Public Employees Retirement System.

Section 8. Limitation on the purchase of mortgage loans to new loans only. Mortgages cannot be purchased from bank inventory for Public Employees Retirement System.

Section 9. Adoption of hedging language used by the Alaska Permanent Fund. Use of real estate equity funds for Public Employees Retirement System.

Section 10. Repeals restrictions on the extent of investments in State veterans and agriculture loans for Public Employees Retirement System.

Section 11. Effective date

# COMMITTEE REPORT

(11)

## HOUSE

FURTHER:

5/13/80

(Two memos and two fiscals notes from R. D. Stevenson attached.)

Date: \_\_\_\_\_

Mr. Speaker: (Taken from Rules and returned to Finance 5/13/80)

The Committee on FINANCE has had HB 208

"An Act relating to pension fund investments; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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CHAIRMAN

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH 5  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2300

May 13, 1980

The Honorable Sam Cotten  
Chairman  
House Rules Committee  
Room 208 - Capitol Building  
Juneau, Alaska 99811

Dear Mr. Cotten:

Re: CS for House Bill No. 208

CS for House Bill No. 208, an Act relating to the investment of state retirement and pension funds, was referred in the House on April 17, 1980 by the House Finance Committee to the House Rules Committee.

For the consideration of the House Rules Committee, I am enclosing a copy of a Revised Fiscal Note prepared by Anselm Staack, Comptroller, Treasury Division of the Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson  
Special Assistant

cc: Joseph K. Donohue  
Deputy Commissioner  
Department of Revenue

Peter Bushre  
Deputy Commissioner  
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

CSHB 208

FISCAL NOTE (REVISED)

I. REQUEST

Bill/Resolution No. COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 208  
 Title An Act relating to the investment of state retirement and pension funds  
 Requested by \_\_\_\_\_ Date 4-17-80

II. FISCAL DETAIL

Agency Affected Department of Revenue  
 Program Category Affected Revenue Collection & Management  
 BRU, Program, or Subprogram(s) Affected Treasury Management  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)  
EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		170.0	192.0	216.0	238.0	260.0
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	170.0	192.0	216.0	238.0	260.0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Public Employees Retirement	-0-	85.0	96.0	108.0	119.0	130.0
Teachers Retirement	-0-	85.0	96.0	108.0	119.0	130.0

POSITIONS

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

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

Expenses included are for management, custody and safekeeping of precious metals and foreign securities. This fiscal note represents a lower level of commitment to such investments. The above allows for \$30 million in 1981 with a yearly 15% increase in assets. Fees are .56% of asset balance in 1981. This compares to present .50% service fee required by State Division of Veterans Loans on loans placed with them.

*Anselm C. Staack*

IV. DATE May 13, 1980 PREPARED BY Anselm C. Staack, Treasury Comptroller  
 AGENCY Department of Revenue/Treasury Division  
 PHONE 465-2351  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

Original sponsor: Rules/Governor

Offered: 4/17/80  
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 208

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the investment of state retirement  
7 and pension funds; and providing for an effective  
8 date."

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

10 \* Section 1. AS 14.25.180(b) is amended to read:

11 (b) When, in the opinion of the commissioner of administration,  
12 there is on hand in the retirement fund a surplus over and above a  
13 reasonably safe amount to take care of current demands upon the fund,  
14 the surplus or so much of it as in the judgment of the commissioner of  
15 administration is considered proper may be invested at competitive national  
16 market rates by the commissioner of revenue in

17 [(1) BONDS OR OTHER INTEREST-BEARING OBLIGATIONS AND SECURITIES  
18 OF THE UNITED STATES OR AN AGENCY OF THE UNITED STATES, A STATE OF THE  
19 UNITED STATES, OR A POLITICAL SUBDIVISION OF ANY STATE OF THE UNITED  
20 STATES, IF THE POLITICAL SUBDIVISION HAS A POPULATION AS SHOWN BY THE  
21 LAST FEDERAL CENSUS PRECEDING THE INVESTMENT OF NO LESS THAN 30,000  
22 INHABITANTS, EXCEPT NO POPULATION LIMITATION APPLIES TO A POLITICAL  
23 SUBDIVISION OF THIS STATE;

24 (2) FIRST LIEN REAL ESTATE MORTGAGE SECURITIES INSURED BY THE  
25 FEDERAL HOUSING ADMINISTRATION UNDER THE NATIONAL HOUSING ACT OF THE  
26 UNITED STATES, OR HELD BY THE DEPARTMENT OF COMMERCE, OR THE DEPARTMENT  
27 OF NATURAL RESOURCES;

28 (3) CORPORATION BONDS, AND PREFERRED AND COMMON STOCKS AS THE  
29 COMMISSIONER OF REVENUE CONSIDERS PROPER INVESTMENTS FOR THE FUNDS;]

1 (4) shares of federally chartered savings and loan associa-  
2 tions in Alaska, to the extent that the investment is insured by the  
3 federal government or by an agency of the federal government;

4 (5) deposits with mutual savings banks in Alaska, to the  
5 extent that the investment is insured by the federal government or an  
6 agency of the federal government;

7 (6) deposits with state and national banks in Alaska to the  
8 extent that the investment is insured by the federal government or an  
9 agency of the federal government;

10 [(7) LOANS GUARANTEED BY THE DIVISION OF VETERANS' AFFAIRS  
11 UNDER AS 26.15.040(b);]

12 (8) (deleted);

13 (9) the guaranteed portion of Small Business Administration  
14 loans;

15 (10) first lien real estate mortgages guaranteed by the federal  
16 Veterans Administration;

17 (11) notes secured by mortgages of commercial or residential  
18 buildings [REAL ESTATE OR OTHER SECURITY] if the mortgages are insured  
19 by a private mortgage insurance corporation which is authorized to do  
20 business in Alaska and has combined capital, surplus and reserves aggre-  
21 gating at least \$20,000,000; however,

22 (A) no mortgage insurance is necessary for commercial  
23 loans having loan-to-value ratios of less than 50 percent; and the  
24 minimum coverage of other commercial loans shall be 10 percent for  
25 those having a loan-to-value ratio of 50-60 per cent and 15 percent  
26 for those having a loan-to-value ratio greater than 60 percent but  
27 no more than 75 percent, and

28 (B) no mortgage insurance is necessary for residential  
29 loans having a loan-to-value ratio of less than 70 percent and the

1 minimum coverage of other residential loans shall be 10 percent for  
2 those having a loan-to-value ratio greater than 70 percent but less  
3 than 90 percent and 20 percent for those having a loan-to-value  
4 ratio of 90 percent;

5 (12) conventional residential mortgages if the originating  
6 financial institution retains at least 25 percent of the mortgage for a  
7 minimum of two years;

8 (13) notes secured by mortgages of commercial buildings [REAL  
9 ESTATE] if the originating financial institution retains at least 25  
10 percent of the mortgage until maturity;

11 (14) FHA guaranteed portion of business and industrial loans  
12 made under the Rural Development Act of 1972;

13 [(15) GUARANTEED PORTION OF LOANS MADE UNDER THE FEDERAL SHIP  
14 FINANCING ACT OF 1972. NO MORE THAN 25 PERCENT OF THE SURPLUS MAY BE  
15 INVESTED IN MORTGAGE SECURITIES OF THE DEPARTMENT OF COMMERCE, AND THE  
16 STATE SHALL APPROPRIATE SUFFICIENT MONEY FROM THE GENERAL FUND TO REIM-  
17 BURSE THE TEACHERS' RETIREMENT SYSTEM FOR ANY LOSSES INCURRED AS A  
18 RESULT OF FAILURE OF THE OBLIGORS TO PAY ON THE NOTES. NO MORE THAN  
19 \$400,000 OF THE SURPLUS MAY BE INVESTED ANNUALLY IN THE MORTGAGE SECURI-  
20 TIES OF THE DEPARTMENT OF NATURAL RESOURCES, AND THE STATE SHALL APPRO-  
21 PRIATE SUFFICIENT MONEY FROM THE GENERAL FUND TO REIMBURSE THE TEACHERS'  
22 RETIREMENT SYSTEM FOR ANY LOSSES INCURRED AS A RESULT OF FAILURE OF THE  
23 OBLIGORS TO PAY ON THE NOTES;

24 (16) BONDS, DEBENTURES, NOTES, OR OTHER OBLIGATIONS ISSUED,  
25 GUARANTEED, OR ASSUMED AS TO BOTH PRINCIPAL AND INTEREST BY THE GOVERN-  
26 MENT OF THE DOMINION OF CANADA, OR BY ANY PROVINCE OF CANADA, OR BY ANY  
27 MUNICIPALITY OF CANADA WHICH HAS A POPULATION OF NOT LESS THAN 150,000,  
28 IF (A) THE FULL FAITH AND CREDIT OF THE ISSUER, GUARANTOR, OR ASSUMER OF  
29 THE BONDS, DEBENTURES, NOTES, OR OTHER OBLIGATIONS IS PLEDGED FOR THE

1 PAYMENT OF PRINCIPAL AND INTEREST ON THEM, (B) THE PRINCIPAL AND INTEREST  
2 ON THEM IS PAYABLE IN UNITED STATES CURRENCY, EITHER UNCONDITIONALLY OR  
3 AT THE OPTION OF THE HOLDER, AND (C) THESE OBLIGATIONS ARE RATED A OR AN  
4 EQUIVALENT QUALITY BY A NATIONALLY RECOGNIZED RATING ORGANIZATION;]

5 (17) bankers' acceptances which are eligible for discount at  
6 the Federal Reserve Bank and [NEGOTIABLE TIME] certificates of deposit  
7 issued by United States domestic [COMMERCIAL] banks which are members of  
8 the Federal Deposit Insurance Corporation if a generally recognized  
9 secondary market exists for the certificates of deposit;

10 (18) obligations of, or obligations insured by or guaranteed  
11 by, the United States or agencies or instrumentalities of the United  
12 States;

13 (19) obligations secured by reserves paid in by the United  
14 States or agencies or instrumentalities of the United States or obliga-  
15 tions of corporations in which the United States is a shareholder or  
16 member;

17 (20) corporate debt securities with a minimum rating of "A" or  
18 an equivalent rating by a nationally recognized rating organization;

19 (21) preferred and common stock of companies which have paid  
20 dividends in each of the three years immediately preceding the invest-  
21 ment;

22 (22) commercial paper bearing the highest rating of a nation-  
23 ally recognized rating organization;

24 (23) securities of foreign governments, foreign governmental  
25 agencies, and foreign corporations the principal, interest or dividends  
26 on which are payable in either United States dollars or foreign curren-  
27 cies; however, investments under this paragraph may not exceed 15 per-  
28 cent of the total investments of the retirement fund;

29 (24) gold bullion if it is registered with a nationally recog-

1 nized dealer and is certified as to fineness of at least 99.5 percent;  
2 however, investments under this paragraph may not exceed 15 percent of  
3 the total investments of the retirement fund;

4 (25) foreign time deposits of both United States-owned and  
5 foreign-owned banks and trust companies denominated in either United  
6 States dollars or foreign currencies; however, investments under this  
7 paragraph may not exceed 25 percent of the total investments of the re-  
8 tirement fund.

9 \* Sec. 2. AS 14.25.180(c) is amended to read:

10 (c) In making investments the commissioner of revenue shall exer-  
11 cise the judgment and care under the circumstances then prevailing which  
12 an institutional investor [MEN] of ordinary prudence, discretion, and  
13 intelligence exercises [EXERCISE] in the management of large investments  
14 entrusted to it [THEIR OWN AFFAIRS] not in regard to speculation but in  
15 regard to the permanent disposition of [THEIR] funds, considering [THE]  
16 probable safety of capital as well as probable income [THEREFROM AS WELL  
17 AS THE PROBABLE SAFETY OF THEIR CAPITAL]. However, no more than 50  
18 percent of the retirement fund may be invested at any given time in  
19 corporate stocks and debt securities [BONDS], nor may more than five  
20 percent of the voting stock of a [ANY] corporation be owned. Stocks  
21 eligible for purchase are restricted to stocks which, except for bank  
22 stocks and insurance stocks, are listed upon an exchange registered with  
23 the Federal Securities and Exchange Commission.

24 \* Sec. 3. AS 14.25.180(d)(5) is amended to read:

25 (5) register investments held in the retirement fund in the  
26 name of the system;

27 \* Sec. 4. AS 14.25.180(e) is repealed and re-enacted to read:

28 (e) To qualify as a mortgage which may be purchased under (b)(11),  
29 (12) or (13) of this section,

1 (1) the originating financial institution must certify that  
2 the mortgage has been made in compliance with law and that liens sup-  
3 porting the mortgage have been perfected;

4 (2) the mortgage may not have been held by the originating  
5 financial institution for a period greater than 90 days.

6 \* Sec. 5. AS 14.25.180 is amended by adding new subsections to read:

7 (g) The commissioner of revenue may enter into futures contracts  
8 for the sale of investments purchased under (b) of this section only for  
9 the purpose of hedging an existing equivalent ownership position in the  
10 investments.

11 (h) The commissioner of revenue may transfer at any time a portion  
12 of the assets of the retirement fund to a trust which is qualified under  
13 sec. 401(a) and exempt from taxation under sec. 501(a) of the Internal  
14 Revenue Code of 1954, as amended, and which is maintained as a medium  
15 for pooling a portion of the funds of pension and profit-sharing trusts  
16 for diversifying investments in real estate and interests in real  
17 estate.

18 (i) The commissioner of revenue may enter into a contract or trust  
19 agreement necessary to effectuate the transfer of assets of the retire-  
20 ment fund or to maintain the assets of the retirement fund to be trans-  
21 ferred to a trust under (h) of this section.

22 \* Sec. 6. AS 39.35.110(a) is amended to read:

23 (a) When, in the opinion of the commissioner of administration,  
24 there is on hand in the pension fund a surplus over and above a reason-  
25 ably safe amount to take care of current demands upon the fund, the  
26 surplus, or so much of it as in the judgment of the commissioner of  
27 administration is considered proper, may be invested at competitive  
28 national market rates by the commissioner of revenue in

29 [(1) BONDS OR OTHER INTEREST-BEARING OBLIGATIONS AND SECURI-

1 TIES OF THE (A) UNITED STATES OR AN AGENCY OF THE UNITED STATES, (B) A  
2 STATE OF THE UNITED STATES, OR (C) A POLITICAL SUBDIVISION OF A STATE OF  
3 THE UNITED STATES, IF THE POLITICAL SUBDIVISION HAS A POPULATION AS  
4 SHOWN BY THE LAST FEDERAL CENSUS PRECEDING THE INVESTMENT OF NOT LESS  
5 THAN 30,000 INHABITANTS; WITH RESPECT TO POLITICAL SUBDIVISIONS OF THIS  
6 STATE, NO POPULATION LIMITATION APPLIES;

7 (2) FIRST LIEN REAL ESTATE MORTGAGE SECURITIES INSURED BY THE  
8 FEDERAL HOUSING ADMINISTRATION UNDER THE NATIONAL HOUSING ACT OF THE  
9 UNITED STATES OR HELD BY THE DIVISION OF VETERANS' AFFAIRS UNDER  
10 AS 26.15, OR LOANS GUARANTEED BY THE DIVISION OF VETERANS' AFFAIRS UNDER  
11 AS 26.15.040(b);

12 (3) CORPORATION BONDS AND PREFERRED AND COMMON STOCKS AS THE  
13 COMMISSIONER OF REVENUE CONSIDERS PROPER INVESTMENTS FOR THE FUNDS;

14 (4) FIRST LIEN REAL ESTATE MORTGAGE SECURITIES HELD BY THE  
15 DEPARTMENT OF NATURAL RESOURCES UNDER AS 03.10;]

16 (5) shares of federally chartered savings and loan associa-  
17 tions in Alaska, to the extent that the [SUCH] investment is insured by  
18 the federal government or an agency of the federal government [THEREOF];

19 (6) deposits with mutual savings banks in Alaska, to the  
20 extent that the [SUCH] investment is insured by the federal government  
21 or an agency of the federal government [THEREOF];

22 (7) deposits with state and national banks in Alaska to the  
23 extent that the investment is insured by the federal government or an  
24 agency of the federal government;

25 (8) [MUTUAL FUNDS;]

26 (9) the guaranteed portion of Small Business Administration  
27 loans;

28 (10) first lien real estate mortgages guaranteed by the  
29 federal Veterans Administration;

1 (11) notes secured by mortgages of commercial or residential  
2 buildings [REAL ESTATE OR OTHER SECURITY] if the mortgages are insured  
3 by a private mortgage insurance corporation which is authorized to do  
4 business in Alaska and has combined capital, surplus and reserves aggre-  
5 gating at least \$20,000,000; however,

6 (A) no mortgage insurance is necessary for commercial  
7 loans having loan-to-value ratios of less than 50 percent and the  
8 minimum coverage of other commercial loans shall be 10 percent for  
9 those having a loan-to-value ratio of 50-60 per cent and 15 percent  
10 for those having a loan-to-value ratio greater than 60 percent but  
11 no more than 75 percent, and

12 (B) no mortgage insurance is necessary for residential  
13 loans having a loan-to-value ratio of less than 70 percent and the  
14 minimum coverage of other residential loans shall be 10 percent for  
15 those having a loan-to-value ratio greater than 70 percent but less  
16 than 90 percent and 20 percent for those having a loan-to-value  
17 ratio of 90 percent;

18 (12) conventional residential mortgages if the originating  
19 financial institution retains at least 25 percent of the mortgage for a  
20 minimum of two years;

21 (13) notes secured by mortgages of commercial buildings [REAL  
22 ESTATE] if the originating financial institution retains at least 25  
23 percent of the mortgage until maturity;

24 (14) FHA guaranteed portion of business and industrial loans  
25 made under the Rural Development Act of 1972;

26 [(15) GUARANTEED PORTION OF LOANS MADE UNDER THE FEDERAL SHIP  
27 FINANCING ACT OF 1972;

28 (16) BONDS, DEBENTURES, NOTES, OR OTHER OBLIGATIONS ISSUED,  
29 GUARANTEED, OR ASSUMED AS TO BOTH PRINCIPAL AND INTEREST BY THE GOVERN-

1           MENT OF THE DOMINION OF CANADA, OR BY ANY PROVINCE OF CANADA, OR BY ANY  
2           MUNICIPALITY OF CANADA WHICH HAS A POPULATION OF NOT LESS THAN 150,000,  
3           IF (A) THE FULL FAITH AND CREDIT OF THE ISSUER, GUARANTOR, OR ASSUMER OF  
4           THE BONDS, DEBENTURES, NOTES, OR OTHER OBLIGATIONS IS PLEDGED FOR THE  
5           PAYMENT OF PRINCIPAL AND INTEREST ON THEM, (B) THE PRINCIPAL AND INTEREST  
6           ON THEM IS PAYABLE IN UNITED STATES CURRENCY, EITHER UNCONDITIONALLY OR  
7           AT THE OPTION OF THE HOLDER, AND (C) THESE OBLIGATIONS ARE RATED A OR AN  
8           EQUIVALENT QUALITY BY A NATIONALLY RECOGNIZED RATING ORGANIZATION;]

9           (17) bankers' acceptances which are eligible for discount at  
10          the Federal Reserve Bank and [NEGOTIABLE TIME] certificates of deposit  
11          issued by United States domestic [COMMERCIAL] banks which are members of  
12          the Federal Deposit Insurance Corporation if a generally recognized  
13          secondary market exists for the certificates of deposit;

14          (18) obligations of, or obligations insured by or guaranteed  
15          by, the United States or agencies or instrumentalities of the United  
16          States;

17          (19) obligations secured by reserves paid in by the United  
18          States or agencies or instrumentalities of the United States or obliga-  
19          tions of corporations in which the United States is a shareholder or  
20          member;

21          (20) corporate debt securities with a minimum rating of "A" or  
22          an equivalent rating by a nationally recognized rating organization;

23          (21) preferred and common stock of companies which have paid  
24          dividends in each of the three years immediately preceding the invest-  
25          ment;

26          (22) commercial paper bearing the highest rating of a nation-  
27          ally recognized rating organization;

28          (23) securities of foreign governments, foreign governmental  
29          agencies, and foreign corporations the principal, interest or dividends

1 on which are payable in either United States dollars or foreign curren-  
2 cies; however, investments under this paragraph may not exceed 15 per-  
3 cent of the total investments of the pension fund;

4 (24) gold bullion if it is registered with a nationally recog-  
5 nized dealer and is certified as to fineness of at least 99.5 percent;  
6 however, investments under this paragraph may not exceed 15 percent of  
7 the total investments of the pension fund;

8 (25) foreign time deposits of both United States-owned and  
9 foreign-owned banks and trust companies denominated in either United  
10 States dollars or foreign currencies; however, investments under this  
11 paragraph may not exceed 25 percent of the total investments of the pen-  
12 sion fund.

13 \* Sec. 7. AS 39.35.110(c) is amended to read:

14 (c) In making investments the commissioner of revenue shall exer-  
15 cise the judgment and care under the circumstances then prevailing which  
16 an institutional investor [A MAN] of ordinary prudence, discretion, and  
17 intelligence exercises in the management of large investments entrusted  
18 to it [HIS OWN AFFAIRS] not in regard to speculation but in regard to  
19 the permanent disposition of [HIS] funds, considering [THE] probable  
20 safety of capital as well as probable income [FROM THEM AS WELL AS THE  
21 PROBABLE SAFETY OF HIS CAPITAL]. However, no more than 50 percent of  
22 the pension fund may be invested at a given time in [MUTUAL FUNDS AND]  
23 corporate stocks and debt securities [BONDS], nor may [ANY] more than  
24 five percent of the voting stock of one corporation be owned. Stocks  
25 eligible for purchase are restricted to stocks which, except for bank  
26 stocks and [,] insurance stocks [, AND SHARES IN MUTUAL FUNDS], are  
27 listed upon an exchange registered with the Federal Securities and  
28 Exchange Commission.

29 \* Sec. 8. AS 39.35.110(e) is repealed and re-enacted to read:

1 (e) To qualify as a mortgage which may be purchased under (a)(11),  
2 (12), or (13) of this section,

3 (1) the originating financial institution must certify that  
4 the mortgage being sold has been made in compliance with law and that  
5 liens supporting the mortgage have been perfected;

6 (2) the mortgage may not have been held by the originating  
7 financial institution for a period greater than 90 days.

8 \* Sec. 9. AS 39.35.110 is amended by adding new subsections to read:

9 (h) The commissioner of revenue may enter into futures contracts  
10 for the sale of investments purchased under (a) of this section only for  
11 the purpose of hedging an existing equivalent ownership position in the  
12 investments.

13 (i) The commissioner of revenue may transfer at any time a portion  
14 of the assets of the retirement fund to a trust which is qualified under  
15 sec. 401(a) and exempt from taxation under sec. 501(a) of the Internal  
16 Revenue Code of 1954, as amended, and which is maintained as a medium  
17 for pooling a portion of the funds of pension and profit sharing trusts  
18 for diversifying investments in real estate and interests in real es-  
19 tate.

20 (j) The commissioner of revenue may enter into a contract or trust  
21 agreement necessary to effectuate the transfer of assets of the pension  
22 fund or to maintain the assets of the pension fund to be transferred to  
23 a trust under (i) of this section.

24 \* Sec. 10. AS 39.35.110(b) and (g) are repealed.

25 \* Sec. 11. This Act takes effect immediately in accordance with AS 01.10.-  
26 070(c).

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH 5 - JUNEAU 99811

May 9, 1980

The Honorable Sam Cotten  
Chairman  
House Rules Committee  
Room 208 - Capitol Building  
Juneau, Alaska 99811

Dear Mr. Cotten:

Re: CS for House Bill No. 208

CS for House Bill No. 208, an Act relating to the investment of state retirement and pension funds, was referred in the House on April 17, 1980 by the House Finance Committee to the House Rules Committee.

For the consideration of the House Rules Committee, I am enclosing a copy of a Fiscal Note prepared by Anselm Staack, Comptroller, Treasury Division of the Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson  
Special Assistant

cc: Joseph K. Donohue  
Deputy Commissioner  
Department of Revenue

Peter Bushre  
Deputy Commissioner  
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

CSHB 208

I. REQUEST

Bill/Resolution No. COMMITTEE SUBSTITUTE FOR HOUSE BILL 208

Title An Act relating to the investment of state retirement and pension funds

Requested by \_\_\_\_\_ Date 4-17-80

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection & Management

BRU, Program, or Subprogram(s) Affected Treasury Management

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		546.0	609.0	681.6	764.9	860.7
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS. CLAIMS. ETC.						
<b>TOTAL</b>	<b>-0-</b>	<b>546.0</b>	<b>609.0</b>	<b>681.6</b>	<b>764.9</b>	<b>860.7</b>

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Public Employees Retirement	-0-	273.0	304.5	340.8	382.5	430.4
Teachers Retirement	-0-	273.0	304.5	340.8	382.4	430.3

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

Expenses included are for management, custody and safekeeping of precious metals, foreign securities and real estate equity. Contractual services: \$420.0 for costs related to initial \$60 million invested in precious metals and foreign securities; (the costs are at the same rate whether in precious metals or foreign securities); \$126.0 for costs related to initial \$10 million invested in real estate equity. Yearly increase of 15% addition to assets.

*Anselm C. Staack*

IV. DATE April 28, 1980

PREPARED BY Anselm C. Staack, Treasury Comptroller

AGENCY Department of Revenue/Treasury Division

PHONE 465-2351

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Section-by-Section Analysis of CSHB 208  
Pension Fund Investments

Section 1. Amendments to the investment list of Teachers' Retirement System. This section requires the commissioner of revenue to obtain market rates of return and restricts the collateral which he can accept on loans purchased for the fund to buildings. Bank participations on commercial loans must be held to maturity.

Additions:

1. Commercial paper
2. Foreign securities other than Canada (15% limit)
3. Eurodollar investments
4. Gold bullion (15% limit)
5. Foreign currency time deposits (25% limit)

Deletions:

1. Tax-exempt municipal bonds
2. FHA loans
3. State veterans loans
4. Boat loans
5. State agriculture loans

Much language was adopted from the permanent fund bill. Corporate debt securities have been limited to those rated at least "A" by a nationally recognized rating organization, and preferred and common stock could be purchased only if the issuing corporation had paid dividends for the preceding three years. Commercial paper has been limited the highest possible rating and gold bullion must be of the best purity to be eligible for purchase.

Section 2. Adoption of the Prudent-Man Rule used by the Alaska Permanent Fund which emphasizes the safety of capital over the generation of income for Teachers' Retirement System.

Section 3. Technical amendment with regard to the registration of investments for Teachers' Retirement System.

Section 4. Limitation on the purchase of mortgage loans to new loans only. Mortgages cannot be purchased from bank inventory for Teachers' Retirement System.

Section 5. Adoption of hedging language used by the Alaska Permanent Fund. Use of real estate equity funds for Teachers' Retirement System.

Section 6. Amendments to the investment list of Public Employees Retirement System. This section requires the commissioner of revenue to obtain market rates of return and restricts the collateral which he can accept on loans purchased for the fund to buildings. Bank participations on commercial loans must be held to maturity.

Additions:

1. Commercial paper
2. Foreign securities other than Canada (15% limit)
3. Eurodollar investments
4. Gold bullion (15% limit)
5. Foreign currency time deposits (25% limit)

Deletions:

1. Tax-exempt municipal bonds
2. FHA loans
3. State veterans loans
4. Boat loans

5. State agriculture loans

6. Mutual funds

Much language was adopted from the permanent fund bill. Corporate debt securities have been limited to those rated at least "A" by a nationally recognized rating organization, and preferred and common stock could be purchased only if the issuing corporation had paid dividends for the preceding three years. Commercial paper has been limited to the highest possible rating and gold bullion must be of the best purity to be eligible for purchase.

Section 7. Adoption of the Prudent-Man Rule used by the Alaska Permanent Fund which emphasizes the safety of capital over the generation of income for Public Employees Retirement System.

Section 8. Limitation on the purchase of mortgage loans to new loans only. Mortgages cannot be purchased from bank inventory for Public Employees Retirement System.

Section 9. Adoption of hedging language used by the Alaska Permanent Fund. Use of real estate equity funds for Public Employees Retirement System.

Section 10. Repeals restrictions on the extent of investments in State veterans and agriculture loans for Public Employees Retirement System.

Section 11. Effective date

Original sponsor: Rules/Governor

Offered: 4/17/80  
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 208

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the investment of state retirement  
7 and pension funds; and providing for an effective  
8 date."

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

10 \* Section 1. AS 14.25.180(b) is amended to read:

11 (b) When, in the opinion of the commissioner of administration,  
12 there is on hand in the retirement fund a surplus over and above a  
13 reasonably safe amount to take care of current demands upon the fund,  
14 the surplus or so much of it as in the judgment of the commissioner of  
15 administration is considered proper may be invested at competitive na-  
16 tional market rates by the commissioner of revenue in

17 [(1) BONDS OR OTHER INTEREST-BEARING OBLIGATIONS AND SECURITIES  
18 OF THE UNITED STATES OR AN AGENCY OF THE UNITED STATES, A STATE OF THE  
19 UNITED STATES, OR A POLITICAL SUBDIVISION OF ANY STATE OF THE UNITED  
20 STATES, IF THE POLITICAL SUBDIVISION HAS A POPULATION AS SHOWN BY THE  
21 LAST FEDERAL CENSUS PRECEDING THE INVESTMENT OF NO LESS THAN 30,000  
22 INHABITANTS, EXCEPT NO POPULATION LIMITATION APPLIES TO A POLITICAL  
23 SUBDIVISION OF THIS STATE;

24 (2) FIRST LIEN REAL ESTATE MORTGAGE SECURITIES INSURED BY THE  
25 FEDERAL HOUSING ADMINISTRATION UNDER THE NATIONAL HOUSING ACT OF THE  
26 UNITED STATES, OR HELD BY THE DEPARTMENT OF COMMERCE, OR THE DEPARTMENT  
27 OF NATURAL RESOURCES;

28 (3) CORPORATION BONDS, AND PREFERRED AND COMMON STOCKS AS THE  
29 COMMISSIONER OF REVENUE CONSIDERS PROPER INVESTMENTS FOR THE FUNDS;]

1 (4) shares of federally chartered savings and loan associa-  
2 tions in Alaska, to the extent that the investment is insured by the  
3 federal government or by an agency of the federal government;

4 (5) deposits with mutual savings banks in Alaska, to the  
5 extent that the investment is insured by the federal government or an  
6 agency of the federal government;

7 (6) deposits with state and national banks in Alaska to the  
8 extent that the investment is insured by the federal government or an  
9 agency of the federal government;

10 [(7) LOANS GUARANTEED BY THE DIVISION OF VETERANS' AFFAIRS  
11 UNDER AS 26.15.040(b);]

12 (8) (deleted);

13 (9) the guaranteed portion of Small Business Administration  
14 loans;

15 (10) first lien real estate mortgages guaranteed by the federal  
16 Veterans Administration;

17 (11) notes secured by mortgages of commercial or residential  
18 buildings [REAL ESTATE OR OTHER SECURITY] if the mortgages are insured  
19 by a private mortgage insurance corporation which is authorized to do  
20 business in Alaska and has combined capital, surplus and reserves aggre-  
21 gating at least \$20,000,000; however,

22 (A) no mortgage insurance is necessary for commercial  
23 loans having loan-to-value ratios of less than 50 percent and the  
24 minimum coverage of other commercial loans shall be 10 percent for  
25 those having a loan-to-value ratio of 50-60 per cent and 15 percent  
26 for those having a loan-to-value ratio greater than 60 percent but  
27 no more than 75 percent, and

28 (B) no mortgage insurance is necessary for residential  
29 loans having a loan-to-value ratio of less than 70 percent and the