

LEG. FINANCE - BILLS 1985 - 1986 2249
SB 372 - SB 375 2249

COMMITTEE REPORT

SENATE

FURTHER:

4/10/86

Date 4/16/86

Mr. President

The Committee on FINANCE considered SB 372

relating to eligible age for service in the militia of the state; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title _____
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- M.A. 1/23/86
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]

Keith Halford

Paul Fink

[Signature]

[Signature]

[Signature]

[Signature]

Chairman

[Signature]

Chairman recommendation

leg fin 04

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB 372
 Title : Law Log #377-014-86

Sponsor : Governor
 Requestor : Military & Veterans Affairs
 Date of Request : January 20, 1986

FISCAL DETAIL

Agency Affected : Military & Veterans Affairs
 BRU : Alaska National Guard

Components : Office of the Adjutant General

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	

CAPITAL	-0-	-0-	-0-	-0-	-0-	
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REVENUE	-0-	-0-	-0-	-0-	-0-	
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FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

This bill would extend the age limit from 60 years to 70 years for members of the Alaska State Militia which is manned by volunteers.

Prepared by : *R.L.R.* Richard L. Rountree
 Division : Administrative & Support Services

Phone : 465-4600
 Date : 21 January 1986

Approved by Commissioner : *Edward G. Pagano* Edward G. Pagano
 Agency : Dept. of Military & Veterans Affairs

Date : 23 January 1986

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Introduced: 1/29/86
Referred: State Affairs
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 372

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the eligible age for service in
7 the militia of the state; and providing for an effec-
8 tive date."

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

10 * Section 1. AS 26.05.010 is amended to read:

11 Sec. 26.05.010. ALASKA MILITIA ESTABLISHED. (a) The militia of
12 the state consists of all able-bodied citizens of the United States
13 and all other able-bodied persons who have declared their intention to
14 become citizens of the United States, who reside in the state, and who
15 are at least [BETWEEN THE AGES OF] 17 [AND 59] years of age, [INCLU-
16 SIVE,] and who are eligible for military service under the laws of the
17 United States or this state.

18 (b) The militia is divided into two classes:

19 (1) the organized militia, consisting of the Alaska Nation-
20 al Guard, the Alaska Naval Militia, and the Alaska State Militia, and

21 (2) the unorganized militia, consisting of all qualified
22 persons available for service but not serving in the organized mili-
23 tia.

24 (c) The Alaska National Guard, the Alaska Naval Militia, and the
25 unorganized militia consist of persons qualified under this section
26 who are under 60 years of age. The adjutant general may, by regula-
27 tion, prescribe the maximum age for eligibility in the Alaska State
28 Militia.

29 * Sec. 2. AS 26.23.230(7) is amended to read:

1 (7) "unorganized militia" means all [ABLE-BODIED] persons
2 comprising that component of the militia of the state, as described in
3 AS 26.05.010 [BETWEEN THE AGES OF 17 AND 59 YEARS, INCLUSIVE, WHO
4 RESIDE IN THE STATE].

5 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
6 10.070(c).

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

1/29/86

Date 4/10/86

Mr. President

The Committee on STATE AFFAIRS considered SB 372
relating to the eligible age for service in the militia of the state;
efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" [] NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

Bipe Ray
V. Fischer
Edw. McVie

MEMBERS HAVING
OTHER RECOMMENDATIONS

Michael Wood
Chairman
Do Pass
Chairman recommendation

COMMITTEE REPORT
SENATE

FURTHER:

3/13/86

Date _____

Mr. President

The Committee on FINANCE considered SB 373
relating to metropolitan planning organizations.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
 new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

COMMITTEE REPORT
SENATE

FURTHER: Finance

1/29/86

Date 3-12-86

Mr. President

The Committee on TRANSPORTATION considered SB 373
relating to metropolitan planning organizations.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt ~~CS~~ CS for SB 373 (Trans)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" [] NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
Paul Gruber

MEMBERS HAVING
OTHER RECOMMENDATIONS

Do Not Pass

[Signature]
Chairman
Do Pass
Chairman recommendation

Offered: 3/13/86
Referred: Finance

Original sponsor: Faiks

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2 CS FOR SENATE BILL NO. 373 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to metropolitan planning organiza-
7 tions."

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

9 * Section 1. AS 19.15 is amended by adding a new section to read:

10 Sec. 19.15.025. METROPOLITAN TRANSPORTATION PLANNING ORGANIZA-
11 TIONS. (a) A metropolitan planning organization established in an
12 urbanized area with a population of 100,000 or more shall include a
13 policy committee.

14 (b) The policy committee consists of two members who are princi-
15 pal elected officials of municipalities in the urbanized area; a
16 legislator representing a district within the urbanized area who is a
17 member of the house transportation committee or house finance commit-
18 tee appointed by the speaker of the house of representatives; a legis-
19 lator representing a district within the urbanized area who is a
20 member of the senate transportation committee or senate finance com-
21 mittee appointed by the president of the senate; and the commissioner
22 of the Department of Transportation and Public Facilities or the
23 commissioner's designee.

24 (c) The policy committee shall appoint a citizen transportation
25 advisory committee of persons residing in the urbanized area subject
26 to the metropolitan planning organization. The membership of the
27 citizen transportation advisory committee shall represent the breadth
28 of community opinion on issues of urban transportation planning and
29 development.
S

COMMITTEE COPY

1 (d) The policy committee shall adopt internal procedures to
2 govern the conduct of business by the municipal planning organization,
3 including the procedure to solicit, receive, and consider comments
4 from the public and the citizen transportation advisory committee on
5 all issues, policies, plans, and programs addressed, prepared, or
6 endorsed by the municipal planning organization.
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Introduced: 1/29/86
Referred: Transportation
and Finance

1 IN THE SENATE

BY FAIKS

2 SENATE BILL NO. 373

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to metropolitan planning organiza-
7 tions."

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

9 * Section 1. AS 19.15 is amended by adding a new section to read:

10 Sec. 19.15.025. METROPOLITAN TRANSPORTATION PLANNING ORGANIZA-
11 TIONS. (a) A metropolitan planning organization established in an
12 urbanized area with a population of 200,000 or more as a condition of
13 receiving federal capital or operating assistance under 23 U.S.C. 134
14 or 49 U.S.C. 1607 shall include a policy committee.

15 (b) The policy committee consists of two members who are princi-
16 pal elected officials of municipalities in the urbanized area; a
17 legislator representing a district within the urbanized area who is a
18 member of the house transportation committee or house finance commit-
19 tee appointed by the speaker of the house of representatives; a legis-
20 lator representing a district within the urbanized area who is a
21 member of the senate transportation committee or senate finance com-
22 mittee appointed by the president of the senate; the commissioner of
23 the Department of Transportation and Public Facilities or the commis-
24 sioner's designee; and one representative from the membership of the
25 citizen transportation advisory committee selected by the citizen
26 transportation advisory committee membership.

27 (c) The policy committee shall appoint a citizen transportation
28 advisory committee of persons residing in the urbanized area subject
29 to the metropolitan planning organization. The membership of the
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1 citizen transportation advisory committee shall represent the breadth
2 of community opinion on issues of urban transportation planning and
3 development.

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7 from the public and the citizen transportation advisory committee on
8 all issues, policies, plans, and programs addressed, prepared, or
9 endorsed by the municipal planning organization.
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ALASKA STATE LEGISLATURE

14th Legislature 2nd Session

SENATE ... BILL NO. 373

By FAIKS

"An Act relating to metropolitan planning organizations."

Introduced in the Senate ... 1/29, 19.. 86

HISTORY IN THE SENATE

19 86

Read first time and referred to Committee on

1 29 TRANSPORTATION & FINANCE

3 13 Reported back with *trump.* recommendation that *replace w/cs, 4 do pass, I do not pass to Finance*
FIX:

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by President
Sent to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by Speaker
Returned to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

Introduced: 1/29/86
Referred: Transportation
and Finance

1 IN THE SENATE

BY FAIKS

2

SENATE BILL NO. 373

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to metropolitan planning organiza-
7 tions."

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

9 * Section 1. AS 19.15 is amended by adding a new section to read:

10 Sec. 19.15.025. METROPOLITAN TRANSPORTATION PLANNING ORGANIZA-
11 TIONS. (a) A metropolitan planning organization established in an
12 urbanized area with a population of 200,000 or more as a condition of
13 receiving federal capital or operating assistance under 23 U.S.C. 134
14 or 49 U.S.C. 1607 shall include a policy committee.

15 (b) The policy committee consists of two members who are princi-
16 pal elected officials of municipalities in the urbanized area; a
17 legislator representing a district within the urbanized area who is a
18 member of the house transportation committee or house finance commit-
19 tee appointed by the speaker of the house of representatives; a legis-
20 lator representing a district within the urbanized area who is a
21 member of the senate transportation committee or senate finance com-
22 mittee appointed by the president of the senate; the commissioner of
23 the Department of Transportation and Public Facilities or the commis-
24 sioner's designee; and one representative from the membership of the
25 citizen transportation advisory committee selected by the citizen
26 transportation advisory committee membership.

27 (c) The policy committee shall appoint a citizen transportation
28 advisory committee of persons residing in the urbanized area subject
29 to the metropolitan planning organization. The membership of the

1 citizen transportation advisory committee shall represent the breadth
2 of community opinion on issues of urban transportation planning and
3 development.

4 (d) The policy committee shall adopt internal procedures to
5 govern the conduct of business by the municipal planning organization,
6 including the procedure to solicit, receive, and consider comments
7 from the public and the citizen transportation advisory committee on
8 all issues, policies, plans, and programs addressed, prepared, or
9 endorsed by the municipal planning organization.

Offered: 3/13/86
Referred: Finance

Original sponsor: Faiks

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE
2 CS FOR SENATE BILL NO. 373 (Transportation)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to metropolitan planning organiza-
7 tions."

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

9 * Section 1. AS 19.15 is amended by adding a new section to read:

10 Sec. 19.15.025. METROPOLITAN TRANSPORTATION PLANNING ORGANIZA-
11 TIONS. (a) A metropolitan planning organization established in an
12 urbanized area with a population of 100,000 or more shall include a
13 policy committee.

14 (b) The policy committee consists of two members who are princi-
15 pal elected officials of municipalities in the urbanized area; a
16 legislator representing a district within the urbanized area who is a
17 member of the house transportation committee or house finance commit-
18 tee appointed by the speaker of the house of representatives; a legis-
19 lator representing a district within the urbanized area who is a
20 member of the senate transportation committee or senate finance com-
21 mittee appointed by the president of the senate; and the commissioner
22 of the Department of Transportation and Public Facilities or the
23 commissioner's designee.

24 (c) The policy committee shall appoint a citizen transportation
25 advisory committee of persons residing in the urbanized area subject
26 to the metropolitan planning organization. The membership of the
27 citizen transportation advisory committee shall represent the breadth
28 of community opinion on issues of urban transportation planning and
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1 (d) The policy committee shall adopt internal procedures to
2 govern the conduct of business by the municipal planning organization,
3 including the procedure to solicit, receive, and consider comments
4 from the public and the citizen transportation advisory committee on
5 all issues, policies, plans, and programs addressed, prepared, or
6 endorsed by the municipal planning organization.

COMMITTEE REPORT
SENATE

FURTHER: Finance

1/29/86

Date 3-12-86

Mr. President

The Committee on TRANSPORTATION considered SB 373
relating to metropolitan planning organizations.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt ~~CS~~ CS for SB 373 (Trans)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" [] NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

James [unclear]
[unclear]
Paul [unclear]

Joe [unclear] - Do NOT PASS

[Signature]
Chairman
Do Pass
Chairman recommendation

COMMITTEE REPORT

SENATE

FURTHER:

2/13/86

Date 3/11/86

Mr. President

The Committee on FINANCE considered SSSB 374
relating to state toll facilities.

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

- do pass
- do pass with attached ^{TRSP} amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
2 & FN (Rev & DOT/EF)
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Watt
Rich Halford
Paul Greiner
Mike Larson
J.C. Jackson

Question Econ. feasibility

Jessie A. Fair
Chairman
do pass
Chairman recommendation

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SSSB 374
Title: An Act Relating to State Toll Facilities

Sponsor: DeVries and Faiks
Requestor: Senate Transportation
Date of Request: 2/10/86

FISCAL DETAIL

Agency Affected: DOT&PF
BRU: Design and Construction

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0
CAPITAL		0.0	0.0	0.0	0.0	0.0
REVENUE		0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME		0.0	0.0	0.0	0.0	0.0
PART-TIME		0.0	0.0	0.0	0.0	0.0
TEMPORARY		0.0	0.0	0.0	0.0	0.0

ANALYSIS: There is no fiscal impact in adding tunnels to existing toll authority. The specific fiscal impacts of a Whittier Toll Road would be subject to AS 37.15.730.

Prepared By: William R. Snell, Deputy-Commissioner (Signed) Phone: 266-1440
Division: Central Region DOT&PF Date: 2/11/86

Approved by Commissioner:  Date: 2/11/86
Agency: DOT&PF

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
Bill/Resolution No: SB 374
Title: State Toll Facilities

FISCAL DETAIL
Agency Affected: State Bond Committee
BRU: _____

Sponsor: DeVries
Requestor: Senate Transportation
Date of Request: February 11, 1986

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: No estimate of debt service is possible until feasibility study and finance plan is submitted to Governor and legislature.

Prepared By: Milt Barker *MB*
Division: Treasury

Phone: 465-2350
Date: February 12, 1986

Approved by Commissioner: *Walter J. Stundale*
Agency: Department of Revenue

Date: 2/14/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

SENATE AMENDMENT

By Senate Transportation (Faiks)

To: Settion 5 SENATE BILL No. 374

To: _____ HOUSE BILL No. _____

PAGE: 2 LINE: 9

Delete AS 37.17.730

Add AS 37.15.730

SENATE AMENDMENT

By Senate Transportation, (Faiks)

To: Section 4 SENATE BILL No. 374

To: _____ HOUSE BILL No. _____

PAGE: 2 LINE: 12

Delete AS 37.17.760 (7)

Add AS 37.15.760 (7)

Introduced: 2/5/86
Referred: Transportation
and Finance

1 IN THE SENATE

BY DEVRIES AND FAIKS

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 374

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state toll facilities."

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

8 * Section 1. AS 19.05.040(11) is amended to read:

9 (11) establish, levy, and collect tolls, fees, charges, and
10 rentals for the use of state roads, highways, bridges, tunnels, cross-
11 ings, and causeways; and

12 * Sec. 2. AS 37.15.720 is amended to read:

13 Sec. 37.15.720. STATE TOLL FACILITIES. The state is authorized
14 to acquire, construct, equip, and maintain toll bridges, tunnels,
15 highways, roads, crossings, and causeways found to be necessary by the
16 commissioner of transportation and public facilities.

17 * Sec. 3. AS 37.15.730 is amended to read:

18 Sec. 37.15.730. KNIK ARM CROSSING AND WHITTIER TOLL ROAD. Not-
19 withstanding the provisions of AS 37.15.720 the first two state toll
20 facilities [FACILITY] to be financed under AS 37.15.610 - 37.15.760
21 are [IS] the Knik Arm Crossing and the Whittier Toll Road near
22 Anchorage if the following conditions are met:

23 (1) the department submits to the governor and the legisla-
24 ture a feasibility study for each project that finds that the project
25 [CROSSING] is financially feasible and able to produce revenue ade-
26 quate to repay the bonds with which it is financed;

27 (2) if financing in addition to revenue bonds is antici-
28 pated, the department submits to the governor and legislature a fi-
29 nance plan for each project that includes [TO INCLUDE] an estimate of

1 the total cost of each [THE] project and a description of the sources
2 of money that will be used to finance the total cost of each [THE]
3 project; and

4 (3) the office of management and budget reviews the fea-
5 sibility studies [STUDY] and the finance plans [PLAN], if required,
6 and reports its findings and recommendations to the governor and
7 legislature not later than 90 days after the studies [STUDY] and plans
8 [PLAN] are received by the office.

9 * Sec. 4. AS 37.17.730 is amended by adding a new subsection to read:

10 (b) If the conditions are met for only one of the listed facil-
11 ities, only that facility may be financed under (a) of this section.

12 * Sec. 5. AS 37.17.760(7) is amended to read:

13 (7) "toll facilities" means highways, roads, bridges,
14 tunnels, crossings, and causeways upon which tolls, charges, rentals,
15 or other user fees are placed by the commissioner of transportation
16 and public facilities.

SECTIONAL ANALYSIS FOR
SPONSOR SUBSTITUTE FOR SENATE BILL 374

An Act relating to state toll facilities

Section 1

Under current law, the Department of Transportation has the power to collect tolls, fees and charges for the use of state roads, highways, bridges, etc. This section give them the authority to collect fees for tunnels.

Section 2

Amends that section of the law which authorizes the state to acquire, construct, equip and maintain toll bridges by the addition of tunnels.

Section 3

Under current law, the Knik Arm Crossing would be the first state toll facility whose construction would be financed through sale of Toll Facilities Revenue Bonds. This section would add the Whittier Toll Road to the statutes.

Section 4

Adds new language stipulating that if the conditions set forth in this section are met for only one of the facilities (either Knik Arm Crossing or Whittier Toll Road), then that facility will be constructed. The amendments in your packet correct two technical errors in this bill found in Sections 4 and 5.

Section 5

Adds tunnels to the definition of "toll facilities".




Dept. of Transportation & Public Facilities

Position Paper

BILL NO: SSSB 374

TITLE: An Act Relating to State
Toll Facilities

APPROVED: 
R. J. Knapp
Commissioner

DATE: 2/11/86

The Department of Transportation and Public Facilities supports expanding the current toll facility authority to include tunnels. In addition, we support the addition of the Whittier Toll Road facility to AS 37.15.730. This legislation reinforces the desire to ensure that projects such as this are financially feasible and able to produce revenues to cover their costs whenever possible.

The Department is currently conducting an economic analysis and financial plan for transportation access to Whittier. A key part of this financial plan, which will be available in mid-March, will be to look at funding the project through the use of revenue bonds generated from tolls.

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

2/5/86

Date _____

Mr. President

The Committee on TRANSPORTATION considered SSSB 374
relating to state toll facilities.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Jan Fick
Mitch Hood
Joe Jacobson

Don Fick
Vice-Chairman
Do Pass
Chairman recommendation

Introduced: 2/5/86
Referred: Transportation
and Finance

1 IN THE SENATE

BY DEVRIES AND FAIKS

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 374 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state toll facilities."

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

8 * Section 1. AS 19.05.040(11) is amended to read:

9 (11) establish, levy, and collect tolls, fees, charges, and
10 rentals for the use of state roads, highways, bridges, tunnels, cross-
11 ings, and causeways; and

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13 Sec. 37.15.720. STATE TOLL FACILITIES. The state is authorized
14 to acquire, construct, equip, and maintain toll bridges, tunnels,
15 highways, roads, crossings, and causeways found to be necessary by the
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19 Notwithstanding the provisions of AS 37.15.720 the first two state
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21 760 are [IS] the Knik Arm Crossing and the Whittier Toll Road near
22 Anchorage if the following conditions are met:

23 (1) the department submits to the governor and the legisla-
24 ture a feasibility study for each project that finds that the project
25 [CROSSING] is financially feasible and able to produce revenue ade-
26 quate to repay the bonds with which it is financed;

27 (2) if financing in addition to revenue bonds is antici-
28 pated, the department submits to the governor and legislature a fi-
29 nance plan for each project that includes [TO INCLUDE] an estimate of
S

1 the total cost of each [THE] project and a description of the sources
2 of money that will be used to finance the total cost of each [THE]
3 project; and

4 (3) the office of management and budget reviews the fea-
5 sibility studies [STUDY] and the finance plans [PLAN], if required,
6 and reports its findings and recommendations to the governor and
7 legislature not later than 90 days after the studies [STUDY] and plans
8 [PLAN] are received by the office.

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10 (b) If the conditions are met for only one of the listed facil-
11 ities, only that facility may be financed under (a) of this section.

12 * Sec. 5. AS 37.15.760(7) is amended to read:

13 (7) "toll facilities" means highways, roads, bridges,
14 tunnels, crossings, and causeways upon which tolls, charges, rentals,
15 or other user fees are placed by the commissioner of transportation
16 and public facilities.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SSSB 374
 Title: An Act Relating to State Toll Facilities

Sponsor: DeVries and Faiks
 Requestor: Senate Transportation
 Date of Request: 2/10/86

FISCAL DETAIL

Agency Affected: DOT&PF
 BRU: Design and Construction

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0
CAPITAL		0.0	0.0	0.0	0.0	0.0
REVENUE		0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME		0.0	0.0	0.0	0.0	0.0
PART-TIME		0.0	0.0	0.0	0.0	0.0
TEMPORARY		0.0	0.0	0.0	0.0	0.0

ANALYSIS: There is no fiscal impact in adding tunnels to existing toll authority. The specific fiscal impacts of a Whittier Toll Road would be subject to AS 37.15.730.

Prepared By: William R. Snell, Deputy Commissioner (Signed) Phone: 266-1440
 Division: Central Region DOT&PF Date: 2/11/86

Approved by Commissioner:  Date: 2/11/86
 Agency: DOT&PF

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

10/25/85

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
 Bill/Resolution No.: SSSB 374
 Title: An Act Relating to State Toll Facilities

 Sponsor: DeVries and Faiks
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FISCAL DETAIL
 Agency Affected: DOT&PF
 BRU: Design and Construction

 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
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CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0
CAPITAL		0.0	0.0	0.0	0.0	0.0
REVENUE		0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

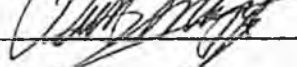
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME		0.0	0.0	0.0	0.0	0.0
PART-TIME		0.0	0.0	0.0	0.0	0.0
TEMPORARY		0.0	0.0	0.0	0.0	0.0

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 Division: Central Region DOT&PF Date: 2/11/86

Approved by Commissioner:  Date: 2/11/86
 Agency: DOT&PF

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

10/25/85

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
Bill/Resolution No SSSB 374
Title: State Toll Facilities

FISCAL DETAIL
Agency Affected: State Bond Committee
FRU: _____

Sponsor: DeVries
Requestor: Senate Transportation
Date of Request: February 11, 1986

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: No estimate of debt service is possible until feasibility study and finance plan is submitted to Governor and legislature.

Prepared By: Milt Barker *MB*
Division: Treasury

Phone: 465-2350
Date: February 12, 1986

Approved by Commissioner: Henry G. Hurdale
Agency: Department of Revenue

Date: 2/14/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget

Impacted Agency(ies)

ALASKA STATE LEGISLATURE

14th Legislature ... 2nd Session

SENATE ... BILL ... NO. 374..

By DEVRIES

"An Act relating to state toll facilities."

Introduced in the Senate ... 1/30., 1986

HISTORY IN THE SENATE

19 86	Read first time and referred to Committee on
1 30	TRANSPORTATION AND FINANCE <i>5 introduced</i>
2 5	Reported back with <i>Amop.</i> recommendation that <i>4 do pass to Finance and meet</i>
2 13	<i>FIN 6 to pass w/ Amop. and to Pulla.</i>
3 11	
3 12	Read second time and <i>amendment and add</i>
3 12	Read third time and
3 12	PASS-ed Effective Date
	Yeas - 19 Yeas
	Nays - 0 Nays
	Absent - 1 Absent
	Excused - 0 Excused
	Reconsideration
	PASS Effective Date
	Yeas Yeas
	Nays Nays
	Absent Absent
	Excused Excused
3 12	Reported correctly engrossed
12	Signed by President
12	Sent to House
	<i>Rogger Mulligan</i> SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19 86	Read first time and referred to Committee on
Mar 14	<i>Transportation Finance</i>
	Reported back with recommendation that
	Read second time and
	Read third time and
	PASS Effective Date
	Yeas Yeas
	Nays Nays
	Absent Absent
	Excused Excused
	Reconsideration
	PASS Effective Date
	Yeas Yeas
	Nays Nays
	Absent Absent
	Excused Excused
	Reported correctly engrossed
	Signed by Speaker
	Returned to Senate
	CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

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

Introduced: 2/5/86
Referred: Transportation
and Finance

1 IN THE SENATE

BY DEVRIES AND FAIKS

2

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 374 am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to state toll facilities."

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

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13 Sec. 37.15.720. STATE TOLL FACILITIES. The state is authorized
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21 760 are [IS] the Knik Arm Crossing and the Whittier Toll Road near
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24 ture a feasibility study for each project that finds that the project
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26 quate to repay the bonds with which it is financed;

27 (2) if financing in addition to revenue bonds is antici-
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1 the total cost of each [THE] project and a description of the sources
2 of money that will be used to finance the total cost of each [THE]
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Introduced: 2/5/86
Referred: Transportation
and Finance

1 IN THE SENATE

BY DEVRIES AND FAIKS

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 374

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

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6 and reports its findings and recommendations to the governor and
7 legislature not later than 90 days after the studies [STUDY] and plans
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14 tunnels, crossings, and causeways upon which tolls, charges, rentals,
15 or other user fees are placed by the commissioner of transportation
16 and public facilities.

COMMITTEE REPORT
SENATE

FURTHER:

3/13/86

Date _____

Mr. President

The Committee on FINANCE considered SB 375
relating to the release of oil and hazardous substances; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

1/30/86

Date 3/12/86

Mr. President

The Committee on RESOURCES considered SB 375
relating to the release of oil and hazardous substances; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 375 (Resources)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation *Coming*
- recommends referral to _____ *2* e

MEMBERS SIGNING
DO PASS

Dennis Fitzgerald
J. J. ...

MEMBERS HAVING
OTHER RECOMMENDATIONS

Paul ... *No Rec*
... *4 4*

Curtis J. ...
Chairman
Do Pass
Chairman recommendation

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
BETTYE FAHRENKAMP, Vice Chairman
JACK COGHILL
DICK ELIASON
VIC FISCHER
RICK HALFORD
FRED ZHAROFF



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4907

Senate Committee on Resources

March 12, 1986

COMMITTEE ON RESOURCES LETTER OF INTENT FOR CSSB 375 (Resources)

To encourage responsible, experienced Alaskan companies to enter the oil and hazardous substance cleanup business and to facilitate the goals of cleaning up these substances, it is the intent of the Legislature to clarify the definition of "construction contracts" in AS 45.45.900. The provision in CSSB 375 (Resources) addresses an ambiguity in the current statute which prohibits indemnification agreements in construction contracts by specifically exempting hazardous waste cleanup contracts from this definition.

The provision does not require any entity, public or private, to enter into an indemnification agreement. It is not intended to hold any party harmless or exempt parties from liability for mishandling of oil or hazardous substances. The intent is to provide a mechanism for the allocation of liability among parties by allowing them to enter into contracts which provide protections and clear lines of responsibility.

A handwritten signature in cursive script, reading "Arliss Sturgulewski".

Senator Arliss Sturgulewski
Chairman, Senate Resources Committee

Offered: 3/13/86
Referred: Finance

Original sponsor: Resources

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 375 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the release of oil and hazardous
7 substances; repealing the oil spill mitigation ac-
8 count; and providing for an effective date."

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

10 * Section 1. AS 46 is amended by adding a new chapter to read:

11 CHAPTER 08. OIL AND HAZARDOUS SUBSTANCE RELEASES.

12 Sec. 46.08.005. PURPOSE. The legislature finds and declares
13 that the release of oil or hazardous substances into the environment
14 presents a real and substantial threat to the public health and wel-
15 fare, to the environment, and to the economy of the state. The legis-
16 lature therefore concludes that it is in the best interest of the
17 state and its citizens to provide a readily available fund for the
18 payment of the expenses incurred by the Department of Environmental
19 Conservation in the protection of the environment of the state from
20 the release of oil or hazardous substances.

21 Sec. 46.08.010. FUND ESTABLISHED. (a) There is established in
22 the state general fund the oil and hazardous substance release re-
23 sponse fund. The fund shall be administered by the commissioner of
24 environmental conservation.

25 (b) Money from an appropriation made to the fund remaining in
26 the fund at the end of a fiscal year remains available for expenditure
27 in successive fiscal years.

28 (c) The fund shall be used for actual expenses incurred under
29 AS 46.08.040. The fund may not be used for capital improvements.
S

1 Sec. 46.08.026. FINANCING OF THE FUND. (a) The legislature may
2 appropriate from the following sources to the fund:

3 (1) money received from federal, state, or other sources or
4 from a private donor;

5 (2) money recovered or otherwise received from parties
6 responsible for the containment and cleanup of oil or a hazardous
7 substance at a specific site, but excluding funds from performance
8 bonds and other forms of financial responsibility held in escrow
9 pending satisfactory performance of a privately financed response
10 action;

11 (3) fines, penalties, or damages recovered under this
12 chapter or other law for costs incurred by the state as a result of
13 the release or threatened release of oil or a hazardous substance.

14 (b) Money received by the state under (a)(2) and (a)(3) of this
15 section shall be deposited in the general fund and credited to a
16 special account called the "oil and hazardous substance release miti-
17 gation account." The legislature may annually appropriate to the fund
18 from this account a sum equal to the amount received under (a)(2) and
19 (a)(3) of this section during the calendar year preceding the legisla-
20 tive session in which the appropriations are to be made.

21 Sec. 46.08.030. FINANCING THE ABATEMENT OF OIL OR HAZARDOUS
22 SUBSTANCE RELEASES. It is the intent of the legislature and declared
23 to be the public policy of the state that funds for the abatement of a
24 release of oil or a hazardous substance will always be available.

25 Sec. 46.08.040. PURPOSES OF THE FUND. The commissioner may use
26 money from the fund to

27 (1) contain, clean up, and take other necessary action,
28 such as monitoring, assessing, investigating, and evaluating the
29 release or threatened release of oil or a hazardous substance that

1 poses an imminent and substantial threat to the public health or
2 welfare, or to the environment:

3 (2) provide matching funds for participation in federal oil
4 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-
5 hensive Environmental Response, Compensation, and Liability Act of
6 1980); and

7 (3) recover the cost to the state or to a municipality of a
8 containment and cleanup resulting from the release or the threatened
9 release of oil or a hazardous substance.

10 Sec. 46.08.050. RECORDS OF THE FUND. (a) The department shall
11 maintain accounting records showing the income and expenses of the
12 fund.

13 (b) The department shall develop procedures governing the expen-
14 diture of, and accounting for, money expended from the fund, and may
15 not delay implementation of this chapter pending the effective date of
16 the procedures.

17 Sec. 46.01.050. REPORT TO THE LEGISLATURE. (a) The commis-
18 sioner shall submit a report to the legislature not later than the
19 10th day following the convening of each regular session of the legis-
20 lature. The report may include information considered significant by
21 the commissioner but must include:

22 (1) the amount of money expended under AS 46.08.040 during
23 the preceding fiscal year;

24 (2) the amount and source of money received and money
25 recovered during the preceding fiscal year as specified in AS 46.08.-
26 020;

27 (3) a summary of municipal participation in responses
28 funded by the fund;

29 (4) a detailed summary of department activities in

1 responses funded by the fund during the preceding fiscal year, includ-
2 ing response descriptions and statements outlining the nature of the
3 threat; and

4 (5) the projected cost for the next fiscal year of monitor-
5 ing, operating, and maintaining sites where response has been com-
6 pleted or is expected to be continued during the fiscal year.

7 (b) As part of the department's on-going identification efforts
8 associated with oil spill or hazardous waste sites, the commissioner
9 shall include in the report under this section

10 (1) a summary of the sites identified by the department;

11 (2) the immediate and long-term threats to the public
12 health or welfare or to the environment posed by these sites; and

13 (3) the appropriate actions needed to abate these threats,
14 and their estimated cost.

15 Sec. 46.08.070. REIMBURSEMENT FOR CONTAINMENT AND CLEANUP. (a)
16 The commissioner shall seek reimbursement promptly under this section,
17 AS 46.03.760(a), or federal law for the cost incurred in the cleanup
18 or containment of oil or a hazardous substance that has been released.

19 (b) The attorney general, at the request of the commissioner,
20 may seek to recover money expended by the department under this chap-
21 ter or other law to contain and clean up oil or a hazardous substance
22 that has been released or to control the threatened release of oil or
23 a hazardous substance.

24 (c) The department may reimburse a municipality for actual
25 expenses, other than normal operating expenses, incurred in the abate-
26 ment of a release or threatened release of oil or a hazardous sub-
27 stance if

28 (1) the municipality has entered into an agreement with the
29 commissioner under AS 46.09.020(c) before incurring the expenses for

1 which reimbursement is sought; and

2 (2) the commissioner determines that the expenses were for
3 a necessary emergency first response to a release or threatened re-
4 lease that posed an imminent and substantial threat to the public
5 health or welfare, or to the environment.

6 Sec. 46.08.080. REGULATIONS. The commissioner may adopt regu-
7 lations necessary to implement the provisions of this chapter.

8 Sec. 46.08.900. DEFINITIONS. In this chapter

9 (1) "capital improvement" includes construction, renova-
10 tion, repair of, and improvement to, a building, but does not include
11 other improvements to real property, such as construction of a dike or
12 retaining wall;

13 (2) "commissioner" means the commissioner of environmental
14 conservation;

15 (3) "containment and cleanup" includes the direct and
16 indirect efforts associated with the prevention, abatement, contain-
17 ment, or removal of oil or a hazardous substance, the restoration of
18 the environment, and incidental administrative costs;

19 (4) "department" means the Department of Environmental
20 Conservation;

21 (5) "fund" means the oil and hazardous substance release
22 response fund;

23 (6) "hazardous substance" means

24 (A) an element or compound that, when it enters into
25 or on the surface or subsurface land or water of the state,
26 presents an imminent and substantial danger to the public health
27 or welfare, or to fish, animals, vegetation, or any part of the
28 natural habitat in which fish, animals, or wildlife may be found;
29 or

1 (B) a substance defined as a hazardous substance under
2 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response,
3 Compensation, and Liability Act of 1980);

4 (7) "oil" means petroleum products of any kind and in any
5 form, whether crude, refined, or a petroleum by-product, including
6 petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oily
7 refuse, oil mixed with other wastes, liquified natural gas, propane,
8 butane, and other liquid hydrocarbons regardless of specific gravity;

9 (8) "release" means an intentional or unintentional release
10 into the environment of the state.

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

12 CHAPTER 09. HAZARDOUS SUBSTANCE RELEASE CONTROL.

13 Sec. 46.09.010. REPORT OF HAZARDOUS SUBSTANCE RELEASES. (a)
14 Except as provided in (b) of this section, a person in charge of a
15 vehicle, vessel or container from which, or a place at which, a haz-
16 ardous substance is released shall report the release to the depart-
17 ment and appropriate public safety agencies promptly after learning of
18 the release.

19 (b) The commissioner may enter into an agreement with a person
20 for the periodic reporting of a controlled release of a hazardous
21 substance if the release is not into water.

22 Sec. 46.09.020. CONTAINMENT AND CLEANUP OF A RELEASED HAZARDOUS
23 SUBSTANCE. (a) A person who causes a release of a hazardous sub-
24 stance shall make reasonable efforts to contain and clean up the
25 hazardous substance promptly after learning of the release, unless the
26 commissioner determines

27 (1) after consulting the Environmental Protection Agency or
28 appropriate public safety agencies, that containment or cleanup is
29 technically infeasible;

1 (2) that containment or cleanup would cause greater en-
2 vironmental damage than the release would cause if unabated; or

3 (3) that containment or cleanup would pose a greater threat
4 to human life or health than the release itself.

5 (b) The commissioner shall develop guidelines prescribing gen-
6 eral procedures and methods to be used in the containment and cleanup
7 of a hazardous substance.

8 (c) If the commissioner determines that the containment or
9 cleanup of a hazardous substance undertaken is inadequate, the commis-
10 sioner may direct the person undertaking the containment or cleanup to
11 cease and may undertake the containment or cleanup directly or by
12 contract.

13 (d) If it appears to the commissioner that the cause or respon-
14 sibility for the release of a hazardous substance is unclear or unex-
15 plained, the commissioner may immediately undertake the containment
16 and cleanup of the release unless the commissioner determines

17 (1) after consulting the Environmental Protection Agency or
18 appropriate public safety agencies, that containment or cleanup is
19 technically infeasible;

20 (2) that containment or cleanup would cause greater en-
21 vironmental damage than the release would cause if unabated; or

22 (3) that containment or cleanup would pose a greater threat
23 to human life or health than the release itself.

24 (e) The commissioner shall enter into agreement with the En-
25 vironmental Protection Agency, and may enter into agreements with
26 other persons and municipalities, in order to

27 (1) facilitate a coordinated and effective hazardous sub-
28 stance release response in the state;

29 (2) provide for cooperative hazardous substance release

1 notification procedures; or

2 (3) provide for cooperative review of hazardous substance
3 release response contingency plans submitted to the department.

4 Sec. 46.09.030. DISASTER EMERGENCIES. The commissioner may
5 request the governor to determine that an actual or imminent release
6 of a hazardous substance constitutes a disaster emergency under
7 AS 26.23. If the governor declares a disaster emergency under AS 26.-
8 23, the commissioner may assist the adjutant general in the relief of
9 the emergency.

10 Sec. 46.09.040. HAZARDOUS SUBSTANCES CONTAINMENT AND CLEANUP.
11 The commissioner may contract with a person or a municipality for
12 personnel, equipment, or services that may be useful to carry out the
13 requirements of this chapter. If the commissioner determines that it
14 is infeasible to contract with a person or a municipality, the commis-
15 sioner may establish and maintain containment and cleanup personnel,
16 equipment, and supplies necessary to carry out the requirements of
17 this chapter.

18 Sec. 46.09.050. COMPACTS AUTHORIZED. The governor may enter
19 into supplementary agreements, reciprocal arrangements, and compacts
20 with another state or country for the implementation of this chapter
21 subject to the approval of the Congress of the United States, if
22 required, under the Constitution of the United States.

23 Sec. 46.09.060. MUNICIPALITIES. (a) If a provision of this
24 chapter or of a regulation adopted by the commissioner under this
25 chapter conflicts with the charter, ordinance, or regulation of a
26 municipality, the provision of this chapter or of the regulation
27 adopted by the commissioner under this chapter prevails.

28 (b) Authority to contain, clean up, or prevent a release or
29 threatened release of oil or of a hazardous substance, and to exercise

1 other powers necessary to implement this chapter and AS 46.08, are
2 granted to municipalities that do not otherwise have that authority.
3 Except as provided in (a) of this section, a municipality may exercise
4 its police power within the area of the municipality.

5 Sec. 46.09.070. REGULATIONS. The commissioner shall adopt
6 regulations necessary to implement the provisions of this chapter.

7 Sec. 46.09.900. DEFINITIONS. In this chapter

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

10 (2) "containment and cleanup" includes the direct and
11 indirect efforts associated with the prevention, abatement, contain-
12 ment, or removal of a hazardous substance, the restoration of the
13 environment, and incidental administrative costs;

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

16 (4) "hazardous substance" means

17 (A) an element or compound that, when it enters into
18 or on the surface or subsurface land or water of the state,
19 presents an imminent and substantial danger to the public health
20 or welfare, or to fish, animals, vegetation, or any part of the
21 natural habitat in which fish, animals, or wildlife may be found;
22 or

23 (B) a substance defined as a hazardous substance under
24 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response,
25 Compensation, and Liability Act of 1980);

26 (5) "release" means an intentional or unintentional release
27 into the environment of the state.

28 * Sec. 3. AS 26.23.050(b) is amended to read:

29 (b) Whenever, and to the extent that, money is needed to cope

1 with a disaster, the first recourse shall be to funds regularly appro-
2 priated to state and local agencies. The second recourse shall be to
3 funds available to the disaster relief fund or the oil and hazardous
4 substance release response fund, as appropriate. If money available
5 from these sources is insufficient, and if the governor finds that
6 other sources of money to cope with the disaster are not available or
7 are insufficient, the governor may, notwithstanding any limitation
8 imposed by AS 37.07.080(e), transfer and spend money appropriated for
9 other purposes or, in situations involving natural disasters, borrow
10 from the United States government or other public or private sources
11 for a term not to exceed two years.

12 * Sec. 4. AS 26.23.230(1) is amended to read:

13 (1) "disaster" means the occurrence or imminent threat of
14 widespread or severe damage, injury, or loss of life or property
15 resulting from any natural or nonmilitary man-made cause including,
16 but not limited to, fire, flood, earthquake, landslide, mudslide,
17 avalanche, wind-driven water, weather condition, tsunami, [OIL SPILL
18 OR OTHER WATER CONTAMINATION REQUIRING EMERGENCY ACTION TO AVERT
19 DANGER OR DAMAGE], volcanic activity, epidemic, air contamination,
20 blight, infestation, explosion, riot, equipment failure, or shortage
21 of food, water, fuel, or clothing, or the release of oil or a hazard-
22 ous substance requiring prompt action to avert environmental danger or
23 damage;

24 * Sec. 5. AS 44.19.050 is amended to read:

25 Sec. 44.19.050. DEFINITION. In AS 44.19.048 and 44.19.049,
26 "disaster" means the occurrence or imminent threat of widespread or
27 severe damage, injury, or loss of life or property resulting from any
28 natural or man-made cause including, but not limited to, fire, flood,
29 earthquake, landslide, avalanche, wind-driven water, weather

1 condition, tsunami, [OIL SPILL OR OTHER WATER CONTAMINATION REQUIRING
2 EMERGENCY ACTION TO AVERT DAMAGE,] volcanic activity, epidemic, air
3 contamination, blight, infestation, explosion, [OR] riot, or the
4 release of oil or a hazardous substance requiring prompt action to
5 avert environmental danger or damage.

6 * Sec. 6. AS 45.45.900 is amended to read:

7 Sec. 45.45.900. INDEMNIFICATION AGREEMENTS CONTRA TO PUBLIC
8 POLICY. A provision, clause, covenant, or agreement contained in,
9 collateral to, or affecting a [ANY] construction contract that [WHICH]
10 purports to indemnify the promisee against liability for damages for
11 (1) death or bodily injury to persons, (2) injury to property, (3)
12 design defects or (4) [ANY] other loss, damage or expense arising
13 under (1), (2), or (3) of this section from the sole negligence or
14 wilful misconduct of the promisee or the promisee's agents, servants
15 or independent contractors who are directly responsible to the prom-
16 isee, is against public policy and is void and unenforceable; however,
17 this provision does not affect the validity of an [ANY] insurance
18 contract, workers' compensation, or agreement issued by an insurer
19 subject to the provisions of AS 21, or a provision, clause, covenant,
20 or agreement of indemnification respecting the handling, containment
21 or cleanup of oil or hazardous substances as defined in AS 46.

22 * Sec. 7. AS 46.03.290(a) is amended to read:

23 (a) When the department finds that an actual or imminent dis-
24 charge of oil, a hazardous substance, or low level radioactive mate-
25 rials to the air, water, land or subsurface land of the state poses an
26 immediate threat to the public health or welfare, or the environment
27 of the state, it may issue an order declaring an emergency and direct-
28 ing a person or persons to take action the department believes neces-
29 sary to meet the emergency, and protect the public health, welfare, or

1 environment.

2 * Sec. 8. AS 46.03 is amended by adding a new section to read:

3 Sec. 46.03.745. HAZARDOUS SUBSTANCE RELEASE. Except for a
4 controlled release, the reporting of which is the subject of an agree-
5 ment with the commissioner under AS 46.09.010(b), a person may not
6 cause or permit the release of a hazardous substance as defined in
7 AS 46.09.900.

8 * Sec. 9. AS 46.03.760(a) is amended to read:

9 (a) A person who violates or causes or permits to be violated a
10 provision of this chapter other than AS 46.03.250 - 46.03.314, or a
11 provision of AS 46.04 or AS 46.09, or a regulation, a lawful order of
12 the department, or a permit, approval, or acceptance, or term or
13 condition of a permit, approval, or acceptance issued under this
14 chapter or AS 46.04 or AS 46.09 is liable, in a civil action, to the
15 state for a sum to be assessed by the court of not less than \$500 nor
16 more than \$100,000 for the initial violation, nor more than \$5,000 for
17 each day after that on which the violation continues, and that shall
18 reflect, when applicable,

19 (1) reasonable compensation in the nature of liquidated
20 damages for any adverse environmental effects caused by the violation,
21 that shall be determined by the court according to the toxicity,
22 degradability and dispersal characteristics of the substance dis-
23 charged, the sensitivity of the receiving environment, and the degree
24 to which the discharge degrades existing environmental quality;

25 (2) reasonable costs incurred by the state in detection,
26 investigation, and attempted correction of the violation;

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

29 * Sec. 10. AS 46.03.765 is amended to read:

1 Sec. 46.03.765. INJUNCTIONS. The superior court has jurisdic-
2 tion to enjoin a violation of this chapter, [OR] AS 46.04, or AS 46.09
3 or of a regulation, a lawful order of the department, or permit,
4 approval, or acceptance, or term or condition of a permit, approval,
5 or acceptance issued under this chapter, [OR] AS 46.04, or AS 46.09.
6 In actions brought under this section, temporary or preliminary relief
7 may be obtained upon a showing of an imminent threat of continued
8 violation, and probable success on the merits, without the necessity
9 of demonstrating physical irreparable harm. The balance of equities
10 in actions under this section may affect the timing of compliance, but
11 not the necessity of compliance within a reasonable period of time.

12 * Sec. 11. AS 46.03.780(a) is amended to read:

13 (a) A person who violates a provision of this chapter, [OR]
14 AS 46.04, or AS 46.09, or who fails to perform a duty imposed by this
15 chapter, [OR] AS 46.04, or AS 46.09, or violates or disregards an
16 order, permit, or other determination of the department made under the
17 provisions of this chapter, [OR] AS 46.04, or AS 46.09, respectively,
18 and thereby causes the death of fish, animals, or vegetation or other-
19 wise injures or degrades the environment of the state is liable to the
20 state for damages.

21 * Sec. 12. AS 46.03.790(a) is amended to read:

22 (a) Except as provided in (d) - (f) of this section, a person
23 who negligently violates a provision of this chapter, [OR] AS 46.04,
24 or AS 46.09, or of a regulation, lawful order of the department, or
25 permit, approval, or acceptance, or term or condition of a permit,
26 approval, or acceptance issued under this chapter, [OR] AS 46.04, or
27 AS 46.09 is guilty of a class B misdemeanor.

28 * Sec. 13. AS 46.03.790(b) is amended to read:

29 (b) Except as provided in (d) - (f) of this section, a person

1 who knowingly violates a provision of this chapter, [OR] AS 46.04, or
2 AS 46.09, or of a regulation, lawful order of the department, or
3 permit, approval, or acceptance, or term or condition of a permit,
4 approval, or acceptance issued under this chapter, [OR] AS 46.04, or
5 AS 46.09 is guilty of a class A misdemeanor.

6 * Sec. 14. AS 46.03.790(d) is amended to read:

7 (d) Notwithstanding (a) and (b) of this section, a person who
8 fails to provide or fails to state information required under AS 46.-
9 03.755, [OR] AS 46.04, or AS 46.09 is guilty of a misdemeanor and,
10 upon conviction, is punishable by a fine of not more than \$25,000, or
11 by imprisonment for not more than one year, or by both. Each unlawful
12 act constitutes a separate offense.

13 * Sec. 15. AS 46.04.010 is amended to read:

14 Sec. 46.04.010. REIMBURSEMENT FOR CLEANUP EXPENSES. The de-
15 partment shall promptly seek reimbursement [, EITHER] under AS 46.03.-
16 760(e), AS 46.08.070, or from an applicable federal fund, for the
17 expenses it incurs in cleaning up or containing a discharge of oil.
18 If the department obtains reimbursement for a portion of its expenses
19 from a federal fund, the remainder of the expenses incurred may be
20 recovered under AS 46.03.760(e) or AS 46.08.070. Money received by
21 the department under this section shall be deposited in the general
22 fund and credited to a special account called the "oil and hazardous
23 substance release mitigation account".

24 * Sec. 15. AS 46.06.090(b) is amended to read:

25 (b) Inspection and enforcement employees of the department
26 designated by the commissioner are peace officers in the performance
27 of their duties under this chapter, AS 46.09, and AS 46.03.

28 * Sec. 17. Not later than January 1, 1987, the commissioner of environ-
29 mental conservation shall develop guidelines under AS 46.09.020, added by

1 sec. 2 of this Act.

2 * Sec. 18. Not later than October 1, 1987, the commissioner of environ-
3 mental conservation shall adopt regulations under AS 46.09.070, added by
4 sec. 2 of this Act.

5 * Sec. 19. Notwithstanding the provisions of AS 37.05.159(b) and
6 AS 37.07.000(a), the governor may, during the 1987 fiscal year, transfer
7 from the reserve for emergency operating expenses account to the oil and
8 hazardous substance release response fund (AS 46.08) amounts that, when
9 added to the amounts appropriated, reappropriated, or transferred to the
10 response fund in laws enacted by the legislature during the 1986 regular
11 legislative session, do not exceed \$1,000,000.

12 * Sec. 20. AS 46.03.758(k) is repealed.

13 * Sec. 21. Sections 1 - 18 and 20 of this Act take effect immediately
14 in accordance with AS 01.10.070(c).

15 * Sec. 22. Section 19 of this Act takes effect July 1, 1986.
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Introduced: 1/30/86
Referred: Resources and
Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 SENATE BILL NO. 375

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the release of oil and hazardous
7 substances; and providing for an effective date."

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

9 * Section 1. AS 46 is amended by adding a new chapter to read:

10 CHAPTER 08. OIL AND HAZARDOUS SUBSTANCE RELEASES.

11 Sec. 46.08.005. PURPOSE. The legislature finds and declares
12 that the release of oil or hazardous substances into the environment
13 presents a real and substantial threat to the public health and wel-
14 fare, to the environment, and to the economy of the state. The legis-
15 lature therefore concludes that it is in the best interest of the
16 state and its citizens to provide a readily available fund for the
17 payment of the expenses incurred by the Department of Environmental
18 Conservation in the protection of the environment of the state from
19 the release of oil or hazardous substances.

20 Sec. 46.08.010. FUND ESTABLISHED. (a) There is established in
21 the state general fund the oil and hazardous substance release re-
22 sponse fund. The fund shall be administered by the commissioner of
23 environmental conservation, but the commissioner of revenue shall be
24 the custodian of the fund.

25 (b) Money from an appropriation made to the fund remaining in
26 the fund at the end of a fiscal year remains available for expenditure
27 in successive fiscal years.

28 Sec. 46.08.020. FINANCING OF THE FUND. The legislature may
29 appropriate from the following sources to the fund:
S

1 (1) money received from federal, state, or other sources or
2 from a private donor;

3 (2) money recovered or otherwise received from parties
4 responsible for the containment and cleanup of oil or a hazardous
5 substance at a specific site, but excluding funds from performance
6 bonds and other forms of financial responsibility held in escrow
7 pending satisfactory performance of a privately financed response
8 action;

9 (3) fines, penalties, or damages recovered under this
10 chapter or other law for costs incurred by the state as a result of
11 the release or threatened release of oil or a hazardous substance.

12 Sec. 46.08.030. FINANCING THE ABATEMENT OF OIL OR HAZARDOUS
13 SUBSTANCE RELEASES. (a) It is the intent of the legislature and
14 declared to be the public policy of the state that funds for the
15 abatement of a release of oil or a hazardous substance will always be
16 available.

17 (b) Notwithstanding the establishment of the fund under AS 46.-
18 08.010, the commissioner shall, to the extent available, prefer funds
19 appropriated to the department in the abatement of a release of oil or
20 a hazardous substance. If appropriated funds are not available, then
21 the commissioner may use money from the fund or, if the governor
22 issues a proclamation of a disaster emergency under AS 26.23, funds
23 available for disaster relief under AS 26.23.050 may be used in the
24 abatement of a release of oil or a hazardous substance.

25 Sec. 46.08.040. PURPOSES OF THE FUND. Subject to the approval
26 of the governor, the commissioner may use money from the fund to

27 (1) contain and clean up releases or threatened releases of
28 oil or a hazardous substance;

29 (2) undertake plans, inspections, sampling, tests,

1 investigations, surveys, analyses, engineering, construction, opera-
2 tions, and maintenance necessary or appropriate to contain and clean
3 up releases or threatened releases of oil or hazardous substances;

4 (3) facilitate the efforts of the Department of Labor under
5 AS 18.60 to assist employers to develop safety education programs for
6 employees who may be called upon to respond to a release of oil or a
7 hazardous substance;

8 (4) provide matching funds for participation in federal oil
9 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-
10 hensive Environmental Response, Compensation and Liability Act of
11 1980); and

12 (5) recover the cost to the state or to a municipality of a
13 containment and cleanup resulting from the release or the threatened
14 release of oil or a hazardous substance.

15 Sec. 46.08.050. RECORDS OF THE FUND. (a) The department shall
16 maintain accounting records showing the income and expenses of the
17 fund.

18 (b) By July 1 of each year, the department shall determine the
19 projected cost for the following fiscal year of monitoring, operating,
20 and maintaining sites where response has been completed or is expected
21 to be continued during the fiscal year.

22 (c) The commissioner shall consult with the commissioner of
23 revenue and the governor before adopting regulations governing fund
24 accounting. The department shall develop procedures and adopt rules
25 governing the expenditure of, and accounting for, money expended from
26 the fund, and may not delay implementation of this chapter pending the
27 effective date of the procedures and rules.

28 (d) The proper state officer shall pay disbursements from the
29 fund on presentation of vouchers signed by the governor or the

1 governor's authorized representative.

2 Sec. 46.03.060. REPORT TO THE LEGISLATURE. The commissioner
3 shall submit a report to the governor and to the legislature not later
4 than the 10th day following the convening of each regular session of
5 the legislature. The report may include information considered sig-
6 nificant by the commissioner but must include:

7 (1) the amount of money expended under AS 46.08.040 during
8 the preceding fiscal year; and

9 (2) the amount and source of money received and money
10 recovered during the preceding fiscal year as specified in AS 46.03.-
11 020.

12 Sec. 46.08.070. REIMBURSEMENT FOR CONTAINMENT AND CLEANUP. (a)
13 The commissioner shall seek reimbursement promptly under this section,
14 AS 46.03.760(e), or federal law for the cost incurred in the cleanup
15 or containment of oil or a hazardous substance that has been released.

16 (b) The attorney general, at the request of the commissioner,
17 may seek to recover money expended by the department under this chap-
18 ter or other law to contain and clean up oil or a hazardous substance
19 that has been released or to control the threatened release of oil or
20 a hazardous substance.

21 Sec. 46.08.080. REGULATIONS. The commissioner shall adopt
22 regulations necessary to implement the provisions of this chapter.

23 Sec. 46.08.900. DEFINITIONS. In this chapter

24 (1) "commissioner" means the commissioner of environmental
25 conservation;

26 (2) "containment and cleanup" includes the direct and
27 indirect efforts associated with the prevention, abatement, contain-
28 ment, or removal of a hazardous substance, the restoration of the
29 environment to its former state, and incidental administrative costs;

1 (3) "department" means the Department of Environmental
2 Conservation;

3 (4) "employee" means a person who works for an employer in
4 a place that is not used primarily as a personal residence;

5 (5) "employer" means a person, including the state and a
6 political subdivision of the state, who has one or more employees
7 working in a place that is not used primarily as a personal residence;

8 (6) "fund" means the oil and hazardous substance release
9 response fund;

10 (7) "hazardous substance" means

11 (A) an element or compound that, when it enters into
12 or on the surface or subsurface land or water of the state,
13 presents an imminent and substantial danger to the public health
14 or welfare, or to fish, animals, vegetation, or any part of the
15 natural habitat in which fish, animals, or wildlife may be found;
16 or

17 (B) a substance defined as a hazardous substance under
18 state or federal law or by regulations adopted under state or
19 federal law;

20 (8) "oil" means petroleum products of any kind and in any
21 form, whether crude, refined, or a petroleum by-product, including
22 petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oily
23 refuse, oil mixed with other wastes, liquified natural gas, propane,
24 butane, and other liquid hydrocarbons regardless of specific gravity;

25 (9) "release" means an intentional or unintentional release
26 into the environment of the state.

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

28 CHAPTER 09. HAZARDOUS SUBSTANCE RELEASE CONTROL.

29 Sec. 46.09.010. REPORT OF HAZARDOUS SUBSTANCE RELEASES. (a)

1 Except as provided in (b) of this section, a person in charge of a
2 vehicle, vessel or container from which, or a place at which, a haz-
3 arduous substance is released shall report the release to the depart-
4 ment promptly after learning of the release.

5 (b) The commissioner may enter into an agreement with a person
6 for the periodic reporting of a controlled release of a hazardous
7 substance if the release is not into the water of the state.

8 Sec. 46.09.020. CONTAINMENT AND CLEANUP OF A RELEASED HAZARDOUS
9 SUBSTANCE. (a) A person who causes a release of a hazardous sub-
10 stance shall make reasonable efforts to contain and clean up the
11 hazardous substance promptly after learning of the release, unless the
12 commissioner determines

13 (1) after consulting the Environmental Protection Agency,
14 that containment or cleanup is technically infeasible; or

15 (2) that containment or cleanup would cause greater en-
16 vironmental damage than the release would cause if unabated.

17 (b) The commissioner shall adopt regulations prescribing proce-
18 dures and methods to be used in the containment and cleanup of a
19 hazardous substance and in the disposal of waste from the containment
20 or cleanup.

21 (c) If the commissioner determines that the containment or
22 cleanup of a hazardous substance undertaken is inadequate, the commis-
23 sioner may direct the person undertaking the containment or cleanup to
24 cease and may undertake the containment or cleanup directly or by
25 contract.

26 (d) If it appears to the commissioner that the cause or respon-
27 sibility for the release of a hazardous substance is unclear or unex-
28 plained, the commissioner may immediately undertake the containment
29 and cleanup of the release unless the commissioner determines

1 (1) after consulting the Environmental Protection Agency,
2 that containment or cleanup is technically infeasible; or

3 (2) that containment or cleanup would cause greater en-
4 vironmental damage than the release would cause if unabated.

5 (e) The commissioner shall enter into agreement with the En-
6 vironmental Protection Agency, and may enter into agreements with
7 other persons and municipalities, in order to

8 (1) facilitate a coordinated and effective hazardous sub-
9 stance release response in the state;

10 (2) provide for cooperative hazardous substance release
11 notification procedures; or

12 (3) provide for cooperative review of hazardous substance
13 release response contingency plans submitted to the department.

14 Sec. 46.09.030. DISASTER EMERGENCIES. The commissioner may
15 request the governor to determine that an actual or imminent release
16 of a hazardous substance constitutes a disaster emergency under
17 AS 26.23. If the governor declares a disaster emergency under AS 26.-
18 23, the commissioner may assist the adjutant general in the relief of
19 the emergency.

20 Sec. 46.09.040. HAZARDOUS SUBSTANCES CONTAINMENT AND CLEANUP.
21 The commissioner may contract with a person or a municipality for
22 personnel, equipment, or services that may be useful to carry out the
23 requirements of this chapter. If the commissioner determines that it
24 is infeasible to contract with a person or a municipality, the commis-
25 sioner may establish and maintain containment and cleanup personnel,
26 equipment, and supplies necessary to carry out the requirements of
27 this chapter.

28 Sec. 46.09.050. PEACE OFFICERS. Employees of the department
29 designated by the commissioner as enforcement officers in the

1 implementation of this chapter are peace officers of the state.

2 Sec. 46.09.060. COMPACTS AUTHORIZED. The governor may enter
3 into supplementary agreements, reciprocal arrangements, and compacts
4 with another state or country for the implementation of this chapter
5 subject to the approval of the Congress of the United States, if
6 required, under the Constitution of the United States.

7 Sec. 46.09.070. MUNICIPALITIES. (a) If a provision of this
8 chapter or of a regulation adopted by the commissioner under this
9 chapter conflicts with the charter, ordinance, or regulation of a
10 municipality, the provision of this chapter or of the regulation
11 adopted by the commissioner under this chapter prevails.

12 (b) Authority to contain, clean up, or prevent a release or
13 threatened release of oil or of a hazardous substance, and to exercise
14 other powers necessary to implement AS 46.03 - AS 46.09, are granted
15 to municipalities that do not otherwise have that authority. Except
16 as provided in (a) of this section, a municipality may exercise its
17 police power within the area of the municipality.

18 Sec. 46.09.080. REGULATIONS. The commissioner shall adopt
19 regulations necessary to implement the provisions of this chapter.

20 Sec. 46.09.900. DEFINITIONS. In this chapter

21 (1) "commissioner" means the commissioner of environmental
22 conservation;

23 (2) "containment and cleanup" includes the direct and
24 indirect efforts associated with the prevention, abatement, contain-
25 ment, or removal of a hazardous substance, the restoration of the
26 environment to its former state, and incidental administrative costs;

27 (3) "department" means the Department of Environmental
28 Conservation;

29 (4) "hazardous substance" means

1 (A) an element or compound that, when it enters into
2 or on the surface or subsurface land or water of the state,
3 presents an imminent and substantial danger to the public health
4 or welfare, or to fish, animals, vegetation, or any part of the
5 natural habitat in which fish, animals, or wildlife may be found;
6 or

7 (B) a substance defined as a hazardous substance under
8 state or federal law or by regulations adopted under state or
9 federal law;

10 (5) "release" means an intentional or unintentional release
11 into the environment of the state.

12 * Sec. 3. AS 26.23.230(1) is amended to read:

13 (1) "disaster" means the occurrence or imminent threat of
14 widespread or severe damage, injury, or loss of life or property
15 resulting from any natural or nonmilitary man-made cause including,
16 but not limited to, fire, flood, earthquake, landslide, mudslide,
17 avalanche, wind-driven water, weather condition, tsunami, [OIL SPILL
18 OR OTHER WATER CONTAMINATION REQUIRING EMERGENCY ACTION TO AVERT
19 DANGER OR DAMAGE], volcanic activity, epidemic, air contamination,
20 blight, infestation, explosion, riot, equipment failure, or shortage
21 of food, water, fuel, or clothing, or the release of oil or a hazard-
22 ous substance requiring prompt action to avert environmental danger or
23 damage;

24 * Sec. 4. AS 37.05.159 is amended by adding a new subsection to read:

25 (g) Notwithstanding the provisions of (b) of this section and
26 AS 37.07.080(e), the governor may transfer a maximum of \$10,000,000
27 during a fiscal year from the reserve for emergency operating expenses
28 account to the oil and hazardous substance release response fund
29 (AS 46.08).

1 * Sec. 5. AS 44.19.050 is amended to read:

2 Sec. 44.19.050. DEFINITION. In AS 44.19.048 and 44.19.049,
3 "disaster" means the occurrence or imminent threat of widespread or
4 severe damage, injury, or loss of life or property resulting from any
5 natural or man-made cause including, but not limited to, fire, flood,
6 earthquake, landslide, avalanche, wind-driven water, weather condi-
7 tion, tsunami, [OIL SPILL OR OTHER WATER CONTAMINATION REQUIRING
8 EMERGENCY ACTION TO AVERT DAMAGE,] volcanic activity, epidemic, air
9 contamination, blight, infestation, explosion, [OR] riot, or the
10 release of oil or a hazardous substance requiring prompt action to
11 avert environmental danger or damage.

12 * Sec. 6. AS 46.03.299(a) is amended to read:

13 (a) When the department finds that an actual or imminent dis-
14 charge of oil, a hazardous substance, or low level radioactive mate-
15 rials to the air, water, land or subsurface land of the state poses an
16 immediate threat to the public health or welfare, or the environment
17 of the state, it may issue an order declaring an emergency and direct-
18 ing a person or persons to take action the department believes neces-
19 sary to meet the emergency, and protect the public health, welfare, or
20 environment.

21 * Sec. 7. AS 46.03.760(a) is amended to read:

22 (a) A person who violates or causes or permits to be violated a
23 provision of this chapter other than AS 46.03.250 - 46.03.314, or a
24 provision of AS 46.04 or AS 46.09, or a regulation, a lawful order of
25 the department, or a permit, approval, or acceptance, or term or
26 condition of a permit, approval, or acceptance issued under this
27 chapter or AS 46.04 or AS 46.09 is liable, in a civil action, to the
28 state for a sum to be assessed by the court of not less than \$500 nor
29 more than \$100,000 for the initial violation, nor more than \$5,000 for

1 each day after that on which the violation continues, and that shall
2 reflect, when applicable,

3 (1) reasonable compensation in the nature of liquidated
4 damages for any adverse environmental effects caused by the violation,
5 that shall be determined by the court according to the toxicity,
6 degradability and dispersal characteristics of the substance dis-
7 charged, the sensitivity of the receiving environment, and the degree
8 to which the discharge degrades existing environmental quality;

9 (2) reasonable costs incurred by the state in detection,
10 investigation, and attempted correction of the violation;

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

13 * Sec. 8. AS 46.03.765 is amended to read:

14 Sec. 46.03.765. INJUNCTIONS. The superior court has jurisdic-
15 tion to enjoin a violation of this chapter, [OR] AS 46.04, or AS 46.09
16 or of a regulation, a lawful order of the department, or permit,
17 approval, or acceptance, or term or condition of a permit, approval,
18 or acceptance issued under this chapter, [OR] AS 46.04, or AS 46.09.
19 In actions brought under this section, temporary or preliminary relief
20 may be obtained upon a showing of an imminent threat of continued
21 violation, and probable success on the merits, without the necessity
22 of demonstrating physical irreparable harm. The balance of equities
23 in actions under this section may affect the timing of compliance, but
24 not the necessity of compliance within a reasonable period of time.

25 * Sec. 9. AS 46.03.780(a) is amended to read:

26 (a) A person who violates a provision of this chapter, [OR]
27 AS 46.04, or AS 46.09, or who fails to perform a duty imposed by this
28 chapter, [OR] AS 46.04, or AS 46.09, or violates or disregards an
29 order, permit, or other determination of the department made under the

1 provisions of this chapter, [OR] AS 46.04, or AS 46.09, respectively,
2 and thereby causes the death of fish, animals, or vegetation or other-
3 wise injures or degrades the environment of the state is liable to the
4 state for damages.

5 * Sec. 10. AS 46.03.790(a) is amended to read:

6 (a) Except as provided in (d) - (f) of this section, a person
7 who negligently violates a provision of this chapter, [OR] AS 46.04,
8 or AS 46.09, or of a regulation, lawful order of the department, or
9 permit, approval, or acceptance, or term or condition of a permit,
10 approval, or acceptance issued under this chapter, [OR] AS 46.04, or
11 AS 46.09 is guilty of a class B misdemeanor.

12 * Sec. 11. AS 46.03.790(b) is amended to read:

13 (b) Except as provided in (d) - (f) of this section, a person
14 who knowingly violates a provision of this chapter, [OR] AS 46.04, or
15 AS 46.09, or of a regulation, lawful order of the department, or
16 permit, approval, or acceptance, or term or condition of a permit,
17 approval, or acceptance issued under this chapter, [OR] AS 46.04, or
18 AS 46.09 is guilty of a class A misdemeanor.

19 * Sec. 12. AS 46.03.790(d) is amended to read:

20 (d) Notwithstanding (a) and (b) of this section, a person who
21 fails to provide or falsely states information required under AS 46.-
22 03.755, [OR] AS 46.04, or AS 46.09 is guilty of a misdemeanor and,
23 upon conviction, is punishable by a fine of not more than \$25,000, or
24 by imprisonment for not more than one year, or by both. Each unlawful
25 act constitutes a separate offense.

26 * Sec. 13. AS 46.04.010 is amended to read:

27 Sec. 46.04.010. REIMBURSEMENT FOR CLEANUP EXPENSES. The de-
28 partment shall promptly seek reimbursement [, EITHER] under AS 46.03.-
29 760(e), AS 46.03.070, or from an applicable federal fund, for the

1 expenses it incurs in cleaning up or containing a discharge of oil.
2 If the department obtains reimbursement for a portion of its expenses
3 from a federal fund, the remainder of the expenses incurred may be
4 recovered under AS 46.03.760(e) or AS 46.08.070. Money received by
5 the department under this section shall be deposited in the general
6 fund and may be appropriated by the legislature to the oil and hazar-
7 dous substance release response fund (AS 46.08).

8 * Sec. 14. AS 46.03.758(k) is repealed.

9 * Sec. 15. This Act takes effect immediately in accordance with AS 01.-
10 10.070(c).

ALASKA STATE LEGISLATURE

14th... Legislature ...2nd... Session

SENATE BILL..... NO. 375...

By THE RESOURCES COMMITTEE...

"An Act relating to the release of oil and hazardous substances; and providing for an effective date."

Introduced in the Senate 1/30..., 1986.

HISTORY IN THE SENATE

1986		Read first time and referred to Committee on												
1	30	Resources & Finance												
5	13	Reported back with <i>Resources</i> recommendation that <i>it aligns new title. At the Inten. F. Y. note 3 do pass, 2 no res to fin. Finance:</i>												
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		Read third time and												
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		SECRETARY OF THE SENATE												

HISTORY IN THE HOUSE

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

HISTORY IN THE SENATE

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

Introduced: 1/30/86
Referred: Resources and
Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

SENATE BILL NO. 375

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the release of oil and hazardous
7 substances; and providing for an effective date."

7

8

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

9

* Section 1. AS 46 is amended by adding a new chapter to read:

10

CHAPTER 08. OIL AND HAZARDOUS SUBSTANCE RELEASES.

11

Sec. 46.08.005. PURPOSE. The legislature finds and declares

12

that the release of oil or hazardous substances into the environment

13

presents a real and substantial threat to the public health and wel-

14

fare to the environment, and to the economy of the state. The legis-

15

lature therefore concludes that it is in the best interest of the

16

state and its citizens to provide a readily available fund for the

17

payment of the expenses incurred by the Department of Environmental

18

Conservation in the protection of the environment of the state from

19

the release of oil or hazardous substances.

20

Sec. 46.08.010. FUND ESTABLISHED. (a) There is established in

21

the state general fund the oil and hazardous substance release re-

22

sponse fund. The fund shall be administered by the commissioner of

23

environmental conservation, but the commissioner of revenue shall be

24

the custodian of the fund.

25

(b) Money from an appropriation made to the fund remaining in

26

the fund at the end of a fiscal year remains available for expenditure

27

in successive fiscal years.

28

Sec. 46.08.020. FINANCING OF THE FUND. The legislature may

29

appropriate from the following sources to the fund:

1 (1) money received from federal, state, or other sources or
2 from a private donor;

3 (2) money recovered or otherwise received from parties
4 responsible for the containment and cleanup of oil or a hazardous
5 substance at a specific site, but excluding funds from performance
6 bonds and other forms of financial responsibility held in escrow
7 pending satisfactory performance of a privately financed response
8 action;

9 (3) fines, penalties, or damages recovered under this
10 chapter or other law for costs incurred by the state as a result of
11 the release or threatened release of oil or a hazardous substance.

12 Sec. 46.08.030. FINANCING THE ABATEMENT OF OIL OR HAZARDOUS
13 SUBSTANCE RELEASES. (a) It is the intent of the legislature and
14 declared to be the public policy of the state that funds for the
15 abatement of a release of oil or a hazardous substance will always be
16 available.

17 (b) Notwithstanding the establishment of the fund under AS 46.-
18 08.010, the commissioner shall, to the extent available, prefer funds
19 appropriated to the department in the abatement of a release of oil or
20 a hazardous substance. If appropriated funds are not available, then
21 the commissioner may use money from the fund or, if the governor
22 issues a proclamation of a disaster emergency under AS 26.23, funds
23 available for disaster relief under AS 26.23.050 may be used in the
24 abatement of a release of oil or a hazardous substance.

25 Sec. 46.08.040. PURPOSES OF THE FUND. Subject to the approval
26 of the governor, the commissioner may use money from the fund to

27 (1) contain and clean up releases or threatened releases of
28 oil or a hazardous substance;

29 (2) undertake plans, inspections, sampling, tests,

1 investigations, surveys, analyses, engineering, construction, opera-
2 tions, and maintenance necessary or appropriate to contain and clean
3 up releases or threatened releases of oil or hazardous substances;

4 (3) facilitate the efforts of the Department of Labor under
5 AS 18.60 to assist employers to develop safety education programs for
6 employees who may be called upon to respond to a release of oil or a
7 hazardous substance;

8 (4) provide matching funds for participation in federal oil
9 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-
10 hensive Environmental Response, Compensation and Liability Act of
11 1980); and

12 (5) recover the cost to the state or to a municipality of a
13 containment and cleanup resulting from the release or the threatened
14 release of oil or a hazardous substance.

15 Sec. 46.08.050. RECORDS OF THE FUND. (a) The department shall
16 maintain accounting records showing the income and expenses of the
17 fund.

18 (b) By July 1 of each year, the department shall determine the
19 projected cost for the following fiscal year of monitoring, operating,
20 and maintaining sites where response has been completed or is expected
21 to be continued during the fiscal year.

22 (c) The commissioner shall consult with the commissioner of
23 revenue and the governor before adopting regulations governing fund
24 accounting. The department shall develop procedures and adopt rules
25 governing the expenditure of, and accounting for, money expended from
26 the fund, and may not delay implementation of this chapter pending the
27 effective date of the procedures and rules.

28 (d) The proper state officer shall pay disbursements from the
29 fund on presentation of vouchers signed by the governor or the

1 governor's authorized representative.

2 Sec. 46.08.060. REPORT TO THE LEGISLATURE. The commissioner
3 shall submit a report to the governor and to the legislature not later
4 than the 10th day following the convening of each regular session of
5 the legislature. The report may include information considered sig-
6 nificant by the commissioner but must include:

7 (1) the amount of money expended under AS 46.08.040 during
8 the preceding fiscal year; and

9 (2) the amount and source of money received and money
10 recovered during the preceding fiscal year as specified in AS 46.08.-
11 020.

12 Sec. 46.08.070. REIMBURSEMENT FOR CONTAINMENT AND CLEANUP. (a)
13 The commissioner shall seek reimbursement promptly under this section,
14 AS 46.03.760(e), or federal law for the cost incurred in the cleanup
15 or containment of oil or a hazardous substance that has been released.

16 (b) The attorney general, at the request of the commissioner,
17 may seek to recover money expended by the department under this chap-
18 ter or other law to contain and clean up oil or a hazardous substance
19 that has been released or to control the threatened release of oil or
20 a hazardous substance.

21 Sec. 46.08.080. REGULATIONS. The commissioner shall adopt
22 regulations necessary to implement the provisions of this chapter.

23 Sec. 46.08.900. DEFINITIONS. In this chapter

24 (1) "commissioner" means the commissioner of environmental
25 conservation;

26 (2) "containment and cleanup" includes the direct and
27 indirect efforts associated with the prevention, abatement, contain-
28 ment, or removal of a hazardous substance, the restoration of the
29 environment to its former state, and incidental administrative costs;

1 (3) "department" means the Department of Environmental
2 Conservation;

3 (4) "employee" means a person who works for an employer in
4 a place that is not used primarily as a personal residence;

5 (5) "employer" means a person, including the state and a
6 political subdivision of the state, who has one or more employees
7 working in a place that is not used primarily as a personal residence;

8 (6) "fund" means the oil and hazardous substance release
9 response fund;

10 (7) "hazardous substance" means

11 (A) an element or compound that, when it enters into
12 or on the surface or subsurface land or water of the state,
13 presents an imminent and substantial danger to the public health
14 or welfare, or to fish, animals, vegetation, or any part of the
15 natural habitat in which fish, animals, or wildlife may be found;
16 or

17 (B) a substance defined as a hazardous substance under
18 state or federal law or by regulations adopted under state or
19 federal law;

20 (8) "oil" means petroleum products of any kind and in any
21 form, whether crude, refined, or a petroleum by-product, including
22 petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oily
23 refuse, oil mixed with other wastes, liquified natural gas, propane,
24 butane, and other liquid hydrocarbons regardless of specific gravity;

25 (9) "release" means an intentional or unintentional release
26 into the environment of the state.

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

28 CHAPTER 09. HAZARDOUS SUBSTANCE RELEASE CONTROL.

29 Sec. 46.09.010. REPORT OF HAZARDOUS SUBSTANCE RELEASES. (a)

1 Except as provided in (b) of this section, a person in charge of a
2 vehicle, vessel or container from which, or a place at which, a haz-
3 arduous substance is released shall report the release to the depart-
4 ment promptly after learning of the release.

5 (b) The commissioner may enter into an agreement with a person
6 for the periodic reporting of a controlled release of a hazardous
7 substance if the release is not into the water of the state.

8 Sec. 46.09.020. CONTAINMENT AND CLEANUP OF A RELEASED HAZARDOUS
9 SUBSTANCE. (a) A person who causes a release of a hazardous sub-
10 stance shall make reasonable efforts to contain and clean up the
11 hazardous substance promptly after learning of the release, unless the
12 commissioner determines

13 (1) after consulting the Environmental Protection Agency,
14 that containment or cleanup is technically infeasible; or

15 (2) that containment or cleanup would cause greater en-
16 vironmental damage than the release would cause if unabated.

17 (b) The commissioner shall adopt regulations prescribing proce-
18 dures and methods to be used in the containment and cleanup of a
19 hazardous substance and in the disposal of waste from the containment
20 or cleanup.

21 (c) If the commissioner determines that the containment or
22 cleanup of a hazardous substance undertaken is inadequate, the commis-
23 sioner may direct the person undertaking the containment or cleanup to
24 cease and may undertake the containment or cleanup directly or by
25 contract.

26 (d) If it appears to the commissioner that the cause or respon-
27 sibility for the release of a hazardous substance is unclear or unex-
28 plained, the commissioner may immediately undertake the containment
29 and cleanup of the release unless the commissioner determines